Discriminatory Practices against Women in Labour Relations in Nigeria: Interrogating the Position of International Law

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ABSTRACT

Previous studies mainly focused on the discrimination against women in Nigerian society (including labour relations) without emphasis to the position of international law, and international law is the global norm. This is the gap that this paper seeks to fill in literature regarding discriminatory practices against women in labour relations in Nigeria. The paper adopts face-to-face interview as an instrument of data collection to get opinion of some expertise on gender and international law with a triangulation of secondary sources of information. The paper adopts interrogative technique of qualitative data analysis and argued that International Labour Organization's Declaration on Fundamental Principles and Right; and the 1979 United Nations Convention on the Elimination of all forms Discrimination Against Women are legal instruments of international law against discrimination of women in labour relations. It is upon these global legal norms that the Nigeria Constitution and the Nigerian Labour Act derived it principles from. It is revealed that the discrimination against women in labour relation is grounded in unwritten Conventions, religion and tradition of the working places. Employer-employee relation is clearly defined under the international law which is in line with the Nigerian Labour Law. Therefore, any contractual agreement aims at discriminating workers on the basis of their sex amount to an aberrational act. The paper has equally discovered that the fear of losing one's job often makes women to work under any condition whatsoever which is different from the position of international law. The paper has recommended that the rights and privileges provided under the Labour Act are balanced to all citizens and as such, the onus lies in the hands of women themselves to fight against discrimination at work place.

Keywords: Law, Discrimination, Labour Relations, and Women.

Introduction

International law regulates every aspect of the international society including discriminatory practices against women in labour relations. The desire to eliminate marginalization of women in socio-economic and political processes has led to numerous efforts by civil society organizations and international organizations including the United Nations and the International Labour Organization. The aim is to protect women as it concerns participation in socio-economic and political enterprises. Prominent

among such, is the Convention on the Elimination of all forms of Discrimination Against Women (CEDAW).[1] This Convention was adopted by the United Nations General Assembly in 1979 and it was authoritatively ratified and became part of international law in 1981.[2] Since there, it is expected of every country to domesticate this multilateral Treaty. Inspite of this effort which aims to increase consciousness, the issue of discrimination against women in Nigerian society remains contentious.

The word discrimination means the practice of treating somebody or a particular group in a society or community less fairly than others in the same society, class or community. Discrimination means to recognize that there is a difference, or to recognize or treat one person or group of persons worse off or better or more favourably than the other in an unfair way[3]. Also, discrimination is a sociological term referring to the unfair treatment against a person or a group based on class categorization, classification and division. According to the United Nations[4], 'people can be treated unfairly, socially excluded and rejected because of their membership in a particular social group which they belong'. It is on the basis of this that the International Labour Organization[5] Declaration on Fundamental Principles and Rights at Work identified four categories of employment principles namely: freedom of association and the effective recognition of the right to collective bargaining, the elimination of forced or compulsory labour, the abolition of child labour and the elimination of discrimination in respect of employment and occupation. Employment discrimination generally occurs when an employee is intentionally treated differently because of his or her race, colour, religion, national origin, disability, gender, sexual orientation or age by the employer in either the phases of hiring, discipline, performance appraisal or termination of appointment.

In Nigeria, the labour law prohibit discrimination in a number of work-related areas, including recruiting, hiring, job evaluations, promotion policies, training, compensation and disciplinary action. Moreover, treating a person differently from

[1] United Nations. Convention on the Elimination of all forms Discrimination Against Women (Hague, UN, 1979)
[2] Tsuwa, J.T. and Ochoga, O.E. Women and Political Participation in Ado LGA, Benue State University: A Study of the 2011 and 2012 General Elections. In Okpeh, O.O AND Ikpanor (eds). T*heme on Women Studies*. (Abuja, Donafrique Publihers, 2015) p.120
[3] Oxford Advanced Learners Dictionary(1990)P.35
[4] United Nations Charter. (Hague, UNO, 1945).p.19
[5] Labour Organization. Declaration on Fundamental Principles and Rights at Work (Geneva, ILO,1998)P.45

others violates Equal Employment Opportunity (EEO) law advocated by most countries in the world. Women can be directly or indirectly discriminated in a work place. Direct gender discrimination occurs when people are obviously treated differently at work and it includes acts like difference in salary based on gender. For instance, when men and women are doing same job, but get promoted at different times. While, indirect gender discrimination occurs when certain labour laws favours a gender group than the other, thereby people of certain gender cannot qualify under those laws. In this paper, the word "discrimination" shall connote the concept of giving the male group more favourable treatment (or attention) and social recognition, at every opportunity that avails or presents itself at the expense of the women. The African culture has always regarded women as inferior to men in all aspects of life. This belief of male superiority over female is so rooted in every aspect of an African life. It is equally an assumption so deeply rooted in the Africa custom, religion and practices and also virtually in all civilizations.

