

A LEGAL CRITIQUE OF GENDER EQUALITY IN THE OIL AND GAS INDUSTRY

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Abstract

This issue surrounding gender equality has remained an unresolved pandemic which has been identified as critical to the achievement of national development goals. In fact, the attainment of gender equality is not only seen as an end in itself, it is equally a catalyst to, and a sine-qua-non for the achievement of sustainable development. Generally, the oil and gas sector has being categorized as being the least gender diverse sector despite recent efforts to promote and encourage women's participation. The continuous orientation and stereotyping of the oil and gas industry as a masculine profession tailored for the male counterparts alone has restricted the promotion of gender equality. The main aim of this work is to examine the issue of gender equality and its effects in relation to the oil and gas industry. The Methodology used for this research is the doctrinal method of research and references would be made to existing literature. Furthermore, it gives an insight into the fact that although women represent roughly a fifth of the oil and gas sector workforce, women account for significantly smaller share of the workforce than they do in most industries. The industry's women also work disproportionately in business and commercial roles as they possess very limited presence in technical posts, which are often considered prerequisites for career advancement, and upper management roles. Also, the underrepresentation of women's ascension to top directorship positions is embedded in the African socio-cultural patriarchy. The research concludes that there are no adequate legal regulations on gender equality in the oil and gas industry in Nigeria and recommended the domestication of international laws, eradication of non-gender friendly laws and deliberate policy endorsements for a mandatory legislative quota and gender. The dissertation highlights the challenges to gender equality in the oil and gas industry in Nigeria but looked into the potentials that could be leveraged from having a potentially sizeable and critical pool of talent from a mixed gender platform.

Keywords: *Gender Equality, Oil and Gas Industry, Nigeria, Local Content, Discrimination*

1.0. Introduction.

Gender equality has become a major determinant and milestone in clear-cut development strategies that are targeted at poverty reduction, improved living standards, good governance,

and profitably productive investments that are critical to the creation of an expanded capacity that provides men and women equal opportunity and unrestricted access to decision-making,

following the realization that gender equality is a major determinant and milestone to clear-cut development strategies that are targeted at poverty reduction, improved living standards, good governance, and profitably productive investments that are critical to the creation of wealth.

Women are under-represented in the oil and gas business in Nigeria and most countries around the world, according to numerous studies. A male-dominated industry is defined as one in which women make up less than one-fourth of the overall workforce.¹ Women are under-represented in field roles and technical positions, which are frequently considered as stepping stones to progression, making the oil and gas business in general a male-dominated industry. Women are more likely to work in support services such as human resources, information technology, and legal, while manufacturing, engineering, and research have lower female presence.²

Women hold only 9% of senior executive roles in the energy sector in Africa and the Middle East, with gender diversity diminishing with seniority. In the oil and gas industry, women make up less than 8% of technical positions, and just 9% of management positions in the utility industry.³

Despite the fact that gender equality in the oil and gas industry is deteriorating, there are significant opportunities to be realized as a result of a growth in the number of women with the necessary qualifications, such as engineering and other technical degrees. According to the National Bureau of Statistics, women account for only 22 percent of all Engineering and Technology University graduates in Nigeria each year.⁴ The stereotyped pattern of thought is becoming outmoded in most countries as the industry adopts the usage of more mechanized labour compared to the previous pattern.

The question remains whether Nigeria can forge ahead from the shackles of the stereotypical ideology in regards to oil and gas industry as being masculine and work towards creating exclusivity of both genders in the oil and gas industry. The primary head block that has continuously hindered gender equality in the industry has been the discriminatory and sex based a law which is being relied on by many as reasons why they believe the industry should remain the way it is. Other reasons have been attributed to the patriarchal society where the idea of working in the oil and gas industry has been pictured as being heavy, dirty and

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¹ Catalyst, Women in male dominated industries <<https://www.catalyst.org/research/women-in-male-dominated-industries-and-occupations>> accessed 14th of September, 2021

