

## CULTURAL AND RELIGIOUS INFLUENCES ON REPRODUCTIVE HEALTH AND SEXUAL RIGHTS: AN AFRICAN-WIDE PERSPECTIVE

By

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### Abstract

*Reproductive health and sexual rights are critical aspects of human wellbeing, yet cultural and religious beliefs often shape attitudes and behaviors related to these issues in Africa. The author explores the complex interplay between cultural and religious influences on reproductive health and sexual rights in Africa, highlighting both the challenges and opportunities for promoting these rights. Through a mixed-methods approach the author examines the impact of cultural and religious factors on access to reproductive healthcare, contraceptive use, abortion, and sexual orientation, also listing a few international conferences and gatherings that established duties and accountability for national governments with regard to upholding, preserving, and advancing women's reproductive and sexual rights. The findings reveal that cultural and religious beliefs can both facilitate and hinder the exercise of reproductive health and sexual rights, with significant implications for policy and programming. This article contributes to a deeper understanding of the complex relationships between culture, religion, and reproductive health and sexual rights in Africa, informing strategies to promote these rights and improve health outcomes.*

**Keywords:** Africa, Culture, Religious influence, Reproductive- health, and Sexual rights.

### 1.0 Introduction

Reproductive health and sexual rights are fundamental human rights,<sup>1</sup> essential for individuals to make informed decisions about their bodies, health, and well-being. However, cultural and religious beliefs often influence attitudes and behaviors related to these issues, particularly in Africa. This continent is home to diverse cultural and religious traditions, which can either support or hinder the exercise of reproductive health and sexual rights. In many African societies, cultural and religious norms shape gender roles, family planning, and sexual behavior. While some cultural practices promote reproductive health, others perpetuate harmful practices, such as female genital mutilation (FGM) and child marriage. Similarly, religious beliefs can influence attitudes towards contraception, abortion, and sexual orientation. Peter and Charles agree that for overall health, sexual and reproductive health (SRH) is essential. However, hazardous sexual behavior is often the root cause of SRH issues in teenagers, including unintended pregnancies, STIs, and challenges during pregnancy and delivery. This problem is frequently connected to sociocultural problems around sexuality, which lead to differences in teenage females.<sup>2</sup>

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<sup>1</sup> "Statement: Reproductive Rights are Women's Rights and Human Rights" *UN Women*, 24 June, 2022. Available online < Statement: Reproductive rights are women's rights and human rights | UN Women – Headquarters > Accessed 9 Sept. 2024.

<sup>2</sup> Achen, S., Atekyereza, P. & Rwabukwali, C.B. "The Role of Culture in Influencing Sexual and Reproductive Health of Pastoral Adolescent Girls in Karamoja Sub-Region in Uganda. Pastoralism", [2021] 11 (25). <https://doi.org/10.1186/s13570-020-00188-9>

## 2.0 Conceptualizing Challenges of Reproductive Health and Sexual Rights

Using male metrics to gauge progress in human rights protection is one of the misconceptions that underpins contemporary human rights law and contributes to underdevelopment. Presenting contemporary law as the sole legitimate kind of law and tolerating other legal systems as inferior or subservient helps support this stance the most. It is clear how these remarks relate to the discussion of human rights. Health-related issues, which were formerly considered important for life and human dignity a concern that is shared by half of the world's population, or women became meaningless for them when confronted with biases, prejudices, and stereotypes embedded in contemporary human rights discourse<sup>3</sup>This section examines issues related to sexual rights, including references to "others" and "outsiders" in the sexual sphere, the significance of sexual rights in Africa, and the social and political constructs that influence the continent's sexual discourses. It comes to the conclusion that in order for those who lack power to defend themselves, the government must at the very least exercise restraint and allocate resources.

The dispersion of concerns pertaining to reproductive functions and orientations led to the emergence of the notion of reproductive health. Reproductive health, then, implies that individuals can have a fulfilling and safe sexual life, have the capacity to reproduce, and have the freedom to choose whether, when, and how often to do so. Health is defined as a "state of complete physical, mental, and social well-being and not merely the absence of disease or infirmity."<sup>4</sup> Female sexuality and reproductive health bear a heavy weight of disease, and the way society views and treats women is largely influenced by their gender. In many regions of Africa, problems with women's reproductive health include unsafe abortion, female genital cutting, domestic abuse, and genital mutilation. Factors other than health care services are involved in determining overall health and reproductive health in particular. Socioeconomic factors, sexual behaviors, and lifestyle choices can have a significant impact on advancing or compromising reproductive health in the area.<sup>5</sup>

### 2.1 Reproductive Health

A thorough and integrated approach to health needs connected to reproduction is provided by the term of "reproductive health." It acknowledges and addresses gender-specific requirements while placing women at the center of the reproductive process.<sup>6</sup> The Second UN International Conference on Population and Development focused a lot of attention on women's reproductive health.<sup>7</sup> At the Fourth

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<sup>3</sup>Ayodele Atsenuwa. "Jurisprudential Issues in Reproductive Health." Paper presented at the 2 days workshop for law lecturers on reproductive health and rights organized by Legal research and resources Development Centre, Golden Gate Hotel, Abuja. Oct. 24th 2007

<sup>4</sup>Thomas Schramme, "Health as Complete Well-Being: The WHO Definition and Beyond, Public Health Ethics", Volume 16, Issue 3, November 2023, Pages 210–218, <https://doi.org/10.1093/phe/phad017>

<sup>5</sup>Hindin M.J, Ola Olorun F. "Gender and Women's Sexual and Reproductive Health". In: Cheung FM, Halpern DF, eds. *The Cambridge Handbook of the International Psychology of Women*. Cambridge Handbooks in Psychology, (Cambridge University Press; 2020) 472-482.

<sup>6</sup>Cook, Rebecca J., Bernard M. Dickens, and Mahmoud F. Fathalla, *Reproductive Health and Human Rights: Integrating Medicine, Ethics, and Law* (Oxford, 2003; online edn, Oxford Academic, 3 Oct. 2011), <https://doi.org/10.1093/acprof:oso/9780199241323.001.0001>, accessed 4 Sept. 2024.

<sup>7</sup>UN Department of Public Information, *Planning for Action and Beijing Declaration 1995* at para 94. Also, in para 7.2 ICPD Programme of Action, 1994.

United Nations International Conference on Women in 1995, the concept was approved and extended. The definition reads:

“Reproductive health is a state of complete physical, mental and social well-being and 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 and that they have the capacity to reproduce and the freedom to decide if, when and how often to do so. Implicit in this last condition are the right of men and women to be informed and to have access to safe, effective, affordable and acceptable methods of family planning of their choice, as well as other methods of their choice for regulation of fertility which are not against the law, and the right of access to appropriate health care services that will enable women to go through safe pregnancy and childbirth and provide couples with the best chance of having a health in fact”.<sup>8</sup>

In line with the above definition of reproductive health, reproductive health care may be defined as the grouping of procedures, services, and approaches that support the health and welfare of the reproductive system. In addition, it encompasses sexual health, which goes beyond counselling and treatment for sexually transmitted illnesses and reproduction to include the improvement of life, enjoyment, and interpersonal relationships.<sup>9</sup> Reproductive health affects more than just one family or one's community. It reaches the international community beyond national borders.

