

# Implications of the Disconnection between Law and Practice in the Context of Gender Inequality in South-East Nigeria

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## Abstract

The problem of gender disparity persists in Nigeria despite international treaties, conventions and the 1999 Constitution. Research shows that Nigeria's plural legal system stifles the advancement of women's rights by creating loopholes for patriarchal customary laws to thrive. This is especially the case in South-East Nigeria, where culture assigns an inferior status to women. Although the Constitution and international treaties provide for equality irrespective of gender, the uncertain place of customary law in the legal system render these provisions unrealisable. Using examples from marriage and succession, this paper examines the implications of the disconnection between law and practice in the context of women's rights in South-East Nigeria. It argues that this disconnection has serious implications for legal pluralism and the effectiveness of development projects. It reveals the consequences of this disconnection on constitutional legitimacy and policy development in Nigeria.

**Keywords:** Legal pluralism, gender inequality, male primogeniture, customary law

## 1: Introduction

Ever since the dawn of the human rights movement, it is now fairly unquestionable that all humans are born free and equal in dignity and right (Universal Declaration of Human Right 1948; Rehman 2003). The principles of non-discrimination and equality are the bedrocks for the protection of human rights (McColgan 2003). The 1999 Constitution of Nigeria provides for equality, yet it has not solved the problem of gender inequality (Constitution of the Federal Republic of Nigeria 1999 hereafter referred to as 1999 Constitution). Gender in this context means socially classified attitudes, behaviours and activities, which a particular society assigns to men or women (Makama 2013), while equality is a privilege given to men and women alike irrespective of their race, religion or cultural group (Spalding 2009).

Notwithstanding the undertaking by the constitution and endorsement of international treaties to put in place all required mechanisms for the realisation of inalienable rights of humans, and most importantly women's rights, the outcome has not been satisfactory in Nigeria (Adekoya & Brema 2010). Nigeria, as a member of the United Nations, endorsed many international Instruments and Conventions such as the African Charter on Human and People's Rights, the Convention on the Elimination of all forms of Discrimination Against Women (CEDAW) 1979, the International Covenant on Economic, Social and Cultural Rights (1966), the New Partnership for Africa's Development (NEPAD) and the Beijing Declaration and Platform for Action (1995) without reservation (Ifemeje & Ikpeze 2012). These instruments stressed the need for member states to safeguard human dignity and guarantee equal opportunity to both sexes (CEDAW 1979). Unfortunately, the application of these Treaties has not fared better than the 1999 Constitution with regards to ensuring gender equality. This situation presents a problem, as shown below.

## 2. Statement of problem

The 1999 Constitution has binding force on all authorities and persons in Nigeria. It also provides that any law that is contrary to its provisions shall be void to the degree of their contradiction. Despite this guarantee and commitment to the non-discrimination principle in international Treaties signed by Nigeria, there are still unequal opportunities between men and women in economic, social, and cultural issues (Davidson 2012).

A report launched lately also stated that 80.2 million women in Nigeria have inferior standard of living than their male counterpart due to gender inequality (UK Department for International Development, Gender in Nigeria report 2012). A cursory look at this report shows that gender concerns, especially discrimination against women, is not perceived as a serious problem that warrants significant action. This invariably shows why participation of women in development has remained unrecognised, thus leading to gender imbalance (Onyenenkwa & Nkamnebe 2011). Whether gender disparity is still a reality is not the question since it does exist according to the

reports above. The issue that arises, thus, becomes what causes this persistent gender disparity regardless of constitutional, state and international laws put in place to combat it.

Accordingly, this paper examines the consequences of the disconnection between law and practice for constitutional legitimacy and policy development in Nigeria. The paper argues that the disconnection between law and practice has two implications and consequences. The first is that non-adherence to gender equality limits women's contributions to national development as it discourages them from participating in national life. It also restricts opportunities in state institutions for women's participation. The second is that the disconnection is potentially harmful to constitutional legitimacy and the success of development projects.

