



## CHANGES AND CONTINUITY OF LAND TENURE SYSTEM IN AGULU-ANAMBRA STATE, NIGERIA

BY

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### Abstract

There has been changes in various Igbo traditional practices and land tenure system is not an exception. In Agulu, there are persistence practices despite obvious alterations in land tenure system and these have not been studied. Agulu is among the communities in Anaocha Local Government Area in Anambra State, Nigeria. This study is poised to highlight land tenure system, the changes and as well persistent practices in land tenure system in Agulu. The theory of social change which explores how and why societies transform over time is used to analyse the changes in land tenure system in Agulu. The changes are as a result of factors like, increase in indigenous population, placing high monetary value on land, among others. It is a survey research and qualitative research method was employed. Data collection was by library collection, oral interviews and observations. Interviews were posed to randomly selected elders and youths who are knowledgeable in land matters. This was done to ascertain the changes and persistent practices in land tenure system in Agulu. Findings reveal that traditionally, Agulu community does not alienate lands to strangers but in the present dispensation, strangers can buy land in Agulu. The study also reveals that in the traditional practice, first sons were obliged to occupy their fathers' compounds but currently some first sons establish settlements outside the fathers' houses. It is believed that this study would benefit every member of the society especially subsequent anthropology scholars as it will serve as a reference point for them. The study recommends that Igbo communities should be mindful of the changes they accommodate while some sustainable traditional land practices should be retained.

### Introduction

The Igbo traditional society is both religious and cultural minded. Most of the traditional beliefs they share among themselves are rooted in their customs and are determinants of their cultural values. Pre-colonial Igbo nation operated a republican society and relied on norms guided by customary laws of the land for social management, control and order. Customary laws are products of traditional wisdom developed through socio-environmental experiences to solve life challenges. The custom of the land is handed over from generation to generation. No one knows when they first started taking full effect. It is rather believed that they are learnt and transferred from one generation to another.

Land tenure system in traditional Igbo society like other cultural practices was not written down anywhere instead, they were engraved in the minds of the people. In the contemporary society, most of the practices have been documented and series of alterations also recorded. Land is an indispensable valuable right from the very beginning of man's existence. No one can substantially



trace the origin of land except to the creation story according to the Bible where the Omnipotent being created land in line with the whole universe. In Genesis 1:9-10, "And God said, "Let the water under the sky be gathered to one place, and let the dry ground appear." And it was so. God called the dry ground "land," and the gathered waters he called "seas."..." Prior to the creation, the earth was presented as formless and empty, (International Bible Society, 1993). Many Nigerian scholars have written on land tenure, law, development and management but apart from the creation account, no one has been able to trace the evolution of land. After creation, man understands that land is very essential for his existence.

This study intends to highlight land tenure system in Agulu with a view to explore the changes and as well as persistent practices in land tenure system in Agulu. The changes are as a result of factors like, increase in the indigenous population, placing high monetary value on land, among others. The theory of social change which explores how and why societies transform over time is used to analyse the changes in land tenure system in Agulu. It is a survey research and qualitative research method was employed.

Agulu is one of the towns in Anaocha Local Government Area in Anambra State, Nigeria. It is situated along Awka-Nise-Ekwulobia road. Agulu is a big and prominent town with deep rooted traditions like new yam festival, age grade systems, masquerades cult, among others. It has twenty villages organized into three quarters namely: Ebenato- made up of three villages, Ebeneshii- made up six villages and Ebemonu- made up of eleven villages. The people of Agulu value unique communal life, kinship, and ancestral lineage and as well share cultural heritage that bound them together.

### **Conceptual Studies**

Major concepts used in study were reviewed for clearer understanding.

#### **Change**

Change is the process of becoming different from previous or former state. It is replacing of one thing with another. According to <https://www.yourdictionary.com> (2023), change is the act or process of substitution, alteration, or variation. Shaikh (2020) refers to change as the continuous modification that an organisation or individuals make to deal with adjustments in any matter. He adds that in the continuously demanding environment for change as a result of globalization, technology evaluation or higher customer expectation, management of change is very important for organisation continuity and development. Therefore, change is a process, not an event. This means that change is constant and as a result, it is pertinent to handle it in a way it will encourage progression.

