

**DISCRIMINATION ROOTED IN CULTURE
THE BASIS OF VIOLENCE AGAINST WOMEN**

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INTRODUCTION

The main argument of this paper is that violence against women is based on discrimination against women. The exclusion of women from positions of leadership and authority feeds the mistaken perception that women are inferior and that public life is a man's domain. Inferior beings are treated as property by men. They are treated with violence in order to succumb to men's will and desire. The doctrine that women have an inherent dignity, a right to be respected and a legitimate claim to be treated as equal to men, goes against the grain in the minds and hearts of many men who marshal to their defence cultural norms and practices of times gone by. The privileging of males throughout the generations, has moulded and conditioned the minds and attitudes of men towards women. Such mental conditioning is comparable to the acceptance of racism or of slavery prior to its abolition, or to human trafficking in our day and age. To compound matters, the privileging of males and the exclusion of women is steeped in traditional beliefs that do not take kindly to the revision of established norms, set human relationships and the traditional way of life. Revision invites misfortune, fear of the unknown and retribution.

Even though great strides have been made in recognizing women as inherently equal to men, the sedimentation of culturally sanctioned behaviour-patterns in the past, continue to haunt the present. The denial to women of the twin-right of equality and participation, has a direct bearing on the types of violence classified as domestic violence, namely: physical abuse, sexual abuse, emotional verbal and psychological abuse, economic abuse, intimidation, harassment, stalking etc. (Domestic Violence Act 116 of 1998, South Africa). There are also other forms of violence such as abduction, human trafficking, rape etc.

The next step is to look at male domination, the privileging of the male and the exclusion of women in both tradition and culture. While recognition is duly given to the fact that legal, cultural and socio-political changes have effectively taken place, it is equally important to note that the previous condition has not been totally overhauled. Hence the on-going spectre of violence and discrimination against women.

It has often been pointed out that the shortcoming of the international treaties on human rights, has been their failure "to penetrate below", and radically transform local cultures, customary law and tradition. Alongside this failure, is the lack of conviction and political will of States to commit resources in order to bring about change. Thus the doctrine of the United Nations Human Rights remains by and large, a utopia for those who bear the brunt of discrimination and oppression. (Messer, 2009:121)

SOCIO-POLITICAL ORGANIZATION

Traditional political structures historically differ from country to country. Historically, these structures have been affected by colonial rule, dictatorial forms of government and more recently by the democratic, modern political dispensation. The hierarchical system of traditional rule has survived the far-reaching political changes in most African countries. Traditional modes of government have been accommodated by the democratic forms of government. Irrespective of the historical formation of a traditional political kingdom, political authority is vested in the King or Chief. "He is at once, ruler, judge, maker and guardian of the law leader in war, priest and magician of his people". (Schàpera, 1956:176)

SUCCESSION TO CHIEFTAINSHIP

Chieftainship in most African tribes is inherently a male function. The rightful heir to such a political office is the eldest son of the Chief's "great wife". Among the peoples of Southern Africa, if there is no direct heir, the chief is succeeded by the man next in order of seniority. Women are politically excluded from this role. Traditional chieftainship is an invaluable function and position in the eyes of the people. But it is also inherently discriminatory. The discriminatory male function of the chief is bound up with mystical values which have a direct bearing on the land, fertility, well-being, peace, social order and the prosperity of the inhabitants of the land. The authority of the chief derives from a long line of ancestors. The chief is both a political and a spiritual, religious leader of his people. Writing about the Bemba chiefs, Audrey Richards expresses a view that the "social identification" of an ancestor with his living successor appears "to be

particularly complete”. Such a reigning chief is believed to possess supernatural powers in his own person. (Richards, A. 1970:97). The functioning of the socio-political system is the responsibility of the chief. That structure is vouched for by myths, ritual beliefs and sacred symbols. This socio-political structure, write Fortes and Evans-Pritchard, “is, as it were, removed to a mystical plane, where it figures as a system of sacred values beyond criticism and revision”. (Fortes M. and Evans-Pritchard, E. 1970:18)

Like the hereditary position of the King, the positions of the chiefs and headmen are also hereditary in a patrilineal society. They too have a cultic function amongst others. They conduct religious and magical functions on behalf of their people. (Schàpera, 1956:58-59). Roles and functions set aside exclusively for males have their origin in the distant past and are believed to enjoy the blessings of ancestral spirits. But such beliefs thrived on what Charles Taylor refers to as an “enchanted world” of spirits and moral forces. It is an environment where people are “open and porous and vulnerable to a world of spirits and powers”; where people have not yet come to a “new sense of the self” and to a belief that “the only minds in the cosmos are those of humans”. (Taylor, C. 2007, Chapter 1). Discrimination against women was, and continues to be buttressed by a social structure that is immersed in an “enchanted world” which in turn defies the overhauling of a patriarchal society.

