



Gender Bias: Roadblocks To Equal Distribution Of Inheritance In Okrika Clan Rivers State, Nigeria: Implication For Family Counseling

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ABSTRACT

Gender based issues have become household concern in countries all over the world. A discourse on gender bias will always be greeted with excitement, insight or even disappointment by many. The issue of gender bias in the distribution of inheritance has torn families apart, women were crippled emotionally, their self concept thwarted and potentials not fully maximized in line with this in view, this paper takes a look at the general perception of people on gender bias issues. The views of custom and the law about gender discrimination, what the law has done about female inheritance, lessons from the judgments, implication for family counseling, conclusion/recommendations were made based on the position taken.

Keywords, gender bias, distribution of inheritance, discrimination, inequality.

INTRODUCTION

Okrika clan is one of the ancient city states of the Niger Delta, it existed as an entity with its rich culture and tradition before the advent of Christianity and colonialism. The clan is made up of three (3) Local Government Areas in Rivers State namely:

- ❖ Okirika Local Government Area (WALGA)
- ❖ Ogu/Bolo Local Government Area and
- ❖ Part of Port Harcourt City Local Government Area by the Hargrove agreement of 18th May 1913 between leading chiefs and headmen of the various communities which owned Port Harcourt on the one hand, and Alexander George Boyle and Saint George, Deputy Governor of the colony and protectorate of southern Nigeria on the other hand. (Awoala, 1980) Opuogulaya 1975). The clan is made up of nine (9) major towns and over 40 villages.

Okarika clan is a society driven by gender bias; talking about gender equality is like a taboo. There is a great disparity between male and female folks in every sphere of life. Females are regarded as second class citizens as they cannot even stand up to talk in the gathering of men no matter how highly educated. The advent of civilization and Christianity do not change things much. Osarenren (2014) has this to say on gender equality; “men and women are not the same and cannot be, but have the same value as human beings and so should be treated and valued equally”. This assertion does not hold water in Okrika clan as the male folks are held on a high esteem in every sense of it. Male children are preferred by couples over female as family names are upheld by male children; family estates and inheritance generally are controlled by the males. Females have little or no say when it comes to family inheritance.

The researchers would rather borrow the words of Alwell in Animal farm which says. “All animals are equal but some are more equal than the others”. This saying is more appropriate to describe what obtains in Okrika clan. Men are more equal than women as the right to inherit family estates and properties is vested in their hands. Levy and Pinto (2012) emphatically noted that for centuries, women have been disinherited from family wealth because of cultural traditions and religious rules that suggested, female social role does not require an inheritance. They went further to say that religious or traditional testators still adhere to this belief exercising their testamentary freedom. The researchers are of the opinion that the law should not protect gender-biased bequests, as they are contrary to public policies. Moreover, Nigeria law embedded in the constitution of the Federal Republic of Nigeria (1999) recognizes freedom, equality and justice of her citizens in clear terms in chapter II, No.17 article (1) (2) in the following excerpt;

The state social order is founded on ideals of freedom, equality and justice. (2) in furtherance of the social order.

- (a) Every citizen shall have equality of rights, obligations and opportunities before the law;
- (b) The sanctity of the human person shall be recognized and human dignity shall be maintained and enhanced,
- (c) Government actions shall be humane,
- (d) Exploitation of human or natural resources in any form, whatsoever for reasons, other than the good of the community shall be prevented and of the independence, impartiality and integrity of courts of law, and easy accessibility thereto shall be secured and maintained.

Going by this, gender bias to equal distribution of inheritance should be seriously frowned at within the doctrine of freedom, equality and justice. We should draw a balance in conflicting interest when it comes to inheritance. We should stress the values of dignity, self-respect, autonomy and participation in the family property and continuity of the family name. According to Levy & Pinto (2012) these values are balanced against the freedom of religion and culture. In the same vein Levy (2010) claimed that there are several religious groups that order a specific distribution of estate, which includes disinheritance of daughters in favour of sons. She said a testator’s choice to follow this rule presents a fascinating intersection of conflicting values, world-views and belief systems. She examined three types of systems, continental law of forced heirship, family provision, jurisdictions and testamentary freedom systems.

