GENDER EQUALITY AND THE FUNDAMENTAL RIGHT TO HUMAN DIGNITY IN NIGERIA: AN APPRAISAL

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Abstract

Human dignity, which relates to the inherent worth and value of every individual, can only be achieved where gender equality in the conduct of human affairs is realized. Factually and legally, where there is no gender equality, human dignity as a fundamental right is not guaranteed. The availability of equal rights and opportunities for both men and women, regardless of their gender, essentially ensures that no one is disadvantaged; everyone is treated with respect, and no one is subjected to inhuman treatment. Due to the importance of gender equality in the growth and development of a nation, this article seeks to appraise the legal provisions relating thereto and the possibility of discovering solutions to gender inequality and, invariably, human dignity. The paper discovered that there has always been a wide gap in the treatment of men and women in all social, cultural, political, economic, and even religious settings in Nigeria as a result of societal norms and practices that perpetuate gender discrimination. It concluded that promoting gender equality is essential for achieving sustainable development and social progress. The work adopted a doctrinal research methodology wherein textbooks, case laws, internet sources et cetera were used. It recommended the promotion of equality between men, women, boys and girls, as gender equality encompasses the needs and rights of all genders.

Key Words: Equality, Gender, Human Dignity

1. Introduction

Gender equality is the state in which access to rights or opportunities is unaffected by gender.[1] It is not only women who are affected by gender inequality. All genders are impacted, including men, trans and gender-diverse people. This in turn, impacts children and families, and people of all ages and backgrounds.[2] Constant exposure to gender inequality can lead women to internalize negative stereotypes, affecting their self-esteem. When women are denied control over their lives due to societal constraints, their ability to make personal choices will significantly demolish, hence their self-worth will be affected.

Equality in gender does not mean that women and men will have or need the same resources but that women's, men's, trans people's and gender-diverse people's rights, responsibilities and opportunities will not depend on their assigned gender at birth.[3]

Gender is a social and cultural construct which distinguishes differences in the attributes of men and women, girls and boys and accordingly refers to the roles and responsibilities of men and women.[4] Any distinction, exclusion or restriction made on the basis of sex which the effect or purpose of impairing or mollifying the recognition, enjoyment or exercise by women, men, boys or girls in respective of their marital or other status in the basis of equality of men and

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1 United Way, What is Gender Equality? *Unitedwaynce.org*. Accessed 8/2/2025.

2 *Ibid*.

3 *Ibid*.

4 Unicef, "Gender Equality, Glossary of Terms and Concepts" *genderglossary*. Accessed 8/2/2025.

women of human rights and fundamental, civil or any other act amount to discrimination,[5] and absence of equality. Equality and human dignity are integral to human rights and fundamental elements of human development.[6]

Gender equality is intrinsically linked to human dignity as achieving true equality between gender means ensuring that everyone, regardless of sex, has the same fundamental rights, opportunities and respect, which is the core principle of human dignity.[7] Essentially denying someone equal treatment based on their gender is a violation of their inherent human dignity,[8] and gender equality.

2. The Concept of Gender Equality

The United Nations defines gender equality as the elimination of discrimination against women and girls, empowerment of women and achievement of equality between women and men as partners and beneficiaries of development, human rights, humanitarian action, peace and security.[9]

The Convention on the Elimination of all form of Discrimination against Women on its own provides the basis for realizing equality between women and men through ensuring women's equal access and opportunities for women. Hence equality for women is a basic principle of the United Nations.[10] For the Convention,[11] any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or mortifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women of human rights and fundamental freedom in the political, economic, social, cultural and or any other field runs contrary to the principle of gender equality.[12]

Article 1 of the United Nations Convention proclaims that one of the purposes of the United Nations is to achieve international cooperation in promoting and encouraging respect for human rights and for fundamental freedoms for all without distraction as to sex.[13]

