

**FEMINISM AND WOMEN'S POLITICAL ASPIRATIONS:
EXAMINING THE ROLE OF THE LAW**

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ABSTRACT

Feminism is a concept that has grown to become very relevant in legal theory despite its socio-cultural phenomenon. The rise of feminism began with a fight against male domination, usually within the context of the family and sexual advantages of the male. However, through the evolvement of the law, many of the challenges faced by women in marriages and reproductive life have been resolved through legislation and case laws affirming and upholding women's equal rights in society. However, recent yearnings of the feminists' movement across Africa and the global world have been for equal participation in politics and governance. This is evident in States like Nigeria, Kenya, Ghana and Zimbabwe amongst others. Despite the heightened quest for equal political participation, the response of the law to cater for these yearnings have been very low and women still feel

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subjugated in politics and governance. Beyond the feminism of 'patriarchy', feminists' theory has moved to contesting political influence and leadership equality with the men. This paper examines how the law can respond to these agitations by drawing on experiences from jurisdictions in Africa.

Keywords: Gender Equality, Feminism, Family, Politics, Law

1.0 INTRODUCTION

Gender tussles has manifested in different contexts. Such contexts have culminated in the categories of feminists' legal theories such as dominance theory, liberal feminism, postmodern feminists' theory, Marxist feminists' legal theory and multi-racial feminism. In discussing gender equality challenges, the prominent examples are drawn from the husband and wife relationship. It is a woman's duty to respect her husband, cook for him, take care of the babies, respect him and must submit to his will are all indicators of gender inequality, which forms the basis upon which the early feminist movement was based. Diverse reports of domestic violence in the home aggravated the movement, in which case women are construed as being subjugated because of their disadvantage in physical strength. However, the gender inequality advocacy regarding the subjugation of women in the family has received considerable attention under the law of human rights. Several international legal instruments² are dedicatedly ratified to respect women's

² Some of these Conventions include: Convention on the Elimination of All Forms of Discrimination Against Women 1979; The Inter-American Convention on the Prevention, Punishment and Eradication of Violence Against Women 1994; Protocol to the African Charter on Human and Peoples; Rights on the Rights of Women in Africa 2003; International Labour Organization Convention No. 190 on Violence and Harassment 2019; Council of

rights; many of these women's rights have been given due recognition under domestic laws.

Similarly, recent reports have shown that male domination within the context of marriage and family has been curbed by adequate provision of legal redress for women under the law. Recently, divorcing couples have had equal rights to property ownership during the subsistence of the marriage. However, there is much ado from feminists about non-inclusion of women in politics. There have been more demands on the law to reserve legislative seats for women specifically. The philosophy behind such demands may be suggestively premised on the fact that feminists perceive law as gendered. By examining the provision of the law, is there evidence to ground the fact that the law gives an advantage to the male gender over the female gender in politics? Some of these issues will be addressed in this paper. Could there be a case of cultural influence on the political situation in Africa? The underdevelopment of most African States and the background indigenous culture that generally undermines the ability of women and places women below men is fuel for the agitation. African society is highly heterogeneous and male-dominated. For example, amongst the Yorubas³, women cannot be kings; they cannot hold any position of leadership that places them above the male. Hence, a change began when civilisation and Western political ideas began through colonisation bringing a high level of enlightenment to every citizen equally, male or female.

Agitation for the political inclusion of women in Africa and worldwide cannot be over emphasised. For example, some groups in Nigeria have said

Europe Convention on Preventing and Combating Violence Against Women and Domestic Violence 2011etc.

³ This is an ethnic group in Nigeria majorly occupying the South-Western part of Nigeria.

that they are determined to continue to press for the implementation of 35% of elective positions for women in the country as prescribed by the United Nations after the Beijing World Conference on Women in 1995.⁴ The House of Representatives in Nigeria has been attacked based on its recent rejection of two Bills seeking to “provide special seats for women in the Houses of Assembly both at the State and the National level’ and ‘give women a quota in the Federal and State Executive Councils or Ministerial and Commissionership seats’.⁵ In Kenya, women took to the streets, protesting against the government for short-changing the appointment of more women into the cabinet. It is reported that none of the African Nations have attained the African Union standard of 50/50 representation of women in all leadership positions, including political leadership.⁶ Rwanda has been acclaimed as the world leader in women’s political leadership participation.⁷ It was recorded that after the devastating 30 year genocide in Rwanda, women now occupy about 64% of the roles in government.⁸ The Commonwealth Women Parliamentarians (CWP) in preparation for Botswana elections in 2023 sent representatives to the Parliament of Botswana to deliberate on

