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Reconciling Customary Law with Constitutional Guarantees: Women's Property and Inheritance Rights in Nigeria

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ABSTRACT

Succession and inheritance represent the core legal mechanisms through which the rights, duties, obligations and property of a deceased individual are transferred to surviving beneficiaries, including heirs, spouses and relatives, in accordance with established legal principles. In Nigerian jurisprudence, succession and inheritance are inextricably linked concepts governing post mortem assets distribution. However, customary law in Nigeria has historically been anchored in deeply entrenched patriarchal traditions and the customary rule of male primogeniture, which systematically position women as subordinate to men and disentitle female offspring and wives from inheriting immovable property. A significant paradigm shift occurred with the landmark Supreme Court of Nigeria 2014 decision in Ukeje v. Ukeje, wherein the apex court invalidated discriminatory customary rules for failing the statutory repugnancy test and violating constitutionally guaranteed fundamental rights to equality and freedom from discrimination enshrined under the 1999 Constitution of the Federal Republic of Nigeria. Although this historic judicial pronouncement affirmed equal property inheritance rights for women regarding immovable estate, judicial activism alone remains insufficient to dismantle deep seated cultural biases or guarantee widespread socio legal compliance across rural communities in Nigeria. This study adopts the doctrinal method of legal research and critically analyses the existing legal framework governing female gender rights and property inheritance under Nigerian customary law. The paper found that most of the cultural hereditary practices are firmly entrenched and intertwined with religion or superstition and high rate of illiteracy, especially among the rural population. In addition, rules of customary law are unwritten, uncertain and undefined and as such difficult to be enforced. The research contends that judicial precedents must be accompanied by comprehensive policy reforms and targeted public sensitization to fully operationalise, enforce and institutionalise gender equity in property succession in Nigeria.

INTRODUCTION

Property inheritance including the rights of women to inherit property have received very little degree of attention in different parts of Nigeria. This discrepancy is rooted upon certain customs, tradition and religious believes which were passed down from one generation to generation. Such customs and tradition include the wrong notion that the roles of women were mainly child bearing and tending to the kitchen, and other domestic works at home. In fact, equality of sexes is alien to most native law and custom.

Under Nigeria native laws and custom, wives were taken as chattels to be sold by the parents to the husbands as soon as the bride price has been paid. And if the husband dies, she is regarded as part of the estate of the deceased husband (Suberu's case, 1957). Customary law is often used in this instance and there are as many variations as there are ethnic groups in the country. Inheritance like most rights, are tilted towards the male gender. The cultural practices of the various constituent tribes, societal norm, illiteracy, poverty, and religious beliefs have all attributed to the continuing inequitable representation of women directly and indirectly. And even though there are laws, conventions and treaties that advocate for the equal treatment of all human being regardless of their sex, tribe, origin, and circumstances of birth, these discriminatory practices still operate today unfettered (Azinge, 2013).

Women constitute about half of the population of the Nigerian State and are known to play vital roles as mothers, producers, managers, community developers/ organizers etc. Their contribution to the social and economic development of societies is also more than half as compared to that of men by virtue of their dual roles in the productive and reproductive spheres. Yet their participation in formal and informal structures and processes, where decision regarding the use of societal resources generated by both men and women are made, remains insignificant. The Nigerian society has been patriarchal in nature which is a major feature of a traditional society (Akinola, 2009).

The inheritance practices of intestate estate under the customary laws in Nigeria have almost as many variations as there are ethnic groups in the country and they are predominantly patrilineal that is tracing descent through the paternal lineage. Inheritance and succession under native law and custom is determined primarily by the customary rules of the place of origin of the deceased person and not by where he resides or where the property is situated. These practices conform to the primogeniture

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rule which is a system of inheritance or succession characterized by the firstborn child, specifically the eldest son (Chambers, 1981) who consequently becomes the head of the family. He occupies the family house, holding same as trustee of the other children, male or female (Kolajo, 2001).

