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**Topic: CULTURAL BELIEFS AND THEIR IMPACT ON FIGHTING
SEXUAL OFFENCES AGAINST WOMEN AND THE GIRL CHILD**

By

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Protocol

Introduction:

Cultural beliefs and practices generally are very fundamental in the development of societal norms and behaviours. Importantly, it should be noted that all Countries have numerous and diverse cultural practices that greatly impact the prevalence and responses to sexual offences against women and girls. Africans are mainly, socio-cultural in most of their human interactions. Consequently, there is a lot of interface between their cultural practices and the fight to combat sexual offences against women and girls. The practices of some of these cultural norms, beliefs, and myths appear to have encouraged the perpetuation of gender violence and sexual abuse against women and girls. The prevalence of sexual offences against women and girls in Nigeria is currently on a steady rise. The statistics of women and girls who are victims of sexual violence globally is alarmingly significant.

The estimate published by the World Health Organization (WHO) on 25th March, 2024, indicates that globally, about one in three women (30%) worldwide have been subjected to either physical and/or sexual intimate violence of non-partner sexual violence in their lifetime¹. Sexual abuse and offences have been observed to have serious consequences for victims, such as loss of means of livelihood, termination of education, forced pregnancies, emotional trauma, depression and in some cases, suicide.

¹ <https://www.who.int>.

This paper addresses the issues in the discourse under 5 parts:

Part i contains the meaning of the keywords in the title of the paper namely; culture, Cultural Beliefs, and Sexual Offences.

Part ii examines selected cultural practices that work against women because they negate the fight against their freedom from sexual offences.

Part iii provides possible reasons for the continual perpetuation of selected cultural beliefs.

Part iv explores remedies to counter the identified reasons highlighted in part iii.

Part v is the conclusion.

1.1. Meaning of keywords.

Culture: is the collection of beliefs, morals, values, myths, customs, and art shared by a people of the same community and transmitted from one generation to another. The practice of these traditional cultures over the years tremendously shaped the lives and perceptions of the people of these indigenous communities. Majority of the African population is groomed culturally, and culture is the foundation of Africa's socio-economic development.

1.2. Cultural Beliefs:

Cultural beliefs differ from one community to another and are rooted in traditional African spirituality, religious beliefs; Islam, and Christianity.

These cultural beliefs impact almost all aspects of life, including marriage rites, family structure, moral values, gender expectations, traditional inheritance systems, ceremonies, and social interactions. The various African cultural beliefs include but are not limited to belief in worship of shrines, deities and idols, in ancestral spirits, juju, reincarnation, African traditional healing methods, witchcraft and oath taking.

The continent of Africa has fifty-four (54) Countries and about three thousand (3,000) tribes, out of which Nigeria alone has approximately three hundred and seventy-one (371) tribes across over two hundred and fifty (250) ethnic groups. It should be noted that each of these ethnic groups has varying cultural beliefs that distinguish them from one another and make them unique.

It is instructive to highlight the importance of custom and customary laws and the essential role they play in the lives of people at birth, during their physical growth and development, at marriages, title taking ceremonies, death, burial ceremonies, and customary inheritance. There is hardly any African that will live and die without having an interface with the customs and traditions of the place of his or her birth and marriage. Therefore, whether we live or die, our lives and activities are deeply entrenched in the customs and traditions of where we hail from.

In Nigeria, this all important role of custom and tradition has been recognized and acknowledged by the statutory protection accorded it in chapter 2 and section 21 of the (1999) Constitution of the Federal Republic of Nigeria (as amended). The section provides thus;

Section 21:

Directive on Nigeria Cultures

The state shall:

- (a) ***“Protect, preserve and promote the Nigeria cultures which enhance human dignity and are consistent with the fundamental objectives as provided in this chapter.***
- (b) ***Encourage development of technological and scientific studies which enhances cultural values”.***

In a bid to ensure the achievement of the objective of the above provisions, the same Constitution provides for the creation of the Customary Court of Appeal for the States, in section 280 thereof, to solely hear and determine appeals on questions of Customary Law from the Lower Courts.

1.3. Sexual Offences:

In Nigeria, there exists two types of laws governing the administration of criminal justice: the Criminal Code² for the Southern Region and Penal Code for the Northern Region.

The Violence Against Persons (Prohibition) Act, 2015 was enacted to improve on the already existing laws, but it is not all encompassing. Therefore, in situations where some sexual offences such as defilement, unlawful carnal knowledge, abduction are not expressly mentioned in the VAPP Act 2015, recourse can be made to the Criminal and Penal Codes³ which expressly provide for such

² Cap C.38 Laws of the Federation of Nigeria, 2004 (herein after, the Criminal Code).

³ Cap 89 Laws of the Federation of Nigeria (1990) (herein after, the Penal Code).

offences. Classification of sexual offences include Rape, Incest, Unlawful Carnal Knowledge, Unnatural Offences, Defilement, Indecent Assault, Abduction and Adultery.

1.3.1 Rape;

Section 1 of Violence Against Persons (Prohibition) Act⁴

A person commits the offence of rape if:

- a. he or she intentionally penetrates the vagina, anus or mouth of another person with any other part of his or her body or anything else;
- b. the other person does not consent to the penetration, or
- c. consent is obtained by force or means of threat or intimidation of any kind or by fear of harm or by means of false and fraudulent representation as to the nature of the act, or the use of any substance or addictive capable of taking away the will of such person or in the case of a married person by impersonating his or her spouse.

1.3.2. Incest; Section 25 of VAPP Act⁵, defines incest as “a person who knowingly and willfully has carnal knowledge of another within the prohibited degrees of consanguinity and affinity contained in the schedule of this Act with or without consent, commits incest and is liable on conviction to a minimum term of-

- a. 10 years imprisonment without an option of fine
- b. Where the two parties consent to commit incest, provided that the consent was not obtained by fraud or threat, 5 years imprisonment without an option of fine”.