The capacity to manage fertility and protection against STDs, such as HIV/AIDS, are two aspects of reproductive health that have had a significant influence. The incapacity of individuals, especially women, in numerous sub-Saharan African nations to accomplish these objectives has ramifications not only for the immediate health of the affected population but also for the equilibrium between natural resources and population, as well as for the environment.<sup>10</sup> The seriousness of these issues pertaining to reproductive health in Africa suggests that if sexual and reproductive rights are not properly addressed and made lawful, then things will probably become worse.<sup>11</sup> With consequences for controlling fertility and preventing sexually transmitted diseases like HIV/AIDS, this urgency is evident in the face of prejudice and a lack of protection for human rights in relation to sex and reproduction.<sup>12</sup> Another strong argument for international concern over the preservation of sexual rights, with particular consequences for African women, is the unfairness of gender stereotypes. Reproductive health is therefore a legal and human rights concern in addition to being a serious health one.<sup>13</sup>

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<sup>8</sup>*Ibid*

<sup>9</sup>Cairo Programme of Action. The ICPD was endorsed by the UN General Assembly in its Resolution 49/128

<sup>10</sup> Cook, Rebecca J., Bernard M. Dickens, and Mahmoud F. Fathalla, 'Reproductive and Sexual Health', Reproductive Health and Human Rights: Integrating Medicine, Ethics, and Law (Oxford, 2003; online edn., Oxford Academic, 3 Oct. 2011), <https://doi.org/10.1093/acprof:oso/9780199241323.003.0002>, accessed 4 Sept. 2024.

<sup>11</sup> Aniekwu N.1 “The International Guidelines on HIV/AIDS and Human Rights - A Proposal for National Reproductive Health Research Priorities for WHO for the Period 1998-2003.” World Health Organization, PCC (10)/197/9, 30 May 1997 at 4-5.

<sup>12</sup> Melesse, Dessalegn Y et al. “Adolescent sexual and reproductive health in sub-Saharan Africa: who is left behind?” *BMJ global health* [2020] 5 (1) e002231. doi:10.1136/bmjgh-2019-002231

<sup>13</sup> Meeussen, L. et al., “Gender Stereotypes: What Are They and How Do They Relate to Social Inequality?” In: Yerkes, M.A. & Bal, M. (eds) *Solidarity and Social Justice in Contemporary Societies*. (Palgrave Macmillan, Cham, 2022). [https://doi.org/10.1007/978-3-030-93795-9\\_7](https://doi.org/10.1007/978-3-030-93795-9_7)

## 2.2 Sexual Rights

Sex is a critical aspect of reproductive life and encompasses gender identities and roles, sexual orientations, health, criticism and intimacy. Many of the aspect of reproductive health are duplicated in a definition of sexual health. Like reproductive health, sexual health is "a state of physical, emotional, mental and social well-being related to sexuality and not merely the absence of disease dysfunction or infirmity".<sup>14</sup> According to Khizanishvili & Eszter, Since political and social movements affect health, legal and policy standards, and people's lived experiences of their sexuality, sexual health, sexual rights, and sexual pleasure, it is important to pay attention to these developments in national, regional, and international contexts when considering sexual health issues. Therefore, every effort should be taken to promote a perfect triangle of sexual health, sexual rights, and sexual enjoyment for all individuals everywhere in the globe, since insufficient support in any one area might have a detrimental impact on the others.<sup>15</sup> In light of the current political, social and economic climate, which is marked by cuts at all, levels of government, rising conservatism globally, and limited space in civil society, we go beyond only highlighting the bad and instead aim to provide uplifting instances of how sexual health, sexual rights, and sexual pleasure have been and may be handled in concert.<sup>16</sup> Almost all actors in national and international spheres have justified discussions of sexual rights and pleasure by citing concerns about their sexual health. By beginning with sexual health, one may engage not just the medical community but also lawmakers and programmers who would not have recognized the importance of rights and enjoyment otherwise.

According to the Pan American Health Organization, Sexual health is the experience of the ongoing process of physical, psychological, and socio-cultural well-being related to sexuality. Sexual health is evidenced in the free and responsible expression of sexual capabilities that foster harmonious personal and social wellness, enriching individual and social life. For sexual health to be maintained, it is necessary that the sexual rights of all people be recognized and upheld.<sup>17</sup> Accordingly, denying or obstructing means of achieving sexual health, which is, 'the well- being related to sexuality', may constitute treatment that is inhuman in negating individuals' sexual preferences, orientation, character and dignity.

### 2.2.1 Human Rights Pedigree of Sexual Rights

In recent times, sexual health has been seen as part of and within the context of general fundamental human rights and sexual right have become 'protected' by provisions of international human rights instruments on life and health. Alice, Eszter, Jane and Sofia Grusk for example, educate and assist

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<sup>14</sup> "Sexual and Reproductive Health and Rights" World Health Organisation (WHO) < Sexual and reproductive health and rights (who.int)> Accessed 4 Sept., 2024.

<sup>15</sup> Gruskin, S. *et al.*, "Sexual health, Sexual Rights and Sexual Pleasure: Meaningfully Engaging the Perfect Triangle" 2019 27(1), *Sexual and Reproductive Health Matters*, 29–40. <https://doi.org/10.1080/26410397.2019.1593787>

<sup>16</sup> "Sexual Orientation, Social and Economic Consequences ." *International Encyclopedia of the Sciences. Encyclopedia.com*. available online<<https://www.encyclopedia.com>>. Accessed 5 Sept., 2024.

<sup>17</sup> Pan American Health Organization & WHO, Promotion of Sexual Health Recommendation for Action- Proceedings of a Regional Consultation Convened by PAHO WHO in collaboration with the World Association for Sexology, Antigua Guatemala, Guatemala, May 19-22, 2000 (Washington, DC: PAHO, 2001) available online< in English at <http://paho.org/English/HCP/HCA/PromotionSexualHealth.pdf> and in Spanish at [http://www.paho.org/Spanish/HCP/HCA/salud\\_sexual.pdf](http://www.paho.org/Spanish/HCP/HCA/salud_sexual.pdf)> Accessed 5 Sept., 2024.

actors who wish to pursue sexuality and sexual health-related rights claims.<sup>18</sup> They addressed the guidelines and standards that guide the development and application of human rights claims to sexuality and sexual health, as well as how these developments are connected to the law and elevated to the status of state responsibility, following their discussion of the complex issue of the extent of sexual rights. This approach is essential to creating policies and programs pertaining to sexual health and rights because it calls for the protection of a variety of universally recognized human rights, including non-discrimination, privacy, and health, as well as the action of states in fulfilment of their legal obligations under international and domestic law to promote sexual health.