One may concede to the fact that in some African societies or tribes, discrimination against women is a normal way of life dating back from ancient time and it is still going on actively unabated today. Much folklores, myths and facts abound as to the origin or the genesis of why man feels superior to women, and that myth or fact may be the basis of why women have allowed themselves to be discriminated against. Discrimination has remained the oldest weapon or devise of male (man) against female (woman) for recognition and dominion in all human endeavours[6]. The origin of discrimination against women in labour relations has been traced to many sources from oral tradition to the Biblical source. The most logically and sequentially narrated is the Bible account of the fall of man in the garden of Eden for which one may dub from "Grace to grass." The Bible Book of Genesis chapter 2 verse 7, 8, 22 – 23 and chapter 3 v 12,[7] read together narrated how man was created in the Garden of Eden: It says; The mythology narrates that the Lord God caused a deep sleep to fall on Adam, the man, and then removed a rib from him and from this rib, He (God) formed the woman. That when Adam saw the woman he exclaimed with joy and approval; and said; "This is now bone of my bones and flesh of my flesh. She shall be called 'woman"[8].

[6] Montague, S. The Equality of Human Beings: The Conflict of Interest and Industrial Development. (London, London Academic Press, 1968).

[7] The Bible Book of Genesis chapter 2 verse 7, 8, 22 – 23 and chapter 3 v 12

[8] Orgo,L. and Sugur, H. Introduction to Labour Law.(Oxford, Oxford University Press, 1995),p.34

Without prejudice to aforesaid, from the Biblical days to ancient Rome, Athens and ancient Israel, women were subjugated to their husbands and the societies treated them as of inferior members[9]. The situation was somewhat different in some other civilizations. In ancient Babylon the Code of Hammurabi granted women greater personal freedom. A similar situation was obtained in ancient Egypt. Historical records bear witness to the fact that many queens ruled Egypt[10]. To this end, previous studies by Uba; Orgo and Sugur[11], mainly focused on the discrimination against woman in Nigerian society (including labour relations) without emphasis to the position of international law. Thus, this aspect of the subject matter is largely un-interrogated by scholars. Therefore, this is the gap that this paper seeks to fill and contribute to the development of labour law and as well as international law literature. However, women were not to be treated and accorded the same status as men, hence there emerged a pattern of gross discrimination against women in labour relations which is contrapuntal to international law. Whether this discrimination is real or propaganda of imagination, it is upon this quandary that this paper shall examine the discriminatory regulations against women in labour relations in Nigeria in relations to international law.

Contributory Factors to Women's Discrimination in Nigeria

There are different complimentary factors that have created a fertile ground for gender discrimination to proliferate in Nigeria. Although these factors are inter-related; they are different to some extent. These factors, termed antecedents to women's discrimination are discussed below: A woman is regarded as second or minor to a man and are expected to perform all domestic chores. Early marriages and women with some form of formal education are saddled with responsibilities that make it difficult for women to improve themselves. Moreover most families in Nigeria encourage male children to be more aspiring than female, coupled with the fact that women have ascribed a division of labour to themselves (for instance, women would rather take care of the home). Some religious practices limit women. For example, purdah (Moslem), early marriages and extreme submission (Christianity) with a theological root imbedded in the Holy Bible. Religious books have affirmed that the men are the Head. For example, the honour of a Moslem family is represented by the purity of its women. Since

[9] Uba, E. Women and Society Development: A Sociological Analysis. (Kano, Umar Press, 2011)

[10] Ibid Orgo and Sugur …

[11] Opcit

education and career is liberating, it is believed that the liberating effects may contaminate the purity of women.

