



*Revue Electronique Internationale des
Sciences du Langage (REISL)*

REISL - N°7

JANVIER 2024

ISSN: 1840-9148

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- Periodique/Revue:** français et 2018
- Éditeur:** Tous les formats et éditions
- Éditeur:** LASODIYA-REYUOAC, Abomey-Calavi, Bénin et 2018
- Genre:** Periodicals
- Description matérielle:** volumes : 25 cm
- ISSN:** 1840-8748
- Numéro OCLC/identifiant unique:** 1102433273
- Sujets:** Africa, Language and languages, Language and languages Periodicals, Language and languages in literature, Language and languages in literature Period...

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- Publication:** Abomey-Calavi, Bénin : LASODIYA-REYUOAC, 2018-
- Physical description:** volumes : illustrations ; 29 cm
- At the library:** SAL3 (off-campus storage) - No physical access. In process: P40-45 A15-R45 NO.5 JAN 2022 - Unavailable. Stacks: Latest no.5 (2022-January) - Library loc: no.120181-no.212031, v.4(2021)-2021. P40-45 A15-R45 NO.4.2.2 JAN 2021 - Available. P40-45 A15-R45 NO.3 2019 - Available. P40-45 A15-R45 NO.1 2018 - Available.
- Description:** Creators/Contributors: Contributor: Université d'Abomey-Calavi, Laboratoire de sociolinguistique, dynamisme des langues et recherches en Yoruba (Issuing body). Subjects: Sociolinguistics & Africa > Periodicals, Language and languages > Periodicals, Benin > Periodicals, Africa > Periodicals, Sociolinguistics.

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URL: reisl.uac.tz [↗](#)

Keywords: Language, Sociolinguistics, didactics, Linguistics

ISSN: 1840-9148

EISSN:

Subject: Languages and Literatures

Publisher: Université d'Aboumy-Catani

Year: 2018

Country: Benin

Research Paper Indexed by CiteFactor - Not Available

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ISSN : 1840-9148

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AFRICAN WOMEN'S WRITINGS : A REDEFINITION OF FEMINISM IN AFRICAN JURISPRUDENCE

Ramonu Abiodun SANUSI
University of Ibadan (Nigeria)
rasanusu@yahoo.com

&

Beatrice Nguwasen NEV
Taraba State University, Jalingo (Nigeria)

Abstract

*This research aims to redefine feminism in African jurisprudence by examining the cultural and traditional value factors present in African women's writings. The study seeks to analyze the historical and contemporary contexts of feminism in Africa and to evaluate how the traditional, cultural and religious beliefs have impacted the treatment of women in African society as highlighted in women's writings. The research will use a qualitative method of analysis to African women's writings as a representation of the feminist discourse in Africa. The study will also examine from women writings, the social issues facing African women today. In the end, this research aims to add to the ongoing conversation about feminism in Africa and its effects on the social, cultural, and legal rights of women. It will do so by drawing insights from the following selected works: *The Hidden Face of Eve* by Nawal El Saadawi, *The Joys of Motherhood* by Buchi Emecheta and *Efuru* by Flora Nwapa. The study adopts African feminism as the basis theory.*

Keywords: Feminism, cultural, religious, legal rights, jurisprudence.

Introduction

Feminism is a broad concept that has generated a lot of discourse in the contemporary world. African women have contributed to the discourse through their writings which have been instrumental in advocating for women's rights and gender equality. Despite this, African jurisprudence has largely ignored the contributions of women writers and feminist theories in shaping legal systems. This raises the question of whether African jurisprudence adequately addresses the issues faced by women in Africa, and whether there is a need to reappraise the moral and religious value factors that underlie African jurisprudence. Moral and religious value factors play a significant role in shaping feminism in African jurisprudence. African societies are deeply religious and culturally rooted, and these traditions heavily influence legal systems. Moral and religious value factors have contributed to the subordination of women in African societies. Patriarchal norms that prioritize men's interests over women's are deeply ingrained in African cultures and religions. These norms have contributed to the marginalization of women and the perpetuation of gender-based violence and discrimination.

