



Gender-Based Discriminatory And Unfair Practices In The Nigerian Legal Profession

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ABSTRACT

While women are actively contributing to socioeconomic development of Nigeria by playing vital roles in society, conversely, their participation in the formal structures of the economy and decision-making processes concerning the sharing of benefits accruing from collective societal resources remain insignificant. Similarly, women are relegated to subordinating gender roles dictated by patriarchal idiosyncrasies inherent in most societies. Women face some form of discrimination in every land and clime. Apparently, some of these discriminatory and unfair practices have seemingly crept into the legal profession. This paper attempts to investigate and highlight some of those practices found within the Nigerian legal profession using the doctrinal research methodology by examining some secondary sources. Even though, legislation has succeeded in eliminating many of the formal barriers used to shut women out of professional spheres, female lawyers continue to face subtle forms of discriminations which prevent them from rising to positions associated with status and power, making the legal profession a male dominated one. To eradicate gender discrimination/inequality for a balanced society, it is recommended that: education of gender rights activists on gender discrimination/rights violation be heightened within the legal profession in Nigeria.

Keywords: Gender discriminations, women subordination, unfair practices against women, legal profession, patriarchy

INTRODUCTION

Operating a constitutional democracy, with 36 federating states, similar to the United States of America, Nigeria is governed by a president. With nearly 200 million people and multiple nationalities, Nigeria is an amalgam of several ethnic groups who speak close to 400 distinct dialects and languages with a diversity of cultures.¹ Nigeria prides herself as a secular state with several religions. Equally, Nigeria can be considered as a pluralist state with multiple legal systems, operating about four legal systems: the English common law, customary law which is commonly found in the states in southern Nigeria, Islamic law or Sharia which is practiced mostly in northern Nigeria that is predominantly Moslem, as well as statutory law.²

Even though women constitute nearly half of the population of the country, nevertheless, like most traditional African societies, the Nigerian society is inherently patriarchal, with the attendant entrenched male domination entwined into the social fabric and institutions at all levels of leadership.³ On the other hand, patriarchal dictates propose subordinating gender roles to women by consigning them to peripheral

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¹ G A Makama, 'Patriarchy and Gender Inequality in Nigeria: The Way Forward' [2013] (9) (17) *European Scientific Journal* 1857 – 7881.

² T Nmadu, 'On Our Feet: Women in Grassroot Development' [2000] (1) (1) *Journal of Women in Academics* 165-171.

³ S. E. Foster, 'The Glass Ceiling In The Legal Profession: Why Do Law Firms Still Have So Few Female Partners?' [1995] (42) *UNIV. S. CAL. L. REV.* 1631, 1636, in L V Durant, 'Gender Bias and the Legal Profession: A Discussion of Why There Are Still So Few Women on the Bench' [2004] (4) (1) *University of Maryland Law Journal of Race, Religion, Gender and Class* 6

positions such as home-keeping, mothers and housewives; they are seen more like the appendage of men,⁴ and seemingly without a voice of their own. Presumably, women are living in a “man’s world” where native traditions and culture require them only to be seen and not heard.⁵

The problem is, while the fact remains that women make up almost half of Nigeria’s population and are contributing immensely to the country’s development by playing vital roles as farmers, traders, teachers, producers, managers, and so on.⁶ On the other hand, women’s involvement in the economic structures whether formal or informal, as well as taking decisions concerning the sharing of benefits accruing from communally generated resources by both genders remains inconsequential.⁷ Instead, women are remaindered to subordinating gender roles dictated by patriarchal idiosyncrasies inherent in our societies.⁸ To further compound the problem, as it where, these tendencies have seeped into the legal profession, as some of the practices within the profession are seemingly discriminatory and unfair to women lawyers and this is the biggest challenge female lawyers have to contend with. In fact, even though women make up nearly 50 per cent of law school graduates in the last decennia, the legal profession has remained a men’s affair, as it where, it was a profession only for male lawyers.⁹ The bigger problem is that, these seeming discriminatory and unfair practices have the propensity to undermine the performance of female legal practitioners. However, up till now, neither have these issues attracted sufficient attention from the legal research community, nor steps geared towards their elimination are in sight.

In light of the aforementioned purpose of the study, the following research questions are posed to bring to bear, the aim of the study:

1. What are the challenges faced by women lawyers in the legal profession in Nigeria?
2. Do the challenges faced by female lawyers in the legal profession in Nigeria affect their performance as lawyers?
3. How can the challenges faced by women lawyers in the Nigerian legal system be addressed?

In other to close the above knowledge gap by bringing to public limelight, the challenges faced by women lawyers in the legal profession in Nigeria. Accordingly, the specific objectives of the study are to:

1. Identify the challenges faced by women lawyers in the Nigerian legal profession;
2. Ascertain whether or not such challenges have impact on the performance of female lawyers in Nigeria; and
3. Proffer possible suggestions that can address the challenges faced by women lawyers in the Nigerian legal profession.

