

Public Interest In Private Affairs: A Nonclinical Survey Of Social Construction Of Spousal Rape Among Egun Women Of Badagry, Lagos State, Nigeria.

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ABSTRACT

Spousal rape commonly manifest in non-consensual sexual intercourse. This study explores the prevalence of spousal rape among Egun women, the strategies adopted to avoid or cope with their husbands' sexual aggression and their social construction of spousal rape. A simple random sampling technique was used to select the sampled population. A total of eighty (80) married Egun women (respondents) were sampled with structured interview while fifteen (15) additional women were also purposively selected for the focus group discussion (FGD). The result shows prevalence of spousal rape. The issue of spousal rape is strange to the women. Even when the sexual aggression of their spouse can be defined as spousal rape, the women socially construct their non-valid consent to sex as marital obligation. The test of hypothesis shows that there is no relationship between the women's experience of non-consensual sexual intercourse and spousal rape. The study concludes that the issue of spousal rape is capable of having serious implications for the social and cultural distortion of the sacredness of sex and sexuality in marriage.

Keywords: Public interest, private affairs, social construction, spousal rape, Egun women.

INTRODUCTION

In the African cultural setting, sex and sexuality are regulated through the institution of marriage. Marriage therefore, is the most widely approved social institution that legitimizes the right to sexual intercourse between spouses. In most cultures within Africa, this right is especially rooted in the patriarchal culture of the husband's entitlement to sex anytime he demands for it, regardless of whether the woman is interested or not. Supporting this view, the Holy Quran (Chapter 2 vs. 223) and the Bible (1 Corinthians 7: 4-5) also clearly state that "a man should marry a woman to avoid fornication and adultery and that the spouses should not refuse one another". Following this, marriage is often rationalized as entailing obligation on the part of the woman to be sexually available to the husband except at certain times such as during menstruation, after child birth or ill health (Tinuola, 2006). This situation leaves a woman with little or no regard to herself determination of sexual interest, dignity of valid consent and emotion anytime the husband de-

mands for sex (Basile, 2002). This of course, largely supports the concept of rape in marriage, within the paradigm of common definition of rape as sex without valid consent.

Following this background, consent in spousal sexual intercourse is a very critical issue as to whether rape is possible or not in marriage. At the Maryland Court of Appeals, United States of America, the common understanding of the word consent was expanded to include that a man can be found guilty of spousal rape for failing to heed to the wife's call to stop even when she had initially given consent. This implies that consent can be withdrawn in the act of sex at any time, and that continuation after the withdrawal of initial consent constitutes spousal rape (Huff, 2009).

Spousal rape also known as marital rape is therefore defined as "non-consensual sex in which the perpetrator is the victim's spouse". By this definition, spousal rape occurs when a man refuses to accept "no" or uses force, deception, assault, intimidation, threat or coercion to secure sex with the spouse regardless of whether she is interested or not. The refusal to accept "no" or the use of force, deception, assault, intimidation, threat or coercion in this context, indicates that the man did not receive a valid consent of his spouse. Likewise, the absence of objection after excessive pressure, tantamount to duress especially when the woman had earlier said no, does not itself constitutes valid consent because the woman may have succumbed to pressure not out of valid interest, but rather for fear of being abandoned by her spouse for concubine outside the matrimonial home. This is a frequent occurrence especially when the man is known to be

seeing other women outside the matrimonial home (Ushie et al, 2011)

Article 2 of the 1993 United Nations Declaration of the Elimination of Violence against Women defines spousal rape as "sexual intercourse without valid consent and a violation of human rights". Yet the statutory formulation and definition of rape in the Criminal Code Act of the Law of the Federation of Nigeria, 1990, Part 5 Chapter 3 excludes non-consensual spousal sexual intercourse. This exclusion indicates that rape in marriage is still not considered as criminal offence but rather as social or cultural issue compared with other forms of rape. Central to this is perhaps, because culture, religion and legal systems differ in acceptability of spousal rape. This is so because to equate non-consensual spousal sexual intercourse to rape, assault and violence may weaken the whole concept of rape and the institution of marriage. Therefore, the concept of whether rape is possible or not in marriage is a question of legal and social debate.

