

## **CULTURAL RE-ENGINEERING: THE WAY OUT OF HUMAN RIGHTS SUBVERSION IN SUB SAHARAN AFRICA, NIGERIA A CASE STUDY.**

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**ABSTRACT:** *The importance of culture need not be over emphasized in the life of a community, as it is a sign of their identity. Cultural practices reflect the fundamental values of the community which are geared towards protecting members of the community. These practices are good where they fulfil these functions. But sometimes traditional cultural practices are harmful, with negative consequences, violating human rights. This work asserts that cultural belief is one of the major reasons why human rights are violated. The world is not stagnant, but continues to evolve. With new discoveries and philosophies, world's systems change and the world adjusts to the demands of the changing times. Cultures and traditions are no exceptions. Cultural rites are human rights, insofar as they relate to and affect human beings. The aim of this work is to identify some of these harmful traditional cultural practices that violate human rights and suggest ways in which they can be re-engineered to bring cultural practices in consonance with the human rights system, within the traditional setting.*

**KEYWORDS:** Re-Engineering, Culture, Human Rights, Sub Saharan Africa

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### **INTRODUCTION**

Culture is one of the prime sources of identity and a great deal of self-definition and expression, therefore fundamental values, traditions and cultures which are familiar to a common set of people, give a secure sense of one's identity.<sup>1</sup> Cultural identities are driven by behaviour which is susceptible to changes where there are better alternatives, therefore where cultures interact and intermix, changes occur. This new climate of change brings about some challenges to existing cultural practices which have some negative consequences on the human rights of the people which the universal human rights system seeks to protect. Some of the human rights are right to life, freedom from discrimination, right to healthy living and freedom from torture.

Traditional cultural practices and human rights stem from morality, having their roots in natural law, but their point of divergence is the manner of interpretation and application of these moral codes to different societies and the different ways in which they can be beneficial to them and for their well-being.

There is no doubt that traditional cultural practices predate modern human rights system, and they have kept communities knitted together for a long time, providing order, peace, discipline and security. To this extent, these cultural practices are positive and contribute to nation

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<sup>1</sup> Diana Ayton-Shenker, *The Challenge of Human Rights and Cultural Diversity*(United Nations Department of Public Information (DPI/1627/HR – March 1995 available at <http://www.un.org.rights/dpi1627e.htm> accessed 8th November 2014.

building, therefore they should be preserved. On the flip side, those traditional cultural practices having negative consequences on the people in terms of health and violating their rights, especially the rights of the vulnerable group of women and children, are termed harmful and barbaric.

This work examines some of the harmful traditional cultural practices in Nigeria and suggests ways in which they can be re-engineered in order to bring them in line with modern human rights, thereby putting an end to the subversion of human rights in contemporary times.

## CULTURAL RIGHTS ARE HUMAN RIGHTS

### Definition, Meaning and Function of Culture

Culture, according to Edward Taylor, is that complex whole which includes knowledge, beliefs, arts, morals, law, custom and other capabilities acquired by man as a member of the society.<sup>2</sup> Culture consists of the society, civilisation, philosophy and the entire way of life of the people in that community, including their religion and behaviour.<sup>3</sup> In summary, it is the totality of the fundamental ways of doing things which are common to a people.

Culture has been described above to include custom and law, therefore it will not be out of place to give a little definition of these concepts.

According to Black's Law Dictionary, custom is defined 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.'*

In *Eshugbayi Eleko v. The Officer Administering the Government of Nigeria*,<sup>4</sup> customary law was referred to as *'unwritten customs and traditions, which have been accepted as obligatory by members of a community.'* Also, Hon. Justice A.G. Karibi-Whyte, J.S.C., defined 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.*

Sometimes human nature is used synonymously with culture, but this is not correct because human nature is distinct from culture and using them synonymously will be misleading. Human nature simply refers to the natural function performed by the human body, for example, breathing, sleeping, and passing out of human waste from the body.

Culture on the other hand is synonymous with behaviour,<sup>5</sup> and human behaviour is capable of change, as opposed to human nature. According to the observation by Osborne C.J. in *Lewis V. Bankole*,<sup>6</sup>

<sup>2</sup> Duke A. Onyeabochukwu, 'Cultural Practices and Health: The Nigerian Experience' available at <http://www.medikkajournal.com> accessed 19 December, 2014.

