THE ROLE OF RELIGION IN WOMEN’S RIGHTS TO PROPERTY AND INHERITANCE IN NIGERIA

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Abstract

The paper aims to assess the role of religion in the realization of women’s rights to property in Nigeria. It begins by establishing that rights to property are human rights. The promotion and protection of these rights in any society are determined by a number of factors such as the customs and traditions that are prevalent in the societies and the religious laws that control behavioural patterns. In discussing this within the Nigerian context, the paper explores the major religions in Nigeria namely, Christianity and Islam; and the body of laws that govern each religion with respect to women’s rights. The paper relies solely on secondary data derived from articles and institutional materials. The justification for the study is that even though Nigeria is a party to a number of international treaties and conventions that promote and protect women’s rights to property, in some socio-cultural settings, these women are either discriminated against or denied their access to tangible assets and in most cases viewed as assets to be owned or inherited. Among some ethnic groups in Nigeria, the woman is viewed as inferior to the man as male-children are generally celebrated, and have higher portions of property during property sharing. Sometimes, a widow receives nothing as inheritance and is not even allowed to purchase any asset. The paper reveals that, Islamic and Christian religion laws do not expressly disregard the woman or discriminate her in terms of property rights. These religious laws have in fact, to a reasonable extent made provisions for the protection of women’s rights to property and inheritance; and are only interpreted to suit prevailing traditions. In addition, it argues that, religion could be useful in re-orientating minds against existing discriminatory traditions against women. In conclusion, the paper argues and recommends that, providing legal frameworks for the protection of women from discrimination is not enough. International and national legislations should be strengthened and backed up with punitive justice for violators. It is also recommended that, barbaric customs and traditions that are gender-insensitive be abolished.

Keywords: Publisher, Designing, Lowercase letters.

1. INTRODUCTION

Despite the growing global concerns for, and efforts at protecting women’s equal rights to land and other tangible assets that possess economic value, various studies reveal that, women still encounter undeniable challenges with respect to these rights (Strickland, 2004, Adekile, 2010; Folarin and Udoh, 2014; Aluko, 2015). Globally, land and other forms of real property are essential for the economic empowerment of
women across different cultural contexts. Land in particular serves as a crucial element for cultural identity, participation in decision-making, political power and protection against domestic violence. It is against this backdrop that, various institutions, human rights’ activists and feminists across the world moved for the codification of women’s rights to acquire, inherit, use, control or dispose economic assets into human rights’ treaties under the auspices of the United Nations. Notable among the treaties is the 1979 Convention on the Elimination of all Forms of Discrimination against Women (CEDAW) which viewed discrimination against women as an act against human dignity and outlined the responsibility of state-parties in ensuring the protection of women. As at May 2015, a total of one hundred and eighty-nine states have signed and ratified the treaty – a commendable response which indicates the willingness and commitment of state-parties to promote gender equality and eradicate all forms of discrimination against women.

However, regardless of this global commitment to gender equality and promotion of women’s rights generally, women are either often marginalised or denied access to real property. Lack of protecting their rights to property, among other things, hinders their access to credits and loans from financial institutions as these assets could serve as collateral. Furthermore, the far-reaching effects of denial and marginalization include the feminization of poverty (rising level of poverty among women) and increase in incidences of gender-based violence. A number of factors have been attributed to the violation of women’s rights to property. Some scholars (George, 2010; Le Beau, Inpinge and Conteh, 2004; Kalabamu, 2000) assert that, patriarchal systems and institutions are the underlying causes of the denial and discrimination that women experience with respect to their rights to property and inheritance in general, while others opine more specifically that, religion (Tilley, 2000; Obioha, 2013), customs and traditions (Benschop, 2004; Obioha, 2013; George, Olokoyo, Osabuohien, Efobi and Beecroft, 2015) are causal factors in the violation of women’s rights which cannot be over-emphasized.

