

## Mitigating Gender Inequality, Sexual Exploitation and Risk of Contracting Hiv/Aids: the Need for Gender Protection Practice and Enforcement in Nigeria

**Emeka E. Obioha,**

*National University of Lesotho,  
Lesotho - Southern Africa*

### **Abstract**

Some feminist studies on women reveal that male supremacy over women and consequent sexual exploitation has continued for centuries due to many factors, which include patriarchal idea that obscures the history of women. This is an idea that affects women's potentials by limiting them mainly to reproductive and nurturing roles. There are various cultural practices that may be regarded as deliberate sexual violence and exploitation against women, which are not classified as violence like and other criminal acts such as rape. Nigerian society, like most patriarchal societies continues to ignore and refused to address properly, these important issues that hinges on overall development of the society. These practices have existed since considerable age long, with various health implications in the society. Against this background, this paper focuses on examining the interface between gender inequality, sexual violence practices and the corresponding high risk of contracting HIV/AIDS. Specific issues discussed in the paper are, overview of Gender inequality and patriarchy; plethora of sexual violence against women; sexual violence and the risk of HIV/AIDS in Nigeria; and various strategies for mitigating the challenges of sexual violence on HIV/AIDS. The paper also highlighted the option of domesticating gender protection in the laws of Nigeria. In conclusion, there is a strong conviction that promoting a culture of rights and gender equality; responsibility and choice in relation to HIV/AIDS can end women's over-whelming, biological, social and economic susceptibility to HIV and affirm the right of all people to life and dignity.

### **Introduction**

Nigeria is a country that comprises of over 350 ethnic nationalities with distinct, but similar cultural practices in many respects. Irrespective of the observed differences among these groups, they have many things in common, especially with reference to gender considerations in the society. These societies and cultures are mainly patrilineal with undiluted practice of patriarchy, which has been the practice for several centuries. Among these societies, very few of them practice matrilineal culture where the matriarch and generally women have some respect in the society. General observations have shown that these matrilineal institutions and matriarchy built around womenfolk is fast disappearing as many people keep on disregarding the authenticity of matrilineal practice and claim of inheritance in the present modern and capitalist age. Most of them have various practices that subjugate and put the female members to a great risk of struggling for survival,

thereby placing them on the margins as endangered specie. Common among these practices include, widow inheritance, female genital mutilation, early marriage, wife battering, lack of access to property and other gender discriminating issues.

In most of these cultures and societies, including those that still uphold matrilineal claim, women are treated as second-class citizens and subjects to their male counterparts who are regarded as lords in most part of Nigerian society. This notion and behaviour equally takes root even in the household where the decision of the man of the house is final (Isuigo – Abanihe, 1996b). The woman contributes little or nothing let alone making any conclusive statement to issues, especially on sexual matters and reproduction. This observation leads to the conclusion of prominent scholars in African family system and reproduction (Isuigo-Abanihe, 1994; Nwabueze, 1999 and Bammeke, 1999) that men dominate economic, political, productive and reproductive affairs in Africa as a traditional patriarchal society. This unequal power relation between men and women in family affairs and beyond are also learnt from the orientation given to them from childhood during the process of socialization and enculturation (Bammeke, 1999).

Gender inequality in decision-making process exerts serious implication on reproductive health decision-making (Wusu, 2001), especially on control over sex, which has been culturally arranged to lie more with men than women who “submit” their bodies, (Isuigo-Abanihe, 1994). In most cultures in Nigeria, men decide when to have sex or not, leaving no much room for women to resist sex when they are traditionally expected to bear children and nothing more (Mbugua, 1997). Studies have shown that even when women perceive their health as being in danger, they have no right either to refusing or insisting on safer sex methods. These studies subscribe to the position that women in Sub-Saharan Africa, including various societies in Nigeria do not have any responsible control over the sexual access of men to their bodies nor conditions under which sexual intercourse takes place. A woman for that matter cannot demand for safe sex, in fact, any attempt for women to refuse sexual demand by their husbands may lead to marriage dissolution or battering or coercion (Bammeke, 1999; Adewuyi, 1999 and Wusu, 2001). These demonstrations on lack of control over sex and a host of other issues, including forced marriages, early marriages, genital mutilation, widow inheritance and other practices point significantly to neglect and abuse of women’s rights, which are not less than other human rights. They could therefore be regarded and treated as issues of sexual violence and exploitation against women in Nigeria society.

Following the above, this discourse assumes that gender inequality and sexual exploitation which are rooted in patriarchy are twin cases that may complicate the spread and sustenance of HIV/AIDS in Nigeria. This is so because where one party to sexual relationship is either coerced or not having any right over the action, or to demand for safer sex methods, there appears to be a great risk of contacting HIV/AIDS virus. However, one may ask how important is sexual intercourse in the spread of HIV/AIDS in Nigeria? Obviously, the answer is very important, because it has been proven severally by scholars that sexual intercourse

is the most potent and fastest means of transmitting HIV/AIDS globally, including Nigeria. This and other important considerations motivate the task of writing this paper. Against this background, this paper focuses on examining the interface between sexual violence and exploitative practices and the corresponding high risk of contracting HIV/AIDS. Specific issues discussed in the paper are, theoretical explanation of Gender inequality, sexual violence, exploitation and patriarchy; plethora of sexual violence against women; sexual violence and the risk of HIV/AIDS in Nigeria; and various strategies for mitigating the challenges of sexual violence on HIV/AIDS. The paper finally interrogates the need of instituting Gender protection practice and enforcement in the country.

