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EVALUATING THE EFFECTIVENESS OF EXISTING LEGAL INSTRUMENTS ON ENHANCING WOMEN'S RIGHTS TO LAND AND PROPERTY IN JOS, NORTH CENTRAL NIGERIA

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ABSTRACT

There exists a persistent gap in landownership rights between men and women in Nigeria which is greatly influenced by cultural and traditional practices that discriminate against women. Despite all global, regional and national efforts to enact legal instruments, the signing and ratification of international agreements and the passage of laws which seek to protect the rights of women, by granting them equal land and property rights as their male counterparts, women in Nigeria still face discrimination over land and property ownership. This study was conducted in Kwang village, Jos south of Plateau state, Nigeria using a qualitative approach. Data were obtained using interviews and the respondents were selected using purposive sampling. Cultural practices which are patriarchal that favour the male above the female were the major barrier to women's rights to land and property. The majority of the women are not aware of the existence of legal instruments and non-implementation of such policies in the country is the reason for that. The study recommends strong political will to enforce the enacted gender-related laws and the need for awareness and advocacy campaigns within the society to create enlightenment on the need to incorporate women in inheritance sharing and land decision-making.

Keywords: Effectiveness, Legal instruments, Women's rights, Land and Property, Jos

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1. INTRODUCTION

Land has been recognized as a fundamental factor of production alongside labour and capital; it is a very important asset for food supply, shelter, and man's livelihood (Abubakar, 2021). Directly or indirectly, every human depends on it as a medium for wealth creation and a link to the next generation. Land is an asset that depicts the economic, cultural, political and religious status of an individual in a community. Studies have shown that landownership enhances socio-economic development in three major ways. First, it improves the income and living standards of households, promotes economic growth and increases the opportunities to access other basic necessities such as housing, agriculture, drinking water, sanitation, education, and healthcare (Carter, 2000; Cinnirella and Hornung, 2016; Muhammad and Abubakar, 2020). Secondly, it determines the extent to which the land is used, with significant environmental sustainability implications (Flower, 2018; Huang et al., 2019). Lastly, it promotes social and gender equality, and improves the social status and bargaining power of households (Ajala, 2017; United Nations, 2018). In sub-Saharan Africa, landownership is regarded as a source of wealth for households, a source of income (land rent) and it is equally used to access loans from financial institutions (Deininger et al., 2017).

As important as land ownership is, access to land is highly challenging especially among women in Nigeria, particularly in the Northern part due to cultural and traditional practices which discriminate against them. Traditionally, in many African countries including Nigeria, land ownership is predominantly through inheritance, influenced by prevailing customary and traditional practices (Oriaghan, 2018). The customary land tenure system is patriarchy in nature where men have a better chance of inheriting land compared to women (Chigbu, 2015). The cultural system recognises only the male children as heirs when it comes to land and property inheritance. The common practice in a typical Nigerian culture is that girls do not inherit land from their parents and women do not inherit the land of their husbands. In the Western part of the country, it is not culturally possible for women or girls to inherit land except in rare cases when there is no male offspring. However, Women in the Southern and Eastern parts share a similar fate with those in the North; they cannot inherit their fathers' land and property (Orighan, 2018). Women's claim to land is within marriage and it does not extend beyond that; at the death of their husbands or divorce, women lose all forms of rights to land (Global Coalition on Women and Aids, 2013). Chiwuzie et al (2021) confirmed that customary land management systems are highly characterized by discrimination against women. They do not have equal rights of ownership to land as the men thereby limiting their rights to secondary use rights which yoke their socio-economic and political rights under the men.

Women's land and property rights have received recognition and support globally. Many governments in Africa, including Nigeria are signatories to some regional and international treaties and legal instruments aimed at protecting women's rights to land and promoting gender equality. Nigeria is privy to some international, regional and sub-regional agreements and legal instruments that exist to promote women's empowerment and gender equality. The African Charter on Human and People's Rights (ACHPR) was domesticated in Nigeria in 1983; Article 18 (3) states that "the state shall ensure the elimination of any form of discrimination against women and also ensure the protection of the rights of the women". The Optional Protocol of ACHPR on the rights of women in Africa states that "a widow shall have the right to an equitable share in the inheritance of the property of her husband"; sub-paragraph (2) states that "women and girls shall have the same rights as men and boys to inherit in equal share their parents' properties". Article 5 of the Convention on Elimination of all Forms of Discrimination Against Women (CEDAW) without any reservation states that "State parties shall take all appropriate measures to modify the social and cultural patterns of conducts of men and women, with a view to achieving the elimination of prejudices and customary and all other practices which are based on the idea of the inferiority or the superiority of either of the sexes or on stereotyped roles for men and women". All signatory nations to these instruments are required to employ measures necessary to eliminate all forms of discrimination against women especially those pertinent to marriage and family relationships so as to ensure gender equality.

