

CULTURAL AND LEGISLATIVE CONSTRAINTS MILITATING AGAINST WOMEN'S RIGHTS IN NIGERIA: THE WAY FORWARD FOR A MORE INCLUSIVE PROTECTION***

Abstract

Nigeria is a country with an estimated population of 200 million people and about half of the population are females. With widening global human rights concerns, women's rights are at the forefront of discourses around the world. Even though, the 21st century has seen changing attitudes towards the rights of women, there is still much to be desired on the protection and enforcement of rights of women around the world. The discriminatory practices against women in many Nigerian communities are deeply entrenched. Cultural prejudices towards women and the stereotyping of social roles on the basis of gender are institutionalized in the Nigerian legal system. This Paper examined the cultural and legislative constraints impeding women's rights in Nigeria. The patriarchal nature of the Nigerian society in addition to gaps in existing laws on women's right have contributed enormously in denying women access to services, facilities, information and platforms which men have access to. Also, providing solution for the strengthening of the existing legal framework on women's rights in line with international best practices. The research methodology used in this research is doctrinal methodology which involved the library reading of primary and secondary sources of law such as statutes, case law, journal articles, textbooks and internet sources and analyzing same. This work has found that patriarchy as well as lacunas in existing Nigerian legislation continues to inhibit the equal, adequate and necessary protection of women's rights. Consequently it is recommended that government should direct its policies towards protection of women's rights; domesticating already ratified international instruments that promote and protect gender equality as well as eschewing patriarchal practices that are detrimental to enjoyment of women's rights would advance the enforcement and protection of women's rights in Nigeria.

Keywords: Women, Rights, Culture, Patriarchy, Discrimination, Inclusive Protection.

1. Introduction

The enforcement and protection of women's rights has been the subject of legislative and societal debate in many countries around the world. In Nigeria, even though there is an existing body of laws which protect these rights, no specific framework has been adopted for the enforcement, protection, and implementation of these rights. While the Constitution of the Federal Republic of Nigeria 1999(as amended) provides for freedom from discrimination on the basis of sex as seen in Section 42, women continue to be discriminated against and marginalized because they are women. This marginalization is often as a result of discriminatory laws, religious and cultural norms, gender stereotypes, and poverty.¹

The underlying factors responsible for women's rights infringement include; inherent discrimination as women do not enjoy equality with men in the society, unequal access of women and girls to education, harmful traditional practices, inadequate access to economic

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¹ A Ewang "Nigeria Risk Falling further Behind on Women's Equity" online article available at <https://www.hrw.org/new/2022/03/08/Nigeria-Risks-Falling-further-Behind-Women's-Equity/> Accessed on 11th Nov 2022.

resources, unequal access to political participation and various forms of violence experienced specifically by women and girls amongst others.²

2. The Concept and Scope of Women's Rights.

Women's rights are human right. These rights include the right to live free from violence, slavery, discrimination, to be educated, to own property, to political participation, health (including reproductive health rights), dignity and to earn fair and equal wage.³ While Human rights are rights inherent to all humans. We are all equally entitled to our human rights without discrimination. Whatever our nationality, place of origin, sex, colour, religion, language or any other status such as age, disability, health status. These rights whether they are civil, and political rights such as right to life, equality before the law, and freedom of expression or economic, social and cultural rights such as right to work, and right to education are indivisible, universal, interrelated and interdependent.⁴ Yet almost everywhere around the world, women and girls are still denied their rights simply because of their gender.

Human rights were developed and articulated in the Universal Declaration of Human Rights in 1948 in response to the effects of World War II. International human rights lay down obligations of governments to act in certain ways or refrain from certain acts in order to promote and protect human rights and fundamental freedoms of individuals or groups.⁵ By becoming parties to international treaties, States assume obligations and duties under international law to respect, protect and to fulfill human rights. This obligation implies that States must refrain from interfering with or curtailing the enjoyment of human rights and must take measures in ensuring the enforcement, protection and implementation of human rights.

Some international, regional and local human rights framework for promotion and protection of women's rights include; Constitution of the Federal Republic of Nigeria 1999(as amended) - Fundamental Human Rights, Violence Against Persons Prohibition Act, African Charter on Human and Peoples' Rights, Protocol to the African Charter on Human and People's Rights on the Rights of Women in Africa, African Union Solemn Declaration on Gender Equality in Africa, Universal Declaration of Human Rights, Convention on the Elimination of All Forms of Discrimination against Women, International Covenant on Economic, Social and Cultural Rights, International Covenant on Civil and Political Rights, The Beijing Declaration and Platform for Action,⁶ etc. It should be noted that the key principles in these aforementioned instruments include non-discrimination, equality of rights, participation, individual autonomy and non-violence.

