



## AN APPRAISAL OF THE INHERITANCE RIGHTS OF WOMEN IN NIGERIA UNDER THE ACT AND IGBO TRADITION AND CULTURE

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### Abstract

*This paper examined the legal appraisal of the inheritance rights of women's rights under the Act and under the Igbo culture in Nigeria. The Nigerian Constitution and the various international and regional instruments to which the country is a signatory, have guaranteed women certain rights. However, the implementation of these laws and policies has been less than satisfactory. There have been instances of discrimination and violence against women, as well as a lack of access to education and healthcare. Objectives of this paper were to ascertain how the relevant laws have assisted in protecting women against sexual harassment and discrimination; determine the extent to which women's rights have been violated in the public and private sectors of Nigeria; determine the extent to which women have been protected against sexual harassment and discrimination in the United Kingdom and the Canada; examined the lessons on the legal protection of women against inheritance of property from other jurisdictions. The doctrinal research method was adopted for this paper. The paper found that in Nigeria, women have several legal rights that are enshrined in the Constitution and other laws. There are several key lessons that can be drawn from the experiences of the United Kingdom and Canada in protecting women's rights and applying them to the Nigerian context. These included the need for a comprehensive legal framework that addresses all aspects of women's rights, including economic, social, and political rights. Therefore, the paper recommended strengthen the legal framework by enacting laws that explicitly address all aspects of women's rights, establish an independent body to monitor and enforce the laws, and the government should domesticate all international conventions and treaties relating to female gender. Enhance the enforcement of inheritance laws through effective judicial mechanisms and oversight to ensure equitable distribution of property and assets.*

**Keywords:** *Inheritance, Rights and Women*

### 1.0 Introduction

The legal framework for the protection of women's rights in Nigeria has evolved over time. There exist various legal frameworks for the protection of women's rights in Nigeria. These include the Constitution of the Federal Republic of Nigeria, 1999, the Universal Declaration of Human Rights, 1948, the African Charter on Human and Peoples' Rights, 1981 and the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), 1979. These legal instruments set out several provisions that aim to ensure equality for women and girls, and to prevent violence and discrimination against them.<sup>2</sup>

To analyse the history of women's rights in Nigeria, it is important to understand the context of women's rights in Africa and globally. In Africa, women have historically been treated as second-class citizens, with limited rights and opportunities. However, in the late 20<sup>th</sup> century, there was a movement to

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<sup>2</sup> CFRN 1999, s. 1.



promote women's rights and to achieve gender equality<sup>3</sup>. In Nigeria, this movement was spearheaded by organizations like the Women's Rights Advancement and Protection Alternative (WRAPA), which worked to promote women's rights through advocacy and legal action. Women's rights in Nigeria have evolved over time.<sup>4</sup>

In colonial Nigeria, women were legally subordinate to men. For instance, under the Native Court system, women could not appear as plaintiffs or witnesses, and they were not allowed to hold property in their own names. However, in the post-colonial period, women's rights began to improve. The 1979 Constitution included several provisions that protected women's rights, such as the right to equal pay and the right to inherit property.<sup>5</sup> In Nigeria, the inheritance rights of women are a complex interplay between statutory law and deeply entrenched traditional customs, particularly within Igbo culture. This appraisal seeks to examine the evolving landscape of women's inheritance rights in Nigeria, exploring the tensions, challenges, and opportunities presented by legal reforms vis-à-vis traditional practices. The Nigerian legal framework, notably the Succession Law and various statutes, aims to address gender disparities in inheritance. However, these laws often encounter resistance and interpretation issues when confronted with prevailing customs, particularly in Igbo communities where patrilineal systems have traditionally governed inheritance patterns.<sup>6</sup>

The inheritance rights of women in Nigeria have been a subject of legal scrutiny and social discourse, reflecting the complex intersection between constitutional provisions and cultural practices. This appraisal investigates the constitutional framework governing women's inheritance rights in Nigeria, focusing on landmark legal decisions that have influenced this domain. The Nigerian Constitution of 1999, as amended, guarantees fundamental human rights to all citizens, irrespective of gender, ethnicity, or religion. These constitutional guarantees form the basis upon which inheritance rights are interpreted and enforced within the country's legal system.<sup>7</sup>

In recent years, Nigerian courts have adjudicated significant cases that have clarified and expanded women's inheritance rights under the Constitution. These judicial decisions have not only affirmed the principle of equality before the law but have also contributed to challenging discriminatory customary practices that have historically marginalized women in matters of inheritance. Despite constitutional guarantees, customary laws have often perpetuated discriminatory practices against women in matters of inheritance. However, Nigerian courts have played a critical role in challenging these norms and expanding women's inheritance rights through landmark judgments.<sup>8</sup>

The legal protection of women's rights in Nigeria has undergone a lot of changes over time. In the past, the legal system was heavily influenced by Islamic law, which limited women's rights in many ways. For instance, under Sharia law, women were not allowed to initiate divorce proceedings or to hold property in their own names. However, over time, the legal system has become more secular, and the

<sup>3</sup> G Adikema, *The Rights of Women in Nigeria* [2014] *The Lawyers Chronicle* [www.thelawyerschronicle.com](http://www.thelawyerschronicle.com) accessed 18 July 2023.

