

AN APPRAISAL OF SOME CULTURAL PRACTICES AGAINST WOMEN IN THE SOUTHEAST OF NIGERIA

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Abstract

Culture is a people's way of life. It is the totality of their consistent life patterns, measured over some time, and which defines them as particular people. Culture embodies the essential features that characterize a group of people. As well, it plays a significant role in society. At the same time, not every aspect of a people's culture is beneficial. Some cultural practices challenge the corporate existence of the members of society. Some of such cultural practices either marginalize one group against the others or retard the wheel of societal progress in general. However, this paper focuses on one of such cultural practices, particularly those that contravene the rights of women in Southeast of Nigeria, namely: marriage between two women, marriage on behalf of a deceased, female circumcision, unhealthy widowhood practices, et cetera. With analytic and metaphysical approaches, this paper undertakes a legal and philosophical appraisal of these harmful cultural practices. Resultantly, it maintains that every good cultural practice should promote the fundamental human rights of all the members of a given society, consider each member as an end in himself/herself, and subsequently enhance the psycho-social and moral equilibrium of the beneficiaries. Besides, this paper recommends the use of the repugnancy test as a criterion for ascertaining the validity of any cultural practice. Further, it recommends the use of responsible media reportage of these harmful cultural practices through priming, framing, agenda-setting, and cultural cultivation.

Keywords: Culture, Practices, Women, Marriage, Human Right

Introduction

Culture is a term that simply means people's way of life. Bronstein (1998, p.388) conceived it as a critical aspect of a people's lived experience, which subsists as of one their marks of identity. Ipso facto, culture describes a people's consistent way of life measured against specific periods. The consistency in this context does not indicate stagnancy. Instead, it is one with inherent dynamism. Hence, culture is both stable and dynamic. The principle of stability makes for the possibility of identification of a given culture with a specific group of people. Besides, the principle of dynamism accounts for the possibility of growth in the

culture. Thus, as people grow, their culture grows accordingly. Some of their cultural components translate into customary law. Mqeke (2003, p.3) conceived this sort of law as judicial precedents and decisions of past chiefs collected over a period. For Nwaechefu (2017, p.70), they are rules, practices and norms which regulate a group of people and which they consider as binding. Bennett (2000 & 2004, p.1) considered them as unwritten laws and also as obligatory to the community concerned. Nonetheless, an in-depth analysis of some cultural practices in the Southeastern part of Nigeria today shows some barbaric observances directed against women. Unfortunately, such cultural practices often present themselves as customary laws of the said communities.

For a thorough insight into these anti-women cultural phenomena, it is good to discuss them individually.

Cultural practices against women in Southeast of Nigeria

1. Marriage between two women (Woman-woman marriage)

Marriage between two women occurs where a woman marries another woman so that she can beget children for her. One can also call it woman-woman marriage, and the woman is referred to as "husband-woman." There are many reasons why a woman may decide to play the role of a "husband-woman" in this context. First, it could be on the ground of barrenness. Second, it could be as a result of the death of all her children - when she has passed the age of childbirth. As a remedial measure, "husband-woman" marries another woman so that the woman can bear children for her. The "husband-woman" also chooses the man that would play the male reproductive role. She may leave it at the discretion of the wife, though not without some frictions at times. Although one can still find traces of this sort of marriage in some parts of Southeast Nigeria, it is no longer a widespread practice in these areas.

However, it is significant to indicate that woman-woman marriage is different from lesbian marriage. In lesbian marriage, both women exist as husband and wife. Sexual intercourse is between them. No male comes from outside to perform any male reproductive role. Besides, the reason for lesbian marriage is quite different from that of woman-woman marriage.

2. Marriage on behalf of a deceased

Marriage to a dead person is a system of traditional marriage where one marries a wife on behalf of a dead man so that one can raise children in the name of the

deceased. For this species of traditional marriage to take place, the deceased must be somebody who has reached the age of marriage but unfortunately died without marrying a wife. It mostly obtains in the case of the sudden death of an only son of a family. The parents/relations marry a wife on his behalf so that she can bear children in his name; following the Igbo concept of *ahamefule* (let my name not be lost). That implies that the underlying reason for this sort of traditional marriage is for extension of the deceased's posterity. It is interesting to note that marriage to a dead person follows almost the same logic as that contracted between two women. As well, this kind of marriage was prominent in the Southeastern part of Nigeria in the past. Presently, it is no longer standard practice. Despite, one can find traces of it in a few areas of this geopolitical zone of Nigeria.

