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Culture and Gender Based Violence in South Sudan

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Abstract

Gender based violence (GBV) in South Sudan exists at a level that requires special acknowledgement. Although most studies so far carried out on the subject have been limited in terms of sample size and statistical analysis, they have nevertheless produced evidence of extensive domestic violence, early/forced marriages, wife inheritance, rape, abductions and sexual slavery among others. There are some cultural practices and social factors prevalent amongst the South Sudanese which perpetrates GBV such as the role of dowry/bride price, girl child compensation and abductions of women and children among others. Again, culturally, some forms of GBV such as wife beating are not viewed as a problem but widely accepted and tolerated. Also, the societal stigma that surrounds victims of sexual violence has a negative impact on reporting and access to treatment and justice. This article explores the link between culture and GBV in South Sudan. It makes the argument that South Sudanese culture encourages GBV and to a large extent informs its widespread prevalence.

Introduction

Gender Based Violence (GBV) is a cause for concern the world over as it has emerged as a serious global/public health, human rights and development issue. By definition, GBV inexhaustively includes all kinds of any acts or conducts of violence meted against the apparently less privileged gender by the stronger or privileged one. Such acts include but not limited to rape, beating, causing bodily harm, emotional abuse and mistreatments, which maims, causes death, or physical, sexual or psychological harm, or suffering to women/men, whether in the public or private sphere. Some studies show that most of the victims of GBV are women and further point out that GBV subjected

to men by women maybe as a result of women responding to men's use of violence against them (UNDP, 2008). To the contrary, cases of GBV against men are on the rise in some countries such as Kenya (Kang'ethe, 2014). In addition, sexual violence against men and boys has been reported as "regular and widespread" in conflict-affected environments such as the Democratic Republic of Congo (DRC), Bosnia, Liberia among others (Shteir, 2014). Issues of GBV therefore need to take cognizance that any gender can produce perpetrators and victims.

Culture on the other hand denotes the way that people live their lives. It includes knowledge, beliefs, morals, law, customs, norms of behaviour and other habits particular to a group of people or a community. Culture is central in understanding the phenomenon of gender based violence within a community. It is argued that GBV is rooted in discriminatory social norms and power inequalities between men and women in social, economic and political spheres of life. For example, in a number of contexts involving armed conflict globally, rape and sexual assault has been used as a tactic to humiliate, intimidate, displace and traumatize communities. The use of rape and sexual assault as a tactic of war has a deep, tacit link with the acceptability of all forms of GBV during times of peace.

In South Sudan, the vast majority of women and girls will survive at least one form of GBV –be it rape; sexual assault; physical assault; forced/early marriage; denial of resources, opportunities or services; or psychological/emotional abuse. Many categories of GBV are pervasive and engrained in the fabric of society. All tribes and geographical regions have some differences in terms of prevalence, but the thread of GBV sadly runs throughout the country, with bride price as a cornerstone of the nation's economy (CARE, 2014).

This article focuses on the relationship between culture and GBV in South Sudan. It looks at the nature of the problem and the ways and forms in which its perpetrated. It explores some of the theories explaining the existence and prevalence of GBV as well as the cultural and social factors perpetuating it in South Sudan. The culture of silence on GBV issues is also examined and the current ways in which GBV cases are handled by the customary courts. The article ends with a conclusion and recommendations.

Theoretical Framework

Gender Based Violence is one of the most controversial topics in general social sciences discourse as well as different school of thoughts which seek to implement their own perspective in the issue. To date, theories of GBV have been strongly influenced by either the biases of psychology, sociology, and criminology or the ideological and political agendas of feminist activism. Two discourses are however central in explaining GBV in South Sudan.

