

GENDER EQUALITY AND WOMENS' ECONOMIC AND SOCIO-CULTURAL RIGHTS IN NIGERIA: DECONSTRUCTING THE BIASES

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Abstract

Rights are claims of an individual recognized by the society and the state. These rights are ascribed to individuals by virtue of their being humans. Among these rights are economic, social and cultural rights which are critical not only to the survival but also to the development of full human potentials. These rights include among others the right to adequate shelter and food, quality healthcare, fair and full employment, right to freedom from harmful practices and even the right to participate and enjoy the benefits from one's own culture. The importance of these rights is underscored by the Universal Declaration of Human Rights (UDHR) which grants them universal application. While, however, the rights are enjoyed almost equally by both men and women in the West, in Nigeria, their enjoyment by women is still plagued by structural and religious inhibitions. Given the patriarchal nature of the Nigerian society, women in most parts occupy the base of the socio-cultural ladder which enables men to dominate them. They face discrimination in empowerment and employment opportunities and home/cultural matters. The paper adopts the historical and evaluative methods to situate the gender inequality and discrimination in proper context and argues that democracy permits diversity of opinions and full participation of all citizens in government and decision making. It interrogates and challenges age-long cultural practices that place women at a disadvantage. It submits that constitutional provisions on human rights should be strictly enforced by the government and argues for a new gender relation that recognizes the equality of all humans.

Key words: Gender equality, Rights, UDHR, Justice, Discrimination, Gender relations

Introduction

Though not every claim of an individual is recognized by the state as a right, rights, however, belong to individuals or group of individuals simply for being human. They are norms that seek to protect every individual everywhere from severe political, legal and social abuses. These rights are enshrined in the Universal Declaration of Human Rights, hereinafter referred to as UDHR, the globally recognized statement of universal rights and freedoms adopted by member states of the United Nations in 1948.

The International Covenant on Economic, Social and Cultural Rights which states these rights in treaty form, was adopted in 1966 by the General Assembly and came into force when 146 countries ratified it in 1966. The Covenant states that everyone is entitled to the rights and freedom set forth in the Declaration without distinction or discrimination on the basis of race, colour, language, sex (Article 2.2.) and on the basis of equality between men and women (Article 3). The Covenant equally provides an outline of obligations relating to equality between men and women in the enjoyment of economic, social and cultural rights. Building on the provisions of the Covenant, the United Nations Fourth World Conference on Women held in Beijing China in 1995 reaffirms human rights and fundamental freedoms as the birthright of all human beings and their protection and promotion, the first responsibility of governments.

To underscore the importance of these rights to the survival and full potential development of Nigerians, the 1999 Constitution of the Federal Republic of Nigeria in Chapter IV provides for fundamental human rights which every Nigerian is supposed to enjoy. Particularly in Article 42 the Constitution provides for right to freedom from discrimination which states that no citizen of Nigeria shall be discriminated upon on the basis of his/her particular community, ethnic group, place of origin, sex, religion or political opinion. In doing so, the Constitution affirms the equality of all Nigerians who are not to be treated differently on the basis of any of these traits.

As laudable as these provisions are, what obtains in Nigeria particularly in gender relations is a far cry from the intent and spirit of the provisions. There still remains marked differences in the way both the society and state treat both genders. There is a structural stratification and differentiation on the basis of sex, which provides material

advantages to males while placing severe constraints and limitations on the roles and activities of females.

According to Country Meters, the female population of Nigeria as at 2021 stands at 108,076,954 or about 49 per cent of the total population of the country yet their participation in formal and informal structures and processes, where decision regarding the use of societal resources generated by both men and women are made remains insignificant (Makama, 2013:132). The subjugation of women is an inherent tradition given the patriarchal nature of the Nigerian society. Ekhaton (2015:287) points out that this is due to the influence of the various religions and customs in many parts of Nigeria. In Nigeria, women are seen as the 'weaker sex' and this makes discriminatory practices by both the state and society to be condoned. That is why Ngwakwe, (2002:148) and Alemika (2010:33) argued that the traditions and culture of every society determine the values and behavioural patterns of the people and that any culture that attributes superiority to one sex over the other exposes the sex considered weaker and inferior to various forms of discrimination.

