

An evaluation of the cultural practices and women's inheritance rights in Iboland, Eastern Nigeria: A theological- ethical study

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ABSTRACT

In Eastern Nigeria, women suffer various forms of deprivation, discrimination and oppression during property sharing, especially touching land, housing and other physical assets. Their rights have been violated by men due to cultural and religious beliefs. Hermeneutical approaches, norms and customs also contribute to these acts. Women's property rights seem a taboo due to cultural setting. Women are deprived of their husbands' properties at marriage, divorce or death. Daughters have no rights over the landed property of their late fathers. The challenge has been that, in patriarchal societies, like Iboland, women are regarded as subservient to men and are not considered in property sharing. Rather, they are often regarded as part of the properties to be shared, especially at the demise of their spouses. The educationally and economically disadvantaged position of girls and women worsen issues, as they can not pursue their course in court. The few court rulings in favour of women's inheritance rights do not make any difference in influencing societies for change of discriminatory practices. Most disturbing is that, though statutory law and international law have affirmed women's rights to land and other property, women are often denied access and ownership to property. This study identifies and examines the Ibos cultural practices and customary laws and reviews the international, regional and national legal framework on women's property inheritance rights. It also identifies some factors such as customary and statutory laws as responsible for discrimination against women vis-à-vis their rights to property and inheritance. The study therefore calls for respect and strict adherence to the Scriptures and Fundamental Human rights. It also calls for urgent legislative intervention: more involvement of traditional rulers, lawyers and judges to combat obnoxious practices; more intensified re-orientation of the Nigerian police; overhauling of the social institution, and more educational opportunities and political appointments for women. In carrying out this research, secondary sources were consulted. Recommendations are proffered on the best way forward in order to attempt to eliminate the harmful cultural practices that are against women's property ownership in Eastern Nigeria, thereby granting women inheritance rights to property.

(Keywords: Women; Discrimination; Cultural Practices; Human Rights; Female Gender; Ibos; Eastern Nigeria; Religions; Hermeneutics; Property inheritance; Land ownership; Family; Ethics; Primogeniture; Custom).

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CHAPTER ONE

1. INTRODUCTION

This research is meant to fill in gaps existing as a result of the absence of local jurisprudence on women's inheritance rights in Nigeria. Actually, since creation, succession and inheritance rights have been established procedure of transferring economic, social and even political powers. But, the problem in most patriarchal societies including the Ibos of South East Nigeria has been the unequal positioning of male and female offspring when it comes to inheritance. While the males are regarded as heirs and apparent successors to economic and social powers, the right of females in this regard has been relegated to the background.

Even while most of the cultural traits of society are fast changing as in a dynamic world, the inheritance right is not resilient. This unchanging situation worsens the seemingly impoverished condition of the women and makes them more vulnerable to abject poverty compared to their male counterparts. Consequently, the economic situation or property level of a male child could be changed for better through inheritance; while to the contrary, the situation or poverty level of a female child could not be changed for better through inheritance. Instead, the situation could worsen at the death of her father.

The basic assumption behind this discourse is that the inheritance rights and access to property rules among the Ibos further deepens the already poor situation of women in that society. It is against this background that this paper focused on examining the situation of women in Iboland, within the theological and ethical perspective. Most disturbing is that, though statutory law and international law have affirmed women's rights to land and other property, women are often denied access and ownership to property. This study identifies and examines the Ibos cultural practices and customary laws and reviews the international, regional and national legal framework for women's property inheritance rights. It also identifies some factors such as customary and statutory laws as being responsible for the violation of women's rights to property and inheritance.

The study offers recommendations on how to eliminate the harmful cultural practices that are against women's property inheritance in Eastern Nigeria. It identifies challenges in the realisation of women's inheritance rights and proffers suggestions on ways to improve the status of women and fulfill their property rights, as recognised in

international instrument. The paper proffers suggestions on possible ways to improve the lives of the women through integration of the English and customary laws as they relate to inheritance and strict adherence to the sound teaching of the Scripture with regards to women's rights to inherit property. It is hoped that the study will contribute to the theological and ethical knowledge of the society under study as it strongly advocates the implementation of the rights of women to property inheritance.

1.1 CONCEPTS CLARIFICATION

Gender:	The state of being male or female.
Woman:	An adult female human being.
Widow:	A woman whose husband has died and who has not remarried (OALD, 1989:1460).
Women's Rights:	These are the rights and entitlements claimed for women worldwide.
Society:	System where people live together in organised communities (OALD, 1989:1213).
Culture:	The customs, arts, social institutions, etc. of a particular group or people (OALD, 1989:291).
Custom:	Generally accepted and long established way of behaving or doing things (OALD, 1989:294).
Fundamental Rights:	Important basic rights/entitlements of all people.
Human Rights:	These are rights we are born with as humans, "that inhere in us", and are attached to all human beings everywhere and in all societies by virtue of our humanity (Ezeilo, 2011:5).
Family:	Group consisting of parents and their children. It also means all the people descended from a common ancestor (OALD, 1989:437). It's an embodiment of people with biological relationship (Herring, 2011:1).
Real property:	Land and housing owned by individual and family.
Family Head:	The family head is a trustee and manager of the family property (Nwogugu, 1990:416).
Family property:	Property owned by the family and which is in the custody of the family head.
Inheritance:	An act of receiving or claiming property from someone who is dead.

Patriarchy:	A sociopolitical and cultural system that values masculinity over femininity (Watanabe, 2014).
Primogeniture:	System of inheritance by which an eldest son receives his parents' property (OALD, 1989:987).
Ibos:	These are indigeneous people of South-Eastern Nigeria.
Iboland:	This is the region located in the South-Eastern part of Nigeria.
Yorubaland:	This is the region located in the Western part of Nigeria.
Hausaland:	This is the region located in the Northern part of Nigeria.

1.2 BACKGROUND AND PROBLEM STATEMENT

1.2.1 Background:

Human Rights are rights inherent to all human beings, irrespective of nationality, place of residence, sex, ethnic origin, colour, religion, language, or any other status. All human beings are equally entitled to human rights without discrimination. The United Nations Human Rights: Office of the High Commissioner for Human Rights attests that the principle of universality of human rights is the cornerstone of International Human Rights law (OHCHR, s.a). Human Rights could also be seen as rights we are born with as humans, rights "that inhere in us", and are attached to all human beings everywhere and in all societies by virtue of our humanity, and since it is natural and God-given, it cannot be taken away by the State (Ezeilo, 2011:5). The concept of Human Rights is Natural Rights.

A right to property is recognised in Article 17 subsections 1 & 2 of the United Nations' Universal Declaration of Human Rights, which state: "*Everyone has the right to own property alone as well as in association with others. No one shall be arbitrarily deprived of his property* (Otteh, 2006:400). Ethically, this Declaration is not discriminatory of sex; hence, both men and women should own property. The inclusion of this right in such an international declaration empowers all to seek implementation. It is surprising that general recognition of women's right to inherit property is found more rarely, and is typically heavily constrained in some cultural settings, including Iboland. Theologically, the Scripture brings to the fore that all human beings (men and women) are in the image of God (Gen. 1:27). They are therefore scripturally, naturally and legally imbued with rights including that of property ownership. This ownership right must be allowed to women irrespective of culture and custom (United Nations (UDHR), s.a).

1.2.2 Problem Statement:

Careful perusals of related literatures have been done with regard to women's disinheritance specifically in Iboland. Discriminatory Cultural Practices have seriously influenced Women's Inheritance Rights among the Ibos of South-East Nigeria (Chika & Nneka, 2014). According to Folarin & Udoh (2014), the Beijing Declaration has not been fully implemented with regard to Women's Property inheritance Rights in Nigeria. Ezeilo (2011) confirms this in her book Women, Law & Human Rights. She decries the extent to which women's rights are trampled upon, especially that of inheritance. Herring (2011) unreservedly states the Family Laws as applicable in Nigeria, which in most cases are unfavourable to the women.

Otteh (2007) substantiates some cases on Human Rights violation. He stresses that the 1999 Constitution of the Federal Republic of Nigeria indicates the rights of Nigerian women to inherit and own property, but this has not been the case in Iboland. Women's inheritance of real property (consisting of land and the houses built thereon) is really challenging. In Eastern Nigeria, the corporate ownership of land is a common feature due to the prevailing family land sharing system. The custodians of family lands are Family Heads in Iboland. The family heads are men with a possible biased tendency against women's inheritance rights.

According to Nwogugu (1990:416), a family house in Yoruba land (Western Nigeria) is seen as a residence which the father of a family builds for his wives and children to occupy jointly after his decease. All his children are entitled to reside there with their mothers and the married sons with their wives and children. Also a daughter who has left the house after marriage has a right to return to it if leaving her husband or being abandoned by him. The family house can only be mortgaged or sold with the consent of all the children (male and female) of the deceased father. This same principle goes for family land. Even with this arrangement, the widows have no property inheritance right to their deceased husbands' property, though the daughters do (Ezeilo, 2011:181).

In Iboland, *"the house of the founder of the family is inherited by his most senior male child, who has the right to reside there, he is bound to accommodate his brothers and sisters in the house until the males establish their own households*

elsewhere or the females marry” (Nwogugu, 1990:416). With this policy in place, the family head is the trustee and manager of the family property. However, all the male children have inheritance rights to their deceased father’s estate. The daughters and widows have no inheritance right to family house or land. In a situation where a deceased had only female children, a male relative inherits the family property (Ezeilo, 2011:181).

The problem is that in Iboland women have no inheritance rights, whereas the men have. The overarching research question is: why should men inherit property while the women are unduly discriminated against and deprived of such benefit? The research sub-questions arising from the above problem are:

- How should one understand the cultural practice of disinheritance of women in Iboland?
- What are the cultural arguments against women’s inheritance rights and how should one evaluate them ethically and theologically?
- What are the international, regional and national legal frameworks for inheritance and how should one evaluate them ethically and theologically?
- How should one evaluate women’s inheritance rights ethically and in the light of Scripture?
- What are the recommendations for possible elimination of the oppressive cultural practices and the installation of women’s inheritance rights in Iboland?

1.3 Preliminary Literature Study

Human Rights could be defined as rights that we are born with as humans. The Natural law theorists view human rights as the species of rights which can be said to inhere in every human being. Since these rights are regarded as inalienable and immutable, they cannot be taken away from any person without affront to justice (Falana, 2010:1). As such, denial of Inheritance Right is unlawful and has no sound scriptural basis. Women in particular should not be denied inheritance rights from their deceased fathers’ and husbands’ estate, simply because they are women (Ezeilo, 2011:251).

In the International Human Rights Law, Convention and Declaration, there is no indication that women should be deprived of inheritance right. More so, the Nigerian Constitution (1999) supports women’s property ownership whether

individually or in association with others (Otteh, 2006:400). The Constitution of the Federal Republic of Nigeria, Section 43 also says: "*Subject to the provisions of this constitution, every citizen of Nigeria shall have the right to acquire and own immovable property anywhere in Nigeria*" (Nigeria, 1999). The Constitution of Ghana which is another African country supports and states in Article 18 Subsections 1 & 2 thus: "*Every person has the right to own property either alone or in association with others. No person shall be subjected to interference with the privacy of his home, property, correspondence or communication except in accordance with law and as may be necessary in a free and democratic society for public safety or the economic well-being of the country, for the protection of health or morals, for the prevention of disorder or crime or for the protection of the rights or freedom of others*" (Aturu, 2000:210-211).

Basically, the extended family is a property owning unit in Eastern Nigeria. The property of the family could simply be described as any type of property, the title to which is vested in the family as a corporate entity. However, major family property consists of land and houses. Corporate ownership of land is a common feature in the region under study (Nwogugu, 1990:416). "*At a breakdown of a marriage or a relationship between cohabitants, one significant issue that often arises relates to the distribution of the parties' assets and, more particularly, their respective rights over the family home*" (Scott-Hunt & Lim, 2001:133).

Family property sharing has been a problem in Eastern Nigeria; especially that of land and housing. However, according to Herring (2011:158), "*determining ownership of land is not difficult. If the land is registered, the legal owner can be determined by discovering who is registered as the owner of the land. If the land is not registered, it is necessary to discover into whose name the lease or property was conveyed*". If one agrees with this, it is believed that family land sharing could be handled peaceably among co-habitants no matter the region or culture involved. The question as such, why men should inherit property while the women are unduly discriminated against and deprived of such benefit in Iboland, could be amicably addressed.

1.4 AIM AND OBJECTIVES

1.4.1 Aim:

The aim of this research is to give an ethical-theological evaluation of cultural practices which deny women the right to inherit property in Iboland, Eastern Nigeria.

1.4.2 Objectives:

Reaching the above aim involves the fulfillment of the following objectives:

- To study and understand the cultural practice of disinheritance of women in Iboland.
- To study and evaluate ethically and theologically the cultural arguments against women's inheritance rights.
- To study and evaluate ethically and theologically the international, regional and national legal framework for women's rights to inherit property.
- To evaluate the rights of women to inherit property ethically and in the light of Scripture.
- To make recommendations for the eradication of discriminatory cultural practices against women's inheritance rights in Iboland.

1.5 CENTRAL THEORETICAL ARGUMENT

The central theoretical argument of this study is that women have the right to inherit property in the light of Scripture. The women as God's creation in His image with unlimited covenantal relationship with God have rights to inheritance. God's Natural law and grace upon all humans and the fact that God reigns and rules over all things give women the rights to inherit property.

1.6 RESEARCH METHODOLOGY

This study on the cultural practices that impede the rights of women to inherit property in Iboland is done from the perspective of the Reformed Tradition. The literature analysis is analytical, comparative and evaluative. The following methods are used to answer the various research questions:

- In order to study and understand the cultural practice of the disinheritance of women in Eastern Nigeria, a literature review is done. Chika and Nneka (2014) stresses discriminatory cultural practices and women's rights among the Ibos of South-East Nigeria; Folarin and Udoh (2014) emphasises the Beijing Declaration and women's property rights in Nigeria and Ezeilo (2011) deals with women, law and human rights. More so, in order to study and

evaluate ethically and theologically the cultural arguments against women's inheritance rights, a literature analysis is done to determine and evaluate past and present viewpoints. The following sources amongst others are used: Herring (2011) deals with family law; Otteh (2007) quotes cases on human rights; the 1999 Constitution of the Federal Republic of Nigeria; the Bible (1991) and Aturu (2000) who is concerned with human rights law reports of Africa. The sources are systematically evaluated and integrated with the study.

- In order to evaluate ethically and theologically the legal positions on women's right to inherit property, a literature review is done to authenticate this claim. The following sources are used amongst others: Adebayo (2012) explains the 1999 Constitution of the Federal Republic of Nigeria (as amended); Falana (2010) sets out Fundamental Rights Enforcement in Nigeria; Egburuonu (2000) gave an Encyclopedia of legal Authorities on fundamental rights enforcements; the Bible (1991); and Nwogugu (1990) states family law in Nigeria. The materials are analysed, compared and integrated in the study.
- In order to locate and evaluate the rights of women to inherit property ethically and in the light of Scripture, the applicable Scriptural evidence are identified and exegesis done. In order to offer recommendations for the elimination of the harmful cultural practices against women which consequently forestall women's inheritance rights in Iboland, sources are reviewed for viewpoints while augmenting them with new suggestions. The materials are analysed, compared and integrated with the study. The evaluations are theologically grounded through the use and support of the Bible (1991).

1.7 FEASIBILITY OF THE RESEARCH

The results of this study will be utilised to develop a model of cultural and customary practices as they affect women's inheritance rights in Iboland, South-Eastern Nigeria. The model will challenge the danger of harmful cultural adherence against women's rights to family property. Its use in the region under study will change the fortune of women by creating overwhelming awareness and granting women the rights to inherit family property. It will also be of great service to religious, legal and ethical bodies.

CHAPTER TWO

DISCRIMINATORY CULTURAL PRACTICES OF THE IBO PEOPLE

2.1 INTRODUCTION

Culture is defined as the customs, arts and social institutions of a particular group or people (OALD. 1989:291). The culture of the Ibo people with regard to women's inheritance has always been discriminatory which, regrettably, persists despite the global upsurge in women's rights that culminated in the enactment of international and national treaties on women's emancipation and empowerment (Ifemeje, 2008:57).

The Chapter gives a brief history of the Ibo people and also presents an overview of the cultural practices of the Ibo people with emphasis on the cultural practices that affect women's property inheritance rights, factors supporting the disadvantageous cultural practices, customs weighing against women in the land, and the effects of the discriminatory cultural practices on Ibo women.

It further looks at the disinheritance of women and female children in Iboland, the customary law marriage, what disinheritance entails and the consequences of disinheritance. It is believed that this chapter will give a fair exposition of the discriminatory cultural practices in Iboland with particular emphasis on women's disinheritance status.

2.2 SHORT HISTORY OF THE IBO PEOPLE

The Ibo speaking people constitute one of the largest ethnic groups in Nigeria. They are the indigenous people of the South-Eastern part of Nigeria and one of the three major tribes in Nigeria, viz: the Hausas, the Yoruba and the Ibos. The Ibos occupy a continuous stretch of territory roughly bounded on the North by the Igalla, Idoma, and Ogoja peoples, in the East by the Ibibio peoples in the South by the Ijo and in the West by the Edo peoples. A significant fraction of them are included in Rivers and Delta States (Eluwa *et al.*, 1988: 61).

Historically, women's position in Iboland in particular and Nigeria at large during the pre-colonial and colonial era was that of subjugation and perpetual subordination (Abdulraheem, 2010). Men were seen as rulers of the world as most traditions valued men more than women (Njoku, 1980). They saw women's primary duty as that of

bearing children to please their husbands. Childless wives and husbands were bound to be ridiculed by people and society at large (William, 1968:4).

The culture of women subjugation was embraced and promoted by the Ibo people since the pre-colonial era. The culture had rooted in the land. As a result, wives and daughters of Ibo customary law marriages faced numerous oppressive, degrading and discriminatory cultural practices including disinheritance (Ifemeje, 2008:57). These practices grossly impede women's constitutionally guaranteed rights as set out in Section 42 of the 1999 Constitution of the Federal Republic of Nigeria, amongst others.

2.3 OVERVIEW OF THE CULTURAL PRACTICES OF THE IBO PEOPLE

There are some cultural practices in Iboland that actually affect women's inheritance rights. Such practices include: Disinheritance of wives, widows and female children; male preference syndrome; payment and refund of bride price; marginalisation of women's rights in the case of dissolution of customary law marriage and the polygamous nature of customary law marriage. More so, certain practices degrade women's dignity in Iboland. Such include: Legalised domestic violence, harmful widowhood practices and female genital mutilation (FGM). These are discussed in detail.

2.3.1 CULTURAL PRACTICES AFFECTING WOMEN'S INHERITANCE AND PROPERTY RIGHTS:

(a) Disinheritance of Wives/Widows

Cultural practices against women are classic demonstration of gender discrimination in Nigeria. It is significant that where a marriage was celebrated under the Matrimonial Causes Act both husband and wife are equally entitled to each other's estate and in equal proportion in the case of intestacy (Nigeria, 1990b). But, with regard to a widow of an Ibo customary law marriage, on intestacy of a husband, she is disinherited completely despite any contributions she might have made to the man's success. She is even a property to be inherited (Mbu, 1995).

Under Ibo customary law, a wife could be inherited by the brother of her deceased husband; this of course gives credence to the unpalatable impression or signal that women are chattels that can be inherited. It also means that the death of a customary law husband does not terminate the original marriage under the customary law, whereas the death of a customary law wife terminates a customary marriage (Chika & Nneka, 2014:20).

Widows' inheritance rights are grossly marginalised and trampled upon whether a woman chooses to marry within or outside of her late husband's family. Normally, every woman in the event of death of her husband should not be compelled or forced against her will to marry within the late husband's family. But in Iboland, even if a widow remarries within or outside of her late husband's family that doesn't make any difference as the widow is still unqualified to inherit her late husband's property.

Surprisingly, the Ibo custom has received judicial approval by Nigerian courts in the past. According to Chika & Nneka (2014:22), in a case between Neziyanya and Okagbue, the parties came from Onitsha and the land (the subject matter of the dispute) also situated at Onitsha (Iboland). The widow in the case sold a portion of her late husband's land and with the proceeds she built a mud hut on another portion of land. When she wanted to sell more land, the late husband's family objected. In the trial court it was submitted that the possession by a widow of her husband's land cannot terminate the right of her husband's family, which would enable her acquire the land. An appeal was made to the Supreme Court, and the court observed same (Chika & Nneka, 2014:22). Cases of this nature are incorporated in chapter 4 of this study which deals with the legal framework for women's inheritance rights.

The Onitsha native law and custom which also agree with Ibo customary law postulate that a married woman on the death of her husband without a male child and without the concurrence of her husband's family may use her late husband's property. Her dealings with the property of course, must receive the consent of the family. She cannot assume ownership of the property as her own. If the family does not give their consent, she has only a right to occupy the land or building, but this occupation is also subject to her good behaviour with the family people.

Certain legal pronouncements have attracted criticisms from prominent jurists, like Karibi-Whyte, who observed that "Ibo Customary laws are gender discriminatory and very illiberal towards women's rights" (Karibi-Whyte, 1994:23).

(b) Disinheritance of female children

The Ibo customary law is basically patrilineal in nature; and therefore the cardinal principle of customary inheritance is that of primogeniture. Under this system, land and landed property devolve on the males, to the exclusion of daughters and wives. In

Iboland, a daughter cannot inherit her father's estate which is reserved for the absolute inheritance of the male children. The female child cannot ascend the family stool as family head either.

Ibo customary law by implication denies the female gender the right to inherit their deceased fathers' landed property. The custom of the Ibo people is contrary to the Israeli custom which allows inheritance to the daughter where there's no son, and only when there's no daughter that a man in the extended family inherits (Num. 27:8-9). The disinheritance of women on the basis of gender is a catalyst for social and economic stagnation (Adekile, 2010:22). This is because the women are deprived of family landed property which could possibly enhance their access to bank loans, farming, education and general livelihood. Poverty is therefore the possible consequence of disinheritance.

The gender-discriminating position under the Ibo customary law could be juxtaposed with what obtains in Nigerian statutory marriages, where on the death of a spouse without a will, the wife has the right to inherit the deceased husband's landed property. Section 36 of the Marriage Act, has laid down the rules that would govern the inheritance and succession of the deceased husband's and father's estate (Chika & Nneka, 2014:22). It's so sad that daughters are disinherited of their biological fathers' estate. This practice of disinheritance according to Ikpeze, has called for "radical changes of all customary practices relating to inheritance in Nigeria to ensure equality of all persons" (Ikpeze, 2009:162).

(c) Male Preference Syndrome

In Ibo culture, male children are preferred to females. This is reflected in the kind of celebration and jubilation that takes place during the birth of male children, and in the kind of names they give to male children; which connote and extol the importance of male children in the family. The sons are seen as heirs to the throne, while, the females are seen as those meant for bride price. With such customised mentality, the girl-child is practically forced to perform all the chores in the home, with the simple belief that the place of a girl is in the kitchen. This stereotyped role traceable to Ibo culture has indirectly affected female inheritance rights.

In the recent past when there was no free education at primary and post primary schools, the female children were denied the right to formal education just as they are denied inheritance rights in favour of the male children. Even up till now, there are many

female children used for trafficking by parents for economic gains, while the sons attend schools or learn trades (Chika & Nneka, 2014:23). This practice also aggravates the deprivation of female inheritance rights to parent's property, as the son so preferred takes over the landed property as prescribed by Ibo customary law. The male and female children should be treated equally as representatives of God's own image (Gen. 1:27).

(d) Payment and refund of Bride Price

Payment of bride price by a husband typifies to some extent an idea that the woman is obtained or bought from her parents. And refunding such bride price in the case of divorce depicts that the wife was temporarily and conditionally married. This also constitutes the background to women's disinheritance in Iboland.

Criticizing Ibos' customary law marriage, Enemuo has condemned both the acts of payment and refunding of the bride price in the following terms: "One would observe that the picture painted by the refund of the bride price is exactly the same painted by its payment. That is for example portraying a woman as a piece of chattel being bought or rejected by its owners" (Enemuo, 2005:114). Enemuo opined that there should be neither payment nor refund of a bride price. This view came as a result of indiscriminate victimisation of women in the family as well as suppression of their rights especially when it comes to inheritance. A woman should therefore be recognised as part and parcel of the family.

Aduba also argued that the payment and refunding of the bride price paints a portrait of commercialisation of the woman and marks the possible dissolution process of the customary law marriage (Aduba, 1991:66). It is highly oppressive to expect a woman to refund the bride price paid in a marriage as a result of dissolution, especially when such marriage has lasted for many years before it crumbles. The mentality of payment of dowry by the man and possible refunding of the bride price by the woman in the case of divorce actually limits the trust between the woman and the man and directly affects the chances of the wife inheriting the property of the husband in event of death.

(e) Marginalisation of Women's right in dissolution of Customary Law Marriage

Ibo women are often marginalised in the event of customary law marriage dissolution. No maintenance or financial compensation is paid to the women so divorced. Furthermore, they are also denied the right to custody of the children of the dissolved

marriage on the ground that under Ibo custom, children belong exclusively to men. It therefore automatically implies that a woman on dissolution of Ibo customary law marriage goes away empty-handed with no property, no children and no financial compensation.

This could be contrasted with what obtains in Nigerian statutory marriages. The Matrimonial Causes Act, under Section 70, makes very elaborate provisions for the maintenance of a spouse on divorce; Section 71 recognises the equal rights of husband and wife to be awarded custody of their children and Section 72 makes provision for an equitable sharing of marital property on divorce (Nigeria, 1990b). When contrasting customary marriage with what is obtained under statutory marriage, it is clear that in the event of divorce under statutory marriage, women is generally compensated by their husbands, whereas, this is not the case with customary marriage. Ethically, this aspect of Ibo customary law is definitely unjust and obsolete and calls for an urgent reform, as this practice directly violates women's rights to property at marriage and divorce.

(f) Polygamous nature of customary law marriage

Ibo customary law is potentially polygamous by nature. Consequently, an Ibo man who married under Ibo native law and customs reserves the right to marry as many wives as he desires, whether he is economically capable or not, whereas, the wives have no such corresponding rights of having many husbands. Instead, they are expected to compete for their husbands' love according to Ibo culture.

The husband in most cases showers much love on the most favoured wife, while the others and their children often suffer all manner of economic deprivation. In Iboland, polygamy is allowed but polyandry is not permitted. Besides, if monogamy is the rule in statutory marriages, then there is no reason why Ibo culture should continue to give outright encouragement to polygamy even in the era of HIV/AIDS epidemics, where if one person in a family is infected many people in the family will be infected. This polygamous nature of customary law marriage in Iboland also hinders in a way the possibility of many wives inheriting the small property of one man.

(g) Legalized Domestic Violence

Women in Iboland have been victims of all manner of domestic violence. According to Egbue, violence against women constitutes a highly damaging dimension of the dehumanisation of women on the basis of culture. This still remains common in the

localities under study, either as a means of maintaining masculinity and male superiority, or of keeping the female spouse in check (Egbue, 2005:214).

The violence has been linked to the payment of the bride-price by the male spouses, as this gives them the false impression of power of ownership over their wives. Consequently, most women are often regarded and treated as property of their husbands and can be physically beaten-up by them as a form of correction. It is also quite alarming to observe that this cultural approval of wife battering has been legalised in Nigerian statute books. However, the Nigerian National Assembly recently (on 5th May, 2015) promulgated a bill against women battering and Female Genital Mutilation (Nigeria, 2015).

Before the promulgation of the bill in May, 2015, Sections 35 and 36 of the Nigerian Criminal Code, for instance permitted wife chastisement as long as it did not cause grievous bodily harm and affirmed the liability of husband and wife for offences committed by either spouse with respect to the other's property (Nigeria, 1990a). Domestic violence amongst spouses nullifies the love and trust between partners. This lack of confidence has some effect when a partner departs in death and also hinders inheritance rights.

