



**PATRIARCHY AND THE WOMEN'S RIGHT TO OWN LAND IN ANAMBRA STATE,
NIGERIA: A HUMAN RIGHTS-BASED APPROACH**

**A Research Paper Presented By:
ADEFUYE OLUWATOMI OLIVIA
ERNA NUMBER:564873
(NIGERIA)**

In partial fulfilment of the requirements for obtaining the degree of

MASTER OF ARTS IN DEVELOPMENT STUDIES

**MAJOR:
Social Justice Perspectives
(SJP)**

Members of Examining Committee:

**Professor Karin Arts
Dr. Jeff Handmaker**

**The Hague, The Netherlands
December 2023**

Disclaimer:

This document represents part of the author's study programme while at the International Institute of Social Studies. The views stated therein are those of the author and not necessarily those of the Institute.

Inquires:

International Institute of Social Studies
P.O. BOX 29776
2502 LT The Hague
The Netherlands

t: +31 70 426 0460
e: info@iss.nl
w: www.iss.nl
fb: <http://facebook.com/iss.nl>
twitter: @issnl

Location:

Kortenaerkade 12
2518 AX The Hague
The Netherlands

Acknowledgements

I have been faced with numerous challenges throughout my research in recent months, and it has proven to be both arduous and a valuable learning experience for me. This process has not only developed my resilience but also enhanced my research skills. Additionally, it has assisted me in managing my time effectively and strengthening my focus.

I would like to express my sincere gratitude to my supervisor, Professor Karin Arts, for your advice, leadership, support, patience, guidance, and invaluable contribution to my learning at ISS. Your mentorship has been invaluable. I would also like to extend my thanks to Jeff Handmaker, my second reader, for your feedback and suggestions on my research paper.

To all my siblings, I am incredibly grateful for your unwavering support and encouragement throughout the program. And to my dear friends here in the Netherlands, thank you so much for your cooperation and companionship. Your presence has made this journey much more enjoyable.

Table of Contents

<i>Acknowledgements</i>	<i>iii</i>
<i>Abstracts</i>	<i>vi</i>
<i>Relevance To Development Studies</i>	<i>vii</i>
<i>Keywords.....</i>	<i>vii</i>
<i>List of Acronymns</i>	<i>viii</i>
CHAPTER ONE Introduction.....	1
1.0 General Introduction	1
1.1 Statement Of Research Problem.....	2
1.2 Relevance of the Study.....	3
1.3 Research Objectives	4
1.4 Research Questions.....	4
1.5 Research Techniques and Methodology.....	5
1.6 Research Ethics	6
1.7 Structure Of The Research.....	6
CHAPTER TWO.....	7
2. 0 THEORETICAL AND CONCEPTUAL ANALYSIS	7
2.1 THE INTERPLAY OF MUNICIPAL AND INTERNATIONAL LAW: MONISM AND DUALISM IN CONTEXT	7
2.2 A HUMAN RIGHTS-BASED APPROACH (HRBA)	7
2.3 PATRIARCHY AS A CULTURAL PRACTICE	8
2.4 CONCLUSION.....	9
CHAPTER THREE	11
3.0 ANALYSIS AND DISCUSSIONS: LEGAL INTERVENTIONS	11
3.1 CONVENTION ON THE ELIMINATION OF ALL FORMS OF DISCRIMINATION AGAINST WOMEN (CEDAW) 1979	11
3.2 PROTOCOL TO THE AFRICAN CHARTER ON HUMAN AND PEOPLE'S RIGHTS ON THE RIGHTS OF WOMEN IN AFRICA (MAPUTO PROTOCOL) 2003	12
3.3 THE EXTENT OF COMPATIBILITY OF DOMESTIC LEGISLATION IN ANAMBRA STATE WITH INTERNATIONAL LAW ON WOMEN'S RIGHTS TO OWN LANDED PROPERTY	12
3.4 PATRIARCHY AS CULTURAL PRACTICE IN ANAMBRA STATE.....	16
3.5 CONCLUSION.....	19
CHAPTER FOUR: ANALYSIS AND DISCUSSIONS ON THE JUDICIAL INTERVENTIONS	20

4.1.1 Nzekwu v Nzekwu (1989)	20
4.1.2 Onwuchekwa v. Onwuchekwa (1991).....	21
4.1.3 Mojekwu v Mojekwu (1997) / Mojekwu v Iwuchukwu (2004).....	22
4.1.4 Mojekwu v. Ejikeme & Ors (2000).....	23
4.1.5 Oyinbor Anekwe & Anor v Mrs. Maria Nweke (2014)	24
4.1.6 Ukeje v. Ukeje (2014).....	25
4.1.7 Uke v Iro (2001).....	25
4.1.8 Nwude v Nwude & Ors (2015)	26
4.2 CONCLUSIONS.....	27
CHAPTER FIVE: OVERALL CONCLUSIONS.....	28

Abstracts

This paper presents an analysis of patriarchal cultural practices and women's rights to land in Anambra State, Nigeria, using the human rights-based approach (HRBA). The study explores the diverse barriers women encounter in their quest to own and inherit land, spotlighting the nexus between cultural practices, legal frameworks, and human rights as contained in international instruments. In Anambra State, a region inundated with patriarchal cultural practices, women's rights to ownership of land are frequently litigated in divorce and inheritance proceedings. This paper takes a review of the patriarchal practices and legal impediments that facilitate gender gaps in land rights in Anambra State, Nigeria. It critically analyses cases where women's rights to land are most usually challenged, for instance, disputes relating to inheritance as well as dissolution of marriages, mainstreaming the divergence between statutes and their actual implementation.

The study found that both are prevalent patriarchal cultural practices in Anambra States that favour men as against women's right to own landed property. The paper also dealt with the broader effect of these findings as it relates to international human rights best practices, particularly the Maputo Protocol to the African Charter on Human and Peoples Rights and the United Nations Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW). It further found that the domestic laws and judicial interventions did not clearly address discriminatory cultural practices as envisioned in international instruments. This paper provides a critical analysis of the intricacies infringing women's land rights in a patriarchal society, providing understandings of how legislative and judicial interventions can impact women's right to own land in Anambra State, Nigeria. Therefore, there is an influence of patriarchal cultural practices on women's rights to land ownership in Anambra State, and within the broader context of municipal and international human rights laws in Nigeria, the practices are still prevalent as there are cases challenging the patriarchal practices from Anambra State in Nigerian courts.

Relevance To Development Studies

This research aims to help understand the multifaceted nature of women's land rights in Anambra State. By examining the interplay between deeply rooted patriarchal practices, the cultural significance of land, and the burgeoning discourse on women's rights, this study seeks to contribute to both academic knowledge and the broader dialogue on gender, culture, and rights in contemporary Nigeria.

The restriction of women's land ownership increases the susceptibility of women to poverty and reduces their agency both in the home and in community decision-making. Studies have shown that women's land ownership is strongly linked to improved livelihoods, poverty reduction, and overall household well-being (Nnadi, 2017; Adesina, 2019). Also, upholding the land ownership of women will open a new pathway towards promoting development in the future.

Keywords

Patriarchy, progeniture, cultural practices, land property rights, women's rights, gender-based discrimination, women, human rights-based approach, Anambra, Nigeria

List of Acronyms

CEDAW	-Convention on the Elimination of all Forms of Discrimination Against Women (1979)
HRBA	-Human Rights Based Approach
ICESCR	-International Covenant on Economic, Social and Cultural Rights (1976)
Maputo Protocol	-Protocol to the African Charter on Human and People's Rights of Women In Africa (2003)
NGO	-Non-governmental organization
UDHR	-Universal Declaration of Human Rights (1948)
UN	-United Nations

CHAPTER ONE Introduction

1.0 General Introduction

In the southeastern region of Nigeria lies Anambra State, a locale steeped in tradition and cultural practices that have been passed down through generations. Central to these traditions is the relationship between individuals and the land a relationship that is not merely economic but deeply symbolic, representing lineage, power, and societal status (Muoghalu and Abrifor, 2020). While land signifies roots, heritage, and a sense of belonging, its ownership is not uniformly distributed, especially when viewed through the lens of gender (Osita, 2014).

The nuances of land ownership in Anambra State are rooted in long-standing patriarchal systems. Patriarchy, which denotes a societal structure where men hold primary power, is deeply entrenched in the customs and traditions of Anambra (Ezejiofor, 2012). This male-dominated structure, which has historical underpinnings, often sidelines women, particularly in matters of inheritance and ownership of land (Ezejiofor, 2012). Despite being central to agricultural activities and family sustenance, women often find themselves at the periphery when it comes to possessing or inheriting this crucial asset. This is not just about economic deprivation; it is emblematic of the broader gender inequalities that punctuate daily life (Abubakar, 2021: Chikaire et al, 2014).

Compounding this challenge is the prevalent practice of primogeniture. Historically embraced by many families in Anambra State, primogeniture stipulates that the eldest son becomes the main heir, inheriting the lion's share of the family's land (Enyia and Usang, 2019). This not only diminishes the rights of female offspring but also places widows in precarious positions, often devoid of economic security upon the demise of their spouses. It also leads to underrepresentation and undervaluation of the economic, social, political and interpersonal interest of the women (Henderson, Jeydel 2010). Such a system, while ensuring the continuity of family lineages through male heirs, simultaneously entrenches gender disparities with land ownership becoming a palpable manifestation of these imbalances.

Anambra State, like many regions globally, is not isolated from the winds of change. The modern era, marked by globalization, human rights advocacy, and a growing emphasis on gender equity, casts a spotlight on these traditional practices. The resulting tension—a dichotomy between maintaining revered customs and adapting to evolving notions of women's rights and equality—presents both dilemmas and opportunities. While some argue in favor of preserving cultural practices, viewing them as the bedrock of societal identity, others advocate for change, inspired by global shifts towards gender equity (Norah, 2020).

This research delves into this intricate landscape, aiming to understand the multifaceted nature of women's land rights in Anambra State. By examining the interplay between deeply rooted patriarchal practices, the cultural significance of land, and the burgeoning discourse on women's rights, this study seeks to contribute to both academic knowledge and the broader dialogue on gender, culture, and rights in contemporary Nigeria.

Nigeria has been a British colony. Before colonisation, customary law was the applicable law in Nigeria (Asiedu-Akrofi, 1989). Colonialism, however, came with the development of statutes and the application of the English common law in Nigeria (Obilade, 1979). The Nigerian courts have viewed customary law as reflecting cultural practices that are acceptable to the people. These are expressly recognised in the statute books of the country. For instance, the various High Court Laws

provide for the enforcement of customary laws provided they are not repugnant to natural justice, equity, and good conscience section 18 (1) high court of Anambra State (1987). Section 17 of Evidence Act 2011 enables the Nigerian Court to take judicial notice of customary law and rely on the opinions of experts. However, there is flexibility in the application of customary law in Nigeria (Diala, 2018). According to section 17 Evidence act 2011 the courts have leeway to apply these customs while accounting for the social context in which they are applied.

Discriminatory cultural practices therefore will operate within the above legal framework. In this study I seek to examine whether the laws of the country or the decisions of the Judiciary are effective for realizing women's land rights in Anambra State. International best practice examples as enshrined in the international instruments examined in this study will be taken into account.

1.1 Statement Of Research Problem

Land ownership, both as a tangible resource and as a symbol of social status and identity, remains pivotal within societies around the world. However, in Anambra State, Nigeria, women's access to this vital asset is curtailed, not merely by economic constraints, but by deeply embedded cultural practices rooted in patriarchy. According to a research conducted by Aluko and Amidu 2006, the women's right to land is still perceived to be secondary to the rights of men despite the enactment of the (Decree no.6) Land Use Act in 1978 (Madu, 2013). According to the British Council Nigeria, 2012, p.20, 54% of the 78 million women in Nigeria reside in the rural areas and rely on land for survival. Another Research by Enwelu et al. (2014) revealed that, in Anambra State, 98.8% of women's access to land is achieved through the name of their husband. Generally, the criteria for women's access to farm land depend on the involvement of the husband and through male relative with cultural barrier being the predominant impediment against women's access to land. This research seeks to investigate the extent and implications of these practices and their conflict with broader human rights principles.

