

AFFIRMATIVE ACTION AND THE ROLE OF LAWYERS IN FOSTERING WOMEN'S PARTICIPATION IN ELECTION PROCESSES IN NIGERIA: A CRITICAL ANALYSIS*

ABSTRACT

This study focused on 'A Critical Analysis of Affirmative Action vis-à-vis the Role of Lawyers in Fostering Women's Participation in Election Processes in Nigeria' as its broad objective which also defined the scope and limitation of the study. The research methodology was doctrinal approach, using expository and analytical research design. The main sources of data collection were various legal literatures, both from the physical library and the e-library. For the summary of findings, it was submitted that discrimination against women resulting in their exploitation was traced to so many militating factors not limited to patriarchal hegemony, and that due to these many social ills against women, a few number participate in electoral activities in various forms. It was therefore observed among others that the active participation of women, on equal terms with men, at all levels of decision-making in election processes is essential to the achievement of equality and sustainable development, peace and democracy. Sequel to these, the researcher made some recommendations that lawyers who are legislatures should revive the affirmative action bills concerning women and ensure their passage into law, the National Assembly should amend the Constitution to explicitly define the distinct roles of women in Nigerian election processes, lawyers who are heading government parastatals should discourage any discriminatory policy against women, also the Magistrates, Judges, and Justices should be committed in delivering sound judgments in matters pertaining to discrimination against women to form part of the Nigerian Legal System. Finally, this work is significant to scholars of jurisprudence, feminism and human rights, legal practitioners, politicians and political scientists, as well as the judges/justices in any case relating to women democratic rights.

Keywords: Affirmative Action, Women's Participation, Electoral Processes, Role of Lawyers, Nigeria

1. Introduction

The exclusion or restriction of women's participation in election processes as their democratic right in relation to affirmative action has prevailed in the antiquity. Even when democracy had birth ancient Athens in 5th Century BC, the exclusion of women from electoral participation and decision making existed. The Athenian women had no right to vote or to participate in the democratic processes and they were not considered as citizens.¹ Even in European countries, women had neither a right to political participation nor involved in the decision making and public affairs up until the beginning of 20th Century. Therefore, women franchise right is not recognized in the first wave of democratization (1828–1926) in many of European countries.² As in the case of Nigeria, women's status in election processes and public sector is a very recent phenomenon and still their participation is very low. They are still largely underrepresented in decision-making at all levels.³ They have also not made major progress in attaining political power in legislative bodies and the executives. The number of elected women into government posts is still low.⁴ More and more women are engaged in formal employment, but are underrepresented in middle and higher management positions. The number of women leaders and decision makers at the various levels of the decentralized government structure does not measure up the percentage of their men counterpart.⁵ Therefore, for a variety of reasons, women tend to be reluctant to

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¹M Khadar, *Women Political Participation and Decision Making* (Hargeisa, Somaliland, 2013) 66.

²R Hague and M Harrop, *An Introduction to Comparative Government and Politics* (Hitman Publishers and Co., 2004) 78.

³Ministry of Labour and Social Affairs (MoLSA), *Gender Mainstreaming Manual for Labour and Social Affairs Sector* (2012) 86, The participation of women in political decision making positions was recognized as a electoral right after the adoption of the Universal Declaration of Human Rights (UDHR) in 1948. Articles 2 and 21 of UDHR stipulate equal enjoyment of political rights without discrimination on the basis of one's sex or any other ground. Even in most of western states women franchise right is not recognized in the first wave of democratization except in USA, Britain and some European countries. Like many world countries, the majority of women in Nigeria has also been deprived of social, economic and political rights and held low status in the society for much history of the country. They have been denied equal access to education, training and gainful employment opportunities and their involvement in policy formulation and decision making processes have been minimal.

⁴The Report of the Nation-wide Gender Data Capture written by the National Centre for Women Development in July 2009 very rightly concluded that 'Even though there is a gradual increase of female elected and political appointees in 2003 and 2007, the margin is still very wide compared to the requirements of the...*Convention on the Elimination of All Forms of Discrimination Against Women and the National Gender Policy*'. J Egwurube, *Challenges Facing Women Empowerment in Contemporary Nigeria* (Bankwell Publishers, 2011) 142-143

⁵*Ibid*, 67.

become political candidates, even with the intervention of domestic (like the minority rule)⁶ and international bodies for this cause. The only woman presidential aspirant, Uju Ken Ohanenye, stepped down for Asiwaju Bola Ahmed Tinubu a day to All Progressive Congress (APC) Presidential primary⁷. Also, the only female presidential aspirant for Peoples Democratic Party (PDP) Terila Diana Oliver got only one vote.⁸ Thus, most legal feminists, human right activists, political scientists, and jurisprudence scholars have delved into this matter, but with no concentration on this particular topic, which arouses the dogmatic slumber of most lawyers. The existing literatures proffer little or no solutions to this quandary, because the roles of lawyers on this subject matter have not met a radical invocation. With these backdrops, it is therefore, the concern of the researcher in this paper to critically analysis affirmative action and the role of lawyers in fostering women's participation in election processes in Nigeria.