<sup>3</sup> Akinyemi Adeseye, 'Change in Nigeria: Religion, Tribalism and Archaic Cultural Practices' available at <http://www.elombah.com> accessed 18 December, 2014.

<sup>4</sup> (1928) NILR 19 Customary Law.

<sup>5</sup> Akinyemi Adeseye, see note 3 above.

<sup>6</sup> (1908) 1 Nigerian Law Report 81, p. 100.

*‘one of the most striking features of West African native custom is its flexibility, as it appears to have been always subject to motives of expediency, and shows unquestionable adaptability to altered circumstances without entirely losing its character...’.*

The function of culture is to promote cultural diversity and integrity. It also makes a society distinct from others and preserves some traditions which are very dear to the society and handed down from one generation to the next as a sign of their identity to be preserved at all times. Culture therefore represents and reflects the beliefs of that particular society, and a sign of their identity at that particular time.

There are specific *cultural practices* which are peculiar to a community. These traditional cultural practices are reflections of those beliefs and values held by members of a community for periods often spanning over many generations,<sup>7</sup> which members of the community have come to accept as rules that are right for them, regardless of their status. Every social grouping in the world has specific traditional cultural practices, some of which are beneficial to all; some are beneficial to certain groups only while some are harmful to some groups, especially women and children.<sup>8</sup>

### **The Human Rights in Culture**

Proponents of cultural relativism assert that traditional culture is sufficient to protect human rights consisting of human dignity, human life, liberty and security,<sup>9</sup> since it is based on moral rules. This is however debatable in view of the nature of cultural practices. What is beyond argument is that customary international law protects some specific human rights. These rights are: right to life, freedom from slavery, from torture, from genocide, from discrimination, and from which there is no derogation. Violation of these rights amounts to violation of universal human rights and international law, even where the violation stems from traditional cultural practices, as there is no justification for their violation. Where traditional practices violate these rights of *peremptory norm or jus cogens*, the cultural practices have to be re-engineered to bring them into conformity with these universal human rights.

It must be stated here categorically that freedom from discrimination is one of the cultural rights preserved in international human rights instruments. As in all other human rights system, cultural rights are enjoyed only to the extent that it does not deprive another person of his own right. Therefore cultural rights are not limitless.

### **Cultural Rights in Human Rights Instruments**

Universal human rights has respect for and facilitates the protection of cultural diversity and integrity as evidenced through the preservation of cultural rights as embodied in human rights instruments. These rights include the right to cultural participation, the right to conservation, development and diffusion of culture, the right to protection of cultural heritage, protection of

<sup>7</sup>United Nations Fact Sheet No. 23: *Harmful Traditional Practices Affecting the Health of Women and Children*, available at <http://www.ohchr.org> accessed 18 December 2014.

<sup>8</sup> Ibid.

<sup>9</sup>Jack Donnelly, ‘Cultural Relativism and Human Rights’ *Human Rights Quarterly* 1984, p. 400 available at <http://www.jstor.org/discover/10.2307/762182?uid=2129&uid> accessed 8 November 2014.

persons belonging to ethnic, religious or linguistic minorities, and freedom from discrimination.

The Vienna Declaration provides explicit consideration for culture in human rights promotion and protection, stating that "the significance of national and regional particularities and various historical, cultural and religious backgrounds must be borne in mind".<sup>10</sup>

Some of these international instruments protecting cultural rights are given below:

- The Universal Declaration of Human Rights<sup>11</sup>
- The International Covenant for Economic, Social and Cultural Rights<sup>12</sup>
- The Convention on the Rights of the Child<sup>13</sup>
- The International Convention on the Elimination of All Forms of Racial Discrimination<sup>14</sup>
- The Declaration on Race and Racial Prejudice<sup>15</sup>
- The Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief<sup>16</sup>
- The Declaration on the Principles of International Cultural Cooperation<sup>17</sup>

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<sup>10</sup> Diana Ayton Shenker, see note 1 above.

<sup>11</sup> A number of the rights provided above are contained in the UDHR. For example freedom of opinion and expression are provided for in Articles 19; freedom of thought, conscience or religion in Article 18; economic, social and cultural rights in Article 22 of the UDHR.

<sup>12</sup> Adopted by UN General Assembly Resolution 2200A (XXI) of 16 December 1966, and entered into force on 3 January 1976. Article 1 provides that all peoples have the right to self-determination and freely pursue their economic, social and cultural development, while Article 3 guarantees enjoyment of cultural rights.