It might be surprising to hear that this traumatic domestic violence, regrettably, has persisted over the years unabated and underreported by women for fear of repercussion, shame and dejection from the home. More so, some women grew up with domestic violence and they therefore perceive it as normal and cultural (Chika and Nneka, 2014:20). Ethical principle demands that due respect, dignity and rights be given to women (Vorster, 2007:274).

(h) Harmful Widowhood Practices

Under Ibo culture, widows are subjected to all manner of degrading treatment. They are often the chief suspects on the death of their husbands and therefore are expected to go through fetish rituals in order to absolve themselves from complicity in their husbands' death (Chika & Nneka, 2014:20). Any woman so accused who can not defend herself automatically loses all rights in the family of the deceased husband, including the rights to use landed property.

This harmful widowhood practice is an infringement of the widows' right and their dignity. Men in the Ibo culture are not subjected to any of such degrading treatment. The aftermath of this practice affects only women and their rights to their deceased husbands' property. Such unethical act indirectly defames women's dignity in the region.

2.3.2 FACTORS AGGRAVATING THE DISADVANTAGEOUS CULTURAL PRACTICES

According to Chika & Nneka (2004: 23), the following factors could be outlined:

- a. Cultural factors: Male superiority syndrome is deeply entrenched in Ibo culture. More so, the people are so resistant to change that they hold to their culture strictly. Male preference syndrome indirectly hinders female advantage in different respects; including property inheritance.
- b. Educational factors: Denial of girl-child education for centuries has slowed down the eradication of these practices as most women are not empowered educationally and knowledge-wise, so that they can fight for their rights.
- c. Legal factors: These include non-implementation of the Convention on the Elimination of all forms of Discrimination Against Women (CEDAW, 1981) and other important legislation on gender rights. More so, a lot of lapses have been observed even in the enforcement of existing national laws on gender rights.
- d. Political factors: Women vying for strategic elective posts are often grossly marginalised and frustrated. Presently, less than 20% of women make it politically. Women are still struggling with the 35% affirmative action on women's representation (Abuah, 2015).
- e. Attitudinal Factors: Most women especially in the rural areas of Iboland are very complacent on this issue. Worse still, they appear to have accepted their subjugated position as normal and cultural. More so, they often shy away from seeking recourse in the courts of law, even when their rights are flagrantly violated in the name of culture (Chika & Nneka, 2004:24).
- f. Socio-Economic factors: Most women in the rural areas are not equipped to recognise when their rights are trampled upon and then fight back. Again, even if some of them could do that, the majority are not economically empowered.
- g. Strong affiliation with customary and family laws: The Ibo people are so loyal to Ibo culture and custom even when they (the customs) are detrimental to their well-being. As said earlier, they are resistant to change, even when they acknowledge they are wrong.

- h. The patriarchal structure of Nigerian society: The patriarchal family structure in Iboland in particular, and Nigeria at large, also aggravates the obnoxious cultural and customary practices.
- i. Failure on the part of the National assembly: Failure of the National Assembly to pass the Abolition of All Forms of Discrimination Against Women in Nigeria and other related matters Bill and failure to pass and implement a national bill prohibiting violence against women in previous years (but just recently passed in May, 2015), also facilitated the sustenance of the discriminatory practices.
- j. Failure on the part of Government: Failure of government to implement the Protocol or enact appropriate legislation necessary for bringing to pass its obligations and undertakings under the protocol is worrying (Odigie-Emmanuel, 2010).
- k. Lack of appreciation of the redemptive work of Christ: Repentance and reception of Christ liberate a person and even a community/society (cf. 2 Cor. 5:17). The reverse therefore, attracts darkness, continual bondage, oppression and suppression of people's rights, especially that of the women and female children (John 3:19).

The above factors facilitate the following customs weighing against women in Iboland:

- a. A custom which permits a barren woman or one without a male child to claim the children from another woman for whom she paid her bride price under the practice of woman to woman marriage.
- b. A custom that encourages a female child through the practice of 'Nrachi' to remain in her father's house and raise children of her own which the father's family will in turn claim as legitimate children of the family.
- c. A custom which considers a woman a chattel and therefore property of the husband to be inherited on his death by his relations, thereby denying her right to inheritance as a widow, especially of land and other property subject to customary law.
- d. A custom which regards the subsequent children of a widow still living in her matrimonial home while having relationships with other men, as children of the late husband's family.
- e. A custom which does not allow female children to inherit the property of their late fathers because only male children are entitled to their fathers' property (Ezeilo, 2011: 449-450).

It is sad that in spite of the effective contributions of some women in family maintenance and property acquisition, their husbands disregard their interest at later dates, sometimes by denying them the use of their rights as well as denying their proprietary interests to the extent that they can dispose of the property without the wives' consent (Atsenua, 2001: 344).

With these, I agree with Ezeilo (2011:451) that a certain test could be done to prove the validity of customary law. The tests include: The repugnancy test, the incompatibility test, and the public policy test. The implication of these tests are that once any rule of customary law is repugnant to natural justice, equity and good conscience, or is incompatible with any law for the time being in force, or is contrary to public policy, the court must refrain from upholding such a custom.

The court must use this validity test in order to help our society. It is really pathetic that the family which should be the mainstay of society for most basic economic, political and social needs has turned out in some regional settings to be breeding ground for the propagation of gender imbalances.

2.3.3 EFFECTS OF THE DISCRIMINATORY CULTURAL PRACTICES ON WOMEN

It is notable that the rural women are the most disadvantaged and vulnerable group whose lives are marked by hardship, deprivation, and uncertainty. The International Fund for Agricultural Development (IFAD, 1993), noted and observed that rural women are the worst nourished, and sicknesses are far more widespread among them than among their male counterparts. It could be concluded that disinheritance of women contributes to the deepening of women's situation of poverty.

I am sure it is eminent that a widow who suffers discrimination due to no inheritance would find it very difficult to cope with life issues, as stated earlier. Among the Ibos, widows do not have rights of inheriting from their husbands, and as daughters also they do not have rights of inheriting from their fathers, especially on landed property. To be more specific, women do not inherit from anybody. They are not allowed by family men to permanently inherit from their husbands, brothers, sisters or children; rather they are regarded as objects of inheritance in most parts of Iboland (Mbu, 1995). This practice totally demeans womanhood in that region.

The sources of wealth and materials of inheritance are men's. A male child is welcome more than a female child. This is because of the belief that if a man does not have a male child the continuity of his lineage and that of wealth are not guaranteed. A typical Ibo man prefers having only male children to having only females, as the females will be given out in marriage. This discrimination implicitly hinders their interest to female education.

In the area of wealth possession, even a lazy male child has a better future than a hardworking female child. At the demise of a father, a lazy son can become rich by the wealth of his father accrued to him. But, a lazy female child will become poor and deepen in poverty, especially if her laziness also deprived her of education. In Iboland, no female child inherits land, while male children have the privilege to inherit all lands and to use or dispose of them as they wish. Males therefore thrive on the disadvantage or dispossession of females. Landlessness is one of the causes of women's poverty especially in the rural areas. Women are exposed to more risks of unemployment. They lack collateral and security for bank loans for their self-development. As such, men are richer than women.

The high incidence of poverty among women therefore cannot be attributed to their laziness, rather to what society has done and sustained through generations. Women extremely limited capacity to gain access to land and consequently credit facility is a major contributor to their poverty (Narayan, 1994). The disinheritance of women has really created a big socio-economic gap between the males and females. Even in matrimonial property, when a marriage faces dissolution, the contribution of the wife to a house built in partnership (between the husband and the wife) is often disregarded. This is due to the belief that the house is owned by the man, so whatever contribution the wife made in the course of building the house is irrelevant unless there is proof; receipt of payment or agreement on the donation made.

When single or married women or widows are denied property rights, it impedes their full access to and realisation of their capacities. Women must be allowed their full inheritance rights so as to elevate their economic, social and cultural status (Adekile, 2010:3).

2.4 DISINHERITANCE OF WOMEN AND FEMALE CHILDREN IN IBOLAND

In Iboland, women and female children are unduly disinherited. In this part of the study, the customary law marriage that fosters disinheritance of daughters and women is discussed. What disinheritance actually entails and its consequences are also addressed.

2.4.1 Customary Law Marriage

In the vast majority of Ibo community, the family grouping is strictly patrilineal. Succession is based on the principle of primogeniture, that is, succession by the eldest son known in Ibo as “Okpala or Diokpa”. Where the deceased is a polygamist and has many sons from several wives the eldest son of each wife takes part in sharing the estate. However, daughters and wives have no right of succession to their father’s movable and immovable property.

It is believed that personal property including wives and slaves descends to the eldest son as heir, or failing a son, to the eldest brother or relative. Basically, wives do not inherit because of the customary notion that women are property and therefore objects of inheritance themselves. Daughters, like wives do not inherit under customary law. The only situation where a daughter can inherit is where for example she chooses to remain unmarried in her father’s house with a view to raising children in the father’s home (Ezeilo, 2011:253).

The situation described above is known as the “nrachi” or “idegbe” institution. It usually happens when a father at his death leaves a substantial estate, but no surviving sons or other male issue of the lineage to inherit it. The idea behind this practice is to save the lineage from extinction. The daughter, as an “idegbe” or “nrachi” is entitled to inherit both movable and immovable property of her deceased father’s estate. The legal interest rests in her until she gives birth to her own children. However, if she bears sons and daughters, the sons and not the daughters will succeed her in accordance with the rule of primogeniture.

In a situation where a wife pre-decease her husband, succession goes as follows: The sons inherit, failing sons, the husband. The wife’s immovable property like lands, money, cattle, yams and other important chattels go to the sons or husband as the case may be. While the daughter inherits what is regarded as feminine properties, for example, jewelry, domestic utensils, dresses, cocoyam and livestock like fowls (Ezeilo, 2011:254).

In Iboland, laws governing inheritance are very discriminatory against female children, especially when parents do not document their will. Even when there is a will, it is contested by family members. Whereas, in Hausaland, women can claim some rights to property even though there is still a degree of discrimination. A widow is entitled to $\frac{1}{4}$ of her late husband's property where there are no children and $\frac{1}{8}$ where there are children. A widower on the other hand, is entitled to $\frac{1}{2}$ of his late wife's property in a situation where there is no child and $\frac{1}{4}$ where she had children.

In Yorubaland (Western Nigeria), widows are not deemed fit to inherit their late husbands' estate. They are even considered property to be shared and they are sometimes, 'shared' by the younger brother of the deceased husband especially when she has no child. Lack of women's right to inheritance has actually contributed to women's poverty. Their denial of rights to property especially land, makes it traditionally difficult for them to "obtain access to bank loans or other forms of credit through the banking system for survival. This is because they do not have the collateral the banks require" (UNICEF, 2011:180). Inheritance right is very vital in the transfer of wealth in society and indirectly relates to protection of women's right to adequate housing and land rights and is inextricably linked with their economic autonomy (Scholz, 2004). The inhibitions placed on women in the family and inheritance laws systematically prevent the full realisation of women's economic rights; thereby resulting in poverty (Adekile, 2010:4).

2.4.2 UNDERSTANDING DISINHERITANCE

Disinheritance is the act by which the owner of an estate deprives a person of the right to inherit the same, who would otherwise be his heir (Black's law dictionary, 1910). This is done by putting down a will that will ensure inheritance and disinheritance of some people. In the case of Iboland, it is the Ibo customary law that disinherits a specific gender, namely, the women and female children. Inversely, the meaning of inheritance from the universal conceptualisation irrespective of societal differences refers to the act of transferring the property of the "dead" to someone who is living. This conceptualisation of inheritance underlies the fact that it can occur only when someone is dead, or it is only the property of the dead person that can be inherited (Obioha, 2003:6).

In spite of the various international conventions and declarations which have provided legal platforms for the protection and promotion of women's property rights, women are still facing serious discrimination in their rights to property which include rights to ownership, control, access and inheritance. Some identified reasons for this discrimination and denial includes: Discriminatory customary laws, registration of land in male spouse's name, lack of human rights laws and policies (Folarin & Udoh, 2014: 243). Another major reason is the tripartite system of marriage in Nigeria (that is, customary, religious and statutory). This system has resulted in "a plurality of legal provisions and precedents regarding property rights and inheritance" (UNICEF, 2011). The legal plurality makes it difficult to implement and enforce certain laws that enhance, promote and protect women's rights because these laws contradict one another.

Religious laws contradict customary and statutory laws and vice versa. While, Islamic and statutory laws recognise women's rights to land, the customary laws especially in Iboland do not uphold property rights of women thereby leading to women's disinheritance. Under the statutory marriage, the married women's property Act gives women the rights to acquire, hold or dispose of property, whether acquired before or after marriage, whereas the customary law is against such arrangement (Folarin & Udoh, 2014: 243).

In some ethnic groups, particularly in South-East Nigeria, widows are disinherited of land or other property upon their husbands' deaths, although they may be allowed to hold them in custody for their sons. Among the Ibos, women also cannot take away property acquired during marriage without their husbands' consent.

In contrast, among the Yoruba, daughters have a right to inherit a share of their fathers' land and other property, but widows are disinherited. Also, under the Islamic law, the women are better protected, as they can own property in their own right as well as inherit property from parents and husbands. But in a patrilineal society, such as Iboland, a woman's inheritance right to land is pegged on marriage. Hence, a daughter does not receive land when her father dies and even a widow does not inherit land; she generally acts as a caretaker until her sons come of age. A childless woman or a woman who bore only daughters is in a precarious position as she does not stand any chance of acquiring any form of land within the family. The process through which inheritance procedure is spelt out could be by means of personal will or society's ways of doing it, which has survived through traditions. But, even though the society's consideration

overrides that of the individual especially in the traditional-rural setting, the natural law presupposes that every person has the right to deal with his or her property, as he/she likes. This is not the case in Iboland.

In Iboland, it is the kinsmen that determine how inheritance is shared based on the conventional practice which has been accepted by all for centuries and has brought together relatives, families and communities previously facing property sharing challenges. For avoidance of hatred and bias the kinsmen ensure that all sons, including the prodigal sons, share in the inheritance of the father, while the females are disinherited. This is possible particularly on the basis of the operational rules and regulations in existence.

If we focus on the inheritance right of women as practiced among the Ibos, it is clear that there is discrimination and injustice against women. Instead of perceiving women as stakeholders to property inheritance, they are consciously disinherited and even regarded as property to be inherited. The women's right to property is therefore only non-landed property of their mothers.

Married women customarily enjoy what belongs to their husbands while they are alive, and the reverse becomes the case when their husbands die. A widow who does not have a male child does not have a stake on the landed property of the husband's estate. Apart from land property that is tangible as an object of inheritance, non-land property such as money, and other movable property could be accessible to women. In the societies under study, the monetary aspect of the property of a deceased is not a major concern to the kinsmen or sons who determine how the deceased's property is shared. There is no standard or rules in sharing or inheriting non-landed property (like money), though in some families it is still a problem (Obioha, 2003:13).

A daughter could inherit her father's property only when the man is still alive. Daughters do not inherit their fathers' property after death unless a "non-traditional" land property is given to the daughter by the father while alive. This sort of gift normally should not be revoked by the male children, though there may still be problems in some families. It is therefore very clear that the place of women, whether married or unmarried is that of the disadvantaged. The practice exhibits the level of male dominance even on things that could be considered for women. Both the property of fathers and mothers (particularly

land) are inherited by sons in exclusion of the daughters. Women have no direct and express right to land property (Obi, 1963).

Also, women's inheritance usually is non-land property on which a high economic value is rarely placed. Whereas, men inherit material and property highly economically valued. The inheritance practice in Iboland adds nothing economically to the well-being of the women folk (Obioha, 2003:14). Women and female children are customarily disinherited, cut off and deprived of their husbands' and fathers' estate (American Heritage dictionary of the English language, 2016).

2.4.3 CONSEQUENCES OF DISINHERITANCE

Disinheritance is really a "dirty" word. This is so as no one likes to be disinherited. Disinheritance places both inheriting and disinherited people in an uncomfortable position. Disinheritance of the female gender in the region under study places the recipient male people in an uncomfortable position with their sibling(s). It creates either explicit or implicit problems between the children. While the parents and disinherited children may not have had a strong and lasting relationship, the siblings may have a strong and lasting relationship. The disinheritance of one or some persons could cause a rift and lasting tensions in the family.

More so, it could put the recipient children in an awkward position of having to decide whether to honour their parents' wishes and uphold the disinheritance or whether they should go against their parents' wishes and share the inheritance with the disinherited children. Where there is disinheritance of one or some children and the widow, there is bound to be chaos and aggression in the family. Culturally, disinheritance weakens the disinherited and makes them somewhat inferior by virtue of the culture. Most women especially in the rural areas of Iboland are very complacent on this issue. Worse still, they appear to have accepted their subjugated position as normal and cultural, since they have been in such conditions for ages (Chika & Nneka, 2004:24).

Disinheritance also denies women and female children sound education and they cannot defend their rights due to their poor educational level. Politically, due to disinheritance of women on landed property, they also find it difficult to vie successfully for strategic elective positions. At present, women are still struggling with the 35% affirmative action on women's representation (Abuah, 2015).

Socio economically, as a result of disinheritance, women in the rural areas are not exposed and are not economically empowered. The rural women are the most disadvantaged and vulnerable group whose lives are marked by hardship, deprivation, and uncertainty. The International Fund for Agricultural Development (IFAD, 1993), noted and observed that rural women are the worst nourished, and sicknesses are far more widespread among them than among their male counterparts. It could be concluded that disinheritance of women contributes to the deepening of women's poverty. A widow who has been discriminated with no inheritance finds it difficult to cope with life issues.

As a result of the disinheritance of female children, even a lazy male child has far more better future than a hardworking female child. At the demise of a father, a lazy son can become rich by the wealth of his father accrued to him. But, a lazy female child will become poor and deepen in poverty, especially if her laziness also deprived her of education. In Iboland, no female child inherits land, while male children have the privilege to inherit all lands and to use or dispose of them as they wish. Males therefore thrive on the disinheritance of females. Land is a highly valued commodity, yet, women are deprived of it. Landlessness of course, is one of causes of women's poverty especially in the rural areas. Disinheritance also contributes to women's unemployment or underemployment. They lack collateral and securities for bank loans for their self-development. As such, men are richer than women.

Even in matrimonial property, when a marriage faces dissolution, the contribution of the wife to a house built in partnership (between the husband and the wife) is often disregarded. This is due to the belief that the house is owned by the man, so whatever contribution the wife made in the course of building the house is irrelevant, thereby exposing the widow to untold suffering she never expected. When women whether single, married or widows are denied property rights, this hinders their access to and realisation of their capacities. It is ethically right for women to be allowed their full inheritance rights so as to elevate their economic, political and socio-cultural status (Adekile, 2010:3)

2.5 CONCLUSION

This chapter dealt with the discriminatory cultural practices of the Ibo people. A short history of the Ibo people have been touched, coupled with an overview of the cultural practices of the people and disinheritance practice as it affects women and female

children. The cultural practices that affect women's inheritance must be consciously redressed on ethical ground and the customary beliefs which degrade womanhood should be abolished on theological ground. The factors encouraging customary practices against women should be checked and nullified.

Practices such as disinheritance of wives, widows and female children, male preference, payment and refund of the bride price, marginalisation of women's right in the case of dissolution of customary law marriage and the polygamous nature of customary law marriage should be legally, traditionally and religiously condemned. Domestic violence and discrimination of all forms must stop. Women's property disinheritance must also cease, cultural practices and other harmful widowhood practices which degrade women's dignity in Iboland should be fully redressed. The right of women to inherit must be practiced to enable women to overcome poverty and other consequences of disinheritance.

The next chapter will deal with the cultural arguments against women's inheritance rights in Iboland. The Customary Laws as they influence inheritance rights in Ibo, Yoruba and Hausa Customary Laws setting shall be considered. Rights of spouses to property under customary laws and forms of property ownership will be looked into. More so, an overview of family laws in Nigeria with special emphasis on family heads, family property and inheritance rights of individual members of the family in Iboland will be given. Religious viewpoints on women's inheritance rights will also be evaluated.

CHAPTER THREE

CULTURAL ARGUMENTS AGAINST WOMEN'S INHERITANCE RIGHTS IN IBOLAND

3.1 INTRODUCTION

In this chapter, customary laws with regards to the various forms of property ownership and the spouses' inheritance right to such property are considered. The Family and Inheritance Laws and the rights of individual members of the family to the available landed property are also looked into. The religious viewpoints from three major religions – Christianity, Islam and African Tradition with stressed emphasis regarding women's inheritance are also ethically and theologically evaluated.

Historically, women's position in Nigeria during the pre-colonial and colonial era was that of subjugation and perpetual subordination. Women generally had no say. Men were seen as rulers of the world as most traditions gave status to men (Njoku, 1980). They saw women's primary duty as that of bearing children to please their husbands. Childless couples were bound to be ridiculed by people (William, 1968:4). This mentality continues till today with an adverse effect on women's inheritance rights.

Women were actually relegated to the background where they had to engage in agricultural activities and house-keeping (Folarin & Udoh, 2014:240). Even the farms they cultivated were not owned by them but by their husbands or relatives (Akande, 1999:114). They were not eligible to inherit family property or to own land. Instead, women were considered property to be inherited or shared at the death of their husbands. This was known as widow inheritance and was a prominent inheritance practice peculiar to the Ibos (Abdulraheem, 2010). This practice undoubtedly gave men higher status than women (Omuruyi, 1994:101).

Practically, women in the colonial era were engaged in domestic chores and were considered subordinate to men. It was believed that if women were financially empowered and independent, that they would not respect their husbands and in-laws. As such, they could not inherit and own landed property and in fact, their access to land was limited. They were basically home keepers and according to Abdulraheem (2010), they were peasant farmers with no capital since they were not economically independent. Hence, during the colonial era, women's rights to property were not considered important (Folarin & Udoh, 2014:241).

The practice of denying women, whether as wives or daughters, inheritance from the estate of their deceased husbands or fathers is highly prevalent in most communities in Nigeria especially in the South Eastern part (Ezeilo, 2011:251). The concept of women's disinheritance has been entrenched as it deepens and continues till today. Surprisingly, the inheritance and succession laws which deal with the devolution of property on death have been strict on women. It therefore becomes pertinent to examine the arguments against women's inheritance rights in Iboland and to also ascertain the ethical and theological positions with regard to customary laws and property ownership especially as it relates to women.

3.2 CUSTOMARY LAWS AND PROPERTY OWNERSHIP

In Iboland and in Nigeria at large, customary laws to a large extent are used in administering succession and inheritance matters. Women's disinheritance experienced especially in Iboland and Yoruba land is as a result of different approaches in the administration of customary laws. This therefore generates discriminatory and disadvantageous cultural practices that are unpleasant to women. The rights of spouses to access, inherit, own and dispose of property at will are also considered.

By way of definition, customary law is a traditional common rule or practice that has become an intrinsic part of the accepted conduct in a community and is accepted as a legal requirement (Businessdictionary, 2016). Customary law is important as administration is speedy, low cost and legitimate to the society involved. However, it is to be noted that customary law is slow to establish and slow to adapt to new situations.

An understanding of the concept of property and kinds of property that carries contention at the death of a spouse is important in the first instance. Property is however, anything we own either as an individual, family or group. But normally, when discussing issues involving property, we tend to think of tangible items. Originally, tangible property referred to things like land and housing, but now also includes objects that an individual can own, such as automobile, articles or clothing etc. (Tavani, 2011:229-230). We also have intangible property (like copyrights). In this study, however, emphasis is laid on landed property like land and housing which spouses ought to inherit.

3.2.1 FORMS OF PROPERTY OWNERSHIP

(a) The Ownership of Real and Matrimonial property: Land and home are the most valuable assets that many people own and want to own. To many people, the home is of

great psychological importance. A dispute over ownership of the home and land can be particularly heated (Herring, 2011:157). Real property is therefore land and building. This is property raised during marriage. That is the property of married people. It could also be defined as property owned by one or both of two persons who are married to each other which, upon the application of one of the spouses to the court, is subject to division between them (Duhaime's law dictionary, s.a.). However, property acquired before marriage by any of the spouses could be converted to matrimonial property. The family law Act 1996 provides a right to married couples and civil partners with home rights to occupy the matrimonial home at the death of any partner (Herring, 2011:87). Women need to enjoy the provision of this Act (Nigeria, 1996).

(b) The ownership of family property: Ownership of family property has important symbolic power. At one time the husband owned all of his wife's property. This reflected the fact that he was regarded as in control of all of the family's affairs. It's a pity that at some point the customary law permits the husbands to have control over all family property. It is arguable that if the customary law were to state that family property is jointly owned, this would reflect a principle of equality between spouses in marriage (Herring, 2011:151).

(c) Community property: This is a situation where property is owned by both husband and wife. The law should state that on marriage (or cohabitation) all property becomes jointly owned. This may be thought to reflect the expectations of most couples. The law could deal with such concerns by producing exceptions to the rule, but these might create uncertainty to family property (Herring, 2011:152). Biblically, family property should be owned by both the husband and the wife, since by divine arrangement they have become one flesh. This oneness should be all encompassing; including property ownership (Mark 10:8; cf. Gen. 2: 24).

(d) Sole and Self-ownership: The law could decide that one spouse owns all the family's property. In this case the husband owns all the property including what would have been his wife's. Historically, a woman could not own property in her own right and so the husband owned all the family's property. This approach might have the benefit of certainty, but does not reflect the expectations of many couples nowadays and is ethically unacceptable in a society committed to equality between men and women.

Classical liberalism or libertarianism holds that men and women are self-owners capable of acquiring property rights over things. As such, women and men equally have the right to freedom from coercive interference with their person and property. These also include the freedom to acquire, control and transfer property amongst others. Freedom from interference with person and property also means that women have the right to engage in economic activity in a free market, entering contracts, and acquiring, controlling and transferring property free of sexist state limits.

Self-ownership advocates have it that men and women should be treated as self-owners with rights to property justly acquired and free from coercive interference. The proponents of self-ownership insist that husbands and wives should own their individually acquired property separately (Baehr, 2013). This practice is theologically inappropriate with regard to married couples as the Bible teaches oneness (Mark 10:8). This is not however, practiced in Iboland, except for the woman who remains unmarried.

(e) Property Rights for Home Sharers: At the break-up of a marriage or a relationship between co-habitants, one significant issue that often arises relates to the distribution of the parties' assets, and, more particularly, their respective rights over the family home (Scott-Hunt & Lim, 2001:133). Whilst the courts are given powers to adjust the property rights of spouses at the breakdown of marriage, the powers do not extend to co-habitants or other parties in a domestic relationship under customary law marriage, especially in the region under study.

(f) Land Legal ownership: By law, determining ownership of land is not difficult. If the land is registered, the legal owner can be determined by discovering who is registered as the owner of the land. If the land is not registered, it is necessary to discover into whose name the lease or property was conveyed. Section 52(1) of the law of Property Acts 1925 makes clear that legal title can only be conveyed by deed. Transfer of legal ownership cannot be done verberly (Nigeria, 1925). Owning property according to common law does not therefore make one the absolute owner; the legal owner may hold the property on trust for someone else. It is therefore necessary to consider who owns the property in equity (Herring, 2011:158). Land can also be registered on women's names.

(g) Equitable ownership: In the eyes of equity it matters not in whose name the property is registered, nor into whose name was the property conveyed. In equity the

legal owner of the property may be found to hold the property on trust for someone else who will then have an equitable interest in the property (Herring, 2011:158). It is sad that the law has failed to find a consistent approach to family property. However, the law treats spouses or cohabitants as two individuals and the normal property rules apply. But, some of the rules on bankruptcy or mortgages accept that, even if property may be technically owned by one family member, in practice it is enjoyed by them all and so there are special rules designed to ensure that one family member does not avoid the consequences of insolvency by claiming that his or her property is actually owned by other family members (Herring, 2011: 184-185).

(h) Intellectual property ownership: An adequate analysis of intellectual property issues requires that we know what it is all about. This kind of property includes: Copyrights and other talents display. A person who owns a property of any kind (including copyrights) has control over that property and the use of such property. According to Locke, a person's right to property is closely tied to that person's labour. In other words, one cannot claim ownership of the property he did not work for directly or indirectly (cf. Tavani, 2011:245). Intellectual work is therefore a property, though intangible. Property ownership is very important. Every human being has rights to inherit and own property of any kind (whether personal or real property). Married women and men should inherit from each other as prescribed by the English law and Universal Human Rights.

