PROTECTING WOMEN'S RIGHTS IN NIGERIA IN THE 21ST CENTURY: CHALLENGES AND PROSPECTS*

Abstract

Women in Nigeria face many challenges and discriminatory practices under some extant laws and customs. The Nigerian society is inherently patriarchal. This is due to the influence of the various religions and customs in many parts of Nigeria. Women are seen as the 'weaker sex' and discriminatory practices by the state and society (especially by men) are condoned. Women's rights are part of the fundamental human rights that are recognized in international human rights treaties, the Nigerian Constitution and local legislation. While Nigeria has acceded to a number of international instruments on the promotion and protection of women's rights, most of them are yet to be domesticated and women are yet to fully realize their rights. This paper examines the protection of women's rights in Nigeria, and discusses the attendant challenges. Right to property, widowhood practices, Sexual offences, and Health Challenges, among other challenges are underscored. In addition, the paper considers positive developments in recent times towards the protection and enjoyment of women's rights in Nigeria. Recommendations for better protection and realization of women's rights in Nigeria are also underscored. This study employs the doctrinal research methodology which involves a library oriented research.

Keywords: Protecting, Women, Rights, 21st Century, Challenges, Prospects.

1. Introduction

There are certain groups of people who for many reasons are weak and vulnerable or have traditionally been victims of human rights violations. These groups are structurally discriminated against and they have difficulties defending themselves. They need special protection for the equal and effective enjoyment of their human rights.[1] Women, girls and children fall into this category.Women in Nigeria face many challenges and discriminatory practices under some extant laws and customs.[2] The Nigerian society is inherently patriarchal. This is due to the influence of the various religions and customs in many parts of the country. Women are seen as the 'weaker sex' and discriminatory practices by the state and society (especially men) are condoned.[3] Most cultures in Nigeria do not afford women with rights such as afforded by the international instruments and local laws including the constitution of Nigeria.[4]

2. The Legal Framework Protecting Women's Rights in Nigeria

The legal framework for women's rights in Nigeria is based on the Constitution primarily, Federal Legislation, State Laws, regional and international treaties relating to women ratified by the country. Nigeria is a democratic state and operates a federal system of government. The Constitution assigns legislative powers to the federal and state legislatures according to two lists (exclusive and concurrent).[5] Matters that fall under the exclusive legislative list are reserved for the National Assembly, while the concurrent legislative list contains matters that both the national and state legislatures could legislate on. Issues touching on women's rights fall under the concurrent legislative list. It follows that both the federal and state governments have the capacity to legislate on

***By Tomi Grace OBAGBOYE, LLB (Jos), LLM (Kogi State University, Anyigba), BL.** Email Address: motilayo_dunni@yahoo.com. Phone number: 08036126840.

[1] S Magdelena, et al, *Human Rights Reference Handbook* (Cuidad Colon, Costa Rica: University for Peace, 2004) p 317.

[2] E O Ekhator, 'Protection and Promotion of Women's Rights in Nigeria: Constraints and Prospects' obtained from <https://www.researchgate.net/publication/328276496> Last accessed on 10/09/2019.

[3] *Ibid*.

[4] F O Dada, 'The Justiceability and Enforceability of Women's Rights in Nigeria' (2014) 14 (5) *Global Journal of Human Social Science,* 48-56.

[5] B O Eniola, and J C Mubangizi, 'The Legal Frameworks for the Protection of Women's Reproductive Health Rights in South Africa and Nigeria: Some Comparative Lessons' (2017) Vol. 5, No. 2 *Journal of Social Welfare and Human Rights*,1-12.

women's rights. Some Federal legislation that protect women rights in Nigeria include the 1999 Constitution, National Gender Policy in 2007,Child Rights Act 2003 (this law domesticated the Convention of the Rights of the Child in Nigeria),Trafficking in Persons (Prohibition) Law Enforcement and Administration Act 2003, Violence Against persons (Prohibition) Act (VAPPA) 2015.In this section, we shall briefly consider the protection of women's rights in the Nigerian 1999 Constitution (as amended), the Child's Right Act 2003, the Violence Against Persons (Prohibition Act) 2015, State Legislation, International and Regional Treaties.

Nigerian Constitution 1999 (as amended)

The Nigerian constitution,[6] provides fundamental rights for every citizen of the county including women. These rights include: Right to life, Right to dignity of human person, Right to personal liberty, Right to fair hearing, Right to private and family life, Right to freedom of thought, conscience and religion, Right to freedom of expression and the press, Right to peaceful assembly, Right to freedom of movement, Right to freedom from discrimination and Right to acquire immovable property anywhere in Nigeria.The constitution is the *grundnorm* from which other laws and instruments get their legitimacy. In other words the constitution is supreme.[7] These fundamental human rights guaranteed by the Constitution for every person in the country including women form an essential part of the legal framework of the rights of women in Nigeria.

Child's Rights Act 2003

Nigeria signed the Convention on the Rights of the Child in January 1990 and ratified the same in April 1991.[8] Despite stiff oppositions to the Convention on the Rights of the Child, it was domesticated as the Child Rights Act in 2003. The CRA provides a comprehensive and child specific legislation which is in accordance with international standards. The Child Rights Act 2003 has been passed in 24 states in Nigeria[9] with Enugu being the most recent to enact the law in December 2016. The CRA provides a wide range of rights for children in Nigeria including female children. Some of the provisions are examined below: The CRA provides the right to freedom from discrimination on the basis of sex.[10] This protects the female child from all forms of gender based discrimination. The CRA also provides that every child is entitled to respect for the dignity of his person,[11] and accordingly, no child shall be subjected to physical, mental or emotional injury, abuse, neglect or maltreatment, including sexual abuse; torture, inhuman or degrading treatment or punishment; attacks upon his honour or reputation; or held in slavery or servitude, while in the care of a parent, legal guardian or school authority or any other person or authority having the care of the child. According to the CRA, every child has the right to free, compulsory and universal basic education and it shall be the duty of the Government in Nigeria to provide such education.[12]A female child who becomes pregnant, before completing her education shall be given the opportunity, after delivery, to continue with her education, on the basis of her individual ability.[13]These provisions are laudable and progressive. However, the question that bugs the mind is whether these provisions are being implemented in Nigeria. Can it be said that every child in Nigeria including the girl child has access to

