



The Inheritance Rights and Procedures in Igbo Society; The Place of Women and Access to Property Inheritance

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ABSTRACT

Patriarchal Societies like the Igbos of south East Nigeria is characterized by unequal positioning of male and female off springs to inheritance. The males are regarded as heirs and apparent successors to economic and social powers, the right of females in this regard has been relegated to the background. The condition follows that economic situation or poverty level of a male child could be changed for better through inheritance. The basic assumption behind this discourse then is that the inheritance rights and access to property rules among the Igbos further deepens the already poverty situation of women in the society. It is against this background that this paper focuses on examining the interface between the inheritance rights and poverty situation among women in Igboland. This paper however substantiates that with the continued practice of the customary inheritance Igbo in society. The paper proffers suggestions on possible ways to improve the lives of the women through integration of the English and Customary laws as they relate to inheritance.

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Introduction

Female children in Igboland have suffered so much neglect and exclusion from being involved in their family inheritance due to our cultural beliefs and tradition which invariably position the women as temporary children. In Igboland, they are subconsciously seen and treated as less important to the family, yet when serious needs arise in the family they are looked upon for solution; the reason being that male children perpetuate their father's generation, unlike the woman who gets married and bears the name of her husband.

Also, a female child has no hope of inheriting from her father's property and as such she must get married. She is deprived of even partaking from her husband's estates in the event of his death especially if she has no male child or that her children are still very young. This could be worsened by the activities of the shylock relatives who would want to take undue advantage of her situation to have everything to themselves.

In some cases, the husband's family arranges and marries a younger lady for the man in order to have male children and the first wife, who actually laboured with the man is relegated to the background and eventually pushed out of the house when the male child eventually comes from the other woman.

In spite of this seemingly dark side to our culture, Igbo women are expected to remain in their husbands' house no matter any maltreatment meted out on them by their spouses or family members because they, as women, do not have a place in their fathers' houses. This has often brought untold suffering to most of our women, especially the uneducated ones.

If a married woman loses the husband, automatically she becomes the next of kin, and her husband's property should

be shared to her too. But in a case where the widow may have maltreated her husband to death, the Umu-Ada and the Umu-Nna may want to pay her back by denying her the right to her husband's properties.

The Igbos, condemn a situation where some families deny the widow her right for no just cause, saying, It is not always good to intimidate women in their husband's houses. Give to every woman her due right for peace to reign. For a married woman to come and struggle for her fathers' properties, we do not agree to that, because it shows greed. Civilization has introduced will, in which a man (owner of the property) chooses who inherits any of his properties when he dies.

Statement of Problem

Since creation, succession and inheritance rights are established procedures of transferring economic, social and even political power in most societies. But the problem in most patriarchal societies including the Igbos has been the unequal chances and spaces available to male and female members of the society. This presupposes that there are glaring indices of inequality, which are sustained by the culture, and practices of the society. The sources and continuation of these unequal treatments could be traced to even biblical/koranic injunctions, traditional beliefs and practices, and late participation of women in legislation due to educational disadvantage (Unobagha, 1995). In practice, the sustenance of inequality goes together with the discrimination which is meant to either widen the gap or increase the incidence there of. The discrimination against women involves being perceived and treated as a member of gender category (female) about which there are all kinds of stereotyped beliefs and which is inferior to the alternate gender category-males (Whitehead, in Abdullah and Amah,

1995). More holistically, Article, 1 of the United Nations Convention on the Elimination of All forms of Discrimination Against Women (CEDAW) perceived it as any distinction, exclusion or restriction made on the basis of sex which has the effect of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on the basis of equality of men and women, of human rights and fundamental freedoms in the political, economical, social, cultural, civil or any other field.

As a concession to the varied cultures of the people of Nigeria, the constitution of the Federal Republic of Nigeria, while strongly reiterating the concept of gender equality and non-discrimination on the basis of gender, reopens the issue. Following this, the debate in the country now revolves around whether such enabling legislation can permit the application of discriminatory customary laws. The constitution is however silent on the specific issues like inheritance rights, although it does not state that all laws that violate the constitution shall be invalid. The issue remains on whether disputants can elect to apply customary laws that discriminate on the basis of gender, and even worsens the situation of women in the society.

In observing the interrelationship between discriminatory practices against women and the supposed effect in their quality of life, one thinks that the changing nature of the Igbo society would have affected the inheritance and property rights towards equity. Unfortunately, there is no change in these practices, in spite of the significant changes recorded in other cultural traits in the society. This unchanging situation worsens the seemingly impoverished condition of the women folk and makes them more vulnerable to abject poverty compared to their male population. Implicitly, while economic or poverty level of a male child could be changed for better through inheritance, that of the female counterpart worsens relatively.

Research Hypotheses

This study will be guided by the following hypotheses.

Hypothesis 1. H₀: There is no cordial relationship between women and the rest of the children in the Igbo culture.

Hypothesis 2. H₀: The prevailing inheritance practices in Igboland do not significantly alienate women from assets of their father.

Hypothesis 3. H₀: There is no significant level of disparity in treatment given to both women and men by the inheritance law of the Igbo people of Nigeria.

The Igbo people are one of the largest ethnic groups in Africa. In rural Nigeria, Igbo people work mostly as craftsmen, farmers and traders. The most important crop is the yam; celebrations take place annually to celebrate its harvesting. Other staple crops include cassava and taro. The Igbos are also highly urbanized, with some of the largest cities and metropolitan areas in Igboland being Onitsha, Enugu, Aba, Asaba, Owerri, Orlu, Nnewi, Umuahia, Abakaliki and Agbor.

