
A Review of Human Rights Violation in African Cultural Practices

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Abstract

Africa is enriched with diverse rich cultural heritage. Some of these cultural practices have been upheld over the decades despite westernization. However, civilization has enlightened Africans in some regions to realize that some of these cultural practices are barbaric, absurd and constitute a violation of their fundamental human right. These cultural practices that stramble on the human rights of Africans has in some regions impeded socio-economic and educational development. The purpose of this study shall be to examine these harmful cultural practices obtainable in selected West African communities which violate the fundamental human rights of her citizens including a few cultural practices that has been eradicated or left optional. Some of these harmful cultural practices to be reviewed here include female genital circumcision, child labour, tribal marking, virginity testing, son preference/ male dominance, removing of a girl's teeth in preparation for marriage and so many others. The scope of this study shall be limited to Nigeria and a few West African States. The Research methodology to be adopted is the theoretical approach with a little touch of empirical method by way of conducting

interviews on selected elders, other data shall be sourced through library and Internet sources. Thus the study recommends that some cultural practices should be abolished as same poses a threat to the exercise of the fundamental human rights of children and more especially females generally. Also strict adherences to some of these cultural practices impede socio-economic development of the region. Thus, any cultural practice that does not respect the human rights of the people especially females should be modified or eradicated.

Keywords: culture, tradition, human rights, law

1. Introduction

There is a behavior that a people can practice over the years and it becomes a norm to them not minding whether such traditional/cultural practices are harmful or not. Thus, some practices in the African culture has persisted over decades and centuries because they are not questioned or challenged, thus the people have grown to see such harmful practices as a normal thing that is morally justified. It is pertinent to note however that morality is not law. For example, prior to 1876, twins were killed together with their mother as they were seen as an abomination and their killing was in order to wipe away their presumed bad omen from the community.

1.1 Background of study

Africa is a nation blessed with a rich cultural heritage. Africa culture also varies from one country and tribe to another. The culture in Africa is rich in traditions, art, music, literature and food. The Africans were enjoying their cultural heritage before the invasion of the whites and this westernization had both negative and positive impact on Africans. However, some parts of Africa still wholly embraced their culture not minding that it violates the human rights

of others. Thus, traditional cultural practices deal with the value and beliefs that are held by members of a community for periods often spanning generations (FactSheet, 2021). Human Rights are the standards that are recognized to protect the dignity of all human beings (UNICEF, 2021). These rights are available to us as humans and it belongs to every person on earth regardless of tribe, sex, and nationality; and it's from birth to death (National Human Rights Institute, 2019). On the other hand, International Human Rights embodies the laid down rights of human which States are bound to respect.

1.2 Statement of Problem

African people have an aspect of their lives which is very important and it is called culture. This culture has much influence in structuring the lives of men and women in the community and their relationship (Ncube, 2018: ii)

Due to long term acts of practice, these cultural practices are seen as normal by the greater number of persons in the community, yet no matter how generally accepted this cultural practices are, it does not negate the fact that it is a violation of human rights of these persons and thus the most vulnerable among them are mostly women and children. Westernization robbed African culture of some of her cultural heritage, yet there are still many of these traditional practices that are still being practiced by the people. Thus, till date, there are still some frictions between some cultural practices that are in conflict with the human rights of men and women in practices as practiced in Nigeria and some few West African states.

1.3 Research Questions

The main research question as deprived from this research work is what are the harmful cultural practices in West Africa that violate the human rights of the people?

2. Theoretical Framework

Edward Shils Theory of Tradition sees the idea of tradition as any precipitate or filament of past practice or past belief that is transmitted (handed down) by a parent, teacher or persons and which is learnt and re-enacted (or rethought) by agents through at least three consecutive generations (Straus Jacobs:2007).

There are some theories on culture, which review culture in three theoretical perspectives which include functionalism, conflict theory and symbolic interactionism. The functionalists sees the society as a system where everything works or functions, thus culture is a requirement for the society to function. Functionalists see culture as a reflection of the society's values, in other words, culture is meant to meet the basic needs of its members. The Conflict theorist sees inequality in the social structure, it could be as a result of power differentials related to issues like age, race, gender, etc. The Conflict theorists believes that culture is used as an edge by a certain persons against others, that is to say it reinforces the privileged groups against others, this could be based on gender, race, class, etc. for example, women striving for relevance in a male dominated state; the blacks struggling for recognition among the white men especially the groups that detest foreigners. They believe culture favour some people and hurt others. For example, Polygamy which is common in some cultures is unthinkable in other cultures, gay and lesbian marriages practiced in America and other States are greatly frowned at by Africans. The third is Symbolic Interactionism is a sociological perspective that is mostly concerned with the face to face interactions between members in the society. They see culture as what is created and maintained by the ways people interact and this is also relevant on how individuals interpret each other's actions. In Symbolic Interactionism, every object and action has a

symbolic meaning and these meanings are communicated face to face by the use of language. This approach can come to play when arts and music are used in the expression of culture to the people. (Lumen Learning; Reading: Theoretical Perspectives on Culture, Module 2). We shall now explore the theories of human rights.

