

PATRIARCHY AND INEQUALITY IN NIGERIA: A LEGAL APPRAISAL

By

Nwaobilor, Nkeiruka Faith*

Abstract

Gender inequality poses a major challenge for women all over the world. In Nigeria, women have suffered enormous discrimination, denunciation as well as deprivation as a result of gender bias. This study, considered a legal appraisal of patriarchy and inequality in Nigeria by examining the various dimensions of patriarchy and inequality in the various aspects of the Nigerian society such as culture, religion, politics, law, and so on. This study adopted the doctrinal method of research which involves the use of both primary and secondary sources. The findings of this study reveal among other things that the Nigerian Society is a patriarchal society with high rate of gender inequality which is largely influenced by diverse cultural practices and religious beliefs. Furthermore, certain provisions of the Constitution of the Federal Republic of Nigeria and other Nigerian laws are discriminatory and do not guarantee equality of all persons. The study also found out that government approach on inequality in Nigeria has not been adequate and therefore recommended among others for the amendment of the Nigerian constitution, the enactment of unified Equality Act in Nigeria as well as the domestication of CEDAW in Nigeria.

Keywords: Patriarchy, Equality and Gender Inequality.

Introduction

Over the years, Nigeria has grown to be recognised globally as a patriarchal society in which the inalienable rights of women which are also guaranteed by the Constitution of the Federal Republic of Nigeria¹

*LLB (IMSU, Owerri); BL (Abuja), Rivers State University, Email: nkofaith11@gmail.com.

¹ CFRN 1999 (as amended) ss 33- 45.

and other international Conventions are often subjected to ridicule, widespread abuse, neglect and violations. In Nigeria, it is perceived that the concept of womanhood is abridged to a mere infidel and a second-class citizen, hence, the general belief that the best place of women is in the 'Kitchen'. This inclination has brought about an incredible misrepresentation of the rights of women from the level of the family down to the circular society. Around the globe, women continue to face widespread inequalities and discrimination because of their status as women. Such gender inequality and discrimination comes in diverse forms and accumulates from the conduct of a diversity of actors, across public and private spheres.

The definition of the term patriarchy has been subject to many debates. Patriarchy is one of the concepts that must be understood in dealing with the issue of inequality or gender discrimination. The word patriarchy originated from the Greek word *patriarkhes* which is literally translated as "the rule of the father"². Originally, the concept of patriarchy was referring to the rule of any elderly male over other younger members of the family regardless of their gender. However, in recent times, the definition of patriarchy in the context of gender relation is mostly narrowed down by feminist scholars to the dominating role of men in subordinating women³. The concept patriarchy is defined as a kinship-ordered social structure with strictly defined sex roles in which women are subordinated to men⁴. It is seen as a practice which allows for male domination in all spheres of life.

Equality on the other hand is seen as the state of being equal; especially likeness in power or political status⁵. It means the same rights, responsibilities and status for all the members of a family, group or society⁶. The concept has also been explained to mean equal treatment of

² F J Green, "Patriarchal ideology of Motherhood" in A O Reilly, "Encyclopedia of Motherhood" [2010] (1) SAGE; 969.

³ H Khelghat-Doost and S Sibly, "The Impact of Patriarchy on Women's Political Participation" [2020] (10) 3 *International Journal of Academic Research in Business & Social Sciences*; 398.

⁴ V M Moghadam, "Patriarchy and the politics of Gender in Modernizing Societies: Iran, Pakistan and Afghanistan" [1992] (7) 1 *International Sociology*; 35-53.

⁵ B Garner, *Black's Law Dictionary* (United State: Thompson Reuters, 2009) 616.

⁶ C M Ekpo, Keynote Address on "Gender Equality" Presented at the Women's Day Celebration, Organised by the Centre for Women, Gender and Development Studies, Federal University of Technology, Owerri, 2004.

persons without discrimination before the law and in ordinary parlance⁷. Gender equality therefore refers to same rights, responsibilities and status for all humans⁸. The concept means that women and men have equal conditions for realizing their full potentials and for contributing to, and benefiting from, economic, social, cultural and political development⁹.

The Nigerian society is patriarchal in nature which is due to the influence of the various religions and customs in many parts of Nigeria¹⁰. Thus, it has been argued that “the traditions and culture of every society determines the values and behavioural patterns of the people and society...a culture that attributes superiority to one’s sex over the others exposes the sex that is considered to be inferior to various forms of discrimination¹¹. The culture of patriarchy in Nigeria has placed men in more dominance position over women. It is therefore worrisome that despite the manifest commitment of the international community to gender equality and to spanning the gender gap in the formal political arena, strengthened by the Convention on Elimination of All Forms of Discrimination Against Women (CEDAW) and the Beijing Platform of Action and other national laws on gender equality, women are still highly marginalized and poorly represented in political activities. The focus of this study is therefore to examine patriarchy and gender inequality in Nigeria. The various dimensions of patriarchy and inequality in the various aspects of the Nigerian society; such as culture, religion, politics, law, and so on will also be examined.

Appraising Patriarchy and Inequality in Nigeria

It is a settled position that human right is applicable to all human beings irrespective of sex status. However, in practice, women’s fundamental rights and freedom have been narrowed by patriarchal practices and traditions. This situation is worse in many African societies where colonial heritages and patriarchal culture consign superior roles to men and

⁷ C J Ojiaka, “Gender Related Concepts and the Misconceptions that Fuel Inequality” [2017] (6) 1 *JPLCI*; 194.

