

An African Perspective on Some Gender-Related Cultural Practices that Violate Human Rights and Perpetuate Women's Poverty

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ABSTRACT The interplay between culture, human rights and women's poverty in Africa and the link between gender-related cultural practices and women's poverty, are discussed. The practices are linked to the unequal position of women in society, and limit/prohibit their access to property ownership, formal employment, and education. This paper reviews cultural practices and traditions in Africa – polygamy, payment of bride price, female genital mutilation (FGM), marriage by abduction, inheritance, and primogeniture. The role of governments and civil society in human rights education, public awareness campaigns and community mobilisation – in attempting to address, minimise or eradicate gender-related cultural practices that perpetuate women's poverty, is also examined. There are two schools of thought: efforts to end cultural and traditional practices harmful to women must involve and address men, and there should be systematic encouragement and support of collective action among women. Women's voices *must* be heard and useful cultural practices that traditionally protected women and girls should be considered in designing programmes to address gender inequality and to reduce women's poverty in Africa.

INTRODUCTION

Much has been said and written, in various and disparate contexts, about women's human rights, offensive gender-related cultural practices, and women's poverty – particularly in Africa and other developing countries. While the focus has mainly been on the link between gender-related cultural practices and the violation of women's human rights, little research has explored the link between such practices and the perpetuation of women's poverty.

This considered, the purpose of this paper is to highlight and discuss the complex interplay between culture, human rights and women's poverty in Africa, and, in particular, to explore the causal link between gender-related cultural practices and the perpetuation of women's poverty. The cultural practices concerned, it is argued, are generally rooted in a culture of discrimination against women, and function as instruments for socialising women into stereotyped gender roles in African society. It is further argued that such practices are not only

linked to the unequal position of women in political, social and economic structures of society, but they also limit or prohibit women's access to property ownership, access to formal employment, and access to education – hence perpetuating their poverty.

Given the focus on culture in this paper, it is important that the term be defined at the outset. Tylor defined it as “*that complex whole which includes knowledge, belief, art, morals, law, custom, and any other capabilities and habits acquired by man as a member of society*” (Hofstede 1980). This definition is consistent with Hofstede's definition of culture as being “*the collective programming of the mind which distinguishes the members of one category of people from another*” (Tylor 1871).

This paper selectively reviews cultural practices and traditions in Africa, particularly in rural areas – based largely on the author's research interests and experience. These include polygamy, the payment of bride price, and practices which affect women's health such as female genital mutilation (FGM) and those which violate children's rights such as marriage by abduction. Also reviewed are cultural practices which limit or prohibit women's access to and ownership of property such as land – particularly in the context of inheritance and the practice of primogeniture. In discussing these issues, the deep en-

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trenchment of culture in many traditional African communities and the concomitant prevalence of women's poverty in those communities, are taken into account. The role of governments and civil society in human rights education, public awareness campaigns and community mobilisation – in attempting to address, minimise or eradicate gender-related cultural practices that perpetuate women's poverty – is also examined. The paper concludes with the presentation of two schools of thought – one supporting the notion that efforts to end cultural and traditional practices harmful to women must involve and address men, and the other supporting the systematic encouragement and support of collective action among the women themselves. It is also recommended that women's voices *must* be heard and useful cultural practices that traditionally protected women and girls should be considered in designing programmes to address gender inequality and to reduce women's poverty in Africa.

METHODOLOGY

The research is based on knowledge accumulated during the researcher's career, and a careful analysis of all relevant international and domestic treaties and statutes and of the published academic literature in general. The discussion that follows is thus a considered critique and analysis of the subject matter of the research.

OBSERVATIONS AND DISCUSSION

International and Constitutional Dimensions – A Broad Overview

Before discussing the relationship between poverty and women's human rights and the cultural practices and traditions that contribute to women's poverty in Africa, it is important to briefly examine the broad international and constitutional dimensions of women's rights that relate to equality and non-discrimination.

There is no shortage of pronouncements in international human rights instruments on the recognition of women's rights as human rights – particularly in the context of equality and non-discrimination. The 1979 Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) – often described as an inter-

national bill of rights for women – defines what constitutes discrimination against women and sets up an agenda for national action to end such discrimination. CEDAW further provides the basis for realising equality between women and men through ensuring women's equal access to opportunities in political and public life. The Convention has three main aims – ensuring full equality of women before the law, improving the *de facto* position of women, and modifying gender-based stereotypes; and in the context of this discussion this is through promoting social and cultural change (Holtmaat 2013: 95). CEDAW is the only international human rights treaty which targets culture and tradition as being important forces that shape gender roles and family relations.

