

# Post-1995 Beijing Action Platform and the Question of Gender Discrimination in Nigeria: Issues and Challenges

## *Abstract*

*The 1995 Beijing Conference Platform for Action open several grounds to explore the question of gender discrimination, issues and challenges across the nation. Thus, this engages the dynamics and continuities as regards the status of Nigeria women, the existence of patriarchal structures and ideologies that keeps gender discrimination waxing stronger than ever. It explores the status of women in time perspectives. This paper suffices that women in Nigeria still suffer from discrimination after the 1995 Beijing Declaration Platform for Action and Legislative effort through gender equality bill has not been met with utmost sincerity. The methodology for this study is a descriptive analysis of secondary and primary sources. It concludes that Nigeria has much to gain by fully implementing the 1995 Beijing Conference Platform for Action, most especially to accelerate Nigeria's development*

## **Introduction**

Gender is a significant issue in women's history. As a concept, it is derived from an early distinction made between 'sex'. Thus, the word "sex" refers to the physical and biological characteristics of women and men. Gender mark observed differences between women and men based on socially assigned roles.<sup>1</sup> It thus imbued with notions of difference in -hierarchy and assumed capabilities for individuals primarily based on their sexual traits. A gender analysis expresses the near-universal privileges of men over women and, speaking of gender, also speak about hierarchy, power, and inequality.<sup>2</sup> The United Nations' Implementation of the Outcome of the Fourth World Conference on Women states that;

...gender refers to the socially constructed roles played by women and men that are ascribed to them on the basis of their sex. Gender analysis is done in order to examine similarities and differences in roles and responsibilities between women and men without direct reference to biology, but rather to the behaviour patterns expected from women and men and their cultural reinforcement.<sup>3</sup>

In Nigeria, gender representation is loud and clear; it speaks of the privileges of men over women in hierarchy and power. Such is obviously rooted in hierarchy of inequality supported

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<sup>1</sup> United Nations Gender Equality <http://www.un.org/documents/ga/docs/51/plenary/a51-322.htm> assessed 22/1/17

<sup>2</sup> Kimmel, M. S. and J. Holler, *The Gendered Society*, Don Mills, Ont., Oxford University Press, 2011, p.64.

<sup>3</sup> United Nations, General Assembly [online], "Implementation of the Outcome of the Fourth World Conference on Women: Report of the Secretary General", A/51/322, 03 September 1996. <http://www.un.org/documents/ga/docs/51/plenary/a51-322.htm>. Assessed on 23/10/2018.

by tradition as well as elements of social-bias constructed through religious beliefs and suppression. Nigeria is located in West Africa. It occupies a total area of 923,768 square kilometres. There are three main ethnic groups, the Yoruba, Hausa/Fulani and Igbo with several other minority groups. The Yoruba people practise both Christian and Muslim religions alongside their age-long Traditional religion. The Hausa/Fulani in the northern part are mostly assumed Muslims. At the same time, the Ibo are majority Christians in the Southern part of the country and spiced with few Muslims and traditional worshipers.

### **Gender Discrimination in Historical Perspective**

The history of gender discrimination in Nigeria can be categorised into three phases: the pre-colonial, colonial and post-colonial periods. Pre-colonial gender and power relations shows that men and women played complementary roles at home. Example of such an ethnic group is the Yorubas. The complementarity arrangement gave women a great deal of autonomy in their affairs. However, complementary roles did not equate to equal roles in the societal set up since women still faced discrimination. By the 19th century, colonialism introduced another dimension into gender relationships and strove to achieve the total domestication of women. Thus, women became dependent more on men. The colonial administration solidified the structure of economic inequality between the gender. In Nigeria at this time, only the men were in positions of administration. Callaway pontificates that Nigeria represents for the British colonial officers an example of a man's country.<sup>4</sup> By implication, women lost their position and voices as valued participants and official representatives of their communities.<sup>5</sup>

Discrimination against women is well-rooted in the history of Nigeria nationalist agitations and resistance against women suppression.<sup>6</sup> A notable example is the famous Aba women tax riot and women uprisings in the southeast between 1929 and 1949. There was in 1929 the Aba women riot that was an outcome of announced plans to impose a special tax on Igbo market women.<sup>7</sup> Also, in Abeokuta women, cloth dyers, who were hard hit by the recession and competition from European made goods, protested the use of other forms of dyes that affected

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<sup>4</sup> Callaway, H. Gender, Culture and Empire: *European Women in Colonial Nigeria*, Illinois: University of Illinois Press, 1965, p.4.