Several other national and international declarations exist on the need for equal rights to land and property regardless of gender differences. For instance, at the international stage, Nigeria is a signatory to Economic, Social, and Cultural Rights (CESCR). The Sustainable Development Goals (SDG), and the Solemn Declaration on Gender Equality in Africa, among others. At the national level, the right to freedom from discrimination is enshrined in the Constitution of the Federal Republic of Nigeria stating that no one shall be discriminated against by reason of his or her sex, religion, ethnicity, political opinion or the circumstances of his or her births. This clearly shows that all citizens have equal rights and it is a breach of the constitution to discriminate against women. The Land Use Act, as a remedial measure to the perceived inadequacy of the traditional land tenure system, purportedly nationalised the control of all lands in the country. The Act aimed at promoting free access

to land by all; ensuring fairness in the distribution of wealth in society, improving tenure security, and accelerating pursuit of efficiency in land administration and control, among others. Though the Act was meant to ensure gender equality in land allocation and management, it has continued to change hands in conformity with native laws and customs of the people. This has therefore hindered the effective implementation of the Act; hence it has failed to achieve its objectives of promoting equal rights to land and property by both men and women (Aluko and Amidu, 2006).

Enhancing women's property rights is very essential because it contributes to their social status, economic well-being and political power in the society. Improved access to land is key to economic development, both as a policy goal and as a lever to improve household welfare. The inability to protect women's rights to land limits their ability to access credits from financial institutions which increases women's poverty level and incidences of gender-based violence (Le Beau et al., 2004). Equal rights to land and property irrespective of gender is the basis for amending any form of injustice that comes from valuing one group over the other. Consequently, until men and women have equal rights to land property, achieving the agenda for Sustainable Development would become impossible because landlessness is a strong predictor of poverty (United Nations, 2018).

Despite all global, regional and national efforts to enact legal instruments, the ratification of international agreements and the passage of laws aimed at protecting the rights of women, there still exists a wide gap in landownership rights between the men and women in Nigeria as a whole. Attempts at addressing this anomaly through legislative instruments have not yielded the desired results. Behr, Groussard, Khaitina and Shen (2023) studied the position of the law on women's rights to land in sub-Saharan Africa. Onah and Obi-Obiora (2022) examined the conflicts between statutory and customary laws regarding women and the right to acquire and own land in Nigeria. Aluko (2019) examined the Yoruba, Hausa and Igbo customs and traditions and discovered that all these ethnic groups discriminate against women regarding land ownership due to the preference for customary land management systems as against statutory laws. Shehu and Jimale (2024) had advocated for equality through empowering women and girls with housing, land and property rights in Plateau State, Nigeria. In all these studies, customary practices stand out as a major barrier to women's rights to land and property. Even though such customary practices have been nullified by the courts, women are still discriminated against on issues of land ownership among the three major ethnic groups. Based on research conducted by various authors on women's rights to land and property in Nigeria, much has not been done to address the effectiveness of existing legal and policy frameworks on women's land and property rights in Northern Nigeria. This research therefore focused on the Kwang District of Jos, North Central Nigeria with a view to suggesting strategies for promoting and protecting women's rights to land. The cultures and traditions of the tribes in Kwang have striking similarities with others in the middle belt region of Nigeria. The researchers are of the view that, with little modification, the findings of this study will be applicable to the entire region and most parts of Nigeria that share similar cultures and traditions. This study, therefore, seeks to evaluate the effectiveness of the existing legal instruments in enhancing women's land and property rights in the Kwang District of Jos.

