WOMEN'S RIGHTS, LEGAL REFORM, AND THE RULE OF LAW: RETHINKING GENDER EQUALITY IMPLEMENTATION IN NIGERIA

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Abstract

Despite constitutional guarantees and Nigeria's ratification of key international and regional human rights instruments, including the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) and the African Charter on Human and Peoples' Rights, the effective implementation of gender equality norms remains deeply constrained by legal, institutional, and socio-cultural barriers. This paper critically examines the intersection between women's rights, legal reform, and the rule of law in Nigeria, highlighting the disconnect between normative commitments and lived realities. The analysis explores the legal architecture governing women's rights, assessing constitutional provisions, statutory frameworks, and customary laws that operate in tension. Particular attention is paid to the role of the judiciary in interpreting gender equality norms, the enforcement challenges posed by plural legal systems, and the limitations of current reform efforts such as the Violence Against Persons (Prohibition) Act and the Gender and Equal Opportunities Bill. Drawing from comparative perspectives and feminist legal theory, the paper argues that the rule of law in Nigeria has yet to become a fully effective instrument for advancing substantive gender equality. It contends that legal reform must move beyond formalistic provisions to address structural discrimination, institutional weaknesses, and the pervasive influence of patriarchal norms. Case law such as Akinbuwa v Akinbuwa, which once tolerated spousal battery for "corrective purposes," highlights the judicial challenges in breaking from traditional norms. Ultimately, the paper calls for a reimagining of legal strategies grounded in intersectionality, access to justice, and transformative constitutionalism to close the implementation gap.

Key-Words: Women, Rights, Gender Equality, Legal Reform

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1. **Introduction**

Nigeria, Africa's most populous country,[1] presents a paradox in the realm of women's rights and gender equality: legal and constitutional provisions have progressively affirmed women's rights, yet in many domains the lived reality of women continues to fall short of those guarantees. Women in Nigeria face multi-layered barriers such as cultural, economic, institutional, and legal which inhibit their full enjoyment of guaranteed rights.[2] From discriminatory inheritance customs to unequal access to political representation, from gender-based violence to barriers in employment, the status of women remains fragile despite significant legal milestones. Customary and religious laws still regulate aspects of life, marriage, succession, and family, often laced with norms often skewed against women.

The analysis is anchored in the feminist legal theory, focusing on the ways in which law, legal institutions, and customary practices sustain gendered power structures, interrogating patriarchal systems, and assess how law can both reinforce and challenge existing gender hierarchies. Intersectionality is applied to understand how gender intersects with class, ethnicity, region, religion, disability, and rural/urban divides, producing differentiated experiences of injustice. Also, the concept of legal pluralism is important in Nigeria: multiple normative systems (customary, religious, statutory, constitutional) interact, sometimes conflict, and affect women differently depending on social position and location. The paper also draws on theories of socio-legal change and rights implementation to understand what enables or blocks the translation of rights on paper into actual change. Many women lack awareness of their rights, or the resources, access, or capacity to enforce them. The result is a persistent gap between rights on paper and rights in practice.

Gender equality as a constitutional and international human rights Obligation is not merely a desirable social goal; it is a constitutional requirement in Nigeria and an international legal obligation. Nigeria's Constitution (CFRN), 1999 (as amended)) expressly prohibits discrimination on the basis of sex as decided in the case of *Onyibor Anekwe & Anor v. Mrs. Maria Nweke.*[3]In this case, the Supreme Court of Nigeria struck down a customary law of the Awka people (Anambra State) which denied a widow and her female children inheritance rights

[1] Statista, Population of Africa by country'(2025)< https://www.statista.com/statistics/1121246/population-in-africa-by-country/?utm_source> accessed 4th February 2026.
[2] T Akinbobola, 'Gender Equality in Nigeria: The Paradox of Legal Promise and Social Practice' [2020] (34) (2) *Journal of African Law* 245.
[3] (2014) LPELR-22697(SC).

because she had no male child. The Court held the custom was "repugnant to natural justice, equity and good conscience" and unconstitutional under section 42(1) and (2) of the Constitution of the Federal Republic of Nigeria 1999 (as amended). This decision underscores that gender-based discrimination entrenched in customary law cannot be insulated from constitutional equality or Nigeria's international human-rights treaty obligations (e.g., CEDAW). The Court reaffirmed that gender equality is a constitutional right, and by implication an international human-rights obligation, which requires dismantling discriminatory customs. Section 42,[4] provides that "a citizen of Nigeria of a particular … sex … shall not, by reason only that he is such a person … be subjected … to disabilities or restrictions … to which citizens of Nigeria of other … sex … are not made subject …" and no citizen shall be deprived merely because of the circumstances of their birth. Section 43 guarantees the right to acquire and own immovable property anywhere in Nigeria.

These provisions enshrine legal equality in formal terms. Internationally, Nigeria is a party to core human rights instruments: for example, the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) (ratified in 1985), requires elimination of discrimination against women in all spheres. Regional instruments, such as the African Charter on Human and Peoples' Rights (ACHPR) also impose binding obligations. Domestication of these, plus statutory laws such as the Violence Against Persons (Prohibition) Act (VAPPA), 2015 which targets gender-based violence, are part of the legal architecture aiming to realize gender equality.[5]

2.Key Concepts

To assess the landscape and the gap between legal guarantee and lived equality, several key concepts must be defined.

2.1 Rule of Law

At its core, the rule of law means that every person is subject to the law, laws are clear, public, stable, apply equally, are enforced, and that legal processes are accessible and fair. In the gender equality context, it means that laws prohibiting discrimination are themselves respected, enforced, and do not allow arbitrary exceptions or allow customs or practices to override constitutional guarantees.

