

Examination of the Right of a Female Child to Inheritance: Eastern Nigeria Context

Currently, the nation (Nigeria) is no doubt, in its worst economic periods because of the global economic downturn which brought about the economic recession (slacking of business and industrial activity). Those at the helm of affairs grapple daily with the numerous problems that are attendant on economic depression to save the country from total collapse. In addition to the economic depression is the growing cases of disputes emanating from the female child inheritance in Eastern Nigeria which covers Anambra, Abia, Enugu, Imo, and Ebonyi States. The status of women has, through the ages, been a cause for grave concern in every culture and every clime. In some areas of the globe, it has passed the stage of sympathetic concern and has entered an era of aggressive feminism. In Eastern Nigeria, the right to inherit property is determined by the customary law which did not accord any recognition on a woman except as property of her husband or parents (chattel). This paper examines the right of a female child to inherit property in Eastern Nigeria, states categorically the weaknesses of customary laws in protecting the interest of a female child, the current position of Superior Courts of record in Nigeria examines both local and international instruments put together for the protection of women and makes recommendations.

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Key words:

Inheritance, female Child, chattel, customary law, Eastern Nigeria

<https://doi.org/10.36128/priw.vi39.378>

1. Introduction

The treatment of women in any pre-colonial, primordial village community in Nigeria, in no way, came near their liberation in ancient Babylon; or their enfranchisement in ancient Egypt, or their physical and mental emancipation in ancient Sparta. Their status resembled very close the treatment and standing of women in ancient Athen or Rome, where women were merely regarded as chattel or else children bearing slaves, secluded in their female quarters, without education, without rank and without status. Like in ancient Rome, Nigerian women of old, were under the complete domination of their fathers who freely arranged marriages for them and who could sell them in circumstances of dire necessity like what obtained in England after the Norman consequent.

One now reads of the exploit of Queen Amina, but it is not easy to assess how much of these is history and how much is legend. Figure like Queen Amina have a peculiar way of ridding out of the gates of history smoothly into legend. But all the same, there were not many of such women, Queen Amina must therefore rank as the exception that proves the rule.

In ancient Nigerian communities, the father and after him the husband had the detestable Roman *patria potestas* which included the right and power to discipline, to sell or even to kill his daughter (in case of the father) or his wife (in case of the husband). Women thus having no legal status correspondingly had no legal rights. They could not own property especially land. If and where they engaged in trade, they did so as mere „agents” of their father or husband to whom, therefore, rightly belonged the proceeds of such trade.

2. Methodology

The article relies on the doctrinal research methodology. Doctrinal research is concerned with legal propositions, the sources of data are legal and appellate courts decisions. It is library research; it includes primary and secondary sources. The primary sources are Statutes, Constitution, Acts and Laws while secondary sources are books, articles etc.

Some of the primary sources explored here are: The 1999 Constitution of Federal Republic of Nigeria (as amended)¹, Administration and Succession (Estate of Deceased Persons) Laws of Anambra State², amongst others. The secondary sources include books, articles and journals related to the subject matter of this research. The internet has turned the whole world not only into a global village but also a global room. It helps a lot in various researches of various natures. There is no information needed that cannot be obtained from the internet. Thus, the internet is of tremendous help in putting this article together.

3. Definition of Terms

3.1. The Female Child

A female child may be described as a natural woman who is an offspring of another woman (either by birth or by adoption) and may also mean any girl from the moment of her birth (in a live state) until the attainment of the age of majority. For the purposes of this paper, we shall be viewing the female child as a girl or a woman.

1 The 1999 Constitution of the Federal Republic of Nigeria, Cap C23, LFN 2004.

2 Administration and Succession (Estate of Deceased Persons) Laws of Anambra State, 1987.

The child, whether a female or a male from the time of birth becomes a legally recognized person owning some legal rights, duties and therefore entitled to make some claims. The issue in this paper however is not to consider which rights are given to the child but to examine how adequately these rights protect the interest of the female child and propose mandatory changes that are required in order to protect the interest of the female child under the law. For all intents and purposes, she possesses the biological, social and psychological requirements to attain equal status with the man³. Also, she has a constitutional⁴ guarantee of equality with her male counterpart in the adult world and ought to be treated equally.

3.2. Inheritance

Inheritance implies property received from ancestors under the laws of intestacy or property that a person receives by bequest or devise. The ownership of land and movable properties in the Eastern part of Nigeria is governed by the customary laws of the various states that comprise Eastern Nigeria.

3.3. Customary Law

Generally, customary law exists where a certain legal practice is observed, and their relevant actors consider it to be law of the land. Customary law is the law relating to the customs and tradition of the people and that is why it is regarded as a mirror of accepted usage as it was rightly stated in the case of *Ogolo & Ors v. Chief Ogolo & Ors*⁵. Usage is the best interpreter of things; this can be expressed in the Latin Maxim *optimus interpres rerum usus*. Custom on the other side is the best interpreter of laws which can be expressed in the Latin Maxim *optimus legum interpres consuetudo*. Although there are slight variations in the prevailing customary law of succession in various part of Ibo land, the main principles are basically the same⁶. Therefore, customary is the living law of indigenous people of Eastern Nigeria which regulates lives and transactions of people. Customary law is by nature flexible as it changes from time to time. It is the customary law principle that controls the ownership of land and moveable properties in the Eastern part of Nigeria.

3 Ayo Oyajobe, „Better Protection for Women and Children under the Law” [in:] *Women and Children Under Nigerian Law*, ed. Awa U. Kalu, Yemi Osinbajo. Lagos: Federal Ministry of Justice, 1988.

4 Section 42 of 1999 Constitution of the Federal Republic of Nigeria, Cap C23, LFN 2004.

5 *Ogolo & Ors v. Chief Ogolo & Ors* (2014) FWLR Pt 194, 517 @ 540 SC.

6 Chukwudifu Oputa, „Better Protection for Women and Children under the Law” *Federal Ministry of Justice Law Review Series*, vol. VI (1988): 9.

4. Some Laws Regulating Rights of Women

Women's rights are guaranteed both locally and internationally. Nigeria as a member of international community has signed and ratified some international instruments relating to right of women and it has been observed that most of them have not been domesticated in Nigeria. The issue of domesticating these rights come in as a result of the provision of the 1999 Constitution of Nigeria (as amended)⁷ which stipulates that no international treaty signed by Nigeria shall be applied unless such is domesticated. The Constitution provides that „No treaty between the Federation and any other country shall have the force of law except to the extent to which any such treaty has been enacted into law by the National Assembly”⁸.

