



DEVELOPMENTS IN THE INHERITANCE RIGHTS OF WOMEN IN SOUTH-EAST OF NIGERIA

Sonia Chineme Worlu*

ABSTRACT

The inheritance rights of women in South-East Nigeria have undergone significant legal transformation from customary exclusion to increasing constitutional and judicial recognition. Traditionally, under the customary laws of many communities in the South-East, particularly among the Igbo, women were denied the right to inherit family property, as the male children were considered the preservers of the family lineage. Over time, however, legal developments through constitutional provisions and judicial interventions have increasingly affirmed that any customary rule which denies women inheritance solely on the basis of sex is inconsistent with constitutional principles of equality and justice. In many rural communities in the South-East, social acceptance of male-dominated inheritance systems continues to overshadow formal legal protections. Particular attention is given to judicial authorities that have invalidated discriminatory customs, especially the decision of Ukeje v. Ukeje, which affirmed that any customary rule that excludes female children from inheritance solely on the basis of sex is unconstitutional, null and void. The scope of this study cut across the South-East of Nigeria and jurisdictions such as India and Kenya were compared with the Nigerian situation particularly as obtainable in the South-East Nigeria. This study concludes that with the current legal development, the inheritance rights of women have tremendously improved. This study recommends that laws which are already in the statutes should be proactively implemented to aid in curbing these discriminatory practices, and the need for sensitization and enlightenment of women in the South-East of Nigeria as it relates to their inheritance rights.

KEYWORDS: *Development, Inheritance, Rights and Woman.*

1.INTRODUCTION

Nigeria in its Constitution recognises the equality of both genders,¹ without any form of discrimination, unfortunately it is not the case in reality. Inheritance constitutes one of the oldest and most significant legal institutions in human society. It determines the devolution of property, rights, obligations, and interests from a deceased person to surviving relatives and beneficiaries. In most parts of the country,

* LLB (MADONNA); BL (ABUJA); LLM (RSU), 08037785726, soniaworlu@gmail.com.

¹ Constitution of the Federal Republic of Nigeria 1999 (as amended), s 42.



women's right to inheritance are systematically denied.² This is because under customary law, it is an indispensable truth that women are neglected and treated with prejudice in respect of the right of succession and right of equal opportunity to inheritance.³ In South-East Nigeria, customary practices such as male child preference have prevented the girl child from utilizing their potential. Women have less secured rights than men, as discriminatory attitudes and practices undermine them. The denial of inheritance rights leaves many women vulnerable and almost entirely dependent on men in their lives for basic economic survival. Male children are also preferred and so their education is considered more important than those of their female counterparts.⁴

The development in the inheritance rights of women in Nigeria emanated from Supreme Court decided cases in the South-East, yet the inheritance rights of women in South-East Nigeria is still substandard. In *Uzoukwu v Ezeonu II*,⁵ the Court held that every civilized society must accept human rights as rights belonging to each person as a human being. Fundamental rights are inalienable and cannot be taken away by anyone or authority. In *New Patriot v IGP Accra*,⁶ the court held on the importance of human rights as follows: 'Human rights are universally regarded as inalienable and constitute the birth right of the individual as a human being.' Therefore, no person may be deprived of his or her human rights by any one or authority whatsoever. There are conditions of life that a person by nature is expected to enjoy by virtue of being human beings. The concept of human rights is likened to a yardstick to measure those conditions in practice in the society. Civilized society is measured through respect for the rights of all human beings.⁷

The development of the inheritance rights of women as earlier said emanated in the South-East Nigeria with the Court of Appeal,⁸ and Supreme Court,⁹ decided cases. The Supreme Court over the years has given landmark judgments in the issue of the inheritance rights of women. This research will be looking at the laws, challenges and prospects of the development of the inheritance rights of women. Despite the Nigerian Constitution and the various decisions of Courts regarding the inheritance rights of women in the South-East and in the entire Nigeria, many women especially in the rural areas and villages are still ignorant of their basic rights.

² I E Okagbue, 'Women's Rights are Human Rights' (1996) *Nigerian Institute of Advanced Legal Studies* 1.

³ Ibid.

⁴ Ibid.

⁵ (1991) 6 NWLR (Pt. 200) 708.

⁶ (2000) 2 HRLR 27-79.

⁷ M A Coker and U B Obo, 'Crisis of Governance and the Violation of Human Rights: The Nigerian Experience, 1999 to 2007' [2012] (6)3 *African Journal of Political Science and International Relations*; 66.

⁸ *Mojekwu v Mojekwu* (1997) 7 NWLR (Pt 512) at 283.

⁹ *Ukeje v Ukeje* (2014) 11 NWLR (Pt 1418) 384.



The degrading and discriminatory treatment suffered by women cut across all cultures and societies.¹⁰ The difficult situation suffered by the women in the South-East of Nigeria with respect to their inheritance rights are similar in most other communities, when it comes to inheritance rights among the Igbos' in the South-East Nigeria, where only the men were accorded the inheritance rights of landed properties while the women were denied their inheritance rights to own a property.¹¹ Women in this our contemporary times are far more fortunate (because of the recent developments and judicial pronouncements) than their predecessors who had lived up till the early part of nineteenth century with the degrading and second class citizen treatment meted out to them.

