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## Protection of Women and Children's Right under International Human Rights Law

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**Abstract:** *This study is a historical examination of women's right movements, using interdisciplinary approach in our analysis. It examined the stages of women right movements and the stages of legal codifications from Biblical time to the Beijing conference and the present United Nations Declarations on Women's Rights. Our findings are that inspite of the various Declarations by the United Nations on Women's rights, many developing and African countries have refused to abide by it, without regard to the fact that they are signatories to them. The study concludes that there should be sanctions and information dissemination against those countries that are flouting these laws so as to act as deterrent to others.*

**Keywords:** *Women's Right Movements/History, Protection of Women's Rights, Conventions and Declarations on Women*

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### 1. Introduction

The word "right" is a general term associated with title. It is used to denote prerogative privilege, possession, ownership of property. Legally speaking, "right" refers to whatever lawfully accrues to another.

Human rights are rights endowed by nature. They are rights that accrue to all human beings. All individuals solely by virtue of being human, are entitled to moral rights which no society or state should deny. *Kayode Eso, JSC, in the case of Kuti v. Attorney General of Nigeria* defines human rights as:

right which stands above the ordinary laws of the land and which is in fact antecedent to the political society itself. It is a primary condition to a civilized existence and what has been done by our (Nigerian) constitution since independence is to have these Rights enshrined in the constitution so that the rights could be immutable to the extent of the non-immutability of the constitutions itself".

Human Rights can be divided into the civil, political, economic, social and cultural rights. Though human rights are naturally endowed rights, a time came in the history of nations when

individuals were deprived of their rights and maltreated by their states; which claimed that every state had a right to treat its nationals as it pleased.

This large scale maltreatment by states of their nationals made writers such as Hugo Grotius, Thomas Horpe, John Locke in the early 17<sup>th</sup> Century question the essence of government. They decried the inhuman treatment meted out to human being. They recognized as lawful the use of force by one or more states to stop the maltreatment by a state of its own nationals. In line with this the United Nations Security Council started taking actions to deal with large scale violations of human rights by authorizing measures under the powers that chapter VII of the UN Charter confers on it. Treaties were concluded between states in which they agreed to treat their nationals in a more humane manner.

## **2. The Woman and Women's Rights**

The New Webster's Dictionary of the English Language defines a woman as "an adult female human being sex whatever her age or status". Ordinarily, we can define the term "woman" to mean "an adult female human being, exhibiting feminine characteristics quite distinctive from the opposite sex".

In the state of nature, women were endowed, as an integral part of being human, with the natural right to life, liberty and estate. The Nigeria Constitution, 1999 (as amended), has also spelt out certain rights for women which they also share jointly with the men - right to life, right to dignity of human person, right to personal liberty, right to fair hearing, right to private and family life, right to freedom of thought conscience and religion...

The Almighty Creator when he had finished the work of creation attributed specific right to women. These include:

- Right to be loved their husbands
- Right to be honoured by their husbands
- Right to be treated as the weaker vessel
- Right as being heirs together of the grace of life...

In reality however, women especially the local women do not enjoy all these rights. Studies have shown that the rights of the local women are largely determined by local custom. In most African Countries example Uganda and Cote'd'voire and even in Nigeria a central feature of their systems of law is the subordinate status of women which is most apparent in marriage. The payment of bride price is taken to mean that a husband has purchased his wife's, sexual services, her labour, perpetual obedience and consent.

The local women is exposed to low educational levels, lack of access to credit and appropriate technology etc which limits her economic opportunities thus making it impossible for her to exercise control over her life.

The local women is doubly disadvantaged-occupying lower status and lower wage jobs

while retaining the overwhelming burden of child care and household responsibilities. In most of Asia and North Africa, failure to provide the local women with medical care, food and social services, similar to what the men get, have resulted in excess mortality of women.