### 3. Literature Review

The study cuts across constitutional law and public law, as an examination of the literature shows. This examination will hopefully help shed light on the arguments made in the paper. There are many accounts of gender relations in Nigeria. Okonjo (1976) analysed women's considerable social autonomy in mid-west Nigeria before colonialism. She showed that social structures allowed women to establish their own political, economic and religious organisations, which gave them considerable autonomy in decision making on matters that directly affected their lives. Amadiume (1987) supports Okonjo's finding on women's autonomy, especially elderly women. Literature shows that Nigeria's colonial experience changed this pre-colonial structure of fairly balanced gender relations. Ewelukwa (2002) argues that the plural legal system created by colonialism 'created a complex and confusing legal regime under which women generally are denied adequate legal protection.' She finds support in Iwobi (2008), who examined widowhood in Nigeria from the view of the interaction between cultural forces and patriarchal power. Iwobi found that in many communities, the affairs of widows are regulated by an array of customs, rituals, and practices that, though influenced by state law, have developed independently of state law. Durojaye (2013) investigated the implications of widowhood practices for the enjoyment of women's rights in Nigeria. He discussed the effects of Nigeria's socio-cultural and legal structures on gender equality and argued that its plural legal system potentially undermine women's rights. Asiedu-Akrofi (1989) examined the judicial treatment of legal pluralism, while Anifalaje (1988) offered a skeletal outline of the doctrine's impact on legal development in Nigeria. Although all these works identified legal pluralism as a major contributor to gender inequality, they did not pinpoint the consequences of the disconnection between law and practice in Nigeria. This is what this paper intends to do. In order to do this effectively, an examination of the political and legal landscape of Nigeria is necessary.

### 4. Existence of Legal pluralism and Gender Inequality in Nigeria

With nearly 170 million people, Nigeria is the most populous black nation in the world (United Nations Development Programme, Human Development Report for Nigeria 2013). It has a complicated legal system. There are over 250 ethnic groups in this legal system (Otite 1990). The largest of these groups are the Hausa in northern Nigeria, the Igbo in southeast Nigeria, and the Yoruba in western Nigeria. Apart from the Hausa that practise Islamic or Sharia law, each ethnic group in Nigeria has its system of customary law (*Egharevba v Orunonghae* 2001). Many of these ethnic groups have highly male-dominated societies and this is a challenge that contributes to slow progress in the advancement of women's rights (Mmadu & Akomolafe 2013). Women are placed in a subservient situation that makes their voices practically unheard (United Nations Development Programme, Human Development Report for Nigeria 2013). This paper argues that the pluralist legal system of Nigeria plays a major role in the slow response and hostility towards advancement of women's rights (Durojaye 2013). The theory of legal pluralism is defined as:

one in which law and legal institutions are not all subsumable within one 'system' but have their sources in the self-regulatory activities which may support, complement, ignore or frustrate one another, so that the 'law' which is actually effective on the 'ground floor' of society is the result of enormously complex and usually in practice unpredictable patterns of competition, interaction, negotiation, isolationism and the like (Griffiths 1986).

Nigeria's legal system is a product of British colonialism. The sources of law are derived from the common law and doctrines of equity in force in England in 1900, customary law, statutory law and sharia law. Colonialism employed a policy of indirect rule in which customary law was tolerated (Menski 2000). The British subjected customary law to English law, using legislation that enforces in Nigeria the received English law. For customary law to be applicable, it must not be contrary to public policy, natural justice, equity and good conscience

(Evidence Act 2011). These criteria were determined and applied in line with English standards, rather than the standards of Nigerians whose customary law was in question. Thus, 'the British created a plural legal system in Nigeria which prevails to this day (Zahn 2009)'.

