

Depriving Widows Inheritance Rights by Husbands' Relatives in Nigeria.

By

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ABSTRACT

Widowhood is a global phenomenon. It is an ill-wind which blows nobody no good. It is a canker worm pervading our global society which seems to have defiled many genuine forces to extricate especially amongst most African. Over the past centuries, it developed strong rooted strength in most global customs, cultures and traditions more so in the developing countries like Nigeria making it resistant to many forces exerted for its extinction. This paper traced this problem from its pre-history times to the present era. It elucidated some legal and traditional frameworks put in place by different countries at different times to eradicate the stigma from mankind essentially from womenfolk that is hardly affected. The paper reveals that most world communities including Nigeria have adopted and domesticated the United Nations Charters on abrogation of widowhood sufferings. It is recommended that whenever and wherever such antagonism of stripping widows their inheritance rights by their husbands' relatives or any such others arises, the concerned widows should seek legal assistance at any appropriate forums at their reach for justice through proper, speedy, concise legal disposition.

Key words: Widows, Depriving, Inheritance rights, husbands' relatives.

Introduction

Nature has not been pathetic to mankind. It brings difficult and extreme problems through harsh climates and earthquakes as well as death. Although all these affect humanity on equal ratios, their effects seem to be harder on women especially when they lose their husbands. As if that is not sufficient, mankind intensifies this problem of death on such women with more punitive laws - negative rules and regulations - believing same to be congruent with traditions. If nature were not this harsh, it would have allowed couples (husbands and wives) to live to their very ripe old ages before separation through death – a period they would have satisfied their yearnings for life and consolidated their assets and off-springs that husbands' relatives would not have a say in their accumulations and persons. Death, which strikes at early or mid of these ages, causes a lot of encumbrances, especially to the young widows, as it is a ready invitation to ever envious husbands' relatives to further destroy the families through endowing several punishment, especially to such unripe widows.

This paper discussed the issues of depriving widows their inheritance rights by their husbands' relations with specific reference to Igbo land practices with the aim of examining the implications of such acts on the widows generally and drawing conclusion and recommendations to alleviate widows conditions..

Who is a widow?

Unlike some other concepts, 'widowhood' is not much ambiguous to comprehend, and thus its definition is not controversial. Similarly, widowhood is globally not much incongruous to deserve more interpretation. Thus, whether in the civilized societies or in the developing ones the meaning and understanding of a woman whose husband is dead is widow and the general harsh conditions inflicted to such women by different people especially their close relatives in our various communities are not strange to decipher. The demise of the husband of a woman is a ready invitation for trajectory life of the widow and her survivors. Her tender children become a misnomer on the wicked eyes of their haters. Soares (2001) corroborated this statement when she described a widow as “a woman whose husband has died and whose condition with her children immediately after becomes weird” pointing out further, that the state of having lost one's spouse to death is 'widower'.

In Igbo traditions marriage is seen to have been formally contracted by payment of bride price or 'dowry' by the man who comes to marry the woman or his representatives. A woman whose dowry is paid and the husband dies a second after is a widow. Similarly, a woman who has lived with her traditionally lawfully married husband for 100 years before he died is also a widow. Widowhood, therefore, takes place when the legitimate husband of a woman dies. Immediately after the death of the man, his wife, now a widow faces a lot of incongruities and trajectory life with her children in most families instituted by her husband's relatives with strange and difficult problems arising as a result.

Problems of widows in the society

Widowhood has serious implications for the physical and mental wellbeing of women. Widows face a myriad of difficulties such as economic, social and psychological, particularly in the first year or so after the death of their spouses. It is an irony that when a man dies, his wife is subjected to terrible hardships. She is deprived of the man's accumulations with her thus destroying the nucleus of the family. This plunges the woman and children into penury. Not only this, loneliness erupts. A couple that had lived together, had everything in common, bought property together, shared things and feelings in common, and along the line death sneaked in and stole the husband, for sure that woman's whole life would be greatly hampered. Jeen and Amariya, (2019), corroborated these viewpoints. They opined that in some patriarchal societies, widows could maintain economic independence. A widow could carry on her late husband's business and consequently be awarded certain rights, such as the right to her husband's

property. According to them, in Nsukka communities, for example, conversely, widows are often victims of inhuman cultural practices; widows are denied the right to what rightly belongs to them.

