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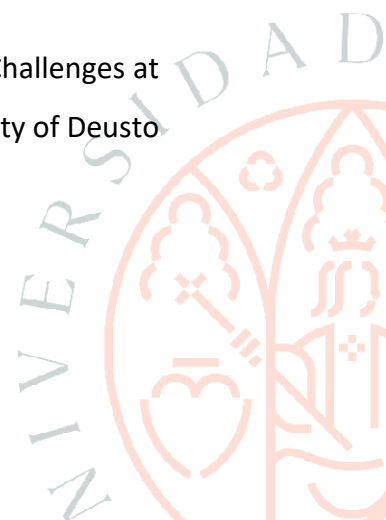
**ANALES**  
**de**  
**DERECHO**

**MARGINALISATION AND  
GENDER INEQUALITIES OF  
AFRICAN MINORITIES IN  
NEED OF LEGAL  
PROTECTION**

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## ***Marginalisation and gender inequalities of African minorities in need of legal protection***

### ***Abstract***

*Gender discrimination and inequality significantly affect children's lives in Africa. Social norms often privilege boys over girls across various aspects of life, creating a clear link between a child's gender and their ability to realize their rights and access opportunities. This disparity is most pronounced during adolescence, when many girls face the threats of early marriage, teenage pregnancy, and domestic abuse, putting them at risk of dropping out of school. Gender inequality policies predominantly target girls and young women, exacerbating the challenges they face. Politicians and traditional authorities often reinforce these inequalities, creating additional hurdles for women and girls while also affecting boys and men.*

***Keywords:*** *Africa, gender inequalities, marginalization, minorities.*

## ***Marginación y desigualdades de género de las minorías africanas que necesitan protección jurídica***

### ***Resumen***

La discriminación y la desigualdad por motivos de género afectan significativamente la vida de los niños en África. Las normas sociales a menudo privilegian a los niños sobre las niñas en diversos aspectos de la vida, creando un vínculo claro entre el sexo de un niño y su capacidad para realizar sus derechos y oportunidades de acceso. Esta disparidad es más pronunciada durante la adolescencia, cuando muchas niñas se enfrentan a las *amenazas* del matrimonio temprano, el embarazo adolescente y el abuso doméstico, lo que las pone en riesgo de abandonar la escuela. Las políticas de desigualdad entre los géneros se dirigen predominantemente a las niñas y las mujeres jóvenes, exacerbando los desafíos a los que se enfrentan. Los políticos y las autoridades tradicionales a menudo refuerzan estas desigualdades, creando obstáculos adicionales para las mujeres y las niñas y afectando también a los niños y los hombres.

***Palabras clave:*** *África, desigualdades de género, marginación, minorías.*

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## I. INTRODUCTION

Mbiyozo argues that gender inequality results in women being poorer, less educated, and facing more health risks compared to men. Labour markets in Africa are heavily gender-segregated, with women predominantly employed in low-paying and insecure occupations. They bear a disproportionate burden of unpaid work and are more reliant on natural resources and climate-sensitive sectors for their livelihoods compared to men. In sub-Saharan Africa, women are responsible for 80% of food production, yet they are less likely to own land or other productive assets. Giving women land rights could significantly reduce displacement risks and increase crop productivity. Additionally, landowners are more likely to invest in improvement and have access to credit. Approximately 250 million Africans live under extreme water stress, with women being most affected due to their central role in daily household labor, including cooking, washing, and caring for the ill, children, and elderly<sup>1</sup>.

Jousse reflects on the fiftieth anniversary of the creation of the Pan African Women Association (PAWA) in 2012, where Irina Bokova, UNESCO Director-General from 2009 to 2017, emphasized the crucial role of women in advancing education, healthcare

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<sup>1</sup> MBIYOZO, A. N. “Gender inequality is forcing African women to face the storm Despite being at the forefront of local adaptation strategies, women are ignored in most climate actions”. *Institute for Security Studies (ISS)*, (07 Dec 2021).

access, rights advocacy, political participation, peace promotion, reconciliation, and development<sup>2</sup>.