2. Definition of Key Terms

Women's Participation

Participation is a development approach, which recognizes the need to involve disadvantage segments of population in the design and implementation of policies concerning their wellbeing. The **strengthening** of women's participation in all spheres of life has become a major issue in the development discourse. Hence, socioeconomic development cannot be fully achieved without the active involvements of women in the decision making level in the democratic government.⁹ In this milieu, women participation refers to the active involvement and engagement of women, both as individuals and groups, with political process that affect their lives and the dependents. The act of active engagements includes voting, standing for office, joining of political party or to taking part in the political campaigns of the political parties and to exert influence in the decision making process through public debates, and dialogue with the representatives they elected or through their capacity to organize themselves; or exercise public power by holding public office at different levels of administrations – local, regional, national and international.¹⁰

Electoral Participation

Electoral participation, succinctly put, is not different from the foregoing. It is understood as a prerequisite for political development. Hence, by improving women's electoral participation, given that they constitute over a half of the world's population may help to advance democratic and political development and improve the quality of women's lives.¹¹ In fact, without the active electoral participation of women, and the incorporation of women's perspective at all levels of decision making, the goals of equality, development and peace cannot be achieved.¹²

Affirmative Action

Affirmative action refers to a set of policies and practices within a government or organization seeking to increase the representation of particular groups based on their gender, race, sexuality, creed or nationality in areas in which they are underrepresented such as education and employment.¹³ In this Article, affirmative action is solely concerned with women.

⁶C Haregewoin & M Emebet, *Towards Gender Equality in Ethiopia* (2003) 91, For example, the government formulated national policy on women in 1993 with the objective of speeding up equality between men and women, so that women can participate in the political, social, and economic life of their country on equal terms with men, ensuring that their right to own property as well as their other human rights are respected and that they are not excluded from the enjoyment of the fruits of their labour or from performing public functions and being decision makers.

⁷ O Ajayi, APC'S Sole Female Presidential Aspirant, Uju steps down for Tinubu, <https://www.vanguardngr.com/2022/06/breaking-apc-sole-female-presidential-aspirant-uju-steps-down-for-tinubu/> Accessed on 17 June 2022.

⁸ E Alike and C Okocha, Atiku Defeats Wike, Becomes PDP Presidential Candidate, <https://www.thisdaylive.com/index.php/2022/05/29/atiku-defeats-wike-becomes-pdp-presidential-candidate/> Accessed on 17 June 2022

⁹AEndale, 'Factors that Affect Women Participation in Leadership and Decision Making Position' *Asian Journal of Humanity, Art and Literature* (2012) <https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2601782> accessed on 12th May, 2022.

¹⁰Khadar (n1) 40.

¹¹N Seyedeh, K Hasnita & A Hossein, *The Financial Obstacles of Women's Political Participation in Iran* (UPMIR, 2010) 49.

¹²Fourth World Conference on Women (FWCW), 'Beijing Declaration and Platform for Action (1995)' *Online Database*<[http://www.unwomen.org/~media/headquarters/ attachments/sections/csw/pfa_e_final_web.pdf](http://www.unwomen.org/~media/headquarters/attachments/sections/csw/pfa_e_final_web.pdf)> accessed on 12th May, 2022.

¹³*Ibid.*

Lawyers

Lawyers, within the Nigerian purview, are persons who have successfully passed through the rigorous process of training in law in the university and the Nigerian law school before being called to practice as a barrister and solicitor of the Supreme Court of Nigeria. Lawyers are professionals who have been trained in law to be versatile in many fields of human endeavours, not restricted to politics and governance. Therefore, based on the usage in this article, lawyers may be found as being private legal practitioners, law teachers, administrators in the executive arm of government, legislatures, judges and judicial staff, members of civil right organisations, human right activists, etc. basically, all of these categories of persons have roles to play in promoting affirmative action. Also, all of them, being lawyers, are members of NBA and fragments of them would be present in the conference.

Election Processes

This is the democratic activity engaged in to make choice of leaders to govern the people especially in the executive arm of government. Election processes include membership of a political party, expression of interest, purchase of nomination form, involvement in the actual election, emergence of winner, oath of office, swearing in and serving the tenure of the political office. This concept is also, like others, streamlined to women.