Some of these rights are: The Universal Declaration of Human Right 1948, International Covenant on Economic, Social and Cultural Rights 1966, International Covenant on Civil and Political Rights 1966, African Charter on Human and People's Rights 1981, Protocol to the African Charter on Human and People's Rights 2003, Solemn Declaration On Gender Equality in Africa, to mention few.

In Nigeria, some laws have been put in place to ensure that women are adequately protected even though the laws have been identified to be inadequate as will highlighted later in this article. These laws will be mentioned one after the other. The first law to identify is the 1999 Constitution of the Federal Republic of Nigeria (as amended)⁹, the Constitution recognizes the need to accord respect for female gender and not discriminate against them, it provides to the effect that „the state social order is founded on ideals of Freedom, Equality and Justice”¹⁰. It goes further to provide that every citizen shall have equality of rights, obligations and opportunities before the law¹¹. The purport of this provision is to show that there must be equality of all persons before the law, women are to be treated the way men are treated, the benefits which accrue to men should also be enjoyed by women. The constitution goes further to provide that all citizens without discrimination on any group whatsoever have the opportunity for securing adequate means of

7 The 1999 Constitution of the Federal Republic of Nigeria (as amended) Cap C23 LFN 2004.

8 Section 12 of The 1999 Constitution of the Federal Republic of Nigeria (as amended) Cap C23 LFN 2004.

9 The 1999 Constitution of the Federal Republic of Nigeria (as amended) Cap C23 LFN 2004.

10 Section 17 (1) of the 1999 Constitution of the Federal Republic of Nigeria (as amended) Cap C23 LFN 2004.

11 Section 2(a) of the 1999 Constitution of the Federal Republic of Nigeria (as amended) Cap C23 LFN 2004.

livelihood as well as adequate opportunity to secure suitable employment¹². This shows great concern for women too that they should not be discriminated against in any way including employment matters. It goes further to state that there should be equal pay for equal work without discrimination on account of sex, or any other ground whatsoever¹³. The whole of Section 17 can be interpreted as protecting the women against any form of discrimination. It must however be pointed out that section 17 falls under Chapter II of the Constitution and these rights under the said chapter are non-justiciable rights; in effect, they are ineffective by the reason of their non-justiciability. The same Constitution under Chapter 42 provides for a right which can be interpreted as protecting female gender as it talks about the right to freedom from discrimination. The section provides that a citizen of Nigeria of a particular community, ethnic group, place of origin, sex, religion or political opinion shall not, by reason only that he is such a person be subjected to any form of discrimination, disability or deprivation of any kind¹⁴ this provision further protects the interest of women across the country.

Another law that will be mentioned as protecting the women in Nigeria is Violence against Persons Prohibition Act¹⁵. The Act prohibits all forms of violence against person in private and public life and provides maximum protection and effective remedies for victims and punishment of offenders. The Act prohibits female circumcision or genital mutilation¹⁶. It provides further that anyone who is involved in female genital mutilation or circumcision is guilty of an offence and upon conviction shall be liable to 4 years imprisonment and or fine not exceeding N200,000.00 (Two Hundred Thousand Naira)¹⁷. The Act goes further to protect widows and provides that widows should not be subjected to harmful traditional practices and that whoever engages in such a practice commits an offence and upon conviction shall be liable to 2 years imprisonment and or a fine not exceeding N500,000.00 (Five Hundred Thousand Naira). This also shows great concern and provides adequate protection for women because there are some barbaric cultures that subject women to inhuman treatments upon the death of their husbands; for instance, some cultures make women drink the water that was used in

12 Section 17 (3) (a) of the 1999 Constitution of the Federal Republic of Nigeria (as amended) Cap C23 LFN 2004.

13 Section 17 (3) (e) of the 1999 Constitution of the Federal Republic of Nigeria (as amended) Cap C23 LFN 2004.

14 Section 42 of the 1999 Constitution of the Federal Republic of Nigeria (as amended) Cap C23 LFN 2004.

15 Violence against Persons Prohibition Act 2015.

16 Section 6 (1) Violence against Persons Prohibition Act 2015.

17 Section 6 (2) Violence against Persons Prohibition Act 2015.

bathing the corpse of their dead husband and so on. The body responsible for the administration of this Act is the National Agency for the Prohibition of Trafficking in Persons and Other related Matters (NAPTIP) while collaborating with other relevant stakeholders and religious organizations¹⁸. Others include but not limited to Matrimonial Causes Act¹⁹. It must also be pointed out that almost all the states in Nigeria have come up with one law or the other to protect women in within the states; examples are: Rivers State Abolition of Female Circumcision Law²⁰, Ogun State Female Circumcision and Genital Mutilation (Prohibition) Law²¹, Ekiti State Gender -Based Violence (Prohibition) Law²² among others.

It must be pointed out that the laws have been ineffective in that the enforcement mechanisms are weak. Most of the laws are not obeyed and sanctions as specified in the laws are not given to the violators of these laws. In addition, it has been observed that punishments prescribed for those who have been found guilty of violating these laws are inadequate especially the fines imposed are highly ridiculous in some instances going through the laws.

5. Female Child Inheritance in Eastern Nigeria

In many communities in Eastern Nigeria, a woman cannot own land in her own right. She only has custody of any piece of land the husband permits her to cultivate, or else she holds any land in trust for her male children. With regard to other property acquired by her after marriage (including in modern times, her salary from a paid employment) all these belong to her husband and she cannot dispose of them without the consent of her husband²³. This is because her husband paid Bride Price and dowry. A woman's duty according to the customs and traditions of the people is production of as many children as possible to enable her sustain her marriage.

Similarly, a wife as of right cannot inherit or administer the estate of her late husband because in intestacy under native law and custom, the devaluation of property follows the full blood²⁴. This was the position of the court

18 Section 44 Violence against Persons Prohibition Act 2015.

19 Matrimonial Causes Act, Cap M7, LFN 2004.

20 Rivers State Abolition of Female Circumcision Law 2001.

21 Ogun State Female Circumcision and Genital Mutilation (Prohibition) Law 2000.

22 Ekiti State Gender-Based Violence (Prohibition) Law 2001.

23 Oputa, „Better Protection”, 9-10.

24 Ezeilo Joy Ngozi, „Rethinking Women and Customary Inheritance in Nigeria” *Commonwealth Law Bulletin*, No. 4 (2021).

in the case of *L.E.D.B. v Tukur*²⁵ and also in the case of *Aileru v Anibi*²⁶. However, in the case of *Nezianya v. Okagbue*²⁷ the court held among other things that the Onitsha native law custom postulates that a married woman, on the death of her husband without a male issue, with the concurrence of her husband's family, may deal with his (deceased) property. And such dealing, of course, must receive the consent of the family.