The Federal Government of Nigeria adopted the National Gender Policy in 2006. Under this policy, the government must be proactive in its commitment in addressing problems affecting women and to ensure the mainstreaming of women issues in the formulation and implementation of all policies and programmes. The policy expressly highlights the problems faced by women in various sectors of economy such as education, health, employment,

² National Human Rights Commission, 'The Rights of Women and Gender related matters', available online at <https://Nigeriarights.gov.ng/focus-areas/women-and-gender-matters.html> accessed 11th Nov 2022.

³ *ibid.*

⁴ Office of the High Commissioner United Nations Human Rights, 'Fact Sheet International Human Rights Law on Sexual Orientation and Gender Identity', available at <https://www.unfe.org/system/unfe-6-UN-FactSheets-V6-Internatioal-Human-Rights-Law-Sexual-Orientation-Gender-identity> accessed on 13th Nov 2022.

⁵ *ibid.*

⁶ National Human Rights Commission 'The Rights of Women and Gender Related Matters', available online at <https://Nigeriarights.gov.ng/focus-areas/women-and-gender-matters.html> accessed 11th Nov 2022.

agriculture, legal reform, legislative protection and in decision making.⁷ Despite this policy, marginalization of women in all sectors is still prevalent.

3. Women's Rights Violations in Nigeria.

There are many ways that women's rights are being violated and there are:

- a). **Gender Inequality:** Nigeria ranks a lowly 123 out of 146 countries in the World Economic Forum's Gender Gap Index report of 2022.⁸ Civil society groups have raised concerns that the country is not improving much in female representation in leadership. Nigeria has never had a female president or vice president. Nigeria has had only one defector female governor in the person of Virgy Etiaba of Anambra State that came on board because of the impeachment of Governor Peter Obi, which said impeachment was nullified by the court. This was because she was deputy governor and assumed the position of governor when the governor was impeached. The only female speaker of the House of Representatives that Nigeria has had in the person of Patricia Etteh was unceremoniously removed after a short time in office. In politics, access to grants for farming purposes, access to loans, women are often overlooked in favor of their male counterparts.
- b). **Gender-Based Violence:** Gender based violence happens to women and girls in disproportionate numbers. Women and girls in conflict zones are especially at risk from violence. Throughout history, sexual violence has been used as a weapon of war. For example, there are reports of many women who have been taken against their will and subjected to rape and torture by a terrorist group in Nigeria, Boko Haram. In 2014, this terrorist group adopted over 100 school girls in Chibok⁹ and till date many have not been found. Globally, on average 30% of women who have been in a relationship have experienced physical and/or sexual violence committed against them by their partner. Women are more likely to be victims of sexual assault including rape.¹⁰ Violence against women is a major human rights violation and it is the responsibility of States to protect women from gender-based violence and even domestic abuse behind closed doors.
- c). **Sexual Violence and Harassment:** Sexual harassment has been defined as harassment in the form of unwelcome sexual advances.¹¹ This could be physical conduct and advances, demanding or requesting sexual favours or using inappropriate sexual language. Sexual violence is characterized by physical sexual assault. Men and boys can also be victims of sexual violence, but it is women and girls who are overwhelmingly affected. Sexual harassment is submitted is an endemic. Made worse because female victims do not always want to speak up for fear of being shamed. Most times, they are faulted and criticized when they speak up or even blamed for being the reason they were harassed in the first place. They may be accused of dressing provocatively which resulted in the harassment. It therefore becomes imperative that both public and private establishments in Nigeria put in place measures to ensure their female staff are safe from sexual harassment and also create

⁷ Office of the High Commissioner United Nations Human Rights, *ibid*.

⁸ K Kareem, "How is Nigeria's Gender Gap Report? Improving or Still Poor" online article available at <https://www.google.com/amp/s/www.dataphyte.com/latest-reports/gender/how-is-nigerias-gender-gap-report-card-improving-but-still-poor/> accessed on 11th February 2023.

⁹ N C Gbane, "Nigerian Girls Adopted by Boko Haram Honored in Exhibition" online article available at <https://www.africanews.nigerian-girls-abducted-by-boko-haram-honored-in-exhibition/> accessed on 11th February 2023.

¹⁰ Amnesty International, 'Women's Rights are Humans Rights', online article available at <https://www.amnesty.org/en/what-we-do/discrimination/Women-Rights> Accessed on 14th Nov 2022.

