



## EXAMINATION OF PROPRIETARY LAND STRUCTURE IN AMAIGBO, IMO STATE, NIGERIA

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**ABSTRACT:** *The proprietary structure of land throughout Nigeria and among the Amaigbos in the Nwangele Local Government Area of Imo State was examined. The proprietary land structure, which sheds light on absolute and derivative interest, was the subject of the study. Despite the passage of the Land Use Act of 1978, the Igbo people traditionally understood property ownership to be of the absolute interest and derived interest basically. The Amaigbo community was no exception to the sacredness of Igbo land ownership, which was further demonstrated by the practice of only transferring land to sons. Women are only permitted to use land by virtue of their status as daughters or wives in the family, which is similar to the derivative interest. Three periods comprised the ownership pattern: before, during, and after colonization. The analysis of this pattern is being conducted at present time. The study's data collection methods included important interviews and historical records. Land was not originally subject to sale, but as the population grew, land pledges, sales, and occasional land exchanges occurred. It was determined that the Amaigbo people now sell land and have welcomed the modernization and progress brought about by the colonial authority.*

**KEYWORDS:** Proprietary Structure, Land ownership, Amaigbo People.



## INTRODUCTION

Regardless of the perspective or definition from which it is viewed, land is essential to all facets of civilization and is considered the fundamental resource or the basis from which all other resources are obtained. Since it is the source of all material riches, it will always be necessary.

Land economics studies all principles and policies relating to the use of land and its resources. Land is a major factor in the social, economic and political development of any group/nation. The dependence of man on land, how he owns land and makes decisions bordering land and its resources varies *prima facie* from one society to another owing to different factors ranging from history, traditions, down to the era of modernization and technology (Emeasoba, 2011). Land is highly valued in Nigeria, where it is considered a fundamental social security feature.

Denman and Prodano (1972) defined a proprietary land unit as an area of land used as a single entity with vested rights of property to use, dispose and to alienate. An element of land economy known as the proprietary land unit describes the proprietary land structure by attempting to ascertain the type of rights or interests that a proprietary owner has over the limits of a plot of land (Ogbuefi, 2020). The proprietary land unit which has been described as the unit for making decisions comprises absolute or non-derivative interest and derivative interests. Denman (1978) argued that all societies of whatever culture and political creed have land systems woven of property rights and these property rights lend form to the proprietary land units.

Proprietary land structure refers to the manner or system in which land is owned. According to Denman and Prodano (1972), ownership of land is the hallmark of ordered society whatever its stage of economic sophistication. Right of ownership is shared between private individuals and the public (government).

The state or reality of having exclusive rights and control over something, be it an object, a piece of land, a piece of real estate, or intellectual property, is called ownership. Ownership structure of land in an area refers to how land is transferred from one owner to another. Ownership of land by two or more people upon the death of an owner, shares in the property automatically transferred to surviving owners. Also, if one person dies, their share passes according to the terms of the will.

The land system or structure of a given society is the manner in which the land is owned and possessed. It is an institutional framework within which decisions are taken about the use of land, embodying that legal or customary arrangement whereby individuals or groups or organizations gain access to economic and social opportunities through land, according to Udo (1990, as cited in Keke, 2015).

In Nigeria, no land exists without an owner although that ownership may be the basis of dispute. Umeh (1973, as cited in Keke, 2015) recognized four main categories of who may exercise rights or interests in Nigerian land. These are the natural and supernatural persons (deities), corporate bodies and the state. According to Isong (2021), the land tenure system in Nigeria assigns property ownership to individuals, legal entities, corporations, and natural entities based on how the land is used. He further divided the land tenure systems in Nigeria into seven categories, which are as follows:



- i) **Communal Land Tenure:** This arrangement elevates the community as the land's ruling power. The basis for land sharing or ownership is decided by the community leader. This approach promotes large-scale farming but it cannot be utilized as a loan security.
- ii) **Leasehold Tenure System:** This is when a person is given temporary ownership of a plot (or plots) of land by the owner in form of a title; such an individual has access that is temporary during the lease time but they cannot use the land as a collateral for loan.
- iii) **Tenants at Government Will:** In this case, the Federal Government of Nigeria distributes land to farmers but it cannot be used as collateral for loan.
- iv) **Gift Tenure System:** The voluntary transfer of ownership from one land owner to another is known as the gift tenure system. The new proprietor might use this sort of land ownership as collateral for a loan. The new owner is also entitled to all of the advantages of land ownership. The new ownership status can however be reversed by a court judgement under this type of property tenure.
- v) **Freehold Tenure System:** In this situation, an individual or a group pays a set amount of money in exchange for the right to own the piece of land. It is expensive to purchase under this tenancy. The land can be used as collateral for loan by the new owner.
- vi) **Inheritance:** The transfer of land ownership rights to a successor following the primary owner's death. The next of kin of the land owner is usually the children who assume the role of the land owners under this system. The main downside of this land tenure arrangement is that the beneficiary and other family members may have disagreements about the land allotment.
- vii) **Rent Tenure System:** In this case, a tenant pays a set sum to the landlord for the privilege of utilizing the land for a set length of time. In comparison to leasehold arrangements, the rent is comparatively short, although this structure hinders tenants from making long term plans.

In the Eastern part of the country, where the Igbos are located, land tenure can be classified into three main types, namely communal, individual (private) and public state. In areas of low population density, communal land tenure is prevalent. Densely populated areas practice more of individual ownership.

The land ownership structure in Nigeria is broadly on absolute and derivative interests. The absolute interest is the most superior form of ownership/interest in land, one who has such interest in land makes the highest decisions concerning the land use and management. In this era of the Land Use Act of 1978, the governor has the superior title or interest in land as all lands now belong to the governor who holds the land in trust for the common benefit of the citizens. The derivative interest has been carved out from larger estates (absolute interest). They are inferior in quality; decisions made on this type of interest are always subject to the decisions of the absolute interest holder, which includes leaseholders, life interest, etc. Fiduciary legal ownership also exists majorly in the customary settings. This is a situation where an individual can handle all of the property or assets held in the name of the trust; the trustee must make decisions that are always in the best interest of the beneficiaries. Land ownership in Nigeria among the Igbos is based on the absolute and derived interests and sometimes fiduciary relationship. The structure of ownership of these interests in the country has evolved through three major periods which are the pre-colonial, colonial and post-colonial periods, thus in the



traditional African communities, customary rules and norms of that society governed land ownership and use. This was the land tenure system in different societies before the enactment of the Land Use Act of 1978 in Nigeria. The Land Use Act of 1978 is the post-colonial period. The Land Use Act of 1978 includes the principal statutes governing land use management in Nigeria which embraced general holding in Nigeria and introduced a tenure known as the right of occupancy (Umoatan, 2019).

## LAND TENURE SYSTEM IN NIGERIA

The proprietary land structure in Nigeria is likened to the land tenure system in Nigeria. The term “tenure” means land holding according to the Google English Dictionary and it is the condition under which land or building is held (Nwogu, 2023). Land tenure is the body of regulations over ownership and use of land. It is the relationship of the owner to the land and society on one hand and the transfer and creation of the interests of the land on the other (Umoatan, 2019).

Land tenure systems are diverse and complex; they can be formal or informal, statutory or customary, legally recognized or not legally recognized, permanent or temporary, of private ownership or of common property, primary or secondary. Tenure systems in most developing countries like Nigeria have been influenced by former colonial land policies that overlaid established patterns of land distribution; thus, many national and local systems are made up of a multiplicity of overlapping, and sometimes contradictory, laws or rules or customs, traditions and perceptions that govern people’s right to use, control and transfer land (Abisoye, n.d). This can be seen in the current customary land in rural settings, an example among the Igbos regardless of the existence of the Land Use Act of 1978 that governs land ownership, use and distribution.

