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DISCUSSANT

ANIEKWU NKOLIKA (MRS)
Department of Public law
Faculty of Law
University of Benin
Benin City

Comments on

Religion and Sexuality: Individuality,
Choice and Sexual Rights in Nigerian
Christianity

PROFESSOR MATTHEWS A. OJO
Department of Religious Studies
Obafemi Awolowo University
Ile-Ife, Nigeria

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Introduction

The main paper examines the following;

- The Nigerian Christian church's approach to sexuality from a conservative biblical standpoint, as opposed to the liberal view of sexual rights, choice and freedom;
- The regulation and control of sexuality and sexual behaviors, and the extent to which Christian groups recognize member's sexual rights in the pursuit of pleasure and fulfillment;
- The ongoing Christian concern about individual choices, reproductive rights, sexual freedom and the debate to extend human rights to the sexual and reproductive spheres.

Issues in Focus

The paper focuses largely on religious piety and Christian perspectives of sexuality and sexual expression against the background of the teachings of the church. In particular, premarital sex, abortion, homosexuality and lesbianism are viewed as "*permissive and secularist challenges*" to traditional Christian biblical principles and African cultural values, to wit, sex within marriage, virginity, fidelity, heterosexuality and procreation, self denial and submission.

Human Rights Standpoint

My paper attempts to discuss the above issues from a human rights standpoint of sexual rights as an international human rights concept that is oftentimes gender related. I contend that sexuality is a fundamental aspect of the human personality and that an active system to protect sexual health and choice be promoted and defended. My position stems from the perspectives of sexuality and Christianity as the main paper suggests, and my discussion will attempt to illuminate intersecting issues of sexual rights as human rights, albeit within religion and private life.

Sexual Rights

"Sexual rights" has recently emerged as a term used in the international human rights agenda. However, the issues considered under the rubric of sexual rights have a long history in the resistance(s) to society's regulation of sexuality. The advocacy for sexual rights, within the public and private spheres, is fashioned on conceptual and activist work that has been done in a variety of fields, including human rights, reproductive health and gender issues. According to WHO, "sexual rights embrace certain human rights that are already recognized in national laws, international human rights documents and other consensus documents" and are embedded in the ideal of women's enjoyment of their sexual autonomies [WHO 1988]. This capacity to enjoy their reproductive and sexual lives is inextricable from women's health, marital happiness and general well being.

Conceptual Foundations

The conceptual foundations of sexual rights lie in at least two distinct but related histories.

Violence as Violation

One is the development of concepts and jurisprudence in women's human rights, and in particular, of violence against women. Work on sexual violence as a human rights violation has highlighted the way in which women's sexualized bodies are so often the target of human rights abuses. The fact that women's lives (and the construction of their gender – roles in societies) are curbed by ideological/religious constrictions placed on their freedom to exercise these rights, underscores the imperative that recognition of the right to bodily integrity and sexual autonomy will not be achieved on an individual basis, but only as social rights. In other words, these constrictions (religion inclusive) views sexual rights as incomprehensible outside of the context of women's "social functions of reproduction and procreation" [Aniekwu 2004].

Right to Health

The second foundation for the notion of sexual rights is the work that has taken place on women's right to health, and in particular, women's reproductive health rights. The development of the "sexual rights are human rights" paradigm has allowed for the expansion of the reproductive rights framework [ICPD 1994]. This expansion has in turn extended the concept of women's human rights to include issues of reproduction and sexuality that are basically gender specific.

The discussion of sexual rights pushes the analytical boundaries of rights as individually held and socially constructed, and highlights the importance of acknowledging the multiplicity of identities of those pursuing these rights in private contexts. This propels us to untangle the relationship between sexuality and other identity categories (such as religion), out of which a rights-bearing, socially embedded individual emerges. As Rhonda Copelon warns, while "sexuality is an important part of what constructs and constrains human identity, its influence is heavily dependent on other cultural institutions, ideologies and ideals" [Copelon 1995]. In other words, whether we like it or not, such factors as sexual orientation, nationality, occupation, physical ability, age, race, ethnicity, religion and social status remain essential components to be considered when defining, discussing, debating or seeking to protect sexual rights.

