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## Law, Women and Health in Nigeria

By Philomena I. Ozo-Eson<sup>1</sup>

### Abstract

This paper attempts to analyse sexual inequality as it affects the health of women in Nigeria. Various theories that inform the study of women are briefly discussed along with specific areas of women's health concerns. These include: female genital mutilation, violence against women, sexual harassment, and widowhood practices. Other areas of discourse involve women and law, and here, we emphasised the need to re-examine both the customary and statutory laws to reflect justice, dignity and fair play for all members of the society irrespective of their gender. Also, special attention should be paid to some laws that encourage the brutality of women by men in order to repeal them, as for instance, a law that encourages men to correct their wives by flogging. Other suggestions are offered on how to create a better and healthier society for all Nigerians, particularly women.

*Keywords:* Women's health, gender inequality, law in Nigeria

### Introduction

The focus of this paper is to summarize and analyse sexual inequality as it affects women's health in Nigeria and how the law can be employed to address these challenges. In Nigeria, many women are denied their rights and subjected to some cultural practices that greatly endanger their health (Mama, 1996). For instance, the inhuman widowhood practices in many ethnic groups in Nigeria, genital mutilation which is harmful to women's health, disease like Vesico-Vaginal Fistulae (VVF), and the problem of girl child hawking along the streets that exposes them to a host of problems including: physical and psychological danger, physical and psychological abuse, rape and sexually transmitted diseases (STDs) (Weekly Trust, 2007:7) as well as unwanted pregnancies and even the danger of being knocked down by a car.

Nigerian law is meant to protect every Nigerian irrespective of sex as is stated in the Nigerian constitution of 1999. However the law in the book and the law in practice

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seem to be different. Women in Nigeria have continued to experience gender discrimination and their human rights violated (Briggs et al 2003), which results in some ailments suffered by women. Also the general assumption of women's inferiority and their subjugation to men, have subjected them to various abuses and health problems. All these abnormalities are preventable and the law could be effectively employed to bring changes in areas where women are subjected to health problems as a result of their subordination.

The issue of health is very important in a nation's development, because no society can make any progress without a physically and mentally sound populace. For instance, violence against women either physical or mental leads to women's depression, low-self esteem, neurotic disorders, and so on (Adetoun, 1997).

### **The Sociological Concept of Law: Nigerian Examples**

Every society accommodates norms, rules and values that guide the behaviour of the members of the society. In traditional Nigerian societies there were rules guiding the behaviour of individuals and even though they were not written down everyone knew exactly what was expected of him or her (Alemika, 1994). The mode of production was agrarian and members of the society were engaged mostly in similar activities. However, life in modern societies is significantly more complicated and the use of law as a means of social control has become necessary. Large-scale societies with their disparate functions have become increasingly differentiated and interdependent, such that the coercive power of law is necessary, and other means of social control such as religious sanctions, norms and customs do not have the same power of enforcement (Alemika, 1994). Thus law is needed to enforce certain behavioural acts for the general good of the society. Certain behavioural patterns that are dangerous to the society particularly those that affect women's health in modern societies can be prevented by laws. Law can be used to foster the development of women and the society at large. From the pre-colonial period to present day Nigeria, law has been employed to enforce both negative and positive changes. For instance the enforcement of colonial rule in Nigeria was made possible by instituting the British laws although alien to Nigeria. Moreover, the whole process of Nigerian independence and the handing over from the colonial administration to the newly established independent Nigerian government was enforced by law.

What constitutes law varies from society to society. Even within the same society law may vary. For instance, Briggs et al (2003) noted that, having sexual intercourse with a girl aged 13 with her consent is an offence under the Penal code of northern Nigeria but it is not an offence under the criminal code of southern Nigeria. However, Alemika (1994) views law as a set of rules governing the behaviour and relationships of members of a society and it is promulgated and enforced by an appropriate authority. This means that customs, rules and norms that do not have the force of law are not enforceable in modern courts. For instance, a violation of a marriage under traditional customs which does not have the force of law or coercion cannot be prosecuted or enforced through modern courts (Alemika, 1994:285). Alemika has noted that law has a dual contradictory character as an instrument of oppression and freedom, under different conditions and societies. Law could be used for the transformation of oppressive and exploitative social order, institutions, and ideologies that create and sustain gender-biases. In this way it

plays the role of an instrument of liberation and empowerment. On the other hand, and in most societies, law could be used to maintain the status quo, particularly in an authoritarian and undemocratic government where the rule of law is arrogantly ignored and disobeyed by the ruling class. Whatever interpretation is given to law, law cannot be ignored for the vital role it plays in maintaining order in society. Rules, customs, norms, and laws are therefore prerequisites for social order and for the continuity of society (Alemika, 1994; 2003).