Some African women writers such as Chimamanda Ngozi Adichie (Nigeria) in *Half of a Yellow Sun* and *Purple Hibiscus* ; Tsitsi Dangarembga (Zimbabwe): Dangarembga in *Nervous Conditions* Ama Ata Aidoo (Ghana): Aidoo's *Changes: A Love Story*, Buchi Emecheta (Nigeria)'s *The Joys of Motherhood* have challenged patriarchal norms and advocated for gender equality in African jurisprudence. These women writers have used their writings to critique the traditional cultural and religious practices that are

harmful to women's rights. They have also proposed alternative ways of interpreting religious and cultural values that promote gender equality and women's rights. However, some of these values may be in conflict with feminist principles, particularly regarding women's reproductive rights and autonomy. Therefore, it is essential to examine how religious values can be reconciled with feminist principles to promote gender equality in African jurisprudence. Cultural norms that discriminate against women are deeply ingrained in African societies. These norms often perpetuate harmful practices such as female genital mutilation, polygamy, child marriage, obligatory motherhood and widowhood rites, which violate women's human rights. Therefore, it is essential to examine how these cultural norms can be reappraised to promote gender equality and women's rights in African jurisprudence.

The history of feminism in Africa is a complex and multi-faceted phenomenon that is intertwined with social, political, and economic factors that have affected the continent over time. As such, understanding the evolution of feminism in Africa is crucial to comprehending the current state of women's rights and gender equality in the region. According to Zipporah Ngumi and Wangari Mwai (2021), «African feminism developed as a reaction to colonialism, patriarchy, and racism, and aimed to challenge the hegemonic discourse of Western feminism by emphasizing the unique experiences and struggles of African women" (p.139).

Several scholars have explored the historical background of feminism in Africa, highlighting the various socio-political movements that have shaped women's rights in the continent. For instance, Sylvia Tamale (2011) notes that "the emergence of feminism in Africa was closely linked to the anti-colonial struggles of the mid-twentieth century, which provided a platform for women to participate in the nationalist movements" (p. 17). As a result, African feminism was marked by a strong sense of collective identity and a commitment to social justice, which contrasted with the individualistic approach of Western feminism.

Moreover, scholars such as Amina Mama (1995) have argued that feminism in Africa has been shaped by the intersections of race, class, and gender, which have influenced women's experiences differently depending on their social location. This has led to the emergence of different feminist strands, including socialist feminism, Black feminism, and postcolonial feminism, among others. These strands have contributed to the diversity of feminist thought in Africa and have challenged the homogenization of women's experiences in the continent. In addition, the role of religion and culture in shaping feminist discourse in Africa cannot be overlooked. According to Oyèrónké Oyèwùmí (1997), "the notion of gender is not necessarily applicable to African societies in the same way as it is to Western societies due to the different cultural and religious contexts" (p. 3). As such, African feminism has had to negotiate the tension between the universal principles of gender equality and the specificity of African cultures and traditions. It is against this background that this study seeks to attempt a redefinition of feminism in African jurisprudence from the spectacle of African (women) writings.

African feminism is an evolving discourse that is influenced by a range of cultural, religious, and moral values. In recent years, scholars have explored the role of these values in shaping the feminist discourse in Africa, particularly in the context of African women's writings. According to Olufunmilayo Adeyemi (2014), African feminist discourse is grounded in moral values that are central to African culture. These values include communalism, respect for elders, and the importance of family. Adeyemi argues that these values provide a framework for African feminism that is rooted in the experiences and struggles of African women.

Furthermore, scholars have explored the role of religious values in shaping African feminism. Ebenezer Obadare (2006) argues that religion has played a significant role in shaping feminist discourse in Africa. Obadare suggests that African women have used religious values and practices to challenge patriarchal structures and to redefine the role of women in society. In addition, African women's writings have provided critical insights into the ways in which moral and religious values are incorporated into feminist discourse. It is to note that Ama Ata Aidoo (1987) highlights the role of traditional African values in shaping feminist discourse in her novel, *"Changes"* where she explores the struggles of women in Ghana as they navigate changing cultural and social norms, while still holding onto traditional values. Moreso, African women's writings have also challenged the notion that religion is inherently patriarchal. Mercy Oduyoye (1995) argues that African women have used religious values to challenge patriarchal structures, and to develop alternative visions of gender equality. Oduyoye suggests that these alternative visions of gender equality are grounded in African religious traditions and provide a unique perspective on the feminist discourse in Africa.