The history of the land tenure system in Northern and Southern Nigeria prior to colonization followed vastly different paths due to Nigeria’s ethnic, geographical and cultural diversity. Pre-colonial land tenure was largely complex and there was no formal record of land transaction until the colonial period. The pre-colonial land value system was basically for food, housing and employment. In Southern Nigeria, land was held by the communities, towns, villages or family heads. Southern Nigeria had the communal type of ownership where land was regarded as a gift of nature to mankind and it is sacred, even though communal land holding today can be said to be on gradual but steady decrease and many factors have been responsible for this phenomenon, such as transformation of communal lands into state lands by virtue of State Land Laws and the transformation of the erstwhile indigenous subsistence economy into a monetized one which made customary land saleable. Regardless of some of these changes, communal land still exists in relation to market places, communal shrines, sacred bush, chieftaincy land, communal playgrounds, communal farmlands and ponds (Nwogu, 2023).

Land was deemed not to be owned by individuals but by communities and families who held it in trust for the members of the family. Individuals had only usufructuary rights by virtue of membership of the group. Individuals have derivative interest while the community has absolute interest.



In the Northern part, predominantly nomadic Fulani, land was vested in the Emir to hold land in trust for the common benefit of the people. Land ownership here was usually through conquest and succession by a conquering army. Generally, indigenous tenure in the Southwest allows for various rights of individuals and groups to exist simultaneously on the same piece of land; for example, one may have cultivating rights, another may have grazing rights, another right to hunting and other rights to tree crops. Today, all lands in Southwest Nigeria are claimed by individuals, families or lineages (Abisoeye, n.d).

Basically, in the pre-colonial era, there were strict regulations on land holding. Traditional legal councils allocated land to families and resolved conflict, and traditional surveyors and valuers conducted valuation and measurements measures on land matter. During the colonial period, the British Crown by virtue of invasion, coercion, treaty, cession, convention or agreement acquired land; such lands became state lands in the post-colonial period (Chigbu & Klaus, 2013). With the coming of colonialism, freehold ownership was introduced to suit the motives of the British imperialists. The colonial authorities used land to achieve their economic, social and political objectives, so their motive was purely economic. Since land ownership in Nigeria during the pre-colonial era was communal, the colonial authorities initiated some laws and regulations that governed ownership, land use and development among many other laws to enable them acquire and convey titles to land for the reasons of commerce and governance. Some of these laws include the Treaty of Cession (1861), Land Proclamation Ordinance (1900), Land and Native Rights Act (1916), Niger Lands Transfer Act (1916), Public Lands Acquisition Act (1917), Native Lands Acquisition Act (1917), State Lands Act (1918) and Town and Country Planning Act (1947) (Udoekanem, Adoga & Onwumere, 2014).

Adedipe (1997, as cited in Chigbu and Klaus, 2013), observed that the Native Land Acquisition of 1900 and the Lands and Native Rights Ordinance of 1916 established formal land tenure systems in the country. When Nigeria became a republic in 1963, immediately after Nigeria gained Independence in 1960, private ownership of land by individuals, families and communities became the existing land tenure in the southern states of Nigeria while all lands in the territory comprising the Northern states of Nigeria were regarded as owned by the state, based on the provisions of the Land Tenure Law of 1962.

The Land Use Act of 1978 came into existence to harmonize the anomalies existing in the various land tenure systems in the various regions in Nigeria with some objectives in land which include removing bitter controversies and land disputes/litigations that arise over land titles to land, assisting the citizenry in owning a place irrespective of their social status, enabling the government to control land use in all parts of the country through planning and zoning programs, and finally, curtailing the activities of land speculators and removing undue influence which certain traditional rulers have on land. The Land Use Act of 1978 is regarded as the national policy document for all land matters and it vests all land comprised in the territory of the state on the governor of each state as stated in Section 1 of the Act to hold land in trust for the use and common benefit of all Nigerians according to the provisions of the Act. The Act introduced the grant of statutory right of occupancy for urban land by the governor and grant of customary right of occupancy for rural lands by the local government chairman as provided in Sections 5 and 6 of the Act respectively.

