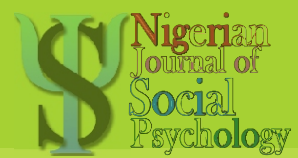


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Normalization of Rape in Nigeria Law and Culture

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Abstract

Rape is analogous to robbery. It is a robbery of the property in a woman's sexuality. The robbery notion in rape justifies its criminalization by International, Federal and State legislations. Curiously, rape cases continue to increase in most Nigerian societies in spite of numerous existing anti-rape legislations, local advocacies and efforts at punishing perpetrators. This paper explores conceptions of rape among Nigerians and examines the parent rape legislation with a focus on the challenges to their enforcement. By this way, the general tenor of the law and culture are obtained to expose their vitiating effects on themselves. One-item-free-listing instrument was used to gather data on rape conceptions among 137 students of Ebonyi State University, Abakaliki. Hermeneutics and frequency analyses were used to tease out meanings of the laws and cultural constructions of participants. Data were interpreted using an integration of the conflict perspective, radical Feminism, and symbolic interactionism. The study finds objectification of women and normalization of rape as a means of social control in Nigeria culture. Thus rape is trivialized and thrives in misconstrued thought- blaming women for women's own rape. Rape laws need to be reformed to ease enforcement and inclusion of post rape care. Cultural conceptions need to be resocialized by informed advocacy.

Keywords: *Normalization, Rape, Nigeria Law, and Culture*

Introduction

Societies of the world appear to hold rape with a sort of ambivalence. Subtly, rape is normal in all societies with patriarchal values. Where it is criminalized it is only at the formal legal domain. Cultural tacit approval drives the people's attitudes to rape and vitiates the construction, interpretation and enforcement of legal instruments against rape. Thus rape is trivialized in most societies.

Rape is hardly given the specific attention it deserves. Rather it is often treated as a cloistered species within the genus of sexual violence. The United Nations abhors sexual violence and raises any form of sexual violence as a violation of human right (UN, 2006), but it ignores to define rape specifically seeing it merely interchangeably with sexual violence. Patriarchy, of course, might be responsible for the paradigmatic blind-spot. Nigeria is not left out in the formal disgust for sexual violence. Hence, the country in 2015 enacted the Violence against Persons Prohibition Act. Although, the instrument seeks to protect both sexes against sexual violence, actually rape is a woman and needs be given specific protection.

A woman may rape a man or initiate violence against husband, but only 2% of such cases occurred in Nigeria since 2015-2018 (NDHS, 2018). Often the rapist is a man. Man controls power and sex relations in most societies and therefore treats dreary rape with levity.

There are some legal codes against rape specifically (Sections 357-359, Criminal Code Act CAP 77 LFN, 2004). But the proof of the code's ingredients is in themselves tortuous

and discouraging. The crime of rape is often interpreted within a broad cultural context that encourages certain types of behavior between men and women. Such interpretations present rape less as a crime, for the victim brought it upon herself by deviating from the normal social rules and rape is only used to force her by the man (the patriarchy) to conform.

Rape is thus perceived not as the fault of the man, but the fault of a flawed woman or girl who cannot abide by society's rule. The conception of rape as a normal means of controlling the excesses of female sexuality is an impediment to an "End rape" campaign in Nigeria in spite of the laws prohibiting rape.

Literature

Global Devaluation of Women

The forces of globalization might have spread democratic values and humanitarian principles resulting in substantial improvement of women's lives globally (Giddens, 2005). But globalization has also created a market for the international exploitation of women. Young women in developing countries are constantly trafficked other countries strange to them. Without any other means of support and often without knowledge of the native language, these women become completely dependent on men who are perfectly willing to exploit them.

Many countries have also domesticated the UN Convention on the Elimination of All Forms of Discrimination against Women following the advocacy of women's rights worldwide. Gradually therefore the poverty rate gap between the sexes 12.8% men and 12.3% women (World Bank, 2019) is closing up. Women are becoming better educated, more economically independent, exposed to the mass media, access better maternal care and participate more in decision making in the family (NDHS, 2018).