Gender Specific Human Rights Laws on Reproductive and Sexual Health

The language of sexual (and reproductive) rights have been most visible since the World Conference on Human Rights (Vienna, 1993), the International Conference on Population and Development (Cairo, 1994) and the Fourth World Conference on Women (Beijing, 1995). However, the international recognition of women's rights to make choices in matters of reproduction can be traced to the late 1960s. In 1968, the participants of the first International Conference on Human Rights, held in Tehran, recognized that "parents have a basic human right to determine freely and responsibly the number and spacing of their children and a right to adequate education and information to do so".

CEDAW

In 1979, the Convention on the Elimination of All Forms of Discrimination Against Women (The Women's Convention) provided that "States parties must take appropriate measures to eliminate discrimination against women in the field of health care in order to

ensure on a bases of equality of men and women, access to health care services, including those related to family planning”. The Committee on CEDAW, the United Nations body that monitors compliance with the women’s convention has addressed governmental obligations pertaining to reproductive health care. In its General Recommendation on Women and Health, it declared that States Parties should “ensure universal access for all women to a full range of high-quality and affordable health care, including sexual and reproductive health services”[CEDAW General Recommendation No. 24 on Women and Health].

Thus the right to reproductive health care gives rise to a governmental duty both to ensure the availability of reproductive health services and to remove existing legal barriers to reproductive health care.

In 1992, the U.N. Conference on Environment and Development held in Rio De Janeiro reiterated “the right to decide on the number and spacing of one’s children.” It further affirmed that governments should provide health facilities, including “affordable and accessible reproductive and sexual health services, as appropriate for the responsible planning of family size”.

Vienna Convention

In 1993, at the Vienna Convention on Human Rights, member states recognized “on the basis of equality between women and men, a woman’s right to accessible and adequate health care and the widest range of family planning services, as well as equal access to education at all levels”.

ICPD

In 1994, the Programme of Action adopted by 184 UN Member States in Cairo (the Cairo Programme) enshrined the importance of human rights in protecting and promoting reproductive and sexual health. This 2nd United Nations International Conference on Population and Development (the ICPD) held that human rights included reproductive health rights such as the promotion of safe motherhood, treatment and care for persons living with HIV/AIDS and other STIs, safe abortion and quality contraception and population control. The ICPD strongly endorsed a new strategy for addressing population issues and focused on meeting the needs of individual women and men, rather than on achieving demographic targets. Key to this new approach is empowering women *within their families and communities* and protecting their human rights, particularly those relevant to reproductive health. The ICPD specifically noted that reproductive health care should promote sexual health in order to enhance “life and personal relations” [ICPD 1994]. It set out the context and content of the reproductive health of individuals or couples. It also reaffirmed the rights of women as “being central to all aspects of reproductive health”. Adopting the World Health Organization (WHO) definition of health, the Cairo Programme states that reproductive health is:

A state of complete physical, mental and social well-being and is not merely the absence of disease or infirmity, in all matters relating to the reproductive system and to its functions and processes. Reproductive health therefore

implies that people are able to have a satisfying and safe sex life

Beijing

In 1995, the Beijing Conference produced two documents; the Beijing Declaration and the Beijing Platform For Action. The Beijing Conference confirmed the centrality of reproductive rights in advancing the status of women and went further by recognizing women's rights to "control their own sexuality and sexual relations and to decide upon these matters on an equal basis with men". Paragraph 96 makes explicit that:

[t]he human rights of women include their right to have control over and decide freely and responsibly on matters related to their sexuality, including sexual and reproductive health, free of coercion, discrimination and violence...

The Platform reinforced "equal relationships between women and men in matters of sexual relations and reproduction, including full respect for the integrity of the person, mutual respect, consent and shared responsibility for sexual behaviors and its consequences." These rights rest on the recognition of "the basic right of all couples and individuals to decide freely and responsibly the number, spacing and timing of their children and to have the information and means to do so, and the right to attain the highest standard of sexual and reproductive health....It also includes the right of all to make decisions concerning reproduction free from discrimination, coercion and violence as expressed in human rights documents" [ICPD Program of Action].

Right to Bodily Integrity

The Beijing documents thus strengthened the 1994 Cairo Consensus on women's reproductive health and rights, asserted women's right to bodily integrity and called upon governments to ensure the availability of reproductive health services and remove existing legal barriers to reproductive and sexual health.

ICPD + 5

In July 1999, the international community gathered again to negotiate a document with important implications for reproductive rights. This meeting was a five-year review of the 1994 ICPD and the Programme of Action. The adopted document ICPD + 5 is an important affirmation of the principles agreed to in 1994 and contains crucial strategies for advancing and promoting reproductive rights.