[4] Constitution of the Federal Republic of Nigeria 1999 (as amended), s. 42.
[5] Violence Against Persons (Prohibition) Act, 2015, LFN.

2.2 Legal Reform

Legal reform refers to the process of change through the statute books, constitutional amendments, judicial interpretation, or repealing or modifying customary laws, in order to align laws with constitutional and human rights norms as noted in the case of *Women in Politics Forum & Ors v. Attorney-General of the Federation*[6] The Federal High Court ordered the Federal Government to implement the 35 % affirmative action policy for women's participation in public appointments, stating that the government was "in breach of international treaties on women's participation in government", and referencing section 42 of the Constitution as well as article 19 of the African Charter on Human and Peoples' Rights.[7] This decision links gender equality not only to the Nigerian Constitution, but to Nigeria's international human-rights obligations. It highlights enforcement of substantive equality (not just formal equality) in the political sphere. Reform can be legislative, judicial, administrative, or through policy.

2.3 Formal versus Substantive Equality

Formal equality refers to equal treatment under the law in respect to identical rules, rights, obligations for all, irrespective of sex, for instance. Substantive equality goes deeper: identifying that historical, social, economic inequalities mean that simply treating everyone the same perpetuates inequality; hence, it requires measures that address disadvantage, treat situational inequality, and sometimes permit differential treatment in order to achieve genuine equality of outcome or of opportunity. Nigerian jurisprudence has struggled between formal and substantive equality approaches in interpreting constitutional non-discrimination provisions[8].

2.4 The Status of Women's Rights

Constitutionally, Nigeria has made commitments as earlier noted. Section 42 prohibits discrimination; Section 17 (Fundamental Objectives & Directive Principles) directs state policy towards equality of rights, obligation and opportunity for all citizens. Statutes such as the Violence Against Persons (Prohibition) Act, 2015 try to tackle gender-based violence. The Child Rights Act in those states that have domesticated it seeks to protect girl children. There are also policy instruments, national gender policies, gender equality bills (though some have stalled). On the judicial side, landmark cases have incrementally forced the law to

[6] Federal High Court of Nigeria, Abuja, 6 April 2022.
[7] Alex Enumah, As Court Orders Implementation of 35% Affirmative Action for Women (THISDAY NEWSPAPERS LTD 2021).
[8] M Ladan, *Introduction to Women's Rights in Nigeria* (Ahmadu Bello University Press, 2015), 42.

respect women's rights, particularly in the realm of inheritance and property rights under customary law.

For instance, in *Mojekwu & Others v. Ejikeme & Others*, the Court of Appeal held that customary law in certain Igbo communities that denied daughters the right to inherit their father's estate (unless they performed customary ceremonies like "nrachi") was discriminatory and a breach of Section 42 of the Constitution.[9] More recently, *Ukeje & Anor v Ukeje* involved an Igbo customary law disentitling a female child from inheriting her deceased father's estate. The Supreme Court held that "no matter the circumstances of the birth of a female child, she is entitled to an inheritance from her late father's estate. Consequently, the Igbo native law that disentitles a female child … is a breach of Section 42(1) and (2) … The said discriminatory customary law is void …"[10] Similarly, in *Okonkwo Timothy v Sunday Oforka & Anor* the Court of Appeal declared native laws and customs restricting women's rights to land ownership unconstitutional, reinforcing the supremacy of formal constitutional prohibitions against discrimination.[11]

Despite these advances, many discriminatory customs persist, enforcement is inconsistent, awareness is low, and in many instances, customary norms and social expectations remain more powerful in practice than constitutional rights. In many regional or rural settings, women still risk exclusion from inheritance; widows may be forced out of matrimonial homes; domestic violence continues; gender gaps remain strong in representation, education, health, and economic opportunity. The central problem to be addressed is the *implementation gap*: although Nigeria has strong legal and constitutional guarantees for women's rights, in practice many women do not enjoy the full range of those rights. Customary/religious laws and norms, institutional inertia, lack of awareness, weak enforcement mechanisms, corruption, economic dependency, social stigma and patriarchy all undermine implementation.

The question thus arises: why do constitutional and statutory prohibitions against gender discrimination often fail to translate into substantive improvements in women's actual status? What are the obstacles, how do courts interpret equality (formal vs substantive), how effective are legal reforms and international obligations in compelling change? This article examines both the legal-judicial dimension and the socio-cultural/

[9] (2000) 5 NWLR (Pt. 657) 402 (CA).
[10] (2014) 11 NWLR (Pt. 1418) 384 (SC).
[11] *Okonkwo Timothy (alias Job) v. Sunday Oforka & Anor* (2007) CA/E/108M/2003 (unreported, Court of Appeal, Enugu Division, delivered 25 January 2007).

practical dimension, aiming to map out the gap and suggest how reforms, enforcement, and normative shifts might narrow it.

3.The Legal and Institutional Framework for Gender Equality in Nigeria

Constitutional Provisions: The CFRN 1999 provides a foundation for gender equality through several key sections. Among them, Section 42 is central: it prohibits discrimination on the grounds of sex (among other grounds) in both law and in practice. It states that a citizen shall not, "by reason only that he is such a person … be subjected either expressly by, or in the practical application of, any law in force in Nigeria … to disabilities or restrictions to which citizens … of other … sex … are not made subject." It also prevents a citizen from being accorded privileges or advantages on the basis of sex which others are not. Another constitutional protection is Section 34, which guarantees the dignity of human person, protecting individuals from torture, inhuman or degrading treatment. Although not exclusively about gender, Section 34 has been interpreted in some contexts to protect women (and girls) from gender-based violence and harmful practices.[12]

Other relevant constitutional provisions include Section 15(2) which mandates that the state shall not discriminate against any citizen on the ground of sex, and Section 17(3)(e) which requires that state policy ensure equal pay for equal work without discrimination on account of sex.[13] In the case law, two key judgments illustrate how these constitutional provisions have been applied. The Court of Appeal in *Mojekwu v. Mojekwu*[14] held that the indigenous custom of the Oli-Ekpe native law and custom of Nnewi, which disqualified women from inheriting property, was discriminatory and incompatible with the Constitution. The court underlined that any customary law that conflicts with constitutional guarantees of non-discrimination must yield.[15] Another relevant case on the constitutional guarantees is the case of

[12] Disciplines in Nigerian, women's right and the law in Nigeria (Nicholas Idoko 2025) < https://disciplines.ng/women-rights-and-the-law/?utm_source > accessed 7th October 7, 2025.