⁴ Iwok Iniobong, Political Inclusion: Women Vow to fight on available at <https://www.google.com/amp/s/businessday.ng/amp/politics/article/political-inclusion-women-vow-to-fight-on/> accessed 25 February 2023.

⁵ Ibid.

⁶ Memory Kachambwa, Political Participation for Kenya’s Women still a far cry from its Constitutional Provision available at <https://womendeliver.org/political-participation-kenyas-women-still-far-cry-constitutional-provision/> accessed 25 February 2023.

⁷ Detour Staff, Rwanda is a World Leader in Female Political Leadership’ available at <https://www.google.com/amp/s/amp.miamiherald.com/detour/article264070956.html><accessed 1 January 2024>

⁸ Ibid

women's political participation in the elections.⁹ There is no doubt that recent feminist goals are directly connected to the political involvement.

Why are the feminists concerned about political inclusion? Is it to increase their economic power or a quest for equal scope of influence? The former may not be the case because in the Marxists' view, inequality is a result of social class. However, women have also found their place in economic competence in contemporary society. There are several examples across the world. Women now hold positions as Chief Executive Officers in large organisations like banks, oil companies, law firms, and many other noteworthy organisations. It may be argued that access to the political class will ultimately lead to access to wealth but this may not necessarily be the case because there are examples of women who are wealthy as business tycoons. The latter reason may be far more agreeable because of the influence and power factor far exceeding the desire for wealth in politics.

Hence, this paper examines contemporary agitations of feminists for equal political participation and the role of the law in ensuring that women are given adequate space to exercise their citizen's rights without any form of discrimination, intimidation or threats of violence.

⁹ Commonwealth Women Parliamentarians Chairperson Visits the Parliament of Botswana to Discuss Women's Political Participation ahead of Forthcoming Elections, available at https://www.cpahq.org/news/2023_07-cwp-chair-in-botswana/<accessed 1 January 2024>

2.0 FEMINISM AS IT WAS FROM THE BEGINNING: THE FAMILY

Feminism is so rooted in the concept of patriarchy that it is believed that even the law reflects the values of culture and patriarchy.¹⁰ Legal feminism emerged from what was called the first movement dedicated to “the Social, Civil, and Religious conditions of woman.”¹¹ This research takes into cognisance this social background as it is the foundation upon which recent political agenda of feminists take root. The first major challenge to the feminists' goals is the indeterminacy of their ideologies, the differences in their reasons and whether or not the goals have common end. In 1848, during the Convention held in Seneca Falls, the matter of women’s rights was detailed. The movement initiated activism bringing about a holistic reform of social institutions like family and the church.¹² Social reformers like Lucretia Mott fought against slavery and by this addressed women's rights; and other advocates like Angelina and Sarah Grimké raised the "woman question" of allowing women to speak in public.¹³ The Seneca Falls convention in turn led to the yearly women's rights conventions organised at the local levels where other women like Lucy Stone, Susan B. Anthony, and former slave Sojourner Truth continued to advocate for women's rights.¹⁴

¹⁰Angela L. Padilla & Jennifer J. Winrich, 'Christianity, Feminism, and the Law' (1991) 1 Colum J Gender & L 67.

¹¹ Report of the Convention on Woman’s Rights with the venue at Seneca Falls, July 19-20, (1848). The Report is contained in the Selected Papers of Elizabeth Cady Stanton and Susan B. Anthony, V. I, in the school of anti-slavery, 1840-1866, 75, 76-79 (Ann D. Gordon Ed., 1998).

¹² Nancy Isenberg, “Sex and Citizenship in Antebellum America” Xviii (1998).

¹³ Judith W., The Road to Seneca Falls: Elizabeth Cady Stanton And The First Woman’s Rights Convention (New York University Press, 2004) 36.

¹⁴ Ibid.