[6]Constitution of the Federal Republic of Nigeria 1999 (as amended) SS. 33-43.(Hereinafter referred to as the Nigerian Constitution 1999).
[7]*Ibid*. s. 3.
[8] Status of Ratification of the Convention on the Rights of the Child, Obtained from < http://www2.ochchr.org/eng lish/law/crc-ratify.htm> Last accessed 17/10/2019. (Hereinafter referred to as CRA 2003).
[9] The states include: Abia, Anambra, Bayelsa, Ebonyi, Ekiti, Imo, Edo, Delta, Jigawa, Kwara, Lagos,Nassarawa, Ogun, Ondo, Oyo, Osun, Pleateau, Rivers, Benue, AkwaIbom, Cross Rivers, Taraba.Only four northern states such as Jigawa, Kwara, NassarawaTaraba, Kogi and Adamawa have adopted the CRA. In fact, many of the states that are yet to adopt are from the north. Significantly,
it is only Jigawa out of the Sharia-implementing states that has adopted.
[10] CRA 2003 s.10.
[11]Ibid. s. 11.
[12]*Ibid*. s. 15.
[13]*Ibid*. s. 15(5).

free, compulsory, universal basic education? Worse, still, most times in Nigeria, when a girl gets pregnant in secondary school, her educational pursuit is automatically truncated. This is a violation of her right as guaranteed in the CRA 2003. It should be noted that there is a world of difference between policy declaration and policy implementation.

The CRA prohibits child marriage and child betrothal[14] and prescribes a punishment of fine of N500, 000; or imprisonment for a term of five years or to both. It is germane to state that this is a very important provision for the well being of a female child against the backdrop of the prevalent practice of child betrothal and marriage. In some parts of Nigeria, particularly the north, there has been the barbaric time honoured culture of child betrothal and child marriage. For instance, in 2010, the whole nation was agog with the issue of Ahmed SaniYerima, the former Governor of Zamfara State, who was also a Senator, who got married to a 13-year-old Egyptian girl.[15]This practice has adverse effects on the emotional wellbeing and health of the girl child. Most times, the child –bride in question is pulled out of school and any hope of furthering her education is dashed. In addition, there are also the serious medical complications of Vesico-Vagina Fistula (VVF) and Rectum Vagina Fistula (RVF).Most Northern states have refused to adopt the CRA. In fact, the strongest opposition to the CRA by Islamic leaders pertains to the age of marriage.[16] A Nigerian cleric, Imam Sani, declared that if the government imposed the CRA, there will be violent conflicts from some Muslims to the extent that some would even die in the process.[17] Hence, Jigawa State is the only Sharia implementing state that has adopted the CRA.

The CRA prohibits Unlawful Sexual Intercourse and other forms of sexual abuse and exploitation of children.[18] Life imprisonment and 14 years imprisonment respectively is prescribed as punishment on conviction. This is provision is relevant in the face of the troubling trend of rape, sexual abuse and sexual exploitation of children especially female children in Nigeria. Recently, the media was awash with the story of a thirteen year old girl, Ochanya Elizabeth Ogbaje, who was allegedly raped by her uncle and cousin since she was nine years old.[19] She battled with *Vesico vaginal Fistula*(VVF) and other health complications at the Benue State University Teaching Hospital, Makurdi, where she finally gave up the ghost on the 18th of October, 2018. Several civil society groups and activists have decried the incident and demanded for justice against the perpetrators.[20]This suggests that there is a lot to be done with regards to effective implementation of the CRA in order to ensure that offenders are brought to book to serve as deterrent to others.

Violence Against Persons (Prohibition) Act (VAPPA)

Violence Against persons (Prohibition) Act (VAPPA) 2015[21] was passed into law in May, 2015. The Act was a result of agitations for protection of persons against the different forms of violence. Violence, both at the home front and the larger society, is fast becoming a trend in present day Nigeria. The VAPPA 2015 is an improvement on the Penal and Criminal codes in relation to violence; it also makes provision for compensation to victims as well as the protection of their rights. The Act provides protection for all persons including women. The Act was passed into law in a bid to eliminate violence in private and public life; prohibit all forms of violence, including physical, sexual, psychological, domestic, harmful traditional practices; discrimination against persons and to

[14]*Ibid*. ss. 21-23.
[15] 'Senator Yerima's new wife' *Sunday Punch* April 18, 2010, p.10.
[16] Child Marriage in the Islamic World, Obtained from http://97.74.65.51/readArticle.aspx?ARTID=36336 (Last accessed on 16/10/2019).
[17]*Ibid*.
[18] CRA ss. 31-32.
[19]G Ameh, 'Nigerians Demand Justice for 13year old Ochanya Ogbaje'<www.dailypost.ng/2018/10/23/nigeria>Last accessed on 28/11/2018.
[20]*Ibid*.
[21]Comments on The Violence Against Persons (Prohibition) Act, 2015 <*https://lawpavilion.com/blog/the-Violence against persons-prohibition- Act-2015*> Last accessed on 28/09/2017.

provide maximum protection and effective remedies for victims and punishment of offenders.[22]The National Agency for the Prohibition of Trafficking in Persons (NAPTIP) is named as the service provider.[23] The Agency is mandated to administer the Provisions of this Act and collaborate with the relevant stakeholders including faith based organizations.

