

THE WOMEN'S PLACE IN FAMILY INHERITANCE IN IGBOLAND: A RATIONAL AND LEGAL CRITIQUE

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ABSTRACT

Certain women in Igbo land have been victims of deprivation of inheritance rights which has made them suffer much. Some of such women are even children of wealthy parents or wives of wealthy men and yet they are left to suffer because they have not been left with any inheritance at the demise of either parents or husbands. This is pathetic as the only reason why they have to suffer thus is because they are females in a culture where females are robbed of inheritance rights. This has prompted the court of the land to have a ruling on the matter quite recently. The present research waded into the matter from the cultural as well as legal perspectives in order to arrive at a more reasoned and objective position. Interviews were conducted and library research methodology applied. It was discovered that in reality women were discriminated in Igbo inheritance practices; they are not given land, not given real estate, considered as temporary children of a family who must be married out, and are made to become dependants even beggars should they end up not marrying. Recommendations include that women should be given lands in their fathers' families if they are not married, should have equal rights to properties in townships with their male counterparts, should have enough courage to seek legal redress if their inheritance rights are violated, etc.

Key words: women, family inheritance, Igboland, rational and legal critique.

INTRODUCTION

Of a necessity, in discussing rights of inheritance of Igbo women, a classification must be made of the women, namely: married women, unmarried women, widows, daughters of a family. All these participate or do not participate relatively, actively or passively in the phenomenon of inheritance among the Igbo. They are generally discriminated against. But this is not so much removed from the general reality of discrimination against women down the ages and amidst almost all cultures.

Even in the Bible it would seem that women have been relegated to a subordinate position in the rung of things and this sometimes serve as inducement to local customs that want to relegate women to the background and rob them of certain rights. For example, in Genesis chapter 2 verse 22, we read; "Yahweh God fashioned the rib he had taken from the man into a woman, and brought her to the man" (The New Jerusalem Bible, NJB). Again, in Genesis 3:16b God tells the woman,

"Your yearning will be for your husband, and he will dominate you" (NJB). Moreover, in Ephesians 5:22, we read: "Wives should be subject to their husbands as to the Lord" (NJB). Scripture passages such as these appear to have given a subordinate/inferior position to women.

In Islam women are also expected to be subordinated to the men. In fact the authority of the man is not to be questioned. Thus Okeke (2001) writes, "In the Muslim society, the authority of the husband in the family is absolute" (p. 73). According to Okafor (n.d.), Hindu Scripture

also put women in a subordinate position expecting them to keep their mind, speech and body in subjection so as to acquire high renown in this world and in the next in sharing the same abode with their husbands. And in ancient Athens women were always treated as minors in subjection to their fathers or brothers or some other males.

In this twenty first century, however, bold steps must be taken to liberate women from discrimination, and this forms part of the purpose of this intellectual endeavour.

Oral Interviews to Investigate Women's Place in Inheritance in Igboland

To investigate the position of women in inheritance practices in Igboland the researcher went into some oral interviews in four Igbo communities and the results are as shown below:

For Sir (Nze) Livinus Obiagbapunam Obinwe (of Ifite Village, Oko, Orumba North L.G.A., Anambra State, Personal communication, 28th April, 2016,), the making of a will is called *ikeekpewhile* the act of inheritance is called *iri ekpe* in Igbo Language. The things traditionally inherited include lands, trees, money, and other properties. And to signify the right of inheritance we have such expression as *oke onye ketere na be nna ya*, that is, the share of wealth/property which one has gotten from the father. On the women's place in inheritance in Igboland, he held that in Onitsha they could get inheritance, but not so in Oko. He said that about 3-5% of Igbo men could occasionally give little portions to their cherished daughters in which case it is not *okeo ketere na be nna ya* but *oo nna ya nyere ya*, that is, it is not what she has inherited from the father but rather a gift given to her by her father. *O soghi n'oke*- she does not have inheritance rights. Rather, her portion of property is in the husband's place. If the father gave her a tree, once that tree died, or out of necessity it was felled, that was the end. But what if she is unmarried? The answer was that she still had no share in her father's house. However, the brothers are expected to take care of her and allow her make use of some of the properties out of charity. If not she would stay and suffer, she would go around begging for land to cultivate and maybe engage in commerce. She has no rights. But in the majority of the cases, brothers give their unmarried sisters lands and trees if they are unmarried, a situation capable of fuelling quarrels between the brother and the wife. She would normally be given a room to live in, usually in the backyard or what is called boys' quarters. But if these are not available, then she must be given room in the main house.

