

**FEMALES' SUCCESSION RIGHTS UNDER THE NATIVE LAWS AND CUSTOMS OF NIGERIAN SOCIETIES: AN AFFRONT TO JUSTICE\***

**Abstract**

For many centuries, the issue of discrimination against women has shaped discussions at various intellectual public gathering of Scholars, Activists, Non-Governmental Organizations, Policy Makers, etc. However, the impact of such discussions is yet to be felt and translated into gender equality in favour of the females who are the victims of gender based violence/discrimination. In traditional Nigeria societies for instance, there exist discriminatory cultural practices such as female disinheritance, whereby daughters and widows are prevented from partaking in the sharing of their fathers' and husbands' properties/estates, respectively. Female disinheritance is one of the ploys used by the male dominated societies in Nigeria to impoverish females and push them to a tight corner where they will have no option but to succumb to perpetual subjugation to men. It has been observed that the persistent poverty situation in developing countries such as Nigeria is attributable to neglect and discrimination against women.<sup>1</sup> Sadly, this practice has been so institutionalized in the system that it has been embraced by traditionalists, Christians and Muslims, without minding the fact that this specie of inequality is a drawback in every society it operates. This paper critically examined female inheritance under the Native Laws and Customs of different ethnic groups in Nigeria and found out that this degrading customary practice runs foul to the express Constitutional provisions on fundamental rights, as well as other International Human Rights Documents/Instruments. Recommendations were made on how to nip female disinheritance in the bud.

**Keywords:** Cultural Practices, Discrimination, Female Disinheritance, Inequality, Properties, Subjugation, Nigeria

**1. INTRODUCTION**

From time immemorial, Nigerian women have been faced with numerous degrading, oppressive and discriminatory cultural practices which grossly impede their constitutionally guaranteed rights. It is evident that the discriminatory cultural practices under discourse are legion and include widowhood practices, female genital mutilation, female disinheritance, payment and refund of bride-price, son-preference syndrome, forced marriage, etc. No doubt,

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1. C Ugwu *et. al.* 'Gender-Based Violence in Nigeria: The Trends & Ways Forward', *Specialty Journal of Politics and Law*, 2016, Vol. 1, No.1. P.99.

these discriminatory practices have taken a new dimension as they appear to be deep rooted into our cultural systems. Consequently, all efforts made in the past to uproot these obnoxious practices proved abortive despite national, regional and international legal instrument put in place to eliminate these unwholesome practices. The most worrisome of these obnoxious practices is the disinheritance of females whereby female children are not allowed to inherit their late fathers' estates. These properties are exclusively reserved for the man's male children who are deemed as continuity of the family lineage, while the female children are deemed as strangers in their father's family, who will eventually marry out and live in their matrimonial homes.

Unfortunately, customary laws do not guarantee property rights to daughters in their husbands' homes, now allow daughters who eventually did not get married to inherit from their fathers' estates. Even where the deceased did not beget a male issue; his estates will devolve on his closest male relation rather than his daughters. In the same vein, widows are not admitted to inheritance in their husbands' houses no matter the leading roles played by these widows in jointly securing the properties in questions with their husbands. To set the least, female disinheritance exposes the discriminatory nature of customary laws and perpetuation of male dominance over women. Chianu rightly observed that 'a law is discriminatory when it has the effect of imposing burdens and obligations or when it withholds or limits access to opportunities and benefits to historically disadvantages group'.<sup>2</sup> It is regrettable that female disinheritance has persisted in Nigeria despite great pressure mounted against it by Activists and Feminists since the 20<sup>th</sup> Century.<sup>3</sup> This work shall x-ray Customary Laws of various Ethnic Groups in Nigeria in relation to the succession rights of daughters and widows as well as their inheritance Rights under Christianity and Islam in order to discover the discrimination and inequality inherent therein. It shall critically examine the legality or otherwise of this customary practice and make recommendations on the ways to totally eliminate the practice of female disinheritance in Nigeria.

## 2. Succession Rights Under Native Laws and Customs

Before delving into this research, it must be stated that Nigeria is not only the most populous African nation, but a multi ethnic, multi religious and a Federal State. As a matter of fact, Nigeria is made up of about two hundred million people, with over two hundred and fifty ethnic groups, six geopolitical zones, thirty-six States and the Federal Capital Territory, Abuja. The following major tribes/ethnic groups contributed to the numerical strength of Nigeria thus: Hausa/Fulani- 29%, Yoruba-21%, Igbo-18%, Ijaw-10%, Kanuri-4%, Ibibio-3.5%, Tivs-2.5%, and Edo/Bini-2%.<sup>4</sup> As long as customary inheritance is mentioned, it must be explained that in Nigeria, Customary law is classified into ethnic or non *Muslim* customary law, and

<sup>2</sup> Chianu È, *Law of Succession*, (Lagos, New System Press Ltd. 2019) p. 182.

<sup>3</sup> A Ilika & U Ilika, 'Eliminating Gender-Based Violence: Learning from the Widowhood Practices Elimination Initiative of a Women Organization in Ozubulu, Anambra State of Nigeria' *African Journal of Reproductive Health*, Vol. 1, Num. 2, August, 2005, p.65 available at <http://www.bioline.org.br/request?rh05026> accessed 12<sup>th</sup> July, 2017.

<sup>4</sup> 'Country Policy and Information Note Nigeria: Internal Relocation, March, 2019', p.10 available at [http://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file](http://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file) accessed 21<sup>st</sup> July, 2021.

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Muslim customary law.<sup>5</sup> It is important to note that while the former is indigenous to Nigeria and largely unwritten, the latter is written and a Muslim law which is not indigenous to Nigeria, being received customary law introduced into the country as part of Islam.<sup>6</sup> It is apposite to state here that a good number of Nigerians practice different religions or a good number of different religions. For instance, Nigerians practicing Christianity account for 40% of the total population of Nigeria, Islam 50%, while other practicing other traditional beliefs account for 10%.<sup>7</sup> The above discussed factors relating to ethnicity and religion play huge roles in inheritance matters in Nigeria.

It must however be pointed out that ordinarily, devolution of properties of a deceased man is determined by the type of marriage contracted by him while alive.<sup>8</sup> If the deceased contracted statutory marriage, his properties will devolve statutorily.<sup>9</sup> On the other hand, properties of a deceased man married under the Native Law and Customs are subject to customary law rules on devolution.<sup>10</sup> Where a man who is married under customary law or Islamic law dies intestate, his personal law will apply in the distribution of his immovable properties and not the *lex situs*.<sup>11</sup> In *Tappa v Kuka*,<sup>12</sup> a deceased Nupe man of Northern Nigeria died intestate leaving a house in Lagos. The Court held that the deceased's personal law, rather than the customary law of Lagos applied to the deceased's properties, including the house which was the subject matter of suit. However, a man married under Native Law and Custom may during his lifetime, devise his properties or determine how his properties shall be shared contrary to customary rules.<sup>13</sup> It must be pointed out that the nature of properties under customary law include but not limited to buildings, houses, farmlands, lands, palm trees, domestic animals, cars, cloths, jewelry, wives, money and other personal properties.<sup>14</sup>

It is worthy of note that in patriarchal societies of Nigeria, devolution of properties under the native law and customs whereby properties of a deceased man who died intestate are shared amongst his male surviving children is because inheritance follows blood.<sup>15</sup> This practice

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<sup>5</sup> *Ibid.*

<sup>6</sup> Obilade, A. *The Nigerian Legal System*, (Ibadan, Spectrum Law Publishing, 2000) p. 83.