Nevertheless, women are still economically and physically disadvantaged the world over (Stockard & Johnson, 1992). Most illiterates worldwide are women (Dervaricks, 2004). In Nigeria, 34% out of the 56% of illiterates are women (NDHS, 2018). This carries economic disadvantages later on and sure leads to women dependency on men. Women are often edged out in national politics (Mbah & Oti, 2015). Violence against women and girls remain global epidemic- from sex for rent in UK, sexual abuse and wife battering in the USA to wife burning in India and honour killings of rape victims in Turkey, Kenya and Iran. Among the Bedouin, Saudi Arabia (Gen-Ann Galanti, 1991), Yemen (Jehl, 1999), and most countries in the Middle East, India and Pakistan, honour killings are rampant. A girl who gets impregnated by consensual sex or rape has smeared her family name and must be killed to restore the family honour. But the rapist (man) is not punished.

In rural India, Pakistan and Bangladesh dowry death is practiced. After marriage, the groom's family makes a continual demand of dowry. If the

Bride's family is incapable of meeting the dowry demand; the bride already in the husband house is humiliated to death by murder or suicide. The Constitution of Iran provides that the value of a woman's life and her testimony in court is half that of a man's. In that country, a woman cannot travel anywhere without her

husband's permission (Watson, 2005). When a woman dies in Kenya, she loses her land, livestock and all her household property. Widows are inherited to a male relative of her deceased husband who takes control of the property (Lacey, 2003). Only the male inherits land. Any inheritance of a girl before marriage is transferred to her husband on marriage (Owen, 1996). In Kyrgyzstan, marriage is by capture, custom they call "alakachuu", grab and run". If the woman is kept overnight by her abductor, her virginity is adjudged compromised, her name is smeared badly and her chances of future marriage is ruined. So she would be urged by her own family to marry her abductor (Smith, 2005), Sri Lanka is taunted as "the country of housemaids" by Saudi Arabians (Waldman, 2005), because numerous Sri Lanka women flee to affluent Persian Gulf countries annually where they work as maids for wealthy families who often subject the women to all sorts of mistreatments. Bearak (2000) reported a practice in Bangladesh where spurned suitors throw acid on the faces of women in order to deform them. Any lady so deformed is constrained to marry her attacker. Most attackers are never arrested, and most arrested are never tried. Women accused of sexual misconduct are often jailed not to punish them but to protect them from being killed by their own families who seek to cleanse the family's honour. Sometimes, women are killed for marrying against their father's wishes (Jehl, 1999). With the exposure level among the United States citizens, physical and sexual violence are equally a disturbing social problem: as much as a quarter of all women in the United States will be abused by their spouse during their life time (American Medical Association, 2002); 30% of females murdered were killed by their husbands or boyfriends and 52% by intimate partners; 14% were raped by husbands (Russell, 1990). As at 1999, the United Nations found domestic violence against women in all parts of the world with lowest range of 17% in New Zealand to 28% in USA to the highest range of 60% in Sri Lanka, Ecuador and Tanzania.

Lesotho men make all sexual decisions including the use of contraceptives. The effect is that one out of every two women in Lesotho is HIV-positive (Wines, 2004). In Nigeria, most women do not have control over their own affairs, The NDHS (2018), shows that some 46% of currently married women aged 15-49 do not participate in decision on their own health-care, 60% do not participate in decisions on major household purchases, 40% do not take decisions on visits to family or relatives, 63% do not participate in any vital decision in the family and some 28% of Nigerian women accept control by violence of a husband against his wife.

Female genital mutilation (FGM) is another violent form of women control. The practice is highly violent; medically indefensible yet much of sub-Sahara African societies encourage it. Amnesty International estimates put the practice of FGM at over 90% in Egypt, Eritrea, Ethiopia, Mali and Somalia (Hecht, 1998). In Nigeria, 20% of women age 15-49 are circumcised (NDHS, 2018). Circumcision in Nigeria takes very painful forms (NDHS, 2018). All justifications of FGM are cultural: preservation of girl's chastity, getting the girl cleaner, curbing of a girl's sexual desires and reduction of rape, (Boddy, 1989: Lightfoot-Klein, 1989). These reasons are patriarchal constructions for male laundering.

Literatures so far establish the pervasive devaluation of women by men for the relish of men. Women generally lack the same legal, family and physical

protections that men enjoy and even the women paradoxically condone the ideology of male dominance due to internalized cultural construction of reality.