Despite women's essential contributions to development, they still face significant discrimination and violence due to their gender, particularly in Africa. Women bear the brunt of gender inequality and marginalization on the continent. What are the solutions to these issues? What actions can be taken? Although Africa has made strides towards gender equality and women's empowerment, inequalities remain critical in West Africa<sup>3</sup>.

## **II. STRONG GENDER INEQUALITIES AND MARGINALIZATION IN AFRICA MINORITIES**

### **1. Social Inequalities in Marriage, Female Circumcision, and Education Exclusion**

#### **1.1 Discrimination in Marriage and Female Circumcision**

According to UNICEF, early childbirth and the overall number of births over a woman's lifetime are strongly linked to child marriage. On average, child brides in the region have more children while still young. For example, in Benin, Cameroon, Chad, and Gambia, more than three in five women aged 20-24 who married before their 15th birthday have three or more children, compared to less than 10 percent of women of the same age who married as adults<sup>4</sup>. Diarra argues that in 2014, an estimated 700 million women were married before the age of 18, and more than one in three was married before the age of 15. The majority of early marriages take place in developing countries. West Africa is the region of the world with the highest prevalence. Of the ten countries with the highest rates of early marriage, half are in this region. Niger and Mali are the most affected, with prevalence rates of 77% and 61%, respectively. In addition, low levels of education and failure at school are factors in the decision to marry early. Out of a total of 916 women

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<sup>2</sup> UNESCO and gender equality in Sub-Saharan Africa: innovative programmes, visible results", UNESCO Report, 2017; Jousse, L. Discrimination and gender inequalities in Africa: what about equality between women and men?, 31.05.2021, [https://igg-geo.org/?p=3863&language=en#\\_ftn2](https://igg-geo.org/?p=3863&language=en#_ftn2)

<sup>3</sup> JOUSSE, L. Discrimination and gender inequalities in Africa: what about equality between women and men?, 31.05.2021

<sup>4</sup>UNICEF, *Adolescent girls in West and Central Africa: data brief* : 2019, p.7. Retrieved May 29, 2023, from <file:///C:/Users/comunidad/Downloads/Adolescent-girls-WCAR-brochure-English-2019.pdf>

married at an early age in Mali, 366 had to leave school, while 294 never attended. Early marriage is a factor in school drop-out but also a consequence of the failure of the education system<sup>5</sup>.

Robin et al. write that in the West African collective imagination, it is social, not physical, maturity that determines entry into adulthood; this milestone is generally marked by marriage, seen as a rite of passage through which every man or boy, and in this case, every girl, acquires adult responsibilities<sup>6</sup>. Religious leaders defend this type of marriage in the name of religious virtue: faced with the risks of sexuality outside marriage among young girls, child marriage would be a way of avoiding dishonoring the family by avoiding extra-marital pregnancies and/or the loss of virginity of girls before marriage<sup>7</sup>. According to Robin et al., the maintenance of customary law, or its principles, in family matters in many French-speaking African countries has contributed to the continued legality of polygyny. Studies carried out in Chad, for example, have shown that Chadian men do not regard polygyny as violence. Some misinterpret it as being recommended by God. This leads men to marry several wives, creating and cultivating a situation of jealousy between the co-wives, who are subjected to a situation of promiscuity because in most cases the co-wives share the same plot of land<sup>8</sup>. Robin et al. add to justify or explain Female Genital Mutilation, the populations that practice it refer to the perpetuation of tradition, the control of female sexuality, preparation for marriage, and compliance with instructions dictated by religion. Generally associated with Islam, the practice is also found in Christian contexts and in communities practicing religions other than the monotheistic ones. Excision in Burkina Faso, for example, concerns all ethnic groups and all religions<sup>9</sup>.

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<sup>5</sup> DIARRA, A., (29 novembre 2018), «Mariages d'enfants au Mali et au Niger: comment les comprendre?» *Le Monde*.

