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The Impact of Law on Female Education in Nigeria

By

Oluyemisi Bangbose (Mrs)

Senior Lecturer

Dept. of Private & Business Law

University of Ibadan

Ibadan

Abstract

Law is an instrument of social change. Such a change should be positive for all irrespective of sex. The fact that women constitute about half of the Nigerian population makes the effect of the law on them important.

In view of the commitment of the government to provide Education for All by the year 2000, this paper examines how the law has enhanced or inhibited the education of women and highlights solutions to the problems of low literacy of women caused by the law.

Law is an instrument of social change. An adage says: "Law is no respecter of persons". This means that the law is supposed to be applied equally in all situations to all persons to which it relates without fear or favour to the rich or poor, to any particular sex. A law which is applied, without discrimination in this way, may be regarded as the embodiment of justice. However, in practice, this is not true. Culturally, it is discovered that in some societies, there are discriminations and even disparities between sexes, caused by certain customs or practices in such areas. These discriminations are found, notwithstanding, that some statutory provisions are against discrimination.

Generally, the girl-child is at a disadvantaged position because of some discriminatory practices against her, which usually starts right from birth. The prevalent economic situation in Nigeria, has not helped the situation but rather worsen it. The effect of such discrimination does not end with childhood, but it becomes more glaring in womanhood. The low literacy rate for women in Nigeria, compared with men may be attributed to some factors which started from childhood and which eventually accounts for wide variation in gender gap in education in Nigeria.

The laws operative in Nigeria include the locally enacted laws, the received English Common Law, principles of equity and statutes of general application in force in Nigeria before 1st January 1900 and the customary Law of different societies. Generally, the written laws are clear and unambiguous. However, in enforcing the laws, those responsible for interpreting the laws are going beyond the intention of the Legislature and sometimes it is to the detriment of the women.

Laws operate in context and does not exist in vacuum. It has its own macro context, that is the social cultural, physical environment in which it operates. In its operation and implementation, the law may have effects on certain issues and education is one of such.

With this background, this paper examines some statutory provisions and the effect of such laws on the education of women. The paper examines some customary laws and practices in Nigeria and their effects on education and finally suggestions are made to improve the education of women in Nigeria.

The Position of the Law

As a general rule in Nigeria, Laws are gender neutral. However, ;due to some factors which are usually protective, certain provisions of the law are genderized especially in matters relating to women and children. Women constitute more than half of the population in Nigeria, therefore matters that affect them should be of concern to the nation. Moreover, women in particular have great relevance to issues concerning the nation. Some of the statutory laws that are relevant to the education of women will be considered.

The Nigerian Constitution

The 1979 Constitution of the Federal Republic of Nigeria (1990) is the supreme law in Nigeria. All other laws are subject to the provisions of the Constitution and any other provision that is in conflict with its provisions is null and void. In chapter II of the Constitution, under the Fundamental Objective and Directives; Section 18 states that, "the government shall direct its policy towards ensuring that there are equal and adequate education opportunities at all levels". Section 18 (3) of the Constitution, goes on to provide that the government shall strive to eradicate illiteracy and to this end, *government shall as and when practicable* (emphasise mine) provide free compulsory and universal primary education, free secondary education and free adult literacy programme. This provision show the good intention and the interest of the government in enhancing literacy by ensuring that equal and adequate educational opportunities are offered to Nigerians irrespective of sex. In line with the UNESCO Declaration on Literacy for all by the year 2000, the above Constitutional provision assumes that the government appreciates the importance of education and that it would strive to eradicate illiteracy in Nigeria. However, the real and practical facts are obvious to all.

In reality, it is clear that the provisions are in the constitution for all to see and read, but in practice, political, economic, and cultural factors are preventing the realization of the directive. To worsen the situation, Nigerians, especially the women are helpless and cannot seek legal redress. This is because by virtue of Section 6 (6) of the same constitution matters under the fundamental Objectives and Directive Principles of State Policy under Chapter II are not justiciable. This means that no one can seek legal redress on such issues.

