

Comparison of Land Use Act and Traditional Land Use

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ABSTRACT: *This study examines the land tenure system in Imilike, Udenu Local Government, South East Nigeria, with a focus on the customary land tenure system and its implications for land use, economic development, and social stability. The research reveals that the land tenure system in Imilike has undergone significant changes, including the sale of land, changes in inheritance patterns, and modifications to land pledging practices. The study also highlights the differences and similarities between the Land Use Act of 1978 and the land tenure system in Imilike, including government control, land allocation, and land registration. The findings of this study have important implications for land administration, conflict resolution, and sustainable development in Imilike and beyond. Recommendations include integrating traditional and modern institutions, recognizing customary rights, prioritizing sustainable land use, community engagement, and capacity building. Overall, this study contributes to a deeper understanding of the complex dynamics of land tenure systems in Nigeria and highlights the need for inclusive and effective land administration systems.*

KEYWORDS: land use act, land tenure, traditional land use, ownership, inheritance, concepts, analysis, Imilike

INTRODUCTION

Land is a significant resource and is considered as one of the three main factors of production, alongside labor and capital. Land is defined as the "earth's surface, including its natural resources, boundaries, and everything that is attached to it, whether artificial or naturally occurring." The term land also encompasses more than just the physical space but also includes natural endowments, such as minerals, forests, and water bodies.

Furthermore, land is an essential aspect of property development, management, and planning, and its value is determined by various factors such as location, zoning, topography, access to infrastructure, and market demand. The value of land increases over time due to various influences such as population growth, urbanization, and the expansion of economic activities.

Land tenure system refers to the set of laws, customs, and practices that govern the rights to own, use and manage land. It defines who has the right to control and make decisions about a piece of land, as well as the obligations and responsibilities that come with it. The land tenure system has significant implications on land use and access to resources, economic development, and social stability.

Land tenure systems significantly influence socio-economic development, land management, and conflict resolution within communities. In Imilike, Nsukka Enugu State, the land tenure system encompasses both traditional practices and statutory regulations. This analysis explores how these systems interact, the implications for land ownership and usage, and their impact on community development. Understanding these dynamics is crucial for policymakers, landowners, and developers aiming to balance tradition with modernization in land governance.

In Imilike-Nsukka, traditional land tenure practices are deeply rooted in the customs and social structures of the indigenous Igbo people. Land is primarily viewed as a communal resource, with families and clans holding collective rights over specific parcels (Onuoha, 2008). Land allocation, inheritance, and dispute resolution are managed by community leaders, often through a council of elders (Obioha, 2012). This system emphasizes the spiritual and ancestral connections to the land, ensuring that land remains within the community and is used sustainably.

The statutory system in Nigeria is governed by the Land Use Act (LUA) of 1978, which centralizes land administration under the control of state governors (Omotola, 1988). This act was introduced to standardize land tenure, reduce disputes, and facilitate equitable access to land for development purposes. Under the LUA, individuals and entities can obtain land rights through statutory grants, leases, and certificates of occupancy (Aluko & Amidu, 2006).

The coexistence of traditional and statutory land tenure systems in Nsukka often leads to conflicts and challenges. The statutory system's emphasis on legal documentation and state control can clash with the customary practices of communal ownership and local governance (Chukwu, 2014). This duality can result in disputes over land ownership, access, and usage, particularly in cases where land is acquired for public or commercial projects (Eze, 2011).

In Nigeria, land tenure systems have undergone significant changes over the years. However, despite these changes, many rural areas still rely on traditional land tenure systems, which are often characterized by complex relationships between landholders, and the use and management of land resources. The Imilike community in Nsukka Enugu State is one of these rural areas, where

traditional land tenure systems play a key role in the use and management of land resources. Land tenure systems in Africa are complex and diverse due to historical, cultural, and political factors that have shaped them over time (Oyedele et al. 2020). Traditional land tenure systems in Nigeria are often characterized by multiple layers of ownership, use rights, and management practices that vary across different communities (Ugochukwu et al. 2018). Basu and Miura (2019), found that traditional land tenure systems in Nigeria are often contested and subject to conflicts, which can lead to underdevelopment and low agricultural productivity. Nweke and Ogbodo (2017,) highlight the importance of land tenure security for agricultural productivity, food security, and poverty reduction in rural areas of Nigeria.