What if she was married and lost the husband without an issue for him? The husband's family would take all the property except maybe the money she is able to take. This was more so in the olden times when they would struggle over the property with her and if she eventually died, they took over everything. Today, they still encroach, but her exposure level could fight for her. She could dispose of the property, but this usually generates conflicts and some can kill for that.

What if she has only female issues? Some would do *nhaikwa* even till today, a situation where one of the daughters will have to be made to stay at home without marrying and beget children (male children for that matter) to secure the family line and inheritance. Today, because of the influence of the church, even if *nhaikwa* is not made official, some men and women who have no males encourage their daughters to become promiscuous to see if they could become pregnant and beget a male who would have inheritance rights. Obinwe also holds that this still happens till today and people simply pretend not to notice.

Are there any steps taken in your community today to change the status quo and then give girls inheritance rights? His answer was a firm "No". Continuing, he asserted that even in

this modern world, with property existing in townships, the females are still given only a stint, if at all. But is this just? "It's what we met and nothing is being done about it. To change this will be a herculean task."

For Nze Ezenwosu, Jacob Ezeifeanyichukwu (of Okpo Village, Ekwulobia, Aguata LGA, Anambra State, Personal Communication, 29th April, 2016) inheritance is also *iri ekpe* and involves lands, trees in lands, and household property, cows, goats, houses. He also spoke of the concept of *ili anu* which involves giving of some trees to children including females, excluding the land. But once the tree dies the whole thing is ended.

On women's place and inheritance in Igboland, Nwosu held that in olden times, the women had no inheritance in their fathers' place but in the husbands' place where she was usually given land and trees by the husband and once that was done, it was permanent, except she got out of the marriage. The last son inherited the mother's land and trees and property at her death. And for Nwosu it does not look as if the women were cheated. What if she is not married? She gets nothing unless she begets a son in the father's place. Such son is usually accorded full rights and could take *Ozo* title. If unmarried, the girl child farms in the mother's portion of land. She is expected to be commercially engaged in the father's house and as long as the parents are still alive, they sustain her. If there are enough rooms in the house, the father gives her one, otherwise she stays in the mother's room. If a man has a special gift say of healing, he transfers it to his beloved child, male or female and if a female and she marries, she takes the gift to her husband's place.

For Nwosu, if married and the husband dies without an issue, in some places the family people take everything, especially in Imo area where they may even chase her out empty handed even if she has some children for the husband but they are still little. In Ekwulobia, for Nwosu, they leave everything for her until she dies before they take over. But women nowadays do adoption and still keep the property, though the kindred may take a small part of the land and add to the share of land of the brother of the late husband. If she has only females the family waits for the girls to all get married before taking over. But they may do a rite of *nnuikwa* (see *nhaikwa*) where one of the girls now assumes the role of a man to raise a male with rites of inheritance for the family.

Do people give girls property today? Yes but the boys enjoy the pride of place. However, females are never given landed property in the village. They are only given from those outside the village with the boys getting the lion's share. If for example a man has five children, two girls and three boys and he incidentally also has five houses in the township, how would he distribute the buildings? His answer was: He would not give a house each to the five children. He would rather give two to his first son, one each to the other two boys and then one house to the two girls. This is not seen as cheating because the girls have shares in their husbands' places. This very man is even considered to be extra generous to the girls. But to give them property in the family home would be cheating to the men because they would be "eating both ways" and this can cause serious problems. The people of old were extra wise in leaving things the way they are till today. Nwosu concluded with the advice that husbands' people should not trouble wives over husbands' property at husbands' demise.