It is claimed that post-colonial leaders felt obliged to continue the subjection of customary law to the received English law for economic and political reasons (Griffiths 1986). Thus, up to today, customary law governs only personal matters such as marriage and succession. The result of colonialism is that customary law evolves independently of state law and operates within cultural norms involving social roles and relationships. These relationships are in turn determined by power dynamics among members of society. As Iwobi (2008) has noted, the established institutions that more or less 'regulate the affairs of most Nigerians are archetypal bastions of male power and are suffused with patriarchal instincts and inclinations.' The plural nature of Nigeria's legal system creates room for misconception and insecurity regarding women's human rights as enshrined in the Constitution and in international instruments (Bond 2010). It encourages the application of statutory law side by side with customary law, which often has negative impacts on women's empowerment and development (Durojaye 2013). The collection and interaction between these diverse laws, practices and customs in Nigeria creates different forms of coercion and compliance which poses a challenge to women's rights (Moore 1973). It becomes challenging, therefore, to create a unified system of law which will remove this discriminatory element.

## **5: Factors Responsible For Disconnection between Law and Practice**

### *5.1 Introduction*

The implications of the disconnection between law and practice in Nigeria are founded on several factors. These range from legal pluralism to social, economic, cultural, and historical factors. Of these factors, culture has been found to create a barrier to the emancipation of women's rights (UN Committee on Economic, Social and Cultural Rights: concluding observations: Zambia 23 June 2005). Accordingly, a historical study of the south eastern part of Nigeria (Igbos) will elucidate the cultural challenge and understanding of women's right to inheritance in Nigeria.

#### *5.1.1 Cultural factors*

Article 17(3) of the African Charter on Human and People's Rights, which Nigeria ratified in 1983 and domesticated the same year, stressed the need for the state to ensure 'protection of morals and traditional values recognized by the community.' This provision does not mean that obnoxious customary practices that inhibit the rights of women, most especially on inheritance, should be tolerated. This is because article 5 of the Charter provides for human dignity, while article 18 places an obligation on the state to 'ensure the elimination of every discrimination against women' as well as 'to assist the family' to preserve their traditional values. The Charter also places an obligation on individuals to contribute to, uphold and preserve cultural values of society (Article 29(7)). Culture and tradition has a profound effect on women, since they form the foundation of people's way of life. Just as it is popularly said, we are the product of our culture. Culture assigns an immense and extra-ordinary status on men, while women are reduced to the lowest forms of humans (Mmadu & Akpufurere 2013). From the beginning, male children are taught to be strong so as to take charge of their family. Conversely, women are taught to be submissive to their husbands, and they are typically associated with domesticity such as nurturing and caring (Okpalaobi 2011). The male child is regarded as a talent that should be helped to develop, a talent that when developed will provide for the family, while the female is seen as a liability, a second class citizen, and an ordinary tool for the prosperity of others when they marry (Nussbaum 2001; Van Allen 1975). The foregoing can be illustrated by the behaviour of Chinua Achebe's character Okonkwo in *Things fall Apart* who sees a prosperous man as one who can control his family and wife in particular. Culture is held in high esteem and observance of its sanctity is required most often (Ejumudo 2013). Though the Constitution provides for equality amidst the citizens irrespective of their gender, the custom and tradition of the people render this provision impracticable and unrealisable (Durojaye 2013; Ewelukwa 2002). The influence of culture in limiting women's rights can be grouped into three phases in southeast Nigeria. These phases are the pre-colonial period, the colonial period and the independence period. Each phase is discussed below.

#### *a) Precolonial period*

The Igbo are one of the major ethnic groups in Africa and Nigeria in particular (Oriji 1994). The Igbo community is divided into villages, clans and dialect. The political organisation of this group is without the control of kings and chiefs (Oriji 1994). This is the origin of the popular saying 'Igbo enwe eze' (Igbo is devoid of kings). Disputes were resolved by different associations stretching from the *Umunna*, *Umuada* (which

involves the first female born in each family) to village cults and different age grade assemblies (Isichei 1976). The traditional Igbo culture provided economic and administrative powers to women such as the *Umuada* (Uchem 2000). During the pre-colonial era, women held complimentary rather than subservient positions with men even though the society was largely patriarchal (Anyogu & Umobi 2013; Afisi, 2010). This is because authority was founded typically on age and wisdom rather than gender (Sudarkasa 1986). Even though men were the heads of families in this pre-colonial setting, women still had the power to organise and control the family and the community at large (Afisi 2010). This period created more freedom for women despite the patriarchal society (Green 1964).

