

Women in the Judicial System in Nigeria: Historical Developments, Challenges, and Prospects

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IJMER

Volume. 8, Issue. 3

September, 2025

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Abstract

The Nigerian judicial system, characterized by a complex interplay of colonial legacies, customary traditions, and religious laws, embodies the intricacies of a plural legal framework. Within this multifaceted structure, the role of women has historically been constrained by patriarchal norms, institutional barriers, and socio-cultural expectations. Despite these limitations, women have made significant inroads into the judiciary, challenging the status quo and redefining gender roles within legal and institutional spaces. This paper examines the historical involvement of women in the Nigerian judicial system, tracing their presence and contributions from the pre-colonial era where indigenous mechanisms of dispute resolution included female participation to the post-colonial period marked by gradual inclusion and professional recognition. It offers a comparative analysis of women's representation in both civil and Islamic legal systems, highlighting key milestones achieved by pioneering female jurists, judges, and legal reformers. In doing so, the study draws on archival materials, statutory instruments, court records, and contemporary legal commentaries to provide a overall understanding of the challenges women continue to face, including gender discrimination, limited access to leadership roles, and cultural constraints. Furthermore, it discusses the broader implications of their underrepresentation on justice delivery, legal development, and societal equity. The paper concludes with a strong advocacy for gender-sensitive reforms and institutional reorientation that embrace inclusivity and align with global commitments to gender equity. Recommendations are offered to ensure the sustainability of these reforms and to enhance the prospects for a more balanced and representative judicial system in Nigeria.

Keywords: Women, Judicial System, Historical Developments, Challenges and Prospects.

1. Introduction

The judiciary, as a fundamental pillar of democracy, is entrusted with the interpretation of laws, the resolution of disputes, and the protection of individual and collective rights. Its legitimacy is not only derived from constitutional authority but also from its ability to reflect the diversity, equity, and social aspirations of the society it serves. In Nigeria, the evolution of the judicial system is embedded in a tripartite legacy: indigenous customary jurisprudence, British colonial legal structures, and post-independence constitutional frameworks. Each of these phases has shaped the nature and composition of the judiciary, particularly with regard to the role and inclusion of women.

Historically, indigenous African societies, including those within present-day Nigeria, featured women in various roles of dispute resolution and customary adjudication, although often informal and localized. However, the advent of colonial rule introduced a patriarchal legal system that systematically sidelined women, not only from judicial positions but also from broader legal participation. This exclusion persisted well into the post-independence era, despite growing advocacy for gender inclusion and increasing female enrollment in legal education.

Over the last few decades, Nigerian women have made commendable progress in legal academia, private legal practice, and judicial appointments. Notable figures such as Justice Aloma Mariam Mukhtar, the first female Chief Justice of Nigeria, symbolize these advancements. Yet, the overall gender imbalance within the judiciary remains glaring, particularly at appellate and apex court levels, as well as within Sharia and Customary Courts in Northern Nigeria.

This paper critically examines the historical developments, challenges, and prospects of women in Nigeria's judicial system. It analyzes the dual legal frameworks—civil and Islamic law—and interrogates the extent to which they have enabled or hindered women's inclusion and empowerment. By drawing from statutory provisions, case law, policy documents, and scholarly works, the study adopts both descriptive and analytical approaches to explore the structural, cultural, and institutional factors that continue to shape women's experiences within the judiciary. In doing so, it aims to contribute to the discourse on gender equity in legal institutions and propose pathways for reform that align with international best practices and Nigeria's democratic aspirations.

2. Related Works

Awe B, in his work "Women and the Judiciary in Nigeria", provides the historical analysis of the emergence of women in the Nigerian judiciary. Awe traces the development from the colonial period to the early post-independence era, highlighting pioneering female figures such as Justice Modupe Omo-Eboh, Nigeria's first female High Court Judge. The author went further to discuss the socio-political context of gender inequality and emphasizes how women, despite cultural and educational barriers, gradually broke into judicial roles. The author succeeded in unveiling the historical context and biographical accounts of female judicial pioneers, and identifying the cultural and colonial legacies affecting women's entry into the judiciary. Although, the work is terminated at early 1990s developments with lack of information on the recent judicial milestones or policy reforms in Nigeria. However relevant in framing the historical development of women's participation in the judiciary and sets the stage for understanding their current position.