⁸ *Ibid.*

⁹ R Pearson and C Jackson, ‘Introduction: Interrogating Development, Feminism, Gender and Policy’ in C J Ojiaka, (n 7) 193.

¹⁰ E O Ekhaton, ‘Women and the Law in Nigeria: A Reappraisal’ [2015] (16) 2 *Journal of International Women’s Studies*; 286.

¹¹ J Ngwankwe, “Realising Women’s Economic and Cultural Rights: Challenges and Strategies in Nigeria” [2002] (4) *CJWL/RFD*; 143.

subordinate roles to women. In Nigeria, these practices have abridged the status of women to be inferior to their male counterparts. This in turn makes it challenging for women to wholly participate in many religious, political, cultural, social and economic activities like their male counterparts. Patriarchal culture and religion has brought tremendous setbacks for women in Nigeria.

Though it is argued that many western societies like Iceland, Norway, Finland, Sweden, and Ireland have achieved gender equality with women having the same legal rights as men, this cannot be said of the African continent especially Nigeria¹². In Nigeria, many women experience widespread poverty, heavy labour burdens and limited opportunities in trade, industry and governance. Most of the daily activities in Nigeria such as cultural practices, religion, politics, education, employment, entertainment, economy, and many others are male dominated. The various dimensions and traces of patriarchy and inequality in the Nigerian society in the areas of political participation, women education, cultural practices, religious practices and the Nigerian law are to be examined below.

Women and Political Participation

It has been argued that the British colonial administration brought in a new dimension of political structure in Nigeria which favoured men than women as most women were removed from public spheres¹³. The Nigerian political system is structured around masculinity as it presents the males as the most momentous and foremost figures to hold political offices. Thus the argument has been that the political culture of Nigeria does not give equal rights to both sexes to participate fully in the political process as women are usually expected to take up their God given role of child-bearing, tending to the home and being supportive of her husband which leaves her in the background.¹⁴ This repression of women and their rights continues to be part of unequal social structures and the lack of

¹² O E Akinyemi and C Y Afolabi "The Myths and the Realities of Gender Equality in Nigeria: An Appraisal of the Solution in South- West Nigeria" [2021] (4) 2 *Sapientia Global Journal of Arts, Humanities and Development Studies (SGOJAHDS)*; 345.

¹³ E O Jaiyeola and A Isaac, "Patriarchy and Colonization: The "Brooder House" for Gender Inequality in Nigeria" [2020] (4) *Journal of Research on Women and Gender*; 2.

¹⁴ M O Izzi, 'Political Development of Women in Nigeria: The Human Rights Perspective' [2013] (4) *Rivers State University Journal of Public Law*; 130.

freedom thereby holding back human development of women in Nigeria.¹⁵

This arrangement can be traced to the first Nigerian republic in the early 1960s where no woman was elected to the parliament neither did any given any appointment in the federal cabinet.¹⁶ There was no place for women in the political order of the day. Under the colonial administration, women had no role to play in neither public affairs nor politics. The colonial administrators brought with them politics that had detrimental effect on women.¹⁷ The British colonists therefore came with the practice of segregating women from socio-economic and political participation. This attitude can be traced to patriarchal practices predominant in most societies despite the Universal Declaration of Human Rights.¹⁸

This thoughtful interruption of the pre-colonial political system in Nigeria placed men for the leadership roles in politics, the economy and other social and religious circles. This later turn out to be a way of life in Nigeria and in Africa in general as men became more dominant in every institution, including the home¹⁹. This continued to play out after colonization as men continue to dominate the Nigeria political system. A case study is the aftermath of the 2015 and 2019 general elections which produced few women as members of the National Assembly and no woman as a State Governor.

To curtail this gender imbalance, the Federal House of Representatives is planning to create an additional 111 seats for women at the National Assembly. However, this plan has continued to generate mixed reactions among Nigerians. Some have argued that creating additional seats for women will make no difference as it is not an efficient way to get more women into politics²⁰. Though some countries such as Rwanda and France

¹⁵ *Ibid.*

¹⁶ E O Jaiyeola and A Isaac (n 13) 12.

¹⁷ A C Smock, *Igbo Politics: The Role of Ethics Union in Eastern Nigeria* (Cambridge: Harvard University Press, 1971) 114.

¹⁸ M O Izzi, (n 14) 131.

¹⁹ F M Adu, *Masculinity in Gender Relations: The Nigerian Experience and Contribution to Sustainable Development*, in R I Ako-Nai (ed.), *Gender and Power Relations in Nigeria* (UK: Lexington Books) 101-113.

²⁰ D Agbalajobi, "Nigeria's National Assembly: why Adding Seats for Women isn't Enough" *The Conversation*, May 31, 2021

<<https://www.google.com/amp/s/theconversation.com/amp/nigerias-national-assembly-why-adding-seats-for-women-isnt-enough>> accessed 8 February, 2022.

adopts the policy of reserved seats to get more women into politics and elected positions, apparently, the policy is a way to save women the challenge of having to compete with men for the existing seats, in reality, it is important to adopt distinct approaches that deal with the underlying barriers such as lack of trust among women, the fear of success or rejection, fear of popularity, violence inherent in politics and the obnoxious sociocultural structures and patriarchy faced by women in conducting successful campaigns and getting elected into offices.²¹Izzi has identified that the major obstacle to women's participation in politics is the societal attitude of Nigerians which till date still views women principally as mothers and wives as women are merely transferred from their fathers to husbands to fulfill this socially determined role which restricts women from attaining equal status with men in all spheres including politics.²²

It is the contention of this study that the creation of quotas or reserved seats for women is not a viable tool to increase the selection and election of women into political offices. Though some countries like Spain have a legal requirement for candidates presented for electoral position to comprise of at least 40% of each sex, quota system is not a better strategy to increase the election or selection of women into political offices especially in Nigeria. Take for instance that there is a law in Nigeria on quota system which requires out of the 109 members of the Nigerian Senate, at least 45 members must be women. The question then is which State in Nigeria or Senatorial District in a State will be ready to relinquish their respective seats for women in order to comply or meet up with the quota requirement. Therefore, the best approach is that there should be an increased consciousness among our people on the principle of equality. Until we have this consciousness that men and women are equal and thus women can also do better if given the chance to occupy political offices, women will continue to be relegated in politics.

