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“An Analysis of Igbo Traditional Land Tenure System in Amawbia (Amobia), Awka South Local Government Area of Anambra State”

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ABSTRACT: *Land, a major factor of production has so many definitions and by different scholars. While an economist sees it as a factor of production, a Lawyer and an Estate surveyor sees it from the point of legal the maxim; Quic quid plantateur solo solo cedit. Land plays an important role in agricultural production. Such role is determined by various tenure practices in different localities. This paper analyses the tenure practices in traditional Amawbia (AMOBIA) community, Awka South L.G.A., Anambra State comprising six villages. Some elders and youths were interviewed from the six villages of the community. Also secondary data obtained from textbooks, journals and other published and unpublished materials were also useful in this work. This paper also identified the various reasons for demand of land in the traditional Amawbia society and the factors that conspire to determine various land tenure in the community. It concludes that the pattern of tenure system practised in Amawbia community was one carefully drawn or instituted to benefit all members of the community including women who also have access to land. Also that various land tenure practices identified such as public land tenure, communal land tenure and individual land tenure which were discussed generally, has been in existence even before their coinage and enactment of various tenure laws.*

I. BACKGROUND

Land tenure is the name given particularly in common laws systems, to the legal regime in which land is owned by an individual, who is said to “hold” the land (French verb “tenir” means “to hold”). The sovereign monarch known as the crown held land in its own right. All private owners are either its tenants or sub-tenants. The “tenure” is used to signify the relationship between the tenant and the Lord.

Land tenure is the relationship, whether legally or customarily defined, among people, as individuals or groups, with respect to land. (For convenience, “land” is used here to include other natural resources such as water and trees.) Land tenure is an institution, i.e., rules invented by societies to regulate behaviour. Rules of tenure define how property rights to land are to be allocated within societies. They define how access is granted, the rights to use, control, and transfer land, as well as associated responsibilities and restraints. In simple terms, land tenure systems determine who can use what resources for how long, and under what conditions.

Land tenure is an important part of social, political and economic structures. It is multi-dimensional, bringing into play social, technical, economic, institutional, legal and political aspects that are often ignored but must be taken into account. Land tenure relationships may be well-defined and enforceable in a formal court of law or through customary structures in a community. Alternatively, they may be relatively poorly defined with ambiguities open to exploitation.

Many factors were identified as affecting the performance of land tenure systems, these were broadly classified into *socio-economic, sociological and cultural factors including traditional and religious, institutional factors and increasing urbanisation.*

Land has a spiritual value as the home of those ancestors who, more often than is realized, play an active and important part in the daily life of those still living. Instances abound in Amawbia, especially in the study area, in which some areas of land are used as sacred lands where sacrifices are occasionally made to the ancestors.

Land tenure in Amawbia can be classified into community/communal or land owned by the entire Amawbia community (ANA OBODO), Village land/tenure (ANA OGBE), clan land/tenure (ANA UMUNNA), the family land/tenure (ANA EZI NA ULO) and the individual land tenure. Outside these is also ones dedicated to the gods of the land or otherwise known as ‘OFIA ALUSI’ or ‘ANI ALUSI’.

Public land tenure is known to the community but does not have much impact on the way the land is being used or utilised.

Customary land tenure systems in 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, 1980). Famoriyo (1973) notes that under the customary rules of tenure, three principles were observed: first, each individual member of a landholding family was entitled to a portion of land – enough to feed himself and the members of his family; second, no member of the community could dispossess another of his or her stake in family land; and third, no one could alienate family members' interests in family land without the knowledge and consent of those members.

Tenure systems under customary law vary but, in principle, are restricted to usufruct rights. These may or may not be alienable, generally, or saleable, in particular. They may be perpetual or for certain periods only, or they may be solely for the lifetime of the holder (Poguchi, 1962). Although title to land is generally unrecorded, family and individual rights are usually well known and accepted within the community (Fabiya and Adegboye, 1977). Under the Nigerian customary land tenure system, there are different kinds of rights to land, including the rights of the individual, the rights of the group and the rights of a sovereign nature (Famoriyo, 1979: 1983).

II. THE CONCEPT OF LAND:

According to Igbo's, the belief and tradition, *ala* (land) is a gift from God (Chukwu) and from ancestors has not left them. They continue to see themselves as stewards of God's resources as in Genesis 1:28-30, especially of communally owned land. *Ala* (earth) is valued as a source of livelihood. Even though land ownership has been men's domain.

For the Igbo the mother earth is (LAND) *ala*, the greatest deity after Chukwu, the heavenly creator (Parrinder, 1976). She is as near to them as the ancestors, for they are buried in her pocket or womb. *Ala* sends the dead back again in rebirth and she is the spirit of fertility both for the family and for the land. Barren women, or mothers whose children have died, pray to *Ala* for children, and men ask her for success in trade and increase of their livestock. So *Ala* is a kindly spirit and she helps her children if they are troubled by other deities.

But if people offend her and disregard repeated warnings, she will punish them and a hardened evildoer may receive the final humiliation, refusal of burial in the earth. The *ala* is generally sacred, for it belongs to the earth spirit, and to the ancestors as well as to the living community; attempts at selling land are unpopular and in olden days they were impossible. This was a major cause of the Mau Mau troubles in Kenya (Parrinder, 1976). The Igbo dislike selling land because of their reverence for *ala*, and they appease her if it has to be done. Their ancestors founded the *ihu ala* (face of the earth), which became sacred for the people and was the place where major decisions, such as warfare or ritual oaths were made and strictly respected. While land is the birth right of every Igbo male, it has a communal dimension whereby all members of the community are expected to share its resources, especially in rural areas, under some form of traditional authority.

Traditional authority from an African cosmology is very central and important because, despite the fact that it is a unifying force, the eldest community leader is seen as a steward with divine authority over land. The invasion of the colonial masters and missionaries was nothing other than an insensitive, greedy and cruel method for dispossessing Igbo people of their religion, land and culture. Land was acquired with total disregard of traditional beliefs and cultures underpinning the spirituality of the Igbo nation. The traditional homes were stripped of their dignity, many lost their identity, language, cultures and spiritualities. In this sense, land was acquired and used as political and ecclesiastic tools for dominance. Regard was also not given to earth goddess (*ala*).

Professor J.A. Umeh postulated six concepts of land to include: physical, economic, legal, socio-political, spiritual and abstract. He is of opinion that the meaning of land can be best explained through the conceptual framework expressed by the major players in land use decision namely: economists, lawyers, geographers, supernatural persons and governing institutions.

