

# **The Rule of Primogeniture Under Igbo Customary Law: A Violation of Women's International Human Rights Norms**

Anyebe, Peter Ademu, PhD<sup>1</sup>

## **Abstract**

Under the Igbo family system, the position of the first born is of utmost importance and it is on it that is based kingship system, chieftaincy institutions and inheritance and succession. The objective this paper is on the rule of primogeniture in the Igboland as applied in their customary law of succession. The method of research is doctrinal. It is the finding of the paper that the exclusion of women from inheritance on the ground of gender is not only a clear violation of the 1999 Constitution but also is a form of discrimination that entrenches old notions of patriarchy and male domination incompatible with the guarantee of equality under the constitutional order. It is the further finding of fact that it violates the right of women to human dignity. Thus, the customary law of inheritance is not only detrimental to the well-being of women and their children, but also in violation of international human rights norms, where Nigeria is a signatory to relevant international human rights treaties. It is concluded that it is regrettable that the customary laws of inheritance which deny women the right to the property of their husbands and fathers have remained static inspite of the provisions of the provisions of the 1999 Constitution and international instruments.

**Keywords:** Customary law, human rights, inheritance, property, primogeniture, succession.

## **1. Introduction**

In Nigeria today, a great percentage of the people live and conduct their affairs in the remote villages of the country. The country being a vast one with a teeming population coupled with differences in language and historical background has various bodies of customary law. These bodies

---

<sup>1</sup> Associate Professor of Law, AG. Deputy Director/Head, Postgraduate School, Nigerian Institute of Advanced Legal Studies, Unilag Campus, Akoka, Lagos. Tel: 08098760120, 07062174115; Email: petneville1@gmail.com

of customary law form the most important source of our law, primarily because they govern most of our personal laws such as marriages, divorce, succession and inheritance, land tenure and chieftaincy matters.

One of the modes of distribution of a deceased's estate is by customary law, and customary law is only applicable when the person dies intestate and does not contract a marriage under the Marriage Act. Customary succession therefore, is succession that is not in accordance with common law or statute, but in accordance with the traditions, customs and practices of the local people which are enforceable and binding between the parties which are subject to it.

Customary succession therefore, being succession that is according to customs, beliefs and traditions of the people, is mainly intestate (without a will). The pattern of intestate succession under customary law in Nigeria has as many variations as there are ethnic groups in the country. Thus, the law of succession and inheritance reflects Nigeria's plural legal system. As a result of this, there is the absence of a uniformity of rules of succession under customary law. However, in the devolution of property, the applicable customary law in most cases is the one to which the intestate was subject at the time of his death, irrespective of where the property is situated or where the death occurred.<sup>2</sup>

In Nigeria, as in many African countries, patrilineality is the most common feature among the more than 250 ethnic groups. The Binin, Igbo, Efik, Yoruba, and Hausa ethnic groups in Nigeria are examples of people practicing patrilineage, albeit with varying degrees of differentiation.<sup>3</sup>

Succession in terms of customary law in Igbo communities in Nigeria, is governed by the principle of male primogeniture, meaning that upon the death of the head of a family, his eldest son (or in the absence of a son, his father, grandfather or brother) steps into his shoes. The original concept of inheritance in terms of indigenous law is that the heir succeeds to a position and property, not to the latter alone. He takes over the deceased's duties as the head of the household and must administer the property for the benefit of the family, in consultation with the family.

---

<sup>2</sup> *Aisatu v. Coker* (1945) 18 NLRs.

<sup>3</sup> J. Egharevba, *Benin Law and Custom* (Port Harcourt: C.M.S. Niger, 1949), 36-37.

The Universal Declaration of Human Rights (UDHR) affirms the universal recognition of the inherent dignity, equality and inalienability of all members of the human family as the foundation of freedom, justice and peace of the world.<sup>4</sup> Thus, Atsenuwa opines that “both men and women are entitled, on equal footing, to full protection of their rights and freedom because they are human beings . . . therefore, custom or law cannot be used to validly deny them these rights and freedom.”<sup>5</sup>

Despite the recognition of these rights, however, there are always attempts in different countries to limit their enforcement, either through constitutional provisions, legislative enactments or decrees especially by undemocratic regimes.