Women's Education and Gender Discrimination

Education plays a vital role in the development of a nation as it is an instrument that breaks the manacles of poverty thereby leading to transformation, development and progress. It has been argued that inequality in education has its root in the colonial system of education

²¹*Ibid.*

²² M O Izzi, (n 14) 135.

which was primarily geared towards meeting the manpower need of the colonial government that obviously alienated women from educational and economic opportunities.²³ Interestingly, formal education was introduced in Nigeria by the British colonialists and missionaries, however, the access to formal education was given mostly to men who benefited greatly from that ahead of women²⁴. This has been adjudged to be a major factor responsible for the low participation of women in the nation's development activities.²⁵

The less emphasis placed on women's education has led to the increase in the rate of poverty among women. The resulting effect is the prevalence of teenage pregnancy, early marriages and high birth rates in many families. Equal educational opportunities for the male and female children tend to be bounded by patriarchal attitudes about gender roles, which result in some parents ascribing greater importance to the education of boys than girls. This is always the possibility when the parents lack resources to enroll all children in school. In some families, investing in girls' education is regarded as investing for the benefit of the family she will eventually marry into, unlike in the case of boys. This contention holds sway especially with respect to higher education, which involves greater expenditure and is seen to be less necessary for females whose main role will be in home keeping and child bearing.

Also, in the school curriculum and learning process, there exist gender stereotyping, wherein certain subjects and courses such as mathematics, sciences and other technical disciplines are tagged masculine, while secretarial studies and other subjects such as home economics, business education, physical education and so on, are tagged feminine, thereby denying both sexes the opportunities to benefit from exposure to all subject areas or a wider choice of subjects. The female inferiority complex established from childhood through social interactions in the home, including the differential levels of support and motivation, influence the aspirations and eventual learning achievement of boys and girls.²⁶

²³ M Omolewa, "Education", in *Africa Atlases* (Nigeria) Paris-France, *Les Editions J.A.*, 115-118.

²⁴ F M Adu, "Masculinity in Gender Relations: The Nigerian Experience and Contribution to Sustainable Development, In R. I. Ako-Nai, (ed.), *Gender and Power Relations in Nigeria* (UK: Lexington Books) 101-113.

²⁵ E O Jaiyeola and A Isaac (n 13) 15.

²⁶ G A Makama, "Patriarchy and Gender Inequality in Nigeria: The Way Forward" [2013] (9) *13European Scientific Journal*; 120.

It therefore becomes imperative to make education accessible to all notwithstanding the gender or sex. Equal access to education is fundamental as education makes one to be more enlightened and more particularly, it gives women the opportunity to be less dependent on men, having a sense of belonging in the society. A less educated woman sees herself as inferior to the male counterpart thereby giving opportunity to the men to continue to dominate and as a result, encouraging patriarchy and inequality in the society.

Patriarchy, Gender Inequality and the Nigerian Law

In the spate of the high level of gender discrimination and inequality in the Nigerian society, the law ought to serve as a legal instrument to guarantee social justice by ensuring that every citizen is treated equally, irrespective of gender or status. This being the case, the question then arises as to whether the Nigerian law adequately makes provision to ensure gender equality and to prevent male domination. It therefore becomes imperative to examine some of the Nigerian laws.

a. Constitution of the Federal Republic of Nigeria 1999 (as amended)

The Constitution of the Federal Republic of Nigeria 1999 (CFRN) contains copious provisions aimed at promoting equality as well as protecting the rights of women. The CFRN provides that a citizen of Nigeria of a particular community, ethnic group, place of origin, sex, religion or political opinion shall not, by reason only that he is such a person be subjected to any form of discrimination²⁷. The “social objectives” clause of the CFRN recognises the right of every citizen to equal pay for equal work without discrimination by reason of sex or any other reason whatsoever²⁸. The section also protects the sanctity of the human person, human dignity as well as equality of every citizen to rights, obligations and opportunities before the law.²⁹ It is however doubtful if this provision is enforceable considering the provision of section 6 (6)(c) of the CFRN. The argument has been that notwithstanding the provision of section 6(6)(c) of the CFRN, the fundamental objectives and directive principles of state policy contained in chapter two of the CFRN can be made justiciable thus enforceable either where it is connected to the enforceable rights

²⁷ CFRN 1999, s 42(1).

²⁸ *Ibid.*, s 17 (3)(a) and (e).

²⁹ *Ibid.*, s 17(2)(a) and (b).

contained in the fundamental rights provisions of chapter four of the CFRN or stated in the already domesticated African Charter on Human and Peoples' Rights³⁰.

