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Women's Inheritance Rights in Nigeria: An Analysis of the Legal Gaps and Reform Prospects

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Abstract

Despite constitutional guarantee of gender equality and the existence of other various legal frameworks, women in Nigeria face significant barriers to inheriting property either from their father or even from their husbands. This paper examined the legal frameworks governing inheritance rights in Nigeria, whilst identifying the gaps and challenges that perpetuate gender-based discrimination. The paper also analyzed the customary and religious practices as well as the international human rights law in order to identify the gaps and challenges. It also evaluated the proposed legal reforms, policy changes to promote gender equality and protect women's inheritance rights. The paper adopted the doctrinal research methodology whilst the approaches included narrative, descriptive and expository. The research highlighted the need for comprehensive legal and advocacy aimed at addressing gender-based discrimination in inheritance rights, awareness creation amongst the womenfolk on their inheritance rights, promoting women's economic and social empowerment as well as their well-being.

1. Introduction

Evidence abounds that under customary law, women are denied the right to own landed property in their capacity. They are only entitled to own property of less importance such as cooking utensils, items of clothing and so on. Under the Nigerian customary law, a woman needs the consent of her husband before she can get involved in more serious transactions[1]. Women married under customary law rarely inherit properties from their fathers or husbands, as wives are subordinate to their husbands and his family[2].Although the statutory laws and judicial interventions outlaw these discriminatory practices against women, these practices persist[3]. It is pertinent to state that these discriminatory practices are more pronounced in rural areas and continued to strive as a result of ignorance, poverty, social stigma, taboos, etc.

Customarily, women are regarded as the property of their husbands and as such can neither own nor inherit property. This patriarchal reinstatement is echoed by Jibowu, F.J. in *Suberu* v *Sunmonu*[4]. The court upheld the custom denying a widow's right to inherit her husband's property for the reason that she was considered part and parcel of her deceased husband's estate[5]. Similarly, in *Shaibu v Bakare,*[6]the Supreme

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[1] 'Property Rights of Women Married under Law Review of *Arajulu v Monday*, (2020) 15 (1) *LASU Law Journal*, 213-230

[2] 'Food and Agriculture Organisation of the United Nations, Gender and Land Rights Database'< https://www. countries-list>custo...> accessed 19 July 2024.

[3] See 41(1) (2) 1999 CFRN; *ChituruUkeje v Gladys Ada Ukeje* (2014) 9 NWLR (Pt. 1418) at p. 384; *OnyiborAnekwe & Anor v Maria Nweke* (2014) 9 NWLR pt. 1412 at p. 393; Articles 2, 5 and 11 of Convention on the Elimination of all Forms of Discrimination against Women (CEDAW); Article 2 and 3 of Universal Declaration of Human Rights1948; Article 3 International Covenant on Civil and Political Rights (ICCPR) 1966; Violence against Persons Prohibition Act (VAPPA) 2015; Articles 2 and 3 African Charter on Human and People‟s Rights 1981 with specific reference to Articles; Article 2 and 5 Protocol of the African Charter on Human and People‟s Rights of Women in Africa. Article 2 and 5.

[4] (1957) 2 F.S.C. 31 at 33

[5] See also *Oshilaja v Oshilaja* (1973) CCHCJ 30/10/73 pg11

[6] 8(1983) Sup. Ct. 115

Court reaffirmed that under customary law in Yoruba land, where a man dies intestate; his property is transferred to his children, not his wife. In effect, a widow becomes property. The above decision was also reaffirmed in the case of *Akinnubi v Akinnubi*[7]. As a result of the reasoning above, a widow may suffer as a result of such custom. The courts have held that such customs are repugnant to natural justice, equity, and good conscience[8]. The Supreme Court has also reconfirmed this custom in the case of *Ojiogu v. Ojiogu*[9].

It seems clear that what the Supreme Court is saying pertaining to customary law is that: in law, husband and wife is one person, and the husband is that person[10] It is then not surprising that Supreme Court decisions such as in *Nezianya v Okagbue*[11]and *Nzekwu v Nzekwu*,[12]affirms that customary laws do not recognize women's right to own property. It is strongly argued that in the determination of such matters, the Supreme Court overlooked the constitutional rights of equality and the freedom from discrimination. These cases in many ways discriminate against a woman's right to own property. Thus, one may agree that there is a strong disconnection between law and reality and the inability or unwillingness of those who interpret the law to deal with changing situations effectively.

