

African Women as Clinical Research Subjects: Unaddressed Issue in Global Bioethics

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ABSTRACT This paper will outline the implications of the practice of the African bride-price for African women as clinical research subjects. Explanations will be given as to why this practice is incompatible with securing first person voluntary informed consent. Possible solutions will be discussed, and how such solution could be made into public policy. The paper concludes by arguing that such hindrances to giving first person voluntary informed consent further marginalise clinical research subjects, who must already be regarded as vulnerable.

INTRODUCTION

African women as used here refer to African married women. The term does not include married women in North Africa as their marriage system is more in line with the Islamic injunction; likewise it does not include white African women as, for instance, in Southern African countries. Usually when the issue of women as research subjects is discussed in research ethics, what readily springs to mind is the question of whether pregnant women should be enlisted in clinical trials. Such debates usually revolve around the inclusion or exclusion of this category of potential research participants. The debate is captured in the CIOMS (2002) guideline 17 which states that, the participation of pregnant women in clinical trials can only be allowed where such women have been adequately informed about the risks and benefits to themselves, their pregnancies, the foetus, and their subsequent offspring, and to their fertility, and where such research is expected to pertain to maternal and foetal health.

Research involving African women as discussed here does not refer to the ethical problems associated with enlisting pregnant women as clinical research subjects. Likewise the issue of enlisting African women as research subjects cannot be subsumed into the general problem of conducting clinical research in African countries, i.e. in poor countries with high illiteracy rates. African women certainly suffer from poverty and illiteracy and are therefore vulnerable in the sense of our last category (see below). However, there is an additional peculiar problem which exposes

African women to a further form of vulnerability as clinical research subjects, beyond the 'more established' form of vulnerability normally associated with poverty and illiteracy. This peculiar form of vulnerability stems from the payment of the bride-price, which restricts married women's ability in terms of giving first person voluntary informed consent.

UNDERSTANDING THE PROBLEM

In most African countries marriages are only recognised on the payment of the so-called bride-price, known as 'labola' in South Africa, 'roora' in Zimbabwe, 'mahari' in East Africa, and generally referred to as 'head-money' in West African countries. The African bride-price is the payment either in cash or kind which family members of the groom make to the family members of the bride in order to marry the latter's daughter, the bride-price is the last and most important marriage rite, which takes place only after all other rites (such as consultations, 'wine carrying' etc.) have been performed to the satisfaction of both families.

The vulnerability of African women as research subjects could be inferred from constitutions in many African countries. For instance, the 1999 constitution of the Federal Republic of Nigeria (which is currently in use), declares that there are several activities one could not engage in unless one was a person of full age. One is deemed to be of full age when one attains the age of 18 and above. In reality, however, this rule only applies to male citizens. There is another yardstick for determining when female citizens

reach full-age. Chapter 29 section 4 (b) of the Constitution states that *'any woman who is married shall be deemed to be of full age'*. One might assume that this section of the constitution applies to girls who get married before the age of 18. However, that is not the case.

Rather, and as interpreted by the president of the Nigerian Bar Association (Plateau State Branch), while arguing for amendments in the constitution on Nigerian National Television on 8th September 2006, explained that section of the constitution actually means that marriage determines whether a woman has attained full-age or not. In other words, a thirty year old unmarried woman, under the Nigerian constitution is not considered to be of full age. This implies that she cannot buy property in her own name; she cannot consent to a medical procedure where such consent is required from her family members (though this is not peculiar to women), and in the context of clinical research, she cannot enlist as a research subject in a study without the permission of her parents/guardian.

However, the irony is that, at the very moment when a woman gets married and the bride-price is paid for her, she is 'made to' concede most of her so called rights associated with the attainment of full-age to her husband and her husband's family members.

According to Tarisayi (2002: 123) :

Under customary law, a black woman remained a legal minor all her life under the custodianship of her father, husband or eldest son as her life progressed from childhood, to marriage and widowhood or old age.

Normally, legal minors do not make far-reaching decisions, and enlisting in clinical research (depending on the nature of the study) could be considered far-reaching. If so, many African women will be expected to secure permission/approval from their husbands or their husbands' family members before enrolling in clinical research.

Where a woman is an adult but unmarried, the same holds. This is because if researchers were to operate within the ambit of the Nigerian constitution, such researchers cannot enlist the woman without the approval of her father or guardian. This is because legally speaking; she is yet to attain full-age on the basis of her marital status.

