



Women's rights protection in Nigeria: institutional framework and challenges

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Abstract

The issue of gender has always been considered a sensitive topic as this touches on gender rights enforcement and violations. It is no doubt that women suffer discrimination and varying degrees of abuse by virtue of being a woman. However, the rights of women have been neglected, violated and trampled upon as though these rights are non-existent in our laws. The major aim of this paper is to have an insight into the institutions and challenges in the protection of women's rights. The work will do this by discussing the Institutional framework and challenges in the enforcement of women's rights. The methodology adopted by this work is the doctrinal method of research which involves the use of primary sources such as statutes, case laws and also review of secondary sources of laws, such as the internet materials, Law journals, articles and textbooks. The work observed that while it is commendable that institutions have been put in place to protect women's rights but the effectiveness of these institutions is called to question. Enforcement of women's rights is also faced with a number of challenges. The article recommends *inter alia*, that the Nigerian government and relevant stakeholders should exercise strong commitments towards the promotion of women's rights in the country. One of such ethical ways is by amending some of the provisions of the Constitution and the Laws; and revising some policies where loopholes have been identified in this work with a view to achieving the noble aims and objectives for enacting them as well as bringing them into conformity with global best practices. The institutions involved in the protection of women's rights should be fortified, equipped and empowered to be able to perform their functions.

Keywords: women's rights, protection, institutions, framework, challenges

Introduction

The Constitution of the Federal Republic of Nigeria, 1999 (as amended) is the *Grundnorm* and parent legislation through which other laws steam from. Gender rights laws have therefore taken their root from the Constitution and we are presented today with several women's rights laws such as the Violence Against Persons Act which prohibits all form of gender violence; the Criminal Code Act is not left out as it provides against abuse, both sexual and physical. To strengthen the provisions of the Constitution and these laws, certain institutions have also been put in place such as Nigerian Police Commission, Human Rights Commission, Ministry of Justice, Ministry of Women Affairs and Social Development, amongst others.

Despite the availability of these Laws and institutional frameworks, Abuse of women's rights is still on the increase in Nigeria. This could largely be attributed to the challenges in the implementation and enforceability of the laws.

1. Meaning of Women

In the words of Hornby in *Advanced Learners Dictionary* 2015, Women refers to an adult female persons. It is a term used to distinguish female individuals from male individuals, who are referred to as men. Women, like men, have a wide range of abilities, personalities, and experiences. They may be found in various cultures, professions and walks of life. Women also have specific rights and issues related to equality, social and economic rights and political representation.

2. Rights

Rights are powers or privilege held by the general public as the result of a Constitution, Statute, regulation, judicial Precedent or other type of law. A right in its general sense is either the liberty (protected by law) of acting or abstaining from acting in a certain manner, or the power (enforced by law) of compelling a specific person to do or abstain from doing a particular thing (Newman 2018) ^[23]. Rights are legally enforceable claim held by someone as a result of specific events or transactions (Legal Information Institute, in its article 'Right' accessed on 2/2/2023). Rights are possessed by individuals in the sense that they are permissions and entitlements to do things which other persons, or which government or authorities cannot infringe (Wikipedia, "Rights" accessed on 4/5/2023).

3. Women's Rights

Women's rights are human rights. We are all entitled to human rights. These include the right to live free from violence and discrimination; to enjoy the highest attainable standard of physical and mental health; to be educated; to own property; to vote; and to earn equal wage. But then, across the globe many women and girls still face discrimination on the basis of sex and gender. Gender inequality underpins many problems which disproportionately affect women and girls, such as domestic and sexual violence, lower pay, lack of access to education and inadequate healthcare (Women's Rights- Amnesty International, 'Women's Rights accessed 30/5/2023).

Protection of Women's Rights

Garner in the Black's Law Dictionary 2009 states that protection refers to measures taken to safeguard something or someone from harm, damage, or loss. In many countries, women's rights are not fully realized, and women face discrimination and barriers to accessing their rights. Efforts to promote and protect women's rights include laws and policies that address gender discrimination, as well as activism and advocacy by women's rights organizations and individuals. Additionally, international and regional human rights instruments such as the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) and the Beijing Platform for Action provide frameworks for countries to address and improve the status of women's rights.

Protection rights refer to the legal and moral rights and entitlements that individuals and groups have to protect themselves and their interests. These can include rights to privacy, property, fair treatment, and freedom from discrimination, abuse, or exploitation. They may also include rights to access information, participate in decision-making processes, and seek legal remedies when rights are violated. The specific protection rights that exist and are recognized can vary depending on the laws and culture of a particular society (C Watts and C Zimmerman, 'Violence against women: global scope and magnitude' (2015) (4) (2) *PubMed Google Scholar*, accessed 8 February 2023).

