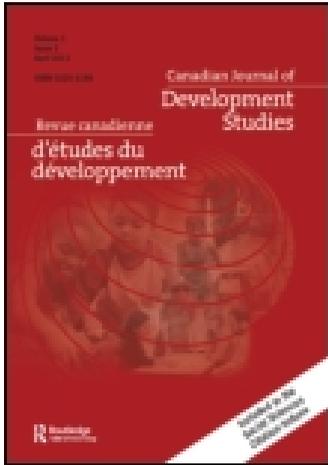


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Women's rights and culture in Africa: a dialogue with global patriarchal traditions

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ABSTRACT Drawing on findings from field research in Ghana, analyses of the 2003 Maputo Protocol on women's rights in Africa and other human rights instruments, this article discusses the challenges of advocating for individual women's rights in African states. The article examines the strategies women's rights advocates employ in navigating cultural hindrances to women's rights and negotiating women's individual rights within Ghana's socio-cultural and political terrain. It argues that advocates must advance a type of 'specific relativism' that is based on a fine balance between universalist and cultural relativist claims within the human rights discourse. Further, it argues that African women's rights issues, considered in the context of Africa's post-colonial environment, highlight the manner in which global economic inequalities reinforce oppressive cultural customs that marginalise women and contribute to rights violations. Therefore, women's advocates must also take into account the global economic system when articulating claims for African women's rights.

RÉSUMÉ S'appuyant sur une recherche menée au Ghana et une analyse du Protocole de Maputo et d'autres documents légaux, cet article discute les défis auxquels les défenseurs des droits des femmes s'affrontent dans les états africains. Ce travail examine les stratégies employées par ces activistes visant à combattre les violations culturelles des droits et libertés des femmes au Ghana. Il conclue que le succès des droits des femmes au Ghana dépend sur l'articulation d'une voie moyenne entre les positions universalistes et relativistes présentes dans le discours des droits humains. En plus, sachant que le système économique et international renforce la marginalisation des femmes, les activistes doivent aussi trouver un moyen de s'adresser ces inégalités économiques au Ghana.

Keywords: Africa; culture; rights; women; Ghana; Maputo Protocol

Introduction

Since the Universal Declaration of Human Rights (UDHR) was adopted over 60 years ago, there has been much scholarly debate on the implications of this document in entrenching individual libertarian values in culturally diverse non-Western societies. Beyond these debates, the UDHR enjoys a privileged position in development discourse as an instructive instrument in considerations for human wellbeing. At the very least, it has inspired progressive conversations and dialogue on the subject of human rights. The claim to universality in the document is criticised for being Eurocentric since it espouses values consistent with a Western individual libertarian socio-political system. While acknowledging these criticisms, human rights scholars defend the applicability of the universal values put forth by the document. They claim that these values

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were based on a broad consultation process, which subsequently led to the formulation of the instrument (see discussions in Donnelly [1984], [2007], Cassese [1999], Ignatieff [2001]). In light of these criticisms, many regional and sub-regional groups formulated geographically specific and religiously and culturally relevant instruments to guide human rights practice in their various locales. Examples of such instruments include: the African Union's charter of human and people's rights, adopted in 1981 (ACHPR); the Universal Islamic declaration of human rights of 1981; and the Asian human rights charter of 1998. The extent to which cultural relativism matters in human rights claims elicits tensions among different interest groups within the same cultural or geographical locales. In the case of Africa, cultural relativists and women's rights advocates theoretically have different interests and needs.

While the controversy over universalism and cultural relativism has raged on for decades in human rights discourse, academic research focusing on the challenges African women's rights bring to the debate remains scanty. The multiple strategies needed in negotiating women's rights within local, cultural and global economic hegemonies are left unexplored. This article therefore critically engages with the contradictions, tensions and convergences of moral, political, philosophical and legal debates in human rights discourses with regard to women's rights in African cultural systems and the challenges in upholding such rights within diverse socio-cultural systems. I suggest that the Protocol to the ACHPR on the Rights of Women (African women's/Maputo Protocol) challenges the collectivist principles embedded in the ACHPR through its focus on individual women's rights. This calls for attention to the different cultural experiences and expectations of marginalised groups on the continent. While the Protocol exposes underlying patriarchal traditions in the ACHPR, a careful consideration also exposes the UDHR's prioritisation of 'civil and political' (CP or first generation) rights over 'economic, social and cultural' (ESC or second generation) rights.

This article contributes to debates in human rights on various levels. First, rights discourses in Africa not only intersect with global discourses of rights for women, but for minority groups in general. For instance, women's rights in Africa are important linchpins in two primary debates in human rights discourses: cultural relativism in human rights and the general debate of CP vs ESC rights. African women's rights discourses clearly showcase the complexities of globally engaging with rights. For example, one cannot discuss the cultural relativist debates without analysing the various levels of dissent within the continent. The task of defining what is cultural and how African women are engaged in articulating their rights *separate* from the dominant patriarchal notions of culture and rights still needs to be properly addressed. The activism of African women in articulating this difference and dissent in terms of their own experiences of culture demonstrates the women's ability in empowering themselves. This is in sharp contrast to the dominant views of African women as docile victims of unchallenged male patriarchal cultural misogyny.

Second, it also draws attention to the ways in which ESC rights directly impact women's empowerment. ESC rights will contribute to women's economic empowerment, all the while still reinforcing the status quo. Furthermore, women's rights concerns also draw attention to the multiple levels of oppression women have to deal with: global; local patriarchal systems; and the interaction of global neoliberal policies and women's marginalisation.