In the 19th Century and up till the early part of the 21st Century, some of the decisions of the Court of Appeal and the Supreme Court supported the violation of the inheritance rights of women. Thus, in *Mojekwu v Mojekwu*,¹² the Supreme Court upheld the *Ori-ekpe* custom which states that while a daughter cannot inherit, she has a right to be maintained by the person who inherits her father's estate until she marries or becomes financial independent or dies. In *Nwanga v Ubani*,¹³ the Court held that a woman whose marriage was dissolved lacked certain rights. Similar decisions on denial of the inheritance rights of women were held in cases like *Nezianya v Okabue*,¹⁴ *Onwuchekwe v Onwuchekwe*,¹⁵ *Nzekwu v Nzekwu*,¹⁶ where the courts upheld certain customs that ought to be declared repugnant to natural justice, equity and good conscience. The Ukeje's case¹⁷ is a landmark decision, a celebrated case that liberated women from the bondage of barbaric customs and indeed a development on the inheritance rights of women in Southeast Nigeria.

Men and women are entitled to the full protection of their rights because they are human beings. At its most basic level, 'human rights' are safeguarded prerogatives granted to a person because a person is alive. This means that every human being has rights by virtue of human species membership. A right therefore is a claim to something (by the right holder) that can be exercised and enforced under a set of grounds or justifications without interference from others. Human rights are those rights that every human being possesses and is entitled to enjoy by virtue of being a human being.¹⁸ The Holy Bible

¹⁰ K Adeybite, 'Inheritance of Women: Practices and Laws in Africa' <<http://www.academia.edu>> accessed 23 September 2024.

¹¹ N Charles, 'The Married Women Property Act 1882: A Study of Victorian Reform' <<http://www.digitalcommons.wku.edu>> accessed 25 September 2024.

¹² (1997) 7 NWLR (Pt 512) 283.

¹³ (1997) 10 NWLR (Pt 526) 559.

¹⁴ (1963) NLR 352.

¹⁵ (1991) 5 NWLR (Pt 197).

¹⁶ (1989) 2 NWLR (Pt 373).

¹⁷ Ukeje (n 9).

¹⁸ P H Parker, 'Securing Women's Land and Property Rights: A Critical Step to Address HIV, Violence and Food Security' <<https://www.opensocietyfoundations.org>> accessed 20th April 2024.



recorded the story of the five daughters of *Zelophehad* who protested the unjust custom and which led to the custom being reviewed.¹⁹ The story clearly explained that even the Almighty God is in support of the inheritance rights of women and frowns at discrimination against women. For God willed it through his biblical injunction that a good father should leave his inheritance to children, both male and female.²⁰

In South-East Nigeria, inheritance practices have historically been regulated largely by customary law, where male children are traditionally regarded as natural heirs to family property and women have continued to suffer deprivation under these traditional practices.²¹ The rationale behind this practice is commonly linked to the belief that a woman, upon marriage, becomes part of her husband's family and therefore should not inherit from her natal family. Similarly, widows are in many cases considered custodians rather than owners of family property. It is then not surprising that women wear the face of poverty in South-East Nigeria.²²

The denial or restriction of women's inheritance has frequently resulted in economic hardship, social insecurity, and dependency among women, particularly widows and female children. In many cases, women who have contributed substantially to the acquisition, preservation, or development of family property are denied entitlement to such property upon the death of a husband or father. This is, perhaps, the reason that informs Ferson to state that 'African women do not have shorter lives than African men, but do have harder lives.'²³

Women's rights to inheritance comprises women who are married under statutory law and those who are married under the various customary laws in Nigeria which include the sharia law. It should be noted that polygamy is permitted by both customary and Islamic law marriages. However, monogamy is solely permitted under a civil marriage. It is important to note that Islamic law is administered in Southern Nigeria as a strand of customary law, unlike in Northern Nigeria where Islamic law is operated as a separate legal system.²⁴

There is no doubt that the issue of discrimination against women is a global one. Nigeria is signatory to many International and Regional instruments and conventions on human rights ratified and

¹⁹ The Bible Society of Nigeria, *The Holy Bible, King James Version*, (Bible Society of Nigeria 2014) 228, Num 27: 1-8.

²⁰ *Ibid* 828, Proverbs 13:22,

²¹ Y Olomjobi, *Human Rights on Gender, Sex and the Law in Nigeria* (Princeton Publishing Co, 2013) 161.

²² Olomjobi (n 21).

²³ Olomjobi (n 21).

²⁴ *Ibid*



domesticated which imposes a duty on it to take all appropriate measures to eliminate discriminatory practices against women in both private and public life.²⁵ Women in South-East Nigeria are generally not seen at the fore front of National Development. Undoubtedly, there can be no denial of the fact that centuries of subjugation of the women folk have left them marginalized.²⁶ From the mind-sets of some jurist, access to property is a crucial factor determining the empowerment and economic welfare of the individual.²⁷ To a large extent customs and traditions have acted as instrument that tends to delimit women's right to inheritance which implies that they relinquished the right of women to enjoy inheritance rights in Nigeria. These, in many ways make women socially and economically disadvantaged.²⁸ When women as single, married or widows, are denied inheritance rights, it impedes their full access to and realization of their capacities, an adjunct of economic, social and cultural rights.