Yet spousal rape is one of the most prevalent and pervasive forms of rape, and it is also, a form of domestic violence against women because it is often associated with physical force, coercion, assault and abuse (Weiss, 2010). Spousal rape is rarely a onetime incident but a repeated, if not frequent occurrence in some marriages (Tinuola and Olao-gun, 2009). When this becomes an ongoing pattern of sexual intercourse in marriage, it may leave the woman with gynecological and reproductive health challenges, feelings of powerlessness, lack of freedom to negotiate safe sex and the feeling of being safe within the confines of her home is eroded (WHO, 2010).

Spousal rape is a hidden sexual assault and violence against women in marriages (Stermac et al 2001). Although victims are often more reluctant to report or disclose their experience like other forms of physical assaults and violence, it is still a very serious problem of violence against women (Bergen, 2006) because each time a man takes sexual advantage of his wife through spousal rape, he devalues her person and sense of worth (Bennice, et al, 2003). Against this background, this paper will attempt to provide a social discourse on the phenomenon of spousal rape with special reference to the Egun women of Badagry, with theories showing causes, prevalence and social construction of spousal rape. Other objectives of this study include the followings:

1. To explore the prevalence of spousal rape among Egun women;
2. To examine the strategies adopted by the women to avoid or cope with their spouse's sexual aggression;
3. To determine the social construction of spousal rape.

Above all, this study will test the relationship between the Egun women's experience of non-consensual sexual intercourse with their spouses and their social construction of the sexual act as rape or not rape.

Theoretical Framework

Since the adoption of the United Nations Universal Declaration of Human Rights of 1948, and the 1995 International Women Conference in Beijing, China, the concept of human rights has provided radical feminist movements the opportunity to protest against what they perceive as gender inequality,

discrimination, oppression, and domination. Following this, they ultimately demanded the rights of Women to control marital sexual intercourse as a core component of equality with men. The conscious aim of these radical feminist movements was the attempt to restructure societal institutions, which they claim are largely woven into the social fabric of patriarchy and socio-cultural socialization of the women to endure domestic violence including spousal rape (Yusuff, 2013). Increasingly, these feminist movements work to overturn the presumed right of men to engage in non-consensual sexual intercourse with their wives, and eventually coining the concept of "spousal rape" as a situation where a man uses force, deception, assault, intimidation, threat or coercion to secure sex with his spouse without any valid consent.

In 1993, the United Nations Declaration of Elimination of Violence against Women finally criminalized spousal rape as an offense against the liberty, self-determination, valid consent and dignity of women. This eventually established spousal rape as a reproductive health rights violation of married women (United Nations Commission on the Status of Women, 1993). Since then, a body of empirical studies, especially in the field of sociology of gender relations and women studies have spurred efforts to provide theories to complement the general theory of rape. The consensus is that the general theory of rape is not sufficient enough to singularly analyze and explain the phenomenon of the social construction of spousal rape because culture, religion and legal systems differ in acceptability of spousal rape, especially where the marriage vow is socio-culturally rationalized as consent to sexual intercourse between spouses.

The broad effects of this argument nevertheless laid a valid and structural basis for the application of an integrated body of theories modeled to provide wider knowledge and orientation for the analysis of the cause, prevalence and the social construction of spousal rape. The phenomenon of spousal rape is a product of social construction of reality. What is important to the sociologists in this context is how a woman could socially perceive and construct meaning to her husband's non-consensual sexual action. The way the woman defines and interprets the non-consensual sexual action of her husband has important consequences for the marriage because it represents the reality upon which she structures her perception and meaning of her husband's non-consensual sexual action. Sociologists call this social construction of reality

This insight is, by all means relevant showing explicit considerations leading to the application of social action theory. The classical sociologist who had the most impressionistic influence both on substantive discussion and analysis of social action theory is Max Weber. Weber's idea has been mostly used, both subtly and overtly, to explain the important fact, that social action is an action carried out by an individual to which other individuals socially construct meanings. Central to this is that definition of action, interpretive understanding, meaning, and subjective judgments always necessarily precede social construction (Morrison, 2006).

