

THE 1999 NIGERIA CONSTITUTION AND WOMEN RIGHTS IN NIGERIA: NEED FOR REVIEW

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Introduction:

Women have on the basis of sex differentiation been treated differently by men. Over the years, several struggles have been made to put an end to this discriminatory act against women. For instance, in 1945, the United Nation General Assembly declared that *All human beings are both free and equal in dignity and rights*" (Article 1 Universal Declaration of Human rights).¹ This declaration did not automatically put an end the hierarchical stratification system, which made women become traditionally subordinate to men.

In 1975, following the International Women's Year Conference held in Mexico City, the United National declared 1975 - 1985 the United Nations Decade for Women. The Decade for Women was recognised especially to address the problems militating against women's right and development identified at the Mexico conference.² Also, it was during this decade that the United Nations Development Fund for Women (UNIFEM) was established to deal with issues affecting women . Within this decade, in 1979, the General Assembly for the United Nations adopted the convention on the Elimination of all forms of discrimination against women. In 1980, a Women's World conference was held in Copenhagen, to examine the progress made up to the middle of the decade. This conference adopted a Plan of Action, which together with the earlier World Plan of Action provided the framework for further efforts and contributions towards the advancement of women.

Of recent, is the 1995 Beijing Conference whose Platform of Action reflected a review of progress since the 1985 Nairobi Conference on women. The platform seeks to hasten the removal of the remaining obstacles to women's participation in all spheres of life and to protect women's human right. The platform reaffirms that the advancement of women and the achievement of equality are a matter of human right and a condition for social justice. The information contained in the platform recommendation was widely disseminated. States in different regions of the world were not left in this struggle for women's right. They have joined in their declarations binding only on those who are similarly regionally situated. For instance, the Assembly

¹ Freeman, J. (1973) "The Origin of Women Liberation Movement", American Journal of Sociology.

² Attenuwa, A.V. (1995) "Women's Right and Human Rights: The Nigeria Experience. Ibadan. Bookcraft Ltd.

of Heads of States and Governments of the Organisation of African Unity adopted the African Charter of Human and People's Rights in 1981. Article 3 of the Charter recognises the equality of every individual before the law.

Despite the above efforts, the Nigerian 1999 Constitution contains some laws, which are inimical to women's right. It is against this background that this paper sets out to identify and suggest for review the defaulting sections of the constitution. The paper is divided into five sections. Section one introduces the work. An overview of Human/Women right is what is contained in section two. Section three looks at obstacles to asserting rights among Nigerian women while section four examines the pitfalls in the constitution. Conclusion is contained in section five.

Overview of Human/women Rights

Human Rights could generally be defines as those rights, which are inherent in our nature and without respect of which, we cannot live as human beings.³ They are rights which belong to every human being anywhere, at all times, irrespective of sex, religion, language and race. This contemporary idea of human rights was formulated and given content during the Second World War and its aftermath. During that war, the allied powers had proclaimed that their aim was to assure respect for human rights. The United Nations Organisation, which was set up in 1945 after the war, has in its charter "reaffirm faith in fundamental human rights, in the dignity and work of the human person, in the equal rights of men and women and of nations large and small ..."

One of the earliest articulated human rights was the political right of man. These culminated in the adoption of bills of rights from the Magna Carter through the English Bill of Rights (1788), the American Declaration of Independence (1776) to the French Declaration of the rights of man (1789). Their concern entered on the powers of the crown and the ruling class. The instruments were largely statements of rights that had been wrested from the ruling class for the ordinary man. Despite this, the word "man" when used in relation to political right was never expanded enough to include women. Even the Greeks who initiated democracy, (a system of government by the people), the plebeian public did not include women, as women were classed with children as minors who did not possess the intellectual maturity required for participation in governance.

The origin of American women's liberation movement is traced to a letter that Abigail Adams wrote in 1776 to her husband, the then future President John Adams, about American independence. In that letter, she said and 'I quote':

"I long to hear that you have declared an independence in the

³ Loc cit, p. 1.

*law code of laws, which I suppose it will be necessary for you to make. I desire you would remember the ladies and be more generous and favourable to them than your ancestors ... If particular care is not paid to the ladies, we are determined to foment a rebellion and will not hold ourselves bound by any laws in which we have no voice or representation"*⁴

Despite this demand for recognition of women's right to political participation, it was not until August 18, 1920 that the United States of America by Amendment 19 of the American Constitution gave women the right to vote. Abigail's letter was recognised only after years of intense struggle built upon the framework of equality of all human beings as well as right of women to human dignity. Similarly, women in Britain for over half a century, had a struggle to be allowed to have political representation through the vote. The struggle of the *suffragettes* is well documented in various literatures. From the above, one thing stands out, the efforts at forcing the recognition of the demand of women for respect for human rights as equal with men, the right of women to political participation, pre-dates the United Nations Organisation and the adoption of the various human rights instruments since 1945.