Married women under customary law have no personality. Once married, to the outside world, a Nigerian woman loses her identity, she is no longer seen as a biological member of the family; she becomes a visitor and is therefore excluded from family property inheritance. In most societies in Nigeria, the role of a woman is seen as only a wife and mother. This practice is prevalent under customary law, a woman's property is subsumed in her husband's. Under varied customary laws in Nigeria, a widow is considered to be part and parcel of the estate of her deceased husband. This practice still subsists in the rural communities where majority of women are illiterate and lack access to justice. Nevertheless, this practice in present day Nigeria is gradually becoming obsolete for the reason that women are now being enlightened, and thereby insist on marrying under the marriage statute. Also, the recent decision of the Supreme Court in the case of *Mojekwu v Mojekwu*[13] is a step in the right direction.

2. Conceptual Clarifications

2.1 Inheritance

Inheritance simply put means to receive (property) from an estate by operation of the laws of intestacy. Broadly, to receive (property) either by will or through intestate succession.[14]Inheritance in the context of family law is generally defined as the practice of receiving private property, titles, debts, entitlements, privileges, rights,obligations etc upon the death of an individual. The rules of inheritance differ among societies and have changed over time. Officially bequeathing private property and/or debts can be performed by a testator through his will, as attested by a notary or by other lawful means. On a general note, the heir of the deceased receives the said property. A heir in law,(heiress) is a person who is entitled to receive a share of the deceased's (the person who died) property, subject to the rules of inheritance in the jurisdiction of which the deceased was a citizen or where the deceased (decedent) died or owned property at the time of death.

Inheritance may either be under the terms of a will or by intestate laws if the deceased had no will. However, the will must comply with the laws of the jurisdiction at the time it was created or it will be declared invalid (for example, some states do not recognize handwritten wills as valid, or only in specific

[7] (1997) 2 NWLR 144
[8]*Agidigbi v Agidigbi* (1992) 2 NWLR 98
[9] (2009) 9 NWLR (pt.1198) 1. S.C.
[10]L Holcombe, *Wives and Property:Reform of the Married Women's Property Lawin the Nineteenth-Century*. England (Oxford: Martin Robertson,1983), 18
[11] (1963) All NLR 352
[12] (1989) 2 NWLR 373
[13] (1997) 7 NWLR (Pt. 513) 283.
[14] Inheritance-definition, meaning<https://www.merriam-webster.com/dictionary/inherit> accessed 2 May 2024

circumstances) and the intestate laws then apply. In modern law, the term inheritance and heirrefer exclusively to succession to property by descent from a deceased dying intestate. Takers in property succeeded to under a will are termed generally as beneficiaries, and specifically devisees for real property, bequests for personal property (except money), or legateesfor money[15].

2.2. Women

The word women refer to a brand of mature human species with special characteristics or features. This operational definition captures only the bodily aspect of women by focusing on the physical differences between women and men such as the enlargement of hips and mammalian features. Various authorities have defined the word according to their different understandings[16].

The perception of women in any legal system determines, to a large extent, the degree of attention and regard the law attributes to them. Ordinarily, a woman is among the feminine specie of human race. The human society has over the years developed roles for women in different societies, encouraged certain attitudes towards them and upheld certain traditions revolving around them.

Generally, a woman is a human being that has from birth all female biological features and who is accepted by self and society to be a woman. From the foregoing, the possession of features where they are artificially fitted and accepted by the person who has changed from a man to a woman and rejected by the society cannot make one a woman. In the same vein, where both the person and the society accept an artificial change of bodily features in order to turn a man into a woman or vice versa, the general acceptance cannot constitute a valid ground for the assignment of the status of a woman to a man who has undergone some form of surgical operation for that purpose. A woman, therefore, is a special creature of God ordained with the features solely associated with women right from birth.[17]

The traditional human society relegated the status of womanhood to an inferior one which means that the setting in those societies reserve positions of honour, might, wealth, royalty and secured interests for mostly men, while in most cases leave women as beggarly elements. These traditional attitudes were reflected in customs which formed the bedrock of ancient legal systems. The genuine need to protect the fragility and tenderness associated with women make the men to forbid women from certain duties, for example, climbing a very tall tree and tapping palm wine. The problem is, however, not mainly with the roles but with the perception of law on womanhood.