<sup>7</sup> 28 Toomany, 'Country profile: FGM in Nigeria' Oct, 2016', available at [http://www.28toomany.org/static/media/uploads/country%20Images/pdf/Nigeria\\_country\\_profile\\_final.compressed.pdf](http://www.28toomany.org/static/media/uploads/country%20Images/pdf/Nigeria_country_profile_final.compressed.pdf) accessed 20<sup>th</sup> July, 2021.

<sup>8</sup> I Agugua, 'Gender Perspectives of the Right to Adequate Housing, Gender Perspectives of the Right to Adequate Housing', *In Search of Legal Scholarship (Essays in Honour of Ernest Ojukwu)*, Abia State Law Centre, 2001, p. 131.

<sup>9</sup> *Ibid.*

<sup>10</sup> B Kooffrey & B Kooffrey, 'A Review of the Customary Law of Inheritance and Succession among the Efik and Qua Communities of Cross River State Nigeria', *International Journal of Research Vol. 05, Issue 15, May, 2018*, p. 416, available at <https://edupediapublications.org/journals/index.php/IJR/> accessed 19<sup>th</sup> July, 2021.

<sup>11</sup> P Itua, 'Succession under Esan Customary Law in Nigeria: Grounds for Disinheriting an Heir from Inheriting His Father's Estate under Esan Customary Law', *International Journal of Innovative & Development, Vol. 7, Issue 8, August, 2018*, p. 416.

<sup>12</sup> (1945) 18 N.L.R. P.5.

<sup>13</sup> P Itua, 'Succession under Esan Customary Law in Nigeria: Grounds for Disinheriting an Heir from Inheriting His Father's Estate under Esan Customary Law', *Op. Cit.*

<sup>14</sup> *Ibid.*

<sup>15</sup> *Sogunro Davies v Sogunro Davies & Ors.* (1929) 2 N.L.R. P.79-80.

therefore serves the purpose of maintaining family name of the deceased man.<sup>16</sup> Most times, the rule of primogeniture in relation to devolution of the estates of the deceased whereby the eldest son inherits his father's properties in trust for his family and can even dispose any of these properties over the wishes of the other male children of the deceased.<sup>17</sup> The head of the family reserves the right to allow his junior ones to live in their father's house until they acquire theirs or marry.<sup>18</sup> However, upon the agreement of the family members, both moveable and immovable properties of the deceased shall be shared in accordance with the prevailing customs of the particular society concerned.<sup>19</sup> It must be pointed out that certain persons, e.g. female children, wives and widows are considered unfit to inherit family properties under the Native Laws and Customs by reason of their being strangers to their families.<sup>20</sup> This being the case, there is need to consider inheritance rights of women under some ethnic groups in Nigeria.

### 3. Daughters' Inheritance Rights under Igbo Native Laws and Customs

Igbo tribe occupy the whole of South-East Nigeria made up of Imo, Anambra, Abia, Enugu, Ebonyi, as well as parts of Rivers, Delta, and Benue States. It is the prevailing customary law and traditional practice among the Igbo tribe that upon the demise of a man intestate, his properties devolve on the head of his family who holds, manages and administers these properties in trust for his father's family pending the sharing of these properties.<sup>21</sup> Under this primogeniture rule, the head of the family inherits his father's living stead and also entitled to other special properties which he enjoys exclusively.<sup>22</sup> It is equally the custom of Igbo people that upon the death of a man leaving behind male and female issues, his properties will devolve on his sons to the exclusion of his daughters.<sup>23</sup> Even in extreme cases where a deceased man was only survived by his daughters, these daughters have no right to inherit him although they are usually allowed to live and enjoy their late fathers' estates until they get married.<sup>24</sup> It is also correct that a daughter cannot be made the head of her father's family under any circumstances.<sup>25</sup> This patrilineal nature of Igbo people has been severally upheld by the Courts.<sup>26</sup>

<sup>16</sup> *Ibid.*

<sup>17</sup> I Anyanwu & L Anyanwu, 'Discriminatory Property Rights against Women in Igbo Nigeria: The Victorious Case of Ukeje v Ukeje', *Journal of Law and Global Policy* Vol. 2 No. 1, 2017, p. 3

<sup>18</sup> *Ibid.*

<sup>19</sup> I Agugua, 'Gender Perspectives of the Right to Adequate Housing, Gender Perspectives of the Right to Adequate Housing', *Op. Cit.*

<sup>20</sup> O Olarewaju, 'Gender Identity and Justice in Nigeria: An Appraisal of Women in Lagos State' *The Journal of Social Encounters: Vol. 2: Issue 1, (2018)*, p.73.

<sup>21</sup> *Imo State Customary Laws and Judicial Pronouncements*, (Okigwe, Marco Press, 2011) p.38; *Odiachi v Odiachi* (1980) F.W.R. 372 at 377 – 378.

<sup>22</sup> A Anyanwu & L Anyanwu, 'Discriminatory Property Rights against Women in Igbo Nigeria: The Victorious Case of Ukeje and Ukeje', *Op. Cit.* P.3.

<sup>23</sup> *Ibid.* P.4.

<sup>24</sup> Chianu È, *Law of Succession Op. Cit.* P. 182.

<sup>25</sup> *Ezeokafor v Uba* (1975) 5 W.L.R.N (Pt.11) 162, *Odiachi v Odiachi Supra.*

<sup>26</sup> *Ugboma v Ibeneme* (1967) E. N. L. R. 251.

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However, evidence abound that lands can be allotted to the daughters of a deceased man for farming purposes although they cannot claim ownership of such lands under any guise.<sup>27</sup> Similarly, females children cannot be made heads of their fathers' families irrespective of their seniority.<sup>28</sup> Daughters are also customarily barred from succeeding their fathers to priestly or chieftaincy offices held by their deceased fathers in their communities.<sup>29</sup> It has however been reported that under the customs and traditions of Ohafia people of Abia State, a woman could inherit properties/estates from her father, but her eldest brother of full blood must be in full control.<sup>30</sup>

Under Onitsha customs, the deceased's landed property devolves on the eldest son to the exclusion of his brothers and sisters.<sup>31</sup> Even though he is allowed the discretion to distribute some of these properties to his younger ones, he does so to the exclusion of his sisters.<sup>32</sup> Under this rule of primogeniture, the eldest son inherits his father's property absolutely and can even dispose his father's house or his estate over the wishes of the other children of the deceased so long as he duly conducted his late father's final burial ceremony.<sup>33</sup> However, the responsibility of looking after his younger ones squarely rests on such family head.<sup>34</sup> However, he reserves the right to allow his junior ones to live in their father's house until they acquire theirs or marry.<sup>35</sup> At all material times, the deceased's moveable properties must be shared amongst his other male children.<sup>36</sup>

It is apposite to state at this juncture that properties of a deceased Igbo man who has no male child automatically devolve on his nearest male next of kin, such as brother, father, uncle, *et cetera*.<sup>37</sup> No matter how magnanimous that next of kin is, he could not share any land forming part of such estate with the deceased's daughter.<sup>38</sup> However, in most Igbo communities, there exists a customary rite called *Nrachi* or *Nhain* which is usually performed on the head of a daughter whose father has no male child, thereby allowing her to stay in her father's compound,

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<sup>27</sup> *Uka V Ukama* (1963) F. S. C. 184.

