



The effect of culture on enforcement of laws against domestic violence in Nigeria

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Abstract

This paper questions the effectiveness of enforcement of legislation prohibiting domestic violence and how cultural practices and age-long social acceptance of a relegated position for women disrupts efficient enforcement of recent domestic violence laws. The paper identified that patriarchal culture and ingrained gender roles provide men and women alike, the moral high ground and justification to treat women as subordinates. Cultural ideologies can give legitimacy to violence against women when it serves a certain purpose, and because domestic violence is still perceived as a private matter, law enforcement authorities limit their involvement. It is not uncommon for the universal standards of HRs to be partially or completely disabled, to make room for males who resort to violence to establish and retain their authority over females. Ultimately, enunciating the language of women's human rights within the home or other domestic relationships and hoping to alter patriarchal understanding of women's rights requires major and radical intervention. The efficient enforcement of legal provisions in Nigeria, would continue to be hampered by the challenge of cultural attitudes, if radical action that builds and frames the social fabric of what is acceptable, culture and human rights recognition combined, are not set in motion.

Keywords: Domestic violence, gender, human rights, law enforcement, culture

Introduction

When compared to regional and international norms, Nigeria has signed, ratified, and domesticated several legal instruments to combat human rights abuses and alleviate the suffering of women. There is a wide range of variation in the systems and processes used to ensure compliance from one country to the next. Disputes over infringement of Women's human rights can be heard and decided by constitutional courts in many nations. Also, Human rights commissions and institutions are also common. The adoption and domestication of Human rights treaties and the enactment of local laws to deal with abuse, violence, and crime are all evidence of ongoing participation in the management of this global issue.^[1] Yet, discussions in Nigeria continue to raise questions about the role of culture, cultural beliefs and behaviours, and their impact on effects to eliminate domestic violence.

Legislation has little bearing on society unless it is strictly enforced. The gap between the intended and actual outcomes of laws and policies is widened when their execution is ineffective due to cultural and social bearings. Insights into cultural norms, roles, identities, and ethos reflect in discussions, which in turn influence how people behave in social contexts and how the domestic violence prohibition laws are applied.^[2] Women have always been the ones to bear the weight of fundamentalist visions, as they are the keepers and nurturers of tradition and culture and the guardians of a morality defined by religious and cultural patriarchs.^[3]

This paper questions the effectiveness of current legislations prohibiting domestic violence in Nigeria; without more. It aims to appraise the effect of culture on enforcement of legislations that criminalize various forms of domestic violence. The 'more' which is questioned in this paper is the role culture plays on enforcement, and how tackling domestic violence from a legal perspective cannot be ignorant of socio-cultural quagmires that reinforce practices

and age long social acceptance of a relegated position for women. Despite the existence of the Violence Against Persons (Prohibition) Act 2015 (VAPPA), and State laws such as the Violence Against Persons (Prohibition) Act 2020 of Rivers State, the enforcement of the protective laws seem to be suppressed by socio-cultural misgivings. The divide between the law's stated goals and its actual application cannot be ignored.

The Nature of Domestic Violence in Nigeria

Domestic Violence has been defined in various ways according to circumstances. Under the Violence Against Persons (Prohibition) Act 2020 (VAPPL) of Rivers State, it includes any act carried out on a person in a domestic relationship causing harm or the fear of harm to the person. It is generally agreed that domestic violence encompasses a wide range of violent acts, including physical attacks, blows, beatings, shoving, aggressive behaviours, and maltreatment, most of which occur in private settings at home and are hidden from public view.^[4] It occurs when a parent, household member, or former household member causes physical injury to a child or household member, or causes the child or household member to reasonably believe that physical injury or harm may be inflicted. It is carried out by persons in domestic relationships, and this has been described to mean a relationship in which the aggressor and the victim are married under any law; lived or live together as married persons; parent a child or children; are related as family, by affinity, adoption, or consanguinity; were engaged, dating or intimate or shared a residence.^[5]

