

**WOMEN'S RIGHT OF INHERITANCE IN ESANLAND IN THE LIGHT OF  
NUMBERS 27:1 – 11**

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BENIN,  
BENIN CITY, EDO STATE, NIGERIA**

**JANUARY 2025**

## CERTIFICATION

This is to certify that the thesis “Women’s Right of Inheritance in Esanland in the Light of Numbers of 27:1-11” is an original work carried out by Gabriel Osezele UBUANE with Matriculation Number PG/ART1818742 in the Department of Religions, Faculty of Arts, University of Benin, Benin City, Edo State.

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## **DEDICATION**

This work is dedicated to my amiable wife Josephine and lovely children Confidence Osemudiabhen, Rejoice Ebosetale and Testimony Oseiwe for providing the comfort at home in the course of my research.

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## LIST OF ABBREVIATIONS

ACHPR	African Charter on Human and People's Rights
BPA	Beijing Platform of Action
CEDAW	Convention on the Elimination of all Forms of Discrimination Against Women
ICESCR	International Covenant on Economic, Social and Cultural Rights
NWLR	Nigerian Weekly Law Reports
OP-CEDAW	Optional Protocol to the Convention on the Elimination of all Forms of Discrimination Against Women
PACHPR	Protocol to the African Charter on Human and Peoples' Rights
UDHR	United Nations Universal Declaration of Human Rights

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## ABSTRACT

The aim of this study was to examine the age long practice of denying Esan women the right to inherit from their parents. This practice which is rooted in custom and tradition of the Esan people have resulted in social, economic and political disequilibrium among family members. Parents are abandoned by their rich children in protest of a tradition that denies them the right of inheritance. The objectives of the study were to analyze the geographical location and the world view of the Esan people, examine the phenomenon of inheritance in Esan land as it relates to women, investigate women's rights to inheritance, investigate the root causes of the denial of women's rights to inheritance in Esan land, bring to the fore the impact of disinheritance on Esan women, identify the similitude of Zelophehad's daughters in Numbers 27:1-11 with the Esan situation and investigate if Moses' judgement was a one-off practice or it became the norm in Israel.

The study deployed a multidimensional methodological approach. The first is African biblical hermeneutics approach which has to do with the decolonization of biblical studies by putting into consideration African social, cultural, political and economic environment in interpreting biblical text. Another is the exegetical approach of biblical inquiry. This approach, adopts the grammatico-historical analysis of words and clauses in biblical text and applies its findings to a particular context. Additionally, this thesis utilized various secondary materials such as Hebrew dictionaries, lexicons, journal collections, and library resources. Oral interviews were also conducted to get views of the Esan people on the subject of inheritance.

The findings of the research include inter-alia: that the denial of inheritance to women in Esanland is against the 1999 Nigerian constitution as amended in section 42 which protects every Nigerian against discrimination. Denial of inheritance to women in Esan is rooted in economic and spiritual matrix. The ancient Israelite society, though patriarchal in nature in an exceptional case gave inheritance of land to Zelophehad daughters; that the analysis of Numbers 27:1-11 is relevant to the

Esan context as a model to address women right of inheritance; that there is a similarity between the ancient Israelite custom of inheritance and the Esan people in relation to women; that in the course of this research it was discovered that the beneficiaries of this current system prefer the status quo. While other who are disadvantaged by the system want a change. The research concludes that Esan land faces the problem of implosion if inheritance laws are not amended. Moses' approach would go a long way in correcting a practice that has become a ticking time bomb in Esanland.

## CHAPTER ONE

### INTRODUCTION

#### 1.1 Background to the Study

The belief in the superiority of the male over female gender is somewhat universal. Hence cultures, both ancient and modern ascribe to women secondary roles and status. In some cultures, women were even denied right of existence. For instance, pre-Islamic Arabia was notorious for female infanticide because the female child was adjudged a liability due to her biological composition being that she could not go to war and defend the territory (Muslim Women's League, 1995). Women did not fare better in ancient Europe (Eda, 2018). Ancient Israel is a classic example of a patriarchal society in which women existence and relevance hardly deserve any historical documentation. Apostle Paul's judgement on women in 1 Timothy 2:11-12 "A Woman should learn in quietness and full submission. I do not permit a woman to teach or to assume authority over a man; she must be quiet", typifies the perception of women in Jewish tradition. African culture is akin to Jewish culture in the perception and treatment of women. Women in most African communities including Esanland are believed to be properties to be acquired by men sometimes without their consent. The mere receipt of dowry from a girl's father according to tradition signifies transfer of authority and ownership of the girl to the husband and indeed her husband's family.

In Nigeria, women suffer all forms of discrimination in all fronts. In politics and political participation, they are relegated to the background. The 1999 Nigerian Constitution guarantees the rights of women to participate in active politics, and to aspire to the highest office in the land. There may not be constitutional encumbrances to women participation in politics but the reality on ground is that women are marginalized or at best hold offices at the mercy of menfolk. The paucity of women in the National Assembly, for instance, attests to the gender imbalance in both chambers. For example, in the House of Representative and Senate, there about 20 women out of 469 members representing about

4.2%. Only about 26 countries of the world have women as their leaders. Again, there are few women monarchs the world over. Male child education is accorded greater attention over the female child where education is adjudged a waste of time and resources.

The argument often put forward by the men is that the business of politics is too demanding for the woman who by nature is a home keeper. The alienation of women goes beyond the sphere of politics. The statement of former President Buhari that his wife belongs to his kitchen and bedroom corroborates the widespread stereotype about women (Ayo-Aderele,2016). The World Bank reports that higher percentage of the world's wealth is in the hands of men (World Bank, 2022). This is so because of the imbalance in the inheritance cultures and traditions of most societies of the world that are against women.

In Esan land, the status of women is not better. For instance, women are discriminated against in Esan land in every aspect of the society, this is because of the patriarchal nature of the Esan society. Women are not permitted to inherit from their husbands and fathers by tradition even if they contributed to the acquisition of the assets in question. The extant culture bestows on the first son the right to inherit the entire property of the father to the exclusion of his siblings whom he is only expected to cater for. As most first sons hardly shoulder the said responsibilities, the aftermath is general breakdown of love, peace and harmony giving room for anger, witchcraft practices, poisoning and sundry vices.

The focus of this research is on the culture that denies women the right to inherit from their father and husband in Esanland. As the area is becoming increasingly evangelized, this essay recommends the adoption of Mosaic model in Numbers 27:1-11 in addressing an inheritance crisis between the daughters of Zelophehad and their uncles as it relates to the former right to inherit their father's land.

## **1.2 Statement of the Problem**

The major problem that this research seeks to address is the denial of the right to inheritance by women in Esan land. By tradition women are not entitled to inheritance rights either from their father, mother or husband. A practice prefixed on male child preference and the patriarchal nature of the Esan society. This study argues from the Mosaic perspective in Numbers 27:1-11 as it concerns Moses granting the request of the daughters of Zelophehad to inherit their father's assets notwithstanding the extant tradition which finds similitude in Esan culture.

Moses was so moved by the urgency and frustration of the daughters of Zelophehad that he had to tinker with an established tradition. Today Esan women are pained and worried as the daughters of the biblical Zelophehad. The dissatisfaction of many find crystallization in their non-committal attitude to family challenges, outright boycott of the first son and ill feelings against him. This study is informed by the need to address this injustice and gender discrimination in Esanland as it affects women's right to inheritance.

## **1.3 Research Questions**

In view of the research problem stated above, the following questions becomes pertinent:

- i. Do female children have inheritance rights in Esanland?
- ii. Why do Esan people deny the female child inheritance rights?
- iii. What is the position of the Nigerian constitution on the right of the female child to inheritance?
- iv. How does the historical context of the book of Numbers throw more light on the issue of female inheritance?
- v. How can the judgement of Moses in Numbers 27:1-11 be applied to the Esan situation?

## **1.4 Aim and Objectives**

The aim of this research is to provide a Bible based solution to the conflict which is rooted in the denial of inheritance to women among the Esan people. The objectives *inter alia* include:

- i to analyze the geographical location and the world view of the Esan people;
- ii to examine the phenomenon of inheritance in Esan land as it relates to women;
- iii to investigate women's rights to inheritance;
- iv to investigate the root causes of the denial of women's rights to inheritance in Esan land;
- v to bring to the fore the impact of disinheritance on Esan women;
- vi to identify the similitude of Zelophehad's daughters in Numbers 27:1-11 with the Esan situation and
- vii to investigate if Moses' judgement was a one-off practice or it became the norm in Israel.

## **1.5 Justification for this Research**

This research is meant to address a ramification of gender inequality between the male and female gender which manifest in the denial of right to inheritance of the female child. Men are favoured in the sharing of assets of the deceased to the detriment of their female siblings. The world today is characterized by deliberate effort to erode all known institutions and practices that promote gender disparity and one of them is inheritance tradition. A just inheritance law becomes therefore a modest contribution in this regard. Again, with the growing acceptance and influence of the Christian faith in Esan land, it is germane to apply biblical examples and solutions for what has become a complex, emotional and sensitive issue as inheritance. The study is a modest solution to a tradition that has set individuals, families and communities against one another.

## **1.6 Significance of the Study**

This research is important in the sense that, firstly; there is no scholarly work on inheritance in relation to women in Esan land. Inheritance matters in Esan land are based on oral tradition. Secondly, this work would be of immense benefit to women rights advocates and the human rights community in general. Thirdly, this work would serve as a resource material for sociologists, anthropologists and religious scholars who may wish to carry out further research on inheritance in Africa. And lastly, this work would contribute to the literature on contextual biblical studies.

## **1.7 Scope of the Study**

The study is on inheritance tradition in Esan land which comprises of five Local Government Areas namely: Esan West, Esan Central, Esan South East, Esan North and Igueben. Esanland with a projected population of 873,900 according to National Population Commission of Nigeria (2022) constitute Edo Central Senatorial District. The denial of inheritance right to the female child in Esan which finds similitude in Ancient Israelite culture (Numbers 27:1-11) would be viewed against the landmark judgement of Moses as justification to accord inheritance right to Esan women.

## **1.8 Research Methodology**

The research was both library and interview based. However, the contextual exegetical approach to biblical study is adopted. Contextual approach to biblical study is the interpretation of biblical texts to reflect African socio-cultural context. In other words, making biblical texts relevant to African audience. This approach can sometimes be referred to as biblical hermeneutics. Strengthening this point Ayantayo, (2015) posits that, "Biblical hermeneutics relate to the factoring of African social, cultural, political and economic frameworks into the interpretation of Biblical texts. This presupposes

reading or re-reading the Bible scripture by factoring into it the culture and background of Africa" (p.184).

Secondly, exegetical approach of Biblical study was also adopted in this research. Exegetical approach has to do with grammatico-historical analysis of words and clauses in a biblical text and applying its findings in a relevant context (Hayes and Holladay2007). In this case, Numbers 27:1-11 was analyzed grammatically in the original Hebrew Language and its findings applied to Esan context in relation to inheritance among women. Since this work was a library research with relevance to contemporary Esan context; books, journals, internet sources and materials that were relevant to the subject matter under consideration were also explored. Oral interviews were also conducted to elicit responses from respondents. These oral interviews were based on simple random sampling (a kind of representative sampling where the researcher randomly chooses some participants from a larger group.) from the five Local Government Areas that made up Esanland since it is not possible to interview every Esan man and woman on the subject matter. An interview is a discussion conducted between two parties or more to discover particular information (Leedy and Omrod, 2015; Fowler, 2014). The aim was to gather trustworthy and precise information on the subject of inheritance in Esanland from the participants. The interviews were structured to get quality outcomes.

## **1.9 Definition of Terms**

For the purpose of clarity and better understanding, there are some terms to be defined as they may be used and understood in this study. These include:

**1.9.1 Inheritance:** The concept of inheritance, regardless of societal variations, has a straightforward meaning. It pertains to the process of transferring the ownership of assets from a deceased individual to a living person (Thompson 2020). This understanding of inheritance forms the basis for the fact that it is only possible for inheritance to take place when an individual is deceased, and only the possessions

of the deceased can be inherited. In rare circumstances, property or inheritance rights may be transferred while the owner is still alive, although the actual inheritance process begins after the person's death. Muhammad (2020) sees inheritance as "the assets that an individual bequeaths to their loved ones after they pass away. An inheritance may contain cash, investments such as stocks or bonds, and other assets such as jewellery, auto-mobiles, art, antiques, and real estate," (p.34). For the purpose of this research, the researcher is concerned with assets/properties from father to his children.

**1.9.2 Woman:** A woman is described as a grown female who is often seen as less important than a man, having unique traits that differ from a male. In Nigeria, someone is considered an adult when they reach 18 years of age. While a girl under 18 is not seen as an adult in Nigeria, this thesis will use the term "woman" to refer to females regardless of their age or marital situation (Otaluka,1989).

**1.9.3 Rights:** Rights are privileges given to individuals because they are part of the human community. Human rights refer to the expectations that a person or a group has from the society they live in, and some of these rights are safeguarded by laws. The overall idea of human rights is that every person, regardless of their age, gender, or background, has the right to access and enjoy these rights without facing any discrimination. These rights that belong to us as members of humanity cannot be taken away (Oni,2008).

**1.9.4 Right of Inheritance:** In the context of property and estate law, right of inheritance signify the legal claim that people have to inherit property or assets from the estate of someone who has passed away. Usually, laws, customs, or wills control these rights, outlining who can inherit and the way the property should be allocated (Ajiboye and Yusuf, 2017).

**1.9.5 Esanland:** Esan is one of the ethnic groups in Edo State. They are found in Edo Central Senatorial District. They occupy five local government areas with headquarters in Ekpoma, Irrua, Uromi, Ubiaja and Igueben. They are sometimes referred to as Ishan (a word coin by the colonialists),

(Edetanlen, 1997). Their major occupation is farming. A detailed analysis of the Esan people will be done in chapter three of this work.

### **1.10 Division of Work**

This research is divided into six chapters. Chapter one has to do with the introduction, which includes, Background to the Study, Statement of the Problem, Research Questions, Aim and Objectives, Justification for the Research, Significance of the Study, Scope of the Study, Research Methodology as well as Definition of Terms. Chapter two focuses on the review of relevant literature on the theme of inheritance. Chapter three is on the Esan people. Issues discussed include: Geographical location, history, socio-economic, political and religious setting. Chapter four focuses mainly on the phenomenon of inheritance in Esanland and women's exclusion from inheritance. Chapter five is an exegesis of Numbers 27:1-11 and its possible application to contemporary Esan society. In chapter six the study ends with a summary of the study where the entire study is concluded and recommendations are made.

## CHAPTER TWO

### LITERATURE REVIEW

This chapter is a review of some existing literature and discussions on the subject matter of inheritance as it relates to women. Themes to be addressed are: the concept of inheritance, the Bible and women's right of inheritance, religious basis for women's right of inheritance, international, regional, national instruments for women's right of inheritance. Some existing theories on right of women to inherit would also be highlighted.

#### 2.1. Conceptual Analysis of Inheritance

In the words of Kehinde *et.al.* (2022) inheritance "implies property received from ancestors under the laws of intestacy or property that a person receives by bequest or devise"(p. 347). They argued further that these properties could be movable or unmovable (Kehinde *et.al.*, 2022). Inheritance as a law is as old as humankind. It has been practiced from one generation to the other till date. Succession is also interchangeably used with inheritance. Abikoye (2022) also sees inheritance as the transfer of property from one person to the other as a result of the death of the original owner of the said property. The right of a decedent's survivors to inherit property is governed by inheritance law. The system of inheritance in Nigeria is more patrilineal than matrilineal. There are two major systems of inheritance practice that are operational in Nigeria. They are called testate inheritance (with a will) and intestate inheritance (without a will).

##### 2.1.1 Testate Inheritance

Testate inheritance is a situation where a dead person makes a will before he/she passed on to the great beyond. In this instance, the wishes of the departed soul are fully implemented by the living to the letter. The deceased made predictions about how his assets (both personal and real estate) should be divided during his life time (NWLR,1999). It is important to remember that while a will primarily deals

with the distribution of property, it can also be used for other purposes and incidental matters, such as designating instructions for the disposition of the deceased person's body or even choosing a person to manage the Testator's estate (Abikoye, 2022). A will usually does not become effective until the testator passes away. Itua (2012) observes that "in Nigeria there is no uniformity of applicable laws relating to wills, "(p. 35). The observation of Itua above is so because the enforcement of wills is dependent upon, the contents and wishes of the testators from place to place.

### **2.1.2 Intestate Inheritance**

Intestate inheritance is the situation where a person dies without a will. Under the intestate succession, Nigeria operates three major system of law according to Itua (2012), "(a) The common law (English law system), (b), statutes (the Administration of Estate laws of various states), and (c), the customary law", (p. 35). According to Sagay (2006), the sort of marriage the intestate person entered into is the deciding factor in each situation as to which system should be used.

#### **2.1.2.1 The Common Law**

The common law originated from England. It is the English law practiced in Nigeria as a result of colonialism. Under this law, after marriage between a couple, rights and obligations are created, including financial commitments and the right to inherit the other's asset in the event of an intestate death. The widow and her children are the sole beneficiaries. Emordi (2022) supports the above position, when he states that, the claim to a spouse's property descended around the wife and children, who are heirs to the exclusion of everyone else. He further explains that the Matrimonial causes Act has upheld this view by declaring that the Testator's estate should be shared as follows: "One third to the wife and the remaining two thirds being shared among in equal portions amongst the children"(p. 14).

#### **2.1.2.2 The Administration of Estate Laws**

The administration of an estate is governed by the estate administration law of a citizen of Nigeria who is married under the marriage act but passes away intestate. This law applies only to a monogamous marriage. All the states that were created out of the former Western region have domesticated this law (Itua, 2012). The provision of this law according to Itua (2012) states as follows:

Where any person who is subject to customary law contracts a marriage in accordance with the provisions of the Marriage Ordinance and such a person dies intestate after the commencement of this law leaving a widow, or husband or any issue of such marriage any property of which the said intestate might disposed of by will shall be distributed in accordance with the provision of this law, any customary law to the contrary notwithstanding (p. 36).

This law offers protection to women regarding their husband's estate irrespective of what the customary law says. This is because their marriage is contracted under the Marriage Ordinance and is monogamous. This law also recognizes the right of a widow to apply for letters of administration to administer her husband estate especially when the children are still very young.

### **2.1.2.3 The Customary Law**

Since the beginning of time, there has been customary law as a system of law, which manifest itself in the daily cultural practices, rituals, and customs of a people.

Obaseki in *Oyewunmi v. Oyewunmi* (1990) defines customary law as follows:

Customary Law is the organic or living law of the indigenous people of Nigeria regulating their lives and transaction; it is organic in that it is not static; it is regulating in that; it controls the lives and transactions of the community subject to it. It is said that custom is the mirror of the culture of the people. I would say that customary law goes further to import justice to the lives of those subject to it.(p. 182)..

The succession laws of this nation's customary system are as diverse as the various ethnic groups that make up its population (Sagay, 2006). Under the customary law, a marriage contracted according to native law and custom without the deceased going to the Church or marriage Registry to marry his wife, inheritance will be by the deceased's custom if he dies intestate (Abikoye, 2022). It must be observed here that the rule of primogeniture (surviving eldest son of the deceased inherits everything) is the dominant factor in the customary system (Alajo, 2000). This practice is very common in traditional Nigerian societies. This system neglects women in the sharing of their husbands' properties and they are in fact treated as property to be inherited.

### **2.1.3 Primogeniture**

This is the rule of the surviving eldest son of the deceased inheriting everything that the late father had without putting the younger siblings into consideration. Under this rule, the eldest son of a family is given absolute, non-negotiable legal authority over all of the family's holdings, privileges and responsibilities. He resides in the family house as a trustee on behalf of other children (Elias, 1971). Primogeniture is a practice that is mostly perpetuated in Nigerian Cultures, including that of the Binis, Ishan or Esan, Owan, Igara and some others (Itua, 2011). Despite the coming of western civilization this practice is upheld till date with excessive zeal.

### **2.1.4 Patriarchy**

It is the domination of men over women culturally, economically, politically and socially in the society. According to Ferriera (2007) patriarchal structure is repressive as well as prejudiced. It is tyrannical in every aspect of society. It discriminates against women in its use of resources, administration of rewards, and use of both government and private power structures. For Walby (1990) patriarchy is a set of societal norms and systems where men dominate, exploit, and exclude women. Cockburn (2004) describes patriarchy as a system in which women and femininity are responsible for nurturing, submission, meekness, and dependence while males and masculinity are in charge and

exercising control over women. By favouring and sustaining male dominance, a patriarchal culture develops the "masculine feminine dichotomy" (p. 10). As a result, systems are managed across society to uphold and encourage this male dominance of women. Within the social structures like the traditional family clan, or tribe, men are viewed as the authorities. In such a system, powers and wealth are passed down from father to son, and succession is tracked along the male line (Dogo, 2014).

### **2.1.5 Land Tenure**

Land is a crucial resource for sustenance and prosperity of humankind all over the world. Land is an essential component of production. Although it is immovable and constitutes the tangible terrestrial, surfaces and housing with clearly defined geographic borders (Ezeh, et. al., 2022). The legal concept of " Land Tenure" refers to the ownership of land as opposed to merely holding it (Bruce, 1988 as cited in Ezeh, et.al. 2022). The powers to use, control and convey land holdings are included in this legal notion, which establishes the parties to whom, for how long, and under what terms the land may be kept, utilized and sold (Adams et. al, 1999, Garvelink, 2012; Madueke, 2014 as cited in Ezeh, et. al, 2022).

The three main categories of land are communal land, individual (or private) land and public (or state) land (Arua & Okorji, 1998). In pre-colonial Nigeria, land is owned by the community or the family rather than a single individual. The community has ownership rights over the land, which includes the ability to enter and exit the property. The right to own a piece of land is established by the community, which it may share among families or use jointly by the community as a whole (Famoriyo, 1979). Anytime community land is to be sold, the community's approval must be obtained. Contrariwise, in customary law, private tenure entails holding of land based on the family unit. In a private tenure system, the family head distributes land to family members, any sale or transfer requires his approval (Famoriyo, 1979).

### **2.1.6 Kinship**

Kinship is the bond among blood relatives who belong to the same family. Kinship is one of the main guiding tenets of human communities, which have their origins in mostly the extended family, Jackson (2015). According to Onwujuogwu (1995) Kinship is a socially accepted bond that can be traced back to the parent - child bond. While Mair (1972) opines that kinship is the biological lexicon through which social ties are expressed. Ewuruigwe, (1994) speaks of kinship in general term to mean a network of relationship that includes claims to assets, inheritance rights, responsibilities, authority, mutual respect and sexual discipline. Two types of kinship exist. They are one, consanguinity (which means related through blood) and two affinities (which means related through social process like marriage and adoption). From the above discussion, it is clear that inheritance can only take place within kinship relationship whether consanguinity or affinity.

Kinship involves two different kinds of descent. They are patrilineal; it is the tracing of one's family relationship through the father's lineage. People who are born into this system are naturally members of their father's kin for life (Kottack, 2004). So, they trace their father down to their great grandfather and beyond. Majority of Nigerian tribes trace their history through male ancestry (Okaba, 2005). The second is matrilineal, it is the opposite of patrilineal. People trace their ancestry through their mother's lineage in this system. They remain members of their mother's ancestry for life. In this system, only the offspring of female members are included in the matriarch groups (Kottak, 2004). It is interesting to note that under matrilineal system men are still considered as figure of authority (Jackson, 2015). Property inheritance for the children is also based on maternal relationship.

### **2.1.7 The Bible and Women's Right of Inheritance**

Under this section, this research will focus on the right of a daughter and widow to inherit.

#### **2.1.7.1 Daughter's Right to Inheritance**

In Numbers 27:8 intestate succession law states that if a man doesn't have a son, his inheritance shall pass to his daughter. The phrase "his daughter" could be interpreted as referring to the eldest or oldest daughter. Nonetheless, it is evident from the subsequent narrative in numbers 27:1-7 and Joshua 17:3-6 that all five of Zelophehad's daughters were entitled to and indeed did inherit their father's land (Heirs, 1993).

In Genesis 31:14-16 Rachel and Leah clearly anticipated receiving an inheritance from their father's estate, even though he had sons as well. Under Syrian law, daughters got inheritance, especially if they are senior to their younger siblings (Hiers, 1993). (Campbell and Freedman (nd.) as cited in Hiers 1993) asserted that Laban adopted Jacob in accordance with Nuzian customs, and that their business interests and other dealings were motivated by this relationship. Burrows, (nd) opines that when the women, complained that their father Laban had been spending the money given for them (Genesis 31:15), they may have been referring to their dowry, which was possibly in addition to their anticipated inheritance.

In a similar vein, Job's daughters also received inheritance from their father (Job 42:15). According to Meyers (2000) Job relegated to the background the Patriarchy tradition of his days to grant his daughters inheritance. She states further that Job did this in defiance to Mosaic Law in Numbers 27:1-11 and 36:1-13 which states that daughters can only inherit in the absence of male heirs. So, it was novel therefore for Job's daughters to receive inheritance along-side their brothers. Poole (1990) argues that Job may have given his daughters inheritance to encourage them to marry within their own religious family rather than to outsiders, who were idolatrous in character and in orientation.

#### **2.1.7.2 Widow's Right to Inheritance**

Numbers 27's intestate succession legislation did not include provisions for widows. The property of a deceased husband can, however be left to a widow via bequest. The Bible contains multiple passages that imply a widow could inherit her husband's land (Heirs, 1993). In Ruth 4:3 Boaz informs

the nearest relative to Elimelech that the widow Naomi is selling the piece of land belonging to her husband, it stands to reason that title would have legally transferred to her after her husband's death. Several elements of the book of Ruth also lend credence to the idea that Naomi received all of her late husband's property (Leggert, 1974).

Furthermore, it is made plain in three different texts, Ruth 4:3,5, and 9, that Naomi owned the field that once belonged to Elimelech her late husband. Apart from the field, Naomi also inherited the Bethlehem home where she had resided with her husband and sons prior to their departure to Moab. To be fair, Naomi's "home" is not mentioned in any text precisely. However, Ruth 2:23, which says that Ruth "lived with her mother-in-law", indicates that Naomi lived in Bethlehem (Heirs, 1993).

Two other accounts from the story of Elisha provide additional proof that widows received their husband's assets upon their demise. For instance, in II Kings 4:1-7, Elisha assists a widow by making her oil to flow until it yielded enough to settle her debts. The widow clearly inherited the family home and continued to live there with her sons. The narrative of II Kings 8:1-6 appears to also center on a widow with a boy; however, her husband, who was described as being elderly in II Kings 4:8-37, is not addressed at all in the passage which makes numerous references to her home and land. It is logical to assume that she acquired her husband's assets after he passed away (Heirs,1993). A text in Proverbs, (Proverbs 15:25), also implies that widows received their late husband's field or lands as inheritance. In the tale of Tobit, it is implied that a widow might receive her husband's property (Tobit, 8:20-21) (Pritchard, 1992).

### **2.1.8 Women's Right of Inheritance: A Historical Perspective**

On the issue of female inheritance rights, scholars have historically held divergent views. Ancient societies exhibited male dominated inheritance system. However, there were still exemptions. In ancient Athens as patriarchal as the society was then, there was still room for female inheritance

right. In ancient Greece, an *epikleros* (a female orphan) could inherit her father's estate in the absence of a male surviving son (Todd 1993). An *epikleros*, as soon as she was recognized as such, immediately came under the protection of the law and the administrator of justice in Athens, will have to officially endorse the family's choice about her. This was in contrast to a direct inheritance conveyed between a father and male heir, in which the state did not intervene (Harrison, 1968; Todd, 1993). In the event of an uncontested inheritance, the administrator of justice simply confirmed the family's decision through a process known as *epidikasia* (family adjudication on inheritance). If there was a disagreement about the inheritance and the matter went to trial, a jury made the decision in a *diadikasia* (judicial adjudication on inheritance), (Foxhall, nd.).

The specifics of what occurred to an *epikleros* varied on her age, fortune, marital status, situations at home, and the number of surviving family members she had. The ideal scenario was for her to wed her nearest patrilineal male relative, ideally her father's brother or father's brother's son. This is done in order to retain the estate she inherited from her late father within the family cycle (Foxhall, nd.). As attractive as it is to wed a rich *epikleros*, the status of her inheritance is put in abeyance until she produced offspring. Whenever the *epikleros* gave birth to a son, that son at puberty received his maternal grandfather's land, neither she nor her husband "owned" it, even though they have been making use of it (Foxhall, nd.). However, in the case of a childless marriage the said inheritance would return to the closest male relative (Harrison, 1968; Todd, 1993). Ancient Greeks made sure that girls were married legally and that the state upheld their rights, even when they didn't have close male relatives like a father or brothers to guard them (Schaps, 1979). The Athenian society was clearly concerned about the welfare of women, who lacked close male relatives to provide for them. Therefore, the state made sure females received dowries proportionate to the inherited estate of their fathers from their patrilineal uncles especially in the case of an *epikleros* who was already married and had children by a different husband. In such a case, her uncle acquired the land outright since she has chosen to renounce her entitlement to the property and remained with her husband (Foxhall, nd.).

It is important to note that, the laws governing intestate inheritance in Athens did not grant a widow any rights to her late partner's estate. In actuality, women in Athens generally had no claim to their partners' estates (Cudjoe, 2000). This is because the rule of primogeniture (eldest surviving male child inherits everything) was prevalent. However, despite this rule, some ancient Greek husbands left provisions in their wills for their wives' support and future needs. They did not just provide large sums of money as compensation in second weddings; they also left them a portion of their estates, thereby fulfilling their moral responsibilities (Cudjoe, 2000).

During the medieval period, the English society, though it was clearly patriarchal, developed strong inheritance rights for women even though, while they were still secondary to those of males, gave them some financial security and the chance to be independent, which lessened the power of men over women. From the inception of common law in the 1100s until the 1340s, women's property rights were firmly established within the legal and social spheres (Phifer, n.d.). Yet, since around 1100, maintaining the advantages of land control within the nuclear family had been the fundamental societal interest. Provisions for some female family members were also included in that interest. For instance, a widow had the right to dower, or a share of the land that belonged to her late husband (Phifer, n.d.). The advantages of giving at least some female family members financial stability were accepted by both men and women in English society. The first English legal system was characterized by a balance between male superiority and female protection inside the home (Palmer, n.d.).

All through the 1200s, the creation of strong legal safeguards was both necessary for and a factor in the rise of women's land rights. Beginning in the fourteenth century, those rights were acknowledged and safeguarded by common law. Women did acquire real property rights in the land, but they did so far less often than males and their rights were typically inferior to men's (Palmer, n.d.). For instance, a husband might have been in charge of his wife's property rights during their marital union. But his authority was only valid for as long as he lived. The need that a wife's agreement is obtained before her property could be permanently alienated was one way the common law established

this restriction. In addition to providing her with some economic security as a widow, she might reclaim land that her husband had illegally disposed of during their marriage. By the start of the fourteenth century, dower, the portion of her deceased husband's land that passed to the widow, was similarly securely safeguarded and generously defined (Palmer, n.d.).

Apart from the dower, the *maritagium* (a gift of land given to a bride by her father or relatives during marriage) was another source of inheritance for women in medieval England. *Maritagium* assisted the newlyweds in starting a home on their own and gave the wife some protection outside what she may have received in the form of dower from her husband. When the husband's father was still alive and the groom had not yet received his father's estate or when the groom was a younger son and hence unlikely to inherit, such a grant seemed especially appealing to the bride's parents (Phifer, n.d.). In the event of the wife's death without a child, the land usually reverts back to the family of the bride. However, *maritagium* seemed to have lost some of its significance by the early fourteenth century. According to Biancalana (2001), at the close of the first quarter of the 14th century, the normal marital transaction included money from the father of the bride and jointly-owned land from the groom's family. The reason for this change may not be unconnected with population growth and the fact that land too is limited in supply.

Another significant advancement in women's property rights from the second part of the thirteenth century into the fourteenth century was the institution of jointure (an estate given to a woman in lieu of a dower). In a jointure, a landowner and his wife had a joint tenancy in survivorship. The husband would assign trustees to his property, which would subsequently assist in returning the property to him and his wife jointly (Yen Lu, 2018). Wilson (1996) claims that jointure was designed to give wife stability when her partner passed away, wives actually had more trouble receiving the property from trustees. He states further that even while most marriage contracts by the fourteenth century gave the wife a joint participation in some of her husband's land (in itself partly an indicator of the wife's prominence), it was still difficult to inherit property.

In the modern period of England and Wales, emphasis was shifted to the common law in relation to women, property and inheritance rights. The right to dower (property inherited from a deceased husband) had been put in place by tradition, but it was unjust, a widow was only obligated to a 30 percent of her late husband's estate regardless of whether or not she had given birth to any child, while a widower was permitted under common law to the entirety of his late wife's assets, provided she had given birth to a living child (Laurence, 2009). In addition to providing financial stability for the newlyweds or widowed women, dower and dowry also symbolized the creation of new relationships which are varied greatly depending on the social standing, wealth, and geographical location of the family (Laurence, 2009).

A growing percentage of the populace created wills during the 17th century. Its wording was largely affected by the tradition that existed in cases of intestate succession, upon a husband's passing; the typical distribution was a quarter of the assets to his wife, a quarter to his children, and two quarters to distribute of as he chose. In a childless marriage, the widow received part of the estate, while the children too also received part of the estate where there was no widow present, with the testator keeping the other half to use as he saw fit in each event (Laurence,2009). As Laurence (2009) further says according to this formula, the courts were in charge of establishing the validity of wills and ensuring that their stipulations were followed. But starting in 1692, a judicial precedent was set that allowed a decedent to distribute his entire fortune how he pleased, thereby eliminating widows' protection. In reality, several protections persisted, such as the practice of permitting widows to take up their late husband's tenure of land. A kind husband can also provide more for his wife than she is entitled to. In contemporary England, women's right to inheritance is predominantly governed by the will of the testator. The U.K. society guaranteed women's right to inherit estates from their deceased husbands or fathers via the common law (Laurence,2009).

### **2.1.9 Religious Basis for Women's Right of Inheritance**

In order to govern human society, all major world religion have attempted to create a system of justice. Each religion has a specific procedure for passing on inheritance to the following generation (Morehouse, 2008). However, for the purpose of this research we shall concentrate our effort on Islam and Christianity and their views on women's right of inheritance.

#### **2.1.9.1 Women's Right of Inheritance: The Islamic Perspective**

The rights of women to inherit were not absolutely secured prior to the advent of Islam. The recognition of women as legitimate heirs to receive inheritance relied on the growth and civility of a culture as well as other factors. Because of this, some societies allowed women to inherit, while others did not (Sulong, 2015). This period in Islam is referred to as the *Jāhiliyyah* (the period of ignorance), (Haque, et.al., 2020).

The customs of the ancient Arabs to violate the rights of women to inheritance were institutionalized among the Bedouins in Saudi Arabia, Palestine, and Yemen. When Islam arrived, these oppressive habits underwent significant fundamental changes, and these improvements were made by rejecting the conventional Arabic tradition that forbade female children from inheriting and from continuing in the line of succession (Sulong, 2015). According to Anderson, et al. (1987), the coming of Islam during this period under review acknowledged the rights of women to inherit and also gave them the opportunities and benefits denied them before now. These Islamic regulations, which were fully implemented were applicable to all women, are deemed to be in line with the spirit of Islam, which promotes equality as well as justice.

The reforms brought by Islam during this period under discussion changed the status of women in relation to inheritance. The reforms brought about by Islam changed the inheritance laws in two ways: first, it makes women co-sharers with men (young or old), and second, it distributes the decedent's possessions democratically among his successors rather than giving it all to the eldest male

child as is the case in other cultures (Muhammad,2017). The basic inheritance rule outlined in the Holy Qur'an is unequivocal and is stated as follows:

“Men shall have a portion of what the parents and the near relatives leave, and women shall have a portion of what the parents and near relatives leave, whether there is little or much of it” (Q4:7). It is believed that the above quoted words came to Prophet Mohammed through divine revelation. However, the above revelation did not sit nicely with the Arabs, who desired that the new inheritance law be dropped or discarded because it went against their custom.

#### **2.1.9.1.1 Grounds for Inheritance in the Pre-Islamic Era**

The grounds of inheritance in Islam are listed as follows:

(a) *Nasab* (blood relation): This is a type of inheritance due to blood connection. Only male relatives of the decedent's family line were eligible to inherit from his estate, even at that, it is still those who fought along with the decedent that were allowed to do so. As a result, female and male relatives who are unable to use a weapon to defend their family or tribe, such as children, the mentally challenged, and the elderly were prohibited from gaining in the inheritance. Under this arrangement the female folk were totally excluded from inheritance (Idris, 2007).

(b) (*Al-tabanni* ) Adoption: Adoption was another ground of inheritance recognized by Pre-Islamic Arabian culture. This process involves adopting someone else as one's natural son; as a result, the adoptee is entitled to all the rights and privileges of a biological son including inheritance. If the adopter passes away without any son or sons, the adoptee will inherit all of his adopter's property. However, if the adopter has a son left behind, the adoptee is also automatically entitled to claim a share of the adopter's estate just like any of his natural sons (Keffi, 1989). Again, the notion of adoption was exclusively for a male child, not a female child, so the right of women to inherit was disregarded. The birth of a girl was actually considered disgraceful throughout the period under discussion, and many people would rather bury their female infants alive than have the embarrassment of keeping them. The question of adopting a female child does not arise at all in certain situations (Keffi, 1989).

(c) (*Nikah*) Marriage: Inheritance based on marriage relationship is a significant method that applies unfairness and discrimination against women. The husband is the only one who benefits; her blood relatives have no other claim to his deceased wife's entire fortune (Angulu, 2011). Yet, the wife does not have a corresponding right to inherit from her husband; to put it mildly, she was seen as a component of the deceased person's assets that may be acquired. In the event that no arrangement was made by the dead husband, his property is divided equally among his male relatives who were close to him during his life time (Angulu, 2011).

The Arabs further restricted the transfer of property within the household cycle, to which women were seen not to belong, in order to limit the rights of women. Furthermore, they were viewed as separate pieces of inherited property that belonged to the estate (Idris, 2007). With the rise of Islam, these injustices and the prohibition of women from inheritance, which reduced them to the level of personal property were eliminated, and a fairer and a just principle for inheritance was created, guaranteeing women's unalienable rights in a variety of roles, such as, daughter, sister, mother and wife. When Islam first emerged, the pre-Islamic system of inheritance persisted for a while before undergoing a significant reform (Idris, 2007).