Irrespective of the global, regional and national efforts to eradicate all forms of discrimination against women and notwithstanding the fact that human rights of women are an inalienable, integral and indivisible part of universal human rights, violence against women which is an aspect of the violation of human rights has continued to escalate. Gender inequality, sex discrimination and other gender-based violence as practiced in many parts of the world, Nigeria inclusive, has plunged womanhood into humiliation, subjecting most of them to perpetual poverty and vulnerability, which results to denial of justice and rights of women.²⁹ To further ensure the realization of rights of individuals, the 1999 Constitution provides for the right to freedom from discrimination, disabilities or restriction to Nigerian citizen irrespective of the community, ethnic group and place of origin, sex, religion or political opinion.³⁰

At the International and regional levels, is the General Assembly of the United Nation's Declaration on the Elimination of All Forms of Discrimination against Women.³¹ There is also the Convention on the Elimination of All Forms of Discrimination Against Women³² The African Charter on Human and Peoples Rights is not left out in ensuring that the human rights of women are not denied when it stated that the State shall ensure the elimination of every discrimination against women and also ensure the protection of rights of women and the child as stipulated in international declarations and

²⁵ N C Umeh, 'Women and Nation Building: A Human Rights Perspective' [2012] (1)2 *Madonna University Law Journal* 295.

²⁶ Olomojobi (n 21).

²⁷ Ibid.

²⁸ Umeh (n 25).

²⁹ C Benninger - Budel and J Bourke - Martingoni, Violence against Women, 10 Report/Year 2002 (World Organisation against Torture (OMCT) 2003) 62-63.

³⁰ CFRN (n 1) s 42 (1) (a).

³¹ General Assembly Resolution 48/104 of 20 December 1993.

³² Adopted and opened for signature, ratification and accession by General Assembly Resolution 34/180 of 18 December 1979 and entered into force 3 September 1981.



conventions.³³ Notwithstanding the various Constitutional provisions, judicial pronouncements, International and Regional Conventions and Declarations protecting women's rights and prohibiting violence against them, women are denied their human rights and are subjected to violence in the society.

Despite the numerous provisions and attempts to ascertain to a commendable extent, human rights of people, there has been a great outcry for injustice to women generally.³⁴ The situation of Nigerian South-East women can be described as challenging and there is urgent need to address the issue of violation of women's inheritance rights in all ramifications in the society. Nigerian women including girls of all ages constitute about half of the population of Nigeria.³⁵

Nigerian courts have played a critical role in reviewing discriminatory inheritance customs and determining their consistency with principles of justice, equity, and fairness. The judicial intervention in inheritance matters has led to significant legal developments concerning the inheritance rights of women in South-East Nigeria. Several landmark decisions of superior courts have condemned customs that discriminate against women on the basis of sex. These decisions have gradually reshaped the legal landscape by affirming that women, including daughters and widows, are entitled to inherit property under certain circumstances. Such judicial pronouncements represent important milestones in the evolution of inheritance law in Nigeria.

Notwithstanding these developments, discriminatory inheritance practices continue to persist in many communities across South-East Nigeria. Deeply entrenched cultural beliefs, societal expectations, illiteracy, poverty, fear of family ostracism, and lack of effective enforcement mechanisms often hinder women from enjoying the benefits of legal reforms. In many rural areas, customary norms still take precedence over judicial decisions, thereby limiting the practical realization of women's inheritance rights. This situation reveals a disconnect between legal developments and social realities. Hence, this study aims to assess the extent to which the legal developments have improved the position of women in South-East Nigeria under inheritance law and whether such developments have translated into meaningful protection and recognition of women's inheritance rights in practice.

³³ ACHPR, Art 18.3.

³⁴ B Boutros-Ghali, 'Translating the Momentum of Beijing into Action' (Beijing Declaration adopted by the Fourth World Conference on Women, 15 September 1995) 13.

³⁵ A Atsenuwa, 'Constitutionalism and Legal Feminism: Stepping Stones or Impediments on the Long Road to Freedom for Nigerian Women?' (*Nigerian Institute of Advanced Legal Studies*, 2011) 4.



2 CONCEPTUAL CLARIFICATIONS

2.1 Development

The concept of development is not amenable to a single definition. It means different things to different people. Authors define the term based on convenience or the purpose in which it is been used. It may be understood and defined in several terms, depending on the perspective and angle from which it is viewed. Every writer might have its definition of development, but two major views can be distinguished. A static view would define development as a state or a condition and a dynamic view would consider development as a process or course of change, a progressive innovation, an evolution.³⁶ Development is also seen as a gradual evolution or completion and also the result of such an evolution.

Development has been seen as a process that ensures the expansion of real freedom enjoyed by people.³⁷ Development in any society can be clearly noticeable with the level of improvement in the conditions of life and welfare of the people in that society.³⁸ Development usually comes as a result of efforts put together by a state machinery with the aim of making the basic needs of life available to all citizens of the state. It ensures active participation of members of the society and for development to be beneficial to all, it needs to be a sustainable one.³⁹ In a bid to understand development, one may leverage on the dialectics of Hegel and Marx which generally posits that everything is in a continuous motion. The movement of phenomena or social realities from a lower point or grade to a higher one with the concomitant improvement and progress approximates development. Development is not static, thus, it is a process which progressively moves from one stage to another. Inherent in the development process is change which should be positively driven. It follows that the end product of every stage of development should be salubrious and sensual. Development is process which will not have an end in as much as man remains insatiable and change remains a permanent feature of our social system.

