



HARMFUL TRADITIONAL PRACTICES TOWARDS WOMEN AND GIRLS IN AFRICA



AFRICAN UNION COMMISSION
DEPARTMENT OF SOCIAL AFFAIRS

A report to make a difference for the future of all girls and women

April 2012

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List of Abbreviations

ACERWC	African Committee of Experts on the Rights & Welfare of the Child
ACHPR	African Commission (Court/Charter) on Human and People's Rights
ACPF	African Child Policy Forum
ACRWC	African Charter on the Rights & Welfare of the Child
AGDI	African Gender & Development Index
APRM	African Peer Review Mechanism
AU	African Union
AUC	African Union Commission
AWDF	African Women's Development Fund
CAT	Convention Against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment
CEDAW	Convention on the Elimination of All Forms of Discrimination Against Women
CRC	Convention on the Rights of the Child
DHS	Demographic & Health Survey
DRC	Democratic Republic of Congo
DSA	Department of Social Affairs
ECA	Economic Commission for Africa
FGC/FGM	Female Genital Cutting/Mutilation
HTP	Harmful Traditional Practice
HIV/AIDS	Human immunodeficiency virus/Acquired immunodeficiency syndrome
ICPD	International Conference on Population & Development
IOM	International Organization for Migration
REC	Regional Economic Community
SGBV	Sexual and Gender Based Violence
STD	Sexually Transmitted Disease
UDHR	Universal Declaration of Human Rights
UNICEF	The United Nations Children's Fund
UNDP	United Nations Development Program
UNFPA	United Nations Population Fund
UNGA	UN General Assembly
UNU/WIDER	United Nations University/World Institute for Development Economics Research
VAW	Violence Against Women
WHO	World Health Organisation



Executive Summary

In providing a **background** on Harmful Traditional Practices (HTP) there is no intention of suggesting that tradition is harmful. Neither does it imply that tradition is not open to change. The paper recognizes the dynamic nature of culture and the diversity that exists within countries. However, while recognizing nuances in the tension between universal norms and cultural specificity, the paper also identifies widespread gender discrimination as well as positive African values of solidarity, consensus and inclusion, sometimes referred to as *Ubuntu*, that have been highlighted in the African Renaissance and which should affirm women and protect them from violence. The focus of this paper is data gathering and mapping of HTPs.

A useful **definition of HTPs** is the one adopted by the Heads of State and the Government of the Member States of the International Conference on the Great Lakes Region, held in Nairobi in November 2006: *"Harmful practices, inclusive of all behaviour, attitudes and/or practices which negatively affect the fundamental rights of women and children, such as their right to life, health, dignity, education and physical integrity, as defined in the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa"*. For the purpose of the baseline study, HTPs are defined as "forms of physical or psychological violence that prejudice the bodily integrity or mental well-being of women or girls on the basis of the inferior position of women and girls in the social grouping and are considered as long-established and community accepted practices deserving tolerance and respect." However, in focusing on those HTPs that negatively affect girls and women, this paper strongly endorses the position of UN Women that *"the issue of harmful practices therefore cannot be addressed without tackling gender discrimination which is at the root of such practices"*. This paper is set in the context of the Maputo Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (2003), in particular Article 5, and the African Charter on the Rights and Welfare of the Child (1999), particularly Article 21 entitled 'Protection against Harmful Social and Cultural Practices', together with the African Union's Social Policy Framework for Africa (2009) as well as the normative frameworks of CEDAW and CRC.

This paper **identifies five categories of HTPs** and describes behaviour that people engage in and the impact that it has. The five categories are: (i) SGBV (inside and outside the home); (ii) Early/Forced Marriage; (iii) Sexual Initiation and FGC/

FGM; (iv) Opportunity Marginalization (social and economic); (v) Land and Inheritance Exclusion. These five categories all reinforce a systemic imbalance of power in gender relations. This is the case regardless of whether they occur in the home, community, or the national level. They restrict development socially and economically. On a macro-level they prevent females from obtaining equality and keep them dependent. The categories of marginalization combine unequal access to development services and resources with male control over women's sexuality. The paper argues that change must occur in a strategically planned way, multi-sectorally across all levels from the national and legislative to the personal and behavioural. Building alliances for transformation is critical, particularly with men and boys, and traditional/religious leaders. This needs to be backed up with empirical evidence about its impact. Media also needs to be utilized in an appropriate and timely manner. Regulations, legislation and alternatives need to be introduced in a way that addresses the needs and concerns of the local community. This requires in depth analysis of the political-economy of various practices and the interests that drive them. It means assessing the best approach for breaking into what can be a complex array of practices that many in society regard as essential to defining identity and status. In many cultures the practices stratify power, gender and generational relationships. Using international instruments inappropriately may invite resistance. If local residents take ownership over progressive change without reservations, the tools are more likely to be utilized. When this occurs it will be easier for the state party to be held accountable, and allow for feedback from the grassroots level to highlight areas where change is occurring and where there is still work to be done. This paper calls for better evidence and analysis of HTPs and trends. It notes that a movement for transformation, rooted in local communities, is necessary to motivate political will and may even precede legislative change, although use of the African Commission for Human and People's Rights and test cases in the African Court may be useful approaches to break through national intransigence.

The report provides a number of **recommendations the African Union** could foster to effect sustainable change with strong national and community endorsement that not only addresses the symptom of HTPs, but also the underlying structures of discrimination, inequality and under-development. It recommends that the African Union instructs member states to identify one HTP within each of the five categories that they may address over the next five years with clear strategies, timelines and reports on progress. The African Union can invite the African Women's Development Fund, using their methodology for strategic gender mapping in each member state, and the African Child Policy Forum to work with member states to take a collaborative approach to addressing priority



HTPs and transforming gender power relations so that all Africans, women as well as men, girls and boys, may reach their full potential and contribute to and benefit from national wellbeing and development. The African Union could integrate this work within the African Gender and Development Index (AGDI), and the African Peer Review Mechanism (APRM) that would report and incorporate additional monitoring of HTPs in national Demographic and Health Surveys (DHS) and establish a panel of eminent traditional and religious leaders for the promotion of the girl child. The African Union can also seek member state bi-annual reporting and civil society shadow reporting, using the HTP Matrix template attached to this report, which the AUC Social Affairs Department would collate into reports to Ministers for Social Development for onward submission to heads of state and government.

The report also provides some **recommendations for African civil society**, particularly regional networks, bringing together those working on gender transformation and those working on child rights to collaborate with the African Union and the RECs and with national governments to develop strategic approaches to social change and addressing HTPs. It does not delineate specific approaches to be adopted, but recommends that each country develops its own strategic approaches that are context specific, drawing on key principles of what works and based on norms set by African and international instruments.

Baseline Evidence on Harmful Traditional Practices (HTP)

Terms of Reference

For the purpose of the baseline study, HTPs are defined as “forms of physical or psychological violence that prejudice the bodily integrity or mental well-being of women or girls on the basis of the inferior position of women and girls in the social grouping and are considered as long-established and community accepted practices deserving tolerance and respect.” In order to create a better understanding of why such practices exist and what the dynamics behind them are, a first baseline study shall be conducted on the incidence of HTP in AU member states. The consultant will collect both qualitative and quantitative data on HTP from AU member states, namely from those who visited the conference on HTP in October 2011 (see www.celebcourage.org) and prepare a reporting tool with indicators (in consultation with AUC DSA) on HTP ... to input into the AU Africa Info database.

Definition of HTP

There is no single universally agreed definition of what constitutes a Harmful Traditional Practice (HTP). This issue leads to questions about the meaning of tradition or culture. There is also a great degree of subjectivity in labelling something as harmful. From the outset, it brings forward arguments about universality *vis a vis* cultural relativism, which runs through the discourse on human rights. It also brings up issues concerning the rights of individuals and the community. Culture, religion and tradition all come into play when it comes to defining harmful practice. As a result it is vital to articulate the ultimate goals and how they will be achieved.

Some have suggested HTPs instead be called Traditional Harmful Practices, removing the perceived connotation that all traditional practices are damaging. Indeed in any discussion on this topic, we must recognize that many



traditional rituals are not harmful. There are also harmful behaviours that are not part of any longstanding tradition. For the purpose of this baseline study, HTPs are defined as “forms of physical or psychological violence that prejudice the bodily integrity or mental well-being of women or girls on the basis of their inferior position in the social grouping that are considered to be long-established and community accepted practices deserving tolerance and respect.”

UN Women describes harmful practices in the following manner:

“Discrimination and violence against women and girls has often been justified by invoking social or religious customs, values and practices. Such discriminatory social values often give rise to socially constructed forms of violence against women, known as “harmful practices,” that are accepted and justified as culture or tradition. Harmful practices resulting in pain, suffering and humiliation for girls and young women originate from the deeply entrenched discriminatory views and beliefs about the role and position of females in many societies and communities. The differentiation in roles and expectations between boys and girls relegating girls to an inferior position starts from birth and continues throughout their entire life. Harmful traditional practices help replicate and perpetuate the subordinate position of women. The issue of harmful practices therefore cannot be addressed without tackling gender discrimination, which is at the root of this behaviour.... Harmful practices are interconnected with one another and with other forms of violence and discrimination against women. Disconnecting the problem of harmful practices from gender inequality, simply shifts problems to other areas and fails to address their root cause. All of these harmful practices, along with others, are indicative of “discrimination against women and are symptomatic of the devalued status of women in society.”¹

The Protocol on the Prevention and Suppression of Sexual Violence against Women and Children, adopted by heads of state and governments of the member states of the International Conference on the Great Lakes Region, Nairobi Nov 2006, defines HTP as:

“Harmful practices, inclusive of all behaviour, attitudes and/or practices which negatively affect the fundamental rights of women and children, such as their right to life, health, dignity, education and physical integrity, as defined in the Protocol to the African Charter on Human and Peoples’ Rights on the Rights of Women in Africa.”

¹Good Practices on Harmful Practices Expert Group Report, p.8 in UN Women legislative guide

HTPs are symptomatic of larger entrenched and widespread discriminatory attitudes towards women. Many, if not all, forms of HTPs involve some degree of violence against women or girls or at least violation of their rights of obtaining equal opportunities. This violence may involve restricting access to resources or prescribed actions, forced or prescribed roles or actions, or limitations or actions that are widely culturally permitted. Some may be limited to a specific sub-group or geographic area within a country, but many HTPs span a range of countries. This report will not address any HTPs that affect only boys and men. HTPs mostly inflict violence on women and female children, although sometimes they constrain boys from entering roles prescribed for women or they demand men relate to women in a manner that encourages the overarching patriarchal nature of gender power relations in many of these societies to continue. While some HTPs appear to affect only adult women, such as widows, their application in later life has impact on the pathways of empowerment for girls now.

Plan's Report 'No More Excuses! Ending all harmful traditional practices against girls and young women', by Lalaine Stormorken et al, avoided defining HTP, but made recommendations to address a range of evidently harmful practices set against international and regional instruments.

Just as there is no agreed definition of HTPs, there is also no exhaustive or standardized list of harmful traditional practices. These practices range between cultures and countries and are also changing due to modernization, globalization and migration. 'Traditional' is not immutable, but implies roots in what was considered normative in a particular society and how it differentiated itself from neighbouring societies. Its ability to adapt allows it to remain resilient. However, if given the right incentives transformation is possible, despite the current emphasis on identity as a basis for political action. The most commonly known HTPs are female genital cutting or mutilation (herein referred to as FGC/FGM²) and other harmful initiation practices, condoned SGBV, violence related to a bride-price, forced and child marriage, maltreatment of widows and 'honour' crimes. Others include dedication of girls to temples, witch-hunts, son-preference resulting in female infanticide or foeticide, acid attacks, wife inheritance and nutritional taboos.³

²Terminology is contested as those that support some form of female genital cutting reject any suggestion that this is "mutilation" and uses the term "cutting" as more neutral. Others consider that all forms of female genital cutting are a violation of the right to bodily integrity of a girl or woman and that, as such, it is right to denigrate it as mutilation. This report adopts a common UN approach by referring to this action as FGC/M or FGC/FGM, leaving the reader to evaluate whether all forms are mutilation.

³Good Practices on Harmful Practices Expert Group Report, p.8 in the UN Women legislative guide



Traditional African values are not per se harmful to women. Advocating for rights and equal opportunities for woman built on the widespread values of mutual respect, *Ubuntu* solidarity, participation, leadership and consensus that affirms women and protects them from violence. The Social Policy Framework for Africa (SPF), adopted by heads of state and government in February 2009, states that “Female Genital Mutilation, early marriage and forced widow marriages seriously undermine the bodily integrity and human rights of women and girls and should therefore be eliminated” and recommends that member states “adopt other legislative, administrative, social and economic measures as may be necessary, to ensure the prevention, and eradication of all forms of violence against women; and punishment of the perpetrators.” It affirms the guiding principle of SPF that says, “social policies must uphold the principles of human rights, development imperatives and be embedded in the African culture of solidarity”. It upholds the commitment to promoting African culture, recommends that member states “advocate against harmful traditional practices such as Female Genital Mutilation, early childhood marriages which could result in fistula, as well as cattle rustling, and other acts which can exacerbate conflict or diminish human rights and dignity”. Such a reform agenda, in the spirit of the African Renaissance and Africa’s deeper values is driven from within Africa and is prepared to confront that which is detrimental.

International and Regional Legal Frameworks

The framework for international and regional human rights is one lens through which to view and address HTPs, however it must be acknowledged that this framework is subject to inherent weaknesses in addressing these issues. Legal frameworks are an essential requirement if HTPs are to be eliminated, however local and community involvement must accompany, if not precede, legislation and its effective implementation if change is to take place.

The African Charter on Human and People's Rights delineates the rights of all Africans, regardless of gender. Article two enshrines the principal of non-discrimination, including that based on gender, and Article 18 calls for the elimination of any discrimination against women and the protection their rights. The African Charter on Human and People's Rights enshrines “equality before and equal protection of the law (Article three) respect for the life and integrity of the person (Article four) the right to liberty and security of the person (Article

six) and the elimination by the state of every discrimination against women, as stipulated in international declarations and conventions (Article eighteen)". Article two stipulates all people are afforded rights under the Charter, without discrimination because of their gender. It adds that African governments should strive to adopt legislative measures to implement the rights, duties and freedoms enshrined in the Charter.

The African Platform for Action and the Dakar Declaration of 1994 holds member states who had agreed to take concrete commitments to tackle violence and discrimination against women. Many African countries (forty six signatures and twenty eight ratifications) have also signed and ratified the Maputo Protocol to the African Charter on Human and People's Rights on the Rights of Women in Africa (2003). Article five of the Protocol focuses on the Elimination of Harmful Practices, committing states not only to prohibiting such practices but also to creating awareness of HTPs, to protecting those at risk of HTPs and a provision of support to victims of HTPs.

Article 21 of the African Charter on the Rights and Welfare of the Child (1999), entitled 'Protection against Harmful Social and Cultural Practices', stipulates that states that signed the Charter take all appropriate measures to eliminate harmful social and cultural practices affecting the welfare, dignity, normal growth and development of the child, highlighting in particular customs and practices prejudicial to the health or life of the child and customs and practices discriminatory to the child on the grounds of gender or other status. The Article also addresses child marriage, prohibiting the betrothal of girls and boys and demanding that effective action, including legislation, be taken to require that eighteen be the minimum age for marriage and make registration of all marriages in an official registry compulsory.

Many African nations are signatories to the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW 1979) and the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT 1984) and the Declaration on the Protection of All Persons from Being Subjected to Torture or other Cruel, Inhuman or Degrading Treatment or Punishment (1975). However, degrading or cruel treatment that causes harm to women still continues with impunity in many parts of Africa.

The 1993 UN Declaration on the Elimination of Violence Against Women defined Violence Against Women as a sub category of Gender Based Violence, and as "any act of GBV that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivations of liberty, whether occurring in public or



private life." The Beijing Platform for Action of 1995 reinforced the important role the state plays in tackling gender-based violence. HTPs are a form of gender-based violence, and they affect women in the home, in the community and at the local or national level.

Within the larger UN System, the Universal Declaration of Human Rights (UDHR), the International Covenant on Civil and Political Rights (ICCPR), the International Covenant on Economic, Social, and Cultural Rights (ICESCR) all serve to entrench the equal status of women before the law. The Convention on the Rights of the Child uses explicit language to maintain that these rights apply equally to male and female children. The convention includes the protection of girls from physical or mental violence within the home, in the community and by state actors. It also includes Article 24, which states that "States Parties shall take all effective and appropriate measures with a view to abolishing traditional practices prejudicial to the health of children." The Committee on the Rights of the Child holds states to account on the Convention of the Rights of the Child. The Human Rights Committee (which interprets the ICCPR) and its general comments (including comment 26 on 'Honour Crimes') hold states to account for their implementation of ICCPR. The ICCPR provides for equality before the law, equal protection of the law, and a prohibition on discrimination based on sex. Similar standards are also delineated in humanitarian law and the Geneva Conventions, and in UN resolution 1,325 on Women Peace and Security. CEDAW (Committee on the Elimination of Discrimination Against Women) is also a key committee for tackling HTPs based on the convention of the same name. Some states have made reservations that fundamentally undermine the convention-stemming from conflict between some interpretations of their culture and religion and the notion of sexual equality.

Paragraph 118 of the Beijing Platform for Action discusses cultural patterns and the harmful effects of certain customary practices:

"Violence against women throughout the life cycle derives essentially from cultural patterns, in particular the harmful effects of certain traditional or customary practices and all acts of extremism linked to race, sex, language and religion that perpetuate the lower status accorded to women in the family, the workplace, the community and society."

There is also a dichotomy between public and private spheres that underpins the traditional civil and political rights framework and impinges on discussions of HTPs. The private domain is effectively viewed as the space of women, and less subject to legal scrutiny, while the public domain is viewed as the sphere

of men. This leads to the experiences of women being neglected both in the human rights discourse and in jurisprudence.

Violence against women (VAW) in general and certain HTPs are now appearing with greater frequency on the agendas of local and national governments. VAW and the related HTPs that reflect the power inequality between men and women are beginning to be addressed by international regulatory bodies and civil society.

There has been a growth in the use of international human rights law by women's groups internationally but according to the UN Secretary General's study on VAW:

"Governments are failing their responsibility and due diligence to address this issue: there is a serious lack of real resources or political will committed to this issue-including a lack of services, of justice system mechanisms, and of attention to data to measure effectively the problem or the impact of practices that seem to diminish it."

The AU Charter on the Rights and Welfare of the Child (ACRWC), the African Youth Charter and the Social Policy Framework for Africa (SPF) are critical documents and reinforce the rights of children and youth on the continent. In 2009, the UN Committee of the Rights on the Child recommended that an effective preventive strategy against Harmful Traditional Practices, including FGC/FGM, early marriage and forced feeding, should be developed.

The UN Special Rapporteur on VAW has also examined forms of HTPs including FGC/FGM, and the Secretary-General published a report on ending FGC/FGM in 2007. There is also a UN Fact Sheet No 23 on Harmful Traditional Practices Affecting the Health of Women and Children, which is helpful in delineating the principal HTPs, though it offers no definition of an HTP.

International and regional legislation is an important foundation for tackling HTPs, however as this author states, they are by no means sufficient:

"Translating established rights into reality is an enormous challenge. National governments often view international norms as contradictory to their own interests and may resist applying universal rights to their own social, economic, and cultural systems. In addition, even ratification of a treaty does not mean that its provisions are immediately applicable on a national level. In the cases when a government has passed laws or revised a country's constitution to be more in line with principles of equal rights, implementing these changes requires effort on many levels. A lack of awareness and inadequate systems of enforcement (e.g., legal representation and courts) hampers the fulfilment



of many human and civil rights. Furthermore, some national laws do not take women's particular circumstances or concerns into consideration, or may have clearly discriminatory provisions. Struggles over land and other property often take place on the local level, within communities and families. In such a context, traditional customs and beliefs remain strong, which in turn often means that male-dominated systems are prevalent. As a result, there can be considerable resistance on the part of individuals and communities with regards to women gaining knowledge about or asserting their rights. The conflict between statutory and customary laws poses a significant challenge for the NGO grantees, and emerged as a central theme in both project reports and conference discussions."⁴

The state can and must be part of the struggle for women's rights, however "in many cases it is the state, its ideologies and its laws, that perpetuates and promotes violence against women."⁵

Attitudes which Perpetuate HTP

Gender-based violence, which can overlap with HTPs, has a profound effect on women throughout the life cycle (which begins even before birth in the case of gender selective abortions). Girls face violence in childhood, including FGC/FGM and sexual initiation, child marriage, sexual abuse and systematic neglect. Girls are more likely than boys to be raped or sexually abused by family members, by those in a position of trust and power or by strangers. In some countries where an unmarried girl is raped, she is forced to marry the rapist. Forced prostitution, trafficking, dating and courtship violence and abuse, as well as sexual harassment in the workplace are all issues faced by girls during adolescence and offences may be committed with impunity where culture treats such offences as trivial if not as permissible. When women reach reproductive age, they experience other forms of violence, such as intimate male partner abuse, marital rape, bride-price abuses, sexual harassment and abuse and forced prostitution and trafficking. When women become pregnant, grow old, or suffer from mental or physical disability they are more vulnerable to a lack of adequate and appropriate health services and to different forms of violence- most of the forms of violence that women face are specifically connected to being female.⁶

⁴Steinzor 2003

⁵Ferguson 1984 in Green 1999

⁶Benninger-Budel and Lacroix 1999

Though international recognition of GBV has expanded there has been no discernible decrease in it and there remains on the whole a universal culture of impunity for GBV; it persists in various forms because of cultural acceptance in the communities where it is perpetrated:

“We need to understand that all violence against women is supported by cultural attitudes, at least as long as the culture- -one's family, community, friends, colleagues and religion- generally accepts it. This is the real cultural challenge of violence against women.”⁷

Despite the national, regional and international legislation and frameworks mentioned, universal attitudes of patriarchy and male dominance often engender a culture of violence in which women and children are the victims.⁸ In many countries there is a structural inequality, reinforcing and even legitimizing HTP, based on gender and the social construction of male and female as having unequal social value.

In many African countries there are also issues of legal dualism. Common law, deriving from colonial law, coexists with customary law, and this can pose challenges in efforts to eradicate HTPs. Often common law governs matters where the state has a direct interest, but customary law governs most personal matters.

Preconditions in Culture and Tradition which Favour HTP

There are no preconditions that determine the prevalence of HTPs, and inadequate data exists to formally determine this. The author's research has found that HTPs are more common in rural settings. Higher education and people living in urban environments are more likely to shun HTPs, though sometimes girls are returned to their villages from the cities in order to undergo certain HTPs. Education can provide a strong deterrent to FGC/FGM and can help reduce support for and practice of FGC/FGM. For example, one study in Senegal found that basic education programs on women's health and human

⁷Bunch 2008 xixiii

⁸Oyekanmi 2000



rights were able to change attitudes and behaviours for both men and women with regard to reproductive health, GBV, human rights and FGC/FGM. Those who had taken part in the education program were more willing to abandon and denounce FGC/FGM (Diop et al 2004). Some HTPs, such as FGC/FGM, are associated with Islam, and indeed FGC/FGM is high in African countries with a high proportion of Muslims, however there is no actual linkage between Islam and this practice. It is not condoned in the Koran. Furthermore, FGC/FGM is also common in predominately non-Muslim countries in Africa. Indeed, in some countries Muslim leaders have become notable advocates against FGC/FGM. Evidence shows that the practice of FGC/FGM predates Christianity or Islam.⁹ An “Honour” killing is the practice linked mostly with Islam, occurring predominantly only in Muslim societies in Africa.

