

An Appraisal of the Legal Rights of Women in Nigeria

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Abstract

Under Nigerian law, women have been accorded some legal protections. Basically, these rights are provided for under both the Nigerian Constitution and other international treaties and conventions to which Nigeria is a party to.¹ In spite of these legal provisions, there are many instances of violations of the legal rights of women in Nigeria. These violations are attributable to many factors. First, the existing cultures in Nigeria, which have the attributes of the law, are often, at variance with some of these provisions. Others are as a result of the religious commandments, just to mention few. Some of these factors are therefore few of the inherent challenges that make enforcement of the legal rights of women in Nigeria very impracticable. In this paper, various forms of abuses of the legal rights of women in Nigeria would be looked into. In appropriate places, recommendations are offered for better enforcement and improvement of these rights in the years ahead.

Keywords: Women, Rights, Laws.

1.0 Introduction

Since time immemorial, the rights and duties of women in Nigeria have been subjected to the wishes and aspirations of their men counterpart. This remains the same till date. And subject to few isolated cases, in Africa as a whole, and indeed, many parts of the globe, this ugly trend is the same. The reason of this rooted to history, as can be seen from the following examples.

In the ancient Rome, the legal status of women was a total and absolute subordination: first to the father and upon marriage, passes to the husband, who enjoys a *patria potestas* over the wife. Under this arrangement, the formation of a contract and making of a will were the exclusive province of men.

In the same vein, in the ancient Israel, the conditions of women were as same as that of Rome. In this context, the position of women was ranked together with that of a minor. Therefore, the old common expression was:

women, children and slaves, blessed art though who has not a gentile,
a slave or a woman, Lord though knowet why thou made me a woman, etc.

Not too far from the above sentiments, the birth of a baby girl was thus hinged on the old superstitious believes. The deliveries of baby girls were often received with mixed feelings by the parents. This can be illustrated as follows:

it is written, a daughter is a vain treasure to her father. From anxiety about her he does not sleep at night: during her early years, lest she be induced: in her marriageable years, lest she does not find a husband when she is married, lest she is childless, and she is old, lest she practices witchcraft.²

In pre-Islamic Arabian era, the position of women was the same as that of children. Often, they were regarded as property. In this regard, their bodies and properties, if any, were presumed the properties of their men counterpart. And by this arrangement, they were denied the right of inheritance from the properties of their deceased's relatives.

In some of the African societies, the legal rights of women were rooted upon certain customs, traditions and religious believes which were passed from one generation to another. Such customs and traditions include the wrong notion that the roles of women were mainly child bearing and tending to the kitchen, and other domestic works at home. In fact, equality of sexes is alien to most native laws and customs.

Under Nigerian native laws and customs, wives were regarded as chattels to be sold by the parents to the husbands as soon as the purchase price (dowry) has been paid. And if the husband dies, she is regarded as part of the estate of the deceased husband.³

Polygamy is allowed⁴, but none of these customary laws allow polyandry. Female children were given out in marriage without consent first had and obtained. But even if the consents were sought, some of them may lack the capacity to understand the nature of a marriage contract.

In another development, unilateral power of divorce is conferred on the husbands. And it is on record

¹ These treaties and conventions have formed parts of the municipal laws in Nigeria because they have been domesticated by the National Assembly.

² See Talmud Sauheudrin: The Jewish Religious Laws.

³ See Suberu v Sumonu (1975) 2 FSC 31, where it was observed that women are treated as chattel to be inherited amongst the legal heirs of the deceased.

⁴ In most cultures and traditions of the African countries, there is no limit to the number of wives a man can have at a time.

that this power had often been abused by some husbands who divorced their wives at the slightest provocation.

In the midst of all these general sufferings of women, Islam emerged, starting from the Arabian Peninsula, and thereafter to other parts of the world. Amongst the teachings of Islam is equality of sexes, emphasising the fact that the two sexes came from the same source and that they will return to the same source. Thus, the Quran provides:

O mankind, fear your lord who created you from a single person, of like nature his mate, and from them twain scattered (like seeds) countless men and women¹.

Other Quranic provisions are the right of inheritance² and the right to own property³, among others. In another respect, to show the importance Islam attached to women, a whole Chapter known as Surat Maryam was revealed⁴.

Similarly, in Europe, the old practice whereby the husband and wife were one, and which was the former, had since been changed.⁵ Therefore, she is now regarded as a *feme sole*, capable of suing or being sued, and also capable of acquiring, holding and disposing of her property.

In the modern day Nigeria, women have also been given some legal protections. Under the 1999 Constitution, it prohibits the executive or administrative practice which discriminates on the basis of sexual differences⁶.

However, in spite of reforms through national and international legislations⁷, the legal rights of women in Nigeria are still violated. The reasons are obvious: First, there are no significant changes between what existed in the past and what is happening now. Second, equality of sexes as provided under the different laws is only on paper. In practice, the reverse is the case.

From the above background, this work is divided into six parts. Part one is an introduction of the work. Part two discusses the age group of women in Nigeria, women and national development, and the efforts made by various regimes in Nigeria to improve the legal rights of women in Nigeria. Part three discusses the concept of legal rights, citing some of the rights provided under the 1999 Nigerian Constitution and international treaties and conventions as legal authorities. Part four highlights some of the various abuses which Nigerian women have been subjected to. This is preceded with the challenges of enforcement of the laws. Part five gives some suggestions and recommendations on how to improve the lots of Nigerian women in future. Finally is part six which gives a concluding remark of the work.

2.0 Women in Nigeria: Who are they?

For purpose of this discussion, a woman is in the age bracket of 18 years and above. The reason for taking this view is that at the age of 18 years. She is already matured, and therefore could be given out for marriage.⁸ Yet, we are mindful of the fact that the age of a child under Nigerian law is 18 years.⁹ In this context, though the word child is used in the law mentioned above, yet, for purpose of convenience, this work shall adopt the word child as provided above to mean woman.

With this clarification, the population of women in Nigeria is about 49% of the Nigerian population.¹⁰ This is an appreciable population factor which can better be used for the development of the country. Hence, if this figure is better utilized, it means that women would form an appreciable number of the total work force in both the private and public employment sector of the Nigerian economy. This is against the background of the fact that substantial numbers of them are engaged in informal sectors such as farming, fishing, selling of wares at major roads, hairdressing saloon, tailoring, etc. These are commonly found in the rural areas.

However, for those that reside in the rural areas, life expectancy is very low¹¹. There is no access to good drinking water, no good medical facilities in the hospitals, etc. Thus, while given birth, a substantial

¹. See Q 4: 1.

². See Q 4:7, 4:11 and 4:12.

³. See Q 4: 7 which permits a woman to own property of herself. In fact, Khadija Binte Khuwaylid, the first wife of the Holy Prophet was a business woman in Mecca at that time.

⁴ See Q: 19: 857-863.

⁵. See Married Women Property Act 1882, Law Reform Property (Married Women and Tortfeasors Law).

⁶. See section 15 (1) of the 1999 Constitution of Nigeria.

⁷. These are treaties and conventions which Nigeria as a state party has ratified and domesticated by the National Assembly of Nigeria.

⁸. In some parts of the country, especially in Northern Nigeria, where the Islamic law is in operation, a girl could be given out for marriage at an age that is less than 18 years.

⁹. See section 29 (4) (a) and (b) of the 1999 Constitution of Nigeria Again, see the Child Rights Act of 2003, which though, only applicable to the Federal Capital of Nigeria, Abuja, gave the age of a child as 18 years.

¹⁰. The 2006 official gazette showed a total population of 71, 345, 488; males had 71, 345, 488, while females had 69, 086, 302. Accessed on 4/6/16. The difference between the two sexes is just about two million.

¹¹. This translates into 48 years, and this is below the global statistics population of 71 years.

number of them died as a result of the harsh conditions they found themselves¹. In this context, according to Adelaja², in every 15 minutes, about 360 die out of every 100000. And from the World Health Organization (WHO) report, this is the second highest maternal mortality rate in the world. Therefore, the opportunity for Nigerian women to fully develop their potentials is denied. In fact, access to education which is very critical for development of the mind is denied³. On account of this, by the age of 18 years or even less than that, some of them are already given out for marriage⁴. Of course, cognisance is taken of the fact that marriage age of women in Nigeria varies from one culture to another. While some permit marriage age to be 18 and above, others give out their children for marriage at the age of 15 years or even less than that⁵.