(d) (*Al-halaf*) Military Contract: The military contract between individuals from various houses during this time was another significant basis for inheritance. It is a security alliance by which people, not related to one another by blood line, sign into a deal that they shall in exchange for a consideration of supporting each other in circumstances of war be given a share in other's property (Idris, 2007). According to this arrangement, whoever passes away before the other is eligible to inherit 1/6 of the other's fortune. Idris (2007) opines further that the agreement is written thus: "My blood is your blood and my avenge murder is your avenging murder. You will have the right to inherit me and I shall have the right to inherit you. You shall owe for my blood," (p.15). The agreement was judged complete if the other party agreed. Once more, it is clear that women are not included in this situation because the

defence agreement basically involves war, which they do not participate in, and they are therefore not eligible to inherit on this basis either (Idris, 2007).

#### **2.1.9.1.2 Women Rights of Inheritance in the Qur'an**

The Holy Qur'an provides for women's inheritance rights, the evidence of which is Summarised below:

**(a) Daughter's portion:** The Holy Qur'an declares that a daughter is an heir, and she is therefore always eligible to inherit. When there is no son, she receives her set portion; when there is a son, she becomes nonessential (Q 4:11), (Hussain, 2005). Three inheritance options are available to a deceased person's daughter under various circumstances: One, she is eligible to half of the personal estate of her dead parents if she is the only child, in the case of no son (Hussain, 2005). Two, if there are two or more girls, each one is allocated two-thirds ( $2/3$ ) of the personal estate in the case of no son. The two-thirds ( $2/3$ ) will be distributed evenly to them (Gurin, 1998). Three, in the event of a surviving son or sons, the share for a daughter or daughters become nonessential. In this case half of the portion of the son goes to each daughter (Gurin, 1998).

**(b) Widow/Wife:** The widow is one of the principal beneficiaries who can be removed from the inheritance if there is any obstacle. When a husband passes away, his wife becomes a widow. So, the Qur'an has made provision for the wife of the deceased so that she will not suffer (Qur'an 4:12) (Hussain, 2005).

**(c) Mother's Share:** A dead person's mother is also a beneficiary of inheritance according to the Holy Qur'an (Q 4:11). Her share may be impacted by three circumstances as follows: One, she receives a sixth ( $1/6$ ) with a son's child, regardless of how small, or two or more, full or half-blooded siblings (Gurin, 1998). Two, in the event that, she has no surviving male child or grandson, and not more than one brother or sister (consanguine or uterine), she is entitled to one-third ( $1/3$ ) of the

overall estate (Hussain, 2005). Three, in the event that both the decedent's father and wife are alive, the mother receives one-third (1/3) of the balanced property after the father and wife of the deceased have received their own shares of the inheritance. Despite the above submission, if a grandfather exists in place of a father, the mother receives one-third (1/3) of the total inheritance (Hussain, 2005).

**(d) Grandmother's share of Inheritance:** There is no direct reference to grandmother's inheritance in the Qur'an. Instead, she was added to the inheritance list through the Hadith (Solahudeen, nd). If the paternal grandmother is the only heir still alive, she will receive one-sixth of the estate. When other heirs are present, excluding the maternal grandmother, she receives the same amount (1/6); if paternal and maternal grand mothers are both alive, they must divide the 1/6 equally. Likewise, if the only heir is the maternal grandmother, she receives 1/6 of the inheritance. She shares the same 1/6 of the inheritance when there are other heirs present, excluding the paternal grandmother (Muhammad, 2020).

**(e) Sister's share of Inheritance:** In Qur'an (4:176) sisters are eligible for inheritance. According to this view, full sisters, consanguine (sisters of the same father but different mothers) and uterine sisters (sisters of the same mother but different fathers) are provided for in the inheritance law, even though the share of each inheritance differs (Solahudeen, nd.). At this juncture, it is interesting to note, that from the available evidence above, the religion of Islam has made enough provisions for the inheritance of women so that their socio-economic status will not be in jeopardy.

### **2.1.9.2 Christianity and Women's Right of Inheritance**

The Christian faith is a force for women's liberation. Christianity stands up for the rights of the underprivileged and is opposed to slavery, tyranny, and man's inhumanity to man. In relation to

women's rights of inheritance the Old Testament as part of the Christian Scripture serves as a background to this discussion.

In the Torah, women and men had nearly equal rights in financial matters. A woman had the right to her own property including land, animals and slaves. In the event of no son (s), a woman could receive everything as well as the right to receive any bequests that were made to her as a final gift. As a final gift, a woman would also leave her possessions to others (Rich, 2011). In addition, daughters were eligible to inherit, but only if there was no other option (Numbers 27:8-9).

In the New Testament times, Jesus upholds the liberation of women, even though ancient Israel's society was patriarchal in nature. Jesus did not discuss the issue of inheritance as a subject in his ministry. However, when a man came to Him to ask that he should help resolve the issue of inheritance between him and his brother, Jesus' reply was shocking to the man. (Luke 12:13). This is because the issue of inheritance had already been settled in the Torah (Deut.21: 15-17). Jesus also said he came to fulfill the Law of Moses and not to cancel them (Matt.5:17). This means that Jesus upholds the traditions of his day that were not against the will of God, including women's right of inheritance. It is therefore safe to conclude that Jesus did not devalue women and their needs.

In addition to the aforesaid, Apostle Paul treated women as important members of the society. He claims in Gal. 3:26–27, that the redeeming work of Christ had altered all relationships. Under his teachings, Paul explained that hierarchical relationship is replaced by a new one that incorporates functional distinctions and gender equality, as men and women are equal before God (Vorster, 2004). It is not appropriate to cite Paul's two letters to the Corinthians and Timothy that criticize women (1 Cor. 14:33–34 and 1 Tim. 2:11–15) as moral or religious guidelines to support discrimination in the church, the home, and society. This is due to the two messages' original purposes, which were not to encourage or support discrimination but rather to address specific issues and emphasize the functional differences between men and women at the time (Silas, 2017).

From the foregoing, it is evident that, Christianity acknowledges the place and rights of women in the home, the church, and society. It is against all forms of inequality against women including disinheritance.

#### **2.1.10 International, Regional Conventions and National Instruments: Basis for Women's Right of Inheritance**

In this section under review, emphasis will be placed on international, regional and national instruments that guarantee women's right for inheritance. These instruments recognize women's fundamental human rights and offer them protection against all forms of discrimination and segregation in all spheres of life.

##### **2.1.10.1 International Instruments for Women's Right to Inheritance**

###### **2.1.10.1.1 Universal Declaration of Human Rights 1948**

The Universal Declaration of Human Rights (UDHR) is the first international document to specify the rights that should be granted to every person. All human beings are born free and equal in dignity and rights," (UDHR, 1948, Article 1), it declares. Demonstrating a commitment to human rights on a global scale, the General Assembly unanimously ratified the Declaration. According to this document, "the inherent dignity and equality of all members of the human family as the foundation of freedom, justice and peace in the world" (UDHR, 1948, Preamble, Paragraph 1), is not negotiable.

The rights outlined in Article 2 of the UDHR may be exercised without restriction of any type, irrespective of sex or other status. The UDHR lays out a uniform norm that accords fundamental rights to everyone. Everyone is guaranteed the right to own property, and it fully recognizes property rights as human rights, (UDHR, 1948, Article 2). It is generally accepted that property rights must be purchased, gifted, or inherited in order to be gained.

Apart from what is stated above the under mentioned articles also provide guarantee for women and offer them protection as follows:

Article 5: No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. Women should not therefore be cruelly treated or marginalized in the family. Article 6: Everyone has the right to recognition everywhere as a person before the law. Women should be given due recognition everywhere. Article 7: All are equal before the law and are entitled without any discrimination to equal protection of the law. All are entitled to equal protection against any discrimination in violation of this Declaration and against any incitements to such discrimination. Article 17: (i) Everyone has the right to own property alone as well as in association with others. (ii) No one shall be arbitrarily deprived of his property (UDHR, 1948, Articles 5, 6, 7 and 17).

#### **2.1.10.1.2 International Covenant on Economic, Social and Cultural Right 1966**

In accordance with the principles stated in the United Nations charter, the International Covenant on Economic, Social, and Cultural Rights recognizes "the inherent dignity and the equal and inalienable rights of every member of the human family," (ICESCR, 1966, Preamble, Paragraph 1). The ICESCR is particularly exceptional in that it recognizes efforts to lessen the unfairness and inequality experienced by women. The ICESCR requires state parties to ensure that the rights outlined in the covenant are practiced without discrimination. Thus article 3 of this covenant states as follows: "The States Parties to the present Covenant undertake to ensure the equal right of men and women to the enjoyment of all economic, social and cultural rights set forth in the present Covenant," (ICESCR, 1966, Article 3). Thus, true equality for men and women is covered by the ICESCR document.

#### **2.1.10.1.3 Convention on the Elimination of all Forms of Discrimination against Women**

CEDAW (1981), believe in the equality of rights for all persons, the value of every individual and the inalienable rights given by God Himself to every individual. It reaffirms further that states who are signatories to this document are required to guarantee that all individuals have equal access to enjoy all rights in all fields of human endeavours.

Article 2 challenges States Parties to put in place policies and constitutional amendments to eliminate all forms of discrimination against women. It states inter alia:

( a) To embody the principle of the equality of men and women in their national constitutions or other appropriate legislation if not yet incorporated therein and to ensure, through law and other appropriate means, the practical realization of this principle; (b) To adopt appropriate legislative and other measures, including sanctions where appropriate, prohibiting all discrimination against women; (c) To establish legal protection of the rights of women on an equal basis with men and to ensure through competent national tribunals and other public institutions the effective protection of women against any act of discrimination; (d) To refrain from engaging in any act or practice of discrimination against women and to ensure that public authorities and institutions shall act in conformity with this obligation; (e) To take all appropriate measures to eliminate discrimination against women by any person, organization or enterprise; (f) To take all appropriate measures, including legislation, to modify or abolish existing laws, regulations, customs and practices which constitute discrimination against women; (g) To repeal all national penal provisions which constitute discrimination against women, (CEDAW,1981,Article 2,).

In matters of international conventions on women's right, the CEDAW document has provided a very robust framework in tackling the issue of discrimination against women. Concerns were raised by the CEDAW Human Rights Committee in 2013:

That identity-based personal status laws and customs perpetuate discrimination against women and that the preservation of multiple legal systems is in itself discriminatory against women, and that the lack of individual choice relating to the application or observance of particular laws and customs exacerbates this discrimination, (CEDAW,2013 General Recommendations No. 29, Paragraph 14).

The Committee added further that:

Many States parties, by law or custom, deny widows equality with widowers as to inheritance, leaving them vulnerable economically upon the death of a spouse . . . in some States parties, widows are subject to “property dispossession” or “property grabbing”, in which relatives of a deceased husband, claiming customary rights, dispossess the widow and her children from property accumulated during the marriage, including property that is not held according to custom. They remove the widow from the family home and claim all the chattels, then ignore their concomitant customary responsibility to support the widow and children. In some States parties, widows are marginalized or banished to a different community, (CEDAW, 2013 General Recommendations, No. 29, Paragraph 49 and 50).

It must be emphasized here that despite the provisions of CEDAW women still face discrimination and segregation in most parts of Africa.

#### **2.1.10.1.4 Optional Protocol to the Convention on the Elimination of all Forms of Discrimination against Women**

The institutions for defending women's rights on a global scale have been greatly reinforced through the instrumentality of OPCEDAW in the year 2000. The Protocol was created as a result of debates among some member States over the wisdom of incorporating individual complaints within the Convention's structure. A method that would let specific women in member States as an individual speak with the Committee directly was deemed necessary by state parties. The system chosen enables individual women to report any purported breach of any of the content of the OPCEDAW document (Byrnes and Bath, 2008). Channels for individual grievances and inquiries are incorporated into the optional protocol. The system put in place allows the Committee to look into grave and persistent violations of women's rights in member States (Byrnes and Bath, 2008). Women who would not ordinarily have had access to the Committee's processes now have the opportunity to CEDAW as result of the system put in place.

OPCEDAW is a potent instrument that gives women the chance to stand up for their interests and combat gender discrimination, relationship abuse, and negative cultural practices, which are harmful to women's health and wellbeing. OPCEDAW has not been able to put an end to the discrimination of women though its effort is commendable.

#### **2.1.10.1.5 The Beijing Platform of Action 1995**

The Beijing Declaration and Platform for Action, was the outcome of the Fourth World Conference on Women in Beijing, China in 1995. It is the most forward-thinking plan ever for improving women's rights. Gender equality, prosperity, and security were among the objectives outlined in the Beijing Declaration and Platform for Action, along with a plan for the empowerment of women.

Twelve critical areas were identified in the 1995 Beijing Platform for Action as requiring immediate attention if women and girls are to experience more equality and possibilities. The

framework for action also outlined specific strategies for enacting change. Of the Twelve critical areas of concerns the following are relevant to this research:

(1) Women and poverty: Women need to be economically empowered, hence poverty must be eradicated. (2) Women and the economy: Giving women equal access to properties can increase their economic potential. (3) Institutional mechanisms for the advancement of women: legislation and public policies need to take gender equality into account. Inequality in the societal structure will be made clear by doing this. (4) Human rights of women: The promotion and protection of women's inheritance rights will be achieved through the application of human rights instruments. (5) The Girl-Child: Eliminating all forms of prejudice, including harmful traditional practices that target girls must be discouraged (Beijing Declaration and Platform for Action, 1995, Chapter Four).

In spite of all efforts to fully implement the Beijing Declaration and Platform for Action (PFA), women in Nigeria continue to face restriction in their access to limited resources, particularly land, and this has been a significant factor in the widening gap in poverty between men and women. Patriarchal structure, oppressive customs and antiquated laws are responsible for the discrimination against women (Folarin and Udoh, 2014).

#### **2.1.10.2 Regional Instruments for the Protection of Women's Right**

##### **2.1.10.2.1 African Charter on Human and People's Rights (ACHPR)**

This Charter came into existence in 1986, through a simple majority of (twenty-six) of the fifty African member States of the Organization of African Unity (OAU). The importance of human rights concerns to African women is emphasized in this document. In Article 1 of this Charter, member- states are charged to recognize the rights and freedoms of every individual without let or hindrance.

Article 2 of this Charter further gives vent to the rights of an individual in member- states as follows:

Every individual shall be entitled to the enjoyment of the rights and freedoms recognized and guaranteed in the present Charter without distinction of any kind such as race, ethnic, group, colour, sex, language, religion, political or any other opinion, national and social origin, fortune, birth or other status (ACHPR, 1986, Article 2).

Article 14 of this Charter also provides for property rights of people residing in member-states. It declares that: “The right to property shall be guaranteed. It may only be encroached upon in the interest of public need or in the general interest of the community and in accordance with the provisions of appropriate laws”, (ACHPR, 1986, Article 14). To further guarantee the peoples’ rights to property, Article 21 further re-enforces that right by declaring that: “All peoples shall freely dispose of their wealth and natural resources. This right shall be exercised in the exclusive interest of the people. In no case shall a people be deprived of it”, (ACHPR, 1986, Article 21). Article 21 stipulates as well that: “In the case of spoliation the dispossessed people shall have the right to the lawful recovery of its property as well as to adequate compensation”, (ACHPR, 1986, Article 21, Paragraph 2).

From the above analysis, it is clear that this Charter guarantees people’s right to wealth and natural resources. However, the facts on ground do not show that women are given opportunity to access land and natural resources. In practice, throughout Africa, women's rights to land as well as other natural assets are constrained by direct discrimination within the family. This practice limits women's right to manage property especially land as well as to inherit. In the rural areas of most African communities where inheritance is the major method of acquiring land, discriminatory succession practices have a severely detrimental impact on women's land ownership.

In Africa, discrimination limits women's access to land particularly for agricultural purposes. Land allocation are male dominated, and are given to men on permanent basis; while for women reverse is the case. Furthermore, land titles are frequently awarded in the name of the family leader,

who in most cases is typically the man. In practice women's rights are curtailed unlike the men who controlled majority of the land.

#### **2.1.10.2.2 Protocol to the African Charter on Human and Peoples' Rights (PACHPR)**

This Charter came into force in 2005 through the instrumentality of the African Union in Maputo, Mozambique. Thus, it became known as the Maputo Protocol. It is a human rights instrument created to guarantee the rights of women. There are about twenty –four (24) articles on this Charter covering women's rights. All State parties to this agreement were obligated to take legal, structural, and other steps to make sure all individuals are given equal treatment in order to fight all forms of prejudice against women (PACHPR, 2005).

Under this instrument, governments are obligated to take the necessary steps to advance equal treatment and safeguards for all, including ensuring that women have effective access to legal representation, that law enforcement agencies properly interpret and uphold the rights of women to justice, and that oppressive laws and procedures are changed to advance and preserve women's rights. To further promote and strengthened women's right, member states to this protocol are charged to: "prohibit and condemn all forms of harmful practices which negatively affects the human right of women and which are contrary to recognised international standards," (PACHPR, 2005, Article 5).

At this point, it is pertinent to note that the relevance of Articles 20 and 21 of this protocol to this research work cannot be ignored. Article 20 talks about widows' rights in which member states are challenged to take legal measures for the protection of widows. Article 20 declares as follows:

- (1) That widows are not subjected to inhuman, humiliating or degrading treatment;
- (2) That a widow shall automatically become the guardian and custodian of her children, after the death of her husband, unless this is contrary to the interests and the welfare of the children;

(3) That a widow shall have the right to remarry, and in that event to marry the person of her choice (PACHPR, 2005, Article 20).

Similarly, on widows right to inheritance Article 21 declares thus:

- (1) A Widow shall have the right to an equitable share in the inheritance of the property of her husband. A widow shall have the right to continue to live in the matrimonial house. In case of remarriage, she shall retain this right if the house belongs to her or she has inherited it.
- (2) Women and men shall have the right to inherit, in equitable shares their parents' properties (PACHPR, 2005, Article 21).

From the foregoing analysis, it is evident that this Protocol under discussion made provision for women's right. However, in practice Africa is still far behind the rest of the world on women's rights.

### **2.1.10.3 National Instruments for the Protection of Women's Right**

#### **2.1.10.3.1 Constitution of the Federal Republic of Nigeria 1999 (as amended)**

The CFRN 1999, which is the grundnorm, guarantees the fundamental human rights of all persons in Chapter Four. Under this section there is no inequality between male and female. The Constitution offers protection for all persons irrespective of sex, age, religion and status, (CFRN, 1999 Chapter Four). The 1999 Constitution took a position on women's right to property, when it declares that: "every citizen of Nigeria (male and female) has rights to own property individually or in association with others" (CFRN, 1999 Section 42).

The Constitution also prohibits the forced acquisition of movable or immovable property. Section 44 declares as follows:

No moveable property or any interest in an immovable property shall be taken possession of compulsorily and no right over or interest in any such property shall be

acquired compulsorily in any part of Nigeria except in the manner and for the purposes prescribed by law (CFRN, 1999 Section 44).

From the above section, it can be said that the Constitution did not provide for the forced acquisition of property from women or men. Therefore everyone (women inclusive) is free to own or inherit property in accordance with the Law of the land, the Constitution.

#### **2.1.10.3.2 The Supreme Court of Nigeria**

After many decades of military dictatorship, Nigeria is now experiencing the emergence and consolidation of democratic governance. As a result, courts are taking an extremely activist stance by ruling on the legitimacy of various laws that discriminate against women. Judges have cited the African Charter on Human and Peoples' Rights, the repugnancy theory and the 1999 Constitution of Nigeria as authority to invalidate some of these discriminatory practices (Ekhaton, 2015).

The Supreme Court as a Court of policy has ruled in the past that discriminatory practices against women are illegal and unconstitutional. In *Onyibor Anekwe and Anor v. Mrs Maria Nweke*, an alleged disinheritance of a widow for failing to bear a son was the issue in the case. The court was to decide whether the Awka custom (in Anambra state), which stripped a widow of her rights to her deceased spouse, or father's property is opposed to equity, natural justice, and morality. This case started from the Lower court, to the Appeal court and finally to the Supreme Court. At the Supreme Court this case was decided in favour of Mrs. Maria Nweke, the plaintiff as follows:

A custom of this nature in the 21st century societal setting will only tend to depict the absence of the realities of human civilization. It is punitive, uncivilized and only intended to protect the selfish perpetration of male dominance which is aimed at suppressing the right of the womenfolk in the given society. One would expect that the days of such obvious differential discrimination are over. Any culture that disinherits a

daughter from her father's estate or wife from her husband's property by reason of God instituted gender differential should be punitively and decisively dealt with. ...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 brothers on the ground that she had no male child, is indeed very barbaric...(NWLR, 2014, 9, PT. 1412, 393).

In the extract above, the Supreme Court of Nigeria applied the repugnancy test, (the process of establishing the repeal or rejection of a customary law that is perceived as inhuman to the society) and refused to uphold and enforce a customary law and practice which is repugnant to natural justice, fairness and morality. As a result of this ruling, courts are now required to use the repugnancy test in addressing problems with traditional law and custom that undermine the rights of women and gender equality.

Similarly, the Supreme Court also took a decision on the case of *Mrs Lois Chituru Ukeje & Anor v. Mrs Gladys Ada Ukeje*. In this case, the court's decision was supported by the constitution's anti-discrimination and equality clauses. A key question in this case was whether the Igbo customary law or practice, which prevents children born outside of marriage from receiving the benefits of their father's estate, is constitutional. The Supreme Court found as follows in a decision by Justice Rhodes-Vivour, with which the other Justices concurred:

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 estate is in breach of section 42(1) and (2) of the Constitution, a fundamental rights provision guaranteed to every Nigerian. The said discriminatory customary law is void as it conflicts with section 42(1) and (2) of the Constitution, (NWLR, 2014, 11, PT. 1418, 384).

The Supreme Court's rulings in these cases are really admirable. These have given women right in general, and right to inherit property in particular, broader judicial and thematic grounds for protection. The debate regarding women's inheritance rights under customary law has finally been resolved by these judgements referred above. It is now well-established and obvious that any customary law or practice that disinherits a woman violates natural justice, equity, and morality, and also additionally in contravention of Section 42 of the 1999 Nigerian Constitution as amended. It makes no difference if the female child is conceived outside of marriage or not.

## **2.2 Empirical Literature**

In this section, the work does a review of some selected literatures that have been written on the subject of women's inheritance rights in some other tribes in Nigerian.

### **2.2.1 Inheritance Rights, access to Property and Deepening Poverty situation among Women in Igboland, South East Nigeria, Obioha (2003)**

In this paper, the author argued that denial of inheritance rights to women in Igboland is a major factor responsible for poverty among women in the South East of Nigeria. He noted that since time immemorial, the issue with most patriarchal communities, including the Igbos of south-eastern Nigeria, is the inequality of power, placement of male and female offsprings in relation to inheritance. The rights of women in this regard have been pushed to the side while men are seen as the heirs and apparent successors to economic and social powers. This permanent circumstance exacerbates the women's population's seeming poverty and increases their vulnerability to extreme poverty relative to their male population. It follows that a male child's economic circumstances or level of poverty could change for the better through inheritance, but on the other hand, a woman's situation could deteriorate.

The fundamental premise of this argument is that Igbo inheritance rights and access to property laws worsen women's already dire economic circumstances in that culture. In the light of this, this

article focuses on analyzing the relationship between inheritance rights and the state of poverty among women in Igboland.

This author started by analysing inheritance procedure and access to property in Igboland. Inheritance is handled in a distinctive way by the Igbo people of southeast Nigeria. For them, inheriting property is a procedure, a major "rite or, order of passage." It is the established method for transferring ownership of real estate and personal property. Inheritance serves several essential purposes, in addition to the economic transfer of property; it also has sociological implications for the Igbos. From a sociological perspective, inheritance fills the generational gaps and serves as a social link between those involved. According to Igbo religious worldview, passing down property from a father to his offspring implies a mythical or spiritual presence. By having his property transferred, the owner is demonstrating that he has attained total spiritual righteousness in the ancestral world. This leads to the idea that it is a curse in Igboland for someone not to have children to inherit them, either by not having children through procreation or having their offspring pass away while they are still living.

It is crucial to understand that among the Igbos, the rule of inheritance of property, including land, is founded on the traditional system of blood line. Intestate inheritance (traditional method of inheritance without a written will) procedure is very common and regarded as normal in Igboland. Whatever a person buys or inherits may be passed on to a beneficiary, when considering inheritable elements. Except in cases when they are not the deceased's "original" property, all mobile and landed property can be inherited. Among the Igbos, inheritance involves more than just property sharing. Both a man's assets and liabilities are divided among his inheritors/beneficiaries upon his death.

In actuality, understanding what to inherit may be rather straightforward, but who gets to decide how the legacy is carried out becomes a challenge. There are, however, two extremes to this issue: first, the individual property owner has little control over how even his own property is inherited. Secondly,

the society has a custom that has been followed for many years and generations. This is justified by the fact that the society (*umunna*) kinsmen often decide how the inheritance process is carried out and upheld, using what has historically been the case, to execute the process. This practice by the (*umunna*), reduces the likelihood of prejudice and animosity, which some fathers may display before passing away. However, the kinsmen's judgment would ensure that even the most despised child received his rightful portion of the family's assets.

Children inheriting their parents are the most unique type of inheritance in Igboland. When the father in question passes away, the male offsprings are the beneficiaries of his possessions, while the female children receive whatever their mothers have. Women do inherit their mothers, but it is crucial to note that they do not have a right to their mother's landed estate. They are entitled only to their mother's cooking utensils, clothing and jewellery. In contrast to children inheriting their parents, it is frowned upon for parents to participate in the inheritance of their offspring. Closely related to the above is that men inherit their wives' property after they pass away while for women the reverse is the case. This is especially true when the marriage is consummated only in the customary way.

Next to the above, the author talked about, the right of women in the inheritance practice among the Igbos. According to the author, one of the numerous forms of unfairness and discrimination against the female population in Igbos' culture is the focus on the right of women in Igbo community's inheritance customs. In the Igbo ethnic group, women are seen as inheritable property rather than as participants in the inheritance of their husband's property. The author avers that inheritance rights of women in Igboland affect both the unmarried and the married. The subject of inheritance is a no-go area for unmarried women. In practical terms no family considers an unmarried woman to be a beneficiary of inheritance. It is typical for a woman's right to inherit to be subsumed under her husband's. Therefore, if a woman is not married, she cannot inherit anything. However, she can inherit non landed property from the mother. In the case of the father all the landed property belongs to the

male children. For the married women, the situation is not quite different, the only real difference is that they could have access to their husbands' property. Traditionally, married women benefit from their husbands' possessions while they are still living, and the situation is reversed when their husbands pass away. It is pitiful to mention that a widow who does not have a male child stands to lose significantly as a result of her husband's passing. She typically has no claim to her late husband's property, particularly the landed property. Conversely, a widow who bears a son automatically has a stake in her husband's landed property through the son. Furthermore, during his lifetime, a father may decide to give out all of his "non-traditional" land holdings to his daughters. When their father passes away, the male children will not be able to revoke any of the property they have acquired during this process. Traditionally, women are given non-essential materials as inheritance in Igboland with low perceived economic value. They do not hold the same position as males who inherit landed properties that are extremely valuable commercially. Thus, the inheritance practice as it is done in Igboland is injurious to the economic wellbeing of women.

This author discusses further that, there is a nexus between inheritance and poverty among women in Igboland. He reveals that there was a survey done sometimes in 1999 which clearly shows that in Igboland female-headed households are poorer than those with male heads of household, perhaps as a result of a number of socio-cultural disadvantages placed on women one of which is the issue of inheritance. He states further that rural women in general and the households they lead in particular are frequently the most disadvantaged in Igbo society. They are the most at-risk segment of rural residents, and their lives are characterized by adversity, deprivation, and uncertainty. In addition to the aforesaid, when compared to their male counterparts, rural women have the poorest diets and suffer from illnesses at a much higher rate.

In the Igbo culture, women do not have inheritance rights over their husbands or fathers, especially when it comes to landed property. In most of Igboland, women are subjects of inheritance rather than been inheritors. They do not possess wealth-producing sources and inheritance-related

resources compared to men. A male child is more welcomed than a female one. A typical Igbo man believes that having all male children is better than having all female children because the latter will eventually leave the house to be married. The reason behind this fear rest squarely on wealth transfer and continuity of the lineage. If a man does not have a son, he feels that his lineage and wealth are not yet assured to continue.

In line with the above, women do not inherit land in Igboland, while male children have the privilege to inherit all lands. In light of this and the fact that land is a significant component in production, men are designed by tradition to profit from the disadvantaged and dispossession of women. One of the fundamental aspects of poverty among women, particularly in rural areas, is landlessness. They face greater risks of unemployment and lack of securities and collateral. As a result, comparing the amount of wealth accumulation of men and women in Igbo society is incorrect because neither group has equal access to assets like land based on inheritance rights. Therefore, the high rate of poverty among women cannot be blamed on their laziness, but rather on the social structures that have been created and upheld over many generations. Women's highly limited ability to acquire land and, as a result, credit, among other things, is a key cause of their poverty. The socio-economic position of a family, particularly for women, is definitely impacted by access to land and control over it as well as other connected properties. Women have limited access to credit facilities, which are typically offered on the basis of land as a security, because they have little or no authority over land. This means that many women in Igboland are unable to access credit facilities from commercial institutions for various investment opportunities. The circumstance and culturally imposed behaviour in Igboland expand the wealth gap between men and women more.

The author concludes his paper by declaring that, the multifaceted nature of women's poverty in Igboland cannot be changed through economic policies and social change alone. The laws governing inheritance and access to property must be reviewed in the traditional contexts. This may help alleviate the poverty that women in Igbo community experience.

### **2.2.2 Inheritance practices in Yorubaland: A case study of the Awori women's Inheritance Rights, Abikoye (2022)**

The author is of the view that all Yorubas share similar culture in relation to inheritance. The author posits that whether a piece of property is a family asset or a personal possession determines how it will be inherited in Yoruba culture. Family property is the assets that pass to the successors to be used for the advantage and pleasure of the entire family as an organisational unit. When the family patriarch passes away, the eldest surviving son, known as the *Dawodu*, takes over as head of the family. Typically, the head of the family is in charge of the family's assets and maintains them in trust for the greater good of all family members. Family property cannot be disposed of by any family member. Self-acquired property obtained by a decedent is distributed among his children after his passing.

The author noted that, the Yoruba traditional law of inheritance has two methods of distribution. The two inheritance methods are referred to as *Ori-Ojori* (per capital) and *Idi-Igi* (per stripes). The property is directly distributed evenly to the deceased person's children under the *Ori-Ojori* (per capital) method of distribution. This form of distribution is typically employed in monogamous families, when the dead had just one wife, or in polygamous families, where there is enough property to give to the children of all his wives. The second distribution method is called *Idi-Igi* (per stripes). The *Idi-Igi* (per stripes) method is typically used when the deceased has multiple wives because each wife represents one *Idi-Igi* meaning a branch.

The author explains further that wives do not inherit their husbands' property. It is a well-established rule of Yoruba local law and tradition that a wife cannot inherit her husband's property since she is considered to be a chattel that can only be inherited by a man or a family member of her husband. The author states further that Yoruba local Law and Custom deprive the widow of inheritance rights in her deceased husband's wealth since devolution of property follows the blood, Therefore, unless a property is given to a woman and it is established that it was an outright gift, it will pass as

family property at the death of the husband and be inherited by the children of the husband or the husband's family in the event that there are no children. The woman has no inheritance rights at all.

Abikoye in discussing the Awori women's right of inheritance explains that Awori are a sub-ethnic group of the greater Yoruba people of West Africa, especially in Nigeria and Benin. They are a quiet, coastal, agro-fishery, and distinct Yoruba-speaking people. Ogun State and Lagos State are home to the majority of the Aworis. The people also share cultural values with other Yoruba and Edo tribes to varied degrees.

The author noted that widowhood rites among the Awori people are very traumatising for women. A woman who lost her husband needs sympathy. Sadly, this is often not the case among the Awori people. Instead, the woman is stigmatized as the killer of her husband, persecuted, accused, and consequently made to succumb to widowhood rites on account of customs and traditions. Usually, the widow's ordeal begins with the unexpected death of her husband. At the gravesite, promises and guarantees are given. But as soon as the dead is buried, the widow suffers from abandonment, reproach, and strange cultural practices. The in-laws typically utilise the time of mourning as a way to express their rage and make the widow's life more difficult. They essentially strip her of her self-worth and all the wealth she had accumulated with her husband. Based on the above, widows suffer economic losses. This in turn aggravate their poverty conditions. In most Awori societies, the widow is not permitted to return to work for months during the period of mourning as part of the customary mourning ceremonies. This has a detrimental effect on the financial security of women, particularly elderly widows.

The author writes that the disinheritance of widows is a common practice among the Awori people because widows are not considered as members of the family. Among the Awori community in Nigeria, the author writes that women were constantly viewed as special guests, visitors, strangers, and the like in their matrimonial homes. It is because of this perspective as guests that widows are stripped of their

inheritance upon the passing of their husbands, who were viewed as their hosts during their lifetime. This suggests that women are not often expected to be property owners. A wife has no claim of succession of her spouse's estate, regardless of what she contributed to the acquisition of the assets. Property inheritance among the Awori is therefore regarded as the exclusive right of all the deceased's children irrespective of age.

In concluding this paper, the author notes that women without children were not taken into account when dividing up property. The prevalent belief among the Awori, is no child, no property. Widows without children are taken into account under three circumstances: (1) At the discretion of the extended family out of pity for the widow.(2) If the widow is of excellent character; (3) If the husband left her with a particular piece of property before his passing and there are surviving witnesses to attest to the widow's claim.

### **2.2.3 Intestate Succession under Indigenous Hausa Customary Law, Ubimago (2018).**

The author writes that, the Hausas often base inheritance and succession on their customary law and tradition. The Shari'ah, the code of Islamic law, would most certainly control the disposal of the decedent's inheritance if he had been a Muslim during his lifetime. If he is not a Muslim, then his own community's customary law would be applicable. Therefore, whether or not the dead Hausa man or woman lived in Hausaland, his property was seldom allocated in accordance with *lex situs* (the law of the property's location), but rather by his own personal law that was based on his culture.

According to this author, the Hausas are one of the biggest ethnic groupings in Africa. They are an ethnically heterogeneous but culturally similar group that is predominantly concentrated in the northern Nigerian Sahelian and Sudanian Daura region and the southern Niger Republic, however sizable populations are also found in Cameroon, Côte d'Ivoire, Chad, Togo, Ghana, Sudan, Gabon, and

Senegal. The people speak Hausa language, an Afro-Asian tongue spoken by the Chadic people. In terms of culture and history; the Hausa are most similar to the Fulani.

This author opines that the customary inheritance system among the Hausa, is that the oldest son typically receives his dead father's livestock, which were the principal asset in those days. He then distributes part of the animals to his younger brothers in accordance with their requirements. The rule of primogeniture, which can be defined as the right of the surviving eldest son to succeed his father in the headship of the family automatically and arises from seniority, is the commonly used system of succession for Hausa Communities, which are not subject to Islamic law. Only the father has the authority to deny the oldest son this privilege via a lawful directive issued with the intention of ensuring that the family's affairs are effectively handled by someone competent on the basis of intellect and qualification. If there is no directive to the contrary, the first son cannot be denied his inheritance. Besides, in the native custom and tradition of the people, young boys and girls are not permitted to inherit from their dead fathers' estates. The argument was that little boys and girls should not be permitted to inherit since they cannot go to battle and collect booty or treasure (*Gamima*). Women themselves are objects of inheritance. The only people who may inherit are adult sons and brothers. Mothers' moveable property is passable to daughters. Additionally, it's rather intriguing that only the men in a family inherit land, regardless of whether the land is owned by the late father or mother.

This author notes that women are generally denied inheritance rights of their deceased father's or husband's property in Hausa land. A dead man's property is often not inheritable by his wives, sisters, or mothers. If there were no male successors, the land would return to the family or community as the case maybe to whom the dead man belonged while he was alive. In some communities, women, are granted exclusive access to the farmland's economic trees such as locust beans and baobab trees.

Widows and divorcees have shaky inheritance rights that are reliant on the family patriarch's generosity. Widows' circumstances depend on their fertility and desire to remarry within the family.

The widow is permitted to use the piece of land allotted to her and to reside there if she complies. She has access to her hut or chamber and the land, and she might continue farming to care for her children if she chooses not to get married and stays in the family. She forfeits all of her access and privileges if she marries someone from outside the husband's family. On the other hand, childless widows are anticipated to go back to their ancestral homes after the passing of their spouses. In Hausa customary law and tradition, a divorced woman loses all of her marriage rights and is obligated to pay back the bride price to her husband's family in accordance with local law and tradition. However, she is entitled to whatever personal property she may have obtained during the marriage. In conclusion this author notes that the status of women in relation to inheritance rights in Hausa land is very pitiable and pathetic.

#### **2.2.4 A Critique of Heritable Property and Patterns of Inheritance by Special Persons under the Efik and Qua Customary Law, Kooffreh & Kooffreh (2021)**

This author notes that the Efiks of Calabar customs about inheritance is similar to that of the Yorubas. Although the Efik traditional rule of inheritance is patrilineal in nature it is not strictly a primogeniture type because Efik customs allow for the choice of a daughter as heir apparent, and she can inherit her parents' land and possessions and even more take the position of family head. This is contrary to the Qua customs. When a man passes away, his property is not inherited by his own children but by his maternal relatives, such as maternal nieces and nephews and brothers and sisters of the same mother. In this situation, a man belongs to his mother's family. The Efik practises an oriental patriarchal structure that has been in existence for ages. In Efik, "Etinyin" is "Patriarch". In the past, the patriarch, who was the male head of the family, also served as the family's head of state and sometimes had the power to decide who would live and who would die. In every way, the Patriarch was in charge of running the operations of his House "Ufok," which was governed by his council of freemen, with his voice being the one that was heard the most. No one ventured to confront or disagree with the Patriarch,

who was the eldest living blood male descendant of the House's founding progenitor. Heritable property among the Efiks and Quas are status and titles, immovable property and moveable property.

In examining the manner in which some individuals inherit under Efik and Qua Customary Law, the author is of the view that the Efik people do not allow children under the age of 12 to inherit their father's property directly. For him or her, the property is kept in trust. But children who are 13 to 17 years old have the option of inheriting their father's property right away. A newborn cannot inherit from parents because of the Quas' matrilineal system of inheritance. His matrilineal uncle, who is inheriting the land, is not required by Qua tradition to retain it in trust for the baby offspring of the dead person. But the matrilineal uncle must empower the child to be able to face the challenges of life. The only obligations back then were to provide farming implement, a plot of land, a gun, marry for the infant when he reaches marriageable age, and initiate the child into the Mgbe (Ekpe Cult) and other cultural groups. If female, she is made ready for marriage and sent to the fattening chamber. Education is now the most significant gift a father can offer his children. Today, the matrilineal uncles who among the Quas inherit the property of a dead brother are obligated to educate the deceased brother's children in school. The matrilineal uncles have an inheritance right if they satisfy this duty.