Before British colonial rule, the Igbo were a politically fragmented group. There were variations in culture such as in art styles, attire and religious practices. Various subgroups were organized by clan, lineage, village affiliation, and dialect. There were not many centralized chiefdoms, hereditary aristocracy, or kingship customs except in kingdoms such as those of the Nri, Arochuku, Agbor and Onitsha. This political system changed significantly under British colonialism in the early 20th century; Frederick Lugard introduced *Eze* (kings) into most local communities as

"Warrant Chiefs". The Igbo became overwhelmingly Christian under colonization. Chinua Achebe's *Things Fall Apart* is one of the most popular novels to depict Igbo culture and changes under colonialism.

Igbo Customary Law of Inheritance

The Igbo people are concentrated in five Eastern States of Nigeria. These States are Abia, Anambra, Ebonyi, Enugu and Imo. Generally, the Igbo people of these states speak a common language though with local dialectical variations but to a large extent they (Igbos) have similar social systems.

Seasoned authors/scholars have written extensively on the customary law of inheritance of Igbos. The work of these authors/scholars examined the general rules of Igbo customary law of inheritance and some variations of the general rules. This study, in examining the Igbo customary law of inheritance, places reliance mainly on the Customary Law Manual of the laws of Anambra and Imo States. The manual not only incorporates the general rules of Igbo Customary law of inheritance as discussed by these authors/scholars but also provides detailed information on the numerous variations of the Igbo customary law rules beyond the purview of earlier publications on the study written over ten years before the manual was published.

It is noteworthy to state that the Manual has not yet obtained the status of a primary source of Igbo customary law of inheritance because as required by Evidence Act, many of the customary rules of inheritance stated in the manual are yet to be proved and established before our High Courts and other superior courts.

In view of the fact that the customary law manual was prepared after wide consultations with traditional rulers, community elders, presidents and members of customary courts and other persons who are knowledgeable about local customary laws of various Igbo Communities, it is submitted that the manual should be regarded as a legal authority of Igbo customary law of inheritance to be accepted by the courts in line with section 59 of Evidence Act without formal proof.

Types of Property to Be Inherited and Persons Who Can Inherit

(A) Lands and Houses

Under the Igbo customary law practice, the eldest son inherits his father's compound exclusively in some Igbo Communities. In practice, however, he gives part of the land to other sons at their request for building purposes. A man's compound is inherited by all his sons as a corporate body with the eldest son acting as a caretaker. In Ohafia Division, a man's compound is inherited by sons and daughters in joint tenancy. Where a man is not survived by any son, his compound is inherited by his eldest surviving brother of full blood. In the absence of a full brother, the compound is inherited by the deceased father. There is a local variation with regard to the above practice. In Anambra, Ezzikwo and Mbaitoli/Ikeduru Divisions where a man is not survived by any son his compound is inherited by his father and in the absence of father, the deceased compound will be inherited by his eldest surviving brother of full blood.

A man's land and houses other than his compound are inherited by his son or sons as a corporate body. In the absence of any surviving son, the land and house are inherited by the eldest full brother and, in the absence of full brothers, the land and houses are inherited by the deceased father. There are local variations with regard to this customary practice in some communities where lands and houses

although inherited by the eldest son exclusively, the heir has an obligation to give part of lands and houses to the other sons for their residential and farming needs. However, the customary law manual does not specify a fixed portion which the eldest son has to give to his younger brothers. Therefore, it appears that what the other sons of a deceased get is at the discretion of the eldest son.

It is evident from the foregoing that a deceased man's lands and houses are inherited mainly by his paternal relations. Where a man is not survived by sons, but by daughters only, the daughters generally do not have the right to inherit his compound or any of his other lands or houses. There are however local variations in Ohafia Division where daughters in such a case inherit the deceased's compound, other lands and houses with the eldest brother of the deceased in control. In Oraukwu town in Idemili Division, a daughter in respect of whom the *nrachi* ceremony has been performed inherits her father's compound, other lands and houses.

According to Customary Law Manual, *nrachi* is the practice whereby a daughter whose father has no male children is retained unmarried in the father's compound with a view to her having a male child in the father's name. If unmarried, she has the right to conceive a child for any man of her choice. The children she has are the children of her father whether the father is dead or alive.

Economic Plants and Trees

Customary Law of the Igbo permits separate ownership of land on the one hand and economic plants and trees growing on such land on the other hand. Thus, while the land itself is the property of one person, economic plants and trees growing on it are the property of another person or the community at large or vice versa. This is so whether or not the relationship of landlord and tenant exists between the owner of the land and economic plants and trees growing on it. In this situation, inheritance of the land is different from inheritance of the economic trees. The land and economic trees are inherited by the heirs of their respective owners.

However, in some communities, palm trees growing wild on any piece of land other than a man's compound, are the properties of the community, not of the land owner. Such palm trees are not subject to inheritance. In Uturu clan of Okigwe Division, economic plants and trees are not inherited by individuals but are retained as communal property. Economic plants and trees are inherited by sons as a corporate body. There are local variations in Afikpo and Edda clans of Afikpo Division where a man's economic plants and trees are inherited jointly by the full brothers, maternal uncles, maternal half sisters, maternal sisters, maternal half brothers, maternal aunts and the mother of the deceased.²³

In Enugu-Ezeike, Itchi and Etteh clans of Igbo Eze Division, the eldest son inherits all economic plants and trees exclusively but he cannot sell them to outsiders without the consent of the family. In Nnewi, Northern Ngwa and Ogbaru Divisions, a man's economic plants and trees are inherited by his eldest son exclusively.