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 principle 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.

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).

Overall, while the land tenure system varies from one state to another, it is essential to understand how it works within specific contexts to promote sustainable land use practices, economic development, and social justice.

The purpose of this study is to examine the land tenure system in imilike, Udenu Local Government South East Nigeria, specifically the customary land tenure system, and its implications for land use, economic development, and social stability. The study aims to understand how the customary land tenure system, which is based on traditional norms, customs, and practices, affects access to land resources, land ownership, and land use practices in the region. The study also seeks to explore how the customary land tenure system intersects with statutory tenure systems, and how this intersection impacts land administration, rural development, and social justice. By examining the complexities of the land tenure system in imilike, Udenu Local

Government South East Nigeria, this study aims to contribute to the development of meaningful policy decisions that can benefit the citizenry and promote sustainable land use practices.

LITERATURE REVIEW

Land tenure system in Nigeria has been a subject of many studies due to the numerous challenges facing it. Land tenure system in Nigeria has faced numerous challenges over the years, such as multiple ownership claims, lack of documentation, and corruption in land administration. These challenges have been revealed through various studies that have utilized different methodologies and approaches. Adeyemo (2019) carried out a study in Osun State, Nigeria, and found that some of the challenges faced by land tenure system in Nigeria include multiple ownership claims, lack of documentation, and corruption in land administration. Alinaitwe and Kisaka (2017) conducted a comparative study of customary and statutory tenure systems in five states in Nigeria, and they found out that the lack of documentation, multiple ownership claims, and corruption in the land administration system were common challenges for both systems. Aremu and Adeyemo (2018) established that the land tenure system in Nigeria is influenced by both political and economic factors, which include corruption, ethnic interests, and urbanization. Falola and Adebayo (2018) highlighted the evolution of land tenure in Nigeria's economic history, which was characterized by colonization, urbanization, and political instability. Gbadamosi (2018) carried out a study in Kwara State, Nigeria, and found out that the land tenure system in Kwara State is plagued by communal conflicts, multiple ownership claims, and lack of documentation. Lawanson and Odewusi (2019) conducted a study in Lagos, Nigeria, and found that tenure security is a significant challenge due to a lack of documentation, multiple ownership claims, and corruption in the land administration system. Obadina, Alabi, and Awoyemi (2019) established that smallholder farmers in Nigeria face challenges in accessing land due to multiple ownership claims, lack of documentation, and corruption in the land administration system. Okekeocha and Anyaele (2020) demonstrated that land insecurity is a significant challenge in Igboland due to overlapping customary and statutory land tenure systems, lack of documentation, and corruption in the land administration system. Oladejo and Ogunbayo (2018) carried out a comparative analysis of customary and statutory land tenure systems in Nigeria and found that tenure security is a major challenge for both systems due to a lack of documentation, corruption, and multiple ownership claims. Yusuf and Akintoye (2017) established that land grabbing is a major challenge in Nigeria due to weak land governance.

While the challenges facing the land tenure system in Nigeria are numerous, the solutions to these challenges can mostly be achieved through the adoption of more efficient and transparent land governance processes.

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 and okorji (1997) 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 proposes, 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.

BRIEF HISTORY OF IMILIKE IN UDENU LOCAL GOVERNMENT OF ENUGU STATE.

Imilike is a town located in the Udenu Local Government Area of Enugu State, Nigeria. It is situated on the eastern side of the state, the people are predominantly of the Igbo ethnic group and is bordered by neighboring towns such as Obukpa, Orba, Ihearumona, Obollo and Ovoko. The history of Imilike dates back to the pre-colonial era, where it was said to have migrated from Kogi State in Igalamella. Over the years, Imilike has undergone significant development, with the establishment of schools, marketplaces, and various community projects. The town is known for its rich cultural heritage, which is evident in its traditional dance, music, masquerade and festivals.