For example, in Yoruba land, the distribution of an estate of a deceased person who dies without a valid Will is per stripe; i.e., by the number of wives that the deceased had and not by the number of children (Omuobu 2008). In Calabar, the eldest surviving male member of the deceased person succeeds as the head of the family and inherits the deceased estate. Also, among the Fulani, the eldest son inherits his deceased father's cattle, the main asset in those days, out of which he makes presents of some of them to his younger brothers according to their needs. Finally, under the Bini custom, the right to succession of the entire estate belongs exclusively to the eldest son of a deceased person who acts as a sort of trustee for the other children Okenya-Imeh, 2007).

The inevitability of death brings with it a plethora of challenges for the family of the deceased; apart from the burial rites and ceremonies, foremost on the list of challenges is what to do with the property of the deceased. In Nigeria, when a person dies, and leaves property, the property of that person is given to another person or people as their inheritance. Who inherits this property is decided in different ways; a person can decide before he or she dies who should inherit his property and under the English law, this is written down and signed in a document called a Will. But where there is no Will, other laws are used to decide who gets the property.

Customary law gives a perception of general acceptability in terms of justice dispensation and access to justice (Fieldman et al, 1993). In addition customary law applies to a greater number of people in the sense that most informal transactions in Nigeria such as matters of land tenure in rural areas, marriage and inheritance are within its purview. Moreover, the perception is further hinged on the idea that prolonged delays with regular court proceedings are not associated with customary adjudication. More often than not litigation in regular courts comes with prohibitive cost, and bribery resulting in flawed judgments (Salami, 2003). The growing general perception is that the customary adjudicatory system is more reliable than the received English system of adjudication.

No doubt, customary law refinement can be traced to the validity tests employed to checkmate or totally eliminate repugnant, archaic and unconscionable aspects of customary laws. The courts have achieved huge success in this regard and the Supreme Court in 2014 affirmed the right of Nigerian women to inherit properties from their deceased parents in the celebrated case of Ukeje & Anor. v Ukeje.[2014) LPELR – 22724 (SC) / Ukeje v. Ukeje (2014) 11 NWLR (Pt. 1418) 384]. The question follows, is the controversy over?

LITERATURE REVIEW

For the purpose of conducting this research work, the researcher employed some materials which are beneficial to the study of this research work. Some of which are:

Ikechukwu (Ikechukwu 2012) in his book titled 'Guide to matrimonial proceedings' dealt on the practical aspect of both forms of marriages. The author describes marriage according to Section 69 of the matrimonial Causes Act. As a practical work, judicial precedents and case laws were utilized by the author in a bid to fully divest customary and statutory law marriage, including Islamic laws. One of which is the case of Jabre v Jabre where the court adopted the above section in reaching the decision of the case.

Kate (Kate 1997) in her book made a purview of customary law marriage but extensively discussed statutory law marriage. Although, the statutory law marriage discussed in her book is useful to this research work as it made references to judicial decision and acts.

Emakpor (Emakpor 2002) lucidly and satisfactorily gave an in-depth understanding of marriage under the Act alone. There was no particular attention to customary law whatsoever. The formal validity of marriage was extensively discussed. This is a major part of this research work and it's indeed beneficial to this study. While conducting this book as a source of this research work, it was noticeable that the canon law was utilized as well. Nevertheless, the advent of the statutory law is useful to this research work.

Syeda and Mohammed (Syeda and Mohammed 2018) examined Islamic law marriage as part of customary law marriage. This article explores the laws of Muslim marriage in the context of the Holy Qur'an taking into account, the requisite of a marriage, prohibited degrees to marriage and the legal effect of marriage. Nowhere in this article was statutory law mentioned. Although, the detailed study of Islamic marriage is essential.

Musa Nojimudeen (Musa 2021) describes marriage in the following words;

Whatever meaning people assign to marriage, Islam views it as a strong bond, a challenging commitment to life itself, to society, and the dignified, meaningful survival of the human race. Furthermore, it's the kind of commitment in which both parties find mutual fulfillment, self-realization, peace and love, compassion and serenity, hope and comfort.

In the same vein, only Islamic marriage was stated in this article. Other views on marriage were expressed in this article, although the writer's view was prevalent. Again, this is useful in this research work.

