



Namibia Non-Governmental Organisations' Forum Trust

NGO Shadow Report to the Namibia Fourth and Fifth Periodic Report to the CEDAW Committee

Focus: Harmful Cultural Practices in Namibia

For Submission to the United Nations CEDAW Committee

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Report on Harmful Cultural Practices in Namibia

1 Introduction and definition

This Shadow Report by the Gender Sector of the Namibia Non-Governmental Organisations' Forum Trust focuses on the issue of harmful cultural practices in Namibia for the following reasons:

Participatory field research conducted by the NGO Women's Leadership Centre in the Zambezi Region of Namibia (formerly called Caprivi Region) has revealed many cultural practices that violate girls and women's right to dignity and to be free from torture, humiliating and degrading treatment. These practices include:

- coerced elongation of the labia minora in young girls, causing pain, sores, exposure to infection
- violent and degrading treatment during initiation into womanhood, causing physical pain, emotional humiliation, and an instilled sense of inferiority and subservience to men
- sexual readiness testing by male relatives, constituting incest, rape and exposure to HIV infection
- coerced scarring of girls' bodies for male sexual pleasure, involving pain and exposure to HIV infection through non-sterilized blades
- dry sex, involving pain and exposure to HIV infection
- forced marriage and polygyny, constituting emotional violence
- widow cleansing involving coerced sex and exposure to HIV infection.

The Ministry of Gender Equality and Child Welfare commissioned the Women's Leadership Centre (WLC) to conduct training with traditional leaders in Zambezi Region on harmful cultural practices in 2012, and the report submitted by the WLC to the Ministry clearly indicated that the traditional leaders, from all four main ethnic groups in the Zambezi Region, acknowledged that all of the above practices are still occurring in their communities.

Yet in Namibia's recent **Replies to the List of Issues, dated 15 May 2015**, the government states that: *"Widow inheritance and sexual initiation practices are not confirmed nor encouraged in the state party and there are no statistics available on the prevalence of these offences."*

Through this denialist approach, harmful cultural practices continue with impunity in this region (and other regions of Namibia), exposing women to violence and HIV/AIDS throughout their lifecycle.

The current HIV prevalence rate in Zambezi Region stands at 24.3 % among young women (3 times the national average!) and 46.9% among older women (twice the national average!), but in public discourse and HIV prevention messages this is not linked to cultural practices. (MoHSS 2014)

Some of the above-mentioned practices also occur in other ethnic communities in Namibia.

The NANGOF Trust Gender Sector therefore calls for urgent action by the Namibian government to respect, promote and protect the dignity and rights of girls and women through conducting research on the extent of harmful cultural practices in all ethnic communities, and working pro-actively with communities to eliminate them.

Definition of ‘Harmful Cultural Practices’ as used in this report

Harmful cultural practices are often called ‘harmful traditional practices’ in the relevant literature, but there is contestation about how ‘traditional’ some practices are, as ‘traditions’ are constantly being re-shaped and re-invented, often by those with the power to define what is ‘authentic culture and tradition’ to their benefit. An example of this is the recent re-invention of the *Olufuko Festival* in Namibia. (Frank 2014) We therefore use the term harmful cultural practices in this report, and define this as follows:

The term ‘harmful cultural practices’ is often associated with female genital mutilation and other violent practices which form part of the customs, traditions, and cultural, social and religious beliefs of communities. However, there are also ‘traditional’ practices, such as initiation rites for girls, which may not cause excruciating physical pain but rather subject girls and young women to humiliating and degrading treatment causing long-lasting emotional and psychological harm.

Harmful cultural practices resulting in pain, suffering and humiliation for girls, young women and adult women originate from deeply entrenched discriminatory views and beliefs about the role and position of girls and women in their communities and societies. Harmful cultural practices targeting girls and women serve to replicate and perpetuate the subordinate position of women. The resulting unequal power relations between men and women form the basis for all forms of gender-based violence.

2 CEDAW Committee Concluding Remarks on harmful cultural practices to Namibia’s Periodic Reports

Namibia ratified the United Nations Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) in 1992, two years after achieving Independence. Namibia’s First Country Report was reviewed in 1997, and its combined Second and Third country report was reviewed in 2007. In both reviews, the CEDAW Committee urged the Namibian government to protect the rights of rural women living under customary law, as set out below.

In 1997, the CEDAW Committee cited three main problems as being Namibia’s greatest obstacles to full gender equality: gender discrimination arising from customary laws, the general lack of public knowledge about human rights and the law, and the poverty which prevents so many Namibian women from fulfilling their aspirations.

The Committee highlighted the need to address the impact of customary laws on women. It proposed research to identify customary laws which contradict the letter and the spirit of the Constitution. More specifically, it suggested law reform to remove all barriers to women’s land ownership, especially in rural areas, as well as “an intensive programme to discourage polygamy”.