3. Early and coerced marriages

Early and coerced marriages are another unhealthy cultural/customary practice directed against women in the Southeast of Nigeria. In the olden days, around the Nneato area of Umunneochi Local Government Area of Abia State, marriages were contracted between a boy and a girl at a very tender age. At that time, once a girl is born, the parents betroth her to a boy through the parents of the boy who drop a coin inside a bucket of water. Of course, the members of the immediate families of the boy and the girl also participate in the ceremony to give it a public character. With this ceremony, the members of the two families regard the boy and the girl as a prospective husband and wife. Subsequently, they will not allow any other person to marry the girl unless the boy grew up and decides otherwise. Today, this practice has completely changed. However, early marriage is still prevalent in some parts of the Southeast. There are instances where parents force their children to marry at an age below eighteen years, perhaps, on the premise that they have no money to train them in school or the likes or that they may have an unwanted pregnancy.

4. Female circumcision

Female circumcision, otherwise known as genital mutilation, entails the removal of the sensitive part of a female's external genitalia by surgical means without any medical justification. An Interagency Statement on Eliminating Female Genital Mutilation defines it as "...all procedures involving partial or total removal of the external genitalia or other injury to the female genital organs for non-medical reasons" [p.1]. In the Southeast, there are many reasons people often offer as a justification for female circumcision. First, some hold that it is a

way of controlling a female child's libido. Here, the aim is to ensure that a woman maintains her virginity before marriage and chastity after marriage. Second, some are of the view that it shows a girl's cultural identity and her transition into the adult stage. Third, some engage in it to protect the health of women and their young female children. However, a cultural practice such as this constitutes a health hazard to girls. Besides, it has many psychological implications. An Interagency Statement on Eliminating Female Genital Mutilation described it as the practice that "...reflects deep-rooted inequality between the sexes, and constitutes an extreme form of discrimination against women" (p.1). Further, the agency considered it a "...violation of the rights to health, security and physical integrity of the person, the right to be free from torture and cruel, inhuman or degrading treatment, and the right to life when the procedure results in death" [p.1]. It is significant to indicate here that female circumcision is no longer prevalent in the Southeast of Nigeria.

5. Polygamy and arbitrary divorce

Polygamy is a practice where a man is free to marry as many wives as he wants. In the olden days, people considered engagement in polygamy as a symbol of wealth and prestige. It was a way a man showed his material affluence. Besides, men went into polygamy in search of male issues. If his first wife bore only female issues, a man can marry another woman to see if he can get a male child through her. In a polygamous family, the husband superintends over the activities of the family. The wives regard him as lord. None of them enjoys equal status with him. He can divorce any of them at a slight provocation. Ihechu et al. (2017) noted that in the event of such dissolution of marriage, women are usually at a loss as they are neither given any financial compensation nor allowed to have custody of their children (p.61). Such cultural practice leaves wives at the mercy of their husbands.

6. Custom that requires a wife to return presents given to her in the event of a failed marriage

As the name indicates, the above custom requires a woman to return whatever gifts she received from the former husband in the event of the dissolution of such union. Usually, before a marriage takes place, the fiancé buys gifts for the fiancée. These gifts are usually gestures of love and care and, indeed, expressions of the fiancé's sincerity toward the marriage. Nevertheless, in the event the marriage crashes along the way, the ex-husband expects the ex-wife to return all that he bought for her. The returning of these gifts together with dowries are the

conditions for the dissolution of the marriage. This customary condition does not consider whatever the ex-wife sacrificed in the failed relationship.

7. Unhealthy widowhood practices

There are many inhuman treatments people subject wives of deceased husbands. For instance, in some places, people isolate them from the rest of the community members until the expiration of their mourning period (*Igba èkpè*). Within this period, the widows are not allowed to attend public ceremonies such as markets and other common gatherings of the community. Even men consider it a sign of bad omen if a widow happens to be the first to greet them in the morning. Besides, if a widow is accused of being responsible for the death of her husband, they usually force her to drink the water used in washing the body of the dead husband to prove her innocence. If she refused to do so, they might ostracize her.