In Nigeria, the issue of discrimination against women often manifests in the form of discriminatory practices and lack of opportunities. These have over the years set women back and affected their peace and dignity as well as their rights as human beings (Olarenwaju, 2018:74). Thus, as society grapples with the problem of creating a fair, just and equitable arrangement among different people, the challenge becomes how to enhance the role of women in politics, governance, family life and domestic matter, education, economy, labour market and inheritance.

This paper examines gender equality and economic, social and cultural rights and challenges societal practices that have kept women down for centuries, denying them their rightful place in the society. The paper demystifies the claim of the male folk's superiority over the female folk and argue for a new system of gender relation that recognizes the equality of all humans. This is anchored on the charters of UDHR and Committee on the Elimination of Discrimination against Women (CEDAW) that promote universal respect for, and observance and protection of, all human rights and fundamental freedoms for all and the 1999 Constitution of the Federal Republic of Nigeria that outlaw discrimination of any form especially but not restricted to sex and gender.

CLARIFICATION OF CONCEPTS

Gender equality

Gender equality refers to the concept that men and women, boys and girls should have equal treatments, conditions and opportunities that enable them realize their full potentials as humans, human rights and dignity and for contributing to and benefiting from economic, social, cultural and political developments. Ogu, Ezeonwuka and Sule (2016:61) defined it as treatment under the law and equality of opportunity. For them, it also includes substantive equality and equality of agency. Substantive equality means that the different circumstances and characteristics of men and women have to be considered to avoid unfair gender-related outcomes.

UNICEF (2015) says it is the equal valuing by society of the similarities and the differences of men and women and the roles they play. This is because both women and men are full partners in the home, community and society. As Shanthi and Mitravinda (2020:2) allude to, gender equality implies that the interests, needs and priorities of both women and men are taken into consideration recognizing the diversity of different groups of women and men. This does not mean that women and men will become the same but that their rights, responsibilities and opportunities will not depend on their gender. What it implies rather, is that the interests, needs and priorities of both women and men are taken into considerations recognizing that all human beings are free to develop their personal abilities and make choices without the limitations set by stereotypes and prejudices about gender roles (UNICEF, 2015). Gender equality matters in its own right as a prerequisite for the health and development of families and societies, and a driver of economic growth. Of course, the absence of equality necessarily breeds inequality.

Economic, social and cultural rights (ESCRs)

These are the freedoms, privileges and entitlements that individuals and communities require to live a life of dignity. They relate to decent work and workers' rights, adequate standard of living, social security, health, education, food, water, housing, healthy environment and culture. ESCR are thus as essential as the right to freedom of movement or the right to a fair trial for ensuring human dignity.

According to the United Nations Human Rights High Commissioner, the UNDR ratified in 1948 makes no distinction between political rights and economic, social and cultural rights as all are part of indivisible rights accruing to human beings but the tensions between the West and East during the Cold War led to the negotiation and adoption of two separate covenants – one on civil and political rights and another on economic, social and cultural rights. Economic, social and cultural rights are recognized and protected in international and regional human rights instruments and member states, numbering about 160 according to the International Commission on Jurists have a legal obligation to respect, protect and fulfil them and also expected to take progressive action towards their fulfilment. The International Covenant on Economic, Social and Cultural Rights together with the UNDR and the International Covenant on Civil and Political Rights form the International Bill of Rights.

International Human Rights Charters and Treatises on Non-Discrimination

According to the United Nations, the principles of equality and non-discrimination are part of the foundations of the rule of law and thus all persons, institutions and entities both private and public and including the State itself are accountable to just, fair and equitable laws and are entitled without any discrimination to equal protection of the law without bias to race, sex, language and religion.

The most prominent human right treatise on non-discrimination against women is the Convention on the Elimination of Forms of Discrimination against Women (CEDAW) which was adopted by the United Nations General Assembly on 18 December, 1979 and entered into full force as an international treaty on 3 September 1981. The Convention currently has 189 State parties who have voluntarily agreed to respect, protect, promote and fulfil the human rights of women in all circumstances.