Different regions of Africa differ in the forms and prevalence of HTP. FGC/FGM is most common in the north-central belt across Africa. “Honour” killings are most common in North Eastern Africa, especially Egypt, but also reported in parts of West Africa. It is hard to measure the prevalence of HTPs, as often these practices and violence against women go undocumented, and certain practices, such as marital rape, are not recognized as harmful or criminal.

In her research on wife battering in Ghana, Henrietta Abane argues that “the position of women within the Ghanaian family is to a large extent conditioned by traditional values and cultural beliefs of society which find expression in religion and legal systems and which are reinforced by formal education and the mass media.” Similar situations for women are common throughout Africa and often go beyond domestic violence.¹⁰ Abane argues that “any strategy to combat wife battering must attack the root causes of the problem, challenging social attitudes and beliefs that underlie male violence and renegotiating its meaning from the cultural contexts of society.” This argument could equally be applied to other HTPs.

Sociologists often postulate that modifying or abandoning tradition is difficult, primarily because of *custom*, the convenience of tradition and of maintaining the status quo and because of human *normative* behaviour.¹¹ Packer examines what constitutes tradition and how it is maintained in the context of FGC/FGM, arguing that the tradition of FGC/FGM has been hard to change despite legislation, awareness raising and human rights activism, because communities who practice FGC/FGM believe their tradition is logical, rational and necessary.

⁹UN Fact Sheet No 23.

¹⁰Abane 2000

¹¹Packer 2005

In many cultures in Africa there is an emphasis on community as opposed to individual rights, wherein the individual is conceived as part of a greater whole and in many cases communal rights trump individual ones: "In societies where individualism is tempered by communal sentiments and loyalties it is much more difficult for the individual to consider and claim rights which appear *prima facie* in opposition or as a challenge to the socio-cultural norms of those societies".¹² For FGC/FGM to be abandoned it must be rejected by the entire community and not just by individuals.

HTPs and Gender Inequality

HTPs must be viewed as part of the broader picture of inequality in gender power relations. Economic, cultural and social inequalities place women in many parts of Africa in a subordinate position. HTPs emerge from and reinforce such inequalities. An HTP can be not only a human rights violation in and of itself but can also prevent women from the realization of other civil liberties, such as economic, cultural and political rights. Property grabbing is an example of how gender based violence can be used to deny women their economic rights.¹³ Some of these practices can result directly in illness, injury or death, as well as unwanted pregnancies, mental health issues, sexually transmitted diseases including HIV/AIDS. They can also affect women indirectly by undermining their rights to assets, autonomy and choice. The HIV pandemic in sub-Saharan Africa is closely linked with some harmful traditional practices and traditions of domestic and sexual violence.

HTPs undermine the achievement of the MDGs, especially the MDG on gender equality in education, the MDG on maternal mortality, MDG on infant mortality and MDG on halting and reversing HIV and AIDS. They are a development issue, affecting poverty, social development and economic growth. There are also human and financial costs of VAW for girls. VAW and HTPs can be completely eliminated only by addressing discrimination, promoting women's equality and empowerment, while ensuring that human rights for women are fulfilled. HTPs must be contextualized in terms of the continuum of violence that women and girls face throughout their life cycle, wherein women and girls risk not being safe within their families and their communities and are not adequately protected by the state and its agents.

¹²Ibid p 229

¹³Terry and Hoare 2007



Methodology

This study was conducted based on desk and Internet research. Anthropological material, NGO reports, UN and other international organizational reports, national development organization reports, as well as legal, medical and social science academic journals that were consulted. A questionnaire and matrix was also made available to all African Union Member States, so that replies could be incorporated. Demographic Health Surveys were consulted, in addition to national reports to the relevant human rights committees.

In relation to violence against women, there is a lack of reliable data on VAW as few countries carry out regular data collection that allows measurement to be conducted over time. Information is needed on how various forms of violence affect different groups of women; this requires data that has been disaggregated according to factors such as age and ethnicity. Similarly, little information is available to assess the measures taken to combat violence against women and to evaluate its impact. The UN Secretary General has reminded members that ensuring adequate data collection is part of every state's obligation to address violence against women.¹⁴ He called for a set of international indicators on VAW to be established, based on widely available and credible data collected at the national level, using comparable methods to define and measure violence. In response, the UN has been developing two main types of indicators on VAW: indicators that measure the extent of the phenomenon and indicators that measure a states' responses to the problem.¹⁵

Sources of reliable data on VAW, where available, are complex. For example, institutional sources such as those from the police, hospital, court records, and data from shelters are incomplete in terms of coverage and generally only provide data on very severe cases. Surveys on VAW are rare and costly, the one exception being the widely quoted *WHO Multi-Country Study of Domestic Violence (2005)*. Given these constraints, USAID has made the case for inclusion of data on VAW in Demographic and Health Surveys.

¹⁴UN, "Ending violence against women: from words to action" Study of the Secretary-General, 2006

¹⁵The approach is documented in Indicators to measure violence against women, *Expert Group Meeting Organized by: United Nations Division for the Advancement of Women, United Nations Economic Commission for Europe, United Nations Statistical Division, October 2007, Geneva, Switzerland*

Causes, Trends and Changes

Power and Property Relations in society

Cultural beliefs impact women's lives as they affect their share of power and decision making in the household and at the community and national level. These beliefs also affect women's access to and participation in employment, education, health care, land and property ownership, credit and shelter and other aspects of the African socio economic structure.¹⁶ The AU Social Policy Framework for Africa Implementation Plan, adopted by Ministers in charge of Social Development at their meeting in Khartoum in Nov 2010, identifies gender dimensions in the four functions of social policy: reproduction, production, redistribution and social protection. In particular, it notes: "Too many countries in Africa have been focusing too much on production, neglecting reproduction and pursuing an *apartheid* social policy in which the poor pay for the costs of the social reproduction of labour, often in marginal rural areas that lack services and connectivity, extracting from the poor an unskilled adult workforce for manual labour and the production of raw materials for export, while elites manage the process for their financial benefit." It is in this context that HTPs can flourish among subordinated communities and gender stratified relations that constrain women's contribution to production into a subservient role.

For example, in Swaziland, according to one study, society is based principally on patriarchy, and men and women are socialized from childhood to believe men are superior, leading to unequal power relations. There is an acceptance of discriminatory behavioural patterns. Practices such as bride-wealth payments, patrilocal and emphasis on marriage and motherhood as well as denial of direct access to land ownership can help entrench the subordination of women and make them more vulnerable to abuse. Some violence towards women can stem from the cultural, social, economic and political inequalities. There is the added difficulty of obtaining justice through the Swazi judicial system, partly due to the country's dual legal system and partly due to remaining entrenched discrimination.¹⁷

One author argues that manifestations of VAW and some HTPs are a combination of individual values, societal norms and standards guiding how

¹⁶Abane 2000

¹⁷WLSA 2001



people behave towards one another as well as historical circumstance. These manifestations are influenced by a country's social, cultural and political history, by colonization, by (in the case of South Africa) apartheid, and by race, class and gender divisions. In looking at South Africa, she cites embedded patriarchy, the ideology or structure that grants men power and privilege over women, as a key factor contributing to violent behaviour towards women. Gendered constructions of male and female sexuality have produced a norm wherein men are seen as sexually active and women as passive - active female sexual desire is discouraged and the assumption is that women should be faithful to one man and remain sexually pure, whereas sexually active women are seen as loose or promiscuous. This double standard in perceptions of sexuality has also served to reinforce some HTPs.¹⁸

Women are often economically dependent upon men, making it easier for them to be trapped in abusive relationships. In fact male control of wealth and property was a major correlate of wife beating in a cross-cultural study of ninety societies.¹⁹ Innovative UN research found that a community mobilization project significantly contributed to individual, relationship and community change. The endeavour resulted in decreased levels of physical, emotional, sexual and economic violence against women in the home. An assessment of the programme built upon the model of change. It involved five levels, from social to individual. Over a three year period 40-50% reported that violence either was reduced or the type of violence shifted. Only 8% reported an increase in physical violence and sixteen percent reported no change.

Other work has shown that women who have regained confidence and self-worth can then organize to contribute to peace-building and end violence against women.²⁰

In Ghana, studies have shown that women experience greater poverty, have heavier time burdens, lower rates of utilization of productive resources and lower literacy rates than men. Gender disparities exist with respect to access to and control of a range of assets. Productive resources such as land and credit, human capital resources such as education and health, and social capital such as legal rights and protection all are subject to inequality based on gender. Landlessness is one of the causes of poverty and land rights are

¹⁸Vetter 2000

¹⁹Levinson 1989 in Vetter 2000

²⁰IDS Citizenship DRC Working Paper 274 "Violence, Power and Participation: Building Citizenship in Contexts of Chronic Violence" Pearce 2007 www.ids.ac.uk/download.cfm?file=wp274.pdf

particularly important in this context for poverty alleviation.²¹ Women's poverty is linked to a lack of empowerment, invisibility, lower education, health and employment levels. Women earn less than men on average for the same work and there are much higher unemployment rates for women. Women are unable to acquire substantial property on their own and usually have limited access to land.²² Land reforms in Africa are having an impact on women's access to this critical development asset. Issuing land certification to both men and women and jointly in the case of married women, allowing a market in land rentals in Ethiopia with no bias against women had a dramatic impact on women's choices in agricultural production and alternative economic activity.²³ Data from IFPRI indicates that African women perform about 90% of the work of processing food crops, hoeing and weeding, 80% of the work of food storage and transport from farm to village, and 60% of the work of harvesting and marketing. Moreover, studies by Udry²⁴ from Burkina Faso show that plots operated by women receive much less fertilizer and other inputs than those of men and if these inputs were equalized, aggregate output would rise by 10-15%. Similar findings have been reported for other countries such as Zambia and Ghana.²⁵ But the argument for empowering women is not simply one of rights or overall economic productivity but also as a basis for reducing gender-based violence. Women's ability to live free from violence is linked to their economic rights.²⁶

The gendered discrimination in terms of economic rights in Africa is seen, for example, in Kenya, where the income of a married woman living with her husband is deemed to be the income of the husband for the purposes of assessing his total tax income.²⁷ Women suffer from increased violence in times of economic crisis, especially in the form of violence from their husbands.²⁸ HTPs such as property grabbing and widow inheritance are also tied to poverty. They ensure women's continued disenfranchisement, which in turn is a barrier to the overall socioeconomic progress of a country. One FAO report states that:

²¹Ghana DHS 2003; Ardayio-Schandorf and Sam 2006)

²²Ibid

²³As analysed by the World Bank Rural land certification in Ethiopia: Process, initial impact, and implications for other African countries. Deininger, Ayalew Ali, Holden and Zevenbergen. World Development, 2008. See www.elsevier.com/locate/worlddev and "Assessing the Functioning of Land Rental Markets in Ethiopia" Klaus Deininger, Daniel Ayalew Ali, Tekie Alemu in Economic Development and Cultural Change, Vol. 57, No. 1 (October 2008), pp. 67-100.

²⁴1996 and Udry et al. 1997

²⁵Blackden and Bhanu 1999; Goldstein and Udry 2002

²⁶Hayes in Terry and Hoare 2007

²⁷Kamau and Mugo 2005

²⁸CEDAW report in Machera 2000



"Poverty is inversely correlated with household land ownership. The landless are more vulnerable, especially in famines, and have higher infant mortality rates. Women and children suffer disproportionately from shocks when their rights to household resources, including land, are mediated through men. Direct access to land minimizes women's risk of impoverishment and improves the physical well-being and prospects for her children."²⁹

The paper addresses land related issues further below and has created an overall category of 'Land and Inheritance Exclusion' to encompass the myriad HTPs relating to land, property and inheritance.

Links Between HTP and HIV/AIDS

HIV/AIDS is being exacerbated by the practice of certain HTPs in some parts of Africa, including widow inheritance (common in eastern and southern Africa), widow cleansing, sexual initiation, forced marriage, recent myths concerning sex, including that a virgin could heal a man from HIV³⁰ and SGBV. One WHO study in 2000 found that the greatest risk of HIV infection for many women comes from a regular partner, and is heightened by an unequal relationship that makes it difficult, if not impossible, to negotiate safe sex. In western Kenya women have been forced to marry, even when their husbands have died of AIDS, when they themselves are infected, or when their future husband has AIDS.

Post-conflict situations

Though this study will not focus on conflict and post-conflict situations explicitly, a brief mention is made here of the inter-linkages between violence, HTPs and conflict situations. The humanitarian community has not adequately addressed HTP in post-conflict situations. Sexual violence has become a routine part of war in Africa, and such violence, within an overall culture of impunity for perpetrators, persists in a society long after conflict has ended. War, armed conflict, and its aftermath can contribute to the intensification of violence,

²⁹Crowley in Steinzor 2003

³⁰The myth that sex with a child virgin will rid someone of the virus has led to reported cases of rape of young virgins (Vetter 2000)

especially sexual violence in post-conflict states.³¹ In the DRC 16% of women reported they were forced to have sex against their will. This data was the same across all provinces, indicating the persistence of violence even after the end to conflict. Young girls are especially vulnerable to such violence and in the DRC rates of sexual violence towards girls are higher (21%), than for older women (14%). Research has shown that higher levels of gender inequality increase the likelihood of domestic conflict. If a nation is characterized by a high degree of gender inequality, rooted in hierarchy, discrimination, and violence, it ends up supporting a culture of hostility. As such, states with gender inequality are primed for violence.³²

The UN Security Council Resolution 1325 emphasises the importance of protecting women's rights in conflict and post-conflict situations, as well as ensuring their participation in peace-building.³³ There has also been a surge of interest in the capacities of women for forgiveness, reconciliation and an acknowledgment that women can play an integral role in peace-building. Violence against women in conflict and post-conflict states of Africa including Burundi, Chad, the Democratic Republic of Congo, Liberia, Rwanda, Sierra Leone, Somalia and Sudan is often a continuation of what happens in the lives of women during peacetime. Women and girls of all ages are raped and abducted to serve as sexual slaves; pregnant women are physically assaulted, and many women have been murdered or infected with HIV and AIDS. During ethnic conflicts, systematic rape is used to destabilize populations and destroy community and family bonds. Refugees and displaced persons are especially vulnerable. Female refugees experience beatings, rape and attempted rape, other sexual molestations and threats. This at times leads to involuntary prostitution/forced sex in order to gain access to basic needs such as food or safe passage across borders. The UNHCR advises field staff to assume that such violence is a problem unless shown to be otherwise, and camps should have programmes to prevent and deal with it.³⁴

³¹Kirk and Chenoweth in Terry and Hoare 2007

³²Caprioli, M 2005 "Primed for Violence: The Role of Gender Inequality in Predicting Internal Conflict" International Studies Quarterly Volume 49, Issue 2, pages 161–178, June 2005. See: <http://onlinelibrary.wiley.com/doi/10.1111/j.0020-8833.2005.00340.x/full#t1n2>

³³Jacobson 2008

³⁴The UNHCR has published Guidelines on Prevention and Response- Sexual Violence Against Refugees. See also UNU-WIDER Research Paper 2006/62 "The Gender Dimensions of Post-Conflict Reconstruction: The Challenges in Development Aid" Greenberg & Zuckerman 2006 http://www.wider.unu.edu/publications/working-papers/research-papers/2006/en_GB/rp2006-62/



Range of HTP in Africa- most prevalent types, impact and location



This paper has grouped HTPs in the following way, in an attempt to broadly group and prioritize these practices:

- 1. SGBV (inside and outside the home)**
- 2. Early/Forced Marriage**
- 3. Sexual Initiation and FGC/FGM**
- 4. Opportunity Marginalization (social and economic)**
- 5. Land and Inheritance Exclusion**

The HTPs are grouped under these headings for purposes of clarity and prioritization, however many HTPs fall under several of these categories. There is an overlap in the classification of many HTPs, for example, property grabbing has been classed under “Land and Inheritance Exclusion”, however it is also a form of economic and social opportunity marginalization for the widow and can often include SGBV. As every country and regional context is unique and has varying prevalence of HTPs, it is difficult to develop a set of priority HTPs that are applicable across the continent. The above categorizations should allow the necessary flexibility for states to prioritize their own HTPs within an overarching organizational framework, possibly identifying one priority within each category that can be addressed through a clear strategy.



1 SGBV (inside and outside the home)³⁵

Sexual and gender based violence is not just an African problem it is a global problem. Only recently has it fully emerged as a major issue on the international human rights agenda, though SGBV is not only a human right, but also a public health and development issue. Though it does occur to men, women are the main victims of SGBV.³⁶ Under SGBV, we include rape, ranging from within marriage to within war; coercive sex, including incest in the home, school, employment or elsewhere; domestic violence, practices during pregnancy and restricting women's access to care, food and nutrition, controlling a woman's sexuality, (such as *trokosi* slaves), trafficking, "honour" killings, stoning those who have sex outside marriage, or flogging, as well as widow "cleansing"; exclusion, such as abuse relating to disabilities, witch-hunts and trials, or the ultimate of female foeticide or infanticide; ritual killings and removal of body parts for ritual purposes, and violence related to bride-price. Their inclusion in this report relates to either prescriptive traditional endorsement or a permissive culture of impunity that undermines reporting or any redress of such accepted behaviours.

The UN General Assembly passed its first resolution on VAW in 1985. It then passed the UN Declaration on Violence Against Women in 1993, followed by statements at the UN International Conference on Population and Development in 1994, and the Fourth World Conference on Women in 1995. The Maputo Protocol also addresses this issue. Article two of the Declaration on Violence Against Women encompasses but is not limited to physical, sexual and psychological violence occurring in the family and the community, including battering, sexual abuse of female children, bride-price related violence, marital rape, FGC/FGM, and other traditional practices harmful to women, non-spousal violence, violence

³⁵See also Annex 1, on incidence of domestic violence across Africa, and Annex 2, on Trafficking of Girls and Women

³⁶UNFPA

related to exploitation, sexual harassment and intimidation at work and in educational institutions, trafficking in women, forced prostitution and violence perpetrated or condoned by the state.³⁷

UNFPA and others have promoted a life-cycle approach to GBV, acknowledging that girls and women face a continuum of violence throughout their lives, starting from pre-birth, to infancy, girlhood, adolescence, reproductive age and old age.

"The fundamental distinguishing feature of GBV is that it emanates from the use of force or coercion, physical or psychological, that is socially tolerated and is carried out predominantly against women and girls at every stage of the life cycle...gender based violence is essentially socially sanctioned and, by its nature, deep rooted and pervasive in the lives of girls and women...it is a form of violence to which women and girls are subjected primarily because of their female gender identity."³⁸

Often this violence is perpetrated by intimate male partners or members of the household. As such, the domestic sphere is viewed by some as private and less subject to scrutiny and international and domestic legislation. Such violence is often underreported. It is also difficult to ascertain the extent of SGBV as police and health care facilities are not adequately equipped and often fail to record data on SGBV.

Sexual coercion and abuse are common occurrences in the lives of many girls and women across Africa. Harmful cultural practices and traditions present another important facet of SGBV and must be seen as part of the continuum of gender-based abuse.³⁹

Consequences of SGBV

It is important to note the relationship between rape, and other forms of SGBV and HIV. There is also an economic toll to domestic violence. It imposes huge costs on the female victims but is also a drain on societal resources. The consequences extend beyond the victims and their families to employers, health care providers and the larger society. These costs are especially acute for developing countries, as the costs associated with SGBV are an

³⁷UN Declaration on the Elimination of Violence Against Women

³⁸UNFPA

³⁹Ibid



impediment to poverty alleviation and development. Statistics support the theory that factors which improve women's economic alternatives such as wage equality, family support, welfare and other social services, decrease the level of violence. Women's economic status is a major determinant of the incidence and severity of domestic violence. The link between violence and the economic disempowerment of women is a recurring theme in Africa and it can be argued that the gendered nature of poverty is both a cause and a result of VAW. Women who are poor, unemployed, living in the streets, living in rural areas or in poor townships are more likely to suffer from violence and are less equipped to protect themselves.⁴⁰

In addition, there are significant employment and health consequences to domestic violence. Domestic violence affects women's productivity in the labour market, farm and household, and means fewer resources for the family, as well as wider costs for society. The health consequences of domestic violence include pregnancy-related injuries, mental health problems, disability, disfigurement and death. Domestic violence often escalates during pregnancy, therefore causing increased risk of miscarriage or low birth weight. Women victims of abuse are also likely to suffer from eating disorders, post-traumatic stress disorder, depression and anxiety. Domestic violence is a major cause of suicide and homicide worldwide.

One study on coerced sex among adolescent girls in Uganda found an association between physical and sexual violence and negative reproductive health outcomes. The direct biological effects of coerced intercourse, such as unintended pregnancy, abortion, genital tract symptoms and STI's were direct consequences. The study found a significant association between coerced sex and risk of HIV infection. Young women whose first intercourse was coerced were more likely to have been coerced recently. Reported prevalence of coerced first sex in several studies in sub-Saharan African found that twenty to thirty percent, and in some cases forty percent of women reported that their first sexual experience was coerced. The study also argued that physical or sexual violence disempowered women from negotiating for safer sex and could negatively affect protective behaviours relating to fertility regulation and STIs.⁴¹

Studies from South Africa and Tanzania have found a significant link between physical violence, coerced sex and unintended pregnancy.⁴² There is also

⁴⁰Tiefenthaler and Farmer 2005 p 19

⁴¹Koenig, Zablotska et al 2005

⁴²Dangor, Hoff & Scott 1998; Jewkes et al 2001 in Koenig, Zablotska et al 2005

a reduced likelihood of contraceptive use amongst women who have had exposure to sexual abuse at the hands of an intimate partner.⁴³ Other studies have found strong links between physical and sexual abuse among reproductive-age women and a range of gynaecological problems.

1.1 SGBV Outside the Home – Rape and Coercive Sex in School or Employment

Across Africa, violence against women also is a common occurrence outside the home. Some particular manifestations of VAW are country or region specific. For example, family murder-suicides, a form of gang-rape known as *jackrolling*,⁴⁴ *streamlining*⁴⁵ and the rape of young virgins as a supposed cure for HIV⁴⁶ are certain manifestations of VAW which have appeared primarily in South Africa. Levels of violence against women in South Africa are alarmingly high: in 2003-2004, 52,733 cases of rape were reported to the police. Parents, families and society put little social pressure on men and boys to discourage rape. Rape can also be viewed as an extreme act of performed masculinity; it provokes male feelings of power. It can also be part of male peer bonding

⁴³Bawah et al 1999 in Koenig, Zablotzka et al 2005

⁴⁴See Vetter 2000

⁴⁵See Wood 2001 in Jewkes 2005. Rape, and gang rape, reflect cultural attitudes and the social subordination of women: 'gang rape can be seen as an expression of superior strength and a way of achieving deference from peers as well as women' (Jewkes 2005 p 92).

