

Understanding Cultural Perspectives on Domestic Violence in African Immigrant Communities

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The dynamics of violent relationships take remarkably similar forms within many different countries, cultural contexts, and social spheres. Lawyers and other advocates who work with domestic violence survivors must not ignore, however, the powerful role that culture can play in shaping a woman's experience of domestic violence. Each culture may have its own specific barriers created by family, society, and the legal system, which significantly impact a woman's ability and willingness to leave an abusive relationship and seek protection under the law. Understanding cultural perspectives on domestic violence means learning about the specific attitudes toward domestic violence within a client's culture and within the legal system of that client's home country.

As American lawyers working within diverse immigrant communities in the United States, we face the challenge of understanding the different cultural perspectives of our clients from around the world. This understanding is critical, as it enables us to better serve our clients and to more effectively reach out to diverse immigrant communities to encourage them to report abuse, seek protection under American laws, and seek psychological counseling.

This article focuses on cultural perspectives on domestic violence in Africa and within African immigrant communities in the United States. Africa is a colorful and diverse continent made up of 54 countries, and there is not sufficient room within the body of this article to discuss each country in depth. This article will instead draw on examples from select African countries which can help American lawyers begin to better understand some of the many cultural perspectives on domestic violence that exist within Africa. Part I of this article will discuss the lack of legal protections for domestic violence survivors in Africa. Part II will focus on the systemic and cultural barriers that discourage and prevent some African women from reporting abuse and accessing legal protections in their home countries. Part III will discuss the barriers that some African women continue to face to accessing legal help after immigrating to the United States. Finally, Part IV proposes the role that the American lawyer can play in working with survivors of domestic violence from African immigrant communities, and suggests six concrete steps American lawyers can take to more effectively work with African immigrants in their communities.

The Lack of Legal Protections for Domestic Violence Survivors in Africa

While some women in the United States face barriers to accessing legal services, the legal system in this country is largely on their side, at least in principle, when it comes to preventing domestic violence and prosecuting abusers. In contrast, the vast majority of women in Africa do not have the support of a legal system or culture that condemns domestic violence. Many African countries do not have specific laws in place to prohibit domestic violence or prosecute abusers.¹ In fact, some African countries have laws that allow abusers to justify their acts of violence.² In Nigeria, for example, a husband may lawfully beat his wife for the purpose of “correcting” her, as long as the beating does not result in “grievous harm.”³ And until recently in Ghana, a wife could not revoke her consent to have sex with her husband until she was legally separated or divorced from him.⁴ In essence, therefore, marital rape was permissible under the law in Ghana until this controversial section of the Criminal Code was repealed in 2007.

Over the past fifteen years, and increasingly within the past two years, some African countries have passed laws to outlaw domestic violence. South Africa passed the very first Prevention of Family Violence Act on the continent in 1993, which it then revised and replaced with its current Domestic Violence Act in November 1998.⁵ Mauritius, an African island located in the Indian Ocean east of Madagascar, passed the second bill in Africa to prevent domestic violence in 1997.⁶ Other laws against domestic violence followed in Namibia in 2003, and in Malawi in 2006.⁷

In some African countries, advocates had to fight long and hard for many years before seeing bills against domestic violence passed into law. The efforts of advocates in Ghana, beginning in 2000, received considerable attention throughout Africa and the world. Finally, after years of advocacy, Ghana’s domestic violence bill became law in February 2007. Soon thereafter, similar bills were passed in Zimbabwe in March 2007 and in Sierra Leone in June of the same year.⁸

Despite the increasing number of African countries creating laws against domestic violence, women who are victims of abuse continue to face multiple barriers to accessing justice. These barriers are both systemic and cultural, and may continue to impact a woman’s willingness and ability to seek help even after she immigrates to the United States. It is critical for lawyers in the United States to understand these barriers in order to effectively reach out to and assist survivors of domestic violence within African immigrant communities.