The Convention brings the female half of humanity into the focus of human rights concerns. Its spirit is rooted in the goals of the United Nations which is an affirmation of fundamental human rights, the dignity and worth of the human person, in the equality of all humans (men and women). By defining properly, the meaning of equality and how it can be achieved, the Convention establishes not only an international bill of rights for women, but also an agenda for action by countries to guarantee the enjoyment of these rights.

The Convention in its preamble states that discrimination against women which continues to exist is a violation of the principles of equality of rights and respect for human dignity. It gives positive affirmation to the principle of equality by requiring States parties to take all measures including legislation to ensure the full development and advancement of women for the purpose of guaranteeing them the exercise and enjoyment of human rights and fundamental freedoms on a basis of equality with men.

Aside civil rights issues, the Convention also guarantees the reproductive rights and choices of women which it says should not be a basis of discrimination. It describes maternity as a social function that demands fully shared responsibility for child rearing by both sexes. It also grants women the choice to decide freely and responsibly on the number and spacing of their children and to have access to the information, education and means to enable them exercise these rights.

Review of cultural/legal biases against women in Nigeria.

Despite the growing global concerns for, and efforts at protecting women's economic, civil, social and cultural rights as specified in CEDAW, studies reveal that women in Nigeria still encounter challenges with respect to the enjoyment of these rights (Udoh et al, 2020; Ifemeje and Umejiaku 2014:20, Ajayi and Omosule, 2017:12). While progress is being made in certain areas, women and girls in Nigeria still do not fully experience equal rights with men and their potential as economic, social and sustainable development change agents remains untapped. They are underrepresented across business and politics, they receive unequal pay for work and they continue to be targets of physical and sexual abuse. Their enterprises are economically disadvantaged and lack equal opportunity to compete for business opportunities and even face legal barriers that impair and nullify the recognition, enjoyment and exercise of their rights and fundamental freedoms.

According to UN Office for the Coordination of Human Affairs (UN OCHA) report on Nigeria "Breaking the Bias" women and girls in Nigeria are exposed to systemic marginalization and abuse that adversely affect their chances of improved livelihood and socio-economic welfare. Ethnoreligious factors and biases play important roles in their dire socio-economic outlook and they face limitations in accessing education, maternal

care, and access to livelihoods. It specifically mentions that 60% of Nigeria's 13.2 million out-of-school children are girls.

Ifemeje and Umejiaku (2014:25) list such discriminations faced by women and girls in South East Nigeria to include legalized wife battery or chastisement, wife inheritance, harmful widowhood practices, payment and refund of bride price, marginalization of women's right in the event of dissolution of customary law marriages, female disinheritance, female genital mutilation, female trafficking, son-preference syndrome and the polygamous nature of customary law marriages and so on.

In most parts of northern Nigeria, forced early marriage remains an issue hindering the full potential development of girls. This is a problem rooted in the religion and culture of the predominant Hausa-Fulani. This is out of fear of pregnancy outside marriage. Umeana (2017:NA) and Alabi et al (2017:399) report that girls in Nigeria, particularly in the north are usually given out in marriage as early as eleven or twelve and most times without their consent to men old enough to be their fathers. He says that the culture of the Hausa people defines the role of women as primarily that of housewives, education seems to have little relevance for the roles women are expected to play. This is against the provisions of the Child Right Act of 2003 which prohibits under-18-year-old marriage in Nigeria which of course many states in northern Nigeria have not domesticated. According to National Population Commission (NPC) (2009) report, in 2008, 20% of young women aged 15-19 years surveyed were already married compared with 1% of young men of the same age range. Among these young women, 12% were married by 15 years of age and 26% were already in a polygamous union with one or more co-wives.

The son-preference' syndrome which is a common phenomenon in highly patriarchal societies is also prevalent in most cultures in Nigeria and has caused collateral damage to the education of women especially the girl child. Parents see their boy children as those to invest in to continue to sustain the family lineage while the girls would be married out to bear someone's else name (Alabi, et al., 2014:341). Since girls are to be married out, there was no need investing in their education since that will benefit only the family they are to be married into, as some parents think (Alabi and Alabi, 2013:9). Others express hostility towards girls' education citing westernization and the loosening of morals. In other words, educating the girl child is believed to breed decadence in

moral values encouraging premarital sex and unwanted pregnancy. Thus, the only way to prevent this, is to keep the girls out of school and marry them off at an early age. As already stated, such cultural practices are an infringement on the rights of the girl child who is denied the enjoyment of the right to education on the basis of her gender.

