THE INTERNATIONAL JOURNAL OF HUMANITIES & SOCIAL STUDIES

Succession in Title and Rights of Women in South West Nigeria: The Realities and Prospects for a Changing Society

Modupe Juliana Babatola

Lecturer, Department of General Studies,
Federal Polytechnic, Ekowe, Bayelsa State, Nigeria

Abstract:

Generally speaking, succession in Nigeria is patriarchal in nature and it involves the transmission of the rights and obligations of the deceased person in respect of his estate to his heirs and successors. The South West is not an exception. The patriarchal nature has a great influence on the way of life of the people to such extent that many men in marriage, may go to any length to have an heir, a male child who will continue the lineage name after them.

The people and the society generally favour the male child above the female in succession matters assuming that a female child would have her own portion in the husband's house. The contradiction however is that the female as a widow is still regarded as an owned property by the husband's family. Hence, a widow may be hindered from inheriting her dead husband's estate, despite being the man's partner or supporter who contributed immensely to it.

Going by the political arrangement and territorial composition of Nigerian nation, there are over two hundred and fifty (250) ethnic groups in the country. The nature and weight of these ethnic groupings on issues of succession in title with its gender stratification and disenfranchisement of the rights of women under the law and customs therefore calls for an extensive research study to find out how a greater number of customary laws and doctrines of inheritance and succession to property is treated in the most populous Black African nation.

Keywords: Women's right, succession in title, administration of estate, patriarchy in Nigeria, customary laws, Nigerian laws

1. Introduction

Succession to the estate of a deceased person depends on the type of marriage the man contracted when he was alive.¹ Succession to a deceased arising from marriages contracted under the Common Law is determined by the Will made by the deceased and deposited at the Registry of the High Court or as stipulated by law and prepared in line with the provisions of the law to sustain its deposition and validity.

It is pertinent to state that when a man dies without making a Will, it is said to have died intestate under the common law. However, if the deceased married under the Marriage Act and did not make a Will, the Law is applied in sharing the estate he lives behind.²

Nigeria's multiethnic society has a plethora of customary laws that portends the nature of its societal doctrines on inheritance and succession to property. These Customary Laws comprising the customs and native laws are binding on the people.³ No doubt, when a deceased is married under the Customary Law, succession to title shall rely solely on Customary Law that is accepted by members of the community.⁴

When a man marries under customary law and dies, Customary Law shall apply whether he was a monogamist or polygamist. Interestingly, Customary Law is a source of Nigerian Legal system backed by provisions of the Constitution of Nigeria (1999 as amended) thus:

Subject to the provisions of this Constitution, an existing law shall have effect with such modifications as may be necessary, to bring it into conformity with the provisions of this constitution.⁵

The South West Nigeria is a geo-political zone in Nigeria's federal system and it evolved from the Divisions and Provinces of the old Western Region under 1963 Republican Constitution and now comprises six (6) states of Lagos, Ogun, Oyo, Osun, Ondo and Ekiti. The Yoruba ethnic group mainly constitutes the citizens of the South West with its sub-ethnic groups such as Ife, Oyo, Oke Ogun, Ijesha, Ijebu, Egba, Yelwa (Egbado), Awori, Ondo, Owo, Ikale, Akoko, Ekiti, Igbomina among others.

¹ Nwogugu E.I. in Okonkwo C.O., *Introduction to Nigerian Law*, Sweet & Maxwell, London, 1980 p.281, 301, 302

² Western Nigeria Administration of Estates Law (1959)

³ Olowu & Lasebikan in Sanni Abiola (ed), *Introduction to Nigeria Legal Methods*, OAU Press, Ile-Ife, 2006, p. 252

⁴ Op. Cit. Olowu & Lasebikan in Sanni Abiola, 2006, p. 252

⁵ 1999 Constitution of the Federal Republic of Nigeria, Section 315 of the Constitution, Federal Government Printers, Lagos, Nigeria, 1999

In the Yoruba culture, when a deceased person dies intestate, his personal customary law governs the distribution of his estate irrespective of where the property is situated or where the death occurred. In *Olowu v. Olowu*, the deceased was a Yoruba of Ijesha by birth (Osun), who lived all his life in Benin City. He married Bini women, acquired property there, died intestate and his estate was distributed under his native law and custom.⁶

The provisions of the Land Use Act (1978) provides that the customary law shall apply to the devolution of a land situate (*lex situs*) in any area owned by an occupier whether acquired as a native or by contract, statute and special custom, if no other law applies to the said property under applicable personal law.⁷ Even, adherence to Islamic laws fused with strong values of local traditions and customary laws practiced by average Yoruba families of Moslem faith scattered around Yoruba sub-ethnic groups of Oyo, Oke Ogun, Ibadan, Osun, Ijebu, Egba, Egbado (Yelwa), Isale Eko (Lagos) and Akoko divisions reinforces the determination of these average Yoruba people of insisting on the application of these rules as it relates to inheritance and the rights of women generally.⁸

In view of the foregoing, the native law and customs of the Yoruba with respect to inheritance and succession is the major source of reliance in the South West Nigeria, having grown out of age-long practices as grundnorm for generality of the constituents of the Yoruba people in the South West states.