Systemic Barriers: Lack of Response from the Police and Courts

The perception that “private” domestic disputes are not to be dealt with by public law-enforcement and court systems is still prevalent in much of Africa.⁹ One Nigerian lawyer and author reports that in her home country, women who report

domestic violence to the police are often blamed for the abuse, taunted or humiliated, and told by the police to “go home and be a good wife.”¹⁰ Often, Nigerian police do not bother to file reports of a victim’s complaints of domestic violence, and they are reluctant to investigate or prosecute abusers.¹¹ Some Nigerian judges have even openly blamed women for being abused.¹² Similarly, some judges in Ghana trivialize crimes of domestic violence by encouraging settlement, imposing minimal punishments, and permitting third parties to withdraw criminal cases from the state.¹³

Such attitudes are not limited to Nigeria and Ghana, but are prevalent among police, courts, and governments in many African countries. The U.S. Department of State reports that in many African countries, authorities are not well-trained to combat domestic violence; laws that exist to protect survivors of domestic violence are not effectively enforced; officials are reluctant to intervene; and many governments repeatedly fail to take any action to combat violence against women.¹⁴ In an effort to respond to this serious problem, advocates in countries such as Ethiopia, Namibia, and South Africa are working to sensitize police, prosecutors, and judges about the problem of domestic violence and train them on how to effectively respond to victims’ needs.¹⁵

Cultural Barriers

In addition to systemic barriers, many African women also face cultural barriers that may discourage them from seeking help when they are abused:

1. Violence as a Traditional Practice and Form of “Discipline”

The attitude that abuse may be used as a form of discipline is instilled from a young age in certain contexts. Teachers in some African countries use corporal punishment, such as caning, to discipline students in the classroom.¹⁶ At home, some children grow up watching their fathers beat their mothers and may believe that men are supposed to abuse their wives.¹⁷ Furthermore, parents may require their children to undergo traditional practices that, while culturally accepted, are damaging to a child’s body. In parts of West and Central Africa, for example, “breast-ironing” is a traditional practice where parents massage or forcibly press the breasts of adolescent girls with a heated stone or other instrument in order to suppress and reverse their development.¹⁸ Female genital cutting, also known as female genital mutilation or “FGM,” is another traditional rite practiced in a number of African countries that can pose serious physical and psychological health consequences for girls. These and other traditional practices may send girls the message from a young age that their bodies are not their own to control.

In fact, statistics show that in some African countries, a majority of men and women believe it is appropriate for men to use violence to discipline their wives. According to a report by UNICEF, eighty-five percent of women in

Sierra Leone believed that domestic abuse is justified for actions such as leaving the home without informing one's husband, neglecting children, arguing with one's husband, refusing sex, or burning food.¹⁹ Similarly, a majority of Nigerian men and women agreed in a 2003 study that wife beating is justified when a wife does not cook her husband's food on time or burns his food.²⁰ Notably, a higher percentage of Nigerian women than men (64.5% compared to 61.3%) agreed that a husband's abuse was justified in such circumstances.²¹ As a result of such attitudes, women raised in such cultures may feel that they "deserve" to be abused by their husbands because they are not being "good wives." Some women may feel ashamed and guilty for being abused, and as a result may feel too embarrassed to report domestic violence.

2. Domestic Violence Regarded as a "Private" Family Matter

Domestic violence is regarded in many African countries as a private matter to be resolved informally by the family or community, rather than by turning to the police or court systems for help.²² Even in countries where laws are in place to protect victims of violence, women may turn first to their families or to traditional or religious leaders because they do not believe the police or courts will protect them or take their complaints seriously.²³

In some instances, family members, community elders, and religious leaders may discourage a woman from reporting the abuse to a higher legal authority, and may instead encourage her to be more subservient to her husband in order to "prevent" him from abusing her again.²⁴ In response to this problem, advocates in some countries have focused on sensitizing traditional and religious leaders to the problem of domestic violence and training them on the appropriate way to respond. In 2005, for example, women's rights advocates in Ghana held an inter-church leadership forum to encourage religious leaders to support the proposed bill against domestic violence.²⁵ Similarly, in Zimbabwe, the Zimbabwe Women Lawyer's Association is working with the government to teach hundreds of traditional leaders how to help fight domestic abuse in their communities.²⁶

3. Conflict Between Culture and the Law

Part of the reason that many African governments have not yet created or effectively enforced laws against domestic violence is that such laws are viewed by some as contrary to traditional culture.²⁷ Before the domestic violence bill passed in Ghana, for example, some traditional rulers stated that they felt the bill was an undesirable imposition of Western values, and that they saw the bill as "destructive, rather than helpful, to family life within the cultural context of Ghana."²⁸ One Ghanaian judge stated that "[i]t is un-Ghanaian for a man to be sentenced to imprisonment because he slapped or pushed his wife."²⁹ Similarly, in Nigeria, a draft domestic violence bill has

been criticized on the grounds that its provision against marital rape is “western” and “against the culture of Nigeria.”³⁰

4. Traditional Marriage Practices Imply Men’s “Ownership” of Women

Certain marriage practices may contribute to the problem of domestic violence in some African cultures. Polygamous marriage, for example, is a traditional practice in parts of Africa, and in countries such as Cameroon, the law specifically permits a man to have more than one wife.³¹ This practice may contribute to or exacerbate violence between intimate partners in some cases.³² In an argument between wives, for instance, a husband may take the side of his preferred wife, and may abuse the other wife in an effort to “discipline” her and please his preferred wife.