### **Theoretical Explanations of Sexual Exploitation and oppression of Women in Patriarchal Societies**

From the sexual oppression perspective, Firestone (1972) opined that sexual oppression was the first and most fundamental form of oppression, which brought about stratification. She provides a very clear explanation for the origin of the twin issues (oppression and stratification). One of her main proposition is that men and women were created equally and not differently privileged. Her major thrust is that inequalities and division of labour between men and women arose directly from biological differences, which produces a form of social organisation that could be referred to as the biological family, which the men took to their advantage. Ortner (1974) agrees with Firestone on the sexual oppression theory, that women are universally oppressed and devalued. However, she claims that it is not biology as such that set the pace for the oppression, rather, the way in which every culture defines and evaluates female biology that determines the place of women in such society. The believe hinges on the fact that if the universal evaluation of woman changes, then the basis for female subordination would be totally removed.

Like Firestone and Ortner, Rosaldo (1974) also argued that women have been disadvantaged in every known society, where they lack generally recognized and culturally valued authority. Even though, Rosaldo accepts that biology is the basis for women's oppression, she propounds an indirect link between the two. It is the interpretation that ties women to rearing of children and keeping domestic chores, and their biological makeup that leads to their disadvantage and subordination in the society, rather than their biological make up on itself.

In sourcing for other explanations, Marxist and socialist feminist views could be useful in the understanding of women's sexual oppression and sub-ordination. The Marxists/socialists school of thought sees capitalism rather than patriarchal practices as the principal source of women's sexual oppression, exploitation and subordination, where the capitalists are the main beneficiaries. Like other radical feminists, they see women's unpaid work as housewives and mothers as one of the main ways in which women are exploited sexually and in labour terms hence; other productive activities of women are also taken for granted.

According to the Marxists, represented in the views of the Central Committee Communist Party of Peru (1975), through the centuries, the exploiting classes have

sustained and imposed the pseudo-theory of the "deficient feminine nature," that has served to justify the oppression which up to now women experience in societies in which exploitation continues to prevail. This situation is continually reiterated in the religious and spiritual understanding of women as human beings in Jewish and Greek societies, who at one time in history believes that women are females because of certain qualitative faults. That way, the Jewish men's prayer: "Blessed be God, our Lord and Lord of all the Worlds, for not having made me a woman" and conformity by the Jewish women who pray "Blessed be the Lord who has created me according to his will," clearly express the contempt the ancient world had for the woman's condition. These ideas also predominated in Greek slave society; the famous Pythagoras said "There is a good principle which has created order, light and man and there is a bad principle which has created chaos, darkness and woman;" and even the great philosopher Aristotle pronounced: "the female is female by virtue of certain qualitative fault," and "the character of women suffers from a natural defect" (Central Committee Communist Party of Peru, 1975)

Marxism, which is the ideology of the working class, conceives the human being as a set of social relations that change as a function of the social process. Thus, Marxism is absolutely opposed to the thesis of "human nature" as an eternal, immutable reality outside the frame of social conditions; this thesis belongs to idealism and reaction. The Marxist position also implies the overcoming of mechanical materialism (of the old materialists, before Marx and Engels) who were incapable of understanding the historical social character of the human being as a transformer of reality, so irrationally it had to rely on metaphysical or spiritual conditions, such as the case of Feuerbach.

Just as Marxism considers the human being as a concrete reality historically generated by society, it does not accept either the thesis of "feminine nature," which is but a complement of the so-called "human nature" and therefore a reiteration that woman has an eternal and unchanging nature; aggravated, as we saw, because what idealism and reaction understand by "feminine nature" is a "deficient and inferior nature" compared to man.

For Marxism, women, as much as men, are but a set of social relations, historically adapted and changing as a function of the changes of society in its development process. Woman then is a social product, and her transformation demands the transformation of society. Based on this argument and the position of the Marxists, women are discriminated against and upon all perceived as reproductive machines and sex objects to some male patriarchal chauvinists

### **Gender Inequality and Patriarchy Critically Re-Considered**

*Some feminist studies on women reveal that male supremacy over women has continued for centuries due to many factors, which include patriarchal idea that obscures the history of women. Patriarchal system, according to Schuler, (1987) affects women's potentials by limiting them mainly to reproductive and nurturing roles. In our societies, the extent and magnitude of gender inequality in our society*

*is better imagined than observed. There are various manifestations of this practice and notion in Nigeria. These include, unequal access to education, inheritance rights, rights to property, unequal right over land, unequal right over sex and unequal right to take other decisions about personal life including engaging in labour.*