3.2.2 SPOUSES' INHERITANCE RIGHT TO PROPERTY

Generally, under customary law a husband can inherit the property of his deceased wife, but a widow is not entitled to inherit the property of the deceased husband. This unfair practice exists by virtue of intestacy, for under native law and custom, it is believed that the devolution of family property follows the blood or lineage. A widow with good character can only occupy her late husband's property, but she has no right to transfer any of the husband's family property outright. If the husband's family fails to maintain her, then she has a qualified right to let part of the house to tenants and use the rent to maintain herself (Onuoha, 2012). Under the customary law, it is believed that woman's interest in the house or farmland is merely possessory and not proprietary, so she can possess but cannot dispose of it. Unfortunately, customary law with regard to spouses' rights to property is very discriminatory. Men easily inherit women while women inherit no one.

It is sad that in Iboland, a divorced woman cannot lay claim to a part of the property acquired by her husband during marriage, whether movable or immovable. There's no common property of the couple. A man does not require any form of consent from his wife before carrying out any activity on the property. Women, even in matrimony do not have upper hand in family property. Divorced women still find themselves in compromising situations especially when a man has a property that he registered in his own name. The issue of sharing property with a divorced wife therefore becomes a daunting task.

The woman therefore does nothing since she has been financially dependent on her husband before divorce; she finds it difficult to file a case against her husband in the court of law due to financial implications of carrying out such an act. With this incapacitation, the several legislations protecting women's rights to property in divorce make very little impact. Some of such legislations protecting women's rights to property in divorce are: The 1970 Matrimonial Causes Acts and the 1959 Married Women Property law (Nigeria, 2004), but, in the region under study, it is not practically upheld.

Where the wife established that without her assumption of household expenses the husband would not have been able to purchase the property, a resulting trust will arise in equity in favour of the wife even if title deeds are in the husband's name (Adekile, 2010:16). The Married Women Property Act however, demands strict evidence and proof of contribution to the property of the family during marriage. This demand seems a stumbling block to women who could not produce any proof of their contribution to the family property.

Customary law should not bar women from inheriting and enjoying the works of their hands at the demise of their husbands. Both husbands and wives are humans with equal dignity and rights, fit to enjoy all rights; including that of property (Iroegbu & Echekwube, 2005:154). The Married Women Property Act and The Matrimonial Causes Act should be put to use for the benefit of all spouses with regards to their rights to family property.

In a patrilineal society such as Iboland, a woman's inheritance right to land is pegged on marriage. Hence, a daughter does not receive land when her father dies. Also, a widow does not inherit land; she generally acts as a caretaker until her sons come of age. A childless woman or a woman who bore only daughters is in a precarious position as she does not stand any chance of acquiring any form of land within the family. In Iboland, the

process through which inheritance procedure is spelt out could be personal Will or society's laid down rule which has survived through traditions. The Ibos have their peculiar arrangements with regards to inheritance. To them, inheritance is a process, a significant rite or order of passage of property. It is the accepted medium through which landed and movable properties could be transferred to the next person.

Sociologically, inheritance exists as gap filler between generations. As such, it functions as an inter-generational bridge in the society. Economically, inheritance enhances one's wealth and economic empowerment. Religiously, inheritance from father to children is perceived as connoting spiritual and mythical existence. With this understanding, the Ibos call inheritance "Iri ekpe", which means that the owner of the property has completed all the spiritual rights by having his property duly transferred (Obioha, 2003:7). In the case of testate inheritance, the transfer of one's property commenced when the person is still alive. When the person dies, it is assumed that he has transferred his property to the beneficiary. There are however, limitations to testate practice with regard to what could be dealt with. Testate inheritance is easily challenged by other family people as no prescribed procedure is followed during the transfer. However, "personally acquired" rather than family property could be settled testate to the beneficiary.

Of course, the opposite of the "testate" practice and form, is the "intestate" procedure. In this case sharing of property takes place after the death of the owner. In most part of Iboland "intestate" inheritance is common and regarded as normal. In some cases, the deceased is not interested of how his property would be shared since there's already, a lay down procedure in the society (Obioha, 2003:9). Under intestate inheritance, any property rightfully transferred after the death of the owner holds and is hardly violated as set principles are adhered to in the process of transfer. In general, Iboland with a few exceptions among Afikpo and Ohafia where inheritance right could be traced matrilineally, inheritance is a patrilineal issue. Notably, no individual has right of inheritance from the maternal kinship lines (Obioha, 2003:10). In a patriarchal society, an inherited property through a patrilineage cannot be declared null and void at the death of the predecessor. A typical example in this case is land inherited from one's father's lineage (Obioha, 2003:8).

In Ibo society, it is the kinsmen that handle and determine how inheritance is shared based on the conventional practice which has been accepted by all for centuries and has

brought together relatives, families and communities previously facing property sharing challenges. For avoidance of hatred and bias the kinsmen ensure that all sons, including the prodigal sons share in the inheritance of the father. This is possible on the basis of the operational rules and regulations in existence. On the inheritance right of women, whether testate or intestate, among the Ibos there's discrimination and injustice against women. The females' possible property for inheritance is non-landed property of their mothers. Married women customarily enjoy what belongs to their husbands while they are alive, and the reverse becomes the case when their husbands die. A widow who does not have a male child does not have a stake on the landed property of the husband at intestate.

In the region under study, men take over their wives' property when they die, while the wives are customarily excluded in taking over their late husbands' property. Apart from landed property (tangible object of inheritance) non-land property such as money and other movable property could be accessible to women. In the societies under study, the monetary aspect of the property of a deceased is not a major concern of the kinsmen or sons who determine how the deceased's property is shared. There is no standard or rules in sharing or inheriting non-landed property (like money); though in some families it is still a problem (Obioha, 2003:13). The reality of women married under customary law has to be affected by the protocol and other legislative instruments. On ethical basis, the women should be entitled to homes and inheritance of their husbands' property. Upon divorce, a woman married under customary law should have claim over the house jointly owned with her husband. She should be entitled to the part of the property commensurate to her contribution (Odigie-Emmanuel, 2010).

The indigenous customary law like that of Iboland, developed rules of inheritance for intestacy through the traditional canon of descent (i.e. primogeniture), as adopted over the years. Primogeniture is the system of succession and inheritance that devolves on the eldest son in the family. Customary law discriminates against inheritance rights of the female gender. While the law of inheritance and succession under English law is reasonably settled, the customary law is not; it breeds conflict and acrimony among heirs. The Ibos' customary law actually contravenes International Conventions against discrimination on the grounds of sex. The law in question is repugnant to natural justice, equity and good conscience. Unfortunately, Nigerian courts have long sustained some of the customary practices that subjugate women (Onuoha, 2012). The courts have the right to abrogate discriminatory inheritance laws.

The law of succession which basically deals with testate and intestate methods of inheritance and the rules governing them differ. When a man dies, the devolution of his self-acquired property depends upon whether he has made a will. If he has made a will, the property devolves according to the will. If no will exists – that is, under the condition of intestacy – the property devolves in accordance with the applicable customary law. It's worth pointing out that there's an agreed rule under customary law in Iboland that intestate succession and inheritance go by blood relation (Onuoha, 2012). This actually bars women from inheriting as they are seen as coming from other families. The head of the family who is the eldest male child of the deceased occupies the family house and holds same as trustee of the other children, male or female. The eldest son is expected to look after younger children and may sell the house over the wishes of other children or treat it as his own property (Onuoha, 2012).

Undoubtedly, there are glaring indices of inequality, which are sustained by the culture and practices of the Ibo society. The sources and continuation of this unequal treatment may be traced to even Biblical injunctions, traditional beliefs, cultural practices and late participation of women in legislation due to educational disadvantage (Obioha, 2003:3). These are often supported by customary law and religion. Certain unpleasant practices include marriage customs, traditional divorce rules, widowhood rites, and inheritance and property rights among others. These customary practices, with particular reference to inheritance and property rights are connected to women's under-development and poverty situations (World Bank, 2012).

Sadly, depriving women of their rights to inheritance affects their well-being culturally, politically, socially and economically. By the deprivation, members of the female gender in Iboland are weakened culturally as they are already subservient to men. Politically, they hardly contest and occupy political offices because they are financially handicapped. Socially, they are not well learned and empowered in the society since they do not get preference in the family. In other words, female children are not given priority when it comes to education, especially where there are lean financial resources. And economically, the women are dependent on the husbands as many of them are already unemployed or underemployed.

Women must therefore be allowed to inherit their fathers' and husbands' property on ethical and theological grounds (cf. Vorster, 2007:233; Num. 27:8). The Ibo society

needs a great cultural change that would steer inheritance and property rights towards equity. Systems of inheritance must have women in focus. Any system that worsens the seemingly impoverished condition of the women folk and makes them more vulnerable to abject poverty compared to the male population must be redressed (Obioha, 2003:5&6). Primogeniture and ultimo-geniture systems of inheritance do not favour women's inheritance in any way and are therefore repugnant to natural justice, equity and good conscience. Government should redress the poverty situation of women and not allow the culture of Iboland to deepen it. Women's inheritance right should not be denied by the operation of unpleasant culture or family laws.

3.3 FAMILY LAWS IN NIGERIA

3.3.1 THE FAMILY AND INHERITANCE LAWS

Family is an embodiment of people with biological relationship. It could be nuclear or extended. Family is the source of some of the greatest joys, as well as some of the greatest sadness that life brings. Family is seen as the protector of family life and the bedrock of a society. Family law is therefore the law governing the relationships between children and parents, and between adults in close emotional relationship (Ige *et al.*, 2010:1). Family law deals with people who act in the heat of love, hate, fury or passion. It cannot itself be entirely rational. Like human beings, the law seeks to pursue contradictory objectives with inconsistent means (Herring, 2011:19-21).

The family has the potential to transfer economic and cultural capital - financial and economic values. Under normal circumstances, when a person dies without having made a will, he dies intestate. In such a case, the deceased spouse or civil partners should be entitled to some or all of the estate (Herring, 2011:84). This is not quite practicable in South-Eastern Nigeria. Instead, family heads are in charge of the deceased's property which is distributed to beneficiaries as prescribed by the native law.

In Nigeria three different systems of law operate simultaneously; a phenomenon referred to as legal pluralism. This is more pronounced in the area of laws regulating family relations and inheritance. The laws are: English common law and legislations, local statutes/customary law and Islamic law all co-existing. The question of which is the applicable law in a particular case is usually quite tasking. These laws have been extensively discussed in section 3.2 of this chapter and therefore needs no further elaboration. However, the inheritance law restricting women from inheritance is the

customary law, whereas the English common law gives women the right to inherit their husbands' property.

The marriage recognised in English law is monogamous and this is the form of marriage under the Nigerian Marriage Act 1970. Once a person who is subject to native law and custom contracts a marriage under the Act, or contracts a monogamous marriage under the law of any country, on his intestacy his estate is governed by the administration of estate law or other local statutes applicable. The rule also applies where the deceased is an issue of such a marriage. The incidents of this marriage, the rights of parties to the marriage during the marriage, upon divorce or on death are determined by law.

In every other situation where a person marries under customary or Islamic law or is the issue of such marriage the customary or Islamic law applies to distribution of the estate on intestacy. Marriage therefore plays a key role in determination of property rights (Adekile, 2010:10). Family and inheritance laws in Iboland need to conform to the principle of the equal treatment of all the members especially with regard to family land and house distribution. In Iboland, when family property is partitioned, the various branches are entitled to share. The distribution is per *stirpes*, that is, according to the number of wives by whom there are children. Where the family is several generations old, the distribution is among the principal branches, each branch then shares among its sub-branches.

In Yoruba land, the distribution per *stirpes* is effected whether a mother has male or female children because both males and females have equal rights in the family property. But, in Iboland, distribution is only among the branches where there are male children, as females have no right in family land (Nwogugu, 1990:428). This is one of the cultural problems in Eastern Nigeria.

The institution of family property, however, has helped to check the reckless and indiscriminate disposition of land, and has thereby minimised the intricate social and political problems which would have otherwise resulted. According to Nwogugu (1990: 430), if family land is unchecked, the acceptance of Western institutions may erode the foundation of the extended family and corporate ownership of land in Nigeria as a whole. But, this should not be allowed to happen. It is therefore pertinent that positive efforts be made to preserve family property, as their outright disappearance will do more harm

than good. As that is done, women's interest must be captured, such that they also share in the family's wealth.

3.3.2 FAMILY HEAD AND FAMILY PROPERTY

The family head is a trustee and manager of the family property (Nwogugu, 1990:416). The extended family is a property owning unit. The property of the family could be defined as any type of property, the title to which is vested in the family as a corporate entity. Primarily, family property consists of land and the houses built thereon. However, family asset means an asset owned by two spouses or common-law partners or either of them and used for shelter or transportation, or for household, educational, recreational, social or aesthetic purposes (Manitoba Laws, 2015). Corporate ownership of land is a common feature in Iboland.

In Yoruba customary law, a family house is a residence which the family owner sets apart for his wives and children. The children are entitled to reside there with their mothers and the married sons with their wives and children. Also a daughter who has left the house on marriage has a right to return to it on divorcing her husband. No one has chargeable or alienable interest in the family house. It is only with the consent of all those entitled to reside in the family house that it can be mortgaged or sold.

In patrilineal societies like Iboland, the house of the founder of the family is inherited by his most senior male child, who has the right to reside there. He is bound to accommodate his brothers and sisters in the house until the males establish their own households elsewhere and the females marry. Although the concept of corporate ownership of land is known throughout Nigeria, the institution of family property seems to be fully established only in the south Eastern part of Nigeria - the family head is in charge and custodian of family property, which may be created either by the act of the parties or by the operation of the law. The first method includes the making of a will, purchase of property, occupation of vacant land and by gift, while the other method is by intestacy of the estate of the founder of the family (Nwogugu, 1990:416-417).

a) By Act of the parties

One of the principal modes of creating a family property by the act of the parties is by making a will. In Nigeria, a person of full age and capacity may make a will under the English Wills Act 1837 or the Wills law 1958. It is also open to a Nigerian to make a nuncupative will, which is fully effective under customary law. A testator may bequeath his land to his children or descendants as family property (Nwogugu, 1990:417). It is

quite unfortunate that wills have hardly been made in favour of women especially with regard to family houses and lands.

b) By operation of law

It's a well-established principle of customary law that on the death intestate of the founder of a family, his real property is inherited by his children and becomes family property (Nwogugu, 1990:421). The children inheriting their parents' landed property in Eastern Nigeria are male children. They are seen as those facilitating the continuity of the family. Once family property is created by the making of a will, purchase of the property, occupation of vacant land, by gift or by intestacy of the estate of the former founder of the family, the landed property automatically becomes family property under the control of the family head, who must be a man according to Ibo tradition. However, the individual members of the family have some rights to the property.

3.3.3 RIGHTS OF INDIVIDUAL MEMBERS OF THE FAMILY

Patriarchic culture actually gives men ascendancy in inheritance. In such a setting the rule of descent is patrilineal. It is claimed that in a patriarchal society like that of Iboland, a woman in particular is socialised into a culture of female subordination. A woman is not only subordinate to her husband and men in her own family of orientation, but also to the women of her husband's family (Adekile, 2010:12). As such, her rights in the family are unduly tampered, contrary to the biblical principle of love for one another (Luke 10:27).

In Iboland, once land becomes family property, the tenancy created thereby is neither the English joint tenancy nor a tenancy in common. Each male family member has an equal interest, but not as a separate property which can be disposed of *inter vires* or by will. His interest does not devolve on his children on death intestate and cannot be attached by creditors. In spite of these restrictions, the members of a family have various other rights to the family property, which deserve some consideration. But, family membership interest in family property is limited to men. Women in Iboland have very little interest in family property as they are not given consideration as a result of the possibility of being married out. However, a woman in the family can be temporarily allocated a part of the family land by the founder or its present head for domestic, commercial or residential purposes (Nwogugu, 1990:422).

Where family property takes the form of a family house, all the members of the family have a right to reside therein. But this is rather in the nature of a possessory right, because in most cases it is impracticable for all the members to occupy the family house

owing either to its size or to the convenience of individual members. Those members who reside in the family house are obliged to maintain it as a *quid pro quo* for the benefit they derive there from (Nwogugu, 1990:423). The juristic rights of members to occupy the family house entitle them to share in the rent collected when a part or the whole of the house is let. They have the right of consultation on issues relating to the family and the right of interest in family property and affairs.

(a) Right of Consultation

In Eastern Nigeria, it is a well established rule of customary law that members of the family have a right to be consulted in all important dealings with family land (Nwogugu, 1990:424). But, this right is limited only to men. Women in most cases are not recognised. The family head who is a man gives much regard to the principal representatives of the respective branches of the family and other prominent members. The belief is that women who are married form new families in their matrimony which they are directly involved in building up.

(b) Equality of Interest

The question whether the male and female members of a family have rights in the family property differs in various parts of Nigeria. Under modern Yoruba customary law, both male and female members have equal rights in the family property. Thus, if the family land is partitioned or sold the female members are entitled to equal shares to their male relations. In most other part of South-Eastern Nigeria, except perhaps in a few matrilineal societies, the female members of the family have limited right in the family property. The unmarried daughters and wives or widows are entitled to reside in the family house. Moreover, a daughter whose marriage has been terminated by either divorce or the death of her husband has a right to be accommodated in the family house, provided, of course, that there is space and she is of good character.

Again, female members of the family may, on request, be allotted farmland yearly on the family land. But, they have no right to demand such allocation. Otherwise, female members have no other rights whatsoever in family land. For instance, they are entitled neither to portions of the family land to build on nor to any share in the partition or sale of the land (Nwogugu, 1990:425). This is as a result of family and inheritance laws operative in Iboland. The kinship structures, residence patterns, marital and religious practices across the different ethnic groups put men in an advantaged position from the historical past to the present.

3.4 RELIGIOUS VIEWPOINTS

Religions have contributed greatly to the patterns of gender inequality and oppression of women in vast sections of communities in Africa, including the Ibos society. Religions to some extent have laid a culture of the violation of the rights of women in the society. The extremists of Christianity, Islam and African Traditional religions see women as inferior and those with no right to property and gender equality. This section would treat this aspect of women's discrimination and disinheritance with specific consideration of the three major religions in Nigeria, namely: Christianity, Islam and African Traditional religions.

3.4.1 CHRISTIANITY

The rights of women in traditional Judaism were much greater than they were in the rest of western civilization until the 20th Century when women begin to have the right to property (Judaism 101, s.a.). According to Vorster (2004:177), recent studies about the violation of women's rights reveal the presence of various cultural practices where women are ill-treated and condemned to illiteracy and poverty through customs which *inter alia* result from religious convictions and especially religious extremism. Actually, culture of discrimination against women mostly flows from religious or cultural presuppositions.

Many of the modern-day abuses of human rights of women are rooted thus in a particular religious perspective of gender bias that men are superior to women, as such, women shouldn't have access to property, development, social, political and economic achievement. The resurgent extremism evokes strong condemnation of religion itself because of its role in the violation of women's rights. As such, an effective solution to the problem has to be developed within the parameters of religions (Vorster, 2004:179).

Liberal feminists strongly hold that women should enjoy personal autonomy. That is, they should live lives of their own choosing as they are entitled to a broad range of autonomy-enabling conditions (Baehr, 2013). This view must be considered right in the family, church and the society at large. It is notable that the practice of gender inequality in most churches has severe negative effects in society. Sexism in churches is a contributing factor to violence against women and girls. Men are taught by the church in an implicit and explicit way that they have the right to control their wives. Women are likewise taught to be obedient and submissive to husbands in all ramifications. These ideas are not bad in their own but inversely create a domestic culture where the men

justify their superiority over women. As such, feminist theology resists Biblicism and proposes a total redefinition of theology and a gender sensitive translation of the Bible to liberate women (Rhodes, 1991). Christianity in a way supports communal ownership of property as the husband and the wife are believed to be one (Matt. 19:6).

However, Christianity typically agrees with the English Law in a way. English law defined the role of the wife as a 'feme covert'. It emphasises a woman's subordination to her husband, and puts her under the protection and influence of her husband, her 'baron', or 'lord'. Upon marriage the husband and wife become one person under the law, as the property of the wife was surrendered to her husband, and her legal entity ceases to exist (University of Michigan, s.a.). Christianity wholesomely embraces English law with regard to married women's property ownership. English law is concomitant with Ibo customary law; and this has deprived married women of property ownership. Any personal property acquired by the wife during the marriage, unless specified that it was for her own personal use, went automatically to her husband. For instance, if a woman writer had copyright before marriage; the copyright would pass to the husband afterwards. Further, a married woman was unable to draft a will or dispose of any property without her husband's consent.

In a situation where no will was found on intestate, the English law of primogeniture and Christianity automatically gave the oldest son the right of control to all real property, and the daughter only inherited real property in the absence of a male heir, where she refused to get married. An unmarried woman maintained control over her property and inheritance, owned land, controlled property and disposed of it, since by law any unmarried adult female was considered to be a feme sole. Once married, her property turned her husband's on the principle of oneness between the husband and the wife.

After years of political lobbying, the Married Women's Property Act addressed the grievances presented by English women. The Act altered the common law doctrine of covertures to include the wife's right to own, buy and sell her separate property. Wives' legal identities were also restored, as the court recognised a husband and a wife as two separate legal entities, in the same manner as if the wife was a 'feme sole'. The Married Women's Property Act which does not agree with Christianity's 'sole covert' had been passed between 1839 and 1887 in the United States. Under this, a married woman can enter certain contracts, write a will, and sue for divorce. Not only could she veto the sale

of her property but she could veto the sale of the family homestead even if she was not its owner.

Elizabeth Cady Stanton in her book: "Declaration of sentiments" listed the "injuries and usurpations on the part of man toward woman". She stated: *"He has made her, if married, in the eye of the law, civilly dead. He has taken from her all rights in property, even to the wages she earns. He has so framed the laws of divorce, as to what shall be the proper causes of divorce, in case of separation, to whom the guardianship of the children shall be given; as to be wholly regardless of the happiness of the women – the law, in all cases, going upon a false supposition of the supremacy of a man, and giving all power into his hands"* (Stanton, 1848). Stanton expressed the position of man and woman in law – unfavourable to women.

Generally speaking, all property acquired by either spouse between the marriage is considered non-marital property. All property acquired after the marriage is considered property of the marriage or marital property. If the property is marital property Christians should oblige the family to "equitably" divide the property in divorce, so that the woman can share in the property of the family though divorced. Property rights include the legal rights to acquire, own, sell and transfer property, collect and keep rent, keep one's wages, make contracts and bring law-suits. Women's property rights are therefore property and inheritance rights enjoyed by women as a category within society at any point in time (Meyer, 2016). Property rights are claims to property that are legally and socially recognised and enforceable by external legitimized authority. Broadly defined, land can be understood as a variety of legitimate claims - its benefits, products and produce on that land. For many women, access to land and property are essential to the production of food as well as sustainable livelihoods, but these are dependent on natal and marital affiliations. The need for Christian religion to grant property rights to married women is high.

Married Women Property Acts of 1870 which seems to go in opposite direction to Christianity and English law with regards to women's inheritance was an Act of the Parliament of the United Kingdom that allowed women to be the legal owners of the money they earned and to inherit property. This Act provided that wages and property which a wife earned through her own work would be regarded as her separate property and, in 1882, this principle was extended to all property, regardless of its source or the time of its acquisition.

The Act also protected a woman not only from her husband gaining control of her property but also from people that worked for him, his creditor. These Acts generally exempted married women's property from attachments by creditors of their husbands. This gave married women a separate statutory estate, and released them from covertures. It was for the first time theoretically possible for married women to live away from their husbands and support their own children themselves. There is need for Christianity to also embrace some sections of the Married Women Property Act for the betterment of women.

The most important sections of the Act were: Sections 7, 8, and 14. Section 7 dealt mostly with inheritance of property. A wife was allowed to keep any property she inherited from her next of kin as her own. Section 8 allowed a married woman to continue to hold rented property in her own name and to inherit rented property. Section 14 made married women liable to maintain her children from the profits earned from her personal property. The Married Women's Property Act 1882 was an Act of the Parliament of the United Kingdom that significantly altered English law regarding the property rights of married women, which besides other matters allowed married women to own and control property in their own rights (Wijngaards Institute for Catholic Research. s.a.).

This Act was made to consolidate and amend the law relating to the property of married women. Unfortunately, this Act makes very little impact in Iboland. Christianity and the English common law allowed all property which a wife held at the time of marriage to become a possession of her husband. Eventually, English court forbade a husband transferring property without the consent of his wife, but he still retained the right to manage it and to receive the money which it produced. Women's access to, use of and control over land and other productive resources are essential for an adequate standard of living. Lack of access to land and other productive resources has a negative impact on the enjoyment of various human rights for women (United Nations, 2003:2 & 5).

The Married Women Property Act enables every married woman marrying after the commencement of the Act to have and to hold separate property and to dispose of such property acquired by or devolved upon her marriage separately from her husband. The Act gives women the capacity to acquire, hold and dispose of property. But in Nigeria, property inheritance and ownership is greatly dependent on customary law (Ezeilo, 2011:182). In Iboland, women lose rights to land when there is a change in marital status either through Christian marriage or customary law marriage, including divorce, or even death of a spouse. Because of the prevalence of patrilineal inheritance customs where only men have rights of inheritance or family succession, women have little opportunity to improve their

status or living conditions within the family and community. The plight of the women must be holistically considered by Christian churches and women disinheritor condemned.

3.4.2 ISLAM

The extremists in Muslim religion present Islam as the only moral order and regard themselves as the exclusive representation of the Divine on earth. Unfortunately, they are rather the masterminds of human rights abuses contrary to God's will. Extremist Muslim countries such as Saudi Arabia, Libya, Pakistan, Afghanistan, Iraq and Iran are the greatest exponents of the abuse of human rights especially that of women. In the Muslim countries, tradition is considered second in authority to the Qu'ran. Abuses of women's rights range from the rejection of the notion that a woman can be considered as a juristic person by law to the impossibility for women to file for a divorce in court, the death penalty for women who committed adultery and the tacit approval of the so-called honour killing of women. Also, they prohibit women from full inheritance of the estate of their husbands, relatives or anyone else (Vorster, 2004:184-185). These things actually happen in Northern Nigeria and show the extents to which women are marginalised.

The extremists have led in the gross violation of women's rights in many parts of the world including Nigeria. This is because Islam was initially highly influenced by the Old Arabic Patriarchic culture which traditionally assigned subordinate political, economic and social status to women. Indeed, men and women are different, but this difference can be regarded as a functional differentiation. Islam denies women their full inheritance right. It is ethically and theologically wrong for women to be deprived of their rights. They must be allowed to share in the internationally recognised rights, including that of inheritance.

Hausa customary law strictly agrees with the Islamic religion. Under Islamic law a woman's right to property has greater protection than under Ibo and Yoruba customary laws. However, women do not have equality with men as concerns inheritance. The status of a woman in Islam is still inferior to that of a man, and for the same reason she has less rights. Both wives and daughters have inheritance rights. In Islamic law a daughter may inherit only half of what a son does, and a wife or wives inherit one eighth of the estate if there are children, and one fourth if there are none. Wives and daughters are entitled to participate in the sharing of the estate of their deceased husbands and fathers. Where there are children or descendants, the widow's portion is one-eighth of the deceased husband's estate. If there is more than one widow, the one-eighth is shared equally amongst them. A woman without any child inherits one-quarter of the deceased husband's estate (Ezeilo, 2011:255).

Although women have rights of inheritance under Sharia law, there is no equality of inheritance between husband and wife or between brothers and sisters. A daughter inherits only half of what a son does. As such, one is inclined to submit that the law and practice governing inheritance and succession under customary law is extremely discriminatory and, therefore constitutes an obstacle to equality between men and women. The Islamic system that appears to be the most just under customary law does not give equal right of inheritance to daughters and wives. It is shocking that in spite of the constitutional provisions giving women rights to freedom from discrimination and rights to own property, women are still being excluded or denied of full inheritance rights to their husbands' or fathers' estate due to customary law in Nigeria.