The traditional practice of paying dowry, or “bride price,” for a wife in certain African cultures may also contribute to domestic abuse.³³ The act of payment may give a man a sense of ownership over his wife and a feeling that he is entitled to abuse her. As one Nigerian author states, “Due to [a] misinterpretation of customary law, the woman is regarded as the property of the man and he is therefore entitled to discipline her as he sees fit. The notion of subjugation of women is so entrenched that all in Nigerian society tend to accept violence against women as justified.”³⁴

5. Economic Imbalance Between Women and Men

Finally, the widespread economic imbalance between men and women in many African countries may contribute to domestic violence and prevent or discourage women from leaving abusive relationships.³⁵ In their study of domestic violence in Ghana, Nancy Cantalupo and her fellow authors found four ways in which women’s economic dependence on men is connected to domestic violence: First, anxiety about money and resources can lead to domestic violence. Second, a man can abuse his wife by depriving her of money, food, or other necessities. Third, a woman may be reluctant to leave her husband if she is financially dependent on him. Finally, economic dependence can preclude a woman from paying for the services she needs to effectively prosecute a case against her abusive husband.³⁶

Barriers in the United States: Lack of Awareness of Protections Available and Reluctance to Seek Help

The systemic and cultural barriers discussed above may continue to affect some African women who immigrate to the United States. Those who become victims of domestic violence in this country may be reluctant to seek help from the American police and court system due to a fear that law enforcement authorities in this country, as in their home countries, will not take their complaints seriously. For clients who are undocumented immigrants, this distrust is often exacerbated

by a fear that American police or judges may report them to the U.S. Immigration authorities and have them deported back to their home countries.

Because the legal system in many African countries does not address the problem of domestic violence, and those laws that do exist are often not effectively enforced, many immigrant women who are abused may not be accustomed to using a legal system to get help. Accordingly, they may be unaware of the laws available in the United States to protect survivors of domestic violence, and may initially be unfamiliar and uncomfortable with working with police, prosecutors, and judges.

As a result, some immigrant survivors of domestic violence may continue to turn instead to religious leaders or family members, who may discourage them from reporting the abuse or separating from their abusers. Even those who decide to escape their abusers may not initially know where to turn for support. Domestic violence shelters are not widely available in many African countries, and some countries have no such shelters at all. Furthermore, psychological counseling is not widely available in many, if not most, African countries, and is considered culturally unacceptable within some countries.

While the dynamics of violent relationships share many similarities across countries and continents, lawyers must not ignore the critical role that culture can play in the lives of their clients. By following the steps above, American lawyers can empower African survivors of domestic violence to access the legal protections and services that will help them to thrive in their new home country.

¹ Cynthia Bowman, *Symposium: Theories of Domestic Violence in the African Context*, 11 Am. U. J. Gender Soc. Pol'y & L. 847 (2003); Ito Eze-Anaba, *Domestic Violence and Legal Reforms in Nigeria: Prospects and Challenges*, 14 Cardozo J.L. & Gender 21 (Fall 2007).

² Nancy Cantalupo, et al., *Report: Domestic Violence in Ghana: The Open Secret*, 7 Geo. J. Gender & L. 531 (2006); Eze-Anaba, *supra* note 1, at 22.

³ See Penal Code of Northern Nigeria: Correction of Child, Pupil, Servant, or Wife § 55; Eze-Anaba, *supra* note 1, at 22, 37. Also, under Nigerian criminal law, abuse of a woman is not punished as severely as abuse of a man; assault on a man rises to the level of a felony while assault on a woman is only a misdemeanor. Eze-Anaba, *supra* note. 1, at 37. See Laws of Northern Nigeria, Criminal Code Act, Cap. 77 (1990), and Nigerian Criminal Code §§ 353 & 360.

⁴ See Ghanaian Criminal Code, § 42(g): "...the consent given by a husband or wife at marriage for the purposes of marriage, cannot be revoked until the parties are divorced or separated by a judgment or decree of a competent Court."; See also Cantalupo, *supra* note 2, at 537. Ghana's statute law commissioner removed this section of the law from the statute-book in 2007, acting on his own initiative. Takyiwaa Manuh, *African Women and Domestic Violence*, openDemocracy, November 26, 2007, http://www.opendemocracy.net/article/5050/ghana_domestic_violence [hereafter *openDemocracy*].