The instruments embrace existing principles contained in declarations of International human rights charters and conferences including the African Charter on Human And People's Right (Banjul, 1981), the Nairobi Forward-looking Strategies For the Advancement of Women (Kenya, 1985) and the Vienna World Conference on Human Rights in 1993. In 2004, the ICPD + 10 reaffirmed the principles adopted in the earlier meetings and obliged states to "incorporate and implement the provisions of international instruments that protect health, equity and equality" [ICPD plus 10].

Reproductive and sexual rights are thus highly interconnected and derivable from political, civil, social and economic rights. They are indivisible and interdependent and share the same foundation on a global level with emerging “solidarity rights” which demand “international cooperation to ensure equitable development and peace and ultimately advance the quality and well-being of women and all people, in their communities and in everyday life, calling as it does for accountability of all actors and governments.....even in the private sphere” [Aniekwu 2003].

Reproductive and sexual rights cannot be enjoyed or enforced in the absence of “other basic, economic and social rights such as food, shelter, health social security, livelihood and education, elimination of poverty and renunciation of inequitable and discriminatory development, structural adjustment programs and environmental degradation” [Aniekwu 2002].

Even though the contents of international human rights laws have yet to be adequately applied to reproductive health matters in national contexts, the Cairo Programme, the Beijing Platform and other recent Conferences are nevertheless points of advancement in identifying particular steps that countries have agreed to take to achieve reproductive and sexual rights within specified time periods. These documents may lack legal mechanisms to hold governments strictly accountable, but they establish general obligations that can be applied to the quest for reproductive rights, sexual health and self-determination.

Individuality, Religion And Sexuality – Critical Intersections

Prior to 1993, no international human rights document referred explicitly to women’s sexuality. The historical construction of “human rights” had hitherto exempted women’s reproductive and sexual health and rights from the traditional sphere of human rights. One of the most significant implications of contemporary human rights discourses from the perspective of defining and protecting women’s sexual rights, is the transposition of sexuality (reproduction/sexual expression/orientation) into the private arena of the individual sphere/home. Indeed, the articulation of a person’s rights with regard to marriage, family or religion, or to respect for the privacy of home life, have each been explored, albeit not exhaustively, within the framework of international human rights documents. Sexuality as a central and integral component of an individual’s life, and particularly to women’s experiences of domination and control, has now been acknowledged in human rights instruments since 1994.

Prior to this time, discussion of a woman’s “sexual being” had been either in veiled terms or in reference to violations. For instance, the Nairobi Forward Looking Strategies and the Convention on the Elimination of All Forms of Discrimination Against Women both refer to women’s rights to control their fertility and sexual equality free from discrimination, but neither assert a positive right to sexual autonomy or identity in the private arena. The 1993 Declaration on the Elimination of Violence Against Women included a denunciation of “physical, sexual and psychological violence against women”.

These rights were derived from pre – existing human rights norms as articulated in international instruments such as the Universal Declaration of Human Rights (UDHR) of

1948. Thus the extension of human rights protection to women's sexuality is based upon these already articulated human rights norms.

This use of human rights to frame an ever widening set of concerns informed the success of an international coalition that subsequently addressed health, violence, reproductive rights (including safe abortion, elimination of harmful traditional practices like FGM, safe motherhood, information and education on sexual health and HIV/AIDS) and gender issues.

Religious Constraints

The struggle to incorporate recognition of sexual rights into international agreements indicates how strategic efforts to use the law to promote sexual rights were constrained by religious and other factors. Indeed, one of the compelling aspects of sexual rights as a concept is the realization that these rights require acceptance and enablement in many contexts, religion inclusive. If the international legal order stipulates that the state is responsible for guaranteeing sexual rights in real terms, then it follows that religion and other institutions should support and inform sexual rights. Defining and exploring sexual rights has reinforced the recognition of the multiple and varied ways in which religion and patriarchal systems control, constrict and regulate women's lives around the world, oftentimes to their detriment and ill health! To buttress this point, I wish to highlight a few points on Christianity and sexuality raised in the main paper;