1. Theoretical Framework

Feminist jurisprudence is a branch of legal theory that seeks to understand and challenge the ways in which the law has been used to discriminate against women and perpetuate gender inequality. In its many guises, Feminist jurisprudence seeks to unmask the traditional and the too often ignored inequalities in society which are supported by law, and suggest in different ways the manner in which such continuing inequalities may be redressed. It is a theory that focuses on the manner in which law reflects and reinforces the economic, social and political position of women in society. In Africa, feminist jurisprudence has emerged as a critical tool for examining and critiquing the legal systems that have historically excluded women from full participation in society. According to Amina Mama (1995), feminist jurisprudence in Africa has evolved as a response to the patriarchal legal systems that have been inherited from colonial rule, and seeks to challenge the gendered power relations that underpin these systems. It is to note that, feminist jurisprudence criticizes the law's omission of the bias against women's concerns, offering its insights as a supplement and corrective measure to foster a more inclusive and equitable legal framework, challenging ingrained norms and advocating for systemic change. Simple inclusion is not, however, the primary goal of feminist jurisprudence rather, feminist legal

theorists routinely speak of challenging, subverting or transforming legal relations at their core to benefit the women folk.

Several scholars have explored the evolution of feminist jurisprudence in Africa, highlighting the various theoretical and practical contributions that have been carried out in the field. Fareda Banda (2011) notes that, feminist legal scholars in Africa have developed alternative legal frameworks that take into account the lived experiences of women, and have sought to integrate gender perspectives into legal decision-making. This has led to a shift in legal discourse, from one that is solely concerned with formal equality to the one that recognizes the need for substantive equality.

Moreover, feminist jurisprudence in Africa has been instrumental in challenging discriminatory laws and policies, and in advancing women's rights through litigation and advocacy. According to Muna Ndulo (2002), "feminist legal activism in Africa has led to the reform of family law, the criminalization of rape and domestic violence, and the recognition of women's land rights, among other achievements" (p. 3). These legal victories have been instrumental in advancing gender equality and promoting women's empowerment in the continent. In addition, feminist jurisprudence in Africa has been influenced by the intersections of race, class, and gender, which have shaped the experiences of African women differently depending on their social location. According to Ruth Mwaanga-Akan'gomo (2018); "Feminist legal scholarship in Africa has had to grapple with the complexity of African societies and has sought to develop legal theories and frameworks that are relevant to the diverse experiences of African women" (p. 122). This has led to the emergence of different feminist legal approaches, such as African feminist legal theory, which seeks to integrate African cultural values and traditions into legal decision-making.

In such a drive, Wangari Maathai (1985) argues those African women's struggles for gender equality must be understood in the context of their struggles against the exploitative practices of multinational corporations and the neocolonial forces that seek to control their bodies and their environments. This perspective, she suggests, provides a broader framework for understanding the ways in which African women are redefining their roles and identities in society.

2. Redefinition of African Jurisprudence and Women's Writings

Feminism in African jurisprudence can be seen through the various ways in which African women have sought to challenge the patriarchal nature of the legal system in Africa. It is a movement that seeks to promote gender equality and empower women in all spheres of life. African women writers have contributed significantly to the discourse on redefining African jurisprudence. Feminism in African jurisprudence is a concept that has gained immense attention in recent years. This work aims at exploring the subject matter from the perspective of African women's writings owing to the fact that literature has remained a creative tool for their fight. As rightly noted by Ojo-Ade (1983), Black Literature (African Literature) is a mirror of man's inhumanity and the voice of the victim (p. 71). African women's writing therefore has become an avenue to challenge all aspects of male domination and the subordination of women in African jurisprudence and seek ways of breaking the patriarchy

system. The purpose behind striving to break the patriarchy system is to dismantle entrenched power structures, eliminate gender-based discrimination, and foster a society that ensures equality and empowerment for all individuals, irrespective of gender.

Literature has, thus, become a creative tool used by the African women to redefine African jurisprudence and uplift the African woman and in order to pave the way for their contributions as the significant voices of African literature. The term significant voices of African literature refer to influential and impactful authors whose works have played a pivotal role in shaping the literary landscape and cultural discourse of the African continent. With this new drive, the reader is offered a more concentrated version of the redefinition of African jurisprudence in literature where women seek readjustments of their legal rights and a balanced perspective of womanhood and her needs. These women have used their writings to challenge the patriarchal legal system in Africa and advocate for decolonization of the existing system to incorporate women's rights. It is a movement that seeks to promote gender equality and empower women in all spheres of life. African women writers have significantly contributed to the discourse on feminism in African jurisprudence. Nwapa (2009) reveals that with the implications of this new female awakening, women have started to redefine themselves. They have started to project themselves as they feel they should be [perceived]. There have been tremendous changes in all facets of life which contribute to the continent wide awareness and rethinking of women's problems and roles in the society (pp. 528-529).