Under the VAPPA 2015, rape[24], spousal battery, forceful ejection from home, forced financial dependence or economic abuse, harmful widowhood practices, female circumcision or genital mutilation, abandonment of children, harmful traditional practices, harmful substance attacks such as acid baths, political violence, forced isolation and separation from family and friends, depriving persons of their liberty, incest, indecent exposure and violence by state actors (especially government security forces) among others are punishable offences. It is germane to state at this point that women and females in general are mostly the victims of these offences. The VAPPA would provide succour for women and girls who have been victims of all forms of violence. It should be noted that the VAPPA provides protection for every person including women from a broad range of violent acts and harmful behaviour. Though the Act is not specifically targeted at women, it guarantees protection of women from a broad range of dangerous acts. The major drawback in relation to this law is its limited application to the Federal Capital Territory, Abuja.[25] However, only a few states like Lagos, Ogun, Ekiti, Anambra, Ebonyi, and Oyo have domesticated the Act. Other states are hereby encouraged to borrow a leaf from these states.

State Legislation on Women's Rights

In Nigeria, various States have made concerted efforts to further advance women's rights.[26] Some States have criminalized female genital mutilation and prescribed penalties for violators of the law.[27]Other States have adopted laws to protect the fundamental rights of widows.[28] Furthermore, some states also have enacted laws to curb the negative impacts of cultural practices on the realization of women's rights.[29]The Child Rights Act 2003 has been passed in 24 states in Nigeria with Enugu being the most recent to enact the law in December 2016.Worthy of commendation and emulation, some states have taken a giant stride in passing the Gender and Equal Opportunities Bill (GEO) into Law. The Bill has been passed in Imo, Anambra, Kogi, Ekiti, and Plateau States.[30] It is expected that the bill will soon be passed in Edo, Abia, Ebonyi, Enugu, Rivers, Taraba, Lagos, Ogun and Kaduna states.[31]One of the objectives of the GEO is to provide equal opportunities for all irrespective of gender, and prohibit gender based discrimination. In states where these laws have been enacted, men and

[22]Long title, VAPPA 2015.
[23]VAPPA 2015 s. 44.
[24]*Ibid.* Part 1.
[25]*Ibid*.s. 47.
[26] B O Eniola & J C Mubangizi(n. 5).
[27]The Edo State Female Circumcision and Genital Mutilation Prohibition Law (1999); Cross River State Girl Child Marriages and Female Circumcision (Prohibition Law) (2000); Rivers State Abolition of Female Circumcision Law (2001); Ogun State Female Circumcision and Genital Mutilation (Prohibition) Law (2000); and Ekiti State Gender-Based Violence (Prohibition) Law (2001).
[28]Enugu State Protection of Widows and Widowers Fundamental Rights Law (2001); Oyo State Widow's Empowerment Law (2002); and Anambra State Malpractices against Widows and Widowers Prohibition Laws (2004), Street Trading Restriction law, 2004 Anambra State.Women's Reproductive Rights Law, 2005 Anambra State,among others.
[29] Prohibition of Early Marriage Law, Kebbi State; Retention in School and against withdrawal of Girls from School Law, Kano State; Law Prohibiting Withdrawal of the Girl Child from School for Marriage in Niger, Gombe, Bauchi and Borno States, Violence against Women Law, Lagos State, among others.
[30]O Nwankwo, 'Genesis of the Gender and Equal Opportunities Bill' obtained from <*www.cirddoc.org/the-genesis-of-the-gender-and-equal-opportunities-bill/*>. Last visited on 20/08/2019.
[31]*Ibid.*

women have equal rights in all spheres including the political one. This is a laudable development and other states are encouraged to follow suit.

International and Regional Treaties

Although Nigeria is a party to many international and regional conventions the country, many of the conventions have not been tested in the Nigerian courts of law.[32]The constitution[33] of Nigeria provides that 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. Nigeria ratified the Convention on the Elimination of All Forms of Discrimination against Women 1979 (CEDAW) in 1985 and also ratified the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (Maputo Protocol) on 16th Sept,2004.[34]The government also domesticated the provisions of the African Charter on Human and People's Right.[35]Nigeria is yet to domesticate the Convention on the Elimination of All Forms of Discrimination against Women 1979 (CEDAW) and the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (Maputo Protocol).The Gender and Equal Opportunity (GEO) Bill 2016, which is an amalgamation of the principles and provisions of CEDAW and the Maputo Protocol, is still before the Senate. Some of the international and regional treaties applicable to women and ratified by Nigeria include;

I. The United Nation Charter 1945.
II. The Beijing Declaration of 1995.
III. The International Covenant on Economic, Social and Cultural Rights (ICESCR)1966
IV. ICCPR (International Covenant on Civil and Political Rights) 1966
V. Optional Protocol on ICCPR concerning individual petition, Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) 28 June, 2001.
VI. The Convention on the Elimination of all forms of Discrimination against Women (CEDAW) 1979.
VII. The Inter-American Convention on the Prevention, Punishment, and Eradication of Violence against Women 1994.
VIII. The Convention on the Rights of the Child (CRC) 19 April, 1991.
IX. The African Charter on Human and People's Right 1981
X. The Protocol to the African Charter on Human and People's Right on the Right of Women 2003.

3. Challenges to Enjoyment of Women's Rights in Nigeria

Notwithstanding, the foregoing, Women in Nigeria face many challenges to the enjoyment of their rights. These challenges stem mainly from socio- cultural and religious factors. Other challenges include lack of awareness of their rights by women, illiteracy, and poverty. This has led to gender inequality, discrimination and subordination of women.[36] Discrimination against women is embedded in all dimensions of culture.[37] It is a multidimensional imbalance of social, political, and institutional power that builds up over time and then becomes normalized and acceptable to most people in the society. Aladekomo[38] asserts that because the Nigerian society, tradition, and religion support male authority and superiority, privilege is embedded in being a member of the dominant group

[32]F O Dada(n. 4).
[33]The Nigerian Constitution 1999 (n. 6) s. 12(1).
[34]A Statement on Women's Human Rights in Nigeria at the 62 Ordinary Session of the African Commission on Human and People's Rights (ACHPR) Obtained from <*https://alliancesforafrica.org/a-statement-on-womens-human-rights-in-nigeria-at-the-62-ordinary-session-of-the-african*>Last accessed on 7/03/2019.
[35]. Cap A9 LFRN 1990.
[36] F P Umeana, 'Female education: Gender discrimination in Northern Nigerian Secondary Schools' obtained from <https://www.researchgate.net/publication/322030925> Last accessed on 15/10/2019.
[37] O Sensoy& R DiAngelo, *Is everyone really equal? An introduction to key concepts in social justice education.*(New York: Teacher College Press, 2011).
[38] O F Aladekomo, 'Nigeria Education Policy and Entrepreneurship' (2004) *9*(2) *Journal of SocialScience*, 75–83.

that occupies the positions of power. In the foregoing section, some challenges faced by women in Nigeria to the enjoyment of their rights are underscored.

