

Review

Women, law and human rights in Cameroon: Development or existing conditions?

Femi Abayomi

Department of Human Rights and Conflict Resolution, School of Law, Benson Idahosa University, Okada, Benin City, Nigeria. Email: abayomifemi@yahoo.com.

Accepted 02 September 2014

This paper assesses what progress there is in Cameroon regarding women's statuses. Based on a qualitative strategy, the paper examines laws that are in place to address women's plight in the country. The paper argues that while progress is being made on some levels, the status quo, that is, female marginalization is still entrenched in other facets. The paper advances recommendations for creating an egalitarian society.

Key words: Women, culture, subjugation, law, progress.

INTRODUCTION

Traditional gender roles in Africa limit men's involvement in home chores and raising children. On the other hand, when it comes to decision-making regardless of issue, men take the upper hand. Property rights and inheritance practices further promote men's standing in society while perpetuating poverty and powerlessness among women. Arguably, this state of affairs has flourished in Africa for a longtime because of customary practices that get reinforced directly or inadvertently by social institutions like the polity, and even judicial institutions (McFadden, 2010).

Female marginalization/inequality has been the focus of many studies (Fon and Edokat, 2012; Freidenberg, 2012; Amadiume, 2005; Anuobi, 2002). While there is a consensus that women are capable of excelling in every work of life, they nonetheless remain unequally treated and at times disenfranchised from some (Freidenberg, 2012; Puechguirbal, 2010; Ademiluyi and Siyanbola, 2010; Siyanbola and Adetowubo, 2004). Billson (2005) concludes that marginality comprises "cultural" (absence of integration into mainstream/in-group), "social" (inability to forge into a set group) and "structural" powerlessness brought about by "political, social, and economic" deprivation. To contend that no progress has been made in addressing women's place in society will be disincantion for using content analysis in this paper,

genuous. However, this paper argues that many of the measures to lift women's place in society are unsatisfactory, and at times contradictory.

Progress in regards to women's rights in Africa varies from country to country. Comparing what progress there is may be provocative and chancy giving that level of development, political stability, laws, and customs vary among countries, and data may not be available to make a statistical comparison. Yet, discussing comparisons are sometimes necessary, and at times, simply examining what happens in a particular country, and drawing from the strength of others is a healthy way of bringing progress.

Based on a qualitative strategy of scrutinizing content, this paper examines laws that have been put in place to lift women's plight, and if these laws yield progress regarding women's statuses. Cameroon is used as a case study. In order to relay facts and social phenomenon that cannot be quantified, Berg (2009) suggests use of qualitative methods. In an earlier edition of his book, Berg

(1995, p. 7) states that "...qualitative techniques allow the researchers to share in the understanding and perceptions of others and to explore how people structure and give meaning to their daily lives." Further, as a justification for using content analysis in this paper

Abrahamson (1983, p. 286) advises that “content analysis can be fruitfully employed to examine virtually any type of communication.” This paper is premised on examining laws that affect women. The paper argues that while progress is being made on some levels, the status quo, that is, female marginalization is still entrenched in other facets. The rationale for focusing in this paper on laws that are in place to advance women’s interests is because law controls how social programs are extended to citizens, and in this case to women. Three main questions guide the paper: First, what laws have been put in place in the country to address women’s issues?

Second, do the laws adequately address women issues? Third, what can be done to create an egalitarian society for women?

What laws are put in place in Cameroon to address women’s issues?

Despite the fact that Cameroon like other countries is a signatory to many international treaties, as for instance, the African Charter on the Rights and Welfare of the Child, United Nations Convention on the Rights of the Child, the Universal Declaration of Human Rights, the Convention on the Elimination of all Forms of Discrimination against Women, the Convention against Torture and Inhumane Treatment, and many more, it is yet to faithfully abide by the dictates of these conventions. These treaties and conventions emerged in earnest after the United Nations Charter made it clear that fostering human rights was of prime importance to the organization. Its Article 56 especially requires the promotion of human rights by member states. Article 19 of the United Nations Convention on the Right of the Child bans any type of maltreatment or exploitation of children.

The peculiar colonial history of Cameroon introduced a plurality of laws, primarily, English Common Law, and French Civil Law, with vestiges of Germanic law. Customary laws that were in place prior to the reception of foreign laws are still in place, and occasionally, conflict with received laws. Okafo (2012, 2009) and Okerefoezeke, (2002, 1996) have argued against the continuous influence of foreign jurisprudence especially in matters that are purely domestic and indigenous. While Time (2012, 2000) and Time (2012) are of the opinion that those customary practices that are obnoxious and contrary to human decency should be set aside. Laws, more importantly, should be textured to promote human decency, and should not just be a reflection of colonial heritage or traditional practices.