Sagay (Sagay 1999) in his book Nigerian Family Law Principles explains statutory law marriage extensively with numerous judicial decisions to buttress his points by picking out keywords a judicially dissecting each study. The author further employed cases, statutes and commentaries as it relates to statutory law marriage. Different views from different writers and judges on

the subject matter are beneficial to this study. However, customary law marriage was also discussed extensively.

MATERIALS AND METHODS

The article adopts the doctrinal method of legal research and critically analyses the existing legal framework governing female gender rights and property inheritance under Nigerian customary law.

Therefore, the paper relies on constitutional and statutory provisions, treaties, and reported decisions as primary sources, and on books, journal articles, theses and press reports as secondary sources. It does not cover every ethnic group in Nigeria. The basic groups discussed are chosen because their rules illustrate the main variations.

While the law of inheritance and succession under English law is reasonably settled, the aspect dealing with customary law is not, which breeds conflict and acrimony among heirs. What's more, the law discriminates among beneficiaries. Some are accorded rights of inheritance and others are not. Consequently, this customary law falls under the repugnancy doctrine test and, more important, international conventions against discrimination. One example is the Convention for the Elimination of All Forms of Discrimination Against Women (CEDAW), an international instrument that establishes standards of equality for all both women and men. The convention was adopted by the United Nation General Assembly on 18 December 1979, and came into effect on 3 September 1981.

Apart from CEDAW, African charter, though a continental regulation and the constitution of Nigeria are all legal framework that prohibit discrimination of women from inheriting either their father or husband on grounds of gender inequality. Despite the availability of these laws, discrimination still persist in the method of distribution under various customary laws. Unfair practices allow some to inherit, while others cannot. The fundamental question therefore is "why is it that the female gender is not allowed to inherit in the properties of their father or husband as the case may be? Could it be the fault of the legal framework or traditional practices handed down from time immemorial that women are seen as chattels to be inherited? The above question deserves legal solution and this paper provides suggestion to resolving such problem.

RESULTS AND DISCUSSION

Gender Inequality and Discrimination in Nigeria

Historically, gender inequality and discrimination exist between men and women. Women have been either historically denied access to or granted unequal access to economic opportunities, power, status and privileges in society. Women experience unequal access to resources and decision-making processes, with limited mobility in most countries. Women are under-represented in almost every sphere of social life such as polities, commerce, agriculture, industry, the military, religious and educational institution (Amadi 1982). In the world today, the connection of gender is being untidily used to denote the different and unequal perceptions, views, roles, relevance or rewards that a society assigns to the two sex categories, discrimination happens to both male and female in individual situations, particularly the female, or women group. The act of subjugating women is an inherent tradition, which has consistently been kept in an active state and coupled with its debilitating ability. The society has been grappling with the problem of creating a fair, just and equitable arrangement among different people, the mainstream agenda of development is challenged through; how to enhance the role of women in politics and governance. There is not human society where women are not discriminated or marginalized. Women are an entrenched, global pandemic (Udegbe 2004).

The Nigerian society is patriarchal in nature which is a major feature of a traditional society. It is a structure of a set of social relations with material base which enable men to dominate women. Women are therefore discriminated upon from, in most cases, acquiring formal education, mistreated and perpetually kept as house-help; the average Nigerian women is seen as an available object for prostitution, forced marriage, street hawking, instrument of wide-range trafficking and a misfit in the society. Thus, the purported irrelevance associated with the status of women in society has merely reduced an average woman to an inferior commodity (Akinola 2009). Women constitute about half of the population of the Nigerian State and are known to play vital roles as mothers, producers, managers, community developers/ organizers etc. Their contribution to the social and economic development of societies is also more than half as compared to that of men by virtue of their dual roles in the productive and reproductive spheres. Yet their participation in formal and informal structures and processes, where decisions regarding the use of societal resources generated by both men and women are made, remains insignificant. The Nigerian society has been patriarchal in nature which is a major feature of a traditional society (Aina 1998).