The CRFN which is the grund norm seems to ensure equality of all citizens irrespective of gender and status and by extension makes provisions to prevent male dominance, however, certain provisions are discriminatory and does not guarantee equality of all persons. For instance, the CFRN in section 25 recognises the rights of women by giving equal citizenship right by birth to both men and women without discrimination, however, this equality does not extend to citizenship by registration. Thus, while it is possible for a foreign woman married to a Nigerian man to become a Nigerian citizen by registration, there is no such constitutional backing for a non-Nigerian man married to a Nigerian woman to become a Nigerian citizen. The only way such a foreign husband can become a Nigerian citizen if he so desires is to naturalise and the procedures are not the same. This provision has continued to generate mixed reactions by Nigerians especially the women to be discriminatory against women and thus the call for the amendment of the CFRN. To this end, the Committee of the Federal House of Representatives established to further alter the CFRN has adopted the Bill seeking to confer citizenship rights on foreigners married to Nigerian women.³¹ The Bill seeks to amend section 26 (2)(a) of the CFRN by opening citizenship by registration to male and female³². However, some law makers have raised concerns on the status of the Bill. For instance, the Deputy Speaker of the Federal House of Representatives who chairs the committee, while speaking on the Bill, expressed concerns on the conferment of automatic citizenship on foreigners based on marriage and argued that Nigerian citizenship should be guarded jealously³³.

³⁰ E M Akpambang, "A Critical Appraisal of the Legal and Policy Frameworks for the Protection of Women's Rights in Nigeria", [2020] (10) 1 *American International Journal of Contemporary Research*;19.

³¹ B Majeed, 'Constitution Amendment: Reps Committee Adopts Bill Seeking to Confer Citizenship on Foreigners Married to Nigerian Women' Premium Times (Abuja, 28 January, 2022) <<https://www.premiumtimesng.com/news/top-news/508328-constitution-amendment-reps-committee-adopts-bill-seeking-to-confer-citizenship-on-foreigners-marrid-to-nigerian-women.html>> accessed 12 March, 2022

³² *Ibid*.

³³ B Majeed (n 31).

The above views on the Bill shows the level of rejection of the Bill by the male Lawmakers which further demonstrates the patriarchal nature of the Nigerian society. Notwithstanding the concerns of those against the Bill, it is hoped the Bill will see the light of the day considering the rigorous constitutional amendment procedure in Nigeria which requires passage by both chambers of the National Assembly and approval of at least 24 of the 36 state legislatures and presidential assent.

Furthermore, just as it has been examined above, the provision of the CFRN regarding citizenship by birth is not discriminatory, however, it is silent with respect to the actual state of origin of a married woman. This being so, the question then is should a married woman claim her State of origin or the state of origin of her husband when it comes to employment, elective positions or political appointments? It is imperative to address this lacuna considering the challenges faced by women in Nigeria who are married to husbands in different states of origin. For instance, sometime in 2012, the then Chief Justice of Nigeria, Hon. Justice Maryam Aloma Mukhtar declined to administer the oath of office on a newly appointed female Justice of the Court of Appeal on the strength of a petition alleging that being an indigene of Anambra State and married to an Abia State man, the judicial officer could not be allowed to fill in the Abia State slot at the Court of Appeal.³⁴

These and many others are the instances where women have suffered resistance on the basis of marriage. It is rather unfortunate that the provisions of sections 14(3) and (4) of the CFRN which provide for federal character in relation to political appointments have not addressed this subtle issue. There is therefore the need for a constitutional or statutory definition of the actual State of origin of a married woman for purposes of employment, political appointments or even elective position so that marital status of a woman would not be a barrier for women's participation in politics or occupation of political and judicial offices.

The Criminal Code Act Cap C38 LFN 2004

Another Nigerian legislation which contains discriminatory provisions and thus encourages patriarchy and inequality is the Criminal Code Act³⁵.

³⁴ P Jason, "Married but Stateless", Vanguard Newspaper (Lagos, 13 November 2012) <<https://www.vanguardngr.com/2012/11/oshiomhole-the-road-is-still-long/>> accessed on 20 July 2021.

³⁵ Cap. C38, Laws of the Federation of Nigeria, 2004 (CCA)

The Act contains some salient provisions aimed at protecting the sexual and reproductive rights of the female gender. Some of the sexual offences prohibited under the Act for the protection of the female gender include provisions on rape³⁶, indecent assault³⁷, defilement³⁸, abduction³⁹, and so on. However, this Act has been condemned for various reasons⁴⁰. First, the gender disparity in punishment. For instance, the punishment for the offence of an unlawful indecent assault of a woman or girl is a misdemeanour with a prescribed term of two years imprisonment⁴¹ while the punishment for a similar offence against a male victim is imprisonment for a term of seven years.⁴²

The above therefore creates the impression that one gender is superior to the other. Also, the restraint on the right to abortion specified under the Act is considered as a violation of the sexual and reproductive health rights protected under such global and regional treaties like CEDAW and the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa 2003 which entitle women to available, accessible and acceptable abortion care⁴³. To this end, it has therefore been suggested that the scope of "legal abortion" as presently construed under the Criminal Code Act should be expanded to cover cases of rape and incestuous relationships.⁴⁴

Marriage Act Cap M6 LFN 2004

The Marriage Act⁴⁵ is a national legislation that regulates statutory marriages in Nigeria. Unlike other international conventions such as CEDAW and the Protocol to the African Charter on the Rights of Women in Africa⁴⁶, the Marriage Act does not stipulate the minimum age of marriage for women even though it sanctions marriages with a minor

³⁶*Ibid*, ss 357-359.