Other United Nations instruments relating to the rights of women include the 1949 Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others, the 1952 Convention on the Political Rights of Women, and the 1957 Convention on the Nationality of Married Women. Within the framework of the International Labour Organisation (ILO), several conventions are also of relevance. These include the 1951 ILO Convention No. 100 on Equal Remuneration which provides for equal remuneration for men and women workers and seeks to eliminate discrimination based on gender, and the 1958 ILO Convention No. 111 concerning Discrimination in Respect of Employment and Occupation, which gives a detailed definition of discrimination. The 1981 ILO Convention No. 156, known as The Workers with Family Responsibilities Convention, deals with equal opportunities and equal treatment for workers – both men and women.

The United Nations human rights instruments and the ILO Conventions notwithstanding, it has been argued that the 1993 Vienna Conference on Human Rights was the tipping point in the recognition of women's rights as human rights (Busch 2013). This is because the Vienna Conference signalled a renewed commitment to end the social and economic subordination of women, and also the discrimination against them. The 1993 Vienna Declaration, and the Programme of Action adopted at the conclusion of the Conference, specifically recognised that:

“The human rights of women and of the girl-child are an inalienable, integral and indivisible part of universal human rights. The full

and equal participation of women in political, civil, economic, social and cultural life, at the national, regional and international levels, and the eradication of all forms of discrimination on grounds of sex are priority objectives of the international community ... The human rights of women should form an integral part of the United Nations human rights activities, including the promotion of all human rights instruments relating to women" (Part I, Section 18).

The Declaration also, *inter alia*, recognised "the importance of the enjoyment by women of the highest standard of physical and mental health throughout their life span" (Part II, Section 41). The momentum created by the Vienna Conference on Human Rights was carried into the 1995 Beijing Women's Conference. The Beijing Declaration and Programme of Action that was adopted at the conclusion of the Conference, paid specific attention to the human rights of women (paras 213-233) and to women and poverty (paras 49-70) – among other things.

Although the Vienna and Beijing Declarations lack the formal binding force of international conventions, they are seen (together with CEDAW) as the cornerstones of women's rights in international law. Moreover, by adopting the declarations, member states of the UN have made a political commitment to implement and enforce them. The declarations are therefore now seen as having a profound impact in terms of furthering and protecting women's rights.

In the African context, the 1981 African Charter on Human and People's Rights categorically provides for the elimination of discrimination against women and the protection of their rights. Article 18(3) of the Charter provides that "The State shall ensure the elimination of every form of discrimination against women and also ensure the protection of the rights of the woman and the child as stipulated in international declarations and conventions." Of notable significance is the 2003 Optional Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa, which, *inter alia*, calls for the elimination of discrimination against women and the enjoyment of equal rights between women and men as equal partners in marriage. It is important to note that Article 5 of the Protocol aims to eradicate "harmful practices which negatively affect the human rights of women which are contrary to recognised inter-

national standards." Female genital mutilation is specifically mentioned – but reference is also made in Articles 5(b) and 5(d) to all other "harmful practices or other forms of violence, abuse and intolerance."

At the national level, many constitutions of African countries now specifically provide for equality between women and men and for the prohibition of discrimination against women. This is a welcome development, considering that, historically, discrimination against women was not only commonplace and widespread – but also sometimes entrenched by the law. Reddi (2014) lists instances of stark discrimination against women recognised by the law in the South African pre-constitutional era, in the following terms:

"For instance married women were regarded as minors under the control of their husbands; the rape of married women by their husbands was not a crime; pregnant women were unable to choose to terminate their pregnancies; women performing the same work as their male counterparts received a lower pay rate; and women were not allowed to do certain work such as fly aircraft or enlist in the armed forces".

The 1996 South African Constitution now provides for the right to equality – and specifically outlaws any unfair discrimination based on, *inter alia*, gender, sex, pregnancy and marital status (Section 9(3)). Although many constitutions of African countries provide for equality between women and men, the Constitution of Rwanda is, perhaps, the most specific and elaborate in its commitment to the protection of women's rights to equality and non-discrimination. Such a commitment is first reflected in the preamble, which guarantees equal rights "between women and men without prejudice to the principles of gender equality and complementarity in national development." Article 9(4) also reflects such commitment to equality between women and men "by ensuring that women are granted at least thirty percent of posts in decision making organs." Under Article 52, political organisations are urged "to operate in such a manner as to ensure that women and men have equal access to elective offices." It is perhaps, as a result of this and other policies and initiatives, that Rwanda is known to have the highest percentage of women in parliament, in the world (in 2013 women occupied 51 out of 80 seats in

the Chamber of Deputies – 64 percent of the seats).

Despite the international and national protection of women's rights to equality and non-discrimination, women all over the world are still generally subjected to discrimination in various facets of life – such as income generation, education, health, and equal participation in society and its development. In many African communities, this is aggravated by a range of gender-related cultural practices and traditions that violate basic human rights' norms and have close and causal links to women's poverty. In order to understand these links, it is important to take a look at poverty and women's rights in Africa, before focusing on the gender-related cultural practices which are linked to that poverty.