<sup>28</sup> P Azuakor, 'The Women's Place in Family Inheritance in Igboland: A Rational and Legal Critique', *Nnadiabube Journal of Social Sciences (NJSS) Vol.1 No.2, 2017*, p.17, available at <https://acjoi.org/index.php/NJSS/article/download/njssv1n2/23> accessed 22<sup>nd</sup> July, 2021.

<sup>29</sup> A Chukwuemerie, 'The inheritance Rights of Women under the Nigerian Customary Law: New Developments and Unresolved questions', *Op. Cit.*

<sup>30</sup> *Ibid.*

<sup>31</sup> I Agugua, 'Gender Perspectives of the Right to Adequate Housing, Gender Perspectives of the Right to Adequate Housing', *Op. Cit.*

<sup>32</sup> *Ibid.*

<sup>33</sup> R Onuoha, 'Discriminatory Property Inheritance under Customary Law in Nigeria: NGOs to Rescue', *The International Journal of Not-for-Profit Law, Volume 10, Issue 2, April, 2008*, available at [http://www.icnl.org/KNOWLEDGE/ijnl/vol10iss2/art\\_4.htm](http://www.icnl.org/KNOWLEDGE/ijnl/vol10iss2/art_4.htm) last accessed on 24<sup>th</sup> July, 2021.

<sup>34</sup> *Ibid.*

<sup>35</sup> I Anyanwu & L Anyanwu, 'Discriminatory Property Rights against Women in Igbo Nigeria: The Victorious Case of Ukeje and Ukeje', *Op. Cit.*

<sup>36</sup> *Ibid.*

<sup>37</sup> P Azuakor, 'The Women's Place in Family Inheritance in Igboland: A Rational and Legal Critique', *Op. Cit.*

<sup>38</sup> A Chukwuemerie, 'The inheritance Rights of Women under the Nigerian Customary Law: New Developments and Unresolved questions', *Op. Cit.*

breed children in his name and inherit her father's properties including his estates and lands, excluding his titles and priestly ordinations.<sup>39</sup>

#### 4. Daughters' Inheritance Rights under Yoruba Native Laws and Customs

The Yoruba tribe occupies the entire South-West Nigeria and part of South-South and North-West. Under the Yoruba customary laws, the properties of a deceased man who died intestate devolve on his children, both males and females, to the exclusion of the other relations of the deceased.<sup>40</sup> Most often, the head of his family holds these properties in trust for the deceased's family members pending the sharing of these properties.<sup>41</sup> In sharing these properties proper, either of the two systems of sharing of inheritance recognized under the Yoruba native law and customs could apply to a deceased Yoruba man's properties, ie, (a) per stripes sharing of the estate into four parts (*Idi-Igi*) whereby all the children of each wife would be given one part, or (b) per capita (*Ori-ojori*) under which the sharing would be in nine parts.<sup>42</sup> The choice of which of the two systems that will apply depends on the peculiar circumstances of the case and the choice of the parties.<sup>43</sup> However, the priority of choice of sharing is most often based on the decision of the eldest child of the deceased.<sup>44</sup> Whatever be the case, distribution of estate in Yoruba land is equal irrespective of gender, and thus, Yoruba daughters are permitted to inherit their fathers.<sup>45</sup>

It must be specifically pointed out that it is a well settled customary law of the Yoruba people that if a head or father of a family dies without nominating his successor and non is appointed by the members of the family, the eldest surviving male otherwise known as '*Dawodu*', or eldest surviving female who she has sufficient influence, succeeds to the headship of the family.<sup>46</sup> In fact, upon the death of a *Dawodu*, the eldest surviving child, whether male or female succeeds to the headship of the family even in cases where the children of the deceased are all females.<sup>47</sup> It is not in doubt that under the Yoruba Native Laws, a woman who emerges as the head of the family inherits any title that necessarily goes with the headship of a particular family except priestly ordinations.<sup>48</sup>

<sup>39</sup> *Ibid.*

<sup>40</sup> *Lewis v Bankole* (1909) N.L.R. P.18.

<sup>41</sup> J Ayodele, 'Widow and Inheritance Hijacking Practices in Ilara Mokin, Ondo State', *Nigeria African Journal of Criminology and Justice Studies: AJCJS*, Vol. 9, Issue 1, May, 2016, p.119, available at <https://www.umes.edu/uploadedFiles/WEBSITES/AJCJS/Content/Vol9.%20AYODELE%20%FINAL.pdf> accessed 17<sup>th</sup> July, 2021.

<sup>42</sup> *Danmole v Dawodu* (1962) 1 A11 N.L.R. 702, *Amodu v Abayomi*, (1992) 5.N.W.L.R. (pt. 242) p.503.

<sup>43</sup> A Chukwuemerie, 'Inheritance Rights of Women Under the Nigerian Customary Law: New Developments and Unresolved Questions' *Op. Cit.* P.101.

<sup>44</sup> Chianu È, *Law of Succession, Op. Cit.* P. 180; *Sule v. Ajisegir*, (1937) 13 N.L.R. P. 146.

<sup>45</sup> Chukwuemerie, A. I, *Inheritance Rights of Women Under the Nigerian Customary Law: New Developments and Unresolved Questions, Op. Cit.*

<sup>46</sup> *Adesanya v Otuewu & 3 Ors.* (1993) 1 N.W.L.R. (Pt. 270) p. 414; *Sogbesan v Adebisi* 16 N.L.R. P.26.

<sup>47</sup> Chianu È, *Law of Succession, Op. Cit.* P. 180.

<sup>48</sup> Chukwuemerie, A. I, *Inheritance Rights of Women Under the Nigerian Customary Law: New Developments and Unresolved Questions, Op. Cit.* P.120.