#### **Land**

Land has many literal concepts. The basic notion of land is that it is a specific piece of earth, a property which the boundaries are clearly delineated and has an owner. It is the soil surface of the earth that is not permanently submerged in the water. Omole (2009:32) believes that "Land is an asset and factor of production for households in Nigeria." This means that land is indispensably valuable to man. *Black law dictionary 7th edition* in Oseni (2014) defines land as an immovable and indestructible three dimensional areas consisting of a portion of the earth's surface, the space above and below the surface and everything growing on or permanently affixed on the land. This definition implies that land may have both a natural and an artificial content. The natural contents include, the ground and its subsoil and things below or above the surface of the earth; whereas the artificial contents include, building and other structures that may be added. It equally means that soil is not the only component of land but also other elements like the lakes, streams, trees and others.

Mgbeahuru (2017) sees land as a part of the earth's surface considered as property. Land as a property subject to private ownership and control is the foundation of modern society and it is



eminently worthy of the superstructure. This means that land as a property under individual ownership and control is traceable to the contemporary society.

Oseni (2014) further asserts that according to section 3 (miscellaneous provision) of the Land Use Act of 1978, immovable property of lands include, everything attached to the earth, and chattels real but does not include minerals in the language of the property. This means that the section 3 included all attachments as part of land except minerals. For Chen (2022), the term land encompasses all physical elements, bestowed by nature, to a specific area or piece of property the environment, fields, forests, minerals, climate, animals and bodies or sources of water.

Shaw, Sinclair, Andah & Okpoko (1993) observe that land in Southern Africa is a representative of the most valued asset of descent groups. They explain that individuals may clear land for their own use, but at death, title passes to their lineage, to be administered as part of their title and claims to authority by invoking a hierarchy of ancestral spirits: that is those who once owned the land who willed responsibility to it to their heirs. Shaw et al (1993) further stress that the Shona call their chiefs *mwene we nyika* meaning, owners of the land. But *nyika* signifies not only the land, but also the people dwellers on it and their rights.

## **Land Tenure**

Land tenure system as Mixtafrica (2021) explains is the process of granting ownership of land to individual bodies, cooperate bodies and natural bodies based on their use of these lands. This statutory instrument is used to ensure that human habitats are safe and sustainable.

Noronha and Lethern (1983) define traditional land tenure as the rules accepted by a group of the ways in which the land is held, used, transferred and transmitted. These rules may have “force of law”, that is, they may be enforced by the courts of a country though they may be unwritten and not incorporated, or specifically set out in any statutes. This means that land tenure in a traditional society is enforceable by law even without being recorded in any book.

Kasimbazi (2017) expresses that land tenure systems are products of historical and cultural factors. Land tenure system comprised of the customary and legal statutory rights that individuals or groups have to land and related resources. They reflect and determine the resulting social relationship between members of a given society. Various countries of the world have developed specific land tenure concepts which are basically on the historical and current values and norms. According to Kasimbazi, these concepts which have often been shaped by an evolutionary process are determinants of present land tenure.

He further avers that “Land and proprietary rights can be used to refer to the rights that individuals, communities, families, firms, and other corporate or community structures hold in land, water, forestry, wildlife and, in some cases, mineral resources.” Kasimbazi believes that land tenure includes the concept of tenure security which refers to enforceable claims on land, with the level of the enforcement ranging from national laws to local village rules, in turn supported by national regulatory frameworks. This implies that land tenure cannot exist outside established regulations be it formally or informally instituted.

## **Theoretical Framework**

The study adopts theory of social change to facilitate analysis.

## **Theory of Social Change**

Theory of social change explores how and why societies transform over time and have roots in the works of early sociologists like Auguste Comte and Herbert Spencer, as well as later thinkers like Karl Marx and Max Weber. Several perspectives exist, each offering a unique lens to explain how societies transform. There are early and modern theories of social change. Early theories of social



change include evolutionary, functionalist, and cyclic theories. While modern theories include, modernization, social evolution, conflict theories, among others.

Theories of social change according to Strasser and Randall (1974) have exhibited great variation in the ways they define and conceptualise the phenomenon of change. Strasser and Randall (1974) maintain that various theories have focused on the individual and group processes which underlie changes in society while others have focused on changes on the social system level. Most theories dealing with social change have been based on one of these perspectives: the psychological perspectives like Freud, Horney; social-psychological perspective like Simmel, George Herbert Mead; sociological perspective like Emile Durkheim, Karl Marx. There are also some biological theories like social Darwinism and geographical and climatic theories that have been advanced. In corroboration with Strasser and Randall (1974), Robertson (1977) expresses that a number of theories of social change have been proposed, not only by sociologists but also by historians and anthropologists, for all three disciplines have a common interest in social change.