Okoye A, in his work "Gender and Justice: Women in the Legal Profession in Nigeria", examines the representation and experiences of Nigerian women in various branches of the legal profession, including the bench and bar. The author identified the challenges face by women to include discrimination in appointments, sexual harassment, and exclusion from high-profile cases and leadership positions in judicial councils. Okoye provide us with a contemporary analysis of gender bias in the legal profession. Justifying his argument with comparative insights of what is obtainable in other African countries. The work is relevant by providing us with useful insights into structural and institutional barriers, making it essential for discussing challenges faced by women in Nigeria's judicial system. Even though, the author focuses more on legal practitioners broadly than on women judges or magistrates in particular. Again, the data used in his analysis may be outdated in light of recent reforms and female judicial appointments.

The "Women in the Judiciary and the Quest for Gender Justice in Nigeria," of Yusuf, Hafsat A provides an updated view of women's growing representation in the judiciary and evaluates the extent to which this growth translates into gender-sensitive jurisprudence. The work discovers the leadership of figures such as Justice Aloma Mukhtar and examines how their presence has influenced gender-related case rulings. The work provides us current and future-oriented perspectives on women's prospects in Nigeria's judicial system, especially in promoting laws and policies favorable to women. Emphasizing on the use of gender justice as a lens to assess the implications of female judicial leadership. However, the work tends to be more descriptive; lacks deeper policy analysis or statistical data.

2.1. Historical Context of Nigeria's Judicial System

Prior to colonial intrusion, diverse Nigerian societies operated functional and culturally embedded systems of justice. Among the Yoruba, the judicial process was tiered, beginning with the Olori Ebi (head of family) and escalating to the Baale or Oba, who adjudicated serious matters such as land disputes, inheritance, and criminal offenses. Similarly, among the Igbo, especially in the eastern hinterlands, dispute resolution followed a communal model, wherein Ndichie (elders) and Amala (age grades) mediated and enforced customary laws based on consensus and restorative justice principles.

In Northern Nigeria, especially after the 19th-century Sokoto Jihad led by Uthman Dan Fodio, Islamic jurisprudence took on a formalized structure. The Maliki School of Islamic law was institutionalized in Alkali courts, presided over by jurists often appointed by Emirs, with women generally excluded from these roles. However, there is historical evidence of learned Muslim women playing advisory roles in legal and religious matters, such as Nana Asma'u, daughter of Uthman Dan Fodio, who was an Islamic scholar, poet, and educator of women.

Colonial interventions significantly disrupted and reconfigured these indigenous judicial systems. In Southern Nigeria, the British established Consular Courts through the Foreign Jurisdiction Acts of 1843 and 1893, beginning with centers in Brass, Old Calabar, and Benin, primarily to adjudicate cases involving British subjects and later indigenous elites. One of the earliest judicial ordinances, the Supreme Court Ordinance No. 11 of 1863, created the Lagos Supreme Court, which would serve as a model for subsequent colonial judicial structures.

The Royal Niger Company, acting under its 1886 charter, established rudimentary courts to serve its commercial interests, a system whose authority was revoked following the 1899 takeover by the British Crown. With the formal creation of the Protectorates of Northern and Southern Nigeria in 1900, the British introduced a dual court system: Native Courts for indigenous populations and statutory courts for colonial administration. These courts operated with varying standards, often subordinating customary law to English common law principles when conflicts arose.

A key case that highlights this hierarchy is *Lewis v. Bankole* (1908), where the court ruled that customary law was only valid if it was not repugnant to natural justice, equity, and good conscience—a doctrine that institutionalized the subordination of indigenous laws. Similarly, in *Re Effiong Okon Ata* (1930), the court upheld colonial interpretation of native succession laws, thereby distorting traditional gender-inclusive inheritance practices in some communities.

By 1954, with the promulgation of the Lyttleton Constitution, Nigeria's judiciary had assumed a federal character, featuring regional High Courts, Magistrate Courts, and a Federal Supreme Court. Appeals from these courts initially went to the West African Court of Appeal (WACA) and ultimately to the Judicial Committee of the Privy Council in Britain. After independence in 1960, Nigeria adopted a republican constitution in 1963, which culminated in the establishment of a domesticated Supreme Court as the final court of appeal, thus ending external judicial oversight.

