

AFRICAN WOMEN'S DECADE 2010-2020: ADVANCING GENDER EQUALITY

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Her Excellency, Dame Patience Jonathan
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Very Distinguished Ladies and Gentlemen

I feel very honoured to be invited by the International Federation of Women Lawyers (FIDA) for this occasion of the FIDA Africa Regional Congress 2010 to present a theme paper. I wish to thank you for this special honour.

2010 is a very prominent year for the women in Africa. The United Nations Conference on women took place 25 years ago; the Fourth World conference on Women in Beijing was 15 years ago and it is the tenth anniversary of the United Nations Millennium Development Goals and six (6) years since the adoption of the Solemn Declaration on Gender Equality in Africa. Fifteen (15) countries in Africa have finally ratified the Protocol to the African Charter on Human and People's Rights on the Rights of Women in Africa known as the Maputo Protocol which was adopted by the African Union on 11 July 2003. The Protocol guarantees comprehensive rights to women including the right to take part in the political process, to social and political equality with men, to control their reproductive health and to end female genital mutilation. Also fifty years ago, seventeen (17) African countries gained political independence with the hope of eradicating disease, poverty and illiteracy; 51 of the 53 AU countries ratified the protocol.

It must be stated clearly that the African Union declared the year 2010 to 2020 as the "African Women Decade", in acknowledgement that Africa had failed in the area of women empowerment and that political, social and economic policies have to be vigorously pursued in order to achieve the aim of women equality.

The theme of this conference is *Women's Decade 2010-2020: Advancing Gender Equality* and it is only proper to take stock and retrospect on where we are and discuss the challenges facing the African woman. However, I would like to start off with an

exploratory conceptualization of the term equality for us to appreciate any further discourse on the theme.

EXPLORATORY CONCEPTUALIZATION OF EQUALITY

Ab initio, it needs to be mentioned that there are three issues that are central to the contemporary conceptualization of Equality. The first is that the most common assumption made about the meaning of equality is that this must mean 'the same'. Hence it is argued that since we are all born equal, we should be treated as equals. But this begs the question. 'equal to what?' The normative standard and measure of this equality is men's lives. Men had the vote, property rights and access to education and maintain top positions at the top of the employment hierarchy; parity is indeed an acknowledged very long distance.

The notion of equality as a universal concept; that is a set of rules, norms and principles that are equally applicable to everyone and can be recognized and acceptable to everyone, appears attractive. However, this belies the philosophical, political and empirical issues upon which they draw. Thornton (1986:77) maintains that there are three elements to this argument of sex equality. These are women's nature, the social treatment of women and women's performance. Each of these issues raises considerable problems in terms of the concept of equality. A key criterion of equality is that of measurement; the issue of measurement and how to measure equality and the characteristics of 'sameness' poses problems.

The axiom that women and men have equal natures begs a host of philosophical and political questions about the 'nature' of humanity and how this might be measured. In fact the 'sameness' cannot be sustained due to the fact that there are distinguishing factors between men and women; for example, women give birth and this basic difference cannot be denied. What then are the measures or the criteria that are called on to ensure equal treatment? It should be stated categorically that problems associated with the 'measure' of equality are embedded in equal opportunities in policies. It means equality of opportunity and is primarily concerned with enabling all individuals in a society to have equal access to the same life chances such as education and employability. Theoretically, equality of opportunity is not concerned with achieving sameness of outcome. However, it is usually outcomes that form the basis of evaluating whether equal opportunities policies have been achieved.

EQUAL RIGHTS AND THE LAW

The historical antecedents of the standard sex equality argument can be found in the work of 17th and 18th century political and philosophical liberal theorists. During this period called the Enlightenment, the basic belief was the superiority of reason as a guide to knowledge and human behaviour. Liberal theory contested the divine right of monarchs to political rule. It argued that men of propertied classes should have equal rights of citizenship. These were the right to vote and hold office and the right to hold property in one's own name. During this period, the writings of John Stuart Mills (*On the*

Subjugation of Women, 1869) formed the early cornerstone for campaigns of equality in the West. The basis of these was to argue that the natural justice accorded to men should be extended to women. In liberal philosophical terms, the emphasis and meaning was that of individual rights.