<sup>6</sup>ROBIN, N. et al. (2021), «Étude relative aux justices traditionnelles au Sahel Revue bibliographique». *Etude*, p.27.

<sup>7</sup> Ibid, p.28

<sup>8</sup> Ibid, p.29

<sup>9</sup> Ibid, p.28-29.

## 1.2 Education Exclusion

As per Mutume , perhaps the most inhibiting factor is that women in Africa continue to be denied an education, often the only ticket out of poverty. Disparities between girls and boys start in primary school and widen throughout the entire educational system. In total enrollment in primary education, Africa registered the highest relative increase among regions during the last decade. However, given the low proportion of girls being enrolled, the continent is still far from attaining intake parity by the end of this year. By 2000, sub-Saharan Africa was the region with the most girls out of school, with 23 million, up from 20 million a decade earlier<sup>10</sup>.

Christian and al. state that inequality is also prevalent in the provision of public services, such as education and healthcare. For example, women from rich families in Mali are 15 times more likely to have received a secondary education than those from poor families. In Nigeria, a woman from a poor family is 26 times more likely never to have been to school compared with a woman from a rich family, and in Ghana, a girl from a poor family is 14 times more likely never to have been to school than one from a rich family. An estimated 70% of the poorest girls in Niger have never attended primary school; among those who have attended, school supplies and materials account for almost 75% of spending on education for the poorest households. Niger is the least educated country in the world, with the average length of schooling being just 18 months. Only one in two girls goes to primary school, one in 10 to secondary school, and one in 50 to high school<sup>11</sup>.

## 2. Economic Inequalities in Wealth and Labour Force

Christian et al. argue that wealth inequality not only creates a divide between the rich and the poor but also has a strong gender dimension. For instance, in Ghana, out of the 1,000 new US dollar millionaires added to the country's list of millionaires in the decade ending in 2016, only 60 were women. Similarly, men in Ghana own 62% of

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<sup>10</sup> MUTUME, G., "African women battle for equality". *Africa Renewal*. (July 2005).

<sup>11</sup> CHRISTIAN H. and KWESI W. O. *The West Africa Inequality Crisis*. Oxfam Briefing Paper. Oxford: OXFAM.2019.p. 4-5.

household places of residence and 62% of agricultural land, while only 37% of real estate owners are female <sup>12</sup>.

According to the Food and Agriculture Organization , women often face gender-specific challenges to full participation in the labor force, which may necessitate policy interventions beyond those aimed solely at promoting economic growth and the efficiency of rural labor markets. The share of women in the agricultural labor force ranges from 36 percent in Côte d'Ivoire and Niger to over 60 percent in Lesotho, Mozambique, and Sierra Leone <sup>13</sup>. Christian et al. state that West African labor markets are characterized by widespread gender inequalities. For example, in The Gambia and Sierra Leone, men earn over 40% more than women on average <sup>14</sup>.

Christian et al. emphasize that in West Africa, land can be held by individuals, customary groups, companies, or the state, and decisions about land can be made through statutory or customary systems. To address gender inequality, women must have equal land rights across all tenure systems. However, there is limited systematic data on women's access to and control of land under customary systems or in contexts where rights have not been formalized <sup>15</sup>. In Nigeria, women represent between 60% and 79% of the rural labor force and constitute about 37% of active agriculture workers, but they are 10 times less likely to own their land than men. This level of inequality has negative impacts on women, including making them more vulnerable to gender-based violence<sup>16</sup>.

### 3. Inequalities in the Political Domain

According to Christian et al., similar gender inequalities can be found in political representation, with women accounting for as few as 5.8% of elected representatives in the Nigerian parliament, 7.2% in Benin, and 8.8% in Mali<sup>17</sup>.

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<sup>12</sup> Ibid, p.13.

<sup>13</sup> Food and Agriculture Organisation, *The State of Food and Agriculture 2010-11: Women in Agriculture. Closing the Gender Gap for Development*.2011.p.7-8.

<sup>14</sup>CHRISTIAN H. and KWESI W. O. *The West Africa Inequality Crisis. Oxfam Briefing Paper.* Oxford: OXFAM.2019.p.30.