<sup>13</sup> Respect for his or her cultural identity as provided in Article 29 of the CRC. Adopted 20 November 1989 and entered into force 2 September 1990. See also Articles 13, 14 and 15 which provide for freedom of expression, thought, beliefs, religion and morals respectively.

<sup>14</sup> Economic, Social and Cultural rights and the right to equal participation in cultural activities provided for in Article 5(e) (vi) of the ICERD adopted on 21 December 1965 and entered into force in 4 January 1969.

Some of the other rights provided for include, right to form association, to express one's opinion, freedom of religion.

<sup>15</sup> Right to be different on the basis of culture and to respect cultural diversity provided for in Articles 1 and 5 of the Declaration on Race and Racial Prejudice adopted by the General Conference of the United Nations Educational, Scientific and Cultural Organisation at its 20<sup>th</sup> session on 27 November 1978.

<sup>16</sup> Freedom of thought, conscience and religion either individually or in community with others and reinforces the provisions of the freedoms guaranteed in the UDHR in Articles 1 and 8 respectively. This Declaration on Elimination of Discrimination based on Religion and Belief was proclaimed by the UN General Assembly Resolution 36/55 of 25 November 1981.

<sup>17</sup> Adopted on 4 November 1966 by the General Conference of the United Nations Economic Social and Cultural Organisation (UNESCO) at its 14<sup>th</sup> session held in Paris, with its Article 1 stating that "each culture

has a dignity and value which must be respected and preserved" and that "every people has the right and duty to develop its culture".

- The Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities<sup>18</sup>
- The Declaration on the Right to Development<sup>19</sup>
- The International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families<sup>20</sup>
- The International Labour Organisation (ILO) Convention No. 169 on the Rights of Indigenous and Tribal Peoples.<sup>21</sup>

## **HARMFUL TRADITIONAL CULTURAL PRACTICES AND THEIR CONSEQUENCES**

As stated earlier, some traditional cultural practices are good to the extent that they keep the society in check and fulfil their function as the watchdog of the society, preserving ancestral knowledge without negative consequences, nor constitute harm to the people. But there are some harmful traditional practices which discriminate against women and children and inflict injury to their persons and dignity, thereby violating the principle of non-discrimination and torture which customary international law protects. It is therefore suggested that these harmful practices should be abolished or fine-tuned to align with current values.

Catherine Ameh,<sup>22</sup> has identified traditional home education as the bane of harmful traditional practices because of the undesirable effect on the individual, family, and the nation at large.

It is called traditional home education because these teachings originate from the traditional practitioners who are custodians of old customs, mostly uneducated. They cling to the old ways of doing things and are not open to new ideas of handling their traditional cultural practices. What is surprising is that these traditional practices are targeted against women and the girls, and not the men and the male child.

These harmful practices vary from one community or ethnicity to the other. While they are most common in the rural areas, women and children everywhere are not spared as relatives, community members or religious leaders among others; oppress them under the guise of culture and religion. Widows in particular have been the worst victims, ranging from dis-inheritance

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<sup>18</sup> Protects the existence of cultural identities of minorities under Article 1 of the Declaration on Ethnic, Religious and Linguistic Minorities adopted by the UN General Assembly Resolution 47/155 of 18 December 1992.

<sup>19</sup> Guarantees the right to develop culturally and otherwise in Article 1 of the Declaration of Right to Development adopted by the UN General Assembly Resolution 41/128 of 4 December 1986

<sup>20</sup> Adopted by the UN General Assembly Resolution 45/158 of 18 December 1990, it provides in Articles 12 and 13 for the freedom of thought and opinion of migrant workers and their families, individually or in community with others.

<sup>21</sup> Article 2 of the ILO Convention No. 69 adopted on 27 June 1989 by the general Conference of the ILO at its 76<sup>th</sup> session, and which entered into force on 5 September 1991, provides for the promotion of social, economic and cultural rights of these peoples and calls for respect of their social and cultural identities.

<sup>22</sup> "Harmful Traditional Practices in Nigeria and Measures for Eradication: An Educology of Home Education", *International Journal of Educology*, 2002, Vol 16, No 1. See also <http://www.era-usa.net>

to rites that violate their human rights and negatively affect their health and wellbeing, along with that of their children.

