CSCanada
Canadian Social Science
Vol. 9, No. 4, 2013, pp. 138-146
DOI:10.3968/j.css.1923669720130904.2600

ISSN 1712-8056[Print]
ISSN 1923-6697[Online]
www.cscanada.net
www.cscanada.org

British Colonial Rule and Land Tenure in Esan

Joseph Inegbenebho Osagie[a],*

[a]Ph.D, Senior Lecturer. Department of History and International Studies, University of Benin, Benin, Nigeria.
Research areas: Include economic and social history.
*Corresponding author.

Received 17 April 2013; accepted 3 July 2013

Abstract

This article examines the impact of British colonial rule on land tenure in Esan (Anglicized Ishan), the second major ethnic group in Edo State of Nigeria. Land was very important to the social, political and economic wellbeing of Esan, just like other societies the world over. It was regarded as collective property which everyone could utilize for agriculture and building of houses. Although land was regarded as collective property, individuals owned the plots which they either inherited or acquired. The laid down methods of acquisition and utilization eliminated land disputes throughout the pre-colonial period of Esan history.

By the first decade of the twentieth century, Esan and elsewhere in what is today Nigeria, found themselves under British colonial domination. The British colonial authorities introduced the production rubber and other cash crops into Esan agricultural system in line with their policies of encouraging the production of raw materials for the industries in Europe. The introduction of rubber production especially in plantations thus necessitated the utilization of more land beyond what was hitherto required for the production of food crops. The introduction of plantation system thus altered the land tenure system in Esan as individuals began to lay permanent claims to their rubber plantations to the extent that they began to alienate such land in the guise of selling their rubber trees.

This article therefore examines the role played by British Colonial authorities in the gradual transformation of land from communal to individual ownership in Esan.

Key words: Land; Land tenure; Colonial rule and exploitation; Rubber plantation

Joseph Inegbenebho Osagie (2013). British Colonial Rule and Land Tenure in Esan. *Canadian Social Science, 9*(4), 138-146. Available from: http://www.cscanada.net/index.php/css/article/view/j.css.1923669720130904.2600
DOI: http://dx.doi.org/10.3968/j.css.1923669720130904.2600.

INTRODUCTION

The importance of land among the Esan, just like other African societies, cannot be overemphasized. Land was regarded as sacred gift from Almighty God to the people for their sustenance. As a gift of nature, land does not belong to the living alone, but also to the dead (ancestors) and those yet unborn. Land embodies the whole community and so was highly revered and venerated. Therefore, any anti-social behaviour, such as murder, adultery, stealing, incest, among others, by any member of the community, was regarded as defilement of the land and so, the perpetrator was made to perform specified sacrifices to purify the land and appease the ancestors in order to avert their wrath against such perpetrator and his or her progeny and the community as a whole. Esan people, just like many other people all over the world depended largely on land for their social, political and economic sustenance. This was because, all human activities were carried out on land and were dependent on resources obtained from land.

In Esan, land was regarded as a collective property—owned and utilized by all members of the community. As a collective property, it was held in trust for the people by the political authorities; in this case, the village council headed by the oldest man—*odionwele* (pl. *edionwele*) at the village level and the council of chiefs headed by the king - Onojie (pl. Enijie) at the kingdom level (Bradbury, 1957, pp.67-76; Okojie, 1994, chaps. 1 & 2; Osagie, 2004, Chap. 1). As land was available in abundance in Esan, every able bodied man and woman had access to it

either for building or other economic endeavours such as farming without impediments. However, nobody had the right to alienate land either as a gift or otherwise without the permission of those at the helm of affairs in the community

At the beginning of the twentieth century however, the people of Esan, like other peoples in Nigeria, found themselves under British rule. The British authorities in order to realize their economic purposes in Nigeria introduced the cultivation of cash crops such as rubber into the economy of the people. At the initial stage, rubber was obtained from the trees that grew wild in the forest. When this source was no longer able to meet the needs of the colonial authorities, they encouraged the people to cultivate rubber communally in plantations and later in individual plantations. Later, the plots of land in and around the towns and villages were covered with rubber plantations. So, the farmers had to move farther into the forest in search of new plots of land to put to cultivation. The introduction of rubber cultivation and plantation system into the economy of the people thus increased the demands for land in large sizes by the farmers. As more land began to fall into the hands of individuals through the cultivation of rubber in plantations, the control which the community exercised on land began to wane. Before the end of colonial rule, some people had begun to alienate the plots of land on which they had rubber plantation in the guise of alienating their rubber trees.