2. METHODOLOGY

2.1 The Study Area

Jos is a city in the Middle Belt of Nigeria, located at latitudes 9°45′00″N to 09°57′00″N and longitudes 8°48′00″E to 8°58′00″E (Akintunde, Adzandeh and Fabiyi, 2016). Jos City is located on the Jos Plateau, at about 1,238 metres or 4,062 feet above sea level. It has a population of about 900,000 residents based on the 2006 census. Jos City is the administrative capital and largest city of Plateau State. The city housed three (3) local government areas namely: Jos North, Jos South and Jos East. The city proper lies between Jos North and Jos South. Kwang is a settlement under Du district in Jos South LGA. Despite its proximity to Rayfield, where the seat of the Government is located, the impact of urbanization has not distorted its traditional structures; hence its traditional settings, which determine how the community is governed remain intact. Consequently, land management is still governed by customary practices.

2.2 The Study Sample

Kwang is a community of basically one tribe with a similar culture; the cultural and traditional practices that govern land administration are the same. In line with the types of research questions (what and how?), and the nature of the study, the qualitative approach was adopted which enabled the researcher to collect richer

information from a small group of respondents. The community is made up of six (6) major clans out of which only four (4) had produced the village heads. These four clans were adopted for the study and the respondents were purposively selected from those clans. The target respondents were heads of clans, oldest married women and oldest widows in each clan amounting to 3 respondents per clan giving a total of 12 (Table 1). Heads of clans superintend on cases pertinent to land ownership including inheritance, older women have witnessed more land-related disputes within families while widows have had personal experiences of how culture and traditions apply in terms of ownership of land especially among women. Hence, these groups of respondents were selected because of their experiences and knowledge about the subject of the study. Given that the culture and tradition were the same, the researcher considered 12 respondents to be adequate for easy management of the discussion sessions as well as the information obtained.

2.3 Interview Processes

Data was obtained through key informant interviews structured in line with the major themes of the study. The themes include ways of acquiring land and property in the community, barriers limiting women's rights to land and property, awareness of respondents on land-related legislations, the effectiveness of existing legal instruments in enhancing women's rights to land and property in the area, and strategies that can enhance women's rights to land and property in the area. Each interview session lasted approximately 20 minutes and was conducted over a period of 3 months. The session was concluded with an organised group discussion involving all the interviewees; questions relating to the themes of the study were asked and the responses received were verified by all the respondents. The essence was to confirm the truism of such statements and minimise possible biases from individual responses. Thematic analysis was used in analysing the data in which the recorded voices of the respondents were translated, transcribed and analysed in line with the themes of the study.

Clan Position **Suffix** Head of Clan Head of Clan 1 Fom Married Woman Married Woman 1 Widow Widow 1 Chung Tok Head of Clan Head of Clan 2 Married Woman Married Woman 2 Widow Widow 2 Head of Clan Head of Clan 3 Shok Married Woman 3 Married Woman Widow Widow 3 Head of Clan Head of Clan 4 Hweleng Married Woman Married Woman 4 Widow 4 Widow

Table 1: Interview Respondents.

(Author, 2024)

3. DISCUSSION OF FINDINGS

This study evaluated the effectiveness of the existing legal instruments in enhancing women's rights to land and property in Kwang, Plateau State. To achieve the aim of the study, it was necessary to determine the ways of acquiring land and property in the community, barriers limiting women's rights to land and property, awareness of respondents on land related legislations, effectiveness of existing legal instruments in enhancing women's rights to land and property in the area, and strategies that can enhance women's rights to land and property in the community.

3.1 Barriers to Women's Land and Property Rights

Identifying the barriers to women's rights to land and property was a key theme in this study; hence the respondents were propped on how people own land in their community or village, and all the interviewees agreed that land is owned basically through inheritance and purchase which is a recent development. In the words of Head of Clan 1: "There are basically two ways of owning land in this community, either through

inheritance or purchase especially in recent times. I have vast lands which I inherited from my late father. Based on our culture, land and property are inherited by male children after the death of their parents and that has been in existence since time immemorial. We do not share land and property with female children because they will be married into another family and so they have no share in their father's property". This statement on discrimination over women in terms of inheritance was confirmed by Married Woman 3 who stressed that: "land is owned majorly, through inheritance; however, this goes only to the male children; while men inherit land from their fathers, it is very difficult or impossible for women to inherit land owned by their parents or husbands in our culture". Widow 4 posited that "women are not part of inheritance sharing, I do not have any portion in my father's house and neither am I going to get from my husband's house; only my male children can inherit their father's land and property"

