

## **GENDER DISCRIMINATION IN YOUTH EMPLOYMENT AND ITS EFFECTS ON YOUNG WOMEN IN NIGERIA: A HUMAN RIGHTS ANALYSIS**

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### **Abstract**

The recent report by the International Labour Organization shows that the youth labour force (aged 15–24) has significantly declined. At the same time, the participation of young women in the labour market has remained lower than that of young men in sub-Saharan Africa. For instance, in Nigeria, 31% are unemployed, compared to 26% of young men yet, Nigeria is a party to international treaties that guarantee equal rights to employment. Also in Section 17 (3) of the Constitution, the Nigerian government undertakes to direct its policies to ensure equal opportunity for employment. However, several factors—statutory, social, and cultural—have impeded the realization of equal rights to employment in Nigeria. While these issues are collectively important, this paper focuses on the statutory factors that create gender discrimination in youth employment in Nigeria. It argues that the non-enforceability of Section 17(3) of the Constitution and the non-domestication of the 1979 United Nations Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) have substantially contributed to this gender disparity. As such, there is a strong need to assess the possibility of recalling lawmakers who oppose the domestication of CEDAW in Nigeria. As a result, it concludes that relevant stakeholders must focus on mobilizing electorates in relevant constituencies to ensure that lawmakers who oppose CEDAW domestication are recalled in accordance with the provisions of the Nigerian Constitution.

**Keywords:** Gender discrimination, Young women, Unemployment, and Human Rights

### **Introduction**

In Nigeria, several measures have been adopted to eliminate gender discrimination generally and specifically ensure that women have equal rights to employment. These efforts include the ratification of the 1979 United Nations Convention on the Elimination of All Forms of Discrimination Against

Women (CEDAW), the 2003 Protocol to the African Charter on Human and Peoples' Rights Relating to the Rights of Women in Africa (the Maputo Protocol), and other treaties that guarantee equal rights to employment. Further to this, Section 17(3) of the 1999 Constitution enjoins the government to direct its policies to ensure equal opportunity for employment in Nigeria. However, several factors—statutory, social, and cultural—have impeded the realisation of this important right in Nigeria. For instance, a report shows that of the 31 percent of unemployed young people in Nigeria, 37 percent were young women and 26 percent were young men (Federal Ministry of Youth and Sports Development, 2021). This significant gender gap in youth employment in Nigeria has appeared consistently over the past decade (Federal Ministry of Youth and Sports Development, 2021). There are currently more males than there are females in all the sectors of the economy in Nigeria (Owoyemi & Olusanya, 2014). Because unemployment is a precursor to poverty and social vices, young women in Nigeria are at a higher risk of being trafficked (Akor, 2011; Nwafor et al., 2021); being poor (Anyanwu, 2016; and Arowolo, 2020); contracting HIV/AIDS (Salvini, 2014); and working in informal and socially unacceptable jobs (Diraditsile & Ontetse, 2017).

Examining the causes of gender discrimination in employment is therefore important to eliminate these risks, protect young women, remove the barriers that hinder their employment opportunities, and ensure they compete favourably with their male counterparts in the labour market (World Bank 2021). Furthermore, ensuring gender equality in all facets of the economy is an important aspect of human rights and central to the achievement of the 2030 Agenda for Sustainable Development (United Nations Development Programme (UNDP), 2018). According to Anyanwu (2016, 398),

[T]he focus on gender equality in youth employment in Africa is important for at least two reasons. First, female youth's employment is essential to fight poverty... second, from a right-based perspective, gender equality in youth employment should be enhanced simply from the standpoint that, as recognized internationally, everyone deserves the same opportunity.

Given the importance of legislation in the achievement of gender equality, efforts have been made not just to domesticate the provisions of CEDAW, the Maputo Protocol, and all the other relevant treaties, but to ensure the enforceability of Section 17(3) of the Constitution in Nigeria. Unfortunately,

members of the legislative arm of the government have consistently rejected the Gender and Equal Opportunity Bill, which seeks to give effect to Section 17(3) of the Constitution and some of the provisions of the CEDAW and Maputo Protocol on, inter alia, the right to equal employment. The direct implication of this is that currently there is no specific law or provision in any legislation in Nigeria that prohibits gender discrimination in employment. As a result of this, these treaties have had no positive impact on the rights of young women in Nigeria (Ekhaton, 2019). Indeed, it has been extremely difficult to get the Nigerian government to enact laws that effectively protect women from gender discrimination (Okongwu, 2021). It is worth noting that for many years, several non-governmental organizations have persistently adopted measures to persuade these law makers to enact the Gender and Equal Opportunity Bill (Civil Resource Development and Documentation Centre, (CIRDDOC), 2003). Unfortunately, none of these efforts have yielded the desired outcome. In December 2021, this bill was rejected for the third time (Iroanus, 2021). It has become extremely important to adopt other legitimate means to coax the lawmakers into passing this important bill into law.