The relationship between law, gender reproductive health and sexuality has produced a vast literature much of which has such to engage in conceptual and practice-based critiques of law from a range of feminist and human rights perspectives.<sup>19</sup> Yet notwithstanding the now well established nature of this frame of analysis, and of liberalist discussion in the human rights construction of such categories as 'reproduction' and 'gender', sexual rights continue to generate controversies in many cultural settings, especially in Africa.<sup>20</sup>

Although, neglected for many years, the human right to health is a firmly established part of international human rights law. It is reflected in the Universal Declaration of Human Rights (UDHR),<sup>21</sup> International Covenant on Economic, Social and Cultural Rights (ICESCR),<sup>22</sup> and the Convention for the Elimination of All Forms of Discrimination Against Women (CEDAW).<sup>23</sup> The right to health is also guaranteed in several regional human rights treaties such as the African Charter on Human and People's Rights,<sup>24</sup> the protocol of San Salvador in the Inter-American human rights system<sup>25</sup> and the European Social Charter.<sup>26</sup>

However, as the women's human rights movement evolved and engaged the traditional human right framework the biases and prejudices inhering in the underlying male-evolved jurisprudence came to light. Also, as feminists adopted a different methodology which privileged deriving knowledge from what is experienced it came to light that all law's promises of equality in relation to human rights was not realized for most women. For example, as conceptualized, the violation of the rights to life and

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<sup>18</sup> Miller, A. M. et al. "Sexual Rights as Human Rights: A Guide to Authoritative Sources and Principles for Applying Human Rights to Sexuality and Sexual Health," [2015] 23(46), *Reproductive Health Matters*, 16–30. doi: 10.1016/j.rhm.2015.11.007.

<sup>19</sup> Catherine MacKinnon, con Torture: A feminist Perspective on Human Rights" in Kathleen E. Mahoney & Paul Mahoney (eds). *Human Rights in the Twenty-First Century: A Global Challenge*, (Dordrech Martinus Nijhoff Publishers, 1993) 21.

<sup>20</sup> Epprecht, Marc. "New Perspectives on Sexualities in Africa: Introduction." [2009] 43 (1), *Canadian Journal of African Studies / Revue Canadienne Des Études Africaines*, 1–7. Available online< JSTOR, <http://www.jstor.org/stable/20743790>>. Accessed 5 Sept. 2024.

<sup>21</sup> 10 December 1948 (General Assembly resolution 217 A)

<sup>22</sup> International Covenant on Economic, Social and Cultural Rights. Adopted by the General Assembly of the United Nations on 16 December 1966

<sup>23</sup> Convention on the Elimination of All Forms of Discrimination against Women New York, 18 December 1979

<sup>24</sup> (Adopted 27 June 1981, OAU Doc. CAB/LEG/67/3 rev. 5, 21 I.L.M. 58 (1982), entered into force 21 October 1986)

<sup>25</sup> Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social, and Cultural Rights: "Protocol of San Salvador": Signed at San Salvador, El Salvador, on November 17, 1988, at the Eighteenth Regular Session of the General Assembly.

<sup>26</sup> The European Social Charter is a Council of Europe human rights treaty. For 60 years, the Charter has been protecting the social and economic rights of citizens across Europe. It was open for signature on 18 October 1961 in Turin, Italy.



freedom from torture was limited to what happened in the public sphere and/or what state agents did to men.

As such, if the rights are to have meaning for women, they would have to be re-conceptualized so that they are relevant to relations between citizens in the private sphere. It was demonstrated that domestic violence occurring within the home was the setting in which women were more likely to be subjected to torture while domestic violence posed more risk to women's life than did state agent bearing firearms and the like. Yet international human rights law had an outright exclusion of its norms and standards to the setting in which domestic violence took place under the private/public divide. Even where the relevant setting was in public as is the case with maternal health, the international human rights had dichotomized human rights into justiciable and non-justiciable rights with implications for enforceability. Yet women's lives are more challenged by pregnancy and child-bearing with these posing more risk to women's life than did state agents bearing firearms and the like. Thus, it was argued that there is need to re-conceptualize the rights to human dignity and privacy to respond to women's reality.<sup>27</sup>

### 2.2.2 Sexual Rights in the 1990s

The phrase "sexual rights," which has gained popularity recently, is used in international discussions on human and reproductive rights. Lesbian and gay rights concerns received international attention when the sexual rights are human rights movement practically exploded onto the world scene at the 1993 World Conference on Human Rights in Vienna. Since then, the terms "sexual rights" and "reproductive rights" have frequently been used to emphasize that sexuality and the goal of relationships and sexual activity extend beyond reproduction. Recognizing transsexuals and alternative sexual lives is also a part of it. But there is a long history of opposition to society's control over sexuality that gives rise to the concerns that fall under the umbrella of sexual rights. The public's conceptual difference with respect to sexual rights advocacy.<sup>28</sup>

From a feminist perspective, one of the biggest obstacles to conceiving human rights has been the separation of private and public life. The language around classical liberal rights has conventionally posited a distinct separation between the "public" and "private" domains, and a propensity for governmental and legal actions to solely address the public realm. As per this dualistic perspective, rights are situated in a "private" sphere where the "individual" should have the autonomy to arrange their interests in accordance with cultural, religious, and economic requirements.<sup>29</sup> Feminists have however challenged this presumed public private division, elevating discuss on sexuality on the agenda of international conferences, court decisions and non-governmental organizations Important battles have been fought and, to some extent, the privileging of the heterosexuality, which is an inherent part

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<sup>27</sup> Bernard D.& Mahmood F., 'Reproductive Health and Human Rights: Integrating Medicine Ethics Law', (New York OUP, 2003)

<sup>28</sup> Lee, PH. "Struggle for Recognition: Theorising Sexual/Gender Minorities as Rights-Holders in International Law". [2022] 30 (2) *Fem Leg Stud*, 73–95. <https://doi.org/10.1007/s10691-021-09483-1>

<sup>29</sup> Bunch, C., Reilly, N. "Women's Rights as Human Rights: Twenty-Five Years On" In: Reilly, N. (eds) *International Human Rights of Women. International Human Rights*. (Springer, Singapore 2019) [https://doi.org/10.1007/978-981-10-8905-3\\_2](https://doi.org/10.1007/978-981-10-8905-3_2)

of international human rights law, has been challenged<sup>30</sup> Yet, the inroads made by sexual 'others' have been and still are vigorously contested by many African governments who participate in the international human rights system. This contestation, which surrounds sexuality, takes place in a wider context of argument concerning basic value in international relations and law. In other words, the human rights field in this area(s) is a contested and shifting one, especially in the African region.