⁵ Bowman, *supra* note 1, at n3.

⁶ *Id.*

⁷ *SADC Grapples with Gender-Based Violence*, Africa News, June 26, 2007. Lameck Masina, *Malawi Women Fight for Rights Amid Challenges*, Voice of America, March 6, 2008, <http://www.voanews.com/english/archive/2008-03/2008-03-06-voa21.cfm>.

⁸ *Domestic Violence Act to Be in Force From October 25*, The Herald (Harare), October 20, 2007; *Sierra Leone Parliament Passes the Gender Bills Into Law*, Sierra Leone Court Monitoring Program, June 15, 2007.

⁹ Human Rights Watch, *Policy Paralysis: A Call for Action on HIV/AIDS-Related Human Rights Abuses Against Women and Girls in Africa*, 34-35 (December 2003); *Ghanaian Women Demanding Protection from Violence*, Ghanaian Chronicle, Nov. 8, 2004, www.peacewomen.org/news/Ghana/Nov04/Violence.html.

¹⁰ Eze-Anaba, *supra* note 1, at 30 and 39.

¹¹ *Id.* at 53.

¹² Amnesty International, *Nigeria: Unheard Voices*, May 31, 2005, <http://www.amnesty.org/en/library/asset/AFR44/004/2005/en/dom-AFR440042005en.html>.

¹³ Cantalupo, *supra* note 2, at 554.

¹⁴ See U.S. Department of State, *2007 Country Reports on Human Rights Practices* for Angola, Benin, Cape Verde, Chad, Comoros, Equatorial Guinea, Eritrea, Gabon, Gambia, Lesotho, Liberia, Madagascar, Mali, and Mauritania, March 11, 2008.

¹⁵ *SADC Grapples with Gender-Based Violence*, Africa News, June 26, 2007; *Joining Hands Against Domestic Violence*, Dalhousie University News, June 4, 2008.

¹⁶ See e.g., U.S. Department of State, *Country Reports on Human Rights Practices*, Kenya, March 11, 2008.

¹⁷ Eze-Anaba, *supra* note 1, at 30.

¹⁸ U.S. Department of State, *Country Reports on Human Rights Practices*, Cameroon, March 11, 2008; Tansa Musa, *Breast Ironing: Grim Secret of Africa's Women*, Reuters, July 6, 2006.

¹⁹ U.S. Department of State, *Country Reports on Human Rights Practices*, Sierra Leone, March 11, 2008.

²⁰ U.S. Department of State, *Country Reports on Human Rights Practices*, Nigeria, March 11, 2008.

²¹ *Id.*

²² See, e.g., Cantalupo, *supra* note 2, at 535.

²³ Eze-Anaba, *supra* note 1, at 54.

²⁴ *Id.*; see also Cantalupo, *supra* note 2, at 543, 546.

²⁵ *The Hagglng Over Domestic Violence Continues*, Public Agenda, May 2, 2005 (Accra, Ghana), www.peacewomen.org/news/Ghana/May05/Violence.html.

²⁶ UNICEF, *Progress Against Domestic Violence as Traditional Chiefs Trained*, August 21, 2007 (Harare, Zimbabwe), http://www.unicef.org/infobycountry/media_40662.html.

²⁷ Elom Dovlo, *International Law and Religion Symposium: Religion in the Public Sphere: Challenges and Opportunities in Ghanaian Law-Making, 1989-2004*, B.Y.U.L. Rev. 629, 654-55 (2005).

²⁸ Dovlo, *supra* note 29, at 655.

²⁹ *Ghanaian Women Demanding Protection from Domestic Violence*, Ghanaian Chronicle, Nov. 8, 2004 (Accra, Ghana).

³⁰ *openDemocracy*, *supra* note 5.

³¹ U.S. Department of State, *Country Report on Human Rights Practices*, Cameroon, March 11, 2008.

³² Cantalupo, *supra* note 2, at 548.

³³ Bowman, *supra* note 1, at 853.

³⁴ Eze-Anaba, *supra* note 1, at 29.

³⁵ Cantalupo, *supra* note 2, at 546-547; Eze-Anaba, *supra* note 1, at 22.

³⁶ Cantalupo, *supra* note 2, at 546-547.