In Okrika clan a woman is not entitled to own a land or inherit a land from her family except she has a male child who can stand in for her; it is forbidden for a woman to own a land in the absence of having a male child. Tolerance of gender based family inheritance is a serious form of discrimination as it compromises female disinheritance. Alike (2013) noted that gender bias kept many girls in sub-Saharan African, South Asia and the Middle East relegated to subordinate status, such as, engaging in time consuming chores, early marriage, pregnancy, while the males sit back and enjoy the family fortunes. Discriminatory practices based on gender bias effectively preclude equal economic or social participation in Okrika clan. The female folks in Okrika clan are subjected to multiple forms of oppression, exploitation and discrimination due to gender. Forms of discrimination against women are numerous in Okrika clan, for instance.

- No woman is allowed to occupy any chieftaincy stool in the clan no matter how educated, how knowledgeable or how rich etc. the position of women remains that of subordinates, they look up to the male folks for leadership in terms of chieftaincy leadership.
- No women is entitled to own a parcel of land without a male child to show for it.
- Women are not allowed to stand in community gatherings to speak, if a woman is recognized or allowed to speak, she has to sit down to speak because her standing was socialized to be talking over the men.
- No woman has ever been a member of the Divisional Council of Chiefs.
- A woman cannot have hand shake with chiefs.

This list is endless; due to gender bias female children are often denied access to a whole lot of things, deprived of their fundamental right.

The View of Custom and the Law about Discrimination

Under most customary laws in Nigeria, daughters, like wives do not inherit estates. Discrimination against women is anything that can bring about unequal treatment between men and women while carrying out their livelihood. Discrimination can also be defined as any distinction, exclusion or restriction made on the basis of sex in the political, economic, social, cultural, civil or any other field (CEDAW 1979). In Okrika where a land owner dies, his self acquired properties are jointly owned by his children as family property. The head of the family is the eldest male child of the deceased who occupies the family house and holds same as a trustee of the children, male or female; but in the sharing formula the male takes the lion share; the unmarried females are given portions of the house for shelter purposes. The married female is never considered in the sharing formula. They believe that she belongs to her husband's family, and will not be given her biological family's property to enrich her matrimonial family. The right of the eldest surviving son to succeed his father in the headship of the family is automatic and arises from the angle of gender bias. In the midst of older sisters, the first son could be the last born or the youngest of all, he automatically becomes the father of all. The age of the females and the position they occupy in the family notwithstanding. This seemingly unfair practice exists by virtue of gender bias. This custom offends the principle of natural justice, equity and good conscious. The female children were born in the same fashion like their male counterparts in the family. Each child in their growing stage must have made one sacrifice or the other to the wellbeing of the family. The same womb that carried the male also carried the female, they were fed with the same breast, why the discrimination?

It is therefore not only repugnant to natural justice, but also morally repulsive to deprive female children of their rights. We all know females are not block heads neither are they dummies, they are only victims of circumstances caused by gender bias.

The Nigerian constitution of 1999, section 42 (1)(2) makes provision for gender equality without discrimination among male and female children in the following excerpts:

1. A citizen of Nigeria of a particular community, ethnic group place of origin, sex, religion or political opinion shall not by reason only that he is such a person
 - a. Be subjected either expressly by or in the practical application any law in force in Nigeria or any executive or administrative action of the government, to disabilities or restrictions to which citizens of Nigeria of other communities, ethnic group, place of origin, sex, religion or political opinions are not made subject; or
 - b. Be accorded either expressly by, or in the practical application of any law on force in Nigeria or any such executive or administrative action, any privilege or advantage that is not accorded to citizens of Nigeria of other communities, ethnic groups, places of origin, sex, religion or political opinions.
2. No citizen of Nigeria shall be subjected to any disability or deprivation merely by reason of the circumstance of his birth.

The law is very clear in its position but as a result of culture and religious beliefs in the country, female children are often deprived of their fundamental rights to a lot of issues including inheritance. Most of the practices against gender bias have their roots in long standing customs of particular communities in the country just like the Okrika culture which is formulated ostensibly to achieve particular goals. Nevertheless some of these practices appears to have noble goals and are premised on perceived moral principles that have adverse effects not only on the female children wellbeing but their overall status in society. Understandably when these practices were formulated and adopted under the culture and tradition of the people, these ethnic groups were not exposed to the law or constitution. The argument is, now that the wind of change have blown across continents, countries, ethnic groups etc; why can't such change affect the Okrika clan in the way and manner the girl child is treated?