Regretting this folly, Myriam (2020) elaborated the expressed views of Jeen, et al (2019). She regretted that the inhuman treatment of widows continues to abrogate their human rights. In some parts of Africa, she continued, widows are still subjected to traditional practices which lead to seizure of their property, social ostracism and exclusion as well as loss of their homes and children. She pointed out that in many cultures, widows have no right to inheritance of land ownership, and even where modern legislation provides such rights, ignorance of the law (which is no excuse) by the widows or cultural practices, and even the long and rigorous processes of law itself with its cost-intensiveness, delay and negate justice by impeding their continuous access to it due, principally, to poverty and naivety. Most of these deprivations have had great deplorable impacts on the lives of widows. Some of the depriving impacts on widows inexhaustibly include:

Poverty: across the wider spectrum of countries, religious and ethnic groups, a woman is left destitute when her husband dies - poverty is often made worse by little or no access to other economic resources, and by illiteracy or lack of education.

Violence: violence against women is one of the most widespread violations of human right affecting women in all backgrounds. Widows are no exception, and may, in fact be at particularly high risks of violence.

Immature widows' children: the children of widows are often hardly affected, both emotionally and economically. Widowed mothers, now supporting their families alone, are forced to withdraw their children from school and to rely on their manual labour for survival. Moreover, the daughters of widows may suffer multiple deprivations and increasing vulnerability to abuses.

Debts of widows' husbands: widows can become liable for the debts of their deceased spouses. This serious abuse of the human rights of widows and their children is still unrecognized even by organizations that are concerned with human rights violations.

Life in slums and squalors: widows who live with their little children in uncompleted or thatched houses suffer greatly as they cannot complete the houses or change the thatched houses' roofs when they are bad. This means that they will live in squalor or such deplorable conditions until their children are able to provide for those needs when they are finally grown in future.

Properties of widows' husbands: landed property of widows' spouses are often times seized from them thus making them unable to farm or gain from existing plants and crops like palm tree and bread fruit on which their spouses used to feed them.

Illiteracy of widow and their children: lack of education of the widows and their children makes it difficult for them to know legal actions they can institute for justice of their preponderant encumbrances.

Supporting this unbecoming acts, James (2001), revealed further that at the death of a woman's husband, she could be expected to surrender all the man's property including bank account to the relations for appropriation. He further posited that in some communities, the woman would be accused of master minding her husband's death even if it is very apparent that he died a natural or accidental death. Hence the widowhood rites would begin by making the woman to pass through “acid” test such as drinking bitter water, swearing in a shrine, or even drinking the water used to bathe the husband's corpse, et cetera, and it is believed that if she survives any or a combination of these punishments, then she is free from the guilt.

The Commission on Human Rights (2016) regretted that in many societies today as was in the past, widowhood problems have been an important issue both for the affluent families and for the poor ones. Husbands' relatives will try to drag the affected poor families faced with this undue difficulty poorer and those affluent ones poor, with a lot of snags, accusations and punishment to both the widow and her children. This action is still worse to a widow who has no children, more so to one who does not have a male child. The sudden death of a man as the bread winner and protector of his household destroys the family terribly.

The rights of women in Nigeria

Today, the issue of Women's Rights has become a buzz word the world over. It is a great concern to many that women are deprived of their human rights. It has been a burning issue in different parts of the world, yet some think it is all a propaganda blown out of proportion usually because of religious or cultural inclinations. A right is defined as a power, privilege or immunity guaranteed under a constitution, statute or care law in moral vocabulary. Respect for rights is seen as a matter of justice. Rights can be asserted, demanded, delayed, trampled or stood upon. The obligations they impose are expected to be performed and their non-performance occasions feelings of indignation, resentment and disappointment (Walsh, 2014). Most of the international women rights' laws for which Nigeria is a signatory have been domesticated in the country, but processes of accessing them are still a farce to predominant illiterates and the poor.

The international perspective

Leilani (2019), pointed out that an idea of what the international law provisions are on the rights of women, will help us better understand that this is a universal issue that is not taken lightly. Some of these international legislations, protocols and declarations include for instance: Article 1 of the Declaration of Human Rights which states that “all human beings are born free and equal”. Also Article 5 of the Convention on the Elimination of all forms of Discrimination against Women (CEDAW) adopted by the United Nations General Assembly in 1979 and ratified by Nigeria in 1984, 'encourages nations to modify the social and cultural patterns of conduct of men and women with the view to eliminate inferiority roles of men and women.' The Solemn Declaration on

Gender Equality in Africa reaffirms the principles of gender equality as enshrined in Article 4 (1) of the Constitutive Act of the African Union (UNHCHR, 2010). In chapter 7 of the act, member States declare 'to actively promote the implementation of legislation to guarantee women's land, property and inheritance rights including the right to housing.' The African Charter on Human and Peoples Rights (ACHPR) was domesticated in Nigeria in form of the African Charter on Human and Peoples Rights (Enforcement and Domestication) Act Cap 10, 1990. This Act makes the provisions of the Charter enforceable in any Court of Law in Nigeria: Article 18 of the ACHPR states that "the state shall ensure the elimination harsh treatment and implementation of the rights of women."