<sup>5</sup> Oke. L. Women and the State of Development in Nigeria Development Agenda of Nigerian States, in Agagu, A. A & Ola, R.F. (eds) *Development Agenda of the Nigerian State*, Akure: Lord Keynes Publishing Company, p.297.

<sup>6</sup> Mba, N. *Nigerian Women Mobilised*, University of California, Berkley, 1982, p. 39.

<sup>7</sup> Naanen, B. You Are Demanding Tax from the Dead, The Introduction of Direct Taxation and Its Aftermath in South-Eastern Nigeria, 1928-39, *African Economic History*, No. 34, 2006, pp. 69-102.

the profit in their sales. Policies that were adverse to the interests of the market women in Ibadan, Lagos and Abeokuta were enacted in 1938, which women found discriminatory and consequently led to protest. It led to women arguing that ‘there should be no taxation without representation.’<sup>8</sup>

After independence in 1960, women continued to endure the adverse effects of gender discrimination in all spheres of the society. In achieving economic empowerment, most women were discriminated against when it comes to the issue of securing a loan from the bank. Most women were not able to secure a loan from the bank unless their husband stood as collateral for them. Women formed the largest population of workers in the small-scale industry, which has economic implications on their financial stability and economic dependence. Politically, there were few women representations in the politics and decisions were made on behalf of women by the male-dominated power. More expectation has emanated after independence in 1960 that statues of women should have changed significantly for good when compared to days of colonial domination. However, even as the world embraces democracy and human rights for all, women in Nigeria still struggle with issues socio-economic, political and religious discrimination.

### **Continuity in Gender Discrimination**

One area where women in Nigeria continue to witness discrimination is in the area of the law. The legal system in Nigeria is pluralist. It is made of up of English common law, customary law, Sharia law and statutory law. While Customary Law is prevalent in the southern part, Islamic Law is widely applied in the northern part. For example, the husband may divorce his wife under customary law for adultery. Still, a wife is not expected to take such steps on the infidelity of her husband. It was this type of discriminatory treatment of women that led to the Law of Prohibition of Infringement of a Widow’s and Widower’s Fundamental Human Rights, that was passed in 2001. Also, under Sharia law; a husband may divorce his wife by mere statement saying the phrase ‘I divorce you’ three times; unless it is shown that it was announced during an argument, without the intention to end the marriage.” A wife does not have recourse to this mechanism unless permitted by her husband.

The Nigerian Constitution bestows on an ‘individual respect for the dignity of his person’ However, in Section 55 of the Penal Code, husbands are permitted to chastise their wives.

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<sup>8</sup>Kolawole, M. M. Womanism and African Consciousness, Trenton, New Jersey, Africa Research & Publications 1996, pp. 159-162.

Subsection 10, states that nothing is an offence which does not amount to the infliction of grievous harm upon a person and which is done by a husband to correct his wife...'. While under the Penal Code, a husband can beat his wife insofar, it does not lead to serious injuries or grievous harm. In essence, the Penal Code condones domestic violence against women.<sup>9</sup> The Beijing Platform for Action stated that violence against women is an obstacle to the achievement of the objectives of equality, development and peace.<sup>10</sup> Although there is limited data on the occurrence of violence against women in Nigeria due to the negative impact it has on such families, there are high rates of violence against women and girls.

Trafficking in women and girls is a particular form of violence against women and girls who constitute the majority of trafficked persons. More women and girls in the country are trafficked as sex and labour workers which is a persistent human rights violation and one for which conviction rates are lower than the incidence of reported crimes.<sup>11</sup> However, there is a range of measures being undertaken to combat the trafficking in women and girls. Policies and legislation provide the frameworks for action. There was the adoption of the Trafficking in Persons Law Enforcement and Administration Act of 2003, as amended in 2005, the establishment of the National Agency for the Prohibition of Trafficking in Persons and Other Related Matters (NAPTIP) was established. The law criminalises the scourge of trafficking in persons and its attendant abuses in Nigeria.