Property and Succession Rights

The right of women to own property under marriage and to accede to family chieftaincy and family headship vary from one local culture to the other.[39] In most cultures in Nigeria, women are not allowed to inherit property. According to the Primogeniture Rule, males were preferred to women in inheritance matters. The eldest male known as the "*Okpala*" becomes the head of the family and inherits as of right, the late father's dwelling and the immediate surrounding compound to the exclusion of the daughters.[40]The case of *D.W Lewis & Ors v Bankole & Ors*[41]has become the *locus classicus* of women's rights. The court held that women should not be stopped from managing family property. In addition, the decision of the Court of Appeal in *Mojekwu v Molekwu*,[42] which declares the *Oli-Ekpe* custom discriminatory, is a major victory for women in Nigeria. The court held that the *Nnewi* custom of *oli-ekpe* is discriminatory and any form of societal discrimination on grounds of sex is unconstitutional and against the principles of an egalitarian society. It further held that a court cannot invoke a customary law which is repugnant to natural justice, equity and good conscience. It is expected that that discrimination against women and the girl child on the issue of inheritance would be significantly reduced. Unfortunately, this is not the case, due to illiteracy and poverty which prevents women from going to court to assert their rights.

Discriminatory Legal Provisions

The constitution and certain laws in Nigeria still contain discriminatory aspects. For instance, section 26(2)[43] of the constitution does not allow a Nigerian woman to transmit her nationality to her husband if he is a foreigner. In addition, section 55 of the penal code permits wife battery as chastisement, as long as grievous harm is not inflicted. These laws are discriminatory to the rights of women in Nigeria and they should be expunged.

Widowhood practices

In some cultures in Nigeria, widows contend with accusations to being the cause of spousal deaths and invariably denied social and economic rights.[44]In many instances, the family of a deceased husband will claim rights to the couple's property, leaving the widow destitute. Under the Ibo customary law, a widow is not allowed to succeed the personal or real estate of her deceased husband.[45] The Ibo culture of widow inheritance is oppressive to women. The only mitigating factor under this system is the right of the widow to be maintained from the proceeds of the estate of the late husband for as long as she lives within the compound.[46]In some societies she is expected to mourn her husband through violent shaving of her head, making her drink the water used to bath the corpse of her deceased husband or sleep with the corpse alone in a locked room over-night; all in an attempt to prove her innocence.[47]Many widows, according to Ike,[48] have died just barely a few months after their husband's death simply because of loss of hope and the traumatic experiences they pass through. In *Mojekwu v Mojekwu*,[49]

[39] F O Dada (n. 4)
[40] See *Nwafia v. Nbuba* (1966) 1 All N.L.R. 8.
[41](1901)1 NLR 82.
[42](1997) 7 NWLR 283.
[43]The Nigerian Constitution 1999 (n. 6).
[44] C J Abara, 'Inequality and Discrimination in Nigeria; Tradition and Religion as Negative Factors affecting Gender.' A Paper presented at the Federation of Human Rights Museums ,2012.
[45] See *Nezianya v. Okagbue*
[46] F O Dada(n. 4).
[47]C Ike, 'Scourge of Widowhood' Women's Aid Collective WACOL 2005.
[48]*Ibid*.
[49](1997)7 NWLR 283.

and *Mojekwu v Ejikeme*,[50] these practices were declared repugnant to natural justice, equity and good conscience. It should be noted that some states have enacted laws protecting the rights of widows.[51]

Sexual Offences/ Marital Spousal Rape

The Nigerian law in the Criminal Code and Penal Code[52] make it a criminal offence to subject a woman to indecent sexual assault, rape[53] and defilement. However, this offence happens too frequently with many of the women either too afraid to seek justice or made vulnerable by the stigma and embarrassment that may follow the report of such an offence.[54] In certain instances, corroborating evidence of the victim may create a problem for the prosecution to prove the case of sexual assault.[55] The Nigerian Penal Code[56] provides that a man is not able to rape his wife if she has attained the age of puberty. The criminal code[57] specifically provides that sexual intercourse between a husband and a wife cannot amount to rape unless there is a decree absolute or possibly a decree *nisi*. This provision therefore encourages marital rape and domestic violence in families. The position in Nigeria has been criticized as discriminatory against women because many men rape and abuse their wives. This goes against the current worldwide trend in legislating against marital rape in other jurisdictions. It also contrary to a plethora of international treaties which Nigeria is party to, such as the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), the Protocol to the African Charter on Human and Peoples Rights on the Rights of Women in Africa amongst others.[58] The Violence Against Persons Prohibition Act (VAPPA) 2015 does not expressly recognize marital rape. However the Act provides for protection from all forms of violence, physical injury, spousal battery and coercion.[59]In the last decade, the topic of domestic violence in general (and marital rape in particular, albeit to a lesser extent) has begun to be addressed by both scholars and advocates in Nigeria.[60] As feminist discourses have circulated globally in the same era that gender relations themselves are changing due to increasing levels of education, growing urbanization, rising female participation in the formal labour force, and a range of other interconnected factors, it is now common to find local civil society groups such as NGOs advocating for greater awareness of intimate partner violence and more measures to protect women. This system is made worse by the application of Sharia laws within the country. Many of the Northern States that adopted Sharia have technically legitimized the abuse of women domestically with the resultant effect of the subjugation of the rights of women within these territories.[61]Under the Sharia

[50](2000) 5 NWLR (Pt 657) 413. The court in this case held that 'the *Nrachi* custom encourages promiscuity and prostitution, the latter condemned in Article 6 of the Convention on the Elimination of All forms of Discrimination against Women (CEDAW) … promiscuity and prostitution are anti-social conducts which are against public policy within the meaning of the proviso to S. 14 of the Evidence Act (Cap 112, Laws of the Federation of Nigeria…'

[51] Prohibition of Infringement of a Widower's and Widow's Fundamental Human Rights Law, No.3 was enforced in 2001 in Enugu.