2. Succession and the Female Child in the Nuclear Family

The Nuclear family is the smallest family unit in the society which is usually a case of one man and one wife, otherwise comprising the father (man), mother (woman) and the children. By human nature and reproductive system, the female child is the girl, lady and woman who eventually becomes the bride, the wife and in some instance, the widow though the male child who is a boy, a grown man and or gentleman will become the groom, the husband and in near all cases, the recognized heir.

In the South West Nigeria where the Yoruba culture does not inhibit Polygamy and even explore the grounds vehemently for a man to have a child and in particular the male child as an heir, a wife who is not able to conceive and give birth to a healthy living child, needless a male child may be at the mercy of the husband and or the husband's family. In Yoruba culture, lack of male children in a marriage is a serious hindrance to harmonious marital relationship and family acceptance. This however does not remove the deepening polygamous nature of a man in search to born a male heir to continue his lineage name or in acquisition of more women to fill his insatiable pleasures, taste and unconquered needs and indulgences.

The Yoruba customs also dictates that the woman married to a man is invariably married into the family since marriage extends beyond the life of the husband. Hence, the death of a man (husband) does not dissolve a marriage. A woman whose husband dies can therefore be inherited by her husband's heir in order to cater for her needs since she is not allowed to exercise the right of inheritance or takeover of the children. For instance, the Ondo sub-ethnic group of the Yoruba ethnic nationality in Nigeria demands the consent of a widow to give her to her husband's heir. Where she refuses such option, she is allowed to obtain a divorce to free herself of any family obligations by repaying back her dowry.

In the case of *Suberu v. Sunmonu*, it was ruled that it is well settled rule of native law and custom of the Yoruba people that a wife could not inherit the husband's property since she herself is like a chattel to be inherited by a relative to her husband.⁹ Even the Court of Appeal in the case of *Ogunkoya v. Ogunkoya*, upheld the archaic customs filled with unfeminine attitude and outdated practices that are unfair and unjust where applied with similar views that wives are left as chattels that are inheritable by other members of the family.¹⁰ Furthermore, in the Court held in the case of *Oshilaja v. Oshilaja*, that the decision of the Supreme Court of Nigeria on the Suberu's case should apply which affirms that the widow could not inherit her deceased husband's estate.¹¹ It ruled further that where a deceased died intestate without a child, the sons of the uterine sisters would share in his estate to the exclusion of the widow.¹²

In the case of *Sogunro Davies v. Sogunro Davies*, the court conceded that the Yoruba native law and custom deprived the wife of inheritance rights in her deceased husband's estate because devolution follows the blood.¹³ This indicates that the necessary adjunct for recognizing and respecting women's ability to hold land and receive land through inheritance in Yoruba customs is the caveat that only male family members can retain control over a property.

The provisions of the Constitution of the Federal Republic of Nigeria (1999) as amended enunciated the principles of equity of access for all citizens and equality of all persons irrespective of the gender.¹⁴ For instance, the provisions of the 1999 Constitution on the inalienable rights of women that are sacrosanct are summarized as follows:

- Article 11 stipulates that women shall have equal rights as men with respect to employment opportunities, choice of professions, promotion and remuneration.
- Article 15[2] (and by extension Article 42[1][a] and [b], [2] and [3]) prohibits the discrimination of men and women on basis of gender (sex) while assuring that men and women shall have equal access to the courts in matters of contracts, torts and all civil matters.

