

Marginalisation and Gender Inequalities of African Minorities in Need of Legal Protection

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Children's lives in Africa are significantly impacted by gender discrimination and inequality. Given that social standards favor boys over girls in most facets of life, there is a clear association between a child's gender and their likelihood of realizing their rights and reaching their full potential, including integration into opportunities. Disparity based on gender is most prevalent during adolescence, when many girls are faced with the possibility of early marriage, pregnancy, and domestic abuse. For females at this age, dropping out of school is a serious risk. The majority of gender inequalities and discriminatory policies especially target girls and young women, as politicians and traditional authorities often favor gender inequality. This leads to increased hurdles for women and girls, while also affecting boys and men.

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Introduction

Mbiyozo (2021) argues that gender inequality causes women to be poorer, have less education, and face more health risks than men. Labour markets are heavily gender-segregated, with women primarily employed in low-paying and insecure occupations. They carry a disproportionate burden of unpaid work and rely more on natural resources and climate-sensitive sectors for their livelihoods than men. In sub-Saharan Africa, women are responsible for 80% of food production, and more than 60% of all employed women work in agriculture. Despite their essential roles, women are less likely to own land or other productive assets. They typically access land through male relatives as laborers. Granting women land rights would significantly reduce the risk of displacement and increase crop productivity. Additionally, landowners are more likely to invest in improvements and have access to credit. Approximately 250 million Africans live under extreme water stress, with women being most affected because water access is essential for daily household tasks such as cooking, washing, and caring for the ill, children, and elderly.

Jousse's (2021) views on the occasion of the fiftieth anniversary of the creation of the Pan African Women's Association (PAWA) on November 15, 2012, where Irina Bokova (2017), UNESCO Director-General from 2009 to 2017, declared: "Women are the driving force behind small changes of critical importance to their societies and communities: they are advancing the quality of education and access to healthcare; they are fighting for their rights and active participation [in political life]; and they are promoting peace, reconciliation, and development" (UNESCO 2017, Jousse 2021).

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Women are essential to a country's development and functioning, yet they still face a great deal of discrimination and violence because of their gender. What is the situation on the African continent? Women are the ones who suffer the most from gender inequality and marginalization on the continent. What are the solutions to gender inequality and discrimination against women and girls? What actions are possible? Africa has made significant progress towards gender equality and women's empowerment, yet inequalities have reached a critical level in West Africa (Jousse 2021).

Strong Gender Inequalities and Marginalization Characterizing the African Continent on Minorities

Social Inequalities in Marriage, Female Circumcision and Education Exclusion

Discrimination in Marriage and Female Circumcision

According to UNICEF (2019), early childbirth and the overall number of births over a woman's lifetime are strongly linked to child marriage. On average, child brides in the region have more children while still young. For instance, in Benin, Cameroon, Chad, and The Gambia, more than three in five women aged 20-24 who married before their 15th birthday have three or more children, compared to less than 10 percent of women of the same age who married as adults (p. 7). Amoakohene et al. (2019) add, over the past 35 years, approaches to domestic violence have evolved from viewing the problem as limited to a very few problematic marriages, and disbelieving and blaming battered women, to recognizing the prevalence of serious levels of physical violence and psychological abuse in many intimate relationships (p. 20).

Diarra (2018) argues that in 2014, an estimated 700 million women were married before the age of 18, with more than one in three married before the age of 15. The majority of early marriages occur in developing countries, with West Africa having the highest prevalence. Among the ten countries with the highest rates of early marriage, half are in this region. Niger and Mali are the most affected, with prevalence rates of 77% and 61% respectively.

Moreover, low levels of education and academic failure contribute to the decision to marry early. Out of a total of 916 women married at an early age in Mali, 366 had to leave school, while 294 never attended. Early marriage not only leads to school dropouts but also reflects the shortcomings of the education system (Diarra 2018).

Robin et al. (2021) state that in the West African collective imagination, social rather than physical maturity determines entry into adulthood, typically marked by marriage—a rite of passage through which every man, and in this case every girl, acquires adult responsibilities (p. 27). Religious leaders justify such marriages in the name of religious virtue, citing the risks of premarital sexuality among young girls. They view child marriage as a means to avoid dishonoring the family through extramarital pregnancies or the loss of girls' virginity before marriage (Robin et al. 2021, p. 28).

According to Robin et al. (2021), the preservation of customary law or its principles in family matters across many French-speaking African countries has contributed to the ongoing legality of polygyny. Studies conducted in Chad, for example, reveal that Chadian men do not perceive polygyny as violence; some even interpret it as divinely recommended. Consequently, men marry multiple wives, fostering jealousy among co-wives who often share the same living space (p. 29).