Many studies have pointed out the root of gender inequality in our societies. The first school of thought believed on the biological explanation and cause, while the second proponents based their argument on society/social construction of inequality. According to the first school of thought, many stratification systems are accompanied by beliefs, which state that social inequalities are biologically based. Such beliefs are often found in systems of gender stratification and discrimination where, for example, men claim biological superiority over women and see this as the basis of their dominance over women who are regarded as weak. They believe that men as oppressors are born with gender characteristics that are biologically stronger and innately superior to females. Similarly, the French Philosopher Jean – Jacques Rousseau provided one of the earliest examinations of this question of biologically based claim of inequality. He refers to biologically based inequality as 'natural' or 'physical' because it is established by nature, and consists in difference of age, health, bodily strength, and the qualities of mind or the soul. For this reason among others, the male chauvinists believe that nature made them stronger than women because of their muscular strength. Even some claims have been made that the question of superiority of men over women had been settled, even at the inception of creation. These in Genesis, the Bible has it that the woman is created and made from Adam's rib: This position was variously substantiated in different portions and addresses in the Bible, where women are commanded to obey their husbands, and to see their husbands as their Lord. Claims such as these in the Holy Bible only make male chauvinists to be insistent on their superiority claim, which according to them is divinely constituted.

Contrary to the biological school of thought, the cultural exponents believe that gender differences are socially constructed. Socially created inequality consists of the different privileges which some men enjoy to the prejudice of others, such as that of being richer, more powerful, or even in a position to exert obedience (quoted in Bottomore, 1965: 15-16). The theorists believe that men and women are born on equal basis, but the society created and continues to create much displeasing differences and discrimination. The socially constructed concept of masculinity and image of control over women derives from the inception of socialization. Right from home and the family of orientation, parents especially mothers teach their children that female is weaker and inferior sex and should be protected and controlled. Such education continues in the secondary and tertiary agents of socialization, thereby reinforcing the distorted images and messages. To a large extent, "masculinity" is not a natural endowment, rather, it is a form of power and, to the extent that it is formulated in opposition to feminist. The claim of masculinity enables men to act out this power in the subordination and control of women. In one sense then, to become masculine is to become an oppressor (Maynard, 1993: 120). But Maynard also believed that man, as an oppressor is not

born with his gender characteristics biologically and innately given. Rather that they are social realities constructed in long distant time.

*Substantially, the issue of persistent gender inequality in our society is derived from the much-organized system of patriarchy. It is widely believed that women are disadvantaged and subordinated in most things, if not all. This disadvantaged life begins from birth and terminates at death. As a girl or young woman she is often not educated as the boys, later she moves from dependence on and submission to father to dependence on her husband and how to submit to "family expectations". (Joss, 19909; Alliyu, 2002). To a large extent, women may have been trapped in world of men, where they could hardly imagine another world outside; a world dominated by men and controlled by men through structures and cultures created by men. These above, describes what is commonly labeled in the literature as patriarchy. It is essentially a system that is characterized by overall process of women subordination and limited rights in matters concerning access to property, such as land, money and capital as a means of production. Even the limited rights are not exercised directly, rather they are vicarious, temporal, and usually through husbands, sons, or fathers as the case may be (Aidoo, 12988; Pearson, 1992). Given the present economic and social conditions globally and in Nigeria especially, it appears difficult and unthinkable for the men to relinquish their longtime cherished privileges over women. As Stille (1891; 36) quoted in Chiemeka-Agomoh, (1995) observed, that our patriarchal society will not change over night and that men in our society who are reaping the rewards of violence will resist relinquishing their domination, even men who attempt to give up their violence will be faced with covert and overt pressures from other men to come back in line with the attitude of masculine superiority. More substantively, Walby (1990) theorized patriarchy as central to the feminist understanding of many social relationships in the society. She identified six patriarchal structures, which restrict women and help to maintain male domination in the society. These consist of paid work, patriarchal relation with the household; patriarchal culture; sexuality; male violence towards women; ethnicity and class.*

### **The Reality of Gender Inequality in Nigeria**

Gender inequality permeates practically in most aspects of social, public and personal lives of Nigerians. Over the years it has become a normal practice to treat women and men unequally. In this case preferences and privileges are given to men to the detriment of their female counterparts' right from the day they are born, which has created an imbalance between men and women with respect to poverty level (Obioha, 2003). This makes it unheard for or inconsistent to treat men and women equally in the society. This practice spans across marriage, inheritance rights, and widowhood rights among other issues. Countless barriers such as religion, culture, capital, self evaluation among others hinder women's efforts to improve the quality of their lives in many societies, especially in the developing ones. According to Obioha and Tilley-Gaydo (2008), from their study in Nigeria among the Tiv people of Vendeiyka, factors such as patriarchal nature of the society, low level of education, domestic duties, location of projects, perceived or expected benefit from the programme explained why rural poor women are not

participating actively in various development programmes that are aimed to improve their lives. Women in this society believe from their cultural notions and orientations that they should do things, even those that directly concern their lives, only with approval from the men in their communities. It is therefore evident in Nigeria that women have less access to crucial resources such as information, educational skills, training, and health etc, compared to their male counterparts.

Studies have shown that in the female-headed households in Nigeria, the incidence of poverty has been high, 58.5% in 1996, 39.9% in 1992, and 38.6% in 1985 27.0% in 1980. Comparing female-headed households with that of male-headed ones, Table 1 shows that female-headed households earned about three quarters of what male headed households earned. (FOS, 1999).