⁶ *Olowu v. Olowu* (1985), 3 NWLR (Part 13) 372

⁷ Section 24 (a) of Land Use Act (1978) of the Federal Republic of Nigeria

⁸ Interview on the characteristics and attitude of Yoruba people in Moslem dominated areas of Yorubaland on rights of women to inheritance. Information provided by Dr. Jadesola Taiwo Babatola PhD, Registrar, Federal Polytechnic, Ekowe, Bayelsa State, October, 2019

⁹ (1957) 12 f.s.c pg 33 – See SCNLR..45

¹⁰ (1972) 2 ECNSLR p. 11

¹¹ (1973) CCHCJ Pg 11

¹² Op. Cit. Oshilaja v. Oshilaja

¹³ 1928 * NLR 79

¹⁴ 1999 Constitution of the Federal Republic of Nigeria, Federal Government Printers, Lagos, Nigeria, 1999

- Article 16[2][d] recognized the right of all citizens to land, housing and property by stipulating that the State shall direct its policy towards ensuring that suitable and adequate shelter are provided for all citizens among others.
- Articles 17[1] and [2][a] articulate the equal rights of women with men through the recognition of the equality of rights, obligations and opportunities of all citizens and persons before the law.
- Article 43 guarantees the right of every citizen to acquire property and own immovable property anywhere in the country.
- Article 44 stipulates the grounds and conditions for compulsory possession or acquisition of property.

Furthermore, modern socio economic changes in the relationship between husband and wife became a factor in the ownership of properties since the last millennium. No wonder, the Court drew attention to its significance in protecting the rights of both parties and held in the case of *Loye v Loye* thus:

...a widow has no right of inheritance to the estate of her deceased husband. However, this aspect of our customary Law needs urgent reform because it is capable of working great hardship in modern times when wives make significant contributions to the wealth and properties of their husbands. Customary law bases the right of inheritance on 'blood relationship' for example, sons, daughters, brothers, sisters, or even parents of the deceased. But this principle of customary law should be reformed so that 'a widow' or 'widower' on grounds of marriage or marital ties could claim a share in the estate of the deceased spouse.¹⁵

In the case of *Richardo V. Abal*, the court did not only accept the proposition that a female child has inheritance rights, but it went further to hold that when a man dies leaving two houses and two children, male and female, the female if older has the first choice as to which house she wants in the property when it is eventually partitioned.¹⁶ This is also relevant to state that Western Nigeria Customary Law also provides a lacuna for women to be accorded rights of sharing and or benefiting from a deceased estate as indicated hereunder thus:

Where the customary law applying to land prohibits, restricts or regulates the devolution on death to any particular class of persons of the right to occupy such land, it shall not operate to deprive any person of any beneficial interest in such land.¹⁷

3. Succession and the Female Child in Extended Family

Under Yoruba customary law, the extended family is large enough to connect persons of distant relatives together when issue of succession arises. The distant family members who rarely visited the home would come to family meetings to share assets or inherit properties. More importantly, when the man dies, even the unknown becomes known whether children born in and out of wedlock and family secrets held or known to few. Nonetheless, Yoruba customary law of intestacy allows the children of the deceased to be entitled to his real property to the exclusion of other blood relations.

Part of achieved reforms in modern Yoruba customary law on children succession in title to the exclusion of family members no doubt has helped to reduce controversies and unending rivalry associated with sharing of inheritance and family crisis in a matter of succession to title where grown up children are left behind. It has also helped a great deal to sustain the access of widows to properties of their demised husband with their grownup children who may be capable of handling the properties and assets and take care of their mother.

In the modern times where the death of a man may put the deceased property in abeyance or at risks at his demise, the family relies entirely on devolution as contained in the Will. Where there is no Will, if there is a statutory marriage which rarely occurs in a polygamous marriage, the property shall be governed by statute. Moreover, where there is no Will and no statutory law, the properties are governed by customary law.

In line with the principle of *Dawodu's* case, the *ori otori* or *idi Igi* doctrine,¹⁸ all legitimate children of the deceased have rights to family property, its management and control. This principle which made a case law could be cited in *Dawodu v. Danmole*, where the deceased, Suberu Dawodu, was survived by nine children born by four wives. The question before the Court was whether the intestate's estate should be divided into four parts (per stripes) or into nine parts (per capita). JIBOWU J, in the Court of first instance, held that distribution should be in accordance with the *Idi Igi* system which was upheld by the Privy Council.¹⁹

In the case of *Salami v. Salami*, the plaintiff and the defendants were the only surviving children of one Salami Goodluck, a native of Abeokuta who died intestate, leaving a house and farmland in Abeokuta. Soon after the death of the man in 1927, the plaintiff, then about 7 years old was taken to French Cameroons by her mother and she did not return to Abeokuta until 1953. Apart from some clothes and two chairs allocated to her at the time of the father's death she received no other benefit. In an action for an account and partition brought by the plaintiff against her two brothers, IRVIN J. held that the plaintiff's right to inheritance could not be affected based on sex or minority and that *Dawodu* doctrine (*the eldest son doctrine*) did not entitle anybody to a greater share.²⁰

¹⁵ (1989) 377 S.E. 2d 804 (N.C.Ct. App. 19)

¹⁶ (1926) 7 NLR 58

¹⁷ Section 20(4) of the Western Nigeria Customary Law

¹⁸ Journal of African Law (1960). Vol. 4, Issue 2 pp 98-114.

