Gender Discrimination In Employment: An Analysis of Issues of Violation of Women’s Rights

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1.0 INTRODUCTION

In a masculine dominated society women’s right has been misunderstood because of cultural, customary practices and beliefs which encouraged discrimination against women. Relying on traditional gender roles and child care responsibilities, some employers assume that female employee is less dependable than male employee. The idea of equality of sexes in employment is foreign to Nigerian native law and custom. Most entrepreneurs believe that females are inferior to their male counterpart and incompatible with a fast-paced business environment. Discrimination against women in employment in Nigeria is so visible, primarily given the high level of illiteracy and lack of skills among women compared to men.

There exist nexus between human rights and employment opportunities, such as right to life and human dignity as enshrined in the Nigerian constitution. Nigeria and other nations globally promulgated laws that further prohibit gender-based discrimination, such as the UN Convention on the Elimination of Discrimination against Women (CEDAW), Nigeria signed and ratified. However, the applicable laws have not provided any succor to womanhood.

The vulnerability of Nigerian women is an incontestable fact despite the ratification by Nigeria of a number of international standard instruments which sanctions gender discrimination and unequal access to education, healthcare, inadequate housing and employment. In all legal traditions many laws continue to institutionalize second class status for women and girls with regard to nationality and citizenship, marital rights, employment rights, inheritance and property rights. This paper examines discrimination as regards to employment, its historical antecedent, forms of women discrimination, violation of rights and solutions to the problem in order to be backed up by concrete action aimed at diversifying women employment by various states in Nigeria, if women are to realize their full potentials in any democratic society like ours.

1.1 DEFINITION OF TERMS

1. Right

A right is an interest, respect for which is a duty and the disregard of which is a wrong. The rights recognized under the constitution of a nation are called human rights and freedom from discrimination being a constitutional provision is very fundamental to the very existence of men and women. Women’s rights being inherent and guaranteed by law, discrimination against women therefore are contrary to fundamental human rights, equity, natural justice and good governance. Mill analytically observed that when we call anything a person’s right, it

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means that he has a valid claim on society to protect him in the possession of it, either by the force of law, or by that of education and opinion. Those things which ought to be protected were, in his view, those concerned the fundamentals of human well-being, and were therefore a sub-set of those things which a person ought to have ground of utility. According to positivist, legal rights are essentially those interests which have been legally recognized and protected.

John Austin legal right meant rights which are creatures of law strictly or simply so called. He said other kind of rights such as natural or moral rights are not armed with legal sanction and cannot be enforced judicially. Selmond said that a legal right is an interest recognized and protected by rule of law and violation of such an interest would be a legal wrong.

2. Women’s Right

The term women’s right refers to entitlements of women and girls of all ages. Discrimination is the prejudicial treatment of an individual based on their membership of a certain group or category. Women's rights are the rights and entitlements claimed for women and girls of many societies worldwide. In some places, these rights are institutionalized or supported by law, local custom, and behavior, whereas in others they may be ignored or suppressed. Usually, "women's rights" refers to whether women have equality with the rights of men where women and men's capacities are the same. Sometimes, "women's rights" includes protection of women where women are subject to special circumstances (such as maternity leave for child-bearing) or more susceptible to mistreatment (traffic in women, rape).

Women's rights are classified into "political, economic, social, cultural, civil" and other spheres and it is defined to mean:

Any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field.

The Declaration specifically addresses, eliminating prejudice in public education, full political rights to vote and to run for and to serve in public office, rights to change nationality equal to men's, marriage and divorce rights to be equal to men's, and elimination of child marriage, equality in criminal punishment, traffic in women, including exploiting prostitutes, employment rights, including non-discrimination in access to jobs, equal pay, and paid

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7 Ibid.
8 Ibid.
13 Ibid.
14 Ibid.
maternity leaves. The statement of purpose, summarizes women rights based on the idea of equality as an opportunity for women to "develop their fullest human potentials” and to put women into the "mainstream of political, economic and social life." In 1848, the first known women’s right convention in the world declared "We hold these truths to be self-evident: that all men and women are created equal...." and in closing, "we insist that they have immediate admission to all the rights and privileges which belong to them as citizens.

3. Violation of Right

Violation of right can simply be explained to mean a disregard or contravening the interest of a person recognized by law. Rights being the articulation of the need for justice, tolerance, mutual respect, and human dignity in all of our activity, to protect such right is to ensure that people receive some degree of decent, humane treatment. To violate rights on the other hand is to deny individuals their fundamental moral entitlements. It is in a sense, to treat them as if they are less than human and undeserving of respect and dignity. Examples are of acts crimes against humanity, including genocide, torture, slavery, rape, enforced sterilization. Violation of political and economic rights such as right to adequate food, employment, and cultural life denied, and large number of women are excluded from the root causes decision making processes are likely to create unrest.

