

## **New Directions for Securing African Women's Right to Property under Customary Law: The Case of Nigeria**

Aloy Ojilere

*Imo State University, Nigeria*

Reginald Onuoha

*Imo State University, Nigeria*

Titus Igwe

*Imo State University, Nigeria*

---

### Abstract

Nigerian women and girls, like most of their African counterparts, are excluded under customary law from inheriting land or landed property from their deceased intestate husbands or fathers. This discrimination is rooted in ancient traditional rules of patriarchy and primogeniture, which assume women and girls to be naturally subordinate and inferior to men and boys. They particularly view women as part of the inheritable estate of their deceased husbands. In times past, the Nigerian Supreme Court endorsed this custom. This paper explores two recent judgments of the Supreme Court of Nigeria, which establish new directions for securing women's dignity, equality, and right to inherit immovable property under customary law. It also identifies inherent gaps therein and makes suggestions for bridging them. It further highlights statutory provisions that invariably promote primogeniture, thereby inhibiting women's sustainable right to property, even under a will. This paper centers on Nigeria, but most of its findings have relevance for women's property rights in other parts of Africa, concluding that reforms such as judicial activism and transformative constitutionalism are fundamental to women's development and social change in Nigeria, and in parts of Africa.

---

### Key words

African women, right to inherit property, customary law, Nigeria

## **Introduction**

Nigeria is a fairly heterogeneous country by region, religion, class structure, politics, and customary laws. Historically, it is the most populous coun-

try in Africa, the largest democracy in Africa, and the fourth-largest democracy in the world, with about 49.36% of the population being female (Trading Economics, 2015). With the existing notion of “African customary law,” what affects the rights of Nigerian women logically affects a significant portion of African women (Ojilere & Gan, 2015b).

The contents of some Nigerian customary laws are mirrored in other African countries, hence the notion of African customary law (Omotola, 2004), which Mamdani (1997) prefers to describe as a part of Africa’s legacy of colonialism and who joins Ranger and Hobsbawm (1983) in contesting the oft-claimed “ancient origin” of African tradition and customary law.

Over the years, the subjugation of women and disrespect for women’s rights have become global (Ezer, 2006). In Nigeria, based on local beliefs in ancient mythology (Ojilere & Gan, 2015b), male primogeniture (Edu, 2016),<sup>1</sup> patriarchy (Makama, 2013), and gender bias (Ojilere, 2009; Ojilere & Chukwumæze, 2010), women are typically considered as inheritable “properties” of men rather than their equals (Staveren & Ode bode, 2007).

Most African communities, though erroneous (Mamdani, 1997), view customs and practices which subjugate women and deny them property inheritance rights as part of ancient, static, and “unchangeable” gender norms (Lambrecht, 2016). In Nigeria, however, the ownership of land or other immovable property usually flows from inheritance, government allocation, purchase, or gift. Sections 34, 42, and 43 of the 1999 Nigerian constitution (as amended) respectively guarantee the fundamental right to human dignity, freedom from discrimination, and the right to own property anywhere in the country. Remarkably, these protections are gender neutral. It is therefore unreasonable that under customary law women and girls cannot inherit property from a husband’s or father’s intestate estate (Kolawole & Adeigbe, 2016). Such exclusion naturally impedes women’s capacity to support their children’s education and economic development (Mutondoro, Ncube, & Addah, 2016).

It is important to note that not all customary laws victimize women. However, it is commonplace, especially in South-Eastern Nigeria, for male family members to dispossess women of landed property when their husbands die (Eboh, 2016) and these brave women often resort to litigation.

---

<sup>1</sup> The customary/patrilineal right of the paternally acknowledged eldest son to succeed his deceased father, believing that ancestry and family succession is never possible through females.

Relying on two landmark judgments of the Supreme Court of Nigeria, namely *Anekwe v. Nweke* (2014) and *Ukeje v. Ukeje* (2014), this paper highlights the new and progressive judicial decisions that are serving to uphold women's rights to inherit immovable property under customary law.

This change in laws actually derives from compelling local and international agitation for the globalization of women's dignity and human equality (Dibie, 2016). Positive reforms for women rights have also been enacted in Tanzania, Kenya, Rwanda, Uganda (Dancer, 2017; Manji, 2015), and South Africa (Diala, 2014). However, with the Nigerian, indeed African, conservatism on traditional matters (a reason why women's access to land and landed resources has not automatically improved even with gender-progressive laws [Dancer, 2017; Durojaye, 2013; Mutondoro et al., 2016; Ranger & Hobsbawm, 1983]), only time will show if, how, and to what extent these reforms will permeate the lives of people, especially the rural dwellers who view customary law as a sacred and "unchangeable" ancestral legacy.

### The Variation in Women's Land and Property Rights in Africa

Apart from the issues that arise from not bearing a male child who will continue the family lineage, women in Africa suffer denial of rights, discrimination, abuse, divorce, or outright abandonment in marriage, including expulsion from a husband's house by the husband himself or by his family, with or without divorce (Okonofua, Harris, Odebiyi, Kane, & Snow, 1997). Women who are married under Nigeria's Marriage Act do not suffer such abuse without proper divorce. This is because while the property rights of women of customary law marriages are regulated by native law and custom, couples who marry under the Marriage Act are not subject to the inheritance procedures of customary law. For instance, under section 69 of the Matrimonial Causes Act Chapter M 7 Laws of the Federation of Nigeria 2004, "'marriage' includes a purported marriage that is void, but does not include the one that entered into according to Muslim rites or other customary law."<sup>2</sup> Consequently, a widow of a statutory marriage can inherit her husband's property (Ekhaton, 2015).

---

<sup>2</sup> Similarly, in *Amadi v. Nwosu* (1992) 5 N.W.L.R. 273, a Nigerian court held that the Married Women's Property Act 1882 (a statute of general application in Nigeria) does not apply to customary law marriages. This confirms that the capacity of such women to acquire, hold, or dispose of property depends solely on customary law.

Nonetheless, cases abound of widows who, although married under the Marriage Act, were nevertheless barred by male relatives from their deceased husbands' assets (Ezeilo, 1998); hence, Anyogu (2016) cites marriage as “the (other) reason” why women’s dignity and property rights are violated in Nigeria. In the Nigerian case of *Oloko v. Giwa* (1939), the court held that a widow had no right of land ownership or succession under the customary law, but that she had a right of residence in the family house during her widowhood, conditional upon her good behavior. This confirms a higher vulnerability of widows of customary law marriages; hence, statutory marriage is considered “a progressive step” for protecting the rights of divorcees and of widows when their husbands die (Ezejiofor, 2011, p. 145).

Notably though, not all Nigerian or African customary laws violate women’s property rights (Tsikata, 2016). For instance, *Yoruba* women in Nigeria can inherit from their parents, brothers, or sisters under native law and custom but usually not from their deceased husbands (Aluko, 2015). This custom is considered rather friendly to the unmarried woman/girl and not to the married woman (Familusi, 2012). Under Islamic law, women similarly inherit certain portions of their deceased father’s estate, though some voluntarily concede this right to their brothers (Kabeer, 1999).