Despite the uncertainty and shifting nature of the human rights terrain, human rights law is often analysed as holding great promise for sexual 'outsiders', even in Africa for example, human rights law gives legitimacy for claims to be treated equally. It can also be used as a mechanism to force hesitant domestic governments (mostly in Africa) to deal with a sexuality issue. The idea and language of human rights now permeate the arguments made by activists and lawyers when discussing sexuality.<sup>31</sup>

Given our reliance on the above ideals, the questions both at theoretical and practical levels concern what human rights law has to offer sexual outsiders. Can it help it to overcome oppression which manifests itself in a range of ways from violations of the rights to life, health and reproductive self-determination through to conflicts in day-to-day life? How does one expand the sexual rights discourse beyond narrow notions of identities?

### 2.2.3 Sexuality in African Societies

Sexuality is fundamentally important to the analysis of African societies and is a unique prism to study the interconnections between the social and the subjective. The subject is important both a stand-alone study issue that may be utilized to investigate the relationship between social settings and individual behavior as well as to critically examine prevalent paradigms in health-related research, which frequently treat sexuality as a notion that is obvious. Many different emotions, actions, and societal structures may be expressed via sex. Via customs that are frequently predicated on gender and sexual stereotypes, such as marriage, childbirth, and circumcision. Therefore, a large portion of the study on sexual behavior in Africa conducted during the 1990s has classified sex into behavioral frequencies and attitude scores.<sup>32</sup>

In Africa, there are other factors that influence sexual behavior, such as socioeconomic status, migration, access to education, and so on. Put differently, there are social and personal aspects to having sex. In addition to limiting options, erotic and moral beliefs also influence people's sense of self through factors like gender, age, race, and so forth. With gender constructions and other social concepts currently framing the experiences of procreation, sexual desire, sex practices, and sexual satisfaction, the spectrum of sexuality in Africa and other parts of the world has expanded to make room for the new, expanding areas of sexuality studies.<sup>33</sup>

<sup>30</sup> Sauer, Arn Thorben, and Aranka Podhora. 2013. "Sexual Orientation and Gender Identity in Human Rights Impact Assessment." [2013] 31 (2) *Impact Assessment and Project Appraisal*, 135–45. doi:10.1080/14615517.2013.791416; Bernard Dickens (n 27).

<sup>31</sup> Dersso, S. A., The Future of Human Rights and the African Human Rights System, [2022] 40 (1), *Nordic Journal of Human Rights*, 28–43. doi: 10.1080/18918131.2022.2079297

<sup>32</sup> Nkolika T. A. "Gender Specific Issues in Sexuality and Reproduction Rights" Paper presented at the 2 days capacity building workshop for law lecturers on reproductive health and rights organized by Legal research and Resources Development Center, Golden Gate Hotel, Abuja, Oct 24 2007, p. 9.

<sup>33</sup> Djamba, Y.K., "Sexual Practices in Africa." In: Baumle, A. (eds) *International Handbook on the Demography of Sexuality. International Handbooks of Population*, (2013) 5, Springer, Dordrecht. [https://doi.org/10.1007/978-94-007-5512-3\\_6](https://doi.org/10.1007/978-94-007-5512-3_6)

All over the continent, there is an increased emphasis on methods of handling female sexuality and transnational forces of fundamentalist religion Christianity, Islam and traditional religion, further exacerbate the political pertinence of these battles. In South Africa, Jacob Zuma's trial and its aftermath exposed the intimate relationships between ideas of political power, sexuality and masculinity. Feminists outside the courthouse were fighting for women's human rights, while South Africa's former president, Jacob Zuma, described his sexual behavior which the complainant had described as rape as being inherent to Zulu culture and custom.<sup>34</sup> Former Nigerian governor and Senator, Sani Yerima justified his marriage to a 13 years old girl on religious ground.<sup>35</sup> Arguments about "culture" are at issue in several kinds of disputes. Which people, and with what financial and political motivations, define "culture"? Interpretations of "rights" are also in jeopardy. Who, what, and how are defining and claiming their rights? How much are the "rights versus culture dilemmas" understood in terms of implicit inequalities between the North and the South, and how may these conceptualizations be contested?<sup>36</sup> Comparable disputes between "rights" and "culture" have surfaced in the debates around customs such as female genital mutilation in African nations. In several of these situations, the word "sexuality" denotes and encompasses a variety of subjects and ideas, such as problems with sex, roles, HIV/AIDS, abortion, and contraception. Many legal experts and researchers are also delving into innovative approaches to investigate and interpret sex and rights in African locations, as well as dissecting conventional ideas of sexuality.<sup>37</sup>

### 3.0 International Legal Regimes and Forums

#### 3.1 The United Nations Conference on Population Development

In 1994, the International Conference on Population and Development (ICPD), which took place in Cairo, Egypt, established a rights-based approach to sexual policy concerning human rights, population, law, and women's overall sexual and reproductive health.<sup>38</sup> By agreement, the Conference approved a Programme of Action that introduced the ideas of sexual and reproductive health and reproductive rights, and stressed the central importance of women's concerns in population problems. A revised concept of population policy was proposed, emphasizing women's empowerment and reproductive health.<sup>39</sup> The United Nation's International Conference on Population and Development actually called attention of the world to stay that the problem of reproductive and sexual health is worthy of commitment. The Declaration was aimed at informing all stakeholders to urgently address the problem with great attention.

<sup>34</sup>Frenkel, R., "Feminism and Contemporary Culture in South Africa." [2008] 67 (1) *African Studies*, 1–10.

<sup>35</sup>Nurudeen, Shotayo "Senator Yerima sees nothing wrong in marrying 14-year-old Egyptian girl" *Pulse Nigeria*, July 9, 2023. Available online< Senator Yerima sees nothing wrong in marrying 14-year-old Egyptian girl | Pulse Nigeria, Accessed 7 Sept., 2024.

<sup>36</sup> Helmut K. Anheier "Cultures, Values, and Identities: What Are the Issues?" [2020] 1 (1) *Global Perspectives*. Available online<Cultures, Values, and Identities: What Are the Issues? | Global Perspectives | University of California Press (ucpress.edu) Accessed 6 Sept.,2024.

<sup>37</sup> Simuziyya, N. J. and Houlbrook, C., "Universal Human Rights Vs Cultural & Religious Variations: An African Perspective", [2021] 8(1). *Cogent Arts & Humanities*, doi: 10.1080/23311983.2021.1988385.

<sup>38</sup> Oluwakemi, A. A., "Women and Reproductive Health Rights in Nigeria" Ontario Development Agency, [2019] SSN 1923-6654.128 [http:// www.ssrn.com/link/OIDA-Intl-Journal-Sustainable-Dev.html](http://www.ssrn.com/link/OIDA-Intl-Journal-Sustainable-Dev.html) accessed 31 October 2019

<sup>39</sup> Oluwakemi (n 38)



### 3.2 Convention on the Elimination of all Forms of Discrimination against Women<sup>40</sup>

The treaty of the United Nations which seeks to eliminate all forms of discrimination against women provides in Article 12 (3) that:

States parties to the convention shall take all appropriate measures to eliminate discrimination against women in the field of health care in order to ensure, on a basis of equality of men and women access to health care services, including those related to family planning.

