The Interface Of Criminal And Social Justice And Women Empowerment In Nigeria

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ABSTRACT

In any situation, whether in a Court room, work place, school or even a playground, everyone wants to be treated fairly. Everyone feels they deserve equal and impartial treatment. For this reason, justice is the hallmark of a good society. Various definitions of justice exist according to dictionaries authors, philosophers and judicial decisions. It is the behaviour to oneself or to another which is strictly in accord with currently accepted ethical law, or as decreed by legal authority. While criminal justice seeks to punish for wrongdoing or compensate for injury, social justice is concerned with the distribution of benefits and burdens in a society. Social justice ensures that men and women, and children get what is due to them equally. This in turn brings about empowerment of all concerned. Female empowerment in Nigeria is an economic process that involves emancipation of women as a poverty reduction measure. It is the development of women in terms of politics, social and economic strength towards national development. It alludes to the expansion and enhancement of the social, financial, political and legitimate quality of women, to guarantee levels appropriate to them and to make them sufficiently sure to assert their rights. The observation is that many women in Nigeria and indeed in other jurisdictions in Africa are comparatively deprived socially, economically and politically in relation to their male counterparts and since these deprivations are mainly socioeconomically based, a second look at social and criminal justice in Nigeria becomes imminent. This paper seeks to, using doctrinal method with the help of books, journal articles and internet sources explore the interface and correlation of justice be it criminal or social and the empowerment of women ultimately to create a nexus and proffer necessary solutions.

Keywords: Criminal Justice, Social Justice, Women Empowerment, Nigeria

1. INTRODUCTION

Justice is the cornerstone, upon which democratic Constitutions all over the world, are built. The Preamble of the 1999 Constitution of the Federal Republic of Nigeria provides inter alia............. ‘and to provide for a Constitution for the purpose of freedom, equality and justice.....’ Sedgwick opines that: ‘In determining a nation’s rank in political civilization, no test is more decisive than the degree in which justice as defined by the law is actually realized in its judicial administration’ 1 The laws which define justice in a political Civilization must in themselves be just, fair and must have no room for discrimination against any person or group of persons and must also not constitute in themselves instruments of disempowerment of any person or group of persons.

In any situation, everyone wants to be treated fairly. Everyone feels they deserve equal and impartial treatment. For this reason, justice is the hallmark of a good society. It ordinarily depicts fairness and rightness but its definition abound in Dictionaries, work by authors, philosophers even to judicial decisions. The Dictionary sees justice as ‘the behavior to oneself or to another which is strictly in accord with currently accepted ethical law or as decreed by legal authority’. For Perelman justice is one of the most abused notions in social and political discourse. It is invoked to protect the established order and

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1 D Mahajan, Jurisprudence and Legal Theory (Eastern Book Co. Delhi 1998) P 128
even to encourage acceptability of its overthrow. Miller's conception of justice is a state of affairs in which each individual has exactly those benefits and burdens which are due to him or her by virtue of his or her personal characteristics and circumstances. Miller went ahead to identify three other conceptions of justice viz legal, social and private justice. This seems to give the notion of Criminal and Social Justice. In Omabuwa Owofatsho, the Court of Appeal described Justice as a two-way street; justice for the plaintiff, and justice for the defendant. In many human communities, there are in-built laws and practices which subjugate women and consequently reducing women to lesser status ending in deprivation in social, economic, political, legal and human rights all equating to disempowerment of women. This work still takes a look at Criminal Justice and Social Justice and how the interface affects women empowerment.

2. Conceptual Frame Work
Interface
Interface is a point where two systems etc. meet and interact for the purpose of this paper, it is the point or the areas common to both criminal and social justice which commonly affect the empowerment of women.

Women
A woman is a female adult human being, and ‘women’ is a collective term for female adult human beings. In this paper every female whose empowerment is likely to be effected by the interface of criminal and social justice is a woman. This includes females of all ages.