On inheritance by women the author writes that, wives of dead husbands do not have a succession claim to their husband's inheritance under Efik and Qua customary law. However, if the widow behaved well and did not remarry, she could be permitted to live in the family home, particularly if she is the mother of the late husband's children. The children often look after the widow since she is not entitled to a monthly maintenance payment from the family. The Efik customary law varies greatly from the Qua's customary law in how a woman might inherit her father's estate. According to Efik customary law, female children or women have the right to inherit assets from their father's inheritance, including real estate and land. If the men are younger than her, the first daughter, known as "Adiaha," often receives the lion's share. According to Qua customary law, a female child or

woman is only eligible to inherit moveable property, such as households' items. Land and other immovable items are not transferable to them. The matrilineal uncle inherits the land and other real properties on their behalf.

Among the Efiks, a women (sister) of the dead is unable to succeed to a brother's immovable property when they are of different mothers. But succession to real estate is permissible among the Quas and in cases when they are of the same mother. However, according to Efik's and Qua's customary law, women have a right of succession to their mother's property. The author notes in conclusion, that inheritance is not gender-biased among the Efik in Calabar, and as a result, a daughter, whether married or single, has the right to inherit the land and other assets in their father's estate.

### **2.3 Theoretical Framework**

This research revolves round the discriminatory practice of inheritance against women in Esanland. There are two major theories on which this research is based. They are natural law theory, and feminist theory. These theories were adopted for this research for the following reasons: Natural law theory offers a way to comprehend the moral bases of law and society. It suggests that some rights and moral values are part of human nature and can be found through rational thought, providing a common benchmark for judging laws and moral actions. In this context, denial of inheritance rights to Esan women is against the moral foundations of law and society as advanced by natural law theory. While feminist theory offers a strong perspective for examining power relationships, social disparities, and how gender influences personal experiences and community frameworks. It reveals how gender norms and expectations are created by society and how these norms lead to widespread inequalities, as it is in the case of Esan women who are denied right of inheritance This theory shows the ways in which gender discrimination overlaps with other types of unfairness, leading to distinct obstacles for people. Additionally, by emphasizing the origin of oppression as a result of the patriarchal nature of most societies and the need for gender equality, feminist theory can guide strategies and movements focused on building fairer and more equitable societies.

### **2.3.1 Natural Law Theory**

According to the ethical philosophy known as "natural law" People have inherent values that direct their thought and behaviour. This law says that people naturally passes these concepts of good and wrong, they were not developed by society or legal authorities (Crowe and YoungwonLee 2019). The idea of natural law was mentioned by ancient Greek Philosophers like Aristotle and Cicero in ancient Roman Philosophy. Intellectuals like Thomas Aquinas and Albert the Great pushed the theory of natural law further in the Middle Ages by emphasizing its Biblical foundation (Crowe and YoungLee 2019).

The theory of natural law assumed a secular character during the Renaissance era of western intellectual history. The focus was changed from the supernatural aspect to the logical nature of natural law (Mesembe and Samuel 2014). The doctrine of natural law took on revolutionary quality after the Renaissance. They developed the idea that people had some fundamental rights in their natural state that they carried into civil society, which is its own creation and is still under the protection of natural law (Mesembe and Samuel 2014). These rights are what are sometimes referred to as natural rights or fundamental human rights. Law without morality has been said to be contrary to the essence of natural law which is why natural law theorists hold that government must acknowledge and incorporate natural law principles into legal systems in order to accomplish justice (Hill 2019). The modern natural law Philosophers, Hobbes, Locke and Grotius defined natural rights as inalienable rights that are inherent in people and are bestowed upon them by nature (Forde, nd).

From the foregoing it can be inferred that the principles of natural law guarantee individual's right to property and inheritance with women inclusive. Women must not be denied their natural rights as guaranteed by nature because of their gender.

### **2.3.2 Feminist Theory**

Feminism is the promotion of women's right in all areas of human endeavour on the grounds of gender equality. Mohajan (2022) sees feminism as a theory that calls for men and women to have equal rights in regards to politics, economy and education. The goal of feminism is to provide women the same opportunities, rights and dignity in society that men do have (Raj & Davidson, 2014). A French philosopher Charles Fourier developed the feminism theory in 1837. The hypothesis was developed in the 19th century with the goal of achieving gender equality (Soluade et.al., 2022). By late 19th century feminism entered into Great Britain and into America by early 20th century (Cott, 1987).

Feminism first emerged in Nigeria during the post-colonial period, but it took on its current shape with distinct goals and ideas in 1983 with the investiture of Women in Nigeria (WIN), (Madunagu, 2008). Women are not treated equally in the society with men. As a result several feminists emerged to fight against this injustice which is their primary objective (Tong, 2009). The focus of feminist movements has been on promoting women's rights, including the right to vote, hold public office, work, earn a fair wage or equal pay, own property, obtain education, enter into contracts, and enjoy equal rights in marriage among other things (Echols, 1989).

Feminist theory examines a variety of topics, including oppression, sexual objectification, prejudice, and patriarchy (Chodorow, 1989). There are different perspectives of feminist theory such as liberal marxist, radical, socialist, psychoanalytic, and ecofeminism; however, we are discussing only liberal, radical and socialist feminism because of their relevance to this research.

### **2.3.2.1 Liberal Feminism**

The major objective of liberal feminist is to create equal chances, notably in the areas of education and employment, and to bring about general change in the political, economic and social system of western cultures (Sibani, 2017). Liberal feminists claim that society has a misconception that women are inherently less intelligent and physically less capable than males (Tong, 2009). They think that everyone is capable of performing any task rationally and that women's subjugation is as a result of

certain antiquated ideas. Men are evaluated based on their qualities, while women are evaluated on the basis of their sex (Jaggar, 1983). This theory emphasizes that men and women should have equality of opportunities. Liberal feminist argued that gender inequality cannot end, unless the society is transformed from the ground up (Federici, 2018).

Equal rights for all members of society and the requirement to provide everyone with equal opportunity without discrimination are the fundamental tenets of liberal feminists. They place importance on women's right and places a high value on basic human rights (Tong, 2009). The main goal of liberal feminists is to advance women's equality and opportunities in public life rather than just the home. They claim that women have a legal entitlement to their rights and that states have a responsibility to uphold those rights, the liberalists want to rely on the state to achieve equality for women (Tong, 2009). They contend that men's endowment with power which is fostered by patriarchal system is the primary driver behind the discrimination against women (Tong, 2009).

The liberal approach has drawn criticism since it acknowledges some beliefs that are primarily held by men. Liberal feminists have come under fire for failing to recognize that society is made up of individuals and that addressing issues of inequality should begin with household issues (Pateman, 1989).

### **2.3.2.2 Radical Feminism**

In order to eradicate male power in all spheres of society, including the economy, radical feminism calls for a fundamental reorganization of society (Wills, 1992). Instead of using a political process, radical feminists aim to end patriarchy by challenging current social norms and structure, (Wills, 1992). According to radical feminism ideology, women are exploited, oppressed and subordinated in both the private and public arenas of existence (Olomjobi, 2013).

According to Graham (1994), radical feminism in the 20th century had a meteoric rise in Europe and America. It works to prevent a male-dominated society by opposition patriarchal oppression and female abuse. It emphasizes the dominance of men, patriarchy and privilege within the social structure in an effort to advance women's group as distinct social institutions (Jensen, 2017). It is founded on the idea that (1) women have absolute positive value and (2), because of the patriarchal system, they are viciously oppressed everywhere (Rowland & Klein, 2013). Marriage and Families are not encouraged because they both contribute to the emergence of patriarchy in society (Atkinson, 2000).

Radical feminists believe that men dominate and rule the society because it is patriarchal. Through bold measures, they hope to change society and the lives of women (Tong, 2009). They contend that women can only be secured when issues of patriarchy and gender stereotypes are handled effectively.

### **2.3.2.3 Socialist Feminism**

In the 1960s and 1970s, a mixed theoretical and practical strategy aiming at establishing women's freedom and equality emerged. This was known as socialist feminism. The socialist feminists claim that eradicating the economic and cultural causes of women's oppression is the only way to bring about freedom and equality (Buchanan, 2011).

According to Bryson (1999) the socialist theory, like the liberal theory, advocates for the equal rights and opportunities of all people. However, it emphasizes economic and social rights as well as freedom from exploitation, for women. Socialist feminism contend that women cannot free themselves from men because of their economic reliance on them. Their argument is that women should be economically independent of men (Bryson, 1999).

Socialist feminism argue that although women experience oppression in practically all societies, the severity and nature of that oppression differ depending on the societal economic conditions, (Hennessy & Ingraham, 1997). They emphasize how women are seen in the society as child bearers,

care givers and burden bearers. And they have lesser pay than men in the job place. When they enter the workforce, they frequently experience sexual harassment (Hennessy & Ingraham, 1997).

Having looked at the three viewpoints of feminism that are relevant to this research, the researcher aligns with radical theorists which uphold the view that patriarchy is the main cause of women's discrimination and marginalization. The above position is very true of the Esan people of Edo State which is the focus of this research.

## **2.4 Summary of Literature Review**

In this chapter a few terms and concepts that are relevant for the understanding of this research work, 'Women's Right to Inheritance in Esanland in the Light of Numbers 27:1-11,' are defined and explained. These terms include inheritance, testate and intestate inheritance. In this chapter, other words explained are primogeniture, patriarchy, land tenure and kinship. In the course of this review we looked at the Bible and Women's right of inheritance with emphasis on daughter's and widow's right to inheritance. Furthermore, a summary of the historical development of women's right of inheritance from the ancient period to the modern period was discussed.

Religious basis for women's right of inheritance was not left out. Here the Islamic perspective of women's inheritance rights and women rights of inheritance in Christianity are also addressed. Under the international instruments for women's right to inheritance, five of these instruments that are relevant to this research are examined. The regional instruments for the protection of women right also came into focus. Two of these instruments are looked into. While national instruments for the protection of women's right with emphasis on the Constitution of Federal Republic of Nigeria (as amended) and the judgements of the Supreme Court of Nigeria are also reviewed.

On the empirical framework of this literature review, this researcher looked at the inheritance customs and its relationship to women in other tribes outside Esanland to gain a broader understanding of the topic under discussion. The inheritance customs of the Igbo people in relation to women was

reviewed. The Yoruba, the Hausa, the Efik and the Qua customs of inheritance as they affect women also came under examination.

Theoretical framework was also not left out in this review. Two theories were examined namely: Natural law theory and Feminist theory. Feminist theory is further subdivided into liberal, radical and socialist feminism.

It must be remarked here, that in the course of this literature review, this researcher did not come across any work on ‘Women’s Right of Inheritance in Esanland in the Light of Numbers 27:1-11’. It is this lacuna that this present effort seeks to address.

## **CHAPTER THREE**

### **A BRIEF HISTORY OF ESANLAND**

#### **3.1 Geographical Location of Esanland**

According to Oseghale (1999), Esanland is situated on a plateau that is around 134 metres above sea level. The people live in a geographical area that is around 1,858 square kilometres north-east of Benin, the capital of Edo State. Esan land consists of five local government areas of Esan South East, Esan North East, Esan West, Esan Central and Igueben. Esan is bordered in the West by Orhionwon Local Government Area while on the North by Etsako East and West local government areas. On the south, the area shares border with Ika, Aniocha and Oshimili North local government areas of Delta State and on the East by River Niger and Ibagi local government area of Kogi State.

Geographical borders of Esan were firmly established before the colonial era. The borders were often defined by topographical and environmental elements including hills, rivers, and streams, which were located along roadways. Esan inhabitants were separated into in and out groups by an *iyala* or moat (Okoduwa, 2001). Early Esan inhabitants often avoided the lowlands and built their towns and farms higher up on the highlands (Bradbury, 1957).

Esanland has a humid, tropical climate with wet and dry seasons. The highest temperature possible is 90 degrees (ferihight) and the lowest 70 degrees (ferihight) respectively (Akinbode, 1983). The Esan plateau, which is slanted towards the south, is mostly made up of early Esan settlements such as Ekpoma, Irrua, Ewu, and Uromi, with Ubiaja and Igueben situated at the edge of the Plateau. It is clear why the Esan plateau is waterless since the majority of Esan lacks rocks, hills, or valleys, which are natural landscape elements that are associated with water (Okogie, 1994). Elevation in the region (Esanland), ranges between 350 and 460 metres above sea level with Ivue been at the highest peak of 466 metres above sea level (Akinbode, 1983). Esanland has good climatic conditions and fertile land that favour agriculture from time immemorial. Although there are other economic pursuits including hunting, basket making, blacksmithing, and fabric weaving, the majority of the Esan population is engaged in agriculture (Osagie, 1997).

### **3.2 Historical Origin of Esan People**

It is a common knowledge among the Esan and Bini people that Esan people are decedents of daring warriors and outstanding farmers who migrated from Benin to their present location during the reign of Oba Ewuare the Great in the fifteenth century. Egharevba a Bini historian and traditional chief corroborates the above claims that Esan people migrated from Benin during the reign of Oba Ewuare (Egharevba, 1968). This migration occurred according to Okogie (1994) as a result of draconian laws, enacted by Oba Ewuare that make it illegal to cook, wash, drum or engage in sexual activity for a period of three years. These laws were made for the purpose of mourning Oba's two sons who died the same day under mysterious circumstances. The people were dissatisfied with these laws and they began to move out of the Oba's territory under his watchful eyes. Concerned about the depopulation of Benin, Chief Uwague according to Okogie (1994) approached the Oba with the famous words:

I have disobeyed you and I know I merit death, but my death will be better than our Great City becoming a mere shell. This boy is my son; the mother was pregnated after you made the mourning laws. If you had forgotten the sad death of Kuoboyuwa, the Edaiken and Ezuwarha of Iyowa and begun afresh with your wives, by now you could have got sons perhaps the age of this boy- but what has followed the laws? THE CITY IS EMPTY, (p.22).

In reaction to the above statement by Chief Uwague, Oba Ewuare was shocked and sent his agents to summon all the quarters to the palace ground for daring him. When they arrived at each neighbourhood, the areas were half empty. The remaining inhabitants responded: *Esan fua* (which means they jumped away or fled into the bush), (Okogie, 1994). The report brought back by the Oba's messengers did not go down well with him. Every effort the Oba made to bring back his subjects ended in failure.

Oseghale (2003) affirms that the Esan - Benin tradition of origin is the most popular of all the theories of origin about the Esan people. The above statement presupposes that there are other theories about the origin of the Esan people which the present work will also consider Oseghale further declares

that: “Esan traditions of origin stated that at a point in the history of Benin, certain groups left the kingdom to form new settlements. Some of the emigrant groups eventually settled north-east in different part of what later became Esan,” (p.2). These settlers founded the first Esan chiefdoms as follows: Ekpoma (Ekumma) Uromi (Uronmun) (Ubiaza) Ubiaja Ugboha (Uwoka) Ewohimim (Orikhimi) Ewu (Eilu) Uzea Emu (Emihun) Irrua (Uruwa) Ohordua (Okhuodua) Ebelle (Ebene) Amahor (Amaho). Okalo and Ugbugun (Oseghale, 2003). Bradbury (1957) aligns with the argument for the Esan- Benin tradition of origin, when he said that Esan cultural and social traits are closely linked to those of Benin. The Esan traditional system of government is comparable to that of Benin. Ekpoma, like other Esan groups, trace their roots back to Benin.

The above story has been a subject of dispute by some scholars. They argue that before Oba Ewuare's rule, people had lived in the region known as Esan. (Okojie 1994; Okoduwa 2001) are amongst these scholars who support this alternate view. Okojie declares that:

It would at first appear that Ishan (Esan) did not come into existence until after 1440, when Oba Ewuare imposed his selfishness and wickedness on the great Benin stool. No, before this time, there were inhabitants scattered in the jungle now comprising Ishan as evidenced by our own Ishan folklore featuring OGISO, the common name of Bini rulers before the advent of the GREAT ORANMIYAN, just as in the same way we have many of our stories featuring Asijie (Oba Esijie) and AGUARAN (Aruan-ran) his warring giant brother, (P.23).

Many people left the city for the jungle long before 1460, when Ewuare ascended the throne, either as a result of the cruelties and greed of some of the Obas or as a result of the disastrous civil conflicts for succession. A Chief, Warrior, or Prince who had committed an offence often escaped, typically accompanied by a few of his slaves and allies, in order to avoid a certain and terrible penalty from the Oba. In such situations, they were forced to travel a great distance through the forest,

surviving only on fruits, and live in such conditions that they were assumed dead. To put it another way, they were forced to live in a small, suppressed state so that no one would be aware of or suspect the presence of living individuals in the bush. These individuals were forced to live very simple and fearful lives because they were running from a cruel and brutal opponent. The first categories of people who first settled in what is today called Esanland were banished princes, chiefs, criminals and fugitives (Okogie, 1994).

Okoduwa (2001) had suggested that while the incident during Oba Ewuare's reign may have sparked a large-scale migration from Benin, the region was already inhabited by indigenous people. Thus, Esan studies revealed that Towns like Irrua, also known as Urruwa by the locals, Ekpoma, also known as Ekunma, Uromi, also known as Uronmu, and Ubiaja, sometimes known as Ubiaza were already in existence as independent chiefdoms. However, there was no common name for all of them until the Oba Ewuare's episode in the fifteenth century (Omokhodion, 1998).

It must be noted here that in those days ancient empires treat small-scale societies as appendages in order to exercise control over them. This is not different in the Esan-Benin migration story. In support of the above assertion, Afigbo (1980) declares thus:

For all these reasons small-scale societies adjoining ancient kingdom or empires like Benin were considered, without much argument, as dependencies of those empires, or in any case the political systems of such small-scale societies were regarded as political derivations from the systems of the said empires. For the same reasons the history of these empires, became also the histories of the small scale societies on their frontiers, or at least the major source for explaining every important aspect of the life of those society – the origins and migrations of their people, their political structure and dynamics, their economic systems, their art, dance and overall cultural heritage, (p.13).

Apart from the migration theory told above, there is still multi –directional migration theory of Esan people outside Benin. Bradbury (1957) confirms that certain Esan clans originated from Ife and Ifeku Island (an Island on the River Niger), but were eventually assimilated peacefully or by invasion into the Benin Empire. Igene (2012) believes that those who migrated from Ife and Ifeku Island settled in present day Irrua.

Uromi people are said to have migrated to their present location from the Idu civilization across the River Niger through the Kukuruku Hills before the reign of Oba Ewuare in the fifteenth century. History has it that this migration march was under Idu, and that when he died persecution broke out against his family which necessitated their continuous movement until they got to Esanland where they finally settled as a result of the richness of the land for farming and hunting (Ojiefoh, 2002).

As a corollary to the aforesaid, it is not out of place to insist on the multi- directional migration theory of the Esan people. The point being made here is that Esan people were already in existence before Oba Ewuare’s time without a common name. However, there was exodus of disenchanted people who migrated to Esanland as a result of Oba Ewuare’s inhuman mourning laws over the death of his two sons in one day which has already been discussed in this work. It is for this reason above the Binis continues to maintain superiority over Esan people and they are always given the honour to break kolanut in any traditional gathering in Esanland if they are present. This is because of the traditional belief that Esan migrated from Benin.

### **3.3 Social Stratification and Political Organization**

There are always classes and social strata in societies. Social existence includes stratification in its most basic forms. Every culture has a defined system for assigning each individual to a certain social

group. In the case of the Esan society there is a threefold division of the male members of the society into *Edion*, *Ighene* and *Egbonughele* that has existed since the pre-colonial era till date.

(*Edion*) Elders: The name "*Edion*" refers to the village or town's senior age group, which includes members of the village council and the town council. They are men of over 45 years of age and above (Okogie, 1994). The head of this group who is the overall senior elder is known as the *Odionwele*. Each village's *Odionwele* is acknowledged as the local elder. The *Edion* carry *Okpo*, (a curved stick that stands for authority). They also utilise it to assist their movement. The *Okpo* has symbolic religious significance (A.Ebhodaghe, personal communication, March 10, 2022). The most severe punishment for rebels or those who disagree on particular issues is swearing to the *Okpo*. The *Okpo* of the *Edion* symbolises the ancestral spirits. The divine representative is called the *OdionEgbele*. The top group of *Edion* consists of the four oldest elders. Seven elders make up the council. The extra three are there to cover any absences brought on by death or other circumstances (Ebhomienlen, 2021).

The *Odionwele* is the ultimate authority in all social and religious decisions that impact the community. Elders-only meetings are often conducted at the home of the *Odionwele*, although larger gatherings take place in the *Okoughele* (village hut) at the village centre. The village council, made up of the *Edion* or elders, deals with offences against local laws and customs, and disobedience that might disturb the community (A.Ebhodaghe, personal communication, March 10, 2022). Serious acts like theft, murder, or rape are reported to the *Onojie* (the King) via his agent, *Okhaemon*. The *Edion* choose spokespersons and *Uko-Odion* (messengers). The two spokespersons are typically chosen from among the top in their grade. In contrast, the two *Iko* (messengers) may be chosen from among the best students in *Ighene*. (middle men next in rank to the *Edion* .They attend all meetings of the *Edion* going forward. They also serve as *Eghaibhin* to the elders (those in charge of sharing gifts or booties that result in penalties or confiscation), (Okogie, 1994).

Middle age group (*Ighene* or *Igbama*): This is the next in rank to the elders *Edion* in Esan land. They are usually between the ages of 25 to 45 years (Okogie, 1994). The following *Ighene* is chosen to fill the void in the event of any elder's (*Odion*) death. *Ighene* or *Igbama's* primary responsibilities include maintaining agricultural roads and burying the dead. Since it is forbidden for *Edion* to witness a corpse, the *Ighene* bury it and inform the elders so they may come and carry out the appropriate funeral rituals (A.Ebhodaghe, personal communication, March 10, 2022). In Esan land generally, it is considered a taboo for *Edion* to attend the burial ceremonies of their junior in this case the *Ighene* and *Egbonughele*. However, the *Ighene* or *Igbama* are free to attend any funeral. The *Igbama* sometimes serve as the community's legislative body. They also manage issues pertaining to neighbourhood dances. To ensure that social events are successfully carried out, they organise the *Egbonughele* (Ebhomienlen, 2021). Ordinarily, the *Ighene* grade is not summoned for public responsibilities unless those tasks exceed those of *Egbonughele* the lower rank. Its members are the brave men of the village and oversee important projects like home construction or roofing. When a significant issue or catastrophe, such as a fire breakout or a late-night burglary, occurs, they are called upon. Additionally, they served as *Ujiagbedion*, (the defender of the elders) (Okogie, 1994).

*Egbonughele* or *Egbonofan* (the street sweepers): As their name suggests, these group are street sweepers. They are the lowest in rank, beginning from age 12 -25 years. Their main responsibility is keeping the neighbourhood clean. According to Okojie (1994), the *Egbonughele* are the village's water haulers and wood cutters. Their most favoured responsibility is to clean and tidy the village (square and market), which is done in every five days. To become a member of this organisation, no formal process is carried out. Men begin to enlist as soon as they are physically capable of working (A.Ebhodaghe, personal communication, March 10, 2022). Some villages, like Uromi, require people who are to be initiated to bring a street broom, kolanut, and white clay native chalk *ere* to the *Odionegbonughele* (head of the group). After being prayed for, he is given his share right away where he will be sweeping

regularly (Ebhomienlen, 2021). In certain communities, general sweeping is done instead of a section being designated. A defaulter is usually fined a hen as a way to instil discipline in the group. The *Egbonughele* are also obligated to perform community dancing, tie shades, and prepares tombs for burial. For instance, the *Egbonughele* is primarily in charge of *Igbabonelimin* (a kind of acrobatic dance that is peculiar to the Esan people). Only the drumming and singing are done by the *Ighene* or *Igbama*. Since it is made up of young people, *Egbonughele* is the age-grade that is the most active (Ebhomienlen, 2021). Okogie (1994) observes that, the admittance to the *Egbonughele* grade in particular has been steadily declining as a result of the rural-urban movement brought on by increased educational possibilities. The majority of the able-bodied males have left the villages in search of brighter future in the cities, significantly affecting the *Ighene* group as well. *Ighene* and *Egbonughele* populations are declining in most communities as a consequence of this trend.

In the Esan traditional political structure, the king's court or council ranks the highest. In the village or town, the monarch is the absolute power. He is the political head of the community in the pre-colonial era. Before colonial domination, the Esan society as a whole operated under a monarchical form of government. Each chiefdom or village often functioned as a distinct political entity with its own independent government. The king *Onojie* presided over affairs of state and had almost uncontested power. The primogeniture principle undergirded the succession to the throne, which saw the oldest surviving son of the late *Onojie* replace him in the event of death (Enato, 2018). The village where the King resides is known as *Eguare* (the King's court). In every Chiefdom in Esanland there is *Eguare*, from Uromi, Ubiaja, Ugboha, Irrua, Ekpoma, Ewohimhin to mention but a few (I.Eromosele, personal communication, March 10, 2022).

Palace chiefs *Ekhaemon* aided the king *Onojie* in running the affairs of the Kingdom. The *Ekhaemon* with the *Onojie* form the King's council. Their subjects revered and dreaded these people. They act as a go-between for the *Onojie* and the community. The value of societal harmony and tranquilly in pre-colonial Esan society cannot be overstated. There were laws, conventions, regulations,

norms, taboos, and other things that made up the moral code and ethics that the Kings *Enijie* developed that governed and coordinated the operations of their communities. These things were all under the authority of the Kings *Enijie*. In order to maintain a sense of communal togetherness, these moral codes and ethics were designed to control how the members should behave. While violations of human laws are met with human punishments and are subject to the authority and control of the Kings *Enijie*, violations of supernatural laws result in divine sanctions and retribution from the gods (Enato, 2018; Ebhomienlen, 2021).

The village council was the leading political unit in every village headed by an *Odionwele* (supreme head). Every community had its own autonomy. The administration of its own affairs was the business of each community. The *Odionwele* was the head of each village. The village's business was not handled only by the leader of the community (Okogie, 1994). A group of chiefs and elders advised him. The council of chiefs and elders is made up of *Idumu* (representatives of the lineages) and sometimes older, wiser, more articulate natives of the community (I.Eromosele, personal communication, March 10, 2022). These group of people were co-opted into the village council because it was thought that they had the maturity for an effective management of village government. This council was tasked with managing the village's daily operations. They provide guidelines for good governance; decide on cases and disagreements among warring parties for the peace and tranquillity of the village. Incidents of heinous crimes like murders are referred to the King's council.

The village priest *ohen* handled the religious duties, the council of chiefs and elders handled the administrative, legislative, and judicial activities, sometimes with the help of the relevant organs of the village (I.Eromosele, personal communication, March 10, 2022).The local deity was served by the village priest. With regard to religious duties, he was the expert. His personality was just as significant as the village head since religion predominated in every area of the people's lives. In fact, he sometimes made decisions on matters that were presented to the village deity. He oversaw religious rites and celebrations that affected the whole village. He consulted the gods and offered sacrifices to please them.

On behalf of the community, he performed rituals at the shrine of the local god. His job was more dangerous since the village god may execute him at any moment if any wrongdoing or evil was discovered in him. Unlike the other villages' leaders, the village priest was subject to several constraints. He had limitations on what he could eat, drink, wear, and even engage in sexual activity (I.Eromosele, personal communication, March 10, 2022).

The shrine fulfilled two purposes. It served as a court of law as well as a place of prayer. For the purpose of making offerings to the god to whom the shrine was dedicated, the community, lineage, or family congregates around each individual shrine as an altar of devotion. Such sacrifices were made in order to either please the gods or win their favour in relation to certain issues (I.Eromosele, personal communication, March 10, 2022). Additionally, their gathering at the shrine enabled all of the attendees to commune with one another and partake in their communal meals. The shrine served as a court of justice where disputes between members who belong to the same common shrine were decided. There are occasions when individuals from distant lands visit a shrine to seek justice as well. It was believed that oracles never told lies hence the recourse to the oracle to resolve complicated issues through spiritual means (I. Eromosele, personal communication, March 10, 2022).

The *Idumu* or *Ibhaba* (Family lineage) is another socio- political division of the Esan Society. It follows a patrilineal system. The villages are separated into wards *Idumu*, which refer to a quarter of the village rather than the present election political ward. Some *Idumu* are not permitted to marry one another depending on their genealogies. An *Idumu* is a group of people that all have a common ancestor, and a huge *Idumu* makes up an *Egbele* (I. Eromosele, personal communication, March 10, 2022). Marriage is allowed in cases when the *Egbele* members are not related via a single patrilineage. The overall senior is usually the head of the *Idumu* council. Along with several other senior *Idumu* members, one of his duties is to represent his lineage in the council of chiefs and elders in the village. He resolves conflicts among members that made up the *Idumu*. He also serves as the lineage's spiritual leader and acts as the ancestors' mediator. He performs the rituals at the lineage shrine. He is revered by members

of the *Idumu* because he is the closest to the ancestors (I. Eromosele, personal communication, March 10, 2022).

The *Uelen* (the family) is the smallest socio-political group in Esanland. The family is made up of the man, his wives, (hence marriage was often polygamous) children, younger brothers and sisters and mother. The married brothers remained members of the family. The family is usually an extended one. The head of the extended family is normally *Abanone* (the grandfather) or in his absence the *Odafen* or *Omoidiogbe* acts on his behalf (the senior son) (M.Okoh, personal communication, March 10, 2022). The *Odafen* presided over both secular and religious affairs. He served as the family's priest, for and on behalf of the family members, he made offerings to the gods at the ancestral shrine. He assumed control over the patrilineal *ukhure* (the family staff of authority usually inherited by the first son) and other holy symbols (M.Okoh, personal communication, March 10, 2022). The *ukhure* represented the power and sanction possessed by Esan family heads. By virtue of this power, the *Odafen* acquired the position as the families' representative. Law and order were maintained by the *Odafen* both within and beyond the family. If a member of his family disagreed with someone from another family, it was his responsibility to speak with that family's Head in order to find a mutually agreeable resolution. In pre-colonial Esan, the extended family structure evolved into a noticeable and powerful socio-political institution. Over time, it influenced social order and communal governance (Enato, 2018).

The nuclear family is the last unit of the Esan traditional society and it is often the main unit. This only applies to monogamous households. The head of the household is the man. He is the one responsible for the children's education and discipline. The father is primarily responsible for passing on the values and trades of the family, while the mother educates the female children about feminine obligations (M.Okoh, personal communication, March 10, 2022). The father instructs the male children in agricultural practises. This is due to the fact that certain tasks in Esan are solely for male, while others are for female. For instance, boys traditionally don't cook and girls should never do difficult

chores like climbing or chopping palm trees. However, there is now a reversal of roles in modern times. The father also serves as the family's chief priest (M.Okoh, personal communication, March 10, 2022).

### **3.4 Pre-Colonial Esan Economy**

In the pre-colonial Esanland, agriculture was the mainstay of the economy. The fertile nature of the Esan environment favours farming activities. The farming activities of the Esan people were mainly subsistence rather than commercial, with the usage of crude implements. It was from agriculture that other activities emerged. Okoduwa (1999) supports this point when he declares that the: “pre-colonial Esan society depended on agriculture which provides a suitable foundation on which other economic pursuits were based,” (p.42). The accessibility and availability of land in Esanland before colonisation aided in the growth of its agricultural economy. Further supporting the establishment of farming as the mainstay of the pre-colonial Esan economy was the ease of access to labour resources both within and beyond the extended family (Aghalino and Orukpe, 2021).

The primary crop grown in Esanland was yam, which is also known as the "king of all crops" in Igboland and some other regions of Nigeria. Prior to the arrival of the British, a man's social standing in Esan rested on how many barns he could erect after the harvest. Men tended to farm the crop primarily. In Esanland, *ema* (pounded yam), is the most often consumed food. It is also the sole food allowed for the new yam festival and other traditional celebrations like funeral and marriages. In Esanland, it is widely believed that *ema* (pounded yam) is the only meal that the ancestors consumed during ancestral worship (P.Aneter, personal communication, March 10, 2022).

Another significant food crop grown by the Esan people is cassava. This crop is a substitute for yam and is mostly farmed by women. Cassava was mostly grown by women since it is easier to grow, requires less effort, and can be grown in a variety of soil types and climates than yam. Esan also farmed beans, pepper, groundnuts, cocoyams, plaintains, bananas, and melons as major food crops. Women produce crops including melon, pepper, and groundnut. Rice was one of the Esan people's other

significant primary food crops. Men and women both worked at cultivating it (P.Anetor, personal communication, March 10, 2022).

In certain areas of Esan, farming also included fishing in addition to agricultural production. There are abundant fishing resources in several areas of Esan such Illushi, Amalu, and Ifeku thanks to the River Niger and Alike River. Uroh and Iyelen have access to a lot of fishing resources in the Uto River as well. Ifeku, Illushi, and a small portion of Uzea all have their fair share of streams and ponds where they carry out their fishing activities. Egbefo and Eboreime (2015) declare that:

Fishing was engaged in by those living in banks of River Niger in Ozigono, Ido, Ebelle and Ekpoma. Here men engaged in fresh water and Open River fishing leaving the marketing and preservation of unsold fish to their wives and women fishmonger. The fishes caught added to the people's protein and others not immediately consumed were preserved either by smoking, drying or salting and sold to traders from parts of Iboland, Benin Kingdom, (p.49).

Fishing ponds and streams were either communally held or belonged to certain households. Owners had the exclusive authority to engage in fishing, or they might sell their rights to interested parties that fished during certain times of the year, particularly during the dry season.

Aside farming as explained above there were also thriving indigenous industries in Esanland during the pre-colonial period. One popular industry of this period was cloth weaving. The cloth weaving activities were made from *olulu* (cotton) which were planted by women in their husbands' farms. Women controlled the Esan textile sector during the pre-colonial era. Women handled all aspects of cotton production, including the planting, harvesting, weaving, and conversion into textiles, as well as the marketing and selling of those textiles (Aghalino and Orukpe, 2021). The most prominent cloth produced by Esan women during this period was the *ukpon-ododo*. The *ukpon-ododo* was highly revered, and the traditional clothing of the *ukpo-ododo* served as a visual representation of the rich

cultural history with which the Esan people are blessed. Most often, the *ukpon-ododo* is utilised during traditional Esan celebrations and royal coronations. Esan women also produced other varieties of cloths apart from the *ukpon-ododo*. With time, there was a downturn in the fabric weaving sector in Esanland. This was caused by the Esan women's inability to compete with the big players in the industry with advanced technology particularly with the coming of colonialism.

Production of palm oil was also an economic activity of the Esan people in the pre-colonial period. In Esan during the pre-colonial era, processing of palm oil was mostly a family business. There were five stages involved in the processing of palm oil. The first stage was harvesting done only by men. The other stages were, gathering of the fruits for boiling, as well as the de-pulping of the fruits, the extraction of the oil, and the provision of fuel and water for the boiling process, were tasks carried out by women (Usoro, 1974 as cited in Unumen, 2017). The mothers were nonetheless helped by their children irrespective of their sexes. The knowledge of producing palm oil in Esan is very ancient, and neither its precise origin nor its date of invention is known. By climbing the tree with an *ifi* fashioned of palm fronds and cutting off the palm bunches with a cutlass, the men harvested the ripe and fresh bunches of palm fruits from the palm trees. The fruit's flesh, which encases the kernel, is used to make palm oil. Bunches were gathered in one location after harvest. The bunch was cut into a few pieces to allow for spontaneous fermentation so that the fruits could be removed off the bunch with ease. They were then piled up, and draped with leaves. for three days or longer. The women then removed the fruits from the thorny cluster parts and brought the fruits home to be processed (Unumen, 1988 as cited in Unumen, 2017). The fruits were first cooked before being placed in an enormous wooden trough *oko* for trampling or crushing in order to obtain oil. The women used their feet to crush the tender fruits. Children of both sexes often assisted at this step of the production process. After that, water was added to the trough and properly mixed. The scum would accumulate on top and eventually be removed while the fibres and nuts would sink. This process was continued until all of the scum was removed. To dry, nuts were stretched out in the open; the fibre was also dried and used as fuel for fires. The scum was

then cooked in a large pot over a fire until all the water had been removed. The contaminants would then rise to the surface of the pot, while the pure oil would accumulate near the pot's base, (Unumen, 1988 as cited in Unumen, 2017).

As payment for their work, the male would give the wife or women who processed the oil a percentage of the oil and kernels after processing. The women received the oil remnant, the kernel, and its by-products as recompense for their efforts, but the husband owned the pure oil. The leftover material or contaminants was crucial. The residue in the bottom of the pot dried out after the pure oil was removed, and it became very combustible once dry. This was referred to as *enele*. The women utilised it to create candles called *ukpobor* for night time usage (Unumen, 1988 as cited in Unumen, 2017).

Soap production was also a thriving enterprise in pre-colonial Esanland. Palm oil, ashes from burned wood, and banana leaves served as the soap's primary raw components. These were combined with water, and the mixture was cooked over an open fire until all the water had evaporated, leaving a black material known as *ebakho*, the local soap. All cleaning tasks, including bathing, washing clothes and kitchen utensils, were done with the soap. Pre-colonial times saw significant manufacture of this soap across Esanland. As a result, it served as one of the primary means of trade (Osagie and Otoide, 2015). In the colonial era this industry suffered a serious setback. The colonialists mounted a serious campaign against the usage of this native soap claiming that it destroyed the texture and colour of clothes. This propaganda was meant to create room for the patronage of British merchants who were involved in the trading and marketing of British soaps and detergents (Osagie and Otoide, 2015).

Palm wine production was also another economic venture in Esanland in the pre-colonial period. Although not a business for the majority of people, some few individuals engaged in it. The old palm trees, the majority of which thrived naturally in the forest, were tapped to produce the wine. The individuals who involved in this business are locally referred to as 'palm wine tappers. These "palm

wine tappers" make a living by taking liquid stuff from palm trees that is white and intoxicating. The process that produces palm wine, as opposed to producing palm oil, entails the tapper digging an opening at the top of the tree and attaching a small collection conduit. He then hangs a calabash from the base of the conduit to collect the wine as it drips down the tree (Aghalino and Orukpe, 2021). Thus, the local brewing business relies on the palm tree itself as a raw source. Because of this, the palm wine tappers in pre-colonial Esan often utilise the shifting tapping technique in order to achieve the finest results from the palm trees. This indicates that, similar to the shifting cultivation style of farming, the tappers would switch to another palm tree after tapping from a particular tree; as a result, they would leave the prior tree for a minimum of three to four years to recoup its wine before returning to tap from it again (Aghalino and Orukpe, 2021).