GBV is supported by norms and values surrounding masculinity, femininity, family, and heterosexual relationships within the culture at large. These norms and values perpetuate the vice and explain its widespread prevalence. Violence is therefore a logical extension of the broader cultural norms and practices. The occurrence of GBV - whether in its more crude forms or in its structural expressions - becomes accepted “norm” of life, and part and parcel of how societies perceive and recognise themselves (O’Neill, 1998). Feminist position in this discourse strongly argue that male to female violence cannot be separated from the patriarchal ideology, normative foundations, institutional arrangements in society, sexist norms, and historical legacy of male dominance, which socialize men, support and legitimate their violent behaviour towards women (Dobash & Dobash, 1992).

Related to the normative support for violence is the social theory of gender and power (Connell, 1987). In this discourse, GBV originates from unequal power relations (imbalances) between men and women and serves to maintain them among both groups and as individuals on the personal, household, community and state levels. In particular, violence against women has always been a tactic by which men maintain control over and exploit women’s bodies and labour and has been used when a woman does not comply with the perpetrator’s wishes or as a means of displacing a man’s anger or bolstering his sagging masculinity (Bisika, n.d).

Data

This paper relies on both primary and secondary data. Primary data is derived from a recent study conducted by Gatimu (2015) on sexual and gender based violence interventions in South Sudan by different actors including the government, civil society organisations and UN agencies. Secondary data is sourced from previous studies on GBV, books, reports, journals etc.

Gender Based Violence in South Sudan

Gender Based Violence (GBV) is a serious problem in South Sudan. It occurs in the public as well as domestic spaces. There are those forms that have been perpetrated since time immemorial by the South Sudanese. Issues such as early and/or forced marriages, elopement, abductions of women and children (both boys and girls), girl child compensation, wife beating, wife inheritance etc. are not necessarily new amongst the South Sudanese. These forms of GBV are culturally accepted and for the majority, they are not seen as a problem.

Accusations of adultery, husbands not being able to sustain their wives, rape cases, defilement, denial of education for girls, denial of property ownership for women, young women stabbing their husbands who they were forced to marry, sexual harassment in places of work, and rape-related pregnancies, among others are GBV issues that are happening now and people have started talking about them (Gatimu, 2015). There are also those cases of GBV that are considered “deserved” by

the South Sudan society. For instance, if a woman is raped, the attention will shift from her as a victim to how she dresses or was dressed at the particular time of the incident. If she was dressed “inappropriately” then such an incidence (rape) will be considered deserved for her. In other instances, wife beating is seen as a show of love and cases of marital rape are also seen as deserved. Conflict-related GBV cases have also been reported overwhelmingly in South Sudan, especially after the new conflict that broke out in December 2013. Rape and sexual violence has been perpetrated against civilians by both government and opposition forces. The forms of sexual violence used during the conflict includes rape, sometimes with an object (guns or bullets), gang-rape, abduction and sexual slavery, and forced abortion in all the affected states. In some instances, women’s bodies were mutilated and, and in at least one instance, women were forced to go outside their homes naked (UNMISS, 2014; Amnesty International, 2014). In addition, IDP camps within and outside UN compounds have become breeding ground for rape.

Other new forms of GBV are happening in prisons. Gatimu (2015) found out that some officers ask for sexual favours from young girls in jail due to petty offences and from those that have been jailed after stabbing their husbands (usually older) whom they were forced to marry as pointed out in the preceding discussion.

The Culture of silence on matters of GBV

The fact that all these forms of GBV exists and are being perpetrated in South Sudan is not in contention. However, the culture of silence amongst the South Sudanese on GBV issues is surprising. Gatimu (2015) found out that GBV is seen as a domestic issue and hence should be solved at the family level regardless of the type and form, and whether the victim is injured or he/she has died out of the GBV-related circumstances. Victims rarely report cases of sexual violence due to cultural inhibitions related to fear, shame and stigma. In the study, one key informant from UNMISS observed the following:

“In incidences where rape occurs, most South Sudanese do not talk about it to external people or people outside their family because it reduces the honour of the family, it is a shame and if it’s a case of an unmarried girl, then it is argued that she will never find an honourable man to marry. Even in the Protection of Civilians (PoC) sites, when it happens, they do not report it to the UN police or even to an elder in the community. They instead report the matter to the senior-most person in the family, discuss the gravity of the issue internally then decide whether to go to the police or not. Meanwhile, the family of the victim is still talking to the family of the perpetrator to see whether they can get compensation. What is unfortunate is the fact that they do not consider the rights of the survivor or the health consequences of the rape. If compensation occurs, the men are happy but if the victim (girl/woman) gets really sick, then its the responsibility of the women in the household to get her

medical assistance. The women first look for traditional herbs, they only go to the hospital when its very serious. This is the only time they will talk about rape, or the fact that their daughter was raped.”

XY key informant (Juba, 24 March 2015).

There are implications of this culture of silence on accessing treatment and justice. As pointed out in the quote, victims of sexual violence such as rape do not seek medical attention immediately and they only do so if and when they get really sick. They instead seek traditional medicine in the form of herbs and only visit the hospital when the traditional medicine has failed. The South Sudanese generally have a lot of faith in their traditional medicine and by extension traditional ways of solving problems. In cases of rape, most of the victims will go to the hospital when its already too late to do an examination or tests which can give medical evidence to aid the prosecution of the perpetrator in a statutory court. Although rape is a criminal offence, most of the rape cases are handled by the customary courts and do not need medical proof of rape. Additionally, seeking medical services when it is already too late means that some treatment such as post-exposure prophylaxis for STIs/HIV will not be effective. This treatment ideally should be taken within 72 hours. This therefore makes it difficult for the health service providers to offer much help to the victims.

Role of Dowry/Bride price

Gatimu (2015) study confirms the arguments already in the literature about the position of women in South Sudan (Gross *et al.*, 2010; CARE 2014). South Sudanese culture emphasizes the cohesion and strength of the family as a basis of society. This is a good thing but it places undue pressure on the women to keep their marriages and also makes them vulnerable to GBV. Since the male is the undisputed head of each household, the role of women in this social pattern is that of cementing family ties through “bride-wealth” and of producing children. As a result, women are often marginalised in their families as argued below:

“In South Sudan, when a girl is in her father’s home, she is considered a source of income to the family since she will be married off at some point and the family will receive dowry in the form of cows and other material goods. The girl however has no right to choose her spouse and have no say in the family affairs. When she gets married, she also does not have a say in her matrimonial home. In the communities of South Sudan, a woman is just a woman....”

XZ Focus Group (Juba, 23 March 2015)

South Sudanese families exchange women for various benefits during the formation of marriages. Families arrange marriages across the tribes and send women to live with their husbands to solidify

relationships between clans through the production of children. As a result, families often view young unmarried girls as economic burdens. The practice of considering bride-price offers otherwise known as “booking” can happen when a girl is as young as five years old with marriages potentially initiated as early as the girl’s first menstrual cycle (CARE, 2014). When a man marries, his family pays the bride’s family “bride wealth” in the form of cows or other livestock such as donkeys, sheep, and goats. In a place where extreme poverty is common, this bride wealth can be critical to a family’s wellbeing; families marry their girls out early and feel as if they have no choice in the matter (Gross *et al.*, 2010).

The bride-wealth system also acts to prevent divorce even where marriage is violent or otherwise unbearable. Most young men need their family members to contribute to their bride wealth. Upon marriage, the bride wealth is distributed among members of the bride’s family. Thus, many family members benefit from and rely upon the couple’s marital success. Although this helps fortify family ties, it also discourages divorce, since divorce requires the collection, return and redistribution of bride wealth. This is a complicated and cumbersome process bound to anger many family members. In addition, many of the assets the bride’s family members received in bride wealth may no longer exist at the time of divorce; the cattle from bride wealth may have died, been slaughtered for food or been stolen. Therefore, the pressure women face to preserve family cohesion makes them more likely to stay in abusive marriages than to end them. This all leaves women in a vulnerable position that makes them targets for GBV and unlikely even to seek justice when they suffer it. South Sudanese society expects women to be responsible for the care of their children but men retain control over major decisions about child rearing. Additionally, societal norms demand that women meet the sexual and child-producing needs of their husbands without fail.

