

Assessing the Enforceability of The Right to Freedom from Gender Discrimination in Nigeria

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Abstract

Gender-based biases remain pervasive in Nigeria, manifesting in restricted access to education, employment, healthcare, unequal pay, and sexual harassment. Despite the 1999 Nigerian Constitution's guarantee of freedom from discriminatory practices and Nigeria's commitment to regional and international human rights instruments promoting gender equality, women and girls in the country continue to face significant mistreatment. This discrimination results in economic deprivation, social inequalities, and other forms of abuse, all hindering sustainable development. This study employs a doctrinal legal research methodology to explore the challenges in enforcing gender equality laws in Nigeria. It identifies key factors obstructing the effective implementation of anti-discrimination measures, including insufficient enforcement mechanisms, lack of awareness and education, and the failure to domesticate and fully implement gender-sensitive laws and policies. The study highlights the importance of domestication and full implementation of international instruments like the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) as crucial steps toward overcoming these barriers. This study recommends stricter law enforcement, increased educational outreach to rural women, and the domestication of CEDAW and other gender-equal laws that remain unenforced in Nigeria. This research underscores the urgency of addressing legal and social barriers to gender equality, critical to the nation's development and the protection of women's human rights.

1. Introduction

The definition of "gender," as outlined by the World Health Organization, refers to the societal constructs that differentiate males, females, boys, and girls. This encompasses a range of factors, including social norms, behaviours, and roles that are associated with different genders across different stages of life. Such factors may



include dress codes, social etiquette, and individuals' roles in society.¹ Gender, according to Ikegbu and Ozumba, refers to the socially and culturally attributed qualities of men and women rather than their biological characteristics. Gender encompasses how society distinguishes suitable behaviour and access to power for each gender. Although this may vary from one society to another and change over time, gender relations usually entail unequal power distribution between males and females and are heavily influenced by ideology.² I.A. Alade argues that the term "gender" is most easily understood in relation to "sex." Sex refers to the biological characteristics and functions of males and females, while gender refers to the societal expectations and roles assigned to individuals based on sex.³ Unlike sex, which is based on biological and physical differences between males and females,⁴ gender is a term that refers to the socially constructed roles of men and women that are assigned to them based on their sex in both public and private life.⁵ Gender roles vary depending on the specific socio-economic, political, and cultural context and are influenced by other factors, including age, race, class, or ethnicity.⁶

Gender discrimination, as defined by O.C. Okongwu, refers to the unfair treatment and restrictions imposed on individuals due to their gender identity. It takes many forms, such as unequal pay, limited career opportunities, harassment, and exclusion from certain roles or positions. This is a significant social problem that affects both men and women, but women have traditionally been more susceptible to negative consequences.⁷

Gender discrimination is recognized as a violation of human rights and is addressed by various international conventions and national laws.⁸ The promotion of gender equality and the empowerment of women are central to several UN Sustainable Development Goals (SDGs), including Goal 5 (Gender Equality) and Goal 10 (Reduced Inequalities).⁹ Achieving these goals requires addressing the

¹ Gender and Health, <https://www.who.int/health-topics/gender>, Accessed 22 September 2024.

² Ephraim Ikegbu and Godfrey Ozumba, *The Place of Women in Political Development* (Aba: AAU VITALIS Book Company, 2012).

³ Ibiwumi Abiodun, 'Gender Stereotyping and Empowerment in Nigeria Society: Implications for Women Repositioning in Curriculum Delivery', *An International Journal of Language, Literature and Gender Studies* 1, no. 1 (2012): 30-43.

⁴ Baird Vanessa, Tutu Desmond and Perry Grayson, *Sex, Love and Homophobia: Lesbian, Gay, Bisexual and Transgender Lives* (London: Amnesty International UK, 2004).

⁵ Ibid.

⁶ Jean Davison, *Gender, Lineage, And Ethnicity In Southern Africa* (Oxford: Westview, 1997, 1997).

⁷ Onyeka C. Okongwu, 'Are Laws the Appropriate Solution: The Need to Adopt Non-Policy Measures in Aid of the Implementation of Sex Discrimination Laws in Nigeria', *International Journal of Discrimination and the Law* 21, no. 1 (1 March 2021): 26-46, <https://doi.org/10.1177/1358229120978915>.

⁸ Convention on the Elimination of All Forms of Discrimination against Women, <https://www.un.org/womenwatch/daw/cedaw/>. Accessed 22 September 2024.

⁹ Take Action for the Sustainable Development Goals - United Nations Sustainable Development,, <https://www.un.org/sustainabledevelopment/sustainable-development-goals/>. Accessed 22 September 2024.



underlying factors contributing to gender discrimination, promoting diversity and inclusion, and ensuring equitable access to resources and opportunities for all individuals, regardless of gender. Furthermore, effective enforcement of the right to freedom from gender discrimination is essential for fostering inclusive and sustainable development, aligning with Goal 16 (Peace, Justice, and Strong Institutions) and Goal 17 (Partnerships for the Goals).¹⁰

Nigeria has made strides in enacting laws and policies to combat gender discrimination. As amended, the Nigerian Constitution of 1999 guarantees equal rights and opportunities to all citizens, regardless of gender.¹¹ Additionally, laws such as the Violence Against Persons (Prohibition) Act 2015 and the Gender and Equal Opportunities Bill have been introduced to address gender-based violence and promote gender equality. However, implementation and enforcement mechanisms remain weak, leading to gaps in protection and accountability.

