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## Gender Discrimination and Sensitivity: Infringement on the Rights of Women in Nigeria

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### **Abstract:**

*The Universal Declaration of Human Rights (UDHR) defines human beings as persons that are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood.<sup>1</sup> In 1948, the UDHR told the world what a person, as a human being, is entitled to. It is now over fifty years<sup>2</sup> since the Universal Declaration of Human Rights, and the story of equality of human beings is still being debated or emphasized.<sup>3</sup> Not as it relates to men, but as it relates to women and children especially the female ones.*

*Historically, women have been subject to so much ill-treatment because of how they have been viewed by different traditions, as being less important than men, socially, economically, politically, culturally and environmentally.<sup>4</sup> Around the world at least one woman in every three has been beaten, coerced into sex, killed or otherwise abused in her lifetime.<sup>5</sup> Every year, violence in the home and the community devastates the lives of millions of women. Violence against women is rooted in a global culture of discrimination which denies women equal rights with men and which legitimizes the appropriation of women's bodies for individual gratification or political ends.<sup>6</sup> Despite the influence of religion, international conventions, protocol and local legislation in preaching the doctrine of equality, the chauvinist stereotypes still find it difficult to move away from their respective cultural practices to accord any serious recognition to women.*

*The footprint power used over women usually gives men greater power or superiority while women are left disempowered and degenerated as inferior powers.<sup>7</sup> Human beings irrespective of their categories whether as men, women or children should be accorded the same rights and respect.*

### **1. Introduction**

A human being is a species of animals known as "Homosapiens" and are distinguished from other animals by superior mental development, power of articulate speech and upright stance.<sup>8</sup>

Human beings are of different categories, but to investigate these categories is to determine the most fundamental and broadest classes of entities and will amount to ontological distinction.<sup>9</sup> Ontological distinctions are those that are related by a single conceptual metaphor such as talking about all human beings, planets or engines.<sup>10</sup> These distinctions are not usually based on any human anatomy but on other abstract terms like their well-being or station in life such as their level of poverty or riches; literacy or illiteracy, etc.<sup>11</sup> It is as difficult as distinguishing between the gods and the people. Ontology focuses on the invisible aspect of human nature along with the human reality.<sup>12</sup> Plato developed this distinction between true reality and illusion, when he argued that what is real is eternal.<sup>13</sup>

<sup>1</sup> Article 1 Universal Declaration of Human Rights

<sup>2</sup> Catharine A. Mackinnon; Are Women Human? And Other International Dialogue, The Belkrap Press of Harvard University Press, USA, Paperback Edition, 2007. Available on [www.amazon.com>Books>Law>Constitutional>Law>Human>Rights](http://www.amazon.com>Books>Law>Constitutional>Law>Human>Rights)

<sup>3</sup> Ibid.

<sup>4</sup> UNFPA, Women Rights are Human Rights available at <http://www.unfpa.org/swp/2000/pdf/english/chapter6.pdf>

<sup>5</sup> Ibid.

<sup>6</sup> Ibid.

<sup>7</sup> Women were considered inferior creatures available at <http://www.womenpriests.org/traditio/inferior.asp>

<sup>8</sup> [www.oxforddictionaries.com/definition/...](http://www.oxforddictionaries.com/definition/)

<sup>9</sup> [https://en.m.wikipedia.org/.../category\\_of\\_being\\_...](https://en.m.wikipedia.org/.../category_of_being_...)

<sup>10</sup> <https://en.m.wikipedia.org/.../catogory...>

<sup>11</sup> Rosa Maria Paya. Categories of Human Beings available at [translatingcuba.com/categories-of-human-beings-...](http://translatingcuba.com/categories-of-human-beings-...)

<sup>12</sup> Ontological and Anthropological Aspect of the Concept of Human [www.academia.edu/.../ontological\\_and\\_...](http://www.academia.edu/.../ontological_and_...)

<sup>13</sup> <https://en.m.wikipedia.org/wiki/ontology>

Although men have struggled over the years to preach gender equality through instruments and conventions,<sup>14</sup> the precarious position of women all over the world is not farfetched as it can be noticed from the following figures;<sup>15</sup>

- Of the 1.3 billion people living in poverty around the world, 70% are women.
- 130 million primary school aged children do not attend school. 60% of these are girls.
- By age 18, girls have received an average of 4.4 years less education than boys.
- Pregnancies and childbirth-related problems take the lives of around 500,000 women each year which is approximately one in every minute.
- In sub-Saharan Africa, a woman faces a 1 in 13 chance of dying in childbirth while in Western Europe, the risk is 1 in 3200.
- Women do about 66% of the world's work in return for less than 5% of its income.
- At least one in three girls and women worldwide has been beaten or abused in her lifetime.
- Of every 10 people killed or wounded during armed conflict, 8 are women or children.
- Only around 6 in every 100 government ministers in the world are women.
- HIV infection among women between the age of 15 and 24 years is fast increasing and is more widespread than cancer.

These are awful figures to contend with especially when we talk about the issue of equality of rights and continue to witness persistent and widespread denial of women's basic rights while the perpetrators go unpunished.<sup>16</sup>

Particular attention is now being placed on the slogan of "women's rights as human rights" because gender discrimination and violence against women has become a global phenomenon that is as old as human existence or history.<sup>17</sup> Haven noticed the vulnerability of women, the united nations has always set standards or goals to sanction gender discrimination and inequality.<sup>18</sup> Among such standards are, the Universal Declaration of Human Rights (UDHR), the International Convention on Economic, Social and Cultural Rights (ICESCR), International Convention on Civil and Political Rights (ICCPR), the Convention on the Elimination of all Forms of Discrimination against Women (CEDAW) and the commitment of the Fourth World Conference on Women in Beijing, China.<sup>19</sup>

All these documents go to enforce that women are human beings and are entitled to all rights that human beings enjoy.

## 2. Challenges and impacts on Women's Rights

Women's rights refer to freedom and entitlements of women and girls of all ages as differentiated from the broader notions of human rights.<sup>20</sup> Women, as human beings are entitled to freedom to enjoy human rights without discrimination, violence or deprivation of any sort. Article 1 of CEDAW defines discrimination against women as<sup>21</sup>

- 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 or any other field.

The impacts on women's rights can therefore be seen from religious, cultural, historical and social angles.

Violence on the other hand, is defined as<sup>22</sup>

- the intentional use of physical force or power threatened or actual, against oneself, another person, or against a group or community that either results in or has a high likelihood of resulting in injury, death, psychological harm, maldevelopment or deprivation.

The challenges on rights of women as viewed by the society can be hinged on the following factors;

### 2.1. Religion

The story of creation is quite instructive in identifying the role of a woman. While God created all creatures as male and female from the beginning, he made man in his own image and placed him in domination over everything he had created.<sup>23</sup> "So God created man in His own image, in the image of God He created him, male and female He created them." At this point, he contemplated man for the human race and made other creatures male and female. How He created man can be seen in Genesis chapter 2 verse 7;

<sup>14</sup> The United Nations (UN) Charter, the Universal Declaration of Human Rights and the Convention on the Elimination of all Forms of Discrimination against Women (CEDAW)

<sup>15</sup> Women's rights are human rights op.cit.

<sup>16</sup> UNFPA. The Human Rights of Women. Available at <http://www.unfpa.org/resources/human-rights-of-women>

<sup>17</sup> United Nations Population Fund (UNFPA) The Human Rights of Women available at <http://www.unfpa.org/resources/human-rights-women...>

<sup>18</sup> Francis Anaeme. Reducing Gender Discrimination and Violence Against Women Through Library and Information Services available at <http://unllib.unl.edu/LLP/Reducing-gender-discrimination-...> 2012

<sup>19</sup> Onyegu, R. & Essiet, J., (2002) Update on women's socio-economic rights in Nigeria, Shelter Rights Initiative.