2.2 Inheritance

The concept, inheritance had been described and explained to mean property received or gotten from the ancestor under intestacy.⁴⁰ Inheritance and succession are said to apply to property, which is the subject of individual ownership as opposed to land held under family ownership.⁴¹ To inherit means to come into possession by transmission from previous generations,⁴² or to receive especially as a right.

³⁶ E J L Guedeng, <<https://www.linkedin.com>>accessed 20th June, 2025.

³⁷ S Amartya, *Development as Freedom* (Oxford University Press, Oxford 1999) 320.

³⁸ M P Todaro and S C Smith, *Economic Development* (10th edn, Pearson Educational Ltd, UK 2009) 16.

³⁹ L N O Princewill and P B Namene, 'An Evaluation of Human Rights and the Right to Development in Nigeria' [2019] (8)2 *Port Harcourt Journal* 70.

⁴⁰ J F Fekumo, *Principles of Nigerian Customary Land Law* (F&F Publishers, 2002) 330.

⁴¹ *Ibid.*

⁴² R Mairi and D George, *Chambers 21st Century Dictionary* (Edinburgh Chambers Press 1996) 123.



Inheritance in legal parlance is therefore the entry of a living person or living persons into possession of a dead person's property.⁴³ In the long-run the concept inheritance has come to mean anything received from the estate of a person who has died, whether by the laws of descent or as a beneficiary of a will or trust and it operates where private ownership of property exists as a basis of social and economic environment.⁴⁴ It is the property received from an ancestor under the laws of intestacy or property that a person receives by bequest or by devise,⁴⁵ inheritance under the native law and custom generally implies the right of receiving property under the native law and custom and it is however not limited to a property which is subject to individual ownership alone but also family property.

2.3 Rights

Right is a significant one in any legal system; it forms a pivotal point in the structure of any legal regime. Right dates back to the 18th and 19th century in England, America and France. Right can be defined by Hohfeld as a legal interest that imposes a correlative to duty;⁴⁶ it can also be seen as a moral principle; a power, privilege or immunity secured to a person by law.⁴⁷ The starting point to appreciate the concept of human rights is the appreciation of the term rights⁴⁸ itself. Right is said to be a legally enforceable claim that another will do or will not do a given act; the interest, claim or ownership that one has in tangible or intangible property.⁴⁹ They can also be referred to as power, privilege or immunity secured to a person by law.⁵⁰ It can also be defined as an advantage conferred on a person by rule of law which he can assert against others from whom he may have some expectations of duty or consideration.⁵¹

The term right can be expounded to mean entitlements that accrue to a person on the basis of our positions as members of the human family, and can be defined as demands or claims which an individual or group is expected to make on the society where he or she resides, some which are backed up and protected by law.⁵²

Rights can be defined in relation to economic rights of the women as a bundle of rights which promote, aid, protect and safeguard the participation of women in economic life on the basis of equality of men

⁴³ M. G. Yakubu, *Property Inheritance and Distribution of Estate under Customary Law* (Lagos: Parity Publishers) 136.

⁴⁴ Ibid.

⁴⁵ B A Garner (ed), *Black's Law Dictionary* (9th edn. West Group Press. 2004) 537.

⁴⁶ X L Stone, 'An Analysis of Hohfeld' (1963) (12) *Minnesota Law Review*; 2281.

⁴⁷ H Campbell, *Black's Law Dictionary, Positive Law* (West Publishing Co. 1979) 1347.

⁴⁸ U Oji Umozurike, *The African Charter on Human and Peoples' Rights* (The Hague: Martinus Nijhoff Publishers 1994).

⁴⁹ Campbell (n 63).

⁵⁰ Garner (n 19).

⁵¹ C A J Chinwo, *Current Principles and Practice of Administrative Law in Nigeria* (Davi's Printing & Packaging Co Ltd 2008) 237.

⁵² O W Igwe, 'International Protection of Human Rights' (Unpublished Course Note, Rivers State University, 2019) 1.



and women.⁵³ Right is that which is done in accordance with or conformable to moral law or to some standard of rightness, conformable to a standard of propriety. A just and proper claim or title to anything, or that which may be claimed on just, moral, legal or customary grounds.⁵⁴ Inclined with being very pivotal to any legal regime Lloyd expounded the concept to the effect that as soon as a legal system arrives at the stage of development when it can yield analysis it will be found that the concept of rights and duties form a pivotal point in the structure of the legal machinery by which the system is enabled to perform its social function.⁵⁵

The above concept is vital in the sense that there is no human society devoid of certain things imbued on persons whether natural or corporate persons no matter how savage the society may be;⁵⁶ right has been said to be that which is due to a person by just claim, legal guarantee or moral principle.⁵⁷ According to Dowrick,⁵⁸ rights

encompasses the wider concept of claims for example, wants, desires, aspiration people have and express ...whether those of a code of morality or ethical theory, or those of political system or political theory, or those of a legal system are usually and aptly called 'rights. This claim may thus be legal, political or moral, any of the two or three. It is legal when it is implemented.

Jawitsch⁵⁹ has also defined a right as 'a legally sanctioned measure of a person's possible conduct that guarantees him independence, freedom of choice, and the enjoyment of materials and spiritual blessings on the basis of the existing relations of production and exchange.'

The implication of the above definitions is that rights can only be exercised where the law has assigned them. Right means different things to different people. These claims made on society by individuals and groups on the basis of their humanity are what have been christened human rights. Some of these

⁵³ O A Ipaye, 'Economic Rights and Catalyst for Economic Recovery in Nigeria' (2001) (1) *Political Reform and Economic Recovery in Nigeria Journal*, 77.