Factors such as discriminatory laws and customary practices, non-domestication and implementation of some gender laws, inadequate resources, and cultural norms can hinder the effective enforcement of these laws.¹² Scholarly works suggest that cultural and religious factors contribute to the perpetuation of gender discrimination.¹³ Patriarchal systems, traditional gender roles, and unequal power dynamics are often cited as key factors.¹⁴ Literature also points to the impact of harmful practices like female genital mutilation and child marriage on women's rights and well-being.¹⁵ Research also highlights the challenges women face in the workplace, including wage gaps, limited representation in leadership positions, and barriers to career advancement.¹⁶ Despite legal protections, gender-based violence remains a significant issue, with studies shedding light on its prevalence and its effects on women's physical and mental health discrimination, ensuring equal opportunities, rights, and fair treatment for all individuals regardless of their gender.¹⁷

¹⁰ International Labour Organization (ILO) Discrimination (Employment and Occupation) Convention (1958), https://normlex.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C111. Accessed 22 September 2024, .

¹¹ Section 42 of the Constitution of the Federal Republic of Nigeria, 1999, <https://edojudiciary.gov.ng/wp-content/uploads/2016/10/Constitution-Of-The-Federal-Republic-Of-Nigeria-1999.pdf>. Accessed 22 September 2024.

¹² Okongwu, 'Are Laws the Appropriate Solution: The Need to Adopt Non-Policy Measures in Aid of the Implementation of Sex Discrimination Laws in Nigeria'.

¹³ Ibid.

¹⁴ Ikegbu and Ozumba, 'The Place of Women in Political Development'.

¹⁵ Ibid.

¹⁶ Isiaka Sulu Babaita and Mustapha Olanrewaju Aliyu, 'Gender Discrimination and Employment Decision: A Study of Selected Banks in Kano State, Nigeria', *African Journal of Management Research (AJMR)*, n.d.).

¹⁷ International Labour Organization (ILO) Discrimination (Employment and Occupation) Convention (1958).



Laws and regulations are designed to prevent gender-based discrimination, promote equality, and provide remedies for victims. The effectiveness of these laws depends on their clarity, scope, enforceability, and the capacity of judicial systems to address gender discrimination cases. Evaluating the enforceability of gender discrimination involves assessing the legal framework and mechanisms in place to combat it. Many countries have enacted laws prohibiting gender discrimination in various areas, including employment, education, housing, and public services. These laws establish rights and protections for individuals, reporting mechanisms for complaints, and penalties for offenders. For example, in Iceland,¹⁸ it has been illegal to pay people differently based on their gender since 1961. The Gender Equality Act, enacted in 1976, makes it illegal to discriminate based on gender. In 2017, the Icelandic Parliament approved the Equal Pay Certification Law and a related Regulation, allowing Icelandic companies to get certified for paying fair wages regardless of gender. These rules became effective on January 1, 2018. By 2022,¹⁹ any organization in Iceland with more than 25 employees that had not been certified as paying equal wages for equal work would have to pay fines daily. Rwanda's Constitution, established in 2003, asserts that 30 per cent of parliamentary seats should be reserved for women. Women hold 61.3 per cent of the lower chamber seats and 38.5 per cent of the upper chamber seats in the Rwandan parliament, making it the highest representation of women in parliaments worldwide.²⁰ Additionally, international agreements and conventions, such as the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)²¹, provide a framework for addressing gender discrimination globally.

In Nigeria, the right to gender non-discrimination is enshrined in both national legislation and international conventions.²² However, despite these legal frameworks, there exist significant gaps such as traditional norms and practices, the rejection of crucial gender bills aimed at advancing women's rights in politics; discriminatory provisions in some laws and practices discriminatory against women persist in various aspects of society, including education, employment, healthcare, and political participation.²³ This paper aims to delve into the root causes of these enforcement gaps, examining systemic barriers that hinder the effective protection of women's rights in Nigeria. By highlighting the specific areas where enforcement falls short, this analysis will provide insights into the urgent

¹⁸American Civil Liberties Union. '12 Things Other Countries Have Done to Promote Gender Equity | ACLU', 13 August 2018. <https://www.aclu.org/news/womens-rights/12-things-other-countries-have-done-promote-gender-equity>.

¹⁹ Ibid.

²⁰ Ibid.

²¹ Convention on the Elimination of All Forms of Discrimination against Women.

²² Section 42 of the Constitution of the Federal Republic of Nigeria, (1999).

²³ Okongwu, 'Are Laws the Appropriate Solution: The Need to Adopt Non-Policy Measures in Aid of the Implementation of Sex Discrimination Laws in Nigeria'.



need for comprehensive strategies to bridge these gaps and promote gender equality in Nigeria.