4. Gender Discrimination

Gender discrimination is explained to include “any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, human rights and fundamental freedom in the political, economic, social, cultural or any other aspects of life. In the context of workforce, it can be defined as the giving of an unfair advantage (or disadvantage) to the members of the particular group in comparison to the members of the other group.

The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) defined as “any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedom in the political, economic, social, cultural, civil or any other field”.

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16 Ibid.
18 Ibid.
19 Seneca Falls Women’s Rights Convention - 1848
22 Ibid.
23 Ibid.
5. **Employment**

Employment is a relationship between two parties, usually based on a contact, one being the employer and the other being the employee.\(^{28}\) It is further defined as an agreement between an employer and an employee that the employee will provide certain services on the job, and in the employer’s designated workplace, to facilitate the accomplishment of the employer organization’s goals and mission, in return for compensation.\(^{29}\)

An employee is a person who is hired to provide exchange for compensation and who does not provide these services as part of an independent business.\(^{30}\) An employer is a person or institution that hires employees or workers. Employers offer wages or a salary to the workers in exchange for the worker’s work or labour.\(^{31}\) Employer includes everything from individuals hiring a babysitter to governments and businesses which may hire many thousands of employees.\(^{32}\)

The main ways for employers to find workers and for people to find employers are via jobs listing in newspapers (via classified advertising) and online, also called jobs boards.\(^{33}\) Employers and job seekers also often find each other via professional recruitment consultants who receive a commission from the employer to find and select suitable candidates without discrimination.\(^{34}\) Evaluating different employees can be through a technique to analyze their skill, to measure their talents within the field can be best through assessments.\(^{35}\)

### 1.2 HISTORICAL EVOLUTION OF EMPLOYMENT AND WOMEN DISCRIMINATION

Women constitute the most marginalized and vulnerable segment of our society, with unequal access to employment.\(^{36}\) This marginal and vulnerable position of women is a result of historical injustice occasioned by cultural practices.\(^{37}\) The origin of gender discrimination in employment can be traced back to the remote past. Before the industrial revolution, employment the way we now know did not exit. In the earliest stages of human civilization, work was confined to simple tasks involving the most basic human need; food, child care, and shelter.\(^{38}\) A division of labour likely resulted when individuals showed proficiency in particular tasks, such as hunting animals or gathering plants for food. As a means of increasing the food supply, prehistoric peoples organize the work of foraging and hunting and later, agriculture which was the chief human occupation.\(^{39}\)

Gender imbalance affects every aspect of the society and its issue is as old as humankind, as well as part of many religion and cultural tradition,\(^{40}\) during this period most obvious division

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\(^{29}\) Available at http://humanresources.about.com/od/glosarye/g/employment-job.htm, accessed on 15/3/2016

\(^{30}\) Ibid.

\(^{31}\) Ibid.

\(^{32}\) Ibid.

\(^{33}\) Ibid.

\(^{34}\) Ibid.


\(^{39}\) Ibid.

of labour arose from differences in age, sex, and class. The oldest people in the tribe lacked strength and agility to hunt or forage for afield and so perform more-sedentary task. The very youngest members of the tribe were similarly employed and were taught simple food gathering. The sexual division of labour was based largely upon physical differences, with women specialized in cooking, child rearing and pottery making, while the gathering of the clay and firing materials was the work of men.\footnote{Mular, K, Op:Cit.} Women on marriage were traditionally believed to be informally employed to render more services physically demanding chores such as grinding grain by hand in a stone quern, drawing and carrying water, gathering wood, and churning milk to make butter.\footnote{Ibid.} Food obtained had to be equally distributed to those employed to render the services, by a leader being the employer who organize and direct the group. Because the basic social group was the family tribe, kin-relationships, from the tribal chief down formed the basis for the managerial hierarchy. Gradually the old contract of a job for life was replaced with a nice fat pension at the end of it.\footnote{Onolaja, M.O, History of Employee Engagement from Satisfaction to Sustainability, available at \url{http://www.hrzone.com/engage/employee/history-of-employee-engagement-from-satisfaction-to-sustainability}, p.9, accessed 2-5-2015.}

Before industrial revolution, the relationship that existed as a result of social production was no more between the family head or community but between the Lord and the serf who had the status of a servant and has no any right except those granted by the Lords.\footnote{Daudu, B, Op:Cit P, 45-46.} The industrial revolution increased the capacity of mass production of goods radically transforming the relationship people entered into the production of commodities and creation of social surplus. For the first time, the relationship became that of employer/employee which as it evolved through various legislation aimed at ensuring industrial harmony took the form of a contract.\footnote{Ibid.} The movement towards contract proceeded until it became firmly established as a result of agitation by trade unions defending the collective wellbeing of employees in various trades, which later resulted to shift from collective model to wage conditions.\footnote{Ibid.} For any employment to exist now there shall be a contract between the employer and the employee satisfying the entire required element for it to be recognized by law.