Particular emphasis was given to the need for law reform to provide for the registration of customary marriages. The Committee also singled out traditional courts as an area of concern, saying that the government must ensure that these courts comply with the principles of gender equality in all respects.

In 2007, the Committee expressed concern about the persistence of strong patriarchal attitudes and stereotypes regarding the roles and responsibilities of women and men in the family and society. The Committee was also concerned that the Traditional Authorities Act (Act No. 25 of 2000), which gives traditional authorities the right to supervise and ensure the observance of customary law, may have a negative impact on women in cases where such laws perpetuate the use of customs and cultural and traditional practices that are harmful to and discriminate against women.

The Committee called upon the State party to take measures to bring about change in the widely accepted stereotypical roles of men and women. Such efforts were to include comprehensive awareness-raising and educational campaigns that address women and men and girls and boys, with a view to eliminating the

stereotypes associated with traditional gender roles in the family and in society, in accordance with articles 2 (f) and 5 (a) of the CEDAW Convention. The Committee urged the State party to monitor carefully the impact of these measures and to report on the results achieved in its next periodic report. The Committee also called on the State party to study the impact of the implementation of the Traditional Authorities Act (Act No. 25 of 2000) and the Community Courts Act (October 2003) so as to ensure that customs and cultural and traditional practices that are harmful to and discriminate against women are discontinued.

While noting the various legal and other initiatives taken by the State party to address violence against women, the Committee is concerned that violence against women remains a serious problem. The committee is also concerned that no statistical data and information are provided to measure the impact and effectiveness of the State party's legal and policy measures aimed at preventing and redressing violence against women.

The Committee called upon the State party to take steps to fully implement and enforce laws on violence against women and to ensure that women victims of violence are able to benefit from the existing legislative framework. It also called upon the State party to ensure that all violence against women is effectively prosecuted and adequately punished. It requested that the State party put in place an effective data collection system on all forms of violence against women and to provide statistical data and information in its next report on the number of cases of violence reported to the police and other relevant authorities, as well as on the number of convictions. It further called upon the State party to establish a monitoring and evaluation mechanism in order to regularly assess the impact and effectiveness of relevant laws, their enforcement, as well as of programmes aimed at preventing and redressing violence against women.

While welcoming the passage of the Married Persons Equality Act (Act No. 1 of 1996), which gives wives and husbands in both civil and customary marriages equal power of guardianship in respect of children, the Committee was concerned that this law does not address the gender inequalities in customary marriages regarding property. The Committee was also concerned that Namibian law does not require the registration of customary marriages. The Committee was further concerned that early marriage continues in spite of the fact that the Married Persons Equality Act fixes the legal age of marriage at 18 years for both boys and girls.

The Committee called upon the State party to review the Married Persons Equality Act (Act No. 1 of 1996), with a view to eliminating discrimination against women in customary marriages related to property rights in order to bring such rights in customary marriages into line with those in civil marriages. The Committee also called upon the State party to take all necessary steps, including the process of consulting traditional leaders, women and civil society organizations, in order to draft a bill on the registration of customary marriages. The Committee recommended that the State party take steps to ensure that the legal age of marriage is respected.

3 Rationale

The NANGOF Gender Sector of the NANGOF Trust is aware that legislation protecting the rights of rural women living under customary law, such as the Recognition of Customary Marriages Bill, was already drafted by the Law Reform and Development Commission 14 years ago, but has still not been submitted to the Cabinet Committee on Legislation to begin the process of adoption into law.

The Sector is further aware that little has been done with regard to the harmonization of all customary law with constitutional and statutory law, thereby leaving rural women, young women and girls at the mercy of many discriminatory and oppressive customary laws. At the same time, the issue of harmful cultural practices that are not officially regulated by customary law but are an integral part of the lived experiences of women throughout their life cycle in some ethnic groups in Namibia has hardly been addressed at all.

In view of the above, as well as the concern expressed by the CEDAW Committee on the situation of women living under customary law in Namibia, the NANGOF Gender Sector decided to seize the opportunity of the upcoming review of Namibia's progress regarding the implementation of CEDAW and provide the CEDAW Committee with a Shadow Report on Harmful Cultural Practices in Namibia.

4 Methodology and sources

This report is based on a desk review of all the available studies on customary law and cultural practices in Namibia, with additional input provided by members of the NANGOF Gender Sector as well as through responses from the general public to an advertisement placed by NANGOF Trust in the print media in October 2011.

The desk research found many broad studies on gender relations and women's rights in Namibia today, as well as women and customary law.