Poverty and the Human Rights of Women in Africa

In discussing the relationship between poverty and human rights, one is reminded of the famous statement of Mary Robinson (United Nations High Commissioner for Human Rights 1997-2002): *"I am often asked: what is the most serious form of human rights violations in the world today, and my reply is consistent: extreme poverty"*. It is in this context that many have argued that poverty is not only an impediment to the enjoyment and realisation of human rights, but it is – in itself – a violation of human rights. The researcher also argued elsewhere that poverty in Africa is produced and compounded by several factors that are largely unique to the African continent, and that such poverty has far-reaching implications for the protection of the human rights of the African people (Mubangizi 2007: 3). According to the United Nations Office of the High Commissioner of Human Rights (OHCHR), the defining feature of poverty is that it entails the restriction of opportunities for a person to pursue his or her wellbeing (OHCHR 2004: 7). It is for that reason, that some have claimed that poverty in Africa has a female face. Sketching a portrait of a typical young African woman, the World Bank said in 2009: *"The face of poverty [in Africa] is female ... She is 18.5 years old. She lives in a rural area. She has dropped out of school. She is single, but is about to be married or be given in marriage to a man approximately twice her age. She will be the mother of six or seven kids in another 20 years ..."* (quoted in Spector 2011).

This quote encapsulates the main concepts and issues under discussion in this paper. It highlights the feminisation of poverty in Africa; it alludes to the violation and abuse of women's rights such as the right to education and human dignity, and it hints at the controversial gender-related cultural practices that violate women's human rights. The connection between all of these cannot be over-emphasised.

Much has been written about the levels of poverty in Africa, and the effect this has on African people. Sub-Saharan Africa is the poorest region in the world. The 'incidence' of poverty (the proportion of people who live on less than US\$1.25 a day) in Africa is second only to parts of South Asia, whereas the 'depth' of poverty (referring to how far people's incomes fall below the poverty line) is greater in Africa than elsewhere in the world (McFerson 2010). Moreover, poverty in Africa is multi-dimensional – with perspectives ranging from rural poverty to vast inequalities in incomes and assets, control over public resources, and access to essential services (World Bank 2000: 83). McFerson (2010: 51) has categorised the various forms of poverty to include income poverty, asset poverty, opportunities poverty, and access poverty. The worst forms of poverty, she posits, are those that combine all four aspects.

From the above dimensions and categorisations of poverty, women in Africa are more likely to be affected by poverty than men. Ironically, according to the Organisation for Economic Co-operation and Development (OECD), women are the cornerstone of African economic development, as they provide approximately 70 percent of agricultural labour and produce 90 percent of all the food (OECD 2013). The tragedy is, that whereas they are the main providers of labour and producers of food – few of them actually own the land on which the food is grown. In Kenya, for example, while women provide 80 percent of the agricultural labour force, only about 5 percent are registered landowners (McFerson 2010: 53). This is a consequence of weak property rights – one of the causes of women's poverty in Africa. Other causes include that many African women do not actually control their own labour, they spend much time on unpaid domestic labour, and they carry the special but risky responsibility of motherhood – with its attendant challenges and complications.

There is no doubt that women's experiences of poverty are not the same as those of men – particularly in Africa where customary biases and gender inequalities are prevalent. It has been argued that gender inequality in Africa sometimes leads to gender-based violence, which is not only an obvious effect of poverty, but also a contributing cause of it (McFerson 2010: 56). Other causes include constraints on women's geographic and occupational mobility, lack of education, legal and customary frameworks that treat women as dependants, labour-market discrimination, and occupational segregation (Moghadam 2005). As a result of this discrimination and segregation, African women are much more vulnerable to poverty than men. It has been argued that, in fact, *“for men, poverty is often the consequence of unemployment and a job is generally an effective remedy, while female poverty often exists even when a woman works full time”* (Moghadam 2005).

What flows from the foregoing discussion, is what is generally referred to as the feminisation of poverty – which, simply put, refers to the fact that a disproportionate number of women are affected and overburdened by poverty and its associated effects. It also means that *“women have a higher incidence of poverty than men; that their poverty is more severe than that of men, and that poverty among women is on the increase”* (Naghdalyan 2007). Essentially, the feminisation of poverty revolves around the interplay of two disturbing phenomena: poverty and gender inequality. Nowhere is this more real and more deeply entrenched than in Africa. The feminisation of poverty has sometimes also been seen in the context of the share of female-headed households among the poor (Medeiros and Costa 2008). Again, this is more prevalent in Africa than elsewhere in the world. In Kenya, for example, it is estimated that 30 percent of households are headed by women. This percentage is much higher in South Africa, where 43.8 percent of households are female-headed (Statistics South Africa 2011). According to Statistics South Africa, these female-headed households are generally poorer than their male counterparts (Statistics South Africa 2011). This is reflected through many indicators, including the fact that the annual consumption expenditure of female-headed households was R51,528, compared to R89,371 for male-headed households – that is, more than 40 percent less (Statistics South Africa 2011).