8. Custom enthrone preference of a male child to a female child

Another cultural practice against women in Southeast is the preference of a male child to a female child. Such cultural practice regards male children as more important than their female counterparts. It accords them more respect even more than their older female-folk. A prominent instance of this is in the sharing of kola nut. Here one neither shows women kola nut nor allows them to break it when men are among the group. It is the prerogative of the male-folk to break the kola. If no older man is around to perform the ceremony, any reasonable male child among them performs the ceremony. The preference for males even reflects in the names given to male children. Ihechu et al. (2017) noted some of such names, namely: *Ogbonna, Nwokeabia, Nwokedi, Amaechina, Nwokediuko* (p.62). Other names include *Obinnaya, Enyinnaya, Nwokebuihe, Onochie*, to name but a few.

9. Inheriting wife of a deceased brother/relative forcefully

When a man dies, his younger brother/relative can inherit his widow even against the widow's volition (Reychler and Jacobs 2004). Subsequently, one expects the woman to accord the brother/relative every marital right due to a husband. Whereby she refused, she is either forced out of her late husband's home, or they may decide to make the house uncomfortable for her. A corresponding practice is an act of disinherit the wife of a deceased who has no male child. If a man dies, leaving no male child, custom allows his brothers/relatives to disinherit her. She is not a beneficiary to her husband's property.

A related anti-women cultural practice in the southeast is the culture that empowers the brothers-in-law/relatives of the late husband to dispose of the property of their dead brother even when his widow is still alive. The basis for such cultural practice is the logic that the property of a deceased brother belongs to his brothers. Hence, they can dispose of them at will, even without reference to the wife. Such cultural practice leaves both the widow and her children with little or nothing to cope with. At times, such cultural practice forces the widow and her children to return to her paternal home.

10. Depriving a woman the right to give evidence on land issues

There is also a custom that deprives women of the right to give evidence on land issues. This custom regards women as visitors (*mbiambia*) to their husband's family - if she is a wife to the family. However, in the event the woman is a child of the family, she is taken as a member of another family - presumably her future husband's family. The custom is further sustained and promoted on the ground that given the status of a woman as already indicated, they are said to be ignorant of land boundaries. Consequently, they are presumed unqualified to give evidence in matters concerning land boundaries. What this means is that any evidence a woman gives following the above custom is taken as *ultra vires, null and void*, and of no effect.

11. Custom denying women the right of inheritance to their father's property

In some parts of the Southeast of Nigeria, women do not partake in sharing their fathers' property. Instead, only the male issues have a share in the property. The reason for this lies in the patriarchal system practiced in the geopolitical zone. In this system, one expects every woman to marry and subsequently leave her father's house and join her husband. Following this movement is a change of the woman's name. She no longer answers her maiden name instead, the name of her husband. Thus, if she inherits any land from her father's house, that amounts to transferring of the family's inheritance to another man and, *ipso facto*, to another family. So, to forestall such from taking place, the custom disallows women from inheriting their fathers' property.

Critical evaluation

The cultural practices discussed above benefit some members of society. That is why the beneficiaries would do everything humanly possible to protect and

promote them. Most often, they cite the life span of cultural practices as a justification for their credibility (*Aru gbaa afo oghoo omènlà*). Despite their untiring efforts at validating these cultural practices, a critical look at them reveals their Obnoxiousness. These comprise infringement of women's fundamental human rights, depersonalization and *functionalization* of women, and engendering of psycho-social/moral wreck.

1. Infringement of women's fundamental human rights

The cultural practices outlined above have serious negative implications for the fundamental human rights of women in Nigeria. The fundamental human rights of women are the primary rights they have as human beings. These rights are not products or the creation of any institution. Instead, they accrue to all human beings by nature. They are sacred possession of all humans. Nobody should deprive another person of it arbitrarily. They are not only fundamental, but they are also equally universal. They cut across cultures and superintend over all cultures. So, they are one of the litmus tests for all cultures. The validity and sanctity of any culture depend on its coherence with these fundamental principles. The first international document on the fundamental human rights is the United Nations Charter of 1945. It is obvious that in this Charter, the members of the United Nations determined, among other things, "to reaffirm faith in fundamental human rights, in the dignity and worth of the human person, in the equal rights of men and women and of nations large and small..." [p.2].

