

The Application of International Treaties in Nigeria: A Panacea to the Unending Legal Debacle of Intestate Succession

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Abstract— The practice of intestate succession has undergone significant evolution, with recent developments highlighting concerns about human rights and the importance of respecting an egalitarian society. The practice in Nigeria, especially with the application of customary law, is shrouded in the discrimination of rights; in all of these, women are mostly affected, considering their copious vulnerabilities. It is in light of these concerns that Nigeria needs to adopt and implement international best standards. Why should Nigeria adopt and implement these international best standards? What are the potential premiums accruing to the implementation of international treaties centered on promoting minority rights, like those affecting women and children? These are some of the key questions answered in this article. The methodology used for this research is doctrinal. It relied on primary and secondary sources such as legal texts, judicial decisions, journals, the internet, international treaties, and conventions to analyze the interplay between domestic and international legal frameworks in addressing the rights of women and children in inheritance matters. The findings reveal that, despite constitutional guarantees of equality, Nigerian customary and religious practices often undermine women's and female children's rights to inheritance. Judicial interventions have provided some relief by invalidating discriminatory customs, but such relief remains inconsistent and limited. The research further demonstrates that international treaties—such as the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (Maputo Protocol), the African Charter, Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), and the Universal Declaration of Human Rights (UDHR) offer normative frameworks that, once domesticated, can serve as binding legal instruments to protect women's inheritance rights and harmonize Nigeria's fragmented legal order. The article concludes that effective domestication and implementation of key international treaties, particularly CEDAW and the African Charter, will empower courts to expunge discriminatory customary practices and ensure that domestic succession laws align with Nigeria's international human rights obligations. The study recommends enhanced judicial training, legislative reforms, and public sensitization to facilitate the consistent protection of women's rights and promote fairness and equality in intestate succession.

Keywords: International Treaties; Nigeria; Legal Debacle; Intestate Succession.

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INTRODUCTION

The prevalence of longstanding family disputes and conflicts has characterized the terrain of intestate succession in Nigeria for decades. These disputes have often been attributed to the polarized nature of the Nigerian State, which comprises a diverse range of ethnic groups, each with its own distinct norms, customs, practices, values, and conventions (Oba, 2008). The distinction in these ethnic groups has had a ripple effect on different facets of people's lives, including in succession/inheritance matters. There have been numerous contentions regarding the legitimacy or otherwise of certain cultural practices in Nigeria, particularly with respect to how dependents of a deceased are treated during the allocation of shares of an estate. While some practices have been lauded for enabling considerable fairness, others have been extinguished for perpetuating injustice. In all of these, laws and policies play a crucial role in addressing some of the structural gaps that exist, especially those that discriminate and segregate on the grounds of gender and circumstances of birth.

In Nigeria, the Constitution of the Federal Republic of Nigeria (1999, as amended) is the most defining document which sets out the order of the state, including the topmost priorities of government and how government should be structured and operated. Chapter two of the Constitution states that it is the fundamental duty of the state to ensure citizens' welfare and to ensure natural justice. The implication of this is that the government is under obligation to protect and safeguard its citizens, ensuring that such rights are not undermined in any form. While this is stated in clear terms, existential realities of many individuals have recurrently reflected a departure from these ideals as proposed by the Constitution. This is particularly true in matters of intestate succession where the rights of women and children have been repeatedly undermined by the operation of customary laws. As such, the judiciary (courts) have long grasped at straws to reconcile the copious conflicts between customary law, Islamic personal law, and statutory frameworks such as the Administration of Estates Law and the Marriage Act (Sagay, 2006). In many cases, widows and children find themselves disadvantaged, particularly under patriarchal and primogeniture customary systems that exonerate them from inheriting property. Even though statutory law aims to correct these inequities, its reach is often curtailed by constitutional recognition of customary and religious practices. This duality perpetuates uncertainty, leaving litigants vulnerable to protracted disputes and inconsistent judgments.

Statistical evidence illuminates the gravity of the situation. The World Bank's *Women, Business and the Law 2019* report gave Nigeria a score of only 25 out of 100 on the "inheritance" indicator, reflecting the severe legal and practical barriers women face in asserting their succession rights (World Bank, 2019). This aligns with demographic data showing that only a small fraction of Nigerian women own land or immovable property independently, largely due to discriminatory inheritance customs

(National Population Commission [NPC] & ICF, 2019). Such inequality not only deepens poverty among women but also contravenes the developmental objectives enshrined in Nigeria's national policies and international commitments.