⁴⁶See for example Buve et al 2001 in Njue, Askew et al 2005





activities, enacted as an expression of power and superiority. Among the Luhya in Kenya, “boys begin to learn at an early age that men are expected to be strong, emotionally tough, daring, virile, self-reliant, aggressive, competitive and a little ‘reckless’ in their sexual behaviour...these cultural definitions of masculinity account for the use of threats and force to have sex” and can help account for the high levels of domestic, physical and sexual violence in the Western Province.⁴⁷ In another South African study, 3% of women seeking employment said they were required to have sex with a man before getting the job, and of those working, 2% had to have sex with their boss to keep their job, and 2% of students had been told they would fail if they did not have sex with their teacher.⁴⁸ Such coercive sex is widely reported across Africa. Coercive sex refers to “a continuum of behaviours ranging from unwanted touch, verbal intimidation and rape to cultural expectations that require girls to marry and sexually service men against their will.”⁴⁹ While sexual relations between teachers and pupils may have been condoned by or concealed by local communities, many countries have introduced laws on “defilement” and administrative procedures to remove offenders from continuing to teach. The introduction of female classroom assistants, in an effort to create a safer learning environment for girls, was a way of responding to teachers’ sexual exploitation of female students. The strategies used by the classroom assistants, however, were found to be conservative and “reflect rather than challenge prevailing gender attitudes.”⁵⁰ A study in Kenya found that male teachers and students solicit sexual favours from girls and there is an ongoing interchange of sex for grades, academic favours and money.⁵¹ In a 1991 study of rape in Senegal, over 60% of the rapes involved schoolgirls and students. Harassment is so common in educational contexts that many women regard it as normal. There are large numbers of dropouts due to harassment, pregnancy and violence.⁵²

A study on sexual violence in Lesotho found that sexual violence is not greeted with the gravity of other serious crimes and is not necessarily viewed as a women’s human rights issue.⁵³ It also highlights the linkages between sexual violence and HIV/AIDS and the inadequate justice structures in place to

⁴⁷Njue, Askew et al 2005 p 153

⁴⁸Jewkes and Abramson 2002 in Jewkes 2005. See also the study by Bammeké on students in the University of Lagos

⁴⁹Heise et al 1995 in Ajuwon 2005

⁵⁰Kirk in Terry and Hoare 2007

⁵¹Webster 2005 p 198

⁵²African Rights discussion paper

⁵³Women and Law in Southern Africa 2002

deal with the issue. One obstacle Lesotho women victims of sexual violence encountered was that some did not see sexual violence as a crime but more as a wrong, hence this proved an initial obstacle to any criminal proceedings. Sometimes the women would be excluded from the process of seeking justice because the wrong was seen to have been done to the family and not to the woman as an individual. Police and court handling of investigations was also problematic, and discouraged women from seeking redress.⁵⁴

A study in Nigeria found that adolescent boys and some adolescent girls hold attitudes that condone forced sex in a variety of situations. For example, in different samples of adolescents, 80-98% of girls and boys felt that forced sex was condoned if a man paid a bride price for a woman, or if he has spent a lot of money on her (37-74%). Girls are less likely to hold these attitudes than boys but a significant percentage of girls also reported these attitudes. Many respondents blamed the female victim for inviting the forced incident (60-75% of males and 40-50% percent of females). Many respondents voiced the view that rape was a weapon of punishment to teach an unwilling female. Findings from the Nigerian study confirmed that many rape victims suffer in silence, not even telling their parents. They reported feelings of shame and fear that they would be blamed or stigmatized for provoking the incident. The sense of male entitlement is further enforced if few perpetrators are apprehended. Young people continue to agree, for example, that a man is entitled to have sex with a girl on whom he has spent a lot of money, that forced sex must be condoned because men have uncontrollable sexual urges and that it is women who provoke men to rape. Both the norms of subordination and coercion found in some communities contribute to these behaviours. Gender power differences and attitudes that justify sex as a male entitlement are apparent. These norms are deeply rooted in Nigerian cultures, and their origin may be traced to the generally low socio-economic status of women in the country. However, violence based on these norms only serves to perpetuate this low status.⁵⁵

1.2 Coercive Sex – in Home (incest)

Incest is sexual abuse occurring within the family, usually perpetrated by a male relative. Incest remains a sensitive issue and there are few population-based studies from which its prevalence can be estimated.⁵⁶ Due to the taboo against incest, which is one of the most universal taboos, families in which incest occurs

⁵⁴Women and Law in Southern Africa 2002

⁵⁵Ajuwon 2005 p 102

⁵⁶Benninger-Budel and Lacroix 1999



often keep it secret, hence it can be seen as one of the most invisible forms of domestic violence.⁵⁷ Most countries throughout the world have criminalized incest. In order to protect the rights of the child it is necessary that mechanisms are established to identify incest and prosecute the perpetrators. Although such incest is widely condemned by African culture, with the prohibition extending to a wider category of relatives well beyond the nuclear family, incest under certain circumstances sometimes has origins in traditional customs and beliefs. For example, in Zimbabwe men are encouraged by some traditional healers to sleep with their daughters if they want to be successful in business and to sleep with virgins to get rid of the HIV virus. In Namibia, there is a custom reported from some communities wherein the mother's brother is given a right to have sex with his niece, and this is not considered a crime. In other communities the uncle is given permission to acquaint a niece who has just reached sexual maturity with the facts about sex by having intercourse with her.⁵⁸

The prohibition on incest is so strong that in Kenya, for example, victims of incest and child sexual abuse occurring in the home are victimized by the privatization of violence— as one author states, “the reporting of an incestuous rape is akin to reporting treason.” The permission of the Attorney General must be sought before prosecuting an incident of incest. Under Kenyan case law, the character of the female victim of an incestuous rape is questioned, with a legal ruling (*Maina Vs Republic*) questioning the authenticity of any evidence given by women and girls.⁵⁹

1.3 SGBV Inside the Home - Domestic Violence

Domestic violence is another practice that should be viewed as an HTP, and is one of the most widespread in Africa under the guise of cultural permission. This first section will focus on violence within the household. In many contexts in Africa, domestic violence is viewed as a private affair, which should not be subject to state or community intervention. There is often a lack of legislation or government policy in this domain— although many African countries are signatories to the CEDAW, they have not implemented this legislation at the national level.⁶⁰ In her research on wife battering in Ghana, Henrietta Abane states that this phenomena, “represents a hidden obstacle to economic and social development” as it affects women's health, confidence and negatively

⁵⁷Ibid.

⁵⁸Ibid.

⁵⁹Mamau and Mugo 2005 p 255

⁶⁰Machera 2000

affects their ability to participate in their society. The psychological stress experienced by such violence includes self-blame, shame and guilt and can induce dependency, debility and dread, causing what some scholars have named “learned helplessness” and “battered woman syndrome.”⁶¹ Often the community will turn a blind eye or even condone these processes, and they can fail to respond or provide support in situations of domestic violence. Often women are too afraid to take legal redress, or worried they will be pursued or assaulted if they attempt to leave. Women often become chronic victims of domestic violence. It is the surrounding permissive culture that allows domestic violence to flourish with relative impunity.

Domestic violence does not have to be physical; it can take the form of psychological or mental violence, including repeated verbal abuse, harassment, confinement, and deprivation of physical, financial and personal resources. It does not only pertain to spouses but also to intimate partners who do not necessarily live together. Sometimes communities deny its existence under the guise of family privacy.⁶² The response of many governments to domestic violence has been that it is a private affair not within state purview. However General Recommendation 19 of CEDAW- the Committee for the Elimination of All Forms of Discrimination Against Women establishes the state's mandate for acts of violence committed in the home.⁶³

Violence against women is a serious human rights abuse and a public health issue. Multiple studies indicate that it is a substantial health problem. The WHO multi-country study on domestic violence, which included Ethiopia, Namibia and Tanzania, found significant associations between lifetime experiences of male intimate partner violence and poor health. Women who had experienced partner violence at least once in their lifetime reported more emotional distress, suicidal thoughts and attempts than non-abused women and were more likely to report that their general health was poor. Women with lifetime experiences of physical or sexual violence were significantly more likely to report poor or very poor health.⁶⁴ One study of urban violence in South Africa came to similar conclusions in terms of the effect on women's health, both in terms of physical and emotional trauma.⁶⁵ Women are usually at greater risk of physical or sexual violence by an intimate partner than from violence by

⁶¹Abane 2000

⁶²WLSA 2001

⁶³Kamau and Mugo 2005

⁶⁴Ellsberg et al 2008

⁶⁵Gilbert 1996



other people. Rather than being an isolated event, most women's experience of intimate partner violence is part of a pattern of continuing abuse. The study also found that physical violence is often accompanied by sexual violence, and both are associated with controlling behaviour by male partners. Women are often stigmatized and blamed for the abuse they receive.⁶⁶ There are also reproductive health effects to GBV.⁶⁷

Culture may permit such violence against women so that it is not properly acknowledged as a problem.⁶⁸ As in conventional marriages, very few females in consensual unions reported the violence to judicial or extra-judicial agents (9.5%) saying that it is often seen as a disgrace to report such matters.⁶⁹ In Ghana, women are widely socialized to accept physical and emotional chastisement as a husband's marital prerogative:

"Ghanaian culture by and large perceives women as inferior beings who can be used and battered at will...the subordinate position of women within Ghanaian culture has largely been shaped by the people's traditional beliefs and values, which find expression in tradition, folktales and music."⁷⁰

In Ghana national legislation has legitimized domestic violence. Ghana is a diverse society but across Ghanaian cultures, traditional values and beliefs discriminate against women. For example, in the Akan tradition, sayings, folktales and music often depict women as weak and submissive.⁷¹

Many females in Africa see violence against women as a normal and acceptable part of their daily lives. For example, in one study, 86% of Guinean women interviewed felt that men had a right to beat their wives or partners. The highest numbers holding this opinion come from those women with no education, rural women, and women from dissolved marriages or unions. The reasons given for acceptable wife beating occurred when they refused to have sex with their partners. In Cameroon, 53% of women interviewed had experienced intermittent physical violence since the age of 15 and 56% felt men had the right to beat their wives or partners. Negligence of children was seen to be a justifiable reason for beating by 45% of respondents, and 40% felt it was permissible if the women went outside of the home without asking her

⁶⁶Garcia-Moreno 2006

⁶⁷UNFPA

⁶⁸Abane and Jaffe in Machera 2000

⁶⁹Arfayio-Schandorf and Sam 2006

⁷⁰Ofei-Aboagye in Abane 2000

⁷¹Ibid

husband's permission, 27% if she opposed her husband's opinion, 20% if she refused sex and 19% if she burned the food. It is rural and less educated women who hold the highest percentages of these opinions. In Congo Brazzaville 76% of women felt it was acceptable for men to beat their wives for certain reasons, 35% cited a woman's refusal to have sex with her husband as an adequate reason; 50% viewed negligence of domestic duties as an adequate reason, and 50% also viewed a woman spending money without her husband's permission as an adequate reason as well. The proportion of people who held these beliefs was highest amongst married, rural, and uneducated women, and those living in the South.⁷² In DRC 76% of women feel wife beating is acceptable, though again the numbers decrease amongst women with some education (to 54%). 64% report experiencing some type of violence since age 15, and up to 80% in the province of Equateur. Violence tends to diminish with women's educational levels.⁷³ Violence against women during pregnancy is an especially grave issue, as women are vulnerable during pregnancy and violence against them can harm not only their health but that of the unborn child. In DRC, for example, 12% of women reported having experienced physical violence during pregnancy, though in Equateur province the numbers reached 23% and in North Kivu 20%.⁷⁴ Further examples of the widespread nature of domestic violence are shown in Annexe 1.

One study in Swaziland indicates that many women accept this social understanding of the low status of women in society, often leading them to accept and tolerate violence in the home. This acceptance is not only found in women victims but in society at large. In cases where women challenged such violence, they were often ostracized. Tradition was used to justify wife beating, and therefore women who tried to seek help met with immense difficulty: "certain rituals encourage the acceptance of the subordination by women, to a point of accepting violation in some way."⁷⁵ The authors of the study argue that culture, together with tradition, provides the social milieu for perpetration of domestic violence because it allows for the treatment of women as minors. Socialization, patrilocality and *emalobolo* (the paying of bride wealth) are all factors seen to contribute to the perceived low status of women in society and to domestic violence. The study demonstrated that women have limited access to justice structures and most do not approach justice delivery systems, which on the whole are viewed as unresponsive and insensitive to female victims of domestic violence.

⁷²2005 Guinea DHS; 2004 Cameroon DHS; 2005 Congo Brazzaville DHS

⁷³2007 DRC DHS

⁷⁴Ibid

⁷⁵WLSA 2001



Local studies in South Africa indicate that domestic violence is a serious problem, though it is difficult to obtain exact figures. South African research also points to high levels of intimate *femicide*, when a husband or intimate male partner kills a woman. The South African Parliament passed a Domestic Violence Act in 1998, a comprehensive law aimed at addressing the high levels of intimate violence in the country. Feminist activists have monitored its implementation and advocated ensuring its effectiveness.

“Over the past decade the domestic violence law reform movement has become an important arena from which to challenge the social and legal understanding of women’s experiences with domestic violence and to ensure that these experiences are embodied within legal and criminal justice practice.”⁷⁶ The question remains how useful the act is because the state judicial system remains extremely inaccessible to economically vulnerable communities.

A study of wife beating amongst the Yoruba in Ibadan, Nigeria indicated one of the principal causes of violence to be male dominance, though Yoruba women were increasingly willing to challenge this notion of male dominance and patriarchy. It emphasized the need to change societal attitudes to conjugal violence.⁷⁷ The violence was seen as socially acceptable and therefore not subject to condemnation. This social tolerance led to a general official apathy to domestic violence. In Yorubaland, “men are socialized into roles that spell aggression, power, masculinity, force, and use of force” and are seen as having a natural right to control and discipline their wives.⁷⁸ Kenya has one of the highest rates of domestic violence in Africa.⁷⁹ Kenyan law does not recognize wife beating and other forms of domestic violence as criminal acts. Many women stay in violent relationships because they do not have the economic wherewithal to leave. In Nigeria, wife battering and other violence perpetrated by men, mothers in law, or male relatives against their wives is seen as a family matter and rarely gets reported. The Nigerian penal code allows a husband to reasonably chastise his wife when he feels she has erred in conduct.

In one study in Egypt, 30% of women questioned said they had been subjected to violence on a daily basis, 34% on a weekly basis, 15% on a monthly basis and

⁷⁶Artz and Smythe: 2008

⁷⁷Atinmo 2000

⁷⁸Ibid. p 81; Another study in Nigeria, amongst university workers, men sees himself as having entered marriage through a system which dictates his superiority, some of this due to pride price, and which permits violence (Tiarniyu 2005).

⁷⁹Machera 2000

21% occasionally. For 75% of these women, the cause of physical violence was sexual as they reported being beaten, raped or abused for having refused their husbands. Other reasons cited included housework, spending, visiting, religion, jealousy and disobedience.

Marital rape is one aspect of domestic violence. It is contested in many different cultural contexts, as some believe that rape cannot occur within marriage. One study on domestic violence in Ghana states that the concept of marital rape has no place within Ghanaian culture, as bride-wealth and gift giving to family of the women married during marital negotiations is seen as giving the husband unrestricted access to sexual services of his wife.⁸⁰

In many societies, women do not define forced sex as rape if they are married to or living with the abuser.⁸¹ Many countries have not recognized marital rape as a criminal offence, as they argue that husbands have a legal right to sexual access to their wives. In Nigeria, for example, under both customary law and the Criminal Code a husband cannot rape his wife as the law allows him to have sex with her without her consent. In Egypt, for sexual relations to be qualified as rape, they have to be illegitimate, so a husband who forces his wife is not guilty of rape. In Sudan, marriage is also viewed as unrestricted sexual access for a husband to his wife, and, in Zimbabwe as well, prosecutors will not charge a man for raping his wife. South Africa has criminalized marital rape, in the 1997 Domestic Violence Bill, but many studies indicate that rape and violence within intimate relationships remains widespread.⁸²

Attitudes to marital rape vary amongst African women. Many of the DHS surveys indicate that a large percentage of women feel that they are not entitled to refuse sex with their husband. Many women are socialized to believe that women do not have the right to refuse sexual intercourse with their husband for any reason; there is clearly an acceptance of certain norms in society that continue to exist. Women have certain notions of sexual roles and their rights, or lack thereof, over their own bodies, which are reinforced by cultural and societal norms. However 62% of women agreed that under certain circumstances, they were entitled to refuse sex - if a woman knows her husband has an STD, if she knows her husband is having sexual intercourse with other women or when she is tired or not in the mood, although the latter was the least acceptable reason.

⁸⁰Abane 2000 p 21

⁸¹Benninger-Budel and Lacroix 1999

⁸²Benninger-Budel and Lacroix 1999



1.4 Nutritional Taboos and Practices

Nutritional taboos place limits on the intake of food for women, and in particular pregnant women. The food intake of pregnant and lactating mothers is often far below that of males. Cultural practices, which can include nutritional taboos, prevent women, especially pregnant women, from receiving adequate nutrients and can lead to iron and protein deficiencies. Social status and traditional taboos are linked to food intake. When an individual is deprived of essential nutrients it impacts on physical and mental development. Many taboos result from superstition, and the belief that a particular animal or plant will bring harm if eaten, and other taboos are placed on food for religious or cultural reasons. Permanent taboos are placed on female members of many communities in Africa.⁸³

1.4.1 Forced Feeding

Forced feeding, also known as *gavage* or *leblouh*, is a practice wherein young girls are forced to eat more food than they would voluntarily. They are force-fed food and litres of camel milk and other fattening substances with the aim of rendering them larger and hence more attractive to men so that they will become fit for marriage. In many countries in Africa larger girls and women are prized, as their weight symbolizes wealth, high social class, health and fertility. The aim of feeding the girls is to make them large, so that they will become beautiful, socially accepted, and seen as marriage material. Smaller girls are force-fed in order for them to gain weight, so they will become “big” women who are ready for marriage.⁸⁴ The forced feeding is often brutal and sometimes the girls gain so much weight they are unable to move or work. This practice has negative psychological as well as obvious physical ramifications for the health of the girl. Obesity can lead to heart problems, diabetes, high blood pressure, atherosclerosis and increased risk of other chronic diseases.⁸⁵

This custom is almost exclusive to Mauritania, where levels of over nutrition, mostly resulting from forced feeding, are at 38%. It does occur to a smaller degree in other countries in sub-Saharan Africa, such as Mali, where it is on the decline, and it died out generations ago among the royal family in Ankole in Uganda, an example of a changing culture. The practice is now almost exclusive to the Arab population in Mauritania, the largest ethnic group in the

⁸³UN Fact Sheet No 23

⁸⁴GIZ

⁸⁵GIZ; Mauritania DHS 2000



country. In Mauritania the popularity of the practice is declining with each generation, 36% of women age 40-44 reported having been force-fed, while 17% of women age 20-24 reported experiencing the practice. Among women with at least one daughter, however, 20% had either force-fed their daughter or intended to do so. DHS studies found that 22% of women had been or were being force-fed, and the practice was marginally higher (at 24%) in rural areas, as compared to urban areas (19%). There has been increased government, media, and civil society attention to the problem, which has led to a decline in traditional views encouraging female obesity.⁸⁶

1.4.2 Tonsillectomy and Uvulectomy

Tonsillectomy is a common practice in Ethiopia. Usually the uvula is removed with a horse tail hair or thread looped through a bamboo stick, and often an iron knife is used to cut it before it is removed. Tonsillectomy, the removal of the tonsils, often just using the index finger, is also practiced. Both these practices pose a health hazard, especially when performed with unsterilized instruments. In Ethiopia 84% have had either a tonsillectomy or uvulectomy. The practice is most prevalent among urban women, women living in the Tigray region, and women with no education or in the lowest wealth quintile. 29% of Ethiopian women support the continuation of this practice. One in three rural women supports the practice, as opposed to one in three urban women. Women with no education are much more likely to have a daughter exposed to this practice than women with some education, though the rate varies considerably between regions, 23% of daughters in Somali Region have been exposed to this practice whereas 93% in Tigray have been exposed.⁸⁷

1.4.3 Scarification, Ear Stretching, Lip Plugs, Neck Stretching

There are a range of largely epidermal traditional practices of body modification undertaken by men and women, boys and girls. This provides them with a sense of identity, status and beauty. Frequently their culture will affirm it while their neighbours will denigrate it as part of how they differentiate themselves. Just as widespread is the view of some groups, such as the Acholi of Northern Uganda that any modification of the body of a man or woman, including male circumcision, is unacceptable, setting them apart from many of their neighbours. Some of these practices, especially among pastoralists of East Africa, go back to Pharaonic times. All such practices raise questions of

⁸⁶GIZ pamphlet, 2000 Mauritania DHS

⁸⁷2005 DHS Ethiopia

the reality of freedom of choice; given peer or social pressure, and their age, but those campaigning for change would do well to address only those that can be shown to have harmful effects within the definition offered at the start of this paper.

1.5 Control over Women's and Girls' Sexuality





1.5.1 'Honour' Killings and Crimes

So-called 'honour' killings are a manifestation of violence against women and a violation of women's human rights. This HTP, along with FGC/FGM, has garnered the most attention globally, and there is a growing level of attention being devoted to this issue not only internationally but also regionally. 'Crimes of honour' is the broader term under which 'honour killings' fall and includes a variety of other practices committed in the name of honour, such as assault, confinement, imprisonment, interference with choice in marriage, and other forms of control over women and their sexual conduct, whether actual, suspected or potential. 'Honour' crimes stem from traditional notions of conjugal and family honour. They encapsulate the notion, found in the practice of other HTPs, of women as property, and the concept that women and their honour is rightfully controlled by their male family members, even to the point of killing. They result from male members of the family wanting to have strict control over the sexual relations of their female relatives.⁸⁸ Honour-based crimes are an HTP and also a form of GBV. In an honour-based society, the man is defined as the head of the family and the defender of his and his family's honour- he must protect his and his family's honour against any activities that could be seen as shameful or humiliating to the community. He is expected to protect 'his' women and their virginity until marriage, regarded as his property and seen as symbols of honour: 'As honour relied on the behaviour of women, safeguarding family honour can also be viewed as a means of exercising social control over women's bodies and behaviour.'⁸⁹ Female chastity and modesty are considered essential components of the family's honour. Women are often socialized to believe that the problem is theirs:

'The socialization of young women in such societies revolves around notions of family honour; the cultural norms and traditions which support the honour-based value system are often so deeply internalized that women find it difficult not to accept the need to uphold these values. As a result of this socialisation, many women feel that they are to blame for the emotional and physical abuse they suffer, and so become complicit in their own subjugation.'⁹⁰

In Africa 'honour' killings predominantly occur in some countries with a high Muslim population in Northern Africa. UNFPA estimates that 5,000 women are killed in the name of honour each year, though the majority of these killings occur in the Middle East and Asia and the numbers are hard to determine as

⁸⁸Welchman and Hossain 2005

⁸⁹Gill 2011 p222

⁹⁰Gill 2011 p222

reports of 'honour' crimes are rare.⁹¹ As in other forms of HTPs and violence against women, there are very few statistics on these crimes. These rules of honour and shame are based on traditional notions of female identity. For example, honour killings occur in Egypt, where family relationships are often governed by traditional customs and a women's chastity is tied to the family's honour. There are obvious double standards applied to the sexual conduct of men and women. In some of the societies where honour killings occur, men's honour is measured by the sexual conduct of the women of their family. If a woman behaves properly, the men of her family or her ethnic group have honour. Judgments that women have behaved badly do not always involve sexual misconduct or illicit relationships - laughing too loudly on a public street or talking to a male stranger have sometimes been enough to provoke honour killings, hence some women have been killed on mere suspicion of promiscuity.⁹² Other acts, which may 'dishonour' a family name, and lead to honour crimes include women marrying men of their choice, women divorcing abusive husbands, rape or homosexual relationships.⁹³

In some parts of sub-Saharan Africa, girls and women are killed, injured or otherwise degraded in the name of family honour – though 'honour' crimes in sub-Saharan Africa do not usually involve killings. Thus because the crimes committed in the name of honour in sub-Saharan Africa are less severe, they can be overlooked as cultural practices or family issues. These crimes, as in North Africa, stem from the patriarchal notion that a women's chastity or virtue is linked to her family's honour. The man's status as the head of household has been one where he demands honour and obedience from the rest of the family, hence any deemed impropriety is viewed as an affront to the family. As in many other HTPs, violence towards women is closely linked to the regulation of sexuality.⁹⁴

1.5.2 Breast Ironing

Breast ironing is another type of violence against women, involving the attempted flattening of pubescent girls' breasts by pounding and massaging the developing breasts of young girls with hot objects, such as spatulas, stones, pestles, coconut shells and wooden spoons. The rationale is that breast ironing will flatten their breasts and thereby protect young girls from sexual advances.