One reason they gave for placing more value on the male child than the female in Okrika clan is the preservation of the family lineage and family name is continued only by males. Also they believe that raising a son is a better investment in old age as he is expected to take care of the parents. Indeed our society is dominated by men, where there is a prevalent anti girl attitude in the society. These traditions

came up when western laws have not come to play. We should remember that laws are made by men and not the reverse.

What the Law has done about Female Inheritance?

Ikechukwu (2014) gave an account of two recent judgments in the Supreme Court. He said the ancient culture in Igboland that denies women the right of inheriting property in their father's house has been abolished by law. He explained thus;

Specifically a five man panel of justices of the apex court, held that the practice conflicted with section 42 (1)(a) and (2) of the 1999 constitutions. According to the court, "any culture that dis-inherits a daughter from her father's estate or wife from her husband's property by reason of God instituted gender differential should be punitively dealt with. The Supreme Court which described the culture as discriminatory maintained that, the punishment should serve as a deterrent measure and ought to be meted out against the perpetrators of the culture and custom.

The first judgment was on an appeal marked SC 224/2004 which was filed by one Mrs. Lois Chituru Ukeje (Wife of late Mr. Lazarus Ogbonna Ukeje) and her son, Mr. Enyinnaya Lazarus Ukeje. The duo entered the appeal against Mrs. Gladys Ada Ukeje who is a daughter to the deceased. The origin of the case was that Gladys sued the appellants before the Lagos State High court, claiming that as one of the children of the deceased, ought to be included among those to benefit from the family estate. In its verdict, the trial court, found that she was indeed a daughter of the deceased and that she was qualified to benefit from the estate of her father who died in 1980. Dissatisfied with the decision Mrs. Lois and Enyinnaya Ukeje took the case before the court of Appeal in Lagos, where the lower court judgment was also upheld. The case was later presented before the apex court for hearing on Friday April 11 2014, the supreme court affirmed the decision of the lower courts and voided the law and custom of Igbo's that deny the girl child the right of inheritance.

Justice Bode Rhodes - Vivour, who read the lead judgment stressed that "no matter the circumstances of the birth of a female child, such a child is entitled to an inheritance from her late father's estate. consequently the Igbo Customary Law, which disentitles a female child from partaking in the sharing of her deceased father's estates is breach of section 42 (1) and (2) of the constitution, a fundamental rights provision guaranteed to every Nigerian thus the appeal is dismissed. Other justices that also concurred to the verdict were justices Walter Samuel Onnoghen, Clara Bata Ogbunbiyi, Kurnai Bayang Akaahs and John Inyang Okoro.

In another case on the same subject as observed by Ikechukwu (2014). He said the apex court held that Nigerian customs which disinherit women are repugnant to natural justice, equity and good conscience and should therefore not be allowed to stand. Thus the court declared as repulsive the custom of the Awka people in Anambra State which allows married women to be disinherited upon the death of their husband because they could not produce a male child for the late husband. The decision followed a case of a widow, Mrs. Maria Nweke, who in 1991, instituted a case at the Awka Division of the Anambra State High Court, she had among other things prayed the court to declare that she was the person entitled to statutory right of occupancy of a parcel of land situated at Amikwo village.

She also urged the court to restrain the defendants from trespass on the said land. The defendants in the matter, Onyibor Anekwe and Chinweze were the descendants of Anieke Nwogbo, the half brother of the plaintiff's husband Nweke, Nwogbo. The court was told that their father, Nwogbo Okonkwo Eli, had died outside the home town of the parties. Consequently, his two widows had a son each (the plaintiff's husband and father of appellants) went to stay with Eli's half brother, Obiora Okonkwo Eli.

Obiora, subsequently built two separate houses at No.19 Ogbuagu lane Amikwo village, Akwa and shared them between the two sons of Nwogbo Okonkwo Eli (the defendants father and the plaintiff's husband). Trouble started when the plaintiff was asked to vacate her own portion of the land. The plaintiff said that she inherited the portion given to her late husband upon his death shortly before the civil war. She further told the court that the defendants asked her to vacate the house on the grounds that she had no male child in the house, adding that she had six female children.

