

CHAPTER 3

‘A MYTHICAL OF REVIVAL AND SURVIVAL’: DECONSTRUCTING WOMEN’S POLITICAL PARTICIPATION IN POST-1999 NIGERIA

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1 Introduction

The gendered character of politics and spaces of policy formulation and decision making is an extraordinarily common feature the world over. The practice is so common that the state and society, especially in the Global South, may be classified as a perpetuation of masculinity, and at worst a product of male supremacy. Since nearly every society in the world depicts attributes of gender apartheid and patriarchy in political spaces, the question of women’s political participation has become an important one for many scholars. Perhaps not different from the practices in Africa and beyond, Nigeria unsurprisingly remains characterised by conservative ideologies that not only undermine equality between sexes, but equally legitimises and preserves patriarchy to the exclusion of women. While this ideological practice permeates all aspects of the Nigerian society, its effects are most persistent and visible in political structures, processes, and organs of decision making. It therefore is not surprising that the underrepresentation of women in political structures and processes in Nigeria remains one of the pervasive challenges facing the country since its return to democracy in 1999.

Women’s rights to political participation and representation are captured in almost every international (human rights) treaty, beginning with the Universal Declaration of Human Rights (Universal Declaration) of 1948, and other core international human rights treaties that have swept the international arena since the early 1960s, including instruments at the regional and sub-regional levels. Women’s political emancipation was so

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important a matter that it made it to the 12 critical areas of the Beijing Declaration and Platform for Action, identified by the women's rights movement that participated in the Fourth World Conference on Women held under the auspices of the Commission on the Status of Women in late 1995. Although modest, locally too, women's rights to political participation have been formally recognised through the Constitution and various legislative instruments passed since 1999. Yet in practice women remain largely marginalised and excluded from governance structures and processes involving both domestic and foreign policy formulation and implementation. This is the case despite the fact that these processes and their outcomes often have direct and, at the very least, disproportionate impacts on women.

Given the challenges affecting women's participation in Nigeria's political environment, there remains a need to study and appreciate this issue. A study such as this is needed as it is birthed from the necessity of distilling the issues, and assessing the needs of women in relation to participation in processes of authority. There also essentially is a need to document country-specific studies on the experiences of women in politics and decision-making processes in order to illustrate (comparable) lessons that can be used in new strategies for women's emancipation. Studies of this nature should also be seen as a means to dismantle and question the general patriarchal nature of state and society.

Using an analytical doctrinal approach, rooted in a socio-legal perspective, this chapter analyses the status of women in political organs in Nigeria since 1999. We do so through the aid of relevant secondary literature. Our focus is on women's representation and participation in the three main arms of government, namely, the executive, the legislature and the judiciary. To this end, 'political participation' as referred to and applied in this chapter is deduced from General Recommendation 23 on Political and Public Life by the Committee on the Elimination of All Forms of Discrimination against Women (CEDAW Committee). In terms of this delineation, political participation refers '[t]o the exercise of political power, in particular the exercise of legislative, judicial, executive and administrative powers. The term covers all aspects of public administration and the formulation and implementation of policy at the international, national, regional and local levels.'¹ The chapter argues that politics in Nigeria is gendered to the detriment of women and that the minimalist position of women in the three main arms of government is a structural issue deeply rooted in socio-economic determinants. To this end, we argue for legal reforms aimed at catalysing women's representation in

1 See para 5 of CEDAW General Recommendation 23: Political and Public Life (1997), <http://www.refworld.org/docid/453882a622.html> (accessed 10 April 2018). Although excluded in this chapter, the concept also includes many aspects of civil society, including public boards and local councils and the activities of organisations such as political parties, trade unions, professional or industry associations, women's organisations, community-based organisations and other organisations concerned with public and political life.

the different arms of government.

2 The legal context and contours of women's political rights

Women's rights to political participation and public life carry with them a particular historical and gender context. Generally, women's claim for political participation, particularly the right to vote, was married to the global civil rights movements of the early eighteenth and nineteenth centuries, which called for fundamental civil liberties. Historically, the call for women's rights to vote and to participate in public life was a claim for the recognition of their fundamental rights as citizens in their countries. The basis of such a claim was that women, as did men, had the full capacity to decide their fate and shape their life's course. Second, the call for women's political rights was also rooted in gender, particularly the achievement of equality before the law between men and women. Women's exclusion from political process was seen as a means of controlling and subordinating them. The claim for political rights therefore was a legal claim for political recognition as equals with men. By participating in political processes, women could be recognised as equal citizens with rights in and of themselves as women.

Most independent countries enacted women's suffrage in the inter-war era. In Africa such recognition began as early as 1919 with white women winning the vote in Southern Rhodesia (Zimbabwe).² Sierra Leone and South Africa both followed suit in 1930.³ With the formation of the Organisation of African Unity (OAU) in 1963, women's rights to political participation became widely accepted with more and more states extending the franchise to women. The increasing role women played in the decolonisation processes that swept the continent from the early 1950s onwards, coupled with their contributions in liberation and guerrilla movements, contributed in dissipating the trepidation that surrounded women's entry into the public arena of politics and the economy. It was almost as if the recognition of women's rights to participate in political processes was a sentimental reward for their role and status in liberation struggles on the continent.

Although women's rights to political participation initially had a limited connotation, namely, the right to vote, innate in this right was the wider understanding that such a right would inherently mean the

2 Ethel Tawse Joliie became the first woman elected to the Southern Rhodesia legislature and the first in the Commonwealth besides the few that formed part of the Westminster administration in Britain.