Consequently, Chapter 2 of the Constitution of the Federal Republic of Nigeria 1999 (as amended) deals with fundamental objectives and directive principles of state policy, includes provisions that state that the government shall "promote and protect the welfare of the people" and "ensure the security and welfare of the people." In addition, Chapter IV of the Constitution, which deals with rights and obligations of citizens, includes provisions that protect the rights to life, freedom of movement, and protection from forced labor, liberty, and fair hearing, as well as the rights to freedom of expression, peaceful assembly, and association. Its provisions further specifically protect the rights of women. For instance, Section 42 of the Constitution guarantees that no citizen of Nigeria shall be discriminated against on the grounds of sex.

Suffice it to state that the 1999 Constitution of Federal Republic of Nigeria (CFRN) (as amended) contains a number of provisions targeted at protecting the rights of women and those derogating from the said rights. First, the "social objectives" clause of section 17 recognizes the right to equal pay for equal work without discrimination by reason of sex or any other reason whatsoever (S. 17(3)(a) and (e) of the 1999 Constitution). The section also protects the sanctity of the human person, human dignity as well as equality of every citizen to rights, obligations and opportunities before the law (S. 17(2)(a) and (b) of the 1999 Constitution). The enforceability of this provision is however doubtful in the face of section 6 (6) (c) of the 1999 Constitution (*Okogie v. Lagos State* (1981)). The consolation nonetheless is that the Fundamental Objectives and Directive Principles of State Policy contained in chapter II of the 1999 Constitution can be rendered justiciable either where it is connected to the enforceable rights contained in the fundamental rights provisions of chapter IV of the 1999 Constitution or stated in the already domesticated African Charter on Human and Peoples' Rights (African Charter on Human and Peoples' Rights (Ratification and Enforcement) Act, Cap. A9, Laws of the Federation of Nigeria, 2004).

Second, the citizenship provisions under the 1999 Constitution in its section 25 takes into account the rights of women as it gives equal citizenship right by birth to both men and women without discrimination. However, this equality does not extend to citizenship by registration. Thus, while it is possible for a foreign woman married to a Nigerian man to become a Nigerian citizen by registration, there is no such constitutional arrangement for a foreign man married to a Nigerian woman (S. 26 of the 1999 Constitution). The only option available to the alien husband is to naturalize, if he desires to become a Nigerian citizen and the procedures are not the same (S.27 of the Constitution).

Third, section 29(1) of the 1999 Constitution gives equal opportunity to "any citizen of Nigeria of full age to renounce his/her Nigerian citizenship. But a further perusal of this section shows that it has tacitly promoted early girl-child marriage. This is because of its dual interpretation of what constitutes "full age" to qualify for the citizenship renunciation. The first arm of the interpretation relates to a person who is of "the age of eighteen years and above" (S.27(a) of the Constitution). The second arm of the interpretation is that "any woman who is married shall be deemed to be of full age" (S. 27(b) of the Constitution). The implication of this is that a girl child who is married out at the age of thirteen years is constitutionally deemed to be an adult whereas her male counterpart will not be so recognized until he attains the age of eighteen years. This is highly discriminatory. There is need therefore, to amend this constitutional provision by deleting the phrase, "any woman who is married shall be deemed to be of full age."

Fourth, under the fundamental rights" chapter, 42 (1)(a) and (b) of the 1999 Constitution provides for a right to freedom from discrimination. However, this anti-discriminatory provision of the 1999 Constitution is apparently a mere mirage and a deceit in view of the qualifications stated in sub-section (3) of that section. The sub-section acknowledges that 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 Nigeria Police Force or to an office in the service of a body corporate established directly by any law in force in Nigeria. This qualification has more or less rendered impotent the provisions of subsection (1) which seeks to abolish all forms of discriminatory practices against women. In this respect, the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) boldly enjoins State parties to: "...take all appropriate measures to eliminate discrimination against women in the field of employment in order to ensure, on a basis of equality of men and women, the same rights, in particular: (a) the right to work as an inalienable right of all human beings; (b) the right to the same employment opportunities, including the application of the same criteria for selection in matters of employment" (Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), article 11(1) (a) and (b).

Furthermore, although the constitutional provision regarding citizenship by birth is not discriminatory, yet it is mute regarding the actual state of origin of a married woman. Should a married woman claim her State of origin or the husband's place of origin, in relation to employment,