¹⁹ Per Jibowu, 1958, 3 f.s.c 46(1962) 1

²⁰ (1971) 1 All NLR 57

4. Yoruba Customs and Common Law: Widowhood and Inheritances in Yorubaland

This aspect of the study examines an incidence of deprivation of woman's human rights and her right to inheritance in Yorubaland. In this wise, a woman after marriage is described as a widow (death of the husband) or a divorcee.

For instance in Ondo town like many other parts of Yorubaland, the property of a deceased belongs to the children of the deceased. Invariably wives of the deceased and mothers of the children are regarded as the pillars of the family while the children constitute the lineages of the deceased. In sharing of the deceased property, the family under Yoruba customs will either adopt the *Ori Ojori* (equal share of inheritances among the children of the deceased irrespective of their age or gender) or *Idi Igi* (equal share of inheritances on the basis of numbers of wives of the deceased for the children). Hence, if a widow had no child, she may not get anything from her husband's property as it would revert back to the husband's family.

Going by existing findings, there is a usual practice in the North Eastern area of Yorubaland covering Ondo and Ekiti States, though the customs differs from place to place. The custom is that widows would be confined for a period of seven to ninety days after their husband's demise. During the period of confinement, they are not allowed to go out of the family house and some may be barred from taking their bath, changing clothes or entertaining guest.²¹

The customs often demands that the widow should keep vigils, appear sober and mournful and even to wail or cry intermittently during confinement. She is also expected to be of impeccable character so that her late husband's spirit may gain quick access to the community of his ancestral spirits. Moreover, the widow is not expected to leave the family, go away with the children or look in the mirror for fear of seeing the deceased. Until recent years, she was not allowed to sit on the bed.²² In some custom, the head of the women are shaved off to sever the bond between her and the late husband before or after the confinement period.²³ Any widow who fails to mourn is believed to be involved in the husband's death. The repercussion is that she may become afflicted psychologically, die prematurely or forfeit her right and benefits in the family.²⁴

The period of confinement is part of the steps to ascertain if a widow is pregnant for the deceased husband. At the end of confinement, she will perform outing ceremony and be declared free to remarry into the family. In some sub-ethnic groups in Yorubaland, the widow's consent is required to be remarried. If she refuses, she can obtain divorce and repay the dowry. When a widow asserts her right and rejects to be inherited despite overtures of her late husband's family, she is bound to face the risk of life and acceptance of her children in the family. Nonetheless, a man may equally reject the inheritance of his late brother's wife without family wrath.²⁵

The implication of the foregoing as earlier reiterated under the customary law is that a marriage in Yoruba customs extends beyond the life of the husband. Death of a man does not ordinarily dissolve the marriage because the woman is regarded as an inheritance to her husband's kinsmen and she can neither own an inheritance nor have the custody of children of the deceased. This archaic custom was applied in the case of *Omo Ogunkoya v. Omo Ogunkoya*.²⁶

5. Repugnancy Doctrine and Succession

It is apparent that all the rules of customary law in South West Nigeria are subject to certain general tests of validity before they can be enforced. This is because the general attitude of the courts is to consider issues of repugnancy as a whole as having a single meaning and interpretation. For avoidance of doubt, the repugnancy doctrine and its components stand as one of the antidotes to cruel and archaic practices in Yoruba custom where women's rights are trampled upon, barred or hindered on matters of succession. The three criteria identified here for women to assert their rights are discussed briefly as: repugnancy, the inconsistency of public policy and its incompatibility with the law.

In the case of *Edet v. Essien*, the plaintiff had paid dowry for a woman and married her. She later left him and entered into a new marriage with another man, by whom she subsequently had two children. The plaintiff now alleged that under a rule of native law and custom he was entitled to the custody of these children, since his dowry had not been repaid to him. The position of the Court was on the basis of what is repugnant in the rule of customary law and with respect to the challenge of the custody of a child fathered by another man, merely because the dowry paid on the woman was not returned before she married another man. The court felt that asserting any claim over the child born to another made under the custom is repugnant to natural justice, equity and good conscience.²⁷

Going therefore to the case of *Lewis v. Bankole*, Per Speed C.J. stated that while natural justice and good conscience were not identifiable, the courts were well acquainted with the doctrines of equity.²⁸ The implication here is that the custom may fail the modern test of repugnancy since the paternity of a child should not be based on who has a claim over the mother but to whom the child belongs and the choice of the woman to engage in marital contract, consent and obligations.