⁵⁴ The New International Webster's Comprehensive Dictionary of the English Language 2010 Encyclopedic edition.

⁵⁵ D Lloyd, *The Idea of Law* (Penguin Books, 1987) 309.

⁵⁶ C C Wigwe, *Jurisprudence and Legal Theory* (Readwise Publishers, 2024) 381.

⁵⁷ Garner (n 6).

⁵⁸ F E Dowrick (ed) *Human Rights, Problems, Perspectives and Texts*, cited in U. Oji Umzurike, *The African Charter on Human and Peoples' Rights*, 2.

⁵⁹ L S Jawitsch, *The General Theory of Law* (Moscow: Progress Publishers 1980) cited in M U O Gasiokwu, *History, Ideology and Law* (Mono Expression 2001) 6.



human rights provisions have been enacted into various National Constitutions of the world. In Nigeria, these human rights are being referred to as fundamental human rights.⁶⁰

2.4 Woman

Woman can be defined as an adult female human being; woman is the counterpart of man,⁶¹ woman can also be seen as an adult female human being physically weaker than the man, exhibiting feminine characteristics quite distinctive from the opposite sex.⁶² The concept can also be defined as every female person, including a girl child, but excludes a transgender.⁶³ The woman is further seen as an adult female who is considered inferior to a man, with definite attribute from the opposite sex,⁶⁴ it is clear to say that a woman is a female gender but at what age does a female person become a woman? It has been stated that for a person to be considered an adult he has to be 18⁶⁵ years, and has been defined as an adult female person which can be seen to the effect that a female who is below the stipulated age that has been prescribed by law cannot be seen to be a woman, the above definitions have clearly shown that a woman is not only a human being of opposite sex which is different from a man but also that she is a grown-up female person. It is trite to state that in context of this research the word ‘woman’ is used to refer to a female gender irrespective of the age or marital status of the person.

Womanism was actually first described by the African American writer Alice Walker,⁶⁶ and describes thus as a black feminist or feminist colour... a woman who loves other women, sexually and/or non-sexually.⁶⁷ Womanism as a concept advocates gender complementarity, which would ensure the survival and wholeness of entire people male and female.⁶⁸

3 INHERITANCE RIGHTS OF WOMEN IN THE SOUTH-EAST OF NIGERIA

The South Eastern part of Nigeria is largely dominated by the Igbo speaking states – Abia, Anambra, Ebonyi, Enugu and Imo. The Igbo people also extends to some parts of Delta state.⁶⁹

The Igbos place property in high esteem as it is believed that the property belonging to an Igbo man showcases the fruit of labour and also gives him the opportunity of having something to hand down to

⁶⁰ 1999 Constitution of the Federal Republic of Nigeria, Chapter four.

⁶¹ J Setter and Others, ‘*Cambridge Advanced Learners Dictionary*’ (Cambridge University Press 2005) 1311.

⁶² A O Otuluka, ‘Women and Children Under Nigerian Law’ (1989) (6) *Federal Ministry of Justice Law Review* 95.

⁶³ Rivers State Prohibition Law (n 42).

⁶⁴ Otuluka (n 111).

⁶⁵ Child Right Act 2003, Cap 50 LFN, S.31.

⁶⁶ A Walker, ‘*In Search of Our Mother’s Gardens*’ (London: The Women’s Press 1983) 214.

⁶⁷ Ibid.

⁶⁸ C Hudson, ‘*African Womanism*’ (New Jersey: Africa World Press, 1998) 149.

⁶⁹ E Emenike and O A Uzor, ‘Ohaneze Ndigbo and Security in the South East, Nigeria’ [2023] (10)2 *International Journal of Science and Research Archive*, 290.



his successors as inheritance after his demise.⁷⁰ In instances where the deceased has left a will, devolution of property could be very complicated especially if the deceased had substantial wealth during his lifetime.⁷¹

The customary law in South-East Nigeria is not uniform, however, there are similarities between customary law practices among the Igbos in the different states in the south-east of Nigeria. For instance, in matters relating to a father's property, the eldest son of the deceased succeeds to the property. He is known as the chief manager and administrator of his father's estate.⁷² Where the deceased had more than one wife, each of the eldest sons from the wives takes a part in the distribution of the property. In a situation where the eldest son is dead, his own eldest son inherits the property.⁷³ The daughters of the deceased, who is survived by daughters only and not by sons do not have the right to inherit his estate or any of his other lands or homes.⁷⁴ As a result, it is considered that women have no rights to land at all under Igbo traditional law.⁷⁵

4. DEVELOPMENT OF WOMEN'S INHERITANCE RIGHTS UNDER THE LAW

The development of female inheritance rights in the South-East Nigeria proceeded unevenly, with different results in certain time, periods and geographical areas. Patriarchal community generally limited female inheritance rights in favour of male descendants. Through historical timeline, property balance was not shifted significantly in favour of the females. The right of inheritance is inseparably connected with property and family relations. Historically, the South-East Nigerian women's inheritance rights have evolved from pre-colonial patriarchal systems that largely excluded them, to modern legal frameworks that guarantees equal rights, though cultural barriers remain. This research has summarised the chronological account of the women's inheritance rights in South-East Nigeria and its development from the pre-colonial era, colonial era, and post-colonial era till to the present date.