In the interview with Mrs. Marcelina Ogechukwu Igwe (of Anyim Azuinyagba, Isielu L.G.A., Ebonyi State, Personal Communication, 29th April, 2016), she said that among her people, inheritance is called *ikporo ekpe*. She said women were not given inheritance that women only get *ngwongwo maka ibi na-ezinulo*, that is, movable property given to her by her family

as farewell presents to go live with her husband. She however said the property is usually substantial, like car, refrigerator, pots depending on the means of the family, but that they are never given land because she has to leave her homestead to live with her husband. Continuing, she said the unmarried woman is taken care of by her brothers but is never given land. But she advised that such unmarried women should find something doing, though their brothers would not ordinarily abandon them. She also held that such a woman must be given a room and that some wealthy families have even built them houses. With respect to women whose husbands die she said that in her place the woman owns the husband's property until the children grow when she then co-jointly owns it with them. And if the children are all girls they and their mother own the property until they all marry, the mother dies, before the property reverts to the man's surviving brothers. She also held that if a woman has no issues at all, the husband's family takes all the property at her death, and she has no right to will out any land or landed property in the husband's village, but anything outside of it she has right to dispose as she likes. She said in her place, even if the woman has no issues at all, nobody disturbs her over her husband's property, she uses everything until death, except if she leaves on her own wherein she loses everything. Moreover, in her opinion, women are not maltreated in the matter of inheritance in her place, that they enjoy property as much as they want, but in their husbands' family. For her, things should be left as they are. And for her, a man with five houses in the townships, and also having five children, three boys and two girls, will not give any of the houses to the girls, but will only distribute it among the boys, giving more to his most beloved, though the first born son will naturally choose one first before any of the sons get anything. And for her, inasmuch as the girls would marry, it is no maltreatment not to give them any house. Even if their husbands are poor they could be assisted with money or businesses started for them, but never to give them houses.

Finally, the interview with Ichie Ezekiel Nwankwo Ezeobi, Onowu of Nkpolowu, Aguata L.G.A., Anambra State (Personal Communication, 30th April, 2016) reveals the following: Inheritance among the Nkpolowu people is called *iri ihe mmadu or iri ekpe*. For him, when a man dies, his children share what he owned, but the wife eats from the children's thing. On the place of the woman he said the married ones earn their property in their husbands' places while the unmarried ones stay in their fathers' houses eating what belongs to their fathers. The mother stays with the *diokpara*, first son, in case the other sons have moved out of the father's residence to start their own homes. In such a case the unmarried daughter stays with the mother in the *diokpara's* home sharing with her what the male children offer the mother. For Ezeobi, the woman has no land but shares in the children's property. Even if she is wealthy and buys a land, it is still the husband who does the will of all property including that of her land, though he would respect her opinion on it inasmuch as it will be willed to a male member of that family. Continuing, Ezeobi said that a woman who has only daughters and her husband dies, nowadays, will enjoy the husband's land and property with her daughters until they all marry and until her own death, at what point the person(s), usually a member of the husband's family, who bears the cost of her funeral rites then owns the property, unlike in olden days when the expected inheritor does everything possible to eject her and the girls and take over the property. But if per chance any of the girls gets pregnant and begets a son, all the property reverts to him. He said in those days, evil persons would even resort to the use of devilish powers to see how to chase them away. When asked what a normal Igbo man who has five children; three boys and two girls would do in the willing out of his houses if he has five of them, his answer was: the first two sons will get two houses each and the last son will get one. The girls will have to live with the first son or any of the sons they prefer until they get married. If they end up not marrying, they enjoy from their brothers. The reason they ought to live with the first son is that he would have preferential treatment in the allocation of lands. Asked whether this was not cheating meted out to the girls, he said, no. That women do

not own property in their father's house, it is presumed that they will marry, failing which they share in their brothers' property. Asked whether it will not be better to change this, he said no, that women, in Igbo tradition, are not even allowed to come near where and when land is being shared. Is this right? "Yes, because her inheritance is in her husband's place; the reason why every woman would want to marry".