However, little research has been done focusing specifically on cultural practices in Namibia's 11 ethnic groups, with the exception of field research in Caprivi communities (Masule 1999; Thomas 2007/2008; WLC 2010/2011) and the Ovahimba and Ovaherero in Kunene Region (Talavara 2002). We will therefore draw strongly on these studies for this report. (The Caprivi Region was officially renamed Zambezi Region in 2013. We will use this new name in this report, although most of the references will refer to 'Caprivi Region'.)

5 The national context: Laws and policies protecting the rights of women

Namibia provides robust protections for women through the Constitution and other laws. The constitutional right to equality forbids discrimination on grounds of sex. The right to family provides for equality within monogamous marriage and at its dissolution. The right to dignity forbids torture and cruel, inhuman or degrading treatment.

Freedom from violence is a central component of the right to dignity. The Combating of Rape Act forbids sexual acts committed under all "coercive circumstances." It proscribes sex with persons below fourteen years of age, and prohibits rape in marriage. The Combating of Domestic Violence Act prohibits not only physical violence, but also psychological, verbal, emotional and economic abuse.

The Married Persons Equality Act regulates civil marriage and repeals the legal presumption that a husband is the "head of the household" with the unilateral power to make decisions for both husband and wife.

While the right to culture is protected under the Constitution, this is qualified by the other protections provided and may not impinge on the rights of others. Both customary law and the common law of Namibia in force at Independence remain valid only to the extent to which they do not conflict with the Constitution or any other statutory law.

Namibia has ratified the AU Protocol on the Rights of Women in Africa, which specifically calls for the elimination of all harmful cultural practices through legislation accompanied by sanctions.

The National Gender Policy of 1998 stated that customary and traditional practices should not contradict the promotion and protection of women's rights and gender equality. It called for the alignment of Customary Law with the Namibian Constitution by removing all components that discriminate against women. The policy called for research to establish the magnitude of violence and cultural discrimination against girls, and promoted campaigns that focus on educating the public on the importance of girls' health as well as the need to eliminate harmful cultural practices against the girl child. The policy further promoted equality and justice for women in customary and traditional courts.

The recently revised National Gender Policy 2010 – 2020 states that there is a need to reform the law on marriage and divorce and register customary marriage, to provide better protection for women’s property rights in civil and customary marriage, and to remove outdated or discriminatory grounds and procedures for divorce. It further states that factors impacting women’s health include harmful traditional practices such as early marriages and dry sex; there is a need to conduct research to establish the magnitude of violence and cultural discrimination against the girl-child; a need to address the dual mode of customary and constitutional laws by aligning customary law with the Namibian Constitution and removing all components that discriminate against women, and to ensure equality in the treatment of women in judicial and quasi-judicial proceedings, including customary and traditional courts.

The National Policy on HIV and Aids states that “Traditional leaders shall be sensitised on the dangers of customary practices like death cleansing, forced sex for young girls and boys coming of age, and dry sex, which may lead to HIV infection; Traditional initiation counsellors shall incorporate sound and appropriate sexual and reproductive health education into traditional and cultural rites of passage and initiation processes; Traditional leaders shall stop or modify unsafe customary practices in order to prevent HIV transmission, or shall promote alternative practices which do not place people at risk of HIV infection.”

Taken together, these laws and policies afford women a wide array of protections against assaults on their dignity and personhood.

Yet Namibia remains one of the most violent and most unequal societies in the world. Further, more than 25 years after Independence, the rights of rural women living under customary law remain unprotected, while the exposure of women, young women and girls to harmful cultural practices that violate their human rights, exposing them to all forms of violence as well as HIV and Aids remain silenced and ignored.

These challenges are addressed below under the relevant Articles of CEDAW.

6 Harmful cultural practices that violate women’s rights protected under CEDAW in Namibia

Article 2 (f)

States Parties condemn discrimination against women in all its forms, agree to pursue by all appropriate means and without delay a policy of eliminating discrimination against women and, to this end, undertake:

To take all appropriate measures including legislation, to modify or abolish existing laws, regulations, customs and practices which constitute discrimination against women.

The situation in Namibia today

More than twenty-five years after Independence, major legislation to specifically protect the rights of women and children living under customary has still not been enacted, or if enacted, it has not been implemented.

The following proposals for law reform have been in the pipeline for many years now and need to be adopted and implemented with the utmost urgency if equality and human rights are to have any meaning for rural women.

- **Recognition of Customary Marriages Bill**

The proposal developed by the Law Reform and Development Commission provides for the full legal recognition of customary marriages through setting the requirement of the minimum age at 18 years for

both spouses as in civil marriage, the consent by both parties to the marriage, and the abolition of polygamy. It further provides for the registration of customary marriages, a choice of the property regime for the marriage, the full legal status and capacity of both spouses, and for fair procedures at divorce.