Against this background, this paper assesses the statutory constraints on the enforceability of the right to equal employment in Nigeria and, most importantly, the possibility of employing Section 69 of the Constitution to recall lawmakers who oppose the Gender and Equal Opportunity Bill. This paper is divided into six main sections. Apart from Section 1, the introduction; Section 2 discusses the concept of gender discrimination in youth employment, and Section 3 examines the legal framework for the protection of the right to equal employment in Nigeria. It analyses the 1999 Constitution and the main international and regional treaties that guarantee this right in Nigeria. Section 4 discusses the statutory constraints on the enforceability of Nigeria's right to equal employment opportunity as guaranteed by the 1999 Constitution and these treaties. In Section 6, this paper examines the procedure laid down for recalling lawmakers under the Constitution and why it is appropriate for the relevant stakeholders to employ the provisions of Section 69 of the Constitution to recall lawmakers that oppose the Gender and Equal Opportunity Bill. Finally, Section 7 offers a conclusion to the main thesis of the paper.

## **Gender Discrimination in Youth Employment in Nigeria**

### **The young woman in Nigeria**

There is no generally accepted definition of the word "youth" or the phrase "young person." A youth or young person, on the other hand, can be defined as a person who is neither a child nor an adult; a person who is transitioning from a dependent to an independent state. Be that as it may, organisations and agencies have adopted several criteria in defining a "youth" or "young person." According to the United Nations (UN) (1985), a "youth" is a person between the ages of 15 and 24. In the African Youth Charter (2006), a "youth" was defined as a person between the ages of 15 and 29. In Nigeria, the recent National Youth Policy (Federal Ministry of Youth and Sports Development, 2021) defines a "youth" as a person between the ages of 15 and 29. Policymakers adopted the upper age limit of 29 for two reasons: first, because a vast majority of Nigerians finish schooling at this age, and second, because about three-quarters of males and over 90 percent of females have been married by the age of 29. However, it is submitted that it is unacceptable to use marriage as a determining factor because it will encourage child marriage. In a country like Nigeria with a high rate of child marriages, it is counterproductive to use marriage as a determining factor. If marriage is considered a benchmark, it then means that a 14-year-old married girl-child will automatically be considered a youth, contrary to the Child's Right Act of 2003 and international best practices.

As a result, this paper will not adopt the upper age limit prescribed by Nigeria's 2019 National Youth Policy, nor will it adopt 24 as the upper age limit prescribed by the UN, because the socioeconomic and political conditions in Nigeria necessitate a higher upper age limit. Finally, given that Section 277 of the Child's Right Act 2003 defines a child as a person under the age of eighteen, this paper proposes that a "young person" in Nigeria be defined as an individual between the ages of 18 and 35. This definition clearly captures the fact that a youth is neither a child nor an adult. Age 35 was adopted as the upper age limit because at this age most individuals would have acquired relevant education or training, an important step towards becoming an independent adult. Finally, as a result of this and for the purpose of this work, a young woman is a female between the ages of 18 and 35.

### **Gender discrimination in youth employment**

Gender discrimination is defined as unequal or unfavourable treatment of an individual or group of individuals based on whether they are male or female; it is a type of discrimination based on gender preferences. It stems from the false

perception of roles, functions, and duties assigned to individuals based on biological sex (de la Torre-Pérez et al., 2022). According to Salvini (2014, 2424), gender discrimination occurs in three situations [1] any situation where a person is denied an opportunity or misjudged solely on the basis of their sex; [2] any unequal treatment based on gender; and [3] when a person shows a prejudice towards another that would not occur had they been the opposite sex. The most comprehensive definition of discrimination against women is contained in Article 1 of CEDAW. According to this provision, 'discrimination against women' means

[A]ny distinction, exclusion or restriction made on the basis of 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 other field.

Although distinctions and the different treatment of men and women are generally seen as gender discrimination, this definition clearly and rightly shows that an action can only be deemed discrimination against women if the distinction will impair the enjoyment of any fundamental right and freedom. For this reason, the exclusive right to paid maternity leave for women cannot be considered discrimination because women biologically need some time off to nurture their new-born babies and, most importantly, to recover from the natural adverse effects of pregnancy and childbirth on the female body. Conversely, it will be deemed discrimination against women if a company, institution, or organization refuses to recognise this right to paid maternity leave or dismisses a woman on the grounds of pregnancy. This is because it will definitely impair the fundamental rights of women, especially the right to employment.

Gender discrimination manifests in different areas of life. It starts with the exploitation of modern health technologies to eliminate female fetuses and moves to cultural practises that prevent women from owning land and inheriting properties (Ezeilo, 2021). Because women are the main victims of gender discrimination (Nallari and Griffith 2011), gender discrimination is generally seen as an unequal and unfavourable treatment of women in different sectors of society.