Other issues of laws discriminating against women include those in respect of citizenship. Section 26 of the constitution provides that the president may confer Nigerian citizenship on 'any woman who is or who has been married to a citizen of Nigeria'.<sup>12</sup> However, the president is not empowered to confer Nigerian citizenship on any man who is or has been married to a citizen of Nigeria".<sup>13</sup> Women cannot transfer their Nigerian citizenship to their spouses.<sup>14</sup> Currently, the Nigerian House of Representatives Committee on Human rights is holding consultations around a bill known as Discrimination Prohibition and Enforcement of Equality Act. The law meant to extend the laws covering discrimination on the grounds of ethnic origin,

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<sup>9</sup> Ashiru, 2010

<sup>10</sup> Platform for Action, Critical Area of Concern D, paragraph. 112.

<sup>11</sup> "You Pray for Death" Trafficking of Women and Girls in Nigeria, <https://www.hrw.org/report/2019/08/27/you-pray-death/trafficking-women-and-girls-nigeria#>. Accessed 12/9/2020.

<sup>12</sup> Falana, 2013.

<sup>13</sup> Ibid.

<sup>14</sup> Imasogie, 2010,

sex, gender, age, religion, marital status, family status and conviction that have been pardoned.<sup>15</sup>

Women in Nigeria still face the issue of discrimination as relates to property right mainly because of the social set up in the country where women are dependent on their father or husbands. Notably, statutory marriage has been defined as ‘a voluntary union for life of one man and one woman to the exclusion of all others.’<sup>16</sup> In Yoruba customary law, children, irrespective of sex, are entitled to share the estate of their parents equally. Marriage does not affect the rights of inheritance. Distribution of the estate is done per capita, where all the children are born by one woman. However, where there is more than one wife, it is done first per stripes, then per capita between children of the same mother.

Widowhood practises is still discriminatory against women. Since Nigeria is divided into zones, there are various discriminatory practises for different area, while both widows and widowers mourn the loss of their partners, model and period of mourning vary. Among the Yoruba in the southwest, the widows must not be beaten by rain during the period when she is supposed to wear a black dress. Widows are not allowed to go out to work or attend any gathering for at least three months, particularly for women who are unemployed or self-employed. They have to wear dark coloured dresses for a year.<sup>17</sup> Such a widow is expected to express her sorrow of losing her husband through dressing.<sup>18</sup> Among the Igbos, the widow is expected to tie wrapper around her chest. She must not talk to anybody and will not have her bath until her husband is buried. After the burial, the ‘*Umuada*’ (daughters of the man’s ancestors) will come to shave her hair. However, the same treatment is not accorded to the man when the wife dies. In some other societies, widowers are expected to sleep with women immediately after the burial of their deceased wife to prevent the widowers from sleeping with the dead.

Women continue to suffer discrimination under the labour law even after the Beijing Declaration Platform for Action. Under 55(1) of the Labour Act, a woman cannot be employed

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<sup>15</sup> Mufema, E., *Empowerment and development of women in Egypt: salient challenges of the 1990s*. In P. McFadden (Ed.), *Reflections on gender issues in Africa* Harare, Zimbabwe: Sapes Books, Ltd., 1999.

<sup>16</sup> The Marriage Act 1914, CAP M6, Laws of The Federation of Nigeria 2004.

<sup>17</sup> A Situation Analysis of Women and Girl-Child in Nigeria, A Progress Report, by Women Research and Documentary Centre, University of Ibadan, 1994, p. 110.

