The Women, Business and Human Rights Nexus – the effect of international law in creating an accessible business climate for women in Ghana, Nigeria, Ethiopia and South Africa

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Abstract:
Economic injustices, that often disproportionately affect women, disrupt social cohesion and lead to a poverty trap cannot be fixed by demand and supply drivers of a market economy and rely on innovative legal instruments and policy implementation to right them. Ethiopia, Nigeria and South Africa are considered sub-Saharan Africa’s 3 big powerhouses. Due to their demographic, economic and military size, as well as their historical role as regional leaders these countries have a huge potential to generate gender equality in economic terms as the first countries in Africa and act as trailblazers for the region. They exert power over the region and can act as advocates for women’s rights by using the potential that their large economies hold. Ghana played a dominant role in shaping African human rights law for the region and has been very active for the last decades in the field of women’s rights. Entrepreneurship bears a particularly high potential for women’s economic empowerment, gender equality as a whole and poverty reduction. A comparative approach is taken in assessing the success of the legal instruments at play in shaping the business climate that women entrepreneurs operate in, their successful implementation into national law, and factors influencing policy diffusion.

For several decades, a multitude of international organisations and legal bodies have envisioned, negotiated and adopted international law documents aimed at increasing women’s rights. These conventions, treaties, guiding principles and norms shape the business climate that women entrepreneurs operate in. They are diffused in different countries in different ways, because they do not fall into vacuum, but a country that has grown out of local particularities and a unique history. A mix of national legislation is in place and many different actors respond to international and regional instruments. This thesis aims at scrutinizing and comparing how these four countries have responded to international norms in the last 42 years, that have passed since the adoption of the first international law document, that focussed solely on eliminating the discrimination of women, namely the Convention on the Elimination of All Discrimination Against Women (CEDAW). International as well as African (i.e. African Union, regional economic unions) policy instruments are being compared in relation to their effectiveness. Changes in relevant normative instruments are compared, such as the decent work agenda, the right to secondary education and the right to (economic) development. Additionally, jurisprudence that invokes legislation relevant to shaping the business climate for women entrepreneurs is analysed. Theoretically this thesis can be embedded in the fields of Sociology of Law and Law and Development.

Methodologically, apart from the use of policy analysis and documentary analysis, to illuminate the implementation of the law and its interaction with norms, semi-structured interviews are performed with policy makers, representatives from ministries, justices, litigators and representatives of the civil society working in the field of women’s economic empowerment and women’s rights to complement the findings. The aim of this thesis is to compare the developments in the legal environments that African women who want to enter the world of business in three of the biggest economies of the region and a trailblazer for human rights in Africa operate in, in order to illuminate possible determinants of successful economic policies and interventions.

Keywords: policy diffusion, women economic empowerment, entrepreneurship, sub-Saharan Africa