Psychologists are of the opinion that women are constantly competing with men. Existing career women, who are meant to be role models, are not interested in teaching other women how to develop and establish themselves. Such women according to Staines and Tarurise cited in Klasen[12] are labeled "*Queen Bees*". Queen Bees are professional women, who on the account of their success have become "anti-feminist". For women, a job is merely a "stop-gap" between school and marriage (however, not in all cases). Women have the characteristics of compromising their abilities and interests, when faced with conflicts. For instance, fear expressed by an average Nigerian woman that a successful woman, might be too exposed and they may not find husband; thereby misconceiving that career women are unruly, dis-obedient and dis-respective.

Biological constraints is always provided as evidence to support discrimination against women. In describing women's anatomy, Freud[13] argued that the 'female reproductive system is an exonarable vise that keeps women emotionally unstable, submissive, passive and devoid of creative intellectual potential'. For instance, pregnancy and childbirth makes them sometimes unfit for occupations that are rigorous. Hence, the divided loyalty between a woman's anatomy, work and home will have an adverse effect on her career. This divided loyalty can lead to role conflicts and low participation in paid employment.

Research evidence have shown that women do not earn as much as men and the average salary of women is 72% to 88% of men, even with variables such as education, age, position and job tenure considered[14]. Taking from the Maxism tradition, male-female equality is the involvement of women in the production labour outside home. Even though most countries allow equal opportunities for men and woman through law, some societal culture, job specifications and requirement are sometimes unfavourable to women. For instance, a study conducted by Davran[15] in Turkey on rural women, reported that the position of women is both at home and the society due to the patriarchal structure. This is similar to the

[12]Klasen, S. The Impact of Gender Iinequality in Education and Employment in the Middle East and North Africa. Background paper for World Bank Report on gender in MENA region. N0.7(2).

[13]Freud, S. New Introductory Lectures on Psycho-Analysis. *(*Woolf, Hogarth Press,1993*).p19*

[14] Waisman, G. and Larsen, B. Who is Hurt by Discrimination?, SULCIS Working Papers(Stockholm University, Linnaeus Center for Integration Studies,2008).p.16

[15] Davran, M.K. (2005). Gender roles of Women in Small Districts of Adana Province, Turkey. *Pakistan Journal of Social Sciences*, 3(1).

practice in most developing countries in Africa, including Nigeria. The dual demand of the house and work still leaves the main work of the household to women. As it is in the family, there is sexual division of labour in the employment market. Women are concentrated in particular jobs seen as female occupations for instance, nursing, catering, teaching and so on, which are all close to the roles and position of women in family. 'Subordination and institutionalization of mother or housewife's role as the primary role of women is typical of women'[16]. All these point to the fact that there is a wider gender gap participating in the world's economy. Although when an employer prefers a particular sex (for instance men), they will not divulge this attitude when advertising such jobs but they would act favorably towards the gender they want in the selection processes which could amount to gender imbalance in the formal sector.

Gender Imbalance in the Former Sector

Gender imbalance in both formal and informal sectors of the Nigeria economy is most noticeable. Adegoroye and Adegun[17] in their study on gender disparity averred that there is a huge gap in women's participation in informal sector of the Nigerian economy, in contrast to this view are those of Oyeyinka and Adeyinka [18] that posited that women in Nigeria having limited access to the education and formal employment do not hold water anymore. Several positive developments in dealing with this challenge are now in place which has led to an upsurge of women participating now in both informal and formal sectors of the economy and discrimination of women at work has greatly reduced[19].

For instance, the Government of Nigeria's establishment of National Policy on Women has provided an affirmative action to increase to 30 per cent the total women's representation in the legislative and executive organs of Government and in political party hierarchies.[20] Similarly, Nigeria's Constitution has provided a freedom from discriminatory traditional practices in many States of the Federation which have led to an increase in women's participation in economic activities and politics[21]. For instance too, women in Nigeria now hold political appointments both at federal

[16] Oakley, A. The Sociology of Housework. (Martin Robertson, London.1975).p.26

[17] Adegoroye, A.O. and Adegun, O. A. Gender Disparity in the Informal Sector Employment Opportunities in a Nigeria State economy. *The Social Sciences*, 2008, 3(1) pp. 1-5.