The physical concept:

Land is concerned with the natural environment in which man finds himself and the nature and characteristics of various resources with which he must work. It comprises the physical solum (soil) and all manmade resources and environment on land together with the sub-surface and supra-surface areas of the earth surface. It takes account of the vegetation, sunshine, rainfall and topographic features etc that either help or hinder man in his use of land.

Economic Concept:

Land in economics refers to the entire natural and man-made resources, which possession of the earth's surface gives control over. Land is seen as a factor of production as well as bedrock of all wealth. Classical economists see land as space, factor of production, consumption good and capital.

Legal Concept:

The legal concept of land quantifies the abstract concept of land and determines the quantum of the rights and interests, which somebody may claim over Land.

Abstract Concept:

This concept is built on the abstract or invincible attribute of a proprietary land unit, the decision making unit of the land. According to Denmam (1978:67) the proprietary land unit is created by the prevailing land tenure system. The abstract elements of land are invisible attributes of a proprietary land unit, which greatly influence the basis for economic use of the physical land.

Socio-political Concept:

This concept deals with the human element of land. It looks at land as situation where people form the community as against the physical environment. It tries to classify the geographical location of land or territories into political unit or socio-political entity. Typical socio-political group in any community include: family unit, village/community/kingship, town, country and continent.

Spiritual/Religious Concept:

The acceptance of the concept of land depends on the belief of people, throughout the world, people have always attached certain things to land, which often make it to be sacred. According to Prof J.A. Umeh, the Igbo's of Eastern Nigeria view land as deity. It is the belief of the people that as deity land exercises inherent control over the people of that use land. Little wonder the traditional Amawbia society believed that he who commits atrocities against the land will be killed by the land.

III. EVOLUTION OF LAND TENURE SYSTEM IN NIGERIA:

Land is a common denominator wherein the peoples economic live lies on. Its tenureship depends or differs from slightly society from society to society. The principal method of land acquisition in Nigeria includes: inheritance, purchase, lease, pledge, exchange and gift (NEST, 1991).

INHERITANCE: in nearly all parts of Nigeria, land is seen to belong to people and a male child by virtue of being a member of the family is expected to inherit his father's land/property.

PURCHASE: purchase of land in the past was seen as a taboo but today, the story is almost a different one as culture is dynamic. Also the increase in demand for economic and other purposes for land has made it possible for transaction in land to hold.

LEASE: lease as far as land deals is concerned is limited to a number of years, people can lease land for determinable period of time.

PLEGDE: there is no time limit to pledge. This is mainly because a piece of land obtained under pledge will revert to its owner when the pledge is redeemed.

EXCHANGE: here two consenting parties mutually transfers to each other one or more parcels land, this exchange is either to place the transferred plots closer to the location of the new owners, to give one party a new, larger and desired building site or cultivation space, or some other reason. Payment of money may or may not be involved and ordinarily the exchange is permanent.

GIFT: as in the case of land exchange, land acquired as a gift has been relatively rare in Nigeria in recent times, this is reflection of somewhat sharp increases in the market values of both rural and urban land within the last 26years. It is also partly as a result of serious shortages of land in the face of rapidly rising population and not-so-rapidly rising family and personal income.

IV. MAIN SOURCES OF LAND LAW IN NIGERIA:

- 1) **THE CUSTOMARY (NATIVE LAW AND CUSTOMS OF THE LAND):** this would be viewed from two perspectives which include the customary law and that under Islamic law. While the former is seen as the overriding principle guiding all types of customary law in Nigeria. Land here is seen as that which belongs to God and human merely have the right to use. Acquisition is by settlement on the virgin and through cultivation, building etc. Under this a well straight hierarchy of authority exist, the Apex is the traditional ruler and grant is from the family head or community. Non-native can only gain access by necessary consent of the family head. The latter sees land as public property, use is free as long as it does not prejudice the public. The Emirs holds and exercise administrative control over vacant land in the interest of the Muslim.
- 2) **THE RECEIVED ENGLISH LAW:** the common law of England, the principles of statutes of general application were introduced into Nigerian law. The common law of property may apply in Nigeria where customary property law is not applicable etc.
- 3) **LOCAL LEGISLATION:** in the northern part, various existing systems of customary tenure were all replaced by Islamic law during the Fulani conquest; some of the laws include the 1962 land tenure law. In the southern state, colonial authorities introduced the concept of individual ownership of property and authorised conveyancing of land that could be registered with the government and various laws and ordinances gave government the power to expropriate statutory holdings in return for compensation.
- 4) **THE LAND USE ACT:** the Act purports to take over the ownership and control of land in the country thereby providing a uniform legal basis for a comprehensive national land tenure system. The Act embodies the procedure for the transition from customary to state sanctioned tenure of land substituting the authorities of several states for the traditional owners or local chieftains in the sectoring of the working rules regarding the use, occupancy and transfer of land. The Act was very clear on the administration of federal, state and local government lands respectively.

V. OVERVIEW OF THE LAND TENURE TYPES:

Types may include; *communal, individual (private) and public (state)*. **Communal land tenure:**

Communal land tenure is 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 eastern Nigeria, communal land tenure has given much encouragement to both small-scale and large-scale agricultural production.

Oluwasanmi (1966) remarked that the communal land tenure system, through the provision of land to members of the community, brings them together. Malinowski (1935) maintained that the customary land tenure systems supports both moral and social justice by giving everyone access to the means of subsistence.

Communal tenure, according to Oluwasanmi (1966) and Arua (1980), acts as a strong cohesive force in an agrarian society and affords a cultivator a stake in the major assets of the community and assures him a secure place in society.

Individual land tenure:

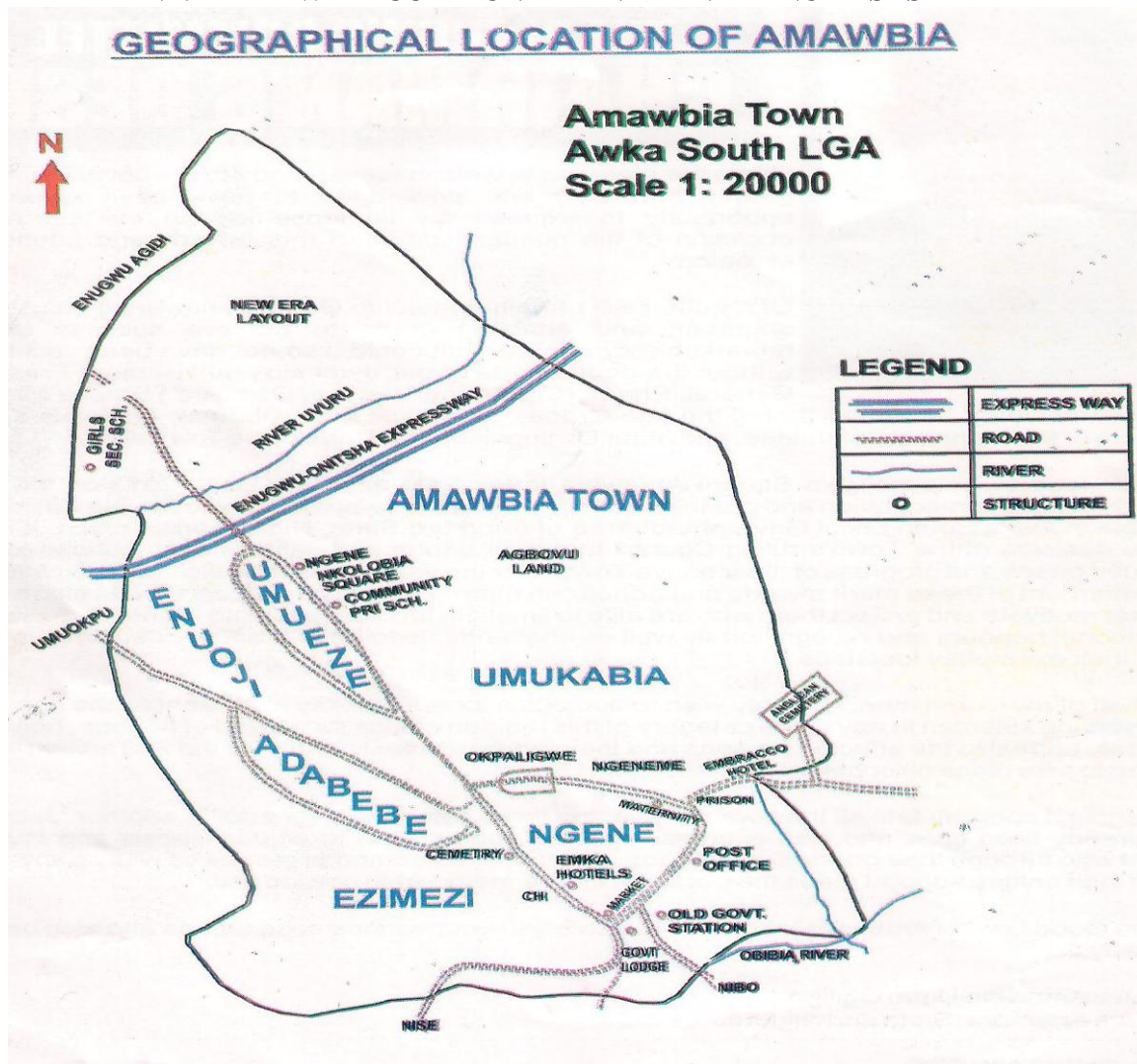
Under individual tenure, land is available to the individual owner for agricultural proposes, but may be given out to others on a rental basis, especially for cultivation. In many rural areas in eastern Nigeria, outright purchase of such land is difficult; in a few, it is even prohibited by the lineage or clan. Land may be pledgeable but is inalienable. In spite of these restrictions, the outright sale of land to individuals by either family members or even whole communities is becoming a lucrative business in some rural communities in eastern Nigeria, especially in peri-urban areas (Arua, 1978; 1980). This has resulted in a class of well-to-do landed gentry, members of which have bought out the rural poor in an effort to promote a market economy which in most cases has turned out to be a "money economy illusion" (Arua, 1978).

Public land tenure:

State-held lands are usually made available to individual or private investors, cooperative societies and other organizations or groups of individuals on request, if approved by the state governor. The land so acquired can be used for agricultural, industrial, commercial or residential purposes, although it is most commonly used for agricultural production in rural areas. Such projects are usually large since the state is able to allocate sufficient land. This enables investors to embark on large-scale production on secure tenure terms. Employment opportunities are created in such communities and, by using local raw materials, the inhabitants enjoy increased income and improved welfare. However, the area of state-held land in rural areas is small, hence the small number of projects located on such lands. Consequently, rural dwellers generally benefit more from the numerous enterprises located on communal land.

In rural communities in eastern Nigeria, state-held lands have resulted more from land disputes than from the implementation of the Land Use Decree. Disputed communal lands in many cases have been forcibly acquired by the government as public lands and utilized for various developmental and welfare schemes.

VI. AMAWBIA COMMUNITY AND LAND TENURE SYSTEM



Amawbia community is one of the communities in Awka South L.G.A surrounded by Awka, Nise, Nibo Enugu-agidi etc, the community serves as the seat of the government even before the elevation of Awka as the state capital. It comprises of six villages and accommodates various institutions of government, such as the governor lodge, local government headquarters, state police headquarters, the Nigerian Prison etc.

VII. DEMAND FOR LAND

In traditional Amawbia society some reasons has been identified which leads to the demand for land for various purposes which indirectly affects the tenures system and they includes: housing, farming, recreation, worship etc.

Housing: as population continues to grow, people must have to look for space where to build and take care of their family, the provision of shelter is necessary.

Farming: traditionally in the past the Amawbia community was noted for peasant farming which helps them to take care of their families.

Recreation: in this area, the various village squares serves as recreation for the members of the community and even the OFIA ALUSI serves as recreation point for the masquerades during the EGBE ALUSI festivals. **Worship:** Christians and traditionalist alike must have a place of worship.

Factors That Determine Land Tenure in Traditional Amawbia Society:

Villages.	Total No of Respondents collected.	Factors that conspire to determine the land tenure systems in traditional Amawbia Society.				
		Historical Antecedents	Religious/spiritual obligation/vocation	Birth Right	Political decision/overriding public interest.	Citizenship and naturalisation.
Umueze.	98.	98.	98.	98.	72.	80.
Ngene.	95.	95.	95.	95.	70.	79.
Adababe.	92.	92.	92.	92.	68.	69.
Enuoji.	89.	87.	88.	89.	65.	61.
Umukabia	86.	80.	86.	86.	59.	53.
Ezimezi.	81.	80.	79.	81.	56.	51.