<sup>15</sup>Ibid,p.34

<sup>16</sup>Ibidem

<sup>17</sup> CHRISTIAN H. and KWESI W. O. *The West Africa Inequality Crisis.* Oxfam Briefing Paper. Oxford: OXFAM.2019, p.19.

Jousse writes that when it comes to political equality, the situation is more nuanced. In 2018, only 24% of seats in national parliaments were held by women. However, this figure is slightly increasing, as it was 12% in 2000 and 19% in 2010. Women are largely underrepresented in ministries and other legislative and executive bodies. Nevertheless, despite this low percentage, some countries stand out, such as Rwanda: the first country in which women make up more than half of parliamentarians, representing 61.3% of parliamentarians in 2018<sup>18</sup>. Musua states that in sub-Saharan Africa, the number of women seated in parliament grew in 2018, with a regional average share at 23.7%. Djibouti, which in the year 2000 had zero women in parliament, saw the most dramatic gains globally among lower and single chambers. Ethiopia saw the largest increase in women's political representation in the executive branch, from 10% women ministers in 2017 to 47.6% in 2019<sup>19</sup>. Among the top African countries with a high percentage of women in ministerial positions are Rwanda (51.9%), South Africa (48.6%), Ethiopia (47.6%), Seychelles (45.5%), Uganda (36.7%), and Mali (34.4%). The lowest percentage in Africa was in Morocco (5.6%), which has only one female minister in a cabinet of 18. Other countries with fewer than 10% women ministers include Nigeria (8%), Mauritius (8.7%), and Sudan (9.5%)<sup>20</sup>. Cultural factors responsible for women's low participation in politics and governance identify cultural stereotypes, abuse of religion, discriminatory laws, traditional practices, and patriarchal social structures as some of the factors that militate against women's participation in government in Nigeria<sup>21</sup>.

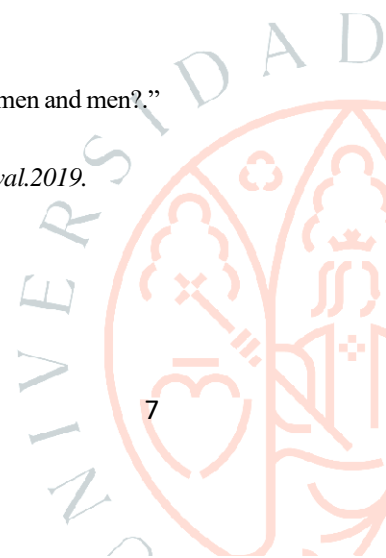
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<sup>18</sup>JOUSSE, L., "Discrimination and gender inequalities in Africa: what about equality between women and men?." *Institut du Genre en Géopolitique*. 31 May 2021.

<sup>19</sup> MUSAU, Z. "African women in politics: Miles to go before parity is achieved". *African Renewal*.2019.

<sup>20</sup> Ibid.

<sup>21</sup>Ibid.





### III. POLICIES TO COMBAT MARGINALIZATION AND GENDER INEQUALITIES IN AFRICAN MINORITIES

#### 1. Women's Empowerment

According to Jousse, equality between women and men and the empowerment of women and girls has become a priority on the African continent, aiming to ensure respect for women's rights and put an end to gender discrimination. Women's empowerment and sustainable development were highlighted at the 2015 African Union Summit of Heads of State and Government in the context of achieving Africa's Agenda 2063<sup>22</sup>. Agenda 2063 is built on seven commitments, namely:

1. Achieving equitable people-centered growth and development
2. Eradicating poverty
3. Developing human capital, social goods, infrastructure, and public goods
4. Achieving sustainable peace and security
5. Establishing effective and strong State development
6. Promoting participatory and accountable institutions
7. Empowering women and girls<sup>23</sup>.