Documentary Evidence of the Effort of an Igbo Community to Guarantee Women's Rights in Inheritance

The Igbo community in focus here is Nkpologwu, Aguata Local Government Area, Anambra State, Nigeria. The community being aware of many degrading treatments meted out to women including maltreatments in the area of inheritance either as unmarried women or widows or female children of a widow and without male sibling(s)- especially in the past-, the Igwe (traditional ruler) in Council, in 2001, came up with a book entitled Nkpologwu Customs and Traditions, which treated a lot of issues, including our present preoccupation. Thus, Obi (2001) states, "Another case is that of a man who dies leaving behind wife and/or only daughters. The Cabinet decided that the wife and the daughters should remain bona-fide owners of the man's share of land until the wife dies and the daughters are married away" (p. 17). The Cabinet also considered what should happen should a man be married to two wives and one of them is unfortunate not to have a male issue before or even after the man's death. It resolved that such a woman without a male issue should also be given land and trees for their use until she dies and all her daughters are given out in marriage. This means that in the past these two groups were not entitled to land and property.

Women's Right to Inheritance: Nigerian Courts of Law Versus Igbo Tradition

According to Obeta (2015) in most Igbo traditional societies, females had no inheritance rights over their father's property. But in the cases where they received inheritance of father's estate or property, out of the father's personal consideration, it must be given to them by their father when the father was still alive, but this never included land within the father's ancestral home.

Married women are often regarded as not being of the family blood and so cannot inherit the husband's property since inheritance is according to blood. In fact, at times, they are regarded as chattel to be inherited. In many cases, to rob the women of inheritance, they are first accused of being responsible for their husbands' death and all kinds of inhuman rites are performed against them; sometimes they are sent packing and the husbands' property confiscated.

Married women are the only women among the Igbo who get to enjoy land and property, but only by sharing in those of their husbands, and in some places are even perpetually given land by their husbands, though they have no rights to dispose of them, except by making them revert to a male member of the husbands' family (usually the woman's last son) at her demise. For Leonard, (1968) "A mother by virtue of her natural rights as a reproducer of the ancestral type is, as such entitled to and has a claim that at once perceptibly raises her to a higher position than that occupied by the unmarried or childless wife" (p. 215).

The unmarried woman would never get land among the Igbo in their father's place. Okigbo (2015) holds that the reason why women have been robbed of inheritance rights among the Igbo is because they are treated as temporary children who would soon marry off and start bearing their husbands' names whereas it is the male children who stay behind to perpetuate the family name, yet these same women are the ones who are often beckoned upon in times of difficulties to help solve problems of their birthplace. Okigbo further states: "a female child

has no hope of inheriting from her father's property and as such she must get married. She is deprived of even partaking from her husband's estates in the event of his death especially if she has no male child or that her children are still very young." (p. 1). This is often the case if the husband's relatives are the Shylock type.

For Nnochiri (2014), "Law basically is aimed at ensuring fairness by recognizing and protecting basic individual rights and freedom, such as liberty and equality." (p. 1). In the face of the foregoing, the Supreme Court in Nigeria has given some landmark judgments that abolished the custom that robbed women of inheritance rights in their father's house. A 5-man panel of Justices of the Supreme Court posited that the practice was in conflict with section 42(1)(a) and (2) of the 1999 Constitution and further affirmed that any culture which dis-inherited a daughter from the father's estate or a wife from the husband's property just because God created them females, should be dealt with punitively. Continuing, Nnochiri (2014) averred, "In a judgment delivered Friday April 11, the Supreme Court, affirmed the decisions of the lower courts and voided the law and custom of Igbos that deny the girl-child the right of inheritance." (p. 1).

This landmark case, the first of its kind, had to do with one Mrs. Lois Chituru Ukeje, wife of late Mr. Lazarus Ogbonnaya Ukeje who died in 1981, with her son Mr. Enyinnaya Lazarus Ukeje who were sued by Gladys Ada Ukeje, daughter of the late Ukeje for denying her any inheritance from the dead father's estate. The lower, appeal and apex courts all voided the traditional Igbo custom and tradition that robbed a girl child inheritance to the family's estate.