The paper is divided into five parts. Part 1 deals with the introduction. Part II concerns the nature of inheritance and succession under customary law. Part III examines the Igbo rule of primogeniture. Application of the rule of male primogeniture by the court forms Part IV. Part V evaluates women’s international human rights and the conclusion is contained in Part VI.

## **2. Nature of Inheritance and Succession Under Customary Law**

The principle of inheritance and succession constitute a vital part of the Nigerian society both under the more formal systems of law (i.e. statutory laws) and more importantly under customary law. Generally, the Nigerian law recognizes two types of disposition of property upon the death of a person.<sup>6</sup> They are testate and intestate. Testate succession involves disposition of property under the Wills Law of the different states of the Federation. In such instances, the deceased’s property are distributed in accordance with the intentions of the deceased as provided in the provisions of the Will.<sup>7</sup> On the contrary, intestate succession fundamentally

---

<sup>4</sup> Preamble to the Universal Declaration of Human Rights, para. 1.

<sup>5</sup> A. Atsenuwa, ‘Human Rights of Vulnerable and Marginalized Group’, in Human Teaching in Schools, Constitutional Rights Project (CRP), 1998, 209.

<sup>6</sup> *Restatement of Customary Law of Nigeria*, A Fieldwork Project as Adopted and Promulgated by The Nigerian Institute of Advanced Legal Studies, Abuja, 29th April, 2013, 104.

<sup>7</sup> *Ibid.*

include the applications of three systems of laws. These are the Common Law; the Administration of Estate Laws of the various States and Customary law.<sup>8</sup>

Succession under customary law is typically intestate succession. It is applicable to the estate of a person who is subject to customary law. In other words, one of the modes of distribution of a deceased's estate is by customary law, and customary law is only applicable when the person died intestate and did not contract a marriage under the Marriage Act. When the person contracts a marriage under the Marriage Act, the distribution of his estate becomes subject to statutory law or where there are no statutory laws, the intestacy rules.<sup>9</sup>

In Nigeria, the patterns of customary law succession vary considerably reflecting the ethnic diversity of the country.<sup>10</sup> For example, the principle of primogeniture governs intestate succession in the predominantly patrilineal Igbo and Bini societies. Therefore, customary intestate inheritance is based on, or tracing descent through paternal line. Inheritance means property received from an ancestor under the laws of intestacy. On the hand, succession means the acquisition of rights or property by inheritance under the laws of decent and distribution. It is the substitution of a living person for the deceased person in relation to all the rights and duties which the latter had.<sup>11</sup> It therefore means that inheritance and succession are the principles which govern the transmission of the property, tangible or intangible, of a deceased person to some other persons.<sup>12</sup>

Primogeniture is defined as the quality, state, or condition of being the first born child among siblings. The common-law right of the first born

---

<sup>8</sup> P. O. Itua, 'Succession under Benin Law in Nigeria: Igiogbe Matters Arising', *Journal of Law and Conflict Resolution*, Vol. 3 (2011), 119.

<sup>9</sup> Animashaun, and Oyeneyin, *Law of Succession, Wills and Probate in Nigeria*, (Lagos: MIJ Professional Publishers Limited, 2003), 10.

<sup>10</sup> E. I. Nwogugu, *Family Law in Nigeria*, 3rd ed (Ibadan: HEBN Publishers Plc, 2014), 413.

<sup>11</sup> M. Okunola, Relationship between Islamic and Customary Law of Succession in Southern Nigeria in B. Ajibola (ed) *Towards the Restatement of Nigerian Customary Laws* (1991) Lagos, Federal Ministry of Justice, 158.