1.3.3. Unlawful Carnal Knowledge:

Section 6 of the Criminal Code states that the element of carnal knowledge or of carnal connection is complete upon penetration. In the same section ‘unlawful carnal knowledge’ is defined to be “carnal connection which takes place otherwise than between husband and wife”. By this provision, certain issues call for further determination to wit: what amounts to penetration, the unlawfulness of sexual intercourse other than between husband and wife and the assertion that sexual intercourse between husband and wife can never be unlawful with the wider implication that a husband can never rape his wife.

⁴ Violence Against Persons (Prohibition) Act, 2015, Laws of the Federation (herein referred to as VAPP Act).

⁵ Cap A2 Laws of the Federation of Nigeria (2004)

Section 6 of the Criminal Code states that, when the term ‘carnal knowledge’ or the term ‘carnal connection’ is used in defining an offence, it is implied that the offence, so far as regards that element of it, is complete upon penetration. “Unlawful carnal knowledge” means carnal connection which takes place otherwise than between husband and wife.

Rape;

Section 282 of the Penal Code Cap 89, provides thus:

“A man is said to commit rape who has sexual intercourse with a woman in any of the following circumstances:

- ***against her will;***
- ***without her consent,***
- ***with her consent when the consent is obtained by putting her in fear or death or hurt”.***

In section 357 of the Criminal Code, Rape is defined as follows:

“Any person who has unlawful carnal knowledge of a woman or girl, without her consent, or with her consent, if that consent is obtained by force or by means of threats or intimidation of any kind or by fear of harm, or means of false and fraudulent representation as to the nature of the act, or in the case of a married woman, by personating her husband is guilty of an offence which is called rape”.

Again, the Court in; *IKO v. THE STATE*⁶ defines rape to mean;

“Forcible sexual intercourse with a girl or woman without her consent”.

1.4. Unnatural Sexual Offences:

This is provided for in section 214 of the Criminal Code and Section 248 of the Penal Code.

Section 214 of the Criminal Code provides that:

“Any person who:

- 1 Has carnal knowledge of any person against the order of nature or
2. Has carnal knowledge of an animal; or

⁶ (2001) 14 NWLR (Pt. 732) P. 221, SC

3. Permits a male person to have carnal knowledge of him or her against the order of nature; is guilty of a felony, and is liable to imprisonment for 14 years.

Section 248 of the Penal Code provides thus: whoever has carnal intercourse against the order of nature with a man, woman or an animal, shall be punished with imprisonment for a term of which may extend to fourteen years and shall also be liable to fine”.

1.4.1. Defilement:

Section 218 of the Criminal Code covers defilement of girls under 13 years of age making it punishable with life imprisonment. The attempt to commit this offence is punishable by 14 years imprisonment. Under the Penal Code, this offence is classified as rape but the age limit is 14 years. Section 221 of the Criminal Code provides that defilement of girls above 13 years but below 16 and of imbeciles and idiots amount to a misdemeanor punishable with imprisonment for two years.

1.4.2. Indecent Assault:

Indecent Assault is the offence of attacking someone in a way that involves touching or threatening him or her sexually but not forcing the person to have sexual intercourse.

Indecent assault on females is covered by section 360 of the Criminal Code with a penalty of two years imprisonment. Under the Penal Code, the equivalent is section 285 which *criminalizes* all forms of gross indecency with 7 years’ imprisonment as penalty⁷.

1.4.3. Abduction:

Section 361 of the Criminal Code provides that:

“Any person who with intent to marry or carnally know a female of any age, or to cause her to be married, or carnally known by any other person, takes her away, or detains her, against her will, is guilty of a felony, and is liable of imprisonment for seven years”.

1.4.4. Adultery:

Under the Penal Code sections 387 and 388, adultery by a man or a woman is punishable by imprisonment for two years or with fine or both. A writer has called for adultery to be made a crime in all parts

⁷ In *Alawusa V. Odusote* (1941) WACA 140, an accused who shaved the pubic hair of his wife was charged with indecent assault. The Court held that as between spouses this could not be classified as indecent assault but the court returned a conviction for assault under S. 351 of the Criminal Code.

of the country. It is my well-considered opinion that the society is better off without such laws; which will be law only on paper.

Section 387 states thus:

“Whoever, being a man subject to any customary law in which extra-marital sexual intercourse is recognized as a criminal offence, has sexual intercourse with a person who is not and whom he knows or has reason to believe is not his wife, such sexual intercourse not amounting to the offence of rape, is guilty of the offence of adultery and shall be punished with imprisonment for a term which may extend to two years or with fine or with both”.

Section 388 states thus;

“Whoever, being a woman subject to any customary law in which extra-marital sexual intercourse is recognized as a criminal offence, has sexual intercourse with a person who is not and whom she knows or has reason to believe is not her husband is guilty of an offence of adultery and shall be punished with imprisonment for a term which may extend to 2years or with fine or with both”.

2. Cultural Beliefs and their Impact on Sexual Offences, against Women and Girls:

2.1. Belief in ‘Virginity’ and ‘Purity’

The Cultural norms that emphasizes ‘virginity’ and ‘purity’, as qualification for a good marriage in some traditional communities in Nigeria and other countries in Africa has greatly encouraged the acceptance of early or child marriage. For example, in Northern Nigeria, the Hausa culture of “**Kunya**” meaning ‘modesty’ or ‘shyness’ encourages girls to remain shy and obedient with the attendant effect of being forced into marriage with older men without their consent. According to Usman⁸, young girls that are forced into early marriages are incessantly assaulted or ‘raped’ by such older men who resort to incising, cutting, or puncturing the genital of the young girls with sharp objects to allow for easy penetration.