In Ohafia Division, economic plants and trees are inherited by sons and daughters of a deceased man together with the man's full brothers, maternal half brothers, maternal uncles, the mother, full sisters, maternal half sisters, maternal aunts and widow (if married from outside the division) and fathers as a body. In case of economic plants and trees growing within the man's compound, the man's children take precedence over the other joint co-heirs. In the case of economic plants and trees growing outside the compound, the

man's maternal relations take precedence over his children.²⁵ In Owerri Division, economic plants and trees growing on *Uhu or Okpulo* land²⁶ are inherited by the head of the deceased person's family exclusively. The land itself is inherited by sons and other heirs of the deceased person as a corporate body. Economic plants and trees growing on his other lands are inherited by the eldest son exclusively.

Generally, a widow whether childless or not, does not inherit her husband's economic plants or trees and does not have the right to any share of these. Where a widow has sons, it is the sons who inherit not herself though she may act as a caretaker for them if they are too young to take care of such property themselves. There are however local variations. In Arochukwu and Eme clans of Arochukwu Division, a widow inherits her husband's economic plants and trees. In Etiti Division, a widow inherits her husband's economic plants and trees if, but only if the deceased husband is not survived by any son.

In Mbano Division, a widow whose husband is not survived by a son inherits the husband's economic trees and plants but subject to overall control of her and the property by the eldest nearest paternal male relation of her husband. In Ohafia Division, a widow who is married from a community outside the division is deemed to be a member of the deceased husband's maternal family and accordingly she inherits the deceased man's economic plants and trees along with the other maternal relations of the husband.

With respect to a daughter's right to inherit, a daughter generally does not have the right to inherit her father's economic plants or trees whether or not the deceased is survived by sons. There are local variations. In Mbamisi, Enugu- Uno and Ndeni clans of Aguata, Awgu Division, Agulu in Njikoka Division and Nkwere Division, the ceremony of *nrachi* may be performed where a man is survived by daughters and no son. After that ceremony, the daughter in respect of whom *nrachi* is performed, is treated as a son and will inherit her father's estate including economic plants and trees. In Arochukwu and Eme communities in Arochukwu Division, a daughter inherits her father's economic plants and trees if the deceased is not survived by a son.

In Ohafia Division, if a man is survived only by a daughter, economic plants and trees growing within his compound are inherited by the daughter exclusively. Economic plants and trees growing outside the compound are inherited by the daughter in common with the maternal relations of the deceased, (including the widow if married from outside) the daughter taking after them during distribution. If the deceased leaves a daughter as well as a son, economic plants and trees growing within his compound are inherited in common by the daughter and the son. Economic plants and trees growing outside the compound are inherited by the daughter, the son and the maternal relations of the deceased (including the widow if married from outside) the maternal relations taking precedence over the deceased's children during distribution. A married daughter ranks below other children of the deceased while unmarried daughter takes on equal basis with other children according to seniority of age.

C. Farm Produce

According to Customary Law Manual, the sons of a deceased man inherit his farm produce but the eldest son has a right to administer such property for his benefit and that of the other sons pending distribution.

There are local variations to this customary practice. In Aba Division, the eldest daughter of a deceased man as well as all the male relations who made financial contributions to the man's funeral ceremonies have a right to a share in his yams. In Bende, Ishielu, Northern Ngwa and Ogbaru Divisions, the eldest surviving son of a deceased man inherits his farm produce exclusively. Similarly, in Enugu, Ezeike and Etteh clans of Igbo – Eze Division, the eldest son of the deceased takes the entire farm produce exclusively whether the family is monogamous or polygamous. In Umuahia Division, the sons of a deceased man inherit his yams as a corporate body. A widow inherits her husband's cassava subject to overall control by the husband's principal heir.

A widow generally does not inherit her husband's farm produce or any part of it whether the husband has surviving children or not. There are however local variations. In Etiti Division, Umunumu and Akanu Ezeala communities in Mbano Division, a widow whose husband has no surviving sons inherits the husband's farm produce. In Oru Division, a widow inherits her husband's cassava and vegetables. In Ohafia Division, where a widow is married from outside the division, she is entitled to inherit the deceased husband's farm produce along with deceased's children and maternal relations.

Generally, a daughter does not inherit her father's farm produce or any part of it. Exceptions exist in Aba and Mbaitoli/Ikeduru Divisions. The eldest daughter has a right to a reasonable number of her father's yams. In Neke clan of Isi – Uzo Division, the eldest daughter is entitled to twenty seed yams or its value in money out of her father's estate. In Mbamisi, Enugu - Uno and Ndeni clans of Aguata Division, Awgu Division, Agulu in Njikoka Division and Nkwerre Division, a daughter in respect of whom the 'nrachi' ceremony has been performed has a right to inherit her father's produce. In Ohafia Division, a deceased man's daughter whether married or not, is entitled to inherit and have a share in her deceased father's produce. In Owerri Division, a daughter is invariably given a reasonable portion of her father's farm produce.

Money

All sons as a body inherit the father's money. But in Afikpo and Edda clans in Afikpo Division, a man's money is inherited by his eldest uterine brother. In Mbaloye clan of Aguata Division, Enugu, Ezeike and Etteh clans of Igo – Eze Division Anaedo clan of Nnewi Division, Northern Ngwa Division, Ogbaru Division and Oguta town in Oguta Division, the eldest son inherits the father's money exclusively.

Generally, daughters do not inherit their fathers' money. There are variations of this general rule. In Arochukwu Division and Mbanesi clan of Nnewi Division, daughters inherit their father's money along with sons. In Ohafia Division a man's daughters inherit his money jointly with his sons and maternal relations (including the widow if married from outside). In the absence of maternal relations, daughters share such money with sons (according to seniority of age) and the mother (if married from outside the Division).