By way of contrast, the Ibo inheritance practice exhibits some level of male dominance over women. Both the property of fathers (particularly land and house) and of mothers acquired after divorce is inherited by sons in exclusion of the daughters. Women have no direct and express right to land property (Obi, 1963). It is clear that the place of women, whether married or unmarried is that of a disadvantaged person. This is so since women's inheritance is usually non-land property that is rarely of high economic value, whereas, men inherit highly economically valued material and property. The inheritance practice in Iboland adds nothing economically to the well-being of the women (Obioha, 2003:14); whereas, in Yoruba land daughters inherit from their fathers' and in Hausa land where Islamic law prevails, women inherit part of their husbands' property.

In Islamic law, a widow is however, entitled to a specified share of her deceased husband's estate and the right vary according to the presence of children and other wives. While the widow is entitled to a $\frac{1}{4}$ where there are children, the widower is entitled to $\frac{1}{2}$ of the wife's estate when the wife dies childless and to $\frac{1}{4}$ where his late wife had children (Adekile, 2010:18). The disinheritance of widows by Islamic laws automatically disempowered them economically and socially.

It is therefore glaring that the religious, legal and regulatory force for women's rights to inheritance in Nigeria is not sufficient and the legislation that exists shows some lack of commitment to gender equity. Also, the laws and practices governing inheritance and succession under customary and Islamic law are very discriminatory and therefore constitute a major obstacle to the achievement of equality between men and women. The legal capacity of women as a daughter and as a wife to inherit and succeed under Islamic law is quite contrary to the provisions of the Convention on the Elimination of All Forms of

Discrimination Against Women (CEDAW) and Protocol on African Charter on women's rights. It is therefore imperative for all Islamic principles regarding women's inheritance and succession to be addressed and modified in line with sound ethical practices and International Laws and Conventions for the well-being of women in Nigeria at large.

3.4.3 AFRICAN TRADITION

In African context women seem to be inferior with no legal status. In the customary laws of some African cultures (including Ibo Culture), women are not allowed to inherit land or houses. Traditionally, the major factor influencing the position of women is the practice of ancestral worship. They believe that the ancestors (who are really men) are the mediators between God and mankind. This belief puts men in a strong hierarchical position (Vorster, 2004:192).

The hierarchy became the foundation of the superiority of males and inferiority of females in the family and in the society at large. This is tantamount to the violation of women's rights and even the deprivation of the rights to inherit family property. On a serious note, men have the responsibility of treating women with respect and not to misuse their standing at home and society to victimise them and deprive them of their rights. In the customary laws of some African culture women are not allowed to own land, they are obliged to nurture the lands of their husbands for their children.

In a patriarchal community such as Iboland, females are marginalised, especially where there is low family income. Males stand a better chance of getting educated in the face of low family income. In most cases, females' opportunity for education is sacrificed to the males' especially in poor families. This portrays how females or women are regarded traditionally and culturally in Ibo society and Nigeria at large. These facts foster women's weakness in pursuing their rights, even that of inheritance and property ownership.

Ibo customary law agrees with the African Traditional Religion as relating women's inheritance rights. The Ibos family grouping is strictly patrilineal. Succession is based on the principle of primogeniture, that is, succession by the eldest son known in Ibo as "Okpala or Diokpa". Where the deceased is a polygamist and has many sons from several wives the eldest son of each wife takes part in sharing of the estate. Daughters and wives have no right of succession to their fathers' movable and immovable property. The Ibos believed that personal property including wives and slaves descends to the eldest son as heir, failing a son, to the eldest brother or relative. Basically, wives do not inherit because of the

traditional notion that women are property and therefore object of inheritance themselves (Anyamu, 2014:4). Daughters like wives do not inherit under African Traditional Religion. The only situation where a daughter inherits is when she chooses to remain in her father's house unmarried, with a view to raising children in the father's home (Ezeilo, 2011:253). The practice described above is known as the "nrachi" or "idegbe" institution. In most cases a daughter accepts the "nrachi" institution when a father left at death a substantial estate with no surviving sons or other male issue of the lineage to inherit. The idea behind this practice is to save the lineage from extinction.

The daughter, as an "idegbe" or "nrachi" is entitled to inherit both movable and immovable property of her deceased father's estate. The legal interest rests in her until she gives birth to her own children. However, if she bears sons and daughters, the sons and not the daughters will succeed her in accordance with the rule of primogeniture. In respect of an unmarried daughter who is not an "idegbe", her estate is inherited by her brother, in default of father. If there is no surviving father or brother, the half-brother will inherit, but a sister or half-sister can never inherit due to traditional injunction (Anyamu, 2014:8).

When a wife dies before her husband, the sons inherit her property, or failing sons, the husband himself. The wife's important chattels go to the sons or husband as the case may be. While the daughters inherit what is regarded as feminine properties like jewelry, domestic utensils, dresses, cocoyam and livestock like fowls (Ezeilo, 2011:254). Women's lack of right to inheritance due to tradition has really contributed to women's poverty in the region under study. The fact of the denial of their rights to property especially land, actually makes it traditionally difficult for them to "obtain access to bank loans or other forms of credit through the banking system. This is because they do not have the needed collateral the banks require" (UNICEF, 2011:180).

The inhibitions placed on women in the family and the limitations caused by African Tradition and inheritance laws systematically prevent the full realisation of women's economic rights thereby resulting in their poverty in Iboland (Adekile, 2010:4). It is noted that inheritance rights are vital in the transfer of wealth in the society. These rights are inextricably linked with women's economic autonomy (Scholz, 2004). Ethically, women need this autonomy irrespective of the force exerted by traditional belief.

More so, the Yoruba customary law also shares the same belief with the African traditional religion. The native law and custom of the Yoruba people does not permit a wife to inherit

her husband's property; she herself is like a chattel to be inherited by a relative of her husband. Just like the Ibos - a wife is owned with her properties by her husband (Ezeilo, 2011:180). Generally, under the Yoruba tradition, it is the children of the deceased, whether male or female, who are entitled to succeed to the deceased father's property on his death to the exclusion of other relation. The property is shared among the children, either equally per capita ("ori-ojori) or per stirpes ("idi-igi") where the deceased man has more than one wife.

Furthermore, daughters, like sons, can succeed the headship of the family on the death of "Dawodu" (founder of the family). This aspect of Yoruba custom was established in 1909 in *Lewis v. Bankole* and reiterated in a recent decision of an appeal in *Folami v. Cole*, where it was stated that, upon the death of the Dawodu, the eldest surviving child of the family founder, whether male or female succeeds the heads (Nigeria, 1909). In reaching its decision, the court followed and applied the principle stated in *Lewis v. Bankole* which has stood the test of time. In contrast, a wife has no direct right of inheritance to her deceased husband's estate but indirectly shares in the property under her children.

Consequently, if a property is given to a wife, unless such property is proved to be outright gifting it will be taken over by the husband's family when the husband is dead. The wife has no right of inheritance whatsoever. Similarly a man has no right to succeed to and, therefore, inherit his deceased wife's estate. In effect, the spouses on death have no right to each other's property. Only children have rights to inherit or succeed their parents. If there is no child the relation then inherits. Yoruba tradition has disadvantaged both husband's and wife's inheritance at death; only children (whether males or females) are advantaged in this case, unlike the Ibo tradition where a husband has such a right to succeed the wife's estate and the wife is denied similar right (Ezeilo, 2011:255).

Before the advent of the British government, Nigerians operated a traditional land tenure system, which was indigenous to the people. In this case, the applicable traditional laws were the ones prevailing in the area where the land is situated. At present, there is no uniform system of traditional laws operating throughout Nigeria. There are as many traditional rules as there are ethnic groups, and within an ethnic area there are variations of practices (Oluwoye, 1974).

Based on traditional rules, the units of landholding are the community or village, family and family head. The principles of land ownership are built on the assumption that the entire

family has proprietary rights in the land. More so, the individuals may acquire absolute rights in land through a gift from living persons, pioneer clearing of virgin forests or through partition of family landed property. Rights acquired in any of these ways become proprietary rights, the owner being free to dispose of such rights without consultations with anyone (Famoriyo, 1987; Aluko & Amidu, 2006:3).

It is striking that there is no recognised formal category for the particular character of women's land access. Marriage is used as a determining variable in women's land rights because it is the major means by which women and men access land in Nigeria. Whereas women's land rights are dependent on their relations with men, men's land rights are not dependent on their relation with women. Moreover, women are threatened with dispossession if divorced or widowed (Small, 1997:45-52).

In Iboland, the land tenure is strictly based on traditional rules and in practice it is 'primogeniture', that is, land passes to the first son on the death of a landowner. In Hausaland however, land tenure is based on Sharia and local tradition, politics and the discriminatory power of the ruler/Emir. Inheritance by women is partly recognised in the Hausa tradition as discussed earlier (Aluko & Amidu, 2006:4). With due regard to the ethical and theological importance of inheritance, it is pertinent that the traditional beliefs with regards to women's inheritance rights be modified to favour women in all regions.

3.5 CONCLUSION

In this chapter, the Customary Laws and property ownership, forms of property ownership and the rights of spouses to inherit each other have been considered. The prevailing Family laws and the arguments of three outstanding religions in Nigeria, viz: Christianity, Islam and African Traditional Religions were evaluated. It can be concluded that customary laws, tradition, culture and religion in African societies are deeply rooted. Unfortunately, they are the custodians of the practice of disinheriting women. Family laws which ought to have liberated women of this ill have failed. The laws should unreservedly grant women property inheritance rights alongside the men as this is ethically and theologically appropriate.

The situation of women within the parameters of religions should be improved. It is proper to say that there is no justification for the inferiority of women and gender inequality. Religion has to be an important source of morality, guidance, norms and values in society. Religions should not be custodians of injustice but advocates of women's

liberation. Christians should boldly preach the redemptive Word of Christ and practice same.

The human rights of women should be promulgated in a bill of rights. This calls for conscious development, nurturing and promotion of a new moral basis for a culture of women's rights. Churches and religious committees have to look again at their interpretation and hermeneutic approaches to tackle this issue of the challenge of women's property rights in Iboland in particular and Nigeria at large. Respect, morality and love among women and men should be put into practice in order to eliminate the arguments and laws in the Ibo society that support the menace of women's disinheritance.

The next chapter will discuss the legal framework for women's inheritance rights. This will involve the international, regional and national legal framework. More so, the judicial responses to women's inheritance rights over time will be critically looked at. It is said that judiciary is the hope of the common man; this statement will be put on the table in the upcoming discourse.

CHAPTER FOUR

LEGAL FRAMEWORK FOR WOMEN'S INHERITANCE RIGHTS

4.1 Introduction

This chapter examines a myriad of laws and court rulings on discriminatory customary practices in Iboland as they affect the rights of women to inherit property. Generally, the evolution of Human Rights in Nigeria, The International, Regional and National Legal framework with emphasis on Universal Declaration of Human Rights (UDHR), Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), The African Charter on Human and Peoples' Rights (ACHPR) and The Nigerian Constitution are carefully accessed regarding women's inheritance and property rights.

More so, other Legal Provisions like the Beijing Declaration and the Platform for Action (PFA) of the Beijing Declaration with the prevailing constraints on the overall implementation of the Platform for Action (PFA) of the Beijing Declaration have also been examined. In addition, the Native Law and Custom, the Married women property Acts, Statutory law, Property Law, Laws of succession, Property Rights, Civil, Agrarian and Natural Resource Laws and Land Tenancy are examined. The judicial responses to women's inheritance rights are also discussed.

From the foregoing discussions, it is clear that the problem of discrimination and subjugation of women is not a new phenomenon in Nigeria. The review on the obnoxious cultural practices and their effects on women's rights to property, the factors promoting and aggravating the harmful practices, the arguments against women's rights to property, with the major customary laws attest to this. Wives of Ibo customary law marriages and daughters of such union have contended with numerous oppressive, degrading and discriminatory cultural practices which grossly impede their rights to property and other constitutionally guaranteed rights in spite of the existence of International and National treaties and instruments for actualisation and preservation of women's rights.

The Universal Declaration of Human Rights adopted in 1948, enshrines "the equal rights of men and women", and addresses both the equality and equity issues. In 1979, the United Nations General Assembly adopted the Convention (CEDAW) for legal implementation. Described as an International bill of rights for women, it came into force on 3rd September, 1981. However, some countries like Iran, Palau, Somalia, Sudan, South Sudan, Tonga, and the United States have not yet ratified it (FAO, 2002:106).

Nigeria is a signatory to documents such as: the Universal Declaration of Human Rights (UDHR), CEDAW, the Beijing Declaration and plan of Action, the African Charter on Human and Peoples' Rights. Put differently, Nigeria has signed and ratified these documents, but failed to implement some of them. At the National level, the Nigerian Constitution makes provisions for the protection of women's rights (Folarin & Udoh, 2014: 240). But shockingly, women are still faced with a number of challenges arising from the pervading influence of ignorance, poverty, illiteracy and cultural adaptation. In addition, there exist laws and gender-biased traditions that are gender insensitive. Women's rights to property which includes, access to, ownership and control of property have been under serious contention. The courts must rise to their role, by legally modifying and redressing the cultural practices that are against women's inheritance rights.

4.2 INTERNATIONAL, REGIONAL AND NATIONAL LEGAL FRAMEWORK

When discussing the legal framework with regard to people's rights, the fundamental human rights must come to the fore. It must be understood that the fundamental rights are rights which stand above the ordinary laws of the land and which in fact are antecedent to the political society itself. It is a primary condition to a civilised existence and to what has been done by the Constitution. These rights are enshrined in the Constitution so that the rights could be immutable to the extent of the "immutability" of the Constitution itself (Falana, 2010:2).

On this note, right from the Nigerian Independence era (1960), rights to acquire and own property anywhere in Nigeria; as well as the right to adequate compensation for compulsory acquisition of property by the State were guaranteed by the Constitution. Therefore, the issue of individual rights, especially the rights to own private property and State protection of the same, became one of the main topics of discussion at independence (Falana, 2010:4&7). The right to acquire and own immovable property anywhere in Nigeria is enshrined in Section 43 & 44 of the 1999 Constitution of Nigeria. Article 17 Sections 1 & 2 has it that everyone has the right to own property alone as well as in association with others and that no one shall be arbitrarily deprived of his property (Egburuonu, 2000:395).

Various Human Rights instruments have guaranteed women's equal rights relating to access, use and control over property. The United Nations Universal Declaration of Human Rights (United Nations, Human rights organization, 1981) in its article 2 lays down the principle of non-discrimination, including discrimination based on sex, in the

enjoyment of rights guaranteed in the Declaration. Among many other rights, the Declaration recognizes the rights to property, food, housing and education (United Nations, 2003:5). On this strength, this section evaluates the Universal Declaration of Human Rights (UDHR), Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), The African Charter on Human and Peoples' Rights (ACHPR) and The Nigerian Constitution as they support women's rights to property.

4.2.1 UNIVERSAL DECLARATION OF HUMAN RIGHTS (UDHR)

The concept of Human rights which directly links to natural rights is "rights we are born with as humans"; "that inhere in us"; "attached to all human beings everywhere and in all societies" by virtue of our humanity. Since it is natural and God-given, it cannot be taken away by State, fiat (government)". As Jack Donnelly stated "if all human beings have human rights, simply because they are human, then human rights are held equally by all" (Ezeilo, 2011:5).

The following are a few articles of the United Nations Declaration of Human Rights relating to women's equal right with men in all aspects including that of property ownership. Otteh (2006:397-400) states thus:

Article 1: All human beings are born free and equal in dignity and right. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood. Men and women are equal in dignity.

Article 5: No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. Women should not therefore be cruelly treated or marginalized in the family.

Article 6: Everyone has the right to recognition everywhere as a person before the law. Women should be given due recognition everywhere.

Article 7: All are equal before the law and are entitled without any discrimination to equal protection of the law. All are entitled to equal protection against any discrimination in violation of this Declaration and against any incitements to such discrimination.

Article 17: (i) Everyone has the right to own property alone as well as in association with others. (ii) No one shall be arbitrarily deprived of his property.

The United Nations Declaration of Human Rights stipulates that men and women are eligible to own property. This declaration is in agreement with sound ethical and biblical principles of human equality (cf. Gal. 3:28). It must be adhered to irrespective of culture.

4.2.2 CONVENTION ON THE ELIMINATION OF ALL FORMS OF DISCRIMINATION AGAINST WOMEN (CEDAW)

Property rights are also recognised in the International Convention on the Elimination of All Forms of Racial Discrimination which states categorically in Article 5(a) that everyone has the right to equality before the law without distinction as to race, colour and national or ethnic origin, including the right to own property alone as well as in association with others and the rights to inherit.

In the words of Ezeilo (2011:1), “Why is it that, in reality, equality continues to elude the vast majority of Nigerian women, despite the significant progress in the status of women *vis-à-vis* the law in recent years? Why has it been difficult to translate *de jure* equality guaranteed by CEDAW (1981), the protocol to the African Charter on Women’s Rights and a host of International Human Rights Instruments, including the guarantee of formal equality in the Nigerian Constitution, into a *de facto* reality for women in Nigeria?. Why is it that, day after day, we hear about the horrendous abuses of women’s rights?”

Women’s rights are not respected *de jure* and *de facto*. Harmful traditional practices that constitute gender-based violence, such as female genital mutilation, early and forced marriage, widowhood practices, and most severely, denial of inheritance and property rights to women and girls are highly prevalent. Despite the ratification of human rights treaties reinforcing the rights of women not to be discriminated against, efforts at integrating their respective protection and rights into municipal legal and policy frameworks have yielded little results in Nigeria, especially, South-Eastern Nigeria (Ezeilo, 2011:2).

Article 2 of CEDAW (1981) enjoins state parties to condemn discrimination against women in all its forms, to agree to pursue all appropriate means and without delay formulate a policy eliminating discrimination against women and to this end undertake all appropriate measures including legislation, to modify or abolish existing laws, regulations, customs and practices which constitute discrimination against women. CEDAW calls on State parties to end discrimination against women in laws, policies and practices through the adoption of special measures.

Article 16 (h) states: “The same rights for both spouses in respect of the ownership, acquisition, management, administration, enjoyment and disposition of property whether

free of charge or for a valuable consideration". For ethical sake, the government is called upon to ensure full and equal access to economic resources, particularly for women, including the right to inheritance and the ownership of land and other property; natural resources and appropriate technology.

The United Nations, in recognition of the diversity of women's conditions and a manifestation of its commitment to the principle of equality, adopted the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) otherwise known as the Women's Convention, to eliminate discrimination against women on grounds of sex and promote equality between the sexes (Ezeilo, 2011:50).

The Convention defines discrimination against women in the following terms: 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 a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field. It also establishes an agenda of action for putting an end to sex-based discrimination for which States ratifying the Convention are required to enshrine gender equality into their domestic legislation, repeal all discriminatory provisions in their laws, and enact new provisions to guard against discrimination against women. They must also establish tribunals and public institutions to guarantee women effective protection against discrimination practiced against them by individuals, organisations and enterprises (FAO, 2002:3).

Article 13(a) states the right to family benefits. CEDAW (1981) instituted the right of all (men and women) to enjoy family benefits including land and housing. Article 16(h) also emphasises the same rights for both spouses in respect of the ownership, acquisition, management, administration, enjoyment and disposition of property, whether free of charge or for a valuable consideration. It is however, sad that CEDAW's advocacy on the rights of benefit and access to family property by both husband and wife is only theoretical but is not put into practice.

Under articles 14, 15 and 16 of CEDAW (1981), women have a right to own and administer property without discrimination also, to an "equal treatment in land and agrarian reform". Within the family, both spouses have equal rights in the 'ownership, acquisition, management, administration, enjoyment and disposition of property' (United Nations, 1979). These must be given due recognition by government and all role-players.

More so, soft law instruments have been adopted by the Human Rights' bodies of the United Nations. For instance, Resolution 15 (1998) of the Sub-commission on the promotion and protection of human rights (entitled: "Women and the Rights to land, property and adequate housing") stated that discrimination against women with respect to acquiring and securing land constitutes a violation of Human Rights law, and urged governments to amend and/or repeal discriminatory laws and policies and to encourage the transformation of discriminatory customs and traditions (FAO, 2002:149-150).

4.2.3. THE AFRICAN CHARTER ON HUMAN AND PEOPLES' RIGHTS (ACHPR)

This Charter protects the right to property most explicitly in Article 14 (13) stating that: "The right to property shall be guaranteed. It may only be encroached upon in the interest of public need or in the general interest of the community and in accordance with the provisions of appropriate laws". Article 21 of the ACHPR recognises the right of all people to freely dispose of their wealth and natural resources. It stresses that this right shall be exercised in the exclusive interests of the people, who may not be deprived of this right. Article 21 also provides that "in the case of spoliation the dispossessed people shall have the right to the lawful recovery of its property as well as to adequate compensation" (FAO, 2002:30). The Protocol to ACHPR of women in Africa addresses women's land and property rights vigorously. State parties are therefore required to ensure that in the event of separation, divorce or annulment of marriage, women and men shall have the right to an equitable sharing of the joint property deriving from the marriage (United Nations, 2003:11).

The African Charter For Human and People's Rights (ACHPR) in articles 2, 14, 17(3) and 18(3) guarantees without discrimination the right to property and mandates States to eliminate every discrimination against women and to protect women's rights. Although the ACHPR does not explicitly state the equality of spouses during and after marriage; it places particular emphasis on the promotion and protection of African "traditional values" recognized by the community (FAO, 2002:4).

Actually, Article 18(3) of this Charter has it that the State shall ensure the elimination of discrimination against women and the child as stipulated in the International Declaration and Convention (Ezeilo, 2011:82). However, since the 1990s some African countries (like Tanzania, Kenya, Tunisia and South Africa) have explicitly included gender equity in land legislation, by explicitly stating the principle of gender equality in land rights, abrogating discriminatory customary norms, improving the position of widows in intestate

succession, presuming joint ownership of family land, outlawing land sales without consent of both spouses, strengthening divorcees' rights to family land, and ensuring women's representation in land management bodies (FAO, 2002:21).

Though there are variations and difficulties in actual practice in some countries; especially in their rural areas, occupied by rural women, it indicates a good start. In most rural areas in Africa, customary rules/laws prevail and do not favour women's property ownership. Generally, in Africa, women's rights to land and other natural resources are curtailed by de jure direct discrimination through family, which restricts the legal capacity of married women to administer property, including land, and to succession/inheritance. Discriminatory succession norms have a particularly negative effect on women's land rights where inheritance is the primary form of land acquisition, especially in the rural areas of many developing countries. De jure direct discrimination also exists in agrarian reform legislation entitling only men over a certain age to obtain land, while women qualify for nothing in some societies.

The African Charter on Human and Peoples' Rights which has been domesticated in Nigeria contains diverse provisions protecting women against discrimination. For instance, the general non-discrimination clause states that: "Every individual shall be entitled to the enjoyment of his rights and freedom, recognised and guaranteed in the Charter without distinctions of any kind such as sex (Chika & Nneka, 2014:19). Article 3, further concretised women's rights in Africa, by stating that: (i) "every individual shall be equal before the law (ii) every individual shall be entitled to equal protection of the law". The rights of women in Africa were further firmly entrenched by the provisions of section 18 (3) of the African Charter, which stated, in very explicit terms, that: "The State shall ensure the elimination of every discrimination against women and also ensure the protection of the rights of the women as stipulated in International Declaration and Convention".

In Africa, women's rights are limited by indirect discrimination, for instance, the criteria for land distribution under agrarian reform programmes, while not referring to gender explicitly, often refer to male-dominated categories like permanent agricultural workers while women remain a seasonal and temporary agricultural labour force. Moreover, under land redistribution and titling programmes, land titles are often issued in the name of the house hold head, who is usually the husband/father (de jure or de facto). Even where there is no formal discrimination, women's rights may be restricted in practice. For instance, where land legislation is gender neutral, most land may in practice be held by men. Moreover, rural women lack the documents required by laws and regulations to

benefit from agrarian reform programmes. In most cases, formally gender neutral norms may allow discrimination in practice. More so, socio-economic factors, such as, women's dependence on their male family members may pressurise women to renounce their statutory land rights in favour of male relatives (FAO, 2002:118). The Charter strictly advocates women's rights to property in Africa.

4.2.4 THE NIGERIAN CONSTITUTION

The 1999 Constitution of Nigeria Section 43 states: "subject to the provision of the constitution, every citizen of Nigeria shall have the right to acquire and own immovable property in Nigeria". Men and women have rights to personal property. Section 44 (1) has it that, no movable property or any interest in an immovable property shall be taken possession of compulsorily and no right over or interest in any property shall be acquired compulsorily in any part of Nigeria except in the manner and for the purposes prescribed by law and also in this section of the Nigerian constitution (Nigeria, 1999:902).

Right to acquire and own immovable property

No Nigerian is prohibited from owning immovable property anywhere in Nigeria. Section 43 of the Nigerian Constitution provides: "subject to the provisions of this constitution, every citizen of Nigeria shall have the right to acquire and own immovable property anywhere in Nigeria" (Uzo, 2005:74). Every citizen of Nigeria (male and female) has rights to own property individually or in association with others. Therefore, the practice and prohibition in Eastern Nigeria with regard to the property ownership right of women is unlawful and unethical.

Compulsory Acquisition of Property

The constitution prohibits the compulsory acquisition of property whether movable or immovable. Section 44(i) provides that: "No movable property or any interest in an immovable property shall be taken possession of compulsorily and no right over or interest in any such property shall be acquired compulsorily in any part of Nigeria except in the manner and for the purposes prescribed by law (Uzo, 2005: 75). The law (constitution) does not prescribe compulsory acquisition of property either from a wife or from a husband. Women can therefore inherit and own property without being barred by whosoever on grounds of law.

The Constitution of other African countries like Ghana supports every person's right to own property either alone or in association with others (Fawehinmi & Amaechina, 1998:210). This goes far to strengthen the need for property rights of all to be upheld. Over the years, some positive developments aimed at improving respect for women's rights in Nigeria include the provision of affirmative action measures to redress under-representation of women in appointive positions, prohibiting discrimination in areas such as education and employment and the adoption of laws protecting the rights of widows in Nigeria.

4.3 OTHER LEGAL PROVISIONS

This section deals with the Beijing Declaration as it advocates women's Inheritance Rights; The Platform for Action (PFA) of the Beijing Declaration and the constraint to the overall implementation of the Platform for Action (PFA) of the Beijing Declaration. Other legal provisions include: Married women property Acts; Statutory law; Property Law; Laws of succession; Property Rights; Civil, Agrarian and Natural Resource Laws, Land Tenancy, Married Women Property Rights and Matrimonial Causes Act (Nigeria, 1990b).

4.3.1 BEIJING DECLARATION AND WOMEN'S PROPERTY RIGHTS

It is pertinent to state that when the 1995 Beijing Conference was actually held, Nigeria was under military regime headed by Gen. Sani Abacha. Gross violations of human rights were prominent features of this regime, as it was with other regimes. Insecurity of life and property, poverty and sociocultural prejudices all contributed to the violation of human rights (Women's Consortium of Nigeria, 2010). This seriously affected the rights of women alongside others despite the international human rights instruments and institutions that tended to protect their rights (Folarin & Udoh, 2014:243-244).

However, since the year 1999 when the Nigerian Constitution was amended and put in force by the civilian rule, there has been significant attention to women's rights at the national level. According to the Women's Consortium of Nigeria 2004, "National governments have increasingly positioned their efforts to achieve the strategic objectives of the Platform for Action within a human rights framework, especially the Convention on the Elimination of All Forms of Discrimination Against Women. Action taken by States has included constitutional and legislative reforms to eliminate discrimination against women; enhanced roles of the courts and judiciary in the protection of women's right; new and expanded national action plans, strategies and institutional mechanisms; and more systematic capacity-building and awareness-raising".