Child or early marriage is a form of forced marriage conducted without the valid consent of the concerned girl, as duress is a

⁸ Usman, H., Reproductive Health and Rights: “The Case of Northern Nigeria Hausa Women” 1997. *Africa Development/Afrique et Development*. 22: 1, pp. 79 – 94.

major element of the marriage. The practice of early/child marriage mainly leads to young girls being forced into marriages against their will with older men they do not love, resulting in high prevalence of sexual abuse, exploitation, violence, depression, and substance abuse. This is a gross violation of the Girls' Fundamental Human Rights and truncates their education, hopes, and aspirations in life. Some of these girls are unfortunately married out between the ages of 8 -12 years, an age at which the girl is not physically and psychologically matured for such relationship. The girl upon consummation of the forced marriage unready becomes a 'child mother'. According to the report launched by Save the Children International 48% of girls were married by the age of 15 years⁹. While 78% became wives before 18 years. The figures indicate that Nigeria has one of the highest rate of child marriages in the world. It should be noted that early/child marriages is a major cause of Vesicovaginal Fistula (VVF) disease in young girls because their pelvis is not well developed for childbearing.

The prevalence rate in some African Countries are as follows Niger (81.7%), Chad (77.9%), Guinea (72.8%), Mali (69.0%), Nigeria (64. 0%). Child marriage remains common in the rural areas due to cultural norms and economic factors¹⁰. In the traditional African society, there is no set age at which a girl can be given out in marriage, but the fundamental requirement is that the girl must have attained the age of puberty.

The African Society greatly treasures and celebrates virgin marriage and consequently, in most communities girls are taught to ensure that they maintain their virginity until marriage. To emphasize the importance of this culture, most communities conduct 'virginity tests' before marriage and any girl who fails the test is regarded as being unworthy of marriage. This can perpetuate harmful beliefs about female purity and chastity, leading to victim-blaming syndrome and reluctance to make reports of sexual abuses.

⁹ <<https://www.icirnigeria.org>>org>save.... 14th November, 2021.

¹⁰ <<https://bmcinthealthhumrights.biomedcentral.com>

2.2. The Cultural Practice of paying Bride Price to authenticate a Customary Law Marriage:

This is the act of payment of some money by the groom or his family to the Bride's family to authenticate a customary law marriage. Almost all Nigerian traditions have a strong belief in the tradition of customary marriage and family values. It propagates the belief that a woman should marry, procreate, nurture children, serve and help the husband and his family and remain in the marriage until death. In an African marriage, the bride is only handed over to the groom and his family after the payment of the bride price and reception of the numerous gift items as contained in the traditional marriage list. The list varies according to the different tribes, but of all the lists, that of Imo and Abia States of the South Eastern geo-political zone of Nigeria appear to be the most expensive in Nigeria. In addition, the groom also incurs huge expenses for entertainment during the marriage ceremony. The payment of Bride Price by some men creates a feeling of ownership, as the Bride Price is assumed to be compensation for taking the Bride away from her family, making it look like the woman's value can be quantified in monetary terms¹¹. She is looked upon as a 'commodity' which the man has purchased upon payment of the bride price, therefore entitling him to exert power and authority over her and to do whatever he pleases with her body. It has further helped to worsen the issue of gender inequality. Note that any attempt by the woman to resist the man's authority may lead to domestic violence and sexual assault.

Although the practice endows the bride with marital cultural values and respect, however, in cultures where the amount paid is very high and the woman later experiences sexual abuse, except she is economically empowered to refund the money, she cannot initiate an action for customary dissolution of such marriage. The situation is worsened by reason of the fact that the average Nigerian nuclear and extended family members will always be reluctant to escort the woman to refund the bride price. Such a mission is viewed as a negative and evil one and the woman is rather advised to return to her marriage and continue enduring such violent marriage.

¹¹ Mandara, M.U., 2004. Female genital mutilation in Nigeria. *International Journal of Gynecology and obstetrics*, 84 (3) pp. 291-298.

In the light of this, most women hopelessly accept any sexual oppression in marriage as the issue of rape within marriage is not recognized in the Nigerian Customary Law System. In the Southwest of Nigeria, some cultural practices seem to encourage the idea that once bride price is paid the woman becomes the personal property of the man or a commodity purchased with his money. In some typical traditional Yoruba societies, women in eulogizing their husbands refer to them as “their owners”.

Similarly, in the South Eastern region of Nigeria, the husbands fondly refer to their wives as ‘Nkem’ which literal interpretation means ‘My Own’. In the real sense, however, this refers to ownership rather than love. If they really intended to express love, the appropriate word would have been ‘Obim’ which literally means ‘My Heart’ and figuratively expresses love.

The danger in such usage by husbands to qualify their wives is that over time, it becomes counterproductive and the men truly grow with the feeling that they are owners of the women.

2.3. **The Belief in Female Circumcision:**

There is a general African belief that female circumcision promotes virginity and that the girl child who is traditionally circumcised is less likely to be promiscuous in marriage. This cultural circumcision according to the World Health Organization (WHO), is, “Female Genital Mutilation” which is defined as comprising “all procedures involving partial or total removal of external female genitalia or other injury to the female genital organs for cultural or other non-therapeutic reasons”. The process of traditional circumcision is normally carried out by an elderly traditional circumciser mainly women, with razor blades or locally made knives specially designed for the purpose, without any anesthesia. This is performed most times upon the girl attaining puberty with the help of some strong young men to hold her down to avoid any undirected movement of the cutting instrument and any error in the process. It must be emphasized that this practice poses severe health hazards to women and girls, including hemorrhage and tetanus. It is medically reported to cause recurrent bladder and urinary tract

infections and increased risks of child birth complications and newborn deaths¹².

The Bondo Society, a traditional secret society in Sierra Leone, practices Female Genital Mutilation (F.G.M) as part of initiation rituals for girls. While Female Genital Mutilation (F.G.M) is illegal in Ghana, and less common in Ghana compared to other African Countries, although, it still occurs in some communities, particularly in the Northern region of Ghana. This is due to the cultural beliefs about female purity, chastity and marriageability. In Nigeria, Genital Mutilation is prohibited by Section 6 of the VAPP Act, 2015, but reports abound all over the country of the continuous perpetuation of the culture.