Though Weber was one of the first social theorists to attach importance to subjective judgment in his analysis of social action, another theorist who

made a substantive contribution to social action theory is Talcott Parsons. In his analysis, Parsons paid significant attention to the social norm, culture and value system in the definition of social action. According to Parsons, the society or social group to which we belong has norms, value system and particular views of life, which individuals internalize. These norms, value system and particular views of life are recalled by an individual through subjective judgment and understanding to form the way an individual perceives issues and the meaning individual gives to another person's action. That the way an individual socially defines and constructs meaning to another person's action has a significant influence on the social norm, culture, value system and social views of life of that individual's social group. It structures the perception upon which the individual bases his/her social construction of reality. This implies, of course, that the meaning given to another person's action is socially constructed; it is a product of norms, value system and particular view of the life of a social group to which individual belongs.

However, the way social action theory has been applied to explain the social construction of spousal rape demonstrates the understanding that the theories of spousal rape are numerous and complex because a large number of theories generated from different disciplines are combined to form the general theories of spousal rape. Especially also, the intellectual perspectives of these theories are such that while one theory explains the cause of spousal rape; others maybe explaining the prevalence of spousal rape. For example, the socio-cultural theory states that although cultures differ in prevalence and acceptability of spousal rape but almost all societies encourage

marriage institution even if these perpetrates spousal rape in one way or another. That this view offers credible evidence to support the idea that society tacitly sacrifices women to rape through the institution of marriage that compel them to render sexual gratification to their husbands as a form of matrimonial duty and to prevent them from engaging in fornication and adultery.

On the other hand, the **biomedical theory** posits that men who rape their wives are those with a huge sexual appetite caused by hormonal secretion of excessive testosterone. This view could explain the reason or cause of spousal rape, because research in neurophysiology has shown a positive correlation between testosterone level in a man and the aggressiveness commonly involved in sexual violence such as spousal rape. The important thing about this theory is that it explains the cause of spousal rape from the perspective of an inherent trait or characteristics of men who rape their wives (Bergen, 2006) and end-up using medically proven research evidence to draw a conclusion on violence commonly involved in spousal non-consensual sexual intercourse. Central to this theoretical analysis is the issue of violence, which explains women's oppression, domination, and subjugation. According to biomedical theory, this violence may not necessarily take the form of overt physical cruelty; it is more hidden in the complex emotion and aggression commonly embedded in spousal non-consensual sexual intercourse because women are uniquely taken as objects or means for satisfying male sexual desire.

Materials And Methods

Egun is a language and people. The people are geographically situated in Badagry in Lagos state,

south-western Nigeria. They form part of the indigenous ethnolinguistic group of Lagos State. The study was carried out among the Egun people of Badagry in Lagos, Nigeria. Badagry is a town located along the Atlantic coastline, with lagoon, creeks, and lakes, bordered on the south by the Gulf of Guinea and to the west by the Republic of Benin. Badagry has a fascinating history as a slave port during the slave trade of the 17th and 18th centuries. The paramount ruler is the Wheno Aholu Meno Toyi who traditionally administers the town together with his white cap chiefs, who are the heads of the eight quarters to which Badagry is divided. For this study, a simple random sampling technique was used to select the sampled population. A total of eighty (80) married Egun women (respondents) were sampled with a structured interview while fifteen (15) additional women were also purposively selected for the focus group discussion (FGD). The group discussants had three sessions of five discussants, at a time, in order to have a manageable team of discussants. The data was collected and analyzed using descriptive statistics with the aid of a Statistical Package for the Social Sciences (SPSS).

Results And Discussion

A. Prevalence of Spousal Rape.

To address the issue of the prevalence of spousal rape, the following factors were analyzed.

- (i) If the respondents had experienced non-consensual sexual intercourse with their spouses.
- (ii) If yes, how did their spouses succeed in having non-consensual sexual intercourse with them?

These two factors are keys to understanding the issue of prevalence spread of spousal rape especially

when spousal rape is conceptualized as non-consensual sexual intercourse between a man and his spouse. That is to say, where a man engages his spouse in sexual intercourse without her valid consent. This act is mostly perpetrated under a situation where a man refuses to accept no from his spouse or uses physical force, deception, assault, abuse, intimidation, threat or coercion to secure sex with her. Spousal rape is rarely a onetime incident but a repeated if not common experience in some marriages, where such sexual assault is perceived as sexual obligation that a woman should have for her husband to keep the marriage and to prevent the man from fornication and adultery (Tinuola and Olaogun, 2009).