In consequence, Article 21 of the Protocol to the Charter on Human and Peoples Rights on the Rights of Women in Africa (ratified by Nigeria in 2004) states that 'a widow/widower shall have the right to inherit each other's property in the event of death whatever the matrimonial regime, to continue living in the matrimonial home.' Sub paragraph (2) of the above states that 'women and girls shall have same rights as men and boys to inherit in equal shares their parents' properties.'

Domestication and application of the law - the Nigerian reality (parlance)

Despite the provisions of the protocols, charters and conventions recognizing and guaranteeing rights of women and the obligations of the Nigeria government, the lives of Nigerian women and the widows are yet to attain a commensurate level of improvement. Women rank lower than men in all indices of development in the country. Widows are, more so, dejected. The rights of women and widows in Nigeria are clearly spelt out in the nation's constitution. The rights of women and widows enshrined in the Nigerian constitution are consistent with the ideals of humanism guaranteed by international bodies. But unfortunately these rights and ideals have remained 'paper tiger', mere theoretical postulations without any practical bearing on the lives and conditions of the Nigerian women and the widows who are worst affected. In practice, the Nigerian society is replete with anti-humanist ideals. Women are systematically relegated to inferior positions and widows to inhuman treatments. Despite all the provisions in the law and ratification of protocols, charter and conventions, Nigerian women and widows suffer violations and deprivations of their human rights through 'violence in the homes, sexual harassment at schools and work places, rape and defilements, harsh and punitive widowhood rites' denials, females Genital Mutilations (FGM), forced childhood marriages, sexual violation in conflict situations and during armed robbery attacks, enforcement of gender biased laws, discrimination against the girl-child, disinheritance of wives and daughters, harmful traditional practices and more (Human Rights Watch, 2014).

Some positive actions taken by Nigerian government and economic and social rights

So far, some of the positive actions taken by the Nigerian government include: adoption of a gender policy in 2007, establishment of science schools for girls, establishment of Women Development Centers in Nigeria's 36 states, adoption of the trafficking in person's (prohibition) Law Enforcement and Administration pact, establishment of a National Agency for the Prohibition of Trafficking in persons, and adoption of a national policy on HIV/AIDS, reproductive health and female genital mutilation. Despite these efforts by the government, aspects still hindering the recognition of the rights of women and widows in Nigeria include: the patriarchal structure of the Nigerian society, failure of the National Assembly to pass the Abolition of all Forms of Discrimination Against Women and Widows in Nigeria and other Related Matters' Bill and failure to pass a national bill prohibiting violence against women and widows, and. failure of the Government to domesticate protocols or enact appropriate legislations necessary for bringing to pass its obligations and undertakings (Ajaegbo, 2016).

On the typologies of discriminatory practices in the Nigeria work place, aligning economic and social rights of women and widows, Ogunyomi (2014) identified sect discrimination as being prevalent in Nigeria. This, he denoted, takes the form of a woman or widow being treated less favourably than a man on the grounds of sex or indirectly by conditions applied equally to men and women which are detrimental to women or widows (Ajaegbo, 2016). This terribly affects the widows who are hapless and more vulnerable than any other group in the society

Marriage, separation, divorce and women's property rights

Although Article 7 of the Protocol to the Charter on Human and Peoples' Rights and the Rights of Women in Africa, provide for both parties of a marriage to enjoy equal rights within and after the marriage in issues of custody and access to an equitable share of the joint property deriving from the marriage. This is not the case in most countries in Africa such as Nigeria. However, deriving from these provisions, three forms of marriages become recognized in Nigeria, namely: Customary, Islamic, and Marriage under the Act or Court marriage.

