

# An Analysis of The Protection of Widows Against Obnoxious Widowhood Practices in Nigeria

WAHAB SHITTU, PhD, SAN

## ABSTRACT

Widowhood practices constitute an important aspect of customary law in many Nigerian communities. While some practices are intended to honour the deceased husbands and provide social support for widows, others have become oppressive, discriminatory, and degrading. The nature and duration of the rites differ from one traditional society to another, due to common beliefs of each group. However, the common theme that runs through widowhood rites is that widows in all cultures suffer isolation, marginalization and discrimination. The focus of this paper is on obnoxious widowhood practices in Nigeria that infringe on the human rights norms of the widows. The main aim of the paper is to analyse the protection of widows against obnoxious widowhood practices in Nigeria. It is the argument of the paper that despite constitutional guarantees and statutory protection, obnoxious widowhood practices continue to exist in several parts of Nigeria. It is the finding of the paper that many widows remain unaware of their rights, while cultural pressures, poverty, illiteracy, weak law enforcement hinder access to justice. The paper adopts doctrinal research methodology, which involves the systematic analysis of legal principles, rules, statutes, judicial decisions and scholarly opinions relating to the protection of widows against obnoxious widowhood practices in Nigeria. It also finds that such obnoxious practices as forced seclusion, compulsory mourning rituals, deprivation of inheritance rights, forced marriage and harmful traditional rites violate fundamental human rights guaranteed under the Constitution of the Federal Republic of Nigeria, 1999 (as amended), international human rights instruments and various domestic laws. The paper recommends stronger enforcement mechanisms, legal awareness campaigns, and legislative reforms to enhance the protection of widows and promote gender equality in Nigeria. The paper concludes the protection of widows against obnoxious practices in Nigeria remains a crucial human rights and social justice issue.

**Keywords:** widow, widowhood, widowhood practices, women's Rights, customary law, cultural practices

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## 1. Introduction

Widowhood is the state of losing one's spouse through death. In many Nigerian societies, widowhood is accompanied a series of traditional practices intended to demonstrate mourning, verify innocence regarding the husband's death, or facilitate the widow's integration into her late husband's family. While some customs are harmless and culturally acceptable, others are oppressive, degrading and discriminatory. Thus according to Ajayi, *et al*, "While many of these traditions and cultural practices uphold unity and development in the society, some outmoded ones adversely impact the wellbeing of women".<sup>1</sup>

Customary rites form an integral part of many cultural practices worldwide. Such practices reveal the beliefs and values of a particular group in the society, people or community over an extended period of time. According to Gill,<sup>2</sup> traditional practices encompass marriage, festivals, funeral rites, pubic rites, widowhood rites, values and beliefs. Some of the dehumanizing and outmoded cultural practices are widowhood rites, female genital mutilation and forced marriages.

Widows are seen as the devils that cause evil situation, including the death of their husbands. They are seen as witches who kill their husbands, are deprived of their property and comfort and treated like people without dignity and sometimes beaten and left without shelter or food.<sup>3</sup> Other devastating practices notable of widowhood rites in Nigeria include shaving the hair of the woman, deprivation of bath and personal hygiene,

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<sup>1</sup> L.A.Ajayi, F.O. Olanrewaju, A. Olanrewaju, & O. Nwannbuife, 'Genedered Violence and Human Rights: An Evaluation of Widowhood Rites in Nigeria' (2019) 6 *Cogent Arts & Humanities* 1-17

<sup>2</sup> T.G. Gill, Culture, Complexity, and Informing: How Shared Beliefs Can Enhance Our Search for Fitness, proceedings from Informing Science and Information Technology Education [Conference Presentation], Florida, FL, United States, 2013

<sup>3</sup>M. Owen, 'Widowhood Issues in the Context of United Nations Security Council Resolution', (2001), 13 *International Feminist Journal of Politics* 616-622

eating from broken plates, drinking the water used to wash the corpse.<sup>1</sup> These and other obnoxious practices endanger the health of widows and may lead to many economic, social and psychological problems. Culturally, widowhood rites are meant for both men and women, however, women seem to be the only ones going through the ordeal of widowhood rites in most Nigerian cultures. Such practices have attracted criticisms from scholars, human rights advocates, courts, and international organizations.

Traditionally, widowhood rites are meant for the welfare and wellbeing of widows, but in reality, widows are subjected to many rituals and customs, which affect them negatively.

In Nigeria, traditional practices have ensured that men retain material, social and moral dominance over women that they are simply unwilling to voluntarily relinquish. The woman is regarded as chattel (property) and this dominates its customary laws on marriage, inheritance, succession and property ownership. This consequently is manifested in the discriminatory and obnoxious traditional practices meted against widows in Nigeria. The agony and sadness of widow is compounded by the private and public maltreatment that culminate in the violations of their fundamental rights to life, liberty, and dignity of human person, acquisition of private property, freedom from discrimination, and freedom of thought, conscience and religion.<sup>2</sup>

Nigeria is a signatory to several scores of the international provisions on human rights, conventions, covenants, and other regional provisions. These provisions guarantee the protection and promotion of the rights of women. However, obnoxious widowhood practices militate against effective protection of the fundamental rights of women, particularly, the widows.

The persistence of these obnoxious widowhood practices raises serious legal questions regarding the protection of widows under Nigerian law. Consequently, there is a need to examine the adequacy of constitutional provisions, statutory enactments, customary law principles, and judicial decisions aimed at protecting widows from such harmful practices. Thus, the obnoxious widowhood practices have become major human rights concern because they disproportionately affect women and often subject them to physical, emotional, psychological and economic hardship. However, the enactment of the Violence Against Persons (Prohibition) Act (VAPP), 2015 and also other states VAPP Laws mark significant step toward criminalizing harmful widowhood practices in Nigeria.

The paper is divided into ten parts. The Introduction is contained in Part 1. Part 2 reviews the existing literature on widowhood and the rites attendant upon it. Part 3 explains the research methodology adopted by the paper. Part 4 focuses on the conceptual clarifications. Part 5 examines some obnoxious widowhood rites in Nigeria that hinder women's rights. Part 6 looks at the Nigerian legal framework to combat widowhood practices. Part 7 analyses the protection of women's rights under international instruments. Part 8 examines the widow and the challenge of inheritance and custody in Nigeria. Parts 9 and 10 contain the recommendations and the conclusion respectively.

## 2. Literature Review

The subject of widowhood and the customary rites attendant upon it has attracted a considerable and steadily growing body of scholarship across law, sociology, anthropology, gender studies and theology. A review of this literature serves to situate the present study within existing debates and to expose the gap which it seeks to fill. For analytical convenience, the literature may be grouped under four broad themes, namely, the conceptual and anthropological understanding of widowhood rites; the human rights and feminist critique of obnoxious practices; the contested debate over whether such rites are protective or oppressive; and the legal and reformist scholarship on the protection of widows.

A significant strand of the literature is devoted to explaining the cultural meaning and origins of widowhood rites. In his foundational study of the Imo State experience, Nwoga conceptualises widowhood practices as a set of expectations governing the conduct of the widow, and of others towards her, from the moment of the husband's death.<sup>3</sup> Oreh, writing on a matrilineal Igbo community, similarly describes them as socio-cultural practices spanning burial rites, mourning rituals, the inheritance rights of the widow and her altered social

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<sup>1</sup> H. Edemikpong, 'Widowhood Rites: Nigeria Women's Collective Fights A Dehumanising Tradition', (2015), 35 *Off Our Backs* 34-35

<sup>2</sup> M.I.O. Nwogu, 'The Legal Anatomy of Cultural Widowhood Practices in South Eastern Nigeria: The Need for A Panacea' (2015), 3 *Global Journal of Politics and Law Research* 79

<sup>3</sup> D.I. Nwoga, *Widowhood Practices: The Imo State Experience*, in *Widowhood Practices in Imo State*, Proceedings of Better Life Programme for Rural Women Workshop (Owerri: Government Press 1989).

status.<sup>1</sup> Pauw's study of the Sotho and Tswana communities frames widowhood as a distinct state of womanhood, comparable to pregnancy or menstruation, which attracts ritual taboos.<sup>2</sup> Tasié locates the rationale of the rites in the belief that they sever the spirit of the deceased from the living spouse.<sup>3</sup> This anthropological literature is valuable for understanding why the practices persist and how their custodians justify them; it is, however, largely descriptive and does not interrogate the legality of the practices it documents.

A second and larger body of work approaches widowhood rites through the prism of human rights and gender justice. The pioneering work of Owen drew international attention to the invisibility of widows and to the violence inflicted upon them.<sup>4</sup> Merry situates violence against women, including harmful traditional practices, within the framework of international human rights law, arguing that such violence denies women their basic rights and fundamental freedoms.<sup>5</sup> Ajayi and her colleagues characterise widowhood rites as a form of gendered violence that adversely affects the wellbeing of women.<sup>6</sup> Ojo describes the rites as gender-based violence productive of severe and lasting psychological harm.<sup>7</sup> Sossou aptly designates widows as the silent victims of West African custom.<sup>8</sup> This literature is virtually unanimous in condemning obnoxious practices, but it is predominantly sociological in orientation and tends to under-analyse the specific constitutional and statutory mechanisms available within the Nigerian legal order.

