

GENDER MAINSTREAMING IN DIGITAL LEGAL EDUCATION*

Abstract

Legal education is the fulcrum of social order. It is imperative it trends with scientific dynamics and technological advancement. However, its advancement with technology is not severed from the perennial issue of patriarchal hegemony. Thus, its contents and practices lead to gender disparity against women and the less privileged. To espouse further on the relevant concepts and related challenges, this article dwelt on in-depth analysis of gender mainstreaming in digital legal education. These also defined the scope and limitation of the study. The research design and methodology was doctrinal approach, using analytical and descriptive research methodology. The main sources of data collection were various literatures, both from the physical and e-library. It was observed among others that digital legal education is expansive to cover the law teaching and learning, academic scholarship, litigation, judiciary, legislation, and policy formulations and implementation which are mostly male dominance. One of the recommendations was that the stakeholders in digital legal education should be cognizance and committed to gender balance accordingly. Finally, the significance of this article is the enrichment in literature in human right, feminism, and social order.

Keywords: Digital, Gender, Human Rights, Legal Education, Mainstreaming, Women.

1. Introduction

Gender mainstreaming is the public policy concept of assessing the implications for people of different genders of a planned policy action, including legislation and programmes. Mainstreaming offers a pluralistic approach that values the diversity among people of different genders. Gender mainstreaming is a strategy to improve the quality of public policies, programmes and projects, ensuring a more efficient allocation of resources. Better results mean increased well-being for both women and men, and the creation of a more socially just and sustainable society.

The process of assessing the implications for women and men of any planned action, including legislation, policies or programmes, in all areas and at all levels. It is a strategy for making women's as well as men's concerns and experiences an integral dimension of the design, implementation, monitoring and evaluation of policies and programmes in all political, economic and societal spheres so that women and men benefit equally and inequality is not perpetuated. The ultimate goal is to achieve gender equality.¹

It is using technology in our classrooms as a supplemental tool to make our lessons more enticing and engaging to our students. This pedagogical approach is also termed digital education, defined by the University of Edinburgh's Institute for Academic Development as eLearning or technology-enhanced learning. Digital Learning is 'learning facilitated by technology that gives students some element of control over time, place, path and/or pace.'² Ipad-learning. Time: Learning is no longer restricted to the school day or the school year. Digital learning is an emerging form of training that may replace traditional learning methods in many situations. This is because it uses the most modern technology, including video, mobile devices, and social media, as tools for giving employees the knowledge and skills they need for success. Digital materials are not simply a new means of delivering educational materials, however. Rather, they *represent a new conceptual framework for law schools, for instance*. The 1995 Fourth World Conference on Women endorsed gender mainstreaming as a critical and strategic approach for achieving gender equality commitments.³ The resulting Beijing Declaration and Platform for Action mandates all stakeholders in development policies and programmes, including UN organizations, Member States and civil society actors, to take action in this regard. Additional commitments are embodied in the outcome of the twenty-third special session of the General Assembly, the Millennium Declaration, and a variety of resolutions and decisions of the UN General Assembly, the Security Council, the Economic and Social Council, and the Commission on the Status of Women.

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¹ UN Women, *The 1997 Agreed Conclusions of ECOSOC* (Beijing Platform for Action Publication, 2009).

² *Ibid*.

³ Fourth World Conference on Women, 1995.

2. The Relevant Legal Framework

Constitution of the Federal Republic of Nigeria 1999 (as amended)

The Constitution⁴ of Nigeria also makes some provisions that guarantee women of their fundamental rights for the reason of sharing in the same humanity with the men. The constitution provides for the Fundamental Objectives and Derivative Principles of the State Policy under its Chapter 2⁵. Sections 17 and 18 provides for social and educational objectives respectively. Some specific provisions which relate to girl child's rights are section 18 (3) (a) which provides that the government shall ensure 'free, compulsory and universal primary education'⁶ to every citizen. This is notwithstanding whether the education has become digital or still in analogue form. Also, section 17 (3) (f) provides that 'young persons and the aged are protected against any exploitation whatsoever, and against moral and material neglect'.⁷ This goes along neglect from internet access in a digital legal education arrangement. The status of these provisions is categorized under social and economic privileges of every citizen, and different from the civil and political rights. This provision of the Nigerian constitution does not make restriction to any kind of citizen, whether female or male. That is to say, these provisions cover even a female child. However, it is unfortunate that these provisions being under Chapter 2 of the Constitution are non-justiciable, by virtue of section 6 (6) (c).⁸ Therefore, the above items are provided by the constitution as privileges and not right in the strict sense. Recourse would have been made to Chapter 4 of the same Nigerian constitution. Chapter 4⁹ is about the Fundamental Rights of every citizen. The rights which can have impact on the girl child's and women's rights include the right to life,¹⁰ right to dignity of human person,¹¹ right to personal liberty,¹² right to fair hearing,¹³ right to freedom from discrimination¹⁴. Section 46 of the Nigerian constitution¹⁵ makes these fundamental rights justiciable and enforceable. Therefore, girl child's and women's right can be effectively protected and secured to some extent. However, chapter 4 still suffers the shortfall in ensuring protection and enforcement of the right of women in relation to education and health care services which are expressly non-justiciable. By implication, women most likely suffer more under the digital legal education as they did in the conventional legal education arrangement