A key tension lies in the juxtaposition of municipal and international legal paradigms. Nigeria operates within a context where local customs and traditional practices can sometimes be at variance with internationally accepted human rights norms. The theoretical frameworks of monism and dualism further compound this tension. In a monist perspective, international laws, once ratified by a state, automatically become part of its domestic legal system (Ciongaru, 2022). On the contrary, the dualist perspective posits that there needs to be specific domestication of international laws for them to be effective within a state's jurisdiction (Mutubwa, 2019). Given that Nigeria leans towards a dualist system (Yinka and Oga 2022), there arises a potential clash arises between international conventions on womens rights and local patriarchal practices that deny women land ownership.

At the heart of this study is the adoption of a Human Rights Based Approach (HRBA). By centering human rights as fundamental and inalienable, the HRBA offers a lens through which to critically assess the status quo in Anambra State. It provides a framework that does not just view the issue of womens land rights as a local cultural or economic concern but elevates it to a basic human rights issue. According to article 2 of the universal declaration of human rights every woman, by virtue of her inherent dignity and worth as a human being, should have an equal right to own land, irrespective of culturally entrenched norms or practices that provide and this will be further elaborated in chapter 3.

As the driving force behind the problem, the option and practical manifestations of patriarchy demand scrutiny. Characterized by male dominance and control over resources, patriarchy is not just a structure. It also is a set of beliefs, practices, and cultural narratives that have been used over the years to perpetuate women's inferiority to men (Ssenyonjo, 2007). In Anambra State, this manifests glaringly in the realms of land ownership and inheritance (Enwelu et al., 2014). Closely tied to patriarchy is the sub-concept of primogeniture, where the eldest male offspring is often the primary or sole inheritor of family land (Bertocchi, 2006). This practice, while ensuring lineage continuity, further exacerbates gender disparities, leaving women especially those without male children—vulnerable and economically marginalized (Maunatlala, 2019).

In conclusion, the problem this research aims to tackle is multifaceted: it is about reconciling local patriarchal practices with international human rights norms, about understanding the legal implications of Nigeria's dualist stance, and about advocating for a human rights-based approach to gender and land ownership. Through this study, I intend to shed light on these complexities, offering both an academic contribution.

1.2 Relevance of the Study

Investigating the influence of patriarchy on women's land ownership rights in Anambra State offers a significant contribution to a multi-faceted understanding of the interplay between cultural practices, local laws, and international legal standards. Recognizing that the impediments to women's rights often stem from deeply rooted traditions (Zaib and Nawaz 2021) this study delves into the nuances of how patriarchy, especially through the practice of primogeniture, has become an institutionalized barrier for women In Anambra State.

By analyzing the relationship between municipal and international law, the research highlights the tensions and potential alignments concerning women's land rights. Anambra State, like many regions globally, grapples with the challenge of synchronizing local laws with international human rights obligations. Through this exploration, the study not only identifies where contradictions exist but also suggests possible pathways for harmonization, especially in the realm of women's rights.

Incorporating a Human Rights Based Approach amplifies the significance of the research. It accentuates the idea that beyond economic or cultural considerations, the right to land ownership for women is fundamentally a human right (UN Women, 2013 pp 6,7). By placing women's land rights within the broader spectrum of human rights, the study challenges the status quo, advocating for the re-evaluation of cultural practices and legal systems that perpetuate gender disparities.

Further, the nuanced exploration of patriarchy and primogeniture is pivotal. While patriarchy is a globally acknowledged system of male dominance, its manifestations, intricacies, and implications can vary considerably across different societies (Offiong et al. 2021). By honing in on how it unfolds in Anambra State, especially in the context of land ownership, the research provides valuable insights into the dynamics that perpetuate women's disenfranchisement.

This study serves multiple purposes. For policymakers, it offers insights that could guide the development of more gender-sensitive laws and policies. For civil society and women's rights advocates, it provides empirical grounding to bolster their efforts towards ensuring equality. For academia, it fills a knowledge gap, bridging the realms of law, culture, and gender studies.

Furthermore, by eschewing traditional fieldwork methodologies, the study sets a precedent for how comprehensive research can be conducted using alternative methods, thus broadening the horizons for future research endeavours.

In essence, the research reaffirms the need for a continuous dialogue between cultural practices, local laws, and international human rights norms, striving for a world where women's rights, including the right to land ownership, are universally upheld and celebrated.

1.3 Research Objectives

In this paper I critically analyse the influence of patriarchal cultural practices on women's rights to land ownership in Anambra State and seek to understand its implications within the broader context of municipal and international human rights law.

The specific research objectives are to:

1. explore the relationship between Anambra States local customs and traditions related to women's land ownership and international human rights conventions and the implications for women;
2. critically analyse land ownership disparities in Anambra State using a human rights-based lens, asserting that land ownership for women is not just a socio-economic issue but a fundamental human right;
3. investigate the depth and breadth of patriarchal structures, beliefs, and practices in Anambra State, with a focus on their repercussions for women's land rights. This includes, delving into the sub-concept of primogeniture and its role in exacerbating gender disparities in land ownership.

1.4 Research Questions

The Main research question is the following: How does patriarchy, as a cultural practice in Anambra State in Nigeria, influence the women's rights to land ownership within the context of municipal and international law, particularly considering human rights perspectives?

The following sub- research questions will be addressed:

1. How do municipal laws in Anambra State and broader Nigerian frameworks align or conflict with international human rights norms concerning women's rights to land ownership?
2. How can a Human Rights Based Approach (HRBA) elucidate the cultural, legal, and systemic challenges to women's rights to land ownership in Anambra State?
3. How is the concept of patriarchy manifested in Anambra State's traditional practices, especially concerning primogeniture, and how does this affect women's land rights?
4. To what extent do law and jurisprudence provide an opening for upholding women's land ownership right?

1.5 Research Techniques and Methodology

This research gives a comprehensive and deep insight into the issues at hand by relying on a rich array of secondary sources, legal texts including jurisprudence, and adopting a human rights-based lens. In the pursuit of understanding the intricate dynamics of the influence of patriarchy on women's land ownership rights in Anambra State, a multi-pronged research methodology, firmly grounded in desk-based research, has been crafted. This methodology seeks to juxtapose traditional practices against international human rights norms, and to evaluate how their interactions, driven by the underlying theoretical and conceptual frameworks, impact women's access to land.

A literature review will provide a historical and contextual understanding of the key themes, relying on peer-reviewed articles and other publications on patriarchy, women's land ownership rights, and African traditional practices, with an emphasis on Nigeria and its specific states; Nigerian land law and other laws; reports from international organizations (such as the United Nations and the World Bank) and from local NGOs working on gender issues in 'Nigeria; government policies, statutes, and documents concerning land ownership and women's rights; and relevant jurisprudence. A thematic analysis will be employed, breaking down the literature into pertinent themes, noting patterns, contradictions, and gaps in the existing literature.

The analysis of legal texts will be done to understand the relationship between municipal (Nigerian) laws on land ownership and international human rights conventions and treaties. Comparative analysis will be used. Nigerian laws will be compared to international standards to identify areas of alignment and discord. This will also involve a deep dive into Nigeria's stance on the monist and dualist approaches and how this affects the domestication of international conventions.

Data sources on the status of women's land ownership in Anambra State and related patriarchal practices include; reports and publications from Nigerian research institutions and think tanks, published case studies, and ethnographic accounts focusing on Anambra State. Descriptive analysis will be used to present the current status of women's land ownership, while inferential analysis may highlight the influence of patriarchy on these dynamics.

I justify my adoption of the Human Rights Based Approach (HRBA) as follows. It is important to frame the entire research within the context of human rights, to ensure that the investigation is not just a matter of cultural or legal importance but fundamentally a matter of rights. The HRBA will not just be a method but will serve as a lens through which every piece of data, every legal text, and every cultural practice is analyzed. It emphasizes the obligations of duty-bearers (typically state actors) (European Commission, 2021) and the rights of claim-holders (in this case, women in Anambra). The research will consistently circle back to question such as: are women's human rights being upheld in the context of land ownership in Anambra State? Drawing from the literature, legal analysis, and secondary data, I will synthesize my findings to present a coherent narrative of the current state of women's land rights in Anambra state.

The cases were chosen based on how they dealt with the land ownership rights of women in Anambra state, I chose the cases which showed that that patriarchy influences land ownership rights of women in Anambra state. Although there exists so many cases in the eastern Nigeria region which contravenes the human rights of women to land ownership because of the scope of my study I cannot cite all cases so I handpicked a few relating to my research.

1.6 Research Ethics

Since the research is essentially based on the analysis of existing texts that are accessible to the public, it will not be necessary to obtain ethical approval for the conduct of the research. Principally, the intervention of the legislative arm of the Nigerian government can be inferred from its proceedings, laws, and other texts that are available in the public domain. Likewise, judicial interventions can be analysed by obtaining information from decided cases that are made public.

1.7 Structure Of The Research

This Research paper is divided into four chapters. The first chapter of this Research paper establishes the context by introducing the major topic under consideration, namely the discriminatory cultural practises that affect women's land ownership rights in Anambra State, Nigeria. The text provides a clear explanation of the research contexts, articulates the aim and objectives of the study as well as the research questions. This chapter further provides a discussion of the study's methodology emphasising the use of a literature review strategy.

Chapter 2 presents the theoretical and conceptual framework of the research. The text elucidates and defines fundamental ideas relevant to the study such as the relationship between international law and municipal law, taking a look at dualism and monism. It sets out patriarchy as cultural practices that impact the rights of women to own land. This chapters explores the intersection and influence of various ideas on the analytical perspective used.

Chapter 3 begins by a comparative analysis of the international and national legal frameworks that are designed to promote women's rights, with a particular focus on gender-based discrimination and its impact on land ownership rights. This study evaluates the impact of international commitments on Nigerian law and will examine how they could ideally shape the legal framework in Nigeria.

Chapter 4, the study delves into a comprehensive legislative instrument, that have been developed to address gender-based discrimination in property ownership within the state of Anambra, that encompasses land ownership. Moreover, this study delves into an in-depth examination and evaluation of significant decisions of the court and the trends pertaining to the protection of women's land ownership rights in Anambra, Nigeria, will be explained. Synthesizing conclusions will be drawn at the end of the chapter.

In conclusion, Chapter 5 provides a summary of the main findings of the study, synthesizing the insights presented in the previous chapters. The wider implications of the research in relation to the progress of gender equality and women's land ownership rights in Anambra, Nigeria will be explained. Synthesizing conclusions will be drawn at the end of the Chapter.

CHAPTER TWO

2. 0 THEORETICAL AND CONCEPTUAL ANALYSIS

2.1 THE INTERPLAY OF MUNICIPAL AND INTERNATIONAL LAW: MONISM AND DUALISM IN CONTEXT

Legal systems worldwide grapple with the intricate relationship between municipal laws (national/domestic laws) and international law, especially in areas that touch on human rights. Two dominant theories that explore this relationship are the monist and dualist approaches.

The monist theory or approach postulates that there is no dichotomy between international and municipal laws (Cassese, 1992). They are seen as a unified whole; wherein international law is directly applicable in a national legal system without the need for any specific legislation or act. For states following a monist system, an international treaty or convention to have force within can be directly invoked in domestic courts without further ado (Ciongaru, 2022).

In contrast, the dualist theory or approach asserts a clear distinction between international and municipal laws. Here, for an international treaty or convention to have force within a domestic system, it must be transformed or incorporated into national law. In essence, until domestication occurs, the international treaty remains non-active in the domestic legal order (Atkins and Baron, 2022).

For addressing issues relating to women's rights to land ownership in Anambra State, understanding the dynamic between these two theories is crucial. If Nigeria, for instance, aligns more with the dualist approach, international conventions championing women's rights might not have direct applicability unless domesticated. Therefore, this study will investigate Nigeria's alignment and how this influences the realization of women's land ownership rights in Anambra State vis-à-vis international standards.