3. Critical Assessment of Women's Participation in Election Processes

Indices of Women Participation in Election Processes

World Economic Forum¹⁴ on gender equality world-wide buttresses a 'positive' appreciation of the evolution of women in Nigeria, using four key variables, economic participation and opportunity, educational attainment, health and survival, and political empowerment. In the area of economic participation of women for example, Nigeria moved from the 125th position out of 142 countries in 2011 to the 55th position in 2014. It occupied an enviable 14th position on the question of wage equality over the same period. On the criteria of health and survival of women, its position equally improved from the 121st to the 109th position over the same period. The improvement was even better in the area of political empowerment for women, from the 121st to the 102nd over the same period.¹⁵ In fact, women rarely have the same access to resources as men. Mba¹⁶ affirms that women's power and spheres of influence largely disappeared under the impact of colonialism and external religions, which upset existing economic and social complementarity between the sexes. Invigorating the patriarchal hegemony, customary laws on marriage created in response to men's anxieties about the independence of women transformed the previously fluid and negotiable relations between them into rigid duties and obligations of wives and women.¹⁷ Women became field cultivators, commercial vendors and home providers. Also, development plans continued to be formulated and implemented without an adequate understanding of women's contributions to the economy. Women were also absent from formal positions of decision-making and power.¹⁸

Women Involvement in Leadership, both Elected and Political Appointments

Instances of minority rule¹⁹ in the Nigerian political scene may be understood in the involvement of the following women:

- (1) Queen Amina of Zaria, was renowned for her series of conquests and political domination of parts of the old Northern states.²⁰
- (2) Queen Idia of Benin provided an effective military bastion for her son, Oba Esigie of Benin
- (3) Christy Boyo was a Political Activist
- (4) Funmilayo Ransome –Kuti was a Political Activist in the Western region
- (5) Madam Tinubu flourished in commercial venture in Lagos.
- (6) Hajia Gambo Sawaba was a Political Activist in the Northern region.
- (7) Mrs Kerry was the First woman senator in the then Midwest region.
- (8) Franca Afegbua was the Second Republic Senator in Nigeria

¹⁴Global Gender Gap Index, 2020.

¹⁵*Ibid.*

¹⁶N Mba, 'Women and Politics in Colonial Nigeria' *Paper presented at the Symposium on the Impact of Colonialism on Women in Nigeria* (Women's Research Documentation Centre, Institute of African Studies, University of Ibadan, 1989).

¹⁷*Ibid.*

¹⁸O W Ogbomo, 'Women, Power and Society in Pre-Colonial Africa' In S A Ajayi (ed.), *African Culture and Civilization* (Atlantis Books, 2005) 361.

¹⁹Minority rule is a system of government in which the governing party of a country represents only a small proportion of the overall population. While the minority rule states the true nature, the affirmative action advocates for more. Wikipedia: The Free Encyclopedia <https://en.wikipedia.org/wiki/affirmative_action> 15th May, 2022.

²⁰M Babangida, Democracy and the Imperatives of Women's Participation in Politics' In Ayoade et al (eds) *Women and Politics in Nigeria* (Malthouse, 1992) 119.

- (9) Janet Akinrinade (1930-1994) was the Minister of States and National Planning in the 2nd Republic, during the administration of President Shehu Shagari²¹
- (10) Hajia Laila Dogonyaro, President of the Nigerian Council for Women Societies (NCWS) and Jammiyyar Matan Arewa (JMA) Women Wing of the defunct Northern People's Congress (NPC).
- (11) Prof (Mrs) Bolanle Awe founded Nigerian Council for Women Societies (NCWS)
- (12) Prof (Mrs) Grace Alele Williams was the first female Vice-Chancellor, University of Benin²²
- (13) The renown Prof Dora Akunyili was a two-time Minister of the Federal Republic of Nigeria
- (14) Recently is the first Nigerian and a woman being the President of World Trade Organization (WTO), Dr. Ngozi Okonjo-Iweala.²³ the list is in exhaustive as there are other profound women.²⁴

According to Okwuosa,²⁵ Babangida took so many affirmative actions and include women in all areas regarded as the exclusive concern of the men. The climax of it all was the establishment of the Better Life for Rural Women Programme of the first lady, Maryam Babangida. Obi²⁶ maintained that despite the progressive steps by Babangida administration towards promoting women's participation in governance and leadership in Nigeria, the number of women in key policy positions remained low when compared with their male counterparts. According to Obi,²⁷ only 3 women were appointed out of thirty one members of the federal executive council during the regime of Abdulsalami Abubakar. It is remarkably noticed that even though the military regime is shrouded in secrecy, the leaders at the time were pragmatic to involve women in governance. Democratic regime of President Shehu Shagari (1979 – 1983) gave more women a noticeable position in governance.²⁸ But from then till now, women involvement in politics have been accorded more attention with the consistent agitations for affirmative action. There has been the National Policy on Women which is aimed at increasing the active participation of women in all levels of governance to such an extent that their inputs in national development would be recognized and appreciated.²⁹ According to Aishatu³⁰ the policy acted as a guarantee for a future full of hope and promise. Following National Economic, Empowerment and Development Strategy (NEEDS)³¹ advice, women should be given 30% which later on was upgraded to 40% of all appointive positions. Women, according to Obi,³² are now inching for 50% representation in all elective and appointive positions. However, if the 30% demand was a difficult attainment till date, then the demand for upgrade to 40% and later 50% remains a dream utopia in the African patriarchal hegemony.

