

TOWARDS ACHIEVING A GLOBALLY ACCEPTABLE GENDER EQUALITY IN NIGERIA: THE JOURNEY SO FAR

Abstract

There is a palpable dichotomy entrenched in the Nigerian society based on gender superiority or primacy and inferiority or sub-ordinancy. It is demonstrated by male dominance, garnished by cultural patriarchy, where men are more likely than women to hold positions of social, economic and political power. Vast majority of cultures in Nigeria are patriarchies that structure gender inequality. In recent times, there has been a steady increase in the clamor for gender equality, which is predicated on the premise that all human beings are created equal. The recent rejection of about five (5) gender equality bills that sought to alter the constitution of the National Assembly of 1st March, 2022 has once again brought to the fore the need to constantly challenge the systemic ills and oppression the patriarchal society imposes on women as well as the urgent need to revamp and purge our democratic system of recalcitrant bias. Using a doctrinal research methodology, this paper analyzed legal, political, social and economic perspective of gender equality, and the need for a paradigm shift. The paper found out that patriarchal institution is giving prominence in the scheme of things, most of the laws or traditions are gender discriminatory, hence there is no gender equality and freedom; that gender is a social construct that can be dismantled to promote gender equality. The paper therefore recommends a positive shift in attitudes, legally and socially to promote gender equality that remains the boom of emancipation, economic game changer and development in every civilized society.

Keywords: Gender Equality, Globally Acceptability, Women, Nigeria

1. Introduction

Nigeria is a home to about three hundred and seventy-one (371) nationalities and 3rd most culturally diverse country in the world¹. It provides interesting and useful context to explore equality, inclusion policy and practice. Cultural diversity is about appreciating society that is made up of many different groups with different interests, skills, talents and needs. Nigeria has ratified several international instruments for the promotion and protection of women's human rights, yet Nigerian women are constantly discriminated against and subjected to untold hardship, because of their gender. There is still a gulf of difference between the provisions of these instruments and what obtains in practice². Inequality emanating from cultural patterns deprives women of the opportunity of full and equal participation as citizens within their own societies and within international society and evokes the perennial jurisprudential question about universal cultural legitimacy of human rights and whether international law is an appropriate vehicle for enhancing women's equality? This has led to the prevailing belief in our society, particularly on the part of gender equality campaigner who felt that their efforts are regulated by culturally patriarchal society to see gender equality as a mirage³. These complex and often contradictory thoughts were further exacerbated by the recent rejection of the demand for special seat and percentage affirmation for women in the Nigerian National Assembly as well as the agitation to expand the scope of citizenship, especially in favour of the female gender in the political and economic management system which call for concern. Other advocating elements include the demand to provide for affirmative action for women in political party administration, indigenization and last but not the least, instituted woman quota in the federal and state executive councils; thereby making the agitation for gender equality an institutional based. Some senators in Nigerian claim that equating opportunities actually infringes their religion. The senators have for the third time in five years rejected a bill that sort to promote gender equality⁴.

In this century, women and men enjoy the same privileges. The perception is changing slowly but steadily. People are now becoming more aware of their rights and what they can do in a free society. It has been found that when women and men hold the same position and participate equally, society progresses exclusively and introduces landmark developments. When a community reaches gender equality, everyone enjoys the same privileges and gets similar scope in education, health, occupation and political sectors. Even in the family, when both male and female members are treated in the same way, it is the best place to grow, learn, and add great value⁵. In recent time, gender equality has been linked with sustainable development in economic literature. Sustainable development depends on an equitable distribution of resources and it cannot be achieved without gender equality. To global projection is that Gender equality by 2030 is required to eliminate many root causes of discrimination that still curtail women's rights

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¹ R Bell, Nigeria: the country that loves to overachieve www.bbc.com. Accessed 26th July, 2022.

² J N Ezeilo, Women, Law and Human Rights, Global and National Perspectives (Enugu: Acena Publishers, 2011), P.529

³ Equality of Genders in Nigeria: a fact or a dazzling mirage. Citizen NG <https://citizenng.com>>equality – of >accessed 26th June,2022

⁴ Q E Iroanusi, IWD 2022: Nigeria's parliament fails to break bias, frustrates moves for gender equality, affirmative action. <https://www.premiumtimes.com>>accessed 26th June, 2022

⁵ The 21st century Nigerian woman: Her body, Her rights – ARFH Nigeria <https://arfh-ng/or>press.release.access>, 26th June,2022

in private and public spheres. Gender equality is captured as a stand-alone goal (SDGS), it is not only a fundamental human right, but a necessary foundation for a peaceful, prosperous and sustainable world⁶.