D. Belief in General Patriarchal Ideologies:

Most African Societies adopt a patriarchy family system. The word is of Greek origin and it means “the rule of the father” and is used to refer to a social system where men control a disproportionately large share of social, economic, political and religious power and inheritance usually passes down the male line¹³.

In African tradition, age long patriarchal ideologies already ingrained in the fabrics of the various societies have ensured the entrenchment of male gender superiority, gender roles and inequalities.

In Nigeria, this patriarchal structure has been known to support oppression of women, violence against women, and all forms of sexual abuses. The structure is fundamentally entrenched in the socio-cultural systems from birth to death. At birth, the boy child is preferred to the girl child, while growing up, the boy child has his gender based traditionally dignified roles cut out for him , never to be involved in any domestic chores. At the workplace, the general African belief is that the woman’s place is in the kitchen, bedroom and her duty is to rear children. At the workplace, the societal perception of the gender role of a man as aligned to the male superiority belief is that he should be the boss. In marriage, both under the religious and traditional beliefs of the male superiority, he is

¹² Okonofua, F.E. Laesen, U. Oronsaye, F., Snow, R.C. and Slanger, T.E. 2002. The association between female genital cutting and correlates of sexual and gynaecological morbidity in Edo State, Nigeria. BJOG: An International Journal of Obstetrics and Gynecology, 109 (10), pp. 1089 – 1096.

¹³ <CNN [https://www.cnn.com>world>w.....](https://www.cnn.com/world/w.....) 3rd August, 2023

the head of the family. This holds true, even in politics, from a report published by PLAC Legist¹⁴ “the general election again delivered low numbers for women in the National Assembly. The representation of women in the present Assembly is not a significant improvement from the position in the outgoing 9th Assembly. The 10th Assembly appears to have more women occupying 3 out of 109 seats (2.7%) in the Senate and 17 out of 360 seats in the House of Representatives (4.7%), which represents (4.2%) of the entire Assembly”.

At the death of a father in the Southeast region of Nigeria, the cultural belief is that because the woman will marry and leave the family she should not be given any property as her inheritance. This is to ensure that she does not use it for the economic benefit of her marital family. The Supreme Court of Nigeria has commendably upturned this Igbo custom that disinherits female children. See *UKEJE V. UKEJE*¹⁵ where the Igbo (Ikwerre) Native Law and Custom which disinherited a female from inheriting in her late father’s estate was declared repugnant to natural justice, equity and good conscience and therefore, void, as it conflicts with section 42 (2) of the Constitution of the Federal Republic of Nigeria (1999), (As Amended).

Despite these laudable pronouncements, enforcement remains a big problem, as the successful parties would be perceived in the community as dissidents fighting against the community. The whole community would be indoctrinated to believe that they are enemies of the community and should be isolated. The parties may have Judgment in their favour, but they would have made enemies particularly amongst the male members of their late father’s family and remain unhappy for the rest of their lives. There is an Ibo adage that the community is greater than any individual and that when the individual cooks for the community, they would finish it and may ask for more, but when a community cooks for an individual, he would encounter great problems because he would never be able to finish the food. Consequently, most female children prefer not to challenge the customs that disinherits them.

¹⁴ PLAC Legist, Policy and Legal Advocacy Centre, 18th May, 2023.

¹⁵ (2014) NWLR (Pt. 1418) 384.

2.5. **Taboos surrounding discussions on sex and sexuality:**

The typical African cultural society is very secretive, as rural populace always apply native intelligence rather than academic intelligence in their daily interactions. Issues relating to sex, are viewed as immoral and not to be spoken of in public.

Consequently, involvement in any activity declared a taboo attracts sanctions. Discussions which border on sex and sexuality would be regarded as vulgar and sanctioned with payment of fine or imposition of some light punishment to sanctify the community, as it is believed that such an action can attract evil happenings to the community. The belief in such taboos is to reduce the circulation of sexual information and activities.

2.5.1. **Rape Myths:**

Some of the menfolk have encouraged the continued belief in the rape myths to justify the perpetuation of violence and sexual abuse against women and girls.

The rape myths have been instrumental to the increase in the vulnerability and subordination of women and girls to sexual abuses.

They serve largely to keep Patriarchal ideologies and structures in place as they do not only protect men from being accountable for rape but also may justify the perpetuation of sexual abuses and violence. These rape myths also have a profound effect of minimizing the severity of sexual abuse and violence and also depowers women.

Girls in the African societies are indoctrinated from childhood with a belief that their social values lie in maintaining their virginity until their marriage. Compliance to this admonition brings joy and pride to the girls, while on the contrary, non-adherence brings shame. The fear of bringing shame to one's family keeps victims of sexual assault silent and unable to seek medical help and judicial redress. This reaction from the victim and society emboldens the perpetrators and some other

intending ones. Thus, the victim is continually made a prey of the perpetrator through intimidations and threats.

The disclosure of rape and other sexual abuses by a victim oftentimes attract hostility from the community and may lead to stigmatization, ostracization and ascription of low value in terms of marriage for the victim. The victim gets further re-victimized through community blaming and condemnation. These factors further embolden the perpetrators.

In most parts of Nigeria, and particularly in the Southeastern region of Nigeria, until recently, it is believed that only promiscuous, improper and wayward behaviours attract rape and defilements to a young girl. There is also a general perception that rape is a 'private offence' or a 'hush offence' and when committed should be settled quietly between the families of those involved. The African societies have informally established traditionally acceptable dress codes and behaviours for young girls, like dressing to cover the vital and provocative parts of the body, not allowing bodily contact with boys during social interactions, regulating the time spent with the opposite sex, avoiding night outings or unaccompanied visits to male friends.