² Petroplan, How gender diverse is the oil and gas industry <<https://www.petroplan.com/blog/2020/07/how-gender-diverse-is-the-oil-and-gas-industry-%E2%80%93-and-how-can-it-improve>> accessed 14th of September, 2021

³ Africa news, positioning women as engine of growth in the oil and gas industry <<https://www.africanews.com/2020/10/01/positioning-women-as-the-engine-of-growth-in-the-oil-and-gas-industry/#:~:text=According%20to%20a%20recent%20study,of%20the%20renewable%20energy%20workforce.>>> Accessed on the 14th September, 2021

⁴ WTEC, The gender gap <<https://wtec.org.ng/the-gender-gap/>> accessed on the 14th September, 2021

masculine. A woman is only perceived to be able to succeed in the field if she appears to be tough, aggressive and masculine. Where she lacks these characteristics, then she must work in menial jobs requiring manual dexterity and “nimble fingers”.

Paying attention to the issue of gender equality is an important and long overdue stimulus to a rapid and more inclusive human development and economic growth for the entire continent.⁵ A gender diversified corporate boardroom is a balanced board because recruitment of women brings diverse opinion on board.⁶

In the oil and gas industry, there has been a perceived stereotyped perception that female employees lack in their ability, stability and commitment to their jobs. Most of these assertions have been attributed to their family responsibilities particularly as married women and their lack of productivity when compared to their counterparts. This has resulted in many female employees being overlooked during recruitment, career advancement or training.

For Gender equality to succeed in the oil and gas industry there must be a fair play for both men and women doing same job with same pay. The need for gender equality requires the complete elimination of the male stereotyped agenda. No doubt that people are different in not only gender, culture, race, social and psychological characteristics but also in their perspectives. Hence, in order to promote equality amongst the sexes and advocate for the promotion of gender friendliness and dynamism in the oil and gas industry, whose ultimate goal has spiral positive effects, there is the need to avoid all forms of gender discrimination which in itself is unconstitutional.⁷

Historically, men have been stationed to occupy important positions in the oil industry which are milestones to senior positions while the women took her central place in the family center.⁸ According to Sim Tshabalala, the achievement of gender equity in quoted corporations is not only a fundamental human right but a business imperative.⁹ “Women embody half the world’s talent, skill and energy and more than half its purchasing power.” (Which is *in tandem* with Hillary Clinton’s statement)¹⁰

Essentially, the talent pool is becoming more female-dominated.¹¹ Women are outperforming males in schooling all around the world. In most fields of study, women receive more university degrees than men. Female directors, in particular, have given a superior awareness of the

⁵ Africa Human Development Report, ‘Accelerating Gender Equality and Women’s Empowerment in Africa, United Nations Development Programme’ (2016) <<https://www.undp.org>> accessed 8th of August, 2021.

⁶ Onyali and Chinedu Uchenna Okerekeoti, ‘Board Heterogeneity and Corporate Performance of Firms in Nigeria’ (2018) *International Journal of Academic Research in Accounting, Finance, Management Science* Volume 8, Issue 3, pages103-117 E-ISSN: 2225-8329.

⁷ CFRN 1999, s 42

⁸ Alidou Ouedraogo, ‘Determinants of under-representation of women on Boards of Directors: an exploratory study of African public and private firms’ (2018) *Economics and Business Review*, Volume 4, Issue 18, page 98.

⁹ Standard Bank Group Chief Executive Sim Tshabalala, (2018) <<https://standardbankplc.com>> accessed 14th October, 2021

¹⁰ Viet Nam New, ‘World needs empowered women more than ever’ (2017) <<https://vietnamnewsectionvn.>> accessed 15th September, 2021.

¹¹ Pwc, Winning the fight for female talents, <<https://www.pwc.com/gx/en/about/diversity/iwd/iwd-female-talent-report-exec-sum-web>> accessed on the 15th September, 2021

business climate to the board since they understand the market better than their male counterparts and bring better images in the community's opinion.¹² The success hereby would be dependent on the elimination of every regulation and laws that restrict equal opportunities in order to have an increased talent pool for recruitment, and with a view to introducing more flexibility. It may be to the benefit of all, as it will let women decide for themselves which duties they can assume or not.

