

**FROM CONCEPTION TO BIRTH THROUGH LIFE:
THE UNDERLYING CULTURE OF DEVALUATION
AND ABUSE OF WOMANHOOD IN
PATRIARCHAL NIGERIA**

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Abstract

Culture mirrors the beliefs, attitudes and norms of a people, and it is largely unwritten. Nigeria has about 250 ethnic groups, each with diverse cultures, some of which the value and abuse womanhood. Beliefs in patriarchal and primogeniture hold women inferior to men, and sons preferred to daughters. As such, female fetuses are sometimes aborted and infant girls are “trashed”. By the payment of bride price, a wife becomes the “property” of her husband, and must do all his biddings. It is inconsequential if he rapes her or beats her because, culturally, he is simply “recounting his money”. He can “donate” her to sleep with his important guest against her will, because he

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“owns” her. Women cannot drink palm wine in a sitting or standing position before men. They must stoop down low to drink. If they take yam from the barn, or eat chicken rump or gizzard, it is sacrilege. They cannot greet men by handshake. They must bend down to be patted on the back instead. A woman is despised and stigmatized if she is barren or bears no sons. Women and girls hardly inherit immovable property under customary law. Educating a girl is no priority because of the belief that training a girl is like “watering the flower in another man’s garden”. Instead, she can be forced into early marriage, or her virginity compromised in exchange for money to support the family or train her brothers who are the “heirs”. If her husband dies, she is compelled to drink the bath water of his corpse as an oath that she had no hand in his death. On the other hand, if she dies her husband is “encouraged” to remarry because it is infradig for a man to be seen “buying foodstuff” in the local market, or “cooking food” in the kitchen. This socio-legal desktop research explores these and like cultural practices which the value and abuse Nigerian women and girls, and make recommendations for their denouncement and abolition.

Keywords: *Culture, devaluation, abuse, women, patriarchy, Nigeria.*

Introduction

The culture of the communities which populate patriarchal Nigeria is reflected in certain archaic beliefs, rites and practices which derive mainly from religion and customary laws.² Thus, in

² In the case of *Khariie Zaidan v. Fatima Khalil Mohssen* (1973) 11 SC 1 at 21, Teslim Elias (CJN, as he then was) eloquently defined customary law as: “the system of law not being a law enacted by any competent legislature in

Aku v. Aneku,³ the court held that a custom or usage is the unrecorded tradition and history of the people which has “grown” with “growth” of the people to stability and eventually becomes an intrinsic part of their culture. Regrettably, most of these cultures derive mainly from beliefs in patriarchy and primogeniture, and they violate basic norms of human inclusion, dignity, equality and non-discrimination guaranteed in domestic, regional and international law.⁴

Section 34 (1) (a) of the Constitution of the Federal Republic of Nigeria, 1999⁵ (as amended) guarantee the right to human dignity

Nigeria, but which is enforceable and binding within Nigeria as between the parties subject to its sway”.

³ (1991) 8 NWLR (Pt 209) 280.

⁴ Note: *Patriarchy* is the invisible culture or mindset which perceive the world and virtually everything, from the point of view of natural/divine “inequality” of men and women, and “man” as the head and decision maker who must lead and be obeyed by women. Patriarchy creates an almost natural bias against women in virtually every sphere of human activity and promote the popular myth that women are inferior to men. *Primogeniture* is similar to patriarchy in consequence, except that primogeniture particularly emphasizes the invisible custom whereby women are considered “as properties of men rather than their equals”. See Staveren, I. V., & Ode bode, O. (2007). Gender norms as asymmetric institutions: A case study of Yoruba women in Nigeria. *Journal of Economic Issues*, 41(4), 903-925 at 909 (citing Sa’ad, Abdul-Mumin. “Traditional Institutions and the Violation of Women’s Human Rights in Africa: The Nigerian Case.” In *African Women and Children. Crisis and Response* edited by Apollo Rwomire. Westport: Praeger, 2001; Ojilere, A. (2017). Socio-Cultural Mythology on Women Dignity and the Rhetoric of Globalization of Human Rights in Nigeria. In Chapter 25 of U.S.F. Nnabue (Ed.), *Thematics on the Law of Development* (pp. 396-406); Ojilere, A. (2008). The Implication of Customary Law and Socio-religious Mythology on the Rights of Women in Nigeria. *Nigerian Journal of Public Law*, 1(1), 257-266.

⁵ 1999 Constitution of Federal Republic of Nigeria (As Amended)

and prohibit torture, inhuman or degrading treatment of persons.⁶ Section 42 (1)(a) thereof similarly guarantees equality before the law and also prohibit discrimination of persons on any of several grounds including sex, religious or political opinions.⁷ These provisions sync with relevant provisions of the United Nations Convention on the Elimination of all forms of Discrimination Against Women (CEDAW), which is the single most comprehensive international Document with specific global focus on the rights of women. This constitutional notion of equality cuts across major religions, hence, the contention that “Islam has never asserted that woman is inferior to man. It has only made the point that woman is differently constituted.”⁸

The Preamble to the International Covenant on Civil and Political Rights (ICCPR) equally recognize the inherent dignity, equal and inalienable rights of all members of the human family as the foundation of freedom, justice and peace worldwide and state, *inter alia*, that “these rights derive from the inherent dignity of

⁶ Similar to Article 5 of the African Charter on Human and Peoples Rights, 1981 (The African Charter on Human and Peoples’ Rights (Ratification and Enforcement) Act cap 10, Laws of the Federation of Nigeria, 1990), namely: “Every individual shall have the right to the respect of the dignity inherent in a human being and to the recognition of his legal status. All forms of exploitation and degradation of man particularly slavery, slave trade, torture, cruel, inhuman or degrading punishment and treatment shall be prohibited”.

