



## **Corruption and Women's Access to Justice – Eye on the West African Sub-Region**

**Workshop title:** Gender Equity, Women's Security And The Millennium Development Goals: How Far Is Corruption A Hindrance?

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## CORRUPTION AND WOMENS' ACCESS TO JUSTICE – EYE ON THE WEST AFRICAN SUB-REGION

Let me first thank the organisers of this Conference for the opportunity to present this paper and explore the issues of corruption and how it affects women's access to justice in the West African sub-region. This paper will go further to examine how corruption affects the attainment of the Millennium Development Goals in the sub-region and proffer suggestions for a way forward.

I will start by a definition/explanation of the main concepts which are the focus of this presentation:

**Corruption:** Black's Law Dictionary defines corruption as “ the act of doing something with an intent to give some advantage inconsistent with official duty and the rights of others, a fiduciary or official use of a station or office to procure some benefit either personally or for someone else, contrary to the rights of others...an impairment of integrity, virtue or moral principles; especially impairment of a public official's duty by bribery”

The Transparency International definition of corruption as “the misuse of entrusted power for private gain” is a simpler but more encompassing definition which covers all the bases outlined by the Black's Law Dictionary definition.

**Access to Justice:** The concept of access to justice involves the creation of an enabling platform which ensures that all persons especially the poor and disadvantaged are sufficiently enabled or empowered to take advantage of existing systems, mechanisms and processes both formal and otherwise, to seek remedies for injustice.



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## THE WEST AFRICAN SUB-REGION

By way of an introduction, the West African sub-region is an area of 5,112,903 square kilometers comprising 15 countries – these are: Benin, Burkina Faso, Cape Verde, Cote D’Ivoire, The Gambia, Ghana, Guinea, Guinea Bissau, Liberia, Mali, Niger, Nigeria, Senegal, Sierra Leone and Togo. It boasts of a large number of ethnic groups and is a social and culturally diverse region. The countries in West Africa are members of the Economic Community of West African States (ECOWAS) which is an organisation set up on May 28, 1975 to promote economic integration in the region in “all fields of economic activity particularly industry, transport, telecommunications, energy, agriculture, natural resources, commerce, monetary and financial questions, social and cultural matters...” through close economic and political cooperation. They are also bound by their commitments and obligations under the African Union.



An examination of customs and practices within these countries shows that women have similar experiences and challenges. These are particularly

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in the areas of - economic empowerment and access to finance, qualitative health services, education and training, participation in decision making, gender based violence, Institutional mechanisms for the advancement of women, etc.

### **WHAT ARE THE CHALLENGES WOMEN FACE?**

**Customary/ Traditional and/or Religious Laws and Practices** – These present a challenge to the actualisation of the rights of women. By its opposition to the concept of equality between men and women, they entrench patriarchy and the consequent discrimination on the basis of gender. Women are naturally expected to take a subservient position in situations where their interests conflict with those of men. This generally affects the level of recognition of nor respect for the rights of women who as a result suffer various types of deprivation - financial, physical, psychological. etc

**Finance** – Women are often at a financial disadvantage because of the nature of the businesses they carry out – petty trading and small scale businesses. They therefore do not have access to funds from the formal sector to enable them achieve economic empowerment which is necessary for the support of their families. This in turn negatively affects access to health and education for women and their families.

**Legal Processes for Rights Enforcement** – Beyond the challenges of culture, tradition and religion, the existing processes for the enforcements of rights are such that discourage women from seeking the actualisation of such guaranteed rights. The judicial sector poses several challenges – delay, expense and rather technical nature of the court/tribunal processes are such that do not endear themselves to women. The processes are therefore ultimately accessed by only the most determined and educated and

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financially capable women or for the most part, those who have the support of non-governmental organisations.

### **Non Implementation of Provisions Guaranteeing Women Rights**

A number of international, regional and local legal instruments, policies, strategies, initiatives platforms and mechanisms exist which guarantee and or seek to protect the rights of women or empower them to combat these challenges. An analysis of practices within the sub-region however shows that these laws are not being implemented.

### **LEGAL FRAMEWORK FOR HUMAN RIGHTS**

The most significant of these are the **Constitutions** of the various countries, which contain provisions against discrimination on grounds of gender – such as Section 33 of the Constitution of the Gambia and section 42 of the Nigerian Constitution.

The **Convention for the Elimination of all Forms of Discrimination against Women (CEDAW)** and its **Optional Protocol** as well as the **African Union Protocol on the Rights of Women in Africa** also make extensive provisions regarding the rights of Women. Indeed while CEDAW was considered foreign and not taking into consideration the culture and traditions of the peoples of Africa, the AU Protocol is “home grown” and entered into by the countries of Africa under the auspices of the African Union.

