

AN ANALYSIS OF THE CONCEPTUAL ISSUES AFFECTING LAND OWNERSHIP/INHERITANCE AMONG THE PEOPLE OF OGBE AUTONOMOUS COMMUNITY IN AHIAZU MBAISE OF IMO STATE.

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ABSTRACT: *The concept of land ownership and inheritance especially among the people of south eastern Nigeria (igboland), right before the colonial period, has always been that of absolute ownership which bestows the holder with the power of alienation. Alienation connotes the totality of the right of disposal over a thing which is not only the most conclusive but also, the most valuable incidence of ownership. This is what gave land inheritance its value. However, over time, there has been a drift in the popular perception of land tenure, ownership/inheritance by the people as a result of the changing economic importance of land. Against this background, this study analyses the conceptual issues affecting land ownership and inheritance among the people of Ogbe community in Ahiazu Mbaise Local Government Area of Imo State, South-Eastern Nigeria, as it were during the historical / traditional era down to the contemporary times. The study used the anthropological methods, namely key interview, observations, and archival records in collecting its data. Analysis from the study reveals that most aspects of the land laws of the people including land pledging, communal ownership, land sales, inheritance procedure and gift land among others were gradually changing while some have become extinct due to the emerging social, economic and political restructuring of the nation in general and Ogbe in particular.*

KEYWORDS: Land tenure, Ownership, Inheritance, Concepts, Analysis, Ogbe community.

INTRODUCTION

Background of the study

In Nigeria, land takes up importance as a commodity for daily use for many purposes. For several decades, land has continued to influence the lives of Nigerians socially, economically and politically. In the process of using the land, Famoriyo (1979) believes that complex set of relationships emerges among groups. The more complex various Nigerian communities become, and the more established are the physical manifestations of development, the more friction and clashes are likely over rights in land. This shows that in Nigeria, as in other developing countries generally, land constitutes a sensitive asset whose administration must be based on meaningful policy decisions to benefit the citizenry. Customary land tenure systems, especially in South East Nigeria, are related to family and inheritance systems, and are based on the concept of group ownership of absolute rights in land, with individuals acquiring usufructuary rights. Customary land rights establish the basis for access to land resources and the opportunity to use land for productive purposes (Famoriyo, 1979). Famoriyo (1973) notes that under the customary rules of tenure, three principles were observed: first, each individual member of a landholding family was entitled to a portion of land – enough to feed himself and the members of his family; second, no member of the community could dispossess another of his or her stake in family land; and third, no one could alienate family members' interests in

family land without the knowledge and consent of those members. Although the basis of land-ownership in Nigeria has long been the family from which other interests are carved out, there are essentially two categories of interests recognized in land. The first, that of superior interests which are proprietary in nature and confer the highest decision-making rights to the holder, having regard to the laws and customs prevailing in the locality. Secondly, there are inferior interests which are rights exercised by individuals, not in perpetuity as in superior interests, but for a limited period of time. These are rights which have been derived from, or carved out of the superior rights and are subject to the laws, customs, sanctions, rules and regulations of the community.

In Nigeria, no land exists without an owner although that ownership may be the basis for dispute. Umeh (1973) has recognized four main categories of who may exercise rights or interests in Nigerian land. These are natural and supernatural persons, corporate bodies and the State. In the eastern part of the country, land tenure can be classified into three main types, namely: communal, individual (private) and public (state).

CONCEPTUAL ANALYSIS OF LAND TENURE CATEGORIES IN EASTERN NIGERIA

Communal Land Tenure

Communal land tenure is usually based on the inalienable and equal rights of joint ownership of land by every member of the community, with some appointed members, usually elders and titled men, given the responsibility to act on behalf of others as custodians of the land. In Igbo land, some cardinal principles of land tenure are that the land belongs to the community and cannot be alienated from it without its consent; within the community, the individual shall have security of tenure of the land required for his compounds, gardens and farm; and, no member of the family shall be without land (Adegboye, 1966). Communal land tenure varies from community to community and is related to farming practices, ethnic heterogeneity and stability of leadership. However, a distinctive feature of communal land tenure systems as noted by Arua (1981b) is that joint decisions are taken on which land to cultivate, which crops are to be grown, the number of seasons during which the land is to be cultivated and the length of the fallow period.