Until this Bill is passed into law, Namibian women in many ethnic communities still bear the brunt of customary laws regulating marriage and divorce that allow for polygyny, give husbands powers over their wives as 'heads of households', allow husbands much easier access to divorce than their wives, and leave many women without any rights to property at divorce.

- **Intestate Succession Bill**

The proposed Bill provides for equal property and inheritance rights for women and children living under customary law. In the current situation, women and children are often stripped of house and home through property grabbing by relatives of the deceased husband, while the wife in some communities becomes part of the estate to be inherited by a male relative of her deceased husband.

- **Community Courts Act (Act No 10 of 2003)**

The Community Courts Act (Act No 10 of 2003) has yet to be fully implemented. It provides for the repeal of inherited South African legislation, the harmonization of certain areas of law applicable to traditional courts, and the translation of constitutional requirements into the law of traditional courts. Many traditional courts still operate on the basis of customary law alone. (Hinz 2008)

- **Harmonization of customary law with the Constitution and statutory law**

Progress in this regard has been negligible, as evidenced in the recently published volume *Customary Law Ascertained*, documenting the customary law of the Traditional Authorities of the various Owambo, Kavango and Zambezi communities in a written form. (Hinz 2010) Many laws included in this documentation discriminate against women, and some legitimize violence against women.

There is an urgent need for government to fully implement the Community Courts Act and to work with all traditional authorities in the country to ensure that the full range of women's human rights are protected in all ethnic communities, both in law and in practice.

The lack of law reform regarding equality for women under customary law also impinges on their protections under **CEDAW Article 15 – Equality before the law**, and **CEDAW article 16 – Equality in marriage**. Many rural women are thus still denied legal identity and capacity on a par with men, equal rights in marriage and at divorce, as well as equal rights to conclude contracts and to administer property. Women are also not treated equally in all stages of procedure in courts and tribunals. (Hinz 2010)

Article 5 (a)

States Parties shall take all appropriate measures to modify the social and cultural patterns of conduct of men and women, with a view to achieving the elimination of prejudices and customary and all other practices which are based on the idea of the inferiority or the superiority of either of the sexes or on stereotyped roles for men and women.

The situation in Namibia today

All the recent studies and surveys conducted by government agencies, academics, NGOs and others on the status of gender equality in Namibia paint the same picture of ongoing and constantly recreated subordination of women, young women and girls through the socially and culturally enforced stereotyped roles for girls and boys, women and men that shape the division of labour, in particular in the so-called private realm of the family, where husbands are still cast as 'heads of households' and wives their 'service providers' who can be violently chastised for 'poor service'. Many respondents in these studies, both

women and men, agreed that husbands have the right to exercise violence against their wives. (Ashton, D et al 200; LeBeau 200 and many others)

For example, the Demographic and Health Survey (2000) found that 15% of Namibians do not believe a woman may refuse to have sex with her husband and 16% of men believe that a husband has the right to have sex with women other than his wife if his wife refuses to engage in sex with him on a particular occasion. (MoHSS 2000)

Most of these studies and surveys refer only in passing to harmful cultural practices as a mechanism for creating and upholding gender inequality and exercising violence, thereby constructing and justifying violence against girls and women as an integral part of culture. The rapid appraisal methodologies generally used in these studies fail to uncover the lived realities of women and girls living under customary law and exposed to harmful cultural practices.

However, as mentioned earlier, there have been a few studies specifically on harmful cultural practices, and these will be discussed below.

Female Genital Mutilation

According to the World Health Organisation, Female Genital Mutilation (FGM) comprises all procedures that involve partial or total removal of the external female genitalia, or other injury to the female genital organs for non-medical reasons. Under the category of 'other injury' the WHO includes "all other harmful procedures to the female genitalia for non-medical purposes, e.g. pricking, piercing, incising, scraping and cauterizing the genital area."

The WHO states that "FGM has no health benefits, and it harms girls and women in many ways. It involves removing and damaging healthy and normal female genital tissue, and interferes with the natural functions of girls' and women's bodies. Immediate complications can include severe pain, shock, bleeding, tetanus or sepsis (bacterial infection), urine retention, open sores in the genital region and injury to nearby genital tissue." (WHO)

In Namibia we are aware of the following forms of mutilation/modification of girls' and women's genitals in accordance with the above WHO definition:

- **Stretching the labia minora**

In some Zambezi communities girls are taught from around nine to ten years of age to stretch their labia minora, using sticks, string, stones and their hands to pull on their flesh, thereby causing swelling and sores. (WLC 2011; Talavera 2007) This can be a life-long practice that women are expected to endure as long as they are sexually active, based on the belief that long labia are more sexually appealing and satisfying to a male partner, and a man will not stay with a woman who has not submitted to it.

