



REPOSITIONING FEMALE GENDER RIGHTS AND VALUES: THE LEGAL AND COMMUNICATION IMPERATIVES

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ABSTRACT

This work discusses the female gender especially in the African socio-cultural milieu. Using particularly the secondary data, it showcases how the African society has placed, treated and has continued to treat the female-folk not only as second class citizens but more worrisomely, as mere properties and chattels of their husbands which can be used and even misused and finally dumped into the garbage by men without scruples. The work also chronicles the plethora of social, cultural, economic and legal degrading and discriminatory practices against women and observes that even religion which ought to be the much needed elixir and hope for egalitarianism and fairness for the female gender has not equally helped matters as it manifestly joins the African custom and tradition in treating women as properties of men and who must remain silent and subservient. The legal frameworks in Africa, including Nigeria, do not help matters notwithstanding the express provisions of the law especially section 42 of the 1999 constitution which advocates for the freedom from discrimination irrespective of sex and circumstances of birth. The researchers recommend, among others, that time has unarguably come for the African society – the government and the governed – to refocus attention and embark on sincere overhauling and addressing of the discriminatory state of the female gender.

Keywords: Law, communication, repositioning, feminism, rights, values

Introduction

In all civilized democratic societies, Nigeria inclusive, there exists this framework, very often imbued and clothed with sacrosanctity, which encapsulates and spells out, among others, how such a society shall be governed as well as the legal and moral claims which citizens of such society are entitled to by virtue of being members of such a clime. While the former which houses these legal frameworks for the operation of the society is called constitution, the later that captures the legal and moral claims of individuals is christened “rights”. Constitution, therefore, is the supreme law of the land on the platform of which all inconsistent enactments and conducts are declared null and void (Nwokike, 2015, p. 115) while human rights are “freedoms and benefits enjoyed by individuals in the society in which they live” (Oduah, 2011, p.4). In Nigeria, these rights are captured in chapter 4 of the 1999 constitution of the Federal Republic of Nigeria (as amended) as fundamental rights. Among these rights is the right of freedom from discrimination on the basis of sex (section 42 of the constitution of the Federal Republic of Nigeria, 1999, as amended).

Unfortunately, in spite of these express provisions of the Nigerian constitution against any form of discrimination against any person or group of persons on the basis of sex or the circumstances of such a person’s birth, there existed, and indeed, has continued to exist in even jet-speed manner, avalanche of heart-rending and often discriminatory practices against the female gender. Generally, too, several factors (human, cultural, religious and even legal) instead of bracing up against this monster, have become instruments for further perpetuation of the harmful and discriminatory practices which they ought to fight. The result is that the society seemingly grimaces as the female genders are left in the “pool of their own blood” and are further watched, in the words of J.P. Clark, “dying by installments”.

What are these female gender rights and values which our society has given deaf ears to and which have been ignored, jettisoned and, in fact, “buried” even in the face of consistent and persistent calls from the discriminated female gender for their practical recognition, recovery and implementation? What can the society, nay, the media as well as those saddled with the legal responsibilities of upholding these rights do to extricate female gender from the socially, culturally, and even religiously imposed “hand-man’s noose”. These form part of the issues which this work explores.

Theoretical Framework

This research is anchored on two theories, namely: the feminist theory and the agenda setting theory.

The feminist theory “explores how media portray women as sex objects, in demeaning roles, and in equitable power relations” (Traudt, 2005 as cited in Agbanu, 2013, p. 175). This field of study, Agbanu (supra) argues ‘started as a result of the increasing wave of feminist movements’ and it “has become a strong research area in mass communication”. Simply put, the feminist theory is the theory that advocates for the ultimate welfare and good of the female gender and that all forms of demeaning and discriminatory roles and acts against the womenfolk must be put under check towards the final liberation of women from the shackles of social, economic, political, cultural, religious and legal limbo.

This theory is apposite in this research because this study is an attempt at beaming the searchlight on as well as articulating ways towards practically ensuring that female gender rights and values are restored which will go a long way in emancipating them. The agenda setting theory, on the other hand, is a theory that posits that the media determine and, indeed, set agenda for the society by choosing for the public or society events and situations that would be termed prominent and important vis-à-vis others. The theory was propounded by Maxwell Mcomb and Donald Shaw in 1992 (Nwabueze, 2014, p.44). The theory, according to Asemah (2011, p. 176) says “the media (especially the news media) are not always successful at telling us what to think, but are quite successful at telling us what to think about”. He further argues that the theory “holds that the media are responsible for most of the pictures we hold in our heads”. The agenda setting theory thus examines the relationship between media priorities and audience priorities in the relative importance of news topics (Sambe 2015, p. 115). The elements that are manifest in agenda setting in the views of Folarin (1998) include:

- a) The quantity or frequency of reporting
- b) Prominence given to the reports through headlines display, pictures and layout in newspapers, magazines, films, graphics or timing on radio and television.
- c) The degree of conflict generated in the reports and
- d) Cumulative media specific effects over time.