International Human Rights Laws

International human rights law is a set of international rules, established by treaty or custom, on the basis of which individuals and groups can expect and/or claim certain rights that must be respected and protected by their States.¹⁶ The body of international human rights standards also contains numerous non-treaty-based principles and guidelines ('soft law'). The main treaties of international human rights law are:

Convention on the Elimination of All Forms of Racial Discrimination¹⁷

This international legal instrument can have effect to the extent that digital legal education should be racial friendly. That is to say, not just sex or gender being discriminated upon, but race or ethnic affiliation as well should be checked.

International Covenant on Civil and Political Rights¹⁸

This international legal instrument can check the excesses of digital legal education which tilt civil and political rights to some favoured group, basically the male gender. Some domestic laws and policies place restrictions on women in some activities. Same position is transferred to digitized form. However, ICCPR is evoking as well in digital legal education

⁴ *Constitution of the Federal Republic of Nigeria, 1999, as altered.*

⁵ *Ibid.*

⁶ *Ibid*, section 18 (3) (a).

⁷ *Ibid*, Section 17 (3) (f)

⁸ *Ibid.*

⁹ *Ibid.*

¹⁰ *Ibid*, section 33.

¹¹ *Ibid*, section 34.

¹² *Ibid*, section 35.

¹³ *Ibid*, section 36.

¹⁴ *Ibid*, Section 42.

¹⁵ *Constitution of the Federal Republic of Nigeria, 1999, as altered.*

¹⁶ J Carey and W Dunlap, *International Humanitarian Law: Origins of International Humanitarian Law* (Dobbs Ferry Transnational Pub., 2003) 39.

¹⁷ CEARD, 1965.

¹⁸ ICCPR, 1966.

International Covenant on Economic, Social and Cultural Rights¹⁹

This international legal instrument is necessary and operative in situation where digital legal education neglects being cognizance or oblivious of women's economic power which is generally below average as compared to men whose physique and nature already expose them to a lot of opportunities for strong economic power. Also, the social and cultural challenges of women should be considered.

Convention on the Elimination of All Forms of Discrimination against Women²⁰

The tenets of this international legal instrument are encompassing. Its basic focus is to ensure equal opportunity for women in all respects, irrespective of digitization of legal education. In other words, digital legal education should be guided by the provisions of CEDAW in designing its contents, including the language of legislation being neutral gender friendly.

United Nations Convention on the Rights of the Child²¹

This international legal instrument is necessary for consideration in digital legal education because children and women are so attached and can be hardly separated from each other. Thus, digital legal education cannot be so successful when it does not consider children and it neglects their rights. With the involvement of children, either in pregnancy, nursing, or toddling, women cannot go in same pace with men in accessing, usage and application of digital legal education. Therefore, digital legal education requires special preference to women with the involvement of children.

Convention on the Rights of Persons with Disabilities²²

Women living with disabilities suffer most forms of human rights breaches. However, digital legal education supposed to gear towards ameliorating these menaces by providing avenues and opportunities for women to ventilate their potentials and skills, and be free from the shackles of patriarchal hegemonies. Unfortunately, it the status quo on patriarchal hegemonies is rather transferred from the conventional legal education to the digital legal education and same is being sustained.

Beijing Declaration: Fourth World Conference on Women

The Beijing Declaration has concern about the child's rights. It provides under declarations 23, 24, 29, 32 specifically focused on girl child's rights.²³ Declaration 23 and 32 provides for full enjoyment by the girl child as it relates to human rights and fundamental freedoms and the protection of same against violation. Declaration 24 provides for elimination of all forms of discrimination against the girl child. Declaration 29 provides for prevention and elimination of all forms of violence against girls. These provisions are very relevant to the child's rights to any form of education, including digital legal education. It focuses on female children, and as well have some coverage on the less privileged children. Convention on Elimination of all Forms of Discrimination against Women also gives credence to Beijing Declaration.²⁴ Nigeria ratified this Convention on 13th June, 1985.