Some of these harmful traditional cultural practices are examined below.

### **Widowhood Practices**

Once they become widows, Nigerian women in most communities face particular problems and injustices. Widows are usually subjected to terrible cultural rites which violate their human rights. In the widowhood practice of the Calabar people, culture demands that when a man of significance within the community dies, his widow must act in a certain way.<sup>23</sup> First of all, the woman must go into seclusion. She is also forced to neglect her body: not allowed to shave or take her bath, or change her clothing. She has to rub cow dung and palm oil on her body and must also sleep on the floor. Widows are also expected to wear black, the color of mourning, for two years to properly show their loss and respect for their late husbands.<sup>24</sup>

In almost all village communities, whenever a man dies his wife is usually suspected and often accused of knowledge of and/or complicity in his death, therefore she would practically go through “hell” to prove her innocence,<sup>25</sup> and sometimes be made to drink the water used in washing the corpse of her deceased husband in an attempt to prove her innocence. A refusal to drink the water would be complete proof of her guilt, thus many accused women go through the ordeal which may in the end affect their health.

In some other cultures, when a man dies, the surviving wife or wives are subjected to dehumanizing funeral rites. Every hair on her body is clearly shaven, unfortunately by co-women, and forbidden to see the light of day for some period prescribed by custom.<sup>26</sup> As traumatizing as these practices are, some women will themselves demand that the rites be performed on them for fear of being haunted by their deceased husband’s ghosts. This is as a result of a myth that has been woven into their cultural consciousness. In the face of this kind of strong belief and faith, the legal frame work seeking to protect them from these harmful and dehumanizing practices, become toothless bulldogs. They will become complicit in the violation of their own human rights as a result of cultural predilection. Hence, the call for cultural re-engineering.

### **Female Genital Mutilation**

Female Genital Mutilation (FGM) varies, but generally this is the act of removing the labia, clitoris or both surgically. The age at which FGM is performed also varies. In some cultures, it is performed on infants as young as a few days old or children from 7 to 10 years, adolescents and even women at the time of marriage.<sup>27</sup> The reason for this practice is not certain. Although it has been suggested that it is a rite to mark entry into adulthood, this is not convincing since FGM is carried out on infants as well. The view held that it is to control sexuality and ensure

<sup>23</sup>Ronke Ako-Nai. ‘Gender and Power Relations in Nigeria’ Lexington Books 2012 available at <http://www.humann-rights-in-nigeria.com> accessed 20 December, 2014.

<sup>24</sup> Ibid.

<sup>25</sup> Such suspicion or accusation is never made when a wife dies.

<sup>26</sup>LanreAdedeji, ‘Cultural Practices Affecting the Human Rights of Women in Nigeria’ available at <http://www.thelawyerschronicle.com> accessed 20 December, 2014.

<sup>27</sup>United Nations Fact Sheet No. 23, see note 7 above.



virginity before marriage and chastity thereafter may be more tenable, though one fails to see how this can be achieved.

In some other cultures, when the girls approach puberty, they are traditionally circumcised as a mark of their maturity or traditional identity as mature women. Sometimes the children are taught that it is the proper thing to do, and in that case, some dread it while some anticipate it with pride. The surgery is done without anaesthetics, nor antiseptics nor antibiotics, using unspecialized instrument. The girls are held down while the old women, who perform or carry out the 'operation', cut away in the crudest form. The result can be debilitating – fatal loss of blood, fatal infections, extensive scarring and sometimes death could result from shock. FGM in some cases can lead to complication in child birth and extreme pain during sexual intercourse.<sup>28</sup>

FGM violates the right of the child to enjoy highest attainable standard of health guaranteed in Article 24 of the Convention on the Right of the Child and the right to human dignity of the woman.<sup>29</sup> As terrible as this practice is, cultural myth still push victims to demand for it on their own volition. They, in fact, celebrate the occasion of circumcision. In this light, it is the law that calls it mutilation, they call it prosperity. The enormous structural and legal framework of any society is not strong enough to stop this practice in as much as the culture perceives and introduces it in the positive light. It will take a holistic action which will seek re engineer the society to stop the violation of the rights of victims of FGM, especially the willing victims.

### **Abuse of Children**

Children are taught that they have an obligation to their parents to generate income for their family, therefore these parents send them out as agricultural labour hands. They work for extended hours, are exploited, underfed, malnourished and overburdened.