The composition of data in Table 1 shows that 96.25% of the respondents had experienced non-consensual sexual intercourse with their spouse while 3.75% had not experienced non-consensual sexual intercourse with their spouse.

Table 1:
Distribution of Respondents Based on Experience of Non-consensual sexual Intercourse with Spouse

Non-consensual sex with spouse	Frequency	Percentage (%)
Yes	77	96.25
No	3	3.75
Total	80	100.00

The few respondents (3.75%) who apparently indicated that they had not experienced non-consensual sexual intercourse with their spouse are probably those who felt that discussing spousal sexual assault in public is somehow taboo and very embarrassing.

The composition of data in Table 2 shows that 24.67% of the respondent indicated that their spouse used force to secure sex with them. 46.75% of the respondents indicated that their spouse pets them to have their way even when the women insisted on “no”, 4.49% of the respondents indicated that their spouse threatens them with divorce, while 22.07% of the respondents indicated that their spouse threatens them with going out to have a mistresses.

Table 2: Distribution of Respondents Based on how the Husbands Succeed in Securing Non-consensual Sexual Intercourse with them.

How Husbands Secured Sex	Frequency	Percentage (%)
Used Force	19	24.67
Petting me even when I insisted on no	36	46.75
Threatening me with divorce	5	6.49
Threatening to go and have mistress	17	22.07
Total	77	100.00

The implication of the above finding is that even when the majority of the respondents did not identify themselves as being forced into sex by their spouses, they had, in fact, experienced some forms of pressure, intimidation, threats, and coercion to have sex with their spouses against their valid consent, which suggests sexual assault. Spousal sexual assault and abuse are defined in Article 2 of the 1993 United Nations Declaration of Elimination of Vio-

lence Against Women as spousal rape and violation against self-determination, valid consent and rights to dignity of a person of the victim. This finding corroborates the view in the most existing literature that spousal rape is prevalent and pervasive (Basile, 2008, Ushie et al 2011). Also, studies have shown a correlation between the prevalence of sexual violence (such as spousal rape) and other forms of physical violence in marriage (Bergen 2006). That women who have experienced sexual violence are more disposed to experience other forms of physical violence in marriage. Generally, the prevalence and pervasiveness of violence against women in sub-Saharan Africa are higher compared with other places (McCloskey et al, 2005). In Nigeria, violence against women is not only widespread but also tolerated because culture, religion and traditional practices place more value on women submissiveness to their spouses (Stewart 1995). This, of course, puts victims of spousal rape at greater risk of sexual assault and other forms of violence perpetrated by their spouses.

B. Strategies Adopted to Avoid or Cope with Spouse Sexual Aggression

The composition of data in Table 3 shows that more than one third (37.50%) of respondents endure by allowing their spouses to have their way anytime they want sex, 21.25% give excuses of tiredness, 13.75% lie about their menstrual/safe period, 11.25% feign sickness, 8.75% take refuge (i.e. sleep) in their children's room, while 7.50% stated that they have time table for sex.

The significance of this finding suggests that even though the women adopt various forms of strategies

to avoid or cope with spouse's sexual aggression yet, the institution of marriage that exposes them to sexual aggression commonly embedded in spousal rape is still a desire and life goal of the women. In Africa, societies place a great cultural expectation on women to marry and render sexual obligation to their spouses as a form of matrimonial duty and to prevent them from engaging in fornication and adultery. This implies that women who shy away from marriage and from rendering sexual obligation to their spouses are in a way not living up to expectation in the eyes of society.

Table 3: Distribution of Respondents Based on Strategy Adopted to Avoid or Cope With Spouse's Sexual Aggression

Strategy to Avoid or Cope	Frequency	Percentage (%)
I endure by allowing him to have sex anytime he wants it	30	37.50
We have time table for sex	6	7.50
I lie about my menstrual/safe period	11	13.75
I lie that I am feeling sick	9	11.25
I sleep in my children's room	7	8.75
I give excuse of tiredness	17	21.25
Total	80	100.00

C. Social Construction of Spousal Rape

The composition of data in Table 4 shows that majority (95.00%) of respondents did not socially construct the non-consensual sexual act of

their spouse as rape while 5.00% tend to see such non-consensual sexual action as rape.

