

WOMEN IN THE SOCIO-POLITICAL ENVIRONMENT: A LEGAL REVIEW

Barr. (Mrs.) Ezebasili Nkechi Gloria

Abstract

The role of women in the socio-economic and political life of the society cannot be over-emphasized. Women are seen as the bedrock to the existence and survival of the society, yet they are marginalized in all spheres of the socio-political life. This paper aims to look at the effect of the laws enacted, especially the constitution of the Federal Republic of Nigeria, on the output of women in their socio-political responsibility. To a large extent, this paper discovers that the "marginalization" so to speak is not legally based since the tenor of the law does not in any way discriminate against the women. If anything, the law has emancipated the women and given them a fair playing ground to be actively involved. In other words, this bias or marginalization stems not from laws enacted but from the culture of the people and also the attitude of the people generally, the women inclusive.

Introduction

The concept of environment is the conditions, circumstances, etc. affecting a person's life, for example, a political environment, a competitive environment, home environment, etc.; it could also be the natural conditions, for example, land, air and water in which people, animals and plants live (Hornby, 1995). It is also the totality of physical, economic, cultural, aesthetic and social circumstances and factors which surround and affect the desirability and value of property and which also affect the quality of peoples' lives. The surrounding conditions, influences or forces which influence or modify (Black, 1990).

Women play very important role in our environment. This is as a result of the fact that they are child bearers and rearers, producers or processors of food. They are the live wire in the family and around them the socio-political and economic life of the family gyrate. In spite of the close link with the environment, women's roles are subject to various legal and institutional frameworks which discriminate against their optimal utilization of their potentials for the enhancement of their environment. Women's efforts in the management of the environment have been largely unrecognized and neglected by successive administrations and governments of Nigeria in their planning, design and implementation of developmental programmes. It has been suggested and rightly too, that a more positive approach be adopted whereby the role of women is viewed as part of the solution to overcoming the monumental problems visible in our environment today.

Customary Law And Women

Customary law consists of customs accepted by members of the community as binding on them (Obilade, 1997). It could be ethnic which is indigenous and Moslem law which is religious and applicable to Moslem faithful only. Ethnic customary law is largely unwritten and peculiar to each ethnic group. The beauty of ethnic customary law is its flexibility. In other words, it reflects the changing social and economic conditions *Alfa V Arepo* (1963). This, however is not applicable to Moslem customary law which is largely written and whose sources are the Holy Koran and the Suna.

The flexibility of ethnic customary law is aptly described by Osborne CJ in *Lewis v Bankole* (1908). He states thus: "one of the most striking features of West African native custom...is its flexibility; it appears to have been always subject to motives of expediency and it shows unquestionable adaptability to altered circumstances without entirely losing its character". The argument for cultural relativity overlooks the fact that culture is not static or historical. It ignores the reality that culture is dynamic and subject to forces of changes, such as, in Africa, the introduction of the modern nation state, cash economies, modern technology and industrialization, changing patterns of population consequent upon rural - urban migration, the influence of education and the media and the changing character of households and the family (Paul, 1993). The beauty of the flexibility of ethnic customary law is to the advantage of women who have been mowed down by customary regulations. In the primordial times, the woman was seen merely as an asset either to her parents or to her husband. At marriage, her legal existence ceases and she becomes consolidated into her husband.

However, today there are radical changes in enforcing ethnic customary laws because they have been subjected to tests of validity prescribed by statute, therefore, no court of competent jurisdiction

will enforce these laws unless they pass the tests of:

- (i) not being repugnant to natural justice, equity and good conscience *Edet v Essien (1932)*, *Mojekwu v Ejikeme (2000)*, *Alajemba Uke and Anor v Albert Iro (2001)*
- (ii) not incompatible either directly or by implication with any law for the time being in force
- (iii) not contrary to public policy.

The High Court Law of Lagos State (1973) provides "that the High Court shall observe and enforce the observance of every customary law which is applicable and is not repugnant to natural justice, equity and good conscience nor incompatible either directly or by implication with any law for the time being in force".

In addition, the Evidence Act (1990) provides "provided that in the case of any custom relied upon in any judicial proceeding it shall not be enforced as law if it is contrary to public policy and is not in accordance with natural justice, equity and good conscience. In the same vein, on the directive on Nigerian culture, the constitution provides "the state shall protect, preserve and promote the Nigerian cultures which enhance human dignity and are consistent with the fundamental objectives as provided in the 1999 Constitution. In other words, this provision goes to buttress the repugnancy test, preserving the cultures that enhance human welfare (women) and discarding those that are archaic, discriminatory, repugnant to natural justice, equity and good conscience and in effect those cultures that deprive women of their fundamental rights and relegate them to the background.