Furthermore, the word 'women' has a contextual meaning. In other words, the background where the word is used determines the meaning to be attached to it. In some setting, the word is used to designate a human species that attracts the same privileges and rights that other species of the human race attract. In some other setting, it designates a human species that possesses baser qualities and low esteem. The acknowledgment of the status the law assigns to women in any setting, if it is a sincere one, would reveal the attitude of society in relation to their conception of a woman[18] in particular or the women folk in general. Before the enactment of the Married Women Property Act, married women were conceived by the setting in which the Act operated as people who had no personal rights over their properties and as such maintained that all the properties that a woman acquired belonged to her husband. This injustice was accelerated callously and sustained by the wrong notion or concept of who a married woman should be.

The coming into force of the Act ended such injustice by the prominent provision that a married woman has a legal right over her properties.The present concept of the word women as captured in modern

[15] Meaning of beneficiaries =https://en.wikipedia.org/wiki/Inheritance 2 may, 2024

[16] Shelter Rights Initiative, Legal Protection of Women's Rights, a compilation of Domestic and International Standard Shelter Rights Initiative, Lagos, 2001,p.vii.

[17] G N Okeke ,'Who is a Woman', (2013) 3 (3) *Journal of Women and Minority Rights*.

[18] H Finblay, 'Divorce and Status of Women:Beginning in Nineteenth Century Australia, <https://www.gov.au/a> accessed 2 may 2024. On 18 December 1979, the Convention on the Elimination of All Forms of Discrimination against Women was adopted by the United Nations General Assembly.

legislations like CEDAW[19] (Convention on the Elimination of All Forms of Discrimination against Women) perceives of women as being equal with the men in worth and eminence. The coming into effect of the convention is not unconnected with the Beijing Affirmative Action which tasked governments of sovereign states to improve their concept of women and the roles assignable to them. In fairness to international law, this breach of law had earlier given the template for the proper perception of women by making human rights principles applicable to all specie of human beings even before the convenience of the Beijing Conference where the Affirmative Action was asserted.

Recently the privative status of women is gradually changing. The change is not spontaneous, but a steady progress is made towards getting to the goal of giving women their rightful place in human existence. This laudable achievement is based on a palpable scheme employed by all those whose efforts over time yielded this bountiful fruit. The scheme in question related to law reviews and cognitive restructuring presently, the law in most jurisdiction has come to assign to the woman a similar status assigned to men in most cases, though there are still rooms for improvement as it relates to fully removing every snag on the concept in order to encourage the removal of substituting statutory provisions and practices that are derogatory and as such against the interest of womenfolk. Nevertheless, the use of the word, women in modern jurisprudence is employed proactively in order to create a just and fair society to all, especially the women.

2.3. Rights

Rights are entitlements not to or to perform certain actions, or (not) to be in certain states; or entitlements that others are to (not) perform certain actions or (not) be in certain states.Rights dominate modern understandings of what actions are permissible and which institutions are just. Rights structure the form of governments, the content of laws, and the shape of morality as many now see it. To accept a set of rights is to approve a distribution of freedom and authority, and to endorse a certain view of what may, must, and must not be done.This entry begins by describing the nature of rights: their classification, their composition, and their function. It then reviews the history of the language of rights, and various relationships between rights and reasons. The major contemporary philosophical approaches to the justification of rights are compared, and the entry concludes by surveying criticisms of rights and "rights talk." The focus throughout is on general theoretical issues (what rights are) and not on arguments over specific rights (what rights there are).

2.3.1 Types of rights

(a) **Natural rights** are rights which are "natural" in the sense of "not artificial, not man-made", as in rights deriving from human nature or from the edicts of a god. They are universal; that is, they apply to all people, and do not derive from the laws of any specific society. They exist necessarily, inherent in every individual, and cannot be taken away. For example, it has been argued that humans have a natural *right to life*. These are sometimes called *moral rights* or *inalienable rights*.

(b) **Legal rights**, in contrast, are based on a society's customs, laws, statutes or actions by legislatures. An example of a legal right is the *right*of citizens *to vote*. Citizenship, itself, is often considered as the basis for having legal rights and has been defined as the "right to have rights". Legal rights are sometimes called *civil rights* or *statutory rights* and are culturally and politically relative since they depend on a specific societal context to have meaning.