In the traditional Amawbia society, a lot of factors conspired to determine the various types of tenureship in the community. Just as seen in table above the factors identified were largely agreed by the respondents as the factors that conspired to determine land tenure system, they are discussed below:

- 1) **HISTORICAL ANTECEDENT:** In every Igbo society there are and there has been cases of borrowing in past. One coming up may be asking question why a family that is not from their family or clan should have a portion land close to their family or land without knowing that his fore fathers may have used the same land to borrow money from another different from their family or clan. Also there has been this history that the people of Amawbia who hailed from Ezimezi village or otherwise from (Ezi na Ifite) migrated to the current Egebengwu Nimo and they are presently a small village there, they farm there and have house. There is no way this people would have settled in such place if they have no land to reside in.
- 2) **RELIGIOUS/SPIRITUAL OBLIGATION/VOCATION:** In a traditional society just like Amawbia, certain lands were devoted for worship by the traditionalist and these people have chief priest and whose instance the management of the entire land is entrusted to. These chief by virtue of their position may partition or plot these land and even go to the extent of selling them. No one can question their authority hence the popular adage in the community let the gods speak for itself (Alusi kwuelu onweya).
- 3) **BIRTH RIGHT:** One by virtue of being a male member of the family is entitled to the share of the family land.
- 4) **POLITICAL DECISION (OVERIDING PUBLIC INTEREST):** The government may decide to acquire land for overriding public interest. Also the community may decide to go for war just to increase their farm land e.g. the present ngene nkolobia land which the chief priest has almost finished selling the major part of the land was acquired through communal war. Also in the past there has been a war between Amawbia community and Awka over the Agbovu land and the persistent struggle over who owns the old local government station.
- 5) **CITIZENSHIP AND NATURALISATION:** One by virtue of being male born of the Amawbia community is entitled to access to family land. Also there have been cases of families who naturalised in Amawbia and they were given parcel of land to build or occupy.

Classification of Land Tenure in Traditional Amawbia Society:

Land Tenure Types.	Villages and no of respondents.					
	Umueze	Ngene.	Adabebe.	Umukabia	Enuoji.	Ezimezi.
Communal land tenure (Ana Obodo)	97	95	90	85	84	79
Village land.	92	90	89	88	84	82
Clan land.	97	90	87	85	81	80
Family land.	95	93	89	87	84	80
Individual land.	97	92	89	83	83	79

The above shows the total number per village who concurred to the types of land tenure identified by the researcher in traditional Amawbia Society.

Historically in Amawbia land was held communally, however, this pattern of land ownership or land tenure has given way to individually held pieces and parcels of land, or communally specific pattern of land tenure system. The tenure system in traditional Amawbia society is a peculiar one; however for the purpose of this work, different tenure practices in traditional Amawbia society may be seen as discussed below:

A. COMMUNAL LAND TENURE (ANA OBODO):

The communal land tenure system in traditional Amawbia society existed even before the different tenure laws were enacted in Nigeria. This could be seen in the various lands dedicated for different communal use and which includes the village squares, the market and other land dedicated for farming purposes e.g. the (ANA UMUNWANYI) at Agu Amawbia etc. Recall also that the traditional Amawbia society has in the past fought wars just to increase her size of her communal land.

One can gain access to community land by being a member of the community. In this type of tenure the land is owned by the entire Amobia community which can be shared among the six villages; the six villages comprise of Umueze, Ngene, Adabebe, Enuoji, Ezimezi and Umukabia hence the Ana Umueze Ana Adabebe etc in Agu Amawbia. The community land can be shared according to all male indigenes that pay the annual recurrent levy (UTU ARO) to the community for purposes of farming only. The land is held in trust by the Okpalaigwe Amobia, the traditional ruler, he hold this land in trust for the entire community, the community land includes; Agu Amobia, etc. Communal land practices here is not distinct from the practices or features already discussed generally above on the types of land tenure systems.

The Management of The Community Land (Ana Obodo):

The Okpalaigwe Amawbia holds the entire Amawbia communal land in trust on behalf of the Entire community.

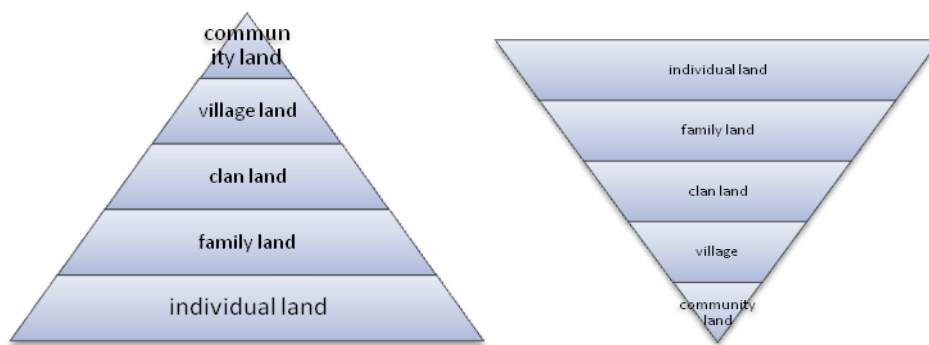
The pattern of access from the communal land to the individual as well as rights to land, as obtained from survey is as detailed in the table below:

Access to communal and family land and rights to land.	Options.	Villages and no of respondents.					
		Umu eze	Ngene.	Adabebe.	Umukabia.	Enuoji.	Ezimezi.
Being member of the community subject to payment of UTU ARO.	Yes	98	95	92	86	89	81
	No	0	0	0	0	0	0
Land is shared from community to village, clan, family and individual.	Yes	98	94	90	80	87	81
	No	0	1	2	6	2	0
One can gain access by being a member of age grade.	Yes	97	94	90	86	80	81
	No	1	1	2	0	9	0
Only the first born have a share in the fathers' compound.	Yes	4	0	2	0	89	0
	No	94	95	90	86	0	81
	Undecided.	0	0	0	0	0	0
The last born is the rightful owner of Mkpuke.	Yes	98	95	92	86	0	81
	No	0	0	0	0	89	0
	Undecided.	0	0	0	0	0	0
Share of family is according to Mpuke/Useku.	Yes	98	95	92	86	89	81
	No	0	0	0	0	0	0
The first born is entitled to ANA IRU EZI.	Yes	96	90	90	84	82	81
	No	0	0	0	0	0	0
	Not sure.	2	5	2	2	7	0
NWAWOGODU is the	Yes	98	95	92	86	89	81

authorised way of gaining access to family land.	No	0	0	0	0	0	0
Every legally married woman to Amawbia community is entitled parcel of land for agricultural purpose so far she is part of Eziokwubundu.	Yes	98	95	92	86	89	81
	No	0	0	0	0	0	0
	Not sure	0	0	0	0	0	0

From table above its obvious that Enuoji village is only village that do not allow any son to access the fathers compound, while majority concurred to the listed ways of accessing land, Enuoji was however categorical about the Mkpuke by saying no, no other person except the first born should have access to the fathers compound. They don't believe mkpuke exist.