[18] Oyeyinka, G. and Adeyinka, S. Gender Inequality in Education and Employment.(www.Learningchannel.org, 2008)

[19] Samuel Bature, Age 37, interview, makurdi, 2/2/2019

[20] Samuel Bature, Age 37, interview, makurdi, 2/2/2019

[21] The Constitution of the Federal Republic of Nigeria,1999 as amended.

levels and State levels. Regarding political appointments at the federal level, about 14 percent of ministers are female and 27 percent of permanent secretaries are women between 2011 and 2015.[22] The emergence of a female presidential candidate in 2003 and 2011 election is another significant development.

Furthermore, progress has also been made in the area of judicial appointments. Most of Nigeria's 36 States and Federal Capital Territory (FCT) judicial institutions now have women as High Court Judges, accounting for about 30 percent of the total number of judges in the country)[23]. The various socio-cultural, economic, political, legal and religious practices that have hindered the promotion and protection of women's rights in Nigeria are going into extinction gradually.

Despite all these positive changes, in the northern part of the country, the State Sharia Criminal Laws have not checked discrimination against women; coupled with the fact that other discriminatory laws and policies are still in existence in Nigeria. The pessimistic posture of the Saharia Law against women discrimination is contrapuntal to the spirit of international law. The Sharia jurisprudence is by no means advocates for women's emancipation unlike the common law. Thus, discrimination against in work places in Nigeria varies from place to place[24]. Oyeyinka and Adeyinka[25] argued that 'although in the past, women faced higher employment discrimination than men and the place of women in paid employment in Nigeria remained severely neglected', in recent years, women have now broken into the masculine world of profession, higher education, and even public life. For example, Okokie[26] asserted that about 30 percent of women are involved in wage employment in public sector in Nigeria, 8.1 percent in private sector. However, worthy of note is that most of the wage employment reported here are in nursing, teaching and clerical positions, which in most cases are low-earning and insecure jobs when compared to jobs considered as masculine in Nigeria. But international law provided for equality of employment opportunity for both men and female. In other words, the practice is of culture and the legal provision.

[22] Author's observation based on gender composition of the federal executive council

[23] ibid

[24] Samuel Bature, Age 37, interview, makurdi, 2/2/2019

[25] G.Oyeyinka and S.Adeyinka. Gender Inequality in Education and Employment. www.Learningchannel.org, 1998.

[26] M. A. Okokie. Okokie. A new millennium: what to take from the past, what to leave behind. Journal of Man and Society. 2 (3).

All of which can affect a woman's economic standing. Such stereotypes have identified two main issues, namely; sexual division of labour and inequality. Although, the advancement of women has been curtailed by certain cultural, traditional and religious practices; modern education and a greater understanding of the women's productive and reproductive roles have led to the gradual elimination of such beliefs. The modernization and urbanization have also helped to reduce traditional practices that discriminate against women, by providing jobs to women, especially in the informal sector, thus enhancing their economic independence. Such positive move to eliminating discrimination has been reported in all the States of Nigeria, even though in the Northern Region, the introduction of the Sharia Law has however slowed down progress in those States which is contrary to the relevance provisions of international law[27].

In Nigeria, women have been reported to have formed an important part of the Nigerian workforce with most employers of labour, researchers and government agencies acknowledging their contributions to the success of the economy. Research evidence such as those given by Adeleke, Adelalu, Matanmi and Olaniyi; Adegoroye and Adegun; Okokie and Oyeyinka and Adeyinka[28] have all indicated that women are now opting for financial independence by getting involved in stable formal and informal career. For instance, Adeleke *et al.*, in their research on gender and productivity argued that there is no difference in a woman's and man's productivity among maize farmers[29]. Although Klasen[30] contends that women are missing out in agriculture. Such contention is not surprising especially since his study was conducted in Middle-East Africa, where, there is strong religious constrain on women participating in economic activities. In the case of Nigeria, Jenyo-Oni[31] in a more recent study reported that women are active in agricultural activities. For example, in her study on fishing communities in Nigeria, she contended that women dominates in

[27] See ILO,. ILO Declaration on Fundamental Principles and Rights at Work and its Follow-up. Assessed from http://www.ilo.org/declaration/thedeclaration/textdeclaration/lang--en/index.htm, 1998; United Nations. Convention on the Elimination of all forms Discrimination Against Women (Hague, UN, 1979)

[28] See, O. A. Adeleke, K.O. Adelalu, H.M. Matanmi and O.A. Olaniyi, Gender and Productivity Differentials in Maize Production in Afijo Local Government Areas of Oyo State. *Agricultural Journal*, 3 (3). And the rest are opcit

[29] ibid

[30] S. Klasen. The Impact of Gender Iinequality in Education and Employment in the Middle East and North Africa. (*Background paper for World Bank Report on gender in MENA region. 2002*, N0.7).