Other policies, strategies, initiatives, mechanisms and platforms etc. include:

**The Millennium Development Goals:** these represent the commitment of world leaders to a global partnership with comprehensive and specific poverty reduction targets. to reduce poverty, improve health, reduce maternal and child mortality promote peace, gender equality and environmental sustainability. The eight international development goals

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were agreed upon by 191 countries of the world in the year 2000, for implementation by the year 2015. It focus on poverty and hunger eradication, achievement of universal primary education, promotion of gender equality and the empowerment of women, reduction of child and maternal mortality , combating disease, ensuring environmental sustainability.

**The Beijing Declaration and Platform for Action:** which emanated from the 4<sup>th</sup> UN World Conference on Women which was held in September 1985, The Conference focused on advancement and empowerment of women through achieving greater equality and opportunities for them and recognising their rights as an integral part of human rights.

Also in this mould are the gender policies of the various countries as well as other plans frameworks, mechanisms and strategies established and employed which can be utilised to ensure the protection and promotion of the rights and interests of women. These include the AU Strategic Plan, the AU Gender Policy, the New Partnership for Development (NEPAD) and its mechanisms like the Africa Peer Review Mechanism. Under the auspices of ECOWAS there is the **ECOWAS Gender Policy** among others.

While most states have ratified these instruments, enough effort has not been made to domesticate and integrate them into the legal systems of the various countries. In The Gambia, the by the Women's Act 2010 both CEDAW and the AU Protocol were domesticated. In Nigeria however, as in most other countries of the sub region , efforts at domestication have been rather unsuccessful. This state of affairs constitutes an impediment to the implementation of these rights. The resultant effect is that these rights whilst in existence are inaccessible. The Table below shows the status of ratification of the instruments by the Countries of the sub-region.



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<b>COUNTRY</b>	<b>CEDAW</b>	<b>Optional Protocol to CEDAW</b>	<b>AU Protocol on the Rights of Women in Africa</b>
Benin	12 March 1992	December 2004	13 October 2005
Burkina Faso	28 November 1984		
Cape Verde	5 December 1980	-	22 July 2005
Cote D'Ivoire	18 December 1995	-	Not Ratified
The Gambia	16 April 1993	-	6 September 2005
Ghana	1986	2009	20 July 2007
Guinea	17 July 1981	Not Ratified	Not Ratified
Guinea Bissau	1985	February 2008	14 October 2008
Liberia	17 July 1984	-	15 July 2008
Mali	10 September 1985	5 December 2000	3 February 2005
Niger	13 September 1999	30 March 2004	Not Ratified
Nigeria	1985	September 2000	18 February 2005
Senegal	05 February 1985	10 December 2000	30 January 2005
Sierra Leone	1988	2000	Not Ratified
Togo	26 September 1983	Not Ratified	26 October 2005

A review of the status of attainment of the MDGs has shown that 5 years to the agreed terminal date for the attainment of the goals, while some progress has been made in some areas, many of the goals are a long way from being achieved. While the goals are not directed solely at women, it is clear that being in the majority and bearing the burden of the greater deprivation, the women stand to benefit more, where the MDGs are achieved.

An analysis of the 15 year review of the Beijing Declaration and Platform for Action conducted by the African Women's Development and

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Communication Network (FEMNET) on behalf of the Africa NGO Task Force on Beijing+15 and Regional and Sub-regional Women's Organisations and Networks observed that although countries had embarked on constitutional, legal and policy reforms, which attempted to address laws promoting discrimination and disregard of women's rights, violence against women, women's property rights among others, the efforts were a drop in the ocean when assessed against the many promises made by African governments on the fundamental issue of achieving gender equality, equity and women's empowerment. It concluded that *"African leaders are falling far short of the expectations of African women"*.

It is therefore clear that having the laws and policies in place does not translate to greater actualisation of the rights of women as oftentimes there is a lack of political will to take the required steps to make the rights a reality. Indeed in most cases, it is observed that the grassroots women who form the majority of women in the sub region are not aware of the existence of these rights and are therefore hardly in a position to ensure their enforcement. This observation cuts across the identified areas of concern.

### **WHAT ROLE DOES CORRUPTION PLAY IN COMPOUNDING THE CHALLENGES FACED BY WOMEN?**

The pervading nature of corruption which manifests in varied forms in this region denies women this access to rights guaranteed and appropriate redress, further compounding their disadvantaged position. Corruption causes the inadequacy of resources for addressing women's education and training when the funds allocated for these purposes are misapplied and illegal levies demanded in the educational sector before access is granted for such training or education. It leads to a denial of rights to women, when the agencies charged with the responsibility of mediating conflicts accept bribes and turn women away or frustrate their efforts to seek justice. Poor

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quality medication, corrupt diversion of funds intended for healthcare facilities and the demand for illegal fees and bribes all add up to ensuring denial of access to good quality medical care, which in turn contributes to high maternal mortality being witnessed in the sub-region.

