

Land Tenure System in Iwo (Yoruba) Traditional Society of Osun State Nigeria

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Abstract- This paper considers the issue of land tenure system in the traditional society of Iwo, an ancient settlement in Osun State of Nigeria. Literature studies and theories on land tenure have been highlighted analyzing the works of different authors who have brought to the fore their various opinions on the subject matter. These include definitions, concepts of land, land tenure, customary, received English and statutory systems. The paper also analysed the system of landholding in Iwo and it's environ and how it practically affects the growth and development of Iwoland and its neighbours. The paper closes with recommendations to curb hitherto negative effects and sharp practices on land tenure system and its operatives.

Indexed Terms- Land, Tenure system, Iwo, Traditional Society and Osun

I. INTRODUCTION

Perhaps it is true to say that apart from man's existence and survival, landholding, which implies the ownership, possession, right of use and transfer of land is man's next priority. Thus, land is central to everyone's lives either for living, cultivation, business or recreation apart from other uses.

Initially, all land was owned by the king, and his subjects were then granted rights in that land. Therefore, as tenants of the king they enjoyed the land and agreed to carry out certain duties for the king. This whole arrangement was called tenure. The term 'tenure' nowadays simply describes the relationship existing between a tenant and his lord including the conditions under which land is held. Tenure differs from community to community as a result of differences in customs and traditions.

According to the Webster Dictionary of *Contemporary English*, tenure is the legal right to live in a house or use a piece of land.

Land tenure, on the other hand, is the system of landholding in any given society. In other words, land tenure is the relationship between man, society and land. It is therefore, a systemization of rules which function by specifying what different classes of persons may or may not do, must or must not do with the occupancy, use, abuse, mis-use or disposition of land in a given society

Nigeria was a product of Colonialism. Before she got her independence in 1960, Nigeria was a heterogenous entity with various ethnic boundaries with each group displaying its own land tenure system different from other groups. At the time before 1960, land was the major commodity of value as man had to commingle his labour with land to eke out a living in the form of farming. Man did this under some rules and regulations provided by his Community to avoid conflict and promote peaceful living among the people.

Each community and its landholding system especially in this part of the vast country called Nigeria evolved in different ways which included: early or first settlement, migration from one area to another, conquest at war, performance of feat for another king or community leader and establishment of friendship based on *complementarity* of purpose, and hunting expedition. In short, every community was conscious of the need to acquire and control land as vast as possible so as to be in a position to take royalties from allottees who subsequently became the subjects of the community leader, apart from giving instructions on how land could be used by the subjects.

Iwo traditional society covers a whole range of land now called Iwoland which shares boundaries with

Ibadan and Oyo towns in Oyo State and Ife-Odan, Ejigbo, Gbongan and Ikire towns in Osun State. Thus, the entity called Iwoland enjoys three Local Governments namely Iwo, Ayedire and Ola-Oluwa with the Oluwo of Iwo being the paramount ruler for the three Local Governments.

This paper analysed the land tenure system of Iwo traditional society within the general context of landholding practices among the Yoruba. It will be recalled that the ancient settlement of Iwo, in Osun State is a direct descendant of Ooni of Ife, as the first Oluwo of Iwo, named Telu Gbanguda migrated from Ile-Ife to the site where there were plenty parrots, which is the present Iwoland and township. Hence the Yoruba appellation “Iwo ni ile Odidere” for the town which translates to “Iwo the home of parrots.

II. LITERATURE REVIEW

- Land and its Conception

Land is a generic term which refers to the terra firma (physical land) and other things which are under, on, over and above it. Therefore, land signifies the dry land, minerals in it, rivers, streams, canals, mountains, hills rocks, valleys, gorges, seas, oceans and atmosphere above land up to the sky and fathom of the ocean.

According to Utuama (1989), land may be defined as the earth surface, sub soil, the air space above it, as well as things that are permanently attached to it. In another vein, the Property and Conveyancing Law defines land to include buildings, structures, rights and privileges and rents etc. Land is therefore as conceived consists of natural and artificial elements (Nwabueze, 1983).

- Concepts of Land

Land has varied meanings. Apart from providing people with living space, raw materials, food, fibres and materials for clothing, housing and recreation, land is managed and utilized due to its huge significant effect on the society’s development.

Land is viewed in different ways, as not particularly specific but a whole group of things hence the concepts are from the various professional groups,

which include physical, economic legal, socio-political, abstract, statutory, and spiritual views.