It is envisaged that, addressing the challenges women lawyers face and eliminating the seeming fear of women domination by men, the perceived discriminations and the unfair practices within the legal profession in Nigeria will benefit all. Lastly, this will also add to the body of knowledge of legal profession as well as policy makers.

CHALLENGES OF WOMEN LAWYERS IN THE NIGERIA LEGAL PROFESSION

Within the legal profession generally and that of Nigerian Legal Profession in particular, there still exists the saying that “there are no women at the bar”. In Britain, the colonial masters of Nigeria, women were incapable of becoming lawyers just because of their gender due and thus were not seen as ‘persons’ under the Solicitors Act of 1843. Hence, in the year 1914, some women’s right advocates filed a suit in court that sought for the Bebb as a ‘person’ under the Solicitors Act 1843 and the Amendment Act, hence, were

⁴ D. Lare, ‘Debunking Patriarchal Legacy in African Traditional Setting: A Reading of Efo Kodjo Mawugbe’s In the Chest of a Woman [2014] (2) *Littera Aperta* 103-123.

⁵ A N Ojilere and G C Chuan, ‘Learning from the Indian Judiciary: New Directions for Securing Nigerian Women’s Right to Dignity’ [2015] (31) (1) *Asian Women* 81-106.

⁶ G A Makama, ‘Patriarchy and Gender Inequality in Nigeria: The Way Forward’ [2013] (9) (17) *European Scientific Journal* 115-144.

⁷ *Ibid.*

⁸ D Lare, ‘Debunking Patriarchal legacy in African Traditional Setting: A Reading of Efo Kodjo Mawugbe’s In the Chest of a Woman’ [2014] (2) *Littera Aperta* 103-123.

⁹ M Harrington & H His, ‘Women Lawyers and Obstacles to Leadership, A Report of MIT Workplace Center Surveys on Comparative Career’, [2007] 28-29

eligible to be admitted into the legal society. Nevertheless, the suit was dismissed as the Supreme Court ruled that the word 'person' referred only to men under the statute and that women were not eligible.¹⁰ However, the Privy Council in *Edwards v A.G of Canada* (1930) AC 124 overruled the judgement in *Bebb's case*, a decision that marked the women's entry into the legal profession.¹¹

1. **Discrimination in Nomenclature, Sexism and Insinuations**

Although, in Nigeria, there is no known law/legal instrument of regulations in the legal profession that out rightly discriminate against the women lawyers, but the aged long practices and customs of the legal profession have continued till date which historically, considered women unfit for the practice of law. Elsewhere in the advanced countries too, initially, women who attempted joining the legal profession repeatedly met grievous antagonism, occasioned by patriarchal leaning which saw women as substantially lacking the capabilities required for the profession, and that women neither had the ability to think like lawyers, nor enter into contractual agreement without the permission of their husbands, Bradley, J., concurring stated;¹²

The natural and proper timidity and delicacy which belongs to the female sex evidently unfits it for many of the occupations of civil life... The harmony, not to say identity, of interests and views which belong . . . to the family institution is repugnant to the idea of a woman adopting a distinct and independent career from that of her husband. So firmly fixed was this sentiment ... that it became a maxim of [the] system of jurisprudence that a woman had no legal existence separate from her husband... [A] married woman is incapable, without her husband's consent, of making contracts which shall be binding on her or him."); *Bennett v. Bennett*, 23 N.E. 17, 19 (N.Y.1889) (noting that a woman was unable to enter into a binding contract or to file suit at common law, as she was considered to be merely a legal extension of her husband).

It was mostly of this nation's history, in which there was the orthodox perception regarding women as lacking a "legal mind" and the right temperament required for legal practice,¹³ stating that the plan of natural law was that of marriage and motherhood as the "primary destiny and mission" for women, and that this role was irreconcilable by means of a separate and autonomous career. Likewise, even in the judiciary, up to 2010, some studies revealed that men and women had the tendency to indirectly associate "male" with judge and "female" with lesser ancillary legal roles or duties.¹⁴

It is noteworthy that in recent times, almost half of the new intakes into the law schools overseas were women¹⁵ and even here in Nigeria. Notwithstanding such tremendous increase of women, the profession is still dominated by men as more men hold positions of power within the profession.

The year 1935 marked the entry of the first woman lawyer into law profession in Nigeria, in the person of Late Stella Jane Thomas, the first female to ever become a justice was much later in 1969 when a woman became the Lagos State High Court Judge. Similarly, the first female lawyer to bag the prestigious award of a Senior Advocate of Nigeria (SAN) was in the 1980s. Only recently, about 10 years ago, when in 2009 marked the entry of the first woman lawyer into the country's apex court (the Supreme Court of Nigeria) and very first female lawyer to be made the Chief Justice of the Federal Republic of Nigeria, (CJN).¹⁶ Currently, there are a few women lawyers serving as justices in the Supreme Court, Court of

¹⁰ *Bebb v The Law Society* (1914) 1CH 286.