Andrew Heard (1997) sees human rights as the great ethical yardstick used to measure a government's treatment of its people. Thomas Paine states that natural rights are those which appertain to man in right of all his existence (Heard A. 1997:1). Thus, it is generally accepted that only human beings are the only holders of human rights, and this is by virtue of their humanity irrespective of your age, gender, race, nationality or membership of any particular social group. Earlier on it was referred to as 'Natural rights' but was called 'human rights' after the World War II. (LegalRaj, 2020)

Basically, the two theories that dominate contemporary human rights discussion are the Interest Theory and the Will theory. The Interest theory which is well represented by Philosopher John Finnis (1980), who argues that human rights are justifiable on the grounds of their instrumental value for necessary conditions of human well-being. He identified seven basic forms of human good, which are life and its capacity for development, the acquisition of knowledge, play as a capacity for recreation, aesthetic expression, sociability and friendship, practical reasonable thought processes and religion or the capacity for spiritual experience. In summary, this approach tends to see our fundamental interests as pre-determinants of human moral decency.

The Will theory Approach attempts to construe the validity of human rights to be centered on the capacity for freedom. Hart (1955:77) infers that all rights of man are embedded on the fundamental right of freedom- 'equal right of all men to be free.' In a development of this theory, Henry Shue (1996) argued that

liberty/freedom alone does not encompass all the rights. Thus, he added security from violence and the necessary material conditions for personal survival. Gewirth developed the Will theory further, Alan GeWirth (1978:1982) argues that all human action is rationally purposive and that freedom are the basic ingredients for a rationally purposive action. It is worthy to note that both approaches have suffered much criticism for its weaknesses (Andrew Fagan, 2021)

From the foregoing literatures, it is pertinent to note that there is no literature that reviews are the cultural practices that are obtainable in some selected African states, hence this research work

2.1 Harmful Cultural Practices

Harmful cultural practices are discriminatory practices committed regularly over long period of time that communities and societies begin to consider them acceptable (UNICEF (2021). These Harmful traditional practices are forms of violence which have been committed primarily against women and girls in certain communities for so long that they are presented by the perpetrators as part of the accepted cultural practice. (Public Health Scotland: 2021). The Protocol of the African Charter on Human and People’s Rights on the Right of Women in Africa defines harmful practices as all behavior, attitudes, and/or practices which negatively affect the fundamental rights of women and girls, such as their right to life, dignity, education and physical integrity” (ACHPR, 2018) in Ncube N. A., 2018)

These harmful cultural practices reflect some traditional values and belief system which has spanned generations, some of the practices are life threatening and harmful to some members of the community, where as it is generally accepted as a norm by greater members of the community. This harmful traditional practices include Female Genital Mutilations (FGM), early marriage/ early pregnancy, son preference, male dominance,

virginity test, child labour, tribal marking and so on (FactSheet No. 23, 1979). Ncube (2018) observes that the recognition of these cultural practices makes room for the perpetration of this act of gender inequality which violates the human rights of individual.

Article 1 of the Universal Declaration of Human Rights provides that “All human beings are born free and equal in dignity and rights and further in Article 2 states that everyone is entitled to all the rights and freedoms without distinction of any kind, such as race, colour, sex, language, religion, political or any other opinion (UN General Assembly, 1948).

3. Harmful Cultural Practices

These hurtful cultural practices shall be explained here seriatim:

1. Female Genital Mutilation/ Circumcision (FGM):

Maluleke (2012) explained Female genital mutilation (FGM) as a disfigurement that involves the cutting of the clitoris. It also includes changing the form of the labia or elongating them (Maluleke, 2012: 7).

According to the World Health Organization (2012), Female Genital Mutilation (FGM) involves the partial or total removal of external female genital or other injury to the female genital organs for non medical traditional practitioners. It is usually carried out on minors, thus it is a violation of the rights of children and girls (WHO, 2022). UNICEF (2019) observed that every year around four million girls globally are at risk of undergoing female genital mutilation (FGM) before the age of 15. Also, that most communities that practice FGM believe that it is needful because of the socio-cultural convictions. Some cultures believe it shows maturity into womanhood, while others see it that it suppresses a woman’s sexuality (UNICEF, 2019).