Challenges of Women in Election Participation

The lives of women in Nigeria have been profoundly affected by remarkable developments since the onset of economic and social decline in the 1970s and 1980s. First is the implementation of the Structural Adjustment Programme in 1983.³³ Owing to the specific roles and positions of women within the society, they were the worst affected by cuts in social sector spending, where substantial costs were shifted from the state to the household. Therefore, women have been forced to take on an increasing burden of unpaid work in caring for the sick, obtaining food and ensuring the survival of their families more generally. Second is the increased civil strife, unrests and conflicts. United Nations Development Fund for Women (UNIFEM)³⁴ notes that most displaced persons and post-conflict returnees are usually women and children. Conflicts and civil unrests have

²¹*Ibid.*

²²Egonmwanin, *Women in Development* (Ambik Press, 2002) 91.

²³ She has served as a Minister of Finance in Nigeria.

²⁴In other parts of the world, women like Angela of Germany and Ellen-Johnson of Liberia have also made impacts in feminism and featured in the monarchical life of Britain, the Netherlands, and the world over.

²⁵A. Okwuosa, 'Women in Democratization Process in Nigeria: Gains and Limitations' In Omoruyi et al (eds) *Democratization Nigerian Perspectives*, Vol. 2 (Hima and Hima Press, 1994) 289.

²⁶M A Obi, 'Women's Participation in Democratic Governance and Leadership in Nigeria', *International Journal of Studies in the Humanities* (2007) (4).

²⁷*Ibid.*

²⁸The period paraded among others Mrs. Oyebola, Mrs. Ivase, Minister of National Planning/Education, and others in the House of Representatives and one in the Senate.

²⁹*Ibid.*

³⁰H Aishatu, *The Cycle of Leadership: How Great Leaders Teach their Companies to Win* (Tichy and Cardwell, 2006) 22.

³¹NEEDS, *A NEEDS Document Reprinted by Central Bank of Nigeria* (Abuja: CBN Press, 2004).

³²Obi (n24).

³³The Structural Adjustment Programme implemented in the country in 1983 emphasized demand management and supply-oriented measures narrowly focused on export-led growth and efficiency, often to the detriment of social welfare. The programmes also introduced liberalization of trade regimes and of the financial sector, as well as privatization and reduction in the role of the state in economic life. This drastically affected mostly the women. United Nations Development Fund for Women (UNIFEM), *The Decade of review of The Implementation of Beijing Platform for Action* (Beijing, British Council/Nigeria, 2004).

³⁴*Ibid.*

increased violence against women and worsened the social and economic conditions under which they live. Third is the Acquired Immune Deficiency Syndrome (AIDS) crisis, high and increasing rates of Human Immune Virus (HIV) infection and the costs in human lives. United Nations Development Programme (UNDP)³⁵ reports that just over half of the estimated 20 million cases of HIV in Africa are female. Women and girls are particularly vulnerable because of their lack of power over their sexuality and reproductive functions. Other impediment factors in effective participation of women in politics include Socio-cultural factors, religious, economic, gender roles, patriarchy, family work and time constraints, education and training, lack of proper awareness on political activities and women's own factors, child marriage, limited access to resources, traditional practices, time of meeting by political parties and the rest. Irrespective of the existence of many gender-sensitive and gender-responsive institutional mechanisms put into place by public authorities in Nigeria, we believe that the global environment in which Nigerian women live is predominantly woman indifferent and woman depreciating even if not openly woman hostile.

4. The Place of Lawyers in Fostering Positive Responses to Women Participation in Election

Affirmative Action Argument

Affirmative action refers to a set of policies and practices within a government or organization seeking to increase the representation of particular groups based on their gender, race, sexuality, creed or nationality in areas in which they are underrepresented such as education and employment.³⁶ Democratic governance is almost everywhere a male-oriented, male-dominated enterprise and female political participation is as such not good as expected. In today's discussion of women's political representation, there are different important arguments. The justice argument argues that women account for approximately half the population and therefore have the right to be represented as such. The experience argument posits that women's experiences are different from men's and need to be represented in discussions that result in policy-making and implementation.³⁷ These different experiences mean that women 'do politics' differently from men. The interest argument posits that the interests of men and women are different and even conflicting and therefore women are needed in representative institutions to articulate the interests of women. The symbolic argument says that every female politician acts a role model for all women, regardless of political views or party membership and will attract other women to the electoral arena. The critical mass argument states that women are able to achieve solidarity of purpose to represent women's interests when they achieve certain levels of representation.³⁸ Finally, lawyers in the democracy argument or movement uphold that the equal representation of women enhances the democratization of governance in both transitional and consolidated democracies.³⁹ All of these arguments succinctly deal with the importance of women's participation and inclusion in election processes. Sequel to this, women need to be included significantly with men in every election process.

