



A review of family laws in Anglophone West African countries: Nigeria and Sierra Leone in focus

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Abstract

In contemporary times, family law has become an integral concept across the world, as it is not only crucial for molding the lives of individuals but also very critical for maintaining peace and stability in societies. In Africa, family laws have always been an important aspect of humanity that is regarded with uttermost reverence, and indigenous norms that play significant roles in the perpetuation of decency and moral uprightness. In West Africa, most communities over the years from generation to generation have used traditional socio-cultural religious beliefs and practices to maintain order and peaceful coexistence in most settlements. The problem is that these beliefs and practices are getting extinct due to neglect of indigenous laws through westernization, modernization, urbanization, and education. The neglect of the traditional norms can also be attributed to the fact that certain aspects of these laws subjugate some categories of individuals. This paper identifies the customary practices and laws that have been used to shape and govern people's lives among four ethnic groups of Nigeria and Sierra Leone. These are Mande and Temne (in Sierra Leone); and Yoruba and Igbos (in Nigeria). A review of secondary sources of data was the methodology used in this study. The study found that beliefs such as taboos, totems, the existence or otherwise of a supreme being, shrines, and native courts among others are vital traditional systems of governance to administer law and order in most indigenous communities. The study revealed that the recent neglect of cultural practices and values in the process of administration and management of citizens has resulted in moral decadence, laxity, disorder, and chaos in these communities. To prevent and reduce these calamities, traditional rulers, decision-makers, and governments need to recognize and review various cultural practices and traditional beliefs as important tools and integrate them into current national and international statutory laws.

Keywords: Family, Anglophone, Family laws, Social change, Polygyny, West African, Marriage, Divorce

Introduction

West Africa is noted for different types of family systems – the composite family, elementary, parental, and compound family (Georgas *et al.*, 2001) ^[24]. The West African region is dominated by a plateau extending from north of the Gulf of Guinea to the Sahara. The western part of Africa constitutes 16 countries which include Nigeria, and Sierra Leone. This sub-region has a population of about 225 million. There are different ethnic groups and hundreds of languages in the region (Sylla, Pal, Wang, & Lawrence, 2016) ^[51]. Culturally, the people of the region belong to three major families of languages which include Afro-Asian languages to the northern and Western parts, Niger-Congo to the southern parts as well as Nilo-Saharan languages to the eastern Sahara and sub-Sahara (Bangura, 2012) ^[8].

In a classical description, (Parsons, 1943) ^[44] defines family as a basic social group, united by a bond of kinship, marriage, or adoption. Generally, Africans place much premium on the composite family system, so the concept of parental families is a product of colonial experience in Sierra Leone and Nigeria (Ayittey, 2006) ^[5]. Marriage, which is closely connected to family and family laws, needs to be conceptualised. Marriage can be expounded from both Western and African perspectives. For this paper, a classical definition that is situated within an African context is appropriate.

Therefore, marriage is a culturally, socially, and economically approved union between people who decide to live together as husband and wife through which the offspring derive their legitimacy (Gough, 1959) ^[26]. The cohabiting pair should have performed all the necessary rites recognized in their society for that purpose. The traditional African understands marriage occasions as periods that go beyond just an individual affair to embrace both the spiritual and the physical entities. This is evident in the argument that marriage is the focus of existence. It is the point where all the members of a given community meet: the departed, the living, and those yet unborn. Here, all components of time come together, and the entire drama of history is repeated, renewed, and reinvigorated. Traditionally, marriage can therefore be likened to a stage performance in which everyone plays a unique role.

Another important terminology that cannot be overlooked in this discussion is lineage. A lineage is a social group that is differentiated genealogically from others and typically lives close to each other (Chepko-Sade and Donald, 1979) ^[13]. Furthermore, a web of links that is based on obligations, resource claims, statutes, property rights, duties, power, privileges, authority and obedience, social security, mutual aid, and sexual activity can be described as kinship. Closely connected to kinship is the term descent, which is any social group in which members originate from a common ancestor who could either be real or mythical (Kottak, 2004) ^[34].

In any cultural setup, family laws are significant in shaping the lives of individuals. However, cross-cultural study or analysis of different ways and methods of how these laws are applied seems to be inadequate in Anglophone West African Countries. Earlier works done on family laws by authors such as Kottak (2004) ^[34], Davies (2005) ^[18], and Njoh, Bigon, Ananga, and Ayuk-Etang (2018) ^[40] were based on individual ethnic groups or countries. It is in light of this gap that the study is carried out to explore how different indigenous family laws work in various ethnic or cultural groups within West Africa and how the advent of contemporary laws has revolutionised the native family laws. Consequently, the study seeks to:

1. Identify the family, marriage, divorce, kinship, and inheritance systems among the four selected ethnic groups (i.e., Yoruba, Ibo, Temne and Mande),
2. Assess the customary laws in Nigeria and Sierra Leone,
3. Examine the national laws of Nigeria and Sierra Leone, and,
4. Identify the social changes which have occurred as a result of modernization.