In Article 1 of the Universal Declaration of Human Rights 1948, the phrase 'all human beings are born free and equal in dignity and rights is included. Equality, freedom, and one's fundamental standing are all intertwined with the idea of human dignity.^[6] Domestic violence against women includes:^[7] direct physical contact; emotional and psychological violence; abusive financial or

economic practices; harassment and stalking; assault of a sexual nature;^[8] and cultural norms that have a negative impact on women's health and wellbeing. Despite the fact that the Declaration on the Elimination of Violence 1993 (DEVAW) is a non-binding international instrument, local law on domestic violence in Nigeria, such as the VAPPL 2020, requires strict adherence to its provisions.^[9] Based on its own expansive understanding of the idea, the VAPPL 2020 extended its application to situations in which an act directly results in injury or poses a substantial risk of such injury.^[10] As the scope of domestic violence has expanded, so also has the scope of governmental responsibility.

Culture, Domestic Violence and the Arguments within Cultural Relativity.

Culture is the act of producing by education and training, the traditional beliefs, social forms, and material qualities of a racial, religious, or social group. Thompson says the broad concept of culture provides information, but HR culture is restricted.^[11] Thompson described culture as a group's customs, institutions, symbols, conceptions, and ideals. Culture is limited to a society's values, norms, and customs.^[12] Society connects people through relationships, and there is no culture without society.^[13] However, culture is necessary for society. Humanity would not exist without culture. There would be no language, no self-awareness, and limited thinking and reasoning. Yet, culture is cumulative, it changes, it is dynamic, and it gives a range of acceptable behaviour, and is idealational. Culture includes symbols, language, values, beliefs, and conventions. Cultural beliefs vary by region and peoples.^[14]

A people's culture shows how they interact. Thus, cultures are formed by what individuals can think, envision, and learn and by what collective behaviours shape and support. People take tremendous measures to safeguard their cultural identity since various civilizations cannot avoid interacting.^[15] In promoting certain cultures, patriarchal rules require men to have priority over women. As a result, women have not been able to achieve their full potential in many areas due to inequalities of gender. Gender indicates the social roles and privileges that come with a certain sex. It is embedded in the larger social and cultural milieu. However, it is not the biological meaning of gender that enables the inequalities, but the social construct or stereotype which connotes the dichotomy of roles and character traits socially and culturally imposed on the sexes that have no necessary link, with reality or scientific discovery;^[16] defining what people are expected to do and how they should behave in different contexts.^[17]

Gender hierarchies reinforce social and economic inequality, and discrimination put women and girls at risk. The nature and extent of specific types of gender-based violence vary across cultures, countries, and regions.^[18] Both men and women endure gender-based violence, yet society often victimises women and girls.^[19] According to the Committee on the Elimination of Discrimination Against Women, domestic violence is a violation of human rights under article 1 of the Convention on the Elimination of all Forms of Discrimination Against Women 1979 (CEDAW). Therefore, for cultural universalists, there are already applicable laws at the international level which might be used against those States whose legal systems have functionally permitted domestic abuse.^[20]

Feminist radicals and liberals alike understand that gender inequality and disparity are the product of sexist and patriarchal socialisation practises.^[21] Males often resort to physical force to establish and retain their authority over females. Legal feminists have argued that cultural relativism serves no useful purpose in discussions on women's rights abuses. It must be understood that cultural relativists can be selective in their labelling, allowing powerful social groups to decide for themselves what kinds of change are cultural losses and hence merit resistance. Cultural norms are ever evolving, therefore, when there is violence against women, a defender of women's Human rights should be able to bring up global criteria, on which there is a massive consensus. However, the dominance of one group over another and the institutionalisation of patriarchal values are ultimately to blame for violence against women.^[22]

In response to violence against women, countries are starting to take bold action against poor socio-cultural attitudes. The CEDAW Committee determined that Austria violated its due diligence responsibilities in the case of *Goekce v Austria*,^[23] because the police did not protect the petitioner from her violent husband. The Committee determined that the state actors were responsible for the petitioner's plight since the police should have known that the petitioner was in danger and failed to act accordingly. The petitioner's right to life and to the preservation of his or her mental and physical health were compromised as a result of these failings.^[24] In front of their two young girls, Goekce's husband fatally murdered her in 2002. Goekce had already filed for protective orders against her husband due to previous incidents of domestic violence. Her death could have been avoided, had the prosecutor and law enforcement personnel responded more quickly to her plight. Despite progressive legislation in place in Austria to address domestic violence, the CEDAW Committee observed that State authorities needed to examine and respond to such allegations with greater diligence.^[25]