6. Administration of Estate

Succession of property at law covers the two distinct concepts of inheritance (a gift made by will or other testamentary document on death) and heirship, which applies where property passed to one or more dependents according to a formula set out in law, religion, custom or under the terms of a trust. Succession may also apply to artificial persons, usually through corporate mergers or reorganizations²⁸. The administration of Estates Law characterizes regimes of indigenous or cultural laws and precepts as well as principles of received law regulating real and personal property of Nigerians concurrently and also distinctly in defined circumstances²⁹. In Ibo land, on the death of man or woman, his/her estate passes to the administrators of such estate who are the male heirs. The administrators have the primary duty of performing the burial ceremonies of the deceased's debts and immediate maintenance of his family and available money may be utilized or some items of property disposed of³⁰. The heirs are jointly responsible for bearing the expenses of the deceased's burial ceremonies. Like most legal systems, Ibo customary laws make a distinction between testate and intestate.

7. Testate Succession

Testate refers to the condition of leaving a valid will³¹. It may also be defined as the state of being testate especially as determined in probate of a will (*a rule favoring testacy over intestacy in the interpretation of wills – partial*

25 *L.E.D.B. v Tukur* (1963) L.L.R. 155.

26 *Aileru v. Anibi* (1952) 20 N.L.R. 46.

27 *Nezianya v. Okagbue* (1963) 1 All N.L.R. 362.

28 Lai Oshitokunbo Oshianya, *An Almanac of Contemporary Judicial Restatements With Commentaries*, Vol. II. (Ikoyi: Almanac Foundation, 2020), 432-433.

29 Oshianya, *An Almanac of Contemporary Judicial Restatements With Commentaries*, 433.

30 Edwin Nwogugu, „Succession to Property under Igbo Customary Law” *Journal of the Law Student Association*, (1985).

31 <https://definitions.uslegal.com/t/testacy/>. [accessed: 23.01.2017].

testacy)³² and according to the Black's Law Dictionary, testacy has been defined as the state or condition of leaving a will at one's death³³.

The Ibo customary law admits the making of a will which is generally known as „Ike Ekpe”. Such will is nuncupative in nature, that is, unwritten³⁴. To possess a capacity to make a will in Ibo land, the testator must be of full age, and must be fully aware of the nature and consequences of his act. The will must be made in the presence of adult witnesses who must include some members of his family. Testamentary power under Ibo customary law is limited in a number of respects. First, there is a limitation on the types of property which the testator is capable of disposing of by his will. He may dispose of only the privately owned property such as self-acquired land and personal assets. On the other hand, the testator has no power to dispose by will his interest in any family or communal land³⁵. A testator who is survived by a male heir cannot dispose by will his residential home (Obi) and the surrounding compound. He may, however, freely dispose of all other real property including commercial houses without giving any to his wives³⁶. But he cannot devise a house built for and occupied by any of his wives. Similarly, there is a prohibition on the disposal by will of such personal effects of the testator like „Ofo”, gun and walking stick which the eldest son is entitled specially to inherit. Moreover, a testator may in some parts of Ibo land make gifts by will to strangers.

It is not mandatory for testator to will his property to his first male child whom the customs and tradition recognized as his heir. The testator has power to disinherit his heir by Will as way of punishing the heir especially where the heir fails to take proper care of the testator. However, the customary law does not empower a testator to dispose his estate in such a way as to deprive his heirs of their entire expectations in so far as the heirs recognized him as their biological father. Where a testator disposed his estate by Will and failed to make reasonable provisions for his sons, such Will may be re-visited after his death by the members of his extended family (umunna). This is expressed in the Ibo maxim – „Onyenwuruanwukeekpe ndi no nduekegharia”. This implies that the family of a testator has power to review and even revise his Will. A testator may not by customary law devise his real estate to his wife

32 <https://www.merriam-webster.com/dictionary/testacy>. [accessed: 23.01.2017].

33 Bryan Garner, *Black's Law Dictionary*, 7th ed. (Eagan: West, 1999).

34 Nwogugu, „Succession to Property”, 5.

35 Ibidem, 5.

36 Wives are considered as the properties of their husbands and have no share in the estates of their husbands.

or daughters. The rule is merely an extension of the general principle that under Ibo customary law females do not inherit land³⁷.

Unfortunately, this rule to all intent and purpose discriminates against women (married and unmarried inclusive). Hence, a married woman cannot as of right dispose of her land, house or her economic crops by will. Worst still, in some areas in the Eastern Nigeria, her testamentary right is limited to gifts to her own children and to members of her husband's family. The same applies to a widow who is living in her husband's family³⁸.

8. Intestate Succession

Intestate on the other hand refers to the condition of the estate of a person who dies without having made a valid will or other binding declaration³⁹. It has also been defined according to the online free dictionary as the state or condition of dying without having made a valid will or without having disposed by will of a segment of the property of the deceased⁴⁰.

It is pertinent to note that the principles of primogeniture regulate, in most cases, intestate succession in the Eastern States. Once the founder of a family passes on, his first son takes over as the head of the family the fact that a female child was born before him notwithstanding. As the head of the family, the first son of the founder inherits his father's personal god „Ofo”, and other objects of worship including his title. However, he has no right to dispose, those things he inherited because they are family property under his care. With regard to the intestates personal estates, the following rules apply, the eldest son inherits his father's furniture to the exclusion of his brothers and the widows. He also inherits his father's wearing apparels and other articles of dressing. Where the intestate left behind some money, this is inherited by all his sons; the sons also inherit their father's farming implements or tools and his livestock⁴¹.

Also, succession to the intestate's real estate is determined by the nature of the particular property. For instance, the late father's dwelling house – „Obi” – and the immediate surrounding compound belongs to his first son who also is entitled by virtue of his position to one distinct piece of land sometimes called „aniisi obi” that is, land for the head of the family⁴². The right

37 Nwogugu, „Succession to Property”, 4.

38 Nwogugu, „Succession to Property”, 4.

39 <https://www.merriam-webster.com/dictionary/testacy>. [accessed: 23.01.2017].

40 *West's Encyclopedia of American Law*, 2nd ed. (Farmington Hills: The Gale Group, Inc., 2008).