²¹ Interview on the customs of Yoruba people in Yorubaland on rights of women on burials and sharing of inheritance. Information provided by Dr. Jadesola Taiwo Babatola PhD, Registrar, Federal Polytechnic, Ekowe, Bayelsa State, October, 2019

²² Interview on the characteristics and attitude of Yoruba people in Moslem dominated areas of Yorubaland on rights of women to inheritance. Information provided by Dr. Jadesola Taiwo Babatola PhD, Registrar, Federal Polytechnic, Ekowe, Bayelsa State, October, 2019

²³ Ibid.

²⁴ Ibid.

²⁵ Ibid.

²⁶ (1972) 2 ECNSLR p. 11

²⁷ *Edet v. Essien* (1932, 47) All NLR p.23 (1996)

²⁸ *D.W. Lewis & Ors V. Bankole & Ors* (1901) 1 NLR 82; *Lewis v. Bankole* (1908) 1 NLR 81 at 100 customary law

Furthermore, the issue of repugnancy doctrine with respect to a woman and a child was determined in the case of *Mariyama v. Sadiku Ejo*, where the issue was the determination of the repugnancy of the Ebira (*Igbiira*) native law and custom which demands that a child born within ten months of a divorce should be regarded as the property of the former husband. The respondent did not only establish that at the time of the conception, pregnancy and birth of the child, there was no intercourse between the estranged and separated couples for fifteen months. The court therefore declined on grounds of repugnancy to natural justice, equity and good conscience, to enforce the rule in the particular case, since the contested child was universally acknowledged to be of its parents.²⁹ No doubt, the Court proposed and expressed in the case of *Eshugbayi Eleko v. Government of Nigeria*, under Lord Atkin as follows:

*The Court cannot itself transform a barbarous custom into a milder one. If it still stands in its barbarous character it must be rejected as repugnant to natural justice, equity and good conscience.*³⁰

A brief examination of the prevailing case laws on repugnancy doctrine therefore subsists in the application of succession in title in Lagos State as found in most part of South West Nigeria. The rule is that the Court should enforce native law and custom, provided no particular rule in the custom is repugnant to natural justice, equity and good conscience.³¹ This is why the Court of Appeal (Lagos Division) in the case of *Motoh v. Motoh* declared that customary laws that discriminates against female children on inherit ancestor which is repugnant to natural justice, equity and good conscience should be discredited or disallowed.³² The Laws of Evidence further states in similar respect as follows:

*Provided that in case of any custom relied upon in any judicial proceeding it shall not be enforced as law if it is contrary to public policy, equity and good conscience.*³³

6. Rights of Women under the Constitution and National Policy

The National Centre for Women Development in collaboration with Federal Ministry of Women Affairs commenced a 2 year project in 2003 to compile discriminatory and customary laws in Nigeria. The consequence of the exercise was the revelation of the contradictions in the rights of women under the three legal systems: statutory, religious and customary in areas of:

- Property rights, including land tenure;
- Access to credit;
- Education;
- Participation in politics;
- Marriage;
- Succession; and
- Maintenance and custody of children.

The Attorney General of the Federation thereafter inaugurated a Committee on Reform of Discriminatory Laws against Women and the committee drafted the Abolition of All Forms of Discrimination against Women in Nigeria and Other Related Matters Bill (2006), which was presented to the National Assembly for enactment into law. Equally, the National Policy on Women (2000) and the revised National Gender Policy also provided guidelines for fostering the rights of women. The policy implementation consists of:

- Advocacy and enforcement of gender equality in all sectors of national life and the economy to reflect the policy shift towards gender and development.
- Collaborative efforts to achieve the set goals among national institutions and women's NGOs including
 - Provision of microcredit facility through Community Banks (now Microfinance Banks) and
 - National Poverty Eradication Programme made accessible to about 27% of Nigerian women.
- The policy thrust directed at the provision of literacy and health education to rural women for income-generation activities in 14 communities in 10 states of the Federation replicated in additional 10 States through the creation of Female Functional Literacy for Health and Poverty Alleviation Project (FFLH).
- The project encouraged women to form Cooperatives while educative and resource materials were produced in local languages to create awareness.
- The project equally concentrated on health education, functional literacy and income-generating activities for women in the rural areas under the supervision of Federal Ministry of Women Affairs and Youth Development (FMWAYD), Federal Ministry of Health (FMOH) and World Health Organization (WHO). Loans were made available at low interest rates with collateral waivers for women seeking credit facilities.
- The policy resulted to the establishment of skills acquisition centres throughout the states of the federation while pilot projects on modern bee farming was facilitated by FMWAYD and the International First Aid Society (IFAS).
- The project led to the establishment of Women Development Centres in all the local government areas for training in skills acquisition, mass literacy and adult education programmes targeted at rural women
- The project provided extension services in rural communities to improve agricultural yields and increase their technical proficiency with the collaborations of federal and state ministries.

²⁹ *Mariyama v. Sadiku Ejo* (1961)

³⁰ *Eshugbayi Eleko v. Government of Nigeria*

³¹ Section 27 (1) of the Rules of the High Court of Lagos State

³² *Motoh v. Motoh* (2010) LPELR-8642 (CA)

³³ Evidence Act (1995) as amended

- The Nigerian government equally invested US\$3,846,154 specifically on women involvement in agricultural production and processing to empower them.
- The National Poverty Eradication Programme (NAPEP) and the National Directorate of Employment (NDE) programme made special provisions for women in terms of employment and poverty reduction at all levels.

7. Findings

The finding of this study shows the deprivation of rights, denigration of status and inequalities of gender suffered by women in Nigeria particularly among the Yoruba ethnic group. Despite the fact that there are laws that have being promulgated to the effect of the eradication of discrimination, many women still suffer and face discrimination particularly with regards to inheritance of property due to poverty, inability to enforce their rights, illiteracy, the community, violence, customary laws inter alia. Moreover, the provisions of the Nigerian Constitution to some extent limits the rights of women as shown by the dignified biases of its framers in limiting the equality to men and women and men relates under the following provisions:

- Section 26[2][a] of the Constitution stipulates that Nigerian women cannot register their non-Nigerian husbands as citizens, though the Nigerian men can acquire citizenship by registration for their non-Nigerian wives. *(This is part of the entrenched law on the patriarchy nature of the Nigerian State and customs, though it provided wider latitude for women to acquire citizenship rights and access).*
- Section 29[4][b] of the Constitution indicates that a married woman of full age can renounce its Nigerian citizenship unlike a married man.
- Section 29[4][b] of the Constitution also allows a child girl of 12 years of age to be regarded as an adult, once married off.

What is challenging is the fact that Nigeria is a signatory to United Nations Charter by default as an independent sovereign state and a member. Nigeria also ratified many international treaties, protocols and conventions on gender equality and human rights, foremost being the Convention on the Elimination of all Forms of Discrimination against Women. Hence, some of the abuses and contradictions inherent in our laws which promote the customs of the people particularly the Yoruba people, explains the circumstance surrounding the limitations of the rights of men and women in Nigeria.

The unfair treatment meted on women is an issue to be addressed wherever it surrounds gender equality and advocacy of human rights. Indeed, women's rights under scrutiny and which should be enhanced relates to rights to life and human dignity, freedom of conscience and expression and the right to own property under the law. It behooves on policy makers, implementers of the law and stakeholders in traditional societies and family units to accept reform processes in the family. Equally, the society needs to accommodate the rights of women to equal access and opportunities in all aspect of family life. This would invariably include their right of access to share in parents' inheritance and to abolish customary laws that are repugnant. This is because the world is changing as well as the laws guiding them. The nation's effort to enshrine new laws to safeguard the human rights of all persons, must extend to the inheritance rights of women.

It is imperative for government and all stakeholders to guarantee the rights of women and safeguard it through family education on the need to accommodate and adapt to change. The degree of violence and oppression that women faces over their natural rights and their rights to inheritance will continue to deterred the progressive and development of the society if not addressed as long as it endangers the rights of women to inheritance.

8. Conclusion

It is essential to place higher premium on the education of women so as to empower them to pursue their rights without harm or opposition from the society. The family as the smallest basic unit of the society is the most powerful influential tool in the life of home and the child and then need to play a positive role in this regard. This will require conducting educational programmes, rallies, workshop seminars, in-house international debates, propagandas, manifestos and publicity for all stakeholders to appreciate and accept the rights of women in the Nigerian society with particular reference to South West Nigeria.