Another document that came after the United Nations Charter of 1945 was the Universal Declaration of Human Rights of 1948 (UDHR). It was the first document that articulated in clear and distinct terms the inalienable and equal rights and freedoms which accrue to every human being (Articles 1-5, 7-8, 10, 13, 16-17, 20 and 27). Many nations and organisations later adopted this United Nations declaration on the fundamental human right in drafting their constitutions. Besides, their constitutions contain expressed provision for the rights of women and others. Some of these constitutions are:

- i. International Covenant on Civil and Political Rights (ICCPR, 1966, Article 26);
- ii. International Covenant on Economic, Social, and Cultural Rights (ICESCR, 1966, Article 12:2a); It explicitly deals with an issue about the health of women. Other human rights instruments explicit on issues concerning the health of women embody:

- The Convention on the Rights of the Child (Article 24: 1d, 1f);
- The Beijing Platform for Action (Articles 89 and 106);
- The United Nations Declaration on Violence Against Women (Article 3f);
- iii. Convention for the Elimination of All Forms of Racial Discrimination (CERD, 1965);
- iv. Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW, Articles 1-17, 21, and 23). It is essential to indicate that of all human rights instruments, CEDAW is unique. First, because its underlying stress is on promoting and protecting women's human rights. Second, because it operates from the premise that patriarchy is a global phenomenon (Gender, Women, and the Tobacco Epidemic: Women's Rights and International Agreements, p.232).
- v. African Charter on Human and Peoples' Rights held in Banjul (ACHPR, 1986, Article 18 section 3);
- vi. Protocol to the African Charter on the Rights of Women in Africa 2003. It deals with the rights of women and their equality with men as well as freedom from all species of discrimination based on sex.
- vii. European Convention for the Protection of Human Rights and Fundamental Freedom (ECHR, 1950 Article 14);
- viii. American Convention on Human Rights (ACHR, 1969, Article 24);
- ix. The Constitution of the Federal Republic of Nigeria (1999);
The 1999 Constitution of the Federal Republic of Nigeria identified the right to life, dignity of the human person, freedom of expression and the press, peaceful assembly, and association, freedom of movement, freedom from discrimination, right to acquire and own immovable property anywhere in Nigeria, and mandatory acquisition of property, respectively [Article 17, 33-43].
- x. Judicial precedents - *stare decisis*;

All the sources outlined above emphasized the non-discrimination and equality of all human beings. Nonetheless, *stare decisis* shows particular cases where these principles of non-discrimination and equality were applied. For instance:

- i. The judgments in the following cases: Meribe versus Egwu (1979), Helen Odigie versus Iyere Aika (1985), and Ojukwu versus Agupusi (2014, p.26), stand as judicial precedents against marriage between two women. Simply put, they ruled against marriages contracted between two women. Likewise, the judgment on the case between Mojekwu and Ejikeme (2000) subsists as a precedent against the practice of leaving a woman in her father's house in the name of bearing

children for the father as practised in Nrachi custom. These practices are repugnant based on Section 14(3) of the Evidence Act (Repugnancy. <https://www.educationalresourceproviders>).

ii. At the same time, the verdict on the case between Okonkwo and Okagbue (1994, part 368, p.301) remains a precedent against marriage done on behalf of a deceased person. The per Ogundare (Justice of Supreme Court - JSC) considered such marriage as encouraging promiscuity and so cannot align with public policy and good conscience. The judge insisted that it is in the interest of the children to know their true father and not to live in the myth that they were fathered by a man who died even before they were conceived (<https://www.educationalresourceproviders>).

iii. Likewise, the case between Uko and Iro (2001) concerning a portion of land located at Ikpokwo in Imo State stands as *stare decisis* against the custom denying a woman the right to give evidence concerning a land issue.

iv. The same applies in the case between Nzekwu and Others versus Nzekwu and Others (1989), and Lawal Osula versus Lawal Osula (1993, part.274, p.158). They subsist as judicial precedents against the disposition of the property of a deceased by his brother while the widow is still alive.