With respect to labour and employment, gender discrimination is the imbalanced and unfavourable treatment of women by their employers or potential employers. According to Ramos (2014, 1886), 'employment discrimination is the situation where two identical workers are treated differently in terms of access to a particular job, internal promotion, task assignment, wages, or firing decisions.' Discrimination in employment can be seen in policies and laws that exclude women from applying for a particular job and/or prevent them from reaching the pinnacle of their career. Discrimination in employment can be measured through the comparison between the employment rates of individuals from different groups (Ramos, 2014). As a result of this analysis and for the purposes of this paper, gender discrimination in youth employment is the unfair and unequal treatment of women between the ages of 18 and 35 in matters of employment.

### **Equal Right to Employment and the Law in Nigeria**

This section examines relevant laws that guarantee the right to equal employment in Nigeria.

### **United Nations Declaration of Human Rights**

The United Nations Declaration of Human Rights (UDHR) was formulated by the United Nations as a response to the atrocities of the Second World War to promote peace, stability, and dignity for every human being, irrespective of gender, race, or nationality. The United Nations General Assembly adopted the UDHR in 1948. It provides for unambiguous, general, and minimum obligations of states to citizens and individuals living within their territories. The preamble of the UDHR recognises that the "inherent dignity and the equal and inalienable rights of all members of the human family are the foundation of justice and peace" and the equal rights of men and women. Consequently, it pronounces the UDHR as the "common standard of achievement for all peoples and all nations." In addition to several civil, economic, and political rights, Article 23 recognises that "everyone has the right to work, to free choice of employment, to just and favourable conditions of work, and to protection against unemployment."

The UDHR lacks the force of a ratified treaty. It is only a declaration made to fulfil the purpose of promoting human rights and fundamental freedoms as laid down in Article 13 of the United Nations Charter. However, it has successfully served as the background standard for assessing international behaviour and the foundation for legally binding treaties and covenants. The

International Covenant on Civil and Political Rights and the International Covenant on Economic, Social, and Cultural Rights are essentially direct offspring of the UDHR, and together with the UDHR they are referred to as the "International Bill of Human Rights" (Deaton, 2011).

### **The International Covenant on Economic Social and Cultural Rights**

The International Covenant on Economic, Social, and Cultural Rights (ICESCR) is a direct outcome of the UDHR. It was adopted by the United Nations General Assembly in 1966 and entered into force in 1976. Nigeria ratified it on July 23, 1993. Unfortunately, it has not been domesticated in line with Section 12 of the 1999 Constitution. The ICESCR, as the name implies, guarantees, economic, social, and cultural rights. Specifically, Article 2 enjoins State parties to take appropriate steps to ensure the recognition of the rights contained in the Covenant, including adopting appropriate legislative measures, and to also ensure that the rights contained in the Covenant are exercised without any form of discrimination.

Most importantly, under Article 3, State parties 'undertake to ensure the equal right of men and women to the enjoyment of all economic, social, and cultural rights.' Furthermore, Article 6 recognizes equal rights to work, which includes the right of everyone to earn a living through work that they freely choose or accept. It enjoins State parties to take appropriate steps to safeguard this right. The ICESCR is generally regarded as the foundation of all national legislation that protects economic, social, and cultural rights such as the right to non-discrimination and the right to work (Ssenyonjo, 2007).

### **United Nations Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)**

On December 18, 1979, the United Nations adopted the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW). It entered into force on September 3, 1981. The call for a treaty for the rights of women emerged from the 1975 First World Conference on Women in Mexico City. Until 1979, when the U.N. General Assembly adopted the Treaty, there was no document that comprehensively addressed women's basic human rights within political, cultural, economic, social, and family life. It is indeed the first international treaty to comprehensively define almost all forms of discrimination against women as fundamental human rights violations. It calls

for state parties to eliminate all forms of discrimination on the basis of gender and sets a plan for achieving full equality between women and men.

State parties are enjoined to take the necessary legal measures to ensure not just formal but substantive equality between men and women. Articles 3 and 24, for example, require steps to be taken to ensure the full development and advancement of women and the full realisation of their rights under CEDAW, respectively. This means that it is not sufficient for States Parties to guarantee women treatment that is equal to that of men; they must also take biological, social, and cultural distinctions between women and men into account, which may necessitate non-identical treatment to address those differences.

Article 11 of the CEDAW requires state parties to "take all appropriate measures to eliminate discrimination against women in the field of employment in order to ensure equal rights for men and women on the basis of equality. "In particular, State parties have an obligation to, inter alia, recognise the right to work as an inalienable right of all human beings, to guarantee the right to the same employment opportunities, including the application of the same criteria; the right to equal remuneration, including benefits, and the right to equal treatment in respect of work of equal value, as well as equality of treatment in the evaluation of the quality of work.