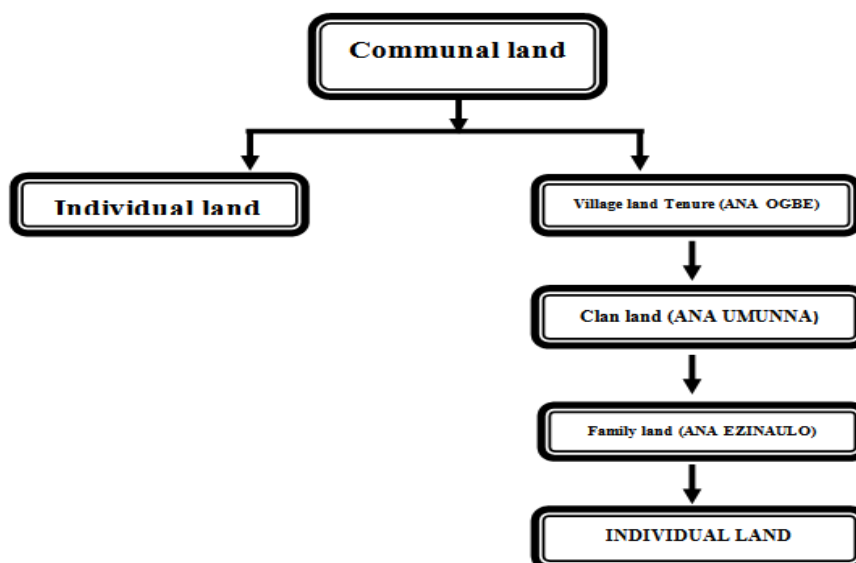
The models/scheme below will best describe the mode of sharing and the size or quantum of community land available for sharing.

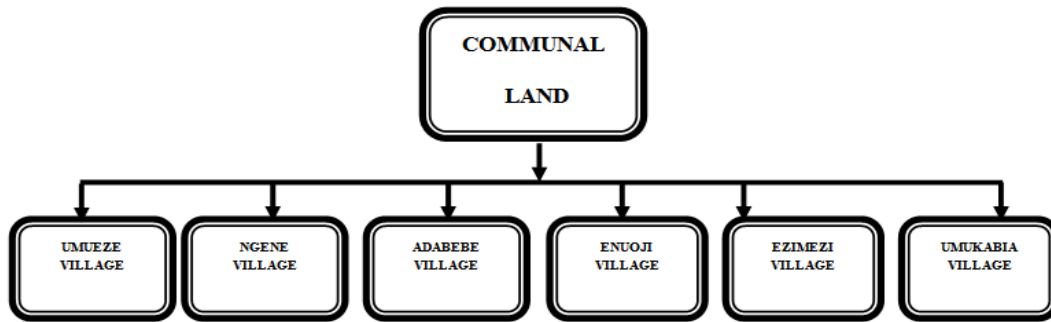


MODEL 1

The model above shows that the quantity of land still available for plotting or sharing is decreasing by the day and the communal land according to the model is the least in size, it also shows that the greater percentage of land holding in individual's hand, followed by the family, in that other. It shows that the community land is plotted according to villages and according to clan (umunna) respectively.

Amawbia community land is shared between adult males (and females) that pay their annual recurrent levies (UTU ARO) to the town union for the purposes of farming only OR one can gain access following a definite arrangement i.e. from community to village (ogbe) to umunna (clan) to families. This pattern is best described as illustrated in the charts below.





The responsibility for sharing or assigning communal lands to individual (citizens of Amobia) rest with the ULONATO group before the beginning of the farming seasons annually. The farming follows immediately after popular *Eziokpalaigwe festival*: crops and implements are presented during the festival for blessing before actual cultivation commences.

Women and Access to Land (Ana Umunwanyị in Agu Amobia):

Since Amawbia town consists of peasants and subsistence farmers, it was thought wise to allocate farmland to women for cultivation in order to keep them busy and to be able to feed their various households from their farm products to cushion the effects of poverty.

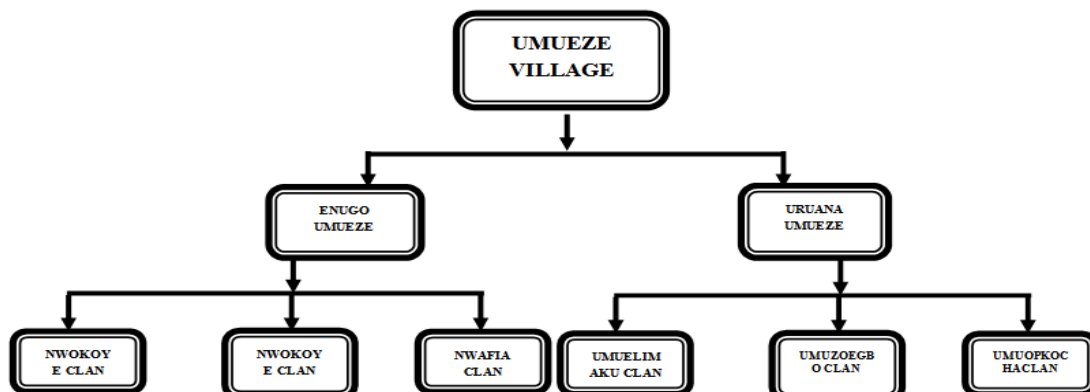
Age Groups/Grade and Access to Community Land:

One being a member of age grade or group whether it is a criteria for one to gain access to the community land?

This has not been a criterion for one to gain access to land allocation. If enforced, one would be trampling on someone’s human right according to J.R.C. Ofodile (ANA 1). The only criteria that is open and approved by the community is the payment of the “ANNUAL RECURRENT LEVY” (Utu Aro).

B. VILLAGE LAND (ANA OGBE) / TENURE:

This comprises of different clans, the clan (Umunna) comprises of bigger extended families. Note that village lands emanate from the community land; they also have peculiar ways of sharing their land. Also it should be noted that Amobia community comprises of six villages. The village land includes the recent layouts of Agbovu lands of Umukabia village and part of Ngene village, the Adabebe new layout, the Maryland formerly called or known as Agu Umueze. One of the peculiar feature of the village land is that each of the six villages have their own square which is owned generally which includes; Ezi Egege, Ebe Akpu, Ebe Adabebe etc, these squares serves as meeting point for the various function by the village. Instances also abound where families who have small compound uses the square for traditional marriages. The chart below can also be used to describe how the village land (ANA OGBE) is being shared using Umueze village as an example.



From the above chart it could be observed that the umueze village was divided into two smaller villages before subsequent clan were identified. In other villages allocation of lands is according to clan directly. While Umueze is different is because it is the largest village and was divided into such for proper identification and for easy administration.