The June 1981 Civil Status Registration Ordinance, for instance has legislation that advances women’s courses and individuality. Notably are Articles 52(4), 61(2), 74(1), 75(1), 76(1), and 77(2). Article 52(4) recognizes a woman’s right to consent to a marriage, while article 61(2) addresses issues relating to dowry and how marriages

should not be stalled based on non-payment of or other issues relating to dowry. The article expressly states: “any objection based on the existence, payments or terms of payment of customary dowry, even if agreed to in advance shall be inadmissible and against public policy.”

Article 74(1) gives a woman the right to shape her own pathway in life. It states “a woman may exercise a trade different from that of her husband;” and article 75(1) further extends this right by stating “where a woman exercises a trade separate from that of her husband, she may open a separate account in her own name and make deposits or withdrawals as she sees fit.” Article 76(1) accords a woman right to alimony and child support. It states “a woman who has been deserted by her husband may obtain alimony for both the children left under her care and herself.” Finally, article 77(2) gives a woman rights to inheritance of her husband’s property, as well as the option to remarry upon death of her husband or stay celibate. The article more specifically states “in the event of the death of the husband, his heirs have no right over the widow or over her freedom or share of property belonging to her....” Further, the 1925 Administration of

Estates Act, section 46(1) upholds the rights of a surviving spouse as the immediate beneficiary should a spouse die intestate.

Besides laws that relate to matrimonial and probate issues, labor laws accord certain rights to women. Section 61(2) of the Labor Code requires equal remuneration for similar job, and similar performance regardless of gender. Its section 84(1) and (2) grant a pregnant woman right to leave of absence with pay, and an extension of such leave with continuous remuneration should any complications arise after child birth.

Do the laws adequately address women’s issues?

Even developed countries like the United States cannot boast of an egalitarian society where things are always same for both gender. Clearly, disparities exist; but what is germane is the level of commitment to decrease disparity. Cameroon, as explained above is a signatory to many United Nations treaties and conventions that advance equality and humane treatment for all. However, sometimes, Cameroonian statutes are silent about specifics. Article 5 of the Universal Declaration of Human Rights for instance addresses the right of all against torture, cruelty, or any type of inhumane treatment. However, as Ngassa (1998, p. 20) states “it is sad to note that the much-needed laws against gender-based violence are hopelessly lacking in Cameroon.” She goes on to explain that “...wife-battering, excision and the ill-treatment of widows still go unpunished and unchecked because the law has failed to address the special circumstances that give rise to such crimes” (p. 21). In *Africa for Women’s Rights: Cameroon* (2009) proclaims “violence against women and girls is highly prevalent, in

particular within the family, and remains widely socially accepted. Marital rape is not a criminal offense. The government has not established shelters or legally aid clinics and victims generally suffering from a culture of silence and impunity.” The absence of specific laws that regulate such domestic violence however does not mean that people are given carte blanche right to aggress others. The Cameroon Penal Code covers such abuse under sections 275 through 285, as well as section 338 which cover general assault and battery crimes.

Even though section 61(2) of the Civil Status Registration Ordinance prohibits the payment of dowry as a condition necessary for a valid marriage, curiously, formal law courts revert to customs on the issue of dowry. A none payment of dowry led the Buea Court of Appeal in the South West Province of Cameroon, to award property collectively acquired over thirty years of marriage by a widower and his deceased wife to the wife’s family on the premise that the non-payment of dowry by the man invalidated the marriage— *Maya Ikome v. Manga Ekemason* CASWP/CC/76/85 (unreported).

Section 77(1) of the Civil Status Registration Ordinance states: “In the event of the death of one of the spouses or of a legally pronounced divorce, the marriage shall be dissolved.” The problem is that following customary law, once bride price is paid the woman in essence becomes “property” of the man regardless of whether the marriage was formalized in court. As a consequence, even if the marriage is ultimately dissolved informally through abandonment, or formally through a legal divorce, the woman remains the man’s property if she does not refund the dowry. Even if the woman were to remarry, the husband to whom she owes a refund of the dowry has possessory rights of the woman’s corpse (upon her death) over a current husband. The woman’s plight is further worsened should the husband die. Even though section 77(2) absolves a woman from any obligations of a marriage upon the husband’s death, women are subjected to inhumane customary rituals that constitute molestation and torture, and such cruelty could persist for a whole year. These practices persist in part because the women themselves do not pursue legal channels to stop them.

