Abstract

In a traditional African society like Nigeria, culture has pervasive influence on how women are treated. Most traditional practices are different forms of violence against women and are frequently defended on the basis of cultural and superstitious beliefs. Violence against women is a crime which persistently has been at a high rate in Nigeria. Gender based violence is no doubt more like a culture especially in the northern part of the country and ranges from physical abuse such as domestic violence to social abuse such as child marriage. The increasing plague of domestic violence in Nigeria continues at an excessive scale causing serious physical, mental, physiological and reproductive health challenges to women, notwithstanding the legal and regulatory mechanism proscribing all forms of violence in Nigeria. This paper highlights some cultures which has negatively affected women in Nigeria and contends that notwithstanding the development of some legislative reform which are favorable to women, Nigerian women still face state sanctioned discriminatory practices. The methodology used is the doctrinal study of the key subject of this research, reliance was also placed on legal texts, policy documents and other international instruments relevant to the research topic.

Keyword: Traditions, Culture, Violation, Law, Gender, Women, Beliefs.

1. Introduction

Cultures are rules, expectation or behavior within a specific social group, often unspoken and offer a social standard of appropriate and inappropriate behavior, governing what is and is not acceptable and coordinating interaction with others. 1 Culture means the totality of a way of life by a people in their attempt to meet the change of a living environment, which gives order to their political, economic, creative and religious norm and mode of organization, thus distinguishing a people from her neighbor. 2 It’s also the knowledge, belief, custom, likes, ideas and skills available in a society and by which the society can be compared to or differentiated from others.

Violence against women is a serious worldwide human right crisis, the high rate of violence against women and girls particularly in Nigeria is often related to traditional

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2 Federal Ministry and Culture: Culture and Heritage (2020). 1 http.fmic.gov.ng/culture accessed on 7th August, 2020

practices. Social norm underlying violence against women and girls are based on gender roles which are deeply rooted in the society and defined by the custodian of culture perpetuating the ideas that inequalities are natural and innate. Gender-Based Violence is an age long psychological and social issue deeply-rooted in Nigerian societies and African countries in general. In some societies, cultural practices, norms and beliefs fuel the behaviors and relegate women to second class status. Some practices and gender role assignments ensure total submission of the women to male dominance and control at home in ways that perpetuate gender inequality.

Cultural violence against women is manifested in all levels of socio-cultural, economic, and political status of women in Nigeria irrespective of class, education or profession. Over a decade now, numerous cases of women’s rights violation such as acid baths, murder of women, rape, widow abuse, and physical assaults, have occurred in Nigeria. Unfortunately it is only extreme cases of women’s rights violation which results in death or permanent disability that earns the media attention and the police interests. Critical cases like female circumcision or genital mutilation, wife battery, marital rape, sexual harassment, verbal and emotional abuse, incest, termination of employment as a result of pregnancy and others, are not considered problematic enough to be highlighted in the media as well or taken seriously by the police. More so the victims of violence, especially domestic violence and rape, hardly report to the appropriate authorities. For instance, wife battery is considered a private affair between the husband and wife. Moreover, the tradition or culture and religious beliefs in Nigeria as a typical patriarchal society see the wife as a property of her husband, who has moral right to beat her as penalty for insubordination and or perceived wrong doing. In the case of rape, women consider it a social stigma if their ordeal becomes a public knowledge.

However, the tide is changing, many women have access to education and the orientation of Nigerians with respect to women right has been improving but discriminatory practices and law are still prevalent in the country. Many laws are being enacted within the federal and the state level with regards to women’s right. The effectiveness of this legislative enactment is what is still doubtful. Although, the government has made some efforts to create a legal framework that is more protective to women and girls, it’s still apparent that law alone will not bring to an end the complex social reality in violence against women and girls which have existed for years.

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5 ibid
2. Different Cultural Practices

2.1 Child Marriage

Early marriage, also referred to as child marriage, is defined as any marriage carried out below the age of 18 years, before the girl is physically, physiologically and psychologically ready to shoulder the responsibilities of marriage and childbearing. Child marriage is a cultural practice that has been and still in existence in Nigeria especially in the northern part of the country. According to United Nations Child Funds, causes of early marriage are, gender inequality, culture, tradition, lack of proper education, insecurity etc., and the consequences are early pregnancy domestic violence and illiteracy. In a country like Nigeria particularly the Northern part of the country, early marriage of the girl-child is allowed, the basis for acceptance of early marriages in the Northern region is to preserve the value of virginity, fears of pre-marital sexual activity, to reduce promiscuity of the girl-child, and other socio-cultural and religious norms. It is however unfortunate, disturbing and worrisome that the girl-child in most circumstances has no power to resist the offer.