Sociologists view law as the coded norms and values of society, although within the discipline, it has been defined and interpreted differently among scholar. For instance, functionalists view law as the central mechanism for social integration while Marxists view law as a weapon or an instrument of oppression adopted by the bourgeoisie to perpetuate their domination over the proletariat. Marx emphasised that without laws class struggle would be intense and the capitalist would be threatened, hence the need to keep the working class in perpetual servitude through the laws that restrain their behaviours and maintain the status quo.

### **Theoretical Approaches to Gender Inequality**

As scholars of gender have long recognized, societies everywhere are gendered along sex, race, religion, ethnicity and other social indicators of meaning and identity. In this paper however, our interest is in gender inequality associated with biological sex, because the conditions and position of women in Nigerian society play crucial roles in every area of their lives. The condition of women refers to the material state in which women live, their wages, nutrition, health, etc. These conditions tend to reflect poverty and associated low wages, poor nutrition and consequently, health. The position of women refers to the social and economic status of women as compared to that of men (Sen et al, 1995). Women have low access to education, accommodation, health services, communications, water supply, as compared to their male counterparts. The quality of women's health is a reflection of their status in society. Women are subject to patriarchal control (Alemika, 2003), and forced to live by decisions made by others, either in the public sector or within the family setting. Patriarchy is a system of social relations in which men as a category have power over women as a category; where men are regarded as superior and women regarded as inferior; where decisions and everything else in society are defined according to male interests and concerns without consideration for women (WIN Document, 1985).

However, in contemporary Nigeria, women are beginning to occupy their rightful places. Women are beginning to be found in professions previously dominated by men such as law, medicine, lecturing and so on. Also, women have moved into important positions in both government and the private sector. This notwithstanding, there is a lot more to be done concerning the liberation and empowerment of women in Nigeria.

### *Theoretical Framework*

Feminist scholars have generated various, now well-known theories to inform the study of women. Some of them that inform the present study include: socio-biology, socialist feminism, Marxist feminism, and most recently the empowerment of women

framework. Although these theories are relatively ubiquitous in the literature, I briefly summarize them here as reminders to readers.

### *Socio-biology*

Sociobiology employs the biological differences between male and female to explain women's subordination and the rights and duties assigned to them in society. Sociobiologists emphasize male supremacy by explaining that specific tasks are assigned to males and others assigned to women and because of female biology, they are banned from public activities (Tiger and Fox, 1982). They have further claimed that men have more physical strength than women (Murdock, 1992) and thus women's duties are to bear and nurse children. Further they perceive women's role in the family as 'expressive' that is to provide warmth, security and emotional support (Talcott Parsons, 1987).

These theorists are male biased and failed to explain the presence of females in politics, economy, Army, the Navy etc. Further, physical strength is no longer relevant in contemporary societies for development. What is required is talent, intelligence to manipulate the environment for human interest. Moreover, socio-biologists failed to appreciate the fact that females might be deliberately excluded from certain activities in order to prevent them from gaining access to power in traditional and modern societies like their male counterparts.

### *Socialist Feminism*

Socialist feminism originated from the socialist beliefs that a transformation from a capitalist system to a socialist system would automatically give power to women. They go beyond a simple socialist solution, arguing that the eradication of private property will not automatically result in women's liberation. They believe that women's liberation depends not only on an attack on the economic class structure of society, but also a direct attack, led by women on all forms of male domination. They argue that the sexual division of labour and gender inequality – women's subordination usually attributed to capitalism existed before capitalism (Eisenstein, 1979). However, the criticism against socialist feminism is the assumption that women are 'a class' and that 'women alone' can deliver themselves from oppression. Socialist feminism lacks the ability to fight towards the liberation of the entire society. They rely on individual solutions to solve the problems of women and this is not helpful to women particularly when we realise that in contemporary societies, not all women are exploited. For instance, in Nigeria some women employ the labour of others – their fellow women as well as men. Further, women from rich family backgrounds in Ishan/Esan, Edo state Nigeria do not suffer oppression and exploitation in the same way as women from poor socio-economic backgrounds (Ozo-Eson, 1987). This is why it is extremely necessary for both men and women to form a single class (forum) under which they can address the problem of oppression and exploitation in Nigerian society.