In order to prevent the negative effects of motherhood and marriage on the employment prospects of young women, State Parties must adopt appropriate measures to prohibit dismissal of young women on the grounds of pregnancy or of maternity leave and discrimination in dismissals on the basis of marital status; to introduce maternity leave with pay or with comparable social benefits without loss of former employment, seniority or social allowances; to encourage the provision of the necessary supporting social services to enable parents to combine family obligations with work responsibilities and participation in public life, in particular through promoting the establishment and development of a network of child-care facilities and to provide special protection to women during pregnancy in types of work proved to be harmful to their health.

The CEDAW has aided and continues to aid in the development of laws that protect women worldwide from gender discrimination in the workplace. In England and Wales, for instance, it inspired the Equality Act 2010, which protects women from direct (Section 13) and indirect (Section 19) discrimination. It expressly prohibits employers from discriminating against women in any arrangement with respect to whom to offer or not to offer



employment (Section 39). In Singapore, the government has taken steps to promote a more balanced share of parental responsibility to protect women from the adverse effect of marriage and motherhood on entering and remaining in the workforce. In Ghana, the Labour Act 2003 was adopted to give effect to several provisions of CEDAW. This law expressly prohibits gender discrimination in employment (section 14).

As a result, the CEDAW is a landmark treaty that has revolutionised women's rights around the world. It has also helped in the development of a holistic jurisprudence that is well suited to promote a woman- and gender-sensitive approach to substantive gender equality in all fields (Hellum, 2021). Nigeria ratified the CEDAW in 1985 but has yet to domesticate it, according to Section 12 of the 1999 Constitution.

### **The Protocol to the African Charter on Human and Peoples' Rights relating to the Rights of Women in Africa 2003**

The Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (the Maputo Protocol) was adopted by the Heads of State and Government of the African Union (AU) in 2003 in Maputo, Mozambique. It went into effect on November 25, 2005. Nigeria ratified this protocol in 2004, but it has yet to domesticate it according to Section 12 of the Constitution. The CEDAW was criticized for failing to recognize the unique characteristics of African women. Consequently, the preamble of the Protocol notes that despite the Universal Declaration of Human Rights, the International Covenant on Economic, Social, and Cultural Rights, and the Convention on the Elimination of All Forms of Discrimination Against Women, African women have continued to endure several forms of discrimination. It makes provisions for several socio-economic rights. Particularly, in Article 13, State parties are enjoined to adopt and enforce legislative and other measures to guarantee women equal opportunities in work, career advancement, and other economic opportunities. Specifically, they are charged with promoting equality of access to employment, ensuring transparency in recruitment, promotion, and dismissal of women, combating and punishing sexual harassment in the workplace, and guaranteeing adequate and paid pre- and post-natal maternity leave in both the private and public sectors.

### **Section 17(3) of the 1999 Constitution of the Federal Republic of Nigeria (as amended)**

Chapter IV of the Nigerian Constitution contains civil and political rights such as the right to life (section 33), the right to dignity of the human person (section 34), the right to personal liberty (section 35), the right to a fair hearing (section 36), the right to a private and family life (section 37), the freedom of thought (section 38), and the freedom of expression (section 39). These rights are enforceable in Nigeria. Therefore, Section 46 of the Constitution gives individuals the right to apply to a state high court if any of the rights contained in Chapter IV are being or are likely to be violated.

In addition to these rights, Chapter II of the Constitution contains socio-economic rights. Specifically, under Section 17(3), the government undertakes to ensure equal opportunity for employment. However, it is worth noting that, unlike the rights stated in Chapter IV, Section 17(3), and all the provisions under Chapter II of the Constitution, they are not justiciable pursuant to Section 6(6)(c) of the Constitution.

### **Legal Constraints to the enforcement of the right to equal opportunity to Employment in Nigeria**

The preceding section of this paper clearly shows that there are several laws in Nigeria that guarantee equal rights to employment. The CEDAW, the Maputo Protocol, and the Nigerian Constitution all contain provisions that should eliminate gender disparities in the employment of young men and young women in Nigeria. However, there are currently two legal constraints on the enforceability of this right. A detailed analysis of these constraints will be undertaken in what follows.

### **Non-Justiciability of Chapter II of the Nigeria Constitution**

As discussed above, while the rights stated in Chapter IV are justiciable in Nigeria, the socio-economic rights contained in Chapter II are not justiciable pursuant to Section 6(6)(c) of the Constitution. This section excludes the jurisdiction of the court to hear and determine any infringement or likely infringement of rights contained in Chapter II of the Constitution.