Laws of Indigenous and Tribal Peoples²⁵

This is a legal instrument under the International Labour Organization Convention.²⁶ It sets a framework for ensuring indigenous and tribal peoples enjoy their rights on an equal footing with other persons. With this international instrument in focus, digital legal education would take into consideration the fact that some women are in the rural setting with less internet knowledge and poor internet service. However, these same set of women may have burning passion for legal education. But with the digitization of legal education, their dreams are dashed and daunted. The role of this international legal instrument cannot be overemphasized as far as gender mainstreaming is concerned vis-à-vis digital legal education.

¹⁹ ICESCR, 1966.

²⁰ CEDAW, 1979, Article 16(b).

²¹ CRC, 1989, Article 6.

²² CRPD, 2006.

²³ *Beijing Declaration* (Fourth World Conference on Women).

²⁴ *Convention on Elimination of all Forms of Discrimination against Women*, 1979, Article 5 (b).

²⁵ ITP (ILO Convention No. 169) 1989.

²⁶ *Ibid.*

African Charter on Human and Peoples' Rights,²⁷ European Convention on Human Rights,²⁸ American Convention on Human Rights²⁹

These are regional legal instrument in the international parlance. They also provide strong leverage to gender mainstreaming in digital legal education. Succinctly put, the backdrops are astute imperative that advocacy for digital legal education should not be devoid of gender equality which is the movement in gender mainstreaming. The foregoing takes leverage from Article 2 to Article 21 of the Universal Declaration on Human Rights, which provide as follows:

- a. freedom from gender, racial, and equivalent forms of discrimination.
- b. the right to life, liberty, and the security of the person.
- c. freedom from slavery or involuntary servitude.
- d. the right to a fair and public trial, especially issues relating to discouragement of media trials.
- e. freedom from interference in privacy and correspondence.
- f. Freedom of thought, conscience, and religion.
- g. Freedom of opinion and expression.
- h. Freedom of peaceful assembly and association, for instance not to compel with option of only digital legal education, but free to still explore the conventional method and associate with same where necessary.
- i. The right to participate in government, directly or through free, fair and credible elections. This is necessary for women's consideration.
- j. The right to own property and the right not to be deprived of it arbitrarily.³⁰ That is to say, obnoxious laws depriving women of right to land, etc. in favour of patriarchal hegemony should not be transferred into digital legal education. This is because digital legal education should be free of gender biasness which is the purview of gender mainstreaming.

Primary responsibility for the promotion and protection of human rights under the UN Charter rests with the General Assembly and, under its authority, the Economic and Social Council (ECOSOC), the Commission on Human Rights, and the UN High Commissioner for Human Rights (UNHCHR). The UN Commission on Human Rights, an intergovernmental subsidiary body of ECOSOC established in 1947, serves as the UN's central policy organ in the human rights field. The High Commissioner for Human Rights, a post created by the General Assembly in 1993, is responsible for implementing and coordinating United Nations human rights programmes and projects, including overall supervision of the UN's Geneva-based Centre for Human Rights, a bureau of the UN Secretariat. For the first 20 years of its existence (1947–66), the UN Commission on Human Rights concentrated its efforts on standard-setting (believing that generally it had no legal competence to deal with complaints about violations of human rights).³¹

3. The Role of Women in Gender Mainstreaming for Effective Digitization of Legal Education

Effective strategies to integrate gender into internet access and digital legal education equality are crux of discussions and developments. The deficiency of women to catch up with the digital trend propels value of supporting them through a variety of mentorship structures, which is essential in ensuring that policies in place around internet access are gender responsive and bring gender issues to the forefront. This need for awareness raising, particularly as relates to career opportunities in tech to bridge the digital divide and on gender-related issues (such as violence) help to facilitate relevant policy efforts. In addition, digital literacy and security training is essential in ensuring that more women are active on the internet.³² Therefore, it is important to recognize the work that women are already doing in this space, which will allow them to feel empowered and able to act as role models to inspire others in this milieu. In the community network space, it has been helpful to involve women that have worked to set up community networks in discussions with participants in digital legal education about community networks. This as well exposes the importance of recognizing women without degrees within the broader conversation instead of focusing exclusively on highly educated women.³³ Also, there is the importance of including men in the digital cultural change within their communities. This experience is a success not only in teaching about information communication technologies (ICT) in legal education, but

²⁷ ACHPR, 1981, Article 4.

²⁸ ECHR, 1950, Article 2(2).

²⁹ ACHR, 1969, Article 4.