The pottery industry was also an economic activity of the Esan people in pre-colonial era. This enterprise thrived very well in Esan before the coming of the Europeans. Esan women were heavily interested in it since it was a significant household commitment. Women were acknowledged to have made high-quality home ceramic objects in various Esan settlements, including Ewu, Ibore, Uzea, and Idegun in Ugboha, among others. Clay was the primary raw material, and it was mined locally from clay holes in a few streams. The women made pottery items of different forms, dimensions, and uses (Osagie and Otoide, 2015).

The woodcarving industry was also a pre-colonial enterprise in Esanland. Utility items made by carvers included a stool, hair combs, various types of masquerade masks *okpodu*, and dolls for children, ancestral shrines, *ebo* and a mortar *okor* and pestle *obhio-okor* (Osagie and Otoide, 2015). Wooden grinding *uro* and eating bowls *ekpan* were also produced, as were as staffs of office for kings and elders *ukhure*. The presence of thick forests with an abundance of Mahogany tree *okha*, Iroko tree *unoko* and Obeche tree *ubhekhe* among others allowed artisans to deliver a variety of other items, including doors, windows, stools, walking sticks, and wooden handles for farm tools like hoes, cutlasses, knives, and

chisels (Aghalino and Orukpe, 2021). In addition to providing the raw materials for indigenous industries, the forests also provided the people with fuel for firewood (Osagie and Otoide, 2015).

The Esan people were also involved in blacksmithing (*owenan*) in the pre-colonial era. According to Okoduwa (1999), “By the end of 15th Century, blacksmithing had developed in many parts of Esan. Among them were various centres like Ewoyi in Uromi, Idumigun in Ekpoma, Idumuabekhae in Ugboha,” (p.57). It must be highlighted that the arrival of Igbo-Awka blacksmiths in Esan gave rise to the term *ojogun*, which has muted *owenan*, the Esan word for blacksmith. From the above centres, numerous implements for farming and hunting were produced. The Esan blacksmiths were involved in the production of cutlasses *opia*, knives *ukpoghale*, hoes *egue*, spears *opolo*, axes *uze* and other implements.

Contrary to other sectors before colonialism came to Esanland that had the raw materials required for their everyday activities in ample supply locally, the iron manufacturing sector on the other hand does not enjoy an easily accessible supply of its required raw material to sustain the industry in Esan. In order to maintain the industry and safeguard iron technology in Esanland, the *ojioguns* of Esan turned to economic cooperation with the Igbos and Unemes people for the supply of iron ore the materials for the blacksmithing industry (Aghalino and Orukpe, 2021).

Trade and commerce also flourished in pre-colonial Esan economy. The trade of products and services in the local marketplaces in pre-colonial Esanland was unavoidable due to climatic circumstances and environmental considerations. Before colonialism, trade was conducted via barter (Oseghale, 1999). The lower regions of Esan, such as Illushi and Ifeku, lived around the river banks. As a result, they trade fish and early crop harvests of yam, rice, potatoes, and maize for oranges and other fruits from the highland regions of Esan. There was also the commerce between the Esan and the Igala people, which was aided by the disparities in geography and climate. Early agricultural planting by the Igala people led to an early harvest, which was then transported through Illushi port to Esan markets.

Esan's planting season begins about the time when the majority of Igala crops, including okra, pepper, groundnuts, maize, rice, and vegetables, are harvested. Despite the coastal advantages of areas like Illushi and Ifeku, the majority of the Esan people's marine needs came from the Igala people across the River Niger River. Inter-group connections were facilitated by the various harvest seasons and geographic locations (E.Enagbale, personal communication, March 10, 2022).

By the bank of the River Niger, there was a market called *Eki Ozigono* of Illushi that was held every four days. From all around Esan and even the Niger, merchants came to this market. In Esan, there were several more well-known marketplaces, including *Ekirolele* of Uromi, *Eki Adava* of Ugboha, *Eki Ibike* of Ekpoma, *Eki Agbado* of Ewohimi, *Eki Ughelahanlen* of Ewu, and *Ekirolele* of Ubiaja. Igbo merchants were drawn to all of these markets in Esanland. Traders from Benin, Etsako, and Igbira were also drawn to Esan markets (E.Enagbale, personal communication, March 10, 2022). As a result, commerce improved between Esan and her neighbours, Oseghale (1999). As population began to grow Esan markets grew and experienced commerce from other tribes. Urban centres began to develop, with the coming of colonialism. The invention of money by Europeans, which eliminated the drawbacks of the barter system and the complexity of old currencies like the cowry, was another factor in the growth of commerce (Oseghale, 1999).

The Esan residents value market days and the markets. Esan markets are held every four days, and the market days are planned such that they do not conflict with the markets of two surrounding villages. Chiefdoms could only have markets on the same day if they were located far apart. Okojie (1994) described the Esan market days as follows: Day 1: Igueben, Ekpon, Ugboha, Ekpoma, and Okhuesan. Irua, Opoji, Ebelle, Ubiaja, Ohodua, etc. on Day 2. Uromi, Iruekpen, and Ewohimi on Day 3. Ewu, Illushi, Igor, Ewatto, etc. on Day 4. Markets days also denote a day of relaxation in Esan aside from a day of buying and selling. Even if they don't have anything to sell in the market that day,

farmers stay home to relax. On the day of the market's meetings are also held by the elders to address issues impacting on the community.

### **3.5 Religion and Belief Systems in Esanland**

The Esan society had its own indigenous religion and belief systems before the coming of Islam and Christianity to the area. Religion is manifestly evident in every aspect of life of the Esan people like every other African tribe. Religion gave meaning and significance to the life of Africans (Esan people inclusive) both in this world and in the super sensible world (Mbiti, 1975). The Esan people practised religion that included faith in God *Osenobulua*. The Esan people have a steadfast and profound faith in the Supreme Being. They held the idea that God is supremely strong, flawless, and just. And that no request made to any of the divinities can be fulfilled without his consent and blessing (Okojie, 1994). They refer to this All-Powerful Being by a number of titles, including *Osenobulua*, *Osenoghodua* and *Osenudazi*.

The Esan God, *Osenobulua* the Supreme Being is seen by the people as almighty, invisible, unbeatable, unstoppable, and unconquerable among other attributes. All tasks can be accomplished by *Osenobulua*. When God gives the orders, anything is possible. He makes all things happen. He is described as "the all-powerful," "the God of all gods," and "the shaper of mankind." The world is under His supervision and control. Over all things, He is Supreme. His status is that of a king. *Osenobulua* has complete prerogative and His will is final (Enato, 2005 as cited in Enato, 2018). He has infinite knowledge, wisdom, and vision. He is a judge who is quiet yet active, and a rock that cannot be moved and endures forever. He is eternal. His immortality is celebrated in Esan hymns and songs (Enato, 2018).

The Esan people also believe that God judges men's deeds, ideas, and words impartially even if they have no systematic understanding of God's eschatological judgement. The Supreme Being is said to be a loving being. This is said to be represented through his grace and kindness, both of which are

seen in their daily lives. God is also omniscient in the eyes of the Esan people. Thus, at times of hopelessness and frustration, people would remark, according to Akhilomen (1992) that: *Ebe han agbon ilo bha han Osenobula ilo*, "What is enigmatic to man is clearly known to God," (p.12). This phrase unequivocally attests to the reality that eventually, humans turn to God. His name is constantly spoken by everyone, even if they don't have a special temple or set days of devotion dedicated to Him (Okojie, 1994). Without a formal theology, the truth of God's existence spreads widely among the people. God is also seen as transcendental in Esan world view. When the Esan people say that God is transcendental, they imply that He is above and beyond what is typical and natural, *Osenobulua non rhi bho okhun* (S.Iyoha, personal communication, March 13, 2022).

God is worshipped in Esan through divinities that are seen as his messengers. The Esan people believe that these deities serve as both ministers and officials in the global theocracy. Their authority and strength come from *Osenobulua* the Supreme Being which enables them to provide both the Supreme Being *Osenobulua* and man *Oria* with respectable services (C.Akpuna, personal communication, March 13, 2022). The people relate to the Supreme Being through these divinities. It would be difficult to think of them as distant since they have such a direct impact on people's everyday lives. This is not to say that *Osenobula* is passive rather, it is meant to suggest that the divinities who serve as His servants seem to be more approachable and genuine to the people. This may have been the cause of the mistake of some Western scholars who claimed that, God is incomprehensible to Africans. According to this point of view, Western scholars have regarded appearance to be reality. There are various divinities in Esanland through which the people serve the Supreme Being *Osenobulua*, they include, *Osun, Iyan -oto, Idigun* and several others. *Osun* the Esan god of medicine is believed to preside over rituals and sacrifices (C.Akpuna, personal communication, March 13, 2022). The name *Okosun*, which means "son of medicine," comes from this word *Osun*. The fertility of the earth is linked to *Iyan -oto*, the deity of the earth. The people of Esanland offered sacrifices to the earth god before planting, and if there was a poor yield of crops the *Iyan -oto* was placated with different objects. *Idigun*, a deity

of iron, was revered across Esan. The *Ogun* (blacksmith) served as the chief priest. *Oko- Idigun* means the son of *Idigun* (C.Akpuna, personal communication, March 13, 2022). It was commonly used for swearing, and men feared using it since it was impossible for them to go the whole day without coming into touch with a metal object, Okogie (1994). It must be noted here that river god or goddess was not worshipped across Esanland because of the waterless nature of the area. However, Okogie (1994) observes that: ‘Irrua had *obienmen* – the goddess of the lake... Ohordua, *ilaa*, while Ugboha worshipped the goddess of *oha* and Ewohimi paid yearly respect to *odu*. Ewu had *omobo*. As could be seen these districts that worshipped rivers are outside the water-less plateau,’ (p.219).

The belief in spirits *elihbin* among the Esan people is not in doubt. Spirits are believed to have their abode in the metaphysical world where from time to time they come into the physical world to intervene in the affairs of men. According to popular belief, if these spirits are not placated, they will eventually withhold their blessings, which will lead to misfortune and misery (C.Ikhayere, personal communication, December 30, 2023). Certain things are forbidden in Esanland in honour of the Spirits. For instance, having sexual relations with anybody on the farm or in the market is prohibited by the spirits. It was thought that this would contaminate and degrade the land. If propitiatory offerings are not made, death will be brought upon the perpetrator(s) of this act. Esan people believe that there are evil spirits who enjoy inflicting pains on people; these include witches and wizards *azen* who hold their meetings at night when other people are fast asleep. Esan people have the concept that spirits are found wherever. There is no part of the land a "spirit" of its own or cannot be possessed by a spirit (C. Ikhayere, personal communication, December 30, 2023). The spirits may be found in a wide variety of environments, including shrubs, hills, rivers, and trees. Certain trees like the *unoko* (Iroko tree) are revered as holy and are said to be unique haunts for spirits. Such a tree or trees, which are said to be the homes of spirits, become their symbol and are offered sacrifices and offerings (C. Ikhayere, personal communication, December 30, 2023).

The belief in ancestors also play prominent role among the Esan people. Ancestors are called *Aba bhan ne ri bhenlihin* (our fathers of the spirit world). These ancestors are adult members of the family who have passed away. They are still seen to be integral members of the family. The revered presence of these ancestors gives them a sense of increased authority (C. Ikhayere, personal communication, December 30, 2023). Thus, Esan people believe that the ancestors are a part of the living. Additionally, it is thought that they are actively involved in the affairs of the family's surviving members. In any ceremonial gathering in Esanland before anybody may drink; libation is first poured for the ancestors. This cordial relationship between the ancestors and the living is why Mbiti (1975) refers to them as the "Living-Dead," (p.25). The central component of Esan cosmology, according to Ukhun (1998) has always been and will always be ancestor worship. The Supreme Being *Osenobula* is said to be connected to the living via ancestral worship. The ability to act as mediators between the Supreme Being and the living is given to the ancestors in the supernatural world. The deep belief in life beyond death also forms the foundation of ancestor worship. The Esan people believe that physical death does not always mean the end of a person (C. Ikhayere, personal communication, December 30, 2023).

The veneration of ancestors was very important in the Esan people's spirituality. Ancestral beliefs served as the foundation for Esan traditions, morals, and basic rules. The reverence for and terror of ancestors solidify the family and the village as distinct social units. Fear of ancestors also prevent married women from committing adultery, a social offence the ancestors took seriously, the practise also served to protect marriage. In Esan, adultery may take many different forms, from simple handshakes to touching married women's clothing to real engaging in intercourse (Okogie, 1994). On the other hand, a man who looks adulterously at the wife of a relative might also offend the ancestors, which would lead to sickness. A male relative who witness his married brother's wife being approached by another man and refuse to report to the family council will also incur the wrath of the ancestors. This is called *ize elo mhiem* in Esanland, meaning "my eyes saw it." (C.Akpuna, personal communication,

March 13, 2022). In addition to preventing infidelity, individuals live righteously because of dread of their ancestors. They are aware that the ancestors want them to act with integrity and brotherly affection, (C.Akpuna, personal communication, March 13, 2022). Through the first son, all of the children worship their late father who has become an ancestor. The first son carried the family's *Ukhuere*, a small stick decorated with cowries that symbolises the deceased father's spirit. It should be made clear that only the first son has the authority to touch the *Ukhuere* and use it to bless other members of the family when the situation calls for it (C.Akpuna, personal communication, March 13, 2022). A detailed analysis of this *Ukhuere* will be done in chapter four because of its relationship to inheritance.

The Esan people also believe that for any person to be considered an ancestor in the afterlife, that person must have lived an ethical life that is worthy of emulation, he must live an honourable life. He had to live to a ripe old age and be married with children. He must not die a shameful death through insanity, epilepsy, suicide, or die as a witch or wizard. At death he must be given proper burial and all funeral rites performed for him by the living (C. Ikhayere, personal communication, December 30, 2023).

Esan people also believe in the destructive works of *Esu* the enemy of God. They believe that *Esu* was not originally created by *Osenobulua* to be wicked and evil. It was when *Esu* rebelled against God's authority that he was driven out of the presence of God (P.Anetor personal communication, December 30, 2023). Hence *Esu* declared war against humanity. *Esu* is also known to be a deceiver and tormentor of mankind. He is believed to be responsible for all evils in the world *agbon* and he is the head of all evil spirits. *Esu* is believed to be Christian equivalent of the Devil or Satan in the Bible.

Hero worship is also a feature of Esan Religion. These heroes are great men who have achieved one great feat or the other for their communities. At death they are deified and worshipped. Okogie (1994) named some of these heroes as follows:

Igueben and Ugboha had Enowe the great warrior, Uhiele Ekpoma had Eremein- the man who went Esan proverb as the man who built a house for his wife but had no roof over his own head. Ekpoma had Uda, the builder of the Second Dynasty of Ekpoma royal family. Irrua had Amese, Uromi deified the warrior and self- sacrificing Onojie- Agba. Uzea immortalized its founder, Asukpodudu, just as Ubiaja honoured their first ruler, Oghomighon, (p.217).

## **CHAPTER FOUR**

### **INHERITANCE (*ALE BHU UKU*) IN ESANLAND AND THE RIGHT OF WOMEN TO INHERITANCE**

#### **4.1 Laws Governing Inheritance in Esanland**

In discussing these laws, it is imperative for this researcher to first examine the system of land tenure in Esanland. This is because land is the central issue to the discussion of inheritance.

#### **4.1.1 Land Tenure System in Esanland**

In Esanland before the coming of the Europeans, three system of land *otor* governance were in practice namely: community or village land, family land and the King *Onojie* land. Title to village land is often held by the community as a whole as a corporate body under the community land holding. The corporate group has the right to use the land anyway they deem fit. The corporate group is the one who is the owner of the land and all of its features. In other words, the corporate group has the authority to assign the right to use the land to any individual or group based on an agreement. Both the right to possess and the right to revert belong to the village.

No member has a separate title to ownership of land under the joint ownership system. Along with the rest of the community members, he merely keeps the land together. However, when a community member receives a share of the common land, he becomes the owner of that portion of land. If a member of the village enters the land to acquire it illegally, the first owner may pursue legal action through the village elders for trespass against that person.

The concept guiding land tenure in the village is that land belongs to the people and that the *Odionwele*, who serves as the leader of the community, holds the land on their behalf. Osagie (2013) affirmed this position when he states as follows:

The authority over land in each Esan village was vested in the *Odionwele* [village head] who, in conjunction with the village council (*eko edion*) held land in trust for the people. This seems to be the general practice even among various ethnic groups in areas known today as Nigeria”, (p.139).

Every village free-born person has a right to a piece of land that he can utilize for himself and his family. The land belongs to the free-born as long as he behaves himself.

In Esanland, some pieces of land were owned collectively and therefore might be referred to as communal land. These comprised "virgin land," which was undeveloped space in the middle of the communities, such as community squares, markets, cemeteries, and religious grounds, among other things. Any land in the village and its environs that had not been specifically allotted to or used by any individual was owned by the community. Village squares served as the location for village council meetings *eko-edion* and were also utilised for social gatherings like dancing and wrestling during special occasions. Markets served as the setting for economic transactions. Village cemeteries served as the final resting place for people who died suddenly or from unusual illnesses. The community held ancestral shrines, which were located in the sacred groves. These lands referred to above belonged to the villages forever and no one was allowed to enter or make an acquisition (Osagie, 2013).

Family land is the land acquired by the first male head of the family in the virgin forest of the village with the knowledge of the village elders. A family in pre-colonial Esanland in most cases is usually an extended one comprising of a man, his wives, children, brothers and their wives and children. They are all usually descendants of a common ancestor. Once a man acquired a plot of land, in the virgin forest it remains his own forever. Wherever a man built his house that land is his own. The land becomes his own *Ijiogbe* (ancestral land). Okogie (1994) affirms this fact thus:

A man owned the piece of land on which he had his house. The land with the cleared area around it belonged to him and his children. If he left it to go and build somewhere else within or without the village, no one else had the right to build on the site.... If the house had fallen down and the place had become bush, the old building site ... was still his sacred possession. No one had the right to go there without the expressed permission but once he had given that permission, his claim to that land lapsed, (p.133).

In pre- colonial Esanland, land was acquired for farming on the principle of the first person to clear a virgin forest owned it. Okojie (1994) stated it this way that:

The basic law over farm land was that HE WHO FIRST FARMED A VIRGIN FOREST, A LAND HITHERTO UNCLAIMED, OWNED IT. This means that in Esan custom the first man to clear a forest, cut down the trees for the purpose of farming, owned it OVER GENERATIONS. This is expressed as ONON GBE EGBO YAN EGBO (He who de-  
virgined a forest owned it). The piece of land thus acquired became family property, passing from father to son, (p.134).

Similarly, Osagie (2013) concurred with Okogie as follows that: “The acquisition of land for farming on the other hand was based on the principle of *Ono ka gbe egbo yalen egbo* (he who first deforest a piece of land own it) or the (rights of first occupation)”, (p.139). If the owner left the parcel of land he had just acquired to go and farm in another area, no other farmer could move there to farm without the first owner's approval. Even in cases where this consent was provided, the land returned back to the original owner at the end of the farming season once the new farmer had harvested the crops. The man who was asking for permission to start a farm had no authority to grow productive trees or long-lasting crops like pear or dicanut trees (Okogie, 1994).

During the pre-colonial era, individuals seeking land for residential purposes would typically contact the patriarch of their family, such as their father or uncle, or other relatives. As a customary practise, these family members would then assign a portion of their land within the community to the individual in need. Upon the fulfilment of the aforementioned request, the individual attained permanent ownership of the designated parcels of land. Nevertheless, there existed two distinct methods which an individual could acquire land for agricultural purposes. The primary mode of land acquisition was via inheritance, predominantly from fathers to their sons. The second method was the personal acquirement of land from the virgin forest of the village. At the onset of the agricultural cycle, the village council granted permission for the delineation of a certain portion within its unexplored forests, allowing individuals to clear and utilise an amount of land suitable for farming during the upcoming agricultural season. The ownership of any land that was cleared and used for agricultural

purposes in a given year was granted to the individual as long as they continued to utilise it within the framework of the shifting cultivation system, which was commonly practised by the local population (Okojie, 1994; Osagie, 2004, as cited in Osagie 2013).

Family land refers to the land or parcels of land that were owned by a male individual, who had the authority to distribute it to others, particularly his adult sons, throughout his lifetime. Upon his demise, the distribution of his land holdings would ensue among his male offspring, adhering to the customary practise of granting the eldest son the most substantial portion. Consequently, the children assumed ownership of the specific plots of land that were allocated to them (Osagie, 2013). The plots of land that were under the ownership of the head of a lineage or extended family in Esan consisted of those inherited from his father or acquired independently. These plots of land were exclusively passed down to his sons upon his demise. Individuals possessed authority over the land they either inherited or acquired at any given moment. The ownership of any parcel of land that has been inherited or acquired by an individual would not be seen as abandoned, and therefore, it would not automatically return to the community. This phenomenon can be attributed to the consistent presence of individuals who would inherit land that was previously owned by others, even in cases when the original landowner did not have any biological children (Osagie, 2013). The sole exemption pertained to the parcels of land owned by individuals who had engaged in severe criminal activities and afterwards faced conviction by the relevant authorities, resulting in their expulsion from the community or execution. The acquisition of the individual's property, including their land holdings, was overseen by either the Onojie or Odionwele, depending on whether the legal proceedings took place at the kingdom or village level (Okogie, 1994).

Land held by the traditional institutions in pre-colonial Esanland was more of theory than in practice. This is because land in actual practice belongs to the community. This however does not mean the Kings do not have access to land. Each village in Esanland was encompassed by expansive arable

land, providing an abundant resource for agricultural activities conducted by the local populace. It was often held that the ownership of land resided with the Onojie, the King (plural Enigie), who was widely recognised as the earthly embodiment of divinity (Osagie, 2013). This phrase appears to primarily pertain to the political jurisdiction exercised by the Onojie over the inhabitants of the land rather than the direct management of the land by the King (Bradbury, 1957).

According to Osagie (2013), the Onojie possessed the authority to obtain land within his entire kingdom for the purpose of communal use, including the establishment of a market (*eki*), graveyard (*egbi Itolimin*), shrine (*aluebo*), and playground (*ukpugbele*), without encountering any obstacles or impediments. The ownership of marketplaces, similar to playgrounds, was rightfully attributed to the Onojie. As a result, the primary markets, particularly those situated in the central region of the kingdom known as *Egualé*, are named after their respective Enijie in all Esan towns.

The situation reviewed above was the status of land tenure in Esanland in the pre-colonial period before the coming of the Europeans who introduced different land governance regime that took away the people's land rights from them. However, our emphasis in this research effort will focus on individual/family land and landed property that can be inherited by the children of the deceased.

#### **4.1.2 The Principle of Primogeniture**

The principle of primogeniture in Esanland entails the inheritance system wherein the eldest son within a family is entitled to the entirety of the property upon the demise of his father. The phenomenon in question is inherently derived from the patriarchal structure prevalent among the Esan

community. The notion of primogeniture is a governing factor in Esan inheritance system. The practise in question has been observed from ancient times.

In essence, the eldest son was bequeathed the father's estate and had the discretion to distribute it among his younger siblings as he saw fit. Indeed, it is a verifiable fact that certain siblings, could contest his inequitable behaviour of appropriating all possessions only for his benefit. Consequently, they may choose to bring this subject to the attention of the *Egbele* (the village elders). In this scenario, the *Egbele* possess the ability to offer counsel, however lack the authority to compel the eldest son to relinquish his rightful possessions. Based on the aforementioned scenario, it is unlikely that any prudent siblings would inherit the property that was forcibly forfeited by the eldest son. It must be pointed out here that, it is not possible for younger siblings to inherit any of their father's assets, like houses, land, or economic trees, that were given to them during their father's lifetime. The first son had the rights to claim these assets back for himself, unless deposition was formally done at the ancestral shrine with presence of the *Egbele* as witnesses (B. Okodede, personal communication March 13,2022; Okogie 1994).

According to the Esan native laws and customs, the application of the principle of primogeniture results in the exclusion of women from inheritance. The inequitable exclusion of women from the succession process is a matter of concern, given that both genders actively contribute to the accumulation of property, rather than solely men. In Esan land, widows and daughters are not entitled to inherit the estate of their deceased husband or father. Esan custom, traditionally perceived women as constant minors. In Esan culture, it was customary for a woman to be under the guardianship of her father prior to marriage, and thereafter, under the guardianship of her husband. Following the demise of her spouse, she came under the legal guardianship of her husband's successor. In the event of a divorce, she returned to the guardianship of her father. The rule of primogeniture is central to inheritance custom in Esanland (B. Okodede, personal communication March 13,2022; Okogie 1994).

#### **4.1.3 When the First Son is a Minor**

In the event that the first son is a minor, it is customary for the uncle to assume ownership of the deceased's property on behalf of his nephew, until such a time as the latter reaches the age of maturity. The responsibility of the uncle is to assume guardianship of his nephew and provide him with parental care and support (B. Okodede, personal communication March 13,2022; Okogie 1994). He possesses the legal entitlement to give out in marriage the daughters of his deceased sibling. According to customary practise, he had to empower economically his nephew and arrange a matrimonial union for him once he has reached the appropriate age in life to establish his own family (P. Aluedo, personal communication March 13,2022; Okogie 1994).

The apprehension of facing consequences from ancestral spirits serves as a moral compass, in discouraging acts of injustice and deceit on the side of the uncle who also happens to be the inheritor, in relation to his nephew. The inheritors' apprehension prompted them to act with integrity by transferring the non-perishable property they had received on behalf of the heir, (B. Okodede, personal communication March 13,2022).According to Esan customs, the inheritor was permitted to utilise perishable assets for personal benefits, whereas non-perishable assets such as lands and houses were required to be returned to the true owner upon reaching adulthood. This implies that the uncle fulfilled the role of a trustee, acting on behalf of the heir, (B. Okodede, personal communication March 13,2022).

#### **4.1.4 No Principle of Representation**

In Esan law of inheritance, it is the eldest surviving son at the time of his father's death that is entitled to inherit. In cases where the eldest son passes away before his father, the deceased grandson, being the eldest child of the eldest son, does not receive his grandfather's property in lieu of his father.

Conversely, the inheritance goes to the second son of the deceased. Therefore, the Esan law of inheritance does not recognize the principle of representation, (B. Okodede, personal communication March 13,2022).

#### **4.1.5 When the Eldest Son failed to Perform His Father's Funeral Rites**

The failure of the eldest surviving son to fulfil the burial and funeral customs of his deceased father does not preclude him from receiving his father's estate as the eldest son. However, in the event that he desires to ensure the acquisition of the aforementioned property for his offspring subsequent to his demise, he is compelled to fulfil the ceremonial procedures at some point during his life time. In the event of his demise without the completion of the burial rituals, the inherited assets will be transferred to his younger sibling rather than his own offspring (C. Akpuna, personal communication March 13,2022). In the event that the deceased individual has made some improvement on the property before his passing, it follows that the eldest son would be eligible to receive a certain amount of compensation from the subsequent new inheritor of the said property, (B. Okodede, personal communication March 13,2022). A detailed analysis of this phenomenon shall be discussed in this chapter later, when we shall examine the process of inheritance.

#### **4.1.6 Children of a Woman-Husband**

The phenomenon of female husbands in Esan land can be distinguished from the practise of lesbianism observed in Western and other societies. There exist various justifications for this customary tradition within Esan land. In the scenario described, a wealthy woman who does not have children expresses her desire to prevent her husband from inheriting her property upon her passing. Additionally, she seeks to ensure that appropriate burial rituals are conducted for her at death (A. Ebhodaghe, personal communication March 10,2022; Okogie 1994). To achieve these objectives, she enters into a marriage with a young woman, fulfilling the customary bride price and then cohabiting with her. The woman was granted permission to engage in sexual contact with a man selected by her female spouse,

with the purpose of procreating offspring who would thereafter inherit her assets. All offspring resulting from this marital relationship are recognised as legitimate children of the affluent mother who now take up the surname of the rich woman's husband and not the surname of their biological father. The biological father of these children is seen as a donor who will never come back to claim the ownership of the children. At the onset of this arrangement the would-be donor is made to swear to an oath at the family shrine with the presence of the *Egbele* (elders) that he will never come to ask for the ownership of the children produced from the relationship (A. Ebhodaghe, personal communication March 10,2022).

This practice of woman-husband is no longer common as it should to be in the pre- colonial Esan land with the advancement of technology in reproductive health care. However according to Idemudia (2022), sometimes in 1988 at Amedokhian, Uromi, Madam Ataye (now late) a rich business woman, married to a young woman named Akhere (the younger of a twin) from Okpujie within the same Amedokhian village. The union produced five children, two boys and three girls. Their biological father was Mr. Christopher Iyoha, (E.Idemudia personal communication, Dec.30,2022).The phenomenon of woman- husband is not peculiar to Esan people, It is also being practised by Igbo people according to Nwoko (2012).

#### **4.1.7 When a Man is assisted to have Children**

Esan laws and custom allow the wife or wives of an impotent man to go outside and sleep with other men to raise children for the husband with the knowledge of the husband. This practice was put in place to ensure that everyman has someone to inherit his assets. The procedure is usually for the impotent husband to make his status known to the *Egbele* (elders of the family) his intention to allow his wife or wives to raise children for him through other men. The woman is therefore taking to the family shrine in the presence of the *Egbele* and a goat is slaughtered for the departed spirits of the

ancestors to turn a blind eye against the promiscuous ways of life of the wife or wives as the case may be (P.Aluedo, personal communication March 13, 2022).

This practice is called *Asu khure no owho* (meaning the wife has been given approval officially to sleep with any man of her choice). However to reduce the psychological effects of this practice for the impotent husband, the woman must not bring her sexual partner to the matrimonial home and she must also not sleep with a member of the family (P.Aluedo, personal communication March 13, 2022).

In this arrangement the would-be sexual partner of the woman is seen as a donor. The woman must not disclose her marital status to the donor- partner and in case of pregnancy she must hid it from the donor. This is to prevent a situation where the donor will come to claim the children in the future as their biological father. All the children gotten from this practice belong to the impotent husband and therefore qualify as his inheritors (P.Aluedo, personal communication March 13, 2022). The women involved in this practice were not seen as prostitutes, the way we understand the term prostitutes today. In a pre-colonial society where, modern medical technology was unknown, this practice was put in place to solve the problem of impotency and inheritance.

#### **4.1.8 The Adoption of a Successor**

In the pre-colonial era of Esanland, it was a traditional norm for the patriarch of a household to engage in the practise of adopting a successor when he did not have any male offspring weather in a monogamous marriage or polygamous marriage. According to customary law, it is generally more favourable for the leader of a family group to adopt a son who is a close relative, as opposed to someone who lacks a blood tie through the male lineage. The individual who is chosen as the successor through adoption is not always have to be a minor, but might also be a young boy or an adolescent. The act of adopting an heir with the intention of securing inheritance rights necessitates the acquisition of approval and public endorsement from the relevant family members of the adopter (C. Ikhayere, personal communication Dec. 30, 2023).

The act of adoption typically takes place within the family's shrine, with the *Egbele* (elders) serving as witnesses to the proceedings. During the ceremony held at the shrine, the adopter publicly declared, in the presence of all attendees, the designated heir who will assume the adopter's position upon his demise and subsequent reunion with his ancestors. In order to invoke the presence of the deceased ancestors as witnesses to the transaction, a goat was ceremonially sacrificed. The meat was distributed among all individuals who expressed their good wishes towards the adopter. After this ceremony, the adoptee legally assumed the position of an heir to the adopter, as recognised by both the dead and the living parties (Okojie, 1994). In the event that the adopter in his later years experiences the birth of additional male off springs, it is important to note that the adoptee will continue to have the status of being the eldest child within the adopter's family structure and therefore qualify for inheritance (C. Ikhayere, personal communication Dec. 30, 2023).

#### **4.1.9 Disinheritance**

In certain circumstances, it is possible for the patriarch of a family to disinherit his designated heir and exclude him from inheriting his estate upon his demise. This action may be taken as a consequence of the heir's involvement in criminal activities or other grave transgressions that pose a threat to the harmony and stability of the family unit. There must be serious reasons for disinheritance so as not to incur the wrath of the ancestors. According to Elimian (2023) the reasons may include the following:

The individual's engagement in severe misconduct, such as criminal activities, repeated theft, excessive spending, or other significant transgressions, renders him unsuitable for inheriting the position of family head from his father; the individual's actions towards his father, such as physically assaulting him, forcibly removing him from his own dwelling, or displaying persistent disobedience ; the display of excessive wastefulness or extravagance pertaining to the personal belongings of the patriarch, the overall estate, or

residential properties; engaging in foolish or mentally unstable behaviour, including a deliberate endeavour to harm the father with the intention of accelerating one's own inheritance, involvement in extramarital affairs with the younger spouses of the father, recurrent physical attacks on the father, abandonment of the father; and repeated acts of adultery (B.Elimian, personal communication Dec. 30, 2023).

For disinheritance to be effective a goat is slaughtered at the family shrine by the patriarch of the family in the presence of the *Egbele* (elders of the family) and the spirits of the departed ancestors are invoked as witnesses. After this ceremony, the disinherited son has no share in his father's property and the next son in line becomes the heir (B.Elimian, personal communication Dec. 30, 2023; Okojie, 1994). If, however the disinherited son begs his father before his death and seek the support of the elders to beg his father on his behalf and show evidence of change of behaviour, then he will be forgiven and restored to his former position as the heir. The ceremony of restoration is called again with the elders in attendance and a goat is slaughtered at the family shrine to cancel the disinheritance that was done earlier (B.Elimian, personal communication Dec. 30, 2023).

## **4.2 The Process of Inheritance**

In discussing the process of inheritance in Esanland, it is the intention of the researcher to first and foremost examine death, burial and burial rites in Esanland in order to give the readers a fuller understanding of the issues at hand.

### **4.2.1 Death, Burial and Burial Rites in Esanland**

In Esan culture, the concept of death is not merely accepted at face value as its etymology suggests. The type of death determines the type of funeral rites to be given to the deceased by the living. The concept of death has the potential to evoke both feelings of guilt and glory. Experiencing death due

to poverty, hunger, neglect, or being discovered deceased as a consequence of the putrid smell emitted from a decaying corpse are undoubtedly unfavourable occurrences (B.Elimian, personal communication Dec. 30, 2023). Likewise, instances of self-inflicted death, such as suicide, or deviating from societal norms by dying in the bush or succumbing to death through mental illness within the community, are additional manifestations of deaths that carry a sense of disgrace. In the Esan language, the term *Uu mhin oya* denotes a death that is seen as disgraceful, but *Uu mhin eghon ghon* signifies a death that is considered good or glorious (B.Elimian, personal communication Dec. 30, 2023).

Experiencing a serene demise during sleep, succumbing to a brief illness, and avoiding a prolonged and severe ailment that could deplete limited resources at old age is commonly perceived as a good death. According to Izibili (2017)

Death is classified into two categories within the traditional Esan community, "good death" and "bad death." A good death is one that occurs when an individual has reached old age and his children have matured sufficiently to provide him with a dignified funeral. The term "bad death" refers to the unfortunate circumstance in which a younger person passes away while his parents are still alive, (pp.83-84).

The good death that occurs at old age is the focus here; this is because the funeral rites associated with it has nexus with inheritance.

#### **4.2.1.1 The Interment of a Patriarch**

In Pre-colonial Esanland, prior to the development of mortuary practises, burial took place promptly upon death. Before the interment, the body underwent a cleansing process, utilising a fresh clay pot for the water. After the washing the corpse was subsequently enveloped in a white cloth and

mat, and brought to the front of the house for the ritualistic culmination known as *eman elimhin* (E. Idemudia, personal communication Dec. 30, 2023). This ceremonial event involves the preparation of a unique pounded yam, typically made with fish or goat meat, accompanied by ogbolor soup, specifically intended for the deceased individual's soul. The purpose of this ceremonial meal was for the deceased to have the strength and energy to travel to the spirit world not with empty stomach. It was also seen as a meal of uniting the children together to respect the wishes of the dead so that there will be no divisions among the children (E. Idemudia, personal communication Dec. 30, 2023).

The children gathered around the corpse, which was positioned with its head facing the house. One of the *egbele* (the elders) performed a ritual to bless the deceased and placed a portion of pounded yam at his feet on the ground. The children and members of the extended family gathered around the lifeless body and each received a portion of the ceremonial meal sequentially (E. Idemudia, personal communication Dec. 30, 2023; Okojie, 1994). Following the ceremony, the deceased's body was taken to the graveyard for interment by the corpse bearers, often *Igene* middle-aged men. The eldest son accompanied the pallbearers to the burial place, carrying the clay pot used for bathing the deceased. At the grave site the first son conducted the ritual of dust to dust, returning the body to the earth and joined by other children (E. Idemudia, personal communication Dec. 30, 2023).

After the burial, the pot was placed on the tomb and everyone went back home. The hoes and cutlasses were left untouched in *Ulanmen*, (a gutter in the compound), for duration of seven days. If the deceased did not have a son, his *Oro* (godson) would take on the role of the first son and carry out all the necessary rituals to ensure a seamless transition to the spirit realm (C. Ikhayere, personal communication Dec. 30, 2023).

Individuals who handle deceased bodies typically undergo a comprehensive cleansing process using locally produced soap. This is done to mitigate many issues, including the transmission and proliferation of pathogens and microorganisms, as well as to disassociate oneself from the deceased's

essence. These behaviours exemplify the abhorrent ideas that the Esan community holds regarding death and the deceased. Typically, in many societies, it is customary to bury elderly individuals within their own homes as failing to do so would be considered disrespectful and a taboo (Airoboman and Osagie, 2016). Only the youthful individuals are interred at the cemetery, which is consistently situated on the outskirts of the village. The concept is to shield the parents and other relatives from the painful reminder of their loved one's death, preventing them from experiencing unending grief and sorrow whenever they encounter the grave.

The death of an elderly person in Esanland is usually accompanied with celebrations and feasting for a life well spent. In pre-colonial Esan society eating and drinking go on daily for seven days with mourners coming and going. On the seventh day, there is usually social wake keep with dancing and singing to say good bye to the deceased. With the coming of westernization all these activities have been reduced to two days particularly weekends (C. Ikhayere, personal communication Dec. 30, 2023).