¹¹ *English Mobile Offline Dictionary (2022)*.

an enabling environment for them to speak up. People who are found guilty of sexuality harassment should be laid off and legal action taken against them.

- d. **Workplace Discrimination:** Women are often the subject of gender based discrimination in their workplaces. Equal pay for the same work is a human right. Time and time again, women are denied access to a fair and equal wage. Recent figures show that women currently earn roughly 77% of what men earn for the same work. This leads to a lifetime of financial disparity for women, prevents them from fully exercising independence, and means an increased risk of poverty in later life.¹² Women are often overlooked for key positions in both the public and private sectors even when they are as qualified or even more qualified than their male counterparts. This situation is rather unfortunate because over and over again, women have proven their mettle. In 2023, it should be common place for women who have distinguished themselves and are deserving to be accorded the same opportunities as their male counterparts.

4. Laws and Customary Practices Discriminating against Women in Nigeria

There are a plethora of laws and customary practices that discriminate against women in Nigeria. Under section 26 of the 1999 Constitution,¹³ a Nigerian woman cannot simply confer citizenship on her foreign spouse by marriage, her foreign spouse can however become a citizen by the more tedious method of naturalization.¹⁴ A man on the other hand can confer citizenship on his foreign spouse by marriage.¹⁵ The Constitution stipulates that a person is of full age if he is 18 years and above¹⁶. However, it goes on to say that this is not the case of a married woman.¹⁷ The implication of this is that even where a woman is 12 years old but is married, she is considered to be of full age. This provision is the reason why child marriages are prevalent in many parts of the country. The Child Rights Act has not been implemented in many northern states that practice Sharia law possibly for this reason. Section 277 of the Child Rights Act defines a child to be a person under the age of 18. Section 55 of the Labour Act¹⁸ bars women from being employed in night work except as nurses. Section 56 bars women from working in mines. Section 360 of the Criminal Code makes the indecent assault of women a misdemeanor punishable with a two-year prison term, as opposed to three years' prison term imposed for indecently assaulting a man, which is a felony in section 353. Vide the provision of Section 118(g) of the Police Act; married women are prevented from seeking enlistment in the Nigerian Police Force. Under Regulation 127 of the Nigerian Police Regulation made pursuant to Police Act¹⁹, when an unmarried police woman is pregnant, she would be discharged from the police force. She can only be re-instated on the approval of the Inspector General of Police. Under section 55 of the Penal Code, husbands are permitted to chastise their wives. Section 55(1)(d) states that nothing is an offence which does not amount to the infliction of grievous harm upon a person and which is done by a husband for the purpose of correcting his wife. The implication of this is that under the Penal Code, a husband is permitted to beat his wife provided that it does not lead to serious injuries or grievous harm. In essence, the Penal Code condones and encourages domestic violence against women.

¹² Amnesty International 'Women's Rights are Humans Rights', online article available at <https://www.amnesty.org/en/what-we-do/discrimination/Women-Rights> Accessed on 14th November, 2022.

¹³ Cap C23 Laws of the Federation of Nigeria (LFN) 2004.

¹⁴ Constitution of the Federal Republic of Nigeria (CFRN) 1999, Section 27.

¹⁵ CFRN 1999, Section 26(2) (a).

¹⁶ CFRN 1999, Section 29(4) (a).

¹⁷ CFRN 1999, Section 29(4) (b).

¹⁸ Cap L1 Laws of the Federation of Nigeria (LFN) 2004.

¹⁹ 2020.

Furthermore, marital or spousal rape is not considered a crime in Nigeria. Even though it can be argued that this is no longer the case by virtue of the Violence against Persons (Prohibition) Act 2015.²⁰ The VAPP Act however does not have far reaching effects as it has been left to the purview of state legislation to replicate it in their laws and so far many states are yet to do so. But then, Anambra State has domesticated it since 2017 thus - Anambra State VAPP Law 2017, consequently marital or spousal rape is a crime in Anambra State.