2.2 A HUMAN RIGHTS-BASED APPROACH (HRBA)

A human rights-based approach will be employed to guide this study and will be discussed in detail in the second chapter. Worldviews that stress the innate human rights and dignity of people are known as human rights-based approaches. They prioritise human rights in the formulation of policies and the making of decisions. A human rights-based based law, policy or strategy would support ensuring that the women's right to land ownership is safeguarded and recognised especially in a context of discriminatory cultural practices and land ownership rights (Rand and Watson, 2007). A human rights-based approach is a strategy centred around human rights and is based on a framework that is grounded in and guided by international human rights norms (Kapur and Duvvury, 2006; Office of the United Nations High Commissioner for Human Rights (OHCHR) and UN Women, 2013). Therefore, any HRBA requires that:

- human rights be defined and applied to all, guided by the principle that human rights should be universal in their application;
- human rights should be approached as indivisible;
- human rights are enshrined in equality and non-discrimination; and often their implementation requires participation;

-there be accountability (United Nations Sustainable Development Group, 2003; Waldorf, Arab and Guruswamy, 2007).

Some assumptions underly the choice of a human rights-based approach for conducting the study. Firstly, the Nigerian Constitution in Section 42 recognises the right to freedom from discrimination on account of sex or birth as one of the rights guaranteed in Nigeria (Johnson, 2023: 324). By the same token, Section 43 gives Nigerian citizens the right to acquire and own land (Igbolekwu et al., 2022). Nigeria is a party to international instruments that have positive pronouncements against discrimination and support for the rights of women. Nevertheless, a series of cases have been brought before Nigeria's courts seeking to advancing the rights of women to own land or other property in response to customs that deny them such rights. By the same token, despite the existence of these international instruments, women are still marginalised in terms of discrimination and ownership of land (Stichter & Parpart, 2019). Therefore, holistically, the human rights-based approach can be said to offer an avenue to not only offering a form of prescription but also providing guidance towards solutions and addressing factors that affect the realization of a particular right. Thus, it is therefore not sufficient to have the laws, but it will be imperative that mechanisms are in place to ensure compliance, awareness, and reorientation of the people.

The human rights-based Approach posits that in every developmental or legal endeavor, the overarching goal should be the realization of human rights (UN Sustainable Development Group, 2003). HRBA does not perceive human rights as mere legal or moral directives only but integrates them into development programs, policies, and processes (UNIFEM, 2007).

Using HRBA for this research ensures that the examination of women's land ownership rights in Anambra is not just a national legal or cultural study. Instead, it is firmly rooted in the belief that every woman possesses inherent rights, which must be upheld and protected, including by law. This approach underscores the obligations of duty-bearers (typically state actors) and the rights of claim-holders (in this case, women in Anambra).

It is significant to note that HRBA is not just about ensuring that women in Anambra can own land. It is also about ensuring that they can exercise this right without discrimination, coercion, or any other form of human rights violation.

2.3 PATRIARCHY AS A CULTURAL PRACTICE

At its core, patriarchy represents a system where males are dominant, not just in familial settings but also in broader societal structures. Underlying this system are deeply entrenched cultural, political, and economic mechanisms that perpetuate male dominance and female subordination. Patriarchy system has been recognized as one of the major contributors to gender inequality and disenfranchisement of women from the inheritance of properties (Nwoko, 2012).

In many societies, one of the ways patriarchy manifests is through the system of primogeniture. Primogeniture is the right, by law or custom, of the firstborn male child to inherit the family estate, to the exclusion of younger siblings and sisters (Bertocchi, 2006). In regions like Anambra State, where patriarchy and traditional systems hold significant sway, primogeniture can be a significant impediment to women's rights to land ownership.

This research will, therefore, explore how these patriarchal systems, reinforced by customs like primogeniture, curtail women's rights, especially in juxtaposition with municipal and international human rights standards.

This research gives a comprehensive and deep insight into the issues at hand by relying on a rich array of secondary sources, legal texts including jurisprudence, and adopting a human rights-based lens. In the pursuit of understanding the intricate dynamics of the influence of patriarchy on women's land ownership rights in Anambra State, a multi-pronged research methodology, firmly grounded in desk-based research, has been crafted. This methodology seeks to juxtapose traditional practices against international human rights norms, and to evaluate how their interactions, driven by the underlying theoretical and conceptual frameworks, impact women's access to land.

A literature review will provide a historical and contextual understanding of the key themes, relying on peer-reviewed articles and other publications on patriarchy, women's land ownership rights, and African traditional practices, with an emphasis on Nigeria and its specific states; Nigerian property and other law; reports from international organizations (such as the United Nations and the World Bank) and from local NGOs working on gender issues in 'Nigeria; government policies, statutes, and documents concerning land ownership and women's rights; and relevant jurisprudence. A thematic analysis will be employed, breaking down the literature into pertinent themes, noting patterns, contradictions, and gaps in the existing literature.

The analysis of legal texts will be done to understand the relationship between municipal (Nigerian) laws on land ownership and international human rights conventions and treaties. Comparative analysis will be used. Nigerian laws will be compared to international standards to identify areas of alignment and discord. This will also involve a deep dive into Nigeria's stance on the monist and dualist approaches and how this affects the domestication of international conventions.

Data sources on the status of women's land ownership in Anambra State and related patriarchal practices include; reports and publications from Nigerian research institutions and think tanks, published case studies, and ethnographic accounts focusing on Anambra State. Descriptive analysis will be used to present the current status of women's land ownership, while inferential analysis may highlight the influence of patriarchy on these dynamics.

I justify my adoption of the Human Rights Based Approach (HRBA) as follows. It is important to frame the entire research within the context of human rights, to ensure that the investigation is not just a matter of cultural or legal importance but fundamentally a matter of rights. The HRBA will not just be a method but will serve as a lens through which every piece of data, every legal text, and every cultural practice is analyzed. It emphasizes the obligations of duty-bearers (typically state actors) (European Commission, 2021) and the rights of claim-holders (in this case, women in Anambra). The research will consistently circle back to question such as: are women's human rights being upheld in the context of land ownership in Anambra State? Drawing from the literature, legal analysis, and secondary data, I will synthesize my findings to present a coherent narrative of the current state of women's land rights in Anambra.

2.4 CONCLUSION

In sum, the theoretical and conceptual framework for this study is expansive, touching on intricate legal theories, human rights principles, and deep-seated cultural practices. Through the lens of these three critical areas, the research hopes to provide a comprehensive understanding of the

challenges women face in owning land in Anambra State and the possible pathways to achieving parity.

CHAPTER THREE

3.0 ANALYSIS AND DISCUSSIONS: LEGAL INTERVENTIONS

This chapter analyses selected international treaties relevant to protections of women's right to own property such as land and how existing legal intervention are in line with the international instruments. There is a plethora of international treaties which emphasize the equality of women's right to men's right to land ownership, but this section will confine its consideration to the Convention on the Elimination of All Forms of Discrimination against Women CEDAW (1979) and Maputo Protocol. These treaties, both ratified by Nigeria, mandate that women's rights be given equal recognition as men's rights to land ownership (Garba, 2018). The relevant provisions of these treaties as it relates to equality of women rights are examined below.

3.1 CONVENTION ON THE ELIMINATION OF ALL FORMS OF DISCRIMINATION AGAINST WOMEN (CEDAW) 1979

The CEDAW is an international instrument articulating an important set of rights to which women are entitled. The convention became necessary to combat discrimination against women especially in matters relating to culture and tradition (United Nations Women, 2007). CEDAW defined discrimination against women as "any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on the basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field" (Art. 1). Women are to be accorded equal status with men and a legal capacity similar to that of men (Art. 15). One characteristic of a person's legal capacity is the right to acquire land in his or her name.

CEDAW requires all States Parties to take appropriate measures that are necessary to ensure that women enjoy equal access and exercise of human rights as men do (Art. 3). States Parties are required to play an active role in modifying "the social and cultural patterns of conduct of men and women, with a view to achieving the elimination of prejudices and customary and all other practices which are based on the idea of the inferiority or the superiority of either of the sexes or on stereotyped roles for men and women" (Art. 5). In essence, States are supposed to identify and eliminate the social and cultural practices which place one sex as superior over another. This is a vital provision that would help to cure the cultural ills because of which women are unable to own property in Anambra State. However, it is the responsibility of Nigeria, as a State Party, to conduct this modification. The government of Anambra State can then take a cue from what has been done by the federal government to ensure that discriminatory customs are abolished.

Another vital provision of CEDAW on relevant women's rights is that State Parties are required to eliminate discrimination against women's rights especially as it concerns family benefits (Art. 13). Inheritance of property is usually a family benefit as the estate of a deceased person who died intestate devolves upon family members. By this provision, women have equal right as male relatives to this family benefit. The optional protocol to CEDAW contains provisions which allow individuals and groups in the member states to complain to the CEDAW Committee where the government neglects to implement the policies of the Convention (Okongwu, 2021). In Nigeria, CEDAW was adopted in 1985 and the optional Protocol to the Convention was signed on September 8, 2000, and subsequently ratified in 2004 (Ijeoma, 2006). The periodic reports of

CEDAW (1998 and 2003) observed that cultural discrimination is rooted in the Nigerian cultures and attitudes exacerbated by the traditional society, consequently, the role of women has been relegated to that of a homemaker and baby factory. The report further stated that, the Nigerian government was committed to ending discrimination in the communities. However, it is argued here that the provisions of CEDAW must be fully integrated in the Nigerian legal system via enacted legislation in line with section 12 of the Nigerian constitution which require international treaties to be domesticated for them to be in force in Nigeria (Onomrerhinor, 2016).

3.2 PROTOCOL TO THE AFRICAN CHARTER ON HUMAN AND PEOPLE'S RIGHTS ON THE RIGHTS OF WOMEN IN AFRICA (MAPUTO PROTOCOL) 2003

The African Charter (2003) also provides for the equal enjoyment of all rights by everyone without distinction of any kind (Art. 2) and lists several other rights to be enjoyed by everyone including the right to own land which must be guaranteed (Art. 14). The rights provided by the African Charter are enjoyable by all persons irrespective of sex. This infers that the right to own land is enjoyable by women equally to men.

The Maputo Protocol evolved from the African Charter on Human and Peoples' Rights, was adopted in 2003, and ratified by Nigeria in 2004. The Protocol seeks to address discriminatory issues against women in Africa and strengthen their roles as mothers in the communities (Okongwu, 2021). The Maputo Protocol requires all States Parties to eliminate all forms of discrimination against women (Art. 2). One of the measures to do so is to include the principle of equality between men and women in national constitutions and legislative instruments. Another measure is to enact and implement legislative measures which prohibit all forms of discrimination against women. Like the CEDAW, the Maputo Protocol requires States Parties to modify social and cultural practices which place women as inferior to men or vice versa (Art. 2(2)). The Protocol also states that a woman has the right to acquire, administer and manage her own land during the course of her marriage without interference (Art. 6(j)).

Women are guaranteed the right to participate in the determination of cultural policies (Art. 17). It is essential for women to be a part of deliberations as regards cultural practices so that they can fight for their equality and respect of their rights. Furthermore, the Maputo Protocol protects the rights of widows not to be subjected to inhuman, humiliating and degrading treatment (Art. 20(a)). It is inhuman and degrading for a widow to be denied access to her late husband's estate because she bore no children or did not bear a male child (Garuba, 2018: 98). A widow also has the right to share in the inheritance of her husband's land just as all children, irrespective of sex, have the right to an equitable share in their parents' land (Art. 21). Where a woman alleges that she has been wronged and her rights breached, it is the responsibility of States Parties to provide appropriate remedies to her wrong (Art. 25).