A distinct controversy in the literature concerns whether widowhood rites are inherently oppressive or are capable of a benign, even protective, function. Tasié advances the minority view that African widowhood rites are not designed to dispossess or impoverish the widow, but rather to separate the husband's ghost from the living, to prepare the widow for self-reliance and to accord the deceased a peaceful burial. The weight of scholarly opinion is, however, ranged against that view. George and others, together with Sossou, lament that the neglect and maltreatment of widows has not attracted sufficient scholarly or policy attention.<sup>9</sup> The present paper aligns itself with the dominant position that, whatever their professed purpose, the practices in their obnoxious form cannot be reconciled with the dignity of the widow.

A fourth strand of scholarship, closest to the concern of this paper, examines the legal protection of widows and the reform of discriminatory custom. Nwabueze's work on constitutionalism supplies the foundational argument that all laws, including customary law, must conform to the Constitution as the supreme law.<sup>10</sup> Nwogu analyses the legal anatomy of widowhood practices in South Eastern Nigeria and the domestic application of feminist international human rights treaties.<sup>11</sup> Umzurike's authoritative treatment of the African Charter underpins the regional dimension of protection.<sup>12</sup> Scholars such as Sagay, Nwogugu, Ezeilo and Diala address customary inheritance and the imperative of reform: Sagay criticises gender-based inheritance rules as inconsistent with constitutional equality; Nwogugu documents the disadvantage suffered by widows and daughters; Ezeilo cautions that legal reform must be accompanied by social transformation and public enlightenment; and Diala argues that customary law is dynamic and ought to be reformed rather than preserved merely because it is traditional.

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<sup>1</sup> C.I. Oreh, *Widowhood Practices in a Matrilineal Igbo Community: A Case Study of Community Development Associations in Ozu Abam* (PhD Thesis, University of Nigeria, Nsukka 1998).

<sup>2</sup> B.A. Pauw, 'Widows and Ritual Danger in Sotho and Tswana Communities' (1990) 49 *African Studies* 79.

<sup>3</sup> G.I.K. Tasié, 'African Widowhood Rites: A Bane or Boom for African Women' (2013) 3 *International Journal of Humanities and Social Sciences* 155.

<sup>4</sup> M. Owen, 'Widowhood Issues in the Context of United Nations Security Council Resolution' (2001) 13 *International Feminist Journal of Politics* 616.

<sup>5</sup> S.E. Merry, *Human Rights and Gender Violence: Translating International Law into Local Justice* (University of Chicago Press 2006) 81.

<sup>6</sup> L.A. Ajayi and others, 'Gendered Violence and Human Rights: An Evaluation of Widowhood Rites in Nigeria' (2019) 6 *Cogent Arts & Humanities* 1.

<sup>7</sup> A.B. Ojo, 'Widowhood Rituals: A Gender-based Violence against the Dignity and Rights of Women in Nigeria' (2019) 13 *Asian Horizons* 86.

<sup>8</sup> M.A. Sossou, 'Widowhood Practices in West Africa: The Silent Victims' (2002) 11 *International Journal of Humanities and Social Sciences* 201.

<sup>9</sup> T.O. George and others, 'Widows' Socio-Demographic Characteristics and the Observance of Widowhood Rites among the Aworis of Ogun State' (2016) 7 *Mediterranean Journal of Social Sciences* 317.

<sup>10</sup> B.O. Nwabueze, *Constitutionalism in the Emergent States* (Hurst & Company 1973).

<sup>11</sup> M.I.O. Nwogu, 'The Legal Anatomy of Cultural Widowhood Practices in South Eastern Nigeria: The Need for a Panacea' (2015) 3 *Global Journal of Politics and Law Research* 79.

<sup>12</sup> U.O. Umzurike, *The African Charter on Human and Peoples' Rights* (Martinus Nijhoff Publishers 1997).

It emerges from the foregoing survey that, while the existing literature is rich in sociological description and in general human rights critique, comparatively little of it brings together, within a single doctrinal analysis, the full constitutional, statutory, judicial and international framework for the protection of Nigerian widows, and measures that framework against the lived persistence of obnoxious practices. The present paper seeks to fill that gap by undertaking an integrated doctrinal appraisal of the protective framework, and by explaining why, in spite of its apparent adequacy on paper, protection remains elusive in practice.

### 3. Research Methodology

This paper adopts the doctrinal, or black-letter, research methodology. Doctrinal research consists in the systematic exposition, analysis and evaluation of legal rules, principles, statutes, judicial decisions and authoritative commentary, with a view to ascertaining the state of the law on a given question and appraising its coherence, consistency and adequacy. The method is appropriate to the present inquiry because its central questions, namely whether obnoxious widowhood practices are lawful, and whether the existing legal framework adequately protects widows, are essentially questions of law that call for the interpretation and evaluation of legal texts rather than the collection of empirical field data.

The study draws upon both primary and secondary legal sources. The primary sources comprise the Constitution of the Federal Republic of Nigeria 1999 (as amended), in particular the fundamental rights provisions contained in Chapter IV; federal legislation, most notably the Violence Against Persons (Prohibition) Act 2015; the corresponding state enactments, including those of Anambra, Enugu, Ebonyi, Edo, Ekiti and Cross River States; the relevant rules of customary and Islamic law on inheritance and succession; decided cases of the superior courts of record, such as *Ukeje v Ukeje*, *Anekwe v Nweke*, *Mojekwu v Mojekwu*, *Nzekwu v Nzekwu* and *Theresa Onwo v Nwafor Oko*; and the international and regional human rights instruments to which Nigeria is a party, among them the Universal Declaration of Human Rights, the Convention on the Elimination of All Forms of Discrimination Against Women, the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the African Charter on Human and Peoples' Rights and the Beijing Declaration and Platform for Action. The secondary sources comprise textbooks, monographs, journal articles, unpublished theses, conference papers and the reports of governmental and non-governmental organisations.

The analysis proceeds in three interrelated stages. First, it is descriptive: the paper identifies and states the relevant rules drawn from the Constitution, statutes, case law and international instruments, together with the content of the obnoxious practices themselves. Secondly, it is analytical: the paper examines the meaning, scope and inter-relationship of those rules, measuring particular customary practices against the yardsticks of the constitutional guarantees, the statutory prohibitions and Nigeria's international obligations, and applying the established repugnancy test, that is, whether a given custom is repugnant to natural justice, equity and good conscience. Thirdly, it is evaluative and prescriptive: the paper assesses the adequacy and effectiveness of the existing framework, exposes the gap between the law in the books and the law in action, and formulates proposals for reform. Comparative reference is also made, where instructive, to the experience of other African jurisdictions, notably Ghana and Botswana, in which analogous practices have been documented and studied.

The scope of the study is confined to the protection of widows against obnoxious widowhood practices under Nigerian law, illuminated by the relevant international standards. Although the paper draws upon sociological and anthropological literature to explain the context, prevalence and effects of the practices, it does not itself undertake primary empirical or statistical fieldwork; its observations as to the persistence of the practices rest upon the secondary literature and the reported decisions of the courts. This limitation is consistent with the doctrinal character of the study and does not detract from the legal analysis which constitutes its principal contribution.

### 4. Conceptual clarifications

Foremost to the understanding of this paper, key concepts such as widow and widowhood practices are briefly defined.

#### a. Widow

Widow is defined as a woman whose husband has died and who has not remarried,<sup>1</sup> (irrespective of age, social status, income level) and who has not remarried within the past twelve months.<sup>2</sup> A woman becomes a widow

<sup>1</sup> B.A. Garner, *Black's Law Dictionary*, 11<sup>th</sup> Edition (U.S.A: West Publishing Co. 2019) 1914

<sup>2</sup> G.B. Djankpa, *Effects of Widowhood Rites on the Psychological Distress and Life Satisfaction of Konkomba Widows in the*

when the man with whom she had planned the present and the future life is no longer available to share, shape the hopes and the dreams of years ahead. She becomes helpless as she commences a lone journey full of uncertainties of life. She is seen as a liability, powerless, voiceless and vulnerable.<sup>1</sup> The widow bears the responsibilities and challenges of the immediate family which was formerly borne by herself and the husband. Furthermore, a widow according to the Encyclopedia of Death and Dying,<sup>2</sup> is a woman (young or old) who formally contracted her marriage under the Customary Marriage Act or any religious Act and lost her husband to death but did not remarry. Following such a tragedy in most African societies, the woman is consigned into a group of marginalized, powerless and voiceless invisible beings called widows.<sup>3</sup>

### **b. Widowhood Practices**

Every society has its own rites for the dead which affect the wife of the dead and the children in some cases. In Igboland of Nigeria, this unique phase of life is accompanied by certain socio-cultural practices which Nwoga<sup>4</sup> refers to as:

Set of expectation as to the actions and behaviours by the widow, actions by others towards the widow and the rituals performed by or on behalf of the widow from the time of death of her husband. Later phase of these practices may include issues of inheritance, the state of the widow and marriage of the widow.