The empowerment of women and girls and gender equality are becoming very important objectives for the member states of the African Union. As a result, girl-specific policies have led to significant improvements in access to education for girls in Benin, Botswana, Gambia, Guinea, Lesotho, Mauritania, and Namibia. Girls' access to education has also increased thanks to awareness campaigns, but also thanks to policies to reduce school fees in public elementary schools in rural areas. In Benin, for example, the gender gap has decreased from 32% to 22% <sup>24</sup>.

#### 2. Women's Online Activism

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<sup>22</sup>JOUSSE, L., "Discrimination and gender inequalities in Africa: what about equality between women and men?." *Institut du Genre en Géopolitique*. 31 May 2021.

<sup>23</sup> Ibid..

<sup>24</sup> Ibid.

Chiluwa asserts that through online activism, Women Advocacy Action Groups (WAAG) extend their voices, influence, and activities to reach greater national and international audiences, including communities of concerned people, thereby also reaching out to the most vulnerable rural women and the underprivileged. WAAGs provide online training for young women aspiring for political leadership, publicize and support women contesting for elections through social media, and further attract social and moral support through social media for female parliamentarians who are exposed to victimization. WAAGs sustain a very strong online community base by organizing webinars and supporting conversations that focus on women's political participation, education, skills acquisition, and economic empowerment <sup>25</sup>.

Feminists are using social media to change public discourse and have refused to be intimidated by hateful responses from predominant patriarchal traditions, which has significant implications for the future of WAAGs. Now, with the full backing of the United Nations and the African Union, and encouragement from successes recorded in some countries in terms of gradual positive policy responses (e.g., Rwanda with 61% female representation in government – the highest in the world), it is evident that the activities of WAAGs are indeed yielding impressive results<sup>26</sup>.

### 3. Investments in Public Services

Christian and colleagues highlight that social spending on public services such as education, healthcare, and social protection has been shown to have a strong impact on reducing inequality, particularly for the poorest women and girls who are most dependent on them. Social spending can play a key role in reducing the amount of unpaid care work that many women do – a major cause of gender inequality – by redistributing child and elder care, taking care of sick family members, and other domestic labor <sup>27</sup>.

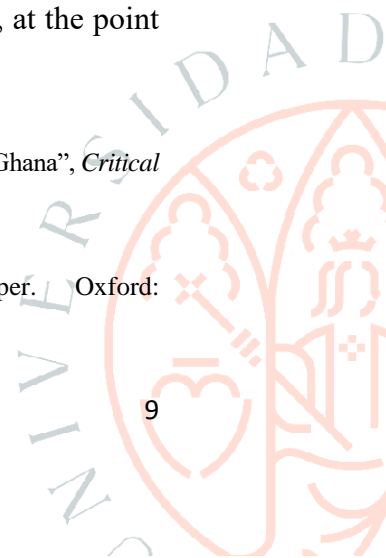
In 2004, Ghana began implementing its National Health Insurance Scheme (NHIS) to minimize out-of-pocket expenditure, commonly known as 'cash-and-carry', at the point

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<sup>25</sup> CHILUWA, I. "Women's online advocacy campaigns for political participation in Nigeria and Ghana", *Critical Discourse Studies*.2021.p.23.

<sup>26</sup>Ibid.

<sup>27</sup>CHRISTIAN H. and KWESI W. O. *The West Africa Inequality Crisis*. Oxfam Briefing Paper. Oxford: OXFAM.2019, p.23.



of service use. The implementation of the scheme was accompanied by increased access to and use of healthcare services<sup>28</sup>.

Christian et al. state that in June 2019, Sierra Leone became the first country in Africa to fully transform its national disease surveillance system from a paper-based one to a web-based electronic platform. With the revitalized system tracking the occurrence of 28 priority diseases, conditions, and events, routine weekly public health reporting has risen from 89% of health facilities countrywide in 2016 to 99% in May 2019. The human cost of the outdated system had held back the health sector's ability to effectively monitor and respond to health issues and events in a timely fashion, as was seen during the 2014 outbreak of Ebola virus disease in the West Africa sub-region<sup>29</sup>.