2. Methodology

In terms of the population, four major ethnic groups were purposively selected from the two selected Anglophone countries in West Africa-Nigeria and Sierra Leone. The ethnic groups include Yoruba, and Igbo (from Nigeria); and Temne, and Mande (from Sierra Leone). The data were mainly collected from secondary sources. It also allowed us to generate new insights from previous analyses (Sørensen, Sabroe and Olsen, 1996) ^[48].

3. Discussion

The four ethnic groups under discussion are Yoruba, Igbo, Temne, and Mande. As Yoruba and Igbo originate from Nigeria, Temne and Mande come from Sierra Leone. The two major countries (Nigeria and Sierra Leone) are usually

referred to as Anglophone countries. Issues such as family, kinship, marriage, and inheritance systems of the four ethnic groups from the two Anglophone countries have been reviewed and discussed in this section of the paper.

Yoruba of Nigeria

The Yoruba of South West Nigeria constitutes one of the largest ethnic groups in Sub-Saharan Africa. They are also indigenes of the Benin Republic and Togo. In a classical description, Johnson (1921) ^[32] sees them as the most outstanding people of Black Africa. The Yoruba people of southwestern Nigeria live west of the Niger River and south of its western branch, with Dahomey on the west and the Bight of Benin on the south. Social organisation among the Yoruba is based on the patrilineal kingship system; each lineage has its leader called *bale* (Lloyd, 1968) ^[37]. According to Van den Bersselaar (1997) ^[52], the *bale* people were highly respected within the community. Yoruba kinship is based on a segmentary lineage system. Among the Yoruba, marriage is the affair of the family and not the concerned individual. The father who is revered as the head of the house engages in economic activities to provide for the household needs. This places men in charge, naturally as major decision-makers (Smith, 2001) ^[50]. However, a recent paradigm shift in the Yoruba socioeconomic realm has resulted in significant social dynamics. For instance, in Yoruba today, many women are engaged in activities and jobs previously regarded as the exclusive preserve of men (Waya and Okanume, 2017) ^[19, 53]. Payment of bride wealth plays a cardinal role in Yoruba marriages. A Yoruba marriage is made final by the payment of bride wealth by the bridegroom. This is primarily shared by his bride's parents (Isiugo-Abanihe, 1995) ^[30]. This payment gives the husband uxorial rights to his wife's domestic labour and sole sexual access compensation can be claimed from adulterers. All children conceived during the period of the marriage are deemed to belong to the husband, whether or not he is the genitor. There are laid down traditional rules and regulations which are observed upon the death of a spouse. For instance, marriage ends when a wife dies, for the sororate system does not exist among the Yoruba ethnic group (Okpalaobi and Okaphor, 2017) ^[43]. On the contrary, upon the death of the husband, his rights to his wife or wives are passed to his junior sibling. Examples of some of the rights include the privilege to marry the widow through a process known as widowhood inheritance or levirate marriage. This practice has a trickle-down effect of enabling the younger sibling to enjoy uxorial rights to the deceased brother's wife's domestic labour and sexual intercourse. There is, however, room for a wife to either accept or reject her deceased husband's younger brother. For instance, a wife who dislikes her new husband may file for divorce. Similarly, a descent group that cannot provide a suitable heir will encourage the widow to seek divorce by repaying the bride's wealth to a close female relative of the deceased. Although marriage transfers genitral rights of the considerable extent to the descent group of the husband, jural rights over the woman largely remain with her descent group. She retains her full membership in this group, participating in its rituals and being allowed to build her own house on its land if she is wealthy and so wishes. Again, just as members of the group share her estate if she dies without issue, so are they ultimately responsible for her debts, both during her lifetime and at her death. Overtly, submissive though she may be to her husband, the Yoruba wife retains the right to enter,

independently, into all forms of contract and to take action in her name in legal matters arising from them. Lloyd (1968) [37] who supports the earlier discussion concluded that these characteristics of Yoruba marriage which are common to both northern and southern Yoruba, are those attributed to many patrilineal societies (Okpalaobi, and Okaphor, 2017) [43]. However, many societies do not fit his hypothesis that divorce is rare in patrilineal societies and frequent among matrilineal societies or those with cognatic descent groups. Divorce was given to women who were pregnant by their concubine only if adultery damages were paid to the husband. This was most common among communities like Ode, Ondo and Ilesha. All divorce cases were tried at the customary courts. Ephraim-Chukwu (2020) [14] postulated that most divorce actions are initiated by women. Consequently, a man who is dissatisfied with a wife will only ignore her, allowing her to remain in his compound but expecting her to maintain herself (Goitom, 2014) [27].