2.1 Nigerian Women and National Development:

It is truism that Nigerian women are agents of national development, given the fact that they have performed creditably well in certain key sectors like education, health, politics, agriculture, e.t.c. All these have cut across both the private and public sectors of the economy. From this, their roles as agents of national development can be reviewed under the following headings:

a. Education:

Nigerian women have shown their skills and potentials in the field of education. For example, the rates of school girls being admitted into our learning institutions have increased⁶. What this translates into is that we have more women as nurses and medical doctors⁷, teachers⁸, lawyers, etc. Therefore, taking the health sector as an example, the high level of health care of infants and children of the age of 5 years is almost with 75% achievement in Nigeria.

In another respect, by acquiring the basic education, it in turn serves as an avenue to read professional courses such as law, engineering, medicine, accountancy, politics, etc. In view of this development, we now have women doctors, women lawyers and judges⁹, women accountants, etc.

b. Politics:

With the emergence of democratic rules in Nigeria in 1999, the urge to go into politics as a profession by Nigerian women became glaring. This can be attested to in the 1999, 2003, 2007, 2011 and the 2015 general elections. In all these elections, most of the women folk contested for various posts, ranging from Councillorship, Chairmanship, Membership of the State and National Assembly elections, Governorship elections, and Presidential elections¹⁰. This is in addition to the fact that some of them were given political appointments in various fields of human endeavour. All these were done with a view to ensuring that they actively participate and contribute their own quotas in the arts of governance of the country. The larger effect of this is that equal participation and representation in the decision making process of the country is guaranteed and enhanced¹¹.

However, the question to be asked is how have they excelled in various posts that they had contested for? To answer this question, even though they have won in few of these elective posts, the overall general performance is poor, as can be seen below:

¹. In most rural areas of Nigeria, access to hospitals for delivery is hampered on many factors: the husband who is to give consent is not within reach, no good means of transportation, bad road, long distance from home to the hospital, etc. All these are major causes of delay to the hospital, and this could lead to death of the mother or baby or a combination of the death of both the mother and the baby.

². See Adelaja, A. (2014) More pregnant women Die as Lagos Struggle with poor health care <http://www.Premiumtimesng.com/news/62312-investigation-pregnant-women-die-lagos-struggles-poor-healthcare.html>. (Accessed on 24/5/16).

³. 67 % of the women folk in Nigeria are illiterates. This is because most of the girls in the states mentioned above are not in secondary schools.

⁴.The reason for early marriage is poverty, and because parents want to abdicate their responsibilities and roles as parents, there is this urge and desire to give out the female children for marriage.

⁵. Ten states in Nigeria, namely: Kebbi, Sokoto, Jigawa, Zamfara, Katsina, Bauchi, Yobe, Borno, Gombe, Niger and Kano had the highest cases of adolescent marriage and adolescent child bearing (15 to 19 years old). These states also had the highest number of women who gave birth before the age of 18 years.

⁶. This is however relative. Some states in the North, namely: Sokoto, Kebbi, Bauchi, Jigawa, Yobe, Zamfara, Katsina and Gombe had the highest illiteracy level. The insurgency in the areas could be a valid excuse for falling under this category. But, other states not affected by insurgency should have no justification for falling under the category under reference.

⁷. With this, our hospitals and clinics are better equipped with adequate man power.

⁸. This is a key and critical profession where women can positively participate by imparting both moral and western education on the children.

⁹. Between 2013-2014, the country had a woman as the Chief Justice of the Federation. Currently, a woman is heading the Court of Appeal.

¹⁰. The results of these elections may not have been very impressive, yet, there are indications that with time, things would improve for the better in the years ahead.

¹¹. This is in conformity with the UN directives that administrative actions through participation of women should be enhanced.

In 1999, out of the 978 seats in the 36 Houses of Assembly, 12 women were elected¹. In 2003, 39 women out of 951 seats were elected.² In 2007, 54 women out of 990 seats were elected.³ For the House of Representatives elections of 1999, 13 women out of 360 seats were elected.⁴ In the 2003 elections, 21 women out of 339 seats were elected.⁵ In 2007, 25 seats were won by women.⁶ For the Senate, in 1999, 3 women out of 109 seats were elected.⁷ In 2003, 4 out of 109 seats were elected.⁸ In 2007, 9 women out of 109 seats were elected.⁹

Meanwhile, in the 2003 general elections, a woman was nominated as presidential flag bearer of one of the registered political parties. This is a good development, if compared with what was the situation in the past. Again for the first time in the history of Nigeria, we had a female speaker of the House of Representatives in the 7th Assembly. This is in addition to the fact that most of them served as Ambassadors, while others held key administrative offices.

In addition, in the 1999 Federal Cabinet, there were four women Senior Ministers out of 29, three out of 18 Junior Ministers, 2 women Advisers and 2 Senior Special Assistants, 6 Special Assistants and 1 Special Assistant to the Vice President. There were also 8 Permanent Secretaries. In the 2003 Federal cabinet, there were 6 Deputy Governors. They include that of Anambra State (PDP), Imo State (PPA), Lagos State (AC), Ogun State (PDP), Osun State (PDP), and Plateau State (PDP).

In the 2010 Federal Cabinet, we had female Ministers for Aviation, Education, Information and Communication, Petroleum Resources, and Women Affairs. In the 2011 Federal Cabinet, we had female Ministers for the Niger Delta Affairs, and Finance. In addition, we had 5 female Special Advisers, 10 Ambassadors, 16 Judges of Court of Appeal, 11 Permanent Secretaries, 16 Judges of the Federal High Court, 3 Judges of the Supreme Court, 6 Judges of the National Industrial Court, and Ag. President of the Court of Appeal.

In the 2015 Federal Cabinet,¹⁰ there were 6 women Ministers. They include the Ministers of Finance, Women Affairs, Environment, Budget and National Planning, and, Trade, Industry and Investment. What this showed is that 30% of the Cabinet members were women politicians, and technocrats. Presently, the Head of Service of the Federation of Nigeria is a woman.

c. Economic:

i. Public sectors:

Women staff can now be seen in most key government institutions cutting across both the Federal, State and Local Governments of Nigeria. In this regard, they have been employed as Teachers, Nurses, Doctors, Pharmacists, Lawyers, Judges, etc. In some cases, they have built up a career in their respective places of work and so risen to the top rank through promotions. In this case, we have Women Headmasters and Principals, Chief Medical Directors, Chief Justices, Permanent Secretaries, Directors, etc.

ii. Private sectors:

Women are also engaged in the private sectors of the economy. This includes both the formal and informal sectors like artisans.

d. Home Management:

This is a combination of both the working class group and also those who have engaged themselves in to full house wives. Though, this group is not into paid employment, but they have remained at home serving as a back bone of the economy of the husband who is always out to provide for the family. Thus, the saying that: “behind every successful man is a woman”. This category of women can be found in the rural areas, and specifically, in the Northern parts of Nigeria where Islamic religion is deeply rooted. And because of the Islamic commandment, some of these married women have engaged themselves into full house wives, overseeing the general up-keep of the house, looking after the children, and engaging in other domestic works at home.

2.2 Nigerian Women and Government Policies in Nigeria:

Over the years, successive governments in Nigeria have come out with some policies and projects with a view of improving the living conditions of Nigerian women. For example, during the regime of former President Ibrahim

¹. This translates into 1.2 %.

². This translates into 4%.

³. This translates into 5.5%.

⁴. This translates into 3.6 %

⁵. This is 3.6%. All these information had been documented by The Nigeria CEDAW NGO Coalition Shadow Report (2008) NY UN Committee on the elimination of all forms of discrimination against women.

⁶. This translates into 7 %.

⁷. This translates into 2.8 %.

⁸. This translates into 3.7 %.

⁹. This translates into 8.3%.

¹⁰. INEC Report (2007).

Badamasi Babangida, the Better Life for Rural Women was introduced. It was an initiative of the then 1st Lady, Late Mariam Ibrahim Babangida, and was established in 1987. Through the scheme, many cooperatives, cottage industry, farms and gardens, shops and markets, women's centers and social welfare programmes were established. Specifically, it was meant for the enhancement and social status of the rural women in Nigeria.