The United Nations and other international agencies have declared that child marriage violates human rights and children’s rights. Since 1948, the UN and other international agencies have attempted to stop child marriage. Article 16 of the Universal Declaration of Human Rights states that persons must be at “full age” when married and that marriage should be entered into “freely” and with “full consent.” Articles 1, 2, and 3 of the 1962 Convention of Consent to Marriage clearly provide that the Minimum Age for Marriage, and Registration of Marriages require that countries establish a minimum age for marriage and that all marriages be registered. Article 16 of the 1979 Convention on the

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Elimination of all Forms of Discrimination against Women requires minimum age for marriage to be specified and says that child marriages are illegal.\textsuperscript{13}

In Nigeria the legal age for marriage is 18, yet the governments enforce these laws loosely. Child marriage is a human rights violation that prevents girls from obtaining an education, enjoying optimal health, bonding with others their own age, maturing, and ultimately choosing their own life partners. Child marriage is driven by poverty and has many effects on girl’s health, such as increased risk for sexually transmitted diseases, cervical cancer, malaria, death during childbirth, and obstetric fistulas. Girl’s offspring are at increased risk for premature birth and death as neonates, infants, or children.

2.2 Female Genital Mutilation

Female genital mutilation (FGM) is defined by the World Health Organization (WHO) as all procedures which involve partial or total removal of the external female genital and/or injury to the female genital organs, whether for cultural or any other non-therapeutic reasons.\textsuperscript{14} In Nigeria, subjection of girls and women to obscure traditional practices is legendary.\textsuperscript{15} FGM is an unhealthy traditional practice inflicted on girls and women worldwide. It is widely recognized as a violation of human rights, which is deeply rooted in cultural beliefs and perceptions over decades and generations.\textsuperscript{16}

One in four Nigerian women between the ages of 15 and 49 years have experienced FGM, making the country number three in the world following Egypt and Ethiopia.\textsuperscript{17} An estimated 100–140 million girls and women worldwide are currently living with the consequences of FGM. In Africa, about 3 million girls are at risk for FGM annually. Despite the increased international and little national attention, the prevalence of FGM overall has declined very little.\textsuperscript{18} The procedure has no health benefits for girls and women and the victims are faced with its consequences such as shock from pain and

\begin{thebibliography}{99}
\bibitem{13} Art. 16 United Nations Convention on the Elimination of all Forms of Discrimination against Women, (1979) \url{http://www.un.org/womenwatch/daw/cedaw/text/econvention.htm#article16}, accessed on 16 July 2020
\bibitem{15} UNICEF. “Children’s and Women’s Right in Nigeria: A wake up call. Situation Assessment and Analysis of Harmful Traditional Practice (2001) (FGM) Abuja NPC and UNICEF Nigeria.14
\bibitem{16} ibid
\bibitem{17} K.Jacinter and others. The Ongoing Violence against Women: Female Genital Mutilation/Cutting (2018) Biomed Central Reproductive Health. 4.
\end{thebibliography}
hemorrhage, infection, acute urinary retention following such trauma, damage to the urethra or anus and chronic pelvic infection.

It reflects deep-rooted inequality between the sexes and constitutes an extreme form of discrimination against women. It’s a total violation of rights of the girl child and violation of a person’s right to health, security, and physical integrity, the right to be free from torture and cruel, inhuman, or degrading treatment, and the right to life when the procedure results in death. Furthermore, girls usually undergo the practice without their informed consent, depriving them of the opportunity to make independent decision about their bodies. The practice is mostly carried out by traditional circumcisers, without proper knowledge of human anatomy and medicine. Despite the graveness of the issue, the practicing societies look on it as an integral part of their tradition and cultural identity.

3.3 Domestic Violence against Women
Domestic violence can be defined as the range of sexually, physiologically and physically coercive act used against women by current or former male intimate partner. It has also been defined as engaging in an activity towards family and household member that will cause a reasonable person to feel terrorized, frightened, intimidated, threatened, harassed or molested and will not matter whether or not physical force were applied as long as the victim has been threatened.