From a human rights perspective, all this generally boils down to human rights abuses that women suffer as a result of being female. In saying this, it is acknowledged that *“the issue of human rights of women is perhaps one of the more difficult to deal with because it is shrouded in deeply entrenched and rigid attitudes and practices that militate against positive change ...”* (Bentley 2004: 248). Central to the abuses of women's human rights in this particular context, is the right to equality and non-discrimination. It has been argued in this regard that *“the unequal treatment of women culturally is what underlies a culture of discrimination against them, reflected in both their economic disenfranchisement and staggering levels of violence”* (Bentley 2004: 248). Essentially, this has to do with power relations and the role of women as perceived in the African traditional context. The perception and definition of the social roles and responsibilities of women constitute the basis for inequality and discrimination that African women experience. This is not helped by the prevailing and predominant cultural and social norms, which regard women as less valuable members of many African communities. It is in that context that we now consider the offensive gender-related cultural practices and traditions that are linked to women's poverty in Africa.

Cultural Practices and Traditions that Contribute to Women's Poverty in Africa

Polygamy

Cultural practices and traditions are as varied as they are elusive and dynamic. There is no doubt, however, that while some cultural traditions are specific to individual groupings and communities, others are quite widespread – transcending communities, nations and sometimes continents. One such cultural practice is polygamy. Indeed, polygamy is not unique to African communities. It takes place in many parts of the world and extends beyond the realm of culture into religion and family law (Mubangizi 2012: 41). That said, the prevalence of polygamy is more widespread in Africa than any other continent. According to one commentator, there is a ‘polygamy belt’ stretching across Africa, from Senegal to Tanzania, in which *“as many as a third to a half of married women are in polygamous unions”* (Jacoby 1995: 939).

There are those who defend polygamy and argue that there is nothing wrong with it (Murray 1994: 37-38), but there is no doubt that it is inconsistent with several notions of human rights and impacts on the fundamental rights of women. Firstly, it violates the notion of equality between men and women. Secondly, it lends itself to the potential of differential treatment of wives – resulting in unfair discrimination. Thirdly, it is inconsistent with the right to dignity, as it impairs the dignity of women in polygamous marriages. Most importantly, however, it exacerbates the impoverishment of women. This happens in various ways. In many polygamous marriages women's access to financial resources is limited, not only during the marriage, but also upon divorce or death of the husband (van Struessee 2005). Moreover, polygamous marriages often give rise to large numbers of children, who, together with their mothers, have to compete for few, finite, and limited resources. This is often complicated further by complex inheritance issues that include male preference – as is discussed further below.

Payment of Bride Price

A cultural practice that is closely related to polygamy is the payment of bridal price. Also known as dowry and referred to as “*lobolo*” in many African communities, this is another age-old cultural practice that is widespread and practised in many parts of Africa. Just like polygamy, *lobolo* is hotly debated and contested – with proponents arguing that “*it serves to protect the wife against abuse from her husband, stabilises the marriage and joins the two families*” (van Struessee 2005). Opponents, however, disagree, and argue against it on the basis of the right to equality and the prohibition of discrimination between men and women. The researcher has, for example, argued elsewhere against the practice of men ‘paying’ for women, when women are now recognised as equal to their husbands (Mubangizi 2012). And why should some women draw ‘a higher price’ than others if all are equal in the eyes of the law? (Mubangizi 2012).

The pros and cons of bride price notwithstanding, there is no doubt that it has a significant impact on women's poverty in communities where it is practised. A study conducted in Uganda in 2008 and 2009, firstly confirmed that

there is an important connection between poverty and bride price (Hague and Thiara 2009). Secondly, it gave specific real-life examples of the impact of bride price on women and young girls: women being landless and excluded from property ownership; women becoming destitute and homeless after divorcing because their parents could not repay the bride price; women being regarded as property since they were paid for and therefore have to serve their husbands instead of being in gainful employment; early or forced marriages; and girls being forced to leave school to marry and earn bride price for their families.

The link between the above real-life examples and women's poverty cannot be over-emphasised. Moreover, it could also be argued that some of these examples show how men use bride price to further their own selfish needs, by controlling women and subordinating their emotional, social and economic needs. The examples above also reveal how bride price contributes to the diminished power of women in economic and political negotiations – ultimately perpetuating their poverty.

Female Genital Mutilation

Of all the cultural and traditional practices that violate human rights in Africa, the most opprobrious and obnoxious is perhaps female circumcision or female genital mutilation. Much has been said and written about this dreadful practice, which involves the incision and removal of parts of the female external genitalia. The reasons given for the practice, and the variations through which it is performed, are well documented. So too are its health and psychological effects and implications. Its violation of several international human rights norms and standards has also been highlighted in various contexts. These human rights norms include the right not to be “*subjected to torture or to cruel, inhuman or degrading treatment or punishment*” (Article 7, International Covenant on Civil and Political Rights). They also include the right to life, freedom and security of the person, bodily and psychological integrity, and the right to human dignity.

