

**APPRAISAL OF CULTURAL VICES AFFECTING WOMEN AND CHILDREN  
HUMAN RIGHTS IN NIGERIA**

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**ABSTRACT:** *The crux of this paper aimed at defining the concept culture and Human Rights, and to large extent analysis the various cultural factors under mining the smooth thriving of women and children rights currently, the cultural factors are, widowhood rites, female genital mutilation, early/forceful marriage, bride price, son preference/female infanticide, levirate marriage, ritual killing, wife beating, inheritance of wife, woman in purdah, on the part of the children are twins killing, child witchcraft ,child labour, street begging, child trafficking and finally possible solutions to ameliorate such cultural barriers by way of recommendation and conclusion.*

**KEYWORDS:** Culture, Women, Children, Human Right, Child Labour, Nigeria

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## **INTRODUCTION**

In the realm of jurisprudential discourse, it is always difficult to define concepts. This difficulty is borne out of the fact that most definition are fraught with inadequacies. However for the purpose of clarity, it is trite to advance a-working definition for the purpose of this paper

### **Culture**

The Black's Law Dictionary defines custom as a usage or practice of the people which by common adoption and acquiescence and by long and unvarying habit has become compulsory and has acquired the force of a law with respect to the place or subject matter to 'which it relates'.<sup>1</sup>

Similarly, Karibi-Whyte J.S.C. defines customary law as a body of unwritten customs and traditions accepted as obligatory by members of the community for the- regulation of the relations between its members.? The Fribourg Declaration for Cultural Rights defined culture in the following words;

"The term "culture" covers those values, beliefs, convictions, languages, knowledge and the arts, traditions, institutions and ways of life through which a person or a group expresses their humanity and the meanings that they give to their existence and to their development;"<sup>3</sup>

It could be gleaned from the totality of the above definitions, that culture simply put, "*is the way of life of a people*".

## Human Rights

Human rights can be defined as rights which are inherent in human beings solely on account of their being human, such rights may be taken to deprive from reason, God, nature or any other source whatsoever the case. They are supposed to apply to human beings regardless of their codification in any possible law."

Similarly, human rights have been defined as those rights which inhere in the very nature of the human person. They are the rights possessed by all persons by virtue of their common humanity to live a life of freedom and dignity<sup>6</sup>.

## Cultural cives affecting the rights of women

### Widowhood Rites (Practices)

In spite of the massive provisions made by international human right instruments<sup>7</sup> as well as provisions made in our local legislations particularly the 1999 Constitution (as amended) in Chapters 2 & 4 protecting and guaranteeing the rights of all persons, replete cultural practices exist which dehumanize women and grossly infringe upon their human rights. Principal amongst these cultural practices are widowhood rites/practices. Widowhood rites simply put are those rites or rituals which accompany the mourning of the loss of a woman's husband<sup>8</sup>. These rites are gravely degrading and dehumanizing and have been described as barbaric, immoral, abusive, obnoxious and outrightly wicked. The woman is subjected to a great deal of emotional

And physical devastations.<sup>9</sup>it is instructive to note that these widowhood practices are practiced in almost all ethnic groups<sup>10</sup> though some ethnic groups practice these more often than others. Particularly the Igbo's of Imo, Abia and Anambra States are top amongst those that practice these rites the most.<sup>11</sup>

The death of the husband in most of these states is followed by accusations from the members of the deceased's family that the wife killed him. As such the observances of various rites or rituals are foisted on the woman as a way of proving her innocence. In some instances she is required to drink the water used in bathing the corpse.<sup>12</sup> The woman's hair is also shaved, she would be stripped naked and all parts of her body with hair are shaved completely, including eye brows and pubic hair.<sup>13</sup> The widow's ordeal does not end there as she would be made to stay in one place and not go anywhere. She will literally be ostracized as she will not eat the food other people are eating and made to sleep in a room with the corpse for several hours.<sup>14</sup> These treatments continue even after the burial when the woman is expected to mourn her husband by wailing at LJ am each morning to rend the air with her wailing for 28 days.<sup>15</sup>

The husband's properties are seized by his relatives, leaving the widow with nothing to take care of herself and the children (even if she contributed to acquiring the said properties of the deceased husband). *An "incident was reported by the National Human Rights Commission in 2007 when a couple, "Mr. & Mrs. Emmanuel Onwaru" who had been leaving together peacefully for 20 years and operated a Joint account since 2004. The account balance rose to 10 million. On a certain day, the husband asked the wife to travel to the their village, Idimu - efe, in Delta State where she was expected to swear to an oath as a means of preventing her from any attempt to harm him or any member of his family. He threatened to kill her if she refused to go with him hence she had to oblige*