It is worthy to note that, experiences such as colonialism and the emphasis on female education through consciousness-raising efforts have helped many women to focus on their lives and personal experiences. During the colonial era, figures like Funmilayo Ransome-Kuti in Nigeria challenged oppressive colonial policies and co-founded the Abeokuta Women's Union, paving the way for post-colonial activism. The emphasis on female education is exemplified by pioneers like Wangari Maathai in Kenya, whose Green Belt Movement not only championed environmental conservation but also underscored the importance of education for women, fostering economic empowerment. In the realm of consciousness-raising, Nawal El Saadawi from Egypt utilized her literary works to critique societal norms and contribute to a heightened awareness of gender issues. These female pioneers, through their resilience and activism, became trailblazers, addressing the intersectionality of colonialism, education, and consciousness-raising, ultimately laying the groundwork for a transformative shift in the lives and personal experiences of African women. This has empowered them to challenge societal ideas and perceptions of womanhood that are false, promote new perceptions that reveal the truth about the conditions such as limited access to education, unequal economic opportunities, and discriminatory cultural norms. Their advocacy aims to rectify these disparities and foster justice and equality for women in various spheres of life, and advocate for justice and equality.

3. Impact of African Women Writers on Legal Frameworks

The redefinition of feminism in African jurisprudence has been the subject of several writings by African women. While not all African women involved in redefining feminism in African jurisprudence were scholars or activists, a significant number possessed diverse backgrounds, encompassing academia, activism, and professional expertise. Some emerged from legal academia, contributing scholarly perspectives, while others, rooted in activism, brought practical insights and experiences to the discourse, collectively shaping the multifaceted redefinition of feminism within the context of African jurisprudence. These writings provide critical insights into the ways in which African women are redefining feminism in the context of their unique experiences and struggles within the African context. According to Amina Mama (2001), these writings "offer a feminist critique of law and society that is grounded in the realities of African women's lives, and that seeks to challenge the patriarchal legal systems that have been inherited from colonial rule" (p. 5). One of the key themes that emerge from these writings is the need to reframe the discourse around feminism in Africa to better reflect the experiences of African women. Sylvia Tamale (1999) argues that African feminism needs to be rooted in the experiences of African women, and must take into account the intersections of race, class, and gender that shape these experiences. This approach, she suggests, will enable African women to challenge the dominant narratives around feminism that have been shaped by Western feminist thought.

Moreover, these writings highlight the role of African women in redefining legal frameworks to better address the needs of women. Oyeronke Oyewumi (1997) argues that African women have a unique perspective on the law that is grounded in their experiences and struggles. This perspective, she suggests, can be used to develop alternative legal frameworks that are better suited to the needs of African women, and that challenge the patriarchal legal systems that have historically excluded them. Furthermore, these writings provide insights into the ways in which African women are redefining traditional concepts of gender and sexuality.

4. Women's Writings as Catalysts for Community and Solidarity

Women's Writings have played a significant role in the development of feminism in African jurisprudence. According to Oloka-Onyango and Tamale (1995), women's writings have provided a platform for women to express their views and challenge the patriarchal legal system in Africa. Oloka-Onyango and Tamale (1995) arrived at the determination that women's writings significantly contribute to the development of feminism in African jurisprudence by observing the pivotal role these writings play as platforms for women to articulate their perspectives and engage in challenging the patriarchal legal system across the African continent. Through analyzing the content and impact of women's writings, they recognized the profound influence of these expressions in shaping feminist discourse within the realm of African jurisprudence. Women's writings have fostered a sense of community among African women by providing a shared space for narratives that address various forms of discrimination and oppression, such as gender-based violence, limited access to education, and economic disparities. Through the exchange

of personal stories and collective advocacy, these writings offer evidence of the diverse challenges faced by African women and contribute to a shared understanding that strengthens a sense of solidarity. One of the most notable African women writers who have contributed to the discourse on feminism in African jurisprudence is Nawal El Saadawi. Nawal El Saadawi was an Egyptian feminist writer, physician, and activist. She was known for her prolific writing on women's rights, feminism, and social issues in the Arab world. Nawal El Saadawi passed away on March 21, 2021.