### *Marxist Feminism*

Marxist feminism is generally traced to the work of Engels', *The Origin of the Family Private Property and the State* (1983). Drawing from early anthropological schemas of cultural evolution, Engels argued that during the early stages of human

evolution, the forces of production were communally owned and the family was yet to exist. This period of 'primitive communism' was characterised by promiscuity. There were no rules guiding and limiting sexual relationships. Throughout human's history more restrictions were placed on sexual relationships and the production of children. Engels further contends that the monogamous nuclear family developed with the emergence of private property, especially the private ownership of the means and forces of production, and the rise of the state. The State promulgated laws to protect the system of private property and to enforce the rules of monogamous marriage. In order to pass this property on to their heirs, men had to be certain of the legitimacy of those heirs. Hence, they needed greater control over women so that there would be no doubt about the paternity of their offspring, and monogamy provided the most efficient device. According to Engels, the monogamous family is based on the supremacy of the man. Engels believes that there is the economic dependence of the wife upon her husband and that this economic dependence made the control of the husband over the wife possible. According to Engels equality between men and women would be realised under socialism where the means and forces of production would be communally owned.

In line with Engels, Marxist feminism contends that the problem of women is the problem of human beings. Thus both men and women will join hands in the war against women oppression and sexism will be eliminated along with other forms of social inequality. Marxist feminists locate the source of female subordination in the development of surplus wealth due to increased production; that is, the phenomenon of private property. The different forms of male domination and female subordination thus would, therefore, reflect the different modes of production (Hamilton, 1979).

### *The Empowerment of Women*

Among recent explanations for the subordination of women in society is the women's empowerment model. It is argued that women are disempowered economically, politically, socially and so on. Women are deprived of decision making positions both in the private realm of the family and the public sector. Others make decisions that directly or indirectly affect their lives on daily basis (Longwe, 2002). Increasingly, it is being realised that focusing on women in isolation has not yielded much result hence, the need to focus on gender relations and the empowerment of women. The goal of gender analysis is the emancipation of women from their subordination and their achievement of equality, equity and empowerment (Moser, 1998).

Empowerment refers to 'women's increased control over public decision making' (Longwe, 2002:258). Such an empowerment forms the basis for women to change the practices and laws that discriminate against them, and to achieve an equitable gender division of labour and allocation of resources. The empowerment of women is in stages – welfare, access, conscientization, mobilization and control. Welfare is the preliminary stage at which a development intervention may hope to close a gender gap. At this stage women are given some benefits such as improved nutritional status, shelter or income to improve their socio-economic status rather than producing or acquiring such benefits for themselves. Thus this amounts to zero empowerment.

The access level is the first level of empowerment since women improve their own status by their own hard work and organisation arising from increased access to

resources such as water, land, market skills, credits and the like. Conscientization is the stage at which women realise that their lack of status and welfare, relative to men is not due to their own lack of ability, or effort, but due to discrimination and rules which gave priority access and control to men. Mobilization involves the stage at which women take collective action to remove the discriminatory practices against them. Control is the last stage of empowerment and this involves gender equality in decision making over access to resources and others. It means women no longer rely on male discretion or whim of patriarchal authority to acquire what they want, but have complete control of their lives and make decisions for themselves.

In this paper, I wish to employ a combination of two theoretical frameworks, Marxist Feminism and the empowerment framework. Engels' work is relevant to an understanding of patriarchy in Nigeria, the subordination and oppression of women. Firstly, it has enabled me to locate the origin of female oppression – the quest for material wealth which necessitated the need to have a son to inherit property. In pre-colonial Nigeria for instance, land was merely a means of getting a living, but with the emergence of capitalism, land has become a means of attaining wealth. Hence, there was the need by men to perpetuate some pre-colonial practices (in the name of preserving “culture”) to deprive them of equal rights with men. Again, among the Edos, Igbo, Yoruba and other ethnic groups in Nigeria, women have no access to farm land except through their husbands (Ozo-Eson, 1987). This has made women economically dependent on their husbands and they have eventually lost control over their own lives.

