

COLLEGE OF LAW

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**COURSE: LAND LAW II**

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**COURSE CODE: LPB 402**

**STATE OF ORIGIN: ABIA STATE**

**LOCAL GOVERNMENT: AROCHUKWU**

QUESTION: Prepare a brief paper on the customary land tenure system as practiced in your locality (state the locality, state, local government or community you are writing about). This should briefly cover the creation, ownership, management and determination of family or communal land in your locality.

**LECTURER(S):**

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**INTRODUCTION:**

Land which is a major repository of man’s essential resources have always been the subject of major analytical discourse with respect to how it is to be rightly managed and controlled. Customary land tenure system is therefore an offshoot of this cause as it looks at an aspect of the control and management of land. There is no entrenched customary land tenue system which cuts across municipalities and communities owing to the fact that every community has a system which is unique to its people. Nevertheless salient aspects of the customary land are cognate across states and communities while retaining its peculiarity at the same time. The focus of this work is the consideration of the Customary Land Tenure System as practiced in Arochukwu Local Government in Abia State with particular consideration of certain aspects.

**CUSTOMARY LAND TENURE SYSTEM:**

Pre-colonial Nigeria system saw the predominance of cultural influences in certain aspects of the life of individuals in society. As a result of this the customary land tenure system was predetermined by the customs of communities which usually prescribed definitive mechanism regulating land hold. Customary land tenure system has been considered to mean a systemization of the rules which function by specifying what different classes of persons may or may not, must or must not do, with reference to the occupancy, use, abuse, or disposition of land, defining the privileges and obligations, rights and duties of persons in relation to each other, with reference to land[[1]](#footnote-1). Customary land tenure system is also simply referred to as the system of landholding indigenous to a community[[2]](#footnote-2) and as such it is predicated on customs and practices of a particular people and it is homegrown.

**OWNERSHIP WITHIN AROCHUKWU LOCAL GOVERNMENT:**

The wrung of leadership in the Aro community is usually held by the Eze Aro of Arochukwu Kingdom and also upon the kindred Ezes plays a significant role in the customary land tenure system of the community. Land in Aro is highly revered because of the sacred ties people affiliate with land and also as a result of its commercial viability very important[[3]](#footnote-3).

1. **FAMILY AND COMMUNAL LAND OWNERSHIP**:

The paramount ownership which is predominant in Aro is ownership held by the totality of its people. In this way Land is owned by the community and family who allocate this land based on the needs of the members of the family and community. The absolute authority over land is therefore placed on the kindred Ezes who become the conduit through which land is diligently controlled however, allocating land to meet the interest of the people would remain a foremost consideration for the kindred heads[[4]](#footnote-4).

1. **INDIVIDUAL OWNERSHIP**

Land could be definitely transferred from one owner to another either as a gift or by purchase; also land could be seized in lieu of debt, or confiscation for some infringement of custom. Land is also acquired through the means of inheritance and this is very common. A man who dies and having in ownership of land, with a male child will have such land inherited by his son.

**CREATION OF OWNERSHIP:**

The traditional commercial spirit within the Aro people who are involved in networks of trading of land produce facilitated the individual acquisition and ownership of land. Land could be transferred from one owner to another either as a gift or outright purchase. An elder son in a family could also acquire ownership over a land by inheritance. In absence of a transfer or succession to land ownership in Aro all the land within the environs of their locality not within individual occupation is held the community and collective decisions are made with regards to the alienation of the interests of such lands.

**MANAGEMENT OF LAND:**

Communal land is held jointly by members of a community but the communal heads are vest with the administrative powers with respect to land which categorically creates a trust in them on behalf of the other members of the community, these communal leaders with their designated authority are to duly manage the affairs with respect to the communal lands of the people. They can grant individuals of the community right to use land and occupy such land for a given period and this may also be subject to payment of certain rent charges to the communal heads. At all times communal heads are not to be reckless in their management of lands and in order to ensure that there is absolutely no frivolity in the management of land the communal heads are to communicate to the members of community and also receive consent before commercial transactions with respect to communal land can be carried out. This is an effective check in order to safeguard against the utilization of land which are usually for the derivation of communal benefit for the exclusive selfish aggrandizement of communal leaders. An individual who by one of any of the prescribed means comes into possession of land is enabled to carry out an array of commercial transaction[[5]](#footnote-5) affiliated with land, an example of this is barter of land for other goods or even cash (generally referred to as pledge)[[6]](#footnote-6).

**DETERMINATION OF COMMUNAL/FAMILY LAND:**

An individual terminates his rightful title over land by an outright sale of land to another individual, this is also a replica of what is obtained under family land. Where a family with the consent from all its members engages in commercial transaction with respect to land which alienates their title to land, this is seen as an outright termination of all their interests with respect to land. This is similar occurrence under communal lands.

**CONCLUSION:**

The practicality of the land tenure system under the various communities within the society has also been the subject matter of so much scholarly debacle. The customary land tenure system was seen to be inimical to the agricultural development and expansion in several communities as a result of its conspicuous reliance on a communal system of land holding giving almost too little attention to a liberalized land tenure system where individual could freely take up land ownership and exercise such without the scrutiny of members of the family or community. It is has also been the speculation that a lot of pitfalls that severely undermined the utility of the customary land tenure system sporadically led to the enactment of the Land Use Act.

1. Nkiriuka Chidia, The Land Tenure System under Customary Law, <<https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2813056>> accessed 23 April 2020. [↑](#footnote-ref-1)
2. Famoriyo, S. Land Tenure, Land Use, and Land Acquisition in Nigeria. [↑](#footnote-ref-2)
3. Basden, Niger Ibos. (London: Frank Cass.1966) [↑](#footnote-ref-3)
4. Keke Onyinye Vivian, An Analysis Of The Conceptual Issues Affecting Land Ownership/Inheritance Among The People Of Ogbe Autonomous Community In Ahiazu Mbaise Of Imo State, [2014’ (2)(3)< [www.eajournals.org](http://www.eajournals.org)> [↑](#footnote-ref-4)
5. Catherine Onyemelukwe, Inheritance and land ownership among the Igbo, <<http://catherineonyemelukwe.com/publications/inheritance-land-ownership-among-igbo/>> accessed 23 April 2020 [↑](#footnote-ref-5)
6. [↑](#footnote-ref-6)