Gender equality depicts equality between men and women, as well as the concept that all human beings, both men and women are free to develop their personal abilities and make choices without the limitations set by stereotypes, rigid gender roles and prejudices prevalent in the society.[14]

In giving consideration to gender equality, the different behaviors, aspirations and needs of women and men are considered, valued and favoured equality.[15] The concept does not mean that women and men have become the same; rather their rights, responsibilities and opportunities will depend on their sex. Hence gender equality means equal and fair treatment of women and men according to their respective needs. It could also mean equal treatment of

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5 *Ibid*.
6 *Ibid*.
7 *Ibi*d.
8 *Ibid*.
9 UN. UN Women: The United Nations Entity for Gender Equality and Human Dignity. *www.un.org*. Accessed 9/2/2025.
10 *Ibi*d.
11 *Hereinafte*r called CEDAW.
12 IWDA, CEDAW at a Glauce. *CEDAW-at-a-ci….* Accessed 9/2/2025.
13 *Article 1* United Nations Convention.
14 Nnadi, I., Gender or Equality: The Core Factor in Ending Violence against Women. (Ed OVC Okere) Excellence in Governance and Creativity, Legal Essays, In Honour of His Excellency Chief (Barr.) Nyeon Ezenwo Wike, Ikeja, Princton 2018, 182.
15 *Ibid*.

women and men in law and policies and equal access to resources and services within families and society at large.[16]

Gender equality is the fifth goal out of the seventeen sustainable Development Goals of the United Nations following its 2000 predecessor, the Millennium Development Goals and it is measured annually by the United Nations Development Programme Goals which states that to achieve gender equality and empower all women and girls is the most important goal in the effort to combat violence against women and girls. This however include eliminating all forms of violence against women and girls in the public and private spheres, including trafficking and sexual exploration among others, elimination of harmful practices, such as early and forced manages and female genital mutilation.

Under the United Kingdom jurisdiction, gender equality has taken a place in the heart of all, to the extent that the government placed gender equality, including through combating violence against women and girls at the heart of its international development work.

3. Gender Mainstreaming

One important issue in gender equality is gender mainstreaming which is described as the public policy of assessing the different implication for women and men on any planned policy action, including legislation and programmes, in all areas and levels, with the aim of achieving gender equality.[17]

Gender mainstreaming considers the needs and experiences of both women and men. It ensures equal access to opportunities, resources and rewards, transforms discriminatory social institutions, laws and cultural norms and prevents the perpetuation of inequality.[18] The concept of gender mainstreaming was first proposed at the 1985 Third World Conference on Women in Nairaobi, Kenya. The idea has been developed in the United Nations development community.[19]

The council of Europe views gender mainstreaming as the recognition, reorganization, improvement, development and evaluation of policy processes so that a gender equality perspective is incorporated in all policies at all levels and at all stages, by the actors normally involved in policy making,[20] including policies that will eradicate human right abuses on women and improve the gender right to human dignity.

4. Gender Equality *vis-a-vis* Human Dignity

Gender inequality is a violation of human dignity and an obstacle to development. Gender equality is a fundamental principle of human rights that aims to ensure that all people have equal rights, opportunities and responsibilities, regardless of gender.[21]

The Constitution of Nigeria in its human rights tabloid provides for the guarantee of human dignity, it states that every person has the right to respect for their dignity.[22] It further provides for the prohibition of torture, slavery and forced labour.[23] In other words no person can be subjected to torture or extreme pain, no person can be held in slavery or servitude, no person

16 *Ibid*.
17 United Nations, Gender Mainstreaming, *https://www.un.org*. Accessed 14/2/2025.
18 *Ibid*.
19 *Ibid*.
20 *Ibid*.
21 United Nations. *gender equality.un.org.com*. Accessed 14/2/2025.
22 *Ibid*.
23 *Ibid*.

can be forced to work against their will with some exceptions and no person can be treated in a way that causes suffering, fear or interiority.