Despite all the attempts at full implementation of the Beijing Declaration and Platform for Action (PFA), women in Nigeria still experience discrimination in their access to scarce resources, especially land and this has been a major cause of the feminisation of poverty. Feminisation of poverty refers to the high levels of poverty among women when compared to men. Women are discriminated against and this is institutionalised in the form of repressive and discriminatory customary and statutory laws (such as the Married Women's Property Acts and the Matrimonial Causes Act) and Patriarchal systems (Folarin & Udoh, 2014:247).

This research reveals that the discrimination is perpetrated by the State, community and particularly rooted in the family.

THE PLATFORM FOR ACTION (PFA) OF THE BEIJING DECLARATION

In its Platform for Action (PFA), the Fourth World Conference called on government to enable women to obtain affordable housing and access to land, and to undertake legislative and administrative reforms to give women equal access to economic resources, including the rights to inheritance and ownership of land and other property (United Nations, 2003:8).

Further, Article 1 of the Universal Declaration of Human Rights (UDHR) of 1948 has declared that all human beings are born free and equal in dignity and rights. These rights should not be hindered for any reason. Culture or sex should not constitute the parameter for obstructing the enjoyment of all the rights by all individuals, irrespective of gender.

The English Philosopher, John Locke, emphasised that "labourers, small scale property owners and large scale property owners should have civil and political rights in proportion to the property they owned". According to him, the right to property and the right to life were inalienable rights, and it was the duty of the State to secure these rights for individuals. Locke argued that the safeguarding of natural rights, such as the right to property, along with the separation of powers and other checks and balances, would help to curtail political abuse by the State. Locke linked property rights with political power. He recommended that safeguarding them alongside other factors would help to minimise political abuse by the government (Powell, 1996).

This philosophy has been used in Nigeria for electing political office holders in a way, which is ethically and theologically wrong. Women have gifts, talents and capabilities to rule like men (cf. 1 Cor. 12: 8-11; Rms. 12:6-10); there's no sex discrimination in gifting.

But it is pathetic that since women do not have real property, they had long found it difficult to attain political offices. The need for women to own property in the 21st century is high to alleviate them of the numerous hindrances suffered as a result of lack of landed property. States are therefore called upon to support community projects, policies and programmes that aim to remove all barriers to women's access to affordable housing and property ownership; promote awareness campaigns, education and enabling practices regarding legal rights with respect to tenure, land ownership and inheritance for women; and to promote mechanisms for the protection of women who risk losing their homes upon the death of their husbands (United Nations, 2003:9).

CONSTRAINTS ON THE OVERALL IMPLEMENTATION OF THE PLATFORM FOR ACTION (PFA) OF THE BEIJING DECLARATION.

According to Folarin & Udoh (2014: 248), the following could be outlined.

1. Inadequate awareness of and commitment to gender issues generally.
2. Inadequate sensitisation of the general populace.
3. Lack of capacity building for women.
4. Absence of total political commitment for women's development.
5. Low budgetary allocation to both the National and State women's machinery.
6. The inter-ministerial committee lacks the effectiveness required for the implementation of agreed actions because members are often not at a level of authority necessary to influence the decision-making process in their ministries.
7. Age-old customs and traditions and repressive national legislation.
8. Patriarchal nature of the Nigeria society.

The following recommendations are proffered for the implementation of the platform for action (PFA) of the Beijing declaration

1. Discriminatory family law restricting the legal capacity of married women should be repealed.
2. The principle of non-discrimination should be explicitly stated in agrarian reform programmes.

3. Affirmative action to facilitate women's access to land should be adopted.
4. Women-specific forms of collective land holding or use should be established.
5. Women's rights to property should also be institutionalised and supported by law, local custom and behaviour.

4.3.2 STATUTORY AND PROPERTY LAWS

"Land administration and tenure in contemporary Nigeria is based on three sources of law – native law and custom, received English Law and Statutory law" (Yakubu, 1985). In this section, emphasis shall be laid on statutory and property laws to accentuate their contributions to women's inheritance rights especially in the region under study. The native and received English Laws were already discussed in chapter 3.4.

a) Statutory Law

In Northern Nigeria, the colonial administration through various enactments such as native Rights Ordinance, 1916 placed all lands under the control and subject to the disposition of the Governor. After Nigeria's independence in 1960, the government of Northern Nigeria in 1962 enacted a new land law called the Land Tenure Law, 1962. The law improved and modified the Native Rights Ordinance before it was later repealed by the Land Used Act, 1978. In this case, land is under the direct control of the government.

Also, in the colony of Lagos and Southern protectorate, the system recognized that land was owned by lineages or extended families. Individuals have only right of use on such family land. The only land held at the Governor's disposal was that which had been expressly acquired for public purposes as Crown Land. The only control imposed by law on the lineages and other local land holders was an obligation on land owners to seek the consent of government when rights are being conveyed to aliens (Aluko & Amidu, 2006:5). Again, this system fosters individual land ownership.

The dual nature land-holding system discussed above had the following problems: Incessant rancour and litigation on land matters due to fraudulent sales, inaccessibility of land to government in South-East Nigeria, inaccessibility of land for developmental projects in Northern Nigeria by private individuals, land speculations leading to exorbitant land prices, fragmentation of lands into uneconomic size holdings and insecurity of land title.

In view of the above, a land use panel was set up in 1977 by the Federal Military Government. This led to the promulgation of the Land Use Act 1978. The Land Use Act (LUA) is the current land law and is applicable throughout Nigeria. The main objective of

the legislation is to unify land tenure systems in the country. The second objective is to make land easily accessible to the government and individuals (men and women) without hindrance. With this, gender equality in land matters was ushered into the country (Aluko & Amidu, 2006:5). In spite of this, there still are restrictions on land acquisition in patriarchal societies such as Iboland.

b) Property Law

Property law is the area of law that governs the various forms of property ownership and tenancy within the common law legal system. Movable property is personal property, while immovable property corresponds to real estate or real property, and the associated rights and obligations thereon. For the sake of this study, real property shall be considered. The definition of the right to property is however, heavily influenced by the Western concept of property rights. Property rights vary considerably in different legal systems. It has not been possible to establish international standards on property rights. These rights are rights over things enforceable against all other persons. A property right is the exclusive authority to determine how a resource is used, whether that resource is owned by government or by individuals. The fundamental purpose of property rights and their fundamental accomplishment is that they eliminate destructive competition for control of economic resources. Well-defined and well-protected property rights eradicate competition, violence and corruption while fostering peace among co-habitants (Alchian, 2008).

According to Alchian (2008), property rights are human rights. A private property right does not in any way conflict with human rights. Private property rights are the rights of humans to use specified goods and to exchange them. Private property rights protect individual liberty. Everyone is entitled to enjoy property right. Although laws to protect women's property rights exist in most countries, many women still cannot realise their rights. This is due to low awareness and understanding of the laws and sometimes to the contradictory rules – law, culture and customs, religion and government policies/legislation reinforcing inequities between women and men. Research evidence demonstrates that women are better positioned to improve their lives when they own land and other assets. They can use these assets to earn an income and as collateral to access credit. Property and credit also ease hardship during financial crisis by softening the shock of insufficient income available to meet a family's basic needs. Owning property can be a woman's ticket out of poverty (ICRS, 2015).

4.3.3 SUCCESSION LAWS AND LAND TENANCY

Succession Laws: The testate succession is the transfer of property by the owner to a person while he is still alive. Testate succession is governed in the majority of Nigeria by The Wills Acts 1837 and The Amended Will Act 1867 (Emery, 2005:15). In practice, this kind of succession is often challenged at the death of the donor.

Intestate Succession: The most frequent form of succession in Nigeria is intestate, which raises a much more complex set of rules under the English System. This has to do with the succession inheritance of a deceased husband's or father's estate/property. The Protocol to the African Charter on Human and People's Rights of Women in Africa particularly recognises the need to protect the rights of widows from widows' rituals and property restriction. In particular, Article 20 addresses widows' rights which they have over their late husbands' property.

Article 21 of ACHPR states that: a). A widow shall have the right to an equitable share in the inheritance of the property of her husband. A widow shall have the right to continue to live in the matrimonial house. In case of remarriage, she shall retain this right if the house belongs to her or she has inherited it. b). Women and men shall have the right to inherit, in equitable shares, their parents' properties (Emery, 2005:30). Succession law permits women's inheritance; since the property owner may desire to give his property to whosoever he/she wants.

Land Tenancy: Land rights are usually conceived of as the rights to use, enjoy and exploit land including information about, decision-making about and benefits from the latter. Women have been denied landholding resulting from their insufficient understanding of their rights and discrimination against them by the customary law of inheritance, the rule of which favours men. Even then, women have contested claims made on their land. It is their ability to negotiate access to land that needs to be supported and harnessed into land policies (Aluko & Amidu, 2006:1). In Nigeria, speaking about property is closely linked with speaking about land, and this is the primary good for the majority of the population in a subsistence economy. Therefore, systems of land tenancy have a major impact on the sets of rights to property that can be inherited in Nigeria (Emery, 2005:11).

Land Rights as Human Rights:

Land rights are not typically perceived to be a Human Rights issue. These rights broadly refer to rights to use, control, and transfer a parcel of land. Land rights are however, a key human rights issue, constituting the basis for access to food, housing and development.

Without access to land many people find themselves in a situation of great economical insecurity and dwindling poverty.

Land rights play a catalytic role in economic growth, social development, and poverty alleviation. The claim that land rights are human rights has been a common denominator in many countries including South Africa and Brazil. Land rights are not only directly impacting individual property rights, but are also at the heart of social justice (Gilbert, 2013). Under national legislation regulating property rights within the family, land rights are often restricted to the man as the household head that holds exclusive administration rights over family property.

Article 16 of CEDAW (1981), focusing on elimination of discrimination within the family, invites State parties to take all necessary measures to ensure that both spouses have equal rights in the ownership, acquisition, management, administration, enjoyment and disposition of property. While not directly mentioning land rights, the reference to ownership and property could be seen as implicitly relevant to property in lands (Gilbert, 2013). Article 25 of the United Nations Universal Declaration of Human Rights includes the right to housing as part of the larger right to an adequate standard of living. Hence, the right to housing is often qualified as a right to adequate housing. Housing and land rights are connected. Both deal with real property. Access to food or resources for food requires States to implement full and equal access to economic resources, including the right to inheritance and ownership of land for all people, and particularly for women. Landlessness directly affects the realisation of rights to food.

4.3.4 CIVIL, AGRARIAN AND NATURAL RESOURCES LAWS

Women's Rights to Land and Other Natural Resources are determined by:

- i). General Civil Law and
- ii). Agrarian and Natural resource law.

The general civil law concerns itself with property, family and succession law. While, agrarian and natural resource law is formal legislation on natural resources.

With general civil law, the rights of women to landed property could be curtailed by discriminatory norms of family law. These tend to restrict the legal capacity of married women to administer property. It also hinders women's succession to property, especially where land sales are rare and inheritance is the primary form of land acquisition. Within natural resource legislation, particular attention is devoted to land law, both because rights to other natural resources (like water, exploitation of crude oil, etc.,) may depend upon land

rights, and because land legislation usually affects women's rights more directly. Rights to natural resources are extremely important for women's dignity. This is because women's livelihoods crucially depend upon them, especially in developing countries (FAO, 2002:2).

4.3.5 MARRIED WOMEN PROPERTY RIGHTS AND MATRIMONIAL CAUSES ACT

This Act explicitly disagrees with the principle of absolute dependence of wives on husbands. It therefore gives women separate personality and independence in the ownership and acquisition of property (in line with the various international legislations). The Act is the direct opposite of the customary law that is in force in the greater part of Iboland. In all systems of customary law the property acquired by the man does not become the joint property of the man and his wife or wives even if the wife or wives helped in the development. The basis given for this is that customary law does not recognise monetary or other non-monetary contribution by the wife either to the marriage or to the property, as capable of ripening into legal or equitable interest in the property (Adekile, 2010:12).

Upon dissolution of a marriage the issue of property adjustment becomes critical. In view of most family administration and practices in Nigeria, the husband undertakes capital projects and investment with his income while the wife in most cases undertakes the provision of food, clothing and other non-income-yielding and capital-generating responsibilities. As such, the lack of concept of joint or matrimonial property usually works injustice on the wife at the termination of the marriage by divorce or in the case of the death intestate of the husband. A divorced woman cannot claim a share in the property acquired by her husband during the marriage.

Married women's property rights must be seen as a veritable means of building families in Iboland, as access to property of any form is a major index of wealth and family peace. According to Adekile (2010:14), property inheritance determines one's wealth; wealth governs one's ability to care for oneself and to care for one's family. The importance of property inheritance and ownership cannot be over-emphasised. All spouses must therefore have access to family property and partake in the joy and benefits of sharing in and inheriting matrimonial property.

The female spouse of a statutory marriage upon divorce may be able to rely on the provisions of Section 72 of the Matrimonial Causes Act 1970 for property to be settled on

her or claim the benefit of section 17 of the Married Women Property Act for other property rights (Nigeria, 2004). In cases where women are the applicants, the rights of women have been upheld under the Matrimonial Causes Act 1970. In *Kaffi v. Kaffi* the court ordered the man to settle one of his properties for the benefit of his ex-wife and children. Settlement of property was also ordered in *Egunjobi v. Egunjobi* (Adekile, 2010:15).

Under section 17 of Married Women Property Act, the law is applied by the court to allow a wife the right to a percentage of the property in question upon the evidence that she contributed to it financially. Where the wife established that without her assumption of household expenses the husband would not have been able to purchase the property, a resulting trust will arise in equity in favour of the wife even if title deeds are in the husband's name (Adekile.2010:16). The Married Women Property Act however, demands strict evidence and proof of contribution to the property of the family during marriage. This demand seems a stumbling block to women who cannot produce any proof of their contribution to the family property.

However, under Married Women's Property Acts, women had less to lose; a divorcee now had a much surer claim to the property they brought or contributed to the marriage (Shammas, 2004:26). The Married Women Property Act and The Matrimonial Causes Act should therefore be put to use for the benefit of all spouses with regard to their rights to family property. Lawfully, ethically and theologically, both husbands and wives are humans with equal dignity and rights, fit to enjoy all rights; including that of property (Iroegbu & Echekwube, 2005:154).

4.4 JUDICIAL RESPONSES TO WOMEN'S INHERITANCE RIGHTS

CASE 1:

"In *Julie Neziyanya and Anor v. Anthony Okagbue and Anor*, the widow in this case, upon the husband's death, began letting his house to tenants, she sold a portion of the land, and with the proceeds she built two mud huts on the other portion of the land, her late husband's family objected that she had no right. The only child she had from her late husband was a girl, who died before him. The widow divided the property among the girl's children, who sued the husband's family claiming a right to exclusive possession of the land. The matter was governed by Onitsha native law and custom, under which the judge held that the claim failed. It was argued in the plaintiff's appeal that the native law and custom ought not to be applied as being contrary to equity" (Ezeilo, 2011:288).

The court held that under the native law and custom of Onitsha (Eastern Nigeria), a widow's possession of her deceased husband's property, even though for a long time, does not adversely affect her husband's family and does not make her the owner. She cannot deal with the property without the consent of the family. She cannot on the grounds of time that has elapsed claim the property as her own. She has however, the right to occupy the building or part of it, but this is subject to good character. Further, the court stated that no equity arose in the widow's favour in spite of her possession for a long time.

The Supreme Court, more than 20 years later, reaffirmed in *Nzekwu v. Nzekwu*, the decision reached in the above case of *Julie Neziyana and Anor. V. Anthony Okagbue and Anor*, and maintained that the interest of the widow in the house was possessory and not proprietary, so that she could not dispose of it. The right of a widow to her husband's property under Onitsha customary law, according to *Nzekwu's* case, postulates that a married woman, on the death of her husband without a male issue, with the concurrence of her husband's family may deal with the deceased's property. However, the widow's dealings must receive the consent of the family, and she cannot on the grounds of time that has elapsed, claim the property as her own. The insistence of customary law in Iboland, that a widow cannot inherit her husband's property has become so notorious by frequent proof in the court, that it has become judicially noticed (Ezeilo, 2011:289).

CASE 2:

In *Suberu V. Sumonu*, it was held that it is a well settled rule of native law and custom of the Yoruba people that a wife cannot inherit her husband's property since she herself is like a chattel to be inherited by a relative of the husband.

In effect, on the inheritance of deceased's estate under Yoruba customary law, it is only the children of the deceased who are entitled to inherit his estate. On death intestate of the founder of the family, his eldest surviving son, who is the "Dawodu", becomes the head of the family, and he takes over the management of the estate of the deceased for himself and other members of his issue. When a Yoruba person dies, title to his properties devolves on all surviving children in equal shares and the eldest child assumes the position of the head of the family and manager of the estate of the deceased for and on behalf of the children (Ezeilo, 2011:289).

CASE 3:

In the case of *Meribe V. Egwu*, the land in dispute belonged to one *Nwanyiakoli*, who died without an issue. The plaintiff, who was her stepson, contended that the land devolved on him under customary law. His case was that *Nwanyiakoli* was barren, so she married his

(the plaintiff's) natural mother for her own husband (the plaintiff's father and defendant's grandfather), and, that under customary law, the issue of such marriage are regarded as the issue of the barren woman. This is described as "woman to woman" marriage (Ezeilo, 2011:289-290). In this case, the court recognised one woman who replaced the barren woman, and not two women. The first wife had no inheritance simply because she had no child.

CASE 4:

ASIKA V. ATUANYA (2008) 17 NWLR (PT. 1117) 484

Facts:

The Appellant at the trial court, being women instituted the action to enforce their rights to inheritance of their late father's property under the latter's will. The said property situated at No. 25 New American Road, Onitsha was bequeathed by the testator, late Michael Amachukwu Atuanya, in his will to be shared equally by his children namely, Paulina, Michael, Fidelis, Catherine, Cordelia and Felicia. The respondent, who was the surviving male child of one of the children, late Fidelis Atuanya, contended that under Onitsha (Eastern Nigeria) customary law, no female child can inherit the property of her late father. He claimed to be the only one entitled to the property, being the only surviving male child in the family.

At the High Court, the Appellant sought a declaration that along with the estate of the two other children they were entitled to inherit the property, and also sought the partitioning and sharing of the property to the said beneficiaries. At the conclusion of the hearing, the trial court found in favour of the appellant but refused to grant the orders as to partitioning and sharing, on the ground that it could lead to injustice. Aggrieved, the Appellant appealed to the court of Appeal. The respondent also filed a cross appeal which was later withdrawn. In determining the appeal, the court of Appeal considered the provisions of Section 17, 21, 42 and 43 of the Constitution of the Federal Republic of Nigeria, 1999.

The court held:

The provisions of the Nigeria 1999 Constitution in Sections 42 and 43 prohibits discrimination against women in whatever dimension and it is a fundamental norm that could not be subjected to any custom especially where same is being vehemently resisted as in this case by the appellants, who are co-beneficiaries with the respondent and another under the will of their late father.

EXTRACTS FROM THE JUDGEMENT OF THE COURT OF APPEAL, per Denton-West JCA:

“However, it is my humble view that the constitutional provisions earlier mentioned in my judgement apply in situations where if a custom tends to discriminate against a particular section of the populace, that custom even if not subject to litigation should not be allowed to prevail since it is against the tenets of the Constitution of the Federal Republic of Nigeria 1999. Any custom or culture that does not enhance the human dignity of man or woman is inconsistent with the judgemental objectives of the Constitution and should therefore not be allowed” (Adebayo, 2012:133-134).

Looking at the Constitution: Section 43 states: “Subject to the provisions of this Constitution, every citizen of Nigeria shall have the rights to acquire and own immovable property anywhere in Nigeria” (Nigeria, 1999). The ruling was upheld in favour of the female children.

CASE 5:

ASIKA V. ATUANYA (2008) 17 NWLR (PT. 1117) 484

Facts: As stated above.

Extracts from the judgement of the Court of Appeal per Denton-West JCA:

One may ask why in some parts of Nigeria women are subordinate by laws and customs, and are also deprived of inheritance and rights of acquisition and ownership of immovable property. But the Constitution provisions are quite clear and unambiguous. Despite the lack of ambiguity in the Constitution, Nigerian women in certain parts of Nigeria are not entitled to inherit any landed property (Adebayo, 2012:136-137). Women are deprived of inheritance rights in certain parts of Nigeria, including Eastern Nigeria contrary to constitutional and ethical provisions discussed earlier and the biblical provisions that will be discussed elaborately in the next chapter.

CASE 6:

TIMOTHY V. OFORKA (2008) 9 NWLR (PT. 1091) 204

FACTS:

The respondents filed an action against the appellant claiming for a declaration that the appellant had violated their fundamental rights to dignity, personal liberty, freedom from discrimination and acquisition and ownership of immovable property guaranteed by the 1999 Constitution. They also claimed for damages and injunction. The respondents’ action

was hinged on a document of grant admitted as Exhibit "A". By the document, one Ezenwammadu Okafor Oforka granted a parcel of land to his daughter, Martina Oforka and her brother Sunday Oforka, the respondent herein.

However, the appellant laid a claim to the same parcel of land on the ground that Ezenwammadu Okafor Oforka the grantor of the land to the respondents had earlier on testified in favour of the appellant as the owner of the land in suit No. CCo2/13/98. He further contended that the grant of the parcel of land to the respondents was a breach of the Oraifite native law and custom which forbade women and children from dealing with land.

The trial court ruled in favour of the respondent holding that a custom could not derogate the clear provisions of the Constitution dealing with the right of women and children to own movable or immovable properties. Aggrieved, the appellant appealed to the Court of Appeal. In determining the appeal, the court of appeal considered the provisions of sections 41 & 43 of the 1999 Constitution of the Federal Republic of Nigeria.

EXTRACTS FROM THE JUDGEMENT OF THE COURT OF APPEAL, Denton-West, JCA:

In delivering the judgement, the appeal judge emphasised that the learned trial judge was not only right in his ruling, but he adequately took the bull by the horn and upheld the Constitution and was able to declare that a native law and custom that was repugnant to natural justice wherein some citizens of the country irrespective of sex, religion and political opinion are deprived of holding property when such property was indeed given by a grandfather if not upheld is repugnant. The judge upheld that the Oraifite native law and custom which does not allow women to deal in land is not only unconstitutional but repugnant to natural justice, equity and good conscience (Adebayo, 2012: 137-138). This ruling favoured women.

RECENT SUPREME COURT RULINGS:

1. The Supreme Court has voided the Igbo law and custom, which forbid a female from inheriting her late father's estate, on the ground that it is discriminatory and conflicts with the provisions of the Constitution.

The court held that the practice conflicted with Section 42 (1) (a) and (2) of the 1999 Constitution. The judgement was on the appeal marked: SC.224/2004 filed by Mrs Lois

Chituru Ukeje (Wife of late Lazarus Ogbonna Ukeje) and their son, Enyinnaya Lazarus Ukeje against Mrs. Cladys Ada Ukeje (The deceased's daughter).

Cladys had sued the deceased's wife and son before the Lagos High Court, claiming to be of the deceased's children and sought to be included among those to administer their deceased's father's estate. Justice Bode Rhodes-Vivour, who read the lead judgement, held that no matter the circumstances of the birth of a female, such a child is entitled to an inheritance from her late father's estate.

Consequently, the Igbo customary law which disentitles female gender from partaking in the sharing of family estate is in breach of Section 42(1) & (2) of the Constitution, a fundamental rights provision guaranteed to every Nigerian (Soniyi, 2014).

2. On April 14th 2014, the Nigerian Supreme Court, in a unanimous decision, confirmed decisions of two lower courts, which had found unconstitutional an Igbo customary law of succession excluding female offspring from eligibility to inherit the property of their fathers (Ughegbe, 2014). The Supreme Court therefore upheld the female child's right to inheritance in Iboland. It invalidates Igbo Customary law denying Female descendants the right to inherit. More so, on May 5th, 2015, the Nigerian Senate passed a bill criminalizing female genital mutilation and violence (Nigeria, 2015). These are all welcome developments.

4.5 CONCLUSION

This chapter dealt with the International, Regional and National Legal framework with regard to women's inheritance right. The Universal Declaration of Human Rights (UDHR), The Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), The African Charter on Human and Peoples' Rights (ACHPR) and The Nigerian Constitution strongly support women's right to inheritance. Other Legal Provisions like the Beijing Declaration on Women's Inheritance Rights, Statutory laws, Property Laws, Land Tenancy, Natural Resource Law, the Married Women Property Rights and Matrimonial Causes Act also advocate women's rights to property.

Nigeria has a tripartite legal system consisting of statutory, customary and Sharia laws. The three bodies of law create contradictions and inconsistencies within each source of law particularly in the areas of family and property law. The Statutory law like the Nigerian Constitution which would have collaborated with the regional and international laws has

made very little impact when it comes to women's inheritance. As such, much preference is given to customary law administrators in different regions and societies in Nigeria.

However, under Married Women's Property Acts, women have a much surer claim to the property they brought or contributed to the marriage. But the customary law allows rights to own family land to only men. A widow and female offspring cannot inherit marital property. Sharia law does not allow women full access to real property. Under the common law, the wife's property is automatically transferred to the husband in marriage. Under customary law, inheritance of individually owned land generally follows the principle of primogeniture, where the eldest son inherits virtually everything. The succession laws do not really favour women in many Nigerian societies. However, the law and recent Court rulings are gradually changing the situations in favour of women's inheritance. On grounds of ethical, legal and biblical principles, it is imperative that women's disinheritance be rejected for women to begin to enjoy inheritance rights in Iboland and in other parts of Nigeria.

The next chapter will discuss the status of women in the Old and New Testaments times. More so, the Biblical provision and viewpoints on women's rights to inherit property and the rights of all individuals to inherit and own property are elaborately discussed.

CHAPTER FIVE

WOMEN'S RIGHTS TO PROPERTY IN THE LIGHT OF SCRIPTURE

5.1 Introduction

This chapter unreservedly evaluates the Old and New Testament viewpoints on women's inheritance rights. It also advocates the right of all individuals to property with special reference to women. It is important to note that ethics, equity, fairness, good conscience and legacy demand this. Undoubtedly, the deprivation and discriminatory position experienced by women could be traced to the Old Testament patriarchic societal practice which favoured men's headship and inheritance. Apart from the position of the Old Testament Scripture with regard to inheritance and headship, hermeneutics handled by various religious bodies and organisations tend to worsen matters. The word 'hermeneutics' which is derived from the Greek Word 'hermeneus' means 'to interpret'. It may be defined as the theory or science of Bible interpretation. Biblical hermeneutics therefore concerns itself with the interpretation, understanding and appropriation of biblical texts (Thiselton, 1988:293).

Various cases of violence against women persist, including trafficking, exploitation and deprivation of women's rights like inheritance, even in modern civilised constitutional democracies (United Nations, 2005). Women are more prone to perennial poverty and other predicaments as a result of disinheritance. In spite of the efforts of the United Nations, liberal religious bodies and feminist organisations over many decades, the position of women in the modern world is far from satisfactory, especially in Iboland.

Males and females as humans have rights which must be allowed in the Church and in the society. Christian freedom as it relates to women is crushed in most churches especially during public worship. Some churches fail to know that the first century Christian women Paul instructed to be silent in the church did not receive formal religious education as did the women of today. The purpose of Paul's word was only to promote unity in the church but not to teach about women's role in the church and beyond. Some churches and societies use this passage to demean women (Bible, 1991:2190). The belief in churches affects women at home and in society; such that women are regarded as inferior to the point of depriving them of property rights.

There are many hermeneutical approaches. Each looks at the position and rights of women in their own peculiar ways (Thiselton, 1988: 295-297). Many of such approaches do not consider the ethical implication of their interpretations; which affect women's

rights in the family setting, the church and the society at large. Christians should therefore overcome hermeneutical problems so as to interpret the Scriptures as God intended, for the betterment of all mankind.