In understanding the earliest discourses of feminists, radical feminists' views are deeply rooted in 'women's issues', which are often explained in family, social, and cultural contexts. Radical feminism or the dominance model of feminism is unique from the Marxist and Liberal feminisms in arguing that the discrimination and oppression against women is systematic and ought to be theorised as revealed by a system of the domination of the male gender.¹⁵ Patriarchy is a concept that is used to explain the system where the male gender dominates and then deemed to be the one who benefits mainly from society, right from the family to societal recognition.¹⁶ The analysis of radical feminists though, differs in some respects. There is a unified belief in the fact that patriarchy is the factor that places men above women, and it is the primary agent of discrimination against women. Hence, a major feature of radical feminism that differentiates it from others is that it advocates the dominance of the male gender that is responsible for gender oppression. For some dominant model feminists, their ideology is that the oppression of women is produced by environmental factors such as class; however, patriarchy has its own form of oppression variously and across different jurisdictions.¹⁷

For example, African culture is heterogeneous. This heterogeneous nature of the African society places the male gender in a more superior position, particularly and just for the sole reason that the culture is patriarchal. This

¹⁵Erika Cudowrth, "Nature and Dominance: An Analysis of Interconnections Between Patriarchy and Anthroparchy, Using Examples of Meat and Pornography" (Submitted in accordance with the requirements for the degree of Doctor of Philosophy The University of Leeds School of Sociology and Social Policy March 1998) Page 58

¹⁶Millett, K., *Sexual Politics* (London: Virago 1985).

¹⁷Rowland, R. and Klein, R., 'Radical Feminism: History, Politics, Action', in D. Bell and R. Klein (eds.) *Radically Speaking* (London: Zed Books 1996) 14.

level of domination is evident in the homes. A woman is supposed to be subject to her husband in all matters. She gives birth and takes care of the children. She has to cook for her husband and kneel to serve him his meal.¹⁸ The man may, at will and any time, get married to another woman, and the former wife has no right to complain. If the man dies, some cultures within the Yoruba culture in Nigeria wills over the woman to any willing brother of her deceased husband.¹⁹

These features are often taken to the extreme where because a woman's usefulness does not transect beyond her home, there is no need to fund a girl child for education as it is deemed a waste of investment. It is no surprise that the radical feminists see no other basis for their philosophy than the fact that the female gender was good for nothing but anything, sex and sexuality and the responsibilities that come with it.

Radical feminism, which is also referred to as "dominance theory,"²⁰ pays attention to the physical relationship between the existence of a man and a woman. Dominant model theorists write about sexual issues like rape,²¹ pornography,²² sexual harassment²³ , sexual liberty,²⁴ and "voluntary"

¹⁸ Many African cultural beliefs tend towards systems like this. For example, in Nigeria, virtually all the cultures of about 250 ethnicities believe in patriarchy. Such ethnic groups amongst others include Yoruba, Igbo, Hausa, Efik, Tiv, Idoma and many others. In fact, in certain groups amongst the Igbo, it is the women that go to farm while the men sit back at home attending meetings.

¹⁹ Examples of such culture include the Yoruba culture where it is believed that women are property of the man and could be included in the will of the man.

²⁰ Cass Sunstein, *Feminism and Legal Theory*(Book Review), 101Harvard. Law. Review. (1988) pp 827-829

²¹Catharine Mackinnon, *Difference and Dominance: On Sex Discrimination*, in *Feminism Unmodified* (1987) p 53.

²² Ibid.

²³ Ibid.

²⁴ Ibid.

intercourse.²⁵ Their argument is predicated on the fact that the domination of men in all these sexual issues is fundamental to the oppression of women by the male gender. Radical feminism holds that men exercise power over women through social, sexual, and physical domination.²⁶ Physically, men control women by exercising the threat of violence²⁷ or by practising domestic abuse or other forms of battery.²⁸ Socially, men control women on a small scale by exerting patriarchal control over them by putting them at the receiving end.