[31] A. Jenyo-Oni. Gender Division in the Fishing Communities of Lagos Coastal wetlands. Nigeria. *Journal of Fisheries International*, 2 (3) pp. 207-210.

fishing, fish processing and marketing of fish and fishing products. The implication of such findings indicate that, gender specific socio-economic characteristics do not reflect any difference in the productivity levels of male and female levels of productivity. This assumption is quite informative especially when agriculture provides the bulk of employment, income and food for the Nigerian populace.

According to the World Bank Report[32], in Sub-Saharan Africa, agriculture accounts 70 percent of the total stable food supply. Almost every profession that was earlier touted as being masculine are now been pervaded by women. However, given women's contributions to the Nigerian economy, Tsuwa and Ochoga[33] argued that then are still experiencing discrimination in their workplaces in Nigeria, despite the fact that in the 1999 constitution of Federal Republic of Nigeria, Section 39(1) states:

> A citizen of Nigeria of a particular community, ethnic group, place of origin, sex or political opinion shall not by any reason, only he is such a person (a) be subjected either expressly or in practical application of any law in force in Nigeria or any executive or administrative action of government to disabilities or restrictions to which citizens of Nigeria, of other communities, ethnic groups, places of origin, sex, religionor political opinion are not made subject of (b) be accorded either expressly or in practical application of any law in force in Nigeria or any executive or administrative action, any privileges or advantage that is accorded to citizens of Nigeria, of other communities, ethnic groups, places of origin, sex, religion or public opinion.

The above provision is in line with the Universal Declaration of Human Right an instrument of international law. Like every other African countries, the provisions are hardly sufficient thereby making such law a castle in the sky, unlike the developed countries such as America and United Kingdom, where they allow and advocated for equal opportunities for men and women through the federal laws.

Although there are no overt manifest discriminatory practices against women in recruitment and employment, the facts still remain that Nigerian women are far from enjoying equal rights in the labour market due mainly to the multiple role they play, lower

[32] World Bank Report. The Role of Women in Agriculture: A case study of the Sub- Saharan Africa. (*World Bank Discussion*, Paper No3,2016).
[33] ibid

levels of educational attainment, biases against women's employment in certain sectors of the economy or stereotypes at the workplace and discriminatory welfare packages. Gender inequality is perceived in most parts of the world as something despicable and dysfunctional. The male gender dominates all the sectors in Nigeria, thereby making the social economic spheres to exert sole authority of resources to men. With diverse ethnic groups and cultures, the status of women tends to vary across cultures. Hence the participation of women in labor force may impeded by some forms of gender discrimination

Some Aspects of Gender Discrimination

In most African communities or tribes, gender discrimination against women begins at birth where the child is first identified as a female child. From that moment the child is expected to behave in accordance with the roles customarily assigned to her sex. The tribal norms and rites are set in motion to mould her in her life's sojourn. In most African society or culture, a female child is not expected to inherit or even ask for any Real property from her deceased parents. She is completely discriminated in the sharing of her parent's real properties[34]. Also, there are instances where many women were contracted into marriage against her wishes. Some of such customary laws regarding inheritance and persuasive marriage are clearly barbaric, inhuman, discriminatorily against justice, equity and good conscience.