3.3 THE EXTENT OF COMPATIBILITY OF DOMESTIC LEGISLATION IN ANAMBRA STATE WITH INTERNATIONAL LAW ON WOMEN'S RIGHTS TO OWN LANDED PROPERTY

In 2005, the Anambra State House of Assembly enacted the Anambra State Malpractices against Widow and Widowers (Prohibition) Law 2005 to combat widow/widowers' discrimination and

related matters in the State. The Law provides that the fundamental human rights provided in the Nigerian Constitution are inalienable and accrue to every widow or widower (S. 3). Section 42 on the other hand expressly prohibits discrimination on grounds of ethnicity, sex, age, place of birth or religion. Also, section 43 enshrines the right of every citizen to acquire and own land in any part of Nigeria. A community reading of the above constitutional provisions in relations to the Anambra State Malpractice Against Widow and Widowers (Prohibition) Law entails that no widow or widower shall be subjected to any form of discrimination like torture or deprivation to acquire any land on the basis of his or her social status as a widow or widower in Nigeria particularly in Anambra State (Iloka (2022).

In 2005, Anambra State enacted the Anambra State Malpractices against Widows and Widowers (Prohibition) Law 2005 which contains profound provisions for protecting the rights of widows and widowers, conforming to international human rights principles as enshrined in the Maputo Protocol and the UN Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW). This legislation acknowledges the immutable human rights of widows and widowers, as outlined in the Nigerian Constitution, particularly as it relates to the proscription of discrimination against land rights in Nigeria.

The provisions of the Anambra State Law align to the Maputo Protocol, which aims to promote women's rights and end gender discrimination in Africa, particularly Article 3 which provides for the right to dignity and Article 7 on the right to inherit and own land.

Despite the above laudable provisions in the law, the effectiveness of the Anambra State Law is hampered relatively by the benign penalties provided for violations, as rightly opined by scholars like Iloka (2022). There is therefore the need to reinforce these penalties to enhance the deterrent effect of the law as well as to bring it in alignment with the human rights principles of the Maputo Protocol and CEDAW. Finally, the Anambra State Malpractices against Widows and Widowers (Prohibition) Law 2005 provides a positive step for the application of human rights-based approach for the protection of widows and widowers in Nigeria. By and large, it reverberates with international standards, but needs reinforcement in the penal provisions to benefit from stronger enforcement mechanisms that will ensure more effective protection and alignment with the Maputo Protocol and CEDAW principles.

Precisely in relation to ownership of land the law provides to the effect that, subject to the provision of the Marriage Act, the Succession and Administration of Estate laws or any native law that is not repugnant to natural justice, equity and good conscience, no widow or widower shall be dispossessed forcefully from any property that was acquired or used by the spouses when the other spouse was alive (S. 4(3)).

The law also provides punishment for any person who discriminates or contravenes or aids in the violation of the provisions of the law. Such a person shall be liable to a fine of not more than N20,000 or an imprisonment of not more than six months or both. However, many scholars have argued that the fine provided by the law is too trifling and paltry to deter offenders. For instance, Iloka (2022) has argued that the fine of N20,000 provided by the law is grossly inadequate considering the trauma many widows experience in extreme cases even leading to their deaths. I agree with his view. He further suggested that the laws should be in line with the Criminal and Penal codes which provide for more severe penalties.

The Administration and Succession (Estate of the Deceased Persons) Law 1987 is another relevant piece of legislation. One of the other laws governing succession or inheritance in Nigeria

is the Administration of Estate laws of various states in Nigeria. The law was initially imported into Nigeria by the colonial administration and has been modified and localised by various states *mutatis mutandis* to suit the peculiar local systems and customs.

In Anambra State, the Administration and Succession (Estate of the Deceased Persons) Law (Succession Law) of 1987 is the principal law regulating the estates of deceased persons who died without a will. The law provides for a succession system that seeks to protect the interests of the survivors of the deceased persons including women (widows and daughters). Where there is a will, his or her testamentary disposition will be subject to statutory limitations.

Basically, the law is that the estate of a deceased person who died without leaving a will shall be inherited by the “next of kin”. According to section 2 of the Succession Law, next of kin includes a widow or widower of a deceased person as well as other persons who may be entitled by law to letters of administration over the interest of a creditor or legatee of the deceased. Thus, under the Succession Law of 1987, the following rules apply in the administration of the deceased’s estate:

i.The personal belongings of a deceased spouse shall be inherited by the surviving spouse. In the event where the deceased is survived by a spouse without children, parents or biological siblings, the surviving spouse inherits all. By contrast, where the deceased is survived by a wife and siblings, the interest of the wife shall fail upon her death or remarriage. This means that, the wife shall be exclusively entitled to the estate of her deceased husband until her death or marriage to another person.

ii.Where the deceased person is survived by a spouse and children, one-third of the interest shall be held in trust for the surviving spouse. Where the surviving spouse is the husband, his interest is absolute whereas in the case of a surviving wife, her interest is based on her life time or until she remarries. The remaining estate and the residue from the wife’s estate shall be held in trust for the surviving children and grandchildren (S. 120(1) (b)).

iii.In the case of a deceased who is survived by a spouse as well as parents, siblings or children of the siblings but without a child, the surviving spouse shall be entitled to two-third of the estate. The interest of such spouse shall be absolute for a husband but for a wife, it shall be for life or until remarriage (S. 96(2); Diala, 2014).

It is submitted that the provision of the law in (ii) above is inconsistent with section 42(2) of the Constitution as the one-third of the estate required to be ceded to the widow is discriminatory on the grounds of her not bearing children. The above section of the law contemplates a situation where the deceased has a childless spouse and children from another spouse. Under such scenario, the law contemplates a paltry one-third of the estate to be given to the surviving wife and the bulk of the remaining estate to the children of the deceased from another spouse. This section was the subject of interpretation in the case of *Okonkwo v. Okonkwo* (2014) where a childless widow was deprived of the inheritance from her deceased husband by his relatives who contended that under the Awka native law and custom, the deceased estate ought to have passed on the 2nd set of defendants who were children of the deceased from another woman. The trial judge gave his decision based on the provision of section 120(1)(b) of the Anambra State Administration and Succession (Estate of the Deceased persons) law. The widow appealed against the one-third entitlement contending that it was discriminatory and offensive to section 42(2) of the constitution. The Court of Appeal unanimously allowed the appeal and further held that the said provision of the law was inconsistent with the constitution and stands null and void. This jurisprudence also

reveals the potential for legal, and possibly societal change, to occur in response to judicial intervention. I hope that the law will be amended accordingly as held by the Appellate Court.

From the foregoing discussion, it is clear that the Anambra state law on succession and inheritance has discriminatory provisions against women. The law has failed to protect the unfettered interest of a deceased widow to appropriate her deceased husband's property. A man is granted absolute right over his deceased spouse's estate while the portion granted to the woman can only be enjoyed for her lifetime if she chooses not to remarry.

The Anambra State Administration and Succession (Estate of Deceased Persons) Law also makes room for people other than the spouse to apply for a letter of administration over the deceased's estate. This set of people includes the children, siblings, grandparents, grandchildren, aunties and uncles, half brothers and sisters of the deceased as persons eligible to survive the deceased intestate depending on the identity of the beneficiary or survivor. The Anambra State Administration and Succession (Estate of the Deceased Persons) Law of 1987, though intended to regulate estate succession in cases of intestacy, regrettably manifests obvious gender biases, precisely against women, which negates international human rights standards as established in the Maputo Protocol and CEDAW (Convention on the Elimination of all Forms of Discrimination Against Women).

The central theme espoused in the Maputo Protocol is to promote and protect the rights of women in Africa. The protocol imposes responsibility on member states to end discrimination against women and ensure equitable matrimonial rights, including inheritance. Sadly, the Anambra law, conversely, discriminates against widows by the tenor of its provisions for inheritance, providing less favourable terms to them in comparison to their male counterparts. This is at variance with the provisions of Article 7 of the Maputo Protocol, which seeks for equal rights of inheritance. Relatedly, CEDAW, which objective is to eliminate all forms of discriminations against women, require states to guarantee equality within family law including rights of inheritance. The arbitrary treatment whereby widows and widowers are subjected to conditional and limited rights under the Anambra law is an aberration to CEDAW's principles, precisely Article 16 which relates to equality of rights in matrimonial and family relations.

Judicially, the case of Okonkwo v. Okonkwo (2014) provides a further illustration of this legal and societal unfair treatment. The judgement of the court which nullified the provisions of the law for being discriminatory and unconstitutional, is in line with the principles laid in both the Maputo Protocol and CEDAW. This decision underscores the need for legal reforms in the Nigerian legal system in order to bring inheritance laws in conformity with international human rights standards. By way of summary, this study found that the current form of the the Anambra State law has fallen short of the human rights standards set by the Maputo Protocol and CEDAW. This is glaringly manifested in the law by the provision which fosters gender-based discrimination under inheritance rights. This present researcher therefore advocates for the need to amend these laws to guarantee equal treatment to all citizens, devoid of discrimination irrespective of gender, to align with international human rights principles.

The Violence Against Persons (Prohibition and Protection) Law, or Anambra State Law No 6. 2017, is instructive in terms of the incorporation of international human rights law in Anambra State in the context of protecting the right of women to own property, including land. Statistics have shown that there are arguably more cases of violence against women than men in Anambra

State (Ezeano, 2020). Anambra State Law No 6 mirrors the provisions of the Violence Against Person's Act enacted by the National Assembly in 2015. The Anambra Law contains salutary provisions especially in relation to the protection of the rights of women in Nigeria.

The Law in section 11 equally prohibits forceful ejection of spouses from their matrimonial homes. However, it is commonplace in Anambra State for husbands to send their wives packing to relocate to their parent's homes. Under the current Law, this is now an offence and the same applies to refusing him or her access to the matrimonial home. The penalty for this offence is imprisonment for not more than two years or N300,000 or both. This section reinforces the provisions of the United Nations Covenant on Economic, Social and Cultural Rights which provides that the right to adequate shelter should not be interpreted narrowly (Art. 11(1) ICESCR 1966).

The Anambra State Violence Against Persons (Prohibition and Protection) Law, No. 6 of 2017, tremendously aligns with international human rights principles, particularly those established in the Maputo Protocol and United Nation's Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW) in its quest to safeguard women's rights majorly their right to property ownership. The provisions of the law which provides for the protection of individuals in domestic relationships, transcending family or marital relationship is in tune with the general conceptualization of discrimination and violence against women as specified in the Maputo Protocol and CEDAW. Both legal frameworks highlight the necessity to accord protection to women against all forms of violence, beyond those perpetrated within the ambit of the family. Notably, the law's position in relation to economic abuse, which includes denial of inheritance or succession rights against women echoes with the provisions of CEDAW in Article 15 which imposes on states the obligation equal rights for women in both financial and property matters. The provisions of the law which prohibits forced ejection of women from their matrimonial homes and economic abuse clearly dealt with regular forms of gender-based violence and discrimination, strengthening women's rights to descent standards of living and access to property, as recognized in Articles 25 of the UDHR and 11(1) of the ICESCR. By criminalizing emotional, verbal, and psychological abuse under the Anambra law, the law has set a crucial standard in tackling the hitherto overlooked facets of gender-based violence, aligning with the robust approach sermonized by the Maputo Protocol and CEDAW to protect the rights of women. The above notwithstanding, in order to provide effective compliance of this law with human rights standards, it will depend on the intentional implementation and the awareness of its provisions among the citizenry. The progressive status of the law significantly aligns it with international human rights standards, particularly as it relates to women's property rights and protection against violence. However, achieving optimal result from the law depends on adequate enforcement and integration of the law into societal values in Anambra State and Nigeria at large.

3.4 PATRIARCHY AS CULTURAL PRACTICE IN ANAMBRA STATE

Patriarchy is still strong in many parts of Nigeria, with males serving as the dominant decision-makers in family and community life. As a result, women are relegated to inferior positions and are frequently denied access to vital personal, family, and community resources. Patriarchal customs and traditions are the dominant factors that influence land ownership in most parts of Nigeria (Ekhator, 2018). In most Nigerian families, foundations for sex preference are laid by the

natal families (Ajayi and Olotuah, 2005). The birth of a male child is celebrated more than that of a female child given that, the birth of a male child guarantees the continuation of such lineage. Primogeniture refers to the custom of giving priority in inheritance to the first male child in a household.