⁷ Article 2 of the African Charter on Human and Peoples Rights, 1981 (The African Charter on Human and Peoples’ Rights (Ratification and Enforcement) Act cap 10, Laws of the Federation of Nigeria, 1990) also prohibits discrimination and provides that, “Every individual shall be entitled to the enjoyment of the rights and freedoms recognized and guaranteed in the present charter without distinction of any kind such as race, ethnic group, colour, sex.... or other status”.

⁸ Maulana Wahiduddin Khan: WOMEN IN ISLAMIC SHARIA (2000). The Islamic Centre, New Delhi, p. 11.

the human person.” Its Articles 2.1 guarantee equal protection of the law "without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status", while its Article 26 further “prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.”

The Declaration of the 1993 United Nations World Conference on Human Rights, Vienna, states that “*the human rights of women and of the girl-child are an inalienable, integral and indivisible part of human rights.*” Gender equality is also listed as No. 5 on the UN Sustainable Development Goals (SDGs).⁹

The foregoing statutory provisions, however, do not deny the philosophical origin of culture in Nigeria which is traceable to the primary view of the Historical school of jurisprudence, namely, that law must originate from and reflect the history and spirit (custom) of the people (*Volkgeist*), that is, an expression of the will of the people devoid of any legislation.¹⁰

This fact offers an insight on why Nigerian women and girls still suffer the burden of inferiority, indignity and abuse arising from

⁹ United Nations Development Programmes (UNDP) Sustainable Development Goals.

www.undp.org/content/dam/undp/library/corporate/.../SDGs_Booklet_Web_En.pdf (8/5/2017).

¹⁰ Ojilere, A. “The Situs of customary law in the Historical school of jurisprudence (The Imo State Customary Court System in Critical Perspective)’ in Chapter 10 of *The Political Economy of Administration of Justice in a Developing Society*, O. E. Nwebo, ed, (2004) SeGan Ventures, p. 231.

unfounded beliefs in certain obnoxious cultural practices which demean their overall persona, and treat them as “footnotes”¹¹ or profane creatures that deserve no respect.¹²

Some scholars argue that these cultural violations are a manifestation of social ignorance, poverty, as well as male domination and outright opposition to the emancipation of women.¹³ Others blame it on the age-long usage and acceptance of archaic cultures and practices which devalue women but ensures that men retain material, sexual and moral dominance over women.¹⁴ According to Hon. Justice Ojiako (former Chief Judge of Imo State):

“women all over the world and from time immemorial have been objects of discrimination by men and the laws men make” and that “this discrimination is inherent in the

¹¹ Ojilere, A. & Chukwumaeze, U. U. (2010). CEDAW and Gender-Based Discriminations against Women in Nigeria. *Nigerian Journal of Food, Drug and Health Law*, 3(1), 95-105.

¹² Osezua, O. C., & Agholor, H. N. (2019). *Patriarchy, cultural prejudices and spousal violence in the ancient city of Benin of southern Nigeria* (Doctoral dissertation, Journal of International Women's Studies). Available at:

<http://awdflibrary.org/bitstream/handle/123456789/960/Patriarchy%20Cultural%20Prejudices%20and%20Spousal%20Violence%20in%20the%20ancient%20city%20of%20Benin%20of%20southern%20%20Nigeria.pdf?sequence=1&isAllowed=y> (18/7/2020).

¹³ Hen, J. “Women in the Rural Economy: Past, Present and Future,” in African Women South of the Sahara, Hay and Schechter eds. (1984), London, p. 17.

¹⁴ Rhoda Howard, “Women’s Rights in English-speaking sub-Saharan Africa” in Human Rights and Development in Africa, Claude Welch ed. (1984), p. 60

myths and folklore, in the culture, in the tradition and in the way of life of many human communities.”¹⁵

This paper examines some of these abuses and violations as they occur in three critical circumstances of a woman’s life, namely: at conception before birth; after birth; and in widowhood. The paper is socio-legal and based on desktop research which seeks to reemphasize the need to step up global protection of women’s value especially in culture-dependent societies such as patriarchal Nigeria.

Devaluation of Women at Conception Before Birth

At conception, most Nigerian couples and families “wish” that the pregnant woman gives birth to a boy rather than a girl. And in cases of unwanted or teenage pregnancy, people are more likely to abort a female foetus than a male one. This is because of the sociocultural beliefs in patriarchy and primogeniture whereby the world is “seen” from the lens of the male who is considered the only source of family succession and continuity. At birth, the girl child is only hardly accepted as a “blessing” to the family, compared to a boy child.¹⁶ The girl child is usually likened to silver while the boy child is likened to gold, and the question is asked: “How many silver make one gold?”. These negative biases against the Nigerian female emphasize Afrocentric belief in

¹⁵ See Hon. Justice G.G.I. Ojiako (Rtd), Opening address presented at a seminar on Discriminatory Laws and Practices Against Women in Nigeria held in Owerri in 1995; (Lagos: Constitutional Rights Project, 1995) at p.43

¹⁶ Nwokocha, E. E. (2007). Male-child syndrome and the agony of motherhood among the Igbo of Nigeria. *International Journal of Sociology of the Family*, 219-234.

primogeniture which subordinate women to men.¹⁷ In some instances when couples are desperate to have male children, this may culminate in female foeticide or infanticide,¹⁸ two extreme maladies which are, however, not peculiar to Nigeria¹⁹ but for which India is notorious and highly criticized.²⁰ In Nigeria also, a girl child is more likely to be abandoned, killed, or constrained to live with a stigma and discrimination if she is born with a disability or other conditions such as albinism.²¹ At birth, the girl child also undergoes female genital mutilation/female genital cutting (FGM/FGC or circumcision), a harmful traditional practice which adherents believe, albeit without scientific proof, would ensure that a girl does not become promiscuous when she grows up.²² Yet for some, FGM/FGC is often deemed necessary

¹⁷ Ekweariri, D. (2020). The Passive Origin of the Institutionalization of Power Inequality in the Meaning/Experience of Womanhood in Igboland. *Frontiers in Sociology*, 5, 8.