In the midst of these dynamics, international treaties and conventions present a promising yet underexplored pathway for potential reforms. Instruments such as the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW; United Nations, 1979) and the African Charter on Human and Peoples' Rights (Organization of African Unity, 1981) provide universal standards that uphold equality, non-discrimination, and human dignity. These frameworks, when domesticated, have the potential to harmonize Nigeria's fragmented legal order and protect vulnerable groups from the injustices perpetuated under certain customary succession regimes (Okeke, 2013). However, the application of international treaties in Nigeria is not straightforward.

Section 12 of the 1999 Constitution requires domestication by the National Assembly before treaties can acquire the force of law (Constitution of the Federal Republic of Nigeria, 1999, s. 12). The strict adherence to this provision of the Constitution has given rise to fragmented implementation of Nigeria's treaty obligations, limiting their effectiveness in addressing domestic legal challenges. It is noteworthy that where domestication has occurred, the courts have been able to rely on international best practices and norms to advance progressive interpretations, especially in human rights-related matters. In *Fawehinmi v. Abacha* (2000), the appellant, Chief Gani Fawehinmi, challenged the legality of his repeated arrests and detentions under military decrees. He argued that these detentions violated his fundamental rights as guaranteed under the 1979 Constitution and, fundamentally, under the African Charter on Human and Peoples' Rights, which Nigeria had ratified and domesticated through the African Charter on Human and Peoples' Rights (Ratification and Enforcement) Act (Cap. 10, Laws of the Federation of Nigeria, 1990). The central legal question was whether the Charter could be invoked directly in Nigerian courts, and if so, what status it held within the domestic hierarchy of laws.

The Court of Appeal, and subsequently the Supreme Court, held that once domesticated, the African Charter became part of Nigeria's municipal law and was therefore enforceable in Nigerian courts (*Fawehinmi v. Abacha*, 2000). The courts emphasized that the Charter was not merely aspirational but carried the force of law equivalent to other Acts of the National Assembly. However, they clarified that while the Charter was binding, it did not enjoy supremacy over the Constitution. Thus, where a conflict arose between the Charter and the Constitution, the latter would prevail, but where there was no inconsistency, courts were bound to enforce the rights enshrined in the Charter. The decision in *Fawehinmi v. Abacha* significantly expanded the domestic application of international human rights norms in Nigeria. It affirmed that individuals

could rely on the provisions of the African Charter to challenge violations of their rights, thereby strengthening the human rights framework within the country. At the same time, it underscored the constitutional requirement that treaties must be domesticated before they acquire legal effect (Nnona, 2006). This case remains a landmark authority on the status of international treaties in Nigeria and illustrates how the African Charter serves as an important instrument for protecting rights where domestic law falls short. It demonstrates that treaties, if effectively integrated, can bridge the gap between Nigeria's plural legal traditions and universal principles of justice.

Considering the premium attached, this article explores the possibilities of domesticating key international treaties which are capable of strengthening the rights of women and children in matters of succession and inheritance. While it acknowledges the efforts of all state and non-state actors in promoting unfettered rights of women to inheritance, it notes that the adoption of international treaties and their codification is capable of changing the narrative for women. Exploring the application of international treaties as a solution to Nigeria's unending intestate succession debacle is both timely and necessary. It provides an opportunity to interrogate the extent to which global human rights frameworks can be domesticated to reform succession law, safeguard vulnerable beneficiaries, and ensure consistency in judicial outcomes. This article posits that effective domestication and judicial reliance on international treaties may serve as a panacea for the long-standing contradictions in Nigeria's intestate succession regime.

INTESTATE SUCCESSION IN NIGERIA: GRANULARIZING THE STATUS OF WOMEN

In simple and clear terms, intestate succession refers to the sharing of a deceased's estate where no valid will exists. According to the Marriage Act (2004, s. 36(1)), "Where any person who is subject to native law or custom contracts a marriage in accordance with the provisions of this Ordinance, and such person dies intestate, subsequently to the commencement of this Ordinance, the personal property of such intestate and also any real property of which the said intestate might have disposed by will, shall be distributed in accordance with the provisions of the law of England". It suffices to hold, therefore, that the type of marriage contracted by a deceased signals the method of succession principles to be applied. Nigeria operates a plural legal system in which customary law, Islamic (Sharia) law, and statutory law are concurrently operational. Each system prescribes different rules for inheritance: customary law varies across ethnic groups, Islamic law applies to Muslims under personal law, and in the case of statutory law, legal instruments such as the Administration of Estates Law help to provide a more uniform framework (Sagay, 2006). This plurality often creates conflicts, especially when heirs belong to diverse cultural or religious backgrounds.