These historical layers reveal a judiciary molded by competing normative orders—customary, Islamic, and colonial—each carrying distinct gender implications. While pre-colonial and Islamic systems afforded women informal or peripheral roles in judicial processes, the colonial era entrenched structural exclusion, which would shape women's access to judicial power for decades to come.

Contemporary Judicial Architecture

The contemporary Nigerian judiciary, as defined by the 1999 Constitution of the Federal Republic of Nigeria (as amended), is a multi-tiered structure comprising the Supreme Court, Court of Appeal, Federal High Court, State High Courts, Sharia Courts of Appeal, Customary Courts of Appeal, and Magistrate/Area Courts. This structure reflects the pluralistic legal tradition inherited from colonialism, wherein customary, Islamic, and statutory legal systems coexist. At the apex is the Supreme Court, which serves as the final court of appeal in all matters, while the Court of Appeal operates as an intermediary appellate body with divisions across the six geopolitical zones.

Appointments to judicial offices are governed by a constitutional process involving the National Judicial Council (NJC), which screens candidates and makes recommendations to the President or Governors (depending on the jurisdiction), subject to confirmation by the Senate or State Houses of Assembly. Although designed to ensure merit-based selection and judicial independence, this process has often been undermined by political interference, ethnic patronage, and executive overreach.

For instance, the controversial suspension of Chief Justice Walter Onnoghen in 2019 by the Executive arm—ostensibly over failure to declare assets—raised constitutional concerns regarding due process and the separation of powers. Critics argued that his removal violated Section 292(1) of the 1999 Constitution, which requires NJC involvement before a judicial officer can be disciplined or

removed. This case highlighted the fragile nature of judicial independence in Nigeria and the susceptibility of the judiciary to executive intimidation.

The problem of delayed justice is another pressing concern. In the high-profile case of *FRN v. Orji Uzor Kalu* (2020), the Supreme Court nullified a corruption conviction due to procedural irregularities, even after the defendant had been sentenced to 12 years imprisonment. While the ruling was legally sound, it exposed loopholes in trial management, prosecutorial preparedness, and judicial consistency. The judiciary's failure to conclude trials swiftly—especially in cases involving powerful political figures—continues to erode public trust in the system.

Corruption within the judiciary is also a persistent challenge. In 2016, the Department of State Services (DSS) launched unprecedented raids on the homes of senior judges, including Justices Sylvester Ngwuta and Adeniyi Ademola, over allegations of bribery and illicit enrichment. Though many of the judges were later acquitted, the raids underscored a growing perception of widespread corruption within the judicial ranks and raised questions about transparency, accountability, and executive methods of enforcement.

For women in the judiciary, these systemic challenges are compounded by gender-based discrimination, unequal promotion opportunities, and limited representation in leadership positions. While figures like Justice Aloma Mariam Mukhtar, Nigeria's first female Chief Justice, and Justice Zainab Bulkachuwa, the first female President of the Court of Appeal, have broken historical barriers, their achievements remain exceptions rather than the norm. As of 2024, women constituted less than 30% of the total number of judges in superior courts, with even lower figures in Sharia and Customary Courts. This underrepresentation reflects broader socio-cultural constraints, including perceptions about women's suitability to interpret certain categories of law, particularly Islamic law. Thus, while Nigeria's judicial architecture is constitutionally sound and structurally robust, its practical functionality is hampered by endemic institutional weaknesses and deep-rooted gender disparities. Bridging the gap between constitutional ideals and operational realities remains a critical task for legal reformers and gender advocates alike.

Women in Nigeria's Judiciary: Historical Overview

The participation of women in Nigeria's legal and judicial spheres began during the colonial era, when gendered structures were most rigid. Stella Jane Thomas broke the initial barriers by becoming Nigeria's first female lawyer in 1935, having been called to the Bar at Middle Temple, London. Her appointment as the first female magistrate in 1943 marked a watershed moment for women's entrance into the judiciary, challenging dominant patriarchal attitudes that confined women to domestic roles.