Oreh<sup>5</sup> expresses that widowhood practices can be seen as socio-cultural practices encompassing burial rites, mourning rituals, inheritance rights of the widow, her expected behaviour towards others and other people's behaviour towards her arising from the death of her husband.

Widowhood rites are the ceremonies performed by a living spouse to mourn, honour and remember the dead spouse. Widowhood rites are customary norms and traditions practised by a living partner to honour the dead husband or wife.<sup>6</sup> It can also be described as the act of mourning a beloved spouse after their demise. It is the belief in many parts of the world that the practices are transitional ceremony for a bereaved spouse to enter into the next world.<sup>7</sup> It marks the change of status of a widow when the husband is no more. Pauw<sup>8</sup> identifies that in Botswana culture widowhood is seen as a specific state of womanhood, such as pregnancy and menstruation, which necessitates strict taboos for the widow. Widowhood is also believed to be a time during which a surviving spouse remembers, honours and shows love to her dead husband.<sup>9</sup> It is time to pay last respect and say good bye to a spouse who is no more. In his study, titled "Death and Dying" among the Frafras of Ghana, Atinga<sup>10</sup> asserts that the essence of widowhood rite is to separate a dead person from the living spouse to avoid any harm from the dead. This assertion is in line with Tasie's conclusion that widowhood rites are used to

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*Saboba District, Northern Ghana*, being Thesis submitted to the Department of Guidance and Counselling, Foundations, College of Education, University of Cape Coast, for the award of Master of Philosophy degree in Guidance and Counselling, 2021, 13

<sup>1</sup> C.I. Oreh, *Widowhood Practices In A Matrilineal Igbo Community: A Case Study of Community Development Associations in Ozu Abam*, A Ph.D Thesis Presented to the Department of Adult Education and Extra-Mural Studies, University of Nigeria, Nsukka, 1998

<sup>2</sup> *Encyclopaedia of Death and Dying Widows in the Third World Nations*, 2008, available at <<http://www.deathreferences.com/V/-z/widows-in-third-world-nations>> accessed 2 June 2026

<sup>3</sup> A.U. Nnodim, 'The Effect of Widowhood on the Income Generation and Well-being of Rural Women in Rivers State', (2012) 2 *Home International Sharing Platform* 11-12

<sup>4</sup> D.I. Nwoga, *Widowhood Practices. The Imo State Experience in Widowhood Practices in Imo State*, Proceedings of Better Life Programme for Rural Women Workshop (Owerri: Government Press 1989)

<sup>5</sup> C.I. Oreh, *Widowhood Practices In A Matrilineal Igbo Community: A Case Study of Community Development Associations in Ozu Abam*, A Ph.D Thesis Presented to the Department of Adult Education and Extra-Mural Studies, University of Nigeria, Nsukka, 1998

<sup>6</sup> T.O George, D.O Omonijo, O.O.C. Uche, M.C. Anyaegbunam & A.O. Shaibu, 'Widows' Socio-Demographic Characteristics and the Observance of Widowhood Rites among the Aworis of Ogun State', (2016), 7 *Mediterranean Journal of Social Sciences* 317-329

<sup>7</sup> Ibid

<sup>8</sup> B.A. Pauw, 'Widows and Rituals Danger in Sotho and Tswana Communities', (1990) 49 *African Studies* 79-99

<sup>9</sup> E.E. Idealu, 'The Inhuman Treatment of Widows in African Communities, Ekpoma', (2012), 4 *Current Research Journal of Social Sciences* 6-11

<sup>10</sup> A.S. Atinga, *Death and Dying: A Study of the Mortuary Rites of the Frafra of Northern Ghana in the Light of the Christian Funeral Liturgy: An Attempt at Inculturation*, Unpublished Master's Thesis, Katholieke Universiteit, Leuven, Belgium, 2006

separate the ghost of the husband from the living.<sup>1</sup> It is believed that there is life after death and spirits of the dead lives among the living, hence the need to perform these rites to separate the deceased from those who are alive.<sup>2</sup>

Widowhood rites are justified on some grounds. Culturally, widowhood rites are believed to be needed for the good of the society. This is because the practice is seen as an essential part of the culture and those who do not complete rites may die. Gunga<sup>3</sup> finds that custodians of widowhood rites reveal that the practice is very vital to pacify the spirit of the deceased and prevent them from further involvement in matters of the family and society. A time of widowhood rite is also seen as a way of protecting widows from becoming objects of sexual manipulation from men with uncontrolled sexual drives and to prevent them from being taken advantage of and abused due to their vulnerable situation. Traditionally, it is believed that men who engage widows sexually during widowhood rites will be punished by the gods.<sup>4</sup> This also deters men from raping or abusing the widows. Ojo<sup>5</sup> opines that the widowhood rites mean dehumanizing treatment to widows and results in severe psychological disorders with lasting effects. The very social support system that is needed to mitigate the traumatic impact of widow have rather turned to bringing harrowing and sadistic experiences upon the widows and they are blamed and accused of being the cause of their husbands' death.

##### **5. Obnoxious Widowhood Practices in Nigeria that hinder Women's Rights**

Widowhood practices are observed by almost all the ethnic groups in Nigeria. The culture of widowhood has been in existence from time immemorial and transmitted from generation to generation. The issue of widowhood, particularly in Nigeria, appears to have gender implication as there are certain cultural imbalances in the practices of widowhood by widows and widowers.<sup>6</sup> Traditions are hard on widows because widowhood involves varying degrees of physical hardship, deprivation, ritual contaminations, emotional instability, socio-economic and psychological trauma.<sup>7</sup> Studies on these gender differences with regards to widowhood are inconsistent and have generated different understanding.<sup>8</sup> Some have reported similarities between the responses of men and women to the widowhood experience.<sup>9</sup> These arguments are possible because in-depth studies from various cultural backgrounds have not been studied on the effects of widowhood rites concerning women and men. However, in Ghana, in most of their cultures, women are the only ones who go through vigorous widowhood rites that are degrading.<sup>10</sup> Men do not have to go through vigorous rituals as part of widowhood. In cases where they go through, the rituals are friendlier and take place within a short period of time.<sup>11</sup> It therefore, follows that the way men and women cope with these rites will also differ. Since women go through more rigorous rituals, the impact may as well be great on them. Also, in Botswana culture, widowhood is considered as a state of womanhood that necessitates strict taboos. The widow is the man's servant, owes her husband respect and must undergo the rituals in honour of her husband.<sup>12</sup> There is a denial of all activities that she might have enjoyed in the past like feasting, having visitors or visiting others and anything that brings her pleasure.

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<sup>1</sup> G.I.K. Tasie, 'African Widowhood Rites: A Bane or Boom for African Women' (2013), 3 *International Journal of Humanities and Social Sciences* 155-162

<sup>2</sup> G.B. Djankpa, *Effects of Widowhood Rites on the Psychological Distress and Life Satisfaction of Konkomba Widows in the Saboba District, Northern Ghana*, being Thesis submitted to the Department of Guidance and Counselling, Foundations, College of Education, University of Cape Coast, for the award of Master of Philosophy degree in Guidance and Counselling, 2021, 18

<sup>3</sup> S.O. Gunga, 'The Politics of Widowhood and Re-marriage Among the Luo of Kenya', (2009), 1 *Thought and Practice* 165-178

<sup>4</sup> M.Q. Amlor & X.A. Owusu, 'Widowhood Practices of the Gbi Northern Ewe of Ghana: A Curse or Blessing for African Womanhood?', (2016), 10 *African Research Review* 64-83

<sup>5</sup> A.B. Ojo, 'Widowhood Rituals A Gender-based Violence against the Dignity and Rights of Women in Nigeria', (2019), 13 *Asian Horizons* 86-98

<sup>6</sup> C.W. Adeyemo, 'Widowhood and Its Harmful Practice: Causes, Effects and the Possible Way out for Widows and Women Folk', (2016), 3 *Journal of African Studies* 380

<sup>7</sup> Ibid, 380-381

<sup>8</sup> H.Z. Lopata, *Current Widowhood: Myths & Realities* (Sage Publications, Inc 1996)

<sup>9</sup> I. Sasson & D.J. Umberson, 'Widowhood and Depression: New Light on Gender Differences, Selection, and Psychological Adjustment', (2013), 69 *Journals of Gerontology Series B: Psychological Sciences and Social Sciences* 135-145

<sup>10</sup> G.B. Djankpa, *Effects of Widowhood Rites on the Psychological Distress and Life Satisfaction of Konkomba Widows in the Saboba District, Northern Ghana*, being Thesis submitted to the Department of Guidance and Counseling, Foundations, College of Education, University of Cape Coast, for the award of Master of Philosophy degree in Guidance and Counseling, 2021, 25

<sup>11</sup> Ibid

<sup>12</sup> B.A. Pauw, 'Widows and Rituals Danger in Sotho and Tswana Communities' (1990), 49 *African Studies* 79-99

This deprivation of pleasurable activities continue until the end of widowhood rites.<sup>1</sup> This may however differ from one culture to another.