4.1 Some Customary Practices and Laws that Discriminate against Women in Nigeria include:

4.1.1 Inheritance Rights

In some communities in Nigeria, women cannot own land except through male relatives.²¹ More often, women are regarded as property and therefore cannot own property themselves.²² In some communities in Nigeria, a woman is not allowed to inherit her husband's estate; instead she may be inherited along with the estate of her husband by another male relative in the family. See the cases of *Suberu v Sunmonu*²³ and *Nezianya v Okagbue*.²⁴ Some customs in Nigeria give preference to the male child against the female child in matters of inheritance.²⁵ In many communities in Nigeria, where there is no surviving son of a deceased man, the closest male relative of the deceased inherits his property, rather than his daughters. Primogeniture where only the first son of a deceased man inherits everything without a thought for his wife or daughters is still rife in many Nigerian communities like Benin. This is, however, not so everywhere; in Yoruba customary law as well as Islamic law, daughters can inherit.²⁶ See the case of *Amusa v Olawinmi*²⁷. Despite judicial interventions upturning some of these obnoxious customary practices, like in *Anekwe v Nweke*²⁸ wherein the Supreme Court held *inter alia* that, any Custom that seeks to disinherit a widow or daughter is repugnant to natural justice and the perpetrators of such a custom must be dealt with decisively and punitively; this custom still exists in some communities.

4.1.2 Widowhood Rites

Many women are subjected to inhumane treatment on the death of their husbands. Many go through physical, emotional and psychological trauma resulting from mourning rites. Widowhood Rites have been identified as one of the most pervasive form of human rights abuse involving women in Nigeria. These mourning rites range from those designed to express grave sorrow for the loss of husband to those intended to to purge the woman of ill luck and include forced demonstrations of grief, seclusion sometimes for months at a time, sleeping on the floor for a prescribed period during which she may neither bath nor change clothes, wearing of black clothes, purification rites which may include the use of sharp and unsterilized objects

²⁰ E O Ekhaton "Women and the Law in Nigeria: A Reappraisal" (2015) Volume 16 *Journal of International Women's Studies*. P. 285.

²¹ O Oyelade "Women's Rights in Africa: A Myth or Reality" (2006) Volume 9, Issue 1, *University of Benin Journal* P.100

²² This Position has been overturned by the court in *Ukeje .V, Ukeje* and Women are still denied this right to inherit in many communities and have to resort to the law courts. Unfortunately, many women cannot afford legal fees to retain lawyers.

²³ (1957)12 SC, p 33.

²⁴ (1963)1 ALNR 352.

²⁵ E O Ekhaton (n. 21) p 282.

²⁶ J Idrisu, "Women and Property Rights Under Customary Law in Nigeria"(a lecture delivered by Justice Idrisu at the National Judicial Institute for Newly Appointed Judges and Kadis 2021).

²⁷ (2002) 12 NWLR (Pt. 780) 30.

²⁸ (2014) 9 NWLR (PT 1412)393.

in shaving off the hair,²⁹. The woman may also be made to pay fine and levies for bad behavior purportedly committed by her against deceased husband while he was alive. Among the Nupe of Nigeria, it is Customary for a widow to abstain from washing, plaiting or leaving her compound for 40 days after demise of her husband. In some instances, the woman may be required to go through unimaginable ordeals to prove she is not complicit in husband's demise. She may be forced to sleep with her husband's corpse for days or made to drink water used in washing his corpse.³⁰

4.2 Legal Framework on Women's Rights in Nigeria.

Nigeria has a plethora of domestic laws providing for the protection of rights within the legal system. Some of these laws expressly or impliedly protect women's rights.

4.2.1 The Constitution of the Federal Republic of Nigeria (CFRN) 1999

Section 33 of the Constitution provides that; "Every person has a right to life and no one shall be deprived intentionally of his life, save in execution of a court sentence in respect of a criminal offence of which he has been found guilty in Nigeria".

The rights to good healthcare, amenities and safe motherhood, are essential for the protection of the right to life. Access to information and education on preventable diseases that can shorten the life span of women and children is essential in protecting this right to life.

Section 34(1)(a) of the 1999 Constitution of Nigeria, provides that every individual has a right to dignity of his person and as such shall not be subject to torture, inhuman or degrading treatment amongst others. It also provides that no person shall be held in slavery or servitude or be required to perform forced or compulsory labour. Torture has been defined to include mental harassment and physical brutalization while inhumane treatment characterizes any act without feelings for the sufferings of the other. The implication of this is that the stigmatization of women living with HIV & AIDS, ostracizing young girls with VVF, harmful Widowhood Rites all amount to breach of their rights to dignity of the human person, which is in fact an infringement of their rights³¹

Section 14 (2) provides that the security and welfare of the people shall be the primary purpose of government. This is in line with the scope of reproductive health, which includes "a state of complete physical, mental and social well-being". Section 17(1) of the Constitution also provides that the State social order is founded on ideals of Freedom, Equality and Justice. Section 17(2) (a) stipulates that in furtherance of the social order, every citizen shall have equality of rights, obligations and opportunities before the law. In essence, the Nigerian Constitution promotes gender equality under the law. Section 17(3) (d) under the social objectives and directives policies, stipulates that the government is obligated to direct its policies towards ensuring adequate medical and health facilities for all. Section 17(3) (b) stipulates that working conditions should be just and humane and there should be adequate facilities for leisure, social, religious and cultural life. This provision, if properly harnessed, will cater to the reproductive health and rights needs of working class mothers. It is however unfortunate that the rights contained in this section and the whole of Chapter 2 of the 1999 Constitution are unenforceable.