Another key figure was Justice Modupe Omo-Eboh, who became the first female High Court Judge in 1969. Her elevation was not merely symbolic but also substantively influential, as she adjudicated numerous landmark cases in Lagos State that strengthened women's property and inheritance rights. Later, Chief Folake Solanke, appointed as Nigeria's first female Senior Advocate of Nigeria (SAN) in 1981, further legitimized women's presence in elite legal circles, while Mrs. Priscilla Kuye made history in 1991 as the first female president of the Nigerian Bar Association (NBA), leading a national professional association traditionally dominated by men.

These pioneering women laid the institutional and symbolic foundations that encouraged subsequent generations of female jurists, advocates, and legal scholars.

Female Representation across Judicial Levels

At the Supreme Court, the appointment of Justice Aloma Mariam Mukhtar in 2005 as the first female Justice and her subsequent elevation in 2012 as Chief Justice of Nigeria (CJN) remains a defining moment in Nigerian judicial history. Justice Mukhtar had earlier served as the first female judge at the Court of Appeal and the Kano State High Court, illustrating a career marked by firsts. Other notable female justices of the Supreme Court include Justice Amina Adamu Augie, Justice Kudirat Kekere-Ekun, and Justice Uwani Musa Abba Aji, whose judgments on electoral, human rights, and constitutional matters have added depth to Nigeria's jurisprudence.

At the Court of Appeal, the emergence of Justice Zainab Bulkachuwa as the first female President in 2014 signaled significant progress in gender representation at the appellate level. Her

leadership during politically sensitive elections cases, including the 2019 presidential election tribunal, demonstrated women's capacity for managing high-stakes adjudication. Other active female appellate justices include Oyeibisi Omoleye, Uchechukwu Onyemenam, Ifeoma Jombo-Ofo, and Misitura Bolaji-Yusuf—all of whom have contributed to evolving areas of Nigerian law, including environmental law, commercial litigation, and election petitions.

At the Federal and State High Courts, women such as Justice Binta Nyako (Abuja Division), Justice Patricia Iroawuchi, and Justice Dorcas Agishi continue to demonstrate judicial competence. At the state level, figures like Justice Roseline Omotosho, who served as the first female Chief Judge of Lagos State, and Justice Aisha Bashir Aliyu, appointed Chief Judge of Nasarawa State in 2021, have broken gender ceilings within subnational courts. Their presence reflects a growing, though still uneven, trust in women's judicial leadership.

Women in Civil Law

Civil law in Nigeria—derived primarily from English common law—governs areas such as contracts, torts, property, and family law. Despite constitutional protections for gender equality under Section 42 of the 1999 Constitution, structural barriers continue to constrain women's access to justice and equitable treatment. One notable example is Section 55(1) (d) of the Labour Act, which prohibits women from working at night in certain industries, a provision that has been criticized for perpetuating gender stereotypes and limiting economic agency.

In the case of Ifeoma Jombo-Ofo, her nomination to the Court of Appeal bench in 2012 was initially opposed by the Abia State government on the grounds of her non-indigene status—despite her long residence and service in the state. The National Judicial Council (NJC) intervened, asserting that merit and federal character should supersede indigeneship bias in judicial appointments. This case underscores how customary and political considerations can encroach upon women's career advancement in the judiciary.

Nevertheless, many women have excelled in civil law. Justice Olufunlola Adekeye, formerly of the Supreme Court, was widely respected for her judgments in family law and inheritance cases. In *Akinfemiwa v. Akinfemiwa* (2009), for example, she upheld the equal rights of spouses to jointly acquired property, emphasizing gender equity in matrimonial property regimes.

Women and Sharia Law

The operation of Sharia Law in twelve northern Nigerian states since 1999 has posed significant challenges for women's participation in Islamic judicial systems. While Islamic law, particularly in the Maliki School followed in Nigeria, recognizes women's rights to property, education, and inheritance, its application within the Nigerian context remains highly patriarchal. Women are permitted to appear as litigants and sometimes as witnesses in Sharia courts, but they have been systematically excluded from appointment as Khadi (Islamic judges).