Igbos of Nigeria

Igbos are one of the three largest ethnic groups in Nigeria numbering more than 20 million (Nnadi, 2013) [41]. Lineage functions in the Igbo system, according to Ephraim-Chukwu (2020) [14], are organised at three levels: the maximal lineage, the major segment, and the minor segment as well as the practice patrilineal system (Agorsah, 2012) [2]. Furthermore, the basis of kinship among the Igbos rests on three elements: common ancestor, marriage ties, and adoption. Among the Igbos, personhood is grounded in relationships with family, in-group, and community of origin.

Furthermore, marriage is a very important human relationship in Igboland. Endogamy which is the custom of marrying only from within one's local community, clan, or ethnic group is not a salient feature of the Ibo marriage institution. In Igboland, the choice of a wife is not the sole responsibility of the man or the woman. It involves the entire family. Igbo marriage is not just an affair or a relationship between a man and a woman; it involves the whole composite family (*Umunna*) (Hennon and Wilson, 2008) [28]. A bride wealth must be paid by the suitor. Bride wealth can range from cowrie shells to goats (Dorjahn, 1990) [20]. In southeastern Nigeria (Igbo Land), there is a tradition in some families to marry wives for the deceased to raise children for them. This is referred to as posthumous marriage. Divorce is a rare resort in Igboland. However, it can occur on the following grounds: infertility, insanity, inhuman treatment, and contagious disease. Customarily, the return of a bride price marks a major determinant of the dissolution of marriages (Gibson and Mace, 2007) [25].

Inheritance, which is the transfer of property, has traditional rules and regulations among the Igbos. The inheritance rules of the Ibo ethnic group appear to largely favour male offspring over female offspring of a deceased person. Property that can be inherited has been classified into three main categories among the Igbos. These include land, commercially valuable trees, and plants, and movable property (household articles, livestock, money, and debts) (Hennon and Wilson, 2008) [28]. As a result, the primogeniture principle governs the inheritance of individually owned land. Consequently, when a man dies intestate, the eldest son inherits the largest piece of his land, with the remaining sons dividing the remainder equally. If the dead has no sons, his personal property is handed to his siblings, who divide the land according to seniority

(McFerson, 2012) [38]. Traditionally, giving birth to sons is of paramount importance among the Igbos. Although Igbo women are often banned from an inheritance, certain communities allow female offspring to inherit their father's compound in joint tenancy with their brothers. Nonetheless, in these cases, the land is still controlled by the eldest brother. In the same way, there are also localities in which a daughter concerning whom a *nrachi* ceremony is performed may inherit her father's compound, land, and houses (Fanthorpe, 2001) [23].

Apart from the inheritance of individual land, the rules about the inheritance of investments on land (including trees with commercial value) also vary from one locality to another within the jurisdiction of the Ibos. Although such property is generally inherited by sons as a corporate body, there are localities where they are jointly inherited by the deceased's full brothers, matrilineal uncles, matrilineal half-sisters, matrilineal sisters, matrilineal half-brothers, matrilineal aunts and the mother of the deceased. In some areas, such property is inherited by the eldest son with some limitations on his rights to dispose of the property (Dorjahn, 1988) [21]. Besides, movable properties such as household articles, livestock, money, and debts could be accessible to women in other localities, since the monetary and moveable aspects of the property of a deceased are usually not a major concern of his kinsmen or sons who determine how the deceased property is shared. Generally, there is no customary stated and stipulated standard concerning how non-land property could be shared. Contemporarily, there are three kinds of marriages among the Ibo people of Nigeria. These are religious marriage, civil marriage, and traditional marriage (Yillah, 1992) [54].

Mende of Sierra Leone

The Mende speak the Mende Language. The language is spoken by about 46% of Sierra Leone's population. Mende language is taught in Sierra Leone schools. The Mende are divided into four main sub-groups. These are the Kpa-Mende, Golah-Mende, Sewa-Mende, and Via-Mende. The Mandes are mostly farmers and hunters. As regards marriage, any man who has reached maturity and can comfortably provide bridewealth is eligible for marriage, as is any woman who has attained adolescence (Rahmatian, 1996) [46]. Though marriage can be contracted at an early age, consummation requires that the man is first initiated into the *Poros* society and the woman into the *Sandes* society (Oba, 2006) [42]. *Poros* and *Sandes* are associations the youth usually join when they attain the age of puberty. The entry requirement is that one must have successfully gone through all the laid down initiation rites within the Mende ethnic society. Furthermore, celibacy is considered to be abnormal. The Mandes tradition supports betrothal marriage. If the girl goes through the marriage without consenting to it, the man's family must pay her parents' special bridewealth known as *mboya* (Attah, 2018) [4]. The amount involved in each *mboya* varies from family to family (Behrouz, (2003) [10].