[13] LII, Constitution of the federal republic of Nigeria/Gender justice/ US Law<https://www.law.cornell.edu/gender-justice/resource/constitution_of_the_federal_republic_of_nigeria?... >accessed, 7th October 7, 2025.

[14] (1997) 7 NWLR (Pt. 512) 283.

[15] O Akinola, "Women's Inheritance Rights Under the Constitution: *The Case of Ukeje v Ukeje*" *This Day Live*, 20 June 2023 <https://www.thisdaylive.com/index.php/2023/06/20/gbv-affirmative-action-female-gender-rights-in-need-of-defence> accessed, 7th October 2025.

Ukeje v. Ukeje,[16] where the Supreme Court reaffirmed that female children are entitled to inherit from their deceased father's estate even under Igbo customary law, thereby overruling the rule of primogeniture exclusive to male children. The judgment emphasized that custom that excludes female children from inheritance violates Section 42(1) & (2) of the Constitution.[17] These cases show the Constitution's non-discrimination provisions are enforceable and have been used to challenge customary and indigenous practices that discriminate on the basis of sex**.** It is observed that:

A) The equality guarantee in section 42 is subject to subsection (3), which states nothing in subsection (1) shall invalidate any law imposing restrictions concerning appointment to certain offices under the State (e.g., armed forces).[18]

B) Scholars have pointed out that despite the formal equality guarantees, Nigerian courts have been criticised for *formal-equality-only* approaches rather than full *substantive equality.*[19]

C) Some provisions of the Constitution (such as citizenship/transmission of nationality) have been critiqued for gender-bias (for example, a Nigerian man can confer citizenship to a foreign-born wife while no equivalent for a foreign-born husband).[20]

Through International Commitments: Nigeria has ratified several international and regional treaties that commit it to gender equality:

a) Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW): Nigeria became a state party in 1985.[21]

b) African Charter on Human and Peoples' Rights and its Protocol on the Rights of Women in Africa (Maputo Protocol): Nigeria is party to these.[22]

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[16] (2014) 11 NWLR Pt. 1418, 384.
[17] (n.11).
[18] CFRN,1999.
[19] Chienye I Okafor, 'Analysis of the Legality of Gender Specific Provisions under Nigerian Law: A Review of Specific Legislations' [2025] (2) (2*) JOCARL,*
[20] FMWA, National Gender Policy Federal Republic of Nigeria 2006 <http://www.nelex.gov.ng/documents/National-Gender-PolicySituation-Analysis.pdf?> accessed, 24th October 2025.
[21] UN Women Africa, "Violence Against Persons (Prohibition) Act Passed in All States" (2021) <https://africa.unwomen.org/en/news-and-events/stories/2021/05/vapp-law-passed-in-nigeria>accessed, 7th October 7, 2025.
[22] Protocol To the African Charter on Human and Peoples' Rights on The Rights of Women in Africa (Maputo Protocol), 2003 (n.14).

c) Convention on the Rights of the Child (CRC) and African Charter on the Rights and Welfare of the Child: these are relevant particularly for measures protecting the girl-child.
d) Sustainable Development Goals (SDGs), especially SDG 5 (Gender Equality) are part of Nigeria's commitments.

However, ratification does not automatically make treaty provisions effective domestically. Under Section 12 of the Constitution, treaties must be domesticated by the National Assembly before their provisions have the force of law in Nigeria.[23]

Through Legislative Measures: The Violence Against Persons (Prohibition) Act (VAPP) 2015, known as the VAPP Act, is a federal law designed to criminalize a wide range of violence, including gender-based violence, such as rape, sexual assault, female genital mutilation (FGM), harmful widowhood practices, domestic violence, etc. It provides for punishment of perpetrators and protection of victims. Some states have domesticated the VAPP Act (i.e., passed matching state laws) to ensure local enforceability. Examples of implementation exist where the National Agency for the Prohibition of Trafficking in Persons (NAPTIP) has secured life imprisonment sentences under VAPP in some cases and provided support for survivors.[24]

The Child Rights Act (CRA) 2003, was enacted to domesticate the United Nations Convention on the Rights of the Child (CRC) and related international instruments. It is a significant legislative tool aimed at protecting children from abuse, neglect, and exploitation, and contains specific provisions on the minimum age for marriage, access to education, and protection from harmful practices. The CRA represents a progressive move towards ensuring the rights of the Nigerian child, including both boys and girls. However, its effectiveness has been hindered by Nigeria's federal structure. As a federal statute, the CRA only becomes applicable within a state after that state's House of Assembly enacts it into law, which has not occurred uniformly across the country. Recent assessments show that several states, particularly in the northern region, are yet to domesticate the Act, leading to significant regional disparities in the legal protection afforded to children. Furthermore, certain provisions in the Act, such as the minimum age of 18 for marriage have been criticised as weak, ambiguous, or poorly

[23] O A Ogbu, "Domestication of Treaties in Nigeria: A Critical Appraisal of Section 12 of the 1999 Constitution" [2020] (9)(9) *International Journal of Business and Management Invention* 1–10. <https://www.ijbmi.org/papers/Vol%289%299/Ser-2/A0909020110.pdf>accessed, 7th October 7, 2025.
[24] (n.14).

enforced, especially in areas where customary or religious laws dominate local practice[25].