The customary law of the *Akan* (*Asante*) people of Ghana favors women because property inheritance is matrilineal and descent is traced through the female lines (Aidoo, 1977). Furthermore, the *Asante* Kingdom is headed by a King known as the *Asante-bene* who occupies the famous matrilineal “golden stool” (Adu-Agyem, Agyapong, & Agyei, 2013; Bolaji, 2016; McLeod, 2014) but whose selection, office, and authority must be approved, blessed, and conferred exclusively by the Queen Mother (Hagan, 1968) who is revered as the kingdom’s most prominent socio-cultural, spiritual, and political leader (Aidoo, 1977; Akyeampong & Obeng, 1995). The general reverence for womanhood in *Asante* mythology is reflected in the *Asante* proverb: *Obaa na owoo obarima*, *Obaa na owoo obene* (meaning, it is a woman who gives birth to a man, it is a woman who gives birth to a king) (Aidoo, 1977).

Among the *Kalbeo* people of Northern Ghana, a male family head who has only daughters may appoint one of them not to marry but bear children at home to continue the family lineage (Kaunza-Nu-Dem, Tijani, Millar, & Humphrey, 2016). Similarly, a well-to-do woman who is childless may keep other women as “wives” to bear her children. In both cases, the women are seen as “men” and they enjoy land ownership rights like other men in the

community.

In Zimbabwe, women constitute 52% of the national population and enjoy significant rights of land use and management, albeit with very limited direct access to land through inheritance or purchase (Chigwenya & Ndhlovu, 2016). This is similar to Kenya, where ambiguity or uncertainty regarding women's rights to acquire, own, or use land inhibits effective investment in property and the management of land (Joireman, 2008).

Contemporary feminists also show possibilities for women under customary law and customary tenure regimes in Africa. According to Cotula (2007), contemporary changes in land tenure systems have created a new concept of "winners and losers" whereby competition for land is so liberalized and monetized that anybody of means, irrespective of gender, can gain control of and access to valuable resources, including land. Such individualization and commercialization of land effectively diminishes the perceived legitimacy of customary systems which disadvantage women. This feminist perspective supports the finding of South Africa's Constitutional Court in *Alexor Ltd & Another v. Richtersveld Community and Others* (2003) that, "indigenous law is not a fixed body of formally classified and easily ascertainable rules. By its very nature it evolves as the people who live by its norms change their patterns of life."

On the other hand, Ossome (2014) argues that most rural African women have a limited and narrow understanding of the registrable interests employed in titling programs, and that for the vast majority of married women, interests in family land are held on account of marriage only, which for most women is based on customary law. Similarly, Toulmin (2009) posits that conventional land registration systems in sub-Saharan Africa have generally not worked well because they are usually complex, expensive, and slow to implement; hence, poorer and vulnerable groups like women tend to be excluded from getting formal title for the land on which their home is built or on which they farm.

This mixed feminist ideology on women's right to property under African customary law underlines women's vulnerability regarding land ownership rights in Nigeria and beyond.

### The Concept of Customary Law in Nigeria

The phrases "Nigerian customary law," "customary law," "native law and custom," or "customary law in Nigeria" are used interchangeably (Oba, 2002).

For most jurists, anthropologists, lawyers, and scholars, customary law has no specific definition (White, 1965). Grammatically, “customary” means a generally accepted behavior, a tradition; that is, doing things “in accordance with custom or habitual practice.” It is one of the legacies of Nigeria’s colonialism and a source of the pluralistic legal system practiced in most African states (Ndulo, 2011).

Customary law in Nigeria is, therefore, a generic term which describes the Islamic law of the *Yoruba* of Western Nigeria and the predominantly Muslim-dominated *Hausa* of Northern Nigeria as well as the native law and custom of the predominantly Christian-dominated Southern Nigeria (Alkali, Jimeta, Magashi, & Buba, 2014). In these systems, Nigerian women’s right to equality and property inheritance have been violated (Diala, 2014), even though the Islamic Qur’an 4.7 grants proprietary rights to men and women (Olomojobi, 2015), albeit in different ratios.

Unlike in some African countries, Nigerian customary laws are uncodified and “largely unwritten” (Elias, 1972). However, adherents believe they were handed down by their forefathers from time immemorial (*Agbai v. Okogbue*, 1991). In contrast, other scholars (Mamdani, 1997; Ranger, 1997; Ranger & Hobsbawm, 1983) have argued instead that many traditions reflected in the so-called customary law are neither of ancient origin nor sanctioned by long usage, but were “invented” comparatively recently by Africa’s European colonialists.

Nonetheless, under the repugnancy doctrine (Asiedu-Akrofi, 1989),<sup>3</sup> introduced by British colonialists (Uweru, 2008), customary law is recognized in Nigeria alongside other sources of law, namely, case law (judgments of superior courts), parliamentary legislation, and the statutes of general applica-

---

<sup>3</sup> This doctrine predicates the validity of customary law on passing the “repugnancy test”, namely, not being unconstitutional or “repugnant to natural justice, equity and good conscience.” Several Nigerian statutes including the Supreme Court Act, Court of Appeal Act, Interpretation Act, High Court Laws of the states, and where they exist, Customary Court/Area Court Laws, replicate this test. Section 18 (3) of the Evidence Act 2011 provides that: “In any judicial proceeding where any custom is relied upon, it shall not be enforced if it is contrary to public policy or is not in accordance with natural justice, equity and good conscience.”

Under the High Court Laws of Lagos state, “The High Court shall observe and enforce the observance of customary law, which is not repugnant to natural justice, equity and good conscience...”

In *Lewis v. Bankole* (1909) 1 NLR 81, a *Yoruba* custom which determined a child’s paternity on the basis of who paid the mother’s bride price irrespective of who the child’s biological father is, was invalidated for failing the test.

tion (English colonial laws which have not yet been repealed). Consequently, customary law governs kinship, personal status, land tenure, inheritance, and communal resources in Nigeria (Malemi, 2012) and most Africa countries (Joireman, 2008). Unfortunately, they commonly disadvantage women because they are made by men (Effeah, Mbachu, & Onyebula, 1995).

In *Bhe v. Magistrate Khayelitsha; South African Human Rights Commission v. President of the Republic of South Africa; Shibi v. Sithole* (2005), the South African Constitutional Court distinguished between “official customary law” and “true customary law,” and described true customary law as one which recognizes and acknowledges “the changes which continually take place,” while official customary law is a rather “poor reflection, if not a distortion of the true customary law” (Claassens & Mnisi, 2009).