The practice of paying bride wealth is very important among the Mende. Once the bride wealth is paid, the marriage is considered legal. If the bride wealth is not paid, children born out of the union are considered the property of the woman's family (Phillips, 2018) [45]. Polygyny is also very common and a man who practices polygyny enjoys social prestige within the family. His wives led by the senior wife, carry out the different tasks allocated to the women in and around the house. Examples of such tasks are rice farming, domestic

chores, trading, and running cottage industries. Divorce is not very common among the Mandes. It is however mostly initiated by the husband. A husband could divorce his wife on the grounds of infertility and practicing witchcraft. The basic kinship institution is the household (*mawe*). A man and his wives and children constitute a small household (*mawe*). A large household may have two or more adults with consanguineous kinship, their wives and children, and relatives such as mothers and sisters. A household is patrilineal, as well as patrilocal and wives become members of the household through marriage. Male siblings and their wives and children settle in compounds (*kuwei*) (Azuakor, 2016) ^[6]. The leadership of a compound is inherited by the oldest male in the lineage. Several compounds and households constitute a village and the aggregate of the village makes up a town. Concerning inheritance, in the traditional Mande society of Sierra Leone, the land is the principal item of inheritance, and since land holding is a domestic base, the patrilineal form of inheritance is prevalent (Smart, 1973) ^[49]. After a man's death, the immediate heirs to his land are his brothers in order of age. His sons come next and then his daughters. In the absence of brothers, sons, and daughters, a matrilineal nephew becomes the heir. After the nephew's death, the land reverts to the descendants of the original owners. Since the introduction of a Western legal system, this practice has been challenged and sometimes sons claim their father's land from their paternal uncles (Jackson, 2011) ^[31].

Temne of Sierra Leone

The Temne constitute the largest ethnic group in Sierra Leone, at 35.5% of the total population, which is slightly more than the Mende people at 32.2%. The Temne occupy central and northwestern Sierra Leone. They speak a language called Temne. It was a major trading language in northern Sierra Leone. The Temne are mainly farmers whose staple crops include rice, peanuts, cotton, cassava, and millet; cash crops are palm kernels and kola nuts. Cattle and goats were the common animals mostly reared. The family consists of a husband and his wife or wives, their children, and other dependents. A Temne Settlement contains a central meeting house surrounded by circles of mud-and wattle with a thatched roof. Inheritance and succession are governed by patrilineal descent. Apart from Sierra Leone, the Temnes can also be found in Guinea and Gambia. Most Temnes are Muslims (Dale, 2007) ^[17].

To be married is strongly desired by most adult members within the Temne ethnic group, especially in the rural agrarian areas. Bridewealth usually consists of consumer goods especially kola, which passes from the groom's kin group to the bride's and or to guardians and is subsequently distributed more widely. The exchange of bridewealth and or counter payment seals the transfer of rights and obligations from the bride's father or guardian. The rights transferred are those concerning domestic service, labour, and the income from that labour, children, and sexual services. All subsequent major decisions are made by the husband, who may or may not consult with his wife. Marriage ceremonies differ between Temne Muslims and non-Muslims (Ibrahim, 2020) ^[29].

Polygynous marriages also exist in the Temne settlement. Although the incidence of polygynous marriages has declined since the 1950s, especially in urban areas, nearly four of every ten married men still had two or more wives, and six of

every ten married women were part of a polygynous family. A polygynous married man's first wife becomes the head wife. Co-wife tensions can lead to discord but are usually not very common. The man is responsible to provide for his whole family (Leone, 2007) ^[36].

Since the 1950s, divorce rates have increased in urban areas due to modernity. There are generally accepted grounds for a husband, and also for a wife, to secure a divorce in the urban areas and among the Temne Christians, but a wife usually does not have the power to divorce her husband, especially under customary laws, and also under the Islamic Laws among Temne Muslims (Joseph, and Castan, 2013) ^[33].

The term *patrician* is renowned among the Temne ethnic group (Leone, 2007) ^[36]. It is an organized kinship system made up of many patrilineages. Each patrilineage consists of several composite families. A patrilineage was naturally headed by an eligible elder male member of the patrilineages. He enforced laws and settled disputes (Conteh, 2008) ^[15]. Research proves that among the Temne settlement, each individual's surname indicates the *patrician* with which he or she is affiliated. There are twenty-five to thirty such *patricians*. The names are mostly of Temne origin and are also found among several neighboring ethnic groups, especially among their neighbors and close allies the Limba, Loko, and Kuranko. Inter-ethnic marriages between the Temne, Limba, Loko, and Kuranko are very common, but the child is considered a Temne if his or her father is a member of the Temne ethnic group. Most *patricians* have alternative names, and each is usually geographically concentrated, resulting from isolation during migration. Each *patrician* has several totems-usually of animals, birds, fish, or plants-and prohibitions on seeing, touching, eating, or using that vary considerably from one area to another. Penalties for violating a prohibition are mild, and many adults do not know what the prohibitions are until a diviner diagnoses the cause of misfortune. Early sources and some contemporary Temne indicate that a common *patrician* bond was formerly of significant social importance, but that is not the case today (Yillah, 1992) ^[54].