Article 14 further state that:

...States shall ensure to women appropriate services in connection with pregnancy, confinement and post-natal period, granting, as well as adequate nutrition during pregnancy and lactation.

Article 16 deals broadly with discrimination in the family, rights in marriage, and so on. Whereas article 2(1) of CEDAW requires state parties to undertake to:

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

Article 5(a) urges state parties to:

Take all appropriate measure to modify the social and cultural pattern of conduct of men and women, with a view to achieving the elimination of prejudices and customary and all other practices which are based on the idea of the inferiority or superiority of either of the sexes or on stereotyped roles for man and women.

In effect these provisions are considered to be international legal orders to states to modify their negative tradition and customs that are dangerous to health and well-being of women. CEDAW enshrined provisions which are to ensure that the women are guaranteed their rights to health care, family planning and information as well as to education, economic and property rights, inheritance, custody of children, divorce, political participation and leadership. The removals of negative harmful traditional practices are enhanced by CEDAW for the promotion and protection of human right and reproductive and sexual health. States and private individuals are obliged to eliminate their discriminatory practices. Soon after the call was made by CEDWA other consensus document followed.

### 3.3 Convention on the Rights of the Child (CRC 1989)

The Convention provides protection for children against sexual abuse, exploration and trafficking. It is known that child marriages are a common violation of women's reproductive right. Women, who gave birth before the age of 18, are three times more likely to die than women aged 18 years and above.

Article 24 (1) provides that:

State parties shall strive to ensure that no child is deprived of his or her rights of access to services.

Article 24(2) (d):

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<sup>40</sup> This Convention was signed by Nigeria in 1985 and ratified without reservations; yet it has not been domesticated as required by Section 12 of the Constitution. Thus, it does not form part of our municipal laws. This is unfortunate, considering that the Convention on the Elimination of all forms of Discrimination against Women (CEDAW) is a gender specific instrument.

States parties agree to ensure appropriate pre-natal and post-natal care for mothers. This critical to the reduction of maternal mortality, morbidity and child survival A right monitoring body is put in place to monitor violations of the child rights, such as on the rate of child marriage, child trafficking sexual violence, and so on.

### 3.4 The Additional Protocol on Women's Right to the African Charter 2003

Initially, the African Charter on Human and Peoples' Rights (the Charter),<sup>41</sup> which is the primary human rights document in the area, had inadequacies that the Protocol aimed to rectify. The Charter was seldom used to further women's rights and only makes two allusions to women's equality.<sup>42</sup>

This historic treaty was added to the regional human rights charter, the African Charter on Human and Peoples' Rights (the African Charter), by the African Union, the regional organization tasked with fostering unity and solidarity among its 53 member nations. Following its ratification by fifteen African states, the Protocol on the Rights of Women in Africa<sup>43</sup> (the protocol) came into effect on November 25, 2005.<sup>44</sup> The treaty offers comprehensive safeguards for women's human rights, encompassing their rights to sexual orientation and reproduction.<sup>45</sup> Beyond Africa, the protocol has far-reaching importance and promise. The explicit articulation of a woman's right to an abortion in cases of sexual assault, rape, or incest; when the pregnancy poses a risk to the pregnant woman's life or health; and in cases of severe fetal defects that are incompatible with life are just a few of the firsts this document contains for the world. Article 5 of the Protocol provides for elimination of harmful traditional practices such as female genital mutilation/circumcision (FC/FGM) and child marriages, against women,<sup>46</sup> Article 14 specifically provides for the health and reproductive rights of women. Articles 20 and 21 provide for the protection of widows' rights. The Protocol was applied in the case of Dorothy Njemanze & three others v. Federal Republic of Nigeria.<sup>47</sup> It was a case of gender-based violence against four women in

<sup>41</sup>African Charter on Human and Peoples' Rights, June 27, 1981, 21 I.L.M. 59 (entered into force Oct. 21, 1986) [hereinafter Charter]. The Charter has been ratified by all fifty-three member states of the Organization of African Unity/African Union. Christof Heyns, *The African Regional Human Rights System: The African Charter*, 108 PENN ST. L. REV. 679, 683 (2004). See also Protocol, supra note 1, Preamble ("Despite the ratification of the African Charter on Human and Peoples' Rights and other international human rights instruments by the majority of States Parties.... women in Africa still continue to be victims of discrimination and harmful practices.").

<sup>42</sup> See Vincent O.N., *The African Human Rights System: Its Laws, Practices, and Institutions* (2001) 133-34 (stating that before the Protocol, the African Commission on Human and Peoples' Rights had never investigated women's rights issues using its Article 48 power under the Charter.; Bronwen Manby, *Civil and Political Rights in the African Charter on Human and Peoples' Rights: Articles 1-7*, in *The African Charter on Human and Peoples' Rights: The System in Practice, 1986-2006*, 171, 181 (Rachel Murray & Malcolm Evans eds., 2008) (noting that the discriminatory aspects of customary law and citizenship law have been the focus of litigation on the national and international level).

<sup>43</sup>Women in Africa, adopted July 11, 2003, reprinted in Martin Semalulu Nsibirwa, "A Brief Analysis of the Draft Protocol to the African Charter on Human and People's Rights in Africa" [2001] 1 40, (53) *AFR. HuM. RTS. L.J.*, (entered into force Nov. 25, 2005) [hereinafter Protocol].

<sup>44</sup> To date, 44 Member States have ratified the Protocol. 11 Member States are yet to ratify, namely Botswana, Burundi, Central African Republic, Chad, Egypt, Eritrea, Madagascar, Morocco, Niger, Somalia and Sudan. See *AFRICAN UNION PRESS RELEASE*, June 07, 2023. Available online < South Sudan becomes the 44th country to ratify the Protocol on Women's Rights. | African Union (au.int)> Accessed 7 Sept., 2024.

<sup>45</sup> Under international law, a "treaty" is "an international agreement concluded between States in written form and governed by international law." See Vienna Convention on the Law of Treaties, opened for signature May 23, 1969, art. 2(1)(a), 1155 U.N.T.S. 331, 333. The interpretation and application of treaties under international law is governed by the Vienna Convention on the Law of Treaties. The Vienna Convention provides that "Every treaty in force is binding upon the parties to it and must be performed by them in good faith" Id. art. 26.

<sup>46</sup>Nkolika Ijeoma Aniekwu *Reproductive Health Law; A Jurisprudential Analysis of Gender Specific Human Rights for the African Region* 1st edn (Ambik Press Nigeria, 2011), 101

<sup>47</sup> *Ibid*

Nigeria by the agents of the Nigerian government. Judgment was given in favour of the plaintiffs. This is significant because it was the first ever pronouncement of a regional court of law on women's human rights based on the provisions of the Maputo Protocol.