As stated by WHO (2022), there are several health hazards that may result to some surrounding genital issues and likely death. Long term complications can include urinary problems, vaginal problems/infections, menstrual problems, increased risks of childbirth complications, need for later surgeries and then psychological problems.

Maluleke (2012) noted that there are several health hazards of engaging in Female Genital Mutilation, which includes hemorrhage, blood poisoning, sickness or death and this act of FGM is a practice of torture which is contained in Article 5 of the African Charter on Human and Peoples' Right. The Swiss Agency for Development and Cooperation (SDC) narrates that the UN estimates that globally 200 million women and girls undergo the practice of FGM and amazingly, 80% of this violation happen in Africa and Somalia (in East Africa) has highest rate of practice. In Somalia, 98% of women undergo this procedure; it is followed by Sudan, Ethiopia and Kenya (SDC (24/2/2021). About 31 countries in Africa still practice FGM but it is mostly practiced in Djibouti, Egypt, Guinea and Mali (Kathryn Reid, 2021)

In Nigeria, FGM is predominantly practiced in the ratio of 77% in the South, 68% in the SouthEast and 65% in the SouthWest (Immigration and Refugee Board of Canada, 2016). Between 2014-2016, Nigerian Newspapers noted that FGM is mostly practiced in this six states which are Ebonyi, Imo, Ekiti, Lagos, Osun, and Oyo (Ibid, Vanguard 9 Sept. 2015, UN 21 UNE, 2016 . Punch 7 Feb, 2016, ICIR 7 Feb. 2015). Recently, on 6th February, 2022 on the International Day of Zero Tolerance of FGM, Unicef Nigeria warned that Female Genital Mutilations is still on the rise in Nigeria especially among girls 0-14 (Unicef Nigeria (2022). FGM inflicts torture on the girl child, it has been condemned globally and thus should be stopped not minding the cultural approval of same

3.1 Child Labour

According to the International Labour Organization (2021), Child Labour is any work that deprives children of their childhood, their potential and their dignity and that is harmful to physical and mental development (Internal Labour Organization, 2021). In determining what constitutes child labour, consideration is usually paid on the age of the child, the type of work, she/he does, the hours of work performed, the conditions under which the child does the work and the objectives pursued by the individual's country. There are the worst forms of Child Labour which is defined by the Article 3 of the ILO Convention No. 182 and it includes the following:

- i. All forms of slavery or practices similar to slavery. For example, trafficking of children, forced labour, forced or compulsory recruitment for use in armed conflict
- ii. Offering of a child for prostitution or any pornographic performances
- iii. Offering of a child for illicit activities, such as production or trafficking of drugs
- iv. Such work which is likely to harm the health safety or morals of a child.

The International Labour Organization in 2020 estimated one third of children in Child Labour are out of school and that worldwide, about 160 million children are involved in child labour accounting for almost 1 in 10 of all children worldwide (63 million girls and 97 million boys). Sub-haram Africa was rated highest globally by having 86.6% in child labour and 38.6% in the harzardous work. On

the other hand, Arab States have the least number of children engaging in the child labour, as it is only 2.41% (ILO AND UNICEF 2022). The 2016 Global estimates of child labour has indicated that one-fifth (1/5) of all African Children are involved in child labour which nine percent (9%) of children are involved in hazardous works (International Labour Organization, 2021)

Child Labour and Fundamental Human Rights

Children are the most vulnerable and so needs the protection of parents and guardians in the society.

In 2010, the international community adopted a roadmap for achieving the elimination of the worst forms of child labour by 2016 and this emphasized on the fact that child labour is an impediment to children's rights. (International Labour Organization (ILO) World Day Against Child Labour: 2012). Child labour stampedes on the rights of the child to education and exposes the child to numerous risks to his health and requisite training. Unicef (2021) has also noted several consequences of child labour which includes of their fundamental rights, health hazards, slavery, sexual or economic exploitation, mental harm or even death (Unicef, 2021)

3.1.1 Son Preference/ Male Dominance

Every family in Africa desires to have at least a son in the family. Generally, where there is no son in the family, the society sees it that the lineage has been cut off. Earlier on in West Africa, girls were not sent to schools when westernization just started, they were seen as goods that would soon be bought over by another man for his pleasure. However, this concept is gradually changing as girls are now sent to schools even to the highest level by parents including the illiterate parents. Despite the high rate of civilization, most West African families still prefer and value the birth of a son than that of a daughter.