²⁹ B Ibhawoh, *Between Culture and Constitution: The Cultural Legitimacy of Human Rights in Nigeria*. (Danish Centre for Human Rights, Studiestraede 38, 1999) P. 45.

³⁰ F Anyogu, *Access to Justice in Nigeria: A Gender Perspective*, (Enugu, Ebenezer Production, 2009) pp. 335-336.

³¹ CFRN 1999, Section 34.

Section 42(1) of the Constitution provides for freedom from discrimination. Discrimination is one of the major setbacks to the protection and enforcement of women's rights in Nigeria. The patriarchal nature of the Nigerian society encourages discrimination against women; hence, they are denied access to some platforms, which men have unfettered access to. .³²

4.2.2 Violence against Persons Prohibition (VAPP) Act 2015

VAPP Act came into force on the 25th day of May 2015. The introductory part of this Act is intended to prohibit all forms of violence against persons in public and private life and to provide maximum protection and effective remedies for victims as well as punishment for offenders. Section 1 of VAPP Act defines rape as; "the intentional penetration of the vagina, anus or mouth of another person with any other part of his or her body or anything else without consent or consent is obtained by force or by means of intimidation of any kind or by fear of harm or by means of false and fraudulent representation as to the nature of the act or the use of any substance or additive capable of taking away the will of such person". This definition is a marked improvement of the definition of rape as encapsulated in the Criminal Code as it broadened the definition of rape. The Criminal Code Act³³ only considered penile penetration as rape.³⁴

The Act³⁵ provides for an offence known as spousal battery in Section 19(1). It stipulates that a person who batters his or her spouse commits an offence and is liable to conviction for a term of imprisonment not exceeding 3 years or to a fine not exceeding N200,000 or both. Section 20 of the Act further prohibits harmful traditional practices and prescribes a term of imprisonment not exceeding 4 years or a fine of N500, 000 or both for anyone who carries out harmful traditional practices. Section 6(1) of the Act prohibits female circumcision and female genital mutilation (FGM) and further prescribes punishment for a person who performs FGM with a term of imprisonment not exceeding 4 years or a fine of N200, 000 or both in Section 6(2).

4.2.3 Labour Act

Section 54 (1) of the Labour Act, offers protection for pregnant working women and provides that; "In any private industrial or commercial or any agricultural undertaking or in any branch thereof, a woman:

- i. Shall have the right to leave her work if she produces a medical certificate given by a registered medical practitioner that her confinement will probably take place within six weeks.
- ii. Shall not be permitted to work during the six weeks following her confinement.
- iii. If she is absent from work pursuant to paragraph (a) or (b) of this subsection and been continuously employed by her employer for a period of six months or more immediately prior to her absence, shall be paid not less than 50 per cent of the wages she would have earned if she had not been absent; and
- iv. Shall in any case, if she is nursing her child, be allowed half an hour twice a day during her working hours for that purpose.

Section 54 (2) provides that subsections (1) and (2) shall have effect notwithstanding any law relating to the fixing and payment of minimum wage. The provisions of subsections 54 (2) and

³² A A Oluwakemi "Women and Reproductive Health Rights in Nigeria" online article available at <https://www.ssmc/link/OIDA/Int-Journal-Sustainable-Dev.html> accessed on 13th November, 2022.

³³ Cap C38, LFN 2004.

³⁴ Criminal Code Act. Section 6.

³⁵ VAAP Act.

(3) entitle the woman to at least 12 weeks maternity leave. In practice however, only few women take the leave as provided by the Act, the preference is that women take 12 weeks post-natal leave.

Importantly, Nigeria is a signatory to several international and regional instruments that guarantee women's rights. These include the African Charter on Human and Peoples Rights, the Additional Protocol on Women's Right to the African Charter 2003, and the Convention on the Elimination of All Forms of Discrimination against Women.