There is no gainsaying that custom and culture have been a great setback on developmental process in Nigeria, and no doubt, women have been mostly affected, but thanks to the statutory enactment and the repugnancy test which invalidates any custom contrary to natural justice, equity and good conscience. It is important to note however that the court cannot invalidate any custom/culture except one that is before it. In effect, any woman who feels that her rights are impinged on, should rely on these provisions and feel confident to seek remedy before a court of competent jurisdiction. It is also important to note that the flexibility of ethnic customary laws is quite evident today as most of the customary laws have adapted to the changing socio-economic times. Therefore the rhetoric of traditional values should no longer be used to prevent women from enjoying their basic human rights (Okagbue, 1976). A lot more need be done in the area of education, enlightenment, creating awareness, and bringing this to the door steps of the women at the grassroots. This can be effectively implemented through the Non-Governmental Organization (NGOS). Though a lot of NGOs have been formed with the intent and aim of creating this awareness, they need to be encouraged and properly financed in order to execute this enormous task.

The Constitution And Women

A. The Political Environment

The 1999 Constitution of Nigeria just like those before it, i.e. 1979 and 1989 have preserved and guaranteed the rights of women by prohibiting discrimination on the grounds of sex amongst other. The constitution granted equality between men and women with regard to their rights, obligations, benefits and opportunities and promotes non-discrimination in the same context. This is in line with the basic tenets of the UN charter which list among the purposes of the United Nations the promotion and encouragement of respect for human rights and fundamental freedom for all without distinctions as to race, sex language or religion (UN Charter).

There is the assurance that national integration shall be actively encouraged, whilst discrimination on the grounds of place of origin, sex, religion, status, ethnic or linguistic association or ties shall be prohibited (1999 Constitution). These rights granted by the constitution, though audible and laudable, its implementation and enforcement are difficult or near impracticable due to allitudinal bias created mostly by culture which has over the years relegated women to the background. What is more? The Nigerian woman is politically handicapped and disadvantaged because the lot towards the acquisition of political power tilts heavily against her. This, amongst other things, is hinged on the near incurable corruptible practices existing and evident in the Nigerian political environment. This behavior tends to discourage a lot of women from foray into the political arena.

This political handicap has international bias in that despite more than half a century of women's suffrage, the number of woman in top governmental decision making positions i.e. (ministerial level) is abysmally low. However globally the number of women heading their country governments have increased from 10 in 1994 to about 25 by 2005. This, though a positive step in the

right direction, and an outcome of the agitations, sensitization and awareness being created, the women should not rest on their oars as the enlightenment campaign should be fortified towards achieving greater goals.

It must also be noted that the greatest handicap to women's emancipation in Nigeria is culture based. The Nigerian woman has been domesticated from birth, and her first encounter with the family is to play a second fiddle. This could also have a religious undertone where the Bible tells us that God, after creating man saw that he needed a helper and made woman from his rib as a helpmate. This injunction is not disputed but it should not be over stretched to undermine the quality, abilities and capabilities of the women to contribute their quota to the development of mankind.

The paper is optimistic that with the proper education and orientation of both men and women and the realization by all of the inherent qualities of the woman and much more, the interdependent need, the cultural attitudes and bias will be relaxed and the woman given an opportunity to excel in her God given talents.

This imbalance in the acquisition of political power is not as a result of constitutional bias or through any statutory enactment but a cultural norm and perception. The government however in this democratic dispensation has tried to rectify and remedy the situation by alluding to the 30% affirmative action through the National Action Committee on Women in Politics (NACWIP) (CEDAW, 2004). However, this action is just a government programme and not law, therefore there are no sanctions where the 30% is not met. It served a great purpose of creating awareness and encouragement to the womenfolk, and has led to a noticeable increase in the number of women participating in politics. However, the number of women who attain position of decision making is abysmally low and still quite insignificant.