Individual Land Tenure

Under individual tenure in the ancient times, land was available to the individual owner for agricultural purposes, but may be also given out to others on a rental basis, especially for cultivation. In many rural areas in eastern Nigeria, outright purchase of such land was difficult; in a few, it was even prohibited by the lineage or clan. Land may be pledge able but was inalienable.

Private individuals as well as institutions exercise ownership rights according to customary and statutory land tenure. Individuals become entitled to parts of family land by virtue of birth into a family or clan. They can also enjoy absolute rights of ownership on the basis of being the first to clear and occupy a plot of land. Under statutory law, any individual or registered group can own land.

Public (State) Land

When the rate of change in the socio-economic structure of society is faster than the rate of change in customary law, the state often intervenes with statutes or policies to facilitate changes. Under customary tenure systems in eastern Nigeria, rudimentary powers of compulsory acquisition existed. Public rights were exercised whenever land was to be used for the ultimate benefit of the public in general (Famoriyo, 1973). "State land" means all public lands in eastern Nigeria which were subject to the control of the British Crown on 30 September 1960 and held for public purposes. It also includes all land thereafter acquired by or on behalf of the Government of Nigeria held for such purposes.

SCOPE OF THE STUDY

Brief History of Ogbe

Ogbe is an autonomous community of Ahirara town, in Ahiazu Mbaise local government area of Imo State, South Eastern Nigeria. It was formally made up of nine villages, namely: amaoji, ndiohia, umueleke, umuihi, umuihiokwu, umuloolo, umuokeawa, umuoma, and umuuzu. However, some of these villages have split to form an autonomous community of their own known as Ogbe-Nneisi. The present villages in Ogbe autonomous community are: amanze, ndiowere, umuaghara, umulolo, umuoma and umuokeawa. Mbaise's population today is in excess of 1 million people. Subsistence farming still accounts for a major part of the occupation. Yams, cassava, palm fruits, vegetables and fruits are the main agricultural products. Palm fruits, harvested communally provided the funds for scholarships with which many pioneer professionals and educators were sponsored overseas. The famous "afor-ogbe" meat market is the central land mark in Ogbe autonomous community and helps to boost economic activities in the area as people from many neighbouring towns and villages troop into the area on a daily basis to buy fresh meat.

In this study, the researcher aims at examining the conceptual issues in the ownership and inheritance pattern of the people of Ogbe community and discovers the nature and extent of change in the customary land tenure system of the people.