41 Nwogugu, „Succession to Property”, 8.

42 Nwogugu, „Succession to Property”, 5.

to succeed to the other land and houses of the intestate is vested in his sons as a body and his female children have nothing to inherit even if they are not married. In the absence of sons, the right to inherit such property is vested on eldest full brother of the deceased because in Ibo Customary law, females do not possess the right to inherit land. It implies that neither the daughters nor the widows of the deceased have rights in respect of his real estate. This principle was brought out in the case of *Ugboma v. Ibeneme*⁴³. The fact of this case is that Rev. Ibeneme, a native of Awkuzu in Anambra Local Government Area died intestate leaving a number of landed properties at Onitsha including No. 44, New Market Road; he was survived by two sons and several daughters. The plaintiffs are the second son and six of his sisters. The first defendant is the eldest son and head of late Rev. Ibeneme's family. The first defendant sold and conveyed No. 44 New Market Road, Onitsha to the 2nd defendant. Following this, the plaintiff brought an action seeking a declaration that the property in question, being the joint property of all the children of Ibeneme, could not be sold and conveyed by the first defendant alone. Consequently, they urged the court to set aside the sale, cancel the deed of conveyance and order the second defendant to account for proceeds of the sale. Egbunna J. held that in accordance with the general Ibo custom which also is the custom of Awkuzu (Anambra Local Government Area) home of the deceased Rev. Ibeneme, women are not entitled to inherit land from their father. Therefore, the female plaintiffs have no *locus standi* in the action.

The only exception to this rule seems to exist in parts of Idemili Local Government Area of Anambra States where a daughter in respect of whom the *nrachi* ceremony has been performed inherits her father's compound and other lands and houses. The *nrachi* ceremony is usually performed where a man has only daughters but no son. In order to ensure the continuation of the family line, he persuades one of his daughters not to marry but to remain in the family with the hope of bearing a male heir.

The rule that a daughter is not entitled to inherit her father's estate is anchored partly on the fact that she is definitely going to another place „nwan-yibuobodoonyeozo” which means that a female child belongs to another town (her place of marriage), also that the person who inherits her father's estate must maintain her until she marries or becomes financially independent or dies. Nevertheless, an unmarried daughter has a right to be shown a portion of her father's land or family group farmland for her annual farming needs and nothing more. Ironically, such right is temporal and lasts until she marries or leaves the family group or dies. The customary law provides that the first son „Okpala” owes the duty to maintain the property for the benefit of all the family members. This role was clearly stated in the case of *Ejiamike*

43 *Ugboma v. Ibeneme* (1967) F.N.L.R. 251.

v. Ejiamike⁴⁴ where the learned trial Judge succinctly explained the position of the first son with regard to the administration of the late father's estate as follows:

„The Okpala in Onitsha society occupies a position akin to that of a trustee or a manager or at the lowest caretaker. I have nothing to show that the subject of trusteeship or managership or caretaker-ship is repugnant to natural justice, equity and good conscience, either generally or specifically as it applies to the Onitsha Society”.

In the above case, the plaintiff was the eldest male child (Okpala) of his late father while the defendants were members of the deceased's household in the Onitsha. The plaintiff as the first son claimed that the defendants were jointly managing the estate of their late father in utter disregard of his rights and duties as the first son of his late father. The plaintiff was claiming some houses which the defendants were managing, payment of his own share of the proceeds and an injunction to restrain the defendants from further interference and management of the estate. The learned trial judge found in evidence that in accordance with Onitsha customary law, the eldest son has right to manage and administer the real estate of his deceased father for the benefit of himself and his brothers. The widow on the other hand has no such right to her late husband's estate. In the exercise of his right, however, the first son is accountable to his other younger brothers. The position above is true of most communities in Eastern Nigeria where the female child is still creating unnecessary controversy⁴⁵.

Finally, the distribution of the intestate's economic plants and trees will depend on whether they are owned along with the land because Ibo customary law allows separate ownership of land, on the one hand, and economic trees planted thereon, on the other. This implies that it is possible for one person to own the land while the economic trees growing thereon belong to another. In such circumstances, succession to the land will differ from succession to the economic trees, each being inherited by the heirs of their respective owners. And it demands a lot of precaution in determining who is in charge of economic trees *vis-à-vis* lands which contain them. As a general rule, economic plants and trees are inherited collectively by the sons of the deceased and same applies to farm produce. It is pertinent to note that the eldest son has a right to administer such property for the benefit of himself and his brothers until such a time as distribution takes place but he may be faced with challenges in the area of accountability. Especially where there is

44 Ejiamike v. Ejiamike (1972) 2 E.C.S.L.R. 11.

45 Oluwakemi D. Udoh, Sheriff F. Folarin, Victor A. Isumonah, „The Influence of Religion and Culture on Women's Rights to Property in Nigeria” *Cogent Arts and Humanities*, No. 1 (2020).

distinction in the mode of distribution of farm produce. For instance, in the *Anaedo* Clan of Nnewi Division, yams are inherited by sons while other farm produce, for instance cocoyams are inherited by the daughters.

9. Distribution of Estate

In Ibo customary law, two modes of distribution of estate of a deceased who died intestate are recognized and they are *per stirpes and per capita*⁴⁶. Distribution *per stirpes* usually takes place in polygamous families where estate is distributed into as many wives as have sons in them that is „usoekwu”. While *per capita* on the other hand means distribution of estate among the individual sons. The summary of the above distribution of estate is that only those wives with male children are entitled to the estate through their male children while those with female children are nothing but slaves or strangers to the family⁴⁷. It further buttresses the fact that where the intestate died without sons, brothers or father, his estate is inherited by his eldest nearest paternal male relations. That is „Oriekpe” which means a person enters as a son where his paternal relation died without a male child. It is called „Ire-Ekpe” custom and the court accepted the custom in the case of *Udensi v. Mogbo*⁴⁸.

However, the intestate may in his life time freely dispose of his real estate to another person other than the Oriekpe and thereby disposes him of his estate while still alive. The customary law empowers Oriekpe to inherit residence and any land that was not disposed by the deceased. A female child is not allowed to inherit such residence or land even if she is the closest relation of the deceased⁴⁹.

10. Succession by the Widow

As a general rule a widow, under Ibo customary law, is not entitled as of right to succeed to the personal or real estate of her deceased husband.

46 Emeka E. Obioha, *Inheritance Rights, Access to Property and Deepening Poverty Situation Among Women in Igboland, Southeast Nigeria* (paper presentation at a Subregional Conference on Gender and Poverty organized by Center for Gender and Social Policy, Ile-Ife Nigeria: Obafemi Awolowo University, 2013).

47 Alloy Ojilere, „Expanding Women’s Right to Inherit Immovable Property in Igboland Beyond the Limits of *Ukeje v. Ukeje*” *International Journal of Comparative and Legal Philosophy*, No. 2 (2020): 30-36.

48 *Udensi v. Mogbo* (1976) 7 S.C. 1.