¹¹ *Edwards v A.G of Canada* (1930) AC 124

¹² *Bradwell v. Illinois* 83 U.S. (16 Wall.) 130, 141 (1872)

¹³ *Bradwell v. Illinois*

¹⁴ J D Levinson and D Young, 'Implicit Gender Bias in the Legal Profession: An Empirical Study' [2010] (18) (1) *DUKE J. GENDER L. & POL 'Y* 28, In M. P. Fix and G. E. Johnson 'Public Perceptions of Gender Bias in the Decisions of Female State Court Judges' [2017] (70) (6) *VANDERBILT LAW REVIEW* 1845

¹⁵ H C Dugan, 'Does Gender Still Matter in the Legal Profession' [2002] (75) (10) *Wis. LAW* 12.

¹⁶ F Falana, 'The Challenges Confronting Women in Legal Practice', (Being a paper Delivered at the Young Lawyers Forum, NBA Ikeja Chapter Annual General Seminar on Thursday November 13, 2014, <<https://www.legalnaija.com/2014/12/the-challenges-confronting-women-in-legal-practic>>accessed August 29, 2019

Appeal with its recently appointed present president as a woman and about eight Chief Judges in the State High Courts.¹⁷ Undoubtedly, women have continued to make dramatic in-roads into the profession, most especially at the bench with the recent elevation to the appellate courts. However, these noteworthy achievements have not been replicated in private legal practice in the country.

Even the umbrella body of all lawyers in the country's legal profession, the Nigerian Bar Association since its inception had never produced a female lawyer as president of the NBA at its national level, and it was recently about three or four women lawyers emerged as head of the few branches of about over a hundred branches found across the country. If women lawyers were to be encouraged, it then means that gender diversity and gender sensitivity has to be mainstreamed into advocacy programmes and policies of the NBA. This should be particularly emphasized in private legal practice. Also, there had never been a woman as Chief Law Officer, Minister of Justice/Attorney General of the Federation of the Country even though, very few have attained that position in about three States recently.

Although the 1999 Constitution (as amended) and other legal instruments have greatly lessened obvious incidences of gender bias, nevertheless, indirect forms of gender-based discrimination still exist within the profession. Unfortunately, an irony besetting Nigeria's continuous struggle for the eradication of gender-based discrimination and gender equality is that the profession that ought to have taken the lead has let its very own down by failing to lead by example in manner its organizations are ran¹⁸. Agreeable is the fact that cases of overt unjust or unfair practices are barely noticeable, the legal profession is up till date predominant with practices that tend to predispose male atomies from dominating female counterpart which can actually encumber the chances for women's success.¹⁹ Thus, many female lawyers are still reported to be working in situations that still exclude them from attaining certain heights in their professional careers.

Even as women constitute nearly a half of the legal profession their gender seem not to exist in the profession as they are regarded as men so as to be known as lawyers, and surprisingly even the few women lawyers that have climbed to the top of the ladder seem not to be bordered or are too comfortable with such blatant discrimination of the extinction of their gender within the profession. Such as the female Senior Advocates of Nigeria, Association of Female Judges, International Federation of Women Lawyers. Some of policies in the formal settings as well as some of the practices in informal practices potentially reinforce gender-based segregations, such practices of regarding or addressing every female lawyer or female legal practitioner as men on skirt, the addressing of female judges, magistrates, female heads of the customary courts, as his lordship, his worship, his honour respectively, addressing of female judges or justices as learned brothers based on the slogan that there are no women at the bar, (as well as the bench) is the height of discrimination of the female gender as well as subordination of the women folk. Apparently, this is out rightly telling the women that for you to be a lawyer you have to be like a man or even be a man, because a woman cannot be a lawyer if she is a woman. This is therefore tantamount to telling women their gender does not exist within the legal profession/judicial system.

Obviously, gender derivative as a social construction of roles and responsibilities confers power, opportunities, status, and privileges, differently to men and women, and thus influences arrogances and prejudices which create stereotypes at very early stage of the socialization process; hence stereotypes are deep rooted and have formed part of the norm so much so that even formal education and professional qualifications are more influenced by the socialization, than otherwise²⁰ just like it has done with the legal profession.

The Nigerian legal profession is infiltrated and characterized by, according to Pauwels, "linguistic sexism", which is disapproving and insulting and tops as a sexist slur and off course male dominance and self-centeredness revealing misogynist based on its widespread use of masculine words and phrases to

¹⁷ (n-8)

¹⁸ D L Rhode, *Women and the Path to Leadership* [2012] MICH. ST. L. REV 1439

¹⁹ S E Foster, 'The Glass Ceiling in the Legal Profession: Why do Law Firms Still Have So Few Female Partners?' [1995] 42, UNIV.S. CAL. L. REV 1631, 1636

²⁰ C J Ojiaka, 'Gender Related Concepts and the Misconceptions that Fuel Inequality' [2017] (6) (1) *The Journey of Property Law Contemporary Issues* 189.

represent people,²¹ such as the use of ‘Gentlemen at the Bar, Learned Brother, His Lordship/Worship/Honour and Sir irrespective of the sex’. Another very bitter truth is that the legal society has become so patriarchal, so much so that it now encourages male identity, male centeredness, male-only privileges, and male dominance. It is arranged in such a manner that it revolves around obsession for authority and control and overpowering of women as one of its main aspects.²² Basically because for the analogous patriarchal society, man was born to lead and woman to follow as patriarchy derives its force from culture, custom, tradition and even religion which are said to be absolute.²³