Family Laws in Nigeria

In Nigeria, the law of marriage and divorce is characterized by a distinctive legal pluralism which includes statutory law based on English law and customary laws, as well as Islamic law. Customary law is still the primary source of family law, for most Nigerians. Statutory marriage goes hand in hand with customary marriage. Hardly will large families recognize civil marriage without traditional marriage (Andreas, 1996) ^[3].

Nigerian Customary Law

Nigerian customary law differs from society to society. Thus, various ethnic groups have distinctive customary laws that are based on their descent or cultural practices. The laws have not been enacted nor have they been documented. Customarily, marriage is between the families of the spouses than between the spouses themselves and the consent of the parties. Customary marriages are potentially polygynous. Traditionally, marriage ends with its dissolution or with the death of the wife. However, the death of the husband does not terminate the marriage as it is believed that the marriage is regarded as a union between the families of the spouses with the husband's family being revered more than the wife's family. The wife can decide to retain the status of a married

woman through widowhood inheritance. The couples must have the capacity to marry, as well as seek the consent of the parents of each spouse to validate the marriage (Oba, 2006)^[42]. Usually, without the consent of the spouses, the marriage is voidable. Bride price as well as handing over the bride to the bridegroom's family and cohabitation are essential for validating the marriage under customary laws. In Igbo culture, a married woman under customary law marriage is not permitted to acquire and own property to the exclusion of her husband (Efe, and Eberechi, 2020)^[22].

The dissolution of a customary marriage can be accomplished by either a non-judicial (family arbitration) or a judicial process (court). Adultery, the impotence of the husband or the sterility of the wife, incest, ill-treatment and cruelty, madness, abandonment, and witchcraft are all grounds for divorce in a traditional marriage. Only adultery, committed by either partner, can lead to divorce under statutory law. However, in customary law, adultery committed by a husband (but not a wife) must be compounded by some other matrimonial offenses to constitute a basis for divorce. In addition, the patriarchal method of property ownership traditionally prevails in Nigeria. Male-controlled system of property ownership and succession in Nigeria, as in many parts of Africa, means that most lands will invariably be acquired in the man's name as the legal title holder or inherited through the man (Attah, 2018)^[4].

Nigerian Islamic law of marriage and divorce

The marriage is contracted between the spouse and two male witnesses under Islamic family law, and her guardian (father) certifies her capacity to marry and gives her approval on her behalf. A man has the legal right to marry up to four women if he can treat them all equally. However, if the association's (marriage) peace and cooperation deteriorate, either side can unilaterally, dissolve the contract under Islam. However, in non-judicial divorce, the power to terminate the marriage lies in the hands of the husband (Behrouz, 2003)^[10].

Social Change as a Result of Statutory Law of Marriage and Divorce in Nigeria

The statutory law of marriage and divorce in Nigeria stems from two influences namely; Christian missionaries in Nigeria Protestants (Yoruba) and Catholics (Igbo). These foreigners regard marriage as strictly monogamous which contradicts the polygamous nature of traditional African marriages. Statutory marriage in Nigeria is a voluntarily concluded contractual union between one man and one woman. It is usually monogamous and it is intended to last for life (Lazarus, Rush, Dibiana, and Monks, 2017)^[35].

In addition, while customary law enables a man to divorce his wife if she is infertile, the Matrimonial Clause Act (MCA) does not accept this as a valid basis for divorce (Rahmatian, 1996)^[46]. It was argued that marriage in African families exists primarily for procreation and for this reason the divorce of a barren woman should also be permitted under the MCA to allow her husband to look for another wife to fulfil this vital role (Azuakor, 2017)^[7]. Grounds for divorce under the MCA are not following customary or Islamic divorce law. Unlike traditional marriage, a Matrimonial Clause Act marriage can only be dissolved through the courts. As a result, a statutory marriage may have a stronger position in subsequent divorce proceedings than a customary marriage (Smart, 1973)^[49]. Acts that advocates equality statutes in Nigeria, such as the Matrimonial Causes Act 1970 and the

Married Women's Property Act 1882 give courts discretion to ensure fairness in marital property actions. It must be stressed that the Married Women's Property Act of 1882 was an Act that significantly altered English law (Jackson, 2011)^[31]. The English law which existed earlier discriminated greatly against women concerning property ownership. However, the advent of the Married Women Property Act of 1882 allowed married women to own and control property in their own right. The dawning of this Act had a significant influence on Nigeria as a result of their contact with the British.

Most women in Nigeria and Africa as a whole have always been economically active. Consequently, many conventions stood against the discrimination of women. Article 1 of the UN Convention which stood against discrimination against women, defined discrimination against women as "any distinction, exclusion, or restriction made based on sex in the political, economic, social, cultural, civil or any other field". Article 13, inter alia, stipulates that women have the right to family benefits. The discriminations against women go contrary to the United Nations General Assembly's Convention of Elimination of all Discrimination Against Women (CEDAW) adopted December 18, 1979, and binding on ratifying states as of September 3, 1981, of which Nigerians are signatories (Dale, 2007)^[17]. Another Anglophone country that is characterized by extensive family laws in Sierra Leone. The discussion continues by delving into the family laws of Sierra Leone.