Early marriage which Odiaka (2013:196) observed is a result of 'son preference', robs a girl of her childhood-time necessary to develop physically, emotionally and psychologically and inflicts great emotional stress as the young woman is removed from her parents' home to that of her husband and in-laws. The emotional stress is further compounded because her husband who will invariably be many years her senior will have very little in common with her.

Constitutional Framework in Nigeria on equality/discrimination against women

Nigeria and many other States have articulated her commitment to the Economic, Social and Cultural Rights (ESCRs) through their national constitutions and other domestic laws. The preamble to the 1999 Constitution seeks to promote good government and welfare of all persons in the country on the principles of Freedom, **Equality** and Justice. Article IV of the Constitution contains a whole list of fundamental rights accruing to every Nigerian by virtue of his citizenship.

Section 34 specifically provides for right to dignity of human persons. The section provides *inter alia*

1. every individual is entitled to respect for the dignity of his person, and accordingly-
 - (a) no person shall be subjected to torture or to inhuman or degrading treatment:
 - (b) no person shall be held in slavery or servitude. It is clear that these harmful cultural practices infringe the express provisions of this constitutionally guaranteed right.

Similarly, section 35 provides for the right to personal liberty stating that no person shall be deprived of such liberty save in cases outlined in the constitution. It follows that any law restricting the movement of a widow during mourning period or forcefully shaving the hairs of widow is an infraction of this right.

In the same vein, section 42, outlaws any form of discrimination against any citizen of Nigeria. It specifically provides that:

- (1) A citizen of Nigeria of a particular community, ethnic group, place of origin, sex, religion or political opinion shall not, by reason only that he is such a person –
- (a) be subjected either expressly by, or in the practical application of, any law in force in Nigeria or any executive or administrative action of the government, to disabilities or restrictions to which citizen of Nigeria of other communities, ethnic groups places of origin, sex, religions or political opinions are not made subject; or
 - (b) be accorded either expressly by, or in the practical application of, any law in force in Nigeria or any such executive or administrative action, any privilege or advantage that is not accorded to citizen of Nigeria of other communities, ethnic groups, places of origin, sex, religion or political opinions.
- (2) No citizens of Nigeria shall be subjected to any disability or deprivation merely by reason of the circumstances of his birth. It goes without saying that the denial of opportunities to women on the basis of their gender is a violation of this right.

Critique of cultural practices that impede women's rights in Nigeria

1. **Payment of bride price.** This is a practice very common in most cultures in Nigeria where a prospective groom and his family pay an agreed amount of money or presents or a mixture of both to the family of their future in-law before the start of a marriage. Most cultures consider the bride price the most important pre-marriage requirement without which the marriage is not considered valid by the bride's family.

The danger with the practice which is deeply rooted in patriarchal beliefs is that it gives a false impression that women are commodities to be bought and sold at an agreed price. When a bride price is paid, it is very common for the man to believe that he owns the woman and so can treat her as he wishes. This license which the bride price falsely confers on the man/husband gives rise to marital rape and domestic abuse like wife battering.

The practice is also dangerous because in the event of divorce, women are most times forced to pay back the totality of the bride price. Where the woman is unable to do so as a result of little financial agency, she is often trapped in an abusive marriage which may lead to death. Enemuoh (2005:38) condemns the practice in strong terms "...one would observe that the picture painted by the

refund of bride price is exactly the same painted by its payment. That is for example portraying a woman as a piece of chattel being bought or rejected by its owners”

This practice is an infringement on the civil liberties of women particularly that of right to human dignity. The practice debases womanhood and should be stopped forthwith as no man or woman can be bought or sold by another. It is slavery in disguise and goes against the express provisions of articles 35 and 42 of the 1999 Constitution.