Globally domestic violence account for nearly one quarter of all records of crimes, survey indicate that 10-50 percent of woman have experienced physical abuse by an intimate partner in their life time. In Nigeria an average of 300-350 women are killed yearly by their husbands, former partners, boyfriends and male relations. Domestic violence in Nigeria is a problem as in many parts of Africa, there is a deep cultural belief in Nigeria that it is socially acceptable to hit a woman or discipline a spouse. The

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19 Ibid
24 Ibid
26 Ibid
CLEEN Foundation report shows 1 in every 3 respondents admitting to being a victim of domestic violence\(^{29}\). The survey also found a nationwide increase in domestic violence in the past 3 years from 21% in 2011 to 30% in 2013.\(^{30}\) A study commissioned by the ministry of women affairs and social development and United Nations population fund shows that 28% of Nigerian women aged 25-29 have experienced some form of physical abuse since age 15.\(^{31}\) The risk of violence varied based on marital status as 44% of divorced, separated or widowed women faced violence, while 25% of married women or those living with their spouses have experienced violence.\(^{32}\)

Domestic violence affects women in Nigeria irrespective of age, class educational level and place of residence. This is because of the differential access to power, material resources, freedom to obtain knowledge and other basic needs of life. As a cultural reality, domestic violence against women is a characteristic of a man and it finds comfort amongst all kinds of male partners, from the poor, illiterate, educated to the royal man. In the same way, the female victim takes comfort in silence, passivity, fear and in being dependent on the abuser financially and residentially, in the same manner the victim remains in the home for the sake of her children.\(^{33}\)

Some provisions of the law like the Penal Code applicable to the Northern part of the country equally make an assault by a man to a woman merely a correction. It provides that:

> nothing is an offence which does not amount to inflicting grievous hurt upon any person which is done by a husband for the purpose of correcting his wife, such a husband being subject to any native law or custom in which such correction is recognize as lawful.\(^{34}\)

### 3.4 Right to Property

Women are denied legal right to own property or inherit land. In North-East Nigeria, women own only 4% of land and just over 10% of land ownership in the South-East and South-South.\(^{35}\) Most times, the female children have no right to partake in the sharing of their fathers’ wealth.


\(^{30}\) Ibid


\(^{32}\) Ibid.

\(^{33}\) Ibid

\(^{34}\) Section 55[1] [d]of the Nigeria Penal Code

\(^{35}\) CJ Abara, “Inequality and Discrimination in Nigeria Tradition and Religion as Negative Factors Affecting Gender” 2012. Federal of International Human Rights Museum. 6
Daughters' inheritance rights under customary law vary considerably across the country, but in no region does customary law grant women equal inheritance rights with men.\textsuperscript{36} Nigerian women have very limited ownership rights. For women without the means to purchase land on their own, in practice, their ability to obtain land flows solely through marriage or family.\textsuperscript{37}

### 3.5 Discriminatory laws against women

There are many laws and customary practices discriminating against women in Nigeria.\textsuperscript{38} For example, section 55 of the Labour Act which bars women from being employed in night work except as nurses. Section 360 of the Criminal Code makes the indecent assault of women a misdemeanor punishable with a two-year prison term, as opposed to three years prison term imposed for indecently assaulting a man, which is a felony in section 353. Under section 127 of the Police Act when an unmarried police woman is pregnant, she would be discharged from the police force. She can only be re-instated with the approval of the Inspector General of police. Under section 55 of the Penal Code, husbands are permitted to chastise their wives. Thus, under the Penal Code, a husband can beat his wife insofar it does not lead to serious injuries or grievous harm. In essence, the Penal Code condones domestic violence against women.\textsuperscript{39}

### 4. Legislative Intervention

There have been clamour for an extensive reform of the laws discriminating against women in Nigeria. Arguably, the government did introduce some reforms to improve the status of the Nigerian woman. Some of these reforms include the signing and ratification of the Convention on the Elimination of all Forms of Discrimination against Women (CEDAW), adoption of a National Gender Policy, the enactment of the Child Rights Act 2003 (this law domesticated the Convention of the Rights of the Child in Nigeria), the enactment of the Trafficking in Persons (Prohibition) Law Enforcement and Administration Act 2003 and establishment of Women Development centres in all the states in Nigeria amongst others.\textsuperscript{40}

#### 4.1 Violent against Person [Prohibition] Act 2015

VAPP Act was first introduced in the National Assembly on 25\textsuperscript{th} of May 2002 and initially drafted by members of the Legislative Advocacy Coalition on Violence against

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\textsuperscript{36} ibid  
\textsuperscript{37} Ibid.  
\textsuperscript{39} Ibid  
Women. The bill was not passed into law and it was renamed with its current gender-neutral title to assuage the virulent criticisms of many influential Nigerians and members of the National Assembly. One of the reasons for the change in the nomenclature was that men also suffer from domestic violence and thus the title of the bill should be gender neutral. The bill was re-introduced or sponsored into the National Assembly in 2013 and passed into law in May 2015. The enactment of the VAPP Act can be said to be a measure in line with Nigeria’s international obligations under CEDAW and the Protocol to the African Charter on Human and People’s Rights on the Rights of Women. The VAPP Act punishes not only direct acts of spousal violence, but also acts of coercive control by deprivation, isolation and emotional abuse.