**Table 1 Income Sources by gender of Household heads**

65.1	76.9	66.5
18.0	12.9	17.4
83.1	89.8	83.9
15.9	9.5	15.1
1.0	0.7	1.0
100.0	100.0	100.0
<b>6,508.3</b>	<b>,839.7</b>	<b>252.2</b>

However, according to the results of the survey, it is evident that female-headed households are poorer than that of the male headed ones, perhaps because of certain society induced disadvantages on women. This validates the notion by IFAD, (1993), Obioha and Odumosu, (2002) that households headed by *defactor or de jure* by women are among those identified as most vulnerable groups in African society in general and various culture groups in Nigeria in particular.

This presupposes that there are glaring indices of inequality, which are sustained by the culture, and practices of the society. The sources and continuation of these unequal treatments could be traced to even biblical/koranic injunctions, traditional beliefs and practices, and late participation of women in legislation due to educational disadvantage (Unobagha, 1995). In practice, the sustenance of inequality goes together with the discrimination which is meant to either widen the gap or increase the incidence there of. The discrimination against women involves being perceived and treated as a member of gender category (female) about which there are all kinds of stereotyped beliefs and which is inferior to the alternate gender category-males (Whitehead, in Abdullah and Amah, 1995). More holistically, *Article, 1 of the United Nations Convention on the Elimination of All forms of Discrimination Against Women (CEDAW)* perceived it as any distinction, exclusion or restriction made on the basis of sex which has the effect of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on the basis of equality of men and women, of human rights

and fundamental freedoms in the political, economical, social, cultural, civil or any other field.

Also embedded in the whole matrix of inequality is the issue of sexual violence against women and how it is treated in Nigeria. In Nigerian society, violation of women sexual right is treated with utmost laxity. First, the laws of the Federal Republic of Nigeria as being derived from the cultural ethos of various ethnic nationalities in the country does not believe that a man can be liable to raping his wife, secondly, the onus for proof of sexual violation on the women is legally difficult. The law makes it almost practically impossible for any woman to prove a genuine case of sexual assault beyond all reasonable doubt. In this complex situation of outright difficulty in proving case of sexual assault, restorative justice as a matter of fact is inhibited *abinitio*. The application of restoration for the victims of various crimes, deprivations etc are meant to come after a proof of dislocation of the law.

Infection by HIV/AIDS as a result of sexual violence appears not to have any practical remedy or restoration. From what obtains in Nigeria, like in all other societies, infection by the HIV virus which leads to AIDS most often leads to death of victims. On this note, a woman that has been infected by HIV through sexual violence may not have hope for any restoration because of the characteristics of the disease. Similarly, in some cases whereby victims of sexual violence who are infected by HIV virus survives immediate death, the laws of the Federal Republic of Nigeria does not have clauses that provide protection of the rights of the women concerned, neither is there any provision that creates room for restoration.

### **Plethora of Sexual Violence and Exploitation against Women in Nigeria**

Sexual violence as one of dreaded but common in human societies all over the world occurs within the broader margins and spectrum of violence. Therefore an attempt to understand the trend of sexual violence in any society should rightly begin with proper understanding of the concept 'violence'. For Tamuno (1991:13), violence is the unlawful use of threat of force. Similarly, Mackenzie (1975:39) earlier perceived violence as the exercise of physical force to inflict injury or cause damage to a person's property. It may include psychological, involving irrational and murderous use of force; ethical, involving the vandalism of neighbours property or an abuse of his/her liberty, and political, involving forceful seizure of power or the illegitimate use of political power as conceptualized in the triple angles view of Domenach (1978:718). Implicit in these definitions of violence are two basic things – the use of force, and the abuse of another person's fundamental human rights.

Violence against women is often seen as involving only the acts of physical violence, which is rather too narrow for proper understanding of our discourse. Scott (1994:20) described violence against women in a fairly broad sense as 'any violation of woman's personhood, mental or physical integrity or freedom of movement, and includes all ways our society objectifies and oppresses women'. Therefore, violence against women should be perceived to include a wide range of



behaviours, which result in some physical, psychological economic and social 'pain' on the women (Chiemeka – Agomoh, 1995:1). Acts that can be classified as violence against women include homicide, sexual assault, domestic violence, battered women syndrome, force/child marriage, incest, female genital mutilation, widowhood rights, widow inheritance, etc. For this paper, our focus is on the violations against women that are directly related to sexual relationship, hence the key word 'sexual violence'.

Among other types of sexual violence against women in Nigeria, the most prominent ones include, sexual abuse, widowhood inheritance, lack of sex/reproductive rights, and lack of consent before marriage and female genital mutilation. From the study of Chiemeka – Agomoh (1995) on the acts recognized as violation of women's right, the responding figure shows that women across Nigerian societies are not aware of acts that violate their rights (table 2.)

**Table: 2 Women's perception of Sexual violations**

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*Source: Extracted from Chiemeka-Agomoh, 1995: 12.*

It is evident from the table, that women are not very aware of what constitute the violation of their sexual rights. According to the author, they never perceived the outlined acts in the table as violation, which leads to their low scores on the indices across the three geographical regions survey. A possible explanation to this is obvious. Women have grown not to accept these treatments as violations of their right because they have been taught to accept them as part of the society's status quo. Following Scott (1999), it may be difficult for one to recognize easily the violation of one's right if such rights have not been respected in the past. Therefore, in an attempt to question the status quo, such person or her questions may be perceived as a misnomer and abomination.