Challenges to gender equality in the Oil and Gas Industry in Nigeria. Women's employment is generally insecure due to a variety of causes that can be linked to organizational stereotypes or to the women themselves. Women's employment in the oil and gas industry is still only 10% or 15%, according to statistics. The lack of these would-be "leaders" may deter young women from pursuing careers in the oil and gas business.

The major challenge attributed to the Nigerian impediment has been poverty in the sense that there is no way to voice out.¹³ Another recognized issue is patriarchy as most women are constrained solely to the family settings, majorly by virtue of their illiteracy level and culture, they do not have no money, they are very timid and submissive talk less of making impact in the society.¹⁴

Despite the fact that women make up almost half of the worldwide workforce, the oil and gas industry only has a 15% female workforce. In Africa, the percentage is much lower, at 9%.¹⁵ Without mentioning the fact that women are frequently dropped out of the labor force, a proper study of the reasons why women are under-represented in senior management positions in the oil and gas business cannot be conducted.¹⁶

In the oil and gas business, there is still a gender imbalance in terms of admission and promotion to senior management roles. The explanation for the disparity must then be investigated further in the oil and gas industry's female labor force. Only 7.9% of board seats in the top 500 global mining corporations were held by women in 2016, with 94 percent of women in non-executive positions in the top 100 companies. In 2009, women made up only

¹² World Economic Forum, 'The Global Competitive Report 2017-2018' (2018) <<https://www.weforum.org>> accessed 15th September, 2021.

¹³ Adebimpe Lincoln and Tofi Adedoyin, 'Corporate Governance and Gender Diversity in Nigerian Boardrooms' (2012) *World Academy of Science, Engineering and Technology International Journal of Social, Behavioral, Educational, Economic, Business and Industrial Engineering* Volume 6, Number 11, pages 326-329.

¹⁴ *Ibid*

¹⁵ Marc Chanel Bouran, Africa's oil sector, sexual assault, and under-representation of the female gender, <<https://tribuneonline.ng/africas-oil-sector-sexual-assault-and-under-representation-of-the-female-gender/>> accessed on the 12th October, 2021

¹⁶ Jackie Gu, 'Women lose out to men even before they graduate from college' <<https://www.bloomberg.com/graphics/2018-women-professional-inequality-college/>> accessed on the 6th of October, 2021; The Conversation, Yes women outnumber men at university but they still earn less after they leave, <<https://theconversation.com/yes-women-outnumber-men-at-university-but-they-still-earn-less-after-they-leave-142714>> accessed on the 6th October, 2021

11.3 percent of the OGM workforce in Australia, but by 2015, that figure had risen to 14.3 percent. Women made up 19.4 percent of Canada's mining, quarrying, and oil and gas extraction workforce in 2015.¹⁷ One major reason for the concern in the relative underrepresentation of women in senior management positions in the oil and gas industry is because they argue there is a business and economic case for women on management boards.¹⁸ If women consistently earn less than men for equal work, it is plausible that they also face barriers to advancement that would prevent them from achieving senior management positions and how societal, organizational, and individual forces often give women little ability to influence decisions and, as a result, their voices may hold little influence.¹⁹

Numerous studies on gender equality have shown that culture plays a significant effect in women's participation in the oil and gas business. This is based on the hypothesis that culture may also play a role in the advancement of women's professions.²⁰ Furthermore, if family values are strong, women may find it harder to accept more demanding roles.