<sup>20</sup> Hosken, F.P., (1981) Towards a definition of Women's Rights. Human Rights Quarterly 3(2) pp 1 – 10

<sup>21</sup> CEDAW Introduction. Available at <http://www.un.org/womenwatch/daw/cedaw/text/econvention.htm>

<sup>22</sup> World Health Organization (2002) World Report on Violence and Health: Summary, Geneva: WHO

<sup>23</sup> Genesis 1:27

- The Lord God formed the man from the dust of the ground and breathed into his nostrils the breath of life, and the man became a living being.

The creation of a woman was only contemplated when God saw that it was not good for man to be alone.<sup>24</sup> She was created as a helpmate for him. To buttress her unequal status, her creation was quite dramatic as opposed to other creatures that were made in their own right.<sup>25</sup> Adam had to be put to sleep so that his rib could be taken to create a woman.

Religion no doubt impacts on the social and cultural lives of women.

The Muslim view of creation is very different to Genesis. For instance, the Koran does not talk of a woman being created from Adam's rib.<sup>26</sup> One day he woke up to see a woman gazing at him. However, in the Hadiths of the prophets, it was narrated that Abu Huraira, Allah's Apostle said;<sup>27</sup>

- Treat women nicely, for a woman is created from a rib, and the most curved portion of the rib is the upper portion, so, if you should try to straighten it, it will break, but if you leave it as it is, it will remain crooked. So treat women nicely.

In as much as men are discouraged from straightening a woman to the point that she would break, he is not to let her remain crooked. One wonders whether this insinuates that a woman is crooked by nature if left as she was created especially since trying to straighten her could break her.

Religious clerics usually try to use this rib analysis as their basis for preaching equality and sometimes seem to over blow it. For example, that God chose the left part of the rib which is closer to the heart so that she would be loved by her husband and be treated as his equal partner as opposed to his foot or his head so that he will not trample on her or lord it over her. She, on her part, must respect her husband as the head of the home.

These religious clerics usually try to stress equality of men and women. This is usually tedious because interpreting the religious documents seem to give women the duty to submit to men, while men have the duty to lead. The realization of human right abuses against women has brought about certain global declarations to ensure that they are fairly treated. One cannot help but notice that while all other things were created male and female from the beginning, the woman was only created when it became obvious that man was going to need her. While other creatures were made in their own right, she was created as an appendage from a man's rib. She was also not part of the world's activities such as naming of all the things that were created nor was she giving instructions about the tree of life.<sup>28</sup> But surprisingly she took the whole blame for eating it and also took full responsibility for the participation of Adam who was a full grown adult. For this act, she got the eternal punishment of labour pains during childbirth and man's rulership over her.<sup>29</sup> Poor Eve. Perhaps, the assistance of a defense counsel would have set her free or at least given her a reprieve. No wonder Helena Kenedy thinks Eve was framed.<sup>30</sup>

Another area where women seem to be shortchanged by religion is in the area of inheritance. It has become an extension of harmful widowhood rights that women are chased out of their matrimonial homes after relatives of the deceased would have carted away everything that their deceased brother or son had. The fate of the woman is therefore left to be determined by culture, the nature of marriage contracted or to religion. Despite several judicial and legislative interventions, old habits die hard.<sup>31</sup>

The Bible reports that when Moses started parceling out the promised land to the tribes of Israel that were numbered and who were males above twenty years, he was confronted with the case of the daughters of Zelophehad who wanted to inherit their father's properties since he had died in the wilderness leaving no male children. He sought God's face and was told that<sup>32</sup>

- If a man dies and leaves no sons, turn his inheritance over to his daughter. If he has no daughter, give to the brothers. If he has no brothers, give to the father's brothers. If his father has no brothers, give his inheritance to the relative in the clan.

Although this restored the right of Zelophehad's daughters to inherit as relatives, their right was subject to the unavailability of a son or male family member. Why did Moses fail to count the women? Was it because he did not consider them as humans? He did not have to ask God about allocations to men.

<sup>24</sup> Genesis 2:18 says "it is not good for the man to be alone. I will make a helper suitable for him.

<sup>25</sup> Genesis 2:21-25. It provides;

So the Lord God caused the man to fall into a deep sleep. And while he was sleeping, he took one of the man's ribs and closed up the place with flesh. Then the Lord God made a woman from the rib he had taken out of the man, and he brought her to the man. The man said, this is now bone of my bones and flesh of my flesh. She shall be called woman, for she was taken out of man.

<sup>26</sup> Man, Woman and the two Creation Stories, Leewoof.org/2013/02/18/man-woman..., creation.com/the-koran-quran-vs-genesis..., www.islamreligion.com/.../the-story-of-adam..., Sahih Bukhari volume 44 Book 55 #548

<sup>27</sup> Ibid.

<sup>28</sup> Genesis 2:15 – 17 says;

The Lord God took the man and put him in the Garden of Eden to work it and take care of it. "You are free to eat of any tree in the garden. But you must not eat from the tree of knowledge of good or evil, for when you eat of it, you will surely die." And then the Lord said, it is not good for man to be alone. I will make a helper suitable for him.

<sup>29</sup> Genesis 3:16 To the woman he said;

I will greatly increase your pains in childbearing; with pain you will give birth to children. Your desire will be for your husband and he will rule over you.

<sup>30</sup> Helena Kenedy. Eve was framed, Women and British Justice, Vitage publishers, London, 2005.

<sup>31</sup> Ofoegbu Sabina. Income Generation and the Nigerian Woman

<sup>32</sup> Number 27:1 – 11, 26:33, Joshua 17:3

According to Islam, Allah gave women a different nature from men, which specify their place in the society. They may take on different roles, but among the most important are mentioned, the role of mother, wife, daughter, sister, grandmother, niece and aunt.<sup>33</sup> Each of these social roles in Islam is associated with much defined principles. For example, women are encouraged in Islam to marry after they become physically mature. Between spouses is to be concluded a nikah, or marriage contract to make the marriage recognizable and enforceable. It is also mentioned that a woman entering into marriage may not be within the time iddah, that is, the three months waiting period after the death of her husband.<sup>34</sup> Even after a man's death, his right to the child in his wife's womb is protected. The waiting period will help to confirm whether or not she is pregnant.

## 2.2. Historical

Such instruments like the Universal Declaration of Human Rights (UDHR), Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW) 2000, Beijing Conference, the Constitution of the Federal Republic of Nigeria, among others, provide various forms of protection for women and children who are usually more susceptible to all forms of degrading torture and violence whether mental or physical.<sup>35</sup> This is because by their biological make up, they are weaker in physical strength and can easily be over powered by men.

I once stumbled on a book titled "Are Women Human?"<sup>36</sup> and it caught my attention. I could not resist buying it to further understand the limitations of a woman in the application of human rights and why anyone would think of women as being less than human. In expressing the double edged denial of women's humanity and the paradigm shift in the content and forms of transnational human rights she stated as follows:<sup>37</sup>

- Women, largely excluded from governments have organized their own international nongovernmental organizations (NGOs) that have increasingly made grassroot civil society a factor to be reckoned with in international relations... And since states too often do not represent women, whether by acts or failures to act within the sphere of their power and authority, women facing unresponsive official mechanisms, doctrines and authorities have reached, often through their own NGOs, to hold the law in their own hands, seeking perpetrator accountability directly to them through civil legal means.

This shows the general disbelief of women in the ability of the law as it is, to grant them the needed protection.

Women are not given adequate recognition by the state even as spoils of war. In most cases where war booties are counted, women and children are excluded from head counts. The victors usually treat women as objects to be applied for the pleasure.