Sequel to the above, the Programme was re-introduced during the regime of late General Sani Abacha under another name, known as: Family Support Programme. In practical terms, the Programme was used as a device to improve the living standard and conditions of the rural women. In this regard, cooperative societies were established so that members (women) can have access to credit facilities from financial institutions. Under the scheme, small scale industries like tailoring, weaving, knitting, etc. were created. This was to ensure that job opportunities are created for the rural women.

In addition, the Decree on National Commission for Women¹ was promulgated. The objectives of the Decree include:

- a. The promotion of the welfare of women in Nigeria.²
- b. To improve the full utilization of women in the development of human resources and to bring about their acceptance as full participants in every phase of national development with equal rights and corresponding obligations.³
- c. To stimulate actions to improve women's civic, political, cultural, social and economic education and to work towards the elimination of all social and cultural practices tending to discriminate against and dehumanize human hood.

With the above objectives in place, employers of labour in the public sectors were directed to consider women in appointment to certain key posts in their working places.

More to this is the National Centre for Women Development⁴. To know its functions, section 5 (1) provides:

The Centre shall primarily be charged with responsibility to stimulate consciousness toward the attainment of higher levels of development and activity for Nigerian women and promote international cooperation for the attainment of this objective.

Section 2 provides:

- a. Promote research into the activities and achievements of women;
- b. Serve as a data bank on women and development in Nigeria;
- c. Facilitate the formulation of policies affecting women generally in areas such as education, employment, employment, health and finance;
- d. Provide training in skill development, income generation activities and serve as a training ground for managers and leaders;
- e. Provide a forum for guidance, counseling and mobilization of women in both urban and rural areas; and
- f. Liaise with national, regional and international agencies involved in women development programmes⁵.

Similarly, Women Trafficking and Child Labour Eradication Foundation (WOTCLEF), a non-governmental organization was introduced in Nigeria. It was founded in 1999 by the wife of the former Vice President, Amina Titi Abubakar. The scheme was committed to building international coalition that restores human dignity through empowerment, education and advocacy. It ensures to the eradication of trafficking in persons⁶, child labour and violent abuses of the rights of women. It offers assistance to young women who are victims of trafficking and child labour.

Pursuant to this, the National Agency for the Prohibition of Traffic in Persons and Other Related Matters (NAPTIP) was established. It was established on 26, August, 2003. The Agency was the creation of Trafficking in Persons (Prohibition) Law Enforcement and Administration Act, 2003. It criminalizes the scourge of trafficking in persons in Nigeria and its attendant abuses. It is its international obligation under the Trafficking in Persons Protocol Supplementing the Transnational Organized Crime Convention (TOC). Nigeria became signatory on 13/12/2000. Article 5 states that State Parties should criminalize practices and conducts that subject human beings to all forms of exploitation which includes child labour and trafficking in women.

Meanwhile, during the regime of former President Goodluck Ebele Jonathan, two Micro credit schemes

¹ See National Commission for Women Act, Laws of the Federation of Nigeria, vol. xvi, 1990.

² See section 2 (a) of the Act.

³ See section 2 (b) of the Act.

⁴ See the National Centre for Women Development Decree of 1995.

⁵ It is however desirable that these functions should be reviewed with a view of ensuring that the spirit behind the creation of the Centre is achieved.

⁶ See the UN Protocol on Trafficking Persons (2000) which defines trafficking in persons.

were established, and they are:

- a. Women Fund for Economic Empowerment (WOFEE)
- b. Business Development for Women (BUDFOW). They are revolving facilities with interest rate of 10 %.

In addition, Skills Acquisition Centres through the National Directorate for Employment (NDE) were created across the country. The beneficiaries of the programme are graduates of tertiary institutions (men and women) and are to undergo training in poultry management, aqua-culture, poultry, fish ration formulation, export grade smoked fish production, crop cultivation, green house and irrigation techniques, processing and packaging techniques, etc. They are meant to increase the income generation of women in Nigeria.

3.0 Meaning of Legal Rights:

It denotes different meaning to different people. In simple terms, it means any right which has the legal protection of law and if breached or violated, liability will follow. Thus, it is classified under different categories. However, for purpose of the present discussion, legal rights can be defined as the existence of a duty on a person, a breach of which the aggrieved person can seek a legal redress in a law court. In other words, legal rights are rights which have been clothed with the full protection of law, and if breached or trampled upon, the person affected by the breach can seek redress in a law court. Under the 1999 Nigerian Constitution, certain rights have been accorded to the citizenry¹. These among others, include the right to life², the right to the dignity of human person³, the right to personal liberty⁴, the right to fair hearing⁵, the right to private and family life⁶, the right to freedom of thought, conscience and religion⁷, the right to freedom of expression and the press⁸, the right to peaceful assembly and association⁹, the right to freedom of movement¹⁰, the right to freedom from discrimination¹¹, the right to acquire and own immovable property anywhere in Nigeria.¹²

But, the question that would come to one's mind is whether the citizens can sue the government for a breach of any of these legal rights? To answer this question, subject to some exceptions which may have been provided under the sub-sections of some of these provisions, they are enforceable by any person who feels that any of these rights have been violated. This explains why under section 6 (6) (b) of the same constitution, the courts have been empowered to entertain any matter from any person who feels that any of these rights have been violated. The section provides:

The judicial powers vested in accordance with foregoing provisions of this section- shall extend to all matters between persons, or between government or authority and to any person in Nigeria, and to all actions and proceedings relating thereto, for the determination of any question as to the civil rights and obligations of that person.

Meanwhile, the above mentioned rights are meant to be generally enjoyed by all Nigerian citizens irrespective of the sex of the person making a claim that his/her rights have been violated. This is unlike other specific provisions of the constitution and some other international treaties and conventions that are enforceable in the country and which are specifically meant for the protection and the development of Nigerian women. These provisions are what the paper is all about and these are what would be discussed in the main body of this work.

Yet, side by side with the rights mentioned above are some Fundamental Objectives and Directive Principles of State policy as provided under the same Constitution. These objectives serve as guides to the Nigerian Government with a view of ensuring that justice in all its ramifications prevails between the government and the citizens, irrespective of tribe, religion, sex, etc. These objectives include the social rights, economic rights, and political rights. Specifically, section 15 (2) provides:

Accordingly, national integration shall be actively encouraged, whilst discrimination on the grounds of place of origin, sex, religion, status, ethnic or linguistic association or ties shall be prohibited.

Section 16 (1) (b) provides:

¹. See generally Chapter IV on Fundamental Human Rights of the Constitution of Nigeria, 1999.

². See section 33.

³. See section 34.

⁴. See section 35.

⁵. See section 36.

⁶. See section 37.

⁷. See section 38.

⁸. See section 39.

⁹. See section 40.

¹⁰. See section 41.

¹¹. See section 42.

¹². See section 43.

control the national economy in such manner as to secure the maximum welfare, freedom and happiness of every citizen on the basis of social justice and equality of status and opportunity;

Section 17 (1) provides:

The state social order is founded on ideals of Freedom, Equality and Justice.

(2) In furtherance of the social order-

(a) every citizen shall have equality of rights, obligations and opportunity before the law;

(b) the sanctity of the human person shall be recognized and human dignity shall be maintained and enhanced;

(3) The state shall direct its policy towards ensuring that-

(a) All citizens, without discrimination on any group whatsoever, have the opportunity for securing adequate means of livelihood as well as adequate opportunity to secure suitable employment;

(b) conditions of work are just and humane, and that there are adequate facilities for leisure and for social, religious and cultural life;

(c) the health, safety and welfare of all persons in employment are safeguarded and not endangered or abused;

d...

(e) there is equal pay for equal work without discrimination on account of sex, or on any other ground whatsoever;

Section 18 (1) provides:

government shall direct its policy towards ensuring that there are equal and adequate educational opportunities at all levels.

While section 18 (3) provides:

Government shall strive to eradicate illiteracy; and to this end Government shall as and when practicable provide-

a. Free, compulsory and universal primary education;

b. Free secondary education;

c. Free university education; and

d. Free adult literacy programme.