The relevance of the agenda setting theory to this study is that since the media assist in determining for the public or society issues that would be assigned more prominence and importance than others, they could at the same time assist in the recovery of female gender rights and values by giving it coverage and attention that are expected to in turn draw the publics’ attention to them.

Female Gender, Rights and Values: A conceptual overview

The word “female”, according to the Oxford Advanced Learner’s Dictionary (International Students’ Edition) refers to “being a woman or a girl” or “of the sex that can lay eggs or give birth to babies”. “Gender”, in the views of King (2001) as cited in Dunu and Okafor (2003, p. 117) “refers to socially constructed roles and socially learned behaviours and expectations associated with females and males that are interpreted into a set of social expectations about what behaviours and activities are appropriate and what rights, resources and power they possess”. Again, gender means; a system of role and relationship between women and men that are determined not biologically but by social, political and economic interest. (Nwankwo, 2001 as cited by Dunu and Okafor 2003, p. 117)

Rights are entitlements. They are “freedoms and benefits accruable to individuals in the society in which they live (Oduah, 2011, p. 4). On the other hand, value refers to “how much something is worth” and “the quality of being useful” (Oxford Advanced Learners Dictionary). It equally means “moral principles” “relative worth” and “to regard highly” (New English Dictionary and Thesaurus). Derivable from the above, therefore, is that female gender rights and values collectively refer to the whole gamut of entitlements, benefits and roles accruable to the girl or woman in any given society.

Excursion on Female Gender Rights in Nigeria.

As has been pointed out above, the constitution of any given country is the supreme law of the land. It is the *grund norm* and thus, every other law in the land takes its bearing, root, validity and

force from it. Therefore, any other law of the land that is inconsistent with the provisions of the constitution, shall, to the extent of its inconsistency, be void (*see section 1, subsection 3, of the Constitution of the Federal Republic of Nigeria, 1999, as amended*). Within this *grund norm*, and, in fact, chapter 4 of the Nigerian constitution and particularly section 42, lies the basis for the campaign and mantra for non discrimination on the basis of sex. For the avoidance of doubt, the provisions of section 42 of the Constitution of the Federal Republic of Nigeria is hereinunder reproduced.

1. 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:
 - a) 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, disabilities or restrictions to which citizens of Nigeria of other communities, ethnic group, places of origin, sex, religions or political opinions are not made subject, or
 - b) Be accorded either by, or in the practical application of any law in force in Nigeria or any such executive or administrative action, any privilege or advantage that is not accorded to citizens of Nigeria of other communities, ethnic groups, places of origin, sex, religions or political opinion.
2. No citizen of Nigeria shall be subjected to any disability or deprivation merely by reason of the circumstances of his birth.

Apart from the above, there exists other mechanisms, both local and international, specifically charged with the responsibility of protecting and promoting the rights of women. These include: Convention on the Elimination of All forms of Discrimination Against Women (CEDAW) which came into force on 3rd September, 1981; as well as the United Nations Organ for the advocacy of women's human rights tagged Commission on the States of Women (CSW). (Obiagwu, 2003, p.116).

Unfortunately, in spite of these deluge of laws in force to protect the rights of women, series of discriminatory and harmful practices are persistently hauled at women with little or no efforts at righting the wrongs. This is in line with the World Bank report (2001) which Dunu and Okafor (2003, p. 117) cited thus:

Despite considerable advances in gender equality in recent decades, gender discrimination remain pervasive in many dimensions of life. World-wide, the nature and extent of the discrimination vary considerably across countries and regions. Gender gaps are wide spread in access to and control of resources, in economic opportunities, in power and political voice.

Indeed, female gender discrimination cuts across several levels-socio, cultural, economic, political, religious and event legal.

Socio-cultural practices against the Female Gender

Women all over the world, particularly in the African milieu are faced with many, peculiar and complex problems (Ike and Nwobi, 2013). Commenting on this discrimination against women as found in the African culture and tradition, Cerma and Wallace (1994) as cited in Nwabueze (2015, p. 117) observe:

upon all the various international legal instruments that aim at eliminating discrimination and promoting equality between the sexes, traditional African culture often permits certain practices that are detrimental to women. These practices often times derive from an ideology which attributes superior value to males over females.