Some thinkers see rights in only one sense while others accept that both senses have a measure of validity. There has been considerable philosophical debate about these senses throughout history. For example, Jeremy Bentham believed that legal rights were the essence of rights, and he denied the

existence of natural rights, whereas Thomas Aquinas held that rights purported by positive law but not grounded in natural law were not properly rights at all, but only a facade or pretense of rights.

3. Overview of the Legal Frameworks on Women's Inheritance Rights in Nigeria

3.1 Constitution of the Federal Republic of Nigeria 1999 as Amended.[20]

A woman is a female who has attained full age (18 years old) or is married. Section 29(4) of the Nigerian Constitution holds that these two major ingredients must be present.

(a) "full age" means the age of eighteen years and above

(b) any woman who is married shall be deemed to be of full age.

In the case of *FeliciaNgozi Okonkwo v Benjamin Aforka Okonkwo & 5 Ors*[21], a childless widow was prevented from inheriting as much as a male intestate spouse by Section 120 (1)(b) of the Administration and Succession (Estate of Deceased's Person) Law of Anambra State, 1991. The court held that to the extent that it discriminates or dichotomizes between male and female intestate spouses, it is inconsistent with Section 42 (1) and (2) of the Constitution of the Federal Republic of Nigeria, 1999 (as amended).

Right against discrimination of women contained in the various international instruments is articulated under Chapter II, Chapter IV and Section 254 A of the 1999 Constitution of the Federal Republic of Nigeria 1999 (as amended). For instance, the International Covenant on Economic, Social and Cultural Rights is codified in Chapter two of the Constitution while International Covenant on Civil and Political Rights is contained in Chapter IV of the Constitution whereas other treaties can be said to have been taken care of by Section 254 A of the Constitution.[22] In Chapter II, it provides that every citizen shall have equality of rights, obligation and opportunities before the law. The state shall also direct its policy towards ensuring that all citizens, without discrimination of any group whosoever, have the opportunity for securing adequate means of livelihood as well as adequate opportunity to secure suitable employment and there shall be equal pay for equal work without discrimination because of sex.[23]

Although these provisions are not justiciable, these principles cannot be dismissed on that basis, but their importance should rather be seen in the light of their purpose, which is to inform policy at every level of state action, in every organ and in every activity of the state. The state's social order is found on ideals of freedom, equality and justice, in furtherance of social order. Chapter IV of the Constitution deals with civil and political rights. It guarantees the right to freedom from discrimination based on ethical group, place, sex, origin, religion or political opinion among other discriminations against the vulnerable,[24] thereby prohibiting any form of discrimination against women and the likes everywhere including property acquisition and ownership. This to some extent offers security before the advent of the Third Alteration Act, 2010. The Third Alteration of the 1999 Constitution of the Federal Republic of Nigeria introduced the second generation of security to socio-economic rights of Nigeria citizens. Thus, rather than protecting merely citizens against abuse of state power, the latter rights widened the scope to bind not only government and citizens but also the relationship between employers and employees by obligating the state to do as much as it can to protect all members of the society, making it easier and simple for the protection of employment and job security of individuals in the labour market as well as the society.[25] It is important to point out that before the advent of the Third Alteration Actof 2010 of the Constitution, no treaty between the federation and other country had have the force of law except to the

[20] CFRN 1999 (as amended) and the Third Alteration/Amendment, 2010.
[21] (2014) 17 NWLR (pt. 1435).
[22] Chapter II, The Fundamental Objectives and Directive Principles of State Policy; Chapter iv, The Fundamental Human Rights; the Third Alteration Act, 2010 s 254 A.
[23] CFRN 1999 (as amended) s 17.
[24]Ibid, s 42.
[25] CFRN (Third Alteration) Act, 2010; s 254.

extent to which any such treaty has been enacted into law by the National Assembly.[26]Thus, once a treaty or protocol or convention is ratified by the Nigeria State, it becomes enforceable and binding on all citizens. With women working equally with men as provided by the constitution, they can earn and as well acquire properties with their earnings legally under the law and keep same or do with it as they please under the law.