Religious doctrines and cultural norms are two forces that bear overwhelming influence on human rights, generally. As a matter of fact, all the major religions in the world share a universal interest and tradition of respecting the integrity, worth and dignity of all persons ‘and consequently, the duty toward other people who suffer, without distinction’ (Lauren, 1998:5). The religious ideas of protecting human dignity eventually provided the philosophical base upon which international human rights’ law was established. To support this claim, Rieffer (2006) asserts that, early religious writings,

…articulated a moral code detailing the duties and responsibilities of all people. Most importantly…these early religious beliefs promoted the initial discussions about rights (Lauren, 1998:9)...and ideas about human duties led quite naturally to ideas about human rights. It is in this initial formulation of the inherent dignity of every human being and duties to others in which we see the origins of the idea of human rights which was eventually ratified and incorporated into international law in the 20th century (Pp. 37).

Culture, generally on the other hand, recognises human rights by identifying notions of human ‘feelings, empathy, intuitions and concerns toward specific groups of others’ (Hunt, 2007). However, different customs and traditions, which reflect various cultures across the world, have to a large extent affected the promotion and protection of the notion of women’s rights. To be more apt,

Culture is often invoked as a justification for violations of women’s human rights, reflecting deep-seated patriarchal structures and harmful gender stereotypes. In several countries, culture is invoked to negatively impact the rights of women, in particular in the areas of marriage and property. However, culture is not a static or unchanging concept, although some states tend to present it as such in order to justify discrimination and violent practices against women and girls (United Nations Office of the High Commissioner on Human Rights, UNOHCHR, 2016).

Therefore, despite comprehensive international and national legislations that prohibit discrimination and inequality on the grounds of sex, women still experience systematic denial and marginalisation with respect to property rights and which are as a result of patriarchal standards that have filtered into different cultures. No wonder Okin (1999:13) notes, many cultures in the world promote the control of women by men.

This paper argues that, with respect to women and their rights to property and inheritance, religion is not a sole factor liable for the denial and discrimination that women face, rather, certain (patriarchal) cultural norms and traditions have influenced the interpretation of religious laws. The role of religion and culture in protecting women’s rights to property in Nigeria will be discussed independently, subsequently.

2. RELIGION AND WOMEN’S RIGHTS TO PROPERTY IN NIGERIA

Nigeria is made up of 36 states – 19 states in Northern Nigeria and 17 states in Southern Nigeria. The
country is made up of three major religions namely, Christianity, Islam and African Traditional Religion (ATR). Nonetheless, it is almost generally accepted that, Islam is the dominant religion in the Northern part of the country while Southerners are predominantly Christians; only a small percentage practice the third religion. For this study, focus will be on two out of the three major religions – Islam and Christianity – because they, like most institutions, have larger followership and stronger influence on Nigeria's socio-political and socio-cultural systems.

2.1. Islam

Islam, usually referred to as one of the Abrahamic faiths, has a large followership of about 50% of the Nigerian population (Central Intelligence Agency, 2001). Needless to state that, Islam is a powerful religious force that shapes the socio-political and socio-ethnic milieu of the Nigerian society.

Introduced into the Northern Nigeria in the 11th century, Islam is an Arabic word that means surrender to God or ‘submission to the will of God’ (Honarvar, 1988). Islamic laws (otherwise, referred to as Shari'a) which are described as one of the world's greatest legal systems (Constitutional Rights Foundation, 2018) border on the principles for establishment of peace and order, improving the status of women and addressing the question of inheritance and succession on equitable grounds. Also, it propagates the principle of equality of all humans while shunning all inequalities due to sex, race or nationality (Qur’an 4:1, 6:98) since all humans (whether male or female) are created from the same soul. According to Baer (1983 cited in Sait and Lim 2006), historically, Muslim women were holders of property. In fact under Islamic laws, a Muslim woman possesses individual legal and economic identity; she also has independence with regards to her access to land under Qur’anic injunctions. Sait and Lim (2006) further emphasize that, Islamic substantive law, contained in the Holy Qur’an recognizes women's rights to acquire or utilize property through purchase or inheritance from husband. More specifically, the Qur’an states that,

…and for women is a share of what the parents and close relatives leave, be it little or much – an obligatory share (4 verse 7). …For men is a share of what they have earned, and for women is a share of what they have earned (verse 32).

Generally, it can be observed that, under Islamic laws, women have some degree of control over assets they, purchase from their personal treasury or received from their parents before marriage or as gifts (mahr) from their husbands upon marriage. This ensures some level of financial independence for her.

