

REVIEW PAPER

CULTURE AND THE RIGHT OF THE RURAL WOMAN IN NIGERIA: AN OVERVIEW,

OTINCHE S.I. and NNABUENYI, U.M.

Department of Public Administration, Ibrahim Badamasi Babangida University, P.M.B 11, Lapai, Niger State, Nigeria; Department of Sociology, Nasarawa State University, Keffi, P.M.B 1022, Keffi. Nasarawa State, Nigeria.

Correspondence: inyotinche@yahoo.com; +2348060859939/+2348054339072; ujuwilliams77@gmail.com
+2348035376265

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ABSTRACT

Generally in Africa, culture exerts enormous influence on the way of life of the people. In traditional societies, it is a determinant factor in role assignment, career choice and social relationship; though its impact on gender rights varies among societies. This paper examined some of the cultural specificities that affect the right of rural women in Nigeria. It argued that majority of women living in rural areas are uneducated and ignorant to challenge the cultural values that have placed restrictions on their rights. The women tolerate with bitterness, their exposure to social exclusion, deprivation and alienation by some cultural norms. Such lack of awareness on gender rights among rural women is attributable to the close attachment to cultural and religious beliefs, class disillusionment, poverty, illiteracy and male chauvinism. Our paper concludes that cultural values have made gender reforms, women empowerment and the implementation of the affirmative action in favour of the rural woman difficult in Nigeria, and necessary reforms on cultural practices that are cruel and harmful to women and human dignity in general, is required. Initiation of legislative actions, media advocacy and social engineering in order to liberate the rural woman from cultural ostracism are also recommended.

Key Words: *Gender rights, Culture, Male Chauvinism, Circumcision, Genital Mutilation*

INTRODUCTION

Globally, the right of women is surrounded by subjective realities. In many developed countries, these subjective realities have been remodelled to suit contemporary political, economic and socio-cultural values. In these societies, primitive culture is not deeply entrenched in their ways of life and women enjoy elaborate rights and privileges with men. However, in many developing countries and Nigeria in particular where culture plays a dominant role in socio-economic and political engineering the rights of women are grossly infringed upon. They are subjected to all forms of discrimination and alienation that has made their incorporation into the governance process fairly difficult. This is more endemic in the rural areas where the rate of female illiteracy is high.

The report of the United Nations International Children's Emergency Fund (UNICEF) and the United Nations Educational, Scientific and Cultural Organization (UNESCO) shows that 28 million (59%) children of primary school age are out of school. Out of this number 32% of them are girls and only 27% are boys (Okeke, 2013). The situation in the urban areas is slightly different due to access to education, judicial infrastructure and other means of social communication and socialization by women. In South Africa, young girls are raped by men in the pretext of getting cured of HIV/Aids and other venereal disease. However, in Zimbabwe, the reverse is the case as men are raped on a daily basis by women. On this basis, this paper attempts to investigate the rights of the rural woman to



find out the extent of deprivation they suffer due to the close attachment with culture, poor access to education and means of redress in a male chauvinistic society.

MALE CHAUVINISM, CONSTITUTIONALISM AND THE THEORETICAL BASIS FOR THE RIGHT OF MAN

Male chauvinism is a culture that is more entrenched in rural areas than the urban areas and this is a factor in the determination of the rights of women in Nigeria. It is a state of mind of the men folk towards the womenfolk that informed the discrimination and infringement on the rights of the later in society. The cultural infringement on the right of rural woman started at the youth age and can prevail throughout life if not resisted. Such alienation of the rural women by rural men erroneously implies that men are superior to women.

In generally terms, alienation and discrimination is a factor in human and gender relations and it is more endemic at the youth age. The question of female genital mutilation, early marriages, rape, abortion, unwanted pregnancy and child slavery are specific to the youth age. The youth age is generally associated with ignorance, unethical peer pressure and socialization, exposure to non-progressive norms, egocentricism and day dreaming that do not conform to existing realities. Unfortunately, women are more susceptible to these realities than men.

The principle of rights was redefined by the French Declaration of the Rights of Man in 1789 by the National Assembly as one of the outcome of French revolution and the American Declaration of Independence in 1776. These two events reinvented the cardinals of rights and the rule of law for the modern world and as distinct from the concept of rights and the rule of law in the medieval period. The United Nations Declaration on Universal Rights was based on the French and the American ideals of human rights. The declarations made the constitution the repository of rights, privileges, law, power and authority in society. It consists of a set of norms, rules, principles or values creating, structuring, and possibly defining the limits of government power or authority.

According to Ackerman (1991), all nation states have constitutions and a statutory defined means of constituting and specifying the limits of government power: legislative power (make/amend laws), executive power (implement laws) and judicial power (adjudicate laws). But the limits of traditional authority is not defined or weakly defined. Traditional authorities create cultural values for the administration of custom and tradition upon which female genital mutilation is recognized. The reference to constitutionalism means that there are statutory norms that confer legislative, executive and judicial powers on the state and its agencies and these norms impose significant limits on the exercise of state powers. The norms create distinctions among the powers of government and place some checks and balances on the exercise of state powers by organs of government (separation of powers). The constitution also grants civil, political, economic and social rights to both men and women but in varying dimension in societies. However, it is narrow in scope in terms of its accommodation of cultural and traditional practices. In fact, traditional and cultural matters are left for the local government system of administration to establish relative legislation.