With regard to choice of marriage, couples may choose a polygamous or monogamous form of marriage since Article 49 of the Civil Status Registration Ordinance of 1981 recognizes polygamy. However, by and large, even when a woman’s stipulated preference was monogamy, courts circumvent this choice at litigation in the English speaking section of Cameroon (Ngassa, 1998). As Ngassa notes, “a series of decisions have come out of our High Courts and Courts of Appeal to the effect that “Monogamy according to native laws and customs” is polygamy, as our native laws and customs know no notion of monogamy” pp. 41-42. Ngassa goes on to list a series of cases where the courts have applied that rationale, some of which are: *Lyonga Chritina nee*

Nanyongo v. Lyonga CASWP/CC/5/94; *Tufon v. Tufon* HCB/59MC/83 (unreported).

Laws covering adulterous relationships are also lopsided. Section 361 (1) of the Cameroon *Penal Code* states that “any married woman having sexual intercourse with any man other than her husband shall be punished with imprisonment from six months and with a fine of twenty thousand francs CFA.” Ordinarily, this will not be an issue except that section 361 (2) states “any man having intercourse in the matrimonial home, or habitually having sexual intercourse elsewhere, with a woman other than his wife or wives, shall be punished in like manner” (see also Africa for women’s rights: Cameroon, 2009). As Time (2012, p. 462) poignantly explains:

The catch here is a man can only be charged for adultery if the act took place in the matrimonial home, or if it is habitual. For a woman it takes just one act. The question is, how often does a man take his mistress to the matrimonial home? Or, in the case of a polygamist, how does one differentiate between the mistress and the wife, since a polygamous marriage is a customary marriage?”

As well, it is to be reckoned that there are no statutory provisions in Cameroon that address sexual harassment and this is a common phenomenon; but since there is no law that addresses this issue men get away with it with impunity.

Article 74(1) of the 1981 Civil Status Registration Ordinance grants a woman liberty to engage in any profession of her choice, yet section 74(2) gives a man right “to object to the exercise of such a trade in the interest of the marriage and children.” How this is not constraining, contradictory, and unconscionable is puzzling. As Fon and Edokat (2012, p. 501) state “... in Cameroon as in Zimbabwe and Burkina Faso, women have the legal right to own land and trees, but in practice, men control nearly all property.” Africa for Women’s

Rights: Cameroon (2009) is more upfront in explaining women’s plight. It explains, “The husband has the right to administer communal marital property, thereby giving him the right to sell or mortgage the couple’s property without his wife’s consent.” In essence, while the economic circumstances of men have been for the most part robust, social conditions have been stagnant or painfully slowly getting better for women in many blighted areas. These practices have far-reaching implications for women trapped in this web of subjugation.

The UN Human Rights Committee (2012, paragraph 8) reports:

Notwithstanding the prohibition of discrimination enshrined in the Constitution of Cameroon, the committee is concerned that women are discriminated against under articles 1421 and 1428 of the Civil Code concerning the right of spouses to administer communal property, article 229 of the Civil Code regulating divorce, and article 361 of

the Penal Code that defines the crime of adultery in terms more favourable to men than women."

What can be done to create an egalitarian society for women?

Law is a vital means of refining culture especially since it modifies behavior. Consequently, to address many of the issues discussed above, there must first be enacted laws. Secondly, for law to be effective it must be applied uniformly to like cases, and must be enforced faithfully. In England, the decline of incidences of forced marriages by immigrants is in part due to the Forced Marriage Protection Order (FMPO) enacted in 2008 as a new part 4A of the 1996 Family Law Act (Gill, 2008). The purpose of the Order is to protect victims and potential victims of forced marriages, including their families, as well as organizations that provide assistance to victims of forced marriages (see Gill, 2008). Other sources like BBC News UK Politics (8 June 2012, suggest that the Forced Marriage Bill led to the Forced Marriage Act of 2008). On the other hand, Welstead (2009) and *Legislation.Gov.UK*, place the date of the Forced Marriage (Civil Protection Act) at 2007. According to Welstead (2009, p. 57):

After wide reaching consultation, the Forced Marriage Unit was set up in 2005, as a joint venture between the Home Office and the Foreign and Commonwealth Office. Its remit is to assist all those who are at risk of a forced marriage, or have actually been forced into one, either in the U.K. or abroad. It also takes responsibility for providing information for social workers, teachers, health professionals and police who come into contact with cases of forced marriage.