The Nigerian legal system is mixed and lacks uniformity. It consists of the 1999 Constitution (as amended), the received English law/common law, Acts of the National Assembly, Islamic Shari'a law, and customary law, each being irreconcilably different in terms of their concept of justice, procedural law, substantive law, and worldview (Oba, 2013). There is also no uniformity of Nigerian customary laws on succession (Itua, 2012). Instead, courts across Africa recognize them as a second body of law, alongside statutory law; hence, customary law continues to have an overwhelming influence on *indigenous people* in both rural and urban areas since it generally regulates their personal affairs such as marriage and inheritance (Joireman, 2008).

This was justified in *Oyewunmi v. Ogunesan* (1990), where the Supreme Court, *per* Obaseki, JSC, defined customary law as:

The organic or living law of the indigenous people of Nigeria, regulating their lives and transactions; it is organic in that it is not static, is regulatory in that it controls the lives and transactions of the community subject to its sway.

Similarly, in *Kharie Zaidan v. Fatimah Khalil Mohsen* (1973), the Supreme Court, *per* Elias, CJN, defined customary law as:

A system of law, not being the common law (of England), and not being a law enacted by a competent legislature in Nigeria, but which is enforceable and binding within Nigeria as between parties subject to its sway.

Consequently, couples who contract a statutory marriage would still be expected to marry under customary law or Islamic law as the case may be (Imam-Tamim, Mohd Zin, Ibrahim, & Che Soha Yusoff, 2016), and upon intestacy, the “personal law” of a deceased, that is, the customary law to which he was subject, governs the distribution of his estate (Oni, 2014). Prior to 2014, Nigerian courts in *Suberu v. Sunmonu* (1957), *Nezianya v. Okagbue* (1963), *Akinnubi v. Akinnubi* (1997), *Nzekwu v. Nzekwu* (1989), and *Obusez v. Obusez* (2001), upheld, albeit erroneously, the validity of some customary laws which denied women the right to inherit their deceased husbands’ estate and denied girls the right to inherit their deceased fathers’ estate. Remarkably, the recent landmark decisions of the Supreme Court of Nigeria in *Anekwe v. Nweke* (2014) and *Ukeje v. Ukeje* (2014) reversed this discriminatory customary practice, thereby confirming that judicial activism is paramount for the sustainable guarantee of women’s rights to equality, dignity, and property.

### Socio-Cultural Conservatism in Women’s Right to Inherit Property in Nigeria

Section 43 of the Nigerian Constitution guarantees citizens’ rights to acquire and own immovable property anywhere in the country. Section 34 (1) (a) guarantees respect for human dignity and prohibits torture and inhuman or degrading treatment, while Section 42 thereof guarantees the right to freedom from discrimination, deprivation, or disability by reason of ethnicity, religion, place of birth, gender, or circumstance of birth. Cumulatively, these provisions underline Article 16 of the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), which empowers women to own or alienate immovable property anywhere. The same applies to Article 2 of the African Charter, which affirms *every individual’s* right to enjoy the rights and freedoms recognized and guaranteed thereunder *without distinction of any* kind such as sex, social origin, fortune, birth, or other status.

Unfortunately for Nigerian women, these rights are inhibited by some socio-cultural and other factors such as stereotypes; constitutional provisions ignored or not translated into practice; ignorance of legal rights; lack of political will to bridge the gap between high-level commitments and actual implementation practice; and the inability to localize international law (Merry, 2009).

Nigerian customs, especially among the *Ibo*, abhor women’s right to inherit

property (though they may acquire such by purchase for the men to *own* and inherit) (Obi, 1963). One such custom is *Nrachi* (*Igbo* vernacular meaning “to fill-up”; “to seal”; “a complement” or “supplement” [indicating that the daughter would fill-up the male-child “vacuum” in her father’s household]). It is alternatively known as *Nhachi* (*Igbo* vernacular meaning “replacement” or “to replace”). The other discriminatory custom is *Oli-Ekpe* or *Ili Ekpe* (*Igbo* vernacular for “the inheritor,” or “one entitled to inherit”).

These customs/rites determine the rules of inheritance and succession to property under customary law, especially in South-East Nigeria (Dada, 2014). Among the *Nnewi* people of Anambra State, Nigeria, the *Nrachi* or *Nhachi* ceremony permits a man who has no male child to keep one of his daughters at home to remain unmarried for the rest of her life and bear children, especially males, on his behalf to succeed him (Worugji, 2013). Such a daughter technically becomes a “man” in her father’s household, and may then be counted among the *Oli-ekpe* or *Ili-ekpe*, that is, inheritors of intestate property under customary law (Obidimma & Obidimma, 2015).

These rites are symbolic, mainly “theoretical” and rarely observed in practice; hence, Lastarria-Cornhiel (1997) describes them as deliberate acts of *privatization* intended to institutionalize patrilineal control of land to the exclusion and disadvantage of women. They inhibit Nigerian women from participating in home ownership (Adegoke, Adegoke, & Oyedele, 2016) and demean their dignity and self-worth (Ojilere, 2015; Okafor, 2014) in breach of relevant constitutional provisions.

In *Nezianya v. Okagbue* (1963) and *Akinnubi v. Akinnubi* (1997), previous Nigerian superior courts endorsed the custom which held women to be part of a deceased’s estate to be inherited by the males (unfortunately, this practice still exists in Cameroon [Pemunta, 2017]). The Nigerian Court of Appeal later adopted an emerging approach against both customs. In *Mojekwu v. Ejikeme* (2002), *Mojekwu v. Iwuchukwu* (2004) and *Motob v. Motob* (2011), it declared unconstitutional and void the *Oli-ekpe* custom of the *Nnewi* and *Awka* people which entitled a male cousin of a deceased to inherit his property to the exclusion of his biological daughter where the deceased had not performed the traditional *Nrachi* ceremony for her. It held that a daughter could inherit her deceased father’s estate without the *Nrachi* ceremony having been performed.

Similarly, in *Timothy v. Oforka* (2008) the court emphasized that:

No law or custom that stands in the way of our Constitution should be allowed to stand tall no matter the circumstance. With regard to the customary law divesting women of the right to inherit property, it is pertinent to note that it is one of the laws or customs which stands in the way of our Constitution in that it permits the males to inherit and own property to the detriment of the females whom it perceives are not capable of inheriting landed property. This is nothing other than a needlessly discriminatory custom which ought to be deprecated in the strongest of terms not only because it is grossly unconstitutional but also because it is repugnant to natural justice equity and good conscience.

The custom equally contradicts the essence of core international human rights instruments (Durojaye, 2013), even though Engeland (2014) argues that positive law should not oppress indigenous populations because the denial of local culture and systems of laws can be destructive for a community.

Notably, these discriminatory practices ordinarily emanate from an Afrocentric socio-cultural or religious conservatism whereby, relative to the male primogeniture rule (Kolawole & Adeigbe, 2016), women/daughters are considered inferior and subordinate to men/sons (Nnadi, 2013; Omotola, 2004).