MATRILINEAL SOCIETIES

There are some noteworthy exceptions to the male dominated political system. Among the Lobedu tribe in South Africa, the Chief is always a woman and she is succeeded by the eldest daughter of the first wife. (Schàpera, I, p.174, 1956) Another exception is that of Mantatisi, the famous chieftainess – regent of the Batlokoa tribe of Lesotho. Mantatisi’s claim to fame was her rare bravery in conducting successful expeditions and her sheer wisdom in dealing with intrigue at the royal kraal. (Ellenberger, D. 1992 Chapter IV). Both the examples of the Lobedu and Batlokoa tribes led by chieftainesses are aptly described as exceptional. Even though honour and respect accrue to the women in positions of leadership and authority, such recognition does not have an impact on ordinary women in specific communities. Exceptional female leadership has not changed men’s attitude to women. Men continue to be privileged over women. Recognition of some women in powerful political positions, together with female members of “their lineage” does not translate into recognition of the inherent dignity and of the equal and inalienable rights” of all women.

Nkiri Nzegwu argues strongly that in an achievement-oriented society of Western Igboland, females can be both wives and husbands at the same time. This “shifting identity” means that Igbo women (Umunwanyi) are “never in either a permanently subordinate or dominant situation”. Furthermore, the same honorific titles are given to both successful men and women. Igbo daughters (as males) enjoy the same authority and privileges as their brothers. Nzegwu’s point is that Igbo culture and tradition do not privilege males but rather recognize the inherent dignity of both males and females. This certainly cannot be said of most patriarchal societies on the African continent. (Nzegwu, N. 2004, Chapter 47). The Lubedu rain Queen was regarded as “male” and had “wives”. But this did not apply to members of her lineage group. (Schàpera, I, 1956, p.175).

In the matrilineal tribe, as opposed to the patrilineal tribe, descent is based on female ancestry. This is the case among the Bemba of Bembaland (Tanzania). (Richards A. 1940, p. 7). Chieftainship is based on matrilineal descent. A man’s legal identity, his right to succession to office and his standing, derive from his maternal descent group. Headmanship and councillorship are hereditary offices. The striking feature of the Bemba society is that the balance between the powers of the maternal and paternal relatives (bilateralism) “is a very even one in spite of the legal emphasis on the matrilineal side”. This allows for flexibility and for a broader participation of the members in their society. (Richards, P. 1970:89). Now women of the royal household participate in tribal councils and are also heads of villages. This privilege does not extend to ordinary members of the tribe. Even though positions of leadership and authority appear to be largely dominated by men with matrilineal ties, it is men and not women, who are in a privileged position. However, both the Igbo and Bemba societies offer solid examples of local cultures where sexual difference does not loom large in the definitions of roles of men and women. In the case of the Bemba tribe, female descent is the basis of individual identity and in the Igbo case, seniority is a dominant value (i.e. wives are subordinate to both lineage daughters and sons). These two local cultures are open to the recognition of the inherent dignity and equal rights of its members. They can therefore be seen as potentially strengthening and enriching, at local level, the universality of a human rights culture.

Traditionally, all initiated males participated in the political life of the Chiefdom. Women were excluded from playing any political role. Some claim that traditional government was governed “by consensus and broad participation”. (Deng, F. 2005:503). But this was a consensus of males alone and a participation of males only. Paradoxically the Chief is the dispenser of justice and the protector of all his people. But it never dawned on the outlook of traditional societies that the exclusion of women was in itself an injustice. Political, jural leadership was exclusively a male function.

The Tribal Council that advised and kept the Chief in check consisted of senior male relatives or his own appointees. This instrument was extremely valuable for it limited the excesses of power. Again here women were excluded because of their gender.