elective positions or political appointments? Few examples could be used to illustrate the sensitivity of this problem. Sometime in 2012, the then Chief Justice of Nigeria, Hon. Justice Maryann Aloma Mukhtar declined to administer the oath of office on a newly appointed female Justice of the Court of Appeal on the strength of a petition alleging that being an indigene of Anambra State and married to an Abia State man, the judicial officer could not be allowed to fill in the Abia State slot at the Court of Appeal (Jason, P, "Married but Stateless," (Lagos, 13 November 2012) Vanguard). Similarly, the appointment of Dr. (Mrs.) Ngozi Okonjo-Iweala as a Minister by the then President Obasanjo under the Abia State slot was a subject of resistance. It was contended that, though Mrs. Ngozi Okonjo-Iweala was married to an Abia State man, her State of origin was Delta State. As a matter of fact, neither State wanted her to fill its quota for the ministerial appointment (Jason, P, "Married but Stateless," (Lagos, 13 November 2012) Vanguard). In addition, when Mrs. Josephine Anenih was appointed as a Minister of Women Affairs under her State of origin's slot, Anambra State, there was opposition from her State regarding her appointment on the ground of having been married to an indigene of Edo State, she ought to have been given the Edo State slot (Jason, P, "Married but Stateless," (Lagos, 13 November 2012) Vanguard). These illustrated cases have made a writer to question whether "a married woman is a Stateless person?" (Jason, P, "Married but Stateless," (Lagos, 13 November 2012) Vanguard) And we agree entirely with the poser of such question. Unfortunately, the provisions of sections 14(3) and (4) of the 1999 Constitution which provide for federal character in relation to appointments have not addressed this sensitive issue. Thus, there is need for a constitutional or statutory definition of the actual State of origin of a married woman for purposes of employment, political appointments or elective position (Ezeilo, J N, *Women, Law & Human Rights: Global and National Perspectives*). It is also our considered opinion that there should be statutory definition of the actual State of origin of a married woman for purposes of employment, political appointments or elective position, for marital status of a woman should not render her stateless or deprive her of her due entitlements or indignity.

Institutional Framework for Protection of Women's Rights

1. Federal and States Ministries of Women Affairs and Social Development

The Federal and States Ministries of Women Affairs and Social Development are part of the Federal and States Ministries of Nigeria that promote the development of women with equal rights and corresponding responsibilities. The Federal Ministry is headed by a Minister appointed by the President, assisted by a Permanent Secretary, who is a career civil servant. While the corresponding Ministry in the State is headed by a Commissioner.

The Objective of the Ministry of Women Affairs (Federal and State) include, stimulating action to promote civic, political, social and economic participation of women; coordinating and monitoring women's programmes; providing technical and financial support to women, Non-governmental organizations, especially the National Council of Women Societies (International Disability Alliance,

'Nigerian Federal Ministry of Women Affairs and Social Development' accessed on 30/5/2023).

Its vision is to help build a Nigerian Society that guarantees equal access to social, economic and wealth creation opportunities to all, irrespective of gender, places premium on protection of the child, the aged and persons with disabilities; focuses attention on key operators in both private and public sectors on mainstreaming the concerns of these groups of people in national development process (Ministry of Women Affairs).

Its mission is to serve as the national vehicle to bring about speedy and healthy development of Nigerian Women, Children, the socially disadvantaged and physically challenged, and the main-streaming of their rights and privileges in national development process. The ministry's mandate is to advise government on gender and Children issues (Ministry of Women Affairs).

The Ministry of Women Affairs is required to review substantive and procedural laws that affect women. Some activities undertaken by the Ministry include cottage industry projects such as bee-keeping, pottery and vegetable oil production to boost the economic empowerment of women, where the Ministry provides equipment and training to women's cooperatives. The Ministry also promotes literacy and health programs for women.

2. The Court

The court is the last hope of the common man. It is an institution that enforces and protects women's rights. Sensitive issues such as rape, battery, sexual assault, among others, should be private and only parties, their lawyers and the judge should be allowed to witness the proceedings. In such instance, the family court was instituted to meet this demand. This is because many victims of domestic violence would prefer their matters being kept out of the public glare. Family courts have helped girls and women who are victims of gender violence to get justice and punishment for their offenders.

However, it is important to note that while the courts have a critical role in protecting women's rights, there are also systemic challenges that limit their effectiveness, such as a lack of resources, judicial bias, and cultural attitudes that perpetuate gender-based violence and discrimination.

3. National Human Rights Commission

The National Human Rights Commission of Nigeria (NHRC) was established by the National Human Rights Commission (NHRC) Act, 1995, as amended by the NHRC Act, 2010. The Commission serves as an extra-judicial mechanism which safeguards the human rights of the Nigerian population. It monitors human rights in Nigeria, assists victims of human rights violations, and helps in the formulation of the Nigerian Government's policies on human rights (Ritz, 'Soft Enforcement: Inadequacies of Optional Protocol as a Remedy for the Convention on the Elimination of All Forms of Discrimination against Women' *Suffolk Transnational Law Review* 25 (2001) 99; National Human Rights Commission, 'NHRC Mandate', accessed 15/5/2023; National Human Rights Amendment Act 2010).

The Commission has been active in investigation and monitoring of numerous human rights situations since it was founded. The NHRC (Amendment) Act, 2010 has conferred on the Commission additional independence and

strengthened the Commission's power with respect to promotion and protection of human rights, investigation of alleged violation of human rights and enforcement of decisions. The NHRC (Amendment) Act 2010 has also widened the scope of the Commission's Mandate to include vetting of legislations at all levels to ensure their compliance with human rights norms. Specifically, the NHRC is mandated to.