A widow does not inherit the husband's money. However, in Agudo and Ndeni clans of Aguata Division and in Ettiti and Mbano Divisions, a widow whose husband has no surviving son inherits her husband's money. In Ohafia Division, a widow who is married from outside the Division inherits her husband's money jointly with the husband's

maternal relations and children. A widow married from within the Division does not have such right.⁴¹

Methods of Distribution of Property and Order of Priority of Inheritance among Relations

Two methods of distribution of the property of a deceased person are recognized under Igbo Customary Law. The two methods are per stirpe and per capita. Per stripe is used where a man is survived by children of two or more wives. In this case, the property is divided among the number of wives who have sons for the deceased. The property is then sub-divided per capita among the sons of each wife. Each mother with a child/children forms one *usekwu*. On the other hand, per capita is used where a man is survived by children of only one wife. The property is divided among the number of the children.

In many Igbo communities of Aba, Abakaliki, Afikpo, Aguta, Anambra, Arochukwu, Agwu, Bende, Enugu, Etiti and Ezeagu Divisions, Abacha, Abatete, Nkpor, Oba, Obosi, Ogidi, Ojoto, Oraukwu, Uke, Umudioka and Umuoji towns in Idemili Division, Itchi clan of Igbo-Eze Division, Mgbo, Igbo Ano, Igbo Ato and Orri clans of Ishielu Division, Isi-Uzo, Mbaitoli/Ikeduru and Mbaro Division, Nri clan and Abagana town in Njikoka Division, Nkanu, Nkwerre, Nenwi (excluding Anaedo), Oguta, Ohafia, Okigwe and Onitsha Divisions, Ezumba, Alamiri and Mbanano clans of Oru Division, Owerri, Udi (excluding Umuneke and Ojebe-Ogene clans) Northern Ngwa, Nsukka (excluding Nsukka and Ogurugu towns/and Umuahia Divisions, the distribution of the property is done per stripe when there are more than one wife (i.e. the property is divided into the number of *usekwu* that have sons). The property is then divided per capita among the individuals' sons in each *usekwu*. Distribution per capita does not necessarily mean that the property is equally distributed. However, where a deceased has children by only one wife, the distribution of his property is done per capita among the children. There are local variations in some communities. In Ezzikwo Division, AkwaUkwu Alor, Aloka Etiti, Eziowe, Nnobi, Nnokwa and Umunachi towns in idemili Division, Ekete-Ekelu, clan of Igbo-Eze Division, Ihiala Division, Effium, Ezzagu and Agba clans of Ishielu Division, (excluding Nri and Abagana), Nsukka town in Nsukka Division, Nnenasa, Orsu-Mbanato and Odida-Anyanwu clans of Oru Division, Umuneke and Ojebe-Ogene clans of Udi Division, Ukwa Division and Ogurugu town in Uzo-Uwani Division, the distribution of the property is done per capita among the heirs irrespective of whether the heirs were born by the same or different mother. However, this does not necessarily mean that the property is equally distributed.

In addition, there are variations in other communities. In Onitsha Division, the distribution of landed property is done per stripe while the distribution of moveable property is done per capita. In Anaedo clan of Nnewi Division, the eldest son inherits the whole property.

In a polygamous family, however, the eldest son distributes the property per stripe at his discretion. In Enugu, Ezeike and Etteh clans of Igbo-Eze Division, the eldest son is the sole heir. In Ogbaru Division, the eldest son inherits the property exclusively though in practice, he sometimes shares the property out with his other brothers. Where the distribution of the property is done per capita, the sons take their shares in order of seniority. The eldest son takes first before the younger ones. As regards the distribution per stripe, each *usekwu* takes its shares in order in which the

eldest sons in them were born. This means that the *usekwu* with the eldest son will take first. The eldest son in each *usekwu* receives the share for his *usekwu* on behalf of himself and his brothers.

A variation of distribution per stripe is found in Nnewi and Ogbaru where the various *usekwu* with sons take in order in which their mothers were married in the family. This means that the son of the first wife takes first whatever his age. Where relations of a deceased man inherit a property jointly, the distribution is done in order of priority. Priority, according to Customary Law Manual means the order in which different persons or classes inherit a deceased person's estate to the exclusion of others according to the degrees of their respective relationship with the deceased.

The order of inheritance of economic plants and trees is as follows. A man's economic plants and trees are inherited by his sons, failing sons, brothers of the full blood, failing them, the father, failing him, brothers of the half blood, failing them, the eldest nearest paternal male relation. There are however local variations. In Enugu, Ezeagu, Ezzikwo, Nkewerre, Okigwe and Udi Divisions and in Ndeni and Agudo clans of Aguata Division, in the absence of sons, the father inherits, failing father, full brothers, half-brothers and nearest paternal male relations take in that order. In Aguata Division (excluding Ndeni and Agudo clans) and Owerri Division, in the absence of sons and full brothers, half-brothers take, failing them, the father takes, failing father, the nearest paternal male relation takes. In Anedo clan of Nnewi Division, the eldest son of a deceased man inherits all his economic plants and trees. In Mbanesi clan of the same division, a deceased man's economic plants and trees are inherited by all his sons but the eldest son takes two shares on distribution.

The order of inheritance of farm produce among relations is as follows. In Bende, Idemili, Igbo – Eze, Ihiala, Isheielu, Nkanu, Onitsha, Oru, Ukwa and Umuahia Divisions, sons inherit, failing sons, brothers of the full blood inherit, failing them, the father inherits, failing father, paternal half-brothers inherit, failing them the eldest nearest male paternal relation inherits. In Agudo, Enugu-Uno and Ndeni clans of Aguata Division, Anambra, Awgu, Enugu, Ezeagu, Ezzikwo, Isi-Uzo, Mbanu, Nkwere, Nnewi, Ogbaru,

Oguta Okigwe, and Udi Divisions, sons inherit, failing sons, the father inherits, failing father, brothers of the full blood inherit, failing them, paternal half brothers inherit, failing them, the eldest nearest male paternal relation inherits.