It is a welcome idea that in 1995, members of the Constitutional Conference (1995) recommended in their report that there must be a right to education. In the report, members stated that hitherto the right to education was on the list of fundamental objectives and directive, principles of state policy in the 1979 Nigerian Constitution, and that it is high time the Nation became more serious about literacy and provide education for all in the nearest future. Members further stated that this is necessary in view of the commitment of the government to the provision of education for all by the year 2000. Members therefore recommended that primary education for every child and literacy programme for adults should be a right which should be moved to the relevant section of the constitution. This report was accepted and put in section 45 of the Nigerian Draft Constitution 1995.

There is no doubt that when this new Constitution come into force, with the right and proper political and economic climate, the above provisions will further enhance the position of Nigerians especially women in relation to education.

The Law and Practice of Bail and Sureties in Nigeria

Bail is the delivery of a person to his surety upon giving together with his surety, sufficient security for his appearance in a police station or court of law. The provisions of the law relating to bail in the Criminal Procedure Act (1990), is gender neutral. All that is needed is the production of a substantial surety or sureties. However, in practice, this clear provision of the law has been genderized by the police because generally, women have been barred from standing as sureties. It should be noted that education is not only acquired in the four walls of a formal classroom. The International committee of Experts on Literacy says that

a person is literate when he has acquired the essential knowledge and skills which enable him to engage in all those activities in which literacy is required to effective functioning in his group and community and whose attainment in reading, writing and arithmetic makes it possible for him to continue to use these skills towards his own and community development

(Okedara, 1981). Going by the above definition, the practice of the Nigerian police in relation to bail and sureties prevents a woman from using her skill to develop herself and the community. According to a survey on bail practices by the police, (Ajomo and Okagbue, 1991) it was revealed that one of the reasons why the police

refuse to grant an accused person bail is because the surety applying for bail is of the female sex. On the other hand, some women are to be blamed on this issue, because they shy away from this responsibility because of the implications of sureties absconding. This should not be the case.

Apart from the statutory laws, there are some customary laws which are applicable to certain groups, tribes or religion.

Customary law consists of customs accepted by members of a community as binding among them. Customary law can be divided into ethnic customary law and religious customary law; for example Islamic law. Two ethnic customary laws that are relevant to this paper will be discussed. These are the ethnic customary law of early marriage and the ethnic customary law of high bride price.

Customary Law of Early Marriage

Ethnic customary law is indigenous, unwritten and it varies from group to group. One of such customs that affects education and invariably the education of women in Nigeria, is the customary law of early marriage. Early marriage is when a girl who has not yet reached the age of puberty, or who is still of school age is given out in marriage. This custom, though prevalent in Northern Nigeria is not restricted to this area. In many cases, the man is much older than the girl and this leads to early pregnancy. Early marriage may disrupt or totally put an end to the education of such a girl especially where such young mothers become involved in household chores. However, this is not to say that in a few cases in spite of early marriage, such young girls still pursue their education.

High Bride Price

This customary law of high bride price is prevalent in Eastern Nigeria. Under some cultures, the girl child is regarded as an asset because the higher the level of education, the higher the bride price. Therefore, in many families in such areas, priority is usually given to the education of female child. It is therefore not surprising that there is high literacy rate in such areas as this custom enhances the education of women.

In a Nigerian survey carried out by the Federal Office of Statistics (1996), it was discovered, that there are disparities in the literacy rate in the thirty states in Nigeria including Abuja. The low literacy figures for many of the Northern States have been attributed to factors amongst which is the custom of early marriage. It is said that the withdrawal of such females is usually at a time when such girls are about to attain permanent level of literacy (NNCEA, 1987). It is encouraging to know that some state governments have taken action towards encouraging female education. In Niger and Borno States, there are laws enforcing legal obligation against parents to compel and ensure that their children are enrolled in school and that they attend (Niger State, Edict 9, 1985; Borno State Edict of 1985). This law is confronted by

enforceability. In Eastern Nigeria there is a law which provides that a marriage with a girl under the age of sixteen years is void (Laws of Eastern Nigeria, 1963).