The industrial revolution changed the nature of employment for both men and women, from home to factory. As a result of the growing humanitarian protest against the less employment andhash treatment of women to bar them from hash and certain dangerous occupations, women engaged primarily in employments, as a result of legislations enacted.\footnote{British Health and morals of Apprentices Act of 1802.} Social developments changed the nature of women’s work. The growth of public education increased the demand for more teachers and growing industrial and commercial enterprises required more office workers and sales people, the employers found that they could hire women for those occupations at lower salaries.\footnote{Available at \url{http://www.britannica.com}, accessed on 2-5-2015.} These inequalities in men’s and women’s pay scales, even for equal work were based on the assumption that men had to be paid enough to support a family.\footnote{Ibid.} In 1970s, married women entered labour force in great numbers, and the strict segregation of women began to lessen because of the repaid technological progress which does not always prevail over cultural views and social practices inherited from the past.\footnote{Ibid.}
1.3 LEGAL FRAME WORK ON GENDER DISCRIMINATION IN EMPLOYMENT

Gender equality is essential for the achievement of human rights. However, there are still discriminatory laws against women persisting in every part of the world and new discriminatory laws are enacted.\(^{51}\) There are two major sources of women’s right in Nigeria, the international and domestic sources.\(^{52}\) International sources include international declarations, treaties, conventions and protocols signed and ratified by Nigeria\(^{53}\) while at the domestic level it is the constitution and other promulgated laws to prohibits gender-based discrimination.\(^{54}\)

There exist nexus between human rights and employment opportunities; such as right to life, movement, peaceful assembly and association; privacy, and human dignity, liberty, property and other classes of human rights which will only be functional per excellence when a person’s source of livelihood is unhindered.\(^{55}\) Chapter II of the Constitution of the Federal Republic of Nigeria 1999, (as amended) provides for equality of sexes and the prohibition of discrimination of all forms. The Constitution provided that a citizen of Nigeria of a particular community, ethnic group, and place of origin, sex religion, or political union shall not, by reason only that he is such a person, be subjected either expressly by or in practical application of any law in force in Nigeria or any executive or administrative action of the government, to disabilities or restrictions to which citizens of Nigeria of other ethnic groups, places of origin, sex, religion or political opinions,\(^{57}\) are not made subject; or privilege or advantage that is not accorded to citizens of Nigeria or other communities, ethnic groups, places of origin, sex, religion or political opinion.\(^{58}\) The Section Constitution provides that,\(^{59}\) the economic system will not be operated in such a manner as to permit the concentration of wealth or means of production and exchange in the hands of few individuals or of a group.\(^{60}\) The Constitution further provides that,\(^{61}\) the state social order is founded on ideals of freedom, equality and justice. Subsection (3) of the same section provides that the state shall direct its policy towards, ensuring that all citizens without discrimination on any group whatever, have the opportunity for securing adequate means of livelihood as well as adequate opportunity for securing suitable employment very vital to these provisions is Section 17 (3) (e), which provides that there is equal pay for equal work without discrimination on account of sex or no any other ground whatsoever.\(^{62}\)

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\(^{52}\) Hussaini, A, Op: Cit, P. 163.
\(^{56}\) Section 42 of the Constitution of Federal Republic of Nigeria 1999 (as amended).
\(^{57}\) Section 15(2) of the Constitution of the Federal Republic of Nigeria 1999 (As Amended), which provides that national integration shall be actively encourage whilst discrimination on grounds of place of origin, sex and religion, states, ethnic or linguistic association or ties shall be prohibited.
\(^{58}\) Ibid.
\(^{59}\) Section 16 (2) of the Constitution of the Federal Republic of Nigeria 1999 (as amended).
\(^{60}\) Chapter IV of the Constitution of the Federal Republic of Nigeria 1999 (as amended).
\(^{62}\) This has been enacted into law in Section 24 of the Nigerian Labour Act 2006 LFN.
It is trite law that when a provision under fundamental objectives and directive principles of state policy have correlative or incidental provisions in chapter four (Fundamental Human Rights) of the Nigerian Constitution\(^{63}\), the question of justifiability (legal term meaning whether a person can approach court for redress) is settled.\(^{64}\) The Constitution also provides that,\(^{65}\) of the Nigerian Constitution 1999, provides that any person who alleges that any of the provisions of chapter IV has being or is likely to be contravened in any state in relation to him may apply to a High court or the Federal High Court depending on the nature of the claim in that state for redress.\(^{66}\) It is clear that sections 15, 16 and 17 cited fall under chapter II of the Nigerian Constitution which is classified by virtue of section 6(6)(c) of the same constitution as non-justiceable rights. Thus, the provision of section 42 under chapter IV is enough to cover all these anti discriminatory provisions.\(^{67}\) The question of infraction of a fundamental right can be canvassed at any stage of the proceedings before a court of law, even where previously not pleaded by the party seeking to raise it.\(^{68}\) The instrument for enforcement of one’s fundamental rights in Nigeria is the Enforcement of Fundamental Rights Rule 1979. The preamble to this enforcement instruments cover international instruments or treaties that have been ratified and domesticated.\(^{69}\)