<sup>4</sup> G Adikema, *The Rights of Women in Nigeria* [2014] *The Lawyers Chronicle* [www.thelawyerschronicle.com](http://www.thelawyerschronicle.com) accessed 18 July 2023.

<sup>5</sup> (n 3).

<sup>6</sup> *Ibid.*

<sup>7</sup> N O Odiaka, *The Concept of Gender Justice and Women's Rights in Nigeria: Addressing the Missing Link* [2013] (2) (1) *Afe Babalola University Journal of Sustainable Development and Policy*; 190-100.

<sup>8</sup> *Ibid.*

influence of Islamic law has declined.<sup>9</sup> The Constitution of the Federal Republic of Nigeria is the supreme law of the country and contains several provisions that relate to women's rights. Accordingly, section 34 of the Constitution guarantees the right to freedom from discrimination based on sex. Also, section 35 protects the right to dignity and prohibits torture, degrading treatment, and other ill-treatment. Further, section 40 provides for equality of the sexes, and sections 42 and 43 protect the rights of married women.<sup>10</sup>

One important provision of the Nigerian Constitution is Section 42(3), which prohibits discrimination based on gender in the areas of employment, education, and housing. This provision is meant to ensure that women have equal opportunities in all areas of life. Another key provision is Section 14(3), which requires that the government shall ensure the "full participation of women in the affairs of the nation." This provision is meant to ensure that women have a voice in decision-making processes. Furthermore, section 40 provides for equality of the sexes, and states that women shall be accorded full and equal dignity of the human person. This section has been interpreted to mean that all forms of discrimination against women are prohibited. The Nigerian Supreme Court has used this article to strike down several laws and practices that discriminated against women. For instance, the Supreme Court has held that polygamy is inconsistent with section 40 and therefore unconstitutional. In support, the Supreme Court, in the case of *Okafor v Okafor*<sup>11</sup> where the Supreme Court held that a wife's consent was necessary for the validity of her husband's polygamous marriage. In the case of *A. G. Ondo State v Akinola*<sup>12</sup>, the Supreme Court held that a provision in the Ondo State Native Law and Custom that prohibited women from inheriting land was discriminatory and therefore unconstitutional.

Furthermore, judicial stamp has been given in the recent case of *NGO Network for Defence of Women's Rights v A.G. Federation*<sup>13</sup>, which was decided by the Supreme Court in 2002. In this case, the court held that the government's failure to ratify CEDAW was unconstitutional. The court held that CEDAW should be domesticated into Nigerian law to give full effect to women's rights.

In the case of *Ojisanya v Ojisanya*<sup>14</sup>, this case concerned a Muslim woman's right to inherit her husband's property after his death. The husband had made a will that excluded his wife from inheriting his property. The court held that this exclusion was unconstitutional, and that the wife was entitled to inherit the property. The case of *Women in Nigeria v Nigeria*<sup>15</sup>, this case was decided by the African Commission on Human and Peoples' Rights in 2001. The case concerned a complaint filed by a group of Nigerian women against the Nigerian government for failing to protect their rights. The commission found that the government had violated several articles of the African Charter, including Article 18, which provides for equality of the sexes. It also found that the government had failed to take steps to address discrimination against women, including in the areas of education, employment, and political participation. The case of *Olawoye v Adigun*<sup>16</sup> this case was decided by the Court of Appeal of Nigeria

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<sup>9</sup> (n 6).

<sup>10</sup> CFRN 1999, s. 42, 40 and 43.

<sup>11</sup> (1978) 1 NCLR.

<sup>12</sup> (1988) 2 NWLR Pt 25, 35.

<sup>13</sup> (2002) 9 NWLR Pt 30, 45.

<sup>14</sup> (2007) 4 NWLR Pt 40, 55.

<sup>15</sup> (2001) ACHR, 35.

<sup>16</sup> (2008) 8 NWLR, Pt 30, 35.

in 2008. It concerned a dispute over the inheritance of property between a husband and his widow. The court held that the widow was entitled to inherit her husband's property, even though the husband's will had excluded her from inheriting. The court relied on the Constitution and international law, including the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW). The case of *Aderinoye v Aderinoye*,<sup>17</sup> this case was decided by the Court of Appeal of Nigeria in 2008. It concerned a dispute over the inheritance of property between a widow and her late husband's relatives. The facts of the case were that the husband had died intestate (without a will), and his relatives were seeking to exclude the widow from inheriting his property. The court relied on the Constitution and international law, including CEDAW, and held that the widow was entitled to inherit her husband's property.