¹⁸ Osakinle, E. O. The prevalence of harmful traditional practices on women and the girl child in South Western part of Nigeria: advocating for change. *Journal of Education and Applied Psychology*, 112; Attoh, F. (2017). Gender, Religion and Patriarchy: A Sociological Analysis of Catholicism and Pentecostalism in Nigeria. *Advances in Social Sciences Research Journal*, 4(14), 158-170.

¹⁹ Billet B.L. (2007) The Case of Female Infanticide. In: Cultural Relativism in the Face of the West. Palgrave Macmillan, New York. Available at: https://doi.org/10.1007/978-1-137-11913-1_3 (15/7/2020).

²⁰ Sarna, K. (2003). Female foeticide on the rise in India. *Nursing Journal of India*, 94(2), 29.

²¹ Ojilere, A. & Saleh, M. M. (2018). Violation of Dignity and Life: The Fate of Women with Albinism in African Mythology. *University of Ibadan Law Journal*, 7, 101-125; Ojilere, A. (2018). African Mythology in the Violation of Life and Dignity of Albino Minorities in Nigeria. *University of The Gambia Law Review*, 1(1), 235-247.

²² Ekpatt, A. O. (2020). Female Genital Mutilation and the Influence of Traditional Cultural Practices Against Women: Experience from Ibibio,

(again, without scientific proof) in order for a girl to be considered a complete woman, and as the doorway to adulthood, in cultures where it is practiced on older girls.²³

Public health experts and scientists have, however, found that apart from the insanitary and unhygienic methods used by traditional practitioners to carry out FGM/FGC which can even cause HIV infection, its other consequences include reproductive tract infections, pelvic inflammatory disease, infertility and the inability to consummate marriage due to genital scarification,²⁴ hence, Okagbue expressed the view that FGM/FGC or circumcision “simply represents an attempt by males to control female sexuality.”²⁵

It is therefore, without doubt, that the trio of gender, religion and patriarchy play a consequential foundational role in the life of Nigerian children, especially girls, from birth through life. Thus, according to Attoh:

Akwa Ibom State of Nigeria. In *Handbook of Research on the Impact of Culture in Conflict Prevention and Peacebuilding* (pp. 26-44). IGI Global.

²³ Giuliani, C. (2006). *Female Genital Cutting in Africa: Legal and non-legal strategies to abandon the practice*. Institut d'études politiques. Available at: http://doc.sciencespo-lyon.fr/Ressources/Documents/Etudiants/Memoires/Cyberdocs/MFE2006/giuliani_c/pdf/giuliani_c.pdf (15/7/2020).

²⁴ Adekunle, A. O., & Ladipo, O. A. (1992). Reproductive tract infections in Nigeria: challenges for a fragile health infrastructure. In *Reproductive Tract Infections* (pp. 297-316). Springer, Boston, MA., p. 307.

²⁵ Isabella Okagbue, “Igbo Customary law and the rights of women in the family” in *Law, Justice and Nigerian Society* (Essays in Honour of Hon. Justice Mohammed Bello) 1995, I.A Ayua, ed, Nigerian Institute of Advanced Legal Studies, Lagos, p. 204 citing *Female Circumcision, Excision and Infibulation: the facts and proposals for change*, Minority Rights Group Report No. 47 (1980), p. 205.

“Gender, religion and patriarchy are foundational social constructs operating at the basis of social organization of society. The three social constructs are inter-woven in the Nigerian society. Gender is an important determinant of an individual’s life experience in Nigeria both in the public and domestic sphere. The social conception of the roles, expectations, opportunities and privileges attached to being a member of a particular sex is so strong that upon ascertaining the sex of a baby, it is always possible to predict the child’s life chances”.²⁶

One major reason for the misconceived gender bias in Nigeria is the rule of primogeniture applicable in patriarchal and patrilineal societies, which promote the belief that only male children can sustain family lineage and succession upon the death of a father, and that a widow is part of the estate of the deceased to be inherited by his heir.²⁷ These and allied cultures justify the true perception that in Nigeria, the girl child is, indeed, an “endangered species”.²⁸

²⁶ Attoh, F. (n. 19).

²⁷ In the old case of *Suberu v. Sunmonu* (1957) SCNLR 45, the then Supreme Court acknowledged as a settled rule of Yoruba native law and custom that a wife could not inherit her husband’s property since she herself is, like a chattel, to be inherited by a male relation of her late husband.

²⁸ Onyido, J. A., & Osigwe, J. N. (2019). *Girl-Child Education: The Key for Value Re-Oriented and Nation Building*. Available at: <http://www.globalacademicgroup.com/journals/academic%20excellence%20/GIRL-CHILD%20EDUCATION.pdf> (15/7/2020).