<sup>12</sup> D.H, Parry, *The Law of Succession: Testate and Intestate* (London: Sweet and Maxwell Ltd, 1991), 1.

son to inherit his ancestor's estate, usually, to the exclusion of younger siblings.<sup>13</sup>

### 3. Igbo Rules of Primogeniture

Although there may be slight variations in the rules of inheritance and succession among Igbo ethnic communities, the dominant principle is primogeniture. That is, on the death intestate of an Ibo male, the eldest son known as *Okpala*, *diokpala*, will succeed to his estate. In the first instance, he succeeds to his father's status as the head of the family. Moreover; the eldest son is entitled by virtue of his position as the head of the family to some special property which he enjoins for his life time only. He is entitled to occupy his father's dwelling house and farm the compound or the immediately adjoining land. Sometimes, he is also given another piece of land specially reserved for the head of the family to farm.<sup>14</sup> The remainder of the real property is held by the eldest son as a trustee-beneficiary for himself and his brothers.

In Igbo custom, only sons, to the exclusion of daughters of the deceased, can inherit his landed property.<sup>15</sup> The distribution of the intestate may take either of two forms; in some areas the distribution is per capital, that is, the property is divided into as many as there are male children. In other areas, distribution is on the basis of per stripes, in which case the property is divided into as many portions as there are wives with male children.

A woman whether childless or blessed with children cannot inherit her husband's estate in her own right. This is because, in an intestacy under customary law, the devolutions of property follows the blood and a widow not being of the blood has no claim to any share. In the case of *Nezianya v. Okagbue*,<sup>16</sup> the court was of the opinion that in accordance with the Onitsha Customary law the interest of a widow in the house and farm land of the deceased husband is merely possessory and not proprietary and so she can neither dispose nor alienate it outright.

---

<sup>13</sup> B.A. Garner, *Black's Law Dictionary*, 11th ed. (U.S.A. West Publishing Co., 2004), 1443

<sup>14</sup> E.I. Nwogugu, op. cit at 313.

<sup>15</sup> *Uboma & Ors. v. Ibeneme & Anor* (1967) F.N.L.R. 251.

<sup>16</sup> (1963) 1 All N.L.R. 352.

In most communities in the South East of Nigeria, the eldest son is the head of the family on the death of his father and property vests in him to be held in trust as the caretaker of the family property.<sup>17</sup> The rule in the South East is that male children and other male members of the family inherit to the disadvantage of the females (daughters) in the family. Thus, in Igboland, inheritance is restricted to male relatives. Therefore, the *Oli Ekpe* custom recognized by Nnewi people, whereby on the death of a deceased intestate, succession to his property devolves on his son. Where he has no son, custom dictates that such property devolves on his brother, and in the absence of his brother, his uncle and in the absence of both his brother and uncle, his nephew (*Oli Ekpe*) or other male relative of the deceased. Judicial pronouncement on this custom finds it to be discriminatory. Consequently, in the case of *Mojekwu v. Ejikeme*<sup>18</sup> the court held among others that *Oli Ekpe* custom is repugnant to natural justice, equity and good conscience, discriminatory, unconstitutional and not consistent with our civilised world.

It is therefore important to state that the most significant feature of primogeniture inheritance among the Igbos is that male children and other male members of the family inherit to the disadvantage of the females (daughters) in the family.

#### **4. Application of the Rule of Male Primogeniture by the Courts**

Courts in Nigeria have in recent years pronounced themselves on the rule of male primogeniture. They did so as the result of challenges of women/widows that the rule violates their fundamental rights and constitutionally guaranteed right to equality.

The courts have recognized as standing the patrilineal nature of inheritance among the Igbos of South-East Nigeria. For example, in the case of *Uka v. Ukama*,<sup>19</sup> the court upheld that patrilineal inheritance is recognized among the Igbos. Also, in *Ugboma v. Ibineme*,<sup>20</sup> the court held that in accordance

---

<sup>17</sup> *Reinstatement of Customary Law of Nigeria*, A Fieldwork as Adopted and Promulgated by The Nigerian Institute of Advanced Legal Studies, Abuja, 29th April, 2013, 108.