However, Robertson (1977) asserts that there are four main theories of social change. They include evolutionary, cyclical, functionalist and conflict theories. This study uses theory of social change based on functionalist perspective because it is the most suitable for the topic under discussion. The functionalist theory of social change proposes that society is in a constant state of equilibrium. When a change occurs in one part of the society, adjustments are made. Social change occurs when the equilibrium is compromised due to rapidity with which events occur.

Again, Neubeck and Glasberg (2005) observe that social change is latent when it is largely unrecognized and unintended. However, sociologists generally agree that whether it is manifest or latent, social change is an ongoing process; it is not a singular, discrete event in a vacuum of time and place. Nevertheless, there has been wide disagreement over how to explain social change.

Stark (2004) states that basic element of social life limits the scope of social change and not all changes are equally likely or even possible. And social life conditions influence the pace of change. For most human history, change took place very slowly. In the past few centuries, change has been very rapid, but only in some parts of the world. While some societies launch space rockets, others have not yet learned to make tools from metals.

Stark (2004) examines general principles of social change and grouped them according to internal source of change and external source of change. Stark opines that social and economic changes that have dramatically taken place in the world during the past several centuries could be summed up by the term modernization. Modernization according to Stark is the process by which agrarian societies are transformed into industrial society.

This theory is the most suitable to analyse the changes and continuity in land tenure system in the area of study. Various factors have driven changes in traditional Igbo land tenure including colonial rule, Western contact and education, urbanization, demand pressure, and the Land Use Act of 1978. These changes have introduced statutory land ownership, individual rights, land commodification and gender equality pressure. The functionalist theory of social change is applied to analyse how these factors reshape traditional land practices, create tension between old and new systems, and alter values of inheritance and authority.

### **Empirical Review**

Ezeh, Emeribe, Ogbomida and Ubachukwu (2022) carried out studies in land tenure system under secular and customary systems. The study made insightful contribution in explaining that under the customary law, land is vested in the community or family and no one has the right to alienation, and the customary court is established to litigate land cases. While in secular system, land is governed by the 1978 Land Use Act that vested land in the state, and the secular system presents some difficulties in land acquisition and administration due to bureaucratic bottleneck and corruption.



Onyemelukwe (2015) studies inheritance and land ownership in Nanka. The objective of the study is to highlight role of female son (retention marriage) in a family that has no male child. The study observes that a man with no son to inherit his landed property cannot pass on his property but it will revert to his brothers or to his male relatives on his death. According to the study, Igbo custom has a way of ensuring continuity of a man's lineage even without a male heir.

Onyemelukwe's study reveals that when there is no male descendant, custom can make a daughter fill the role. The family of the female son will perform the necessary custom on *nhàchi* after which the female son would assume double role in the family. First as a son and full member of the kindred thus, entitled to rights and benefits due to other sons in the kindred. Secondly, she would join the co-wives in the kindred. She could inherit land and transfer to her children.

Adedipe, Olawoye, Olarinde and Okediran (2021) review the rural communal tenure regimes and private land ownership in Western Nigeria and observe that customary land tenure in Nigeria placed the Oba in charge of land distribution. The study avers that the colonial law did not as a rule intervene in customary land tenure, except in cases of appropriation for the public good. The study also observes the similarities and differences in land tenure concepts and practices prior and after the Land Use Act of 1978 which affected the entire country.

Adedipe, Olawoye, Olarinde and Okediran's study is necessary as it discloses the impact of land tenure system on agriculture, rural development and overall national development from economic, socio-cultural and legal perspective. The study as well reveals that despite changes in land tenure, the subject of land remains sensitive throughout the country. This is because of the fact that land is regarded as a productive combination of economic, social and political assets.

Ojiaka (2022) examines the customary land tenure system of Unubi people and observes that interest in land is mainly acquired by inheritance. The study observes that Unubi people's land were founded by three families who were the first settlers on the land. Ojiaka's study is important because it helps to understand that Unubi community has a long established five modes of land ownership.

Acholonu and Ochiabutor (2021) carried out study on Igbo land tenure system and gender inequality focusing on the mass media responsibility. The objective of the study is to examine the issue of land tenure system in Igbo land with its attendant gender inequality and the responsibilities of the mass media. Findings of the study reveal that women disinheritance of landed property had continued despite Supreme Court decision on female inheritance which upheld the right of a female child inheritance to the father's property. It also discloses that the mass media wield enormous power when it comes to campaigning for attitudinal or behavioural change and so they should see the campaign on Igbo land tenure system and gender inequality as important and consequently reflect it in their news stories, editorials, commentaries and feature articles. The study of Acholonu and Ochiabutor (2021) relates to this study in that they both discuss land tenure system in Igbo land. But, they are different in the area of concentration.

