

## **Changing Customary Land Tenure System in Tivland:**

### **Understanding the Drivers of Change**

### **CHANGEMENT DE RÉGIME FONCIER COUTUMIER AU TIVLAND:**

### **COMPRENDRE LES FACTEURS DE CHANGEMENT**

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**Abstract:** This study aims at highlighting the factors driving change in the Tiv customary land tenure system. The study observes that although all societies have rules that regulate how land is owned, inherited and transferred, these rules continually undergo changes due to a myriad of factors. In Tivland, the study has identified the factors driving change in the customary land tenure system as demographic change, conflict and migration, socio-cultural factors and the commercialization of agriculture.

**Keywords:** Custom; Land tenure; Tivland; drivers of change

**Résumé:** Cette étude vise à mettre en évidence les facteurs de changement dans le système foncier coutumier au Tivland. L'étude constate que, bien que toutes les sociétés ont des règles qui régissent la façon dont la terre est possédée, héritée et transférée, ces règles subissent sans cesse des modifications en raison d'une multitude de facteurs. Au Tivland, l'étude a identifié les facteurs de changement dans le régime foncier coutumier sont le changement démographique, les conflits et les migrations, les facteurs socioculturels et la commercialisation de l'agriculture.

**Mots-clés:** coutume; régime foncier; Tivland; facteurs de changement.

## **INTRODUCTION**

In all societies, there are rules that govern land and its resources. There are rules that specify how land is to be owned, inherited, transferred, etc. These arrangements that regulate these important rights and duties are determined by a society's system of land tenure. It is a tenure system that determines how a portion of land is held and used. It is a tenure system that regulates people's rights and obligations in relation to land, including any conditions and time limits to the use of land resources (Baye, 2007). Land tenure therefore, creates a framework within which the economic, social and other objectives of a people could be mobilized.

In all human societies, particularly in predominantly agricultural economies, land is an asset and plays important role in economic development. One of the most important functions of land is that of providing

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sustenance for the people. In Nigeria, the primary occupation of the majority of the people is agriculture. Land is therefore, their basis of existence.

Besides the provision of sustenance, land is a cohesive force that unites people together since land is believed to be communally owned. In fact, land is regarded as a heritage or legacy bequeathed by ancestors to future generations. In Africa, including Nigeria, therefore, land is not just a factor of production but a major determinant of the people's livelihoods, beliefs and a sense of belonging. It is an important vehicle that provides access to economic opportunities, accumulating wealth, and transferring it between generations especially in the rural areas (Baye, 2007).

Though very important, land is generally fixed in nature; and because of its finite nature, the rules that govern land and its resources have continued to undergo several changes. Particularly in developing societies where agriculture is the mainstay of the economy, changes in land laws have become common.

Researchers in land tenure systems have made efforts aimed at understanding the nature of land tenure in Africa. Literature is replete with these debates. Unfortunately, much of these researches are only concerned with understanding the processes of land acquisition and transfer. They are not based on the understanding that as societies evolve, their systems of land tenure undergo various changes and that these changes are caused by a myriad of factors. This study therefore, is an attempt to identify the factors driving change in the Tiv customary land tenure system. The study first locates the Tiv society on the globe, identifies the major routes of acquiring land among the Tiv people and shows how these forms of landholding have changed over the years. It finally highlights the factors driving these changes.

## **THE TIV SOCIETY**

The Tiv society is one of the major ethnic groups in Benue State. Benue state is located in the North Central part of Nigeria. According to the 2006 census, the population of Tiv is 2,945,994 (NPC, 2006). Tiv land is bounded to the north by Nassarawa State and Taraba State to the east. It also shares boundary with Cross River state and the Republic of Cameroon in the south while Oju, Obi, Otukpo and Ohimini local government areas lie in the west.

Much of Tivland is drained by rivers Benue and Katsina-Ala and their tributaries. The people are ethnically uniform, have a fairly uniform farming system with fairly uniform land tenure arrangements. The Tiv society is indeed, a homogeneous cultural group.

Tiv people are predominantly farmers and have an extensive arable land with a suitable climate for the production of various crops. Most of the agricultural activities in Benue state are carried out by the Tiv who are the most predominant and homogeneous cultural group occupying the Benue valley. A local magazine 'The Concorde' of 29th October, 1990 once described the Tiv people as 'natural farmers and about the most aggressive farming race in Nigeria with an overwhelming and intimidating population within the Middle Belt of Nigeria'.