"Justiciability of a right" simply refers to the enforceability of such a right in a court of competent jurisdiction (Boyle, 2020). It indicates whether an individual, a group, or an organization can seek remedy if the right in issue is violated. If a right is justiciable, then an infringement or a likely infringement can be enforced in a court of competent jurisdiction. Conversely, if a right is not

justiciable, it means that it cannot be enforced in a court within the relevant jurisdiction. From these definitions, it follows that the implication of the provision of Section 6(6)(c) of the Constitution on Section 17(3) of the Constitution is that an infringement or a likely infringement cannot be enforced in a court in Nigeria (*Archbishop Olubunmi Okogie v Attorney General of Lagos State (1981) 2 NCLR 337*). Section 6(6)(c) of the Constitution is therefore a legal constraint on the enforcement of the right to equal employment in Nigeria because a young woman cannot rely on the provisions of Section 17(3) of the Constitution to enforce her right to equal opportunity in employment in Nigeria.

### **Dual system of international law applicable in Nigeria**

In a dualist country, public international law must be formally incorporated into the domestic law of the country before it can become enforceable before a court. This can be contrasted with a monism system where public international law can be directly enforceable before courts without any need for incorporation into the domestic law of the country (Ferreira and Ferreira-Snyman, 2014). By virtue of Section 12(1) of the Constitution, Nigeria practices the dual system of international law. This section states that "[n]o treaty between the Federation and any other country shall have the force of law except to the extent to which any such treaty has been enacted into law by the National Assembly." It therefore follows that in Nigeria, an international treaty entered into by the government of Nigeria does not become binding until it is enacted into law by the National Assembly. In other words, an international treaty has no force of law sufficient to make its provisions justiciable before its enactment into law by the National Assembly. "No matter how beneficial an international treaty to which Nigeria has become a signatory may be to the country or the citizenry, it remains unenforceable if it is not enacted into the law of the country by the National Assembly," wrote Ejiwunmi, JSC in *Sanni Abacha & Ors. v. Chief Gani Fawehinmi, [2000] FWLR Pt. 453*. Consequently, the Supreme Court held that the provisions of the African Charter on Human and Peoples' Rights were enforceable in Nigeria since they had been domesticated through the provisions of the African Charter on Human and Peoples' Rights (Ratification and Enforcement) Act.

The preceding sections of this paper show that even though Nigeria has ratified the ICESCR, the CEDAW, and the Maputo Protocol, it has not domesticated them according to the provisions of Section 12(1) of the

Constitution. This means that a young Nigerian woman cannot enforce the right to equal opportunity in employment as guaranteed by these treaties.

### **Equal Right to Employment and the Gender and Equal Opportunity Bill**

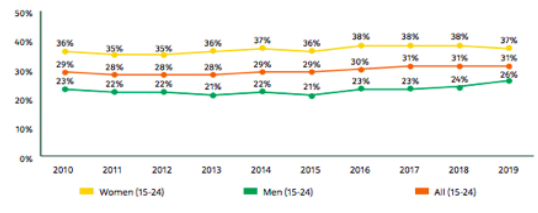
As a result of the above-mentioned statutory constraints, the right to equal opportunity in employment, as stated in the 1999 Constitution and the relevant treaties, is not enforceable in Nigeria. It is therefore not surprising that a recent report by the (World Bank, 2021) shows that Nigeria falls into the category of nations that do not have a specific law or provision in any legislation that prohibits gender discrimination in employment. Young women, and indeed women generally in Nigeria, are victims of discriminatory practises in the labour market (Salvini, 2014; Nallari & Griffith, 2011). It is not uncommon for a pregnant or married woman in Nigeria to lose a job opportunity because she is married or pregnant. According to Adedeji and Ajayi (2018, 28),

Another challenge faced by female employees [in Nigeria] is the stereotyped perception of their employers as regards their ability, stability on and commitment to their jobs. Due to family responsibilities which married women shoulder, it is widely held by most employers that they lack commitment and are less productive when compared with their male counterparts. Female employees are perceived to absent themselves from official work often due to domestic duties, marriage, and childbirth. Due to these, most employers are reluctant to employ, train or promote women.

In addition to this, there are several laws in Nigeria that discriminate against women in the labour market. For instance, section 55(1) of the Labour Act 2004 prohibits women from working at night. It states that 'no woman shall be employed on night work in a public or private industrial undertaking or in any branch thereof, or in any agricultural undertaking or any branch thereof.' In addition to this, Section 55(7) gives the Minister of Labour the power to make regulations that can prohibit or restrain a woman from working in any type of industry or organisation. It is worth noting that section 55(2) excludes women employed as nurses and women holding managerial positions from the provisions of section 55(1).

Because of this unequal and unfavourable treatment of women in the workplace, there are currently more males than females in all sectors of the Nigerian economy (Owoyemi & Olusanya, 2014).

Figure Youth (15–24 years old) not in employment, education or training (NEET), 2010–2019 (percentage)



Sources: ILOSTAT.

This diagram not only shows that the majority of unemployed youths in Nigeria are female, it shows that this gender disparity has occurred constantly over the past decade. In 2016, for instance, while the percentage of unemployed young men remained at 23, that of young women increased to 38.