5.2 THE STATUS OF WOMEN IN THE OLD TESTAMENT

According to the story of creation, man and woman were created equal. The equality roots in their creation in the image of God (Gen. 1:27). Man's creation in the image of God is the foundation of human equality. Men and women were thus ontologically equal. However, the situation changed after the fall as it was distorted and changed into a hierarchical and patriarchal relation. This is expressed in Genesis 3:16 when God casts judgement upon Adam, Eve and the serpent. *"Unto the woman he said, I will greatly multiply thy sorrow and thy conception; in sorrow thou shalt bring forth children; and thy desire shall be to thy husband, and he shall rule over thee"* (Gen 3:16 KJV). From this story of creation and fall it becomes clear that gender inequality is a judgement and not actually the will of God (Vorster, 2004:182).

In the Old Testament, the wife called the husband *"ba'al"* meaning *"master"*, she also called him *"adon"* or *"lord"* (Gen. 18:12; Judges 19:26; Amos 4:1). A woman addressed her husband as a slave addressed his master or a subject his king. The Decalogue includes a man's wife among his possessions, along with his house and land, his male and female slaves, his ox and his ass (Exo. 20:17; Deut. 5:21).

The wife does not inherit from her husband, nor his daughter from her father, except where there is no male child/heir. The Bible records: *"Say to the Israelites, if a man dies and leaves no son, turn his inheritance over to his daughter. If he has no daughter, give his inheritance to his brothers"* (Numbers 27:8-9). There was very little opportunity for the daughter to inherit, that is when there was no male child in the family. A vow made by a girl or married woman needed the consent of father or husband to be valid and if his consent was withheld, the vow was null and void (Num. 30:4-17). The inferior position of women began in the Old Testament, but should not be seen as an ethical directive for gender discrimination and domination. This was part of the brokenness of the world due to the original sin. Marriage after the fall witnessed separation; no love and unity between couples.

Marriage in the Old Testament

According to Basson (2007:12), the first marriage signifies to the whole of mankind a holy and ideal marriage. This marriage bond consists of two people who give themselves to each other under the umbrella of God's love and approval. In Gen. 2:22 God brings

the woman to man - He gives the man his wife and in this bond of togetherness, the two become one by committing themselves unconditionally to each other (Waltke 2001:89). Gen. 2:24 says “ . . . a man will leave his father and mother and be united, and they will become one flesh”. The unity, oneness and togetherness of the couple are not just theoretical but cover the marital, spiritual, material and property bonds. In other words, the properties of the couple are inseparably integrated in such a way that an attempt to separate or deny any party of the rights to inheritance leads to very serious harm to the victim. In many cases women are the victims. Waltke (2001:90) rightly observed that every marriage is divinely ordained and that marital bonds have priority over parental bonds. A man leaving his father and mother and embracing his wife signifies amongst other things that the woman is entitled to whatsoever the man has, including his property.

The Purpose of Marriage

Helberg (1988:31) believes that marriage serves the great purpose of God's creation. Man is to fill the earth and to subdue it; and the outcome should be that God is glorified while man lives with him in joy. The good things of the earth are for both males and females. The husband must let the wife enjoy these good things; by allowing her inheritance.

God said, “It is not good that a man be alone” (Gen. 2:18), which implies that marriage was intended for mutual society - to provide the help and comfort that one should have of the other (Stott, 1999:319-320). Both the wife and the husband have the responsibility of helping each other in all ways while alive. At death they have rights of inheritance. The husband should not take any undue advantage over his wife and the wife should not undermine her husband as this undoubtedly causes disunity and friction in marriage. Helberg (1988:31) noted that man was created first and is the first amongst equals. Husbands' position as heads of the family must be well managed in favour of their wives in all aspects, including family property and inheritance.

It is within this union that man and woman are to operate, create a family, support and provide physical love for each other. As Morris (2000:99) rightly says: In his wisdom God ordained that the home, built on mutual love and respect of husband and wife, should be the basic human unit of authority. Husband and wife must exert authority as one flesh.

Marriage in the Old Testament after the Fall

Marriage had been created for the human being's best interests and betterment. But sin brought shame, dishonesty, disunity and separation from God and each other. Man and Woman were now conscious that they were different from each other and no longer ideally 'one flesh'. They were in spiritual darkness and at loggerheads with each other. Sin therefore ushered in dishonesty, disunity and selfishness between husband and wife, such that the property of the husband hardly is that of the wife, and vice versa.

THE CONSEQUENCES OF SIN IN MARRIAGE RELATIONSHIPS

As a result of man disobeying God, a curse was put on the serpent, the woman and the man (Gen. 3:1-19). The curse is made up of a number of sub-phases including the curse on Adam and his descendants and the curse on the very elements of the ground (Morris, 2000:118). For the purposes of this study the focus will be predominantly on the curse placed on the woman and the man. The focus will be to understand how the 'fall' of man and the entrance of sin through the evil one affected the marriage relationship and brought about the division of that which God had stipulated no man should separate.

The woman

In Genesis 3:16 the curse states that: (i) the woman would now experience pain in childbearing. (ii) "Her desire would be for her husband". The literal understanding and application of this consequence is so severe that even the property acquired by a wife is claimed by the husband. But, this consequence seems to indicate that her desire would be to dominate as seen in the chiasmic structure of the phrase which pairs the terms 'desire' and 'rule over' (Waltke, 2001:94). This very same emphasis is found in Gen. 4:7. Ryrie (1994:8) intimates that 'Your desire' may mean that the woman would be deeply attracted to her husband or this could mean that her desire would be to rule over him. The same word is used again in Eph. 5:23 in this sense of ruling when it mentions *the husband as head of the wife*.

(iii) "That he would rule over her", implies total dominance over the woman. Before the fall, woman was created equal to man – "a help meet for him" (Gen. 2:18), but now ironically man dominates her. As Waltke (2001:94) observes, male leadership not male dominance is assumed the ideal, pre-fall situation. Morris (2000:123) adds that such a harsh rule went beyond what God had intended for his creation. Really, in an ideal state man was to cherish and love his wife – considering her to be one flesh with himself yet

the fall tainted perfection and within a marriage situation there are conflicts everywhere (Basson, 2007:20).

The man

Consequently Adam's life according to the curse was meant to be a source of painful toil (Gen. 3:17). Of course, one of the punishments of sin was separation from God in the spiritual sense but Berkhof also sees that curse inflicted upon man the sufferings of life, which manifests through weaknesses and diseases and mental afflictions, which could often rob him of the joys of life and destroy his mental equilibrium (Berkhof, 1958:259).

Man suffers family disorganisation and mismanagement as a result of sin and its consequences. Man's property sometimes is in shambles when an equitable share is not given to the wife.

5.3 THE OLD TESTAMENT EVIDENCE AND EVALUATION

The position of women in Israel of the Old Testament was to a certain extent ambivalent. On the one hand the female was regarded as inferior, having lesser rights than the male person. De Vaux states her position in Old Testament times: that the wife called her husband *ba'al* or "master"; she also called him "*adôn*" or "lord" (Gn. 18:12; Jg. 19:26; Am. 4:1); she addressed him, in fact, as a slave addressed his master or a subject his king. The Decalogue includes a man's wife among his possessions, along with his house and land, his male and female slaves, his ox and his ass (Ex 20:17; Dt 5:21). Her husband can repudiate her, but she cannot claim a divorce, all her life she remains a minor (Vorster, 2007:251). The wife does not inherit from her husband, nor daughters from their father, except when there is no male heir (Num. 27:8). A vow made by a girl or married woman needs, to be valid by the consent of father or husband and if this consent is withheld, the vow is null and void (Num. 30:4-17; De Vaux, 1988:39). Some modern day Christians, for example in African Christianity, use this historical material to endorse the inferior position of women within their own environment. However, many examples in the Old Testament can be found where women occupied influential social positions in spite of the customs and cultures of the day.

The following examples can be mentioned in line with Vorster (2007:252):

- In spite of an inferior position, in jurisprudence women enjoyed legal protection (Dt. 21:14; Judges 1:15; Num. 30:10&11).
- Deborah acted as a prophetess and as a leader of Israel (Judges 4:4).

- Miriam, the sister of Aäron, acted as a prophetess (Ex. 15:20).
- Huldah acted as a prophetess (2 Kgs. 22:14-16).
- Anna acted as a prophetess (Lk. 2:36).
- Athalia became Queen in the place of Ahaziah after his death. She was deposed, not because she was a woman, but because she was a murderer and a tyrant (2 Chron. 23:12-15; 2 Kgs. 11).

Women considered inferior

Eve was meant to be helper to Adam. Again, Adam asserted his authority over Eve by naming her – Eve, “she shall be called woman because she was taken out of man” (Genesis 2:23). Eve was under Adam. Adam was meant to rule over Eve as her master. Adam dominated over Eve (Gen. 3:16). He explicitly ruled over Eve. However, a good master can give inheritance to his servant.

Sarah even gave permission to her husband Abraham to engage in sexual intercourse with her maid, Hagar (Gen. 16:2). This shows how women regard themselves. They are deprived of marrying many husbands – polyandry, but they encourage their husbands to do such. No wonder they were not fit in the eyes of men to inherit their husbands’ property. Lamech, Esau, Jacob, Gideon and David amongst others were all happy polygamists (Gen. 4:19; Gen. 36:2; Gen. 29:23-30, Judges 8:30; 2 Sam. 3:2-5, 5:13). However, it is obvious that many families experience difficulties in any attempt to share property among many wives of a single husband.

Lot allowed his two daughters to be raped instead of his two visitors not minding any consequence. He was not punished (Gen. 19:8). This signifies the fact that daughters were not regarded as prestigious to the family. They could be used or maltreated at will.

A man could keep numerous concubines and could dismiss them at will (Gen. 21:10), because women could be obtained and abandoned as desired. The idea of any woman or women inheriting the husband’s property was not called for and not necessary in any way.

Girls were not seen as a threat in Egypt by Pharaoh. He therefore ordered boys to be killed (Exo. 1:15-16). Daughters were not seen as important and so were looked down upon by the civil authority and the family members.

Women were seen as chattels to their husbands. And their property was transferred to their husband at marriage. The Tenth Commandment instructed not to covet the wife,

alongside other property. This implies that the wife was regarded as one of the man's properties (Exo. 20:17; cf. Robinson, 2016). According to Ezeilo (2011:180), a wife is owned by her husband alongside his properties. This is ethically and theologically wrong.

A slave owner was permitted to give a woman to his male slave as a wife without consulting his wife during the transaction. The male slave would leave after six years leaving the wife and children to the slave owner. There is no indication that the wife was consulted (Exo. 21:2-4). No regard was given to the wife in any transaction made by the husband. In the same vein, a female slave remained a slave forever (Exo. 21: 7).

The seduction of a woman by a man was seen as a property offence against the woman's father. The man was expected to marry the seduced woman (Exo. 22:16-17). Seducing a woman is an offense against her father and not against the woman so seduced. If a woman was hit and then miscarriage took place, the woman's husband could punish the person at will or impose a fine at will (Exo. 21:22-25). Again, the woman who was hit had no say, it was the husband that would either punish or fine the offender.

Three times in a year males gathered for the Lord, and no woman was included (Exo. 23:17). Even in worshipping God, women were not allowed to join the men, sometimes because they were inferior to men. A woman was unclean for 7 days if she gave birth to a boy but 14 days if the baby was a girl (Lev. 12:1-5). Presumably, girls were more impure than boys so that is why a mother had to go for 14 days purification after delivering a girl child. A man only defiled himself by having sex with his neighbour's wife (Lev. 18:20). He could go about accommodating many concubines without any guilt. In the Old Testament, some women were singled out for special punishment (Deut. 22:13-21; Num. 5:17-31). They were seen as sexual predators (Gen. 19:30-36; Judges 16 and 1 Kgs. 11). They were also seen as deceitful and untrustworthy (Gen. 39:7-20 cf. Robinson, 2016).

Women considered equal with Men:

- God created women as compatible helpmates to men (Gen. 2:18). Male and female He created them (Gen. 1:27; Gen. 5:1-2). At the fall God punished them (Gen. 3:16-19).
- God commands children to honour their father and mother (Exo. 20:12; cf. Christian Bible Reference Site, 2016).

- A person who murdered or cursed either the father or mother would be executed; both men and women (Exo. 21:15-17).
- A slave owner who beat either his male or female slave so severely that his male or female slave lived a few days without dying would not be punished (Exo. 21:20-21).
- A slave owner who damaged a tooth either of a male or female slave during a beating was required to let the slave free (Exo. 21:26).
- Another Bible passage typifying the equality of men and women is Exodus 21:28-32.
- The Bible also describe women as leaders alongside men (Exo. 1:17-21; Exo. 2; Joshua 2:1-16; Judges 4 & 5; 1 Sam. 19:11-13; 2 Kgs. 22:14-19 and 2 Chron. 34:23-27).

In the Mosaic Law, for monetary matters, women's and men's rights were almost exactly equal. A woman was entitled to her own private property, including land, livestock, slaves, and servants. A woman had the right to inherit whatever anyone bequeathed to her as a death gift, and in the absence of sons would inherit everything. A woman would likewise bequeath her belongings to others as a death gift (Rich, 2011). More so, daughters could inherit, though only in the absence of at least a son (Numbers 27:8-9).

But at present in Iboland, when a woman dies her property would be inherited by her children if she had them, her husband if she was married, or her father if she were single. In Iboland, a daughter can inherit where she chooses to remain unmarried in her father's house with a view to raising children in the father's home (Ezeilo, 2011:253). In the Mosaic era, males gathered, sacrificed and inherited property without the involvement of women (Exo. 23:17). However, they had the responsibility of supporting their mothers and sisters from the inheritance. In succession however, a woman could not serve as queen; the monarch had to be male. Divorce and polygamy made inheritance by women even more difficult.

Divorce and Polygamy in the Old Testament

Considering Malachi 2:13-16

In this passage, it is clearly stated that God was displeased with his people because of the practice of unfaithfulness of husbands in relation to their wives. Not only had the marriage dissolved but the covenant between God and the married couple had been nullified. Some of the very purposes for which marriage had been created had been made a mockery of, for example, husbands no longer supported the 'wives of their youth' and the unity of 'one flesh' had been torn asunder through infidelity (Basson,

2007:26-27). Within the period of the Old Testament, marriage had deviated from the original ideal laid out by God in the Book of Genesis. Marriages were no longer solely monogamous. Polygamy was practised to enhance family growth. As divorce went on women's property inheritance suffered.

Biblical examples of polygamy

Polygamy often leads to trouble within the marriage context as well as resulting in sinful behaviour as found in the marriages of Abraham, David, Solomon and Jacob (Gen. 4:19-23; Gen. 30: 1-3; Judges 8:30-31; 2 Sam. 3:2-5, 5:13). It appears that within the Old Testament context many of the patriarchs practised polygamy. The first recorded incident within the pages of Genesis is in chapter 4 which states in verse 19 "Lamech married two women, one named Adah and the other Zillah". It is crucial to understand that in the Old Testament, polygamy was not sexually immoral, since it constituted a recognised marital state. Waltke (2001: 339) concurs and says that polygamy was practised by many godly men in the Old Testament, David being an example. Even though polygamy is not recognised as 'adultery' or 'sexual immorality' it is contrary to God's original plan for marriage as God gave Adam 'one' wife.

The reasons for the creation of polygamy

When one takes an overview of the Old Testament, there would seem to be very few marriages that consisted of only two spouses: one man and one woman married to each other. The Life Application Bible (1991:433) notes that although many of the Old Testament leaders had more than one wife, this was not the original intention for marriage and that it came about because of two reasons:

- Firstly, it was definitely devised in an attempt to produce more offspring to help in the man's work and to assure the continuation of the paternal line. In those days, in the Middle East, children were considered a symbol of status and wealth. Again, one of the purposes for marriage was for procreation, but man took this into his own hands by deciding for himself how many children he should have.
- Secondly, within this society many young men were killed in battles between neighbouring tribes, so this ensured that the women would be supported financially by their sons and relatives.

These are still some of the reasons for polygamy today, but they have inversely affected women's inheritance in no small measure.

The consequences of polygamy

Polygamy was also the cause of many serious family problems which are also evidenced in the pages of the Old Testament. Examples of these are situations that arose between different wives as in the instance of Hannah and Peninnah in 1 Sam. 1:6-8. Other examples of the consequences of polygamy are found in the family line of King David and the ongoing conflict between various siblings and parents. Sharing of property of the father/husband is much more difficult in a polygamous family than in a monogamous family.

Challenges in polygamous family:

- a. With polygamy, jealousy easily arose between different wives.
- b. Jealousy also arose between wives and offspring of different wives.
- c. Jealousy and identity issues arose between children of different mothers.
- d. Conflict takes place in the course of sharing the father's property.
- e. The wives are neglected in the inheritance of their husband.

In most cases interpersonal conflict took place since man had actually strayed from the marriage ideal found in Gen. 2:24. The presence of several wives did not make for peace in the home as a barren wife would be despised by her companions, even if the latter was a slave, the barren wife would be jealous of the one with children and a husband's preference of one of his wives could exacerbate rivalry (De Vaux, 1968:25). All such accounts are found in the stories of Abram, Sarai and Hagar in the book of Genesis, Hannah and Peninnah in the first book of Samuel, and King David and his children in the second book of Samuel.

Sarai and Hagar

Conflict arose almost immediately after Hagar fell pregnant. No matter how worthy and unselfish the motives of Abram and Sarai were, this plan had gone beyond what God's creative purpose for monogamous marriage was (Morris, 2000:328). The carnal nature will always come to the fore in the form of pride and selfishness and it was an act of disdain from Hagar's side that evoked a terrible, jealous response in Sarai who took it upon herself to punish Hagar. It is interesting to observe that the very nature of Hagar's son Ishmael (in verse 12) would be that of 'a wild man, and that his hand will be against every man, and every man's hand against him'. Conflict had become a heritage for Ishmael and his descendants and this was confirmed in Genesis 25 as they lived in hostility toward all their brothers.

In Genesis 21 we observe jealousy between the rival sons and mothers as Ishmael sees his hopes for an inheritance from Abraham shattered (Ryrie, 1994:35). Again in Genesis 25, Abraham takes more wives who bear more children but who are never included in the inheritance of their father because it would seem that all of these family structures other than Sarah and Isaac were contrary to God's perfect will for Abraham's life. Inheritance in a polygamous family system as is practised in Iboland is really very difficult.

Hannah and Peninnah

The detrimental aspect of Elkanah's polygamous family system is notable. Severe friction arose between Elkanah's two wives because Peninnah was able to bear children and Hannah was barren. There was disrespect from the wife with children towards the one without. Elkanah tried to ease the friction by treating Hannah as his favourite spouse but this in turn evoked a terrible jealousy from Peninnah. This was not an unusual case, these days a law had to be passed eventually to prevent children of the hated wife receiving their fair share of inheritance. Deuteronomy 21:15-17 states that the rights/inheritance of the firstborn must be given to him even if he is of the hated wife of the man. De Vaux (1968:25) observes that the presence of several wives did not make for peace in the home.

Absalom and Ammon

David's family is another example (2 Sam. 13). Tamar, Ammon and Absalom were three of King David's children from different wives. Conflict arose firstly, because of the rape of Tamar by her stepbrother Ammon, and secondly, because of the murder of Ammon by Absalom, Tamar's bloodbrother. The situation was dealt with inadequately by David (as the father), who did not discipline Ammon as he should have according to Jewish Law in Lev. 20:17. This may have been because Ammon was David's firstborn son and would have been expected to inherit the throne (Ryrie, 1994:471). Because of the lack of discipline from David the father, the whole family became fragmented (2 Sam. 14).

THE LEVIRATE MARRIAGE AND WOMEN'S INHERITANCE

This marriage custom is derived from the Latin word "husband's brother" and is based on a law of Deut. 25:5-10 which states that when a brother died, and left no child, his brother was expected to marry the widow, and the children that she bore, would then be counted as those of the first husband. In actual fact it was the first born of this new marriage that was regarded by law as the son of the deceased. Family ties were

considered an important aspect of Israeli culture and this custom assumed that this was the most effective way to continue the family line. This institution is called levirate, from the Latin *levir*, which translates from the Hebrew word *yahum* meaning brother-in-law (De Vaux 1968:37). This practise is still going on in Iboland even today.

In Genesis 38, Judah's son Er died whilst he was married to Tamar, and so Tamar was given to Er's brother Onan. Judah the father was following the principle of a Levirate marriage, but in this particular case Onan refused to have a child with her because his own children would then not have the primary inheritance.

1. The intention for levirate marriage was to prevent the widow marrying outside the household or clan, ensure descendants of the deceased, as well as his decent burial and peace post-mortem existence, and of course, to provide pre-mortem security for the widow (Blenkinsopp, 2006:64).
2. More so, the essential purpose was to perpetuate male descent; the 'name', the 'house', and therefore the child, was considered the child of the deceased – showing the importance of blood ties (De Vaux, 1968:38).

Levirate marriage actually bars widows from inheriting from their late husbands, as the present husbands inherit the property on their behalf.

5.4 THE NEW TESTAMENT EVIDENCE AND EVALUATION

The inferior position of women in the Old Testament society has been changed in the New Testament due to the sacrifice of Christ on the cross; He died for us all – men and women. And we are all His children – men and women. The sacrifice is the foundation of liberation from sins, bondage and slavery of all kinds. The redemptive work of Christ changed all relations as it is expressed in Gal. 3: 26-27: "You are all sons of God through faith in Jesus Christ, for all of you who were baptized into Christ have clothed yourself with Christ. There is neither Jew nor Greek, slave or free, male or female, for you are all one in Christ."

A new relation of gender equality with functional differentiation replaces the hierarchical relation. Men and women are equal before God and this equality should be the ethical directive in Christian anthropology. Another directive is the equipment of believers by the Holy Spirit with gifts (Vorster, 2004:182). In many instances the Apostle Paul describes the valuable work of women in building of the 'church', home and the society as tremendous (cf. 1 Cor. 12:4-13).

The two letters of Paul to the Corinthians and Timothy against women (1 Cor. 14:33-34 and 1 Tim. 2:11-15), should not be used as ethical or theological directives to defend inequality in the Church, family and society. This is because the two messages were intended to solve particular problems and to stress functional differentiation between men and women at that time, and not to foster or promote inequality. In Gal. 3:26-29 the same Paul described all men and women as sons of God through faith in Christ Jesus. However, men were created as heads to the women (1 Cor. 11:3-10). Men are to love their wives (Col. 3:18-19). Paul advised submission and love (Eph. 5:21-30).

The Bible commands: "*Wives, be subject to your own husbands as to the Lord; for the husband is head of the wife, as Christ also is the head of the Church*" (Eph. 5:22-23). In verse 28, the Bible urged husbands to love their wives as their own bodies. The submission of the wife to the husband is intermingled with the love of the husband for the wife. Each must live and attach to the other with submission and love. In this way no partner will be subjected to total domination and humiliation. As such, the rights for each to inherit from another will be calmly and happily allowed.

New Testament women models

Mary put her trust in God (Lk. 1: 26-38). Elizabeth did likewise (Lk. 1:39-45). Women were with Jesus in his ministry (Lk. 8:1-3). Jesus had a conversation with a Samaritan woman that led to her conversion (Jn. 4:4-30, 39-42). Mary was with Jesus and needed Martha to do likewise (Lk. 10:38-42). At crucifixion the women were there (Matt. 27:55-56; Mk. 15:40-41). It was women that discovered that Jesus had risen (Matt. 28:1-10; Mk. 16:1-7; Lk. 24:1-11). And they constituted part of the early Christian Church (Acts 1:12-14, 9:36, 16:14, 18:24-26, 21:7-9; Rms. 16:1-16). The above assertions should be seen against the Roman background. It is believed that in Roman law girls had equal inheritance rights with boys if their father died without leaving a will. More so, a married woman retained ownership of any property she brought into the marriage and that a Roman mother had the right to own property and to dispose of it as she saw fit, including setting the terms of her own will. This was possible since they saw no difference between male and female (Gal. 3:28).

Marriage/Divorce in the New Testament and Women's Inheritance

First, the focus will be on the Book of Matthew and Jesus' principles for marriage and secondly, for the attitudes to be found in marriage, the focus will be on the teachings of Paul found in Ephesians 5. Paul gives added teaching on marriage and divorce in 1 Corinthians. 7: 1-16. In Iboland, divorced women endure terrible hardship as they leave

their husbands without any property in spite of their contributions to the acquisition of the property.

What Jesus says in Matthew 19: 3-11

Jesus focuses on various aspects of marriage, particularly on the issue of permanence. In Matthew chapter 19, Jesus reiterates the model of marriage as put forward in the Book of Genesis, particularly focusing on the permanence of this relationship. “*Therefore what God has joined together, let man not separate*” (Matt.19:6). Jesus reacted in amazement to the Pharisees’ ignorance of Gen. 1 & 2 and refers them to the fact that human sexuality was a divine creation and that human marriage was a divine ordinance (Stott, 1999:330) and that from that point onward the two are regarded as one entity, never to be parted. Jesus focused on the purposes of God that stated that man and woman should be one flesh. This oneness and lack of separation also entail property. There should be no separation spiritually, materially and financially.

Jesus’ definition of marriage

Retief (2000:84-85) identifies Jesus’ definition for a godly marriage under four headings

- Leave Matthew 19:5. Marriage involves ‘leaving’ and ‘cleaving’. Loyalty to a marriage partner should be the supreme allegiance of life on earth (Retief 2000, 85). This supersedes loyalty to children and family of origin. This leaving and cleaving strongly qualify a woman for inheriting from her husband.
- Be United Matthew 19:5. According to Retief (2000:85), the commitment between husband and wife should ‘be like glue’. Unity means being completely intimate physically, mentally, intellectually and spiritually as God intended from the beginning. This all-round unity of the couple gives them rights to inheritance. Hence, no one should bar them from an inheritance. Again, the whole aspect of support is entwined within these intimacies.
- Becoming one flesh Matthew 19 Verses 5 & 6. Jesus echoes the teaching of Genesis by stating that man and woman were made to be one flesh. They will operate as a ‘whole’, not fragmented or divided and as Retief (2000:85) observes this union presupposes a relationship which cements and expresses a oneness which operates on a far wider level than the physical, covering the joint lives of a man and his wife. This oneness also covers material possessions. Therefore, the property of a married couple should not be separated for any reason. Hence, they have full rights to inherit each other’s property if one dies without a will.

- Joined by God Matthew 19 Verses 6. The union is ordained by God and therefore implies that marriage is the will of God, and is not to be taken lightly. Those married before God, as Christians, particularly, these unions are never to be separated or to be put asunder. This is God's ideal. The permanence of the marriage guarantees the permanence of their property corporately acquired.

What Paul says in Eph.5:22-33

Paul stipulates a New Testament model for marriage in Eph.5:22-33. It focuses on the relationships between husbands and wives, as well as an analogy of Christ and the Church. He used Gen. 2:24 as the applicable text, to prefigure the nuptial union between the Heavenly Bridegroom and His bride the Church, which is one with Him.

The social setting in Paul's day

According to MacArthur (1993:273), within Roman society, women vied for equality with men, and feminism became the normal attitude for the socialite women. Roles changed and women began to take the initiative and ruled over the men, and also instigated divorce proceedings. It was in this social context that Paul brought his message of Ephesians 5.

Ephesians 5:22-33

Within this passage the following elements surface regarding the attitudes to be found in marriage.

1. Wives, submit to your husbands (Ephesians 5:22)

Husbands, love your wives (Ephesians 5: 25,33)

Verse 25 encourages husbands to put wives first, to give them consideration and look after them in the way Christ gives and shows His love for His church. It is using the same principle as Lev.19:18 "Love your neighbour as yourself" but utilising it in the capacity of loving their wives (Snodgrass, 1996:297). This love implies a self-sacrificial aspect, and as Foulkes (1991:164) observes, this love "*has its standard and model the love of Christ for his church. It means not only the practical concern for welfare of the other, but a continual readiness to subordinate one's own pleasure and advantage for the benefit of the other. It implies patience and kindness, humility and courtesy, trust and support*". He goes on to say that this love means that one is eager to understand what the needs and interests of the other are.

Piper (2011:209) says, husbands should devote the same energy and time and creativity to making their wives happy than they devote naturally to make themselves happy. The

result will be that in doing this, they will make themselves happy. He who loves his wife loves himself. Since the wife is one flesh with her husband, the same applies to her love for him. The love of the husband to the wife should not end with sexuality or spirituality, but should extend to the material possessions. This would warrant uninterrupted inheritance by any partner.

