Land Tenure Systems in Ogoni before the introduction of Land Use Act of 1978

By

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Abstract

This paper examines the various land tenure systems in Ogoni before the introduction of Land Use Act of 1978. This paper states that the traditional land Tenure Systems before 1978 never generated crises like the land Use Act of 1978. The Traditional Land tenure systems in the area makes the people retain their ownership rights over their land while the Land Use Act of 1978 made the people tenants on their land as the Act maintains that the land belongs to the state. This idea emphasized by the Act has led to several conflicts in the area which have claimed many lives and have also brought about gross under development in the region. The paper states that the traditional Land tenure systems in Ogoni distributed land to every indigene of the area. Among the traditional land tenure systems were the communal land holding system which included farm land used as burial grounds and Evil forests of deities found in the area. Pledgehold system, showing of land for building of houses, exchange of land holding system and personal land holding system.

Introduction

Nigerian peoples from time immemorial have made their living from land and Ogoni people as part of Nigerian peoples consider land as their most important resource and their relationship with it is an important factor in their social, religious economic and political identifies. The centrality of land to the people is demonstrated in their attachment to it and the way they honour it. Every land rich or land starved community has interest in the way land is acquired and managed. This idea has pushed me into writing this paper. Here, this paper sees land as that part of the earth which is not covered by oceans or other bodies of water. It is also considered as the real estate or landed property, a partitioned and measurable area which is owned and on which buildings can be erected. Here, this paper sees land tenure systems as ways in which land is managed.

Land holding systems in Ogoni before the introduction of Land Use Act of 1978 are discussed below.

One of the well-known land tenure systems in Ogoni before the introduction of land use Act of 1978 was the communal land tenure system. This land tenure system included farmland or land where economic trees like oil palm trees and rubber trees are and it also included burial grounds and evil forest of deities as they are found in many villages in Ogoni In Zor-gho, there is Kuetaa which is an evil forest used as cemetery for those who die by accidents and any person transitionally believed to be evil when alive (Maekae J 2017:165). Still in Zor-Sogho, there are the Gbaragbara farmland, Dumemaa farmland and the Ataagbara deity forest. According to (Ziinu, N. M. 1993:15), these are communally owned by every person in the village. Apart from the ones mentioned here, there are also sacred forests or groves in Luusue-Sogho where no one farms but it is used as a site of communal shrine controlled by the priests of different deities in the community. This is not owned by either a particular person or family but communally owned by every person in that particular village (oral interview with Mueyi, Lawrence on 8th April, 2022). Here, it should be understood that communal land was controlled by members of council of elders of the villages that made up the entire community. During farming season, interested indigenes farmed on communally owned land.

Following this, was the family land tenure system. Family land was slightly less loss than communal land (Chubb, L.T. 1961:14). He adds that it was described as land in which a small kin group being extended family unit or house group possess common rights of which every adult male of that unit possess right to farm on a particular portion in accordance to the rotational cycle. Here, members of the extended group inherit the land from their ancestors from whom they descended. Under this land tenure system, land was divided among small number of smaller land-owning groups. It is also pertinent to note that family land constituted and integral part of shifting cultivation and the fallow period varies between five and seven years. (Green, M.M. 1941:34) states that each man farms on his share of the land himself and owned the produce himself. He also adds that the man called in some of his relatives or friends to help when he had serious work of bush clearing and weeding and in return, he helped them another day. This was merely a voluntary party and apart from this; to have the work easily done, there was a co-operative work between children and parents and between husbands and wives. There were certain problems associated with family land tenure system. One of these problems was that the family could expand to have more members but the land at the disposal of the family remains static.

Again, with increasing population, the pull was in the direction of individual control and individual ownership rights. This became well pronounced from the colonial period which introduced capitalism characterized by capitalist accumulation.

Following the above land tenure system was the personal land tenure. This refers to land inherited or acquired personally and it is at the personal disposal of the individuals but not subject to either family or common sanction. Another way personal land was acquired was by cleaning virgin forest and after this, it would become the personal land of whoever cleared the virgin forest.

In this land tenure system, each man cultivated his plots of land and owned produce himself. Also, interesting to note here was that there was nothing that approximated to the well-known traditional conception of a holding in fee. Simple which carried with it, the right of an individual to sell openly any plot of land to any willing buyer. Based on this, it was believed that the individual held the land in thrust for future generations. This explains why Green, M.M (1941:35) States that one of the fundamental bases of native law and custom is that land is not subject to out-right alienation. As a result of this, the only titles to permanent ownership of land were inheritance and clearing of virgin forests but they did not grant anybody right to alienate land irrevocably. This ensured that ownership rights over personal land were transferred to the sons of the right holder at his demise. From this time, the sons would then exercise personal rights over land.

Personal land was only inherited by brothers and uncles of the right holder when the right holder dies without surviving sons (oral interview with Nkinankor Johnson on 28th March, 2022). He added that this land tenure system reduced cases of land dispute as it was known and believed that personal land was inherited by the sons of the right holder at his death but at present, there is a change as the community is all the same in the throes of outright alienation of personal land in response to the awareness of the cash value of land due to monetization of Ogon economy by colonialism (Kpone, T.S 1997:10) and Nsanam, Moses, 1988:20).