Furthermore, women in the oil and gas business are frequently overlooked for promotion due to the impression that they are not natural leaders.²¹ Women frequently believe they are less capable than their male counterparts, a condition known as inferiority complex. They frequently miss out on leadership possibilities because they do not apply. Not coming forward to demand leadership roles, on the other hand, reinforces a woman's personal and her superiors' perceptions that she is unfit for the job.²²

Olumide Akpata asserted that:

The contribution of women towards creating balance in our profession is invaluable. Now more than ever it is clear that we, as society, need this balance and therefore a woman's right to be treated as equal for all purposes is non-negotiable. We must continue to advocate, both individually and collectively, for our

¹⁷ Catalyst, "Women in Energy: Quick Take," 2016, <<http://www.catalyst.org/knowledge/women-energy>> accessed on the 25th October, 2021

¹⁸ Mckinsey, How women can fill the oil and gas industry talent gap, <<https://www.mckinsey.com/industries/oil-and-gas/our-insights/how-women-can-help-fill-the-oil-and-gas-industrys-talent-gap>> accessed on the 6th October, 2021; Ye Dai, Gukdo Byun, Fangsheng Ding, 'The Direct and Indirect Impact of Gender Diversity in New Venture Teams on Innovation Performance' (2018) *Sage Journals: Entrepreneurship Theory and Practice*, 1042258718807696

¹⁹ Nalongded Luanglath, Muhammad Ali, Kavoo Mohannak, 'Top Management team gender diversity and productivity: the role of board gender diversity' (2019) *Equality, Diversity and Inclusion: An International Journal* Volume 38, Issue 1, pages 71-86

²⁰ Uchendu Eugene Chigbu, 'Masculinity, men and patriarchal issues aside: How do women's actions impede women's access to land? Matters arising from a peri-rural community in Nigeria' (2019) *Land Use Policy*, Volume 81, pages 39-48.

²¹ Mckinsey, Women in the workplace in 2021, <<https://www.mckinsey.com/featured-insights/diversity-and-inclusion/women-in-the-workplace>> accessed on the 6th of October, 2021

²² Beauvoir, Simone de. *The Second Sex*. (New York: Vintage Books 1989)

*Women in Law and, indeed, all other vocations to increasingly occupy their rightful place.*²³

The foregoing proves the need for women to have equal opportunities as their male counterparts have become imperative. Attitudes prevalent in the oil and gas industry towards women have led to fewer women being recruited as employers thought that the management of their homes would prevent their effective performance on the job, and discrimination on promotion. In *Shell Pet. Dev. Co. v. Nwaka*²⁴, the court held it to be invidious for it to foist on an employer a person who should occupy a particular position. While in the case of *Abenga v. Benue Judicial Service Commission*²⁵, the court held that promotion of an employee is neither automatic nor as of right, as such the court will not grant such a relief. However, if there is a finding of a vindictive denial of promotion the court may intervene, In *Mrs. Abdulrahman Yetunde Mariam v. University of Ilorin Teaching Hospital Management Board & anor*,²⁶ the court concluded that a vengeful refusal of promotion, as well as a vindictive suspension, is both unfair labor practices that might be pursued. It's also worth noting that in deserving circumstances, an employee's anticipated interest may be recoverable from his employer.

Moreover, women pursuing executive positions in the oil and gas industry face tenacious setbacks to their achievement; such obstacles include gender prejudice in leadership prospects, gender disparities in family responsibilities, rigidity in workplace structures and insufficiencies in social policies.²⁷ A logical example is the job of a senior executive board of director which might incur extra time and international travels which some mothers might not be able to afford. It suffices to assert that in line with objective number two, these are possibly reasons why there is a marginalization against gender parity on the oil and gas industry. Therefore, this research is in *tandem with* the enhancement of procedures that have and could be employed to combat the lack of gender diversity in the Nigerian oil and gas industry.

2.0. Prospects of gender equality in the Oil and Gas Industry in Nigeria

Following the growing demand for a diverse working environment in the oil and gas industry, various research has shown that having greater female inclusion provides a larger employee pool to meet the high demand for laborers, higher retention of key talent, increased profitability, better performance, improved safety records, higher standards of government behavior, and benefits to women and the broader community.