"To the victor go the spoils" has been a war cry for centuries,<sup>38</sup> and has backed combatants to commit wartime sexual violence such as gang rape whether physically or with objects to show their supremacy or to humiliate their enemy. It can be recognized as a means of carrying out genocide or ethnic cleansing. The Greeks considered war rape of women as socially acceptable.<sup>39</sup> Sometimes such women are distributed as war brides.<sup>40</sup> Islam, however, considers it halal and therefore forbidden, to have sex with women captured in war.<sup>41</sup>

In social relationships, women suffer violations which range from beating, detention, abduction, rape, electricity shock, drowning, burning, starvation, deprivation of sleep or even death.<sup>42</sup> It could also be mental violence in the form of verbal abuse, humiliation and making the victim feel worthless or hopeless.<sup>43</sup> Torture victims are usually selected and tortured in particular ways to inflict pains on members of a social group or to exploit certain human relationships by inflicting mental suffering. For example, a man may be forced to watch his wife or child being raped, being forced to drink one's urine or eat one's excrement. Unfortunately, it is women that always seem to go through such untold torture.

## 2.3. Politics

Historically, women participation in political processes in Nigeria dates back to pre-independence era with names like Mrs. Janet Mokelu, Fumilayo Ransome Kuti, Margaret Ekpo and a few others showing interest in politics. Other names like Hajia Gambo Sawaba, Maryam Babangida, Hajia Laila Dogonyaro, Drs Obi Ezekwesiki, Okonjo Eweala, Dora Akuyili, Alison Madueke and a host of others have participated or been mentioned in the Nigerian political arena. This is however a tip of the iceberg in comparison with the names of the male counterparts that have participated in politics within the same period. The demand for recognition, freedom and equal rights brought about the creation of the Women Affairs and Social Development so as to enable the government implement

<sup>33</sup> [www.islamswomen.com/.../marriage](http://www.islamswomen.com/.../marriage)

<sup>34</sup> Ibid.

<sup>35</sup> Catherine A. Mackinnon. Are Women Human? and other international dialogues. The Belknap Press paperback edition 2007

<sup>36</sup> Catherine A. Mackinnon, *ibid*.

<sup>37</sup> *Ibid* p. 1

<sup>38</sup> [https://en.wikipedia.org/.../wartime\\_sexual\\_violence](https://en.wikipedia.org/.../wartime_sexual_violence)

<sup>39</sup> *Ibid*.

<sup>40</sup> [https://en.m.wikipedia.org/wiki/war\\_bride](https://en.m.wikipedia.org/wiki/war_bride). The first batch of war brides to survive in U.S. on 4<sup>th</sup> February 1946 were 455 British women and their 132 children. While the Japanese women were not allowed to bring their Chinese families back with them, Islam considers it halal or forbidden to have sex with women captured in war.

<sup>41</sup> [M.youtube.com/.../why-sex-with-women-captured-in-war-is-halal](http://M.youtube.com/.../why-sex-with-women-captured-in-war-is-halal)

<sup>42</sup> *Ibid* p. 17

<sup>43</sup> *Ibid*.

certain core principles of National Gender Policy analysis. Apart from gender articulation, implementation and evaluation, issues of gender equality, equity and cultural re-orientation to promote gender education were also integrated to empower women and close up the existing gender gaps. Despite all these, Nigerian women like most parts of Africa are still faced with difficult challenges which are rooted cultural, social and religious norms. Nigerian women had to lobby a great deal to be granted a 35% affirmation for women to be put into the political arena.<sup>44</sup> Nigeria has implemented only five percent of affirmative action of 35 percent.<sup>45</sup>

As a signatory to the United Nations Convention on women's rights, it is unfortunate that women are still treated like second class citizens in this country.

In most political appointments they are treated as though they are inferior and therefore below men or that they are being done a favor by being given a female affirmative percentage of 35%.

In terms of politics, women are usually shortchanged because they are not taken seriously either by their female peers or their male counterparts whose usual expectation for such women is for them to be restricted to stereotype roles for women and the need to look after the family. When Sarah Jibrin, a politician, contested for presidency, it was a shock that despite all her assumed followership, she had only one vote which was most likely her vote.<sup>46</sup>

Obviously, all those who supported her to run for the presidency did not match the support with any vote for her. Furthermore, most political party meetings are done at nocturnal hours such as from 12 midnight to 4 a.m and the like. These hours are not women friendly especially where the family is still raising young children.

#### 2.4. Social

The grim reality is that women fare considerably worse than men in almost every aspect of social well-being, despite assumptions by state or international legal obligations to promote their equal enjoyment of human rights and many good intentions. Despite the increasing participation of women in the workforce, their average wage is considerably lower than that of men. Indeed, some women earn no remuneration at all for work in family enterprises nor do they receive equal access to social security assistance.<sup>47</sup> Due to poverty, women die from preventable complications of pregnancy and childbirth. The World Health Organization estimates that every day, 1,500 women and girls fall victim to death caused by such complications.<sup>48</sup>

The society views women's inequality as natural, religious or cultural and have relied on these assumptions to justify, discrimination against women thereby denying them access to education, health, employment, and political influence within their communities.<sup>49</sup>

International human rights law has challenged the naturalness of many discriminatory beliefs and practices and have helped to change oppressive stereotypes about women while also challenging dominating stereotypes about men.<sup>50</sup> Promoting strict equal and nondiscriminatory rights can sometimes prove problematic both conceptually and in practice especially when dealing with people of different orientations. Treating women in the same way as men works well when their experiences of human rights violations are directly comparable. For example, a legislation in Mauritius was found to violate sex discriminatory rules when it allowed wives of Mauritian men to have automatic residency but denied such residency to husbands of Mauritian women.<sup>51</sup> The human rights committee found that the legislation made an adverse distinction based on sex since it negatively affected married women's employment of International Convention on Civil and Political Rights (ICCPR) related to privacy and family life, as compared to married men.<sup>52</sup>

However, a comparison with rights that men enjoy will usually not help where women's experiences are substantially different from men's especially as it relates to the various interruptions that could affect their workforce such as maternity leave, childcare provisions, uneven distribution of family and caring responsibilities among others. Many women therefore have to balance raising families with running their businesses.<sup>53</sup>

Work-life balance is often a goal of entrepreneurs across the board. But mothers who start businesses have to simultaneously run their families and their companies.

Being a mother while running a business is very challenging. The perception is that you could be more effective running your business if you didn't have to deal with kids. *Momtrepreneurs*,<sup>54</sup> as these types of women are referred to, have dual responsibilities to their businesses and to their families, and finding ways to devote time to both is key to truly achieving that elusive work-life balance. On daily basis, they engage in what mums are known to do such as cooking, cleaning, feeding, changing and general caring for the children. They also run errands and bills for their families and even though they usually don't get paid, things are expected to be done.

<sup>44</sup> Kolade Larewaju. Nigeria has implemented only 5 percent of affirmative action on women [www.vanguardngr.com/.../nigeria-has-...](http://www.vanguardngr.com/.../nigeria-has-...)

<sup>45</sup> Ibid.

<sup>46</sup> Ayesha Osori. Sarah Jibrin: One vote against the world, available at [pedestrianlawyer.blogspot.com/.../Sara-Jibrin-...](http://pedestrianlawyer.blogspot.com/.../Sara-Jibrin-...)

<sup>47</sup> Report of the Secretary-General. In depth study on all forms of violence against women A/61/122/Add 1 (6 July, 2006) para 58

<sup>48</sup> Human Rights Council Res 11/8 (17 June 2008) paras 1 and 2

<sup>49</sup> The Elders, 'Equality for Women and Girls', available at <http://www.theelders.org/women-initiative-...>

<sup>50</sup> Dianne Otto. Women's Rights in International Human Rights Law ed Daniel Moeckli, Sangeeta Shah and Sandesh Sivakumaran, Oxford University Press, UK 2<sup>nd</sup> edn 2014 p. 321

<sup>51</sup> *Aumeeruddy-Cziffra et al v. Mauritius* CCPR/C/12/D/35/1978 (9 April, 1981)

<sup>52</sup> [Legal.un.org/avl/ha/iccpr/iccpr.html](http://Legal.un.org/avl/ha/iccpr/iccpr.html)

<sup>53</sup> Nicolle Fallon op cit.

<sup>54</sup> *Momtrepreneur-Kari*.blogspot.com/.../...