Research has shown that customary law is by far the commonest form of intestate practice applied to the distribution of a deceased's estate. This is as a result of deep-rooted cultural beliefs, lack of awareness, and socio-economic constraints. In many communities, discussing or preparing a will is considered a taboo, as it is often seen as inviting death or expressing a lack of faith in divine providence. Others rely heavily on customary practices of succession, assuming that family or community norms will adequately distribute their estate. Additionally, limited access to legal services, low literacy levels, and the cost of formal estate planning discourage many from engaging in the process. These factors, alongside the prevalence of patriarchal traditions that presume property will naturally pass to male heirs, contribute to the high incidence of intestacy in Nigeria (Okeke, 2013).

The current trajectory of intestate succession in Nigeria suggests a gradual yet fundamental paradigm shift from strict customary practices to a model that is underpinned by the respect for human rights, especially regarding the dignity of persons who have hitherto suffered discrimination. The tumultuous nature of customary law on intestate succession in Nigeria has called for repeated influence of the courts. The courts have played a crucial role in shaping how customary laws are administered, essentially addressing inconsistencies and injustices that arise from the rigid application of customary rules. Of significant mention is the relentless decisions of the court in recognizing and restating the rights of minorities in the society, mostly women and children, especially daughters and illegitimate children. Many women in Nigeria face significant challenges in asserting their rights to inherit property, particularly with the proliferation of patriarchal practices that have been deeply ingrained into many Nigerian communities. The culture of disinheriting women is not peculiar to a given ethnic divide as it is evident in almost every cultural practice in Nigeria.

Among the Igbos, Yoruba, Hausas, Urhobo, Benin, amongst other ethnic groups in Nigeria, the practice of patriarchy and/or the primogeniture rule is arguably present. Albeit, the propensity of this practice varies from one culture to the other. Even where the practice does not entirely segregate women, an in-depth consideration of it holds otherwise. For instance, even though the Yoruba customary law does not preclude women from inheritance, inheritance still, notwithstanding devolves first on the first male surviving child of the deceased. Even when a female is the first child, and in the case of a widow, it is believed that a widow is herself a chattel to be inherited (Oyelade, 2014). Similarly, the conventional practice in the Igbo customary law of inheritance is that women are disinherited as far as the estate of a deceased is concerned. This practice is also obtainable in the Urhobo and Benin customary law of inheritance, where the primogeniture rule takes precedence over and above matters of inheritance. At this juncture, it is important to point to the fact that the contemplation of women's rights to

inheritance and in this case succession applies to both widows and their daughters. Having considered the plights of women, it is exigent to note that female children also face considerable challenges as it relates to intestacy matters.

In essence, the constraints faced by women in this context reflect broader global concerns about women's rights, which have evolved beyond mere advocacy against discrimination to encompass more assertive movements for equality, often framed within the discourse of modern feminism. According to Nwoga (2016), the injustice against women, particularly in inheritance, has existed for far too long, highlighting the need for girl-child radicalism, which presents a non-violent alternative to dethrone unprogressive practices against women. In Nigeria, a female child's rights in intestacy have been historically limited by customary law, which often excludes them from inheriting property from their parents. In *Ugboma v. Ebeneme* (2001), the daughters of the deceased challenged their male sibling for having abruptly sold their father's house. The court aligned with the propositions of the defendant based on the unfounded supremacy of the male sibling. Indeed, he who blows the piper dictates the tune, and so, it was submitted that relying on the custom and practice of the Igbo people, the male sibling did not act illegitimately. The discriminatory practice of disinheriting daughters is rooted in traditional and cultural norms that view female children as less deserving of inheritance when likened to male children. It is assumed that female children would normally leave their parents' legacies following marriage, whereas their male counterparts are more likely to preserve the family legacy (Yusuf, 2015). While the foregoing is subjective, it has continually shaped how female children are perceived in light of the interplay between gender and customary inheritance.

Through a series of landmark judgments, the courts have intervened in the above cultural dynamics and have helped to modernize and humanize customary law, bringing it more in line with contemporary values and principles of justice. For instance, in *Ukeje v. Ukeje* (2014), it was held that, immaterial the circumstances of birth, a female child is, at large, entitled to the inheritance of her deceased father and that where a practice holds otherwise, it is void to the extent of its inconsistency with the provisions of sections 42 and 43 of the Constitution. This position was reinforced in *Anekwe v. Nweke* (2014), where the Supreme Court emphatically declared the Igbo *omenani* custom, which completely disinherits a widow, to be repugnant to natural justice, equity, and good conscience, and therefore void. Similarly, the Court of Appeal in *Mojekwu v. Mojekwu* (1997) had earlier struck down the *Oli-ekpe* custom that permitted male relatives to inherit a deceased man's estate to the exclusion of his daughters. These cases collectively illustrate an evolving judicial willingness to subject discriminatory customary rules to constitutional scrutiny (Eboson, 2018). The judiciary has stepped in to address these challenges, developing a body of case law that has helped to clarify and standardize the rules governing intestacy. Recent judicial

developments regarding matters of intestacy in Nigeria are significant, reflecting the ongoing evolution of customary law in response to changing social and cultural norms. As Nigeria's legal system continues to evolve, the judiciary remains a key player in shaping the development of customary law of intestacy, ensuring that it remains relevant and effective in addressing contemporary needs and popular demands.