The Gaps Between Domestic Law and International Obligations: has despite Nigeria's ratification of key international human rights instruments such as CEDAW and the CRC, there remains a significant disconnect between Nigeria's international commitments and domestic legal enforcement. These gaps arise from several factors:

a) Domestication and State-Level Enactment: Under Section 12 of the 1999 Constitution, international treaties must be enacted into law by the National Assembly to have domestic effect. Instruments like CEDAW, the CRC, and the Maputo Protocol have been ratified by Nigeria, yet remain largely undomesticated or only partially incorporated. Even where domesticated legislation exists, such as the CRA and the Violence Against Persons (Prohibition) Act (VAPP), many states have not passed corresponding state-level laws, thereby limiting the reach and effectiveness of such protections.[26]

b) Customary, Religious, and Traditional Practices: Despite the constitutional ban on discrimination (Section 42), harmful customary and religious practices, such as the denial of inheritance to women, forced or early marriages, widowhood rites, and discriminatory property laws persist in many communities. The courts have declared such practices unconstitutional in key cases like *Mojekwu v. Mojekwu* and *Ukeje v. Ukeje*, but enforcement remains inconsistent, especially in rural or religiously conservative areas.[27]

c) Implementation, Enforcement, and Political Will: Even where gender-protective laws exist, enforcement mechanisms remain weak. There are limited prosecutions under the VAPP Act in some states, and infrastructural support for victims including shelters, legal aid, and counselling, is grossly inadequate. Several states

[25]Taylor and Francis Online, "Child Marriage and the Child Rights Act in Nigeria: Issues and Challenges" [2021] (25) (3) *International Journal of Human Rights*, 445.

[26] UN Women Africa, "Nigeria's Progress on Ending Gender-Based Violence through VAPP Act" (2021) <https://africa.unwomen.org/en/news-andevents/stories/2021/05/vapp-law-passed-in-nigeria>accessed ,7th October 2025.

[27]*Mojekwu v. Mojekwu* (1997) 7 NWLR (Pt. 512) 283; *Ukeje v. Ukeje* (2014) 11 NWLR (Pt. 1418) 384; ThisDayLive, "Female Gender Rights in Need of Defence" (2023) <https://www.thisdaylive.com/index.php/2023/06/20/gbv-affirmative-action-female-gender-rights-in-need-of-defence>accessed ,7th October 2025.

have also failed to establish regulatory or monitoring bodies to implement these laws effectively.[28]

d) Cultural and Religious Resistance: A significant barrier to legal reform in gender equality stems from religious and cultural opposition. The Gender and Equal Opportunities Bill (GEOB), which seeks to domesticate CEDAW and provide comprehensive anti-discrimination protections, has been rejected or stalled multiple times in the National Assembly, with lawmakers citing conflicts with religious and customary values, particularly in matters of marriage, inheritance, and family law.[29]

e) Limited Case Law in Specific Domains: While Nigerian courts have delivered landmark decisions in inheritance and property rights of women, there is less jurisprudence on gender-based discrimination in employment, political participation, equal pay, and sexual harassment. For instance, in *Okafor & Ors v. Lagos State Government & Ors*, the court addressed discrimination against non-indigenes in education, but broader issues of systemic gender inequality in workplaces and politics remain under-litigated.[30]

f) No Constitutional Quota or Reserved Seats for Women: Unlike some countries that have introduced constitutional quotas or affirmative action policies to ensure women's political representation, Nigeria's Constitution provides no such guarantees. Although the GEOB proposes temporary special measures to increase women's representation in politics and governance, the lack of legislative support has kept these proposals from becoming law.[31]

g) Limited Jurisdiction Over Private Actors: Another significant limitation lies in the scope of enforceability of fundamental rights provisions. Courts have consistently held that constitutional rights (such as the right to freedom from discrimination) are enforceable primarily against state actors, not private individuals or organisations. As ruled in *Lafia Local Government v. Governor, Nasarawa State*, claims under Section 42 are not applicable where the violator is a private person or non-state entity, thereby leaving victims of private discrimination without effective constitutional remedies.[32]

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[28] (n.19)

[29] The Library of Congress, "Gender Equality Bill Fails in the Senate" (2016) <https://www.loc.gov/item/global-legal-monitor/2016-03-28/nigeria-gender-equality-bill-fails-in-the-senate≥ accessed ,7th October 2025.

[30] (Unreported, Suit No. FHC/L/CS/57/2003).

[31] (n.22).

[32][2012] 17 NWLR (Pt. 1328) 94.

4. **Judicial Interpretation and Enforcement of Women's Rights: Case Law Analysis**

The constitutional guarantee of gender equality in Nigeria, fundamentally enshrined in Section 42 of the CFRN 1999 (as amended), has necessitated a prolonged and complex engagement within the judiciary. Nigerian courts serve as the crucial intersection where constitutional modernity clashes with deeply entrenched, often patriarchal customs and traditions. A critical analysis of judicial decisions reveals a trajectory marked by significant, progressive victories in the private domain alongside cautious restraint in structural and political matters, creating a mixed record in the progression of women's rights.