In her groundbreaking work *The Hidden Face of Eve*, Nawal El Saadawi vividly portrays the oppression of women in the Muslim world, drawing from a profound sense of the violence and injustice permeating her society: "I lived through the violence and oppression, and I had to convey what I saw, what I experienced" (p. xvi). El Saadawi meticulously examines various forms of discrimination faced by African women, such as prostitution, honor killings, sexual abuse, female circumcision, and polygamy, asserting that the patriarchal legal system in Africa is strategically designed to oppress women and deny them their rights: "The law discriminates against women and sees them as inferior beings" (p. 83).

Dedicated to illuminating how males have overlooked women's contributions to social, cultural, and mental strength, El Saadawi expresses the pervasive pain of being a woman in a male-dominated society as a consistent theme in her writings: "The pain of being a woman is the pain of being born a woman in a male-dominated society" (*The Hidden Face of Eve*, p. 18). Her fearless and free conscience combats the idea of women's natural culpability, challenging the narrative associated with Mother Eve: "I revolt against my father and my brother, I revolt against the whole male-controlled system" (p. 11). El Saadawi rejects the notion that religion is the cause of women's plight in Arab society, attributing it instead to skewed interpretations: "It is not religion that is to blame, but the men who interpret religion in their own interest" (p. 73).

Opposed to the monopolization of religion by a select clergy, El Saadawi critiques their manipulation to perpetuate patriarchal dominance: "The clerics use religion as a weapon to oppress women and maintain their control" (104). Her influential writings have contributed to raising awareness about the challenges faced by African women, inspiring them to challenge the patriarchal legal system in Africa: "I write for those women who do not speak, for those who do not have a voice because they were so terrified, because we are taught to respect fear more than ourselves" (p.189).

5. Influence of African Women Writers on Legal Advocacy

In her impactful novel *The Joys of Motherhood*, Buchi Emecheta, a significant African woman writer contributing to the discourse on redefining African jurisprudence, illuminates the pervasive gender inequalities in African society: "The African woman is the mule of the world," portraying the challenges faced by women in a society where wifhood, womanhood, and motherhood were considered their most significant professions (*The Joys of Motherhood*, p. 56). Emecheta confronts various issues such as wife battering, widowhood practices, polygamy, cultural beliefs about motherhood, poverty, illiteracy, and social discrimination, highlighting how these practices

discriminate against and oppress women. Through her literary activism, Emecheta aims to eradicate such social inequalities: "If you go to work, we will know who the real mule of the world is. No man at all, no man, is worth it" (*The Joys of Motherhood*, p. 213). Her writings serve as a call to action, inspiring women to challenge the patriarchal legal system in Africa and fight for their rights: "You must learn to take care of yourself. You are as important as a man ; you are a human being" (*The Joys of Motherhood*, p. 245).

In Flora Nwapa's groundbreaking work *Efuru*, she challenges traditional patriarchal norms, advocating for women's rights in Africa : "Efuru did not believe that a woman was born to be a slave, her spirit revolted against it." Nwapa portrays women seeking change, choice, and acceptance within Igbo society, promoting the idea that women should have a wider range of choices and be free to make traditional and nontraditional choices. Nwapa advocates societal compromise through manipulation of traditional practices, emphasizing gender equality and women's empowerment: "She did not want to be an old wife looking for her husband's love" (*Efuru*, p. 68). "Efuru" becomes a powerful call for women's rights, inspiring women to seek love, respect, and autonomy within their communities. As rightly pointed by Ogunyemi, the novel *Efuru* focuses on developing selfhood and finding empowerment through mothering in the community, but the novel has two parts : the first part concerns the individual desires of a young woman to make her own choices, and the second half is "corrective and instructive" because Efuru marries Uhamiri and finds a peaceful existence as mother of the community (146).

Numerous scholars have delved into various facets of the subject, exploring gender-based violence, the influence of customary law, women's land rights, and their access to justice. Amina Mama's work (1995) illuminates how colonialism and patriarchy have molded African legal systems, asserting, "Colonialism was not only a system of exploitation, but one of mind control" (*Beyond the Masks*, p. 189). Similarly, Sylvia Tamale (2007) critically analyzes these influences on women's rights, emphasizing the imperative to decolonize African jurisprudence for gender equality: "Decolonizing the mind is to find new ways of seeing, interpreting, and organizing our world" (*African Sexualities*, p. 112).