UNDERSTANDING THE NEED TO IMPLEMENT INTERNATIONAL TREATIES: A HUMAN RIGHTS-BASED APPROACH

The continuous and relentless violation of women's rights in intestate succession matters in Nigeria calls for the need to embrace possible alternatives outside domestic legal frameworks which are sometimes inadequate. One of the closest alternatives in this context is the adoption and implementation of international treaties. Since these laws are already established and reflect the imperatives of global best practices, this article suggests that international treaties are fit for the purpose of addressing matters relating to intestate succession in Nigeria. Despite constitutional guarantees of equality under Section 42 of the 1999 Constitution, many customary practices still deny widows and female children their inheritance rights. This creates a tension between entrenched cultural norms and constitutional principles. International treaties such as CEDAW (United Nations, 1979) and the African Charter on Human and Peoples' Rights (Organization of African Unity, 1981), once domesticated, are capable of providing a universal framework for eliminating such discriminatory practices and ensuring that women are treated as equal heirs in matters of succession.

Therefore, the adoption and implementation of international treaties represent a powerful "saviour" in addressing Nigeria's unending legal debacle of intestate succession. By aligning domestic succession law with international human rights obligations, Nigeria can eradicate discriminatory customs, promote fairness, and protect vulnerable groups from disinheritance and dispossession. Fundamentally, this approach does not undermine cultural heritage but rather refines it by ensuring that succession practices reflect justice and equality. In doing so, international treaties offer a sustainable pathway for reforming intestate succession in Nigeria and upholding the dignity and rights of all citizens, regardless of gender.

United Nations Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)

The UN Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) is an international human rights treaty that centres on eliminating all forms of discrimination against women. Adopted in 1979, CEDAW came into force as a landmark instrument for the protection of women's rights. It defines discrimination against women as any form of distinction, exclusion, or limitation based on sex that

undermines or prevents the recognition and enjoyment of women's human rights and fundamental freedoms on an equal basis with men. This protection applies regardless of marital status and extends to every sphere of life, including political, economic, social, cultural, and civil spheres (United Nations, 1979). The Convention mandates state parties to pursue goals and efforts towards eliminating every form of discrimination, particularly ensuring that state constitutions, policies, and statutory inputs are centred on male and female equality. Domestic instruments such as local laws and policies are expected to guarantee and advance women's rights.

Additionally, CEDAW acknowledges the existence of socio-cultural patterns and practices that are hinged on limiting women and subjugating their rights in one way or the other; on this ground, it is mandated that state parties should put in place compelling measures directed to address cultural and social practices that wholly or partly create superiority complexes between sexes. This would typically involve carrying out proper education and awareness of the public on the sanctity of womanhood and maternity and the need to give due regard to the womenfolk. One of the defining interventions of CEDAW is in its encompassing nature, cutting across social, political, and economic rights. It emphasizes the need for universal suffrage, highlighting the need for women to be allowed to participate and play unrestricted roles in public life with the rights to vote and be voted for. This also includes allowing women to participate in the drafting of laws and policy formulation regarding matters that affect them. Like every law and working legal document, implementation plays a definitive role, thereby ensuring that the required principles are fully integrated. To this end, Article 17(1) of CEDAW provides for the establishment of the Implementation Committee on the Elimination of Discrimination Against Women.

By ratifying these provisions of CEDAW, state parties to the Convention undertake the onerous duty of taking practical measures to eliminate discriminatory laws, policies, and practices. Nigeria ratified CEDAW on 13 June 1985, and has since committed to upholding the principles of equality and non-discrimination against women. While Nigeria has ratified CEDAW, it is yet to domesticate its provisions, thus creating a leeway for the proliferation of abuse and flagrant disregard for women's rights, especially in matters of inheritance, which forms the threshold of this chapter. Of all the federating states in Nigeria, no state has yet come up with a working legal document that prioritizes and fully domesticates women-centred concerns as clearly provided under CEDAW (Eruteya, 2017). At best, inference and recourse are often made to the applicable clauses of the constitution and other relevant provisions in extant laws. Issues of intestacy and inheritance signal some of the major areas where contentions exist as to the status of women.