The problems associated with female gender discrimination are not only legion but grossly harmful and inhuman. Oduah (2015, p.5) encapsulates these socio-cultural practices against the female gender as follows:

- a) Child and forced marriages
- b) Denial of right of inheritance especially that of land and other properties.
- c) False accusation of masterminding death of their husbands.
- d) Prohibition from social rites – example, breaking of kola nuts.
- e) Incarceration/locking of a widow in a room where corpse of her dead husband is kept.
- f) Forced shaving of hairs even against one's will.
- g) Forced drinking of water used in washing their dead husbands' body to prove innocence.
- h) Forced state of nakedness
- i) Female genital mutilation.

There is no gain-saying the fact that one of the most atrocious practices against the female gender in the African society is the cruel truncating of their lives even at their primes by forcing them into early marriages against their will. Today, it has become daily affairs to witness children of very tender ages as young as eleven and twelve being thrown into dungeon in the name of marriage, especially against their will. Today, men, old enough to be grandfathers unconscionably haul children of about twelve years old into their homes as wives. Here, the unprepared child is made to abandon school and thrown into early marriage which she gave no consent to thereby exposing her to various degrees of health challenges at the point of which they are abandoned by their husbands (Oduah, 2015, p. 6). Ike and Nwobi (supra) lament the situation thus:

In some cases, the girl is withdrawn from school or denied access to education, thereby depriving her of achieving her full potentials... The victims are denied the right to choose who to marry and this further strengthens violence against the child contrary to Article 6 of CEDAW which prohibits the betrothal and marriage of the girl child.

Moreover, early/forced child marriages are susceptible to plethora of dangers for the girl child as various sad cases of vesico-vaginal fistula (VVF) have been reported culminating most painfully to the abandonment of this girl child by the supposed husband (Oduah, 2015, p.6). Oduah laments:

Apart from the illegality of child marriages, the act (forced/child marriage) is susceptible to plethora of health challenges against the girl child as some of them even lose their lives in the process of child birth as they are biologically, physically and psychologically unprepared for the act of child delivery... More often than not, the bladder of the girl is

accidentally cut with unsterilized razor or knife resulting in vesico-vagina fistula (VVF)

Sad enough, this ungodly practice is being perpetrated even in the face of an enabling law – Child’s Right Act – which expressly prohibits the giving out of a child into marriage and even makes it an offence for any person to give out his daughter for the same purpose. For the avoidance of doubt, section 21 and 23 of the Child’s Right Act state concerning child marriage/betrothal thus:

No person under the age of 18 years is capable of contracting a valid marriage, and accordingly, a marriage so contracted is null and void and of no effect whatsoever.

A person...

- a) Who marries a child, or
- b) To whom a child is betrothed, or
- c) Who promotes the marriage of a child, or
- d) Who betroths a child

Commits an offence and is liable on conviction to a fine of ₦500,000 or imprisonment for a term of five years or to both such fine and imprisonment.

Painfully, “the culture of silence” as found in the African society has equally occasioned the high rate of victimization/rape in the society wherein females, out of fear of stigmatization, choose to keep silent even when raped (Ude-Akpeh, Onyima, Agu and Ginikachukwu; 2020).

The question remains, why are there still many cases of child/forced marriages even with the federal law outrightly prohibiting same?

As has been noted above, there are still a deluge of culture and society propelled harmful and discriminatory practices against the female gender like female genital mutilation which not only makes the female gender numb as relates sexual enjoyment but equally exposes her to health risks and painful labour. Others include excluding women from being part of those to inherit their father’s properties; forced drinking of water used in washing their husbands’ body to prove innocence, incarceration of widows in rooms where corpse of their husbands are kept etc. These are indeed, painful, degrading, discriminatory, harmful and unacceptable.

Political and Economic Practice against Women

One of the greatest marginalization and discriminations against women is in the area of politics. This appears to be the trend world over but particularly in Africa. Thus, very few women occupy elective positions and/or are given appointments. Thus, Gambo and Lenshie (2014, p. 49) citing CEDAW (2001) present the lopsided political equation in Nigeria thus:

By the end of second republic, women had occupied 20 elective positions at the local, state and federal levels. There were five women out of 301 L.G.A. chairpersons and the State Houses of Assemblies had only twelve female members and of the President Shehu Shagari’s 50 Ministers in 1979, there were only three women.

Apart from the above, Nda as cited by Gambo and Lenshie (2014, p.49) observed:

In 1980, in the senate, there was only one woman to 56 men and the House of Representatives had 3 to 442 men. In 1992, there were only one woman to 90 men in the senate and the House of Representative had 14 women to 575 men. In 1999 – 2003, there were 3 women to 106 men and in the House of Representatives, there were 12 women to 347 men.