Generally, universal access to free expression, association, equality before the law and due process in justice administration under the framework of the rule of law is granted. Beside the rule of law requirement, the constitution defines the *scope* of the right and authority of individuals, institutions and the constituent units in a federation. However, the *mechanisms* of the rule of law and its procedural requirements as specified in the Bill of Rights leave elaborate room for the concomitant enjoyment and abuse of human rights of women. The basis for the agitation for the reform of gender policy in favour of women arises from the constitutional privileges granted individuals and government. Constitutionalism upholds the idea that though the government had the power to take actions in the interest of the general public, it is however, limited in the exercise of its powers (Ackerman, 1998; 2007) and its legitimacy depends on the observance these limitations. Scholars like Thomas Hobbes, John Locke, A. V. Dicey, John Austin and H.L Hart among others, created varied conceptions about constitutionalism. It upholds the supremacy of the law as against individuals and provides restraint against the actions of government. it enjoins everybody to act according to rules and regulations. Hobbes (1642; 1651), creates the idea of absolute sovereignty in the same vein that Locke (1690), Austin (1995) and Hart's (1994) ideas appeal to popular sovereignty. The absolute sovereignty of Hobbes (1642; 1651) transfers all powers over traditional administration to the chiefs, family and parents. There lies the infringement on the rights of women by mutilating their genitals. According to Austin (1995),



law is the command of a sovereign person or body of persons, and so the notion that the sovereign could be limited by law requires a sovereign who is self-binding, who commands him or her or itself. This means that since parents exercise sovereign powers over the circumcision of the girl child, they can only be limited by themselves.

As Adler and Kenneth (2009) argued, no one can command himself, except in some figurative sense, so the notion of limited sovereignty is as incoherent as the idea of a square circle. This notion arises from the varied premise upon which sovereignty is located in Parliament in Britain and the constitution in the United States, Germany and Nigeria. Intrinsically, the appeal to *popular sovereignty* and the idea that sovereignty resides in the people leaves the people in the rural areas with the right to enforce traditional rights and privileges on community inhabitants. Until recently that legislative frameworks have been put in place to limit the extent of traditional rights, the rural people have unlimited powers to command the circumcision of the girl child in the rural areas. The appeal to popular sovereignty by this new intellectual disposition provides adequate means of guaranteeing female genital circumcision but also questions the rationalization of female genital mutilation or circumcision in the rural areas. In the villages, those who exercise *traditional authority* constitute the law and their powers are only limited by customs and tradition. A new dimension to sovereignty from the conception of traditional administration locates sovereignty with the customs and traditions of the people. Many of the sanctions attached to the exercise of traditional powers are absolute and remain unchallenged by modern legislation and if any, in a limited manner; hence the prevarication by rural inhabitants on the elimination of all forms of discrimination against women. To this end, the effectiveness of any legislation against female genital mutilation must make strong appeal to reason and the good conscience of the people in the rural areas for this practice to be accepted as dehumanizing to the women folk.

PERSPECTIVES ON THEOLOGY, LAW AND THE RIGHT OF WOMEN IN SOCIETY

The concept of right as espoused by Jeremy Bentham (1838-1843) and John Stuart Mills (cited in Appadorai, 1942) among others, is significant to the understanding of governance and human relations in societies. The notion about right is traditional and modern. Man emerged from the dark ages with a new conception about human rights and human relations. This moral revolution introduced a civil culture that is compassionate, liberal, tolerant and accommodating in political, economic and social relations. Historically, there are three basic laws that define the rights of man in society. These are the law of God, the law of reason or conscience and the laws of man. The law of God is rooted in theology, the law of reason on conscience and the law of man on the constitution. The interpretations given to the law of God is based on the theological principles defined by either Christianity, Islam, traditional religion, Buddhism, Hinduism and Judaism (*the last three religion is not practiced in Nigeria*). In the bible, the woman is created as a secondary partner to the man as evident in Genesis chapter 2:18-23:

And the Lord God said, it is not good that the man to be alone; I will make him an help meet for him..... and the Lord caused a deep sleep to fall on Adam... and He took one of his ribs and closed up the flesh instead thereof.... Made he a woman and brought her unto the man. And Adam said this is now borne of my borne, and flesh of my flesh; she shall be called woman because she was taken out of man.

This is the theological basis for male chauvinism and the alienation of women by men even in the church of God. However, there is a theological aberration with regards to female circumcision or female genital mutilation. In Genesis Chapter 17: 10-14, God established a covenant with Abraham through male circumcision:

This is my covenant, which ye shall keep, between me and you and thy seed after thee; every man child among you shall be circumcised.... And he that is eight days old among you shall be circumcised among you.

The covenant of circumcision between God and Abraham was specific about male circumcision. On this basis, it is theologically wrong for any community individual to circumcise a woman or mutilate the genitals of women in the guise of promoting extra marital and marital chastity. Even though God did not recommend circumcision for women, many customs and traditions recommend it. This informed the variance in its practice across many rural communities in Nigeria. The lack of elaborate of legislation against female genital mutilation in Nigeria to support



its theological foundation is responsible for the social dilemma associated with its control. However, with modernization many families are beginning to exercise restraint over the practice. This is based on the law of reason.