Many countries have subscribed to the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) adopted by the United Nations General Assembly in 1979.\(^{70}\) Article 15,\(^{71}\) explicitly provides that states who have ratified the Convention shall accord to women equality with men, and article 2 commits States who have ratified the Convention to take all appropriate measures including legislation, to modify or abolish existing laws, regulations, customs and practices which constitute discrimination against women.\(^{72}\) In 2011 almost all countries had ratified the CEDAW Agreement-187; out of the 193 countries that have ratified Nigeria is included.\(^{73}\)

Despite CEDAW requiring some state that have ratified the Convention to eliminate discrimination against women by all appropriate means and without delay, too many States still pervasively retain their discriminatory laws which indicates that the pace of reform is too slow for women.\(^{74}\) Consequently, at the 12\(^{th}\) session of the Human Rights Council, a resolution titled Elimination of discrimination against women was adopted requesting the Office of the High Commissioner for Human Rights to prepare a thematic study on discrimination against women through the UN, in consultation with all relevant stakeholders, in particular, the Commission on the status of Women.\(^{75}\)

\(^{63}\) The provisions of the Constitution of the Federal Republic of Nigeria 1999 (as amended ),Chapter IV, Section 33 to 34.
\(^{64}\) AG Ondo-V-AG Federation (2002)9 NWLR Pt 772, p. 229.
\(^{65}\) Section 46(1) of the Constitution of the Federal Republic of Nigeria 1999 (as amended).
\(^{67}\) The UK Human Rights Act of 1998 provides more scope for redressing all forms of discrimination imbalances.
\(^{68}\) Shoketun-V- Anigboro (2001) 10 WLR, p. 78.
\(^{69}\) Section 12 of the Constitution of the Federal Republic of Nigeria, 1999 (As Amended), See also Abatcha-V-Fawehimi (2001) NWLR (pt 203) p, 23.
\(^{71}\) Convention on the Elimination of All Forms of Discrimination against Women. 
\(^{73}\) Ibid
\(^{75}\) Ibid.
The Universal Declaration on Human Rights of 1948 offers protection against discrimination on Human Rights globally.\textsuperscript{76} The International Labour Organization’s (ILO)\textsuperscript{77} conventions recognize broader notions of citizenship at work particularly those dealing with termination of employment, equal pay, fair remuneration,\textsuperscript{80} and the right of employed women to maternity and other forms of protection,\textsuperscript{81} which is similar to the provisions of the African Charter\textsuperscript{82} that prohibits discrimination. Suffice to say that discrimination is anti-development, and anti-social in all ramifications. It has been noted that apart from slavery, discrimination is the most comprehensive systematic and severe deprivation of human rights.\textsuperscript{83} The drive for civil rights in employment and other aspects of life became a national movement in the early 1960s.\textsuperscript{84} Rising public concern provided support for the first Federal Employment Discrimination Statute in 1963,\textsuperscript{85} and the Civil Rights Act of 1964.\textsuperscript{86} Other laws are the Pregnancy Discrimination Acts\textsuperscript{87} and the Civil Rights Act.\textsuperscript{88} Some of the laws include the laws that prohibit wage discrimination based on sex,\textsuperscript{89} discrimination in workplace,\textsuperscript{90} including hiring, firing, workforce reduction, benefits and sexually harassing conduct,\textsuperscript{93} or pregnancy.\textsuperscript{94} It is significant to note that the Senate on the 16 day of March 2016 rejected the bill to domesticate gender and equal opportunity law in Nigeria.\textsuperscript{95}

\subsection*{1.4 FORMS OF DISCRIMINATION AGAINST WOMEN:

1. Marriage}

Women lack equal rights and responsibilities in marriage with men,\textsuperscript{96} irrespective of form of family or the religion, custom, tradition or legal system under which it is established. This sought of discrimination involves a lot of issues which include among others their civil status, ability to enter into marriage of their choice, legal capacity to own and administer property, right to inherit, right to maintain or change nationality, and rights and responsibility in regards to their children.\textsuperscript{97} Women should be given the right to be free and have full consent to enter

\begin{thebibliography}{99}
\bibitem{76} The Universal Declaration on Human Right and Labour Law 1983.
\bibitem{77} The ILO was created in 1919 in the aftermath of the First World War with the aims of alleviating misery and maintaining peace, reflecting the view that there could be no lasting peace.
\bibitem{78} The European Convention on Human Rights and Labour Law, op:cit.
\bibitem{80} \textsection 6, 7, and 15 of the International Convention On Economic, Social and Cultural Rights 1993.
\bibitem{81} General Recommendation No, 24, (1999), discusses on Women and Health.
\bibitem{84} Bamidele, K.H, Op:Cit , p, 5.
\bibitem{85} Equal Pay Act 1963
\bibitem{86} Equal Employment Opportunity Act 1972
\bibitem{88} Civil Rights Act of 1991
\bibitem{89} Civil Right Act of 1964
\bibitem{90} Ibid
\bibitem{91} Ibid
\bibitem{92} Title VII of the Civil Right Act of 1964.
\bibitem{93} Ibid.
\bibitem{94} Right Act 1964.
\bibitem{97} CEDAW General Recommendation No, 21, (1994), on equality in marriage and family relations.
into marriage. Equal status had to be maintained between parties in de facto marriage, customary and non-formal marriages.

2. Nationality

There is no full equality for women in marriage; there is the need to ensure the freedom of a woman widow for movement, to choose her residence, as well as equality with men in terms of citizenship. The rights of women and widows to citizenship has been an issue around the world, for example Kenya’s constitution specifies that citizenship is not lost through marriage or dissolution of a marriage, which is not so under the Nigerian constitution. In A.G of Republic of Botswana-V-Unity Dow, the plaintiff a female citizen of Botswana successfully challenged the legitimacy of Bostwana’s citizenship Act on the constitutional ground that the Act unlawfully discriminated against her on the basis of her gender. Under Bostwana citizenship law, citizenship was denied to the children of a female citizen married to a foreigner. The court held that the citizenship Act in this respect unconstitutionally discriminated against women.

The United State recently amended a law that had a negative impact on the immigrant spouses of US citizens. Before the law was amended, immigrant spouses of US citizens could be deported from the United States upon the death of their citizen spouses. Also the term nationality was defined in case of Espinoza-V- Farah Manufacturing that the term Nationality, state of origin or place of birth, refers to the country where a person is born or … the country from which his or her ancestors came. It is interesting to note that this will often affect the employment chances of non-indigene women in a country. During the Nigerian Military Regime, one Dr. Patrick Wilmot a South African Academic and also an extra talented intellectual was deported, accusing him of spying for South Africa. The most common employment discrimination based on “origin” concept has to do with one’s State of Origin or tribe. However, the spirit of the constitution envisaged uniform opportunities for all under the Federal Character principles enshrined under the Chapter II of the Nigerian Constitution.

3. Religion

Nigeria is a diverse society with very heterogeneous population with respect to culture, language, ethnic, religion and class. The Constitution restrains the state from establishing state religion, this would imply that the state should not discriminate, favour, promote, patronize or disfavor a person from any religion. The court defined the term religion

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98 See CEDAW General Recommendation No, 29 (2013), which discusses on “Equality in Marriage and Family Relation and Economic Consequences of Marriage, Family Relations and their Dissolution.
100 See CEDWA Widows for peace Through Democracy, Model Chapter for the Rights of Widows, Article 4.
106 Section 25 of the Nigerian Constitution 1999, (Citizenship by Birth)
109 Section 14(3) of the 1999 Constitution of the Federal Republic of Nigeria 1999, (as amended), which provided that the composition of the Federation and its agencies shall in the conduct of its affairs be carried out in such a manner as to reflect federal character of Nigeria.
broadly, as “All that is required is a sincere and meaningful belief occupying in the life of its possessor a place parallel to that filled by God of those religions generally recognized”. Religion is another aspect of fundamental right which has generated a lot of discourse in the court.

Lord Dinning MR held that, there was nothing in article 9 of the European Convention on Human Rights which guarantees the right to freedom of religion that gives the applicant the right to manifest his religion on Friday afternoon in derogation of his contract of employment and not full pay. The truth of the matter is that, most forms filled by applicants when seeking jobs must have indicated in a column where the applicant fills-in his/her religion. Most employees who have fundamentalists’ approach to issues may not invite such applicant for an interview let alone giving him/her a job.

4. Sex

Sex imbalance permeates every facet of Nigerian society and it comes in several forms described as the Harmful Traditional practices against Women, these include genital mutilation, child marriage, ritualistic widowhood practices, nutritional taboos, cult prostitution, domestic violence, religious practices, traditional land tenure and the strong believe among other things that women should occupy a domestic environment and not any other employment.