The conclusion of the interment signifies the beginning of the mourning period for the widow or widows of the deceased as the case may be. The act of mourning for widows is represented by the donning of mourning attire and the observance of several rituals. During the seven days of mourning no member of the family goes to the market or farm. The status of a woman is reduced immediately; she loses her husband to death. For example her membership of women's organization in the village is automatically terminated. Typically, mourning is a two-way process as both men and women mourn their lost partners. However, that of a woman is much more complicated (C. Ikhayere, personal communication Dec. 30, 2023). Airoboman and Osagie (2016) observe that:

A woman may have her hair shaved, eat with left hand, eat in unwashed plates, drink from unwashed cups, sleep and sit on the bare floor for seven or more days and wear

black clothes for up to three months. She abstains from sex for as long as possible until she is in a normal case inherited, (p.6).

In addition to the above, Airoboman and Osagie (2016) further note that the widow:

Decked herself in black with *Irialo* round her wrists, ankle and neck. She armed herself with some objects such as *ihinmin*, *elo* (female knife for cutting yam), bow and seven arrows, and some other objects depending on the community, believed to be shunned by the spirits. These steps are taken to deter the spirit of the dead, (p.6).

As part of the mourning rituals the woman sobbed vociferously on a daily basis, and on the seventh day, she proceeded to her husband's farm land, where she cried in circles around it. Using a stick, she excavated seven yams from the ground, which she then gathered and secured together before making her way back home. Then, on arrival at home she removed her mourning attire, cleansed herself, and then concluded her period of public mourning for the late husband. Meanwhile she is still required to put on black clothes for three months until she is inherited (Airoboman and Osagie, 2016).

#### **4.2.1.2 The Second Burial (*Itolibhin*)**

After the interment of a Patriarch in Esanland, what follows next is the second burial called (*Itolibhin*). This ceremony of (*Itolibhin*) is very important because it has nexus with inheritance, without which the first son cannot inherit his father's property. This ceremony is also important for the soul of the departed patriarch because it opens the door of the spirit world of the ancestors for the dead. If it is not done the dead father will not be accepted into the cult of the ancestors in the supersensible world. This ceremony of second burial can be done immediately within seven, fourteen days, months or years after the interment of the patriarch depending on how rich the first son. Thus, it is the sole duty and responsibility of the first son to give his father a befitting burial. Other children can contribute if they so wish, but it is not compulsory (V. Eniga, personal communication Dec. 30, 2023).

The second burial (*Itolibhin*) is a sacred ritual conducted by the eldest son of a deceased man in order to receive his spiritual inheritance. Upon the father's death, the eldest son takes on the responsibility of becoming the new paternal figure for his siblings. In order to accomplish this objective, it is necessary for religion and mysticism to be included in the arrangement. In pre-colonial Esanland there were no mortuaries to preserve the bodies of the deceased. After the deceased was promptly buried, his hair, finger nails, and clothing are trimmed and kept in a calabash until his eldest son is capable of informing his relatives that he is prepared for his father's second burial (E. Omoike, personal communication Dec. 30, 2023). *Ukhure* (scepter or ancestral staff) was made and consecrated by emptying these things from the calabash into another mixture. The first son then uses this object to ask the deceased father for protection over the whole family and to pour a libation of wine and blood. He offers sacrifices to the late father who has become an ancestor through the *Ukhure*. Regarding the deceased's physical estate, the decision lies with the *Egbele* (elders). Therefore, during the meeting with the deceased's children, the eldest relative will inquire if the deceased ever disclosed his plans for administering the estate to anyone. If individuals come forward to share their testimonies, their positions are typically accepted (E. Omoike, personal communication, December 30, 2023). Consequently, the ceremony for second burials vary from one Esan community to another. Nevertheless, it is a prevalent custom all over Esanland. Once this second burial has taken place, the first son has secured his father's landed properties for himself, his children and children's children to the exclusion of his direct siblings forever.

According to Ojiefoh (2002), the second burial (*Itolibhin*) holds great importance in Esan culture as it represents the culmination of the burial ceremony for a deceased father. It does not matter if the final burial ceremony for one's mother is not performed. However, for the deceased father it is mandatory for the eldest son to carry out this ritual, as without it, he cannot attain the status of an *Odionwele* (Senior elder) and is ineligible to inherit his father's property. In Esan customary law, it is a widely acknowledged tradition the eldest son, is responsible for conducting the second burial *Itolibhin*

ceremony for his deceased father. This is a crucial requirement for the son to be eligible to inherit his father's money and property (Izibili, 2017). Izibili (2017) explains further that in contemporary times, Christian influence and social change have impacted on the second burial ceremony that one does not need to slaughter any goat or cow, but rather convert the items into monetary value to be delivered to the *Egbele* (elders). Despite, this development the essence is still the same. Second burial is done to enable the first son possess complete entitlement to the deceased father's assets.

#### **4.2.2 The First Son and the Inheritance of *Ijiogbe***

In Esan custom and tradition *Ijiogbe* is the ancestral house or land *otor abie bhan bhie* (everlasting land from generations to generations) where a father lived, died and buried. This house or land is usually in his own village. If the man lived and died in a place far away from his home town or village, he must be taken back for burial in his own place of origin to reunite with his ancestors (L. Ighogboya, personal communication, January 20, 2024). This land or house is never sold no matter the economic situation of the inheritor. It is the ancestral land and family cemetery. This land is transferred through inheritance from first son to first son through generations.

*Ijiogbe* is a sacred place where the offspring of the deceased gather to establish communication with their ancestor's spirit or the ancestral lineage. The ceremony includes making offerings to the spirit of the deceased father or ancestral family members. The ceremony is conducted within the sacred shrine, where the *ukhure* is positioned. *Ijiogbe* was specifically created to uphold the family's customs, promote familial cohesion, and ensure the organized continuation of ancestor veneration (A. Omonigho, personal communication, January 20, 2024).

*Ijiogbe* cannot be disposed of through a will to a younger son. It is exclusively reserved for the first son from one generation to another. In Esan custom, the first son inherits the *Ijiogbe* and all other estates of the deceased father to the exclusion of his younger brothers and sisters, particularly after he

has performed the *itolibhin* (second burial) of his deceased father (G. Ikhuoria, personal communication, January 20, 2024).

#### **4.2.3 The First Son and the Inheritance of *Ukhure***

The *Ukhure*, also known as the ancestral staff, or scepter is a crucial and paramount element of the Esan people's ancestral altar. The *ukhure* is a basic implement consisting of a stripped, linear hardwood shaft of around two to three feet in size. It is embellished with strands of cowrie shells that are wrapped around either the centre or one end. The *ukhure* is consecrated with the deceased hair, finger nails and clothing that were kept when the deceased passed on (G. Aziba, personal communication, January 20, 2024). After the consecration ceremony the elders *Egbele* hand over the *ukhure* to the first son of the deceased as the new head of the family. The *ukhure* represents past fathers who have gone to the world beyond. In making a new *ukhure* the first son has the power to destroy the worn-out staff of a predecessor from a previous generation and repurpose the cowries that were once attached to it. After this ceremony the first son now has the authority to pour libation of wine and blood to the ancestors through the *ukhure* that is placed at the ancestral altar in the principal house *Ijiogbe* (G. Aziba, personal communication, January 20, 2024).

*Ukhure* fulfils several roles within the family. The object symbolizes the male forefather and serves as the central point for offering prayers and performing rituals in his honour. The *ukhure* serves as a means to draw the ancestor's attention to the offerings and requests made by their offspring. The *ukhure* is utilised as a tool to grind native chalk *ere* into a fine powder, which is then combined with water to anoint and bless the participants during ancestral worship (M. Osolase, personal communication, January 20, 2024). This object *ukhure* is also utilized for the purpose of solemnly affirming oaths in the presence of one's forebears, and possesses the capability to cause the death of individuals who make false declarations. The *ukhure* is also used to perform cleansing ritual in the case of incest or adultery within the family. Finally, it serves as a symbol of the position held by the first son

or family leader, who inherits his father's possessions and assumes the role of conducting ancestral ceremonies. The *ukhure* staff symbolizes both social prestige and official authority for the first son (M. Osolase, personal communication, January 20, 2024).

#### **4.2.4 Inheritance of Farmlands, Economic Trees and Domestic Animals**

In Esan custom and tradition, the farmland of a deceased man is inherited by the first son to the exclusion of his siblings. If the first son is nice at his pleasure, he can give some portions of the land out to his younger brothers who may be farming there to take care of their own family or families as the case maybe. The younger brothers do not have absolute right to the land in question, therefore they cannot sell the land to a third party or give it out as a gift to another person (B. Omoijade, personal communication, January 21, 2024). If the first son is not residing in the village, he will lease out the land through a member of the family who will be reporting to him with the *egbele* (elders) as witnesses. If the first son is a minor, the uncle will stand in for him until he is of age to take over his inheritance. In this case the uncle is required by Esan custom and tradition to train the heir in any trade of his choice and to also marry for him when he is of age. To secure this arrangement the uncle is made to take an oath of allegiance at the family shrine in the presence of elders with the ancestors as witness that he will not short change the heir in what is due to him (B. Omoijade, personal communication, January 21, 2024).

In Esanland a man's eldest son is entitled to inherit all his late his father's economic trees, without any objection from any quarter. These economic trees may include, but not limited to the following: coconut, pear, pepper-fruit, kolanut etc. However, palm palms that grow spontaneously on any plot of land, excluding a man's own compound, are considered communal assets rather than belonging to a particular landowner. In this case such palm trees are not eligible for inheritance by anybody. If the first son is not resident in the village or he is a minor the same rules that exist in the inheritance of farmland as discussed above will also apply in this case. Nobody within the family or

outside the family can make use of these economic trees without the express permission of the heir (R. Imiefoh, personal communication, January 21, 2024).

Domestic animals, such as goats, sheep, pigs, cows and fowls of the deceased are inherited exclusively by the eldest son. However, if the first son is kind and wise, he can share some of the animals to his younger siblings particularly in a polygamous family. The first son can put somebody in charge of the animals who will be accountable to him if he is not resident in the village. If he is a minor, the uncle will be in charge until the heir is old enough to be in charge. If the uncle defrauds him, there is the fear that the ancestors will punish him (S. Eromosele, personal communication, January 21, 2024).

#### **4.2.5 Inheritance of Money and Debts**

All monies left behind by the deceased belong to the first son. In pre-colonial Esanland money was in the form of cowries usually kept in a calabash before the advent of paper money. When the deceased passed away, the first son looked for the calabash for safe keeping. In some cases, the deceased will summon the first son and pass unto him his last wishes and inform him where his money is kept. However, where this is not possible the first son will look for the money on his own (M. Ebhobheiye, personal communication, January 21, 2024).

On the issue of debts, a family council meeting is usually summoned by the elders of the family to ask if the deceased was owing any of them and also if anyone was owing the deceased too. The ancestors are usually call upon through the family's shrine to punish anyone who will conceal the truth. A timeframe of seven days was also given to outsiders to inform the family of the deceased if they own the deceased or if the deceased own them and the amount involved. After this meeting those who own the deceased are made to pay up and the deceased first son in turn also pay up the debts owned by his late father (M. Ebhobheiye, personal communication, January 21, 2024). If the first son does not have the means to pay a huge debt left behind by his late father, his rich younger brothers can help,

otherwise according to Esan custom he will forfeit all his inheritance which include assets and liabilities to the King of the land. In this case the debt became a bad one because nobody would dare ask the King for repayment of his money (Okogie, 1994).

#### **4.2.6 Inheritance of Wives**

All the wives left behind by the deceased are inherited by his first son except his own mother. The second son from another mother in a polygamous family inherits the mother of the first son. There are variations in this practice in some places. In places like Okhuesan, ,Ewossa, Ebelle, Ehbohimhin and Ujogba it is the uncle that normally inherits the mother of the first son. In the case of a monogamous home, the wife of the deceased is inherited by his paternal younger brother (E. Osobhalienakhor, personal communication, January 21, 2024). However, this practice is dwindling in contemporary times because of economic hardship, Christianity and social change. A wife who refuses to be inherited is usually abandoned and left to take care of herself and the children alone. It is important to note here, that an inherited wife according to Esan custom cannot be inherited by the heir of the first inheritor if he passed away. Instead, the widow will be inherited by the younger brother of the first inheritor (M. Iyere, personal communication, January 21, 2024; Okogie, 1994). The inheritance of the widow is from brother to brother as similarly practiced by the Jews, (Luke, 20:27-40).

#### **4.2.7 Inheritance of Brothers and Sisters**

According to Esan custom and tradition all the younger brothers who are minors (not yet married) are dependents of the first son. It is the duty of the first son to train them in any profession of their choice until they are able to stand on their feet. He is also to marry for them when they are ready. In fact, this is the reason he inherits all his father's property so that he can become a father figure to all his younger siblings (L. Iyoha, personal communication, January 21, 2024). However, experience has shown that in contemporary Esan society most first sons have jettisoned this noble tradition. They are only interested in the privileges associated with been the first son of the family without corresponding

responsibilities. Older brothers who are married living independently on their own still report and pay homage to the first son particularly during festive periods (T. Iriogbe, personal communication, January 21, 2024).

Similarly, as discussed above it is also the responsibility of the first son to take care of his younger sisters who are not yet marry and see them through life until they find husbands to marry. He gives them out in marriage and takes the bride price. The in-laws pay yearly dues to the first son. In fact, everything due to the father from the in-laws is given to him as the new father figure of the family (T. Iriogbe, personal communication, January 21, 2024). In pre- colonial times, the in- laws help to make farms for the father -in -law. In his absence everything goes to the first son. In modern times everything is now monetised.

#### **4.2.8 Gifts given when the Giver is still alive (*Inter Vivor* Gifts)**

Inter vivor gift is a gift given by the head of a family to any person of his choice before his death who could be a member of the family or an outsider. The giver may do this because the receiver takes good care of him during his ill-health. In giving out an *inter vivor* gift, the donor must follow the custom and tradition of the land. As Okosun (2024) puts it:

The patriarch is not permitted to give out the *Ijiogbe* (principal house) to any other person, this belongs to the first son by tradition. Secondly, he must not disinherit male children in favour of the female children. Lastly, he must not show favouritism in the distribution of his estates particularly in a polygamous family (D. Okosun, personal communication, January 21, 2024).

For *inter vivor* gift to be effective, the giver must call a meeting of the family council with the elders and the first son in attendance to avoid disputation after the giver has passed on. The deposition is usually made at the ancestral altar and the ancestors are called upon to bear witness to the transaction.

#### **4.2.9 Oral Will or *Nuncupative Will***

A nuncupative will is a declaration made orally and freely by a mentally sound person who is about to die. In pre-colonial Esanland, this declaration is made in the presence of reliable and impartial witnesses who are usually family members (D. Okosun, personal communication, January 21, 2024). According to Aluedo (2024) the key features of a nuncupative will are as follows: “(a) The testator must have full mental capacity. (b) The dispositions must be made willingly and without any undue influence, deception, or coercion. (c) The will must be spoken orally”. (R. Aluedo, personal communication, January 21, 2024). In Esan native law and custom a nuncupative will is considered invalid if it is made under the influence of coercion that undermines the testator's ability to make independent decisions. A nuncupative will becomes effective at the death of the person who made it, and once it is legally established, the beneficiary gains a fixed right to the property that was given (C. Aiyegbeni, personal communication, January 21, 2024). In making a nuncupative will, the testator cannot give out what is customarily due to the first son to another person. If he does so, the elders will reverse it after his death. If the will is properly done, it is respected and honoured because nobody wants to go against the wish of a dead man because of the fear of repercussion from the ancestors (C. Aiyegbeni, personal communication, January 21, 2024).

#### **4.2.10 Sharing according to Different Doors (*Ukhuede*) by per Stripes**

In pre-colonial Esan society men were mainly polygamous to provide labour for farm work. Polygamy is the practice of marrying multiple wives and living with them in the same house at the same time. According to Esan tradition in a polygamous family the head of the family shares his landed property according to doors *ukhuede* i.e. per stripes before his death (W. Anegbode, personal

communication, January 21, 2024). He calls a family council meeting to distribute his estates to the first sons of each of the wives representing each door. The family elders *Uenlen* are usually present as witnesses. The ancestors at the family ancestral altar are called upon to fight anybody who may dispute what the head of the family has shared after his death. In sharing according to per stripe, the head of the family has no right to give the principal house *Ijiogbe* to any other person, except his eldest son. If the head of the family does not share his estates according to stripes, the eldest son will inherit everything left behind by his late father (G. Abhulibhen, personal communication, January 21, 2024). However, if the eldest son is not greedy and selfish, he will share some of the estates to his younger brothers.

### **4.3 Women's Right to Inheritance in Esanland**

Under this sub-heading, the researcher undertakes the Esan traditional attitudes towards women to help give the readers a fuller understanding of the subject matter of inheritance in relation to women in Esanland. These traditional attitudes to be discussed below are meted out to women simply because they are seen as inferior to men in Esan tradition.

#### **4.3.1 Esan Traditional Attitudes Towards Women**

In Pre-colonial Esanland, women are always blamed for a child's misbehaviour. Hence there is a saying in Esan that: *omo ibhen ochion si inonlen, oa ki abhen ochion sa abale*, meaning "when a child continues to misbehave, he/she is for the mother, but when he/she behaves well he/she is for the father". This is so because Esan tradition believes that it is the sole duty of women to raise well-behaved children for the home and society, reason being that the man is always out there working for the family survival. Women are to serve as educators, imparting knowledge and traditional principles to children, while also fulfilling crucial role in transmitting moral convictions and cultural norms through their care for their families. Elderly women, are to utilize their accumulated knowledge and experience to instruct children in the art of displaying respect, gratitude, and gentleness. Women are to propagate

Esan culture to children through dance, music, storytelling and painting (G. Abhulibhen, personal communication, January 21, 2024).

A woman in Esan culture must avoid causing her spouse any distress. It is imperative that she refrain from using derogatory and offensive language towards her husband. Otherwise, she could face divorce for such a trivial or insignificant reason. Women in Esanland lack the ability to question the misbehaviour of their husbands (R. Oniregbete, personal communication, February 23, 2024).

In Esan culture a man can never be wrong, in the event of a quarrel, it is the wife that is always at fault. The wife is dragged to family court by the husband. During the course of this quarrel the man does not eat the food cooked by the woman and he does not have sex with her too, until the issue at stake is resolved. When the case is presented at the family court, the wife is usually blamed even if the man is at fault. The elders usually exact from the woman a fine of cock, gin and kolanut to pacify the husband and the ancestors. If the elders found out that the man is guilty of the allegation levied against him by the wife, they would still not rebuke him in the presence of his wife, so as not to injure his ego and image before his wife. Hence, in Esan tradition a woman is considered as the property of the husband (R. Oniregbete, personal communication, February 23, 2024).

In the traditional Esan society two or more apartments are built by the husband for himself and the wife or wives. The man's apartment is called *oduwa* (main house) while that of the woman is called *odedo* (women's house). This is so because in pre-colonial Esanland women are regarded as unclean particularly during their monthly menstrual flow. It is believed that if a woman enters the man's apartment during this period everything in the apartment becomes unclean. Hence the need to separate women's apartment from that of men. A woman does not enter her husband's *oduwa* anyhow, unless she brings food for her husband or she is invited for sex by the husband, such is the plight of Esan women (A. Oseidobor personal communication, February 23, 2024).

Another socio-cultural practice in Esanland that shows the subjugation of women is in the area of adultery. Adultery refers to the consensual engagement in sexual activity by a married man or

woman with someone other than their spouse. While the rules against adultery in Esanland theoretically apply to both married men and women, in practice, it is primarily married women who face the consequences of this prohibition. The prevailing belief is that the prohibition of adultery in Esan culture mostly affects women. This is undeniably unfair, and this can be attributed to the patriarchal structure of the Esan society. In Esan tradition, when a woman commits adultery and conceals it her children would become sick and begin to die one after the other until she confesses her sin, but this is not so with any man who commits the same sin of adultery. Adultery by a woman in Esanland is considered *awa* (abomination) (M. Inebgedion, personal communication, February 23, 2024).

There are some cultural reasons in Esanland, why women alone are punished for adultery. These include but not limited to the following that a woman's act of adultery introduces the potential for the presence of 'foreign' genetic material (illegitimate offspring) in the family lineage. Secondly in Esan tradition, the system of inheritance follows the male line, meaning that it is passed down through the male ancestors. If a woman commits adultery and has a child as a result, this not only interrupts and taints the purity of the lineage, but also takes away the rightful inheritance from the legal children. Thirdly, due to the acceptance and prevalence of polygamy, among the Esan people, women are used to the practice of sharing their husbands with other women, but not so with the men (L. Isikhuenbhen, personal communication, February 23, 2024).

According to Akue (2024) when a woman commits adultery in Esanland and is known, the husband would stop eating her food and having sex with her. He immediately reports the matter to both families. If he is no longer interested in the marriage, he will send the wife packing and ask the family of the woman for a refund of his bride price. But if the man is still in love with the wife and he is still interested in the continuation of the marriage the woman will be taken to the family ancestral altar for a spiritual cleansing by the family elders. The spiritual cleansing involves slaughtering of a goat at the ancestral altar to appease the ancestors and beg for forgiveness. This is done to avoid the consequences associated with the sin of adultery. The woman in question must buy the goat with her own money, no

member of the family is allowed by tradition to help her out with money for the purchase of the goat (D. Akue, personal communication, February 23, 2024).

According to Inegbenose (2024), there is a second leg to this spiritual cleansing of an adulterous woman. The second leg of this spiritual cleansing is carried out by the married women of the village known as *Iwho egbele*. When the elders are through with their own cleansing, they hand over the culprit to the village women. The women of the village would rub cow dung *ise me na* on the culprit and make her walk round the whole village in the afternoon half naked and begin to sing for her *atonole oli wo wo* literally meaning “that her private part is scratching her, that is why she cannot stay with one man.” After this cleansing the wrath of the ancestors is averted and the woman returns to her husband’s home to continue her marriage (S. Inegbenose, personal communication, February 23, 2024). While this researcher is not in support of adultery, he however, believes that it is injustice to punish women alone while the men are given a pat on the back. This is a demonstration of oppression and subjugation of women in Esanland.

Male-child preference is another ground upon which women are oppressed in Esanland. Male-child preference, refers to the habit of attaching greater value to male children in comparison to girls. Although there has been significant social change and increased involvement of women in many aspects of society, the preference for male children is still very strong and alive in Esan society. In Esanland there is a strong desire to have male children, to the extent that households without at least one male child are perceived to be incomplete. In Esanland recurring instances of female births are welcome with lamentations (J. Okoeroh, personal communication, February 23, 2024).

According to Okhueigbe (2024) while corroborating Okoeroh’s position said that, during the birth of a male child, there is typically a heightened level of effort to warmly receive his arrival. For Esan wives, the act of giving birth to a male child is seen as the gateway to experiencing increased levels of love and attention from their husbands. However, individuals who are unable to have a single male child would likely find it difficult to experience the same degree of compassion and attention.

Even the birth of a single male child is considered dangerous in Esanland. Consequently, additional efforts are undertaken to produce a greater number of male children in order to ensure the availability of replacements in the event of any death. The quest to have male children often drives some Esan men into marrying multiple wives. Some men even put the blame on their wives for the inability to have male children (O. Okhueigbe, personal communication, February 23, 2024).

According to Ojeabulu, Ogbeifun and Esene (2024) male-child is very important in Esanland for the following reasons: one, land acquisition and property inheritance, are predominantly controlled by men. Gender-based exclusion is prevalent in the traditional inheritance practices of the Esan people. As a result, families often have a strong desire for male children, as this has traditionally been the only method to ensure their ability to acquire and maintain ownership of land and other landed property. In Esan tradition when a man dies without a male child, his younger brother takes over all his landed property (R. Ojeabulu, personal communication, February 24, 2024). Two, the need for the preservation of family name is another reason for male-child preference in Esanland. Unlike men, the majority of women change their names following marriage. Men persist in retaining their family names and passing them on to their offspring. It is presumed that these names are maintained only as long as male offspring are born into that particular lineage. In Esan tradition a family without a male child is perceived as been at risk of being forgotten forever. Family surnames are perpetuated exclusively through male offspring. Hence the desire for male children in Esanland at all cost (R. Ojeabulu, personal communication, February 24, 2024). Three, traditional stools in Esanland are inherited only by male children. In a situation where a King does not have a male child at his death, the kingship position will rotate to another family. Hence, the strong desire for male children in Esanland. Traditional offices are often associated with affluence, status, authority and comparable benefits. Consequently, they are highly coveted and once obtained, there is always a strong inclination to keep them in the family through a male-heir apparent (D. Ogbeifun, personal communication, February 24, 2024). Four, support for parents at old age is another reason for male-child preference in Esanland. There is this general

belief in Esanland that male children belong to the family while the female children belong to their husbands' families. Therefore, during old age crisis the male children will be around to look after their parents while the girls are far away as a result of marriage. In fact, in the pre-Christian Esanland male children were not allowed to go far from home especially the first son because of this reason given above (D. Ogbeifun, personal communication, February 24, 2024). Lastly, the desire for a befitting burial is a very strong reason for male-child preference in Esanland. In Esan tradition it is the duty of the first son to carry out a befitting burial of his late father, (see 4.2.1.2 above). The first son must carry out all the rituals associated with the burial which a female child cannot do. The belief among the Esan people is that a man who has only female children would not receive "proper burial" in the event of death. In this context, proper burial means no male child to carry out all the elaborate rituals for the dead. If the rituals are not performed the deceased will not be granted entrance into the cult of the ancestors. Any male child who does not carry out a befitting burial for his father is mocked at, in Esan tradition such a child cannot become an *Odionwele* (senior elder of the village). They take this mockery further by making derogatory remarks about the deceased as follows: *aba e ri bhi egbon kpen bhe li mhin, olo ya* literally meaning that: "your father is ostracized in the spirit world by the ancestors. He is suffering." (W. Esene, personal communication, February 24, 2024). To avoid this potential suffering in the spirit world, the average Esan man is desperate to have a male child at all cost who will bury him properly at death. The quest for a male child by Esan men at all cost gives Esan women psychological trauma and emotional torture.

Another traditional attitudes towards women in Esanland is witchcraft accusation. Witchcraft accusation are always targeted at women in Esanland especially if the husband of the said woman is going through hardship. In Esanland misfortunes in the family such as accidents, sickness, loss of jobs, untimely death, bareness miscarriages etc are always blame on women who are witches. Nobody dares accused a man of been a wizard (Eboiyehi, 2017). According to one of my respondents, women are always accused of witchcraft because they are the weaker vessels and are dependent on men

economically. Therefore, if things are hard for the man, it is the wife that must be held responsible. Women who are accused of witchcraft in Esanland are made to pass through trial by ordeal. Their fundamental human rights and human dignity are violated all because they are women (E. Aiwanfoh, personal communication, February 24, 2024).

Widowhood practices in Esanland are another area in which women are subjugated and oppressed. Women are frequently considered the primary suspects in their husbands' deaths and are consequently required to undergo some rites to clear themselves of any involvement in their husbands' death. Esan tradition require widows to drink from the water that was used to cleanse the body of their late spouses (A. Ebozele, personal communication, March 8, 2024). This researcher was an eye witness to this practice in October 2008 at Uromi. Undoubtedly, this development exacerbates the psychological distress that widows are already experiencing as a result of their spouses' demise. Additional dehumanizing practices commonly inflicted upon widows include mandatory hair shaving, being required to sit and sleep on the bare floor for the whole mourning period, and being compelled to scream out at regular intervals and restriction of movement. This mandatory and limiting restriction is undeniably discriminatory, as men are not subjected to such limitations in Esan culture when their spouses pass away. The practice also leaves the widow financially unable to support her children, whom the departed husband has left behind (B. Aiwansubhor, personal communication, March 8, 2024).

Domestic violence against women is another form of oppression sanctioned by Esan tradition. Women in Esan suffered are still suffering all forms of abuse in the hands of their husbands. According to Ehizokhale (2024), this violence is associated with the payment of bride-price by men. This payment of bride-price makes some husbands believed that they have the right of ownership over their wives. Sometimes you hear some expression from men like *owho ni me ri igbo bhen re, oi he hor bhen*, literally meaning that: “a wife that I married with my money is not submissive to me” (M. Ehizokhale,

personal communication, March 8, 2024). As a result, women are often seen and treated as their husbands' property and can be physically abused by them as a means of correction.

Women in Esanland are also oppressed through wife inheritance. In the pre-Christian Esanland, a wife is regarded as the property of the man. Therefore, she is inherited by her late husband's brother. This practice implies that at the death of a spouse, the marriage does not come to an end for the woman, she continues in the marriage with her late husband's brother (G. Ikuenobe, personal communication, March 8, 2024). This practice is unquestionably discriminatory. No woman should be obligated or coerced, against her own wishes, to marry someone from her deceased husband's family. She should be allowed to marry any man of her choice without coercion.

Women in Esanland also suffer oppression in the event of the dissolution of a customary marriage. Women in Esanland who marry under native law and custom are not entitled to any financial compensation in the event of a divorce unlike women who marry under the marriage registry and Church. In addition, they are also deprived of the right to custody of the children from the dissolved marriage based on the premise that, according to Esan tradition, children are the sole property of men. Consequently, it is implicit that when an Esan customary marriage breakdown irretrievably, the woman departs without any financial compensation nor the custody of the children (M. Irobekhan, personal communication, March 8, 2024).

Women of Esanland suffer disinheritance in a large scale. The Esan customary law follows a patrilineal structure, where inheritance is primarily based on primogeniture. According to this system, land and landed property are passed down to male descendants, excluding daughters and wives. Consequently, Esan customary law effectively denies women the right to inherit from their deceased husbands' or fathers' landed property, resulting in significant marginalization of their inheritance rights. The above discussion has shown how the Esan tradition treats women, hence their right to inheritance is denied.

### **4.3.2 The Right of Wives/ Widows to Inheritance**

In Esanland, wives do not receive an inheritance of their husbands' property. According to the native laws and customs, it is firmly established that a wife is not entitled to inherit her husband's property. This is because she is seen as a chattel that may only be inherited by a family member of her husband. In this culture, widows are denied inheritance rights to their deceased husband's riches, as property is passed down based on blood relations, (Eboiyehi and Akinyemi, 2016). A woman is therefore seen as a visitor or a stranger in the marriage who does not share the same blood line with the husband. Thus, unless a woman is explicitly granted ownership of a property by her husband and it is proven to be an unconditional gift, the property will be considered as a family property upon the husband's death and will be inherited by the husband's children or his family members if there are no children. The woman lacks any entitlement to inheritance. Even though she contributed in helping the husband in acquiring the assets in question (A. Irebhude, personal communication, March 8, 2024).

In the case of a widow getting marry to a new husband within the family, the new husband must fulfill the customary requirement. The new husband does not pay any additional bride price for his marriage with the widow. Nevertheless, he is obligated to provide the traditional presents, drinks and kolanuts to the family of the new in-law. However, this condition is not a legal obligation. Instead, it is aimed at preserving and promoting the positive relationship represented in the marriage contract, which is more of a partnership between families rather than a simple union between two persons (A. Irebhude, personal communication, March 8, 2024). The primary prerequisite for the new marriage is the ritualistic act of the new suitor sacrificing an animal, typically a goat, at the ancestral shrine of the deceased's family. Until the completion of this ritual, the newly betrothed individual and the widow are not acknowledged as legally married. If they engage themselves in any sexual activities without the formalization of the marriage as described above, both of them will face the wrath of the ancestors (Z. Etebhe, personal communication, March 8, 2024). If a widow chooses not to marry any member of the late husband' family within three months of her husband's death, she is instantly relieved of any

responsibilities or commitments related to her previous marriage. If the widow had male children, she is allowed to remain in her matrimonial home to look after her children. But if she does not have any male child according to the tradition of Esanland the brother of the late husband will take over the landed property left behind by the deceased (Z. Eterebhe, personal communication, March 8, 2024).

#### **4.3.3 The Right of a Widow without a Male Child to Inheritance**

According to Esan native laws and customs, a widow without a male child cannot inherit her husband's estate. But the one with a male child does, because inheritance of estate of the late husband comes through the male children who keep their mother usually in the inherited property. The same rules also apply to her daughters. Typically, daughters do not have the right to inherit their deceased father's estate. This is to prevent them from transferring property from their own families to their husbands' families (H. Iyoriobhe, personal communication, March 9, 2024). In this case the tradition allows the deceased younger brother to inherit the landed property left behind by his late brother. However, the inheritor at his pleasure can choose to allow the widow to remain in the property or send her and her daughters packing.

In the event that a full brother shows no interest in inheriting the property of his deceased brother, the succession is then exclusively passed on to the closest paternal oldest male relative. This relative is typically younger than the deceased and can be a half-brother, uncle, nephew, cousin, or another relative in that order of preference (W. Oriarewo, personal communication, March 9, 2024).

#### **4.3.4 The Right of a Childless Widow to Inheritance**

The right of a childless widow to inheritance in Esanland is similar to that of a widow without a male child. A childless widow in Esanland is treated with disdain. She is not allowed by tradition to inherit her late husband's estate. The estate belongs to the deceased's younger brother after his death. If the deceased was polygamous in his life time the children from the other wife or wives as the case may

be can allow the widow to remain in the matrimonial home with good care from them until death. But if the man was monogamous, and the widow childless at the death of her husband the estate left behind by the deceased belongs to the younger brother irrespective of the contribution of the widow to the acquisition of the property (S. Iyonagbe, personal communication, March 9, 2024).

In some cases, to avoid the problem of neglect and suffering at old age, a childless widow that is rich can arrange to marry a younger woman who will bear her children through a male donor. This arrangement is usually referred as woman-husband relationship, (see 4.1.6 above). All the children born in this relationship take up the surname of the widow's husband and not the name of the donor. These children will in turn inherit all the property owned by the widow at death (N. Udebhu, personal communication, March 9, 2024).

#### **4.3.5 The Right of a Returnee Widow/Divorcee (*Owhian*) to Inheritance**

A returnee widow in Esanland suffers double jeopardy in the sense that she has no inheritance rights in her matrimonial home and in her father's house. A widow who lost her husband and returns home is not allowed by Esan tradition to start dragging property with her brothers. This is because of the assumption that on the day of her marriage the gifts given to her by the parents represent her own inheritance. In the pre-Colonial period, the brothers usually give her farmland to cultivate to take care of herself and her children with the understanding that the children must not claim absolute ownership to the land. When the children grow to become adults and feel the need to live perpetually in their maternal homeland they can ask for land from their uncle and pay a token to avoid dispute in the future. However, if they don't want to settle in their mother's place, they are free to return to their paternal land (G. Ikekeiyegbe, personal communication, March 9, 2024).

#### **4.3.6 The Right of Daughters to Inheritance**

In Esan culture daughters are discriminated against in matters of inheritance in comparison to their male counterparts. Okogie (1994) says this much when he declares that the Esan people has an idiom that described the disinheritance of daughters as follows: *okhuo ila aghada bhu uku* literally meaning that “a woman never inherits the sword” or *Ei bio omokhuo he ole iri bhogbe*, literarily translated as “you do not have a daughter and name her the family keeper, she would marry and leave not only the family but the village, a wasted asset.”(p.124). This mind set expressed above is responsible for the disinheritance of daughters in Esanland, and secondly why they do not ascend the traditional stools. However, daughters do inherit their mother’s moveable property like clothing, cooking utensils and others. These items are mainly inherited by the *Eha le non odion* (that is the first daughter). The Esan tradition allows her to give out some of these items to younger sisters and sisters in-law.

According to Odianosen (2024) in Esan tradition, it is widely held that upon marriage, a woman's assets are transferred to her husband, resulting in the depletion of the family's financial resources. As such, daughters in Esanland traditionally do not possess the privilege to inherit their father's property. While they may receive gifts from their father's wealth or possessions, such acts of kindness are typically bestowed upon them by their father during his lifetime as a result of his personal thoughtfulness (K. Odianosen, personal communication, March 9, 2024). In supporting Odianosen’s position Egbibhalu (2024), states further that, even in such cases, these gestures are not permitted to be landed property in most cases particularly ancestral land. These daughters may have exhibited exemplary conduct to warrant such tangible gift or gifts from their father. Truly, a daughter receives what she gets not as a traditional right, but rather as a gesture of benevolence. Irrespective of her social standing, she is considered as a form of property that can be passed down to the husband’s relative particularly when she becomes a widow (L. Egbibhalu, personal communication, March 9, 2024).

Typically, in Esan culture parents provide gifts for their daughter when she gets married. This is considered as a form of her own share in her father’s inheritance. In the pre-Christian era these gifts

include agricultural tools and crops, and kitchen utensils, this is so because Esan was an agricultural community. The progenitors of Esan people came up with this idea so that the girl-child will not leave her matrimonial home and come to her father's homeland to drag property with her brothers. Marriage for a daughter in Esanland is seen as send off to her husband's family. Hence the saying in Esan *iso odor owho dia* meaning "the place of a woman is in her husband's house" (P. Omoaghe, personal communication, March 9, 2024).

#### **4.3.7 The Right of a Female Orphan (*Omankhienkan*) to Inheritance**

An Orphan is a child who have lost both parents to death. When this happens, the Orphan becomes vulnerable. According to the tradition of the Esan people the care of the Orphan or Orphans becomes the responsibility of the paternal uncle. The uncle takes control of the deceased's possessions on behalf of the orphan until he becomes an adult. The tradition obligates the uncle as a stand-in inheritor to support the financial and all other needs of the orphan. The uncle makes use of the perishable assets for himself, while the non- perishable assets like lands and houses as dictated by tradition are returned to the orphan upon becoming an adult. The male orphan therefore inherits his father's property from his uncle whereas the female orphan does not (I. Osimen, personal communication, March 9, 2024).

In the case of the female orphan it is completely opposite of what happens to the male orphan. A female orphan can be provided for by her paternal uncle, but she does not inherit her father's estate. The estate is inherited by her uncle according to Esan tradition. As a woman, it is expected by tradition for her to get marry and move on with her life in her husband's place. According to Anetor (2024) an eighty -one years old man at Uzogholo, Ewu "*owho gbegba*, meaning that a woman has no say in her biological family" (P. Anetor, personal communication, March 9, 2024). However, the uncle is obligated by tradition to take care of the female orphan, gives her out in marriage and collect the bride-price. On the day of her marriage, the uncle is expected to present tangible gift to her. Whatever gift

received by the female orphan from the uncle is considered her compensation from her father's landed property. If in the future a female orphan returns home as a widow or a divorcee she still cannot collect her late father's landed property from her uncle or her uncle's children. But if her uncle and her children are magnanimous, they can allow her to stay in her late father's compound, but her children cannot lay any claim to the property after the death of their mother. This is the plight of a female orphan in Esan tradition (I. Osimen, personal communication, March 9, 2024).