Adabebe Village New Land Policy:

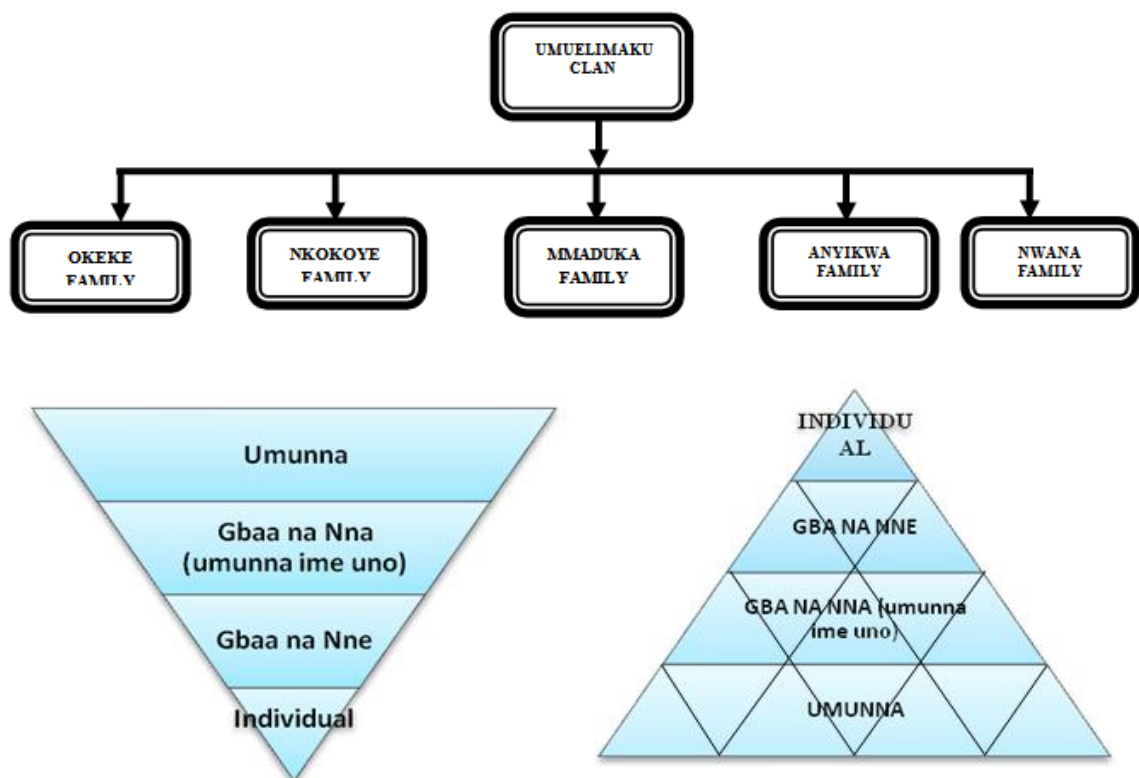
The Adabebe village Amobia under the leadership of Engr. I.K. Ngini and Mr. Dennis Nwazulum among others recently placed an embargo or made a policy that further sale of land in the community to non-indigenes would not be allowed but should be only be to the members of that Adabebe community alone, there may be sale to members of other communities e.g. ENUOJI, UMUEZE etc but the buyer must be subjected to investigations to find out why he/she choose to leave say Enuoji, Umueze etc and go to Adabebe to buy land, their major reasons is that the cultural ties they have is being broken by the non-indigenes, according to them they would not want a situation whereby one has a problem with the immediate family, a non-indigenes would first run out to settle the problem. The policy however appreciated the fact that people from other communities may reside in their villages but would not gain access to build in their community as this according to them have impacted negatively on their relationship between them as members of Adabebe community. If a non member of the community wishes to gain access to land for agricultural purpose he/she may approach anybody from the village for such purpose but that same land cannot be sold to the non-member of the community.

Agbovu land and mode of sharing adopted by Umukabia community:

The Umukabia community about three years ago shared the Agbovu land and all male born as at the date of the layout had a share of the land, some of the lands were sold and all male living had a share of the said land. What happened in Umukabia village is a show of proper democracy and love for all the citizens. To have taken action the way they did by sharing to reach all living males sons of the Umukabia community irrespective of their ages, this is to forestall future damages and to give economic encouragement to families for their children’s education and empowerment. This is peculiar to Umukabia village.

C. CLAN LAND/TENURE [(UMUNNA TENURE) ANA UMUNNA]:

This emanates from the direct share from the Ana Ogbe, in a typical Amobia setting each villages have different clan for example, in Umueze village, the village is further subdivided into Enugo and Uruana, while Enugo have their separate head, the later also have, but they have what we call today chairman Umueze and all these have umunna among the two sub villages, for Uruana, the Umunna includes; umuokpaocha, umuelimaku,



MODEL 2

Sharing/Access to Ana Umunna (Clan Land):

Also in this case the model above will be used to describe the mode of sharing of the clan land down to the family and individual level. Ana Umunna in Amobia community is shared first among the units in the larger family, what we call “Umunna ime-uno” the inner family (ndi nna ji or gbaa na nna). For example the

Umuelimaku family or clan land will be shared among the Maduka family, the Nwokoye family etc, all these families are of extended families. The model above whether viewed upward or downward, the simple logic there is that when Umunna land is shared, it is first shared according to umunna ime uno or na nna, na nna (gbaa na nna) i.e. according to fathers, then gbaa na nne (ndi nne ji) and finally to individual. The further the division the smaller the size of land one would get.

D. THE FAMILY LAND / TENURE:

Family land is owned by a family in a certain prescribed manner by the head of the family which is usually the oldest member of the family. He holds the same in trust for the rest members of the family. Despite the fact that the headman possesses the right to family land, he does have the right to take decision pertaining to the land, alienate, lease or dispose of land without the consent of the principal members of the family. He must seek the opinion of the principal members of the family before taking decision on land. Land can be held patrilinearly or matrilinearly. Parilinearly deceased property is shared amongst all his sons with the oldest getting the largest share and matrilinearly, the deceased property is shared amongst his extended family, that is his next brother-though not necessarily the same mother.

In traditional Amawbia society the family land may comprise of the extended family structure and the nuclear family, this also came as a result of the sharing of the Ana Umunna. *See the model 2 above*. Land here is shared according to the male born with age as reference 'NA NNA NA NNA' the male son will in turn share with their children their own portion of the land. This is their right to ownership of a freehold land (birthright). Where any portion family or other communal land is allocated to a member of other of land-owning group for a time, the right of other members to use that portion is suspended until returns back to the family or community. Note also that in an extended family set up, if a grandfather is involved and is a polygamous, the first son irrespective of the fact that the mother is last to be married in the family has the NGWULU to himself and the other sons (last sons) from different mothers will also have access to the OGBOLODO.