Inheritance under customary law are generally heavily weighted against women, example the eldest son under igbo tradition will inherit the personal property including wives and slaves. The only situation where a daughter can inherit is where she chooses to remain unmarried in her father’s house with a view to raising children in the father’s home.

Also globally various international legal instruments were provided generally against discrimination on the basis of sex or otherwise. The term sex here means traditionally male and female. For instance the United States, Pregnancy Discrimination Act 1978, states that an employer may not discriminate against women because of pregnancy, childbirth, or related medical conditions. Example of pregnancy discrimination include: denying a woman a job assignment or promotion because she is pregnant or has children; requiring a pregnant women to go on leave when she is able to do her job; discriminating in fringe benefits, such as health insurance; to discourage women of childbearing age from working.

5. Sexual harassment

This is another form of employment discrimination which is related to sex. It has been defined as unwelcome sexual advances, requests for sexual favours and other verbal or physical
conduct of sexual nature. Refusal of sexual demand may lead to dismissal, untimely termination of employment or not getting the job. Sexual harassment has another form which is hostile working environment. This is carried out by words or acts related to a person’s sex such as discussing sexual activities, commencing on physical attributes, unnecessary touching or gestures, using demeaning, offensive language or displaying sexually suggestive pictures. The US Supreme Court offered guidance about what constitute a hostile work environment in general in Harris Vs. Forklift Systems Inc. That the statement by a manager thus: “we need a man as the rental manager” and “you are a woman, what do you know”? He told her she was a dumb-ass-woman and that they should “go to the holiday inn to negotiate her raise,” was held that will make a working environment hostile or abusive.

Lord Denning stated thus: “No matter how you may dispute and argue, you cannot alter the fact that women are different from men. The principal task in life of women is to bear and rear children; and it is a task which occupies the best years of their lives. He is physically the stronger and she the weaker. He is temperamentally the more aggressive and she the more submissive ... A woman thinks as clearly, as a man. She in her sphere does work as useful as man does his.”

The Governor of Lagos State stated thus: “issues of gender equality have been brought to the front burner of discourse on human rights and economic development... It is imperative for women to get involved and contest for elective offices notwithstanding the negative societal attitude towards women participation in public life.” Participation in public life through contesting for elective offices is more or less another form of employment or what I may term constructive employment. Since these office holders are on allowances. Denying women these rights will equally amount to employment discrimination or constructive employment discrimination so to say. “A person’s sex should not be a determinant of the office he/she would hold, nor gives him/her an undue advantage. Undue advantage is discrimination...” 6. Age Discrimination

Any different treatment on the basis that an employee is above the age of 25, 30 or 35 or is old is considered age discrimination; it can be unintentional or deliberate, unconscious or explicit. Age discrimination is often manifested in such organizational practices as limiting other workers from substantive job responsibility or access to job related career development opportunities. This form of discrimination varies from nation to nation. The common form of age discrimination in Nigeria is age specification for job seekers must be below 25 years, 35 years working experience; The question is Has the Job seeker who graduate at the age of 29, and did his National Youth Service for a year not been discriminated against? The answer should be in the affirmative: This policy amounts to age discrimination.

126 Equal Employment Opportunities Commission (EEOC) US Civil Code of Federal Regulations
128 Ibid.
129 (1969) 23 QB P, 44.
130 Ibid
133 Ibid.
135 Ibid.
In Nigeria, there are cases of premature retirement. In Achimagu-V-Minister Federal Capital Territory, the plaintiff and appellant was compulsorily retired at the age of forty before attaining the minimum age of forty-five prescribed for the compulsory retirement of civil servants; the Court of Appeal awarded him damages equivalent to his salary for the period of three years he was denied due to premature retirement. A certain sum was also awarded to the appellant as gratuity.

Age specification for job seekers appears to be the best example of age discrimination in employment, "forcing retirement because of age; assigning older workers to duties that limit their ability to compete for high level jobs in the organization; requiring older workers to pass physical examination as a condition of continued employment; indicating an age preference in advertisements for employees such as “young dynamic person wanted”; choosing to promote a younger worker rather than an older worker because the older worker may be retiring in several years; and cutting health-care benefits for workers over the age of sixty-five because they are eligible for Medicare.

In Nigeria, fresh graduates that are above thirty years of age are not allowed by the National Youth Service Corps Act to serve the nation, but are given exception certificates; this is without doubt age discrimination against many older graduates who may be willing to serve this nation.