4.3.1 The African Charter on Human and Peoples Rights

The African Charter on Human and Peoples Rights (ACHPR) also known as the Banjul Charter was adopted at the 18th Conference of Heads of States and Governments of Organization of African Union (now African Union) in Banjul in June 27th 1981. It has been domesticated and forms part of Nigerian Laws see the case of *Gani Fawehinmi v Abacha*³⁶. It was incorporated as The African Charter on Human and Peoples Right (Ratification and Enforcement) Act, Cap 10 Laws of the Federation of Nigeria 2004. Article 2 of the ACHPR provides for freedom from discrimination. Article 3 of ACHPR stipulates that everyone is equal before the law and entitled to equal protection of the law. Article 5 provides for dignity of the human person and protection from cruel, inhumane and degrading treatment. Article 28 provides that every individual shall have the duty to respect and consider his fellow beings without discrimination.

4.3. 2 Protocol to the African Charter on Human and People's Rights on the Rights of Women in Africa 2003.

This was adopted by the African Union in Maputo, Mozambique in July 2003. Article 2 of the Protocol provides that State parties shall combat all forms of discrimination against women through appropriate legislative, institutional and other measures. Article 5 provides that State parties shall prohibit and condemn harmful traditional practices against women. Article 6(b) stipulates that the minimum age for marriage for women shall be 18 years. Article 8 provides equal protection and benefit of the law. Article 9 provides for participation if women in political life of their countries through affirmative action. Articles 20 and 21 provide for the protection of widows' rights and inheritance rights. It is yet to be domesticated by Nigeria. It was however applied in the case of *Dorothy Njemanze & three others v. Federal Republic of Nigeria*³⁷

4.3.3 The Convention on the Elimination of All Forms of Discrimination against Women

This Convention was signed by Nigeria in 1985 and ratified but is still yet to be domesticated as required by Section 12 of the Constitution. As such, it does not form part of our municipal laws. The Convention on the Elimination of all forms of Discrimination against Women (CEDAW) is a gender specific instrument. The Convention takes the understanding of human rights from being gender neutral or gender blind to being women focused, taking into cognizance the specific and different needs of women on the basis of biology and gender or social construction.³⁸. It recognizes not only the prohibition of discrimination against women but also places positive obligations on the State for the fulfillment of women's right to equality.

³⁶ (1996) 9 NWLR (Pt.475) 710.

³⁷ ECW/CCJ/JUD/08/17.

³⁸ L A Omunfuegbe, "A Critical Appraisal of Women's Reproductive Rights in Nigeria". (2019), Volume 10, *Journal of Sustainable Law and Policy*, p 274.

5.1 Impediments to Women's Rights Enforcement and Protection in Nigeria

There are Legislations and Policies in place to protect women's rights in Nigeria. However, there is a gap between extant laws and their implementation. These setbacks are majorly because of society's inability to understand that women's rights ought to be protected. The reason for these impediments are as follows;

- a) **Structural Defect:** Despite the existence of section 42(1) of the Constitution, which provides for freedom from discrimination, the discrimination against women on the basis of their gender is still prevalent in many parts of Nigeria. Women most times do not have access to opportunities that men have leading to economic dependence on men. Also the unenforceability of Chapter 2 of the 1999 constitution is another impediment. Section 12 of The Constitution of Federal Republic of Nigeria 1999, also requires the domestication of already ratified International instruments before they can have the force of law. The VAPP Act for instance is in force in Nigeria. It is however not applicable to all of the States in Nigeria except the States that have chosen to domesticate it. This, it is submitted, has continued to impede on the necessary protection of women's rights.
- b) **Poverty:** A report in 2022 showed that an estimated 43.7 million Nigerian women live in extreme poverty.³⁹ Cases of unequal pay and unequal working standards between men and women in organizations leading to unequal access to resources and consequently poverty and suffering is common place in Nigeria. This is largely because many women are poor, they lack the financial muscle to bear the cost of litigation when the need arises.
- c) **Discriminatory Customary/Cultural Practices:** As already discussed extensively, Discriminatory customary practices infringes on women's rights. Some of these practices are so deeply entrenched that they have become accepted standards in many communities. Prevalent customary practices in some parts of Nigeria, such as female genital mutilation, ill-treatment of widows, are all detrimental to the woman's reproductive and health and rights.
- d) **Inadequate Mechanisms for Human Rights Protection and Enforcement:** Sadly, in spite of existing legislations, there is still gross violations of women's rights. Any legislation that is not backed by sufficient monitoring and adequate mechanisms and institutions is unlikely to be effective. In addition, enforcement of laws without emphasis on raising awareness of the law may be problematic. The police are often unwilling to get involved with incidents of domestic violence and would advise couples to settle their disputes in house. Sole Dependence on our courts for human rights enforcement has also proven to be insufficient.
- e) **Patriarchy:** Patriarchy is a factor contributing to the discrimination of women in Nigeria. In Nigeria, some Landlord refuse to let apartments to single adult females even when they have a verifiable source of income. This is an unfortunate situation and goes to show how deeply rooted patriarchy is in Nigeria. The rejection of the Gender and Equal Opportunities Bill by the National Assembly is also a sad reflection of the dominant role of patriarchy and similar sentiment in Nigerian governance. The rejection of GEO Bill multiple times as well as rejection of Labour Bill is a sad development and constitutes an impediment to women's rights in Nigeria.

