

HUMAN RIGHT ISSUES AND WOMEN'S EXPERIENCES ON DEMANDING THEIR RIGHTS IN THEIR COMMUNITIES: THE WAY FORWARD FOR NIGERIA

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ABSTRACT: *The renaissance humanism era of the early modern period ushered in the belief that everyone, by virtue of his or her humanity is entitled to certain human rights. These rights therefore accrue to people by virtue of their humanity and some of these rights are so fundamental that violation of any of them attracts an action of enforcement by the aggrieved person. These rights are enshrined in Chapter IV of the 1999 Constitution of the Federal Republic of Nigeria. The extent of the protection of these rights for some members of the Nigerian population especially women, remains uncertain, doubtful and a seeming mirage because its protective powers have been thwarted by long standing discriminatory and cultural norms and practices in relation to women. This paper will look at the violations and the precarious position of women in rights issues. It will also x-ray some experiences of women in quest of these rights in their communities. The paper will also proffer recommendations as a way forward.*

KEYWORDS: Human Rights, Women, Experiences on Demand

INTRODUCTION

The issue of women's human rights has in recent decades occupied a prominent and focal point in global agenda. It has also been considered to be an apex aspect of United Nations wide activity. The Universal declaration of Human Rights, even though it was not binding gave birth to other international instruments which bind state parties. The idea of human rights laid the foundation for the American and French Revolutions which heralded a period of democratic revolution in the 19th century opening up the advent of universal suffrage.

The Paris Peace Conference of 1919 established the League of Nations and the Commission on the status of women which subsequently led to the drafting of the Universal Declaration of Human Rights (UN 1948). The declaration was to the effect that;

All human beings are born free and equal in dignity and rights (UN 1948) and the preamble reiterates that

Recognition of the inherent dignity and of the equality and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world.

The import of these provisions is that the Declaration intends by all means possible to achieve the freedom, justice and peace it preaches in its preamble. It also recognizes women's rights. The convention on the Political Rights of women (UN 1953) which entitles women to vote and be voted into public offices established by law with men without any discrimination. This was

followed by the international Women's year in 1975. Many conferences on women were also anchored to protect the human rights of women. These include Mexico city 1975, Nairobi 1985, and Beijing 1995 and each of these conferences produced an agenda for action especially before the law. The most relevant convention to the advancement of women is the convention of the Elimination of all forms of Discrimination Against Women CEDAW (UN 1979).

This convention defined discrimination as;

Any distinction, exclusion or restriction made on the basis of which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field (UN 1979).

These conventions stress the need for a change in the traditional role of men as well as the role of women in the family to achieve equality of men and women.

CEDAW has instigated Constitutional amendments, and legislations in many countries. The African Charter on Human and People's Rights is like the Declaration brought home to Africans by the organization of African Unity, it also stresses the freedom, equality, justice and dignity for the African people. It reaffirmed its allegiance and adherence to the principle of human and people's rights and freedoms contained in the declarations, conventions and other instruments adopted by it. It also succinctly addresses the needs of African people. Nigeria in adherence the united declarations has enshrined in its constitutions a Chapter on Human Rights up to the present 1999 Constitution.

Human Rights

Human Rights are the freedoms and benefits that accrue to all human beings. All human beings should be able to claim whatever rights that are provided in the laws of a given society especially those that are Constitutional in nature. Human rights are divine rights originating from God and all human beings possess and should enjoy these rights by virtue of their humanity. These are inalienable rights that impose obligations on others for their respect and people are born with these rights (Ese 2006).

Human Rights in their simplest forms represent the minimum living standards for civilized humanity and are won through struggles of the oppressed against their oppressors (Onyekpere 2002).

The Court averred in *Ransome Kuti vs. Attorney General of the Federation* (2001) that

Human Rights' is a right which stands above the ordinary laws of the land and which in fact is antecedent to political society itself. It is a primary condition to a civilized existence and what has been done by our constitutions since independence is to have these rights enshrined in the constitution so that the rights would be "immutable" to the extent of the non-immutability of the Constitution itself.

Other various authors have defined human rights as moral rights which every human being everywhere at all times ought to have, simply because of the fact that in contradiction with other beings, he is rational and moral (Ezejiofor 1964), "Demands on claims which individuals

or groups make on society some of which are protected by law and have become part of the *lex lata*, while others “claims which are invariably supported by ethics and which should be supported by law, made on society especially on its official managers, by individuals or groups on the basis of their humanity” (Okpara 2005).