The legacy of patriarchal social constructs of such stereotypes in our legal profession has continued to keep women in so inferior positions, as it were, women were lesser humans by means of misogynistic and sexist ideological leanings, and therefore, it is high time it should be demolished. The world has advanced beyond such legacies, and every human needed to have a rather steady sense of ‘who’ they are and a secure place in the world. According to one scholar, Johnson, against the backdrop of the significance of gendered identity within patriarchal settings, placating people as either being not sufficiently masculine or feminine could contribute to them been controlled because it calls to question, their sense of self-identity, ‘who’ they are which makes them feel as though they were outsiders.²⁴ It is not acceptable that at a time when women’s rights echo the media around the globe, and legal frameworks are put in place to protect women, some retrogressive traditions still hold back women in their efforts to gain freedom and unreasonably beheld them as nonentities, (in the society and particularly the legal profession) and instruments to be used by men to work the power building of male supremacy.²⁵

There had also been some insinuations and thoughts that women can only get the prestigious rank of legal profession ‘Senior Advocate of Nigeria’ by luck or chance; implying that any female lawyer with the prestigious title of SAN did not get it on merit but that it is only the male lawyers that get the award on merit. As stated by Erokoro SAN to Leadership newspaper —that once in a while; the legal profession proffers the title of SAN on female legal practitioners by virtue of tokenism, a give-away.²⁶ Despite the very strong competition of intellectual excellence female law students stand up to in the law school and even at undergraduate levels by bagging separate awards of academic excellence, if such women gets to the paradigm of ranks in the profession/private legal practice and is awarded SAN, will it be said that it was by a give-away; definitely no. It is indeed a fact that so many female lawyers in practice are thriving well in core legal practice. Likewise, there had been tendency and exclamation about some men lawyers who became SANs by virtue of their political affiliations regardless of laid down procedures in the attainment of wearing of the silk. However, Erokoro SAN failed to report this in his interview.

Based on the legacy of patriarchal social constructs of such stereotypes, unanticipated forms of gender bias within the legal profession also prevent women participation in the networking activities that help lead to judicial appointments.

Battaglia, as rightly observed that "networking is one of the most important skills for men and women candidates; historically, networking is how men have gotten [judicial] appointments." and in her opinion, "women have not seen the same number of judicial appointments because they either have not been aware of its importance or have not had female/male friends in power who could assist them in obtaining positions."²⁷ According to Durant,²⁸ this informal interaction with people in positions of power, assists to

²¹ A Pauwels, ‘Linguistic Sexism and Feminist Linguistic Activism, in Janet Holmes and Mariam Meyerhoff (eds.) *The Handbook of Language and Gender* (Oxford Blackwell Publishing, 2003) 550-570.

²² D Lare, *Debunking Patriarchal Legal in African Traditional Setting: A Reading of Efo Kodjo Mawugbe’s In the Chest of a Woman*, *Littera Aperta* 2 (2014): 103-123. ISSN: 2341-0663

²³ *Ibid*

²⁴ (n-15)

²⁵ *Ibid*

²⁶ A Imosemi, ‘Same Performance But More Attractive, Yet Less Reward: The Plights of Nigerian Female Lawyers in Private Practice’ [2016] (4) (3) *International Journal of Innovative Legal & Political Studies* 34-43, SEAH PUBLICATIONS, www.seahipaj.org ISSN: 2354-2926

²⁷ L V Durant, ‘Gender Bias and the Legal Profession: A Discussion of Why There Are Still So Few Women on the Bench’ [2004] (4) (1) *University of Maryland Law Journal of Race, Religion, Gender and Class* 6.

²⁸ L V Durant (n-21)

develop contacts and exchange of information, which can be significant assets when seeking an appointment into high positions and that the lack of such networking access to women stands to thwart them from meeting people in positions of power, which in turn, underwrites their lack of notoriety within the legal community at large, that hinders the chances of women lawyers being selected for high positions.

2. Experiences of Courtroom Gender Biases

The man dominated nature of the legal profession attributes aggression, emotional control, competitiveness and lack of sentimentality to masculinity, however, femininity suffered to toga of passivity, sensitivity, delicateness and nurturance.²⁹ Gender bias obviously exists and infuses real-life miseries which adversely influence the attainment of fairness in trials which should be the actual exploration for the truth, irrespective of the gender of the attorney. Accordingly,³⁰ if women act in a similar manner as men, they may be seen as harsh, domineering, and combative, even though regarded as men in the eyes of the legal profession.