Women Rights in Nigeria

In Nigeria, the subordination of women is clearly evident in many areas of life. For instance, though virtually all-traditional societies were farming societies, women constituted the bulk of farmers (men were seen mainly in artisan activities and hunting). In some of these farming societies, women had rights only to use the land and could not inherit them. In most of the societies, it was only matrilineal devolution of property that was recognised and practised, thus women could not be allowed inherit land as they would get married outside the bloodline and produce children that belonged to another family. As a result, there was that risk that property may be alienated to the benefit of non-family persons.

In the area of decision making, women were to refer to men. Nonetheless, it appears very clearly that women were allowed some form of political representation. For instance, among the Yorubas of South West of Nigeria, there were traditional chieftaincy institutions for women - e.g. The Iyalode, it is assumed was the voice of women and she represents their constituency upon the regular consultation with them. Often times, "the power of the women" constituency was determined by the political dynamism of the Iyalode in Council.

⁴ Adams, A. (1776) 'American Independence' in Personal Letter to her Husband. File Document.

Among the Igbos of Southern East of Nigeria, there was sex differentiation in the political roles and no female could be head of lineage or sub-lineage. They had no representation in judicial processes except in dispute involving women as parties. However, there were associations of village wives who could mobilize effectively to protect the member's interest against men, individually and as a group.⁵ The association could apply collective sanctions against the male community, such as threatening to leave the village en mass and men took the potential threats seriously.⁶

In the northern part of Nigeria, historical accounts of early Hausa society reveal women as rulers Magajiya.⁷ For example, Daura, the Queens descended from a long list of Queens who possessed the totality of the political power reposed in the office. However, this female dynasty was abolished when the then Daura married an alien. Subsequently, patrilineal concept of succession was introduced which saw Bawa - the son, succeeded the mother. Another example is the Hausa people of Zazzau (now Zaria) where women not only held some political offices within Government, but also the office of the King was open to females equally with males. This was prior to the advent of Islam. This made Queen Amina emerged as Queen of Zazzau in C. 1576 and she was recorded as having achieved significant political, military and economic success for her state.

However, with the advent of Islam, the traditional practices, which were perceived as conflicting with Islam values, and precepts were destroyed. So, today, the attitudes and standard about women's rights in the northern parts of Nigeria are predominantly rooted in Islam.

From the above records, there exist ample evidence of a female population that has not only been industrious and resourceful, but which has also demonstrated significant and distinguished leadership within their societies. The above examples are meant to emphasize that Nigerian women have always been conceptually aware of the human rights of women, to equality and effective participation in the social development of their societies. Also, that the struggle for rights for women did not start only with the introduction of the western conceptualized 'human rights'.

Obstacles to Asserting Women's Rights

From the introductory part of this work, we saw there have been individual and group efforts working for the liberation of women from the shackles of inequality and under development, which have for long relegated

⁵ Mba, N.E. (1992) "Heroines of the Women's War" in Awe, B. (Ed.) Nigerian Women in Historical Perspective, Ibadan, Sankore Bookcraft; Pp. 15 - 76.

⁶ Ibid.

⁷ Loc. Cit, p. 13.

women to the background. For instance, in Nigeria, the Aba Women's Riot and the protest of the Abeokuta women led by Mrs. F. Ransome Kuti were women's reaction against policies perceived as inimical to women's interest. Despite these, factors abound which constitute obstacles to women in their struggles to achieve equal right with men. Among these are cultural and religious practices, economic and political factors.

Cultural Practices

Culture is generally defined as the shared ideas, norms, values and beliefs of a people⁸ Traditions, customs, sexual stereotyping of social roles and other cultural prejudices are among the greatest obstacle to women's attainment of equal rights with men in their full participation in society. These deep-rooted attitudes and practices form the bases of the myriad of problems, which contribute to the sustenance of inequality of two gender types among human beings. Culturally, a woman is regarded as having been created primarily to reproduce mankind'. Children, when born belong to their fathers and so a woman has to be identified with one man to ensure that the father, who is regarded as the rightful owner of the child, is not denied its paternity. As a result of these, marriage and child bearing are regarded as the most important female accomplishments. So, a woman's worth and social honour are determined by whether she is subject to a man in marriage and whether she has children. As a result, women have been known to go to any length to achieve these socially prescribed goals and have remained in the most inimical relationships or situations to ensure that they stay married or have children.

Religion Practices.