The main thesis of this paper is that this gender disparity in youth employment has remained consistent in Nigeria over the years because the right to equal opportunity in employment is not enforceable as a result of the identified statutory constraints. Whereas legislation is generally effective in correcting age long gender imbalances, a World Bank report has specifically shown that there is a strong link between a law that expressly prohibits gender discrimination in employment and the number of women, both young and old, in the workforce relative to men (World Bank, 2021). The enforceability of the right to equal opportunity in the workplace is an important step toward the prohibition of gender discrimination in the workplace, and will thus lead to the elimination and significant reduction of gender disparities in employment in Nigeria. It is worth noting that countries in Africa such as Senegal, Kenya, Namibia, Guinea, the Democratic Republic of the Congo, and Liberia have introduced laws that expressly prohibit gender discrimination in employment (World Bank, 2021).

To remedy the problems posed by Section 6(6)(c) and Section 12(1) of the Nigerian Constitution, the Gender and Equal Opportunity Bill (the Bill) was introduced in 2016 to, inter alia, give effect to Chapter II of the Constitution, the International Covenants on Human Rights, which affirm the principle of non-discrimination; provisions of the CEDAW and the Maputo Protocol. When

passed into law, this bill will expressly prohibit gender discrimination in employment in accordance with international best practices. Section 4 of this bill requires all government organs, agencies, public or private institutions, commercial or corporate bodies to take all appropriate measures to eliminate discrimination against women in employment, occupation or profession and to ensure that the right to equal employment opportunities including the application of the same criteria for selection, promotion and assignment of responsibilities in employment. If this bill is passed into law, discriminatory provisions such as Section 55 of the Labour Act will be repealed because Section 2(b) of this bill states that any law, regulation, custom, or practice that constitutes discrimination shall be null and void and of no effect. Further to this, Section 4(b)(i) calls for the adoption of temporary special measures "in the case of the political and public sphere, that a minimum of 35 percent of all offices, positions, or appointments be reserved for women.'

Despite the significant effects of this bill on the rights of women in Nigeria, members of the legislative arm of government have persistently refused to pass it into law. It has been rejected three times (Iroanus, 2021). The lawmakers argued, inter alia, that the bill is anti-God, anti-family, and a foreign imposition aimed at eradicating the customs and traditions in Nigeria (Ekhat, 2019).

### **Possibility of recalling lawmakers who oppose the Gender and Equal Opportunity Bill**

One of the advantages of democracy is the power bestowed on the electorates to elect members of the executive and legislative arms of government, hence, democracy is classically defined as "the government of the people, by the people, and for the people' (Lincoln, 1863). This authority bestowed on the people is clearly stated in Section 14 of the Constitution, which states that 'sovereignty belongs to the people of Nigeria, from whom government, through this Constitution, derives all its powers and authority.' An offshoot of this sovereignty given to the people is the power of the electorate to recall a member of the legislative arm of government.

Section 69 of the Constitution gives the electorate the power to recall a lawmaker before the expiration of his or her tenure. To recall a lawmaker, the following conditions must be satisfied: [1] A simple majority of the persons registered to vote in that constituency must present a petition to the Independent National Electoral Commission with evidence showing that they have lost confidence in the lawmaker; [2] The Independent National Electoral

Commission must conduct a referendum within 90 days of the receipt of the petition; and [3] the petition must be approved in the referendum by a simple majority of the persons registered to vote in that constituency.

From the provisions of Section 69 of the Constitution, it simply means that in a democratic government, a recall process is the process of removing a lawmaker before the expiration of his/her tenure on the grounds that the electorate in his constituency has lost confidence in him. It is believed that Section 69 was inserted in the 1999 Constitution to enhance legislative accountability and make lawmakers endlessly, rather than intermittently responsible to the wishes of the electorate (Chukwuma, 2018). Rather than waiting until the end of the four-year term, Section 69 empowers the Nigerian electorate to remove a recalcitrant legislator as soon as the need arises. As a result of this process, elected representatives are less likely to make unpopular decisions if it makes them more likely to be the subject of a recall process (Vandamme, 2020).

To strengthen democratic institutions, it is not sufficient to merely have laws that ensure accountability, the electorate must be willing to apply these laws when necessary to produce the desired outcome. Unfortunately, one of the challenges facing Nigeria is the electorate's inability to utilise Section 69 of the Constitution. Consequently, few petitions have been filed against lawmakers who are insensitive to the plight of the people. Even in these few cases, the targeted legislators were not recalled because the electorates did not meet the requirements outlined in Section 69 of the Constitution. For instance, the petition to recall Senator Dino Melaye was unsuccessful because only 45.66 percent of yes votes were obtained (Sobechi et al., 2018), contrary to the provisions of Section 69 that require a simple majority.