While much has been written about FGM, what has not been widely researched and explored is its impact on women's poverty. While FGM is generally seen as a health and human

rights issue, it cannot be denied that it “*also has a negative impact on women’s education and other opportunities for growth and development*” (Rogo et al. 2007). According to a World Bank study, FGM has been found to adversely affect school performance – leading to higher rates of absence and dropouts among girls (Rogo et al. 2007). The effect of this is that it compromises these girls’ chances of furthering their education, and curtails their ability to contribute to the economic and social development of their countries. It also decreases the chances of enhancing their personal development and reducing their poverty.

FGM is known to be practised in about 25 African countries, and is also known to be prevalent among women who live in traditional societies rural communities. These communities are already generally poor and impoverished. The physical and psychological complications and effects of FGM only serve to inhibit the affected women’s ability to be productive and resourceful – thereby enhancing and perpetuating their poverty.

Marriage by Abduction

The same applies to the cultural practice of marriage by abduction. Known as “*ukuthwala*” in South Africa, the practice involves the way-laying or kidnapping of a girl and taking her to a man’s home in marriage. This ‘capturing’ is usually done – against the girl’s will – by a group of people, one of whom is the future husband. In many cases the man may be two or three times older than the girl. Girls as young as 12 to 15 years of age are sometimes targeted. From a human rights perspective, *ukuthwala* is certainly in conflict with the right to equality, the right to dignity, and the right to bodily integrity. It is also a violation of children’s rights. Moreover, the practice also has health implications, as it exposes the victims to rape, HIV and other sexually transmitted diseases, and teenage pregnancies that may lead to pregnancy-related complications such as infant and maternal mortality.

There is a proven link between the practice of *ukuthwala* and women’s poverty. In many cases the abducted girls are removed from school – thereby depriving them the opportunities of personal development and education. By denying these young women opportunities in

areas such as education and personal growth, the practice of *ukuthwala* leads to the perpetuation of poverty, as the young women are unable to gain the education and skills necessary for attaining employment. Moreover, most of the young girls who are victims of *ukuthwala*, are from poor families (Maluleke 2012: 12); and, furthermore, “*their lack of education a young girl-snd underdevelopment due to ukuthwala deepens their poverty and perpetuates the cycle of poverty*”.

Inheritance/Primogeniture

Of all the cultural practices that contribute to women’s poverty in Africa, those relating to inheritance probably have the highest impact – and the most significance. This is because inheritance is a major means of the transfer of property and accumulated capital. So, while it may have positive effects for those who inherit, it can also have negative implications for those who are excluded. Recent research has shown that in many African societies, “*particular categories of people are commonly excluded from opportunities of wealth accumulation through inheritance, most notably women and children because [they] do not experience secure rights to property*” (Cooper 2010: 5). A particular cultural practice that effectively excludes women from inheritance and sometimes places them under the guardianship of the male heir, is primogeniture (the right of the eldest surviving male to inherit the estate of the parents). The practice has its genesis in the deeply entrenched system of patriarchy that characterises traditional African society (Mubangizi 2012). Not only does male primogeniture unfairly discriminate against women, it also has the effect of perpetuating their poverty – due to its exclusionary effect.

The practice of primogeniture has to be seen in the context of several other cultural and traditional practices that limit or prohibit women’s access to property ownership – particularly land. Indeed, land in Africa “*has long been recognised as a primary source of wealth, social status, and power, providing the basis for shelter, food and economic activities*” (Cooper 2010: 6). It is precisely for that reason that many African communities have cultural practices that limit women’s ownership and access to land. According to Richardson (2004):

“*Land ... in most traditional African cultures is regulated by customary law. Although*

varying in a certain degree from culture to culture, women are generally prohibited by customary law from owning or inheriting land or other property. Land ownership traditionally is passed through male heirs. A woman's right to access land and use land has customarily been defined solely by her relation to men."

In Uganda, women's access to land is also dependent on male relatives who own and control the land (Bikaako and Ssenkuma 2003). In fact, under customary law in some parts of Uganda, *"a woman may have jointly acquired land with her husband and may have spent her entire life cultivating the land, but she cannot claim ownership of the property ... if he dies the land generally goes to the sons"* (Tripp 2003). This is similar to the situation in Botswana, where the property owned or acquired by husband and wife in the course of the marriage belongs to the husband and will pass to the eldest son at his father's death (Richardson 2004: 20). Although Ghana is widely seen as a leader in the struggle for inheritance rights, customary law and unfair cultural practices still persist there. Under their customary law, for example:

"when a man dies all of his self-acquired property (which often includes property acquired with the assistance and labour of his wife) returns to his lineage and is distributed accordingly. In patrilineal societies ... the land will thus go to a son or brother. In matrilineal societies ... the property will devolve to the nephews. In both systems, the widow is usually entirely disposed" (Richardson 2004: 22).