Most of the outlined practices that are innately serious violation of women's sexual rights have been sustained in our society. From all observations around and across known ethnic nationalities and cultures in Nigeria, they suggest that the main agents of socialization (family, religion, schools) contribute in reinforcing the situation, by transmitting them from generation to generation. For example, in the case of female genital mutilation, Mama (1989) reported that "Female genital mutilation has been exposed as crude means for enforcing subordination and control over the sexuality and reproductive capacity of women, regardless of the pain, physical damage and even deaths caused. Removal of the clitoris, in contrast to male circumcision literally means excising the woman's

ability to enjoy sex -- The fact that women carry out these practices challenges over simplistic analyses about 'male violence' and raises important questions about the nature of Patriarchy, and women's active participation in it" (pp 9 – 10).

Women's participation in perpetuating the practice of female genital mutilation may not rightly suggest that women have vested interest in it because of what they as a social category gain from it. Rather these women are only exhibiting or practicing the education impacted on them, as they know best through the agents of socialization. The same argument goes for sexual abuse cases of rape, by husbands. In this case, it is not only evident that the major agents of socialization have erroneously assisted in defining it as normal, but surprisingly the modern law through its means have made it impossible for women to complain of rape by their husbands. In Nigerian society, it is practically impossible for a husband to be charged of either forcing his wife to sexual intercourse or raping her. Unfolding events have demonstrated that the legal system protects only those women who conform to traditional sex-role stereotypes. The law provides immunity from prosecution of husbands who forced their wives to have sexual intercourse. Perhaps the rationale for this can be inferred from the words of Hale (1847: 628) "The husband cannot be guilty of a rape committed by himself upon his lawful wife, for by their mutual matrimonial consent and contract the wife hath given up self in this kind unto her husband, which she cannot retract".

The case above substantiates that women have little or no say over their sex life. Besides, sexual assault by husbands who entered into marriage with their wives through mutual consent, the case of those husbands who married their wives forcefully through the parents of their wives is a bit more complex. In this situation, all sexual transactions and intercourse thereof are regarded as forced sex, but that is not the case in practice. The reason for the sustenance of these acts is primarily from the traditional perception of women as baby making machines, sex objects and subjects that have no right to resist their husbands' sex overtures.

Again, the instance of widow inheritance is to a large extent not acceptable in the modern society, especially when the health implications are considered. In most societies and cultures in Nigeria, like in other African societies, transfer of widows to a brother or relative of the widow's dead husband was common<sup>8</sup>. This practice innately carries violation of fundamental sexual rights of women. For one thing and sake of human dignity, every human being is naturally endowed and created with feeling for affection, love and emotions that should not be tampered with. However, this is not the case in practice. Various rights are performed when a young man dies in order to transfer his wife to another person, in which case the woman in question does not have right of refusal.

The above demonstrations show the extent women's sexual right could be violated. Sadly enough, the modern law system has not done anything positive to redress the

<sup>8</sup> Though one cannot estimate the extent such practice is still on at present time.

situation. Cases of sexual violence are abound and could only be tackled if necessary preventive and workable measures are put in place. Failure to eradicate sexual violence against women points to failure of the entire human society and Nigeria in particular

### **Sexual Violence, Exploitation and Risk of Contacting HIV/AIDS by Women**

Bye and large, all the practices that violate the sexual rights of women and even men in the society are capable of exacerbating the spread of HIV/AIDS. For instance, rape, early marriage, widowhood marriage and transfer among others relate to sexual relationships that are in most cases not with the consent of the woman. Women only abide by the dictates of the community and society to avoid much trouble. The fact that these practices are not carried out with the full consent of women suggests that they have little or no say in determining whether they require safe sex or not. Given to the fact that men are in absolute control of sex, women are at danger of contracting HIV/AIDS and other sexually transmitted infections if their spouses are already infected. This however only emphasises the role of culture in determining the extent that women are prepared to accept or to perceive themselves as persons with the right to self determination and control over their bodies (Chiemeka-Agomoh, 1995).

The debate on sexual violence and its contributory role in the spread of HIV/AIDS is important at this stage of worlds search in finding solutions and avenues to the dreaded epidemic. Sexual intercourse has been scientifically reported and proven to be the most potent and fastest form for the spread of HIV/AIDS virus, among other avenues. The discussion makes more sense when the issue of sexual violence, and women are put to question. Globally, women are more susceptible and vulnerable to the HIV virus than their male counterparts, owing to various cultural and social reasons. For instance, in South Africa, there is an estimated infection rate of 2.3 million women to 1.8 million men (UNAIDS, Epidemic Update, Jane, 2000). This brings to the recognition of all that HIV/AIDS is a disease of inequality and marginalisation, especially when men and women are considered. The reasons for the higher number of women infected with HIV/AIDS and their chances of vulnerability in South Africa arise out of a combination of poverty, unequal access to basic needs and resources, oppressive cultures and traditions, the denial of sexual and reproductive choices and absence of adequate health care and information. Precisely, the unacceptable level of gender violence in South Africa, particularly, rape that is among the highest reported in the world serves to put women at further risk of HIV/AIDS infections. Secondly, it is evidence from the country's social profile that while women want protection against HIV/AIDS infection, unequal gender relations make sexual negotiation a no-go area for marginalized women.