This is proof that laws can modify culture. On the other hand, merely enacting laws without putting in place appropriate mechanisms of enforcing them may not bring about the needed social change. The discussion above reveals that Cameroon is a signatory to many international treaties and conventions that advance the rights of women. As well, the discussion also reveals that within Cameroon itself, there are some laws in place that address women's issues. However, those laws that are in place are not diligently respected, and at times they are contradicted by customary practices. Law 69/DF/544 of December 19, 1969 passed in the French speaking part of Cameroon, and its equivalent Law 79(4) enacted on June 29, 1979 in the English speaking part of Cameroon, for instance, provide that customary practices that do not contravene statutory laws may remain in force. It may not be an issue if only customary practices that advance justice and equity are applied, but in Cameroon because of a culture that nourishes impunity, and because of a male dominated justice system, it is not uncommon to have repugnant customary practices adhered to, and even enforced in courts (see for instance, *Maya Ikome v. Manga Ekemason* (CASWP/

CC76/85 (unreported)). As Ngassa (1989) and Time (2012) report, it is not uncommon for wife abusers to get away with their crimes because even when women report to police officers, their complaints are dismissed as domestic issues that ought to be addressed at home. With such responses many women resign to their fate, and do not report further abuses. Flavia (1997, p. 521) succinctly states:

If oppression could be tackled by passing laws, then the decade of the 1980s would be adjudged a golden period for the Indian women, when protective laws were offered on a platter. Almost every single campaign against violence on women resulted in new legislation. The successive enactments would seem to provide a positive picture of achievement...crime statistics reveal a different story.... The deterrent value of the enactments was apparently nil. Some of the enactments in effect remained only on paper.

Beccaria (1963), advises that for punishment to have a deterrent effect it has to be certain, severe, and swift. More importantly as Beccaria points out, the certainty that a wrong doer will be sanctioned poses more of a deterrent than even the severity of punishment. His thesis has found empirical support from Blumstein (1995, p.

409) who concurs that "... from deterrence consideration, there is clear preference for increasing certainty, even if it means to do so at the expense of severity."

Merely condemning an act or a practice is perfunctory, and only promotes impunity.

To the extent that lawmakers comprise all segments of society, it is possible that laws will represent all in that society. In Cameroon however, law makers (legislators) and law enforcers (judges, prosecutors, and police officers) are disproportionately males, even though the population is almost evenly split between both genders. Based on a 2012 population data by index mundi, the population of Cameroon is approximately 20,129,878 people (www.indexmundi.com). Of this number, 10,103,918 are males, while 10,025,960 are females (www.indexmundi.com). In April 2013, Cameroon elected seventy senators; seventeen of them were women. To this number, the president of the country added three more women and twenty seven men. While some applauded this move as a huge step forward for women's rights, others saw this as just baby steps. According to Professor Claude Abe:

structurally, Cameroonian society sits between tradition and modernity. As a result, there are many persistent and long-standing elements from tradition that continue to play a part in our society....There is one category of women who remain stumbling blocks for other women – they are not prepared to vote for a woman simply because she is a woman – politics also requires a lot of money. Invariably, the majority of women are financially

dependent on men and this limits their ability to get involved in politics (World News, 2013).

Laws that define behaviors that will be checked by the agents of the justice system, and laws that accord certain rights and privileges are enacted by a legislative process that is severely skewed in favor of men. The obvious result of this is subjugation. The government should thus create clear and fair policies that do not tolerate discrimination. The state's function is not limited to enacting and enforcing laws, it is also to ensure that there are opportunities for each citizen to have some basic formal education, and to provide opportunities for anyone who so wishes to engage in a trade of their choice. Even though Cameroon in general has a high literacy rate, women are still lagging behind in a lot of societal opportunities. Non-Governmental Organizations have stressed the relevance of literacy in empowering women to take control of their lives by making choices that promote their interests, and by challenging customary and statutory laws that stall their progress (http://www.sil.org/literacy/wom_lit.htm, retrieved 6/8/2011).

Further, Africa for Women's Rights Protection in Cameroon (2009) advances the following recommendations among others: "reform or repeal all discriminatory measures in statutory law, ...take all necessary measures to improve women's access to public and political life,...criminalize sexual harassment, ...strengthen laws and policies to combat violence against women, ...ensure women's access to justice, ... improve access to education for women and girls (www.wikigender.org/index.php/Africa_for_women's_Rights_Cameroon), retrieved 6/17/2013.

Conclusion

The thrust of this paper is three fold: (1) to discuss laws in place in Cameroon that address women's issues (2) to examine the efficacy of those laws (3) to discuss what the country needs to do to create an egalitarian society. Holding on to customs is good, as customs define the identity of a people, but holding on to customs that enthrall a proportion of a society is backwards looking. Only when Cameroon can respect its own Constitution that states that all citizens are equal before the law can credible change be brought about. It will be delusional to think that change will happen overnight, but change is possible and much needed. Change is sometimes gradual, but gradual should not mean an eternity, sooner is always better than later.

Conflict of Interests

The author(s) have not declared any conflict of interests.

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