PRE-COLONIAL LAND TENURE

In pre-colonial Esan, land (*oto*) was in theory communally owned, with individuals and families - as among the Igbo, only enjoying usufructuary tenure (Afigbo, 1980, p.3). One of the principles guiding the acquisition of land in pre-colonial Esan was that for every individual to sustain himself and his family, he should have the right of direct access to the resources, land included, of the territory controlled by the political entity to which he belonged (Colson, 1977, pp.193-215). The use of land was therefore, the inalienable right of individuals only insofar as they are members of the community (Diduk, 1999, pp.195-217). Every Esan had usufruct rights over land in his village or community. This meant that land was only acquired for its utility and that every man had unfettered access to it either for building, farming or other economic activities. Such a right could however not be sold or ceded as land was regarded as sacred as well as a gift of nature. Once a man took possession of a piece of land, either by direct acquisition or inheritance, it remained his own perpetually. Another principle was the recognition of an individual's right to anything he had created, whether a homestead or farmland. The land on which a man built his house belonged to him. In the words of Okojie,

> A man owned the piece of land on which he had his house. The land with the cleared area around it belonged to him and his children. If he left it to go and build somewhere else within or without the village, no one else had the right to build on the site…. If the house had fallen down and the place had become bush, the old building site … was still his sacred possession (Okojie, 1994, p.133).

The acquisition of land for farming on the other hand was based on the principle of *Ono ka gbe egbo yalen egho* (he who first deforest a piece of land own it) or the "rights of first occupation". This means that a man who first clears a piece of virgin forest owns. According to Okojie,

> The basic law over farm land was that HE WHO FIRST FARMED A VIRGIN FOREST, A LAND HITHERTO UNCLAIMED, OWNED IT. This means that in Esan custom the first man to clear a forest, cut down the trees for the purpose of farming, owned it OVER GENERATIONS…. The piece of land thus acquired became family property, passing from father to son (Okojie, 1994, p.134).

Individuals thus had *de facto* ownership over the plot(s) of land which they cultivated. This practice is fundamentally different from what Bradbury says existed in pre-colonial Benin where, according to him,

> No rights in fallow land are recognized. Once a man has cleared land, planted it over two or three years and then let it go fallow, it reverts to the community though it is not likely to be re-cleared till some years later. In fact some individuals return to the same piece of land after a period of years but they do not thereby establish any additional claim to it (Bradbury, 1957, pp.44-45).

Even with the shifting cultivation system which was practiced in Esan, in which a plot of land was left fallow for a number of years to regain fertility after it had been cultivated for about two to three years, no other person could encroach on it without the express permission of the owner. However, individuals had no right whatsoever to sell land. Even when a man had the intention of selling a plot of land, it was unlikely that someone would pay for what was freely available and required little effort to acquire. From the above, it is clear that the general assumption by Ekundare (1973, pp.39-40) that, in Nigerian chiefdoms, the traditional rulers were responsible for allocating farmland to families that wanted them, did not obtain in Esan.

Every Esan village was surrounded by vast cultivable land which was more than enough for the people to farm. It was however, generally believed that land belonged to the Onojie (pl. Enigie) [king] who was regarded as God's representative on earth. This statement in actual fact seems to refer to the political authority which the Onojie wielded over the occupiers and users of the land rather than the actual control of its usage (Bradbury, 1957). However, the authority over land in each Esan village was vested in the Odionwele [village head] who, in conjunction with the village council (*eko edion*) held land in trust for the people. This seems to be the general practice even among various ethnic groups in areas known today as Nigeria. Describing ownership of land in Benin

kingdom, Bradbury says that, "… real ownership [of land] was at the village level, with the odionwere (senior elder) and edion (elders) exercising powers over its use and allocation" (Bradbury, 1957, p.76).

However, the Onojie had the right to acquire land in any part of his kingdom for communal use such as market (*eki*), cemetery (*egbi Itolimin*), shrine (*aluebo*) and playground (*ukpugbele*), without hindrance. Marketplace, like play grounds, legitimately belonged to the Onojie, hence main markets, especially those located in the headquarters of the kingdom – *Eguale,* in all Esan communities are named after their Enijie. For example, the main market located at Eguale, Ekpoma, Irrua, Ubiaja and Uromi a kingdom is known as, *Eki Ojieekpoma* [market of Onojie of Ekpoma]. Unlike in other parts of the country, especially among the Hausa and Yoruba, there were no royal estates or lands attached to certain offices of states in Esan The main features of royal estate according Elias was that,

> …. They were permanently attached to the official head, to certain ruling houses and to important chieftaincies whether (1) by right of first occupation or of conquest, as in the case of royal families whose heads originally founded the new site or subjugated the former occupiers, or (2) as rewards by some conquering leader to some henchmen or warriors for military services, or (3) to buttress the reputation of the overlords by endowing loyal sub-chiefs with gifts of land for political reason (Elias, 1971, p.75).

Like other citizens, the Enigie in Esan had what could be called *oto ojie* "palace land". These were the plots of land which previous Enigie, had over the years acquired or inherited from their fathers - predecessors - succession to the throne in Esan was and still is by primogeniture. Such plots of land could be located in different villages making up the kingdom. In order to sustain themselves and their families, the Enigie had their own farms which they cultivated by the labour provided by members of their families and other members of the various villages under their jurisdiction. As land had no pecuniary value in pre-colonial period, there was no need for the Enijie or other members of the communities to acquire land beyond what they could utilize. The Enijie, like other members of the community acquired land purely for utility, either for building of houses, farming or for other economic activities. It was however, generally assumed by some writers that individual ownership of land was alien to the people of what is known today as Nigeria. In the words of Viscount Haldane, "[l]and belongs to the community, the village or the family, never to the individual (Haldane, 1921 cited in Elias, 1971, p.75).