It is no longer news to read that the spread of HIV/AIDS has further been exacerbate by some false superstitious practices in most societies in Southern Africa. There is false belief that the rape of a virgin can reverse the HIV/AIDS status of a man. Closely related to this is also the widowhood cleansing practice among some societies in the South Africa. In these societies, following the demise

of a married man, his wife is made to go through some ritual cleansing, which involves having sexual intercourse with the brother or the closest male kin of the deceased who is to inherit his wife. In the process of this ritual, it is abominable for the woman to either refuse or suggest any form of safer sex. One then wonders what might be the health implications of this retrogressive cultural practice, when the woman is not sure and cannot enquire about the health status of the intending bedmate. Because most of the men that had opportunity of going through this ritual are poor and most times "irresponsible" with proves and records of inability to keep a wife at home, there is more tendency that they are more likely to have been infected with HIV virus in the past. The situation such as this that leaves no choice for the woman further pushes her to the greater risk of contracting HIV/AIDS.

In Nigeria evidence abound that there are practices that make women vulnerable to HIV/AIDS infection, especially those that are related to sexual intercourse. Like in South Africa, there are sexual violence practices that are crime in themselves, and those that are culturally approved and supported. These practices, e.g. female genital mutilation, forced early marriage among others have posed decisive challenge to measures to combat HIV/AIDS spread in Nigeria. Most efforts, material and human resources vested on HIV/AIDS prevention programmes have not yielded much result because of these cultural impediments. Thus, there is an urgent need to address what should be done on these challenging issues if the fight against HIV/AIDS is to be made a reality in Nigeria.

### **Mitigating the Challenges of Gender inequality, Sexual Violence and Exploitation against Women in Nigeria**

Obioha, (2007) perceived the imperative to reduce the underdevelopment and social injustice in Nigeria society as collective responsibilities that require actions and decisions from the whole society and government to bring the situation under control and to ensure the survival and longevity of all women, men and children. He observed that there are several obstacles that stand against achieving this noble goal, which include various cultural practices that may be regarded as deliberate sexual exploitation and violence against women, and other criminal acts such as rape, which are never addressed properly. According to him, "by promoting a culture of rights and gender equality, responsibility and choice in relation to HIV/AIDS can end women's over-whelming, biological, social and economic susceptibility to HIV and affirm the right of all people to life and dignity. If the various practices of sexual exploitation and violence are not arrested there is every tendency that underdevelopment in the country would persist and the incidence of HIV/AIDS transmission would be on increase" (Obioha, 2007:24).

Despite legal reforms in Nigeria about women's right and human right issue, women's social and economic status continues to be largely defined by customary rules that are deeply rooted in country and society specific historical, economic and social factors (World Bank, 1998). In Nigeria the enforcement mechanism of what is written in the constitution is weak, disputes are settled by older and respected male members of the community, which permits the continued

application of customary laws and for the most part prevents the judiciary from playing an active role in applying the new provisions. This is however one of the lapses of the co-existence of the customary and constitutional laws.

As a concession to the varied cultures of the people of Nigeria, the constitution of the Federal Republic of Nigeria, while strongly reiterating the concept of gender equality and non-discrimination on the basis of gender, reopens the issue. Following this, the debate in the country now revolves around whether such enabling legislation can permit the application of discriminatory customary laws, and to what extent it can uphold measures of restorative justice. The constitution is however silent on the specific issues like inheritance rights and sexual violation, although it does not state that all laws that violate the constitution shall be invalid. The issue remains on whether disputants can elect to apply customary laws that discriminate on the basis of gender, and even worsens the situation of women in the society.

### **Direct Measures to Deal with Sexual Violence and Inequality through Legislation**

In a suggestion towards the measures to combat or deal with the sexual violence and exploitation of women in Nigeria society, Obioha, (2007) enunciated that some direct drastic measures should be taken and very seriously for that matter. According to him "in order to deal with the problem of sexual violence and exploitation and its contributory incidence of HIV/AIDS, drastic measures should be taken, both by the government and non-governmental bodies to ensure that the contributory factors are held constant" (Obioha, 2007: 23) Among other things

- . There should be deliberate attempt to improve on the general rights of women
- . Improving women's legal status, including educating and exposing them on their rights.
- . Improving women's access to formal education.
- . Ensure that all the laws targeted at eliminating all forms of gender discrimination are enforced.
- . Ensure that cultural practices such as female genital mutilation are stopped.
- . Improving women's control over their physical welfare, including their bodies.
- . Specifically, for prevention from direct vulnerability to HIV/AIDS the government should
- . Back and advance women – controlled prevention methods for women in Nigeria who are at risk. *Microbicide* development and research must be prioritized by the global AIDS industry. Female condoms must be made accessible and affordable for all women.
- . Advancing trials and appropriate research on post-exposure prophylaxis (PEP) and ensuring its availability for rape survivors and women at risk.
- . Encourage society, particularly men who are the dominant sexual partner and condom users, to see it as both men and women's mutual responsibility to demand condom use and protection.
- . Promote the message that only safe sex is good.