Nevertheless, her rights to inheritance under the Islamic legal system are limited. While the Qur’an makes provision for women's rights to property and inheritance, the general rule is that, her share is half her male counterpart's share in inheritance. To put it more aptly, a daughter is only entitled to half of her brother's share of inheritance. Nevertheless, she has absolute powers over whatever she gets by her labour or inheritance. This inequality is drawn from the assumption that the man has more financial obligations towards the woman and those obligations exceed the woman's. For instance, upon marriage, he is expected to present his wife with a marriage gift, mahr, (this could be an asset) which is her own property that cannot be taken away from her. In addition, the Muslim husband has the responsibility of maintaining his wife and children. The Muslim wife on the other hand has no responsibility of such; whatever asset or financial wealth she has belongs to her. Under Islamic law she is not obliged to co-provide for her family except she volunteers to do so. This is the same reason why a daughter from a Muslim family does not inherit property on equal terms with her male counterpart.

The question to be asked here however is, what happens to an unmarried woman who chooses not to marry? When a situation like this arises, the woman is discriminated against based on religious assumptions and contrary to provisions made in international human rights’ regimes. It should be noted that, traditional (or customary) practices amplifies this discrimination.

After the death of a husband, the wife (with children) on the other hand, inherits one-eighth of the deceased’s property; and if she is without children, her portion is one-fourth. Also, a mother has the right to inherit from her dead son.

In Northern Nigeria where the population therein is predominantly Muslims, these religious laws are followed precept by precept except in cases where customs superimpose the provisions of the Qur’an.

Therefore, a cursory examination of the Islamic law (or Shari’a law) reveals that Muslim women are allowed to acquire or purchase any form of property, and discriminated on the other hand, with respect to their rights to inheritance.
2.2 Judeo-Christianity

Christianity, which is the second Abrahamic faith, with a population percentage of 40% in Nigeria (Central Intelligence Agency, 2001), is the predominant religion in the Southern region of the country. As a religion, Christianity was introduced in Nigeria in the 15th century by the activities of European missionaries and has ever since spread throughout the country with an overwhelming influence in the behavioural patterns and constitutional laws of the country. Put differently, it is a vital text upon which many now base their entire lives.

Like any other religion, Christians (followers of Jesus Christ) are guided by their religious laws which are well documented in the Holy Bible. The Holy Bible contains direct injunctions and instructions from God, as received by His prophets, on how His followers are expected to behave; and also teachings from Jesus Christ and His apostles. This body of laws are generally divided into, and commonly referred to as the Old and New Testaments. For the purpose of this study, focus will be on the Torah (Hebrew word for ‘the Law of God’) which is a subset of laws found in the Old Testament. The Torah is a collection of the first five books of the Bible which were given to Moses, as a body of rules or commandments, for the people of ancient Israel (often called the Israelites). Therefore, historically, the Torah was to shape and govern the lives of the Biblical Israelites. It is very important to lay this foundation as this will provide the contextual understanding for certain biblical laws regarding women as these laws have been subjected to different interpretations by theologians, scholars and local traditions. It is also very crucial to note that, the prevailing societal legal systems of those periods were instrumental in the interpretation of these laws (Radford, 2000).

Drawing from the biblical account of creation, women have been viewed as equal before God without any form of discrimination. Precisely, Genesis 1:27, 2:7 and 21-22 (The Holy Bible, The New International Version, NIV, 1978) explain how God created man and woman in His own image, thereby making them companions of equal status.