This study examines the applicable laws and some scholarly research concerning gender discrimination in Nigeria. The study aims to ascertain the reasons for gender discrimination in Nigeria and to what extent the 1999 constitution has helped to reduce the incidence of gender discrimination in Nigeria. To achieve this, the researcher reviews various legal frameworks and scholarly research, including journal articles, textbooks, and online articles related to gender discrimination. Assessing the enforceability of gender discrimination necessitates a scrutinization of legal frameworks alongside social dynamics while evaluating how effective mechanisms designed to address these issues are working. By understanding these factors, policymakers, advocates, and individuals can work towards achieving a more just society while ensuring that acts of gender discrimination are effectively challenged and prevented. Through a comprehensive analysis of the legal, social, and cultural factors at play, this paper offers insights that can inform policy interventions and advocacy efforts to close the enforcement gap and advance gender equality in Nigeria.

2. Method

This research employs the doctrinal research methodology, which is a commonly used approach in legal studies. It primarily focuses on analyzing and interpreting legal principles and concepts and typically involves the use of primary and secondary sources such as statutes, case law, articles, commentaries, and textbooks to study legal issues. This methodology is rooted in the analytical or positivist school of thought and aligns with positivism, emphasizing the objective study of legal texts and precedents to derive legal principles. Its philosophy views law as a set of rules and norms that exist independently of individual interpretations.²⁴

The primary research strategy utilized within the doctrinal research methodology involves a systematic analysis of legal sources such as statutes, case law, and scholarly commentary. The advantages of this methodology include its clarity and precision in analyzing legal concepts and its practical relevance to legal practice.²⁵ The researcher used the doctrinal research method to explore the legal issues surrounding gender discrimination.

²⁴ Pradeep M D, 'Legal Research-Descriptive Analysis on Doctrinal Methodology', *Technology, and Social Sciences (IJMTS) A Refereed International Journal of Srinivas University, India. IFSIJ Journal Impact Factor 4*, no. 2 (2019): 2581–6012, <https://doi.org/10.5281/zenodo.3564954>.

²⁵Ibid.



3. Analysis or Discussion

3.1. Forms of Discrimination

The Black Law Dictionary defines discrimination as:

a practice that confers privileges on a certain class or that denies privileges to a certain class because of race, age, sex, nationality, religion or handicap or differential treatment, especially a failure to treat all persons equally when no reasonable distinction can be found between those favoured and those not favoured.²⁶

Article 1 of the Convention on the Elimination of all Forms of Discrimination Against Women of 1979 defines discrimination as:

any distinction, exclusion or restriction made based on sex which has the effect or purpose of impairing or nullifying 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 freedoms in the political, economic, social, cultural, civil or any field.²⁷

Gender discrimination involves the unequal treatment and restrictions imposed on individuals due to their gender identity.²⁸ It encompasses various forms of unequal treatment, such as unequal pay, limited career opportunities, harassment, and exclusion from certain roles or positions. However, in this study, the various forms of discrimination will be considered as follows:

a. Employment Discrimination:

Women are often paid less than men for the same job or work of equal value. This pay disparity persists in many industries.²⁹ They also face barriers to progressing to higher positions within organizations, which limits their chances for career advancement and leadership roles.³⁰ Moreover, certain industries and professions are predominantly occupied by one gender, which may result in excluding or discouraging individuals from the other gender from pursuing those careers.³¹

The disparity in economic participation and opportunities between genders continues to be a major issue. In Nigeria, the participation rate in the workforce is

²⁶ Bryan A. Garner, *Black's Law Dictionary*, (*Black's Law Dictionary (Standard Edition)*) 9th (Ninth) Edition, 9th ed. (West, 2009).

²⁷ Convention on the Elimination of All Forms of Discrimination against Women.

²⁸ Gender Equality and Women's Empowerment, UNDP, <https://www.undp.org/vietnam/gender-equality-and-women-empowerment>. Accessed 22 September 2024.

²⁹ National Bureau of Statistics (NBS) Nigeria, *Statistical Report on Women and Men in Nigeria* (2023),

https://www.nigerianstat.gov.ng/pdfuploads/2021_Statistical_Report_On_Women_and_Men.pdf. Accessed 23 September 2024 .

³⁰ Ibid.

³¹ Ibid.



56% for women and 80% for men, indicating a significant imbalance.³² Although entrepreneurship is often viewed as a path to economic empowerment, women face specific hurdles in this domain. Women-owned businesses account for 41% of enterprises in Nigeria, but they tend to be smaller and encounter challenges in securing funding and accessing market opportunities, thus impeding their potential for growth and limiting their economic influence.³³

b. Education Discrimination:

Women in Nigeria face barriers to accessing quality education due to factors such as poverty, early marriages, cultural norms, and inadequate infrastructure.³⁴ In addition, societal expectations and gender stereotypes influence educational decisions, resulting in fewer opportunities for girls and discouragement from pursuing certain fields of study.³⁵

c. Violence and Harassment:

Women face instances of sexual harassment in various environments, such as workplaces, educational institutions, and public spaces. The rates of domestic violence, which include physical, sexual, and emotional abuse, are high.³⁶ A study carried out in southwest Nigeria in 2022 found that physical violence (81.8%) was the most prevalent form of known violence, while emotional violence (98.1%) was the most common type of experienced violence. The study also reported an overall prevalence of 15.5% for violence against women and girls.³⁷ In 2024, a study in Abeokuta, Southwest Nigeria, revealed that around 73.2% of the 339 participants had encountered some form of intimate partner violence. The most frequently reported forms were psychological/emotional violence (66.1%) and physical violence (47.5%).³⁸ Additionally, a 2024 study examined the impact of the rise of radical Islamic fundamentalism on sexual, physical, and emotional violence against women in Nigeria. It discovered that sexual violence against Muslim women had increased by 216.7%.³⁹

³² Nkechi Ilochi-Kanny, 'Accelerating Gender Equality', 13 March 2024, <https://nigeria.actionaid.org/news/2024/press-statement-womens-month-accelerating-gender-equality>.