While the women's rights movement in Africa has succeeded in drawing attention to unprogressive cultural practices (a success based largely on the representation of African culture as 'backward'), it must still draw links between women's economic marginalisation and their rights violations. These violations are exacerbated both by global economic inequalities and the entrenchment of oppressive local patriarchal culture. This article contends that, as far as human rights advocacy is concerned, the success of African women's rights activists depends on their ability to advocate a 'specific' relativism. Their approach must ultimately lean towards individual freedoms and libertarian values while still emphasising the collective and cultural

protection of women at the local, state and global levels. Further, not only do activists have to tread a fine line between universalist and cultural relativist claims, they must also be wary of a global economic system which compounds women's rights violations in Ghana.

Methodology and structure

This article employs two methodological tools: (1) primary data from ethnographic observations, interviews and focus group discussions with women's rights leaders and activists in Ghana; and (2) analyses of legal human rights instruments: the African Women's Protocol, the ACHPR and the Constitution of Ghana. Ghana is an important case study for various reasons. It was the first country in Sub-Saharan Africa to obtain independence from colonial rule, with Dr Kwame Nkrumah as its first prime minister, thus serving as a model country. Nkrumah, a pan-Africanist, was greatly influential in the founding of the Organisation of African Unity (OAU). In addition to the political stability in Ghana (situated within an otherwise troubled West African region), the country has also ratified all major international human and women's rights instruments discussed in this article. The study took place over a six-month period. During this time, 15 individual interviews and eight focus group discussions were conducted throughout the country. Participants of individual interviews were mostly self-identified women's rights advocates, activists and leaders in Ghana. Participants in focus group discussions were drawn from a broad selection of women with higher levels of education in Ghana. Participants were mostly recruited through snowball sampling techniques. It is important to mention here that while the study focused on experiences and perspectives of women, one male focus group discussion, as well as an individual interview with a male executive of an NGO, was included in the study. Consistent with ethical guidelines, I use pseudonyms (A1, B2, C3, D4, E5, F6 and so on) to protect the anonymity of study participants.

The article is organised in three parts. Part one highlights the contributions of human rights discourse to development thought and practice. Part two discusses the implications of the Maputo Protocol in promoting universal individual rights values in the postcolonial and African context. I conclude by examining findings obtained from field research in Ghana, integrating these observations with the theoretical debates outlined in the earlier parts.

Part 1: the imperial reach of human rights: women's rights as human rights

Scholarship in human rights has evolved from debates on the universality of individual rights norms to the power and limitations of the UDHR to transcend cultural differences in its mandate (Donnelly 1999, Sen 1999). The global respect for the fundamental rights of humans has become a sacred unquestioned moral ground on which nations are either praised or shamed. The Human Development Index (HDI), proposed by Amartya Sen (1999) in his theory of capabilities and freedoms, reinforces the fundamental freedoms guaranteed in the UDHR. The UDHR has therefore contributed significantly to advancing a universalised concept of fundamental human needs across the globe. As a development discourse, human rights contribute to debates on the nature and evolving conceptions of development. Rights claims have provided further insight on human wellbeing as opposed to solely focusing on economic growth in development planning and practice. More importantly, human rights discourse has revolutionised demands for justice through its appeal to the sacredness of the human. Elliot (2007) suggests that the idea of the sacredness and inviolability of the human has driven the expansion of human rights to the extent that we can now "gain new insights into the expansion of human rights by viewing it as a cult of the individual for a global society. This modern cult [of human rights]

worships its own gods, venerates its own sacred texts, and performs its own rituals in strikingly similar ways to religious practices" (p. 353).

The privileged status of human rights discourse in addressing grave social injustices within transnational contexts makes it an excellent avenue through which marginalised and oppressed groups seek justice. The universal stature of the human rights framework, modified to suit various socio-cultural contexts, has largely eclipsed normative concerns over its imperial nature. For instance, women's groups effectively appeal to the universal rights to personhood and dignity in order to combat discrimination based on their sex and gender. In this way, they are able to appeal to the power of a framework that transcends national state apparatuses complicit in rights violations. Qualifying rights violations or claims by women as *human* rights is viewed as a means to address enduring historical gender inequalities in society. Nevertheless, at a global level, women are still perceived as second-class citizens (Hernandez-Truyol 2004). Therefore, there are strategic political and practical implications of labelling rights violations as human instead of women's. Treating women's rights as human rights enables, perhaps, a neutral evaluation of the rights violation or right claim in question, without interfering influences, such as the 'type of human' in question. Further, Hernandez-Truyol's (2004) argument, as substantiated by findings from this study, claims that the articulation of women's rights often becomes powerless when pitted against the cultural relativist rhetoric. As a result, rights violations are often excused based on the grounds of 'cultural integrity'.

The institutionalisation of women's rights as human rights occurred with the 1993 Vienna World Conference on Human Rights. The document recognised women's rights as integral to the UDHR, thus putting to rest debates on whether or not women's rights can be construed as human rights. The declaration upheld women's rights to be "an inalienable, integral and indivisible part of universal human rights". The Declaration also affirmed the equal status of women in the United Nations and its core activities (United Nations 1993). Article 2 of the UDHR reaffirms this by stating that "*everyone* is entitled to all the rights and freedoms set forth in this declaration, *without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status*" (emphasis added) (United Nations 1948). This notwithstanding, the UDHR reinforced an already existing and gendered public vs private divide by prioritising political rights violations over other rights violations (such as cultural violence). Doing so overlooks abuses, which occur in the private sphere, from which women are more likely to suffer (Tobin 2009). With men dominating the public and political spheres in most developing countries, the UDHR's primary focus on first-generation rights over second-generation rights exacerbates this cultural vs universal dichotomy with regards to human rights.