## **5. Daughters' inheritance Rights under the Native Laws and Customs Other Ethnic Groups**

With respect to inheritance under the Native Laws and Customs, Bini, Edo, Okirika, Kalabari, Ibibio, Igala, Igara, Ibani, Abua, Boma, Degema, Opobo, Nkoro, Gwari, Boki, Ekpeye, Nupe etc, and indeed other ethnic groups in Northern communities who have not adopted Islamic faith practice the rule of primogeniture which is in *pari material* with the above discussed Onitsha Native Laws and Customs.<sup>49</sup> Although daughters are customarily disentitled from inheriting their fathers under the customs of these ethnic groups, however, first daughters are usually given something reasonable by their fathers' families.<sup>50</sup> Under the Native Laws and Customs of Itsekiri, Isoko, Ijaw and Urobo of Delta State, females inherit their fathers.<sup>51</sup> Among the Ikwerre people of Rivers State, daughters can inherit immovable properties partitioned in her mother's favour.<sup>52</sup> She cannot however inherit farmland from her father's side.<sup>53</sup> Similarly, under the customs and traditions of Efik people of Cross River State, inheritance is not done in sexual lines but on seniority lines.<sup>54</sup>

Thus, whoever is the senior becomes the chief inheritor of his deceased father, and is entitled to a larger share of his estates including both movables and immovables.<sup>55</sup> This is different from the customary laws of Esan ethnic group of Edo State whereby daughters are customarily barred from inheriting their fathers.<sup>56</sup> On the other hand, the Markis of the Verbe tribe of Northern Nigeria practice the rule of ultimogeniture whereby inheritance is by the youngest son applies to bar other heirs of the deceased land owners, including females.<sup>57</sup> Conversely, among the Qua and Ejegham people of Cross River State, properties of a deceased man do not devolve on his children but on his maternal relations.<sup>58</sup> Among the Nembe communities of Bayelsa State, a deceased man's properties devolve on his sister, while his own children inherit from their maternal families.<sup>59</sup> It is worthy to note that a woman does not own property under Ogoni Native Law and Customs of Rivers State. It is worthy of note that among the Jukun, Idoma, Tivs and indeed other ethnic groups in Northern Nigerian communities who their indigenes have not embraced Islam, females children do not inherit their fathers as is with case with Igbo people earlier discussed.

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<sup>49</sup> R Onuoha, 'Discriminatory Property Inheritance under Customary Law in Nigeria: NGOs to Rescue', *Op. Cit.*

<sup>50</sup> Chianu È, *Law of Succession, Op. Cit.* P.181.

<sup>51</sup> Delta State Succession available at <https%3A%2Fmoutun911wordpress.com%2F2019%F09%2F13delta-state-succession%2F> accessed 24<sup>th</sup> July, 2021.

<sup>52</sup> Chianu È, *Law of Succession, Op. Cit.*

<sup>53</sup> *Ibid.*

<sup>54</sup> B Kooffrey & B Kooffrey, 'A Review of the Customary Law of Inheritance and Succession among the Efik and Qua Communities of Cross River State Nigeria', *International Journal of Research Vol. 05, Issue 15, May, 2018*, p. 416, available at <https://edupediapublications.org/journals/index.php/IJR/> accessed 20<sup>th</sup> July, 2021.

<sup>55</sup> *Ibid.*

<sup>56</sup> *Ibid.*

<sup>57</sup> R Onuoha, 'Discriminatory Property Inheritance under Customary Law in Nigeria: NGOs to Rescue', *Op. Cit.*

<sup>58</sup> B Kooffrey & B Kooffrey, 'A Review of the Customary Law of Inheritance and Succession among the Efik and Qua Communities of Cross River State Nigeria', *Op. Cit.* P. 415.

<sup>59</sup> P Itua, 'Succession Under Esan Customary Law in Nigeria: Grounds for Disinheriting an Heir from Inheriting His Father's Estate under Esan Customary Law', *International Journal of Innovative Research & Development 2018, Volume7, Issue 8*, p. 432.

## 6. Inheritance Rights of Widows under the Native Laws and Customs

It is a notorious fact that virtually in all Nigerian communities; married women are not customarily permitted to inherit their husbands' properties and cannot claim their husbands' landed properties on grounds of adverse possession even when these married women have been in possession of these properties.<sup>60</sup> What they have is only possessory interest over such properties subject to good behaviour.<sup>61</sup> This interest of married women ceases upon their demise or divorce.<sup>62</sup> The reason for the disinheritance of widows in most customary law jurisdictions in Nigeria is because they do not come within the family membership so as to enable them to acquire the rights and privileges accruing to the children of the family.<sup>63</sup> These widows are regarded as non legal persons and so cannot be vested with proprietary rights over their husbands' properties.<sup>64</sup> Furthermore, widows are regarded as objects of inheritance capable of being inherited along with their late husbands' other properties by their husbands' next of kin.<sup>65</sup> The theoretical justification for this misconception is that the new inheritor also inherits the deceased's responsibilities towards the children and the deceased's other commitments such as debts.<sup>66</sup> This position is the same in communities of Northern Nigeria where the deceased did not adopt Islam as his religion before his death.<sup>67</sup> The court has held that in line with the tradition of Igbo people, a widow has no right of inheritance over her husband's estate.<sup>68</sup> She is only entitled to live in such estate until she dies or remarries.<sup>69</sup>

It is a very common practice that while widows are battling with the various widowhood rites immediately after the demise of their husbands, their deceased husbands' next of kins will inherit the latter's properties, including their widows.<sup>70</sup> In most cases, the properties belonging to these widows' husbands are often looted by their late husbands' relations prior to the burial of the deceased, thereby leaving these widows and their children economically disadvantaged and abandoned.<sup>71</sup> As a matter of fact, there are reported cases where widows were forcefully subjected to all manner of discriminatory treatments by their deceased husbands' siblings/relations in order to smoothly dispose off the properties of the deceased prior to the

<sup>60</sup> *Nezianya v Okagbue* (1963) ALL N L.R. P. 300.

<sup>61</sup> *Nzekwu v Nzekwu* (1989) 3 S. C. N. J. P 168.

<sup>62</sup> *Chinwe v Masi* (1989) I. N. W. L. R. (Pt 97) P. 270.

<sup>63</sup> *Nzekwu v Nzekwu supra*.

<sup>64</sup> A Eluwa, 'Women, the Law and National Development', *WOREC Journal of Gender Studies, Vol.1. No.3, June, 2006*, p.8.

<sup>65</sup> *In Re Estate of Agborujua*, 19 N.L.R. P. 38.

<sup>66</sup> *Ibid*.

<sup>67</sup> N Odiaka, 'The Concept of Gender Justice and Women's Rights in Nigeria: Addressing the Missing Link', *Afe Babalola University: Journal of Sustainable Development Law and Policy Vol: Iss.1 (2013)*, p. 201, available at <https://ajol.info/index.php/jsdplp/article/view/122608/112156> accessed 20<sup>th</sup> July, 2021.

<sup>68</sup> *Ejiamike v Ejiamike* (1972) 2 E. C. L. R. 11.

<sup>69</sup> *Nezianya v Okagbue* (1963) All Nigeria Law Report, 352.

<sup>70</sup> C Chukwu *et. al.* 'Violence against Women in Igboland, South-East, Nigeria: A Critical Quest for Change', *International Journal of Sociology and Anthropology Vol. 6(2), 2014*, p.51, available at <https://eiteseerx.ist.psu.edu/viewdoc/download?doi=10.1.1.832.546&rep=rep1&type=pdf> accessed 19<sup>th</sup> July, 2021

<sup>71</sup> U Nwaogu, 'Women and Violent Nigerian Institutions', *WOREC Journal of Gender Studies Vol.1. No.3, June, 2006*, p75.