One good example of such out-dated and barbaric customary law for which the Court rightly to refused to enforce is the "OLI Ekpe Customary Law of Inheritance of Nnewi people"[35]. Under the Nnewi Native Law and Custom of Eastern Nigeria, if a man dies leaving a male child; that male child inherits his property; if however the deceased has no male issue; his brother will inherit the property[36]. If the deceased father has no male child but only female, his father's brothers inherit the deceased's property exclusive of the female children. It was therefore not surprising that the Court of Appeal bluntly refused to apply this obnoxious "Oli Ekpe" Custom of Nnewi in the case of Mojekwu v Mojekwu and held that eastern Nigeria is an egalitarian society where the civilized society does not discriminate against women[37].. The Appellant ruling puts it that "any form of societal discrimination on ground of sex apart from being unconstitutional is anti-thesis to a society built on the tenets

[34] E.M. Muda. Improvement of Labour Laws upon Integration into Europe. (Unpublished M.Sc Dissertation, University of Wolverhampton,1996).

[35] NWLR, Pt.97 (1997). P.30
[36] NWLR, Pt.97 (1997). P.30
[37] ibid

of democracy and that the OLI-EKPE custom which permits the son of the brother of a deceased person to inherit his property to the exclusion of his female children is discriminatory and, therefore, inconsistent with the doctrine of equity and should not be enforced. The judgment went further to say that:

> *"although the scientific world disagrees with this Devine truth, I believe that God, the creator of human being is also the final authority of who should be made male or female. Accordingly for a Customary Law to discriminate against a particular sex is to say the least an affront to God Almighty himself. Let no body do such a thing. On my part, I have no difficulty in holding that the "Oli-Ekpe" custom of Nnewi is repugnant to natural Justice, Equity and Good Conscience".*[38].

This judicial pronouncement in this case between Mojekwu v Mojekwu was a clear indication of discriminatory practice against the women folk in Nigeria. However, in recent years, women have held various positions of responsibilities which give them authority over men. For example, a former chief Justice of Nigeria, Justice Aloma Maryam Muktar is a woman, Professor Dora Akunyili, and Dr. Ngozi Okonjo-Iweala of the World Bank, and host of others.As a result of the above contention, Oputa[39] argued that:

> in most African countries and primordial culture, a woman was regarded as a mere sexual and domestic functionary (tool) whose worth was directly proportional to the number of children she was able to bear for her husband; or how efficient and assiduous she was at ministering to the other needs of her husband such as cooking for him; washing his cloths and mending it; cultivating his land (farming/farm plots maintenance etc); and even trading for him

In some African countries women form the bulk of the labour force in farming and trade centres; however, the percentage representation differs from country to country, from place to place.

[38] Ibid…p.305

[39]O. Oputa, Analyzing Women Under the Nigerian Customary Law. (Kaduna, Umar Press Ltd, 2002)

In Nigeria, there is a great deal of cry of inequality or denial of or accusation of denial of access to economic, political, social services and cultural resources among various groups. Reference is made to collectivities conceived along class, ethnic and regional, religious, rural– urban and gender lines by the women folk and their supporters.

Gender discrimination against women ensuing from both traditional and modern patriarchal beliefs and customs is now increasingly becoming a matter of public concern particularly as Nigeria is on the threshold of another change of administrative governance. The issue of gender discrimination becomes a global concern since 1973, however, a great deal remains to be done to redress this fundamental source of inequality in labour in Nigeria. But this lacuna leaves one to wonder whether about the position of international law.

International Law and Discrimination of Labour against Women in Labour Relations

Apart from the Nigeria Labour Act and other Nigeria Legislations on Women in Labour, some international NGOs on Gender have been on the campaign for elimination of all forms of discrimination against women in Labour. Discrimination against women in Labour relations have assumed global attention, and not only in Nigeria and Africa per se. On the international scene, so much attention has been paid to the protection of human rights and the avoidance of discrimination in labour relations. Some of the international legislations prohibiting women discrimination, to mention a few includes; the United Nations International Convention on Economic, Social and Cultural Rights of 1966, the United Nations Convention on the Elimination of All forms of Discrimination Against Women of 1979, which Nigeria is a Signatory 1979; and International Labour Organization Convention No.100 concerning Equal Remuneration for Men and Women Workers of Work Value of 1951. These are international law prohibiting any forms of discrimination against women in both private and public life.

The UN Convention on the Elimination of All Forms of Discrimination Against Women[40] states that:

> parties to the Convention shall take all appropriate measures to eliminate all forms of discrimination against women in the field of employment in order to ensure on a basis of equality of men and women, the same rights, in particular, the

[40] Ibid...p.54

right to the same employment opportunities, including, criteria for selection in matters of employment .