Most African women would not want to remain unmarried in order to be in a position to

fully assert their individuality and autonomy. This is because marriage for women in Africa has social implications. For instance, it is unlikely for the police or even the courts to allow an unmarried woman (independent of her age and status) to secure bail for someone else. Or in a more practical way, most landlords are often reluctant to let out their property to an unmarried woman.

Though it is possible for an unmarried woman to ignore social restrictions placed on her when living in urban areas, it is impossible to ignore such restrictions in her ancestral community, especially as such restriction relates to association. When a woman reaches a certain age; she is expected to be married. And when this is not the case, she can no longer belong to her relevant age-grade. Let me explain. African communities are divided into associations, and one's age determines to a large extent the association one belongs to. This means that a woman who chooses not to get married might find it difficult to function in her ancestral community. Marriage is the only way to join the higher association of married women in her community or in any other community she married into. Not getting married does therefore not help African women to be independent; in so far as we agree that it is almost impossible for one to be entirely independent of one's community.

However, it is important to mention that in a woman's ancestral community or in the ancestral community of a woman's husband, the seniority of a married woman is not based on her chronological age as such. Rather, such seniority is based on the time of when a woman got married. For instance, if a man married two women, his first wife even if she is chronologically younger than the second wife is considered to be senior. One could even say that an unmarried woman disconnects herself from her community, since she is unlikely to find an appropriate functional role in her community.

Apart from this, a point will be reached where family members of unmarried mature women will be embarrassed by their daughter's marital status. In the light of this, African women are pressured into marriage, even if they would have preferred not to, and marriages in Africa are contracted on the payment of the bride-price. And as soon as the bride-price is paid it militates against a woman's individuality, and when one's individuality cannot be asserted, then first per-

son voluntary informed consent is compromised.

There is no evidence to show that European or American women are affected or restricted in the way African women are, which could be because a bride price is not paid for such women. According to Thiam (2002: 124):

The problems that beset black women are manifold whether she is from West Indies, America or Africa, the plight of Black Women is very different from that of her white and yellow sisters

However, it is important to make a distinction between the plights of black women in general and those of African women. In the context of restriction on first person voluntary informed consent deriving from the payment of the bride-price, African black women are more disadvantaged. This is because a bride-price is not paid on black women in America and in the West Indies.

The significance of the payment of the bride price has implications for husbands, wives and (African) communities. The bride price apart from its contribution to acquiring a wife, also cements relationships between the families of groom and bride. In this regard, it is a way of saying thank you to the bride's family for bringing up the bride for the groom's family. It is only when a man/man's family has paid the bride-price for a woman that he can lay claim to her as his 'own'. The same applies to any offspring from the union, which can only be legitimately considered as his after the bride price has been paid. There have been cases in the past (and this still applies in some ethnic groups in Africa), where offspring from unions where the bride price has not been paid retained the woman's family name. This is because the children's biological father has no rights of claimant over such children, as their father never paid the bride-price for their mother.

On the other hand, women who live with their men in a 'marriage-type' union without the payment of the bride price are regarded as concubines to such men. Their families do not consider themselves as in-laws. And neither are such women treated respectfully, i.e. they are usually not invited to nor partake in traditional functions, at least not in the capacity of a married woman.

Most African women would not opt for the non-payment of their bride price, not even women who want to use this as a way of asserting their individuality and autonomy. In any case, women are not in a position to determine if they

want the bride-price to be paid or not, because it is paid to the bride's kindred.

The payment of the bride-price is taken so seriously that, where a couple lived together (and perhaps had children), and where the woman died before the payment of her bride-price, this price has to be paid even in death otherwise she will not receive befitting burial rites as accorded to married women.

The significance of the bride price is further demonstrated in when young people met and got married abroad, their families back home conduct the traditional marriage rites on their behalf which include the payment of bride-price in the bride's ancestral home. According to Ukpan (1984: 48):

After the bride price has been paid the required sets of bead (akpono) and bridal clothes have been supplied to the girl... a date is fixed for her to be sent to the husband. On the appointed day selected male and female members of the family escort the girl to her new home. They could go via a friend or a relative of the family in the quarter if any, and such a person becomes the future guardian of the girl.

The above reflects a situation where the bride is around and not abroad.

The importance of the bride price is further demonstrated in woman-to-woman marriage, where bride-price is equally required despite the fact that such marital union is between two women. Woman-to-woman marriage is a union contracted to address the problem of infertility. Ukpan (1984: 49) explains that, according to native laws and customs such marriages take place when:

A childless but influential or wealthy woman who does not want her fruits to be inherited by her husband or his relations, and who desires to have children to give her befitting burial usually marries a girl to her house. She pays the full bride-price through the normal process.