3 Women generally were allowed to vote in Sierra Leone. The first occasion where women were able to vote was during the elections of the Nova Scotian settlers' area at Freetown. It was also widely accepted that all heads of households, including women who headed households, could vote in Sierra Leone. In South Africa white women aged 21 and above were allowed to vote as from 1933 in terms of the Women's Enfranchisement Act of 1930.

full participation of women in political processes and decision-making structures such as public governance. Such a broader conception became much clearer with the adoption of the International Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), General Recommendation 23 on Political and Public Life in 1997. In terms of this General Recommendation, the right to political participation includes the right to vote and to be elected; to participate in the formulation of government policy; to hold public office; and to perform all public functions that are inherent to such an office, including full participation in international and non-governmental political organs and processes.⁴

Within the international legal framework, the recognition of women's political liberties came about with the adoption of the Universal Declaration in 1948. Article 21 of the Universal Declaration in a more neutral diction provides that '[a]ll people have the right to participate in the government of their country, and to access public services'. This right further gained currency with the United Nations General Assembly's adoption of the Convention on the Political Rights of Women (CPRW) on 31 March 1953.⁵ The CPRW forms part of the first generation of legal instruments that were passed by the United Nations General Assembly with the aim of evening the status of men and women.⁶ Being the first international instrument protecting the equal rights of women to political and public life, the CPRW is a civil codification of such rights. Its effect is that it places a direct obligation on states to integrate women in their civic and politically oriented decision-making organs and processes. Relatively a short text, the CPRW provides for three basic political amenities, namely, women's entitlement to vote in all elections;⁷ that they shall be eligible for election to all publicly-elected bodies;⁸ and further that they shall be entitled to hold public office and to exercise all public functions, on equal terms with men, without any discrimination.⁹ These basic rights were further cemented in other international conventions, including the 1966 International Covenant on Civil and Political Rights (ICCPR); the Vienna Declaration of Human Rights (1993); and the Beijing Declaration and Platform for Action (1995). Regionally in Africa the right to political participation was further embedded in the African Charter on Human and Peoples' Rights (African Charter),¹⁰ and the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (African Women's Protocol),¹¹ adopted in 1981 and 2003 respectively.

4 See generally CEDAW General Recommendation 23 (n 1) 1-9, https://www.nichibenren.or.jp/library/ja/kokusai/humanrights_library/treaty/data/CEDAW_GC_23e.pdf (accessed 1 July 2018).

5 The Convention entered into force on 7 July 1954.

6 Some of these 'first generation' instruments passed by the UN General Assembly with a focus on women's emancipation include the Convention on the Nationality of Married Women (1958) and the Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages (1964).

7 Convention on the Political Rights of Women (1953), art I.

8 Convention on the Political Rights of Women (n 7) art II.

9 Convention on the Political Rights of Women art III.

10 See art 13 of the African Charter on Human and Peoples' Rights, 1981.

11 See art 9 of the African Women's Protocol.

The political rights of women also gained momentum with their confirmation in CEDAW which was adopted in 1979, in the wake of the sensation that surrounded the Copenhagen World Women's Conference of 1980. A wider-reaching and more comprehensive protection of women from discrimination and inequality, CEDAW outlines the key fundamental human rights of women. It consists of an assortment of both civil and political rights, as well as economic, social and cultural rights. Although widely ratified,¹² it remains one of the few treaties that have received far-reaching state reservations to its content.¹³

Articles 7 and 8 of CEDAW provides for women's rights to political and public life.¹⁴ While the former (article 7) focuses on political participation at the municipal level, the latter (article 8) emphasises women's integration at the international level. The two provisions state:

Article 7

States Parties shall take all appropriate measures to eliminate discrimination against women in the political and public life of the country and, in particular, shall ensure to women, on equal terms with men, the right:

- (a) to vote in all elections and public referenda and to be eligible for election to all publicly elected bodies;
- (b) to participate in the formulation of government policy and the implementation thereof and to hold public office and perform all public functions at all levels of government;
- (c) to participate in non-governmental organisations and associations concerned with the public and political life of the country.

Article 8

States Parties shall take all appropriate measures to ensure to women, on equal terms with men and without any discrimination, the opportunity to represent their governments at the international level and to participate in the work of international organisations.

A closer reading of these two provisions discloses one or more of the following. First, that its basis is premised on the principles of equality and non-discrimination. Second, the scope of protection offered is not limited to political participation in the narrower political sense but all forms of decision-making processes where the exercise of state authority is at play. Third, both qualitative and quantitative representation is envisaged, and the state accordingly is obligated to ensure its fulfilment.

12 The current state of ratification includes 187 countries.

13 See generally LM Keller 'The impact of states parties' reservations to the Convention on the Elimination of All Forms of Discrimination against Women' (2014) 2 *Michigan State Law Review* 309; A Bonner 'Muslim states reservation to CEDAW and possibilities for the reconciliation of Shari'a law with international women's rights norms' (2009) 3 *Hong Kong Journal of Legal Studies* 27; M Freeman 'Reservations to CEDAW: An analysis for CEDAW' Discussion paper for United Nations Children's Education Fund (UNICEF) (2009) 1.

14 Clearly art 7 is a replica of the entirety of the CPRW of 1953, with the only exception of it expanding on the participation of women in non-governmental and international organisations.

Notably, the wording of article 7 denotes the notion that the inclusion of the right to political participation for women seeks to do away with the private/public binary often drawn on the role (and status) of men and women. The CEDAW Committee in its 1997 General Recommendation 23 on Political and Public Life aptly captures this point by stating:¹⁵

Public and private spheres of human activity have always been considered distinct, and have been regulated accordingly. Invariably, women have been assigned to the private or domestic sphere, associated with reproduction and the raising of children, and in all societies these activities have been treated as inferior. By contrast, public life, which is respected and honoured, extends to a broad range of activity outside the private and domestic sphere. Men historically have both dominated public life and exercised the power to confine and subordinate women within the private sphere.

Although in principle the public-private dichotomy is meant to draw a distinction between the basic features of private and public spaces and the interaction between the two systems, in practice this distinction displays a gender dimension that disproportionately divides state power. As rightly observed by Sullivan, '[t]he demarcation of public and private life within society is an inherently political process that both reflects and reinforces power relations, especially the power relations of gender, race, and class'.¹⁶ The private-public socialisation and engendering of society has not only left women isolated from authoritative processes of governance but has also resulted in the use and abuse of the power that the 'public realm' enjoys to suppress and control the already terse economic, political, and social powers, if any, of the 'private realm'.