Prevalence of Rape in Nigeria

Rape is not reducing in Nigeria. Sexual violence cases are rather increasing from 31% in 2008; and 25% in 2013 to 36% in 2018 (NDHS, 2018). Findings from a National survey carried out by Women at Risk International Foundation (WARIF) in 2020 revealed that one in four females reported experiencing sexual violence in childhood with approximately 70% reporting more than one incident of sexual violence. Some 24.8% of females aged 18-24 experienced sexual abuse before age 18 (WARIF, 2020)

The experiences of those in the camps of internally displaced persons in Nigeria are more disgusting. As much as 43 women were raped in IDPs camp in Maiduguri alone. Similar rape spree was found in 14 camps out of 26 sites hosting IDPs in Borno State (Human Rights Watch, 2016). The Nigeria police revealed 2270 reported cases of rape in Nigeria in 2017 (Nigeria Bureau of Statistics, 2017). NOIPOLES in July 2020 found that 85% of Nigeria asserting that one out of every three girls in Nigeria would have experienced at least one form of sexual abuse by the time they reach 25 years. Mrs. Pauline Takken, Nigeria's Minister of Women Affairs and social Development opened "the sex offenders Register" to deal with sexual violence and she lamented that about 2 million women are raped every year. The police in June 2020 arrested one Muhammed Zulfararu Alfa from Kwanar Dangoru, Kano State who confessed raping over 40 women in the last 12 months before his arrests and in Abuja the police recorded 717 rape cases in 5 months (January to May 2020, (Abubakar, 2020).

These statistics do not scratch the actual rape cases in Nigeria as rape incidences are grossly underreported.

Rape as a means of social control

Patriarchy devalues women and stratifies society along sex and gender lines. This has objectified women and distorted the conception and understanding of rape. As daughters or wives, women have been viewed socially and legally as the property of men. Till today, rape is seen as a crime against men or, more accurately, against men's property (Siegel, 2004). What may appear as a sexual assault of a husband on his wife is actually a reflection of his concern with his own status, honor and protection of his sexual property. Rape is used as a war time tactic of terror, revenge, and intimidation, not just against women but targeted against husbands, sons, fathers, whose idea of honor is connected to their ability to protect "their" woman (Amnesty International, 2004; Enloe, 1993; Sengupta, 2004). Men have also used rape and the threat of rape throughout history to exert control over women (Brown-Miller, 1975). Fear of rape alone, limits women's freedom of social interaction, denies them the right of self-determination, and makes them dependent on and subordinate to men (Griffin, 1986). Rape restricts women's economic opportunities. A woman cannot take an affordable housing in a certain neighborhoods to avoid rape; she cannot take a job that requires night work and rape limits where and when she is able to work, thereby limiting her money earning choices and perhaps keep her financially and perpetually dependent on man.

Women are also harmed by the larger cultural ideology surrounding rape and rapists. It is popular to explain away rape as perpetrated by insane or depraved men. But most rapists are quite normal by usual social standards. About two- third of rapists are friends, acquaintances or relatives of their victims (US Bureau of the Census, 2004). In Nigeria, most perpetrators of sexual violence are current or most recent husband/ partner, current or former boy friends, friends or acquaintances. Rarely are strangers the perpetrators of sexual violence in Nigeria (NDHS, 2018). But rape when perceived to be perpetrated by depraved strangers; it does not implicate the dominant culture of patriarchy and absolve the established social arrangement that dehumanizes woman. This assumption may explain why till date acquaintance rape, marital rape and other forms of sexual violence that do not lit the typical image have been ignored or trivialized by many cultures and national laws.

Globally, cultural beliefs about gender, sexuality and intimacy influence societal and legal response to rape and rape victims (Morgan, 1996). In Peru and Colombia for instance, a man who rapes a woman whether he knows her or not can be absolved of all charges if he offers to marry her. In Senegal, single women raped may be killed by their own families as non virgins do not command high bride wealth; a married woman raped may be killed by her "dishonored" husband. Any Iranian virgin condemned to die must first lose her virginity through forced rape (Islam forbids execution of a virgin). Any Pakistani woman who files rape charge is later charged herself for having sex outside marriage (Fisher, 2002). In all, women are blamed for rape by cultures and laws of most societies which respect men and empower them tacitly to rape for social control.