#### 4.0 Practical Issues in Sexual Rights

##### 4.1 Fertility Control

Women have always felt a desire to manage and control their fertility.<sup>48</sup> They lacked both the capability and the secure means to do so prior to the contemporary period. Prolonged breastfeeding was the only truly effective biological strategy available to women to delay conception. Regardless of the efficacy of these and other techniques, women have historically attempted control over reproduction with serious intent as seen by their usage. They also want ways to regulate the sexuality of men. Women have really been known to say that they like every aspect of marriage but the part where they become pregnant.

Contrarily, men have always had the ability and resources to regulate fertility and sexual encounters. An example of this may be found in the biblical account of Onan.<sup>49</sup> His father instructs him to wed Tamar, his brother's widow, "and raise up seed" for his brother following his brother's death. However, Onan was aware that the seed wasn't supposed to be his, and it happened when he entered his brother's wife and spilled it on him. And because of what he did, the Lord was furious, and he also killed him. The Lord, Onan, and Judah are the ones who act in the tale. Tamar had nothing to do with herself. *Coitus interruptus*, the traditional technique of withdrawal, has allowed males to have control over reproduction for a long time.<sup>50</sup>

For a long time, males have also had access to the condom, an additional reliable form of birth control. Although the details of the condom's genesis are lost in antiquity, the majority of accounts suggest that males created the technique with men in mind. According to a widely accepted story, a physician named "Dr. Condom" made the discovery in England in 1600. The legend says that Charles II was irritated by the quantity of his illegitimate children, which is why Dr. Condom devised the condom-sheath. According to a different account, the thought that a medieval slaughterhouse worker might shield promiscuous men from STDs by wrapping their penis with an animal's thin membrane came to them.<sup>51</sup>

Rather than being against contraception per se, women's reproductive control has been the main source of opposition to its usage in many communities.<sup>52</sup> Relegating women to govern the reproductive process has angered cultures ruled by males. It has long been a belief among males in patriarchal countries that women should have unfathomable power over their own sexuality if they were in charge of fertilisation.

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<sup>48</sup>Roth, Cassia, and Diana Paton. "Introduction." [2020] 30 (6) *Women's History Review*, 881–95. doi:10.1080/09612025.2020.1833488.

<sup>49</sup>Onan was a figure detailed in the *book of Genesis chapter 38*, as the second son of Judah who married the daughter of Shuah the Canaanite.

<sup>50</sup> Messner, Michael A. "The Limits of 'The Male Sex Role': An Analysis of the Men's Liberation and Men's Rights Movements' Discourse." [1998] 12 (2) *Gender and Society*, pp. 255–76. JSTOR, <http://www.jstor.org/stable/190285>. Accessed 6 Sept. 2024.

<sup>51</sup> Himes, N.E., *Medical History of Contraception* (New York: Shoken Book), 1970.

<sup>52</sup> Sperroff, L., & Darney, P.D., *A Clinical Guide for Contraception*. (Baltimore, Md.: Williams & Wilkins, 1992)

Being fertile is a decision, not an inheritance, and it has a significant impact on a woman's health, happiness, and quality of life. In the World Health Organization's constitution, "state of complete physical, mental, and social well-being" is defined as having all the resources and authority necessary for a woman to control and manage her fertility. In order to increase her safety and improve her child's chances of growing up healthy, she can plan her life, pursue her education, start a successful career, or time her pregnancies to occur at the best possible times. She can also choose to enjoy the happiness that comes with an intended pregnancy and avoid the distress that comes with an unintended one.<sup>53</sup>

#### 4.2 Abortion Laws in Africa

Abortion is a contentious issue globally and Africa is not an exception. The continent has some of the most restrictive abortion laws in the World, with many countries criminalizing the procedure except in cases of rape, incest, or to save the life of the mother. However, reproductive health and sexual rights are essential for individuals to make informed decisions about their bodies, health and well-being. According to Guttmacher Institute, 92% of African countries have restrictive abortion laws, with 18 countries allowing abortion only to save the life of the mother.<sup>54</sup> In South Africa, abortion is legal up to 12 weeks of pregnancy,<sup>55</sup> while in Nigeria, abortion is only permitted in case of rape or incest<sup>56</sup> but there are indications that induced unsafe abortions is still widely practiced. Due to the strict abortion laws in Nigeria, termination of unintended and unwanted pregnancies is left to persons who cannot perform the procedure professionally and under clinical safe conditions. Unsafe abortions are responsible for material deaths and hospitalization of women particularly the younger ones. It contributes to morbidity by increasing exposure to infections and the risks of haemorrhage and mechanical injury which is injurious to health which interferes with women's fertility.<sup>57</sup> Consequently, unsafe abortion is a public health problem.<sup>58</sup> The damage caused by such procedures can lead to disabilities, morbidity and death of women and girls. Logically, the fear of the consequences of having unwanted pregnancies in the family and the society, in addition to poverty as well as unskilled persons performing it leads to unsafe abortions.

Restrictive abortion laws have severe consequences for women's health and well-being. In Africa, an estimated 12.2 million unsafe abortions occur annually, resulting in 13% of maternal death.<sup>59</sup> Women's decisions about whether or not to bring a pregnancy to term are most frequently made in consultation with, under the constraint of, and sometimes in resistance against networks of significant other mothers,

<sup>53</sup> Fathalla, M.F. "Family Planning: Future Needs," [1992] *Journal of the Human Environment*, 84-87.

<sup>54</sup> Guttmacher Institute, (2020), Abortion Laws in Sub-Saharan Africa. Available online< Abortion in Sub-Saharan Africa | Guttmacher Institute> Accessed 6 Sept., 2024.

<sup>55</sup> World Health Organisation. (2019) Abortion Laws and Policies. Available online< World Health Organisation. (2019) Abortion Laws and Policies. - Search (bing.com) > Accessed 6 Sept., 2024.

<sup>56</sup> SS. 228, 229, 230, 297 Criminal Code SS 233, 232 Penal Code

<sup>57</sup> Situation Assessment and Analysis reports 2001, p. 47.

<sup>58</sup> The World Health Organization Report (2005) defines unsafe abortion as...a procedure for terminating an unwanted pregnancy either by persons lacking the necessary skill or in an environment lacking the requisite medical standards or both: World Health Organization (WHO), *The Health of Youths. Facts for Action, Youths and AIDS*. Geneva. 2004

<sup>59</sup> World Health Organisation. (2019) Unsafe Abortion. Available online< World Health Organisation. (2019) Unsafe Abortion. - Search (bing.com) > Accessed 6 Sept., 2024

mothers-in-law, sisters, other kin, neighbors, sometimes husbands or male partners.<sup>60</sup> In some community or female kin networks may function as sites of support for women's reproductive freedom for example, facilitating clandestine abortion or contraception, or refusal of unwanted sex others may present direct barriers or antagonisms Jealous or violent husbands or vigilant in-laws may prevent women from visiting clinics, using condoms, getting abortions, or attending workshops on women's health, thus not only constricting their "choices" but increasing their risks of unwanted pregnancy, maternal mortality, sexually transmitted diseases (STDs), and AIDS.<sup>61</sup>