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performance of their burial ceremonies.<sup>72</sup> In *Nezianya v Okagbue*,<sup>73</sup> the relations of a deceased man of Onitsha decent brought an action challenging his widow's letting of her late husband's house to tenants, selling some portions of the deceased's estates/lands situate at Onitsha, and sought an Order of the honourable Court restraining her from devising part of the disputed properties to her late daughter's girl child. While the court of first instance held that possession by a widow of her deceased husband's estate cannot be adverse to her husband's family to enable the said widow acquire an absolute right to possession; the Court of Appeal went a step further and held that under the native law and custom of Onitsha, a widow who did not beget a male child for late husband cannot deal with the latter's property without the concurrence of her husband's family. According to the Court, she only reserves the right to occupy the deceased's buildings or any part thereof subject to good behaviour.<sup>74</sup>

Similarly, it is noted that inheritance by a wife among the Yoruba people is out of question if her husband dies intestate or she got married under native law and customs.<sup>75</sup> This is because under the Yoruba native laws and customs, a wife cannot inherit her husband's property.<sup>76</sup> This is because she herself is like a chattel to be inherited by a relation of her late husband.<sup>77</sup> It is also settled that allotment of a house or rooms to wives do not amount to vesting of proprietary rights in the wives.<sup>78</sup> It must be pointed out that it is well accepted that although a wife cannot inherit her husband's property under the Yoruba native law and custom, she can expect to at least enjoy some rights of inheritance from her father's side.<sup>79</sup> However, where a wife is allotted a portion of land by her father's side, that portion remains her father's family which cannot be inherited by her children but never her husband.<sup>80</sup> It must be stated at this juncture that according to judicial precedence, a Yoruba woman can neither devise her unpartitioned portion of family land to her son, nor could she dispose of it in any other way to her son even though the son might ultimately inherit the property upon her death.<sup>81</sup>

It is a fact backed up by judicial precedence that the practice of widow disinheritance is based on the customary law precepts prevalent in most Nigerian communities that a woman cannot inherit her deceased husband's estates/properties as she herself is deemed to be an object of inheritance.<sup>82</sup> This is in line with the deep rooted cultural belief to the effect that in intestacy under the native law and customs, devolution of properties follows blood.<sup>83</sup> Thus, it is thought

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<sup>72</sup> C Chukwu *et al.* 'Violence against Women in Igboland, South-East, Nigeria: A Critical Quest for Change', *Op. Cit.*

<sup>73</sup> *Nezianya v Okagbue, supra.*

<sup>74</sup> *Ibid.*

<sup>75</sup> I Agugua, 'Gender Perspectives of the Right to Adequate Housing, Gender Perspectives of the Right to Adequate Housing', *Op. Cit.*

<sup>76</sup> *Yusuf v Dada* (1990) 7 N.L.N. W. L. R. (Pt. 146) p. 657 *Suberu & Ors. v Sunmonu & Ors.* (1957) I.N.S.C.C. P.4.

<sup>77</sup> *Subeberu v Sunmonu* (1957) 2 F.S.C. P. 32.

<sup>78</sup> *Oiko v Giwa* (1939) 15 N.L.R. P. 31.

<sup>79</sup> Chianu È, *Law of Succession Op. Cit.* P.180.

<sup>80</sup> *Ibid.*

<sup>81</sup> *Oke & Anor. v Oke & Anor.* (1974). N. S.C.C. P.148.

<sup>82</sup> *Ugboma v Ibeneme* (1967) F.N.L.R. P. 257.

<sup>83</sup> *Sogunro Davies v Sogunro Davies & Ors.* (1929) 2 N.L.R. P.79-80.

that since a wife or widow is not of the same blood with her husband, she is ineligible to inherit any of his properties.<sup>84</sup> The only properties capable of being inherited by a widow from her husband's side are her cooking utensils, market utensils baskets, calabash, cloths, and all forms of vegetables like cocoyam.<sup>85</sup> Under the Igbo Native Laws and Customs, a married woman may be given a land called *Mbubo/Ala Ede* and a house called *Mgbala* by her husband.<sup>86</sup> *Mbubo* is usually an adjoining land to her own house or in some cases, a land outside her house where she may plant vegetables, crops, tubers, etc, for her domestic uses.<sup>87</sup> This gift of land by her husband seems not to be absolute as this land can never be inherited by any of her daughters, but automatically becomes the inheritance of her last surviving son, upon her death.<sup>88</sup>

However, a widow is not entirely without customary rights in relation to her late husband's estates. Apart from being entitled to farm on her late husband's land whether or not she bore children for him, a widow is also entitled to allotment of family and communal lands for farming purposes.<sup>89</sup> It was held in *Dosunmu v Dosunmu* that a widow does not acquire inheritance in properties allotted to her by her late husband upon the death of her husband.<sup>90</sup> Similarly, a widow of Igbo extraction has no right to administer the estate of her deceased husband especially where the first male issue of the deceased has attained majority.<sup>91</sup> In *Akinnubi v Akinnubi*,<sup>92</sup> the Court observed that a widow married under the Yoruba custom Law is regarded as a chattel to be administered and inherited by the deceased's family and that the widow could not be entitled to apply for a grant of letters of administration, nor be appointed a co-administration.<sup>93</sup> This is also the position of a widow married under the Native Law and Custom of Agbo people of Delta State.<sup>94</sup> However, the Court has held that a widow married under the statute is not a chattel, but reserves the right to inherit her deceased husband's properties contrary to the position of a widow married under the Native Law and Custom<sup>95</sup>

As stated earlier in this work that the exclusion of a widow from succeeding to the estates of her deceased husband is as a result of the customary rule on intestacy whereby succession goes by blood and thus, a wife not being a relation of her husband cannot inherit him.<sup>96</sup> It has been keenly observed that this rule applies with equal force to the husband who has been held

<sup>84</sup> *Ibid.*

<sup>85</sup> Arinze-Umobi, C. *Domestic Violence Against Women in Nigeria: A Legal Anatomy*, (Onitsha, Fo/Mech. Printing Publishing Co. Ltd, 2008) p. 105..

<sup>86</sup> Udemroke, A. *Basic Igbo Customary Laws: A Guide to Customary Law Practitioners*, (2<sup>nd</sup> Ed. Joe Mankpa Publishers, Owerri, 2010) p.8.

<sup>87</sup> *Ibid.*

<sup>88</sup> *Ibid.*

<sup>89</sup> *Dosunmu v Dosunmu* (1952), 4 W.A.C.A. P. 527.

<sup>90</sup> *Ibid.*

<sup>91</sup> *Ejiamike v Ejimaike* (1972) 2 ECCLR, P. 11.

<sup>92</sup> (1997) N.W.L.R. 145,

<sup>93</sup> *Ibid.* Per Onu JSC at p.159.

<sup>94</sup> *Obusez v Obusuz* (2001) 15 N.W.L.R. (pt. 736) p. 377.