Another related abuse is that of using children for begging. This is becoming a common sight on our roads these days. At traffic lights points, these young children come and pretend to clean your car with very dirty handkerchief and at the same time begging for money. Some also come begging directly, and in all these, their parents are hibernating close by, waiting for them to make returns of the moneys they have been able to collect.

Children are also used for street trading, in addition to being agricultural labour and begging assistants. They are exposed in this process to hazards, sexual assault, rape and physical abuse, while deprived of the opportunity to go to school.<sup>30</sup>

### **Wife Inheritance**

Women are culturally viewed as property and can be inherited like the rest of a husband's estate. When the husband dies, she is made to marry either the late husband's brother or anyone from the late husband's family. Sometimes she is forced to make a choice to marry her son, in which case she may be allowed to remain in the family of the late husband, with little to her

<sup>28</sup> Catherine O. Ameh, 'Harmful Traditional Practices in Nigeria and Measures for Eradication: An Educology of

Home Education' (2002) *International Journal of Educology*, Vol 18 No. 1 available at <http://www.era-usa.net> accessed 17 December 2014.

<sup>29</sup>United Nations Fact Sheet No. 23. See note 7 above.

<sup>30</sup> Catherine Ameh, see note 25.

name. Where she refuses all of the above, she is sent away to her parent's house and of course she loses everything she once owned with the husband.

### **Women Dis-inheritance**

When wives are widowed, they are stripped by the late husband's family of all the assets she owned or shared with the late husband. The late husband's family, precisely the eldest relative of the husband, inherits all the property if she does not have a son, and sometimes she is made to return the bride price and sent away.<sup>31</sup> She will be denied of any claims to inheritance from her husband's estate. Where she has a son, in most cases, the eldest son and not the widow, inherits the entire property,<sup>32</sup> and her continuous stay on the property depends on her relationship with her son.

But in the event that she had an estate of her own before marriage, and she dies before the husband, the husband will inherit the property. Under traditional cultural practices, women do not have property right and as a result they depend on men when they are single, married or widowed as well.

In 2007 in *Nnanyelugo v. Nnanyelugo*, when two brothers attempted to get the land of their deceased brother on the basis that a widow has no business with the property, the Nigerian Supreme Court had ruled that it will no longer allow males take advantage of the vulnerable position of the widow and her young children.<sup>33</sup> However, the court is yet to formally deal with the issue.

### **Discrimination against the Girl Child or Male Child Preference**

Indisputably, Nigeria is a male dominated society where husbands prefer to have sons rather than daughters.<sup>34</sup> Preference is given to educating the male child rather than the female child. Sometimes parents give out their daughters early in marriage so that they could use the bride price to send the male child to school. While waiting to be married off, the daughter in the interim will be made to assist her mother in selling some commodities while the son goes to school.

### **Early and Forced Marriage**

Again through home education, young girls are taught that marriage is desirable and it is a good thing to be achieved as early as possible. This provides the necessary foundation for early marriage, probably at the age of 13 or 14 when these girls are yet to be fully matured physically or emotionally. They embrace this teaching and as young wives, they give birth when they are far from physical maturity to go through the trauma of child birth especially as their pelvic is not fully developed to accommodate this function. They may end up having prolonged and difficult labour and may die in the process of childbirth, or have a ruptured bladder and end up with Vesico Vagina Festula (VVF). This is a very humiliating condition which makes them leak and smell urine, always going about with urine bags attached under them. Their husbands will marry another wife, their parents will reject them and they become outcasts.<sup>35</sup>

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<sup>31</sup>RonkeAkoNai, see note 22 above.

<sup>32</sup>Ibid.

<sup>33</sup> Ibid.

<sup>34</sup> In India, infanticide on female births is prevalent.

<sup>35</sup>Catherine Ameh, see note 25.



Sometimes too, poverty stricken parents encourage their young girls go into child prostitution to make money for the family upkeep. This destroys the lives of the children, exposes them to sexually transmitted diseases or the dreaded HIV/AIDS.

There is no doubt that the traditional cultural practices discussed above violate the right to health, dignity of the person, right to education, personal liberty and the principle of non-discrimination.