The law of man is defined by national constitutions and other parliamentary Act. The constitution defines the mode of gender relations and gender equality for a society. For instance, in Nigeria, Section 42 (1-2) of the 1999 Constitution of the Federal Republic of Nigeria and as amended in 2011 (Constitution, 1999) states that no citizen of Nigeria shall be discriminated on the basis of community, ethnic group, place of origin, sex, religion, political opinion and circumstances of birth. This statutory provision promotes the moral integrity of women but inadequate enforcement mechanism. However, section 42(1-2) is a dependent factor in job placement, political appointment and admission into educational institutions. There is gender imbalance in Nigeria and Africa in general, and in the general spheres of governance. Gender imbalance violates the international norms that seek to promote and protect gender equality in society. Some of these conventions are:

- i. *The Magna Catha, 1215;*
- ii. *The Petition of Rights, 1682;*
- iii. *The Bill of Rights, 1689;*
- iv. *The Virginia Declaration of Right, 1776;*
- v. *The French Declaration of the Rights of Man and the Citizen, 1789;*
- vi. *The Universal Declaration of Human Right, 1948;*
- vii. *The European Convention for the Protection of Human Rights and Freedom, 1950;*
- viii. *The American Convention for the Protection of Human Rights and Freedom, 1959;*
- ix. *The African Charter on Human and People's Rights, 1986; (Ojo, 2006, p.16);*
- x. *The United Nations International Convention on the Elimination of All Forms of Racial Discrimination, 1966;*
- xi. *The United Nations Convention on Economic, Social and Cultural Rights, 1966;*
- xii. *The United Nations Convention on Civil and Political Rights, 1966;*
- xiii. *The United Nations First Optional Protocol to the International Convention on Civil and Political Rights, 1966;*
- xiv. *The United Nations Convention on the Elimination of All Forms of Discriminations against Women, 1979;*
- xv. *The United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, 1984;*
- xvi. *The United Nations Convention on the Rights of the Child, 1989;*
- xvii. *The United Nations Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women, 1999;*
- xviii. *The United Nations Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography, 2000;*
- xix. *The United Nations Optional Protocol to the International Convention on Economic, Social and Cultural Rights, 2008;*
- xx. *The Constitutions of the Federal Republic of Nigeria of 1960, 1963, 1979 and 1999 as amended in 2011.*

These conventions and protocols provide defensive mechanisms for the abuse of the rights of women in society. It provokes the need to respect the rights of rural women and the narrative to any litigation on the determination of the cultural rights of women. The conventions can only be effectively enforced by government if it is ratified as domestic laws by a country. Weak legislative framework exists against gender discrimination in Nigeria. The sanction for the abuse of the rights of the girl child and the boy child varies slightly for victims. In Northern Nigeria, section 216 of the Criminal Code Act states that:

Any person who unlawfully and indecently deals with a boy under the age of fourteen years is guilty of a felony, and is liable to imprisonment for seven years.



On the other hand, Section 222 of the Criminal Code Act states that:

Any person who unlawfully and indecently deals with a girl under the age of sixteen years is guilty of misdemeanour and is liable to imprisonment for two years, with or without caning. If the girl is under the age of thirteen years, he is guilty of felony and is liable to imprisonment for three years, with or without caning.

Sections 216 and 222 contain discriminatory clauses against female. The sanction imposed on the violation of the male and female child is discriminatory -seven (7) years for violating a boy and three (3) years for violating a girl. In the fields of education, the girl child fare even worse. They are rarely sent to school by rural parents for fear of getting pregnant. This accounts for the high rate of girl child illiteracy in Nigeria. In eight states in Northern Nigeria, over 80% of women are unable to read compared to 54% for men. Also, 71% young women aged 20-29 in North West Nigeria are unable to read and write and only 3% of female complete secondary school in Northern Nigeria (2012 Gender in Nigeria Report in Abara, 2012). This statistics is pathetic. It underscores the importance of education in the promotion of gender right in Nigeria. Generally, ignorance places man's conscience in the prison house of deception to practice uncivilized acts like female genital mutilation or circumcision in the guise of creating cultural relevance for the African woman.

The Political Economy of Gender Right in Nigeria

Many reforms have been carried out by government with a view to promoting gender equity. Gender equity and gender empowerment is made the cardinal principles of the National Economic Empowerment and Development Strategy and the Millennium Goals. The goal 3 of the MDGs seeks to promote gender equality and women empowerment through education, employment and political participation (MDGs, 2010). In the same vein, the national gender policy adopted by government is designed to give women elaborate access to political, economic and social rights. These issues are examined in details below.

Political Rights

The right of women to political participation is defined by customary and traditional values. Political participation is a function of education, socialization and political interest. Among these variables, education and socialization plays a dominant role in the functional responsibilities of women. But the relationship between politics and culture is contemptuous to women. In the past, women politicians are treated by social folks with disdain due to the false impression that they are the products of broken marriages. This is also the case with women who took music as a profession. This is however changing with increasing awareness and modernization. Today, many women in the rural areas where this social contempt is overtly manifest are becoming more involved in trades and professions that were seen to be the preserve of men. Until recently, women in Northern Nigeria were not allowed to vote and or be voted for in elections. But with the modernization experienced in cultural and political relations, the right to vote was liberalized to give women the opportunity to vote and be voted for. The bias expressed by parents against the education of the girl child and their eventual participation in political led to the underrepresentation of women in parliament and executive positions. In the elections conducted between 2011 and 2015 to elect the federal lawmakers only 25 women were elected out of the 360 members of the National Assembly. Most of the women elected have better socio-economic background. In the rural areas, the rate of women participation in local politics is marginally low. Predominantly, active political participation is associated with women that have unfulfilled marital ends. Married women take part in politics and those who do so seeks expressed permission from their husband. From a broad perspective, the consent of the husband is required before travel visa can be issued to the wife.

