

THE NEW FACE OF GENDER EQUALITY IN NIGERIA^{1*}

Abstract

Gender equality as a concept is no longer new in educational or academic institutions as it has become the topic of every conference, seminar, symposium and every academic discourse all over the world. It is an offspring of feminist jurisprudence that centers on women's activists for ever-growing struggle and agitation for the attainment of equal status and treatment with their male counterparts in every sphere of life. It is the view that women are considered of weaker sex and thus dominated by men. However, with the recent development in Nigeria where men are chased out of their matrimonial homes and also called to the mother earth as a result of domestic homicide, can we still say that there is gender inequality? This paper will consider categories of rights and equality as they relate to every citizen in his or her society. The paper will consider the new look and recent trend or development in gender equality in Nigeria. This paper finally concludes by making us to realize that the continuous agitation for gender equality by women is no longer for equality but selfish interest of women and attempt to take-all in the society or even be above all if allowed.

Keywords: Gender, Equality, Equity, Rights, Feminist Jurisprudence, Inequality

1. Introduction

Gender equality means according men and women, boys and girls equal rights, resources, opportunities, protections, privilege across all sectors of society and spheres of life including economic participation and decision – making of course, it may not necessarily mean that boys and girls, men and women be treated exactly alike. Gender equality, equality between men and women, entails the concept that all human beings, both men and women are free to develop their personal abilities and make choices without the limitations set by stereotypes, rigid gender roles and prejudices. Gender equality means that the different behavior, aspiration and needs of women and men are considered, valued and favoured equally. It does not mean that women and men are considered and favoured equally. It does not mean women and men have to become same, but their rights, responsibilities and opportunities will not depend on whether they are born male or female. Gender equity means fairness of treatment for women and men, according to their respective needs. This may include equal treatment or treatment that is different but which is considered equivalent in terms of rights, benefits, obligations and opportunities. Gender equality is the goal while gender equity and neutrality are the practices that help in achieving the goal i.e. gender equality. The movement towards gender equality began with the suffrage movement in western cultures in the late -19th century, which sought to allow women to vote and hold elected offices. This period also witnessed significant changes to women's property rights, particularly in relation to their marital status. For instance; Married Women's Property Act 1882. The strong agitation for gender equality gained more pronouncement and support after the World War II. The women's liberation movement and feminism have created a general movement towards recognition of women's rights. The United Nations and other international Agencies have adopted general conventions which promote gender equality while conferences, symposium, workshops and campaigns were also organized and held by women all over the world. These conventions have not been uniformly adopted by all countries and include:

- The Convention against Discrimination in Education, adopted in 1960 and came into force in 1962 and 1968.
- The Convention on Elimination of all Forms of Discrimination against Women (CEDAW) was adopted in 1979 by the United Nations General Assembly. It has been described as an international Bills of rights for women which came into force on 3 September 1981, 139 countries ratified it including Nigeria in 1985.
- The Viena Declaration and Program of Action, a human rights Declaration adopted by consensus at the world Austaria.
- The Declaration on the Elimination of Violence against Women adopted in 1993 by the United Nations General Assembly.
- In 1994, the Twenty-Year Cario Program of Action at the International Conference on Population and Development (ICPD) in Cario. This non-binding program of action asserted that government should make adequate provisions and facilities for reproduction rather the focusing on demographic problems or issues. Government to meet reproductive needs.
- 1994, the Inter- American Convention on the prevention , punishment, and eradication of violence against women known as the convention of Belem do Para called for the end of violence and discrimination against women.
- Beijing Declaration 1995 September 15, adopted by the United Nations.