She bluntly refused to leave the land, insisting that according to the customs of Akwa people, a woman could inherit the property of her husband whether she had a male child or not. The Akwa society arbitrated the dispute and agreed with her that she has a right to remain on the land. Nevertheless, the defendants disagreed with her. The contention was waved aside by both the trial and appellate courts which rule in favour of the plaintiff. Dissatisfied, the defendants appealed to the supreme courts. Though the defendants acknowledged the fact that the plaintiff had six female children, it was their argument that a woman without a male child in Akwa had no right of inheritance of any land except the one she purchased with her money. In dismissing the appeal, Justice Clara Ogunbiyi said the issue to be decided was whether the respondent (plaintiff) who had no male child can inherit the property of her late husband?

She held that the appellants had not given any credible evidence to overturn the judgment of the two lower courts. A custom of this nature in the 21st century societal setting will only tend to depict the absence of the relatives of human civilization. It is punitive, uncivilized and only intended to protect the selfish perpetuation of male dominance which is aimed at suppressing the rights of the women folk in the given society. For a widow of a man to be thrown out of her matrimonial home, where she had lived all her life with her late husband and children, by her late husband's brother on the ground that she had no male child is indeed very barbaric, worrying and flesh skinning. Justice Ogunbiyi of the apex court went ahead and awarded the cost of N200,000 against the appellants. Although the apex court has given its verdict on the issue, will it change anything among the people? Only time will tell says Okechukwu.

Lessons from the law Judgment

That was an impartial judgment from an incorruptible judge. A judge with a conscience and the fear of God. The judge did not stop at upholding the ruling of the lower court, she went ahead to award a cost on the appellant, this is indeed wonderful, and commendable Okrika people and other societies that practice this discriminatory culture based on gender bias should take a cue from this judgment. When such judgments are given the victor should stop at nothing in ensuring that the judgment is executed through a proper follow up. Women should be self assertive, don't be given to intimidation fight for your right until what rightly belong to you is delivered into your hands. The first and the second cases cited in this article show cased women who know their rights. Most often women are the architects of their own problems for giving up easily on such matters and only whoop up sympathy and sentiments for their failure to fight for their rights. If Mrs. Gladys Ada Ukeje in the first case and Mrs. Maria Nweke in the second case had kept quiet in a masculine dominance society, they would have been disinherited from what is rightly theirs.

Implication for Family Counselling

In view of the foregoing discussion of Gender bias and equal distribution of inheritance in Nigeria (the case of Okrika in Rivers State), the following is a summary of identified counselling implication to encourage gender equality.

As the Gestalt counselling theory of Fredrick Pearls put it the "whole" is better than the "parts", family counsellors should dwell on this in counselling family members. They should be made to understand that when women are discriminated against in distribution of inheritance, it will create emotional imbalance etc among family members and this cannot promote oneness among members. When the centre cannot hold, things will certainly fall apart and a family divided against its self cannot stand family counselors should stress the need for family members to stand together, undivided and promote oneness by sharing family inheritance equitably. Transactional Analysis of Eric Berne says "If you are Okay, I'm also Okay". Every member of the family should chant this course, after the distribution of family inheritance through the principle of equity, fair play and justice.

CONCLUSION/RECOMMENDATIONS

Women in Nigeria have suffered discrimination and marginalization in the name of culture and tradition by the men folk. Gender inequality and discrimination has eaten deep into the bones and marous of our society that is, it has become cancerous and will need an urgent and prompt surgical intervention to free

women from such condition before it gets to its terminal stage. The hope for the Okrika women is that change is inevitable and as such gender inequality and bias will soon be history and the Okrika woman will inherit what rightly belong to her and also occupy her rightful place in destiny and the society. On this strength it is recommended as follow:

1. Women in Okrika should assert for their rights and not give in easily to intimidation and fear of being ostracize.
2. The law is very clear on discriminatory practices; as such women should seek redress in the law court, when such discriminatory cultural practices are imposed on them.
3. Women groups in the 3 LGA's of Okrika clan should be formed to educate women, on the right actions to take when such practices come knocking on their doors.
4. The Okrika divisional council of chiefs, the highest decision making body of the clan, should revisit this aspect of the culture for a review in tone with the current trend in other parts of Nigeria. This is because culture is made for man and not man for culture.
5. Sensitization and advocacy campaigns should be carried out by government extensively as it did with Ebola in recent times against discriminatory practices and marginalization against women based on gender bias.
6. Finally women at the corridors of power should use their influence for the worthy cause of women in every areas of life.

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