#### **4.3.8 The Phenomenon of *Arebhoa***

The first daughter *Ehale non Odion* of an Esan man who does not have a male child whether in a monogamous or polygamous marriage to inherit his property is made an *Arebhoa* by her father with the support of the *Egbele* (elders). An *Arebhoa* is the first daughter of a man who is persuaded to remain unmarried and remain in her father's house to raise children for the father through a lover or lovers as the case maybe. This was introduced by Esan progenitors to preserve family lineage and inheritance. To legalize the institution of *Arebhoa*, a goat was usually slaughtered at the family ancestral altar to avert the anger of the ancestors and to plead with them to bless the union with children. The children gotten from this relationship belong to the father of the *Arebhoa* and not the lover who is seen as a donor (I. Osimen, personal communication, March 9, 2024). His only reward is the unrestricted access to sexual pleasure with the *Arebhoa*. The Igbo people of South Eastern Nigeria also allow this practice according to Ephraim-Chukwu (2019). This practice is no longer common as it used to be in the pre-Colonial era because of modernity and western education. However, in an interview with Rev. Okoh he informs the researcher that sometimes in 1991 when he resumed the pastorate of his Church at Irrua the women of the Church did not allow a particular woman to join their women union on the ground that she did not properly marry because she was an *Arebhoa* (E. Okoh, personal communication, February 23, 2024).

The *Arebhoa* practice offers an alternate method for producing male offspring, for the father of *Arebhoa* thereby preventing the transfer of his property to his closest relative and avoiding the extinction of his family line. Furthermore, an *Arebhoa* possesses same entitlements as a male offspring. She could conduct burial rituals upon her father's demise, as if she were a male child, in accordance with the tradition of the land. Regarding the inheritance of the monarchy as an *Onojie*, (King) it is not possible for the son of an *Arebhoa* to inherit the kingdom (Itua, 2021). By denying an *Arebhoa* her right to marry, she consequently becomes eligible for a possessive entitlement. The dread of losing possession of property is not applicable to an *Arebhoa*, as upon her death, the inherited property is automatically transferred to the first male child she raised for her father (Ehiakhamen, 2011). In this case the family lineage would continue as all the children born by the *Arebhoa* bear the surname of her father.

#### **4.3.9 Arguments against Women Right of Inheritance in Esanland**

There are several arguments against women right of inheritance in Esanland, some of which are discussed below:

(1) The Esan culture sees a woman as property to be inherited. Therefore, a property cannot inherit another property. This is the reason behind wife inheritance in Esanland. When a man dies the tradition says, the younger brother of the deceased will inherit the widow left behind by the deceased brother (Eboiyehi and Akinyemi, 2016).

(2) The culture believes that a woman cannot pour libation of blood and wine to the ancestors at the family ancestral altar through the *ukhure*. This is purely the business of men as he who inherits the *ukhure*, inherits all landed property.

(3) The Esan progenitors believe that if a woman is given landed property in her biological family, she will have an unstable marriage. What this mean is that the woman has been given economic power, she will take advantage of this and continue to disrespect her husband. The Esan people believe in marriage stability and continuity, that is while when Esan woman gets marry, she does not leave the marriage

until death. At death the husband's family returns her corpse to her biological family. Therefore, the Esan progenitors do not want to jeopardize this marriage stability through property inheritance. In fact, Esan tradition considers women as non-members of their biological family. Their permanent abode is their husband's place (T. Oligbi, personal communication, April 13, 2024).

(4) Another reason for the disinheritance of Esan women is that the biological family's wealth will be transferred to that of her husband. Esan tradition guards jealously against wealth transfer to another family. Majority of Esan men prefer their wealth to remain with their male children for the sustainability and continuity of the family.

(5) The Esan culture believes that a woman must depend on her husband for her economic survival. A woman cannot be independent of her husband in Esan tradition. Hence the saying *odor zo oghu ghu no owho re hio, odor zo oghu ghu*. Literally meaning that "the pride of a woman is her husband."

(6) In Esan culture anything about land or landed property is the exclusive preserve of men. There is a statement in Esanland which says "a woman does not come around when matters of land are been discussed", *ai ni elen otor buo owho*. A woman is not expected to be involved in any land matter in Esanland, unless if she is called upon for some clarifications about land boundaries (D. Obhafuoso, personal communication, April 13, 2024).

#### **4.3.10 The Impact of Disinheritance on Esan Women**

Disinheritance is a fundamental human right issue that has serious impact on the wellbeing and livelihood of Esan women as revealed below.

##### **4.3.10.1 Impact on Housing Security**

Widows that are disinherited in Esanland suffer housing insecurity. In Esan tradition the mother of the first son enjoys housing security after the death of her spouse, because her son who is the inheritor must as a matter of duty retain his mother in the matrimonial home. However, this is not the

case with other wives of the deceased in a polygamous family particularly in situation where the deceased couldn't have enough landed property to share according to *ukhunde* doors. In this case a recalcitrant first son or uncle will eject other wives from the family house as reflected in the experiences of the following interviewees.

In an interview with a widow in a rural community of Awo, Uromi who have three girls without a male child for her husband narrated her ordeal as follows:

I never knew that life would turn out this way for me. I endured beside my husband through inclement weather conditions, including rain and sun, in order to provide shelter for us. I have three daughters from my relationship with him. Unable to conceive a son, I suggested that he take another wife, who subsequently bore him three sons. I contributed to their upbringing, but after my husband's demise, I abruptly found myself estranged within my own home. My stepson, who used to refer to me as his "mother," was instructed by other relatives to evict me from the family house. That is how I became an unwanted guest in a house I built with my husband. I am now living in a rented small room apart. Life has been difficult for me. My children are married living in the city. I live here alone (I. Amedu, personal communication. February 23, 2024).

In another interview a widow recounts her experiences as follows:

I am the second wife of my late husband. My husband died after a protracted illness. I had five girls for my husband, after the burial and the funeral rites, my husband first son from the first wife inherited the only house my husband managed to build and ejected me and my children. My children and I put resources together to rent an apart in the other side of the village. I had free accommodation over my head when my husband was alive. His death has made life miserable for me and my children (B.Itokpa, personal communication. February 23, 2024).

Another widow complained thus:

I am the first and the only wife of my late husband but I did not have a male child but four girls. After the death of my husband his younger brother said to me that I must marry him according to the tradition of Esanland. I refused his marriage proposal. In consequence of this rejection, he ejected my children and I from my husband's house and took over the apartment. I was afraid to fight back because the man is very diabolical. I return to my biological family where my brother gave me two rooms in my father's house to accommodate me and my children (C.Ibhagbosoria, personal communication. February 23, 2024).

#### **4.3.10.2 Impact on Food Security**

Food security is a situation in the family whereby all members of the family have access to decent food that is safe and nutritious at any given time for an active and healthy living. In most cases, food security is made possible in Esanland by the head of the family, when he dies his family faces starvation. Thus, it is expressed this way in Esan: *Odafen ayu azagba tu kwa*, literally meaning that "when the head of the family dies, the family disintegrates." (D. Obhafuoso, personal communication, April 13, 2024). In Esanland, disinherited women face food insecurity, this is as result of landed property that would have been of help to them are taken away by husband's family. Some women share their experiences with this researcher in this regard.

In an interview with a woman at Ujogba, she narrated to this researcher as follows:

I am the only wife of my late husband since he died about five years ago life has not been easy for me and my children. We can no longer afford quality food the way it was when my husband was alive. We are now living from hand to mouth. My petty trading is not enough to sustain me and my children. My husband's lands and economic trees that could have been of help to us have been taken over by his brothers under the guise that I have no male child for my late husband. When I complained, the elders said it is the tradition (P. Oseagwina, personal communication, April 13, 2024).

Another woman in a similar situation like the one above remarked that:

I know what it means to be without food security. After the death of my husband in a ghastly motor accident everything changed for the worse. My husband's property and assets were taken over by his brother because I had four daughters and no male child and we were rendered homeless. Where I am staying now is a rented apartment. I now depend on my little business and assistance from good spirited individuals which is not enough. I am finding it difficult to feed my children adequately (Q. Ediale, personal communication, April 13, 2024).

Still another respondent at Ogwa who was disinherited declares in a sorrowful mood that:

When my husband died, the family made his younger brother a stand-in -inheritor to my husband's property. They said as a place-holder he would manage my husband's business and landed property until my children are of age, notwithstanding the fact that I have two male children, they did not allow me to manage my husband's assets by myself. Within two years, his brother ran everything aground and sold all my husband's property. We are suffering now, to feed is a herculean task for me and my children. I complained nobody listened in the family. I cannot go to court, because I do not have the means to sustain a legal battle. I leave everything to God (S Ebhohon, personal communication, April 13, 2024).

#### **4.3.10.3 Impact on Children's Education**

The benefits of education are invaluable and cannot be underestimated or overstated. An educated person is a valuable resource who possesses the ability to readily adjust to unfamiliar circumstances. A disinherited woman faces harsh economic conditions which invariably affect her capacity to send her children to school particularly tertiary institutions. The woman, whose husband previously covered the expenses for her children's education, would exert greater effort to cover the fees on her own. This continues to be a significant obstacle to the educational development of fatherless

families in Esanland in the 21st century. Some women who find themselves in this situation share their stories with this researcher.

In the case of Mrs M. Eluobe of Amedohkian, Uromi she reported to the researcher that:

Following the death of my spouse, I became solely responsible for managing the household. I lack an independent source of income as my deceased spouse strictly prohibited me from engaging in any activities other than taking care of our children. His death has significant ramifications for the family's financial resources. I resorted to undertaking several low-skilled tasks in order to provide for the needs of my children. The income I was earning was insufficient to meet our family's essential requirements. Everything my late husband had where taken away by his siblings. For lack of resources my children did not go to Tertiary Institutions, because I could not afford it with my meagre income (M. Eluobe, personal communication, May 18, 2024).

At Ekpoma, another victim of disinheritance lamented to the researcher thus:

My deceased spouse was not very rich; however, we did not lack anything as a family. I supported my husband to supplement the family income through my business. Upon his demise, all of my brothers-in-law fervently wanted sexual relationship with me. I repeatedly rejected their advances, I encountered difficulties and was never able to find peace again. I was ostracized from all aspects of my husband's family, including access to his farmlands. The level of hostility was so intense that I had no choice but to depart from the family house. Until now, no one has enquired about us or shown concern for my well-being and that of the children. I managed to train my children in Tertiary Institutions through the help of my biological brothers (R. Ehimanre, personal communication, May 18, 2024).

Another widow at Igueben Mrs. Kate Agbonoise, recounted a distressing incident when she was unjustly deprived of her late husband's assets by his siblings. Mrs. Agbonoise, who is 63 years old,

stated that she worked diligently alongside her late husband to obtain land and properties. She asserted that her spouse encountered difficulties with his siblings after he ceased providing them with financial support due to the futility of his previous attempts to help them. According to her, her conflict with her husband's siblings began, upon notifying them of his demise following a protracted illness (K. Agbonoise, personal communication, May 19, 2024).

She stated further that:

They perceived me as someone who prevented their brother from further helping them with money. They therefore saw his death as an opportunity to deal with me. They said everything my late husband had now belongs to them since I have no male child for my husband. My daughters and I were completely disinherited. I left my husband's place at Ewohimhin with my daughters and returned to my biological family at Igueben, where I struggled alone to see my daughters through school. Thank God today that my daughters are happily married (K. Agbonoise, personal communication, May 19, 2024).

#### **4.3.10.4 Impact on Family Health**

Sickness poses a significant danger to the tranquilly of a widow and her children. Due to her limited resources and social standing, she encounters significant difficulties in overcoming the hurdles that arise when her family falls ill. According to Damap (2007), "most of the illnesses found within the household of many widows are nutrition-related; they eat whatever is available only to fill up their stomach," (p.35). The majority of these widows lack sufficient means of livelihood, resulting in inadequate nutrition and dependence on charitable assistance, which is not always readily available, particularly at times of greatest need. In this era of astronomical medical bills, those who cannot pay face death. This is the plight of disinherited women in Esanland, as reflected in the interviews below.

Mrs C. Abuede at Irrua narrated her experience to the researcher as follows:

The family members of my deceased husband denied me and my daughters the right to inherit my late husband's assets. They contended that, according to custom, my deceased husband's assets are intended for my eldest son, who is approximately ten years old. They have stated that they are setting aside the rental payments for my son's future university tuition. Consequently, I am incapable of utilizing the income generated from my deceased husband's real estate properties to financially support my daughters' education. Due to financial constraints, I had to transfer my girls from private secondary schools to public secondary schools, since I could no longer afford to cover their school expenses, provide them with food, and purchase their clothing, all on my own. This development caused me sickness. I became hypertensive and diabetic at the same time. Yet no money for proper medical treatment. It took God and my Church members for me to be alive today (C. Abuede, personal communication, May 19, 2022).

In response to my enquiry another widow Mrs. B.Ilenikhena at Ubiaja responded that, the relatives of her late husband accused her of been responsible for the death of their brother and as such took everything away from her and the children. According to her they declined to provide any kind of support to her and the children. As a way to survive, she and the children had to resort to street hawking and trading. Mrs Ilenihkena further revealed that with time the second son had leukemia and she couldn't raise the money for his treatment and therefore lost him to the sickness. She concluded by saying that it would have been a different ball game if the husband where to be alive (B. Ilenikhena personal communication, May 19, 2022).

Closely related to the above is the story of Mrs Agnes Ehimen who had a child that was suffering from sickle cell disease. She narrated to the researcher that she and her husband were managing the child's health condition well, when the husband was alive. As soon as the husband died after a brief illness everything spiral out of control. The family accused her of killing her husband through witchcraft and therefore ceased everything the husband had from her including all the farmlands and undeveloped plots of land. As a result of this development Mrs Ehimen claimed that she

was tired of life and that she couldn't afford the treatment of her sick child and eventually the child died (A. Ehimen, personal communication, May 20, 2022).

#### **4.3.10.5 Impact on Matrimonial Property**

When a marriage breaks down irretrievably in Esan culture, the wife's contribution to a matrimonial property jointly acquired is typically overlooked. This is because of the perception that the house is solely owned by the husband, rendering any contribution made by the wife during the construction of the house irrelevant. As a result, the woman is left to face unforeseen hardships. Denying women, regardless of their marital status, property rights hampers their ability to access and achieve their full potential (Adekile, 2010). Some widows interviewed in this regard share some touching stories. One of them is Mrs A.Idemudia, a resident of Ugbegun in Esan Central LGA who said that she got married at an early age. Her marriage was devoid of both happiness and pleasure. According to her, she was married in name only because her deceased husband maintained a harem of women and she however managed to remain in the marriage. She stated further that after the death of her husband, his brothers perceived her as a commodity to be devoured. Upon declining their romantic overtures, she promptly became their enemy. They promptly seized everything she and her husband labored for. She and her children became homeless and she was therefore compelled to relocate to a different community in order to have peace of mind (A.Idemudia, personal communication, May 23, 2022).

Similar to Mrs Idemudia, Mrs Ojeaga a resident of Opoji experienced a complete loss of all the possessions she had with her late husband. Today, this woman and her children have been effectively expelled from the family residence. Her brothers-in-law harbour a strong aversion towards her and have even levelled accusations of her husband's death on her. In an unexpected manner, the in-laws spread this false accusation levelled against her among the villagers (G. Ojeaga, personal communication, May 23, 2022).

Another case in point here, is the story of Mrs Mary Emakhu of Ivue Uromi, who lost her husband in 2016. According to her, her husband married two wives and that she was the junior wife. After the death of her husband and the burial formalities were over, the first son born by the first wife ejected her from the matrimonial house of her husband on the grounds that her children did not join in the second burial *itolimhin* celebrations because they claimed they were Christians and second burial is against their faith. As a reaction to this development the children rented two rooms apartment for her in the other side of the village (M. Emakhu, personal communication, May 23, 2022).

#### **4.3.10.6 Impact on the Economic Status of Daughters**

Disinheritance diminishes the status of the disinherited individuals, rendering them relatively inferior due to cultural factors. Disinherited daughters suffer economic deprivation. Inheritance in Esanland gives male children economic advantage over their sisters. Due to the practice of disinheriting female children in Esanland even an indolent male child has a significantly more promising future compared to a diligent female child. When a father dies, a sluggish son can become wealthy by inheriting his father's accumulated wealth. A male child can use his father inherited landed property to secure bank loans for businesses and other ventures. A female child does not have such opportunity. Hence, this contributes to the feminization of poverty among Esan women.

Some daughters were interviewed to validate the above position and they share their stories with the researcher as follows: Mrs Lucy Omonkhegbele at Iruokpen narrated that: She was the only child of her parents. She lost her parents to death at the age of ten years and so she became an orphan. She was raised by her paternal uncle. After her secondary education, her uncle brought a man for her to marry on the excuse that he cannot afford her University education. Since she has nowhere to turn to, she obliged him. This was how she got married so early in life, thus her parents desire for her to go to Tertiary Institution was truncated. She said further that she was already married, when she got information through a sympathizer that her father left behind farmlands and economic trees. All efforts

she made to reclaim them were frustrated by her uncle. When she complained to the elders, they said she should go and stay in her husband's house and that a woman does not inherit land in Esan culture. And that everything her father once had, now belongs to her uncle as the inheritor (L. Omonkhegbele, personal communication, April 20, 2022).

Another respondent Mrs S. Ebozele also shared her experience with the researcher at Okhuesan. According to her, she was the first the daughter of the family. Her father did not share his landed property before he died and he did not leave any will behind. So, after his burial, her younger brother who incidentally is the first son of the family summoned the elders to a family council meeting. It was at this meeting that all that her father had was share by the elders among his male children only without given anything to them the female children. She said she protested this injustice vehemently, the elders said it is the tradition and that there is nothing they can do to change it (S. Ebozele, personal communication, April 21, 2022).

Still another woman lamented to this researcher at Uromi thus:

I suffered double jeopardy. When my father's property was shared after his death nothing was given to me. The same thing also happened to me when I lost my husband. I complained they said they followed the tradition laid down by the ancestors. I thank God that he used my children to take me out of poverty (J. Okokpuje, personal communication, April 21, 2022).

It is instructive to note at this point, that the experiences of these interviewees above are clear indications that disinheritance of women in Esanland is real and alive as dictated by the patriarchal nature of the Esan society. This aligns with the feminist idea, as the Esan society persists in perceiving men as superior to women in every facet of life.

#### **4.3.11 Social Change and Women's Right to Inheritance in Esanland**

Despite the challenges faced by women in relation to inheritance as discussed in this work, it is not just agonizing stories for women all through as it is discovered through this research that some families in Esanland now give their daughters landed property as inheritance, even though this is inconsequential and marginal compare to the larger majority of women that are disinherited in Esanland. It is discovered that social change in Esan society could be responsible for this development. This social change is brought about through western education introduced by colonial authorities and Christian missionaries.

#### **4.3.11.1 What is Social Change?**

Social change refers to the modification of the social structure, which include changes in cultural symbols, rules of behaviour, social organization, or value systems (Olagbaju 2015); Morariu and Ignat 2011). In other words, social change occurs when there is a significant disruption in the social and cultural components that make up a long-lasting interconnected system of relationships, resulting in a reorganization of interactions between individuals, organizations, and societies (Ololube et.al., 2013). Undoubtedly, societal change can be categorized as either beneficial or detrimental. Positive social change refers to the desirable progress and enhancement of many societal institutions, such as culture, economy, education, family, and politics. This ultimately leads to improved human and social situations. A negative social change refers to the dysfunction within social structures and institutions, leading to the destabilization of human and social development (Ololube et.al., 2013). In this connection, the emphasis here is on the positive social change that has improved the economic status of some women in Esanland in the area of inheritance.

#### **4.3.11.2 Western Education and Women's Right to Inheritance**

Education is the collective term for all the processes through which a child or young adult acquires the skills, attitudes, and behaviours that are beneficial to society. Its purpose is to groom an

individual who is well-equipped, adjusted, and integrated into their community. The introduction of western education into Esanland brought an unprecedented innovation into the life of the people.

The Esan people have experienced a significant and transformative societal transformation as a result of Western education. It changed the way people saw their traditional customs and institutional processes, introducing new principles that were mostly unfamiliar to Esan society. Western education was implemented as an alternative educational system with the aim of enlightening various aspects of human activities in Esan. It was expected to eradicate superstition, restore moral values and social etiquette, enhance people's comprehension of human nature and the environment, and introduce rational and scientific principles into educational and health-related matters (Onobhayedo 1999). Christianity came to Esanland in 1905 and introduced western education in 1906 with the establishment of Saint Benedict Catholic School, Ubiaja by the Catholic Mission (Akhilomen, 1992; Enato 2021). It was from here other schools were established in Esanland.

The introduction of Western education by Christian missionaries and colonial administrators aimed to enhance both religious devotion and the overall well-being of the population. This led to the emergence of new social elites and a notable change in societal focus (Ajayi, 1965; Ayandele, 1966 as cited in Enato 2021). Thus, western education brought about economic empowerment for young Esan men and women. It brought about enlightenment, exposure and civilization. It dispels ignorance. Hence, some women are now inheritors of landed property as reflected in the following interviews, unlike in the pre-Christian era. A respondent who inherited land from her father said to the researcher as follows:

I am Mrs Christy Ibhazobe from Ivue Uromi. I married at Eror a village next to our own. My husband and I are based in Benin City. Sometimes in October 2023, my father sent for all his children both male and female. At the meeting, my father spoke glowingly about me and how I have provided care for him at his old age. In the presence of the elders of the family my father shared all his lands to his male children and also gave me a portion of land behind the main

house even though I am a woman. Shortly after this my father died February 11<sup>th</sup> 2024 and the burial was done April 26<sup>th</sup>-28<sup>th</sup> 2024 (C. Ibhazobe, personal communication, August 24, 2024).

Another woman interviewed at Emuhi, Ekpoma said to this researcher: “My father gave me a land before he died. Though my brothers and other family members protested against it my father did not listen to them” (G. Akhigbe, personal communication, August 25, 2024).

Still another woman interviewed at Ebelle disclosed to this researcher:

My father was a rich man, when he was alive. Besides, sending all of us to the University he also gave all his children both male and female landed property. Even though this was not the tradition my father chose to be different (E. Edewede, personal communication, August 25, 2024).

## CHAPTER FIVE

### INHERITANCE נַחְלָה (NAHALAH) IN ANCIENT ISREAL, WOMEN’S RIGHT OF INHERITANCE AND TEXTUAL ANALYSIS OF NUMBERS 27:1-11

#### 5.1 Inheritance in the Ancient Near East and Women’s Right of Inheritance

The Ancient Near East is believed to be the cradle of civilization, where civilization first began (Mario, 2014). The Ancient Near East comprised Mesopotamia, Anatolia, Levant, and Egypt. Other significant empires in the area are Babylon and Assyria. Modern Mesopotamia encompasses Iraq, portions of Syria, and Iran. Anatolia is the present-day country of Turkey (Mario, 2014). The Ancient Near East is the origin of ancient intellectual thought. Various styles of writing included prose, poetry, images, metaphors, and unconventional language that surprised readers were common. By 3000 B.C. and 500 B.C., Mesopotamia, Egypt, and Israel established land regimes through a combination of law and tradition (Mario, 2014).

Diverse cultural and religious practices varied throughout different regions in the ancient. The myth and ritual practices found throughout the Near East shared common characteristics (Schofield, 1944). An identical system of government existed in ancient Mesopotamia, Egypt, and Israel. They had a "palace and temple organization." Other widespread customs among them included slavery, polygamy, and polytheism (except in Israel). While Mesopotamia, Egypt, and Israel have similarities; they also exhibit distinct features in religion, languages, and writing systems. In the ancient Near East, there were temples or palaces with affiliated courts, indicating that it was not a lawless region. They possess legal rules inscribed in cuneiform on stone pillars. Among the earliest and most popular codes are the laws of Hammurabi, the great. These codes showed significant similarities to the customary law of Babylon (Ellickon and Charles, 1995).

Westbrook (2013) analyzes ancient Near Eastern legal documents and determines that inheritance was a widespread custom. Westbrook argues that despite variations in local customs and details, there was a shared legal culture regarding land transfer among different ancient societies. Westbrook (2013) exemplifies inheritance as a widespread custom where all the assets and debts of the deceased were transferred to the legal heirs after death. The heirs initially shared the estate and then split it through mutual agreement. In this case, legitimate heirs refer to the sons of the man's wives.

Many daughters in the ancient Near East inherited and managed property in societies that had inheritance customs aimed at preserving the father's name and patrimony. Westbrook (2013) highlights the issue of female inheritance in the ancient Near East, explaining that when there were no sons, the daughters who inherited could potentially transfer the family inheritance to a different home through marriage. Sons typically inherited by default, although daughter inheritance was also prevalent in ancient communities. In ancient Near Eastern houses without male heirs, daughters might sometimes inherit to address the issue of a lack of males. To address the issue of not having boys, many fathers chose to adopt them. In those instances, girls divided their inherited estate with the men whom their fathers adopted as sons or sons-in-law. For instance, in Nuzi, Gilipukur adopted Arimmarka as a son-

in-law due to not having any sons. He married his daughter, Taduni, to the adoptive son-in-law, and Taduni then divided her fortune with her husband (Westbrook, 2013). Westbrook further states that, Taše-Alla-ra and Teš, the daughters of Zige, received his patrimony along with his adoptive sons. In certain houses without adopted or biological sons, daughters inherited the inheritance as the only heirs. The nameless daughters of Tarmiya and Aqaminni inherited their fathers' patrimony in the absence of boys (Westbrook, 2013).

Ancient rules in the Near East recognized a daughter's entitlement to inherit from her father's property. According to the Code of Hammurabi, a priestess needed a written tablet from her father to authorize her to distribute her estate how she wished. If her father did not fulfil this obligation, her inheritance would pass to her brothers, who were obligated to support her. They were taught to provide her with food, oil, and clothing corresponding to the worth of her portion. If the maintenance did not meet her standards, she had the option to give her field and orchard to a chosen renter for her support. She had the right to utilize the property for her lifetime, but she was unable to sell it because it was legally owned by her brothers, unless she received written proof from her father (Bradley, 2003).

One stipulation of the Lipit-Ishtar legislation of 1930 B.C. ensured that a daughter received an equitable portion of her father's fortune, on par with her brothers. In the Code of Hammurabi, it was stated that a wife might inherit her husband's property. This property may include a field, orchard, house, and goods, and the husband usually create a sealed contract for her. After his death, her children were unable to inherit and seize the property from her. She had the legal right to choose which son would receive her fortune, but she was prohibited by law from giving it to anyone not in the family (Bradley, 2003). According to Hittite law, a mother had the authority to disinherit her sons. In Neo-Babylonian law, a childless widow had the right to claim the value of her dowry from her deceased husband's estate. If he had presented her with a marriage gift, she was also entitled to receive it. If a woman had no dowry, a judge would evaluate her husband's property and take something of equal value (Bradley, 2003).

According to the Code of Hammurabi, a widow with young children seeking to remarry had to acquire approval from the judges. They would assess her deceased husband's property and then give it to her and her new husband jointly. The authorities were supposed to document a tablet where the widow and her new husband promised to care for the estate and raise the children without selling any part of it. The estate was to be preserved in trust for the children's benefit. The woman was expected to be heavily involved in owning and maintaining the property (Bradley, 2003).

## **5.2.The Status of Women in Ancient Israel**

Women's social and legal standing is significantly impacted by the patriarchal structure of family life in ancient Israel, where their primary duty is seen as that of a wife and mother. At the background women participate in the religious, social, political, and economic aspects of the community. Women in ancient Israel held a very low social status. Women in the Old Testament were considered the legal possessions of men. Before marriage, the girl was under the authority of her father, but after marriage, she comes under the authority of her husband. Widows are under the jurisdiction of their fathers, sons, or brothers-in-law. Polygamy was prevalent. Women were viewed as possessions to be claimed as part of the war booty. They were also seen as property to be inherited (Lambard, 1997). Though women played important role in the ancient Israelite society yet there are records in the Hebrew Bible that they were marginalized and subjected to inhuman treatment. Some of these maltreatments are discussed below.

**i. The Status of a Woman as a Daughter:** In the Israelite patriarchal society, husbands desire sons, and a wife who gives birth to sons has secured her status and reputation within the family and community. The birth of a son is a reason for celebration, as it ensures the continuation of the family name and estate. When a daughter is born, she contributes little to her own family because when she gets married, she adopts her husband's name and establishes the family under his name. Leviticus 12:1-5 highlights the preference for sons (Packer and Tenney,1980).

When discussing genealogy, often only the male offspring are mentioned. Sons held a prominent position in genealogy and inheritance matters. The daughters of Zelophehad requested Moses to give them their father's inheritance who died without a male heir (Numbers 26:33; 27:1-9). The appeal was approved with divine assistance. Daughters of fathers without sons could inherit their father's fortune. If they married outside their tribe, all rights were lost to ensure that the inheritance remained within the family (Num 36:2-4) (Hiebel, nd).

A daughter was under her father's authority and sometimes regarded as subordinate to her brother. In ancient Israelite community, a father had the option to sell his daughter into slavery, where she might end up marrying the master or his son. Jewish tradition specifies that the daughter must be prepubescent and her family must be in severe poverty for this to occur (Exodus 21:7-11). Her owner was prohibited from selling her again. He had the ability to set her free, but the commandment of release during the sabbatical year did not pertain to women in the same way it did to men (Exodus 21:1ff.; Leviticus 25:40). She had the option to continue serving indefinitely by undergoing an ear-piercing ritual (Deuteronomy 15:17) (Hiebel, nd).

The father was not allowed to compel his daughter into prostitution according to Leviticus 19:29, even though she is under his control. However, Lot offered his two daughters to the men of Sodom to safeguard his male guests as mentioned in Genesis 19:8. Prostitution was prohibited and often carried the death penalty; this is to safeguard God's people from being influenced by the debasing rituals and customs of neighbouring fertility cults. The transgression was seen more serious for the woman than for the man, as shown in the story of Judah and Tamar (Gen 38). A priest's daughter who became a harlot, especially in the context of local fertility temple rituals, faced the punishment of being "burned with fire" (Leviticus 21:9) (Norwell, 1997).

**ii. The Status of a Woman as a Wife:** In ancient Israelite society, marriages were typically organized by the parents, as mentioned in Genesis 24:3ff., 34:4, 12, and Deuteronomy 7:3. These unions were

commonly organized within the same tribe and frequently involved first cousins. Typically, this is done to ensure that the resources remain within the family. Initially, the approval of the father was obtained (Exod 22:17; Deut 22:16), followed by the consideration of the family's agreement, but it was not crucial for the ultimate establishment of the marriage (Gen 24:41). Ultimately, the potential bride was addressed to obtain her consent and agreement (Genesis 24:5, 8, 39, 57-58). The requirements for marriage are as follows: the woman must be a virgin (Deut 22:13-21; Gen 24:16; etc.) and preferably attractive (Gen 12:11, 14; 26:7; 29:17; Deut 21:10-14); she should also be hardworking, as she would be responsible for most of the home tasks and management. The prospective groom must belong to the covenant community, as indicated by his circumcision (Gen 24:3; 28:1; 34:14-15; Deut 7:3; etc.), and any illicit relationship must be avoided (Lev 18:7-20), (Brenne, 1985). It was customary, although not an absolute rule, for the eldest daughter to be married before the younger one (Gen 29:26). According to Leviticus 21:7, priests were not allowed to marry women who were considered promiscuous or divorced, as they were considered sacred to Yahweh. After reaching an agreement, the father received a "bride price" in exchange for his daughter, finalizing the deal with the potential husband. The term used for this is *mohar*, which means "price" (as mentioned in Gen 31:15, 34:12, Exod 22:17, etc.). The price is equal to the payment made by a man who seduces a virgin and agrees to marry her (Exod 22:16). After the wedding, the husband is exempted from military service for twelve months (Brenner, 1985).

In the Israelite society, it was customary for the bride's father to provide a marriage gift of at least one handmaid. Laban bestowed Zilpah upon Leah, and Bilhah upon Rachel, as recorded in Genesis 29:22-29. Hagar was Sarah's handmaid, as mentioned in Genesis 16:1. The primary function of the handmaid was not only to serve the woman, but also to potentially provide offspring in cases when the main wife was infertile or unable to bear males. In such situations, the wife could provide the handmaid to her husband in order to conceive male children. In the latter case, it seems that the handmaids were eventually called "wives," maybe as subsidiary spouses. However, their male children were considered equal in status to the sons of the main wife, as seen in the example of Jacob's twelve

sons. The handmaid was completely subordinate to the main wife (Gen 16:1-9); and it seems that, as shown in the instance of Hagar (Gen 21:9-14), she may be expelled from the household, along with her child; if a biological child had been born to the family (Bellis, 1994).

After the wedding, the wife became subject to her husband's authority (Num 5:19) and referred to him as *baal*, meaning "master" or *adôn*, meaning "lord" (Gen 18:12; Judg 19:26). It is noteworthy that this form of address is used both by a slave to his master and by a subject when addressing the king. In Deuteronomy 21:13, 22:22, 24:1, and other passages, the act of marrying a wife is denoted by the Hebrew verb *baal*, which means "to become master." Nevertheless, it is important to note that this does not imply that the wife of an Israelite was considered equivalent to a slave (Baker, 1992). De Vaux (1997) highlights that while a man had the ability to sell his slaves and even his daughter; he was never permitted to sell his wife. Even in cases when the bride was obtained as a prisoner of war, this fact remained valid (Deut 21:10-14).

In addition to childbirth and childrearing, the wife's responsibilities encompassed cooking meals (Gen 18:6; 27:14; etc.), fetching water (Gen 24:11ff; Exod 2:16; etc.), and engaging in weaving and spinning to create and maintain the family's clothing. Women were also involved in physical work, such as agricultural tasks (including the construction of the ark of the tabernacle, as mentioned in (Exodus 35:25-26). Women were also engaged in the occupation of nursing and midwifery. When executed proficiently, these and other numerous responsibilities provided her happiness and prestige (Brenner, 1985).

**iii. The Status of a Woman as a Mother:** The primary role of women was child bearing, as stated in Genesis 3:16. A mother who excelled in this role would receive admiration and honour from both the father and children, as mentioned in Proverbs 31:28.37. The mother had the responsibility of providing

nourishment, clothing, instruction, and guidance to her children. She frequently took on the role of introducing the children to the fundamental aspects of their education, particularly those related to their moral development. Under the Ten Commandments, the children were commanded to show respect and reverence for their parents (Exodus 20:12; Leviticus 19:3) (Bach, 1999). The mother was held in such great esteem that it was considered unimaginable for Joseph's "mother" to kowtow to her "son" (Genesis 37:10). The law required individuals to show deep respect for mother, as stated in Leviticus 19:3. However, a mother who displayed love and demonstrated virtuous behaviour would naturally win reverence from others. Engaging in cursing or physically assaulting one's mother, resulted in an immediate imposition of the death penalty. Similarly, any incestuous relationship between a son and his mother also carried the same consequence (Bach, 1999).

**iv. The Status of a Woman as a Widow:** After her husband's death, the widow wore mourning attire for an indeterminate duration (Gen 38:14). She had the freedom to gather sustenance from the leftover crops in the field, including olives and grapes during the harvest (Deuteronomy 24:19-21). In addition, she received a portion of the tithe that was collected every third year, known as the year of tithing, as stated in Deuteronomy 26:12-13. She was legally safeguarded against suffering (Exod 22:22), against the manipulation of justice (Deut 27:19), and against being compelled to offer a garment as collateral (Deut 24:17). If she were to make a pledge to God, she would be obligated to keep the vow (Num 30:9), just like a man (vs. 2). If she were to bear a child with her husband, she had the right to choose a wife for her son (Genesis 21:21). However, in the case of an elderly widow who lacked both children and financial means, her situation was very pitiful. She was encouraged to seek assistance from the public, just like orphans and non-native residents (Biale, 1984). In accordance with the Mosaic rule, a young widow who had no children was taken care of through levirate marriage (Deut 25:5-10), which involved her being handed over to her deceased husband's nearest sibling, known as the *levir*. The initial offspring of that union was designated as the legitimate heir of the deceased spouse in order to uphold his lineage and inheritance. In the pre-Mosaic era, there was a customary practice described in

Genesis 38. Er, who was the eldest son of Judah, married Tamar and subsequently passed away. Subsequently, she was transferred to the second individual, Onan, who displayed a lack of desire to fulfil the responsibility of raising a son on behalf of his brother. God killed him when he engaged in a forbidden connection with Tamar only for sexual pleasure, instead of following the proper procedure of declining to act as a *levir* to Tamar (Biale, 1984).

**v. The Status of a Woman as a Divorcee:** Before the enactment of the divorce legislation in Deuteronomy 24:1-4, it seems that husbands divorced their spouses by instructing them to leave the house, so placing the divorced women in a very difficult predicament. Under the divorce law, the divorcee received a certificate of divorce, enabling her to lawfully and appropriately marry another man without any social disgrace. During the divorce, the husband was obligated to return the *mohar* to the wife, which acted as a disincentive against seeking a divorce for insufficient reasons. The law provided partial protection to a woman against an unpredictable spouse. If a divorced woman were to make a commitment to the Lord, she would be obligated to fulfil the pledge, just like a widow or a man, according to Numbers 30:2, 9 (Bronner, 1994).

**vi. The Status of a Woman as a Slave:** Individuals who had the means to acquire slaves both male and female slaves from non-believing nations as personal property could do so, but it was not allowed to enslave a Hebrew person (Lev 25:39-46). When buying a Hebrew man or woman, they could only be required to serve for six years. In the seventh year, they were to be released, as stated in Deuteronomy 15:12 (Baker, 1992).

In certain circumstances, it was permissible to sell a daughter into slavery to settle a debt or due to the severe poverty of the family, as stated in Exodus 21:7. However, it was strictly prohibited to sell a daughter into prostitution, as stated in Leviticus 19:29. The daughter was sold under the condition that she would marry the master, with the possibility of being redeemed if she failed to please him. If she had been chosen for the master's son, she would have been regarded like a daughter. Under no

circumstances could she be sold again to a foreign nation. However, if she was deemed unsatisfactory, she would be set free without any compensation (Exod 21:7-11), (Baker, 1992).

The slaves, regardless of gender, were regarded as the master's possessions (Exod 21:20-21; Lev 22:11) and were subject to his authority to administer punishment or correction. Instances of mistreatment were dealt with leniently. In cases when a slave, whether male or female, died on the same day as a result of beating from the master, there would be unspecified consequences. However, if the slave died after a day or two, no penalty would be administered, as the slave was considered the property of the owner (Exodus 21:20-21). Nevertheless, if a slave, whether male or female, were to lose an eye or a tooth, it was the responsibility of the master to set them free, as stated in Exodus 21:26-27. If the owner were to provide a female slave to a male slave as a wife, and if children were to be born from their union, this arrangement may potentially result in the emancipation of the male slave. However, the master retained ownership of the female slave and her offspring (Exod 21:4), (Brenner, 1985).