Descriptive (Numeric) Representation Theory

Descriptive representation deals with widely acceptable share of seats in parliament as an indicator of political inclusion in society for a category such as women. The term descriptive representation denotes representation on the basis of common characteristics and share experience, for instance representing some one based on gender or class can be categorized as descriptive representation of women.⁴⁰ Women's descriptive representation is albeit low. Lawyers expressed concerns about women being brought into governance machineries without being able to make any significant shifts in the status of women or policy frameworks to address women's rights, what is often seen as co-optation.⁴¹

³⁵United Nations Development Programme (UNDP), *World Bank Report, Human Development Report. Any Society Committed to Improving the Lives of its People must also be Committed to Fully Equal Right for All* (Washington D.C., 2008).

³⁶Aishatu (n28) 222.

³⁷P Norris and R Inglehart, 'Cultural Barriers to Women's Leadership: A Worldwide Comparison,' *International Political Science Association World Congress* <<https://www.omicsonline.org/searchresult.php?keyword=parliament>> accessed 12th May, 2022.

³⁸*Ibid.*

³⁹Expert Group Meeting (EGM), 'Equal Participation of Women and Men in Decision-Making Processes, with Particular Emphasis on Political Participation and Leadership' *Online Database* <<http://www.un.org/womenwatch/daw/egm/eqm-men/FinalReport.pdf>> accessed on 12th May, 2022.

⁴⁰L Wangnerud, 'Women in Parliaments: Descriptive and Substantive Representation' (2009) (12) *Annual Review of Political Science*, 35-42.

⁴¹*Ibid.*

Substantive Representation Theory

Substantive representation deals with women's interests, gender equality and rational behind women representation. A core idea in this strand of research is that there are certain interests and concerns that arise from women's experiences and that these will be inadequately addressed in a politics that is dominated by men. In research on substantive representation of women, an aspect of politicization is introduced. It is commonly argued that societies will not achieve equality between women and men by simply disregarding gender-related differences.⁴² In more concrete terms, substantive representation is about the impact of women in decision-making positions on policy formulation and implementation. Policies can be aimed at gender mainstreaming or can explicitly advance agendas for gender equality in one area of policy. Women's presence has also proven to be important in the formulation of policies on development, sustainable peace, and good governance. Legal scholars have shown that women in decision-making positions play a crucial role in developing meaningful gender mainstreaming strategies, which effectively and authoritatively ensure focus on gender equality in all policy areas. Studies of gender mainstreaming have shown that unless there are key decision-makers and policy actors ready and willing to define gender mainstreaming as a means to achieve gender equality, mainstreaming efforts will not necessarily enhance women's rights.⁴³ Some human rights analysts in the feminist jurisprudence have identified the potential of a Triangle of Women's Empowerment (TOWE), in which women in political positions, both elected and appointed, work with national machineries for the advancement of women and the women's movement to ensure the formulation and implementation of meaningful policies on gender equality. This collaboration has the potential to contribute to the democratization process in struggling democracies and in making stable democracies even more democratic.⁴⁴

International Efforts made by Lawyers

The international concern for women has gained serious recognition and that in effect has awakened the various domestic governments in the international parlance to the needs of women inclusion in their political and leadership positions. Iman⁴⁵ observed that Nigeria's involvement of its women folk to developmental activities assumed visible dimension when the United Nations Organizations declared the year 1975 as International Year of Women. And since then, March 8 of every year has been set aside by the UN for celebrating the occasion. In July, 1980, an agreement was reached by all member states that every nation should recognize the need for the involvement of women in nation building. In continuation of this assertion, Egonmwan⁴⁶ stated that Africa's collective appreciation of women's participation in election found concrete expression in the Lagos plan of action which was the policy voice of African Heads of States and government in a meeting held in Lagos, April, 1980. It was reiterated that African states is advised to develop policies and strategies for women's full participation in election processes and all other democratic activities. Nigeria's response to this was the establishment of National Committee on Women Development (NCWD) and also setting up parallel committee in 21 states of the federation. The basic function of this committee was to promote awareness in women. The Federal Government signed and ratified the *Convention on the Elimination of all forms of Discrimination against Women* (CEDAW).⁴⁷ This convention otherwise known as CEDAW joined the UN and Economic Community of West Africa States (ECOWAS) organizations to compel African Countries to ensure women have adequate representation in politics, access to health care, ensuring proper education and access to credit and loan facilities. In fact, the *Universal Declaration of Human Rights* recognizes the radical equality of men and women in dignity.⁴⁸ Therefore, African women in which the Nigerian women lead the pack, as indispensable transmitters of the family values, need to be politically and all round empowered to enable them attain their optimum goals in life. Some countries that have top the list of gender equality based on ranking are Iceland, Finland, Norway, Sweden, New Zealand and Yemen.⁴⁹ Nigeria is within the middle range and it is trying to toe the line of the tops in gender equality. The continuous, though scanty, involvement of women in international politics and leadership is commendable.

⁴²Phillips, A. *Multiculturalism without Culture* (Princeton University Press, 2015) 97.

⁴³*Ibid*, 99.

⁴⁴*Ibid*, 101.