³⁷*Ibid*, s 360.

³⁸*Ibid*, ss 218 and 219.

³⁹*Ibid*, section 361.

⁴⁰E M Akpambang (n 30) 21.

⁴¹CCA, s 360.

⁴²*Ibid*, s 216.

⁴³CEDAW, art 16(1)(e); The Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa 2003, art 14.

⁴⁴E M Akpambang (n 30) 21.

⁴⁵Cap M6, LFN 2004.

⁴⁶Art 6(b) of the Protocol.

without obtaining the relevant consent of the parent⁴⁷. By the provision of section 18 of the Act, the written consent of the father of either party to an intended marriage is required if a party of the marriage is under the age of 21. In this section, the necessary parental consent is that of the father and not the mother unless the father is dead or of unsound mind or outside Nigeria before the consent of the mother is required. The implication therefore is that the consent of a mother only becomes necessary in the occurrence of the specified circumstances. This requirement has been argued to be discriminatory and contradictory to the provision of Article 16(1)(d) of CEDAW which empowers states Parties to take all appropriate measures to eliminate discrimination against women in all matters relating to marriage and family relations and in particular to ensure, on a basis of equality of men and women, same rights and responsibilities as parents, irrespective of their marital status, in matters relating to their children; as well as reflects the patriarchal Nigerian society which views a child as belonging more to the father than the mother⁴⁸.

Patriarchy and Inequality in Religion

Research has shown that religion has a greater influence on gender and thus contributes greatly to gender inequality.⁴⁹ There is the indication that religious doctrines place much emphasis on women being submissive and subjected to men which in return, inflates the ego of men and contribute to gender discrimination against women⁵⁰. As noted by Aitchison, all world religions today maintain male social dominance within a social structure⁵¹. In the history of religions, the voice of women is seldom heard, which is due to the patriarchal nature of the societies in which these religions emerged, and which eventually stifled some of the changes in the status of women triggered by new religions⁵².

Certain religious practices encourage gender discrimination and place women at a lesser position compared to the men. For instance, in Islamic

⁴⁷ Marriage Act, s 48.

⁴⁸ E M Akpambang (n 30) 22.

⁴⁹ O Olarenwaju, 'Gender Identity and Justice in Nigeria: An Appraisal of Women in Lagos State' [2018] (2) 1 *The Journal of Social Encounters*; 75.

⁵⁰ *Ibid.*

⁵¹ C Aitchison, *Geographies of Muslim identities: Diaspora, Gender and Belonging* (Ashgate: Aldershot, 2007) 10.

⁵² C M Sibani, 'Gender Inequality and its Challenge to Women Development in Nigeria: The Religious Approach' [2017] (18) 2 *Unizik Journal of Arts and Humanities*; 434.

religion and some of the churches especially Pentecostal churches, women are not allowed to occupy positions such as Imam, Pastors, Bishops, and so on. Some do not even allow women to climb the altar to preach on Sunday services or any of their services. In certain churches and religions, much restrictions are placed on women during their menstruation and pregnancy as they cannot enter the temple or touch the Quran during such period. The male and female roles are highly differentiated as women are mostly assigned the roles of church ushers, choristers, sanctuary keepers, leaders of women groups and other minor roles. It suffices to state that there exists a differentiation between what the religions proclaim which is equality of all men and women before God, and what is obtainable in practice. This relegation of women's role in religious practices can be traced to some of the teachings in the holy books. For instance, in the Christian religion, some of the passages in the holy Bible promote gender inequality. Some of the passages are as follows: "But I suffer not a woman to teach nor to usurp authority over the man, but to be in silence"⁵³. "For a man ought not to cover his head since he is the image and glory of God, but woman is the glory of man. For man was not made from woman but woman from man. Neither was man created for woman, but woman for man"⁵⁴. "The women should keep silence in the churches for they are not permitted to speak, but should be in submission as the law also says"⁵⁵. "Wives, submit to your husbands, as is fitting in the Lord"⁵⁶. "likewise wives be subject to your own husband so that even if some do not obey the word they may be won without a word by the conduct of their wives"⁵⁷.

The agitation for gender equality for men and women within and outside of religion should be the focal point of all religious doctrines and practices. The philosophy that all are equal before God should not just be a fiction but be entrenched in our everyday religious practices. As Apostle Paul admonished Christians in the book of Galatians 3:8, that "there is neither male nor female for all are one in Jesus Christ", churches in Nigeria should follow this inclination and start consecrating their female members as Clerics, Bishops, Archbishops and so on. However, this is not to say that there are no female Clerics or Bishops as many women in

⁵³ 1 Timothy 2:22.

⁵⁴ 1 Corinthian 11:7-9.

⁵⁵ 1 Corinthians 14:34.

⁵⁶ Colossians 3:18

⁵⁷ 1 Peter 3:18

Nigeria today are becoming General Overseers and founders of Ministries due to their calling from God and they are doing exploit. This study is not holding the view that all women must hold same opinions within a religion, but that a man and a woman should be able to have equal rights and privileges and not to prevent one gender from enjoying or exercising their religious right most especially considering the fact that we are all equal before the Almighty God.

