An Analysis of Gender Discrimination in the 1999 Nigerian Constitution and the Call for Legal and Policy Changes to Reflect International Standards

Shekinah Pius Emenogu & Fr. Dr. Anthony Azuwike

Abstract
The 1999 Constitution of the Federal Republic of Nigeria (as amended) remains the supreme legal framework guiding governance and the protection of citizens' rights in Nigeria. However, several constitutional provisions and socio-legal interpretations continue to perpetuate gender discrimination against women. This study examines the constitutional and policy dimensions of gender inequality in Nigeria, with the objectives of identifying discriminatory constitutional provisions, assessing the influence of customary and religious laws on women's rights, evaluating Nigeria's compliance with international standards such as the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), and proposing reforms for substantive gender equality. The study is anchored on Feminist Legal Theory, which critiques patriarchal structures embedded within legal systems (Akinboye, 2004). A qualitative documentary research method was adopted, relying on primary sources such as the Nigerian Constitution, judicial decisions, and international legal instruments, as well as secondary materials including books, journal articles, and policy reports. Findings reveal that despite Section 42(1) guaranteeing freedom from discrimination, constitutional ambiguities, discriminatory citizenship provisions, child marriage controversies, and the dominance of customary and religious laws continue to undermine women's rights and political participation (Ekhator, 2015). The study concludes that Nigeria's constitutional framework still reflects patriarchal biases inconsistent with international human rights standards. It recommends constitutional amendments, harmonization of legal systems, enforceable affirmative action policies, and stronger institutional mechanisms for gender justice in line with CEDAW and Sustainable Development Goal 5 (United Nations, 2015).

Key words: 1999 Nigerian Constitution, Gender Discrimination, Constitutional Law, Legal Pluralism, Governance, Sustainable Development Goals, CEDAW.

Introduction

The Constitution of the Federal Republic of Nigeria 1999 represents the supreme legal authority regulating governance, citizenship, and fundamental

rights in Nigeria. As the grundnorm, it is expected to embody principles of equality, justice, and inclusivity for all citizens regardless of gender. However, feminist legal scholars argue that constitutions often reflect the socio-political realities of their drafters rather than neutral commitments to justice (Mackinnon, 1989; Charlesworth, 1994). The Nigerian Constitution emerged from a transition process dominated overwhelmingly by male political actors, military elites, and legal practitioners, a context that has significantly shaped its ideological orientation and textual assumptions (Akinseye-George, 2000; Ojo, 2013).

Gender equality is formally acknowledged in the Nigerian Constitution, particularly under Section 42(1), which prohibits discrimination based on sex. Despite this provision, women in Nigeria continue to experience structural exclusion in political representation, citizenship rights, family law, and access to justice (Okeke, 2018; Imhanobe, 2021). Scholars have noted that constitutional guarantees of equality often remain symbolic when enforcement mechanisms are weak and when discriminatory provisions coexist within the same legal framework (Banda, 2005; Tamale, 2008). This contradiction raises concerns about the gap between constitutional idealism and women lived realities in Nigeria.

A critical issue within the 1999 Constitution is its male-centric language in the normative framing of citizenship. The frequent use of the masculine pronoun "he" to represent citizens and public office holders is not merely a grammatical error but an ideological predisposition that reinforces men as the default political subjects of the state (Charlesworth & Chinkin, 2000; Smart, 1995). Feminist Legal Theory emphasizes that language shapes legal consciousness and institutional practice, thereby influencing how rights are interpreted and applied (Mackinnon, 1989). In a deeply patriarchal society such as Nigeria, this linguistic bias not only points to but also contributes to the symbolic exclusion of women from governance and leadership.

Specific constitutional provisions have been widely criticized for their discriminatory implications. Section 29(4)(b), which recognizes a married woman as an adult regardless of age, has been interpreted as legitimizing child marriage and disproportionately affecting girls, particularly in Northern Nigeria (CEDAW Committee, 2017; UNICEF, 2020). Similarly, Section 26 of the Constitution grants Nigerian men the right to confer citizenship on foreign spouses while denying the same right to Nigerian women, a clear violation of substantive gender equality and international human rights standards (CEDAW, 1979; Imade, 2022). These provisions reveal how cultural patriarchy is embedded and constitutionally protected to the detriment of the female gender.