- Encounter the beliefs that AIDS is a 'woman's disease' by including men in reproductive health programmes and by encouraging all men to assume mutual collective responsibility.
- Ensuring that the many laws put in place by government to strengthen and expand women's democratic rights are fully implemented to raise their status in reality and not just on paper.

### **Restoration, Gender Protection and Enforcement Options**

It is an observable fact according to Obioha, (2004: 70) that both the theory and practice of human rights issues in Nigeria are bedeviled with the observed tension between the constitutional provisions of the Federal Republic of Nigeria and various local customs and traditions, especially as they relate to sexual violation and exploitation in the society. "It is noticeable that while the local customs and traditions are strong to the extreme due to the patriarchal nature of the society, the modern law, which is in the formal constitution, is rather weak and unhelpful at the moment. This situation calls for a more pragmatic approach to dealing with all issues related to sexual violations in Nigerian society in general, irrespective of various cultural differences (Obioha, 2004: 70)." He advanced that issues relating to sexual violence and exploitation of womenfolk can be addressed in three alternate possible means of applying restorative justice principles in Nigeria. These are

- The installation of restorative justice practice as part of the formal constitution and
- Developing and strengthening a parallel model for restorative justice practice devoid of the formal constitution.
- Developing and strengthening a restorative justice system in consonance with the local lore, where applicable

Also with regard to gender protection and enforcement as practiced in some African countries, including Lesotho, there is a compelling need to not just have a Law that tries to address sexual exploitation of women and inequality in the society, but to have very specific laws that are backed up with strategic enforcement in ensuring gender protection and enforcement of rights of women among others. For instance, in Lesotho, the establishment of Gender Protection Unit under the Lesotho Mounted Police Service (LMPS) was motivated by among other things the increasing numbers of cases involving vulnerable children and women, neglected, exploited and unacceptable levels of violence against women. This kind of social environment not only motivated the establishment of CGPU, but also, spurred the government of Lesotho into action by providing a legislation to arrest this situation. Sexual Offences Act, No.3 of 2003 was promulgated by Lesotho parliament to address violent, coercive and all types of sexual exploitation on vulnerable children and women. To be more specific, this unit of the Police has been assessed to be effective and responsive to the needs to protect women and children in Lesotho (Likoti, *et. al* 2007), with adequate enforcement mechanisms.

Taking a cue from Lesotho, the establishment of similar unit under the Nigerian Police Force of Nigeria will perform the following functions

- To educate and create awareness to all members of the public on gender based offences and related offences,
- To sensitize members of the public on women's human rights,
- To create public awareness on the needs to arrest gender based violence including domestic violence,
- To educate families and entire nation on family safety,
- To provide user-friendly reporting environment for women who may be shy to report their cases,
- To collect, disseminate and exchange information and good practices on gender-based offences with all stakeholders locally, regionally and internationally,
- To develop assistance mechanism that will ensure protection of victims from, intrusion and retaliation,
- To keep a profile, pattern analysis and all data regarding women in need of care and safety countrywide,
- To provide feedback to the victims about their cases and make adequate follow up,
- To provide counseling service to victims as well as perpetrators of gender violence.

### **Conclusions**

It is evident from all indications from various cultural practices in the many ethnic nationalities in Nigeria that women are for the most part subjugated and neglected. This stems from the patriarchal practices and observations which have continued to be resilient and survive over many centuries and generations in the societies. More importantly, they are sexually exploited and abused through the various cultural practices, including child marriage and levirate or widow marriages as may be the case in some cultures. The reality of the inequality manifests in different aspects of the women's life including participation and decision making in issues that even concern their personal lives. In order to address and mitigate these issues in Nigeria some pragmatic and practicable way forward have been suggested as the usual legislation processes without adequate enforcement have not yielded any positive result. Some direct measures have been put forward in this paper; however the conviction derived from the new global trend of restorative justice and gender protection as being practiced in many countries, including few in Africa can go a long way in addressing the problem at all levels.

## References

Abdullah, H, and Amah, N. (1995) "Overview of Gender Discriminatory Laws and Practices in Nigeria" *Eliminating Discrimination Against Women*. Lagos, Constitutional Rights Project, Pp 15 – 16.

Adewuyi, A. (1999) "Power and Privilege: The male issue in fertility transition in Nigeria, sub-Saharan Africa. In Proceeding of UAPS Conference, Vol 2, pp 3-14.

Aidoo, A. K. (1998) " Women and Food Security: The Opportunity for Africa" in *Development*, Vol, 2 Nos 3.

Alliyu, N. (2002) *Propertied Women in Patriarchal Society: A study of their Characteristics, Attitudes and Roles in Development*. A Ph.D. Post Field seminar paper in the Department of Sociology, University of Ibadan, Nigeria.

Bammeke, Funmi (1999) "Understanding the Gender Questions" in Lai Olurode, and Omololu Soyombo (eds) *Sociology for the Beginners*, Lagos, NIDD Limited.

Chiemeka-Agomoh, U. R. (1995) *Violence Against Women*, Unpublished Manuscript.