In *Okafor vs. Lagos State Government*[24] the Court of Appeal declared that the arrest detention and transportation of a girl in the back of a vehicle which is of a mental case with very little ventilation and light "Black Maria" by officials of the Lagos government for purported environmental offence violated, her fundamental right to the dignity of her person.

Similarly in *Yakubu vs. Financial Reporting Council of Nigeria & Anor*[25] the National Industrial Court held that the termination of the Claimant's employment, simply because she refused to succumb to sexual harassment from her director constituted a violation of human dignity.

The right to human dignity encompasses treating the female gender with equal dignity and respect. All forms of unjust discrimination against women be it in the social world, economic and access to public service and sustainable infrastructure must be checked. The Universal Declaration of Human Rights[26] states that all humans are born free and equal in dignity and rights.[27] The UDHR was created to establish a foundation for freedom, justice and peace by recognizing the interest dignity of all persons.

5. How Gender Inequality Affects Human Dignity

5.1 Denial of Opportunities

When women are denied equal access to education justice or livelihood, societies lose out on half of their potentials. This denial of opportunities can lead to violence against women and can perpetrate their vulnerability and dependence.

Denial of women's opportunities encompasses the various ways in which women are systematically denied access to equal opportunities in various spheres of life including education, employment, political participation, health cares and economic empowerment often due to ingrained gender stereotypes, discriminatory laws, and social norms. All these affect their right to human dignity. The World Bank noted that the denial of opportunities for women can have a negative impact on women and the society as a whole.[28] It further stated that economic opportunities for women can empower and have a positive impact in others.[29]

5.2 Economic Disparities

Unequal pay for equal work, limited access to financial resources and a higher burden of unpaid domestic labour can significantly restrict women's ability to make independent decisions and contribute to the society. This is also an affront to their right to human dignity.

5.3 Education Disadvantages

Unequal access to quality education particularly in certain regions, can limit women's potentials career advancement and personal growth. In some areas women are not being encouraged to go to school because they are considered to be another person's property, hence it affects their human dignity.

5.4 Social and Cultural Norms

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24 [2017] 4 NWLR (Pt. 1556) 404 at 438.
25 (NICN/LA/673/2013).
26 *Hereinafter* called UDHR.
27 *Article 1* of UDHR.
28 World Bank. "Impact of Denial of Opportunities" *www.worldbank.org*. Accessed 14/2/2025.
29 *Ibid*.

Patriarchal systems that perpetuate traditional gender roles can restrict women freedom of movement, decision making power and personal expression. Hence women are in most traditional societies not given opportunities to speak out, even in the face of oppression and victimization.

5.5 Political Under Representation

Lack of women in leadership positions at all levels of government can hinder their ability to advocate for policies that can address the concern of women in the society, thereby leaving them in timidity.

5.6 Gender Based Violence

Gender base violence manifests in various forms. It may come in form of physical attack, sexual and emotional violence against women including domestic abuse and sexual assault which constitutes a major violation of their dignity and human rights.

6. Comparative Analysis of Gender Equality and Human Dignity in Nigeria, United Kingdom and South Africa.

Under the Nigerian jurisdiction, certain legal frameworks like the Violence Against Persons (Prohibition) Act,[30] the National Agency for Prohibition of Trafficking in persons and other related Matters Act[31] and the Child Rights Act,[32] among others address domestic violence, rape, human trafficking particularly, women and children and protects against exploitation and discrimination.

These laws aim to promote gender equality, prevent violence against women and girls and protect the rights of the marginalized group. However, the implementation and operational effectiveness are influenced by several factors in Nigeria. Among the factors are, lack of awareness. Many people especially in the rural areas are uninformed of these laws and their provisions. Again, inadequate funding, limited institutional capacity cultural and social barriers also are among the factors affecting the efficacy of the law, hence gender equality concept suffers set back.

Under the United Kingdom jurisdiction, robust legal framework that provides gender equality and human dignity are put in place. The legal framework includes the Human Right Act[33] which incorporated the European Convention on Human Rights into UK law and protects rights such as equality and non-discrimination.