Family Laws in Sierra Leone

Geographically, Sierra Leone shares borders with Guinea and Liberia. It is divided into sixteen ethnic groups. The major ethnic groups are the Mende in the south and the Temne in the north. Within the family law in Sierra Leone, there are three legal systems that govern the population: customary law, Islamic law, and statutory law.

Customary Law of Sierra Leone

Sierra Leone's constitution of 1991 defines customary law as "the norms of law through which customs apply to certain groups." Local courts are the only ones who apply customary law because it hasn't been written down or codified (Ibrahim, 2020)^[29]. In Sierra Leone, a wife's decision-making ability is limited by customary law, as she is expected to always follow her husband's decisions. She must first obtain permission from her spouse to work outside the home or see her family. Furthermore, the wife has no claim to her late husband's estate. The law views the wife to be substandard to the husband and, in most situations, a part of his property. When her spouse dies, she can be ejected from the matrimonial home, regardless of the length of the marriage or her contributions to the matrimonial home. A husband has the right to "reasonably chastise his wife by physical force." Only the husband has the right to divorce through unilateral repudiation. The bride wealth is refundable upon divorce (Caroline, 1990)^[12].

A man can marry as many wives as he wants and can afford them under customary law. The local court addressed family issues about children, wives, and husbands in accordance to the customary laws: For example, concerning children, if a child is raped and she happens to be a virgin, the perpetrator pays a substantial "virgin money" to the victim's family and the chief. It is still widely believed that only rape of a virgin is rape." Rape of a non-virgin, on the other hand, is not

considered rape, and there is often a belief that the woman must have consented to the act or is a seductress (Session, 2005) ^[47]. Cases of husbands and wives were also handled at the local court based on customary law; however, the fine charged usually depends on the magnitude of the case (Joseph and Castan, 2013) ^[33].

Social Change as a Result of Statutory Law of Marriage and Divorce in Sierra Leone

Social change refers to any significant alteration over time in behaviour patterns and cultural values and norms. "Significant" alteration means changes yielding profound social consequences. The great transformation occurred within the traditional values as a result of the enactment of the statutory laws for example, the Child Rights Act prohibits young girls from being compelled to marry as well as doing exploitative work and other detrimental activities. In addition, this Act aims to create national and local government bodies to enforce children's rights (IRC 2009). Furthermore, the Registration of Customary Marriages and Divorces Act prohibits females from being coerced into marriage by setting the marriageable age at 18 and requiring both parties consent.

Another major social change that was experienced was the institution of the Devolution of Estates Act. It must be noted that under Islamic law, women were not entitled to the property of a man who dies without a will, but the Devolution of Estates Act has changed this. Everything now goes to the deceased's wife and children, his parental family, rather than his parents and brothers, or composite family, as was previously the case. The Devolution of Estates Act also prohibits the practice of wife inheritance, in which a widow, who is perceived as her husband's property, is "inherited" by and forced to marry her brother-in-law (Session, 2005) ^[47].

Furthermore, a great alteration in customary law could be seen in the aspect of polygamy. It should be noted that since colonial times, Polygyny has been identified in African customary law as a morally and decently offending institution to Western standards. Today, polygyny is widely portrayed as a harmful practice that subordinates women within the family domain and contributes to the objectification of wives, who become seen as 'commodities' to be bought and sold. Consequently, some human rights associations have been formed to address the inhuman treatment of women in polygamous homes (Conteh, 2008) ^[15].

The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) and the Protocol to the African Charter (PAC) on Human and People's Rights on the Rights of Women in Africa (Maputo Protocol) are two major human rights instruments that set out guidelines on how states should treat women in polygynous customary marriages. In addition, the human rights chapter of the 2002 constitution of Sierra Leone emphasizes the equal rights of women. It also discourages harmful traditional practices like early forced marriages and female genital cutting.

Besides, Sierra Leone joined the International Covenant on Civil and Political Rights (ICCPR) in 1996, which states that marriage should only be entered into with the free and informed agreement of the intended spouses. However, people still engage in child marriage to some extent. It is worthy of note that Sierra Leone's pluralistic legal system is the product of numerous outside influences over the last two-and-a-half centuries (Session, 2005) ^[47].

In the same vein, based on a ratification of CEDAW in 1988,

all State Parties are required to eliminate all forms of discrimination against family relations. Section 15 and Section 27(1) of the Sierra Leonean Constitution incorporate similar provisions and provide that no law shall make any provision that is discriminatory in law or effect. Aside from the statutory laws, formal education and foreign religion like Christianity have all affected African culture. Also, the concept of family has changed drastically. The family steadily contracts into man, wife, and children (Conteh, 2008) ^[15].