Unfortunately, it has been observed that the prevalence of sexual offences especially rape against girls can be linked to the acceptance of the rape myths and the culture of silence about the act of rape. It is disheartening to note that there is a general acceptance of the myths about rape rather than condemnation of the perpetrator. Instead the society blames and penalizes the women and girls thereby discouraging the reporting of such incidents. Rape myths equally justify sexual violence against women and girls as the general reaction is that the victim got what she wanted, after all, she asked for it through her seductive or short dress and provocative behaviour. Thus, the society unfairly pushes the burden to the girl or woman to take proactive steps to protect herself. While I may not support improper dressing or behaviours, I dare say that this is a burdensome duty placed on the girls and women by the society. The girl child then has to protect herself against abusive predators, domestic staff and caregivers at home, teachers in the school, male; neighbours, family friends, relations and in

rare cases, fathers and stepfathers, male bosses in the work place, the list is inexhaustive.

May I humbly ask what inappropriate behaviour or dressing warranted a 35 year old man to defile a one year old toddler in diapers? Recently, in Nigeria, they have been reports of such incidents. We have a big problem on our hands; especially as such cases of infants and toddlers' defilement are highly unreported.

However, mention must be made of a current development in Nigeria noticed about 5 years ago, of a cultural myth that defilement of a virgin could be used in native occult or diabolical practice to make money or create wealth. This could account for the rise in the occurrences of these types of sexual offences against the girl child.

Having regard to the fact that issues of sex and sexuality in Africa are mostly shrouded in secrecy and coupled with a belief in male superiority and dominance, women are further subordinated by the beliefs in these rape myths.

2.5.2. **Belief in oath taking as it affects human trafficking:**

Upon the downturn of Nigeria's economy, it was observed that a lot of young people started migrating to foreign countries in search of greener pastures unknown to most of them, the grass may not necessarily be greener on the other side. Some fraudulent human trafficking syndicates upon arranging travelling papers for them will take them to very popular and dangerously feared shrines to swear native oath of loyalty and secrecy. In these shrines, they cut some parts of their finger and toenails, hair from the head, pubic region, and the armpit to perform some rituals for the oath taking ceremony. Incisions are made on the person's body, while some diabolic concoctions are prepared and given to the person to eat and drink. The person upon travelling, will be required to do whatever the master demands because of the fear of the oath, the repercussion of which most times is believed to be death or madness. The victims end up being used as sex workers against their wish. The syndicate, in order to ensure that the victim is subordinate to them, would seize the travel and relevant documents of such person. The victim, therefore, will continue to work as a sex slave or worker for the syndicate. The fear of

the adverse effect of disobedience keeps the victim mute while suffering all manner of sexual abuses in a foreign land.

2.5.3. **Belief in Male Succession:**

There is a cultural belief in male inheritance in majority of the African Cultures, where the first male child is regarded as the head of the family, who is destined to continue and sustain the family lineage. This belief is very much entrenched in the tradition of the South East region of Nigeria and it has become part of the peoples' unwritten customary law. Under the Igbo customary law, a widow and a female child cannot inherit property either from the husband or father. This was against the backdrop of the perception that a widow herself is a chattel to be inherited by any male member of the late husband's family, a view upheld in the past by courts in the cases of:

1. *SUBARU V. SUNMONU*¹⁶
2. *NZEKWE V. NZEKWE*¹⁷
3. *IBOMA V. IBENEME*¹⁸

Lately, however, the Supreme Court has overruled this very unfair customary law practice and revised the earlier decisions so that a widow can now inherit the Estate of her late husband and a female Child, the estate of her late father. See the following cases:

1. *MOJEKWU V. MOJEKWU*¹⁹
2. *UKEJE V. UKEJE & ANOR.*²⁰

Equally, the Court of Appeal decided that a family lineage inheritance can be continued through the female children. See the case of: *MUOJEKWU v. EJIKEME*²¹.

¹⁶ (1957) 2021, FSC.

¹⁷ (1989) NWLR (Pt. 373)

¹⁸ (1963) NLR.

¹⁹ (1997) 7 NWLR (Pt. 283).

²⁰ (2014) 11 NWLR (Pt. 1418).

²¹ (2000) 5 NWLR 402 – 439.

Although the Apex Court in Nigeria has declared the above mentioned customs absurd and overruled them, enforcement of such Judgments is very problematic in the Igbo Communities, who want to adamantly continue in the status quo ante. The traditional governing authorities in these communities devise subtle ways of punishing and making the life of such successful litigants miserable.

The impact of the adherence to these unfair customs is that a widow will have to suffer numerous emotional and sexual assaults from the man she is transferred to. These vulnerable widows are forced to remain in such presumed marriages for the sake of their children. This is because most times they lack the economic empowerment to survive and fend for their children, independently. In addition, because the African woman has been groomed to believe that she needs the presence of a husband in her life for protection and prestige, the widow will prefer to remain in an abusive marriage than remain unmarried.

2.5.4. Belief in the Culture of ‘Money Marriage’: In the South South Region of Nigeria, particularly in Cross Rivers State, Becheve, a community in Obanliku Local Government Area, made up of 17 tribes, practice the culture of conducting 'Money Marriage'. This community believes in the culture of selling of girls and young women into marriage for debt settlement. This type of marriage is referred to as 'Money Marriage', while the victims are called 'Money Wife' or 'Money Woman' ²².

The purpose of the marriage is for the woman to work hard and possibly defray the debt and be free. Surprisingly, the victim does not benefit financially from her labour, rather her family members keep increasing the amount involved by constantly visiting the couple and collecting gift items. She has to work for her upkeep as her family must ensure that

²² <https://www.channelstv.com/2018/05/04/money-marriage-an-ancient-obanliku-culture-where-girls-are-sold-for-money-food/amp/>

she is independent of them because she belongs to her owner. Some of the girls are sold before birth, or during infancy. After such sale, they are considered dead, never to return to their families no matter the ill-treatment that befalls them there. Most times, they cannot secure their freedom because the amount involved continues to increase and can never be actually quantified. Worse still, is the fact that at the death of the man, the girl is further sold to the man's next-of-kin. Equally, when the "Money Woman" dies, the custom allows the man to return to his in-laws to pick another girl or woman for replacement. However, this obnoxious cultural practice has over the years developed into a status symbol, a show of wealth and pride, so that almost every family aspires to attain the prestigious status of acquiring a 'Money Woman'. The implication is that the girl's life, education, ambitions, and dreams are sacrificed for her family's comfort. She is the property of her owner and must live all her life as a bondswoman. Even the children born through her would be of lowly status in the community. She is subjected to rigorous sexual abuse without any reprieve because of her worthless status in both her family and the community.