Another, on the same matter, was the case between Mrs. Maria Nweke of Amaikwo Village, Awka who instituted a case in 1991 against Onyibor Anekwe and Chinweze, descendants of the half brother (Anieke Nwogbo) of her husband (Nweke Nwogbo) who died shortly before the Nigerian Civil War. The case started from the Awka Division of the Anambra State High Court and went on to the Supreme Court, all of which courts considered the tradition and custom of the Awka people, which the defendants claimed gave no right of inheritance to property and land to a woman who had no male child as obnoxious; the tradition argues that she could only own a land she had bought with her own money. But the plaintiff who had six daughters for the late Nweke Nwogbo did not see any reason why she should not inherit her husband's property with her daughters. It is noteworthy, however, that the Ozo Awka society that had arbitrated on the matter gave inheritance rights to the property to the woman and her female children. But the defendants paid no heed to them. Justice Clara Ogunbiyi of the Supreme Court, quoted by Nnochiri (2014), in commenting on the judgment stated:

I hasten to add that the custom and practices of Awka people upon which the appellants have relied is hereby outrightly condemned in very strong terms. A custom of this nature in the 21st century societal setting will only tend to depict the absence of the relatives of human civilisation. It is punitive, uncivilised and only intended to protect the selfish perpetuation of male dominance which is aimed at suppressing the right of the women folk in the given society. (p. 2).

The lead judge who gave the judgment at the Supreme Court was Justice Bode Rhodes-Vivour (cf. Thenigerialawyer, 2016; This Day, 13th May, 2014). Onuoha (2008) holds that the customary laws of inheritance and succession in Nigeria especially in cases of intestacy showcase a plurality that is as plural as the ethnicity of Nigeria and in most of the cases discriminatory.

Article 1 of the UN Convention that stood against the discrimination against women, as quoted by Onuoha (2008), defined discrimination against women as “any distinction, exclusion, or restriction made on the basis of sex in the political, economic, social, cultural, civil or any other field” (p. 1). Article 13, inter alia, stipulates that women have right to family benefits. For Onuoha (2008),

Stricto sensu, a widow is not entitled to share in the property of the deceased husband at customary law. An exception is where she had occupied an apartment during her lifetime, except where she has taken another husband (other than the brother of the deceased husband), in which case, she loses her right of occupation and may be asked to leave. (p. 3).

This seemingly unfair practice is because in customary law inheritance is by blood. But Onuoha shows that there is an exception where the woman chooses to remain in the husband's house, in his name, even if she has no child and occupies portions of the property and even rent parts to tenants if the husband's people fail to maintain her. But she cannot transfer any of the husband's property. So to say her interest in the husband's property is merely possessory and not proprietary. Customarily too, a man has no right to her wife's property which she has inherited from her own people, this rather goes to her children alone.

In *This Day* (May 13, 2014) it was also reported that the recent Supreme Court judgment which held that the Igbo Customary Law which deprived the female child of right either to administrate or inherit the estate of her late father was a violation of the right to freedom from discrimination as enshrined in section 42 (1) (2) of the Nigerian Constitution. Justice Modupe Onyeabo of the Family Division of the Lagos State High Court has noted in *Punch* (2016) that the custom that deprived females inheritance rights, especially of real property, was not peculiar to the Igbo alone, but is present in many African traditional societies. She noted, for example, that in Northern Nigeria, the indigenous custom gave inheritance rights to only males, be the property owned by their fathers or mothers. The females could only inherit movable property owned by their mothers. This, together with struggle over inheritance even among the males (especially in some customs where inheritance is strictly by primogeniture), is tearing down so many Nigerian homes today and leaving a lot of people suffering abjectly while their parents left mammoth wealth behind to go round for all but these are tied up and are unreachable because the children are embroiled in court cases.

Critical Evaluation

Irrespective of the court judgments discussed, it is pertinent to reason about the practicability of the courts' position especially when it is clear that only very few women in Igboland will be willing to go to court against their families, especially when it has to do with unmarried daughters, should they be robbed of inheritance.