In Aba, Abakaliki, Arochukwu, Mbaise, Mbaito/Ikeduru, Njikoka, Northern Ngwu, Nsukka and Owerri Divisions, sons inherit, failing sons, brothers of the full blood inherit, failing them, the father inherits, failing father, the eldest nearest male paternal relation inherits. In Afikpo and Edda clan of Afikpo Division, the male children in a polygamous family or the eldest child in a monogamous family will share the yams with the maternal brothers of the deceased. Other farm produce are inherited by the nearest maternal sisters e.g. sisters of the same mothers daughters of the sisters etc. In Ohafia Division, farm produce is shared by all maternal relations (including widow if married from outside) and the children of the deceased, the children taking precedence during the distribution.

It is evident from our discussion of the Igbo customary law of inheritance that many Igbo communities favour male children and male relations like fathers and brothers more than daughters and other female relations like wives, mothers

and sisters. Besides, the eldest male child is given precedence over other male children. The variation in some communities where women as widows, wives, sisters and daughters are allowed to inherit and where male children are allowed to inherit property jointly irrespective of their seniority in their families are few.

In this connection, this customary law of inheritance is not only discriminatory against women but also against other sons of a man who, due to circumstances beyond their control were not born first in their families. This discrimination is not only unfair but also unconstitutional as it violates the provisions of the 1999 Constitution of the Federal Republic of Nigeria. There is no fixed ratio for the sharing of the property among the heirs. The share of the eldest son which is usually larger than that of any of his junior brothers is determined on the basis of what the administrators think reasonable considering the size of the estate and the number of the heirs.

The reason for giving the eldest son special right of inheritance and other male relations of a deceased man the right of inheritance as against his wife/wives and female children is that by the custom, the male heirs are under obligation to cater for the needs of the wife/wives and children of the deceased. While this reason could be plausible in the past when there were well established extended families, it is no longer so in modern times when the male heirs in many cases cater for members of their own nuclear families thereby neglecting their duties to the family of the deceased.

Judicial Approach to Women's Rights and the Concept of Igbo

There have been judicial decisions on women's right of inheritance as a wife or as a daughter under Igbo Customary law of some communities. In *Nzianya v. Okagbue* and *Nzekwu v. Nzekwu*, the Supreme Court held that under Igbo customary law of Onitsha which does not give a wife the right to inherit the property of her deceased husband, a widow has the right only to occupy her deceased husband's property with the consent of her husband's family or subject to her good behaviour. She cannot lay claim to be the owner of the property or alienate it.

In view of the fact that the Supreme Court is the highest court in the country and its decisions are binding on all other courts, this decision of the court that a widow does not have the right of inheritance under Igbo customary law of Onitsha could impliedly mean that a widow does not have the right of inheritance under a customary law which does not give such a right to a widow.

In *Mojekwu .v. Mojekwu* and *Uke .v. Iro*, the Court of Appeal considered the legality of the customary law of Nnewi, which deprives a daughter of the right to inherit her deceased father's property against her rights guaranteed by the 1999 Constitution. The court held that the *Olikpe* custom of Nnewi which deprives a daughter of right to inherit her deceased father's property or any customary law which discriminates against a woman is unconstitutional and is also repugnant to natural justice, equity and good conscience and therefore unenforceable. Similarly, in *Muojekwu .v. Ejikeme*, the Court of Appeal held that the *nrachi* custom of Nnewi is repugnant to natural justice, equity and good conscience and unenforceable. Therefore, a female child does not need the performance of *nrachi* ceremony on her to be entitled to inherit her deceased father's estate.

This progressive decision of the Court of Appeal that the Igbo Customary law of Nnewi which deprives a female child the right to inherit her deceased father's estate was however reversed by the Supreme Court when the case of *Mojekwu .v. Mojekwu* got to that court as *Mojekwu .v. Iwuchukwu* (by the substitution of Caroline Mgbafor .O. Mojekwu deceased with Mrs. Theresa Iwuchukwu). The Supreme Court's reason for reversing the Court of Appeal's decision that Nnewi customary law rule of *Oli – Ekpe* which precludes a female child from inheriting the property of her father is repugnant to natural justice, equity and good conscience was because the issue was raised by the Court of Appeal *suo motu* and without hearing from the parties to the case. The court went further to state that the pronouncement of the Court of Appeal that the *Oli – Ekpe* custom is repugnant went too far as it is capable of stirring the hornet's nest. This is because it is capable of causing strong feelings against all customs which do not recognize a role for women.

Aigbovo has opined that the Supreme Court's failure to consider the alternative ground of inconsistency with the constitution on which the Court of Appeal based its decision has clearly shown that the Supreme Court is reluctant to depart from its conservative policy of protecting fundamental native customs. According to him, this conservative policy of the Supreme Court to favour the preservation of customary laws even if they are unfair by modern day standard has left open the question whether or not a customary law which discriminates against women is valid.

Inheritance Procedure and Access to Property in Igboland

Acquisition of property by human beings does not necessarily terminate at the end of the person's lifetime. It only makes sense when there is transfer of such resources, and hence continuity in the management. This brings into recognition that there are successors or people who inherit whatever that are left behind by a predecessor in every society. The existence of the practice of succession in every human society does not rule out the possibilities of differences therein. These differences are however, according to the dictates of the norms and values of each society, and to some extent, their ethics and worldviews.