Furthermore, it is believed that men exercise a greater dimension of power over women through legal means and economic means; this is explained in terms of the legal exclusion of women by the law, which in turn places men in a more financial advantage than women.²⁹ Also, men exercise dominion over women sexually by exercising the threat of sexual violence against women and by using sexual advances in the workplace, rape, and pimping, to name a few examples.³⁰ To a radical feminist, these age-long practices have culminated in systematic male dominance of any sexually feminine individual. MacKinnon said the following about the dominant approach to feminism:

“[O]n the first day that matters, dominance was achieved, probably by force. By the second day, division along the same lines had to be

²⁵ Ibid.

²⁶ Catharine A. MacKinnon, *Feminism, Marxism, Method, and the State: Toward Feminist Jurisprudence*, 8 *Signs* (1983) p 635.

²⁷ Catharine A. Mackinnon, *Feminism Unmodified* (1987) p 92.

²⁸ Ibid.

²⁹ Ibid.

³⁰ Catharine A. Mackinnon, *Feminism Unmodified* (1987) p93.

relatively firmly in place. On the third day, if not sooner, differences were demarcated, together with social systems to exaggerate them in perception and *because* the systematically differential delivery of benefits and deprivations required making no mistake about who was who. Comparatively speaking, men have been resting ever since. Gender might not even be coded as a difference, might not mean distinction epistemologically, were it not for its consequences for social power.”³¹

Was the dominance of the male gender acquired by force? From the religious perspective, male dominance would not have been seen to have been achieved by force. From a Christian perspective, it is the will of God that a woman is made subject to her husband.³² However, it is arguable that this was not the intendment of God before they were considered to be sinners. While the factors that influenced the feminists' movement will be duly discussed in the other chapters, it is essential to State that male domination came and became the norm based on cultural myths, religious practices and values, which are the foundations of respective societies.

For certain specifics like rape, it is perceived as an unavoidable outcome of the subordination of women and the dominant theorists have debunked the

³¹ Ibid p 40.

³² Holy Bible Genesis 3:16.

claim that rape is an offence of violent assault and not sex.³³ It is believed that rape is occasioned by both the animosity and sexuality that most males have concerning women.³⁴ Arguably, the most contested view of the radicalists is that pornography violates the civil rights of women.³⁵ Catharine MacKinnon also shared his opinion that sexual harassment is a form of gender violence, and this ultimately silences women and dehumanises them. This chapter will further discuss the postmodern approach to feminist theory, especially in challenging and positioning questions about the traditional understanding of feminism. Modern experiences have shown that 'rape' though in many jurisdictions, still is a crime that can only be committed by the male gender; there are several cases of 'male rape' where the female gender also perpetrates it. This may seem to challenge the views of radical feminist theorists.

There are groups referred to as cultural feminists who appreciate connection and relationships. However, the radical feminists seek freedom from all forms of male dominance. Robin West states that "for radical feminists that same potential for connection experienced materially in intercourse and pregnancy, but experienced existentially in all spheres of life is the source of women's debasement, powerlessness, subjugation, and misery."³⁶ Radical feminists believe that the group of cultural feminism reinforces the consistency of the subjugation of women by affirming the weaknesses of the female gender that contribute to women's submission to their oppressors.³⁷

³³ Susan Brownmiller, *Against Our Will: Men, Women, And Rape* 14-15 (1975).

³⁴ Catharine Mackinnon, *Difference and Dominance: On Sex Discrimination*, in *FEMINISM UNMODIFIED* (1987) p 88

³⁵ *Ibid* 148-149.

³⁶ Robin West, *Jurisprudence and Gender*, 55 *U. Chicago. Law. Review.* (1988) p 29.

³⁷ *Ibid* 32-45.

Andrea Dworkin states that “voluntary” heterosexual intercourse is also another means by which men interfere with women, as this cannot be a well-meaning form of intimacy.

It is vital to further state that the challenge of the radical feminist theorists seeking to possess the same power as men in modern times has seen tremendous movement in that respect. The scientific and medical innovation of gender transplants both of male and female, gave both genders an equal platform to become who they choose to be. The existence and development of human rights in gender have almost rendered nugatory the quest of the dominance theory. Those who chose their natural gender may have to deal with nature's order of events. Either way, there are apparent options now open to the genders.