Table 4: Distribution of Respondents Based on Social Construction of Non-consensual Sexual Action of Spouse as Rape

Social Construction of Non-consensual Sexual Action of Spouse as Rape	Frequency	Percentage (%)
Yes	4	5.00
No	76	95.00
Total	80	100.00

The responses of the women used for the FGD could be summarized as follows: Men are naturally aggressive on the bed. Sexual aggressiveness of men is a common experience in marriage. It is worse when they are drunk or when they are sexually starved. Besides, it is one way they assert their domination. A woman whose spouse commonly demonstrates aggressiveness on the bed should learn to manage or moderate his aggressiveness instead of defining such action as spousal rape. Over time, as a sexual obligation to her spouse, the woman will get used to her spouse's sexual aggressiveness to keep her matrimonial home. Marriage is an institution where couples are meant to teach one another the act of lovemaking. Sex is a pleasurable thing that cements marriage and makes the couple to be more intimate. If Egun men were to be prosecuted for non-consensual sexual action fitted into the definition of spousal rape, no man will want to marry for fear of being sentenced to jail for rape. On whether the women will like to seek legal redress for sexual violence or divorce when the non-consensual sexual activity of their spouses clearly fits into the

definition of spousal rape, their responses revealed that they still want to remain in the marriage for the sake of their children. What if a woman leaves her marriage for this single reason, culturally, she will not only lose her pride, she will also be a subject of mockery among her peers. In fact, there are women out there waiting to take over her spouse.

The significance of these findings suggests that those women who did not see the non-consensual sexual action of their spouse as rape (even when such non-consensual sexual action fitted into the definition of spousal rape) are those who have internalized the cultural expectation of sexual obligation as a matrimonial duty. Nigeria is a traditionally patriarchal society. It has ratified the 1993 United Nations Declaration of Violence against Women. Also, the 1999 Constitution of the Federal Republic of Nigeria, Section 34 (1) and the Violence Against Persons Prohibition Act (VAPPA) (2015), provide for the respect and dignity of the human person that 'no person shall be subjected to any form of inhuman degradation, assaults, and violence'. Even though these statutory laws may not have specifically addressed or mentioned spousal rape, however, it is useful to observe that certain elements in these legal instruments reveal that spousal rape could be interpreted in certain quarters, especially by the radical feminist movements, as a component part of inhuman degrading treatment, assault or violence that most men subject the person of their spouse to just in the name of marital rights to sex.

Yet, the issue of spousal rape as a form of degrading treatment, assault or violence has not been given an iota of consideration in the criminal justice of our national laws especially because culture,

value system, religion, ethnic-traditional practices, and customary laws differ in acceptability of spousal rape. The Nigeria Marriage Act and the Customary Laws provide legal evidence that further deepens the trivialities of spousal rape because rape in marriage is not considered as a criminal offense but rather as a social or cultural issue compare with other forms of rape. Yet, these laws typically recognize marriage as the only institution that bestowed women with the responsibility to render sexual obligation to their spouses, especially where the prescribed bride-price has been paid to the family of the woman. The implication is that where marriage is contracted under the Nigeria Marriage Act, Customary Law or Islamic Law, the marital vow has a legal understanding of the consent of the woman to be submissive to render sexual obligation to her spouse. As such, the husband cannot be guilty of rape upon his own wife because of the consent in the marital vow she took. This consent is only valid where the woman involved is not a minor. The age of consent is eighteen (18) years. The Nigeria Childs Rights Act (2003) and the Nigeria Sexual Offences Act (2015) prohibit child marriage for the obvious reason that children are not capable of consent because they do not have the reasoning capacity to understand what they are consenting to.

The Criminal Code Act of the Law of Federation of Nigeria 1990, part 5 chapter 3 defines rapist as “any man who has unlawful carnal knowledge of a woman or girl without her consent or with her consent if the consent is obtained by force or means of threat, coercion or intimidation of any kind or by fear of harm. By extension, this definition sees an absence of objection especially on the part of the victim who is asleep, intoxicated or

otherwise mentally helpless as not constituting consent. But the issue of spousal rape is not acknowledged and defined as rape by our statutory laws except if the woman (i.e, the victim) had before the incident divorced the spouse. Apart from this, the issue of spousal rape is trivialized with differences in culture, value system, religion, ethnic-traditional practices, and customary laws because to equate non-consensual spousal sexual intercourse to rape, assault, and violence may weaken the institution of marriage.