The meaning of inheritance from the universal conceptualization, irrespective of societal differences is very simple. It refers to the act of transferring the property of the "dead" to someone who is living. This conceptualization of inheritance underlies the fact that it could occur only when someone is dead, or it is only the property of the dead person that could be inherited. However in exceptional cases transfer of property or right of succession takes place during the owner of property's lifetime but the inheritance proper commences at the death of the person. The process through which inheritance procedure is spelt out could be out of personal will or society's laid down ways of doing it, which has survived through traditions. Even though the society's consideration overrides that of the individual power, especially in the traditional, rural setting, the natural law presupposes that every person has the right to deal with his or her property, as he/she likes. But in practice the last statement seem to be unrealistic when Igbo society and other African societies are considered. The major question in this direction is, what is the inheritance procedure and access to property among the Igbos.

The Igbos of Southeast Nigeria have their peculiar arrangement with regard to inheritance. To them, inheritance

is a process, a significant "rite or, order of passage" for property. It is the accepted medium through which landed and movable properties could be transferred to the next person. One of the important functions of inheritance, beside the transfer of property, which is economic, is the sociological implication. Sociologically, inheritance exists as gap filler between generations, and as such function as an intergenerational bridge in the society. Other functions of inheritance in the society are considered more in the light of their economic implications. Religiously, inheritance from father to children is perceived as connoting spiritual and mythical existence. It shows that the owner of the property has completed all the spiritual righteousness by having his property transferred. This bring us to he notion that it is a curse in Igboland for one not have children to inherit him or her, either by not having children through procreation or having his/her children dead while he/she is still alive.

"Iri-ekpe" as the Igbos call inheritance has some rules relating to the following aspects:

- (i) What forms or direction of inheritance?
- (ii) What are the inheritable aspects?
- (iii) Who decides how property is inherited?
- (iv) Who can inherit who?

These among other issues are the central issues in the inheritance system among the Igbos of Southeast, Nigeria.

Among the Igbos, it is important to note that the rule of inheritance of property, including land is based on the traditional canon of kinship relation (Obioha, 1992). In addressing what forms and directions the practice goes, there is inheritance "testate" and "in testate". In the case of testate, the process of transfer of ones property commences when the person is still alive. When the person dies, it would be taken to some extent that he/she has transferred his/her property to the beneficiaries. This practice has been in existence but not as common as the in testate. Whatever property is rightfully transferred in this process holds and is hardly violated even at the death of the owner. There are however, limitations to testate practice with regard to what could be dealt with. In Igbo society, an inherited property through a patrilineage cannot be transferred "testate", otherwise it could be declared null and void at the death of the predecessor. Typical example in this case is land inherited from ones father's lineage. On the other hand "personally acquired" rather than "ascribed" property could be settled testate to the beneficiaries.

Contrary to the "testate" practice and form, there is the "in testate" procedure. In this case sharing of property takes place after the death of the owner. In most part of Igboland inheritance is common and regarded as normal. The deceased ordinarily did not lay down the process for the sharing of his bequated property, and it is expected as such because it is perceived as a taboo for someone to discuss about how his/her property would be shared, while still alive. The dead however is not concerned with how the inheritance procedure takes place so far the laid down rules and regulations are strongly spelt in the society.

In considering what are the inheritable aspects, it could be affirmed that whatever a person acquires or inherited could be transferred to a beneficiary. All movable property and landed ones are inheritable except if they are not "original" property of the predecessor. For instance lands that are occupied, or are in use through kola tenancy, gift system *etc* cannot be transferred or inheritable asset. Only those that are "totally bought" those are transferable and inheritable. To some extent, when the issue of inheritance and transfer of

right to property are discussed, it is usually assumed that it is something "all profitable". But among the Igbos, it is not only the proceeds that are inherited. At the death of a man, both his assets and liabilities are shared among his inheritors/beneficiaries.

In practice, knowing what to inherit may be quite simple, but who determines how the inheritance is executed becomes an issue of concern. There are however two extremes to this question, the individual owner of a property has limited contribution on how even his property is inherited. The society has a standard practice, which has been observed through centuries and generations. This behoves the fact that in most cases it is the society (kinsmen) that determines how inheritance procedure is executed and maintained. The kinsmen execute the issues based on what has been the practice. Traditionally, but not invariably at the present, the conventional practice of the kinsmen deciding on how a deceased man's property is shared supercedes the individual preferences. This practice is upheld because of the level of peace that usually emerges after the settlement by the "umunna". It also limits the chances of bias and hatred, which some fathers could exhibit before their death. For instance, a father is expected not to give commensurate amount of property due to a prodigal son if the father is left to decide who inherits what and how? But with the decision of the kinsmen even a hated child would get his share of his father's property where he is supposed. It should be pointed out also that the importance and prominence of the kinsmen in determining how a dead man's property is inherited lies on the practice that all matters concerning land and other inherited properties in dispute are settled by the kinship group on the basis of the operational rules and regulations in existence.

The next issue of concern to us in this discourse is addressing the question of who can inherit who? In Igboland in general with a few exception among Afikpo where inheritance right could be traced matrilineally, inheritance is a patrilineal issue. This stems from the observable fact that the "commons" are properties of the "Umunna" or lineage. Obioha (1992) showed in his study of customary land laws among the Awo- Idemili Igbos in Southeast Nigeria, that land is regarded as one of the property for inheritance, and inheritance through agnatic lines or descent. According to the study, an individual has no right of inheritance from the maternal kinship lines. His exposition in this study leads to one of the answers to the question of who can inherit who. Precisely, execution of inheritance right can only take place when people are of the same male agnatic descent.

Also, unlike in some other ethnic groups in Nigeria, where sisters can inherit part of their brother's property or brothers inherit their sisters, among the Igbos, siblings do not inherit one another or each other in normal circumstance, especially for the women. But for men they can inherit their brothers, but not sisters, especially when there is no heir apparent to the deceased man. The most particular way of inheritance is a child inheriting parents. In this case, male children (sons) are the beneficiaries of their father's property when he dies, while the women inherit whatever thing their mothers have. However, it is important to point out here that even though women inherit their mothers, they are not entitled to her landed property.