Devaluation of Women After Birth and Through Life

After birth and within the course of life, prevalent Nigerian cultures promote the general belief that women are of less importance than men and relate to them as such.²⁹

The conservative and unrepentant perpetrators of this negative bias insist that the belief is both religious and philosophical. They argue that in ancient Israel, the male's Morning Prayer was: "Blessed are thou who has not made me a gentile or a slave or a woman", and also that one of the accusations of the Jews against Jesus Christ was that he was fraternizing with women and children.³⁰

They also argue that within Nigeria's conservative Christendom, notably, the Anglican Communion and the Catholic Church, women are neither ordained priests or pastors, nor are they permitted to preach the word of God at masses or services,³¹ and that unlike the men, women are compelled to cover their heads with head ties, handkerchiefs or hats at masses and every worship time. They equally argue that even within the Islamic faith, women are not elevated to the exalted position of *Imam* or *Mallam* (Islamic Teacher), and that in the mosques during prayers, they are meant to sit by the flanks or other positions away from, and inferior to those of the men.³²

These conservatives, however, forget that women play a significant role in the worship of God in traditional African

²⁹ Ojilere, A. (2017), (n. 6); Ojilere, A. (2008), (n. 6).

³⁰ G. G. I. Ojiako (n. 16), pp. 1-3.

³¹ Attoh, F. (n. 27).

³² Ojilere, A. (2008), (n. 30).

religion and spirituality.³³ They also seem to ignore the striking fact that in modern day Pentecostalism, Nigerian women have become not just pastors but also leaders and General overseers of churches in Nigeria and overseas. For instance, Bishop Margaret Benson-Idahosa (widow of the late Archbishop Benson Idahosa) is the current General Overseer and leader of the *Church of God Mission, International Incorporated* founded by her husband. Archbishop, Prophetess (Mrs.) Olaniyi is another woman of high potential and worldwide founder the *Agbala Daniel Church* in Nigeria and with branches overseas.³⁴ The contention is therefore true, that the marginalization of women in the leadership of mainline churches in Nigeria “made Christian women to appear

³³ For instance, among the *Binis*, although *Olokun* is a male deity, its worship is undeniably a “women’s affair.” This is so because women are generally more concerned with childbirth, protection of children, husband, and self, as well as trade. As such it is the women who seek solutions to the problems associated with the family through *Olokun*, hence, women significantly engage more in *Olokun* worship activities than men. See Omoera, O. S., & Obanor, M. N. (2012). Theatrical Elements in *Olokun* Worship in Benin, Nigeria. *Fireworks for a Lighting Aesthetician: Essays in Honour of Duro Oni*, 60, 405-420.

³⁴ Other notable female pastors in Nigerian Neo-Pentecostal churches include: Bishop (Mrs.) Bola Odeleke of the popular *Christ Apostolic Church (Agbala Agbara Olorun Kibaati)*, now known as the *Power Pentecostal Church*, Pastor (Mrs.) Faith Oyedepo of *Winners Chapel*, the Rev Dr. (Mrs.) Sam Amaga of *Foundation Faith Church (a.k.a. Salem International Churches)*, the Revd. (Dr.) Mrs. Funke-Nelson Adetuberu of *By Faith Ministry International Churches*, the late Pastor (Mrs.) Bimbo Odukoya of *Fountain of Life Bible Church*, Lagos, and Pastor (Mrs.) Deola Ojo of *Grace Family Church*, Ibadan. See Fatokun, S. (2006). Women and leadership in Nigerian Pentecostal churches. Available at: <http://uir.unisa.ac.za/bitstream/handle/10500/4430/Fatokun.pdf?sequenc> (15/7/2020).

less valuable in the service of God” even though they are of no less value and no less spiritual than men.³⁵

These die-hard religionist perpetrators of female subjugation also cite Genesis 3:16 in the Christian Holy Bible where God admonished Eve, saying, *inter alia*, thus: “I shall give you intense pain in child bearing, you will give birth to your children in pain, your yearning will be for your husband and he will dominate you”.³⁶ They also forget the Biblical truth that God made man (including woman) “in His own image and likeness”, and that through child-bearing, women are the source of life and continuity in life, and that it is not a virtuous act for one to “dominate” another.

Another aspect of culture which diminishes the integrity and persona of women and girls in Nigeria is the mandatory payment of dowry or bride price in marriage, a practice whereby the value of women is commercialized and measured in monetary and material terms, as precondition for valid marriage (both under the Act and under customary law).³⁷ The implication thereof is that the lady is considered “sold” to her husband and she becomes his “property” and he mistreats her as such.³⁸

Although bride price is actually intended to symbolize the fact on the basis of some mutual agreement by both families, a bride has

³⁵ *Ibid.*

³⁶ G. G. I. Ojiako (n. 31).

³⁷ See The Customary Law manual: A manual of customary laws obtaining in the Anambra and Imo States of Nigeria (Ministry of Justice, Anambra State, 1977) para 305 (1).

³⁸ Omeje, O., & Chikwendu, C. (2019). Influence of African Cultural Factors on Domestic Violence. *ESUT Journal of Social Sciences*, 4(1), 160-170.

not been “thrown away”, the real problems, according to Okagbue, lies not so much in the concept of bride price as in the large amount of cash and other materials being demanded as payments in modern times.³⁹ The people of Mbaise in Imo State as well as some parts of Anambra State are alleged to be notorious for inflated bride price.⁴⁰

It is on the basis of the unreasonable demand for outrageously high bride price that Oputa, JSC (as he then was) described the practice as representing an actual “sale” transaction by the bride’s father to the bridegroom.⁴¹ This view was later summed up by Ojiako thus:

“Under some of our customary laws, a woman is a chattel to be sold by her parents to her husband to whom she becomes enslaved after the payment of the purchase price called dowry. The belief is very much alive with us to this date.”⁴²

Attempts have been made, albeit unsuccessfully, to resolve or harmonize bride price in Igboland, even by legislation. The issue will remain unresolved until affected communities develop the political will to radical change of existing socio-cultural status quo.⁴³

³⁹ Isabella Okagbue (n. 26).

