

Widow Cleansing in Malawi

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Abstract

When considering effective standards for addressing the dehumanizing violence and discrimination that women suffer by virtue of their gender, it is important to revisit the context and definition of such practices. This paper examines contemporary women's issues and empowerment from a global perspective. It discusses the topic of widow cleansing in Malawi and its various systemic interconnections. Firstly, it presents the pertinent background and historical context of the issue of violence against women. Next, this paper introduces the topic of widow cleansing and the tension between the international and local discourse. Then, it reveals the intersectionality of issues related to this meaning was revealed. This paper assesses the efficacy of respective international and local initiatives. Finally, limitations and best practices in response to the issue of widow cleansing in Malawi are proposed.

Key Words: Widow cleansing, Kupita Kufa, Malawi

1. Pertinent Background on Violence against Women

Violence against women is deeply rooted in human history and it is universally perpetuated through social and cultural norms (Raday, 2003). This "rule of thumb" dates back to laws, such as Judeo-Christian religious ideas, Greek philosophy and Common law legal codes, that gave man permission to have authority over his wife (Fox, 2002). As a result of this deeply entrenched patriarchal culture that encourages and rewards male domination, men are more likely to use violence to keep their dominant position. Some of the known violent life-threatening traditions against women range from the financially motivated act of property grabbing in sub-Saharan Africa to sanctioned crime of violent exorcism and death such as Sati in India (Burn, 2005). The definition of violence in this paper is taken from the U.N. Declaration on the Elimination of Violence Against Women to include: "Any act [...] that results in [...] physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty whether occurring in public or in private life" (UN.org, 1993). As noted by UN.org (1993), violence against women is pervasive. It cuts across lines of age, social class, location, education attainment level, health, income levels and more. Most human rights instruments, however, do not take cognizance of the women especially vulnerable to this form of violence: widows (Limann, 2003). It is important to understand the meaning of gender-based violence and its evolution in order to determine underlying issues as well as appropriate and efficient change initiatives. This paper will follow this framework by discussing the topic of widow cleansing.

2. International and Local Discourse on Widow Cleansing

Though the practice of widow cleansing is internationally considered a discrimination that women suffer by virtue of their gender, locally, it is considered to be a harmless cultural rite that protects the women from societal dangers. Widow cleansing, also known as sexual cleansing or Kupita Kufa, is defined by the international community as a practice in which a widow is forced to have unprotected sex with one of the deceased's male relatives with a view of exorcising the ghost of her late husband (Nytimes.com, 2005). This practice is common in most sub-Saharan African countries such as Kenya (Allafrica.com, 2007). However, in Malawi, the discourse is different. According to Nyanzi, S., Emodu-Walakira, M. & Wilberforce Serwaniko, W. (2009), as part of a customary practice during the period of mourning and bereavement, widow cleansing is the last funeral rite; following the burial and rites of desexualizing the widow- neglected bodily hygiene, bares shoulders, publicly wailing- in order to keep away the ghost of her dead husband.

During this ritual, the widow is appointed an heir and provider, known as a levirate or omukuza, by her husband's clanmates. This choice of the levirate is based on wealth, responsibility, compassion and family relations. The widow must consummate this union in order to sever the ties with her deceased husband and "burst the death off from her" (Nyanzi, S., Emodu-Walakira, M. & Wilberforce Serwaniko, W., 2009). The tension indifferent meaning of widow cleansing is readily apparent in the discourse. Widow cleansing is predominantly considered, by the international community, to be an act of victimization by which women are forced into patriarchal sexual diktats. Malawi, however, challenges the sexualisation of this "holy" levirate relationship. The local perception is that westerners are too blinded by their perverse cultural lens to see the benefit of this voluntary ritual. It protects the women from the hardships of widowhood; which include fighting off sexual advancements, challenging claims over property inheritance, difficulty fending for dependent, and neglect and isolation.