A few of the radical feminists, particularly those writing in the 1970s³⁸ like Morgan, believe that the family is the platform where the oppression of women is aptly rooted.³⁹This has been explained to have enhanced the domination of males in the larger society, bringing about economic exploitation. Other radical feminists like Firestone argued that what matters within the family is sexual exploitation and not domestic violence.⁴⁰Well, domestic exploitation seems to be a broader concept that the radicalists would prefer to express their views in sex and sexuality. This is a more recent position paying close attention to how the radical feminists have put first in order the issue relating to sex, culture and violence when discussing patriarchy. However, the family is a one-stop venue where events are both

³⁸Figes, E, *Patriarchal Attitudes*(London: Macmillan 1970).

³⁹Millett, K, *Sexual Politics*(London: Virago 1985) page 33.

⁴⁰Firestone, S, *The Dialectic of Sex*(London: Women's Press 1988),page.21.

material and intangible; it also includes the household's physical, domestic and economic conditions.⁴¹

The basis of the dominance theory is that the oppression of the female gender within the family may have led to the increased concepts just like 'baby mama'. This is a concept which only allows a woman to bear a child for a man but not in any formal contract of marriage. The increased level of divorce also reflects the fact that women no longer want to be subject to the men and would not hesitate to take up an option to dissociate with the man on a legal basis. The continuous development of the feminists' theory led to different postulations and philosophies such as Marxist feminist theory and liberal feminism, amongst others, but the foundational philosophy of the feminists is founded on the concept of patriarchy, which is firmly rooted in culture and family.

3.0 SOCIALISATION: A CATALYST FOR WOMEN'S QUEST FOR POLITICAL EQUALITY

Socialisation theories explain the process of the individual development of a human personality within a social environment with specific living conditions.⁴² They show that individuals acquire language, knowledge, social skills, norms, values, and customs necessary for participating in and integrating into a group or community. Socialisation is a combination of willed conformity and externally imposed rules mediated by the expectations of other persons. Thus socialisation influences the socio-structural

⁴¹Delphy, C, *Close to Home: a materialist analysis o f women's oppression* (London: Hutchinson 1984) page 217.

⁴²Hurrelmann and Bauer, *Socialisation During the Life Course* (Routledge 2017) 156.

organisation of a shared existence, and simultaneously attains cultural and social continuity.⁴³ Society has not remained at the same level as civilisation over the years. There is an increased political awareness that has fueled the agitation of women to be included in politics. As will be discussed under the next heading, experiences of women within the political society can only be explained to mean that the law is biased and gendered. This ideology thrives on the improved knowledge and awareness of women to other rights such as education. It is obvious that because of the societal subjugation of women, the laws are intentional about creating instruments that states explicitly women's rights, such as reproductive rights, education rights, social rights, cultural rights and political rights.

Matters regarding education, access to job opportunities, business and economic influence have been attended to, with results showing in the increased philosophy of the feminist, which in the view of this research will ultimately culminate in political equality. Socialisation gears towards the transformation of persons in response to the changes in the society. Professor Kenneth Dau-Schmidt focuses on some perennial challenges that he believes women have faced in the local, national, and global economy. He stated that, in general, women have never fared as well as men when dividing up the surplus derived from cooperative economic and social relationships, no matter what level of the economy we are speaking of. He noted that with increased socialisation and globalisation, the global economy may provide women with better opportunities and limit the extent to which they can be

⁴³ Grit Hoppner, Rethinking Socialization Research Through the Lens of New Materialism (Institute of Sociology, Westfälische Wilhelms-Universität Münster, Münster, Germany available at <https://www.frontiersin.org/articles/10.3389/fscoc.2017.00013/full> <accessed 10 July 2023>.

cheated or exploited in bargaining relationships.⁴⁴ This assertion, just like the Marxists assert is one of the factors that place women below men. Without prejudice to the women who have made the list of top billionaires in the business world, the number still seems too low to say that women are not economically disadvantaged.

It can then be safely concluded that concepts such as socialisation and globalisation, which ultimately are recollected in the economy, are factors that speedily aid the feminists' aspirations for political equality, and to achieve this feat, the law must be employed to ensure that the balance is written in black and white as against deducible experiential gender discrimination.