<sup>18</sup> Adekanye, T.O. “Women and Rural Poverty: Some Considerations from Nigeria”, *African Notes*, No. 3, 1988, p.63-67.

on night work in a public or any agricultural undertaking (with the exception in Section 55(7) of women nurses and women in management positions who are not engaged in manual labour section). Under Section 56(1) of the Labour Act women are prevented from engaging in any underground work in any mine.<sup>19</sup> This provision does not apply to men. In the northern part of the country, there are some civil service rules in support of discrimination of women. In both Kano and Kaduna States, the Civil Service Rules provides that ‘woman civil servant, married or unmarried who is about to undertake a course of training of not more than six months duration shall be called upon to agree to refund the whole or part of the cost of the course in the event of being interrupted on the ground of pregnancy.<sup>20</sup> However, similar undertaken is not demanded from the male gender.

There is the issue of gender inequality in assigning different roles to male and female. Furthermore, decisions on vital issues such as educational attainment, employment opportunities are based on gender consideration; as a result, laid a foundation for gender inequality and discrimination.

The importance of education for the advancement of women was highlighted in the Beijing Platform for Action, in which it was identified as one of the 12 critical areas of concern and affirmed as critical for gender equality and women empowerment. The Platform for Action also called for eliminating gender-based discrimination in education at all levels, eradicating illiteracy among women and improving access to vocational training, science and technology education, and continuing education. Progress on the 12 areas of concern has been slow for women and girls in some parts of the country who experience multiple and intersecting forms of discrimination. Early marriages for girls still in practice in the north, but are reducing in some parts of the country. Gains have been documented in the area of education, especially in the southern part of the country, notably gender parity in primary, and increasingly, secondary school enrolment rates. However, there is a gender imbalance in education attainment in eight Northern States, where over 80% of women are unable to read compared with 54% for men<sup>21</sup>. Also, 70.8% of young women aged 20-29 in the North-West are able to read and write, and only 3% of females’ complete secondary school in the northern area.<sup>22</sup>

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<sup>19</sup> M. O. A. Ashiru, “Gender Discrimination in the Division of Property on Divorce in Nigeria”, *Journal of African Law*, Vol. 51, No. 2, 2007, pp. 316-331.

<sup>20</sup> Ekhaton, E. O. Women and the Law in Nigeria: A Reappraisal, *Journal of International Women's Studies* Volume 16 | Issue 2 Article 18, 2015, p.15,

<sup>21</sup> Statistical Report on Women and Men in Nigeria, National Bureau of Statistics, 2018, p.28

<sup>22</sup> The 2012 Gender in Nigeria Report

There is continued discrimination in the political representation, where gender bias and discrimination were prominent since independence in Nigeria, and women are almost absent at the national level of governance. The impact of Beijing Platform 1995 and the recommended 35 per cent representation is yet to be realised in the Nigerian political playing field. Though Nigeria is running her fifth democratic administration since 1999, women are hardly represented in a balanced way in any of the three arms of government. Women constitute a minority of holders of national and subnational political office, as well as of senior-level public and private sector positions. There is only 5.1 per cent women representation in politics in Nigeria.<sup>23</sup> Although women and men have the same rights to vote and stand for election in Nigeria, women comprise a small percentage of elected officials in the Senate and House of Representatives and even in Ministerial positions.

Even though the constitution did not discourage women participation in politics, women in Nigeria did not fare better in the 1999 election results, which was the first election after the 1995 Beijing conference. Until the present, there is no substantial increase in the number of women representations. However, considering the population of women in the country, which is estimated almost half of the citizenry, it is evident that the ratio of women representation in elective positions was a far cry from the recommended thirty-five per cent (35) per cent by the Beijing Platform for Action. From the World Economic Forum's Global Gender Gap Report ranking on Political participation, Nigeria is worse off in 2014 (102nd) than nine years ago when it ranked 99th worldwide.