v. Besides, the case between Asika and Atuanya (2008, part 1117, p.286) and that between Ukeje and Ukeje (2014) are *stare decisis* against the custom denying women the right to inherit their father's property.

vi. As well, the case between Solomon and Gbobo (1974) is a precedent against the customary law that permits a husband to divorce his wife whenever he wishes while the wife cannot do the same except with the husband's consent.

vii. Also, the case between Anekwe and Another versus Nweke (2014) is a judicial precedent against disowning a wife of a deceased on the ground that she had no male child for her husband before his death.

viii. Finally, the case between Okoriko and Otopo (1961) is a court ruling, which is an antithesis of the custom requiring the return of presents given to a wife at the point of termination of a marriage.

Therefore, when one places the cultural practices already discussed, vis-à-vis the fundamental rights of women, it is evident that the practices are nothing but blatant violations of the essential rights of women. For instance, woman-woman marriage threatens the right of the wife to choose the man to perform the reproductive role. The husband-woman often influences her choice. Resultantly, this repeatedly brews an uneasy calm between husband-woman and her wife. Such may graduate into open conflict in which case what was thought to assuage the humiliation of the husband-wife now turns out to be her nightmare and ruin.

At the same time, custom denying a woman the right to give evidence on land issues interferes with her right to a fair hearing. Likewise, custom denying them the right to inherit their father's property infringes on their property right. Similarly, a custom that allows a husband to divorce his wife at will and which at the same time denies the wife the right to do so except with the consent of the husband is obnoxious. Such is a threat to the human dignity of women. The same applies to unhealthy widowhood practices, early marriages, female genital mutilation, and preference of a male child to a female child.

2. Depersonalization and functionalization of women

One of the essential qualities of the cultural practices discussed above is that they depersonalize women. Each of them reduces women to a "thing," a simple property of a man which he can dispose of at will. The practices do not see women as fully-fledged human beings that are subject to respect. Instead, they reduce them to an object, rather than persons. For instance, to mourn for one's husband is not something negative. It is consistent with the universal human feelings for the deceased members of one's family. Expressing this mournful attitude in particular symbolic manner is also not wrong. It reveals the depth of the mourner's concern for the dead. Nevertheless, when people use mourning as an instrument of oppression, it loses its positive connotations.

Besides, the cultural practices functionalize women. They regard them as a means to an end and not as ends in themselves. Consequently, their stay in a family is dependent on their practical value. Once they are considered as of little or no value, they can be shown the way out using a divorce.

However, women, just like men, are human beings. Like men, they deserve every respect due to human beings. Thus, Kant (1785) argued that "...man and generally any rational being exists as an end in himself, not merely as a means to

be arbitrarily used by this or that will, but in all his actions, whether they concern himself or other rational beings, must always be regarded at the same time as an end" (4:428, p.185). So, no one should depersonalize or use them as mere tools. Such amounts to an abuse of their dignity as individuals of inviolable rights. Again what makes a human being is not, per se, the practical value he/she has here and now. One can be very productive in specific areas and at a particular time. However, at other times his/her level of productivity may either improve or depreciate. That does not alter or destroy his/her personhood. Such a one remains a subject of respect just like every other human being.

What makes an individual a human being is more than the physical appearance of the person in question. Today, through the instrumentality of scientific engineering, it is possible to create robots that can perform almost all that human beings can do. Nevertheless, that does not make them human beings. Although they can, in some cases, outperform human beings in terms of efficiency, yet they are not "naturally capable of self perfective immanent activity." (Donceel, 1967, p.42). They lack self-consciousness (Oladele Balogun, 1994/95, p.26), cannot originate new ideas, and a new hypothesis for testing (Omoregbe 2006, p.52). So, they lack the ability to self-animation and self-repair in their activity.