The concept of 'purchasing' is relevant to both the bride price and the transfer of property ownership. Nigerian practice of paying a bride price is held to mean that the woman has been bought by the man. This even extended to the realm of property rights, with the implication being that the male is entitled to everything gained by the couple throughout their marriage since he 'paid' for the woman. Customary marriages in many regions of Nigeria do not always provide women the same protections as males when it comes to their assets. After a divorce or legal separation, by some customs, the woman has no right to any of the family's assets (Garba, 2018).

Additionally, the bride is typically held responsible for the groom's and his family's debt incurred as a result of the bride price. Sometimes, in order to pay off this obligation, women have to give up their assets, inheritance, or income. Financial hardships like this might further discourage women from investing in property and keep them in a cycle of reliance. Furthermore, the reimbursement of the bride price sometimes becomes problematic in the tragic occurrences of marital strife or divorce. If a marriage breaks up, the bride typically has to pay back the bride price to the groom's family, which might mean giving up her half of the marital estate. This may put her in a very precarious financial position, maybe even making her homeless or impoverished. In certain legal systems, where customary law has substantial power, the bride price may be used to argue against a woman's entitlement to her marital or separate property in the event of divorce or death. The theory behind this practise is that the bride price 'covered' the woman's economic worth, rendering her ineligible for any share of marital assets.

The practise of charging women a bride price might affect their ability to inherit property. A 'purchased' bride in a bride price society may have fewer rights to her birth family's possessions. Even within her own biological family, she is at a disadvantage since her brothers, who may be obliged to pay bride prices for their brides, are generally given priority over her in issues of inheritance. Although the practise of paying a bride price has different connotations in different cultures, it almost always has negative effects on a woman's ability to possess property. It may be used to further discriminate against women, keep them in a cycle of poverty, and deny them their fair share of property in both married and biological households.

Customary practises have a significant impact on women's property rights, especially in traditional communities, when it comes to inheritance and widowhood. Widows are often disinherited due to customs around inheritance. Widows are often denied the right to inherit their husband's property in several areas of Nigeria, especially the southeast. Instead, male heirs tend to inherit these assets when a female relative passes away.

The gender gap in inheritance is exacerbated by customary norms that women should support their male relatives financially. Women are frequently pressured or coerced into giving up their inheritance rights in favour of male relatives because they lack the means to support themselves financially or the education and experience necessary to effectively manage property. These difficulties are magnified by widowhood. When a husband dies, his wife doesn't always immediately inherit his wealth. Instead, it might be claimed by his male ancestors, particularly in customs where wives are considered marital property rather than separate people. Levirate

marriage, in which a widow is forced to wed a male relative of her late husband in order to maintain control of the family estate, is common in several cultures.

Another disturbing phenomenon is “property grabbing” in which a widow and her children are left impoverished after the death of the husband because his relatives have appropriated the family’s possessions. Traditional views about women’s inability to manage property or the concept that she is an outsider in her married household, particularly if she originated from another community or ethnic group, sometimes provide the excuse for such acts. Under male-dominated traditions and culture, landed property is held to belong to the fathers and husbands and are to be handed over their sons (Jonathan, 2013). In Okija, another community of Anambra State, a widow returned to the city to resume her job as a civil servant after the burial ceremony of her deceased husband. After she left the village, her brother-in-law moved his family into her late husband’s house stating that a dead man does not own property (Okoli, et al, 2023). In another instance, a widow was deprived of all the properties of her late husband. Her brothers-in-law had taken over the landed properties her husband owned when he was alive and left her and her six children with nothing (Okoli, et al, 2023).

Widows may be forced into poverty as a consequence of the economic insecurity caused by these practises. They may be unable to provide for themselves and their families, which may have far-reaching consequences like a decline in the quality of their children’s education or the need for them to engage in exploitative labour. An example is Ijeoma Ubah, an Igbo woman, who narrated that the body of her late husband was removed from the mortuary without her knowledge (Ajayi, 2020). She was told that the burial ceremony would not take place until she completed the house in the village which her husband was building before, he died. She was also told to kill a cow in respect of her father-in-law who had died almost thirty years before then. She had to sell her late husband’s car to be able to meet up with the requirements (Ajayi, 2020). After she had fulfilled the wishes of her husband’s relatives, they still refused to conduct the burial ceremony and told her to return to her father’s house with her three daughters. At a point, the relatives went to the house where she lived with her late husband and shared the rooms amongst themselves (Ajayi, 2020).

Land in certain Nigerian communities is traditionally held in common by male family leaders according to rigid lineage and clan systems. The males, who are usually predominant political power holders, also exercise control over property in a patrilineal system (Obiora and Onwuyi, 2018). Women may use the land for farming or other purposes, but they are seldom the lands legal owners or given a voice in the matter. Land is used by women for farming and food processing at the benevolence of their husbands and brothers (Makama, 2013). Women’s property rights differ from one society to the next, and this depends on the land tenure system in place. Customary norms, economic institutions, and legal frameworks all play a role in shaping the link between land tenure regimes and women’s property rights. Patriarchal land tenure arrangements have historically given power over land to males in a lot of traditional civilizations. Women often get access to land via male relatives like dads, spouses, or brothers. Women’s land rights are typically more unstable since they are dependent on male mediators to get access to land.

Anambra State, Nigeria male heirs have had an advantage when it comes to inheriting the family property. Inheritance rules that favour the oldest son, such as primogeniture, might exclude girls from the property (including land) ownership market (Garba, 2018: 95). Without a husband or other male guarantor, single, widowed, or divorced women may be particularly vulnerable under such institutions. Women typically face obstacles under customary land tenure systems, which are

grounded on local traditions and practises rather than formal law. Customary rules, which may not recognise women's property rights, often prevail in local communities even when national laws do. Land conflicts in these settings are often settled by community leaders or elders, who tend to be males, and whose choices frequently reflect patriarchal norms that devalue women's rights to land ownership.

In many areas, there is still a significant lag time between the passage of legislation and its actual implementation. In conclusion, women's property rights over land are intricately intertwined with land tenure. Traditional land tenure arrangements, along with economic, legal, and social hurdles, typically disadvantage women, making their land rights unstable and subordinate to those of males. This issue is not unique to any one culture or location. There is hope for fairer land tenure arrangements in the future, however, because of the growing international focus on women's rights.

3.5 CONCLUSION

The legislative interventions at the state level have played a crucial role in addressing discriminatory practises. The legislative intervention in Anambra State, exemplified by the Anambra domestic laws has been established with the aim of safeguarding the rights of women, including their entitlement to property ownership. The aforementioned legislative efforts demonstrate a dedication to universally recognised principles of equality and non-discrimination in line with international law instruments.

CHAPTER FOUR: ANALYSIS AND DISCUSSIONS ON THE JUDICIAL INTERVENTIONS

As stated earlier, State parties to international treaties are required to have judicial authorities where women can seek redress when their rights have been violated. The Courts in Nigeria and in particular, Anambra State, have made pronouncements on the rights of women to own property, including land, or threats to such rights. The Courts have declared some cultural practices as repugnant to natural justice and equity and have ruled against some customs. In some other cases, however, the Courts have been complicit and have failed in protecting the rights of women against repugnant customs. This paper shall now consider some decisions on land matters that are linked to divorce and inheritance cases of the Nigerian Courts on discriminatory cultural practices against women in Anambra State.

4.1.1 Nzekwu v Nzekwu (1989)

The plaintiff and her deceased husband were occupiers of a certain landed property which was a family land situated in Onitsha. During the Civil War in 1967, they left to Jos where the husband died leaving the plaintiff with two female children. Upon her return, the first defendant, who was the younger brother to the deceased husband, sold the land to the second defendant. The plaintiff then instituted proceedings in the Anambra High Court for trespass. The High Court held in favour of the plaintiff widow. The defendant's appeal to the Court of Appeal was dismissed and the decision of the Trial Court upheld. The defendant/appellant further appealed to the Supreme Court to quash the decision of the lower court. The Supreme Court also found for the plaintiff/respondent and held that a widow without a male child who chooses to remain in her deceased husband's house was entitled to use her deceased husband's property throughout her lifetime (Nzekwu v Nzekwu, 1989: 373). The Apex Court relied on the Onitsha custom which allows a widow to remain in her deceased husband property for life so long as she remains of good character and does not attempt to alienate the land to a third party (Nzekwu v Nzekwu, 1989: 395). The Court also held that the right claim for the respondent was recovery of possession and not a suit for trespass (Nzekwu v Nzekwu, 1989: 395).

Although in the above case the Supreme Court aligned itself with the principles of international human rights law championing the campaign against female discrimination, the justice rendered can be considered only partial. Ownership in law means having absolute control over any property including land to the exclusion of all persons. A widow who inherits her husband's land becomes the owner of such land and must enjoy exclusive use without the consent of her husband's family. The Nigerian Constitution, the African Charter on Human and Peoples Right's and the CEDAW have established some principles for the protection of the rights of women as well as ensuring equality of rights in all States.

Furthermore, instruments like the Nigerian Constitution, the African Charter on Human and People's Right, and the CEDAW champion absolute equality, particularly regarding gender rights. The described case's ruling, by not completely aligning with these principles, falls short of fully embodying the right-based approach. The male primogeniture custom of the Onitsha people, which seems to be the underlying reason for such a decision, appears outdated when juxtaposed with contemporary human rights standards. While the Supreme Court's decision acknowledges the rights of the widow to some extent, it fails to grant her the full

spectrum of rights she deserves as an owner of the property. True adherence to a human rights-based approach would have recognized her complete and unqualified rights over the property, in line with modern human rights principles, devoid of any patriarchal inhibition or requirements.

4.1.2 Onwuchekwa v. Onwuchekwa (1991)

The respondent claimed her share of the matrimonial property during a divorce suit on the premise that she contributed money for the land wherein the disputed building was erected. The Court of Appeal stated that she must sufficiently show evidence to prove any direct financial contribution towards the land to be entitled to any share from it. The Court also strangely affirmed an Isuikwuato custom which regarded a woman and her property as chattel belonging to the husband (Onwuchekwa v. Onwuchekwa, 1991: 739).

This decision negates the principles of women's rights and also the anti-discriminatory clause of the Nigerian Constitution. Human rights are the immutable and inalienable rights of all persons including women that must not be compromised. Regarding women as chattel belonging to their husbands is barbaric especially in this 21st century where there is an avalanche of policies against female discriminatory practices (Onwuchekwa v. Onwuchekwa, 1991: 739).

The rights-based approach is basically anchored in the principles of human dignity, equality, and non-discrimination. It recognizes every individual as a holder of rights and mandates that states and other institutions uphold these rights, ensuring they are not violated or compromised. This approach is premised on the philosophy that all people, irrespective of their gender, ethnicity, religion, or social status, are entitled to equal rights and should be accorded the same respect. In the described case, the Court of Appeals decision is deeply incongruous with the tenets of the rights-based approach. First, the requirement for the respondent to avail evidence of direct financial contribution to be entitled to a share of the matrimonial property, without recourse to the indirect contributions or non-financial inputs she might have made is not fair. Marriage carries the semblance of a partnership, and it is well recognized that partners can contribute in myriad ways, not just monetarily. By emphasizing only direct financial contribution, the court risks ignoring other substantial and meaningful contributions, potentially leading to a skewed and unfair distribution of matrimonial assets.

More troubling, however, is the Court's affirmation of the Isuikwuato custom that perceives women and their property as chattel belonging to their husbands. Such a view is antithetical to the principles of human rights and dignity. By equating women with property, it denies them their inherent human rights, reducing them to mere objects owned by their husbands. This is a clear violation of the right-based approach, which emphasizes the intrinsic worth and rights of every individual, regardless of gender. Furthermore, such a perspective is at variance with modern understandings of gender equality and the rights of women.

Moreover, courts, as the custodians of justice, have a duty to protect the rights of individuals, ensuring that they are not subjected to discriminatory practices. It is deeply concerning when such institutions, expected to be bastions of fairness and equality, uphold customs that are clearly inimical to these values. In sum, the decision of the Court of Appeal in this case

deviates significantly from the right-based approach. It fails to recognize the inherent rights and dignity of women, undermining both national and international norms of gender equality and non-discrimination. For justice to be truly served, it is essential for legal decisions to be premised on principles that uphold the dignity, rights, and equality of all individuals.