Secondly, Engels has noted that the family as an institution is often the location for the oppression and exploitation of women. This is related to the situation of women in Nigeria. In Nigeria, the family (the institution of marriage - role of house-wife, etc.), constitutes a major vehicle for the perpetuation of the oppression of women which invariably has negative impact on their health (Adetoun, 1997). But it is essential to know that the family is only one aspect of the entire social formation that presents an enabling environment for the oppression and exploitation of women.

Thirdly, in Nigeria, the sentiment attached to male children by men and Nigerian society in general gives women a great cause to worry. This is because men require sons to keep up the name of the family and also, to inherit their property. Thus we find cases where women without male children, feel depressed, miserable and regard themselves as having no children even though they have female children (Ozo-Eson, 1987). Perhaps if there was no property to inherit the issue of ‘do or die’ to have male children in Nigeria would not be there or greatly reduced.

The Women's Empowerment framework can be used to explain the under-representation of women in decision making positions Nigeria, both in private and public realms. In Nigerian society, a married man does not need the permission of his wife to bring in a second wife if he so wishes (Okojie, 1960). Thus, in this era of HIV/AIDS, such nonchalant attitude towards family life/marriage constitutes a great health risks to women. Further a resent survey in Africa, including Nigeria shows that greater social and economic inequality between men and women directly correlated to the HIV risk faced by African/Nigerian women (Obinor, 2007:11). With regard to the public sphere, Ibrahim and Salihu, (2004) noted that in Nigeria, the methods traditionally used to exclude women from politics include male-centred interpretations of culture and religion

and sharp practices such as “zoning out” strong female candidates. Thus, we found that in the 1999 and 2003 elections in Nigeria, in Senate, women represent only 2.8 percent; in House of Representatives 5.8 percent; Deputy Governor 5.6 percent; and State House of Assembly – Speakers 5.6 percent. There were no female governors, or vice president (Ibrahim and Salihu, 2004:3).

The problem of women and health in Nigeria cannot be resolved unless attempts are made to reduce and eventually eradicate oppression and exploitation in Nigerian society. The problems women face are the problems of human beings and thus, everyone including men and women should work together towards the liberation of women in Nigeria.

### **Women and Health**

The medical conception of health is based mainly on the ‘germ theory’ of disease. That is health is the absence of any disease in the body. Sociologically speaking, health is both a medical and a social concept. Erinsho and Oke (2004) noted that in Nigeria, the social and cultural factors of the environment are crucial in the definition of health (Erinsho and Oke, 2004:72). In the same vein, the World Health Organisation (WHO) for a very long time rejected the conception of health based purely on the absence of any disease in the body but embraced a definition which says that health is not just the absence of a disease or infirmity but the physical, social and mental well being of the individual. It is within the context of the sociological and World Health Organisation’s definition of health that women’s health will be considered in this paper.

In Nigeria, women are subjected to several socio-cultural, physical and mental conditions that constitute health hazards for them. For instance, in contemporary Nigerian society, women are still discriminated against in terms of education (Bozimo, 2000); thus, in most cases the girl child is withdrawn from school and some not even sent to school at all because their education is considered irrelevant as they are considered ‘only future house-wives’. Others girls are forced into early marriages to elderly men for financial benefits accruing to their parents (Mama, 1996). Still many others are found hawking goods, where they are exposed to rape, kidnapping, accidents and other vices. For instance, one of the Nigerian weekly magazines *Weekly Trust* reported a case of a sexually abused 12-year-old hawker now HIV positive. According to *Weekly Trust*, at nine years the girl started selling bananas to feed her four siblings. In the process, she fell prey to several men who raped and sexually abused her for over a period of three years and now she is HIV positive in a poverty stricken home (*Weekly Trust*, August 12, 2006:7). Also related to this is the shocking report of the International Labour Organisation (ILO) that over, 6,000 children engaged in child labour had been withdrawn and rehabilitated in Nigeria and Ghana between 2004 and 2006. This assertion was made by the ILO Director-General, Mr. Juan Somayia in Addis Ababa at the 11th African Regional meeting on the activities of ILO in Africa (Taiwo, 2007:9). Recently also in Nigeria, a 32-year-old man was arraigned before a chief Magistrate’s court in Lagos for raping an 11-year-old girl (*Daily Trust*, June 1, 2007:9). This has a very serious health implication for the girl as the girl is not physically or psychologically mature to engage in sexual relationships. More over her body is still undergoing the normal growth process.