Cultural relativism and universalism have emerged as the two main positions at the centre of the discussion about the cultural acceptance of the use of violence against women in domestic relationships. In multi-ethnic cultures, cultural relativism becomes particularly apparent when discussing women's human rights problems. Some damaging cultural practises and/or leniency in the criminal justice system are defended by appealing to cultural excuses for gender-based violence.^[26] The extent to which a culture should be recognised or tolerated in a multicultural society when it violates women's human rights must be called to question.^[27]

While legislators may acknowledge that domestic violence, sexual assault in the home, dowry practises, widow burning, and genital mutilation may be unacceptable, they shy away from declaring these acts as human rights abuses because they are private acts perpetrated against individuals' bodies and acts preserved by culture.^[28]

Traditions, achievements, and victories are all part of a people's cultural identity. Pride, resiliency, belonging, intersecting identities, and community are all nourished by one's cultural norms. However, cultural beliefs and practises about how women and girls should be treated are often invoked in Nigeria, to justify acts of violence and discrimination against women and girls. Women have historically been the target of more acts of physical, mental, and symbolic violence committed in the name of culture and tradition than any other group. Women face a wide range of

disadvantages, such as lower wages, domestic violence, and unequal rates of infant mortality and abortion.^[29] An appeal to tradition, history, and assumed biological roles provide the necessary justification for these accepted abuses.

According to cultural relativism, different points of view should be given equal weight. According to this view, there is no inherent difference between any of the world's cultures, and an examination of cultural norms should focus mostly on local customs rather than universal ideals. Values from other cultures do not have any bearing on the legitimacy of those held inside the host community.^[30] So, the principles of one community cannot be applied when making judgements about justice in another civilization; rather, justice must be defined uniquely in each social and cultural setting. Cultural relativists argue that there is no universally applicable standard for evaluating the relative merits of competing moral systems across cultures. But it is important to realise that a lot of things come together to shape a society's norms and traditions.^[31]

Relativists assert that the philosophy that 'different civilizations have diverse moral codes' is the key to deciphering morality. They argue that the concept of an absolute morality is a fabrication. All that exists are the norms established by various cultures. There are just the numerous cultural rules and no such thing as universal truth in ethics, according to cultural relativists, who challenge the common-sense conviction in the objectivity and universality of moral truth.^[32] When policies or legislation are based on cultural relativist beliefs, women's rights are put in grave danger. However, patriarchal powers exploit cultural relativism to rationalise their own forms of oppression. A major obstacle to securing women's human rights is the politicisation of culture, especially in the form of religious fundamentalisms, which can be found in a wide variety of geographical and religious situations in Nigeria.

States are required by international human rights law to enact and consistently apply laws that safeguard all citizens. The CEDAW 1979 and the UNDEV 1993 provisions aim to eliminate both formal and informal forms of discrimination and violence. It has been argued that the concept of women's rights prioritises individual rights over communal values, which is why CEDAW has been met with opposition. It has been stated that women's rights are unacceptable since women are the backbone of society and are responsible for preserving cultural norms. The worry is that if CEDAW is adopted, it will lead to unrestrained sexual and social expression for women and the consequent erosion of culture. Political leaders who say things like 'women are the guardian angels of culture' or 'international human rights standards are an attack on cultural integrity' do so primarily for domestic consumption, but they use these comments to bully diplomats who are on guard against accusations of cultural imperialism.^[33]

The most worrisome impediment to the eradication of this line of thinking in several regions of the world is its cultural acceptance by a larger number of people and women alike. This is because of the ineffectual judicial systems and the private character of domestic violence situations. Those who cite cultural justifications for abusive language toward women typically assert that their interpretation is the correct one and reject more progressive readings. This tactic questions cultural discourses and structures in order to make more gender-equitable alternatives visible, therefore challenging the singularity of the patriarchal version-

As a result of these claims, and with the support of cultural relativists, States and non-State actors avoid having to abide by the universal women's human rights framework. As a result, people try to muzzle women's rights and women's rights activists on several fronts. When women speak up for their rights, either for themselves or on behalf of other women, they face backlash in the form of physical assault, social isolation, and allegations of betrayal of family, community, and country.^[34] Whatever the case may be, universalists worry that cultural relativism could undermine the effectiveness of modern human rights laws like the CEDAW 1979, the VAPPA 2015, and state laws like the VAPPL 2020 of Rivers State. In the name of cultural relativism,^[35] these laws are being revised and changed to fit various cultural and religious variances.