³⁹ D Sasu. "Number of People Living in Extreme Poverty in Nigeria" (A Publication by Statista) available online at <https://www.statista.com/statistics/1287827/number-of-people-living-in-extreme-poverty-in-nigeria-by-gender/> accessed on 17th March 2023.

5.2 Women's Rights in other Jurisdictions.

Even though the 21st century has seen changing attitudes and marked improvement towards women's rights in some countries around the world, discrimination against women and violations against women are still rife. There are many countries where women's rights are infringed upon on a daily basis.

In some countries where Sharia law is prevalent, women have been made to take a back seat and their rights taken away. We recently saw this play out in Afghanistan when the occupation by the US government ended. Restrictions were put on women's rights.⁴⁰ Country as developed as the USA have not produced a female president even though the country is used as a yardstick to measure human rights development by many. It is imperative to state that there is no country that can boast total gender equality yet, but some can proudly say they are close.⁴¹ The countries leading the way in women's rights and gender equality through equal pay, economic opportunities, political representation, and access to education include;

- a. **Iceland:** The 2015 World Economic Forum Gender Gap Report found that Iceland has closed 88 percent of its gender gap. Iceland has had a female head of state and women are generally well represented in its political system. The country has come a long way from the historic strike of 1975, when 90 percent of the nation's women went on strike — taking the day off from their office jobs, childcare, and housework to rally for equal rights.⁴² A 2023 report has it that gender equality is a characteristics of Icelandic society, in alignment with the Act on Equal Status and Equal Rights of Women and Men. No public corporation board, government council or committee may have less than 40% gender equality.⁴³
- b. **New Zealand:** This country was the first to allow women to vote in 1893. According to 2015 World Economic Forum Gender Gap Report, New Zealand can boast gender parity in access to education, and very nearly equal access to health care. It has not reached perfect parity yet, but it's faring better than most countries. New Zealand's gender wage gap is relatively small, at 11.8% this past year, close to half that of the US. Women make up about 30% of its political representatives.⁴⁴
- c. **Finland:** While women in New Zealand were the first to have to right to vote, Finnish women were the first to be elected to parliament in 1907 as 19 women members were elected. Finland also has a generous maternity leave policy, allowing women to begin their leave up to 50 working days before their due dates, and offering a maternity allowance for 105 working days. Finland does not just expect women to do all the parenting, paternity leave is offered (and encouraged) for up to 54 working days and also comes with an allowance, which also means that new moms can re-enter the workforce sooner if they choose.⁴⁵

⁴⁰ R Butt "Taliban Ban Women from Working for Domestic, Foreign NGOs" online article available at <https://abcnews.go.com/amp/International/wireStory/taliban-water-cannon-women-protesting-university-ban-95789832>

⁴¹E Igaldad "These are the Best Countries to be a Woman" (A Publication by Global citizen) online article available at <https://www.globalcitizen.org/en/content/best-places-Iceland=Denmark=Sweden/> accessed on 13th November, 2022.

⁴² Global citizen, E Igaldad "These are the Best Countries to be a Woman" online article available at <https://www.globalcitizen.org/en/content/best-places-Iceland=Denmark=Sweden/> accessed on 13th November, 2022.

⁴³ Expat Rankings, 'The World Best Countries for Women – Updated in 2023' <https://govisafree.com>, accessed on 20/03/2023

⁴⁴ Global Citizen, (n.43).