MARGINALITY OF WOMEN

In patriarchal societies, rank is acquired patrilineally, that is, children of one man are considered to be of one blood. Mönnig points out that in spite of being of one blood with their male siblings, women “are always inferior not only to the men of their own blood but to all men”. (Mönnig, 1967:268). Men acquire status through political and jural office. Women are traditionally excluded from such roles. Women acquire status through marriage if they get married to a man of high rank and status. Furthermore, Mönnig has this to say about the status of women in Pedi society: “The position of the whole female sex in Pedi society is such that everything which is despicable is usually ascribed to women. Only they can become impure (*ditšhila*) and so contaminate men”. (Mönnig, 1967: 271). Jean Comaroff records the same experience about the Tswana women. Women are closely associated with agriculture and have a fragile hold over it because as females, they lack “the innate closure necessary to permit them to act masterfully upon the world”. Women are open to defilement. Their bodies generate heat, “a force that constantly threatened to spill over and infuse other persons and things with its disruptive qualities. (Comaroff, 1985:67). This is why women were forbidden to walk across the cattle kraal. Their bodily “heat” would neutralize protective medicine. It was believed that they threatened with their heat, rituals of initiation, rain-making, ancestor veneration and the decisions of the Chief’s court.

Comaroff points out that a prominent index of the marginality of women is cattle possession and cattle management. Cattle, she writes, “provides the single most condensed symbol of the constitution of the body politic among the Tswana. (Comaroff, J. 1985:61). Formerly, cattle represented wealth. They were used to transact a marriage. Clients paid with cattle to gain patronage. They were used in ritual sacrifices to appease ancestral spirits. Cattle were central in all major transactions. Such transactions were a male prerogative. Thus women were not allowed to own cattle, except perhaps a few. Women were excluded from the most valuable activities in the political economy of their society. Essentially, women could not be involved in public transactions because their lack of physical closure potentially threatened existing material, social and spiritual orders. The “polluting heat” of women had to be contained by confining women in space. The “polluting heat” of women leave behind “hot tracks” on public pathways, and these “hot tracks” threatened the health of members of the public (p.81.) Mönnig adds that all night witches are women – for it is believed that “only their sex is capable of such an inborn compulsion to do evil”. (Mönnig, 167:271).

Jean Comaroff explains that “yet, at the political centre, communal politico-ritual enterprise stood in constant jeopardy of being “spoiled” (*gosenyega*) by the polluting effect of heath (*bothitho*) carried within the inadequately enclosed female body”. The same principle of exclusion covers other traditional male activities such as hunting, stock management, farming, warfare and iron-smelting. Menstrual taboos apply in all these cases.

In order to reinforce the argument of J. Comaroff, Eugenia Herbert points out that in most iron-smelting areas on the African Continent, the twin-taboo of the “polluting heat” of menstruating women and the prohibition of sexual relations are in force during the production of iron. Women are not allowed anywhere near the foundry; smelters are expected to abstain from sexual relations the day before smelting takes place. The degree of strictness differs from area to area. Herbert writes that in her research in Zaire (Democratic Republic of Congo) there was a strong belief that if a woman ignored the taboo, she would be doomed to “les menstrues infini” (menstruation without end) and in the case of an offending male, he too would be doomed to impotence. Menstrual blood symbolises the failure to conceive. The presence of a “polluting heat” would cause the molten slag to “run from the furnace like the menses of a woman”. Herbert draws attention to the

Asante (Ghana) belief that if a woman with “polluting heat” entered a stool room, “her state would drive away the spirit of the ancestors”. And so, sexual taboos (including the prohibition of menstruating women) are observed in order to forestall dangerous situations. Herbert notes that these taboos in no way suggest that there is a revulsion against the body or sexuality “but rather it is because sexuality is too powerful a force socially and cosmologically, to leave unregulated”. (Herbert, E. 1993:227). It is preponderantly women’s sexuality that is seen by men to be dangerous and therefore in need of control.

Mary Douglas writes that “most activities which custom allocates entirely to one or the other sex are protected by sexual taboos. (Douglas, p.6, 1954) Work roles are rigidly categorized according to sex or the quality of age – the older the better. Such rigidity of work roles “tends to preserve power-relationships”. For example, some occupations are hereditary; participation in political structures is a male prerogative that excludes women; access to goods, technical skills and ritual performance are generally divided strictly along gender-lines. Herbert points out that “with the passage of time the division of work-roles takes on a timeless authority, valid because this is the way things have always been. (Herbert, 222, 1993).

