

Women's rights protection instruments ratified by Nigeria:

- **CEDAW**: ratified in 1985
- **CEDAW Protocol**: ratified in 2004
- **Protocole de Maputo**: ratified in 2005

Respect! Although Nigeria has ratified the main international and regional women's rights protection instruments, discrimination against women persists widely both in law and practice. The Coalition of the Campaign is concerned that 25 years since Nigeria's ratification of the Convention on the Elimination of all forms of Discrimination Against Women (CEDAW), the government has failed to adopt a law to allow CEDAW to be invoked before Nigerian courts.

The Coalition remains particularly concerned by the following violations of women's rights in Nigeria: persistence of discriminatory laws; lack of harmonisation between statutory and customary laws and application of Sharia laws in the northern states; violence against women, including widowhood rites; and obstacles to access to employment, decision-making positions and health services.

/ Some positive developments...

The Coalition of the Campaign acknowledges the adoption of several laws and policies aimed at improving respect for women's rights, including:

- The passage of the Gender and Equal Opportunities Law 2007 by the states of Anambra and Imo, providing for affirmative action measures to redress under-representation of women in appointive and elective positions and prohibiting discrimination in areas such as education and employment.
- The adoption of laws protecting the rights of widows in several states: Enugu (2001), Oyo (2002), Ekiti (2002), Anambra (2004), and Edo (2004). However, implementation of these laws remains inadequate.

/ But discrimination and violence persist

IN LAW

Nigeria is a federal republic with 36 states, which each adopt distinct federal laws. Nigeria has a tripartite legal system consisting of statutory, customary, as well as, in the northern states, sharia laws. The three bodies of law create contradictions and inconsistencies and discriminatory provisions are widespread within each source of law particularly in the areas of family and property law.

Discriminatory **statutory laws** include:

Constitution: Article 26(2) limits the rights of Nigerian women to transmit their nationality to foreign spouses. Article 29(4) deems a woman to be of full age upon marriage, which lends support to early marriages and contradicts the minimum age

requirement (18 years for men and women) set by the Child's Right Act 2003.

Criminal Code: Very strict evidential requirements are imposed to prove the crime of rape, making convictions almost impossible (s. 358, requirement of corroborative evidence). Abortion is criminalised (ss. 228-230).

Discriminatory **customary and religious laws** include:

Marriage: In the southern region, customary laws allow marriage of girls between 12 and 15 years, while in other regions marriage is authorised from 9 years. A 2004 United Nations report estimated that 28% of girls between 15 and 29 years were married, divorced, or widowed. Polygamy is authorized and widely practiced under both customary and Sharia laws. Nearly one third of Nigerian women are in polygamous unions.

Divorce: Sharia law recognizes four main types of divorce. The *talaq* procedure can only be initiated by the husband. It allows him to repudiate the marriage by announcing out loud that he intends to divorce his wife. The *khul'u* procedure allows a woman to request a divorce by paying a "ransom" to her husband in order to terminate the marriage. The *khul'u* is settled in court. The *tafriq* and *faskh* procedures also require court intervention. Divorce is pronounced following an investigation into the truth of the wife's accusations.

Violence: Under the Penal Code of Northern Nigeria, husbands are permitted to beat their wives provided it does not rise to the level of "grievous hurt" (s. 55). Under Sharia law, the husband can withdraw maintenance if his wife refuses sexual intercourse. Under Sharia law (eg. Kano State Sharia Penal Code), a woman alleging rape must produce 4 witnesses to the rape. If the rape is not proved she can be punished for adultery with a prison sentence or flogging.

Ownership of property: Under customary law, only men have the right to own land. Sharia law does not allow women access to real property. Under customary law, a widow cannot inherit marital property.

IN PRACTICE

• Violence

Despite intensive lobbying efforts of women's rights organisations in Nigeria, the legislature has yet to pass into law 9 draft bills on violence against women, including bills prohibiting domestic violence, female genital mutilation, and sexual offences.

Domestic violence is extremely prevalent in Nigeria. It is estimated that 20% of women are victims of domestic violence and such violence is generally condoned by society. There is no specific legislation sanctioning domestic violence and marital rape is not criminalised. It is almost impossible to obtain convictions for rape due to strict evidential requirements. In addition, women tend not to report rape for fear of shaming themselves and their family members, and aware that the authorities generally refuse to file their complaints. When complaints are filed, investigations are often abandoned.