On the major challenges to women's rights to land and property in the study area, all the interviewees confirmed that cultural practice remains a strong barrier followed by poverty. In the words of Widow 1: "The major challenges to land and property ownership among women in this are cultural influences and poverty; as a woman, the only way to own land is through purchase if one can afford it; our culture forbids us from inheriting land either from our parents or late husbands." Married Woman 1 stressed that: "women do not own land in this community; we can only use our husbands' land for farming and for other purposes. The land is made available to you for use by your husband for as long you remain married to him and not ownership. We cannot inherit our husbands' land and property even after their death". Widow 2 submitted that "my late husband left us with a piece of land which we are using to farm. I can only use it as long as I remain in that family; based on our culture only my son has the right to inheritance. I am just a custodian of the land and not an owner". In the words of Widow 3, "My late husband's brother is threatening to take away the only piece of land left for me and my children because my son has not come of age, he even took a portion of it and gave to their sister who returned home because he had a problem in her marital home". "By tradition, only men are allowed to inherit land, women are not entitled to land inheritance; they can only buy land with their money if they have." (Head of Clan 4).

The responses clearly showed that the major hindrance to women's land and property rights is cultural practices which tend to favour the male more than the female child. In many States in Nigeria, land administration in most communities especially Northern Nigeria is governed by customary practices which are patriarchal in nature. Under the patriarchal system, men control a disproportionately large share of social, economic, political, and religious power, and inheritance usually passes down the male line. The culture and tradition of the people only recognise male children; female children are not regarded in customary land ownership. Land in the Kwang community is largely governed by cultural practices which indicates the absence of government in land-related issues. The provision in land-related legislation such as the Land Use Act 1978 which stipulates that, regardless of gender consideration, land should be allocated to citizens upon application and fulfilment of specified requirements is not been implemented. Consequently, ownership of land and property still remains extremely difficult among women in the study area and even neighbouring communities with similar cultures and traditions.

Unless land-related legislations are fully implemented to minimise the influence of cultures that discriminate against women, access to land and property among women will remain a mirage in most communities, especially in Northern Nigeria. The patriarchal system operating in Africa and Northern Nigeria is the major barrier to women's land and property rights. This is consistent with the findings of Thobejane&Murisa (2015); Obioha (2013); George et al (2015); and Chiwuzie (2021) who asserted that cultural practices of patriarchal system, religion, customs and traditions are the underlying significant causes of discrimination and unjust system limiting women's rights to land and property inheritance. Augustina et al (2021) also confirmed that customary systems are characterized by all sorts of discrimination against women on matters relating to land ownership. Women do not have equal rights to land as the men thereby limiting their rights to secondary use rights to land and other natural resources which yoke their socioeconomic and political rights under the men.

3.2 Effectiveness of Existing Legal Instruments in Protecting Women's Rights to Land and Property

Several efforts have been made regionally and globally to ensure gender equality by eliminating all forms of discrimination against women. This has resulted in several pronouncements and legislations aimed at protecting the rights of women to land and property. The respondents were asked about their level of awareness of these legislations and their responses are reported thus: "I don't know anything about human rights, law or organisations that protect women; in this community, the rights of women who are regarded as 'their husbands'

property' are defined by our culture and traditions; if there are such organizations, we wish to be enlightened on their existence and how to access them when the need arises" (Married Woman 4). Another respondent submitted that "I have heard about such organisations but do not know how to reach out to them; another issue is that our people frown at involving third parties in land-related issues as they consider it strictly family affairs; this discourages the few knowledgeable women from reaching such organizations to protect their marriages (Married Woman 1). In the words of Widow 1 "most of us have little knowledge of such organisations and their mode of operations. If we know them and where to find them, we will definitely patronize them for help."

On the effectiveness of these legal instruments and international pronouncements on the protection of women's land and property rights, the Head of Clan 1 submitted that "I have heard about human rights but I have never seen any of their documents that talk about women's rights. Some who claimed to have gone to the human rights still come back to us the traditional leaders to resolve their land and inheritance problems". Widow 4 reported that, "When my husband's brother threatened to take over the piece of land my late husband left for us, I approached one of such organisations through a friend; the case lingered on for long that we had to involve village head who invited the extended family members over the case. It was resolved that, since my two sons were still young, for me to continue using the land, I must not remarry but remain in the family according to our customs and traditions". Widow 3 posited that, "I do not believe that these legislations and even the constitution actually protect the women against discriminations. The laws are there but our rights, especially those relating to land ownership are been denied. In many local communities, such as ours, culture and tradition takes precedence such that, even government does engage or negotiate with 'land owners' to access land for public projects. One other challenge we face as women regarding human rights organisations is the issue of finance; some of us do not have money to approach them for help".