³⁰ Articles 2–21 of the *Universal Declaration of Human Rights*

³¹ 26th International Conference of the Red Cross and Red Crescent, Geneva, 3–7 December 1995, Resolution 1, 'International Humanitarian Law: from Law to Action; Report on the Follow-up to the International Conference for the Protection of War Victims,' *IRRC*, No. 311, 1996, p. 58.

³² P Abah, 'Reliving old Wounds' In: *A Cry for Justice*, (Ibadan: Women's Aid Collective, 2003) p. 24.

³³ *Ibid*.

about gender roles in general. Also, it is important to include community members in all initiatives to bridge the gender digital divide in the community where the law operates.

4. Dimensions of Gender Mainstreaming in Digital Legal Education

Application in Legislative Drafting

The approach to drafting in general principles proposed by John Avery, while it may successfully do away with the need for subordinate legislation, is however, guilty of burdening the judiciary with a high degree of lawmaking powers. Furthermore, the argument that the judiciary and administrative authorities may not be faithful in interpreting the rules in the legislation subject to the higher level and general principles stands true. There is nothing in John Avery's proposal that effectively prevents the Judiciary or administrative body from employing other means of construing the rules. In the United Kingdom, two committees; the Renton and Hansard Committees, were set up to look into ways of improving legislative drafting. The Renton Committee³⁴ recommended the use of general principles thus:

The adoption of the 'general principle' approach in the drafting of our statutes would lead to greater simplicity and clarity. We would, therefore, like to see it adopted wherever possible. We accept, however, that this approach to a large extent sacrifices immediate - though not eventual - certainty and places upon the courts a heavier responsibility in identifying the intention of the legislature when applying legislation to particular circumstances. We recognise that this is unlikely to be acceptable to the executive and the legislature in certain types of legislation, particularly fiscal and other public law which defines the rights and obligations of individuals in relation to the State, and we consider that it would in any event be unreasonable to draft in principles so broad that the effect of the statute could not be assessed without incurring the expense of litigation to determine an issue.³⁵

The major essence of this legal revolution in legislation was threefold. It was for a paradigm shift from ancient complex language usage to plain language usage, called plain language movement. Also, it was to grow from the patriarchal dominated language promoting male dominance to gender neutral language which promotes equality with women, in other words the legislative gender mainstreaming movement. Finally, it was to blend advancement in technology with legislative business within the ambience of digital legal education. In fact, these are successful tasks in progress. It has been rightly stated that the object of legislative drafting is 'to set forth ideas clearly, succinctly and consistently.' To this end, several principles on the drafting of legislation have, over the years, emerged. These principles are all geared towards producing more effective legislation and taken as a whole, they constitute a drafter's basic toolkit, equipping competent drafters and enabling them to avoid a multitude of vices, in relation to language, law and logic.³⁶ One of these principles is the use gender neutral terms, which is one of the major tenets of gender mainstreaming, in drafting legislation. Generally, it is presumed that words importing the masculine include the feminine. In the United Kingdom this presumption was extended so that words importing the feminine are presumed to include the masculine.³⁷ For instance in Nigeria, Section 14(a) Interpretation Act³⁸ expressly provides that 'in an enactment words importing the masculine gender includes females'. This is not to say that Nigerian statutes should not be drafted in neuter. It only means that where these statutes are drafted in the masculine as is traditionally the case in Nigeria, the use of the masculine gender also refers to the feminine gender. An exception to this provision would be where the provision of the law apparently deals exclusively with the masculine gender. The Nigerian Enugu State House of Assembly enacted the Hotel Sales Tax Law, 2010 and repeatedly makes use of the pronoun, 'he'.³⁹ This mode of drafting is currently not in line with international best practices in this regard, which is gender-neutral drafting.⁴⁰ Thornton suggests that 'gender neutral legislation should become the general rule.'⁴¹ This suggestion has apparently been accepted by the international community of legislative drafters as drafting in gender neutral terms is now the general rule.⁴² Thus, words importing gender are to be kept out of statutes except where the

³⁴ Turnbull, Q. C. 'Plain Language and Drafting in General Principles' Online Database <www.opc.gov.au/calc/docs/Loophole_papers/Turnbull_Jul1995.doc> Accessed 20th February, 2023.

³⁵ *Ibid.*

³⁶ Freedman, J. 'Improving (Not Perfecting) Tax Legislation: Rules and Principles (Ibadan: Onwells Publishers, 2021) p. 71.

³⁷ UK Department of Legislative Services, *Legislative Drafting Manual* (UK: Department of Legislative Services, 2012) p. 26.

³⁸ Interpretation Act, 1850, Section 6(a) and (b).

³⁹ Hotel Sales Tax Law, 2010, sections 9(2), 12(b), 19.