This assumption is not totally true of Esan. This is due to the fact that there were two levels of land ownership in Esan – the individual and the community, unlike what existed among the Igbo people (Azuka, 1983, pp.853-871; Igbokwe, 2002, pp.22-28). In pre-colonial time, when an individual required a plot of land to build a house, he simply approached the head of his family [his father or uncle] or any of his relatives, who, as a matter of policy, allocated from among his plots of land within the village to him. Once such request was granted, the individual became the owner of the plot(s) of land in perpetuity. There were however, two ways by which an individual could obtain land for farming. The first was through inheritance, mainly from father to son. The second was through personal acquisition from the community's virgin forest. At the beginning of the farming year, the village council authorized the demarcation of a section of its virgin forest from which anybody in need could clear as much as he could utilize for farming in that season. Any portion that an individual deforested and utilized for farming in that year belonged to him so long as he continues to utilize it within the context of the shifting cultivation system which was practiced by the people (Okojie, 1994, Chap. 5; Osagie, 2004, pp.17-25).

The classification of land into town land, village land, lineage land and family land among the Igbo (Dike, 1993, pp.853-871; Igbokwe, 2002, pp.23-38) did not obtain in pre-colonial Esan. What is regarded among Igbo as town and village land on the one hand and family and lineage land on the other could in Esan be regarded as community and individual land respectively among the Esan. As mentioned earlier, the Onojie did not have direct control over the land in the villages in Esan. Land, especially virgin land, was controlled by the village councils. What is regarded as family land was land or plots of land owned by a man, from which he could give out to anyone, especially his grown-up sons, while still alive.[1] On his death, his plots of land would be shared among his male children with the eldest son, as prescribed by tradition, taking the largest share. The children thus, became the new [individual] owners of the plot(s) of land thus allotted to them. So, in Esan, there were no lands that could be said to be owned or controlled by lineage or extended family heads. What belonged to the head of a lineage or extended family in Esan were the plots of land which he either inherited from his father or acquired by himself and which also, would be inherited on his death, by his sons only. So, at every point in time, individuals had control over the land which they either inherited or acquired. There were no plots of land in Esan that could be regarded as "abandoned" and so, could therefore, revert to the community. Any plot of land that had been inherited or acquired by an individual would never be

[1] The method by which a man, while still alive, gives out some of his plots of land to any of his grown-up sons is known as *ivian'obo* [branching off] in Esan. This is when a man gives some of his plots of land to any of his group-up sons to commence his own family life. If the man feels that the son has served him well, he will in addition marry a wife for him and give him some seed yams and agricultural tools.

regarded as abandoned and thus revert to the community. This is because there was always someone to inherit land that was owned by someone; even if such a person had no offspring.[2] The only exception was the plots of land belonging to a person who committed serious crime and was on conviction by the appropriate authorities, either expelled from the village or executed. The property of such person including his plots of land, were acquired by the Onojie or Odionwele depending on whether the case was tried at the kingdom or village level. (Okojie, 1994, pp.125-132).

However, there were certain plots of land that were communally owned and so, could be regarded as communal land. These included "virgin land", open land at the centre of the villages such as village squares, market places, cemeteries and sacred groves, among others. "Virgin lands" as the name implies, were the forests which had not been cultivated for the first time. Any land in and around the village that had not been specifically assigned to or used by any individual was communally owned. Village squares were the venue of meetings of village councils [*eko-edion*] and were also used for recreation or other social activities such as dancing and wrestling during festive periods. Market places were venues where economic activities were carried out. Village cemeteries were the places where persons who died unnaturally or of abnormal diseases were buried. The ancestral shrines owned by the village or kingdom were situated in the sacred grove. These were the land in Esan which remained perpetually the property of the villages or kingdoms which no person could trespass or acquire. All other plots of land were therefore, owned either by individuals in pre-colonial Esan.

The people of Esan cultivated annual and biennial crops which were harvested within the period of one to two years. Although they also cultivated fruit trees, this did not develop into plantation system - a practice which characterized the colonial period. As a result of the cultivation of annual and biennial crops and the adoption of the shifting cultivation system, the number of farmland owned by individual farmers were not located in one area. After a farmer had cultivated a plot of land for about two to three years and the land was no longer yielding bountiful harvest, he abandoned it to lie fallow and moved on to a fresh plot or the one that had been left to fallow and had regained fertility after a considerable number of years. The practice was that a plot was used in the first year for the cultivation of yam with maize inter-cropped in rows and women planted vegetable crops around the stumps. In the following year, the land was planted with maize, cassava, pepper among others before it was left to fallow. This was why Esan farmers acquired as many plots of land as they could put to productive use in different locations as long as they did not encroach on the plot(s) of land that belonged to other persons. This practice again contrasted what Bradbury says existed in Benin where a farmer had to intimate his colleagues of his intension to clear land progressively in a given direction over a period of time:

> …. The only exception to this rule [that a native of a village could farm anywhere] occurs where an individual intimates his intention to clear land progressively in a given direction over a period of years, in which case no other person should obstruct him by making a farm across his intended path) Bradbury, 1957, pp.44-45).