<sup>95</sup> *Ibid.*

<sup>96</sup> R Kemakolam, 'Women and Intestacy under Customary Law: Mojekwu v Mojekwu revisited', *In Search of Legal Scholarship (Essays in honour of Ernest Ojukwu)*, Abia State University Law Centre, p.207.

to be disentitled to inherit the estate of his deceased wife.<sup>97</sup> This rule applies to the deceased wife's ante nuptial properties.<sup>98</sup> However, her none-nuptial property goes to her children jointly or to her relatives if she has no child; although her widower has the right over her post marital personal properties.<sup>99</sup>

### **7. Females' inheritance Rights under Christianity and Islam**

It was earlier stated that a good number of Nigerians practice Islam and Christianity also fondly called the Abrahamic religions which originated from the descendants of the two sons of Abraham called Ishmael and Isaac. It has been stated that if a man that contracted a Christian monogamous marriage outside Nigeria dies intestate, the common law of England will govern his estates.<sup>100</sup> Onuoha stated that the Holy Bible does not give the female members of the household ie, wives and daughters, the right of succession to their families' estates.<sup>101</sup> This is probably because under this Jewish custom, females are considered as part of the estate and as remote from the legal personality of an heir as the slave.<sup>102</sup> By Mosaic Law, daughters are only admitted to succession where their father had no male issues upon the condition that they must not get married outside their kindred.<sup>103</sup> The application of this law obviously bars widows from inheriting their deceased husbands, just like the situation under the customary laws.

The position of females in relation to inheritance under Islamic law is contrary to the above discussed devolution rights under the Christian faith as females are vested with inheritance rights over their families' estates/properties. The Holy Quran expressly provides that 'From what is left by parents and those nearly related, there is a share for men and a share for women, whether the property be small or large'.<sup>104</sup> Thus, each heir has his/her share fixed by the Holy Quran although daughters and wives in most cases, wives have half the share of men.<sup>105</sup> It has been argued that where women are the providers/bread-winners of their families, they ought to take double the share of men.<sup>106</sup> However, the Quranic injunction quoted above neutralizes this argument and laid same to rest.<sup>107</sup> In the case of *Muhanmadu v Muhanmadu & Another*, two sisters who have been earlier excluded from the sharing of the estates of their deceased father instituted an action against their brothers seeking an Order of Court granting them their own shares of the estates.<sup>108</sup> The Court of Appeal held that:<sup>109</sup>

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<sup>97</sup> *Nwugege v Adigwe* (1934) 11 N.L.R. P.134.

<sup>98</sup> Chianu È, *Law of Succession Op.Cit.* P. 144-45.

<sup>99</sup> P Itua, 'Succession Under Esan Customary Law in Nigeria: Grounds for Disinheriting an Heir from Inheriting His Deceased Father's Estate under Esan Customary Law', *Op. Cit.* P.416

<sup>100</sup> *Ibid.*

<sup>101</sup> R Onuoha, 'Discriminatory Property Inheritance under Customary Law in Nigeria: NGOs to Rescue' *Op. Cit.*

<sup>102</sup> *Ibid.*

<sup>103</sup> Numbers 27: 1 – 11. (King James Version).

<sup>104</sup> *Quar'an* 4 verse 7.

<sup>105</sup> *Ibid.* Verses 11-12.

<sup>106</sup> M Lawan, 'Sharia-based reservations and the Convention on the Elimination of All forms of Discrimination Against Women C. E. D. A. W): A Tale of Two Words', *University of Maiduguri Law Journal, Volume. 7. 2004*, p. 136 .

<sup>107</sup> *Ibid.*

<sup>108</sup> (2001) 6 N. W. L. R. (pt. 708). pg. 104.

<sup>109</sup> *Ibid.*

*Before the advent of Islam, daughters and young sons of a deceased person (SIC) were not entitled to inheritance. The reason being that since infant sons and daughters cannot go to war and secure booty or loot...they should not be allowed to inherit as heirs. In fact, females were themselves objects of inheritance...now daughters (SIC) or female heirs are allowed to partake like their male counterparts in a modified manner, namely, a daughter can have as her share, half of what the son will get as his share.*

It is apposite to state at this juncture that under Islamic law, women's right to property is fully acknowledged and as such, upon the death intestate of a Muslim man, his widow who has not remarried is entitled to one quarter of his estates.<sup>110</sup> However, if the deceased has other children or grand children, the widow's share will be reduced to one eighth. With respect to a polygamous marriage, the wives share one quarter or one-eighth of the estates/properties equally between them.<sup>111</sup> On the other hand, while a single daughter gets halve the net estates; several daughters get two-thirds, divided equally among them.<sup>112</sup> It must be noted that although the reason adduced for the disparity of the estate of the deceased between the deceased' male and female heirs is based on the fact the males usually assume responsibilities for supporting and maintaining the females within the family unit, it must be noted that no matter the advancement made by Islamic law with respect to women's inheritance rights, it is quite shocking that it denies non Muslim widows the right of inheritance over their deceased husbands' estates.<sup>113</sup>

It must also be pointed out that although Sharia Law allows women to own property rights in respect of lands, houses, etc, it however appears that Muslim women of Northern Nigeria extraction do not aspire to own land simply because of the cultural norm that men fend for women.<sup>114</sup> Another point to note is that where a Muslim man of Northern Nigeria extraction executed a will under the Wills Act of 1837, he is free to dispose of his estates; though there are limitations imposed by Islamic law.<sup>115</sup> This simply means that before the issue of the devolution of a deceased Muslim man's estates is determined, it must be ascertained whether the deceased made a Will.

It is submitted that the denial of inheritance rights to females by the Holy Bible and the denial of such right to a non-Muslim widow by the Holy Quran represents the worst discriminatory,

<sup>110</sup> 'Sharia & Women's Human Rights in Nigeria: Strategies for Action', proceedings of a Conference organized by WARD C, Lagos and WACOL, Enugu, from 27<sup>th</sup>—30<sup>th</sup> October, 2002, p. 55 available at <http://www.boellnigeria.org/documents/Sharia%20and%20women%27s%20Humans%20Rights%20Nigeria%20-%20strategies%20for%20Action.pdf> accessed 10<sup>th</sup> October, 2017.

<sup>111</sup> M Lawan, 'Sharia-based reservations and the Convention on the Elimination of All forms of Discrimination Against Women C. E. D. A. W): A Tale of Two Words', *Op. Cit.*

<sup>112</sup> *Ibid.*

<sup>113</sup> *Ibid.*

<sup>114</sup> Y Olomjobi, *Human Rights on Gender, Sex and the Law in Nigeria*, (Pricenton Publishing Co., Lagos, 2013) p.64.

<sup>115</sup> *Rasaki Inusa v Adesubokun* (1972) SC 27/70, Quoted by Y Olomjobi, *Human Rights on Gender, Sex and the Law in Nigeria*, *Op. Cit.*

degrading, and inhumane treatment against women contrary to the freedom of religion and freedom from discrimination guaranteed by the Nigerian Constitution 1999 and other international Human Rights Instruments.<sup>116</sup> It is further submitted that unequal access to inheritance as provided by Islamic law is inequitable. Equity demands that both sexes be allowed to enjoy inheritance rights equally. It is therefore recommended that these positions of the Islamic law and the Holy Bible be amended to reflect equality of access to inheritance among both sexes.