Religious Customary Law

The religious customary law is closely interwoven with the ethnic customary law particularly the Islamic law. The religious customary law of purdah under the Moslem law is one area that deserves attention because it affects the education of women and it is gender specific. Historically, purdah is a punishment given to a woman by a husband who does not have total confidence in the morals of such woman or where the woman is promiscuous or caught in adultery. However in Nigeria, the original concept has been misconstrued – women are kept in seclusion, and their contact with others especially males outside the family are restricted. One reason now given is that this is the only way of isolating the women from the polluted world. As a result of this practice, a lot of women in purdah are denied access to education. It is therefore not surprising that States in Nigeria with large muslim population record lower literacy rate compared with other States (Federal Office of Statistics, 1996). Unlike the nomadic literacy programme, it is not yet ascertained whether a National Purdah Literacy Programme or Policy is in existence in Nigeria.

Recommendations and Conclusion

Law is not static. It is flexible and changing and should adapt to new conditions. Law therefore can be used to enhance education of women in Nigeria. From the discussions above, it is seen that law in Nigeria affects education of women either positively or negatively. In certain cases, the law is alright as it is, but in applying the law, those responsible for enforcing it, make it an inhibitor to education. It is therefore important to see how to make the best use of the law in enhancing literacy of women. The following recommendations are made:

(a) *Enactment or amendment of laws*

Law can be used to enhance education of women in Nigeria by the enactment of new laws or amendment of old laws enforcing legal obligation, which enhances education or prohibiting some laws hindering education of women. The proposed Draft Constitution, (1995), the Laws of Eastern Nigeria on early marriages (1963) and Edict 9 in Niger and Borno State (1985) are examples of where the laws have been enacted or amended to enhance education of women in Nigeria.

(b) *Involvement of Traditional Rulers*

It is known that customs of the people which have been entrenched as part of the peoples way of life are difficult to change. However, positive changes must take place in our customary law that are hindering the education of women. Traditional rulers are the custodian of tradition in their domain. They play a crucial role in the

mass mobilisation of the people. It is believed, that the involvement of the traditional fathers in such deep seated customs of the people that are negative will have more impact because of the respect accorded to them. Moreover, being the custodian of culture, the traditional rulers can explain the need for changes and can ensure enforcement. In Niger and Borno States, there are provisions in the law to the effect that traditional rulers should ensure that children of primary school age in their domain go to school. It is observed and encouraging that in recent times, traditional rulers being installed in Nigeria are literate persons. Such rulers it is hoped, will appreciate the importance of education in the society and will gradually eradicate customs hindering education especially amongst women.

(c) *Policies and Incentives designed to enhance literacy*

Religious laws, like ethnic customary law may appear difficult to change. In the case of women in purdah, special literacy programmes can be developed by State Governments where such customs are prevalent. An example is the nomadic literacy programme for Fulani cattle rearers in the North. In Sokoto State, the government as an incentive to enhance high literacy rate in the state, declared free education for girls in the State. In designing such policies, religious leaders whose religion would be affected must be looked into. This is because they are the people that can enlighten their followers on the importance and effects of such programmes, making them to realise that it is possible to observe religious injunctions and at the same time be literate.

Enlightenment Campaign

Women themselves have a role to play in enhancing education amongst women. Women should be enlightened on the importance of education programmes which can be combined with the normal vocational jobs they are engaged in. There is no doubt, that women play an important role in determining the type of family formed especially where the children are concerned. This is because, it has been widely documented that it is the women who influence a child in her first three or five years of life through her being. Women influence the future as educators and models. It is therefore important for many more women to become educated.

Conclusion

Law is dynamic and evolving. As an instrument of Justice and social change, law is capable of changing a situation for the better. The low literacy of women in Nigeria is one of such issues that the law should change.

The arc of education is long, the arc of education through the law may appear longer, but it bends towards justice - enhancing the education of women in Nigeria.

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