⁴⁰ 'New Zealand Parliamentary Counsel Office In-House Drafting Manual: Principles of Clear Drafting' *Online Database* <<http://www.pco.parliament.govt.nz/clear-drafting/>> accessed on 21st February, 2023.

⁴¹ Thornton

⁴² *Ibid.*

drafter intends the provision to apply specifically to members of one gender.⁴³ For instance a statute on widows may use gender specific terms. What is important is that a gender sensitive term should not be used in reference to both genders.

Furthermore, in drafting the Rivers State of Nigeria Social Services Contributory Levy Law, obvious attempts were made to comply with this principle of drafting gender friendly. However, due care in adhering to this principle of gender neutrality was not taken as Section 5(a) of this Law provides that ‘The Board shall consist of a Chairman...’ The word ‘Chairperson’ is a more appropriate word as it is gender neutral. Thornton has however suggested ‘president’, ‘presiding member’, ‘convenor’, and ‘coordinator’ as alternatives to ‘Chairman’ and ‘chairperson’.⁴⁴ He further advocates that occupational references should be the same for men and women. For ‘by referring to a “lady doctor” or a “woman barrister” it is implied that the standard is male and that a female is the non-standard.’ Likewise, forms ending in –ess as in hostess should not be used in legislation as they are now obsolete. Furthermore, parallel language should be used when referring to women and men. For example: ‘Husband and wife, ladies and gentlemen’ Not ‘Man and wife, ladies and men’.⁴⁵

It may be argued that the above views on gender neutrality are petty issues. There are, however, a great number of persons who consider these issues as very germane. What is regarded as the sexist use of language is now unacceptable to a large section of the international community. ‘The use of language with a gender bias is outdated and may even be viewed as discriminatory. Many consider that the use of gender specific language reinforces stereotypes.’⁴⁶ A perusal of Nigerian Federal statutes enacted between 2004 and 2007, as contained in the Laws of the Federation, reveals a near absence of gender neutrality in these statutes. Out of 54 statutes identified within this period, only 5 statutes were clearly drafted in gender neutral terms.⁴⁷ It is worthy of note that all of these 5 statutes are Treaties domesticated in Nigeria using the direct method of incorporation of treaties. This method reproduces the exact provisions of the treaty in a schedule, stating that they are to have the force of law.⁴⁸ Also worthy of mention is the fact that, going through the Laws of the Federation, 2004, gender neutrality is not found in treaties drafted before the year 2000. Thus, it is clear that there is a deliberate move on the international plane to comply with the principle of gender neutrality in Legislative drafting. Whereas, on the national plane, there is no visible attempt by legislative drafters to comply with this internationally accepted principle of legislative drafting

In the growing debate on gender equality, the drafter is to remain neutral by drafting in gender neutral terms. For where a drafter uses gender specific terms in places where gender neutral terms would have served, it would amount to descending into the arena of the debate on gender equality. This descent would, in itself, do nothing to promote the effectiveness of the legislation in question. At the risk of inelegance, below, are some modes of drafting that have been suggested to promote gender neutrality in drafting. To avoid gender specific expressions in digital legislative drafting, Thornton had suggested, amongst other things, to draft using ‘his’ or ‘her’ in place of ‘his’.⁴⁹ Section 15(3) provides that ‘A self-employed person shall voluntarily pay his or her levy to the Board ...’⁵⁰ This use of ‘his’ or ‘her’ has, however, given rise to further arguments on gender equality, to wit; which of the pronouns should come first?⁵¹ As a solution to the issue of which gender sensitive pronoun should come first, it has been suggested that the drafter alternates between ‘he’ or ‘she’ and ‘she’ and ‘he’. Drafting in terms of s/he has also been suggested. This solution is less attractive as it is unpronounceable, inelegant, does not resolve the debate over which gender sensitive word should be placed first and ‘has no associated forms corresponding to his or her (or her or his).’⁵² It has also been suggested that the terms be combined to include ‘it’ (he, she or it) to provide for non-human actors such as companies.⁸⁷ In view of the divergent views over combining masculine and feminine forms in drafting, it would be best for the drafter to avoid the use of these combined forms.

In the international relation, there are the Extradition Treaty between the Government of the Federal Republic of Nigeria and the Government of the Republic of South Africa (Ratification and Enforcement) Act, 2004 Cap E26

⁴³ ‘Miscellaneous Further Drafting Difficulties’ Lecture Handbook of RIPA Legislative Drafting Course (RIPA, 2019).

⁴⁴ *Ibid.*

⁴⁵ *Ibid.*

⁴⁶ ‘The need for a Gender Neutral Pronoun’ *Online Database* <<http://www.feld.com/wp/archives/2011/06/the-need-for-a-genderneutral-pronoun.html>> accessed on 21st February, 2023.