4.1 The Pre-Colonial Period

The inheritance rights of women before colonial rule in what is now Nigeria was governed mainly by local customary rules that varied by ethnic group. Pre-colonial practices were often patrilineal, favouring male heirs, but some communities had more liberal rules. Some systems (many patrilineal

⁷⁰ F O Ajagunna 'Women's Rights to Inheritance and the Primogeniture Rule in Nigeria and Uganda: A Myth or Reality' [2023] (3)10 *Cavendish University Law Journal* 1.

⁷¹ Ibid.

⁷² G U Emeasoba 'An evaluation of the Nigerian judicial attitude to the Igbo customary law of Succession' (2020) *African Customary and Religious Law Review* 11.

⁷³ Obi Syracuse, *Modern Family Law in Southern Nigeria* (The Government Printer 1977) 339.

⁷⁴ Ibid.

⁷⁵ Y Olomojobi, *Human Rights on Gender, Sex and the Law in Nigeria* (Princeton Publishing 2013) 163.



groups) prioritized male-line succession and often limited daughters' or widows' proprietary claims, women and female children were customarily disinherited as property was believed to be held in trust by the eldest son for the family. Some communities like the Yoruba, had more liberal practices, while others, like the Afikpo and Bende, had a bilinear system that gave women stronger rights, where women had a greater capacity to own and transmit property. These customs were social rules embedded in kinship and land access, it was not a uniform law.

The earlier precedents or customs which denied or limited women's rights under inheritance include: *Nezianya v Okagbue*⁷⁶ where Court held that a widow is a recognised member of her late husband's family but is not permitted to dispose of the property by giving it out or selling it. Essentially, women's authority over inherited or matrimonial property was very restricted under customary law in this case. Customary law practices such as 'primogeniture,' 'Oli-Ekpe' were practiced, where male heirs' especially eldest sons or more distant male relatives have exclusive or primary rights to inherit family property, excluding female children or widows. For instance, the Awka people custom in *Anekwe v. Nweke* restricted or denied inheritance rights of a widow in certain circumstances. The "Oli-Ekpe" custom in parts of South-East Nigeria was recognised, where there is no direct male child, a nephew (male relative) takes inheritance rather than a daughter, even if the daughter may have performed certain customary rites.

These customs have often been upheld by lower courts under the 'repugnancy doctrine' threshold though it was overturned later. The Courts in some cases held that widows only had possessory or usufructuary rights (use-rights) under customary law, rather than full ownership, and often subject to good behaviour or goodwill of deceased's relatives. In *Eze v. Okwo*,⁷⁷ the husband was survived by three customary law wives without any child. Before his death the deceased instructed his senior wife to administer his property and use the income therefrom to maintain herself and the other wives and to continue staying in his compound with the hope that they would have issues for him. The senior wife attempted to carry out the wishes of her late husband but was challenged by his nephew. It was held that a widow can neither inherit her husband intestate nor administer the estate. Also, in the Court of Appeal decision in the case of *Omo Ogunkoya v. Omo Ogunkoya*,⁷⁸ the court held that widows are chattels who are inheritable by other members of the family. However, another customary practice known as 'Nrachi' was also practiced in the Southeast Nigeria, which the only exception to the rule of female inheritance.⁷⁹ The nrachi ceremony is usually performed where a man has only daughters but

⁷⁶ (1963) 1 All NLR 352.

⁷⁷ (1970) SC /10/1970.

⁷⁸ (1989) LCN/0078/ (CA); CA/L/46/88.

⁷⁹ A Kehinde and C Adimoha, The Female Child inheritance in Eastern Nigeria: [2018], 1(1) *An Appraisal Gender and Leadership Journal*,76.



no son. In order to ensure the continuation of the family line, he persuades one of the daughters not to marry but to remain in the family with the hope of bearing a male heir.⁸⁰

4.2 The Colonial Era

This was before the independence of Nigeria and the early period after independence. At independence (1960) Nigeria inherited the colonial plural system, which are the statutory law (English-derived), customary law (various ethnic customs), and Islamic personal law (in many northern communities) continued to operate alongside one another. Which system applied to a deceased person often depended on religion, place of domicile, and whether the deceased had a valid will. This created differing outcomes for women depending on region and personal law. The States developed their Administration of Estates/Probate rules which was largely modelled on colonial practice and these procedural laws govern probate/administration but did not uniformly reform underlie substantive customary succession rules. In practice many Nigerians still die intestate (without a will), so intestacy rules (customary or statutory, depending on the case) have outsized impact. At the turn of the 20th century most legal systems treated family and inheritance as male-centred: married women's property was frequently controlled by husbands or male kin; customary and religious rules often limited daughters' and wives' shares.

Colonial administrations sometimes enshrined existing customary laws in statutes, which perpetuated the exclusion of women from inheritance. Legislation like the Married Women's Property Act of 1882 granted married women the right to own, acquire and dispose of property as if they were single. However, this did not necessarily change discriminatory customary practices. British colonial administration created a plural legal order: customary law would continue to apply in native courts except where it was "repugnant to natural justice, equity and good conscience" or inconsistent with ordinance/statute. Native courts and later Native Courts Ordinances (early 1900s and after) institutionalized customary rules in formal courts, freezing some discriminatory practices into formal adjudication even as local societies continued to change.