Women's rights concerns in Africa, broadly speaking, are 'second-generation' rights. While many poor people, regardless of gender, suffer the consequences of failed macro-economic policies in African states, poor women are worse off than their male counterparts. Gender-based discriminatory practices, particularly when it comes to access to agricultural and commercial purposes, severely limit the economic wellbeing of women. African women's rights concerns thus highlight the need for proper contextual analyses when evaluating universalist human rights claims. Ongoing debates between Western and Third World feminism (broadly defined), are amplified by different socio-cultural conditions. This is manifested by the ambiguous positions that African women's rights advocates must adopt when it comes to individual and collective rights. In other words, while the language of human rights (because of its roots in individual libertarian political culture) revolves around individual autonomy, the success of African women's rights advocates largely depends on the successful articulation of individual rights within the collective conscience of their societies. They need to simultaneously *claim* and *reject* the specificity of their gender since their 'race' (as members of an impoverished continent

emerging out of colonial domination) reinforces the discrimination they are exposed to as women. Given the UDHR's focus on the individual, African women's rights advocates are often accused of cultural insensitivity due to the perception that individual women's rights are Western. This belief is fuelled by the mythical portrayal of African societies as collectivist and harmonious. Consequently, while challenging their local cultural customs and traditions, they must also fight against the appropriation of their voices by Western or other feminists.

Given this struggle, African women's rights claims may also be understood through Spivak's (1996) notion of strategic essentialism. They seek a type of political kinship that Haraway (2004) describes as malleable, unfixed and strategically fluid. However, even though Haraway's idea works well in the context of rights claims by African women, they also need to make essentialist claims to address daily poverty issues. The human rights framework therefore provides grounds for transnational feminist articulations of solidarity on the basis of similar marginalised statuses, not experiences.

Overall, the UDHR has truly globalised notions of individual libertarianism and has sparked debates on the extent to which individual rights are attainable within different political and rights contexts. In the next part, I discuss the contexts within which the African Union and African women's groups propose and adopt human rights frameworks to suit their particular geographic and cultural needs.

Part 2: the strategic importance of the African Women's Protocol in legitimising women's rights claims in Africa

Africanist perspectives on human rights, as reflected in the ACHPR, focus on the differences in socio-cultural and political ideological traditions between African peoples and peoples of the West. In contrast to the UDHR, the ACPHR, broadly speaking, promotes the collectivist nature of African cultural systems by outlining the duties of the individual towards her/his community. For instance, Chapter 2 of the ACPHR spells out such responsibilities in Articles 27 and 29.

1. Every individual shall have *duties towards his family and society*, the State and other legally recognised communities and the international community. 2. The rights and freedoms of each individual shall be exercised with *due regard to the rights of others, collective security, morality and common interest* (Art. 27, emphasis added).

The individual shall also have the duty to: 1. *Preserve the harmonious development of the family and to work for the cohesion and respect of the family.* 7. *Preserve and strengthen positive African cultural values in his relations with other members of the society, in the spirit of tolerance, dialogue and consultation and, in general, to contribute to the promotion of the moral wellbeing of society* (Art. 29, emphasis added).

Emphasis on the collective in African social systems does not preclude individual expression within these cultural systems; individual identities are derived from group membership (Nukunya 1992). The tensions and contradictions between cultural relativism and universal women's rights debates suggest an opposition between principles of individual and collective liberties. This dualism, as Makau Wa Matua (1995) argues, is over simplified and assumes a false rigidity:

A thorough understanding of the meaning of human rights, and the complicated processes through which they are protected and realised, would seem to inextricably link the concepts of human rights, peoples' rights and duties of individuals. Individual rights cannot make sense in a social and political vacuum, devoid of the duties assumed by individuals. This appears to be more true in Africa than any other place. (cited in Fox 2003, p.7).

Critical scholars on human rights argue that the tensions arising from these debates are not based on a fundamental disagreement on what constitutes rights. Rather, they concern the *way* in which human rights advocacy is carried out in non-Western cultural contexts since following a Western-styled system can lead to undesirable consequences for vulnerable groups (see Ishay 1997, Ibhawoh 2004, 2006). As Ibhawoh (2004) suggests, the argument for cultural relativism in the African context is complex because of contact with outside cultures, creating what he refers to as 'cultural confusion'. Since globalisation constantly creates new cultural forms, it is important to acknowledge the new dimensions of 'cosmopolitan culture' described by many anthropologists as "heterogeneous, fluid, shifting, emergent, contradictory, and processual" (Fox 2003, p. 3). This view contrasts with an extremely conservative relativist¹ perspective since it understands culture to be an internally coherent whole (Salmon 1997). Similarly, Ibhawoh (2006) makes a distinction between the 'cosmopolitan' paradigm of human rights (usually advocated by feminists)² and the conservative paradigm upheld by African elites (mostly male), who seek to preserve the 'sanctity' of African culture. Therefore, the African Charter's call, in Article 29, to "preserve positive African cultural values" (African Union 1981) can be interpreted by different interest groups to serve their purposes. For African women's rights advocates, it constitutes a strategic starting point for challenging violent cultural practices. As such, women's rights advocates in this study largely choose to attack the cultural basis of rights violations since they claim that practices violating women's rights do not constitute positive African values.