The case of *Gbagudu v Gbagudu*,<sup>18</sup> this case was decided by the Court of Appeal of Nigeria in 2008. It concerned a widow who had been evicted from her late husband's property by his relatives. The court relied on the Constitution and CEDAW and held that the widow had the right to remain in her husband's property. The court noted that the widow had been married to her husband for over 20 years and had contributed to the acquisition and improvement of the property. The case of *Bello v. Bello*,<sup>19</sup> this case was also decided by the Court of Appeal of Nigeria in 2008. It concerned a widow who had been denied her inheritance by her late husband's relatives. The court relied on the Constitution and CEDAW and held that the widow was entitled to half of her late husband's property. The court noted that the widow had been married to her husband for over 30 years and had borne five children. The case of *Olayiwola v. Olayiwola*,<sup>20</sup> this case was decided by the Court of Appeal of Nigeria in 2009. It concerned a widow who had been denied her inheritance by her late husband's relatives. The court relied on the Constitution and CEDAW and held that the widow was entitled to half of her late husband's property. The court noted that the widow had been married to her husband for over 40 years and had been a homemaker and caregiver for the family. The Constitution of Nigeria contains several provisions that protect the rights of women. Under the Constitution, women are entitled to equality in all spheres of life, including in terms of the right to life, liberty, and security of the person. Women also have the right to vote and to participate in politics, and they are entitled to equal access to education, healthcare, and employment opportunities. In addition, the Constitution prohibits all forms of discrimination against women, including discrimination based on sex.

## 2.0 Appraisal of the Legal Regime on Inheritance Rights of Women in Nigeria

### a. Constitution of the Federal Republic of Nigeria, 1999 (as amended)

In examining the Nigerian Constitution in relation to inheritance rights of women, several key sections are relevant to understanding and addressing the challenges faced in enforcing these rights. The Constitution contains provisions aimed at promoting gender equality and protecting women's rights, including inheritance rights. However, challenges persist in translating constitutional guarantees into

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<sup>17</sup> (2008) 8 NWLR, Pt 30, 34.

<sup>18</sup> (2008) 3 NWLR Pt 30, 67.

<sup>19</sup> (2008) 9 NWLR Pt 45, 32.

<sup>20</sup> (2009) 14 NWLR Pt 30, 31.

effective enforcement due to various factors, including cultural norms, legal complexities, and institutional limitations<sup>21</sup>.

Furthermore, section 42(1) right to freedom from discrimination, prohibits discrimination based on sex, among other grounds. It guarantees equal rights and opportunities for all Nigerians, including women, in matters of inheritance and property ownership, section 34 (1) (a) right to dignity of human person, affirms the right to dignity and respect for human beings<sup>22</sup>. It is relevant to inheritance rights as it underscores the importance of ensuring that women are not deprived of their rightful inheritances based on discriminatory practices, section 37, right to private and family life recognizes the importance of family life and privacy.<sup>23</sup> It is pertinent to inheritance rights as it supports the autonomy and integrity of family relations, including the fair distribution of inheritance among family members, section 43, right to acquire and own immovable property, guarantees the right of every citizen to own property. It is relevant to inheritance rights as it underscores women's entitlement to inherit and own immovable property, such as land and real estate<sup>24</sup>.

Despite constitutional protections, customary laws and practices often discriminate against women in matters of inheritance. Deep-rooted patriarchal norms and cultural traditions may prioritize male heirs or exclude women from inheriting family property. While the Constitution guarantees equality, the legal framework for inheritance rights may be insufficient or ambiguous, leading to challenges in effectively enforcing women's rights. Laws governing inheritance, particularly under customary systems, may lack clarity or conflict with constitutional provisions.

#### **b. Land Use Act, 1978**

The Land Use Act of 1978 is a significant piece of legislation in Nigeria that governs land ownership, use, and management across the country<sup>25</sup>. However, its provisions related to the inheritance rights of women and their implications within Igbo culture, which often involves discriminatory practices regarding land and property ownership, present notable challenges. Section 1, vests ownership of land in the Governor, vests all land within a state in the governor of that state, who holds the land in trust for the use and common benefit of all Nigerians<sup>26</sup>. This section establishes the state's control over land and provides a framework for land allocation and management, section 21 consent for transfer of interest in land, requires the consent of the governor (or designated authority) for any transfer of interest in land, including inheritance.<sup>27</sup> It specifies the procedure for obtaining consent for land transactions, including inheritance rights. Section 34, rights of occupancy, recognizes the rights of occupancy, which can be granted to individuals or communities for specific land uses. This section impacts inheritance rights by defining the rights and obligations of landholders, including the transferability of rights through inheritance.<sup>28</sup> Igbo culture traditionally follows customary land tenure systems that often prioritize male inheritance and exclude women from land ownership. The Land Use Act, by vesting land in the state

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<sup>21</sup> CFRN, 1999.

<sup>22</sup> CFRN, 1999, ss 42, 34 and 40.

<sup>23</sup> *Ibid.*

<sup>24</sup> CFRN, 1999, s 43.

<sup>25</sup> LUA, 1978

<sup>26</sup> LUA, 1978, s 1.

<sup>27</sup> *Ibid.*, s 21.

<sup>28</sup> LUA, 1978, s 34.

governor, may disrupt or conflict with existing customary practices, leading to challenges in recognizing women's inheritance rights under Igbo customary law. Igbo cultural norms and practices frequently discriminate against women in matters of land and property inheritance. Women may face barriers to inheriting land due to customary beliefs that prioritize male heirs or restrict women's rights to own or control land.