3. Intersectionality of Widow Cleansing

The meaning associated to widow cleansing widowhood has transformed due to intersectionality of power dynamics, globalization, health, religion and economy (Cole, 2009); all of which factor into the issues of widow cleansing. Firstly the power dynamic associated to the meaning of widow cleansing is that there is a gender disparity. Will making, in Malawi, is traditionally gendered. Women are not allowed to partake in the choice of her levirate. As such, they are not allowed to be self-sufficient and are treated as possessions. This has been internationally criticized as a form of human sex trafficking. When an individual's right to freely choose not to participate in cultural practices is violated, cultural norms that are harmful and discriminatory cannot be defended in the name of culture (Maleche & Day, 2011). Secondly, globalization has also been locally criticized for its contribution to the redefinition of widow cleansing and the issue related to it. Due to rural urban migrations, in response to international economic and trade demands, there has been a breakdown in extended family ties. This has led to an absence of widow cleansing coordinators. As a result, many are not certain of the customary role of the omukuza. Besides, the cultural implications of this movement, awareness of women rights has also led to a strict adherence to this custom. Thirdly, the international community has heavily criticized widow cleansing as the source of health epidemics spread and reoccurring deaths related to HIV/AIDS (Geubbel, E. & Bowie, C., 2006).

There are also many physical and mental health effects related to the physical and mental abuse involved in the practice of widow cleansing (Goodman, L., Koss, M. & Russo, N. (1993). Religion also plays a very critical point in the redefinition of this phenomenon as believers negotiate between customary laws and religious commandments. This phenomenon has led to religious synchronization as new world beliefs and traditional African practices (Rankin, S., Lindgren, T, Kools, S. & Schell, E., 2008). Malawians also depend heavy on the counsel of their religious leaders who play essential roles in facilitating the process of dealing with death and provide some structure to the mourning and funeral rites. Lastly, the redefinition of widow cleansing has been led by economic hardships. As Malawians face financial hardships, some have settled for alternative forms of widow cleansing. Instead of being assigned trusted and respected levirate, due to absence of coordinator, women are opting to purchase the services of profession widow cleansers. "These veteran cleansers charge \$50 for their services, in a nation where a smallest salary is reduction than \$1 per day" (Maravipost.com, 2012; Newint.org, 2009; Wptz.com, 2013). Women also revealed that there were many instances when the levirate would just take the inheritance and disappear without performing their duties as a guardian (Nyanzi, S., Emodu-Walakira, M. & Wilberforce Serwaniko, W., 2009). Women who cannot afford these levies settle for other symbolic forms of the ritual such as having a man jump over their legs or belt.

4. Efficacy of Respective International and Local Initiatives

In response to the aforementioned issues related to the transformative nature of the meaning of widow cleansing, there have been several international and local initiatives. International institutions such as The United Nations' Charter and the Women's Convention on the Elimination of all forms of Discrimination Against Women (CEDAW), the African Union Solemn Declaration on Gender Equality and the SADC Gender and Development Protocol, were set in place to counter the gender, globalization, health, religious and economic-based issues related to widow cleansing. Inherent limitations to these laws, in terms of implementations and accountability, have however brought insignificant changes to the issues (Etienne, 1995). In fact, on 18 December, 1979, Malawi refused to concede to Convention on the Elimination of All Forms of Discrimination against Women (Treaties.un.org, 1979; see Appendix A). In 2009, however, media's interference, brought on by Seodi White, generated a domino effect in gender equity reforms in Malawi (CNN.com, 2009).

Seodi's outspoken campaign for gender justice in Malawi was the force behind the establishment of many grassroots level initiatives such as the Malawian chapter of Women in Law in Southern Africa (WLSA) (Wptz.com, 2013). Other local initiatives were done at national institutional and policy frameworks levels. As a well-known educator and grassroots women's rights activist, the now president, Joyce Banda, the 2nd female president in Africa, and then minister of Ministry of Gender, Youth and Community Services, developed national gender policies that implemented institutional reforms such as the revision of school curriculum (Preventgbvafrica.com, 2009; UNwomen.org, 2011). There were also many awareness campaigns and events centered on the issue of gender inequality (UN.org, 2013; see Appendix B). National workshops, mandated by the Southern African Development Community (SADC)'s Gender Development Protocol, encouraged discussion on the Role of culture and tradition in the detrimental perpetuation of women. This initiative also resulted in the formation of Forum for Members of Parliament with Traditional Leaders and Civil Society. Such reforms helped advance the initiative to sensitize religious leaders and teachers. They also trained and reformed police practices. Other community based interventions in Malawi are legal clinics and Nkhata Bay Victim Support Unit. Malawi has also made provisions for gender budgeting and a review of the Wills and Inheritance Act. The Network on Violence against Women and the Malawi Human Rights Resource Centre co-ordinate nongovernmental activities within the country (Un.org, 2013).