The patriarchal society sets the parameters for women's structurally unequal position in families and markets by condoning gender-differential terms in inheritance rights and legal adulthood, by tacitly condoning domestic and sexual violence and sanctioning differential wages for equal or comparable work. Tradition or culture and religion have dictated men and women relationship for centuries and entrenched male domination into the structure of social organization and institution at all levels of leadership. Patriarchy justifies the marginalization of women in education, economy, labour market, politics, business, family, domestic matters and inheritance (Salami 2003). Thus men are being trained for leadership activities while women are confined to domestic activities; roles ascribed to them by culture which affect them later in life, thereby making them to lose self-confident/worth and have low self-esteem in their career in adult life,

politics inclusive. Despite the pronounced commitment of the international community to gender equality and to the bridging the gender gap in the formal political arena, reinforced by the Convention on Elimination of All Forms of Discrimination Against Women (CEDAW) (Uku 1992) Omolewa defines that this inequality has its root in the colonial system of education which was primarily geared toward meeting the manpower need of the colonial government that obviously alienated women from educational and economic opportunities. Women in Nigeria are harder-hit than men by poverty due to the non-challant emphasis placed on female education, and the prevalence of early marriage which tend to further impoverish the womenfolk, and subject them to statutory discrimination (Oyo 2002). Women have demonstrated some level of probity and proven to be better managers in the home and informal sectors of the economy and can play important management roles in several institutions worldwide. It was also shown that ignoring gender equity and continued unfair treatment for women and girls will only impede sustainable development in Nigeria (Aborishade et al, 2013)

This process can be influenced by institutional norms, as well as culture and tradition, which are both determined by religion. As the relationship between religion and society is reciprocal, religious system in Nigeria are expected to advocate for women liberation and freedom. It is apparently, that the status of the study of women in religion also reflects this fact; this research will x-ray the social status of whole, while considering this fact; this research and women development, gender inequality in women in Nigeria, feminism and women development, gender inequality in Nigeria under socio impacts and the under development of women. It went further to view the committee on the Elimination of Discrimination Against Women and how religion is remedying the situation (Pamela 2005). In the case of Onyibor Anakwe & Anor v Mrs. Maria Nweke, (2014) 9 NWLR (pt. 1412) 393, this case challenges the customary law of male primogeniture (the right of succession belonging to the eldest son) of the Akwa people in Nigeria. The supreme Court of Nigeria found that any custom that denies women, particularly widows, their inheritance, is repugnant to natural justice, equity and good conscience and is condemned by the Supreme Court.

In Yoruba land, equality and equity prevails in distribution of an estate of a deceased person, who dies without a valid Will. It is either devolved per stripe; i.e. by the number of wives that the deceased had and not by the number of children know as Igi kan kan or Idi-Igi.

Where there is a serious dispute, the family head is permitted, in some parts of Yoruba land, to have a final discretion by recommending the distribution of the estate, per capital; the Ori Ojori mode of distribution, i.e. by the number of children and not by the number of wives. It is well settled rule of native law and custom of the Yoruba people as held in Suberu v Sunmonu that a wife could not inherit her husband's property since she herself is, like a chattel, to be inherited by a relative of her husband. The reason for the rule in Suberu v Sunmonu was explained in Sogunro-Davies v Sogunro-Davies where Beckley J. had opined that Yoruba Native Law and Custom deprived the wife of the heritance right in her deceased husband's estate because devolution of property follows the blood. Consequently, unless a property is given to a wife and it is proved to be an outright gift, it will pass on the husband's death as family property to be inherited by the husband's children or the husband's family where there are no children. The wife has no right of inheritance whatsoever. It is also long settled under the Yoruba customary laws that daughters can inherit equally as sons.

The native law and customs among the Yoruba, especially in respect of inheritance and succession, have grown out of the age-long practices and dealings of the people. The Yoruba customary law of inheritance and succession appears to be general among the constituent Yoruba States. This, however, is not to say that there are no few differences among the sub-ethno cultural groups.