It can be seen from the foregoing discussion that the pervasive denial of a woman's right to the access, ownership and inheritance of property, is a considerable hurdle to the realisation of women's human rights in Africa. It also has a major negative impact on, and contributes significantly to, women's poverty.

Other Practices and Concluding Comments

It is impossible to discuss all the gender-related cultural practices that violate human rights and directly or indirectly perpetuate women's poverty in Africa. They include early (child) marriages and virginity testing. It must be pointed out, however, that there are several initiatives and efforts underway in many African countries – not only to address the issue of women's rights to land and property ownership,

but also to address and deal with other cultural practices that violate women's rights and perpetuate women's poverty. This aspect is now considered.

Addressing and Redressing the Issues

In discussing any attempts to address, minimise or eradicate gender-related cultural practices that perpetuate women's poverty, the starting point is to acknowledge that culture is so deeply entrenched in many traditional African communities, that only careful efforts that enjoy the support of those communities are likely to have any effect. For example, any efforts to minimise polygamy and payment of bride price in Africa can only be long term, and even then, can probably only achieve minimal success. Given these intractable difficulties, it is interesting that some African communities have achieved considerable success in dealing with some harmful cultural practices, as discussed below.

Application of International Human Rights Norms

A number of approaches have been suggested and adopted with varying levels of success. One such approach is the application of international human rights norms. It has been argued though that this may be perceived as heavy-handed Western pressure – which is sometimes seen as being insensitive and culturally imperialistic (Hersch 1998). In order to eliminate this notion, it is suggested that the African Charter and the Optional Protocol to the African Charter (both discussed earlier) – as points of reference – should be used to their fullest extent. Other relevant African human rights instruments include the 2004 African Union's Solemn Declaration on Gender Equality in Africa, and the 2008 SADC Declaration on Gender and Development.

Role of African Governments

There is no doubt that African governments have an important role to play in addressing harmful gender-related cultural practices. Indeed, several countries throughout the continent have either taken or supported action in that regard. This has mainly been done through constitutional and legislative means. Reference was made earlier to many constitutions in Africa which

specifically provide for equality between men and women and prohibit discrimination against women. The South African and Rwandan constitutions were specifically mentioned. Many countries have passed legislation against specific harmful practices. For example, several countries have passed legislation banning FGM, including: Egypt, Ethiopia, Burkina Faso, Cote D'Ivoire, Eritrea, Ghana, Guinea, Kenya, Senegal, South Africa, and Tanzania.

Legislation

There have also been numerous legislative developments relating to cultural practices that limit or prohibit women's access to property ownership – including land. As far back as 1985, Ghana, for example, introduced law reform resulting in the Intestate Succession Act (of 1985), which generally put women in a better position to inherit property from the estates of their late husbands (van Struensee 2005: 14). In 1989, Zambia passed its Intestate Succession Act, which had a significant impact on women's legal rights to inherit (Cooper 2010: 15). Tanzania's Land Act of 1999 was drafted and passed with a presumption of co-registration of land occupied by both parties, and the Ugandan Land Act of 1998 is an example of a statute that requires the consent of the other spouse with regard to land sales (Cooper 2010: 17).

It must be emphasised, however, that the passing of legislation – particularly regarding long-held cultural and traditional practices – can only achieve limited success. Moreover, as is argued by Richardson (2004: 22), *“Laws are only effective if enforced; enforcement is only possible with understanding and acceptance; and respect for the law is secured only when people believe in its necessity”*.

Role of NGOs

Richardson (2004: 22) argues that *“women's rights to inherit will be secured only when cultural understanding encompasses a respect for women's rights ...”*. This requires several other efforts and initiatives – such as human rights education, public awareness campaigns, advocacy, and community mobilisation. In this regard, the role of non-governmental organisations (NGOs) and other civil-society formations is critical. Indeed, the role of NGOs in dealing with

harmful cultural practices cannot be over-emphasised. Due to the nature of their operations and grass-roots activities, NGOs are best placed to raise public awareness and to provide training and advice to rural, uneducated and marginalised women. Tostan, a West African NGO based in Senegal is, for example, well known for its success in efforts to reduce FGM in that region (Mubangizi 2012: 44). So too is the Gambia Committee on Traditional Practices Affecting the Health of Women and Children (GAMCOTRAP) – which has also achieved considerable success in raising awareness, with the aim of eliminating all forms of harmful traditional practices. In South Africa, NGOs like the Black Sash, the Rural Women's Movement and the Women's Legal Centre have all played important advocacy roles in addressing violations of women's rights that take place under the guise of culture and tradition.