According to scholars, the stereo-typifying of gender in traditional settings continue to compel women into “a double standard and a double bind and as such “what is considered assertiveness in a man seems harsh in a woman, and so female leaders jeopardize been seen to be too feminine or not been feminine enough.³¹ It is reported that women attorneys most often encounter these biases when mounting their courtroom ‘styles’, therefore must stride cautiously between societal stereotypes of masculine and feminine traits so as to be perceived favoured in the courtroom.³² Thus, a female attorney fight to maintain an exceptionality and personality between these stereotyped clemencies; if the female attorney is aggressive or forceful (masculine traits) she jeopardies being perceived as too abrasive and if she is soft-spoken and compassionate (feminine traits), she perils being perceived as too weak.³³

In several studies where the attitudes of judges have been examined, whether they react differently to male and female attorneys in the courtroom, one focus were the effects of a defence attorney’s presentation style and gender on judges’ findings and evaluations of the attorney.³⁴ The research then extracted a finding, assessing the witness and attorney on physiognomies such as assertiveness, competency and credibility, the aim of the study was to evaluate the effects of aggressive speech versus passive speech, and to see how those effects were moderated by the gender of the attorney and the gender of the judge and it reported that, an aggressive attorney’s style is an advantage in the courtroom: “aggressive attorney (male attribute) were perceived to be more successful than passive attorney (female attribute).”³⁵ It was said that both attorneys’ gender and presentation style had some corresponding effects on the participants’ perceptions of the attorneys, although not on their overall ratings of competence and critics, the fact was that, the judges did not assess aggressiveness in men in the same as aggressiveness in women, thus suggests that female attorneys who seek to emulate male aggressiveness will not be as successful as a man in the courtroom due to the gender disparity.³⁶

Also, a recent study examining the effects of gender stereotypes of emotional expression on judges’ perception of an attorney’s competence; rated an angry male attorney high in competence and an angry female attorney low in competence.³⁷ It was shown that the male attorney’s anger was attributed to his

²⁹ J M Bardwick, & E. Douvan, ‘Ambivalence: The Socialization of Women in Sexist Society’ 225, 225 (Vivian Gornick & Barbara K. Moran eds., 1971). In C. Lee, ‘Gender Bias in the Courtroom: Combating Implicit Bias Against Women Trial Attorneys and Litigators’ [2006] (22) *Cardozo Journal of Law & Gender*, 229.

³⁰ (n-14)

³¹ D. L. Rhode & B. Kellerman, ‘Women and Leadership: The State of Play and Strategies for Change’ [2006] (1) 7.

³² (n-19)

³³ C. Lee, ‘Gender Bias in the Courtroom: Combating Implicit Bias Against Women Trial Attorneys and Litigators’ [2006] (22) *Cardozo Journal of Law & Gender* 229.

³⁴ (n-28)

³⁵ (n- 28 & 14)

³⁶ (n-28)

³⁷ C B May, ‘Anger in the Courtroom: The Effects of Attorney Gender and Emotion on Juror Perceptions’, Paper 29, at 1 (2014) (B.S. thesis, Univ. Honors Program Theses, Georgia Southern University), <http://digitalcommons.georgiasouthern.edu/honors-theses/29/> In C. Lee, ‘Gender Bias in the Courtroom: Combating Implicit Bias Against Women Trial Attorneys and Litigators’ [2006] (22) *Cardozo Journal of Law & Gender* 229.

situation and that of the female attorney's anger to her emotional disposition, and thus supportive of the proposition that judges perceive anger and aggression differently contingent on the gender of the attorney.³⁸ Hence, men are continually rated higher than women on most of the attendant qualities of leadership.

Although, physical attractiveness is an important aspect of the legal industry; and can be helpful in the legal profession, a focus on appearances can nevertheless be harmful to female attorneys by decreasing their perceived competence, morality, and cordiality.³⁹ But in the legal profession, unlike physical attractiveness which appears to benefit both male and female, a female lawyer seen as sexy can have negative effects for her competence,⁴⁰ since to be perceived as physically attractive, sexy, or dressed appropriately depends on the opinion of the viewer and could also be on the intent of the woman. Female lawyers whose intent is to dress in a professionally meek manner may nonetheless be seeming as sexy and winning in sexualized advocacy, thus a very big problem for the women lawyers as some witnesses, colleagues and judges may misconceive her femininity for sex appeal.⁴¹ It is also discrediting and discounting if perceived as sexy because she may be taking as engaging in sexualized advocacy; as a favourable judgement may attribute her success to an unfair sexual advantage, instead of to her skills and talents.⁴²

Research on the micro-dynamics of courtroom dialogs, reveals that, though the competence of male lawyers and judges is taken for granted, women must continually establish their professional credentials in order to be taken seriously by colleagues, judges and clients; also that judges more frequently address women lawyers than men lawyers in a no deferent and even scornful way as well as interrupt them more often, and that standards for professional performance are based on male models and that women lawyers are held to a higher standard of performance than men lawyers.⁴³

3. Challenges Faced by Women Lawyers in the Private Practice

According to Cardinal⁴⁴, despite the rising number of female law school graduates and recent relative improvements in the number of women lawyers' appointment in the judiciary into high positions, there continues to be a disproportionately low number of women advancing to leadership positions in judiciary/legal profession, most especially in private legal practice. Some scholars have attributed the causes of the small quantity of women who are in leadership positions to the high levels of female associate attrition as well as perceived lack of business improvement and this attrition is been reported as having negative effects on the legal profession in the sense that it thus creates a gender gap.⁴⁵