4.0 WHAT IS THE GENDER OF THE LAW? TOWARDS WOMEN'S INCLUSION IN POLITICAL LEADERSHIP

Is the law construed in the context of the male gender? Is the law discriminating against women? Does the law provide an advantage for the male gender? These may be asked when examining whether or not it is expedient to create a section of the law reserved for women specifically. The Constitution of the Federal Republic of Nigeria provides very clearly that women cannot be discriminated against politically.⁴⁵ The Convention on the Elimination of All Forms of Discrimination against Women includes commitments to ensuring equality in political and public life⁴⁶ and on the

⁴⁴ Alfred C. Aman Jr., 'Feminism and Globalization: The Impact of the Global Economy on Women and Feminist Theory' (1996) 4 *Ind J Global Legal Stud* 3.

⁴⁵ Section 42 Constitution of the Federal Republic of Nigeria 1999 (as amended).

⁴⁶ Article 7 Convention on the Elimination of All Forms of Discrimination against Women, 1979.

representation of women.⁴⁷ It is also essential to State that there cannot be a reference to any political office that the law reserves for any gender. However, deductions of the feminists on the gender of the law are premised mainly on experiences and how male politicians have taken over the scene of politics than women. It may raise questions as to why the ratios of representation of women in politics are low compared to men since 1999, when Nigeria got her independence. Drawing experiences from across African countries, we may deduce that the law has been gendered by culture and the attitudes of the male gender.

The experiences of women who have attained one political leadership position or the other have not been palatable, and this hostility they face rather than affect their self-esteem became a propeller to strengthen the feminists' movements in Africa further. There are copious examples from countries like Zimbabwe, Nigeria, Kenya, and Ghana, among others. Nyaradzo Mashayammombe, a Zimbabwean consultant on Women's Development and Participation in Leadership across Africa, states that women in Zimbabwe are faced with a high level of adversity in politics. They are often jailed and repressed so much that they have no voice.⁴⁸ Another example is that of a Nigerian senator named Senator Dino Melaye, who in the house, when replying to a fellow Senator, a woman named Remi Tinubu, said to her in the following words: "I will beat you up...impregnate you and nothing will happen"⁴⁹

Violence has been identified to be one primary instrument used against women in politics. Forms of such violence include physical violence, sexual

⁴⁷Ibid. Article 8.

⁴⁸Mona Lena Krook, 'Violence against Women in Politics' (2017) 28 J Democracy 77.

⁴⁹ Ibid.

violence, psychological violence, and economical and symbolic violence. Notable violence has happened to women in politics; Gisela Mota was shot in her home in Mexico less than 24 hours after she became the first female Mayor in her town. Also, in Kenya, Asha Ali, a women's-rights activist, was physically assaulted in 2007 in front of her family who had advised her not to contest the election in the first place. During the 2004 elections in Afghanistan, women were intimidated to prevent them from registering to vote; a bus carrying female election workers was bombed; and threats were made against polling stations that had been set up to accommodate female voters.⁵⁰ There are also notable occasions where women cried that they had to grant sexual favours to the men in power before they can be promoted in civil service or public service.

There are other examples around the world. Sometimes in India in the year 2016, a 14 year was kidnapped and raped because her mother had won an election.⁵¹ There are other forms of violence that women in politics face, and this is very common. During the general elections of Nigeria in 2023, the Independent National Electoral Commission (INEC) declared Senator Aishat Binani as the first female Governor-elect in Nigeria Upon her return, there were issues raised by religious and cultural opponents, and INEC voided the results. These actions were vehemently opposed by the women's movement in Nigeria as this was seen as a form of intimidation.⁵² The truth is that women's representation in politics around the world, especially in Africa,

⁵⁰ Ibid.

⁵¹ Ibid.

⁵² Everything to Know About Senator Aishat Binani the Woman 'declared governor-elect' of Adamawa
<https://www.google.com/amp/s/www.vangaurdng.com/2023/04/everything-to-know-about-first-elected-female-governor-in-nigeria-sen-aishat-binani/amp/><accessed 8 May 2023>

means that the feminist agenda in the current global political economy will intensify and the quest for political inclusion will not decrease.