- Physical Concepts

Also known as space concept, land is viewed as the solid earth’s crust including the physical soil, plants, trees, animals, rivers, streams, minerals and air space above the land. It is also tagged geographical concept referring strictly to physical environment.

- Economic Concept

Here, land is seen as an economic good. It is a factor of production which gives rise to other factors of production and consequently the symbol of wealth of the society. Thus, land is equated to wealth and original and inexhaustible gift of nature that gives rise to economic power.

- Legal Concept

This views land as the various interests and estates and rights subsisting in land. These estates are exercisable by the various holders on the same piece of land. Land is immobile but holders only use the interests. In response to societal demands, the law can create new estates and rights, abolish and amend old ones in land. Examples are freehold, leasehold and lesser interests.

- Socio-political Concept

Under this aspect, land is viewed as a people, a nation, a town, a tribe, a political division or a community constituting a socio-political entity. Therefore, there are sayings like Hausaland, Yorubaland, Igboland and Ijawland etc.

- Abstract Concept

This is so called as land is an invisible rights and interest exercisable over land. It is quite similar to the legal concept of land.

- Statutory Concept

Here, land is viewed and derives its concept from the statute/law as in compulsory acquisition where land is defined specifically by the Act. Thus, land is considered by the people as the statute calls it.

- Spiritual Concept

Also tagged as religious concept, land is seen as a deity hence its treated as a god and a sacred commodity.

Here, the belief is that man and society are derived from land, and land is the prime giver of life and food. People then serve land due to their belief.

- **LAND TENURE**

Utama (1989) asserted that land tenure is the system of landholding in any given society. Tenure, according to the Webster Dictionary of Contemporary English (1999), is the legal right to live in a house or use a piece of land. Thus, land tenure may refer to the relationship between man, society and land. Typical land tenure is therefore, a systemization of rules which function by specifying what different classes of persons may or not do, must or must not do with the ownership, possession, occupancy, use and disposition of land in a given society.

Historically, all land was owned by the king whose ancestors were believed to be the first on the land using the theory of first occupier of land. This seems true in general and most especially in the Yoruba set-up. Other people living with the king who were his subjects were then granted rights in the land. As tenants of the king, they enjoyed the land and agreed to carry out certain duties for the king. This whole arrangement was called tenure. Thus, tenure was an exchange of landholding for the performances of service to the superior (Judith Bray, 2010).

However, the doctrine of tenure today gives rise and priority to the payment of money or release of farm produce (as obtainable in rural settlements) to the superior known as landlord. In reality, tenure differs from community to community as a result of differences in customs and traditions.

Conclusively, land tenure is legal and contractual as tacitly recognized or a customary arrangement for initial access and subsequent security of their holding of land as a means for an income flow. Consequently, the society is put together by a common identity as an aggregate pattern by which man and land interrelates. This pattern creates norms in the form of rules and tradition which results in the way individuals can use the land. Also, sometimes, land ownership is characterized by gender as in some climes, women may not own land by inheritance. This has now changed as the Nigeria's Supreme Court had vested that fact. (Supreme Court of Nigeria, August 26, 2020)

- **Land Tenure Systems**

Having reiterated earlier on that Nigeria was formerly under the British imperialists, it is pertinent to add that there was a land tenure system in operation before the colonialists forced the people of Nigeria to embrace their foreign system of landholding under the received English law.

The duality of the Nigerian legal systems has resulted in the existence of customary and non-customary land tenure system. These have now been qualified by the Land Use Act (No 6) of 29th March, 1978.

- **Customary Land Tenure System in Nigeria**

A typical Nigerian customary law remains a body of rules accepted by the different ethnic groups and even tribes to bind them and thus evolved a land tenure system over time. The system enjoys a variation due to ethno-cultural differences. Nonetheless, there are some common principles shared among the people hence the name Nigerian customary law/ land tenure system. Ownership is a technical term which refers to the maximum legal rights held by a person or body over a thing. For land, ownership may be a term used to mean absolute possession or just rights of occupation. But ownership signifies the largest claim to land as held by the community, family and the individual.

- **Communal Landholding**

This is the most remarkable principle of customary land law. Land Haldene (1921) had asserted in *Amodu Tijani v Secretary of Southern Nigeria* that land belonged to the community, village or the family and never to the individual. The denial of individual ownership of land then seems incorrect now. A land vested in the community as a corporate whole is termed a communal land. No individual member could claim ownership of any portion of it. However, the chief or headman of the community has charge of the land and he is loosely referred to as the owner. He is a sort of trustee and so holds the land for the benefits of the community though the title to the communal land is not vested in him but in the community. No division into legal and equitable ownership hence it's not a trusteeship as such.