⁴⁵ *ibid.*

- d. **Sweden:** Sweden has closed more than 80 percent of its gender gap. It has a welfare system that emphasizes work-life balance, parental leave policies to support that, and public services that enable men and women to access healthcare, education, and job opportunities equally. Sweden boasts the highest percentage of working mothers in the EU (more than 73 percent in 2014), in no small part due to its generous family benefits, flexible parental leave policies, access to quality education and day care.⁴⁶ Recent data for 2022 shows that Scandinavian countries are still topping the list on gender equality. Iceland, Finland, Norway, New Zealand, Sweden, Namibia, Rwanda are the leading countries in terms of gender equality in the year 2022.⁴⁷

5.3 Way Forward in Mapping out a Sustainable Strategy for Female Inclusion and Protection in Nigeria

As earlier mentioned, women's rights are human rights. Number 5 of the Sustainable Development Goals (SDGs) is Gender equality. Gender inequality is the focal point of basically all the violations of women's right and as such government should direct her policies towards the following objectives:

- a. **Achieve Gender Equality and Empower All Women and Girls:** Gender bias is undermining our social fabric and devalues all of us. By denying women equal rights, half the population is denied a chance to live life at its fullest. If you educate a woman, you educate a nation, on the other hand if you deny a woman education you deny a nation. Political, economic and social equality for women is a necessity.
- b. **End Discrimination against Women and Girls:** All forms of discrimination against all women and girls should end.
- c. **End all Violence Against and Exploitation of Women and Girls:** All forms of violence against all women and girls in the public and private spheres, including battering, trafficking and sexual and other types of exploitation should be eliminated
- d. **Eliminate Forced Marriages and end Female Genital Mutilation:** Harmful practices, such as child, early and forced marriage and female genital mutilation should be stopped completely.
- e. **Value Unpaid Care and Promote Shared Domestic Responsibilities:** Recognize and value unpaid care and domestic work through the provision of public services, infrastructure and social protection policies and the promotion of shared responsibility within the household and the family as nationally appropriate.
- f. **Equal Rights to Economic Resources, Property Ownership and Financial Services:** Undertake reforms to give women equal rights to economic resources, as well as access to ownership and control over land and other forms of property, financial services, inheritance and natural resources, in accordance with national laws.
- g. **Promote Empowerment of Women through Technology:** Enhance the use of enabling technology, in particular information and communications technology, to promote the

⁴⁶ *ibid.*

⁴⁷ Statista, 'The Global Gender Gap Index 2022' available online at <https://www.statista.com/statistics/244387/the-global-gender-gap-index/> accessed on 13th November, 2022.

empowerment of women.⁴⁸ In effect the Nigerian government must ensure that these goals are met as women's rights are human rights. This will be beneficial for the growth and the development of the economy.

6.1 Conclusion

The Nigerian society is patriarchal, hence discrimination and unequal treatment between boys and girls, men and women. Majority of Nigerian Laws protect the rights of women, though a few are discriminatory and create gender inequality. The Nigerian government also directs and implements some policies aimed at protecting the rights of women. But poor enforcement mechanisms has militated against this government lofty ideals. Consequently the need for proactive measures in the enforcement and protection of women's rights cannot be overemphasized. Patriarchal ideologies must be eschewed and cultural prejudices that are institutionalized done away with as they engender discrimination and as such an impediment to the rights of women and progress of Nigeria as a nation.

6. 2 Recommendations for Advancing Women’s Rights in Nigeria

- It is recommended that government should ensure full participation of women in government and decision making process. Women should represent at least 40 percent of persons appointed into various positions in the government. This will aid in the promotion of equity, justice and fairness. Furthermore, both the public and private sectors must ensure that suitably qualified women are also given the opportunity to serve in various capacities in their establishments.
- The VAPP Act is commendable and all States in Nigeria should domesticate this into their various State laws.
- Dependence on the courts for enforcement of women’s rights has proven insufficient. There is an immediate need for the enactment of specific laws on women's rights in Nigeria and these laws should have comprehensive provisions accompanied by strict penalties for default. The provisions should be directed at safeguarding women’s rights, prohibiting and penalizing sexual harassment, sexual assault, and gender-based violence.
- There is also a need to strengthen the institutional framework for enforcing these lawsuit as the indispensable machinery needed after the right legislation has been put in place.
- It is further recommended that the provisions of Chapter 2 of the Constitution should be made justiciable.
- Affirmative Action: Government should ensure that policies that help in implementing and achieving goal 5 of the Sustainable Development Goals on Gender equality are put in place. Policies targeted at promoting education, eschewing patriarchy and awareness on women's rights especially in the rural areas, sensitization by way of seminars, rallies, must be encouraged and sponsored.
- Furthermore, to strengthen Nigeria’s legal framework, International laws such as CEDAW, Protocol to the ACHPR on Women’s Rights in Africa 2003 should be domesticated and implemented at the national level. Section 12 of the Constitution that requires domestication of already ratified instruments should be expunged.

⁴⁸ Gender Equality' (A Publication by Global Goals) available online at <https://www.globalgoals.org/> accessed on 15th November, 2022.