In another instance, a girl was bathed in acid beyond recognition by her boyfriend for jilting him. The girl has been hospitalised in a Nigerian hospital for 10 months and unable to see with her eyes. She is presently asking for help from individuals and sympathisers to the tune of 1. 5 Million Naira to enable her fly to India for surgical operation on her eyes (Olanrewaju, 2007:38). All these problems are preventable as they are created by the society that ascribes superior status to men and inferior status to women.

The problem of women's subordination and its consequent health implications is sociologically interesting because of the biological essentialist arguments that undergird them; that is, women's second class status is seen to be given by nature. Both the electronic and print media for instance, television, radio and Nigerian newspapers portray women as supportive, caring for the home, children and husband, dedicating their lives to them and for them as an extension of their natural abilities and roles. The political implication here is not just to mystify issues, but also a not-so-subtle call for *inaction*. It is a way of assigning the entire blame for the discrimination of women today to nature, and telling women just to accept the situation, as it is now, that they cannot change it after all. But the present situation of women is one that can, and must be changed.

In Nigeria, the problems of domestic violence against women and other violent behaviour do not attract the attention of the society let alone enacting laws against them. Instead, wife battering is usually dismissed by the police and the entire legal system as a family matter that does not warrant police intervention. Thus, Briggs et al (2003) noted that sexual offences listed in the two criminal codes of Nigeria (the penal code of the north and the criminal code of the south) include: rape, indecent assault, abduction, sodomy and bestiality. But sexual misconduct like domestic violence with sexual colorations, spousal rape, deliberate infection of partners, with sexually transmitted diseases and sexual harassment are not criminalised.

### **Specific Areas of Health Concern for Women**

In Nigeria women are exposed to several cultural practices and subordination that greatly affect their health some of which are summarized in the discussed below. The intent here is not to provide an exhaustive analytical discussion of each but to outline their major components and to suggest that the rule of law, if implemented and enforced would contribute toward their eradication.

#### *Female genital mutilation (FGM)*

In many ethnic societies in Nigeria particularly in the southern parts and many rural communities, female genital mutilation is common (Mama, 1996). The idea behind this act is to reduce female promiscuity before and after marriage (Ozo-Eson, 1987). In Esan community in Nigeria, young women who are mature enough for circumcision are usually not told nor have prior knowledge of the day the circumcision (operation) would take place. They are usually deceived and lured into the place of the operation where they are held down by elderly persons and forced to have the operation without any pain killer. The whole process is carried out without their consent. However, with education and enlightenment on the danger of female circumcision, the situation is changing gradually, particularly among the elites in urban areas.

Genital mutilation is degrading and harmful to women as the instruments usually employed are crude and not sterilised (Mama, 1996). More so, most women develop infection as such cuts are not taken care of, many suffer pains throughout life and a large percentage of them die as a result of losing too much blood/haemorrhage. Infibulation is the most extreme form of FGM. Mama (1996) argued that infibulation is “part and parcel of the reproductive process and the rigid control of women is a direct result of their central role in reproduction” (Mama, 1996:46). Thus there is the need for legislation of laws in states where FGM is still going on and an enforcement of the law where it already exists.