Fareda Banda (2011) and Chuma Himonga (2015) explore the potential of African customary law in safeguarding women's property rights and ensuring access to justice. Banda contends, "African customary law holds significant potential for protecting women's property rights when interpreted dynamically" (*Women, Law and Human Rights*, p. 78). Himonga reinforces this perspective, asserting that properly understood and applied, African customary law can be a potent tool for advancing gender equality: "Customary law is a dynamic institution that can evolve to accommodate the rights of women" (*African Customary Law*, p. 102).

Moreover, Patricia McFadden (1998) and Akosua Adomako Ampofo (2011) scrutinize the intersections of race, class, and sexuality with gender in shaping women's encounters with the legal system. McFadden argues, "The intersections of oppression highlight the complex and layered nature of women's struggles" (*Feminism, the Public, and the Private*, p. 45). Ampofo further contends that a feminist analysis of African jurisprudence must

encompass these intersecting forms of oppression : "Understanding the interconnected nature of these oppressions is crucial for an effective feminist legal praxis" (*Engendering African Social Sciences*, p. 132). These scholars collectively contribute to a nuanced understanding of African jurisprudence, emphasizing the need for multifaceted analyses that consider the intricate dynamics of power and oppression.

6. Influence of African Women Writers on Concrete Strategies for Legal Reform

The works of Anne Hellum and ShaheenSardar Ali (2004) and the African Women's Development and Communication Network (2009) offer concrete strategies for reforming legal systems to ensure gender equality. Anne Hellum is a legal scholar known for her work on women's rights, and Shaheen Sardar Ali is a legal academic specializing in human rights law, particularly in relation to women and minorities. The African Women's Development and Communication Network (FEMNET) is a pan-African organization founded in 1988. FEMNET operates as a network of feminist individuals and organizations across Africa, working to advance women's rights and gender equality. They focus on advocacy, capacity building, and communication to address issues impacting African women. These authors advocate for the need to involve women's organizations and civil society in the reform process. These works provide practical recommendations for promoting gender equality in African jurisprudence.

African women writers have continued to advocate for the redefinition of African jurisprudence through raising the consciousness of African women and revolutionizing African literature so that both the general public, male writers and critics will become more sensitive to female issues and more balanced in their portrayal of female characters their experiences and legal rights in the society as recognized by Uko (2006) that contemporary African women writers are not only establishing the new woman. They show that though the woman may be said to be situated on the fringes, the borders, the margins, her strength and resilience keep her in control at the centre" (p. 93).

Conclusion

This study titled African women writings: A redefinition of feminism of African jurisprudence explored the intersection of feminism, African jurisprudence, and moral and religious values using the selected works and relevant literatures in order to bring to light challenges as faced by African women to find ways that could inform current debates on gender equality in Africa. African women writers redefine feminism in African jurisprudence by skillfully navigating the intersections of feminism, legal systems, and moral/religious values. They employ diverse narrative techniques, delving into personal experiences and cultural nuances to illuminate the challenges faced by African women. Through their literary works, these writers contribute richly to ongoing debates on gender equality by offering nuanced perspectives that blend cultural insights with feminist principles. The study demonstrated that African women writers have long been engaged in feminist discourse, challenging patriarchal norms and advocating for women's rights. These writers may be seen as trailblazers in the fight for gender equality in Africa,

and their writings could be considered as a rich source of insight into the complexities of the issue. It is of great importance to note that traditional African values conflict with feminist ideals. Traditional African values often rooted in cultural, religious, or societal norms sometimes differ from the principles of gender equality and women's rights advocated by feminism. However, it is crucial to recognize that African societies are diverse, and within them, women have historically occupied significant roles, challenging the notion of a uniform conflict.

In many African societies, women have indeed held and continue to hold essential and respected positions. For instance, the Uganda Parliament consists of 64% of women. These roles may vary across different cultures and regions, but women have been instrumental in areas such as family leadership, community decision-making, and cultural preservation. While there might be aspects of traditional values that conflict with certain feminist ideals, the dynamic nature of both traditional values and feminist movements allows for the coexistence of diverse perspectives and practices within African societies. Recognizing the complexity and diversity of these interactions is essential for a nuanced understanding of the relationship between traditional values and feminist ideals in the African context. Nonetheless, with awareness from these women writers on the need for redefining African jurisprudence, using their revolutionizing literatures both the general public, male writers and critics have become more sensitive to female issues and more balanced in their portrayal of female characters, their experiences and the need for decolonization of the legal system in the society.

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