- **Enlarging the vagina**

Research has shown that in the past, girls in some Kavango communities were taught to enlarge their vagina at the onset of their menses to prepare them for early sex and marriage. (Ipinge 2003; Talavera 2007) However, there has been no in-depth qualitative research on cultural practices in this region to ascertain whether this is still taking place in some families or communities. According to the 2006/2007 Demographic Health Survey, 18.9 % of girls in the Kavango have had sexual intercourse before reaching age 15 – the highest rate for any region in Namibia, and 68 % have had sexual intercourse before age 18. (MoHSS 2008) It may well be that some girls are still being prepared for early sex through cultural practices including the enlarging of their vagina. At 23.9% the Kavango Region also has the highest rate of teenage pregnancies in Namibia, leading to low levels of education among girls. (Ministry of Education 2007)

Both the above practices serve to sexualize the bodies of girls and young women, preparing them to perform sexually at a young age, often with men who are much older than them who claim a right to their bodies. Besides the physical discomfort and pain these practices may cause girls as they approach or begin menstruation, there is the psychological impact resulting from the violation of their right to privacy, bodily integrity, sexual autonomy and choice.

- **Tightening the vagina for 'dry sex'**

In many communities across Namibia, including Zambezi and Ovaherero communities, young women are taught to use herbs to dry out and tighten their vagina before sexual intercourse, as their male partners prefer sex with women who do not lubricate but instead have 'warm' and 'tight' vaginas. (WLC 2010/2011; Sister Namibia 2008; Vanegas et al 2006; LeBeau 2004) Condoms cannot be used during dry sex, and the practice often leads to increased friction and tearing of the vagina wall, increasing women's risk of infection with STDs including HIV. For example, a study in Zambezi Region found that 66% of women reported practicing dry sex, 46% reported experiencing pain during the sexual act, and 37% reported experiencing injuries (bruises, lacerations) immediately after the sex act. (Vanegas et al. 2006) The researchers recommended that the herbs used for dry sex should be analyzed for their health effects on women and men, and that people should receive sexuality education including the importance of the natural function of lubrication in women.

- **Removal of 'growths' in the vagina and anus**

In some rural as well as urban communities, when a child gets ill, the mother is checked for 'growths' inside the vagina or around the anus. Such 'growths' are seen to be a threat to the woman's health and the health of her children. Treatment is applied by removal of this 'growth' in order to cure others. Traditional healers and medicine women 'specialise' in the treatment of these 'growths.'

Even though this practice is ostensibly performed for medical reasons, there is no bio-medical evidence of the link between removing a piece of flesh from a woman's vagina or anus and the health of her child. Yet women may be cut repeatedly whenever a child becomes ill, and there is often a lack of hygiene during this practice, with the same blade used on different people, while traditional healers may have open sores on their hands. Many women have reported ongoing discomfort, pain, bleeding, sores, lack of proper healing and the disruption of normal bodily functions as a result of this practice. (WLC 2010/2011)

Using violence, incest and rape to prepare girls for 'womanhood'

At the onset of their menstruation, girls in some communities are initiated into womanhood through practices that violate their rights to dignity, bodily integrity, health and well-being, sexual and reproductive autonomy and choice.

- **Physical and psychological violence**

In many Zambezi communities, from the beginning of their first menstrual cycle girls are kept in isolation over a period of time and forced to work excessively hard pounding maize for their female elders, whose aim is to teach them endurance as well as submission and subservience to their future husbands and in-laws. Fatigue or protest is met with severe beating and other forms of violence.

The message given to girls is that their future husbands have the right to beat and abuse them, and that they should endure this in silence. Should they wish to leave a violent and abusive marriage the bride wealth (*malobolo*) would have to be returned to the husband's family. The isolation and forced submissiveness of girls during this practice is also a form of psychological violence, aiming to break the self-esteem of young women and construct them as persons without rights. (Masule 1999; WLC 2010/2011)

- **Sexual abuse, incest and rape to prepare girls for ‘womanhood’**

In Ovahimba communities (residing mostly in Kunene Region) and Ovaherero communities (residing mostly in Otjozondjupa and Omaheke Regions), men have the right to sexual relations with their female cousins who have just commenced their menses. (Talavera 2002; Sister Namibia 2008) This practice may be reflected in the percentages of girls in these regions who have had sexual intercourse before the age of 15 years: 12.5 % in Kunene Region, 13 % in Omaheke Region and 8.9% in Otjozondjupa Region. (MoHSS 2008) Even though the girls have no right to refuse sexual relations with their relatives, this practice is not viewed to be incest and rape.