In Nigeria, the practice of intestacy and disinheritance of women often contravenes the principles, specifically Article 5 of CEDAW, which is predicated upon eradicating

cultural patterns, including customs and communal practices that subjugate the rights and privileges of women. On the rights of women to fair treatment in matters relating to property ownership and disposition, the provision of Article 16(1)(h) of CEDAW states that countries should ensure equality between men and women in marriage and family relations, including “the equal and unfettered rights for husbands and wives in respect of the acquisition, ownership, management, administration, utilization and disposal of property, whether free of charge or for a valuable consideration” (United Nations, 1979). The CEDAW Committee, in its General Recommendation No. 29 (2013), elaborated on the economic consequences of marriage and its dissolution, emphasizing that discrimination in inheritance constitutes a grave violation of women’s rights and that states must take comprehensive action to eliminate such practices (Committee on the Elimination of Discrimination against Women, 2013).

The implication of Article 16(1)(h) on women's inheritance rights is significant. It emphasizes the importance of equal rights for women in matters related to property ownership and management. In the context of inheritance, this provision suggests that women should have similar rights as men to inherit property, including land, assets, and other forms of wealth. In many countries, including Nigeria, customary laws and practices often segregate women in matters of inheritance. Article 16(1)(h) of CEDAW requires countries to take steps to eliminate these discriminatory practices and ensure that women have the potential right to inherit property. This includes reviewing and reforming laws and policies related to inheritance, as well as taking measures to address social and cultural norms that perpetuate discrimination against women. The implications of CEDAW for Nigeria's practice of intestacy and disinheritance of women are significant. Nigeria is required to review and reform its laws and policies to ensure that they are in line with the principles of equality and non-discrimination. This includes customary laws that govern inheritance and property rights. By implementing CEDAW, Nigeria can promote greater equality and fairness in the sharing of property upon intestacy and ensure that women's rights are protected.

Previous research papers on the applicability of the principles of CEDAW in Nigeria have emphatically proven that Nigeria still has a long way to go in the pursuit for an enabling legal environment for women. Eruteya (2017) noted that Nigeria’s ratification of CEDAW may be likened to harbouring a toothless bulldog since there are no traces of enforceable mechanisms put in place by the government to ensure that mandatory expectations of the United Nations in line with CEDAW are strategically met. However, there has been a considerable fair ground for women with regards to representative capacities in government institutions and indeed the public life; Udu et al. (2018) identified the passage of the Gender and Equal Opportunities Bill in 2015 as one of such few milestones. While this is acknowledged, there is no gainsaying that more needs to be done. This article argues that the government's response to the representation is still

not progressive when compared to the huge mandate bestowed on it by CEDAW. To fully implement CEDAW, Nigeria needs to take concrete steps to address different practices that perpetuate the disinheritance of women. This includes, but is not limited to, legal reforms, education, and awareness-raising initiatives, as well as support for women who seek to enforce their rights through available mechanisms like litigation. The cost associated with the pursuit of asserting rights in courts has become increasingly unbearable. This is mostly well pronounced for women with little or no means to pursue such an endeavour. Organizations like the Federation of Women Lawyers have been incredibly helpful, especially in rural communities where women are most likely to be assailed by varying forms of injustice. By taking these steps, Nigeria can demonstrate its commitment to upholding the principles of CEDAW and promoting the rights of women. Ultimately, the implementation of CEDAW has the potential to contribute to a more just and equitable society in Nigeria, where women's rights will be respected and protected at all levels.

Universal Declaration of Human Rights (UDHR)

The Universal Declaration of Human Rights (UDHR) was adopted by the United Nations General Assembly in 1948, and it establishes a common understanding of the fundamental human rights that are universally applicable (United Nations General Assembly, 1948). The UDHR is a comprehensive document that articulates fundamental civil, political, economic, social, and cultural rights, affirming that these entitlements belong to every individual by virtue of being human, and emphasizing the principles of equality and freedom from discrimination. While the UDHR does not specifically focus on women's rights, its provisions on equality and non-discrimination have significant implications for women's rights, including their right to inheritance. Article 2 of the UDHR emphasizes that every individual is entitled to all the rights and freedoms set forth in the Declaration, without distinction of any kind, including sex. Some profound aspects of the Declaration have provided a thriving foundation for the development of global legal treaties that have shaped the global concerns relating to underserved individuals, like women and children. This has more often than not helped in fostering greater awareness and understanding of women's rights. Women's rights in this context are broad-based, encompassing every facet of womanhood, including inheritance. One of the most favourable fruits of the UDHR is CEDAW, which, as discussed earlier, addresses women's rights, including their right to inheritance, and requires parties to take steps to eradicate prejudicial treatment of women in all areas of life.