⁴⁵A M Iman, 'The dynamics of Winning: An Analysis of Women in Nigeria (WIN)' In M J Alexander & C T Mohanty (eds) *Feminist Genealogies, Colonial Legacies, Democratic Future* (Routledge Publishers, 1997) 130.

⁴⁶J AEgonmwan, *Public Policy Analysis: Concepts and Applications* (Resyin, 2002) 167.

⁴⁷Other international instruments include: UNDP 1995 *Human Development Report*; *African Charter on Human and People Rights*; and the *Convention on the Rights of the Child*.

⁴⁸M Idika, 'The Participation of Women in Politics in Nigeria: A Case Study of the Legislative Assembly and the Executive' *Online Database* <https://www.researchgate.net/publication/317415636_theparticipationofwomeninpoliticsinnigeriaacasestudyofthelegislativeassemblyandtheexecutive> 12th May, 2022.

⁴⁹*Ibid*.

The Journey So Far in this Milieu

Women participation in elections in Nigeria, as observed by Akirinade,⁵⁰ dates back to 1928, Aba women riot, and since then Nigerian women have delved into different aspects of partisan politics first by campaigning for men as husbands or as candidates of their choice. It is quite easy to use women as campaign tools because they can pull crowd. The 14th century story of Queen Amina of Zaria, has defined a new role for women, through her bravery and exemplary leadership, Nigerian women became aware of the roles they could play assisting the men in election processes. Dibia⁵¹ confirming the above assertion stated that Nigerian women have continued to contribute significantly to the wellbeing of the human race and they constitute up to 60% of the total population. Sadly, women have not been recognized in the election processes even though they have made several efforts to the progress of the nation. Nevertheless, the efforts of the Nigerian government to improve the lot of women was pointed out by Buchanan⁵² that Nigerian government has started operating scholarship scheme for interested female candidates that do exceptionally well in science and other related subjects realizing the need of education in supporting women's active participation in all spheres of life. For this reason, two technical colleges have been devoted to the enhancement of women development in the country this is an indication of government policy in the use of mass media to propagate women education. Both the Federal and State Governments Education Ministries seek to encourage parents to send their female children to school. In support of the above, a prominent monarch in Ashiru, Kaduna state, advised parents to see the girl child education as a task to be achieved and a vital issue to the development of society. He used the common adage: 'If you educate a man, you educate a person, but if you educate a woman, you educate a society'⁵³ to elucidate his point. There are various instruments for ensuring women are not exclusive of the government's official policies. Legal aid and legal literacy, according to Dibia,⁵⁴ are the most popular components of government effort to reduce female abuse. He confirmed that the family law centre is a legal services advisory centre offering free legal advice on all family legal problems to low-income people. Akande and Kuye⁵⁵ have free publications targeting school age children in the hope that they will read it to their mothers while also learning on their own. The legal aid process has made its outstanding success in the case at the Court of Appeal in *Mojekwu&Ors v Mojekwu&Ors*⁵⁶ on customs and practices against women which were repugnant to natural justice⁵⁷ and against the constitutional right of freedom from discrimination.⁵⁸ Also the Supreme Court held in *Anekwe v Nweke*⁵⁹ that any custom which denies a woman right to inherit her deceased husband's or father's property are repugnant to natural justice, equity and good conscience and ought to be abolished. With the establishment of the new ministry for women affairs in 2000 by the former President Olusegun Obasanjo, in continuation of General Sani Abacha's legacy, there have been consistent efforts to integrate women into full political involvement. The rationales for women's ministry are successful election processes and supply a wide range that it will encourage women to enter the labour force through of talents and services demanded by the general public. But there are still more to be done by concern actors, especially the lawyers, in order to realize this motive.

Impact Felt

According to Haque,⁶⁰ ensuring women's electoral participation is essential to bring legitimacy to government and establish democracy in its real and practical manner, as validity and trustworthiness of democracy can be in question if females, who are above 50% of the population, stay marginalized or segregated from the political and public institutions in the society.⁶¹ In addition to this, the degree and level of women's representation in the government has considerable and significant impacts on the lives of the people in any operational democracy and public milieu.⁶² Therefore, increasing women's representation and participation in the electoral and public decision making positions is significant, according to Melesse and Ojulu, in the following ways:

⁵⁰S Akirinade, 'Women in Nigeria', *Newswatch*, Special Edition (1990) 30.

⁵¹R Dibia, *Public Administration, Politics and Change in the Principles of Governance in Nigeria* (Mbeyi and Associates, 2004) 219.

⁵²E Buchanan, 'Women Struggle for Change' *West Africa Papers* (1993) 21 – 23.

⁵³J C Ashiru, *Celebrating the Fourth World Conference on Women* (UNIFEM, 2009) 65.

⁵⁴Dibia (n49) 221.

⁵⁵J Akande and P Kuye, *Nigeria Family Law Project in Empowerment and the Law; Strategies of 3rd World Women* (Washington DC OEF International, 1986) 120.