Analysis of the Criminal Law against Rape in Southern Nigeria

The parent law against rape consists of Sections 357, 358 and 359 of the Criminal Code Act LFN, 2004 applicable in southern Nigeria. Section 357 provides:

Any person who has unlawful carnal knowledge of a woman or girl, without her consent, or with her consent if the consent is obtained by force or by 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 in the case of a married woman by impersonating her husband, is guilty of an offence which is called rape.

Section 358 stipulates the punishment for rape as:

"Any person who commits the offence of rape is liable to imprisonment for life, with or without caning".

An attempt to commit rape is an offence. Section 359 puts it clearly: *"Any person who attempts to commit the offence of rape is guilty of a felony, and is liable to imprisonment for fourteen years, with or without canning."*

The definition of rape as quoted above appears clear but courts have interpreted and applied the ingredients of the offence with an overtone of patriarchy. The effect is

that rape cases are made difficult to prosecute in order to protect the dominant cultural ideology of male supremacy. This can be inferred from the law.

A boy of 12 years is presumed by law to be incapable of having carnal knowledge. So he cannot be guilty of an offence of rape or attempted rape even if he is shown to have attained puberty (Section 176 C PA). Similarly, a husband cannot be guilty of rape upon his wife. Unlawful carnal knowledge is defined in section 6, CCA 2004 as carnal knowledge which takes place otherwise than between husband and wife. The law thus formalizes cultural perception of women as a man's (sexual) property. No person can be guilty of stealing, robbing, or raping his own property. It is a patriarchal logic!

Carnal knowledge must be proved for there to be rape. Rape is complete upon penetration (section 6 CCA). The absurd thing here is that it is the victim who is to prove it. The process is often tortuous and culture ridicules the woman who tries to show the world that her private part has been invaded by penetration. Often the victim prefers not to report rape of all. On a charge of rape, absence of consent must be proved. The burden is on the victim to prove. It is not enough to say "I did not consent to sex". The woman has to convince the court that she had always been "a good girl" in her neighborhood. Being a good girl is docility, submission, proper dressing etc as defined by culture. If the accused man believes that the woman was consenting, then he cannot be guilty of rape, even if the belief was not on any reasonable ground (DPP v. Morgan). (1975), 2 ALL ER. 347).

It is only in rape cases that a victim must prove her innocence than the state having to prove the guilt of the accused. No other crime requires the victim to prove lack of consent. A person whose phone is stolen is never asked whether he enticed the thief to steal it or whether he had kept the phone properly or securely. Yet if women cannot prove that they resisted or cannot find someone to corroborate their story, consent (or even latent desire) may be presumed (Siegel, 2004). From the foregoing, the legal responses to rape in Nigeria still tend to be consistent with men's interests focusing on women's complicity or blame worthiness.

Theory

Radical feminists used conflict perspective to explain the role of patriarchy, sexism and capitalism on the subjugation of women in societies. They draw particularly from Hegel's "The Origin of the Family, Private Property and the State" who posits that material consideration drives, women's subservience to men since patriarchy is rooted in private property. Capitalism locates wealth on men who use it to acquire power and influence laws in their favour. Inheritance is patri-lineal and women's sex behaviours need to be domesticated, confined and regulated to make certain the paternity of a man's offspring. Radical feminists may not agree on the basis of patriarchy but all agree that it involves the appropriation of women's bodies and sexuality in some forms including rape. They argue that men control women's roles in reproduction and child rearing. So men are responsible for and benefit from women exploitation. Women oppression is deeply entrenched in the family and women cannot be liberated from sexual oppression through reforms but by outright overthrow of the patriarchal order (Brownmiller, 1975).

Radical feminists aptly capture the basis for the social construction and conception of rape by culture and law. Patriarchy distorts the violence in the act of rape and focuses merely on the act of coitus. The violence is explained away as a means of taming a weird woman. However, reforms can be means to overthrow the patriarchal order that sustains women objectification. But the domination of women by men is not only condoned; it is an accepted norm and even women expect to be controlled by men. Symbolic interactionism strives to explain this reality. Peoples' actions towards one another and interpretations of situations are based on their definitions of reality, which are in turn learned from interactions with those around them. Thus our respondents' social construction of rape is a product of Nigeria's symbolic world.