4.3 The Post-Colonial Era

Post-independence Nigeria, particularly from the 1990s onward, witnessed significant developments and reforms that transformed the inheritance landscape for women. Forces such as Constitutional guarantees, human rights advocacy, urbanization and judicial activism reshaped customary laws. This period saw ratification of international instruments, activism, and breakthrough of Court judgments. Nigeria ratified regional and international instruments that strengthen women's rights frameworks, for

⁸⁰ Ibid.



example, Nigeria signed and ratified the Maputo Protocol/Protocol to the African Charter on the Rights of Women in Africa in the 2000s. These instruments provide advocacy leverage against discriminatory customs. The Constitutional equality language emerges. Successive Constitutions introduced non-discrimination guarantees that would later be used to challenge discriminatory customs. This created a potential Constitutional tool to contest customary rules that excluded women, hence the Constitution which is the *grundnorm* till date.

Customary exclusion of daughters and widows in Igbo inheritance persisted even after the independence of Nigeria. Many customary practices in South-East Nigeria excluded female children entirely from inheriting their father's estate under customary law. Such customary rules were applied in many High Court and Customary court settings. The Ukeje case was initiated in court because of such exclusion. Landmark cases overturning such restrictions, are decisions recognizing women's rights in inheritance, effectively disallowing the above discriminatory customs. In Ukeje's case Supreme Court held that Igbo customary law which excludes female children from inheriting the property of their deceased fathers is unconstitutional, a breach of the Constitution⁸¹ and is therefore void. In *Onyibor Anekwe & Anor v Mrs. Maria Nweke*,⁸² the Supreme Court condemned customary law practices that deny widows' or women inheritance, especially where customs give preference to male heirs, primogeniture. The decision reinforced gender equality in inheritance matters.

In *Mojekwu v Mojekwu*,⁸³ the Court of Appeal, declared customs which discriminate against women in inheritance as repugnant to natural justice, equity and good conscience. The case was on the nature of 'Oli-ekpe' customary law of inheritance under the Nnewi native law and custom, where if a man dies leaving a male child, the property belongs to the male child. If on the other hand, the deceased has no male child, his brother will inherit his property. If the male child who survives the father dies leaving no male child, the father's brother will inherit the property. If, on the other hand, the deceased's brother dies leaving sons, the sons will inherit the property of the dead cousin. In particular, the 'diokpala', that is the eldest son of the uncle, will inherit the property. If a man dies and subsequently his only son and brother die, if the late brother has sons, the first son of the late brother will inherit all the property. The son of the late brother is called 'Oli-ekpe' meaning that he inherited the property of his relation. While this was not a Supreme Court decision, it was an important precedent.

The Iri-ekpe custom received judicial acknowledgement until 1997 when the Nigerian Court of Appeal in *Muojekwu's* case, lambasted the 'Iri-ekpe' customary law of the Igbos for being repugnant to natural

⁸¹ CFRN 1999 (as amended), s 42(1) (a)&(2).

⁸² (2014) 9 NWLR (Pt 1412) 393.

⁸³ (1997) 7 NWLR (Pt 512) 283.



justice, equity and good conscience and employed international instruments like The Convention on the Elimination of all forms of Discrimination Against Women to make a case against the Igbo culture in defence of women rights, on the basis of discrimination on the ground of sex. The handline judicial attitude against this custom has been maintained in subsequent cases and pronouncements by the superior courts. In *Muojekwu v Muojekwu*,⁸⁴ the appellant claimed ownership of the property of the deceased, who was his paternal uncle, against the daughters of the deceased, on the basis of the ‘Ili-ekpe’ custom of the Nnewi people of South-East Nigeria. Rejecting his claims, Niki Tobi JCA (as he then was) held as follows:

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

While this decision was lauded in some quarters as a radical change of all customary practices relating to inheritance in Nigeria to ensure equality of all persons, it was not well-received in some others. Hence, in 2004, when there was a further appeal of the case to the Nigerian Supreme Court for clarification in *Muojekwu v Iwuchukwu*,⁸⁵ and Justice Uwaifo, criticized the earlier Court of Appeal pronouncement as follows:

I cannot see any justification for the court below to pronounce that the Nnewi native custom of Oli-ekpe was repugnant to natural justice, equity and good conscience ... the learned justice of appeal was no doubt concerned about the perceived discrimination directed against women by the said Nnewi Oli-ekpe custom and that is quite understandable. But, the language used made the pronouncement so general and far-reaching that it seems to cavil at, and is capable of causing strong feelings against, all customs which fail to recognize a role for women.⁸⁶

For instance, the custom and traditions of some communities which do not permit women to be natural rulers or family heads. The import is that those communities stand to be condemned without a hearing

⁸⁴ (1997) 7 NWLR (Pt 512)283.

⁸⁵ (2004) 11 NWLR (Pt 883) 196 (SC).

⁸⁶ *Muojekwu v Iwuchukwu* (2004) 11 NWLR (Pt 883) 196 (SC).



for such fundamental custom and tradition they practice by the system by which they run their native communities.