2. Wives, respect your husbands (vs. 33).

It was vitally important to God to instil in man and woman within the marriage context the position of respect in their dealings with each other. When a husband feels secure in his wife's love and respected by her, he is then able to give her the love she needs, and she in turn finds no difficulty in giving him the respect he deserves.

God originally created marriage to be a monogamous and permanent arrangement for humankind. But, sin, greediness and lack of self-control brought in polygamy in marriage. Paul looks at the attitudes to be incorporated within a marriage context, for example respect and love as found in Eph. 5, and also mutual submission between husbands and wives. Wives' disobedience and disrespect to their husbands could harden their husbands' hearts to deprive them of inheritance.

5.5 BIBLICAL VIEWPOINTS ON WOMEN'S RIGHTS TO PROPERTY

For appropriate study, the socio-historical role of women in biblical times will be investigated. Secondly, the topic of women's inheritance rights according to the biblical message will be addressed from the hermeneutical presupposition that Scripture reveals the ongoing work of God; the renewal of all things in Christ and the work of the Holy Spirit in a revelational-historical way (Barton & Bowden, 2004:49).

Much can be said on the subordination of women in families, traditional and religious institutions, and thus also in the Christian churches. This develops into a general culture where women are seen as inferior and are treated as such in some parts of the world (Schüssler-Fiorenza, 2004:23). Christianity must become an agent of liberation of women. That is expected of a religion where love is the central command, a religion that instigated the demise of slavery, fought racism and campaigned for the rights of the poor and the needy (Vorster, 2007:248).

The problem, especially in conservative Christianity where women are regarded as subordinate, is that theologians assume that the issue of the liberation and equivalence

of women can only be addressed by way of a hermeneutics of biblical criticism. In other words, they argue that the problems surrounding the ethic of women's liberation are based not in the interpretation of the Bible, but in the Bible itself. They accuse the liberationists of approaching the Bible with a hermeneutics of suspicion and of suspending the biblical message in favour of a mere modern humanist approach.

Rather, a hermeneutics founded in the recognition of the authority of the Bible, as it is expressed in the classic Reformed Confessions, can also support the liberation of women. As such, Christians in their calling to manifest the attitude of Christ should always take the human dignity of women to heart and should be the champions of women's rights in church, family and society. Consequently, Christians should be involved in the normalization of the position of women in church, family and society (Vorster, 2007:249).

In the Old Testament view, a man betroths a woman by paying her father or guardians the bride price or "*purchase money*" (Exo. 22:16, 17). The word 'Baal' means "owner", "master" applied to him and the woman was called 'beulah', meaning "owned as a wife". Though owned as a wife, she is also owned as a property (Exo. 20:17). Based on the Old Testament view, owning a woman as a wife should even give her the right to a fair share of her husband's property.

God said to the ancient nation of Israel: "*I myself have become the husbandly owner (a form of Baal) of you people*" (cf. Isaiah 62:4, 5). In Patriarchal times the husband served as priest and judge in the family, and throughout the Scriptures the husband and father was almost invariably accorded deep respect (Gen. 31:31, 32; Job 1:5; 1 Peter 3:5,6; cf. Deut. 21:18-21; Esther 1:10-21).

For Christians, this is not however a law, but the husband can make rules and regulations for the family (Roms. 7:2, 3). He becomes her head to whom she should be subject (Eph. 5:21-24, 33). This is a relative headship, in view of the superior headships of God and Christ (1 Cor. 11:3). The husband while head of the house is required to render to his wife due benevolence and regards, for "*the husband does not exercise authority over his own body, just as his wife does not*" (1 Cor. 7:3-5). He is also responsible for the spiritual and material well-being of his family (Eph. 6:4; 1 Tim. 5:8).

The headship of the husband places on him a weighty responsibility. While he is the head of the wife, he has to recognise that she is precious in the eyes of God, especially so when she is a Christian. He is to love her as he loves himself, for she is 'one flesh'

with him (Gen. 2:24; Mt. 19:4-6; Eph. 5:28, 33). This could possibly lead to free release of his wealth to her. Husbands are to exercise the same loving care for their wives that Christ does for the church (Eph. 5:25). They are to recognize that the wife is 'a weaker vessel', assigning her honour, taking into consideration her physical and emotional make-up and aesthetic. This is especially important if the couples are Christians, being fellow heirs of undeserved love, grace and favour of God; in order that their prayers be not hindered (cf. 1 Peter 3:6-9).

Even if the wife is not a believer, this however gives the husband no excuse for divorce or separation. Rather, he should dwell with her if she is agreeable to it and realise that he may help her to become a believer and also work toward the salvation of the children (1 Cor. 7:12, 14, 16). Under the Mosaic Law, a man could divorce his wife, but she could not divorce him. He was required to give her a written certificate of divorce (Deut. 24:1-4). Jesus Christ showed that such an arrangement for divorce in Israel was a concession, as a result of their hardheartedness (Matt. 19: 8). Divorce is not readily permissible as it does more harm than good especially to the family members.

If however, a man had seduced a virgin girl who was not engaged, she was to become his wife (unless her father refused to give her to him) and he was not allowed to divorce her all his days (Deut. 22: 28, 29). The Scriptures stress that the husband should limit his sex relations to his marriage mate (Prov. 5:20). Marriage must be kept honourable, for God will judge fornicators and adulterers (Heb. 13:4).

During patriarchal times and under the Law, polygamy and concubinage were practiced as allowed by Jehovah (Gen. 25:5, 6; 29:18-28; Deut. 21:15-17), but in the Christian arrangement, a man may have but one living wife (Matt. 19:5; Rms. 7:2, 3; 1 Tim. 3:2). The only allowance for Christian divorce and remarriage is 'fornication' (Matt. 19:9). These viewpoints support the idea that a wife is directly and indirectly under her husband. But the husband must take care of his wife while alive and assign her property to inherit, possibly in a will.

Both men and women were created in the image of God. "Man" was created in the image of God with "dual gender" - male and female (cf. Gen. 1:27-28). Galatians 3:28-29 states, "*there is neither Jew nor Greek, slave or free, male or female, for you are all one in Christ Jesus*". The inferior position of women in the Old Testament society has been changed drastically in the New Testament due to the great sacrifice of Christ on the cross for mankind (Vorster, 2004:283). Male and female are all one in Christ Jesus. All Christians must be willing to take up the cross and follow Christ (cf. Matt. 10:38), bear

the cross (Lk. 14:27). The unique sacrifice on the cross serves as the foundation of love and peace for all Christians (1 Cor. 1:17, Gal. 6: 14, Col. 1:20). By Christ's adoption of all believers, there is neither Jew nor Greek, slave or free, male or female, for we are all one in Christ (Gal. 3:26-27).

Christianity recognises women's role and rights in the family, church and society, though some churches due to hermeneutic approaches have directly or indirectly restricted women's rights. Churches should therefore preach against all sorts of discrimination against women including disinheritance that is so deeply rooted in most societies, including Iboland. This will go a long way towards liberating women and turning their fortunes with regard to disinheritance in the region under study and beyond.

The Ibo custom offends the principle of natural justice, equity and good conscience with regard to women's property rights. This is because the widow during their marriage and during the deceased husband's lifetime had to toil to bring about the acquisition of property. For her to be denied inheritance is therefore, not only repugnant to natural justice, but it is also ethically and morally unacceptable to deprive her of ownership of such property. Even the Bible states that "*a man shall leave his parents and cleave unto a woman and shall become one flesh*" (Gen. 2:24; cf. Mark 10:6-9). Husband and wife are truly one body and one blood. Hence they should share what belongs to them equally, and should be free to exercise their rights. To deprive a woman of the inheritance of the property acquired with her husband during marriage contravenes the Biblical injunction that husband and wife are but one flesh and blood. Sadly, custom has altered this particular God's plan of marriage, oneness. It has to be restored.

Ibo customary law violates section 32(1) of the Nigerian Constitution, which bars discrimination and deprivation on grounds of sex, and section 43, which stipulates that subject to the provisions of the Constitution, every citizen of Nigeria shall have the right to acquire and own immovable property anywhere in Nigeria (Nigeria, 1999). It also contravenes Article 16 of CEDAW, which empowers women all over the world not only to own immovable property but also to give away such property at will (CEDAW, 1981). Ethically, it is unconscionable, immoral and inhumane to deprive a woman who had contributed to the acquisition of family property, the right of inheritance at the death of the husband. Such customary practice should be outlawed on theological-ethical grounds as it is inconsistent and incompatible with the basic norm of good conscience, natural justice and sound biblical principles.

The Constitution of Nigeria which is the foundation of all legalities should be put to use. It is therefore the duty of the court not only to protect the constitution but also to promote its operation to achieve its objective of social engineering through articulate and purposeful interpretation of the law, especially as it relates to women's inheritance (Onuoha, 2012). The lawyers should use the law as an instrument of social and cultural change. Christians above all should interpret their Bibles well and ensure that women's rights are allowed especially the right to property.

5.6 RIGHTS OF ALL INDIVIDUALS TO INHERIT PROPERTY

5.6.1 VIEWS ON THE RIGHTS OF ALL PEOPLE

5.6.1.1 VIEWS ACCORDING TO THE BIBLICAL MESSAGE

In establishing what the Bible teaches about women, more than just the texts dealing with women should be investigated. The totality of biblical anthropology should be taken into account. In line with Vorster (2007:254), prominence will be given to the following biblical themes: Creation and Fall, the Covenant, the kingdom of God and the formation of the Church, the redemption in Christ, the gifts of the Spirit and the second coming of Christ.

Creation and Fall

When dealing with the theme of Creation and Fall and its relevance to the position of women, three topics are important to consider. These are the creation of the human in the image of God, the creation of the woman as a help for the man, and the effect of the human sinning against God. As in the case of Adam, Eve too was created by God, she was to Adam "bone of his bone and flesh of his flesh" (Gn. 2:23). Both male and female originated from the hand of God.

The male person was so linked to the soil, so did his fortune went - the fortunes of nature. And the woman was likewise linked to the man, for she was taken from man. Both, however, shared equally in the highest gift given to any of the orders of creation: the image of God (*imago dei*). Male and female shared alike and equally in this highest mark set on creation (Kaiser, 1978:77). Kaiser points toward the core principle of the position of male and female before God, namely that both have been created by God. Both bear the image of God and thus enjoy human dignity and the rights flowing from dignified creatures. This God-given attribute to humankind was not lost with the fall and

must still be regarded as the foundation of equality between the sexes (Vorster, 2004:93). Brueggeman says that human beings in the image of God have both male and female characteristics, so that the communal, intersexual character of humanhood is affirmed (Brueggemann, 1997:452).

The equality brought about by the *imago dei* and the human's dominion over creation is most important in the relationship of the husband and wife. The functional differentiation between them is of secondary concern. God created male and female equally, with only a functional differentiation in the sense that they have different obligations (cf. 1 Tim. 2:11-13). The male person is the head of the household and should care for the family. He is the *primus inter pares*. His wife should assist him with the human family, not on the basis of subordination, but of co-operation, as a help and a partner, because she bears the same image of God. As such, both have the same function in creation.

The Fall brought about a change in this God-created order. Due to sin this equality became inequality. Sin distorted the co-operation into subordination of women and her "sameness" into inferiority. She was regarded as inferior in jurisprudence and subordinate in social life (Ex. 21:3&4; 2 Sam. 11:26&27; Prov. 12:4 and Jdg. 19:25-29). Vriezen draws the conclusion that all forms of patriarchy in Old Israel and in the time of the New Testament result from sin. The wife's relationship of dependency on her husband is therefore punishment for sin (Berkhof, 1976:263).

However, the curse on the women in Genesis 3:16 is not an instruction to the husband to unnecessarily rule over his wife, even to the point of depriving her of inheritance rights, but a description of the consequence of the Fall. So is the curse on the male person's labour (Gen. 3:17-19). This fact proclaims the importance of the *imago Dei* after the fall. God's redeeming and renewing work is to break through the barriers of patriarchy and to restore the creational relationships of mutual dependency and submission to one another (Eph. 5:21). Men and women were created equally and they fell equally. As such, they have equal rights of inheritance.

The Covenant

This Covenant, as an agreement, had everything to do with the relationships between God and his people – between God and the individual, between husband and wife, between men and women and between parents and children. These relationships were initiated by God in his grace (Dumbrell, 1984:16). Every single person in the household

of the grace of God is situated in a particular relation with God and with one another. In the Covenant, God's promise was of primary concern, though he also stipulates his Commandments to his people (Kaiser, 1975:63).

The promise entailed the liberation of the people; that God would give them the Promised Land and that he would be their God and that the people would be his children. They had to live according to this relation, and that entailed total obedience to his laws (Davies, 1995:164). The people assumed their duties, imposed upon them voluntarily, and thus inherited the blessings of the agreement with God. This new relation established by the Covenant was the foundation of Old Testament ethics. In the New Testament dispensation the Covenant continued but the promises were made to all believers. These promises found their fulfillment in the coming of Christ, which was for the benefit of both men and women.

In the Covenant God included men, women and children. His agreement reached out to everyone in the household of grace. He also set up a sign of the agreement. In the Old Testament dispensation the practice of circumcision was instructed to serve as an outward sign of the Covenant (Gen. 17:10-12). The Covenant was erected with every single person – man, woman and child. In this relationship there is no superiority or inferiority – everyone is equal as children of God. Thus the Covenant became an expression of the equality between male and female in the most essential aspect of God's involvement with humankind. God's covenant relationship is for all.

The kingdom of God and the formation of the church

In essence, the Kingdom is all about the reign of God and his divine rule over the whole creation. The Old Testament proclaims the reality of this rule. The New Testament proclaims the rule of God as it is manifested in the coming of Christ and the formation of the people of God (Guthrie, 1981:419).

The Church is subservient to the kingdom and every aspect of church-life is determined by this fact. The Church should proclaim the authority of Christ over all spheres of life, and Christians as stewards in the Kingdom should manifest this authority in daily life. Christ as the head of the Church confers this stewardship on all believers – men and women. There is no superior and inferior stewardship in the kingdom of God. Both the male and the female believers should administer the authority of Christ in all spheres of life (Vorster, 2007:260).

Redemption in Christ

In Christ God's promise to renew everything and to restore the goodness of the creation reached its fulfillment. In Him people receive a new life which includes the possibility to live according to the renewing principles of the Kingdom. In Christ a new dispensation emerged, "*therefore if any man be in Christ, he is a new creature: old things are passed away; behold, all things are become new*" (2 Cor. 5:17). Therefore, history took a turn for the better under the rule of the crucified, but resurrected, Lord. This teaches the restoration of fallen humankind and thus the restoration of the ability to do the will of God and to live as new people in obedience to God's rule. Another principle is founded in the doctrine of reconciliation and everything it entails. Christ reconciled people with God and with one another. This reconciliation becomes the foundation of all social relations, such as marital relations, family relations and labour relations (Eph. 5:21-33; Col. 3:18-19; 1 Pet. 3:1-7).

God reconciled both men and women with Him, irrespective of gender or any other social differences. Galatians 3:28 reads: "*There is neither Jew nor Greek, slave nor free, male nor female, for you are all one in Christ Jesus*" (cf. Col. 3:11). Patriarchism is therefore, null and void due to the reconciliation in Christ. Christians as new people in Christ should promote this culture in church and society. Part of this calling is to reject all forms of patriarchy and to establish gender equality as a sign of the renewed relationships in the people of God. Just like men, women should be free to fulfill their calling as people of the Kingdom in all spheres of ecclesiastical and social life.

However, the equality in Christ did not abolish the differences between men and women. The oneness of male and female in Christ does not obliterate the physical and psychological differences as they were established in creation. Woman is still sharply and visibly differentiated from man (Barrett, 1994:251). The redemption integrates with the creational order of equality in dignity, but with functional differentiation between men and women (Vorster, 2007:262). Both men and women were redeemed by Christ.

The gifts of the Holy Spirit

The gifts of the Holy Spirit are bestowed on Christian men and women, irrespective of gender. Male and female believers are blessed with the gifts of the message of wisdom; the message of knowledge, the gift of faith, healing, miraculous powers, prophecy, distinguishing between spirits, speaking in different kinds of tongues and the interpretation of tongues (1 Cor. 12:8-11; Acts 21:9). Other gifts include the gifts of

serving; teaching (admonishing), encouraging, contributing to the needs of others, leadership and showing mercy (Rom. 12:6-8; cf. 1 Cor. 13:2; 14:6). The believers who receive these gifts are encouraged to utilize them in the edification of the congregation and to promote the spiritual growth of one another. We all have the Holy Spirit, men and women. The Holy Spirit can enable anyone to function in any called capacity.

The second coming of Christ

The second coming of Christ will inaugurate the completely renewed creation and the vindication of humankind over the deep destructive force of sin. The people of God and their works will be beautified and they will rule with Christ – even over the angels (1 Cor. 6:3). The female believers of God will share in this event and the consequences thereof in exactly the same way as the male believers. They will also enter the consummated kingdom to rule with Christ. Their works will follow them (Rev. 14:13). In other words, the fruits of the testimony and works of faith of female believers in this dispensation are just as important to God as those of male believers and will be an integral part of the new dispensation after the coming of Christ.

The biblical message as it unfurls throughout the history of revelation and salvation teaches the equality of men and women. The functional differentiation does not establish a culture of male superiority and female inferiority. On the contrary, each in their own way must serve God as equals before Him and should therefore be seen and treated as equals by all God's children. The admission of women into the ministry by some church denominations corresponds with the thesis of gender equality and of course the second coming of Christ which is for humans irrespective of sex.

5.6.1.2 VIEWS ACCORDING TO SCHOLARS

Other views include the following according to Calvin (*In Vorster*, 2004:61-63):

- i. **Equality of all people:** All people are equal before God and in the sense that they are totally depraved and further on account of God's common grace. Therefore, people should be treated as equal and are equal before the law (Vorster, 2004:61). This is to say that the rich and the poor, the young and the old, men and women are all equal before God, before all men and before the Law. By this equality, boys and girls, men and women should not be discriminated against.

- ii. **The rights of the poor:** Calvin's point of departure in dealing with the right of the poor is the principle that everything we own comes from God and is given to us as a divine deposit: entrusted to us for the very purpose of being distributed for the good of our neighbour. He was of the view that "the poor have the right to expect love and charity from the believer and the right to be protected and cared for by the civil authority" (Vorster, 2004:63). Women in many societies and countries are the poorest set of people; one of the reasons is their inability to inherit from their fathers and husbands. The need to reverse is high. The fathers and privileged women should use their wealth to care for the poor.
- iii. **The rights of private ownership:** Everyone has rights of property ownership as human beings. Daughters can inherit as well as sons, women as well as men. Husbands should not divorce their wives for not having male children or heirs. They should not marry many wives in search of male children. A female child also has rights to inherit and own property. Property should be properly relinquished to all concerned irrespective of sex as the property so possessed flows from the bounty of God. As such, everyone has the right to private ownership.

Calvin was also of the opinion that rights of ownership should not lead to the worshipping of possession (Vorster, 2004:62). No human should worship property so acquired for any reason. Husbands and fathers must know that their wives and daughters have rights to inherit their property. The civil authority must therefore protect this right.

5.6.2 PRINCIPLES OF THE RIGHTS AND RESPONSIBILITIES OF ALL PEOPLE

Women in the Church Today

The church must convey this message, especially in the face of the destructive message of Christian theology in the past regarding this matter, and the discriminatory actions in many societies and churches today. The ongoing and growing debate on this issue worldwide must be welcomed and appreciated. The continuous normalisation of the position of women in the society and the church is of the utmost importance, since the religious views regarding the so-called inferiority of women result in discrimination against women in society at large. The religious convictions about the divine sanction of the inferiority of women breed a culture of disrespect, and even abuse. If a young male grows up in a religious community where women are regarded as subordinate, and

where women are withheld from certain functions and inheritance, his views about the position of women in society will inevitably be formed by his religious experience (Vorster, 2007:270).

The church as the people of the new Covenant and the kingdom of God therefore has a very important calling amidst the prevailing culture of woman abuse and disinheritance, to teach the biblical perspective on gender equality, to manifest this equality in ecclesiastical structures to its fullness, and to act as the conscience and the voice of the abused women in the society. The church can then act as an “exemplary” community and a model of the gender relations which the community can emulate.

Women in the Family and Society Today

In the family and society at large the disrespect for the human dignity of women and violation of their human rights are still matters of serious concern. Women are still more prone to poverty, HIV/Aids and have lesser access to education, inheritance and work opportunities in many developing countries. Christians must take the inferior position of women in the rest of society to heart. Every Christian should be a champion for the total restoration of the human dignity of women. Christ introduced a life-style of equality and respect, and Christians, portraying the attitude of Christ, must translate and develop this life-style in a modern context (Vorster, 2007:271).

The following areas of action can be pursued:

- Churches and Christian organisations should act as “watchdogs” over the human rights of women. Quite often discrimination occurs unobserved, especially in male dominated societies/institutions.
- The topic of the human dignity and human rights of women should be an integral part in school curricula. The following quote from Gottstein stresses the value of education: Peace and stability in a multi-ethnic society can only be maintained if education relating to tolerance and ethical behaviour starts at an early age and continues throughout life through the school system, the churches, the media, the law system, and the trade unions and so on. Without general consensus on a number of basic rules and principles of behaviour, a peaceful and stable family/society is not possible. People must be constantly reminded of these rules and principles. Prominent among them rank the following: honesty, readiness to help others in distress; law enforcement solely by the

central authority thereby excluding the private use of force; recognition that even a noble purpose does not justify unethical means (Gottstein, 1996:28-29).

More so, the following four principles could also be considered when dealing with and emphasising the rights of women generally and particularly to own property in patrilineal societies such as Iboland. I subscribe to Calvin's principles which include:

- i. **The sovereignty of God:** Calvin believed that it is God's will that we should live in such a way that the rights of people are not taken away from them. He also believed that to protect the rights of people is to acknowledge the right of God (Vorster, 2004:52). His inclination to ground rights in the sovereignty of God is based on his understanding of Psalm 82:1 which says that "*God presides in the great assembly; he gives judgement among the 'gods'*". God presides, rules over and takes charge of all things, including our property. More so, God owns heaven and earth and all things therein (Psalm 24:1). Strict ownership must not be claimed on God's property.
- ii. **The need for Christians' obedience to civil authority:** The importance of civil authority should be a motivating factor to Christians. They should be obedient and submissive by voting, paying taxes, checking crimes, maintaining government properties, performing services and paying allegiance to the Nation. In turn, the government is obligated to protect the properties, people and rights of all (Vorster, 2004:56). Customary practices such as that in Iboland should not supersede or overwhelm the government laws and obligations to protect people's rights, especially that of women's right to inherit property.
- iii. **The need and importance of orderly civil life:** Calvin was of the opinion that God is pleased with regular government and good order in society. He believed that a well ordered civil life makes society respectful of the rights of people (men and women inclusive) and the people will in turn reciprocate that gesture by performing their duties and responsibilities to the government. The civil authority has the obligation of respecting and safeguarding the rights of the citizens especially women, while, the citizens have the obligation of respecting their individual rights, performing their duties and responsibilities, for the betterment of the nation and the citizenry (Oyovbaire *et al.*, 1991: 66-67). Orderly civil life will directly and indirectly influence women's rights in totality.
- iv. **The image of God and common grace:** God created man in his image (Imago Dei). The fall however blemished the image of God but did not destroy it entirely. It is a

fact that the gift of God's image is present in every person. As such, a violation of one's rights is a violation of God. In conjunction with the concept of man created in the image of God, lies the concept of the grace of God upon all mankind.

In addition to the providence and care, God bestows upon man certain inherent gifts. Men and women created in the image of God are being blessed with unlimited grace and gifts from God who can empower anyone to function in any capacity without reservation irrespective of gender (1 Cor. 12:1-11). Therefore, the reasons to deprive women of their late husbands' estate are unethical and unbiblical and must be redressed.

5.6.3 RIGHTS TO DISOBEDIENCE

All human beings including Christians may disobey government or customary law when it permits or commands evil, when it promulgates or compels evil laws and action, when it limits or negates freedom and when it is politically or religiously oppressive (Geisler, 1989:243). When the rights of people are oppressed; especially that of women, they have the right to revolt. Therefore, the rights of women must be allowed – in the family and society.

When people's rights are hindered for any unjust reason, they have the right to revolt either violently or non-violently as the case may be (Geisler, 1989:246). When people revolt against government, it is a sign of tyranny and bad government. Such a government could be overthrown (Wallace, 1988:124). Deprivation of women's rights to own property in the family has led to cold war and consequent poverty in most families in Nigeria. This calls for urgent attention.

However, Calvin in his Institutes of the Christian Religion (Book Four) advised that Christians should console themselves with the thought that they are rendering the obedience which the Lord requires; when we endure anything rather than turn aside from piety (Calvin, 1957?:1652). It could be added that in trying to obey the instituted authority, everyone, especially the women, should let the rulers know those laws and policies that are unbiblical, evil and detrimental to their rights and well-being while constantly praying and negotiating with them for modification or change.

According to Sigelman (2003:292), "*rights exist in many senses. They exist in the sense that individuals recognised their existence and act accordingly*". Everyone must recognise his/her importance and the importance of others, and then act accordingly. The existence of one might be complementary to the existence of another.

In the New Testament view of human rights and ethics, it is clear that every person (men and women) have the right to property individually and in association with others as stated under Article 17 of the Universal Declaration of Human Rights (United Nations, s.a.). Therefore, every individual, created by God, has the right to own property, because heaven and earth and all things therein belong to God, the Creator (Ps. 24:1-2).

A theological ethics evaluation of the cultural practice of disinheritance of Ibo women indicates that the practice so discussed is unnecessarily discriminatory against women. On the contrary, women have full human rights to inherit their late fathers' and husbands' property. Everything should be done to attract obedience from women and widows; one of such is allowing their inheritance rights in the family and society.

The Socio-religious Problem

This causes women's disobedience and aggressiveness in some regions where their rights are deprived. Agreeing with Schüssler-Fiorenza, religion played and still plays a huge role in the establishment and continuation of this inferior position of women in the society (Schüssler-Fiorenza, 2004:177). Camp supports the opinion especially with regard to all the major religious traditions (Camp, 1990:506). Religions and traditions are really to be blamed for this state of affairs, as they exert negative influence on women's inheritance right.

Due to the fact that families prefer baby boys over baby girls. Kevane refers to this by asserting that the abortion of female fetuses is much higher than abortions of male fetuses in many parts of the world (Kevane, 2004:125). In Iboland in particular and Africa in general, evidence of a survey shows that most parents prefer boys. A family that has two sons may decide that they have no need for further children since they do not really value girls. A family with two girls may, however, decide to go on having children in the hope of having a boy (Vorster, 2007:245). Parents hurry to have a second child when the first was a girl (Kevane, 2004:131). Disregard to females also lead to polygamy in the society.

Malpractices such as the circumcision of girls, which has widely known destructive effects, the neglect of women when it comes to education, inheritance and women's poverty are some of the consequences of the inferiority of women in African society

today. Traditional religion, especially the patrilineal religions, can be seen as one of the main causes of this situation (Schneider, 1981:85-86).

Sexual abuse of women is also prominent in places where bride wealth has to be paid. By paying bride price the male person feels that he is entitled to enjoy exclusive sexual access to his wife, and that means sex on demand. Surveys in Africa indicate a high incidence of non-consensual sex in marriage (Banda, 2005:172). This is because women's value and opinions are not regarded by the husbands in the least.

In Africa there has been an explosion of newer Christian churches whose membership comprises mainly women. It is sad but true to say that the translation and interpretation of religious texts have often resulted in women being told that it is their duty to submit themselves to their husbands or partners (Banda, 2005:166). This total submission in a way, deprive women of their husbands' landed property especially if he dies without a will.