3.2 Matrimonial Causes Act.[27]

A married woman under the Act has a right to partake in the sharing of matrimonial properties (properties acquired by the couple during the course of the marriage) upon the death of the husband or divorce.[28] These cases were decided on the strength of section 17 of the Married Women Property Act 1882 (a law of general application) which provides that 'in any question between husband and wife as to the title or possession of property, either party may apply to the court and the judge may make such order with respect to the property in dispute…as he thinks fit.'A similar provision in section 72 of the Matrimonial Causes Act Cap M7,LFN 2004 which provides that 'The Court may, in proceedings under this Act, by order require the parties to the marriage, or either of them, to make, for the benefit of all or any of the parties to, and the children of, the marriage, such a settlement of property to which the parties are, or either of them is,entitled (whether in possession or reversion) as the court considers just and equitable in the circumstances of the case'.

Under the just and equitable doctrine of section 72 of the MCA, married women under the Act are adequately protected, though due to some reasons, which may include inadequateknowledge and expertise in matrimonial proceedings or lack of courage, some lawyers hardly invoke these beneficial provisions to protect the married woman. In determining whether the wife actually contributed to the family' wealth, the courts have decided in the following cases: *Backhouse vs. Backhouse*,[29]*Nixon vs. Nixon*,[30]*Coker vs. Coker,*[31] etc, that the contribution of the wife does not necessarily have to be direct, substantial or financial. The moral support of the wife, catering for the needs of the man and children and managing the home has been held to have money's worth. Therefore, the saying, behind every successful man, there is a woman is more apt here and glorifies the worth of women in marriage.

The Matrimonial Causes Act in section 70 allows a court to make orders relating to maintenance of a wife in a marriage. An application for a maintenance order can be brought before the court on its own without an application for separation or divorce. This means that even during a marriage, a wife can ask a court to order her husband to pay her a sum of money periodically for her upkeep.[32]The Court has the sole discretion in the apportionment of the properties and in exercising this discretion a lot of factors are considered, which may include whether, the wife is working and earning enough to cater for herself, her financial contribution towards acquiring the properties, whether she has other properties of her own, her age and the duration of the marriage. The Court is expected to be fair and just in sharing the properties, so there is no hard and fast rule about it.

Therefore, the widely held view that in the event of dissolution of a statutory marriage, the wife (even if she is just a housewife) will leave the marriage empty-handed is not the correct position of the law. Such thoughts should be perished. Upon marriage the couple becomes one and in the event of dissolution of the marriage, both are entitled to a share in the properties acquired by both in the course of the marriage.

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[26] CFRN 1999 (as amended) s 12.
[27] Marriage Act (Cap M6) LFN, 2004.
[28] See the cases of *Petit v Petit* (1970) AC 777; *Hine v Hine* (1962) 1 WLR 1124, 1127; *Nwanya v Nwanya*(1987) 3 NWLR PT 62, 697*; Kaffi v Kaffi* (1986) 3 NWLR (Pt 27) 175. See also the Administration of Estates Law of the various States in Nigeria.
[29] (1978) 1 ALL ER 1158.
[30] (1969) 1 WLR 1676.
[31] 1964) LLR 188.
[32] A*mah v Amah* (2016) LPELR- 41087-CA,

3.3 Customary Law

The Supreme Court of Nigeria and The Court of Appeal have over the past two decades delivered pivotal decisions on women's inheritance rights, particularly in Igbo communities in the eastern part of the country, challenging discriminatory customary laws and highlighting their unconstitutionality. Yoruba (of western part), female inheritance on the other hand appears more liberal and democratic.[33]

In Eastern Nigeria, which encompasses Abia, Anambra, Ebonyi, Enugu, and Imo states, inheritance follows the Igbo custom. Traditionally, male children are favoured over females in the inheritance of a father's property, including house and land. In Igbo customary law, widows typically do not inherit their deceased husband's property. They may only retain the house and a portion of land. This grants them possessory, not proprietary rights. This practice stems from the belief that inheritance follows blood, and widows are not blood relatives of their husbands. Additionally, native law recognizes children from such unions as legitimate, but their mothers do not have the same status as wives under the marriage ordinance.

In Yoruba customary inheritance, when a person passes away without a will, the estate is divided. This is done per stripe, where it is first divided equally among wives, and then each wife's share is further divided equally among her children, regardless of gender. In polygamous settings, disputes may arise due to the proportional distribution among children of each wife. Another Yoruba practice, 'Ori Ojori', ensures equal distribution of the deceased's property to each child, promoting fairness and reducing conflicts. In summary, under Yoruba custom, girl-children have equal inheritance rights from their deceased father's estate.