In the Igbo community Mojekwu v Mojekwu daughters and wives do not possess the right to inherit and, that is, neither the daughters nor the widows of the deceased have the right in the intestate estate of the deceased. In Nezianya v Okagbue a woman in her deceased husband's house has only possessory rights. She cannot alienate her deceased husband property. Except, where a daughter accepts to remain unmarried in her father's house with a view of raising sons in her fathers name, then she can inherit. This is known as "Nrachi" or "Idigbe" institution. This today, goes to show the displacement of women's inheritance right amongst the Ibo's unlike the Yoruba's as seen in the case of Salami v Salami daughters have no right of inheritance over their mother's landed property.

Where a wife predeceases her husband, the sons will inherit and failing, the husband inherits and failing his male relatives. In some parts of Igbo land where the intestate died without sons, brothers or father, his estate is inherited by his eldest nearest paternal male relation such relation is known as "Oriekpe" while the custom is known as "Iri-Ekpe" Custom.

In the Urhobo community of Delta State in the southern part of Nigeria women's roles towards traditional African development to the cultural patterns are notable. In the traditional Urhobo family system females' influence on conventional society's moral strength was enduring. Traditionally, women have been given these caregiving roles, putting them in a vantage position for procreation and life sustainability. This also helps the family system to uphold societal morals and values. Therefore, family sustainability primarily depends on women in the traditional Urhobo community. Urhobo women performed an essential responsibility by imparting moral and social values to children. As noted by Ikperha, the teachings generally were targeted towards promoting family life and sexual regulations among the unmarried (Afisi 2010).

In Nigeria, in spite of the several women's rights outlined

in the 1999 constitution, many women do not enjoy the same freedom as men, particularly in the fields of education, economic empowerment and political participation. There exist a wide range of inequality between men and women in attaining certain positions in Nigeria. The discrimination against women has permeated through the Civil Service and Military ranks where critical appointments are being reserved for only men with women neglected to the background. Politically, the woman is marginalized, she hardly gets the permission to venture into politics as men believe that home keeping should be their priority and not how the society is governed.

The mode of operation of political parties in Nigeria is one of the factors inhibiting women's participation in politics. Most political parties meetings that are held at night, discourages many women in politics especially married ones, to play active roles. It takes very few women especially divorcees and widows to attend nocturnal political meetings in which important decisions are made. Most men and the women themselves sometimes believe that the women does not have the requisite economic power to indulge in dirty political games characterized by money shows, violence, and many other vices (Batliwali 1994).

Surprisingly, anti-discriminatory laws and legislations exist in Nigeria but they have not been enforced. The Nigerian legal system is made up of a tripartite system of laws (Statutory, Customary and Sharia) which made it difficult to fulfill one of the basic stipulations of the Nigerian Constitution (Chapter II Section 17 Subsection 2) which requires that all citizens regardless of gender, circumstances of birth etc. shall have equal rights, obligations and opportunities before the law and which states that "all citizens without discrimination on any group whatsoever, she have the opportunity for securing adequate opportunity to secure stable employment (Alice 1987).

The entitled laws and customs affecting women's status in Nigeria, Dr. J.O. Akande lists the following disadvantages among many others suffered by women under civil law: A married woman cannot control her own property especially if the property is acquired after marriage. She cannot enter into loan or hire purchase agreement without the husband's consent. She cannot obtain a passport without the husband's consent. Her domicile follows that of her husband; hence during the subsistence of marriage, she is merely an appendage of the husband and not an individual. For instance a woman living in Nigeria cannot start divorce proceedings against her husband if he is living outside Nigeria (Alice 1987).

The Determinants of Gender Inequality of Nigeria

There is no human society where women are not discriminated or marginalized. Women are an entrenched, global pandemic. Udegbe specifically explained that male and female goes along with a number of stereo-type that virtually imposes both role performances, possibilities of different kinds. Women have been traditionally designated to occupations, which require such of skills with cultural values. Discrimination against women has its roots in the nature of our societies which celebrate men as being unique, stronger and fit for the public space while women are feeble and weak meant to stay within the confluence of the private space (Udegbe 2004). The causes or determinants of Gender Inequality in Nigeria stated below are not merely what is in the interest of the public but should constitute sufficient public interest (Ologe, 2024) leading to a national discourse that would engender real change;

1. **Educational Factor:** Most women in Nigeria are illiterate despite the facts that they constitute half of the country's population. Regardless, of the vital key perform in the society; mother, producer, home manager, community organizer, social-cultural and political activities. Scholars postulate that most families prefer to send their male child to school, irrespective of the fact that female children are more important to attend school (Green 2006).