AFRICAN MARRIAGES

Some aspects of African customary marriages are responsible for the serious undermining of the freedom and dignity of women. The fact that they have been in force over a lengthy period of time and that women have tolerated them, does not mean that they should not be overhauled and brought into line with the declarations of the Human Rights doctrine. Customary marriage as an institution survives because of the patrilineal kinship system that privileges the male.

MARRIAGEABLE AGE

Poulter in his *Family Law and Litigation in Basotho Society*, points out that “Where the values of any society are in a state of flux the traditional rules will often appear to many members of the younger generation not only to be outmoded, but positively unjust” (1976 p.58). The age of marriage is a case in point. Some parents still arrange marriages for their teenage daughters and sons. This practice is still in force in some areas even though it is increasingly found to be outmoded. Some parents arrange marriages for their daughters while they are still young in order to prevent them from being deflowered before marriage. (Accad, E. 1978:620). Some traditional parents also argue that marriage is between two families rather than between two individuals. In this day and age the marrying off of a girl between the ages of 12 and 16 is repugnant to justice because chances of the girl improving her education become radically curtailed. Besides, the choice of what a father considers to be a suitable partner ignores private and intimate issues such as love, feelings and general compatibility. Reuter in his *Native Marriages in South Africa, According to Law and Custom*, observes that the age of marriage for women, among Africans, is irrelevant because “women as a rule never reach the stage of full age or independence but remain “minors” at law under the guardianship of their father or husband or the lawful heir respectively (p.106, 1963).

POLYGAMY

Polygamy has not disappeared entirely. It is alive and strong even though it is no longer commonly practised. Polygamy conditions the minds of men. It suggests to men that you can have as many wives or concubines as you can afford. Polygamy flies in the face of monogamy. It contributes towards the undervaluing of women and compromises their individual dignity. Some married men feel entitled to take some other woman as a concubine (nyatsi). The practice of polygamy encourages promiscuity among men who are not in polygamous relationships. The Tswana idiom says: “*Monna ke pôô ga a agelwe lesaka*” (A man, like a bull, cannot be confined). A man’s infidelity is condoned. But a woman’s infidelity is taken seriously and may even lead to domestic violence. This is a case of double-standards. Wives are treated as subordinate to men. (Schàpera, 1970:156).

Miller in his discussion on Senegal women-writers, gives an example of a 30 year old woman named Yacine who was brought by her husband from Senegal to Ivory Coast. One night her husband brought home with him a woman and he declared, “This is my new wife. You will let us have the bed”. (Miller, 1990:254). Such brazenness, such impunity feeds on a culture that considers women subordinate to men. A polygamous mentality promotes licentiousness and a profound disrespect for women.

The intentions of polygamy in olden days was to create political alliances, to augment a labour force, to enhance one's standing in the community and to increase one's chances to have a male heir. It was also argued that it was better to have legitimate children within a marriage than children born out of wedlock. Tradition maintained that polygamous relations were inherently valuable to the community. While polygamy is no longer commonly practised, its negative impact is still widely felt. It is also responsible for moulding men's attitude towards women.

There are other cultural practices (concerning customary marriages) which have equally dented the dignity of women. These practices have fallen disuse but they have shaped the mentality and attitudes of men and are still remembered as what was permissible in the past.

- (i) Among the Sotho speaking people when a wife died, her sister was expected replace her as a substitute (seantlo) in order to fulfil her family's duty of bearing children to the husband. This practice ignored the independence and the right to choose freely a partner in marriage. This situation brought about humiliation and embarrassment to the wife.
- (ii) If a wife was unable to have children, custom dictated that the husband could take another wife as a "seed-raiser" (*Mala marriage*). This move was to ensure that the wife retained her position as senior wife. The new wife would then live in the shadow (seriti) of the senior wife and would be attached to the house of the senior wife. It was also hoped that the new wife might produce a male heir for the senior house.
- (iii) A husband could also marry junior wives called daughters-in-law (*lingoetsi*) who were regarded as helpers of the senior wife. "The husband cohabited with the *ngoetsi* if he wished to and they were also lent out to others." (Poulter, 1976:162). Clearly this practice was repugnant to justice and morality. Women were obviously treated as men's property.
- (iv) If a young man died before getting married, his father, anxious to have a son and an heir, would pay *bohali* for a wife for his deceased son. The wife would be said to have been married for the grave (*lebitla*). This was a ghost marriage. (Poulter, 156-164).