Available records show that women are still far from being able to participate on equal terms with their male counterparts. Though there is a token representation in political sphere indicating a gradual improvement from what obtained about two decades ago, for example, in 1983 out of 95 senators there was only one woman representative. In 1999, three women out of 109 senators (SAA, 2001), and currently in the 2003 dispensation there are only three women out of 109 senators. This representation is incredibly low and shows the low participation of women in politics and at decision-making levels of government. A lot of factors are attributable to this low participation and emergence of women in the political and public service in Nigeria. These amongst others are:

- (a) Entrenched harmful cultural and religious attitudes/practices
 - (b) Violent nature of Nigerian politics
 - (c) Male preference in politics
 - (d) Practice of purdah
 - (e) Misapplication of the sharia criminal law and justice administration system
 - (f) Illiteracy
 - (g) Early marriage
 - (h) Widowhood practices
 - (i) Misconceptions about women in politics and public life
 - (j) Male dominance
- Disadvantaged economic situation (CEDAW 2002)

Tables 1 and 2 are an analysis of women participation in elections and appointments into public service as at the current democratic dispensation.

Table 1: **Analysis Of Gender Distribution Of 1999 Elective Positions.**

Position	No of available seats	No of women contestants and % of total	No of WCHSB winners and % of total
Presidency	2	-0%	0 - 0%
Senate	109	5-4.58%	3 - 2.75%
House of Representative	360	29 - 8.05%	12-3.33%
Governorship	72	2-2.78%	-
State House of Assembly	990	39-3.9%	12-1.21%
Local Government Chairmanship	774	46-5.94%	9-1.16%
Councillorship	8810	510-5.79%	143-1.62%
Total	11,107	631-5.68%	181-1.63%

Source: *INEC Elections 1999*

Table 2: Some Appointments made by the Civilian Government at Federal Level November 1999

S/No	Appointment	Total	Men	Women	
1.	Federal Panel on Human Rights Abuse and Mysterious Death	7	5	2	29
2.	Contract Review panel	7	5	2	29
3.	Principal officers in the Vice President's Office	4	4	1	5
4.	Federal government appointed permanent secretaries	35	32	7	9
5.	Probe panel on failed contracts in Buhari's administration	12	10	2	17
6.	Federal executive council	49	43	6	1
7.	Probe panel on landed property (Transactions involving landed property between January 1984-May 1999)	7	6	1	14
8.	Senior special advisers to the president	14	13	3	7
9.	Senior assistant to the president	7	6	5	14
10.	Other Federal appointments (service chiefs, CBN Governor, MD NNPC)	9	9		-
11.	Chair persons of the 5 special committees set up by House of representative	5	4	1	20
12.	Senate committee chairpersons and Deputies	90	89	1	1
13.	Member of revenue mobilization allocation and fiscal commission	38	37	1	2
14.	Ambassadorial nominees	106	96	10	9
15.	Commissioners to FNEC	3	2	1	33

Source: GAD A, 1999

B.

The Socio-Economic Environment

The 1986 United Nations declaration on the Right to Development defines this right as the entitlement of every human person to "participate in and contribute to and enjoy economic, social, cultural and political development in which all human rights and fundamental freedom can be fully realized" (UN, 1986).

The provisions of sections 15 - 18 of the Constitution of the Federal Republic of Nigeria 1999, guarantees rights on the basis of equality between men and women and prohibits discrimination on the grounds of sex among others in relation to economic, social and educational objectives. S 16(1) (6) provides "the state shall....Control the national economy in such manner as to secure the maximum welfare, freedom and happiness of every citizen on the basis of social justice and equality of status and opportunity. In the same vein, S 17 (1) (2) (a), and (3) (a) (e) provides for state social order founded on equality of rights, obligations and opportunities before the law; and also all citizens to have equal opportunity to securing adequate means of livelihood as well as equal opportunity to secure suitable employment and also equal pay for equal work without any discrimination whatsoever.

S 42 (1) (2) have given boost to the above provisions by granting freedom from discrimination on grounds of sex, etc. This provision has clearly set an enabling environment in which the attainment of equality and promotion of non-discrimination can thrive in Nigeria. Where, however a breach occurs, S 46 (CFRN, 1999) provides the instrument for the enforcement of these right and obligations by conferring special jurisdiction on the States and Federal High courts as well as-the provision of aid to any indigent citizen to engage the services of a legal practitioner to prosecute •his/her claim.