1. Deal with all matters relating to the promotion and protection of human rights as guaranteed by the Constitution of the Federal Republic of Nigeria, the United Nations Charter and the Universal Declaration on Human Rights, the International Convention on Civil and Political Rights, the International Convention on the Elimination of all forms of Racial Discrimination, the International Convention on Economic, Social and Cultural Rights, the Convention on the Elimination of all forms of Discrimination Against Women, the Convention on the Rights of the Child, the African Charter on Human and Peoples' Rights and other international and regional instruments on human rights to which Nigeria is a party;
2. Monitor and investigate all alleged cases of human rights violations in Nigeria and make appropriate recommendation to the federal government for the prosecution and such other actions as it may deem expedient in each circumstance;
3. Assist victims of human rights violations and seek appropriate redress and remedies on their behalf
4. Undertake studies on all matters pertaining to human rights and assist the Federal, State and Local Governments, where it considers it appropriate to do so, in the formulation of appropriate policies on the guarantee of human rights;
5. Publish and submit from time to time to the President the National Assembly, the Judiciary, State and Local Governments, reports on the state of human rights promotion and protection in Nigeria;
6. Organize local and international seminars, workshops and conferences on human rights issues for public enlightenment;
7. Liaise and cooperate, in such a manner as it considers appropriate, with local and international organizations on human rights for the purpose of advancing the promotion and protection of human rights;
8. Participate in such manner as it considers appropriate in all international activities relating to the promotion and protection of human rights;
9. maintain a library, collect data and disseminate information and materials on human rights generally
10. Receive and investigate complaints concerning violations of human rights and make appropriate determination as may be deemed necessary in each circumstance;
11. Examine any exiting legislation, administrative provisions and propose bills or bye-laws for the purpose of ascertaining whether such enactment or proposed bill or bye-laws are consistent with human rights norms;
12. Prepare and publish, in such a manner as the Commission considers appropriate, guidelines for avoidance of act or practice with respect to the functions and power of the Commission under this Act;
13. Promote an understanding of public discussions of human rights issues in Nigeria;

14. Undertake research and Education Programs and such other programs for promoting and protecting human rights and co-ordinate any such programme on behalf of the Federal, State or Local Government on its own initiatives or when so requested by the Federal, State or Local Government and reports concerning the enactment of Legislation on matters relating to human rights;
15. on its own initiative or when requested by the Federal, State or Local Government, report on action that should be taken by the Federal, State or Local Government to comply with the provisions of any relevant international Human Rights Institutions;
16. Refer any matter on human rights violation requiring prosecution to the Attorney General of the Federation or of a State as the case may be;
17. Where it considers it appropriate to do so, act as a conciliator between parties to a complain; and
18. Carry out all such other function as are necessary or expedient for the performance of these functions under the Act.

(Ritz, 'Soft Enforcement: Inadequacies of Optional Protocol as a Remedy for the Convention on the Elimination of All Forms of Discrimination against Women' *Suffolk Transnational Law Review* 25 (2001) 99; National Human Rights Commission, 'NHRC Mandate', accessed 15/5/2023; National Human Rights Amendment Act 2010).

The NHRC in our considered opinion has relatively practiced what they have been empowered to do in the Nigerian society with regards to carrying out the above stated functions.

4. Nigerian Police Force

The Nigerian Police Force is a creation of the constitution (S. 214 CFRN 1999). It has a unitary structure even though Nigeria is a Federation (S. 214(1) CFRN 1999). The powers and duties are conferred on it by the constitution which provides that the members of the Nigerian Police Force shall have such powers and duties as may be conferred on them by law" (S. 214(2)(b) CFRN 1999). By the above provisions, constitutional validity is given to such enactments as the Police Act 2020 and other laws like the Prevention of Crime Act, Administration of Criminal Justice Act 2015, Firearms Act 2004, Coroners Law (Example, Coroners Law of Rivers State Cap 34 Laws of Rivers state of Nigeria 1999), some of which conferred enforcement powers on the Police force. It should be noted that the list above is not exhaustive as there are still other numerous Federal and State enactments that have vested the police with the power of enforcement.

The Police Act in its s.4 provides generally for the duties of the Police as follows: The Police shall be employed for the prevention and detection of crime, the protection of the right and the freedom of every person in Nigeria as provided in the Constitution, the Africa Charter on Human and Peoples Rights and any other Law, the apprehension of offenders, the preservation of law and order, the protection of life and property and the due enforcement of all laws and regulations without prejudice to enabling act of other security agencies and shall perform such military duties within and without Nigeria as may be required by them under this Law..

It has been observed that the Police Force operates in contrast to what their motto states "police is your friend".

They have been known to be the perpetrators of violence irrespective of ones gender. They go ahead to torture and deal with female despite the delicate nature of women. Having been empowered to carry gun, clubs and others together with the host of unauthorized tools, the Nigerian Police Force has greatly violated the sacrosanct nature of life, liberty and rule of law. The manner in which they violate human and gender rights are abominable and inhumane (Emerson, 'Everyone's in on the Game: Corruption and Human Rights Abuses by the Nigeria Police Force' (2010) *Human Rights Watch*).