### *Violence against women*

Another area of health concern for women in which the law can be effectively applied is violence committed against women (a broad category which should include FGM). The United Nations has established that (1989) violence against women can occur as both physical and psychological abuse. There have been many cases of vicious acid attacks, such as the incident described earlier, that leave women with horrific disfigurements in Nigeria. Physical violence towards women’s bodies include: pushing, pinching, spitting, kicking, pulling the woman’s hair, throwing acid or any other chemical including hot water on her, and shooting her (UN, 1989). Physical violence can range from minor bruising to murder. Psychological violence involves verbal abuse, harassment, excessive possessiveness, and deprivation of physical and economic resources, preventing or isolation the woman from her family and friends and restricting her access to the family income. Others include: degrading and belittling the woman when alone or in front of others, including her children, threatening her with fights, murder, suicide, divorce, intentions of marrying another wife or deportation if her residence permit is not in order or depends on the continuance of the relationships, the denial of sexual contact or activity resulting in sexual frustration, self doubt and the like (UN, 1989; Adetoun, 1997).

Adetoun (1997) observed that in Nigeria violence against a female spouse sometimes leads to the death of the woman. For instance, (Bego, 2007) reported the case of woman butchered to death by her husband. The couple were married for 14 years and had six children. The husband was said to have suspected the wife of committing adultery, arguing that the sixth child, last born of the family was probably fathered by someone else. Based on these suspicions he got a cutlass and butchered the wife to death (Bego, 2007:6). In a similar report, a 25-year-old woman was raped, her throat sliced and left dead by a man suspected to be her ex-boy friend (Nigeria Tribune, May 7, 2007:15). In the same vein, Odesola-Osogbo (2007) reported in *Punch Magazine* a student aged 23 who stabbed his girlfriend to death due to jealousy. According to the report, the boy met another boy in the room of the girlfriend and because of that he called her outside and stabbed her to death (Odesola-Osogbo, 2007:6).

Spousal abuse is the most degrading, injurious and a breach of any woman’s right. Spousal abuse is perpetuated against every class of women – the rich and the poor, the literate and the non-literate, the able and the physically challenged (Amnesty International, 2005). Spousal abuse degrades the woman so much because the act is perpetuated by the man she has vowed to spend the rest of her life with (Amnesty

International, 2005). This practice takes the form of physical beating and injury as well as emotional tortures and stoning of the woman's self. What makes violence against women worse in Nigeria is that the women endure such torture in the hope that their spouses will change to keep their family together and to avoid societal scrutiny that comes from broken marriages. More over, the Nigerian culture tolerates wife's beating as long as a wife is not beaten by a stranger. In other words the husband is free to beat his wife or close relatives to beat the wife but strangers are not allowed to beat her. The implication of this is that the family that is supposed to protect the wife has become a source of threat and danger to her. The Nigerian Penal Code of the north even supports wife beating. According to the Penal Code, a wife can be beaten with "a stick not bigger than the husband's thumb" (The Penal Code of Nigeria)

To make matters worse, Okojie (1960) observed that in Esan, Edo State, the culture and tradition forbids a woman to hit her husband if a fight ensues between them. In other words, a woman cannot fight back when beaten by her husband even if she is in a position to do that. That is even if she is stronger and bigger than the husband. She is expected to fold her arms and just watch him beat her. All these are areas that the law could be promulgated to check and rescue women victims.

In Nigeria in 1997, the National Television Authority (NTA) reported of the case of a young woman whose both eyes were gouged out by those she described as close male friends and relations. The Nigerian media gave the case a wide publicity and many concerned individuals and organizations made huge sum of money, donations for her treatment. However, she never regained her sight.

In 1986 also in Nigeria, a 12 years old girl had her both legs axed by her husband (a man old enough to be her grand father) for repeatedly running away from him. The legs were amputated and she later died (Mama, 1996). In 1991, a man killed his wife, but was sentenced to only 5 years imprisonment, by the ruling judge claiming that the husband was provoked (New Nigeria, September 9, 1991). Also in the same year, an 18 years old lady was inflicted with several cutlass cuts by a male friend for refusing his marriage proposal (National Concord, July 30, 1991).

Violence against women is an important health and human rights issue for which the law could be enacted or if law already exist should be enforced to prevent these unworthy acts against women in Nigeria, thus enhancing women's full participation for the economic, political and social development of the society.

Amnesty International (2005) noted that violence against women in the family are usually associated with the following reasons:

- Refusing to have sex with the husband, 'nagging', challenging the man's behaviour, like when he brings in a second wife or the man abuses alcohol.
- Showing lack of respect for the husband's family.
- Having too many engagements outside the home, and paying too little attention to cleaning the home or preparing meals on time.
- Having suspicion that the woman is having a sexual relationship outside marriage.
- Being accused of witchcraft.