**vii. The Status of a Woman in Socio-Religious Circle:** Traditionally, women played a subordinate position in organized worship. She possessed the potential to be recognized as a prophetess and guide the community in the realms of music, singing, and holy dancing (Exod 15:20; etc.). However, she was not permitted to fulfil the role of a priestess (De Vaux, 1997). Women, including daughters, maidservants, and widows, are explicitly stated to participate in the Feasts of Passover, Pentecost, and Tabernacles, together with "all the congregation of Israel" (Exod 12:3; Deut 16:14). Nonetheless, women were included in the covenant community of Israel by virtue of their fathers' or spouses' circumcision. Their transgressions were absolved by their belief in the sacrifices performed by the priests, their fathers, or husbands (De Vaux, 1997). Women were acknowledged for their contributions towards the construction of the tabernacle (Exodus 35:22-29; 38:8). Additionally, the daughters of the priests were permitted to partake in consuming the breast and thigh of the wave offering (Leviticus

10:14). Women were also to educate and prepare children, and to impart fundamental spiritual ideas and truths to their young minds. In addition, the family actively participated in the significant celebrations held at the tabernacle. During these events, she fulfilled her role by engaging in singing, praising, praying, and ensuring that both she and her children were spiritually prepared (De Vaux, 1997).

**viii. The Status of a Woman in the Social Circle:** The Israelite society exhibits a distinct differentiation within the female rank. Deuteronomy 28:56 describes a woman who is refined and delicate, to the point where she is unwilling to even step on the ground due to her delicateness and refinement. This clearly refers to an elite and aristocratic woman (Bellis, 1994). During this era, there was a scarcity of middle-class professionals and business people, as well as newly wealthy individuals. Consequently, the next social class consisted primarily of married women who were not financially dependent on their husbands. Next in line would be the single women who are not bound by marriage - specifically, those who are divorced or widowed. The last group consists of handmaids who have assumed the roles of secondary spouses, concubines, and female Hebrew slaves. This final group consists of those who are in different forms of enslavement (Bellis, 1994).

Women had a significant role in music, singing, and dancing at public festivals and festivities, as mentioned in Exodus 15:20-21. This was especially accurate at periods of tribe and/or national triumph, yearly celebrations, weddings, and (to a lesser extent) when male children were born. In Pentateuchal times, women were not only in charge of providing food and drinks, but they also engaged in singing and dancing. However, there is little indication of the provocative kind of dancing that was prevalent in pagan celebrations. The women also took part as both invitees and hosts of invitees (Bellis, 1994).

**ix. The Legal Status of Women:** Hebrew laws treated men and women equally in several ways. Both parents were to be respected and honoured by their children, and if a child, whether male or female, struck or cursed their parents, they would face death, (Lev 19:3; Deut 5:16; 27:16). Both men and

women who committed adultery were also subject to the death penalty, (Lev 20:10; Deut 22:22). In cases of incest, both male and female partners would be punished with death, (Lev 20:11, 17-18). When it came to leprosy, both male and female sufferers were banished from society as unclean. Punishments for acts of violence, such as striking or killing, were the same for both males and females, (Exod 21:15-32), (Biale, 1984).

Specific statutes acknowledge a distinct status for particular women in exceptional situations: The purification ceremonies for the birth of a daughter were longer compared to those for a son, as stated in Leviticus 12:1-5. In cases of extreme poverty, a father would sell his daughter to settle a debt, as mentioned in Exodus 21:7-11. However, this was done with the understanding that she would become the wife of either her master or her master's son. If she is deemed unsatisfactory, she will be released without any compensation. She was strictly prohibited from being sold to foreigners under any circumstances (Biale, 1984). Unlike her male counterpart, if she was sold into slavery as a bride, she was not allowed to be released in the seventh year (Lev 25:40). Her father was unable to coerce her into engaging in prostitution (Lev 19:29). Prior consent from the parent, spouse, or guardian was required for a single girl or married woman's pledge to be considered valid. The absence of this condition rendered the vow invalid and ineffective (Num 30:4-16). Nevertheless, this did not apply to a woman who had lost her husband or divorced, as their vows held the same validity as those of any man (Num 30:2, 9). The distinction between males and females becomes apparent in the assessment of specific pledges, as stated in Leviticus 27:2-7 (Biale, 1984). As an illustration, the vow's value was determined based on the assessment of those who are dedicated to the Lord. A male aged between 20 and 60 years was appraised at 50 shekels of silver, whilst a girl of the same age range was appraised at 30 shekels of silver. A boy between the ages of 5 and 20 was priced at 20 shekels, while a female of the same age was priced at 10 shekels. A boy, aged up to three years, was valued at 5 shekels of silver, whilst a female of the same age was valued at just 3 shekels. An elderly man, aged over 60, was assessed at a

value of 15 shekels, whilst a woman of the same age was appraised at 10 shekels. The woman's value assessment was around two-thirds of the man's (Biale, 1984).

Thus, it is undeniable that in the ancient Israelite society described in the Pentateuch, women generally maintained a lower status than men. However, as wives and mothers, they were highly cherished, honoured, respected, and held in great esteem.

### 5.3 Inheritance in Ancient Israel and Women's Right of Inheritance

When studying inheritance, it is important to consider at least five words: נַחֲלָה (*nahalah*), יָרַשׁ (*yarash*), אֲחֻזָּה (*ahuzzah*), חָלַק (*halaq*) and נָתַן (*nathan*). The initial two terms, נַחֲלָה (*nahalah*) and יָרַשׁ (*yarash*) are the fundamental Hebrew expressions that are rendered as "inherit/inheritance" in English. However, the other three terms are undeniably connected to inheritance in a biblical context. The lexical studies of these words are presented below:

The Hebrew term נַחֲלָה (*nahalah*) is used 222 times in the Hebrew Bible and it mostly refers to a type of possession. This possession is characterized as inalienable and hereditary property. The word is found throughout the Old Testament, although it is most commonly used in the books of Numbers (46 times) and Joshua (50 times), (Vine, Unger and White Jr.1996). The etymology of the word appears to derive from the Hebrew root נָחַל (used 59 times), which conveys the concept of giving or bestowing. All the meanings are related to the ownership or possession of property and there are no substantial differences between them (Vine *et.al.*, 1996). Primarily, the term "land" in the Old Testament refers to physical territory. However, there are a few instances where it symbolizes the connection between God and his people, as shown in passages such as Numbers 18:20, Deuteronomy 4:20, 9:26, 29, 10:9, and Ezekiel 44:28 (Vine *et.al.*, 1996).

The word יָרַשׁ (*yarash*) is tightly intertwined with נַחֲלָה (*nahalah*) in terms of narrative. The Masoretic Text (MT) employs the term יָרַשׁ (*yarash*) approximately 248 times in both its verbal and noun forms, which means to acquire ownership or to inherit (Schmid, 2012). Curiously, the term can be

employed to elucidate the effect of acquiring ownership of something. Israel will dispossess or remove the nations from their possessions as they enter the promised land (for example, see Num 21:32; 24:18; 32:39; Deut 2:12, 21–22; 7:17; 9:1; 11:23; 12:2, 29; 18:14; 19:1; 31:3; Judg 11:23–24; Jer 49:1–2). In addition, in the nifal verb form, יָרַשׁ (*yarash*) can also signify to experience a state of being dispossessed or impoverished/poor, as seen in passages such as Gen 45:11, Prov 20:13, 23:21, and 30:9. Similar to נָחַלַת (*nahalah*) , יָרַשׁ (*yarash*) is mostly employed to denote the act of acquiring or owning land (Schmid, 2012).

The term "אֲחֻצָּה" (*ahuzzah*) appears 66 times in the Masoretic Text (MT) and refers to the ownership or possession of land or other property (Rico, 2012). The term is explicitly associated with נָחַלַת (*nahalah*) in Num 27:7; 32:32; 35:8 and Ezek 44:28; 46:16.

The term חָלַק (*halaq*) is employed 144 times in the MT, (Wiseman, 1980). It is used about 55 times to refer to partition of land, spoil or property, and it is mostly encountered in the book of Joshua as the land/inheritance is being partitioned /allotted among the tribes of Israel. The word is also used in a metaphorical sense, representing the relationship between God and humanity, as seen in the usage of נָחַלַת (*nahalah*), (Deuteronomy 32:9; Numbers 18:20; Zechariah 2:16; Psalms 16:5; 73:26; 119:57; 142:6; Lamentations 3:24). The term also appears to take on an idiomatic and derogatory meaning in certain instances, as shown in Joshua 22:25, 27; 2 Samuel 20:1; and Nehemiah 2:20 (Wiseman, 1980).

The term נָתַן (*nathan*) is widely used in the Old Testament, appearing 2021 times (Labuschangne, 2012). As a result, its relevance in the context of inheritance may appear questionable. However, the occurrence of the verb נָתַן (to give) in the first person singular imperfect tense (meaning 'I will give') is directly connected to the verb נָחַל (*nahal*) (to inherit) in the first person singular perfect tense, which is used to express how YHWH gives the tithe to the Levites as their inheritance. These

occurrences can be found in Exod 32:13; Num 18:21, 24, 26; 1 Kgs 21:4; Isa 49:8; Jer 3:19; Ps 2:8; 105:11; 1 Chr 16:18. נָתַן is connected with יָרַשׁ in first person common singular perfect and imperfect versions in 17 additional instances (Lev 20:24; Num 33:53; Deut 1:8, 39; 2:5, 9, 19, 24; Josh 24:4, 8; Jer 8:10; 30:3), and with אָרַס in 5 instances (Gen 17:8; 48:4; Lev 14:34; Ps 2:8). The concept of YHWH's נָתַן is not only associated with inheritance in theology, but it is also fundamental to it (Labuschangne, 2012).

The linguistic foundation of inheritance in the Old Testament is primarily established by נָקַלַת and יָרַשׁ. However, אָרַס, חָלַק, and נָתַן are also textually associated with it. This linguistic analysis also demonstrates that there is a strong connection between inheritance and the land, namely the earth (אָרֶץ). It is not unexpected that the phrases are present in many parts of the Old Testament, but they are particularly abundant in Numbers and Joshua. However, the notion also assumes a metaphorical meaning at an early stage (Exodus 34:9), specifically as a depiction of the connection between YHWH and his followers (Labuschangne, 2012).

In agrarian communities, such as ancient Israelite society, ownership of landed property signifies specific rights and benefits. Furthermore, individuals who had control over land not only had authority over the primary means of economic production and the resulting resources, but also had exclusive rights to the associated benefits such as rents, commodities and services, and labour (Gafney, 2017). In ancient Israel, inheritance holds significant importance. Abraham expressed worry that his steward, Eliezer, may become his successor (Gen 15:2). His wife Sarah felt uneasy about the possibility of Ishmael inheriting Abraham's wealth instead of Isaac (Gen 21:10). Furthermore, Abraham bequeathed all his possessions to Isaac rather than to his concubines' descendants (Gen 25:5-6).

The noun נַחֲלָה (*nahalah*) is associated with the verb נָחַל (*nahal*) which signifies acquiring or taking possession. It refers to a possession, an inherited property, or a right to reside. An inheritance, also known as a נַחֲלָה (*nahalah*), is a legal word that specifically refers to a designated portion of real or

movable property. Strictly speaking, נַחַל (*nahal*) specifically denotes a designated part that an individual is entitled to inherit (Rico, 2012). In the biblical context, a נַחֲלָה (*nahalah*) commonly refers to tangible assets such as land or real estate. For instance, Naboth refers to his נַחֲלָה (*nahalah*) as his familial abode or entitlement to live (1 Kgs 21:3). In the Hebrew Bible, inheritance is a significant notion that pertains to land tenure and the transfer of land through inheritance, which is a customary practice in biblical times. In addition, although נַחֲלָה (*nahalah*) may have initially referred to a gift, it is not interchangeable with בְּרָכָה (*barrakah*) which can be translated as donation, favour, or present (Rico, 2012).

In the biblical text, persons exchange a בְּרָכָה (*barrakah*) which is a blessing, to improve, restore, or rectify relationships. In an attempt to mend their long-standing rift, Jacob endeavours to reconcile with his brother Esau by requesting his acceptance of his בְּרָכָה (*barrakah*) in Genesis 33:11. Abigail gains favour with the victorious David and his soldiers by presenting a blessing in 1 Samuel 25:27. When David arrived at Ziklag, he dispatches a בְּרָכָה (*barrakah*), or a blessing, to his acquaintances, specifically the esteemed leaders of Judah as mentioned in 1 Samuel 30:26. In 2 Kings 5:15, Naaman expresses his gratitude by offering a בְּרָכָה (*barrakah*) after being healed by the prophet (Westbrook, 2013). Significantly, in her specific circumstances, Achsah expresses dissatisfaction with her father's depiction of dry land and asks for fertile land as a בְּרָכָה (*barrakah*) (a blessing or a gift) to improve the situation in Josh 15:19 and Judg 1:15:

Caleb bestows upon Achsah a blessing (*barrakah*), rather than an inheritance (*nahalah*), in order to rectify their familial bond. Essentially, following the census and allocation of land in the plains of Moab (Num 26:53-56), any land owned by Israelite men is regarded as a tribal inheritance. However, the term "בְּרָכָה" (*barrakah*) specifically refers to Achsah's dry land as a gift or blessing. Achsah is given a gift, rather than inheriting it (Westbrook, 2013).

The scholarly focus on the inheritance of daughters is significant due to its unexpected nature in the patriarchal biblical society. This tradition is commonly portrayed as patrilineal; nonetheless, the

account of Zelophehad's daughters (Numbers 27 and 36) illustrates that daughters can inherit. Daughter inheritance appears contradictory in the patriarchal biblical society, disrupting the established social hierarchy and granting daughters legal power associated with property ownership.

Traditionally, women were not allowed to take part in these areas. However, when the daughters of Zelophehad received their father's inheritance, they were given legal power related to owning land. Although the verb "to give" is commonly used for inheritance in the biblical text, the use of the verb "to pass" in Num 26:7 indicates the special circumstances of the biblical daughters, as noted by Ben-Barak, (2006). This shows that the daughters are the ones who get the inheritance. The inheritance is temporarily transferred to the daughters. Crucially, according to Ben-Barak's argument, the expression "possession of an inheritance" mentioned in Num 27:7 highlights the daughters' entitlement to manage the property that was given to the family because the Israelites acquired Canaan with God's approval. Upon receiving the landed inheritance, the daughters are bestowed with both entitlements and legal jurisdiction.

Ben-Barak (2006) utilizes ancient Near Eastern sources to create an accurate portrayal of the way daughters received inheritances. She identifies Achsah, Job's daughters, and Zelophehad's daughters as instances within the biblical collection when daughters are granted an inheritance of tangible assets. Although Ben-Barak's overall argument about females inheriting in the biblical period is valid, her stance is weakened by including Achsah as an example of a daughter who received inheritance, whereas in reality Achsah did not inherit land. Instead, in Josh 15:19, Achsah requests and is granted a present.

The narrative of Zelophehad's daughters is paradoxical as, typically, only males were entitled to inheritance according to the biblical text. According to Westbrook (2013), the individuals who automatically inherited the deceased's estate and had the highest position were the legitimate sons, specifically those born from a legally recognized marriage. In cases when a son has already passed away but has left behind his own sons, the grandchildren will inherit their father's portion of the

inheritance along with their uncle, and then split it among themselves. This approach severely restricts opportunities for women. According to Gafney (2017) women being denied the right to inherit land was a unique practice in ancient Israel. They were also one of the few societies that had laws specifically excluding women from property ownership. In the midst of narratives concerning male succession, such as Abram's concern about not having a male heir to inherit his possessions (Genesis 15:2-3), the practice of men bequeathing their belongings to their sons without showing favouritism (Deuteronomy 21:15-17), Eleazar and Joshua allocating land as inheritance to the male heads of households in Shiloh (Joshua 19:51), and Naboth's determination to keep his ancestral inheritance (1 Kings 21:3-4), the account of Zelophehad's daughters is perplexing and surprising.

The narrative of Zelophehad's daughters poses a challenge to the established social hierarchy. Meyers (2000), acknowledges the disruption of the traditional patriarchal and patrilineal system when she discusses the topic. She notes that although females are allowed to inherit property, even this exception is managed in a manner that upholds the principle of transferring the name and property to future generations based on the father's lineage.

In sum, it is established that inheritance is a customary practice well known in the Ancient Near East and in Israel. The practice of inheritance favours men more than it favours women. The Israelite society relegated women's right of inheritance to the background. The case of the Zelophehad daughters was paradoxical as it was against the patriarchal tradition of the day.

## **5.4 A Textual Analysis of Numbers of 27:1-11**

### **5.4.1 Introduction to the Book of Numbers**

The English title of the book of Numbers was derived from the Latin and Greek translations. Brown (2002) believes that the book's title has not been beneficial. The Septuagint named the book *Arthmoi* (Numbers), and Jerome later translated it into Latin as *Numeri*, which led to the English title Numbers. Heureux (2005) believes that the title suggests that the book starts and finishes with a census

of Israel and its priests (chapters 1-4, 26). Noth (1968) argues that the title "Numbers" does not accurately represent the substance of the book because only a small portion of it (chapters 1-4, 26) focuses on the numbers of the Israelites.

In Jewish tradition, alternative titles are derived from the initial words of the Hebrew text. The titles originate from the Hebrew phrases וַיְדַבֵּר (*wayyedber*) "and he spoke" and בְּמִדְבָּר (*bemidbar*) "In the wilderness." The latter is included in Modern Hebrew Bibles and is also the basis for the name of the significant Haggadic commentary on the book, the *Bemidbar Rabbah* (Much in the desert). Gray (2000) argues that the Hebrew title "in the wilderness" is more appropriate for the book because much of the story takes place in the wilderness, even though seven chapters (1, 3, 7, 26, 28, 29, and 31) are related to numbers. Eerdman (2004) aligns with Gray's assertion that a more precise title is found in the Hebrew Bible, namely "in the wilderness," a term derived from the first verse of the first chapter, characteristic of the classic literary style of the Ancient Near East.

The book of Numbers is not inferior in any way when compared to the other books of the Pentateuch. Brown (2002) states the significance of the book thus:

Numbers is intimately connected with those books that surround it, with the events graphically described in Exodus, the sacrificial and priestly detail of Leviticus and the message of Deuteronomy, to say nothing of the later literature of the Old Testament. Its narratives and legislation are recalled in their early and later history, in temple worship and in prophetic preaching.... The message of Numbers was not only meaningful to Old Testament people; it was important to Jesus, (pp.14-15).

#### **5.4.2 Authorship and Date of Composition**

The authorship of the book of Numbers, as well as the Pentateuch overall, has been a subject of debate for many years. According to Ridderbos (1996), many scholars believe that the tradition

attributing authorship of the entire book to Moses should be critically examined. They highlight the following factors. Moses' literary effort is only addressed in chapter 33 of Numbers (verse 2, compare with 5:23, 11:26); this is not referenced in any other section of Numbers. For a different scenario, go to Deuteronomy 31:9. Multiple pieces of material suggest a later time period than that of Moses, or at least a different author than Moses, as seen in verses 12:3, 15:22ff (where Moses is referred to in the third person), 15:32, 21:14 (indicating the possible post-Mosaic provenance of the 'record of the wars of the Lord').

It is worth considering why Moses' literary activity was mentioned only in chapter 33, if actually he was the author of Numbers? And too, why is Moses referred to in the third person singular in the instances described above? These differences in the early nineteenth century led to divergent viewpoints emerging that rejected the possibility of Mosaic authorship. One theory suggests that the Pentateuch was created by editors who incorporated various literary elements from later periods of Israelite history. One of such authors was Julius Wellhausen who proposed the standard view known as the 'documentary hypothesis'. This theory has been reinterpreted multiple times, but its fundamental concept is that four distinct sources, known as J (10th-9th centuries BC), E (8th century BC), D (mainly Deuteronomy, late 7th century BC), and P (Priestly, 6th-5th centuries BC), were utilized to create a narrative of Israel's origins before the Canaan conquest. This literary composition likely reached its final form either during or after the Babylonian exile (Brown, 2002). Supporters of the source hypothesis believe that much of the Pentateuch is historically inaccurate, leading them to view it as an ideological creation and a speculative interpretation of potential occurrences. The primary aim of this thought was predominantly religious and didactic. Noth (1968) advises caution when applying the documentary premise to the unique nature of Numbers. Numbers is disorganized and shown using several styles and techniques. He suggests that the book's lack of cohesiveness can be traced back to its complex and lengthy history of origins. Thus, he emphasized that:

It is certainly not practicable simply to proceed to a division of the textual material among the Pentateuchal sources J, E and P (and in any event, it would have to be a question of secondary forms of these sources). We must, rather keep in mind the peculiar position and function of the book within the framework of the Pentateuch as a whole. Only thus can we explain the peculiar nature of the book of Numbers, (p.5).

Due to the unique characteristics of Numbers and its consistent attribution of ordinances and laws to Moses and Aaron, Mosaic authorship is difficult to dismiss. Ridderbos (1996) also emphasizes that the laws and regulations appear to have been established while the people were journeying through the desert, as indicated in specific passages (5:17; 15:32ff, etc).

It is necessary to consider that the laws largely stem from the Mosaic era. Ridderbos (1996) believes that the laws and stories originated during the Mosaic era. The exact moment when the book attained its ultimate structure is uncertain. He argues that it is likely that the main ideas were previously documented in writing during the Monarchical era. Current views on the authorship and chronology of Numbers are moving away from Wellhausen's theory, which attributes authorship to the Priestly source and dates it to the post-exilic period. Numbers included materials from ancient and distant eras. Numbers 5:11 and chapter 19 detail ancient rituals and the religious practices that were present in pre-exilic Jerusalem. Owens (2000) asserts that the priesthood has an ancient history, suggesting a long history of priestly material. Various branches of priestly families and distinct clerical centres have led to a diverse range of emphases, interests, and locations in priestly material. Moses is the original author of some of the materials in the book of Numbers, (Numbers 33:2) (Brown, 2002). However, it is vital to acknowledge that oral tradition also played a significant role in transmitting these materials reliably. The weakest link in source theories is that they relegated Moses to the background even though Moses was a skilled and highly educated individual who likely collaborated with literate individuals to produce, gather, and revise the majority of the Pentateuch in its current form. He utilized more sources, and other individuals contributed to the subsequent editing of these documents. Moses could not have

written about his own death and burial, (Deuteronomy 34:5) nor could he have praised himself as highly as in Numbers 12:3 (Brown, 2002).

### **5.4.3 Genre of Numbers**

Genre refers to the literary category of a book. Studying the literary genre of Numbers is crucial as it directly impacts the accurate and meaningful interpretation of the text. As far as the genre of Numbers is concerned, Baruch (2000) declares that:

In its textual makeup, Numbers is the most diverse of all Torah books. It includes historiographic narratives, collections of early Hebrew poetry, and extensive legal and ritual texts. In addition to its generic diversity, Numbers also exhibits a complex literary history. As a book of the Torah, it is held together in an intricate manner: a collection of relatively early Hebrew poetry and a limited body of collected historiography, (p.48).

He further categorises the genre of Numbers into nonpriestly and priestly items. Numbers contains two genres in its nonpriestly sections: poetry and narrative historiography. The poetry is located in chapters 21-24. Poetic verses are also found in chapters 10:35-36, 12:6-8, and the priestly benediction mentioned in 6:22-27 is likewise written in a poetic style. All remaining text in Numbers attributed to JE (a blend of the Yahwist and the Elohist sources) can be categorized as historiographic, as it recounts events and depicts circumstances in the style of a narrator and chronicler (Baruch, 2000).

Numbers contains a diverse collection of priestly texts, including narratives and descriptions of ceremonial celebrations linked to significant events in Israel's religious history. The priestly portions primarily contain numerous ritual instructions and laws pertaining to priests (Bateye,2012). There is a notable collection of priestly writings that are more accurately categorized as administrative items, along with a single example of liturgical poetry found in the priestly benediction of 6:24-27. The administrative resources consist of census records, listings of tribal leaders, and precise accounts of donations to the Tabernacle (Baruch, 2000).

Numbers is characterized by its remarkable diversity of books used in its creation. The text comprises a varied assortment of prose and poetry, ritual lists, camping instructions, priestly regulations, worship calendars, extensive travelogues, war records, anecdotes, speeches, and songs. A recent analysis highlights obvious connections between seemingly different genres in the evolving content (Brown, 2002). Numbers encompasses a wide range of genres and is considered a meticulously crafted literary masterwork.

#### **5.4.4 The Purpose of Numbers**

The purpose of the book of Numbers was to strengthen the bond between Yahweh and his people. His primary goal in His interactions with people is to establish a closer relationship with them and to enhance their lives as His acquired possession. Each book in the Old Testament has a theocentric aim that should be considered while reading or studying any passages or books in the Old Testament. The primary goal of the priestly author was to summarize the history of the chosen people's beginning and subsequent developments, with a particular focus on explaining the establishment of their institutions. The priestly scribes provide information for uncovering and comprehending the religion of a period far removed from the events in the desert (Eerdman, 2004).

Numbers performs a dual role. The work serves as a historical material and secondly as a theological document. The text portrays Moses, the leader of Israel, highlighting both his magnificence and weaknesses while narrating Israel's failures and God's loyal acts. The historical goal is to review Israel's past, focusing on her experiences and relationship with Yahweh during the forty years of ups and downs. The narrative of Israel's relationship with Yahweh in the wilderness was documented to educate the Christians living at the end of the ages, as mentioned in 1 Corinthians 10:11 (Eerdman, 2004).

#### **5.4.5 Theology of Numbers**

The theological message of Numbers is interconnected with the other books of the Pentateuch. Every book makes a unique contribution to the theology of the Pentateuch. Emphasis, rather than theological distinctiveness, is typically what distinguishes one book from another. In Numbers, like in the entire Bible, the omnipotent and trustworthy God of the covenant makes himself known. This insight unites the many elements of the book of Numbers into a cohesive whole. God demonstrates his concern for his people by the regulations and laws he establishes. In Numbers, sin is not left unpunished by God. Moses and Aaron are prohibited from entering the Promised Land due to their transgression. God's covenant with his people for the Promised Land remains unaffected by the people's unfaithfulness (Ridderbos, 1996).

In Numbers, Yahweh is depicted as the unwaveringly faithful God of the covenant, (Numbers 23:19). His commitment to his covenant necessitated guiding, caring for his people, and punishing their transgressions against him. However, no obstacle proved insurmountable in preventing God's plan to lead his people to the Promised Land (11:23). God demonstrates his profound holiness in the book of Numbers by his wrathful response to Israel's wrongdoing and the abundance of priestly regulations. The legislation clearly states that anybody seeking to approach God must be pure. Looking upon the holiness of God with impure eyes was considered equivalent to death (4:20), (Brown, 2002).

The book of Numbers affirms the constant presence of God with his people. It serves as an example of the Lord's presence and a consistent display of his provisions for his people. He sent manna for them to eat, and when they became weary of this plant-based diet, he sent quails. Numbers plainly indicates that one of God's qualities is longsuffering. God displayed this characteristic when Moses attempted to avoid the mission assigned to him at Sinai (Brown, 2002). This section concludes an overview of the book of Numbers. We now turn to the exegesis of Numbers 27:1-11.

#### **5.4.6 Hebrew Text of Numbers 27:1-11 and English Translation**

##### **Hebrew Text of Numbers 27:1-11 (BHS Hebrew Old Testament, 4th edition)**

1 ונתקרבה בנות צלפחד, בן-הפר בן-גלעד בן-מכיר בן-מנשה, למשפחת מנשה בן-יוסף; ואלה, שמות בנותיו--מחלה נעה, וחקלה ומלקה ותרצה.

2 ותעמדה לפני משה, ולפני אלעזר הכהן, ולפני הנשיאים, וכל העדה--פתח אהל-מועד, לאמר.

3 אבינו, מת במדבר, והוא לא-היה בתוך העדה הנועדים על-יהנה, בעדת-קרח: פי-בקטאו מת, ובנים לא-היו לו.

4 למה יגרע שם-אבינו מתוך משפחתו, כי אין לו בן; תנה-לנו אשה, בתוך אחי אבינו.

5 ויקרב משה את-משפטו, לפני יהוה.

6 ויאמר יהוה, אל-משה לאמר.

7 בן, בנות צלפחד דברת--נתן תתן להם אשה נחלה, בתוך אחי אביהם; והעברת את-נחלת אביהן, להן

8 ואל-בני ישראל, תדבר לאמר: איש פי-ימות, ובן אין לו--והעברתם את-נחלתו, לבתו.

9 ואם-אין לו, בת--ונתתם את-נחלתו, לאחיו.

10 ואם-אין לו, אחים--ונתתם את-נחלתו, לאחי אביו.

11 ואם-אין אחים, לאביו--ונתתם את-נחלתו לשארו הקרב אליו ממשפחתו, ירש אתה; והיתה לבני ישראל,

לחוקת משפט, כאשר צוה יהוה, את-משה.

### English Translation of Numbers 27:1-11

1 And approach the daughters of Zelophehad, son of Hopher the son of Gilead the son of Machir the son Manasseh from the families of Manasseh the son of Joseph and these the names of his daughters Mahlah, Noah, and Hoglah and Milcah and Tirzah. 2 And they stood before Moses and before Eleazar the priest and before the leaders and all the congregation the door way of the tabernacle of meeting saying. 3. Our father died in the wilderness but he not was in the company of those who gathered together against Yahweh in company with Korah, but in his own sin he died and sons not he had to him 4. Why should be removed the name of our father from among his family because no he had son give us a possession among brothers of our father 5 And brought Moses their case before Yahweh. 6 And said Yahweh to Moses saying: 7 Right the daughters of Zelophehad speak surely you shall give them a possession of inheritance among brothers of their father and cause to pass the inheritance of their father to them. 8. And to the sons of Israel you shall speak saying a man if dies and son not to him then you

shall transfer his inheritance to his daughter.<sup>9</sup> Then if he has no daughter and you shall give his inheritance to his brothers.

10. Then if he has no brothers and you shall give his inheritance to brothers of his father.<sup>11</sup> And if he has no brothers his father then you shall give his inheritance to the relative closest to him in his family and he shall possess it and it shall be to the sons of Israel a statute of Judgement just as commanded Yahweh Moses.

(The above English text is the researcher's own translation from the Hebrew text).

#### 5.4.7 Exegetical Analysis of Numbers 27:1-11

The passage Num. 27:1-11 begins with the daughters of Zelophehad approaching Moses, Eleazer the priest, and the princes of the congregation to formally make their request for the right of Inheritance. Previously, the system of inheritance in Israel had a patrilineal structure. It is a system of hereditary succession, wherein the assets and land owned by a parent are passed down to his son. The affair was limited to fathers and sons, with female children being excluded. However, there is a man who has five daughters but no son, and the division of the land of Canaan is imminent. As a result, the daughters of Zelophehad approached Moses to formally request their father's inheritance.

#### vv. 1-4: Zelophehad's Daughters and their Request

1 וַתִּקְרַבְנָה בָּנוֹת זְלוֹפְחָד, בֶּן-חֶפֶר בֶּן-גִּלְעָד בֶּן-מְכִיר בֶּן-מְנַשֶּׁה, לְמִשְׁפַּחַת מְנַשֶּׁה בֶּן-יוֹסֵף; וְאֵלֶּה, שְׁמוֹת בָּנוֹתָיו--מִחֵלָה נָעִה, וְחִגְלָה וּמִלְכָּה וְתִרְזָה.

**Rough Translation:** 1 And approach the daughters of Zelophehad, son of Hopher the son of Gilead the son of Machir the son Manasseh from the families of Manasseh the son of Joseph and these the names of his daughters Mahlah, Noah, and Hoglah and Milcah and Tirzah.

וַתִּקְרַבְנָה בָּנוֹת

The Hebrew text renders the first phrase in verse 1 (*vattiqrabnah benoth*). According to Hebrew syntax the verb usually comes before the subject as it is in this case. The verb (*wattiqrab nah*) is Qal imperfect third person feminine plural with *wav conversive* from the root *קרב* which means "to come near, to approach, to draw near" (Davidson, 1997). What this means is that the daughters (*benoth*) of Zelophehad approached Moses and the elders with unity of purpose without the fear of being intimidated because of their gender to demand for their father's land inheritance. It can be inferred that Mahlah, Noah, Hoglah, Mileah, and Tirzah were physically there as they were listed in the order of seniority when they approached Moses and the authorities of the land.

Israel places great significance on tribal affiliation. The Israelites were structured into twelve tribes, representing the twelve offspring of Jacob, with each tribe possessing its own hereditary land. The distribution of land had a key role in defining tribal identity and ensuring their safety. The above verse confirmed the tribal lineage of Zelophehad, specifically tracing it back to Manasseh, the offspring of Joseph. The daughters of Zelophehad were identified as being in the eighth generation from Jacob, and their ancestry aligns with the information found in Num. 26.39-31 and Joshua (Sturdy, 2009). This demonstrates their constant track record and establishes their legitimacy as daughters of Israel.

2 ותעמדנה לפני משה, ולפני אלעזר הכהן, ולפני הנשיאים, וכל העדה--פתח אהל-מועד, לאמר.

**Rough translation:** 2 And they stood before Moses and before Eleazar the priest and before the leaders and all the congregation the door way of the tabernacle of meeting saying:

The verb *ותעמדנה* (*wattamodenah*) is Qal imperfect third person feminine plural with *wav conversive* from the root *עמד* which means to "stand" (Davidson, 1997). This means the Zelophehad daughters stood for what rightly belong to them. The use of this Hebrew verb strongly indicates the cohesion among the five daughters of Zelophehad. Based on the context, all the five women presented themselves before Moses with complete unity of thought and speech. That indicates they gathered to take their position in unanimity with regard to the inheritance of land before the face of Moses.

It is unprecedented, to the best of our knowledge, for these women to approach Moses and present a matter. This marks the initial occurrence of women declaring their entitlements in front of Moses, namely as descendants of Abraham. Undoubtedly, these women had deliberated on this problem and firmly held their conviction, leading them to bring the case before the highest judicial authority of the nation, presided over by Moses and Eleazar (Olson, 2012). This meeting was held at the פֶּתַח אֹהֶל (*petah ohel*). *Petah ohel* is a masculine singular noun which means "the doorway or entrance of the tabernacle" (Brown,*et.al.*, 2003). The daughters of Zelophehad met Moses at the entrance of the tabernacle. In ancient towns of the Near East, judicial tribunals were held near the gate located at the entrance of the city. The decisions made in the presence of God by Moses, Eleazar the priest, and the elders were authoritative, holy, and not to be violated. The formation of this unified coalition was crucial for making significant decisions in the ancient Near East (Milgrom, 1990).

The verb לֵאמֹר (*lemor*) is Qal infinitive construct with a לְ preposition which means "to say or utter." The implication of this is that the Zelophehad daughters did not speak to Moses through an intermediary. They spoke to Moses and the community elders directly. This was courageous on the part of these women in an ancient world where women were meant to be seen and not to be heard.

3אָבִינוּ, מֵת בַּמִּדְבָּר, וְהוּא לֹא-הָיָה בְּתוֹךְ הָעֵדָה הַנּוֹעֲדִים עַל-יְהוָה, בְּעַדַת-קֹרַח: כִּי-בָקִשְׂאוֹ מֵת, וּבָנָיִם לֹא-הָיוּ לוֹ.

**Rough Translation:**3 Our father died in the wilderness but he not was in the company of those who gathered together against Yahweh in company with Korah, but in his own sin he died and sons not he had to him.

The word אָבִינוּ (*abinu*) is a masculine singular noun, with a first person common plural prenominal suffix which means "our father". The verb מָת (*met*) is a Qal perfect third person masculine singular from the root "מות" to die," (Davidson,1997). The expression "our father died" in the wilderness is an indication that these women are direct biological daughters of Zelophehad. The women truthfully

acknowledge that their father was not among those who revolted against Moses during the rebellion of Korah. However, he did perish due to a grave transgression in the wilderness. Regarding the ancient world, he did not have any lawful successors, as he only had daughters. The Jewish people were on the verge of entering the land, partitioning it according to their conquests. Each family is entitled to its own allocation; however, there are no regulations that address unmarried women who do not belong to a family with any surviving males (Meyer, 2016).

These women were bold because they have acquired knowledge of the Law of Moses. They were not specifically seeking a legal loophole, but rather intended to ascertain their legal entitlements based on their comprehension of the Law. Women were not explicitly granted land, but they were not explicitly barred from inheriting property in Israel. This idea would have been considered revolutionary in several societies across numerous periods. Under certain reigns, they would not have been granted an audience with the highest-ranking official in the land. In several societies, they would have faced ridicule, while in others they might have been subjected to capital punishment for their insolence. While males and females have distinct societal duties, the Almighty God does not belittle women as society sometimes does (Meyer, 2016).

The use of the Hebrew expression לֹא-הָיָה בְּתוֹךְ הַגִּבּוֹרִים (lo hayah betowkha hadah hannowadim), "was not in the company of those who gathered together" presented Zelophehad as an honest man who was not a member of the rebellious group in the wilderness. The daughters of Zelophehad distanced their father's death from the insurrection of Korah. Bible hub. com (2023) deemed it imperative to provide this explanation and clarification due to the possibility that Zelophehad passed away during the time of Korah's rebellion. He might have been erroneously perceived as being involved in that uprising. The daughters are concerned about their father being misidentified as a rebel, as it could result in them losing their lives and inheritance.

The phrase *בְּהֵטְאוֹ מֵת* (*behet'o met*) is a masculine singular noun with third person masculine singular prenominal suffix and Qal perfect verb third person masculine singular (Davidson, 1997). He died in his own sin, does not imply any deliberate immoral actions, but rather refers to death as an inevitable event that awaits all individuals. They may have made this declaration in relation to Num. 14:33, asserting their freedom from the transgressions of their ancestors (Jamieson *et. al.*, 2023). They exonerated their father from being involved in the conspiracy of Korah, but their father's sin is one that is shared by all. Therefore, their father did not engage in any personal wrongdoing that would justify him being denied his inheritance. They portrayed themselves as members of the new generation that is qualified to enter the land of Canaan (Keil and Delitzsch, 2023)

4 לָמָּה יִגָּרַע שֵׁם-אֲבִינֹו מִתּוֹךְ מְשֻׁפָּחָתָו, כִּי אֵין לוֹ בֵּן; תִּנְה-לָנוּ אֲחֻזָּה, בְּתוֹךְ אֲחֵי אֲבִינֹו.

**Rough Translation:** 4 Why should be removed the name of our father from among his family because no he had son give us a possession among brothers of our father.