In furtherance of this fact, it is not undeniable that culture has found its way into the law and politics. In modern times, politics is predated with traditional ways of governance which is inherent in some societies. African society has their means of governance before the Western introduction of other forms of governance like democracy which has now become widely spread across the globe. Most indigenous African society has a form of leadership that is predominantly by the male gender. For example, in Nigeria, the predominant cultures are the Yorubas, Igbos, and Hausas. The male gender predominantly rules all of these ethnic groups. The Oba (King) must be male;⁵³ the Eze (King) must be male;⁵⁴ the Emir⁵⁵ (religious and traditional ruler) must be male. These leaders are also traditionally in charge of governance within their territories. They also perform judicial functions in the adjudication of disputes. One significant situation here is that it is traditional for women not to hold leadership positions. The wife of the King may be assigned duties over women's affairs just like it is done in modern politics.

Further, the introduction of modern political ideology and the rise of the feminists' movement against domestic violence triggers the agitation of women for equality in all areas, including political and leadership positions. The fact remains that politics or politicking must be according to the rule of law. From the earlier arguments in this research, the rule of law is a collection of religious and cultural values and morals that already subjugated women in

⁵³ Yoruba Culture refers to their King as "Oba".

⁵⁴ Igbo Culture refers to their traditional ruler as "Eze".

⁵⁵ Hausa Culture refers to their traditional ruler who also occupies the position of a religious leader as "Emir".

certain areas, including leadership positions. To bring the female gender into the realm of political leadership just as the movement for political inclusion is going around in Africa, authors like Kofi Agorsah gave historical usefulness of women in substantiating why women are essential in leadership positions.⁵⁶ For example, in Nigeria, in Benin, the capital city of the Edo-speaking people, women performed the role of Queenmothers. A collection of 16th century art contains a magnificent bronze head of a Queen-mother. It is claimed that Oba Esigie, who ruled up to about 1550 was the first to confer the title of Queenmother on his own mother. Since that time, each Benin Oba or King, conferred the title on his mother three years after accession to the throne. There is a similar head of a queen in terracotta, from an archaeological site called Ita Yemoo in Ife, with a five tiered, beaded crown indicating that it was a queen.' Again, the importance of women in the traditional political hierarchy is demonstrated.⁵⁷ From Ghana, historical evidence indicates that the office of the *Okyeame*, the chief's 'Spokesman', originated through a woman. This is a crucial point to emphasise when discussing the role of the *Okyeame* in the traditional African political organisation of the Akan peoples, whose social organisation is matrilineal.⁵⁸ The African culture is unique in discussing politics and feminism. There is a concept refers to as 'regent-ship'. This practice allows women to occupy the role of Kingship momentarily or on the interim, pending when a substantive King will be appointed to the throne. This same practice is being practiced among the Yorubas in Nigeria and practised amongst the Asante people in

⁵⁶Kofi E. Agorsah, 'Women in African Traditional Politics' (1990-1991) 30 J Legal Pluralism & Unofficial L 77.

⁵⁷ Ibid at 79.

⁵⁸ Ibid at 80.

Ghana. This practice is similar to what in modern politics refers to as 'interim government'.⁵⁹ Ghana is a typical example of a matrilineal society with several examples of women in leadership positions. For instance, amongst the Krobo of Southern Ghana, a woman is prominently in charge of governmental and traditional affairs. This particular woman is the most important and oldest among the old ladies of the Chief's house and the one who in olden days had accompanied the Chief to war and prepared food for him, who opens deliberations by swearing an oath translated as follows: "*I swear this oath, I am a woman. But if there is war and I refuse to prepare porridge for you to eat so that you may get strength to fight a glorious battle, I should rather sacrifice my head.*"⁶⁰ History has it in the United States that women did not begin to stand up and win elections until fifty years after the 19th century when women only took about 3% of the Congress.⁶¹ So, beyond the African traditional experiences, modern politics from the West have also faced the challenge of including women in Politics.

However, the reality of modern days is that the agitation for legal reform of feminism is a specific request for a certain percentage of positions in the legislative Houses rather than leaving the victory of a woman to chance. Hence, women want to compete with women for reserved political slots to guarantee equal participation in politics. In Kenya, for example, the struggle of women is such as is common to many in other jurisdictions such as domestic violence, female genital mutilation, and poverty amongst others. The feminist movement in Kenya faced a number of hindrances to gaining social, economic, and political equality because of the male dominance of

⁵⁹ Ibid at 81.

