

GENDER DISCRIMINATION AND THE STRUGGLE FOR GENDER EQUALITY IN NIGERIA

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Abstract

Discrimination based on gender has been present since the beginnings of human social cohabitation, and today, it has reached alarming dimensions in different countries of the world¹. Gender discrimination implies a discriminatory treatment of persons, based on a subjective criterion (gender), in the processes of selection, compensation, promotion, professional training and recognition of professional merits. In Nigeria, gender discrimination is one of the major reasons for the grave inequality that exist between males and females. It is the finding of this paper that many of the factors occasioning discrimination in Nigeria grow out of stereotypes that are carried over from the cultural practices of societies that make up the country today. Most of the traditional societies in Nigeria are patriarchal, and this manifests in the gender roles allocation and translates to the visibility or otherwise of the female folks in societal and national life. This paper is an attempt to x-ray the problem of gender discrimination as the bases for inequality in the Nigerian society. This paper also advocates for the equality of rights for men and women as a basic principle of the United Nations. Doctrinal research methodology was explored in this paper. This paper recommends the domestication of the Convention on the Elimination of All forms of Discrimination Against Women (CEDOW), as well as the educational and economic empowering as a way of tackling the matter of gender discrimination in Nigeria.

Keywords: Gender, Discrimination, Women, Human rights, United Nations.

1. Introduction

The contemporary definition of gender has become more complicated if not controversial. This is owing to the growing number of emergent gender classifications that there are today. However, in the context of this paper, gender discrimination is treated in relation to the discrimination against women or the female gender. The equality of rights for men and women is a basic principle of the United Nations. This is why the Preamble to the Charter of the United Nations declares as one of the central goals of the Organization, the affirmation of “faith in fundamental human rights, in the dignity and worth of the human person, in the equal rights of men and women”. Article 1 proclaims that one of the purposes of the United Nations is to achieve international cooperation in promoting and encouraging respect for human rights and for fundamental freedoms for all without distinction as to sex.

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¹ B.A Majumdar, (2007) ‘Consequences of Gender Discrimination’ *The Daily Star* <<https://www.thedailystar.net/news-detail-5935>> accessed 10th August 2021.

Traditionally, discrimination is said to refer to those negative and unfair actions meant to deny the equal treatment of individuals and groups based on a number of factors including sex, race, language and others.² Generally, discrimination could be said to connote two things, namely, (1) the act of classifying and differentiating among persons in order to reach a decision, taking into account legitimate criteria such as merit, potential or disadvantage; and (2) the process of classifying and differentiating among persons based on characteristics that are not adequate or relevant for the activity for which the classification and differentiation is made³. The second meaning here applies to gender discrimination which implies a discriminatory treatment of persons, based on a subjective criterion (gender), in the processes of selection, compensation, promotion, professional training and recognition of professional merits.

Of all the kinds of discriminations that there is, gender based discrimination is a more pervasive problem in most societies of the world and it is the foundation of inequality in most countries of the world. Gender discrimination also exists in more informal and subtle dimensions as in the cases of social exclusion, isolation and the avoidance of interpersonal contact. Dipboye and Colella aver that discrimination as an unfair behavior, translates into prejudices and stereotypes against individuals and groups who are considered outsiders or who embody traits that are negatively isolated.⁴

2. Gender Discrimination

The Convention on the Elimination of All forms of Discrimination Against Women (CEDAW) (1980) defines gender discrimination as any distinction, exclusion or restriction made on the basis of sex which is aimed at impeding the recognition enjoyed by women. Even the holy Bible avers that all human beings are created equal including male and female. This sense of equality of humanity is the foundation of most international organisations that aim at the preservation of the human being beginning with the United Nations and its antecedent organisations. Gender discrimination is most obvious in the workplace and also in the allocation of duties and power. In

² G. W. Allport, *The Nature of Prejudice*, (New York: Addison-Wesley 1954) 51.