It is also imperative for stakeholders in the legislature, in the legal profession and court system, the security and law enforcement agencies, various religious organizations and traditional political institutions to support the effective application of extant laws relating to women's right. This will help tremendously as a means of fully eradicating the deprivation, oppression, inhuman treatments and suppression of women's right to inheritance in Nigeria. Even the Christian faith through the Bible admonished that some women got the inheritance of their fathers and it became part of the Jewish culture.³⁴ The implication here is that the society cannot exist without women and it is an affront to use and manipulate them without them having a say and having something to gain at the end of the day. Nothing makes a male child special than a female child. God gives children and never blesses the male more than the female.³⁵

With reference to the global trend today, as far as social justice and equity are concerned, it can rightly be submitted that time indeed is ripe for a re-appraisal of the rules of Yoruba Native Law and Customs which still hold same to men having right to inheritance as first born sons without regard to the first child of the family who might be a female child. Such a practice is not only primitive in nature and barbaric in application but it will be an offence against the natural laws of God as the essence of humanity.

³⁴ Meyer, Carol, (Ed.) *Women in Scripture*, New York: 2000; Op. Cit. The Bible – Numbers 27: 1-11.

³⁵ Op. Cit. The Bible

The role of the various stakeholders and the civil society can help to guide the direction in the application and enforcement on women's right to inheritance as well as proper management of the affairs of the family and the private life of people so that they can see the law and appreciate its essence to take its full course on the inheritance of women's right in Nigeria and in the Yoruba community.

9. Recommendation

The struggle to correct the situation or maintain the law will persist as long as the inequality among male and female persist under the Yoruba customs and native laws. Hence, here are some recommendations worthy of application to reverse the trend viz:

- The provision of Section 1 (3) of the 1999 Constitution (as amended) provides that any law inconsistent with the Constitution is null and void and of no effect. It is therefore imperative on the strength of this constitutional principle, to initiate through the courts process and the legislature, the necessary steps to abolish any proclamation of any native law and custom that contradicts the position of the Constitution with respect to women's right and the female's right to inheritance.
- Further steps should be taken by the court and law enforcement agencies to deal with breaches under the law as criminal matters if required to apply the maxim of the law and punish the offenders severely rather than hide under a finger that abuse of women and deprivation of their rights comes under family law.
- The government of all the South West State of Nigeria through its Ministries of Women Affairs, should be duty bound, more vigilant and responsive to the issues of women's right and basic needs of women particularly the widows in their domain so as to forestall the abuse of women and deprivation of their rights.
- Women leaders should create and sponsor specific programmes to improve the quality of life of women and their participation in public affairs. Late Maryam Babangida's *Better Life for Rural Women and Family Support Programme* is a good example to follow.
- Educated and active women from States in the Yorubaland can form themselves into active Community Based Organizations and Non-Governmental Organizations to source fund and promote initiatives that can help women to liberate their minds and give clear visions of their ultimate roles in the society.
- There should be harmonization of the received English Law, Local Statutes and Customary Laws on inheritance, while legal education should be included as one of the general courses of study for all entrants into tertiary institutions in order to have a grasp of humanity and gender sensitivity training.
- Efforts should be directed at continuous training of Judicial Officers and other Law Enforcement Agents so as to effectively eradicate all forms of discrimination against women on inheritance laws.
- Every intending couple applying to get married under the laws of Nigeria in Marriage Registry should be mandated to go through weeks of lectures on laws bordering on women's rights as well as made them see the importance of providing for their family, protecting them both while alive and in case of untimely death; against family incursion and deprivations.
- All stakeholders, both opinion and political leaders, traditional institutions, Chairmen of Local Government Areas in all the States under the Yoruba Nation of Nigeria should come together under one umbrella with an agenda to review our customary laws on succession.