Empowerment
The concept of empowerment flows from that of power where ‘power is the capability to do anything, and in the social sense, right to personal fulfilment such as that to rule, govern and to influence. To empower will be to grant power to do those things where such power does not exist or exists inadequately. It brings out a broader analysis of human rights and social justice. The components of empowerment are.

- Access to things that can produce income such as land and credit
- Access to basic human needs such as education, health service, shelter, food and water
- Participation in decision making especially in things that affect lives of people and how they live it.

Criminal Justice
Criminal Justice applies the Criminal Justice process when principles of right and wrong, fair and unfair are violated according to criminal law. It is the process the State uses to redress wrongs as stipulated in the Criminal Statutes Offences are stipulated and their penalties’ enshrined render them. In Nigeria offence are stipulated in the Criminal Code Act and the penal Code for the South and North respectively. The Criminal Justice will therefore include all the processes including the administration involved in either bringing a criminal to book or exonerating an accused person.

Social Justice
This is the societal concern about what is right or wrong, fair and unfair. It applies its concept of correctness and fairness with the notion of equality, or equal opportunity in society. In social Justice is enshrined the equitable distribution of life’s needs such as opportunities, privileges and protections. These include but not limited to employment, education, welfare programs, and franchise. It is vast and encompasses equal economic, political, social rights and opportunities for all. Social Justice is at play when one is paid equal pay as a Co-worker of similar background, college education and experience. In Nigerian Statute books, the issue e.g work, education etc which sum up the ECOSOC rights are to be

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5 (2006) 6 NWLR (Pt. 976) 405 CA
6 Naik ‘justice for Women Empowerment’ Intellectual property Rights, an Open Access Journal Vol. 5. Issue 3. 1000194
7 Ibid
found in Chapter II of the 1999 Constitution of Nigeria\(^8\) which Chapter is made unjustifiable by the State since they are more, directives of State policies in the concerned areas. This is basically the area where women need a lift in emancipation. This is unfortunately left at the whims and caprices of the administrative authorities and the power that be. Social Justice is concerned with the distribution of benefits and burdens throughout a society; it deals with the regulation of wages and profits, the protection of peoples’ rights through the legal system and allocation of housing and welfare benefit.

3. The Interface

The World Day of Social Justice has as its highlights, on the international Community Supports efforts to eradicate poverty, promote fair work conditions, gender equality, reduce social inequalities and access to social well-being and justice for all. There is a link between Crime (which is administered by criminal justice), poverty, health related problems, and other social disadvantages\(^9\). According to the Report ‘Drugs in Prison’\(^10\) published by the Centre for Social Justice, Social Justice and Criminal Justice go head in hand. Not only does crime under criminal justice affect poorer grouping’s, those who have already committed crime are more prone to social breakdowns, drugs, illiteracy and unemployment. Offence in the Criminal Code\(^11\), Penal Code\(^12\), which are administered by the Criminal Justice Administration, can also give rise to Social Justice aberrations such as poverty, disease, and lack. A good scenario is where A is raped by B. this is both socially unjust and criminal. B would expect A to be held accountable by the Criminal Justice system and would also expect some measure of social justice in terms of non-stigmatization, health care and even rehabilitation where necessary. Where social justice is concerned with how we define fairness and equity, Criminal Justice promotes those ideals where they relate to Criminal Law. In recent times, the Administration of Criminal justice has tried to take into account social issues of what is fair and equitable\(^13\). The effect is that Criminal Justice and Social Justice go hand in hand, are interrelated and have a ‘cause and effect’ relationship with each other and they both also delve into the realms of human rights.