In point of fact, the reality of women marriage under customary and Islamic laws has not yet been affected by the protocol. A woman married under customary law is entitled to be provided with a home by her husband as long as the marriage subsists. She is also entitled to use her husband's property, but cannot dispose of it as her own. The right to be provided a house by her terminates upon divorce. Upon divorce, a woman married under customary law has no claim over a house jointly owned by her husband. Her position is not helped by the provisions of the Matrimonial Causes' Act in respect of maintenance and settlement of property, which expressly excludes the application of its provisions to marriages in the case of women married under the Act, where she is able to produce documents showing she made a contribution to the property, she is entitled to

the part of the property commensurate to her contribution. Many women are denied custody and access to their children. Among those under Islamic law, child marriage is still prevalent. According to Board for Women's Human Rights, "... girls are often married between the ages of 9-14. " The concurrence of child marriage is common (Ajaegbo, 2016).

Upholding the rights of widows

In the treatise of the Lawyers Chronicle (2016), widows' rights are human rights. Ignoring the needs and concerns of widows around the world, is ignoring a violation of the basic human rights of the most neglected of women. When widows are denied the rights to access, own, control or inherit property and land they live on, it is an isolation of their rights. When these women and their children are evicted from their homes because their husbands have died, it is a violation of their rights. When a lack of savings means a lack of health care for themselves and education for their children and grand children, it is a violation of their rights. Widows who are forced into exploitative and risky sex work in order to support themselves and their families are bearing a burden that is unfair and unjust. And enduring traditional practices directed at widows, which are inhuman and degrading, is a serious violation of their human right. UNFPA advocates for the rights of the world's about 600 million adolescent girls, many of whom are married off too early, often to men who are much older than them and will more often, be widowed early (Human Rights Watch (2015). The Earth Defense Force 4 (2014), and Wagstaff and Doorslear (2000), posited, too, that addressing the needs and concerns of widows requires the effort of everyone.

They made the following key recommendations for governments, civil societies, and the UN systems: government must uphold their obligation of protecting the human rights of widows; national policies and programmes must integrate widowhood into current development plans and strategies, including the standards set by the Committee on the Elimination of Discrimination against Women and the Convention of the Rights of the child; governments must establish national laws, especially those that 'protect the property and inheritance rights of women and ensure implementation of those laws.' She should strengthen the judicial system, and empower widows to be recognized as full members of society; civil societies can help keep governments accountable, and be strong advocates for the rights of widows, and service providers to women and girls who finally have nowhere else to turn, and UN sister agencies must collaborate with each other and be our partners to ensure efforts are creating concrete results in partnership with UN provisions for women. In their concerted agreement, they declared in conclusion that 'it is our collective responsibility, as the International Community; leaders; and women and men to safeguard the rights and dignity of widows.'

Patriarchy, marriage and the rights of widow in Nigeria

In his postulation, Ujah (2016) opined that many women in several Nigerian communities dread the experience of widowhood. This is not just because of the pain arising from the loss of their husbands, but more so, as a result of the numerous dehumanizing rituals and practices associated with widowhood. The fact that these practices are interpreted as being founded on the prevailing traditions of the people, poses a bigger problem. But then, the question is: “what aspects of the tradition foster the violation of widows' rights and in what ways are these violations manifested?” Patriarchy and marriage as the conceptual framework on which a proper understanding of widows' experiences in Nigeria is based, argue that the institution of patriarchy and marriage, as aspects of the Nigerian traditional society, indeed, suffice as 'satisfactory explanations for the practice of widowhood in Nigeria.' They foster the violation of widows' rights. As an integral part of its findings, it denotes that the following constitute the manifestations of the violation of widows' rights: dethronement, defacement, forced levirate marriage, disinheritance, and denial of the right of dignity and equality.

In his work “Protecting of widows' rights against barbaric customs”, Agbagbodi (2016), explained that the Marian Webster Dictionary sees a “widow as a women who has lost her husband and not married again, making the same apply to the counterpart – the widower. Culture or custom, on its part, is defined in Encyclopedia Americana (2010) variously as a way of life of people, customs and beliefs which vary from place to place and tradition by tradition; they are the forms of beliefs and acts handed over from generation to generation. Sometime or more often, for example, what is cultural to an Ezinihitte Mbaise man or woman may not be so to an Obowo man or woman. Widows' rights are all about the fundamental rights of women in terms of burial rights and the manner of subjection to the most cruel nebulous and anachronistic aspects of such rights that ought to be jettisoned into oblivion. Agbagbodi (2016) argues that the society should endeavour to moderate, and refine some aspects of the customs that are inimical to modernity and civilization, if in point of fact, culture is dynamic. It has to change with time and the inimical aspects changed also to modernity in line with extant laws of the globe domesticated by most countries including Nigeria.