It is therefore submitted that lawmakers have continued to reject the Gender and Equal Opportunity Bill because there are no political consequences for their actions. As a matter of fact, empirical research (Mohammed, 2019) shows that since the bill was rejected, non-governmental organisations in Nigeria have only resorted to strategies and tactics without political penalties, such as press statements, the production of educational radio jingles, advocacy visits, focus group discussions, awareness-raising campaigns, training legislators, social media campaigns, press statements, and public seminars. It is obvious that these strategies and tactics are merely persuasive and will not achieve the desired objective. As a result of this, the best option is for the electorate to utilize the provisions of Section 69 of the Constitution to sanction lawmakers who oppose the Gender and Equal Opportunity Bill. To actualize

this, non-governmental organizations must focus on mobilizing people in the different constituencies to ensure that the conditions in Section 69 are fulfilled whenever the process to recall a lawmaker is initiated.

### **Conclusion**

This paper demonstrates that there is a substantial gap in youth employment in Nigeria. It also shows that this gender disparity in youth employment exists despite several laws that guarantee the right to equal opportunity in employment. It analysed these laws and identified two constraints to their enforceability in Nigeria. This paper also shows that the Gender and Equal Opportunity Bill was introduced in 2016 to, *inter alia*, ensure the enforceability of the right to equal employment in Nigeria. Unfortunately, legislators have consistently rejected this Gender and Equal Opportunity Bill by citing reasons that are neither legal nor plausible. In the absence of this law, young Nigerian women are at risk of being discriminated against in the labour market, which will further increase the gender disparity in the labour force and make them more susceptible to being poor and engaging in socially unacceptable behaviours.

This paper argues that to eliminate the gender disparity in youth employment in Nigeria, there is an urgent need to utilize every available legal strategy and tactic to ensure that the identified legal constraints are removed. Since non-governmental organizations in Nigeria have been unable to persuade lawmakers to pass the Gender and Equal Opportunity Bill, this paper investigates the possibility of recalling lawmakers who oppose the bill under Section 69 of the Constitution. It finds that it is possible to recall lawmakers who oppose the Gender and Equal Opportunity Bill as long as the conditions in Section 69 of the Constitution are fulfilled. Consequently, it concludes by stating that non-governmental organizations must change their strategies and tactics by focusing on mobilizing the electorates in the relevant constituencies to ensure that the conditions in Section 69 of the Constitution are fulfilled.



## References

- Adedeji, B. O. and Ajayi, O. I. (2018). Women, their rights and workplace discrimination. *International Affairs and Global Strategy*, 67, 22-34
- Akor, L. (2011). Trafficking of Women in Nigeria: Causes, Consequences and the Way Forward. *Corvinus Journal of Sociology and Social Policy*, 2(2), 89-110.
- Anyanwu, J. C. (2016). Analysis of Gender Equality in Youth Employment in Africa. *Development Review*, 28(4), 397-415.
- Arowolo, G. A. (2020). Protecting women from violence through legislation in Nigeria: Need to enforce anti-discrimination laws. *International Journal of Discrimination and the Law*, 20(4), 245-288.
- Becker, S. O., Fernandes, D., & Weichselbaumer, D. (2019). Discrimination in hiring based on potential and realized fertility: Evidence from a large-scale field experiment. *Labour Economics*, 59, 139-152.
- Boyle, K (2020). Economic and Social Rights Law Incorporation, Justiciability and Principles of Adjudication. Routledge.
- Chukwuma, V. O. (2018). Recall Process Under the Constitution of Federal Republic of Nigeria: A Critique. *African Journal of Constitutional and Administration*, 2, 120-132.
- Civil Resource Development and Documentation Centre. (2003). *The Genesis of the Gender and Equal Opportunities Bill*. <https://cirddoc.org/the-genesis-of-the-gender-and-equal-opportunities-bill/>
- de la Torre-Pérez, L., Oliver-Parra, A., Torres X., & Bertran, M. J. (2022). How to measure Deaton, M. (2011). Universal Declaration of Human Rights. In Chatterjee, D. K. (ed.) *Encyclopedia of Global Justice* (pp. 1115-1117). Springer.
- Diraditsile, K. & Ontetse, M. A. (2017). Livid Experiences and Consequences of Unemployment on Women: An Empirical Study of Unemployed Young Women in Mahalapye, Botswana. *Journal of International Women's Studies*, 18(4), 131-143.
- Ekhator, E. (2019). Protecting and Promoting Women's Rights in Nigeria: Constraints and Prospects. In Addaney, M. (ed.) *Women and Minority Rights Law: Africa Approaches and Perspective to Inclusive Development* (pp. 17-35). Eleven International Publishing.
- Ezeilo, J. N. (2021). Rethinking women and customary inheritance in Nigeria. *Commonwealth Law Bulletin*, 47(4), 706-718.
- Federal Ministry of Youth and Sports Development. (2021). *Nigerian Youth Employment Action Plan (NIYEAP) 2021-2024*.