Victims of domestic violence may obtain protection orders under the VAPP Act. This is a unique buffer against domestic violence in the country. However, it is only the High Court of the Federal Capital Territory (Abuja) that has the authority to issue protection orders under the VAPP Act, but the protection orders under the VAPP Act are enforceable throughout Nigeria.

Amongst its ground-breaking features is the criminalization of matters hitherto not explicitly recognized as offences under Nigerian law. These include harmful traditional practices, female genital mutilation, emotional abuse, abandonment, and attack with harmful substances. Also, the offence of rape under the VAPP is now gender-natural. Thus, victims are no longer restricted to the female gender and offenders or perpetrators can be men or women. Furthermore, the VAPP Act recognizes different types of violence that women are subjected to. These include emotional, verbal and psychological, and economic abuse amongst others.

42 ibid
46 Ibid (no43)
48 Ibid (no44)
4.2 Gender and Equal Opportunity Bill 2019
Although it is concerned more on gender equality, it equally covered age and disability discrimination.\textsuperscript{49} It seeks to give effect to certain provision of the Constitution of the Federal Republic of Nigeria, 1999 (as amended)\textsuperscript{50} such as Chapters II and IV which deal with Fundamental Objectives and Directives Principle of State Policy and Fundamental Human Rights. If eventually passed by the National Assembly, the bill will also give effect to United Nations Convention on the Elimination of all Forms of Violence against Women CEDAW and the protocols to the African Charter on the Rights of Woman in Africa amongst other.

The bill first came into force in 2010, it suffered some setback and it was reintroduced again in 2016, it still failed to pass the 2\textsuperscript{nd} reading. Many senators opposed the bill citing religious and cultural reasons for their objections.\textsuperscript{51} The bill was however presented after some modification regarding inheritance and widow’s right, this time it passed the second reading but in March 2018 majority of the senators rejected it when it was time for voting.\textsuperscript{52} The Bill sought to guarantee the right of women to equal opportunities in employment; equal right to inheritance to both male and female children, equal right for women in marriage and divorced and equal access to property, land ownership and inheritance. It also seeks to protect the right of widows, guarantee appropriate measure against discrimination on grounds of political and public life and ensure the prohibition of violence towards women.\textsuperscript{53} The proposed law also seeks equal opportunity, development, advancement for all Nigerian citizens irrespective of gender as well as promotes girls access to education, freedom from women to participate in any economic activity and their right to freedom from violence. The importance of the GEO bill is evident in the statement by the amnesty international, when it states that:

\begin{quote}
The objective of the bill is to secure much needed freedom and right for woman and girls. Women for example may exercise their right to be free from discrimination and be able to enjoy their right to
\end{quote}

\textsuperscript{49}Ibid (no43)
\textsuperscript{50}Constitution of the Federal Republic of Nigeria 1999
\textsuperscript{52}E Toluwani, “Nigeria Looming Election puts the Gender Equality bill in peril” (2018). Archives of Women’s Advancement deeply. www.newsdeeply.com. accessed on 27\textsuperscript{th} July 2020
\textsuperscript{53}“Nigeria: Senator reintroduces Gender Equality bill” https/alla.comafrica.com. accessed on March 3\textsuperscript{rd} 2020. Example sec. 4[1][b][i] of the GEO Bill states that in the case of political or public sphere, that a minimum of 35 penal of all the offices, positions or appointment is reserved for women.
education, health care and to own property without barrier and exclusion because of gender.\textsuperscript{54}

We hope that the bill gets the assent of the president and becomes law.