However, in Yoruba native law and customs, wives typically do not have inheritance rights in their deceased husband's estate; unless it can be proven that the property was gifted to them during the husband's lifetime. The husband and wife have equal rights to own, control, use and dispose of any joint property. A husband cannot dispose of or make decisions concerning the joint property without the wife's consent. Article 7 of the Protocol to the Charter on Human and People's Rights on the Rights of Women in Africa" which has been ratified by Nigeria, states that both parties of the marriage shall enjoy equal rights within and outside the marriage on issues of custody and access to an equitable share of the joint property deriving from the marriage.

A widow under customary law will also have a right to inherit her late husband. Any tradition or custom that prohibits a wife from inheriting from his husband is discriminatory and unlawful. In ***Onyibor Anekwe & anor v Maria Nweke,***[34] the wife in this case sought to establish and restate the right of a widow without a male child to inherit from her husband contrary to the obnoxious discriminatory customary practice of the Amikwo community in Awka which did not recognize her right of inheritance. The Supreme Court which toed the line of the lower courts held that the custom of the Awka people of Anambra State which stated that a married woman who had only daughters and no male child for the husband cannot inherit landed property from the late husband, is barbaric and repugnant to natural justice, equity and good conscience and ought to be abolished.

In the case of *Ugbene v Ugbene&ors,*[35]the wife and female children of the deceased were prevented from inheriting under the Egede native law and custom. The court held that this custom amounted to discrimination and was contrary to the provisions of the Constitution in Section 42.

Article 21 of the **Protocol to the Charter on Human and People's Rights on the Rights of Women in Africa** which has been ratified by Nigeria provides that a widow or widower shall have the right to inherit each other's property in the event of death whatever the type of marriage and to continue living in the matrimonial home.

[33] Indigenously known as "idiigi" & "Ori ojori" methods od distribution.
[34] (2014) LPELR – 22697 (SC).
[35] (2016) LPELR-42110(CA).

3.4 Sharia Law

Islamic succession follows a regulated framework, requiring adherence to Islamic principles for eligibility. The power to bequeath is limited to one third of the estate, with the remainder distributed among heirs according to prescribed portions. The Maliki school of Islamic law is applied in Nigeria, recognizing three grounds for inheritance: marriage, blood relations, and clientship. There are three categories of heirs: sharers at law, residuaries, and distant kindred, each with specific entitlements. For instance, a wife inherits a quarter in the absence of certain heirs, while daughters may receive one-half or two-thirds depending on specific circumstances. These provisions reflect the careful consideration of various familial relationships in Islamic succession.

Under the Islamic law, the Quran unequivocally affirms women's right to inherit, setting a precedent recognized by the religion. Generally, women receive half the inheritance of men, though exceptions exist, such as when a mother receives an equal share to the father. This demonstrates that women's rights and responsibilities are not entirely subordinate to men's in the eyes of God.Under statutory marriage, a wife has the right to be maintained/taken care of by her husband during and after the marriage. This maintenance is important to ensure that a wife is financially secured. The right to maintenance is not protected under customary marriage. The Quran however specifies this right and husbands are responsible for the maintenance of their wives.[36] Article 7 of the Protocol to the Charter on Human and People's Rights on the Rights of Women in Africa which has been ratified by Nigeria, states that both parties of the marriage shall enjoy equal rights within and outside the marriage on issues of custody and access to an equitable share of the joint property deriving from the marriage.

However, a widow under Islamic law will also have a right to inherit her late husband. The Holy Quran in chapter 4:7-8 permits a wife in an Islamic marriage to inherit her deceased husband's property. The wife is entitled to a fourth of the deceased's property if the marriage produced no children and an eight of the property if the marriage produced children, as confirmed in *Muhammadu &Ors v. Murtala & Anor*[37].In *Ngozi Okonkwo v. Benjamin Aforka Okonkwo & 5 Ors,*[38] as earlier cited about a childless widow who was prevented from inheriting as much as a male intestate spouse by Section 120(1)(b) of the Administration and Succession (Estate of Deceased's Person) Law of Anambra State, 1991, the court held that to the extent that it discriminates or dichotomizes between male and female intestate spouses, it is inconsistent with Section 42(1) and indeed (2) of the Constitution of the Federal Republic of Nigeria, 1999 (as amended).