The Effect of Culture on Enforcement of Laws against Domestic Violence in Nigeria

The cultural norms of a society outline its social norms. Because of the inevitable interactions between people of diverse backgrounds, it is not uncommon for some to resort to extreme measures to preserve cultural purity. Individuals develop a sense of who they are in relation to the cultural groups they identify most strongly with.^[36] Historically, the concept of culture has been linked to ethnicity and race as a means of describing social variation. It has to do with the values, beliefs, and customs that are handed down from one generation to the next.^[37]

Unfortunately, news of serious mishap or deaths are usually what gets the public and the government interested in domestic violence issues, which then turn into the 'talk of the town.'^[38] Gender stereotypes abound and profoundly influence perceptions and attitudes towards women. Inequalities are reinforced by cultural norms, and patriarchal perspectives shape how men and women interact with one another. The idea that a man can 'punish' his wife dates back centuries in African culture. The wife's role was to be subservient to her husband and to remain in the marriage 'to death' regardless of the consequences. These ideas stem from man's fallen nature, which distorts masculine superiority into dominance and feminine submission into subservience. When the 'drama' is almost over, the courts and law enforcement agencies usually make an appearance. Unfortunately, by the time help arrives, it is often too late for most victims. Also, the stigma associated with domestic violence prevents victims from coming forward and receiving assistance.^[39]

Gender roles and identities influence how women react to abuse. Even at a young age, Nigerian girls and women are educated to accept their roles as wives and mothers. Over cultural backgrounds, many women still do not regard domestic violence as a big problem or a violation of their human right but as correction and love, due to patriarchal traditional family structure and religious thoughts, characterised by male authority, power, and domination. Because of the patriarchal power that is ingrained in them from a young age, many men resort to physical force to maintain social hierarchy and to assert their right to dominate social institutions. Because of this, males often internalise violent behaviours. What this means is that negative displays of masculinity against women are seen as a sign of male superiority and are considered the norm in Nigeria.^[40]

Our patriarchal culture and ingrained gender roles provide men the moral high ground and legal justification to treat women as second-class citizens and subordinates. The girl will grow up and leave the house to start a new life with her husband, while the boy will grow up to continue the family name and legacy. Throughout his formative years, a boy is bombarded with teachings that he is the superior sex and that women are inferior. This translates into increased access for male children to resources for their development in areas such as school, health, social life, and the economy. A girl's place in society is in the home, where she is expected to take care of the house and perhaps earn money for her family's benefit. While the son studies abroad, his sister stays at home and enrolls in a local school. The son is given money to establish his own business, while the daughter is expected to help out around the house, learn a trade and how to be a good wife to a man.^[41]

When it comes to settling arguments at home, resorting to physical force is generally accepted. The culture of silence in Nigerian is a characteristic of domestic violence since perpetrators of domestic violence are often stigmatised and their crimes are treated as private affairs that have no place outside the family. It is forbidden to speak out against a spouse, father, or other person in power, hence most cases of domestic violence go unreported. The problem of communal and cultural stigmatisation contributes to the underreporting of violence against women, especially sexual offences like rape. Cultural ideologies give 'legitimacy' to violence against women when it serves gender stereotype purposes. Chastising and beating women has been accepted historically and religiously. In particular, the idea of entitlement and ownership of women has legitimised the physical punishment of wives. When men have the power to make financial decisions for their families, they tend to exert dominance and claim ownership over women and girls. The effectiveness of domestic violence laws in Nigeria is hampered by the country's lack of adequate cultural and social attitudinal transformation, beginning with the sanctity of the home.^[42]