As Esan people lived in communities, they also had their farms close to one another. This proximity of farms enabled farmers to render mutual assistance to one another and share common experiences. The fragmentation of farmlands prevented the emergence of big landlords who had vast plots of land [estate] in one location.

Strangers were received with open arms in pre-colonial Esan and were willingly allotted plots of land to farm if they requested. A stranger in this regard means anyone who is not a member of a particular village, even if he/she were Esan. A man from one village is therefore, a stranger in another village. A stranger who needed a plot of land had to go through an indigene of the village who would allocate to him one or two out of his numerous farmlands, after obtaining the permission of the elders in council (Okojie; 2004, p.135). If about three or more strangers from the same village or kingdom came into anther village, they had to approach the elders in council who would allocate land to them (Bradbury, 1957, pp.76-77; Okojie, 1994, p.135). Land was thus given to strangers on the condition that they did not cultivate permanent crops, such as kolanuts on it. In the case of wholesale migration of persons from one kingdom to another probably due to war or natural disaster, the Onojie had to be informed who would allocate land, usually virgin land, to them in any village. If such individuals decide to return to their original homeland at any point in time, the land would revert to the community. If on the other hand, they decide to settle permanently in their new home, after they must have performed the necessary rites, they and their progeny would enjoy the same rights as the indigenes (Okojie, 1994, p.135). Any other stranger who had lived in a village for a considerable number of years and if he so desired, could approach the elders in-council through his original benefactor, that he wanted to "naturalize" and become a member of the village. If his request was granted, he would be made to perform some prescribed

[2] It was very rare to find a man who has no offspring in Esan. If however, a man dies without any offspring, his nephews or cousins will inherit his property including landed property. There are however, situations in which the property including landed property of a man who died without offspring are inherited by his eldest male God son [*oro*]. It is regarded in Esan that a man's God children are the children he should to have had.

traditional rites, after which he would enjoy the same privileges including that of use of land, as indigenes of the village.

The above was therefore, the nature of land acquisition and utilization that existed in Esan before the emergence of the Europeans who introduced a different mode of production which altered land tenure in Esan.

CONQUEST AND COLONIZATION AND LAND TENURE IN ESAN

The coming of the British and eventual colonialization of the people altered land tenure system inEsan. Esan did not have any direct contact with Europeans until after the conquest of Benin Kingdom by the British in 1897. It should be recalled that trade dispute between Oba Ovonranmwen of Benin and British officials led to the crisis in which Consul Phillips and members of his expedition were ambushed and killed by Benin warriors at Ugbine in January, 1897, for defying the order of the Oba to delay their visit to the kingdom. This encounter led to a brutal reprisal by the British forces against the Oba and his kingdom leading to the fall of the kingdom in 1897 (Igbafe, 1979, pp.37-75). The conquest and colonization of Benin provided a base from which British officials launched their incursion into Esan in order to bring the people under their rule. The people did not however succumb to British forces without stiff and heroic resistance which proved too costly for the invading forces. The people resisted the British forces and their superior weapons for over eight years. In fact, the resistance delayed the establishment of effective colonial administration in Esan and its environs until the middle of the first decade of the twentieth century. Unlike Benin kingdom that was conquered and colonized after a single battle in 1897, it took the British expeditionary forces series of battles which lasted between 1899 and 1906 before Esan was finally conquered and brought under colonial rule (National Archives, 1982: xiv; Igbafe, 1979, pp.37-74).

With the successful conquest and establishment of colonial rule, the stage was set for the massive exploitation of the human and natural resources which abound in Esan. The territory was rich in agricultural and forest products. The soil was fertile and this had enhanced agricultural activities in the area before the coming of the British. The forest was replete with abundant natural resources such as palm produce and rubber which were in high demand in Europe. The demands for these products were necessitated by the Industrial Revolution of the nineteenth century. Natural rubber was needed for the production of bicycles and motor tires as well as insulation materials for electric cables. Palm oil on the other hand, was needed for the lubrication of machines while palm kernel was used in the pharmaceutical industry. The cultivation and production of these crops, especially natural rubber and the emergence of salaried middle class such as soldiers, policemen, clerks, interpreters, cooks among others (Dibuk, 2002, pp.195-217), contributed to the alteration of land tenure not only in Esan, but in the whole of what is known today as Nigeria. According to Dike,

> The British occupation of Nigeria introduced new forms of land holding in Nigeria which, although they did not completely supersede the traditional or indigenous forms, have greatly influenced and supplemented them. Westernization, demographic factors, and the introduction of money economy are the major contributors to changes in the traditional land tenure system…. (Dike, 1983, pp.853-871)