Unlike the fundamental rights of chapter IV of the Constitution which are enforceable, the Fundamental Objectives of the Constitution are not justiciable. This is in view of section 6 (6) (b) of the Constitution which provides for the non-justiciable of these objectives. The section provides as follows:

The judicial powers vested in accordance with the foregoing provisions of this section-

(c) shall not, except as otherwise provided by this Constitution, extend to any issue or question as to whether any act or omission by any authority or person or as to whether any law or any judicial decision is in conformity with the Fundamental Objectives and Directive Principles of State Policy set out in Chapter 11 of this Constitution.

This explains why there are cases of breaches of these fundamental objectives by the government as can be seen in the following decided cases. In the case of *Badejo v Federal Ministry of Education*,¹ the Applicant/Appellant sued under the Fundamental Right Enforcement Procedure Rules on account of the discriminatory conduct of the process of admission that prevented her from gaining admission into Federal Government Colleges by excluding her from interview on account of her state of origin, while others of less qualified marks were invited for interview on the basis of their state of origin. Her application was dismissed. This also brings us to the case of *Archbishop Okogie v AG of Lagos State*.² In this case, it was held that the fundamental objectives as mentioned in the Constitution are no more than the ideals towards which a nation is expected to aim at. In other words, a breach of it cannot be challenged in a court of law. On appeal, however, the Court of Appeal reversed and upheld the rights of private citizens to run private schools in Lagos State.³

¹. (1990) 4 NWLR Pt. 143, p. 354.

². (1981) 1 NCLR, p. 218.

³. The court followed with approval the Indian Supreme Court in *State v Champakan* (1951) SCR 252 where it held that the Chapter on Fundamental Rights is sacrosanct and not negotiable to be abridged by any legislative or executive Act or Order except to the extent provided in the appropriate Article.

3.1 The Legal Rights of Women in Nigeria:

From the above definitions of legal rights, attempt would now be made to examine the rights of women under Nigerian law. The rights discussed above are the general rights which also include the rights of Nigerian women¹. Because of the close relationship between the legal rights discussed above and the legal rights of women, it is intended in this paper to adopt all the rights mentioned under sections 33-43 of the Constitution as rights enjoyable by Nigerian women. In addition to these are, however, some specific rights enjoyable by women alone because they are women and so the law provided that they should, in addition, enjoy those specific rights.

From the above discussions, following the dehumanized conditions of women on account of sex inequality in Nigeria, many attempts, at different time, were made by successive governments through legislations to improve and ameliorate the rights of women in Nigeria.

To start with, there is the general constitutional right of men, and also inclusive are the rights of women. Section 42 (1) of the 1999 Constitution provides for the rights of all Nigerians to freedom from discrimination. In specific terms, section 42 (1) (a) prohibits the subjection of an individual to discrimination on account of his place of origin, sex, religion, etc. Section 42 (1) (b) prohibits the privileges or disadvantages to any citizen based on the same ground as mentioned above.

In another respect, there is the specific protection for the chastity of women. This relates to the offence of rape. Rape has been made punishable under the Penal Code² and Criminal Code.³ For example, section 282 (1) of the Penal Code provides:

A man is said to commit rape, who, save in the case referred to in sub-section (2), has sexual intercourse with a woman in any of the following circumstances; against her will, without her consent, with her consent, when her consent has been obtained by putting her in fear of death or hurt, with her consent, when the man knows that he is not her husband and that her consent is given because she believes that he is another man to whom she is or believes herself to be lawfully married; or with or without her consent when she is under 14 years of age or of unsound mind.

Another legislation which provides for the rights of women in Nigeria is the Labour Act of 1974.⁴ Under the Act, a woman cannot generally be employed “on night work in a public or private industrial or agricultural undertaking”⁵. This provision has also been reiterated by the Convention of International Labour Organization which prohibits the employment at night, of women and young persons under 18 years of age.

The Labour Act also provides that a woman is entitled to be paid not less than 50% of her wages during any period of absence on maternity leave or that while nursing a child she shall be allowed half an hour a day during her working hours for that purpose.⁶ Again, an expectant mother is entitled to six weeks before delivery and six weeks after delivery with full salary.

However, in spite of these provisions, most rights of women under the Labour Act have been flagrantly abused by most employers of labour, especially in the private sectors. In an attempt to maximize profits, they often subjected their female staff to tedious jobs. And in a quest to earn a living for themselves and the family, they still maintain the work. This is in spite of the inherent dangers or the unequal treatment that is attached to such works. Example of this is that leave allowance is paid to workers on the basis of sex.⁷

In another respect, many international declarations, conventions, protocol, treaties, etc. to which Nigeria had signed and ratified and so enjoy the status of enforceability in the country, because the National Assembly has domesticated them, frown against discrimination on women. These are aimed at protecting the sanctity and dignity of women. These international declarations include:

First, there is the African Charter on Human and people’s Rights. Section 18 (3) of the Charter provides:

The state shall ensure elimination of every discrimination against women and also to ensure the protection of the rights of the women and the child as stipulated in international declarations and conventions.

The above provision is in conformity with the provision of the Convention on the Elimination of Discrimination against Women. Article 1 of the Convention defines discrimination as:

Any distinction, exclusion or restriction made on the basis of sex

¹. See section 5 (a)- (j) of the National Human Rights Commission Decree of 1995. The section protects the rights of both men and women from being violated, and also to seek for remedy in cases of complaint of violations.

². See section 283 of the Penal Code.

³. See section 282 of the Penal Code.

⁴. Now Cap 198, Laws of the Federation of Nigeria, 1990.

⁵. See sections 55 and 56 of the Labour Act, Cap 198, Laws of the Federation of Nigeria, 1990.

⁶. See sections 55 and 54 of the Labour Act, Cap 198, Laws of the Federation of Nigeria, 1990.

⁷. Now, irrespective of sex, leave allowance is paid on the basis of grade level.

which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their mental status on a basis of equality of men and women, of human rights, and fundamental freedoms in the political, economic, cultural, civil or any other field.

Another international declaration is The Convention on the Elimination of All forms of Discrimination against Women (CEDAW)¹. This Convention enjoins all state parties to:

Take all appropriate measures including legislation, to modify or abolish existing laws, regulations, customs and practices which constitute discrimination against women... to eliminate discrimination against women by any person or institution... and to enact appropriate legal protection of the rights of women².

It endorsed sexual equality, non-discrimination, reproductive rights, and rights to be free from violence. Its other salient provisions include: Article 4 on the equality of sexes, Article 5 (a) on the duty of state parties to modify social and cultural patterns, prejudices and practices based on the idea of inferiority of either sex, Article 13 on the right to social and economic benefits, Article 15 on the equality of women and men before the law. It allows women the right to enter into and conclude contracts, and own property, Article 16 (2) declares null and void the betrothal and marriage of children and call on state parties to come out with a minimum age of marriage and to make the official registration of marriages at the marriage registry compulsory³.

Another important international declaration is The Vienna Declaration and Programme of Action:

Article 18 provides:

The human rights of women and of the girl child are an inalienable, integral and indivisible part of universal human rights. The full and equal participation of women in political, civil, economic, social and cultural life, at the national, regional and international levels, and the eradication of all forms of discrimination on grounds of sex are priority objectives of the international community...

Article 37 provides:

The equal status of women and the human rights of women should be integrated into the mainstream of United Nations system wide activity. These issues should be regularly and systematically addressed throughout relevant United Nations bodies and mechanisms.

Article 38 provides:

In particular, the World Conference on Human Rights stresses, the importance of working towards the elimination of violence against women in public and private life, the elimination of all forms of sexual harassment, exploitation and trafficking in women, the elimination of gender bias in the administration of justice and the eradication of any conflicts which may arise between the rights women and the harmful effects of certain traditional or customary practices, cultural prejudices and religious extremist...

In addition, there is the Universal Declaration of Human Rights (1945). Although this covers both men and women, yet it has its significance in the sense that it reiterates the fundamental rights of women. It was therefore not surprising that this Declaration led to the International Decade for Women.

As said earlier, most of these international conventions have been entered into by Nigeria, and having been domesticated by the Nigerian government through the National Assembly⁴, they are now regarded as parts of Nigerian laws. This explains why they are regarded as part of the obligations of Nigeria under international law, and to which they must be strictly abide by. This should not however be construed to mean that there are no cases of breaches and violations of the provisions of the declarations. This is a major challenge being faced by

¹. It was adopted on December 18, 1979, and opened for signature on March 1, 1980. It was entered into force on September 3, 1981. It was ratified by Nigeria in June 1985.