In many Zambezi communities, a major focus of the initiation process is to teach girls how to sexually please their future husbands. They learn how to move their bodies in a ‘sex dance’ through singing and dancing as well as the having to lie naked under an older woman and show they can make the right moves. Their female family members can be present and add to their humiliation and embarrassment. Girls at this young age are taught how to provide their arm as a pillow for their husband, how to clean him after sex, and that they must always provide him with sex when so desires. (Masule 1999; WLC 2010/2011)

After the initiation period young Zambezi women are sometimes tested for sexual readiness by male relatives, who have sex with them to determine whether they can ‘dance’ well. No condoms or contraceptives are used during this practice, which makes girls’ and women’s bodies accessible and available for men’s sexual pleasure. The Demographic Health Survey 2006/2007 reveals that 17.8 girls under the age of 15 years have had sexual intercourse in Zambezi Region, the second highest rate following Kavango Region. (MoHSS 2008) As in the case of the Ovaherero and Ovahimba, the Zambezi girls have no choice in this matter and it is not viewed as incest and rape. (WLC 2010/2011)

A form of witchcraft called *mulaleka* is sometimes used in Zambezi communities to put young women into a ‘dream state’ while a male family member has sex with them. They are semi-conscious and cannot put up any resistance. If a girl does recall that her grandfather or uncle had sex with her it will be legitimized as a form of sexual readiness testing. *Mulaleka* is also used by men to have sex with their mothers or sisters, in the belief that this will bring them luck, wealth or professional advancement. (WLC 2010/2011)

Practices involving the ‘cleansing’ of women’s ‘impure’ bodies

- **Casting women’s reproductive capacities as impure and dangerous to men**

At the onset of their menses, girls in the Zambezi are taught that their bodies, and especially their blood, are dirty and diseased and therefore dangerous to men. During their period of isolation they are kept hidden from men, and are served food on special plates used only by them selves. Yet their own physical health and well-being are not respected: they are not allowed to wash themselves during this time, which may lead to health problems for the girls as well as the psychological identification with being ‘impure’. (Masule 1999, WLC 2010/2011)

Traditional medicine teaches that a man can become ill through exposure to a woman who is menstruating, has recently given birth, or has miscarried or aborted. Thus women’s bodily functions relating to reproduction are cast as ‘impure’, while the status of ‘motherhood’ is ostensibly revered. The ‘impurity’ of women during the various biological processes of reproduction is considered to be so dangerous that merely touching something handled by a woman in one of the above conditions, for example sharing the same plate or chair, could make men ill.

One such disease is called *kahomo*, which is described as having the same symptoms as HIV/AIDS - with the difference that it can be cured by traditional healers. The prevention of such illnesses is through physically isolating women and girls in separate huts and washing them with herbs.

The belief in *kahomo* may prevent men from seeking appropriate treatment for HIV, since many believe that they are suffering from *kahomo* and not HIV or AIDS. It also places the blame for men's illness on women. (Masule 1999; Thomas 2008 ; WLC 2010/2011)

- **Cleansing widows to protect in-laws and the next husband**

In some Zambezi communities widows have to undergo cleansing ceremonies due to the belief that the death of a husband makes a woman 'unclean' and this could cause disease and bad luck not only for herself but also for her family and her in-laws. Prior to the cleansing the widow may be isolated in a hut for many weeks or months of mourning as prescribed by her in-laws, during which time she must speak in whispers to her appointed care-giver but has no voice of her own. This situation seems to be a repeat of the isolation and silencing women experienced as young girls during initiation. The in-laws decide when the mourning period is over and organise the ritual cleansing of the widow through washing with particular herbs, which may take place at the river in the presence of other women in the community.

This may be followed by a sexual cleansing ritual in which the widow is forced to have sexual intercourse with a traditional healer, a male relative of her husband, or another man in order to be fully cleansed. No condoms can be used since the cleansing agent is the semen itself, which exposes widows to the risk of infection with HIV.

By treating women's bodies as 'impure', the practice of widow cleansing justifies the control exercised by their in-laws in isolating and silencing them for a long period of time upon the death of their husband, and sometimes transforming them into a sexual object for a man of their choice.

The above practices of treating women's bodies as 'impure', dangerous to men and in need of cleansing deprive women of all ages of their right to dignity, bodily integrity, health and well-being, autonomy and choice. (WLC 2010/2011)

Marking young women's bodies through incisions and scars

As part of their initiation, many young women in Zambezi communities have incisions made around their waists, on their back, their arms, or sometimes all over their bodies. A mixture of herbs and ash is rubbed into these cuts to induce the formation of scars that are believed to be sexually arousing for men. This is sometimes called "flower cutting." The young women are led to believe that some of these scars will cause their boyfriends and husbands to be more attracted to them, and will prevent their husbands from leaving them for other women. Other scars are believed to provide protection to the woman against ill will from other women who are competing with them for a particular man.