Girl child compensation

This is an age old practice in some communities in South Sudan, especially in Eastern Equatorial that perpetuates violence against girls. Girl child compensation usually occurs in such a situation whereby if a person from one clan decides to kill another from a different clan, mostly out of a dispute, then the members of the aggrieved clan have the right to go to the clan of the murderer and demand compensation. This compensation is not in terms of cows or fine goods but is demanded in form of a human being, who has to be a girl. The killer is left unpunished and the girl is left to suffer. When the girl joins the new family, she becomes a slave often being left to do tedious domestic chores and does not find parental care and love from that family (Gatimu, 2015). In such a situation, if a girl is chosen for compensation, she has no choice but to obey. This practice has prevailed in some communities but others have since stopped the practice. It is a form of gender based violence perpetuated against young girls.

Abductions of women and children

Abductions of women and children occur during cattle raids in South Sudan and they have been happening since time immemorial. If the raiders do not find cattle, they abduct women and children. Upon arrival, if the abductor does not want to marry the woman abducted, he can sell her off or marry her to another man and demand dowry from the man. Young girls on the other hand are abducted to go and perform domestic chores in the abductors home while abducted boys are expected to go and look after cattle. In some instances, young boys are abducted and recruited as child soldiers by armed forces and groups.

Levirate and wife inheritance

In South Sudan, many believe that if a man dies, his wife does not have any right on her status since bride price was already paid for her. It is argued that it is the family of the late husband that is supposed to nominate a man to take responsibility of the widow so as to continue in the footsteps of the late. This is not a unique thing in African societies because in many cultures, it is expected that the brother of the late man will take responsibility of his brother's wife and also the elder son in a family is expected to take care of his father's wives if his father dies. This is not an entirely bad arrangement as it ensures that widows and orphaned children are taken care of by their extended families. However, a woman should have a right to decide whether she wants to be inherited or not but in South Sudan, women do not have a right over this issue.

Akechak *et al* (2004) observes that in many African societies, including Southern Sudanese society, there exists a custom known as *levirate* under which women remain married to their dead husbands and cannot marry again unless they obtain a divorce from their dead spouse. Children continue to be born to them by the deceased husband's surviving kinsmen but bear the name of and are considered in all respects progeny of, the dead man. This custom results in a practice known as wife inheritance. A man may also marry a woman in what is known as *ghost marriage* to produce children in the name of a dead male relative. Additionally, men fear "complete" or "true death" – that is, a man dying without having fathered children or without children having been assigned to him. For these reasons, South Sudanese society has developed ways to ensure that men have heirs. For example, social paternity takes precedence over biological paternity and therefore a man can assign his children to a relative to ensure that the relative has heirs (Gross *et al*, 2010).

As pointed out earlier in the discussion, South Sudanese society expects women to be responsible for the care of their children, but men retain control over major decisions about child rearing. As described above, assignment of a woman's children may be out of her hands after her husband's death and even while still living, he can decide to assign some of his children to another relative

without the consent of the mother or child. The ability of the men to control these practices gives them great bargaining power in any dispute with the woman and puts any woman who seeks justice in a vulnerable position.

The justice system in customary courts

As mentioned earlier in the discussion, most South Sudanese do not like talking about GBV to persons outside their family because it reduces the honour of the family and it is also a source of shame and stigma to both the victim and the family. Therefore, when an incidence occurs, most will try to handle it at the family level. Usually, the male members of the families involved discuss the issue and consider its gravity then agree on how much compensation must be paid by the perpetrator or any other way of resolving the issue amongst themselves without reporting to the police or going to court.