## RE-ENGINEERING TRADITIONAL CULTURAL PRACTICES

The traditional cultural practices discussed above have come under scrutiny because of the implications they have on the health of women and also on their rights as human beings. They fall below the minimum standard the ordinary person should be subjected to, or as expected by the international community.

## THE NEED FOR CULTURAL RE-ENGINEERING

Despite their harmful nature and the violation of human rights, traditional cultural practices still persist because they are not questioned; therefore they assume an aura of morality in the eyes of those practicing them. Unfortunately also, neither the government nor the international community challenged the dangerous implications of these practices on the right to health, life, human dignity and personal integrity of the victim. The international community and the government also showed no sympathy on the sufferings of these victims who were ignorant of their rights and had to unnecessarily bear the pains. Again, government and the international community were reluctant to dabble into these issues and treat them as matters of international or national action.<sup>36</sup>

However, changes occur, events evolve and the world has to adjust to these changes. As circumstances change, so do attitudes or behaviour. For example, in Igbo land where the *Osu* system<sup>37</sup> was once rife, today the class distinction is gradually becoming less practiced, if not totally obsolete. Also in South Africa, apartheid was once the order of the day, but today such practice of discrimination has been abolished, therefore both blacks and the whites co-exist peacefully. In the same vein, cultures that seemed right some years ago may not seem right today in the present scale of things.

Despite the life-threatening nature of these traditional practices and the violation of their rights, it is surprising to see some highly educated persons subject themselves to them, not because it is the right thing to do, but more because of the fear of repercussion should they fail to undergo these cultural practices. The remedy lies in demystifying these practices to enable people become free from fear of the unknown, which is the driving force for their observance.

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<sup>36</sup> UN Fact Sheets no. 7 above.

<sup>37</sup> A caste system where the people concerned were regarded as outcasts as they were considered to be descendants of slaves, as opposed to freeborn, and therefore are not permitted to mix freely with the other people of the community, nor allowed to marry from the freeborn.

The action to be taken depends on the consequences of the cultural practices. It could be individual, if it relates to personal health, values, attitudes, economic opportunities, or if it relates to a group, then the attention should be towards general fairness, stability and justice.

It is important to note that changes to traditional cultural practices do not come overnight. Firstly, these are entrenched practices over a long period which have become intrinsic in the people, therefore initial resistance to any change is natural. Secondly, the people should be taught over a period of time to enable them understand and appreciate the need for a change in the traditional practices. Thirdly, they should be given sufficient time to implement the changes that are envisaged, as cultural practices normally do not admit alien legal norms. Fourthly, the evolution should be internally driven, in that way; compliance will be easy, rather than effecting change through imported body of external laws.

Some of the factors suggested that will enhance cultural re-engineering are discussed below.

## **FACTORS FOR CULTURAL RE-ENGINEERING**

### **Traditional Institutions**

Traditional institutions are the first to be targeted since they are the custodians of culture. They should be patiently educated on the consequences of harmful traditional practices and the dangers they pose to the health of their subjects, while appreciating those aspects of cultural practices that promote unity and progress in the society.

Education at community level, especially women since everything starts and ends with them, is very important. In this way, traditional rulers and their wives will find it easy to assimilate the need for changes and indeed teach these to their subjects. The best approach however is not to discard all aspects of culture, but re-engineer those aspects that are harmful and violate human rights.

### **Education**

Formal and informal education is a very important tool towards instilling some changes in a society. The harmful nature of these cultural practices and their consequences should be fully taught in primary schools and form part of the curricula in schools. This way, the older generation will also start being challenged and could imbibe good cultural practices. There is no guarantee that education will immediately put an end to these practices, but the awareness will gradually enable these women know their rights and make informed choices about their future. Not only will an educated woman refuse to be a victim of a harmful practice that does not promote health, but also she will keep her home and propagate same to her generations.

### **Religion and Church Teaching**

Religion is a dominant factor which can be used positively. Taking a closer look at Nigeria today, no doubt it is one of the most religious countries in the world.<sup>38</sup> In almost every street, there are churches and more keep popping up every day. Since religion is a huge part of our society, Church Pastors can be used to propagate the harmful nature of some traditional practices and their consequences on health and human rights. Nigerians are not only good

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<sup>38</sup>AkinyemiAdeseye, see note 3.

listeners to their Pastors, they are more amenable to carry out the instructions they receive from them as well. Therefore churches can be used as avenues to re-engineer those cultural practices that have negative consequences to our health and are also obnoxious to the society.