The contestation of harmful cultural practices via the ACHPR is one of two important strategies women's groups employ in legitimising a culture of rights and self-determination on the continent. As a region not represented during the formulation of the UDHR (see Ignatieff 2001), the ACHPR as an African human rights instrument is necessary in cementing Africa's self-determination and independence from imperialism. Its *raison d'être* underscores the essence of voice and recognition in ongoing struggles for political and economic independence. This should remind us of two intricately intertwined historical events that have shaped global political relations and North/South relations: (1) the neutrality of pan-Africanists during the Cold War; and (2) the establishment of global governance institutions (the UN, World Bank and IMF), as well as a universal bill of rights to safeguard against future wars and to promote global cooperation through the implementation the UDHR's core values.

Similarly, the African Women's Protocol signifies the need for voice and self-determination of marginalised groups in global rights discourses. In addition to global women's human rights instruments such as the Convention on the elimination of all forms of discrimination against women (CEDAW) and specific national legal instruments such as constitutions that contain provisions for women's rights, women's rights groups in Africa found it necessary to rally behind an instrument tailored specifically to the needs of women. The African Women's Protocol was adopted in Maputo in 2003 and entered into force in November 2005 (African Union 2007). The Protocol goes beyond global women's rights instruments to make specific references to the particular situations of African women. As Dorcas Coker-Appiah (2005) puts it, "it is important to have a regional instrument that adequately protects the rights of women taking into account the cultural specificity of Africa and the special needs of African women which may not be adequately addressed by the CEDAW" (WiLDAF 2005). The basis for proposing a specific Protocol stems from the inadequate protection for women's rights, despite the fact that various countries have already ratified international conventions on the same issue.

Drafters of the Protocol are, among others:

concerned that despite the ratification of the African Charter on Human and Peoples' Rights and other international human rights instruments by the majority of States Parties, and their solemn commitment to eliminate all forms of discrimination and harmful practices against women, women in Africa still

continue to be victims of discrimination and harmful practices. (African Union 2003; emphasis added).

Prominent women's rights groups, including Women in Law and Development in Africa/Femmes (WiLDAF), FEMNET (African Women's Development and Communication Network), the African Centre for Democracy and Human Rights Studies and Equality Now, campaigned to strengthen the Maputo Protocol and to seek ratification from member states of the African Union (Awid 2011). To date, 21 of the 53 countries have ratified the Protocol (African Union 2007). The Protocol confronts questionable African cultural traditions that either directly or indirectly violate women's rights. It also targets institutionalised gender norms that perpetuate the inferiority of women. For instance, Article 12 (Right to Education and Training) aims to "ensure that in textbooks, there are no exercises or games reserved solely for boys and other exercises and games reserved solely for girls. *For example, books should no longer contain images showing boys playing football and girls helping their mother in the kitchen or carrying babies on their backs*" (emphasis added). This seemingly blatant disregard for normative gendered socialisation practices partly legitimises the claim that African women's rights advocates are influenced by Western ideas of gender equality. Article 20 (Widow's Rights, sections A and C) also specifically discusses widowhood rights in Africa:

State Parties shall take appropriate legal measures to ensure that widows enjoy all human rights through the implementation of the following provisions: A. that *widows, women whose husbands have died, are not subjected to inhuman, humiliating or degrading treatment, that is a widow should not be subjected to acts that shame or humiliate her or that do not respect her human dignity, for example locking her away in a room for several months or having her head shaved.* C. a widow shall have the right to remarry, and in this event, to marry the person of her choice. No member of her family or that of her late husband's shall compel her to marry a man against her will. (African Union 2003, emphasis added).

Two provisions under Article 17 (Right to Positive Cultural Context) are of particular interests to this article:

1. Women shall have the right to live in *a positive cultural context, an environment where the practices, attitudes and behaviours accepted by the culture of the community have no harmful consequences (are positive for all human beings.)* Women also have the right to ensure that their ideas about these practices are taken into account by their community, village or district and the entire country (emphasis added).
2. *States Parties shall take all appropriate measures to enhance the participation of women in the formulation of cultural policies at all levels* (emphasis added).

These provisions in the Protocol point directly to certain negative cultural traditions that violate women's rights. In this view, the Protocol avoids the generalised reference to 'bodily integrity' in the UDHR and the vagueness of 'preserving positive cultural values' in the ACPHR. Consequently, it contextualises universalist claims against non-discriminatory and negative cultural practices in the CEDAW by proposing locally specific guidelines. This specific reference to actual customs and traditions is particularly instructive in the context of Africa's post-independence political organisation.

Women's rights groups relying on this instrument employ the double strategy of demanding that state legislature diminish harmful cultural practices, while at the same time encouraging cultural leaders to accommodate women's rights within cultural traditions. Coalitions between domestic and international civil society organisations, who 'name and shame'³ non-compliant

regimes, have become powerful in African women's rights advocacy. African countries are especially susceptible to this because they have to constantly prove to the outside world that they adhere to international standards of good governance, democracy and human rights. They must justify their legitimacy, for example, through reports on human rights conventions like the CEDAW. An examination of recent country performance reports to CEDAW from Ghana, Nigeria and Togo⁴, however, show that African countries fail to protect women from harmful cultural traditions.