Furthermore, Robin et al. (2021) argue that populations practicing Female Genital Mutilation (FGM) justify or explain it as a means of preserving tradition, controlling female sexuality, preparing for marriage, and complying with religious instructions. While FGM is commonly associated with Islam, it is also prevalent in Christian and other non-monotheistic religious communities. For instance, in Burkina Faso, excision affects all ethnic groups and religious affiliations (p. 28-29).

Education Exclusion

As per Mutume (2005), perhaps the most inhibiting factor is that women in Africa continue to be denied an education, often the only ticket out of poverty. Disparities between girls and boys start in primary school and widen throughout the entire educational system. In total enrollment in primary education, Africa registered the highest relative increase among regions during the last decade. However, given the low proportion of girls being enrolled, the continent is still far from the goal of attaining intake parity by the end of this year. By 2000, sub-Saharan Africa was the region with the most girls out of school, 23 million, up from 20 million a decade earlier. Hallum and Obeng (2019) state:

Inequality is also rife in the provision of public services, such as education and healthcare. For example, women from rich families in Mali are 15 times more likely to have received a secondary education than those from poor families. In Nigeria, a woman from a poor family is 26 times more likely never to have been to school compared with a woman from a rich family, and in Ghana a girl from a poor family is 14 times more likely never to have been to school than one from a rich family. An estimated 70% of the poorest girls in Niger have never attended primary school; among those who have attended, school supplies and materials account for almost 75% of spending on education for the poorest households. Niger is the least educated country in the world, with the average length of schooling being just 18 months. Only one in two girls goes to primary school, one in 10 to secondary school and one in 50 to high school (pp. 4–5).

Coleman and Ellis (2023) state, there are a number of factors that contribute to these inequities including a lack of “access to such resources as quality pre-school education, the highest quality teachers, maximum amounts of instructional time, enriching life experiences, college preparatory curriculum, engagement with rigorous content and authentic learning that allow students to develop and create meaningful, useful outcomes and the supports essential for student success” (p. 617).

Economic Inequalities in Wealth and Labour Force

Hallum and Obeng (2019) assert that wealth inequality not only creates a divide

between the rich and the poor but also has a strong gender dimension. For instance, in Ghana, only 60 out of the 1,000 new US dollar millionaires added to the country's list of millionaires in the decade ending in 2016 were women. Similarly, in Ghana, men own 62% of household places of residence and 62% of agricultural land, while only 37% of real estate owners are female (p. 13).

According to the Food and Agriculture Organization (2011), women often face gender-specific challenges to full participation in the labor force, which may require policy interventions beyond those aimed at promoting economic growth and the efficiency of rural labor markets. The share of women in the agricultural labor force ranges from 36% in Côte d'Ivoire and Niger to over 60% in Lesotho, Mozambique, and Sierra Leone (pp. 7–8). Hallum and Obeng (2019) contend that West African labor markets are characterized by widespread gender inequalities. For example, in The Gambia and Sierra Leone, men earn over 40% more than women on average (p. 30).

Hallum and Obeng (2019) maintain that in West Africa, land can be held by individuals, customary groups, companies, or the state, and decisions about land can be made through statutory or customary systems. To address gender inequality, women must have equal land rights across all tenure systems. However, there are few systematic data on women's access to and control of land under customary systems or in contexts where rights have not been formalized (p. 349). In Nigeria, women represent between 60% and 79% of the rural labor force and constitute about 37% of active agricultural workers, but they are 10 times less likely to own their own land than men. This level of inequality has negative impacts on women, including making them more vulnerable to gender-based violence (Hallum and Obeng 2019, p. 34).

Inequalities in Political Domain

According to Hallum and Obeng (2019, p. 19), similar gender inequalities can be found in political representation, with women accounting for as few as 5.8% of elected representatives in the Nigerian parliament, 7.2% in Benin, and 8.8% in Mali.

Jousse (2021) writes that when it comes to political equality, the situation is more nuanced. In 2018, only 24% of seats in national parliaments were held by women. However, this figure is gradually increasing, as it was 12% in 2000 and 19% in 2010. Women are largely underrepresented in ministries and other legislative and executive bodies. Nevertheless, despite this low percentage, some countries stand out, such as Rwanda: the first country in which women make up more than half of parliamentarians, representing 61.3% of parliamentarians in 2018.