The interpretation and enforcement of gender equality norms in Nigerian courts has evolved from hesitant application of anti-discrimination principles to a robust assertion of constitutional supremacy, particularly concerning women's property and inheritance rights. The landmark case of *Ukeje v. Ukeje* represents the high watermark of judicial advancement of gender equality. The Supreme Court decisively invalidated the **"***Oli Ekpe***"**customary law of the Igbo people, which prohibited female children from inheriting their deceased father's estate. The court found this custom unconstitutional, holding that it was "repugnant to natural justice, equity, and good conscience," and a direct breach of the non-discrimination clause in Section 42 of the Constitution.[33] This judgment established an irreversible precedent: no customary practice can survive if it violates a constitutional fundamental right, thereby ensuring substantive property rights for countless Nigerian women.[34]

This significant ruling in *Ukeje's* case follows the important, though more cautiously worded, judgment in *Mojekwu v. Mojekwu***.** Where the Court of Appeal scrutinized a related discriminatory custom concerning inheritance by a male relative in the absence of a male child. The court employed the **"**repugnancy test,**"** a key tool for checking customary law, and found the custom incompatible with equity and good conscience. [35] Though the judgment reflected the inherent tension and a measure of discomfort in rejecting traditional norms, it was instrumental in setting

[33]*Ukeje v. Ukeje*, SC/131/2007 (Unreported Judgment of the Supreme Court of Nigeria delivered on April 11, 2014).
[34] A N Umezulike, "The Jurisprudence of Inheritance Rights in Nigeria*"* [2016] (19) (1) *ESUT Law Journal*, 25.
[35]*Mojekwu v. Mojekwu*, (1997) 7 NWLR (Pt. 512) 283, 290.

the legal stage for the later and more forceful declaration in *Ukeje*. [36] In contrast to the successes in private law, judicial interpretation concerning political and structural equality has been characterized by restraint. The implications of cases, such as *Attorney General of the Federation v. Abubakar,* show the courts' general unwillingness to mandate positive action, such as gender quotas, to ensure equitable representation in public offices.[37] Courts have predominantly viewed Section 42 as a prohibitive right (forbidding discrimination) rather than an obligatory right (compelling the State to achieve substantive equality). This judicial caution, often seen as deference to the political arms of government has demonstrably hindered the advancement of women in leadership and governance roles. [38]

Furthermore, the judiciary's adherence to the dualist doctrine regarding international law, reinforced by the principle established in *Ibidapo v. Lufthansa*, poses a significant barrier to enforcing global gender rights norms.[39] This doctrine dictates that treaties, including the CEDAW, are not domestically enforceable until legislatively enacted by the National Assembly. This requirement for domestication creates an often-substantial lag, hindering the immediate application of advanced international human rights standards to benefit Nigerian women.[40]

The assessment: advancement or hindrance of gender equality is based on case law as discussed above, it is arguable that Nigerian courts have been instrumental in progressing gender equality in specific, crucial areas, while their caution in others has stalled the achievement of holistic equality. A significant advancement is evident in the Supreme Court's override of discriminatory customary laws, as exemplified by the *Ukeje* decision. By unequivocally prioritizing the constitutional right to non-discrimination over antiquated customs, the courts have fundamentally restructured property rights jurisprudence, providing a powerful pedestal for women's economic empowerment and dignity.[41]

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[36] T S Okoro, "Customary Law and Constitutionalism in Nigeria*"* [2003] (14) *AJICL* 80, 85.
[37] (2007) 10 NWLR (Pt. 1042) 378, 385.
[38] O Osibanjo, "Gender Quotas and Judicial Restraint in Nigeria*"* [*2009*] (21)(14) *AJICL*, 28.
[39]*Ibidapo v. Lufthansa* (1997) 4 NWLR (Pt. 497) 124, 130.
[40] E O Akpojovwo, "The Dualist Doctrine and Women's Rights in Nigeria" [2005] (5) (102) *JILR,* 115.
[41] F A Ibeabuchi, "The Constitutional Imperative of Gender Equality: A Critical Review of Ukeje v. Ukeje" [2015] (1) (2) *NALJ* 45, 60.

The primary interruption stems from judicial reluctance to embrace the concept of practical equality, namely, the idea that equality requires addressing historical and systemic disadvantages through active measures like affirmative action. This reluctance, evident in the political rights sphere, means that the court's defensive shield often fails to extend to the active promotion of parity in state structures. Coupled with the strict dualist approach that delays the incorporation of international instruments, the courts have arguably not utilized their full potential to effect systemic change across all sectors of Nigerian society.[42]

On the Evaluation of Judicial Attitudes Toward Customary and Religious Law: the judiciary's attitude toward discriminatory laws is defined by a clear hierarchy: the Constitution is supreme, and customary law must conform or fall.

On Customary Law*:* The judicial attitude toward discriminatory customary law is one of increasing critical scrutiny and an ultimate commitment to constitutional supremacy. The journey from the subtle discomfort articulated in *Mojekwu* to the definitive nullification in *Ukeje* illustrates a successful shift. The courts now rigorously apply the repugnancy test; that a custom must not be contrary to "natural justice, equity, and good conscience" ensuring that culture is not used as a justification for oppression.[43] This progressive stance has positioned the judiciary as a primary agent of legal reform against patriarchy in inheritance, marriage, and property rights.

On Religious Law*:* Engaging with religious law (Sharia) is more delicate due to the constitutional recognition of Sharia Courts of Appeal in some states. The judicial attitude here is one of cautious deference tempered by the ultimate authority of fundamental rights. While courts respect the jurisdiction of Sharia courts in matters of personal status and family law, the supremacy clause of the Constitution remains the final safeguard. A definitive Supreme Court decision that fully invalidates a major religious practice on the grounds of gender discrimination has yet to emerge. This suggests that the judiciary is cautiously working to balance religious freedom with gender rights, rather than pursuing outright nullification – a cautious approach shaped by Nigeria's complex socio-political context.[44]

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[42] F O Akinola, *Judicial Role in Enforcing Affirmative Action for Women in Nigeria* [2018] (12) (3) *NIG. L. REV*. 450, 475.
[43] (n.26 &28).
[44] L C Gwam, "The Sharia Question and Human Rights in Nigeria" [2010] (3) *NIALS J* 192, 205.