A few specific examples will illustrate this further:

In Sierra Leone, when a complaint is made to the police, the complainant would be requested to “buy pen and paper” – which is a way of having the complainant bribe the investigator. This would immediately impose a financial burden on such a complainant. Where the demand was not met the complainant would not be taken seriously and a police report, if required, would not be issued. She would give up her complaint after several visits to the police station. There are similar experiences in Nigeria and Ghana, where it has been found necessary to “motivate” or “mobilise” the law enforcement agents when complaints are made. The perception is that even where mobilisation has been done, the resolution of the problem is often in favour of the greater “mobiliser”. This makes the whole concept of rights enforcement expensive and tedious. This has led to a general loss of faith in the ability to obtain justice through the law enforcement agencies as justice comes at a price which the women are often not able to afford.

In Sierra Leone, there was also the situation wherein counter reporting of cases was encouraged by the police. The complainant in one case would be the accused in the counter case and vice versa. The police would weigh the evidence and rather than charge the offending party to Court, would charge both parties to court and leave the matter for the Courts to decide. This affected women especially in cases of Wounds and Other Related Offences under the Offences Against The Person Act of 1861. In other instances, the police would opt to mediate rather than charge offending parties to court in clear cases of a violation of the law.

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In hospitals and medical centres, patients are made to buy medication or pay for services which should ordinarily be provided for free. Situations of false scarcity or bottlenecks are created causing panic and forcing patients to not only pay the service providers for items which are available but also show gratitude for the favour done in providing the “exclusive” service.

In the education sector in Nigeria, parents are often forced to pay bribes to enable their wards gain admission to education and training facilities. Stories abound of females being asked to give sexual favours in return for pass marks. Purchases of lecturer’s notes have also been made a precondition to achieving satisfactory grades in school examinations. Beyond the financial demands made of members of the public, the quality of tutelage in and the output of the educational institutions become questionable. The resultant resort to foreign education takes its toll on the financial resources of families.

In the field of politics and decision making, corruption denies women a level playing field necessary for participation on grounds of merit. In the last general elections held in Nigeria, FIDA came across a number of cases where names of women who had legitimately won primaries in their parties were replaced with those of their male counterparts. In Ghana it was observed that the male influence on party heads served to deny women places and opportunities in politics.

### **HOW DOES THIS AFFECT WOMEN’S ACCESS TO JUSTICE/ WHAT REMEDIES ARE AVAILABLE TO WOMEN?**

A critical component of the realisation of rights enshrined in the various legal instruments or other initiatives is access to Justice. Where the attainment of justice is seen as expensive or tedious, the quest for same is often abandoned.

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In general terms, the trend is the expectation that people pay for all services received and thus good or acceptable service becomes a function of the amount of money or other favours which are made available to the service provider. In such circumstances, payment is usually over and above the official fees to be paid for these services. Persons unwilling to make such payments are denied the benefit of the services.

There is also the absence of whistleblower protection. Very often, those who take the trouble to report crimes and injustice do not receive the protection they deserve as their identities are revealed to the accused persons or culprits who in turn proceed to unleash more misery on them. There is therefore no incentive to ensure that things are done properly as people are concerned for their safety and welfare.

It is accepted that better access to justice for women can be achieved through greater representation in the political and decision making process. This is still a problem in most countries of the sub region where the 30% representation of women as recommended by the Protocol is still a mirage.

It is important to note that some efforts have been made across the countries to address the issue of infringement of women's rights and provide them access to seek redress.

- Training of the police in investigation and prosecution of domestic and gender based violence is being undertaken. In Sierra Leone, the setting up of the Family Support Unit has also helped in remedying police mediation. In Nigeria the Police Force is setting up Gender Desks in police stations in order to aid more sensitive and timely treatment of complaints by women.



- There have been prosecution and sanction of judicial officers following allegations of corruption. Sadly, some of these allegations of corruption have also been levelled against women. In all the countries surveyed, seminars have been held for Magistrates and Judges to sensitize them on issues of domestic violence and women's rights generally.
- In Nigeria, in response to agitations for greater response to issues relating to women across the government establishments, gender desks were established in the various ministries, departments and agencies.
- There are some initiatives undertaken which are not necessarily targeted at women, but from which women as key stakeholders stand to benefit. In Nigeria, with respect to corruption specifically, some of these are –The Economic and Financial Crimes Commission, The Code of Conduct Bureau/Tribunal, The Independent Corrupt Practices Commission as well as The Office of the Senior Special Assistant to the President on the MDGs. There is also the Service Compact – Servicom, under which a commitment is made in government agencies to provide good quality services.