[52] The Criminal Code is applicable in Southern Nigeria while the Penal Code is Applicable in Northern Nigeria.

[53]Criminal Code Act, Cap C38 LFN 2004, ss. 358 and 359. Penal Code Act Cap P3 (Federal Provisions Act), LFN 2004, ss. 282 and 283.

[54]F O Dada, (n 4).

[55] For example, in the case of *State v. Akingbade Gabriel*,[55] the accused having been charged with the offence of rape of a 20-year old girl was later discharged and acquitted despite being found to have raped victim for lack of corroboration of the victim's statement. One is appalled by this decision. The requirement of corroboration is a device to circumlocute doubt and not a legal requirement but a cautionary requirement to ensure justice and fairness.

[56].s 282 (2).

[57]Criminal Code s.6.

[58]E O Ekhator, 'Women and the Law in Nigeria: A Reappraisal' [2015](16)(2) *Journal of International Women's Studies* 288.

[59] VAPPA 2015 (n 69) ss. 2, 3,& 19.

[60] C Onyejekwe, 'Nigeria: The Dominance of Rape' [2008] (10) (1) *Journal of International Women's Studies* 48-61.

[61]Sahria law is enforced in twelve states of Nigeria namely, Zamfara, Bauchi, Borno, Gombe, Jigawa, Kaduna, Kano, Katsina, Kebbi, Niger,Sokoto and Yobe

Penal Code, there is a low rate of report of rape cases. This is due to the fact that rape is treated as *Zina*. *Zina* is an Islamic legal term referring to unlawful sexual intercourse. The punishment for *Zina* includes 100 or death by stoning.[62]The Qur'an expressly condemns *Zina* in several verses.[63]Thus reporting a rape is equated to confessing to *Zina*. Four witnesses or a confession from the rapist is required to sustain an allegation of rape.[64] If this is not obtained, the victim faces the risk of becoming liable to the offence of *Zina* and also for giving false witness (*quadhf*). In other words, the victim can become the accused.

There are two cases of conviction for *Zina* that have received a great deal of attention in the Nigerian and international press.[65] The first is that of Safiya Hussein of Tungar-Tudu.[66] She was convicted of adultery by an upper Shari'ah court seating in Gwadabawa, Sokoto State, on 9 October 2001. The second is that of Amina Lawal of Funtua. The same type of court convicted her on the same charge in Bakori, Katsina State on 22 March 2002. Both were sentenced to death by stoning, the *hadd*(punishment) for *zina*. The men with whom they committed adultery, however, went unpunished.[67] Through the activities of many human and women's rights groups[68]and Amnesty International, the sentences of both girls were overturned.[69]There is need for a reform in the Sharia Penal laws in order to provide justice for rape victims and more protection of the human rights of women and girls.

Health Challenges

Nigeria has one of the worst maternal mortality rates in the world with one woman dying every 10 minutes during delivering. Most women lack access to quality health care services, safe childbirth services and lack of adequate and affordable emergency obstetric care.[70]Female Genital Mutilation (FGM) is another issue of concern within many of the local cultures of Nigeria.[71]FGM is a broad term applied to a range of practices involving the removal of all or parts of the clitoris and other external genitalia.[72] Many young girls face several health risks including of HIV infection due to unhygienic methods used for the mutilation such as the repeated use of the same blade/knife on different girls, using unclean rags as swabs whilst cross infecting patients etc.[73]It is worthy to note that in recent times there have been commendable efforts in states like Enugu, Cross Rivers and Edo for promulgating laws prohibiting female genital mutilation, oppressive widowhood practice and child marriages.[74]. Despite these laws, these practices are still persistent.

---

[62]Meaning of Zina from Wikipedia, <https://en.m.wikipedia.org/wiki/zina> Last accessed on 5/02/2018.
[63]See Qur'an 17:32, Qur'an 24:2, Qur'an 24:4-5.
[64]Surah 24:2-4.
[65]O Adesina, 'Women, Shari'ah, and Zina in Northern Nigeria' <*www.nobleworld.biz*> Last assessed on 5/02/2018.
[66]*SafiyatuHussainTitudu v. Attorney General Sokoto State* 2008) Vol. 1 WHRC 309.
[67]*Ibid*.
[68] These activist groups were Non-Governmental Organizations (NGOs) like BAOBAB For Women's Human Rights, Civil Liberties Organization, Access to Justice, the Campaign for Democracy, Women's Rights Advancement and Protection Alternative, the National Coalition on Violence against Women, Women's Defence Project, the International Federation of Women's lawyers, the National Council of Women's Societies and Women Advocates' Research and Documentation Centre, and others.
[69] R I Puttin, 'Women and Work in Northern Nigeria: Transcending Boundaries' (2002) *New York: Institute of Social Studies Palgrave* 14.
[70]C J Abara (n. 44).
[71]F O Dada (n. 4).
[72] H I Bazza, Domestic Violence and Women's Rights in Nigeria *4 (2009) Societies Without Borders 175–192.*
[73] *Ibid*.
[74] For instance, there is the Edo State Female Genital Mutilation (FGM) prohibition law2006, Cross Rivers Girl-Child marriage and female circumcision (prohibiting)law 2000, and the Enugu state of Nigeria, prohibition of infringement of a widow's and widows fundamental rights law 2001.