This involuntary scarification of young women, usually done by their grandmothers under an oath of secrecy, appears to be a rather desperate measure to provide their granddaughters with some kind of power and equality in their relationships in a cultural environment that allows men to practice polygyny and/or have multiple girl friends.

There is often a lack of hygiene exposing young women to the risk of HIV infection through using the same blade used on different people, while the grandmothers performing these incisions may have open sores on their hands. Their lack of knowledge regarding human anatomy may also lead to serious injuries.

Treating women as commodities and possessions of men

- **Early, arranged and forced marriage**

Girls as young as 13 years are still forced into early marriage in a number of ethnic groups, including the indigenous San groups, the Ovahimba as well as in Owambo, Kavango and Zambezi communities. In the age group 15 – 19 years, 1.7% of girls are married compared to 0.1% of boys. (MoHSS 2000)

The husbands are generally much older than their young brides, adding age to gender in the power imbalance in the marriage. This places young women at high risk of contracting HIV, as well as early child bearing, a contributing factor to the extremely high rate of maternal mortality in Namibia. (WLC 2011)

Widows may also be forced into marrying a brother or other male relative of their deceased husband (levirate) as a means for the husband's family to keep all the property together. They stand to lose everything, sometimes even their children, if they refuse. (WLC 2011)

- **Bride wealth**

In Zambezi communities, a customary marriage only becomes valid through the payment of bride wealth (*malobolo*) by the husband's family to the parents of his prospective wife. While payment was traditionally made in heads of cattle, the trend is now for the bride's family to negotiate for increasing amounts of cash, which can lead to young people being unable to marry under customary law, while their marriage under civil law would not be recognized by their families. There is currently no law in place to protect the rights of women who are co-habiting with their partners. *Lobola* can trap a woman in an abusive marriage as it must often be repaid to the husband's family if she wants to divorce; the cost can be double if she has to pay the traditional court as well for the divorce proceedings. (De Klerk 2007; WLC 2010/2011)

- **Property and Inheritance Rights**

Inheritance is regulated differently in each ethnic group in Namibia, generally to the disadvantage of women and children, who have limited rights to inherit under customary law. A widow may lose everything through 'property grabbing' by the relatives of her deceased husband. Young widows are particularly vulnerable as they are relatively new residents in the community of their deceased husband and have achieved little standing in his family. Widows are sometimes accused of killing their husbands through witchcraft in order to disinherit them. In some cases, the widow herself may be seen as 'part of the estate', to be inherited by a brother or other male relative of her deceased husband. This leaves widows almost entirely in the control of their husbands' families and prevents them from taking advantage of the potential personal autonomy and economic independence that could come with widowhood. (LeBeau et al 2004; LAC 2005; WLC 2011)

- **Polygyny**

The term polygyny is preferred because in Namibia is only men who are permitted in terms of customary law to marry more than one spouse.

The 2006/07 Demographic Health Survey indicates that about 6 % of currently married women are in a polygynous union (having one or more co-wives). 3 % of men reported having two or more wives. This is a decline from the 2000 Survey, in which 12 % of women reported to be in a polygynous union and 4 % of men had more than two wives. (MoHSS 2008)

Older women, women who live in rural areas, women with no formal education and poor women are more likely than other women to have co-wives. Kunene Region has the highest rate of polygynous unions, comprising 17% of married women, followed by Zambezi Region with 11.3 %. Hardap and Karas Regions have the lowest levels at less than 2%. (MoHSS 2008)

In rural Africa the practice has been seen as an economic necessity, since multiple spouses and their children provide unpaid labour for men in communities where agrarian lifestyles are maintained. Field research into inheritance practices in the Otjozondjupa Region revealed that support for polygyny is divided along gender lines. Female respondents viewed polygamy as treating women as nothing more than 'domestic servants', whereas male respondents argued that polygamy is justified as women outnumber men. (Ovis 2005)

Many women interviewed in the Zambezi Region recounted the difficulties of having to share a husband with other women, favouritism by their husbands leading to jealousy and practices of witchcraft. Some also reported an increase in domestic violence once a second wife had joined the household. (WLC 2010/2011)

Any meaningful debate on whether or not to grant legal protection to polygamous marriages has to be viewed within a socio-economic context. Social need may contribute to more women viewing polygamy as a means of evading poverty. As is the case with levirate unions, women's choices may be dictated by the threat of being left either destitute or in abject poverty. The majority of rural women may still only access resources through men. The question of protection under the law under such circumstances may do more harm than good, particularly in the face of HIV/AIDS and poverty. (Ovis 205)

The draft Recognition of Customary Marriages Bill proposes to outlaw polygynous marriages. However, existing polygynous marriages contracted before the bill becomes law will enjoy legal protection.