The inclusion of a provision of the nature of articles 7 and 8 of CEDAW begs the question of why states should emphasise the emancipation of women within political and decision-making spaces. Put somewhat differently, why is it important that women are equitably represented in political and decision-making processes. The most immediate response to this question is that the inclusion of women contests inequality and brings to the fore women and their capabilities. Their exclusion preserves the inherited male-dominated architecture of state and society. We run the risk of ensuring that the state, including its structures and processes remains masculine; its legitimacy masculine; and the perpetuation of masculine strengths which does not in many ways represent the true underlying workings of the society. In principle, as aptly held by Charlesworth, 'long-term male domination of all bodies wielding political power [*sic*] means that issues traditionally of concern to men are seen as general human concerns; 'women's concerns', by contrast, are regarded as a distinct and limited category'.¹⁷ Social concerns, such as sexual violence, of which women generally are victims, become side-lined and (un)regulated because

15 CEDAW General Recommendation 23 (n 1) para 8.

16 D Sullivan 'The public/private distinction in international human rights law' in J Peters & A Wolper (eds) *Women's rights, human rights: International feminist perspectives* (1995) 128.

17 H Charlesworth 'Human rights as men's rights' in Peters & Wolper (n 16) 105.

they hardly affect, or interest, the male who holds public regulatory power. Women's inclusion also is a matter of human rights and justice.¹⁸ Furthermore, women bring with them a set of values and experiences not only relevant for their empowerment and but can only be best expressed by them because of the inherent experiences they have because of their sex. Their inclusion thus is evidence of a 'genuine representative democracy'.

The resounding research by the American psychologist and feminist, Carol Gilligan, best known for her work on ethics, women's psychology and girls' development,¹⁹ has long confirmed this hypothesis. In her 1982 classical study titled *In a different voice: Psychological theory and women's development*, Gilligan makes the astute point that there are gender differences on a person's moral development and reasoning. According to Gilligan justice and individual rights are perceived by men as essential elements for policy formulation and general reasoning; whereas to women, questions of care and relationships are rather essential to such reasoning. Although Gilligan's theory has not escaped serious questioning,²⁰ by highlighting the gendered differences in human psychology, her work to a considerable extent shows that women, if they wish, can 'add value' to structural processes of society given the 'care-justice distinct' between females and males. Put somewhat differently, Gilligan's theory makes the astute point that the inclusion of women automates reasoning and contributions that are social welfare-based and economically inclusive.

3 Domestic and regional legal frame work for women's political participation in Nigeria

The extant 1999 Constitution of the Federal Republic of Nigeria ushered in the country's Fourth Republic on 27 May 1999. The 1999 Constitution expresses supremacy over every other law in the land, authorities and persons.²¹ In Chapter IV it provides for 'Fundamental Rights'. The rights

18 A Phillips 'Democracy and representation: Or, why should it matter who our elected representatives are?' in A Philip (ed) *Feminism and politics: Oxford readings in feminism* (1998) 224.

19 See generally C Gilligan & DAJ Richards *The deepening darkness: Patriarchy, resistance, and democracy's future* (2009) 1; C Gilligan *The birth of pleasure* (2002) 1; A Alfred et al *Between voice and silence: Women and girls, race and relationships* (1995); L Brown & C Gilligan 'Meeting at the crossroads: Women's psychology and girls' development' (1993) 3 *Feminism and Psychology* 11; C Gilligan *In a different voice: Psychological theory and women's development* (1982) 1; C Gilligan & JM Murphy 'Moral development in late adolescence and adulthood: A critique and reconstruction of Kohlberg's theory' (1980) 23 *Human Development* 77-104; C Gilligan 'Woman's place in man's life cycle' (1979) 49 *Harvard Educational Review* 431; C Gilligan & L Kohlberg 'The adolescent as a philosopher: The discovery of the self in a post-conventional world' (1971) 100 *Daedalus* 1054.

20 See eg D Nails 'Social-scientific sexism: Gilligan's mismeasure of man' (1983) 50 *Social Research* 643; JM Broughton 'Women's rationality and men's virtues: A critique of gender dualism in Gilligan's theory of moral development' (1983) 50 *Social Research* 597.

21 Constitution of Nigeria, 1999, sec 1(1)(3).

contained in chapter IV may be classified as political and civil rights,²² and they include the right to life;²³ the right to freedom of thought, conscience and religion;²⁴ the right to peaceful assembly and association;²⁵ and the right to freedom of movement.²⁶

As far as political participation is concerned, the 1999 Constitution does not *expressly* provide for the 'right to vote and be voted for'. Section 40 grants 'every person' the right to assemble and associate freely and also to 'form or belong to any political group'. Section 77(2) generally guarantees every citizen who has attained the age of 18 years the entitlement to register as a voter during an election. Other sections, such as sections 117(2), 132(5) and 178(5), entitle every citizen of 18 years and above to register as a voter for elections into the legislative house, the presidency and the governorship seats. Ugochukwu argues that there is a difference between the 'right to vote' and the 'right to register as a voter'. He further contends that the Nigerian Constitution simply provides for the latter and not the former.²⁷ From the above, it is noted that the 1999 Constitution provides no specific protection for the protection of women's rights to political participation as the rights guaranteed are couched in gender-neutral terms to include 'every person' or 'every individual'. The 1999 Constitution also provides the necessary qualifications to be met by 'a person' in order to be eligible to be voted into various political positions, such as member of the National Assembly, member of a House of Assembly; the President; a governor, and so forth.²⁸

It should be stated that although the 1999 Constitution does not provide for affirmative action for women as regards political participation, it provides in its political objectives in section 15(2) that national integration shall be encouraged actively and 'discrimination on the grounds of place of origin, sex, religion, status, ethnic or linguistic association or ties shall be prohibited'.²⁹ The social objectives in section 17(1)(a) also provide that every citizen shall enjoy 'equality of rights, obligations and equality before the law'. These provisions in no way are sufficient, especially since sections 15 and 17 are contained under the Fundamental Objectives and Directive Principles of State Policy.