⁴⁷ *Ibid.*

⁴⁸ *Ibid.*

⁴⁹ *Ibid.*

⁵⁰ Social Contributory Welfare Levy, Rivers State, Nigeria.

⁵¹ C Okonkwo, ‘Reform of Laws’ In *A cry for Justice*, (Ibadan: Women’s Aid Collective, 2003) p. 29

⁵² *Ibid.*

Laws of the Federation of Nigeria (LFN), 2004; International Convention for the Safety of Life at Sea (Ratification and Enforcement) Act, 2004, Cap I26, LFN, 2004 (This treaty is not completely gender neutral as the gender specific term, 'master' is used, referring to the Master of a ship.); Treaty on Mutual Legal Assistance in Criminal Matters between the Government of the Federal Republic of Nigeria and the Government of the Republic of South Africa (Ratification and Enforcement) Act, 2004, Cap T24, Laws of the Federation of Nigeria (LFN), 2004; Treaty to Establish African Economic Relating to the Pan-African Parliament (Accession and Jurisdiction) Act, 2007, Cap T25, LFN, 2004; and Treaty between the Federal Republic of Nigeria and the Democratic Republic of Sao Tome and Principe on the Joint Development of Petroleum and other Resources in Areas of the Exclusive Economic Zones of the Two States (Ratification and Enforcement) Act, 2005, Cap T27, LFN 2004. These legislation reflect some level of gender neutrality in the gender mainstreaming in digital legal education.

There are two methods of incorporation of treaties, namely, the direct and indirect method. In the indirect method, the statute contains provisions to the same effect as the provisions of the treaty sought to be domesticated. For example the Child Rights Act, 2003 was domesticated using the indirect method of incorporation of treaties, whereas the African Charter on Human and Peoples Right (Implementation and Ratification) Act, Cap A..., LFN 2004 was domesticated using the direct method of incorporation of treaties. Not even in relatively recent federal enactments such as the Evidence Act, 2011 and the Employees Compensation Act, 2010 is the principle of gender neutrality adhered to.⁵³ This form of drafting was adopted in the Extradition Treaty between the Government of the Federal Republic of Nigeria and the Government of the Republic of South Africa (Ratification and Enforcement) Act, 2004 Cap E26 Laws of the Federation of Nigeria (LFN), 2004. The principles of legislative drafting are fundamentally geared towards the production of effective laws. Laws in themselves are made generally to regulate the lives of members of the society irrespective of gender. In view of the indisputable fact that issues of gender parity are fast gaining recognition worldwide, legislative drafting should reflect the developments in the society at large. Gender equity is itself emerging as a field of law as much is being written on the need for gender balance by eschewing from the body of laws gender discrimination of any sort. There is therefore need to draft laws in Nigeria that are devoid of the slightest hint of gender bias.

5. Using Digital Legal Education to Checkmate Female Criminality

Scholarships have shown that greater part of the world is made up of women, nevertheless in most part of the world women do not have equal access to land, credit, technology, education, employment opportunities, and political power. Further substantiation suggests that women have become progressively viable to poverty during the 1990s.⁵⁴ The feminization of urban poverty reveals itself in a disproportionate number of women in informal sector; and in casual jobs. A growing number of female-headed households are among those without a source of income and/or without access to a public safety net (for example, healthcare and childcares).⁵⁵ The consequences of this state of affairs are more than that which is simple in equity. In every society, women play crucial roles. They have inescapable impact on the socio-economic development and well-being of their families, communities, and local ecosystems. Basically, the technicalities and intrigues surrounding female criminality are enormous and overbearing in the criminal justice system of different countries due to the fact that crime is seldom attributed to women who mostly gain punitive sympathy. Thus, there is an observable change in the pattern of female criminality in Nigeria.⁵⁶ Most literature on the subject have presented socio-economic conditions as well as societal and environmental influences on the behaviour of women such as urbanization, illiteracy, and unemployment as reasons for the shift in paradigm.⁵⁷ Therefore, inequalities that are detrimental to them, be it their physical and mental health, income earning ability, education, and decision-making power are drastically unfavourable to them as well as to the society at large. It is gainsaying to maintain that government needs empower more women by providing jobs and discouraging marginalization of women in educational contents. It is further gainful to note that the government of every country, in conjunction with the civil society, need to be cognizant of the manifested increase in the statistics of female criminality and strengthen the digital legal education standard to perfectly address this menace accordingly.⁵⁸ However, what matters mostly is that the legislatures need to deploy their legislative powers towards redesigning the Nigerian legal system based on digital legal education to step up a synergic strategy with the law enforcement agency in confronting female criminality. Above all, the cost of operating digital legal education is to be considered in order to get more women involved and check female criminality.