Unlike a machine, the human being has unbounded potentialities. That is why Mondin (1991) described man as an "impossible possibility" [p.20]. As well, Mondin called man "...a possible possibility inasmuch as he is able to be realized in the arc of historical existence" [p.20]. The human being is a tissue of possibility as he/she is an embodiment of "a-yet" and "not-yet." Now and always, humans carry with them mapped and unmapped regions of their beings. There is always an aspect of them that are part of the collective knowledge about them. There is equally an aspect that, though they are real, is also enshrouded in mystery. The Igbo term that captures this aptly is *Madu di ogbu* (human being is inexhaustible). No one can exhaust the depth of any human being. That is so thanks to the inexhaustible nature of God. As every reality in a way replicates some of the qualities of its maker or creator, so do human beings share in some of the attributes of God. Hence, as God is *amama amacha amacha* (a being not wholly comprehensible), likewise, is a human being. Therefore, to depersonalize and functionalize any human being is not in tandem with the fundamental nature in which all share - man and woman alike. All are human beings. There may be a variation in the role each plays, yet all possess the same fundamental human attributes.

3. Engendering of psycho-social/moral wreck

Woman-woman marriage often leaves the people involved in it with moral, social, psychological, and medical crises. Such is the case given the fact that even though such marriage is permitted in some cultures in the Southeast, yet many in these cultures consider it is morally degrading. What captures this aptly is the Igbo maxim: *Okereke nwanyi di nti njo* (it is not palatable to the ear to hear of a man answering a woman's name as his surname). Such immediately unveils the kind of aversion some people have for such marriage in the Southeast, the fact that it is permissible, customarily speaking, notwithstanding. Any woman who finds herself in this kind of marriage, given the denigration above, is certain to experience moral, social, and psychological disequilibrium. Again, the above system of marriage exposes women to infections as they are prone to sexual relationships with multiple male sexual partners. In that case, it is a threat to their fundamental right to life and human dignity.

Equally, on the side of children, as the choice of who plays male reproductive role depends on the choice of either the husband-woman or the wife, in many cases, the children are of different fathers. Such can give rise to war within a family, resulting in a lack of peace and mutual coexistence. The children born out of such a process often lack paternal care as no man can boldly take such responsibility in the said family as a result of the social stigma that goes with such behaviour. Consequently, a marriage contracted between two women leaves the children with social and psychological stigma, with their attendant inferiority complex. It also raises moral questions about the children as some consider them as products of promiscuous parents. Such is the case because no responsible man would leave his family to go and begin to concentrate on another person's family, playing a fatherly role to the detriment of his own family. Ascriptions such as *agafu*, *uhuogiri* (wayward), *onye na agba na ama* (harlot) are mostly used of such men to show the moral degradation of such practice. So, children got through that process are often considered as potential flirts, and so, not marriage-worthy given their background as couched in the maxim *Agwo anaghi ahapu imu ihe di ogologo*. (a snake must beget something long). Likewise, such marriage leads to breakages in the family of the men who play the male reproductive role. Often it brings ridicule to his wife and children. His children are also viewed from the same prism as those of the husband-woman, especially in terms of moral probity and marriage-worthiness. Marriage to a

deceased person and polygamy portend the same negative implications as the case of that contracted between two women.

Recommendations

The study makes the following recommendation:

a. It is significant to ascertain the validity of cultural practices with the repugnancy test.

With this test, the courts are in a position to disallow any customary law that is repugnant to natural justice, equity, and good conscience.

b. Besides, it is crucial to use media to ensure a positive paradigm shift in the audience perception of these cultural practices via:

i. Priming - that is, publishing the cultural practices so much as to achieve a paradigm shift in the criterion the audience use in assessing them.

ii. Framing - that is, publishing some of the contents of the cultural practices in such a way that their meanings are more evident than others.

iii. Agenda-setting - that is, publishing the cultural practices to influence what people think about them.

c. As well, the media should report issues of cultural threat against women using such other means like drama, soap-opera, short plays, to name but a few.

d. It is essential to organize more philosophical debates to accentuate the obnoxiousness of these cultural practices further.

Conclusion

Culture is an essential ingredient of every society. There is no society without culture. It is one of the marks of identity of each society. It holds sway in every aspect of people's lives. Likewise, in Southeast Nigeria, there is no gainsaying that culture is very vital for the mutual coexistence of the citizens. However, it is also indubitable that there are issues relating to a culture that is inimical to women and so needs purification. Often, some people use these harmful cultural practices to depersonalize, and, ipso facto, marginalize women. As a remedial measure, emphasis on the fundamental human right is sure to place women in proper perspectives vis-à-vis men.

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