However, the government has been burdened with the responsibility of ensuring that it promotes laws and regulations which protects the rights of all individuals. This section seeks

²³ Olumide Akpata, 'Transformational Leadership: The Prime Place of Women' (2020) International Women's Day, held on the 8th March, 2020 at Templars Law Firm, Lagos, Nigeria.

²⁴ [2001] 10 NWLR (Pt. 720) 64

²⁵ [2006] 14 NWLR (Pt. 1000) 610

²⁶ [2013] 35 NLLR (Pt. 103) 40 NIC)

²⁷ Mandy Jollie Bako and Jawad Syed, 'Women Marginalization in Nigeria and the way forward' (2018) *Human Resource Development International* Volume 21, Issue 5, pages 425-443; Nathan Andrews, 'A Woman Can Also Speak Out: Gendered Perspectives on Responsibilization' (2019) *Gold Mining and the Discourses of Corporate Social Responsibility in Ghana*, pages 105-132.

to look at approaches that have given hope to the agenda of promoting women's inclusivity in the oil and gas industry.

Prior to the enactment of the Nigerian Content Development Act, the policy of local content had little or no ground in the Nigerian oil and gas sector. It may not be out of place to state that it is contrary to good business practice for a foreign company carrying on business in Nigeria, using purely foreigners in every department of the company without consideration for Nigerians.

Many oil and gas producing countries are currently including requirements for "local content" into their regulatory frameworks. An example is South Africa which makes it a compulsory requirement to employ at least 40 per cent local labour at all levels (and at least 10 per cent women)²⁸ and must achieve minimum percentage of historically disadvantaged (HDSA) representation at management levels. The aims of these policies are to create jobs, accelerate the transfer of skills and technologies and enterprise development. The local content seeks to maximize opportunities for indigenous people and businesses through the international oil companies that operate in their country. The establishment of a legal and institutional framework for the strengthening of the local content policy remains a prerequisite for participation of local people and can also provide an excellent entry point for addressing gender issues in the oil and gas industry.

The Nigerian Oil and Gas Content Development Act²⁹ was a product of so many years of consultation and debate.³⁰ This was as a result of the feeling, over the years that the Nigerian economy has not received a fair benefit from the oil and gas industry. It is a notorious fact that the oil industry is the backbone of the Nigerian economy with the government deriving over 80 per cent of its revenue from this sector. It also accounts for over 70 per cent of Nigeria's export.³¹

Observably, in spite of all these, unemployment rate continues to increase. The Nigerian Oil and Gas Industry Content Development Act 2010³² defines local content as: 'the quantum of composite value added to or created in the Nigerian economy by a systematic development of capacity and capabilities through the deliberate utilization of Nigerian human, material resources and services in the Nigerian oil and gas industry'

For the purpose increasing participation in the operations of oil and gas and achieving indigenization, the practice of imbining local content in the Nigerian oil and gas sector are inserted in salient provisions of the Petroleum Industry Act³³ which requires a licensee under a Petroleum prospecting license to include into its field development plan an approved Nigerian

²⁸ 2017, Charter for the South African Mining & minerals industry, Article 2.3

²⁹ 2010, LFN

³⁰ Adefulu, "Nigeria: National Treatment & Nigeria's New Local Content Legislation" (2010) <<http://www.mondaq.com/Nigeria/x/102400/international+trade+investment/National+Treatment+Nigerias+New+Local+Content+Legislation>> accessed October 27, 2021.

³¹ National Bureau of Statistics, 'Review of the Nigerian Economy in 2011 & Economic Outlook for 2012-2015' (May 2012) accessed 11 July 2021

³² S 24

³³ 2021, s 79(2)

content plan pursuant to the Nigerian oil and Gas industry Content development Act.³⁴ Subsequently, the Act³⁵ requires a detailed program for the recruitment and training of Nigerians on all phases of petroleum operations handled directly by the licensee, through its agents or contractors. Hence the statute makes it mandatory for international oil companies having licenses to employ Nigerians at the managerial, professional and supervisory levels within ten years of the lease granted to the company.