4. Effect on Women Empowerment

There is no gain saying that women have made great strides and much progress in the quest for emancipation against all the odds and strictures in the male dominated world. Many obnoxious masculine gadgets still exist against the progress of women, especially in the African Society, Nigeria inclusive. Women in Nigeria and indeed elsewhere need to be empowered economically, politically, legally, socially, culturally and most importantly educationally. 70% of the world’s poor are women\(^14\). For these women, poverty does not mean only hunger scarcity and want but also opportunities curtailed or outright denied, rights trampled upon and voices silenced. Women work two thirds of the world’s working hours\(^15\). The majority of labour that sustain life such as growing, cooking and feeding food, bearing and raising children and maintaining homes is done by women yet these are not considered in society’s economic ratings of production and income. If this is not Social Injustice, then social justice is nonexistent.

The long standing discrimination against women informed by the traditional myopic perception of the female gender has left women with a lower legal status with the effect that discriminatory laws against women abound in Nigeria’s Statute books. The laws are instruments by which justice may be achieved, so if a law is *ab initio* unjust to a party, legal justice whether Criminal or Social will elude that party.

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\(^8\) C23 Laws of the Federation 2004

\(^9\) Roberto Garbero (https://blogs.biomedcentral.com/on-health/author/robertogarbero) accessed on 25/8/19

\(^10\) (http://www.centre for social justice.org.uk/library/drugs-in-prison) accessed on 24/8/19

\(^11\) C38 Laws of the Federation 2004

\(^12\) P3 Laws of the Federation 2004

\(^13\) The Administration of Criminal Justice 2010 of Anambra State where issues of rehabilitation are also considered along side punishment for criminal acts according to law.


\(^15\) Ibid
Women empowerment does not mean immortalizing women or super imposing them on men everywhere but rather substituting patriarchy with parallelism.

Violence against women has become the Luxury of many men in the society. It was never considered a human right concern because of the public/private dichotomy in the application of human right norm until the United Nations adoption of the declaration on the Elimination of Violence Against Women. This Declaration now defined Violence to include ‘harmful Acts whether occurring in public or private life. This now seemed to cover issues of domestic violence which has become endemic not only in Nigeria but around the globe. Nigeria may sign and ratify an international document, but it has to be made part of Nigerian Laws (domesticated) before it can have the required legal impetus in Nigeria. In recent time in Nigeria, the issue of rape perpetrated against women has become an endemic feature in the Nigerian Society. Pedophilic attacks on infants and little children also abound. The general laws on the proof of rape are not women friendly. The Violence Against Person Prohibition Act (VAPP Act), seems to take care of some of these issues as it provides a wider definition for the offence of rape, its proof and punishment. However, the VAPP Law does not protect every woman in Nigeria as only the State that requires it, will adopt it into their State Laws. Spouse to rape his wife? It is his to take no matter what. Rape and sexual assaults more than the other types of injuries, cause both physical and profound emotional trauma. Victims also face the risk of other hazards such as unwanted pregnancy leading to disempowerment, diseases such as HIV/AIDS, Hepatitis B and Social stigma. In indecent assault also, the Nigerian law gives a more lenient punishment of two years imprisonment if the act is perpetrated against a female and a more stringent penalty of 3 years if it is against a male. With these laws, women more often than not do not get legal justice on equal basis with men. There is also the issue of sexual harassment in the work place and even in school which are also often handled with cultural colorations. Sometimes the issue of rape is also handled by settlement of relatives, while the real victim bears the burden of stigmatization, unwanted pregnancies, withdrawal from school, health hazards which all conspire to deprive her of both Criminal and Social justice which she expects under the circumstance. These all may lead to economic, educational, cultural and social disempowerment of the party. The hard reality of the dynamic, world is that there is no room for success in mediocrity. People who are not equipped with the necessary tools will therefore live in poverty. Many of the violations women suffer from can be located in the Socio-economic sphere. Where a woman lacks access to farmland, capital, and control over her own time, and products of her labour, economic empowerment which is derived from social justice will elude her. Where a woman has some earning but is battered domestically, her health is impaired and certainly this will decrease her earning capacity. She becomes more dependent on the man and the act of battering increases creating a vicious cycle of battering and dependence. Culturally, the Social Injustice of male preference patriarchy, early marriage and female Genital mutilation have also conspired against women empowerment. Male preference is mostly responsible for the economic depression, educational backwardness and economic depression of women. These in turn have given rise to female dependence on the male which has in turn made reporting of violence, difficult, thereby reinforcing its existence. Where there’s not enough finances for children’s education, many homes will pick the boys to send to school. Some even give out the girls in marriage and use the proceeds to educate the boys even where it is obvious that the girls are more brilliant. In most early marriage the girls end up totally dependent on someone or some people if she is not saddled with VVF or RVF resulting from early pregnancy and labour. Other social Injustices such as the various mourning rites where women have to go through harrowing experiences in respect of the spirit of their dead spouses have the same disempowering effect on women in Nigeria. Criminal Justice and Social Justice as earlier stated go hand in hand. Criminal Injustice most of the time results to social Injustice and some purely. Social Injustices have a tincture of unredressed Criminality in them.