⁹¹Ibid

⁹²CEWLA 2005

⁹³Idriss 2011 p2

⁹⁴Stafford 2011



The aim is to remove signs of puberty, thereby rendering girls less attractive to men and less likely to receive their sexual advances. The practice is meant to protect the girls from rape and sexual harassment as well as early marriage and pregnancy. This is a practice usually practiced on pre-pubescent women. It is another example, not of a traditional practice so much as a practice within a cultural environment in which various harmful practices are carried out as a means of controlling an adolescent girl's sexuality. The environment, rather than the practice per se, is culturally defined and the practice is not readily condemned since society understands the cultural context. The practice is usually performed by family members, most commonly by the child's mother. It is found in Central and Western Africa, especially in Cameroon, but it also occurs in Chad, Togo, Benin and Guinea-Conakry. In Cameroon, for example, it occurs in all ten provinces, and crosses ethnic and religious boundaries, though is most commonly found in Cameroon's littoral province, where prevalence is reported to be 53%, and is more common in urban environments, and is less common (7%) in the country's Muslim northern regions. In 2005, a reported 5,661 women, between the ages of nine to eighty two, reported having undergone breast ironing, with double the risk for those showing signs of puberty before the age of nine.⁹⁵

This practice has occurred for generations and is usually performed in secret. It has gained international attention more recently, in 2006, when a German NGO brought this issue to light and Cameroonians launched a campaign to fight the practice.⁹⁶ Little research has been done on the negative psychological and health effects of the practice, but they include immense pain, tissue damage, chest pain, abscesses and cysts on the breasts, burns, deformities, and psychological problems.⁹⁷

1.5.3 Girls as Compensation

Trokosi, meaning slaves of the gods, is a traditional practice wherein young virgins, usually around ten years old, are given by their families to work as slaves in religious shrines in order to appease the gods for crimes committed by relatives. It is a form of ritual or customary servitude and forced labour relating to customary ritual commitments. The *trokosi* system, which can be found in Ghana, and or similar in Zimbabwe, for example, views girls as compensation.

⁹⁵Bawe 2011

⁹⁶Mapuse 2011; Sa'ah 2006

⁹⁷Bawe 2011

They can work as field hands but often, after their first menstruation, the girls are also subjected to sexual enslavement. A local NGO estimates 5,000 women and girls are still enslaved in *Trokosi* shrines in Ghana.⁹⁸ *Trokosi* was criminalized in Ghana in 1998, however during a recent report of Ghana to the Committee on the Rights of the Child, the government admitted that due to deep rooted religious beliefs, villagers are fearful that, if they do not follow *trokosi*, they will anger the gods and bring bad luck to their families.⁹⁹

In Zimbabwe, the practice of *ngozi*, entails girls being given as compensation for the death of a man caused by the girl's family. At puberty the girl is expected to have sex with the brother or father of the deceased man in order to produce a son to replace the man who died. This practice is not prohibited under Zimbabwean law, though rape and enforced servitude are. The practice was known in many African societies in the past, but has been discontinued, another example of the potential for cultural transformation. It is believed that the forced marriage, if not enslavement, of the girls in both practices leads to the restoration of the family's honour.¹⁰⁰

1.5.4 Forced Labour/Trafficking

As in many other forms of HTPs, there is a lack of systematic research and studies on this issue, and trafficking is very much seen as an 'invisible' crime in Africa.

The UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the UN Convention against Transnational Organized Crime (otherwise known as the Palermo Protocol) provides the first internationally agreed upon definition of trafficking:

(a) 'Trafficking in persons' shall mean the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation (Article 3).

⁹⁸Stafford 2011

⁹⁹Benninger-Budel and Lacroix 1999

¹⁰⁰Stafford 2011



Trafficking can take place for the purpose of sexual exploitation, sexual slavery, labour exploitation, forced criminal activity, extortion and other forms of exploitation.¹⁰¹ The activities of actors involved in trafficking are illegal and also silent. Public opinion and government agencies have not adequately been sensitized to these issues. In Africa, women are trafficked for purposes of prostitution into neighbouring countries but also out of the continent, usually to Europe and the Middle East.¹⁰² Traffickers capitalize on the vulnerabilities of African women and girls, created by war, endemic poverty, minimal education, unemployment and lack of opportunity. Women are the most vulnerable to trafficking, as they have been “sexualized” and “commoditized” as young girls “within the context of cultural practices that challenge their sexual integrity.”¹⁰³

1.5.5 Sexual and Other “Cleansing” of Widows

In Kenya, sexual “cleansing” of widows occurs most commonly amongst the Luo, Luhya, Teso and Miji Kenda. The Luo believe that when a woman’s husband dies she becomes impure and cannot participate in social events until she engages in a ritual sexual cleansing which will remove her of impurities and allow her back into the community. When widows are “inherited” for sexual “cleansing” the “relationship” tends to be short term and often involves more than one person. Ritual sex involving widows also occurs during the establishment of homes, during rites of passage and to mark the beginning of food production seasons in cultivating, planting and harvesting. On these occasions sex is performed to “protect” the widow and her family members from experiencing adverse consequences.¹⁰⁴ In Southern Malawi, such sexual cleansing may be carried out by a relative or by a paid “cleanser.”¹⁰⁵ Often it is women who are vested with the performance of widowhood rites and rituals, with elderly widows responsible for enforcing such rituals on new widows.¹⁰⁶

There are numerous burial and mourning rituals that can also be imposed on widows. A woman is expected to respect and serve her husband, even in death, and may be required to undergo humiliating rituals relating to his burial. In Nigeria, for example, burial rituals can include isolation and confinement,

¹⁰¹Kropiwnicki 2010

¹⁰²Benninger-Budel and Lacroix 1999

¹⁰³Martens et al 2003

¹⁰⁴Agot et al 2010

¹⁰⁵See UNGASS “Malawi HIV & AIDS M&E Report 2008-09” p 38

¹⁰⁶Sossou 2002

restricted freedom of association, and hair shaving. For example, in the Delta state in Nigeria, widows are confined to a small hut for thirty days after an initial seven day confinement wherein they are forbidden public outings or activities. This has a clear impact on their livelihoods as many of the widows depend on farming or trading activities.¹⁰⁷

Widow inheritance also has an effect on the epidemiology of AIDS in Africa. One Kenyan study draws links between widow inheritance and HIV/AIDS, positing that the practices of widow inheritance and cleansing has contributed to the rapid spread of HIV to the general population in many countries in Africa. The study notes that African women have higher HIV infection rates than men in Sub-Saharan Africa, and that part of this is due to their particular vulnerabilities. The prevalence of HIV amongst African widows has been shown to be high, with one Zimbabwean study finding 61% of HIV infection amongst widows¹⁰⁸ and HIV infection amongst Kenya widows was estimated at 43.1%.¹⁰⁹ The study postulates that cultural practices of widow inheritance and sexual cleansing account for higher HIV rates amongst the Luo. Most inheritors are already married and engage in concurrent sex; many widows are infected by their late husbands and can infect their inheritors who can then infect their other wives and other sexual partners, which can contribute to the spread of the infection in the general community. Condoms are rarely used in ritual sexual practices, and non-use of condoms has been reported in Kenya, Zimbabwe and Uganda. HIV amongst the widows studied was 63.1%, with 61.7% in un-inherited widows and 64.1% in inherited widows. HIV prevalence ranged from 54.8% in widows inherited by a relative for companionship to 73.8% in widows inherited by a non-relative for sexual ritual purposes. Hence inheritance by a non-relative for sexual ritual purposes corresponds with elevated HIV prevalence. The emergence of professional inheritors also increases the possibility of HIV acquisition.¹¹⁰

In another similar study examining the links between widow inheritance and HIV prevalence amongst the Luo in Kenya, (widow inheritance also occurs amongst the Luo in Uganda, Tanzania, Zaire, and Sudan) similar conclusions were drawn. This study also concluded that the practice of sexual networking, whereby men who inherit widows have multiple sex partners, high frequency of exchange between widows, and low levels of condom use, encourages the spread of HIV. Only two widows in the study reported ever using condoms

¹⁰⁷Ewelukwa 2002

¹⁰⁸Lopman in Agot et al 2010

¹⁰⁹Kenya DHS; Agot et al 2010

¹¹⁰Ibid



since the demise of their spouse even though sexual intercourse is an essential component of widow inheritance. The lack of condom use corresponds with the lack of knowledge about the ability of condoms to prevent the spread of HIV; only 9% reported being aware of this condom attribute. 87% of the widows, however, reported that sexual intercourse with multiple partners can lead to the transmission of HIV. 70% felt that monogamy and avoiding prostitutes can prevent the spread of HIV.¹¹¹

1.6 Exclusion: Abuse Relating to Disabilities, Witch-hunts and Trials, Foeticide or Infanticide

1.6.2 Witchcraft Allegations and Trials

Witchcraft allegations, hunts, killings or trials are a HTP usually targeted at elderly women. Poor, older women who are marginalized due to age, gender, and economic status are sometimes used as scapegoats, as an explanation for accidents, problems and disasters. They are considered by their communities to be inferior, of low status and of little value to the society. These ills are blamed on witchcraft and older women in communities are targeted. If a child in the community dies, it is often blamed on witchcraft. Older women are deprived of their land and property by community members, and some are abused, mutilated, imprisoned and sometimes killed. Witchcraft is a criminal offence in countries such as Malawi and Cameroon.¹¹² Fear of being accused of witchcraft may well provide additional incentives for women to conform to traditional expectations regarding widow inheritance and roles, ensuring their subjugation whether they conform or not.

As a result of this discrimination, shelters and camps have been set up for those accused of being witches. They are often run by churches and provide shelter for women found “guilty” of such crimes. Certain camps in Ghana provide shelter for women from Ghana, Togo and Burkina Faso. Women accused of witchcraft often spend the rest of their lives in these shelters, afraid to leave for fear of continued persecution.

In South Africa, accusation of witchcraft, even occasionally witch burning, is another manifestation of violence against women. These incidences appear almost solely in the Northern Province and are almost exclusively targeted

¹¹¹Okeyo and Allen

¹¹²Age UK

at women. There is also an age dimension to this discrimination: most of the women killed are between 50 and 60 years of age.¹¹³

Witchcraft allegations are also used in justifications for property grabbing. Widows, whose husbands have died of HIV/AIDS, and who often have the disease themselves, often are ostracized and lack support to combat property grabbing. This occurs because many in a widow's social network, who might have defended her under usual circumstances, do not support her out of fear of the perception that they are helping a "witch" who killed her husband.¹¹⁴ Widows without sons are also more vulnerable to eviction and dispossession. Witchcraft can also be used by women as justification for the violent behaviour of their spouses. One study in Swaziland demonstrated that, in cases of domestic violence, women would use witchcraft to rationalize violent behaviour, saying they are bewitched – in this case using witchcraft as a logical explanation for an illogical act.¹¹⁵

1.6.3 Child Abandonment

Child abandonment practices are a form of infanticide. Traditionally this would happen in the case of children conceived out of wedlock. Societal norms dictated that girls could not engage in premarital sex, so their infants would be dumped in bushes, latrines and rubbish pits. More recently, however, the HIV/AIDS pandemic has led to growing trends of child abandonment, with some mothers escaping from hospitals and abandoning HIV positive babies.¹¹⁶

1.6.4 Female Foeticide/ Infanticide:

In many societies in Africa, a higher value is placed on sons. This practice can affect women during their entire life cycle. The most severe form of son preference is female foeticide or infanticide, in which the foetus is aborted if it is female or in which the young female infant is killed or abandoned. Selective abortion, foeticide and infanticide occur when the female child is not valued by her culture. However, given the practice of bride-price that may make a man dependent on the existence of a marriageable sister for his own marriage, rather than dowry as in South Asia, makes female foeticide/infanticide much less frequent than in South Asia. Illegal abortions also lead to increased maternal mortality.¹¹⁷

¹¹³Vetten 2000

¹¹⁴Izumi 2007

¹¹⁵WLSA 2001 p115

¹¹⁶Machera 2000

¹¹⁷UN Fact Sheet No 23



1.6.5 Femicide

Femicide is not a legal term. It is used to describe the fact that some murders of women are motivated by a generalized hatred of them, which is not of itself culturally endorsed. Sexual murders, where the motive is sexual gratification, are committed overwhelmingly by men against women. Figures from South Africa indicate that there has been a rise in such killings since the 1990s. Men who kill their female partners, termed intimate femicide, are much more common than these killers. Sometimes men who commit intimate femicide also kill themselves and their children, other members of the woman's family or the man suspected of having an affair with the woman.¹¹⁸ One study found that in the Gauteng Province in South Africa, one woman is killed by her partner every six days.¹¹⁹ "Honour crimes" could also be considered a particular form of femicide.¹²⁰

1.7 Ritual Killings and Removal of Body Parts

1.7.1 Ritual Killings

Killing of children for ritualistic and supernatural purposes still occurs in some African countries, including Liberia and Kenya, where it remains a perceived and feared practice amongst various ethnic groups even though its occurrence is rare. In some extreme sects, children are reported to be sacrificed by their parents or close relatives.¹²¹ In some societies it is identified as a practice presumed to occur in a neighbouring ethnic group and presented as evidence of enmity between two groups. This has been particularly true of accusations of cannibalistic practices. Culture may drive the demand for such extreme behaviour in order to gain perceived power, even if it is not actually traditionally legitimated.

1.7.2 Removal of Body Parts

Throughout Southern and Eastern Africa, there are occurrences of children being mutilated and their body parts removed for ritualistic purposes. The mutilations usually take place while the child is still alive. A recent study in Uganda, Mozambique and South Africa indicate that on average one child is mutilated in one of these countries every week. Adults are also targeted for

¹¹⁸Vetten 2000

¹¹⁹Ibid

¹²⁰Welchman and Hossain 2005

¹²¹Machera 2000

their body parts, and can also be victims of mutilations, for which there have been convictions in Liberia. However, the evidence suggests that children are more commonly targeted. There is a longstanding tradition of using body parts in traditional medicine and witchcraft in the region. It is believed that when children's body parts are mixed with traditional medicine, the medicine becomes more potent and has the ability to solve problems, ranging from poverty to health issues. This removal of body parts is sometimes referred to as "medicine murder" or "Muti murder".¹²² Approximately one child in ten attacked in Southern and Eastern Africa has had their body parts removed. Such children are usually left for dead by the attacker. The children's eyes, lips, genitalia, nipples, heads, feet and hands are among the body parts targeted and removed, though many other body parts, such as tongues, parts of the brain, teeth, hearts, breasts can also be removed. Male genitalia are the body part most frequently removed.¹²³

It is difficult to obtain evidence on such practices, as they are shrouded in sensitivity, secrecy and social illegitimacy. As a result there is very little research about this behaviour. In Mozambique, for example, the police do not report, document or provide any follow-up on mutilations. If a death report is completed, no distinction is made when the fatality is caused by mutilation. This makes it impossible for authorities to provide accurate data on the trafficking of body parts or death by such mutilation. The only report providing in-depth data on the issue indicates that in South Africa and Mozambique, regular mutilations occur wherein body parts, blood and tissue are forcibly removed from children and adults, causing death or severe disability. Body parts are regularly trafficked across the borders to South Africa and Malawi. The report indicates a sharp increase in incidents relating to the trafficking of body parts between 2008 and 2010. There is a demand for such body parts by 'witchdoctors' or traditional healers for body parts taken from live victims for use in their traditional medicines. They are usually procured through a third party. 96% of interviewees believed that the body parts were being sold or used for activities relating to witchcraft, "Muti" or harmful traditional practices.¹²⁴ Alternatively, body parts are taken from those recently buried. These practices are another example of cultural beliefs driving a demand, which itself may not be traditionally sanctioned.

Abduction of children and removal of their body parts, blood or tissue is an obvious violation of the child's right to life, health and bodily integrity, as well as the right to protection from all forms of violence. The physical and

¹²²Fellows 2010

¹²³Humane Africa

¹²⁴Fellows 2010



psychological harm done extends beyond the victim to his or her family and to whoever discovers the victim. There are few programmes and policies in place to counter such trafficking, and many traffickers and aggressors continue their work with impunity.¹²⁵

1.8 Bride Price Payment

The bride-price system, referred to as *lobola*, *bogadi*, *bohali*, *analobolo*, *roora*, *malowolo*, *impango* and *sionda*, is still common practice in many parts of Africa, while other societies expect only symbolic transfers. The requirement for bride wealth transfers or the lack of this does not appear to have any direct correlation with women's status in different societies. The system of bride wealth requires a husband to legalise his marriage, with cattle or other assets, which are contributed by custom from defined relations of the man and given to the family of the bride to be distributed according to tradition among her relatives. This complex exchange of cattle, which can involve additional cattle when a child is born, has been significantly transformed from its traditional interpretation into becoming simply an act of paying money as opposed to actually exchanging cattle in order to create an alliance between the two extended families. The current practice of payment for the woman can be seen to signal the transfer of her productive and reproductive rights to the man's family. Now that money is used instead of property or animals, marriage wealth has effectively commoditized women. *Lobola* can be used to uphold the honour of the husband or the bride's family. For example in Zimbabwe, if an unmarried girl is raped, the perpetrator can pay *lobola* to her parents and avoid prosecution. In Namibian societies where it existed, the original role of *lobola* was to strengthen family relationships, however now it can often be interpreted as giving power to a man over his wife. Since the *lobola* price has increased with women's greater education and employment potential, men felt that having paid such a high price for their wife, they were entitled to greater control over their wives and entitlement within the household. Sometimes women feel they can't seek redress for domestic violence, because they would have to repay the *lobola* if the relationship deteriorates. If a woman wishes to leave a marriage, her *lobola* must be repaid, whether cash or cattle, and it brings shame upon her family if the daughter leaves the marriage and *lobola* is not repaid. She will often be discouraged from leaving her husband for this reason.¹²⁶ In some societies, if

¹²⁵Ibid

¹²⁶Stafford 2011

a woman is being abused by her husband, her natal family may defend her and take her home, refusing to repay marriage wealth or using this as a lever to force the husband to modify his behaviour.





In many African societies, weddings are preceded by the payment of an agreed upon “bride-price” to the bride’s family. The paying of “bride-price” often leads to VAW within the homes as the man believes he has bought his wife and thus his conduct towards her should not be questioned.¹²⁷ Violence can range from verbal or psychological to physical abuse, starvation, or death. “Bride-price” is a deeply rooted institution across Africa and reinforces the subordinate status of women. In Zimbabwe *lobola* has become commercialized and exorbitant payments are often requested by a woman’s family, leading to men regarding their wives as property. In Nigeria, if a marriage is dissolved, a woman continues to belong to her spouse as long as any marriage payment has not been reimbursed.¹²⁸

In one study of women in Zimbabwe, *lobola* is crucial to understanding gender relations of power.¹²⁹ Once the payment, usually in the form of livestock and cash, has taken place, the woman and her child-bearing and earning ability is entirely owned by the husband. If the woman is not able to have children or if she leaves her husband, the *lobola* must be repaid. Once married, the husband can even proclaim that she is not to see her own family again or have any allegiance to them. Through *lobola*, she in effect loses ties to her natal family but still remains an outsider to her husband’s family. Her economic and social position is entirely dependent upon the existence of her marriage. If a woman separates, her children belong to the man and his clan. It is also perceived that if a man pays for a wife, he has the right to bear her. It also puts strong social pressure on women for them to stay in their abusive situations.¹³⁰

¹²⁷Benninger-Budel and Lacroix 1999

¹²⁸*Ibid*

¹²⁹Stewart 1992

¹³⁰*Ibid*

2 SGBV Removal of Choice in Marriage: Early/forced marriage; Childlessness; Widow inheritance





2.1 Early and Forced Marriage¹³¹

Early/forced marriage is one of the most pervasive HTPs on the continent. Early and child marriage compromises the development of girls and is an infringement upon their human rights and their right to a free and full consent to marriage, delineated in the UDHR. Early marriage also contravenes CEDAW. It is defined as “early” when the girl is married before 18, when she is still a child, as defined in the CRC. It is defined as forced because girls rarely give their free and informed consent to marry. CEDAW General Recommendation 21 stipulates that marriage before 18 should not be permitted because children do not have the full maturity and capacity to act.¹³² There is a technical problem in many African countries where the age of adulthood is defined in their laws at a lower age than the CRC norm, a point that requires domestication of legislation on the “age of majority” by those countries that have ratified the CRC. Early/forced marriage can often result in early pregnancy and effective social isolation from unmarried peers, usually curbing any education or vocational training the girl could have potentially received. Early and child marriage can thus serve to reinforce the gendered nature of poverty, although in countries where the education system is failing to reach all children, this failure may itself be reinforcing early and child marriage. There is thus a vicious circle between education system failure and early marriage.

Marriage of adolescents is still common in many societies in Africa and many of the countries with the highest prevalence of early marriage are found on the continent. In some societies, it is seen as a means of reducing the chances of sexual promiscuity and a child being born outside marriage and, as such, another form of controlling a girl's sexuality. The prevalence varies across the continent. In West and Central Africa the prevalence is 43%, whereas in Eastern and Southern Africa it is 36%. In Niger, Chad and Mali, the rate exceeds 70%. In these last countries, adolescent fertility and maternal mortality rates are also high. Many countries in Africa have a legal age of marriage as low as 14. Seven out of the nine countries with the highest proportion of child marriage are found in Africa: Niger at 75%, Chad 72%, Mali 71%, Guinea 63%, Central African Republic 61%, Mozambique 52% and Malawi at 50%. Sub-Saharan Africa has a 39% rate of early and forced marriage, the second highest in the world. 14.3 million girls in this region are married before the age of 18.¹³³

¹³¹For additional material on child marriage, see Annexe 3.