## New Judicial Activism on Women's Right to Property in Nigeria

Two notable judgments of Nigeria's Supreme Court consolidate earlier ones by the Court of Appeal on the unconstitutionality and nullity of *Ibo* customs which disentitled women from inheriting property under customary law. Because judicial precedent and court hierarchy are consequential in Nigeria (Diala, 2014), those two judgments have become the *locus classicus* on Nigerian women's property rights under customary law.

First, in *Anekwe v. Nweke* (2014), the plaintiff was a widow. She instituted an action at the *Awka* Division of the Anambra State High Court in 1991, praying for a declaration that she was entitled to statutory right of occupancy of a parcel of land that she inherited from her husband. The defendants were half-brothers of the plaintiff's late husband. They had told the plaintiff to vacate the property because she had six female children only and no male child, and that under *Awka* customary law she had no right to inherit land unless she purchased same with her money.

The plaintiff refused to vacate the land and insisted that she was entitled to inherit her husband's property even though she had no male child. She averred that the *Ozo Awka* society (a traditional elders' council of *Awka* people) had earlier arbitrated the dispute and confirmed her right to inherit and remain on the land, even without a son. She further averred that both the High Court and Appeal Court had given judgments in her favor. The defendants were nonetheless dissatisfied and finally appealed to the Supreme Court.

The court identified the crux of the appeal as thus: whether the respondent (plaintiff) who had no male child could inherit the property of her late husband. It answered this in the affirmative and condemned the existing custom of the *Awka* people for being punitive and uncivilized, saying it "merely promotes the selfish domination by the men to suppress the inheritance rights of women" (Nnochiri, 2014). It specifically remarked that:

1. For a widow to be thrown out of her matrimonial home where she had lived all her life with her late husband and children, by her late husband's brothers on the ground that she had no male child, is indeed barbaric, worrying and flesh-skinning.
2. One would expect that the days of such obvious differential discrimination are over, and any culture that disinherits a daughter from her father's estate or wife from her husband's property by reason of God instituted gender differential should be punitively dealt with as a deterrent to the perpetrators of such culture and custom.
3. A custom of this nature in the 21st century will only tend to depict the absence of the realities of human civilization (Nnochiri, 2014).

This decision was later invoked in *Mgbodu v. Mgbodu* (2015) when a Court of Appeal in *Enugu* ruled that the birth circumstances of a Nigerian citizen cannot constitute a valid ground for disabling, depriving, or denying them the right to inherit or partake in the inheritance/administration of the estate of their father/husband to which they are ordinarily entitled.

In the second landmark case, namely, *Ukeje v. Ukeje* (2014), the plaintiff, Miss Gladys Ada Ukeje (a daughter of Mr. Lazarus Ogbonna Ukeje, who died in 1981) sued Mrs. Lois Chituru Ukeje, (widow of the deceased) and her son, Mr. Enyinnaya Lazarus Ukeje in the Lagos State High Court, claiming that as one of the children of the deceased, she ought to benefit from her father's estate notwithstanding customary law to the contrary. The trial court

and the Court of Appeal found for her but Mrs. Lois Chituru Ukeje and her son further appealed to the Supreme Court, which also affirmed the earlier judgments and dismissed the appeal.

It also voided the *Ibo* customary law which disentitled female children from inheriting land or immovable property of their deceased fathers as repugnant to natural justice, equity, and good conscience, and violating both Section 42 (1) (the right to freedom from discrimination on the basis of sex or circumstance of birth) and Section 42 (2) (the right to acquire and own immovable property) of the Nigerian Constitution.

These judgments confirm, *inter alia*, that judicial activism (progressive judgments of courageous judges) is fundamental for invalidating obnoxious customary practices and reversing negative cultural beliefs which threaten women's equality and property rights. They also place Nigeria's Supreme Court on a par with its rights-sensitive counterparts in South Africa (Kapiszewski, Silverstein, & Kagan, 2013) and India (Mate, 2014). The quest to globalize human rights, gender justice, and fundamental freedoms, pursuant to local and international agitation, must have weighed heavily on the court's mind in deciding the instant cases.

The Supreme Court is Nigeria's highest court<sup>4</sup> and its decisions are final and form the basis of case law as a source of law in the country. They are binding on all persons, institutions, and authorities in Nigeria,<sup>5</sup> and based on the doctrine of *stare decisis* (judicial precedence), all other courts must apply them in determining women's property rights under customary law.

Notably, the extraordinary power of courts to issue prerogative writs is particularly compelling and may even void existing legislation which is inadequate, misinterpreted, commonly unenforceable, or lacking "the willingness to secure women's dignity, equality and property rights" (Aniekwu, 2006). This further confirms the certainty of judicial activism in securing women's rights globally.

---

<sup>4</sup> Section 235 of the Nigerian Constitution provides that: "Without prejudice to the powers of the President or of the Governor of a state with respect to prerogative of mercy, no appeal shall lie to any other body or person from any determination of the Supreme Court."

<sup>5</sup> Women and girls whose property rights are violated do not apply self-help, since Section 6 (6) (b) of Nigeria's Constitution vests the judiciary with powers with respect to "all matters between persons" for the determination of any question as to the civil rights and obligations of that person.

## Gaps in the New Judicial Activism

The decisions in *Anekwe v. Nweke* (2014) and *Ukeje v. Ukeje* (2014) reiterate the repugnancy doctrine in relation to the validity of customary law and underline a refreshing position on Nigerian women's dignity and property rights (Chinwuba, 2015) but with obvious gaps. Diala (2014) observed, and rightly so, that the judgments failed to specifically abolish the male primogeniture rule in South-East Nigeria but merely declared it inconsistent with relevant constitutional provisions. This may raise technical doubts regarding the intention of the judgments to finally and permanently resolve the primogeniture issue across Nigeria. The judgments may also seem parochial because they do not define their territorial reach or make reference to protecting the property rights of women in other parts of Nigeria (Diala, 2014). However, since neither case was a class action, and considering the privity rule, the court may have been careful not to give judgment to a stranger or grant to a party what was not prayed for.

Despite these gaps, this new judicial approach to Nigerian women's equality and property rights surpass even the situation in Botswana, which is one of Africa's two most enduring (Good, 1999), politically stable, and liberal post-independence democracies (Leslie, 2006), where the concerted agitation by the NGO *Emang Basadi* ("Stand Up, Women!") seeking to persuade the government to change discriminatory laws and policies against women still faces serious challenges (Leslie, 2006).

It also surpasses the situation in Kenya, where the official law permits women to own and inherit land (Harrington, 2008) but does not particularly eliminate institutional, informational, or cultural barriers which prevent women from claiming those rights (Kameri-Mbote, 2006), a reason why its 2012 land reform is considered neither positive nor transformative (Manji, 2015).