49 Hillary Nwaechefu, Stephen T. Kalama, „Discrimination Against Female and Widow in Inheritance of Real Estate and Succession in the South Eastern Nigeria: a Breach of International Instrument and the Nigeria Constitution” *Journal of Law, Policy, and Globalization*, Vol. 81 (2019): 53-60.

This was the position of the court in *L. E. D. B. v. Tukur*⁵⁰ where the court held that a wife cannot inherit or administer her husband's estate in her own right, this is because in intestacy under native law and custom, the devolution of property follows the blood. Therefore, a wife or widow, not being of the blood, has no claim to any share". The law nevertheless provides that a widow who decides to remain in her husband house and in his name after his demise is entitled, in her own right to occupy her matrimonial home and get a farm land for her maintenance by her husband's family the fact that she is childless notwithstanding. Unfortunately, the law considers a widow as a chattel which can be inherited on the death of her husband except where she chooses to remain for her husband.

Also, a married woman's houses and surrounding gardens are inherited by her sons as a body and failing sons as well as her husband. However, where a widow dies without a son to survive her, her late husband successor inherits her estate and not her father or successor. In *Nwugege v. Adigwe*⁵¹ where the plaintiff claimed as the first son „Okpala” of the family of the deceased woman, NgboOgbuefi, to be entitled under native law and custom to administer her estate. On the other hand, the defendant contended that he was the right person to administer the estate of the deceased who was his late father's wife. The court after considering the native law and custom of Onitsha found that the defendant was the proper person to administer the estate of the deceased.

In the same vein, where an unmarried woman dies intestate, the brothers of the full blood as a body inherit her lands and houses, while her sisters inherit the trinkets, wearing apparel and personal effects. In the case of *Iweze v. Okocha*⁵² the court observed that in Asaba customary law an unmarried woman who had no issue could „marry” another woman in order to have issues for her and these issues inherit the estate of their „mother” both real and personal. Where such children are minors, the male head of their „mother's” family will hold the estate in trust for them. The court further observed that the same customary law also provides that an unmarried woman cannot, if she has children give away her real property during her lifetime. Even if she has no children, she could only give away her personal estate. She cannot give away her real property without the consent of the head of her family.

Having discussed testacy succession and intestacy succession under Ibo customary law, it is pertinent to note that the law discriminates against the female child in both testacy succession and intestacy succession. The law did not protect the interest of a female child whether married or unmarried.

50 *L. E. D. B. v. Tukur* (1963) L. L. R. 155.

51 *Nwugege v. Adigwe* (1934) 11 N.L.R. 134.

52 *Iweze v. Okocha* (1957/68) M.S.N.L.R. 64.

Hence, the female is treated as a stranger in her father's family and as the property that can be inherited in her husband's family. As a widow she is not entitled to inherit her husband's property whether personal or real property; as an unmarried girl a female child is not entitled to inherit her father's personal or real property. It should be noted that this is not a given rule, but rather provision of the customary law of Eastern Nigeria and the said custom has been found to be unconstitutional by Courts⁵³.

The inequality in the administration of estate in Eastern Nigeria is contrary to freedom from discrimination, natural law and Universal Declaration of Human Rights and other extant laws. The paper is borne out of deep seated need for the equality of all persons especially female whether old or young in the Eastern part of Nigeria.

As the Nigerian history intimates us, there was a period when we felt that the education of the female child was a waste of funds as it was largely believed that the place of the woman was in the kitchen and that a woman should not be smarter than her husband; but then we were able to overcome that notion and we started to educate our female children. We saw a wrong in our nation and decided to correct the same wrong and today, there are notable and knowledgeable women from Nigeria making us proud in various fields of endeavor in the world today.

It must be pointed out that women are important in the society and should not in any way be underestimated. Civilized nations and those aspiring to adopt egalitarian values must begin to move from barbaric customs and traditions in order to achieve self-actualization and economic empowerment. This becomes more crucial and important in a country such as Nigeria where the quality of life of female folk is extremely low as a result of hardship and discrimination against them from paternal, maternal and even matrimonial homes which usually subjects them to prostitution and other immoral activities.

In Nigeria, activities/ importance/involvement of women in every aspect of life cannot be overestimated. The involvement of women in the political, economic and all sectors of the economy can be deeply felt and thus they deserve to be treated with dignity and respect especially in the area of inheritance or succession.

It is worthy of note in the judicial sector that between the years 1943 to 1952, there were several judicial reforms, the effect of which we are far reaching as far as the legal profession was concerned. Though lawyers were not allowed to practice in the native courts, yet those courts were neatly linked to

53 Oluwakemi D. Udoh, *International treaties on the elimination of gender-based discrimination and women's property rights in Ogun State Nigeria* (An unpublished doctoral thesis, Covenant University 2020).

the higher courts through the process of appeals. Thus, the lawyers became involved in practically any litigation at one stage or other. An example is the case of *Onowu v B.E Nzekwu*⁵⁴ which though started in the Native Court ended in the Supreme Court. In between the two Courts, the lawyers were afforded ample opportunities for practice. Between 1947 and 1962, the numbers of lawyers enrolled in Nigeria rose progressively from 29 to 190. Perhaps this yearly increase was due to the notion that a lawyer could easily make a fortune at the bar and the very conspicuous role that lawyers were playing in the public life.

From 1935, law ceased to be an exclusively male profession with the enrolment of Miss Stella Thomas (later Mrs. Marke) on 2nd December, 1935 as the first lady Barrister not only in Nigeria but also in West Africa. By 1962, the number of women lawyers was under 100 but today, they can be counted in thousands. Suffice to state therefore that women have attained the most enviable positions in the legal profession in Nigeria. The former President of the Court of Appeal is Honourable Justice Zainab Adamu Bulkachuwa while Honourable Justice Aloma Mariam Mukhtar was the former Chief Justice of Nigeria. In entrepreneurship sector, Dr. Mrs. Folorunsho Alakija must be mentioned here for her unquantifiable success. She re-defined the status of Nigerian women years ago when she became one of the wealthiest most influential and powerful women in Africa. She exudes confidence and has dared be different in all her dealings.

In the political realm, some women are in the National Assembly even though the percentage is low, their impacts are still being felt and they are contributing their own quota to the development of Nigeria. Also, some women were appointed as Ministers in the Federal Republic, for instance, Mrs. Kemi Adeosun was a former Minister of Finance and Mrs. Aisha Abubakar, Minister of State, Trade, Industry and Investment to mention but a few. Currently, Mrs. Zainab Ahmed is the current finance minister and Sadiya Umaru Farouk is the current minister of Humanitarian affairs. Suffice to say therefore that women are playing leading roles in nation building thus, any form of unequal treatment by reason of sex is not only discriminatory and frustrating but also against the achievement of an egalitarian society that guarantees everybody's freedom.