- *the choice of marriage partners....the manner of expressing sexual intimacy ceases to be an individual choice.....*
- *I argue that the control of sexual behavior by Christian groups is an institutional way and the most ubiquitous modalities through which religious groups demonstrate power and exercise social control over their members.....to believe otherwise is to exercise a choice and leave the moral protection that such religious groups offer.....*
- *sex and sexuality is an indirect promotion of western permissive values which are contrary to both the African cultural values and Christian ethical principles that had hitherto attached some control and secrecy to sexuality....*
- *overall there is little room for personal choice in sexual expression that departs from the biblical standard.....the choice available is that of conformity, not of unlimited freedom...*
- *To Christians, Genesis 1:26 introduces gender distinction, biological differences and the responsibility of procreation and productivity. Consequently the body and all its organs and especially the sex organs, have taken on symbolic meaning of obedience or rebellion...*

The paper under discussion further refers to Christian ideologies on morality, chastity, marriage, abortion and heterosexuality that seem to severely constrain female sexuality, reproductive health, individuality and choice. However, it is pertinent to note that the bible does not promote gender inequality in sexual relations within marriage, but emphasizes that *“the husband should fulfill his marital (sexual) duty to his wife and likewise the wife to her husband.....In the same way, the husband's body does not belong to him alone but also to his wife”* [1 Corinthians 7:4] .

The bible also states in the letter to the Corinthians that a *man is concerned about how he can (sexually) please his wife* [1 Corinthians 7:33]. Emphasis mine. These biblical passages recognize human sexuality as normal and desirable, albeit within the private sphere of marriage. In other words, the bible does not shroud sexuality in secrecy but recognizes sexual pleasure within the Christian lifestyle. [See Songs of Solomon].

It is also pertinent to note that the “*traditional order*” referred to in the main paper has promoted harmful traditional practices such as FGM, wife beating and widowhood rites, now thankfully recognized as detrimental to women’s health and well - being. The paper concludes by stating that “*the Christian church is not only to affirm sexual health, but also to exercise sexual rights in very responsible manner*”. This view seems contradictory with the statement that “*the church is not curtailing the freedom of choice of their members*”!! With the greatest respect, the Professor’s views on sexuality seems to proceed strictly on principles of morality and fails to consider the international recognition of sexual rights as human rights

Conclusion

I have attempted to articulate the human rights approach to sexuality and choice in discussing the main paper. I wish to conclude by posing the following questions for our deliberation;

Do the positions on Christianity and sexuality, as highlighted by the main paper, affirm the international obligation on states to protect the sexual health and rights of both genders as laid down by the World Health Organization and other instruments? Or do they constrain reproductive health rights, human sexuality and choice amongst individuals within the private sphere of society?

References

1. Aniekwu N.I. Legal and Human Rights Issues in Reproductive and Sexual Health. Journal of Private and Property law (accepted for publication) 2004.
2. Reproductive Rights 2000; Moving Forward. The Center for Reproductive Law and Policy (CRLP), New York, 2000
3. ICPD programme of Action, Cairo, Egypt, 5-13 September 1994, in *Report Of The International Conference On Population And Development*, U.N. Doc. A/CONF.171/13/Rev.1, U.N. Sales No. 95. XIII.I8 (1995).
4. Beijing Declaration and Platform for Action, Fourth World Conference on Women, Beijing, China, 4-15 Sept.1995, para 95. UN. Doc. DPI/17/1766/Wom (1996) [hereinafter Beijing Platform for Action].
5. World Health Organization (WHO) 1988. Constitutional definition of Health (visited feb.17, 2000) <<http://www.who.org/about-who/en/definition.html>>.
6. Aniekwu Nkoli I., HIV/AIDS and human rights in Nigeria: a perspective on international guidelines. Journal of Medicine and Biomedical Research. College of Medical Sciences, University of Benin. Volume 2, No. 1, 2003
7. Convention on the Elimination of All Forms of Discrimination against Women, opened for signature Dec.18,1979, art. 12(1), 1249 U.N.T.S .13, 19 I.L.M. 33 (entry into force Sept 3, 1981) [hereinafter Women’s Convention.].