Most often, top or big law firms chose to work or employ male lawyers while female lawyers after being called to bar are often times rejected for employment in law firms, most especially married ones. As earlier stated, the belief that women lawyers are not being strong enough and have tender heart, as well as lacks the commitment required in such a serious profession like the legal profession because of their other engagements like raising and caring for the family, so only a few women lawyers get easy employment like relatives to owners of law firms or people in positions of power, or relatives to people that knows

³⁸ (n=19)

³⁹ H Nathan and others, 'From Women to Objects: Appearance Focus, Target Gender, and Perceptions of Warmth, Morality, and Competence' [2011] (47) *J. Experimental Soc. PSYCHOL* 572, 573, 578.

⁴⁰ K Bergin, 'Sexualized Advocacy: The Ascendant Backlash Against Female Lawyers' [2006] (18) *Yale J. L. & Feminism* 191, 214, 212

⁴¹ (n-14)

⁴² *Ibid*

⁴³ F Kay and E Gorman, 'Women in the Legal Profession' [2008] (4) *Annual Review of Law and Social Science* 299-332.

⁴⁴ M C Cardinal 'Women and the judiciary in Syria: appointments process, training and career paths' [2008] (15) (1-2) *International Journal of the Legal Profession* 123-139.

⁴⁵ A Imosemi, 'Same Performance But More Attractive, Yet Less Reward: The Plights of Nigerian Female Lawyers in Private Practice' [2016] (4) (3) (34-43) *International Journal of Innovative Legal & Political Studies* Seahi Publications, www.seahipaj.org ISSN: 2354-2926

owners of law firms or people in corridors of power. In the male dominated legal profession where male colleagues prefer to work primarily or solely with other males,⁴⁶ it is also a well-known fact that even clients, including female clients often prefer male attorneys to handle their cases. While this does not translate to mean that male lawyers are more brilliant, vocal and articulate than female lawyers, regrettably some senior attorneys are equally unwilling to engage female attorneys but would rather employ male lawyers that might not be as qualified and brilliant as the female attorneys. What a 'men's world indeed'. As reported in Rhode's⁴⁷ survey, revealing that some senior female lawyers who have climbed to positions of status and power are unwilling to mentor inexperienced female lawyers because they themselves fared without such supports therefore, this rejection results in the exclusion of female lawyers from mentoring and socializing with cronies while their male colleagues enjoy such benefits. Equally, most successful female lawyers are already over-burdened and must continue to work hard in order to keep on in the high level in their organizations, as such may be unwilling to take additional burden to offer assistance and guidance to other inexperienced women lawyers whom they think might possibly leave the office no sooner than later; and for fear of others joining in the rank and file with them, may not be disposed to helping others so as not to share the power and reputation they have attained by being one of the few women of power and status.⁴⁸

In Australia, just like Nigeria, there is also a discernment of the 'ideal lawyer' being "the unencumbered worker [a]s the worker who you know will go far", which assumes he is able to "sludge off relational ties in order to dedicate himself completely to work".⁴⁹ This stereotype is entrenched so profoundly into the ideal of 'the perfect lawyer' that unconscious biases continue as key cultural barrier for diversity and the integration of women working flexibly in the legal profession.⁵⁰ And indeed, in America too, in a study where female Senior Counsels were interviewed, one remarked 'I'm female and that takes you out of the mainstream at silk level straight away'.⁵¹ Bagust has submitted that unspoken culture include that "women lawyers who have family commitments cannot work hard at their jobs" and that 'family commitments take up time that should be dedicated to the firm'.⁵² Negative attitudes towards working mothers have also been identified as a barrier to both career progression and on-going employment within firms.⁵³ Again, the gendered division of labour in the domestic domain means that women are still held accountable for the majority of the unpaid domestic duties. In most law firms and other places where female lawyers are employed, they are most often not given or sent out with serious files or for trainings because of the ideology that, most female lawyers are unserious and slackers because of family obligations and engagements.⁵⁴ In the legal profession, another hidden attitude is gender bias against women as evidenced by the highly gender-stratified nature of the occupation⁵⁵ "(e.g., low employment of female lawyers in higher-prestige positions such as SANs as one of the requirements of becoming a SAN

⁴⁶ S E Foster, 'The Glass Ceiling in The Legal Profession: Why Do Law Firms Still Have So Few Female Partners?' [1995] (42) *UNIV. S. CAL. L. REV.* 1631, 1636

⁴⁷ (n-21)

⁴⁸ (n-41)

⁴⁹ 'Victorian Equal Opportunity and Human Rights Commission (VEOHRC), Changing the Rules: The Experiences of Female Lawyers in Victoria'

<http://www.humanrightscommission.vic.gov.au/media/k2/attachments/Changing_the_Rules_Web.pdf_Final1.pdf> Accessed October 18, 2018.