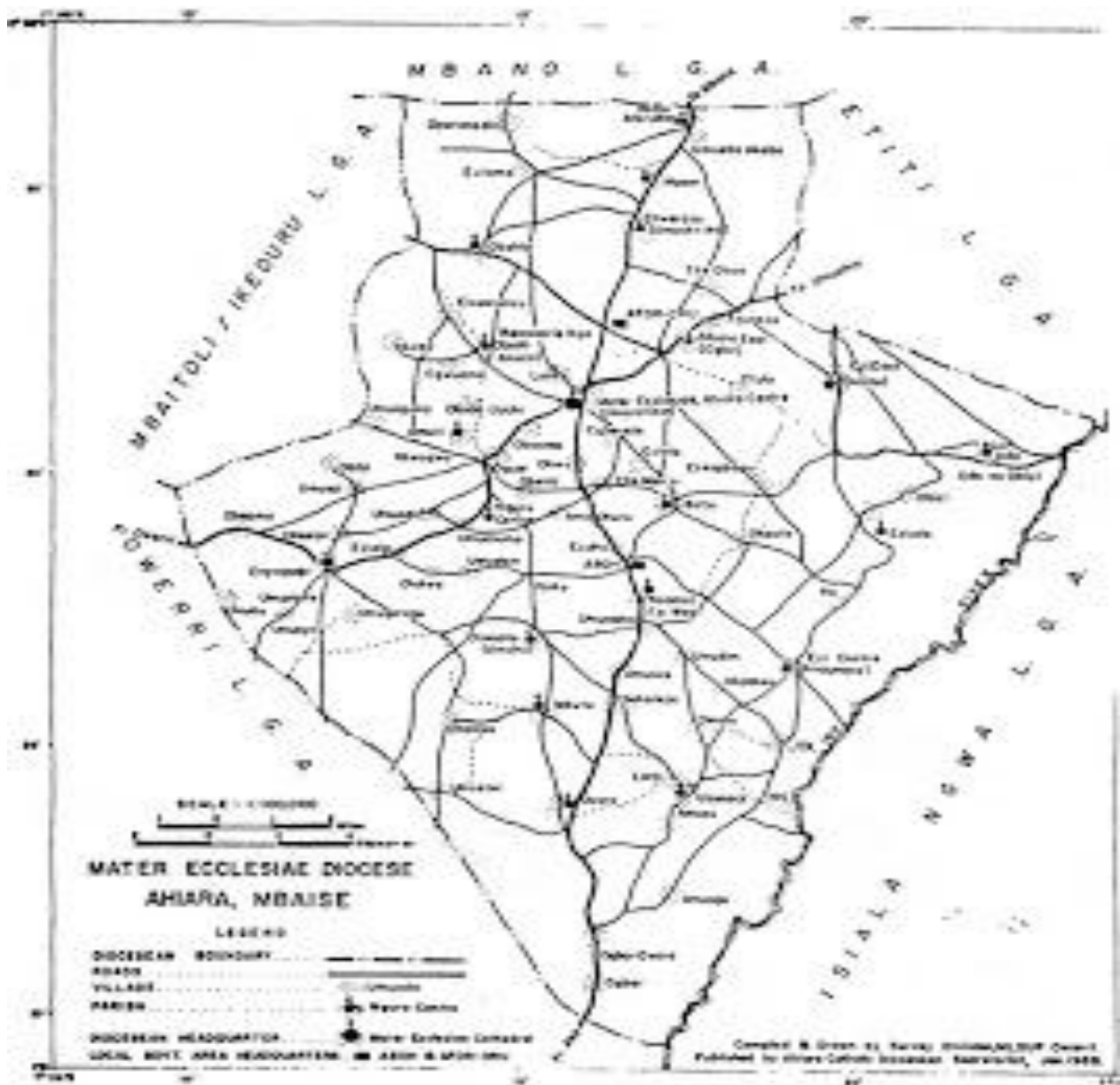


FIG 1: MAP OF MBAISE AND SURROUNDING TOWNS

Source: www.mbaiseusa.com

Historical Land Tenure Pattern of the Ogbe People

Before the advent of colonialism in Mbaise, inheritance among the people of Ogbe community was in the male lineal descendants. Land was inherited by the sons through their mothers essentially for agricultural purposes and residential purposes (*“obiri”* or *“ovu”*), for himself, his wives’ huts, barns and kitchen (*ulo okuko, obaji, mkpuke*). Land was shared among the sons of the deceased with the first son taking the *ukwu oji* (the choicest piece of land). The mother then shares the other pieces of land amongst her children (the first son inclusive).

The system however changed during the colonial era. Land was now inherited by the sons directly from the father’s possession and no longer through their mothers. The first still

maintains the inheritance of the choicest piece of land (*igwu onu*) and the others shared equally among the male siblings. Ownership was for perpetuity and it was difficult for land to be sold outrightly. The ideal practice was land pledging. Land pledging is a customary way of transferring land whereby the original owner of title to a particular piece of land uses the land to either borrow money from an individual or a group of people. The agreement is usually in two forms: (1) a specific time may be given when the pledger would redeem his debt and take possession of his land back or (2) there may be no specific time duration to redeem the pledge. It may be indefinite through year and generations. Land was only sold to strangers or to other members of the extended family under extreme economic need with the consent of members of the family. Communal land was shared among the people. No single individual owned communal land but the fruits were harvested by selected groups on a shared basis and the money used for the community development. Community and church land was gotten by freewill donations from different families.