10. References

- i. Abiola, Sanni (2006) *Introduction to Nigerian Legal Methods*, Obafemi Awolowo University Press, Ile – Ife, Nigeria
- ii. Adewuyi, O (2014) *Discriminatory Property Inheritance Rights*, Carlen Publishers, Ondo Nigeria
- iii. Animasaun, T. O. et al. (2002) *Law of Succession, Wills and Probate in Nigeria*, MIJ Professional Publisher Ltd, Nigeria
- iv. Bible Society of Nigeria (2011) *The Bible*, Amity Printing Co. Ltd, China
- v. Bryan, A. G (ed.) (2004) *Black's Law Dictionary*, Thomson Reuters, United States.
- vi. Coker, G. B. A. (1996) *Family Property Among the Yoruba*, Sweet and Maxwell, London
- vii. David, H (2016) *Words and Phrases Legally Defined*, LN, UK.
- viii. Ekundayo, F. & Onibokun A.G *Your Rights and Responsibilities in Marriage*, (CASSAD), Ibadan, Nigeria
- ix. Harvey, B.W (1968) *The Law and Practice of Nigerian Wills Probate and Succession*, Sweet and Maxwell, London.
- x. Ikime, O (2007) *Groundwork of Nigerian History*, Heinemann, Ibadan.
- xi. Ireshot, M. V. A. (1996) *Women's World*, Attoc Press, Abeokuta, Nigeria.
- xii. Kumura, R. (2006) *Women in Politics: Participation and Governance*, Authors Press, Dell.
- xiii. Nwabueze, B (1972) *Nigerian Land Law*, Nwamife Publishers, Nigeria.
- xiv. Nwogugu, E. I. (1990) *Family Law in Nigeria*, Heinemann Educational Books Nigeria.
- xv. Okagbue, I. (1996) *Women's Rights are Human Rights*, Nigerian Institute of Advanced Legal Studies, Lagos, Nigeria
- xvi. Okany, M. C (2000) *Nigerian Law of property*, Fourth Dimension Publishers, Nigeria.
- xvii. Okokwo C.O. (1980) *Introduction to Nigerian Law*, Sweet & Maxwell, London

- xviii. Olawale, A. et al. (eds.) (1997) *Rights of Women and Children in Divorce*, Franked Publishers, Lagos
- xix. Odetola, T.O. et al. (1987) *Sociology: An Introductory African Text*, Macmillan, Lagos
- xx. Oyewo A.T. et. al. (2010) *A Survey of African Law and Custom*, Jator Publishing Company Nigeria.
- xxi. Rommen, H. A. (1959) *The Natural Law: A study of Legal and Social Philosophy*, B. Herder Publication.
- xxii. Sagay, I. (1999) *Nigerian Family Law: Principles, Cases, Statutes And Commentaries*, Malthouse Press Ltd., Lagos, Nigeria.
- xxiii. Sandra, A (ed.) (2009) *The Cambridge Law Dictionary*, 4th edition, Cambridge
- xxiv. Shiela, B. (1993) *Osborne's Concise Law Dictionary*, 9th Edition, Sweet and Maxwell
- xxv. Smith, I. O. (2007) *Practical Approach to Law of Real Property in Nigeria*, Ecowatch Publications Limited, Lagos, Nigeria.
- xxvi. Suleiman, I. (eds.) (1996) *The Nigerian Law Dictionary*, 2nd Edition, Tamaza
- xxvii. Agarwal, B (1994) *A field of one's own: Gender and Land Right in South Africa*, Cambridge University Press, South Africa
- xxviii. Babatola, F.D.O (2015) *A Family Seminar on Adult Life and Health: 'Living a healthy life'*, Ado – Ekiti, Nigeria.
- xxix. Babatola, J.E.T. (2010) *A True Nigerian*, A Public Lecture in Honour of Chief M.A. Obayemi, Ado-Ekiti, Nigeria.
- xxx. Eso, K (1995) *Thoughts on Human Rights Norms Viz-a-viz the Courts and Justice: An African Court or Domestic Courts or Domestic Courts?* Nigerian Institute of Advanced Legal Studies, Lagos, Nigeria.
- xxxi. Okunola, M (1991) *Relationship between Islamic and Customary Law of Succession in Southern Nigeria*, Federal Ministry of Justice, Lagos, Nigeria
- xxxii. Omolewa, A (2015) *'Reality of Women's Right in Nigeria' Presentation at the Nigerian Bar Association*, Lagos Nigeria.
- xxxiii. Oni, B. A. (2014) *'Discriminatory Property Inheritance Rights under the Yoruba and Igbo Customary Law in Nigeria. The need for Reforms'*. *IOSR Journal of humanities and Social Science*, Volume 19, Issue 2.
- xxxiv. Onuoha, A (2008) *'Discriminatory Property Inheritance under Customary Law in Nigeria'*. Volume 10, Issue 2.
- xxxv. Babatola, J.E.T. (2017) *Cleavages and Features of Political Centres and Institutions in Ekitiland, Conflict and Agitations for Local Autonomies in Ekitiland 1900-2014*. Accessed online on 24th June, 2017
- xxxvi. Food and Agricultural Organization: http://www.fao.org/gender-landrights-database/country-profiles/countries-list/national-legal-framework/rights-entrenched-in-the-constitution/en/?country_iso3=NGA Accessed online on 4th April, 2020