Musau (2019) states that in sub-Saharan Africa, the number of women seated in parliament grew in 2018, with a regional average share at 23.7%. Djibouti, which in the year 2000 had zero women in parliament, saw the most dramatic gains globally among lower and single chambers. Ethiopia saw the largest increase in women's political representation in the executive branch, from 10% women ministers in 2017 to 47.6% in 2019 (Musau 2019). Among the top African countries with a high percentage of women in ministerial positions are Rwanda (51.9%), South Africa (48.6%), Ethiopia (47.6%), Seychelles (45.5%), Uganda (36.7%), and

Mali (34.4%). The lowest percentage in Africa was in Morocco (5.6%), which has only one female minister in a cabinet of 18. Other countries with fewer than 10% women ministers include Nigeria (8%), Mauritius (8.7%), and Sudan (9.5%) (Musau 2019).

Cultural factors responsible for women's low participation in politics and governance identify cultural stereotypes, abuse of religion, discriminatory laws, and traditional practices, as well as patriarchal social structures, as some of the factors that militate against women's participation in government in Nigeria.

Policies to Fight against Marginalization and Gender Inequalities of Minorities in Africa

Women's Empowerment

According to Jousse (2021), equality between women and men and the empowerment of women and girls have become priorities on the African continent, aiming to ensure respect for women's rights and put an end to gender discrimination. Women's empowerment and sustainable development were highlighted at the 2015 African Union Summit of Heads of State and Government in the context of achieving Africa's Agenda 2063. Agenda 2063 is built on seven commitments, namely:

1. Achieving equitable people-centered growth and development.
2. Eradicating poverty.
3. Developing human capital, social goods, infrastructure, and public goods.
4. Achieving sustainable peace and security.
5. Establishing effective and strong State development.
6. Promoting participatory and accountable institutions.
7. Empowering women and girls (Jousse 2021).

The empowerment of women and girls and gender equality are increasingly important objectives for the member states of the African Union. Consequently, girl-specific policies have resulted in significant improvements in access to education for girls in Benin, Botswana, The Gambia, Guinea, Lesotho, Mauritania, and Namibia. Girls' access to education has also increased due to awareness campaigns and policies aimed at reducing school fees in public elementary schools in rural areas. For instance, in Benin, the gender gap has decreased from 32% to 22% (Jousse 2021).

Women's Online Activism

Chiluwa (2021, p. 23) states that through online activism, Women Advocacy Action Groups (WAAG) extend their voices, influence, and activities to reach greater national and international audiences, including communities of concerned individuals, and even reaching out to the most vulnerable rural women and the underprivileged. WAAGs provide online training for young women aspiring for political leadership, publicize and support women contesting elections through

social media, and further attract social and moral support for female parliamentarians who are exposed to victimization. WAAGs sustain a very strong online community base, organizing webinars and supporting conversations that focus on women's political participation, education, skills acquisition, and economic empowerment.

Feminists are using social media to change public discourse and have refused to be intimidated by hateful responses from predominant patriarchal traditions. This refusal has significant implications for the future of WAAGs. Now, with the full backing of the United Nations and the African Union, and encouragement from successes recorded in some countries, such as Rwanda with 61% female representation in government—the highest in the world—it is clear that the activities of WAAGs are indeed yielding impressive results (Chiluwa 2021, p. 23).

Public Services Investments

Hallum and Obeng (2019) highlight that social spending on public services such as education, healthcare, and social protection has been shown to have a strong impact on reducing inequality, particularly for the poorest women and girls who are most dependent on them. Social spending can play a key role in reducing the amount of unpaid care work that many women do—a major cause of gender inequality—by redistributing child and elder care, taking care of sick family members, and other domestic labor (p. 23).

In 2004, Ghana began the implementation of its National Health Insurance Scheme (NHIS) to minimize out-of-pocket expenditure, generally known as 'cash-and-carry', at the point of use of services. The implementation of the scheme was accompanied by increased access and use of healthcare services (Hallum and Obeng 2019, p. 25).

Hallum and Obeng (2019) state that in June 2019, Sierra Leone became the first country in Africa to fully transform its national disease surveillance system from a paper-based one to a web-based electronic platform. With the revitalized system tracking the occurrence of 28 priority diseases, conditions, and events, routine weekly public health reporting has risen from 89% of health facilities countrywide in 2016 to 99% in May 2019. The human cost of the outdated system had held back the health sector's ability to effectively monitor and respond to health issues and events in a timely fashion, as was seen during the 2014 outbreak of Ebola virus disease in the West Africa sub-region (p. 27).

Engagement of Legal Instruments in Combating Gender Inequalities and Marginalization against Minorities in Africa

Jousse (2021) writes that the promotion of equality and human rights, as well as the elimination of discrimination and violence against women, are integral parts of the Sustainable Development Goals (SDGs) of the United Nations programs of recent decades. As a result, many reports have emerged, such as the 2016 African Human Development Report. This report focuses on gender equality and examines the efforts of African countries to empower women, one of the main goals of the SDGs. To address these inequalities, the United Nations developed the concept of

gender-responsive budgeting (GRB) in 1997, which involves a “gendered” analysis of budgetary allocations and a balancing of government funding.