The constitutions of political parties also are worth looking into. The constitution of the People's Democratic Party (PDP) 2012 (as amended)

22 The 1999 Constitution provides for what can be termed socio-economic rights under its Fundamental Objectives and Directive Principles of State Policy in Ch II. These rights have been deemed *prima facie* non-justiciable due to the provision of sec 6(6)(c) of the 1999 constitution which ousts the courts' jurisdiction in 'issues or questions' on 'act or omission' regarding Ch II of the 1999 Constitution.

23 Constitution of Nigeria, 1999, sec 33.

24 Constitution of Nigeria, 1999, sec 38.

25 Constitution of Nigeria, 1999, sec 40.

26 Constitution of Nigeria, 1999, sec 41.

27 B Ugochukwu 'Ballot or bullet: Protecting the right to vote in Nigeria' (2012) 12 *African Human Rights Law Journal* 539.

28 Constitution of Nigeria, 1999, secs 65, 106, 131, 177 respectively.

29 The Constitution of Nigeria in sec 42 also guarantees the freedom from discrimination on the ground of 'ethnic group, place of origin, sex, religion or political opinion'.

provides that the party shall encourage the representation of women at all levels by supporting their emancipation and participation.³⁰ It also provides that 'in the nomination of party offices, not less than 35% shall be reserved for women'.³¹ It further specifies the number of seats to be compulsorily reserved for women within the party.³² The constitution of the All Progressive Congress (APC) as one of its aims promises to 'protect the interest of farmers, workers, women, youth and persons with disabilities' and to obtain for them 'full participation in the Nigerian enterprise'.³³ It goes on to provide specific roles to be occupied by women within the party; such roles include state, zonal and national women's leaders.³⁴ The constitution of the All Progressive Grand Alliance (APGA) provides that the APGA aims to 'uphold the Beijing Declaration on affirmative action for women'.³⁵

The 2010 Electoral Act in section 12 provides the criteria for 'a person' to be eligible to be registered as a voter in Nigeria. Some of the criteria include being a Nigerian citizen of 18 years and above. The Registration of Voters Act contains a similar provision in section 1(2).

Over time, some policies have been developed which intend to promote the political participation of women. The National Gender Policy (NGP) was developed in 2006. Objective five of the NGP aims to 'achieve minimum threshold of representation for women'. One of the targets set by the NGP to achieve this objective is to 'adopt special measures, quotas and mechanisms for achieving minimum critical threshold of women in political offices, party organs and public life by pursuing 35% affirmative action in favour of women to bridge gender gaps in political representation in both elective and appointive posts at all levels by 2015'.³⁶ It is observed that the proposed 35 per cent affirmative action contained in the National Gender Policy is higher than the 30 per cent contained in the Beijing Declaration of 1995.

The Gender Policy of the Independent National Electoral Commission (INEC) is another important policy. It was adopted in 2014 to complement the National Gender Policy of 2006.³⁷ One of the guiding principles of the INEC Gender Policy is to mainstream gender in politics by establishing a gender responsive framework in all electoral processes.³⁸ Some of the objectives of the INEC Gender Policy is to ensure that all 'INEC policies, plans, processes and operations are gender responsive',³⁹ and also to

30 Constitution of PDP, sec 6(5).

31 Constitution of PDP, sec 6(7).

32 Constitution of PDP, secs 16(1)(n); 17(1)(i); secs 20(1)(i), 23(1)(j); 25(1)(l); 27(1)(j); 31(1)(t); 32(1)(e); 43.

33 Constitution of APC, art 7(vii).

34 Constitution of APC, arts 12(6)(vi)(xx); 14(20).

35 Constitution of APGA, art 6(i).

36 See generally http://www.aacoalition.org/national_policy_women.htm (accessed 16 August 2018).

37 INEC Gender Policy 2014 1.

38 INEC Gender Policy 2006, Guiding Principle (d).

39 INEC Gender Policy 2006, Objective A.

maintain gender balance and equity as regards identification of candidates within political parties.⁴⁰ The INEC Gender Policy also promises to support an 'enabling environment to achieve gender equality and bridging gaps in political representation in elective posts at all electoral levels'.⁴¹

The Gender and Equal Opportunities Bill (the GEO Bill) of 2016 is worth mentioning. Section 6 of the GEO Bill provides for the elimination of discrimination against women in political and public life. Section 6(a) provides:

Every organ or agency of government, public or private institution, commercial or corporate body, community, or other entity ... shall ensure to women on equal terms with men, the right to: participate fully in all political activities, including the right to vote and be voted for in all elections and public referenda, and to be eligible for election to all publicly elected offices and bodies without any restriction, limitation or barriers whatsoever.

On 15 March 2016 the Nigerian Senate rejected the first version of the GEO Bill.⁴² The rejection of the Bill surprisingly was based on religious and cultural values, as senators claimed that it was 'unAfrican'. Furthermore, the composition of the Senate reflected eight women out of 109 members, thus giving room for the dissenting male views to prevail.⁴³ A watered-down version of the Bill was subsequently resubmitted to the National Assembly as the GEO Bill of 2016. As at 2017, it had successfully scaled a second reading in the Senate and was forwarded to the Committee on Judiciary, Human Rights and Legal Matters.⁴⁴ Since then the debate over the GEO Bill 2016 persists with much opposition still on religious and cultural grounds.⁴⁵

Regionally, the ECOWAS Protocol on Democracy and Good Governance (ECOWAS Democracy Protocol) contains a clause that expressly provides for political participation of women in member states. Article 2(3) provides:

Member States shall take all appropriate measures to ensure that women have equal rights with men to vote and be voted for in elections, to participate in

40 INEC Gender Policy 2006, Objective B.

41 INEC Gender Policy 2006, Objective C.

42 T Oshi 'Nigerian senate rejects Bill seeking gender equality in marriage' 15 March 2016, <https://www.premiumtimesng.com/news/top-news/200202-nigerian-senate-rejects-bill-seeking-gender-equality-marriage.html> (accessed 7 February 2019).

43 Gender Parity and Prohibition of Violence against Women Bill, <http://lawpavilion.com/blog/gender-parity-and-prohibition-of-violence-against-women-bill/> (accessed 6 February 2019).