Test of Hypothesis.

To determine whether there is a relationship between the women’s experience of non-consensual sexual intercourse with their spouse and their social construction of the social action as spousal rape, a Pearson Chi-Square test was undertaken with Statistical Package of the Social Sciences (SPSS). The result shows: $X^2 = \text{Chi-Square} = 173.861$, $df = \text{Degree of freedom} = 12$, $P = \text{probability value} = 0.000$, tested at 0.05 level of significance.

Since the probability value of 0.000 is less than the 0.05 level of significance, the null hypothesis which states that the women’s experience of non-consensual sexual intercourse with their spouses is not significantly related to their definition (i.e, social construction) of their spouse’s sexual action as spousal rape is rejected. Instead, the alternative hypothesis, which states that the women’s experience of non-consensual sexual intercourse with their spouses is significantly related to their definition (i.e, social construction) of their spouse’s sexual action as not rape, is accepted. What to infer from this is that the women experience of non-consensual sexual intercourse is perceived as sexual obligation expected of them as a form of matrimonial duty to

their spouses and as such, they could not perceive it as spousal rape. Of course, these women have socio-culturally been socialized to accept the sexual obligation to their spouses as a matrimonial duty. This finding corroborates the social action theory view of Talcott Parsons (in the theoretical orientation of this study) that the meaning given to another person's action is socially constructed; it is a product of culture, norms, value system and particular views of life of a social group to which individual belongs. That these norms, value system and particular views of life are internalized through socialization but individuals recall them through subjective judgment and understanding to form the way an individual perceives issues and the meaning individual gives to another person's action.

CONCLUSION

There is a prevalence of spousal rape among Egun women. The institution of marriage that exposes these women to spousal rape is still a desire and life goal of the women. The issue of spousal rape is strange and not culturally assimilated by the women who generally consider consent to their spouse's demand for sex as not a matter of choice but an obligation, which is internalized culturally as a marital duty, even when the sexual activity of their spouse fitted into the definition of spousal rape.

Nigeria has ratified the 1993 United Nations Declaration of the Elimination of Violence against Women, but the issue of spousal non-consensual sexual intercourse as rape, assault, and violence against women have not been given consideration in the national laws. The main reason for this is because culture, religion and legal systems differ in acceptability of spousal rape, especially where the marriage vow is ethnocultural rationalized as con-

sent to sexual intercourse between spouses. And, of course, because to equate spousal non-consensual sexual intercourse to rape, assault, and violence against women, may trivialize the whole concept of rape and ridicule the sacredness of sex and sexuality in marriage.

It is therefore prudent to conclude that in Africa, the issue of spousal rape is not only alien but indeed a taboo, absurd, hypocritical and risky because the demand for the right of women to control marital sexual intercourse as a core component of equality with men is capable of having serious implications on social and cultural distortion of sacredness of sex and sexuality in marriage. Above all, since marriage is the most widely approved social institution that legitimizes the right to sexual intercourse between spouses, women should develop confidence and maturity to manage the sexual appetite of their spouses by discussing and actively participating in sex-related decisions of their marriage to prevent spousal sexual violence. Especially where the prescribed "bride-price" is paid to the family of the woman, the marital vow that legitimizes the marriage has a legal understanding of the consent of the woman to be submissive to render sexual obligation to her spouse. This consent is valid where the woman involved is not a minor. As such, the husband cannot be guilty of rape upon his own wife because of the consent in the marital vow she took. Following this, it is difficult if not absurd, hypocritical or risky to equate non-consensual spousal sexual intercourse to rape, assault, and violence, because this may weaken the institution of marriage and distort the sacredness of sex and sexuality in marriage.

Many radical feminists in the West see themselves as saviour to African women; little do they know that their conception of spousal rape is grossly odd with the real lives and concerns of African women. Even in Beijing, at the Fourth World Conference on women in 1995, African women were indifference to the priority that the radical feminists from the West put on reproductive rights and the issue of spousal rape that was ambitiously conceived without consideration to culture, norms and value system of the Africans. To the African feminists, the whole gamut of argument of the West about spousal rape seems to suggest lesbianism as a viable option to escape spousal rape.

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