Discussion

Each of the practices described above pose risks to the physical and mental health and well-being of rural women in Namibia. When taken together, they encourage and sustain cultural views of women as subordinate to men and as objects to be used for men's sexual pleasure. They undermine women's autonomy and violate their human rights to life, dignity, personal security, health, and freedom from violence. They also place women at extremely high risk of contracting sexually transmitted diseases, including HIV/AIDS.

Why do these cultural practices persist, in violation of the national and international laws governing Namibia?

Women living in rural areas have not yet become citizens of the new nation state of Namibia. They remain under the control of traditional (feudal) patriarchal family structures which are governed by customary law and ruled over by traditional authorities. The power of men over women is firmly entrenched in these three institutions.

While the civil law guarantees fundamental rights for all citizens, recognising customary law only to the extent that it does not infringe on individual rights, customary law emphasises restoration of balance among patriarchal family groups, rather than protection of individual rights, especially for women.

The Namibian state has failed to comprehensively review customary law to ensure that it is in compliance with Namibian civil law. In some regions of Namibia the majority of marriages are customary marriages, yet 25 years after independence the Recognition of Customary Marriages Bill is still not passed, along with the regulation of marital property, divorce and inheritance, all of which would provide for the protection of women and challenge and curtail the power of men over women and children in the so-called 'private' realm of the family.

This is acknowledged in the **National Gender Policy 2010 – 2020** as follows:

“Unfortunately, little has been done to remove gender discrimination in the context of customary law and traditional practices....issues such as customary marriage and divorce, inheritance and the rights of children have not been sufficiently addressed as yet in the law or policy framework...

Other factors leading to poor women's health include harmful traditional practices such as early marriages and dry sex. There is limited research on the magnitude and types of harmful practices in Namibia, but several media reports and public outcry indicate that dry sex, widow inheritance, initiation ceremonies for girls and women, treatments for infertility involving sex and unconventional treatments often administered by traditional healers, are practised in Namibia.”

Surprisingly, the Namibian government in its recent **Replies to the List of Issues, dated 15 May 2015**, states that: *“Widow inheritance and sexual initiation practices are not confirmed nor encouraged in the state party and there are no statistics available on the prevalence of these offences.”*

Yet in 2012 the Ministry of Gender Equality and Child Welfare commissioned the women’s rights NGO Women’s Leadership Centre to conduct a 3-day workshop with 23 traditional leaders (22 were men) in Zambezi Region on harmful cultural practices. The report provided to the ministry clearly indicated that all the traditional leaders, from the four main ethnic groups present in the region, admitted that all the harmful cultural practices documented through participatory research in the region by the Women’s Leadership Centre over the past 8 years were still prevalent in their communities.

Many of these harmful cultural practices contribute to the spread of HIV and AIDS, a fact that is still being ignored and denied by the Namibian government despite the evidence of HIV statistics. The statistics presented in government reports including the CEDAW report refer only to national averages of HIV prevalence, **obscuring the fact that over the past ten years, close to 50 percent of women aged 25 – 49 years tested in Zambezi Region were HIV positive!** The health and well-being of rural women in Namibia, in fact their sheer survival of the HIV/AIDS pandemic, is jeopardised every single day in which the government turns a blind eye to the issue of harmful cultural practices.

While the 4th and 5th Namibia periodic report refers to the **Zero Tolerance Campaign against gender-based violence** conducted by the gender ministry, which focussed on the issues of trafficking and baby dumping, **there is no campaign for Zero Tolerance of violence and human rights violations through harmful cultural practices.**

Instead, we witness the ‘re-invention’ of tradition through the **Olufuko Festival** in Omusati Region, spearheaded by senior government and state leaders, during which girls and young women are paraded at an agricultural trade fair as semi-naked “virgins” to presidents and businessmen fully clothed in western suits. This speaks to the marketing and commercialization of women’s bodies in the name of culture, not empowerment and the protection of rights. (Frank 2014)

Recommendations

1. The Namibian government should ensure that all enacted gender laws and policies are fully implemented and actually protect rural women across the country, especially those living under customary law and exposed to harmful cultural practices. This includes the full implementation and monitoring of the **Community Courts Act (2003)**.
2. The Namibian government should speedily adopt and implement the **Customary Marriages Bill** and other pending legislation specifically protecting the rights of women living under customary law.
3. The Namibian government should **commission research on harmful cultural practices** in all ethnic communities in Namibia, and collaborate with civil society organizations who have taken the lead on this issue. The **‘re-invention’ of cultural practices** that violate the dignity and rights of girls and women should be stopped.
4. The Namibian government should **regularly monitor progress** with regard to the elimination of all harmful cultural practices in Namibia.

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