Furthermore, pledge land tenure system was another form of land tenure system in Ogoni before the introduction of land use Act of 1978. Before 1978, land was acquired temporally in Ogoni by pledge. This system developed out of considerable pressure of population growth on land. Through this way, certain rights over land were transferred temporally from the pledgor to the pledged tenant and it made for flexibility in Ogoni land management. This was a way through which surplus land was temporally transferred from one person to another. The pledged tenant employed this option to meet his immediate land need at that time either as a result of land shortage or poor quality of available land. The pledgor adopted this option to meet up his or her immediate financial need. Through this way, outright land alienation was avoided (Mackae, J. 2006 :18). It is pertinent to note that both personal land and communal land were subject to pledge. Here,

a member of family land owning group who wanted to pledge a plot of land ought according to custom and native law consult other members of the group before doing this. The pledge sum was his personal money, it was not shared with his or her co-land owners. The pledgor was expected to redeem the land after some time by returning the pledged sum to the pledged tennant. When this was done, the pledged tenant was protected against sudden or unreasonable eviction by allowing the pledged tenant to harvest all crops planted on the land before farming on the land after reclaiming or redeeming the said plot of land. Inheritance of ancestral land differed from land held on pledge as the latter was treated as a man's personal property and was inherited by his or her children after death. What the heirs of the pledged tenant inherited was the right to hold the pledged land until it was redeemed. At the same time, pledged land could lapse by default into personal land after successive generations.

Following the pledge hold tenure system was the leasehold system. This was traditionally called "Dorn nam" while the pledged hold system was called "Bere nam" this was different from the pledge hold system as the leasehold system was terminable by the whim of the lessor and it was usually for a fixed period of one year which was renewable. In Ogoni, the commonest form of leasehold was the tenancy for one year in which the land was to be used for planting of crops like yam, cassava, cocoyam and other crops (oral interview with Nwil-eekpughi Bright, Poronaakie on 31st March, 2022). This system was necessitated by whole some dearth of fertile land on the part of the lessee and meeting up financial need of the e part of the lessor. The rent sum was charged by the lessor according to the size of the land. At the end of the farming season, the lessee was expected to thank the lessor with tubers of yam, a Calabash of palm wine, bitter kola, kolanuts, alligator paper and some plates of traditional salad. The reason for this was that the rent sum was very small but renewable and at present, the rent sum is increased and as such, the lessee does not thank the lessor with the items mentioned above at the end of the farming season, this is as a result of the influence of European colonization of Ogoni economy (Maekae, J. 2017:18). At the same time, a variant of this leasehold was the showing of land for building of house. Here, once the land lord agreed to give out the land, the person who wanted to build house would occupy the land for as long as he wanted but subject to good conduct but when he was no longer willing to live there, the land was given back to the original owner. Really, erection of building means long period of tenancy which may change into personal ownership (oral interview with Johnson Kagbara on 15th, April, 2022).

Finally, another form of land tenure system which existed in Ogoni before the introduction of land use Act of 1978 was the type in which two plots or more individuals exchanged plots of land for their mutual convenience as the need may be. This was either for building

of house or farming (oral interview with Nbura Pyagbara on 10th April, 2022). Note that such exchange was permanent if building was erected on the exchanged land was not recovered by the original land owner on demand. This system of land tenure was a major source of land disputes in Ogoni because after some years, successive generations which do not know what happened in the past always quarrel on ownership of the exchanged plots of land. This has led to several life casualties in Ogoni land (Burabe, G.N. 2003 :36) and (Kpone, T. S. 1990:35).

The paper also sees Land Use Act of 1978 as the cause of underdevelopment in Ogoni as it causes the following:

1. It allows the state to encroach on the people's land without paying compensation to the people. This was experienced in Sogho in 2011 as state below.
2. The condition stated in point one leads to hunger.
3. As the people become hungry, they engage in several social vices to survive.
4. The land hunger which is caused by the application of Land Use Act of 1978 has led to several live casualties. This was experienced in Zor-gho and Lucusue-Sogho when the two sister communities clashed in 2011-2012 as the former Governor of Rivers State Rt. Hon. Rotimi Chibuike Amaechi used the Land Use Act to acquire their land for Banana plantation without paying them compensation.
6. The Land Use Act has also been seen as the major cause of communal crisis in Ogoni.
7. It makes the people loss ownership right over their land and become tenants on their land.
8. It makes the people loose valuable property like houses which are always burnt down during communal crises.
9. As children loose their parents in these communal crisis, they are denied the chance of going to school. This has made Ogoni villages volatile and restive.
10. Due to point nine, Ogoni community suffers material disarticulation as the people leave their villages for other villages or places where they spent their labour power at the expense of their community.
11. The Land Use Act of 1978 has led to institutional disarticulation as either wives or husbands are killed in the crisis and this disarticulates marital institutions.

Conclusion and Summary

The above mentioned and discussed forms of land management existed in Ogoni before the introduction of land Use Act of 1978. The major advantage of these methods of land management was that they vested ownership rights over land in the people. As a result of this, the people were not tenants on their land. The paper also states that these forms of

land management distributed land to every indigene of Ogoni community. Consequent upon this, these forms of land management recorded few cases of land disputes. With the above-mentioned advantages of the traditional methods of land management in Ogoni before the introduction of land use Act of 1978, the paper recommends outright abrogation of the land Use Act of 1978.

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Names of informant

1. Mueyi Lawre	Status retired civil servant	Inoccupation retired civil servant	Place of interview Port Harcourt	Date of interview 08/04/2022	Age
2. Nkinankor Johnson	Farmer	Farming	Akporo-Sogho	28/03/2022	65
3. Nbura Pyagbara	Farmer	Farming	Zor-Sogho	10/04/2022	58
4. Kagbara Johnson	Civil servant	Civil servant	Kagwaara	15/04/2022	60
5. Dr. Iwiteekpughi, Bright, Poronaakie	Lecturer	Civil servant	Zaakpong	31/03/2022	52