## Challenges to Women's Property Rights in Nigeria

Many socio-legal factors inhibit Nigerian women's property rights. Customary law and statutes on women's property rights across Africa are not even uniform. Some are supportive, others are inhibitive or even entirely prohibitive, but in all, the judiciary remains the arbiter (Ojilere & Gan, 2015a).

Dedication to patriarchy, primogeniture, and the practice of customary intestacy/succession by most rural people pose serious challenges to existing constitutional guarantees on equality and non-discriminatory property rights, and even the advancement inherent in *Ukeje* and *Anekwe*. Statutory provisions and exclusions which ordinarily limit sustainable women's rights to inherit property, even under a will, may equally be invoked to circumvent the judgments. For instance, Section 49 (5) (b) of the Administration of Estates Law 1959 provides that:

Any real property, the succession to which cannot by customary law be effected by testamentary disposition, shall descend in accordance with customary law, anything herein to the contrary notwithstanding.

Section 3 (1) of the Wills Law of old Bendel State, Cap 133 Laws of Western Nigeria 1958, applicable to Lagos, Ogun, Osun, Ondo, Oyo, Edo, and the Delta States, also provides that:

Subject to any customary law relating thereto, it shall be lawful for every person to devise, bequeath or dispose of by his will executed in a manner hereinafter required, all real and all personal estate which he shall be entitled to, either in law or in equity, at the time of his death and which if not so devised, bequeathed and disposed of would devolve upon the heir at law.

These exceptions make women more vulnerable by holding customary law superior to testamentary dispositions, thereby tilting towards primogeniture and patriarchy, albeit only slightly. Given this exclusion, land which is mostly governed by customary law is rarely disposed of by will (Nwogugu, 2014) because in most African societies, matters of marriage, inheritance, and traditional authority are strictly governed by customary law (Ndulo, 2011). Thus, in *Uwaifo v. Uwaifo* (2013) the Supreme Court held that in line with section 3 (1) of the Wills Law of old Bendel State, the *Igi-ogbe* custom of the *Bini* people, which gives the eldest son of a deceased the exclusive right to inherit the family homestead, overrides a father's testamentary wish to the contrary.

It is also challenging that under Section 46 (1) of Nigeria's Constitution, only the high courts have original jurisdiction on actions for the enforcement of

fundamental rights,<sup>6</sup> and such matters can only lie with the Supreme Court on final appeal from the Courts of Appeal under Section 233 (1). The economics of litigation from a High Court to the Supreme Court may be unaffordable and discouraging for a poor widow disentitled of property, except in rare cases when some spirited persons or NGOs come to the rescue (Onouha, 2007).

Also in relation to the economics of litigation, Section 46 (4) (b) of Nigeria's constitution does not enshrine "legal aid" as a justiciable fundamental right nor does it impose any positive obligation on the state to *provide* legal aid. It merely empowers the National Assembly to *make provisions* for the *rendering of financial* assistance to any indigent citizen *with a view to enabling* her to engage the services of a legal practitioner.

Specifically, the *Legal Aid Act, Cap L9 Laws of the Federation of Nigeria* (2004) empowers the Legal Aid Council to render legal aid to "needy persons" standing criminal trials or those pursuing civil accident claims only. Unfortunately, the second Schedule to the Act, which makes a list of eligible instances for legal aid, does not include civil actions for the redress of violation of women's dignity or property rights. Lack of legal aid may, therefore, threaten sustainable women's property rights in Nigeria. It is equally challenging that the Nigerian Constitution makes no provision for NGO participation in the monitoring of violations of women's equality and property rights, as is desirable. Instead, the government sometimes stigmatizes some human rights activists and allied NGOs as "opposition campaigners" and "enemy institutions" seeking the collapse of the existing political *status quo* (Ogunniran, 2010).

There is also no special Constitutional Rights Court in Nigeria; hence, actions for breach of women's equality or property rights may suffer delayed justice due to oft-congested Cause lists. This is unlike India's Supreme Court and South Africa's Constitutional Court, which are both special first instance courts for writ petitions and matters relating to the Bill of Rights (fundamental rights), respectively. Relatedly, the epistolary jurisdiction of courts in India permits courts to take cognizance of and hear writ petitions based on

---

<sup>6</sup> The said Section 46 (1) is part of Chapter IV on Fundamental Rights and it provides thus: "Any person who alleges that any of the provisions of this Chapter has been, is being or likely to be contravened in any State in relation to him may apply to a High Court in that State for redress."

personal letters addressed to the court or mere media reports of fundamental rights violations (Baxi, 1985; Bhagwati, 1984).

On a social note, leaving aside issues of impecuniosity, reluctance, and timidity (Onouha, 2007), patriarchy is one major threat to legislative and judicial advances on women's property rights across Africa. Silence, fear of stigma, and the misconception (often promoted by elderly women) that it is immodest for women to 'intrude' in property and inheritance issues ordinarily reserved for men also encourage denial of women's property rights. Women are often pressurized by their families and communities not to seek formal legal recourse for rights violations but to resolve them domestically (Gedzi, 2012). In parts of Ghana, women who refuse such advice are threatened with spiritual affliction (Gedzi, 2012). Wrong and negative interpretation of customary law by men, who are usually its makers, beneficiaries, and trade-political custodians (Leal, 2015) also inhibits women's property rights.

The dogged devotion and unwillingness to abandon traditional rites/beliefs, especially in a mixed/plural legal system like Nigeria's, raise pertinent concerns regarding the interrelatedness of customary law and women's rights. Oni (2014) posits that the perceived dichotomy in dignity and property rights in Africa are largely "man-made" and not ancestral or inherent in customary law (Claassens & Mnisi, 2009); hence, the rampant agitation for women's equality in property rights across Africa (Peters, 2004). This strengthens the idea of abandoning the "official customary law" imbued with discrimination for a robust and flexible "living customary law" endorsed by reformist courts (Claassens, 2013). This will synchronize cultural understanding and legal reform (Richardson, 2004), though Enabulele and Bazuaye (2019) argue that determining the validity or judicial enforceability of native law and custom lies solely in the assent of the people and not of courts.

## Conclusion

In Nigeria and most of Africa, women suffer inequality or denial of property rights on the basis of local land tenure systems which usually draw their legitimacy from local traditions commonly termed "customary" (Cotula, 2007). Unfortunately, most women are reluctant, financially handicapped, or too timid to be able to decisively litigate these customary violations unless with the assistance of NGOs (Onouha, 2007).

The Nigerian Supreme Court judgments in *Ukeje* and *Anekwe* confirm that

unless constitutional rights are transformed into actual judicial remedies, their theoretical content will remain diminished or else denuded of any real value (Oputa, 1989). This is possible through the codification and unification of customary laws; the harmonization of principles of natural justice with customary laws; the decisive application of natural justice principles; and public enlightenment, as well as broad public support for NGOs and allied civil society groups supporting women's rights. It is also to be hoped that, in subsequent cases, Nigerian courts will link women's dignity, equality, and property rights to Section 33 of the 1999 Nigerian Constitution: that is, the right to life. This is the common practice of the Indian courts underscored in *Khedat Majdoor Chetna Sanghat v. State of M. P.* (1995) and *Maneka Gandhi v. Union of India* (1978).