These cultural practices, collectively and cumulatively, show that there was an excessive preoccupation with having an heir who would ensure the continuation of the family lineage. Lineage succession is still a major concern among African families. This preoccupation also stems from the belief that the ancestors of a particular lineage that has come to an end, would no longer have dependants who would offer sacrifices to them.

The assortment of partnerships referred to above, could hardly have been called marriages. They were family arrangements at best. If one were to stray into religion, these arrangements were a far cry from the assertion of the book of Genesis: "This is why a man leaves his father and mother and joins himself to his wife and they become one body". (Gen.2.24). These arrangements highlighted the subordinate status of a woman. Women were at best seen as men's property. With the passing of time these customary practices have naturally fallen into desuetude. But this does not mean that their disappearance has radically changed men's attitude towards women. Women are still not treated as equals to men.

BOGADI (*ilobolo*) Payment (Bride-price)

Bogadi is the payment of cattle or money given to the wife's parents by the family of the husband. Bogadi is said to be an act of appreciation (*têbogo*) to the wife's parents for having brought up their daughter and for the loss of the services she would have offered them in future. It cements a bond between two families. Schàpera states that the main function of bogadi is "to transfer the reproductive power of a woman from her own family into the family of her husband". This transfer makes the marriage legitimate (Schàpera, 1938:139.) The amount paid, traditionally, depended on the affordability or generosity of the husband's family.

Poulter points out that among the Basotho, *bohali* (bogadi) payment is often a long-drawn out process that unduly delays marriages. At times it is even paid by an heir after his father's death. *Bohali* debts do not prescribe. This inevitably leads to elopement, subsequent litigation and the demand for compensation according to the laws of Lerothodi (Section 4(2) of Part II, Poulter, 1976:84). The custom of paying *bohadi* (*ilobolo*) continues to be pivotal in the arrangements of marriages among the African people in Southern

Africa. Poulter is right in observing that the *bohali* custom “seems to be generally favoured by women who say they feel “more married if *bohali* has been paid for them” (p.333). *Bohali* is an outmoded custom. It subordinates the wife to the control of the husband’s parents. It definitely curtails the freedom of a young couple to make their decisions about their future. Increasingly the husband’s parents adopt a mercenary attitude towards *bohali*. In North Africa, men pay some money (*mahr*) on signing the marriage contract. But this custom, writes Accad, “has acquired the taint of money, of transaction and bargaining”. (Accard, E. 1978:621). *Bohali* has increasingly become unreasonable and an unnecessary burden to those who want to marry. If *bohali* is not paid, the father has no right to his biological children. There does appear to be a need to emancipate women from this onerous tradition of depending on the payment of *bohali* in order for them to get married.

One of the conundrums of lobolo custom is that an unmarried young man may have a child with a girl. He does not have any responsibility towards his child and the mother. Custom dictates that he pays for the damage done. He pays a once-off “*inhlawulo*” (damage payment). The child becomes the responsibility of the girl and his family. This injustice continues to plague women. Some men neglect to pay maintenance money even if it is a court ruling.

INHERITANCE

The traditional inheritance rule clearly reflects the subordinate position of women. When a married man dies, the eldest son, if he is of age, takes after his father as head of the family even if there is an older sister. The heir receives a large share of the estate. He then becomes responsible for his mother and siblings. He assumes his father’s status, rights and duties. The intention of the customary rule of primogeniture is to guarantee an uninterrupted continuation of the lineage of the deceased, so pivotal in the African value-system. The eldest son becomes the proverbial hen that gathers her chicks under her wings. He ensures the well-being of the family by keeping the family assets undisturbed. These assets might be divided if the estate is allocated according to a will. (See Bennett, TW. Chapter 12, 2004). If a married man dies without having had any son, his estate becomes the responsibility of his younger brother or nearest male relative. Traditionally, the brother of the deceased could, if he so wished, co-habit with the wife of the deceased with a prospect of raising a son who would then in time become the heir. Or he could also arrange that some other relative co-habit with his brother’s wife in order to “raise the seed”. (Schàpera and Goodwyn, 1937:163, Schàpera, 1938:232).