Patriarchy and Inequality in the Nigerian Culture

Culture embodies the totality of a people's norms, ethos, belief systems and interactions within the society⁵⁸. It is what makes a particular society distinct from all others. The Nigerian society has been considerably strewn with unusual cultural practices that are vigorously hostile to women's emancipation and development. It has been submitted that gender inequality has a primordial root in cultural beliefs as well as practices⁵⁹. Therefore, culture has a negative influence on gender perceptions. The gravity of cultural influence on gender extends to marriages and shapes power relations between husbands and wives. Owing to such power relations, many women have been treated unequally and abused in their matrimonial homes⁶⁰. Under this subheading, this study shall be looking at some of the several cultural practices which inhibit the rights of Nigerian women such as inheritance and succession right, widowhood practices, female genital mutilation, marriage and so on which in return promote patriarchy and inequality in the Nigerian.

Inheritance and Succession Right of Women

The Nigerian customary law follows a patriarchal system, which does not allow women to inherit real property. The patrilineal culture disallows a woman the right of inheritance to the family assets in the occurrence of the death of her husband or father in a homestead, usually referred to as the family head⁶¹. Unlike a woman who marries under the Marriage Act, a woman who marries under customary or Islamic Law in Nigeria does not

⁵⁸ N S Okogbule and U B Okogbule, "Culture and Gender- Based Violence in Africa: A Human Rights Contextual Perspective" [2012] (7) 1 *The Journal of Jurisprudence and Contemporary Issues*; 216.

⁵⁹ O Olarenwaju, (n 49) 75.

⁶⁰ *Ibid.*

⁶¹ E O Jaiyeola and A Isaac (n 13) 15.

enjoy adequate legal protection in the distribution of assets. Under customary law marriage, the husband is generally regarded as having dominant/legal power to dispose of family property. In some cases, the husband often exercises this power without taking cognizance of the wife's contributions to the assets as they are usually acquired in the name of the husband⁶². Under the Yoruba custom, the wife of a deceased's husband is mostly regarded as part of the chattel or property to be inherited and, as such, she has no inheritance rights in her husband's property⁶³. The barring of the wife from inheriting from her late husband's estate is based on the customary law belief that the right to succession or inheritance of property is traceable to blood. Thus not being a blood relation of the husband, a wife or widow has no claim to any share of the estate.

The same discriminatory practice is also applicable to women who are married out of their fathers' family. For instance, a woman by culture is never allowed to come from her husband's house to inherit her father's property. In this case, the female children lose from both side, as they cannot inherit from either side. In some parts of the Northern states of Nigeria where Islamic religion is not applicable or yet to be adopted by an individual, intestate succession is basically patrilineal as female children are excluded from inheriting from their father⁶⁴. This position is not different from what is obtainable in the Eastern part of Nigeria. In the case of *Ugbomia v Ibeneme*⁶⁵, it was held that in accordance with the general Ibo custom which is also the custom of Akwuzu, home of the deceased, women are not entitled to inherit from their father. The Ogoni ethnic nationality in the Niger Delta part of Nigeria is not an exception to the unequal treatment given to male and female children. Under the Ogoni customary law, the right of a widow to inherit the property of her deceased husband seems to be subdued to the right of the son or male child of the marriage. The custom appears to prioritize the right of the male child to inherit the late father's compound over and above the right of the wife to so do⁶⁶.

⁶²*Nwanva v Nwanva* (1987) 3 NWLR 697

⁶³N O Odiaka, 'The Concept of Gender Justice and Women's Rights in Nigeria: Addressing the Missing Link' [2013] (2) 1 *AfeBabalola University: Journal of Sustainable Development Law and Policy*; 200.

⁶⁴E A Taiwo, "The Customary Law Rule of Primogeniture and its Discriminatory Effects on Women's Inheritance Rights in Nigeria: A Call for Reform" [2008] (22) 2 *Spectrum Juris*; 114.

⁶⁵ [1967] F.N.L.R 257

⁶⁶ B S Kokpan and Others, "Nigerian Women and the Law: A Protectionist Approach" [2021] (1) 1 *Bori Bar Journal*; 112.

Widowhood Practices

In some parts of Africa and Nigeria, there are some dehumanizing customary practices and rituals that a woman is compelled to undergo or perform upon the death of her husband which impacts on the rights of women. Widows are caused to suffer physical and mental torture in most of the patriarchal societies like Nigeria. In some parts of Nigeria, mostly the Igbos in the Eastern Nigeria and the Ndoni and Ogoni in the Niger Delta, part of the rituals a widow is compelled to perform upon the death of her husband includes forcing or compelling the widow to either drink the water from which her late husband's corpse was washed to ascertain her innocence or culpability over the death of her husband.⁶⁷ Despite the unpleasant nature and the health implication of this practice, most women still observe the custom basically because of their respect for the custom and to prove their innocence to their in-laws.

The element of inequality between men and women in this kind of widowhood cultural practices is the fact that men are not made to undergo similar rituals in the event of the death of their wives but rather receives more sympathy and support during such unfortunate incidents⁶⁸.

The Approach of Government and the Judiciary in Eliminating Patriarchy and Inequality in Nigeria

The Nigeria government and the judiciary have played vital roles through enactment of laws, initiation of policies and plethora of court decisions aimed at eliminating patriarchy and inequality in Nigeria. This part of this study shall examine some of the reforms through government policies/enactment of laws and the judicial approach towards the elimination of patriarchy and inequality in Nigeria.

a. The Government Approach

In keeping to its commitment to eliminate inequality and patriarchy, the Nigeria government initiated some measures in place through the enactment of laws and ratifying international conventions that promote equality and protect the rights of women. One of such international conventions is the CEDAW which was ratified by Nigeria in 1985. The CEDAW proposes among other things, a change in the traditional role of

⁶⁷ N S Okogbule and U B Okogbule (n 58) 221.