- Individual Landholding in a Community

Members of the community have definite rights in communal lands which are equal to build and to farm. Upon allocation, the allocatee enjoys exclusive possession while the title remains with the community. Thus, communal land does not admit of communal user and so subsisting grant cannot be derogated by the grantor. However, in Bini Customary tenure system, it was observed that all land in Benin is owned by the community for whom the Oba of Benin holds the same in trust. Thus a member can acquire a piece of communal land, transmit to his offspring, protect and prevent trespassing and with that displace or postpone the interest of the community in the said land as per *Obaseki JSC (1981) in Otogbolu v Okeluwa*

A stranger is not entitled to a portion of communal land upon which to live or farm as a matter of right. He may be granted a portion as a customary tenant for which he pays a customary tribute or if permitted, he may acquire title to communal land by purchase.

Over time, communal landholding is on gradual but steady decrease due to compulsory acquisition powers of the state, transformation of the erstwhile or hitherto subsistence economy into a monetarised one, which changed many a communal land into individual tenure. Also is a traditional grant that divests the community of title and vests same in the grantees where customary land permits. The foregoing paragraph notwithstanding, communal title still exists in relation to market places, shrines, sacred bush, stool land, communal play grounds, farmlands and ponds.

Family Land Tenure

Family land is vested in a family as a corporate entity. No individual member of the family has separate claim of ownership either to the whole or any part. Thus, a member has no disposable interest in family property inter-vivos or under his will. In *Solomon & Ors v Mogaji*, it was held that a purported sale by a family head as his own was void *ab initio*.

What then is a family? In relation to family property, it means a group of persons who are entitled to succeed to the property of a deceased founder of family. Such persons are the children (male and female) of a deceased founder, though as in some Ibo societies, female children have been excluded. Though reversed

by the Supreme Court decision of 2020 A widow is not a member of the family and ditto for brothers, sisters and cousins or uncles are not members. A deceased may however, expand his surviving family by appointing a brother as head of the family in his will. On the other hand, a grand-child is not a member of the family for the purposes of succession to family property. But he will become one when his own parent who was a member of the family dies. A grandchild cannot therefore demand a portion of family land or challenge a disposition as of right. However, a property which devolved on a sole heir was family property as in *Abeje & Others v Ogundairo* by the Supreme Court in 1967.

III. TRADITIONAL IWO SOCIETY

Iwo town in Osun state is about 50 kilometres west of Ile-Ife the cradle of the Yoruba. It is 40 kilometres north of Ibadan, the seat of the University of Ibadan, some 40 kilometres west of Oyo, the seat of Alaafin. It has a population of about 191,348 (2006 Census) the majority of whom are engaged on the land as farmers at the initial stage. It has an area of 245 square kilometres in physical extent.

History reveals that Iwo people originally belonged to Ile-Ife from where they migrated sometimes in the 14th Century as led by Adekola Telu, the son of the 16th Ooni of Ife who was a female called Luwo Gbagida. The reason for Iwo people's migration is that of direct and willing movement. The Ifa oracle which led them said they should settle at a place where they saw a plethora of parrots as tradition demanded that princes to migrate and found new kingdoms as such was the cases of Oyo, Ila and Others.

The Prince and his migrants went westward of Ile-Ife until they finally reached Ogundigbaro a settlement on the confluence of Rivers Osun and Oba. They later left Ogundigbaro due to flooding of the confluence, incessant attack of wild reptiles and outbreak of smallpox. Eventually, their then leader Olumade Parin had led the people to where parrots abounded in line with Ifa oracle in the late 16th century and became the first Oluwo in the 17th century. Olumade Parin was Iwo peoples's biblical Joshua. On the site, Parin had met Babagidigbo and Olasile Beku who were descendants of Telu's follower from Ile-Ife. Other

settlements which located around Iwo as allowed by the Oluwo include Asa, Oluponna, Ogbaagba, Ile-Ogbo, Bode-Osi, Kuta, Telemu, Ikire-Ile, Ajagba, Ajagunlase, Ikonofin etc. The rulers of those listed settlements pay traditional homage to the Oluwo of Iwoland. They are all part of Iwoland though the creation of local governments later divided Iwo to three namely Iwo, Ayedire (Ile-Ogbo) and Ola-Oluwa (Bode Osi).