The best way to maintain a balance is to learn not to take shortcomings on either front too seriously, so that she does not beat herself up over little things, like missing a class trip with her children, attending her children's sports day at school, etc.

### 2.5. Cultural

Men and women are different biologically. It was designed by nature like that and there is nothing wrong about it as they perfectly supplement each other if both parties respect the existence and rights of the other. If there were no fundamental and distinct differences between man and woman, why would God have made two sexes instead of one? He could have made men to reproduce asexually. There are stable images of men and women roles in the society, which are very difficult to change or overcome. Men are usually regarded as strong, resolute, and quick, while women are seen as being soft and weak. Where a job is such that requires use of physical strength, then men no doubt are likely to put in more into getting achieved results. Female roles are reduced to domestic, pretty and sexy objects.<sup>55</sup> Most jobs have now moved beyond physical strength to the use of intellect or computer. Women no doubt are not deficient in these.

Due to cultural and traditional practices, women are discriminated against in relation to productive resources like land, buildings and credit facilities with which to develop economic enterprises.

The Nigerian women make up half of the population of the country but they do not have equal economic opportunities to enable them favourably compete with men.<sup>56</sup>

In some parts of Nigeria, they are even looked upon as properties of men. Sometimes, the gender imbalance extends to the girl child's access to human development opportunities such as education and health.<sup>57</sup>

According to Ofoegbu,<sup>58</sup>

- Women are mostly trapped in the small rural farming economy, as well as the informal urban economy, carrying out petty trading, craft and artisan-works, casual daily paid labour, food selling, domestic services as house girls etc.... Only a few women are in top political, government or managerial positions.

Poverty is a hindrance to the enjoyment of human rights by women.

Poverty and gender are not entirely separate issues. Gender identity relates to all social life and therefore, gender awareness is not about aiding women but about rethinking development concepts and practices as a whole through the gender lens.<sup>59</sup> This requires some sensitivity in considering human right issues. The Nigerian women if given the opportunity and enabling environment, can contribute meaningfully to the development of the nation. A Nigerian woman is always working in the home whether the chores are recognized as work or not. The western concept of "full time housewife" is thereby negated by this constant work even where she has another paid job which could sometimes be similar to that of her husband. Women are expected to take simple jobs that have 9 a.m to 4 p.m. working hours to enable them look after their families. Even if it turns out that their husbands work similar or even shorter hours, she still has the responsibilities of carrying out domestic responsibilities and looking after the domestic needs of her children and her husband.

From childhood, her orientation is to take responsibility for house chores while her male siblings go about playing football. She learns from the beginning of her marriage to do subsistence farming or some form of petty trading to support her home. Women become so used to home support that even if their relationship ends in a divorce, that they do not remember to ask for alimony.<sup>60</sup>

Other forms of cultural gender discriminations are found in the area of forced marriage, female genital mutilation, violence, rape, widowhood practices to say the list.<sup>61</sup> Social attitudes towards women vary as greatly as the members of the society. From culture to culture, perceptions about women and gender expectations differ greatly. In recent years, there has been a great shift in attitudes towards women globally as society critically examines the role that women should play in the society and the value that women have.<sup>62</sup>

One of the most profound differences between men and women is the role each plays in reproduction. Menstruation and gestation have historically influenced and limited the role that women play in the society. In some societies, a woman's value was measured in her ability to bear children. Thus raising children and looking after the home became the focus of many women's lives. However, in the twentieth century, these issues have been alleviated by several factors. First is that, a shift from an agrarian to an industrial society meant that people began having children at much lower rates and women played an increasingly important role in the labour force.<sup>63</sup> Secondly, advocates for contraception such as Margaret Sanger transformed the lives of women everywhere by giving them control

<sup>55</sup> [www.streetdirectory.com/.../women-in-different-cultures-eepeoc.html](http://www.streetdirectory.com/.../women-in-different-cultures-eepeoc.html)

<sup>56</sup> Ofoegbu Sabina A. Income Generation and the Nigerian Woman p. 3

<sup>57</sup> Abdullahi Umar. 'Change' and Nigerian women rights politics, The Guardian Newspaper, October, 14, 2015. Available at [www.ngrguardiannews.com/.../change-and-nigerian-women-...](http://www.ngrguardiannews.com/.../change-and-nigerian-women-...)

<sup>58</sup> Ofoegbu Sabina A. op.cit.

<sup>59</sup> Ibid p. 18

<sup>60</sup> Ibid p. 13

<sup>61</sup> Agbonika, J.A.A. Violence Against the Female Gender in Nigeria: An Appraisal. Benue State University Journal of Private and Public Law BSUJPP (2013) Vol. 1 No. 1 pp 293-303

<sup>62</sup> [https://en.wikipedia.org/wiki/Societal\\_attitudes\\_towards\\_women](https://en.wikipedia.org/wiki/Societal_attitudes_towards_women)

<sup>63</sup> Norris, Pippa (2003). *Rising Tide: Gender Equality and Cultural Change*. p. 240. ISBN 0-521-52950-6

over when and how often they could give birth.<sup>64</sup> Gradually, these changes led to a shift in attitude and women started being viewed as an integral part of the workforce and began to work towards gaining equality with men.

## 2.6. Legal

Despite the provisions of protocols, charters and conventions recognizing and guaranteeing rights of women<sup>65</sup> and obligations of the Nigerian government as spelt out in the nation's Constitution,<sup>66</sup> the lives of the Nigerian woman is yet to attain a commensurate level of improvement. She continues to rank lower than men in all areas of development. The issue of human rights of women is not so much about the expression of rights on paper or theories but about the actual practice of such rights. Even when women struggled to get a 35% affirmative action, it is yet to be implemented.<sup>67</sup> We can still count the number of women in top positions whether as entrepreneurs or politicians.

The principle of nondiscrimination is a cornerstone of human rights principles. Discrimination based on sex is among the forms of discrimination prohibited from the norms and standards of women's rights.<sup>68</sup> This prohibition is enshrined in the Universal Declaration of Human Rights. The commitment to nondiscrimination was clearly reiterated by the international community in Article 2 of the two International Covenants – on Civil and Political Rights and on Economic, Social and Cultural Rights.

The United Nations declared 1975 the International Year of the Woman, with the first World Conference on Women being held in Mexico.<sup>69</sup> The year was extended to a decade, with conferences in Copenhagen in 1980 and in Nairobi in 1985. The Fourth World Conference on Women was held in China in 1995.<sup>70</sup> The Non-Governmental Organization (NGO) Forum for the Beijing conference was attended by more than twelve thousand women from all over the world.<sup>71</sup> The Platform for Action of the Beijing conference identified the human rights of women as a critical area of concern. Most of the other areas have a direct bearing on economic and social rights – poverty, education and training, health, the economy, power and decision-making, the media and the environment.

Women's concerns were also centrally featured at the World Conference on Environment,<sup>72</sup> on Human Rights,<sup>73</sup> on Population and Development<sup>74</sup> and at the World Summit on Social Development.<sup>75</sup>

There are at present two UN conventions that are women-specific. They are, the Convention on the Political Rights of Women (1954)<sup>76</sup> and the Convention on the Elimination of All Forms of Discrimination Against Women tagged the Women's Convention.<sup>77</sup> In November 1999, the UN General Assembly adopted an Optional Protocol to the Women's Convention, to enable individual women take their complaints about noncompliance with the Convention to the attention of the Convention's monitoring committee, the Committee on the Elimination of Discrimination against Women (CEDAW). Optional Protocols come into force when it is ratified by ten countries.

The UN Convention on the Elimination of All Forms of Discrimination Against Women is best described as an international bill of rights for women as it sets out in detail, what is to be regarded as discrimination against women and the measures that have to be taken in order to eliminate this discrimination. Women's rights are conceptualized as human rights and a "nondiscrimination" model is adopted, so that women's rights are considered violated if women are denied the same rights as men.

The Women's Convention<sup>78</sup> defines discrimination as:

- 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 or any other field.