Early/Forced Marriage

Early marriage is the act of giving out a female child for marriage at a very tender age.[75] While forced marriage on the other hand is simply marrying out a girl against her wish. In some parts of Northern Nigeria, the average age of marriage is 11 years. Early/forced marriage limits educational and other opportunities for girls and often leads to early child bearing and increased health risks. In Northern Nigeria, the majority of girls face the prospect of early marriage which has resulted in a large number of cases of vesico-vaginal fistula (VVF).[76]

Political Representation

Women represent about half of Nigeria's population, but occupy less than 10 percent of political positions.[77] This affects their capacity to influence the domestication of instruments that protect their rights. The main reason is patriarchy that prevails in most Nigerian communities despite the country having acceded to international human rights treaties that promote gender equality. Gender inequality permeates every level of Nigerian society, including the political sphere.[78]The Nigerian parliament is male dominated despite the fact that the country's Constitution guarantees the right of every citizen to participate in politics. Equally, the Constitution recognizes women's right to vote for and be voted in as members of parliament.[79] In addition to these constitutional provisions, Nigeria's National Gender Policy is aimed at increasing the number of women in political office, party organs, and public life by setting a goal of 35 percent affirmative action in favor of women in all elected and appointed positions by 2015. However, it is clear that women in Nigeria have yet to benefit from these provisions as few hold political office.

Female Illiteracy

Female illiteracy is a serious problem throughout the developing world. According to UNICEF,[80] girls form the majority of the 120 million children who never go to school in the developing world, and the Nigerian national literacy rate for women is only 56 percent, as compared to 72 percent for males. Among the developing countries of West Africa, Nigeria has a very large population of girls who do not attend school. The *Gender in Nigeria Report* of 2012 ranked the country 118th out of 134 countries on the Gender Equality Index. Religion is one major factor affecting girls' education. In the far north, the level of girls' education is the most appalling. This is partly because, apart from the cultural and traditional norms that encourage early marriages, and the purdah system, there is also a deep-seated religious misconception about Western education.[81]

4. Prospects for Better Protection of Women's Rights in Nigeria

There is no gainsaying that women in Nigeria have suffered discrimination from time immemorial. However, the tide is changing in the 21st century. The re-orientation of Nigerians with respect to women's rights has been improving. Notwithstanding, discriminatory practices and laws are still prevalent in the country. However, with the return to democratic rule in Nigeria in 1999, many laws have been promulgated in Nigeria to improve the

[75]H I Bazza, (n. 72).

[76] This is a condition caused by giving birth when the cervix is not well developed which occurs because the pelvic bones have had insufficient time to develop to cope with child-birth. Corrective operations require the consent of the spouse. The Victims are abandoned or divorced by their husbands and ostracized by their communities.

[77] G AMakama, Patriarchy and gender inequality in Nigeria: the way forward. (2013) *Eur. Sci. J*. 9, 115–144.

[78] B O Eniola, 'Gender Parity in Parliament: A Panacea for the Promotion and Protection of Women's Rights in Nigeria' 3 *Front. Sociology*, 34

[79]The Nigerian Constitution 1999(n.6) ss. 77 and 106 respectively.

[80]United Nations International Children's Emergency Fund (UNICEF) (2002). *The State of the World's children*. New York: UNICEF.

[81]E Obasi, Structural Adjustment and Gender Access to Education in Nigeria. (2003) 9(2), *Gender and Education* 161–65.

status of women in the country.[82] For example, as noted earlier many states[83] in Nigeria have enacted laws proscribing domestic violence against women. Recent bills that seek to protect the rights of women in Nigeria include the Sexual Offences Bill 2013, the Gender and Equal Opportunities (GOE) Bill 2016 and Labour Amendment Bill 2016. The GEO Bill provides adequately for the protection of women from every form of discrimination based on gender. The GEO is a Bill that seeks to give effect to certain provisions of the 1999 Constitution[84]and will incorporate and enforce certain aspects of the United Nations Convention on the Elimination of all forms of Discrimination against Women (CEDAW) and the Protocol to the African Charter on the rights of Women in Africa and the National Policy on Women and other matters connected therewith amongst others. The Senate has passed the Gender and Equal Opportunities Bill for second Reading.[85] The Bill is sponsored by Sen. Biodun Olujimi (PDP:Ekiti). The Bill had failed the second reading stage on 15th March 2016 after some Senators observed that some of the Bill's provisions were contrary to some of Nigeria's traditional and religious practices.[86] Consequently, Sen. Olujimi re-introduced a new Bill that reflected some of these concerns on 15th June, 2016.

On Wednesday 30th November 2016 the Labour Act (Amendment) Bill, 2016[87] was read for the second time in Senate. The bill seeks to delete sections in the Labour Act 2004 that restrict employment opportunities for women. Leading the debate on the objectives of the bill, Sen. OluremiTinubu (APC:Lagos) stated that effective eradication of unemployment was impossible without the review of legislations like the Labour Act 2004 which contains clauses militating against the ability of women to find and engage in honest work. She mentioned that Nigeria and other countries recognize and embrace equal opportunity for men and women and that the 1999 Constitution (as amended) enshrines freedom from discrimination on the basis of gender. The sections of the Labour Act 2004 proposed to be deleted are sections 55-58.[88]Recently, the Nigerian Supreme Court has been at the forefront of holding that discriminatory practices and laws against women are illegal and unconstitutional. In *Onyibor Anekwe & Anor v Mrs Maria Nweke*[89], the issue in the case was a 'purported disinheritance of a widow for not having a male child'. The supreme court per Justice Ngwuta declared such custom repugnant to natural justice, equity and good conscience. A similar decision was reached by the Supreme Court in *Mrs Lois*

[82]E O Ekhator, (n. 4).