2.5.5. The belief in 'woman to woman' marriage for procreation and show of wealth-:

The belief in this culture is prominent amongst the Igbo tribe in the south East region of Nigeria, 'the Woman to Woman Marriage' is an age long traditional practice. Amongst the Delta Igbos of South South Nigeria, there is the traditional leadership institution for women headed by the 'Omu'. The woman installed as the Omu is in charge of all matters concerning women affairs, welfare and spirituality. Once she is installed, she assumes the status of a man and is the only woman allowed to wear a traditional red cap. Being traditionally converted to the status of a man, she cannot bring forth children anymore but can marry as many wives as possible to bring forth children

for her. The wives live in the palace, where the men can come to be with them. This custom is also practiced in many African communities, but currently, is on the decline. In Kenya, amongst the Nandis, an older woman beyond child bearing age might marry a younger woman to take care of her and to bear her children who will inherit her name and wealth. There is also the lovedu of South Africa where female monarchs, rain queens, receive as gifts the daughters of their subjects as wives while remaining unmarried²³. There are two types of “Woman to Woman” Marriage. There is a situation where a woman is divorced because of barrenness or was never married at all and decides to marry a young girl or woman to bring forth children for her. Oftentimes, such a woman must be wealthy in order to be able to take care of the wife and her children. Under this arrangement, the children would bear the maiden surname of the 'Woman's Husband' and the girl does not have a say in who she has a relationship with. The ‘woman husband’ having performed all the traditional rites for a customary marriage, acquires the status of a man in a Customary Law Marriage.

The second type of this marriage is where a married woman, most times rich and influential, in order to further enhance her status in the community, decides to marry a young woman as her wife or for her husband, sons, or siblings. This practice is to elevate her to the status of a 'man' above other women in the community. Having attained this feat, she may now be accorded some masculine privileges and allowed to attend certain meetings and observe some ceremonies where women ordinarily are not permitted. The 'Woman Husband' in this situation could insist that the children of “his” wife bear her maiden name and not her matrimonial name.

In the true African setting, the ‘woman to woman’ marriage does not involve any sexual relationship between the female husband and her wife but allows for great latitude of freedom

²³ Aliyu Rafeeat. “Woman-woman Marriage in Pre-Colonial Igboland”, *the Rustin Times, US Weekly* (May 15th, 2018)

for sexuality of the wives. This cultural practice impacts negatively on the fight to combat sexual offences against women and girls. It exposes the women and girls to a lot of sex partners as if they were sex workers. This leaves them very vulnerable to sexual abuse their whole lifetime. Sometimes, they do not get to know the particular person responsible for their conceptions.

In all humility, I fault this custom for being a bit messy, while the 'woman husband' maintains relationships with a male companion, the wife also has a relationship with a litany of male companions. Note that the 'Woman Husband' is not to be seen publicly with any male companion, and if she mistakenly has any child from such a relationship, he or she will be termed illegitimate and treated as an outcast. What a great hypocrisy! I find the whole cultural practice rooted in pretense and immorality, hence a misplacement of priorities. However, there is nothing to be worried about, as this culture on its own will soon fade away because of the emergence, in current times, of well-educated and enlightened Omu title holders. For example, the current Omu of Asaba; Omu Chief (Dr.) Ada Biosah is an American trained Medical Doctor who had a thriving medical practice in the United States of America (USA) before her installation as Omu. Equally, the recently demised Omu of Okpanam, Her Royal Majesty (HRM) Obi Martha Dunkwu, who was a Human Right Activist also returned from the Diaspora to be installed as the Omu. She spent the better part of her tenure as Omu advocating for better cultural practices for women and girls.

2.5.5. The Belief in 'Idegbe' Custom; 'Daughter for son' family Procreation System:

The Idegbe custom is a traditional belief system where a man who has no male child can procreate male children through his daughter. It is practiced mainly in the Igbo tribes of Delta State in the South South region of Nigeria and amongst the Ibos of the South East region of Nigeria. The Ibo people have a very strong cultural belief that no man, whether poor or rich, should

die without a male child to continue his lineage. If a man after several attempts, is unsuccessful in bringing forth a male child, he may resort to the adoption of the Idegbe cultural practice. This involves a father dedicating one of his daughters to remain back home unmarried all her life to produce male children for her father. The male child or children will bear her father's name and stand in the stead of a son to continue the male lineage of his grandfather.

The community accepts the male child as the legitimate son of the grandfather and he is entitled to inherit and succeed the grandfather. Some rituals will be performed on the girl child to convert her to a son, and she would take some oaths of secrecy never to reveal to the male child who his biological father is, and to the man, that he is responsible for the birth of the male child. This is a form of traditional security to ensure that the male child fulfills the purpose of his birth. The impact of this cultural belief and practice on the fight is compounded, being shrouded in secrecy. Hence, the girls or women are exposed to a lot of sex partners who take advantage of them and continue to sexually abuse them since they are not allowed by custom to speak out.

Idegbe Custom is referred to as 'Nrachi' in the South Eastern part of Nigeria. The Court of Appeal in Nigeria declared the custom as inconsistent with public policy, repugnant to natural justice, equity and good conscience in the case of *MOUJEKWU v. EJIKEME*²⁴ where J.A. Fabiyi, JCA (As he then was) described Nrachi (Idegbe) as:

“Perfidious, and the petrifying odour smells to high heaven ... it is otiose, absurd and fantastic, it is a farce...a female child does not need a performance of Nrachi ceremony on her to be able to inherit her deceased father's estate.”