Despite these international and local efforts, there are still limitations to those initiatives. There are gaps between policies and implementations. Corruption and lack of funding threaten the efficiency and sustainability of these initiatives especially at the non-governmental level. In addition to this, the limited participation of women in key processes such as policy establishment leads to non-harmonization of laws and practices (Isiria.wordpress.com, 2009). The lack of domestication of international treaties is due in part to information gaps in planning and programming gender development initiatives. The gender mainstreaming efforts have also been limited by the deprivation of extra-legal strategies in the form of human rights activism and grassroots initiatives. The troubling shortage of African lawyers examining the continental crisis of customary laws and customs needs to be addressed (Kahn-Fogel, 2012; Wenda, 2008). This will result in the development of efficient policies, increase awareness and empowerment. Finally, changing public attitudes about widow cleansing and other forms of gender equity is hard but essential. In a patriarchal society such as Malawi's, the cultural practice of widow cleansing are engrained. Through honest discussions and introspections, with time, this may be an achievable goal.

Overall, widow cleansing adds to variety of "the rule of thumb" (Fox, 2002). The meaning of widow cleansing reveals tensions between international and local discourse. However, more pertinent to this issue are the underlying issues related to the redefinition of widow cleansing: power dynamics, globalization, health, religion and economy. The many international and local initiatives have catalyzed a domino effect of gender equity reforms in Malawi. This paper neither attempts nor claims to solve the issues related to widow cleansing. It suggests, in response to the issues of widow cleansing, local and regional goals should be to: firstly, bridging the gaps between policies and implementations, secondly, satisfying the need for extra-legal strategies, and lastly, putting in motion the necessary ground works to changing public attitudes about gender equity. Future research should focus on a comparative study of widow cleansing issues in matriarchal and patriarchal societies. This may help determine underlying issues unrelated to male dominance in society. It is time for equality to be the rule of thumb.

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Appendix A

Malawi's refusal to adhere to the CEAFDW (Treaties.un.org, 1979)

35. On 24 October 1991, the Government of Malawi notified the Secretary-General of its decision to withdraw the following reservations made upon accession:

"Owing to the deep-rooted nature of some traditional customs and practices of Malawians, the Government of the Republic of Malawi shall not, for the time being, consider itself bound by such of the provisions of the Convention as require immediate eradication of such traditional customs and practices.

"While the Government of the Republic of Malawi accepts the principles of article 29, paragraph 2 of the Convention this acceptance should nonetheless be read in conjunction with [its] declaration of 12th December 1966, concerning the recognition, by the Government of the Republic of Malawi, as compulsory the jurisdiction of the International Justice under article 36, paragraph 2 of the Statute of the Court."

In respect of the first reservation, the Secretary-General had received, on 5 August 1987, from the Government of Mexico the following communication:

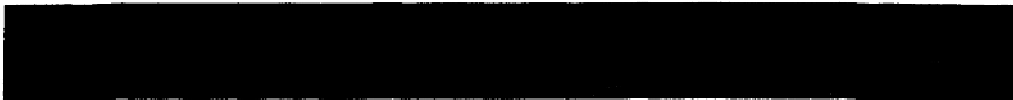
The Government of the United Mexican States hopes that the process of eradication of traditional customs and practices referred to in the first reservation of the Republic of Malawi will not be so protracted as to impair fulfillment of the purpose and intent of the Convention.

Appendix B

Statement by the Minister of gender, children and social welfare (Un.org (2013))



MALAWI



STATEMENT

BY

THE

**MINISTER OF GENDER, CHILDREN AND SOCIAL WELFARE,
HONOURABLE ANITA KALINDE, MP**

PRESENTED

AT

**THE FIFTY-SEVENTH SESSION OF
THE COMMISSION ON THE STATUS OF WOMEN**

NEW YORK, 4TH TO 14TH MARCH, 2013

CHECK AGAINST DELIVERY

Chairperson,

Allow me to join all the previous speakers in congratulating you and your bureau on the excellent manner in which you are conducting matters of the committee. You can be assured of my delegation's cooperation and support.