### **Women Legislative Effort through Gender Equality Bill**

Part of an effort toward the achievement of the Millennium Development Goals (MDGs) in Nigeria was a proposition to enact a gender and equal opportunities law. The gender and equal opportunity bill was introduced but suffered defeat in 2006. After the 2007 elections and the poor performance of women at the polls, women once again recognised the urgency of comprehensive and useful representation by affirmative action of gender equality law in Nigeria. As a result of which women groups worked together to produce the first draft of the Gender and Equal Opportunities Bill (GEOB) 2016, championed by the Federal Ministry of Women Affairs and Social Development with the support of several local and international agencies. The bill was a direct response to the concerns on the delays in the domestication of gender-focused international treaties/conventions, particularly CEDAW and the African Union

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<sup>23</sup> Statistical Report on Women and Men in Nigeria, National Bureau of Statistics, 2018, p.29

Protocol on the Rights of Women in Africa. The Gender Equality bill incorporated certain aspects of CEDAW, the African Union Protocol on the Rights of Women and the National Gender Policy into a model law that achieves the aspiration of the Elimination of all forms of discrimination based on sex and gender in the private and public spaces.

Women in Nigeria continue to face the challenge of discriminatory social norms and gender stereotypes. For instance, discriminatory social norms and practices regarding the unequal division of unpaid care work between men and women, limit women's full enjoyment of social and economic rights. These entrenched social norms and practices prevent the transformation of gender power relations necessary to realise the vision of the Beijing Declaration. Women in Nigeria face discrimination in the Police Force and Other Similar Para-Military Services. Section 127 of the Police Act, married women, are prevented from seeking enlistment in the Nigerian Police Force. Under section 127, when an unmarried policewoman is pregnant, she would be discharged from the police force, and she can only be re-instated on the approval of the inspector general of police. The Regulation 124 of the Police Act, a woman police officer who is interested in getting married must initially apply in writing to the commissioner of police for approval. In Nigeria, indecent assaults committed against males and females carry different punishment. Here, the punishment for an indecent assault committed on a female is lighter than that of a male.<sup>24</sup> Under Section 353 of the Criminal Code, a person who unlawfully and indecently assaults a man is guilty of a felony and liable to imprisonment for three years. However, Section 360 of the Criminal Code states that a person who unlawfully and indecently assaults a woman is guilty of a misdemeanour and is liable to imprisonment for two years.

Nigeria has signed and ratified many international and regional treaties promoting and protecting the rights of women in Nigeria, including the Convention on the Elimination of all Forms of Discrimination against Women (CEDAW). Nigeria signed and ratified the CEDAW in 1985. The optional protocol to the CEDAW was ratified by Nigeria in 2004.<sup>25</sup> Nigeria has ratified and signed the African Charter on Human and Peoples' Rights.<sup>26</sup> The Protocol on Women's Rights in Africa has also been signed and ratified in Nigeria.<sup>27</sup> With Nigeria being a

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<sup>24</sup> Ashiru, 2010, op.cit.

<sup>25</sup> CEDAW, "Signatures and Accessions/Ratifications to the Optional Protocol" *Department of Economic and Social Affairs United Nation Entity for Gender Equality and Women Empowerment*. <http://www.un.org/womenwatch/daw/cedaw/protocol/sigop.htm> (assessed 10/9/2020).

<sup>26</sup> Viljoen, F. Victor Ayeni 'The impact of the African Charter and Women's Protocol in Nigeria' in Centre for Human Rights The impact of the African Charter and Women's Protocol in selected African States, Pretoria: Pretoria University Law Press 2012. .

<sup>27</sup>Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa, 2nd Ordinary Sess., Assembly of the Union, adopted July 11, 2003 (hereinafter Protocol on the Rights of Women in Africa).



signatory to most of the international and national agreements in the achievement of gender equality, there is need to adhere to the recommendations of the Beijing Platform for Action and implement CEDAW into law.

### **Conclusion**

The issues of gender inclusiveness is a thoughtful resources for the development of any country. Regrettably, despite the 1995 Beijing Conference Platform for Action recommendations against gender discrimination, issues and challenges confronting women in Nigeria keep increasing. Thus, the status of Nigeria women could still be manipulated on the ground of patriarchal structures and ideologies that keeps gender discrimination active in various facets of the country. Although the Nigeria constitution does not directly discriminate against women, statistics show that women in Nigeria are excluded from the socio-economic and political development of the country in certain regards such as equal political opportunities, equal economic representation. The legislative effort through gender equality bill has not been met with the utmost sincerity of purpose and goodwill of the constituted authority to implement such without antics of religious divides.