Women are largely regarded as unequal to men in the area of religion.⁹ In many cases, they are treated as naturally inferior and are prohibited from carrying out the equal roles in religious services. For instance, in African traditional religion, two reasons abound why women are discriminated against. The first is consequent upon the fact that most African traditional religions have significant portions of the rites and rituals shrouded in secrecy and it is usually argued that women do not keep secret. So, men exclude them from participating in these areas. Secondly, it is widely believed that the women are defiled during their monthly menstrual period by the issue of blood or by bleeding which follow after childbirth. As a result, women are usually unclean for a significant part of their lives.

⁸ Aina, O.I. (1998) "Women, Culture and Society", in Sesay, A. and Odebiyi (eds.) Nigeria Women in Society and Development, Ibadan, Dakun Publishing House.

⁹ Loc cit, p. 65.

Until recently, very few Christian's denominations allow the ordination of women as ministers. This is notable among the Protestant churches. Islamic religion subordinates women to men in their religious teachings and practices. Islamic worship style separates women and men in worship and this practice has been used to buttress the inequality of women and men.

Economic Factors

The economic powerlessness of woman, individually and as a class in the society constitutes a great barrier to women asserting their rights. Women represent about 49 percent of the population in Nigeria.¹⁰ Their productive and reproductive functions cut across such activities as performing household chores, income-earning activities, child bearing etc yet their contributions have hardly been recognised. Traditionally, in Africa, women's tasks are in the domestic sphere and in agriculture. In Nigeria, it is generally not easy to obtain credit facilities and where a credit is available, they are more accessible by men. Most communities do not allow women to own or inherit any of the family land. This has negative consequences for women's possession of capital for economic activities. The unavailability of financial inputs, credit and savings to enable Nigerian women pursue activities is given as one of the key constraints in development. In the wage sector, women populate largely the low-paid non-professional cadre as a result of their non-possession of requisite skills and qualifications. Even, where they possess these for a very long time, they were culturally discouraged from the high profile offices, which were argued against as being incompatible with women's natural and socially accepted role of mother, wife and homemaker. The result is that women as a class are poorer as they earn far less than men do.

Educational Factors

Nigerian women are under represented in all spheres of the educational system because of a host of socio-cultural, religious and economic constraints.¹¹ Illiteracy among women is a great impediment to their participation in the development process. drop-out rates of female students are considerably high due to problems such as early marriage, teenage pregnancies or cultural belief in unnecessary training of females. Most of the female students who remain in school imbibed the gender stereotypes and choosing traditionally perceived feminine courses of study like nursing catering and secretariat courses.

¹⁰ FGN, (1992) Provisional Population Census Report, FOS, Lagos.

¹¹ Alao, K. (1998) "Women in Nigeria Educational System" in Sesay, A. and Odebiyi, A. (Eds.) Nigeria Women in Society and Development, Ibadan, Dokun Publishers; p. 83.

Political Factors

Few women occupy high positions in public decision making. In Nigeria, the nature of the political environment is much characterized by violence and this has caused a great barrier for women. Culturally, their participation is not accepted. They need the husband's approval in order to become actively involved. This is because most men do not see why women should aspire to feature in politics at any level. Even, women who attempt political activities are often subjected to public ridicule.

Pit-falls in the 1999 Constitution as They Affect Women and Recommendations

The 1999 Nigerian Constitution contains some laws which are inimical to women's human right. For instance, section 15(1) reads: "The motto of the Federal Republic of Nigeria shall be Unity and Faith, Peace and Progress".¹² This section is not complete, considering the fact that sub-section 2 of Section 15 has discouraged discrimination on the grounds of place of origin, sex, etc. So, section 15(1) should be reviewed to read - "the motto ... shall be Unity, and Faith, Equality, Progress and Peace".

Section 15(3) (d) reads "Promote or encourage the formation of associations that cut across ...other sectional barriers". This should be reviewed to read ... the formation of association that cuts across ethnic, linguistic, religious, gender or other sectional barriers.

Section 16(2) (d) read and I quote; "... old age care, pensions and employment, sick benefits and welfare of the disabled are provided for all citizens. I suggest that maternity benefits for pregnant working mothers should be included. So that it reads - "That suitable and adequate shelter, suitable and adequate food, reasonable national minimum wage ... unemployment, maternity benefits, sick benefits and welfare of the disabled are provided for all citizens".

Section 23 reads and I quote: "... Integrity, Dignity of Labour, Social Justice, Religious Tolerance, Self-reliance and Patriotism". This is incomplete and I suggest it reads - "The national ethics shall be Discipline, Integrity, Equity, Dignity of Labour, Social Justice, Religious and Political Tolerance, Self-reliance and Patriotism.