44 'IMF'S Advice on Gender Equality, the Economy' 20 August 2018, <https://www.sunnewsonline.com/imfs-advice-gender-equality-economy/> (accessed 6 February 2019).

45 N Adebawale 'Group threaten no vote over Gender Equality Bill' 19 January 2019, <https://www.premiumtimesng.com/health/health-news/306550-groups-threaten-no-vote-over-gender-equality-bill.html> (accessed 7 February 2019); H Adebayo 'Reworked Gender Equality Bill gets second reading in Nigerian Senate' 30 September 2016, <https://www.premiumtimesng.com/news/more-news/211677-reworked-gender-equality-bill-gets-second-reading-nigerian-senate.html> (accessed 29 June 2018); 'FIDA urges NASS to pass Gender Equality Bill' 15 January 2018, <https://www.vanguardngr.com/2018/01/fida-urges-nass-pass-gender-equality-bill/> (accessed 29 June 2018).

the formulation of government policies and the implementation thereof and to hold public offices and perform public functions at all levels of governance.

Article 14(2) of the ECOWAS Democracy Protocol further provides that the members of Electoral Observer and Supervisory Mission shall include women. Article 40 states that the 'development and promotion of the welfare of women are essential factors for development, progress and peace in the society'.

The 2015 ECOWAS Supplementary Act Relating to Equality of Rights between Women and Men for Sustainable Development in the ECOWAS Region (ECOWAS Supplementary Act) provides that member states shall set up affirmative action that would ensure effective gender equality in decision-making positions in both public and private sectors.⁴⁶ Furthermore, member states are required to take all necessary measures at all levels to 'establish the critical link between gender-balanced representation, good governance, democracy and sustainable development'.⁴⁷ Article 12(1) clearly states that member states are required to adopt legislative measures and other strategies that would ensure that men and women participate in electoral processes equally. These processes include the administration of elections and voting. The ECOWAS Supplementary Act also mandates member states to ensure that both men and women participate equally 'in the appointment of political representatives and decision making through the adoption of laws and implementation of policies, strategies and programmes'.⁴⁸ One of the aims of these policies, strategies and programmes should be to strengthen the capacity of women to participate effectively through training and raising awareness on gender issues.⁴⁹

ECOWAS Gender and Election Strategic Framework and Action Plan of 2017 (ECOWAS GESF) is a five-year Action Plan, scheduled to run from 2017 to 2022.⁵⁰ It advocates the equal participation of women in various political arenas in West Africa and maps out strategies to achieve this. Two of the main objectives of the ECOWAS GESF are 'to improve the integration of gender equality perspectives in political parties' governance processes, structures and systems'⁵¹ and also to 'support gender dimension in the activities in the electoral process'.⁵²

4 The status of women within the political and decision-making spaces

This part examines the actual political participation of women in

46 ECOWAS Supplementary Act, art 11(1).

47 ECOWAS Supplementary Act, art 11(2).

48 Art 12(2).

49 Art 12(2)(a).

50 ECOWAS Commission *ECOWAS Gender and Election Strategic Framework and Action Plan* (2017) vi.

51 ECOWAS Commission (n 50) 2.

52 As above.

governance structures since Nigeria's return to democracy in 1999. It should be noted that the 1999 Constitution divides the powers of the Federal Republic of Nigeria into three main arms of the federal government, namely, the executive, the legislature and the judiciary.⁵³

4.1 Executive

The executive power of the federation is vested in the President, and this may be exercised directly by him or through the Vice-President and ministers of the government.⁵⁴ The executive power of a state is vested in the governor of the state and may be exercised by him directly or through the Deputy Governor and commissioners of the government of that state.⁵⁵

It is glaring that no woman has ever been elected as President or even governor, although 2007 saw six women serving as deputy governors (see annexure for detailed figures). The poor number of elected women could again perhaps be tied to the number of female candidates who vied for the positions. An analysis of the 2015 general elections reveals a low record of women coming out for elective positions. Out of the 14 candidates that ran for the office of President, Comfort Oluremi Sonaiya of the KOWA party was the only female presidential aspirant.⁵⁶ She ended up in the twelfth position with 13 076 votes out of a total of 29 432 083 votes cast.⁵⁷ This is no improvement from 2011 numbers, which recorded only one female presidential aspirant out of 20 presidential candidates.⁵⁸ The 2019 election witnessed an increase in the number of women vying for the highest political seat in the land. These include female presidential aspirants Angela Johnson of the Alliance for United Nigeria; Eunice Atuejide of the National Interest Party; Rabia Yasai Hassan Cengiz of the National Action Council; and Prof Funmilayo Adesanya-Davies of the Mass Action Joint Alliance.⁵⁹ In a shocking development, Dr (Mrs) Oby Ezekwesili, one of the top female presidential race contenders, withdrew from the presidential race barely a month before the 2019 elections.⁶⁰

In an analysis of the 2015 election, Eme notes that out of the 380 candidates contesting for the gubernatorial election in 29 states of the Federation, only 25 female candidates ran for the governorship position

53 Constitution of Nigeria, 1999, secs 4, 5, 6.

54 Constitution of Nigeria, 1999, sec 5(1).

55 Constitution of Nigeria, 1999, sec 5(2).

56 See generally http://www.inecnigeria.org/?page_id=31 (accessed 14 August 2018).

57 'Results for 2015 presidential general elections', http://www.inecnigeria.org/?page_id=31 (accessed 14 August 2018).

58 O Awofeso & TI Odeyemi 'Gender and political participation in Nigeria: A cultural perspective' (2014) 4 *Journal Research in Peace, Gender and Development* 107.