The constitutional recognition of customary and religious laws further complicates the quest for gender justice in Nigeria. While legal pluralism is

intended to respect cultural diversity, it often enables discriminatory practices against women in the areas of marriage, inheritance, and family relations (Nwoye, 2016; Fenrich & Higgins, 2001). Courts have frequently struggled to reconcile constitutional equality with deeply entrenched patriarchal customs, resulting in inconsistent jurisprudence and limited protection for women (Oba, 2014; Ekhator, 2015).

Nigeria's constitutional contradictions are particularly troubling given its international commitments. Nigeria is a signatory to the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), which obligates state parties to eliminate gender discrimination in law and practice (CEDAW, 1979). Additionally, the Sustainable Development Goals, especially SDG 5 (Gender Equality), SDG 10 (Reduced Inequalities), and SDG 16 (Peace, Justice and Strong Institutions), require constitutional frameworks that promote inclusive governance and equal rights (United Nations, 2015). Scholars argue that constitutional reform is central to achieving these global development targets (Razavi, 2016; Emenogu, 2025).

Against this backdrop, this study undertakes an in-depth legal and policy analysis of gender discrimination in the 1999 Nigerian Constitution using Feminist Legal Theory. By interrogating constitutional language, citizenship provisions, age and marital status clauses, and the accommodation of customary and religious laws, the study seeks to expose how patriarchy is normalized within Nigeria's supreme law. The analysis contributes to ongoing scholarly and policy debates on constitutional reform, gender justice, and sustainable development in Nigeria (Tamale, 2008; Emenogu, 2025).

Clarification of Keywords

The 1999 Nigerian Constitution; this is the supreme law of Nigeria that defines governance, citizens' rights, and the structure of government. This study examines how some of its provisions contribute to gender discrimination despite guarantees of equality and fundamental human rights.

Gender Discrimination; this refers to unequal treatment based on sex, especially the denial of rights and opportunities to women. In this study, it relates to constitutional and legal practices that disadvantage women in Nigeria.

Constitutional Law; this refers to the legal principles governing the powers of government and the rights of citizens. This study focuses on how constitutional provisions can either protect or undermine gender equality.

Legal Pluralism; this is the coexistence of statutory, customary, and religious laws in Nigeria. The study examines how these systems sometimes conflict with constitutional protections for women's rights.

Governance; this refers to the process of decision-making and the exercise of political power. This study considers how constitutional discrimination affects women's participation in leadership and public decision-making.

Sustainable Development Goals (SDGs); these are global goals aimed at promoting equality, justice, and development. This research particularly relates to SDG 5 (Gender Equality), SDG 10 (Reduced Inequalities), and SDG 16 (Peace, Justice, and Strong Institutions).

CEDAW; this is the Convention on the Elimination of All Forms of Discrimination against Women, an international treaty promoting women's rights and equality. This study uses CEDAW as a standard for evaluating gender-related provisions in the Nigerian Constitution.

Literature Review

The relationship between constitutionalism, gender justice, and democratic governance has remained a major subject of scholarly inquiry within feminist legal studies, political theory, and human rights discourse. Constitutions are generally regarded as supreme legal instruments that define citizenship, allocate political power, and guarantee fundamental rights. However, contemporary feminist scholarship argues that constitutional frameworks are rarely neutral because they often reflect the historical, cultural, and political realities of dominant social groups (Mackinnon, 1989; Smart, 1995). In many postcolonial societies, constitutional arrangements have reproduced patriarchal hierarchies through exclusionary legal language, unequal citizenship structures, and institutional barriers that marginalize women from political participation and governance (Charlesworth, 1994; Banda, 2005).

Within the Nigerian context, debates surrounding the 1999 Constitution have intensified due to concerns about gender inequality, legal pluralism, and the limited representation of women in governance. Although the Constitution guarantees freedom from discrimination under Section 42(1), scholars contend that several constitutional provisions continue to sustain structural inequalities against women (Ekhator, 2015; Imade, 2022). These concerns become more significant when situated within Nigeria's obligations under international legal instruments such as the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) and global development frameworks such as the Sustainable Development Goals (SDGs). Consequently, this review examines existing literature on gender, constitutionalism, feminist legal theory, citizenship rights, legal pluralism, and international human rights obligations in order to establish the intellectual foundation for this study.

Gender, Law, and Constitutionalism

Scholars in feminist jurisprudence consistently argue that law and constitutional structures are socially constructed rather than politically neutral

(Mackinnon, 1989). Feminist constitutional theorists maintain that constitutions often institutionalize patriarchal assumptions by privileging masculine experiences as universal standards for citizenship, leadership, and governance (Smart, 1995; Charlesworth & Chinkin, 2000). This perspective challenges liberal constitutional assumptions that equality before the law automatically produces social justice. Instead, feminist scholars argue that legal systems may reinforce structural inequalities even when they contain formal guarantees of equality.