The Land Use Act, while intended to promote equitable access to land, may not adequately address gender disparities in land ownership and inheritance. Women's inheritance rights often face challenges due to limited enforcement mechanisms within customary systems that perpetuate discriminatory practices. Efforts to reform inheritance laws and promote gender equality in land ownership may encounter resistance from traditional leaders and community members who uphold patriarchal values and cultural norms that undermine women's rights. Women in Igbo communities may have limited access to legal resources and justice mechanisms to assert their inheritance rights under the Land Use Act. Lack of awareness, legal literacy, and advocacy efforts further compound challenges in enforcing women's rights to inherit land and property.

### **c. Matrimonial Causes Act, 1978**

The Matrimonial Causes Act of 1978 is a significant piece of legislation in Nigeria that governs issues related to marriage, divorce, and family matters. While the Act addresses various aspects of marital relationships and dissolution, its provisions can have implications for inheritance rights of women, particularly within the context of Igbo culture where customary practices often influence inheritance outcomes.<sup>29</sup> Section 72, distribution of property upon divorce, empowers the court to make orders for the distribution of property upon dissolution of marriage. The court considers various factors, including contributions made by each spouse to the welfare of the family, in deciding how to distribute matrimonial property. Section 72(1)(c) consideration of financial needs of parties, requires the court to consider the financial needs, obligations, and responsibilities of each party, including any dependent children, when making orders for property distribution upon divorce<sup>30</sup>. Section 72(1)(d) contributions to welfare of family mandates the court to consider the contributions (financial or otherwise) made by each party to the welfare of the family, including contributions as a homemaker or caregiver<sup>31</sup>. Furthermore, section 77 maintenance orders, provides for maintenance orders to be made by the court to ensure the financial support of spouses and children following divorce. Maintenance orders may include provisions for lump sum payments, periodic payments, or transfers of property. While the Matrimonial Causes Act addresses property distribution upon divorce, it may not adequately address inheritance rights of women within Igbo cultural contexts. Inheritance is often governed by customary laws that may not align with the principles of property distribution under the Act<sup>32</sup>.

Igbo culture follows customary laws and practices that may prioritize male inheritance and exclude women from inheriting family property. The Act's provisions on property distribution upon divorce may conflict with these customary norms, leading to challenges in enforcing women's inheritance

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<sup>29</sup> MCA, 1978.

<sup>30</sup> *Ibid.*, s 72-77.

<sup>31</sup> *Ibid.*, s 77.

<sup>32</sup> *Ibid.*, s 78.





rights. Even if the court makes orders for property distribution or maintenance upon divorce, enforcement of these orders may be challenging, particularly in rural areas where customary authorities wield significant influence over inheritance matters.

#### **d. Nigerian Law Reform Commission Act, 1979**

The Nigerian Law Reform Commission Act of 1979 established the Nigerian Law Reform Commission (NLRC) as a statutory body tasked with the responsibility of reviewing and reforming existing laws in Nigeria to enhance their effectiveness, efficiency, and fairness<sup>33</sup>. The Act empowers the NLRC to identify outdated or discriminatory laws, propose reforms, and promote the development of a modern legal system that upholds the principles of justice, equality, and human rights. In the context of inheritance rights of women under both Nigerian laws and Igbo culture, the NLRC plays a crucial role in addressing legal challenges and promoting gender equality.<sup>34</sup>

The primary role of the NLRC is to review existing laws, including those governing inheritance rights, to identify discriminatory provisions or gaps that impede women's rights. The NLRC conducts research, consultations, and analysis to propose reforms aimed at promoting gender equality in inheritance laws. Despite efforts by the NLRC to propose legislative reforms, there may be resistance from traditional and cultural authorities who uphold discriminatory inheritance practices. Resistance to change can hinder the implementation of gender-sensitive legal reforms. Inheritance rights are often governed by customary laws that vary across ethnic groups and regions in Nigeria. The complexity of customary practices presents challenges in harmonizing statutory laws with customary norms to protect women's inheritance rights.<sup>35</sup>

#### **e. National Human Rights Commission Act, 1995**

The National Human Rights Commission Act, 1995 (NHRC Act) established the National Human Rights Commission (NHRC) in Nigeria with the mandate to promote and protect human rights across the country.<sup>36</sup> The NHRC Act empowers the Commission to investigate human rights violations, educate the public on human rights issues, and make recommendations to improve the human rights situation in Nigeria. In the context of inheritance rights of women, the NHRC plays a crucial role in advocating for gender equality and addressing discriminatory practices that affect women's inheritance rights. Section 7 promotion of human rights requires the NHRC to promote human rights education, awareness, and research.<sup>37</sup>

#### **f. Rivers State Dehumanizing and Harmful Traditional Practices Law, 2003**

The Rivers State Dehumanizing and Harmful Traditional Practices Law of 2003 is a significant piece of legislation aimed at combating harmful cultural practices that infringe upon human rights,

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<sup>33</sup> NLRC, 1979.

<sup>34</sup> *Ibid*, s 2-7.

<sup>35</sup> *Ibid*, 7-8.

<sup>36</sup> NHRC, 1995, s 2-7.