Many fundamentalist traditions enable husbands to take advantage of the beliefs that women are inherently inferior and that they should be subordinate in all spheres of life. They know that their wives will persevere and will be hesitant to leave them. She will not break out of the situation because of its religious sanctity (Vorster, 2007:246). Many historic factors, such as the patriarchal cultures, old fashioned economic systems, ideologies of male superiority, ethnic customs and abusive political policies also shaped the contemporary culture of gender insensitivity that still prevails in modern societies. Be that as it may it is evident that religions also added to the unacceptable predicament of women. Gaitskill stated that Christianity did not change patriarchal structures, it rather entrenched them (Cornwell, 2005:185). As such, Christianity can at least be blamed, as far as certain traditions within Christianity are concerned (Vorster, 2007:246). Churches must advocate women's inheritance rights in Iboland and in the world at large on grounds of ethical and theological necessity.

5.7 CONCLUSION

In this chapter the status of women in the Old and New Testaments has been identified and evaluated. The Biblical viewpoints on women's rights to inherit property and the rights of all individuals to inherit and own property have been discussed. The views on the rights of all people, principles on the rights and responsibilities of all people and the rights to disobey ruthless policies and laws affecting women's rights have been critically analysed.

The status of women in the Old Testament which was compounded with inferiority, rights' deprivation and disrespect has to be altered with due regards to women in the present dispensation. The changing of this situation is however, embedded in God's continuous promises of salvation and liberation through the free offer of Christ to mankind. The reality of the position of women in the New Testament era should be made manifest in the present societies.

Biblical viewpoints on women's rights to inherit property show that depriving women the rights to property is unscriptural. The rights of all individuals to inherit and own property must be allowed base on theological-ethical grounds. In doing this, principles of the rights and responsibilities of all people must be upheld. Otherwise, disobedience, disunity and chaos may emanate which would not augur well with the family and society.

Truly, biblical anthropology runs against any form of patriarchy and discrimination against women in church, family and society. While the biblical message maintains the differentiation in the role of male and female in the family, it repeatedly proclaims the equality of male and female due to their human dignity, distinctive relations with God, redemption in Christ, bestowment of the gifts of the Spirit and their obligations in the family and society at large.

Therefore, Christians, taking the biblical message seriously, and acting according to the attitude of Christ, should become champions of the liberation of women in the many societies where women are still oppressed. Christian churches must become the voice of the women, knowing too well that an injury to the human dignity of any woman is a revolt against God and an open rejection of his divine purpose to renew this broken world.

The next chapter will give the summary, conclusion and recommendations on the theological ethic evaluation of the cultural practices and women's rights in Iboland with which this study concerns itself. It is interesting that women deserve the rights to inherit from their fathers and husbands. The pastors, family heads, traditional rulers, lawyers and government operators must play their parts in ensuring women liberation and emancipation with regard to their rights to inherit family property in Iboland in particular and Nigeria at large.

CHAPTER SIX

SUMMARY, CONCLUSION AND RECOMMENDATIONS

6.1 SUMMARY AND CONCLUSION

In some parts of Nigeria (especially the South-East) women are regarded as part of the husband's property and as such she can be inherited alongside his other property by other males of the family. Also, a lot of customs still continue unabated that infringe greatly on the human rights of women. In Iboland, one would expect that discrimination against women on the issue of inheritance would change, but this is definitely not so. The reality is that the inheritance right has not won nationwide popularity.

In this study, it is discovered that some Ibo cultural practices have really affected and hindered the rights of women to property and also infringed on their rights as humans. Surprisingly, there are certain factors that support or promote the harmful cultural practices in the region under study in spite of the bad effects of such discriminatory practices on women. Chapter two of this study gave an exposition of such practices.

Of concern is the position of customary laws in Iboland in particular and Nigeria at large. Both the family law (especially as it concerns the Ibo people) and customary law are directly and indirectly against women's right to inheritance and succession. More so, religions like Christianity, Islam and African tradition are to some extent against women's rights to property inheritance; sometimes due to hermeneutic approaches on women-related issues. Chapter three of this study has expatiated on this.

The United Nations Universal Declaration of Human Rights (UDHR), the Convention on the Elimination of all forms of Discrimination Against Women (CEDAW), the African Charter on Human and People's Rights (ACHPR), the Nigerian Constitution, Married Women Property Acts and many other legal provisions on women's rights to property have been reviewed to verify the reality of the subject matter. Judicial responses over time have also been considered, reviewed and evaluated. The legal framework and the court rulings are contained in chapter four of the study.

The Old Testament and New Testament evidence on women's rights to property has been reviewed and evaluated. The Biblical viewpoints on women's rights in particular and the rights of all individuals in general to property have been ascertained and

documented in chapter five of this study. All human beings (male and female) are born with rights and have rights of inheritance.

In Iboland, husbands have rights to inherit their deceased wives' estate, while the wives have no such power over their late husbands' property. This is because they believe that family property belongs to the husbands as the family heads; whereas, the wives are more or less like property or chattels, which also belong to the husbands and could be inherited. As such, the wives/widows including daughters have no inheritance rights according to their customary law.

However, a single woman can buy and own property, but once she is married, the property automatically becomes family property under the trusteeship of the husband. At the death of the wife, the husband inherits the property. At divorce however, if the title deed was in the wife's name she can claim it. Iboland is indeed a patrilineal society with emphasis on the primogeniture system of property inheritance. The first son of the family has the right of inheritance to the family's landed property. This is because it is believed that the first son is the heir to the family (throne) or headship and as such the rightful custodian of family property.

The first son is under obligation to allow all other male and female children to live in the family house until they build their own or they get married. The lands under the custody of the first son are shared or allocated to other male children when they demand it. It is imperative for the firstborn son to oversee the well-being of the other males and females until they are fully matured and have what they need to live on.

If a man had only female offspring, the property, including the wife, is inherited by the brother or immediate relation, or else, the daughter can refuse to get married, but have at least a male child who would inherit the property on behalf of his mother. This institution is called "nrachi" in Iboland. In a patriarchal society such as Iboland, a female has no right of inheritance and succession since it is believed that they will get married. A widow without a male child suffers in most cases. She stands the chance of being driven away from the family house, especially if she does not have a good character and respect for the family men. No regard is given to the sacrifices and contributions of the widow to the building of the house and the acquisition of other family assets.

The whole issue about women's inheritance rights in Iboland is of a cultural and customary nature. The customary law which they so imbibed stipulates these, and marriages under the customary laws which are strictly upheld, also adhere to the

laws. It is sad to note that the statutory laws on women's rights to property are not given their rightful place in Iboland. This is the reason for many recent Appeal and Supreme Court's rulings in Nigeria, in favour of women's and girls' inheritance rights.

Underlying the economic, social and cultural (ECOSOC) rights is a right to development. Poverty is a consequence of disinheritance and property rights restrictions. The socio-cultural practices are major obstacles to human advancement. The ability of women to participate in independent economic activities is thus limited by social obligations to the husband. Traditionally, the man has control over the wife's labour and fertility. The payment of bride price by husbands over wives grants to the former inheritance right over the wives and their property, while the children of the marriage belong to the man's patrilineage.

A man's property (including his widows) is automatically inherited by one of the kinsmen who may or may not provide the children of the deceased with moral and economic support. The deprivation of cultural, traditional and succession rights is both discriminatory and detrimental to women's advancement. Women must have the right to succession and property inheritance. Discrimination against women in whatever form is an obstacle to their full participation in the political, social and cultural life of their country. It hampers the growth and prosperity of society and makes it more difficult for their potentialities to be realised in the service of their country and of humanity.

Absolute customary restrictions on giving land to daughters and wives should be outlawed as it is unjust, illegal, unethical and unbiblical. Exposing the women to fend for themselves all alone is an indirect way of reducing them to poverty and destitution. Practically, since most women do not share in the family land, they find it difficult to have collateral security for bank loans. If they are fortunate to collect, they receive a small amount of credit/loan. Ideally, women can obtain land through the State, the family and the market. The negative relationship between the risk of rural poverty and land access is well established. Land can provide both direct and indirect benefits. Direct advantages can stem from growing crops or fodder or trees. Indirect advantages can take various forms: Owned land can serve as collateral for credit or as a mortgage or saleable asset during crisis.

Land, whether owned or controlled, increases the probability of finding supplementary wage employment, enhances bargaining power with the employer, pushes up aggregate real wage rates, and is an important asset base for rural non-

farm enterprises. Land, accessed by men alone cannot be assumed to benefit women and children equitably. If land access is through titles, it would enhance women's ability to raise production by improving their access to credit, as well as their independent access to cash flow for reinvestment. Again, possessing land (especially titles) empowers women and places them in a stronger position to demand their due in government schemes, and in infrastructure and services. It also helps them to be more assertive with agencies that provide inputs and extension information.

Some oppose the notion of women inheriting land on the grounds that it will reduce output by reducing farm size and increasing fragmentation. Within the re-emerging debate on the land question, it appears imperative that the issue of women's access to land is given critical attention. A growing body of evidence indicates that this is likely to have positive effects on women and their family welfare, agricultural productivity, poverty reduction and empowerment.

The cultural practices and customary laws in Iboland must therefore necessarily be redressed, for the following reasons:

- i. Legally: The practices are repugnant to natural justice, equity and good conscience. They are unconstitutional and in variance with the International Law, Declaration, Convention and policies on women's rights to property. Men and women are equal before the law.
- ii. Theologically: The customary and cultural practices are not in line with the Scriptures and the redemptive work of Christ which renders men and women as God's image (Gen. 1:28) and equal before God (Gal. 3:26-28). As many that are led by the Spirit of God are the children (sons and daughters) of God (John 1:12).
- iii. Ethically: Women's inheritance rights have been unnecessarily infringed upon in many societies like Iboland for centuries. It's unfair for women to be discriminated against and deprived of their fathers' and husbands' property even when they had in one way or the other contributed to the acquisition of the property. This deprivation and infringement on their inheritance rights exposes the women to poverty and corruption that are detrimental to their physical, spiritual, social, economic, political and psychological well-being. The disinheritance of women should therefore be rejected on legal, theological and ethical grounds.

This study proffers recommendations that would facilitate the eradication or modification of the discriminatory customary laws and cultural practices and also secure the realisation of women's rights to property in Iboland and in other parts of the country.

6.2 RECOMMENDATIONS

From the foregoing discourse, it is quite clear that reformation of the discriminatory customary laws and cultural practices in Iboland is imminent. The culture needs to be urgently fine-tuned to conform to the biblical-ethical requirements and the 21st century global trend towards gender equality that also gives credence to women to own property alongside the men. Nigeria as one of the significant signatories to virtually all International instruments and treaties on women emancipation and empowerment, must, seriously work towards the eradication of the unfair cultural practices still persisting in Iboland.

A. STRATEGIES FOR THE ELIMINATION OF DISCRIMINATORY CULTURAL PRACTICES OR AT LEAST REDUCTION OF THEIR IMPACT.

i. The role of traditional rulers:

For any headway to be made to liberate women from the shackles of culture, the role of traditional rulers cannot be overemphasised. As the custodians of culture and people nearer to the grassroots where these practices are most prevalent, they can wield much influence on their subjects and therefore can easily sensitise them on the need to stop all harmful cultural practices that hinder women from enjoying their rights, even that of property ownership.

ii. Legislative intervention:

The Nigerian government having ratified CEDAW should implement it; put into law to let it function in the country. The Nigerian government should come up with more reformative indigenous legislation aimed at alleviating the plight of Nigerian women.

There must be political will in favour of women. Adequate laws at the Federal level, regulating administration of a deceased's estate, must be enacted as women's inheritance rights have long been violated. Also, the complex judicial system which has failed to harmonise the few existing laws on customary inheritance rights of women which further heightened the marginalisation of women should be redressed.

Legislative measures aimed at creating legal protection, and eliminating all forms of violence against women, will benefit, in particular, the victims/survivors who need such assistance for reintegration. The absence of comprehensive legislative measures has wide implications throughout the Federation of Nigeria and contributes to the violation of women's human rights without victims having recourse to just and effective remedies.

iii. The role of lawyers and judges:

The court, being the last hope of the common person, should rise to this challenge. The lawyers should be ready to say the truth and the Judges should not hesitate to strike down harmful discriminatory practices which come before them for adjudication. Judges should rely heavily on CEDAW, constitution and rules of natural justice in invalidating offensive custom in spite of the fact that CEDAW is yet to be implemented by Nigerian legislators.

iv. Education/sensitization of the female Gender on their rights: The government should give more scholarship grants to the female gender in higher institutions. By so doing, they will be better equipped to assert their rights and enforce them. Women, especially in the rural areas should be sensitised to their rights especially that of property ownership, so that they can intelligently fight back the obnoxious practices in the land.

With more education of female children they will be useful in the future by effectively participating in key decision bodies in the government where they could also influence gender friendly policies, that would facilitate the eradication of these harmful cultural practices often targeted against women in Iboland.

v. The Role of Media:

The Nigerian media (Television, Radio, Newspapers) should devise effective awareness programmes like: Radio/Television judges and plays especially tackling the rural areas, in order to bring to the fore the evils of these harmful cultural beliefs and the need to jettison them forthwith. They must speak up against discrimination against and disinheritance of women.

vi. Men's engagement in all Reform Efforts:

Since males have been advantaged in society, it is possible they may be unwilling to make sacrifices in favour of women. Therefore, there is every need to involve the men in all reform processes and financial compensation made in deserving cases.

vii. Harmonisation of laws:

Harmonise statutory, customary, and religious laws in conformity with international and regional instruments on women's rights and ensure that where conflicts arise between formal legal provisions and customary laws, the formal provisions prevail.

viii. Implementation strategy:

Ensure effective prosecution and punishment of offenders; implementing training for all law enforcement personnel. Adopt all necessary measures to reform or eliminate discriminatory cultural practices and stereotypes, including awareness-raising programmes targeting women and men, traditional and community leaders.

There is the need for the government to intensify its efforts towards eliminating violence against women in Nigeria. In similar vein, there is the need for intensified advocacy to influence law and policies and change attitudes and stereotypes that perpetuate disinheritance of women.

ix. Government's commitment:

The Nigerian government needs to show commitment to the Protocol on the rights of women in Africa by passing relevant laws and allocating rights to women. The protocol to the African Charter on Human and Peoples' Rights on the rights of women in Africa is a unique piece of legislation because it takes into consideration the provisions of other international instruments on Human Rights that touch on women's rights (especially that of inheritance), the need for equality and freedom from discrimination (Odigie-Emmanuel, 2010). The rich provision of the protocol recognising and guaranteeing women's human rights in Nigeria promises a beautiful future for women, if the government fulfills its obligation.

In light of the current realities, government should redeem its image and show its commitment by:

- Domesticating and implementing the protocol.
- Passing the bill on violence against women.
- Reviewing laws on women's property rights and all other laws discriminating against women's inheritance right.
- Making adequate budgetary allocations to issues that promote women's rights and bridge gender gaps.
- Integrating women's rights issues and gender education into the school curriculum (Odigie-Emmanuel, 2010).

Others are:

- a. Enactment of appropriate legislations to combat all forms of discrimination, and also prohibit all forms of violence against women; to ensure prevention, punishment, eradication of violence against women and protection of property ownership rights.

- b. Appropriate and effective educational, administrative, prohibitive, protective, promotional, institutional, implementation and regulatory measures.
- c. Integrating gender perspective in policy decision.
- d. Modifying social and cultural patterns of conduct of women and men through public education, information and communication.
- e. Positive action to promote participation of women in politics and decision making.
- f. Provision of effective remedies.
- g. Ensuring full implementation at national level.
- h. Providing budgetary and other resources necessary for full and effective implementation (Odigie-Emmanuel, 2010).

B. A HUMANITARIAN APPROACH TO WOMEN'S RIGHTS TO LAND AND OTHER PRODUCTIVE RESOURCES:

- i. There should be universal and inalienable recognition of women's rights to property.
- ii. The rights of women must be indivisible.
- iii. There should be interdependence and interrelatedness between the rights of women and government policies.
- iv. The norm of equality of men and women with regard to property ownership of women must be created in the society under study.
- v. Women must be allowed to participate in family matters and be involved in decision-making.
- vi. The rule of law must cover both men and women and every person must be accountable for his/her action.
- vii. Transparency must be the order of the day. The violation of rights today may be the war of tomorrow.
- viii. Women should be duly empowered for their personal growth and actualisation. The enlightenment and changed mindset of all concerning women's rights to property must be sustained.
- ix. The International bodies should show cooperation by putting themselves out for the implementation of the International policies on women's rights, especially that of property ownership.

- x. Due diligence must be observed on the part of government to ensure that the standard is reached (United Nations, 2003:15-20).

C. GOOD PRACTICES FOR GOVERNMENT TO REALISE WOMEN'S RIGHTS TO LAND AND OTHER PRODUCTIVE RESOURCES:

- a. Ensure meaningful participation of women in decision-making on laws, policies and programmes relating to land and other productive resources.
- b. Combat intersectional and multiple forms of discrimination.
- c. Harmonise national laws, policies and programmes for consistent protection of women's rights.
- d. Guarantee women's land rights in the constitution (United Nations, 2003:22-25).

Others are:

- e. There should be security of land tenure and prohibition of forced eviction. Women's right to land must be secured against forced evictions at the hands of public and private actions.
- f. There must be legal systems that facilitate access to justice. Legal pluralism must support women in challenging discriminatory aspects of formal, religious and customary laws. Access to justice and enforcement by courts should be fully feasible and affordable to all women, and that all women are able to access low-cost or free legal aid and other legal services in their own language.
- g. Promote the positive aspects of customary systems concerning women.

D. GOOD PRACTICES FOR FAMILY TO REALISE EQUITABLE WOMEN'S RIGHTS TO PROPERTY OWNERSHIP

I. MARRIAGE PROPERTY RIGHTS

Marital Property is a key issue in understanding the status of women's rights related to land and other productive resources. Marriage and family laws allow a wife and husband to have equal rights to use their property, obtain benefits and manage joint property. The law also provides that a woman has equal rights with her husband in divorce and that wives and husbands have equal rights to

common property after marriage (United Nations, 2003:34). The payment of a bride price by husbands for wives should not be stringent on the husbands as this may grant to the former inheritance right over the wives and their property (Adekile, 2010:22).

In South Africa, the Matrimonial Property Act of 1984 prescribes a default marital property regime of community of property for all civil marriage. A spouse cannot sell family immovable property (including the home) without the consent of the other spouse. Upon death or divorce, each spouse or the surviving spouse of a marriage subject to a community of property regime is entitled to half the joint estate. Under this Act, a woman will receive half of the joint property upon dissolution of marriage (United Nations, 2003:35). This should be applicable in Nigeria, particularly in South-East Nigeria. The fact that women are deprived of property is actually hindering their full participation in the political, social and cultural life of the country. It hampers the growth and prosperity of society and makes it more difficult for their potential to be realised for the services of their country and of humanity (Adekile, 2010:23).

II. REMOVAL OF MARITAL 'HEAD OF HOUSEHOLD' CONCEPT

The granting of marital power to one spouse (generally the husband) over the other (generally the wife), as well as over joint property, is a provision in some customary legal systems which runs deeply and counters the rights to equality between men and women (United Nations, 2003:36).

III. EQUAL INHERITANCE RIGHTS

Inheritance is the practice of passing on property, titles, rights and obligations (e.g. debts) upon the death of an individual. Inheritance has emerged as a key issue in the struggle for women's land, housing and property rights. Families must allow this right to women. Men and women should have equal inheritance rights on grounds theological and ethical imperatives.

IV. COHABITATION, POLYGAMY AND CUSTOMARY MARRIAGE

Dealing with polygamous marriage is one of the most difficult issues when it comes to addressing women's land, housing and property rights (United Nations, 2003:39). Families must address women's property rights squarely. Cohabitants even in polygamous families should share in the family property.

V. DIVORCE

Division of property in the event of divorce is closely related to the issue of marital property regime which is generally subject to marriage and family laws. Women's property rights in a divorce situation are critical, because divorce could lead to poverty, and unequal rights in divorce are also a real barrier to women leaving abusive relationships (United Nations, 2003:40). This should be carefully handled.

LAND LAW, POLICY AND IMPLEMENTATION MUST BE CONSIDERED

- a. Gender sensitive land laws, policies and programming: Good agricultural policy requires an understanding of the gender dimensions at stake. Making women's voices heard at all levels in decision-making is crucial for the policy to be beneficial to women.
- b. Land titling and registration: While land titling typically implies ownership, registration can include other forms of tenure beyond freehold or co-operative tenure. Titling and registration programmes have historically not benefited women to the same degree that they have benefited men (United Nations, 2003:41-42). This must be considered.
- c. Access to loans and credits: Ensure women's equal access to loans and credits, and ensure temporary special measures when required, in order to enable women to gain access to land and other productive resources regardless of marital status (United Nations, 2003:45). For example, when the land is jointly owned, all registered owners must be present and consent to any sale of land. They must each sign the sales agreement between the public notaries. Women are not only to be regarded as witnesses to the sales contract, they have to sign. As is the case for men, women are allowed to use their land as collateral for money borrowed from banks and microfinance institutions.
- d. Agricultural extension services: Agricultural extension services which respond to women's needs are also important, as these services typically provide farmer's education, access to information, technology and resource transfer.

E. INSTITUTIONAL IMPLEMENTATION

1. Land authorities and institutions: Effective institutions are pivotal to the implementation of laws, policies and programmes aimed at securing women's land rights. Land institutions include those responsible for the governance of land tenure,

such as institutions that allocate and administer land rights, as well as those responsible for land management and land use.

2. Gender-responsive land budgeting:

Institutions charged with protecting women's rights over land and other productive resources will be successful only when they are adequately supported with both human and financial resources. This will also bring to the fore the reasons for the gaps between policies and implementation, especially with regard to gender-related issues (United Nations, 2003:47-48).

F. PROMOTING RURAL WOMEN'S RIGHTS TO LAND

a. Gender-sensitive data collection, monitoring and evaluation:

In general, gender-sensitive monitoring and evaluation will ensure that the policy or programme is effectively implemented and that it benefits women and men equally (United Nations, 2003:50).

b. Gender-Sensitive Data Collection and Analysis: Analysing the data collected on gender issues will really give clarity on prevailing conditions.

c. Women's possession of land empowers and places them in a stronger position to demand their due in government scheme of things. It also encourages them to assess agencies that provide farm inputs and extension information (Agarwal, 2003:196).

G. AWARENESS-RAISING AND TRAINING

a. Community awareness-raising: Broad awareness campaigns are necessary to inform the public about women's land rights, in general. Lack of knowledge of legal protection is a formidable barrier to claiming rights and sociocultural norms may hinder the realisation of women's rights (United Nations, 2003:52).

This may lead to organisation of land by the working group on women's land ownership. This group can do better in organising land for women and also creating or working on behalf of land owners. Awareness about women's land and other productive resources rights must be effectively raised.

- b. **Measuring Property Rights:** This could be done through Gender, Land and Assets Surveying. This should be credibly conducted to ascertain women's position regarding property acquisition (ICRS, 2015).
- c. **Legal literacy:** Even when legal and regulatory frameworks exist to protect women's land rights, women must know and understand their rights for them to be effective in practice. Just knowing the rights is not enough. Women must also know how they can exercise and enforce the rights (United Nations, 2003:54).
- d. **Training Grassroots Paralegals:** The training of grassroots paralegals helps women exercise their property rights. Grassroots paralegals are community-based volunteers who provide legal education and legal aid. Grassroots paralegals can be an important ally in ensuring that women exercise their rights to property and assets.

H. CONCENTRATING ON PARTICULAR GROUPS OF WOMEN

- a. **Indigenous women:** Indigenous peoples generally face violations of their rights to self-determination, and their unique relationship to their land on which they live and the natural resources that it provides are not always recognised. They frequently lack security of tenure and legal recognition of their land rights and rights over productive resources.

On the other hand, indigenous women also face challenges as women, and they may suffer some of the discriminatory practices that other women living under customary systems face (United Nations, 2003:57). These people must be looked into.

- b. **Women affected by HIV:** In general terms, protecting women's property rights has both a preventive and a mitigating impact in the context of the HIV epidemic. There's linkage between women's property ownership and the rate of epidemic infection among women (United Nations, 2003:57).

On the preventive side, security of tenure over housing and land plays a crucial role in providing women with economic security, a livelihood and dignity. Poverty drags many women especially widows into unprotected sex with the risk of HIV and Aids.

In terms of mitigation, land rights can help ease the impact of HIV on individuals and families and provide the basis for care and support for women living with HIV (United Nations, 2003:58).

- c. Displaced person: The rights of displaced persons must be guaranteed by the family and society. More so, the government must on their part, in the spirit of loveliness and peace work towards ensuring women's access to land after violence of any sort at any level.

I. MODIFICATION OF CUSTOMARY LAWS

The law of inheritance touches every individual in society and indeed the community at large. The law therefore, must necessarily be reformed to redress the loopholes, the inadequacies, and the harsh consequences of some customary applications. A society can be socially engineered in an effective way if the law is fair, just, and humane. Indeed, an operation of the rule of law respects the aspirations of all and consequently maximises the happiness of all (Onuoha, 2012). Under customary law, many uncertainties exist with regard to succession and acrimony among people with conflicting interests.

The following recommendations could be made:

1. Codification of customary laws: Codification is essential for a reliable legal system especially in a developing country such as Nigeria, where less regard is paid to the rule of law, even when the law is adequately enshrined in the constitution. Codification of the customary law will bring about certainty. A society's laws command respect and obedience where the individual knows the governing law, his rights and obligations, and the punishment for violating it. Codification will weed out all irrelevant areas and uncertainties in the law, leaving certainty behind that prevents abuse, oppression and exploitation.
2. Unification of Customary Laws: The unification of customary laws will apply a single set of laws to all major tribes in Nigeria, eliminating the problems of uncertainty and inconsistency that different sets of law bring about.
3. Harmonisation of laws: Harmonisation of the laws is desirable, as with the Land Use Act Section 5, which recognises statutory rights and customary right of occupancy.
4. Harmonisation of the principle of Natural Justice with Customary Law: Harmonising the principle of Natural justice with the customary laws is also recommended. This is analogous to the role of equitable principles in the common laws, so that natural justice applies where there is a lacuna in the customary law application. Like common law and

equity, customary law and principles of natural justice can be harmonised into a single legal system and be applied side by side where necessary, the objective being to supplement the customary law and not to supplant it.

5. Application of the principles of Natural Justice, equity and good conscience:

Equity simply means fairness, conscience and good faith. Natural justice means justice based on innate human principles, or justice determined by an innate human sense of justice, or in a broad sense an inherent right to have fair and just treatment at the hands of the rulers or their agents.

To cushion the harsh effect of some of the customary laws and to fill the lacuna created by them, the agencies that implement the law should apply the principles of natural justice where injustice otherwise would result. Codification, unification, and harmonisation will produce certainty in formulating, applying and implementing the law. This will turn the customary law into a more civilized code that respects the interests of all (Onuoha, 2012). Improving the customary law with regard to property inheritance should be a continuous process until the law produces the greatest happiness for women in their matrimonial homes.

J. THE ROLE OF CHURCHES AND RELIGIOUS BODIES MUST BE HEIGHTENED:

Churches must play their role well in preaching and teaching the undiluted Word of God. They must preach gender equality and women's rights to inherit their fathers' and husbands' property. Campaigns and open-air services could be held on this all-important issue. The society must be made to know that women are theologically and ethically eligible to inherit property.

Unlike the status of women in the Old Testament which was regarded as inferior, such status has to be alternated with due regard for the women in the present dispensation. The changing of this situation is however, embedded in God's continuous promises of salvation and liberation through the free grace offered by Christ to mankind. The reality of the position of women in the New Testament era must be made manifest in the present societies.

AREAS FOR FURTHER RESEARCH STUDY

1. Discriminatory cultural practices: Its influence on women's socioeconomic and political development in Africa.
2. Women's inheritance rights in Nigeria: Theological-ethical perspective.
3. A theological ethics evaluation of discrimination against women in South-Eastern Nigeria.
4. Women's inheritance rights and socioeconomic growth: An evaluation.
5. A theological ethics evaluation of women's property rights in Africa.
6. The role of religions in curbing disinheritance of women in Africa: Theological perspective.

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