Ghana's 2005 report to the CEDAW, titled *Combined third, fourth and fifth periodic reports of States parties: Ghana*,⁵ seems to suggest that an irreconcilable relationship exists between women's individual rights and African traditional culture. The report shows that Ghana encountered difficulties in obtaining statistical data on "deep-seated, inherited traditions, customs, attitudes that are not easy to change or eradicate" (CEDAW 2005, p. 6) and other factors that pertain to women's rights. In other words, rights violations that occur on cultural grounds are difficult to catch. Furthermore, this report (see excerpt below) paradoxically praises the state for its efforts in protecting women's rights, while excusing its inaction by blaming enduring cultural traditions:

the further passage of the laws such as the Intestate Succession Law, Administration of Estates, Marriage and Divorce Registration, the Law against Female Genital Mutilation and Harmful Traditional Widowhood Practices injurious to the health of women, the Law against Customary Servitude (Trokosi) inter alia, mark an important achievement towards redressing the injustices done to women in this area. *However, implementation has been difficult, especially since the roots of these practices are deeply entrenched in culture.* Education on these laws is ongoing and it is expected that with time, attitudinal and behavioural change will occur (CEDAW 2005, p. 18, emphasis added).

The report additionally states that apart from passing laws against female genital mutilation and harmful widowhood rites, "the National House of Chiefs, the custodians of customs and traditions, has also been given the responsibility, under article 272(c), to undertake an evaluation of traditional customs and usages with the view to eliminating those customs and usages that are outmoded and socially harmful" (CEDAW 2005, p. 18). This obvious irony, relying on traditional chieftaincy institutions to protect women's rights, is hard to miss. The chieftaincy institution is one that protects the very cultural traditions described in the report as "deep-seated" and "difficult to eradicate". Obviously, part of the problem lies in this institution's mandate as 'custodians of tradition'. Traditional authorities in many post-colonial African states are designated custodians of cultural traditions.

On the other hand, governments rely on formal and legal state apparatuses inherited from former colonial powers. The work and powers of traditional rulers are both complementary and subordinate to state power in many respects. For instance, Chapter 22 of Ghana's Constitution spells out the separate functions and rights of the National House of Chiefs⁶ and the Parliament of Ghana as autonomous institutions. Chapter 5 (Fundamental Human Rights and Freedoms) of the Constitution, however, in no uncertain terms, prohibits "all customary practices which dehumanize or are injurious to the physical and mental wellbeing of a person" (Government of Ghana 1992).⁷

In Togo's report to CEDAW, the section on land rights lays out the difficulty of ensuring equitable access to land for women, thus "in virtually all customary systems of landholding, women are barred from owning land. A woman is allowed only to work the land, with her husband's permission or the permission of her original family" (CEDAW 2004, p.121). Ironically, the report goes on to declare that "women are not prevented from participating in community activities by any dictate of custom, religion or culture; the real obstacle is their heavy burden of household tasks" (p. 123). Broadly speaking, African cultural systems are largely patriarchal. Women face many

disadvantages with regard to access to land and other economic resources because of their gender. An undeniable relationship exists between the lack of economic power and women's susceptibility to rights violations. Economic wellbeing in many African countries is tied to access to, in particular, agricultural lands. Therefore, women's inability to secure lands for subsistence and commercial farming contributes significantly to their economic, political and socio-cultural vulnerability.

This notwithstanding, African women have multiple identities, as daughters, sisters, wives and mothers. This makes women complicit as participants, subjects and mediators in customs that violate women's rights. The agency carved out of these multiple identities is crucial in understanding the advocacy strategies employed. The movement's ongoing campaign against local oppressive cultural customs is well received by the international human rights community.⁸ While this is important, since cultural excuses are rampant in women's rights violations, it nevertheless obscures the impact of global economic policies and programmes, such as the infamous structural adjustment programs (SAPS), in entrenching women's economic marginalisation in Africa. Local culture thus becomes the scapegoat for economic marginalisation perpetuated by ineffective macro-economic programs. Consequently, the Maputo Protocol's contributions to women's rights in Africa are understandably limited in its focus (i.e. on local patriarchal cultural traditions that discriminate against women).

Discussion: experiences of women in human rights advocacy in Ghana

This part analyses experiences of activists advocating women's rights in Ghana. These first-hand experiences substantiate and provide crucial insights into some of the theoretical discussions in the preceding parts. They also provide insight into the 'cosmopolitan' thought processes that influence advocacy strategies. Participant experiences of educational and socio-economic achievements influence their 'cosmopolitan' outlook on women's rights and the strategic employment of universal discourses of rights. While they understand themselves differently from women in other parts of the world, participants in the study expressed frustration at the idea that their 'Africanness' would disqualify them from the universal bill of rights. Among other things, participants discussed the double standards involved in references to African culture where women's rights are concerned.

Overall, a women's rights consciousness is burgeoning through sustained and vigorous campaigns by women's rights groups in Ghana. This is causing great discomfort for those who oppose women's individual rights on cultural grounds. Activists, however, consider this stir a tremendous achievement. For instance, A1, founder of a women's rights groups in one of Ghana's 10 regions, indicates that it is a measure of success for advocacy on women's rights in Ghana, stating: "I believe that *when you do advocacy and you don't arouse people's anger, you don't arouse people's fears, you are not doing [well], you have to check yourself to see if the advocacy is actually succeeding*" (Field interview 2010, participant A1, emphasis added). Unnerving as the idea of women's rights might sound to some in Ghana, rights-based groups like A1's, referred to as troublemakers, appeal to the universalism of women's rights and past successes to support their claims.