Being a signatory to the Declaration, the UDHR holds certain implications for Nigeria's laws and practices, including those related to intestacy and disinheritance of women. Articles 16 and 17 of the UDHR are clear in guaranteeing the right to marry and found a family, and the right to own property, respectively. The practice of

excluding women from inheriting property on the basis of customary practices or traditions is a clear violation of the principles of equality and non-discrimination enshrined in the UDHR. Ordinarily, the status of Nigeria as being privy to the Declaration requires that domestic laws and policies should be aligned with the UDHR's provisions to ensure that women's rights are protected and respected.

The foregoing is not the case owing to poor implementation and practicability of the principles enunciated therein. The problem of implementation is not only associated with the UDHR, as almost the same applies to other international treaties, in which case Nigeria ratifies but fails to set up mechanisms for effective implementation. Mbaeze (2020) noted that there is a wide implementation gap of the UDHR in Nigeria. It was observed based on practical evidence that the UDHR has not contributed to the promotion of human rights, particularly in recent times where government has been perceived as complicit in issues of rights violation. One very noticeable experience of the Nigerian situation is the Nigerian End SARS protest of 2020. The protest, which started as a call to the government to disband a department of the Nigerian police force notorious for rights violations, soon metamorphosed into the death of many at the behest of the Nigerian government.

The current realities of the Nigerian state, especially with regard to the protection of human rights across gender and strata within the society, have called for incessant concerns. This article notes that the purpose of curating international treaties is not for the mere signatory or approval of member states, but the effective promotion and implementation of the content clauses of such treaties. As such, the mere ratification of the UDHR is not enough; its imperatives must be manifestly seen as practiced in the Nigerian polity, a disposition that is currently non-existent. To align with the UDHR's provisions, Nigeria needs to take steps to address practices that perpetuate the disinheritance of women. These steps vary, depending on the order of priorities, and they include legal reforms, education, and awareness-raising initiatives, as well as support for women who seek to assert their rights. By upholding the principles of the UDHR, Nigeria can demonstrate its commitment to protecting human rights and promoting the dignity and well-being of all its citizens, particularly women who have historically been marginalized and excluded from inheriting property.

The United Nations Charter of 1945

The United Nations (UN) Charter, established in 1945, is a foundational document overseeing the affairs of the United Nations and its member states. The Charter outlines the clear structure, purpose, and modus operandi of the UN. Its primary purpose is to promote respect for human rights and fundamental freedoms for every individual, irrespective of gender or sex-based distinctions. The preamble of the Charter states as follows:

“We the Peoples of the United Nations Determined to... reaffirm faith in fundamental human rights, in the dignity and worth of the human person, in the equal rights of men and women and of nations large and small, and to create conditions that ensure justice, respect for treaty obligations and international law, while fostering social progress and improved standards of living within a framework of greater freedom.” (United Nations, 1945)

The above preamble of the Charter shows the unreserved commitment of the UN to enable freedom for every human person, regardless of gender. Article 1(3) of the Charter emphasizes the importance of fostering and stimulating respect for human rights and fundamental freedoms for all, without discrimination. This provision has far-reaching implications for women's rights, including their right to inheritance. The emphasis of the Charter on equality and non-discrimination is one of the earliest motivations for the advocacy against any human prejudice and paved the way for subsequent international and regional treaties that protect women's rights. The impact of the UN Charter on women's inheritance rights is significant. In many countries, laws and customs have been reformed to ensure women have equal rights to inherit property. The Charter's provisions have encouraged countries to review and reform their laws and policies to ensure that they are in line with the principles of equality and non-discrimination. This has led to greater recognition of women's rights to inherit property, and has helped to promote greater equality and fairness in inheritance matters.

The UN Charter's influence on promoting equality and non-discrimination has also led to increased awareness and advocacy on women's inheritance rights. Mbaeze (2020) likens the Charter to the cradle of humanitarian intervention globally. This is considered so as the provisions of the Charter have inspired civil society organizations and advocacy groups to advocate for women's rights, including their right to inherit property in a seemingly male-dominated environment. This has helped to raise awareness about the importance of protecting women's inheritance rights and has contributed to a growing recognition of the need to promote greater equality and fairness in inheritance matters.