*b) Colonial period*

With their belief in the subordination of African women, the British colonialists introduced their version of patriarchy into an already patriarchal society (Anyogu & Umobi 2013). The authority and control of women by men was reinforced and more pronounced. This power also elevated men in the social ranking and downgraded women (Ezegbe & Akugbue 2012). The colonial authority appointed native and warrant chiefs who were mostly male (Achebe 2011), made legislation which marginalised, and restricted the power of women in the society, and saw men as bread winners (Hogan 2000). These imposed warrant chiefs became corrupt and aided the colonial authorities in the further marginalisation of women's right (Nzegwu in Nussbaum and J Clover eds.1995). The invisibility and non- recognition of women's rights and authority both politically and otherwise, led to the Aba women's riot of 1929 (Akpan & Ekpo 1988; Van Allen 1976.) They protested because of the dictatorship of the local administrators, inhuman imposition of taxes, neglect of their egalitarian pre-colonial system and the new system which created no avenue for them to lay their grievances (Van Allen 1972; Nzegwu 1994; Ifeka-Moller 1975). The marginalisation of women still continued up to independence because the colonial powers dismissed the Aba women's riot as a foolish act by frantic women (Uchem 2001; Nzegwu 1995)

*c) Post-colonial/Independence period*

The crusade for women's emancipation started from the old into the present. Notwithstanding the emergence of independence, the inheritance, social and political rights of women have remained, largely, unrecognised (Olatunde 2010). Nigerian society continues to treat and see women as inferior to men. In a plethora of cases, the court has failed to uphold the right of women to inheritance and property. In *Nezianya v. Okagbue*, the court held that where a husband dies without a male issue, his real property descends to his family and neither his widow nor his female issues can inherit. In *Nzekwu v. Nzekwu*, the Supreme Court denied the widow her right to inherit land and held that before a widow deals with the property of her husband, she must obtain the permission of her in-laws. The court went ahead to state that she can only occupy the building subject to her good behaviour and magnanimity of her in-laws. In *Ogunkoya v. Ogunkoya*, the court included the wife as property to be inherited by her deceased husband's family. In *Onwuchekwa v. Onwuchekwa*, the Court of Appeal refused to reject as obnoxious the custom which sees women as their husband's property to be inherited. In *Muojekwu v. Iwuchukwu*, the Supreme Court held that the court of appeal erred in applying the constitutional validity test to the Ili-ikpe custom, which prohibits female inheritance. According to the court, there is a limit to which gender equality can be applied. Thus, it won't be realisable in some aspects of cultural and social life of the people due to the need to respect the lived realities of people. These lived realities are so entrenched that it was only recently that the Supreme Court of Nigeria abolished the rule of male primogeniture in some parts of Nigeria (*Ukeje & Another vs Ukeje* 2014; *Anekwe & anor v Nweke* 2014).

Culture and tradition inhibits the realisation of women's right especially by reason of marriage. Courts guard themselves from making judicial pronouncements on the constitutionality of custom and tradition. This withdrawal by the court sometimes leads to discouragement and resort to traditional means of dispute resolution even though the system will neither respect the need nor uphold the right of women. Culture has taught women to sit on their rights without complaint; it has instilled fear of societal sanction in them (Njogu & Orchardson-Mazru 2006). Instead of losing family relationships, women prefer to submit themselves to whatever hardships come their way. Paradoxically, women derive safety and satisfaction in preserving and upholding some discriminating cultural practices, thereby legitimising and passing it unto the next generation (Coomaraswamy 2002).