And I say it's possible. It's done in India, it's done in the Americas, it can be done in Ghana. A woman is a woman everywhere on the face of this earth just as a man is a man anywhere on the face of this earth so it can be done. So sometimes I'm accused of trying to change the status quo and breeding some kind of contempt among women because I strongly believe that the men know these rights for women, they know the rights, but they know that the moment they make you aware of that right, you'll attempt to claim it and in claiming it there will be some kind of hitches here and there, some misunderstanding here and that is what people fear, or most men fear, or most heads of households or families fear. (Field interview 2010, participant A1, emphasis added)

Tension within Ghanaian women's rights discourses: treading a fine line between universalist and cultural relativist positions

Evidently, A1 believes in discussing women's rights in universalist terms, not because she is unaware of the cultural differences between Ghanaian and other women, but specifically because she is conscious of the 'cultural excuse' that is so easily employed when women's rights are discussed. Similarly, another prominent women's rights advocate and academic questions the cultural basis of rights violations:

People just can't imagine that you would talk of gender equality. [For them] *it doesn't exist and they will rather say this is a foreign idea. What is foreign about the fact your daughter should go to school like your son would? What is foreign about the fact that women have to travel long distances to get water for the home? What is foreign about the fact that one has to remove somebody's genitals just because they are unfaithful?* If there are people who are having multiple partnerships then we should castrate all the men and leave the women because I don't know that we [women] have any higher levels of libido. *So yea, resistance, and they will always say, oh our traditions and our culture ... what is this culture that you talk about? The one that allows you to wear suits or the one where your folks used to walk naked?* (Field interview 2010, participant B1, emphasis added)

Similarly, other female participants in almost all focus group discussions critically engage with the ambiguity of employing culture as an excuse for women's subordination and rights violations. In one group made up of lawyers and professional women, a participant describes the vagueness of culture in Africa in contemporary times, as follows:

I think a lot of things done [that] we think it's [are] our culture; and we say, our culture is different. People tend to resist change because they think it's our culture ... I always ask, what is our culture? Do we know what our culture is? It's been fused, mixed, so that I think we've lost what is our culture and we think this thing is our culture so maybe you have that strong link to culture. I lived in Canada myself, what is culture? What is Canadian culture, it could be so many things. But here we look at something and say that is our culture, we don't change it because it's our culture, but we don't know what our culture is, I think ... We don't know what our culture is, *we talk about culture so loosely but at the same time so strongly*, so it's like, what is Sierra Leonean culture? I don't even know what it is, *what is an African culture exactly? What is it?* (Focus group discussion 2010, participant G5, emphasis added)

As these excerpts point out, women in Ghana are critical of the ways in which culture is used to justify gender inequality, particularly when it comes to human rights claims for women. The transcripts also show that the strategies employed by women's rights advocates in Africa dovetail those in the Maputo Protocol by questioning the role of culture in maintaining unequal gender relations. Since women's individual rights claims are assumed to be foreign to African culture, women's rights activists in Ghana are frequently labelled 'feminists' – a label many shy away from because of its negative connotation in Ghana. Other women participants in the study expressed misgivings about the feminist movement in Ghana, accusing it of being Western and fighting for 'unimportant things'. C1, who describes herself as a women's rights activist – and not a feminist – says the following in response to why women's rights advocacy is still urgent despite constitutional provisions for women's rights in Ghana:

We need somebody to come from the outside and say no [these constitutional provisions are not being upheld]. If you look at the paper and what's written down, it is not infringing on anybody's rights, but look at how it is practiced ... but we are talking about Ghana; *in fact most often than not, I think some feminists in quotes in Ghana are making the fight more difficult, yea. They make so much noise about nothing at all and we leave the most important things out.* (Field interview 2010, participant C1, emphasis added)

Cultural, economic and legal challenges facing women's rights movement in Ghana

Furthermore, activists understand that within the socio-political circumstances of their engagements, there are multiple hurdles to overcome. None of these can be put on hold while others are attended to. For instance, B1 outlines some of these in her response to a question of raising awareness and prioritising advocacy on women's rights in Ghana.

Women are beginning to understand what their constitutional rights are (as daughters, wives, etc.), but still ask "*what are our rights within the family?*" In fact that is a *very big place, we have the state to deal with, we have the family to deal with*, so as citizens of the state, what are our rights? Our human rights, what are our rights to education . . . *How do we negotiate those rights?* When do we know that these can be exercised and which ones cannot be exercised? How do we negotiate those so-called non-rights of women in a way to our advantage? So there's a lot of work that needs to be done in terms of building understanding and awareness. (Field interview 2010, participant B1, emphasis added)

As far as negotiating rights is concerned, male participants in the study suggested that women's rights advocates were too radical in their demands. In an all-male focus group discussion of post-graduate students, participants had this to say with regard to women's rights advocacy in their society:

How do we get society to accept that role of women's empowerment? *Women have to progressively seek for rights, seek for empowerment within society so that it's not just like you are coming to lord it over your husband because you know you have rights now . . . men have to come to that point also, the point that women are people who have rights and people who are just like them. But then, within our traditional context I feel women should approach this kind of thing strategically and also knowing about the traditional roles because if it is forced, it might just bounce back* because power is very good and every one would want to hold on to it. (Focus group discussion 2010, participant D2, emphasis added)

So women have to *approach it as we said, gradually in a positive way*. They shouldn't see it as revenge, *there must be some kind of consensus, some kind of agreement at the end of the day, we are all human*. We ourselves as equal and operate at that level, if not I tell you the perception is already there, men should be the head. *Many religious bodies that's what they hold, the belief, that men are created to head family, society and women*. So if we've reached a stage whereby we want to empower women to equally get to the level that we men are, then women must approach it gradually, if not that kind of drastic change, people might not absorb it easily. (Focus group discussion 2010, participant E3, emphasis added)

There is a similarity between the manner in which male participants discussed women's rights and Ghana's report to the CEDAW (2005) discussed earlier. They emphasised the lack of social acceptance regarding women's rights in Ghana, especially when it comes to modifying customary practices. Another male participant in the study articulates the recommendation that women should be patient with cultural attitudes and perceptions and to wait for critics to come to terms with women's empowerment.