Economic Rights

In the same vein, the economic rights of women in relation to employment and participation in politics are circumvented by national laws. In the field of public and private administration, young ladies working in the military and banks are not allowed to marry within the first three years of employment by their employers. In the banking sector, the husband and the wife are not allowed to work in the same bank. One must resign for the other and in most



cases the woman is requested by the husband to resign. The period of maternity leave varies from 40 days in the private sector to 4 months in the public sector. The later pays the nursing mother her full salary during the period of maternity leave but the former never do. The limited time provided by employers of labour especially in the private sectors accounts for the failure of parents to give proper upbringing to children and increasing deviance in society. A deviant behaviour is behaviour that does not conform to the acceptable norms of society.

In many traditional societies, the rights to inheritance and landed property are circumvented by customs and traditions. In many communities, a woman do not benefit from the father's wealth when he dies and are also not allowed to own land or sale or lease out land. This is the preserve of men. In North East, South East and South-South Nigeria, women own only about 4% and 10% of land respectively. Among the rural farmers, women rarely cultivate major food crops. A farmer with large farmland marries as many wives as possible and shares out his farm to them. The order in which they are married into the family as number one, two or three, determines the size of the farm each wife controls. While the man plant the major crop like yam, the wives only plant minor crops like beans, cassava, okro, pepper and other categories of vegetables in the same farm land. The wives do not harvest the yam for household use except with the consent of the husband otherwise she would risk being beaten by the husband. Since farming is the major occupation the woman, access to sources of wealth and economic empowerment is limited.

In many cases, the husband only buys her clothing once a year when major crops are harvested and sold or when they are about to commence the nuptial activity for the birth of another child. The gift is given by the man to renew the love he has for the wife and to be accepted for the nuptial game. However, under civil law the man and woman are treated equally and both have the right to own land. In Nupeland, the husband gives a fraction of the harvest to her wife. For every five (5) bags of rice or food crop harvested by the husband one bag is given to the wife. This is mandatory on the husband. In Efik land in Cross River state, if a man dies, the daughter (first child) who may have been already married inherits the father's properties. She is allowed to withdraw from the husband house to live in the father's house with the husband. Nowadays, the married girl-child that inherited the father's properties delegates the management of the inherited properties to his brothers while she supervises. Her decision on any family matter is never undermined by members of the family.

The Social Dimension of Rights

The social relationship between man and woman varies with societies as defined by customs and traditions. Among the Ibibio people of Akwa Ibom state, if a man impregnates a woman before the necessary traditional marriage rite is performed, he gives a she-goat as a fine called *ebot-usongeye*. This is to guide against the abuse of the girl child by men. In the case of adultery, the woman is afflicted by the gods if she is still within reproductive age. Recently in Afghanistan, a woman was beaten to death by community members for committing adultery but the man who she had the sex with was not punished. Those who carry out such act of injustice on women fail to consider the aggressive role of men in sexual negotiation. However, in India -noted for rampant cases of rape, a man was castrated for raping a girl. In another dimension, when a woman commits adultery with a man, she is divorced by the husband but when her husband commits adultery with another woman he is rarely sanctioned by the woman. In the former, the man is asked to pay a fine and or offer sacrifice of appeasement to ancestral idols or gods. In Utugwang community in Obudu Local Government Area of Cross River state, if a woman commits adultery, the children die prematurely until she confesses her infidelity but the male sex partner is not punished by the god. This is applicable to incest too.

In *Hamah community* in Esako Local Government Area of Edo state, the girl child has no right of inheritance in the family. In terms of protocol, the boy- child is addressed first before the girl child, irrespective of the age of the boy in the nuclear family. Where a woman lost her husband by death, she is not allowed to eat any food in her matrimonial home for three months. In addition, she is confined indoor for three days and not allowed to change the cloth she wore on the day of her husband death until certain traditional rites are performed. On the third day, two widows are assigned to escort the widow to a bush path where she is expected undress the cloth she wore on the day of the husband's death and replace it with a white cloth. The old cloth is either given to one of the widow on the entourage or burnt. She can only remove the new white clothe after three months when the traditional rites of purification is carried out. So long as she has the white clothes on she is not allowed to eat in the husband village and is only fed by someone that has no filial relationship with the husband-her mother's sister. In another dimension,



if a married woman threatens to leave her husband house and moved her properties out of the house and the husband returned it back to the house to prevent her from leaving, the husband dies. In some communities, any woman suspected to have killed the husband by witch craft is made to drink the bath water from the husband's corpse. These aspects of culture are repugnant to human dignity and impediments to gender reforms.