The writers of this article are also of the view that the police instead of being friends of the civilian and common man, are regarded by majority as enemies. Some of them abuse and violate the rights of the civilians at will, women are not exceptions. The guns they bear which is for protection of lives and property of the people has turn out to be instruments of intimidation and terror.

5. National Agency for the Prohibition of Trafficking in Persons

Special attention is given to the trafficking of women and children in Nigeria. The practice of preventing these type of crimes is encouraged all over the world, however, it still remains a problem for Nigeria; this is why NAPTIP was established and empowered with the following functions.

1. To enforce the Trafficking in Persons (Prohibition) Enforcement and Administration Act.
2. Coordinate and enforce all other Laws on Trafficking in Persons and related offences.
3. To adopt effective measures to prevent human trafficking.
4. To investigate cases connected with human trafficking, including forced labour, child labour, forced prostitution, exploitative labour, slavery.
5. To enhance effectiveness of law enforcement agents and other partners in the suppression of human trafficking.
6. Create public enlightenment and awareness through seminars, workshops, publications, radio and television programmes.
7. Conduct research and strengthen effect legal means of international cooperation in suppressing trafficking in persons. (S.5 of the Trafficking in Persons (Prohibition) Enforcement and Administration Act, 2015).

This Agency has been relatively effective and efficient in preventing human trafficking, women and children inclusive and calling offenders to book by arranging their arrests and charging them to court.

6. International Federation of Women Lawyers (FIDA)

The International Federation of Women Lawyers (FIDA), is a non-governmental organisation. It is involved in the promotion, protection and preservation of the rights of women and children. These include their civil, political, economic, social and cultural rights.

Its aim is to organize women lawyers nationally, regionally and internationally, promoting the study of comparative law and advance the opportunities available to the women. The International Federation of Women Lawyers (FIDA) Nigeria is a Non-Governmental, Non-Profit Organization made up of women lawyers formed in 1964 (Eze-Anaba, 'Domestic violence and Legal Reforms in Nigeria:

Prospects and Challenges' (2007) (14)(21) *Cardozo Journal of Law & Gender*, 21). This organization of female lawyers in Nigeria have been fighting discrimination against women and all forms of violation of women's rights. They take it upon themselves to handle women's rights violation cases of indigent women in courts *pro bono*.

7. Women's Consortium of Nigeria

The Women's Consortium of Nigeria (WOCON) is a non-governmental organization that works to promote and protect the rights of women in Nigeria. It is an umbrella body for various women's groups and organizations in the country and provides a platform for women to voice their concerns, advocate for their rights, and collaborate with each other. The Consortium's activities include lobbying and advocacy, capacity building and training for women, research and documentation, and networking and partnership building. The organization aims to empower women and ensure that their rights and interests are represented and addressed in national and local policy making processes. WOCON works to achieve its goals through a variety of means, including advocacy, research, and training. The organization is focused on promoting gender equality and empowering women to participate fully in the social, economic, and political life of Nigeria. WOCON also provides legal aid and support to women who have experienced violence or discrimination, and works to raise awareness about the challenges faced by women in Nigeria and the need for greater protections for their rights. It was established in 1995, to monitor and promote the implementation of women's and girls' rights policies in all aspects of social, political, and economic development in Nigeria. Using lessons learnt and tools tested in their earlier award, WOCON is strengthening the advocacy skills of Community Watch Monitoring Committees to demand accountability in the administration of the Home Grown School Feeding Program in Ogun State. WOCON led the campaign against women trafficking in Nigeria on the 8 of March 1996 after research conducted earlier that year in partnership with the United Nations" (Abati (3 January 2016). "Bisi Olateru-Olagbegi (1953 – 2015)". Reuben Abati. Metro Watch, 29 July 2016).

And its Objectives include:

1. To monitor the implementation of Women's Rights for the attainment of equal status of women in all aspects of social, political and economic development within the community and the nation at large.
2. To organize and establish resource centers from which individual and organizations committed to feminist goals can share space equipments facilities and information on women issue or matters.
3. To monitor and ensure the implementation of all commitments made by Government Bodies and Agencies through conventions charters regulations geared towards the welfare and enhancement of the status of women.
4. To educate the public on the rights of women and the means of enforcing such rights for the achievement of equality, development and peace.
5. To co-operate with National and International NGO's and agencies by networking and co-aligning for the achievement of specific goals for the welfare and development of women.

6. To set up temporary abode for distressed girls and women including battered women and to prepare such girls and women psychologically be counseling and other forms of therapy and education for a re-orientation towards attaining a better and more purposeful life in the society.
7. To work for peace, Women's Rights and economic and social justice. (Abati (3 January 2016). "*Bisi Olateru-Olagbegi (1953 – 2015)*". *Reuben Abati. Metro Watch*, 29 July 2016).