#### 4.3 Maternal Mortality

It was reported in 1999 national fertility survey that Nigeria has an extremely high maternal mortality ratio (MMR) as one of the indicators of the state of reproductive health.<sup>62</sup> The 1999 survey reported a maternal mortality ratio of 704 per 1000,000 live births, meaning that with about 2.4 million live births annually, some 170,000 Nigerian women die as a result of complications associated with pregnancy or childbirth.<sup>63</sup> This is estimated to be one woman every three minutes. The maternal mortality ratio (MMR) in Nigeria is about 100 times worse than in developed countries.<sup>64</sup> This aspect made Nigeria to stand out in terms of disparity as it is extremely high in the international public health picture.<sup>65</sup> One of the causes of maternal mortality is female genital mutilation/cutting, a practice which places constrictions on the freedom of women to exercise their rights to bodily integrity and sexual autonomy. The principle of bodily integrity, and or the right to security in and control over one's body, lies at the core of reproductive and sexual freedom. Cutting/mutilation amounts to sexual slavery involuntary servitude, torture and a form of illegitimate assault and, sexual violence. The consequences of cutting/mutilation include complications during pregnancy, delivery or *puerperium* amongst many others, such as hemorrhage, sepsis, pre-eclampsia/eclampsia, anemia, and so on. Prolonged or obstructed labour occurs in girls who marry early without reaching the optimal growth, and those who are malnourished during childhood. Very many of these women end up with vesico-vaginal and Recto-Vaginal Fistula (VVF/RVF). The result is incontinent in urine and/or feces, who due to such condition become unwanted by their husbands and become socially ostracized.<sup>33</sup>

#### 4.4 Female Genital Mutilation (FGM)

According to UNICEF, Over 230 million girls and women alive today have been subjected to female genital mutilation and this new global estimate represents a 15 per cent increase in the total number of FGM survivors compared to data released in 2016.<sup>66</sup> Female Genital Mutilation (FGM), is a series of procedures performed on the genitalia of females of various ages, including the removal of the female

<sup>60</sup> Ezech A.C., "The Influences of Spouse Over Each Other's Contraceptive Attitudes in Ghana" Studies in Family Planning, 1993.

<sup>61</sup> Protacio N., "From womb to Tomb: Filipino Women's Struggle for Good Health and Justice". Paper presented at the Fourth international Interdisciplinary Congress on Women, June 12, at Hunter College, New York. 1990.

<sup>62</sup> UNICEF, Children and Women's Rights in Nigeria: A wake-up call situation Assessment and analysis National Planning Commission Abuja and UNICEF Nigeria, (2001), 46.

<sup>63</sup> *Ibid.*

<sup>64</sup> *Ibid.*

<sup>65</sup> Harrison, Kelsey A. "Maternal Mortality in Nigeria: The Real Issues." [1997] 1 (1) *African Journal of Reproductive Health / La Revue Africaine de La Santé Reproductive*, 7–13. JSTOR, <https://doi.org/10.2307/3583270>. Accessed 6 Sept. 2024.

<sup>66</sup> 2024 UNICEF Global Report, available online< Over 230 million girls and women alive today have been subjected to female genital mutilation — UNICEF>Accessed 9 Sept., 2024.



external genitalia entirely or in part or other injuries to the female genital organs for non-medical reasons, constitute a social phenomenon with deep roots in African socio-cultural and religious aspects.<sup>67</sup> African ethnic groups vary in their practices regarding female genital mutilation (FGM).<sup>68</sup> Some people prefer to cut their females between the ages of six and eight, while others prefer to cut their females at birth or before marriage.<sup>69</sup> The same implements are used throughout the mutilation procedure, which can be performed alone or in a group of up to forty women.<sup>70</sup> The operators are usually untrained religious leaders or midwives - working with unsterilised hot things or sharp instruments like clippers, blades, and scissors. Medical anesthetics are usually not used.<sup>71</sup> Using rudimentary tools like thorns or sutures, the two sides of the labia majora are usually sewn together and in cases of infibulation, the legs may be tied together for as long as 40 days.<sup>72</sup> To encourage and expedite the healing process, wounds might be treated with ointments, animal dung, or herbal treatments.<sup>73</sup>

One of the main debates surrounding the issue of FGM is whether it is a cultural practice that should be respected or whether it is a form of gender-based violence that should be eradicated. Among global North feminists, there are those who argue that FGM is a practice that is deeply rooted in patriarchal structures and is used to control women's sexuality. They insist that it is a form of gender-based violence that violates women's rights and should be eradicated. One of the main debates surrounding the issue of FGM is whether it is a cultural practice that should be respected or whether it is a form of gender-based violence that should be eradicated. Among global North feminists, there are those who argue that FGM is a practice that is deeply rooted in patriarchal structures and is used to control women's sexuality. They insist that it is a form of gender-based violence that violates women's rights and should be eradicated. One of the main debates surrounding the issue of FGM is whether it is a cultural practice that should be respected or whether it is a form of gender-based violence that should be eradicated.

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<sup>67</sup> Shakirat, Ganiyu O. et al., "An Overview of Female Genital Mutilation in Africa: Are the Women Beneficiaries or Victims?" [2020] 12 (9) *Cureus*, e10250. 4 Sep. 2020, doi:10.7759/cureus.10250

<sup>68</sup> Alba González et al., "Cultural Beliefs, Perceptions, and Experiences on Female Genital Mutilation Among Women and Men: A Qualitative Analysis" [2021] 38 (17-18) *Journal of Interpersonal Violence*: There are allegations that FGM is still practiced today in Australia, New Zealand, Europe, and North America, particularly in immigrant groups from nations where the practice is widespread. Their study is to evaluate the FGM-related experiences, knowledge, attitudes, and beliefs of migrant women and men from countries impacted by the practice who are living in Spain and the UK.

<sup>69</sup> Research conducted among Somalis in London examined the differences in views and experiences about female circumcision based on the age of immigration in the United Kingdom. *Ethn Health*. [2004] 1:75–100; Morison LA, Dirir A, Elmi S, Warsame J, Dirir S. [PubMed] [Scholar Google]

<sup>70</sup> Nahid T., "Female circumcision/female genital mutilation". [1998] 2 *Afr J Reprod Health*, 6.

<sup>71</sup> Klein E, "Female genital mutilation: health consequences and complications." [2018] 1, *Obstet Gynecol Int*, 1–7.

<sup>72</sup> *Ibid*.

<sup>73</sup> Toubia N, Sharief E. "Female genital mutilation: Have We Made Progress?" [2003] 82, *Int J Gynaecol Obstet*, 251–261.