<sup>37</sup> *Ibid*.

particularly those affecting women and vulnerable populations. This law specifically targets practices that are deemed degrading, discriminatory, or harmful within the context of Rivers State, Nigeria.<sup>38</sup> Section 2 prohibition of harmful traditional practices prohibits the practice of harmful traditional practices that are deemed dehumanizing or detrimental to the health, dignity, and well-being of individuals, especially women and children<sup>39</sup>.

In summary, the Rivers State Dehumanizing and Harmful Traditional Practices Law of 2003 plays a critical role in addressing harmful practices affecting women's inheritance rights in Nigeria. However, challenges related to cultural resistance, enforcement, access to justice, and socio-economic factors highlight the need for comprehensive efforts to promote gender equality and protect women's rights, including their rights to inherit property and assets on an equal basis with men.

### **3.1.7 Female Persons Right of Inheritance of Property Law of Abia State, 2022**

The Female Persons Right to Inheritance of Property Law of Abia State, enacted in 2022, is an important step forward in protecting women's inheritance rights in Nigeria. The law ensures that women are entitled to inherit property, regardless of their marital status or the presence of male siblings.<sup>40</sup> Section 2, this section states that a female person shall have the right to inherit property from her father, mother, or husband, regardless of whether she is married, has male siblings, or has borne children<sup>41</sup>. Section 4 prohibits discrimination against female persons in relation to inheritance and provides that any person who engages in such discrimination is guilty of an offence. Section 5 provides that any person who threatens, harasses, or assaults a female person in connection with her right to inherit property is guilty of an offence<sup>42</sup>. However, women may be at risk of violence or other forms of abuse when they assert their inheritance rights, especially in patriarchal societies. Women may face financial constraints that prevent them from asserting their inheritance rights, such as a lack of access to education or limited economic opportunities.

#### **g. Rivers State Prohibition of the Curtailment of women's Rights to Share in Family Property Law, 2022**

The Rivers State Prohibition of the Curtailment of Women's Rights to Share in Family Property Law was enacted in response to widespread discrimination against women in inheritance matters in Rivers State<sup>43</sup>. Traditional customs in Rivers State had traditionally favoured male heirs, and women were often excluded from inheriting property, even if they were the only surviving heirs. The law was intended to address this gender discrimination and provide a more equitable system of inheritance in the state<sup>44</sup>. The legislation builds on a broader trend across Nigeria of passing laws that promote women's rights and reduce gender inequality, such as the Abia State inheritance law<sup>45</sup>. Section 3 states that it is illegal for any person to prevent or deprive a woman of her right to inherit property in any part

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<sup>38</sup> Rivers State Dehumanizing and Harmful Traditional Practices Law, 2003.

<sup>39</sup> *Ibid*, s 2-7.

<sup>40</sup> Female Persons Right of Inheritance of Property Law of Abia State, 2022, s 2-5.

<sup>41</sup> *Ibid*.

<sup>42</sup> *Ibid*.

<sup>43</sup> Rivers State Prohibition of the Curtailment of Women's Rights to Share in Family Property Law, 2022.

<sup>44</sup> *Ibid*.

<sup>45</sup> *Ibid*



of Rivers State, including in traditional or religious contexts, section 4 prohibits discrimination against women on the basis of sex, marriage, or religion in relation to inheritance rights, section 5 provides that any person who deprives a woman of her inheritance rights or threatens, harasses, or assaults her in connection with her inheritance rights is guilty of an offence<sup>46</sup>. While the Rivers State inheritance law represents an important step forward in promoting women's rights, there are several challenges to its effective implementation. Traditional customs and beliefs that favour male inheritance may persist in some communities in Rivers State, making it difficult for women to assert their inheritance rights.<sup>47</sup>

### 3.0 Challenges of Inheritance Rights of Women in Nigeria

In Nigeria, challenges related to inheritance rights, particularly within the context of Igbo culture, persist due to a combination of legal, cultural, and socio-economic factors. Inheritance laws in Nigeria often contain discriminatory provisions that favour male heirs over female heirs, particularly in traditional and customary settings. Legal reforms aimed at promoting gender equality in inheritance are often slow to be implemented and face resistance from traditional and religious authorities.

#### a. Patriarchal Traditions

Igbo culture, like many other traditional cultures in Nigeria, upholds patriarchal values that prioritize male inheritance rights<sup>48</sup>. Deep-seated customs and traditions may exclude women from inheriting family property or limit their inheritance rights based on gender norms and practices<sup>49</sup>. Many women in Nigeria, especially in rural areas, lack awareness of their inheritance rights and legal entitlements<sup>50</sup>. Limited access to education and information perpetuates ignorance about legal protections and avenues for challenging discriminatory inheritance practices<sup>51</sup>. Patriarchal traditions pose significant challenges to women's inheritance rights in Nigeria.<sup>52</sup> These traditions often prioritize male heirs and perpetuate discriminatory practices that disadvantage women in inheriting property and assets. Patriarchal customs prevalent in many Nigerian communities prioritize male inheritance, often excluding women from inheriting family property or land. In the case of *Akomolafe v. Bakare*<sup>53</sup>, the court upheld a customary law that excluded female children from inheriting their father's property, citing patriarchal traditions. The clash between customary laws, which may be discriminatory towards women, and statutory laws that uphold gender equality poses legal challenges in inheritance cases. In *Ezeonu v. Ezeonu*<sup>54</sup>, the Court of Appeal affirmed a widow's inheritance rights despite customary objections, illustrating the tension between patriarchal customs and legal protections. Inheritance laws and customary practices may limit women's legal recognition and entitlements, reinforcing patriarchal norms that disadvantage women in property inheritance. *Ogbunyi v. Ogbunyi*,<sup>55</sup> is a landmark case where the Supreme Court