Challenges in the Enforcement of Women's Right

1. Legal Constraint

At the national level, the Nigerian legislature is yet to enact a specific law on protection of women's right. The Nigerian constitution recognizes the existence of plural laws and this has increased the potentiality for conflict of laws. The Constitution which is the highest law in the land in Nigeria has no specific provision that clearly defines discrimination. Section 42 (1) provides for Non-discrimination on basis of sex. However, chapter 2 of the constitution which captures the Fundamental Objectives and Directive Principles of State Policy being non justiciable suggests that it is up to the government to decide whether or not to discriminate or enforce such objectives. There is no force of law compelling that the actions of the Nigerian government should be directed as not to discriminate or to enforce and as such, the constitution merely paid a lip service to these rights. Consequently, there is tremendous gap between the provisions of the law and its implementation. The defect in the constitution is also seen in the granting of citizenship. Section 26 (2) grants foreign women married to Nigerian men citizenships but then fails to extend the same right to Nigerian women married to foreigners. Also, Section 29 (4) (b) married women are considered adults irrespective of age thereby encouraging child marriages. The language of the entire document (CFRN 1999) is male oriented such as the use of the male pronoun 'he' and 'his' rather than a general pronoun for both sexes reveal this male dominance.

Where the constitution in itself contains discriminatory provisions towards women, this makes mockery of the ability of other existing laws and institutions to combat abuse of women's rights. Some of these laws are fraught with irregularities such as;

The penal code as a law in force in Nigeria has its own loopholes in addressing abuse of women's rights. The provision of the penal code applicable in the Northern part of Nigeria specifically encourages violence against women. Section 55(1) (d) of the Penal Code allows for the beating of a wife for the purpose of disciplining while marital rape is not recognized.

The rules of evidence which is governed by the Evidence Act 2011 is not left out in this challenge. The rules of evidence in relation to sexual violence can worsen the trauma of abuse of survivors/victims. For instance, s.138 of the Evidence Act, places the burden of proof exclusively on the survivors/victims, not the perpetrators, as it requires for the survivors to prove beyond reasonable doubt that they did not give consent. There is need therefore to learn from global developments by changing the burden of proof from the victim to the perpetrator. Another challenging condition for prosecution of rape is requirement of medical evidence of penetration and injury yet per forensic experts, not all rapes show medical evidences of injury.

Furthermore, the Violence against Persons Prohibition Act (VAPPA) 2015, which has developing and welcoming provisions on gender violence, applies only to the Federal Capital Territory. The reason for this provision is not difficult to decipher. Nigeria is a state with a federal system of government. Legislative responsibilities are outlined in the Constitution. In order to determine who bears the legislative responsibility on any particular issue in Nigeria, one must resort to the Constitution and the division of powers amongst the different levels of government that operates in the Nigerian federal system – the federal government, the states and the local government. In order to understand legislative prerogatives with regards to violence therefore, one must understand the constitutional provisions regarding violence. Violence clearly falls into the realm of criminal law. It is important to note that criminal law is, largely, a residual matter over which the states have power to make legislation exclusively (Akeem O Bello, *Criminal Law in Nigeria in the Last 53 Years: Trends and Prospects*, accessed 22 February 2023). The VAPP Act is federal law. It legislates on a clearly criminal matter, providing criminal penalties for offences that border on violence. As such the VAPP Act currently applies only to the Federal Capital Territory (FCT). This is clearly stated in the s. 47 of the Act itself. Bello further stated that, it can therefore only be implemented, as things currently stand, in federal institutions throughout the country and in Abuja, the Federal Capital Territory. The doctrine of covering the field, which allows the federal legislature to make a law to cover the field where it is a subject on which the federal and state governments can legislate, would be of little assistance in this regard. This is because the matter sought to be covered by the federal legislature is not a concurrent matter but a residual matter and, more importantly, the Act states that it applies only in the FCT. This would appear to make the VAPP Act of very limited relevance for the nationwide fight of violence against women in Nigeria. However, the VAPP Act has the potential to apply widely if and when the VAPP Act is adopted and domesticated by States.

Customary law is also a source of law in Nigeria. Customary laws are very disjointed and not codified in any document (*EshugbayiEleko v The Government of Nigeria* (1931)). As such there is a tendency that discriminatory customs and traditions against women particularly still thrives and are upheld in customary courts (U Eweluka 'post-colonialism, gender, customary injustice: Widows in African Societies' (2002) (24) *Human rights Quarterly* 424). In *Okonkwo v Okagbue* (1994) the court held that most customary laws are not known to be particularly friendly to women. Customary laws should ideally pass through the natural justice, equity and good conscience test. It is however trite that any law that is incongruent with natural justice, equity and good conscience cannot be applied in Nigeria.