Across many Nigerian cultures, some barbaric rituals widows go through include: shaving the widow's hair, applying pepper to the widow's shaved head, making a widow use a stone as a pillow, stripping the widow naked and carrying her through the town to a river to be cleansed. Others include sleeping on the bare floor and giving the widow the dirty water used to bathe the corpse to drink, including other concoctions.<sup>2</sup> Wearing of black/white clothes, refrain from taking bath for a period of time, being made to swear with husband's corpse and seclusion are also part of the widowhood practices. Women are also subjected to hostile treatments, including forced marriage, harassment, rejection, loneliness, poverty, loss of status, restriction on social activities, fear of the unknown and alienation.<sup>3</sup> In many instances, the husband's property is usually seized from the widow and her children by the family.<sup>4</sup> In addition, the practice exposes the widow to health risks. Thus, according to Owasanoye, the practices are prejudicial to health and ordinarily harsh.<sup>5</sup> Starvation, use of an unsterilized razor, brutality and untidiness that characterize the practice may cause malnutrition, anaemia, rashes, HIV/AIDS transmission, heart disease, mellitus, digestive disorder and even death.<sup>6</sup> The insults, psychological trauma, frustration and hopelessness may lead to suicide. The most disturbing part of the cultural practice is that men are not similarly subjected to such indignities when their wives die.

Basically, the philosophy behind widowhood rites are hinged on the declaration of the widow's innocence or guilt of possible cause of the deceased husband, preparation of the widow for an independent life, severance of the widow and her children from the deceased husband and show of love and honour for the deceased husband by the widow among others. Ritual practices accorded to the deceased husband varies from the deceased's status, and in most times, cultural demands of the community, but those rites seem to be uniformly practiced in different Nigerian communities. Other reasons for prevalence of widowhood in Nigeria include superstitious beliefs, state of joblessness of the widow, lack of education, absence of a written will, lack of respect for womanhood and so on.

According to Merry,<sup>7</sup> violence against women denies them of their basic human rights and fundamental freedom. This view is contrary to that of Tasie<sup>8</sup> where he maintains that widowhood rites, especially in Africa, are not meant to take away the rights of the widow and to impoverish the woman. Instead, it is meant to separate the ghost of the dead husband from the living wife, to enable the widow become self-reliant to face life challenges in the absence of the husband, and to give a peaceful burial to the deceased husband. On the contrary, Tasie's views cannot stand. The process of widowhood rites is without respect and dignity and meant for a widow who is going through painful loss of her husband. Widows are stereotyped, stigmatized, dehumanized and alienated from others in the society. Furthermore, the physical, psychological and economic effects of widowhood practices on widows potentially decrease their quality of life. In addition, the whole process of widowhood brings pain and discomfort to the victims and must be abolished. This supports the statement of Foehner and Cozart<sup>9</sup> who lament that these practices make widowhood exhaustive and traumatic and are capable of making the widow lose focus. Thus the widow is frightened, lonely and grieving excessively. Agumagu<sup>10</sup> observes among others that the mourning period which is supposed to be a quiet and private time as the widow strives to accept her loss has been turned into a period of agony, anxiety, pain and insecurity for the widow in Igboland. This is because it is

<sup>1</sup>F.D. Azuma & O.L. Nachinaab, 'Outmoded Cultural Practices and its Effects on Victims: The Case of Widowhood Rituals Amongst the People of Balungu Community, Ghana' (2018), 6 *The International Journal of Science and Technology* 104

<sup>2</sup> S. Atindabila, M.V. Bamford, P. Adatara, M.C. Kwakye-Nuako & C.O. Benneh, 'Effects of Widowhood Rites on the Psychosocial Well-being of Women in Nadowli District (Upper-West Region-Ghana)' Vol. 1, (2014), *The International Journal of Social Sciences and Humanities Invention* 430-436

<sup>3</sup> F.D. Azuma & O.L. Nachinaab, 'Outmoded Cultural Practices and its Effects on Victims: The Case of Widowhood Rituals Amongst the People of Balungu Community, Ghana', (2018), 6 *The International Journal of Science and Technology* 44-55

<sup>4</sup> R. Korang-Okrah & W. Haight, W ' Ghanaian (Akan) Women's Experiences of Widowhood and Property Rights Violations: An Ethnographic Inquiry' (2015), 14 *Qualitative Social Work* 224-241

<sup>5</sup> B. Owasanoye, *Widowhood in Nigeria: Issues, Problems and Prospects* (Lagos: Human Development Initiative 1997) 146

<sup>6</sup>H. Edemikpong, H, 'Widowhood Rites; Nigeria Women's Collective Fights A Dehumanizing Tradition', (2005), 33 *Off Our Backs* 34-35

<sup>7</sup> S.E. Merry, *Human Rights and Gender Violence: Translating International Law into Local Justice*, (Chicago: University of Chicago Press, 2006) 81

<sup>8</sup> G.I.K. Tasie, 'African Widowhood Rites: A Bane or Boom for African Women', (2013), 3 *International Journal of Humanities and Social Sciences* 155-162

<sup>9</sup> C. Foehner & C. Cozart, *The Widow's Handbook: A Guide for Living*, (Colorado: Fulerum Inc. 1988) 29

<sup>10</sup> J. Agumagu, 'The Nigerian Woman and Widowhood Challenges and Constraints. Sophia', (2007), 10 *African Journal of Philosophy and Public Affairs* 1

usually a period the widow is subjected to psychological, social, physical and emotional torture as a result of her bereavement. Marked with these stressful experiences and emotional breakdown, widows must be assisted to adapt and cope with the changes in life that the death of her husband has wrought. Contrary to this, the reverse is true in most Nigerian societies.

Although widowhood rites are culturally legitimate they are harmful to women. These widowhood rites can be seen as socio-cultural practices comprising burial rites, mourning rituals, inheritance rights of the widow, her expected behaviour towards others and other people's behaviour towards her arising from the death of her husband. These practices according to Nwaogugu<sup>1</sup> are culture-bound because they reflect the prevailing values of a given socio-cultural milieu.

The very purpose of widowhood rite as being necessary for healing is defeated when widows have to go through all rituals leaving long lasting effects on them. Widows who suffer the consequences related to widowhood are left on their own to stand against the dehumanising treatment. Widows have little or no control over the rituals they are subjected to and there are no traditional sanctions or punishments meted out to the perpetrators of these practices.<sup>2</sup> There is no doubt that every society has its belief systems and values that regulate and control the way people behave and the cultural practices they perform. Yet no known punishment is meted out to people for engaging women in dehumanising practices. Agunwa sums it all when he observed that the heinous rituals a woman goes through as soon as her husband dies are innumerable.<sup>3</sup> What obtains in the Muslim societies especially in Northern Nigeria is seclusion of the widow for four months during which period the widow is required to participate in readings of the Qur'an.<sup>4</sup> She is seated on a mat in a tent or in a corner of the house on the third, eight and fortieth days after her husband's death, she becomes free after four months of the rite and may even remarry.<sup>5</sup>

From the above, it is very certain that obnoxious widowhood practices are prejudicial to women's right to bodily integrity, health and sexuality, freedom of speech, freedom of movement, freedom from torture, right to property and so on.<sup>6</sup> In *Theresa Onwo v. Nwafor Oko & Ors*,<sup>7</sup> the Court of Appeal rightly condemned widowhood practices meted out on the victim and held that it has become necessary to extend protection to individuals within the State against the excesses of fellow citizens. These are all evidence of discrimination against women.

Though the effects of widowhood rites are devastating, the topic has received only minimal attention from the politicians and traditional rulers. Therefore, a persistent call on the opinion leaders to attend to the plight of these widows is necessary. Thus, George *et al*<sup>8</sup> and Sossou<sup>9</sup> allege that the challenge presented by the neglect and maltreatment of widows does not receive sufficient attention, as contemporary scholars seem reluctant to reflex on African widowhood rites and their consequences.

## 6. Nigeria Legal Framework to Deter Obnoxious Widowhood Practices in Nigeria

The protection of widows against obnoxious widowhood practices in Nigeria is grounded in a combination of constitutional provisions, statutory enactments, judicial decisions and international human rights instruments. Despite the persistence of harmful customary practices in many communities, the Nigerian legal system provides several mechanisms aimed at safeguarding widows' rights to dignity, equality, and property ownership.