⁵³ Interpretation Act, Cap, I23, LFN, 2004.

⁵⁴ Adler, F. *Sisters in Crime: The Rise of the New Female Criminal* (Ibadan: McGraw Hill company, 1975) 102.

⁵⁵ *UN Habitat*, 2000.

⁵⁶ Curran, D. J. and Renzetti, C. M. *Theories of Crime* (2nd Edition, Boston: Allyn & Bacon, 2001) 120.

⁵⁷ *Ibid*.

⁵⁸ Simon, R. J. *Women and Crime* (New York: Loxigton Burks, 2003) p. 91.

6. Effect of Media Trial on Digital Legal Education

The role of technology has both positive and negative impacts on law and society. In one way, it advances legal education by means of digitization. On the other hand, it promotes media trial and eroding the judiciary of its basic functions to the society and justice for women. Thus, media rather seems to do justice for women through media trials. The effort of gender mainstreaming to synchronize these bi-poles as well as promoting digital legal education has become a perennial challenge. This is because, media trial seems to take the lead in digital legal education and most women who could not get justice in the ordinary court setting tend to resort to media trial to balance gender mainstreaming. The international jurisprudence on media trials has a strong inclination towards free and fair trials. Some excerpts can be taken from international charters and cases that support this contention. Article 6 of the UN Basic Principles on the Independence of the Judiciary states that the Judiciary must ensure that 'judicial proceedings were conducted fairly and the rights of parties were respected.'⁵⁹ The 200th Law Commission Report on Media Trials put forth the relationship between the media and judicial independence by discussing the basic principles laid down in the Madrid principles 1994 which envisages provisions under ICCPR and 1985 UN principles on the Independence of Judiciary.⁶⁰ However, the freedom of media is essential in any democratic country governed by the Rule of Law. It is the duty of judges to recognize and give effect to freedom of media by applying only such restrictions as authorized by ICCPR. The specific provision as per ICCPR is, 'The media have an obligation to respect the rights of individuals, protected by the International Covenant and the independence of the judiciary.'⁶¹ This should protect women the more, and provide a balance in the gender. Moreover, under the basic principle, freedom of media has been interpreted to convey information and comment on the administration of justice including cases before, during, and after trial without violating the presumption of innocence. This principle upholds the sanctity of Article 6(2) of the European Convention, Article 14(2) of ICCPR, and Article 11(1) of UDHR i.e. right to be presumed innocent unless proven guilty with respect to media publications. It further states that laws may restrict Basic Principle in relation to criminal proceedings in the interest of the administration of justice for the prevention of serious prejudice to the defendant, or any improper pressure upon a witness, jury member, or victim. European Convention on Human Rights (ECHR) under Article 10 lays down the principle of freedom of expression which covers the right to hold an independent opinion. Moreover, it further agrees that restrictions are necessary to be imposed on the freedom of expression for protection of an individual's right to life and other analogous rights such as:

- (a) protection of the right to reputation of an individual,
- (b) protection against disclosure of confidential information as a fiduciary duty,
- (c) maintaining public integrity,
- (d) protection of health and morals, and
- (e) maintaining objectivity, fairness in the judiciary in consonance with the principles of natural justice.⁶²

A number of foreign judgments also set out their jurisprudence with respect to analyzing media trials. In *Billie Sol Estes Vs. Texas*,⁶³ the judgment was laid down that broadcasting notorious criminal trials should be prohibited. Moreover, in *Attorney General Vs. British Broadcasting Corporation (BBC)*,⁶⁴ the common law jurisprudence in case of criminal trials has always favoured the rights of the accused over press freedom. Unrestrained publicity of trials can have adverse effects on the working of Courts of Law in upholding a fair trial, as was observed in the decision of *R. V Lord Chancellor*.⁶⁵ The effectiveness of a country's judicial system can be measured by the efficacy of its access to justice whether digital or analogue, but equality among genders. Access to justice is an essential instrument for human rights and the rule of law to flourish in any country. The setbacks to access to justice in most country's civil and criminal justice system are quite exigent. These setbacks include: delays, cost of litigation, complex legal rules and procedure, lack of awareness and legal knowledge. Delay and corruption are also some of the factors hindering smooth flow of access to justice. Thus, media trial thrives more when an individual has unhindered access to the law courts or other medium that guarantees speedy affordable justice that it can really be said that his rights have been enforced. Such rights include his human rights, contractual rights etc.

⁵⁹ UN Basic Principles, Article 6

⁶⁰ '200th Law Commission Report on Media Trial' *Online Database* <<https://lawcommissionofindia.nic.in/reports/rep200.pdf>> accessed on 17th February, 2023.