### **Training the Trainers**

In many parts of the country, people embark on certain practices because either they are ignorant of the basic information about better ways of doing things, or their effects. Those who may also have little knowledge about something may be so conservative and resist change because they are born into it and cannot leave it. This situation is not beyond remedy. What it takes is some patience and persistence to constantly teach those who have a great influence on the society, from which others can learn better alternatives to their age-long and archaic practices which inflict injury to the people in the name of culture. With time, these new approaches will be assimilated and the standard in the community will be improved. Steps should also be taken to encourage the propagation of the cultural practices that promote health and then discourage those that affect health negatively.

Advocacy groups and public campaign, electronic media like radio, television and regular jingles are all effective ways of educating the public on some cultural practices that have negative consequences on the health of women and children. When these are constant, then behaviours are bound to change positively to enhance national development.

### **Non-Governmental Organizations**

These are the watchdogs of the society. They are very vibrant and effective in bringing about changes in society. They are important partners in nation building and national development. There are a variety of them formed for specific purposes therefore those for creating awareness, monitoring abuses and raising concerns on human rights violation and the harmful effect of traditional cultural practices, will do a good job of drawing attention to those areas of cultures that need re-engineering.

### **Government and Parastatals**

Agencies like social welfare, culture, and youth services should be created to implement reforms. Seminars and workshops should also be introduced for the purpose of educating the communities and bringing them up to date with new developments affecting cultural practices.

### **Government involvement and Criminalizing Obnoxious Cultural Practice**

Since the law has a role of modulating the society, the law can be used as a weapon of cultural change. However, the result will be gradual. According to Daily Trust,<sup>39</sup> it is necessary for laws to be enacted to ban these practices; therefore all hands should be on deck. Government should step up its actions and should be more involved in community developments, especially the local government which is closest to the grass roots. Laws should be put in place to checkmate those negative cultural practices that inhibit the development of women and criminalizing practices that breach these laws. Women constitute a large part of the society. They should be protected so that they can contribute meaningfully to national development of which they are part, with proper and adequate recognition and protection.

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<sup>39</sup> Daily Trust dated Thursday 18 December 2014, 'The need for a law against harmful traditional practices' available at <http://www.dailytrust.com.ng> accessed 18 December, 2014.

### **Laws to be passed in the various States**

Apart from tackling and banning harmful cultural traditional practices at the local government level, the State government should not be left out. Some states in the country have done well in promulgating laws banning all or some harmful traditional practices,<sup>40</sup> while some are yet to follow suit.

The erstwhile Minister of Women Affairs and Social Development, Hajiya Zainab Maina, during her visit to the States Houses of Assembly of Kaduna and Plateau, called on law makers at the federal and state levels to legislate against all oppressive and injurious widowhood practices and other harmful traditional practices that continue to place women at the lower rung of the social and economic ladder.

Speaking on that occasion, she said:

*“In Africa and indeed Nigeria, the subjection of girls and women to harmful traditional practices is legendary. These inhuman, discriminatory and sometimes dangerous practices span the female life cycle, from childhood through adolescence to marriage, matrimonial relationship, widowhood and old age.”*

She asserted that not only do these practices violate the rights of women and girls; they are abhorrent, unhealthy, dehumanizing and inimical to the wellbeing and development of women and girls.<sup>41</sup> She also observed that these practices translate to various aspects of discrimination against women in spite of the growing popularity of the legal principle that “women’s rights are human rights.”

### **Prize-awarding Incentives**

One of the ways to improve awareness of harmful traditional practices, it is suggested, is to create forum for competition between communities to test their knowledge and practice of new techniques to revolutionize their cultural practices with the aim of awarding community based prizes to winners. For example, some communal structures should be built as a way of developing the community. In this way, more communities will be encouraged to imbibe healthy traditional practices and improve on their human rights system.