2. Gender Equality Espoused

Gender equality requires equal enjoyment by women and men of socially-valued goods, opportunities, resources and rewards. It also means that all genders are free to pursue whatever career, lifestyle choice, and abilities they want without discrimination. Their rights, opportunities and access to economic resources are not different based on their gender. Gender as a construct refers to the fact of being a male or a female. It is a distinction of words roughly corresponding to the sex to which they refer, the quality and contextualization of being male or female sex⁷. Where sex is the sum of the peculiarities of structure and functions and distinguish a male from a female⁸. Scholars have posited that gender refers to the stereotyped roles ascribed to the sexes as men and women which are basically acquired, yet vary from culture to culture; The stereotyped roles are not innate; it is equally affected by such variables as education, class (wealth), age, ethnicity, environment, marriage, religion and other factors. Gender as a concept influences distribution of power, status, access to economic resources such as Land or Landed property between the two known human society groups, that is, the male and the females. Therefore, gender easily exposes the economic, social and cultural qualities, class, opportunities and inequalities in a given society within a particular area⁹. But the fact that gender attributes are socially constructed means that they are also amenable to change in ways that can make a society more just and equitable¹⁰. This concept is useful in analyzing how commonly shared practices legitimize discrepancies between sexes. Recently, gender has assumed an expansion in meaning other than sex which encourages discrimination against women. Thus, the word gender immediately sets in motion and keeps in views issues of: Gender discrimination, gender equality, gender equity or inequality, gender consciousness, gender policies, gender mainstreaming, gender sensitivity, gender blindness and gender bias¹¹. Gender equality is the goal, while these issues are practices and ways of thinking that help in achieving the goal. Gender parity, which is used to measure gender balance in a given situation, can aid in achieving gender equality but is not the goal in and of itself. Gender equality is more than just equal representation, it is strongly tied to women's right, and often requires policy changes¹². On a global scale, achieving gender equality also requires eliminating harmful practices against women and girls, including sex trafficking, femicide, wartime sexual violence, gender wage gap.

United Nations Population Fund (UNFPA) stated that 'despite many international agreements affirming human rights, women are still much more likely than men to be poor and illiterate. They have less access to property ownership, credit, training and employment. This partly stems from archaic stereotypes of women being labelled as child-bearers and home makers, rather than the bread winners of the family. They are far less likely than men to be politically active and far more likely to be victims of domestic violence¹³. It also stems from the fact that Nigeria is a patriarchal society, a social system in which men in diverse cultural settings hold the greatest power, leadership roles, privilege, moral authority and access to resources and land, including in the family¹⁴. Gender equality became an issue when in wider society, the movement towards gender equality began with the suffrage movement in Western culture in the Late 19th century; which sought to allow women to vote and hold elected office. This period also witnessed significant changes to women's property rights, particularly in relation to their marital status¹⁵. It is in line with this movement that Nigerian courts presently became conscious of the word gender equality, a fundamental human right that is violated by gender-based discrimination. Thus, in *Asika v Atuanya*¹⁶ the court espoused the ills perpetuated by the word gender with reference to the females. *Mojekwu v. Ejikeme & ors*¹⁷ has become somewhat of a locus classicus on repugnancy of custom and the jurisdiction of a High Court to declare a particular custom to be repugnant to 'equity and good conscience'. Obviously, the phenomenon of gender equality pervades every sphere of political, economic and social lives of the people, as well as ideological relationships suffused with power differentials that affect processes, behaviour and activities.

⁶D Dive, Gender Equality and Sustainable Development. <https://www.iisd.org/article/gen.access> 25th June, 2022.

⁷S Adoderson et al, The chambers Dictionary (Edinburgh:Harrap Publishers, 1988) P. 666

⁸B A Garner, *Black's Law Dictionary* (7ed, US, West Group 1999) P.1379.

⁹Gender, a social and cultural construct, which distinguishes differences in the attributes of men and women and accordingly refers to the roles and responsibilities of men and women.

¹⁰ Gender equality: Glossary of terms and concepts – UNICEF <https://www.unicef.org/accessed> 30th June, 2022.

¹¹Ibid

¹²Gender equality – Wikipedia <https://en.m.wikipedia.org/wiki>. Accessed 30th June,2023

¹³Ibid

¹⁴Nigerian Society has been patriarchal in nature which is a major feature of a traditional society. (Patriarchy and gender inequality in Nigeria-core-<https://core.ac.uk>>accessed 30th June 2022.

¹⁵ Gender equality – Wikipedia ibid

¹⁶ [2008] 17 NWLR (Pt. 1117) p.484

¹⁷ [1997] 7 NWLR (Pt.512) 283

3. Gender Equality and Women in Politics

Socio-cultural norms in Nigeria have undermined woman's role in public life, and this prompts resistance to women's political leadership. It has kept women out of politics, shaped how people vote and how women should spend their time and behave, generating practical constraints to their participation in public and political life¹⁸. A balanced political participation of women and men means a minimum representation of 50% of women and men political and public life. Representation is the core basis of democracy, as well as improved decision-making. United Nations Women have found that women involvement in politics impact decision-making in positive ways: Women Law makers tend to see 'Women's' issues more broadly as social issues, they are more sensitive to community concerns and more responsive to constituency needs¹⁹. Women make up more than half the population of Nigeria and they should be equally represented. Increased presence of women will have impact on articulating policy issues like violence against women, women's health, finances and equality under the law. Women's participation in politics helps advance gender equality and affects both the range of policy issues that get considered and the types of solution that are proposed²⁰. Women are deeply committed to peace building and post-conflict reconstruction and a unique and powerful perspective to bring to the negotiating table. There is strong evidence that establishing sustainable peace requires transforming power relation, including achieving more equitable gender relations. Women involvement decreases corruption in political institution and promotes higher living standards, positive development can be seen in education, infrastructure and health and concrete steps are taken to help make democracy deliver²¹.