*and when they got to the village, she was made to drink: her husband's blood and those of 19 other members of his family.*<sup>16</sup>

Further, it is particularly thought provoking that most of these widowhood practices are, enforced by women on their fellow women, the reason for which beats all forms of logical reasoning. However, it is pertinent to note that the extent to which these widowhood rites and practices are carried out and the severity of their application depends on many factors that include:

- The socio-economic status of the widow
- The educational level of the widow
- Religion
- Whether or not the widow has children
- Age of the widow
- The nature of her relationship with the husband,
- The perceived cause of death.
- The widow's occupation and the degree of mutual respect and cohesiveness among the family members.<sup>18</sup>

It is clear that widowhood practices violate the constitutional rights of women to the dignity of the human person.

### **Female genital mutilation (FGM)**

Femal Genital Mutilation borders on the health and reproductive rights of woman. It is a procedure by which partial or total removal of the external female genitalia or injury to the female genital organs for cultural or therapeutic reasons.<sup>19</sup> This is also referred to as female circumcision. It is estimated that over 100 million girls and women have undergone some form of genital mutilation and at least 2 million girls are at risk of undergoing the practice each year.<sup>20</sup> This practice though prevalent in Nigeria, is not however limited to Nigeria as it has been said to be prevalent in Asia, the Middle east, Europe (immigrant communities) North America, Australia and other African countries; hence the alarming statistic above.<sup>21</sup>

Female Genital Mutilation is equally carried out by women who act as the midwives saddled with that responsibility. The procedure' is carried out with crude instruments such as unsterilized razor blades or knives without anesthesia.<sup>22</sup> These practices expose the victims to all forms of health risk , short and long term complications which include, HIV/Aids, medically documented hemorrhage, shock, infection, gangrene, menstrual dysfunction, infertility, psychological trauma and sexual dysfunction.<sup>23</sup>

The procedure, which is mostly carried out without the consent of the victim is on the said believe, that it will prevent the victim from being unfaithful to their spouse. This believe has not been medically proven to achieve the said aim for which the procedure is practiced while on the contrary health risks- psychological, emotional and physiological have been proven to result from this practice.<sup>24</sup> *While, assuming without conceding however, that the said benefits of chastity and fidelity accrue from Female Genital Mutilation, should it not be the choice of the individual whether or not to undergo same and under what sort of conditions considering*

*the attendant medical risks involved?*. This practice is a gross violation of the human rights of women and should be deprecated.

### **Early/Forced marriage (child marriage)**

This is another harmful cultural practice which truncates the enjoyment of human rights by women in the cultures under reviews.<sup>25</sup> Marriage, an institution which the dictates of common sense depict as one meant for adults, has in the past and even in modern times been foisted on young girls who know little or absolutely nothing about marriage. This is a practice which is said to be applicable both in the Northern and Southern parts of Nigeria.<sup>26</sup> In the Southern region, customary law allows girls between the age of 12 - 15 yrs to get married while in the Northern states, girls are authorized to marry at the age of 9. The legal age of maturity in most jurisdictions is 18 years. Even at 18 yrs it is hardly conceivable that a young girl is both psychologically and emotionally stable to understand fully what it entails to be married, let alone talk of a nine year old girl or better still "baby".

The principal reasons for this practice are the girls' virginity and bride price. Young girls are believed to be less likely to have had sexual contact hence would be virgins and as a corollary, increase their worth in terms of the amount payable as bride price.<sup>27</sup> It is trite to note that the level of education of the people involved is a major factor that influences the decision to force girls out for marriage at such a tender age.<sup>28</sup>

It is shocking however that even highly placed citizens perpetuate this gross violation of the rights of the girl child. The National Human Rights Commission documented a case in 2006 where a young girl "Amina Hamad", a graduate of University of Abuja was mobilized for her NYSC in Abuja while her father was busy arranging her marriage to Senator Kawu Peto Dukwu from Gombe State in her absence and without her knowledge. The girl refused and had to go into hiding but was lured home by the information that her father (a retired Commissioner of Police) was ill. Upon arriving Gombe on 31<sup>st</sup> Oct 2007 she was bundled into vehicle and, forcefully taken to the Senator's house. She attempted escaping severally until she succeeded months later and made a report to the National Human Rights Commission.<sup>29</sup>