### **Data Presentation and Analysis**

Here, the study sets out to analyse the concept of land among Agulu people together with the changes and persistent practices in land tenure system in Agulu.

### **The Concept of Land among the Agulu People before the Contact with Foreign Culture**

The Igbo people are cultural people. They have certain peculiar cultural heritage that distinguishes them from other cultural groups. Land among the Igbo people has two concepts. Firstly, the Igbo people consider land as the earth surface where they cultivate crops, build houses and markets, construct roads, among other things. Pius Nnebedum (phone interview on 29<sup>th</sup> November, 2023) explains that everything a man can do is done on the land and for the Igbo people, land is a gift





from God on which man performs every other tasks. Man cannot give any account of land in terms of its origin rather every human being comes into the world and meets the land already in existence. Agulu people believe that God instructed the Israelites to obey His command and enjoy the land He promised them in the Bible, (Deuteronomy 11:24) thus, “Every place where you set your foot will be yours: Your territory will extend from the desert to....” This is to say that people of Agulu believe that God created land and handed it over to man as a gift for him to utilize.

The second concept of land among the Igbo people right from the pre-colonial period remains that land is a spirit agent of supreme God. Before the contact with Europeans, Agulu people believe that land is the earth goddess and an agent of the supreme God. There is a belief that land is bigger and greater than man not only amongst Agulu people but in entire Igbo land. It is evident in Igbo names like Anakamadu, Ananwemmadu, among others. And this belief still holds.

Ogechukwu Okonkwo (personal interview on 17<sup>th</sup> May, 2023) concurs that traditionally, Agulu community has a belief that land is a super natural agent of God who oversees right conduct and equally superintends over fruitfulness. Because land is in charge of good conduct, Igbo people do not bury those that committed abominable acts like one who committed murder or suicide in the land for fear of polluting the earth goddess. In the pre-colonial period, such corpse was abandoned in the evil forest as food for vultures and wild animals.

More so, consequent on attribute of land as a symbol of spiritual agent of fertility, it is believed that the earth goddess is a female being. Land is the goddess who is in charge of fertility. As a goddess, it gives authority to plants and farm produce to give abundant yield. According to Onyemaechi Anikwata the people are always conscious not to offend the earth goddess because it is capable of causing a poor harvest. Onyemaechi's assertion agrees with Asogwa and Opata (2017) assertion that land is regarded as the source of human sustenance from where all plants and humans draw their powers of fertility and production and both lend credence to Mead's theory of symbolic interactionism which proposes that interpretation given to a symbol by any group is the best. Agulu people believe that land is symbolically a spirit agent of fertility and the interpretation stands as the most correct.

#### **4.2.1 Land Tenure System in Agulu in the Pre-Colonial Period and Changes**

There are five major categories of land tenure system in most Igbo traditional communities including Agulu. They are: (a) Communal or community land (b) Village land (c) Clan or Kindred land (d) Family land (e) Individual land.

**(a) Communal land:** Communal land also known as community land comprised of lands which the entire community has an individual or proprietary interest. Community lands are held in trust and administered by the community chiefs or leaders. Individuals are entitled to pieces of communal land for farming as members of a village, clan or family. The community land is mapped out from according to the number of villages and the villages share according to clans and each clan shares to all male indigenes that are of age and pay their annual community levies. Community members are given some portion of the land only for the purpose of farming. With the inception of colonial rulers and subsequent contact with the Christian missionaries, Agulu community donated most of their community lands to the churches and government for public oriented projects like building of schools, churches and hospitals. Schools like former Girls High School Agulu now Rosa Mystica College and Udodimma Primary School both sited along Awka-Agulu-Ekwulobia road are situated in community lands.

**(b) Village land:** Village land also refers to as communal land comprises lands which the entire community has an individual or proprietary interest. Village lands are held and administered by the village chiefs or leaders. In communities that practice communal land tenure system, each member has a right to use independently the holdings of the community. The communal land is owned and managed by the village. The village leaders or heads allot lands to adult male indigenes in the



village who transfer the ownership to their progenies. The village land is specifically given out for farming and for public projects like siting markets.

**(c) Clan land:** It emanates from the village land. According to Norbert Muoebonam it is the clan that owns and distributes their share of land from the village in most Igbo communities. The clans own land and distribute among the families who thereafter redistribute among families members. Land tenure system common among Agulu community was mostly clan land ownership because clans in the twenty villages in Agulu have lands clustered together in their villages. Though there are few individuals, families or clans whose land are seen situated in between other clans.