[83]The Edo State Female Circumcision and Genital Mutilation Prohibition Law (1999); Cross River State Girl Child Marriages and Female Circumcision (Prohibition Law) (2000); Rivers State Abolition of Female Circumcision Law (2001); Ogun State Female Circumcision and Genital Mutilation (Prohibition) Law (2000); and Ekiti State Gender-Based Violence (Prohibition) Law (2001).

[84]The Nigerian Constitution 1999 Chapters II and IV.

[85] Gender and Equal Opportunities Bill Scales Second Reading in Senate obtained from <*https://placng.org/wp/2016/09/gender-and-equal-opportunities-bill-scales-second-reading-in-senate/*>Last accessed on 24/09/2019.

[86]Gender Equality Bill Fails in the Senate obtained from <*https://www.loc.gov/law/foreign-news/article/nigeria-gender-equality-bill-fails-in-the-senate/*>Last accessed on 24/09/2019.

[87]Labour Amendment Bill, 2016 Scales Second Reading in Senate obtained from <*https://placng.org/wp/2016/11/labour-amendment-bill-2016-scales-second-reading-in-senate/*>Last accessed on 24/09/2019.

[88]Section 55 which prohibits women from engaging in night work;Section 56 which stipulates that ''no woman shall be employed on underground work in any mine'' Section 57 that empowers the minister of labour to ''make regulations prohibiting or restricting , subject to conditions as may be specified in the regulations, the employment of women in any particular type or types of industrial or other undertakings or in any process or work carried on by such undertakings; and Subsection (2) of section 58 which provides that any person who employs a woman in contravention of section 55 (1) or section 56 (1) shall be guilty of an offence and on conviction shall be liable to a fine not exceeding N100 or to imprisonment for a term not exceeding one month or both.

[89](2014) All FWLR (Pt 739) 1154.

ChituruUkeje&Anor v Mrs Gladys Ada Ukeje.[90]Furthermore, there are many women's rights groups in Nigeria at the moment doing a great job and helping women fight for their rights. Most of these organizations focus on the many cultural and religious practices in the country which tend to violate the rights of women and girl children.[91] Some of them include: Women's Consortium of Nigeria (WOCON), International Federation of Women Lawyers (FIDA) Nigeria, Women's Rights Advancement and Protection Alternative (WRAPA), and Project Alert on Violence against Women (PROALERT).

5. Conclusion and Recommendations

From the foregone, it has been observed that protecting the rights of women in Nigeria has transited different phases. Efforts have been made to protect these rights overtime. This is commendable; however there is a lot to be desired in better and maximum protection of women's rights especially in the light of the 21st century challenges. The onus is on the law and society to engender optimal realization of the rights of women in Nigeria. In the light of development and advancement in 21st century society, it is time to do away with inherited unproductive and visionless tradition of discrimination and subjugation of women.[92] There is need to set up schemes and projects to grow a gender conscious population without any form of discrimination. The following are recommendations for better realization of the rights of women in Nigeria.

Extensive Legal Reforms

The law is an instrument of change. There is need for intensive advocacy to ensure that discriminatory legal provisions should be expunged and relevant legislation, protecting the rights of women in Nigeria are adopted by all states of the federation. For instance, under Section 55 of the Penal Code,[93] husbands are permitted to chastise their wives. The Gender and Equal Opportunities Bill 2016 should be domesticated. All the states in the Federation should also pass the VAPPA 2015 and Child Rights Act 2003 into law. As stated earlier, only 24 states out of 36 states have enacted the CRA as part of their laws. In addition, other relevant international and regional treaties which have been ratified by the country should be domesticated. Presently, only the African Charter on Human and Peoples Rights has been domesticated into Nigerian law.[94]Furthermore, there should be effective monitoring and comprehensive implementation of the provisions of the laws protecting women's rights in Nigeria. Adequate punishment of offenders is also imperative to serve as deterrent to others. As stated earlier, there are many laws, both at the National and State level protecting the women's rights in Nigeria. Except these laws are comprehensively enforced, women will continue to bear the brunt of state sanctioned discriminatory practices in the country.

Re-orientation and Enlightenment to eradicate Cultural Discrimination against Women

There is an urgent need for cultural re-orientation and enlightenment on the status of women. Legislation alone will not be sufficient to eradicate longstanding practices which are deeply rooted in customs. The government and private agencies should undertake social awareness campaigns that can foster change in the minds of individual men and women, groups, and community members in general. Men should not be taught to realize that the custom denying the rights of women is no longer sustainable nor are they of practical significance in the 21st century. Women should not be viewed as objects or property, but as human beings who have feelings and rights. They should be seen as members of the society who can contribute to the national development. The provisions

[90] (2014) LPELR – 22724 (SC) .

[91]N Ikeke, Agencies Responsible for Protecting Human Rights in Nigeria. Obtained from <file:///C:/Users/UJICT2008130/Documents/WOMENS%20RIGHTS/Agencies%20responsible.Legit.ng.html >Last accessed on 16/10/2019.

[92] C J Abara (n.44).

[93]Penal Code s. 282.

[94]African Charter on Human and Peoples' Rights (Enforcement and Ratification) Act 1983 Cap A9, LFN 2004 (African Charter Act).

of Article 5 of the CEDAW are instructive. It is thus recommended that government and non-governmental organizations collaborate and implement far reaching programmes on women's rights that will bring about the desired changes through public awareness, enlightenment and education.[95]

Amendment of Educational Curriculum

There is an urgent need to integrate a gender equity perspective in the design, content and teaching approaches of the many subjects that are taught in schools in Nigeria. Universities and other institutions of learning should include in their curriculum subjects and courses that have the potential to change the negative stereotypes and perception of the female gender and educate the society on the existence and importance of the rights of women. Gender studies in tandem with our national gender policy goal to build a just society devoid of discrimination, harness the full potentials of all social groups regardless of sex or circumstance, promote the enjoyment of fundamental human rights and protect the health, social, economic and political wellbeing of all citizens in order to achieve equitable rapid economic growth should be introduced.[96]

Eradication of Poverty

The Nigerian government should develop more effective strategies to reduce poverty in the country. Recently, Nigeria which is one of the richest African countries has overtaken India as home to the world's greatest concentration of extreme poverty, amid warnings that the continent will host nine out of 10 of the world's poorest people within 12 years.[97]Poverty and economic down turn have forced many families to allow their female children hawk things for sale even at unholy hours and places to augment the family income thereby exposing their children to unavoidable danger of being raped by rapists.[98]Women bear the brunt of poverty in Nigeria because they are the least educated and economically active. It has been contented that promoting gender equality is now globally accepted as a development strategy for reducing poverty level among women and men, improving health and living standards and enhancing efficiency in public investment.