Some African countries have sought to achieve equality through legislative means in order to secure the rights of the individual. Ashia Gbor (1999:150) identifies four types of equality that inform legal definitions and the process of law:

First, ontological equality or the fundamental equality of individuals wherein all human beings are considered equal; secondly equality of opportunity, namely meritocratic access to opportunities such as employment which leaves initial starting points untouched; thirdly, equality of condition, where there is an attempt to make conditions of life equal for relevant social groups; fourthly, equality of outcome or of result, which would require some form of legislative or other intervention to compensate for inequality in starting points.

For instance, equality of opportunity has been deployed in Ethiopia and, by law, requires registration of names of spouses for land certification, in order to ensure that women can own economic assets. New land laws have been enacted in Uganda, Tanzania, Zanzibar, Mozambique, Zambia, Eritrea, Namibia and South Africa in the 90's. Rwanda, Malawi, Lesotho, Zimbabwe, Swaziland and Kenya have adopted new land policies. Specifically, in Eritrea in 1994, government passed amendments to the Civil Code and made new land proclamation that gave women the legal right to own and inherit land. Swaziland treats women as minors under its laws; in February 2010 the Supreme Court reversed High Court ruling that allow a married woman to register property in her name. Although the 2005 Constitution grants men and women equal rights, yet discriminatory practices persist. It is lack of political will in a case of laws that conflict with the Constitution.

It should be noted that colonialism dealt a blow to the land tenure system in Africa (privatization, land titles, etc) leaving women in a state of insecurity and poor access to land. Apart from this, the colonial system brought in value systems that totally altered the political, social and economic values of the African woman and created havoc in family relationships and perception of the place of women in society.

It is suffice to say here, that for basic rights to be entrenched in constitutions and equal rights to property ownership, they have to be clearly stipulated by law as legal institutions have to be equitable in ensuring implementation. The issue to ponder on here is that formal conceptualization of equality does not adequately challenge the existing social order in Africa in terms of its hierarchical and competitive basis; they can be said to uphold it. This is not only the case in terms of comparisons between women and men, ethnic groups, social classes etc. It is also the case of respect of women as a class or a group. Some consider anti-discrimination legislation minimally interventionist. It is when discrimination occurs that intervention is necessary. At this point, it is pertinent to discuss the centrality of motherhood to the conceptualization of equality.

ISSUES OF MOTHERHOOD IN AFRICA

It is said that the hand that rocks the cradles belongs to the most elevating of all minds and I believe in this. In Africa, a mother's love survives poverty, denigration and other inhospitable conditions. The mother's love is very important to the development and well-being of the child. The love "invigorates preservation and enabling growth... and the virtue of love is at once the foundation of maternal thought" (Ruddick, 1997:595). This is extended to the public sphere of life.

Motherhood is a personal and social experience and this has a bearing on development trends and contributes to strategies for women to seek social transformations towards justice and equality; this has to do with power relationship and we should conceive equality in our own terms. Mother is authority in Africa and is primary in economic, social, political and religious institutions.

We have explored the varied meanings of equality and the meaning cannot be fully appreciated without an exploration into the challenges of women in Africa. The fact remains that women form over half the population in Africa, and therefore politically the issue of governance has to be paid serious attention. Human security for all includes the condition necessary for the survival, livelihood and dignity of the individual, the respect for human rights, and access to education and healthcare as well as ensuring that each citizen has opportunities and choices to fulfill their potentials. This process of achieving better condition and changing the situation of insecurity is entrusted to the state through the process of governance. Governance connotes the manner in which power is exercised in the management of resources of a group of people for the attainment of set objectives. This process involves the executive, the legislature, the judiciary and the bureaucratic machinery at all levels. In general, evaluating governance vis-à-vis enhancement of human security in Africa has been bedlam. Sub-Saharan Africa is home to vast majority of children out of school. Destructive customs like female genital mutilation are rampant in Africa as it is practiced in 28 African countries. In Africa, a minimum of 3 million girls are engaged in this practice every year (<http://webcache.googleusercontent.com> - 15/09/2010). Sub-Saharan Africa is heavily affected by the dreaded HIV/AIDS pandemic more than any other region in the world. It is estimated that 22.4 million people are living with HIV/AIDS in Africa (2/3 of the world total). In 2008, 1.4 million people mostly women, died of AIDS; and 1.9 million became infected.

The World Health Organization (WHO) in 2010 released its figures of the highest maternal death rates with Nigeria topping the list in Africa with 37,000 for every 100,000 live births. This gives a bird's eye view of the state of the health situation in Africa. Africa in total contributes 47% of global maternal mortality, and Nigeria, Ethiopia and DR Congo account for over half of this figure.