¹³²Myers and Harvey 2011

¹³³Myers and Harvey 2011

There is often a lack of impunity for early marriage even in countries where it is illegal. For example, in Malawi and Niger, many girls are married before the legal marriage age, yet such cases are rarely prosecuted and hence the custom continues. Marriage brokers receive financial reward for marriages but are rarely prosecuted, so there is no incentive for them to discontinue their work.¹³⁴

In many countries, the legal minimum age for marriage is lower for females than for males and, with parental consent, this minimum age often decreases further. In countries where there is a discrepancy between sexes as to the legal age for marriage, the legal age for the girl is always lower. For example, in Benin, Niger, the Democratic Republic of Congo, Cameroon, Gabon and Mali, the legal age of marriage is 18 for males and 15 for females.¹³⁵ Parents often push their daughters into early marriage due to religious and cultural norms, which emphasize the importance of preserving family honour and girls' virginity. Early and forced marriage can also be a way of reigning in "rebellious" girls or settling family disputes, consolidating relations between families and sealing deals over land and property. One cultural reason for early marriage is to ensure a girl's virginity.

Poverty is a contributing factor to early marriage, as custom prescribes marrying the girl into a family, which then has to provide for her while the birth family is relieved of this burden. Lack of income means that girls can be viewed as an economic burden as the high cost of raising children and girl's perceived lack of earning potential, as well as the costs of her education not leading to returns for her natal family. Marriage can be seen as the best solution for families facing chronic poverty. As one study in Niger demonstrates, even girls themselves can view early marriage as a means of increasing their economic situation and social status.¹³⁶ The bride price payment system can also contribute to propagating the custom, as it can offer a powerful incentive for destitute families for early marriage.¹³⁷

Women who are married as girls are more likely to experience domestic violence and more likely to consider that a man can be justified in beating his wife. They are less educated and have more children than other women and are more likely to be married to a man who is significantly older. These girls often have

¹³⁴Myers and Harvey 2011

¹³⁵Myers and Harvey 2011

¹³⁶Ibid

¹³⁷Myers and Harvey 2011



large domestic labour burdens as well as pressure to produce and raise children on their own, resulting in constrained decision making and reduced life choices. Child marriage has also been identified by the Pan African Forum against the sexual exploitation of children as a form of commercial sexual exploitation of children.¹³⁸ Child marriage is also likely to be higher in societies where powerful men are able to reinforce their social power through polygamy, requiring a larger pool of marriageable women than of marriageable men to maintain the imbalance. Girls in such societies are likely to be forced to marry men many years their senior, often encouraged by senior wives so that they have additional labour for household and agricultural tasks. It allows for higher levels of polygamy, effectively legitimizing child labour in the polygamous household. Another reason for child or early marriage is protection from HIV/AIDS; parents marry off their girls to protect their health and their honour, and men seek out girls and young women as wives as a way of avoiding infection.¹³⁹

One country with a high rate of forced marriage through abduction is Ethiopia. Usually the abductor forms a group of intimate friends and relatives who will aid him in carrying out the abduction. The unmarried girl is then dragged or carried over the shoulder by the abductor, who sometimes will beat her in order to subdue her, before taking her to a hideaway, where she is often raped. This form of abduction is often used as a short cut to marriage. In Ethiopia 83% of women are aware of marriage by abduction, and 8% reported that they had been married this way. There is little support amongst Ethiopian women for the continuation of this practice.¹⁴⁰ In Malawi, this practice is known as *Mpenjele Kuno*. It often occurs when families cannot attract the wives and daughters-in-law they want, due to inadequate social standing or inability to pay the "bride price". Once a girl has been kidnapped, even if she is returned to her family, she becomes less desirable to other potential husbands and is often forced to marry the man who had kidnapped and raped her. In areas where kidnapping is commonly practiced, families will marry off their daughters early in the hopes of preventing such kidnapping.¹⁴¹

Girls' education is an important factor associated with child marriage. Early marriage is likely to be favoured by girls where the quality of education is so poor that they are still illiterate on reaching puberty despite spending possibly seven years in school.¹⁴²

¹³⁸UNICEF 2005

¹³⁹UNICEF 2005

¹⁴⁰2005 Ethiopia DHS

¹⁴¹Myers and Harvey 2011

¹⁴²e.g. UNICEF "Situation of Children and Women in Liberia" 2012

Early/forced marriage substantially curbs the education of girls, both in terms of formal schooling and informal and alternative vocational training, and therefore decreases their employment prospects as well. It has a significant impact on the ability of girls to enrol in and complete an education. Due to the fact that it is illegal in many countries, early marriage goes underreported as a factor when girls drop out of school. Studies have shown when girls marry later they are much more likely to stay in school and become literate. It contributes to delayed sexual initiation and lower rates of HIV and AIDS.¹⁴³ An interesting study in Malawi showed how cash transfers to adolescent girls resulted in increased secondary school enrolment (by a factor of three to four), reduced drop-out rates by one-third, delayed marriage, delayed sexual activity, reduced the age gap in sexual partners and resulted in a reduction of HIV infection.¹⁴⁴ Such robust evidence can be very influential in changing policy, rather than anecdotal evidence that can be challenged as unrepresentative.

The consequences of early marriage include psychological trauma and isolation, reproductive health issues, illiteracy and lack of education, sexual health implications and violence, abuse and forced sexual relations. It can drive girls further into a cycle of poverty, ill health, illiteracy and powerlessness. Girls married early are more likely to experience violence, abuse and forced sexual relations, reduced levels of sexual and reproductive health, lower levels of education and higher levels of illiteracy.¹⁴⁵

Early marriage can lead to childhood and teenage pregnancy associated with adverse health outcomes for mother and child. Infant mortality is generally higher where the mother is young. For example, in Liberia infant mortality is 122 per 1,000 live births where the mother is below 20, compared to 80 where the mother is aged 20-29.¹⁴⁶

Fistula is a common problem experienced by girls who are married and have children at a young age. The health repercussions of fistula, both psychological and physical, are devastating for young girls. Fistula occurs when the blood supply to the tissues of the rectum, vagina and/or bladder is cut off due to prolonged obstructed labour. This results in the formation of an opening through

¹⁴³Myers and Harvey 2011

¹⁴⁴WB KCP Malawi RCT on scholarships for girls TF090932: "Impact of a cash transfer program for schooling on prevalence of HIV and HSV-2 in Malawi: a cluster randomized trial" no name 2010 c.f. other papers by Baird, Chirwa, McIntosh, Ozler on the same research e.g. "The Short-Term Impacts of a Schooling Conditional Cash Transfer Program on the Sexual Behavior of Young Women".

¹⁴⁵Myers and Harvey 2011

¹⁴⁶DHS 2008



which urine and or faeces pass openly. Fistula often occurs when girls, who are not at the proper stage of physical maturity, usually due to early marriage, try to give birth to a child. Girls with this condition are frequently ostracized by their family and community and have to live alone, separate from the rest of their family, often for the rest of their lives. Fistula can also have even more severe repercussions than social rejection, including death of the mother and/or child. Awareness of fistula among women remains low. For example, in the Democratic Republic of Congo's most recent DHS, only 8% of women ages 15-49 had heard of fistula. Older women were more likely to know about fistula.¹⁴⁷ It is a common problem in Ethiopia, especially in rural Ethiopia, though it also occurs in other countries where early marriage is practiced, and often girls suffer for years because they cannot make it to a facility for medical treatment. Fistula is medically treatable. However, due to poverty, humiliation and distance from medical facilities, these girls are not able to receive treatment.¹⁴⁸

2.2 Childlessness or Lack of Sons as Grounds for Divorce without Redress

The inability to bear children within a marriage is usually viewed as the wife's problem, and widows are often dispossessed of their property or even chased away from the matrimonial home. Dispossession in this case can be seen as a mode of punishment for the wife's inability to bear children and the clan's right to reproduce through her has been lost.¹⁴⁹

In Nigeria, for example, primacy is placed on motherhood and women are brought up to view themselves as child bearers. Marriages often end on account of the lack of a male child. There is a preference for a male child because it is believed that sons will economically support their families and continue the family name. More difficult is the situation of a woman who cannot have any children, as she is regarded by some as a failure. She loses the prestige accorded her by her marriage, is seen to have failed as a woman, and often another woman will be brought in to take over. The identity of a woman is very much linked to child-bearing and a woman's failure to produce children or a male heir can lead to ostracism and abuse.¹⁵⁰

¹⁴⁷DRC 2007 DHS

¹⁴⁸See both studies on the subject; 2005 Ethiopia DHS; Forward website

¹⁴⁹White 2002 p 78

¹⁵⁰Ola-Aluko and Edewor 2002

2.3 Widow Inheritance

Harmful widowhood rites, including widow inheritance and the ritual cleansing of widows, have been widely described for a number of countries: e.g. Congo, Cote d'Ivoire, Ghana, Kenya, Malawi, Nigeria, Uganda and Zambia. Dispossession of widows can take place indirectly through widow inheritance, sometimes referred to as levirate marriage, which is a particular form of forced marriage. In widow inheritance, the deceased man's relatives inherit the wife and children with the intent to take control of the property for economic purposes. Sometimes the man's family inherits the widow along with the property. In matrilineal societies, the widow is likely to be driven away and her property held by her husband's sisters' sons. Women are assumed to have no property rights at all due to their subordinate status. One of the fundamental contributors to any harmful widowhood rites is the subordinate status of women and the fact that most women do not control property, which is seen as belonging to men; hence, when a husband died, his relatives feel they have the right to re-appropriate the property being used by his wife and children.¹⁵¹ Sometimes widows are kidnapped, held hostage in huts and poorly fed, even raped by the male relatives of their late husband.¹⁵² Widow inheritance can take various forms. Often those who inherit the widow are brothers or cousins of the widow's late husband, though brothers are preferred, but sometimes the inheritor is not related to the husband. Widow inheritance is seen as providing sexual companionship, as well as social, economic and emotional support to the widow. Widow inheritance is long term and may be either monogamous or the widow may become one of the man's many wives, and, as a result, are provided continued support by the husband's extended family. Widows with few or no children are expected to bear children, especially sons, to continue the lineage of the deceased husband. Some Kenya Luo men have spurned the practice of widow inheritance, which has resulted in some men making a profession of serially or simultaneously inheriting widows; these men are professional or commercial inheritors, called *jokowiny*. In one study, 56.4% of the widows interviewed said they had been inherited, of which 27.9 % had been inherited by a relative for sexual ritual, 12.7% inherited by a non-relative for sexual ritual and 12.6% inheritance by a relative for companionship. A widow who refuses to participate in the practice risks being sent away from her husband's home and having her property confiscated.¹⁵³

¹⁵¹White 2002

¹⁵²Labedoan

¹⁵³Agot et al 2010



In Zambia, for example, the woman is given a levirate husband to take over her late husband's rights and duties. The widow performs wifely duties, including sex, for him in her late husband's village. If she decides to leave and not marry the levirate, she loses control of her husband's property. Even if she opts to stay, her actions are closely followed and restricted.¹⁵⁴

In Yoruba society a woman has no right to inheritance, in fact, she herself can be inherited after the death of her husband. She is sometimes asked to eat a particular type of food for a certain period of time or to observe a period of mourning which can be as long as one year.¹⁵⁵ Also reported from Nigeria, for example, when a husband dies, the surviving wife may be subject to certain practices, though this does not apply to the husband when the wife dies. Where it is believed the wife is involved in the husband's death- in order for her to be cleansed and prove her innocence she must undergo various unpleasant rituals, including being forced to sleep on the floor and eat off broken plates and if often confined to a room and not allowed into daylight for a customarily defined period of time. Sometimes a woman is forced to drink the water used to clean the corpse of their dead husband. If a woman does not participate in these customs she can be accused of having killed her husband. A widow is considered to be her husband's property and she can be "inherited" by his family, usually by one of her brothers in law. If she refuses to marry one of them she risks losing the right to her late husband's property but also custody of her children. This is also the practice among one ethnic group in Namibia, where a widow is passed into the custody of her husband's brother. In Sudan, one practice involved a widow being hidden in a room where no man can see her for a period of over three months. In the DRC, because women are not seen as equal to men, certain foods are forbidden to them. Also the levirate dictates that a man can inherit the wife of his brother and raise his children.¹⁵⁶ Rejection of these cultural practices usually leads to a widow's loss of access to property and possibly custody of her children.

One study of widowhood practices in Ghana, Cote d'Ivoire and Nigeria found that the behaviour surrounding mourning is inherently gendered, often exalting the position of the deceased man and including humiliating rituals in relation to dress code, food consumption, personal hygiene and sexual activity as well as social ostracism dictated by cultural practices. Ritual seclusion and isolation from

¹⁵⁴White 2002

¹⁵⁵Aina in Akintunde, D and Labeodan 2002

¹⁵⁶Benninger-Budel and Lacroix 1999



the community is widespread for widows in West Africa, though the practice varies across the region. In the Islamic communities in West Africa the period for widowhood rites is usually four months, whereas in non-Islamic societies the period is usually 12 months. Amongst the Akan in Ghana, women are expected to remain with the body of their dead husband until burial. Amongst the Igbo of South Eastern Nigeria, for 28 days the widow is prevented from taking part in the community and performing her normal activities. During this seclusion she must not wash herself and must sit on the ground. Her food is prepared separately and fed to her by another widow on a broken or old plate. Following the initial 28-day seclusion a period of seclusion for one year follows, during which time she cannot have sex.¹⁵⁷

In Malawi, in some cultures, it is implied that the death of her husband makes a widow dirty or defiled, and in contempt of society. A widow cannot be fully accepted as a woman in society again until she is “cleansed” (see 1.5 above). Often this cleansing ritual is linked to property dispossession in that a defiled widow is not able to take part or not consulted in discussions relating to her husband’s property. The cleansing ritual is controlled by the widows’ in-laws, essentially her sisters-in-law in matrilineal societies. In Mulanje, Malawi, for example, there are cases of widows being forced to have sex with their late husbands’ male relatives in order to be seen as cleansed. Similar cases from Zambia indicate that the relatives of the deceased can take advantage of these cleansing rituals in order to accomplish property grabbing.¹⁵⁸

Widowhood rites are also reported from Uganda, where a woman who is widowed may be required to marry her husband’s brother. Customary law views the wife as an outsider to her husband’s clan. Sometimes, in order for her to remain in her home with her children she must be “inherited” by one of her deceased husband’s relatives. Despite the provisions in the Ugandan constitution, which provides for equal rights in marriage, during marriage, and after its dissolution, this practice persists.¹⁵⁹ One study of widowhood in Nigeria found that if widows do not want to undergo certain rites they often face punishment in the forms of fines, alienation, excommunication or banishment, torture, or loss of their children. The common law and statutory laws in the country can perpetuate rather than alleviate the discrimination they face. The article highlights the tension between customary laws and practices and

¹⁵⁷Sossou 2002

¹⁵⁸White 2002

¹⁵⁹Stafford 2011



women's rights in Nigeria. The article argues that African widows have no real agency. Disinheritance and deprivation of property follow failure to comply with mandatory observance of prescribed burial rights. Often widows lose both their personal as well as their joint matrimonial property upon the death of their husband. Childless widows or widows with only female children often face more dire situations, and are frequently expelled from their matrimonial homes when their husband dies. Widows sometimes lose their children, especially male children, after the death of their husband. Widows in many African countries are denied adequate legal protection.¹⁶⁰

¹⁶⁰Ewelukwa 2002

3 Sexual Initiation; FGC/FGM and Genital Manipulation



Violence between Women

It is important to note that violence towards women does not only originate from men, HTPs are perpetuated by women as well as men. Women also report violence at the hands of other women, often female family members, such as by mothers in law, who, in traditional extended family systems, still exert a large amount of control over daughters in law, and by sisters-in-law in matrilineal societies regarding inheritance. Other cases involve women employers acting violently towards housemaids (Machera). In FGC/FGM, for example, the circumcisers are often female. HTPs are condoned and practiced by both sexes.

3.1 Sexual Initiation

In parts of Malawi and some neighbouring countries, ritual rape in the form of sanctioned sexual initiation is part of the coming-of-age initiation rite for both girls and boys. Girls, usually around the age of 10-12, are taken out of their families and brought to a place where they are confined in total seclusion for around two weeks. During this time they receive visits from the elderly women of the village in which they are taught about married life and how to satisfy a man sexually. After this period is over the girl is seen as sexually ready and men and boys can become her suitors. Some girls are forcibly sexually initiated at night by older men known as *fisi* as a culmination of their initiation.¹⁶¹

3.2 FGC/FGM

FGC/FGM (female genital mutilation), also referred to as female genital cutting (FGC) or female circumcision, is the most well known HTP in Africa. It has received much international attention in recent years from health and human rights advocates. Whether this is due to its prevalence, its difficulty to eradicate, its violence or its perceived sensationalism and shock value, it is difficult to tell. It is one of the most severe traditional practices and does deserve significant attention. However, it tends to overshadow other HTPs on the continent in terms

¹⁶¹See various e.g. (i) Malawi Human Rights Commission (MHRC) (2005). Cultural Practices and their Impact on the Enjoyment of Human Rights, particularly the Rights of Women and Children in Malawi. Lilongwe, MHRC. (ii) "Risking Death for Survival: Peasant Responses to Hunger and HIV/AIDS in Malawi" Deborah Fahy Bryceson & Jodie Fonseca 2005: <http://www.youthwg.org/system/files/risking%20death%20for%20survival.pdf>; (iii) "Adolescent Sexual and Reproductive Health in Malawi: A Synthesis of Research Evidence" Alister C. Munthali, Agnes Chimbiri and Eliya Zulu, Occasional Report No. 15, Dec 2004: http://www.guttmacher.org/pubs/2004/12/01/or_no15.pdf.



of focus and policy. It is important to contextualize FGC/FGM within the wider framework of other HTPs and the continuum of violence that girls and women face throughout their lives. FGC/FGM does not happen in isolation and must be understood within this broader framework.

The World Health Organization (WHO) estimates that between 100 and 140 million girls and women worldwide are presently living with FGC/FGM, and every year about three million girls are at risk.¹⁶² It continues to be practiced by communities, whether Muslim, Christian or Animist across Africa. It is most common in a belt of 28 countries from west to east in northern sub-Saharan Africa and parts of the Maghreb. In parts of the Horn of Africa it is carried out on infants, although different cultures carry it out at various ages up to adulthood, suggesting that it is in no way universally associated with puberty. Of the 28 African countries where FGC is practiced, half have made FGC illegal in any form (14 countries, as well as in some states in Nigeria, with four other countries moving towards this) and prosecutable if the girl dies in four countries. In another two countries it is partially dealt with, for some types of FGC, and/or administratively banned from being carried out in health facilities.¹⁶³ It is “not banned” in three countries, including Liberia and Egypt.

FGC/FGM involves partial or total removal of the external female genitalia or other injury to the female genital organs. The least extreme form of FGC/FGM, sometimes referred to as *sunna*, consists of subtotal clitoridectomy, the degree of which varies. The WHO defines Type 1 as excision of the prepuce, with or without total or partial excision of the clitoris. The second type, excision, consists of clitoridectomy as well as partial or total removal of the labia minora. The WHO defines Type 2 as excision of the clitoris with partial or total excision of the labia minora. The most extreme form of FGC/FGM, infibulation, sometimes called pharaonic circumcision, involves the total removal of the clitoris and labia minora, as well as at least two thirds of the labia majora. The WHO defines Type 3 as total or partial excision of the external genitalia and stitching or narrowing of the vaginal opening, called infibulations. Infibulation is practiced in Djibouti, Egypt, parts of Ethiopia, Mali, Somalia and northern Sudan. Excision and circumcision occur among various ethnic groups in parts of Benin, Burkina Faso, Cameroon, the Central African Republic, Chad, Cote d'Ivoire, the Gambia, northern Ghana, Guinea, Guinea-Bissau, Kenya, Liberia, Mauritania, Nigeria, Senegal, Sierra Leone, Togo, Uganda and parts of Tanzania. In Uganda, only one small ethnic group practices FGC/FGM. In some countries, such as

¹⁶²Bahai et al 2010

¹⁶³See NGO, 28TooMany: <http://28toomany.org/>

Somalia, Sierra Leone and Liberia, almost all clans and ethnic groups practice FGC/FGM.¹⁶⁴ WHO defines Type 4 as unclassified FGC/FGM, which includes pricking, stretching, piercing or incising the clitoris and/or labia, cauterizing the clitoris and surrounding tissue, cutting the vagina, scraping the tissue surrounding the opening of the vagina, introducing corrosive substances or herbs into the vagina to cause bleeding and or tighten or narrow it, or any other procedure not included in the other definitions of FGC/FGM.¹⁶⁵

These practices are usually performed without any anaesthetic and often with unsterilized and rudimentary tools. There is the potential of fatal haemorrhages and the risk of tetanus or septicæmia from the instruments used, and neighbouring organs can also be damaged due to the girl's agitation. FGC/FGM has very obvious effects on the current and future health of the young girl. Infibulation results in serious obstetric complications during menstruation, intercourse and birth. FGC/FGM violates numerous international human rights standards. The age at which FGC/FGM is performed varies among countries and ethnic groups; it can be performed on infants who are a few days old, girls 7 to 10 years old, and on adolescents.¹⁶⁶

In most settings in rural Africa, FGC/FGM is performed away from the community at a hidden place and is often accompanied by celebrations. The majority of FGC/FGM occurs in Africa (though it is practiced in a few non-African countries such as Indonesia, Malaysia and Yemen) and usually occurs in traditional societies in rural areas. FGC/FGM can be tied to initiation rites into secret societies, such as in Liberia and Sierra Leone.¹⁶⁷ In Djibouti, Ethiopia, Mali and Sudan FGC/FGM is believed to reduce sexual desire and assure virginity until marriage. FGC/FGM is usually performed by female cutters, many of whom make a living off FGC/FGM, and are often the community's birth attendants as well. The conditions in which FGC/FGM are performed are often unhygienic and the materials are usually unsterilized, usually a kitchen knife or razor blade.

¹⁶⁴For more details on prevalence of and attitudes regarding FGC/FGM, see Annexe 4.

¹⁶⁵WHO; Benninger-Budel and Lacroix 1999

¹⁶⁶UN Fact Sheet No 23

¹⁶⁷For details on Sande/Poros societies & initiation in Sierra Leone & Liberia see "Secret Societies in Western Africa" in Anthropology: Lavenda R & Schultz E, OUP-USA accessed on line 15-3-12: http://www.oup.com/us/companion.websites/9780195189766/student_resources/Supp_chap_mats/Chapt07/Secret_Soc_West_Africa/?view=usa ; MacCormack, Carol P. [Hoffer]: "Bundu: Political Implications of Female Solidarity in a Secret Society" in "Being Female: Reproduction, Power, and Change" edited by Dana Raphael, pp. 155-163. The Hague: Mouton, 1975; Bledsoe, Caroline: "Women and Marriage in Kpelle Society" Stanford: Stanford University Press, 1980 and "The political use of Sande ideology and symbolism" American Ethnological Society, 1984.



The instruments are used repeatedly on different girls, increasing the risk of HIV and other blood-transmitted diseases.¹⁶⁸ In many of these countries, a circumcised woman is viewed as “clean” and fit for marriage.