⁵⁶*Mojekwu&Ors v Mojekwu&Ors* (1997) 7 NWLR 283 as against the decision in *Akinnubi v Akinnubi* (1997) 4 NLR (Pt 484) 144; and *Uboma v Ibeneme* (2001) 14 WRN 31.

⁵⁷*Ukeje v Ukeje* (2001) 14 WRN 31; and the latest case of *Umedi v Chibunzi* (2020) 10 NWLR (Pt.1773).

⁵⁸*Constitution of the Federal Republic of Nigeria*, 1999 (as altered) section 42.

⁵⁹(2014) LPELR-22697 (SC), (2014) 4 SC (Pt 111) 65, (2014) 9 NWLR (Pt 1412) 393, (2014) All FWLR (739) 1154

⁶⁰M Haque, 'Citizen Participation in Governance through Representation: Issue of Gender in East Asia', *International Journal of Public Administration* (26) (2003) 569-590.

⁶¹*Ibid.*

⁶²P Panday, 'Representation without Participation: Quotas for Women in Bangladesh', *International Political Science Review* (29) (2008) 489-512.

Is a question of democracy, democratic process, and equality as well as a question of political and civil rights that has been guaranteed by the international organizations' (UN) agreements, treaties, covenants and conventions; Facilitates more changes and pave the way for more spaces to women;

Calls for the efficient, maximum and equitable utilization of human, financial, material and information resources by all human beings;

Avoids the questions that would be raised about the legitimacy of the democratic process and decision making authorities;

Can allow women to address their basic problems and needs in the community;

And, ensures the openness (transparency), real fight against rent-seeking (mainly the recently rampant corruption), accountability, political commitment, political leadership, and political responsiveness of the existing national, regional, zonal/districts, and local levels political democracy, democratization process, and governance of the governments and political institutions, and promotes peace and democratic development in any country as a whole.⁶³

Moreover, without greater representation of women in parliamentary and executive positions as well as in the judiciary, it is difficult to achieve participatory, accountable, and transparent governance which can ensure political, cultural, social and economic priority goals of the wider society. Besides, every human being has the right to participate in decisions that define her or his life. This right is the foundation of the ideal of equal participation in decision-making among women and men. This right argues that since women know their situation best, they should participate equally with men to have their perspective effectively incorporated at all levels of decision-making, from the private to the public spheres of their lives, from the local to the global.⁶⁴ In respect of equality principle, women's equal participation in political life plays a pivotal role in the general process of the advancement of women. Women's equal participation in decision-making is not only a demand for simple justice or democracy but can be seen as a necessary condition for women's interests to be taken into account. Without the active participation of women and the incorporation of women's perspective at all levels of decision making, the goals of equality, development, and peace will be a utopia.

The Way-forward through effective Roles of Lawyers

Lawyers as earlier expatiated can exercise their professional skills as private legal practitioners, law teachers, administrators in the executive arm of government, legislatures, judges and judicial staff, members of civil right organizations, human right activists, etc. To reemphasize, all of these categories of persons have roles to play in promoting affirmative action. Given that lawyers are spread across the different human endeavors, it means that their influence cut across all the human endeavours and walks of life, logically they can impact so much in fostering women's participation in election. However, the assumption does not turn out positive. For instance, the National Assembly is blessed with a commendable of number of lawyers as members. Sadly, these lawyers play patriarchal hegemony roles to bills on affirmative action affecting the women. Recently, the National Assembly sought to amend the Constitution of the Federal Republic of Nigeria, 1999 (as altered). A number of bills on some prevalent issues were sponsored and read on the floor of the National Assembly. One of those bills was on the affirmative action.⁶⁵ The bill sought to amend section 223 of the Constitution,⁶⁶ to ensure women occupy at least 35 percent in appointive positions. There was another bill which was rejected and it was about ministerial or commissioner nomination. The bill sought to amend sections 147 and 192 of the Constitution,⁶⁷ so that at least 35 percent of nominees are women. Another bill, referred to as the reserved seat bill was to, among others, amend sections 48, 49 and 91 of the Constitution⁶⁸ to create additional 37, 74 and 108 seats for women at the Senate, House of Representatives and state House of Assemblies, respectively.⁶⁹ All these bills were rejected and could not survive the second reading in bill process on the floor of the National Assembly. This supposed not to be the case as lawyers who are better informed on human rights than the laymen supposed to have aligned their arguments in buttressing the lead debate for the bills to have survived the second reading, committee level

⁶³A Melesse & O Ojulu, 'Assessment of Gender Equality in Ethiopia: The Position of Ethiopian Women's Political Representation from the World, Sub-Saharan Africa and Eastern Africa Ethiopian Civil Service University,' *Journal of Law, Policy and Globalization* (2014).

⁶⁴R Miranda, 'Equal Participation of Women and Men in Decision-making Processes: With Particular Emphasis on Political Participation and Leadership' *Online Database* <<http://www.un.org/womenwatch/daw/egm/eql-men/FinalReport.pdf>> accessed 20th May, 2022.