Domestic violence is one of the social phenomena that affect human right. Violence against women is very high in the rural areas. The aggression sometimes results from the failure of the woman to prepare evening meals for the family or refusal to have sexual intercourse with the husband or boyfriend. Spousal rape and rape occasion by teenage sexuality are rationalized by rural inhabitants as normal provided in the latter the relationship is known to the teenage parents. The illicit relationship is responsible for the high rate of teenage and unwanted pregnancy in the rural areas. In the end, the girl child is left to take care of herself during pregnancy and the child after delivery, without financial support from the boyfriend who may not have any means of livelihood. Indeed, domestic violence has left many women dead or physically deformed. Under customary law, a wife is more or less a property and labourer to the husband. The right of a wife to sex is not respected by the husband who feels the wife is obliged to provide sexual services to him whenever he needs it. This is worse in Hausa land. The customary law did not provide sanction for this kind of domestic violence against women. The penal code of Nigeria permits the husband to beat the wife within tolerable limit without causing serious injury. The emphasis on physical injury at the expense of psychological injury creates difficulties with adjudication in the traditional courts. Given this development, some states have legislated against domestic violence: (the Domestic Violence Law of Lagos State 2007 and the Gender Based Violation Law of Ekiti State 2011, Abara, 2012). In the urban areas, young girls are victims of ritual sacrifice and conscription into commercial sex work by men and fellow women. This was popularly known as the *Italian Connection*, a trend that was used to define the high traffic of young girls to Italy for prostitution.

CULTURE AND THE RIGHTS OF WOMEN IN THE RURAL NIGERIA

Generally, culture creates a gender understanding and interpretation of man and society. It creates a masculine and feminine interpretation of human relations and role encounter with the economy, law and politics. Beside the modern conception of rights, the word culture conveys the impression that human behaviour, rights, privileges, law and politics are conditioned by cultural values. Variations in cultural values informed the variations in marriage pattern, food type, dressing, language, salutation and means of social communication and traditional administration. Cultural values define the behaviour specification of human beings, their role encounter and the rights and privileges for man and woman, belief system and life style. The reference to culture creates a narrative around the totality of the way of life of a people. It encompasses the type of food, mode of dressing, types of marriage rites, vocation, language and mode of greetings or salutation. These cultural variables are inherited and or acquired social life patterns that can be modernise with cross cultural interaction. Haralambos and Holborn, (2007) define culture as the whole way of life found in a particular society in the same vein that Jenck (1993; *cited in Haralambos and Holborn, 2007*) see culture as all which is symbolic: learned... aspects of human society. It is related to civilisation, the state of development and modernisation of society.

The impact of modernization on culture and the right of man in general cannot be underestimated. Cultural variation is a phenomenon and its accommodation by law is an irreducible minimum in the nation building project in Nigeria and the world at large. The world exists on the basis of cultural identity, cultural tolerance and cultural discrimination. The first creates a sense of self identity and self worth, the second breed mutual coexistence but the later breeds conflicts, alienation, social discrimination, disenfranchisement and political alienation. Many cultural practices inhibit the development of self identity and self worth of women and their participation in politics. To this end, government and civil society organizations are promoting policies and programmes that are geared towards replacing deleterious aspects of culture, images, attitudes and prejudices against women. This in turn will change the socialization patterns and promote gender equity in society. In view of this development, the federal government adopted a national policy on women with a policy thrust to:

- i. *Promoting equity, social order and social well being for women;*
- ii. *Promoting equity in resource allocation;*



- iii. Empower women to enable them participate actively in the promotion of economic growth and efficiency;
- iv. Remove cultural practices deleterious to the right of women;
- v. Discourage the formation and sustenance of patriarchal structures that prop up male chauvinism; and
- vi. Create the legal framework for egalitarianism and gender equity where the rights of women can be easily enforced.

The National Policy on Women Development seeks to:

- i. Raise national awareness of the citizens' constitutional rights and on a long term basis mobilise and educate the public on human rights in order to remove legal, cultural, religious and other constraints against the attainment of social justice and equity in the society;
- ii. Ensure the elimination of all forms of discrimination against women;
- iii. Institute an effective Gender and Development (GAD) management structure for the coordination of all GAD activities in the economy and ensure the effective implementation by all sectors concerned: This goal is coordinated by the Ministry of Women Affairs and Youth Development;
- iv. Empower women through enhanced strategic human resources development; and
- v. Establish a data bank based on the implementation of a comprehensive (nationwide) baseline survey (Nnebe, 2006a).

In a Federation like Nigeria, where the three tiers of government exercise distinct but complimentary and cognate powers, cultural matters are left for the local government which is the third tier of governance. The local government councils make laws that govern rights of inheritance, marriages and other ancillary traditional matters that vary from locality to locality due cultural specificity and relativity. Even though many cultural practices contradict the laws of the federal government, they are not rendered null and void to the extent of its inconsistencies as stipulated in the constitution. This has made custodial actions against any individual violator difficult hence the reference to traditional and customary courts for adjudication. In Nigeria, traditional rulers are the custodian of traditional values, customs and tradition of their immediate community. In traditional administration, customs and traditional values provide the basis for justice administration in line with the precedence set by ancestors. The close attachment to ancestral doctrine provides the basis for the abuse of the rights of rural women. It is believed that any legal action taken by the chiefs and traditional rulers on any matter referred to the traditional court contrary to ancestral norms, attracts the wraths of the god. It is an irony to note that many of the cases for adjudication in traditional courts are never referred to the constitutional court for further judicial redress. Laws relating to divorce, marriage, female genital mutilation or circumcision, inheritance, asset acquisition, child bearing and the sex of a child, domestic violence and the education of the girl child are addressed with the traditional understanding of many parents. These practices are difficult to abolish because of the emotional attachment to it by rural dwellers.