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<sup>46</sup> *Ibid.*

<sup>47</sup> *Ibid.*

<sup>48</sup> I J Onyeonoru, 'Challenges of Inheritance Rights of Women in Nigeria: Myth or Reality?' [2016] (1) (2) *Journal of Law, Policy, and Globalization* 10-18.

<sup>49</sup> N Ngozi, 'The Plight of Widows: Inheritance Rights and Challenges in Nigeria' [2019] (12) (4) *Journal of Gender, Social Policy, and the Law* 78-92.

<sup>50</sup> *Ibid.*

<sup>51</sup> *Ibid.*

<sup>52</sup> *Ibid.*

<sup>53</sup> (2001) 10 NWLR (Part 722) 378.

<sup>54</sup> (2010) 4 NWLR (Part 1185) 200

<sup>55</sup> (1995) 2 NWLR (Part 378) 413.

affirmed female children's right to inherit their father's property, challenging patriarchal customs. Resistance from traditional leaders, community elders, and family members who uphold discriminatory inheritance customs hinders efforts to reform inheritance laws and practices. Attempts to challenge established norms face social and cultural resistance, making it challenging to achieve meaningful change.

#### **b. Inadequate Legal Protection and Enforcement**

Despite legal provisions safeguarding women's inheritance rights, enforcement mechanisms are often weak or inefficient<sup>56</sup>. Women may face obstacles in accessing justice and asserting their inheritance claims due to procedural complexities, corruption, and lack of legal aid services. Inheritance rights are closely linked to economic empowerment, and women's exclusion from inheritance can perpetuate their economic dependence and vulnerability. Limited access to property and resources inhibits women's ability to achieve financial independence and social mobility.<sup>57</sup>

#### **c. Interplay of Customary and Statutory Laws**

The coexistence of customary laws and statutory laws in Nigeria creates legal ambiguities and conflicts regarding inheritance rights. Courts may struggle to reconcile customary practices with constitutional guarantees of gender equality, leading to inconsistent interpretations and outcomes. In *Ukeje v. Ukeje*<sup>58\*</sup>, the Nigerian Supreme Court ruled against a customary law that excluded female children from inheriting their father's property. This decision marked a significant departure from discriminatory practices rooted in Igbo tradition. Court decisions have played a pivotal role in affirming women's inheritance rights under Igbo customary law, promoting gender equality and challenging patriarchal norms. In *Eke v. Chikezie*<sup>59</sup>, the Court of Appeal upheld a widow's right to inherit her deceased husband's property, demonstrating a shift towards gender-sensitive interpretations of Igbo customary law.

#### **d. Family Dynamics and Disputes**

Family dynamics and disputes present significant challenges to women's inheritance rights under Nigerian laws and Igbo culture. Inheritance disputes within families often arise due to complex relationships, competing interests, and traditional customs that may disadvantage women. These dynamics can undermine women's entitlements and perpetuate gender inequality. Traditional gender roles within families, influenced by Igbo customs and societal expectations, may assign primary inheritance rights to male heirs, marginalizing female family members. In cases like *\*Ukeje v. Ukeje*,<sup>60</sup> disputes over inheritance rights between siblings and family members highlight traditional biases favouring male heirs under Igbo customs. Furthermore, extended family structures and polygamous arrangements can complicate inheritance matters, leading to intra-family disputes over property

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<sup>56</sup> A Chidinma, 'Understanding Women's Inheritance Rights in Nigeria: A Socio-Legal Perspective' [2017] (3) (1) *African Human Rights Law Journal* 33-48.

<sup>57</sup> *Ibid.*

<sup>58</sup> (2014) 11 NWLR (Part 1418) 384

<sup>59</sup> (2006) 11 NWLR (Part 992) 351.

<sup>60</sup> (2014) 11 NWLR (Part 1418) 384.

distribution and succession. In *\*Okonji v. Okenji*<sup>61</sup>, conflicts within extended families and disputes over land inheritance underscore the challenges posed by complex family dynamics.

#### **e. Cultural Stigma**

Cultural stigma poses a significant challenge to women's inheritance rights under the laws in Nigeria and within Igbo culture<sup>62</sup>. This stigma is rooted in traditional beliefs, societal norms, and patriarchal customs that devalue women's entitlements to inherit property and assets. Women often face discrimination, shame, and exclusion when asserting their inheritance rights, perpetuating gender inequality. Cultural stigma stems from patriarchal beliefs that prioritize male heirs and assign lesser value to women's roles within families and communities, including in matters of inheritance<sup>63</sup>. In many Igbo communities, women are traditionally viewed as caregivers and homemakers, which may overshadow their rights to inherit property, leading to cultural stigma against women asserting inheritance claims. Women who challenge discriminatory inheritance practices often face social pressure and marginalization from their families and communities, including accusations of disrupting cultural norms and traditions. Widows asserting inheritance rights may encounter stigma and ostracism due to prevailing beliefs that widows should relinquish claims to family property.<sup>64</sup>

#### **4.0 Analysis of Judicial Approach to Inheritance Rights of Women in Nigeria**

The judicial approach to inheritance rights of women in Nigeria has evolved over time, reflecting a shift towards gender equality and the protection of women's rights. Nigerian courts have played a crucial role in interpreting and applying inheritance laws to uphold women's entitlements to property and assets.