Furthermore, early and forced marriages usually affect the education of the girl child as the girl is as a matter of course expected to bear children.<sup>30</sup> Child marriage robs a girl of her childhood-time necessary to develop physically, emotionally and psychologically.<sup>31</sup> The lamentation of a Sudanese girl below aptly paints a vivid picture of the situation that,

"I was forced to leave school to get married. I was very young then. I was divorced after eight months of my marriage. I wish other girls don't suffer like me." *Madina, 14, Sudan.*<sup>32</sup>

### **Bride Price**

It is customary in most cultures for a would-be groom to make payment of a token to the family of a would-be bride on account of the proposed marriage between them. Put differently, bride price has been defined as "any gift or payment in money, natural produce, brass rods, cowries or in any other kind of property whatsoever to a parent or guardian of a female

Person on account of a marriage of that person which is intended to or has taken place".<sup>33</sup>

Bride price takes different forms in as much as it is accepted by the parents of the girl. It is a gift made in respect of the marriage the acceptance of which grants legitimacy to a proposed marriage or that which had taken place previously.<sup>34</sup> as is usually the case in marriage by capture where the girl is seized and taken to the man's house and payment of the bride price follows subsequently.

The amount payable as bride price varies from culture to culture as some are reported to be low and some high.<sup>35</sup> to a large extent, some cultures demand very high bride price from the groom such that it appears as though the girl were a commodity to be purchased from a shop. This portrays women as chattels, mere articles whose value are in monetary terms. This is dehumanizing and offends the right of such women to the dignity of the human person as guaranteed by **Section 34** of the 1999 Constitution (As amended).

Akin to the above is the practice of marriage by capture which is reported to have been practiced by the Tivs in Benue State and amongst the Beroms<sup>36</sup>, the Geomai, and Tarok of Plateau State.

### **Son Preference/Female infanticide**

Nigeria, like most African countries is a predominantly patriarchal country. The boy child is preferred to the girl child which has far reaching implications for the latter. The boy is sent to school while the girl is groomed only for the purpose of being married.<sup>37</sup> out at the earliest opportunity to the highest bidder. This preferential treatment manifests in different respects including parental care and the extent of investment in the child.<sup>38</sup> particularly where resources are very scarce. This leads to acute discrimination against the girl child and in extreme situations leads to selective abortion or female infanticide.<sup>39</sup>

In most societies, the family lineage is believed to be carried on by the male child. The preservation of the family name is guaranteed through sons. The usual practice is for the women to drop her parents name and adopt that of her husband. Where a woman gives birth to girls alone; the woman by traditional standards is regarded as "not woman enough" until she gives birth to a boy or the husband will be encouraged by his relatives to get another wife who can bear him a son. This results in a situation where such woman goes through intense psychological and emotional torture. They forget the fact that it is only the man that determines the sex of the child, because he has both the x and y chromosomes, while the woman has only xx.

This practice is wide spread in Nigeria as it is practiced not in the South alone (particularly the Igbo's) but equally in the North. For the purpose of inheritance, the female child is in most cases not considered fit to inherit. Islamic law particularly lays down procedures for inheritance and preference is given to boys hence in a polygamous family, there is a race to have as many boys as possible by each wife. This is because what a female would inherit as a daughter and a wife is not at par with that due to the male counterpart.

It is interesting to note that the preference of the male child has taken a new dimension as in the course of this research, it is reported that a woman known as "*Madam 1000*" was arrested on 12/05/13 in Imo State for kidnapping girls who are then raped by men in order to give birth to babies to sell to interested persons. Though an egregious 'crime, the notion of the preference of the male child reflected in the "price" of the said babies.<sup>40</sup> The male child is sold for N800, 000: while the female child goes for N350, 000 - 400,000.<sup>41</sup>

**Levirate marriage (wife inheritance)**

Levirate marriage or wife inheritance is a practice whereby the widow is remarried by a sibling of the deceased in order to maintain the paternity of the widow's children.<sup>42</sup> This is degrading as it occurs in some cases that a young relative of the deceased who probably was trained by the couple will assume the role of husband to a woman who trained him.