The international law is a global ground norm upon which municipal law is predicated upon. That is why domestic relevant labour laws guide against discrimination of any kind including gender disparity, thus strict compliance to the principle of equal treatment in Labour relations as enshrined in international law is another case entirely. The extent to which the rights of women are being observed or violated has remained a source of controversy among gender activists and scholars especially in the aspect that female employees be granted greater rights. In several cases, employees can enjoy the rights granted in connection with the raising of children under three months of maternity leave. Despite of these international legal frameworks, unequal treatments of women in work places have continued to feature in public discourse in the country[41].

However, it has been advocated that 'the problem with exclusion from the principle of equal treatment is that substantial rights granted female employees in connection with the pregnancy and child raising have weakened their position on the Labour market; employers do not wish to hire young women in birth-giving age'[42]. Thus, the issue of agitation of women in labour for equal rights has been a global struggle that is gradually gaining the attention of the world and also in Nigeria irrespective of creed or culture.

Although, the 1999 Constitution of the Federal Republic of Nigeria guaranteed every Nigerian, the basic and fundamental rights, among this is the right to freedom from discrimination. However, Section 42(1) of the amended 1999 Constitution of the Federal Republic of Nigeria[43], provide that:

> *a citizen of Nigeria of a particular community, ethnic group, place of origin, sex, religion or political opinion shall not by reason only that he is such a person; be subjected either expressly by, or in the practical application of any law in force in Nigeria or any executive or administrative action of the government, to disabilities or restrictions to which citizen of Nigeria of other communities, ethnic groups, places of origin sex, religion or political opinions are not made subjects; or be accorded either expressed by or in the practical application of any law in force in Nigeria or any such executive or administrative action, any privilege or*

[41] Sunday Oke, age 45, interview. 2/3/20919

[42] Ibid.

[43] 1999 Constitution of the Federal Republic of Nigeria

advantage that is not accorded to citizens of Nigeria of other communities, ethnic groups, places of origin, sex religions or political opinions.

And Sub-section 2 of the same section stressed that: "no citizen of Nigeria shall be subjected to any disability or derivation merely by reason of the circumstances of his birth[44]." It should be noted that by virtue of section 14 of the Interpretation Act, the words importing masculine gender in an enactment include females (and males alike). Thus under Nigeria Legal system, a female judge is simply addressed as "My Lord", or "Your Worship," importing male gender. Similarly, in the legislative house, there is no special attachment, e.g. a speaker is addressed as "Mr. Speaker".The above provision presupposes that the women are to be accorded the same treatment and privileges just like their male counterpart. It can, therefore, be comfortably said that if there is any other law that discriminates against women, such other law is by virtue of section 1 (3) of the 1999 constitution (As amended) is unconstitutional and on that strength null and void. Section 1(3) of the same Constitution also provides that: 'if any other Law is inconsistent with the provisions of this constitution'.[45] This constitution shall prevail and that other law shall to the extent of the inconsistency be void.

On the other hand, some women have prosperous private establishment that they are managing and all the above mentioned inadequacies do not affect them in their private and public endeavours. For instance, several women own and manage successful business enterprises including Law firms and have risen to the prestigious ranks of the Senor Advocate of Nigeria (SAN), To mention a few, we have the likes of the Hon. Justice Aloma Mirian Mukhar, Hon. Justice Mary U. Peter Odili, Hon. Justice Z.B. Abubakar and among other Nigeria women who have distinguished themselves in their chosen career. This clearly supports the assertion or observation of Montague[46] who averred that 'human beings differ greatly in their abilities by practicality not at all along sex lines'. That is to say that ability is not determined by sex. Abilities are functions of persons not of groups or classes. Hence, as far as abilities are concerned both men and women should be given equal opportunities to explore their potentials and the

[44] ibid

[45] ibid

[46] S. Montague. The Equality of Human Beings: The Conflict of Interest and Industrial Development.(London, London Academic Press,1968).

judgment (assessment) of their abilities should not be prejudiced, on grounds of sex[47].