4. Conclusion

Since laws play vital roles in regulating the lives of individuals, a society without laws will cause people to be acting following their diverse emotions without any restrictions and sanctions. Customary laws initiated by our forefathers were deemed fit to regulate and control the life of individuals' haphazard lifestyles to live orderly and organized life. However, these rules granted much autonomy to the men. Therefore, the advent of some of the statutory laws was a step in the right direction since it aimed mostly at eliminating all forms of discrimination against women and children.

Customary law has helped in providing guides to how people lived their lives. Presently, in most African states, most wedding ceremonies cannot go on without the full performance of the customary marriage rites. This implies that it is still relevant amid modern values. However, there are many aspects of the customary laws that discriminate against women. Some of these laws support child marriage as well as inhuman treatment in polygynous marriages. Since culture is dynamic, obsolete cultural practices associated with customary laws could be abolished or modified, or transformed to respond to current social demands. To achieve this, customary laws should be tested or assessed critically to see if they will fit into the modern trend. If they do not fit, then they must be modified, to make them fit into modern society. The efforts of stakeholders, government, and non-governmental organisations can be solicited in the modification process. Similarly, the statutory laws enshrined in the constitution of both Nigeria and Sierra Leone must be made a compulsory subject of study at the second-cycle institutions so that citizens can be abreast with them. Again, adults must be entreated to read the laws to know about the provisions. Church leaders and Imams should also encourage their members to study the constitutions of their lands.

References

1. Agai JM. Rethinking Yoruba culture in the light of Yoruba origins. *Journal for Semitics*. 2015;24(2):427-450.
2. Agorsah EK. *Marry Me in Africa: African Foundations*. Bloomington: Author House; c2012.
3. Andreas R. Termination of marriage in Nigerian family laws: the need for reform and the relevance of the Tanzanian experience. *International Journal of Law, Policy and the Family*. 1996;10:281-282.
4. Attah M. Divorcing marriage from marital assets: why equity and women fail in property readjustment actions in Nigeria. *Journal of African Law*. 2018;62(3):427-446.
5. Ayittey G. *Indigenous African Institutions*. 2nd ed. Leiden: Brill; c2006.
6. Azuakor PO. The women's place in family inheritance in Igboland. *Nnadiabube Journal of Social Sciences*.