Other property like clothes, jewelries *etc* are shared among them. On the contrary of children inheriting their parents, it is a taboo for parents to take part in inheriting their

children. Closely related to this is the position of spouses in each other's property. This aspect also calls for concern as the observation shows that while men take over their wives property when they die, the women are excluded in taking part of their husbands property when they die, especially when the marriage is contracted only in customary way.

From the foregoing explanation among others with respect to what, how and who inherits what in Igboland, it could be deduced that most, if not all the practices that exist favour the men. The burning but yet unresolved issue remains the place of women in the whole process.

The Right of Women in the Inheritance Practice among the Igbos

Knowing quite well that there need to be equality of men and women before the law as stipulated in the constitution of the Federal republic of Nigeria, which is derived from various United Nations conventions and charter on human rights, the case is to the contrary in the real practice. Focusing on the right of women in inheritance practice among the Igbos for instance is just one of the many aspects of discrimination and injustice against the women population in our society. In most parts of the ethnic group, instead of perceiving women as stakeholders to property of inheritance, they are themselves regarded as property to be inherited (Mbu, 1995).

Examining the scenario from the perspective of those that are married, the situation is not quite different, except that they could hold on property of inheritance of their husbands. Married women customarily enjoy what belongs to their husbands while they are alive, and reverse becomes the case when their husbands die. It is pathetic to relate that a widow who does not have any male child stands to loose greatly when her husband dies. Customarily she has no stake on what belongs to her late husband, especially land property he inherited from his fathers. On the other hand, a widow that has a male child automatically has a stake and a share in her husband's property (Mbu, 1995). Even though it is evident that women do not have direct access to property through inheritance, emphasis is mostly on land-property. This then leads to a question of what happens in non-land property of their fathers or husbands.

Apart from land-property that is tangible as an object of inheritance, non-land property such as money, and other movable property could be accessible to women. For instance the monetary aspect of the property of a deceased is not a major concern of his kinsmen or sons who determine how the deceased property is shared. Generally, there is no stated and stipulated standard with respect to how non-land property could be shared.

In spite of the limitations and few exceptions that exist on matters of inheritance, the place of women, whether married or unmarried is that of a disadvantage. The practice exhibits the level of male dominance even on things that could be considered for women. Both the property of father and mother (particularly land) are inherited by sons in exclusion of the daughters. Ordinarily, one expects that when the sons are inheriting the property of their fathers, the daughters are supposed to inherit their mothers, unfortunately the expected ideal is far from the reality and what obtains in practice. From the foregoing illustrations on the rights of women in inheritance practice in Igboland, it is evident that women do not have direct and express right to land property (Obi, 1963).

Also, their materials of inheritance are usually non-land properties that are rarely placed on high economic value.

Their position is unlike that of men who inherit very economically valuable materials and property. Even when they have right on a property such rights are only usufructory and transitional, rather than permanent. Thus the inheritance practice as it is done stands to add nothing economically to the wellbeing of the women folk in Igboland, and obviously makes their condition worse.

Inheritance Practice and Poverty Situation of Women

In some parts of Igbo-land, a wife has a right to reside in her husband's house as long as she remains the wife, a right that terminates as soon as her husband dies. Her only saving grace, however, becomes her male children who have an inalienable right to reside in and make claims over her husband's property. If she doesn't have a male child, technically she becomes homeless for the rest of her lifetime, unless she is ready to be inherited by her husband's younger brother who, in turn, becomes her new husband and therefore retains her rights by co-habiting with her.

In Igbo culture also women are not entitled to inherit land from their father's side. But among the Yoruba's, it is the opposite. In Igbo culture also, a woman cannot be the family head no matter her seniority level in the family or academic attainment. Even when the estate left behind has some money, it is inherited by all his sons to the exclusion of his daughters. If the deceased had no sons, then his eldest brother would inherit his property. The only means by which a female child can inherit her father's property in the absence of a male child in Igbo culture, however, is to remain in the family with the hope of bearing a male child who becomes an heir. And no family prays for such a situation!

In some parts of Northern Nigeria, women's right of inheritance is assured and the share they are to have in the property is predetermined. If a man dies without will or wish, his widow is entitled to only a quarter of the estate. But if there are children or grand-children, her share will be reduced to one-eighth. Where the marriage is polygamous, the wives share the one-quarter or one eighth equally among them.

Discriminatory provisions in indigenous laws and customs especially regarding inheritance by women have brought a lot of physical, emotional and psychological problems. It is said that a healthy life involves a sound functioning of mind and body.

Most women in Nigeria, especially of the Igbo stock, do not enjoy this condition due to dispossession and oppression involved. This feeling of 'I'm a second class citizen' hunts them for life and they move about with the psyche weighing them down. They feel inferior, deprived and downcast. Most women die because they don't have a male child and some of them develop psychological problems that may lead to premature death.

Women should seek for a discrimination-free revolution in matters concerning them. The spirit of the new bloodless revolution initiatives for women emancipation should be for them to take matters concerning them to courts of justice anywhere in the affected areas.

Poverty Situation of women

In life situation, irrespective of cultural differences, transfer of wealth is one of the means of initializing or supporting existence of wealth at the receiving end. Contrarily, non-transfer of wealth could mean lack of support or initializing of wealth at an expected receiving end. Considering the above hypothetical statements as they relate to the inheritance practice, among the Igbos of southeast, Nigeria, women's position could be classified under the

second hypothesis, while their male counterparts belong to the first hypothesis. This brings up the question of the interface between inheritance practice and poverty situation of women, or more succinctly, how the inheritance practice among the Igbos deepen the poverty condition of women in that society. First let us examine the poverty situation of women based on what obtains in basic statistics survey in Nigeria.