It is crucial to learn about the cultural context of violence and criminality against women in Africa, as this will help to establish the amount to which human rights are being abused. The fight for women's equality is a modern phenomenon in African societies. Women are not given the same level of respect as men in many traditional Nigerian societies.^[43] As a result of these circumstances, the rights and safety of women in Nigeria are constantly being violated. When working to end gender-based violence, non-governmental organisations face obstacles relating to pre-existing policies, cultural norms, and internal management. Many female defendants lack the conviction to pursue justice. They do not have the determination to succeed. Despite problems within the justice system, female reluctance to press charges against perpetrators is often the deciding factor in cases where justice is not served. The overwhelming majority of victims who get advice from friends and family to drop charges against the father of their children do so.^[44]

Law enforcement, including the police, is sometimes hesitant to pursue matters of a 'domestic' nature for fear of retaliation or further victimisation or shaming of the victims who come forward. Because domestic violence is still seen as a private matter, law enforcement authorities limit their involvement in domestic violence situations. In some

cultures, it is considered impolite for a woman to call the police on her husband. Since the security authorities and regulatory organisations do not provide sufficient support or protection to the victims, they are reluctant to speak out or report domestic abuse. Combined with insufficient resources, law enforcement's ability to address this threat to victims' safety is weak.^[45] Law enforcement agencies typically disregard such reports since they are seen to be of a personal character. The case of *Mary Sunday v. Federal Republic of Nigeria*,^[46] was just like this.

When it comes to women's rights, it is not uncommon for the universal standards of human rights to be partially or completely disabled. Family traditions worldwide often involve acts of violence towards female family members. These cultural norms are a roadblock in the fight to end domestic violence, and yet they have largely escaped national examination because of the widespread belief that they are legitimate cultural traditions deserving of respect and tolerance.^[47]

A look at how different cultures implement human rights shows that in most cases, the state is the one to initiate enforcement proceedings when there has been a violation of human rights, and that the law's final form and the obligations under it are determined by the country in question. Having faith in law enforcement that they would not blame them for starting the violence and will be taken seriously is crucial for abused women. Unfortunately, children have been moulded into a culture where women are the target of aggression from both men and other women because of the underlying problem of gender inequality in Nigeria, which has led to a lengthy history of normalising of violence and an increase in the many kinds of domestic violence against women.

Conclusion

The need of not excusing violence against women on the basis of culture or other praised norms is becoming more and more apparent to the world community. However, despite the fears and pain caused by domestic violence, many women accept these abuses inevitable and sometimes; deserving. Ultimately, enunciating the language of women's human rights within the home or other domestic relationships and hoping to alter patriarchal understanding of human rights requires major radical intervention. The efficient enforcement of legal provisions in Nigeria, would continue to be hampered by the challenges of cultural rascality, if radical action that build domestic relationships and frame the true fabric of society, culture and human rights, are not set in motion.

Given the cultural and institutional resistance to domestic violence, monitoring and evaluation should be built into all policies and enforcement actions. Civil society organisations, especially those focused on empowering women and ending sexism and gender inequality, should play a key role in doing this monitoring. For the public to see how violence against some women is being used to intimidate all women collectively, the negative underlining of relativism argument must be brought into the light. The self-policing belief that safety comes from obedience and that antagonism is the outcome of foolishness is instilled by the proponents of state cultural relativism in which punishment of certain transgressors of imposed norms scares others into toeing the line. Self-policing of this sort plays a significant role in the cultural legitimization of

violence against women by lending credence to the myth that the victimised women deservedly got what they got because they are 'bad' women. The implication is that so-called 'good' women are safe from violence and protected by the 'male.'

Although international human rights laws have few restrictions, they safeguard those who might otherwise be at the whim of the state or an oppressive group. It is crucial that advocates for women's rights and women's rights not be marginalised throughout the cultural relativism discussion and that the international community not allow this to happen. Any kind of capitulation would just strengthen the hands of those who would like to stifle women's rights. Those who refuse to be silenced, including many women and women's rights activists, run the risk of reprisals ranging from death threats to social isolation and even more harassment if they adopt a relativist strategy. It is important to look at preventative measures on both a global and national scale, and to form coalitions with conventional institutions.

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