The Equality Act[34] which prohibits sex discrimination in employment, education and other areas, the Equal Pay Act[35] which ensures that equal pay for work regardless of gender and a host of others. These laws and regulations put in place ensure and demonstrate the commitment of the United Kingdom to promoting gender equality and human dignity. To crown their efforts in ensuring that gender equality and human dignity is maintained, the United Kingdom is a signatory to CEDAW, and the European Convention on Human Rights. So also, is Nigeria a signatory to CEDAW.

Despite these efforts in putting legal framework in place to ensure the efficacy of the laws on gender equality and human dignity in United Kingdom, Institutional and systematic barrier

30 Violence against Persons (Prohibition) Act 2015.
31 National Agency for Prohibition of Trafficking in Person and other Related matters Act 2003.
32 Child Rights Act 2003.
33 See the UK Human Right Act 1998.
34 See the UK Equality Act 1975.
35 See the UK Equality Act 1970.

challenges which include lack of representation, biased policies and practices financial barriers, cultural and linguistic barriers, social and cultural attitudes, victim blaming *et cetera* still causes set back to the efficacy of the laws.

Under the South Africa jurisdiction, the legal framework in place promotes gender equality and human dignity. This can be seen in *sections 9* and *10* of the South Africa Constitution 1996 which were made cardinal provisions as it relates to human dignity, unfair, discriminatory and protection and recognition of human dignity as fundamental human right.

In South Africa the promotion of Equality and Prevention of Unfair Discrimination Act[36], the Employment Equity Act[37], the Domestic Violence Act[38], the Sexual Offences Act[39] among other are all put in place to ensure gender equality and human dignity preservation. South Africa is also a signatory to CEDAW and other international conventions that ensures that gender equality and human dignity is preserved.

Despite these efforts, social cultural challenges, implementation and enforcement challenges and institutional and enforcement challenges and institutional challenges still constitutes a draw back to the efficacy of the law. While the United Kingdom, South Africa and Nigeria are signatories to CEDAW and have ratified the convention, the United Kingdom and South Africa have a legal framework on equal pay whereas Nigeria does not have a comprehensive equal pay act. Nevertheless, some laws and regulations prohibit discrimination based on sex. To bridge the gap in equal pay Nigeria is encouraged to incorporate international labor standards such as the international labor organisation[40] anti-discrimination convention into its labor law.

While implementation and enforcement of gender equality and human dignity are handled by strong institutions in United Kingdom and South Africa in Nigeria the institutions handling same are weak. While in the United Kingdom and South Africa gender equality and human dignity are deeply rooted as a result of significant progress in addressing the challenges resulting from cultural norms. In Nigeria deep seated patriarchal attitudes and cultural norms often perpetuate gender inequality and discrimination.

In all while these three countries have made progress in promoting gender equality and human dignity, the United Kingdom has more comprehensive and stronger institution. South Africa has a robust constitutional framework but implementation challenges persist. Nigeria faces significant challenges in addressing deep seated patriarchal attitude and limited institutional capacity.

7. Conclusion/ Recommendations

Gender equality and human dignity are concepts related to the consequences of gender inequality. It is suggested that on a global scale, achieving gender equality also requires elimination of all forms gender related inhuman acts that amount to human dehumanization.

Obviously, gender inequality remains the major problem in human development; hence women are encouraged to emancipate themselves from human inhumanity and degradation.

36 2000
37 1998
38 1998
39 2007
40 *Hereinafter* called ILO.

To promote, protect and fulfill human rights of women and girls including the right to dignity certain issues must be addressed. It is therefore recommended that:

1. Policies and programmes to eradicate extreme poverty and hunger; promote education for women and girls as a means of empowering and protecting them must be developed.

2. Develop programmes to educate men and boys against violence against women.

3. Ensure equal opportunities exist for both genders economically politically, socially and cultrurally.