In postcolonial African states, constitutionalism is further complicated by colonial legacies, authoritarian transitions, and elite domination (Tamale, 2008). Colonial legal systems often entrenched patriarchal authority through indirect rule and customary law administration, thereby institutionalizing male dominance within governance structures (Banda, 2005). Scholars argue that many African constitutions inherited these patriarchal foundations without sufficiently reforming them to reflect gender-inclusive democratic values (Okome, 2003).

The Nigerian experience reflects these broader postcolonial realities. The 1999 Constitution emerged from a military transition programme dominated largely by male military officers, legal elites, and political actors (Akinseye-George, 2000; Ojo, 2013). Women's representation in the constitution-making process was minimal, thereby limiting the inclusion of gender-sensitive perspectives in constitutional drafting (Okeke, 2018). Feminist scholars argue that exclusion from constitutional authorship contributes significantly to the persistence of patriarchal legal structures because constitutional priorities are shaped by those who participate in drafting processes (Razavi, 2016). Consequently, the Nigerian Constitution has been criticized for reproducing masculine norms within citizenship, governance, and legal interpretation.

Formal Equality and Substantive Equality

The distinction between formal equality and substantive equality occupies a central place within feminist legal scholarship. Formal equality emphasizes equal treatment before the law, while substantive equality focuses on the actual social and structural conditions affecting marginalized groups (Fredman, 2011). Feminist theorists argue that formal equality alone is insufficient because historical discrimination, socio-economic exclusion, and patriarchal institutions continue to disadvantage women despite constitutional guarantees (Nussbaum, 2001).

Section 42(1) of the Nigerian Constitution prohibits discrimination on the basis of sex; however, scholars argue that constitutional guarantees remain largely symbolic without enforceable institutional mechanisms (Agbalajobi, 2010). Studies on women's political participation in Nigeria reveal persistent underrepresentation of women in legislative, executive, and judicial institutions despite constitutional assurances of equality (Arowolo & Aluko,

2018). Nigeria consistently records low levels of female political representation compared with global democratic standards, reflecting systemic barriers rooted in patriarchal political culture, economic inequality, and exclusionary party structures (Imhanobe, 2021).

Feminist scholars therefore advocate substantive equality measures such as affirmative action, gender quotas, and institutional reforms capable of addressing structural disadvantages (Fredman, 2011). Comparative studies from countries such as Rwanda and South Africa demonstrate that constitutional gender quotas and inclusive institutional frameworks significantly improve women's political participation and representation (Bauer & Britton, 2006). In contrast, the Nigerian Constitution lacks enforceable affirmative action provisions, thereby weakening efforts toward inclusive governance and democratic participation.

Gendered Language and Constitutional Interpretation

Language remains a powerful instrument in legal construction and constitutional interpretation. Feminist legal theorists contend that masculine legal language reinforces the perception of men as the normative citizens and primary political actors within the state (Mackinnon, 1989; Smart, 1995). Constitutional texts that repeatedly employ masculine pronouns symbolically marginalize women and normalize male authority in governance structures (Charlesworth & Chinkin, 2000).

The Nigerian Constitution has attracted criticism for its extensive use of masculine pronouns such as "he," particularly in references to political office holders, citizens, and public authorities. Scholars argue that this drafting style reflects patriarchal assumptions embedded within legal and political institutions (Imade, 2022). Although some legal scholars dismiss gendered language as merely symbolic, feminist theorists insist that constitutional language shapes institutional culture, judicial reasoning, and political legitimacy (Fredman, 2011).

Research on gender-sensitive drafting further demonstrates that gender-neutral constitutional language contributes to more inclusive governance structures and equality-oriented judicial interpretation (Nwoye, 2016). In patriarchal societies such as Nigeria, symbolic exclusion within constitutional language may reinforce broader socio-political attitudes that limit women's access to leadership positions and public authority.

Citizenship, Marriage, and Child Rights

Citizenship rights constitute a fundamental dimension of constitutional equality because they define membership, belonging, and legal recognition within the state. Section 26 of the Nigerian Constitution grants Nigerian men the right to confer citizenship on foreign spouses while denying equivalent rights to Nigerian women. Scholars widely identify this provision as

discriminatory because it institutionalizes patriarchal assumptions concerning family identity and male authority (Imade, 2022; CEDAW Committee, 2017).