With respect to their rights to property and inheritance, it was documented that women were protected under the Torah from discrimination and denial. For instance, Joshua 17 and Numbers 27 talk about how the daughters of Zelophehad inherited their father’s land. Jewish land was allotted to male heads of households, in different tribes, who then transferred such allotments in patrilineal patterns. However, in the case of these women, their father who was the head of the household died without having an heir before the allotment of land. In the face of summary denial inspired by Jewish patriarchy, the five daughters of Zelophehad pleaded for justice with respect to taking ownership of their father’s land. After this impassioned plea, they were all allowed to inherit their father’s portion and transfer it to their own descendants. In fact, this was a commandment from God (The Holy Bible, NIV, Numbers 27:8-11). There is no scriptural reference that presents women (wives, daughters or sisters) as property to be owned or transferred as property (Hiers, 1993) as has been the practice across different cultures, over centuries. Nevertheless, the Torah has only few instances of daughters inheriting from their fathers but replete with various accounts of sons – eldest sons, in most cases – inheriting their fathers’ tribal property. In addition, widows’ rights to property appear to be protected biblically. This was clearly depicted in Ruth’s account where it was alluded that she intended selling the land that belonged to her late husband. As an old widow without sons to inherit her, the intent to sell the land presupposes that she had exclusive rights over the inherited land upon the death of her husband (The Holy Bible, NIV, Ruth 4:3; Hiers, 1993). Other scriptural references corroborate the recognition, promotion and protection of widows rights to property and inheritance (2 Kings 4, 8; Proverbs 15:25).

In conclusion, the Torah, as spoken by God, does not discriminate against women or deny them of their rights to own property or inherit. Interpretations based on Jewish culture and fostered by patriarchal norms, rather affected the implementation of the written laws. It is noteworthy to mention that, although these laws were expected to regulate the affairs of the Jews, it is the foundation of Christian laws.

Within the Nigerian context, various Christian leaders have been able to condemn discriminatory laws that impede women’s access and ownership rights. Nevertheless, customs and traditions still prevail over laws of intestate succession as Christian laws are viewed by some traditional societies as foreign to the Nigerian culture. Also, the secularity of the country poses a challenge to the overarching influence of religious laws.

2.3. Customs and Traditions affecting Women’s Rights to Property in Nigeria

Women’s experiences in acquiring or inheriting land and other property in Nigeria are filled with narratives of denial and marginalization (Ajayi and Olotuah, 2005). Being a culturally diverse country with well over two hundred and fifty (250) ethnic groups – that are divided into three major ethnic groups (the Igbo, the Hausa and the Yoruba ethnic groups), -patriarchal customs and traditions appear to be a recurring factor that unify.
the experiences of their female population.

In furtherance to the above, Ajayi and Olotuah (2005) aver that women’s rights to property and inheritance are restricted along these familial lines:

1. The Paternal Family: In most Nigerian families, the paternal family lays the foundation for sex-preference. The birth of a son is usually celebrated more than that of a daughter because, above all, a male-child guarantees the continuation of the family line/name. The female children suffer real discrimination in terms of inheritance after the demise of their father. Generally among the Igbo and some subcultures within the Yoruba ethnic, girls are not entitled to share at all. An aremo-okunrin (heir, first son) receives a greater share than an aremo-obinrin (first daughter) among the Akure indigenes (Ajayi and Olotuah, 2005). For the Bini and Ishan people of Edo state, the oldest son inherits all the father’s property leaving the female child with nothing; the Hausa folks operate according to Shari’a laws which give twice the daughter’s portion to her brother. Also, within the paternal family, a young spinster is often discouraged from buying real property (land, housing or vehicles) even when she has the financial means to do so. It is often believed that, when she does, she will inadvertently discourage potential suitors from seeking her hand in marriage. In other cases, when a woman is wealthy enough to buy property in her marital name, she needs to seek the consent of her husband before she can dispose of it (George, 2010). Despite all these, social factors such as civilisation and education have helped mitigate this challenge as some enlightened parents buy properties in the name of their children in order to avoid chaos upon their demise.

2. The Matrimonial Family: Marriage confers a dignifying status on a Nigerian wife. In fact, it is a social stigma to remain unmarried when the society expects a young woman to be married. However, the ability to enjoy certain rights to property depends on a number of factors. One of such factors is the woman’s capacity to have children in her husband’s house. Traditionally, women are perceived to be sole reasons for their childlessness even though science has proven that in many cases, men could also be responsible. In fact, a woman may be labelled a witch if she cannot bring forth children. In the event of childlessness, such women are denied their rights to inheritance after the unfortunate death of their husbands. Empirical studies in Edo state reveal that, even when a childless woman is wealthy and supports her husband in acquiring certain properties, like land or buildings, her in-laws could mount pressure on her husband to divorce her due to her childlessness. The situation would become more precarious when the property which was jointly owned is registered in the husband’s name with no legal or acceptable evidence of the woman’s contributions. That leaves her with nothing since the property is not legally hers. It is not different when she has children and is divorced. Divorce leaves most uneducated women with nothing other than their personal belongings like clothing, jewellery and maybe kitchen utensils. That is why some Nigerian women prefer to acquire property in their fathers’ names. In other cases, the woman and all she owns are considered the man’s property to be administered whichever way he deems (Ajayi and Olotuah, 2005).