Despite the passage of laws in several states prohibiting female genital mutilation (FGM), and the adoption of a National Plan of Action aimed at reducing the prevalence and incidence of FGM, the practice remains widespread. A 2007 World Health Organization study reported that FGM is practised in the vast majority of Nigerian

states. It is estimated that across the country 20% of women aged 15 - 49 have undergone some form of FGM and the areas with the highest prevalence are southwestern Nigeria (56.9%), southeastern Nigeria (40.8%), and southern Nigeria (34.7%).

Although laws protecting the rights of widows have been adopted in several states, across the country women continue to be subjected to widowhood rites. Such rites include forcing widows to drink the water used to bathe the husband's corpse, or to crawl over his corpse. According to the practice of levirate, a widow can be forced to marry to her deceased husband's male relative.

Despite the adoption of the Trafficking in Persons Prohibition Law Enforcement and Administration Act in 2003 (amended in 2005) and the establishment of the National Agency for the Prohibition of Trafficking in Persons, trafficking remains widespread.

The Coalition of the Campaign calls on the authorities of Nigeria to:

- **Reform or repeal all discriminatory statutory laws** in conformity with CEDAW and the Maputo Protocol, including provisions within the Constitution and the Criminal Code.
- **Harmonise statutory, customary, and religious law in conformity with international and regional instruments on women's rights** and ensure that where conflicts arise between formal legal provisions and customary law, the formal provisions prevail.
- **Strengthen legislation and other measures to protect women from violence and support victims**, including by adopting specific legislation to criminalise domestic violence, marital rape and other crimes of sexual violence; and reforming the evidence requirements to prove rape; removing obstacles to victims' access to justice; ensuring effective prosecution and punishment of offenders; implementing training for all law enforcement personnel; and establishing shelters for women victims of violence.
- **Increase efforts to ensure women's equal access to employment and decision-making positions**, including by strengthening measures to combat sexual harassment in the workplace and implementing temporary special measures, including quotas.
- **Improve women's access to health, including by** strengthening efforts aimed at reducing the incidence of maternal and infant mortality; increasing knowledge of and access to contraception; improving sex education and establishing family planning services.
- **Adopt all necessary measures to reform or eliminate discriminatory cultural practices and stereotypes**, including through awareness-raising programmes targeting women and men, traditional and community leaders.
- **Implement all recommendations issued by the CEDAW Committee** in July 2008

• **Obstacles to access to employment and under-representation in political and public life**

Women have higher rates of illiteracy than men and are predominantly employed in the informal sector and thereby restricted from accessing social security benefits. Sexual harassment remains prevalent. Women continue to be seriously underrepresented in decision-making positions. Despite the 35% minimum quota stipulated in the National Gender Policy, in 2010 women represented 6.9% of members of the House of Representatives and 8.3% in the Senate.

• **Obstacles to access to health**

Healthcare facilities are inadequate in quality, number, and funding. Lack of access to prenatal and post-natal care, obstetric services and family planning information, contributes to the high maternal mortality rate. Nigeria has the world second highest maternal mortality rate (1,100 per 100,000 births in 2007). Other contributing factors include unsafe abortions, inadequate post-abortion care, early and child marriages, early pregnancies, high fertility rate and inadequate family planning services, the low rates of contraceptive usage, lack of sex education.

PRINCIPAL SOURCES

- Focal Points: BAOBAB, CLO, WILDAF-Nigeria
- CEDAW Committee recommendations, July 2008
- Nigeria CEDAW NGO Coalition Shadow Report to CEDAW June – July 2008
- Wikigender, www.wikigender.org

For more information on women's rights and the actions of the campaign in Nigeria, see: www.africa4womensrights.org

THE CAMPAIGN FOCAL POINTS IN NIGERIA:

BAOBAB for Women's Human Rights



BAOBAB is a not-for-profit NGO with the mandate to promote and protect women's rights under religious, statutory, and customary laws in Nigeria. Activities include media awareness, capacity building, and producing publications on women's rights issues.

www.baobabwomen.org

Civil Liberties Organization (CLO)

CLO is Nigeria's first and largest, independent, not for profit human rights organisation founded in 1987. CLO has six zonal offices, 37 state branches and 111 units in the local government areas and tertiary institutions in Nigeria.

<http://www.clo-ng.org/>

WILDAF-Nigeria



WILDAF-Nigeria is a member of the pan-African network, WILDAF. The sub-regional coordination of WILDAF West Africa covers 8 countries including Nigeria.

<http://wildaf-ao.org>