INTRODUCTION OF RUBBER PLANTATION

At the early stage of colonial rule in Esan, natural rubber was obtained from rubber bearing trees namely *Funtumia Elastic* (locally known as *Obadan*) which grew wild in the forest. Later, the British officials realized that the products from wild trees were no longer sufficient and so they encouraged the people to cultivate rubber trees in communal plantations. This was in line with traditional land tenure. Communal plantations were therefore communally owned. One of the intrinsic ingredients for plantation system was land – large acreage of land; much more than what was required for cultivation of food crops. So between 1906 and 1913, large number of communal rubber plantations dotted the whole of Esan (Osagie, 2004, pp.87-89). In 1913, para rubber (H*avae Brasiliensis*) was introduced into Esan and British officials encouraged farmers to develop individual rubber plantations (Fenske, 2010, pp.7-9). This was facilitated by the establishment of agricultural stations at Ubiaja, the headquarters of Ishan (Esan) Division, where rubber seedlings were distributed free of charge to farmers to transplant in their farms. By 1939 when the Second World War commenced, there was large number of individual rubber plantations in Esan. In a report dated 18 August, 1943 and sent to the District Officer of Ishan Division, Mr. A.A. Adeniyi, a rubber inspector in Esan revealed that the people of Iruekpen, a village in Ekpoma, had para-rubber plantations covering a distance of about two miles. He estimated the number of trees in the plantations, which were already due for tapping, to be between 4,000,000 and 5,000,000 (N.A.I., I.D. 744, Rubber Production, 1944). In another report in the same year, one colonial official estimated that "1323 farmers had 605 acres of matured rubber in Ishan, with roughly another 1000 acres planted to young trees" (N.A.I., I.D. List of African Plantations, 23/6/43).

At the peak of the Second World War, there were vast rubber plantations all over Esan. In fact, most of the plots of land surrounding the villages which had hitherto been used for the cultivation of food crops were covered by rubber plantations. This trend continued until the end of the Second World War, when the demand for natural rubber in the international market fell due to the resumption of rubber production in the Far Eastern

countries. This situation, coupled with the invention of synthetic rubber, led to a saturation of the rubber market in Europe as production exceeded demand. According to the *Economist*,

> …after the liberation of the Far Eastern sources of supply, once the productive capacity of natural rubber is fully restored, combined crude and synthetic rubber capacity will be greatly in excess of prospective demand… perhaps by as much as one million tons a year or about a third of capacity (*The Economist*, July, 1944, p.27).

These developments affected rubber production which began to witness a downward trend in Esan as well as in Nigeria. A situation then arose in which large number of rubber plantations in the various towns and villages were no longer being tapped by their owners as rubber production became unattractive and unprofitable. These were rubber plantations that had occupied vast portions of land in all parts of Esan.

The introduction of plantation system by the colonial authorities thus altered land tenure in Esan. In pre-colonial time, cultivation of permanent crops in plantations by individuals was not a common practice. The few permanent crops such as kolanut trees were planted in one or two rows along bush paths leading to the farms and empty spaces around village grooves and shrines. This means that permanent crops were cultivated in communal land and so, the owners could not lay claim to the land in which the trees were planted. An individual could have between three and ten kolanut trees at a particular location or mixed with some coconut trees of another person. However, tree crops were a minor feature of pre-colonial land tenure in Esan. Those that grew wild such as palm trees were communally owned, and no individual rights to them were recognized. So, the cultivation of permanent crops did not develop into large plantations as the products of these trees did not have commercial value. The fruits were only needed for personal consumption, entertaining guests and presentation during traditional ceremonies such as marriages, initiations and burials.

With the introduction of plantation system by the colonial authorities, individuals began to acquire plots of land beyond what they hitherto needed for the cultivation of crops. In the pre-colonial times, a farmer required a few plots of land in different locations which he cultivated rotationally every four to six years depending on the fertility of the soil. With the introduction of plantation system, a farmer would cultivate food crops on a plot of land for about two or three years and instead of abandoning it to fallow, would plant cash crops, such as rubber, on it and then move to another plot. Cultivation of rubber in plantations thus led to increase in the size of land being acquired by farmers for the cultivation of food crops and thereafter rubber. The plots of land which individual farmers possessed increased much more than were hitherto needed for food crops cultivation. This large scale cultivation was facilitated by the availability of additional labour which was provided by migrant Igbo and Urhobo labourers who flocked Esan in search of employment in the rubber industry (N.A.I. BenProf C.S.O 26/2).

The farmers did not cultivate cash crops on plots of land which were being put to use for the first time but were planted on the last year of the cultivation of the land, when the plot would have been left to fallow. As the plots of land that were left to fallow became fewer or non available, the farmers found themselves continually moving into the deep forest for fresh land to cultivate. This was how Esan farmers began to move far away from the villages in search of virgin forest to cultivate, thus, leaving the plots of land in and around the villages and towns covered with rubber trees. This situation was similar to what happened in Benin on which the colonial authorities commented in 1946 that, "Benin is still cursed by rubber…. All the best land near Benin has been seized by the Chiefs…. for rubber plantations" (N.A.I. BenProf, 1946 Annual Reports).