While the idea behind the non-inheritance of property by the female child in her father's family emanate from the fact that she will eventually get married, it should be noted that the reasoning behind such cannot hold so much water in the civilized world of the 21st century and this principle should be considered as barbaric and uncivilized⁵⁵. It is seen as the trampling on

54 *Onowu v. B.E Nzekwu* (1928) 9 N.L.R.

55 Umar F. Mohammed, Sule Isah Kazaure, Aminu Adamuargungu, „Fundermental Human Rights and Dehumanizing Cultural Acts

the rights of a female child which is guaranteed by the Constitution of the Federal Republic of Nigeria and which stated that every person has a right to Dignity of person⁵⁶. According to that section, every Nigerian is guaranteed certain rights as it pertains to dignity of person.

The Supreme Court in *Nezianya v. Okagbue*⁵⁷ held thus:

„under the native law and custom of Onitsha, a widow’s possession of her deceased husband’s property (...) however long it is (...) does not make her owner, she cannot by effluxion of time claim the property as her own (...) she has however the right to occupy the building or part of it, but this is subject to good behaviour”.

This position was further affirmed by the Supreme Court in *Nzekwu v Nzekwu*⁵⁸ where the Court maintained that a widow’s interest in the deceased husband property/house is possessory and not proprietary and as such, she cannot dispose of it.

However, the Legislature has also tried to help combat this issue in some Eastern States such as Ebonyi, Anambra and Enugu States by the promulgation of the Administration and Succession of (Estate of Deceased Persons) Law, 1987. This law⁵⁹ prescribed detailed rules for the distribution of real and personal property of an intestate thus:

- a. If the intestate leaves a husband or wife but no children, parents or brothers or sisters of the whole blood, the residuary estate shall be held in trust for the surviving spouse absolutely. However, where the surviving spouse is the wife and the intestate leaves brothers or sisters of the half blood, the wife’s interest will be for her life or until she remarries which ever first occurs. Thereafter the residue of her interest shall go to the intestate’s brothers and sisters absolutely in equal shares. The children of a deceased brother or sister will take the share to which his parent would have been entitled if alive.
- b. Where the intestate leaves a husband or wife as well as children’s children (whether or not he also leaves parents or brothers or children of brothers and sisters), the residuary estate shall be held on trust as to the value of one-third thereof for the surviving spouse. The interest of

Against Nigeria’s Women” *Journal of the Gujarat Research Society*, No. 11 (2019): 472-477.

56 Section 34 1999 Constitution of the Federal Republic of Nigeria, Cap C23, LFN 2004.

57 *Nezianya v. Okagbue* (1963) All NLR 358 SC.

58 *Nzekwu v. Nzekwu* (1989) 2 NNLR 373.

59 Administration and Succession (Estate of Deceased Persons) Laws of Anambra State, 1987.

such spouse shall be absolute in the case of a husband, and in respect of a wife, for her life or until re-marriage, whichever first occurs. The remainder of the estate together with any residue on the cesser of the wife's interest shall be held on trust for the children of the intestates' children in equal shares absolutely

- c. If the intestate leaves a husband or wife as well as one or more of the following- a parent, a brother or sister of the whole blood or children of a brother or sister of the whole blood, but does not leave a child, two thirds of the residuary estate shall be held on trust for the surviving spouse. In the case of a husband, the interest shall be absolute while for a wife, it will last for her life or until her re-marriage which ever first occurs. The remaining one third of the estate together with any residue on cesser of the wife's interest shall be held on trust for the brothers of the whole blood in equal shares absolutely. In the absence of brothers of the whole blood or their children, the portion will be for parents absolutely.
- d. Where the intestate leaves children or children of deceased children, but no husband or wife, two-thirds of the residue of the intestate's estate shall be held on trust for the children of the intestate equally. Of the remaining one third, one sixth shall be held in trust for the parents and the other one-sixth for brothers and sisters.
- e. If the intestate leaves no husband or wife and no children or children of deceased children, but leaves both parents, two-thirds of the residuary estate of the intestate shall be held on trust for the parents in equal shares absolutely. The other one-third shall be held in trust for brothers and sisters, if any, in equal shares absolutely. If no brothers and sisters survive, their share shall go to the parents.
- f. Where the intestate leaves no husband or wife and no issue, but leaves one parent, two-thirds of the residuary of the intestate estate shall be held on trust for the surviving father or mother. One-third of the value of the estate will be held on trust for brothers and sisters in equal share absolutely. If there are no brothers and sisters, their shares will go to the surviving father or mother.
- g. If the intestate leaves no husband or wife and no issue and no parent, the residuary estate of the intestate shall be held on trust for the following persons living at the death of the intestate and in the following order and manner.
 - i. First, upon trust for the full brothers and sister of the intestate. But if no person takes an absolutely vested interest under such trusts then.
 - ii. Secondly, on trust for the half brothers and half sisters of the intestate. If no person takes an absolutely vested interest under such trusts, then

- iii. Thirdly, on trust for the grandparents of the intestate, in equal shares. If there is no member of this class, then
 - iv. Fourthly, on trust for the uncles and aunts of the intestate. But if no person takes an absolutely vested interest under such trust, then
 - v. Fifthly, on trust for the uncles and aunts of the intestate parents.
- h. In default of any person taking an absolute interest under the forgoing provisions, the residuary estate shall belong to the head of the family of which the deceased was a member. Such a head of family shall, out of the whole of the property devolving on him, provide for the dependants, whether kindred or not, of the intestate, and other persons for whom the intestate might reasonably have been expected to make provision⁶⁰.

It should be noted that these provisions considered above is applicable to the estates of intestates who were married under the provisions of the Marriage Act. This provision automatically excludes the application of obnoxious customary laws or any Statute of General Application to the estates of person who died intestate, save the exceptions known to law. Besides, as seen under this provision, widows who are married under the Act are now entitled to inherit portion of their deceased husband's estate for life or until she re-marries which were never accorded them under customary law. Thus, the 1987 law is a welcome development in ameliorating the harshness of the Igbo Customary Succession Law particularly as it relates to widows.