One of the main debates surrounding the issue of FGM is whether it is a cultural practice that should be respected or whether it is a form of gender-based violence that should be eradicated. Among global North feminists, there are those who argue that FGM is a practice that is deeply rooted in patriarchal structures and is used to control women's sexuality. They insist that it is a form of gender-based violence that violates women's rights and should be eradicated. One of the main debates surrounding the issue of FGM is whether it is a cultural practice that should be respected or whether it is a form of gender-based violence that should be eradicated. Among global North feminists, there are those who argue that FGM is a practice that is deeply rooted in patriarchal structures and is used to control women's sexuality. They insist that it is a form of gender-based violence that violates women's rights and should be eradicated. There are two contrary views on the subject of FGM held by cultural relativist<sup>74</sup> on the one side, and Universalists on the other. The Extreme cultural relativism school of thought advocates that feminists of western extraction should not intervene in matters unrelated to one's own culture. Proponents of this school of thought contend that attempts to eradicate FGM by western feminists would amount to both cultural imperialism and neocolonialism and that cultural practice should not be evaluated from the outside. This perspective emphasizes the value of respecting regional customs and traditions as well as cultural sensitivity.<sup>75</sup>

According to universalism theory, human rights are a universal cause that unites all individuals against discrimination, injustice, and human rights violations and FGM is in direct violation of three fundamental universal human rights under the UNDHR<sup>76</sup> Clementina and Emily identify FGM with ideologies and cultural norms that perpetuate and validate patriarchal control over female sexuality which should be outlawed since it violates women's rights.<sup>77</sup> Similarly, Ganiyu O. *et al* viewing FGM from the perspectives of gynecological, psychosocial, and psychosexual implications recognised the practice of FGM as gender victimization and potentially perilous for the survival of "circumcised" women.<sup>78</sup> FGM is an antiquated practice that contributes to gender imbalance in society and puts women in danger by subjecting them to problems and repercussions that might be life-threatening.<sup>79</sup>

## 5.0 Conclusion

The struggle to incorporate reproductive rights into international agreements of Cairo and Beijing indicates how strategic efforts to use law to promote women's human and sexual rights are constrained

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<sup>74</sup> According to cultural relativism, no culture is better than any other when it comes to morals, politics, ethics, or the law. It is a philosophical idea that truth itself is relative and that all cultural ideas are equally legitimate, depending on the cultural context in which they are held. According to the theory of cultural relativism, an individual's religious, ethical, artistic, and political opinions are entirely dependent on their social and cultural context. Niles P. R. & Rose R. Matthews. "Cultural Relativism." *All About Philosophy*,

Availableonline<[http://www.princeton.edu/~achaney/tmve/wiki100k/docs/Cultural\\_relativism.html](http://www.princeton.edu/~achaney/tmve/wiki100k/docs/Cultural_relativism.html)>Accessed 7 Sept., 2024.

<sup>75</sup> Boluwatife Ajayi, "Exploring the Eradication of the Practice of Female Genital Mutilation in Nigeria, West Africa" (M.A. Final Project Paper) August 2021 - May 2023 University at Albany, The State University of New York.

<sup>76</sup> The right to health (Article 25 s.1), the right to life liberty and the security of personhood (Article 3), and the right to an adequate education that includes proper knowledge of the cultural practice (Article 26 s.1)

<sup>77</sup> Osezua, O.C., Edobor, A.E., "Female Genital Mutilation/Cutting in Africa: Patriarchy and Policy" In Yacob-Haliso, O. & Falola, T. (eds) *The Palgrave Handbook of African Women's Studies*, (Palgrave Macmillan, Cham, 2021).

[https://doi.org/10.1007/978-3-030-28099-4\\_157](https://doi.org/10.1007/978-3-030-28099-4_157)

<sup>78</sup> Shakirat, G. O. et al., "An Overview of Female Genital Mutilation in Africa: Are the Women Beneficiaries or Victims?" *Cureus* [2020] 12, doi:10.7759/cureus.10250

<sup>79</sup> *Ibid.*

by political and cultural contestations.<sup>80</sup> Post-colonial feminists and legal activists have since continued to struggle with the question of how to insert sexist issues into a purportedly "neutral" body of law. Where equality is conceptualized as sameness, the legal system imposes a regime of formal equality, which guarantees facially neutral treatments to men and women. However, there is a hidden bias in this sameness model because persons who do not conform to this model are denied the fruits of equality. This is particularly troubling since some of sexual outsiders and women's experiences of inequality relate to them sexually in emphasizing the sameness of women and men, the sexual body, and particularly the women's body, is erased. The concepts of sexual and reproductive health and rights help to highlight why an alternative conceptualization of "sexuality" and equality is necessary.

The purpose of this study was not to impose a feminist or sexist concept, but to explore alternative ways of conceptualizing reproductive health against the backdrop of previously acquired biases, prejudices and stereotypes in order to advance mental and social wholeness for men, women and children. This, is a state of complete physical, mental and social well-being. The author defined the terrain of sexual health in terms of power and resources, power to make informed decisions about one's own fertility, child bearing, gynaecological health and sexuality, and resources to carry such decisions safely and effectively. This terrain necessarily involves some core notion of "bodily integrity", or control over one's body". However, it also involves one's relationship to one's children, sexual partners, family members, community, caregivers, and society at large, in other words, the body exists in a socially mediated universe.

Since the ICPD programme of Action in 1994 and the Beijing platform for Action in 1995, the policies and implementation strategies of some signatory states have rightly reflected the broad view of reproductive health and sexual rights articulated at Cairo. In Nigeria and other parts of the African region however, there are still major challenges in the realization of these rights. Government has a big role to play in the protection of reproductive right especially the health component.

The tension between religious and cultural beliefs and the actualization of reproductive health and sexual rights is a complex and sensitive issue in the African. On one hand, religious and cultural beliefs play a significant role in shaping the values, norms and practices of African societies, on the other hand, reproductive health and sexual rights are fundamental rights essential for individuals to make informed decisions about their bodies, health and well-being.

In many African countries, religious and cultural beliefs often conflict with reproductive health and sexual rights, leading to restrictions on access to health-care services, information and education. For instance, some religious group oppose contraception, abortion and comprehensive sexuality education, while cultural practices like female genital mutilation (FGM) and child marriages persist.

This tension has severe consequences for individuals, particularly women and girls, who are often denied their reproductive health and sexual rights. It also hinders African progress towards achieving

the Sustainable Development Goals (SDGs), particularly, goal 3 (Good Health and Well-being) and Goal 5 (Gender Equality).

### **6.0 Recommendations**

To address these tensions, it is essential to engage in open and inclusive dialogue with religious and cultural leaders, communities, and individuals. This involves:

1. Promoting inclusive interpretation of religious and cultural beliefs that respects reproductive health and sexual rights.
2. Supporting education and advocacy initiatives that raise awareness about reproductive health and sexual rights.
3. Encouraging policy and legal reforms that protect reproductive health and sexual rights.
4. Empowering individuals, especially women and girls, to make informed decisions about their bodies, health and well-being.
5. Fostering collaboration between governments, civil societies, and religious and cultural organisations to promote reproductive health and sexual rights.

By addressing the tension between religious and cultural beliefs and reproductive health and sexual rights, Africa can make significant progress towards achieving gender equality, good health, and well-being for all.