While these efforts are commendable and have indeed served to protect the interest of women, a whole lot more needs to be done to ensure that their effectiveness is not limited and that women are encouraged to take advantage of the initiatives. An example in this regard is the Gender Desks set up in ministries which have been found to be of limited effectiveness as they are only very poorly funded, but are not put into the mainstream of the activities of the establishments. Staff assigned to these desks are often poorly trained and motivated and ill equipped to address gender issues or make the desks effective.



## **EFFECT OF CORRUPTION ON THE ATTAINMENT OF THE MDGS**

It is clear from the above that corruption serves to hinder the attainment of the Millennium Development Goals. The areas of concern identified in this presentation can be linked to one or the other of the MDGs.

By reducing available revenue required for addressing public needs, jeopardising the availability of good quality goods and services, producing a poor quality and ill-motivated workforce, imposing leaders who are not interested in the welfare of the masses they lead,

It is therefore no surprise that the in the review of the attainment of the MDGs, most countries are found to be lagging behind and the quality of life of the people hardly likely to reach the desired targets by 2015. In the Transparency international Report titled - *The Anti-Corruption Catalyst: Realising the MDGs by 2015*, noted as follows: *“With five years to go, official progress reports show that many of the goals are off-track to being achieved. Globally and regionally, advances have been particularly slow on education (MDG2), maternal mortality (MDG5) and the environment (MDG7). Breakdowns in governance and the corruption that accompanies them have been important reasons for sluggish progress on the goals”*

## **CONCLUSION/WAY FORWARD**

### **Making Processes Simple and Transparent**

It is necessary that processes are made simple and transparent, so that it is clear to all stakeholders what to expect and how to accomplish certain objectives. When processes are shrouded in mystery, it is easy to take advantage of the hapless and uninformed.

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### **Ensuring Convictions for Corrupt Practices**

A number of countries have set up structures to combat corruption – an example is the EFCC of Nigeria. It is however more important for those structures to begin to yield results in terms of convictions of offenders. This will certainly serve as a boost in the war against corruption by reason of its deterrent effect. It is necessary to show that everyone is subject to the law and there are no sacred cows, thus reducing the level of impunity now being evidenced.

### **Identifying and Celebrating Champions**

In order to encourage a recognition and respect for that which is appropriate, it is necessary to identify and celebrate champions. People who have taken steps to do the right thing should be celebrated in order to serve as role models and to reinforce the system's determination to wipe out corruption. A good Nigerian example is Prof. Dora Akunyili who is respected in decent circles for her role in sanitising the food and drugs regulatory agency in Nigeria. Such people are encouraged to continue to do the right thing in the face of cynicism and despondency from onlookers.

### **Holding Leaders Accountable – The Led to Question the Status Quo**

It is necessary that persons in positions of authority are held accountable and it is therefore of utmost importance that mechanisms for members of the public to speak up are encouraged. This could be by way of Town Hall Meetings or other fora which allow for feedback and serve to put persons in authority under the spotlight. The inaction of the populace contributes to impunity by leadership.

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### **Demystifying the Court/Justice System**

Presenting a different image of the justice system as open, accessible and approachable will certainly serve to enhance access to justice. This can be achieved without diminishing the respect for the system and the judiciary. Presently, the Courts and tribunals are seen as distant and available only to those who can afford them. The UNODC organised a programme in Nigeria that sought to make the courts more accessible by simplifying the process through the production of a Court Users Guide which was translated into local languages, organising town hall meetings and generally engaging the judiciary. Participants in these programmes confirmed that it served to bring the justice system a little closer to the people. Such initiatives have to be deepened and continued. The same also applies to the Anti-Corruption Agencies.

### **Reforming Electoral Processes - Votes to Count**

An electoral process reform which ensures that the power is in the hands of the voters is critical to wiping out corruption. In Nigeria, women have been recognised as key in the voting process because of their sheer numbers and tendency to get out to vote. This has however not translated to special recognition or efforts to protect the issues which are of utmost importance to the women. A system which ensures that the elections depend on actual votes cast is critical in ensuring that elected leaders are those chosen by and accountable to the masses. Such a system would also support the increased participation of women in politics and decision making.

### **Awareness Creation and Public Education**

An awareness of the existence of the laws and policies to protect the rights of women is vital to encouraging the enforcement and application of such laws. This will be particularly useful with respect to public awareness on issues of corruption.

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### **Values/Moral Reorientation**

Most of all, a reorientation process is key to changing attitudes and mindsets and encouraging justice and equity. This is important because of the value system now prevalent especially among the youth. In many instances, it is no longer clear what amounts to corruption and bad governance. In the sheer desperation to make a living, previously unacceptable conduct is now condoned. Such a reorientation will result in changing perceptions of right and wrong both among the leaders and the led and ultimately lead to the establishment of a just and equitable society.

Thank you for listening.

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