² See section 21 of the Convention. However, section 21 of the Constitution of Nigeria is a negation of the operation of this provision. The section provides that it will promote the diverse cultures of Nigeria, and these are cultures that condone practices that are inimical to the core provisions of the Convention.

³. This may not however be possible due to many factors. First, marriage age in Nigeria varies from one culture to another. Second, many marriages are entered into without the authority knowing that it has taken place. After all, this is a private affair between two consenting adults. Thus, enforcement of this would be kicked against by the citizenry.

⁴. Under section 12 of the 1999 Constitution of Nigeria, no treaty between the federation and any other country shall have the force of law except to the extent to which any such treaty has been enacted into law by the National Assembly.

many women in Nigeria, and this would be the focus of discussion in the next sub-title.

4.0 Abuse of the Rights of Women and Challenges of Enforcement of the Laws:

4.1 Incidences of Abuses:

Cases of abuse of the rights of women are many, some of which include the following:

a. Domestic/Physical violence¹:

Domestic violence is now rampant and a form of abuse which Nigerian women are facing. The offence is of various forms and the most common form of it is beating of women at the slightest opportunity, with the confidence that nothing will happen even if it is reported to the authority. This forms of violence includes, but not limited to husband beating, or a husband subjecting his wife to any form of human degradation and molestation; an act which is a direct violation of the provision of section 31 of the 1999 Constitution of Nigeria. And because this form of abuse is given tacit approval by some cultures in Nigeria, it has persisted. To worsen the situation, even if it is reported to the Police station, nothing serious often happens. The Police would rather prefer that it is treated privately as family matter amongst family members². The reason for this is perhaps hinged on the fact that section 55 of the Penal Code provides:

Nothing is an offence which does not amount to infliction of grievous hurt upon any person and which is done by a husband for the purpose of correcting his wife, such husband or wife being subject to native law or custom in which such correction is recognised as lawful.

The phrase “which does not amount to infliction of grievous hurt” has not been defined by the section, but grievous harm has been defined by section 241 of the Penal Code as “including emasculation; permanent loss of sight, hearing or speech; facial disfigurement; deprivation of any limb or joint; bone fracture or tooth dislocation, and other life-endangering harm”. In this context, beating is relative and subjective of interpretation, and could vary from one situation to another. This definition therefore gives the husband the latitude to beat his wife and go scot free, provided that the injury caused to the wife does not fall within the definition section of grievous harm as defined above.

b. Sexual assault:

There are no specific legislations on this. But this form of abuse is common in both public and private organizations. Sexual assault includes but not limited to sexual harassment, sexual intimidation, threatening to deny a female staff what is duly her legal rights, unless she submits to sex. This is also common in some higher institutions of learning where a tutor would rather prefer to sleep with a female student before she passes her examination.

c. Female infanticide:

This is common in those days where female children were buried alive on account of the mixed-feelings that are often attached to the birth of female children. With the coming of Christianity, civilization and Islam, this practice had since been put to check. Yet, in the modern day Nigeria, this practice has turned into another dimension. In this context, women who are put into a family way, and unable to abort the pregnancy, often bury such unwanted babies alive.

d. Female circumcision³:

This is referred to as the excision of the clitoris and parts of the *labia majora* of a female child. The age and the time when this is to be done vary from one culture to another. Primarily it is done so as to prevent women from being promiscuous. This practice has however been debunked by both medical experts and non-experts. Medically, it has been argued that the practice has no medical basis or usefulness.

Meanwhile, under section 31 of the Nigerian Constitution, torture, inhuman and degrading treatment is prohibited. No doubt, the practice is a direct violation of this section, yet, this form of abuse is rampant and common in most parts of Nigeria.

e. Forced marriage:

Marriage is a voluntary union of one male and a female adult. It is based on consent, and where the consent is lacking, it will definitely affects the root of the marriage. Marriage is an institution that is supposed to be voluntary. In other words, the two parties must freely give their consents to be bound by the marriage contract. However, in most Nigerian cultures, women are often deprived of this basic requirement of consent. In this situation, one can say that the woman has been forced to enter into a marriage contract which she has not bargained for. The implications of forced marriage can be looked into from three different perspectives.

¹. CEDAW defines gender-based violence as “...violence that is directed at a woman because she is a woman or that affects women disproportionately. It includes acts that inflict physical, mental or sexual harm or suffering, threats of such acts and other deprivations of liberty...”

². The implication of this is that this altitude of the Police would be wrongly deemed to mean that the act is legal in the eyes of the law in Nigeria.

³. In Hausa language, it is known as *Kachia*, and in Yoruba language, it is called as *ila idi*.

First, is the legal implication. Here, it was observed that:

Deny the young female victims the right to exercise choice in the issue of who to marry. Even where it is argued that they consensually went along with the marriages, the validity of such consent is questionable on grounds of their physical immaturity and so incapable to exercise sound judgment on the issue.¹

Second, is the medical implication, and that is the contact of Vesico Vaginal Fistula Disease (VVF)². Once such marriage has been contracted, the next thing is its consummation. When she gets pregnant, the womb may not be too ripe enough for delivery.

Thirdly, is the social implication, and that is the pronouncement of divorce. The simple reason for this is that the couple are not meant for each other as husband and wife. One thing leads to another; nagging, quarrelling, beating, physical assaults, etc. are some of the irritable behaviours that are often exhibited from such marriage. When either of the two can no longer tolerate each other, pronouncement of divorce is the next action. Indirectly, forced marriage could therefore be said to be one of the major cause of the high rate of divorce in Nigeria.

f. Human trafficking³ and forced prostitution:

Poverty, unemployment, disenchantment and disillusion of life, illiteracy, greediness, harsh economic conditions in Nigeria, etc. are some of the factors which make the victims of human trafficking to give their consents to be trafficked abroad. While at abroad, they go into prostitution, or serve as domestic servants: i.e. carrying out odd jobs that are not befitting of human persons. Edo State of the Southern part of Nigeria is notorious as recruitment centre of child traffickers. The age of the victims range between 15 to 25 years, and at times, up to 30 years. The implications of this are: First, because they have embarked on the journey illegally, not all of them are able to reach their destinations. Second, those who succeeded in reaching their destinations ended up being repatriated back home because they don't have the relevant travelling documents. Third, some of them get infected with various forms of diseases such as AIDs/HIV, gonorrea, etc.

As a result of the international embarrassment caused to the country on account of this act, the Nigerian government came up with Women Trafficking and Child Labour Eradication Foundation (WOTCLEF). But has this really deter? The answer is in the negative. In spite of the fact that the victims are being repatriated with a view of being accepted back into the society, many young girls are still being lured abroad for a work that may not really be there.⁴

g. War rape and sexual slavery:

Wars and conflicts are two phenomena that have come to stay with us in Nigeria, and by extension to other parts of the world. On account of wars and conflicts, women are the major victims of such wars; victims of several sexual exploitations and gender based violence. Specifically, they are displaced, having lost their homes and property. They are separated and disintegrated through acts of terrorism, murder, sexual abuse, rape, etc. If their husbands die in battle field, they feel more of the dire consequences⁵. The insurgency and insecurity that were occasioned by the Boko haram onslaughts in the Northern parts of Nigeria showed that many people have lost their lives. A substantial number of these figures are women. In addition, some were raped and sexually abused. Some were killed or maimed while attempting to denote explosives. Some were also used to serve as domestic servants. Some were forcefully married to Boko Haram members, having being forcefully asked to change their religious belief from Christianity to Islamic religion⁶.

Those who survived the ordeals and able to escape took refuge in the neighbouring countries of Niger,

¹. See Ayodele v Atsenuwa: Women Rights Within the Family Context: Law and Practice, in Women in Law, Akintunde O. Obilade (ed), Southern University Law Centre and Faculty of Law of the University of Lagos: 1993.

². It is a disease caused as a result of early marriage of girls aged between 10-13 years. It is inflicted on them through "gishiri cuts"; incisions made by local barbers to cut membrane in the vaginal as a result of prolonged labour.