⁶¹ Ibid.

⁶² European Convention on Human Rights (ECHR), Article 10.

⁶³ PIL (ST) no. 92252 of 2020 with IA No. 95156 of 2020.

⁶⁴ 'Programme Code- Centre Duty Bound to immediately deal with complaints regarding broadcast content: Bombay High Court, Live Law' *Online Database* <<https://www.livelaw.in/news-updates/programme-code-cable-tv-act-centre-duty-bound-immediately-deal-with-complaints-168603>> accessed on 17th February, 2023.

⁶⁵ 'Contempt of Courts Act, 1971' *Online Database* <https://legislative.gov.in/sites/default/files/A1971-70_0.pdf> accessed on 17th February, 2023.

However, the full embrace of emerging processes like restorative justice and victim offender mediation, are guaranteed to bring justice not only for the State and the female offender, but also to the victim of crime, especially in rape cases. The full adoption and practice of case flow management, front loading of cases, pretrial conference and alternative dispute resolution (ADR) are certain to reduce or eliminate not just media trial but delay and greatly reduce cost of litigation which mostly deter the less privileged women to approach the court but resort to media trial. Class action litigation and public interest litigation are forms of civil action that have the capability of satisfying the yearning of a group of people, especially the poor to access justice, through a single suit. This legal education needs to be properly inculcated. These modalities are viable way forward to overcoming the menaces of media trial in the digital legal education system. In other words, these can ameliorate the ugly trend pose by media on the judicial system till a viable legislation is enacted by the respective legislative houses across the world of digitization.

7. Challenges of Digital Legal Education to Gender Mainstreaming

There are larger problems with internet affordability, which causes the ripple effect of barriers to access and training. Poor physical infrastructure and policies about internet access and affordability are in general not gender responsive. Other challenges include online sexual and gender-based violence (SGBV), leading to households not allowing women to use smartphones or social media, whereas the men can freely use those facilities. Thus, there are male-dominated ICT centres, and on the other hand, women and girls having no time to use the internet and gain capacity due to a number of other responsibilities. In support of the latter, participants provided examples of ICT centres that are open at times when women are not able to go there because of other responsibilities. Finally, data is lacking about women's access to internet, which makes it difficult to assess the successes or failures of policies, evidencing a clear need for better and more disaggregated data. Turning to the private sector, corporate actors pay less attention to privacy and security concerns with no particular focus on women's rights online. In addition, the private sector needs to understand that it is in their interest to empower women, who represent a large, untapped market, and if they were to develop women-centred products, they would likely fare well. It is therefore encouraging to work with younger generations to change young peoples' minds, encouraging digital legal education for women, building movements and empowering women – in the public and private sectors.

8. Recommendations

- (1) Promoters of digital legal education should ensure that technological innovations are gender responsive, it is important that independent monitoring and auditing are in place, including that women are involved in policy-making.
- (2) Gender mainstreaming activist should widely consult on the malaises of digital legal education on women in order to achieve progress and this can be instrumental in ensuring that considerations surrounding gender are adequately mainstreamed. Multi-stakeholder engagement should not be extractive or performative in relation to impacted individuals as more data needs to be made available to be able to truly assess the gender impacts on digital legal education.
- (3) Business actors should take gender into account in the technological development process and take actions affirmatively, rather than as a reactive measure. In addition, more attention should be paid to privacy and security concerns with a particular focus on women's rights online. It is important that business actors understand that it is in their interest to empower women, who represent a large part of their potential user base, and if they were to develop women-centred products, they would likely fare well.
- (4) A variety of mentorship structures for women should be to ensuring that there is adequate representation, which is essential for ensuring that policies in place around digital legal education are gender responsive and bring gender issues to the forefront. Part of this entails that women's existing contributions to the field are recognized in the digital legal education.
- (5) Awareness raising surrounding opportunities in digital legal education should be made available by its promoters to bridge the digital divide and on gender-related issues which is crucial to facilitate relevant policy efforts.
- (6) International organizations and civil society groups should promote digital literacy and security training as essential tool in ensuring that more women are active on the internet.
- (7) In both the public and private sector, it is important to work with younger generations to encourage digital legal education for women, build movements and empower women.
- (8) Companies, civil society organizations, as well as interstate actors improve coordination to ensure that platforms use rights-respecting standards in a consistent manner, including reporting and transparency on the implementation of the community guidelines in relation to digital legal education.
- (9) Online platforms should increase sensitivity to local context including by putting in place moderators who speak local languages; maintaining stakeholder engagement with local groups, including women's rights organisations; and treating African users with respect.