²⁴ (Supra) at page 16.

Niki Tobi, JCA (as he then was) argued that “Nwachere ceremony encourages promiscuity and prostitution which is prone to indiscriminate sexual practices”²⁵.

This position was recently reiterated by the Nigerian Court of Appeal in its judgment in the case of MARK V. IRONU & ORS²⁶

3. Reasons for the continued perpetuation of these cultural practices and beliefs:

The highlighted cultural practices above may have continued due to the following reasons:

i. Child/Early Marriage:

In Nigeria, as in many African Countries, there is a belief that the purity of a virgin brings wealth and good luck. Some traditional royalties and rich men attach much societal value to marrying a young virgin wife as it boosts the ego of a much older man. He usually shows her off as his conquest, trophy and evidence of his sexual prowess and strength.

ii. The belief that payment of bride price authenticates marriage

There are rituals associated with the pouring of libations and invoking of the ancestors to superintend the marriage. This makes the woman completely helpless and afraid to invoke the anger of the gods, even when being sexually abused. Equally, the inability of most families to refund the huge amount of money paid as bride price and reluctance of some family members to embark on such a presumed shameful exercise, have helped to institutionalize abusive marriages. The menfolk use this practice as a security safeguard to perpetually keep women down and oppressed.

²⁵ Prof. Nkeonye Otakpor: Idegbe Lineage Continuity Through A Daughter, (2017) Uniben Press, Benin City, Nigeria, P. 61.

²⁶ 2019 LPELR – 47026(CA).

iii. **Female Genital Mutilation or Circumcision:**

This practice is believed to limit and control sexual engagement, promiscuity and lack of chastity²⁷. A lot of men secretly insist that their would-be-brides be circumcised, to avoid experiencing problems of promiscuity in marriage. This belief has fueled the continuation of this practice. In the real sense of it, however, the truth is that the process damages the clitoris of the girl. Medically, this is more likely to make her frigid, not easily aroused and with little or no sexual urge, and also affects her marriage.

vi. **Patriarchal Family Structure:**

The continued practice of the Patriarchal family system makes the woman continually subservient and vulnerable. Disinheriting the female children is a strategy to ensure that the family wealth is not transferred to the children of the daughter married to another family from a different male lineage.

The encouragement and justification of the numerous African patriarchal cultures have definitely ensured the promotion of male dominance/superiority, gender inequality, acceptance of gender roles, support of violence against women and disinheritance of female children. Under customary law, upon completion of all the traditional marriage rites, the woman's legal rights and authority are automatically transferred to her husband. Upon the death of her husband, the remaining rights (if any) are further transferred to the new husband she is forced to marry.

There is, no doubt about the existence of a very high level of male superiority and dominance in all spheres of life in Nigeria. Even the women have come to subtly accept this structure helplessly. Consequently, moderate violence against women is now socially accepted as the cultural right of the man to correct his woman being in a superior and dominant position of authority.

27 Freymeyer, R. H Johnson, B E.,2007. An exploration of attitudes towards female genital cutting in Nigeria. Population Research and Policy review, 26, pp 69-83

vii. **Institution of Taboos to forestall discussions on sex and sexuality:**

The practice of not discussing sex issues in public in cultural societies have rather heightened the quest for personal enquiries into such matters by the youths themselves. There is a general belief that if certain information is not divulged to children, they would be ignorant of them and so will not be influenced. This may have been the truth in the 80s and 90s but the story is very different today. The exposure to the internet corrupts the youths faster than can ever be imagined with just their small Android phones.

viii. **Rape Myths:**

Rape myths exist and continue to be perpetuated for the following reasons:

- a. To justify the perpetuation of violence and sexual abuse against women and girls.
- b. To increase vulnerability and subordination of women and girls to sexual offences.
- c. To help keep patriarchal ideologies and structures in place as they not only protect men from being held accountable for rape but also may justify the perpetration of sexual abuse and violence. They have a profound effect of not only minimizing the severity of sexual abuse and violence while also, disempowering women and the girl child.

ix. **Compliance to patriarchy Family System and Ideologies:**

Gender expectation:

The African societies have developed a stereo-type cultural gender expectation that every responsible and successful woman ought to be married at least before 25 years. If peradventure she is unable or refuses to get married no matter her achievements in life, she is not accorded equal respect with her age mates who are married and is not regarded as successful in any socio-cultural setting. The menfolk boast that no matter how successful a woman is, if she is not married, she is not complete. Consequently, this has grown the male gender superiority belief and some men view themselves as superior persons who afford the women that completeness they require. On this issue, I beg to differ and to contend that unmarried

women do not need marriage to authenticate or validate their success in life. Some persons by choice decide to be unmarried, while others are not just cut out for marriage.

x. **Idegbe Culture:**

The unwarranted importance attached to the Patriarchal family system in Nigeria and particularly in the African culture has put every family under pressure to produce male children. Failure to do so is attributed to the women's infertility. Such women become desperate and begin to explore any available option other than losing their marriage. Until this male dominance culture is de-emphasized, some people will continue to subscribe to the Idegbe cultural practice.

Having regard to the fact that the whole arrangement between the “woman husband” and the wife is shrouded in secrecy, the grandfather whose name the male children bear, caters for their upkeep, education, or any other expenses. The male partners of the Idegbe woman would want the implementation of such to continue because it is completely free for the men involved. Moreso, they have no responsibilities under the customary law, save only to enjoy themselves in secret.

xi. **“Money Marriage”:**

The continued perpetuation of the culture of “money marriage” is attributed to lack of proper education, poverty, laziness, and greed on the part of the parents and community at large. It is a very negative culture that sacrifices the life and destiny of some girls in the family for the enjoyment of others. The girls grow to become bondwomen for life and the stigma continues unto their children. This culture has persisted because it is very convenient for some poor, lazy and greedy menfolk to sit idle and nominate a young hard working girl in the family to become the family’s bread winner through hard labour.

xii. **“Woman to Woman” Marriage:-**

Lately, there has been great reduction in the number of young girls or women willing to get involved in the ‘woman to woman’ marriage. This could be as a result of: better education of all the parties involved, more economic empowerment of the women and the antecedent quarrels and disagreements which often arise between “woman husbands” and their wives. There is sometimes the danger of the exposure of the young girls to different men, the tendency is that they might truly fall in love with one of them and would want to permanently retain such one. This if not detected is bad omen for the “woman husband”, because “he” could be raising a complete family unknown to “him” and very detrimental to “his” interest.