Unfortunately, there are few women in political and leadership spaces in Nigeria. Currently only seven out of 109 senators and 22 of the 360 House of Representatives. Here's why, lack of government assistance; Lack of resources; Lack of information, Lack of education; respect for cultural values and beliefs, and gender discrimination²². Interestingly, many Nigerian women are blazing the trail on the international scene and in public service. Ngozi Okonjo – Iweala is an economist, fair trade leader, environmental sustainability advocate, human welfare champion, sustainable finance guru and global development expert, first woman to serve two terms as a minister of finance in Nigeria, the first woman and first African to lead the World Trade Organization. She sits on the boards of top companies and organizations such as Danone, Standard Chartered Bank, Twitter, Mandela Institute of Development Studies, Carnegie Endowment for International Peace, Rockefeller Foundation, Results for Developments, African Risk Capacity and Earthshot Prize²³. Funmi Badejo is from Kogi State, Nigeria. She lives in the U.S. Capital of Washington DC with her family. She currently serves as a special Assistant to United State President, Joseph Biden. She is also an Associate Counsel in the White House Counsel's Office. She had served as General Counsel of the US House of Representatives select subcommittee on the coronavirus crisis. Counsel for Policy to Assistant Attorney General in the Civil Division at the US-Department of Justice²⁴. Enoch Chong had served as permanent secretary of Nigeria's Federal Ministry of Economic Development and Reconstruction. She was appointed by US President Joe Biden to the Post of Director, United State Trade and Development Agency²⁵.

Many other women worthy of mention are: Hon. Justice Amina Adamu Augie, Justice of the supreme court of Nigeria, Amina Jane Mohammed Deputy Secretary-General of United Nations, Ibukun Awosika was the Chairman of first bank of Nigeria. Chimamanda Nozi Adichie a Nigerian writer whose works range from novel to short stories to nonfiction. She is an advocate of gender equality in Nigeria and across the world. Omobola Olubusola Johnson, Board Chair of Guinness Nigeria Plc. Stella Adaeze Oduah, a two-time serving Senator and Aviation Minister, Folorunso Alakija business baroness²⁶ and others. Nigeria is blessed with courageous Women who cannot be overlooked in the economic, political and social growth of the country. These women have steered the course of history in a usually male-dominated environment. They have made a distinct impact with their selfless works and their ambitions have brought them national and international recognition. The bottom line for women political participation is gender equity. It involves the use of temporary special measures to compensate for historical or systemic bias or discrimination. Equity ensures that women and men have an equal chance, not only at the starting point, but also when reaching the finishing line. The recent rejection of about five (5) gender equality bills that sought to alter the constitution of the National Assembly of 1st of March, 2022 has once again brought to the fore the need to constantly

¹⁸R. George, Gender norms and women's Political participation: Global trends and findings on norm change, <https://alignplatform.org/gen..>accessed 6th July, 2022>

¹⁹ S Pepera, why women in politics? Women Deliver <https://womendeliver.org>Blog> accessed 6th July, 2022>

²⁰Women suffer disproportionately during armed conflict and often advocate most strongly for stabilization, reconstruction and the prevention of further conflict

²¹Z Dibi, why we need more women in politics – king's college London, <https://www.kcl.ac.uk>news>why-accessed 16th July, 2022>

²²R DIKPI, Factors influencing participation of women in community Development Projects in – <https://papers.ssrn.com> Sol 3>accessed 16th July, 2022>.

²³ A Sanusi, Nigerian Women, Global Leaders. Punching. Com accessed 7th July, 2022

²⁴ Ibid

²⁵ Ibid

²⁶ Most Influential Women in Nigeria 2022. Newswire.com>accessed 7th July, 2022

challenge the systemic ills and oppression the patriarchal society imposes on women as well as the urgent need to revamp and purge our democratic system of recondites bias²⁷.

The Gender-Related Bills Rejected are:

1. Bill to provide special seats for women at national Assembly.
2. Affirmative action for women in political party administration.
3. Another bill sought to grant citizenship to foreign born husband of a Nigerian Woman. Already, a Nigerian man's foreign-born wife is automatically a Nigerian Citizen.
4. Another bill also sought to allocate 35 percent of political positions based on appointment to women and creation of additional 3 seats in National Assembly as well as at the state constituent assemblies.
5. Inclusion of at least ten percent affirmative action in favour of women in ministerial appointments.