Feminist legal scholars argue that discriminatory citizenship laws undermine women's autonomy and violate international human rights standards, particularly CEDAW principles requiring equality in nationality and family relations (Banda, 2005). Comparative constitutional studies indicate that countries with gender-equal citizenship provisions demonstrate stronger commitments to democratic inclusion and equal citizenship rights (Charlesworth, 1994).

Section 29(4)(b) of the Constitution has also generated significant controversy because it recognizes a married woman as being of full age irrespective of chronological age. Human rights scholars and feminist organizations interpret this provision as indirectly legitimizing child marriage (Ekhator, 2015). Child marriage remains a significant challenge in Nigeria, particularly in northern regions where socio-cultural and religious practices intersect with legal ambiguity (UNICEF, 2020). Studies consistently show that early marriage contributes to school dropout, maternal mortality, economic dependency, and intergenerational poverty among girls (Nussbaum, 2001). Feminist scholars therefore argue that constitutional ambiguities relating to marriage and age undermine both women's rights and child protection frameworks.

Legal Pluralism and the Contradictions of Women's Rights

Nigeria operates a plural legal system consisting of statutory law, customary law, and Islamic law. Although legal pluralism is often justified as necessary for preserving cultural and religious diversity, scholars argue that it frequently creates contradictions within constitutional governance and human rights protection (Fenrich & Higgins, 2001). Feminist scholarship particularly critiques customary and religious legal systems for reinforcing patriarchal authority in matters relating to inheritance, marriage, divorce, and family relations (Oba, 2014).

Customary inheritance systems in several Nigerian communities continue to deny women equal access to family property, despite constitutional guarantees against discrimination (Nwoye, 2016). Similarly, some interpretations of religious law prioritize male guardianship and unequal marital rights, thereby limiting women's autonomy and legal protection. Scholars argue that the coexistence of multiple legal systems weakens constitutional supremacy because discriminatory practices often persist under the justification of cultural or religious autonomy (Tamale, 2008).

Judicial responses to discriminatory customary practices have remained inconsistent. While certain judicial decisions have invalidated harmful practices against women, others have demonstrated judicial deference to customary traditions (Ekhator, 2015). This inconsistency reveals tensions between constitutional rights, cultural preservation, and gender justice within

Nigeria's legal order. Feminist scholars therefore advocate stronger constitutional supremacy and harmonization of legal systems to ensure that cultural practices do not undermine women's rights.

International Human Rights Frameworks: CEDAW and the SDGs

International legal frameworks have become increasingly important in shaping debates on constitutional reform and gender equality. Nigeria ratified CEDAW in 1985, thereby committing itself to eliminating discrimination against women in political, social, economic, and legal spheres (CEDAW, 1979). However, scholars note that Nigeria has not fully domesticated the treaty into national law, limiting its enforceability within domestic courts (Ekhator, 2015).

CEDAW provides a comprehensive framework for evaluating discriminatory constitutional provisions and state obligations toward women's empowerment. Feminist scholars argue that constitutional reform in Nigeria must align with CEDAW standards relating to citizenship equality, political participation, family rights, and protection against harmful cultural practices (Banda, 2005).

Similarly, the Sustainable Development Goals emphasize the relationship between gender equality, inclusive governance, and sustainable development. SDG 5 seeks to achieve gender equality and empower women and girls, while SDG 10 focuses on reducing inequalities and SDG 16 promotes peace, justice, and strong institutions (United Nations, 2015). Scholars increasingly argue that constitutional reform is essential to achieving these goals because discriminatory legal frameworks undermine inclusive development and democratic participation.

Recent studies also highlight the role of media advocacy and civil society activism in advancing constitutional reform and gender consciousness in Nigeria (Emenogu, 2025). Media discourse contributes significantly to public awareness, policy advocacy, and resistance against discriminatory constitutional practices.

Research Gap

Existing scholarship on gender inequality in Nigeria has focused extensively on political participation, socio-cultural discrimination, and women's empowerment policies. However, limited studies provide a comprehensive feminist legal analysis of the 1999 Nigerian Constitution itself as a foundational source of institutionalized gender discrimination. Much of the literature addresses the effects of inequality without systematically interrogating the constitutional provisions, drafting structures, and legal contradictions that sustain patriarchal power relations.

Furthermore, few studies integrate constitutional analysis with international human rights obligations, legal pluralism, and sustainable development frameworks within a single analytical framework. This study therefore fills an

important scholarly gap by conducting a focused clause-by-clause examination of the Nigerian Constitution through the lens of Feminist Legal Theory while linking constitutional reform to governance, international law, and sustainable development objectives.