As noted earlier, after 1945, with the end of the Second World War, the price of rubber had fallen drastically in the international market. It was therefore no longer lucrative to produce rubber and so, the dream of the farmers who cultivated large scale rubber plantations became a mirage. In spite of this, the farmers did not totally abandon their rubber plantation. While some still tapped their trees to earn some cash to meet their immediate needs, others rented their plantations to tappers from whom they collected monthly fees. Some others gave out their plantations on share-cropping basis. The farmers also did not cut down the rubber trees to cultivate food crops as they could not afford to see their investment go down the drain; neither did they allow other members of the community in need of land for either farming or building of houses the use of such "abandoned" plantations. The only persons that still had unfettered access to the rubber plantations were the owners of the rubber trees. As in pre-colonial period, land at this stage in Esan still had no pecuniary value apart from its use for farm and building purposes. However, the cultivation of permanent [rubber] trees on land began to change the perception of Esan people on the ownership of land. While the land still theoretically belonged to the community, the permanent crops belonged to individuals. Even when someone else needed the land for building and the owner of the rubber trees refused, there was nothing anybody could do about it "since it was not possible to build on trees" (Okojie, 1994, p.137). So, in terms of utility or "ownership" of land, the owner of permanent crops had an upper hand. This is because no other person could make use of any plot of land with permanent crop without the expressed permission of the owner of the trees. The community could also not take over such plots of land except for

communal purposes which were usually very rare at the time. Thus, just as rubber cultivation increased the size of land being acquired by farmers, it also increased the permanency of land right, creating *de facto* ownership of the land under it (Fenske, 2010, p.12). Although land could not be sold as it did not have commercial value on its own, the rubber plantation on it could be alienated temporarily, by rental, pledge, sharecrop or permanently by sale or inheritance. (Ibid) Thus, the "cat and mouse" game between the plantation owners on the one hand and the other indigenes and community on the other over land ownership continued until the emergence of a new trend – demographic changes - which was also the product of colonial rule completely altered land tenure in Esan.

DEMOGRAPHIC CHANGES

The advent of the British and the introduction of cash crop production (money economy) saw the expansion, both in size and volume of some markets and towns in Esan especially, as it was in these markets and towns that the cash crops were sold to produce buyers. Produce buyers travelled from one market to the other, buying produce such as rubber, palm oil and kernels which they in turn sold to the foreign trading firms at their stations located in some major Esan towns such as Ekpoma, Irrua Ubiaja and Uromi. It was also from these towns that distributors and agents of foreign firms sold imported merchandise to retailers and consumers who came from all over Esan.

In the late 1940s when cash crops production was no longer lucrative, the farmers began to cultivate food crops such as rice and cassava which were becoming popular with the increasing population of urban dwellers. As the production of these crops exceeded local demands, the surplus were then sold to middle men in these markets from where they conveyed them to other towns such as Benin, Sapele, Warri and even as far as major towns in Yorubaland and Hausaland (Osagie, 2004, pp.226-230). Non-indigenous traders began to patronize some major markets in Esan in search of different types of foodstuffs. On market days in these towns, a number of vehicles loaded with foodstuffs for onward transportation to other parts of the country could be seen. The increase in the volume of trade naturally led to the expansion of these markets and the towns in which they were located.

As has already been mentioned, trade brought a lot of non-indigenous traders – Hausa, Igbo and Yoruba to most of the major towns in Esan. These traders rented shops and warehouses in areas close to the markets. Some others rented locked and open shops in the markets. Later a number of them mostly the Yoruba and Hausa began to settle permanently in some market towns. These set of traders began to request for plots of land in places close to the market or the outskirt of the town from indigenous people to build their personal houses which they used as residence as well as shops and warehouses. The first set of towns that witnessed large influx of non-indigenous traders in Esan, at this time, were Ekpoma, Illishi, Irrua, Ubiaja and Uromi.

Another factor that contributed to the expansion of these towns was that the two major foreign trading firms; United African Company (U.A.C.) and John Holt established trading stations in these towns. The Niger Company (later known as U.A.C.) was the first to establish a trading station at Illushi, a coastal Esan town in 1896 while John Holt had it first foothold in Esan in 1915 when it also established a trading station also at Illushi (N.A.I. 1982, p.xvi). The headquarters of colonial government in Ishan (Esan) Division - was Ubiaja and this brought a lot of people who included colonial officials and other workers into the town. The establishment of a rice mill in Ekpoma in November, 1941 by colonial authorities also added new economic impetus which attracted indigenous and non-indigenous people to the town (N.A.I. BenProf, 1941, pp.11-12).

Timber exploitation which commenced in the late 1920s was another factor that brought a lot of people into Esan. Four foreign firms namely; African Timber and Plywood Limited (A.T.& P) owned by the United African Company (U.A.C.), Messrs I.T. Palmer, Nigerian Hardwood and British West African Timber Company were engaged in timber exploitation in Esan. By 1940 these companies had in their employment, about 3000 labourers and unskilled workers most of whom were non-indigenes of Esan. In his 1940 Annual Reports, the District Officer, Ishan Division, reported that,

> … about 3000 labourers are employed in timber camps worked by the United African Company, The Nigerian Hard Wood Limited and the British West Africa Timber Company. Most of the men employed are Ibos (N.A.I. BenProf, 1949, pp.15-16).