³. It is the recruitment and transportation of young or adult females from Nigeria to abroad for purpose greener pasture. Article 3 (a) of the Trafficking in Persons Protocol defines trafficking as: the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation.

⁴. Efforts to reduce some of these hardships led to the adoption in 1979 of the Convention on the Elimination of All Forms of Discrimination against Women.

⁵. One of these is that women, especially in the North East have become widow prematurely. The abduction of the schoolgirls would surely affect girls-child in the area.

⁶. It could be recalled that the conflict has been prosecuted to give it a religious connotation, yet, this has portray the Islamic religion in a bad light. The way the abducted girls/women were forcefully asked to change their faith from Christianity to Islamic religion, and their subsequent forced marriage is un-Islamic and so unknown to the teachings of Islam. Forceful marriage without the consent of the parents/guardians is not known to the teachings of Islam which the sect claims to be propagating. In addition, the Islamic religion has reiterated that there is no compulsion in religion.

Cameroun, Chad, etc. Still, others are scattered at the Internal Displaced Persons Camps across the country.

Meanwhile, as mentioned earlier, there are cases of sexual assault and rape of women thereby leading to unwanted pregnancies, and which eventually led to deliveries of babies in the most horrible and undignified conditions¹. And for this purpose, rape is defined as:

Any person who has unlawful carnal knowledge of a woman or girl, without her consent or with her consent, if the consent is obtained by force or by means of threats or intimidation of any kind, or by fear of harm, or by means of false and fraudulent representation as to the nature of the act, or in the case of a married woman, by impersonating her husband, is guilty of an offence which is called rape.

h. Mistreatment of widows:

For many reasons, married women became widowed as a result of the death of their husbands. Although death is inevitable, and it will come when it will come, but the way most cultures have often treated the widows is undignified thereby compounding their problems. Examples of the way the widows are treated include:

At times, they are wrongfully accused of causing the death of their husbands, or, at times forced to drink the bathed-water of their deceased husbands as a sign that they did not have a hand in the death of their deceased husbands or relatives.

Meanwhile, some cultures and traditions in Nigeria deny them of the rights to inherit the properties of their deceased husbands or relatives. Rather, male relations of their deceased husbands are preferred. In addition, when it comes to custody of the children, they are denied this important right of companionship of their loved children².

4.2 Challenges of Enforcement of the Laws:

From the discussions above, there are various challenges which make enforcement of the laws impracticable. These challenges can be categorized under the following headings, and they include:

a. Cultural/Religious challenge³:

Culture can be defined as a way of life of a people. Because of its wide acceptance amongst the people, culture has the status of law and at times worked negatively against the provisions of the law. Cultural challenges can be seen in many perspectives, some of which are:

i. Rights of inheritance⁴:

In most of the cultures in Nigeria⁵, males are rather preferred to inherit to the total exclusion of their female counterparts. In this regard, a woman whose husband dies, leaving some landed properties behind, gets nothing. The male brothers often take the whole property. The same thing happens if a father dies, leaving both male and female children. The female children are often excluded from getting anything. This attitude may be because of the old traditional believes that women are regarded as chattels to be inherited and so they should be denied this right of inheritance⁶. In another respect, in the Ibo custom of the South East of Nigeria, a woman cannot freely dispose her-self acquired property without the consent of the husband.⁷

ii. Institution of Marriage⁸:

In Islamic law⁹, specifically the Maliki school, a father has the right to compel his virgin daughter into marriage

¹. In the North East of Nigeria where insurgents have taken over some of the towns, school girls were abducted, raped and forcefully given out for marriage without their consents.

². All of these and many others are alien to Islam. Rather, Muslims have been enjoyed to treat them with humane at this critical period.

³. The existence of many cultures in Nigeria is also in itself a challenge. The reason of this is that many issues affecting the status of women in Nigeria are looked into from many perspectives, using such cultural considerations as a factor.

⁴. In Islamic law, the rule is ratio 2:1 in favour of males. This has been criticized as discriminatory to the disadvantage of females. But this is not so. Men have many responsibilities than women, namely: payment of dowry, maintenance of female relatives, including the female heir, in case the need arises. Thus, the rule on ratio 2:1 is not discriminatory in nature. In another respect, the rule on ratio 2:1 is not absolute. In some instances, male and female heirs can share equally. See Q: 11:4 and 12. In addition, a female heir may at times get more than her male counterpart by virtue of the doctrine of *Ummariyatan*.

⁵. Because we have about 389 ethnic groups in Nigeria, it thus gives the country many cultural diversity. The implication of this is that, different rules govern the approach on whether women can inherit or not.

⁶. In Islamic law, however, the situation is different. Both men and women are entitled to the rights of inheritance.

⁷. With civilization, this may not be correct now. This is against the background of the fact that many Ibo women are now into business, while majority of them are in the public service.

⁸. There are many cultures in Nigeria, and because of this, age of marriage in Nigeria varies from one culture to another. In any event, in view of item 62 of the Exclusive legislative list to the 1999 Nigerian Constitution, the Federal Government cannot legislate on the formation, annulment and dissolution of marriages contracted under customary law. Each state of the federation is therefore free to legislate on its own on this matter.

⁹. It should be pointed out that Islamic law has been categorized as customary law.

without her consent, and even if she has attained the age of puberty. But, under section 18 of the Marriage Act, if either party is less than 21 years, a marriage license could be granted. After this, a written consent of the father or that of the mother (in the absence of the father) would be produced.¹

iii. Competency of Witnesses²:

Under Islamic law, there are some restrictions on whether a woman can testify or not. In this context, the nature of the subject matter in dispute greatly determines on whether a woman can testify or not. For example, in a case of Hudud (punishment for serious crimes), Islamic scholars are of the view that their testimony is unacceptable, even if they testify alongside male witnesses. As regards issues bothering on financial documents, two men or one man and two women is the requirement.

If the matter touches on matters such as divorce, marriage, *raju* (restitution of conjugal rights), opinions of scholars are divided. While some scholars said their testimony is acceptable, other scholars said it is not acceptable.³

In another respect, affairs which ordinarily, men do not have information about, i.e. crying of baby at birth, it is only the testimony of women that is accepted. On the numbers of women needed, scholars are divided.⁴ In the same vein, testimony of a woman is equal to that of a man and can even invalidate that of a man. Example of this is in a situation where a man accuses his wife of unchastity.

b. Legal challenge:

i. The 1999 Constitution:

Under section 26 of the 1999 Constitution of Nigeria, a Nigerian woman cannot pass on her Nigerian nationality to her children that were gotten by a foreigner. Again, her husband cannot become Nigerian by virtue of the marriage.

In another respect, Nigeria is a federating unit, and by this arrangement, matters of legislative powers could either fall under exclusive or concurrent lists⁵. Any item not listed in the exclusive or concurrent lists is considered as residual matters⁶. In this respect, issue of marriages other than marriages under Islamic law and customary law are outside the exclusive list⁷. What this means is that each federating states of the federation can legislate on that matter, and by extension, there would always be conflicting laws by each of the federating states in that regard, depending on the local circumstances of each of the federating states.

ii. The Police Act:

Police Regulation 124 says of women:

A woman police officer who is desirous of marrying must first apply in writing to the Commissioner of Police for the state police command in which she is serving requesting permission to marry and giving the name, address and occupation of the person she intends to marry. Permission will be granted for the marriage if the intended husband is of good character and the woman police officer has served in the force for a period of not less than three years.

Regulation 127 provides:

An unmarried woman police officer who becomes pregnant, shall be discharged from the force, and shall not be re-enlisted except with the approval of the Inspector General.

This is therefore discriminatory, as it tends to restrict the right of women to freely enter into labour market of their choice⁸.

iii. Penal Code:

Section 55 provides that:

¹. See Cap 218, Laws of the Federation of Nigeria, 1990.

² In English law, women, just like their men counterparts, can testify without any form of restrictions.

³. Imam Abu Hannifa said that their testimony is acceptable, but Imam Malik said it is not acceptable.

⁴. In the view of Shafi, four female witnesses are needed. Hannafi and Hanbali observed that one female witness is accepted.

⁵. While the former falls under purview of the National Assembly, the former is under the States Assemblies.