It can admitted that inherent dignity and the equal inalienable rights of all members of the human family is the foundation of freedom justice and peace in the world with regards to the Human Rights Movements, the struggle to change the misconception that women are inferior to men in all aspects of public life is now ripe. The voice of women against the discriminatory treatment in Labour relations has not gone unheard. Even before our independence (1960) the Nigerian government had copiously made provisions for the protection and preservation of women in Labour relations. This argument forms the preoccupation of Sections 55(1)(2) 54, 56, 57 & 58 in the labour Act, CAP 198 LFN[48] and other laws enacted for the protection of women in labour which are derivative of international law against discrimination of women.

Conclusion

The paper has clearly established that gender discrimination is not only harmful to the professional growth of an individual but also limits the growth of business firm and sustainable development of any society. It can reflect negatively on the organisation's performance, especially when those that can contribute to development of the organization have been discriminated against and are not opportune to work for the organization. It can compromise quality of workforce by creating an unhealthy work environment that is not conducive for employees' performance. Gender discrimination can result in poor retention of women and men at work. It can also create negative public image of the country, government and the employers.

The words of the Honourable Justice C.O. Oputa[49] the 'myth of regarding the African Woman as a mere domestic functionary should be relegated to the limbo of African antiquities''. The other Myth that child bearing is the African woman's quintessential role and that outside that sexual function, the woman lacked real meaning should now be regarded as false, and it should no longer be used to deprive woman of their positions in public life. It is pertinent to say that most of the discriminations against women in labour are grounded in unwritten Conventions, religion and tradition of the working places. Employer/ employee relation is

[47] R, Blanpain. & C. Engels. Comparative Labour Law and Industrial Relations in Industrialized Market Economy. 6th edition (London, Kluwer Law International 1998).

[48] CAP 198 LFN,2004

[49] Ibid

clearly defined under the International law which is in line with the Nigerian Labour Law. Therefore, any contractual agreement aims at discriminating workers on the basis of their sex amount to an aberrational act, as it has no basis in international law. The argued of this paper have showed that there is no statutory provision in international law and in Nigeria that discriminates against woman in labour relations in Nigeria. What is militating on the women in labour relations is grounded in religion and culture and that would take along process, but will eventually unbind/unfold the labour chain preventing the women folk. In practice, the paper has equally aegued that the principle of equal treatment in Labour relations is a complicated issue. As the fear of losing one's job often makes people especially women to work under any condition whatsoever which is different from the position of international law. Therefore, discrimination related problem perhaps has become a topical issue, that many people opted to endure discrimination for the fear of being victimized. This is the angle that is paper is different from previous studies[50].

Based on the findings, the paper has recommended that the rights and privileges provided under the Labour Act should be balanced to all citizens. Excepting women from performing certain functions for whatever reasons would invariably create the impression that women may not have the physical abilities to perform certain tasks. Hence it is believe that knowledge is power and as such government and Non Governmental Organizations have to devise pragmatic approaches to encourage girl child education. This suggestion is necessary because every form of discrimination is rooted in educational inequality between men and women foe. In this regard, Nigeria women should struggle to ensure that discrimination against them in labour relations is not only forbidden by law but same should have a sanction of law behind it. If Nigeria must attain a sustainable development, women should struggle to extricate themselves from the cultural bondage of marriage, education and religion, political participation and economic independence for the nation and welfare of the family and since gender discrimination persist in Nigeria labour relations hence the discrimination is not of law but culture.

[50] See Tsuwa, J.T. and Ochoga, O.E. Women and Political Participation in Ado LGA, Benue State University: A Study of the 2011 and 2012 General Elections. In Okpeh, O.O AND Ikpanor (eds). T*heme on Women Studies*. (Abuja, Donafrique Publihers, 2015); Montague, S. The Equality of Human Beings: The Conflict of Interest and IndustrialDevelopment. (London, London Academic Press, 1968); Orgo,L. and Sugur, H. Introduction to Labour Law.(Oxford, Oxford University Press, 1995); and Uba, E. Women and Society Development: A Sociological Analysis. (Kano, Umar Press, 2011).

The onus lies in the hands of women themselves to fight against discrimination at work place. Also, whether the discrimination against women is because of their 's own attitude, family responsibilities, cultural beliefs or all of these, the fact is that, the prize women pay for keeping silent and not seeking for the enforcement of their rights in Court is to continuing to be dominated by men in work places. It is therefore, recommend that both men and women should be given equal opportunities to explore their potentials and the judgment of their abilities should not be prejudiced.

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