Once family to family dispute resolution fails, most South Sudanese take the matter up with the traditional/customary courts. The type of cases handled by the courts mostly involve marriage disputes including divorce and wife battery, issues of inheritance, rape and other capital offences. GBV in South Sudan falls at the nexus of criminal and family law. Family law is inextricably intertwined with customs and traditions and is the purview of the customary courts. Criminal law currently exists in a jurisdictional limbo with some cases going exclusively to customary courts. Even serious cases such as rape are brought with greater frequency for adjudication according to customary law. Different ethnic groups apply somewhat different customary laws (Haki, 2011).

In the Dinka customary law for example, rape cases are punished primarily by compensation to the victim's family. In the case of a married woman, cows are paid to the husband and in the case of an unmarried woman to her parents. Therefore, women survivors are side-lined while perpetrators and survivors' families handle the dispute. Usually a cow will be sold to pay for the woman's treatment. Rape cases are not punished severely in terms of imprisonment. Men are only sentenced to three months prison for rape, unless the woman is married, in which case there is additional punishment for adultery with another man's wife.

In Juba, amongst the Bari and Mundari speakers, rape cases that are brought to the customary courts normally have already reached a consensus that the man must be punished. Where a woman is not yet married, the rapist will often be forced to marry the girl before the case is ever brought to the court. This is often a preferred alternative for both parties, as the man does not receive jail time or have to pay a large fine and the woman and her family do not face the public stigma of having an abused and now, unwanted or "tainted" daughter who would be difficult to marry. Where the woman or family does not agree to marriage or where the woman is already married and abused by a stranger, the courts will punish the man on multiple counts.

Wives are almost universally considered the property of their husbands largely due to the dowry paid for them universally throughout South Sudan as mentioned in the preceding discussion. Men consider the dowry as giving them a right to discipline the woman as they please and families always reinforce this perception. However, wife beating still occurs even when no dowry has been exchanged, suggesting a deeper cultural practice not linked entirely to material considerations. As a result, and largely a reflection of these cultural norms, wife abuse is tolerated by most customary courts. For example, in Juba, in the Bari and Mundari speaker's customary courts, tolerance of spousal abuse is high. The chiefs do reprimand husbands for beating their wives, even when there was an apparent reason, but punishment of the man does not go beyond a small fine, even where severe beatings occurred and the wife was pregnant. In most cases, there is always a legitimate reason for wife beating that places the blame on the woman rather than the man. There are varying degrees and contextual considerations within each tribe, but in all the regions, some amount of discipline or wife abuse is accepted.

Lastly, corporal punishment is a regular practice across the courts and tribes in South Sudan. Lashings are given as punishment to both men and women. Women, however, are often given lashings in an addition to beatings they already received at home. Lashings given as discipline to women in the courts reinforce the acceptance of violence against women for misbehaviour (Haki, 2011).

Conclusion

Every society has its own cultural norms and practices. While some cultural practices are good, some continue to infringe on women and children's rights. In the case of South Sudan, promoting family cohesion and stability is good for the wellbeing of children and the society at large and so does ensuring that orphaned children and widows are taken care of. However, such practices have been found to put undue pressure on women and girls and infringed on their human rights as discussed in the paper. Other age-old practices such as girl child compensation and abductions are also a human rights issue. As pointed out in the discussion, these practices constitute gender based violence which is also a global health and development issue.

Therefore, in South Sudan, a lot of awareness raising needs to be carried out on especially these negative cultural norms, values and practices that perpetuate GBV. This can be spearheaded by civil society in conjunction with community leaders. The South Sudanese need to change their mind-set and recognise that there is something terribly wrong with the way they treat their women and girls. In addition, the current traditional justice system does not help either in protecting women and children rights. The majority of the customary law systems show plainly a conflict between international human rights laws and rights granted to women and children in the customary law.

There is need to initiate dialogue with the leadership of the customary courts by the lawmakers, community leaders and the judiciary to find ways of harmonizing the customary law with international law.

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