2. Cultural Challenge

Many customs in Nigeria believe that women are inferior beings probably because of their feminine nature, soft attitude and lesser physical strength. These cultures assume that men should be revered by women at all times. Customary practices across Nigeria generally hold that the man is the head of the house and has the greatest control and decision-making powers. Due to this fact, the woman is regarded as the property of the man and he is therefore

entitled to discipline her as he deems fit. The notion of subjugation of women is so entrenched that many people in Nigerian society tend to accept violence against a woman as justified (Ritz 2001) Most times, women are seen as properties of men. This is evident in some areas whereby women are bundled to their husband's houses together with suitcases after her bride-price must have been paid. This is so unlike what happens in some developed countries where the couple drives off together, alone (Adeyemo and Bamidele 2016) ^[2]. The payment of bride price could also give an impression of women being under the authority of men. Some women suffer in their marital families but due to some cultural antecedents, they are afraid to speak up (Esere *et al* 2009) ^[10]. Some men feel because they paid bride price, they can treat their wives as they wish. In some places, once the woman decides to desert her husband, her family has to return the bride price that was paid by the husband's family.

A large proportion of women in Nigeria are barred from owning land by customary laws of inheritance as was the case in *Mojekwu v Mojekwu* 1997, *Anekwe&Anor v Nweke* 2014, *Mojekwu v Iwuchukwu* 2004 and *Ukeje v Ukeje*. This is in spite of the fact that Section 43 of the 1999 Constitution permits male and female Nigerians to own and acquire movable and immovable property. For example, women in the South-East are denied the right to inherit from their husband's/late father's estates. However, judicial activism was shown in the decision by Supreme Court in the *Mojekwu's* case, involving five children who were disinherited from their late father's estate because they were all female children, criticized a Court of Appeal's decision condemning a custom that prohibits females from inheriting property.

Cultural practices encouraging abuse of women's rights still abound. Cases of Early marriage, Female genital mutilation, widowhood practices and so on are predominant cultural practices on females which derogate from the provisions of gender rights.

3. Religious Challenge

The verse in the Holy Bible, that is, Ephesians Chapter 5 verse 22–23 which says 'wives, submit yourselves unto your own husband ... for the husband is the head of the wife as Christ is the head of the church ...' has often times been misunderstood. On the basis of this provision, many men have abused their wives either physically or verbally. Such men assume they should be accorded all respect likened to a servant-master respect and anything short of this is met with a measure of their physical strength against their wives. This practice has been evident in the olden days and is still prevalent in some communities till date.

Legislations would have little impact if religion and faith institutions are not included in the fight to curb abuse of women's rights in Nigeria. Gender right is not just a private matter. It is also a moral issue as such the need to involve the churches and mosques in the effort to combat abuse of women's rights that abound (Isanga 2010). To this light, some religious texts reinforcing male superiority over the female and perpetuating gender segregation and discrimination is to be checkmated in Nigeria to avoid further misinterpretations.

4. Political Challenge

In theory, the Nigerian Constitution does not discriminate against women in politics. Section 40 of the said Constitution provides that: "Every person shall be entitled to assemble freely and associate with other persons, and in particular he may form or belong to any political party, trade union or any other association for the protection of his interests". Furthermore, the National Gender Policy 2006, Objective 5, target b, stipulates that the State is committed to: 'Adopt special measures, quotas and mechanisms for achieving minimum critical threshold of women in political offices, party organs and public life by pursuing 35% affirmative action in favour of women to bridge gender gaps in political representation in both elective and appointive post at all levels by 2015' (Oranugo, 'National Policy on Women' accessed 21 February 2023).

Inclusion of women in Political offices remains a great feat in the fight against gender discrimination. However, the margin for the representation of women in politics is rather too insignificant. Several efforts have indeed been made to address the low representation of women in elective and appointive positions in Nigeria. Such efforts include: the establishment of the Women Political Empowerment Office and Nigerian Women Trust Funds; creation of the Women Situation Room Nigeria and the 100 Women Lobby Group; the adoption of a gender policy by the Independent National Electoral Commission (INEC).

Chiefly amongst these challenges faced in the fight against abuse of women's rights is the inadvertent concern by the government for the needs of the institutions that combat women's rights, the staff are underpaid and owed and surprisingly, the funds allocated for carrying out the duties are sometimes being syphoned by the top government officials. More so, some institutions, such as the Nigeria Police Force, the Ministry of Justice, the National Human Rights Commission (NHRC), etc. have not lived up to expectations to maintain justice and to protect women's rights. They have been characterized by gross irregularities, lackadaisical approach towards protecting women's rights and lack of commitment to their duties. This has been influenced by the corruption rate in the country, employment of unqualified personnel especially on the platform of the popular "IM" (which depends on who you know).

In this context of political factor, political will of the government is quite vital. This political will is a necessary ingredient, a *sine qua non* to drive the mind of government to enact non blemish laws and make clear commitments and efforts aimed at combating abuse of women's rights in Nigeria (UN, 'INEC Launches Gender Policy in Electives Positions' accessed 2/2/2023).