Adoption and Development of Customary Law

Another approach that can be used is the adoption and development of customary law by African countries. This is supported by the argument that most cultural and traditional practices in Africa take place in rural areas – where customary law is applied and respected. Several countries have constitutionally incorporated customary law in their legal systems. The Ghanaian and South African constitutions are good examples. It has been argued that if customary law is sufficiently developed and incorporated in the domestic laws, then individual states can be held accountable for the practice of the laws (Adjetei 1995). The researcher has also argued elsewhere that a reformed and developed customary-law system – that is consistent with the national constitution – can be an important tool for protecting the rights of vulnerable people such as women (Mubangizi 2012: 46).

Promoting Positive Traditional Cultures

This paper advocates the promotion of positive traditional cultures in protecting women against abuse and highlights the role that international development partners, international researchers and women activists can play in ensuring that these traditional cultures are learned and passed on from one generation to another (Kanyamala 2010). Those useful traditions must

then be considered in designing programmes to address gender inequality and to reduce women's poverty.

Harmful gender-related cultural practices can be minimised by using culture to fight culture. Because "*culture refers to ways of doing and thinking justified by what has gone before, ... the traditions that protected women and girls – for they too existed – [can be used] to bolster our modern conceptions of human rights*" (Karimakwenda 2014: 29). Such traditions, which are prevalent in many communities across Africa, range from health-protecting customs to those relating to pregnancy and child-bearing. They also include traditions that protect women from violence. For example, a paper exploring Sukuma traditions that protect women against violence found that the women (particularly pregnant women) of Buswelu Village in the Mwanza region of Tanzania, were traditionally protected from abuse through the use of rituals, taboos, songs and proverbs (Kanyamala 2010). In a more recent publication, it is suggested that abusive relationships exist mainly within entrenched cultural tolerances and that hegemonic and normative cultural prescriptions reinforce the vulnerability of women to domestic abuse. It is therefore argued that a cultural framework should "*provide protection to women irrespective of their social and economic class of the victims*" (Mazubuko and Umejesi 2015).

CONCLUSION

It was mentioned earlier that many cultural and traditional practices in African communities are deep-rooted. In this regard, there are two schools of thought on the issue of ending such practices which are harmful to women. The first has the notion that efforts to do so must involve and address men. This is because practices such as polygamy, bride price, forced marriages and FGM are perpetuated by men, or with men's involvement. Moreover, most men are not culprits in these practices, and can play a potentially positive role in eliminating them. For example, whereas FGM is generally not perpetrated by men, in countries like Somalia and Burkina Faso, men have played a very important role in trying to end it. It must also be pointed out that most harmful traditional and cultural practices involve violence against women. For that reason, men must be engaged because of the role they play

in education programmes, as community leaders, as professionals and providers, and as advocates and activists working in alliance with women.

The other school of thought supports the systematic encouragement and support of collective action among the women themselves. This is premised on the notion that women's ability to act in their own self-interest with respect to their human rights is very much dependent on their sense of self-worth and self-actualisation. Collective action therefore requires the creation of bonding networks among poor African women themselves, including those in urban areas. Above all, it requires that their voices be heard – by governments, civil society, donor agencies and by men.

RECOMMENDATIONS

It is recommended that whichever of the mooted schools of thought is preferred, as discussed above – women's voices *must* be heard and useful cultural practices that traditionally protected women and girls be considered in designing programmes to address gender inequality and to reduce women's poverty in Africa. It is quite widely accepted in the literature that poverty in Africa makes girls and young women vulnerable to many of the abhorrent cultural practices discussed in this paper. What has been discussed and shown, however, is that there is a further toxic link between *experiencing* these practices and poverty later in life. This needs further consideration and research in the African context. Exploring the intersection between culture and poverty reduction is one tangible way of more effectively meeting the Millennium Development Goals.

REFERENCES

- Adjetei FNA 1995. Reclaiming the African woman's individuality: The struggle between women's reproductive autonomy and African society and culture. *The American University Law Review*, 44(4): 1351-1381.
- Bentley K 2004. Women's human rights and the feminisation of poverty in South Africa. *Review of African Political Economy*, 100: 248.
- Bikaako W, Ssenkuma J 2003. Gender, land and rights: Contemporary contestations in law, policy and practice in Uganda. In: LM Wanyeki (Ed.): *Women and Land in Africa: Culture, Religion and Realising Women's Rights*. London: Zed Books, 232-278.