To guarantee women's dignity, equality, and property rights, the Nigerian legislature should, in addition to the current appellate jurisdiction of the Supreme Court on fundamental rights cases, confer original jurisdiction upon it pursuant to Section 232 (2) of the Nigerian Constitution,<sup>7</sup> as is the case in India. Such original jurisdiction will generally liberalize access to justice in Nigeria and particularly promote judicial activism in repositioning women's equality, dignity, and right to inherit immovable property under customary law (Ojilere & Gan, 2015b).

---

<sup>7</sup> The subsection provides that: "In addition to the jurisdiction conferred upon it by subsection (1) of this section, the Supreme Court shall have such original jurisdiction as may be conferred upon it by any Act of the National Assembly."

## References

- Adegoke, B. F., Adegoke, O. J., & Oyedele, J. B. (2016). Factors influencing women participation in home ownership in Nigeria. *Property Management*, 34(1), 67–78.
- Adu-Agyem, J., Agyapong, K., & Agyei, K. (2013). The philosophical and aesthetic significance of the Silver-Stool of Mampong-Asante in Ghana. *International Journal of Innovative Research and Development*, 2(11), 119–126.
- Agbai v. Okogbue, 7 391 (Supreme Court of Nigeria 1991).
- Aidoo, A. A. (1977). Asante queen mothers in government and politics in the nineteenth century. *Journal of the Historical Society of Nigeria*, 9(1), 1–13.
- Akinnubi v. Akinnubi, No. 486, 2 144 (Supreme Court of Nigeria 1997).
- Akyeampong, E., & Obeng, P. (1995). Spirituality, gender, and power in Asante history. *The International Journal of African Historical Studies*, 28(3), 481–508.
- Alexor Ltd & Another v. Richtersveld Community & Others 12 1301 (Constitutional Court of South Africa 2003).
- Alkali, A. U., Jimeta, U., Magashi, A. I., & Buba, T. M. (2014). Nature and sources of Nigerian legal system: An exorcism of a wrong notion. *International Journal of Business, Economics and Law*, 5(4), 1–10.
- Aluko, Y. A. (2015). Patriarchy and property rights among Yoruba women in Nigeria. *Feminist Economics*, 21(3), 56–81.
- Amadi v. Nwosu, 5 273 (Supreme Court of Nigeria 1992).
- Anekwe & Another v. Nweke, 234 34 (Supreme Court of Nigeria 2014).
- Aniekwu, N. I. (2006). Legalising Cairo: Prospects and opportunities for reproductive rights in Nigeria. *CODESRIA Bulletin*, 1/2, 49–51.
- Anyogu, F. (2016). Legal prescriptions of marriage: The loopholes for the subjugation of women. *International Journal of Arts & Education Research*, 5(1), 1–7.
- Asiedu-Akrofi, D. (1989). Judicial recognition and adoption of customary law in Nigeria. *The American Journal of Comparative Law*, 37(3), 571–593.
- Baxi, U. (1985). Taking suffering seriously: Social action litigation in the Supreme Court of India. *Third World Legal Studies*, 4, 107–132.
- Bhagwati, P. N. (1984). Judicial activism and public interest litigation. *Columbia Journal of Transnational Law*, 23, 561.
- Bhe v. Magistrate Khayelitsha; South African Human Rights Commission v. President of the Republic of South Africa; Shibi v. Sithole 1580 (Constitutional Court of South Africa 2005).

- Bolaji, M. (2016). Beneath politicization: The unacknowledged constitutional crisis in the Dagbon succession conflict in Ghana. *The Journal of Legal Pluralism and Unofficial Law*, 48(2), 273–301.
- Chigwenya, A., & Ndhlovu, P. (2016). Women, land use, property rights and sustainable development in Zimbabwe. In J. Etim (Ed.), *Introduction to gender studies in eastern and southern Africa* (pp. 215–232). New York: Springer.
- Chinwuba, N. N. (2015). Ending inequality in Nigeria: A refreshing approach from the nation's judiciary. *International Journal of Law, Policy and the Family*, 29(3), 341–350.
- Claassens, A. (2013). Recent changes in women's land rights and contested customary law in South Africa. *Journal of Agrarian Change*, 13(1), 71–92.
- Claassens, A., & Mnisi, S. (2009). Rural women redefining land rights in the context of living customary law. *South African Journal on Human Rights*, 25(3), 491–516.
- Cotula, L. (Ed.). (2007). *Changes in "customary" land tenure systems in Africa*. London: International Institute for Environment and Development.
- Dada, F. O. (2014). The justiceability and enforceability of women's rights in Nigeria. *Global Journal of Human-Social Science Research*, 14(5), 49–56.
- Dancer, H. (2017). An equal right to inherit? Women's land rights, customary law and constitutional reform in Tanzania. *Social & Legal Studies*, 26(3), 291–310.
- Diala, A. (2014). Reform of the customary law of inheritance in Nigeria: Lessons from South Africa. *African Human Rights Law Journal*, 14(2), 633–654.
- Dibie, R. (2016). Globalization and women's empowerment in Africa. In L. Lindio-McGovern & I. Wallimann (Eds.), *Globalization and third world women* (pp. 175–198). Abingdon, UK: Routledge.
- Durojaye, E. (2013). "Woman, but not human": Widowhood practices and human rights violations in Nigeria. *International Journal of Law, Policy and the Family*, 27(2), 176–196.
- Eboh, M. P. (2016). The woman being: Its nature and functions. *Dialogue and Universalism* 26(1), 7–17.
- Edu, O. (2016). A critical analysis of the laws of inheritance in the southern states of Nigeria. *Journal of African Law*, 60(1), 141–155.
- Effeah, J., Mbachu, D., & Onyebula, S. (1995). *Unequal rights: Discriminatory laws and practices against women in Nigeria*. Lagos, Nigeria: Constitutional Rights Project.
- Ekhatior, E. O. (2015). Women and the law in Nigeria: A reappraisal. *Journal of International Women's Studies*, 16(2), 285–296.

