

THE AFRICAN LEGAL FEMINIST'S PERSPECTIVE ON WOMEN'S HUMAN RIGHTS ABUSES

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ABSTRACT

Upheaval on the desire for women's rights to be treated more seriously than what was obtainable within many societies has fostered the continuous drive of feminists, who continue to differentiate their ordeals across regions. Though African feminism is feminism, the African feminists demands a separate mirror to view what they consider an African struggle. The reality of the feminist movement in Africa is pronounced not merely by the position of laws, but the rumpus caused by defined social values and cultural ideals promoted unflinchingly by patriarchy. In uncovering the true objective of the African legal feminist, this paper rummages through opinions and into the legal quagmire that African legal feminists now face in the never-ending task of pursuing women's human rights. It was found that while not all men undermine women, African men generally contribute to the masculine rule and feminine subordination, and this attitude is a result of social constructions and not biological misgivings. Therefore, the legal feminist cannot only seek to influence laws that protect women's rights and punish offenders alone, but also enquire into gender-responsive enforcement systems, cultural and socio-legal biases, and policy constrictions. The struggle for protection of women from abuse must move beyond a focus on the letters of the law alone. These are the daily scuffles of the African legal feminist.

Keywords: Human Rights, African Feminism, Women's Human Rights, Legal Feminists.

INTRODUCTION

Feminist study examines gender inequality in society. It analyses gender perspectives using a variety of disciplines and women's perceptions and experiences to comprehend research and theory. Thus, feminism and gender cannot be discussed separately. The English liberals of the 19th century were among the first legal thinkers to question the traditional role of women in society.ⁱ The early 20th-century Suffragettes were crucial in winning the right to vote for women in the West in 1919 and 1929, and throughout the century, women won greater access to higher education and professional fields.ⁱⁱ Over time, international feminists have sought to make women visible as subjects in international politics and global economy, but this struggle differs slightly from the goal of African feminism. In 1945, the first laws protecting human rights were enacted.ⁱⁱⁱ The Universal Declaration of Human Rights (UDHR) 1948 was the first attempt to codify human rights norms, and it was followed by two covenants: one on economic, social, and cultural rights and another on civil and political rights.^{iv} It was a political compromise between governments with market-oriented economies and states with planned or socialist economies that led to these partitions.^v

This article examines the philosophy of African legal feminism and the thoughts of African feminists as an enquiry into women's human rights violations. Feminists acknowledge that majority of national, regional, and international human rights systems and mechanisms have been developed and implemented primarily with a male model in mind, and that human rights systems in many countries have not adequately adapted to consider the peculiarities, experiences, and circumstances of women. But the situation is shifting. Human rights are increasingly being used as a tool by proponents of women's rights to press for changes in the status quo that are unfair to women.^{vi} This discourse seeks to review the need for specificity in the character of State's responsibility to issue commands that protect women from abuse, and secure enforcement of legal rights through State institutions, as well as the relationship between state protection and women's human rights, and how other external considerations and mechanisms are germane to protecting women in Nigeria.

THE NATURE OF FEMINISM

Feminism implies the advocacy of equality of the sexes accompanied by the commitment to change women's low status. Feminism is geared toward the liberation of women in society. It

seeks political, social, and economic equality for women. Feminist ideology follows the principles of promoting equality and gender equality reform; expanding human choices; ending gender stratification and promoting sexual freedom; and ending violence and fostering freedom. Feminist theory seeks to explain why women are subordinated.^{vii} Political activist and social theorist Simone De Beauvoir influenced philosophical feminist existentialism and theory.^{viii} Though not a philosopher, De Beauvoir took political action that changed laws, in her belief that women are made.^{ix} Her 1949 writings were criticised as anti-women, anti-maternal, and anti-marriage.^x De Beauvoir believed women felt like failures because they could not fulfil all the contradictory femininity beliefs.^{xi}