The traditional inheritance rule that privileges the eldest son or in the absence of the eldest son, a male relative, is patently repugnant to justice and morality. When the husband dies, the wife becomes subordinate to her own son or to some male relative. This is not just a question of role, this is an obvious discrimination based on sex. The customary rule of male inheritance has effectively changed. The South African Interstate Succession Act 81 of 1987 considers the customary male inheritance rule inconsistent with the Constitution and therefore discriminatory. The Act specifies the surviving spouse of the deceased as an interstate heir. (Media Release by South African Law Reform Commission, Pretoria. 7 March 2008; Du Toit, F. “The Constitutional Family in The Law of Succession,” in The South African Law Journal, Vol. 126 (3), 2009 p. 464). Furthermore, The Recognition of Customary Marriages Act 120 of 1998, grants a wife in a customary marriage, on the basis of equality with her husband, “full status and capacity, including the capacity to acquire assets and to dispose of them, to enter into contracts and to litigate”. (Government Gazette, 1 November, 2000).

These pieces of legislation, based on the values of equality and human dignity enshrined in the Constitution, are a breakthrough for women. They have granted women full *locus standi* before the law. Customary Law has been made consistent with the Constitution. However the gap between the law and practice remains. That gap accounts for the continuation of violence against women. In real life, women continue to be treated as “minors” in spite of the declarations of the Constitution and the Bill of Rights.

DOMESTIC VIOLENCE

Some men beat or punish their wives on the grounds of adultery. Some even go to the extent of suing their wives’ paramours. On the other hand, custom tolerates a husband’s infidelity. Wives are not in a position to sue their husband’s concubines. Traditionally a wife cannot prevent her husband from marrying other women.

Some women get killed by their husband. Rape within families are often done by either a member of the family or by somebody known to the family. The toleration of violence against women is largely encouraged by the traditional power-imbalance between men and women. The patriarchal structures favour males. Men have abused the privileges granted to them. Even though some customs have undergone some radical changes, the prevalent attitude of men towards women is that of superiority, hence the assumption that women can be beaten or punished or treated like children.

Repeated domestic violence creates an environment of fear and intimidation. It “seriously inhibits women’s ability to enjoy rights and freedoms on a basis of equality with men”. (Fitzpatrick, 1994:534). Violence against women is not just confined to Africa, it is also prevalent in other parts of the world. Take for example the “honour-killings” in Brazil. It is said that instances of domestic violence “can be justified or excused because the actions of a man’s wife or lover, allegedly offended his honour”. (Roth, 1974:331).

WOMEN AND WITCHCRAFT

The belief in witchcraft has caused incalculable harm to many communities. Witchcraft accusations have led to family breakdowns, the burning of homesteads, even villages, forced relocations, ghastly retaliations and even mob justice against those suspected of witchcraft. The resilience of witchcraft beliefs is encountered in many African countries. Witchcraft is believed to be the manipulation of supernatural powers or extra-human forces in order to heal, protect, harm or to kill. Witchcraft is also seen as a means of enforcing conformity to social norms and thereby making for social stability. It is also generally accepted that a daughter receives “the power and inclination to harm” from the mother (Niehaus, 2001:24). Monica Wilson records that “a woman always gives her “Tikoloshe” (familiar) to her daughter”. She goes on to say that “the worst majority of accusations of witchcraft or sorcery are against women. (Wilson, M. 1961:316). Now women appear to have a special relationship with the uncanny. Harriet Sibisi writes that “women are marginal and can thus fulfil the important social role of forming a bridge between the two worlds. (Sibisi, H. 1975:50). Paradoxically, it is this very role that also adds to the exposure of women not only to domestic violence but also to violence from their own communities. The Ralushai Commission (1996) declares that while witchcraft cannot be empirically proven, “no one can (now) argue that witchcraft is a myth which can only exist in the minds of the ignorant”. In other words, those suspected of witchcraft should be put on trial, and if found guilty, be punished. The stubborn persistence of the belief in witchcraft will see many, especially women, exposed to violence based on superstitious beliefs. (Harnischfeger, J. 2003:45).

Another sinister belief, not unrelated to witchcraft, is that freshly harvested body-parts (e.g. heart, sexual organs) contain energy or power that can be used to make magic potions in order to “strengthen” or “protect” the user. The killing of people or children for the specific purpose of making medicine potions (muti) is known as “medicine” or “ritual murder”. This illegal practice does not specifically single out women or girls even though they too may become victims. (Minnaar, A. 2003:86-91).