Central Committee Communist Party of Peru (1975) *Marxism, Mariategui and the Women Movement* ([http://www.redsun.org/pcp\\_doc/pcp\\_0475.htm](http://www.redsun.org/pcp_doc/pcp_0475.htm))

Domenach, J. M. ( 1978) " The Ubiquity of Violence" *International Social Science Journal*, 30 (4) pp 717-726

Federal MINISTRY OF Health (FMOH) (2001) *A Technical Report on the 2001 National HIV/Syphilis Sentinel Survey among Pregnant Women attending Antenatal Clinics in Nigeria*. FMOH, Department of Public Health, National AIDS/AIDS Control Programme, Abuja

Firestone, S. (1972) *The Dialectic of Sex*. Paladin, London.

IFAD, (1993) *The State of World Rural Poverty: A profile for Africa*, Rome IFAD.

Isiugo-Abanihe, U. C (1994) " Reproductive motivation and Family size preference among men in Nigeria" *Studies in Family Planning*, Vol 25(B) Pp 149-161

Isiugo-Abanihe, U. C. (1996b) " Women and fertility Planning Practice in Nigeria. In Oke, E. A. and Owunmi, B. E. (eds) *Readings in Medical Sociology*. Ibadan, RDMS Pp 120-121.

Joss, S. (1990) "Your Husband is Your God" GUDA Park No 2, Oxfam, Oxford.



Likoti, F.J, Obioha, E.E., Matobo, T.A., Tanga, P.T., and Manyeli, T.F. (2007) Report on *Evaluation of the Child and Gender Protection Unit (CGPU) in the Police Districts of Lesotho* (UNICEF Lesotho/Natioanl University of Lesotho CONSULS)

Mackenzie, W. J. M. (1975) *Power, Violence and Decision*, Penguin Books LTD.

Mama, A. (1989) *The Hidden Struggle: Statutory and Voluntary Sector Responses to Violence Against Black Women in the Home*, London Race and Housing Research.

Maynard, M. (1993) "Violence towards Women" in Richardson and Robinson (eds) *Introducing Women's Studies: Feminist Theory and Practice*. London, Macmillan

Mbagua, W. (1997) " The African Family and the Status of Women's Health" in Adepoju Aderanti (ed) *Family, population and Development in Africa*. London and New Jessy, Zed Books, Pp 139-157

Nwabueze, N. (1999) "Social Institutions" in Olurode, Lai, and Soyombo, Omololu (eds) *Sociology for Beginners*, Lagos, NIDD Limited, Pp 191-210

Obioha, E. E. (2003) *Inheritance Rights, Access to Property and deepening Poverty situation among Women in Igboland, southeast Nigeria. Paper presented at a sub-regional conference on Gender and Poverty organized by Centre for Gender and Social Policy, Obafemi Awolowo University Ile-Ife, Nigeria, June 2003.*

Obioha, E. and Odumosu, O. (2002) "Globalization and Deepening Rural Poverty in Contemporary African Societies: Paper presented at the 12<sup>th</sup> Pan African Anthropological Association Conference, Nairobi, August 2002.

Obioha, E. (2007) "Gender Inequality, Sexual Violence and Risk of Contracting HIV/AIDS in Nigeria" *Journal of Social Policy and Society* Vol. 2. No. 4. Pp 18-25

Obioha, E. E. (2004) "Gender Inequality, Sexual Violence, and HIV/AIDS in Nigeria: Of What Value is Restorative Justice" in Tie, W., Julich, S., and Walters, V. (eds) *New Frontiers in Restorative Justice: Centre for Justice and Peace Development*, Massey University, Auckland, Pp 63-80.

Obioha E. and Tilley-Gyado, B. (2008) "Rural Women's Participation in Development Programmes in Nigeria: Socio-Cultural Explanations from Vendeiyka, Benue State" *Lesotho Social Science Journal*, Vol. 11. Nos 1 and 2. Pp 122-137

Ortner, S. B. (1974) " Female To Male as Nature is to Culture" In M.Z. Rosaldo and L. Lamphere (Eds) *Women, Culture and Society*. Stanford University Press.

Pearson, R. (1992) " Gender Matters in Development" in Allen and Thomas (eds) *Poverty and Development in the 1990s*. Oxford University Press.

Rosaldo, M.A. (1974) Women, Culture and Society: A Theoretical Overview. In M. Rosaldo and L. Lamphere (Eds) *Women, Culture and Society*. Stanford, University Press.

Schular, M. (1987) *Empowerment and the Law, Strategies of Third World Women*. OEF International 1815H Street, N.W. Eleventh Floor, Washington D.C. 20005.

Scott, J. R. (1994) " Social and Cultural Issues Relating to Violence" Vital Signs Vol X. Issue II, G. A. *National Black Women's Health Project*, Pp 20-23.

Tamuno, T. N. ( 1991) *Peace and Violence in Nigeria, Ibadan: The Panel on peace on Nigeria since independence History Project*, University of Ibadan.

Onubagha, I. (1995) "Women, the Law and Legal Inequalities" *Eliminating Discrimination Against Women*, Lagos, Constitutional Rights Project, Pp 13 – 14.

Wusu, O. (2001) Changing family structure and Reproductive Health Decision Making: The Case of Badagry Local Government Area. A Ph.D Post Field Seminar paper in the Department of Sociology, University of Ibadan, Nigeria.