The use of the word *לָמָּה* (*lammah*) by Zelophehad daughters which means "why" is both interrogation and also exclamation. *לָמָּה* (*Lammah*) is being emphasized here according to the rules of Hebrew grammar. It is appropriate in this context for them to raise issues why their father shouldn't be given land inheritance in Canaan because he had no sons. This expression is followed with a verb *יִגָּרַע* (*yiggara*) which is a Niphal imperfect third person masculine singular from the root *גרע* (*gara*) which means "to be removed, lost or cut off" (Brown *et. al.*, 2003). Zelophehad daughters were insisting on land inheritance for their father so that his name will not be cut off in the Promised Land.

They approached Moses with the words *תִּנְה-לָנוּ אֲחֻזָּה* (*tenah lanu ahuzzah*) which means "give us a possession" *תִּנְה* (*tenah*) here is a Qal imperative second person masculine singular which means "to give, to grant, bestow upon, deliver or hand to," (Davidson, 1997). Though (*tenah*) is used here in the imperative sense, it does not mean that Zelophehad daughters were commanding Moses. The

context suggests that they were making an appeal to Moses and the elders to listen to their demand. Put simply, they asked Moses to give them their father's inheritance, regardless of their gender. Once again, they demonstrated their adherence to the principle of oneness. The term אֲחֻזָּה (*ahuzzah*) refers specifically to the ownership or control of a piece of land. They demanded to receive their rightful share of land from Moses (Nwaoru, 2002). They required this for the preservation of their father's name. In ancient Israel, the preservation of an individual or family name has immense importance. If the inheritance in the Land of Canaan is not allocated to Zelophehad, his name will fade into obscurity. The entreaty made by the daughters of Zelophehad is unparalleled and unprecedented. It is important to state here that, the daughters of Zelophehad sought to acquire specific parcel of land for their personal ownership within the territory of Canaan. Their appeal pertains to a legal precedent that has not been addressed in any of the existing law codes. Specifically, it concerns the inheritance of a man who passed away without a male heir (Nwaoru, 2002).

The Hebrew אָחִים (*ahe*) term rendered as "brothers" can also be translated as "relatives". Those acquainted with patrilineal culture will recognize that "relatives" and "brothers" have the same meaning in this particular situation. The daughters of Zelophehad eloquently presented their argument for being granted exclusive ownership of a piece of land. Furthermore, this ownership should be within the brothers of their father (Ahiamadu, 2005).

This situation was a ground breaking development that challenged the prevailing cultural norm of male-only inheritance of land or property (Getui, 1995 as cited in Ahiamdu 2005)). The subject matter, in this case, pertains to the preservation of the deceased individual's name and property (Num.27:4). This is strongly linked to their endeavour to obtain inheritance rights to their father's property among their relatives and extended family members (Nwaoru, 2002). Therefore, it is imperative to include the clan of Hephher (27:1) in the distribution of land to the tribes, since it is done based on clans (Num. 26:32)

One important point needs to be made here that, the passage implies that their mother's death prevented her from remarrying one of their father's relatives, which would have allowed her to receive an inheritance that could have supported her daughters until they were married. Devoid of parental and fraternal support, their situation became a matter of utmost urgency, prompting them to disregard all established procedures in order to secure their father's inheritance in the new system (Branch, 2003 as cited in Ahiamadu 2005). In order to sustain themselves financially, they needed their father's land inheritance for economic self-sufficiency, (Getui, 1995 as cited in Ahiamadu 2005).

וַיִּקְרַב מֹשֶׁה אֶת-מִשְׁפָּטָן, לִפְנֵי יְהוָה.

#### **v.5: Moses took their case to God**

**Rough Translation:** 5 And brought Moses their case before Yahweh.

The Hebrew verb וַיִּקְרַב (*wayyaqreb*) above is Hiphil imperfect third person masculine singular with *wav conversive* from the root קרב which means “to come near or approach.” (Brown *et. al.*, 2003). The Hiphil stem in Hebrew grammar is causative. This means the case of the Zelophehad daughters caused Moses to approach Yahweh. Until now, there were no existing legislations addressing women's status as property owners or their entitlement to property ownership. Moses does not promptly reject their request as a frivolous idea. However, due to the absence of regulations to address this particular issue, he presents the subject to Yahweh. The situation here is likened to the application of "the Doctrine of Necessity."

According to Meyer (2016), the reason Moses approached Yahweh was due to the challenging nature of the case being presented before him. He posited that this will be the fourth instance Moses presented before the Lord. The first instance occurred in Leviticus 24:11 addressing the matter of blasphemy. The second instance is found in Numbers 9:8, discussing those who were impure due to contact with the deceased. The third instance pertains individuals who violated the Sabbath, as mentioned in Numbers 15:34. The fourth instance pertains to the daughters of Zelophehad, as

mentioned in Num. 27:1-11. Moses has consistently sought guidance from the Lord when faced with fresh and challenging matters. Therefore, the instance of the daughters of Zelophehad is not the initial occurrence.

### vv.6-7 God Responded to Zelophehad's Daughters Plea

וַיֹּאמֶר יְהוָה, אֶל-מֹשֶׁה לֵאמֹר.

**Rough Translation:** 6 And said Yahweh to Moses saying:

The Hebrew verb used here is וַיֹּאמֶר (*wayyomer*) which is Qal imperfect third person masculine singular with *wav conversive* from the root אמר which means to say or utter", (Brown *et. al.*, 2003). The Lord communicated with Moses from the Mercy seat in the tabernacle. Consequently, the words conveyed by Moses to the people, as per the daughters of Zelophehad's request, do not originate from Moses himself, but rather from the divine source. Since the day Moses was called, this has served as a means of communication between God and himself (Sturdy, 2009).

7 כֵּן, בְּנוֹת זְלֹפְחָד דְּבַרְתֶּינָה--נָתַן תַּתֵּן לָהֶם אֲחֻזַּת נַחֲלָה, בְּתוֹךְ אֶחָיו אֲבֵיהֶם; וְהִעֲבַרְתָּ אֶת-נַחֲלַת אֲבֵיהֶן, לָהֶן .

**Rough Translation:** 7 Right the daughters of Zelophehad speak surely you shall give them a possession of inheritance among brothers of their father and cause to pass the inheritance of their father to them.

The Hebrew verb used here is בְּנוֹת (*do-be-rot*). בְּנוֹת (*doberot*) is Qal participle feminine plural from the root דבר which means "to speak," (Brown *et. al.*, 2003). It is used with כֵּן (*ken*) translated as "right." Thus, God confirmed to Moses that Zelophehad daughters were right in demanding for their father's inheritance. This expression used here by the narrator of this event, תַּתֵּן לָהֶם אֲחֻזַּת נַחֲלָה, (*titten lahem ahuzzat nahalah*) "you shall give a possession of inheritance", indicates that Moses does not

have his own opinion on the issue at hand. This is because the Hebrew verb *תתן* (*titten*) used here is Qal imperfect second person masculine singular from the root *נתן* which means "to give", (Brown *et. al.*, 2003). The verb (*titten*) as employed in this context conveys a notion of enduring value. It is commonly used in association with inheritance

There is a word used here in verse 7 by the narrator, which needs an explanation. It is the word *להם* (*lahem*), it is a preposition plus third person masculine plural pronominal suffix which means "to them". It is used as an object of the verb (*titten*). Some scholars argued here that (*lahem*) was used here as masculine instead of the feminine *להן* (*lahen*) because the daughters wanted to be seen as male-heirs. On the above, Mbuwayesango (2003) argues that the daughters sought to challenge the patriarchal norm that saw sons as the only legal successors in the family lineage. Instead, they desired to be recognized as male progeny. This is due to the inability of female offspring to carry on their father's surname. The males accomplish this objective by transmitting the family name and inheritance to their male offspring. Similarly, Poole (2023) argued that the daughters of Zelophehad were referred to using masculine gender to demonstrate that women can have the same privileges as men. Due to their loyalty to their father, they were granted their share of the estate as stated in Joshua 17:3-4. A new legislation was implemented in response to God's ruling on inheritance, taking women into account. Prior to that time, in ancient Israel, female offspring were excluded from inheriting their father's estate.

The phrase *וְהַעֲבַרְתָּ אֶת-נַחֲלַת אָבִיהֶן לָהֶם* (*wehaabarta et nahalat abihen lahem*), "and cause to pass the inheritance of their father to them" is used here to encourage Moses to do the right thing for the daughters of Zelophehad. The verb *וְהַעֲבַרְתָּ* (*wehaabarta*) is Hiphil perfect second person masculine singular with *wav* conjunction from the root *עבר* which means "to pass over," (Davidson, 1997). The instruction given to Moses here by God is that, specifically, the portion of the land that would have been allocated to Zelophehad, had he been alive, should be pass over to his daughters who are now representing him, irrespective of their gender.

**vv.8-11: The Law of Inheritance Established,**

8 וְאֶל-בְּנֵי יִשְׂרָאֵל, תְּדַבֵּר לֵאמֹר: אִישׁ כִּי-יָמוּת, וְבֵן אֵין לוֹ--וְהֵעֲבַרְתָּם אֶת-נַחֲלָתוֹ, לְבָתוֹ.

9 וְאִם-אֵין לוֹ, בֵּת--וְנָתַתָּם אֶת-נַחֲלָתוֹ, לְאֶחָיו.

10 וְאִם-אֵין לוֹ, אֶחָיִם--וְנָתַתָּם אֶת-נַחֲלָתוֹ, לְאֶחָי אָבִיו.

11 וְאִם-אֵין אֶחָיִם, לְאָבִיו--וְנָתַתָּם אֶת-נַחֲלָתוֹ לְשָׂארוֹ הַקָּרֵב אֵלָיו מִמִּשְׁפַּחְתּוֹ, יָרֵשׁ אֹתָהּ; וְהָיְתָה לְבְנֵי יִשְׂרָאֵל,

לְחֻקַּת מִשְׁפָּט. כַּאֲשֶׁר צִוָּה יְהוָה. אֶת-מֹשֶׁה.

**Rough Translation:** 8. And to the sons of Israel you shall speak saying a man if dies and son not to him then you shall transfer his inheritance to his daughter.9. Then if has no daughter and you shall give his inheritance to his brothers. 10. Then if has no he brothers and you shall give his inheritance to brothers of his father.11. And if has no brothers his father then you shall give his inheritance to the relative closest to him in his family and he shall possess it and it shall be to the sons of Israel a statute of Judgement just as commanded Yahweh Moses.

This section is the end of this narrative, it marked a change from the particular law of inheritance as it pertains to the daughters of Zelophehad to the general law of inheritance in ancient Israel. Moses enacted inheritance laws as instructed by God because of the demand of Zelophehad daughters which before now was not in existence. The Law is stated as follows:

8. In the event of a man's demise without a male offspring, it is imperative to transfer his inheritance to his female offspring.

9. In the event that he does not possess a female offspring, it is incumbent upon you to allocate his estate to his male siblings.

10. In the absence of any male siblings, the inheritance shall be bestowed upon the paternal uncles

11. In the event that his father does not have any male siblings, you are to allocate his inheritance to the nearest kin in his family, who will subsequently take possession of it.

The Hebrew words להקט משקט (*lehuqqat mishpat*) in verse 11 "a statute and judgement" indicates that this law of inheritance is now a legal requirement in Israel going forward. The request made by the daughters of Zelophehad was ultimately implemented with minor alterations, which limited the marriage choices of the heiresses (Num. 36:1-12). This was done to guarantee the preservation of the ancestral land within the family. This section discusses a legal case concerning the inheritance of land by women through a male lineage in extraordinary circumstances where there are no male descendants eligible to inherit.

It is crucial to emphasize that this analysis of Numbers 27:1-11 has demonstrated that even though the ancient Israelite society was patriarchal and hierarchical, with a bias against women, social change was still achievable. Furthermore, it is evident that God did not oppose women inheriting land.

#### **5.4.8 Exegetical Deductions of Numbers 27: 1-11**

The events chronicled in Numbers 27:1-11 regarding the daughters of Zelophehad held great relevance in modern times. These daughters were perceptive, with knowledge of the culture and customs prevalent in Ancient Israel. Instead of engaging in muttering and causing a disturbance, they peacefully and calmly approached the leadership and authority of the land. The fact that the daughters of Zelophehad had the insight to bring this matter to Moses well in advance, even before it became pertinent, is remarkable. The Israelites had not yet settled in the Promised Land, and while efforts were being made to prepare for the division of the land would require a significant amount of time for this process to be completed. The daughters' actions show that the issue at hand demands a sense of urgency. Thus, this portrayed them as young women with strategic thinking abilities.

The daughters of Zelophehad were required to adhere to the principles of their social hierarchy and cultural norms by the ancient Israelite society. The circumstances surrounding the petition made by the daughters of Zelophehad are highly persuasive. Irrespective of the circumstances, it is evident that the daughters successfully exposed an unfair scenario that required attention (Shemesh, 2007). The

girls did not only engaged in intellectual discussions with Moses on the issue at hand, but they also presented the problem in a different manner to strengthen their argument and get favour from Moses and the elders.

The daughters of Zelophehad adopted a resolute yet diplomatic strategy in challenging patriarchy. They accomplished this by refraining from overtly challenging the rationale behind the legislation that prohibited daughters from receiving a portion of their father's legacy. Conversely, they discussed their father's character, emphasizing that he was a respectable individual who abstained from participating in the uprising against Moses. Based on this, they requested that their father's name be preserved in the historical records. Instead of directly confronting the patriarchal legal system, the daughters tactfully framed their request using the language and concerns that were relevant to society. Consequently, they achieved a sacred affirmation and a collective endorsement that extended much beyond their own emancipation to the emancipation of all women of all generations in Israel (Ndekha, 2013).

The daughters tactfully adhered to cultural protocols when presenting their request, ensuring they did not infringe upon them. The daughters approached Moses and the leaders at the entrance of the tent but refrained from entering. Litke (2002) suggested that the display of both courage and intelligence in these young women immediately appealed to the predominantly male-dominated top court, while maintaining a courteous approach. Tempered radicalism is a change theory that posits that individuals who are part of a system can bring about change by exerting long-term influence (Meyerson, 2008). The concept entails the ability to operate inside the existing framework in order to validate and enact modifications within the organization. The daughters of Zelophehad adhered to the established protocols while presenting their complaint to the leadership, which enabled them to voice their concerns without being viewed as a potential danger.

Moses demonstrated exceptional leadership qualities such as justice, equity, transparency, humility, submission, accommodation, patience, and complete reliance on God when dealing with key instances and making judgements. He did not rely on his experience and years of leadership to make impulsive decisions. He sought divine guidance to ascertain God's intentions and ruling on the case of the daughters of Zelophehad. Although their approach and request were unique, he acknowledged it for deliberation. The leaders of the Christian church and the secular world today should pay attention to Moses' approach. Equity, fairness, and justice must not be replaced by favouritism and personal relationships, in order to have a fairer society.

Numbers 27:1-11 is also relevant to the subject of gender inequality in modern times. There are certain societies and customs example of which Esanland is one of them where women still lack the ability to express their opinions or be heard. They are not anticipated to engage in conversation during the assembly of males. Gender inequality and the oppression of women are pervasive and manifest in various ways. Gender inequality in contemporary culture is evident in various forms, including restricted access to education, professional possibilities, and leadership positions. The girls of Zelophehad demonstrated their ability to effectively manage obstacles and important matters, just as male offspring would. In verse 7 of the above text God told Moses that the daughters of Zelophehad were right in asking for their father's inheritance. This means God is against gender inequality. In the Hebrew text, the women were referred to using masculine gender to indicate that despite being women, they should be entitled to the same privileges as males (Poole, 2023).

The judicial victory of the daughters did not satisfy a significant number of their father's relatives (Num. 36). They were concerned that this new legal provision could result in the loss of their tribal land if their daughters married someone from another tribe (Num. 36:3). Therefore, they insisted on revising the heavenly proclamation. Moses acceded to their request, leading to the establishment of a novel legal provision: "female heirs must marry within their own paternal tribe" (Num. 36:6). Nevertheless, despite this fact, the inheritance of the daughters did not return to the male lineage.

Instead, they successfully retained control over their inheritance during their lifetime and beyond. This is apparent from the name “the king of Tirzah” in Josh. 12:24 this land was named after one of the daughters of Zelophehad as a collective name rather than the husbands and grandsons who were believed to have inherited it (Poole, 2023). This was made possible because the daughters fought against economic injustice that would have made them depend on their husbands perpetually (Ndekha, 2013).

## **5.5 The Implications of Numbers 27:1-11 to Women’s Right of Inheritance in Esan Society**

### **5.5.1 Cultural Implication**

Culture refers to the comprehensive set of traditional practices that have been evolved by humanity and are thereafter acquired by each succeeding generation. It encompasses the cognitive processes, behavioural patterns, and material objects that collectively shape the lifestyle of a particular group of people (Boyd and Richerson, 1988). Culture is not genetically inherited, but acquired via social learning by humans. It is not an innate inclination. Cultural instinct does not exist, as culture mostly consists of learnt patterns of behavior (Zerihun, 2005). Culture is not a standalone entity, nor is it solely a personal experience. It is a byproduct of society. It is derived and progresses through social interactions. It is collectively owned by the members of society. Culture, in the sociological context, refers to a collective set of shared beliefs, values, customs, and behaviours. It is beyond the capacity of a single individual to process. For instance, conventions, traditions, beliefs, ideas, values, and morality are collectively held by individuals within a community (Zerihun, 2005).

Culture can be passed down from one generation to another. However, it is important to note that culture is not inherited through genes, but rather through the use of language. Language serves as the primary medium through which culture is conveyed. Culture is characterized by its dynamic nature, as it is constantly evolving and not fixed in a static state. It undergoes gradual yet continuous alterations.

Culture is adaptable to the evolving circumstances of the natural environment as it aids us in our survival and adjustment to these changes (Cragun, et.al., nd.).

It is important to note at this point that, culture is frequently abused and misused as a means to justify or serve as an excuse for the oppression of women. Historically, cultural norms have hindered the progress and success of women. Customs and traditions have persistently marginalized women, resulting in a lack of recognition and restricting their entitlement to equality and freedom. It is asserted by Aizehinomo (2024) that inheritance rights are not exempt from the frequent misappropriation and misuse of culture as a means to justify the oppression of women in Esan land. Advocating for the inheritance rights of women is frequently seen as a challenge to cultural and traditional norms. Women are often pressured to believe that going against their own cultural norms is unacceptable; resisting this pressure would be very disgraceful, even considered sacrilegious. This is due to the perception that women are undeserving of inheriting landed property (J. Aizehinomo personal communication, April.13,2024).

As it is stated above, culture is dynamic and not static. Moses in the context of patriarchy and hierarchical nature of the Israelite society in an age and time that is far removed away from our own acceded to the request of Zelophehad daughters by giving them land as their inheritance. The Esan people must flow with the dynamic nature of culture by following the example of Moses to do away with the ancient culture of disinheriting women of landed property in this age of social change.

### **5.5.2 Social Implication**

Society can be likened to an organism, with distinct components that operate independently but collectively contribute to the entirety (Zerihun, 2005). The definition of society can be categorized into two broad categories: the one that is functional and the structural one. The functional society can be defined as a network of groups that interact with each other, facilitating human activities and enabling individuals to pursue their goals and interests in collaboration with others. Society, from a structural

perspective, encompasses the entirety of social customs, moral values, and established systems; including patterns of behaviour, emotions, and aspirations (Cragun et.al., nd.).

One of the characteristics of a society is its dynamic nature. All societies have undergone some changes in relation to the status of women from the primitive society to the contemporary period. The subordination and dehumanization of women is no longer fashionable in a modern world. The Mosaic model in Numbers 27:1-11 has given us an example to follow in the empowerment of women via inheritance. The Esan society has been impacted by social change, education, globalization and modernity. It does not make sense any longer to continue with practices that devalue women such as disinheritance.

### **5.5.3 Religious Implication**

This study has shown the disempowerment of women via disinheritance both in the ancient Israel and in Esan context. In both context women are treated unfairly. Women were frequently utilized as commodities in negotiations, serving as a means of exchange for employment, sexual satisfaction, and the continuation of families. Frequently, women lacked the power in determining their treatment in the society and at the home front. Indeed, a woman's societal standing was frequently established based on her marriage to a man (Scholz, 2010). By recognizing this agelong oppression of women and aiming to alter the current mindset towards women in Esanland, this work has implication for religious institutions in Esanland. The objective is to promote the active involvement of the Church and faith-based organizations in the practical implementation of faith and practice since the Church has been present in Esanland since 1905 (Akhilomen, 1992).

The Church should be at the forefront of the transformation of the society through its social teachings and enlightenment. The Mosaic response in Numbers 27:1-11 to Zelophehad daughters

request for their father's inheritance can be used as a biblical template by the Church in Esanland to encourage women's right to inheritance in Esanland.

Furthermore, the Church should actively participate in intervention programs for marginalized groups and advocate for change through informed instruction and teaching. This should specifically address cultural practices that hinder the progress of women and society as a whole. Additionally, the Church should promote values that align with the example set by Moses in Numbers 27:1-11.

## **CHAPTER SIX**

### **6.0 SUMMARY, FINDINGS, CONTRIBUTIONS TO KNOWLEDGE, CONCLUSION AND RECOMMENDATIONS**

#### **6.1 Summary**

This research has established that inheritance in Esan society is by primogeniture. This principle entails the eldest son having absolute right over his father's assets to the detriment of younger siblings. This practice has been on from time immemorial. In this practice women are completely ignored and sidelined from assets sharing for being women who will leave their biological families to their matrimonial families. The patriarchal nature of the Esan society is responsible for the disinheritance of women. Women are always seen in Esan society as perpetual minors.

The work revealed Esan society's attitude towards women to be very dehumanizing and demoralizing. They are treated as the property of the men, therefore they cannot inherit any landed property, because property does not inherit property. In the event of adultery only the married women suffer the consequences while the men are treated with kid gloves. The women alone suffer witchcraft accusation, the same for widowhood practices. Women suffer domestic violence in the hands of men in Esanland. In the event of customary marriage dissolution, no compensation whatsoever for women in Esanland.

The work also looked at the arguments put forward for the disinheritance of women in Esanland. These arguments are listed as follows: That women themselves are property to be inherited. A woman cannot pour libation of blood and wine to the ancestors at the family ancestral altar through the *ukhure*. The Esan progenitors believe that if a woman is given landed property in her biological family, she will have an unstable marriage. Women are denied inheritance in Esanland to avoid her biological family's wealth transfer to that of her husband's family. The Esan culture also believes that a woman must depend on her husband for her economic survival. A woman cannot be independent of her husband in the Esan tradition.

In Esan culture anything about land or landed property is the exclusive preserve of men.

The impact of the disinheritance of women in Esanland is not left out in this study. There is impact on housing security for disinherited women. There is also impact on food security, children's education, family health, matrimonial property and on the economic status of daughters.

This work having discussed the status of women in Esanland in relation to inheritance, presented a Mosaic response to the disinheritance of women through an exegetical study of Numbers 27:1-11. The study finds the Mosaic response to women's right to inheritance in ancient Israel relevant to the Esan context. This was proven through exegesis of Numbers 27:1-11, where it was discovered that God instructed Moses in verse 7 to give land inheritance to the daughters of Zelophehad. This

instruction was against the patriarchal tendency of the Israelite society in the days of Moses. The Esan society is not different from the ancient Israelite society in matters of inheritance to women, both societies are patriarchal and subjugate women. However, Moses changed the narratives for Zelophehad daughters. The Esan society should do the same, hence this work has cultural, social and religious implications for the Esan society.

## **6.2 Findings**

In the course of this research it was discovered that:

- i International, regional and national instruments are against women's subjugation and discrimination.
- ii. Denial of inheritance to women in Esanland is contrary to the 1999 Nigerian constitution as amended, which stipulates “right to freedom from discrimination” in section 42.
- iii. Denial of inheritance to women in Esan community is mainly for economic and spiritual reasons.
- iv. Disinheritance has impacted negatively on the well-being of Esanland women.
- v. Social change through education has influenced women’s right to inheritance in Esanland in a positive manner.
- vi..Denial of inheritance to women in Esanland is a cultural practice instituted by men. It has no Scriptural support or Divine endorsement as can be seen in the example of Zelophehad daughters.
- vii. The analysis of Numbers 27:1-11 is relevant to the Esan context as a model to address the denial of women's right of inheritance.
- vii. There is a similarity between the ancient Israelite custom of inheritance and the Esan people in relation to inheritance practices.

## **6.3 Contributions to Knowledge**

This work contributes to the existing body of knowledge in the following ways:

- i. The work contributes to the field of cross-cultural studies. The study brings to the fore the fact that in most patriarchal societies, such as ancient Israelite and Esan society women are accorded unfair status in inheritance, economic and social opportunities.
- ii. The textual analysis of Numbers 27/1-11 reveals that the Mosaic model for women right of inheritance addressed the social inequality between men and women in the area of inheritance. Such a model may possibly address the current impasse in Esanland.
- iii. The work contributes to the field of sociology and anthropology as it draws attention to the social inequality of women in Esan land.
- iv. The study establishes the fact that the Church and Society must see the alienation of women from inheritance in Esan land as a socio-cultural problem that must be solved with speed and utmost seriousness
- v. The work also contributes to the field of African Biblical Hermeneutics. Old Testament Studies have been dominated for years by Eurocentric scholars who compared the Old Testament environment to Ancient Near Eastern cultures without similar treatment for the African socio-cultural environment.
- vi. The work also contributes to the literature on Gender Studies in Africa.

#### **6.4 Conclusion**

The primary focus of this research has been to analyze women's right of inheritance in Esanland in the light of Numbers 27: 1-11. To tackle this issue, we have utilized an exegetical approach to make a biblical text relevant to the Esan socio-cultural context. It is noteworthy that women were deemed eligible for inheritance rights in ancient Israel in the days of Moses even when the society of Israel was patriarchal and hierarchical.

Inheritance phenomenon in Esanland is basically governed by the rule of primogeniture. This method of inheritance among the Esan people exhibits clear discrimination against women. A woman in Esanland whether married or not is not treated in the same manner with her male counterparts in

relation to inheritance. It is customary for women to be excluded from inheriting property in Esanland. A woman in Esanland is perceived as a piece of property that can only be passed down to a relative of her spouse, when her husband is no more. Within the Esan socio-cultural context women are denied inheritance rights to avoid wealth transfer from their biological families to their matrimonial families. In the context of marriage, a woman is often perceived as an outsider who does not have blood relationship with the husband and therefore not qualify for inheritance.

As a corollary of the above, this research utilized Numbers 27:1-11 through exegetical investigation as a model to correct the disinheritance of women in Esanland. In view of the similarity in the cultural practices of inheritance in relation to women in both societies, the text is seen as a response to the denial of inheritance to Esan women. The social cultural context from which the above text developed, reveals a society that is gender bias and antagonistic to women. Despite, this shortcomings in an age where people knew nothing about human rights, Moses against all odds gave land inheritance to the daughters of Zelophehad. This is a lesson for Esan people in the 21<sup>st</sup> century to do away with the anachronistic culture of denying women right to inherit landed property.

### **1.5 Recommendations**

To resolve the problem of denying women the right to inherit landed property in Esanland, this research makes the following recommendations:

i. Traditional rulers in Esanland as the custodians of the culture and tradition of the people should come together to repeal the customary law of inheritance as it affects women. This law is anachronistic and outdated, no longer in tandem with modern society. The law contributes majorly to the economic disempowerment of women in Esanland hence the need to put an end to it through traditional institutions.

ii. There should be legislative intervention by the Edo State House Assembly to put an end to the denial of women to inherit from their husbands or fathers. The inheritance law of Esanland in relation

to women is against equity, justice and good conscience. Therefore, the State House of Assembly should follow the examples of other states like Rivers and Abia (Abdullahi, 2022) and do the needful.

iii. Women that are deprived of their right to inheritance in Esanland should approach the court of law, since there is already a Supreme Court judgement on this matter in *Ukeje vs. Ukeje*, cited in this work in chapter two.

iv. Heads of families in Esanland should learn to make Wills of how their properties should be shared when they are alive to avoid crisis in the family after their death. The said Wills must include their wives and female children. It does not make sense to deny a female child right to inheritance just because of her biological make up which is an act of God and not her making.

v. Economic empowerment of women through education should be encouraged by both the government and civil society groups. This will help women on their own to acquire landed property, that in the event of loss of husbands, they will have roof over their heads, particularly those who do not have any male child.

vi. The Church in Esanland should be at the forefront of the campaign against women disinheritance using Numbers 27:1-11 as a template for this endeavour. The mission of the Church is liberative. The Church must be seen to be active on behalf of the marginalized members of the society. Therefore, like Moses who gave landed property to the daughters of Zelophehad, the Church must encourage same in Esanland for both members and non-members.

vii. It is highly suggested that scholarships should be provided by the State Government and well-meaning individuals of the society to intellectually gifted children of widows who have been deprived of inheritance by their late husbands' families. This will help take up the burdens of training these children from these poor widows.

viii. Women are encouraged through this research to transcend their constraints by empowering themselves and making sensible investments. Investing in children's education is a superior inheritance compared to acquiring property or material possessions. The era of women only fulfilling the role of a housewife is obsolete and should be avoided. It is advisable for women to actively participate in small-scale entrepreneurship and prioritize saving for unforeseen circumstances.

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### ORAL INTERVIEW

NAME	AGE	OCCUPATION	PLACE OF INTERVIEW	DATE OF INTERVIEW
Abhulibhen, G.	61	Business Man	Ubiaja	21/1/2024
Abuede, C.	58	Farmer	Irrua	19/5/2024
Agbonhese, P.	76	Retiree	Ogwa	30/12/2023
Agbonoise, R.	63	Trader	Igueben	19/5/2024
Aiwanfoh, E.	67	Retired Soldier	Ewu	24/2/2024
Aiwansubhor, B.	60	Farmer	Ubiaja	8/3/2024
Aiyegbeni, C.	56	Farmer	Ubiaja	21/1/2024
Aizehinomo, J.	71	Retired Teacher	Atuagbo	13/4/2024
Akhere, P.	72	Retiree	Ugbegun	10/3/2022
Akhigbe, G.	67	Trader	Ekpoma	25/8/2024
Akpuna, C.	66	Retiree	Uromi	13/3/2022
Akue, D.	62	Farmer	Ugbegun	23/2/2024
Aluedo, P.	62	Business Man	Ogwa	13/3/2022
Aluedo, R.	57	Business Man	Irrua	21/1/2024
Amedu, I.	60	Trader	Uromi	23/2/2024
Anegbode, W.	60	Farmer	Uromi	21/1/2024
Anetor, P.	81	Retiree	Ewu	9/3/2024
Aziba, G.	66	Farmer	Ebelle	20/1/2024
Ebhobheiye, M.	60	Welding	Ekpoma	21/1/2024
Ebhodaghe, A.	81	Retired Farmer	Ujogba	10/3/2022
Ebhohon, S.	62	Trader	Ogwa	13/4/2024
Ebozele, A.	58	Teacher	Ewu	8/3/2024
Ebozele, S.	70	Trader	Okhuesan	21/4/2022
Edewede, E.	67	Retired Nurse	Ebelle	25/8/2024
Ediale, Q.	57	Trader	Ujogba	13/4/2024
Ehimanre, R.	60	Trader	Ekpoma	18/5/2024
Ehimen, A.	64	Farmer	Ebelle	20/5/2024
Ehizohkale, M.	62	Farmer	Ubiaja	8/3/2024
Eigbihbalu, L.	62	Hunter	Uzea	9/3/2024
Elimian, B.	60	Business Man	Ekpoma	30/12/2023
Eluobe, M.	67	Trader	Uromi	18/5/2024
Emakhu, M.	61	Trader	Uromi	23/5/2022
Enagbale, E.	66	Farmer	Atuagbo	10/3/2022
Eniga, V.	57	Teacher	Opoji	30/12/2023
Eremosele, I.	77	Retired Teacher	Ubiaja	10/3/2022
Eromosele, S.	56	Carpenter	Ekpoma	21/1/2024

Esene, W.	62	Teacher	Ewu	24/2/2024
Eterebhe, Z.	59	Teacher	Ujogba	8/3/2024
Ibhagbosoria, C.	61	Farmer	Ewossa	23/2/2024
Ibhazobe, C.	68	Trader	Uromi	24/8/2024
Idemudia, A.	63	Farmer	Ugbegun	23/5/2022
Idemudia, E.	61	Business Man	Uromi	13/3/2022
Ighogboya, L.	63	Farmer	Ugboha	20/1/2024
Ikekeiyegbe, G.	65	Traditional Medicine Man	Uzea	9/3/2024
Ikhayere, C.	70	Farmer	Ogwa	30/12/2023
Ikhuoria, G.	70	Farmer	Ewu	20/1/2024
Ikuenobe, G.	57	Teacher	Ubiaja	8/3/2024
Ilenikhena, B.	61	Farmer	Ubiaja	19/5/2024
Imiefoh, R.	58	Teacher	Okhuesan	21/1/2024
Inebgenose, S.	58	Trader	Uromi	23/2/2024
Inegbedion, M.	70	Retired Pastor	Iruokpen	23/2/2024
Irebhude, A.	58	Electrician	Ebelle	8/3/2024
Iriogbe, T.	67	Retired Teacher	Ekpoma	21/1/2024
Irobekhan, M.	60	Welder	Ubiaja	8/3/2024
Isikhuenmen, L.	60	Farmer	Ugbegun	23/2/2024
Itokpa, B.	58	Farmer	Ujogba	23/2/2024
Iyere, M.	60	Welder	Ebelle	21/1/2024
Iyoha, L.	58	Electrician	Ujogba	21/1/2024
Iyoha, S.	63	Traditional Medicine Man	Ebelle	13/3/2022
Iyonagbe, S.	62	Hunter	Ogwa	9/3/2024
Iyoriobhe, H.	59	Teacher	Ogwa	9/3/2024
Obhafuoso, D.	60	Farmer	Iruokpen	13/2/2024
Odianoson, K.	60	Farmer	Uzea	9/3/2024
Ogbeifun, D.	60	Farmer	Ewu	24/2/2024
Ojeabulu, R.	57	Trader	Irrua	24/2/2024
Ojeaga, G.	59	Trader	Opoji	23/5/2022
Okhueleigbe, O.	61	Trader	Irrua	23/2/2024
Okodede, B.	70	Retired Teacher	Igueben	13/3/2022
Okoeroh, J.	60	Trader	Irrua	23/2/2024
Okoh, E.	61	Clergy	Irrua	23/2/2024
Okoh, M.	67	Politician	Uromi	10/3/2022
Okokpujie, J.	69	Trader	Uromi	21/4/2022
Okosun, D.	68	Retired Soldier	Ewu	21/1/2024
Oligbi, T.	61	Electrician	Uromi	13/4/2024
Omoaghe, P.	70	Farmer	Uzea	9/3/2024
Omoijade, B.	60	Business Man	Opoji	21/1/2024
Omoike, E.	58	Business Man	Ebhohimhin	30/12/2023

Omonigho, A.	67	Farmer	Ugbegun	20/1/2024
Omonkhegbele, L.	60	Trader	Iruekpen	20/4/2022
Oniregbete, R.	60	Farmer	Iruekpen	23/2/2024
Oriarewo, W.	60	Hunter	Ogwa	9/3/2024
Oseagwina, P.	65	Trader	Ujogba	13/4/2024
Oseidobor, A.	70	Retired Police Officer	Iruekpen	23/2/2024
Osimen, I.	72	Traditional Medicine Man	Uzea	9/3/2024
Osobhalienakhor, E.	57	Carpenter	Ewossa	21/1/2024
Osolase, M.	65	Business Man	Ebelle	20/1/2024
Udebhu, N.	67	Traditional Medicine Man	Ugboha	9/3/2024

**APPENDIX I: QUESTIONNAIRE SCHEDULE  
(FOR MEN ONLY)**

Dear Respondent,

I am doing a research titled: **“Women’s Right of Inheritance in Esanland in the light of Numbers 27:1-11.”** Your honest answer to the following questions is highly solicited. Any information given would be used purely for academic purposes, and would be treated with utmost confidentiality.

**Rev. UBUANE, G.O.**

Department of Religions,  
University of Benin, Benin City,  
Edo State, Nigeria.

**SECTION A:  
BACKGROUND OF INTERVIEWEE**

**Name:** \_\_\_\_\_  
\_\_\_\_\_

**Occupation:**

**Age:** \_\_\_\_\_  
\_\_\_\_\_

**Date of Interview:**

**Place of Interview:** \_\_\_\_\_

**SECTION B:  
WOMEN RIGHT OF INHERITANCE IN ESAN LAND**

1. What are the traditional attitudes towards women in Esan culture?

2. Does a wife or a widow have the right traditionally to inherit the landed property of her husband in Esan culture?
3. Can a widow without a male child inherit her husband's landed property in Esan culture?
4. What is the status of a childless widow in relation to inheritance?
5. Can a returnee widow /divorcee inherit landed property in her biological family?
6. Do daughters inherit landed property from their fathers in Esan tradition?
7. Does a female orphan inherit her father's landed property in Esan tradition?
8. What are the arguments against women's right of inheritance in Esanland?
9. What impact does lack of inheritance have on Esan Women?
10. Has social change helped to improve on women's right of inheritance in Esanland?
11. What do you suggest as the way forward out of the disinheritance of women in Esanland?

Thank you for your cooperation

**APPENDIX I1: QUESTIONNAIRE SCHEDULE  
(FOR WOMEN ONLY)**

Dear Respondent,

I am doing a research titled: **“Women Right of Inheritance in Esanland in the light of Numbers 27:1-11.”** Your honest answer to the following questions is highly solicited. Any information given would be used purely for academic purposes, and would be treated with utmost confidentiality.

Thank you.

**Rev. UBUANE, G.O.**

Department of Religions,  
University of Benin, Benin City,  
Edo State, Nigeria.

**SECTION A:  
BACKGROUND OF INTERVIEWEE**

**Name:** \_\_\_\_\_ **Occupation:**

\_\_\_\_\_

**Age:** \_\_\_\_\_ **Date of Interview:**

\_\_\_\_\_

**Place of Interview:** \_\_\_\_\_

**SECTION B:  
WOMEN RIGHT OF INHERITANCE IN ESANLAND**

1. What are the traditional attitudes towards women in Esan culture?

- 2.As a wife did you inherit your late husband's landed property?
- 3.Does Esan culture allow women to inherit landed property?
- 4.As a daughter, were you given any landed property by your father as your own share from his estate?
5. As an orphan, did you inherit your late father's landed property?
6. What are the arguments against women right of inheritance in Esanland?
7. What impact does lack of inheritance have on Esan Women?
8. Has social change help to improve on women right of inheritance in Esanland?
9. What do you suggest as the way forward out of the disinheritance of women in Esanland?

Thank you for your cooperation