³³ Ibid.

³⁴ 'Gender Equality and Women's Empowerment'.

³⁵ Ibid.

³⁶ Ibid.

³⁷ Ogechukwu C. Ibekwe et al., 'The Experience of Violence against Women and Girls in Southwest, Nigeria', *International Journal Of Community Medicine And Public Health* 9, no. 3 (28 February 2022): 1202, <https://doi.org/10.18203/2394-6040.ijcmph20220676>.

³⁸ Abdul Mumin Kayode Ahmed et al., 'Prevalence, Pattern and Effect of Intimate Partner Violence against Women in Abeokuta, South West Nigeria', *Nigerian Postgraduate Medical Journal* 31, no. 2 (2024): 130-38, https://doi.org/10.4103/npmj.npmj_23_24.

³⁹ Nelson O. Oranye, Nkemdili A. U. Nnonyelu, and Anthony Ughenu, 'The Rise of Radical Islamic Fundamentalism and Violence against Women in Nigeria', *World Affairs* 187, no. 3 (September 2024): 290-305, <https://doi.org/10.1002/waf2.12039>.



d. Social and Cultural Discrimination:

Cultural practices and traditions perpetuate discrimination, such as child marriage, female genital mutilation, or honour killings. Nigeria has a high prevalence of child marriage, which disproportionately affects girls, limiting their educational and economic opportunities.⁴⁰ The legal age for marriage in Nigeria differs depending on the region and is shaped by cultural and religious customs. Several traditional customs permit early marriage, which can negatively impact women's rights and prospects. This practice is commonly defended by customary values that prioritize marriage over girls' education and personal growth. The disparity in marriage age laws among various regions adds to the persistent discrimination experienced by women in Nigeria.⁴¹

e. Legal Discrimination:

In Nigeria, women face discrimination in the form of unequal inheritance laws, limited property rights, and the legal age for marriage.⁴² For example, in Igbo communities, women and girls are regularly refused inheritance rights, particularly in situations such as divorce or widowhood.⁴³

In addition, the legal frameworks and mechanisms to address gender discrimination and violence against women are inadequate, which contributes to the perpetuation of these injustices.⁴⁴ Although the Constitution prohibits gender discrimination, customary and religious laws still limit women's rights and property ownership. Furthermore, the failure to harmonize domestic laws with international human rights standards worsens this problem, leaving women without proper legal protection and in a vulnerable position.⁴⁵

f. Political Representation:

Women in Nigeria have limited representation in political leadership positions such as parliament and executive roles, which reduces their influence in decision-making processes. Efforts to promote women's contribution to politics and decision-making have not resulted in significant improvements, as women continue to have low representation at all levels of governance despite making up almost half of the electorate. Since gaining independence in 1960, Nigeria has never had a female President or Vice President, even though women make up almost half the voting population. Despite various attempts to encourage women's participation in politics

⁴⁰ Nigerian Women Say "No" to Gender-Based Violence, Africa Renewal, 14 December 2017, <https://www.un.org/africarenewal/news/nigerian-women-say-%E2%80%98no%E2%80%99-gender-based-violence>.

⁴¹ Foluke Oluyemisi Abimbola, Stanley Osezua Ehiane, and Roman Tandlich, 'Women's Rights in Nigeria's Indigenous Systems: An Analysis of Non-Discrimination and Equality under International Human Rights Law', *Social Sciences* 12, no. 7 (1 July 2023), <https://doi.org/10.3390/socsci12070405>.

⁴² Gender Equality and Women's Empowerment.

⁴³ Stella Uju Ojuade: Protecting the Rights of Women to Customary Inheritance In Igbo Land of Nigeria, n.d., www.icrw.org.

⁴⁴ Ibid.