The elements of the definition are:

- a. Any distinction, exclusion or restriction made on the basis of sex is discrimination.
- b. The Convention covers both the effect and the purpose of such distinction, exclusion or restriction based on sex that hampers the enjoyment by women of their human rights.
- c. It covers discrimination in political, economic, social, cultural, civil or any other field.
- d. It also covers discrimination in public and private ("or any other") actions.

<sup>64</sup> [www.alternet.org/.../how-margaret-sanger-led-the-birth-control-movement...](http://www.alternet.org/.../how-margaret-sanger-led-the-birth-control-movement...)

<sup>65</sup> Catharine Mackinnon. Op.cit.

<sup>66</sup> The Constitution of the Federal Republic of Nigeria 1999 as amended.

<sup>67</sup> Kolade Larewaju op.cit.

<sup>68</sup> [www1.umn.edu/humanrt/edumat/IHRIP/circle/modules/module4.htm](http://www1.umn.edu/humanrt/edumat/IHRIP/circle/modules/module4.htm)

<sup>69</sup> <https://en.m.wikipedia.org/.../international-womens-year-...>

<sup>70</sup> Fourth World Conference on Women, Beijing 1995, [www.un.org/womenwatch/daw/beijin/...](http://www.un.org/womenwatch/daw/beijin/)

<sup>71</sup> [www.aauw.org/2014/20/1995-beijin/.../why-was-the-1995-Beijin-conference-for-women-groundbreaking...](http://www.aauw.org/2014/20/1995-beijin/.../why-was-the-1995-Beijin-conference-for-women-groundbreaking...)

<sup>72</sup> Rio de Janeiro, 1992

<sup>73</sup> Vienna, 1993

<sup>74</sup> Cairo, 1994

<sup>75</sup> Copenhagen, 1995

<sup>76</sup> Convention on the Political Rights of Women, opened for signature on 31<sup>st</sup> Mar, 1953, entered into force on 7 July, 1954, 193 UNT 135

<sup>77</sup> Convention on the Elimination of All Forms of Discrimination Against Women, adopted 18 Dec. 1979, Ga Res. 34/180, 34 UN GAOR SUPP. (no.46) UN DOC. A/34/46 (1980), 1249 UNTS 13, entered into force 3 September 1981, reprinted in 191Im 33 (1980)

<sup>78</sup> CEDAW

e. It prohibits intentional or unintentional discrimination.

f. The rights enshrined in the Women's Convention apply to all women irrespective of their marital status.

The Women's Convention is the UN treaty that most clearly brings together civil and political rights. In addition, since its inception, the committee (CEDAW) established under the Convention has issued a number of General Recommendations (GR) that elaborate on the articles of the Convention. Among the most critical have been: GR 12 and 19 on violence;<sup>79</sup> GR 13 on equal remuneration for work of equal value;<sup>80</sup> GR 14 on female circumcision;<sup>81</sup> GR 15 on unpaid women workers in rural and urban family enterprises;<sup>82</sup> GR 21 on equality in marriage and family relations;<sup>83</sup> and a new GR on health.<sup>84</sup>

### 3. Challenges of Professional Women

The challenges of a woman usually start from childhood sometimes from the mother's womb. In a situation where a man favours male children, a female foetus is likely to face an abortion. As a young girl child, she grows knowing that it is her responsibility to carry out almost all the house chores. The life of a woman can sometimes be cumbersome and gloomy if the excesses of men are not checked. Thus, as a child she is controlled by the parents to do domestic chores while her brother plays football, as a married woman she is also controlled by her husband who always comes home late therefore leaving her without companionship, to clean the house, wash and iron clothes, cook food even when he sometimes fails to provide, ensure that the children are always neatly dressed and well behaved, meet his sexual demands, among others.

In the office her male counterparts also struggle to stampede her because of their primitive notion that women should be reduced to tea girls.

When a woman however struggles to succeed in a male dominated profession like law, medicine, engineering or joins the armed force, the tendency is for men to disregard the womanhood in her and adopt her as a male. For instance, there is no female in the legal profession.<sup>85</sup> Thus, a female in the legal profession will be addressed with male acronyms like he, sir, him, my lord, esquire, gentleman of the bar, etc. Esquire abbreviated as Esq. is a title of respect accorded to men of higher social rank below the rank of knight and above the rank of gentlemen. It later became a general courtesy title mostly used to denote a lawyer irrespective of gender. It is used as a suffix to a person's name after a comma. For example, John Tule, Esq.

Although the legal study shows a 50:50 male: female data ratio in the profession, only about 27 per cent of women actually end up in law firms in U.S.<sup>86</sup> Out of these, only 5% of them reach managerial and partnership levels.<sup>87</sup> Worse still, men are paid at least 15% more than their female counterparts with the same qualification and experience.<sup>88</sup>

Fliszar recounts that when she was in Law School in 2007, the legal profession was dominated by men.<sup>89</sup> Quoting the American Bar Association, she said, at that time,

- Women only accounted for 30.1% of the over 1 million lawyers in the country. Only 17.9% of partners at private law firms were women and only 16.6 were general counsel at a Fortune 500 company. The numbers were just as low for female judges at the federal level. Now, 7 years later, women still only account for 33.3% of lawyers, 19.9% of partners, 21.6% of general counsel at a fortune 500 company. What I have learned in my time as a practicing attorney is that many of the men in the field especially the older men, and even some of the women, believe the field is a man's world and do not treat the women as equals.

This marginalization also extends to elective positions at the bar or in politics generally. Since the Nigerian Bar Association started in 1959, only one woman, Priscilla Kuye, has been elected to the highest position of the President. No woman is yet to rise to the position of the Attorney General of the Federation and Minister of Justice.

In Nigeria, there is a 60:40 male: female ratio of lawyers yet, out of the 429 Senior Advocates of Nigeria (SAN) as at 2015, less than 20 are female.<sup>90</sup> This is in the face of ethnic and gender considerations by the Legal Practitioners and Privileges Committee for grant of the rank.<sup>91</sup> Out of the twenty-one people conferred with the rank in 2015, only one was a female.<sup>92</sup>

<sup>79</sup> [www.un.org/womenwatch/.../cedaw/.../](http://www.un.org/womenwatch/.../cedaw/.../)

<sup>80</sup> CEDAW General Regulation, 12 of 1989

<sup>81</sup> Ibid, 1990

<sup>82</sup> Ibid, 1991

<sup>83</sup> Ibid, 1994

<sup>84</sup> Ibid, 1999

<sup>85</sup> <https://en.m.wikipedia.org/wiki/Esquire>

<sup>86</sup> Abe Krash, The changing legal profession, available at [www.dcbarr.org/for\\_lawyers/resources/virtual\\_library/changing-legal-profession](http://www.dcbarr.org/for_lawyers/resources/virtual_library/changing-legal-profession) pp 27-34

<sup>87</sup> Ibid.

<sup>88</sup> Ibid.

<sup>89</sup> Jenna Fliszar. Women Lawyers: Working in a Man's World? Available at <http://blog.fliszarlaw.com/2014/03/17/women-lawyers-working-in-a-mans-world...>

<sup>90</sup> [www.lawyard.ng/list-of-senior-advocates-in-nigeria-1975-2015-...](http://www.lawyard.ng/list-of-senior-advocates-in-nigeria-1975-2015-...)

<sup>91</sup> The Nigerian Bar Association available at [www.nigerianbar.org/index.php?](http://www.nigerianbar.org/index.php?)

<sup>92</sup> [www.vanguardngr.com/.../behold-the-new-senior-advocates-of-Nigeria-...](http://www.vanguardngr.com/.../behold-the-new-senior-advocates-of-Nigeria-...)



### 3.1. Absence of Level Playing Ground

Like most organizations, women have noticed that a level playing ground is almost impossible and have advocated female lawyer's forum.<sup>93</sup>

A lot of women have also tried to take the bull by the horn by taking care of their interests away from the "men run world," enterprises or institutions by forming Non-governmental organizations or associations with only female members to consider female interests.