All these are issues of concern for women's health and law in Nigeria. Further, in Nigeria, many young girls are forced into early marriages by their parents. In some cases they are married out to very old men just as we earlier discussed (WIN Document, 1985),

either to improve family income or family business relations without any consideration for the girl involved. Usually the consequences of disobeying the parents/family wishes is usually too grave for the girls and so mortgage their entire lives. Because they are too young to marry, and coupled with early child birth, complications usually set in and some of them become Vesico-Vaginal Fistulae (VVF) patients (WIN Document, 1985). These women are usually abandoned by their husbands. The law could be promulgated to protect these women and make such husbands live up to their responsibilities instead of running away and going for other women. We sincerely hope that the attempt to present bill/laws against child labour and early and forced marriages will materialise and also not just be restricted to the urban areas or “on the books” but that the government will seek ways to ensure implementation.

### *Sexual Harassment*

All over the world, sexual harassment constitutes a problem. Sexual harassment can occur in any sphere of Nigerian society but particularly in the work place. Sexual harassment in the work place in Nigeria consists of the remark or request for sexual favours and other verbal or physical conducts of a sexual nature. Sexual harassment is an unwelcome sexual attention that affects a person’s job performance or creates a hostile work environment. Mackinnon (1979) argued that unwanted sexual advances at the workplace are a structural problem. She noted that sexual harassment is a case of men abusing their positions of authority. A female member of the House of Representatives in Oyo State, Nigeria Mrs Mulikat Adeola, has attributed the low participation of women in politics in Nigeria to sexual harassment and other negative remarks against female politicians in the country.

Sexual harassment is a common feature in Nigerian society particularly in offices where some men in positions to hire labour exploit women’s desperation for jobs and demand sexual relations before being offered a job. Sexual harassment could lead to sexually transmitted diseases (STDs) when individuals are pressured into sexual relations in order to obtain or keep a job, particularly this era of HIV/AIDS. This was more complicated some time back, when financial institutions would employ beautiful young female graduates of university to attract customers to the banks irrespective of what it takes as long as such customers bring in ‘fat’ monies to deposit in their banks. These girls were usually given targets to meet or they would lose their jobs. This type of behaviour can also lead to unplanned pregnancy and frequent abortions which is dangerous to women’s health and a problem for the nation. Singh, (2006) observed that unsafe abortions kill 68,000 women in developing countries including Nigeria every year. And also abortion leads to the hospitalisation of at least five million women for infection and other complications.

The most extreme of sexual harassment is rape. Alemika (2003) noted that law, cultural and religious ideologies are frequently used to maintain patriarchy that provides legitimisation for the subjugation of women in Nigeria. He noted that in specific crimes like rape and battering, women are frequently victimized, blamed for precipitating their victimization. Thus a raped woman in Nigeria is accused of luring the rapist through either provocative dressing or lewd gestures or solicitation. Thus, the criminal justice

system needs to re-examine its laws to see how it can be restructured to be more responsive to the needs of women in society.

### *Widowhood Practices*

Widowhood practices in many parts of Nigeria are another area of health concern in which law can be gainfully applied to protect women. Widowhood practices include: drinking of the water used to wash the corpse of the husband, washing the woman with the decomposed body of the deceased, beating the woman to make her confess she is responsible for the husband's death and cutting of her hair to humiliate and shame her. This has led the Rural Widows and Orphans Foundation (RUWOF) recently to call on the newly sworn in National Assembly in Nigeria to present a bill on the protection of the rights of widows and orphans in the country (Auta, 2007:37). The confiscating of the husband's/family's property by the husband's family and leaving the woman and her children with nothing to live on constitutes a health hazard. Contrary to what a wife suffers when she loses her husband, when a man loses his wife, the husband is usually not accused of killing her, but when a man dies, particularly if the man is enriched economically, the wife is accused of killing the man in order to deprive the woman and her children of sharing from the properties left behind by the husband. This behaviour undermines the fact that the wife has built the home and properties over the years with her husband. These practices affect the physical, psychological, social and cultural well being of the woman. Some of these women suffer from depression and mental disorder after going through these travails. Sometimes some widows are inherited by their late husbands' relatives as frequently happen among non-literates in Esan communities in Edo State (Ozo-Eson, 1997). These practices could be prevented by enacting laws that prohibits the disinheritance of women in Nigeria.