⁴⁵ Abimbola, Ehiane, and Tandlich, 'Women's Rights in Nigeria's Indigenous Systems: An Analysis of Non-Discrimination and Equality under International Human Rights Law'.

and decision-making, women continue to have minimal representation across all levels of government.⁴⁶ In 2023, women accounted for only 4.4% of the National Parliament, with 8 out of 46 appointed Ministers being women. The same year, the Senate comprised four women out of 109 members, and the House of Representatives had only 16 women out of 360 members.⁴⁷

3.2. Legal Framework on Gender Discrimination

Numerous global frameworks and agreements have been established to prevent and combat gender discrimination. The Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)⁴⁸ is a worldwide pact adopted by the United Nations General Assembly. The treaty's purpose is to define gender discrimination and provide a comprehensive structure for dealing with it. State parties are obligated by the treaty to acknowledge and:

take all appropriate measures to eliminate discrimination against women in the field of employment to ensure, on a basis of equality of men and women, the same rights, in particular: (a) [t]he right to work as an inalienable right of all human beings; (b) [t]he right to the same employment opportunities, including the application of the same criteria for selection in matters of employment.⁴⁹

Nigeria ratified the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) in 1985 and its optional protocol in 2001.⁵⁰ Additionally, Nigeria was one of the 189 countries that adopted the Beijing Declaration and Platform for Action (BDPfA) in 1995.⁵¹ The platform is a landmark document that outlines critical areas for promoting gender equality and women's empowerment. The Platform for Action includes a series of strategic objectives to eliminate discrimination against women and achieve equality between women and men. Further, Nigeria is a signatory to the Gender Equality and the Empowerment of Women and Girls, number five of the seventeen Sustainable Development Goals (SDGs) of the United Nations targeted from 2015 –2030.⁵²

In addition, Nigeria has ratified all eight core International Labour Organization Conventions of which Convention No. 100 on Equal Remuneration for Men and

⁴⁶ National Bureau of Statistics (NBS) Nigeria, *Statistical Report on Women and Men in Nigeria (2023)*.

⁴⁷ Nigeria, UN Women – Africa, <https://africa.unwomen.org/en/where-we-are/west-and-central-africa/nigeria>. Accessed 23 September 2024.

⁴⁸ United Nations Treaty Collection, https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-8&chapter=4. Accessed 23 September 2024.

⁴⁹ Convention on the Elimination of All Forms of Discrimination against Women.

⁵⁰ Convention on the Elimination of All Forms of Discrimination against Women.

⁵¹ Beijing Declaration and Platform for Action, https://www.stopvaw.org/beijing_declaration_and_platform_for_action. Accessed 23 September 2024.

⁵² Take Action for the Sustainable Development Goals - United Nations Sustainable Development.



Women⁵³ promotes equal pay for work of equal value and Convention No. 111 on Discrimination (Employment and Occupation) for addressing gender discrimination in the workplace.⁵⁴ Nigeria has also ratified and domesticated the United Nations Convention on the Rights of the Child,⁵⁵ which addresses children's rights, including gender equality.⁵⁶

At the Regional level, Nigeria has adopted the African Charter on Human and People's Rights (the Charter)⁵⁷ and the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (also referred to as the Maputo Protocol) to protect the right to equality and non-discrimination.⁵⁸

Article 18(3) of the Charter⁵⁹ provides that:

The State shall ensure the elimination of every discrimination against women and also ensure the protection of the rights of the woman and the child as stipulated in international declarations and conventions, which are a product of cultural, religious, and social factors...

At the national level, Nigeria has enacted laws and formulated policies to reduce the incidence of Gender Discrimination. Such laws include:

1. The Constitution of the Federal Republic of Nigeria, 1999⁶⁰
2. The Criminal Code Act⁶¹
3. The Penal Code Act⁶²
4. Marriage Act⁶³
5. Violence Against Persons (Prohibition) Act, 2015(VAPP)⁶⁴
6. Child's Rights Act 2003⁶⁵

⁵³ International Trade Union Confederation (ITUC) Internationally Recognised Core Labour Standards In Nigeria, https://www.ituc-csi.org/IMG/pdf/final_Nigeria_TPR_CLS_2_.pdf. Accessed 23 September 2024.

⁵⁴ Ibid.

⁵⁵ Njoku Geoffrey, '25 Years of Children's Rights in Nigeria' - Daily Trust, <https://dailytrust.com/25-years-of-children-s-rights-in-nigeria/> accessed 22 September 2024.

⁵⁶ The Child's Rights Act (CRA) (2003), <https://placng.org/lawsofnigeria/laws/C50.pdf>. Accessed 22 September 2024.

⁵⁷ African Charter on Human and Peoples' Rights (Ratification and Enforcement) Act, Cap. A9, <https://achpr.au.int/sites/default/files/files/2022-08/nigeriastatereport6th20152016eng.pdf>, Accessed 23 September 2024.

⁵⁸ Ibid.

⁵⁹ Ibid.

⁶⁰ The Constitution of the Federal Republic of Nigeria, 1999.

⁶¹ The Criminal Code Act, <https://lawsofnigeria.placng.org/laws/C38.pdf>. Accessed 22 September 2024.

⁶² The Penal Code Act, <https://policehumanrightsresources.org/content/uploads/2016/07/Penal-Code-Northern-States-Federal-Provisions-Act-1960.pdf?x96812>. Accessed 22 September 2024.

⁶³ Marriage Act, <https://lawsofnigeria.placng.org/laws/M6.pdf>. Accessed 22 September 2024.

⁶⁴ Violence Against Persons (Prohibition) Act, 2015(VAPP), <https://fida.org.ng/wp-content/uploads/2020/09/Violence-Against-Persons-Prohibition-Act-2015-1.pdf>. Accessed 22 September 2024.

⁶⁵ Child's Rights Act 2003.