Summarily the Nigerian judiciary has made significant strides in securing individual rights, particularly property rights, demonstrating a progressive attitude toward custom. To fully advance gender equality, however, the courts must adopt a more interventionist posture in public law and actively incorporate international human rights norms.

5. **Barriers to Implementation: Legal, Cultural and Institutional Challenges**

The implementation of legal protections for women's rights in Nigeria faces significant obstacles rooted in the country's plural legal structure, entrenched socio-cultural and religious norms, institutional frailty, and barriers to accessing justice. While the Nigerian Constitution guarantees equality and non-discrimination, practical enforcement is limited due to the conflicting co-existence of statutory, customary, and religious legal systems. Despite the constitutional prohibition against discrimination on grounds of sex, customary and religious practices persist, particularly regarding inheritance, marriage, and land rights.

The Nigerian legal system is a tripartite structure consisting of statutory (common law-derived), customary, and Islamic legal systems. This pluralism leads to inconsistency in legal outcomes and complicates the uniform application of gender-equality provisions. The Supreme Court, in *Onyibor Anekwe & Anor v. Maria Nweke*, held that a customary rule of the Awka people that denied a widow and her daughters inheritance rights on the basis that she had no male child was repugnant to natural justice, equity, and good conscience and was therefore invalid under Nigerian law.[45] This case exemplifies the judiciary's role in harmonizing contradictory legal frameworks. Similarly, in *Ukeje case*, the Supreme Court invalidated the Igbo customary law excluding female children from inheriting their father's estate, ruling that such law was void for being inconsistent with section 42(1) and (2) of the 1999 Constitution. [46]

Despite these judicial strides, many local communities continue to enforce invalidated customary laws due to limited legal awareness and cultural resistance. In several northern Nigerian states operating under Sharia law, inheritance laws permit women to inherit but usually entitle them to lesser shares than their male counterparts, consistent with Islamic jurisprudence.[47] While such practices are doctrinally valid within

[45] (2014) LPELR–22697(SC), Supreme Court of Nigeria, judgment delivered on 11 July 2014.
[46](2014) LPELR–22724(SC),
[47] A Imam, *Sharia Implementation and Female Rights in Northern Nigeria*: E Chirwa and L Nijzink (ed) *Gender and the Judiciary in Africa* (Pretoria University Law Press, 2012) 103–118.

Islamic law, they challenge the constitutional commitment to non-discrimination. The selective application of these legal systems — dependent on geography, religion, and ethnicity — means that the realization of women's rights varies significantly across Nigeria, thereby undermining legal certainty and equality before the law.

In addition to legal contradictions, socio-cultural and religious norms deeply embedded in Nigerian society reinforce gender inequality. Patriarchy remains the prevailing social structure, with men regarded as family heads and principal decision-makers, while women are largely confined to domestic roles. These gender norms are perpetuated through religious teachings, customary laws, and societal expectations.[48] As a result, efforts to assert women's rights particularly in matters of property or inheritance, are frequently resisted as affronts to tradition. Women who seek justice often encounter stigma and social sanctions, being labeled as rebellious or disrespectful of culture.[49] This cultural resistance not only discourages women from pursuing their rights but also fosters informal systems of dispute resolution that frequently ignore constitutional and statutory protections.

Institutional weaknesses further hinder effective implementation of women's rights. Law enforcement officers, particularly in rural areas, often lack the training or will to handle gender-based cases with the required legal and ethical sensitivity. Many are unaware of laws such as the VAPP Act 2015, which criminalizes various forms of gender-based violence and discriminatory practices.[50] Even where knowledge exists, enforcement is inconsistent due to corruption, patriarchal bias, or institutional apathy. The VAPP Act, although adopted at the federal level has not been domesticated in many states, and where it has, the requisite enforcement structures are often missing.[51]

The judiciary, which ought to serve as the final guarantor of rights faces severe challenges. Court infrastructure is underfunded, case backlogs are immense, and legal proceedings are often delayed for years. In *Anekwe v. Nweke*, for instance, the litigation commenced in 1991 and was only concluded by the Supreme Court in 2014, reflecting the slow pace of

[48] A Ezeilo, "Gender Justice in Nigeria: The Role of Cultural and Religious Norms" [2018] (9) (1) *NALT Journal of Law and Policy* 34.
[49] F Agbaje, "Customary Law, Patriarchy and Inheritance Rights of Women in Nigeria" [2020] (14)(2) *African Journal of Legal Studies* 76.
[50] Violence Against Persons (Prohibition) Act 2015, Federal Republic of Nigeria Official Gazette No. 33, Vol. 102.
[51] *Ibid.*

justice.[52].\ The absence of specialized courts or tribunals for gender-related matters means that such cases are heard within the general court system, where judges may lack the gender sensitivity or subject-matter expertise necessary to adjudicate fairly. This contributes to low conviction rates in gender-based violence cases and minimal enforcement of civil rights relating to property and inheritance.
Compounding these problems is the lack of political will, particularly at the state level where most personal and customary law matters are regulated. While laws such as the Child Rights Act 2003 and the VAPP Act 2015 exist at the federal level, many states have either failed to domesticate them or have adopted diluted versions without enforcement mechanisms.[53] The lack of dedicated budgetary allocation, gender desks in police stations, and monitoring bodies reflects an institutional reluctance to prioritize gender justice.[54] Moreover, the Legal Aid Council of Nigeria, which is mandated to provide legal services to indigent citizens, is under-resourced and does not cover most civil claims such as inheritance or property disputes. [55] Access to justice for women is further hampered by socioeconomic and logistical barriers. The cost of litigation, covering filing fees, lawyer's fees, transportation, and documentation is prohibitively high for many women, particularly in rural areas.[56] Legal aid, where available, is often limited to criminal cases, excluding inheritance and domestic disputes. Additionally, procedural complexity within the judicial system including frequent adjournments, delays in judgment delivery, and technical evidentiary rules dissuade many women from pursuing their claims. Inheritance cases often require proof of customary practice or family lineage, which may be oral or undocumented, further complicating litigation.[57]