What is more, the men even in some cases with the connivance of women, engage in further humiliation of the female gender. The case of Sarah Jubil during the Presidential Primaries of the Peoples Democratic Party in 2003 was as embarrassing as it was humiliating. In a presidential primary election conducted to nominate the presidential party flag bearer of the party with over 500 delegates, the only female in the race, Sarah Jubril, was able to gather and garner only one (1) vote (most probably, the one she cast for herself). This was in spite of the fact that there were several other women delegates in the election.

Religious Obstacles against the Female Gender

Religion, be it Christian, Moslem or traditional religion ordinarily should be the bedrock of justice, fair play and equity (Oduah, 2015, p. 10). However, there appears what one may pigeon-hole as unfair and unequal presentation of the male and female gender. By the preaching of Koran, women are to occupy the backdoor and most often are restricted to “Purdah” (Sambe, 2015, p. 114). In the bible, women are, in fact, derogatorily and disdainfully placed and ranked among the items and properties of men just as the man’s ox and ass (see Exodus, 20:17, Deuteronomy 5:21, Oduah, 2015, p.10).

These are just a few of female gender discriminations even by the holy book. In fact, a woman must remain silent (1 Timothy 2:1-15) and can even alone be accused of and prosecuted for adultery while her male partner is ignored and not even mentioned of (John 8:1-11).

Legal Discrimination against Women

It is ironic that the law, as it were, appears to speak from both sides of the mouth particularly as it relates to women. While section 42 of the Constitution of the Federal Republic of Nigeria, 1999, as amended, unequivocally preaches and, in fact, expressly provides for the freedom from discrimination irrespective of sex or circumstances of one’s birth, Section 55(1) (2) of the penal code cap 89 laws of the Northern Nigeria 1963, in an apparently legal summersault “authorizes the husband to beat his wife where necessary”. By so stating, it unarguably places the female gender as a mere property of the man. The section states:

Nothing is an offence which does not amount to infliction of grievous hurt upon any person and which is done by a husband for the purpose of correcting his wife.

The import of this section are twofold:

- a) That women are sub-standard beings and are mentally inferior to men, and thus, can be corrected even if it involves giving them “little harm”.

- b) That a husband, even a mentally retarded primary school dropout, can beat his wife who is a lawyer, doctor, a member of the National Assembly or even a President.

Also treating women as sub-human, the law has been seen to have provided different punishments for the same offences simply on the account of the gender who has committed such offence. For instance, where an indecent assault is committed against the female gender, the offender is sentenced to two years imprisonment whereas where and when the same indecent assault is committed against the male gender, the offender bags three years imprisonment (see section 353 and 360 of the Criminal Code Act cap 77, Laws of the Federation of Nigeria, 1990). This, to say the least, is gender discrimination in the highest order.

Conclusion

The female gender rights and values are enshrined in the constitution especially section 34 and 42 of the constitution which expressly provide for the right to the dignity of human person as well as the right to freedom from discrimination. Unfortunately, certain social, cultural, religious, political, economic and even legal factors have continued, till date, to further the acts of degradation and discrimination against women. But as has been recommended above, all hands, particularly those of the media, law makers and legal practitioners – must be on deck towards the recovery and indeed, extricating of the female gender from the painful acts of discrimination and harmful practices. With this in place, a better and rejuvenated society is assured.

Recommendations

There is no gain-saying the fact that the female gender rights and values especially in Africa, have been endangered and, in fact, almost unprotected. This is as a result of many social, political, cultural, religious and even legal practices that have combined to emasculate the rights of the female gender. However, there is the urgent need to recover and re-discover these rights and values. It is, therefore, recommended as follows:

- a) That the media, which use communication as a potent tool, should engage in intensified public service programmes aimed at condemning the socio-cultural practices that discriminate against the female gender.
- b) Efforts must be made by the media to also use documentaries, editorials, cartoons and other media communication techniques to preach against and satirize certain harmful female gender practices such as female genital mutilation, early/child marriages etc.
- c) Those operating the machineries of our legal and justice system, including law makers, must engage in practical over-haul and/or amendments of sections of the Nigerian law which discriminate against the female gender especially section 353 and 360 of the Criminal Code Act, Cap 77, laws of the federation of Nigeria, 1990.
- d) The female-folk should be ready to assist in “self redemption” of themselves by engaging in more constructive and loving attitudes towards themselves. Gender camaraderie must be embraced by women.
- e) Other states of the federation should borrow a leaf from Anambra State in passing into law, laws that prohibit malpractices against widows and widowers (*see malpractices against widows, and widowers law 2005, Law of Anambra State of Nigeria*).

- f) The judiciary must be supported by all and sundry especially in their relatively recent supreme court judgement declaring as null and void the century old Igbo custom and tradition barring females from rights of inheritance of their father's properties.

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