⁴⁰ *Ibid.*

⁴¹ Oputa, C., “Women and Children as Disempowered Groups” in *Women and children under Nigerian Law* (Federal Ministry of Justice, 1990), p. 10.

⁴² G. G. I. Ojiako (n. 36), p. 2.

⁴³ For instance, the Limitation of Dowry Law, 1965, Cap 76, Laws of Eastern Nigeria, 1963, prescribe N60 (sixty naira only) as the maximum bride price, and makes it an offence punishable by up to 6 months’ imprisonment to pay or to receive more than this amount.

Interestingly, at various levels, the Government of Nigeria, the media, civil society groups, human rights activists and some Non-Government Organization (NGO's) have intensified campaign against unreasonable and inflated bride price.⁴⁴ Ironically though, without the payment of bride price, a woman or girl who is in a "marital" union with a man is regarded as an ordinary concubine to such man.⁴⁵

To say the least, the notion of "purchase" create in men a false sense of "ownership" over their wives, and breeds domestic violence against African women generally.⁴⁶ As such, women are often placed on caution to "be loyal" to their husbands, and not to speak at public gatherings where the men are in attendance, because being "a woman", she must "respect" men.⁴⁷ Culture considers it sacrilegious for a Nigerian woman to be presented with kola nut, to break it or bless it. She cannot also take yam from a yam barn, or pour palm wine out of a keg in the presence of men; or to eat chicken rump or gizzard because these are the exclusive preserve

⁴⁴ Alabi, O., Shamaki, M. A., Omisakin, O. A., Giro, M., & Odusina, E. K. (2020). Family and Household Issues in Northern Nigeria: Change and Continuity. In *Family Demography and Post-2015 Development Agenda in Africa* (pp. 287-300). Springer, Cham.

⁴⁵ Omonzejele, P. F. (2020). Understanding the concept of vulnerability from a Western Africa perspective. *Global Bioethics and Human Rights: Contemporary Perspectives*, 144.

⁴⁶ Adjei, S. B. (2019). How 'bride price' reinforces negative stereotypes: A Ghanaian case study. Available at: https://www.researchgate.net/profile/Stephen_Adjei/publication/334731330_How_%27bride_price%27_reinforces_negative_stereotypes_a_Ghanaian_case_study/links/5d3dd00aa6fdcc370a68b472/How-bride-price-reinforces-negative-stereotypes-a-Ghanaian-case-study.pdf (18/7/2020).

⁴⁷ Princewill, C. W., Wangmo, T., Jegede, A. S., Riecher-Rössler, A., & Elger, B. S. (2019). Bride price payment and women's autonomy: Findings from qualitative interviews from Nigeria. *Women & health*, 59(7), 775-788.

of men.⁴⁸ She cannot greet a man by handshake, or drink palm wine in a standing position. Instead, she must bend down low to drink it, and to greet a man, she must bend down low to be patted on the back or shoulder.⁴⁹

Among Muslims, Islam approves of women being cut-off from core social activities and associations by being kept in “*Purdah*” (confinement) and compelled to wear a peculiar Islamic clothing known as *hijab* which covers all parts of the body including the head and face.⁵⁰ One wonders if confining Muslim women in *purdahdo* does not breach the rights to freedom of movement, freedom from slavery and servitude, as well as the right not to be subjected to torture or to inhuman or degrading treatment guaranteed under the Nigerian constitution.⁵¹ Most Nigerian cultures do not recognize the reproductive rights of women, hence, a woman is not permitted to express any opinion on the number or spacing of children in a marriage nor can she refuse the sexual urge of a husband or otherwise negotiate the convenience of sex with

⁴⁸ Okoli, C. (2001). Gender Relations: An Igbo Cultural Perspective, *WOREC Journal of Gender studies*, Imo State University, Owerri, 1(1), 39-40.

⁴⁹ Ojilere, A., & Chukwumaeze, U. U. (n. 12).

⁵⁰ See Maulana Wahiduddin Khan (n. 9), p.141 where the author expressed the view in chapter 10 (Hijab in Islam) that “a woman’s face is not included in the parts of the body that need to be compulsorily covered... however, it is better to cover it... in order to discourage mischief, in view of the general moral degradation in present day society”.

⁵¹ See the Nigerian constitution on the right to peaceful assembly and association (section 40); the right to dignity of human person (section 34); the right to freedom from discrimination on grounds including sex (section 42); and the right to freedom of movement (section 41).

him.⁵² Otherwise, the man is at liberty to rape her, yet without legal or other consequence.⁵³

In typical Nigerian societies and families, procreation is considered “the essence” of marriage, hence, childlessness evokes much negative feelings. Due to entrenched cultural belief in patriarchy, involuntary childlessness and infertility are also feminized, and the blame thereof is placed on women, even where a man is the certified cause of the couple’s inability to procreate.⁵⁴ Some literature reveal that in Igboland and many Nigerian cultures, infertile and involuntarily childless women are considered as “curse” or bad luck” to their husband’s family.⁵⁵

Worse still, such a woman is still obliged not to open up on her husband’s infertility but manage the information actively in order

⁵² Ojilere, A. (2008), (n. 33).