Despite the constitutional provision that gives right to both male and female to own and acquire moveable and immoveable property (Sec 43), customary laws of inheritance continue to impede on the right of Nigerian women. Recently, the Supreme Court of Nigeria issued a ruling invalidating the rule of male primogeniture in

south east Nigeria (*Ukeje vs. Ukeje*). Judging from the progress made in gender equality in Nigeria, there is little hope that this landmark decision will considerably change the status of women. In the latest decision, the Supreme Court indirectly pointed out the difficulty of abolishing the primogeniture rule as follows: (*Anekwe vs. Anekwe*)

Any culture that disinherits a daughter from her father's estate or wife from her husband's property by reason of God instituted gender differential should be punitively and decisively dealt with ... It is indeed much more disturbing especially where the counsel representing such perpetrating clients, though learned, appear comfortable in identifying, endorsing and also approving of such a demeaning custom ... Consequently, the appellants' two issues raised in this appeal are both resolved against them. The appeal is without merit and is hereby dismissed while the Judgment of the Court of Appeal, Enugu Division which affirmed that of the trial High Court Anambra State, Awka is hereby also affirmed by me.

It is obvious from the above remarks that the Supreme Court was concerned that lawyers advocate for customary laws that discriminate against women. Moreover, because of the territorial reach of the judgement and the nature of the relief sought by the plaintiff/respondent, it is not likely that the judgement will be applied throughout Nigeria as a *locus classicus* on abolition of male primogeniture. No matter the intense effort by the government to fight against gender disparity, it takes more than modifications in rules and procedure to change practices in communities (Knight & Ensminger 1998). The inaudible voice of women in the event of breach of their rights is as result of cultural association, making them less seen and unheard (Ayogu & Arinze-Umobi 2011). These cultural norms are so strong and reverberating to the extent that women who complain publicly of their plight have a negative relationship with their families and community in the long run (Twinomurinzi 2013). Unfortunately, culture is not the only impediment to gender equality. As shown below, socio-economic factors also play a role.

### 5.1.2 Socio-economic factors

Socio-economic relations and activities of Nigerian women and men are reflective of the generally believed patriarchal organisation of society, which gives more credence to men than women (Alumnah 2005). These stereotyped roles create constraint and obstruction for women to function well in the society (Makama 2013). An example is constraint on women's education. Education is a mechanism that helps fight poverty, thereby leading to change, revolution and development (Iheriohanma 2010). It endows on the holder the feeling of self-reliance and internal strength to forge ahead. The war women are fighting now, and will continue to fight, is against illiteracy, because it stands as a barrier to their social and political development in the society (Makama 2013). An educated person has an edge above others, knows his or her rights, and knows how to enforce them. Dating back to the colonial era, the expatriates were astonished at the cohesion and unity of purpose of women to challenge their authority in 1929 without formal training. It became expedient that to allow them access to education will empower and give them more leverage to increase their struggle (Twinomurinzi 2013). This contributed to low female enrolment in schools and feminisation of poverty, confining women to assist in house chores, thereby denying them the opportunity to develop and contribute to the nation, while the men go to school (Onyenenkwa & Nkamnebe 2011; Okeke 2000; Emecheta 1979; Emecheta 1994). It all points to the patriarchal nature of our society (Uwakwe *et al* 2008; Olabisi 1998). This attitude has continued till date. There is a perception that educating women is a waste of resources because they will marry and end up in the kitchen (Oniye 2006; Nwoko 2012). Although in recent years, studies have shown that increased number of females acquire education that has not solved the problem because even the school syllables are stereotyped (Twinomurinzi 2013). At law school students learn that there are no ladies at the bar, because it is a man's profession. At one leading law school a lecturer would always address the women as 'gentlemen on skirt'. The opportunity of education given to women is carelessly and unconsciously taken away by non-state actors through their stereotyped behaviour (Knight and Ensminger 1998).