⁶. From this, the states may legislate on residual matters. From this stand point of view, the Child Rights Act of 2003 is only applicable to the Federal Capital Territory (Abuja). To this extent, different age definition may apply on who a child is, and by extension the legal definition of a woman.

⁷. See item 61, part 1, Second Schedule to the 1999 Constitution of Nigeria. See also section 4 (2) and (7) of the same Constitution.

⁸. The Federal High Court, sitting in Lagos, had however declared Regulation 124 as illegal for inconsistency with section 42 of the Nigerian Constitution, and also Article 2 of the African Charter on Human and Peoples Rights. They prohibit discrimination on the basis of sex. It was a case filed by the Women Empowerment and Legal Initiative, challenging the constitutionality of the Regulation. See also section 5 (1) NDLEA Order of the NDLEA Act.

nothing is an offence which does not amount to the infliction of grievous hurt upon a person and which is done by a husband for the purpose of correcting his wife, such husband and wife being subject to **any** customary law in which the correction is recognised as lawful. This provision allows, as permitted in some customary rules and traditions, husbands to inflict physical punishment on their wives.

Again, husband cannot commit an offence of rape on his wife.¹ This is irrespective of any resistance made by the wife or the extent of the use of force employed by the husband. This view is of a common law origin, and in arguing in favour of this law, Hale², remarked:

The husband cannot be guilty of a rape committed by himself upon his lawful wife, for by their mutual matrimonial consent and contract the wife hath given up herself in this kind unto her husband which she cannot retract.

The above argument has also been supported by the view of another commentator.³ He observed:

This is because implicit in every marriage contract (whether under the Marriage Act or Customary law is an agreement by the couple to accept all the necessary implications and consequences concomitant to the marriage, central of which is unrestrained access to his wife as long as they are married cannot be displaced by the wife's wish and she cannot be displaced by the wife's wish and she cannot therefore withdraw her implicit consent as at when she chooses to do so.

On the strength of the above quotation, a wife is duty bound to submit herself at all times whenever her husband requested her for sex. This is immaterial of her mood, health or bodily conditions at that time. This is however absurd and strange because a marriage contract is supposed to be deeply rooted on mutual understanding and reciprocal rights of the couple, not a one sided affair. In fact, it does not tally with good reasoning and common sense. Thus, Lord Denning⁴, in discussing the rights and duties of spouses under a marriage contract, also shared this view. He said:

To decide by agreement, by give and take, and by imposition of the will of one over the other. Each is entitled to an equal voice in the ordering of the affairs which are their common concern. Neither has a casting vote.

iv. Tax Management Act:

Our system of tax law is discriminatory for too much assumption of men at the expense of their women counterparts. For example, section 4 (3) (d) of the Income Tax Management Act⁵ provides:

deduction of #3000: 00 in the case of a married man who at any time during the year preceding the year of assessment had a wife living with or maintained by him, or a deduction of the amount of any alimony not exceeding #3000: 00 paid to a former spouse under an order of court of competent jurisdiction in the case of an individual whose marriage has been dissolved.

The word individual as used in the above provision conveys the meaning of men only to the exclusion of women. Hence, in practice, women are denied from benefitting from the provision. In addition, women are not entitled to tax deductions, even if they are the bread winners of the family. For example, a married woman who seeks relief for expenditure on children or other dependants must show documentary evidence that the father is not responsible for their upkeep or that she incurs substantial expenses independent of him. However, men are not subjected to this requirement.⁶ As noted earlier, the assumption is that men are the bread winners of the family. But in practice, this has been proved to be false.⁷ Meanwhile, the fact is that single mothers are normally taxed without considering their dependants. In other words, they are often taxed as if they were childless.

¹. See Hale, IPC, 269, quoted in Smith and Hogan, Criminal Law, (1983).

². Ibid.

³. See Beasts of Burden: A study of women's Legal Status and Reproductive Health Rights in Nigeria, a publication of the Women Rights Project Civil Liberties Organization, April, 5, 1988, P. 94.

⁴. Dunn v Dunn (1948) 2 ALL ER 282.

⁵. Now, Cap 173, Laws of the Federation of Nigeria, 1990.

⁶. See the Communique of the Joint Tax Board, issued on 21st day of April, 1998.

⁷. See Theresa Akumadu: Patterns of Abuse of Women's Rights in Employment and Police Custody in Nigeria (Civil Liberties Organization), 1995, p. 3.

5.0 Suggestions/Recommendations for Reforms:

In spite of the existing legislations which make provisions for the legal status of women in Nigeria, there are still many challenges which they have to cope with. Some of these challenges stem from many angles, ranging from legal, cultural, custom, illiteracy, etc. Thus, it is imperative to make some recommendations for reforms, and they include:

a. Massive education:

It is truism that general education of Nigerian women is desirous. The relevance of this is the fact from this, the general awareness of their rights would be created. For example, most Nigerian women submit themselves to many important issues that affect them negatively as a result of ignorance of what the law says. To prevent this trend from happening again, it is suggested that moral, religious and western education of the women folk in Nigeria is desirous. By embarking on this, women are informed of their rights, corresponding duties and their limitations.

Yet, this must be done through a collaborative effort of the media (print and news). In this direction, obnoxious customs and traditions which impaired and infringed on the rights of women would be blown open to the public for debate and discussion. In this direction, better alternatives to members of the public for future reforms.

b. Review of obnoxious laws:

All the laws which hampered the protection of the legal rights of women should be reviewed with a view ensuring that they are better catered for through the instrumentality of the law. Thus, our elected representatives at both the States and the National Assemblies should be proactive by ensuring that Bills are sponsored at various levels of legislative activities. In addition, obnoxious laws should be amended in line with international best practices¹. All these would no doubt cater for the challenges being faced by women in Nigeria.

Moreover, the Violence against Women (Prohibition Bill) which is yet to be passed into law by the National Assembly should be given speedy attention it deserves. Equally, all international treaties and conventions which have been domesticated in Nigeria should be re-enforced for better performance.

In another respect, our courts should be proactive in their decisions and judgments. Condemnation of obnoxious customs and traditions should be seen in the judgments being delivered by the courts. The decision in the case of Augustine Mojekwu v Caroline² is an example of instance where the court pointed out such condemnation. The case relates to inheritance rights which bother on custom of Oliekpe in Nnewi, Anambra State. The custom emphasized that a father's property passes to his male children, and where there are none, such property will pass to his nephews, to the detriment of the female children. Delivering the lead judgment, Justice Niki Tobi remarked: all human beings: male and female are born into a free world and are expected to participate freely without any inhibition on grounds of sex.

c. Reorientation of:

i. Nigerian men:

Nigerian men should realize that their women counterparts are partners in progress. This is important because with a population of about 170 million people, women account for almost half of that population. Therefore, denying them their basic rights could hamper the progress and national development of the country. In this context, men should cooperate in enforcing and upholding the legal rights of women by ensuring that all customs and traditions which regard women as second hand citizens should be vigorously condemned³. Having realized this, Folake Solanke (SAN) reiterated as follows:

In the pursuit of women's legal rights, women cannot go it alone. Without
Compromising our objectives or being apologetic, men must be involved
In our quest for equality and full integration in the development process.
Men dominate the legislative houses and the decision-making process.
Male cooperation is a *sine qua non* for the ongoing crusade.⁴

ii. Women folk:

If the Nigerian women think that their lost rights would be restored to them on the platter of gold, then they will

¹. Such could found in the constitution, penal and criminal codes, Police Act, Tax laws, etc.

². See Guardian of Friday, September, 19, 1997.

³ Here, Nigerian men should learn a lesson by emulating Bill Clinton, a former US President, and husband of the Presidential candidate under the Democrat Party, in the person Hillary Clinton. At the Congress of the Democrat Party, he publicly endorsed the candidature of Hillary Clinton. This is what a typical Nigerian man (husband) is unlikely to do. The reason of this could be religion/custom, or the ego centric nature of Nigerian men that certain posts are better reserved for men, and which from records may not necessarily be so. This is therefore a wake-up call on Nigerian men to see Nigerian women as partners in progress in the project call Nigeria.