59 See generally <http://www.inecnigeria.org/elections/election-candidates/> (accessed 7 February 2019).

60 A Adeoye 'Bring Back our Girls activist Oby Ezekwesili withdraws from Nigeria's presidential race' 24 January 2019, <https://amp.cnn.com/cnn/2019/01/24/africa/oby-ezekwesili-quits-nigeria-elections/index.html> (accessed 6 February 2019).

and 60 female candidates were selected as deputy governors.⁶¹ This actually is an improvement on the 2011 numbers which revealed a number of 13 female gubernatorial aspirants and 58 female candidates selected as deputy governors.⁶² The year 2015 would have seen the first female governor in the person of Senator Aisha Alhassan of Taraba State. She was declared the winner of the 2015 gubernatorial election by the Taraba State Governorship Election Tribunal on 11 November 2015, having ruled that her PDP opponent Governor Dairus Ishaku had not been validly nominated. This decision was later overturned by the Court of Appeal. This decision of the Court of Appeal was eventually upheld by the Supreme Court, hence marking an end to her battle for governorship.⁶³ Prior to 2019 elections, 80 women sought to vie for governorship seats and there were 275 women candidates for deputy governors in 28 states of Nigeria.⁶⁴

The National Bureau of Statistics (NBS) observed that this gender inequality in political representation extends to the local government. In 2007, out of the 688 local government area chairpersons⁶⁵ voted in, 510 were men and 56 women. This was even worse in 2011 with a record of only 30 women and 738 men out of a total of 768. The same abysmal representation was recorded in 2016 with a record of 740 men and 34 women out of 774 local government chairpersons.⁶⁶ In 1999, out of the 710 chairperson seats, only 10 women emerged and in 2003 out of 774 seats, only 15 women emerged as chairpersons of local government areas.⁶⁷

4.2 Legislature

The legislative power in Nigeria is vested in the National Assembly at the federal level and it is bicameral in nature, constituting of the Senate and the House of Representatives.⁶⁸ At state level, the legislative powers are vested in the House of Assembly of a state.⁶⁹ A look at the gender representation in the National Assembly reveals a dominance of male legislators in both the Senate and the House of Representatives. In the Senate, for instance; in 1999 the percentage of female legislators to males was 2,8 per cent to 97,2 per cent; while in 2003 it was 2,8 per cent to 97,2 per cent. The year 2007 recorded a marginal increase as the ratio stood at

61 OI Eme 'An analysis of Nigerian women's score card in 2015 polls' (2015) 4 *Singaporean Journal of Business Economics and Management Studies* 21.

62 Awofeso & Odeyemi (n 58) 107.

63 F Mac-Leva 'Mama Taraba: Is the political battle over' 28 February 2016, <https://www.dailytrust.com.ng/news/politics/-mama-taraba-is-the-political-battle-over/135615.html> (accessed 11 August 2018).

64 See generally <http://www.inecnigeria.org/elections/election-candidates/> (accessed 7 February 2019).

65 The local government areas in Nigeria are administered by a Local Government Council; headed by a chairperson. Constitution of Nigeria, 1999, sec 7(1).

66 National Bureau of Statistics *Statistical report on women and men in Nigeria 2015* (2016) 24.

67 Awofeso & Odeyemi (n 58) 107.

68 Constitution of Nigeria, 1999, sec 4(1).

69 Constitution of Nigeria, 1999, sec 4(6).

8,3 per cent to 91,7 per cent. As at 2015 to date the percentage of female legislators at the senate stands at 6,4 per cent. This is abysmally lower than the 35 per cent affirmative action. This is not peculiar to the Senate as even the House of Representatives and the Houses of Assembly across the federation record a numerical dominance of male legislators.

This low representation of women holding legislative power may be traced to the number of women vying for electoral positions. According to the candidates' sheet released by the Independent National Election Commission in 2015, out of 745 senatorial candidates in 2015, only 127 were women and 618 were men.⁷⁰ Out of the 1 319 candidates running for the House of Representatives, 267 of these aspirants were women and 1 052 were males.⁷¹ With less than 35 per cent of women vying for the elective position into the National Assembly, it would be impossible to attain a balanced representation of at least a 35 per cent representation of women after the election. When it comes to voters, it appears that the numerical disparity between men and women voters is not so wide. According to INEC, in the 2015 presidential and national assembly election, a total of 23 643 479 voters were accredited, with females being 10 209 455 and males being 13 434 024, that is, 44 per cent and 56 per cent respectively.⁷²

4.3 Judiciary

In Nigeria judges are not elected but appointed within certain criteria. For example, a judge of a High Court of a state is appointed by the governor of that state on the recommendation of the National Judicial Council.⁷³ That position also is open only for qualified legal practitioners in Nigeria who have been qualified for not less than ten years.⁷⁴ Justices into the highest court, the Supreme Court, usually are appointed by the President on recommendation of the National Judicial Council, and it is subject to the confirmation by the Senate.⁷⁵ Such a person must be a qualified legal practitioner in Nigeria and is not less than 15 years post call.⁷⁶ Although not an elective position, it is a fundamental aspect of power in Nigeria and there is a need for it to be examined briefly. The National Bureau of Statistics in its 2016 reports notes that male judges at both the federal and state level outnumber females. Below is a representation:

70 Senatorial Candidates Final List http://www.inecnigeria.org/?page_id=38&paged=13 (accessed 13 August 2018).

71 House of Reps Candidates, http://www.inecnigeria.org/?page_id=38&paged=13 (accessed 13 August 2018).

72 See generally <http://www.inecnigeria.org/wp-content/uploads/2017/04/Presidential-Election-Analysis-2015.pdf> (accessed 10 August 2018).