In Isiamagbo village Agulu, for instance, there are five quarters made up of varying numbers summing up to 40 clans. The quarters are: Akaezi, Ogwugwu and Dunife, Umuezeota, Umugo and Ndiagu. Members of these clans in these quarters divide lands according to families that constitute each clan. For example, Umudinuchenwa a clan in Umugo quarter is constituted by four extended families namely; Umuegede, Umugbajalu, Umobianwo and Umokpokoro. Lands were subdivided among these four extended families and as such their lands are mostly clustered close to one another both the residential houses and farm lands, except for few houses and farm lands situated within other clans. Individuals use mainly *ogirisi* or other life trees to indicate demarcations of their portions of the land.

Whenever there is misunderstanding among family members or between brothers as regard land distribution, the parties involved would consult their kinsmen who will settle the dispute. When the dispute among family members or brothers cannot be resolved by the kinsmen, or, any party involved in the dispute is not satisfied with the resolution given by the kindred, the party would take the case to the village group.

Again, most times the village group would refer to the resolution made by the kinsmen. Anyone who neglects the kinsmen and takes such case straight to the village would always be referred back to the kindred. Sometimes, the village group would uphold the resolution of the kinsmen. In other words, any land dispute among family members must first of all be taken to the kindred to settle. It is only when one party is unsatisfied with the kinsmen's judgment that the matter would be taken to the village group. Since the inception of statutory laws, most land disputes are taken to the law court especially when either of the parties feels dissatisfied with the clan's judgment.

**(d) Family land:** Family land in the pre-colonial era was allotted from clan to the family. The head of the family holds the land in trust for other members of the family. The head of the family cannot take any decision on the land or alienate the land without first of all seeking the opinion of other principal family members. However, this is no longer obtainable in most cases because, at the time of this study, individuals can decide to sell their land without the knowledge of other family members. Again, the oldest son in the family irrespective of whether the mother is the first, second or third wife gets the biggest share of land. This practice has been consistently in use.

Also, the eldest son inherits the father's compound but, he must accommodate his siblings till they are able to build their own houses and then move out of the family house. But at the time of this study, eldest son who is wealthy can acquire land elsewhere maybe at a more pronounced location and build a residential house for himself. Some eldest sons even when they move out still hold on to their fathers' compounds as their birth rights while few others may decide to relinquish to the younger brothers.

**(e) Individual land:** In the pre-colonial Igbo society, individual land tenure was available only for farming or agricultural purposes. Individuals get share of the land from their family land. It could be for a member of the family to build residential house and some portions to cultivate for his subsistence needs. Most individual lands in the pre-colonial period was inherited from the forefathers that is, father to son inheritance. An individual can as well give out the land he either inherited from the father or his share of the kindred's land to others on rental basis for cultivation.



In Agulu community, land in the pre-colonial period could not be alienated by an individual without the consent of other family members.

In pre-colonial period, land can only be pledge, borrowed, gifted or exchanged but not outright alienation especially through sale to a stranger. It is believed to be because individuals lack absolute right or title to land but possess only usufruct right or title. The use right to land by individuals in the Igbo traditional society made some people like Uzoezie (2002) to argue that individual land ownership is alien to the Igbo people. But, in the present dispensation, individuals alienate lands without the knowledge of other family or clan members. Consequently, some families are challenged by land disputes and protracted court cases with the unsuspecting buyer or buyers.

### **Summary of Findings**

At the end of the study, findings reveal that in the pre-colonial period, Agulu community does not alienate lands to strangers but in the present dispensation, strangers can buy land in Agulu. The study also reveals that in the traditional practice, first sons were obliged to occupy their fathers' compounds but currently some first sons establish settlements outside the fathers' houses. Again, findings show that the father's house is persistently the eldest son's birth right though at present, he can choose whether or not to relinquish to his younger brothers.

### **Conclusion**

The study has been able to establish that though there have been alterations in land tenure system in Agulu, some important aspect of land tenure system have remained resilient. For instance, first son inheriting the father's house is still prevalent despite the change observed where some wealthy first sons can now establish in any better locations of their choices. Also, the study has ascertained that individuals at the time of the research have absolute title or right to land and can conveniently dispose of their lands any time without the consent of other family members. This research cannot claim to have exhausted every aspect of land tenure system in Agulu. Therefore, it recommends that further study be made to explore other areas of land tenure system.

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