Since this law applies only to Enugu, Anambra and Ebonyi States the Rule in *Cole v Cole*⁶¹ and *Onwudinjo v Onwudinjo*⁶² will be applicable to the remaining States which comprises Imo, Abia and some part of Delta States. These Rules/Principles were thought to bring succour or respite to widows unfortunately came with their own harshness as persons who would have ordinarily inherited from the deceased estate are deprived of inheritance. For instance, in *Onwudinjo's* case where the deceased who was married under the Act, out of which children were born later had an affair with one Chinelo in which two children were born, the court held that those children born out of wedlock were not entitled to inherit. It is clear from the above that none of these rules have in any way solved the discriminatory and obnoxious practices of customary law on succession, but rather have complicated it.

This issue of non inheritance of properties by the female child in Ibo land has generated a lot of controversies. Many things have been written and many voices have been raised against the principle. For example, on April 14, 2014, the Nigerian Supreme Court, in a unanimous decision, confirmed

60 Section 120 Administration and Succession (Estate of Deceased Persons) Laws of Anambra State, 1987.

61 *Cole v. Cole* (1898) 1NLR 15.

62 *Onwudinjo v. Onwudinjo* (1958) 11 ERNLR 12.

decisions of two lower courts, which had found unconstitutional an Ibo customary law of succession excluding female offspring from eligibility to inherit the property of their fathers⁶³. The decision of the Supreme Court reads: „no matter the circumstances of the birth of a female child, such a child is entitled to an inheritance from her late father’s estate. Consequently, the Ibo Customary Law, which disentitles a female child from partaking in the sharing of her deceased father’s estate is in breach of Section 42(1) and (2) of the Constitution, a fundamental rights provision guaranteed to every Nigerian”⁶⁴.

The above cited provision of the Nigerian Constitution, which guarantees freedom from discrimination, states that:

- (1) A citizen of Nigeria of a particular community, ethnic group, place of origin, sex, religion or political opinion shall not, by reason only that he is such a person:
 - a. be subjected either expressly by, or in the practical application of, any law in force in Nigeria or any executive or administrative action of the government, to disabilities or restrictions to which citizens of Nigeria of other communities, ethnic groups, places of origin, sex, religious or political opinions are not made subject; or
 - b. be accorded either expressly by, or in the practical application of, any law in force in Nigeria or any such executive or administrative action, any privilege or advantage that is not accorded to citizens of Nigeria of other communities, ethnic groups, places of origin, sex, religious or political opinions.
- (2) No citizen of Nigeria shall be subjected to any disability or deprivation merely by reason of the circumstances of his birth⁶⁵.

In *Salubi v Nwariakwa*⁶⁶ where the deceased, Chief T.E.A Salubi was married to Mrs. Angela Salubi under the Marriage Act in 1939 in which two children were born, to Appellant, Dr. T.E.A Salubi and the Respondent, Mrs. B. Nwariakwu. The deceased had two other children out of wedlock by two other women. On his death intestate in 1982 the appellant (his son) and his widow were granted Letters of Administration over the estate in 1985. Due to the age and poor health of the widow, the appellant became the sole administrator of the estate. The respondent not being satisfied with the way the estate

63 Lemmy Ughegbe, „S’Court Upholds Female Child’s Right to Inheritance in Igboland” *The Guardian Newspaper*, April 15 2014.

64 Ughegbe „S’Court Upholds”.

65 Sections 42(1) and (2) 1999 Constitution of the Federal Republic of Nigeria (as amended).

66 *Salubi v. Nwariakwa* (2003) All NLR 548.

was being administered by the appellant instituted this action. The appellant had contended that the two sons born to the deceased outside wedlock cannot be considered as legitimate children for the purpose of inheritance. But the Supreme Court applying the provisions of section 39(2) of the 1979 Constitution⁶⁷ which is in parimateria with section 42(2) of 1999 Constitution (as amended) held that:

„The two issues of the deceased born out of wedlock during the subsistence of the marriage were entitled to share in the estate of the deceased equally with the two issues of the lawful marriage”.

Furthermore, the Court of Appeal, Enugu Division, referring to the same section⁶⁸ in the case of *Mojekwu v Mojekwu*⁶⁹ pronounced against any customary law or practice that discriminates against any one on the grounds of sex. The Appeal Court held thus:

„Nigeria is an egalitarian society where civilized sociology does not discriminate against the woman folk, which regard them as inferior to the men folk (...) thus any form of social discrimination on the grounds of sex apart from being unconstitutional, is antithesis to a society built on the tenants of democracy. The (...) custom which permits the son of the deceased person's brother to inherit his property to the exclusion of his female children is discriminatory and therefore inconsistent with the doctrine of equity”.

This decision was affirmed by the Supreme Court of Nigeria on appeal.

Also, in the case *Anekwe v. Nweke*⁷⁰ the Respondent as Plaintiff instituted an action in Customary Court against her husband's brothers. The suit was subsequently transferred to the High Court by the order made by Awka Division of Anambra State High Court on 19th February, 1991. The Plaintiff claimed amongst other things, for a declaration that she is the person entitled to statutory right of Occupancy of a piece or parcel of land which is situate at Amikwo village Awka and in her plan No. TLD/ANO/92 and filed a statement of claim. The Appellants as Defendants in their amended statement of defense denied the Plaintiff's claim and also counter claim for a declaration that their late father being entitled to the statutory right of occupancy over

67 Constitution of the Federal Republic of Nigeria 1979 (Repealed and replaced with 1999 Constitution of the Federal Republic of Nigeria, Cap C23, LFN 2004).

68 Section 42, 1999 Constitution of the Federal Republic of Nigeria, Cap C23, LFN 2004.

69 *Mojekwu v. Mojekwu* (1997) 7 NWLR (pt. 512) 283.

70 *Anekwe v. Nweke* (2014) 58 NSCQR (pt. 1) 38-42.

the piece or parcel of land the subject matter of the suit, the 1st Defendant being the 1st son of their late father is deemed to be entitled to the statutory right of occupancy over the same land in accordance with the native law and custom of Awka people.

The High Court in a well-considered judgment on 13th March, 2008 gave judgment in favour of the plaintiff/respondent and on an appeal by the defendants/appellants; the Court of Appeal affirmed the judgment of the High Court. The Defendants/Appellants appealed to Supreme Court. The Supreme Court in dismissing the appeal held as follows:

„I hasten to add this point that the custom and practices of Awka people upon which the Appellants have relied for their counter claim is hereby out rightly condemned in strong terms. In other words, a custom of this nature in the 21st century societal setting will only tend to depict the absence of the realities of human civilization. It is punitive, uncivilized and only intended to protect the selfish perpetration of male dominance which is aimed at suppressing the right of the womenfolk in the given society. One would have expected that the days of such obvious differential discrimination are over. Any culture that disinherits a daughter from her father's estate or wife from her husband's property by reason of God's instituted gender difference should be punitively and decisively dealt with. The punishment should serve as a deterrent measure and ought to be meted out against the perpetrators of the culture and custom. For a widow of a man to be thrown out of her matrimonial home, where she had lived all her life with her late husband and children, by her late husband's brothers on the ground that she had no male child, is indeed very barbaric, worrying and flesh skinning. It is indeed much more disturbing especially where the counsel representing such perpetrating clients, though learned, appears comfortable in identifying, endorsing and also approving of such a demeaning custom”⁷¹.