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- The United Nations Security Council Resolution 1325 (UNSCR 1325), which was adopted on 31st October, 2000 deals with the right and protection of women and girls during and after armed conflict.
- The Maputo Protocol guarantees comprehensive rights to women, including rights to take part in political processes, to social and political equality with men, to control their reproductive health and an end to female genital mutilation. It was adopted in form of protocol to the African Charter on Human and Peoples Rights and CAME INTO FORCE IN 2005.
- The EU directives 2002/73/EC Equal Treatment of 23 September 2002 amending Council Directive 76/207/EEC on the implementation of Principle of Equal Treatment for men and women as regards access to employment and vocational / training and promotions, working conditions.
- The Council of Europe's Convention on Preventing and Combating Violence Against Women and Domestic Violence the first legally binding instrument in Europe in the field of violence against women.
- Finally the Council of Europe Gender Equality Strategy 2014-2017, which has five strategic objectives:
 - Combating gender stereotypes and sexism.
 - Preventing and combating violence against women
 - Guaranteeing Equal access of women to justice
 - Achieving balance participation of women and men in Political and public decisions –making
 - Achieving Gender Mainstreaming in all policies and measures.

Back home in Nigeria, especially during the regimes of Babaginda and Abacha, the serious agitation of women on gender equality campaign has no peer or competitor. This led to several conferences, symposia, organizations, policies. These organizations both governmental and non- governmental include: National Council for Women Societies (NCWS), National Commission for Women 1985 (Now Federal Ministry for Women Affairs 1995; National Center for Women Development, 1995; the International Women Societies, the better Life for Women which metamorphosed and crystallized into the Moribund Family Support Program (FSP), launched in 1995, though with a slight variation in ideology and objectives. The battle for gender equality is still on today even, with another colouration in Nigeria particularly with the creation of the office of the Wife of The president and that of the Governor also, Local Government Chairmen; although, the present president, General Mohamadu Buhari is tactically dropping it. The workshop held in Kaduna in 1998; it was proposed that 30% of all appointments in the Legislative and Executive arms of the Federal and State Government as well as equal positions in public life. Education, public Health should be given to women. In 2000, the federal government adopted the principle. Chief Olusegun Obasanjo led government included six Federal ministers as well as special advisers. Again gender equality is well pronounced in the Constitution of the Federal Republic of Nigeria by virtue of its section 42 which condemns discrimination upon sex or circumstances surrounding the birth of individual. However, in spite of all these provisions, it is pertinent we mention that even religion still emphasizes the superiority of men. From both the Holy Bible and Quran, Adam was created first while Eve from his bone was created as a helper. Definitely, African culture also cements this position of unequal status of men and women sharing the property of a deceased father. Also among some group in Yoruba, wives are not allowed to have share in the property of their late husband simply because wives are considered as chattel of the deceased husband to be shared and a chattel cannot have share in chattel.²

One may be right if inference is drawn to the effect that all these contributed to the serious agitation by women for equality in spheres of life both economic, social and political representations. However, in view of the recent happenings in this country, can we still say that there is gender inequality?

This paper will address gender equality from various angles of the law which includes, equality before the law, right to inheritance, right to consent to marriage, divorce, custody of children, right to education, job, political offices and health alongside, customary law, custom and practices prevalent in Nigeria.

2. Equality before the Law

Equality before the law means equality in the eyes of the law. In other words, human being whether female or male should be treated equally by the law (principle of isonomy) and that all are subject to the same laws of justice (due process).³ The belief in equality before the law is called legal egalitarianism. This principle of equality is also founded in the principle liberalism. It arises from various important and complex questions concerning equality, fairness and justice. Article of the Universal Declaration of Human Rights (UDHR) states that: 'All are equal before the law and are entitled without any discrimination to equal protection of the law'. Therefore legal systems like slavery, servitude, colonialism, monarchy, gender inequality are all incompatible to the principle of equality before the law. It is worthy of note that throughout the provisions of the criminal code particularly in the areas of punishment, the law does not separate women from men. The sentence or penalty attached to every

² *Akinnubi .v. Akinnubi* (1997) 2 NWLR (486) 144

³ Universal Declaration of Human Rights www. Un.org retrieved 21 March, 2018.

offence is the same whether the offender is a male or female. Likewise, under the civil actions, there is no special provision or consideration for anybody.