⁴.Folake Solanke, in a paper presentation titled "The Status of Women" at the 47th Biennial Convention of Zonna International, and quoted in Beasts of Burden, A study of Women's Legal Status and Reproductive Health Rights in Nigeria: A Publication of The Women's Rights Project and Civil Liberties Organization, 1998. p. 139.

have a long way to go in the struggle for their emancipation. This means that they have to set the ball rolling by repositioning themselves with a view to speaking with one voice, and then collectively challenge all forms of dehumanizing cultures and traditions.

In embarking on this struggle, Nigerian women should look beyond their environment and search for other women of achievers in other parts of the world as role models. In other countries, women have held key positions such as Prime Minister, etc. This should therefore spur them and say with one voice that: If women in other countries can do this with success, Nigerian women could as well do better than that.

e. Implementing provisions of the Child Rights Act:

21 out of 36 States in Nigeria have fully passed and implemented the Child Rights Act¹. This means that 15 states of the Federation are yet to pass the Act into law. These include the Northern States of Adamawa, Bauchi, Borno, Gombe, Kaduna, Kano, Katsina, Kebbi, Niger, Sokoto, Yobe, and Zamfara². The States in the South are Bayelsa, Ebonyi, and Enugu. Unfortunately, and specifically, in the North, these are States where Child rights abuse is on the increase. It is therefore suggested that these States should be encouraged to pass and implement the Act. This would help a lot in enhancing girls-child education, and at the same time reduce early girl marriage, etc.

f. Increase in Government's funding:

Increase in funding in the health and education sectors is very desirable.³ A combination of increase in the funding of these key critical sectors of the economy will help a lot as the two are interwoven in the life and development of women in Nigeria. For example, increase in funding of the health sector will translate in to better medical care in our clinics, and hospitals in both the rural and urban areas.

In another respect, as it is always said, education is vital in the development of a nation. The education of a woman is inclusive. In fact, Islamic perspective of women education can be seen in the light of many Quranic verses, example of which is Q96: 1-5. It is a general provision to all mankind without distinction as to sex. In addition is Q38: 29. The word Men as used in the verse refers to all mankind without distinction as to sex. There is also the Prophetic Hadith which says that seeking knowledge is mandatory for every Muslims. It could also be recalled that Aisha Binte Abu Bakr, the youngest wife of the Prophet was a great scholar. She narrated more than 2000 hadith. Another Hadith of the Holy Prophet said: 'When you educate a man, you educate an individual, when you educate a woman, you educate a whole nation.'

From the above verses and Hadith of the Holy Prophet, it is misplaced to say that Islamic law frowns against education of women. Therefore, government at all levels should show more interests in the education of women. This can be done through abolition of school fees, free school uniforms, free feeding, etc. for women. In addition, admission policies at all levels in our tertiary institutions should be done in such a way that women are not at a disadvantage. It is therefore recommended that more money should be pumped into this sector so that this is translated into high rate of girls-child education in the country.

g. Modest way of dressing:

Civilization and freedom have their advantages and disadvantages. Because of these concepts, we wrongly copy the western way of life, even though, most of these ways of dressing may not necessarily be good for us. In this regard, some women in an attempt to get attraction of the opposite sex put on dresses that make them easily targets of assault, attack, and at times, being raped. In as much as there is freedom of dressing, women should be cautioned and careful of the type of dresses they wear, and for which occasion, by as much as possible be modest on the wares they put on their bodies.

h. Synergy between various women organizations:

There are many women organizations at both local and international levels⁴. They cut across both religions, cultural, political and professional lines. But this should not be a basis of their differences and disunity. Rather, the protection and the sanctity of the rights of the women folk should be their focus and priority. If this is done, victory would surely be theirs.

i. Lessons from other jurisdictions:

If we are to go into history, we would found out that there are women achievers in Africa, Asia, Europe, etc. From Africa, we have Benazir Bhutto of Pakistan. She was the first female Prime Minister of a Muslim country.

¹. Beyond the passage of the Act, it is advised that full implementation of the provisions of the Act is desirable.

². The reason of this is more of both that of religion and cultural reasons. Unfortunately, these are states where violations of the rights of the child are noticed. And because of the constitutional legislative jurisdiction on matters of children belongs exclusively to the states, the affected would only be persuaded on the desirability and benefit of passing the in their respective states.

³. Funding in these areas is poor. Thus there is need to drastically increase the funding in these key sectors.

⁴. They include Women in Nigeria (WIN), Federation of Muslim Women's Association (FOMWAN), International Federation of Women Lawyers (FIDA), Medical Women Association, National Council of Women, Ministry of Women's Affairs, Gender and Development Network, Africa Harvest Mission, International Reproductive Rights Research Group, Country Women Association of Nigeria (COWAN), Muslim Sisters Organization of Nigeria, etc.

She became the Prime Minister in 1988, until she was killed in 2007. In Liberia, we have Hellen Jhonson as Liberian President. She is serving her second tenure. Of recent, we have Catherine Samba Panza. She served as the Rwandan Interim President from 2014-2016. She was the first woman to hold that post. Before this time, she was the Mayor of Bangui from 2013-2014. If we move to India in Asia, we had Indira Ghandhi. She was a key 20th century states woman, and a central figure of the India National Congress Party. To date, she was the only female Prime Minister of India. She ruled between 1980 and 1984, until she was assassinated while in office. Still in Asia, the Philippines, we had Maria Aquino. She was the 11th President of the Philippines. She was the first female President in the whole of Asia. She ruled between 1986 -1992.

In Europe, there is Chancellor Angela Merkel of Germany. And in Britain, we had Margaret Thatcher of Britain as its Prime Minister. She was the first female Prime Minister of Britain. She ruled from 1979-1991. She resigned in 1991 due to unpopular policy and power struggle in the party. She died on April, 8, 2013, at age 87. In addition, of recent, a woman politician, Mrs. Theresa Mary, became the Prime Minister of Britain¹ on Wednesday, the 13th day of July, 2016. With this, she has become the second woman to hold that office in the history of the country.²

In another development, in the US, a woman had been picked as the Presidential candidate of the Democrat Party. She got the Party's flag bearer on Tuesday, the 26th day of July, 2016, at the Party' Convention. With this victory, if she eventually wins as the US President in the November, 2016, presidential election in US, she would definitely set a record to be the first female President of the US³.

From the above analysis, the list of women achievers in all parts of the world is countless. In this respect, Nigerian women can copy and learn from these great women achievers. In the past, we had Nana Asmau Shehu, Queen Amina of Zaria, etc. The present crops of women should therefore learn from them. If these women can do it, Nigerian women can do better. They should therefore thrive hard to make Nigeria proud amongst the committee of nations. If this happens, Nigeria, Africa, and indeed, the Black race, wherever they are, will be proud of this.

6.0 Summary and conclusion:

In this research, efforts were made to analyze certain factors that hampered the legal rights and development of women in Nigeria. This is in spite of the existing laws and series of attempts made by previous regimes to improve the status of women in Nigeria. The paper also discussed the relevance and importance of women in nation building. This can be seen in certain key sectors like education, medicine, politics, health, etc. However, we have admitted in the paper that a lot need to be done in improving the lots of women in Nigeria. It is in view of this that suggestions and recommendations were made with a view of upholding the legal rights of women in Nigeria. While these suggestions have been offered, we need to point out that women should eradicate certain negative altitudes from and within women themselves. This is because experiences have shown that women are each other's worst enemies. This observation is better appreciated in the following words:

women have their flaws. Some women, for instance, are the architect and engineers of other women's misfortunes and set-backs. Unfulfilled women mischievously attack prosperous ones. The former is the greatest antagonist of the latter. In an organization where a woman is the boss, study the female subordinates. They are always fault finders. Nosing for irregularities in the boss' office activities, her dressing modes demeanor.

It continued:

fallacies it is believe that all those women clamouring for equality, political participation and woman presidency will ultimately not vote for female candidates even if aware of such women's understanding ability and efficiency. Never be deceived by the 'we want women' slogan...

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¹ She is also the Leader of the Conservative Party in Britain.

² This was pursuant to the resignation of David Cameroun as the British Prime Minister. He resigned from this position as a result of the referendum in which the populace voted for a pullout from the European Union.

³ In fact, as it is now, she has set a record for herself and her women counter in both the US, and indeed all over the world, that for the first time, a woman has reached that stage in the political history of the US.

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