4.1.3 Mojekwu v Mojekwu (1997) / Mojekwu v Iwuchukwu (2004)

The property in dispute was owned by the deceased who died without a male child. Evidence was led to prove that the Nnewi custom of Oli-ekpe allowed a man to constrain his daughter from marriage and to bear male children that will inherit her father's property. The defendants were the product of this arrangement. The Trial Court dismissed the plaintiff's suit and held the Oli-ekpe custom to be repugnant to natural justice, equity and good conscience. A further appeal by the appellants to the Court of Appeal was also dismissed (Mojekwu v Mojekwu, 1997: 283). On their Appeal to the Supreme Court, the Court held that any customary law which prohibits females from inheriting property is repugnant and must be proscribed (Mojekwu v Iwuchukwu, 2004: 161).

The Court relied on constitutional provisions against discrimination on grounds of sex and article 5 of the CEDAW which enjoins States to modify social and cultural patterns of conduct in order to eliminate prejudices, customs, and practices based on the inferiority or superiority of the other sex. The decision conform to international treaties that promotes the right of women.

The Nnewi custom of Oli-ekpe, which allowed a man to restrain his daughter from marriage for the purpose of producing male children to inherit his property, poses a stark contradiction to the principles championed by a human rights-based approach. This custom overtly discriminates against women on the basis of gender, restricting their personal freedoms, and placing them in a position of inferiority due to cultural practices. The trial court's decision to declare the Oli-ekpe custom as "repugnant to natural justice, equity, and good conscience" underscores a commitment to upholding the principles of a human rights-based approach. It reflects recognition that customs which perpetuate gender inequality and discrimination are incongruent with universal human rights standards.

The Supreme Court's pronouncement that any customary law prohibiting females from inheriting property is repugnant and should be prohibited further reaffirms this stance. In relying on constitutional provisions against sex-based discrimination and Article 5 of the CEDAW, the Court prioritizes the need for local customs to be aligned with broader international norms and standards. Article 5 of the CEDAW specifically targets harmful cultural practices and customs, mandating states to challenge and change those practices that tends to perpetuate gender-based prejudices.

In essence, the decision of the Supreme Court in this case is a reflection of the core principles of a human rights-based approach. It prioritizes individual rights over cultural practices, especially when such practices are detrimental to a particular segment of the population. By aligning its decision with international standards on gender rights and equality, the Court ensures that women's rights are not only protected on paper but are visibly promoted and upheld in practice. This signifies a critical move towards overhauling societal norms and

customs and reshaping it to become more inclusive, equitable, and respectful of the rights of all individuals, particularly those who have been historically subjected to marginalization or discrimination.

4.1.4 Mojekwu v. Ejikeme & Ors (2000)

The facts of this case are a bit similar to the facts of *Mojekwu v. Iwuchukwu* (1997) as it borders on the Oli-ekpe custom of the Nnewi people. In this case, the parties sought the court to determine which of the two customs of the Nnewi people was applicable to the dispute. The appellants argued that the Nrachi rituals were performed according to the custom to enable them to inherit the property of the deceased. On the other hand, the respondents sought a declaration that, according to the Oli-ekpe custom of the Nnewi people which allows the son or the brother of a deceased to inherit his property to the exclusion of his female children, they were entitled to the property of the deceased who died without a male child (Mojekwu v. Ejikeme & Ors, 2000: 420).

The appellants in this case were two great grandsons and a granddaughter of the deceased who died in 1996 without any surviving child. The Appellants averred that, according to the Nrachi custom of the Nnewi people, a man who has no male child could convince one of his daughters to remain unmarried and bear children while permanently living in her father's house. The male children born from such daughter could inherit the father's estate. The daughter who consented to this arrangement was also entitled to inherit her father's landed property. There was also another custom practiced by the Nnewi people called the Oli-ekpe custom which provided that where a man dies without any surviving male child, his brothers or their male heirs are entitled to inherit. The respondents were five members of the deceased brother's family who sought to inherit the deceased's property to the exclusion of the appellants (Mojekwu v. Ejikeme & Ors, 2000: 420-422).

The Court held that the Nrachi custom was repugnant to natural justice, equity, and good conscience. The Court further held that the custom was discriminatory and designed to cheat women of a normal family life and that a daughter does not need to go through the ritual of the Nrachi custom to be entitled to inherit her father's property. This decision reflects the tenets of the women rights which seek to end discrimination against women and to ensure equality for all people regardless of their sex. (Mojekwu v. Ejikeme & Ors, 2000: 432).

The rights-based approach to development and justice centres on the inherent dignity and equal inalienable rights of all members of the human family. When applied to the context of the described case, several themes become apparent. The Nrachi custom, under which a woman may remain unmarried to produce male children to inherit her father's estate, is naturally degrading. It perceives women as mere instruments that can be utilized 'to ensure lineage continuity rather than recognizing them as individuals with rights and aspirations of their own. By overruling this custom, the Court upheld the fundamental principle of a human rights-based approach, which acknowledges the inherent dignity and worth of every person by overruling such custom. Central to a human rights-based approach is the principle of non-discrimination. The Court's decision to abrogate the Nrachi custom and the Oli-ekpe custom, both of which discriminate against women in inheritance matters, aligns with this.

This alignment ensures that local customs and laws are harmonised with global standards, reinforcing the universality of human rights. In sum, the Court's decision in this case

is illustrative of the rights-based approach's principles. By challenging discriminatory customs, the Court affirmed the universality, indivisibility, and interdependence of human rights, laying the groundwork for a more just and equitable society.

4.1.5 Oyinbor Anekwe & Anor v Mrs. Maria Nweke (2014)

In this case, the Plaintiff/respondent was asked to vacate her deceased husband's house following his death on the premise that she had no male child in the family. The plaintiff challenged her ejection in the Awka High Court and claimed that she was entitled to inherit her husband's property regardless of having no male child. The defendant's father-in-law and brothers-in-law of the plaintiff, claimed that, under the Awka customary law, where a woman did not bear a male child, her husband's property goes to the father or the eldest brother upon the death of her husband (Oyinbor Anekwe & Anor v. Mrs. Maria Nweke, 2014: 393).

The Trial Court found in favour of the plaintiff widow and held that she was statutorily entitled to the husband's land. The Court also granted an injunction restraining the defendants from further trespassing on the land. The defendants/appellants appealed this decision to the Court of Appeal. The Court of Appeal upheld the decision of the High Court and affirmed the right of the plaintiff/respondent to the land in issue. Again, the appellant appealed to the Supreme Court where the apex Court affirmed the decisions of the lower courts and held that any custom that denies inheritance to widows is repugnant to natural justice, equity, and good conscience (Oyinbor Anekwe & Anor v. Mrs. Maria Nweke, 2014: 425).

The above decision of the Supreme Court is sound and also in consonance with the objectives of the international instruments on women right such as CEDAW. A human rights-based approach underscores the fundamental importance of human rights, emphasizing their universality and indivisibility. Central to this approach are the principles of equality, non-discrimination, participation, and accountability. It recognizes individuals as holders of rights and, correspondingly, that states and other entities have obligations to preserve and uphold these rights.

In the context of the described case, the eviction of the plaintiff/respondent from her deceased husband's house, due to her not having a male child, directly negates these principles. This act challenged the widow's rights to equality, non-discrimination, and personal dignity. By denying a woman her rightful inheritance based solely on her inability to produce a male heir, she is treated as unequal based on gendered and reproductive outcomes. This is clearly discriminatory and against the principles of equality and non-discrimination enshrined in both the Nigerian Constitution and international instruments against gender discrimination.

It highlights a tension between customary practices and universally recognized human rights. The Supreme Court's decision, which aligns with international human rights standards, particularly as they pertain to women, is significant. The Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) emphasizes the importance of gender equality and recognizes the rights of women in all spheres, including in family and property matters. A human rights-based approach, insulated by international instruments like CEDAW, provides a crucial framework to challenge and nullify customs that are discriminatory against the rights of women and to legally recognize and protect these rights.

4.1.6 Ukeje v. Ukeje (2014)

The deceased died interstate having real property in Lagos State. The plaintiff, who was the daughter of the deceased, instituted proceedings at the High Court seeking a declaration that she was entitled to a share of the deceased's estate. The defendants, who were the wife and son of the deceased, had obtained letters of administration over the deceased's estate excluding the plaintiff. The Trial Court found in favour of the plaintiff and declared the Letter of Administration issued to the defendants was null and void. The Court then granted an injunction restraining the defendants from administering the estate. The defendant/appellants appealed to the Court of Appeal where it was dismissed for lack of merit (Ukeje v. Ukeje, 2014: 384).

The appellant further appealed to the Supreme Court which also upheld the decision of the lower court holding that such Igbo custom which disentitles females from inheriting their father's property was unlawful as it conflicted with the fundamental right to freedom from discrimination enshrined in section 42(1) and (2) of the 1999 Constitution (Ukeje v. Ukeje, 2014: 408). Again, this decision of the Court was profound and also in tandem with the principles of international human right against discrimination against women.

The Supreme Court's judgment in this case, upholding the rights of the daughter to inherit her deceased father's estate, is emblematic of a human rights-based approach, an approach fundamentally rooted in human rights. This judgment not only dealt with the immediate concerns of the plaintiff but also engages with broader concerns regarding gender equality, discrimination, and the interplay of cultural customs with constitutional rights.

In the realm of equality and non-discrimination, the Supreme Court's decision unequivocally champions the principle that all individuals, irrespective of their gender, are to be treated with equal regard in the eyes of the law. The judgement jettisoned an Igbo custom that would otherwise disenfranchise women, reiterating that gender-based discrimination has no place in the contemporary legal system. This also emphasizes that women, just like men, have an unassailable right to inheritance, setting a precedent that could challenge and change discriminatory practices elsewhere.

Finally, the judgment encompasses the principle of accountability. By declaring the Letter of Administration which excluded the plaintiff as null and void, and by restraining the defendants from administering the estate, the Court ensured that those who acted contrary to constitutional and human rights provisions were held accountable. In sum, the Court's decision reflects a deep commitment to the human rights-based approach, prioritizing human rights over discriminatory customs, and ensuring that all individuals, irrespective of gender, are treated equitably and with dignity in the eyes of the law.

4.1.7 Uke v Iro (2001)

In this case, the plaintiff/respondent instituted proceedings against the defendant/appellant in respect of a piece of land situated at Ikoponkwo. He alleged that the appellant trespassed on his land which he inherited from his father who had previously inherited it from the respondent's grandfather. During proceedings, the appellant objected to the application of the respondent to tender a female witness on the ground that, it was unacceptable under their custom for a woman to give evidence in respect of title to land (Uke v Iro, 2001: 196).

The Court of Appeal overruled the appellant and held that any custom which precludes women from testifying in land matters thereby treating them as second-class citizens contravenes section 42 of the Constitution of Nigeria 1999. The Court frowned at some customs relied upon by the appellant which sought to relegate the status of women and held that such customs must be proscribed (Uke v Iro, 2001: 196).

The Court in the above case considered the discrimination of women on the ground of their sex. It is commendable that the decision of the Court reflected the provisions of the CEDAW which require state parties to modify with laws, regulations, and customs which discriminate against women. At the heart of the human rights-based approach is the principle that every individual, irrespective of gender, race, or other factors, should be treated equally. By overruling the appellant's objection to a female witness giving evidence regarding land matters, the Court of Appeal reaffirmed the essential principle that all individuals should be entitled to equal rights and should not be discriminated against based on gender. By doing so, the Court acknowledged the worth and value of every individual, irrespective of gender, ensuring that women are not reduced to mere subjects but are recognized as holders of rights. Empowering marginalized groups to claim their rights is a key component of a human rights-based approach. The Court's decision echoes international human rights standards, particularly the CEDAW, which calls for the elimination of discriminatory practices against women. Bringing local practices in conformity within international norms reinforces the universality of human rights and ensures consistency in their application.