It's difficult dealing with cultural perceptions, you have to be strategic, if not, it won't yield the desired results that you would want. Because our cultural perceptions affect our lives and every other dimension of society so much that *you wouldn't want women to take positions that would give them the authority to lord over men*, to make informed decisions that would even help in the development of themselves and men and children as well. *Culture prevents these things, culture will have it that men and men only, so if you have been socialized in such a culture, it's always difficult to accept a new orientation that women are equally capable*. (Focus group discussion 2010, participant F4, emphasis added)

The inability for many women to secure land independently of their male relations constitutes a huge obstacle to women's economic empowerment. For very good reasons, women's rights

advocates shy away from this area because it is closely connected to powerful traditional authorities. A1's organisation is one of the very few women's empowerment NGOs to address and pursue land rights for women, especially in northern Ghana, where a patrilineal system of inheritance bestows land only to male descendants.

I have got this land advocacy work I'm doing with [mentions name of other woman]. We are about the two women and our organizations that are leading this campaign for women's access and control to land [in northern Ghana]. Nobody wants to touch it. You know why? *Because this is the area where the chiefs are, and the chiefs are very strong people, I mean, you even risk ... being bewitched, or certain things done to you and that kind of thing so many women don't even want to talk about their access to land, but you can imagine the current value that we have on land. Land is selling over \$5000. Now if a woman has a piece of land, she can get \$5000 from that piece of land, will she go asking for this paltry sum of 100 Ghana cedis as a loan from these shark finance and loans companies that come every morning at 5am to wake them up to pay their debts.* (Field interview 2010, participant A1, emphasis added)

As seen in the report from Togo, access to land remains one of the biggest barriers women face in the quest for equity. Economic impoverishment, as A1 indicates, affects women's rights and impedes their access to basic civil rights. With non-progressive cultural traditions being the main impediment to women's access to land and individual rights, organisations such as the National Federation of Women's Lawyers (FIDA) urge constitutional reforms in customary laws, acknowledge the cultural systems within which reform must take place and use existing traditional methods of conflict resolution to minimise the impact of their advocacy work on women (Ibhawoh 2006). Women's rights groups in Kenya exemplify the success of using dialogue to bridge tradition and modernity. They managed to substitute harmful circumcision practices with an alternative known as *Ntanira na Mugambo*, or 'circumcision through words'. In Ghana, dialoguing with the 'enemy' is crucial for groups working on taboo areas such as land rights. A1's group in Ghana has succeeded in obtaining 'closeted' support from chiefs on land rights for women. Activists who secure such support from traditional authorities prefer to maintain discretion, in fear of the repercussions such authorities could incur from their peers. As A1 indicates:

But we are making in-roads, at least we are having some people who are supporting us, *we have got some chiefs who understand the rights of women to land, so most of them are supporting us in a way but they can't come out you know, because, and most of these who are supporting us are not paramount chiefs ... they are just sub-chiefs but they understand the issues, but they cannot come out.* (Field interview 2010, participant A1, emphasis added)

Another taboo area, one that generated open hostility and confrontations toward women's rights activists, was the campaign for the domestic violence bill passed in 2007. Campaigners strategically lobbied traditional rulers, parliamentarians, policy-makers and male sympathisers. They discussed the issue of domestic violence as a communal issue. Despite this crucial approach to dialogue, activists were accused of attempting to lead Ghanaian women astray with Western norms. G5, H6 and I7 share their experiences on campaigning for the bill below:

I remember going on a march with colleagues once, to advocate for the passage of domestic violence legislation and again, *you're walking and you're holding a placard, you're not really saying or doing anything and a group of men accosting us and saying well if we had been their wives, they would have beaten us up or something.* Again, in that context, we were being in your face to the extent that we were walking and holding placards but we had not said anything, we had not done anything like what I would consider to be offensive, so what do you do on such occasions, you can't be aggressive or offensive, we had police protection when we were marching, so you just move on. (Field Interview, 2010, participant G5, emphasis added)

Many people saw supporters of the bill as ‘cultural troublemakers’.

When we were fighting for, advocating for this domestic violence bill, it was championed by these gender activists. What most people were saying is that, *Ghanaian women should not follow these women who have broken homes, they don't have husbands because they are 'too known'*... you should have been in Ghana, then you would appreciate the struggle we went through to get this bill; the name calling and things. And so I think they [women's movement] are doing well, they've gone far but *we still have a lot to do and we still have to woo a lot of men on our side.* (Field interview, 2010, participant H6, emphasis added)

17 compliments the efforts made by women's rights activists despite the hostile environment:

It was a huge movement¹⁰ to get the domestic violence bill and I was part of it. Look at the impediments. *The ministry of women and children's affairs had a minister that didn't even understand what it was all about. The [kind of] debates that went on in this country ... they [opponents] reduced the whole thing into wife rape.*¹¹ It just makes you wonder, what kind of society are we living in that they think that violence is ... [acceptable]. So there is still a lot to be done. (Field interview, 2010, participant 17, emphasis added)

From these interviews, one gets a sense of how women's rights issues are framed *vis-à-vis* the larger socio-cultural and post-independence contexts. The attempt to delegitimise certain rights claims by referring to them as ‘foreign’ works to sustain the notion that universal individual rights are incompatible with African cultural systems.

