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**COURSE CODE: LPB 402**

**ASSIGNMENT TITLE: CUSTOMARY AND LAND TENURE SYSTEM**

**DUE DATE: 24TH APRIL, 2020**

**QUESTION** ``` Prepare a brief paper on the customary land tenure system as practiced in your ;locality. This should briefly cover the creation, ownership, management ans determination of family or communal land in your locality.

Land tenure system is the system of landholding in a given society. According to Professor Mqke, customary law is defined as the” custom and usages traditionally observed among the indigenous African people and which form part of the culture of those people”. Customary land tenure system refers to the system of land holding governed by the customary law. It is the law handed down from the ancestors as such it represents a collection of precedents and decisions of bygone chiefs. It is traditionally observed by the indigenes of that part of that culture. In Owonyin v. Omotosho, customary law was described as a mirror of accepted usage and common law of Nigerian people.

 In my locality which is Zaakpon in Khana Local Government in Rivers State, it is believed that land was created through our ancestral lineage under the Ogoni custom and it is seen as a gift from God. Presently, land is created either by Operation of Law or by Act of the Parties. Creation could occur in a situation where the deceased dies intestate and then the property belongs to those who are entitled to it.

There is also creation by Deed of Conveyance where the Land owner confers his title or interest to his property on named members of his family by a Deed with a declaration of his intentions ro create a family property. This has happened in various cases in \my community.

 In Zaakpon community, the ownership of land is held by family, individuals and community which is not predominant. In this case Family is referred to as a group of persons who are entitled to succeed to the property of a deceased founder of a family and these other persons are the spouse and children of the deceased person. Every member of the family has equal rights in the family land.

Furthermore there is also the Individual Land Tenure System in Zaakpon community where a family sells its land to an outsider, giving the outsider absolute ownership over that land. This can occur due to different reasons such as financial difficulty or desire to sell, etc.

Communal Land Tenure System in my community is very minor as it is not efficient. very few lands are owned by the community.

Family land is land vested in descendants of a common ancestor exclusively through males for patrilineal communities or females for matrilineal communities. In my community, the family head is the person who manages and controls the land. In other words, the family head deals with everything concerning the land but does not have the right to do with the land as he pleases. Therefore before any decision is made, he is to consult members of the family first and also make decisions in their best interest.

In my community, the head of the family can either be male or female and is the eldest member of the family. In cases where the eldest member of the family is female, she can only be the head of the family if she decides to remain married for the rest of her life, “Bia Ke”.

 It has also been seen that lands owned by the community are managed and controlled by the King of the community who has the power to delegate such power to the Chief Elders of the community. The chief elders have the responsibility of allocation to the different heads of kindred’s in the community who share it among the families in the kindred being represented by the eldest family member.

It is also important to know that in my community, when land is allocated for a purpose, the allot tee does not become the owner of that land but enjoys exclusive ownership and possession while the title remains with the community.

 Land can be determined by Absolute Transfer and Partition and this has also been practiced in Zaakpon community.

Under Absolute Transfer, the family land can be transferred to another person by way of sale which will only be valid if done with the consent of the family head and principal members of the family. Therefore where a sale is carried through otherwise, it will be null and void. Also where there is an absolute transfer, it automatically makes the outsider the owner which determines the family land.

Determination by partition occurs where the family property is shared among members of the family. In Zaakpon community, this partition is caused majorly where the family head has taken exclusive ownership of the land therefore refusing other members of the family from enjoying certain rights on the land.

 In conclusion, customary law varies as there are different ethnic groups and communities with different laws that govern them. In Zaakpon, the major land tenure system practiced are Family landholding and Individual landholding.