HIV-AIDS INFECTIONS

Another form of serious violence against women (in Southern Africa) is the fact that some women have been infected with HIV/AIDS and sexually transmitted diseases by their partners or husbands. Some men refuse to go for testing in spite of the fact that they know that they have several partners. HIV-AIDS has increased the number of orphans and vulnerable children. It has destroyed families and caused immense human suffering. The brazen attitude of men is attributed to the power-imbalance between men and women. Often some women feel trapped in a situation of poverty and, in the absence of viable alternatives, succumb to their plight. If the “right to be informed of one’s own and one’s partner’s HIV status” were easy to implement, perhaps that might ease the conflict. (Viljoen, F. 2012:255).

GENITAL MUTILATION

Genital mutilation of women and children in the name of cultural identity is yet another form of women subordination. Its aim is to control the sexuality of women. Fitzpatrick points out that some practise genital mutilation in order to ensure the marriageability of girls (1994,541). But this cultural practice scars women for life.

HUMAN TRAFFICKING

The trafficking of women (and children) on the African continent is said to be rife even though reliable comprehensive statistics are hard to come by. Syndicates traffick women for sexual exploitation and for cheap labour. Women become victims of domestic servitude and debt bondage. Some are used as drug-mules by drug syndicates. While it is true that low levels of education, unemployment and abject poverty expose women to the dangers of human trafficking, it is equally true that the deeply entrenched legacy of male domination has facilitated the exploitation of women. The increase of public transportation across the porous boundaries of the African countries has bedevilled a situation already compounded by the lack of a political willpower on the part of governments to implement anti-trafficking legislation. Human trafficking inflicts unbearable mental and physical violence on women. (Shelly, L. 2010, 265-293). The kidnapping of women and girls by Boko Haram in Northern Nigeria illustrates the attitude of men who act with impunity towards women. The victims are threatened to be sold to human traffickers in order to humiliate the Nigerian government. To many men, the human rights of women are a figment of the imagination. This attitude continues to be largely informed by traditional cultures.

OTHER EXAMPLES OF POWER-IMBALANCE

Power relationships have shaped both the attitudes of men and women. Among the Pedi, women greet all men first with respect. In public their attitude is changing but within families, it is still very much prevalent. (Mönnig, 1967, 272). This practice is the opposite of “ladies first” custom.

Among the Tswana, divorced women have a stigma. Schapera observes that a divorcee is regarded as a typical example of “feminine frailty”. He quotes the Tswana proverb that says: “Letsêlê go tshwarwa la moswêlwa, la motlhadiwa kemogôfe (Seize the breast of a widow, that of a divorced woman is unstable”.

Barren women, instead of being looked at with compassion, are regarded with disdain. Traditionally women sat on the floor while men sat on chairs. This reality has changed but attitudes have not. Women by and large have to put up with an inferior status. (Schàpera, 1939, 106-107).

Perhaps the most telling outcome of the various forms of discrimination and subjugation of women embedded in the different but internally related cultural forms is the denial of education to African girls. This denial threatens to entrench the inferior status of women. It is a denial bent on confining women to the margins of society and keeping them in subservient positions. Little or no education means that the destiny of women will continue to be determined by men – on whom they will continue to depend for their livelihood. This becomes a vicious circle that impoverishes the self-image of women. African men continue to see women as potential wives and mothers. The image of women as leaders and professionals is extremely distant and vague. School drop-outs and the increase in teenage pregnancies simply play into and maintain the traditional image of women. This state of affairs compel women into a state of silence. Without education women will remain the silent ones, the ones without a voice.

The traditional cultural forms and the African belief-system have conspired to subdue women. Even though many cultural practices are falling into disuse, genuine cultural change takes place at a snail’s pace. The roots of culture are deep and stubborn to uproot. Enlightened legislation is difficult to monitor and implement. Women in advanced Western societies still complain about discriminatory practices against them. Hence the feminist movement. Change will therefore be an uphill struggle for the developing countries. It is incumbent upon women - with the cooperation of men – to work towards vigorously removing those aspects of culture that are hostile to women. It is imperative that National governments incorporate into their Constitutions the Human Rights doctrine and commit themselves to implementing these rights. If that happens, African women will be on the threshold of a new dawn.