4.3 \textbf{Labour Act (Amendment) Bill 2019}

The objective of the bill is to amend certain sections of the Labour Act 2004 which contains clauses militating against employment prospects for women in Nigeria and to prohibit and criminalize casualisation of workers after six months of engagement. \textsuperscript{55} The bill was sponsored by Mr. Olawale Raji (APC Lagos) and has passed second reading. Some of the provisions of the Labour Act which the proposed bill seeks to delete include: Section 55 which prohibits women from engaging in night work, Section 56 which stipulates that ‘no woman shall be employed on underground work in any mine’. Section 57 that empowers the Minister of Labour to make regulations prohibiting or restricting, subject to conditions as may be specified in the regulations, the employment of women in any particular type or types of industrial or other undertakings or in any process or work carried on by such undertakings, and section 58 (2) which provides that any person who employs a woman in contravention of section 55 (1) or section 56 (1) shall be guilty of an offence and on conviction shall be liable to a fine not exceeding N100 or to imprisonment for a term not exceeding one month or both.

This bill is very welcome development and it should be passed into law as soon as practicable.

4.4 \textbf{Sexual Offences Bill 2015}

The Sexual Offences Bill 2015 was amongst the 46 bills passed by the 7\textsuperscript{th} senate.\textsuperscript{56} The Sexual Offences Bill was introduced and sponsored by Senator Anyanwu (a female legislator) into the National Assembly. The Bill was passed by the National Assembly in June 2015, however, due to misconceptions and controversies concerning some provisions of the bill (for example, the age of consent), the bill is yet to be assented to, by the President of Nigeria.

Mr. Falana accused the members of the 7\textsuperscript{th} National Assembly of not paying attention to the provision of the bill. The bill stipulates a life imprisonment for any individual found guilty of rape or sexual intercourse with children under the age of 11 years, 10 years for incest, 10 years for child’s pornography or a fine of 2 million and 14 years for sexual


\textsuperscript{55} Ibid

abuse and others.\textsuperscript{57} With the provisions, the bill appears to stipulate that those incidents will not be considered crime if the victims are older than 11.\textsuperscript{58} The technical quality of the draftsmanship is regrettable, however notwithstanding the weaknesses of the bill, necessary amendment should be made on the relevant provision and the bill should be passed into law by the appropriate authorities in Nigeria.

5. \textbf{Conclusion and Recommendations}

Nigeria should domesticate its international obligations and conventions promoting women’s right and gender equality in the country. Nigeria has signed and ratified CEDAW convention and its optional protocol and the African Charter of Human and People’s Rights in Africa. However only the African Charter has been domesticated into law in Nigeria and it protects the right of women in its provisions.

Nigeria operates a dual system wherein treaties are not applied in the country unless they are domesticated via legislation. Sec. 12 [1] of the 1999 Constitution provides that “no treaty between the Federation and any country shall have the force of law except to the extent to which any such treaty has been enacted into law by the National Assembly” hence the African Charter of Human and People’s Right was domesticated into Nigeria by virtue of the African Charter of Human and Peoples Rights Enforcement and Ratification Act 1985. Many of these international treaties have not impacted heavily on the plight of women in Nigeria because some of them have not been domesticated into the Nigerian law.

To stop child marriage, policies and programs should be implemented to educate communities, raise awareness, engage local and religious leaders, involve parents, and empower girls through education and employment.\textsuperscript{59} Women in the rural area should be enlightened to know their right and defend themselves, awareness should also be created for the women in the rural area to understand the right to education of a girl child, also effective strategy to reduce poverty in the country should be developed, this is because women bear the brutal effect of poverty in Nigeria.

The Nigerian Government through the Ministry of Women Affairs needs to pay more attention to issues of gender based violence. More research investigations are also needed in the area which would help in policy formulation to prevent gender based and domestic violence and protect women and children from complications arising from domestic violence. Routine screening of women for domestic violence in clinical facilities may help in early identification of victims and perpetrators, and assessment of the magnitude

\textsuperscript{57} ibid
\textsuperscript{58} ibid
of the problem in this environment. A brief screening questionnaire that can be used in routine clinical settings may prove beneficial for this purpose, especially at the Primary Health Care. The need to train Community Health Care Workers (CHCW) in various rural communities in Nigeria on gender-based issues and on routine counseling in gender based domestic violence is therefore of utmost importance.

There is need for total abolition of FGM, a multidisciplinary approach involving legislation, health care professional, organizations, empowerment of the women in the society, and education of the general public at all levels with emphasis on dangers and undesirability of FGM is paramount. At the grassroots, efforts should be made to discourage the practice. It is crude, dangerous, wicked and unhealthy; there is no scientific evidence that women who have been mutilated are more faithful or better wives than those who have not undergone the procedure. It is very clear that there is no single benefit derived from FGM.