The Tiv, like many traditional African societies, do not see their land simply as a tract of the earth on which they live. It is the land of their fathers. It is sacred land and the basis of their entire existence (Wegh, 1998). Due to the importance of land to the Tiv, it is not owned by an individual and can not be sold because it is communally owned.

## **FORMS OF LAND TENURE IN TIV SOCIETY**

In Tiv land, the village, hamlet and the compound are varied categories of kinship association. Every lineage in Tiv has an area of land it exploits. However, the compound (minimal unit) constitutes the largest social and land- owning unit. In fact, all life is centered on the compound. The control of land is vested in the extended family. Each compound has its own distinct territory and land rights are restricted to members of this small group. Generally, there are three basic forms of landholding that are recognized by the Tiv society. These are inheritance, gift and rent.

*Inheritance:* This is the customary transfer of land holding to children on the death of the father. For instance, when a man dies, his sons take over the cultivation of his fields. In Tiv society, the conception is

that land is communally owned. However, this idealized form of land ownership does not in practice exist in Tiv land (Kakwagh, 2004). Even family members do not use land indiscriminately. Individuals have particular portions of land which they farm. Therefore, on the death of a father, each son farms on the fallows of his mother. If a man had three wives for instance, then, the fields he controlled are subdivided among them. All the farms belong to him but each woman has rights over her own farm, and her fallows are as much hers as the husband's. After the death of the man, each woman's sons take over the fallows of their mother.

Among the Tiv, it is the compound head that allocates land to members of his compound. But in the course of subdividing or fragmenting the inherited land, his overall rights are only supervisory in character and are exercised only when there is shortage or dispute over subdivision. In terms of shortage, if the fallows of one of the wives are too small for the inheriting children, then, the fallows of the deceased as a whole are considered. The compound head can now share the fallows proportionately to the farming needs of all the inheriting children. This process is called land redistribution.

*Gift:* This happens when land is freely given by a landholder to another individual to use while residing with the land-owning group. In Tiv land, individuals who have more land than they can effectively cultivate grant some of the land to friends, relatives and/or migrant farmers as gifts. Gift of land is mostly granted to friends or migrant farmers from distant areas after residential permission is granted the person. For example, migrant farmers are usually given rights of residence and usufructuary rights following the residential permission. The compound head allocates him land to farm after he has become a member of the group by residence. However, such a migrant farmer has no rights to farm any other piece of land apart from that given him. By permission more pieces of land may be given him by the compound head so that he can rotate his cultivation. But the plots of land he is allowed to use fall back to the land-owning group any day he leaves.

While residing with the group, the migrant farmer is not allowed or expected to involve himself in any land dispute that may arise concerning the land given him. However, he may take part if his crops are destroyed.

*Rent:* This happens when land is transferred to an individual for a period of time (usually for one cropping cycle) in return for money. In Tiv land there is increasing rent transactions in land because of population growth and the attendant land shortage. Individuals with small holdings often rent land from neighbours and friends with abundant land to supplement their small holdings. It should be noted that in Tivland, people who rent land are never given residence rights or rights to sufficient land. And that the rented land is usually for only one cultivation period and not rotation circle and could be renewed on payment of agreed sum of money.

## **CHANGES IN CUSTOMARY LAND TENURE SYSTEM IN TIVLAND**

The Tiv society, like most societies in Africa, is experiencing major processes of social transformation. For example, the population of Tiv has continued to increase tremendously. The increasing population growth has continued to create stiff competition over land between individuals and groups. Due to the growing population, many rural settlements are increasingly becoming urbanized thereby encroaching on available agricultural land. Also, the local production systems are continually being affected by the global economy as areas previously used for locally consumed products are gradually being taken over by cash crops production. These and many other changes are affecting the way the Tiv customary tenure system operates. Let us look at the aspects of change in the forms of landholding in Tivland.

*Change in inheritance practice:* In Tiv land, like in most communities in Nigeria, the major route of acquiring land is through inheritance. Land acquisition through inheritance is essentially patrilineal and favours only male children. The amount of land an individual can inherit is dependent on the person's position in the family, age, and family size (Kakwagh, 2004). Based on the principles of inheritance, land is divided into plots and given to separate individuals. Traditionally, subdivision was essential as it enabled individuals to meet their land needs.

Today however, many people are no longer willing to allow land to be fragmented so as to take care of the land needs of new members of families. This situation is due to the changing value of land and population growth which has reduced man-land ratio. Population growth is making land redistribution a knotty issue as individuals are no longer willing to part with any piece of their land. This means population growth has caused a very strong individual attachment to land (Yoshida, 2002).