The Nigerian Constitution and Human Rights

Prior to the independence of Nigeria, human rights had already been established and already occupied an epic position in most countries. The agitation by the minorities for more states led instead to the positioning of human rights provisions into the independence Constitution. Subsequent Constitutions in Nigeria including the present 1999 Constitution (C₂₃ LFN 2004) have included Chapters on human rights. These are contained in Chapters IV and II of the Constitution. Chapter IV contains the Civil/Political Rights, also known as the fundamental human rights, and is justiciable. They are also the first generation rights. Chapter II contains the Fundamental Objectives and Directive Principles of State Policy which are not justiciable. These rights are grouped in civil, political, social, economic and cultural headings and until recently only violations by state against individuals were considered. Acts by private individuals were expected to be taken care of by regular processes of law. The breakthrough came in *Uzoukwu vs. Ezeonu* (1991) when the Court held that individuals could violate people’s right. (Schneider 1992) pointed out that the public/private dichotomy is hinged on cultural assumptions of what is valued and import.

The Constitution is the grund-norm and all other laws take their validity from it. It is therefore an affront to say that any part of the Constitution is not justiciable as in the case of Chapter II which is where women are really lagging behind.

Violations of the Fundamental Human Rights of Women;

The Civil and Political rights contained in Chapter four are justiciable meaning that the Courts can entertain actions to enforce the respect of these rights. Unfortunately, a lot of cultural, traditional and societal constraints have made it difficult for women to enjoy these rights on equal footing with men. These rights and the violations in women are discussed hereunder.

S.33 of the Constitution guarantees every Nigerian the right to life save in the execution of the sentence of a Court in respect of a criminal offence of which he had been found guilty in Nigeria

- (a) For the defence of any person from unlawful violence or for the defence of property.
- (b) In order to effect a lawful arrest or to prevent the escape of a person lawfully detained; or
- (c) For the purpose of suppressing a riot, insurrection or mutiny, he shall not be regarded as having been deprived of his life in contravention of this section.

Outside these exceptions, it is reprehensible to take another life. States that have adopted Sharia as their State laws have extended the crimes that carry death penalty in their Penal Code Act to include crimes of adultery (Zinna), rape and incest. It is our opinion that a law especially, a religious one that purports to criminalize consensual sexual relations between two adults above the age of consent, and making it carry a death penalty, is contravening the right to life of the individuals guaranteed

by the Constitution (Anyogu 2013). Some harmful traditional and customary practices are also potentially fatal such as a widow having to drink the water used in washing the corpse of her husband, or being locked up in a room alone with the corpse. While these may not take life directly and instantly, they may do so indirectly. Female Genital Mutilation may cause massive bleeding which could lead to shock and eventually death.

S. 34 - The Constitution also guarantees every one the right to dignity of the human person (Constitution 1999), and continuing, it forbids that any person be subjected to torture or to inhuman or degrading treatment, or held in slavery or servitude or required to perform forced labour. Women caught in adultery in Islam are stoned to death. A man will get the same punishment if caught but the proof of it makes it impossible for a man to be caught. Four unimpeachable witnesses are required to prove a man guilty of adultery in Islam. For a woman however, the fact of pregnancy is enough proof. The act of stoning someone to death is tortuous. When a woman is required to wail at intervals, shave her hair against her will and sit on the bare floor all in respect of a dead spouse, her right to dignity of the human person is violated. Customary law also allows a man to correct his wife with little beating and the Penal Code also legalizes wife beating (P₃ 2004). The Moslem religion also tramples upon women's right to freedom of movement (Constitution 1999). When they are placed in purdah and are not supposed to be seen in public. Their movements are restricted as far as possible during this period and where they have to move about at all, their faces are covered with the veil. One may argue that it is in exercise of their freedom of thought, consciences and religion also guaranteed by the same Constitution but should the Constitution be in conflict with itself?

It should be noted that men do not have to go through the cultural respect of a dead wife. The import is that while paying of respect is exclusive to women, respect is reserved exclusively to men.