Evidently, the promulgation of the Act was the Federal Military Government of Nigeria responding to the wishes of Nigerians because of the trenchant public concern over the high cost of land in Nigeria which posed great difficulty to individuals, commercial farmers,





industrialists and governments in need of land for sundry development purposes (Umoatan, 2019).

Umoatan (2019) further emphasized that crucial conditions necessitating land reforms had existed in Nigeria many decades before 1978 and that the mere presence of these conditions would not lead to a reform unless there is a political will by the political elites to do so; hence, there should be state control in exercising ownership in Nigerian lands. Nwabueze (1980, as cited in Umoatan, 2019), noted that with control conferred by ownership, the state can achieve social justice in the distribution of land by determining the amount of land an individual can have.

### **PROPRIETARY LAND STRUCTURE IN MAJOR IGBO SETTINGS**

People have the right to their family land by virtue of their birth, and they can also exercise this right by virtue of possession rather than ownership. In Nigeria, land was primarily acquired by inheritance, leasing or purchase, depending on the region. Greater security is conferred by inheriting land. In the Eastern region, a father's "obi" or land is typically inherited by his first son. He then becomes the new leader of the family immediately upon the father's passing. In the event that the man does not have a son, the land is used by the wife and passes automatically to her brother-in-law upon her death (the late man's brother).

According to customary law, women are not typically landowners in several significant Igbo communities and are only permitted to use the land while they are alive. When a man passes away, the village chief or clans typically divide his land among the heirs. The sale of land was forbidden under customary tenure in most communities. People borrow land primarily for subsistence farming; they may or may not make the payments. Occasionally, harvested crops may be used as payment for the land loan. The clans manage, safeguard, and divide the land among the heirs. Occasionally, the leader of the community may give land as a gift to someone who has given a substantial donation of money for the community's development or for vital amenities that the community lacks, such as pipe-borne water, hospitals, and decent roads. The person's heirs can now inherit the gifted land as a result. Certain communities sell land but only to other indigenous people. Land is considered a sacred ground that should never be divided or parted with, much less sold to a stranger. However, most of these customs have become extinct in this era of fast social and economic change, high rates of modernization, and technological advancement, even more so after the Land Use Act of 1978 was introduced.

### **BRIEF HISTORY OF AMAIGBO**

Amaigbo simply means the land of the Igbos; the town is often regarded by many historians as the cradle of Igbo civilization (Emenike, 2007). The locals there think that Amaigbo is where the Igbo people's history originated. The Local Government of Nwangele is headquartered in Amaigbo. Amaigbo has thirty-six villages. In the past, farming was the primary source of income for the Amaigbo people. They also produced and sold lots of cash crops, including cassava, garri, maize, yam, cocoyam, tree leaf yam, fresh pepper, garden egg (anara), and breadfruit. The locals of today have expanded their horizons and are actively involved in a



variety of activities. They are studying hard and running businesses that range from small-scale retailing to large-scale entrepreneurship (Emenike, 2007).

With an abundance of natural resources, Amaigbo is a large area with rich soil used to grow crops for both personal consumption and sale. They can also take pride in their abundance of rivers, which are strategically placed to meet the requirements of both the local people and those in the surrounding area.

## **HISTORICAL LAND OWNERSHIP PATTERN IN AMAIGBO**

The term "Amaigbo" refers to people who "found themselves in a land," without anyone having shown them where they were. It is believed that they are native people from another group who moved to the region and settled there. A large amount of land was initially undeveloped in the past and before the 1900s, at this time, land was not for sale. Property was given as a gift by virtue of marriage, meaning that a father might choose to give a man who marries his daughter a portion of his property on the condition that the man takes good care of his daughter and the children and provides for them using both the newly acquired land and any more land he may have.