It was estimated that 500,000 women were raped during the 1994 Rwanda genocide, and in 1998 the International Criminal Tribunal for Rwanda established by the United Nations, made a landmark decision that rape is a crime of genocide under international law. It needs to be mentioned at this juncture that the Nigeria Biafra Civil war recorded

an atrocious number of women raped and other crimes perpetrated against women, but the world said nothing. In 2010, over 8000 women have been raped.

Nigeria has the highest infant mortality rate in Africa, and diseases such as malaria, cholera, tuberculosis, diarrhea, have been running riot and the death rate of children below the age of one have remained high as reported by UNICEF, 96 per 1000 in 2010 (*Nigerian Compass*, 8 July 2010, p 5). In 2008, Africa accounted for half of the 8.8 million deaths in children under 5 worldwide (the highest level being in Western and Central Africa – 169 deaths per 1000 live births). The fact is that all 34 countries are all in Sub-Saharan Africa. The average life expectancy in Sub-Saharan Africa is 47 years. The above stated are all due to decrepit insufficient medical facilities, and management failures despite all sorts of efforts over the past decade.

Sub-Saharan Africa is home to a vast majority of children out of school and of course poverty is a major barrier to education and child mortality. Geographically, 26% of malnourished children live in Africa. Specifically, one should understand the connection between governance and the state of health, the impact of governance on education and how policies of the state impact on the human rights situation. It is a known fact that the fundamental issues as it concerns the African agenda on democracy and good governance has to be looked at for the African Women's Decade to be meaningful. We state emphatically that most African political leaders have not been accountable to anyone, and have virtually hijacked not only "democracy" but the "economy", thwarting drive in the area of development. Vulnerable groups like women and children and the elderly have been marginalized by the electoral process which offers them no opportunities to fully participate in political, economic and social decisions affecting their lifestyles.

The following should be noted in terms of women empowerment in Africa.

1. Rwandan women holding elected office occupy more than half of the parliamentary seats.
2. Cape Verde has the highest level of women cabinet ministers in the world, 12 out of 17.
3. Liberia elected the first elected female President in Africa in January, 2006.
4. Eritrea banned female genital mutilation in March, 2007.
5. Ethiopia registers names of spouses for land certification in order to ensure that women can own economic assets.
6. Many countries have established Ministries of Women Affairs, but there is no need to comment on this because the issue of social and economic equality, discrimination, access to education, employment, healthcare, credit, land and inheritance are beyond the issue of the Ministry.

7. It is pertinent to recognize the various advocacy campaigns that have taken place in Malawi, Gambia, Kenya, Mali, Guinea, Mozambique, Namibia, Djibouti, DR Congo and Nigeria, that have used different fora and methods to highlight and seek support for issues of women empowerment and equality. However, it is recognized that issues of feminized poverty, patriarchal notion of politics as man's domain, and low levels of education, as well as failure to enforce the "principle of restitution" intrinsic to justice, all help to aggravate a state's legitimacy deficit.

Democracy, accountability and people's employment are now considered the main ingredients of change, and the relevant aspects of this change are the people. The high value of the human being and the human dignity are the legacies of African traditionalism. In modern democracy, the control over resources and income based on political and economic power that is controlled by very few.

It is obvious that not much progress has been made in the past 50 years; and it is suggested here that the solution lies in the African woman herself because they have to be where crucial decisions are taken; either in the executive, legislature or judiciary. The critical area in the empowerment of women is in the area of education, which would have profound impact on society and enable them to take their leadership positions in various spheres. Women have to demand for not only their rightful place but effectively challenge exploitation and oppression. This period is a period for retrospect and action. Women should ask questions, seek the truth and insist on the right thing being done for the sake of the nation. And the right thing is appointing women to all levels of judicial benches; creating leadership opportunities for women in political parties and executive positions; ensuring that women are in all policy-making situations in order to secure the equality that is sought. Women should use their power to obtain to this and push for national action plans in order to review commitments to this issue.

In most African countries, there needs to be a refocusing on the issue of representation because this issue is important in advancing gender equality and focusing on issues of democracy, peace and security; and hence we have to look at the nature of the political system that exists in most African countries, not just participating in that particular system. This will need advocacy groups in studying these issues and negotiating for enhanced positioning and a better deal for women. This we need to do to claim the decade and make it meaningful.

Thank you very much, ladies and gentlemen.