Beside the traditional code of conduct, the law of reason determines the rights of woman and man in the rural areas. The law of reason or conscience also considers the rationality and propriety of traditional laws to human dignity and integrity -gender discrimination, alienation, sex role and female genital mutilation mildly referred to as female circumcision. In my own community, *Utugwang, in Obudu Local Government Area in Cross River state*, the increasing departure from this traditionally harmful practice is a function of the law of reason than of theology and or constitutionalism. Individual parents considered the rationality of female genital mutilation and act in line with the dictate of their conscience and civilized standard. Almost every adult woman in Utugwang was circumcised. This assertion increases the estimation of the United Nations Population Fund in her 2004 report that:

It is estimated that over 130 million girls and women have undergone some form of genital cutting and at least two million girls are at risk of undergoing the practice every year.



The World Health Organisation (WHO 1995 in Nnebe, 2006a) vividly captured what female genital mutilation means:

Female genital mutilation comprises all procedures that involve partial or total removal of the female external genitalia and or injury to the female genital organs for cultural or any other non-therapeutic.

This is done any of the four ways:

Type i: *Excision of the prepuce, with or without excision of part or the (sic entire) clitoris;*

Type ii: *Excision of the prepuce and clitoris together with partial or total excision of the labia minora;*

Type iii: *Excision of part or all of the external genitalia and stitching or narrowing of the vaginal opening (infibulations or pharaonic circumcision); and*

Type iv: *Others, such as pricking, piercing or incising, stretching of the clitoris and or cauterisation by burning of the clitoris and the surrounding tissues; scraping (angurya cut) of the vaginal orifice or cutting (gishiri cut) of the vagina; introduction of corrosive substance or herbs into the vagina to either cause bleeding, tighten or narrow the vagina (Nnebe, 2006b). Type i – iii are commonly practiced across Nigeria with the prevalence of type iv in the North.*

Female genital mutilation or to use the most humane name female circumcision is practiced in every part of Nigeria, Africa, Asia and Europe. This is to say that its practices transcend national boundaries hence the international advocacy against its practice. National surveys on female circumcision carried by government and non-governmental organizations between 1960 and 1997 like the one carried out by the National Association of Nurses and Midwives (1985-1996), the Community Based Knowledge, Attitude and Practice Studies from 22 states in 1996 carried out by the Inter-Africa Committee on Human Traditional Practices and the National Baseline Survey on Harmful and Positive Traditional Practices affecting Women and girls in Nigeria conducted in thirty six states and the Federal Capital Territory in 1996 shows the geographical spread of the prevalence rate of female circumcision in Nigeria. The zonal aggregate presented by Nnebe (2006b) are:

- i. South West zone- 0.1-93.8%;
- ii. South East zone- 4.6-95.4%;
- iii. South-South zone- 0.2-79.2%;
- iv. North Central (Middle Belt) zone - 6.9-85.5%;
- v. North East zone- 3.4-38.8%; and
- vi. North West zone- 6.2-76.2%.

These practices defy cultural and religious background and are practiced in secret and or openly with fanfare in many communities. The irony is that the victims and actors are ignorant of its potential danger to humanity (the female victims). The dangers ranges from pain, shock, bleeding, acute urine retention, blood borne disease such as septicaemia, hepatitis B, HIV/AIDS, urinary tract infection, dysmenorrhea, sexual dysfunction, chronic pelvic infection, infertility, prolonged and obstructed labour, vesico-vaginal fistulae (VVF), recto-vaginal fistulae (RVF), scarring/keloid formation with psychological consequences.

The age of female circumcision varies among societies. It ranges from age 3 to 25. Among the Borum people in Boki Local Government Area in Cross River State, female genital mutilation is carried out on adult women who are of marriageable age. All the girls who attained the age of adulthood within a year in the community are circumcised on the same day. They are confined to the room for about 7 days and on the ceremonial day are clad in leaves around the pubic region and a loin rapped around the breast with cam wood (a reddish powdery substance made from wood) smeared all over the body. The circumcision rite is celebrated with fanfare in the hours of the night with men confined to their rooms/house. It is a taboo for a man to take part in the nuptial rite due to its nudist nature. This traditional rite is significance because of the foundation it laid for fruitfulness in marriage. Abstention from the rite of circumcision attracts barrenness or lack of child bearing in marriage. This frightening consequence has caused parents with strong attachment to the traditional belief to compel young girls to submit themselves for circumcision



at adult age without considering the risk factors associated with it. Whether the people of Borum living in urban centres in Nigeria still indulge in this traditional practice or not, is determined by the rationality of each parent.

In the northern part of Nigeria, incision is made on the waist of a young girl and traditional medicine allegedly noted to prevent out-of-marriage pregnancy applied to it. It is alleged that the girl would never get pregnant when she has sexual intercourse with a man even during periods of ovulation. This is administered on the girl child by parents or the traditional medicine man without the consent of the girl child. The danger is that teenage girls are exposed to illicit sex, sexual abuse and sexually transmitted diseases like gonorrhoea, syphilis and HIV/AIDS among others. The vulnerability to STD poses a health risk to the girl child. As (Hakeem, n.d; Ezeilo, 2001; Omonubi-McDonnell, 2003) argued:

Most of these practices have their roots in long standing customs of particular communities in the country and they are often formulated ostensibly to achieve particular goals. While some of these practices may have noble goals and premised on sound moral principles, they nevertheless have adverse effects not only on the health of female children but their overall status in society. They also have defective medical grounds and validity, understandably because at the time they are (sic were) formulated and adopted, these communities either did not have access at all to orthodox medical services as these were too remote for them.