2. **Wife inheritance:** This is a cultural and social practice common in most cultures in Nigeria whereby a widow is required to marry a male relative of her late husband, often his brother. While proponents of the practice have advanced its utilitarian value by claiming that it seeks to continue the bloodline of a deceased man (which is guided by an underlying philosophy and is part of a governance structure of a society) the way inbreeding among royals seeks to keep the royalty within royal families, the practice nonetheless gives the impression that women are chattels that can be inherited and is therefore an attack on their right to human dignity as enshrined in the 1999 Constitution.

Ifemeje and Umejiaku (2014:26) call it discriminatory as it means that the death of a customary law husband does not terminate the original marriage, whereas it does with the death of a wife. Forcing a woman against her will to marry within the late husband’s family is an infringement on article 39 of the 1999 Constitution which provides that “Every person shall be entitled to freedom expression including freedom to hold opinions...” and article 42 which outlaws discrimination on the sex and so on. The decision to remarry or not and to whom should be that of the woman and should not be forced upon her.

3. **‘Son preference’ syndrome:** this is the practice or attitude of preferring male children to female children. The practice is centuries old and is driven by both economic and cultural factors. It is not unique to Nigeria but is rampant elsewhere including in Asia and the US. In most Nigerian cultures, sons are seen as essential for the continuation of families’ lineage. That is why names like

‘Amaechi (May my lineage not end)’ ‘Amaefula,’ ‘Ogbonna, (The father’s mate) ‘Nwokodikwa, (Man is still present)’ ‘Ahamefula’ (May my name not get lost) are common with the Igbo of South East. These names connote both literally and practically the importance of the male child. A family without a son is considered incomplete irrespective of the number of children in the family. This is a discriminatory practice that engenders such ills as denials of property right, access to quality education, health care to the female children and so on. In a joint statement, the OHCHR, UNFPA, UNICEF, UN Women and WHO in 2011 stated that sex selection in favour of boys is a symptom of pervasive social, cultural, political and economic injustices against women and a manifest violation of women’s human rights. As experience has shown, no child is more important than the other. Some female children are known to have contributed more to the growth and sustenance of their families than the male children.

4. **Female Genital Mutilation (FGM):** this is also called female circumcision and involves the cutting off of part or the whole girl’s clitoris and some other parts of her sex organs. The World Health Organization (WHO) (1998) defines it as all procedures which involve partial or total removal of the external female genitalia and/or injury to the female genital organs whether for cultural or any other non-therapeutic reason. According to Garner (2004), it is a violent damage caused to the outer sex organ of the female gender by excising parts of the organs or causing substantial damage. The age-long practice is widespread in Nigeria and varies in magnitude from infancy to adulthood. While Okeke et al (2012:72) say Nigeria due to its large population has the highest absolute number of FGM worldwide, accounting for about one-quarter of the estimated 115-130 circumcised women in the world, UNICEF (2013) says Nigeria ranks third globally in terms of burden of FGM. FGM is recognized globally as a grave violation of the human rights of girls and women. Okeke et al (2012:73) say it reflects the deep-rooted inequality between men and women and constitutes an extreme form of discrimination against women. They say it involves a violation of rights of the children and violation of a person’s rights to health, security and physical integrity, the right to be free from torture and cruel, inhuman, or

degrading treatment as contained in article 34(1b) of the 1999 Constitution. It is also a violation of the right to life when the procedure results in death as it sometimes does.

5. **Harmful and degrading widowhood practices:** across many parts of Nigeria, some widows face harmful and degrading treatment upon the deaths of their husbands. Many times, they are the chief suspects of their husbands' death and are therefore made to go through certain fetish rituals to prove their innocence. In many instances they are either forced to drink the water used to bath their husbands' corpse or sleep in the room where the corpse is kept.

Ifemeje and Umejiaku (2014:25) list other dehumanizing widowhood practices women are subjected to. They are compulsory shaving of hair, sleeping and sitting on the bare floor throughout the mourning period, crying out at regular intervals and the restriction within the house and banning from trading and working within the lengthy mourning period as a mark of respect for their deceased partners. These practices are highly discriminatory as men are not made to undergo this dehumanizing treatment on the death of their wives. This harmful widowhood practice is an infraction of the widow's right to dignity of human person, furthermore, the restriction of the widow's movement is a breach of her right to movement and amounts to false imprisonment. Finally, it is equally a serious infraction of the widow's right to freedom from discrimination, in the sense that these obnoxious traditional mourning rites target only women. It is needless to say that men are not subjected to any of these degrading treatments.