- [https://www.ilo.org/wcmsp5/groups/public/---africa/---ro-abidjan/---ilo-abuja/documents/publication/wcms\\_819111.pdf](https://www.ilo.org/wcmsp5/groups/public/---africa/---ro-abidjan/---ilo-abuja/documents/publication/wcms_819111.pdf)
- Ferreira, G. and Ferreira-Snyman, A. (2014). The incorporation of public international law into municipal law and regional law against the background of the dichotomy between monism and dualism. *Potchefstroom Electronic Law Journal*, 17(4), 1471-1490.
- Geng, J. (2019). The Maputo Protocol and the reconciliation of gender and culture in Africa. In Rimmer, S. H. and Ogg, K. (eds.) *Research Handbook on Feminist Engagement with International Law* (pp. 411-429). Edward Elgar.
- Hellum, A. (2021). CEDAW and Global Standards for Women's Rights the Convention's actual and potential influence as an accountability mechanism for gender-sensitive legislation. In Vijayarasa, R (ed.) *International Women's Rights Law and Gender Equality Making the Law Work for Women* (pp. 169-187). Routledge.
- Iroanusi, E. (2021, 15 December). *Again, Gender Equality Bill suffers setback at Senate*. <https://www.premiumtimesng.com/news/headlines/500980-again-gender-equality-bill-suffers-setback-at-senate.html>
- Lincoln A. (1863). *The Gettysburg Address*. <http://standardstoolkit.k12.hi.us/wp-content/uploads/2013/01/Handout-11.pdf>
- Mohammed, A. A. (2019). *The Gender and Equal Opportunities Bill: Nigeria's Track Record of its Commitment to Women's Rights* [Master's Degree Dissertation, Columbia University]. Columbia University Libraries. <https://academiccommons.columbia.edu/doi/10.7916/d8-tr76-6a77>
- Nallari, R. & Griffith, B. (2011, January 18). *Gender and Macroeconomic Policy*. The World Bank. <https://issuu.com/world.bank.publications/docs/9780821374344>.
- Nnamuchi, O. (2008). Kleptocracy and its many faces: The challenges of justiciability of the right to health care in Nigeria. *Journal of African Law*, 52(1), 1-42.
- Nwafor, N., Ugwu, I. P., Nwafor, M. & Okubuiro, J. (2021). Legal Rights of the Girl-Child in Nigeria: Laws and Challenges. In Nnamuchi, O. & Nwafor, N. (eds.) *Joy's of Human Rights Essays in Honour of Professor Joy Ngozi Ezeilo* (pp. 62-82). Malthouse Law Books.
- Owoyemi O. & Olusanya, O. (2014). Gender: A precursor for discriminating against women in paid employment in Nigeria. *American Journal of Business and Management*, 3(1), 10-14.

- Ramos, R. (2014). Employment Discrimination. In Michalos A.C. (ed.) *Encyclopedia of Quality of Life and Well-Being Research* (pp. 1886-1888). Springer.
- Salvini, S. (2014). Gender Discrimination. In Michalos A. C. (ed.) *Encyclopedia of Quality of Life and Well-Being Research* (pp. 2424-2426). Springer.
- Sobechi, L., Olatunji, K. & Akubo, J. (2018, 30 April). *How move to recall Dino Melaye failed*. <https://guardian.ng/news/how-move-to-recall-dino-melaye-failed/>
- Ssenyonjo, M. (2007). The Influence of the International Covenant on Economic, Social and Cultural Rights in Africa. *Netherlands International Law Review*, 65 259-289.
- United Nations Development Programme. (2018). Gender equality as an accelerator for achieving the sustainable development goals. [https://reliefweb.int/sites/reliefweb.int/files/resources/Gender\\_equality\\_as\\_an\\_accelerator\\_for\\_achieving\\_the\\_SDGs.pdf](https://reliefweb.int/sites/reliefweb.int/files/resources/Gender_equality_as_an_accelerator_for_achieving_the_SDGs.pdf)
- United Nations. (2001, 12 July). *Implementation of the World Programme of Action for*
- Vandamme, P. (2020). Can the recall improve electoral representations? *Frontiers in Political Science* 1-13. <https://www.frontiersin.org/articles/10.3389/fpos.2020.00006/full> .
- Vijayarasa, R. (2021). In Pursuit of Gender Responsive Legislation. In Vijayarasa, R (ed.) *International Women's Rights Law and Gender Equality Making the Law Work for Women* (pp. 3-15). Routledge.
- World Bank. (2021). *Women, Business and the Law, Nigeria*. <https://wbl.worldbank.org/content/dam/documents/wbl/2021/snapshots/Nigeria.pdf>
- Youth to the Year 2000 and Beyond* [https://www.youthpolicy.org/basics/2001WPAY\\_Implementation\\_Report.pdf](https://www.youthpolicy.org/basics/2001WPAY_Implementation_Report.pdf)