### a. Constitutional Protection

The Constitution of the Federal Republic of Nigeria makes some provisions for the protection of widows. It constitutes the primary legal basis for protecting widows. Chapter 4 of the fundamental Human Rights in the

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<sup>1</sup> A.C. Nwaogugu, *Widowhood Practices: The Imo State Experience*, in *Widowhood Practices in Imo State*, Proceedings of the BLPFW Workshop, 1989

<sup>2</sup> M.M. Tei-Ahontu, *Widowhood Rites in the Ga Traditional Area of Accra Ghana, A Review of Traditional Practices Against Human Rights* [Unpublished Master's Thesis, Norwegian University of Life Sciences, As, Norway, 2008]

<sup>3</sup> T.V.C. Agunwa, 'Dehumanizing and Marginalization of Widows in Nigeria' (2011), 3 *Journal of Research and Development* 145-150

<sup>4</sup> J. Effah, *et al* 'Unequal Rights, Discriminatory Laws and Practices Against Women in Nigeria', *Constitutional Rights Project*, 1995, 48

<sup>5</sup> *Ibid*

<sup>6</sup> Constitution of the Federal Republic of Nigeria, 1999 (as amended), ss. 34-44; ACHPR, Article 5

<sup>7</sup> *Theresa Onwo v. Nwafor Oko & Ors* (1996) 6 N.W.L.R. (pt. 456) 584

<sup>8</sup> T.O. George, *et al*, 'Widows' Socio-Demographic Characteristics and The Observance of Widow Rites among the Aworis of Ogun State', (2016), 7 *Mediterranean Journal of Social Sciences* 317-329

<sup>9</sup> M.A. Sossou, 'Widowhood Practices in West Africa: The Silent Victims', (2002), 11 *International Journal of Humanities and Social Sciences* 201-209

Constitution provides for equality of rights, obligations, and opportunities to every citizen of Nigeria. For instance, section 33 guarantees every person the right to life. Thus, harmful widowhood practices that endanger the health or life of widows violate this provision. Furthermore, section 34 (1) (a) is to the effect that no person shall be subjected to torture or inhuman or degrading treatment. Therefore, practices such as forced confinement, public humiliation, compulsory shaving of hair, and degrading mourning rites amount to inhuman and degrading treatment prohibited under this section. Additionally, right to personal liberty is provided for under section 35 of the Constitution. Hence, widows subjected to compulsory confinement or detention during mourning periods may invoke the constitutional protection of personal liberty. Section 42 prohibits discrimination based on sex. Widowhood practices imposed exclusively on women while widowers are exempted constitute gender-based discrimination. Similarly, section 43 of the Constitution guarantees every citizen the right to own immovable property anywhere in Nigeria. Therefore, customs that deprive widows of inheritance rights or matrimonial property conflict with this constitutional guarantee. Thus, Nwabueze argues that constitutional supremacy requires all laws, including customary laws, to conform to constitutional standards.<sup>1</sup>

Nigerian citizens are allowed to enforce the above stated rights where they are breached.<sup>2</sup> It is only the High Court that has jurisdiction to entertain matters relating to the violation of fundamental human rights.

#### **b. Statutory Protection**

In addition, Nigeria enacted the Violence against Persons (Prohibition) Act, (VAPP) 2015 to prohibit the discrimination against widows and all forms of repressive and degrading widowhood practices. It also provides for remedies for victims and penalizes offenders. The VAPP Act is thus Nigeria's most comprehensive legislation addressing harmful traditional practices. Sections 9, 10, 13 and 14 protect widows against forceful eviction, deprivation of liberty, forced isolation and emotional and psychological abuse. Section 15 provides that any person who subjects a widow to harmful traditional practices commits an offence punishable by imprisonment, fine or both.

Generally, section 20 of VAPP criminalizes harmful traditional practices and provides sanctions against offenders. The Act empowers courts to issue protection orders and provide remedies to victims of violence, including widows. Originally, the Act applies only to the Federal Capital Territory. The Violence Against Persons (Prohibition) Act represents a major legislative advancement in protecting widows. For one, it criminalizes harmful widowhood practices and the other, victims may obtain court protection against offenders. Furthermore, the Act recognizes physical, emotional, psychological, and economic abuse. Additionally, the Act prioritizes protection and rehabilitation of victims. However, despite the above strengths of the Act, its weakness includes limited state adoption, weak enforcement, there is poor public awareness where many widows are unaware of remedies available under the Act. In spite of its weaknesses, the Act represents one of Nigeria's strongest legal tools against widow abuse, but inadequate implementation limits its effectiveness.

Apart from VAPP, 2015, many states have subsequently enacted corresponding VAPP Laws, including Ekiti State Gender-Based Violence (Prohibition) Law,<sup>3</sup> Cross River,<sup>4</sup> Anambra State Violence Against Persons Law,<sup>5</sup> Ebonyi VAPP Law, Enugu VAPP Law,<sup>6</sup> Edo State VAPP Law,<sup>7</sup> etc. these laws in no doubt reinforce protections available under the federal framework.

For the purpose of this paper, the Anambra State Law which provides stronger protection for inheritance and matrimonial home rights will be considered.

Section 3 of the Anambra State Law, 2005 provides that the fundamental human rights as enshrined in the Constitution are inalienable and accrue to every widow or widower. S. 4 (1) of the Anambra State Law provides that, 'No persons shall compel a widow or widower:

- a) To vacate his or her matrimonial home on the ground that he or she has no male child or no child at all
- b) To drink the water used in washing the corpse of the late spouse or to perform any type of ritual in order to establish innocence of causing the death of the late spouse;

<sup>1</sup> B.O. Nwabueze, *Constitutionalism in the Emergent States* (London: Hurst & Company, 1973)

<sup>2</sup> Constitution of the Federal Republic of Nigeria, 1999 (as amended), section 46

<sup>3</sup>Widowhood Rights Protection Law, 2006

<sup>4</sup>Widowhood Protection Legislation, 2005

<sup>5</sup> Malpractices Against Widows and Widowers (Prohibition) Law, 2004

<sup>6</sup> Prohibition of Infringement of Widow's and Widower's Fundamental Rights Law, 2001

<sup>7</sup> Inhuman Treatment of Widows (Prohibition) Law, 2004

- c) To sleep either alone or on the same bed or to be locked in the room with the corpse of the late spouse;
- d) To remain in compulsory confinement after the death of the spouse for any given period;
- e) To compulsorily wear mourning cloths of any make or otherwise adopt any life style indicative of being in mourning for any given period from the date of the death of the late spouse;
- f) To compulsorily sit on the bare floor or be naked during any period of the spouse's burial rites;
- g) To be remarried to a relative of the late spouse;
- h) To shave the hair on the head or any other part of the body;
- i) To desist from receiving condolence visits from sympathizers during the period of mourning;
- j) To weep and wail loudly at intervals at any time after the death of the late spouse;
- k) To put ashes on the head;
- l) Not to see the corpse of the late spouse;
- m) To perform any act which contravenes the fundamental human rights provisions as enshrined in the constitution;
- n) To visit any shrine and or perform any other rituals.
- o) To forsake his or her personal hygiene. <sup>1</sup>

Similarly, S. 4(3) states that a widow or widower should not be forcefully dispossessed of any property acquired or used by the couple during the life time of the deceased spouse. But this is subject to the provisions of the Marriage Act, Succession and Administration of Estate Act or any customary law not repugnant to natural justice, equity and good conscience. Consequent upon the above provision, section 5 of this law also provides thus;

(1) Any person who discriminates, contravenes or conspires with, aids, counsel, procures or assists another person to contravene the provisions of section 4 of this law commits an offence and shall be liable on summary conviction to a fine not exceeding N20,000.00 (twenty thousand Naira) or to a jail term not exceeding six months imprisonment or to both such fine and imprisonment.

(2) Any institution, group or organization which is found to have contravened, or which aids, counsels, procures or assists any person to contravene any of the provisions of section 4 of this law commits an offence and shall on summary conviction be liable to a fine not exceeding N50, 000.00 (fifty thousand naira) or be proscribed until the fine is paid.

Moreover, section 6 provides for enforcement, thus, vesting the Magistrate Court with the jurisdiction to summarily try any offence under this law. And appeals shall lie as of right against any decision of the Magistrate Court to the High Court, up to the Supreme Court.

An appraisal of the above State provisions against widowhood practices bring to fore the fact that the legal framework in place although is not national but can be said to be appropriate in addressing the issue where widowhood rites are mostly practiced. These laws intend to reduce and/or eradicate completely the degrading and inhuman treatment and maltreatment of widows in the South Eastern part of Nigeria. However, the problem is that of recognition and awareness by the general populace, and enforcement as well as contravening the traditional culture of widowhood rites.