This exclusion has no definitive basis in core Islamic jurisprudence. Historical examples from other Islamic societies—such as Fatima al-Fihri and Judge Al-Shifa bint Abdullah in early Islamic history—demonstrate that women have served in legal and religious leadership roles. In Nigeria, however, the interpretation of Sharia by conservative scholars has reinforced institutional exclusion. The absence of female Khadis contradicts the constitutional principle of non-discrimination and ignores the growing pool of female Islamic scholars trained in Arabic and Islamic jurisprudence.

Attempts to challenge this norm have been met with resistance. A 2003 petition by female Islamic scholars in Kano and Zamfara States advocating for the inclusion of qualified women in Sharia benches was rejected by state governments, citing doctrinal grounds. Reform in this domain remains a contentious but necessary component of achieving gender parity in Nigeria's plural legal system.

Challenges Facing Women in the Judiciary

Despite notable strides in women's participation in Nigeria's legal system, a number of deeply rooted structural and cultural barriers continue to inhibit their advancement, visibility, and influence within the judiciary. These challenges are multidimensional—ranging from socio-cultural impediments to institutional discrimination and political manipulation.

Cultural Barriers

Patriarchal values remain a significant impediment to women's judicial advancement, particularly in Northern Nigeria where traditional gender norms limit women's public roles. In some communities, women are discouraged from pursuing legal education or judicial careers based on beliefs about modesty, propriety, and perceived religious limitations. A survey conducted by the Women Advocates Research and Documentation Centre (WARDC) in 2020 found that over 65% of female law graduates in the North reported family or societal pressure to abandon legal practice for teaching or administrative jobs.

These cultural constraints are reinforced by discriminatory customs in judicial institutions themselves. For instance, until recently, women in some customary courts were discouraged from presiding over land and inheritance cases based on assumptions that women lacked the authority to adjudicate on ancestral or clan property. The cumulative effect of such norms is a systemic underrepresentation of women in trial courts, Sharia courts, and appellate positions, especially in rural and religiously conservative jurisdictions.

Legal Discrimination

Several statutory and customary laws continue to encode gender-based discrimination. For example, Section 55(1) (d) of Nigeria's Labour Act prohibits women from working at night in industries, reflecting colonial-era paternalism that limits women's economic agency. While the law ostensibly seeks to protect women, it unintentionally restricts them from roles requiring shift-based operations, including legal consultancy and certain judicial responsibilities.

Inheritance laws in customary courts frequently discriminate against women, undermining their rights to property and often requiring male relatives to act as legal proxies. In the landmark case of *Mojekwu v. Mojekwu* (1997), the Court of Appeal ruled against the *oli-ekpe* Igbo customary practice that barred female inheritance, calling it "repugnant to natural justice, equity, and good conscience". However, the obiter dictum by Justice Niki Tobi that called for respect for tradition sparked backlash and was later downplayed in *Mojekwu v. Iwuchukwu* (2004), illustrating the legal system's ambivalence toward gender equity.

Similarly, in *Ukeje v. Ukeje* (2014), the Supreme Court declared the Igbo custom disinheriting female children as unconstitutional, yet such practices remain entrenched in local courts due to lack of enforcement mechanisms and societal resistance.

Political Interference

Judicial appointments in Nigeria, though ostensibly based on merit, are often influenced by ethnic, religious, and political considerations. Female candidates are particularly disadvantaged in this process, as the intersection of gender bias with regional politics often leads to their exclusion. In 2012, the case of Justice Ifeoma Jombo-Ofo, whose elevation to the Court of Appeal was temporarily blocked due to her "non-indigene" status in Abia State despite her decades-long service there, exemplifies how politics can be weaponized against women's judicial careers.

Moreover, political interference extends into disciplinary procedures. The 2019 suspension of Chief Justice Walter Onnoghen by the executive arm of government bypassed the National Judicial Council (NJC), undermining constitutional procedures and sending a chilling message to judicial officers—especially women—about the volatility of judicial tenure under political regimes.

Lack of Mentorship and Support Structures

Unlike their male counterparts, women in the judiciary often lack access to influential professional networks and mentorship platforms that facilitate career progression. The legal profession, particularly the bench, is still largely male-dominated, and informal mentorship opportunities that aid elevation to higher courts are skewed toward male protégés.