Otakpor sheds more light on this sort of union. According to Otakpor (2005: 10-11), a married childless woman under this arrangement could marry another woman on her own behalf. Or a childless widow could marry another woman on her own behalf. The 'woman husband' meets all cultural requirements including the payment of the bride-price of the girl she marries.

To shift focus a little, on payment of the bride price, the woman 'husband' has equivalent rights

over her wife, similar to those rights when a man pays bride-price on a woman. Children had from a woman to woman marriage belonged to the woman "husband", and they bear her family name. The woman husband's wife could choose a man for herself or her woman 'husband' could choose a man to perform reproductive function with her wife, it is immaterial who makes the choice. The offspring belongs to the woman 'husband' who paid the bride price.

However, there have been situations where the biological father of an offspring resulting from a woman to woman union has demanded custody of the child; such situations have been tested in courts. One of such cases is that between *Helena v Iyere* (1979: 24) where the defendant who sired the child of the woman husband's wife, refused to give up the paternity of the child he sired. The plaintiff (the woman husband) successfully sued him in a customary court.

The relevance of this extensive survey is to establish the importance of the African bride-price to Africans, which is the foundation of marriage rites in most African countries, and also to enable those not conversant with the issue of African bride-price to understand the problem. The relevant question is: How has the current interpretation of the African bride-price influenced African women's ability in terms of giving first person voluntary informed consent?

POSSIBLE SOLUTION

As it currently stands, the payment of the bride price gives husbands and husbands' family members controlling influence over married African women. This is because the payment of the bride-price gives husbands and husband's family members the impression of having 'purchased' their wives. Hence, the bride-price places African women in an inferior power relationship in marital unions in many Africa countries and the linked male superiority is supported by native laws and customs tenable in such countries. This unequal relationship means that African women are marginalised in terms of giving first person voluntary informed consent, as they are required to get approval from their husbands before they could enlist in clinical research.

Attempt at solving this problem by African women activists have yielded little success, if any at all. One of such attempts is that by Tarisayi. Tarisayi (2002: 139) argues the 'roora' (bride-price) is:

... not intended to be a 'purchase price', where a man bought exclusive rights to do as he wished with his wife. All it did was to facilitate that children born with the conjugal procreancy be called by their father's name. In fact cases abound where women had children whilst at their father's place. The children were given a maternal identity until such time when the father comes for settlement. If at all men read the payment of roora in the same sense one bought a piece of property, this was a misinterpretation of tradition and scandalous move not only to commercialise the African marriage but also to diminish the status of women. In some cases, it happened, it became part of the tradition, hence our unfortunate and uncomfortable present.

The reason why African activists seem not to have achieved the result they seek for, in terms of asserting the individuality of African women is that they often prefer to 'go it' alone. The need to provide enabling atmosphere for African women to make independent decisions irrespective of the bride-price is actually something that should be of collective and common interest to all Africans.

The first thought at remedying the problem associated with the issue of the bride-price might be to suggest its abolition. But that would be simplistic and unrealistic. This is because the import of the bride-price as already mentioned is enormous and has far-reaching effects for African women and indeed for African men too. Marriage rites revolve around it. In any case, the payment of the bride-price is not the problem as such, as it does not curtail women nor prevent them from making decisions, rather, its import and present interpretation of it (that is, 'purchase mentality') that restricts women's autonomy. In any case, the practice of the bride-price system is not significantly different from what obtains in the western system, where men buy engagement rings for their wives-to-be as a profession of love, and no one has advocated for its abolishment.

Secondly, to argue for the abolition of the bride-price is to interfere with a peoples' custom and traditions which is not often productive, as such interference is usually met with resistance. A case in point is the effort to stop female circumcision in many African countries which has proved difficult despite legislations prohibiting the practice, even though there is no direct ben-

efit from the practice. There is no reason to believe that abolition of the bride-price via legislation would yield different results.

Thirdly, other than the suggestion to abolish the bride-price has no potential for positive outcomes for African women, who wish to enlist in clinical research, such suggestion seems to be prescriptive. It is not the responsibility of investigators to tell potential research subjects how to lead their lives, nor is it in their place to suggest to a people (potential research subjects) how certain parts of their customs and traditions were to be interpreted. Rather, it is the responsibility of researchers to come up with ethically acceptable way of conducting research amongst various research populations.