Education gives women a sense of belonging in the society, as it will encourage them to make a positive impact in their chosen carrier. Though the discrimination that makes women less likely to have access to paid employment has a negative impact, economic disparity favours men to the disadvantage of women.

This marginally increases illiteracy in women and stiffen their competition with their male counterparts in politics. Invariably, lack of education makes women ineligible for either elective or appointment position. Professionally empowered, she will make use of her endowment in a positive way (Makkinen 1989).

2. **Discriminatory Culture and Norms:** It is necessary to state that some existing culture and norms are discriminatory in nature. Women are typically associated with domesticity. Gender inequality remain pervasive in may dimensions of life, the nature and extent of the discrimination very considerably across countries and regions (Ogwu, 1996).

In Nigeria, the female is discriminate, even in the families. Consistently, men were trained not to partake in most domestic chores such as cooking, sweeping, fetching water and firewood, which are exclusively left for women. It has been posited that family responsibilities and child bearing to women makes women not to feature in public matters as they are likely to be away on maternity leave and other house hold matters and that are likely to take them away from the scene of politics (Bisi 2011). Actually, the tradition or cultural beliefs in Nigeria as a typical patriarchal society see women as property of her husband who has moral right to decide the actions which the woman will take, whether she will come out to join the active politics is a matter which the man will decide since the tradition has ascribed the headship of the family to the man. In the concept of inequality and subordination of women to men, there is no relationship, and women are like slaves working to enrich their husbands and

masters, who the tradition has ascribed the pillar of the family and the key to continuation and retention of the family name (Okojie, 1999).

3. **Economic Factors:** Lack of economic incentives in one of the factors preventing women from participating to active politics in Nigeria. Historically, women experiences discrimination that put them at a disadvantage economically. Lack of finance brings hindrance to effective female participation in Nigerian Politics. Similarly, large portion of the Nigerian female population is not as financially strong as their male counterparts. Political campaigns are expensive and require solid financial backing for success. Only a few affluent women have the financial economic power to enroll in political campaigns (Agbalajobi, 2010).

Consequently, political financiers or sponsors of politicians prefer male candidate to female one. Life foe women is on the average not only hard and poorly compensated, it is dangerous due to sexual division of labour and job opportunities offered on sex basis has given men productive gender roles enabling them to possess more purchasing power over their female counterparts. Discrimination plays out in the preferential treatment within the job economy. Presently, economic system, which is based on acute competition everywhere in the world, is always a very expensive project, while men are willing to take risks, including taking loans or selling their properties to finance their electoral campaign. Women are verse to taking risks, or lack tangible properties to take off. Women political aspirations have been grossly incapacitated by lack of financial bedrock to subsist their endeavours (Aluko, 2008).

The Way Forward: Appraising Ukeje v Ukeje

Ukeje v Ukeje established the constitutional right of a daughter to share in the immovable intestate estate of her deceased father, alongside her brothers. It also affirmed the locus standi of a daughter or female to initiate or defend action relating to her right to equal inheritance of immovable property of such intestate estate. The decision primarily eliminates and reverses the age-long custom whereby women generally had no rights to inherit property under the Igbo native law and custom, as such rights were reserved exclusively for sons/males. Consequent upon Ukeje, and bearing in mind that the qualification for inheritance is dependent on blood relationship with the deceased intestator, any member of his family, whether son or daughter, can jointly or severally take out action to protect the family property or affirm a right therein [Alaribe v Okwunu (2015) LPELR 24297 (CA); Odum v Uchendu (2015) LPELR-25615].