5. Social-economic Challenge

The employment and labour sectors are not left out in contributing to protection of women's rights. Some employers pry on the innocent female applicants to satisfy their sexual desires before they consider such applicants for a job offer. Fellow workers also neglect the presence and inputs of female co-workers and harass them in one way or another. In many cases, when men cannot establish financial supremacy over their wives due to a lack of economic opportunities, they resort to violence to exert control and power in another way; If a man cannot establish his

authority economically over his family members, he would tend to do so physically.

There have been some instances of other unattractive social norms encouraging abuse of women's rights. They include:

- The woman is responsible for making a marriage work.
- Financially independent women are difficult to control.
- Financially stable women derive their money from men.
- Divorce is shameful.
- A divorced woman is considered promiscuous and "wayward".
- A divorced woman is incapable of being controlled by her superior—the man.
- A dowry or bride price is equivalent to purchasing and thus owning a wife.
- A wife is the property of her husband.
- Victims of sexual assault are blamed for the type of dress they wore.
- Being victim of sexual assault is shameful. This norm discourages victims from disclosure.
- A female child has less value than a male child because a girl leaves her family for another through marriage.

(World Bank, 'Gender-based violence. An analysis of the implications for the Nigeria for Women Project' (2019), accessed 21 February 2023).

Conclusion

The Constitution of the Federal Republic of Nigeria enshrines a number of protective provisions for women's rights. It formed the bedrock on which other laws on women's right get their life from. Laws are in place, however these laws are violated with impunity. Abuse of gender right laws infringes on the fundamental rights and freedoms of persons and creates indelible imprint in the lives of the victims. The enforcement of women's rights are faced with different and varying challenges. However, gender should not be a disadvantage, hence the law must enforce this and bring erring men to book. As such, the need for the Nigerian legislature to take urgent and concrete steps to curb abuse of women's rights cannot be overemphasized. In attempts to curb this ill in Nigeria, this research has demonstrated that despite the proliferation of laws in Nigeria, a formidable force has not yet been attained. This is largely consequent upon the gender discriminatory nature of some of these laws which begs for amendment and most importantly, the need to implement the legislations remains paramount.

Evaluating the effectiveness of the institutions protecting women's rights in Nigeria, the lackadaisical attitude played by government officers and the rate of corruption in Nigeria has eaten deep into these agencies. Little or nothing is being done by the governmental agencies to combat this abuse. The non-governmental agencies seem to be better agencies for advocating gender rights. However, they are still faced with the overwhelming obstacle of not having the government's support in some of their actions in combatting gender affairs.

Recommendations

This research reveals that improvements and amendments need to be made to create a formidable force in protecting Women's rights in Nigeria and consequently makes the following recommendations:

1. The existing laws should be effectively implemented by taking out court actions against the violators of gender rights.
2. The Violence against Persons (Prohibition) Act, 2015 and VAPP Law of Anambra State 2017 should be amended to contain a provision establishing a department under the Ministry of Justice with the sole objective of enforcing the provisions of the Act. The ministry should serve also as a disciplinary and supervisory ministry which will have the role of monitoring the enforcement of gender rights in Nigeria. All States should adopt the Violence against Persons Prohibition Act as it has welcoming provisions on violence against persons.
3. Section 17 (3) of the Nigerian Constitution should be severed from chapter 2 of the constitution and made justiciable under chapter 4, section 42 of the Constitution. Or the Constitution should be amended to make the entire Chapter 2 of the Constitution justiciable
4. A department should be established under the Ministry of Justice to checkmate customs and religious practices promoting gender violence and discrimination. Communities practicing obnoxious customs and religions with religious beliefs which promote gender violence and discrimination should be taken to court to have such customs and practices declared unconstitutional, repugnant to natural justice, equity and good conscience and consequently null and void, without first waiting for the victim. The department should have the authority to *suo moto* bring actions to court even without such custom or practice victimizing anyone yet. This proactive measure should be adopted at both the federal and state levels.
5. Illiteracy and ignorance still play a major role in promoting gender violence. There should be massive public enlightenment, trainings, workshops and seminars on protection of women's rights. The Ministry of Information and National Orientation, governmental and non-governmental institutions for combating gender violence, should call for reorientation seminars biannually in every state.
6. The lackadaisical attitude of government officers is not left out. Provision should be made for yearly assessment of the efficiency and performance of duty by the government officers. This can be achieved by creating a disciplinary and supervisory agency which will have the role of monitoring the enforcement of gender rights as recommended above.
7. Trainings, workshops and seminars should be organized from time to time for officers of the police force on their constitutional responsibilities. The authority should also ensure that they do their jobs correctly and whoever fails should be heavily punished.
8. The institution responsible for the protection of women's rights should be developed, equiped and empowered to rise up to their responsibilities.

The implementation of these recommendations would without doubt help in improving the protecting women's right in Nigeria.

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