⁵⁰ B Smith, and J. Riley, 'Family-Friendly Work Practices and the Law' [2004] *Sydney Law Review* (26) 395; B Gaze, 'Working Part Time: Reflections on Practicing the Work, Family Juggling Act' [2001] (1) (2) *Queensland University of Technology Law and Justice Journal* 199

⁵¹ A Groves, 'Gendered Meritocracy? Women Senior Counsels in Australia's Legal Profession' [2012] (1) (1) *Australian Journal of Gender and Law* 9

⁵² J Bagust, 'Keeping Gender on the Agenda: Theorizing the Systemic Barriers to Women Lawyers in Corporate Legal Practice' [2012] (21) *Griffith Law Review* 137.

⁵³ (n-42)

⁵⁴ (n-21)

⁵⁵ S Miller and M Meloy, 'Women on the Bench: Mavericks, Peacemakers, or Something Else?' (2000) Research questions, issues, and suggestions. In R Muraskin and T Alleman (Eds.), *It's a crime: Women and justice* (pp. 53-68). Englewood Cliffs, New Jersey: Regents-Prentice Hall.

is to have been handling cases in several tiers of court in Nigeria: (and no wonder Barrister Oguguah Ojeh in an interview with Leadership online said how many husbands are willing to allow their wives to cross-country week in and week out?"- He said further, who will take care of the home?),⁵⁶ (and this also promotes gender bias against women in the law practice) associates in big law firms and in the judiciary). Even though there is relative improvement in the judiciary, this is not the case in private legal practice. In the big, high-status law firms, partners are inclined to assign women lawyers to research rather than to courtroom trial, thus debilitating their promotion to partner.⁵⁷ Also for a very long time, another veiled barrier for women in law is an established tradition that connects legal analysis to qualities generally assigned to men, such as toughness, sharpness, and objectivity.⁵⁸ As such, women lawyers tend to have less mentoring and training opportunities than their male counterparts, which is a necessary resource that is often under-utilized in such a profession that is so competitive.⁵⁹

Also, as reported by Durant,⁶⁰ Law is the second most sleep deprived profession, and long hours contribute to lawyers' uneven rates of stress, substance abuse, and mental health conditions and that these conditions of practice in the legal profession have made leadership positions unfavourable to many women, especially those with significant family responsibilities. This is also a common fact that undoubtedly, career women still largely undertake housekeeping and child care as their primary responsibilities. Nevertheless, it is unfortunate to note, that some women are actually indolent and are averse to playing the roles that require hard work to climb to the top, especially in private legal practice. Practically too, women are also discriminated against and marginalized based on origin and state of marriage as often times these factors form part of the political appointments in Nigeria. In most cases, the women suffer the misfortune of being shaded by husband's shadow which requires them to do more work than their male counterparts to disengage themselves from their husbands' shadows. These reasons are responsible for the lack of women in private legal practice.

Successful leaders such as Sandra Day O'Connor have been known for that capacity. One political commentator, in assessing her prospects for success in the Arizona State legislature noted "Sandy ... is a sharp gal' with a 'steel-trap mind ... and a large measure of common sense She [also] has lovely smile and should use it often."⁶¹

4. Socio-Cultural and Political Factors of Gender Discrimination

From the start of colonization in Africa, women have always been exposed to varying forms of discrimination owing to the simple fact of their 'femaleness',⁶² which ought to have been taken on grounds of their communal expediency, and as observed, most African countries have not had specific laws or policies to stalk the flow of gender disparity. However, the colonial hegemonic philosophy, dependent political ideology and identifiable socio-economic exigencies are seen as factors aiding the prevailing distinctions between men and women in our society.⁶³

Ideological Factor: Patriarchal systems are male dominated ones that shape the relationships of female societal members in all spheres of human endeavour, including politics. Patriarchy facilitates the transformation of males and females into assuming the role of men and women and further constructs the hierarchy of gender relations where men are offered more privileges, and as defined by Andrienne Rich patriarchy as:

⁵⁶ S E Foster (n-39)

⁵⁷ C. F. Epstein, 'Women in law' (2nd ed) *New Haven, Connecticut:* (Yale University Press, 1993)

⁵⁸ (n-42)

⁵⁹ (n-21)

⁶⁰ (n-21)

⁶¹ L Babcock, and S Laschever, 'Ask for It: How Women can use the Power of Negotiation to get What They Really Want' [2008] 253-59, in D. L. Rhode, 'Women and the Path to Leadership' [2012] *Michigan State Law Review*, 1439.

⁶² E Obbo, 'Gender Equality, Human Rights and Development' (2005), In CODESRIA Bulletin, Special Issue, Re-thinking African Development: Beyond Impasse, Towards Alternatives, 6-10 December 2005, Maputo, Mozambique.

⁶³ A Adeniran, 'A Non-Dependent Framework for Development' (2006) *Thisday*, Wednesday, August 23, 2006, 45.