6. **Underrepresentation in government/decision making bodies:** Ogu, Ezeonwuka and Sule (2016:62) note that the resistance to achieve the 35% Affirmative Action for women has enabled the perpetuation of discrimination against women in spite of the provisions of the National Gender Policy. The policy demands 35% involvement of women in all governance processes, including elective and appointive positions. The 2006 national population census has women making up 52% of the country's population but despite the

increasing level of literacy, they are barely represented in major sectors of the country, especially in decision making positions. For instance, in the 9th National Assembly (2019-2023), out of the 479 members, only 18 or 3.7% are women with 7 senators and 11 House of Representatives members. Similarly, of the 43 federal ministers appointed by President Buhari in 2019, only 7 or 16.2% are women. At the states and local government levels, the situation is even worse. There are only 5 deputy governors out of 36 seats available. The marginalization is so terrible that since independence, no woman has held the office of president, vice president or elected governor.

Recommendations: addressing gender based discriminatory practices against women

Investigations carried out have revealed that the elimination of these cultural and legal discriminations against women are hindered by many factors not restricted to the patriarchal nature of the Nigerian society which emphasizes male superiority, the rigidity and conservative nature of most Nigerian cultures which resist changes especially those that seek to change the status quo, educational factors such as the denial of girl child education which invariably keeps her at the mercy of her boy counterpart, legal factors such as the refusal/reluctance to implement the 35% Affirmative Action of the National Gender Policy and so on.

The question arises then, what can be done to correct these imbalances and ensure that women in Nigeria enjoy their rights as provided for both in the Constitution and the various international treaties such as CEDAW. This paper makes the following recommendations, hoping for implementation of same.

1. **Education/sensitization of women on their rights:** this is perhaps the single most potent force against discrimination and marginalization of women in Nigeria. Lack of education especially at the grassroot level and most importantly in the rural areas has created a fertile ground for the perpetuation of these evils against women. Education empowers a person and enlightens him/her. Knowledge which comes through education dispels ignorance, thus when women know their rights, they are bound to fight for them. This demands that should give more scholarship grants to girls across the various levels of

education in Nigeria and also criminalize the denial of the right to education of the girl child. This would ensure that they become better equipped economically and reduce their dependence on men and also assert their rights and enforce them. In the long run, education of the girl child will equip her for effective participation in decision-making both in government and elsewhere.

2. **Implementation of the 35% Affirmative Action:** affirmative action refers to a set of policies and practices which mandate government or organization to include particular groups based on their gender, race, creed, nationality, sexual orientation and so on in areas where they are traditionally marginalized or underrepresented. In Nigeria, there exists a National Gender Policy to promote realization of the objectives of the 35% affirmative action for women in governance processes. Unfortunately, the policy is not practiced as the structure and processes to use them are not in place. This has remained an enabling tool for the perpetuation of discrimination against women notwithstanding the provisions of the 1999 Constitution. The government both federal and state are therefore called upon to respect the provisions of the policy and also implement the ruling of the Federal High Court sitting in Abuja which in April 2022 ordered the federal government to enforce the policy by allocating 35 per cent of appointments in the public sector to women. Consequently, the National Assembly must pass laws that criminalize the non-implementation of the policy both in the public and private sector.
3. **Domestication and respect for the principles of CEDAW:** the Covenant is the most important international treaty on equality of women and men and non-discrimination against women. Nigeria being a State party to the Covenant is duty bound not only to domesticate it but in keeping faith, take appropriate measures to ensure that equality is maintained between women and men. Article 3 of the Covenant which provides for equality of women and men in the enjoyment of all the rights stated in the Covenant is a matter of immediate concern. Thus, the government must take measures including legal to eliminate all gender-based assumptions about economic, social and cultural roles that preclude the sharing of responsibilities in all spheres that are necessary to equality. Then government must provide for equality in the allocation of

resources and promote sharing of responsibilities in the family, the community and in public life. The government must take measures to eliminate violence against women in the home or family setting, in public, in the workplace and in educational setting. Violence, it has been found out, prevents women from enjoying economic, social and cultural rights on an equal basis with men.

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