73 Constitution of Nigeria, 1999, sec 271(2).

74 Constitution of Nigeria, 1999, sec 271(3).

75 Constitution of Nigeria, 1999, sec 231(2).

76 Constitution of Nigeria, 1999, sec 231(3).

Judges in Nigeria (2010 – 2015)

| YEAR | WOMEN | MEN |
|------|-------|-----|
| 2010 | 209 | 603 |
| 2011 | 204 | 567 |
| 2012 | 214 | 624 |
| 2013 | 210 | 589 |
| 2014 | 209 | 618 |
| 2015 | 212 | 598 |

Source: National Bureau of Statistics⁷⁷

Examining the Supreme Court of Nigeria, on 8 June 2005 Justice Aloma Mariam Mukhtar became the first female to become a justice of the Supreme Court. She later rose to the rank of the Chief Justice of Nigeria before retirement.⁷⁸ So far, of the 92 retired justices of the Supreme Court only three are women.⁷⁹ Currently out of the 16 justices of the Supreme Court there are only three female justices: Justice Mary Peter-Odili; Justice Kudirat Kekere-Ekun and Justice Amina Adamu Augie.⁸⁰

History recalls some important women who played active roles in leadership in Nigeria. Pre-colonial Nigeria witnessed the reign of women political leaders such as Queen Amina of Zaria; Queen Emotan of the Ancient Benin Kingdom; Queen Moremi of Ile-ife; and Queen Idia of Benin Kingdom.⁸¹ Colonial Nigeria also witnessed the reign of women who were appointed as chiefs in the House of Chiefs.⁸² After independence in 1960, Chief (Mrs) Magaret Ekpo, Mrs Janet N Mokelu and Mrs Ekpo A Young contested elections and became members of the Eastern House of Assembly.⁸³ The participation of women in politics as far back as pre-colonial Nigeria should have been a good precedence to build upon for a more robust participation of women in present-day Nigeria; yet this appears not to be so. The next part examines factors that might be responsible for this.

77 National Bureau of Statistics (n 66) 24.

78 A Bamgboye 'Three women of the supreme court' *Daily Trust* 22 March 2016, <https://www.dailytrust.com.ng/news/law/three-women-of-the-supreme-court/138919.html> (accessed 10 August 2018).

79 Past justices of Supreme Court of Nigeria, <http://supremecourt.gov.ng/Profile/PastJustices?page=1> (accessed 12 August 2018).

80 Current justices of the Supreme Court of Nigeria, <http://supremecourt.gov.ng/Profile/justices> (accessed 12 August 2018).

81 O Oluyemi 'Monitoring participation of women in politics in Nigeria' (2016), https://unstats.un.org/unsd/gender/Finland_Oct2016/Documents/Nigeria_paper.pdf (accessed 10 August 2018).

82 Chief (Mrs) Magaret Ekpo and Janet Mokelu were appointed into the Eastern House of Chiefs; Chief (Mrs) Olufunmilayo Ransome Kuti was appointed as a Chief in the Western Nigeria House of Chiefs. Oluyemi (n 81).

83 Oluyemi (n 81).

5 Challenges for women's political emancipation in post-1999 Nigeria

The challenges facing women in their pursuit for political empowerment grounded in politics is as kilometric as the struggle was for the attainment of flag independence in 1959. However, historically the overall contributing factor that can be attributed for women's subordination in political life is the dependent capitalist (and patriarchal) nature of state and society generally in Nigeria. Mechanically linked to this overall structural challenge are socialisation, geo-ethnic politicisation and poverty, particularly the feminisation of poverty in Nigerian society. This is not to suggest that these are the only factors contributing to the marginalisation of women within political and decision-making organs and processes in Nigeria. On the contrary, such factors are multiple, contextual, and seldom interlinked. However, for purposes of this chapter we have identified these three factors because of their direct impact and effect on the political stratification of women in Nigeria. These challenges are each discussed below.

Gendered socialisation and its subsequent reinforcement in state and society contributes immensely to the low representation of Nigerian women in government. Inherent in such gendered socialisation is the divide often made between the roles of men and women and their respective terrains in which such roles are to be practised. This public/private dichotomy has had the effect of marginalising Nigerian women from the public space where politics, economics and law are the decisive sectoral factors. The CEDAW Committee's depiction of the public/private binary in its General Recommendation 23 on Political and Public Life suffices to explain the traditional connotations associated with this divide when it states:⁸⁴

[P]ublic and private spheres of human activity have always been considered distinct, and have been regulated accordingly. Invariably, women have been assigned to the private or domestic sphere, associated with reproduction and the raising of children, and in all societies these activities have been treated as inferior. By contrast, public life, which is respected and honoured, extends to a broad range of activity outside the private and domestic sphere. Men historically have both dominated public life and exercised the power to confine and subordinate women within the private sphere.

The private-public socialisation and engendering of society in Nigeria, as in most parts of both the developing and industrialised societies, have many implications for women. Not only has this private-public dichotomy left women isolated from authoritative processes of governance, it has also resulted in the use and abuse of the power that the so-called 'public realm' enjoys to suppress and control the already terse economic, political, and social powers, if any, of the 'private realm', predominantly dominated

84 CEDAW Committee General Recommendation 23 on Political and Public Life (1997) para 8, <http://www.refworld.org/docid/453882a622.html> (accessed 7 March 2018).

by women. Charlesworth aptly apprehends this point in her observation that 'the assignment of women to the domestic sphere entrenches their inequality with men, for women are regarded as dependent on men for subsistence. Moreover, the privacy of domestic life makes women's concerns invisible and ensures the preservation of the *status quo*'.⁸⁵

For many Nigerian women, as in most parts of the Global South, socialisation has carried with it the subtle message, which is further reinforced by patriarchal political standards which permeate the state and society in Nigeria, that politics is not for women. As Yusuf correctly stated, '[f]rom her earliest youth, a girl is subjected to a barrage of images, myths, and stereotypes portraying her as physically, mentally, and spiritually weak, limited in options and forced to seek a man to look after her'.⁸⁶ Closely linked to this prejudicial perception is the language factor often used in the socialisation processes. Writing about this in 1980, Maduewesi stated, rightly so, that the 'source of the greatest damage to women's self-esteem is through 'socially-mediated experience using language', from the 'millions of words (mothers expend) teaching their daughters their expected social roles'', to the 'loaded comments overheard by female children', such as 'He has no child, only daughters', and the common adage 'she's only a woman, what do you expect'.⁸⁷ This vicious cycle of social upbringing is further cemented by gender stereotypes, such as the idea that politicians must have the level of decisive authority and assertiveness – attributes often stereotypically associated with men – to succeed in political life. Added to this is the sexist and gendered nature of political processes. As Ayisha Osori, who ran for the People's Democratic Party's ticket for the House of Representatives but lost at her party's primaries states:⁸⁸

The narrative around women in politics in Nigeria is nasty and sexist. A common description for women who are involved in politics is 'prostitute', and the stories about female politicians and campaigners being raped and verbally and physically abused were scary. This discouraged many women who by virtue of their expertise and experience could contribute to governance and improving the lives of Nigerians.