This practice flows from the notion that women are chattels and the properties of their husbands and are as such capable of being inherited. Levirate been reported to be practiced by the communities in the Southern part of Plateau State particularly, the Geomai, Youm and Tarok people of Shendam, Langtang North, Langtang South and Mikang LGAs of Plateau State. The practice in Tiv Land is worthy of note and the following captures it aptly:

"Wives are the personal property of a man while he is alive and the members of the village have not the right of promiscuous intercourse with one another's wives. Here again however, there is a certain amount of common ownership for when a senior grows old he often allows his son access to his wives ... when a guest arrives at a village, he is often lent one of the wives of the senior, the widow and their families are inherited by the next senior male in the direct line".<sup>43</sup>

It would be safe to conclude by noting that wife inheritance, as opposed to lending is most common although the influence of religion, education, the age of the children and the widow have all reduced the level of adherence to this practice. However, that this practice is inhuman and degrading and offends the right to dignity of the human person guaranteed in the 1999 Constitution (As amended) cannot be overstated.

**Witchcraft/Ritual Killings**

Witch hunting based on superstition and belief in evil spirits have been known in most societies worldwide for centuries, and women and children branded as witches are subjugated to torture to elicit a confession of false death which in most cases IS the end result.<sup>44</sup> In most communities where these suspicions are rife, such as Delta, Akwa-Ibom, Nassarawa, Kogi etc, women, or in most cases elderly women of lower social status have been branded as witches and fall victims of violence leading to their killing by irate mobs.<sup>45</sup>

These accusations have been leveled against the weak and defenseless, those who are poor and can hardly survive. Experience always shows that these accusations are false because those witches are accused of causing illnesses which medical evidence dictates a causative factor diametrically opposed to the views of these mobs. The excerpt below is apt in this regard:

"Her mother was in, dying slowly over a year. The mother ascribed her illness to the witches enlisted by her daughter in-law, because the doctor's treatment was doing no good and because a healer or medium she consulted said "someone who comes to your house and sits

Near you may have harmed you". This confirmed her suspicion; that a neighbor who came regularly to watch their television set was a witch. Finally she was taken to Vellore in South India where the doctors found that she had cancer, not the TB for which her doctor had been treating her, but it' was too late"<sup>46</sup>

Ritual killings also occur in different communities. It is in this light that Albinos have become endangered species as they are killed because of the belief that they could be a source of wealth if certain rituals are performed. Many cases have been reported with one as recent as 3<sup>rd</sup> May, 2013, in Ogun State where an albino woman was killed for ritual purposes.<sup>47</sup>

### **Violence against women/wife beating**

It is instructive to state here that violence against women is given a pride of place in some customs and religions in Nigeria. For instance, beating of wives as a means of correction is widespread and common.<sup>48</sup> It is rather unfortunate that the Penal Code applicable to the Northern States of Nigeria contains a provision that promotes violence against women. **Section 55(1) of the Penal Code** states, inter alia, that it is not an offence for a man to chastise his wife for the purpose of correcting her.<sup>49</sup> It is right to submit, that this provision of the Penal Code is obsolete, inconsistent with the constitution and, above all, does not accord with the realities of the times.

### **Customary right of inheritance of woman and ownership of property:**

Some customs do not allow women to own property and/or inherit. These customs are prevalent in the Eastern states of Nigeria. An example of a custom that prevents women from inheriting or becoming property owners are the Nnewi "oli-ekpe" custom in Onitsha, Abia State.<sup>50</sup> In these customs, women are to themselves looked upon as "properties" to be inherited hence not capable of inheriting or owning property. In some cultures a woman can only own property through a male relative or her husband.

Several of these customs came up for interpretation in the courts of law in Nigeria. In *Mojekwu V. Iwekchukwu*.<sup>51</sup> The Supreme Court overruled the decision of the Court of Appeal, which had earlier held that the Nnewi custom which discriminates against women is repugnant to natural justice, equality and good conscience.<sup>52</sup> The Supreme Court's position is that the Court of Appeal's holding was rather too general and would mean proscription of all customs which fail to recognize a role for women.

### **Women in purdah**

The practice of purdah, or seclusion in the household and exclusion from public places, is said to be a religious tradition from puberty in Muslim families and a cultural practice in some Hindu villages after marriage. The basis of purdah is the belief that the vulnerability of women to "strange" men can jeopardize men's honor so that women must be

Subordinated to this and confined to the house, thereby restricting their right to spatial mobility.<sup>53</sup> Purdah is not practiced generally in poor families, in which women engage in livelihoods for family survival. It is practiced in affluent homes and considered a status to which the upwardly mobile aspire. Dress codes for Muslim women are often linked to the idea of seclusion of women. Muslim women particularly in Northern Nigeria are allegorically said to dress like masquerades.