⁶⁸ F A Dolphyne, *The Plight of the Nigerian Women: An African Perspectives* (Accra: Ghana University Press, 1991) 24.

men and women in society and family to achieve full equality as well as eliminate prejudices which are based on the idea that women are inferior to men. It also aims to target cultural practices that encourages gender disparity which define the public domain as men's sphere and domestic field as women's domain⁶⁹.

Pursuant to the provisions of CEDAW, the government has taken deliberate efforts to economically empower women to enhance their political participation by increasing the number of female representations which saw an increase in the Federal House of Representatives and the Senate from 1.9% and 2.8% in 1999 to 6.9% and 6.4% in 2015 respectively⁷⁰. Unfortunately, notwithstanding these efforts of government, CEDAW is insufficient to protect women's right in Nigeria as it has not been domesticated pursuant to the provision of section 12 of the CFRN⁷¹ which is to the effect that treaties which has been signed and ratified will not have any effect until it has been domesticated in Nigeria by a corresponding law. Though in 2007, an attempt was made to pass the CEDAW Bill into law in Nigeria but failed due to strong opposition by some law makers who believed it was anti- God and anti-family and as a foreign imposition. This misconception is as a result of the believe that the subordination of women to men is a social order designed by God and a challenge to it is a challenge to God and the family institution. There are also a number of governmental policies shaped out to ensure the protection of the rights of women and girls in Nigeria. One of which is the National Gender Policy Framework (NGPF) established by the Federal Ministry of Women Affairs and Social Development in 2006 which purpose is to bring a gender perspective into all aspects of planning policy, developing legislation and transformation activities in Nigeria⁷². Though the NGPF is birthed with good intentions at ensuring gender equality, the major constraint however is the fact that the NGP does not have the force of law having not being enacted as a piece of legislation in Nigeria.

⁶⁹ O C Okongwu, "Are Laws the Appropriate Solution: The Need to Adopt Non-Policy Measures in Aid of the Implementation of Sex Discrimination Laws in Nigeria" [2020] *International Journal of Discrimination and the Law*

<<https://journals.sagepub.com/doi/full/10.1177/1358229120978915>> accessed 2 April, 2022.

⁷⁰ O C Okongwu (n 69).

⁷¹ *MHWUN v Minister of Health and Productivity and Ors* [2005] 17 NWLR (Pt 953) 120.

⁷² National Gender Policy, Federal Republic of Nigeria, Situation Analysis/ Framework, Paragraph 1.2.4.

It has been a major task on the part of the government to enact laws to adequately protect women against discrimination and to ensure gender equality because of the cultural and religious believe that women are subordinate to men therefore any law that seeks to promote equality between men and women is against God and the Nigerian culture and therefore must fail. For instance, in a bid to eliminate discrimination, inequality and prejudices instigated by stereotypes and cultural practices, a Gender and Equal Opportunities Bill (GEO) was proposed in 2010. The Bill which sought to accord men and women equal rights under the law through the promotion of gender equality in all spheres of life, was voted against by Law Makers during the second reading because they believed it was against their cultural and religious beliefs⁷³. The Bill was however reintroduced in 2019 and was referred to the House Committee on Judiciary, Human Rights and Legal Matters for deliberation after passing through the second reading ⁷⁴. In addition to the above, the National Assembly has successfully enacted some laws to help reduce gender inequality. However, some of these laws have continued to face challenges because some states have refused to domesticate them. For instance, the Child Rights Act and the Violence Against Persons Prohibition Act have not been domesticated in many states in Nigeria because of the view that the provisions of these laws are contrary to their religious and cultural beliefs⁷⁵. From the foregoing, it can be seen that religious and cultural belief system is a major challenge to achieving gender equality, there is therefore the need to first of all change individual's attitudes and conceptions about gender. Until the mentality of superiority of men over women is addressed through measures such as education, awareness and religious teachings, gender inequality cannot be totally eradicated not minding the law enacted to achieve same.

The Judicial Approach

In recent times, there have been judicial interventions to end some barbaric customary practices in Nigeria which encourages inequality and gender discrimination basically as it relates to the right of women to inheritance, widowhood practices, spousal violence, and so on. This is a paradigm shift from the earlier decisions of the courts which recognized customary

⁷³ BBC, Nigeria Anger as Gender and Equal Opportunity Bill Fails [2016]

<<https://www.bbc.co.uk/news/world-africa-35820970>> accessed 15 March 2022.

⁷⁴ E O Ekhaton, *Protecting and Promotion of Women's Rights in Nigeria: Constraints and Prospects*, In: M Addaney (ed) *Women and Minority Rights Law: African Approaches and Perspectives to Inclusive Development* (Hague: Eleven International Publishing, 2019) 17-35.

⁷⁵ *Ibid.*

practices that prevented female inheritance or widow from inheriting the property of her deceased husband. The court through recent decisions has generated tests for the enforceability of any customary practice in Nigeria to include the repugnancy test, the incompatibility test and the public policy test. The repugnancy test presupposes that any custom that is repugnant to natural justice, equity and good conscience will not be enforced by any court in Nigeria. The incompatibility test is to the effect that customs which are incompatible or inconsistent to the provisions of the CFRN or any other law validly in force in Nigeria will not be enforced by the court. Furthermore, where a customary practice is contrary to public policy, it will be declared invalid and thus not enforceable. These validity tests were put to judicial test in the well-known case of *Mojekwu v Mojekwu*⁷⁶ where the court held that Nnewi custom of *Oli-ekpe* is discriminatory and any form of societal discrimination on grounds of sex is unconstitutional and against the principle of an egalitarian society. Also, in *Mojekwu v Ejikeme*⁷⁷ it was held that the *Nrachi Nwanyi* customary practice of Nnewi (Eastern Nigeria) wherein a man may keep one of his daughters unmarried perpetually under his roof to raise male issue in order to succeed him, encouraged promiscuity and prostitution and therefore constituted discrimination. With regards to the recognition of women's right to inheritance of family landed property, the courts in the cases of *Amusan v Olawuni*⁷⁸ and *Asika v Atuanya*⁷⁹ have similarly upheld the rights of female members of the family to inherit family landed properties like their male siblings.