7. Education

Despite efforts made by the Government to provide equal educational opportunities for all citizens, the level of women participation in education is still low. The gap between the number of boys and girls completing primary schools globally has nearly closed, barriers remain in advancing girls’ secondary school education. Today, less than a third of girls in sub-Saharan Africa are enrolled in secondary school. Education is a way in which people learn skills, gain employment, gain knowledge and understand about the world and themselves. This implies the process of equipping an individual irrespective of sex with a vital society key with which to open or lock many doors of life.

Fathers are deliberately not allowing their daughters to go to school because they consider investment in female education as unprofitable, since the girls are likely to end up in another man’s home. From one Nigerian culture to another, there are several unedifying examples of these acts of

138 Ibid.
140 Article 3 of the United States Age Discrimination in Employment Act (ADEA) of 1967.
143 Ibid.
145 Ibid
146 CEDAW General Resolution No, 19, (1992), on Violence against Women, specifically it states that the definition of discrimination includes gender based violence, that is violence that is directed against a woman because she is a woman or that affects woman disproportionately, Available at https://en.wikipedia.org/wiki/Convention_on_the_Eliminationof_All_Forms_of_Discrimination_Against_Women, accessed 13/03/2016.
discrimination and marginalization of women which are responsible for high rate of illiteracy among them.\textsuperscript{148}

8. Exclusion of women from decision making

The attitude of exclusion deprived and oppressed women in spite of their contributions to sustaining the family yet are excluded from household level decision making.\textsuperscript{149} They powerless even in taking critical decisions that affect their health.\textsuperscript{150} Women around the world at every socio-political level find themselves underrepresented in parliament and far removed from decision-making levels.\textsuperscript{151} In 2005, women hold barely 16 percent of parliamentary seats around the world.\textsuperscript{152} The factors that hamper or facilitate women’s political participation vary with level of socio-economic development, geography, culture, and the type of political system.\textsuperscript{153} Alhassan Imoro,\textsuperscript{154} has observed that the continued exclusion and marginalization of majority of women during decision-making is bad and does not create a strong and healthy democracy for the any country.\textsuperscript{155} There is need towards ensuring the participation of women in the public and private spheres of the nation’s economy,\textsuperscript{156} promote women’s participation in decision-making and election into political positions, as the situation called for a positive change for women in the political, economic and socio-cultural sectors of every economy.\textsuperscript{157} The exclusion of women from decision-making bodies limits the possibilities for entrenching the principles of democracy in a society, hindering economic development and discouraging the attainment of gender equality.\textsuperscript{158} In the Millennium Development Goals, women’s equal participation with men in power and decision making is part of their fundamental right to participate in political life, and at the core of gender equality and women’s empowerment.\textsuperscript{159}

9. Seclusion of Women

Seclusion of Women refers to various practices designed to protect women from men in traditional societies, including confining women to the company of other women and close male relatives in their home or in separate female living quarters, veiling, self-effacing mannerisms,\textsuperscript{160} and the separation of men and women in public places.\textsuperscript{161} These practices reflect both social and religious custom.\textsuperscript{162} The practice is for totally confining women at home and denied her the opportunity from going out for significant and urgent needs, as a result of

\textsuperscript{148} Okafor, G. O, Op:Cit.
\textsuperscript{150} Ibid.
\textsuperscript{152} Ibid.
\textsuperscript{153} Ibid.
\textsuperscript{155} Ibid.
\textsuperscript{156} Ibid.
\textsuperscript{161} Ibid.
\textsuperscript{162} Ibid.
adhering to traditional practices. Many women who are confined to home lack access to education, ante-natal clinics and when they do, such attendance might be delayed. It also takes the form physical segregation of the sexes and the requirement that women cover their bodies so as to cover their skin and conceal their form. A woman's withdrawal into the practice usually restricts her personal, social and economic activities outside her home. By restricting women's mobility, the practice places severe limits on women's ability to participate in gainful employment and to attain economic independence. However, due to economic needs and shifts in gender relations, some women are compelled to break the practice to gain income. Women from lower socioeconomic backgrounds tend to observe seclusion less because they face greater financial pressures to work and gain income.

10. Economic Rights

Today, women represent approximately 70 per cent of the 1.2 billion people living in poverty throughout the world. Inequality with respect to the enjoyment of economic, social and cultural rights is a central fact of women’s lives in every region of the world. Ongoing inequality in the sphere of economic, social and cultural (ESC) rights contributes to the continuing subordination of women and makes them especially vulnerable to violence, exploitation and other forms of abuse. Women have the potential to change their own economic status, as well as that of the communities and countries in which they live. Yet more often than not, women’s economic contributions go unrecognized, their work undervalued and their promise unnourished. Unequal opportunities between women and men continue to hamper women’s ability to lift them from poverty and gain more options to improve their lives. Inequalities persist in the way paid and unpaid work is divided between women and men; in the fact that women remain the sole caregivers at home, and in their limited access to resources. Women should be afforded their right to own property and other moveable properties and dispose of these as and when they wish. Woman has the right to undertake economic activities, Khadija the first wife of the Prophet of Islam was a wealthy business woman. Madina also had Muslim women merchants which include Quaillah Umm Bani Atmara.