Illiteracy and lack of awareness of legal rights constitute further hurdles. Many women are unaware of their constitutional rights or court decisions invalidating discriminatory customs.[58] In states where VAPP has not been domesticated, and even where it has, awareness of its provisions remains low. Traditional leaders and local clerics often fail to

[52] *Anekwe v. Nweke* (2014) LPELR–22697(SC), 34–35.
[53] UNICEF Nigeria, "Child Rights Act Domestication Tracker" < https://www.unicef.org /nigeria> accessed 4th October 2025.
[54] Yop Rwang Pam, 'Addressing Gender Gaps in Nigeria: A WBL 2024 Case Study' <https://projectbyprojects.org/2025/08/10/addressing-gender-gaps-in-nigeria-a-wbl2024-case-study/?utm_source=chatgpt.com> accessed 4th February 2026.
[55] Legal Aid Council Act, Cap L9, Laws of the Federation of Nigeria 2011.
[56] N Aniekwu, "Access to Justice for Women in Nigeria: Myth or Reality?" [2017] (6) (2) *Nigerian Bar Journal* 55.
[57] *Ibid.*
[58] A Adewumi, "Legal Illiteracy as a Barrier to Women's Empowerment in Nigeria" [2019] (11) (3) *Journal of Law and Gender Studies* 29.

disseminate such legal information or may actively discourage its use. Language barriers and the urban concentration of courts also present significant challenges for rural women. A woman in a remote community may have to travel hours to reach the nearest court or legal aid center, which is neither practical nor affordable.[59] The combined effect of these legal, social, and institutional barriers significantly undermines the rule of law. When constitutional protections are not uniformly implemented, and judicial decisions are not enforced at the grassroots level, public confidence in legal institutions erodes. Women, especially those from marginalized communities, are dissuaded from seeking redress through the formal legal system and may instead resort to informal dispute resolution mechanisms that may further entrench gender inequality. The inconsistency of legal outcomes across states and social groups also creates a fragmented legal reality, in which access to justice becomes contingent on geography, ethnicity, and financial means.

Furthermore, reform efforts are frustrated when landmark legal victories fail to produce transformative change on the ground. The Supreme Court's decisions in *Ukeje* and *Anekwe* remain largely unimplemented in many communities, where customary authorities continue to enforce discriminatory inheritance rules.[60] Without public awareness campaigns, legal education, and enforcement mechanisms, such judicial pronouncements serve only symbolic purposes. The disconnect between law and lived experience hampers the effectiveness of civil society advocacy, weakens legal institutions, and diminishes the transformative potential of legal reform. Achieving substantive equality for women in Nigeria requires more than legal provisions or favorable court rulings. It demands an integrated approach that addresses the contradictions of legal pluralism, challenges entrenched patriarchal norms, strengthens institutions, and expands access to justice. Laws such as the VAPP Act and the Child Rights Act must be domesticated and effectively implemented across all states. Legal education campaigns should target rural women, and the Legal Aid Council must be empowered to handle civil cases affecting women's rights. Importantly, traditional and religious leaders should be engaged as stakeholders in the reform process, not merely as subjects of criticism. Without these interventions, the rights of women in Nigeria will remain aspirational rather than actionable.

[59] Legal Defence and Assistance Project (LEDAP), *Women's Rights and Access to Justice in Nigeria*, Policy Brief, 2021.
[60] (n.38 & 39).

6. Reimagining Legal Reform and Strengthening The Rule of Law: Recommendations and Conclusion

Reimagining legal reform in Nigeria requires harmonising customary and statutory laws with constitutional and international standards so that discriminatory practices deeply rooted in tradition are not allowed to persist under the cover of culture. Customary laws that deny women inheritance, restrict their legal capacity, or impose sanctions based solely on sex or birth must be reviewed, codified, and where they conflict with Nigeria's Constitution or ratified international treaties such as the CEDAW, abolished or modified. One reform imperative is the urgent passage of the Gender and Equal Opportunities Bill at both the federal and state levels. This statute is essential to give legal effect to Section 42 of the Constitution which prohibits discrimination on grounds including sex and birth and to fill gaps that customary norms or existing statutes have not addressed. Alongside legislation, judicial activism rooted in transformative constitutionalism must be encouraged so that courts go beyond enforcing formal rights to interrogate and dismantle structural inequalities by applying doctrines such as the repugnancy test which invalidates customary rules that are repugnant to natural justice, equity and good conscience. Landmark Nigerian cases demonstrate both the challenges and the potential of this approach. In *Mojekwu & Ors v Ejikeme & Ors*, the Court of Appeal invalidated the Nnewi customary practice of *Oli-ekpe*, which allowed a deceased man's brother's son to inherit his estate while excluding his daughters. The court held that the custom was discriminatory and inconsistent with constitutional and customary law principles.