3. Equality of Right to Own and Dispose of Property

The right to own property and dispose same by women has its foundation and core grounded in human rights instruments. These instruments have laid emphasis on the right of acquisition and disposing of property as being fundamental for women. The Universal Declaration on human rights, the International Covenant on Economic, Social and Cultural Rights, International Covenants on Civil and Political Rights and the Convention for the Elimination of all Forms of Discrimination Against Women. Furthermore, the United Nations Declarations on the Rights of Indigenous people, the Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forest in the Context of National Food Security, and the World's Conference on Women's Beijing Declaration and Platform of Action all stress the need to achieve equality in the enjoyment of all their rights, including the right to access, use, inherit, control and own land or property. Back home in Nigeria, all these are not strange to us. There are laws on ground against discrimination against women or even anybody not only on sex but also on religion or circumstances surrounding the birth. Section 42 of the constitution of the Federal Republic of Nigeria 1999 as amended is sacrosanct on this. Section 43 and 44 of the same Constitution also provide for right for any citizen of this country to own both movable and immovable in the country and also against any compulsory acquisition. Women in this country have been enjoying these rights without any hitch or disturbance. Even customary laws that would have acted as hindrances or impediments are already taped by the doctrine of repugnancy test and public policy except those that has proved several times and gained judicial support to be *in tandem* with public policy and compactable with the extant laws of the state.⁴

4. Right to Consent to Marriage, Divorce, Custody of Children and Right to Inheritance

Whatever the kind of marriage conducted by the parties whether a statutory marriage or customary both man and woman have equal right to exercise when it comes to consent, divorce while custody of children differs. A wife to a statutory marriage can approach any court clothed with power or jurisdiction to entertain her petition at that moment and seek dissolution of the marriage she has contracted; this also applies to man provided such petitioner can establish any of the grounds recognized in law to establish that marriage between the parties has broken down irretrievably and the court will dissolve the marriage. Under customary law, none of the parties is expected to unilaterally approach court for dissolution or personally divorce a wife. Marriage under customary law is seen as marriage between the two families and any dissolution at all must be with the consent and authority of the family. These two positions are in no doubt fair to both man and woman so therefore, there is gender equality. As regards custody of children, under the common law, a father had an absolute right to the custody of his legitimate children until they attained the age of majority.⁵ Even on his death, any claim by their mother to custody could be defeated by the father's appointment of a testamentary guardian. Although, equity followed the common law, it laid greater emphasis on the welfare of the child. In equity, the welfare of the child is of paramount consideration. Of course, the common law position has now been altered by statute. For instance, the infant Law 1958 by virtue of its section 12(1), either of the parents of a child may apply for the custody of or access as it deems appropriate. However, the court must consider the interest and welfare of the child, the conduct of the parents and to the wishes of his father and of his father. Also the 1970 matrimonial causes Act by virtue of its section 70, the welfare of the child is sacrosanct in considering the custody of a child on application of either of the parents.

Under virtually all customary rules in Nigeria, the father has an absolute right to the custody of legitimate or legitimated children, and on his death, to the eldest male or male head of the father's family. However, customary law recognizes that the absolute right of the father will not be enforced where the child is still of tender age and needs the care of the mother.⁶ This customary rule has also been backed up by various customary laws of every state. For instance, section 23(1) of Area Courts Law 1968. This is still subject to whether the society is matrilineal or patrilineal. On inheritance, we will have to consider succession under both the law and customary rule and whether it is testate or intestate succession. Under both customary and English law, where the deceased dies testate i.e. he makes a will, the issue of gender equality is of no moment. The deceased has distributed according to his will and satisfaction. However, where there is no will, there are relevant laws guiding the sharing of the property of the deceased and all the laws emphasis equality, no special or preferential treatment is given to any of the children. These relevant laws include; Wills Act, Wills Law of Every State in Nigeria, Sec 36, 49(5) of Marriage Act, Sec 49 of Administration of Estate Law.