Although the 1999 Constitution provides for equal opportunity of education for all citizens at all levels in section 18(1), that provision has become a mirage. This is mostly because the constitutional provision on its own is insufficient to protect the rights of women, as it is substantive in nature, while other laws, both written and unwritten, guide the procedural aspect. Even the Constitution failed to make the rights enforceable in courts (Sec 6 (6) (c)). Just as Sally Moore wrote, there exist forces in semiautonomous social fields, which exert such influence that could lead to the failure of some state laws (Moore 1973; Pospisil 1971). The social fields sometimes create almost invisible law backed up by punishment, which is seen in most societies as norms that ought to be obeyed (Reisman 1999; Knight & Ensminger 1998). Even though women have the constitutional

right to exclude themselves from the shackles of these practices, they are somewhat under the influence of unseen economic and cultural forces because they want to conform to norms they have grown up with (Moore 1973; Bond 2008). Fred Siebert, in his analysis of the libertarian theory of the press, argued that it is not enough to declare that a person is free because in some circumstances, opportunity to exercise such freedom might be weighted down on the person. There are attitudes in Nigeria which hinders women from advancing equally in social position with their male counterparts despite the supremacy of the Constitution. Some of these attitudes even find their way into policies. A look at a typical example of them will explain the foregoing.

The Nigerian Police Regulation states that a married woman is not eligible to get enlisted into the police force (Sec 118 (g). With such a provision, we need not wonder why the police force is predominantly filled with men. Even the unmarried women police officers who want to marry are subjected to rigorous scrutiny (sec 124). This, in my opinion, is because of a gender discriminatory belief that women are not meant for police force work. This discriminatory provision of the above law is not enforceable because the Constitution while providing for non-discrimination in section 42(1) (a), expressly allowed for discrimination from the armed forces and the Nigerian police force in section 42(3).

### 5.1.3. *Political factors*

Since the inception of democracy in 1999, women still play the role of an underdog to their male counterparts politically because of gender discrimination (Ojo 2013). Nigeria runs a bicameral parliamentary assembly (House of Assembly and House of Senate). Figures from the United Nations Statistics Division show that, presently, less than 7% of women are in parliament (United Nations Statistics Division, Millennium Development Goals Database, 'Percentage of Seats held by women in national parliament' 2014). Recent data compiled by the Inter-Parliamentary Union shows that as at 1<sup>st</sup> February 2014, out of 360 seats in the House of Assembly, only 24 were occupied by women, which is 6.7%, while out of the 109 seats in the House of Senate, only 7 (6.4%) were occupied by women. This shows a low representation of women in political decision-making positions in the country.

The patriarchal attitude towards the role and capability of women contributes to the disadvantaged situation and disregard of their socio-economic contribution to the development of society (Agbalajobi 2010). Although the Constitution provides for freedom of association for all citizens irrespective of gender in section 40 and 42(1) (a), it is more imaginary than real in actual practice. Chapman states that men create the standard and control of the political environment (Chapman 1993). The women who partake in politics are practically helpless to change this environment because they are too few to effect significant changes. What then happens to women whose voice are muffled and cannot access the court to enforce their right? How do they become visible and recognised in the developmental plan of the country?

## **6: Implications of Disconnection between Law and Practice**

The aims and objectives of all gender equality laws, and in particular the Constitution of the country, is to eradicate gender disparity in the society. In other words, the essence of laws is development. Development is used broadly to include human welfare or happiness, which is anchored on building a society where human dignity is protected and no one is discriminated against (Sec 17(1) and (2) (a) of the 1999 Constitution). From the foregoing factors, one can deduce that achieving gender equality in Nigeria is very difficult. Women continue to face dehumanising situations, which has a serious impact on them and the society at large. Unfortunately, this reflects poorly on law and practice, with serious consequences for development and constitutional legitimacy. The implications of the disconnection between law and practice in the context of gender inequality in Nigeria will be discussed under two headings, namely, implications on development and constitutional legitimacy.