As commendable as the judicial approach towards ending patriarchy and inequality in Nigeria, it is submitted that one of the factors obstructing access to justice especially for victims of discriminatory practices in Nigeria is the undue delay in the justice system. A woman who has been hurt and intends to achieve redress in court, but has limited resources to scale through the awkward impediment of the judicial process would definitely end up opting out of the pursuit for Justice or in the event that Justice is served, the value is highly vitiated due to a very long passage of time. The result in this kind of situation is that the woman after considering her financial handicap would

⁷⁶ [1997] 7 NWLR (Pt 512) 283.

⁷⁷ [2000] 5 NWLR (Pt 657) 403, 429.

⁷⁸ [2002] FWLR (Pt 118) 1385, 1402

⁷⁹ [2008] 7 NWLR (Pt 1117) 484, 518.

rather opt to waive her rights on access to Justice than start up a legal battle she would not be able to complete.

Valuable Insights to Enhance an Effective and Better Framework on Inequality in Nigeria

Understandably, it is challenging to compare equality across different countries of the world. Finding good gauges on equality is difficult because the gauges that portray the situation for men and women differs from country to country and culture to culture, considering the cultural and religious backgrounds of most countries. However, below are some of the valuable insights that will enhance an effective framework on gender equality in Nigeria.

1. Enactment of a Unified Equality Act

Iceland and Norway are ranked first and second on the list of countries actively closing gap in gender equality. The two referenced countries do not just make policies on gender equality but also back same policies with legislations to enhance its enforcement. For instance, there are the Equality Acts of the two countries which are applicable to all sectors such as family life, employment, education, social life, religious, and so on. These legislations are applicable to all parts of the countries. In Nigeria, there is no unified legislation on gender equality applicable to all parts of the federation of Nigeria. Though there are the Child Rights Act and the Violence against Persons Prohibition Act which are aimed at ending discriminatory practices against the children and the female sex. However, these legislations are not applicable to all the States in the federation of Nigeria as most States have refused to domesticate them on the basis that it is against their religious and cultural beliefs. Thus there is need for a unified Equality Act generally applicable to all parts of the federation of Nigeria and touching all the areas.

2 Creation of Institutions for the Promotion of Gender Equality

In Iceland as well as Norway, several Ministries and institutions are created and responsible for the promotion of gender equality making it a concerted effort. However, in Nigeria, the only Ministry that seems to be advocating for gender equality is the Federal Ministry of Women Affairs which is mainly headed by a woman, with the support of some Non- Governmental Organisations thereby making the advocacy for gender equality a woman affair. Nigeria should borrow a leaf from Iceland and Norway by creating and empowering special ministries for the promotion of gender equality. These special ministries should not only be manned by women but should be mixed gender as the fight for gender equality will receive more credence when men partake in same.

3 Domestication of CEDAW

It is also discovered that Iceland, Norway and the other Nordic countries have not only ratified CEDAW but have also domesticated same, giving legal backing to the fight for gender equality. Though Nigeria has ratified CEDAW, the non-domestication of the Convention in line with section 12 of the CFRN has also hindered the full implementation of the gender equality policy in Nigeria.

Conclusion and Recommendations

This study investigated patriarchy and inequality which is deeply rooted in the Nigerian culture and religious practices. The study found out that the Nigerian Society is a patriarchal society with high rate of gender inequality which is largely influenced by diverse cultural practices and religious beliefs. Most of the daily activities in Nigeria such as cultural practices, religion, politics, education, employment, entertainment, economy, and many others are male dominated. The CFRN and other laws in Nigeria also encourage inequality in the Nigerian society. Though the Nigerian government has put in some measures to reduce the high rate of gender inequality in Nigeria, the measures has not really been adequate because of the non-domestication of CEDAW in Nigeria pursuant to section 12 of the CFRN, 1999 (as amended). Also, there is no unified equality legislation in Nigeria just as it is applicable in Iceland and Norway. It is based on the foregoing that the study makes the following recommendations:

1. The National Assembly should amend section 26(2)(a) of the CFRN 1999 (as amended) to open citizenship by registration to both male and female so that a non-Nigerian man married to a Nigerian woman can become a Nigerian citizen.
2. The National Assembly should amend the Criminal Code Act, Penal Code Act, Marriage Act, the Police Regulation, the NDLEA Act and the Nigerian Labour Act which contain discriminatory provisions against women in Nigeria in areas such as labour and employment, family, marriage, criminal liability and so on.
3. There should be a constitutional or statutory definition of the actual State of origin of a married woman in Nigeria for purposes of employment, political appointments or even elective position so that marital status of a woman would not be a barrier for women's participations in politics or occupation of political and judicial offices.
4. The National Assembly should enact a unified Equality Act to be applicable in all parts of Nigeria as well as creation of institutions for the promotion of gender equality.