FGC/FGM is performed in a particular socio-cultural context and is often referred to as a traditional practice because it is maintained from one generation to the next.¹⁶⁹ The majority of the reasons given for FGC/FGM are the result of social and religious construction. For example, the social reasons given are that it is a rite of passage/puberty rite, that it promotes social and political cohesions, prevents female promiscuity, increases matrimonial opportunities and protects women against rape and sexual assault. Some state religious reasons, saying it is a requirement of the *Qur'an*. Physical reasons given are the pursuance of aesthetics, improvement of male sexual performance and pleasure, preservation of virginity before marriage, diminishment of female sexual satisfaction, purging the body of “evil” and ill-health. Health reasons cited are the maintenance of cleanliness and good health, the prevention of stillbirths, and the enhancement of fertility. The health and hygiene reasons are medically unfounded and the remaining reasons result from social and religious construction.¹⁷⁰

Tradition is the predominant reason cited for maintaining FGC/FGM, and a study in Sierra Leone found the procedure was largely accepted for the sake of tradition and was given as the primary reason when women were asked why they submitted to FGC/FGM, 56% cited tradition, 23% the need for social acceptance, and 11% religion.¹⁷¹ Similar findings were found in Sudan, where the majority of women have undergone FGC/FGM.¹⁷² In one scholar's review of DHS survey data, tradition was the most commonly cited reason for the practice to continue. It is largely women who preserve the practice, and for many girls FGC/FGM is accepted as a necessary, even natural, part of life and they learn to adopt the rationales given for FGC/FGM.¹⁷³

In Sierra Leone, Liberia, Guinea and Cote d'Ivoire, Sande secret societies, under their leaders or zoe, are the female junior partner to the male Poro secret societies. Membership is synonymous with passing through a “bush” school (or *bondo*) for pre-puberty and post-puberty girls as well as with female genital cutting (FGC). In societies that have Poro/Sande, a girl is seen as “unclean”

¹⁶⁸UN Fact Sheet No 23

¹⁶⁹Packer 2005

¹⁷⁰Ibid

¹⁷¹Chelala 1998 in Packer 2005 p227

¹⁷²Williams and Sobieszczyk 1996 in Packer 2005

¹⁷³Althaus in Packer 2005

or a “sinner” or even “promiscuous” if she is not a member. Fertility must be acquired through Sande initiation and a potential husband may even pay the fee for attending a Sande school. There is strong peer, parental and community pressure to become a member, although there are stories of parents not wanting their daughters to be cut and the girls themselves seeking this. “Bush” schools, traditionally in the dry season, may be held in the vicinity of towns and formal schools¹⁷⁴ and girls can be afraid of being captured and forced into Sande membership, especially if they stray into an area of bush sacred for Poro/Sande rites. The practice had ceased at the height of conflict, but re-started once it again became safe to send girls into the “bush”.

The tradition of FGC/FGM has remained difficult to modify and abandon. As early as the 1950's FGC/FGM was challenged at the international level as a practice harmful to health “however recognition of this practice as a violation of universally and regionally protected human rights to health, life, dignity, and personal integrity only really gained ground in the 1990s.”¹⁷⁵ It is debatable whether the human rights discourse has been of use in challenging FGC/FGM. It can be helpful in holding states to account for their actions and for the conventions they have ratified and signed. The human rights discourse can be a helpful tool, but cannot be the only method of advocating for change. Countries also have their own standards of fairness, found in legal orders, constitutions, and ethical codes, therefore claims to human rights arise from within their own constitutions and not only international human rights law. However, domestic and international legislation criminalizing FGC/FGM is insufficient; any legal parameters must complement work at community level. One of the ways tradition can be changed is through rationalization, and the human rights discourse can help with this rationalization:

Human rights guaranteed within the universal instruments are guaranteed to all equally. Human rights and the human dignity and life they protect are universal values that transcend all cultural rights. ‘Culture’ alone is not admitted as valid limitation on these rights. In fact, we have come to better understand that the criticism against [FGC/FGM] is not against the tradition and culture per se but against the violations of human rights it constitutes. This is to distinguish between harmful traditional practices and the meaningful values on which they are likely founded.¹⁷⁶

¹⁷⁴See the very weak recommendations of the anecdotal “Study on Operations of Sande School”: Ministry of Gender & Development (2011). The report recommends limiting Sande schools to school vacation periods and removing them from the vicinity of formal schools. It makes no reference to genital cutting. More significantly it recommends delaying participation until age 18 to allow for choice, but fails to address the cultural unacceptability of such a post-adolescent proposal, although it provides anecdotal evidence of very young girls becoming members, even as young as 2-3 years.

¹⁷⁵Packer 2005 p230

¹⁷⁶Packer 2005 p231



Box A

Eliminating an HTP: The Experience of Burkina Faso on FGC/FGM

Female genital cutting was widely practiced in Burkina Faso, but became a subject of discussion in women's NGOs in the 1980s, coming to international attention through advocacy of the Inter African Committee. Officers in the Ministry of Social Action and Family raised the practice as having health and wellbeing implications. When the government held a national workshop on the issue with NGOs, professionals and religious and traditional leaders, the latter asked in advance for more information. Shocked by the evidence and having considered the lack of a religious basis for the practice, they joined government and NGOs in a public statement against the practice, which stirred a national debate. With the support of men at the community level and of the President, First Lady and Government at the national level, momentum built for change. Politicians came out in support of ending the practice. A National Committee to Fight Against the Practice of FGC (Comite National de Lutte Contra la Pratique de l'Excision – CNLPE) was established by presidential decree in 1990, comprising high-level professionals from the sectors of social welfare, health, justice, communication, and administration as well as traditional and religious leaders. The committee conceived a first five-year plan of action covering awareness raising, information, communication and advocacy, legal measures, reporting, research and data collection and monitoring. Attitudes began to change and men were important in stating that they saw no advantage in the practice. The discourse shifted from the technical to being a development and human rights issue. A roundtable in 1992 with key stakeholders and development partners, chaired jointly by the Ministry of Finance and of Social Action and Family, shifted the issue to the centre of government and led to an almost fully funded programme towards eradication. This was followed in 1996 by legislation and regional committees and to cases being publicized and practitioners prosecuted. By 2003, the practice continued in a moderated form, but most were now opposed with many seeing no advantage apart from social recognition.

Based on authors' discussion in March 2012 with Mme Akila Aggoune Belembaogo, currently UNICEF Representative to the African Union, Addis Ababa and one of those able to provide continuity, as she moved from being a technical officer to an Advisor to the Minister and then herself becoming Minister of Social Action.

In many cases the rise of FGC/FGM as a topic of discourse was initiated by African activists and further articulated at community level. It is useful to examine how attitudinal change occurred and communities were successful in changing normative behaviour. The inclusion of ordinary men as well as traditional and religious leaders is key to successful efforts at ending FGC/FGM, as these men possess socio-cultural power that influences public opinion. It has widely been found useful to develop alternative income generating activities for those who previously earned from cutting, although this does not address wider issues of potential loss of social power. In Liberia and Sierra Leone, FGC/FGM has been seen as an integral part of initiation into a Sande secret society and as such all the complex social, economic and political nexus has to be addressed if the practice is to be eliminated.¹⁷⁷ The Sande initiation schools require a license from the Ministry of Internal Affairs. Recently, a journalist writing against FGC/FGM received death threats.¹⁷⁸ Not surprisingly, Liberia is one of three countries that has not so far introduced legislation against FGC/FGM.

A recent study by the World Health Organization (WHO) "Estimating the obstetric costs of female genital mutilation in six African countries"¹⁷⁹ found that when the financial burden that FGC/FGM imposes on the health system is measured, it is clear that caring for women who have undergone this procedure imposes a heavy economic burden and, and that the cost of efforts to prevent FGC/FGM can be wholly or partially offset by the savings generated when complications are prevented. The study found that the costs of treating obstetric complications (including Caesarean sections, postpartum haemorrhage, prolonged hospitalization and perinatal death) resulting from FGC/FGM in Burkina Faso, Ghana, Kenya, Nigeria, Senegal and Sudan imposes a huge strain on the health systems of these countries. WHO¹⁸⁰ estimates 10-20 babies die per 1,000 deliveries as a result of FGC/FGM, or about 15 to 32 with 55% higher neo-natal mortality depending on FGC Type I-II-III.

¹⁷⁷This point has been made by many over the past decade. Although often referring to FGC/FGM, the argument would apply generally to eliminating other HTP. See, for example, Emma Bonino on the need for "an integrated approach and concerted and coordinated action in the political, legal and social areas if we are to see any positive change" in <http://www.radicalparty.org/en/content/kenya-international-conference-female-genital-mutilation-speech-emma-bonino>

¹⁷⁸See <http://cpj.org/2012/03/liberian-journalist-threatened-for-article-on-geni.php>. Article, in online New Narratives can be found at: <http://www.newnarratives.org/featured/sande-tradition-of-genital-cutting-threatens-health-of-liberian-women/>

¹⁷⁹Bishai et al 2010

¹⁸⁰Banks, E; Meirik, O; Farley, T; Akande, O; Bathija, H; Ali, M (2006). "Female genital mutilation and obstetric outcome: WHO collaborative prospective study in six African countries". *Lancet* 367



3.3 Elongation of the labia Minora

This practice, called *gukuna* in Rwanda, which involves the elongation of the labia minora through manual manipulation, is most common in Rwanda but also occurs in parts of Uganda and other countries in East Africa. It is classified as Type IV FGC/FGM by WHO, though some do not consider this practice to be FGC/FGM. As part of this procedure, the labia minora are stretched, over a series of sessions, and botanical substances are applied during these sessions. The elongation of the labia minor in combination with the use of botanicals is meant to increase male and female pleasure. There is also a view amongst some that the botanicals used by women as part of this practice are detrimental to women's health.¹⁸¹

In Rwanda, *gukuna* is not an individual act but takes place in social groups, and is a product of the social environment in which it exists. This vaginal practice is seen by some to produce social capital amongst the women who undergo *gukuna*.¹⁸² *Okukyalira ensiko* or “visiting the bush” is how, in Uganda, Baganda name the practice of elongating the labia minora, which young girls may start performing before menarche. As a sanctioned rite of passage that is reported to affirm Kiganda identity, one of its main aims is to enhance sexual pleasure for both male and female partners. The conditions in which it is practiced involve certain physical health risks. In one study carried out in Wakiso district, Baganda men were interviewed, in order to understand their perceptions, attitudes and knowledge toward the way in which their daughters practice labia minora elongation. According to the study, men highly value this practice for its capacity to enhance sexual stimulation even though they are aware of its risks.¹⁸³

¹⁸¹Koster and Price 2008

¹⁸²Larsen 2010

¹⁸³Martinez Perez and Namulondo 2011

4 Opportunity Marginalization (Social and Economic)





4.1 Discrimination against girls

More African states are admitting the inequalities against female children in Africa, but not enough is being done to redress the situation. The double discrimination of age and gender renders female children vulnerable. The reports from African countries under the Convention of the Rights of the Child demonstrate that persistent customary rules and practices still affect the rights of girls in Africa, even in countries where the principal of non-discrimination is entrenched in national legislation. One author cites the “unwaning influence of customary law and the tendency of governments to hide behind custom.”¹⁸⁴

In many African countries, customary law coexists with statutory law. Laws protecting girls are not applied consistently and often only benefit educated urban girls, whereas for young girls in villages and rural areas, it is traditional attitudes that persist. There are large economic impacts from the discrimination that girls experience. These result from a combination of factors including, but not limited to, the denial of inheritance rights; high rates of absenteeism and school dropout which limit career choices later in life; vulnerability to economic exploitation at home and in the workplace; and forced marriage. “At the root of the economic deprivation female children experience is the culturally entrenched difference in the valuing of male and female children in Africa.”¹⁸⁵ Girls consistently have lower rates of school enrolment and retention, literacy and completion rates despite international and national action to seek gender parity in education and the Dakar Framework for Action, with its Education for All objectives and the sub-Saharan Africa commitments, backed by international agencies such as UNESCO, the World Bank and UNICEF, supported by bilateral donors.¹⁸⁶ Much of the problem lies in cultural attitudes towards the value of girls’ education compared to that of boys, as well as barriers to retention as a result of sexual harassment and risks in attending schools. Often national statistics show no difference in educational outcomes of boys and girls until they reach puberty. Where quality of education is poor, girls are then more likely to drop out of school. Lower levels of education have life-long impact on girls’ employment and social prospects and potential for autonomy.

¹⁸⁴Ewelukwa 2002

¹⁸⁵*Ibid*

¹⁸⁶See for example: <http://web.worldbank.org/WBSITE/EXTERNAL/TOPICS/EXTEDUCATION/0,,contentMDK:20530067~menuPK:617572~pagePK:148956~piPK:216618~theSitePK:282386,00.html> and the Forum for African Women Educationalists (FAWE) website: <http://www.fawe.org/> Analysis of the impact of educating girls can be found in “Measuring the Economic Gain of Investing in Girls: The Girl Effect Dividend” Jad Chaaban & Wendy Cunningham World Bank Policy Research Working Paper 5753 Aug 2011 http://www-wds.worldbank.org/external/default/WDSContentServer/IW3P/IB/2011/08/08/000158349_20110808092702/Rendered/PDF/WPS5753.pdf and see Buvinic, Guzman & Lloyd 2007

The Young Lives study in four countries, including Ethiopia, covering 12,000 children over a decade has provided robust evidence of the effects of discrimination as well as some surprising results.¹⁸⁷ Societal expectations impact on a child's performance. A child's efficacy/agency is shaped during earlier childhood via norms and value transmission and encouragement/discouragement by parents. Both parental and children's aspirations are strongly correlated with wealth and poverty. The analysis shows the need not only to change opportunities, but for this to be perceived and internalised into family and children's decisions on education. The results show: (i) Nutritional status, in terms of height or body mass index, show striking and similar patterns of pro-female bias in all four countries (counter-intuitive, but more intense among the poor and may reflect higher intensive manual labour for boys and less gap in urban areas); (ii) Objective well-being moves from no bias at age eight to pronounced and significant pro-girl bias at age fifteen; (iii) Psychosocial competencies by age 15 in Ethiopia show clear pro-boy bias in all indicators (higher trust, express higher self-esteem and pride, reflect a better sense of inclusion within local society

¹⁸⁷Young Lives: "From Nutrition to Aspirations & Self-Efficacy: gender bias over time among children in four countries" Dercon & Singh May 2011





and express a higher sense of control and agency over their own destiny). Girls have significantly lower trust than boys in their immediate society. The extent of feeling in charge of their life or destiny (agency/efficacy as a measure of empowerment) in Ethiopia has a striking pro-male bias, which will have a direct impact on their later achievement. In Ethiopia, there is a low but positive link between parental aspirations at age 12 and child aspirations at age 15. The child has a “sense of being able to achieve what it has hopes for”; (iv) A clear pattern of bias against girls in education in Ethiopia - this is institutionalised in children's and parent's aspirations, culminating in poorer performance by age 15. Such results are largely paralleled in the other countries, with the exception of Vietnam that shows some strong biases towards girls, a model that could be emulated by African countries.

4.2 Son Preference

One of the key forms of discrimination against girls is son preference, i.e. preference accorded to the boy child over the girl child. This includes a range of attitudes and practices that prioritize the male child and marginalize the female child, often to the point of neglect. This practice can deny the female child good health, education, recreation, economic opportunity and the right to choose her partner. Parents who practice son preference will show better quality of parental care and investment in the development of sons as opposed to daughters, which can lead to acute discrimination. In many cultures in Africa, the family lineage is carried on by male children and is seen as being the male child who will take care of parents in their old age and arrange for their proper burial. The same evidence that introduction of pensions can lead to reduced fertility,¹⁸⁸ as parents recognize that their old age is no longer so dependent on support from their children, could also suggest that pensions are patriarchal.

Son preference has a wide range of adverse psychological and health consequences for girls, though as with other HTPs, much of the practice remains unreported. Less extreme forms include neglect or undernourishment of girls, disproportionate amount of household work given to girls, and less access to education.¹⁸⁹ Discriminatory feeding practices also occur which can shorten the lifespan of girls and women and hinder their proper growth. Son preference

¹⁸⁸“Fertility Impact of High-Coverage Public Pensions in sub-Saharan Africa” Goran Holmqvist, Nordic Africa Institute, Uppsala May 2011

¹⁸⁹e.g. see UNICEF-Liberia 2012 “The Situation of Children and Women in Liberia – from Conflict to Peace” page 67 ff

can also be instrumental in promoting the practice of early marriage, particularly where brothers may have to wait until a sister marries before being able to afford to marry. In patrilocal societies, girls are seen as not being able to provide for their families in the future, whereas boys are seen as the long-term providers and support for families. Another aspect of son preference is that girls are often left behind in terms of education.¹⁹⁰ Discriminatory practices may, in some societies, include discrimination in the care and feeding of female infants. Higher rates of girls' morbidity and malnutrition have been reported in some countries. In Nigeria overall, boys under five years have slightly higher under-five mortality and poorer nutritional status than girls and are more likely to be stunted, which relates to irreparable damage to life-time cognitive development, although gender differences are much less than regional differences.¹⁹¹ The African countries most affected by the problem of discrimination against girls in infant practices are Egypt, Libya, Morocco, Tunisia and Algeria. However, many other countries show little difference in infant and child mortality and nutrition or even higher mortality and malnutrition for boys, as in Liberia/Cameroon/Senegal (under-five mortality 149/154/143 for boys and 134/141/127 for girls).¹⁹² Son preference also affects girls' education, recreational and work opportunities. Often girls are responsible for domestic tasks and child care, allowing them no time for school or recreation. Extreme son preference can lead to female foeticide and infanticide.¹⁹³ However, this is unlikely to occur in those African societies where girls generate bride wealth.

¹⁹⁰Benninger-Budel and Lacroix 1999

¹⁹¹Nigeria Demographic & Health Survey 2008 Tables 8.4 & 11.1 and page 164

¹⁹²Liberia Demographic & Health Survey 2008 Tables 8.3 & 11.1; Cameroon DHS 2004 Table 11.3; Senegal DHS 2005 Ch 10 & Table 11.3

¹⁹³Steinzor 2003

5 Land and Inheritance Exclusion



5.1 Land Rights

There are many HTPs that can be classed under this category, though as mentioned above most HTPs fall under multiple categorizations, as HTPs that involve land and inheritance exclusion also entail social and economic marginalization and often involve violence. Land and other forms of property, such as livestock, crop trees and machinery, including agricultural implements such as ox ploughs, not only provide sustenance, but are the basis for income generation. Land and property is often a marker of social and economic status. In many countries, title to land is a prerequisite for securing loans and credit for other activities, such as building a house or starting a business, hence if women are denied access to land and property it also stymies other forms of income generation.¹⁹⁴

In Africa, land owned by women is only a fraction of that owned by men, e.g., in Cameroon less than 10%,¹⁹⁵ in Kenya only 5% of women own land in their own names; in Uganda 16% of women own land themselves,¹⁹⁶ Doss (2006a) found that women held land in only 10% of Ghanaian households while men held land in 16-23% and the mean value of men's land holdings was almost three times the mean value of women's landholdings. Although women were more likely than men to own business assets, the mean value of business assets owned by men was much higher than that owned by women. By contrast, in Ethiopia's recent land titling process, women have been given access to formal land titles, despite earlier evidence pointing to their inheriting only one-tenth of what men inherit. As of October 2004, there were 721,978 land holdings registered. Of these 28.9 % were registered to women; 32.5 % were registered to men, and 38.6 % were jointly registered to a couple. There are a wealth of studies showing the negative impact on women, national development and growth as a result of women being excluded from land rights.¹⁹⁷ The lack of women's land ownership feeds into the system whereby women are not seen as real farmers. This, in turn, limits their access to credit, extension services, and access to other inputs. This can be an endless cycle whereby women are

¹⁹⁴UN Fact Sheet No 23

¹⁹⁵ICRW 2005

¹⁹⁶Rugadya et al. 2010

¹⁹⁷e.g. See UNU-WIDER "Personal Wealth from a Global Perspective" ed.

Davies 2008: <http://ukcatalogue.oup.com/product/9780199548880.do> inc Christian Rogg: "Asset Portfolios in Africa - evidence from rural Ethiopia". Burger, Booysen, van der Berg & von Maltitz (2006); MacGee (2008); Also Pratap & Quintin (2006)



not given land because they are seen as less productive and they are less productive because they have less access to land and other inputs.¹⁹⁸

The significance of women's property and inheritance rights has been recognized in various international legal instruments, including the International Covenants on Economic, Social, and Cultural Rights and on Civil and Political Rights; the Platform for Action adopted at the 1995 Fourth World Conference on Women; the United Nations Convention on the Rights of the Child; United Nations Commission on Human Rights resolution 2002/49; and the Convention on the Elimination of All Forms of Discrimination Against Women.¹⁹⁹ Land inheritance in most societies is patrilineal and marriage is often viewed as a union between two families, not two individuals, with complex bride payment arrangements involving transfers from the groom's family to the bride's family. Even in matrilineal societies, women are no more likely to own land and property, despite inheritance being defined through the woman from a man to his nephews, rather than to his children. Indeed matrilineal systems may even undermine women's property rights more as countries move from extended to nuclear families and urban living.

There is a notable lack of equal and secure land rights for African women. Women face prejudice and harassment in acquiring rights to land or in accessing land at all. Land and status are inextricably interlinked, and limiting women's access to land also ensures their continued low status. Land can offer a means of poverty alleviation and income generation, which can help to pay for children's education. Often inheritance laws are discriminatory and give unequal succession rights to males over females. Often girls are not allowed to inherit land because it is assumed that once she is married she will have access to her husband's land and will take any wealth to her husband's family. Social relationships and women's status within the household can impinge on women's access to land, even in states where it is enshrined as a legal right. Political favouritism and corruption are also cited by women as being impediments to land access. This problem is both rural and urban, and professional urban women still encounter issues in terms of access to property and resources. Sometimes traditional authorities hold communal land informally, wherein women have little or no control over land title. One article on Kwa Zulu Natal in South Africa found that women have no independent rights to land.²⁰⁰

¹⁹⁸Deere & Doss: "Gender & the Distribution of Wealth in Developing Countries" http://www.wider.unu.edu/publications/working-papers/research-papers/2006/en_GB/rp2006-115/

¹⁹⁹Steinzor 2003

²⁰⁰Ngubane 1999; Haysom 1999

In Zimbabwe, the discriminatory behaviour towards girls is evidenced in a supreme court case dispute over land. In the case, a daughter appealed for the right to her dead father's estate. She brought a claim to the community court for succession to her father's estate, though her grandfather and other male relatives appealed to the provincial magistrate to set aside the community court's order. This case eventually went to the supreme court, which ruled on whether or not it was fair according to African law and custom, that a daughter cannot succeed to the estate of her deceased father. The grandfather said the court could not repeal Shona custom, which stated that only male children can inherit from a male line.²⁰¹ In *Chihowa v Mangwende* the court ruled that the eldest daughter of a father who dies can take the property but also needs to share it with her fathers descendents, though this case was soon overturned in another ruling that stated that women could not inherit property under customary law, because of the consideration in African society that women could not look after their original birth family due to their commitment to their new married family (*Magaya v Magaya*). This case highlights the situation of female children in Africa, and raises issues of inequality, indifference and exclusion. Generally female children do not enjoy inheritance rights under customary law. They are marginalized in many African societies – many female children in Africa suffer severe economic harm as a result of discrimination and have little hope for economic empowerment.²⁰² Economic empowerment would have a positive effect in allowing girl children to progress in other areas of critical concern including education, health, and tackling harmful traditional practices and forced child marriage.