3. Widows’ Property Rights: The Family Law in Nigeria permits certain widowhood practices against women. This however depends on the level of education and civilisation of the in-laws as well as the widow’s relationship with them. As a punitive measure against the widow (whether young or old), she may be denied access to her late husband’s property and in some cases, among the Yoruba, she is considered part of the property to be shared among old or young male relatives (Ajayi and Olotuah, 2005). Among the Igbo, some family members demand an instant inventory of all the husband’s assets while demanding that the widow swears an oath of honesty. For the Etulo and Idoma tribes in Benue, property sharing is done along matrilineal and patrilineal lines of the deceased man respectively. For the Etulo, the implication is that, when a man dies, his property is transferred to the maternal relations of the man who decide whether to give the widow and what should be given to her. Needless to say that, among this tribe, a barren widow has no right of inheritance (George, 2010). Among the Northerners in Kano state, a widow inherits one-eighth 1/8th of the deceased husband’s property in accordance with Shari’a law.

3 RESEARCH METHODS

This paper employs an explanatory approach in discussing the secondary data retrieved. Data used for the study are sourced from scholarly works published in academic journals, textbooks, institutional publications and relevant online materials that focused on religion and women’s rights to property and inheritance.

4 FINDINGS

It was discovered that, the major religions with wide followership in Nigeria – Christianity and Islam – are not the main reasons behind discrimination in the country. As a matter of fact, both religions made provisions for inheritance before the Western idea of women’s rights to property was introduced. In other words, while the
West historically created a gap in the protection of their rights to property and inheritance by limiting it to the menfolk, religious laws filled the lacuna. Although, the two religions do not make well-articulated provisions or codified laws for the protection of women’s rights to property, it can be inferred from the different religious texts that embody the laws of these religions (the Holy Bible and the Qu’ran) that discrimination on the grounds of gender are outlawed. Islam and Christianity promote the protection of women considering the responsibilities they bear and their tenderness. Islamic laws do not prohibit women from buying any form of property or inheriting from their husbands and parents. However, property sharing in a Muslim family appears to be one-sidedly skewed in favour of the male-child on account that as a man, he bears more responsibility which includes his wife’s. Therefore, a twist to the argument on (discriminatory) Islamic laws on inheritance is that, the man gets more because of his familial responsibilities. Besides this, a Muslim woman can purchase any property from her personal wealth. Judeo-Christianity, on the other hand, does not have specific provisions on women’s rights to property except for few instances where women were permitted, either to inherit their father’s portion of allotted land or sell deceased husband’s property. Therefore, religion on the matters of women’s rights to property is not a factor that engenders discrimination against women. The patriarchal traditions in Nigeria are responsible for the overall discrimination that women experience within the country with respect to their rights to property.

5 CONCLUSION

In conclusion, it is pertinent to state that, religious doctrines have contributed to the discrimination that women experience in other contexts of women’s rights. Nevertheless, this paper concludes by asserting that, women’s rights generally can be strengthened and further protected when religious leaders re-orientate the minds of their followers through doctrines contained in the religious texts. As Marx noted, religion is the opium of the masses hence, it has the capacity to change human behaviour. Through the doctrinal teachings of religious leaders that emphasize the equality of all beings, regardless of gender, the human mind will be conditioned to overcome and abolish patriarchal systems.

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REFERENCE LIST


Obioha, E. (2013). Inheritance rights, access to property and deepening poverty situation among women in Igboland, Southeast Nigeria. A Paper Presented at a sub-regional conference on Gender and Poverty organized by Center for Gender and Social Policy, Obafemi Awolowo University, Ile-Ife, Nigeria.