3.1.2 Son Preference and Human Rights

Son Preference is discriminatory in nature. Every person/child has a right to be free from discrimination based on gender; this is a fundamental human right as provided in the Constitution of most African States. This discrimination can lead to denial of inheritance that is due to a girl child, it can also affect her access to education; and then in marriage, it would make the female aim tirelessly at reproducing a male child, some women are even chased out of their matrimonial homes because they could not give birth to a son. Son Preference is a violation of the rights of the girl-child as stipulated under Articles 2, 6, 12, 19, 24, 27 and 28 of the convention on the rights of the child.

Son Preference keeps the girl child perpetually disadvantaged from birth and this is something she did not choose for herself, nature/God made her a girl. It is still the woman (grown girl child) that suffers the risk of death/ health hazards in the extreme cases where the man/husband would decide on selective abortion/ female infanticide which aims at having a male foetus.

3.2 Early Marriage

Early marriage is a societal problem that girls face in Africa. There is a cultural belief that the girl should marry as a virgin, in order to actualize same, they give out the girl in marriage before the age of 18 -20 years. Thus the female is sometimes tested by a process called Virginitiy Test (This shall be discussed hereinafter). Immediately the marriage is contracted, the woman is expected to start consummating the marriage and the next expectation is pregnancy and child birth. Most times, those that marry earlier have more chances of giving birth to more number of children in the family.

3.2.1 Early Marriage and Human Rights

This early marriage otherwise referred to as child marriage is a violation of the human rights of the girl child, who cannot make an informed decision at that tender age. This early marriage and its

accompanying early pregnancies expose the girl-child to some health hazards such as Vesicovaginal fistula, resulting from early and multiple pregnancies. Early marriage also stampedes on the mental, economic and all round growth. She is denied basic education because she has to take care of the home because she was forced into adulthood premature, thus financially, this girl –child may have nothing to contribute to the family and these may attract assault and other forms of domestic violence, which is a violation of the right of the woman.

It is pertinent to add here that in most parts of Nigeria especially Igbo land (Eastern Nigeria), a young girl who gets pregnant for a boy/man is forced to go and live in the home of the boy/man not minding whether the boy/man is ready for marriage and family life, this in most cases has left the girl-child traumatized, she has no support/love from her family and the family of the boy/man in most cases maltreated her for being imposed on them for marriage. This practice also affects the psychological health of the girl-child and the nutritional health of the girl and the unborn child.

3.3 Some Harmful Widowhood Practices

Widowhood is a life filled with grief, incompleteness and loneliness. However, despite this emotional stress that the widow is experiencing at the said period, there are still some cultural harmful practices that the poor widow is subjected to which to the belief of the people is aimed at exonerating her over the death of her spouse. A reasonable man is left to wonder why the widow should be the prime suspect over the death of her own partner, lover and spouse.

Kamatikibiu (2017:2) observes that everything should be done to assist a widow in order to help her withstand the emotional and psychological trauma of a loss of a husband, however most African tradition add to the problem of the widows by maltreating her. Kamatikibiu (2017:4) in his empirical findings also discovers

that widows in Adamawa (in Northern Nigeria) were thrown out immediately after the burial of their late husband and properly left behind were shared among parents of the deceased while his wife and children are left in pain and penury. There are some widowhood practices that are degrading, injurious, violent and a breach of the fundamental rights of widows in our society. They include, sharp shaving of the woman's hair, subjecting the woman to stay with the corpse of the husband indoor for days, making a woman to drink of the water used in bathing of the corpse of the deceased spouse, denial of the widow of access to the deceased husband's property, the woman is subjected to wear a particular dress for some months or even up to a year to show that she is mourning her deceased husband., denial of the widow of access to the deceased husband's property, maltreatment by in-laws, eviction from her home especially by the in-laws who come to dispossess her of her husband's assets especially where there is no male child or when the male is still a minor.

It is pertinent to note that the International laws, the 1999 Constitution of Nigeria and Violence against Persons (Prohibition Act, 2015), all provide against any form of molestation of women. Article 7 of the Universal Declaration of Human Rights (1948), Article 5 and 16 of the Convention on Elimination of all forms of Discrimination against women, all protect the women from being discriminated against by reason of their gender or status.

3.4 Tribal Marking/ Scarifications

Tribal marks are bodily marks that have been used for years in Africa to indicate a person's tribal heritage. Tribal marks dates back to the 14th century by during the slave trade era, these marks were used by families to identify one another even when sold out to another country. Thus, it helps for the purpose of identification of a person's tribe, family or patrilineal lineage (Yewande Adeleke,

2021). Tribal marks have also been said to be used for spiritual protection and healing purposes. Farida Dawkins, (2021) emphasized on the meanings of some African tribal marks as same can be used as a sign of beauty and for indication of one's tribe.