In examining gender equality and political reforms in Nigeria, one is inclined to submit that, as far as politics and political reform in Nigeria are concerned, gender and power balance on gender basis have never been on the front burner of national discourse. Rather, it has been how to balance power between the multi-ethnic groups. 'Large and smaller' 'Majority and the Minority' estimated to be about 350 nationality groups within the nation state, Nigeria. Currently, the national discourse on power balance is based on religion. It is time to stopped and ask what about those that do not wish to be represented on ethnic and religion, but on other forms of identification, such as gender.

4. Social-Cultural Perspective of Gender Equality

The patriarchal nature of most Nigerian communities relegates women to the background while the men dominate the material base of the society and therefore, have control over female sexuality. Women and girls encounter various forms of harmful practices that endanger or abrogate their right to health²⁸. These include forced early marriage, female genital mutilation, traumatic puberty initiation rites, labour and delivery practices, wife inheritance^{28b} and sexual hospitality practices, discriminatory upbringing and socialization of girls and boys to the disadvantage of the girls²⁹. Some of these practices, such as wife inheritance and group circumcision could facilitate the spread of HIV. Increasingly, the Linkage has been found between harmful windowhood practices and denial of inheritance right to HIV and AIDS. The victims are forced to subject themselves to men to cope with the realities of their circumstances. Long-held cultural beliefs fuel gender discrimination, which further limits girls' ability to go to school and reach their full potential. Son-Preference ideology still dominates, male children are more likely to be sent to school than girls, more especially, in time of economic crisis. Other barriers to girls' education are early marriage and low value placed on girls education. If women constitute half the population of the country are educationally backward, the country definitely has a long way to go in its development efforts³⁰. Generally, government has made efforts to provide adequate medical and health facilities for all persons and number of policies and strategies to ensure equal education of all citizens; But the Nigerian constitution on the right of health³¹ and education³² cannot on its own form basis of claim as chapter II of the constitution is non-justiciable. 'Equal and adequate' educational opportunities provided for in section (18) (1), CFRN are vague terms with no precise meaning as held in the case of *Brown V. Board of Education of Topeka*³³, a violation of equal protection clause of the 14th amendment.

The customary laws and practices governing inheritance and succession rights of women are deficient in most places especially among the Igbo of Nigeria. Therefore, they constitute a major obstacle to gender equality, economic empowerment of the feminine gender and actualization of social justice in terms of development, peace and security. A defective land tenure system which concentrates ownership of land in the hands of a few and denies a large proportion of its population especially women access to land is indeed inconsistent with human rights tenets, social justice and equality of all before the law³⁴. In *Nezianya v Okagbue*³⁵. The court held that a widow cannot appropriate her deceased husband's property without the permission of male members of her deceased's family. That she has only possessory right to any property. That her female children were not entitled to the said landed property of their deceased father. In *Nzekwe v Nzekwe*³⁶, a widow who has no male issue has only the right to occupy her husband's

²⁷ F Falana, Condemnation of the National Assembly's rejection of bills seeking gender equality www.vanguardngr.com accessed 7th July, 2022

²⁸ Some of these harmful practices are founded on either tradition or religion

^{28b} *Nezianya v Okagbue* (1963) 1 All NLR 352, that a wife is a property of her husband to be inherited by the deceased husbands male relatives – Also the supreme court sustains this principle as buttressed by the decision in *Akinnubi v Akinnubi* (1997)

²⁹ JN Ezeilo, *Women, Law & Human Rights: Global and National Perspectives* (Enugu:ACEMA Publishers, 2011) P219

³⁰ Ibid P. 230

³¹ Section 17 (3) (d) Constitution of the Federal Republic of Nigeria 1999

³² Section 18 (1) Constitution of the Federal Republic of Nigeria 1999

³³ 347 U.S. 483 (1954)

³⁴ OVC Ikepeze, *Gender Dynamics of Inheritance Rights in Nigeria: Need for Women Empowerment* (Onitsha: Folmech Printing & Publication Co. Ltd 2009) P 54

³⁵ Supra

³⁶ (1989) 2 NWLR (Pt. 104) 373

property, but not to dispose of it. The right to occupy is also dependent on her good behaviour. In *Onwuchekwe v Onwuchekwe*³⁷, the Court of Appeal refused to reject as repugnant a custom where a wife is owned with his properties by her husband. Under Yoruba Customary Law Marriage, the widows form part of the estate of their deceased husband. In *Suberu v Summonu*³⁸, the court stated that 'it is well settled rule of native law and custom of the Yoruba people that a wife could not inherit her husband's property since she herself is like a chattel, to be inherited by a relative of her husband. Yoruba custom gives the children of the person, both male and female, the right to succeed to his property. The reason being that devolution of property under native law and custom follows the blood'³⁹. Under Islamic law, women's right to property has greater protection than under customary law, though women do not have equality with men as concerns inheritance. Interestingly, the custom of female children inheritance has been redressed in *Chinweze v Masi*⁴⁰, in *Muojekwu v Iwuchukwu*⁴¹, the supreme court held that so long as the deceased Kola tenant is survived by children, male or female, the question of the deceased's brother or any such stranger inheriting would not arise. In *Ukeje v Ukeje*⁴², the Court of Appeal held what an Igbo native law and custom disentitling a female child from sharing in her deceased father's estate is void, as it is in conflict with the provision of section 42 (2) of the 1999 constitution of Nigeria.