Subsequently, in *Ukeje v Ukeje*⁸⁷ the Nigerian Supreme Court deprecated all Nigerian native customs which disinherit females as discriminatory and therefore, unconstitutional. In the latter case, the Supreme Court, per Justice Rhodes-Vivour, held that:

The Igbo native law and custom which disinherits a female from inheriting in her father's estate is void.... No matter the circumstances of the birth of a female child, such a child is entitled to an inheritance from her late father's estate...the Igbo Customary Law which disentitles a female child from partaking in the sharing of her deceased father's estate, is in breach of S 42(1) and (2) of the Constitution, a fundamental right provision guaranteed to every Nigerian.⁸⁸

It must be noted that in some parts of Igbo land, there used to be an exception to the rule that daughters do not inherit from their late fathers. In some parts of Idemili Local Government Area, and in Nnewi town, both of Anambra State, Nigeria, a daughter in respect of whom the nrachi ceremony has been performed inherits her father's compound and other lands and houses. The nrachi ceremony is usually performed where a man has only daughters but no son. In order to ensure the continuation of the family line, he persuades one of his daughters not to marry but to remain in the family with the hope of bearing a male heir to the estate of the intestate.

However, in *Muojekwu v Ejikeme*,⁸⁹ the Nigerian courts have held that the nrachi custom not only failed the repugnancy test because children born to a woman who had undergone this ceremony are denied the paternity of their natural father, but also offended section 42 (2) of the 1999 Constitution, and so is discriminatory. Hence the following Superior courts pronouncements have clearly addressed the issue of discrimination against the inheritance rights of women in the South-East Nigeria: *Ordu v Elewa*,⁹⁰ where the Supreme Court held that the custom which disinherits children tracing through a female is discriminatory and in conflict with constitutional provisions guaranteeing equality.

In *Chidaluo v Attanse*⁹¹ the Supreme Court also held that the Igbo native law and custom which disentitles a female from inheriting her late father's estate is in conflict with the section 42 (1) of the

⁸⁷ (2014) 11 NWLR (Pt 1418) 384.

⁸⁸ (n 87).

⁸⁹ (2000) 5 NWLR 402.

⁹⁰ (2018) 17 NWLR (Pt 1649) 515 (SC).

⁹¹ (2020) 6 NWLR (Pt 1719) 102.



Constitution of the Federal Republic of Nigeria 1999 (as amended). Such a practice is barbaric, the height of insensitivity, shameful, unacceptable and a custom that only belong to the stone-age. *Balanko v Balanko*,⁹² *Oko v Oko*,⁹³ *Aduba v Aduba*,⁹⁴ and other recent superior courts pronouncement have liberated the women from discrimination against their inheritance rights. These cases reflect a significant shift towards recognizing and enforcing women's inheritance rights in South-East Nigeria, aligning customary practices with Constitutional guarantees of equality and non-discrimination.

5. CONCLUSION

These cases and many others marked a judicial repudiation of discriminatory customs. The Court limited itself to striking down discriminatory aspects of particular customs. It did not wholly abolish customary law as a source of succession rules across the federation. That means other discriminatory customs outside the specific cases still required litigation or reform. The trajectory of inheritance rights for women in Southeast Nigeria reveals significant historical developments. The pre-colonial era was characterized by a rigid patriarchal and patrilineal system that entirely excluded women from inheriting land or major property. The colonial era, despite introducing Western legal structures, paradoxically reinforced discriminatory customary laws through indirect and judicial endorsement of patriarchal norms. It was not until the post-colonial era, particularly from the late twentieth century onward, that meaningful reforms emerged. Constitutional provisions, judicial activism and evolving socio-cultural attitudes have now established women's legal rights to inherit on equal terms with the men. Nevertheless, the progress achieved in law has not been fully replicated in practice due to lingering cultural resistance, a major challenge to the developments of the inheritance rights of women in Southeast Nigeria. The inheritance landscape in Southeast Nigeria therefore reflects an ongoing negotiation between customary traditions and modern principles of gender equality. Overall, the post-colonial period represents a decisive break from the historical exclusion of women, marking the transition toward an inclusive, rights-based inheritance system.

6. RECOMMENDATIONS

Notwithstanding the diverse ground breaking reforms that have been accomplished, the fact remains that there is still more work guarantee and aid the inheritance right of women and their rights as human right. In view of the findings of this study, the following recommendations are proposed to strengthen the legal protection and effective realization of women's inheritance rights in South-East Nigeria:

⁹² (2021) LPELR-53459 (CA).

⁹³ (2021) LPELR-55851 (CA).

⁹⁴ (2018) LPELR-46756 (CA).



1. The judiciary should continue to adopt a progressive and rights-based approach in interpreting laws affecting women's inheritance rights. Courts should consistently invalidate discriminatory customs inconsistent with constitutional principles and ensure effective enforcement of judicial pronouncements. Measures should also be taken to reduce delays, technicalities, and costs associated with litigation to improve women's access to justice.
2. Government and non-governmental organizations should expand access to legal aid services for women facing inheritance disputes. Many women are unable to challenge discriminatory practices due to poverty, intimidation, and the financial burden of litigation. Free or subsidized legal representation should be made available to vulnerable women seeking to enforce their inheritance rights.
3. Relevant international and regional legal instruments relating to women's rights should be effectively implemented through domestic legal and policy frameworks. Government institutions should ensure compliance with international obligations aimed at eliminating gender discrimination and promoting equality in inheritance matters.

Ultimately, the protection of women's inheritance rights in South-East Nigeria requires a multidimensional approach involving legal reform, judicial activism, institutional support, cultural reorientation, and sustained public education. Without addressing the socio-cultural foundations of discrimination alongside legal deficiencies, meaningful progress in achieving gender equality in inheritance matters may remain limited.