⁵³ Spousal rape is permissible in Nigeria by section 357 of the Criminal Code Act Cap 77, Laws of the Federation of Nigeria, 1990 (applicable in the Southern part of Nigeria) which defines rape as unlawful carnal knowledge of a woman or girl by *any person* without her consent, or with her consent, if it was obtained unlawfully. But Section 6 of the same Code defines unlawful carnal knowledge as “carnal connection which takes place otherwise than between husband and wife.” See also Ojilere, A., (2010/2011). The Problems with the Law on Rape in Nigeria. *Nigerian Journal of Legal Studies*, IX, 66-76.

⁵⁴ Hollos, M., (2003). Profiles of infertility in southern Nigeria: Women’s voices from Amakiri. *Afr J Reprod Health*, 7, 46–56; Dyer, S., (2007). The value of children in African countries: insights from studies on infertility. *J Psychosom Obstet Gynaecol*, 28, 69–77.

⁵⁵ Cohen-Mor, D., (2005). Arab women writers: An anthology of short stories (State University of New York Press, New York), p 13; Ariaga, R. C. (2018). Harmful Traditional Practices: Eliminating Discrimination in the Burial of Childless Adults. *University of Ibadan Law Journal*, 7, 255-274.

to protect him from the *stigma associated* with sexual dysfunction.⁵⁶

Thus, where a woman's infertility is the cause of the involuntary childlessness, in addition to the inherent stigma and reproach, her husband is permitted under native law and custom to marry a second wife who can bear him children, and to send her packing if she opposes the second marriage.⁵⁷

The Afrocentric beliefs in succession and male primogeniture prevalent in Nigeria also place a heavy social and psychological burden on a wife who bears only daughters and no son as she is considered to be "standing on one leg" (meaning that her position as a wife in the family is still insecure and not permanent).⁵⁸ In the circumstance, "kind" and "loving" husbands are permitted by society to marry another wife who would bear a son and "heir" for him.⁵⁹ However, given a similar circumstance, the same culture prohibit a woman from "playing away match" (trying to get pregnant from any other man other than her husband) or out rightly indulging in polyandry, that is, being lawfully married to two men at the same time.⁶⁰ Prevalent Nigerian religious culture deem it

⁵⁶ Miall, C. E., (1986). The stigma of involuntary childlessness. *Social problems*, 33(4), 268-282.

⁵⁷ Ojilere, A. (2008), (n. 53); Ekpendu, I. C., (2015). A Biblical Response to the Practice of Polygamy in Eastern Nigeria. *Asia-Africa Journal of Mission and Ministry*, 11, 81-96.

⁵⁸ Okonofua, F. E., Harris, D., Odebiyi, A., Kane, T., & Snow, R. C. (1997). The social meaning of infertility in Southwest Nigeria. *Health transition review*, 205-220, at 215.

⁵⁹ Uchendu, E., (2007). Woman-woman marriage in Igboland. *Gender and sexuality in African literature and film*, 141-154.

⁶⁰ In *Kpelanya v. Tsoka & Anor* (1971) NNLR 66, it was held to be impermissible in *Tiv* culture.

appropriate for a man to chastise or beat his wife,⁶¹ because by so doing, he is simply “recounting his money” to ensure that it is “complete.”⁶² It is, however, ironical that among the Tiv-speaking people of Nigeria, wife beating is rather regarded as a sign of love, which women have been socialized to accept and sometimes encourage.⁶³

Another Nigerian cultures which devalue, abuse and demean the persona of women are the practice of “wife-sharing” and “widow inheritance”. Among the *Tivs*, a man can donate his wife to sleep with any of his “important” guests in his own house, as a show of hospitality. This obnoxious and most demeaning culture does not only rubbish a wife’s pride but also exposes her to the risk of infectious diseases including HIV/AIDS.⁶⁴ This is, no doubt, tantamount to slavery, cruel, inhuman and degrading treatment since the wife can neither negotiate the choice of sex partner nor insist on safe sex or the use of latex condoms.⁶⁵

⁶¹ Wife battery is an acceptable form of discipline in Islamic law and Nigerian socio-cultural mythology. Section 55 (1) (b) of the Nigerian Penal Code (Cap C3 Laws of the Federation 2004) permits wife beating/chastisement as long as it does not cause grievous bodily harm. Regrettably, the Code does not define the limit of “grievous bodily harm.” This provision was endorsed by a Nigerian Court of Appeal in the case of *Akinbuwa v. Akinbuwa*, (1998) 9 NWLR (Pt 564) 100.

⁶² Antai, D. (2011). Controlling behavior, power relations within intimate relationships and intimate partner physical and sexual violence against women in Nigeria. *BMC public health*, 11(1), 511.

⁶³ Oyediran, K. A., & Isiugo-Abanihe, U. C. (2005). Perceptions of Nigerian women on domestic violence: Evidence from 2003 Nigeria Demographic and Health Survey. *African journal of reproductive health*, 38-53.

⁶⁴ Onwuliri, V. A. & Rabi, M. (2001). The HIV/AIDS epidemic and the Nigerian Woman. *The Negro Education Review*, 52 (1-2), 59-60.

⁶⁵ Ojilere, A. (2009). Domestic Violence and the Law in Nigeria. *CWGS- Journal of Gender Studies*, 1(4), 75-87; Ojilere, A. (2008), (n. 58).

As a result of cultural bias against women, girl-child education also continues to suffer in Nigeria.