For example, despite the existence of the International Bar Association to which all lawyers including women are entitled to belong, there is a parallel female association of female lawyers called Federacion Internacional De Abogadas (FIDA),<sup>94</sup> which means federation of women lawyers. This was founded on 4<sup>th</sup> day of August, 1944 in Mexico with members from U.S.A., Mexico, Cuba, Puerto Rico, and Salvado. It now has membership from over 73 countries with branches worldwide. The Academic Staff Union of Universities (ASUU) also has its female wing known as National Association of Women Academics.<sup>95</sup> In the Catholic Order of the Knights of Saint Mulumba which was formed in 1953, their wives continued to wait under trees for their husbands while they met to consider religious issues and charities until they decided in 1978 to form the Ladies wing of the Order known as the Ladies of Saint Mulumba, Nigeria, which was inaugurated in June, 24, 1978.<sup>96</sup> When in 2012, the Ladies wing tried to incorporate their establishment, there was a big rift between the KSM and the LSM with the men insisting that they had women in contemplation when the order was originally formed and amended their Constitution quickly to include ladies. The Ladies were persuaded to deregister and operate under the new constitution of the knights. This was a stampede on their rights to freely associate as guaranteed by the Constitution of the Federal Republic of Nigeria.

Women entrepreneurs also face unique challenges when starting a business. These challenges are similar with those of other professionals.

### 3.2. Assumptions that Women Entrepreneurs Need to Act Like Men

Entrepreneurship was once considered a man's territory. But each year, more and more business ladies inspire other women with dreams of founding startups that can put them in the right business framework. However, many female business owners still face significant obstacles because of their gender.<sup>97</sup> Female Chief Executive Officers (CEOs) share a few of the biggest challenges women entrepreneurs face today, and work out how to overcome them.<sup>98</sup> Most female business owners who have attended networking events can relate to the intimidating effect of walking into a crowded seminar to find only a few women in comparison with the vast number of men. This could make a woman feel intimidated or believe that she is in the wrong place or gathering.

To compensate and shield themselves, women often feel as though they need to adopt a stereotypically "male" attitude toward business to look competitive, aggressive and sometimes harsh. But Hilary Genga,<sup>99</sup> the founder and CEO of Women's swimwear company called Trunkettes, said that this is the wrong approach to take and advised as follows;<sup>100</sup>

- Be yourself, and have confidence in who you are. Don't try to be a man. You made it to where you are through hard work and perseverance, but most importantly, you're there. Don't conform yourself to a man's idea of what a leader should look like.<sup>101</sup>

Sharon Rowlands,<sup>102</sup> agrees that confidence is the key to success, even when you're up against a boardroom full of men. She noted that when she was a newly appointed CEO, she often felt her ideas received more scrutiny than those from her male colleagues. However, she didn't let that discourage her from being a great business leader. She said,<sup>103</sup>

- I had confidence in my abilities to run the business. I just made sure that any initiative I was trying to move forward was backed up by a solid business case. I was never unprepared for the questions that I knew would come. I also think many women naturally have extraordinary common sense, a sharp intuitive sense and a great focus on people. These are extremely valuable in business and can help to set us apart as leaders.

### 3.3. Women-Owned Startups Receive Significantly Less Investor Funding

Not every startup founder looks for investors to help his or her business get off the ground, but for those who do know how difficult the pitching process can be, raising capital is even more difficult for women-owned firms. A 2014 Babson College report<sup>104</sup> found that less than 3 percent of venture capital-funded companies had a female CEO.

<sup>93</sup> NBA Women Forum, www.nbawomenforum.org

<sup>94</sup> <http://www.fidafederation.org/history/fida...>

<sup>95</sup> George Uzoma Ukagba. The Kpim of Feminism: Issues and Women in a Changing World (2010) available at <https://books.google.nl/books?isbn1426924070>

<sup>96</sup> History to KSM Nigeria – Knights of St. Mulumba available at [www.ksmnigeria.org/.../ksmnigeria/history-...](http://www.ksmnigeria.org/.../ksmnigeria/history-...)

<sup>97</sup> By Nicole Fallon, Business News Daily Assistant Editor April 2, 2015 available on [www.businessnewsdaily.com](http://www.businessnewsdaily.com)

<sup>98</sup> Ibid.

<sup>99</sup> Founder and CEO of women's swimwear company called Trunkettes

<sup>100</sup> Hilary Genga. Overcoming the Challenges Women Entrepreneurs Face: Women Igniting the Spirit of Entrepreneurship, 2012. Available at [wisecenter.org/overcoming-the-challenge...](http://wisecenter.org/overcoming-the-challenge...)

<sup>101</sup> Ibid.

<sup>102</sup> CEO of digital marketing firm ReachLocal, in her discussion with Business News Daily

<sup>103</sup> Ibid.

<sup>104</sup> Hilary Genga op.cit.

Bonnie Crater,<sup>105</sup> CEO and founder of sales force performance management solution, said that venture capitalists tend to invest in startups run by people of their own interest such as tribe, alumnus, religion, sex, etc. This means that firms with female partners are more likely to invest in women-run startups. But according to Babson,<sup>106</sup> that only accounts for 6 percent of U.S. firms. If a woman is looking for business investors, building confidence through a great team and business plan will be her best bet. According to Fallon,<sup>107</sup>

- Investors are typically looking for businesses that can grow to over \$1 billion in valuation. Think about how to do that. If you have experts on your founding team that can execute the business operations well, investors will have confidence in those people. You also need a good product market fit.

### 3.4. *Work/Life Balance: Emotions and Nurturing Skills can affect Women's Businesses.*

Mothers in business have to simultaneously run their families and their companies. Though trying to act like a man doesn't guarantee success for a female entrepreneur, allowing her "feminine" qualities to stand in the way of getting things done isn't necessarily recommended, either. By nature, women are more emotional and nurturing, which can sometimes be a hindrance to running a business. For men, a business is mostly about the bottom line, but for women, it's more than that,<sup>108</sup>

- Women get emotionally connected, and that can hold them back from making tough decisions. Male Board members and investors get frustrated when we're not as quick to fire or make dramatic business changes that could impact employees' families.

Women also tend to place a high premium on building up relationships that they hope will naturally lead to sales. Connections are highly important to success, and nurturing strong professional relationships can go a long way. However, female entrepreneurs should stay focused on their business goals so that their nurturing instincts do not blindfold them from considering the business purpose of their business.

### 3.5. *Women Often Lack the Support of Other Female Business Leaders.*

Despite the quickly growing number of female executives and business owners, finding fellow women entrepreneurs to connect with isn't always easy.

The main challenge for female entrepreneurs is that there just aren't enough women to be role models, act as sounding boards, do deals with or to create normalcy for women in leadership positions.<sup>109</sup>

Opportunities to lead do exist for women. Women just need to continue to support and promote women in the limelight to encourage others to come along for the ride. Unfortunately, women do not seem to give themselves the needed support.

### 3.6. *Fear of Failure*

Failure is a very real possibility in any business venture, but it shouldn't be viewed as negative. Female entrepreneurs are encouraged to work through the moments of self-doubt that every business owner, whether male or female faces. That is the only way to achieve success someday.

According to Passi,<sup>110</sup>

- You need to have massive failure to have massive success. You may need 100 nos to get one yes, but that one 'yes' will make you more successful tomorrow than you are today.

The Constitution of the Federal Republic of Nigeria 1999 Section 1(1) and (3) provide that

- The Constitution is supreme and ... if any other law is inconsistent with the provisions of this Constitution, this Constitution shall prevail, and that other law shall, to the extent of the inconsistency, be void.

Section 42 prohibits discrimination on the grounds of sex etc. It therefore follows that any customary law which is discriminatory against women shall to the extent of its inconsistency with the Constitution become null and void and of no effect.