Many cultural practices that infringes on the right of women contravene national and international laws. In rural areas, forced marriage is a common practice. Young girls are forced to marry a man they have little or no love for. This type of marriage by conscription infringes on the rights of the woman. In many cases, the marriage rite is done after the woman have given birth to children and in extreme cases, the women are divorced without compensation. This phenomenon is common in the southern part of Nigeria. In the northern part of Nigeria, when a girl child is born, a husband is prospectively chosen for her by her parents and in some cases made to marry the man against her wish as a teenager. It is pathetic to note that the education of the girl child is not a priority to many parents and husband. The case of my neighbour Salamatu Abubakar in Lapai town, Niger state (*North Central Nigeria*) is a good example. She was married to her husband as a student of the school of Midwifery and was compelled by the husband to withdraw or risk divorce. Today, she is a mother of three children and a dropout from the school of Midwifery and Nursing. The case of Salamatu is one of many cases of the injustices meted against women in marriages in Nigeria. The result is high rate of divorce. Given the high rate of divorce, a Kano-based religious organization called Hizbah has organized mass wedding for victims of early marriages to reduce the rate of fornication and prostitution. The Kano State Hizbah Board (a bureau) funded the weddings of about 4,461 couples between 2013 and 2014. The state government pays the traditional bride price of \$60 and empowers the brides with \$125 and other household items like a bag of rice, two crates of egg, cooking oil, mattress and sewing machine (Musa, 2015). This development is salutary but the sustenance of the marriage is questionable due to lack of peer socialization among couples. Except the couples is allowed adequate time to socialize, love building may face an uphill task.

The process of divorce under Islamic law is skewed against the female. A mere pronouncement by the husband “I divorce you” three times automatically results to a divorce. The Chief Judge of Kano State, Patricia Mahmoud (Mahmoud, 2015) argued that divorce and matrimonial problems are on the increase because women are denied their rights. The woman leaves the man’s house without compensation. She however, noted that under Sharia law, a woman has the right to remain in her matrimonial home after divorce and leaves only when the divorce becomes irrevocable. The woman has the right to negotiate the welfare of her children after divorce only when the pronouncement “I divorce you” is made once by the husband. In that case, she has the right to stay in the husband house for about 3 months 10 days and perform the *Iddah or sike-uku*. The *Iddah or sike-uku* can only be performed twice and given the third occasion where the husband make pronouncement of divorce, it becomes irrevocable. Such divorce can only be revoked for a reunion when the woman remarries and is divorced by the second husband. But, the first husband must not be instrumental to the divorce with the second husband. Whether these rights are strictly observed as stipulated under the Sharia legal system is a subject of controversy. Divorce under customary law makes no provision for the compensation of the woman. Another form of abuse of the right of women is noticeable in



Hamah community in Edo state, Nigeria. In Hamah community, if a woman commits adultery (*called ndum in Utugwang*) the husband is forbidden to eat the wife's food until the necessary traditional rite is performed otherwise he dies. The husband would die if he is aware of the wife's infidelity and continues to eat the food prepared by her. The disease that kills the man is called *Ogbole* in Hamah language. But, if the husband is not aware, he lives but the woman's children die mysteriously until she confesses her act of infidelity. However, she still dies after the confession.

The introduction of the Marriage Act by government tends to address some of the contradictions associated with marriage. For instance, section 18 of the Marriage Act Cap 218 Chapter 218 Volume xi, laws of the Federation of Nigeria, 1990 allows persons under age 21 to get marry provided parental consent is granted. Section 29 (4a, b) of the 1999 Constitution pegged the age a woman is considered matured to get marry at 18 years. Implicitly, section 277 of the Child Right Act defines a child as a person under the age of 18 years. By this statutory provision, the marriage of a girl under age 18 to any man as practiced in Northern Nigeria is an abuse of the right of the girl child. This is contrary to Islamic tradition. It is difficult to challenge early marriage in court due to the dialectics of religion and politics in Nigeria. In the Second Schedule Part 1 Section 61 of the 1999 Constitution of the Federal Republic of Nigeria, the National Assembly is empowered to make law on the formation and annulment of marriages excluding Islamic and Customary laws on marriages. The Nigerian constitution recognized three justice system, the common law, sharia law and the customary law. This has made the determination of the age of marriage difficult in Nigeria. Under Islamic law, a girl is matured to get married the moment she begin to menstruate no matter how early the menstrual period commences. This was the point of rationalization for Senator Ahmed Sani Yerima over his marriage with a 13 years old Egyptian girl. While the boy child is sent to an *almajiri* in a community remote to his village, the girl-child is trained for early marriages. Under customary laws where tradition held sway, the age of marriage varies with locality and parental status. Generally, in the villages, girls are given out in early marriage by parents. They are rarely sent to school. The disposition to keep the girl child away from school by parents in the rural areas and particularly in Northern Nigeria is very high. The 2003 Demographic and Health Survey estimated that 33.2% girls between 15 and 19 years old were married, separated, divorced or widowed. The report also stated that about 22% of married women were betrothed at age 15 and 46% at age 18.