### **Health Education and Re-orientation of the People**

Exposing and teaching the evil of the harmful practices of FGM and diseases like HIV/AIDS contraction as the consequences of using unsterilized instrument is very important. More research should be made on identifying those practices that promote health in our communities and encouraging them and then, through practical and acceptable method, discouraging those that are harmful to human existence. Also the looming danger of loss of life because of excessive bleeding and the negative effect of the whole procedure on the psyche of the woman

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<sup>40</sup> The National President of Soroptimist International, Soroptimist Funmilola Buraimoh-Ademuyewo, congratulated Governor Godswill Akpabio for passing a law abolishing harmful traditional practices against women. For example, it is now unlawful for widows in Akwalbom State to drink the bath water of their dead husbands, and to shave off the hairs from their heads as a sign of mourning their late husbands. Information available from Daily Trust Newspaper of 26 July 2013, captioned ‘The need for a law against harmful traditional practices’ available at <http://www.dailytrust.com.ng> accessed on 20 December, 2014.

<sup>41</sup> Ibid.

should be adequately taught especially as FGM does not guarantee cure for promiscuity as professed.

### **Inter marriage and Exposure**

Travelling outside the community, acquiring western education and civilization, and intermingling with others will bring about new ideas which could bring positive influence into the community. Also intermarriages will be an added advantage since cultures will naturally intermix, giving way to a shift in what may have been predominantly practiced, and trying out new concepts.

### **Culture Upgrade**

Upgrading to new cultures by relinquishing one that is repugnant to natural justice, equity and good conscience by imbibing current practices that promote human rights is a step in the right direction. This alternative must however come from within the people themselves by accepting the change, educating their people and enforcing them. That way, implementation becomes easy, and they can also impose sanctions where these rules are disobeyed.

## **CONCLUSION**

Discrimination and violence against women are some of the greatest injustices meted out to humanity by humanity. We are not bereft of laws in Nigeria to combat these practices. The Nigerian Constitution grants the right to non-discrimination<sup>42</sup> and dignity of the person.<sup>43</sup> The African Charter on Human and Peoples Rights of 1986, ratified and domesticated by Nigeria, and by extension its 2003 Protocol on the Rights of Women in Africa, which is a unique piece of legislation, both touch on women's rights to equality and freedom from discrimination and many other substantive rights. Re-engineering or re-branding traditional cultural rights can be based on the guaranteed constitutional rights and the African Charter which are not exogenous, but form part and parcel of the Nigerian law. On the other hand, it can be argued that the problem is not so much of legislation against these practices, but it is a problem of implementation. The Child Right Act is part of our laws, in favour of the female child. The Nigerian Constitution of 1999 is the *grundnorm* which guarantees equality and non-discrimination, capable of protecting women's rights as well. We also have the International Convention on the Elimination of all Forms of Discrimination against Women<sup>44</sup> ratified by Nigeria in December 1991. All these are capable of liberating women of the present abuses in which they find themselves.

As this work has shown, cultural discrimination against women merely on the ground of gender has constituted a grave impediment to women's rights. Women are not second class citizens, but through mental slavery, various institutions have created a single line of thought for majority of our population to follow, and anything outside that area of thought is never accepted.<sup>45</sup>

<sup>42</sup>Section 42 of 1999 Nigerian Constitution as amended.

<sup>43</sup>Section 34 of 1999 Nigerian Constitution as amended.

<sup>44</sup>CEDAW, 1979

<sup>45</sup>Akinyemi Adeseye, see note 3 above.

It is time for us to emancipate ourselves and start questioning and challenging these institutions that have enslaved us in various close-minded ideas, and stand up for our own true rights by willing and ready to fight for them. The tendency to resist change and continue to uphold unpopular but existing institutions for the sake of identity is completely unsustainable and will only produce destruction.<sup>46</sup>

Haile Selassie put it more succinctly when he said:

*"We must become something we have never been and for which our education and experience and environment have ill-prepared us. We must become bigger than we have been: more courageous, greater in spirit, larger in outlook. We must become members of a new race, overcoming petty prejudice, owing our ultimate allegiance not to nations but to our fellow men within the human community."*

Refusal to develop is also a violation of cultural rights itself. Therefore those cultural practices that do not augur well with the current happenings in the world, and do not conform with technological and developmental changes, is an infraction on the rights of the people.

Nothing is stagnant for ever, not even culture. Where we were twenty years ago is not the same as we are today. Changes do occur. Thought patterns do change peoples reactions do change. With constant education and public campaign, adverts and other similar jingles, the much desired change will be achieved. All it takes is for the hands of everyone to be on deck, with the active participation of every segment and institution that make up our society. Changes in culture will then emanate from within, and it is only change of this nature that will eventually be in tandem with the human rights, system, thereby preventing their subversion.

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<sup>46</sup> Ibid.