Section 29(4) (b) reads and I quote "Any woman who is married shall be deemed to be of full age". This sub-section should be deleted as subsection 9(1) has explained what full age means. This is because in some parts of Nigeria, young girls within the age bracket of twelve and sixteen are forced to get married. So, any married woman shall not be deemed to be of full age. The deletion of this sub-section will discourage early childhood

¹² F.R.N. (1999) Constitution of the Federal Republic of Nigeria Lagos. Federal Government Press P. 10.

marriage.

Section 43 reads and I quote “... Every citizens of Nigeria shall have the right to acquire and own immovable property anywhere in Nigeria”. This section is incomplete and as such should be reviewed to read” “... have the right to inherit, acquire and own immovable property anywhere in Nigeria. The reason for including ‘inherit’ stems from the fact that in some parts of Nigeria like Southeast; women do not inherit land. Only men do. This discriminatory act is still being practiced up till today. By this suggestion, discrimination against women in discouraged. Section 171(5) reads and I quote: “In exercising his powers of appointment under this section, the President shall have regard to the Federal Character of Nigeria and need to promote national unity.

Appointment of people into positions in Nigeria favours men more than women. For instance, of all the present Ministers we have at Federal Government level, only five (5) are female. At state government level, the appointment of commissioners favour men more than women. For example, in Plateau State, of all the commissioners, only three are women. Even the recent appointment by the Nigeria Government, to the offices of Ambassador, High Commissioners favours men more than women. Women are cheated when it comes to appointment into offices in Nigeria. So, the sub-section should be reviewed to read - “In exercising his powers of appointment under this section, the President shall have regard to the gender quality, federal character of Nigeria and the need to promote national unity”.

Also, section 14(1) which reads, and I quote - “The composition of the Government of a State ... shall be carried out in such manner as to recognise the diversity of the people ... among all the people of the Federation. This should read - “the composition of a state ... shall be carried out in such manner as to recognise the diversity of the people, their gender among all the people of the federation.

Section 154 stops at (3). This should be reviewed to copy section 197(3) to be sub-section (4) of section 154 and also to conform to section 14(3). This section 14(3) should be reviewed to read - “the composition of Government of the Federation ... as to reflect the Federal character of Nigeria and the need to promote national unity, gender equity and to command ... in any of its agencies”.

Gender equity is included in the review. Section 223(1)(b) reads, and I quote “... Ensure that the members of the executive committee or other Government body of the political party reflect the federal character of Nigeria”. This sub-section should be reviewed to read - “ensure that the members of the committee ... reflect the gender balance and equity in Nigeria.

Also, section 223(b) which reads - “the members ... to reflect the federal character of Nigeria only if members therefore belong to different state ... and the Federal Capital Territory, Abuja. this should be reviewed to

read - the members of the Executive Committee ... shall be deemed to reflect the federal character, gender equity (that is no gender exceeds sixty percent or less than forty per cent) only if the members therefore belong to different states ... and the Federal Capital Territory, Abuja.

The above observations reflects clear cases of marginalisation of women, even in their right as human beings. What is required is a systematic assault on the subsisting negative orientation and perception of women in order to free them from the straight of long standing discrimination. This is an assault that should take the form of reorientation programmes designed to subtly but consistently change the overall pattern of beliefs and perception of women in the society, instead of haphazard exhortation through ill-digested propaganda. A programme of sustained re-orientation and education would see to it that women are respected and treated as equal to men in the society. This is the only way a solid foundation upon which a worthwhile and consistently significant participation of women in politics in Nigeria can be built.

The above suggested reviews should be in line with the 1945 United Nation General Assembly declaration - "All human beings are born free and equal in dignity and rights. (Article 1, Universal Declaration of Human Right). This is because it was observed that women's right and equity are not considered in the referred sections and sub-section of the Constitution.

Conclusion

Attempt has been made from the foregoing to consider some areas of the 1999 Constitution as they affect women's right. The foregoing discussion has shown the subordinate position of Nigerian women in the culture of male supremacy exacerbated by patriarchy and foreign religion. It also brings to limelight the fact that Nigerian women are socialized into a culture of gender inequality. The discussion observed that there are fundamental obstacles, which negatively affect women right assertion. These obstacles are culture, religion, economic and political factors.

However, like other societies in the world, Nigeria is responding to the present awareness created by the United Nations on the women's question, a conscientization that dates back to the women Decade of 1975 - 1985 and recently made more rigorous by the Beijing Platform for Action of 1995. The discussion has also shown that some aspects of the 1999 Nigerian Constitution are not fair to women. They are sex biased. This is in the areas of women workers welfare, appointment to offices, inheritance of landed properties, political posts, among others. Women's rights are not recognised in the sections and sub-sections of these parts of the Constitution.

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