Studies reveal that the girl child is a victim of societal neglect and institutional biases rooted in the patriarchal foundations of Nigerian cultures whereby society and state give premium to the education of the male child more than the female child.⁶⁶

Devaluation of Women in Widowhood

The Nigerian society is fraught with a number of obnoxious widowhood rites which devalue women.⁶⁷ For instance, among the *Bini* people of Edo State, if a man dies, his widow must drink of the water used in washing the corpse, as a traditional oath that she had did not contribute to his death.²⁸ And in parts of *Igboland*, when a man dies, his widow is taken to the backyard where her arm pit, pubic area and head will be completely shaved by another widow. She is then dressed in certain colour or style of tattered clothes and made to sit on a mat or bare floor, and she also cannot have a bath until her husband is buried, no matter how long it takes.⁶⁸

⁶⁶ Ajayi, K. (2007). Gender self-endangering: The sexist issue in Nigerian politics. *Journal of Social Sciences*, 14(2), 145-147; Okemgbo, C. N., Omideyi, A. K., & Odimegwu, C. O. (2002). Prevalence, patterns and correlates of domestic violence in selected Igbo communities of Imo State, Nigeria. *African journal of reproductive health*, 101-114.

⁶⁷ Eche, M. W. G. (2020). Widowhood, Justice and The Rule of Law in Africa: Nigerian-Igbo Perspective. *Tansian University Journal of Arts, Management and Social Sciences*, 5(1), 101-121. Available at: <https://www.nigerianjournalonline.com/index.php/TUJAMSS/article/viewFile/806/791> (18/7/2020).

⁶⁸ See Effah, J., et al. (1995). UNEQUAL RIGHTS, Discriminatory Laws and practices Against Women in Nigeria. *Constitutional Rights Project*, p. 46.

It has also been reported that among the *quas* of Big Qua Town of Cross River State, when a titled man dies, his widow is confined to a corner of the house daily until after the burial (no matter how long it takes), forbidden to go out, take a bath, brush her mouth or look at a mirror, and compelled to sleep on the floor or dirty mat and to eat from broken plates.⁶⁹ As painful and demeaning as these widowhood rites are, the ugly irony of it is that usually, women themselves are the perpetrators, and they also ensure strict compliance among new widows. Quite recently, Ajayi, Olanrewaju, Olanrewaju and Nwannebuife revealed that most Nigerian widows accept and submit to these rites, irrespective of their educational, political or financial standing in society, for fear of varied repercussions such as expulsion, ostracization and social exclusion from the village or community, ejection from matrimonial home, or exclusion of her children from inheriting their deceased father's estate.⁷⁰ The authors cited three excerpts from interviews with anonymous widows to buttress their findings, namely:

“There has never been such a woman (who will refuse to perform the widowhood rites). She will be considered as having committed an abomination...If she does not do it, she will be punished perhaps by banishing her from the land.”

⁶⁹ Ohiaege, M. R. B. (2017). Widowhood Practices in South-Eastern Nigeria: An Aspect of Women Exclusion in Leadership, Governance and Development. *GOUNI Journal of Management and Social Sciences*, 3(1), 35–52.

⁷⁰ Ajayi, L. A., Olanrewaju, F. O., Olanrewaju, A., & Nwannebuife, O. (2019). Gendered violence and human rights: An evaluation of widowhood rites in Nigeria. *Cogent Arts & Humanities*, 6(1), 1676569.

“I am aware of my rights and how government can help me, but I would not have refused to do them. I would never have agreed to defy tradition because my children would have suffered. In fact, in such a case, my children would have had the right to ask me to leave their father’s house.”

“I would not have even agreed to defy these practices...the people in the town would have refused to bury my husband for me.”⁷¹

In the reverse, when a wife dies, her husband is shown a high level of pity and considered to be immediately deserving of “someone” who would “at least cook his food” at this auspicious moment of grief and “great sorrow” (especially if he is a titled man) unless he has grown up daughters, other wives or a regular concubine.³¹ Otherwise, the common Nigerian attitude is to encourage him to remarry “quickly” or “as soon as possible” because it is considered humiliating, embarrassing and infradig for “a man” to be seen buying foodstuff in the open village markets or cooking food in the kitchen.

Another naïve practice which debases womanhood in Nigeria is the culture of widow inheritance. Here, given the belief that only the sons of a deceased can inherit his estate because they are his “heirs”, his widow is considered as part of the inheritable estate of the deceased and therefore can as well be inherited by any male member of her deceased husband’s family other than the widow’s own biological children.⁷² If the deceased died a polygamist, his widows would be inherited by any of their adult step-sons.

⁷¹ *Ibid.*

⁷² *Suberu v. Sunmonu* (n. 28).

In the circumstance, a widow (especially if she is young) would continue to live in the matrimonial home after the burial of the deceased, especially if she has a male child, otherwise, her husband's heir is at liberty to expel her from the matrimonial home. This culture indirectly puts a vulnerable widow under pressure to concede to being "inherited" as wife in order to enjoy "protection" in the family. This practice obviously breaches a widow's fundamental rights, particularly the right to private and family life guaranteed by section 37 of the Constitution of the Federal Republic of Nigeria, 1999 (as amended). Some of these die-hard cultures have been found to be prevalent in Igboland and among many Igbos in the surrounding states such as Delta, Cross River, Rivers and Akwa Ibom.⁷³

Conclusion and Recommendations

Nigeria is a fundamentally cultural society, give the reluctance or refusal of its indigene's to change existing cultural status quo, irrespective of political, educational or socioeconomic attainments of its men and women. This paper has underlined some, and certainly not all, of the archaic cultures and beliefs which devalue, discriminate and abuse the persona of women and girls in Nigeria. Unfortunately, there is no known justification or explanation for these cultures other than being "customary" or "traditions" which must be observed, hence, they have continued to be respected, practiced and acknowledged in most communities.⁷⁴

It is, therefore, auspicious to abandon and eliminate them in line with basic fundamental rights provisions in the Nigerian Constitution as well as global human rights templates including

⁷³ Okafor, S. O. (2017). 58 The Liberation of Igbo Woman of Nigeria from Some Customary Laws and Practices. Available at: <http://icsai.org/procarch/1icllce/1icllce-58.pdf> (21/7/2020).