Equal Access to Education for Male and Female Children

Issues of gender equality in education have been the subject of much debate during the past decades and have become a prominent topic of debate in all countries. In Nigeria, there are large disparities between the education that boys and girls receive.[99]Female illiteracy is a serious problem throughout the developing world. According to UNICEF (2002),[100] girls form the majority of the 120 million children who never go to school in the developing world, and the Nigerian national literacy rate for women is only 56 percent, as compared to 72 percent for males. Among the developing countries of West Africa, Nigeria has a very large population of girls who do not attend school. Many girls do not have access to adequate education past a certain age. Various cultural and social values have historically contributed to gender disparity in education. Equal access to education of both male and female children should be encouraged. CEDAW[101] guarantees women the right of equal access to education as men.

---

[95] B O Eniola, (n.78).

[96] N O Odiaka, 'The Concept of Gender Justice And Women's Rights In Nigeria: Addressing The Missing Link' [2013] (2)(1)*Afe Babalola University: Journal of Sustainable Development Law and Policy*, 190-205.

[97] P Beaumont & I Linus, 'Oil-rich Nigeria outstrips India as Country with most people in Poverty' Guardian (London, 16 July 2018) <*https://www.theguardian.com/global-development/2018/jul/16/oil-rich-nigeria-outstrips-india-most-people-in-poverty?platform=hootsuite*> accessed 16 July 2018.

[98]'Incessant Cases of Rape in Nigeria; Need for Proactive Measure'< http://wwwgrassrootsvanguardcom/2011/11>Last accessed on July 4, 2013.

[99] D I Denga, Education at a glance: From Cradle to Tomb (Calabar: Rapid Educational Publishers Ltd, 1993)

[100] F Umeana,(n. 36).

[101] Art. 10.

Adequate Participation of Women in Politics

The lack of adequate women participation in Nigerian politics should be redressed by the government. The participation of women in politics in Nigeria is minimal; this is notwithstanding that women in Nigeria make up about 49 percent of the population.[102] There is a noticeable absence of women from leadership positions in the country.[103] For example, Nigeria has the lowest number of female legislators in Africa.[104] Only 7 out of the 109 Senate seats and 14 out of the 360 House of Representative seats are occupied by women. Furthermore, only 16 percent of the cabinet of current President of Nigeria is women (which is against the tenor of the National Gender Policy which recommends a minimum of 35 percent representation for women).[105] It goes without saying that if there are more women legislators in Nigeria, there will be more women-friendly laws in the country. Support for this assertion is gleaned from Odejide.[106]Odejide relies on some scholars to argue that women's presence and participation in politics has had positive impacts on women issues in Uganda, Burundi, South Africa, Tanzania and Rwanda amongst others. Arguably, Nigeria is no exception. The recent women-friendly bills in Nigeria in the National Assembly were sponsored and introduced in parliament by women legislators. Thus, an increase in the number of women in the National Assembly will impact positively on the number of women-friendly laws that will be drafted or passed by the legislative bodies in the country.[107]

Appointment of Female Judges

More women should be appointed to the Supreme Court of Nigeria. Currently, the Supreme Court has only three women Justices out of 16.[108] In June 2005, Justice Mariam Aloma Muktar became the first female Justice of the Supreme Court in Nigeria and first female to be appointed as the Chief Justice of Nigeria in July 2012. Also, a female Justice (Justice Ogunbiyi) sat on the two panels of recent cases on women rights in Nigeria (*Ukeje v Ukeje*[109]and *Anekwe v Nweke)*[110]Arguably, the appointment of more female justices to the Supreme Court will serve as a tool for the promotion and protection of gender equality by the judiciary in the country.

[102] N Ogbonna 'Women in Nigeria make 49 percent of the Population, but only four percent of lawmakers' (London School of Economics Blog, 8 March 2016) < http://blogs.lse.ac.uk/africaatlse/2016/03/08/women-in-nigeria-make-up-49-per-cent-of-the-population-but-only-four-per-cent-of-lawmakers/ > accessed 11 July 2018.

[103]AOdejide, 'What should Women want?' 30th Anniversary Keynote Address' (2017) 3 <https://ias-ibadan.org/images/news/2017/october/2017-10-17 WORDOC_30th_Anniversary_Keynote_Address_Prof_Abiola_Odejide.pdf > accessed 11 July 2018

[104] B Bailey, 'Nigeria ranks worst in Women Participation in politics in Africa' Business day (Nigeria, 18 March 2018) < https://www.businessdayonline.com/news/article/nigeria-ranks-worst-women-participation-politics-africa/ > accessed 11 July 2018

[105]N Ogbonna (n.102).

[106]AOdejide (n. 103).

[107] See also I.K.E. Oraegbunam, 'Women Empowerment and Participation in Politics' An Important Index of Nigerian Democracy' In *KOINONIA*, Vol. 1, No. 3, June 2002, pp. 37 – 54.

[108] The current female Supreme Court Justices are: AminaAdamuAugie, Kudirat Kekere-Edun and Mary Peter-Odili. Supreme Court website < http://supremecourt.gov.ng/Profile/justices > accessed 11 July 2018.

[109] (2014) LPELR – 22724 (SC)

[110] (2014) All FWLR (Pt 739) 1154 .