- Elias, T. O. (1972). *The nature of African customary law*. UK: Manchester University Press.
- Enabulele, A. O., & Bazuaye, B. (2019). Validity and enforceability of customary law in Nigeria: Towards a correct delimitation of the province of the courts. *Journal of African Law*, 1–26. doi:<https://doi.org/10.1017/S002185531800030X>
- Engeland, A. V. (2014). The balance between Islamic law, customary law and human rights in Islamic constitutionalism through the prism of legal pluralism. *Cambridge Journal of International & Comparative Law*, 3, 1321–1348.
- Ezeilo, J. (1998). Law and practices relating to women's inheritance rights in Nigeria: An overview. *Nigerian Juridical Review*, 7, 131–139.
- Ezejiofor, A. O. (2011). Patriarchy, marriage and the rights of widows in Nigeria. *Unizik Journal of Arts and Humanities*, 12(1), 139–157.
- Ezer, T. (2006). Inheritance law in Tanzania: The impoverishment of widows and daughters. *Georgetown Journal of Gender & the Law*, 7, 599–662.
- Familusi, O. O. (2012). African culture and the status of women: The Yoruba example. *The Journal of Pan African Studies*, 5(1), 299–312.
- Gedzi, V. S. (2012). Women's property relations after intestate succession PNDC law 111 in Ghana. *Research on Humanities and Social Sciences*, 2(9), 211–219.
- Good, K. (1999). Enduring elite democracy in Botswana. *Democratization*, 6(1), 50–66.
- Hagan, G. P. (1968). *The golden stool and the oaths to the king of Ashanti*. Retrieved March 16, 2019, from <https://opendocs.ids.ac.uk/opendocs/bitstream/handle/123456789/11478/G%20P%20Hagan-%20The%20Golden%20Stool.pdf?sequence=1>
- Harrington, A. (2008). *Women's access to land and property rights: A review of the literature*. Washington, DC: World Bank.
- Imam-Tamim, M. K., Mohd Zin, N., Ibrahim, N., & Che Soha Yusoff, R. (2016). Impact of globalisation on domestic family law: Multi-tiered marriage in Nigeria as a case study. *The Journal of Legal Pluralism and Unofficial Law*, 48(2), 256–272.
- Itua, P. O. (2012). Legitimacy, legitimation and succession in Nigeria: An appraisal of Section 42(2) of the constitution of the Federal Republic of Nigeria 1999 as amended on the rights of inheritance. *Journal of Law and Conflict Resolution*, 4(3), 31–44.
- Joireman, S. F. (2008). The mystery of capital formation in Sub-Saharan Africa: Women, property rights and customary law. *World Development*, 36(7), 1233–1246.
- Kabeer, N. (1999). Resources, agency, achievements: Reflections on the measurement of women's empowerment. *Development and Change*, 30(3), 435–464.

- Kameri-Mbote, P. (2006). Women, land rights and the environment: The Kenyan experience. *Development*, 49(3), 43–48.
- Kapiszewski, D., Silverstein, G., & Kagan, R. A. (Eds.). (2013). *Consequential courts: Judicial roles in global perspective*. New York: Cambridge University Press.
- Kaunza-Nu-Dem, M. K., Tijani, B., Millar, D., & Humphrey, A. (2016). The complexities of women land ownership in northern Ghana. *Open Access Library Journal*, 3(8), e2789. doi: 10.4236/oalib.1102789
- Kharie Zaidan v. Fatimah Khalil Mohsen 740, 753 (Supreme Court of Nigeria 1973).
- Khedat Majdoor Chetna Sanghat v. State of M.P. 31 (Supreme Court of India 1995).
- Kolawole, T. O., & Adeigbe, K. Y. (2016). Gender discrimination and the Nigerian scenario: A review. *Gender & Behaviour*, 14(1), 7071–7084.
- Lambrecht, I. B. (2016). “As a husband I will love, lead, and provide.” Gendered access to land in Ghana. *World Development*, 88, 188–200.
- Lastarria-Cornhiel, S. (1997). Impact of privatization on gender and property rights in Africa. *World Development*, 25(8), 1317–1333.
- Leal, S. T. (2015). The traditional leaders’ constitutional challenges in South Africa. *Revista Quaestio Iuris*, 8(3), 1534–1554.
- Legal Aid Act, Cap L9 Laws of the Federation of Nigeria (2004).
- Leslie, A. N. (2006). *Social movements and democracy in Africa: The impact of women’s struggles for equal rights in Botswana*. Abingdon, UK: Routledge.
- Lewis v. Bankole, I 81 (Supreme Court of Nigeria 1909).
- Makama, G. A. (2013). Patriarchy and gender inequality in Nigeria: The way forward. *European Scientific Journal*, 9(17), 115–144.
- Malemi, E. (2012). *The Nigerian legal method*. Lagos, Nigeria: Princeton Publishing Company.
- Mamdani, M. (1997). Citizen and subject: Contemporary Africa and the legacy of late colonialism. *Perspectives on Political Science*, 26, 120–120.
- Maneka Gandhi v. Union of India, 1 248 (Supreme Court of India 1978).
- Manji, A. (2015). Whose land is it anyway? The failure of land law reform in Kenya. *Africa Research Institute Counterpoint*, 1–13.
- Mate, M. (2014). The rise of judicial governance in the Supreme Court of India. *Boston University International Law Journal*, 33, 169–224.
- McLeod, M. (2014). Has it been worth it? Personal reflections on museum development in Ghana. In P. Basu & W. Modest (Eds.), *Museums, heritage and international development* (pp. 143–149). Abingdon, UK: Routledge.

- Merry, S. E. (2009). *Human rights and gender violence: Translating international law into local justice*. Chicago, IL: University of Chicago Press.
- Mgboodu v. Mgboodu, No. 1474, 12 415 (Court of Appeal 2015).
- Mojekwu v. Ejikeme, 5 403 (Court of Appeal 2002).
- Mojekwu v. Iwuchukwu, No. 883, 11 196 (Supreme Court 2004).
- Motoh v. Motoh, No. 1274, 16 474 (Court of Appeal 2011).
- Mutondoro, F., Ncube, M. J., & Addah, M. A. (2016, March). *An analysis of the impact of land related corruption on women: Case studies from Ghana and Zimbabwe*. Paper prepared for presentation at the 2016 World Bank Conference on Land and Poverty, Washington DC, USA.
- Ndulo, M. (2011). African customary law, customs, and women's rights. *Indiana Journal of Global Legal Studies*, 18(1), 87–120.
- Nezianya v. Okagbue 358 (Supreme Court of Nigeria 1963).
- Nnadi, I. (2013). Son preference—a violation of women's human rights: A case study of Igbo custom in Nigeria. *Journal of Politics and Law*, 6(1), 134–141.
- Nnochiri, I. (2014, April 24). Inheritance: How Supreme Court voids discrimination against females in Igboland. *Vanguard Newspaper*. Retrieved March 10, 2019, from <https://www.vanguardngr.com/2014/04/inheritance-supreme-court-voids-discrimination-females-igboland/>
- Nwogugu, E. I. (2014). *Family law in Nigeria*. Ibadan, Nigeria: Heinemann Educational Books.
- Nzekwu v. Nzekwu No. 104, 2 373 (Supreme Court of Nigeria 1989).
- Oba, A. A. (2002). Islamic law as customary law: The changing perspective in Nigeria. *International and Comparative Law Quarterly*, 51(4), 817–850.
- Oba, A. A. (2013). Harmonisation of Shari'ah, common law and customary law in Nigeria: Problems and prospects. *Journal of Malaysian and Comparative Law*, 35(1), 119–146.
- Obi, S. N. C. (1963). *The Ibo law of property*. London: Butterworths.
- Obidimma, E. O., & Obidimma, A. E. (2015). Mitigating the injustice of the customary law relating to inheritance of landed property by women amongst the Igbo people of Nigeria. *International Journal of Innovative Research and Development*, 4(11), 71–76.
- Obusez v. Obusez, 15 377 (Supreme Court of Nigeria 2001).
- Ogunniran, I. (2010). Enforceability of socio-economic rights: Seeing Nigeria through the eyes of other jurisdictions. *Nnamdi Azikiwe University Journal of International Law and Jurisprudence*, 1(1), 61–73.
- Ojilere, A. (2009). Domestic violence and the law in Nigeria. *CWGS-Journal of*

*Gender Studies*, 1(4), 75–87.