Similarly, in *Ukeje v Ukeje*, the Supreme Court affirmed that a female child is entitled to inherit from her deceased father's estate regardless of the circumstances of her birth. A female child is entitled to inherit from her deceased father's estate, declaring that Igbo customary law which excludes female children is void under Section 42(1) and (2) of the Constitution.[61] To make these jurisprudential gains meaningful in practice, gender-sensitive training for judges, police, and legal practitioners is essential so that decision-makers understand both the letter and spirit of constitutional equality as well as international human rights norms. Without such training, discriminatory customs may continue unchallenged or be enforced in lower courts or in customary settings despite high court precedents invalidating such practices.

Increased funding for legal aid and improving access to justice are equally indispensable. While the courts may have declared certain discriminatory customs invalid, many women are unaware of such

[61] (2014) 11 NWLR (Pt. 1418) 384.

declarations. As a result, they often remain unable to claim their rights. In addition, many women, especially rural women who are the most affected are unable to navigate the legal system, generally lack resources to litigate, and often have no access to legal assistance due to remoteness. Strengthening legal aid commissions, creating mobile or community courts, simplifying procedures, and reducing fees are ways to ensure that constitutional guarantees are not only in the text but accessible.

Public legal education and community engagement must accompany legal reform in order to shift social norms. This involves engaging traditional and religious leaders, local communities, and civil society, as well as using local media to inform women and men about their rights under both statutory and customary law. Such engagement encourages the reinterpretation or abandonment of harmful customary practices. It also fosters community ownership of reform and helps bridge the gap between what the law provides and how people understand or apply it in practice. Underlying all these reforms is the importance of moving from formal equality to substantive equality. Formal equality, where the law simply provides that all persons are equal, must give way to substantive equality, which recognizes that women (and other disadvantaged groups) suffer from historical, social, cultural and economic disadvantages that require more than non-discrimination. Substantive equality requires the law and its enforcement to focus on real-world impact rather than formal compliance alone. It also calls for compensatory or affirmative measures where necessary and for ensuring that rights are not merely declared but effectively realised. Nigerian jurisprudence has begun to reflect this shift: *Mojekwu* and *Ukeje* are not merely about formal pronouncements that women are not to be discriminated against, but about striking down entire customs that practically barred women from inheritance. However, it is argued that a gap remains between judicial pronouncements and lived reality. Even after *Ukeje*, women in Igbo land and elsewhere often face resistance or obstruction when asserting inheritance rights; awareness is low; and enforcement is weak. Thus, legal reform must be systemic: combining constitutional, statutory, judicial, and social interventions.

Gender equality in Nigeria is not a peripheral issue or merely a moral objective; it is foundational to democratic governance and the rule of law. When customary and statutory laws are aligned with the Constitution and international human rights standards, and when the Gender and Equal Opportunities Bill is enacted, the foundations for real equality are strengthened. This progress is further advanced when courts embrace transformative constitutionalism, judges, police officers, and

legal personnel receive gender-sensitive training, legal aid is adequately funded, and communities are properly educated and engaged. Under these conditions, rights that exist on paper begin to take effect in practice. The move from formal to substantive equality is therefore not optional but essential if equality is to have practical meaning. A society that treats women and girls as equal both in law and in practice ultimately strengthens its democratic institutions, enhances legal legitimacy, and ensures that the rule of law protects all persons rather than a privileged few.

From a doctrinal and policy standpoint, the continued operation of gender-discriminatory customary practices in Nigeria exposes a deep structural tension between constitutional guarantees, international human rights obligations, and social reality. Although section 42 of the 1999 CFRN (as amended) expressly prohibits discrimination on grounds of sex and birth, many customary norms particularly in relation to inheritance and legal capacity, continue to erode women's rights. This contradiction highlights the limitations of formal equality and demonstrates the need for a substantive equality framework capable of addressing entrenched disadvantage. Judicial developments in cases such as *Mojekwu v Ejikeme* and *Ukeje v Ukeje* signal an important shift toward transformative constitutionalism. By invoking constitutional supremacy and the repugnancy doctrine, Nigerian courts have shown a willingness to invalidate customs that entrench gender inequality. Nevertheless, the practical impact of these decisions has been inconsistent. Weak enforcement, limited legal awareness, and resistance within communities and lower courts have resulted in a persistent gap between judicial declarations and lived experience.

Meaningful legal reform therefore requires a comprehensive and coordinated approach. Customary laws must be systematically reviewed, codified, and assessed for compliance with constitutional norms and Nigeria's international commitments, including the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW). Customs that deny women inheritance rights or impose disadvantages based solely on sex or birth should be abolished or modified to conform to constitutional standards. In this regard, the enactment of the Gender and Equal Opportunities Bill at both federal and state levels is crucial to operationalise section 42 and to address regulatory gaps that judicial decisions alone cannot fill.

In addition, judicial activism must be strengthened through sustained gender-sensitive training for judges and other legal actors. Courts should be encouraged to adopt impact-based reasoning that interrogates

structural inequality, rather than merely affirming formal equality. The repugnancy test, in particular, should be applied as a substantive tool for dismantling discriminatory customs, not simply as a procedural doctrine. Equally important is improving access to justice through enhanced legal aid funding, simplified court procedures, mobile or community courts, and targeted support for rural women who face the greatest barriers to litigation. Legal reform must be accompanied by broader social engagement if it is to be effective. Public legal education and sustained dialogue with traditional leaders, religious institutions, and civil society are essential to reshaping social norms and building community ownership of reform. Without such engagement, constitutional and judicial advances risk remaining symbolic rather than transformative.

In conclusion, achieving gender equality in Nigeria is central to constitutional governance and the rule of law. A decisive shift from formal to substantive equality anchored in constitutional alignment, legislative action, judicial transformation, access to justice, and social re-orientation is essential to ensure that legal rights translate into lived realities. The legitimacy of Nigeria's legal system ultimately depends o n its ability to protect all citizens equally, both in law and in practice.