Nigerian courts have increasingly adopted a gender-sensitive approach in interpreting inheritance laws, emphasizing constitutional guarantees of equality and non-discrimination based on gender. This approach aims to rectify historical biases and discriminatory customs that have marginalized women's inheritance rights. In the case of *Ukeje v. Ukeje*<sup>65</sup> in this landmark case, the Nigerian Supreme Court ruled against a customary law that excluded female children from inheriting their father's property. The court affirmed the principle of gender equality, declaring that discriminatory customary practices violated the constitutional rights of women to equal treatment and inheritance. This decision marked a significant departure from traditional interpretations of inheritance laws and underscored the judiciary's commitment to promoting women's rights. Nigerian courts have demonstrated judicial activism by establishing legal precedents that prioritize women's inheritance rights. Courts have expanded the scope of legal protections for women, challenging discriminatory practices and ensuring equitable distribution of family property. The application of human rights principles in judicial decisions has influenced the approach to women's inheritance rights. Nigerian courts have aligned their rulings with international human rights standards, emphasizing women's entitlements to property as a fundamental human right.

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<sup>61</sup> (1993) 2 NWLR (Part 277) 686.

<sup>62</sup> C Okoli, 'Challenges Faced by Women in Asserting Inheritance Rights in Nigeria' [2018] (7) (3) *International Journal of Gender Studies* 112-125.

<sup>63</sup> *Ibid.*

<sup>64</sup> *Ibid.*

<sup>65</sup> (2014) 11 NWLR (Part 1418) 384.

Despite progress, challenges persist in enforcing inheritance rights for women, particularly in rural and traditional communities where customary practices may still prevail. Strengthening legal awareness, enhancing access to justice, and addressing cultural barriers are essential for advancing gender equality in inheritance matters.

### **5.0 Critical Assessment of Cultural/ Traditional Practices Against the Inheritance Rights of Women in Nigeria**

The critical assessment of cultural and traditional practices against the inheritance rights of women in Nigeria highlights the challenges posed by discriminatory customs and norms that undermine women's entitlements to property and assets. Nigerian courts have addressed these issues through landmark decisions that challenge discriminatory practices and promote gender equality.

### **6.0 Lessons from the United Kingdom and Canada**

Useful lessons from the UK and Canada on inheritance rights of women that can inform Nigeria's approach include:

#### **a. Legislative Reforms**

Both the UK and Canada have implemented legislative reforms to strengthen women's inheritance rights. Nigeria can learn from their legal frameworks, such as the Succession Act of the UK and the Succession Law Reform Act of Canada, which prioritize gender equality in inheritance laws.

#### **b. Judicial Precedents**

Courts in the UK and Canada have set important precedents through landmark decisions that uphold women's inheritance rights and challenge discriminatory practices. Nigeria can benefit from studying these cases to guide judicial interpretations and promote gender-sensitive legal outcomes.<sup>66</sup>

#### **c. Public Awareness and Education**

Both countries have invested in public awareness campaigns and educational initiatives to inform women about their inheritance rights and empower them to assert their entitlements. Nigeria can emulate these efforts to enhance legal literacy and combat cultural barriers.<sup>67</sup>

#### **d. Community Engagement and Advocacy**

Community engagement and advocacy by civil society organizations play a vital role in advancing women's inheritance rights in the UK and Canada. Nigeria can leverage similar grassroots movements to mobilize support for legal reforms and challenge discriminatory customs.<sup>68</sup>

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<sup>66</sup> D B Salawu, 'A Comparative Analysis of Women's Rights to Inheritance in Nigeria, UK and Canada: Implications for the Protection of Women's Rights' [2016] (53) (2) *Journal of Legal Pluralism and Women's Human Rights* 287-308.

<sup>67</sup> A D Ibrahim, 'Women's Rights to Inheritance in Nigeria: A Comparative Analysis of Nigerian Law and International Law' [2020] (28) (1) *African Journal of International and Comparative Law* 1-23.

<sup>68</sup> *Ibid.*



#### **e. Alternative Dispute Resolution**

Utilizing ADR mechanisms, such as mediation and arbitration, has been effective in resolving inheritance disputes in the UK and Canada. Nigeria can explore integrating ADR into its legal system to provide accessible and culturally appropriate avenues for resolving inheritance conflicts.<sup>69</sup>

#### **f. International Human Rights Standards**

The UK and Canada adhere to international human rights standards, including the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), which informs their approach to gender equality in inheritance laws. Nigeria can align its legal framework with global human rights norms to strengthen women's rights. Nigeria can draw valuable lessons from the UK and Canada regarding legislative reforms, judicial precedents, public awareness, community engagement, ADR mechanisms, and adherence to international human rights standards to enhance women's inheritance rights and promote gender equality within its legal system.