Women are the major victims of warfare, the sexual abuse of women during and after warfare has been well documented. Forcible prostitution has also been regarded as an inevitable and acceptable practice in such times. Rape in warfare crosses all culture boundaries and has unreported and unrecorded although it has resulted in the death and suffering of countless women over the years. In spite of the fact that women suffer human rights abuses in specific forms related to their being female, these violations do not generate the same public cry as other human rights violations.

As a result of this oversight, a focus on women's human rights is being advocated. Rights advocated for by women include:-

- Right to work
- Right to fair wages and conditions of services,
- Right to an adequate standard of living and freedom from hunger,
- Right to mental and physical health,
- Right to education and freedom from discrimination,
- Right to Succession to property,
- Right to equal rights on dissolution of marriage,
- Right to choice of marriage partners,

Women all over the world are entitled to have and enjoy these rights regardless of cultural particularities, religious tenets and levels of development.

Women's rights are being advocated for in order to:-

1. Inform women that they have rights and are entitled to enjoy them.
2. To expose and combat rights violations that are based on sex or gender.
3. Shape a new human rights practice that fully addresses the human rights of women.

### **3. The History of Protection of Women's Rights**

The struggle for Women's Rights dates back to the 16<sup>th</sup> century when the book "Vindication of the Rights of Women" was published by Mary Wollstonecraft in 1792. In the book she advocated for civil and political equality for women. This inspired the women and led to the feminist congress in Paris in 1890. This both was also responsible for the emergence of British feminism which sought political advancement through a militant campaign for Women's Suffrage which eventually led to the passage of the Representation Act in England which gave the women the

right to vote. By 1919 the Sex Disqualification Removal Act was passed. This Act gave women the right to belong to all professions except the currency.

#### **4. The Instruments Which Gives Rights to Women**

(A) **THE CONVENTION ON THE POLITICAL RIGHTS OF WOMEN** Article 1 of this convention entitled women to vote in all elections on equal terms with men. Article 2 gives women the eligibility for election to all publicly elected bodies, established by National Law, on equal terms with the men, without any discrimination. Article 3 provides that women can hold public office and exercise public functions.

(B) **CONVENTION ON THE CONSENT TO MARRIAGE, MINIMUM AGE OF MARRIAGE AND REGISTRATION OF MARRIAGES**

(C) **CONVENTION ON THE NATIONALITY OF MARRIED WOMEN**

This convention provides in its Article 1 that neither the marriage nor dissolution of marriage among the contracting state of one of its nationals and an alien nor the change of nationality by the husband during marriage shall automatically affect the nationality of the wife.

(D) **DECLARATION ON THE ELIMINATION OF DISCRIMINATION AGAINST WOMEN**

Article 1 discriminates against women as unjust and constitute an offence against human dignity.

(E) **DRAFT DECLARATION ON THE ELIMINATION OF VIOLENCE AGAINST WOMEN**

It provides that states should condemn violence against women and should not invoke any custom, tradition or religious consideration to avoid their obligation with respect to its elimination.

(F) **THE CONVENTION ON THE ELIMINATION OF ALL FORMS OF DISCRIMINATION AGAINST WOMEN (CEDAW)**

This is the instrument that called special attention to the rights of women, the international community devoted much time and resources to advocate for it. It is the primary human right instrument relating to women. The Article 1 of CEDAW defines elimination as "any distinction made on the basis of sex which has the effect 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 right and fundamental

freedoms in the political, economic, social, civil or any other field". Article 3 of the convention states that all states must take all appropriate measures including legislation to ensure the full development and advancement of women, for the purposes of guaranteeing them the exercise and enjoyment of human right and fundamental freedoms on a basis of equality with men. Nigeria ratified it in 1985. It states clearly and unequivocally that discrimination against women violates the principles of equality of rights.

**(G) UNITED NATION DECLARATION ON THE ELIMINATION OF VIOLENCE AGAINST WOMEN**

It provides in its Article 1 that violence against women include gender based violence whether occurring in public or private life. It goes on to say in Article 2 "violence against women" includes:

- (a) Violence in family, marital rape, female genital mutilation and other traditional harmful practices to women
- (b) Similar violence within the general community including sexual harassment at work and
- (c) Violence perpetrated or condoned by the state wherever it occurs.