In consequence, Agbagbodi (2016) questioned 'why are women most vulnerable to this second slavery by men?' What happens when a man loses his wife? Why doesn't the society also subject him to such mourning rigours and belligerent aspects of the widows?' In his assertion, he denoted that women in these cruel communities pass through hell when, in the event of the demise of their spouses, or the moment a man is demised, the next line of action from extended family members is to apportion blame and indict the woman as the cause of her husband's death. He however, regretted that in this situation, nobody cares about their departed brother. Rather their various personal interests will be on the sharing formula of the man's properties with conflicts of interests raring their ugly heads No one cares about the welfare of the woman and her children. This has led to many cases of litigation among family members, regretting, for example, that some have even gone to the extent of killing to achieve their rapacious tendencies.

Continuing, Agbagbodi (2016) further explained that 'immediately the death of a spouse is officially announced, a thatched booth is constructed with palm fronts in an isolated position, the widow is quickly kept on bare floor there ... regretting that the custom, does not permit her much freedom ... she is kept under this strenuous condition for a long duration.' In advocacy to the rights of widows, he cited the case of four Eastern states in 1995, concerning the sepulchral rights of widows in Eastern Nigeria. The Human Rights Watch (2003), pointed out that 'this struggle is not peculiar to the Ibo race; other tribes or nations are also in this struggle to ensure and entrench the rights of widows. It has become very pertinent in this era of modern civilization to protect rights and interests of widows in our societies; widows are in pain of losing their beloved husbands and more of the pain should not be escalated. They rather need compassion and empathy.'

Some researches carried out on widowhood problems by House (2001) and others generally revealed the following indices of observations: 75.5% of the widows struggle for properties of their deceased; about 85.5% level of violation in terms of rigid application of the customs on the widows and their subjectivity to all manner of intimidation vis-à-vis the procedure for mourning rites; 50% in the areas of protection of the widows' rights to life; 55% in areas of taking responsibility of affordability of education to the children by the widows, and 90% level of abandonment immediately after the burial rites. It is noted that widows are humans and all rights and privileges appertaining to humanness should unreservedly be extended to them with equanimity.

Conclusion

Widowhood is a global problem. Most countries of the world including Nigeria have domesticated laws made in this regard. All nations are expected to drive home the rubrics of the domesticated laws down into the marrows of all that have anything to do with the widows for their good, especially in Nigeria and more so in Ezinihitte Mbaise Local Government Area of Imo state, where their sufferings are still unabated because of the harsh traditions, customs, policies, environment and voracity of widows' husbands' relatives to snatch their brothers' properties from the widows. It is, however, necessary to say that deprivation of widows' rights has reduced greatly in Ezinihitte Mbaise against what it used to be in the past. Where it is still being harsh-practiced, kindred sometimes interfere to minimize or abrogate it. Sips of such widowhood practices are noticeably more in down-trodden families where relatives are predominantly poor and illiterate, and where the children of such widows are tender and they see also that such widows are weak and wretched to resist such inhuman practices on them or lack the well-withal to forestall same.

Recommendations

Laws, no matter how well they are written, without implementation, are mere paper-works. In the light of the above, the following recommendations are made:

1. Human Rights activists made up of some legal luminaries and jurists should give free legal services to widows entrapped in this illegal act of veracious husbands' relatives' hijacks of property whenever they come up with their nefarious intentions to snatch widows' inheritances.
2. Government should promulgate a decree that such matters concerning widows should be given accelerated hearing in courts and must not exceed six months to quash in favour of concerned widows since their predicaments are obvious in the society. Widows should be enlightened through various media outfits on their inheritance rights and should report attackers to Human Rights' Activists for free legal service. Governments at all levels – federal, state and local as well as stakeholders, should embark on regular seminars and symposia at urban and rural places in the country to educate everybody especially relations of widows' husbands about necessary laws prohibiting such bastardly acts on the widows and the machinery put in place to forestall same as well as the punishment for defaulters of such laws.
3. Illiterate widows so affected should lodge their complaints verbally to their nearest legal office for records and appropriate action without any form of charges. Relations of deceased husbands whose wives are widows should be made not to poach into the internal family affairs of such widows and allow them all their inheritances irrespective of cultural and traditional affiliations as such are no longer en vogue in laws in the contemporary societies.

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