Generally, the Anambra State Law, 2004 provides strong inheritance protection, protection against eviction from matrimonial homes and express recognition of constitutional rights.

However, despite all these laws in Nigeria, widows are still subjected to dehumanizing treatments.

## **7. Protection of Women's Rights Under International Instruments**

The protection of women's rights has become a significant aspect of international human rights law. Historically, women were subjected to various forms discrimination, inequality, and exclusion in social, political, economic and cultural spheres. To address these challenges, the international community has adopted several treaties, conventions, declarations, and protocols aimed at promoting gender equality and protecting women from discrimination. Umzurike maintains that international human rights instruments establish universal standards that transcend local customs and traditions.<sup>2</sup> Similarly, Azinge argues that international human rights norms increasingly influence Nigerian legal development. He contends that Nigeria should domesticate and implement

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<sup>1</sup> Widows and Widowers (Prohibition) Law of Anambra State, 2005

<sup>2</sup>U.O. Umzurike, *The African Charter on Human and Peoples' Rights* (The Hague: Martins Nijhoff Publishers, 1997)

international instruments protecting women.<sup>1</sup> His view highlights the importance of aligning domestic laws with international obligations. His position also supports the domestication of CEDAW and stronger implementation of the Maputo Protocol.

For instance the Universal Declaration of Human Rights (UDHR)<sup>2</sup> which was adopted by the United Nations General Assembly in 1948 in its article 1 states that “all human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in spirit of brotherhood.” It further states that “no one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.”<sup>3</sup> In addition, it provides that every person has the right to freely participate in a community’s cultural life.<sup>4</sup> Other important provisions include article 2 that prohibits discrimination based on sex; article 3 guarantees the right to life, liberty, and security of person; article 7 provides equality before the law and equal protection of the law while article 16 recognizes equal rights of men and women in marriages and family relations.

Implicitly therefore, no cultural practices should be forced on any gender, be him male or a female. The implication here is that these obnoxious widowhood practices in Nigeria are contrary to the above mentioned international instrument and thus, an infringement on women’s rights. The UDHR has thus established the principle that women are entitled to the same rights and freedoms as men without discrimination.

Another example is article 2 of Convention on the Elimination of Discrimination Against Women (CEDAW)<sup>5</sup> referring to the principle of equality and non discrimination concerning women. It states that “States Parties condemn discrimination against women and ...embody the principle of the equality of men and women in their national constitutions or other appropriate legislation...” Therefore discrimination against women shall mean any distinction, exclusion or restriction on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on the basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural or any other field.<sup>6</sup>

According to Nwogu,<sup>7</sup> the Convention on Elimination of All forms of Discrimination against Women (CEDAW), establishes international standards of equality between men and women. The Convention was ratified by Nigeria in 1986 that brings to fore the commitment of Nigerian government to eradicate all forms of discrimination against women in civil, social, cultural and political rights.<sup>8</sup> CEDAW in its preamble describes discrimination as:

Discrimination against women shall mean any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on the basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural or any other field.

CEDAW also recognizes the importance of legislation as an element to ensure the realization of individual women’s human rights and freedom on the ground of equality with men in its articles 3 and 18.<sup>9</sup> Article 2 requires states to abolish discriminatory customs. Similarly, article 5 mandates modification of social and cultural patterns that promote discrimination. Article 16 of CEDAW enjoins states parties to take all necessary measures to eliminate discrimination against women in all matters relating to marriage and family relations. The

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<sup>1</sup> E. Azinge and A.A. Oni (eds), *Human Rights Law and Practice in Nigeria* (Abuja: Nigerian Institute of Advanced Legal Studies)

<sup>2</sup> Universal Declaration of Human Rights (adopted 10 December 1948 UNGA Res 217 A (III) UN Doc A/RES/217 (III)

<sup>3</sup> UDHR, Article 5

<sup>4</sup> Ibid, Article 27,

<sup>5</sup> Convention on the Elimination of All Forms of Discrimination against Women (adopted 18 December 1979, entered into force 3 September 1981) 1249 UNTS 13

<sup>6</sup> M.I.O. Nwogu, ‘The Legal Anatomy of Cultural Widowhood Practices in South Eastern Nigeria: The Need For A Panacea’, (2012), 2 *Journal of Women and Minority Rights* 87

<sup>7</sup> M.I.O. Nwogu, ‘The Domestic Application of Feminist International Human Rights Treaties in Nigeria’,(2008), 1 *Journal of Women and Minority Rights* (JMWR) 66-80

<sup>8</sup> Ibid

<sup>9</sup> G.E. Afolaya, ‘Widowhood Practices and the Rights of Women: The Case of South Western Nigeria’, International Institute of Social Studies, Hague, 2011

main reason for this is that there is no co-ownership of property by couples in traditional Nigerian culture, the presumption being that all substantial property, including the land and home belong to the deceased husband. CEDAW thus addresses specifically the plight of women. Other important articles in CEDAW include article 10 that protects women's right to education, article 11 protects women's employment rights, article 15 guarantees equality before the law and article 16 guaranteeing equality in marriage and family relations.

In discussing the principle of non-discrimination, Dugard states that "the existence of such a norm derived from custom, general principles of law, and Convention is beyond doubt. As far as conventional law is concerned, the affirmation of the principle of non-discrimination on grounds of race, and sex contained in article 55 of the United Nations Charter has been affirmed by several international Conventions." Although not fully domesticated in Nigeria, Nigerian courts increasingly rely on CEDAW as a persuasive authority in protecting women's rights. However, CEDAW condemns harmful cultural practices such as female genital mutilation, forced marriage, harmful widowhood practices and discriminatory inheritance customs.

Other international instruments that protect women's rights include International Convention on Civil and Political Rights (ICCPR) 1966.<sup>1</sup> In ratifying the ICCPR, a State Party undertakes, "where not already provided for by existing legislative or other measures...to take necessary steps, in accordance with its constitutional processes and with the provisions of the present Covenant, to adopt such laws or other measures as may be necessary to give effect to the rights recognized in the present Covenant,"<sup>2</sup> its article 2 requires States to ensure rights without discrimination, article 3 guarantees equal enjoyment of civil and political rights by men and women, article 7 prohibits torture and degrading treatment while article 26 guarantees equality before the law. In all its ramifications, the ICCPR protects women against discrimination and human rights violations in both public and private spheres.

In addition, a State Party to the International Convention on Economic, Social and Cultural Rights (ICESCR) 1966, undertakes "to take steps...to the maximum of its available resources, with a view to achieving progressively the full realization of the rights recognized in the present Covenant by all appropriate means, including particularly the adoption of the legislative measures."<sup>3</sup> Article 3 provides equal rights for men and women, article 6 protects the right to work, article 7 guarantees fair working conditions and article 10 provides for mothers and families. The ICESCR thus promotes women's economic empowerment and social welfare.

Additionally, there is the African Charter on Human and Peoples' Rights, 1981<sup>4</sup> on regional level. Nigeria has domesticated the Charter through the African Charter (Ratification and Enforcement) Act. Its article 2 prohibits discrimination, article 3 guarantees equality before the law, article 5 protects human dignity and article 18 (3) further provides that States shall ensure the elimination of every discrimination against women. However, unlike CEDAW, the African Charter is enforceable in Nigeria because it has been domesticated. Agbede argues that the African Charter represents a significant advancement in the protection of women's rights in Africa because it imposes legal obligations on States to eliminate discrimination and protect vulnerable groups, including women. It is further opinion that the Charter's incorporation into Nigerian law provides a stronger basis for enforcing women's rights than many international treaties that have not been domesticated.<sup>5</sup>

The Beijing Declaration and Platform for Action<sup>6</sup> was the fourth Conference held on the 15<sup>th</sup> of September, 1995. It is an international declaration of women's rights and empowerment. The Beijing Platform identified twelve critical areas affecting women, including: poverty, education, health, violence against women, economic participation and human rights. The Platform remains one of the most influential global frameworks for advancing women's rights.