Also, the change in the value of land has made many individuals to plant permanent trees and orchards. The cultivation of these permanent trees and orchards is increasingly making land redistribution problematic as owners of such trees and orchards have continued to lay claims of ownership over such lands. This is an indication that land is increasingly becoming individualized.

Population increase has particularly brought about intensified use of the land. But the increasing population is without corresponding increase in the total piece of land available as land is generally fixed. This suggests that the demand for land is rising beyond the available land, and this is accelerating changes in the inheritance practices. For example, in many parts of Tivland, many people are now circumventing inheritance procedures by willing their inherited portions of land to their children as personal property.

*Change in land gift:* Land gift was a common practice among the Tiv people. Traditionally, it was common for a Tiv man to give a piece of his land to another person without conditions, especially to distant friends and migrant farmers. This act was usually a permanent one and was not to be reversed through generations. The person who was given land as a gift was customarily prohibited from selling the land.

Today however, the undermining of the authority of elders over land by court decisions, people are now selling or disposing of land given to them as gift. It is important to note that in Tivland, rural land sales are forbidden by custom. There are not even disguised forms of sale such as pledge, lease, or mortgage which often become unredeemable in many parts of Nigeria. However, the emergence of the courts as judicial alternative to the council of elders has influenced a major change in the rule that prohibited the disposal of land gift in the customary law (Obioha, 2008).

## **DRIVERS OF CHANGE IN TIV LAND TENURE SYSTEM**

Several factors have continued to drive change in the Tiv land tenure system. These, amongst others, include;

### **Demographic change**

The Tiv society, like many societies in Nigeria, has continued to experience strong demographic growth. Due to this growth, the density of the population has continued to increase substantially. Particularly, areas in southern Tiv comprising Vandeikya, Konshisha, Ushongo and Kwande local government areas are marked by high population which is almost beyond the carrying capacity of the land. In these areas there is intense pressure on land and this is affecting land tenure arrangements as it has continued to change the ratio between labour and land. In these areas with particularly strong demographic growth, individuals' small-sized holdings can no longer meet the requirements for agriculture. The reduction in the man-land ratio due to population pressure has led to changes in land tenure patterns.

### **Conflict and migration**

The Tiv society has been profoundly devastated by land disputes. Disputes over land with its destructive nature and dimension, started from the period of 1976 when Benue state was created and many civil servants had to come home. The return of the civil servants closer home created a dire need for them to have land to farm (Lyam, 2002). Similarly, the return of the demobilized military men about the same period had serious pressure on land such that those who could not get enough land grabbed whatever they perceived as family land. This stirred up many violent disputes. These land disputes have brought about death and destruction, affected land relations and thus disrupted land tenure system in Tivland (Kakwagh, 2008).

Particularly in the southern Tiv where there is strong demographic growth, land disputes have greatly weakened local land tenure arrangements and institutions especially the capacity of the customary management institution headed by the council of elders.

### **Socio-cultural factors**

Socio-cultural factors have significantly contributed to changes in land tenure patterns in Nigeria including the Tiv society. Tiv society was traditionally a closely knitted society. Members had strong attachment to kinship. The extended family played important roles as a unit of production and socialization. It was the extended family that had control over family land and protected it against external encroachment.

Today however, there have been significant changes in the family structure. Due to influences like western education, religion and modernization, there is a significant shift from the extended to the nuclear family status. Unlike in the extended family where land was held communally, today individuals own land privately and crop it with only members of the immediate family. This change in the family structure has engendered significant changes in the customary land rules.

There are other internal modifications such as the settlement pattern. Generally, Tiv people live in scattered settlements. Today due to population growth, much of these scattered settlements have become urban settlements and this is greatly affecting land tenure and land use. For example, in most of the local government areas that make up the Tiv society, this urban expansion has continued to convert land from agriculture to residential use. This process of conversion of agricultural land to residential use is being accompanied by the erosion of customary tenure arrangements.

### **Commercialization of agriculture**

Generally, new methods of agricultural production and marketing lead to new methods of land holding. In Tiv land, cash crop production like yams, Soya beans, groundnuts, beniseed, and economic trees such as oranges and mangoes, etc is almost taking over subsistence production. Because of this change, boundaries of land holding are becoming more clearly recognized as the units occupying the land are tending to be more narrowed down to the nuclear family or to the individual. The concept of private ownership is almost replacing that of communal ownership. The gradual commercialization of the Tiv economy through cash crop production has created the need for increase in the size of individual holding and this is greatly affecting land tenure patterns in Tivland.

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