In fact, researchers must always endeavour to accord utmost respect to their research subjects, which includes appreciating such peoples' customs and traditions. This aligns well with cultural bioethics. According to Callahan (2004: 281), the most benefit is derived when bioethics (in this context clinical research) discipline is employed within historical, ideological, social and cultural contexts, in what is often referred to as cultural bioethics. This is because cultural differences must be taken into account in bioethics, especially in research setting that involves securing first person voluntary informed consent from research subjects. This requirement becomes even more paramount when such consent is required from vulnerable research subjects, such as African women who must already be regarded as vulnerable. Most of those women are already 'damaged' because they live in the region of the world (Africa) that is economically marginalized. Hindrance to the assertion of their autonomy, in terms of further restrictions to their ability to give first person voluntary informed consent on the basis of their marital status potentially exposes them to further vulnerability. What then is to be done?

The way forward is a re-interpretation of the purpose of the African bride-price as a profession of love, similar to the engagement ring in the Western context. Such reinterpretation should be undertaken by Africans themselves with the intention of making it into public policy. Discussions and public enlightenment should be undertaken not just at local levels but also at influential regional levels, such as, the African Union, Economic Community of West African States etc. Such discussions should be under-

taken over an extended period of time, in order for people at the grass-roots to appreciate the need for the discussion and re-interpretation of the import of the bride-price.

This is because when African families (including African women) realised that they could assert their autonomy in terms of giving first person voluntary informed consent as independent research subjects without the draw backs associated with the payments of bride-price, such autonomy would inevitably snowball into other spheres of life. For instance, once Africans no longer saw the payment of bride-price in terms of 'purchase', the African woman is more likely to make more independent decisions not only as research subjects, but also in commercial transactions and in other matters that directly concern her.

Generally, when people are encouraged to make independent decisions, they are usually more likely to be more creative and perhaps more productive. Hence, payment of the bride-price in marital relationships should be seen and interpreted as a license required for the legal and traditional union of man and woman, and also as a traditional union between families of the bride and groom. Such new mental disposition would encourage African women to autonomously and actively decide if they want to enlist in a research without need for proxy consent or approval from any one else. However, it is important to indicate that, for this feat to be achievable, the first move must never be through legislation. Legislation should only come in to play when most Africans through public enlightenment have realized the need for the change in the interpretation of the bride-price. African women themselves as much as the African men need to appreciate this import.

Another reason why it is important for African women to be in a position to assert their autonomy generally without the draw back which often come from the payment of the bride-price on their 'heads', is the need to uphold and respect their individuality and identity. Such respect would enable African women give first person voluntary informed consent to participate or otherwise in clinical research without any controlling influence. Besides, it is generally wrong to strip anyone of their respect and identity under any guise, in this case on the basis of the payment of the bride price. There is no reason why African women should be exempt from

this rule. After all, African women are humans as everybody else. And marriage is not suppose to be an institution that demeans people or strips people of their human rights, such as the right to consent to participate in research if they so desire.

CONCLUSION

African married women can be considered vulnerable research subjects in the clinical research setting because they are unable to protect their own interests through the channel of giving first-person voluntary informed consent. The reason for this is extraneous; through customs and laws expressed in bride price payments, husbands and their families “buy” the bride and her rights to, for instance, own property or take part in clinical trials.

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REFERENCES

- Callahan, D. 2004. “Bioethics.” In: *Encyclopedia of Bioethics*. 3rd Ed. New York: Macmillan Pub. Vol. 1. 281.
- CIOMS. 2002. *International Ethical Guidelines for Medical Research Involving Human Subjects*. Geneva: CIOMS
- Federal Republic of Nigeria. 1999. Constitution of the Federal Republic of Nigeria. Chapter 29. Section 4(b).
- Helina Odigie v Iyere Aika. High Court of Bendel State 1979. Ubiaja Judicial Division. Suit No.U24A/79.
- Kornblum, A. 1994. “Trial and Error: Should Pregnant Women be Research Participants?” *Environmental Health Perspectives*, 102: 1-5.
- Lott, J. 2005. “Vulnerable/Special Participant Population.” *Developing World Bioethics*, 5(1): 30-50.
- Otakpor, N. 2005. *A Woman Who is a Husband and Father: An Essay in Customary Law*. Benin: Ambik Press pp. 10-11.
- Tarisayi, C. 2002. “African Gender in Zimbabwe.” (p.124) in C. Ukhun (ed.), *Critical Gender Discourse in Africa*. Ibadan: Hope Publishers.
- Thiam A 2002. “Black Sisters Speak Out.” (p.123) in C. Ukhun (ed.), *Critical Gender Discourse in Africa*. Ibadan: Hope Publishers.
- Ukpan, J. 1984. *History and Culture of Ubiaja*. Benin: Slim Publishers, pp. 48-49.