My delegation would like to align with the statements delivered by the distinguished representative of Fiji on behalf of the Group of 77 (G77) and China, and Chad on behalf of the African Group, and I express the full support to the Addis Declaration of the African Union.

Elimination and Prevention of all forms of Violence against Women and Girls is placed high on Malawi's development agenda. The Government of Malawi reaffirms its commitment to the implementation of the Convention on the Elimination of all forms of Discrimination Against Women (CEDAW), the Beijing Declaration and Platform for Action; the United Nations Security Council Resolutions 1325, 1820, 1880 and 1890, the Convention on the Rights of the Child, AU Protocol on the Rights of Women in Africa; the African Union Solemn Declaration on Gender Equality, and the SADC Gender and Development Protocol among others.

Chairperson,

Malawi has domesticated the international instruments to promote gender equality and women's empowerment through the Constitution which has enshrined the bill of rights in Chapter 4 and it states that violence against women is an evil that needs to be eradicated in the society. In addition, the Prevention of Domestic Violence law of 2006, the Child Justice and Protection Act of 2010, and the Deceased Estates (Wills, Inheritance and Protection) Act of 2011 have also been enacted. 120 prosecutors, magistrates and social workers were trained in the gender related laws in 2012 and 34 Child Justice Magistrates, 37 Probation Officers, 39 Prosecutors and 34 court clerks were trained in child justice system to strengthen the provision of the judicial services in all the Magistrates Courts in the country. Two child friendly courts are operational in two major cities of Blantyre and Zomba.

The Malawi Parliament last week passed the Gender Equality Bill into law to strengthen the operationalization of CEDAW. The Act offers a protective mechanism towards the violation of the rights of females and outlines explicitly the areas under which discrimination, harmful cultural practices and sexual harassment are prohibited among others.

Chairperson,

The Malawi Growth and Development Strategy (MGDS II) which is an overarching policy framework has included gender mainstreaming as one of the priority areas which covers strengthening of institutional capacity, engendering of budgets, eradication of gender based violence and the promotion of participation of women in Politics and decision-making. The Government has put in place a National Response Framework to serve as a strategic policy instrument for the multi-sectoral approach in the prevention and eradication of gender based violence in Malawi.

Malawi has established Victim Support Units in 34 police stations, 13 police posts and 200 Support Units in 300 Traditional Authority institutions. Malawi has established 20 One Stop Centres in the central and district hospitals and 4 of them are operational. To date 30% of the reported cases of violence are prosecuted. The multi-sectoral approach has enabled Malawi to work with "Men for Gender Equality Now" an NGO which has been conducting travelling conferences from 2003 in collaboration with their regional counterparts. Annually the organisation reaches about 1.5 million people while the multi-media campaign reaches over 6

million people. Consequently the culture of silence has been broken and there is a marked increase in the number of reported cases of violence against women.

Chairperson,

Furthermore, women and girls, who constitute 52% of the population in Malawi, are more vulnerable to HIV transmission and impacts of AIDS than men and boys. Of the 920,000 people living with HIV, about 470,000 are women and 120,000 are children aged 0 to 14 years. Sexual abuse of children, poverty, unequal power relations, high levels of illiteracy, burden of care that women shoulder, poor access to HIV and AIDS services including care and treatment are still troubling issues. The fight against HIV and AIDS at all the levels continues. Malawi has also accelerated the implementation of safe motherhood programme with the establishment of an office in the Office of the President and Cabinet and involvement of the traditional leaders. The soothing news is that according to UN estimates of 2012 maternal mortality ratio has declined to 460 from 675 per 100,000 live births in 2010.

Chairperson,

Despite the progress in the fight against gender based violence, challenges such as inadequate resources to roll out best practices, increased natural disasters due to climate change, limited access to justice services; poverty among women, poor and inadequate infrastructure, persistent harmful cultural practices, and resistance to behavior change remain.

The assistance rendered by the United Nations family and other development partners towards the fight against gender based violence is appreciated. Malawi is however appealing to the United Nations and all the cooperating partners to increase resources allocation for the Violence Against Women programmes.

Finally, allow me to conclude by stressing the importance of partnerships in the realization of peaceful societies free from violence.

I thank you.