⁶⁵T Awodipe, 'Towards Improving Women's Participation in 2023 Elections' *The Guardian: Online Database* <<https://guardian.ng/politics/towards-improving-womens-participation-in-2023-elections/>> accessed on 18th May, 2022.

⁶⁶*Constitution of the Federal Republic of Nigeria*, 1999 (as altered), section 223.

⁶⁷*Ibid*, sections 147 and 192.

⁶⁸*Ibid*, sections 48, 49 and 91.

⁶⁹Awodipe (n62).

and third reading for passage into law. Rather, the female members who are less than the average minority were left to maneuver and wallow alone in the situation which ended them in the abysmal lose. The case would have been different with the vibrancy and vigour of lawyers.

In the judiciary, lawyers who have become Magistrates, Judges and Justices have enormous role to play to foster women's participation in election. Their role majorly come to bare in the cases before them. Some of these cases border on fundamental right enforcement involving women, election petition matters involving women, corruption charges involving women, judicial review on administrative decisions affecting women, and so on. Most of these cases may be with some elements of victimization on women from the men's folk in exercise of patriarchal hegemony. In most cases, the Court or Tribunal may be influenced with money, flashy promises, political intimidations and/or threats which mostly emanate from the adverse party who is a male. Thus, the Court or Tribunal may yield to them to the detriment of the woman and invariably pervert justice to favour the man. Promotion of this trend would impede the movement for affirmative action in fostering women's participation in election. Therefore, the Court or Tribunal, which is the home of the lawyers, should uphold justice and equity at all times to promote the minority rule which covers the women. Administratively, lawyers can enforce affirmative action in favour of women in different ways. These include equal appointments of men and women into administrative offices, equal employment opportunities, equal leadership opportunities in the public offices, as well as equal entitlements. Furthermore, lawyers in the administrative sectors or executive arm of government have the responsibility to promote affirmative action by sponsoring executive gender friendly bills to the respective legislative houses. Also, they can intimidate the issuance of executive orders that work in the interest of women and their participation in election. Lawyers who are committed to civil society organizations, journalism, and media advocacy equally have roles that cannot be overemphasized. Consistent publicity on the good side of women, the successful roles of women in their respective responsibilities, women with astute performance in politics and the different walks of life, and the rest can go a long way to promote affirmative action in favour of women for election participation. Succinctly put, only the lawyers can make so much impact in this milieu, thus the slumber needs to be revitalized for mind limberness.

5. Conclusion and Recommendations

This study has made vigorous attempt to critically examine affirmative action and the role of lawyers in fostering women's participation in election processes in Nigeria. The study started with the historical dimension of women, their non-inclusion in electoral activities even though they have shown interest prior to colonization. Basically, the challenges of women in election process go beyond patriarchal hegemony. International response to minority rule was also highlighted as it activates the African nations vis-à-vis Nigeria to action. Nevertheless, a lot is still expected because the gap between men and women in election processes is still very wide. However, it was observed that despite the discrimination and many social ills against women, there are still women who have made indelible marks in the country's democracy.

Sequel to the foregoing, some recommendations are prerequisite as follows:

- (1) Lawyers who are legislatures should revive the affirmative action bills concerning women and ensure their passage into law.
- (2) The National Assembly should amend the Constitution to explicitly define the distinct roles of women in Nigerian election processes.
- (3) Lawyers who are heading government parastatals, especially in the ministries of Education in Federal and states should discourage in totality any discriminatory policy in academic environment that is against women, whether in admission, employment, promotion, or appointment and even with regards to other matters relating to women's wellbeing.
- (4) Magistrates, Judges, and Justices should be committed in delivering sound judgments and rulings in matters pertaining to discrimination against women and make it form part of the Nigerian Legal System.
- (5) Every legal practitioner, human rights activist, media personnel and all patriotic citizens should encourage any woman politician to gear her up towards her political aspiration and good performance in office.
- (6) Lawyer who is in the executive arm of government should do better to promote affirmative action against the minority rule phenomenon.
- (7) Lawyers who are in the civil society organizations and the Media should be committed to activities that motivate women to be confident in their capabilities.
- (8) Female lawyers should come together and use their various platforms to encourage their fellow women to be credible and focused in their political interest and good leadership in all walks of life.
- (9) Child Marriage should be criminalized and child matters should be included in the exclusive list of the Constitution.

- (10) Education should be made free and compulsory in primary and secondary schools and right to education should be included in chapter four of the Constitution.
- (11) Political arena should be free from violence in order to make the atmosphere conducive for women who are vulnerable in nature.
- (12) Time of meeting of political parties should be during the day and not at night because such deters the women from attendance and that is where most of important decisions are taken.
- (13) There should be sensitization of both men and women in relation to women empowerment in political participation.
- (14) There is urgent need for amendment of Section 12 of the Constitution for enforcement of international treaties and conventions which promote women's rights.