Theoretical Framework

This study is anchored on Feminist Legal Theory, which provides a critical framework for examining how legal systems and constitutional structures sustain gendered power relations. Feminist Legal Theory rejects the assumption that law is objective or neutral, arguing instead that legal institutions often reflect patriarchal social arrangements and masculine standards of authority (Mackinnon, 1989).

The theory is particularly relevant to constitutional analysis because constitutions shape citizenship, political participation, governance, and access to rights. Feminist Legal Theory enables this study to interrogate how constitutional language, institutional arrangements, and legal interpretations reinforce structural inequalities against women within Nigeria's socio-political context. The framework also emphasizes substantive equality, thereby moving beyond symbolic constitutional guarantees to examine whether women experience actual protection and equal participation within governance systems (Fredman, 2011).

Additionally, Feminist Legal Theory provides a normative basis for assessing Nigeria's compliance with international human rights obligations under CEDAW and global commitments under the Sustainable Development Goals. Through this framework, the study evaluates the extent to which the 1999 Nigerian Constitution aligns with principles of equality, justice, and inclusive governance. Ultimately, the framework supports a reform-oriented analysis aimed at advancing constitutional transformation, gender-responsive governance, and substantive equality in Nigeria.

Results and Data Analysis

This section presents the findings derived from the documentary and interpretive analysis of the 1999 Constitution of the Federal Republic of Nigeria (as amended), relevant judicial interpretations, scholarly literature, and international legal instruments. The analysis is organized according to the study's research questions in order to demonstrate how the findings directly respond to the objectives of the study. Guided by Feminist Legal Theory, the findings reveal that gender discrimination within the Nigerian constitutional framework is not merely incidental but structurally embedded through constitutional language, citizenship provisions, legal pluralism, and institutional omissions.

RQ1: How does the text and structure of the 1999 Nigerian Constitution embody gender discrimination despite its formal commitment to equality?

The findings reveal that although the Constitution formally guarantees equality and freedom from discrimination under Section 42(1), its textual structure and institutional design continue to reinforce patriarchal assumptions and systemic gender inequality. One of the clearest manifestations of this contradiction is the gendered nature of constitutional language. The Constitution repeatedly employs masculine pronouns such as "he" when referring to citizens, political office holders, and state authorities (Federal Republic of Nigeria, 1999, Preamble; Section 131). Studies indicate that the pronoun "he" appears approximately 235 times across the constitutional text, whereas references specifically acknowledging women remain extremely limited (Vanguard, 2012; Blueprint, 2020).

From a Feminist Legal Theory perspective, this linguistic imbalance reflects more than stylistic drafting; it symbolically positions men as the normative legal and political subjects of the Nigerian state (Mackinnon, 1989; Charlesworth & Chinkin, 2000). The Constitution therefore reproduces male-centered assumptions regarding citizenship, governance, and authority. The findings further show that the Constitution emerged from a military-controlled transition process dominated largely by male political elites and legal technocrats, with minimal female participation in constitution-making. Consequently, patriarchal values became embedded within constitutional structures and legal interpretation.

The study also finds that constitutional silence on gender-specific protections contributes significantly to structural discrimination. While the Constitution guarantees dignity and liberty under Sections 34 and 35, it does not explicitly address gender-based violence, spousal abuse, or institutional discrimination against women. This omission enables discriminatory practices within both public institutions and domestic spaces. Female recruits within military and paramilitary institutions, for instance, are often subjected to heightened scrutiny regarding pregnancy, morality, and marital conduct (Tamale, 2008; Nwoye, 2016). These findings demonstrate that constitutional neutrality does not necessarily produce substantive equality because silence itself may reinforce institutionalized patriarchal norms.

Additionally, the coexistence of statutory, customary, and religious legal systems under Sections 277, 251, and 288 further entrenches structural inequality. Although legal pluralism is presented as a mechanism for preserving cultural and religious diversity, the findings reveal that it frequently legitimizes discriminatory practices against women in matters of inheritance, marriage, divorce, and family relations (Oba, 2014; Fenrich & Higgins, 2001). Courts often defer to customary or religious authority, thereby weakening the enforceability of constitutional equality guarantees. The findings therefore establish that gender discrimination within the Constitution is both textual and structural despite its formal commitment to equality.

RQ2: Which specific constitutional provisions and drafting practices undermine women's substantive equality in citizenship, marital status, and access to governance in Nigeria?