Method

The study was on Nigerians conceptions of Rape. Participants in the study were 137 students of Ebonyi State University, Abakaliki. Females were 93 (68%) and males were 44 (32%) of the participants. During a victimology class, students in that class were asked a question: 'what should be done to prevent rape from occurring?' The students were required to write only one point on a piece of paper and submit in three minutes. It was one-item-free-listing instrument. The data were collated by frequency technique to tease out the thoughts of the participants. Hermeneutical approach was used to interpret the intendments of the law on rape and judicial responses on the laws.

Results

The responses to the question "what should be done to prevent rape" take one popular culture-induce admonitory tone: don't wear body exposing clothes, don't ask for any gifts, don't walk alone at night, don't visit male dominated neighborhood, avoid free rides, don't initiate sex plays, don't wear sexy eyes, avoid make ups, don't mis-communicate your feelings, don't ask for grades, accept no invitations at odd times, places and persons etc.

All these 'don'ts' are advices-to women. What women should do to avoid rape. Nothing is for men to do. The implication is that a woman who fails to heed the advice (precautions) invited trouble for herself if she is raped. She is to be blamed. It is thus the conception that violent male behavior (rape in the study) either is a natural response to provocation or it is likely to happen if precautions are not taken to discourage it.

The criminal codes Act of prohibit rape and provide stiff penalty -life imprisonment for rape - and fourteen years imprisonment for attempted rape. However, the judicial interpretations of rape law are often made against the women to protect the men consciously or unconsciously.

Discussion

The dominant finding of this study is that Nigerians' (men and women) conceive rape not as a form of victimization but some act women bring upon themselves or some taming act men are expected to do under certain circumstance. This conception has been so entrenched in the psyche and culture that many women (the study participants were predominately females (68%) have internalized the message, warning themselves on what not to do. So they blame themselves to a high degree when they are raped.

Anadi, Anadi, and Offor (2020), blamed women form any physical violence by their husbands if the wives fail to acquire social skills to prevent the violence. The study inexpressively found men infallible. Outside of fear, self blame is the most common reaction to rape and is more frequent than anger (Janaff Bulman, 1979). Such guilt and self- blame make recovery all the more difficult and tend to increase rates of depression, post traumatic stress, shame, anxiety and even suicidal ideation (Kubany, Abueg, Owens, Brenna, Kaplan, & Watson, 1995). This indicates the need for a policy on post-rape care in Nigeria.

The conflict perspective provides one explanation for the wide spread tendency to hold women responsible for their own assault. Defining rape on a traditional model of sexual intercourse-penile-vaginal penetration- rather than on the violent context within which the act takes place trivializes the crime and put the female rape victims at disadvantage during criminal proceedings. Again marital rape is not recognized by Nigerian law because it is culturally normal for a man to sleep with his wife. A complaint of consent or lack of it should not arise. From all indications, culturally and legally, Nigerians conceive of rape as a normal act of a man tame a weird woman.

Conclusion

This paper explored the conceptions of rape by Nigerians. It established that rape is conceived as a means of social control rather than a crime. The study is consistent with Literature that blame the misconception of rape on patriarchy. Patriarchy confines and regulates women's sexual lives and normalizes rape as a tactic to bring her to order. Abundant literature reveals that rape is increasing in the society even though they are laws with stiff penalties against the act. Law is a social product and follows the cultural mood. Cultural ideology conceives rape as normal and laws are interpreted to reflect the normalcy of rape.

Conflict theory, radical feminism, and symbolic interactionism were integrated theoretical berth for the study. The trio theories blamed women oppression on social sex stratification that devalues women and make them accept the definition. So women are objectified as man's property to be controlled at will. This cultural ideology pervades the people's psyche and behaviors so deep that everybody has internalized the message and acts the cultural script. Both men and women therefore share the same conceptions that blame women for being raped. No wonder this study found the participants advising women exclusively on what to do to stop rape.

Recommendations

Rape is analogous to armed robbery. It is a robbery of the property in a female's sexuality. The devastation is unimaginable to the extent that many survived victims may commit suicide soon after. It is therefore recommended as follows:

- Myths around the misconception of rape and the victims should be debunked by intensive advocacy.
- There should be reforms in the sex relation in Nigeria to destroy patriarchal order.
- Rape laws should be reviewed to make accused person prove the consent of the woman rather than make the victim prove her non-consent.
- There should be a deliberate policy on the rehabilitation of post-rape care of the victim rather than merely punishing the convicted rapist.

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