### **8. Female Disinheritance: An Affront to Justice**

As earlier stated, the reason for disinheriting female children is because it is perceived that daughters are more or less strangers in their fathers' houses who will sooner or later get married and leave their fathers' homes. Therefore, if female children are given the opportunity to inherit their fathers' estates, they would take these properties to their husbands' houses. Similarly, the practice of widow disinheritance is based on the customary belief that under the native law and customs, devolution of the properties follows blood; and thus, a wife or widow, not being of the same blood with her husband, cannot inherit him.<sup>117</sup> Besides, a woman cannot inherit her husband as she herself is an object of inheritance.<sup>118</sup> It must be noted that as a result of the afore stated perception of women, where a deceased man is not survived by a male, his entire estates will automatically devolve on his closest relative/member of his family. This is known in Igboland as *Oli-Ekpe* custom.<sup>119</sup> There have been instances where these heirs sold off everything acquired by the deceased prior to the burial of the deceased persons, thereby rendering the widows and their children homeless.<sup>120</sup> As a result of the hardship created by customary disinheritance of females, it became customary for a man who has no male issue to marry another wife or get a concubine who will bear male children for him.<sup>121</sup>

Alternatively, a widow or relations of a deceased man who died childless or without any male child is customarily permitted to marry a woman on behalf of her husband who will bear children that will be deemed to be the children of the deceased.<sup>122</sup> This is a common practice among Igbos of South-East Nigeria.<sup>123</sup> Apart from contracting polygamous and posthumous marriages, other customs have evolved to neutralize the harshness of *Oli-Ekpe* custom. For instance, the Igbo people devised the custom of *Nrachi* or *Nhaili* whereby a man who has no male issue would perform a ceremony/rite over his daughter to stay at home and bear children in his name who will eventually inherit him.<sup>124</sup> In the same vein, the Ogoni people of River

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<sup>116</sup> 1999 Constitution of the Federal Republic of Nigeria (As Amended), sections 34 & 38 hereinafter referred to as 'CFRN'.

<sup>117</sup> *Sogunro Davies v Sogunro Davies & Ors.* (1929) 2 N.L.R. P.79-80.

<sup>118</sup> *Ugboma v Ibeneme* (1967) F. N. L. R. P. 257.

<sup>119</sup> A Chukwuemerie, 'The inheritance Rights of Women under the Nigerian Customary Law: New Developments and Unresolved questions', *Op. Cit.* P. 103.

<sup>120</sup> C Chukwu *et al.* 'Violence against Women in Igboland, South-East, Nigeria: A Critical Quest for Change', *Op. Cit.* P.51.

<sup>121</sup> *Okonkwo v Okagbue* (1994) 9 N.W.L.R. (pt. 368) p. 301-345.

<sup>122</sup> *Ibid.*

<sup>123</sup> Nwogugu, E, *Family Law in Nigeria*, (Ibadan, Claverianum Press, 1996) p.63.

State devised *Biake*, which is the same thing as *Nrashi*, although no ceremony is needed for it to take place.<sup>125</sup>

It submitted that customs and traditions that disallow females to inherit property from either their husbands or fathers are not only repugnant to natural justice, equity and good conscience but also morally reprehensible. The holy Bible which is akin to the constitution of Christians expressed the fusion and one indivisible nature of married couples thus:

*...he which made them at the beginning made them male and female and said, for this cause shall a man leave father and mother, and shall cleave to his wife and the twain shall be one flesh. Wherefore they are no more twain, but one flesh. What therefore God has joined together, let no man put asunder.*<sup>126</sup>

It is therefore quite surprising and most unfortunate that the same Bible does not protect the right of inheritance of women in their husbands' houses but allows men to see married women as alien and chattel in their husbands' houses, as stated earlier in this work. This is worsened by the fact that in typical African traditional setting, married women owe unflinching loyalty and support to their husbands even in disputes involving their husbands and these married women's family members.<sup>127</sup> Female children are known to be helpful in solving problems in their fathers' houses whether they are married or unmarried.<sup>128</sup> Although married women can enjoy rights over her husband's properties through her children, females who are unmarried cannot enjoy such rights but are treated with disdain by reason of their failure to get married. In Igboland, these unmarried daughters are called '*Ndabiri*' meaning that they are useless.<sup>129</sup> It is further submitted that the disinheritance of women is a discriminatory act that violates the Nigerian Constitution which bars discrimination and deprivation on grounds of sex, but stipulates that every citizen of Nigeria shall have the right to acquire and own immovable property anywhere in Nigeria.<sup>130</sup> This custom woefully failed repugnancy test by reason of the afore mentioned discrimination. According to Chianu, 'a law is discriminatory when it has the effect of imposing burdens and obligations or when it withholds or limits access to opportunities and benefits to historically disadvantaged group'.<sup>131</sup> Thus, the term 'discriminatory' is not limited to numerical minorities but for all intent and purposes, extends to disadvantaged group in the society, such as women.<sup>132</sup>

It must be re-emphasized that apart from being unconstitutional, disinheritance of females under the native law and customs of Nigerian societies amount to gross discrimination that

<sup>124</sup> R Onuoha, 'Discriminatory Property Inheritance under Customary Law in Nigeria: NGOs to Rescue', *Op. Cit.* P.4.

<sup>125</sup> *Ibid.*

<sup>126</sup> Matthew 19 verses 4 & 5 (King James Version).

<sup>127</sup> A Chukwuemerie, 'The inheritance Rights of Women under the Nigerian Customary Law: New Developments and Unresolved questions', *Op. Cit.*

<sup>128</sup> P Azuakor, 'The Women's Place in Family Inheritance in Igboland: A Rational and Legal Critique', *Op. Cit.*

<sup>129</sup> *Ibid.*

<sup>130</sup> CFRN, sections 43 (1) and 43.

<sup>131</sup> Chianu È, *Law of Succession Op. Cit.* P. 197.

<sup>132</sup> *Ibid.*

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offends existing International human rights documents that vested women all over the world with the right not only to own immovable properties, but also to dispose such property at will.<sup>133</sup> It is degrading and inhuman to deny females of their inheritance rights and vesting same on a total stranger to families of these females. So also is the act of subjecting women to obnoxious and dehumanizing customs such as *Nrachi and Biake* which are hereby termed 'glorified prostitution'. It is envisaged that this reasoning must have influenced Imo State Legislature to enact a called 'Gender and Equal Opportunities Law Number 7' which grants women and men rights to inherit their parents' properties as well as equal rights of both spouses in respect of ownership, acquisition, management, administration, enjoyment and disposition of properties, whether free of charge or for valuable consideration.<sup>134</sup> Apart from providing that a widow shall have right to equitable share in the inheritance of the property of her husband, Imo State Government has passed a Law which provides that 'subject to the Administration of Estate Law, a widow shall not be dispossessed of any property acquired by her deceased husband in his life time, whether or not she has a male child unless the widow remarries'.<sup>135</sup>

It must be noted that the disinheritance of women and other obnoxious cultural practices incidental thereto under criticism have severally been challenged through feminism, human rights activism and judicial activism. For instance, in *Mojekwu v Mojekwu*,<sup>136</sup> the *Oli-Ekpe* custom was challenged and the Court nullified this custom holding that:

*We need not travel all the way to Beijing to know that some of our customs, including the Nnewi 'Oli-Ekpe' customs relied upon by the appellant are not consistent with our civilized world in which we all live today, including the appellant. In my humble view, it is the monopoly of God to determine the sex of a baby, and not the parents. Accordingly, for a custom or customary law to discriminate against a particular sex is to say the least an affront on the Almighty God himself. Let nobody do such a thing. On my part, I have no difficulty in holding that the Oli-Ekpe custom of Nnewi is repugnant to natural justice, equity and good conscience.*

Similarly, the Court has also been held that the Igbo native law and custom which disentitled a female regardless of the circumstances of her birth, to share in her deceased father's estate is void as it conflicts with section 42 (1) and (2) of the Constitution of Nigeria 1999.<sup>137</sup> On the other hand, the Court of Appeal has also held that the surviving spouse who is a lawful widow of an intestate deceased man and her children begotten with the deceased get first priority to the grant of letters of administration contrary to the native law and custom of Agbo people of Delta State, under which the widow was regarded as 'chattel' to be inherited.<sup>138</sup>

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<sup>133</sup>Article 19 Convention on the Elimination of all forms of Discrimination Against Women, 1989 & Article 2 African Charter on Human and Peoples' Rights, 1986.