7. Cybercrimes (Prohibition, Prevention, Etc.) Act 2015⁶⁶
8. Trafficking in Persons (Prohibition) Law Enforcement and Administration Act 2003 (as amended)⁶⁷

The gender-related policies and strategies include the National Reproductive Health Policy,⁶⁸ National Policy and Plan of Action for the Elimination of Female Genital Mutilation in Nigeria 2021-2025;⁶⁹ National Strategic Framework for the Elimination of Obstetrics Fistula in Nigeria 2019-2023;⁷⁰ National Policy on the Sexual and Reproductive Health and Rights of Persons with Disability (with emphasis on Women and Girls);⁷¹ National Gender Policy 2021 (revised).⁷²

Some institutional mechanisms currently in place to safeguard and advance human rights in Nigeria are the National Human Rights Commission,⁷³ the Legal Aid Council⁷⁴, and the Discrimination Against Persons with Disabilities (Prohibition) Act 2018.⁷⁵

3.3. Analysis of Some National Laws on Gender Discrimination

The Nigerian legal system comprises common law, customary law, and Islamic law. These legal systems are partly regulated by statutory law. This results in conflicting views on the status of laws related to gender discrimination within the country. International legal instruments are not applicable in Nigeria unless they are

⁶⁶ Cybercrimes (Prohibition, Prevention, Etc.) Act 2015, <https://www.nfiu.gov.ng/images/Downloads/downloads/cybercrime.pdf>. Accessed 22 September 2024.

⁶⁷ Trafficking in Persons (Prohibition) Law Enforcement and Administration Act 2003 (as amended), <https://www.warnathgroup.com/wp-content/uploads/2017/11/TRAFFICKING-IN-PERSONS-PROHIBITION-NIGERIA-2015.pdf>. Accessed 22 September 2024.

⁶⁸ National Reproductive Health Policy, <https://search.issuelab.org/resource/national-reproductive-health-policy.html>. Accessed 22 September 2024.

⁶⁹ National Policy and Plan of Action for the Elimination of Female Genital Mutilation in Nigeria (2021-2025), https://nigeria.unfpa.org/sites/default/files/pub-pdf/fgm_national_policy_and_plan_of_action_nigeria.pdf. Accessed 22 September 2024.

⁷⁰ National Strategic Framework for the Elimination of Obstetrics Fistula in Nigeria (2019-2023), <https://nigeria.unfpa.org/sites/default/files/pub-pdf/FMOH-NSF-2019-2023%20Fistula.pdf>. Accessed 22 September 2024.

⁷¹ Folakemi Ajala, 'Expanding Access to Sexual and Reproductive Health Services and Rights to Vulnerable Populations', *Nigeria Health Watch*, 7 December 2022, <https://articles.nigeriahealthwatch.com/expanding-access-to-sexual-and-reproductive-health-services-and-rights-to-vulnerable-populations/>.

⁷² National Gender Policy (2021-2026), <https://www.wrapanigeria.org/wp-content/uploads/2023/06/FINAL-NGP-COPY-AS-PRINTED.pdf>. Accessed 22 September 2024.

⁷³ National Human Rights Commission - National Human Rights Commission, <https://nhrc.gov.ng>. Accessed 22 September 2024/.

⁷⁴ Legal Aid Council of Nigeria, Grassroots Justice Network, <https://grassrootsjusticenetwork.org/connect/organization/legal-aid-council-of-nigeria/>. Accessed 22 September 2024.

⁷⁵ Discrimination Against Persons with Disabilities (Prohibition) Act 2018, https://www.un.org/development/desa/disabilities/wp-content/uploads/sites/15/2019/11/Nigeria_Discrimination-Against-Persons-with-Disabilities-Prohibition-Act-2018.pdf. Accessed 22 September 2024.

ratified and domesticated by enacting new laws that comply with their requirements.⁷⁶ Several laws mentioned above address national laws and policies related to gender discrimination. The most relevant laws in this regard are the 1999 Constitution of the Federal Republic of Nigeria, the Labour Act, the Child Act, and the Violence Against Persons (Prohibition) Act, 2015(VAPP Act).

a. The Constitution of the Federal Republic of Nigeria

The Nigerian Constitution is the supreme law of the country and prohibits discrimination in any form. Section 42(1) of the 1999 Constitution specifically prohibits discrimination based on gender. Section 42 of the Constitution prohibits any form of discrimination on both genders and promotes equality. However, Section 42(3) undermines the anti-discriminatory provision of Section 42(1) by stating that:

nothing in subsection (1) of this section shall invalidate any law by reason only that the law imposes restrictions concerning 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 particular qualification renders the provisions of subsection (1) of the relevant legislation impotent.⁷⁷ The aforementioned subsection has been specifically designed to eliminate all forms of discriminatory practices that may exist within the context of the law. As a direct result of the qualification, however, the provisions of subsection (1) have been rendered ineffective. This means that discriminatory practices may still exist and that individuals and institutions may continue to engage in such practices without fear of legal retribution.