Some other traditional practices⁴³ that discriminate against women on the basis of gender are early and forced marriages; these are not unknown in customary laws, including Islamic Law. In fact, early and forced marriage is widely practiced in several parts of Nigeria, especially the Northern part. Girls between 12 and 14 years are withdrawn from primary schools to get married off by men old enough to be their grandfather. In February, 1987, the nation was shocked at the pathetic case of Hauwa Abubakar, who had her limbs chopped off by her 'husband' for refusing to accept him, and for persistently running away. She died a few months later⁴⁴. The moral danger involved in such child marriage was emphasized by the English court in the case of *Alhaji Mohammed V. Knott*⁴⁵, in that case, a male Nigerian Moslem aged 26 entered into a Polygamous marriage in Nigeria with a girl of 13 years. Soon after the marriage, they moved to England where a complaint was proffered before justices sitting at a Juvenile court that the girl was in need of care, protection, control and was exposed to moral danger. The court held that the marriage was repugnant to any decent-minded man or woman, the girl was ordered to be committed to a local authority. The Child's Right Act 2003 prohibits child marriage and defined a child as a person under 18 years of age. The Eastern States of Nigeria Law has fixed the minimum age for customary law marriage⁴⁶ at 16 years. Recently, this law is ineffective, given the consequences such as denial of education to the girl-child maternal and infant morbidity and mortality.

Another cultural practice that undermines the equality of women is female Circumcision/ Female Genital Mutilation (FGM). This involve cutting any part of the female external genitalia. It is usually performed during infancy, childhood or adolescence. The practice of FGM is justified on a number of grounds namely: that it curbs female sexual desires, it has aesthetic, purifying or hygiene benefit. Circumcisers are usually native doctors, established specialist in genital cuttings. The risk associated with this is HIV transmission⁴⁷, and denying the woman the fun of life. Nigeria widowhood laws are based on diverse customary practices, which are essentially unwritten. The widowhood rites are series of superstitious acts performed on, by or against the widow⁴⁸ at the instance of the family of the deceased husband in the name of custom and tradition. These widowhood rites include: being locked up with the corpse for days or hours; being forced to wear the same cloths for the duration of the mourning period; Isolation of the widow from other people, being forced to sit on the bare hard floor for the duration of the mourning period; shaving the hair on the head and/or pubic hair of the widow with a blunt, unsterilized razor blade; drinking water used in washing the corpse of the dead husband⁴⁹. The widower is not required to perform any of the above mentioned rites. Indeed, social and cultural factors which can foster the mainstreaming of women in the national development process ought to be closely examined. This will assure equitable distribution of the dividends of democracy accruing from Nigeria's nascent democracy among men and women.

³⁷ (1991) 5 NWLR (Pt. 197) 379

³⁸ (1957) 2 F.S.C. 3

³⁹ *Suginro v Suginro* (1929) 2 NLR 79

⁴⁰ (1989) ISCN P. 148 or (1989) 1 NWLR (Pt. 97) P. 254

⁴¹ (2004) II NWLR (Pt. 883) P. 196

⁴² (2001) 27 WRN 14 CA. *Asika v. Atuanya* (2008) 17 NWLR (Pt. 117) 484. *Ogugu v. The State* (2000) 4 SCNJ 400

⁴³ Also called harmful traditional practice, defined as practices that customary, cultural and religious in nature, origin and form, that tend to impair or undermine the integrity, dignity, equality and autonomy of the female gender to choose, and which have enormous implications for health, status and rights of women in the society

⁴⁴ JN Ezeilo, *op cit* P. 246

⁴⁵ (1969) I Q B I

⁴⁶ The Age of Marriage Law, 1956, Cap 6, Laws of Eastern Nigeria

⁴⁷ J.N. Ezeilo *Op cit* P. 248

⁴⁸ A woman who loses her husband is called a 'Widow' while a man who loses his wife is called a "Widower"

⁴⁹ P U Okoye, *Umuada of Igbo land: Democracy at the Grass roots* (Enugu: NUCIK Publishers 2003) P.59