- Ojilere, A. (2015). *Quest for a sustainable legal framework for the protection of women's right to dignity in Nigeria: Lessons from India and South Africa* (Unpublished doctoral dissertation). University of Malaya, Kuala Lumpur.
- Ojilere, A., & Chukwumaeze, U. U. (2010). CEDAW and gender-based discriminations against women in Nigeria. *Nigerian Journal of Food, Drug and Health Law*, 3(1), 95–105.
- Ojilere, A., & Gan, C. C. (2015a). Globalization and judicialization of socio-economic rights in India and South Africa: Catalysts for new directions in Nigeria. *Comparative Constitutional Law & Administrative Law Quarterly*, 2(4), 4–27.
- Ojilere, A., & Gan, C. C. (2015b). Learning from the Indian judiciary: New directions for securing Nigerian women's right to dignity. *Asian Women*, 31(1), 81–106.
- Okafor, S. O. (2014, December). *The liberation of Igbo woman of Nigeria from some customary laws and practices*. Paper presented at the 1st International Conference on Language, Literature, Culture & Education 2014, Kuala Lumpur, Malaysia.
- Okonofua, F. E., Harris, D., Odebiyi, A., Kane, T., & Snow, R. C. (1997). The social meaning of infertility in Southwest Nigeria. *Health Transition Review*, 7(2), 205–220.
- Oloko v. Giwa, 15 31 (High Court 1939).
- Olomjobi, Y. (2015). *Human rights on gender, sex and the law in Nigeria*. Lagos, Nigeria: Princeton & Associates Publishing.
- Omotola, J. A. (2004). Primogeniture and illegitimacy in African customary law: The battle for survival of culture. *Indiana International & Comparative Law Review*, 15, 115–146.
- Oni, B. A. (2014). Discriminatory property inheritance rights under the Yoruba and Igbo customary law in Nigeria: The need for reforms. *IOSR Journal of Humanities and Social Science*, 19(2), 30–43.
- Onouha, R. A. (2007). Discriminatory property inheritance under customary law in Nigeria: NGOs to the rescue. *International Journal of Not-for-Profit Law*, 10, 79.
- Oputa, C. A. (1989). *Human rights in the political and legal culture of Nigeria*. Lagos, Nigeria: Nigerian Law publications.
- Ossome, L. (2014). Can the law secure women's rights to land in Africa? Revisiting tensions between culture and land commercialization. *Feminist Economics*, 20 (1), 155–177.

- Oyewunmi v. Ogunesan, No. 137, 3 182, 207 (Supreme Court of Nigeria 1990).
- Pemunta, N. V. (2017). When 'property cannot own property': Women's lack of property rights in Cameroon. *African Journal of Economic and Sustainable Development*, 6(1), 67–85.
- Peters, P. E. (2004). Inequality and social conflict over land in Africa. *Journal of Agrarian Change*, 4(3), 269–314.
- Ranger, T. (1997). The invention of tradition in colonial Africa. In R. R. Grinker & C. B. Steiner (Eds.), *Perspectives on Africa: A reader in culture, history, and representation* (pp. 597–612). Hoboken, NJ: John Wiley and Sons.
- Ranger, T., & Hobsbawm, E. J. (1983). *The invention of tradition*. Cambridge, UK: Cambridge University Press.
- Richardson, A. M. (2004). Women's inheritance rights in Africa: The need to integrate cultural understanding and legal reform. *Human Rights Brief*, 11(2), 19–22.
- Staveren, I. V., & Ode bode, O. (2007). Gender norms as asymmetric institutions: A case study of Yoruba women in Nigeria. *Journal of Economic Issues*, 41(4), 903–925.
- Suberu v. Sunmonu, 2 (Federal Supreme Court, Nigeria 1957).
- Timothy v. Oforika, No. 1091, 9 204, 213 (Court of Appeal 2008).
- Toulmin, C. (2009). Securing land and property rights in sub-Saharan Africa: The role of local institutions. *Land Use Policy*, 26(1), 10–19.
- Trading Economics. (2015). *Nigeria—population, female (% of total)*. Retrieved February 10, 2019, from <https://tradingeconomics.com/nigeria/population-female-percent-of-total-wb-data.html>
- Tsikata, D. (2016). Gender, land tenure and agrarian production systems in Sub-Saharan Africa. *Agrarian South: Journal of Political Economy*, 5(1), 1–19.
- Ukeje & Another v. Ukeje, No. 1418, 11 384 (Supreme Court of Nigeria 2014).
- Uwaifo v. Uwaifo 20389 (Supreme Court of Nigeria 2013).
- Uweru, B. C. (2008). Repugnancy doctrine and customary law in Nigeria: A positive aspect of British colonialism. *African Research Review*, 2(2), 286–295.
- White, C. (1965). African customary law: The problem of concept and definition. *Journal of African Law*, 9(02), 86–89.
- Worugji, I. (2013). Judicial protection of women's rights in Nigeria: The regrettable decision in *Mojekwu v. Iwuchukwu*. *University of Botswana Law Journal*, 16, 59.

*Biographical Note:* **Aloy Ojilere** (Ph.D.) is an attorney. He lectures in the Faculty of Law, Imo State University, Owerri, Nigeria. His research interest is in the judicialization, globalization and constitutionalization of fundamental rights in Nigeria, India and South Africa. E-mail: aloyojilere@yahoo.com

*Biographical Note:* **Reginald Onuoha** (Ph.D.) is a Professor of Property Law as well as the Co-ordinator of postgraduate programmes in the Faculty of Law, Imo State University, Owerri, Nigeria. His research expertise is in land law, property rights and secure credit transactions. E-mail: reginaldonuoha62@yahoo.com

*Biographical Note:* **Titus Igwe** is an attorney and currently a Doctoral Research candidate at the Faculty of Law, Imo State University, Owerri, Nigeria. His research interest is in the rights of vulnerable persons, especially women and children. E-mail: igweti2006@gmail.com