Generally, the Oluwo is the paramount traditional ruler and chairman, Council of Obas in Iwo zone. There are about 81 district towns and villages, each of them is headed by a Baale (District Head) with his Chiefs. The Oluwo is the chief guardian of culture and tradition of the towns and villages. Important landmark physical developments include the Bowen University, Wolex Polytechnic and West Midland University; a state owned radio-visual station and the recently established Federal College of Education. Similarly, the Oluwo is the religious leader (Islamic section) of the people of Iwo. The Oba makes and appoints Baales and Obas for the whole Iwoland.

- Land Tenure System in Iwo

Iwo traditional society, as earlier said is a purely Yoruba stock and as such its land tenure system is not different from the customary land tenure of the Yoruba.

For administrative convenience, Iwo local government is divided into 5 quarters namely, Gidigbo, Isale-Oba, Molete, Oke-Adan and Oke-Oba quarters for electoral and other purposes. The Oke-Oba quarters is physically the largest and consequently most populous. It contains many settlements made up of towns, villages and hamlets. It is purely an agrarian settlement.

Iwo traditional society is made up of communities, families and individuals hence the administration of land is in line with the components listed above. We hardly need to point out that in all parts of Nigeria, customary tenure was and is still recognized.

- Communal landholding in Iwo

Initially or at the beginning of Iwo settlement, all the land in the said 3 local government areas was vested in the Oluwo of Iwoland. That was the situation as the

stated three local government areas of Iwo, Ayedire and Olaoluwa were formerly known as Iwo Government in the 1976 Local Government Reforms floated by the then Federal Military Government of Nigeria.

History reveals that as each of the settlements came to the area, they requested for land to settle which the Oluwo obliged and they became customary tenants. One basic fact is that many families in the core Iwo have villages in the other two local government area of Ayedire and Olaoluwa. Each settlement had paid tributes to the Oluwo. For example, my traditional compound is Jagun-Ilu, which in about 800 metres from the other two Local government areas. They are Aba Jagun (Jagun Village) near Bode-osi the headquarters of Olaoluwa local government and Aba Meeji (Meeji Village) near Ile-Ogbo the headquarters of Ayedire local government. The head of my compound is high Chief Jagun of Iwoland, a kingmaker chief in the town. The Oluwo gave us the present site to settle in the Iwo city from where my family acquired the lands earlier mentioned in this paragraph.

As said earlier, as the various people came to Iwoland, they visited the Oluwo who asked them to settle and became his subjects by paying tributes to the paramount king. This practice may be seen to be contrary to practice in traditional Amawbia society in Igbo land where one can gain access to community land by being a member of the community, Ifediora, (2014). So by granting access to them by Oba, became customary tenants of the Oluwo of Iwoland. However, a germane characteristic of customary tenancy is ability to endure forever subject to good behavior. Thus the various settlements listed as Ile-Ogbo, Igege, Tootoo, Oluponna, Bode-Osi Ajagba etc enjoy something akin to emphyteusis, a perpetual right in the land of another hence the Oluwo has only a reversion. Since the interest of a customary tenant is transmissible to his heirs, the settlers became “owners” of the land as time went on.

Currently, there are some lands which belong to the Iwo Community and these are vested in the Oluwo of Iwoland who has charge of the lands and manages them on behalf of the community. This practice appears to follow same pattern in traditional Igbo

society such as Amawbia, hence Ifediora, (2014) stated the community land is held in trust by the Okpalaigwe Amobia, the traditional ruler, he hold this land in trust for the entire community. He noted also that the Okpalaigwe Amawbia holds the entire Amawbia communal land in trust on behalf of the Entire community. For Iwo, such land include the palace square, palace market Iso Isu (yam market), Idi Ogun (Ogun shrine), Iwo town hall premises, Ogundigbaro (Early settlement), Islamic praying grounds (Yidi) the main Iwo Central traffic interchange (main roundabout) and the central mosque.

The Oluwo, as the Oba, undertakes the management of the listed land uses through allocation to indigenous traders and other applicants as licencees. The Oluwo has the right to revoke and cancel the licence at any time the need arises.

It is however, unfortunate that some of the hither to communal land had been released to the Iwo Local Government to use for developmental projects. Examples are the Oja Jankara market which has been developed into lock-up shops and the Oke-Odo/Oke-Afo lands now used for Oluwo stadium and low-cost housing estate.

In respect of the communal lands remaining in the custody of the Oluwo of Iwoland, the king manages it by maintain the structures and keep them for historical purposes on the economic income from most of the, now goes to the local government.