Apart from traditional and customary law, discrimination⁵⁰ abound in Laws and practices against women. Convention on Elimination of All Forms of Discrimination Against Women (CEDAW). Sets out, in more details, what is meant by the prohibition of sex discrimination from the perspective of equality of women and men. The term ‘discrimination against women’ shall mean any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field⁵¹. Section 42⁵² deals with the right to freedom from discrimination, this provision is not adequate as inherent discrimination exists even with the constitution itself. The provision of section 42 (3) actually depart from the intendment of prohibition of discrimination as discrimination can be maintained and, in fact, is maintained in practice in the employment of women in the armed force and police. Section 42 (3) states ‘Nothing in subsection of this section shall invalidate any law by reason that the law imposes restriction with respect to appointment of any person to any office under the state or as a member of the armed forces of the federation or a member of the Nigeria Police Force or to an office in the service of a body corporate established directly by any law in force in Nigeria. Police Regulation requirement⁵³ that a female police officer desirous of marrying must first apply in writing to the commissioner requesting permission to marry and giving the name, address and occupation of the person she intends to marry is discriminatory, as it is not also applied to male officers. Section 26 (2) (a) CFRN is also discriminatory on conferment of citizenship by implication a Nigerian man can confer citizenship of the country on his foreign wife of the country on this foreign wife whereas a Nigerian woman cannot do so for her foreign husband⁵⁴. The foreign husband of a Nigerian citizen must, therefore, have to naturalize if he desires to be a Nigerian citizen⁵⁵.

There is also the phenomenon of ‘indigenship or indignity’ that works to deny woman rights and equal opportunities in both their state of origin and assumed husband’s state. In the worst-case scenario, it renders women stateless, as they are rarely considered for political position unless they are married and also come from the states as their husbands⁵⁶. Discrimination in law exists in Nigeria criminal/ penal code. Under the criminal code, an offence of indecent assault on male is a felony punishable with three years imprisonment while a similar offence of indecent assault on females under sixteen years of age is made a misdemeanor for which the punishment is a statutory maximum of two years imprisonment⁵⁷. Also, the penal code in Section 55 permits wife beating as long as it does not amount to the infliction of grievous hurt. Section 55 of the penal code offends the constitutional provision on a woman’s fundamental right with respect to the dignity of her person and accordingly should not be subjected to torture. Another instance of the act of discriminatory practice is in administrative bureaucracies which include the failure to accept women as sureties for the release of suspects on bail both in at police station and the courts. In addition, the department of immigration insists that a married woman must obtain the consent of her husband in writing before she can be entitled to apply for passport which is clearly inconsistent with the provision of the constitution. This was a subject of a legal action in the case of *Priyer Iyalla Amadi V.D.G, Nigeria Immigration Services (NIS)*⁵⁸ where a court in port Harcourt, Rivers State voided this discriminatory immigration condition for issuing passport to a married woman. It is in the realm of family law that gender inequality becomes very evident. The marriage Act in Nigeria does not state the minimum age for marriage, it merely provides that a marriage is void where either party is not of a marriage age⁵⁹. The Child Rights Act, which was passed in 2003, sets the age of marriage of 18 years old. However, only 23 of Nigerian’s 36 states have adopted thus act. As a result, in some areas of the country the minimum age of marriage can be as low as 12 years old. This leads to early child marriage with its resultant health risks Vesico Vaginal Fistula (VVF).

Another discriminatory law worthy of mention is the Labour Act⁶⁰, the Law seeks to protect women from night and underground work. Section 57 empowers the minister of labour to make regulations that prohibits women from undertaking certain jobs, such exemption does not obliterate the fact that the prohibition limits women’s access to work⁶¹. The labour law that restricts women from working night shifts should be changed; this is just one of the legal barriers that Nigerian women face when looking for work. They are not protected from gender discrimination in

⁵⁰ Ibid

⁵¹ Article 1 CEDAW, 1979 (1979)

⁵² Constitution Federal Republic of Nigeria, 1999 (CFRN)

⁵³ Section, Police Act Cap. P19, LFN, 2004. Similarly Polices in Banks and other private corporation also discriminate against women and, usually restrict them from getting married within the first three years of their being employed in the institution.

⁵⁴ The justification of this may be based on the customary law rule that marriage is patrilocal not matrilineal

⁵⁵ JN Ezeilo op cit. p.114

⁵⁶ Ibid P.177

⁵⁷ Section 222 of the criminal code Acct. Cap. C38Laws of Fed. of Nigeria, 2004

⁵⁸ J SIMI, Meet Dr. Priyer Iyalla Amadi, The woman who fought the Law that prevented --- <https://motherhood instyle.net>> accessed 16th July, 2022

⁵⁹ Section 3 (1) (e) of MCA Cap M7. LFN 2004

⁶⁰ Cap 198, Laws of Federation of Nigeria, 1990, Sections 55, 56, 57

⁶¹R Onyegu and J Essiet, *Update on Women’s Socio-Economic Rights in Nigeria* (Lagos, Shelter Rights Initiatives, 2002) P.21

employment no guarantee of equal pay for equal work. If companies can guarantee the safety of women in the workplace at night, what reason is there to restrict the job they can work. Several provisions of convention on the Elimination of All Forms of Discrimination against women (CEDAW) abound that aim at eliminating attitudes, conduct, prejudices and practices that are based on the alleged inferiority or superiority of either sex⁶². It also recommended temporary special measures to speed up equality between men and women, and action to modify social and cultural patterns that perpetuates discrimination⁶³.