4.1.8 Nwude v Nwude & Ors (2015)

The deceased who was the owner of the land in dispute in this case died before his mother and was survived by male children. After his death, the deceased's mother who was the grandmother of the appellant devised a will wherein she bequeathed the land in dispute in equal share to her grandchildren having purchased the land with her money. The appellant contended that as the first son of his father, he was entitled to inherit the entire land with the discretion to allot portions to his siblings. He relied on the Awka custom which is based on primogeniture. He also submitted that, according to the custom, women were precluded from devising a will since they lacked capacity to own land under the same custom. The Supreme Court upheld the decisions of both the Trial Court and the Court of Appeal which held that the grandmother of the appellant had the constitutional power to device a will as she did and any custom which purported to interfere with such right was unconstitutional and was repugnant to natural justice, equity, and good conscience (Nwude v Nwude & Ors, 2015).

This decision is in sync with section 41 of the Nigerian Constitution which prohibits discrimination on grounds of sex, age or place of origin, and is also in line with the provisions of the women right treaties the CEDAW.

This decision underlines that every individual, regardless of gender or other such distinctions, is entitled to equal protection and respect under the law. The rejection of the appellant's reliance on primogeniture based on the Awka custom serves as a testament to this commitment.

The Court's judgment reflected the values espoused in both international human rights instruments and the Nigerian Constitution and thus was in harmony with them. By making explicit reference to Section 41 of the Nigerian Constitution and aligning with women's rights

treaties, the Court effectively synchronizes local jurisprudence with international human rights standards, ensuring that deeply entrenched customs do not supersede fundamental human rights. In relation to the rule of law and accountability, the Court's verdict, which held that any custom negating the constitutional rights of women is unconstitutional, sent a robust message about the supremacy of the rule of law. It ensures that customs and practices, no matter how deeply rooted, are held accountable to the Constitution and the universal principles of human rights. In essence, the Court's decision embodies the very essence of a human rights-based approach, emphasizing that rights are universal and inalienable, irrespective of one's gender, age, or cultural background.

4.2 CONCLUSIONS

The judiciary within the jurisdiction of Anambra State have played a pivotal role in the interpretation and enforcement of the constitutional provisions in question. Customary law in Anambra state is extremely unfair and discriminatory to women. It leaves almost no room for women to own property by inheritance as the customs favour men over women. There are several international and domestic instruments which seek to protect the rights of women to own property but these instruments will remain just ink on paper if they are not effectively implemented. Fortunately, the Courts have begun to rely on these laws to give decisions which enforce the protection and recognition of women's rights. However, the discrimination is still rife and common practice in Anambra State. The judiciary has consistently rendered decisions in support of the property rights of women, therefore establishing noteworthy legal precedents. The aforementioned judgements are based on the fundamental idea that human rights contained in various treaties considered in this study.

CHAPTER FIVE: OVERALL CONCLUSIONS

This Research Paper has conducted an extensive investigation of the discriminatory cultural practises that affect the rights of women to own land in Anambra, Eastern Nigeria. The study specifically examined the interventions made by legislative and judicial bodies in addressing this issue. Moreover, the analysis of various legal frameworks provides valuable insights in the international commitment to eradicating gender-based discrimination in land ownership of women in Anambra state, therefore giving guidance on how Nigeria should harmonise its legal framework with global standards. The examination of Nigerian legislation, including both the federal and state levels, has shown the degree to which current laws tackle cultural practises that impact women's ownership of land. The study also analysed laws and noteworthy decisions from the courts and their implications for the land ownership rights of women in Anambra State. Anambra State, like several other regions in Nigeria, has confronted pervasive cultural norms that perpetuate gender-based discrimination in relation to women's land ownership rights. These practises often result in the deprivation of women's rights to inherit or own property, including land, hence perpetuating gender disparities and impeding economic development. Nevertheless, efforts have been made by the judiciary and legislature to tackle these inequalities.

The paper found that cultural patriarchal practices have significantly continued to inhibit women's rights to land ownership despite the abundance of legal provisions ensuring gender equality. In some cases, these cultural practices are given primacy over statutory laws, especially in rural areas where local custom have gained wide acceptability. The research found that women's land rights are commonly challenged in cases of inheritance and divorce. Under inheritance cases, women are constantly subjected to cultural stigmatization based on customary norms which favours males at the expense of their female counterparts. The study further revealed that in most cases, women are still subjected to societal pressure, abuse and discrimination, and inhibition from asserting their rights even when they legally inherit land. Under scenarios of divorce or widowhood, the rights of women to matrimonial property, particularly land, are often significantly compromised. The findings revealed that there is incongruity between statutory provisions and their actual enforcement, leading to challenges besetting women from exercising their rights to own land. An exemplary illustration may be found in the Nigerian Constitution, which serves as the paramount legal framework of the nation and ensures the provision of equal rights to every person, regardless of their gender are guaranteed. The judicial entities within Anambra State have played a significant role in the interpretation and implementation of these constitutional provisions through a series of cases. The judiciary has in some instances rendered decisions in support of the land ownership rights of women, therefore establishing notable legal precedents. The aforementioned judgements are based on the fundamental concept that land ownership rights need to be protected in a non-discriminatory manner. Moreover, the implementation of legal measures at the state level has played a crucial role in confronting and contesting discriminatory practises. The legislation in Anambra State, exemplified by the Anambra State Gender and Equal Opportunities Law, has been enacted with the aim of safeguarding the rights of women, specifically pertaining to their entitlement to land ownership. The aforementioned legislative efforts demonstrate a steadfast dedication to universally recognised ideals of equality and non-discrimination.

At the heart of this discourse is the alignment, or lack thereof, between local municipal laws in Anambra State, the broader legal frameworks of Nigeria, and the universally accepted international human rights norms, especially concerning women's rights to land ownership. While Nigeria, as a nation-state, has made commendable strides in endorsing various international human rights treaties, conventions, and protocols, the actual ground reality in regions like Anambra State often seems to betray a more complex picture. These international commitments, while promising on paper, often grapple with the local laws and customs when it comes to genuine implementation. In Anambra State, this struggle becomes evident where the municipal laws, influenced or sometimes even overshadowed by patriarchal values, end up either diluting or directly conflicting with the international norms. Such a scenario is not just an indication of a legal dichotomy but also hints at the deep-seated socio-cultural beliefs that shape, and at times, dictate legal formulations and their interpretations.

The utility of a Human Rights Based Approach (HRBA) in this context becomes invaluable. An HRBA does more than just evaluating the situation through a legalistic lens; it brings to the fore the inherent human rights dimensions associated with the challenges women face in securing land rights. By adopting this approach, the research has managed to go beyond the superficial layers of legal texts and dive into the cultural, systemic, and institutional impediments that hinder women's empowerment in Anambra. Through HRBA, it becomes evident that the issue is not just about a piece of legislation being at odds with international standards. Instead, it is about the lived experiences of women, whose rights are continuously infringed upon, both by discernible legal constructs and more subtle societal norms.

Anambra State, like many regions with rich cultural practices, has traditional practices that have been passed down through generations. While many of these practices are the bedrock of community identity and societal cohesion, they sometimes perpetuate notions that are at odds with contemporary understandings of rights and equality. One such practice is primogeniture, where inheritance rights are predominantly skewed towards the eldest male in a family. This practice, while rooted in historical and socio-economic rationales, becomes a clear manifestation of patriarchy, effectively sidelining women from significant economic and decision-making processes related to land ownership in Anambra State. The perpetuation of such culture, especially when they go unchallenged, becomes a norm in the society. It is therefore not just about the economic implications, which in themselves are profound, but also about the reinforcing of gender hierarchies and the resultant power imbalances in the society.

The interplay between patriarchy and women's land rights in Anambra State offers a mirror to the broader dynamics between culture, law, and rights. While the challenges are multifarious, the pathways to a more equitable future are discernible as shown in this research. It requires a blend of legal interventions, societal recalibration, and international cooperation that gives due considerations to human rights. With concerted efforts, the vision of a society where women in Anambra State can exercise their rights to land ownership, unfettered by patriarchal practices in customs, is not just a theoretical construct but a tangible possibility.

REFERENCES

- Abubakar, I.R., 2021. Predictors of inequalities in land ownership among Nigerian households: Implications for sustainable development. *Land Use Policy*, 101, p.105194.
- Adigun, M. (2022). Federalism and the law of evidence in Nigeria: Does Benjamin v Kalio constitute a simplistic route to justice that overlooks a pitfall? *Common Law World Review*, 51(4), 231–247.
- Administration and Succession (Estate of Deceased Persons) Law of Anambra State 1987.
- Ajayi, A. (2020). ‘Disinheritance: Widows in Igboland battle culture and society (Part 1) (ICIR, 26 October 2020), <https://www.icirnigeria.org/disinheritance-widows-in-igboland-battle-culture-and-society-part-1/> accessed 21 September 2023.
- Ajayi, M.A. and Olotuah, A.O. (2005). Violation of women's property rights within the family. *Gender-Based Violence Trilogy*, 1(1): 58–63.
- Ajayi, M.A. and Olotuah, A.O. (2005). Violation of women's property rights within the family. *Gender-Based Violence Trilogy*, 1(1): 58–63.
- Akinboye, S. (2004). Challenges and prognosis of gender equality in Nigerian politics. In Akinboye (ed.) *Paradox of Gender Equality in Nigerian Politics*. Lagos: Concept Publications.
- Almodovar- Reteguis, N.L., 2019. Where in the world do women still face legal barriers to own and administer assets. World Bank Blog.
- Aluko, B. T. & Amidu, A. (2006). Women and Land Rights Reforms in Nigeria. Paper Presented at 5th FIG Regional Conference in Promoting Land Administration and Good Governance. Accra, March, 8-11Retrieved from https://www.fig.net/resources/proceedings/fig_proceedings/accra/papers/ts09/ts09_04_aluko_amidu.pdf
- Aluko, Y. A. (2015). Patriarchy and property rights among Yoruba women in Nigeria. *Feminist Economics*, 21(3), 56-81.
- Anambra State Malpractices against Widow and Widowers (Prohibition) Law 2005.
- Anayo Okoli, Vincent Ujumadu, Chimaobi Nwaiwu, Chinedu Adonu, Steve Oko and Ikechukwu Odu, (2023). Rising cases of harmful widowhood practices in Igbo communities (Vanguard, 24 May 2023) <https://www.vanguardngr.com/2023/05/rising-cases-of-harmful-widowhood-practices-in-igbo-communities/> accessed 21 September 2023.
- Anyebe, P.A. (2019) Doctrine of stare decisis in Nigeria: A step to conclusion. *Journal of Law, Policy and Globalization* 92, 21-33
- Asiedu-Akrofi, D. (1989). Judicial Recognition and Adoption of Customary Law in Nigeria. *The American Journal of Comparative Law*, 37(3), 571-593.

Assembly of the Union (2005) *Protocol to The African Charter on Human and People's Rights on the Rights of Women in Africa (Maputo Protocol)*.

Atkin, J. Atkin, B. in Malanczuk, P. (2002). Akehurst, Modern Introduction to International Law. (Routledge)

Bertocchi, G. (2006). The law of Primogeniture and Transition from Landed Aristocracy to Industrial Democracies. *Journal of Economic Growth*, 1, 43-70, 54.

British Council Nigeria, (2012). Gender in Nigeria report: Improving the lives of girls and women in Nigeria. Issues, Policies, Action 2nd edition Retrieved from <<https://www.britishcouncil.org/sites/default/files/british-council-gender-nigeria2012.pdf>

Brownlie, I. (2008) *Principles of International Law*. Oxford: Oxford University Press

Cassese, A. (1992). International Law in a divided World (Clarendon Press, Oxford) p17
CEDAW, (1998). Committee on the Elimination of Discrimination against Women, Second and Third Periodic Report. CEDAW/C/NGA/2-3 (2 July 1998) Retrieved from www.un.org/womenwatched/daw/cedaw/reports/18report.pdf

Chikaire, J.U., Anyoha, N.O., Ani, A.O. And Atoma, C.N., 2014. Gender Land Inequalities And Tenure Insecurity In Sub-Saharan Africa: A Problem With A Solution.