⁷⁴ Ojilere, A & Chukwumaeze, U. U. (n. 50).

Article 2 of the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa⁷⁵ which clearly state thus:

State parties shall commit themselves to modify the social and cultural patterns of conduct of women and men through public education, information, education and communication strategies, with a view to achieving the elimination of harmful cultural and traditional practices and all other practices which are based on the idea of the inferiority or the superiority of either of the sexes or stereotyped roles of women and men.”

In recent times, the Nigerian legislature and courts have made some sort of proactive attempts with respect to remedying the breach of women and girls' rights under customary law.⁷⁶ The Supreme Court of Nigeria has particularly delivered certain landmark judgements which void local customs and cultures that devalue women and girls thereby reaffirming their rights to human dignity, equality and non-discrimination.⁷⁷ Much earlier

⁷⁵ Also known as the Maputo Protocol. It was adopted on 11th July 2003 in Maputo, Mozambique.

⁷⁶ Ojilere, A. (2016). Legislative and Policy Framework for Promoting Women's Dignity in Nigeria: Gaps and Recommendations. In Chapter 4 of Uwem Udok and Isaac Essien (Eds.), *New Frontiers in Nigerian Law: Essays in Honour of Prof. Enefiok Essene* (Vice-chancellor, University of Uyo) (pp. 52-61).

⁷⁷ *Anekwe v. Nweke*, (2014) 234 LRCN 34; and *Ukeje v. Ukeje*, (2014) 234 LRCN 1. See also Ojilere, A. (2020). Expanding Women's Right to Inherit Immovable Property in *Igboland* Beyond the Limits of *Ukeje v. Ukeje*. *International Journal of Comparative Law and Legal Philosophy*. 2(3), 30-36; Ojilere, A., Onuoha, R., & Igwe, T. I. (2019). New Directions for Securing African Women's Right to Property under Customary Law: The Case of Nigeria. *Asian Women*, 35(1), 95-119.

in *Mojekwu & Ors v. Ejikeme & Ors*,⁷⁸ it was held by the Court of Appeal that the culture of *ili-ekpe* in Nnewi, Anambra state was unconstitutional and repugnant to natural justice, equity and good conscience, since it prescribes that if a man dies, having female children only and no surviving male child, his estate will be inherited by the surviving sons of his relations and cousins to the exclusion of his own daughters.⁷⁹

However, the practical reality of abandoning these age-long cultures remain a tall dream because of the reluctance and unwillingness of the adherents. Consequently, women in most Igbo-speaking communities in Nigeria, for instance, are still denied the right to inherit immovable property of a deceased father or husband, notwithstanding extant constitutional provisions, case law and international human rights instruments to the contrary, including Article 16 (1) h) of the Convention on the Elimination of All Forms of Discriminations Against Women (CEDAW) under which provides that both spouses should enjoy the same rights in respect of the ownership, acquisition, management, enjoyment and disposition of property.

Thus, in *Okonkwo v. Okagbue & 2 ors*,⁸⁰ Muhammadu Lawal Uwais (CJN, as he then was) rightly observed that:

“... a declaration by the courts, that a customary law is repugnant to natural justice, equity and good conscience does not necessarily imply that such customary law is

⁷⁸ (2001) 1 CHR 179.

⁷⁹ This decision syncs closely with the *ILIL ZAKARI* formula for succession in Islam, under which daughters, like sons are entitled to inherit from their late father's estate, even though the daughter will get half of what the son gets.

⁸⁰ (1994) 9 NWLR 301 at 326-327.

illegal, (query) for sometimes the practice goes on publicly, after the judge's decision".

It suffices therefore, that only a concerted re-think effort/cultural re-orientation on the part of individual families, kindred, town unions and communities as well as traditional rulers and religious leaders can actually remedy these anomalies and embrace a globalized order on Nigerian women and girls' dignity, equality and non-discriminatory rights.⁸¹ This will entail a broad policy initiative whereby existing local, regional and international instruments, including recent judicial decisions on human dignity, equality and non-discrimination would be translated into every Nigerian vernacular (with clear explanations and interpretation) and made accessible to the citizenry, especially women and girls across the country. This is to ensure elementary knowledge of the harmful physical and psychological effects of cultures which devalue, debase and abuse womanhood, especially in Nigeria.

Concerted advocacy, Christianity and education are also valuable options for ending obnoxious, harmful and repugnant cultures, especially those that devalue and abuse womanhood.⁸² This is without prejudice to the local belief of adherents who consider it a divine obligation to preserve these archaic cultures because they are "unchangeable" age-old practices inherited from time immemorial from their ancestors, handed down several generations, and now held in trust for future generations.

⁸¹ Ojilere, A., & Nnadi, I. (2018). Judicialization of the Fundamental Rights and the Directive Principles of State Policy in India: Road Map for the Globalization of Women's Dignity and Other Rights in Nigeria. *University of Jos Law Journal*, 13(1),150-163

⁸² Ariaga, R. C. (n. 56).