⁶⁰ Ibid at 82.

⁶¹Joya Misra, 'Women, Politics, and Gender Inequality' (2020) 42 W New Eng L Rev 397.

Kenyan society. One of the renowned women who impacted the feminist movement in Kenya is the late Professor Wangare Muta Maathai.⁶² In 1977, she founded the Green Belt Movement, a non-profit organisation aimed at protecting the fundamental rights of women and the environment. Her endeavour aimed to improve women's standard of living by ensuring access to basic amenities such as clean water and domestic fire woods amongst others.⁶³

A cursory understanding of further development in Kenyan feminism is its inclusion into active political participation through legislation. The experience in Kenya proved the transition of feminism from domestic-related issues to political equality. Martha Karua, who was then the Minister for Justice and Constitutional Affairs in 2007, presented the Constitutional (Amendment) Bill 2007 on Affirmative Action with the sole aim of ensuring that women have several places created for them in the 10th parliament and also advocated strongly for the creation of additional 40 Constituencies in the Kenya. Karua argued the creation of these 50 special seats as an affirmative action issue, whose aim was to ensure women's representation in at the same level as the women's population. This move by the Honourable Minister stirred a lot of debate in parliament on the grounds that she has personally personalised the Bill to achieve some selfish goals. Consequently, the parliament refused to adopt the bill. However, the Honourable Minister gained wide support from women in civil societies and Women bodies such as Maendeleo ya Wanawake, the National Women Coordinating Committee,

⁶²Lillian Adawo, Lucy W. Gikonyo, Regina M. Kudu, Olga Mutoro, 'History of Feminism in Kenya' (2011) p 10.

⁶³Ibid.

educationists and media specialists.⁶⁴ The advocacy for affirmative action yielded positive outcomes, as the Kenyan Constitution, which was enacted in 2010, clearly provides a legal framework for gender equality and women's empowerment.⁶⁵ Expressly, affirmative action is guaranteed in the Constitution in a number of provisions, including Article 27 (8) which states that the State shall take legislative and other measures to implement the principle that not more than two-thirds of the members of elective or appointive bodies shall be of the same gender. Article 81 (b) further states that not more than two-thirds of the members of elective public bodies shall be of the same gender.⁶⁶

5.0 RECOMMENDATIONS AND CONCLUSION

The feminists' aspirations to hold political positions are crystal clear, and the quest, especially in Africa, is not likely to abase especially when women feel threatened and oppressed by male politicians. This research has also explained that whether or not the law is gendered cannot be retrieved from the written law but in the experiences deducible over the years. It is on this premise that to solve the gender challenges created by political inequality, it is important that the law considers it necessary, especially in legislative and ministerial roles, to reserve seats to be occupied by women. This will consequently reduce the level of contention with the oppressive male

⁶⁴African Woman and Child Feature Service:50 Special Seats for Women: Debate and Media Coverage Reports. (Available at <http://www.awcfs.org/dmdocuments/research/The-50-Special-Seats-for-Women-Debate-and-Media-Coverage/> (accessed on the 19th day of December 2021) .

⁶⁵ Article 27(8) Kenyan Constitution 2010.

⁶⁶The Kenyan Constitution (2010).

counterpart. It is also recommended that women in politics who have experiences of oppression be granted by law locus to sue on such grounds as 'political oppression', which should be treated with strictness than criminal threat. This will further curb gender oppression in politics. Article 7 of the *Convention on the Elimination of Discrimination against Women (CEDAW)* also provides for eliminating discrimination against women in political and public life. Article 5 encourages states to take measures to eliminate prejudices and stereotypes against women. Article 1 of the *Universal Declaration of Human Rights (UDHR)* also provides that 'All human beings are born free and equal in dignity and rights'. Article 2 notes that 'everyone is entitled to all the rights and freedoms outlined in the Universal Declaration without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status'. Article 4 provides that 'No one shall be held in slavery or servitude' while Article 7 declares unequivocally that 'All are equal before the law and are entitled without any discrimination to equal protection of the law'. While quite a number of the issues relating to the oppression of women have been addressed in several international instruments, matters relating to political participation are yet to be considered as germane like other areas.