One of the significant landmarks in Imilike is the St. Joseph's Catholic Church, which was founded in 1916 and later became a parish in 1952. The church has played a vital role in the spiritual and educational development of the community and continues to be a significant religious center in the town. The origin of Imilike town can be traced back to the 17th century when the earliest settlers migrated to the area from Igalamella in Kogi State. The town was originally part of Nsukka division before it became a local government area in 1996. The development of Imilike town started in the 20th century when early European missionaries arrived in the area and introduced Christianity. This led to the establishment of schools, hospitals, and other social amenities that are now commonplace in the community. In summary, Imilike town in Enugu State, Nigeria, has a rich cultural heritage and history, with its origins tracing back to the 17th century. The town has undergone significant transformations since the arrival of European missionaries and is known for its traditional rulers, rich cultural traditions, music, dance, and art.

Imilike has many towns which includes; imilike-enu, imilike-ani, imilike-etiti, igugu,umundu, ezimo, ogbodu-aba, akpoga and so on. Under Imilike-enu, it has ten villages and they are; Ama-agu village, Umunyere village, Ama-ezike village, Umu-eze village, Ama-eze village, Ama-ogodo village, Ama-enugu village, Ama-ebo village, Okogwumma and Abada village. All these villages forms their own clan and kindred.

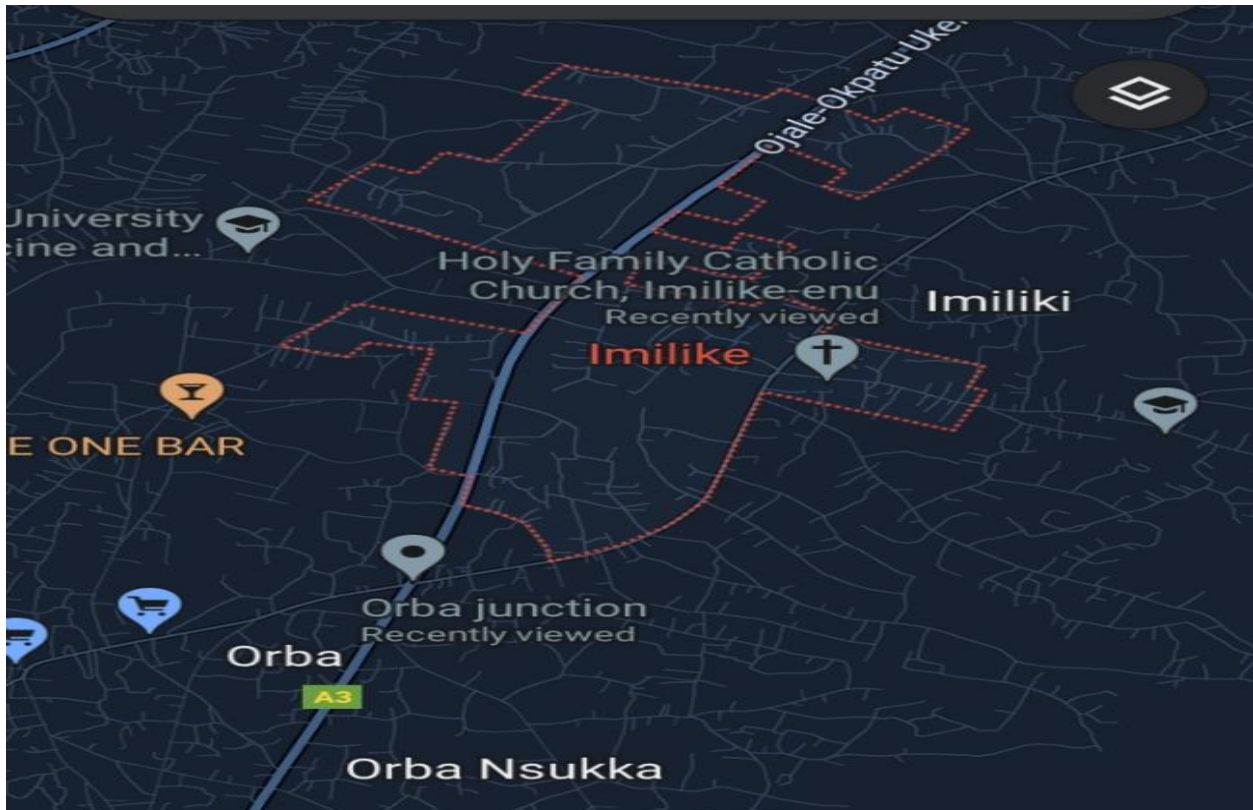


FIG 1: MAP OF IMILIKE AND SURROUNDING TOWNS.