Additionally, land might be given to someone who demonstrates good deeds and charity. During the first phase, land was not utilized as collateral for loans. The first son receives his "obi" when the family patriarch divides up his land among his sons. Amaigbo women are not landowners; they are only able to use the land by virtue of being a wife or daughter of a household. Upon the death of a woman without a son, her brother-in-law automatically inherits the land.

Also, a minor son is not allowed to use his father's land until he reaches adulthood. In these cases, particularly when the father is deceased and the son is an orphan, the uncle holds the land in trust for the minor son until he reaches adulthood and is able to make decisions regarding it. This type of proprietary ownership is known as fiduciary form. There was no need to sell or borrow land back then because there was a small population and a big amount of land. In the initial stage, absolute interest predominated; derived interest developed through the use of land by spouses and daughters. In a fiduciary relationship, family members keep land in trust for their younger son.

The second phase of land ownership dates back to the 1900s, primarily after Nigeria gained its independence. As a result of population growth and land scarcity brought on by generations of sons sharing land, families found themselves under increased pressure to use their land, which led to the emergence of land pledges and loans for subsistence farming and other uses, including money-making ventures for survival and for future generations.

Beginning in 2000, the third stage of the ownership pattern is more akin to what happened after British colonization. Due to a rise in population relative to the amount of available land, land sales began at this time. Compared to the first stage of ownership pattern, there was less land available. Due to the ownership and transfer of land to people with purchasing power (money), there was an effective demand. Land became a valuable commodity for sale for the production of food, commerce, and investment due to the consequences of colonization and their direct effects on growth and development.



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## **ANALYSIS OF CURRENT CHANGES IN THE OWNERSHIP PATTERN OF LAND AMONG THE AMAIGBO PEOPLE OF NWANGELE LOCAL GOVERNMENT AREA**

The Amaigbo people's pattern of land ownership has not changed significantly. Land is not firmly held; sales of land to both indigenous people and outsiders continue. Ultimately, it is up to the individual or family to decide if they have enough land to sell or if they require the money for other urgent needs, such as investments or survival. Before they may sell their land, the approval of all family members is typically required.

Following a land sale, the person or family who purchased the property typically organizes a small ceremony to formally announce to the local community, surrounding families, and village leaders that they are the new owners of the land. Without this ceremony, they will not be recognized as the new owners of the property. Even now, land pledges remain in place, with terms and conditions still determined by each party. Harvested food crops, rather than cash, may function as a kind of gratitude from the lender to the borrower. The land gift is still in place today. In certain situations, land can be exchanged based on the agreements and decisions made by the parties. For instance, Mr. A may have land, but he needs Mr. B's land in another location, and Mr. B may want Mr. A's land. In this case, the land exchange will depend on their respective preferences for using the land. Land can be swapped for such purposes depending on the motives of the people participating in the exchange. Generally, land near a road is chosen for residential or commercial reasons, whereas land further inside and away from the highways is preferred for farming.

### **DISCUSSION OF FINDINGS**

This study showed that, in contrast to earlier times when it was forbidden, land is now subject to sale. Land was used before the arrival of the British imperialists for subsistence farming and housing. In contrast to earlier times, women today purchase and possess land as a result of population growth, land pledges, and land sales that followed the departure of the colonialists. Additionally, respondents emphasized that the sons' inheritance pattern persisted, with the first son inheriting his father's "obi" following the father's passing. Land is sold after the consent of all members of the family and a ceremony is performed by the new owners to inform, acknowledge and approve ownership. There is still a slim chance of land exchange; this happens occasionally when there is a land dispute which is necessary to be resolved quickly.

### **CONCLUSION**

An assessment of this study in brief revealed that although the Amaigbo people have accepted modernization and socialization, as seen by their sale of land to both natives and outsiders, their inheritance pattern has remained unchanged. The fact that certain developments, business endeavors, and investments beyond the food produced by subsistence farming are changes reflecting the introduction of colonialism and the unique culture of the people with regard to the ownership pattern of the land in the community does not diminish the significance of the traditional rites to acknowledge and approve ownership.





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