Although women entrepreneurs run nearly half of Kenya's micro, small, and medium enterprises, they receive less than 10% of credit. And they receive only 1% of credit directed to agriculture, despite managing 40% of smallholder firms. More than 85 % of loans in Kenya require collateral. The average value of the collateral taken is nearly twice that of the loan. In the vast majority of cases, the collateral required is land, usually land that has a registered title. Women hold only 1 % of registered land titles, with about 6 % of registered titles held in joint names.²⁰³ Women in Uganda own about 40 % of their country's private enterprises, but receive only 9 % of credit. In Tanzania nearly 30 % of male-headed enterprises have received bank finance, whereas only 8 % of female-headed enterprises have. Only 10 % of men are currently bank financed; the

²⁰¹Ewelukwa 2002

²⁰²Ewelukwa 2002 p 141

²⁰³World Bank: Kenya Investment Climate Survey 2004



proportion of women is half that. Women's businesses, which tend to be small and concentrated in the informal sector, are not well placed to participate in international trade because of social and cultural factors, for example, (i) inequalities in access to resources (land, finance) as well as lower levels of education and social restrictions; (ii) domestic work, such as child care and household management; and (iii) inability to own land.²⁰⁴ An important approach to empowering women has been taken by Coca Cola in East Africa through its inclusive business model²⁰⁵ that brings women into the heart of the company having realized that the majority of their sales were through women-owned outlets.

5.2 Property Grabbing

Property dispossession from widows can take various forms, such as grabbing, seizing, diverting or disposing property of the deceased person. It is prevalent in many African countries. It refers to the permanent taking of property from a spouse and/or children of a deceased spouse upon his or her death. Usually this form of property grabbing occurs to the widow. This property does not even necessarily form part of the estate of the deceased. This is done without lawful authority and is often illegal. It is assumed that a woman would not have been able to contribute to the acquisition of assets and therefore the family of the deceased husband should have a right to it. It can also be seen as a manifestation of domination of the male side of the family over the widow. The act of property grabbing, or dispossession "is perpetuated against women because they are women" and property grabbing does not clearly imply that this is theft and contravenes the property rights of the widow. Sometimes property grabbing includes an element of physical violence and can be viewed as another form of violence against women. Property grabbing can injure women not only in terms of physical violence but also in terms of the economic, emotional, social and physical consequences it entails.²⁰⁶ In a matrilineal society, property can also be seized by a deceased man's sister or widow as they seek to remove all property from the widow and her children for the benefit of their own children (author's own observation).

During property grabbing, a person is forcibly evicted from their home by family members, traditional leaders or neighbours, and is often not allowed to take his

²⁰⁴See: World Bank Guidance (2010) quoting sources of Ellis, 2006 and 2007; IFC GEM 2007

²⁰⁵E.g. See Nelson, Jane, Ishikawa, Eriko, & Geaneotes, Alexis (2009). "Developing Inclusive Business Models – a review of Coca Cola's Manual Distribution Centers in Ethiopia and Tanzania" Harvard Kennedy School and International Finance Corporation

²⁰⁶White 2002

or her possessions with them. It occurs predominantly throughout Southern and Eastern Africa, and disproportionately affects women. After the death of their husbands, many women are forced from their homes in both rural and urban areas and may be forced to leave their rural areas for urban slums. Property grabbing represents a form of GBV and is often accompanied by extreme violence, such as harassment, physical abuse and intimidation. The perpetrators are both women and men, in fact in some areas in Namibia and Zambia, it is sisters-in-law who are known to be the main perpetrators, though male relatives are often the ones who physically remove property from widows and force them out of their homes. Property grabbing is remarkable in the brutality of the experience of these women being evicted and losing their property, but also the destitution that follows. Women are often blocked from working land or accessing resources on the land.

One study in Kenya, Malawi, Namibia, and Tanzania found that several prevalent customs and practices occurred across all four countries and lay the foundations for property grabbing: Property was viewed as only belonging to men and under the care of a male guardian, be he father, husband, brother, or brother-in-law. Women only have security of land tenure as wives or daughters, and can easily lose access to land upon death of or divorce from a spouse. Non-land property, such as furniture, kitchenware, and tool is considered to be a family asset and daughters are typically not inheritors of such assets. Usually once a husband's family has paid *lobola* to his wife's family, wives cannot gain any additional property or wealth. Upon divorce, a wife can keep her own personal effects though everything else, including livestock, businesses, and even children, remain with the husband. Widows are not able to sell or exchange property, and are not to remarry. Polygamy is still practiced by some, which can result in an unfair distribution of property among wives following the death of a husband, or render some women destitute when resources are limited.²⁰⁷

There is a link between HIV/AIDS and property grabbing,²⁰⁸ as AIDS creates orphans and widows, and more property grabbing will occur as more men die of HIV/AIDS related illnesses. Married women are more vulnerable to contracting HIV than unmarried women, given their lack of control over sexual contact

²⁰⁷Steinzor 2003

²⁰⁸e.g. See "Property Grabbing and Africa's Orphaned Generation: A Legal Analysis of the Implications of the HIV/AIDS Pandemic for Inheritance by Orphaned Children in Uganda, Kenya, Zambia and Malawi" Duncan McPherson www.law.utoronto.ca/documents/ihrp/HIV_mcpherson.doc. See also Joireman, Sandra "An Unholy Trinity: AIDS, Poverty and Insecure Property Rights for Women in Africa" draft Feb 2007 Wheaton College <http://www.wheaton.edu/CACE/CACE-Print-Resources/~media/Files/Centers-and-Institutes/CACE/articles/Unholytrinity.pdf> accessed 17-4-12



and use of contraception. Often after a man's death, the family will blame the widow for his illness and death, though statistically it is women who are more often infected by their husbands than vice versa. Sometimes his relatives accuse the woman of being HIV positive and use this as grounds for eviction and property grabbing. Many of the widows are HIV positive, but others were married or were divorced women who had escaped from domestic violence, all of whom had their property taken by close relatives.²⁰⁹

Property grabbing has important social, economic and psychological effects on the widow. Often after dispossession the widow does not see the husband's relations, she moves to her natal area and tries to start a new life. Economically, she is deprived of her and her husband's property, a drastic economic change, and are often left impoverished, and without means of ending the cycle of deprivation. The loss of her husband as bread winner of itself causes deprivation, however the further loss of property and any other resources leaves the widow and her children very vulnerable, and the widow is often unable to support the family, the children's schooling, rental payments, etc. The existing institutions put in place to handle cases of property grabbing unfortunately often only serve to reinforce the discrimination women face.²¹⁰

Property dispossession in Ethiopia renders widowed women and their children extremely vulnerable. Often common law or religious law will deny widows their inheritance, however, even in countries where they have the legal right to inheritance, the laws are weak or not enforced at all. One fifth of widows interviewed had been dispossessed of their property. It is most common amongst women under 30 and those who have children less than 18 year of age. Urban women in Ethiopia are slightly more likely to be dispossessed of property in comparison with rural women. Widow dispossession is much more widespread in the Gambella region in comparison to other regions. The poorest women are least likely to be victims of dispossession in comparison with wealthier women.²¹¹

In Malawi, Parliament has finally recognized the right of women to inherit from the marital estate, but only after a twelve-year struggle by some women's groups, who encountered severe opposition from parliament.²¹²

²⁰⁹Izumi 2007

²¹⁰White 2002

²¹¹2005 DHS Ethiopia

²¹²Ezer 2011

Priority HTPs

Of the HTPs delineated above, the authors have prioritized SGBV (inside and outside the home); Early/Forced Marriage; Sexual Initiation & FGC/FGM; Opportunity Marginalization (social and economic); and Land and Inheritance Exclusion as suggested areas of focus, leaving member state context to determine which aspects in each focus area to address and the strategy to do this. The latter two categories are left especially broad to enable different countries to prioritize their own HTPs within these larger groupings, as the prioritization of HTPs is country specific, and a priority HTP for one country might be of low priority for another country, or in fact not even occur at all. It is important to note that there can be no continent-wide prioritization of HTPs across Africa, as prevalence and occurrence differ from region to region and from country to country. Each country must choose its own priority HTPs to focus on and tackle, as each country's context is unique. The African Union can recommend that each member state identify its choice of priority HTPs within each category and define its strategy within a stated timeframe, for which the AUC Department for Social Affairs can then provide advice and monitoring and sharing of best practice in effecting transformation. By choosing a critical HTP within the five categories, each member state will be addressing a range of harmful discriminatory practices across the range of personal, sexual, marital, social developmental and economic spheres. This will highlight the need to address the underlying need for gender transformation through legislative, administrative and behavioural change. Priorities for the latter can be identified through use of the gender mapping tool and methodology being used by the African Women's Development Fund (AWDF)²¹³ to map each country in Africa as part of a more strategic approach to achieving gender transformation.

Identifying Best Practice in Tackling HTPs

Some research has been done into best practices towards achieving the eradication of FGC/FGM, but little research has been done in regards to the majority of HTPs delineated above. The paper does not attempt to consolidate the various best practices in relation to FGC/FGM, as this is a large area of work and the information on best practices is relatively accessible. More research into best practices is needed in relation to other HTPs. The existing literature on best practices in relation to FGC/FGM can also be mined for transferable

²¹³Further details from Jeannette Eno, Gender Mapping Study Coordinator, AWDF: j_akua@yahoo.co.uk



lessons in relation to other HTPs. In this regard it is important to note that not only will best practices vary in accordance with the form of HTP, but successful strategies for tackling these practices will also vary amongst communities as the specific contexts of each community, area and group will bring with it their own exigencies and the need for unique approaches.

It is clear that a multi-pronged approach to effect change on HTPs is necessary. Any work on tackling these practices needs to involve governments, including policy makers and legislators, as well as community leaders, health workers and teachers, while simultaneously educating the public, including ordinary men. Successful approaches must tackle HTP from a macro and micro level, from work at the grassroots level to pushing for legislative change at the national level, for which timing and sequencing is all important. The legislative international and regional frameworks and commitments delineated in this paper can be utilized at the community level to advocate for change and hold governments to account. However, in isolation, they will not succeed in effecting change. An approach that targets the entire community, as opposed to individuals within the community, is more likely to succeed, though it remains important for community and religious leaders to be brought on board and for the critical drivers of an HTP in terms of social, political and economic beneficiaries to be addressed. Those practices, such as removal of body parts of trafficking, that are not culturally sanctioned should be immediately addressed through formal legislation and police action, together with traditional authorities combining through community action to identify and punish perpetrators and those who create the demand. These are not strictly HTPs since they are not culturally sanctioned.

Further Fields of Research

This paper is an attempt at an initial mapping of the variety of HTPs occurring on the African continent. It should be read in conjunction with the monitoring Matrix for HTPs that is recommended to the African Union for regular updating by member states and civil society. It cannot, due to limitations of size, go into great depth on each HTP. Suggested further research could focus in more depth on selected HTPs, especially the priority HTPs identified in this paper. Further research could also be conducted examining any existing literature on best practices in tackling HTPs and in determining transferable best practices from the work done to date on best practices in tackling FGC/FGM. Further research into the involvement of men and boys, briefly delineated below, would also be of use.

Involving Men and Boys

This paper does not go into depth on strategies for involving men and boys, however it is important to note the role of community and religious leaders, often male, as well as ordinary men, in fighting HTP. Most African societies are patriarchal, hence men need to be targets of awareness raising about human rights – men in these societies have more power to break tradition and deviate from the norm.²¹⁴ Including boys and young men in this work is also critical if attitudes are to change. For example, if young men, where they have such a choice, insisted on only marrying uncircumcised girls, they could swiftly change public opinion on FGC/FGM.

'...men in African society will arguably incur less negative social repercussions if they deviate from the norm. Fathers and grandfathers can voice their criticism against FGC more forcefully than mothers, grandmothers and others in the community. Recognizing men as an important group for change is a natural conclusion in light of the fact that African women tend to have very little authority and decision-making power to change norms and customs... Ultimately, men maintain control over many traditional practices in Africa; they typically pay for their daughters to be circumcised, negotiate the marriages of their daughters and receive the bride price. It is also they who control the purse strings and often refuse to pay a skilled medical practitioner to assist their wives to give birth. Until they are convinced to act otherwise, women will continue to have little effective say on matters of circumcision, marriage and birthing practices.'²¹⁵

²¹⁴Packer 2005

²¹⁵Ibid p 238-9





Conclusion

Complex social institutions and practices, embedded in a society and its norms and its sense of identity, require multi-faceted approaches to reform. Reform must occur at the grassroots level as well as the administrative level. A symbiotic relationship should exist between local community members and those in power. Since they are not isolated activities and behaviours, change may require a combination of treating the symptom (HTP) and addressing the underlying cause, in terms of power relationships between gender and age power relations, while recognizing an appropriate theory of change. Africa's ability to compete globally and develop effectively will be linked to its ability to transform gender power relations, which are currently reflected in and reinforced by discriminatory harmful practices. These practices and power relations are not only traditional, but also products of colonial and post-colonial male domination.

Addressing men's involvement requires proper analysis and use of evidence to support opinion leaders. HTP concerns relations between women and men, but also reflects relations between women and relations between generations, reflecting the structures of unequal access to power. Men's roles, attitudes, responsibilities and behaviour must be factored in, as should women's, within the context of gendered power relations. There is a vital need to raise men's self-awareness while also empowering women. "Men are not born violent", however "culturally dominant ideas and beliefs set out what is acceptable and shape men's behaviour".²¹⁶ A holistic, multi-dimensional approach is required for interventions to address the root causes of HTP as well as their impact.

Attitudinal change must coincide with policy and legislative change, as each type can influence the other towards abandoning HTP. These HTPs must be tackled at the grassroots, regional and state levels, as both the macro and the micro level changes can have a positive influence on one another in the abandonment of HTP. Community action should always precede national legislation in order to raise the likelihood of effective police and judicial action making a reality of the legislation.

²¹⁶Terry and Hoare 2007

Research evidence is not very robust, except for the multi-country Demographic and Health Surveys and the longitudinal Young Lives research project. The World Bank's research into the impact of cash transfers on adolescent girl's educational, sexual and marital behaviour provides powerful evidence of the effects of poverty on restricting girls' opportunities. Strong evidence can be obtained by effective socio-epidemiological research that compares associations of HTPs with other socio-economic factors to see the nature of correlations and suggest actions that can break the complex reinforcement of HTPs and other gendered conditions, such as property rights and the quality of education. There is a serious danger in collecting evidence anecdotally that simply feeds prejudice about the nature of discrimination and its impact. What is far more persuasive is objective robust evidence, linked to analysis of the underlying structure of gender power relations and a theory of change for transformation of complex systems of social control and socialisation that reproduces unequal societies. This provides the basis for developing multi-level multi-pronged strategies.

At the country level, it is essential first to assess the degree and form of damage created by a particular practice that is being considered harmful. Every such practice must then be considered within the broader social and cultural context. There is the potential to create common ground between the African value placed on a child within its community and the international focus on the child as an individual having rights. This will require quality cultural analysis of the "best interests of the child" with a focus on promoting the wellbeing of a community through enhanced education, health and the rights of the female child. As part of this analysis, those seeking reform of a particular practice should analyze the social and political-economy of each practice to understand its relation to a society's sense of identity and wellbeing and the political and economic drivers for its continuation or modification. Planned actions must address the social, political, religious and economic drivers of harmful practices through multi-faceted promotion of alternatives and social change, building a social movement from the community upwards. Taking a positive approach to culture may require persuasion that practices that previously suited a particular environment have become moribund or may need to be replaced by other practices that serve the same functions, but without doing harm. This planning must map allies and create strategic alliances for change, particularly with traditional and religious leaders. Even if the focus is on a practice affecting girls and women, a gender lens will show its relationship to the wider pattern of gender relations and both the necessity and potential to work with men and boys as change leaders.



It is necessary to promote new role models for girls in a changing world and new ways of expressing positive values, consistent with the best African traditions of affirming men and women. Girls need to receive life-skills and entrepreneurship empowerment within an ambition for economic equality. Early stages of any movement for social change must generate in advance a range of evidence; medical, social, economic, in preparation for the pressure towards social and legal change when allies and alliances are ready – an approach of transformation, not confrontation; of respect, not denigration; of equity as much as rights language. The first part of public action should be to constrain an HTP activity through an administrative regulation concerning: when, who, where, and what, before moving to legislating. Caution is required to avoid technical reduction of harm that leaves rights infringed in the long-term, such as medical procedures for FGC. As the change programme evolves, there will be support for introducing penalties for harm and then, later, legislative reforms as consolidation of the social movement. It should be noted that political will follows political demand.

There will usually be tension between the global/regional, with its instruments of treaties, conventions, protocols and resolutions, which may be seen to be insensitive to local values and circumstances and the national/contextual, which is unlikely to share the normative language of international law. Both have their place and can be found to be complementary, if they are not set up in opposition. The Table below shows the range of instruments available.

Table of Instruments Available to Effect Change

	GLOBAL/REGIONAL	CONTEXTUAL/LOCAL
LEGAL INSTRUMENT	CRC Articles 19.1/24.3, CEDAW; ACRWC Article XXI, Maputo Protocol to ACHPR, (through State Party & Shadow reports); African Court on HPR	Constitution; Domestication of International Instruments; Criminalization e.g. Domestic Violence Act; Marriage & Inheritance Laws; Rape & Defilement Laws; Employment & Land Laws; Children's Act
ADMINISTRATIVE REGULATION	CEDAW General Recs 14/24, UNGA/AU Resolutions, ICPD/ICPD+5, WHO Guideline; African Commission on HPR	Medical Practice Guidelines; Traditional Practices Guidelines; Women's Police Units; Court Guidelines; Sex disaggregated data collection; DHS
BEHAVIOURAL	Africa Peer Review Mechanism; Panel of Eminent Persons AGDI; ACPF, AWDF network reports; Global campaigns; Comparative data dissemination;	Reforming traditional institutions; Providing alternatives; Songs/drama/advocacy; strong evidence base; community dialogue; Role models; male advocates; Child line;



Recommendations to the African Union

Although the main focus of this paper intends to present data on HTPs, it is also invited to make recommendations. Governments are sensitive to their public image and reputation with their peers and are capable of leading significant change in line with regional and sub-regional trends and commitments. Currently, there is a real opportunity for the transformation of gender relations across Africa as part of an 'African Renaissance', the notion where Africa is defining its own agenda and priorities for post MDG goals beyond 2015. The environment in which HTPs flourish can be changed. The AU Commission's Department of Social Affairs can undertake a number of activities to support the elimination and transformation of a wide range of harmful traditional practices through the following:

1. During the Ministers for Social Development meeting to be held in September 2012, the AUC should invite Ministers from each Member State to identify their priority HTPs within each of the five categories. These priorities will be addressed with a clear strategy over the next 5 years, and submitted to the AUC before the meeting of Heads of State and Government in January 2013;
2. The attached Matrix of Harmful Traditional Practices across Africa should be uploaded to the AUC Africa Info Database, and member states and the ACPF should be invited thereafter to report changes for regular updating;
3. The AUC DSA should work with the ECA to ensure that all member states produce set disaggregated data for outcome indicators and access to basic services, economic assets and opportunities, and to legal redress mechanisms;
4. The AUC should work with the ACHPR for the AUC Africa Info Database to include a table updated with the status of the ACRWC and Maputo Protocol on Member State signing, ratifying, depositing and informing on the progress of the domestication of international instruments in legislation, together with cross reference to legal precedents on HTPs and redress actions;
5. The AUC with ECA should work with Measure DHS and ICF-Macro,²¹⁷ liaising with member state national statistics agencies, for all national Demographic and Health Surveys to include further relevant questions on HTPs and

²¹⁷See from the Measure DHS website the following, under Step 2, that explains the background to DHS and its use by national governments in developing health programmes: http://www.measuredhs.com/pubs/pdf/DHSC1/MODULE_1.pdf

women's access to property and land rights and factors that affect the wellbeing of girls and women, ensuring future consistent application of a systematic set of questions and analysis;

6. The AUC should work with the ECA to introduce rigorous reporting on all HTPs in the African Gender and Development Index (AGDI) country reports and seek to include measures of elimination of the five HTP categories in its development of an African Wellbeing Index and in Africa's definition of post-2015 development goals;
7. The AUC should work with RECs (Regional Economic Communities) for them to support this agenda and use their regional instruments and alignment of social policy to effect change in the underlying environment of discrimination against girls and women;
8. The AUC should advise the APRM Panel on a methodology for bringing gender and child rights analysis into APRM reviews and reporting;
9. The AUC should build strong male engagement at the level of the APRM Panel of Eminent Persons and of Heads of State and Government; traditional chiefs and leaders of traditional societies; religious leaders - namely institute a Panel of Eminent Traditional and Religious Leaders for the Promotion of the Girl Child;
10. The AUC could commission research on: (i) synergies between cultural rights and promotion and protection of the girl child; (ii) impact and intensity of selected priority HTPs with related political-economy analysis of drivers of the HTP; (iii) best practices in addressing a particular HTP comprehensively for irreversible change;
11. The AUC could commission the collation and synthesis of Maputo Protocol, ACRWC, CRC, CEDAW published reporting and produce a periodic synthesis report;
12. AUC could submit a biannual report on "The State of the Girl Child in Africa" to the AU Ministers for Social Development for onward submission to AU Heads of State Summit.

The African Union, with its range of existing instruments and political influence, is well placed to enable African leaders to set an agenda for eliminating any traditional practices that are harmful to women and girls as well as to Africa's values and reputation.



Recommendations to African Civil Society

Regional African civil society needs to become more strategic in addressing HTPs in collaboration with the African Union and RECs, as well as in supporting national civil society to engage with their governments and traditional and religious leaders to effect change, particularly working with men and boys. Planning by these regional and sub-regional networks should involve sharing good practices of what has worked in building upwards from the community, involvement of opinion leaders, use of different instruments - from administrative regulations to legislation and domestication of international conventions and protocols that countries have ratified - and bringing political leaders to support the momentum of movements for change. This will require more robust evidence and a political-economic analysis of the drivers sustaining HTPs, appropriate use of media, introduction of alternatives, building of alliances – all set within a clear strategy with realistic timelines and accountability. It should be noted that politicians follow where there is a strong movement for change that is capable of affecting the electoral dynamic.

1. Much of the work towards eliminating harmful practices has been led by civil society over a period of decades, backed by research and the building of alliances for change, and providing a foundation of good practice that can now be built on;
2. AWDF and ACPF should immediately meet to discuss how to engage other sub-regional networks and national civil society towards shared strategies to address the priority HTPs at the national level within each of the five categories of HTPs, preferably working with each member state in the identification and generation of a fundable proposal for this collaboration;
3. National civil society, supported by regional (AWDF and ACPF) and sub-regional networks, should develop robust, rather than anecdotal advocacy and evidence to contribute to shadow reporting on national progress in addressing HTPs;
4. Civil society, working with the ACERWC, could take test cases through the African Commission on Human and People's Rights (ACHPR) to the African Court (ACHPR).²¹⁸

²¹⁸The Court has the competence to take final and binding decisions on human rights violations. Currently the following twenty six (26) African Union Member States have ratified the Protocol establishing the Court: Algeria, Burkina Faso, Burundi, Cote d'Ivoire, Comoros, Congo, Gabon, Gambia, Ghana, Kenya, Libya, Lesotho, Mali, Malawi, Mozambique, Mauritania, Mauritius, Nigeria, Niger, Rwanda, South Africa, Senegal, Tanzania, Togo, Tunisia and Uganda. See <http://www.african-court.org/en/>. Regarding making an application to the Court, see: <http://www.african-court.org/en/index.php/frequently-asked-questions#fileapplication> When the Court finds that there has been a violation of human and peoples' rights, it will issue appropriate orders to remedy the violation, including the payment of fair compensation or reparation.