12. Political Rights

Women have the right to participate to vote and be voted for, to hold and express political opinion in public and private. Men dominate the political arena; men formulate the rules of

164 Ibid.
166 Ibid.
171 Ibid.
172 Ibid.
173 Ibid.
175 Ibid.
177 Ibid.
178 Shvedova, N, Op:Cit.
the political game; and men define the standards for evaluation. The existence of this male dominated model results in women either rejecting politics altogether or rejecting male-style politics. In theory, the right to stand for election, to become a candidate and to get elected is based on the right to vote. The reality is, however, that women’s right to vote remains restricted, principally because the candidates are mostly male. This is true not only for partial and developing democracies, but for established democracies as well. The low level of women’s representation in some parliaments should be considered a violation of women’s fundamental democratic right and, as such, a violation of their basic human rights. This unequal rate of representation in legislative bodies signifies that women’s representation, rather than being a consequence of democratization, is more a reflection of a status quo. Among all national parliaments, Rwanda is now closest to reaching equal numbers of men and women: 48.8 percent of seats are held by women, surpassing even the proportion in the Nordic countries. This is largely because of a constitutional quota which reserves 24 of the 80 seats in the lower house for women. Women in the Rwandan upper house are also guaranteed 30 percent of the seats.

1.5 CONCLUSION:
Gender differences between men and women have been given historically as the basis for discrimination against women. Gender discrimination turns the job seekers and employees’ emotionally brittle, simple peace loving people transform into paranoid and suspicious, fearful and angry individuals. Elimination of gender discrimination is crucial for the satisfaction and motivation, commitment and enthusiasm and for protecting the constitutional rights of the women. Discrimination in employment must be discouraged through the enactment of various legislations and by effective and efficient enforcement mechanisms. The fundamental Human Right enshrined by the constitution will only be of utmost advantage to humanity when the main source of sustainability which is employment has not been hindered. Time has come for Nigerian as a nation to reinforce its fight against discrimination in employment to adopt and implement policies that will totally eradicate it. This can only be achieved with the involvement of the human Right organizations, labour organizations, and other NGO’s who should also take it as a challenge. Free legal services should be afforded to those who cannot afford to make our society a more litigation in seeking for redress. By allowing employment discrimination to continue existing in the society the end result is an increase in poverty, inequality, disutility and other impacts which are legion.

1.6 RECOMMENDATIONS
Measures of gender equality include access to basic education, health and life expectancy, equality of economic opportunity, and political empowerment. Although there have been evident progresses, many alarming issues regarding gender discrimination still prevail today. In its oversight functions the National Assembly should devote more attention to ensure that government agencies respect the rights of women in line with Nigerian laws. Labour unions and other civil society organizations should support the National Assembly by exposing acts of discrimination of women’s right.

179 Ibid.
180 Ibid.
182 Ibid.
183 Ibid.
184 Ibid.
186 Matland, R. E., Op:Cit.
Nigerian women who suffer acts of discrimination have a duty to speak out boldly about discrimination practices in the Nigerian workplace as this would strengthen efforts to address practices that breach the rights of women. The remedy would also have to emanate from the cultural tradition of citizenry; accordingly, the collaboration of local communities, institutions, national authorities and international bodies is essential to influencing change and promoting the value of women. NGO’S and other humanitarian organization should ensure that the practice of hiring and firing is prohibited in discriminating against women.

If an employer interviewed both a male and a female with equal qualifications, but chose to hire the male because certain clients are more comfortable working with a male, if an employer chooses to fire a woman who more senior than a man with equal qualifications to cut cost. Severe punishment should be provided for sexual harassment that is for both direct and indirect sexual advances that create a hostile work environment for employees of both genders. Pregnancy, childbirth, and related medical conditions must be treated in the same way as other temporary illnesses or conditions.

The significance of equality should start in the classroom by teaching children that gender discrimination is not right. If girls are offered equal opportunities both academically and in their careers, they will grow up to enter the workplace assured that their talents and abilities will not be overlooked.

States should develop civil, labour and administrative panels in employment legislations to investigate reports of discrimination against women in the public service, punish and provide redress to women who are subjected to discrimination in employment. The National Assembly joint committees should consider reviewing the labour laws and enabling Acts of government agencies to ensure that legal loopholes, which could enable organizations to implement gender-based discriminatory practices, are blocked.