With employment opportunities, especially in the emerging urban areas, some individuals in the interior began to migrate into these towns either to seek employment or participate in the new economic opportunities which the new towns offered. Some of these migrants took up employment as clerks, interpreters, messengers, cooks, junior administrators while others joined the army and police. Others were engaged in self employment and in this group were artisans and craftsmen. Within a short space of time, there emerged a new class of people - middle class – whose demand for land in the emerging urban areas affected the land tenure in Esan. This scenario is aptly captured by Falola *et. al*.,

> ... employment opportunities abounded more in the urban centres than in the rural areas. Since the towns had the commercial firms, banking institutions, civil service and other public service headquarters, they had more openings for paid employment…. The population growth in urban centres also created opportunities for self-employment for various people, notably, traders, artisans and craftsmen, hoteliers, tailors and other whose skills were needed by the urban population. Indeed, to feed and cater for the needs of this population, complex systems of trade

> and apprenticeship developed, thereby drawing more and more people from the rural areas to the urban centres. (Falola, 1991, p.45).

This situation elevated these towns to new economic heights over and above the other towns which had no such opportunities. These changes as described by a geographer were also true of Esan,

> For the inland peoples, the European factories represented a new experience. They were permanent centres and offered daily opportunities for exchange…. With their great advantages of opportunity and frequency, these centres and their associated markets grew rapidly at the expense of the traditional markets…. (Uku, 1967, p.658)

As commercial and administrative activities expanded in major towns in Esan, some people began to recognize the economic importance of accommodation and so began to build houses which they rented out to indigenous and non-indigenous workers as well as traders in the towns. This situation increased the demands for land in these towns. However, the non-indigenes, as it was in the past, had to seek for land from the indigenes whose plots of land were located in and around the towns. As most of the land close to the markets and commercial centres had rubber plantations, these land seekers had to approach the plantation owners rather than the community leaders. As a result of their investments on the land, the plantation owners were no longer ready to give them out *gratis*. So, they began to demand money in exchange for their plantations. This was not only the beginning of individuals laying permanent claims to land, but it was also the beginning of the commercialization [total alienation] of land in Esan. It was not only strangers that were in need of land for building of houses and other purposes in the urban centres, but also indigenes, especially those who lived in the interior or other cities, who also wanted to take advantage of the new economic benefit that the urban centres provided. Such individuals had to also obtain land from those who owned plantations near the urban centres unlike in the past when they had to approach their relations or community leaders. However, as people were still conscious of the fact that traditionally, individuals had no authority to alienate land, no mention of land was usually made in the agreements that were entered into between the sellers and the buyers. What was usually mentioned was simply "rubber plantation". The impression was thus created that the sellers were not alienating land but their rubber plantations as nobody wanted to be seen as exchanging land for money. On the other hand, the buyers of such plantations were usually not interested in the rubber trees but the plots of land which they wanted to utilized for other purposes. From such transactions, the rubber trees and the plots of land were transferred perpetually to the buyers. The rubber trees were immediately cut down and the plot utilized for other purposes such as building of houses, shops or warehouses without anybody asking questions. In the past, such transaction would have been totally unacceptable to the community. This time around, almost everyone in the community including the traditional rulers, were involved in the selling and buying of "rubber plantations" with no one invoking traditional sanctions against the sellers. So, like the situation in Benin, (Igbafe, 1979, pp.338-374) the cultivation of cash crops became the major means of converting communal land into private ownership in Esan. With this trend, individuals began to lay permanent claims to the land on which they had permanent crops especially rubber. Although they were not laying claims to the land but they were laying claims to the rubber trees on it; there was no doubt that land tenure system in Esan was gravitating towards individual ownership. This was because individuals, in the guise of disposing of their rubber trees, were actually alienating land. The right of alienation is a major factor which Nwabueze identifies as evidence of ownership of any land. In his words:

> With increasing commercialization, land has become a fertile source of income in the form of periodic rent or lump sum payment. This assumes of course the marketability of land, in otherwords, that the owner has power to alienate. It may be said that the most conclusive way in which a person can demonstrate that he is the owner of a thing is if he can alienate it outright to any one he likes. The real essence of ownership lies therefore in the power of alienation; it connotes essentially the totality of the rights of disposal over a thing. The right of disposal is not only the most conclusive but also the most valuable incident of ownership (Nwabueze, 1982, p.7).

Even up to the 1970s when the Federal military government promulgated the Land Use Decree (Agbosu, 1988, pp.1-43), which vested all the land in the country on State governments, plots of land were still being sold in Esan in the guise of "rubber plantations".

CONCLUSION

Attempt has been made in this paper to establish the fact that in Esan, land had always been owned by individuals although it was generally believed that it belonged to the community. The moment an individual acquired a plot of land, either by inheritance or acquisition, it belonged to him and his progeny perpetually. Acquisition of land was derived mainly from utility. However, nobody had the power transfer land either temporarily or permanently to stranger without authorization of those at the helm of affairs in the community.