ANNEXE - 1

Incidence of Domestic Violence Across Africa

Statistics for domestic violence are available in the various DHS and provide comparative data. Special studies are available for certain countries, e.g., for Sudan and the DRC, where one study in Maniema found 8 out of 10 housewives were victims of domestic violence.²¹⁹

In the DRC, 71% of women interviewed for the DHS had suffered either physical, sexual or emotional violence at the hands of their husband or partner, with physical violence being the most frequent form (at 57%). 35% suffered sexual violence and 64% emotional violence. The youngest and the oldest age groups interviewed reported the highest levels of recent violence, with girls aged 15-19 reporting 40% and women aged 40-49 reporting 52%. This survey also linked alcohol consumption to domestic violence, with 90% of women whose husbands were frequently drunk reporting domestic violence. The survey indicates that violence is linked to the status of the woman within the household. Interestingly, and perhaps counter intuitively, women who are part of household decisions are more likely to undergo domestic violence (76%) than women who have no part in household decisions (66%).²²⁰

In Ethiopia, for example, domestic violence is a common phenomenon. Women who believe a husband is justified in beating his wife often see themselves as low in status both absolutely and relative to men. This perceived low status does not only affect their attitudes towards domestic violence; it can also act as a barrier to women accessing health care for themselves and their children, affect their attitude towards contraceptive use, and affect their general well being. 81% of women in Ethiopia believe a husband is justified in beating his wife if she refuses him sex, neglects the children, burns the food, or if she argues or goes out without telling him. Many traditional customs in Ethiopia teach women to accept, tolerate and even rationalize wife beating and are taught to accept violence as part of the male-family relationship. Women who are more educated, who are employed for cash and who live in urban areas are

²¹⁹Benninger-Budel and Lacroix 1999

²²⁰2007 DRC DHS



less likely to agree with at least one of the reasons for wife beating. Acceptance of wife beating for one of the stated reasons is also considerably lower among urban men (28% compared to 56% of rural men). Both men's and women's attitudes towards domestic violence vary greatly by region.²²¹

A third of Tanzanian women report having experienced physical violence within the past 10 months and 20% of women have ever experienced sexual violence, usually perpetrated by their partners or former partners. 1 in 10 Tanzanian women, who have ever had sex, report that their first time was against their will. Almost 2 in 5 women in Tanzania have ever experienced physical violence since the age of 15. Most of these women who have experienced physical violence report that a husband, partner or boyfriend committed the violence. 54% of women and 38% of men age 15-49 believe that a husband is justified in beating his wife for certain reasons. Acceptability of wife beating is higher among women than men in Tanzania. In Kenya, 40% of women say they have experienced physical violence by their current or most recent husband and 16% say they have experienced sexual violence by their current or most recent husband. In Uganda, 6 in 10 women have experienced physical violence at least once since they were 15 years old, with 34% having experienced it in the past 12 months. Women in rural areas are slightly more likely to experience violence than women in urban areas (61% in rural areas compared with 54% in urban areas). Two-thirds of all women who have ever experienced physical violence since the age 15 say that an intimate partner committed violence against them. Among women, marriage appears to be a risk factor for violence; never-married women are less likely than ever-married women to have experienced physical violence. Almost four in ten women (39%) aged 15-49 have ever experienced sexual violence. In Uganda there is a clear differentiation between urban and rural women's experiences of sexual violence. Women in rural areas are much more likely than women in urban areas to have experienced sexual violence (41% in rural areas compared with 31% in urban). Overall, 44% of women who have experienced sexual violence say their current husband or partner was responsible, while another 22% cite a former husband or partner. One-quarter of women aged 15-49 (24%) say their first sexual intercourse was forced against their will. 68% of married women aged 15-49 have experienced physical, sexual or emotional violence from a husband or other intimate partner. 48% have experienced physical violence – most often being slapped, punched, pushed or kicked – and 36% have experienced sexual violence, most often being forced to have sexual intercourse.²²²

²²¹2005 DHS Ethiopia

²²²DHS fact sheets, Tanzania 2010, Nigeria 2003, Kenya 2003 and Uganda 2006).

In four African countries, there is a significant association between experiencing violence and women's attitudes towards violence. In Kenya, Malawi, Zambia and Zimbabwe, women who agreed that wife beating was justified in at least one of these situations were more likely to report ever experiencing physical or sexual violence by their husbands/partners than women who did not agree with a single reason. The results of the analysis indicate that in 8 of the 10 countries, household wealth was associated with women's experiences with physical or sexual violence. In Kenya, Rwanda and Zimbabwe, women from the poorest 40% of households were most likely to experience violence by their partners, whereas women in the richest 20% of households were least likely. In contrast to the other countries, in Zambia, women in the richest 20% of households were most likely to experience intimate partner violence (IPV), while women in the poorest 40% of households were least likely to do so. In Zambia, women living in urban areas were more likely to report partner violence than women living in rural areas. In Kenya and Zimbabwe, the reverse was true.²²³

Box 1: Attitudes towards wife beating in four countries

Is a husband justified in beating his wife if she ...	Nigeria % who answered 'yes'		Tanzania % who answered 'yes'		Kenya % who answered 'yes'		Uganda % who answered 'yes'	
	Men	Women	Men	Women	Men	Women	Men	Women
Burns the food?	16	31	6	18		16		
Refuses to have sex with him?	34	38	14	30		29		
Argues with him?	40	44	22	39		46		
Neglects the children?	47	49	26	40		55		56
Goes out without telling him?	50	53	24	37		39		52
At least one of these reasons	61	65	38	54		68	60	70

²²³USAID 2008



Box 2: Types of Physical and Sexual Violence in 5 countries

Type of Physical Violence	Kenya (2003)	Malawi (2004)	Rwanda (2005)	Zambia (2001/02)	Zimbabwe (2005/06)
Push you, shake you, throw something at you?	21.3	6.4	13.8	N/A	10.3
Slap you, twist your arm, pull your hair?	32.3	15.4	24.6	N/A	24.3
Slap you, hit you, kick you, throw things at you, or done anything else to physically hurt you? 5	N/A	N/A	N/A	45.1	N/A
Punch you with a fist or something else that could hurt?	15.6	7.5	11.7	N/A	10.9
Kick you, drag you, beat you up?	9.2	5.0	6.8	N/A	N/A
Try to choke you?	3.4	1.7	1.4	N/A	6.4
Threaten you with a knife/gun/any other weapon?	4.6	0.9	1.1	N/A	2.1
Attack you with a knife/gun/any other weapon on you?	2.3	0.5	0.6	N/A	1.9

Type of Sexual Violence	Kenya	Malawi	Rwanda	Zambia	Zimbabwe
Forced you to have sexual intercourse when you did not want to?	14.1	12.8	11.2	N/A	9.7
Forced you to perform any sexual acts you did not want to?	3.3	3.7	5.1	N/A	9.8
Forced to have sex/made to have sex with another person?	N/A	N/A	N/A	5.8	N/A

Education and work are also contributing factors in many cases. One study of violence against women (VAW) in Morocco found that 69% of women taken in by shelters were illiterate, 21% were at primary school level and 10% were at secondary school level. 71% of victims were unemployed. 74.4% of the violence was committed in the home, and 25.6% in public spaces. Physical violence predominated, at 49.5%, followed by sexual violence at 26.7%. 76% of those experiencing domestic violence were married. In this study, 59% of those experiencing domestic violence chose to keep silent. Domestic violence is tolerated, viewed as legitimate and not to be taken up by the judicial system. 87% of men interviewed felt the cause for violence was justified by the women's behaviour, with 13% feeling responsibility was shared. The study found that a culture of silence persists and many women are still reticent to speak about domestic violence, usually stemming from fear or from humiliation.²²⁴

²²⁴Houria and Malika 2005



ANNEXE - 2

Trafficking of Girls and Women

Mali is one example of an important transit country for women being trafficked from West African countries to Europe. A study by the International Organization for Migration (IOM) found many women were trafficked from Nigeria to Italy for sexual exploitation. The study highlighted the problem of debt/bondage to the trafficking organizations, which are linked to the payment required from women or from their families for the cost of the trip and expenses in a foreign country. In the Nigerian context it is often women who organize the trafficking of other women. There is a key figure usually called Madam or Mama-Loa, meaning priestess, who acts as an intermediary between the girls or women and the organization arranging their migration. Girls are recruited to leave their country, often through deceit as well as through physical and psychological threats or payments made to their families. Frequently, girls and women are subjected to initiation rights by the Madam to reinforce their psychological subordination. In Italy for example, Nigerian girls and women are easily controlled because they and their families have to pay back huge debts to the trafficking organization for the cost of their trip to Europe. Due to economic consequences, fear of reprisals from the traffickers and shame, very few girls wish to return to Nigeria.²²⁵

In Kenya, studies indicate that trafficking is often carried out under the guise of marriage, educational opportunities, job offers and friendly invitations.²²⁶ An IOM cross border assessment of human trafficking in Kenya and neighbouring countries found that although many East Africans crossed borders willingly in search of economic opportunities, they were then deceived by a range of actors, including family, businessmen, religious acquaintances and retired prostitutes, into working in exploitative situations. The report found Tanzanian, Rwandan and Ugandan trafficked children working in Kenya as domestic labourers, in the commercial sex and hospitality sector, and in the agricultural sector. In Tanzania, IOM found evidence of child trafficking from Burundi, Rwanda and Uganda for sexual exploitation, fishing, domestic servitude and

²²⁵Benninger-Budel and Lacroix 1999

²²⁶Ibid

agricultural labour. The IOM assessment established that Ugandan children are trafficked to all the countries in the region with Uganda also a destination for trafficked victims from Kenya, Tanzania and Rwanda. In addition, instability in the Democratic Republic of the Congo (DRC) was found to be fuelling the influx of trafficked children to Uganda. Victims are usually transported by road, using buses, lorries and trucks. Adult victims originate from DRC, Kenya and Rwanda in the domestic, agriculture, fishing and sex industries.²²⁷

An IOM report on trafficking of women and children for sexual exploitation in Southern Africa found that male refugees, assisted with the help of ethnically-based syndicates, will traffic female relatives into the country, where they are often sexually assaulted as an initiation to sex work should they resist upon arrival. The trafficker takes the earnings the woman receives as a sex worker and assists her in applying for refugee status so she can continue to work for him. Street children from Lesotho, who gravitate to the border towns to escape the effects of domestic violence and HIV/AIDS, are trafficked into South Africa's Eastern Free State, where they are held captive in private houses and sexually assaulted by groups of men, then returned to Lesotho or left in the border towns. Children are also trafficked by truck drivers, who use them as sex slaves on their routes. It is estimated that 1000 Mozambican girls and young women are offered hospitality or sex work jobs in South Africa, then smuggled and exploited upon their arrival. Malawian businesswomen recruit young women to pursue an education in Europe, where they are then sold to Nigerian Madams who keep them against their will, threatening death by magic if the victim does not cooperate. Businesswomen also traffic Malawian women and girls to brothels in Johannesburg.²²⁸

²²⁷IOM Press Briefing 2010

²²⁸Martens et al 2003



ANNEXE - 3

Child Marriage

A UNICEF report on the subject indicates that child marriage is a significant issue in 29 African countries. In nine of these countries, over 50% of girls aged 20-24 were married before they turned 18. The report found that women married before the age of 18 are more likely to come from rural areas, are less educated, are more likely to have partners who are significantly older and more highly educated. They also have a higher chance of experiencing domestic violence, are more likely to believe that a man is sometimes justified in beating his wife, and are likely to have more children than women who marry as adults. Furthermore, the report concludes that significant percentages of women who were married before 18 are in polygynous unions, and in most countries, are more likely to use traditional or folkloric contraception.²²⁹ African countries where over 50% of girls aged 20-24 were married by their 18th birthday include (in descending order) Niger, Chad, Mali, Guinea, Burkina Faso, Central African Republic, Mozambique, Uganda and Cameroon.

The report identifies rural/urban differences in the prevalence of child marriage. The proportion of women aged 20–24 married by age 18 tends to be higher in rural areas than in urban areas, though the association varies among countries and across the spectrum of national prevalence. For example, in Chad, the total number of women aged 20-24 married by 18 is 71%. Of this number, those living in urban areas amounted to 65% and those living in rural areas amounted to 74%. In Senegal however, high urban/rural differences are evident, where 15% of urban women and 53% of rural women were in union by age 18. Only in Rwanda was the inverse true: women in urban areas were more likely than those in rural areas to have been married by 18.²³⁰ In all the countries analysed, child marriage is most common among the poorest 20% of the population. For example, in the Central African Republic the differences in child marriage levels according to household wealth are not notable, while in Ghana and Nigeria poor women were much more likely to be married as children than their wealthier counterparts.

²²⁹UNICEF 2005

²³⁰ibid

Education is often seen as key to preventing child marriage. In 42 of the countries analysed, women 20–24 years of age who had attended primary school were less likely to be married by age 18 than those who had not. This was seen most strongly in Senegal, where 36% of women aged 20–24 with no education had been married before 18 whereas the figures were at 20% for those who had attended primary school. Similarly, women who attended secondary school were less likely to be married by the age of 18 than those who did not. For example, in Tanzania, women with secondary education were 92% less likely to be married by the age of 18 than women who had attended primary school only. For women who received tertiary levels of education, child marriage rates were often negligible. In only four countries (Cameroon, the Central African Republic, Ethiopia and Guinea) more than 20% of women aged 20–24 who attended higher education were married by age 18. Most notably, in the Central African Republic, 44% of women who attended post-secondary education were married by age 18. In each of these countries, more than 50% of women aged 20–24 were married by age 18. The data show that a significant percentage of women who were married before 18 are in polygynous unions. The proportion of women aged 20–24 who were married by 18 and who are in polygynous unions, as compared to monogamous unions, decreases as the national prevalence of child marriage decreases.

The report also finds a link between child marriage and domestic violence. Domestic violence is more common among women who had been married as children. Women who married younger or as children are more likely to be beaten or threatened, and more likely to believe that a husband might sometimes be justified in beating his wife. The most extreme example is observed in Kenya where 36% of women married before 18 believe a man is sometimes justified in beating his wife, whereas only 20% of women married as adults (over 18) believe this.²³¹

Early and child marriage also has ramifications for women's decision making. If the final say over household decisions is used as a measurement for women's empowerment, it is expected that women who are married as children have less decision-making power than women whose marriage is delayed until adulthood. The surveys asked respondents who had the final say over a selection of decisions, including their own health care, contraception, household budget,

²³¹UNICEF 2005



daily household purchases, visits to family and friends and what food to cook each day. The ability to make decisions about visiting family and friends is considered indicative of a woman's freedom of movement. In seven of the eight countries where the question was included, women whose partners have the final say over visits were more likely to have experienced child marriage than those who had the final say themselves or where the decision was made jointly. Strategic importance is placed on a woman's participation in making decisions related to her own health. In six of the seven countries where the question was included, women whose partners have the final say over their health were more likely to have experienced child marriage than those who had the final say themselves, or where the decision was made jointly.²³²

In Egypt, despite legal stipulations that the minimum age for marriage is 16, marriages of girls even younger remain widespread. One study cited that 44% of rural women were under 16 at the time of marriage.²³³ In Congo, early marriages of girls under the age of 14 are celebrated in some rural areas, and young girls are often given to chiefs in exchange for access to political and/or socio-economic power. In Sudan and Nigeria, early marriages are common practice in remote and rural areas. Under sharia law, parents can conclude early marriages for their underage and virgin daughters.²³⁴

Another study in Egypt examines the phenomenon of "Gulf Brides". It describes girls between the ages of 13 and 15 being removed from school in order to prepare them for marriage for men from the Gulf who travel to Egypt in search of young wives, who are then taken out of Egypt. Brokers who are paid money for this service facilitate the marriage. Many young girls are returned a few months later, often pregnant, when their husbands have grown tired of them, or they are kept in the home as slave labourers. Other girls are married up to four or five times, in what could be viewed as another form of sex trafficking. Early marriage is also common in Sudan, especially in the White Nile area, where many girls are married before the age of 15. Families take pride in marrying their daughters at very young ages and it is thought that early marriage will lead to more children and more obedient wives.²³⁵

²³²Ibid

²³³Al-Hamamsy 1994 in Benninger-Budel and Lacroix 1999

²³⁴Benninger-Budel and Lacroix 1999

²³⁵Ibid.

Early childhood marriage is practiced commonly among some ethnic groups in Kenya. A girl is seen as less important than a boy and is prepared from birth for marriage. For example, amongst the Samburu and Maasai in Kenya it is known for families to take girls as young as nine out of school in order for them to marry, though the boys remain in school. The government has made efforts to intervene in order to allow such girls to remain in school, however, the strong cultural and social values ensure that this practice remains.²³⁶

In Kenya the law does not specify the age of marriage and girls as young as 12 are married off. The lack of a uniform minimum age for marriage and the fact that some customary laws permit the marriage of minors leads to an absence of legal protection of Kenyan girls from child marriages.²³⁷ Some communities allow marriage for girls younger than 14 so as to avoid the charge of defilement, which is considered rape if a girl is under the age of 14. There is a lack of recognition of marital rape, hence a minor who is a victim of a forced marriage cannot rely on a charge of rape against her husband. In addition, without universal birth registration a girl child can be presented as older than she is.

²³⁶Machera 200

²³⁷Kamau and Mugo 2005



ANNEXE - 4

Data on FGC/FGM

Prevalence varies from country to country as well as within a country. In Tanzania, the largest percentage of women who claim to have undergone FGC/FGM are in the central and north-eastern regions (in Arusha the figure is 51%, in Manyara it is 79%). The largest number of women who said they had been circumcised were over 30 years old.

15% of Tanzanian women have been circumcised. The prevalence of circumcision has not changed since the 2004-05 TDHS, though 92% of women believe that circumcision should be stopped. A traditional circumciser performs nearly three-quarters of circumcisions.²³⁸ In Nigeria, FGC/FGM is most prevalent in the South, with rates as high as 57% in the south west of the country, though overall 66% of women and 63% of men think that female circumcision should be discontinued.²³⁹ In Kenya, the overall prevalence rate of FGC/FGM is 31%, however in the east of the country, it is as high as 99%.²⁴⁰

In the 2005 Demographic Health Survey (DHS), 96% of Guinean women reported having undergone FGC/FGM. In terms of FGC/FGM across ethnicities in Guinea, Guerze women reported the smallest numbers of FGC/FGM (68%), while the remaining ethnicities all reported percentages in the high 90s. The figures show little reduction in the practice between 1999 and 2005 (a reduction from 99% to 96%).²⁴¹ In Cameroon, FGC/FGM is less common, with only 1.4 % of women reporting having undergone FGC/FGM. It was most common in the Extreme-Nord region and amongst the Arabe-Chao, Peulh, Maoussa and Kanuri ethnic groups and among Muslim women.²⁴² According to other DHS surveys, in Nigeria it is 53% and in Chad 85%. 99% of Eritrean women have heard of FGC/FGM, with 89% reporting having undergone FGC/FGM. 39% had their vaginal area sewn closed. Attitudes of Eritrean women towards FGC/FGM are divided; 49% oppose the practice and an equal percentage supports it. Women who are not circumcised are more likely to want the practice discontinued (86%).

²³⁸(DHS 2010).

²³⁹DHS 2003

²⁴⁰DHS 2003

²⁴¹2005Guinea DHS

²⁴²2004 Cameroon DHS

One in ten reported problems during delivery due to FGC/FGM.²⁴³ In Ethiopia, among the Northern Amhara and Tigray, FGC/FGM is performed at infancy. 3 in 4 Ethiopian women have undergone FGC/FGM, with 6% reporting their vagina was sewn closed (infibulation), which was most common amongst the lowest wealth quintile, women with no education, and women aged 25-39. Less than one in three feel the practice should continue. Women in the highest wealth quintile are least likely to have a daughter undergo FGC/FGM.²⁴⁴

In Sudan, where FGC/FGM is still a dominant tradition (especially in the North, where it is estimated that 90% of women have undergone FGC/FGM), infibulation is the most common type of circumcision and is usually performed on girls 5 to 12 years of age. The husband has the right to divorce a wife who is uncircumcised, and it is not illegal to do so under the Sudanese criminal code. Some urban and educated families are adopting *sunna* as an alternative to infibulation. FGC/FGM is also common in Nigeria, where it is practiced on girls aged 3 to 17. Again, no specific law prohibits this practice. In Zimbabwe, the Bemba ethnic group in the Midlands Province are known to practice infibulation as part of their initiation rites. Countries such as Ghana, Senegal, Ivory Coast, Egypt, Guinea, Burkina Faso, Djibouti, Tanzania and Togo have adopted laws suppressing these practices though they still remain common.²⁴⁵

Custom and tradition are often used to justify FGC/FGM, along with other reasons such as hygiene, aesthetics, protection of virginity and prevention of promiscuity, increasing sexual pleasure for the husband, enhancing fertility, giving a sense of belonging to a group, and increasing matrimonial opportunities.²⁴⁶ The practice predates Christianity and Islam in the practicing communities of today. The belief is that FGC/FGM will control the girl's sexuality, ensure her virginity before marriage and chastity thereafter.²⁴⁷

In an article on FGC/FGM in Sudan, the author cites that FGC/FGM is seen as a "loving act", and that of course loving parents would never commit an act of violence or crime against their own daughters.²⁴⁸ In Sudan, circumcision often happens at the midwife's house, individually or sometimes within groups. Young girls often experience bleeding, high temperatures and physical pain as a result.

²⁴³2002 Eritrea DHS

²⁴⁴2005 DHS Ethiopia

²⁴⁵Benninger-Budel and Lacroix 1999

²⁴⁶*ibid*

²⁴⁷UN Fact Sheet No 23

²⁴⁸A'Haleem 1992



Long-term effects include dyspareunia, urinary tract infections, prolonged or obstructed labour sometimes leading to foetal death, gynecological complications, chronic pelvic infections, and psychological complications. *Mushahara* is the word used in Sudan to explain accompanying complications. The ceremony is similar to that of Somalis, Ethiopians and Egyptians. Defining FGC/FGM as an act of violence can cause strong reactions. In Muslim communities where FGC/FGM is practiced, it is claimed to be prescribed by Islam, though in reality FGC/FGM is not required by any religion and religious leaders in many countries have come out against the practice. It is viewed by some as the manifestation of a male need to control women's sexuality, though others contest this, as it is also practiced by women. While FGC/FGM is not actually rooted in Islam, premarital sex is regarded as a crime and a social evil, and the prevention of it lies in controlling women's sexuality. In Sudan, doctors and midwives continued to practice infibulations, even when the law prohibited it, arguing that it was the *sunna* type and religiously required by Islam.²⁴⁹

FGC/FGM encapsulates issues of male control over women and their sexuality, societal demands and marriage-ability. Refusal to comply with FGC/FGM can lead to social sanction, disgrace and ridicule for a non-conforming mother or the uncircumcised girl herself, and often eliminate or curtail her marriage prospects. Mothers claim that though they are unaware of the dangers involved in the practice they allow their daughters to go through it to please their communities and to ensure that their daughters are acceptable in their communities.²⁵⁰

²⁴⁹Ibid

²⁵⁰Labeledodan 2002 p74

ANNEXE - 5

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