Analysis of Changes in Inheritance Pattern in Ogbe

In the community under study, some aspects of change in the “ideal” practice of the customary land laws are discovered to have gone through modification. These include local rules and regulations guiding ownership and inheritance of land. The nature of such change, the factors that brought about the change and how such change has affected the culture of the people form the bases of this analysis. Presently in Ogbe community, land is no longer inherited through the mothers. The first son of the deceased however, still maintains his right to pick the choicest piece of land but the right to own the father’s compound is not strictly observed anymore. The prevailing practice is one where the first son usually decides to leave his father’s compound for another plot of land so that his younger brother will inherit and make use of their father’s abode. This happens often when the first son has acquired enough wealth to build himself another house. Sale of land is no longer difficult. An individual now has the right to dispose off his inherited land in exchange for money if he so wishes. Land pledging too is fast phasing out due to the change in economic and customary system. Pledging is a sort of indigenous mortgage through which an owner-occupier gives possession and use of his land to a pledge creditor (pledgee) in return for a cash need (Famoriyo, 1979). The standard terms as described by Famoriyo (1975) are that either the pledgee uses the land until the pledger pays back what he owes, or that the pledgee takes the benefit from the land as interest for a stipulated number of years in order to recover the money lent to the pledger. In the latter case, the pledgee cultivates only annual crops and does not make any major investment or put up any structures. Erecting major improvements would be tantamount to claiming ownership. If, however, the fixed number of years has passed and the pledger is unable to pay back, the pledgee becomes the de facto owner of the land, and the pledger and his heirs are permanently dispossessed of the land. In the area studied, pledgees were found to be richer, more educated and more influential than pledgers and, in some cases, maliciously deprive pledgers of their land. A lot of cases have been recorded on disputes between land pledgers and pledgees in the area under study. One of such is the case between a pledgee and his pledger, which was brought to the council of elders of the village for settlement. The pledgee who was the plaintiff took the pledger (the defendant) to court on a dispute over the developed portion of the pledged land by the pledgee. The plaintiff presented the case before the council of elders that the defendant has to pay him compensation on the developed part of the pledged land before he took it back from him. The council of elders resolved that the defendant should pay compensation to the plaintiff but the defendant refused to agree with the council’s verdict about the compensation to be paid for the developed portion of the piece of land. The defendant instead further argued that the

plaintiff was supposed to forfeit all the improvements he had made on the pledged land in line with the customary land law of land pledging. Even despite the disagreement, the council insisted that the defendant (pledger) had to pay compensation of some amount of money to the plaintiff for the developed land before he could take over his piece of land. This case has lingered and till today, the pledger has been unable to recover his land. From the above, it can be seen that the aspect of customary land acquisition procedure that provides for the forfeiture of all improvements on a pledged land by the pledgee is fast giving way to where improvement on such land must be compensated. The result is that people no more fancy the idea of land pledging.

DISCUSSION OF FINDINGS

From the studies carried out, the researcher observed that there have been changes in the pattern of land ownership and inheritance among the people of Ogbe community. Most of these changes are as a result of certain factors. While documenting the nature of change in the system of land tenure and the customary laws related to it especially with respect to the rules of inheritance, the present study also attempted to identify the factors underlying these changes. One of these factors identified by the study is the increase in the indigenous population of Ogbe and the corresponding increase in family population. Respondents repeatedly highlighted this factor as an important factor accounting for the change in customary land law. Other factors include socio-cultural changes in the inheritance pattern of the people, as can be seen in the transfer of the estate of a deceased to his heirs and in the sale of land. Institutional change in terms of their customary land laws is another noticeable factor affecting the change in ownership system of the people of Ogbe community.

CONCLUSION

A general overview of this study shows that while there have been several changes in Ogbe customary land laws, some other important aspects of these laws have remained resilient. The changes include the sales of land, and the rule relating to the portion of land to be inherited. Also individuals now have freedoms to determine how their land will be distributed to their heirs through the use of will. In addition the rule of fortitude in the land pledging has been modified in the face of present realities. Finally there have also been notable changes in communal ownership of land, which has resulted from the pressures on such land from individuals. These changes reflect the unique adaptation of the social organization of the community to externally induced changes, which accompanied the introduction of colonialism and the internal dynamics of the people's culture.

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