5. Economic Perspectives of Gender Equality

In Nigeria, women are still discriminated against in law and in practice on employment. There is no gender equality of job opportunities as close examination reveal disparities between theory and practice. For instance, the federal government, which is the biggest employer of labour, encourages job segregation and discrimination by its conduct. The employment ratio of male and female in the federal civil service-the largest employer of labour, is consistently maintained at ratio 3:1. Men dominate position across ministries, department and agencies in both federal and states. Women represented 2.8% of the civil service in 2017. In 2018 Nigeria Demographic and Health Survey (NDHS) highlighted an unfair balance in employment, particularly in the civil service⁶⁴. In the private sector, women are discriminated in top management positions. In terms of agricultural work, women constitute a majority of 70%, yet their land ownership is put at 10%⁶⁵. Women in Nigeria constitute more than half of the population, they dominate the food producing and informal sectors of the economy but are neither given due credit for their labour nor provided with opportunities required for self-development. As a result, women in the aggregate, are the poorest group in the society. Poverty is a catastrophic disease. It demobilizes and dehumanizes its victims⁶⁶. The problem of poverty cannot be successfully addressed without restoring balance to the economic structure and removing the causes of economic tension from the body-polity. Socio-economic justice must therefore, be promoted and guaranteed by removing all inequality. Women have been identified as critical to the process of development in any country.

Generally, in terms of remuneration, there is no equality; tax administration demonstrated this. The practice in many work places especially in the public sector, discriminated against the woman as husbands are given children and wife allowances without women enjoying such children and husband allowance. Such practice is a reflection of the deep-rooted socio-cultural belief that men are the heads of household, which is no longer tenable in the light of modern socio-economic changes⁶⁷. Women contribute to the economy and to combating poverty through both remunerated and unremunerated work at home, in the community and in the workplace. There is no doubt that gender equality is an economic issue that needs to be addressed within constitutional and legal framework. In Nigeria, there is a complete absence of the concept of matrimonial property⁶⁸, thus is because marriage is hardly conceived as a partnership of equals in relation to the property rights of spouses during marriage. Importantly, culture and gendered definitions of the division of marital work are limiting factors to the scope of property rights, but the dynamism of culture is a call for its constant interrogation. Nigeria treats property owned by spouses individually as separated and it therefore may be considered as a separate property. In *Aderounmu v. Aderounmu*⁶⁹. The Court of Appeal held that a married is capable of acquiring, holding and disposing of property⁷⁰. While culture and customary laws recognized separate property rights and no spousal interest, the current trend is community property, where marital property is owned in joint tenancy⁷¹. And at divorce community estate is divided equally. There is absence of a cohesive property regime in Nigeria; Government should harmonize its law governing marital property to promote equality in marriage and stabilize the institution⁷².

6. Gender Equality, the Need for a Paradigm Shift

The peculiarity of Nigeria as a developing nation with hard grips to traditional, religious and cultural values that relegate the female gender to subordinate status calls for a concerted effort towards women's empowerment. Since democracy is about 'peoples rule' with a broad sense of social justice. Nigeria may yet be far from true democracy with its present gross gender imbalance in governance. The democracy dividends are not achievable with about half of the population of the

⁶² Articles 5, 3, 13 and 10

⁶³ Article 4 (CEDAW)

⁶⁴ P Adeyeye, Equal Opportunities for Nigeria Women. www.dataphyte.com. accessed 17th July, 2022

⁶⁵ JN Ezeilo *Op Cit* P.209

⁶⁶ DA Guobadia and E. Aringe (eds), *Poverty, The Nigerian Economy and the Law* (Lagos: Nigerian Institute of Advanced Legal Studies, 2004) P110

⁶⁷ J.N. Ezeilo *Ibid*

⁶⁸ Marital or Matrimonial Property is property that a person gains, earns or purchases while married. All properties obtained during the course of marriage, regardless of who paid for it. The exception is property received by one spouse as a gift or inheritance, from a third party.

⁶⁹ [2003] 2 NWLR I

⁷⁰ Section 3, Married Women Property Law, Cap 71, Law of Oyo State, 1978

⁷¹ Lambert v. Lambert (2002) <http://www.internationaldivorce.com>

⁷² H O Obi, *Espousing Property Rights in Nigeria Vis-à-vis the global trend for stable marriage institution*. Ph.D Thesis Faculty of Law, Nnamdi Azikiwe University, Awka, 2019. P.316

country relegated and in actively engaged. This is so because the human resources is the power of development and for any meaningful development to take place and be sustained, there is need to incorporate women who constitute about 50% of the population into mainstream politically. Movements that are promoting greater democracy in political life must take account of women's need and concerns in order to grow in strength and vitality. To endorse civil and political rights, without explicitly addressing women's rights in the domestic/private sphere and the public/social domain broadly, creates a truncated, and ultimately unsustainable, democratic set up⁷³.