Poverty plays a dominant role in the determination of the right of the woman in Nigeria. Many poor parents prefer to give out their daughter in marriage but educate the boy child for economic reason (*bride price paid to father in southern Nigeria; in Northern Nigeria, the bride price paid is given to the bride*). In the urban and semi urban centres, many girls like their male counterpart are made to hawk goods on the streets to raise income for the family. Many of these girls are sexually abused by most men. This explains the prevalence of unwanted pregnancy among girls in the rural areas in southern Nigeria. In many cases, the girl gives birth to the child without prenatal and post natal medical attention. This is not limited to single mothers but married women whose husband have non-challant attitude. Yet the man husband spend his hard earned money drinking alcohol on a daily basis at the expense of providing medical attention for the wife and baby. This attitude is responsible for the high rate of infant and maternal mortality in the rural areas. Statistical evidence shows that one woman die every 10 minutes during delivery in Nigeria. This translates to about 545 deaths per every 100,000 successful deliveries. It is estimated that about 50% women become mothers before they attain age 20. In the rural areas, women have poor access to prenatal and postnatal medical services and obstetric care. Besides the negligent factor is the restriction placed on the woman by religion. Many men in Northern Nigeria take exception to subjecting their wives to primary medical examination by a male doctor. Rather, they resort to roots and herbs for prenatal medication and traditional birth attendant under unhygienic condition.

Generally, right is predicated on natural values that are inalienable and sacrosanct. Philosophically, what constitutes right has not bias relationship with sex category. Its values are universal and divinely ascribed to individuals. The growing influence of politics on culture has changed the perception about human rights. This underscored the fact that there is a strong relationship between politics and culture. The Aristotelian dictum that man is by nature a political animal is culture specific. Since the activities of man is conditioned by politics, the food we choose to eat, the clothes we wear, the house we lived in, the language we speak, the religious values we identify with and family life upheld are politically oriented. These values implicitly create distinctions and social demarcation between one social group and another and create specific cultural identification marks for political identity. It is also responsible



for the social differentiation of man into the European man, the African man, the Asians or in micro-ethnic terminology, an Ijaw man, an Utugwang man, an Igbo man, a Nupe man and a Tiv man among others. These cultural landmarks provide in part the rallying points for social and political solidarity and economic empowerment and in part the basis for social and gender discrimination. Gender relation varies with communities. Culture exerts enormous influence on sex roles in society.

This phenomenon varies with societies. Culture provides the basis for community life, social expectation and value ascription. In terms of child sex preference, a typical African man prefers a male child to a female child. In many African societies, the right of inheritance and succession to the throne is bequeathed to the male child. A male child is seen as the heir apparent and as such any woman that gives birth to only female children is alienated by the husband and members of the husband family. In many cases, the husband family compelled the man to marry another wife who could give him a male child. Ironically, those who hold this stereotypical impression had little or no knowledge of the laws of biological reproduction. Biologically, the female child is the product of the union of the X (*women naturally have XX chromosomes*) chromosome of the wife with the X chromosome of the husband (*men naturally have XY chromosomes*). In this case, the Y chromosome of the man is weak and the X chromosome of the man and woman is stronger to have fertilised the ovules released by the man during sexual intercourse. By implication, apart from the theological determinant factors, the woman is punished for having stronger X chromosome than the Y chromosome of the man. In turn, the man has failed to accept the natural factor of having a weak Y chromosome. This sentiment is sociological in nature and varies with societies. The preference for a male child confers on the male child a certain air of aura and contempt the girl child to do household chores like cooking, sweeping and washing of plates alone. This primary role definition and identification is extended to the political and economic fields.

CONCLUDING REMARKS

All over the world, the rights of women is associated with subjective realities. Many legal instruments have been put in place to create equity framework for the management of the rights of women in society. Significant progress has been made in this direction that gave the rural woman a lease of life. But the challenge with creating a liberal platform for the rights of women is daunting due to infringements by customary and traditional rights. The world is gradually moving up the scale of civilization. This movement left women in the rural areas behind and made the exercise of basic rights by men over women crude, barbaric and relatively inhuman. Customary and traditional laws, archaic in nature, are invoked to create large scale deprivation for women. This indeed is a travesty of justice. The perception of the woman folk as second class citizen and their alienation, enslavement and disempowerment undermine their contribution to national development. To this end, the potentialities of women are partially utilized.

There is need for government to embark on massive education of people in the rural areas on the propriety of the right of women. The education should focus on the reform of customary and traditional practices that infringes on the rights of women. Efforts should also be made to persuade the rural people to abandon harmful traditional practices like the drinking of the bath water from the death body by a woman suspected to have killed the husband due the health risk it poses to the woman. The framework of legislation against domestic violence and rape should be strengthened and made more elaborate with severe sanctions attached. The subjection of women to prolonged period of mourning in some rural communities in Nigeria should be abolished. A woman should have equal right of inheritance with a man as they are products of the same parent. Free adult education should be organised for illiterate women in the rural areas as a source of empowerment.

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AUTHORS CONTRIBUTION

This paper is unique in terms of its originality, content and context. Besides the existing knowledge and literature on gender rights and gender discrimination in Nigeria cited in the paper, the authors brings to the fore the cultural significance of gender rights in rural communities like Utugwnag and Boki communities in Cross River state, Igalaland in Kogi state, Esakoland in Edo state and Nupeland in Niger state. The relative experiences shared from these societies have broadened the scope of research in this area of study. We shade more light on the ignorance displayed by men in the rural areas on the biological determination of the sex of child and the erroneous blame they put on the woman for giving birth to a female child. We also reveal that female circumcision is still practiced and celebrated with fanfare in some societies in Nigeria today. The authors recognized the relationship between culture, right and gender privileges and the narrow scope of legislation on gender rights in Nigeria.