- 2017;1(2).
7. Bangura AK. Pan-Africanism: An Exploration of Afro-Asian Connections. Lagos: Centre for Black and African Arts and Civilization; c2012.
 8. Bangura JJ. Temne agency in the propagation and Africanization of Islam in colonial Freetown, 1920-1961. In: Kandeh J, editor. Facts, Fiction, and African Creative Imaginations. Dakar: CODESRIA; c2009. p. 150-166.
 9. Behrouz AN. Transforming Islamic family law: state responsibility and the role of internal initiative. *Columbia Law Review*. 2003;103:1136.
 10. Brooks A. The Creation and Impact of British Colonial Armies in Africa. Stanford: Stanford University; c2019.
 11. Caroline B. School fees and the marriage process for Mende girls in Sierra Leone. In: Sanday PR, Goodenough R, editors. Beyond the Second Sex: New Directions in the Anthropology of Gender. Philadelphia: University of Pennsylvania Press; c1990;283-309.
 12. Chepko-Sade BD, Sade DS. Patterns of group splitting within matrilineal kinship groups: a study of social group structure in *Macaca mulatta (Cercopithecidae: Primates)*. *Behavioral Ecology and Sociobiology*. c1979;67-86.
 13. Chukwu AC. Investigating daughters' inheritance in Igboland: the Awgu customary example. Odezuruigbo, Jonal Ozuru Uwa, Nke Amumamu Igbo, Afirika Na Eshia (An International Journal of Igbo, African and Asian Studies); c2020;3(1).
 14. Conteh PS. The place of African traditional religion in interreligious encounters in Sierra Leone since the advent of Islam and Christianity [Doctoral dissertation]; c2008.
 15. Cornish H, Willan H, Nelson R, Oyekunle N, Bruce O, Valli J, et al. Women's economic empowerment and health related decision-making in rural Sierra Leone. *Culture, Health & Sexuality*. 2021;23(1):19-36.
 16. Dale P. Barriers to justice in Sierra Leone; 2017.
 17. Davies PO. Marriage, divorce, and inheritance laws in Sierra Leone and their discriminatory effects on women. *Human Rights Brief*. 2005;12(3):5.
 18. Dorjahn VR. The marital game, divorce, and divorce frequency among the Temne of Sierra Leone. *Anthropological Quarterly*. 1990;63:169-182.
 19. Dorjahn VR. Changes in Temne polygyny. *Ethnology*. 1988;27(4):367-390.
 20. Efe CJ, Eberechi OE. Property rights of Nigerian women at divorce: a case of a redistribution order. *Potchefstroom Electronic Law Journal (PELJ)*. 2020;23(1):1-39.
 21. Fanthorpe R. Neither citizen nor subject? 'Lumpen' agency and the legacy of native administration in Sierra Leone. *African Affairs*. 2001;100(400):363-386.
 22. Georgas J, Mylonas K, Bafiti T, Poortinga YH, Christakopoulou S, Kagitcibasi C, et al. Functional relationships in the nuclear and extended family: a 16-culture study. *International Journal of Psychology*. 2001;36(5):289-300.
 23. Gibson MA, Mace R. Polygyny, reproductive success and child health in rural Ethiopia: why marry a married man? *Journal of Biosocial Science*. 2007;39(2):287-300.
 24. Gough EK. The Nayars and the definition of marriage. *The Journal of the Royal Anthropological Institute of Great Britain and Ireland*. 1959;89(1):23-34.
 25. Goitom H. Customary law, discrimination, inheritance and succession, women's rights; c2014.
 26. Hennon CB, Wilson SM. Families in a Global Context. New York: Routledge/Taylor & Francis Group; c2008.
 27. Ibrahim AF. Justice for women in traditional and customary courts in Sierra Leone: a feminist analysis. In: Beverley B, Francesca P, editors. Gender, Poverty and Access to Justice. London: Routledge; 2020;102-114.
 28. Isiugo-Abanihe UC. Bridewealth, marriage and fertility in the East-Central states of Nigeria. *Genus*. 1995;151-178.
 29. Jackson P. Decentralised power and traditional authorities: how power determines access to justice in Sierra Leone. *The Journal of Legal Pluralism and Unofficial Law*. 2011;43(63):207-230.
 30. Johnson S. The History of the Yorubas. Lagos: CMS Bookshop; c1921.
 31. Joseph S, Castan M. The International Covenant on Civil and Political Rights: Cases, Materials, and Commentary. 3rd ed. Oxford: Oxford University Press; c2013.
 32. Kottak CP. Anthropology: The Exploration of Human Diversity. 11th ed. New York: McGraw Hill; 2004.
 33. Lazarus SI, Rush M, Dibiana ET, Monks CP. Gendered penalties of divorce on remarriage in Nigeria: a qualitative study. *Journal of Comparative Family Studies*. 2017;48(3):351-366.
 34. Leone S. Convention on the elimination of all forms of discrimination against women; 2007.
 35. Lloyd PC. Divorce among the Yoruba. *American Anthropologist*. 1968;70(1):67-81.
 36. McPerson HM. Women and post-conflict society in Sierra Leone. *Journal of International Women's Studies*. 2012;13(1):46-67.
 37. Mien TMAW, Perty S. The Married Women's Property Act (1882); c2007.
 38. Njoh AJ, Bigon L, Ananga EO, Ayuk-Etang RA. Institutional, economic and socio-cultural factors accounting for gender-based inequalities in land title procurement in Cameroon. *Land Use Policy*. 2018;78:116-125.
 39. Nnadi I. Son preference-A violation of women's human rights: a case study of Igbo custom in Nigeria. *Journal of Politics and Law*. 2013;6(1):134-141.
 40. Oba AA. The administration of customary law in a post-colonial Nigerian state. *Cambrian Law Review*. 2006;37:95.
 41. Okpalaobi BN, Okaphor EF. Revisiting the case of Ukeje v. Ukeje viz a viz Igbo customary inheritance. *NG-Journal of Social Development*. 2017;6(4):84-97.
 42. Parsons T. The kinship system of the contemporary United States. *American Anthropologist*. 1943;45(1):22-38.
 43. Phillips A. The obligation of monogamy. In: Phillips A, editor. Survey of African Marriage and Family Life. London: Routledge; c2018;249-256.
 44. Rahmatian A. Termination of marriage in Nigerian family laws: the need for reform and the relevance of the Tanzanian experience. *International Journal of Law, Policy and the Family*. 1996;10(3):281-316.
 45. Session TS. Convention on the elimination of all forms of discrimination against women; c2005.
 46. Sørensen HT, Sabroe S, Olsen J. A framework for evaluation of secondary data sources for epidemiological research. *International Journal of Epidemiology*.

- 1996;25(2):435-442.
47. Smart HMJ. Sierra Leone Family Law. PhD dissertation. University of London, School of Oriental and African Studies, United Kingdom; c1973.
 48. Smith DJ. Kinship and corruption in contemporary Nigeria. *Ethnos*. 2001;66(3):344-364.
 49. Sylla MB, Pal JS, Wang GL, Lawrence PJ. Impact of land cover characterization on regional climate modeling over West Africa. *Climate Dynamics*. 2016;46(1):637-650.
 50. Van den Bersselaar D. Creating 'union Ibo': missionaries and the Igbo language. *Africa*. 1997;67(2):273-295.
 51. Waya DT, Okanume AC. Evaluation of the Tiv and Igbo marriage systems. *Journal of Culture, Society and Development*. c2017;29:17-18.
 52. Yillah MS. Temne phonology and morphology. PhD dissertation. City University of New York; c1992.