³ R.L. Dipboye and A. Colella, 'An Introduction' In: Dipboye, R.L. and Colella, A. (eds.), *Discrimination at Work: The Psychological and Organizational Bases*, (London: Lawrence Erlbaum Associates Publishers 2005) 2.

⁴ *ibid*

the workplace, it takes the form of disparate treatment, in which individuals are intentionally treated differently based on their gender. It can also take the form of disparate impact, when the members of a particular group are negatively affected by the decision making procedures or the existing work practices.⁵

Dovidio and Hebl avers that depending on the degree of visibility, another distinction can be made between formal, that is, overt discrimination and informal or covert discrimination whose manifestations are less open.⁶ Formal or overt discrimination is often legally punished in most countries of the world while the informal, which is less open is often glossed over as types of behaviour. This manifests in paternalistic behaviours and other forms of languages that conceal male domination of women. Gender discrimination, in creating stereotypes and isolations, has created wide gender gaps in many societies. These gender gaps bring about debilitating social, economic and health consequences on the members of the female gender. It has brought about the grave marginalization and subjugation of the female gender in almost all circumstances. A further implication of gender discrimination is the breeding of feminized poverty and disease endemics. Ifemeje and Ikpeze agree when they report that there is now strong linkage between gender discrimination and high susceptibility of women to HIV/AIDS epidemics.⁷

On another hand, a distinction can be made between direct discrimination, sexual harassment and glass ceiling. Direct discrimination refers to those situations in which gender is used as the main criterion in taking job-related decisions, that is employment, promotion, dismissal, and others.⁸ Examples of this disparate treatment of the female sex in job-related decisions include the refusal to employ a certain candidate because of her gender or the reluctance to appoint a woman in a position that provides opportunities for career promotion over

⁵ J.N. Cleveland and T.K. Vescio and J.L.Barnes-Farrell, 'Gender Discrimination in Organizations', in R.L. Dipboye and A. Colella (eds.), *Discrimination at Work: The Psychological and Organizational Bases*, (London: Lawrence Erlbaum Associates Publishers 2005), 150-151.

⁶ J.F. Dovidio and M.R. Hebl, 'Discrimination at the Level of the Individual: Cognitive and Affective Factors', in Dipboye, R.L. and Colella, A. (eds.), *Discrimination at Work: The Psychological and Organizational Bases*, (London: Lawrence Erlbaum Associates Publishers, 2005)11-35.

⁷ S. Ifemeje and O. Ikpeze, (2012). 'Global trend towards Gender equality: Nigeria's Experience in Focus' [2012] Vol.2, No. 3, Nov. *Kuwait Chapter of Arabian Journal of Business and Management Review* 51-63.

⁸ M. P. Bell and M.E. McLaughlin and J.M. Sequeira, 'Discrimination, Harassment, and the Glass Ceiling: Women Executives as Change Agents' [2002] Vol. 37, No. 1, *Journal of Business Ethics* 66.

men. There are also cases where lower paying jobs are left for women criteria. Even during interview sessions, women have been asked questions that cannot be asked a man. Here, the female candidate often faces a set of more personal or private questions than male candidates. Such questions as pertaining to their relationship status. For example, “Are you involved in a long term relationship?” “What is your opinion on marriage?” These kinds of questions can be used to screen out female candidates that plan to enter family life or bear children.