## 4. **Standards for Elimination of Discrimination**

While in its everyday sense, the word discrimination imports the notion of difference, in law, the term generally refers to the different treatment of an individual or group of individuals which results in a disadvantage. Although equality is a fundamental assumption of a democratic society, the interpretation of it by diverse groups can make it a treacherous term.<sup>111</sup>

These rights set out the requirement for substantive equality and the standards for elimination of discrimination against women.

### 4.1. *Substantive Equality*

The Convention promotes a model of substantive equality.<sup>112</sup> The concept of equality has traditionally been problematic, because the term "equality for women" is conventionally understood to mean "the right to be equal to men." The fact is that women face gross

<sup>105</sup> Ibid.

<sup>106</sup> Ibid.

<sup>107</sup> Nicolle Fallon op cit.

<sup>108</sup> Ibid.

<sup>109</sup> Bryar told Business News Daily.

<sup>110</sup> In Hilary Genga op.cit.

<sup>111</sup> Grant Evadre. "Dignity and Equality" Human Rights Law Review, Vol. 7, No. 2, 2007.

<sup>112</sup> The Concept of Substantive Equality and Gender, available at [www2.unwomen.org/.../the-concept-of-substantive-...](http://www2.unwomen.org/.../the-concept-of-substantive-...)

inequalities in relation to employment opportunities, wages, access to and enjoyment of health, rights within the family, citizenship, etc. Remedying these inequalities has been interpreted to mean that women should have the same rights as men. Problems may arise however, if women must be treated exactly like men to gain equality with men. The “right to be equal to men” obscures the fact that women are different from men. The substantive model of equality that the Convention promotes adopts a corrective approach, which recognizes their difference. In particular, the Convention recognizes that the function of child bearing is one exclusive to women and argues that that function cannot be used as a basis for discrimination against women.

The Convention presumes that women are in an unequal position because they face current discrimination or bear the effects of past discrimination, and that the environment in the family and in the public sphere is hostile to women’s autonomy. This approach assesses specific provisions or rules to determine whether they contribute to women’s subordination in the short or long term, whether they build on existing subordination (thereby reinforcing it) or help to overcome it.

Furthermore, the substantive model adopts the corrective approach and requires that socially constructed differences, such as the traditional roles ascribed to women and men, as well as cultural practices that see women as inferior, must be changed.

The substantive model of equality is not only concerned with equal opportunity, but also with equality of results. It therefore stresses equal treatment as well as equal access and equal benefits. It recognizes that women and men may have to be treated differently in order for them to benefit equally. This may take the form of providing enabling conditions and/or affirmative action.<sup>113</sup>

#### 4.2. *The Elimination of All Forms of Violence against Women*

The CEDAW’s General Recommendation 19 deals entirely with the question of violence against women. The committee stated that

- Gender-based violence is a form of discrimination that seriously inhibits women’s ability to enjoy rights and freedoms on the basis of equality with men,

and concluded that the definition of “discrimination against women” in article 1 of the Women’s Convention includes gender-based violence. Such violence may violate specific provisions of the Convention regardless of whether or not violence is mentioned in those specific provisions. The committee defined gender-based violence as<sup>114</sup>

- Violence that is directed against a woman because she is a woman or that affects women disproportionately. It includes acts that inflict physical, mental or sexual harm or suffering, threats of such acts, coercion and other deprivations of liberty.<sup>115</sup>

Based on the CEDAW Declaration, the UN Commission on Human Rights appointed a Special Rapporteur on Violence against Women, its Causes and Consequences. The Rapporteur submits annual reports to the Commission. The economic, social and cultural causes of women’s vulnerability to violence as well as the economic and social consequences of women being exposed to violence within the family, the community and in public life form key components of the Rapporteur’s investigations.

In 1995, a new, regional convention entitled the Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women came into force.<sup>116</sup> The Commission may investigate cases brought under the Convention. A new Women’s Commission is authorized to receive complaints and resolve them in cooperation with the Inter-American Commission. Any person or group of people or NGOs from a state party to the Convention may petition the Inter-American Commission. Persons belonging to countries that have not ratified the Convention may approach the Women’s Commission for relief.<sup>117</sup>

#### 4.3. *ILO Conventions and Other Standards*

In addition, the International Labour Organization has adopted a series of conventions regarding women’s employment with subjects which include maternity benefits, equal pay and equal treatment. The World Health Organization,<sup>118</sup> the UN Fund for Population Activities<sup>119</sup> and UNAIDS<sup>120</sup> have over the years developed a series of policy guidelines regarding women’s health that increasingly focus on issues of reproductive and sexual rights. UNESCO also has several documents that focus on women’s rights to education and training.<sup>121</sup>

#### 4.4. *Nigeria*

Nigeria is a member state of the United Nations and a temporary member of UN’s Security Council. It is therefore subject to all the rules brought about by conventions, protocols or standards.<sup>122</sup>

<sup>113</sup> This section on substantive equality is taken from IWRAW Asia Pacific Draft training material, 1997. Also see Formal and Substantive Equality 2 Equal Rights Trust. Available at [www.equalrightstrust.org/.../...](http://www.equalrightstrust.org/.../)

<sup>114</sup> General recommendation 19 of 1992.

<sup>115</sup> A Declaration on the Elimination of All Forms of Violence against Women was adopted in 1994 by the UN General Assembly.

<sup>116</sup> <https://en.m.wikipedia.org/wiki/American-convention-on-human-rights-...>

<sup>117</sup> Ibid.

<sup>118</sup> [www.who.int/about-who-...](http://www.who.int/about-who-...)

<sup>119</sup> [www.unfpa.org](http://www.unfpa.org)

<sup>120</sup> UNAIDS calls on countries to put the health and rights of women and girls at the centre of efforts to end the AIDS epidemic by 2030 [www.unaids.org/.../20151125\\_ps\\_...](http://www.unaids.org/.../20151125_ps_...)

<sup>121</sup> Girls’ and Women’s right to education: Overview of the measures supporting the Right to Education for girls and women reported on by member states. Available on [unesdoc.unesco.org/images/.../227859e.p...](http://unesdoc.unesco.org/images/.../227859e.p...)

<sup>122</sup> <https://en.m.wikipedia.org/wiki/nigeria>

Nigeria has also ratified international treaties that oblige it to ensure equality as well as respect for women's rights. International treaties on women's rights are expedient for a number of reasons. They offer universal definitions for these rights, and while these definitions may not suit specific places and instances, they are a starting point. Further, they constitute important tools in the efforts to improve the lot of women. Signatory countries to these treaties have an obligation to take concrete steps for the realization of the guaranteed rights. Such steps begin with ratification, and although simple ratification of international treaties does not immediately translate into improved rights for women, it paves the way for the passage of implementing legislation if such does not already exist.

The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) is one such international treaty that is relevant to the issues under discussion. Presently, fifty-one out of fifty-four African states have ratified CEDAW.<sup>123</sup> Under CEDAW, state parties condemn discrimination against women in all its forms.<sup>124</sup> They also agree to pursue, by all appropriate means and without delay, a policy of eliminating discrimination against women.<sup>125</sup> CEDAW imposes a positive obligation on states to do away with customary rules and practices that discriminate against women. CEDAW specifically states:

All state parties shall take all appropriate measures:

- (a) To modify the social and cultural patterns of conduct of men and women, with a view to achieving the elimination of prejudices and customary and all other practices which are based on the idea of the inferiority or the superiority of either of the sexes or on stereotyped roles for men and women; ....<sup>126</sup>

Even more specific to Africa is the African Charter on Human and People's Rights (ACHPR), which provides in article 2 that:

- Every individual shall be entitled to the enjoyment of the rights and freedoms recognized and guaranteed in the present Charter without distinction of any kind such as race, ethnic group, colour, sex, language, religion, political opinion.<sup>127</sup>

Article 3 of the ACHPR also stipulates that every individual "shall be equal before the law and shall be entitled to equal protection of the law."<sup>128</sup>

The position of the ACHPR on the family, women and the obligations of the state is stated in Article 18 that:

- 1) The family shall be the natural unit and basis of society. It shall be protected by the State, which shall take care of its physical health and moral.
- 2) The State shall have the duty to assist the family, which is the custodian of morals and traditional values recognized by the community.
- 3) The State shall ensure the elimination of every discrimination against women and also ensure the protection of the rights of women and the child as stipulated in international declarations and conventions.<sup>129</sup>

In 2005, the protocol to the African Charter on the Rights of Women in Africa was adopted and Nigeria signed and ratified the protocol soon after. Article 21 provides that

- A woman shall have the right to an equitable share in the inheritance of the property of her husband, a widow shall have the right to continue to live in the matrimonial house. In case of remarriage, she shall retain this right if the house belongs to her or she has inherited it. Women and men shall have the right to inherit in equitable shares, their parent's properties.