Again, succession and inheritance under customary law where a family member or husband dies intestate without will also recognizes gender equality; what all the customs emphasis is distribution among the children of the deceased as family property. However, it must be emphasized at this point that under Yoruba custom, the two

⁴ *Akinnubi .v. Akinnubi Supra*

⁵ *Thomasset .v. Thomasset* (1894) p295

⁶ *Abiakam .v. Abiakam* (1975) 5 ECSR 305, 310

systems of distribution laid down in *Dawodu .v. Danmole*⁷ *Idi –Igi* i.e. per stripes property shared equally among the mothers for the benefit of the children and *Oriojori* i.e. per capita, property to be shared among the children equally may appear not to consider wife specifically as a beneficiary to the estate of the deceased husband. However, a proper cogitation of this principle will reveal the wisdom in it which is to the effect that whatever goes to the children is still to the benefit of their mother. Therefore, it is my humble view that there is equality in fact, the woman has taken all. In *Suberu.v. Sunmonu*⁸ the Federal Supreme Court held that by Yoruba custom, a wife cannot inherit her husband's property. In the absence of surviving children, the property inherited by the deceased will devolve on the members of the family it came from. However, women cannot take the chieftaincy title of their late father and every custom frowns at that. The rationale is that women will marry and go to their husband's family while such chieftaincy title speaks about the deceased father's family and is tied to same. There is fairness in this as well.

5. Right to Education and Employment

There is no gainsaying that nowadays, both men and women have equal access to education and employment. Women are well represented politically. The workshop held in Kaduna in 1998; it was proposed that 30% of all appointments in the Legislative and Executive arms of the Federal and State Government as well as equal positions in public life. Education, public Health should be given to women. In 2000, the federal government adopted the principle. Chief Olusegun Obasanjo led government included six Federal ministers as well as special advisers. Presently, women still play active roles in different areas of the federation economic and political decisions at both federal and state level.

6. The Recent Nigerian Experience and Development in Gender Equality

The agitation until recent has been struggle against domination of women by men in every sphere of life. There were complaints of spousal homicide where husbands killed their wives indiscriminately in their respective homes. However, the recent happenings and horrible incidents in the country today call for considerable attention. Men are being chased out of their respective matrimonial homes by their wives on ordinary matrimonial altercation to avoid being slaughtered like a cow while some were being poisoned. The domestic knives in the kitchen are not left behind among dangerous weapons accessible to women at homes. In Nigeria, the year 2017 has been described by people to be the year of deadly domestic violence cases. On February 2, 2016, A female legal practitioner Yewande Oyediran was sentenced to 7 years imprisonment after killing her husband with a knife at their residence in the Akobo area of Ibadan, Oyo State. In November 18, 2017, another terrible incident of spousal murder occurred.

One Bilyamin was allegedly stabbed to death by his wife Maryam Sanda on allegation of infidelity. In August 21, 2017, in Oto- Awori area of Lagos State, Folashade Idoko reported stabbed her husband one Lawrence to death with a knife on allegation of having telephone conversation with a suspected female lover at their home town in Ayetoro, Oto-Awori. Another terrible incident was the one involving another legal practitioner woman who also murdered her husband at 12A Emeral Avenue, Diamond Esate, Sanyo- Tedo in Ogombo, Ajah Area Lagos State. The woman Udeme Odidi cut off her husband's man hood upon suspicion of infidelity. Of course, there are still many other cases reported and unreported across the country.

In view of all these, can we still say that women are being dominated when every man has to be sleeping on his bed with one eye opened now that it is the bell rings, whose turn? Out rightly, there is gender equality all around in Nigeria. Women have been given adequate opportunity and representation. In fact, women are now in control of homes where their alleged domination supposed to be well pronounced.

7. Conclusion

It is now apparent that there is equal ease of access to resources and opportunities regardless of gender, including economic participation and decision-making; and the state of valuing different behaviors, aspirations and need equally, irrespective of gender or sex. From the recent happenings around the world, it is also clear that women are now in control. It is in view of this we are saying that any further agitation by women for equality is a ruse and stratagem to take all in our society.

⁷ (1958) 3 FSC 46, All NLR 702

⁸ (1957) Vol. II FSC 33