+Buti Tlhagale

REFERENCES

- Accad. E. 1978 "The Theme of Sexual Oppression in the North African Novel"
in Beck, L. and Keddie, N. (*eds*)
Women in the Muslim World.
(Cambridge, Massachusetts: Harvard University Press).
- Bennett, TW. 2004 Customary Law in South Africa.
(Cape Town. Juta)
- Comaroff, J. 1985 Body of Power Spirit of Resistance. The Culture and
History of a South African People.
(Chicago: University of Chicago Press).
- Deng. F. 2004 "Human Rights in the African Context",
in Wiredu Kwari (*ed*), A Companion to African
Philosophy.
(Oxford: Blackwell Publishing).
- Douglas, M. 1954 "The Lele of Kasai" in Forde, D.. (*ed*) African Worlds.
(Oxford: Oxford University Press).
- Ellenberger, D. 1992 History of the Basotho. Ancient and Modern.
(Moriija: Moriija Museum and Archives).
- Fitzpatrick. J. 1994 "International Norms and Violence Against Women"
in Cook, R. (*ed*) Human Rights of Women.
(Philadelphia: University of Pennsylvania Press)
- Fortes M. and Evans 1940 African Political Systems.
Pritchard E. (Oxford: Oxford University Press).
- Government 2001, I November
Gazette
- Harnischfeger, J. 2003 "Witchcraft and The State in South Africa"
in Hund J. (*ed*). Witchcraft Violence and The Law in South Africa.
(Pretoria: Protea Bookhouse).
- Herbert, E. 1993 Iron, Gender and Power. Rituals of Transformation in African Societies.
(Bloomington: Indiana University Press).
- Hunter, M. 1961 Reaction to Conquest.
(Oxford: International African Institute).
- Messer, E. 2009 "Anthropology, Human Rights and Social Transformation" in Human
Rights. (Goodale M. (*ed*) An Anthropological Reader.
- Miller, C. 1990 Theories of Africans.
(Chicago: The University of Chicago Press).
- Minnaar, A. 2003 "Legislative on Legal Challenges to Combating
Witch Purging and *Muti* Murder in South Africa"
in Hund, J. (*ed*) Witchcraft Violence and The Law in South Africa.
(Pretoria: Protea Bookhouse).

- Mönnig, A. 1967 The Pedi.
(Pretoria: Von Schaik Publisher).
- Niehaus, I. 2001 Witchcraft, Power and Politics.
(Cape Town: David Philip).
- Nzegwu, N. 2004 “Feminism and Africa: Impact and Limits of the
Metaphysics of Gender” in Wiredu, K. (*ed*),
A Companion to African Philosophy.
(Oxford: Blackwell Publishing).
- Poulter, S. 1976 Family Law and Litigation in Basotho Society.
(Oxford: Oxford University Press).
- Richards, A. 1940 “The Political System of the Bemba Tribe –
North Eastern Rhodesia”, in Fortes M. and
Evans-Pritchard E. (*eds*). African Political Systems.
(Oxford: Oxford University Press).
- Roth, K. 1994 “Domestic Violence as an International Rights
Issue” in Cook, R. (*ed*) Human Rights of Women.
International Perspectives.
(Philadelphia: University of Pennsylvania Press).
- Schàpera, I. and Goodwin, A. 1956 “Work and Wealth” in Schapera I (*ed*) The Bantu-
speaking Tribes of South Africa.
An Ethnological Survey.
(Cape Town: Maskew Miller Limited).
- Schàpera, I. 1970 A Handbook of Tswana Law and Custom.
(London: Frank Cass and Co. Ltd).
- Schàpera, I. 1939 Married Life in An African Tribe.
(London: Faber and Faber Limited).
- Shelley, L. 2010 Human Trafficking
(Cambridge: Cambridge University Press).
- Sibisi, H. 1975 “The Place of Spirit Possession in Zulu
Cosmology” in Whisson M. and West M. (*eds*)
Religion and Social Change in Southern Africa.
(Cape Town: David Philip).
- Taylor, C. 2007 A Secular Age.
(Cambridge, Massachusettes: The Belknap
Press of Harvard University Press).
- Viljoen, F. 2012 International Human Rights Law in Africa.
(Oxford: Oxford University Press).