The decision in Ukeje v Ukeje also seem to have settled a vexed issue, namely, whether a daughter of the deceased born outside wedlock has a constitutional right of inheritance to his immovable property. The is deductible from the Supreme Court's interpretation of section 42(2) of the 1999 Constitution (as amended), that is, no one shall be made to suffer any discrimination based on 'circumstance of birth.' As such, once a child (male of female) has been acknowledged by the father, such child automatically shares the same right as the other of his children [Young v Young (1953) WACA 19].

The said section 42(2) of the Nigerian Constitutionally has also been interpreted to emphasize that no native law or custom can disentitle a child born out of wedlock from sharing or inheriting a father's immovable estate Mgbodu v Mgbodu [(2018) LPELR-43770 (CA)]. Despite the highpoints in Ukeje, a number of gaps have been identified. Some of these gaps raise issues of technicality which may be relied upon to threaten or defeat the progressive intent of the judgment.

No doubt, Ukeje may have actually solved the problem of discrimination. However, the court in Ukeje did not consider developing customary law by invalidating only the discriminatory aspects of the law rather than the system of customary law of male primogeniture. As such, it failed to balance the need for preservation of non-discriminatory customary law, albeit, the Nigerian Constitution empowers the courts to invalidate only the discriminatory aspect of the law and not the system of customary law generally (Aladetola, 2017). Diala (2014) also expressed skepticism in the potency of the judgement to even finally and permanently resolve the primogeniture issue against all Nigerian women and not just women in Igboland. He argued that Ukeje is 'parochial' because, logically, it did not specifically abolish the rule of male primogeniture in South-East Nigeria but simply declared same to be incompatible with the right to equality in section 42(1) and (2) of the Nigerian Constitution, thereby failing to protect the inheritance rights of women in other parts of Nigeria and leaving the real social context of inheritance yet unresolved (Diala, 2014). In contrast, however, Ojilere, Onuoha and Igwe argued instead that, by the doctrine of privity of actions (Macfarlane, 2019), and bearing in mind that Ukeje v Ukeje was not a class action litigation, the Supreme Court was right in not making an Order which will affect a party who was not before it, or falling into the temptation of granting to a party what was not prayed for (Ojilere, et al, 2019). Nonetheless, it is anticipated that in future related cases, the apex Court should make an all-inclusive interpretation of constitutional rights capable of affecting the property inheritance rights of women and girls across Nigeria. The court can achieve this feat, despite the doctrine of privity, by applying the example of the Supreme Court of India, which synes all fundamental rights in the Indian Constitution with the right to life and personal liberty in Article 21 thereof. Consequently, a violation of a women's right to equal property inheritance vide section 42(1) (a) and (2) of the Nigerian constitution may well be broadly interpreted as an implied violation of the sacrosanct right to life in section 33 of the said Constitution, and meted with much greater consequences.

Expanding Women's Property Rights beyond Ukeje v Ukeje

It must be conceded that one of the greatest threats to the Ukeje decision lies in the difficulty and reluctance

of the Igbo people to accept a new approach to an age-long traditional practice which was supposedly handed down to them from time immemorial by their ancestors. As such, in some affected communities, women are still being denied the right to inherit the immovable property of a father or husband, contrary to Ukeje. It is on this basis that alternative approaches become necessary for institutionalizing women's right to equality in dignity and property inheritance rights by expanding the latitude of Ukeje v Ukeje. Some of these recommendations include social, legal educational and civic alternatives, namely:

1. Sensitizing women on the implications of the Ukeje decision as a way of asserting their independence and right to sue for equality in inheritance to immovable property (Bala, 2017). This is without prejudice to the finding the some educated women in Igboland have also been denied the right to inherit immovable property either as a daughter or as a widow. In such situation, some of those women are timid, financially handicapped, reluctant or otherwise unable to decisively challenge the discriminations except with the support of 'outsiders' or relevant NGOs (Onuoha, 2007).

2. The role of the print, electronic and social media in the promotion of gender equality rights as well as in the sensitization of women and the general public on the new consciousness which Ukeje v Ukeje represents must be encouraged by government at all levels. This sensitization is achievable through documentaries, social media advocacy, the internet, newspapers, as well as television and radio programs, among others.