The fact that Nigeria ratified these international and regional instruments, it is expected to recognize, fulfill and enforce them. Once a treaty has entered into force, the State Party is bound to perform its provisions in good faith and is accountable for bringing its national laws into line with it and for taking steps to ensure its

<sup>1</sup> International Covenant on Civil and Political Rights (adopted 16 December 1966, entered into force 23 March 1976) 999 UNTS 171

<sup>2</sup> Ibid, Article 2

<sup>3</sup> Ibid

<sup>4</sup> African Charter on Human and Peoples' Rights (adopted 27 June 1981, entered into force 21 October 1986) 1520 UNTS 217

<sup>5</sup> I.O. Agbede, *Themes on African Human Rights Law and the African Charter on Human and Peoples' Rights* (Lagos: University of Lagos Press)

<sup>6</sup> Beijing Declaration and Platform for Action adopted at the Fourth World Conference on Women, Beijing, China, 15 September 1995, UN Doc A/CONF. 177/20

implementation.<sup>1</sup> What this obligation entails will depend on the terms of the treaty in question. For example, the CRC contains obligations in every article, but also more broadly provides that:

States Parties shall undertake all appropriate legislative, administrative and other measures for the implementation of the rights recognized in the present Convention. With regard to economic, social and cultural rights, States Parties shall undertake such measures to the maximum extent of their available resources and, where needed, within the framework of international cooperation.<sup>2</sup>

However, in order to monitor compliance with treaties by State Parties, Committees consisting of independent experts, also known as treaty bodies, have been set up in terms of the various treaties. State Parties must present regular reports to the Committees on steps taken to implement the relevant treaty. These reports are scrutinized by the relevant Committee, which then issues its own report with comments and recommendations to the State Party on issues that require further action.<sup>3</sup>

Human rights are indeed universal, and although they may be interpreted in the context of culture and religion, they may not be derogated from on this basis. In other words, women cannot be denied substantive equality on the basis of religion or culture, as this would be a violation of international obligations.<sup>4</sup> Moreover, through agreements reached at World Conferences, states have reinforced and often expanded on their international obligations. These agreements are reached through negotiation and are not the imposition of “foreign values” on any culture.<sup>5</sup>

International instruments have played a crucial role in advancing and promoting women’s rights globally by establishing universally accepted standards against discrimination, violence, and inequality. Instruments such as CEDAW, the African Charter, ICCPR, and ICESCR provide comprehensive protection against discrimination, violence, and harmful traditional practices. In Nigeria, these instruments have influenced constitutional development, legislation, and judicial decisions protecting women from discriminatory customs and practices. However, greater domestication, enforcement, public awareness, and institutional commitment are necessary to ensure that women fully enjoy the rights guaranteed under these international legal frameworks.

In the Nigerian context, these international instruments have influenced constitutional interpretation, legislative reforms, and judicial decisions aimed at protecting women, including widows, from discrimination and other forms of rights violations.

## 8. Widows and Challenge of Inheritance and custody in Nigeria

Under the native laws and customs of the ethnic groups in Nigeria, a widow is considered as a chattel to be inherited by any of her late husband’s relatives, especially where her husband dies without a surviving male issue from her.<sup>6</sup> In such cases, the deceased husband’s next of kin inherits his property, children and wife to whom he will henceforth, assume the position of a husband and father.<sup>7</sup> This is known as widow inheritance. Furthermore, the nature of marriage celebrated what accrues to widows at the demise of their husbands. For example, the Administration and Succession<sup>8</sup> (Estate of Deceased Persons) of Anambra State provides:

In all cases to which this law applies the residuary estate of an intestacy shall be distributed in the manner or be held on the trusts

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<sup>1</sup> Dugard, (2000) *International Law-A South African Perspective* 254

<sup>2</sup> Article 4

<sup>3</sup> The ICCPR is monitored by the Human Rights Committee, the ICESCR by the Committee on Economic, Social and Cultural Rights, CEDAW is monitored by the Committee on the Elimination of Discrimination of Women (the CEDAW Committee) and the Committee on the Rights of the Child (the CRC Committee) monitors implementation of the CRC.

<sup>4</sup> N. Moodie, *Denial of Inheritance Rights for Women under Indigenous Law-A Violation of International Human Rights Norms*, being A Master of Law Thesis submitted to University of South Africa, 2000, 29

<sup>5</sup> Ibid

<sup>6</sup> Agugua, I, ‘Gender Perspectives of the Rights to Adequate Housing’, *In Search of Legal Scholarship, Essays in Honour of Ernes Ojukwu, Abia State University Law Centre*, 131

<sup>7</sup> Kemakolam, R, ‘Women and Intestacy under Customary Law: Mojekwu v. Mojekwu Revisited’, *In Search of Legal Scholarship, Essays in Honour of Ernes Ojukwu, Abia State University Law Centre*, 204

<sup>8</sup> Administration of Estate Law Cap.4 Laws C4 Laws of Anambra State of Nigeria, 1991, s. 120

mentioned in this section and the distribution of the residuary estate of an estate shall be in accordance with the following table.

- (a) If the intestate leaves a husband or wife but does not leave any children or parent or children's children, the residuary estate shall be held on trust for the surviving spouse absolutely provided; that where the surviving spouse is the wife and the intestate leaves brothers and sisters of the half blood, such wife's interest shall be for life or until she marries (whichever first occurs) after which the residue of her interest shall go to the intestate's brothers and sisters absolutely in equal shares.

The provision is discriminatory and unjust against the woman. When the woman dies, the man takes absolutely without any conditions attached. It is the principle of ownership of the woman as a property by the man that has informed the provision. The condition of remarriage attached is so that the woman and the property she has inherited from the intestate of the deceased will not pass on to another man in the even of her remarrying. This provision again puts the woman at the level of property amenable to acquisition and is therefore undesirable in the law.

It must however be pointed out that the position of Islamic Law on intestacy is quite different from that of the customary laws prevalent among the Northern societies. Under Islamic Law, a widow of a man who died intestate is statutorily entitled to one quarter of the estates.<sup>1</sup> However, where the marriage is polygamous, the wives share one quarter or one-eighth of such estates equally between them.<sup>2</sup> Traditional Islamic law as typically practiced in Africa dictates that daughters inherit half of what sons inherit and husbands are the sole owners of family property.<sup>3</sup> Widows receive one-eighth of the inheritance, to be shared among co-wives and customary law also excludes women from property ownership and inheritance in much of Africa. Similarly, women's access to property and land use rights is obtained through marriage and contingent on marital status.<sup>4</sup> However, in the South Eastern part of Nigeria, the position is different. The absence of the right to inherit by the widow stretches to the ability of the woman to administer the intestate estate of the deceased husband. Thus, in *Ejiamike v. Ejiamike*,<sup>5</sup> Oputa, J (as he then was) held that a widow of a deceased person had no right under Onitsha Customary Law to administer the estate of her late husband, particularly where the first male issue of the deceased *Okpala* is no longer a minor.

Unfortunately, the different Nigerian customs and traditions have greatly impeded the realization of the rights of the widows. It has been established that any Nigerian may make a will whether married under the Act or under Customary law subject however, to restrictions imposed by law.<sup>6</sup> Where the marriage was celebrated under the Act, both husband and wife may inherit each other's estate on intestacy. Where however, the marriage was contracted under the Customary Law, a widow, on the intestacy of her husband, is completely disinherited despite any contributions to the man's success. No system confers on such a widow any beneficial rights of inheritance safe of course for benefits she may enjoy through her children's right. Such a widow is infact often times considered as an asset for inheritance. For example, the general rule in Igbo customary law is that widow lacks the right to succeed to the personal or real estate of her deceased husband. In *Nezianya v. Okagbue*,<sup>7</sup> the Supreme Court held that a widow in Onitsha Customary Law may deal with the property of her deceased husband but such deals must be with the consent of the family.

In *Nzekwu v. Nzekwu*,<sup>8</sup> the issue arose whether a widow is entitled to any rights in respect of her late husband's estate in Onitsha customary law. The husband had died intestate leaving a wife and two children. The late husband's family sold the house. The Court of Appeal held that under the Onitsha custom, the widow is entitled

<sup>1</sup> M. Ladan, 'Sharia-Based Reservations and the Convention on the Elimination of all forms of Discrimination Against Women (CEDAW): A Tale of Two Worlds' (2004), 7 *University of Maiduguri Law Journal* 136

<sup>2</sup> Ibid

<sup>3</sup> W. Djuikom, & D. Van de Walle, 'Lasting Welfare Effects of Widowhood in Mali', (2018) 51, *World Development*, (2018), 51 1-19

<sup>4</sup> Ibid

<sup>5</sup> *Ejiamike v. Ejiamike* (1972) 2 ECCLR, II

<sup>6</sup> *Yinusa v. Adesubokan* (1971) NNLR 77

<sup>7</sup> *Nezianya v. Okagbue* (1963) 1 II NLR 352

<sup>8</sup> *Nzekwu v. Nzekwu* (1989) 2 NWLR p. 373

to certain rights in such property even when she is childless. Her rights are however not adverse to her late husband's family and are not absolute.

Furthermore, in *Oshilaja v. Oshilaja*,<sup>1</sup> it was held that a widow cannot inherit because as a chattel under native law and custom...she could be inherited. The brutality suffered by widows in issue of denial of inheritance rights was given prominence in the case of *Sogunro Davis v. Sogunro Davis and Others*<sup>2</sup> where Beckelay J. Held that a wife was deprived of inheritance rights in deceased husband's estate because in intestacy under native law and custom, the devolution of property follows the blood; therefore a wife or a widow, not being of the blood, has no claim to any cause. The Supreme Court in *Akinnubi v. Akinnubi*<sup>3</sup> that 'That it is a well settled rule of native law and custom of Yoruba that a wife would not inherit her husband's property. Under the intestacy, she is regarded as part of the estate of her deceased husband and to be administered and inherited by the deceased family.