The position of the Ozo Awka society discussed in this article is praiseworthy. It shows a progressive mindset for they ruled that the widow and her daughters had right over the dead man's property. The position of the *Igwe* and cabinet of the Nkpologwu people regarding women and inheritance is also a step in the right direction.

The discriminations against women go contrary to the United Nations General Assembly's Convention of Elimination of all Discrimination Against Women (CEDAW) adopted December 18, 1979 and binding on ratifying states as from September 3, 1981. So it is commendable that such trend is entering into the Nigerian space.

But what if the woman had contributed in toiling to acquire the property while the husband was alive? Why would she be having only possessory rights and not proprietary rights? The new position of the Supreme Court, therefore challenges the customary law position and calls for its amendment.

A question will be, what about the deceased husband's ante-nuptial property, how does the wife share in it? Are the men folk not being cheated by law for men are not supposed to share in deceased wife's ante-nuptial property?

If Igbo women are not to inherit in their husband's place except under their children because they are not of the same blood with their husband's family, then the customary law, not to be discriminatory against women, should have given them inheritance rights in their own father's house where they are blood.

Even if the married women are expected to share in their husbands' land and property, and not to be given such again in their families of origin, the unmarried ones should be allotted land and property even in their fathers' places, for after all they are also the parents' offspring.

To call on the Bible as authority for subjugating women is not correct, for passages in the Bible also talk about women's equality with men and even as equal heirs to God's blessings/promises. For example, Galatians 3: 28-29 reads: "There can be neither Jew nor Greek, there can be neither slave nor freeman, there can be neither male nor female - for you are all one in Christ Jesus. And simply by being Christ's, you are that *progeny* of Abraham, the heirs named in the promise" (NJB).

Our interviews show that in some places in Igboland women enjoy land and property, but only in their husbands' ancestral homes, whether the husbands are alive or dead though they have no rights to dispose of them, but their children (males) take over at their demise. This is not that bad.

It is not right to tie women's rights to property to marriage, for it would seem as if only marriage makes a woman human. In order to be empowered some women get married for the sake of marrying, not for love, for the unmarried is despised. Thus for Anameze (1996), "An unmarried adult woman is called 'Ndabili' (a good for nothing). All including herself know that she has not fulfilled herself. Her aim in life is to marry and bear children. To fail in this connection, even when it is not her fault is to be a social misfit" (p. 31). Such women who marry for the sake of marrying and so as to be able to qualify to earn property within marriage, may never be happy and fulfilled.

Conclusion

The Igbo custom and tradition, based on the realities of olden times tried to be fair to both males and females in allotment of inheritance rights. Then every girl was invariably married; a man could marry many women such that almost every woman was married and the Igbo culture thought it best for the women's inheritance to be in their places of marriage alone so it does not look as if they cheat the men by having it in their fathers' places as well as the husbands' places. Moreover in those times, people settled more or less in their particular villages. But today many Igbo people live outside their villages, in townships. The current reality is that some women end up not marrying and have inheritance nowhere and those who marry and have only daughters are robbed of their husbands'/fathers' property just because they are women. It is therefore pertinent that the situation should change. Nigerian law has given a ruling on this, but this article further gives critical rational arguments to warrant some shifts in the Igbo position which will make the practice of the law most easy.

Recommendations

Recommendations include the following:

- (1) The cultural setting of the Igbo ancestors is temporally and circumstantially different from the setting of the Igbo modern world. So, it is appropriate that certain modifications should also be made in the inheritance practices as it concerns women to suit modern trends.
- (2) Families that chase out a woman and her children (especially if she has no male issues) at the death of the husband, in the light of the recent court decisions in Nigeria and in the light of rationality, should be legally brought to book.
- (3) Women who do not eventually marry should be given property in their ancestral homes including land so they don't become dependants to the males.
- (4) Married women need have no property and land in their ancestral homes, they will enjoy all that in their place of marriage. But they should get movable property and money from their fathers' will equally with the males.
- (5) A wealthy Igbo man who has five children; three boys and two girls and also has five houses in the township (not the ancestral home), should give a house to each of the children, male or female.

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