The Act gives further grounds for revocation of license but does not give cognizance to defaults arising on the grounds of local content participation therefore making its implementation weak. However, one can admit that the recognition of the local content act and further establishment of the Act explicitly gives opportunities to women in the oil and gas industry.

According to Lennox Sirjuesingh, local content is a right of a country and its people³⁶. To this extent, the very essence of the local content cannot be overemphasized to the development and improvement of the welfare of a country as this will create room for increased local participation particularly for women by leveraging on their strengths and contributions to the oil industry.

Although it may seem that the government has recognized the issues of gender equality in general, special attention has not been given to the crippling situation in the oil and gas industry. There is therefore a dearth of national laws to protect women and girls from discrimination emanating from gender roles and stereotypes in the oil and gas industry. From the non-existence of policies on gender equality to the non-existence of clear cut laws that state quotas for gender equality in the oil and gas industry.

3.0. Conclusion/Recommendations

The work focuses on critiquing gender equality in the oil and gas industry which has been an unresolved discuss in the Nigerian oil industry. Based on the findings, the study concludes that the Nigerian practice of gender equality is not *in tandem* with international best practice. Gender equality which is an international standard practice is a global issue that is being advanced in contemporary times. However, the complete masculinity of the industry and patriarchal society has made it almost impossible for women to strive in the industry. The lack of work-life balance, underrepresentation and cultural influence on the industry has made it stagnant on the views of having women occupy senior management positions or even board management positions in the oil and gas industry.

Whilst the population of women that graduate from STEM related courses are at the increase, measures must be taken at the national, regional and corporate levels to promote gender equality in the oil and gas industry and to improve women's access to productive resources,

³⁴ *Ibid*, s 79(2)(g)

³⁵ *Ibid*, s 79(2)(l)

³⁶ "Advocacy for Local Content Development"

<http://tandicebsolutions.com/rokdownloads/nigerian_local_content_summit/Advocacy_for_local_content_development.pdf> accessed on the 26th October, 2021

capacity building and decision making. With well-designed policies, strategies and targeted actions, it is possible to increase women's share in the wealth generated by the oil and gas industry in Nigeria and promote a gender diverse senior management. This will contribute to more equitable and inclusive development in the oil and gas industry.

This paper will make the following recommendations.

1. Provision of technical support mentorship, trainings and continuous professional development to enhance gender equality in the oil industry as well as self-development. In order to promote gender equality in the industry, adequate training workshops and seminars on corporate governance and general human capital development of employees must be a priority.
2. Educate influential and relevant stakeholders on the techniques established to achieve gender equality as well as the essence of gender equality in the oil and gas industry. Awareness must involve all relevant stakeholders such as government agencies, directors, senior executives of companies, shareholders and institutional investors.
3. Deliberate policy endorsements for a mandatory legislative quota and to further ensure that Minister of Petroleum in line with NCDMB, DPR and Labour Congress effectively champion the cause of boardroom gender diversity.
4. Creation of Scholarship programmes to encourage education of women in STEM programmes, mentorships programs for orientation and reorientation of gender equality and equal gender values right from an early learning stage. Educational empowerment is fundamental so that women can have a medium at least to voice out women concern.
5. Review and amendment of all discriminatory laws and the promotion of policies and regulations that would see a rise in gender equality in the oil and gas industry.
6. Mobilize and embark on wider advocacy on gender equality in the oil and gas industry. This is because the request for change would be unattainable with the existing laws. There would be a need to foster for the implementation of more laws and codes that are peculiar to the oil and gas industry and even the workforce in general. This would ensure an effective review of the law as women in the oil and gas workforce would contribute to the development of gender neutral laws using the perspective of these women.
7. Push for the establishment of strong networks that focuses on senior management gender equality in the oil and gas industry. This would ensure the enhancement of immense awareness of gender equality globally as the issues of gender equality in the

oil and gas industry has become a global pandemic. This would give opportunities to great collaborations with other government and non-governmental institutions whose activities and interest revolves around gender equality in the oil and gas industry.