The term 'Women's Liberation' was first used in the US in 1964 and printed in 1966, gaining popularity across a variety of ideologies.^{xii} Feminists classified the movement into three waves. In the 19th and 20th centuries, British and American feminists formed the 1st wave, which promoted equal contract and property rights for women and opposed chattel marriages. Second-wave feminism rose from the 1960s to 1980s.^{xiii} The 2nd wave addressed gender inequality in numerous areas of life. Third-wave feminism emerged in the early 1990s in response to second-wave failures and attempts. It avoided the second wave's essentialist notions of femininity, which overemphasised upper middle-class white women's experiences. This period showed that feminist beliefs varied.^{xiv}

Feminism attempts to comprehend and remove women's social, economic, political, and psychological oppression. Rebellion and disagreements have characterised the feminist movement, as well as division between liberal feminists who believe men and women are equal because of their logical consciousness,^{xv} and radical feminists that believe in gender differences and attainment of equality through addressing women's unique biological and social demands.^{xvi} These differences led to the early 3rd wave feminism. Black or intersectional feminism emerged from the second-wave feminist critiques. Intersectionality helps one to understand how identity, social location, and structural barriers based on many types of oppression affect women of colour.^{xvii}

This distinctive approach recognises the necessity of considering gender's intersection with other oppressions like race, class, sexual orientation, age, and disability. In other words, social factors like colour, ethnicity, gender, religion, sexual orientation, physical ability, and others

are interconnected or intersectional. Intersectionality considers oppression and marginalisation interconnected, but these factors interact, and no single element can explain abuse in intersectional theory.^{xviii} The pursuit for equality has caused women's rights activists to learn that different countries and regions have different problems with different rights abuses, even in the context of a worldwide campaign. What is then the nature of African feminism?

STREAMLINING THE AFRICAN REALITY FOR THE AFRICAN LEGAL FEMINIST

Kumar-D' Souza stated that there are divisions, and we must realise that we cannot always speak for each other. Women have unique life experiences, come from various socioeconomic backgrounds, and geographical regions, therefore, it is imperative that the women's movement develops fresh modes of communication and innovative discourses about the diversity.^{xix} Many Africans view feminism as a western 'weed' that has penetrated Africa, connecting it with cultural imperialism and (post-)colonialism.^{xx} The concept is largely viewed as anti-male, and disruptive of the 'normal' family hierarchy, anti-culture and the promotion of lesbianism. But is that what African feminists struggle for?

According to Maduka and Okoro, 'the African woman is in bondage. She cannot complain against a wrong. She is an article of trade, battered away in marriage... the African woman can only be seen not heard; even to be seen is a favour in some settings. She has no rights to the fruits of her labour- married or single.'^{xxi} Olomjobi believes that African feminism theory differs from western feminist ideas, as it looks deep into the social, economic, and political reasons that oppress women. It encompasses many equalist philosophies and endeavours to improve the lives of African women.^{xxii} This is the sectionality within the African feminist struggles in a society which assumes patriarchal benefits over women. Within the African feminist discourse, social and cultural roles distort gender dispositions and assign unequal roles to men and women.^{xxiii} African feminism holds that cultural factors shape the African woman.^{xxiv} African feminism transcends society and embraces cultural viewpoints, but also individualism. This standpoint was shaped by women's opposition to western domination and the African culture.^{xxv}

African women face poverty, conflict and war, childbearing and inescapable motherhood, communal labour, economic work, and manual labour, as well as livestock and plant growing.^{xxvi} African women live complex lives fusing work and home. This is intensified in social constructions of elite women and rural women who are constrained to patriarchal institutions in several dimensions.^{xxvii} The African woman battles with class and social, political, cultural, economic, and religious positioning.^{xxviii} The idea of African feminism aims to illuminate and criticise negative African gender relations and women's human rights issues. This thinking disrupts the dominance matrix and seeks to transcend it, changing gender relations and African women's lives.^{xxix}

Many Nigerians view feminism as the struggle for gender equality or power, and women have equally come up with various ideas and theories to manage patriarchal injustices. Adimora's snail-sense feminism advocates for women to act like snails, which avoid obstacles and negotiate solutions. 'She' must stand before helping others stand. Snail-Sense feminism values self-improvement and encourages women to use their snail-like qualities—wisdom, sensitivity, resilience, and doggedness—to complement males and work together to improve society.^{xxx} Legal feminist, however, rise beyond social interpretations to seeking legal answers to the feminist question. In the face of the African feminist ideology, they question the role of law in bridging the gap of inequality of genders? Izzi expressed that despite mechanisms to develop the concept of state responsibility to protect citizens from HRs violations, women are still victims of abuse and continue to suffer in silence.^{xxxi} Akolokwu stated that poverty, religion, patriarchy, poor access to justice, customs and traditions, low enlightenment and education are factors continuously challenging women's rights.^{xxxii}