Protocol to African Charter on Human and Peoples' Rights on Rights of Women in Africa

The Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa, also known as the Maputo Protocol, is a landmark document that promotes and protects the rights of women in Africa. The protocol was adopted following a summit held in Mozambique in December 2003 (African Union, 2003). The Protocol sets out a framework for promoting and protecting women's rights, including their right to inheritance. Article 2 of the Protocol requires states to combat all forms of

discrimination against women through appropriate legislative, institutional, and other measures. Article 21 of the Protocol specifically addresses the issue of inheritance, requiring states to ensure that women have equal rights to inherit property and to own and manage their own property (Banda, 2006). This provision has helped to promote greater equality and fairness in inheritance matters, and has necessitated African countries to review and reform their laws and policies to ensure that they are in line with the principles of equality and non-discrimination. The African Commission on Human and Peoples' Rights further reinforced this obligation in its General Comment No. 2 on Article 14 of the Protocol, urging states to adopt legislative and policy measures to eradicate discriminatory inheritance practices and to challenge socio-cultural norms that deny women equal access to property (African Commission on Human and Peoples' Rights, 2017).

The Protocol has had significant impact on women's inheritance rights in Africa. African countries like South Africa and the Democratic Republic of Congo have reviewed and considerably reformed their laws and policies to ensure that instances of discrimination against women are eroded. Rudman and Fentes (2017) noted that women were traditionally discriminated against in land tenure systems and inheritance in South Africa but the advent of the Maputo Protocol and indeed the global position for the reformation of women disinheritance have occasioned recent changes. Like South Africa, many African Countries have also enacted laws that specifically protect women's inheritance rights, while others have implemented programs to promote awareness and education about women's rights. These recent developments are accompanied by the radical formation of civil society organizations and women's groups to advocate for women's rights, including their right to inherit property.

Nigeria is a signatory to the Maputo Protocol and ratified the same on 16 December 2004. Like in other countries, the ratification of the protocol has orchestrated the birth of gender-based policies, particularly those related to gender-based violence. While laws and policies on gender/women-related matters exist, implementation has also been a huge problem militating against their effectiveness. Taoheed (2021) noted that the mandate of the Maputo Protocol is disruptive in that it reiterates the need for more institutional actions, but weak regulatory frameworks and stubborn societal practices have stood in the way. It was argued that some indigenous practices in northern Nigeria are at variance with the provisions of the protocol. It has also been herculean to change these practices, as some are believed to have been handed down by God. The above concerns and sentiments of Taoheed reiterate the concerns of this article on how religious practices on the need for women to be susceptible to men can be eradicated. For Christians, the provisions of the Bible in Ephesians 5:22-23 (King James Version), which prides men as the head of the family and the need for wives to be submissive to

their husbands, have often been manipulated to subjugate the rights of women, potentially referring to women as inferior beings.

Again, while the Maputo Protocol has had a profound impact on women's rights in Africa, including their right to inheritance, its full application in Nigeria is questionable. In Nigeria, a significant number of women experience various forms of rights violations, including physical, sexual, and emotional violence, as well as harmful practices like child marriage and female genital mutilation. Reports indicate that one in three women have experienced physical or sexual violence, and 12.5% of women aged 15-49 were married before the age of 15 (National Population Commission & ICF, 2019). Furthermore, many of the trafficked persons in Nigeria are female. This highlights the severe violation of women's rights and freedoms and the need to heighten protective mechanisms for women. In promoting and protecting women's rights, relevant articles of the Protocol may be utilized to also advocate for greater equality and fairness in inheritance matters. As African countries continue to work towards implementing the Protocol's provisions especially areas concerned with protection of women against abuse, it is essential to prioritize the protection of women's inheritance rights and to promote greater equality and fairness in inheritance matters.

African Charter on Human and Peoples' Rights

The African Charter on Human and Peoples' Rights was founded in 1981 following repeated agitation for a working document that formally represents the peculiarities of Africa and its disposition towards human and people's rights. It is the foundational treaty that promotes and protects human rights in Africa (Organization of African Unity, 1981). While the Charter does not particularly focus on women's rights, its provisions on equality and non-discrimination have significant implications for women's rights, including their right to inheritance. Article 2 of the Charter emphasizes that every individual shall be entitled to the rights and freedoms recognized and guaranteed in the Charter without distinction of any kind, including sex. The African Charter's impact on women's rights in Africa has been significant, particularly in promoting equality and non-discrimination. Article 18(3) of the Charter requires states to eliminate every discrimination against women and ensure the protection of the rights of women as stipulated in international declarations and conventions. This provision has encouraged countries to review and reform their laws and policies to promote greater equality and fairness for women, including in matters of inheritance.