As women are not readily perceived to be holders of such virtues, they are almost entirely excluded from political and decision-making processes. This is also a true state of affairs for many women in Nigeria.

Second, the struggle for women's political emancipation in Nigeria also carries with it a geo-political context. Ethnically and religiously Nigerian society is divided. For its part, most of Northern Nigeria is a society guided

85 H Charlesworth 'The public/private distinction and the right to development in international law' (1992) 12 *Australian Year Book of International Law* 2.

86 B Yusuf 'Nigerian women in politics: Problems and prospects' in Editorial Committee of Women in Nigeria (eds) *Women in Nigeria today* (1985) 233.

87 E Maduewesi 'Self-esteem: A psychological dimension of female socialisation' in F Omu, PK Makinwa & AO Ozo (eds) *Proceedings of the National Conference on Integrated Rural Development and Women in Development (Vol II)*, University of Benin, Nigeria (22-26 September 1980) 877, 880.

88 A Osori *Love does not win elections* (2017).

by Islamic values and ideologies. The same religious fundamentalism may be said of the southern part of Nigeria, which predominantly is based on the Christian creed. The fundamentalist teachings both these two religions make and support about women and their subordinate role in society, including in the political arena, to a considerable extent affect their recognition as equal stakeholders within political spaces.

The third major setback for women in Nigerian politics is one rooted in what we call here the 'political economy of politics'. Running for political office requires economic resources, or at the very least collaterals and other forms of financial security, which many women (compared to men) do not have. This is more likely the case because in Nigeria, 12.9 per cent of women in the richest urban households are education-poor, defined as having only completed six or fewer years of formal education.⁸⁹ In fact, in 2011 17 million adult women were neither working nor studying, and women with low levels of education dominate this group. In any event, when women do work, they are more likely than men to be in occupations and sectors that pay much less and have lower productivity levels, typically in farming, or work as self-employed or unpaid family workers in non-farming household enterprises.⁹⁰ Therefore, there is a need to address economic inequality between men and women in Nigeria.⁹¹ In fact, economic development should be fast-tracked in all major sectors of the country.

Historically, politics was seen as the domain of elites, those who were privileged and of an advanced economic status. It was, and perhaps still is, an economically wanting environment that requires those within it to be financially sound. To make a successful entry into politics and continue to tread the path, Yusuf rightly argues 'requires certain skills and resources that are not easily accessible to the average Nigerian women'.⁹² One determinant to such acquisition of resources is education, and yet the disproportionality between boys and girls in accessing formal education remains uneven.⁹³ As the study by Kenworthy and Malami found, 'educational credentials have long been a key feature distinguishing political elites from ordinary citizens'.⁹⁴ Because women's opportunities to access education in Nigeria remain limited, women's voter participation, which is an important factor in spurring higher female voting patterns and eventual election, remains constrained.

89 See generally <https://www.dawn.com/news/1389672> (accessed 15 August 2018).

90 S de Silva 'The work of women in Nigeria' *African Can End Poverty Blog* (2016) 1, <http://blogs.worldbank.org/africacan/the-work-of-women-in-nigeria> (accessed 21 August 2018).

91 JC Anyanwu 'Poverty in Nigeria: A gendered analysis' (2010) 11 *African Statistical Journal* 11 57.

92 Yusuf (n 86) 213.

93 See, generally, the Nigerian country situation analysis by UNICEF that found 66% of the population to be literate, and at 75%, the rate for men is higher than that for women which is 57%, https://www.unicef.org/nigeria/1971_2199.html (accessed 18 August 2018).

94 L Kenworthy & M Malami 'Gender inequality in political representation: A worldwide comparative analysis' (1999) 78 *Social Force* 239.

6 Conclusion

This chapter has shown that women remain under-represented in all major arms of government. This is despite the accession of Nigeria to various international and regional commitments aimed at addressing women's under-representation in politics generally. Even though domestically efforts are being made to address this situation, such efforts remain scanty and painstakingly slow in assuring women their rightful place within political processes. Addressing women's political marginalisation in Nigeria requires much political will. Even more importantly, it will require a paradigm shift in how women's role in society is conceived, understood and subsequently applied. As averred by Nkwachukwu Orji, Chukwuemeka Orji and Oluchi Agbanyim in a recent study, 'stakeholders should see women's political underrepresentation as a question of discrimination against women'.⁹⁵ In other words, women's role to participate in political decision making should be viewed, appreciated and applied as a right in and of itself. We therefore strongly recommend that the Nigerian federal government as a matter of urgency pass the Gender and Equal Opportunities Bill. This Bill, if passed into law, will go a long way in addressing the inequalities women face in the political arena. More compelling is the fact that it will usher in more women into the political arena. Of course, we do not insinuate that the proliferation of women representatives in the federal government automates to women's social upliftment. As other studies have shown, women's representation does not always translate into women's rights protection generally, but it is an important step in narrowing the sex gap often rooted in inequality between men and women.⁹⁶

The role of political parties should also not be underestimated, for as Dahlerup rightly observed, 'it is not the voter, but the political parties that decide who gets elected'.⁹⁷ This places a responsibility on political parties to review their gender responsiveness, and as the need arises, introduce socio-political and legal reforms aimed at strengthening women's participation at political party levels. After all, it is only through party politics that candidates are identified and nurtured for national and local government politics.

95 O Nkwachukwu, O Chukwuemeka & A Oluchi *Women's political representation in Nigeria: Why progress is slow and what can be done to fast track it* (2018) 2.

96 See, generally, J Foster, S Makanya & G Mutukwa (eds) *Women in politics and decision-making in Southern Africa: A gendered political analysis* (2000) 1.

97 D Dahlerup 'Political parties as gatekeepers to equal political representation' Paper for the Session MT 07.239 Political Parties and Democratisation, International Political Science World Congress, Fukuoka, Japan, 9-13 July 2006 3.