## **Cultural vices affecting the rights of the child**

### **Killing of twins**

In some customs, when twins are given birth to, they are regarded as "evil children" and thrown away. These customs are predominant in the Southern part of the country. Some cultures in the North also practice the killing of twins. With the coming of Christianity, some of these customs are fading away, as some people have embraced Christianity which preaches against killing of another.<sup>54</sup> However, it was recently reported by Channels Television that people of a particular community known as Baskoma in the FCT in Abuja killed twin children.<sup>55</sup>

The practice is inconsistent with the realities of the 21<sup>st</sup> Century in which people exist.

### **Child Witchcraft**

As discussed earlier in paragraph 2.7 however by way of recap, this refers to the accusation leveled against children that they are witches or are engaged in witchcraft, as indicated above, these accusations are leveled against the children of the poor, the weak and defenseless. Many cases have been reported of children who are tortured in order to elicit a

Confession from them and in worst case scenarios, they lose their lives. Where then are the rights of the child to life, to personal safety and security and dignity of the human person?

### **Almajiri/Child Labour**

In the North, particularly the Muslim North, children are given birth to and sent out at very tender ages to go and fend for themselves on the belief the Allah will take care of and provide for them. These kids roam about the streets with no food to eat nor proper shelter of their heads. They are exposed to a lot of dangers in the society and remain out of school. The irony of this is that, it is the children of the poor and uneducated that are exposed to these dangers. This is a gross violation of the right of the child and the effort of the government at building schools for Almajiri and nomadic children is commendable.

### **Street Begging**

In the past and even till date, it is a common sight on our streets to find children begging. This is part of the fallout of the Almajiri practice. However it is not just children who beg but adults who use children as their guides instead of them going to school. This practice is equally highly prevalent in all the states of the Northern Nigeria, including the FCT ABUJA although the scourge of begging is not limited to the North.

### **Child Trafficking**

Trafficking in persons, particularly children, is one of the practices which affect the right of the child. Young girls have been taken across the shores of this country to be engaged in prostitution. Due to poverty, it has become customary in parts of the country, particularly Edo State to engage in sending girls to Italy to work as commercial sex workers for the uplift of their financial status.<sup>56</sup> The practice of "child fosterage", sending children to live with extended family or friends to be educated, trained or to work, is a culturally accepted practice in West Africa and is done to foster extended family solidarity and to further the educational and vocational training of the child. Difficult financial situations within the family often are



the basis for the placement. This "strategic fostering out of children" is said to be a stronger causal factor in child trafficking than poverty. The majority of trafficked children come from polygamous, large and poorly educated families where the children have limited (if any) opportunities for training and education. Children are often withdrawn from school and forced to help support the family. Parents, who may not even be able to feed their children, are 'often willing to "give" them to traffickers who promise to provide the child with a job, an education or training.<sup>57</sup>

## RECOMMENDATION/CONCLUSION

1. Government should use some of its agencies, such as the National Human Rights Commission, Legal Aid Council, etc to go to some of the communities who are still living in darkness to enlighten them on the need to grant equal rights to women and children.
2. **Section 55 (1) of the Penal Code** which promotes the chastising of women should be expunged or abstracted, as it does not accord with the reality of our contemporary world.
3. We must change our attitude as Nigerians. The provision of the Constitution with regard to equal rights of all citizens should be followed to the latter.
4. Similarly, National and International Instruments such as the Child Right Act, Convention for the Elimination of All Forms of Discrimination against Women and others, dealing with women and the child which Nigeria has ratified and domesticated should be given a pride of place in this country. More should be done in practical terms to ensure the enforcement of those rights in the Constitution.
5. The Federal and State Governments should ensure that both child and women witchcraft accusations and resultant abuses are criminalized under national and state legislations and full effect should be given thereto. The agents of coercion of the State should be better empowered to ensure the enforcement of human right guarantees and prosecution of violators.
6. There is need for proper regulation of all religious institutions and the Nollywood film industry.
  - i. The activities of religions institutions should be effectively regulated to foreclose all forms stigmatization and abuse of children women as helpless members of the society.
  - ii. Nollywood movies which promote the belief in witchcraft should be regulated. The Nigerian film and video censors Board must be aware that films both reflect and influence culture and bring to the fore the protection of the right of the child and women.
- 7 Victims of these obnoxious uncivilized, in human and degrading treatments could be rehabilitated by government, civil society and non-governmental organization.

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