Times Reporter (2010) in recounting how Tribal marks are made, states that 'a sharp object which could be a stone or coconut shell was pressed and dragged across the fresh in patterns or designs leaving behind cuts, then some dark pigment such as charcoal or other acerbic plant juice were rubbed into the wound to make permanent blisters, other used fish-hook to pull the skin and then slice it with a sharp object. Once the wound was inflicted, they were further inflamed by rubbing ash and other substances into it, when these cuts heal, they form heavy raised scars. The African tribal marks are as imposed by the cultural demands this is not the same with Tattoos that Americans and others do where they determine the kind of marks to be made, the part of the body, and when to make it. Africans believe that the facial marks scar the spirit of death away from them.

3.4.1 How Tribal Marks Violates the Human Rights

These tribal marks are inflicted on persons when they are still young and cannot make a choice. Its presumed benefits are already outdated and it is not acceptable by so many parents now. These tribal marks are inflicted using sharp objects which could be infected, the marking which is a scar could also attract infections, and furthermore, it could lead to bleeding as it is not done under the supervision of a healthcare service provider. The tribal mark could make a child withdrawn especially when in an era where no one values tribal marks.

3.5 Virginty Test

Virginty Test is a controversial practice that aims to determine whether a girl has had sexual intercourse or not (ISSM: 2022). ISSM

(2022) also noted that Virginitv Testing is a practice that is known globally, however, its practice is higher in some parts of Africa, Asia and the Middle East. However, virginitv test has also been found in Canada, Spain, Sweden and Netherlands.

In South Africa, the Children's Act (Act No. 38 of 2005) and its associated regulations provides for the practice of virginitv testing which could be conducted on both the male and the female children over the age of 16, with their consent obtained. However, Behrens Kelvin G., (2014) argues that virginitv Testing is unjustly targeted at the girl-child that it promotes patriarchal social order, it is discriminatory, that it has no reliable means of testing and that its result can be false.

The United National Agencies has called out for the ban on virginitv testing as such practice is discriminatory, painful, humiliating, traumatic and of no medical consequences. The United Nations Human Rights , United Nations Women and World Health Organization has condemned the practice of virginitv testing for whatever reason which is usually for marriage or family or cultural purposes for employment purposes or even as a proof of penetration where there is an allegation of rape.

In the traditional African society, virginitv test is usually conducted by traditional experts, this practice is still ongoing despite the several calls by the United Nations and the World Health Organizations that same is an act of violence against women hence a violation of their human rights.

3.6 Teeth Removal in Preparation for Marriage

The practice of removing a girl's teeth in preparation for marriage is mostly practiced by the Koma people. They mostly engage in endogenous marriage (which is a practice of marrying within a specific social group and rejecting suitors from outside the group). Between the ages of 10 to 14, children undergo puberty rituals where

the boys are circumcised and the girls have their teeth extracted- this practice they believe signals maturity (Around the World- Scooper News, 2021).

Koma people consists the ethnic group in Northern Adamawa in the Atlantika Mountains which shares a border with Southern Cameroun. There exist 21 Koma villages in the Camerounian-side of the Alantika Mountains and 17 villages on the Nigerian side. (Wikipedia, 2012). The Koma people still maintain the Stone Age life style of living in cave-like settlement and going about naked, they only wear leaves and animal skins to cover only the vital parts of their body. According to their custom, marriage can only be performed after passing through the puberty rituals of circumcision (for boys) and teeth removal (for girls). (Nigera Galleria (2021).

We know that it is of one's best interest to preserve their culture and cultural heritage however we still hold that it should be within what is generally accepted as not a violation of one's fundamental human rights.

4. Conclusion/ Recommendation

From all the analysis above, we have considered about eight (8) harmful cultural practices that are still practiced in our nation and how each of them poses a threat to one's health and psychological development and especially the violation of the fundamental human rights of persons (especially women and children). We believe that a redress of these violations would mean an adjustment of the people's cultural practices. We are not advocating however for the eradication of our cultural heritage but only seek for its adjustment to the extent of which it violates the rights of individuals especially the most vulnerable persons such as children and women. Most of

these practices have also been condemned by the World Health Organization (WHO) and the UNICEF.

From this research work, we have discovered some areas where further studies can be pursued, and that is on the rationale behind the Koma People teeth removal of matured girls in preparation for marriage, we believe an investigation into the main act or event that led to the origin of that culture and its advantages to the people.

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