The coming of the British and the introduction of plantation system changed the concept of land ownership in Esan. Plantation system entailed the cultivation of permanent crops such as rubber and palm trees on land by farmers. With the existence of permanent trees on land, the farmer had to continually search for fresh plots of land for cultivation of food crops as the older plots had been occupied by rubber trees. Some enterprising

farmers cultivated vast rubber plantations in different locations in and around the villages and towns. When in the late 1940s, the rubber industry witnessed recession; the farmers had no alternative for their plantations but to abandon them to lie fallow. With rubber trees on such plots of land, no other person, not even the community, could trespass such land without the expressed permission of the rubber tree owners. So, rubber plantation became a means by which individuals took permanent ownership of plots of land which they obtained from the community without cost.

With the expansion of markets and the emergence of new economic endeavours in the urban centres in Esan, the need for land to build houses and shops by both strangers and indigenous people became imperative. Consequently, land began to have pecuniary value and so, the first beneficiaries were those who had rubber plantations close to major markets and towns. These individuals began to transfer their "rubber plantations" to anyone who could afford to pay for them. As the people were conscious of the fact that individuals had no right to alienate land, they instead pretended to be disposing of their rubber trees rather than the plots of land in order to avoid traditional sanctions. So, the coming of the British and the introduction of colonial economic system especially, rubber plantation system, led to the gradual transformation of land from communal to individual ownership in Esan.

REFERENCES

Agbosu, L. K. (1988). The land use act and the state of Nigerian land law. *Journal of African Law*, *32*(1) (spring).

Azuka, A. D. (1988). Land tenure in igboland. *Anthropos, Bd*. 78, H5/6: 853-871

Bradbury, R. E. (1957). *Benin Kingdom and the edo speaking peoples of south western Nigeria*. London: International African Institute.

Colson, E. (1977). The impact of the colonial period on the definition of land rights. In V. Tuner (Ed.), *Colonialism in Africa 1870-1960, Vol. 3: Profile of change: African Society and Colonial Rule.* London: Cambridge University Press.

Diduk, S. (1992). The paradoxes of changing land tenure in Kedjom Chiefdoms, Northwest Province, Cameroon. *Paideuma*, *Bd*, *38*: 195-217.

Ekundare, R. O. (1973). *An economic history of Nigeria, 1860-1960*. London: Mathuen.

Elias, T. O. (1971). *Nigerian land law*. London: Sweet & Maxell.

Falola, T., et al. (1991). *History of Nigeria: Nigeria in the twentieth century.* Lagos: Longman.

Fenske, J. (2010). Tree, tenure and conflict: Rubber in Colonial Benin. *Munich Personal RcPEc Archive (MPRA)*. Paper No. 27450. Munich.

Haldane, V. (1921). Amadu Tijani v Secretary, Southern Nigeria (Delivering the judgment of the Privy Council in 1921)

Igbafe, P. A. (1979). *Benin under British administration: The impact of colonial rule on an African Kingdom, 1897-1978*. London: Longman.

Igbokwe, J. N. (2002). Land tenure and agriculture in 19th century Isuamawu area of Abia State. In O. N. Njoku (Ed.), *Pre-colonial economic history of Nigeria*. Benin City: Ethiope Publishing Corporation.

National Archives, Ibadan (N.A.I.). Benin Province 1940. *Annual Reports on the Benin Province for 1940.* CSO 26/2 14617 Vol. XIV.

National Archives, Ibadan (N.A.I.). Benin Province 1941. *Annual Reports on Benin Province for 1941.*

National Archives, Ibadan (N.A.I.). Benin Province 1944. *Annual Reports on the Benin Province for 1944.* CSO 26/2 14617 Vol. XIV.

National Archives, Ibadan (N.A.I.). Benin Province 1946. *Annual Reports, Benin Province.*

National Archives, Ibadan (N.A.I.). Ishan Division 1943. *Minutes dated 23/6/43: List of African Plantations*. I.D. 744.

National Archives, Ibadan (N.A.I.). Ishan Division 1943. *Rubber Production: Paper Concerning, 1943 Reports.* I. D. 744.

National Archives, Ibadan (N.A.I.). (1982). *Intelligence Reports On Ishan Division of Benin Province*.

Nwabueze, B. O. (1982). *Nigerian land law*. Enugu: Nwamife Publishers.

Okojie, C. G. (1994). *Esan native laws and customs with ethnographic studies of esan people*. Benin City: Ilupeju Press.

Osagie, J. I. (2004). *Economic development in esan in the Colonial Period* (Ph.D. Dissertation). University of Benin, Benin City.

Scallon, A. V. *Intelligence reports on North East Ishan Federation of Benin Province.* Benin City: Ministry of Local Government.

The Economist, July, 1944.

Uku, U. I. (1967). The development of trade and marketing in Iboland. *Journal of the Historical Society of Nigeria*, *34*, 650-661.