These findings showed that some women are aware of the existence of these legal instruments while the majority are not. The few that have knowledge of such do not even know where and how to access such help. This shows that the existing laws and legal instruments have not so much benefited women in this community since some of them do not have any idea that such organisations exist and some that have heard about it do not have the resources or know how to approach them. Folarin and Udoh (2013), affirm this assertion that in terms of legislation that promotes equal rights to land and property, women are still faced with a number of challenges arising from the pervading influence of ignorance, poverty and illiteracy. The instruments that are meant to protect women's rights are not in full operation in the country despite the signing and ratification of the same. Aluko and Amadu (2006) submitted that though the Land Use Act intended to promote efficiency and gender equality, its inability to locate where the allodial title resides has made it practically impossible to implement thereby making way for the customary system to prevail. Magawa and Hansungule (2018), affirmed that despite having good laws, women are still facing dilemmas which affect their land rights. In addition, such legislations are seen to be ineffective as they often fail to protect the rights of women in land-related issues.

3.3 Strategies for Promoting Women's Rights to Land and Property.

On the strategies adopted in protecting women's land and property rights in the study area, the Head of Clan 2 said "We have understood the vital role female children play in the family and society at large; those that are married take care of their immediate family and still contribute to the development and welfare of their paternal home. Women are the backbone of the society and so we are advocating in our community that girls should be included in inheritance sharing and our late father started that living us an example to follow. He gave the girls a portion to share though not equal with the boys but he has laid the foundation and other families are beginning to learn from his legacy". In the words of Head of Clan 3 "women should create movement groups and representatives that will speak on their behalf in the community; their voice need to be heard and that will make the men in the community realise their value and position and possibly consider their plea". Widow 3 suggested that "Village Heads and community leaders should help create awareness within the men folk of the need to include the girl child in inheritance sharing and to also protect the plight of widows in the communities". Married Woman 2 stressed that "Most victims are unable unable to seek for legal assistance because they do not have the money to pursue the process; hence women need to be empowered economically to be able to stand on their feet to challenge such injustice". In the words of Married Woman 4 "awareness should be created in our communities for the general public to know the importance of giving the female children a portion in land inheritance in their parents' house to help reduce many problems faced by women. Widows should be considered to inherit a portion of their late husbands' land and property, so as to give them a means of livelihood and a sense of belonging. In order to have our voices heard and for a better understanding of our rights, we have been insisting on sending our girls to schools to acquire western education which we believe will be a means of liberating the girl child. Married Woman 2 suggested that "fathers and husbands can actually

assist in minimising this injustice against the girl child while alive. In our own case, before our father died, he gave all the female children in the house one plot of land to share that is our own collective inheritance.".

From the above findings, it can be deduced that the measures taken in protecting women's land and property rights include awareness and advocacies in the community on the need for fathers to include their female children in inheritance sharing. The need for religious leaders to keep preaching it in their worship centres and meetings with other community leaders enlightening them on the benefits of including girls and women in inheritance. The women in the area have realised the importance of educating the girl child and have insisted on sending them to school to acquire Western education. The women are beginning to plead their course before their families and the community leaders for intervention. Empowering women both economically and educationally would go a long way in helping the women stand up for their rights in relation to ownership of land and property.

4. CONCLUSION

The study examined how legal instruments that were signed and ratified in Nigeria have enhanced women's rights to land and property. Findings revealed that despite the existence of these legal instruments in Nigeria, women are still denied rights to land and property. The laws and international declarations meant to address the anomaly exist only on paper but they are not fully implemented. The major barriers to women's rights to land and property are discriminatory laws and customs. Customary laws are still operational as women only have use rights and not absolute rights over land and property. These indicated a clear absence of government as land is still administered through cultural practices. There is a need for strong enforcement of laws that have been passed in the country and strong political support for women to enjoy their absolute rights to land and property. Advocacies and awareness campaigns should be encouraged so that women can realise their rights and speak out for them. As a matter of policy, the government should ensure the Land Use Act of 1978 is fully implemented to guarantee equal rights to land irrespective of gender. Enhancing the rights of women to land and property contributes to their social status, economic well-being and political power in society and will empower them both psychologically and economically. It is expected that, with little modifications, the recommendations of this study can be applied in other regions of the country facing similar challenges in order to enhance women's right to land and property.

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