- Family Landholding

One dominating feature of Iwo traditional society is the control of land by individual family constituting the Iwo community. However for Amawbia in a typical traditional Igbo society family land is owned by a family in a certain prescribed manner by the head of the family which is usually the oldest member of the family who holds the same in trust for the rest members of the family, Ifediora, (2014). In Iwo, it must be understood that each of the families was a customary tenant of the Oluwo and having been allocated the land, the family now owns the land including the rural settlements where the said family farmed. Thus each land owning family does the

management or its land through the family head and the principal members.

Currently, about 334 distinct families and compounds are in Iwo and only a few of them don't own lands outside their present site. The landowning families do transfer their land to prospective purchasers nowadays due to civilization, economic awareness and monetarized economy.

A case study of family landholding is that Jagun-Ilu compound Iwo. The family head Chief Jagun of Iwoland and as supported by other principal members of the family which are from 5 braches. This writer happens to be a principal member of Jagun Ilu family.

- Process of land transfer to individuals
 - a) An offer to buy land comes from the prospective purchaser(s).
 - b) A preliminary investigation is carried out by the landowner into the character of the prospective purchaser.
 - c) Negotiation about the price and demarcation of the boundaries of the land.
 - d) In some cases, offering of some rituals to the god of the owners.
 - e) Gifts of Kola nuts or any other symbolic gifts.
 - f) Payment of all or part of the purchase price.
 - g) Grant of possession by the vendor by taking the purchaser to the site and hand it over to him.

However, the current practice is to evidence such transfer with documents executed by both vendors and buyers. Many families have laid out their vast parcel of land to plots to enhance transfer with little or no demarcation challenges.

- Individual Landholding

This remains the most pronounced and rampant in Iwo community as many families have transferred sizeable fractions of their lands to individuals both indigenes and strangers and immigrants. The encouragement of private holding of land by the latest legislature touching on land in this country is well pronounced. People many purposes like residential, commercial, agricultural, etc and they do apply for statutory or customary rights of occupancy. The Iwo society is no exception in the rush by individual to perfect their titles on land held by them

- Demerits of Individual Landholding
- Landholdings process by individuals form families is fraught with some anomalies which include
- Illegal sales by family members who have no authorization to do so
 - Payment of purchase price in bits which has usually backfired on both sides of seller and purchaser
 - Unauthorized sales of land by grandsons and daughters.
 - There have been sales of same parcels of land to different purchasers
 - Haphazard arrangement of plots in areas without approved layout
 - Under-remittance of sales proceeds to the seller family which causes misunderstanding between buyers and seller-family as to the quantum of land concerned.
 - Spiritual attacks among family members on the land inheritance

- Effects of demerits on the growth of Iwo land

It is noteworthy that as good as individual landholding is, by not only enhancing the physical extension of the city of Iwo but also increasing the population it. However, the challenges listed above have retarded the growth of the city as many vacant plots are still undeveloped for any of the reasons. Similarly, many ongoing buildings have been abandoned due to litigation between feuding parties. Some individuals could not establish large scale industries due to the challenges encountered in scouting for land.

Inability to build roads and provide other infrastructure in some neighbourhood by the government as a result of haphazard arrangement of land uses

IV. SUMMARY AND CONCLUSION

Land refers to the physical land and other things which are under, on, over, and above it. It is therefore an original and inexhaustible gift of nature. Land is viewed from different angles by the various from different angles by the various professionals hence its conception is wide and includes physical, legal, economic, socio-political, abstract and spiritual concepts. Land tenure is the system of landholding in

any given society. Despite the concepts, land administration and management by a society go a long way in harmonizing the concepts for the good of the society. Among the Yoruba, land is hold as an integral part of the people. A fact which is also uphold in the Iwo traditional society.

Iwo, an ancient town in Osun state is about 45 kilometres south of Osogbo the state capital. It is the zonal headquarters of Osun West senatorial district. As an offshoot of Ile-Ife, the cradle of Yoruba, Iwo remains in the core of Yoruba culture, tradition and habits hence the land tenure system is fully customary as all the features of customary land tenure namely communal, family and individual are exhibited in the society. This paper tool a critical look at the challenges facing devolution of land from a family to an individual and the recipe include:

- Prospective purchase of land to carry out proper investigation of land to be bought
- Constant visit to the land by a family, head to prevent sales of land without authorization and encroachment.
- Full payment and the execution of tittle papers.

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