Source: google map.

Historical Land Tenure Pattern of Imilike

Before the advent of colonialism in Imilike, inheritance among the people of Imilike community was in the male lineal descendants. Land was inherited by the first sons through their father, essentially for agricultural purposes and residential purposes for himself, his wives' huts, barns and kitchen. Land was shared among the sons of the deceased with the first son taking the fathers land. The father 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 due to the father married only one wife. The first still maintains the inheritance of the choicest piece of land and the others shared equally among the male siblings. Ownership was for perpetuity and it was difficult for land to be sold out rightly. 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 AMA-AGU, IMILKE IN UDENU LOCAL GOVERNMENT, ENUGU STATE.

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 Ama-Agu community the first son of the deceased or any family 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 pledges 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 Ama-Agu community in Imilike, Udenu Local Government, Enugu State. 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 Ama-Agu 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 Ama-Agu community.

COMPARING THE LAND USE ACT OF 1978 WITH THE LAND TENURE SYSTEM IN IMILIKE INVOLVES EXAMINING LEGAL FRAMEWORKS AND PRACTICAL IMPLICATIONS.

DIFFERENCES

1. Land ownership: The Land Use Act vests all land ownership in the state, while the land tenure system in Imilike recognizes private ownership and customary rights.
2. Land acquisition: The Land Use Act empowers the government to acquire land for public purposes, while the land tenure system in Imilike requires compensation for acquired land.
3. Land use: The Land Use Act regulates land use for specific purposes, while the land tenure system in Imilike allows for more flexible land use.

4. Customary rights: The land tenure system in Imilike recognizes customary rights and traditional ownership, while the Land Use Act does not.

5. Administration: The Land Use Act establishes a centralized land administration system, while the land tenure system in Imilike involves both traditional and modern institutions.

6. Dispute resolution: The Land Use Act establishes a formal legal process for dispute resolution, while the land tenure system in Imilike relies on traditional and community-based dispute resolution mechanisms.

7. Land availability: The Land Use Act aims to make land available for development, while the land tenure system in Imilike prioritizes sustainable land use and environmental protection.

SIMILARITIES

1. Government control: Both the Land Use Act and the land tenure system in imilike, Udenu Local Government, South East Nigeria give the government significant control over land administration and management.

2. Land allocation: Both systems empower the government to allocate land for various purposes, such as agriculture, residential, and commercial use.

3. Land registration: Both systems require land registration to secure ownership and prevent disputes.

ANALYSIS

The Land Use Act of 1978 and the land tenure system in Imilike have different approaches to land management and ownership. The Land Use Act emphasizes government control and regulation, while the land tenure system recognizes private ownership and customary rights. Understanding these similarities and differences is crucial for effective land administration, conflict resolution, and sustainable development in Imilike Udenu Local Government, Enugu State.

RECOMMENDATIONS

1. Integrate traditional and modern institutions: Combine the strengths of both systems to create a more inclusive and effective land administration system.

2. Recognize customary rights: Acknowledge and protect traditional ownership and customary rights in Enugu State.

3. Sustainable land use: Prioritize environmental protection and sustainable land use in land allocation and management decisions.

4. Community engagement: Involve local communities in land use planning and decision-making processes.

5. Capacity building: Provide training and capacity building for land administrators, traditional leaders, and community members to ensure effective implementation and management of the land tenure system.

In summary, while the Land Use Act of 1978 and the land tenure system in Imilike share some common objectives in regulating land ownership and use, they differ significantly in legal frameworks, governance structures, and socio-cultural contexts, impacting land administration, economic development, and community dynamics.

CONCLUSION

A general overview of this study shows that while there have been several changes in Ama-Agu imilike, Udenu Local Government South East Nigeria 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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