The right to freedom from discrimination provided in section 42 is 'a legally protected interest which every woman is entitled to irrespective of circumstances; that being so, there is a correlative duty on the part of government to ensure that women's legally protected interests are not violated'⁷⁴. It is the writer's view that it is high time a holistic shift was achieved based on reconscientization and understanding that all human beings are equal and that discriminatory principles must be abrogated. There is no gainsaying that there is need for a radical change in assumptions or ways of thinking of Nigerians especially among the males whose act wield obnoxious customary practices as monsters out to devour anyone who dare to question its sustenance. There is urgent need to move humanity in one piece rather than in pieces of male or female, superiority, inferiority, owners and chattels. The golden rule of do unto others what you will want them do to you is very apt gender wise⁷⁵.

7. Conclusion and Recommendations

Nigeria has ratified several international and regional instruments for the promotion and protection of women's rights, yet Nigerian women are constantly discriminated against and subjected to untold hardship, because of their gender. There is still a gulf of difference between the provisions of these instruments and what obtains in practice as most of them in particular specific women's treaties like CEDAW and the protocol, have not been effectively implemented in Nigeria. It is the writers view that where due recourse is given to existing human rights instruments by way of applicability in the whole of Nigeria without any exception, the anomaly created and sustained by gender inequality and inequity will be confined to history. No obnoxious custom will rare its ugly head rather such customs would have been garbage as was decided in *Unity Dow v AG Botswana*⁷⁶. Discrimination is the cardinal principle upon which stratified and absolute subjugation of the female in some parts of Nigeria are hinged. If the practice is extinguished then meaning will be ascribed to the fundamental rights provisions of section 42 of the Nigerian Constitution 1999⁷⁷. Subsuming a constitutional provision under any custom amounts to erosion of the supremacy of the Nigerian constitution and makes nonsense of the *grundnorm* particularly in a democratic setting. Importantly, where positive changes based on equality of all before the law is the focus, while archaic and sequestered laws will be surgically and radically emasculated, the paradigm must shift to usher in living laws that will accord with the spirit of the constitution of the Federal Republic of Nigeria, 1999 and align with global trends.

In the light of the above, the follow measures can be helpful: Nigeria needs to include in its constitution a definition of discrimination that will confirm to the definition of both CEDAW and the protocol that it has ratified. Further, it should consider a separate section that will deal with the issue of gender equality, clearly entrenching the principle of equality and non-discrimination, which is the trend in modern constitution making⁷⁸. Give proper value to 'women's work; the unpaid work women and girls do provide the foundation for the global economy. This fact needs to be highlighted more in the media, with the private sector and in communities. Equal distribution of unpaid care work between women and men is an essential step towards gender equality in the public and in paid employment. The full and equitable participation of women in public life is essential to building and sustaining strong, vibrant democracies. As about half of the population are women, their participation will create a balance of power between genders. A quota system that reserves a fraction of electoral positions for women can be legislated. Affirmative action also promotes diversity and increases opportunities for a disadvantaged group. There should be gender equality in education, gender inequality in education is not based on biological superiority of men over women but rather, it is socially created, thus it can be jettisoned; increasing female access to education is often put forward as fundamental tenet of development strategy constituting a basis for the full promotion and improvement in the status of women. This is a cornerstone of the sustainable development goal (Goal 4). There is need for urgent shift from obsolete customary practices to current practice of equality of all human beings. The custodians of customs must assist to abrogate obnoxious customs and ensure that only progressive and equitable customs are encouraged⁷⁹. There should be effective poverty reduction programmes in Nigeria. The magnitude, continuing expansion and deepening of poverty is a major threat to the nation's social, political and economic development. The bottom line is empowerment, when empowerment is gender sensitive, the males and females will have equal authority to develop their potentials, society gains and poverty is easily defeated. Sharing good practices from other jurisdiction elsewhere in Africa and the world over, on how to use international regimes to reinforce the domestic protection of the rights of women will be useful in constructing a national jurisprudence of equality. Such comparative analysis, especially from common wealth jurisdiction will contribute to the growing body of knowledge on the subject of gender equality particularly in Nigeria.

⁷³ J N Ezeilo, Op Cit P. 206

⁷⁴ *Afolayan v. Ogunrinade* (1990) INWLR (Pt. 127) P. 369

⁷⁵ O V C Ikpeze, *Op cit.* 229

⁷⁶ [1984] I H R L R P.1

⁷⁷ It must be noted that fundamental rights issues are highly justiciable

⁷⁸ J N Ezeilo *Op Cit* P. 191

⁷⁹ In line with Sections 26 (1) (d) 5 (a) and (d) of the Pro-ACHPR 2003 which came into force in 2005. To wit: Protection of women who are at risk of being subjected to harmful practices or all other forms of violence.