16 In 1993
17 SS 353 and 300 of the Criminal Code Act
18 Felicia Anyogu, Domestic Violence – A Luxuriating Inquity Against the Nigeria Women Choba Nigeria Journal of Inter disciplinary studies vol 17 2010
19 Vesico Vaginal Fistula and Recto – Vaginal Fistula which warrant that she leaks urine or faeces or both
5. CONCLUSION AND RECOMMENDATIONS

The need for Criminal and Social justice arises to give priority of safety of women and their rights ultimately for gender equivalence and partnership. Women need to be empowered so that they become co-workers in development with the men. There is the urgency to forge ahead and eradicate feminized poverty and promote, literacy, withdrawal of violence against women. At the heart of the rule of law lies the principle of equality: equal protection and equal rights that’s what justice is all about. ‘Access to justice for women is not luxury – it is a basic human right related to human dignity. If there is no justice for women, there’s no justice for anyone.’ The panel further observed that justice for women must be Transformative, not only about punishing a perpetrator. It needs to be about outcome, agency, participation, and it has to be inclusive - leaving no woman or girl behind. By Justice in this proclamation is meant both Criminal and Social Justice within the ambit of this paper. The justice for women must be in its totality since both Criminal Justice and Social Justice considered in this work go hand in hand. It is only when this is done that they will affect women empowerment positively. This work has looked at Criminal Justice and Social Justice in their specific nature, after the Conceptual framework. The Interface of both was also examined and analyzed. The effect of both separately and in concert with Women Empowerment was also x-rayed. The following recommendations are proffered hereunder.

Abrogation of Offending Cultural and Traditional Observations:
All cultural and traditional observances that are inimical to the access of social justice by women should be abrogated.

Agenda 2030:
The government and its agencies should make it a priority to attain the Sustainable development Goals especially goal 1 and Poverty

Support of Gender Equality:
An important aspect of social justice is Gender Equality. It represents a society in which women and men access the same opportunities results, rights and obligations in all spheres of life. The Nigerian Society must strive hard to attain gender parity, equity and equality in opportunities.

Legalizing Social Justice
Where social justice is made legal and a right that must not be violated, a network which is contributory to women empowerment is assured. For this reasons Chapter II of the Constitution of Nigeria should be made justiciable and enforceable.

Improving Women’s Worth
An improvement and appreciation of women’s self esteem both in the private and public sphere is necessary for women Empowerment. To foster this, women specific strategy, and projects should be executed by various departments through women fundamental plans. This is also a form of gender mainstreaming.

Governance
The Government should harness the resource of the nation for the general well-being of the citizenry in line with the provisions of the Constitution.

Political Will
If the Political Will is non-existent on the part of the Government, none of the recommendations would ever materialize. There is therefore the need for the powers that be, precisely the Government to endeavor to strengthen its political will in tackling the needful especially in making education a priority.

20 Remark by IDLO’s Director –General Irenekhan during a panel discussion. Culled from ‘Justice for Women; Access, Empowerment and Representation’ IDLO June 28th 2018
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