In addition to the above, the judiciary has played a significant role in protecting women and widows from discriminatory customs. For example, in *Ukeje v. Ukeje*,<sup>4</sup> the Supreme Court declared unconstitutional any custom that prevents female inheritance. Thus, the decision strengthens widows' claims to family property. Furthermore, in *Anekwe v. Nweke*,<sup>5</sup> the Supreme Court invalidated customs discriminating against women in inheritance matters. The decision therefore promotes equality and protects widows from exclusion. Similarly, in *Mojekwu v. Mojekwu*,<sup>6</sup> the court condemned discriminatory customary inheritance systems. The case remains a landmark authority on gender equality.

The above cases provide strong judicial support for arguments concerning the protection of widows and women's inheritance rights in Nigeria.

In view of the above, Sagay criticized customary inheritance rules that deprive women of property rights. According to him, inheritance systems based solely on gender discrimination are inconsistent with constitutional guarantees of equality.<sup>7</sup> His views support judicial decisions such as *Ukeje v. Ukeje*<sup>8</sup> and *Anekwe v. Anekwe*.<sup>9</sup> Additionally, Nwogugu observed that many customary inheritance systems placed women at a disadvantage, particularly widows and daughters. He argues that legal reforms are necessary to ensure that women enjoy equal rights in family relations and succession matters.<sup>10</sup> Equally, Ezeilo argues that discrimination against women often manifests through cultural and traditional practices. She maintains that legal reform alone is insufficient unless accompanied by social transformation and public enlightenment.<sup>11</sup> Diala in similar vein argues that customary law is dynamic and capable of adapting to changing social conditions. He maintains that discriminatory customs should be reformed rather than preserved simply because they are traditional.<sup>12</sup> His theory offers a practical solution for addressing harmful widowhood practices while preserving positive aspects of customary law.

The reviewed literature demonstrates substantial agreement among scholars regarding the inadequacy of traditional widowhood practices in contemporary society. The scholars unanimously condemn practices that subject widows to degrading treatment, disinheritance, and social exclusion.

Nigeria possesses an extensive legal framework for protecting widows through constitutional provisions, statutory enactments, judicial decisions, and international human rights instruments. Nevertheless, the effectiveness of these protections continues to be undermined by harmful customary practices, patriarchal structures and inadequate enforcement mechanisms.

## 9. Recommendations

The following recommendations are proposed to ensure the effective elimination of obnoxious widowhood practices and the advancement of widows' welfare in Nigeria.

<sup>1</sup> *Oshilaja v. Oshilaja* (1972) 2 UILR, 313, 10 CCHCJ II

<sup>2</sup> *Davis and Other* (1929) 2 NLR 79

<sup>3</sup> (1972) 2 UILR, 313, 10 CCHCJ II

<sup>4</sup> (2004) 11 NWLR (pt. 1418) 384

<sup>5</sup> (2014) 9 NWLR (pt. 1412) 393

<sup>6</sup> (1997) 7 NWLR (pt. 512) 283

<sup>7</sup> I.E. Sagay, *Nigerian Law of Succession: Principles, Cases and Materials* (Lagos: Malthouse press Ltd, 2006)

<sup>8</sup> (2004) 11 NWLR (pt. 1418) 384

<sup>9</sup> (2014) 9 NWLR (pt. 1412) 393

<sup>10</sup> E.I. Nwaogugu, *Family Law in Nigeria* (3<sup>rd</sup> edn, Ibadan: HEBN Publishers Plc, 2014)

<sup>11</sup> J.N. Ezeilo, *Women, Law and Human Rights: Global and African Perspectives* (Enugu: Snap Press Ltd, 2011)

<sup>12</sup> A.C. Diala, 'The Concept of Living Customary Law: A Critique', (2014) 58 (2) *Journal of African Law* 143-165

1. **Public Enlightenment** In view of the above, there is the need to teach widows human rights education which comprises all educational, training, information, awareness raising and learning activities aimed at promoting universal respect for and observance of all human rights and fundamental freedoms. Therefore, there should be massive enlightenment to educate the widows on their human and legal rights especially in the rural communities.
2. **Strong Institutional Framework**  
There is the need for a strong institutional framework that will address women problems such as the socio-cultural and economic emancipation and the total liberation of women in Nigeria and total eradication of obnoxious widowhood practices. It is expected that the government should adopt appropriate legislation and actions aimed at modifying discriminatory laws, regulations and practices against women as the existing laws dealing with inheritance and succession are not entirely free from gender bias.
3. **Legislative Reforms**  
There is need to overhaul the Nigerian legal and social institutions. Therefore, the Federal Government of Nigeria should enact a Widow Protection Act that will ban obnoxious widowhood practices in all ramifications and provide stiffer or severe penalties against the perpetrators of such practices in compliance with international and regional Conventions and treaties ratified by Nigeria. Consequently, it is expected that the Federal Government should adopt appropriate legislation and actions aimed at modifying discriminatory laws, legislation and practices against women. In addition, there is need for the orientation and re-orientation of the general public, especially in the rural communities on the dangers inherent in the practice of these obnoxious rites and on the need to embrace universality of human rights.
4. **Promotion of Women's Economic Empowerment**  
Economic empowerment programmes, including access to credit facilities, skills acquisition, and social welfare support, should be established to reduce the vulnerability of widows to exploitation and dependence.
5. **Engagement with Traditional Institutions**  
Traditional rulers and community leaders should be actively involved in efforts to reform customs and practices that perpetuate discrimination against widows.

## 10. Conclusion

Culture plays a great role in the violation of the fundamental rights of women. This it does by undermining the rights of women in issues of harmful widowhood practices. These obnoxious widowhood practices amount to discriminatory, degrading and inhumane acts with deep rooted negative psychological and emotional effects on the widows. These obnoxious widowhood practices serve no purpose other than to humiliate the women and perpetuate a desired social control over them. Thus, these obnoxious widowhood practices have come to be understood as violence against women's human rights and gender based discrimination.<sup>1</sup> Therefore, widowhood practice in Nigeria is a clear indication of gender inequality.

Nonetheless, the protection of widows against obnoxious widowhood practices in Nigeria remains a significant human rights and social justice issue. Although the Nigerian Constitution, statutory laws, judicial decisions, and international human rights instruments provide substantial safeguards for widows, harmful customary practices continue to undermine the realization of these rights in many communities. The persistence of practices such as disinheritance, forced mourning rites, property deprivation, and social exclusion reflects the tension between customary traditions and contemporary human rights standards.

The foregoing analysis confirms the central argument of this paper, namely that, notwithstanding the existence of an elaborate protective framework, obnoxious widowhood practices continue to persist in many Nigerian communities. The Constitution guarantees the rights to life, to the dignity of the human person, to personal liberty, to freedom from discrimination and to the ownership of property; the Violence Against Persons (Prohibition) Act 2015 and the corresponding state laws criminalise harmful traditional practices and afford remedies to victims; the superior courts have, in a consistent line of authority such as *Ukeje v Ukeje*, *Anekwe v Nweke* and *Mojekwu v Mojekwu*, struck down discriminatory customs; and the international and regional instruments to which Nigeria is a party reinforce these guarantees. Yet the endurance of the practices reveals a stubborn and troubling gap between the law in the books and the law in action.

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<sup>1</sup> T. Omidoyin, 'Violence Against Persons (Prohibition) Act 2015, A Positive Step to the Eradication of Domestic Violence in Nigeria', (2018) 9 *NAUJILJ* 44

That gap is attributable to several mutually reinforcing factors which this paper has identified. They include the widespread ignorance among widows of their legal rights, particularly in rural communities; the pressure of entrenched patriarchal custom and the authority of those who superintend it; poverty and the economic dependence of widows; illiteracy; the weak and inconsistent enforcement of the protective laws; the limited geographical reach of the Violence Against Persons (Prohibition) Act; and the persistence of discriminatory inheritance rules under customary law. The protection of widows in Nigeria cannot, therefore, be achieved by legislation alone.

What is required, instead, is a holistic strategy that combines the enactment of a comprehensive federal Widows Protection Act with the vigorous enforcement of existing laws, sustained public enlightenment and human rights education, the economic empowerment of widows, and the constructive engagement of the traditional and religious institutions whose authority sustains the practices. Until the formal guarantees of the Constitution, statute and international law are translated into effective protection in the daily lives of widows, the dignity, equality and humanity of a vulnerable and too often voiceless segment of Nigerian society will remain imperilled. The eradication of obnoxious widowhood practices is, in the final analysis, not merely a legal imperative but a true measure of the nation's commitment to human rights, gender equality and social justice.

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