**(H) THE BEIJING DECLARATION AND PLATFORM FOR ACTION**

It came after CEDAW, here also women's concern played a central role. It affirms in paragraph 14 "Women Rights are human Rights". Its aim is "To ensure the full implementation of the human rights of women and of the girl child as inalienable, integral and indivisible part of all human rights and fundamental freedom".

**(I) MAPUTO PROTOCOL**

This protocol covers a broad range of women's rights including the Elimination of discrimination against women, the right of dignity, the right to life, the integrity and security of the person, the right to education and training, economic and social welfare rights and health and reproductive rights. In particular article 5 of the protocol requires that all forms of female genital mutilation be condemned and prohibited.

**5. Success Scored With Special Reference To Local Women**

It is surprising to note that after the adoption of all these instruments and declarations, the protection of women's rights in Nigeria is still far from scoring an average in its measure. There is, however, some significant increase in women's career advancements exemplified by women's appointments into high level executive cadre of public institutions, ministerial appointments,

election into the states national legislature chambers, etc.

The local women are yet to fully comprehend the issues at stake. Women's Rights' has not yet been taken to the local woman. The fact remains that the concept of gender equality is foreign to African Culture, traditions and religion. Professor Osita Eze states "the status of women has tended to be conditioned by tradition and the philosophy of the dominant religions".

The convention on the elimination of all forms of discrimination against women (CEDAW) recognizes the role of culture and tradition and calls upon state parties to eliminate sex role stereotyping. But despite this, Nigeria which is party to this convention still harbours traditions in most of the communities, whereby women are still under-valued than men, resulting in obvious favouritism shown to male children and neglect of female children.

Article 15 of CEDAW provides for elimination of prejudices, and all other practices which are based on the idea of the inferiority or the superiority of either of the sexes or in stereotyped roles for men and women. And yet discriminatory tradition, unfortunately still thrives in our contemporary Nigerian Society despite its glaring conflict with Article 15 of CEDAW. The local woman is regarded as having no capacity to own, acquire or dispose of land as actual control of land is vested only in men. She only has custody of any piece of land her husband permits her to cultivate.

In conflict situations such as communal, religious and ethnic conflicts<sup>23</sup>, Government uses military force whereupon troops-usually consisting of policemen and soldiers-are often given extensive powers to carry out peace keeping operations and they are not held accountable to civilian legal authorities for their actions. This point is buttressed by the much condemned Odi<sup>24</sup> crisis, which took place early in November 1999 following the killing of twelve (12) policemen by suspected militant Ijaw youths. The security operatives in the course of counter-insurgency operations embarked on an indiscriminate raping spree as dozens of reports of rape of women and girls were recorded. It is disheartening to note that no official investigation into such incidents by the Federal Government has been conducted nor has the Federal Government demonstrated any political will to institute such investigations.

## **6. Conclusion and Recommendation**

Despite the International Conventions and Conferences on women and their rights, the problems of protection remain at an unrotating radius too dangerous for today's atmosphere and tomorrow's birth. Not being femino-centric, the role of women in the world today cannot be over emphasized. To appreciate this point one may try to imagine a world without women. In the first place, growth of the world would have been stunted and the world at the risk of total disintegration.

One may safely refer to the woman as the "mother of the world". Women gave birth to the world, hence our cry for women's rights. Ironically, the world and its administrators are not seeing the matter in this vein. Male counterparts see the cry for liberation as an approach to erode God's order in creation. They continue to pay lip service to the conventions on women's rights

and make theories of the various international instruments bestowing one form of right or the other on women. This attitude is more pronounced in the developing countries Nigeria being guilty.

Nigeria has ratified the CEDAW and it is a state party to the Beijing Declarations and Platform for actions, but it is disheartening to realize that practices both in the private and public life in Nigeria are far cries from the spirit of these conventions. It is recommended Nigeria should begin to implement the provisions of all the instruments affecting women's rights to better the lot of women.

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