Access to family land: criteria

THE NWA WOGODU: According to J.R.C Offodile and Mr Johnson Ogu, Nwawaogodu is male child of a kindergarten age, not yet an adult, but has birth right to shares to land as a male; it's a criterion for one to have an access to the family land.

How an individual male from an extended family from different mother gain access to family land:

The allocation of family land is done by the family head in co-operation with or with the consent of the elders and representatives of the sub-units within the family. Here the principle of gbaa na nne and or gbaa na nna applies. All male sons have a right to the family land.

The Nuclear family systems: in the nuclear family sharing is considered patrilinearly and matrilinearly as the case may.

Where a man is survived by sons, his compound is inherited by all his sons as a body with the eldest son acting as the caretaker until the other sons build their own houses and vacate the compound which now wholly belongs to the eldest son. The NGWULU belongs to the eldest son.

Other lands are shared in accordance with the number of wives married by the man, if he is polygamous per stripes and if thereafter per capita, i.e. in accordance with the number of the children born of individual wives (PER USEKWU OR MKPUKE).

ANA IRU EZI:

Ana Iru Ezi is an elder son's birthright to an extra piece of land which is distinct from lands shared by the virtue of his position as the eldest son. This privilege is not extended to others sons, whether extended or from nuclear family.

NGWULU:

This explains the fact that the eldest son (DIOKPALA) has the exclusive right to some over the main compound the father left behind he will and continue to accommodate others until they build their own houses elsewhere.

OGBOLODO OR MKPUKE:

In the demise of the wife of a man, the area housing the 'OGBOLODO OR MKPUKE' in his compound is exclusively the right of the last born of the woman who takes same over. In the event of this last son wanting to build and leave the fathers compound, he will now negotiate with an alternative land in replacement for the

Ogbolodo area which he is abandoning in his father's compound to the elder son apart from his right to other shared lands.

E. INDIVIDUAL LAND TENURE:

The individual land tenure in traditional Amawbia society is not different from already discussed types of land tenure earlier. The mode of access would follow the pattern as described in the models above. In traditional Amawbia society an individual can gain access to community land for purposes of agriculture, housing etc. Others may be seen from this view: **THE ANA ALUSI (SACRED LAND):**

This category of land can be seen from the angle of that owned by the community; some land in Amobia community is still seen today as OFIA ALUSI OR ANA ALUSI. These lands are were some traditionalist/heathen offer prayers and sacrifices to their gods, it is held sacred by the priest and those members of such traditional religion, its exclusive for the members and no one is expected to encroach in such land, these lands may include; ofia alusi ngene nkolobia, ngene eme, ngene oji which is recently been occupied by St Edward Catholic church Amobia among others.

Also seen or held or identified on the communal land is the town halls, village hall, family halls etc. Also, the community have different lands designated for different traditional function which may include the Eziokalaigwe square, Ezi-egege, Ebe-Adabebe, Ebe-akpu, Obuenugo etc.

VIII. COMMUNITY LAND DISPUTES RESOLUTION AND BOUNDARY PROBLEMS:

Land Dispute and Boundary Problems in Amawbia community:

In Amobia town, the Isi-Isiakpu in various villages and the town in general handles land disputes and boundary problems when they are amongst the citizens. When these disputes are between the town and neighbouring towns such disputes or problems are referred by the Amobia Central Council to its land committee for action in case of litigation.

The role of OKEOKPA AMAWBIA and IGWE-IN-COUNCIL in land dispute resolution and land allocation:

The role of the Okeokpa Amobia in land disputes is review of decisions of the Isi-Isiakpu and upholds same or otherwise, this means that the decision of the Isi-Isiakpu is subject to appeal by the aggrieved party. It is only when such matters are referred to them by litigants. They have no hands in land allocation since that is the function of ATU (Amobia Town Union) land Committee. The same will be said of the Igwe-In-Council, save for the fact that the Igwe, as the trustee, is signatory to and land allocation committee. Also the more recent appeal and which is final in matters relating to boundary and disputes, is appeal to the Igwe-In-Council. The Igwe-In-Council is the final or seen as Supreme Court or highest court of competent jurisdiction (last resort) as far as dispute and matters relating to land disputes is concerned, there is no appeal to the judgement by the council, also the council can uphold the decision of the OKEOKPA or do otherwise.

IX. PUBLIC OWNERSHIP AND STATUTORY TENURE:

The Amawbia community cannot be said to be ignorant of the fact that government has the right to acquire land within its domain, this can also be seen from the recent New town layout the Peter Obi Administration. In spite of the tenure systems practised the community, she cannot boast to resist the interference of the government or right of the government over compulsory acquisition.

Also 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, 1983). Important statutory interventions into land tenure in eastern Nigeria include the Acquisitions by Aliens Law, the Registration of Titles and Acquisition of Public Lands Act and the Land Use Decree.

X. FACTORS AFFECTING THE PERFORMANCE OF LAND TENURE SYSTEMS:

These were broadly classified into socio-economic, sociological and cultural factors including traditional and religious, institutional factors as well increasing urbanisation.

Socio-economic factors:

Demographic changes influence land tenure. Land possesses economic value by virtue of competition for its use between different individuals and groups. As the area of land per caput declines, the relative value of land rises and land becomes increasingly a source of conflict among individuals, family and village.

The population of Amawbia has increased rapidly over recent years. Individual tenure has not been able to meet the rising demand for land, owing mainly to the small size of individual holdings. Except for the provision of

land for residential purposes, land requirements for agriculture and related industries cannot be adequately provided for by individually held land. Hence neither productivity gains nor increases in employment opportunities have been achieved through individually held land. Although population pressure reduces land holdings per caput, the communal land tenure system still remains the main source of land for such enterprises. Acquisition of land by more efficient agricultural producers has been easiest under communal tenure.

In traditional Amawbia society, there is no doubt that there has been competition over the land use in the community, on daily basis there has been increase in demand over the use of land. Awka the capital is almost saturated especially the Ziks Avenue in term of the business and shops available for business in that area, now the demand and business is moving towards Amawbia, this could be seen from the growing number of shops and building especially around or opposite the Nigerian prison towards the boundary between Awka and Amawbia communities. This can also be seen in a number of shops and business venture moving along the Ziks Avenue in Amawbia up to Ugwu tank Axis. Directly opposite the Nigerian prison is L.G. show room, Fast food centre known as Uncle Morgan and MTN office. These economic activities affect the tenure practices in the traditional Amawbia society.