<sup>18</sup> (2000) 5 N.W.L.R. (pt. 657), 407, 422-423.

<sup>19</sup> (1963) FSC 184.

<sup>20</sup> (1967) F.N.L.R. 251.

with the general Igbo custom which is also the custom of Akwuzu (Anambra State), home of the deceased, women are not entitled to inherit land from their father.

With regard to moveable property, the eldest son is usually entitled to the personal effects of his deceased father, including his gun, dresses, elephant tusks and farm implements.<sup>21</sup>

Also, in *Ugboma v. Ibineme*,<sup>22</sup> the court held that in accordance with the Igbo custom, which is also the custom of Awkuzu, women are not entitled to inherit land from their father.

Nonetheless, in some states in Nigeria, the associated issue of dispossessing a widow of husband's property by his relatives has been addressed by their state laws. For example, section 4(2) of the Enugu State Prohibition of infringement of a Widows and Widowers Fundamental Rights Law 2001 provides that "Subject to the Marriage Act, Wills Law, Administration of Estates Law, or indeed any customary law (not repugnant to natural justice, equity and good conscience), a widow/widower shall not be dispossessed upon the death of the husband/wife (during the deceased's wife's lifetime without his/ her consent) If the husband dies without a male issue, his real property descends to his family".<sup>23</sup>

Also, in the Court of Appeal decision in the case of *Omo Ogunkoya v. Omo Ogunkoya*,<sup>24</sup> the court held that widows are chattels who are inheritable by other members of the family. In *Eze v. Okwo*,<sup>25</sup> the husband was survived by three customary law wives but no issues. Before his death the deceased instructed his senior wife to administer his property and use the income there from to maintain her and the other wives and to continue staying in his compound with the hope that they would have issues for him. The senior wife attempted to carry out the wishes of her late husband but was challenged by his nephew. It was held that a widow can neither inherit her husband intestate nor administer the estate.

---

<sup>21</sup> E.I. Nwogugu, op. cit. at 313.

<sup>22</sup> (1967) FN.L.R. 251.

<sup>23</sup> *Suberu v. Summonu* (1957) 2 F.S.C.33.

<sup>24</sup> Unreported decision in suit No.CA/L/46/88.

<sup>25</sup> Unreported decision of Obollo District Court in suit No. 29/59.

Where a widow has a son or sons, it is the son or sons that will inherit, not the widow, though she may act as a caretaker for the son or sons if he or they are too young to take care of such property themselves. It must be noted, however, that a widow is not a complete stranger to her late husband's property under Ibo customary law. Where she chooses to remain in the husband's family and go by the late husband's name, she is entitled to go on occupying the matrimonial home and to be given some share in her late husband's farm land. In this case, she has the right whether or not she has any children surviving, and for as long as she wishes to remain in residence among her late husband's people, the result is that the legal heir's right to possession is postponed till the widow dies or remarries or otherwise leaves the family for good.

On the death of the man the widow elects whether or not to remarry within her late husband's family. If she elects to remarry, the eldest son (not hers) of the late husband has the first choice. Failing the eldest son, the widow chooses a member of the family she prefers to marry. When so remarried, the widow becomes the wife of the new suitor. Hence, in the case of *Godfrey Nwaribe v. President & Anor*,<sup>26</sup> Egbuna J., held that if a woman stays in the matrimonial family after the death of her husband and for all practical purposes remains a member of the household of the deceased and becomes pregnant during such period it is not against natural justice, equity that the child is regarded as a member of that household.

Just as the widow cannot inherit her husband's property, the daughters cannot inherit land from their fathers. In the case of *Uboma v. Ibeneme*,<sup>27</sup> the daughters of a deceased intestate in Anambra State claimed to be jointly entitled with their brothers to inherit their fathers land. Egbuna, J, held that among the Awhuzu people, as also among the rest of the Igbo people, women have no right of inheritance of land.