- Busch C 2013. Vienna declaration and programme of action +20. *Human Rights Monitor Quarterly*, 1.
- Cooper E 2010. Inheritance and the intergenerational transmission of poverty in Sub-Saharan Africa: Policy considerations. *Working Paper*, 159: 1-33.
- Flood M 2007. Harmful Traditional and Cultural Practices Related to Violence Against Women and Successful Strategies to Eliminate Such Practices: Working with Men. United Nations Economic and Social Commission for Asia and the Pacific (UNESCAP) Expert Group Meeting – Strategies for Implementing the Recommendations from the Secretary-General's Study on Violence against Women with Particular Emphasis on the Role of National Mechanisms. Bangkok: Thailand. From <<http://www.womenssupportproject.co.uk/vawtraining/content/harmfulculturalpractices/277,234/userfiles/file/resources/nationalresources/michael%20floods%20paper.pdf>> (Retrieved on 15 April 2015).
- Hague G, Thiara R with MIFUMI 2009. Bride-price, Poverty and Domestic Violence in Uganda. From <http://www2.warwick.ac.uk/study/cll/research/swell/final_report_-_bride_price_poverty_and_domestic_vi.pdf> (Retrieved on 30 March 2015).
- Hersh L 1998. Giving Up Harmful Practices, Not Culture. From <<http://www.advocatesforyouth.org/publications/521?task=view>> (Retrieved on 7 April 2015).
- Hofstede G 1980. *Culture's Consequences: International Differences in Work-related Values*. Beverly Hills, CA: Sage.
- Holtmaat R 2013. The CEDAW: A holistic approach to women's equality and freedom. In: A Hellum, H Sindig Aasen (Eds.): *Women's Human Rights: CEDAW in International, Regional and National Law*. Cambridge: Cambridge University Press, pp. 95-123.
- Jacoby H 1995. The economics of polygyny in Sub-Saharan Africa: Female productivity and the demand for wives in Cote d'Ivoire. *Journal of Political Economy*, 103(5): 938-971.
- Kanyamala MA 2010. *Exploring Sukuma Traditions that Protected Women Against Intimate Partner Violence: A Case Study of Buswelu Village in Mwanza Region, Tanzania*. Masters Thesis, Unpublished. Dublin, Ireland: Kimmage Development Studies Centre.
- Karimakwenda N 2014. The Cultural Roots That Condoned Rape. *Mail and Guardian*, 7-13 March 2014, P. 29.
- Maluleke MJ 2012. Culture, tradition, custom, law and gender equality. *Potchefstroom Electronic Law Journal*, 15(1): 1-22.
- Mazibuko NC, Umejesi I 2015. Domestic violence as a "class thing": Perspectives from a South African township. *Gender & Behaviour*, 13(1): 6584-6593.
- McFerson H 2010. Poverty among women in sub-Saharan Africa: A review of selected issues. *Journal of International Women's Studies*, 11(4): 50-72.
- Medeiros M, Costa J 2008. What do we mean by "feminization of poverty"? *International Poverty Centre*, 58.
- Moghadam VM 2005. The feminization of poverty and women's human rights. *SHS Papers in Women's Studies/Gender Research*, 2: 1-38.
- Mubangizi JC 2007. "Poverty production" and human rights in the African context. *Law Democracy and Development*, 11(1): 1-14.
- Mubangizi JC 2012. A South African perspective on the clash between culture and human rights, with particular reference to gender-related cultural practices and traditions. *Journal of International Women's Studies*, 13(3): 33-48.
- Murray C 1994. Is polygamy wrong? *Agenda*, 22: 37-38.
- Naghdalyan H 2007. The Feminisation of Poverty. *Report of the Committee on Equal Opportunities for Women and Men*, Doc 11276, 27 April 2007.
- OHCHR 2004. *Human Rights and Poverty Reduction: A Conceptual Framework*. New York: United Nations.
- Reddi M 2014. Will The Lady In Justice Stand Up? *Sunday Tribune*, 23 March 2014, P. 20.
- Richardson AM 2004. Women's inheritance rights in Africa: The need to integrate cultural understanding and legal reform. *Human Rights Brief*, 11(2): 19-22.
- Rogo K, Subayi T, Toubia N, Sharief EH 2007. Female Genital Cutting, Women's Health and Development: The Role of the World Bank, World Bank Working Paper No. 122. From <<http://elibrary.worldbank.org/doi/pdf/10.1596/978-0-8213-7183-1>> (Retrieved on 30 March 2015).
- Spector M 2011. Aids and Contraceptives: Bad Choices in Africa. From <<http://www.newyorker.com/news/news-desk/aids-and-contraceptives-bad-choices-in-africa>> (Retrieved on 25 July 2015).
- Statistics South Africa 2011. Living Conditions in South Africa 2008/2009. From <<http://www.statssa.gov.za/publications/P0310/P03102008.pdf>> (Retrieved on 20 March 2015).
- Tripp AM 2003. Women's movements, customary law and land rights in Africa: The case of Uganda. *African Studies Quarterly*, 7(4): 1-19.
- Tylor EB 1871. *Primitive Culture: Researches into the Development of Mythology, Philosophy, Religion, Art, and Custom*. London: John Murray.
- van Struessee V 2005. The contribution of polygamy to women's oppression and impoverishment: An argument for its prohibition. *Murdoch Electronic Journal of Law*, 2.
- World Bank 2000. Can Africa Claim the 21st Century? From <<http://www.worldbank.org/html/extdr/canaf-ricaclaim.pdf>> (Retrieved on 19 July 2015).

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