Also, after some time, the young girls get restless and tired of that arrangement and would seek their freedom by the refund of the bride price. But the greatest problem that arises at this stage is ownership of the children. Note that their biological fathers are supposedly unknown, and their traditional fathers are the “woman husbands” who may not agree to accept a refund of the bride price. On the other hand, the wife will find it difficult to claim the children even if she gets a court judgment in her favour. This is because of the libations and prayers made to invoke the ancestors and the traditional oaths taken by the wife during the marriage ceremony. The fear of the potency of those oaths and prayers is very real in the African society and greatly deters disobedience. There is a general belief that any disobedience in the above circumstance could attract repercussions of fatal consequences. This creates great fear which help to ensure complete compliance with the rules of this type of marriage for those involved therein.

4. Strategies for combating these cultural barriers:

Cultural practices which negate measures to reduce sexual offences against women and girls can be tackled in the following ways:

- i. **Engagement of Necessary Stakeholders:** This process should be organized by the Customary Courts of Appeal system in each state where they exist, in collaboration with the Ministry of Chieftaincy Affairs, using Nigeria as an example. First, the appropriate stakeholders should be identified, who will then identify the various cultural beliefs and practices which hinder the fight against sexual abuse of women and girls; investigate how they negatively impact this fight; ascertain how they can be reformed or where necessary, be discarded. In all these interactions, the traditional stakeholders must be carried along to make sensitization at the grassroot easier and enforcement possible.
- ii. **Inclusion of Customary Law in University Curriculum:** The introduction of Customary Law in the curriculum of the Universities is most important. This will expose cultural practices and beliefs for interrogation in research works. It will also integrate the academia in the fight to reform and align these cultural beliefs and practices with international best practices of Fundamental Human Rights legislations.
- iii. **Introduction of Sex and Gender Appropriate Education:** Introduction of sex and gender appropriate education under the subject of health science in secondary schools. This will be aimed at promoting education on gender equality, consent, respectful and appropriate relationships and to raise awareness about the prevalence and impact of sexual violence.
- iv. **Establishment of Functional Guidance and Counseling Units in Schools:** Government should ensure that all schools (both primary and secondary) have functional guidance and counseling units manned by very experienced professionals. This will provide an opportunity for the girls to be taught how to observe and interpret early signs of sexual violence and abuse and what to do.
- v. **Improved Data Collection:** A unit should be created in the Ministry of Women/Youth and Gender Affairs in collaboration

with the Ministry of Justice, Office of the Director of Public Prosecution, to initiate procedures for more efficient data collection and collation formats. This will assist in understanding the causes and trends of the prevalence of sexual offences in policymaking.

- vi. **Economic Empowerment of Women and Girls:** There is the need for government programmes to target economic empowerment for women, particularly those in the rural and remote areas, especially in the areas of skill acquisitions, commercial and mechanized farming activities, as this would reduce vulnerability to exploitation and abuse.
- vii. **Creation of quick access to legal Assistance:** The victims must be able to access legal assistance within a reasonable time after the occurrence of the incidents in order not to compromise chances of likely success in prosecution. There should be concerted efforts to ensure that access to channels of justice are not clogged with public service bureaucracy and protocols.
- viii. **Education and re-orientation of the youth population:** There is the need to create awareness through media advocacy, educating most overseas job seeking that most of such offers end up as scams by human traffickers, who use such process for recruitment of sex workers, organ harvesting, and drug trafficking.
- ix. **Creation of platforms for acquisition of digital skills:** African Governments should create platforms in collaboration with the corporate sector to help the youths acquire digital skills; such as cloud computing, data analysis, software development etc. This will enable them engage in remote jobs without having to leave the continent at the risk of their lives, to engage in demeaning jobs where they get sexually abused or exploited.

Conclusion:

Culture is a people's way of life. It is bound to be dynamic as cultural beliefs and practices are entrenched in the lives of the

people. Therefore, those cultural practices and beliefs which work against positive change should be reformed to reflect the meaningful intentions to promote the good of mankind. Every community should improve on its cultural practices which discourage the female gender from gaining freedom from sexual abuse and domestic violence, so that women and girls can speak out and preserve their dignity.

In the course of our interactions today, we have highlighted, evaluated and identified some cultural beliefs which tend to inhibit the fight against sexual abuse of women and girls. The quest to succeed on this journey demands that critical stakeholders and institutions need to be engaged for proper sensitization at the grassroots.

Although the legislative framework in Nigeria is in line with the provisions of the Niamey Guidelines to combat sexual violence adopted by the African Commission in 2017, the states are not complying with the obligation to take concrete measures to address sexual harassment.

All the strategies adopted in the fight against sexual offences on women and girls appear to be reactive instead of proactive. There is a need for all Stakeholders to begin interrogation into the root causes of sexual offences, why the prevalence is on the increase and how the occurrences can be curbed to the barest minimum.

At this stage, it becomes imperative that attention should be given to the upbringing and education of the boy child. The faith-based Institutions should be co-opted into the sensitization programmes, to help de-emphasise adverse cultural patriarchal ideologies.

My Lords,

The diverse African Cultures is what makes the continent unique, beautiful and the envy of all mankind. Therefore, let us not throw away the baby and the bath water, rather the

obnoxious cultural practices should be identified and reformed to make our continent secure and peaceful.

My Lords, I thank you most sincerely for your time and attention.