Section 6 (6) (c) of the Constitution⁷⁸ contains a discriminatory provision restricting the judiciary's authority. This provision limits the powers conferred upon the judiciary by stating the power of the judiciary:

(c) shall not, except as otherwise provided by this Constitution, extend to any issue or question as to whether any act of omission by any authority or person or as to whether any law or any judicial decision conforms with the Fundamental Objectives and Directive Principles of State Policy set out in Chapter II of this Constitution.

This implies that citizens cannot obtain redress from the courts if denied their socio-economic development and other rights provided for under the constitution if such rights are infringed upon. Section 43 recognizes the right to acquire property. However, the right of women to inherit property in Nigeria is governed mainly by

⁷⁶ Section 12 of the Constitution of the Federal Republic of Nigeria, 1999 (as amended).

⁷⁷ Enobong Mbang Akpambang, 'A Critical Appraisal of the Legal and Policy Frameworks for the Protection of Women's Rights in Nigeria', *American International Journal of Contemporary Research* 10, no. 1 (2020), <https://doi.org/10.30845/aijcr.v10n1p3>.

⁷⁸ Constitution of the Federal Republic of Nigeria, 1999 (as amended).



customary law.⁷⁹ Under customary law, women have limited rights to inherit property. In some cases, women may be able to inherit property as long as they are married.⁸⁰

b. Labour Act Cap L1 LFN 2004⁸¹

The Nigerian Labour Act is a legal document that oversees how labour practices and relations are conducted in Nigeria. The Act is in place to regulate the relationship between employers and employees and make certain that labour practices follow global labour standards. However, certain sections of the Act are unfair to women and discriminate against them.⁸² For instance, section 55 of the Act⁸³ provides as follows:

- (1) Subject to this section, no woman shall be employed on night work in a public or private industrial undertaking or any branch thereof, or any agricultural undertaking or any branch thereof.

Although this provision is intended to provide protection, it discriminates against women by limiting their employment opportunities.⁸⁴ Sections 56 and 57 of the Labour Act contain provisions that limit the rights of women to choose the type of job that suits them. This discriminatory provision goes against the Constitution, which prohibits any form of discrimination.⁸⁵

c. Child's Rights Act 2003

The Child's Rights Act in Nigeria is a law meant to protect children's rights and well-being. It covers many areas, such as education, healthcare, protection from abuse and exploitation, and child marriages, among others. This law was created in 2003.⁸⁶ The Act defines a child as an individual under 18 years old and stipulates in section 21 that they cannot enter into a legal marriage, rendering any such marriage invalid. The Act aims to safeguard children's rights and ensure their well-being and development. However, child marriages often take place under customary and Islamic law, rendering this legislation ineffective.⁸⁷ In a study conducted by Human

⁷⁹ Abimbola, Ehiane, and Tandlich, 'Women's Rights in Nigeria's Indigenous Systems: An Analysis of Non-Discrimination and Equality under International Human Rights Law'.

⁸⁰ Ibid.

⁸¹ Labour Act Cap L1 LFN 2004, <https://lawsofnigeria.placng.org/laws/L1.pdf>. Accessed 22 September 2024.

⁸² Ibid, sections 55 and 56.

⁸³ Ibid.

⁸⁴ Elizabeth Ama Oji and Offornze Amucheazi, *Employment & Labour Law in Nigeria* (Mbeyi & Associates (Nig) Limited, 2015).

⁸⁵ Constitution of the Federal Republic of Nigeria, 1999 (n 7) section 42.

⁸⁶ Ibid, sections 28, 29, 30, 32, 33 and 34.

⁸⁷ Akpambang, 'A Critical Appraisal of the Legal and Policy Frameworks for the Protection of Women's Rights in Nigeria'.

Rights Watch, it was found that families often arrange marriages for girls before the age of 18 without giving them any choice regarding when or whom they marry.⁸⁸

In many Sharia-legislated states in Nigeria, child marriage is deemed acceptable on religious and traditional grounds, with the age of adulthood determined by puberty.⁸⁹ Child marriage contravenes the Nigerian Constitution, the African Charter on the Rights and Welfare of the Child, and the United Nations Convention on the Rights of the Child. These global agreements state that 18 is the age of adulthood and ensure a child's freedom from coercion and violence, as well as access to healthcare and education.

d. The Violence Against Persons (Prohibition) Act, 2015(VAPP Act)

The Violence Against Persons (Prohibition) Act is a legal measure in Nigeria aimed at addressing various forms of violence, including domestic violence, sexual assault, female genital mutilation, and other harmful practices.⁹⁰ The VAPP Act, passed in 2015, aims to safeguard victims of violence and to promote a society that respects and maintains the dignity of all individuals. It makes several kinds of violence illegal and sets out steps for preventing, investigating, and punishing wrongdoers.⁹¹ However, despite it being adopted by many states in Nigeria, its implementation has been limited, leading to a rise in abuse cases with few convictions.⁹²

4. Factors Affecting the Enforceability of Gender Discrimination Laws in Nigeria

1. Discriminatory Laws and Customary Practices:

Some gender-friendly laws, such as the 1999 Constitutional, Labor Law, the Penal Code, and the Criminal Code, include discriminatory provisions that hinder the enforceability of gender discrimination laws. These provisions create barriers to achieving true gender equality and may require amendments to ensure fair and just implementation.