S. 37. The Human Right to family life (Constitution 1999) is also jeopardized by harmful traditional practices such as female genital mutilation, sleeping with the chief priest of a deity to separate a woman from the spirit of her dead husband, forced/early marriages, most of which affect the reproductive right and health of the woman.

S. 42 of the 1999 Constitutions provides for the right to freedom from discrimination. It states

- D) A citizen of Nigeria of a particular community; ethnic group, place of origin, sex, religion or political opinion shall not be reason only that he is such a person 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 citizens 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 that is not accorded to citizens of Nigeria of other communities, ethnic groups, places of origin, sex, religion or political opinions.
- c) No citizen of Nigeria shall be subjected to any disability or deprivation merely by reason of the circumstances of his birth

This Nigerian provision when compared with Article 2 of the United Nations Declaration has taken into consideration issues like ethnic groups and circumstances of one's birth which are all endemic factors in Nigerian communities. It is unfortunate that cultural acceptances have made it difficult for women to enjoy this right on equal footing with men. Some Nigerian laws in themselves are discriminatory. Some notable examples are law on evidence, sexual offences laws including rape, indecent assaults on males/females, estate of deceased interstate and others. Particularly annoying is the law on citizenship where the foreign spouse of the Nigerian man is granted citizenship by registration, while that of a Nigerian woman is only allowed to go through naturalization which is a more strenuous means. One way of owning property is by inheritance. Some cultural practices especially in the South East disallow women from inheriting immovable property in derogation of the constitutional right to own property anywhere in Nigeria.

It is obvious from this discourse that, a lot of constraints are facing Nigerian women in the recognition, enjoyment and enforcement of these rights in the event of violation.

Chapter II of the Constitution contains the socio-economic rights. This is made up of issues of education, work, right to adequate standard of living and so on. Unfortunately the Courts are barred from entertaining actions in relation to issues in Chapter II (Constitution 1999). This is the area where women have problems due to the long standing discrimination. This area is left at the discretion of the authorities. Issues that are not in the top priority list therefore suffer. The directives in Chapter II are prerequisites for the enjoyment, exercise and enforcement of the rights contained in Chapter IV which are justiciable. For people who are wallowing in poverty and penury, notions of individual freedom and liberation, even though they represent the face of free society would sound very empty (Minerva Mills 1980). An agitated mind at this instant would wonder what right to privacy could mean to a person living under the bridge in Lagos or elsewhere in Nigeria. What is right to life to an individual who has no job and cannot even afford a Panadol for a head ache and so on? We are of the opinion that implementation of the principles under Chapter II is the focal point to the recognition, exercise, enjoyment and enforcement of the bill of rights outlined in Chapter IV under the Civil and Political Rights.

Some life experiences of Women in Right Issues

The following are some of the experiences that women face in quest for their rights. These experiences came first hand to us in our Pro Bono activities. Some of them ended up in Litigation, others were settled out of Court. Letters are also used here to represent the individuals for obvious reasons.

A Is a young widow who unfortunately lost her husband very early into their marriage. Immediately after the burial, her brother-in-law demanded the husband's inheritance, Bank Accounts, Business and other assets from her. She pleaded that she could handle the husband's business and other things for the sake of her one year old son. The in-laws got incensed and called her all sorts of names to the extent of accusing her of complicity in her husband's death. They tried all sorts of means to take the assets compulsorily but she was helped by International Federation of Women Lawyers (FIDA) to take possession of her husband's property. We helped her get letters of Administration e.t.c.

B's Her husband has various illicit affairs with other women. He went ahead and impregnated another lady. When she reacted, he stopped maintaining her and their four children. Anytime

she complained, she was given the beating of her life. The beatings got unbearable whereupon she ran to FIDA for assistance and she was promptly assisted.

C has a stepson who has been pestering her since the death of her husband. He beats her, steals from her, and has threatened her life severally. He has also threatened to kick her out of her matrimonial home. She reported to the kinsmen which earned her severe beating from her stepson. The kinsmen on their part could do nothing for her because of cultural bottlenecks. Out of frustration and fear for her life, she ran to FIDA where she was promptly helped.