The analysis identifies several constitutional provisions and drafting practices that undermine women's substantive equality. A major finding concerns Section 26(1)–(3) of the Constitution, which grants Nigerian men the right to confer citizenship on foreign spouses while denying Nigerian women the same constitutional privilege (Federal Republic of Nigeria, 1999, Sections 26[1–3]). This provision institutionalizes patriarchal family structures by privileging male lineage and authority within citizenship relations. The findings indicate that this unequal citizenship framework undermines women's autonomy as equal citizens and contradicts international principles of non-discrimination under CEDAW (1979).

Another significant provision identified is Section 29(4)(b), which recognizes a married girl or woman as an adult irrespective of biological age (Federal Republic of Nigeria, 1999, Section 29[4][b]). The findings reveal that this provision indirectly legitimizes child marriage because marital status is prioritized above chronological maturity. Feminist scholars and child rights advocates argue that this constitutional ambiguity disproportionately affects girls by exposing them to educational disruption, reproductive health risks, and long-term socio-economic dependency (UNICEF, 2020; Ekhator, 2015). The clause therefore reflects patriarchal assumptions regarding women's social roles and reinforces structural inequality.

The findings further reveal that male-centered drafting practices contribute to women's exclusion from governance and leadership. The Constitution lacks enforceable affirmative action mechanisms capable of promoting women's political representation and participation in governance structures. Although Section 42(1) prohibits discrimination based on sex, there are no constitutional quotas or binding gender inclusion provisions to address historical exclusion. Consequently, women remain significantly underrepresented in legislative, executive, and judicial institutions despite formal constitutional guarantees of equality (Agbalajobi, 2010; Arowolo & Aluko, 2018).

The study also finds that constitutional silence regarding domestic violence and spousal rape undermines women's substantive equality within marriage. Although Sections 34 and 35 guarantee dignity and protection from degrading treatment, they do not explicitly criminalize gender-based violence or marital sexual abuse. This omission creates legal gaps that expose women to systemic vulnerability. Furthermore, the constitutional recognition of customary and religious legal systems permits the continuation of patriarchal practices that often condone domestic abuse or fail to adequately protect women from violence (Tamale, 2008; Oba, 2014). These findings demonstrate that constitutional provisions and drafting practices collectively sustain gender inequality in citizenship, marriage, and governance.

RQ3: To what extent does the 1999 Nigerian Constitution align with Nigeria's obligations under CEDAW and the Sustainable Development Goals on gender equality and inclusive governance?

The findings reveal significant inconsistencies between the 1999 Nigerian Constitution and Nigeria's international obligations under CEDAW and the Sustainable Development Goals. Although Nigeria ratified CEDAW in 1985, several constitutional provisions remain inconsistent with the treaty's principles of equality and non-discrimination. Section 26, which restricts women's ability to confer citizenship on foreign spouses, violates CEDAW principles relating to equal nationality rights within marriage (CEDAW, 1979). Similarly, Section 29(4)(b), which indirectly legitimizes child marriage, conflicts with international human rights standards concerning the protection of girls and the elimination of harmful traditional practices.

The findings also reveal that the constitutional recognition of customary and religious laws undermines Nigeria's compliance with international gender equality standards because discriminatory cultural practices continue to operate with constitutional legitimacy. This weakens women's access to justice and reinforces unequal social relations. Feminist scholars argue that constitutional supremacy must take precedence over discriminatory customary practices if substantive gender equality is to be achieved (Fredman, 2011; Tamale, 2008).

Furthermore, the Constitution's failure to provide enforceable mechanisms for women's political participation conflicts with SDG 5, which emphasizes gender equality and women's empowerment in leadership and governance. The absence of institutional safeguards for inclusive representation also undermines SDG 10 on reduced inequalities and SDG 16 on peace, justice, and strong institutions (United Nations, 2015).

The findings therefore demonstrate that while the Constitution formally acknowledges equality, it does not substantially align with international standards on gender justice and inclusive governance. Constitutional reform is consequently necessary to harmonize domestic law with CEDAW obligations and the Sustainable Development Goals. Such reforms would strengthen women's citizenship rights, eliminate discriminatory provisions, promote inclusive governance, and provide stronger protections against gender-based violence and structural inequality.

Discussion of Results

The findings from this study reveal that the 1999 Nigerian Constitution accommodates gender discrimination both overtly and structurally. While Section 42(1) prohibits discrimination based on sex, this formal guarantee is undermined by multiple provisions, including Sections 26, 29(4)(b), and the

recognition of customary and religious laws. Feminist Legal Theory explains this gap as a product of male-dominated constitutional authorship, patriarchal social norms, and institutionalized legal pluralism (Mackinnon, 1989; Charlesworth & Chinkin, 2000).