Sexual harassment can either take the form of *quid pro quo*, that is, when a person with decision making power uses its position to obtain sexual favours by either promising certain benefits, or making threats; or the creation of a hostile environment for females by persons with decision-making power or colleagues Glass ceiling on its own, limits women’s access to positions that provide power and status within the organization.⁹

In recent history, the world has witnessed a resurgence in interest on feminist rights and jurisprudence. This resurgence of in interest has culminated in the emergence of numerous global strategies geared towards women empowerment and emancipation. Examples of such strategies are; The Vienna Declaration, programme and action, Nairobi forward- looking strategies and Advancement of women the ICPD programme of Action; The Beijing conference etc. These global feminist interests have also given birth to a catalogue of international and national instruments aimed at protecting and promoting the rights of women. The instruments in question include; Convention on the Elimination of All Forms of Discrimination against Women (1976), Declaration on the Protection of Women and Children in Emergency and Armed Conflict (1974); Optional Protocols to the Convention on the Elimination of Discrimination against Women (2000); African Charter on Human and Peoples Rights (1986), among others .¹⁰

One central theme that grounds all these legal documents and instruments is the fact that all human beings are born free and equal in dignity and rights without and distinction of any kind including distinction as to sex. They recognize the fact that distinction against women on the grounds of their

⁹ *ibid* 67-68

¹⁰ S. Ifemeje and O. Ikpeze, (2012). ‘Global trend towards Gender equality: Nigeria’s Experience in Focus’ [2012] Vol.2, No. 3, Nov. *Kuwait Chapter of Arabian Journal of Business and Management Review* 51-63.

sex is incompatible with human dignity and with the welfare of the family and of the human society.

3. The Problem of Gender Inequality

Considering that the human being is made male and female, in terms of traditional standard classification, it is difficult, if not impossible not to classify the human being primarily in terms of gender. That is, it is only natural that human beings are classified in terms of gender and this is most evident in social roles allocation. However, the problem comes when one of the genders is treated better than the other or one of the genders is discriminated against for being what sex he or she is. This is the problem of gender inequality. Gender inequality is among the most prevalent forms of social inequality which exists all over the world, with different effects in different societies. These differences are primarily due to cultural antecedents, historical development, geographical location and religious norms which pre-dominate the society.¹¹

Societal norms and practices regarding gender are closely linked to the society's cultural practices. It is in the emergence of childhood that the culturally appropriate forms of play and educations for boys and girls develop. According to Aries, indeed the very concept of boyhood developed at least a century before the concept of girlhood emerged.¹² In early African culture, the concept of boyhood was conceived at a time when male children could play among themselves and receive education in the skills that they would need as adults.

Religion played a crucial role in the cultural development of most societies of the world, in particular, Africa. In Africa, religion is deeply rooted in the peoples' experiences and thus, influences the socio-economic and political direction of the society. In most of these traditional societies, the status of women in the society is an outcome of the interpretation of religious norms and being the case that most of the cultural practices are tied to religion and religion grounds most of the cultural practices. Gender roles are primarily constructed through religion, culture, lifestyle and upbringing. Aitchison¹³ states that all world religions today, maintain male social dominance

¹¹ C.M. Sibani, 'Gender Inequality and its Challenge to Women Development in Nigeria: The Religious Approach' [2017] *UJAH* Special Edition 432.

¹² B. Aries, *Gender disparity in Nigeria* (Enugu: Okonjo and Okotex 2015).

¹³ C. Aitchison, 'Geographies of Muslim Identities: Diaspora, Gender and Belonging' [2007] *Ashgate: Aldershot* 10

within a social structure. The situation is such that even though women are more inclined to participate in religious life, the role of God, or a creator of a religion, is always taken by a male and the woman is primarily valued as a mother, especially as a mother to a son. Her place is in the household, less so at religious ceremonies or in public positions.¹⁴

In most traditional religions, the voice of women is rarely heard. This could be due to the patriarchal disposition of the societies in which these religions emerged. These traditions are so powerful that they even eventually stifle some of the changes in the status of women that has been brought about by the new religions. Ironically, almost all world religions agree on the respect for women and their crucial role in family life, especially with emphasis on women as mothers and wives. The problem is that they do not, advocate emancipation in the sense of total equality with men. Holm avers that the most severe restriction applies to women during their menstruation and pregnancy.¹⁵ At this times in Islam, they cannot enter the temple or touch the Quran.