#### 4. Engagement of Legal Instruments

Jousse asserts that the promotion of equality and human rights, as well as the elimination of discrimination and violence against women, are integral parts of the Sustainable Development Goals (SDGs) of the United Nations programs of recent decades. This focus is evidenced by numerous reports, such as the 2016 African Human Development Report, which concentrates on gender equality and examines the efforts of African countries to empower women, a primary goal of the SDGs. To address these inequalities, the United Nations developed the concept of gender-responsive budgeting (GRB) in 1997, which involves a “gendered” analysis of budgetary allocations and a balancing of government funding<sup>30</sup>.

At the national level, constitutional provisions are in place to protect women's rights across several African countries. For instance, the Constitution of the Democratic Republic of Congo (2005, with Amendments through 2011) articulates the fight against sexual violence (Article 15) and mandates human rights education, implicitly including gender education, for security forces (Article 45). Burkina Faso's Constitution of 1991, with Amendments through 2015, prohibits marital discrimination and upholds free

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<sup>28</sup>Ibid, p.25.

<sup>29</sup>Ibid,p.27

<sup>30</sup>JOUSSE, L., “Discrimination and gender inequalities in Africa: what about equality between women and men?.” *Institut du Genre en Géopolitique*. 31 May 2021.

consent in marriage (Article 23). Nigeria's Constitution of 1999, with Amendments through 2011, ensures equal political participation regardless of sex (Article 222(b)). Niger's Constitution of 2010, with Amendments through 2017, obligates the state to combat violence against women and children (Article 22). Similarly, Sierra Leone's Constitution of 1991, reinstated in 1996, with Amendments through 2013, outlaws slavery and forced labor (Article 19). Sudan's Constitution of 2019 recognizes women's economic rights and mandates equal pay for equal work and property ownership (Article 49).

At the regional level, the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (The Maputo Protocol) was adopted in 2003 and came into force in November 2005. This protocol includes articles pertaining to women's economic rights under Article 13 (Economic and Social Welfare Rights), the rights of women in the event of remarriage (Article 21(1)), women's rights to inherit their parents' properties in equitable shares (Article 21(2)), married women's equal right to acquire property independently and manage it freely (Article 6(j)), and the right to participate in the political and decision-making process (Article 9).

Moreover, the African Charter on Democracy, Elections and Governance contains provisions relevant to women's rights. Article 8 of the African Charter on Democracy, Elections and Governance obligates States Parties to eliminate all forms of discrimination, including those based on gender, and to adopt legislative and administrative measures to guarantee the rights of women and other groups.

The African Commission on Human and Peoples' Rights has issued various resolutions and comments addressing women's rights. General Comment No. 4 emphasizes the right to redress for victims of torture and other cruel, inhuman, and degrading treatment. Resolution 111 focuses on the right to a remedy and reparation for women and girls who are victims of sexual violence, while Resolution 283 addresses the situation of women and children in armed conflict. Resolutions such as No. 66 and No. 262 aim to benefit and empower women's economic rights, particularly regarding land and productive resources.

At the international level, the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) contains extensive provisions safeguarding

women's rights. Articles 7 and 8 of CEDAW explicitly ensure equality and non-discrimination concerning political and public life. Women are guaranteed equal rights with men to vote in all elections, hold public office, participate in policy formulation, and engage in non-governmental organizations. Article 11 addresses equality and non-discrimination in employment, while Articles 6 and 16 specifically address discriminatory practices in marriage. Article 16 commits States Parties to eliminate discrimination against women in marriage and ensure their right to freely choose a spouse and enter into marriage based on their free and full consent.

#### IV. CONCLUSION

Inequalities persist between men and women across the continent of Africa, exerting significant negative effects on women socially, economically, and politically. Despite this troubling reality, progress has been achieved over the years to eradicate gender-based discrimination against women and girls. Many nations, including those in Africa, have prioritized the empowerment of women and girls, as well as gender equality, aligning with the fifth of the United Nations Development Goals.

The implementation of programs and policies, along with the efforts of feminist organizations that have long challenged patriarchal norms, have contributed to advancements in this area<sup>31</sup>.

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