D, a Nigerian female lost her International Passport. She applied to the Nigerian Immigration Services for the issuance of another passport. She was given a list of documents to attach to her application and these included a letter of consent from her husband. She vehemently protested that a mature adult like her did not require the consent of any person before she could be issued with a Nigerian passport. Her protest fell on deaf ears, followed by a warning that failure to bring the consent letter will mean she will not be issued with a passport. This matter went to Court and the Immigration Office tried to justify their action thus;

- a. That a Nigerian who consents to marry a Nigerian man under any form of marriage is expected to;

Have absolute faith in her husband, allow him to know her movement, obey and consent to the wishes of her husband in all matrimonial matters including any temporary or permanent departure from his sight, that the requirement is to perpetuate the authority of the man over his wife no matter the status she had attained in the society, among many other outrageous reasons. Of course the defendant (Immigration) lost the case.

The Court contended among other things that, it is the legal right of every Nigerian to apply for and be issued a Nigerian passport. The Court also declared that the action of the defendant was discriminatory on the grounds of sex contrary to S. 42 of the Constitution.

Constraints and Challenges facing women in the Exercise of their Rights.

Poverty

Poverty has been defined as a condition in which a person or community is deprived of and or lacks the essentials for a minimum standard of wellbeing in life (Townsend 1979). These essentials may be material resources such as food, safe drinking water and shelter or they may be social resources such as access to information, education, healthcare, social status, political power (World Economic Forum 2006). Internationally, poverty has been defined within the confines of economics as living below a dollar a day, which implies living below two hundred naira a day for Nigerians. More than one billion people in the world today, the great majority of whom are women live in unacceptable conditions of poverty (Bejin 1995). One requires a measure of financial independence to battle with relatives and in-laws.

The major factors responsible for poverty in women in Nigeria can be identified as lack of access to resources, unequal economic opportunities, lack of means to satisfy basic needs, poor integration by women in the power sharing

and decision making processes at all levels among others (Nuwanthi Dieas 2005).most of the cruelty meted to women at the death of their husbands in perpetrated more on women who depend financially on relatives. Where the husband is the culprit in a domestic violence case, and she can only seek help outside using his financial assistance one can only imagine the dilemma such a victim would be in. To enforce one's right in the event of violation requires some financial measure which poverty cannot guarantee.

Illiteracy

One of the major factors for the low level of female participation in the formal sector is inequality of access to education between men and women. The importance of education can never be over emphasized. Access to basic education is not only a basic human right but is also fundamental to women's effective participation in national development. A person who cannot access information may not even know that he or she has an existing right. Education ensures access to information.

Fear of Reactions from Relatives

The endemic situation in Nigeria makes it an abomination for a woman to report the in-laws to the police. When she does that they now consider her an enemy for life. Such measures as ostracisation may be taken against her. Women are also not so willing to report the father of their children where her husband happens to be the perpetrator.

Lack of Political Will

Generally, there is a lack of political will on the part of the authorities to address the issues of women and human rights. This may in turn be as a result of deep rooted corruption in Nigeria where funds intended for good and noble cause are diverted, siphoned and made to sit in private accounts.

Stifling Government Policies:

Free economies are the wealthiest and economics where people are held in servitude by government policies are the poorest. The wealth of a nation is the summation of the wealth of the people in it. Economic freedom creates opportunities for business and women enjoy a greater access to jobs and economic participation in free economies. Unfortunately, Nigeria belongs to the part of the world where there is economic repression, ethnic conflicts, corruption and no rule of law. This is inimical to the empowerment of women in Nigeria who are already bumped in by many cultural and religious bottle necks.

The Way forward.

This paper will not be complete if recommendations as to the way forward are not made. Recommendations are therefore proffered hereunder;

Women Empowerment

Laws, positive policies and efforts should be made to empower women economically, socially and politically.

Millennium Goals

Nigeria should examine itself in relation to attainment of the millennium goals. This is 2015 and every serious country should rate itself in terms of the achievement of these goals especially goal number three which is gender equality.

Justiciability of Chapter II of the Constitution

The government should endeavor to harness the resources of the nation for the general wellbeing of the citizenry. With the high rate of corruption in Nigeria, it would seem that legal enforcement is the only option left for the masses. We therefore call for the justiciability of the Socio-Economic Rights in Chapter II.

Domestication of International Instruments

International Instruments were Nigeria is a signatory and has ratified, should be made to carry the force of law or their domestication made less stringent. It is very necessary that CEDAW be domesticated.

Eradication of Harmful Traditional Practices

All cultural and traditional practices that are inimical to the cause of women should be eradicated.

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