Male and female roles are so differentiated and therefore unbalanced that there now seem to be a fundamental degree of inequality between the sexes. It needs to be established that there exists a major difference between normative conditionality, that is, male and females being equal by nature and before God as is upheld by almost all the religions and practical conditionality, which describes the role of women in the religious communities and cultural societies. This is the crust of the problem of gender inequality as instigated by gender discrimination brought about by practical roles allocation.

4. Incidence of Gender Inequality in Nigeria

Gender inequality manifests in many aspect of national life in Nigeria and some of these are here identified:

4.1. Gender Inequality in the Nigerian Cultural System:

It has been well demonstrated in studies that the cultural practices of the societies that make up Nigeria today were not very favourable to the women. Karibe-Whyte agrees when he writes that

¹⁴ C.M. Sibani, 'Gender Inequality and its Challenge to Women Development in Nigeria: The Religious Approach' [2017] *UJAH* Special Edition 432.

¹⁵ J.P.Holm, *Discrimination against Women*. (London: Orish-pecta 1994).

it is widely believed that most customary laws in Nigeria are gender discriminatory and very illiberal towards women's right.¹⁶ The problem has also evolved as most of the religions that have evolved from these cultures continued the very discriminatory practices against women.

4.2. Gender Discrimination under Nigeria Customary Law:

Customary laws evolved from culture. Nigeria is made up of many ethnic groups and each ethnic group, operates a peculiar customary law. Most Nigerian customary laws, for instance, the Igbo customary law are fraught with a legion of gender discriminatory practices. Igbo customary law, for instance, permits forced/child marriage; wife/girl child disinheritance; wife chastisement; payment and refund of bride-price, wife inheritance, polygamy denies women custodial and maintenance rights encourages harmful widowhood practices and female genital mutilation and others. All these cultural practices have one way or the other negatively impacted and slowed down the pace of women emancipation in Nigeria.¹⁷

4.3. Gender Discrimination in Sharia Law:

Sharia law operates exclusively in the Northern parts of Nigeria and it is front with a lot of discrimination against women. Under the Sharia law, a woman's testimony or evidence is not valued as it is placed on the same place as the testimony or evidence of a minor. Under Sharia law, the punishment meted out of the sharia courts in adultery cases discriminates against women in favour of men. The situation is such that a woman can be sentenced to death for committing adultery while the man with whom she was involved with goes free. In most case, the co-adulterer is not even tried with the woman. The problem is that these discriminatory practices continue in spite of existing laws and international statutes that prohibit them.

4.4. Gender Inequality in Nigerian Legal System

Despite Nigeria's ratification of CEDOW, so many aspects of the country's laws are still gender discriminatory. Some of these cases include:

4.4.1. The Language of the Law:

¹⁶ A.G. Karibe-Whyte, 'Succession Rights in Nigeria Law' [1994] *Law and Family* (Enugu FDP Press) 23.

¹⁷ S. Ifemeje and O. Ikpeze, (2012). 'Global trend towards Gender equality: Nigeria's Experience in Focus' [2012] Vol.2, No. 3, Nov. *Kuwait Chapter of Arabian Journal of Business and Management Review* 51-63.

The sad reality about gender inequality and discrimination against women is that the Nigerian law which should be looked upon as the last hope of the down trodden, actually harbours defence of gender inequality. In the first instance, the language of the Nigerian Constitution (1999 as amended) is masculine as the word “he” is consistently used in the constitution to the exclusion of the word “she” where both genders are being referred to.