3. The National Assembly as the arm of government mandated to make laws for the order and good governance of the Federation should be encouraged to domesticate the Ukeje v Ukeje decision by legislation which should also specify criminal sanctions for violation of the gender equality and non-discrimination principle of women's dignity and inheritance rights, not only in Igboland but across the country. Such legislation will ensure national application of the principle of gender neutrality in the inheritance of both movable and immovable assets of a deceased, upon intestacy or intestacy.

Re-socialization

Having identified the fact that customary law is a mirror of acceptable usage the necessary thing is to ensure that what emerges as customary law meets with the human and constitutional rights standards globally. If custom mirrors modern and global acceptable usage then the role of the courts will be limited and the tyranny of judicial interpretation would be eroded. This is only achievable through re-socializing the society to realize the value of the rights of the person. This is a long term strategy which will promote the revaluation of the process of inheritance to the point that meets the challenges of the times.

Circumventions

The possibility exists of circumventing the limitations and restrictions of customary law of succession. For example, the marriage of a couple under the Marriage Act is one option. Another option is the making of wills to express the preference of the testator. Additionally a person from the Eastern parts of Nigeria where disinheritance of female children is practiced may acquire landed properties in areas where equal rights of inheritance exists for male and female children so that in cases of intestacy the applicable lex situs will prevail as seen in the final decision by the Supreme Court in Mojekwu v Iwuchukwu [(2004) 7 M.J.S.C. 161] with regard to illegitimate children although judicially the rights of this class to inherit the putative father's estate jointly with other children on intestacy has been recognized, since a testator by virtue of Section 2(1) Wills Law Cap W2 of Lagos State 2004; Section 4 Wills Edict 1990, of Oyo State, is also generally free to bequeath his estate to whoever he pleases, subject to limitations of family rights. And religious injunctions in some jurisdiction Yunusa v Adesubokan [(1971) NNLR 77], he may seize this opportunity to name the child in his will and make provision for him. Again, this underscores the importance of making a will.

Legislative/Affirmative Intervention

It is imperative for some form of legislative action to be in place. Laws must be specifically enacted against aspects of customary law that cannot stand the test of human and constitutional rights. A good example is found in the Enugu State which has enacted the Prohibition of Infringement of a Widow's and Widower's Fundamental Rights Law 2001. The law provides a legislative framework for the protection of widows against oppressive and discriminatory widowhood rites.

CONCLUSION

The long time marginalization, discrimination and even domination of fundamental human rights of women in Igboland and across patriarchal Nigeria in not a secret (Mohammed et al, 2019). However, the 2014 judgement of the supreme Court of Nigeria in Ukeje v Ukeje revolutionized women's inheritance right under Igbo customary law by upsetting and reversing the old order which exclude women and girls from sharing or inheriting land and other immovable intestate property because the predominant traditional beliefs in patriarchy and male primogeniture ranked them among the "property" to be inherited by male heirs.

While the Supreme Court's landmark decision marked a crucial victory for women's inheritance rights in Nigeria by striking down discriminatory customary practices, judicial pronouncements alone cannot dismantle deep rooted patriarchal norms. True reform requires a multi-pronged approach that reconciles legal precedent with proactive legislative enactments, institutional enforcement, and community level sensitization. Securing full gender equity in customary succession is not merely a legal imperative but a fundamental prerequisite for socio economic justice and human rights in Nigeria.

Recommendation

1. Sensitizing women on the implication of the Ukeje decision as a way of asserting their independence and right to sue for equality in inheritance to immovable property.

2. The role of the print, electronic and social media in the promotion of gender equality rights as well as in sensitization of women and the general public on the new consciousness which Ukeje v Ukeje represent must be encouraged by government at all level.

3. The National Assembly should be mandated to make laws for the order and good governance of the deration which must forbid any form of discrimination against women to inherit.

4. Every international instrument that Nigeria has accented to must as a matter of urgency be domesticated in line with the provision of section 12(1) of the 1999 Constitution of the Federal Republic of Nigeria.

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