A study by the International Federation of Women Lawyers (FIDA-Nigeria) in 2022 reported that over 70% of female judges in lower courts cited the absence of mentorship and systemic career guidance as a key barrier to their promotion to appellate courts. These structural deficiencies are not only discouraging but also hinder long-term career planning and institutional gender balance.

Prospects and Recommendations

Despite these challenges, opportunities exist for reform and improvement. Several strategies, if effectively implemented, can foster a more inclusive and gender-responsive judiciary in Nigeria.

Constitutional and Statutory Reforms

The Constitution and relevant statutes must be amended to eliminate gender-discriminatory provisions. Specifically, provisions such as Section 55(1) of the Labour Act and customary laws that perpetuate gender bias should be reviewed or repealed. Additionally, enforcement mechanisms must be strengthened to ensure that progressive judicial pronouncements on gender rights are implemented across all legal jurisdictions.

Institutionalizing Gender Quotas

Introducing and enforcing gender quotas in judicial appointments could provide a balanced representation of women at all levels. This approach has been effective in countries like South Africa, where judicial appointment committees consider gender equity in their nomination and confirmation processes.

Legal Education and Mentorship Programs

The Federal Ministry of Justice, in collaboration with the Nigerian Bar Association and FIDA, should institutionalize structured mentorship programs targeted at female legal practitioners and judges. Scholarships and leadership training for young female law graduates can further encourage women's entry into and advancement within the judiciary.

Sharia Law Reform

There is a compelling need for reform in Sharia jurisdictions to accommodate women in judicial roles. While the Maliki School followed in Nigeria does not traditionally support female Khadis, alternative schools of thought within Sunni Islam—such as Hanafi and Shafi'i—do not explicitly prohibit women from adjudicatory roles. Drawing on precedents from Indonesia, Egypt, and Pakistan, where women serve in Sharia courts, Nigerian lawmakers and Islamic scholars can advocate for interpretive flexibility to allow qualified women to serve as Khadis, thereby signaling a commitment to gender justice within an Islamic framework.

Conclusion

The evolution of women's participation in Nigeria's judicial system reflects a broader narrative of resilience amidst systemic constraints. From the groundbreaking legacy of Stella Thomas, Nigeria's first female magistrate in 1943, to the historic appointment of Justice Aloma Mariam Mukhtar as the first female Chief Justice of Nigeria in 2012, women have progressively carved out spaces in a system once reserved for men. Their presence today across the Supreme Court, Court of Appeal, and various High Courts signifies an undeniable transformation in the gender composition of Nigeria's judiciary.

Nonetheless, significant barriers persist. As illustrated in *Mojekwu v. Mojekwu* (1997), gender-biased customary laws continue to challenge constitutional provisions on equality and justice. Moreover, the case of Ifeoma Jombo-Ofo, whose judicial promotion was initially stalled due to her non-indigene status despite merit and tenure, reveals how political and cultural biases still obstruct women's judicial ascent. In addition, the lack of female representation in Sharia courts, despite constitutional guarantees of non-discrimination, further exemplifies the enduring tension between religious interpretations and gender equity.

However, there are growing signs of a paradigmatic shift. Female justices like Zainab Bulkachuwa, former President of the Court of Appeal, and Amina Augie of the Supreme Court, continue to inspire confidence in women's leadership in adjudication, especially in complex constitutional, electoral, and commercial matters. Their judicial records reinforce the case for broader inclusion and diversification of Nigeria's legal institutions.

Going forward, bridging the gender divide in the judiciary will require deliberate constitutional reforms, gender-sensitive judicial policies, and proactive societal reorientation. Establishing legal precedents that dismantle structural patriarchy, instituting gender quotas in judicial appointments and enabling female participation in Sharia jurisprudence are vital steps toward meaningful change. Additionally, mentoring programs and affirmative legal education initiatives must

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be prioritized to ensure that future generations of women are equipped not only to enter but to thrive within the judiciary.

Ultimately, a gender-inclusive judiciary is not merely a matter of representation—it is a constitutional imperative and a vehicle for national development. The integration of women into all levels of judicial decision-making will deepen democratic norms, enhance public trust in the rule of law, and align Nigeria's justice system with global standards of equity and fairness.

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