4.4.2. Legalization of Marital Rape:

Section 6 of Nigerian Criminal Code encourages gender violence by legalizing spousal rape. The section provides that “unlawful carnal knowledge means carnal correction which takes place otherwise than between husband and wife”. The legal implication of this section is that, under no circumstance can a man be found guilty of raping his wife. This discriminatory section which is still part of the law in Nigeria still exists in spite of United Nations Declaration on the Elimination of Violence against Women which expressly stated marital rape is a human rights violation. While it is the case that 104 countries of the world now prosecute spousal rape, Nigeria still does not.¹⁸

4.4.3. Disparity in Punishment for Unlawful Assault:

Section 353 and 360 of the Criminal Code is also criticized for creating a disparity in the punishment applicable in cases of unlawful and indecent assault respectively. The two sections provide lesser punishment where the victim of the assault is a woman. For example, unlawful assault on a male attracts a punishment of 3-year imprisonment while the same unlawful assault on females attracts 2-year imprisonment. Under the section, indecent assault on males is a felony, which attracts 3-year imprisonment, while if the victim is a woman, it becomes a misdemeanor and attracts a 2-year sentence. The discrimination here is obvious.

4.4.4. Legalization of Wife Chastisement:

Section 55 of Penal Code creates a fertile ground for violence against women in providing as follows: Nothing is an offence which does not amount to infliction of grievous hurt upon any person which is done by a husband for the purpose of correcting his wife, such husband being subject to native law or custom in which such correction is recognized. This section does not also confer a corresponding right on the wife who chastise the husband.

¹⁸ *ibid*

4.4.5. Discriminatory Labour Act:

Section 55, 56, 57 of Nigerian Labour Act empowers the Minister of Labour to make regulations that prohibit women from undertaking certain jobs. The sections are discriminatory to the extent that they limit women's access to work and this is against international statutes on labour including the Equal Remuneration Convention of 1951 which calls for equal job opportunities for men and women.

5. The Struggle for Gender Equality in Nigeria

As the relationship between religion and society is reciprocal, religious systems and traditional cultural practices in Nigeria have not been very kind to women. There is no doubt that the status of women in religion also reflects the status of women in the society as a whole, the patriarchal nature of most traditional societies that make up Nigeria have almost always subsumed women to the men. Also, the politics of the Nigeria society as it relates a gender places a serious discrepancy on women. The Nigerian political situation is a case where male is given prominence and priority over the female (girl). Arising from the traditional societies where girls are treated as miniature women who were expected work alongside their mothers and sisters, the woman in Nigerian politics is always expected to take the back seat.

After several years of ratifying the CEDOW, it is still regrettable that Nigeria has failed to domesticate the international instrument as part of her municipal law. This is the one factor that has seriously slowed down the pace of women emancipation in Nigeria. By existing population projections, women constitute about half the total Nigerian population. Also with increasing education of the girl child in Nigeria and the outstanding performance of women in almost all areas of human endeavour, the Nigerian system still support in most cases, an intense marginalization of the women and their relegation to the background. They are and continue to be discriminated against in virtually all spheres of life in Nigeria, for example, in home front in educational institutions, in the work place and in political the political space.¹⁹

¹⁹ *ibid*

The discrimination against women and their unequal status against the men is made more worrisome by the fact that it has persisted for a very long time since arising from the traditional cultural practices that existed before even the country became a political state. The discrimination and subjugation of women is now so deeply rooted and institutionalized in Nigerian system that it has become intractable. Many factors have been identified as being responsible for the discrimination and subsequent marginalization of women in the Nigerian system. Core among these factors is the patriarchal disposition that rooted in the traditional cultural practices of the peoples that make up the country.

Most of the tradition traditional groups that make up Nigeria uphold a patriarchal belief which sees and treats men as superior to women. This is evident in the preference for the male child among the Igbo of Nigeria. Male children the Igbo and some other groups in Nigeria often enjoy preferential treatment. They are often exempted from participating in house chores, they are often kept around their fathers so as to learn the act of leadership and with the advent of western civilization, they enjoy unlimited right to education, while the girls are prepared for marriage by dedicating them to household chores or by being sent out as maids and servants.