3.5 Married Women's Property Act.

The Married Women's Property Act (a federal law) provides in section 1 that a married woman shall be capable of acquiring, holding, and disposing by will or otherwise, of any real or personal property as her separate property in the same manner as if she were a femme sole (unmarried woman, spinster, divorcee), without the intervention of any trustee. In *Aderounmu v Aderounmu*[39], the issue before the court was whether a married woman was capable of acquiring, holding, and disposing property. The court granted an order asking the husband to vacate property belonging to the wife as sole owner and an order directing the husband to hand over to the wife the Land Rover Jeep being property belonging to the wife.Section 12 of the Married Women's Property Act provides that a wife can bring civil or criminal proceedings against any person including her husband for the protection and security of her own separate property provided that the act was committed, and criminal proceedings are instituted against her spouse when they are no longer living together.

A wife who intends to go to court should consult and hire a lawyer to represent her in court. She can seek justice in a High Court or Magistrate Court. If the decision of the court is not justifiable to the wife, she

[36] Quran 4:34.
[37] (2018) LPELR-44125(CA).
[38] (2014) 17 NWLR (pt. 1435).
[39] (2003) 2 NWLR, Part 803.

can also appeal to the Court of Appeal and subsequently to the Supreme Court.Section 17 of the Married Women's Property Act (MWPA) allows a judge to use his discretion to decide on any question between a husband and wife as to the title or possession of a property. As held In the case of *Oghoyone v Oghoyone*,[40] the court decided that the contributions of a wife towards the property in dispute gave the wife the right to be considered a joint owner with her husband and it held that the husband and wife were to share the proceeds of the sale of the jointly owned property equally.

4. Legal Gaps and Challenges

Despite the progress made so far, there persist challenges which act as impediment to the rights of women to inherit properties and the challenges are:

i. Cultural and Religious Resistance to Change: Several cultures especially in igbo culture, are deeply rooted and despite the evolving world, have remained insistent and resisted the inheritance rights of women. This basically is because of the believe that the inheritance should be by blood and the wife of the deceased is not of the same blood with the deceased and as such should only have a possessory right over her deceased husband's properties. The female children of the deceased are seen as chattels which will one day get married and belong to another community, therefore, should not be allowed to take part in the sharing of her father's property. This has been the practice in the time past and this same practice is still prevalent.
ii. Limited access to Education: most of the affected women are not educated and do not know their rights as enshrined in the constitution, so the barbaric culture tend to tie them down.
iii. Limited Access to Justice: Women do face barriers in seeking legal redress for inheritance disputes due to lack of awareness, resources or support.
iv. Discriminatory laws and practices: Nigerian laws and customary practices often prioritize men over women as it relates to inheritance matters.
v. Religious and customary laws: Some religious and customary laws may restrict women's inheritance rights.

5. Reform Prospects in Ensuring the Protection of Women's Inheritance Rights

(a) Economic Empowerment of women: it is very expedient that women at all level get themselves empowered economically; this will help them not to rely majorly on their husband and as such can provide and cater for themselves. They can as well buy their own properties or jointly purchase properties with their husband in his lifetime. This will make the extended family of the deceased to respect the wife and also notto fight for properties at the demise of their brother.
(b) Legal Reforms: There is need for amendment of the discriminatory laws and policies enact gender neutral inheritance laws as well as strengthening the legal frameworks in order to protect women's rights.
(c) Institutional Reforms: Establishment of specialized courts or tribunals for inheritance disputes and there is need to also strengthen institutions that promote gender equality.
(d) There is also need for collaboration with international organizations in order to promote best practices, as well as ensuring the ratification and full implementation of international human rights instruments.
(e) Community engagement: This shall be by sensitizing and educating communities, villages and rural areas on women's inheritance rights. This can also be achieved by involving community leaders as well as other stakeholders in promoting and ensuring gender equality.

6. Conclusion

Inheritance practices in Nigeria today are a cobweb of law, particularly family law, religion and cultural norms. This research has done an extensive examination of religious, cultural, and legal dictates and how they affect inheritance. It also expounded related concepts including inheritance, succession, family,

[40] (2010) LPELR-4689 (CA).

religion and law. Furthermore, it dwelt on the legal and institutional framework of inheritance. The research delved into the interactions of law, religion and cultural practices to shape inheritance against women in Nigeria. The research revealed that inheritance practices have improved from its patriarchal nature largely due to the intervention of the court. However, much is still desired, and the reforms offered in this research will make a strong case.