National Constitutions disposed provisions to protect women. Article 15 of the Constitution of the Democratic Republic of Congo 2005 with Amendments through 2011 mentions the fight against sexual violence and Article 45 ensures the state’s obligation to integrate human rights courses (implicitly gender courses) in the training of security forces. Burkina Faso’s Constitution of 1991 with Amendments through 2015 in article 23 states that marriage is based on free consent, and all discrimination within marriage is prohibited¹. Article 222(b) of Nigeria’s Constitution of 1999 with Amendments through 2011 discloses membership of political parties to everyone, irrespective of sex². Article 22 of Niger’s Constitution of 2010 with Amendments through 2017 obligates the state to undertake measures to combat the violence done to women and children in public and private life. Sierra Leone’s Constitution of 1991, reinstated in 1996, with Amendments through 2013, in article 19, sanctions slavery and forced labor. Sudan’s Constitution of 2019, in article 49, states women’s economic rights and the right to equal pay for equal work and other professional benefits, and stipulates a general right to own property.

At the regional level, the Protocol to the African Charter on Human and Peoples’ Rights on the Rights of Women in Africa (The Maputo Protocol) was adopted in 2003 and came into force in November 2005. The Maputo Protocol contains articles related to women’s economic rights under Article 13 (Economic and Social Welfare Rights); in the event of remarriage (Art. 21(1)); women’s rights to inherit, in equitable shares, their parents’ properties (Art. 21(2)); married women’s equal right to acquire property independently and freely administer and manage it (Art. 6(j)); the right to participation in the political and decision-making process (Art. 9).

Moreover, the African Charter on Democracy, Elections and Governance contains provisions relevant to women. Article 8 of the African Charter on Democracy, Elections and Governance obligates States Parties to eliminate all forms of discrimination, such as those based on gender, and adopt legislative and administrative measures to guarantee the rights of women and other groups.

The African Commission on Human and Peoples’ Rights General Comment No. 4 mentions the right to redress for victims of torture and other punishments or cruel, inhuman, and degrading treatment. African Commission on Human and Peoples’ Rights Resolution 111 states the right to a remedy and reparation for women and girls who are victims of sexual violence. African Commission on Human and Peoples’ Rights Resolution 283 addresses the situation of women and children in armed conflict. The African Commission on Human and Peoples’ Rights (ACHPR) has passed resolutions aimed at benefiting and empowering women’s economic rights. Resolution No. 66 addresses the situation of women and children in Africa. Resolution 262 mentions women’s right to land and productive resources.

¹Constitute Project (2021) “Burkina Faso’s Constitution of 1991 with Amendments through 2015”, Article 23 <https://www.constituteproject.org/constitution/BurkinaFaso2015.pdf?lang=en>.

²Constitute Project “Nigeria’s Constitution of 1999 with Amendments through 2011- subsequently amended 2018”, Article (222(b)) <https://www.constituteproject.org/constitution/Nigeria2011.pdf?lang=en>.

At the international level, the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) contains provisions on women. Articles 7 and 8 of CEDAW explicitly provide for the principles of equality and non-discrimination concerning political and public life. Women are guaranteed, on equal terms with men: the right to vote in all elections and referenda and to be eligible for election to all publicly elected bodies (Art. 7(a)); the right to participate in policy formulation and implementation, and to hold public office and perform all public functions at all levels of government (Art. 7(b)); and the right to participate in non-governmental organizations and associations concerned with the public and political life of the country (Art. 7(c)). Article 8 guarantees women, based on equality and non-discrimination, the opportunity to represent their government at the international level and participate in the work of international organizations. Article 11 of CEDAW explicitly addresses equality and non-discrimination in employment. Articles 6 and 16 contain relevant provisions for specific practices. Under Article 16, States Parties commit to taking all appropriate measures to eliminate discrimination against women in marriage, guarantee the same right to enter into marriage, freely choose their spouse, and enter into marriage based only on their free and full consent.

Conclusion

Inequalities between men and women persist throughout the continent of Africa, with significant negative impacts on women socially, economically, and politically. Despite this troubling reality, strides have been made over the years to abolish discrimination against women and girls based on gender. Now, many nations, including those in Africa, prioritize the empowerment of women and girls, as well as gender equality—fifth among the United Nations Development Goals. The implementation of programs and policies, along with the efforts of feminist organizations that have been challenging patriarchal notions for many years, are responsible for advancements in this field (Jousse 2021).

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