Thus in the case of *Nwugege v. Adigwe*,<sup>28</sup> it was held that by Onitsha Customary law, where a married woman lived in her ante-nuptial house with her husband until her death, her fathers' family was entitled to succeed to the house. Property acquired by a wife during covertures

---

<sup>26</sup> (1964) 8 E.N.L.R. 24.

<sup>27</sup> Unreported decision in Suit No. 01/150/61.

<sup>28</sup> (1934) 11 N.L.R. 134.



devolves upon her children, subject to their husband's right to use it concurrently with the children during his life time; failing any issue of the wife, the husband takes. The wife's maiden family has no claim to property which she acquired during covertures. So when the wife is pre-deceased by her husband and all her issues, the property will go the husband's relatives. Land given by a father to a daughter on her marriage devolves on the daughter's son on her death.

However, on appeal to the Supreme Court in *Mojekwu v. Iwuchukwu*,<sup>29</sup> Uwaifo, J.S.C. disagreed with the strictures of the lower court and did not endorse the outright condemnation of *Oli Ekpe* custom, an analysis shows that certain aspects of it run short of the Constitution. However, what stands out is that the Igbo custom discriminates against women in total disregard of the equality guarantee contained in the Nigerian Constitution.

Flowing from the above principle of primogeniture, we conclude that the treatment meted out to women under Igbo and Bini custom is clearly an indication of the persistent violation of women's rights.

## **5. Women's Human Rights and Protection Under International Instruments**

Human rights can be considered as fundamental rights. The right to life, religious freedom or equality are known in every culture but their content is interpreted differently relating to the community, the cultural and historical background and the social position of the individual in it.<sup>30</sup> The central theme of human rights is that of non-discrimination. In every human rights document, there can be found norms which state the equality of human beings and interdict discrimination. All human rights are universal, indivisible, interdependent and interrelated.<sup>31</sup>

For instance the Universal Declaration of Human Rights (UDHR) which was adopted by the United Nations General Assembly in 1948 in its article 1 states that "all human beings are born free and equal in dignity

---

<sup>29</sup> (2004) 4.S.C (pt. II); (2004) 11 N.W.L.R. (pt. 883) 196.

<sup>30</sup> G. Geyer, *Auseinandersetzung um die Menschenrechte*, in: *Politische Studien*, 1977.

<sup>31</sup> Vienna Declaration and Programme of Action, A/CONF.157/23, 12 July 1993, at Part 1, para. 5.

and rights. They are endowed with reason and conscience and should act towards one another in spirit of brotherhood.” It further states that “no one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.”<sup>32</sup> In addition, it provides that every person has the right to freely participate in a community’s cultural life.<sup>33</sup>

Implicitly therefore, no cultural practices should be forced on any gender, be him male or a female. The implication here is that the principle of primogeniture of male inheritance in Nigeria is contrary to the above mentioned international instrument and thus, an infringement on women’s rights. Another example is Article 2 of CEDAW referring to the principle of equality and non-discrimination concerning women. It states that “States Parties condemn discrimination against women and . . . embody the principle of the equality of men and women in their national constitutions or other appropriate legislation . . .”

Therefore discrimination against women shall mean any distinction, exclusion or restriction on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on the basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural or any other field.<sup>34</sup>

According to Nwogu,<sup>35</sup> the Convention on Elimination of All forms of Discrimination against Women (CEDAW), establishes international standards of equality between men and women. The Convention was ratified by Nigeria in 1986 that brings to fore the commitment of Nigerian government to eradicate all forms of discrimination against women in civil, social, cultural and political rights.<sup>36</sup> CEDAW in its preamble, describes discrimination as:

---

<sup>32</sup> Article 5, UDHR.

<sup>33</sup> Article 27, op. cit.