2. Lack of Effective Enforcement Mechanisms:

The existence of constitutional provisions and statutes that expressly forbid gender discrimination is a crucial and fundamental step in upholding the basic right to be free from gender-based discrimination. However, the efficacy of these legal safeguards also depends on the clarity, comprehensiveness, and interpretation of these laws by the judiciary. The fairness and autonomy of the judiciary play a crucial

⁸⁸ Child Marriage Remains Prevalent in Nigeria | Human Rights Watch, <https://www.hrw.org/news/2022/01/17/nigeria-child-marriage-violates-girls-rights>. Accessed 25 September 2024.

⁸⁹Ibid.

⁹⁰ Ibid, sections 1; 9, 14, 15, 16, 19, 20, 21, 22, 25, 46.

⁹¹ Ibid.

⁹² Chibueze Ngozi, Irehobhude Iyioha, and Ebenezer Tope Durojaye, 'The Violence Against Persons Prohibition Act, the Maputo Protocol and the Rights of Women in Nigeria', *Statute Law Review* 39, no. 3 (11 October 2018): 337–47, <https://doi.org/10.1093/slr/hmx009>.



role in effectively implementing any legal right, including those pertaining to gender discrimination. It is essential to ensure that individuals who have faced gender discrimination have access to affordable and efficient avenues to seek justice. Various obstacles, such as high legal expenses, procedural intricacies, and limited access to legal aid, can hinder this, weakening the enforceability of rights protected by the law.

3. Awareness and Education:

Widespread awareness and understanding of gender rights are essential for ensuring effective implementation and enforcement. It is imperative to conduct comprehensive public education campaigns targeting individuals from all walks of life and implement specialized training programs for professionals in various sectors. Additionally, initiatives aimed at promoting gender equality should be actively pursued to foster widespread awareness and to actively address and mitigate discriminatory practices in all aspects of society.

4. Social and Cultural Factors:

Enforcing gender rights faces obstacles due to deeply ingrained societal attitudes, norms, and cultural practices. These include traditional gender stereotypes, patriarchal systems that prioritize men, and social biases that perpetuate discriminatory practices. These factors create significant barriers to ensuring that individuals have the right to be free from gender discrimination.

5. Non-domestication and Implementation of some Gender Laws and Policies:

The implementation of gender-specific laws and policies has sometimes been slower than expected. For example, the Child Rights Act and the National Gender Policy have not been fully implemented due to failure to incorporate the laws in some states, inadequate funding, and gender capacity gaps within key government institutions, particularly at the state and local levels. It is crucial for Nigeria to harmonize its laws with international norms to safeguard children from early marriage. All states should ensure the adoption and enforcement of the Child Rights Act. The federal government and the states that have adopted the law should develop a comprehensive action plan to guarantee the legislation's effective implementation and penalize noncompliance.

5. Conclusion

Nigeria has taken steps towards reducing gender discrimination through legal measures. The country's 1999 Constitution prohibits discrimination based on sex, and the 2015 Violence Against Persons (Prohibition) Act provides comprehensive protection against various forms of violence and discrimination experienced by women. However, implementing these laws can be challenging due to discriminatory laws and customs, insufficient resources, and cultural norms. Traditional gender roles and cultural norms also contribute to gender



discrimination, making it difficult to enforce the laws. To effectively address gender discrimination, Nigeria needs a combination of legal measures, education, and societal changes. It is crucial to raise awareness about legal rights and provide training for law enforcement personnel. Government agencies, non-governmental organizations, and civil society should collaborate to implement gender discrimination laws. Regular monitoring and reporting mechanisms can help identify gaps in enforcement and areas that need improvement. By working together, Nigeria can create a more inclusive and equitable society. Gender discrimination is a problem that needs to be addressed to achieve goals like Gender Equality (Goal 5) and Reduced Inequalities (Goal 10). It is crucial to ensure that every person, regardless of gender, has an equal opportunity to live a good life. By working towards this, Nigeria can contribute to achieving the UN's broader goals for creating a better world. This study, therefore, recommends some strategies the government can apply in its effort to ensure the enforcement of gender discrimination laws in Nigeria:

1. **Strengthen Legal Framework:** Discriminatory provisions of the Constitution should be amended. The Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) and other gender-friendly laws that are yet to be domesticated should be domesticated and implemented.
2. **Raise Awareness:** Conduct awareness campaigns to educate citizens about their rights and the consequences of gender discrimination. This can be done through media, workshops, and community outreach.
3. **Establish Reporting Mechanisms:** Create accessible channels for individuals to report instances of gender discrimination, ensuring confidentiality and protection for victims.
4. **Support for Victims:** Provide support services for victims of gender discrimination, including counselling, legal aid, and safe spaces.
5. **Collaborate with NGOs:** Partner with non-governmental organizations specializing in gender equality to amplify efforts and share resources.
6. **Collect Data:** Gather and analyze data on gender discrimination cases to identify patterns, areas of concern, and gaps in enforcement.
7. **Publicize Convictions:** Publicly announce convictions and penalties for those guilty of gender discrimination. This can act as a deterrent.
8. **Monitor Implementation:** Establish a body to oversee the implementation of gender discrimination laws and regularly assess progress.

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