However, that which the constitution granted and guaranteed it seemed to have been taken away by the tenor of

S 42 (3) which provides "Nothing in subsection (1) shall invalidate any law by reason only that the law imposes restriction with respect to the appointment of any person to any office under the state or as a member of the armed forces of the Federation or a member of the Nigeria Police Force or to an office in the service of a body corporate established directly by any law in force in Nigeria"

This provision in the opinion of this paper is meant to protect the womenfolk who are regarded as the "weaker sex" from being engaged in onerous duties; and such duties as would prohibit them from discharging their fundamental duties. Moreover, this discrimination is only in respect of certain cadres, it does not apply to women falling within the middle level and high level cadres (Labour Act, 1990). In essence, the provision is meant to protect women in the childbearing age. It is evident that there are no manifest discriminatory laws against women in recruitment and employment, the reality is that Nigerian women are far from enjoying equal rights in the labour market due mainly to their heavy burden of domestic work, lower levels of educational attainment, biases against women's employment in certain sectors of the economy or stereotypes at the work place and discriminatory welfare packages. This is mostly evident in the private sector (CEDAW, 2002).

It is also obvious that there are no laws in Nigeria reserving core professions or certain professions specifically for men or women. All we have are instances where men are favoured in appointment and deployments to jobs or postings considered strategic or sensitive. The reasons given for such situations are: nature of the job which may involve frequent mobility and transfers, and high frequency of traveling often at little or no notice; male chauvinism; non availability of women or women's failure to apply for such jobs; irregular working hours; marital status and responsibilities (CEDAW, 2002). These discrepancies / discrimination evident in the labour force have nothing to do with laws enacted, rather they are attitudinal problems which are not only evident in men but also the womenfolk as well. Many women are not ready to take the leap; where they are willing, their cultural background and quantum of domestic activities would not encourage them to take such steps.

Conclusion

The greatest threat to attainment of equality of rights is not the law, whether statutory or customary. If anything, the statutory laws have largely emancipated the women from customary law and culture biases. The threat lies in the perception and attitude of the people, the women inclusive.

This perception and attitude are culture based and their genesis dates back to creation when God after creating Adam saw that he needed a helper and so created the woman. This position as created by God has not altered in any form as the woman recognizes the man as head, of the family as ordained by God, she has never claimed "equality" with man. All she agitates for is that her rights and privileges be recognized and her due given her. Her agitation is not to be given an unmerited award, but be given a fair opportunity and a level playing ground to compete.

The struggle by women to attain equality of rights dates back to the 18th century. In 1792, an Anglo-Irish woman, Mary Wollstoncraft published a book on the *Vindication of Rights of Women*. The book challenged the idea that women only exist to please men and proposed that women should receive the same treatment as men in education, work opportunities and politics and that the same moral standards should be applied to them (Odili, 2005). These early agitations were however given boost in 1945 with the signing of the United Nations Charter which actually marked the beginning of organized international effort to improve the lot of women.

The woman is the oil that lubricates the engine of the family, without the oil and invariably the woman, the family system goes cranky, and invariably the larger society. The attainment, achievements and contributions of the woman to the family and society are immeasurable, however a lot more need to be done to reach the Eldora do. There should be continuous quest for qualitative education especially at the higher level since the effect of education in bringing up the woman cannot be overemphasized. Education is the potent force, the singular index, the rotation point, the kinetic energy, the exothermic reaction and the unstoppable force against any constraint in getting to the top of public and civil life. It opens all doors, makes the impossible possible, changes attitudes and conceptions you cannot stop the literate or educated woman (Okoye, 2002).

The affirmative action should be encouraged but it should be a government policy. This paper does not subscribe to the fact that it should be made a provision in the constitution, this is because the constitution should not be gender based. What is important is that the best should be elected/selected to represent the women. The space should not be filled for filling sake or with whatever is available.

Vigorous enlightenment campaign should be mounted by various NGO's and different organizations, Ministries of Women Affairs, etc. This is quite necessary not only to educate the illiterate and semi-illiterate but also to enlighten the educated to develop positive political and social attitudes. It is obvious that women are their own worst enemies and critics but with proper and continuous education, and good representation by those elected or appointed to positions of authority, the women will be generally disposed to accepting one of their own kind.

Positive assertion and affirmation of women's ability rather than lobbying is highly recommended. Where women put in position of authority are able to prove their worth, the tendency is that more women will be recognized and given an opportunity but where those given opportunity to serve fail, there is a high possibility of denying them

further opportunity no matter the intensity of lobbying.

The journey to the attainment of equality of rights is a long one, but the woman is endowed with patience. The outcome of the agitation so far has been positive and encouraging, with the recent appointment in Kuwait of their first female minister Dr. Masouma Al-Mubarak and the passing of a landmark law extending franchise to the womenfolk which will commence in 2007 (Kolawole, 2005).

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