<sup>34</sup> M.I.O. Nwogu, ‘The Legal Anatomy of Cultural Widowhood Practices in South Eastern Nigeria: The Need For A Panacea’, Vol. 2 (2012), *Journal of Women and Minority Rights*, 87.

<sup>35</sup> M.I.O. Nwogu, ‘The Domestic Application of Feminist International Human Rights Treaties in Nigeria’, Vol. 1, (2008), *Journal of Women and Minority Rights (JMWR)* 66-80.

<sup>36</sup> Ibid.

Discrimination against women shall mean any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on the basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural or any other field.

CEDAW also recognizes the importance of legislation as an element to ensure the realization of individual women's human rights and freedom on the ground of equality with men in its articles 3 and 18.<sup>37</sup> Article 16 of CEDAW enjoins states parties to take all necessary measures to eliminate discrimination against women in all matters relating to marriage and family relations. The main reason for this is that there is no co-ownership of property by couples in traditional Nigerian culture, the presumption being that all substantial property, including the land and home belong to the deceased man. CEDAW thus addresses specifically the plight of women. In discussing the principle of non-discrimination, Dugard states that "the existence of such a norm derived from custom, general principles of law, and Convention is beyond doubt. As far as conventional law is concerned, the affirmation of the principle of non-discrimination on grounds of race, and sex contained in article 55 of the United Nations Charter has been affirmed by several international Conventions."<sup>38</sup>

Other international instruments that protect women's rights include International Convention on Civil and Political Rights (ICCPR) 1966. In ratifying the ICCPR, a State Party undertakes, "where not already provided for by existing legislative or other measures . . . to take necessary steps, in accordance with its constitutional processes and with the provisions of the present Covenant, to adopt such laws or other measures as may be necessary to give effect to the rights recognized in the present Covenant."<sup>39</sup>

A State Party to the International Convention on Economic, Social and Cultural Rights (ICESCR) 1966, undertakes "to take steps . . . to the maximum of its available resources, with a view to achieving progressively

---

<sup>37</sup> G.E. Afolaya, 'Widowhood Practices and the Rights of Women: The Case of South Western Nigeria', International Institute of Social Studies, Hague, 2011.

<sup>38</sup> J.D. Dugard, *Dugard's International Law: A South Africa Perspective* 5th ed. (South Africa: JUTA and COY (PTY) Ltd, 2019) 247.

<sup>39</sup> Article 2.

the full realization of the rights recognized in the present Covenant by all appropriate means, including particularly the adoption of the legislative measures.”<sup>40</sup>

There is the Convention against Torture and other Cruel, inhuman or Degrading Treatment or Punishment (CAT) 1984. Additionally, there is the African Charter on Human and Peoples’ Rights, 1981 on regional level. The Beijing Platform for Action was the fourth Conference held on the 15th of September, 1995. It is an international declaration of women’s rights and empowerment. Moreover, a similar right has been guaranteed under the African Charter on Human and Peoples’ Rights<sup>41</sup> that “Every individual shall be entitled to the enjoyment of the rights and freedom recognized and guaranteed in the present charter without distinction of any kind such as race, ethnic group, colour, sex, language, religion, political or any other opinion, national or social origin, fortune, birth or other status.” Therefore, where a State Party gives legal sanction to a practice that violates any of the treaties to which it is a party, or does not take steps (in particular legislative steps) to end the practice, it is violating its international obligations in terms of that treaty.

The fact that Nigeria ratified these international and regional instruments, it is expected to recognize, fulfill and enforce them.<sup>42</sup> Once a treaty has entered into force, the State Party is bound to perform its provisions in good faith and is accountable for bringing its national laws into line with it and for taking steps to ensure its implementation.<sup>43</sup> What this obligation entails will depend on the terms of the treaty in question. For example, the CRC contains obligations in every article, but also more broadly provides that:

States Parties shall undertake all appropriate legislative, administrative and other measures for the implementation of the rights recognized in the present Convention. With regard to economic, social and cultural rights, States Parties shall undertake such measures to the maximum extent of their available resources and, where needed, within the framework of international cooperation.<sup>44</sup>

---

<sup>40</sup> Article 2.