In line with the culture of most of these traditional societies, wives and daughters are often disinherited. That is, the girl child does not inherit from the properties of the father and in the worst cases of the discriminatory stereotypes, wives are also denied the inheritance of their husband's properties, in particular, when there she has no male child. In the home front, the culture strictly restricts women to the stereotype of keeping only the role of home keeping, child bearing and child rearing. She is to be seen and not heard. Emakhu observed that this subordination of women by culture knows no boundaries or barriers, and is not dependent on social, educational or economic status of the Nigerian women.²⁰ The problem is such that the rich and educated women of cities suffer marginalization and subordination just like the uneducated and poor women of the rural areas. These discriminatory practices are so rooted that even the laws of the land and the provisions

²⁰ I.S. Emakhu, 'The Nature and Relevance of Violence against Women in Nigeria' 1st Annual International Interdisciplinary Conference, AIIC 2013, 24-26 April, Azores, Portugal.

of international statutes against the discrimination and marginalization of women seem not to be strong enough in protecting women from these debilitating practices.

6. Conclusion

The constitution of the Federal Republic of Nigeria is the Supreme law of the country, and as such, any law that is not consistent with the provisions of the constitution, shall be void to the extent of its inconsistency. Chapter 11 of 1999 Constitution (as amended) is replete with provisions that declare equality and non-discriminatory as the directive principles of state policy, while Chapter IV provides for the fundamental human rights of the citizens which is grounded on the equality of all. Although, it has been shown in this paper that some aspects of that constitution is sympathetic to the inequality of men and women, however, its core disposition is the proclamation of the equality of all citizens – male and females.

The rule of law principle which also proclaims equality of all before the law is also carried by the spirit and letters of the Constitution. This is in addition to numerous international documents and statutes that declare the equality of all human beings – male and female and prohibit discrimination of any of the sexes for whatever reason. These international statutes include the Universal Declaration of Human Rights (UDHR), African Charter on Human and People's Rights (ACHPR), and the Convention on the Elimination of All forms of Discrimination Against Women (CEDOW).

In the light of all these legal and institutional frameworks, and more importantly, in the light of good reason and defence of human dignity, this paper is of the view that all discrimination against women fueled by perceptions of inequality of the sexes would be stopped. Nigeria, as a country must combat all incidents of gender inequality either in its statutes or in practice within the country for the country to leverage the full potential of all her citizens in the pursuit of national socio-economic and political development. As long as these perceptions of inequality continue to exist, discrimination against women will continue. And when women are discriminated against and marginalized, they cannot be able to contribute their quota to national development efforts.

7. Recommendations

In the light of the above conclusion, the following recommendations are necessary:

- i. Nigeria should without further delay domesticate the Convention on the Elimination of All forms of Discrimination Against Women (CEDOW) for it to come into full force in the country. The merit of this is that with the domestication, some of these cases of discrimination can be treated in the light of the international provisions.
- ii. Review of gender discriminatory laws and practices in Nigeria. Such laws. Such provisions as the unlawful assault provision and the wife chastisement provision, in addition to the discriminatory provisions of the Nigerian Labour Law should be reviewed and made anti-discriminatory.
- iii. Dislodging of Obnoxious traditional practices that discriminate against women. Such practices as forced/child marriage; wife/girl child disinheritance; wife chastisement; payment and refund of bride-price, wife inheritance, polygamy denies women custodial and maintenance rights, that are still rife in most traditional cultures of the people of Nigeria must be done away with to give the girl child and women a new lease of life to pursue their dreams just like their male folks.
- iv. is need for rigorous educational empowerment of women. The girl child must enjoy as much opportunities for education as their boy counterparts. Evidence abound to the effect that when the girls have had the opportunities, they have excelled better than the boys in some cases.
- v. There must also be economic empowerment of women. There is need for increased investment in the economic empowerment of rural women even as they have come to play very important roles in the economic lives of their families. With the very poor economies of most families, it can only be destructive not to empower the women to contribute more.