The overwhelming use of the masculine pronoun "he" approximately 235 times in the Constitution further demonstrates the symbolic exclusion of women from citizenship and governance. This linguistic bias is not merely cosmetic; rather, it reinforces the perception that leadership and public authority are male domains, consistent with feminist critiques that law shapes social and political consciousness (Smart, 1995; Azuwike, 2003). The findings suggest that even in provisions formally guaranteeing equality, subtle textual features maintain systemic disadvantage for women. Additionally, citizenship and marital status clauses exemplify structural discrimination. For example, Section 26 provides a pathway for Nigerian men, but not women, to obtain citizenship for their foreign spouses, reflecting entrenched patriarchal assumptions about lineage and family authority. Section 29(4)(b) legitimizes the recognition of married girls as adults, indirectly sanctioning child marriage. These provisions conflict with Nigeria's obligations under CEDAW (1979) and international standards on the protection of children, demonstrating that formal constitutional equality is insufficient without enforcement mechanisms (UNICEF, 2020; Imade, 2022).

Furthermore, legal pluralism under Sections 277, 251, and 288 compounds gender inequality by allowing customary and religious laws to operate alongside statutory law. While pluralism preserves cultural diversity, it often validates discriminatory practices in marriage, inheritance, and family law as influenced by customary law. The study shows that without constitutional supremacy over these parallel systems, substantive equality remains elusive, consistent with feminist critiques emphasizing structural barriers over formal legal guarantees (Tamale, 2008; Nwoye, 2016; Azuwike, 2023).

Ultimately, the misalignment between the Constitution and the Sustainable Development Goals (SDGs 5, 10, 16) highlights broader implications for governance and development. Structural gender discrimination in constitutional law hinders women's participation in decision-making, political representation, and access to justice, undermining Nigeria's progress toward international commitments and inclusive governance frameworks. The discussion confirms that constitutional reform addressing both language and substantive provisions is necessary to advance gender equality, women's empowerment, and compliance with global standards (Banda, 2005; Emenogu, 2025). This study, therefore, demonstrates that constitutional text, language, and institutional recognition collectively produce and sustain gender inequality. Feminist Legal Theory provides a lens to interpret these structural patterns, revealing that legal neutrality is an illusion when law is drafted and interpreted based on patriarchal mentalities. Achieving substantive gender equality requires both reform of discriminatory provisions and the adoption of

gender-sensitive drafting practices that align national law with international human rights standards and development goals.

Recommendations

Based on the findings and analysis, the study proposes the following recommendations to address gender discrimination in the 1999 Nigerian Constitution:

1. Constitutional Reform that involves a review and amendment of discriminatory clauses, particularly Sections 26, 29(4)(b), and the provisions allowing legal pluralism that undermine women's rights. This will also mean the Replacement of masculine pronouns ("he") with gender-neutral language to project symbolic inclusion of women in all constitutional references.

2. Enforcement Mechanisms: This means the introduction of statutory provisions or constitutional amendments that enforce substantive equality, not just formal equality, in governance, citizenship, and family law, along with oversight bodies or independent commissions to monitor and ensure compliance with gender equality provisions.

3. Alignment with International Standards: The CEDAW provisions should be fully domesticated to harmonize Nigerian national law with international human rights obligations. This will also include the alignment of constitutional provisions with the Sustainable Development Goals (SDG 5, SDG 10, SDG 16) to promote inclusive governance, social justice, and gender equality.

4. Public Awareness and Legal Literacy: There may be need to conduct awareness campaigns and legal education programs targeting citizens and legal practitioners to highlight gender-inclusive interpretation of laws. This may also include engaging the media to advocate for constitutional reforms and the public understanding of gender equality principles.

5. Women's Participation in Lawmaking and representation in constitutional drafting committees, legislative bodies, and governance institutions are to be increased and enhanced. This will ensure gender-sensitive legal frameworks, encourage affirmative action policies which empower women in political and public office roles.

6. Monitoring and Continuous Research on gender equality and constitutional reform in Nigeria must be encouraged to track progress and identify persistent gaps. Thus, databases tracking discriminatory clauses and cases affecting women's rights should be established to guide policy and advocacy.