### 6.1 *Effect on constitutional legitimacy*

The disconnection between law and practice has a negative effect on constitutional legitimacy. Legitimacy is a very important legal subject (Vining 1995). It evokes notions of authority, power, legality and respect, which are all indispensable components of law. In this light, it is sometimes used to describe in general terms, criteria for the 'validity' of power (d'Entrèves 1967). It therefore connotes 'belief in legality,' and 'readiness to conform to rules' recognised as correct and imposed through 'accepted procedures' (Gribnau 2002; Weber 1968). In this sense, legitimacy presupposes legality, as well as existence of a legal system in which a constituted body issues

orders according to established rules. The essence of making laws is to secure obedience or compliance to such laws (Kelsen 1935). If the Constitution provides for gender equality and individuals ignore that provision, it does not say much for the supremacy and legitimacy of the Constitution.

The above argument also extends to other laws. The disconnection between law and practice is indicative of the problems of legal pluralism in Nigeria. For example, although state law makes various provisions for the regulation of marriages and inheritance, many Nigerians disregard these provisions (Agbede 1968). Unsurprisingly, a scholar has observed that most of what is applied in courts differs from the practices of majority of Nigerians (Menski 2000).

The persistence of gender inequality has the potential to undermine obedience to the law, which is one of the three pillars of the rule of law (Dicey 1959). Thus, a serious implication, which should be called consequence or effect of the disconnection between law and practice, is violation of the human right to development. Due to social inequality, women are exposed to vulnerable situations that limit their social and economic development. Social inequality here refers to relational practices or belief in a society that have the effect of harming or limiting the rights, privileges and participation of a group of people by reason of gender (Tilly 2001; Avent-Holt & Tomaskovic-Devey 2010). These rights include property rights, political right and equal access to education. Societal stereotypes suppress the opportunity of women to advance equally with their male counter parts. Thus, females suffer greater uncertainty in employment prospects; they are sometimes denied the privilege of advancing higher in certain establishments despite their skill, ability and achievement (Cotter et al 2001). This has the effect of causing exceptional hardship and limitation of human potential.

## 6.2 *Effect on development projects*

The disconnection between law and practice has direct and potential effects on development projects. Firstly, gender inequality hinders the achievement of long term development policy. Women's muffled voice in decision-making means that development policies will only work for half the population of the society who are represented.

Secondly, inequality in education leads to decrease in the value of human capital accumulation (Stephan 2002). Thirdly, disregard for women's rights could encourage disdain for the rule of law, which in turn could encourage resistance to development projects. As shown above, there is a disconnection between state law and people's practices. People sometimes regard state laws with suspicion because such laws were either adopted without properly consulting them, or do not reflect their daily practices (Von Benda-Beckmann 1989; Menski 2000). This could breed apathy on the part of rural communities towards development projects such as roads, boreholes, and electricity, and contribute to the failure of such projects (Von Benda-Beckmann 1989).

## 7. Conclusion

Despite constitutional and other provisions, gender inequality is still prevalent in Nigeria. This disparity in gender relations is strongly indicative of the disconnection between law and practice in Nigeria. Using the context of gender inequality, this paper examined the consequences of this disconnection on constitutional legitimacy and policy development in Nigeria. It found that gender inequality limits women's contributions to national development. Beyond this, it found that it is potentially harmful to constitutional legitimacy and the success of development projects. Indeed, these implications are so interwoven that one leads to the other (Vienna Declaration and Programme of Action 1993). Thus, when access to education is denied to women by reason of the rigid attitude and patriarchal nature of the society, then high level of illiteracy is inevitable. Similarly, when constitutional provisions are disregarded, the rule of law is undermined. In the light of the foregoing, there is need for further research on the implications of the disconnection between law and practice on legal pluralism in Nigeria.

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