<sup>134</sup> Gender and Equal Opportunities Law Number 7 of Imo State, 2007, sections 17, 18 & 23.

<sup>135</sup> Widows (Protection) Law (W.P.L.), Law Number 12 of Imo State, 2003, Sections 2-4.

<sup>136</sup> (1997) 7 N.W.L.R. (pt. 512) p.304-305

<sup>137</sup>*Ukeje v Ukeje* (2001) 27 W.R.N. P.14.

<sup>138</sup> *Obusez v Obusuz* (2001) 15 N.W.L.R. (pt. 736) p.377.

It must be mentioned at this juncture that in the case of *Mojekwu v Ejikeme*,<sup>139</sup> the Supreme Court of Nigeria took a bold step and held that *Nrachi* custom is repugnant to natural justice, equity and good conscience; and that such custom cannot be the basis of inheritance. It further held that girls shall inherit their fathers automatically. In the most recent case of *Ukeje v Ukeje*,<sup>140</sup> the Appellants who were the son and wife of a deceased Igbo man called Linus Ukeje, who lived and acquired immovable properties in Lagos applied and were granted letters of administration of the estate of the deceased situate in Lagos to the exclusion of the Respondent who was a daughter to the deceased through his former wife. The trial Court agreed from the preponderance of evidence that the Respondent was a daughter to the deceased and as such, entitled to her reliefs for an Order of Court setting aside the said letters of administration; an Order account of monies and properties in the possession of Appellants, and an Order of Court granting a fresh letters of administration in favour of the Respondent and one of the Appellants who is the first son of the deceased. Appellants appeal to the Court of Appeals and Supreme Court were variously dismissed. The Supreme Court expressly held that no matter the circumstances surrounding the birth of a female child, she is entitled to an inheritance from her late father's estate.<sup>141</sup> The Court went ahead and declared the Igbo native law and custom that disentitles a female child from partaking in the sharing of her father's estate is contrary to the rules of natural justice, equity and good conscience and also discriminatory contrary to section 42(2), of the 1999 Constitution of the Nigeria.

It is commendable that female disinheritance is gradually drifting in to oblivion through the enactment of gender equality laws and related enactments by most federating States of Nigeria similar to the afore discussed Laws of Imo State.<sup>142</sup> It is therefore recommended that these kinds of Laws be enacted in all the states of Nigeria as well as the Federal Capital Territory. If this is done, female disinheritance will soon go into oblivion.

## **1. Conclusion and Recommendations**

There is no gain saying that from the foregoing discourse, the harmful traditional practice of female disinheritance in Nigeria has been at its peak, especially in the rural and or non-Muslim communities of Nigeria. This harmful practice has eaten so deep into the Nigerian fabric such that it appears to be resistance to change. This is so despite the damning effects of this ugly practice which include but are not limited to perpetual impoverishment, lack of self-esteem, prostitution, involvement in social vices, as well as psychological and health challenges. There is therefore urgent need for reformations geared towards tackling this obnoxious discriminatory cultural practice in Nigerian societies. There is a pressing need to fine-tuned gender

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<sup>139</sup> (2000) 5 N.W.L.R. (pt. 657) p.402.

<sup>140</sup> 2014 All FWLR (pt. 730) p.1323.

<sup>141</sup> *Ibid.*

<sup>142</sup> Prohibition of Infringement of Widow's and Widower's Fundamental Rights Law, 2001 of Enugu State; Law Abolishing Harmful Traditional Practices Against Women and Children, 2001 of Ebonyi State; Inhuman Treatment of Widows (Prohibition Law) 2001 of Edo State; Married Women's Property Law, 1985 of Bauchi State; Married Women's Property Law, 1996 of Sokoto State; Married Women's Property Law, 2000 of Oyo State; Married Women's Property Law, of Zamfara State, Domestic Violence and Maltreatment of Widows (Prohibition) Law, 2004 of Cross River State, etc.

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discriminatory customs to conform to 21<sup>st</sup> century global standards in order to institutionalize gender equality in the Nigerian system. This is more pressing considering the fact that Nigeria is signatory to all relevant Treaties and International Convention on gender emancipation and empowerment.

It must be stated that at this juncture that all hope is not lost in the fight against female disinheritance considering the fact that there are a good number of steps that may be taken in order to emancipate women from the shackles of the obnoxious practice of female disinheritance. The firstly step is to initiate an effective overhaul of the Nigerian Legal and Social Institutions. Consequently, a Federal Act that should out rightly criminalize female disinheritance in all its ramifications should be enacted and domesticated by the federating States of Nigeria within one year of its enactment. This Act should pronounce stiffer penalties against persons involving in this obnoxious practice and those aiding or abetting same. This Act must also discourage all manner of gender discriminatory cultural practices in total compliance with International and Regional Conventions and Treaties ratified by Nigeria.

Secondly, there is need for Traditional Rulers, Clergymen and Spiritual Leaders to unite and take drastic steps geared toward eliminating female disinheritance in Nigerian societies and spiritual enclaves. This is possible considering the fact that these Traditional Rulers and Spiritual leaders are much closer to the grassroots and also wield high degree of influence on their subjects and congregations as the case may be. It will thus be easier for them to denounce female disinheritance and decree tough penalties/sanctions against those involved in this practice. These Spiritual Leaders and Traditional Rulers should also embark on massive education of rural populace on the ills of female disinheritance.

Thirdly, there is need to initiate orientation and re-orientation programs on the obnoxious nature of female disinheritance and the need to embrace universality of human rights. Regular Conferences and Seminars should be organized to educate the general public especially rural dwellers on the dangers inherent in the practice of female disinheritance. For a smooth implementation of this, Federal and State governments Non-Governmental Organizations, Legal Practitioners, Journalists, Educationists, Professionals, etc, must be actively involved. Radio and Television programmes geared towards discouraging female disinheritance should be regularly aired. There is also need for social media to join in this struggle.

Fourthly, female education and financial empowerment of females through gainful employment and loans should be embraced and promoted. Females should therefore be encourage to join politic in order to get to positions where they can influence and or promote Bills geared towards the eradication of female disinheritance on the one hand, and gender inequality on the other hand. Similarly, females should be granted easy access to soft loans and credit facilities that will make females financially stable to withstand any pressure induced by gender discriminatory cultural practices such as female disinheritance.