Cultural factors:

Cultural factors include traditional norms, beliefs and values. The flexibility of the land tenure system is also affected by the religious beliefs of the local people. For example, when communal tenure is associated with religious rites and traditions, it displays a considerable lack of adaptability to rapid change (FAO, 1953b). This tendency is less pronounced in connection with individual and public land tenure systems.

In Amawbia, the advent of colonialism, Christian missionaries and, later, the Nigerian civil war hastened the productive use of hitherto sacred lands and unpermitted foods, and also relaxed gender restrictions on agricultural activities. Community sanctions weakened and in many places collapsed and were forgotten. Most of Anglican and Roman Catholic churches were presently situate on land designated formerly as evil land or forest, history has it that the St. Peter's church is situate on land where people that committed suicide in the past were thrown, those who suffered dangerous ailment were also forgotten or thrown into that land. More recently the St. Edward Catholic Church is presently situated on what is called 'ngene oji' land.

Excessive subdivision of the land as a consequence of inheritance systems results in the fragmentation of holdings and a high number of small plots. Boundaries may be poorly defined after each subdivision.

Cases abound in the study area where some greedy land owners go to the extent of removing some life plants that serves as boundary, which in some cases resulted to conflicts

Institutional factors:

In response to population pressure, agricultural commercialization and technological change, indigenous tenure systems have changed in the direction of Western property rights systems, particularly in the individualization of land rights. The indigenous tenure systems in Amobia appear to be adapting efficiently to change. This is reflected in the emergence of markets for the sale and rental of land, and in the trend towards increased privatization of rights. Today many engage themselves in what we call agency people scout for who will sell his and look for buyers to Rather than restrict markets, governments should create a legal and institutional environment that would encourage efficient transactions (Arua, 1980; Migot-Adholla *et al.*, 1991). The Land Use Decree of 1978 could well be described as an attempt in the right direction. Unfortunately, its implementation has lacked political will and political leadership has been unwilling or unable either to revoke or reform the decree.

Increasing urbanisation:

The rate of influx of people into the community is increasing on daily basis so also the rate at which new institutions comes in. People from different works of life establish small firms and little business which attract people to the area. Years back the rate of development in terms building structures and business is very slow compared to what we have today. This may be attributed to the fact that Amawbia is the neighbouring town to Awka the capital city, apart from that the Amawbia community have served and still serves as the seat of government. This is one of the major reasons why there is increasing demand for land.

XI. ANALYSIS AND CONCLUSION:

As earlier discussed, the various tenure system highlighted above generally existed prior to the coming of the British colonial rule and even subsequent indigenous tenure laws. In traditional Nigerian society, even before the advent of Whiteman with his trade, religion, politics etc. Acquisition of land is either by settlement or conquest of weaker by stronger community. From these emerged land-use and allocations headed by community leaders who grants to family heads etc. In some cases un-acquired land goes to the community and divided into reserved land for different communal uses.

So in traditional Amawbia society, the communal land tenure, individual and even public land tenures existed long before the white men came and coined them communal land tenure, individual land tenure etc. In the traditional Amawbia society they are called ANA OBODO, ANA OGBE, ANA UMUNNA, and ANA EZI NA ULO among others. The only difference could be seen in proof of ownership in cases of litigation as a result of the enacted laws, also the way and manner of allocation as a result of the provision Land Use Act of 1976.

- In traditional Amawbia society, one who acquires land from an individual is expected to kill a goat otherwise called (*igbu ewu ana*) and this is admissible in as a form of oral evidence in case of dispute in customary law. Also in cases of disputes and issue bothering on evidence, the present tenure system i.e. the Land Use Act makes use of certificate of occupancy (C of O), deed of lease etc. These documents can be tendered as evidence before a court of competence jurisdiction that is to say that in both the traditional Amawbia society and in case of the generally accepted Nigerian land tenure laws, evidence is needed and these issues on evidence has been in vogue before the white men came and modified them into papers works or documented evidence. The only distinction is that while the former is more of oral evidence, the latter considers written and or documented evidence. The major word or similarity is evidence.
- The only problem with the tenure system practiced by the community is that majority of land holdings is in individual hands and they are relatively small holdings and this does not encourage industrialisation.
- The new Adabebe land Policy is also against that specified by the land use act, it encouraged segregation, it then means that according to them the land use act is not functional and by virtue of one being a Nigerian, he can only gain access to land around his immediate vicinity/environment. Such person cannot buy land anywhere around Adabebe village.

On issues of boundary the traditional Amawbia society makes use of life plants such as ogilisi plant, echichili among others to distinguish or make demarcation between different individual holdings as opposed to that especially found in the survey plan which is demarcated and or delineated with beacons. In the era of the Land Use Act which identifies the customary right of occupancy and statutory right of occupancy which are solely exclusive right of the local government chairman and the state governor who grants the land, the process to gain these access is cumbersome and in most cases fraudulent. This is as opposed to that seen in the traditional Amawbia society where non-members of the community who wishes to gain access to family land can easily go to the family head for allocation, he can also go directly to the individual that has the land and buy such land from the individual.

In the contemporary situation, though it is said that the government can revoke land for overriding public interest, in most cases it is not done as some of these revocation is based on selfish interest. This is as opposed in the traditional Amawbia society where land were mapped for public purposes and uses for the same such as recreation e.g. the eziokpalaigwe square, ebe ngene nkolobia etc, also for worship as well as recreation, Markets like the eke market Amawbia among others.

It's true that the systems of tenure identified in traditional Amawbia society have some advantages and disadvantages, some are in democratic in principle and it allows for justices and equity. Women gain access, so also men and all male born in the family even the non-indigenes alike, the truth is that, those holdings identified e.g. the clan land, family land and individual lands leads to excessive land fragmentation and does not encourage large scale agricultural development and or industrialisation. Trying to get the owners of all those little fragment of land for say development poses a lot of challenge.

One can also see that despite the system of land tenure practiced in Amawbia community, one can see that access to land in the community is not that complicated; though non-indigene may gain access to land for agricultural purposes but, it may be difficult for them to get the same land for maybe for other purposes e.g. purchases especially in Adabebe village.

The culture, the presence of government institutions has played a significant role in making land accessible to both the indigenes and non-indigenes alike. Before now sale of land is seen as taboo, but now and with the slogan 'AMAGHIOBIA' the non-indigene can gain quick access to the community land. Though the systems of tenure practiced may seem somehow hectic but it's more of democratic way of sharing and justices and equity seems to be what is followed in those practices.

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