### *Women and Law*

The Nigerian laws (both customary and statutory) have not been very effective in challenging several areas of subordination of women and health concerns. In fact the whole legal system is a male biased and male dominated organ (Briggs, et al 2003; Polan, 1982). Polan (1982) captured the picture thus:

“There is pervasive maleness of the legal system: It is a system infused with sexist values. Regardless of the language of a statute, it is individual judges who decide cases. The judiciary remains overwhelmingly male. Judges have grown up in a patriarchal culture; their attitudes are inevitably shaped by their life experiences and by their positions as the beneficiaries of male supremacy... furthermore, even if sexism were formally eliminated from the system, and even if half the lawmakers and legal decision makers were women, the legal system would not become non-sexist institution. The whole structure of law – its hierarchical organization; its combative, adversarial format; and its undeviating bias in favour of rationality over all other values – defines it as fundamentally patriarchal institution (Polan, 1982:301-302 quoted by Alemika, 2003: 113 & 114).

In other words, patriarchy must be eliminated from the legal system if women are going to benefit from the law. In order to achieve this, it also requires the general reconstruction of the whole social structure of the society to reflect justice, integrity and fair play.

As Briggs et al have noted that, the existing laws in Nigeria mostly are products of Nigeria's historical links with English laws. While English laws have been developed to meet the rapid changes of the world, Nigerian laws have largely remained static. Thus, Nigeria is saddled with laws that are in some cases eighty years old and have not been revised to respond to the changes in modern societies of the world including Nigeria.

In the same vein, a prominent leading human rights activist Chief Gani Fawehinmi, Senior Advocate of Nigeria, (SAN) noted that successive governments in Nigeria have neglected women issues particularly the legal system. He therefore advised the government to appoint more female judges in the Supreme Court to fill the existing vacant positions, as this would give women a sense of belonging in the legal profession (Eghagha, 2006:7).

The lack of protection of women from many painful cultural practices has been associated with the marginalization of Nigerian women from the political and decision making positions in Nigeria (Ibrahim and Salihu 2004). The marginalization of women in Nigeria's patriarchal political system is not a new phenomenon. As earlier stated, it can be traced to the colonial era. For instance, women were not allowed to vote in Northern Nigeria until 1976. The marginalization of women in decision making processes has continued in contemporary Nigeria. This probably explains why Nigeria has still not ratified the Convention on the Elimination of all forms of Discrimination against Women (CEDAW) into law even though Nigeria is a signatory to the CEDAW at the international level. The bill was presented to the National Assembly during former president Obasanjo's government but it was not passed into law. The bill is still with the National Assembly, but it is hoped that with the swearing in of new legislators and having a female as speaker of the House of Representatives it may eventually become law.

After all said and done, Nigerian women must realise that they need to fight for their rights. They have to take the initiative and no one else will do it for them. In the history of human beings no one gives up his/her privileges easily. It has to be taken. Thus, women should not expect men to give up easily many areas for which they are protected by patriarchy.

## **Conclusion**

In this paper I have identified and discussed gender inequality as it relates to the health of women, maintaining that women's health cannot be separated from the socio-cultural, mental, physical, and the socio-cultural total environment within which women exist. The different theories that try to explain the subordination of women in society were equally reviewed to facilitate our understanding of the problems faced by women in Nigeria, arguing ultimately, that if law is properly employed in Nigeria, it could be the vanguard for positive socio-economic, political and cultural changes.

As Martin Luther King Jr. argued in some half –century ago, during his fight against black segregation in America in the 1960s, “the law may not force a white man to love me but it will certainly prevent him from lynching me.” As Briggs et al noted, the existing laws in Nigeria mostly are products of Nigeria's historical links with English

laws. While English laws have been developed to meet the rapid changes of the world Nigerian laws have largely remained static. Thus, Nigeria is saddled with laws that are in some cases eighty years old and have not been revised to respond to the contemporary situations, among them, the empowerment of women.

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