Conclusion: women's rights as cultural (r)evolution in Africa

The efforts of women's rights activists, in using universal and locally specific human rights instruments, have jump-started progressive dialogues on women's rights in Africa. Since gender inequality is institutionalised in patriarchal cultural traditions, this dialogue has elicited tensions and unease regarding the relationship between culture and human rights. To this extent, the Maputo Protocol serves two significant purposes. First, it disrupts the Africanist regional cultural relativist claim by elucidating the ways in which the collective can oppress individual women on the basis of gender. This therefore makes it difficult for women, individually and collectively, to participate in a mutually constituted and beneficial collective culture. On the other hand, as a Protocol borne out of the ACHPR, it can be read as part of the larger pan-Africanist agenda of protesting the imperialist impositions of universalist norms. Finally, the Protocol also specifies that the African woman's context is too specific for the generalised women's rights claims of the CEDAW. The Protocol effectively simultaneously rejects attempts by the African Union and the international women's movement to silence the African women's movement. That being said, the protocol's failings lie in its narrow focus on local and cultural encumbrances, while ignoring the negative global economic inequalities that reinforce patriarchal systems.

Theoretically speaking, since the cultural basis for discriminating against women is questioned by activists, it can be deduced that cultural discourses thrive on a tenuous juxtaposition of a local culture to the foreign. The presence of the ‘foreign/Western’ as binary opposites, given Africa's colonial trajectory, is enough to concretise our understanding of local cultural norms, particularly in relation to women's rights. Opposition to the ‘foreign/Western’ also mistakenly projects a falsified representation of Ghanaian culture as homogenous, thus obscuring vast differences in the ethnic cultural orientations that exist within the country. I suggest that the evolution of a rights culture in Africa hinges on the differential access to, the successful navigation of and the strategic engagement with universal human rights discourses. To this extent, women's rights advocacy in Africa provides an excellent avenue for analysing the process of this rights-based

cultural evolution. Women's rights concerns in Africa, properly contextualised, should critically inform debates on the universality of patriarchal norms in human rights discourses.

As seen from this discussion, strategies employed thus far have focused on explaining the links between cultural traditions and women's rights claims. While this has been effective at drawing attention to local socio-cultural conditions that negatively impact women's rights, it is necessary that these strategies engage more critically with the international human rights movement in order to achieve global economic justice. Women are more vulnerable to the negative impacts of globally sanctioned macro-economic programs that exacerbate local cultural gender discriminatory practices. In this regard, the demand for women's rights (as they relate to economic wellbeing) must be recognised as demands for the rights of *overall* wellbeing. As such, multiple actors, beyond local powerbrokers, should be held accountable. Consequently, considerations of women's rights in Africa must constantly take the unique socio-cultural experiences of African women as the main reference point. This is a difficult, yet necessary task. In the end, women's rights advocates must inevitably lean towards an individual libertarian value system, while drawing attention to both oppressive local patriarchal customs and global economic systems that reinforce these traditions.

Biographical note

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Notes

1. For the purposes of this discussion, 'ethical relativism' and or the 'conservative paradigm', as pointed out by Ibhawoh, are the reference points for critiquing the cultural relativism debate.
2. Even though some writers in this case may not identify as feminists, the fact that they advocate for the rights of women or claim solidarity to women's issues makes them feminists in outlook. In other words, I use feminism here to refer to any writer or person who advocates women's rights.
3. Naming and shaming is a popular human rights methodology that has worked effectively to hold regimes accountable for human rights violations. It involves, basically, calling out a regime on its failure to uphold human rights in its territory.
4. The cases discussed here are similar to many other countries in the continent. These cases are singled out for discussion because there was a more extensive review of these. Additionally, their close proximity to Ghana, geographically and geo-politically, make them important complimentary cases for the main case study of Ghana.
5. Most countries' recent reports are available from <http://www.un.org/womenwatch/daw/cedaw/reports.htm#g>.
6. This is the umbrella body for traditional rulers in the country.
7. At the time of conducting field research for this project, there was a nationwide review of this constitution in Ghana.
8. By international human rights community, I am referring to groups, individuals and organisations working on human rights in the world, and in the context of this article, outside of Africa.
9. 'Too known' is colloquial in Ghana for 'a know it all'.
10. The National Coalition on Domestic Violence Legislation, a network of activists and organisations established in 2003, led the movement for the passage of the bill in Ghana. They campaigned to recruit sympathizers across different political, ethnic and religious orientations to lend support to the bill; they organised nationwide seminars, workshops, radio and television discussions and marches.

11. The section on marital rape in the bill was eventually dropped before it was submitted to parliament because while a wide section of the public including traditionalists would agree on the fact that Ghanaian culture did not tolerate 'severe' violence (in other words, occasional correctional beating of a spouse is acceptable), not much progress was made in getting support to endorse the section on marital rape (Adomako-Ampofo 2008).

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