Many legal feminists lead African women and feminist groups. Most became feminists after learning about the many laws that discriminated against women. One is not born a feminist but becomes one. Legal feminism demands legal equality and justice. African legal feminism is now contesting fundamental laws and social norms that disadvantage women. Legal feminism in Africa began in the late 1980s when gender activist lawyers pursued gender equality. The various chapters of the International Federation of Female Lawyers (FIDA) across Africa; Women and the Law in Eastern Africa (WLEA); Women Living Under Muslim Laws (WLUML); Women in Law, Development for Africa (WILDA) and the African Women Lawyers Association (AWLA) are prominent among such groups and networks. Women's

rights activists in Africa also include non-lawyers. African legal feminism views the continent as too diverse to study every facet of the African woman. The sub-theory helps scholars address gender discrimination and African gender issues in relation to laws and institutions.

In 1979, the United Nations General Assembly adopted the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), the first international human rights treaty to address women's rights comprehensively. The Optional Protocol to CEDAW 1979 since December 2000, has allowed the CEDAW Committee to hear petitions from women or groups of women who have exhausted national remedies for violations of the Convention.^{xxxiii} Article 5 of the CEDAW 1979 requires states to alter cultural patterns that uphold biases against women. The economic independence of rural women is safeguarded by Article 14 of the CEDAW 1979. Article 15 of the CEDAW 1979 mandates that nations provide women with legal parity with men.^{xxxiv} Human rights groups have stated that even after ratifying CEDAW, many countries, including African countries, are still violating the rights of women and girls.^{xxxv} Nigeria ratified CEDAW in 1985 and its Optional Protocol on November 22, 2004, both of which made no modifications to the original 1981 text.^{xxxvi}

The United Nations Declaration on the Elimination of Violence Against Women (DEVAW) of 1993 which is at the heart of the problem of violence against women,^{xxxvii} as well as the Violence Against Persons (Prohibition) Act 2015 applicable in Nigeria remain protective of women,^{xxxviii} but the legal feminist cannot but continue to question the type of procedure to implement these laws; the availability and access to the redress procedures; the sufficiency of the remedies available, how the local/state systems and institutions operate in delivering justice, and other legal issues on enforcement of women's rights and justice. Consequently, where a new law is introduced, or over an existing law, it is not enough that such protective law exists, but the 'evil' which follows the failure to obey the protective command and how the legal provisions are most effective in eliminating abuse of women's rights is the objective of the African legal feminist in Nigeria. To Akolokwu, available constitutional remedies for violation of women's rights are grossly inadequate, lack specificity and so are generally ineffective. The author argued that there can be no way forward if the Nigerian Constitution is not amended to review the application of customary law in the country.^{xxxix} This regard to intersectionality, and an understanding of the link between social and acceptable customary

practices and the enforcement of protective laws in Nigeria, draws justice either closer or farther away from the abused woman.

Sadly, in the struggle to achieve justice for women, the African feminist theory is criticised. Some authors wonder if African feminist thinking exists independent of western feminism, since women face similar issues worldwide, and men and women in Africa and all around the world use culture and tradition to legitimise masculine hegemony.^{xi} It has also been said that African feminism is ‘feminist for Africa,’ essentializing Africa and implying that all women living there confront the same issues. Yet, women in the Maghreb countries of Algeria, Tunisia, Libya, and Morocco have different issues than women south of the Sahara.^{xii} The agony remains that African women writers and critics tend to approach feminism with an elusiveness that bespeaks denial, even in their approach to issues, making it difficult to define, apply and foster the ideology, and the many misperceptions about feminism in general, have equally fuelled the apathy.^{xiii}