The importance of these international instruments in the fight for equal rights for women cannot be emphasized enough. When domestic legislation on an issue is lacking, some judges have been known to use them. For example, in the Botswana case of *Attorney-General v. Dow*,<sup>130</sup> the court of appeal affirmed the decision of the court that section 4 of Botswana's Citizenship Act infringed fundamental human rights. On CEDAW<sup>131</sup> and the ACHPR, Justice Amisshah held:

- Botswana is a member of the community of civilized states which has undertaken to abide by certain standards of conduct, and, unless it is impossible to do otherwise, it would be wrong for its Courts to interpret its legislation in a manner which conflicts with the international obligations Botswana has undertaken.<sup>132</sup>

Lending more voice to the issue, Justice Aguda also took the following view:

- In all these circumstances a court in this country, faced with the difficulty of interpretation as to whether or not some legislation breached any of the provisions entrenched in Chapter 2 of our Constitution which deal with fundamental rights and freedoms of individual, is entitled to look at the international agreements, treaties and obligations entered into before or after the legislation was enacted to ensure that such domestic agreement does not breach any of the international conventions, agreements, treaties and obligations binding upon this country save upon clear and unambiguous language.<sup>133</sup>

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<sup>124</sup> Ibid.

<sup>125</sup> Convention on the Elimination of All Forms of Discrimination Against Women art. 2, opened for signature July 17, 1980, 1249 U.N.T.S. 13, 19 I.L.M. 33.

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<sup>128</sup> Id. Art. 3

<sup>129</sup> Ibid. Art. 18 (emphasis added).

<sup>130</sup> (1992) 6 B.C.L.R. 1, 1992 SACLX LEXISS 7, \*2-4 (Bots.).

<sup>131</sup> Interestingly, at the time of the judgment, Botswana had not ratified CEDAW. It acceded to it in 1996.

<sup>132</sup> Dow at \*92.

<sup>133</sup> Ibid. Art \*136.

These judges are worth emulating by judiciaries all over the continent including Nigeria because of their progressive pro-rights stand in favor of women. The failure of the judiciary to incorporate international human rights standards into their decisions is a sad omission, as human rights based decisions would certainly go a long way to contribute to the human rights jurisprudence in Africa. Judges should similarly not hesitate to call international instruments in aid when domestic legislation does not suffice to address the injustice associated with the application of customary law.<sup>134</sup>

The Constitution of the Federal Republic of Nigeria 1999<sup>135</sup> by section 42(1) prohibits any act or law that is discriminatory on the ground of sex among others. It states that;

- (1) a citizen of Nigeria of a particular community, ethnic group, place of origin, sex, religion or political opinion shall not, by reason only that he is such a person –
  - (a) Be subjected either expressly by, or in the practical application of, any law in force in Nigeria or any executive or administrative action of the government, to disabilities or restrictions to which citizen of Nigeria of other communities, ethnic groups, places of origin, sex, religions or political opinions are not made subject; or
  - (b) Be accorded either expressly by, or in the practical application of, any law in force in Nigeria or any such executive or administrative action, any privilege or advantage that is not accorded to citizen of Nigeria of other communities, ethnic groups, places of origin, sex, religions or political opinions.
- (1) No citizen of Nigeria shall be subjected to any disability or deprivation merely by reason of the circumstances of his birth.
- (2) Nothing in subsection (1) of this section shall invalidate any law by reason only that the law imposes restrictions with respect to the 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 Nigerian Police Force or to an office in the service of a body corporate established directly by any law in force in Nigeria.

To further protect persons against violence, Nigeria has also enacted the Violence Against Persons (Prohibition) Act 2015. This is a step in the right direction because apart from prohibiting rape of all persons including a spouse, which was hitherto acceptable under our Penal Code and violence under section 2, it has gone ahead to prohibit certain outrageous cultural practices such as;

- Circumcision of the girl child<sup>136</sup>
- Forceful ejection from marital home<sup>137</sup>
- Willful destruction of property to cause distress<sup>138</sup>
- Causing financial dependence of another<sup>139</sup>
- Forced isolation from family and friends<sup>140</sup>
- Emotional verbal and psychological abuse of another<sup>141</sup>
- Harmful widowhood practices<sup>142</sup>
- Abandonment of spouse, children and other dependents without sustenance<sup>143</sup>
- Spousal battery which was previously accepted as a means of correction of the wife so long as she was not injured,<sup>144</sup> harmful traditional widowhood practices,<sup>145</sup> political violence<sup>146</sup> and incest<sup>147</sup> among others.

This Act is still young and is yet to be tested. The issue of violation of women's rights is not so much about the legal compendium in form of convention or law, but about the mindset of the people. Over the years, people have come to accept that certain norms are acceptable no matter how bad they may be. A lot of people especially those in the rural areas are not even aware of some of these enactments which can lie fallow in the statute book for a long time to come. Although ignorance of the law is not an excuse for its violation, a woman would need to know of the existence of the law for her to claim against its violation. There is need for this law to be made public through some awareness campaign and for women to be bold enough to test these provisions and monitor the reaction of the society to any person who complains against a long standing acceptable tradition without being ostracized. If Nigerians wanted to be law abiding on cultural issues they would have used section 42 of the Constitution which prohibits discrimination on the basis of sex. This would have helped to do away with all repugnant practices especially if they were not also applicable to men. Most conventions and protocols on human rights specifically protect rights of women yet women are violated globally without reason.

<sup>134</sup> ICC Vice President Akua Kuenyehia, Women, Marriage, and Intestate Succession in the Context of Legal Pluralism in Africa, 2006. Brigitte M. Bodenheimer Lecture, p. 20.

<sup>135</sup> Promulgation 1999 No. 24 amended in 2011.

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<sup>144</sup> Section 19

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## 5. Conclusion

Promoting and protecting the religious, economic, social and cultural rights of women provides a unique opportunity to link with strategies for defense of civil and political rights. It also challenges many existing assumptions regarding women's role in society and can lead to substantive changes in the unequal power relations between men and women.

It would be strategic in the promotion of women's economic and social rights to build alliances between women's rights groups and human rights groups as well as between women's groups and other social movements that work in the area of economic and social justice. Other groups such as trade unions, farmers' organizations, groups working for media and cultural freedom, environmental rights groups, groups working for the rights of minority and indigenous communities should become natural allies in this promotion. Some kind of awareness campaign introducing a gender-sensitive approach to the work of these various groups, though a major challenge, can be introduced to all these groups. It is also important to develop conceptual bridges between forms of gender-based discrimination and other forms of discrimination based on differences such as race, ethnicity, language, religion, age and sexual preference as these would also be of strategic importance for linking not only our understanding of the issues but also our activism across sectors and across national and regional borders.

Mere legislative pronouncements prohibiting long established practices will not turn the tide as quickly as it is hoped. Law no doubt has a major role to play and remains a catalyst in the development of our citizenry. There should be increasing campaigns to bring about awareness that such practices are wrong and for the government to support those who have been ostracized by the society because they have dared to complain about the culturally accepted norms and practices.

Unless these alliances are created, pretending that there is no gender diversity would only end up widening the gap of gender bias.

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