The Court went further to state that the impropriety of such a custom which militates against women particularly, widows, who are denied their inheritance, deserves to be condemned as being repugnant to natural justice, equity and good conscience. The repulsive nature of the challenged custom is heightened further in the case at hand where the widow of the deceased is sought to be deprived of the very building where her late husband was buried. The condemnation of the appellants' act is in the circumstance without any hesitation or apology.

71 Anekwe v. Nweke (2014) 58 NSCQR (pt.1) at pages 66-67.

I.T. Muhammed, JSC, states as follows:

„It baffles one to still find in a civilized society which cherishes equality between the sexes, a practice that disentitles a woman (wife in this matter) to inherit from her late husband’s estate, simply because she had no male child from the husband. This practice, I dare say, is a direct challenge to God the Creator who bestows male children only; female children only (as in this matter), or an amalgam of both males and females, to whom He likes. He also has the sole power to make one a barren. There is nothing virtually one can do if one finds oneself in any of the situations. To perpetuate such a practice as is claimed in this matter will appear anachronistic, discriminatory and unprogressive. It offends the rule of natural justice, equity and good conscience. That practice must fade out and allow equity, equality, justice and fair play to reign in the society”⁷².

Also, in *Ukeje v. Ukeje*⁷³ the Respondent as plaintiff filed an action in the High court against the 1st and 2nd Appellants/defendants (her mother and her brother) who obtained letters of Administration for and over the estate of the plaintiff’s deceased father Lazarus Ogbonnaya Ukeje. The trial court having been convinced that the plaintiff is a daughter of late Lazarus Ogbonnaya Ukeje granted reliefs 2, 3, and 4. The Court ordered the 1st and 2nd defendants to hand over the administration of the estate to Administrator General pending when the five children (the plaintiff/respondent inclusive) would choose three or four of the deceased children to apply for fresh letters of Administration. The Defendants/Appellants not satisfied with the decision of the lower court went on appeal to the Court of Appeal who affirmed the judgment of the lower Court. The Defendants/Appellants appealed against the judgment of the Court of Appeal Lagos (Division). The Supreme Court dismissed the appeal. Bode Rhodes- Vivour JSC who delivered the lead judgment stated thus:

„This appeal is on the paternity of the respondent. Whether the respondent is a daughter of L.O. Ukeje (deceased).L.O.Ukeje deceased is subject to the Igbo Customary Law. Agreeing with the High Court the Court of Appeal correctly found that the Igbo native law and custom which disentitles a female from inheriting in her late father’s estate is void as it conflicts with section 39(1) (a) and (2) of the 1979 Constitution (as amended)”.

72 *Anekwe v. Nweke* (2014) 58 NSCQR (pt.1) at page 68.

73 *Ukeje v. Ukeje* (2014) 58 NSCQR (pt.1) 488 @495.

This finding was affirmed by the Court of Appeal. There is no appeal on it. The finding remains inviolate.

„(...) No matter the circumstances of the birth of a female child, such a child is entitled to an inheritance from her late father's estate. Consequently, the Igbo customary law which disentitles a female child from partaking in the sharing of her deceased father's estate is in breach of section 42 (1) and (2) of the Constitution, a fundamental rights provision guaranteed to every Nigerian. The said discriminatory customary law is void as it conflicts with section 42(1) and (2) of the Constitution”⁷⁴.

11. Conclusion and Recommendation

From the above discussions, a number of salient features have emerged. First, Ibo customary law protects the interest of the male child at the detriment of the female child thereby, conferring in most cases, the right to succession to the male children.

Secondly, Ibo Customary law discriminates entirely against females thereby depriving the widows or daughters of the deceased of their rights to inherit the deceased's properties. This is most unfortunate as it creates obvious hardships on the female child and exposes her to prostitution, child trafficking and many more. Moreover, it places a male child above a female child and this is sexual discrimination which may be in conflict with the spirit of fair hearing enshrined in Chapter IV of the 1999 Constitution of the Federal Republic of Nigeria.

Similarly, application of the principle of primogeniture particularly where the male heir is not the son of the widow may create a lot of problems for the widow and her children especially where the widow is not in good terms with the heir. It does happen in such cases that the heir may take the benefit without the interest of the widow and her female children in view.

Although it may be rightly said that Ibo customary law principle which deprive a female child right of inheritance may be rationalized on the ground that among the Ibos, land is regarded as a divine object with a high economic value and it is immovable. However, in the context of modern economy and equality of rights, there are no cogent reasons why a female child should not be entitled to inherit land like the males.

As earlier stated though, the courts of law have started to outlaw these customs and while this is a good start other stringent measures need to be taken as regards the proper manner or means of division of properties of people who die intestate in the Igbo society. This has already begun, but it is very glaring that there is still more to be done in order to get us to where we ought to be. Laws should not only be created to allow female folk inherit, but also

74 Ukeje v. Ukeje (2014) 58 NSCQR (pt.1) 488 pages 519-520.

to secure the freedoms and rights of the female folk and furthermore ban the victimization and discrimination against women, not only in the Igbo society but in our nation as a whole. The following recommendations are hereby made:

Firstly, Nigeria as a country should ensure that all international treaties signed should be domesticated in accordance with the provisions of the Constitution as mentioned in the paper so as to give it the force of law required. Secondly, there is need for a re-appraisal of the customary law in the Eastern Nigeria to ensure that the interest of the female child is protected both in her place of birth and her place of marriage. By nature, a woman enjoys from her father's family and her husband's family respectively. Also, it is important for Nigeria as a nation to re-assess her view of the female child and the status to give to females in order to encourage them in building a better profile for their independence.

Nigeria as a country should take the issue of women protection more serious by ensuring that the laws already put in place are obeyed and amend the laws so as to ensure that stricter punishments should be given to the violators of the laws.

In addition, married couple under customary law who intends to acquire property should ensure that the Deed of Transfer is jointly prepared in their respective names. This will help to circumvent the hardship arising from the strict application of the Ibo customary law.

Finally, a man may in his lifetime make, a gift *inter vivos* of a land, building or other properties to his daughter thereby excluding it from the application of customary law.

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