Studies have shown that in the female-headed households, the incidence of poverty has been high, 58.5% in 2012, 39.9% in 2008, and 38.6% in 2003 27.0% in 1999. Comparing female-headed households with that of male-headed ones, table 1 shows that female-headed households earned about three quarters of what male headed households earned. (FOS, 2015).

Table 1. Income Sources by gender of Household heads

Income Source	Male Headed	Female Headed	All Nigerians
Basic Cash	65.1	76.9	66.5
Other Cash	18.0	12.9	17.4
Total Cash	83.1	89.8	83.9
COP	15.9	9.5	15.1
Imputed Rent	1.0	0.7	1.0
Total H-H Income	100.0	100.0	100.0
Total H-H Income (N)	6,508.3	4,839.7	6,252.2

Source: FOS, 2015

However, according to the results of the survey, it is evident that female-headed households are poorer than that of the male headed ones, perhaps because of certain society induced disadvantages on women. This validates the notion by IFAD, (1993), Obioha and Odumosu, (2002) that households headed by *defactor or de jure* by women are among those identified as most vulnerable groups in African society including the area of discuss, Igboland. More explicitly, commenting on rural women, Obioha and Odumosu (2002) believe that rural women in general and particularly the households, which they head, are often the most disadvantaged in African societies. They are the most vulnerable group of rural people, whose lives are marked by hardship, deprivation, and uncertainty. IFAD (1993) noted in close relation to the above observation that rural women are the worst nourished, and illness are far more widespread among them than their male counterparts. The total number of rural women lump below the poverty line in developing societies was estimated to be 564 million. About 55% of female-headed households are in poverty with women constituting about 42% of the total poor.

Among other factors, women's extremely limited capacity to gain access to land and consequently, credit is a major contributor to their poverty (Narayan, 1994). Access to land and control over lands and related properties has definite impact on a family's socioeconomic status, especially for women. Minimal control or lack of control over land means that women have little access to credit facilities, which in most cases are provided on the basis of land as a security. This means that many women cannot obtain loans from commercial institutions for various investment opportunities that can benefit them. The situation and practice as prescribed by the culture further widens the gap between the male and female gender categories. More especially by creating a gap that cannot be filled irrespective of how hard the females work.

Conclusion

From time immemorial, the death of one's spouse is a moment of devastation and sadness. This is usually occasioned by loss of love, care, company and livelihood, attended by a feeling of abandonment. Again, it represents not just the departure of a companion and soul mate but in most times, a breadwinner. This development could also lead to a radical change in one's social status and lifestyle. It is natural for one to grieve for the death of a loved one. Thus, in Igbo culture, issues associated with death are often emotive. This is due to the fact that death presents a situation in which one loses the power of negotiation, since it is beyond human control. The survivor's helplessness is made worse if, as is the case for our many rural-based respondents who are widows, the loss of the capacity to negotiate is extended to the activities that are meant to restore normalcy to them. Put differently, when the process of re-adjustment to the new scenario created by bereavement is controlled by pre-defined cultural forces that are inherently detrimental to the wellbeing of the bereaved, the situation, becomes more pathetic and calls for serious attention. Such is the situation with widowhood and inheritances, the subject matter of this study. Culture, as we know, is dynamic not resilience.

It could be adjusted over time to suit present situations/contemporary demands. Though it is often argued that the destruction of a culture is to destroy the root from which human society sprung from, it is even more pertinent to note that retaining a culture that is oppressive is destroying the oppressed. Therefore, with a positive disposition and change, widows can get an opportunity for growth, and discover aspects of their personalities that facilitate their own empowerment. In this task, the society must play a vital role. The process of change in a positive direction, which has begun, should be sustained and improved upon. Though this process may be slow, it must however be vigorously pursued and supported by all. This is so because if you, as a man, are not directly affected by poor widowhood inheritance practices, your wife, mother, daughters or female relatives may be affected. The task to remedy the situation is not an individual task. It is a collective one that must be approached from a multifaceted perspective. The three tiers of government in Nigeria, the federal, state and local governments, the custodians of culture and traditions, the agents of the criminal justice system, non-governmental organizations, the men folk and women are all agents that will be needed in this move for a change against the wide spread of customary law abuses and in eliminating discriminatory practices against women.

Recommendations

Having critically examined and analysed the dynamics of women inheritances in Igbo land, we have come to see the need for all hands to be on deck in order to remedy the situation. Although conclusions from the research and data are not definitive, the researcher finds it expedient to make a number of recommendations with respect to how we address the practice of poor widowhood and women inheritance practices in our society. As a corollary, this work makes the following Recommendations;

i. The education of both the girl and boy child should be given priority attention in our society. It should be noted that education plays an important role in causing societal change. Our society desperately needs this societal change especially in the area of value in land and property right. We must educate and gender sensitize both men and women. This is an

effective way of transforming popular beliefs and attitudes. In this regard, awareness programs in the local languages, the distribution of booklets and posters in local languages and application of other trade-modern means of communication should be applied positively.

ii. Training and Empowerment Programs that will include formal and informal education geared towards enabling women to come out of their shells and be productive and not just child bearers should be implemented at all levels: Federal, State, Local Government and community.

iii. Networking and convergence among women groups for their collective benefits should be encouraged. Women themselves must rise to the challenge of remaining united, focus, purpose driven, proactive and resilience in pursuit of their collective dreams and aspirations.

iv. Traditional institution and practices should be modified in line with global trends and emerging facts. The age long tradition of making women to play subordinating role in the society should be vehemently discouraged by all.

v. The mass media can be and should be applied as an effective tool towards ensuring women's active involvement in every stratum of our socio-economic and political life. Women should also take advantage of the instrumentality of the mass media to propagate their message against gender inequality.

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