“A familial-social, ideological, political system in which men by force, direct pressure or through ritual, tradition, law, and language, customs etiquette, education, and the division of labour, determine what part women shall or shall not play in which the female is everywhere subsumed under the male.”⁶⁴

The gender role philosophy is used as an ideological tool by patriarchy to place women within the private arena of home as mothers and wives and men in the public domain, and is one of the energetic factors that shape the level of women’s political participation globally. However, this ideological divide is not contemplative of the reality. The borders between public and private are often unclear in the daily lives of women. Nonetheless, domestic domain continues to be perceived in Nigeria as the legitimate galaxy for women while public space is associated with men. Unfortunately women continue to be defined as private across countries which resulted in their exclusion, disempowerment and subordination/discrimination even in the legal profession.

Social and Cultural Factors: Many gender dictated roles do not only foster dichotomous feminine and masculine identities, but equally places them in a manner that is hierarchal, so that women are generally valued less in relation to men simply because of their socially attributed roles in reproductive spheres.⁶⁵ Women’s continued socio-cultural dependence has been one vital unfavourable factor in their participation in societal activities such as getting involved in public political realm. As women play dual roles in the productive economy and in reproductive spheres, this limits their participation in politics and other socio-cultural activities. In countries like Nigeria, women are also meted with cultural restrictions which in some cases limit their freedom of movement. Politics involves women’s exposure to interact with male and female citizens and address public meetings which also affect the women lawyers in the legal profession.

In some studies, like the one conducted by Foster, it was discovered that even though, legislation had almost successfully eliminated most of the formal barriers that had previously shut out women and other minorities from professional domains, women have endured other subtle forms of discriminatory and unfair practices when they attempt to rise to positions that are mostly regarded as privileged, that symbolizes status and power.⁶⁶ There is no gainsaying that currently, the laws meant to counter discrimination neither provide sufficient corrective measures, nor are there enough motivations for establishments that are trying hard to cushion the impact of unintended biases.

CONCLUSION

Women legal practitioners face various social and cultural challenges; women legal practitioners experience gender discrimination nearly everywhere, including their place of work, because they are women, they face challenges in career advancement despite having the relevant academic and professional qualification simply because they are women.

Women legal practitioners are victims of cultural perceptions and gender stereotypes. Owners of private law firm and clients most often refuse to employ female legal practitioners and even when they are employed, female lawyers are perceived to be less competent than their male counterparts. The assumptions regarding women’s special personality traits lead employers to allocate cases or duties to women lawyers less challenging or lower profile than those of men. The perceptions include that male legal practitioners are regarded as been more committed to their work than the female legal practitioners; female lawyers are viewed as been less aggressive than male counterparts. These perceptions and

⁶⁴ G A Makama, ‘Patriarchy and Gender Inequality in Nigeria: The Way Forward’ [2013] (9) (17) *European Scientific Journal* 1857 – 7881.

⁶⁵ T Nmadu, ‘On Our Feet: Women in Grassroot Development’ [2000] (1) (1) *Journal of Women in Academics* 165-171.

⁶⁶ S. E. Foster, ‘The Glass Ceiling In The Legal Profession: Why Do Law Firms Still Have So Few Female Partners?’ [1995] (42) *UNIV. S. CAL. L. REV.* 1631, 1636, in L V Durant, ‘Gender Bias and the Legal Profession: A Discussion of Why There Are Still So Few Women on the Bench’ [2004] (4) (1) *University of Maryland Law Journal of Race, Religion, Gender and Class* 6

stereotypes have been embedded into the legal profession despite their vast knowledge and understanding of the law.

Lack of prescribed promotion policy by the firms coupled with the fact that majority of the decision makers are men have resulted to women legal practitioners been discriminated and or passed during promotions in law firms. Most, if not all of law firms in Nigeria do not have a prescribed promotion policy in place this has undermined progress of women in law firms in terms of equity shares ownership in the law firm.

In most law partnerships, there are still very few women partners. Majority of women legal practitioners hold lower cadre associate positions in the law firms. Female advocates in practice are very few in partnerships, sole proprietors as well as at the associate level. Men have continued to remain in the frontiers of the legal profession not minding the increased number of admissions of female advocates and majority of them have opted not to engage in active legal practice.

It can be safely assumed that what we refer to as gender equality as means a situation whereby all individuals, men or women have equal entitlements, particularly from societal resources and therefore to be given equal opportunities and to be treated fairly. Likewise, gender equality stands for the freedom of both sexes, whether men or women to aspire to any level of the social strata without hindrance or let.

While the number of women graduates from the Nigeria law school and as so called to practice law by the Nigerian Supreme Court increased in the last decades, the position of female lawyers is still far from equal to that of men, as the tradition of the legal profession remains defined by masculine traits and women for so long assigned to the private domain of hearth and home, are not as really identified as having those masculine attitude are easily tagged as outsiders. The continuing discriminations and subordination of women in the legal profession must be challenged and remedied by not just the women lawyers but the legal community as a whole, as men do misuse their power against women because women are educated to be silent. The need to ensure the complete eradication of gender discrimination and ensure parity, equity and gender equality in the legal profession is long overdue and cannot be overemphasized. Therefore, it is high time to jettison the age long ideology of 'there are no women at the bar' because there are really and real women at the bar.