AFRICAN LEGAL FEMINISM: THE NEED FOR MUCH MORE THAN PROMOTING LEGISLATION

The idea that men oppress women homogenously denies masculine feminism and different masculinities. Interestingly, this conviction presents males as principal adversaries of women who must be re-oriented, tolerated, or even battled to a standstill, making African feminisms alien to many African men and even perceived as a struggle against them rather than patriarchy, which enfeebles women. While not all males undermine women, African men generally contribute to the masculine rule and feminine subordination.^{xliii} This attitude is a result of social constructions and not biological misgivings. Critics have noted that the pursuit of status has led some women and critics to promote unhelpful beliefs about patriarchy and discrimination. Some African feminists proliferate theories to show their erudition and complexity, while some confuse feminism with anti-male sentiments and plans to destroy marriage.^{xliiv} This contradicts the goal of African feminism and legal feminism.

Though, all cultures across continents change with time; as do their forms and processes, that does not take away the nature of a people. To completely understand abused women’s experience, one must consider their socio-cultural orientation as well as how the applicable

laws are enforced within that society. Myths that African legal feminists are disgruntled women who are anti-men, anti-religion, and anti-culture bear falsehoods. The duties and responsibilities of other persons, the community, and the government toward a person promotes their human rights. Ogbu aptly stated that some human rights complaints are also attempts to excuse human rights abuses and cover up tyranny and authoritarianism. Human rights include rights to property ownership, expression, religion, liberty, life, and health and they are universal.^{xlv} A complete theory of justice addresses the determination of rights. Feminism in Africa is distinct from feminism elsewhere because masculine hegemony and patriarchy have African forms and are supported by African mechanisms.

African feminists assume that man is favoured with patriarchal profits at woman's expense and work to reverse perceived injustices against women via legislation or institution. Human rights have protection obligations, and state policies, programmes, and operations should promote gender equality through gender-oriented approaches.^{xlvi} Even when national governments sign international agreements, women's agitation in some countries have not been strong enough to get legislative reforms or more.^{xlvii} In view of this, it was articulated that challenges over statutory and judicial protections of women's right go beyond statutory inadequacies, and currently resonate over an unavoidable advancement of women's rights in Nigeria and positive enforcement approaches. Considerations must be had of cultural relativism across different cultures within a region, just as how the US government take special care and attention in enforcing specific domestic violence laws which affect Hispanic, black, native, white, and Indian americana differently. It must be understood that where the issue of women's rights is involved, de facto discrimination can equally result from government human rights protection through laws.

Laws that protect women's rights and punish offenders but fail to implement gender-responsive enforcement policies are not truly protective. Even if open to both sexes, laws and policies that put processes and punishments against violence that are not within the cultural and social reach of women of every rank and class are discriminatory and inaccessible to women. The struggle for protection of women from abuse must move beyond a focus on the letters of the law alone. These are the daily scuffles of the African legal feminist. African feminism is focused on patriarchy rather than males as oppressors. The African Legal Feminist uses African situation and perspective to discuss women's human rights in other that a comprehension of women's

plight seen through African culture, practises, and values can be cured through laws and strategic policy and enforcement procedures.^{xlviii}

CONCLUSION

If humanity is ready to go deep and find the truth in all universals - war, science, development, HRs, patriarchy, culture, and institutions - it can create new endeavours, new visions, and new understandings of human rights that are necessary in these times. Responding to women's rights requires action on a wide variety of legal levels in order to address the many dimensions of abuses in contemporary Nigeria. Women's human rights discussions in Africa continue to raise questions about the role of culture, cultural beliefs and behaviours, and their impact on human rights. Insights into cultural norms, roles, identities, and ethos are reflected in these discussions, which in turn influence how people behave in social contexts and how the law is applied. The need to evaluate protective enforcement structures for victims of abuse and the effects of the cultural promotions of women's subjugation in Nigerian remains relevant to efficient enforcement of prohibitive laws. Some acts of violence are justified by the law, while others are sanctioned by popular opinion or social norms, and others are placed squarely on the shoulders of the victim. In Nigeria, norms and customary law have emphasised age-old gender concepts that relegate women to the background, demonstrating the continued influence of cultural and religious ideas on society matters despite new and emerging protective laws. Thus, the legal feminist cannot be concerned only for the protective provisions of any law but must also focus on the many conditions structured against women's transcendence.

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