8. Committee on the Elimination of Discrimination against Women (CEDAW), General Recommendation No 24 on Women and Health, para. 29, Feb. 2, 1999 [Hereinafter General Recommendation on Health].
9. Aniekwu Nkoli I. Gender and Human Rights dimensions of HIV/AIDS in Nigeria. *African Journal of Reproductive Health*. Volume 6 No. 3, 2002
10. Center for reproductive law and policy (crlp), ICPD+5: gains for women despite opposition 1 (1999).
11. Sexual and Reproductive Rights and Health as Human Rights: Concepts and Strategies: An Introduction for Activists. (Prepared for: Human Rights dimensions of Reproductive Health, A Series of Interactive Workshops. NGO forum- International Conference on Population and Development. Cairo, Egypt – September 1994
12. Aniekwu N.I. Examining the Reproductive Health and Rights of Nigerian Women – A legal Perspective. *University of Benin law journal*, 2001
13. International Covenant on Civil and Political Rights, ICCPR, Adopted by the United Nations Assembly, 16th December 1966. Entry into force 23rd March 1976. Ratified by Nigeria in 1993.
14. Rhonda Copelon & Rosalind Petchesky, Toward an Interdependent Approach to Reproductive and Sexual Rights as Human Rights: Reflections on the ICPD and Beyond, in *From Basic Needs to Basic Rights: Women's Claim to Human Rights* 343 – 68 (Margaret A. Schuller ED., 1995).
15. General Recommendation 21: Equality in Marriage and Family Relations, United Nations, *Compilation of General Comments and General Recommendations Adopted by Human Rights Treaty Bodies*, HRI/Gen/1/Rev.2, 29 March 1996 at 124
16. Aniekwu N.I. Criminal laws and legislative Policies relating to Abortion and Reproductive Rights in Nigeria. *Annals of medicine and Biomedical Research*, Vol. 2 July 2003
17. Key Actions for the further implementation of the Programme of Action of the International Conference on Population and Development, report of the Ad Hoc Committee of the Whole of the Twenty-first special session of the General Assembly, New York, July 1, 1999, U.N. Doc./A/S-21/5/Add.1 [hereinafter ICPD+5 Key Actions Document].
18. International Covenant on Economic, Social and Cultural Rights, opened for signature Dec. 16, 1966, art. 12, 993 U.N.T.S. 3 (entry into force Jan.3, 1976) [Hereinafter Economic, Social and Cultural Rights Covenant].
19. Criminal Code, Laws of the Federation of Nigeria, CAP 77 Section 230 (1) 1990
20. Safe Motherhood Inter-Agency Group, Unsafe Abortion (visited April 7, 2000) http://safemotherhood.org/init_facts.htm.
21. World Health Organization, Sexual and Reproductive Health Research Priorities for WHO for the Period 1998 -2003, PCC (10)/1997/9, 30 May 1997 at 4-5.
22. UNAIDS, Epidemic update: December 1999 5, 16 (1999).
23. Senderowitz, Judith. World Bank discussion papers, Adolescent health: Reassessing the passage to adulthood. 20 (1995).

24. Gruskin, Sofia. The impact of Reproductive Subordination on Women's Health: Negotiating the Relationship of HIV/AIDS to Reproductive Health and Reproductive rights, 44 AM. U.L. Rev. 1191, 1196 (1995).
25. United Nations, Report of the International Conference on Population and Development United Nations New York, N.Y. A/Conf. 171/13. 1994.
26. Coomaraswamy Radhika. Report of the Special Rapporteur on Violence against Women, its Causes and Consequences, submitted to Commission on Human Rights, U.N.Doc. E/CN.4/1996/53, Feb. 6 1996, para. 100.
27. Halima Embarek Warzazi. Third Report of the Special Rapporteur on Traditional Practices affecting the Health of Women and the Girl Child, para. 20, submitted to SubCommission on the prevention of Discrimination and Protection of Minorities, E/CN.4/sub.2/1999/14, July 9 1999.
28. Anika, R. Nahid, T. . Female Genital Mutilation, A Guide to laws and Policies world wide (2000), a forthcoming book prepared by CRLP and Research, Action and information Network for the Bodily Integrity of Women (RAINB+), Published by Zed Books, U.K.
29. Commonwealth Medical Association, A Women's Right to Health, Including Sexual and Reproductive Health, Commonwealth Medical Association, London (1996); United Nations Division for the Advancement of Women, United Nations Population Fund and United Nations Centre for Human Rights, Roundtable of Human Rights Treaty Bodies on Human Rights Approaches to Women's Health, with a Focus on reproductive and Sexual Health and Rights Glen Cove, New York, 8-11 December 1996, forthcoming UNFPA< New York; Symposium on Sexual Rights as Human Rights, Abo Akademi University, Turko/Abo, Finland, 14-15 February 1997, papers published in this issue of the Nordic Journal of International Law.
30. CEDAW, General Recommendation No.19 on Violence Against Women, 11th Sess., para.1, U.N. Doc.C/1992/L.1/Add.15 (1992) [hereinafter General Recommendation on Violence].