<sup>41</sup> See Article 2.

<sup>42</sup> Nwogu, M.I.O. (2015), op. cit, 87.

<sup>43</sup> J.D. Dugard, *Dugard, Dugards International Law : A South Africa Perspective* 5th ed, op. cit 254.

<sup>44</sup> Article 4.

In order to monitor compliance with treaties by State Parties, Committees consisting of independent experts, also known as treaty bodies, have been set up in terms of the various treaties. State Parties must present regular reports to the Committees on steps taken to implement the relevant treaty. These reports are scrutinized by the relevant Committee, which then issues its own report with comments and recommendations to the State Party on issues that require further action.<sup>45</sup>

International human rights norms do not negate the essence of traditions or indigenous laws, but rather set minimum standards and guarantees, which may not be derogated from in practicing traditions and implementing rules of indigenous law. Thus, this assertion is contrary to the view of Vahed, who is of the opinion that “it is imperative to note that human rights . . . are not entirely universal. These rights should be interpreted in the context of the child’s cultural and religious perspectives.”<sup>46</sup> Human rights are indeed universal, and although they may be interpreted in the context of culture and religion, they may not be derogated from on this basis. In other words, women cannot be denied substantive equality on the basis of religion or culture, as this would be a violation of international obligations.<sup>47</sup> Moreover, through agreements reached at World Conferences, states have reinforced and often expanded on their international obligations. These agreements are reached through negotiation and are not the imposition of “foreign values” on any culture.<sup>48</sup>

## 6. Conclusion

The nature of inheritance and succession in Nigeria shows the mode of distribution of property under customary law that reflects the plural nature

---

<sup>45</sup> The ICCPR is monitored by the Human Rights Committee, the ICESCR by the Committee on Economic, Social and Cultural Rights, CEDAW is monitored by the Committee on the Elimination of Discrimination of Women (the CEDAW Committee) and the Committee on the Rights of the Child (the CRC Committee) monitors implementation of the CRC.

<sup>46</sup> L. Vahed, ‘Should the Question: ‘what is in a child’s best interest? Be judged according to the child’s own cultural and religious perspectives? The case of the Muslim Child’, Vol. 23, (1999), *The Comparative and International Law Journal of Southern Africa (CILSA)* 364, at 368.

<sup>47</sup> N. Moodie, *Denial of Inheritance Rights for Women under Indigenous Law-A Violation of International Human Rights Norms*, being A Master of Law Thesis submitted to University of South Africa, 2000, 29.

<sup>48</sup> Ibid.

of indigenous customary law.<sup>49</sup> The nature of inheritance and succession in Nigeria which shows the mode of distribution of property under customary law reflects the plural nature of indigenous customary law.

Culture plays a great role in the violation of the fundamental rights of women in Nigeria. This, it does by undermining the rights of women chiefly in the issue of inheritance. The legal and regulatory environments for women's rights to inheritance are not sufficient and the legislation that exist show a lack of commitment to gender equity in inheritance rights. The laws and practices governing inheritance and succession under customary law are very discriminatory and constitute major obstacle to the achievement of equality of men and women. Furthermore, it is regrettable that the customary laws of inheritance which deny women the right to the property of their husbands and fathers have remained static inspite of the provisions of the provisions of the 1999 Constitution and international instruments.

Following the findings in this paper, some recommendations can be made. Firstly, rights regarding primogeniture should reflect the fair but strong tradition compatible with natural justice, equity, morality and public interest. In addition, Nigeria being a signatory to numerous human rights instruments, should keep its signatory obligation as a state party and implement the relevant human rights provisions. In addition, it is recommended among others that Nigerian government should adopt appropriate legislation and actions aimed at modifying discriminatory laws, regulations and practices against women.

---

<sup>49</sup> Ibid.