Conclusion

This study has critically examined gender discrimination in the 1999 Constitution of the Federal Republic of Nigeria, revealing how patriarchal authorship, legal language, and institutional arrangements perpetuate inequality. Despite formal guarantees of non-discrimination under Section 42(1), provisions such as Sections 26, 29(4)(b), and the recognition of customary and religious laws structurally disadvantage women. Applying Feminist Legal Theory, the analysis demonstrates that legal neutrality is an illusion when law is drafted and interpreted within patriarchal contexts. Thus, structural gaps between formal equality and substantive justice remain, particularly in areas of citizenship, marital rights, child marriage, and access to governance. Moreover, the Constitution's misalignment with CEDAW and the Sustainable Development Goals (SDG 5, SDG 10, SDG 16) highlights the critical need for reform to advance women's rights, inclusive governance, and compliance with international commitments. This means that achieving substantive gender equality in Nigeria requires more than symbolic legal provisions. Constitutional reform must address both textual language and discriminatory clauses, while ensuring enforceable mechanisms that protect women's rights across statutory, customary, and religious legal systems. Only through such reform can Nigeria move towards a legal framework that genuinely liberates women, promotes their human and social rights while fulfilling its obligations under international human rights and sustainable development standards.

References

Agbalajobi, D. T. (2010). Women in elective politics in Nigeria: Problems and prospects. African Journal of Political Science and International Relations, 4(2), 75–82. https://doi.org/10.5897/AJPSIR10.008

Akinseye-George, Y. (2000). The 1999 Constitution of Nigeria: Transition to civilian rule. Nigeria Legal Press.

Arowolo, D., & Aluko, R. (2018). Women's political participation in Nigeria: Challenges and prospects. Journal of African Studies, 12(1), 45–60.

Azuwike, A. (2023). Civil rights or civil wrongs? A historical analysis of the South's reaction to judicial social change and the role of the White Citizens' Council. International Journal on Minority and Group Rights, 31(2), 183–204. https://doi.org/10.1163/15718115-bja10100

Banda, F. (2005). Gender, law and justice in Africa. Ashgate.

CEDAW. (1979). Convention on the Elimination of All Forms of Discrimination Against Women. United Nations.

Charlesworth, H., & Chinkin, C. (2000). The boundaries of international law: A feminist analysis. Manchester University Press.

Ekhator, E. O. (2015). Constitutional contradictions and gender discrimination in Nigeria. Nigerian Law Review, 10(2), 101–120.

Emenogu, S. P. (2025). Promoting gender equality and female empowerment in South-East Nigeria: The role of television. Igwebuike Research Institute Journal.

Federal Republic of Nigeria. (1999). Constitution of the Federal Republic of Nigeria (as amended). Government Printer.

Fenrich, J., & Higgins, S. (2001). Legal pluralism and women's rights in Nigeria. African Journal of Law and Society, 8(1), 55–78.

Fredman, S. (2011). Discrimination law. Oxford University Press.

Imade, P. (2022). Gendered citizenship and constitutional law in Nigeria. Journal of African Legal Studies, 15(3), 200–218.

Imhanobe, I. (2021). Women's political participation in Nigeria: An appraisal of legal frameworks. African Journal of Governance, 6(1), 88–105.

Mackinnon, C. A. (1989). Toward a feminist theory of the state. Harvard University Press.

Nwoye, G. (2016). Legal pluralism and women's rights in Nigeria. International Journal of Law, Policy and the Family, 30(2), 185–203.

Nussbaum, M. (2001). Women and human development: The capabilities approach. Cambridge University Press.

Oba, A. (2014). Customary law and the protection of women in Nigeria. Journal of African Law, 58(2), 175–193.

Ojo, E. O. (2013). Women in constitution-making in Nigeria: Historical perspectives. Journal of Political Science, 18(2), 60–78.

Razavi, S. (2016). Gendered institutions and structural inequality. Feminist Economics, 22(1), 1–30.

Smart, C. (1995). Law, gender and the social control of family. Routledge.

Tamale, S. (2008). The right to culture and the culture of rights: Women's rights in Africa. African Studies Quarterly, 9(3), 1–23.

UNICEF. (2020). Child marriage in Nigeria: Context and legal frameworks. UNICEF Nigeria.

United Nations. (2015). Transforming our world: The 2030 agenda for sustainable development. United Nations.

Vanguard. (2012, December 10). Now she wants her place in the Constitution. https://www.vanguardngr.com/2012/12/now-she-wants-her-place-in-the-constitution/

Blueprint. (2020, March 15). 1999 Constitution: Women push to deflate discriminatory clauses. https://blueprint.ng/1999-constitution-as-women-push-to-deflate-discriminatory-clauses/