Ciongaru, E. (22022). The Monistic and the Dualistic theory in European Law. *Acta Universitatis George Bacovia Juridica* 1 212-231, 212

Constitution of the Federal Republic of Nigeria 1999.

Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) 1979.

Diala, A. C. (2018). A critique of the judicial attitude towards matrimonial property rights under customary law in Nigeria's southern states. *African Human Rights Law Journal*, 18, 100-122.

Diala, A.C. (2014). Reform of the customary law of inheritance in Nigeria: Lessons from South Africa. *African Human Right Law Journal* 14, 633-654.

Ejiamike v. Ejiamike (1972) 2 ENLR p.11.

Ekhator, E. (2018). Protection and promotion of women's rights in Nigeria: constraints and prospects. in women and minority rights law: African approaches and perspectives to inclusive development. Eleven International Publishing.

Enwelu, I. A., Morah, U.L., Dimelu, M. U., Ezeano, C. (2014) Women Farmers' Access and Use of Land for Agriculture in Selected Communities of Anambra State, Nigeria. *Mediterranean Journal of Social Sciences*, 5(26), 37-47, 37

Enyia, J.O, & Out, S. U. (2019). A Pragmatic Approach to Raising the Bar on Women's Right in Nigeria. *Journal of Legal Ethical & Regulations*, 22(1)

European Commission, (2023). The Human Right Based Approach (HRBA) retrieved from <https://wikis.ec.europa.eu/pages/viewpage.action?pageld=50108948>

- Ezeano, A. (2020, August 5). Appraising Anambra's violence against persons (prohibition) law. *The Punch newspaper*. Retrieved September 27, 2023, from <https://punchng.com/appraising-anambras-violence-against-persons-prohibition-law/>.
- Ezejiofor, G. (2012). The Marginalization of Women in Anambra State of Nigeria as a Risk Factor in HIV/AIDS Transmission. *African Journal of Criminology and Justice*, 6(1), 67-85, 67
- Ezeonu, A.O. (2020). The next of kin requirement as an institutional policy: Implication for inheritance rights in Nigeria. *IJOCLLEP* 2(3), 55-64.
- Gaddis, I., Lahoti, R. and Swaminathan, H. (2022). Women's legal rights and gender gaps in property ownership in developing countries. *Population and Development Review* 48(2), 331–377
- Garuba, J.O. (2018). Discriminatory Customary Inheritance Law in Nigeria: Judicial Activism or Legislative Intervention? *Botswana Law Journal* 84-102.
- Henderson, S. L., Jeydel, A. S. (2010). Women and Politics in a Global World (New York: Oxford University Press)
- Ibiam, A. E. (2016). Federalism, democracy and constitutionalism: The Nigerian experience. *Journal of Law, Policy and Globalization*, 53, 1-14.
- Idornigie, P. O. (2000). The doctrine of 'covering the field' and arbitration laws in Nigeria'. *Journal of Arbitration, Mediation and Dispute Management*, 3, 193-198.
- Ifemeje, S.C. and Umejiaku, N. (2014). Discriminatory cultural practices and women's rights among the Igbos of South Eastern Nigeria: A critique. *Journal of Law Policy and Globalization*, 25, 18-27.
- Igbolekwu, C. O., Nwogu, J. N., Arisukwu, O. C., Oyekola, S. A., Ogu, C. S., Rasak, B., Osueke, N. O., and Nwogu, E. C. (2022). Awareness and compliance with court judgment/constitutional provisions legalizing female inheritance rights among the Igbo, Nigeria. *Journal of Human Rights and Social Work*, 7, 384–395.
- Ijeoma, A.N. (2006) The Convention on the Elimination of All forms of discrimination Against Women and the Status of Implementation on the Right to health care in Nigeria. *Human Right Brief*, 13(3), 34-39, 35
- Iloka, P.C. (2022). Review of the obnoxious widowhood practices in Nigeria: Anambra state in perspective. *Journal of International Law and Jurisprudence*, 13(1), 48-57.
- International Covenant on Civil and Political Rights 1966.
- International Covenant on Economic, Social and Cultural Rights 1966.
- Johnson, A. (2023). Beyond the universalist and cultural relativist debate using the African women's protocol to realise gender equality in customary African marriages. *African Journal of Legal Studies*, 15, 321–344.
- Jonathan, C.M. (2013). Peace through equity: the political economy of gender discrimination in land property rights in Enugu State, Nigeria. *IFRA Nigeria working papers Series 26* pp1-18.

Law Pavillion Electronic Law Report (LPELR) (2014) *Anekwe & Anor V. Nweke, Law Pavillion Electronic Law Report (LPELR)*.

Law Pavillion Electronic Law Report (LPELR) (2016) *Ugbene V. Ugbene & Ors, Law Pavillion Electronic Law Report*.

Law Pavillion Electronic Law Report (LPELR) (2016) *Ugbene V. Ugbene & Ors, Law Pavillion Electronic Law Report*.

Madu, J.C., 2013. *Peace through equity: The political economy of gender discrimination in land property rights in Enugu State, Nigeria* (Doctoral dissertation, IFRA-Nigeria).

Makama, G.A. (2013) Patriarchy and Gender Inequality in Nigeria: The way forward. *European Scientific Journal*, 9(17) 115-144.

Maunatlala, R.K. (2019). The role of male Primogeniture and the role of women to inherit any success under customary law of succession. University of Pretoria: Research Output. Retrieved from <https://repository.up.ac.za/handle/2263/72800> 7

Mojekwu v. Ejikeme & Ors (2000) 5 NWLR 402.

Mojekwu v. Mojekwu / Mojekwu v. Iwuchukwu (2004) NWLR (Pt. 883) 196.

Mojekwu-chikezie, N.M. (2012). *African Women Sentenced by Tradition* A.A.Nwokebe & Company. Lagos Nigeria

Mowoe, K.M, (2008). Constitutional Law in Nigeria, Malthouse

Msuya, N.H. (2020). Advocating Positive Traditional Culture to Eradicate Harmful aspects of Traditional Culture for Gender Equality in Africa. *Obiter* 41(1), 45-62, p46

Muoghalu, C. O., and Abrifor, C. A. (2020). Traditional society in South-Eastern Nigeria: Implications for women's health. *The Bangladesh Development Studies*, 43(1/2), 127–146.

Mutubwa, W. (2019). Monism or Dualism: The Dilemma in the Application of International Agreements Under the South African Constitution. *Journal of Conflict Management and Sustainable Development* 3(1), 27-37, 27

National Legislative Bodies, N.A. (1999) *Constitution of the Federal Republic of Nigeria as amended in 2010.*

Nezianya & Anor v. Okagbue (1963) 1 ALL NLR 352.

Nwoko, K. C. (2012). Female husbands in Igbo land: Southeast Nigeria. *The Journal of Pan African Studies*, 5(1), 69–82.

Nwude v. Nwude & Ors (2019) LPELR 48337 (CA).

Nzegwu, N. U. (2012). *Family matters: Feminist concepts in African philosophy of culture*. Suny Press cited in Igbolekwu C.O. et al.(2022). Awareness and Compliance with Court Judgment/Constitutional Provisions Legalizing Female Inheritance Rights among the Igbo, Nigeria. *Journal of Human Right and Social works*, 7, 384-395, p386

Nzekwu v. Nzekwu (1989) NWLR (Pt. 104) 373.

- Obilade, A. O. (1979). The Nigerian legal system. Spectrum Law Publishers.
- Obiora C.A. and Onwuyi U.M. (2018). Contending and conceptual issues in politics of gender in contemporary gender issues. Obi E, et al (eds), Onitsha: Abbot Com Ltd. 2018
- Offiong, E.E., Eyo, E.I. & Offiong, A.E. (2021). Patriarchy, Culture and the Social Development
- Ojiegbe, C. P. (2021). The overview of private international law in Nigeria. *Journal of Private International Law*, 17(3), 601-618.
- Okongwu O.C. (2021). Are laws the appropriate solution: The need to adopt non-policy measures in aid of the implementation of sex discrimination laws in Nigeria. *International Journal of Discrimination and the Law*, 21(1) 26–46, 35
- Okonkwo v. Okonkwo* (2014) 17 NWLR (Pt. 1435).
- Onomrerhinor, F.A. (2016). A re-examination of the requirement of domestication of treaties in Nigeria. *Nnamdi Azikiwe University Journal of International Law and Jurisprudence* 7, 17–25.
- Onwuchekwa v. Onwuchekwa* (1991) 5 NWLR (PT.194) 739.
- Osezua O.C. and Agholor, H.N (2019). Patriarchy, cultural prejudices and spousal violence in the ancient city of Benin of southern Nigeria. *Journal of International Women's Studies* 20(7) 409-422.
- Osita, I. (2014). An Analysis of Igbo Traditional Land Tenure System in Amawbia (Amobia) Awka South Local goverment Area of Anambra State. *International Journal of Engineering Science Invention*, 3(1), 24-38
- Oyinbor Anekwe & Anor v. Mrs. Maria Nweke* (2013) SC 129.
- Oyinbor Anekwe & Anor v. Mrs. Maria Nweke* (2014) 9 N.W.L.R. (Pt.1412) 393.
- Park, A. E. W. (1963). The Sources of Nigerian law. Sweet and Maxwell.Park, A. E. W. (1963). The Sources of Nigerian law. Sweet and Maxwell.
- Protocol to the African Charter on Human and People's Rights of Women in Africa (Maputo Protocol) 2003.
- Ssenyonjo, M. (2007). Culture and the Human Rights of Women in Africa: Between Light and shadow. *Journal of African Law*, 51(1) 39-67.
- Stichter, S.B., and Parpart, J. (1988). *Patriarchy and Class: African Women in the Home and the Workforce* (1st ed.). Routledge.
- The Violence against Persons (Prohibition and Protection) Law, Anambra State Law No 6. 2017.
- The World Bank. (2019). Women in half the world still denied land, property rights despite laws. Accessed at <worldbank.org.en/news/press-release/2019/03/25/women-in-half-the-world-still-denied-land-property-rights- despite-laws>
- Udoh, O. D., Folarin, S. F., and Isumonah V. A. (2020). The influence of religion and culture on women's rights to property in Nigeria. *Cogent Arts & Humanities*, 7, 1-10.
- Uke v. Iro* (2001) 11 NWLR (PT. 723) 196.
- Ukeje v. Ukeje* (2014) 11 NWLR (PT. 1418) 384.

UN Women, (2013). Women Land Rights are human rights, says new UN report. Retrieved from <https://www.unwomen.org/en/news/stories/2013/11/women-land-rights-are-human-rights-says-new-un-report>

United Nations Development Fund for Women, (2007). CEDAW and the Human Right Based Approach to Programming. Retrieved from <https://cedawsouthasia.org/wp-content/uploads/2017/07/CEDAW-and-the-Human-Rights-Based-Approach-to-Programming.pdf>

United Nations Sustainable Development Group, (2003). Universal Values Principle One: Human Rights Based Approach Retrieved from <https://unsdg.un.org/2030-agenda/universal-values/humans-rights-based-approach>

United Nations Women, (2007). Convention on the Eliminations of All Forms of Discrimination against Women. Retrieved from <https://www.un.org/womenwatch/daw/cedaw> retrieved October, 24 2023.

United Nations Women, (2013). Women Land Rights are human rights, says new UN report. Retrieved from <https://www.unwomen.org/en/news/stories/2013/11/women-land-rights-are-human-rights-says-new-un-report>

Violence Against Persons (Prohibition) Act 2015.

Waldorf L, Arab C and Guruswamy, M. (2007). CEDAW and the Human Rights Based Approach to Programming: A UNIFEM Guide. United Nations

Zaib, G. & Nawaz, H.M. (2021). How Women Effecting from Different Customs: Customs Effecting Women: A general perspective. *Journal of Law & Sociocultural Studies* 1(1) 59-96