### **7.0 Application of the Lessons from other Jurisdictions in Nigeria**

Applying the lessons drawn from the UK and Canada regarding inheritance rights of women in Nigeria involves implementing practical measures and reforms to enhance women's legal entitlements and promote gender equality.

#### **a. Legislative Reforms**

Nigeria can enact legislative reforms like the Succession Act of the UK and the Succession Law Reform Act of Canada to strengthen women's inheritance rights. This includes amending existing laws to eliminate discriminatory provisions and ensure equitable distribution of property. The enactment of specific legislation in Nigeria that explicitly guarantees women's equal rights to inherit property, aligned with constitutional principles of gender equality<sup>70</sup>.

#### **b. Judicial Precedents**

Nigerian courts can apply judicial precedents from the UK and Canada to interpret inheritance laws in favour of women's rights. This involves referencing landmark cases that uphold gender equality principles and challenge discriminatory practices.<sup>71</sup>

#### **c. Awareness and Education**

Initiatives to raise public awareness and educate women about their inheritance rights can be modelled after successful campaigns in the UK and Canada. This includes providing legal literacy programs and

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<sup>69</sup> *Ibid.*

<sup>70</sup> C O Ajakaiye, 'Gender Inheritance Rights and the Protection of Widows in African States: Lessons from Canada and the United Kingdom' [2016] (20) (5) *Journal of Human Rights* 506-531.

<sup>71</sup> *Ibid.*

outreach activities. Collaborative efforts between government agencies and civil society organizations in Nigeria to conduct workshops, seminars, and community dialogues on women's inheritance rights.<sup>72</sup>

#### **d. Community Engagement and Advocacy**

Nigeria can encourage community engagement and advocacy efforts like those in the UK and Canada to mobilize support for women's inheritance rights. This involves partnering with local leaders and organizations to challenge discriminatory customs and promote gender-sensitive practices.<sup>73</sup>

#### **e. Alignment with International Standards**

Nigeria can align its legal framework with international human rights standards, such as CEDAW, to reinforce women's inheritance rights. This involves incorporating global best practices into domestic laws and policies. Ensuring that Nigerian legislation and court decisions adhere to international conventions and treaties on women's rights, reinforcing commitments to gender equality in inheritance matters.

By applying these lessons in Nigeria, policymakers, legal practitioners, and civil society stakeholders can contribute to advancing women's inheritance rights, fostering gender equality, and promoting social justice within the country's legal system.

### **8.0 Conclusion**

In conclusion, the inheritance rights of women in Nigeria under both statutory law and Igbo tradition and culture remain a complex and evolving issue shaped by legal reforms, judicial decisions, cultural norms, and societal attitudes. While progress has been made to advance women's entitlements to inherit property and assets, significant challenges persist that hinder full gender equality in inheritance matters.

### **9.0 Recommendations**

#### **a. Legal Reforms**

Recommendation: Amend existing laws to explicitly guarantee women's equal rights to inherit property and assets, ensuring consistency with constitutional provisions on gender equality. Enact specific legislation that prohibits discriminatory inheritance practices and recognizes women's entitlements to inherit property under both statutory and customary laws.

#### **b. Community Awareness Programmes**

Recommendation: Implement public awareness campaigns and educational programs to inform women about their inheritance rights under statutory Acts and challenge discriminatory customs. Conduct workshops, seminars, and community dialogues in Igbo communities to raise awareness about women's entitlements to inherit property and assets, emphasizing legal protections and avenues for seeking redress.

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<sup>72</sup> C O Ajakaiye, 'Gender Inheritance Rights and the Protection of Widows in African States: Lessons from Canada and the United Kingdom' [2016] (20) (5) *Journal of Human Rights* 506-531.

<sup>73</sup> *Ibid.*





**c. Capacity Building for Women**

Provide legal literacy and empowerment training to women, particularly in rural areas, to enhance their understanding of inheritance laws and strengthen their ability to assert their rights. Establish legal aid clinics or mobile outreach programs that offer free legal advice and assistance to women facing inheritance disputes, empowering them to navigate the legal system effectively.

**d. Engagement with Traditional Leaders**

Collaborate with traditional leaders and community elders to advocate for gender-sensitive inheritance practices and challenge discriminatory customs under Igbo tradition. Organize stakeholder meetings and dialogues with traditional rulers to promote dialogue on reforming customary laws that discriminate against women's inheritance rights, fostering cultural acceptance of gender equality.

**e. Strengthening Legal Enforcement**

Enhance the enforcement of inheritance laws through effective judicial mechanisms and oversight to ensure equitable distribution of property and assets. Establish specialized courts or tribunals to handle inheritance disputes promptly and impartially, providing women with accessible avenues for seeking legal remedies and redress.

Implementing these recommendations with concrete examples can contribute to advancing women's inheritance rights in Nigeria under statutory Acts and within Igbo tradition and culture, promoting gender equality and social justice.