Nigeria is a State Party to the African Charter on Human and Peoples' Rights, having ratified and domesticated it since 22 June 1983. In other words, the provisions of the Charter have the force of law within Nigeria and are enforceable in Nigerian courts, as affirmed in *Fawehinmi v. Abacha* (2000). In that case, the respondent was arrested and detained without any warrant of arrest in line with conventional practice. The

respondent prayed the court in an ex-parte application through his Counsel to invalidate his arrest and to hold that the arrest and accompanying detention was against extant laws of the land. The provisions of sections 31, 32 and 38 of the 1979 Constitution and Articles 4, 5, 6 and 12 of the African Charter on Human and Peoples' Rights (Ratification and Enforcement) Act (Cap. 10, Laws of the Federation of Nigeria, 1990) were relied upon to make this application. The Supreme Court ruled that treaties ratified and domesticated by Nigeria, like the African Charter on Human and People's Rights, have the force of law and can be enforced by Nigerian courts. Nonetheless, it was held that domestic laws will take preeminence over such international laws in the case of any inconsistency. One pertinent question is how effective the Charter has been in the promotion of Human and Peoples' Rights?

One of the significant scorecards of the African Charter is the establishment of the African Commission on Human and Peoples' Rights. This is a quasi-judicial body established to promote and protect human rights throughout the African Continent. The Commission has interpreted the Charter's provisions on equality and non-discrimination to include protection for women's rights, including their right to inheritance. The Commission's work through the deployment of special rapporteurs has helped to promote greater awareness and understanding of women's rights. However, Ankumah (2019) noted that even though the Commission is set aside for the promotion of rights, its operating system is fundamentally faulty as there is no representation of women in the Commission. This article notes that it is effort in absolute futility where a body mandated to promote human rights is inherently non-inclusive. The consideration of all the above laws has shown that even in the face of laws, policies and other forms of legislations, discrimination may be perpetuated. This article supports the recommendation of Okongwu (2019) for the shift in focus and concentration on non-policy measures to combat the menace of rights violation.

The domestication of the African Charter, while progressive, has been underutilized in succession matters. Nigerian courts have been slow to directly invoke Charter provisions to nullify discriminatory inheritance customs, often preferring to rest on constitutional grounds (Eboson, 2018). This judicial caution, though understandable in the context of Nigeria's dualist approach to treaties, suggests that the Charter's full potential remains untapped. A more robust judicial engagement with the Charter, combined with legislative domestication of CEDAW and the Maputo Protocol, would provide litigants and courts with a coherent, rights-based framework for resolving intestate succession disputes equitably (Nnona, 2006; Okeke, 2013).

CONCLUSION

The persistent challenges surrounding intestate succession in Nigeria are largely rooted in the plurality of legal systems, where customary law, statutory provisions, and

constitutional guarantees simultaneously operate, thereby leading to collision (Sagay, 2006). While the existence of customary practices reflects cultural values, many of them perpetuate gender-based discrimination, leaving women and female children vulnerable to exclusion from inheritance. Judicial interventions have provided some relief by striking down discriminatory customs, yet these measures remain inconsistent and limited in scope. The application of international treaties offers a more sustainable and harmonized solution to this long-standing problem.

The Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (Maputo Protocol), African Charter on Human and Peoples' Rights, CEDAW, and UDHR provide normative frameworks that uphold equality, fairness, and the dignity of all individuals. Once domesticated, these treaties have the force of law in Nigeria and can serve as binding instruments to protect women's inheritance rights (Nnona, 2006). Their application to intestate succession disputes would not only enhance the enforcement of constitutional principles but also bring Nigeria's domestic law in line with its international human rights obligations. The Nigerian Supreme Court's decision in *Anekwe v. Nweke* (2014) illustrates that when courts align domestic reasoning with universal human rights principles, discriminatory practices can be effectively dismantled. A clear legislative domestication of all relevant treaties would make such outcomes the norm rather than the exception.

This article therefore recommends the need for Nigeria to strengthen the domestication and implementation of key international treaties, particularly CEDAW and the African Charter. Their full adoption into national law will provide courts with more concrete legal tools to expunge discriminatory customary practices in intestate succession and align domestic succession law with international standards. On the other hand, it is essential to keep judicial officers and legal practitioners at par with future development by training on how these treaty provisions may be applied in succession disputes. The implication of this is that it will help courts to consistently interpret intestate succession laws in line with Nigeria's treaty obligations, thereby ensuring that the rights of women, widows, and female children are protected against discriminatory customs.

Moreover, broader sensitization and legislative reforms are essential. Public education campaigns must be strategically positioned to demystify will-making and challenge cultural taboos around estate planning (Okeke, 2013), while lawmakers should amend succession laws to expressly incorporate international human rights principles. The Nigerian Law Reform Commission and the National Assembly should consider developing a unified intestate succession code that harmonizes the disparate customary and statutory rules and domesticates the core principles of CEDAW, the African Charter, and the Maputo Protocol (Yusuf, 2015). By integrating these measures, Nigeria can resolve its unending legal debacle of intestate succession, ensuring that

succession practices reflect both cultural heritage and the universal values of justice, equity, and equality.

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