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‘They Were Supposed to Protect Us’: Analysing Patriarchy and the Work of Human Rights Defenders in Nigeria

Nabila Okino

Abstract

In challenging oppressive systems around the world, human rights defenders (HRDs) put themselves at risk of violence, as well as forms of mistreatment within their communities. HRDs working on women's rights issues, including initiatives against sexual and gender-based violence (SGBV), are often confronted with challenges in the public and private spheres that are perpetrated by state and non-state actors. Some challenges are grounded in patriarchal hegemony, which in turn informs the creation of family, institutional, and religious structures. This paper aims to understand how patriarchy impacts on the activities of HRDs working on SGBV initiatives. Grounded in the empirical research of defenders working in Nigeria, the paper undertakes a sociolegal analysis of patriarchy and its manifestations in religion, human rights law, and the human rights movement. It finds that patriarchy plays a critical role in shaping the work of HRDs and their ability to make an impact. Chief among the paper's conclusions is the finding that patriarchy plays a role in bolstering fundamentalist ideals, which shape societal perceptions on the role and status of women. This effectively informs institutional responses to the issue of SGBV and the work of HRDs. The paper also finds that, whilst patriarchal constraints persist, HRDs have found creative ways of navigating these challenges by negotiating patriarchal systems through the use of male HRDs and persistent lobbying. This ultimately facilitates entry into hard-to-reach spaces, such as the male-dominated legislature, communities, and religious institutions, while still positioning women defenders at the forefront of activities against SGBV.

1 Introduction

The patriarchal nature of Nigerian society creates and embeds structures of inequality, which puts men in dominant positions and women in subservient positions.¹ According to Allanana Makama, this inequality is manifested in ‘discriminatory laws, socially constructed norms of femininity and masculinity, gender roles and stereotypes and unequal access to economic and political power’.² The cumulative effects of these constraints is a society where women's rights and bodily agency become secondary considerations to their male counterparts'. Sexual and gender-based violence (SGBV) constitutes one form of this inequality. General Recommendation No 35 of the Committee on the Elimination of Discrimination against Women (CEDAW) notes that SGBV is pervasive across a range of settings, from private and public spaces to technological spheres, and is perpetrated by ‘states, intergovernmental organisations or non-state actors’.³ This inequality has contributed to the prevalence of SGBV across all levels of society in Nigeria, such as the family, educational and religious settings, markets, and even the workplace.⁴ The culture of shaming victims, which often leads to their ostracisation from communities, has further contributed to their silence.⁵ This has, over time, hampered the mainstreaming of conversations about SGBV and prevented the enactment and enforcement of legislation that may address this pressing issue. The Nigerian state has systemically failed to institute adequate legislative, judicial, and executive structures to curb the prevalence of

¹ Godiya Allanana Makama, ‘Patriarchy and Gender Inequality in Nigeria: The Way Forward’ (2013) 9 *European Scientific Journal* 17, 116.

² The World Bank, ‘Gender-Based Violence: An Analysis of the Implication for the Nigerian Women Project’ (The World Bank 2019) 4.

³ UN Committee on the Elimination of Discrimination Against Women (CEDAW), ‘CEDAW General Recommendation No. 35 on Gender-Based Violence against Women, Updating General Recommendation No.19’ (CEDAW/C/GC/35, 14 July 2017), para 20.

⁴ The World Bank (n 2).

⁵ The World Bank (n 2).

SGBV, and to prioritise the rights of women and hold perpetrators accountable. Human rights defenders (HRDs) continue to conduct sensitisation initiatives, organise protests, provide psychosocial and legal support to victims, and champion advocacy across all levels of government.⁶ Through these activities, HRDs have provided safe spaces and support for victims of SGBV in Nigeria. Their activism has also led to some legislative change and emboldened victims to speak about their experiences.⁷ In the course of their work, however, HRDs working on SGBV encounter multilayered obstacles that emanate from social, family, and state structures, cultural practices, and religious institutions in Nigeria. This can often lead to HRDs being physically and verbally abused, ostracised from their communities, disowned, and in some instances targeted by smear campaigns perpetrated by both state and non-state actors.⁸ These challenges stem from patriarchal ideals that limit how HRDs, especially women human rights defenders (WHRDs), can exercise their agency — thereby impacting on their ability to conduct their activities.⁹

Recognising the pivotal role HRDs play in the protection spectrum, this paper seeks to understand how patriarchy influences the activities of HRDs working on SGBV initiatives in Nigeria. Drawing upon in-depth qualitative interviewing and broad-based interdisciplinary research, the

⁶ ‘Human rights defender’ is a term used to describe people who, individually or with others, act to promote or protect human rights in a peaceful manner; they can be individuals and non-governmental organisations (NGOs). See Cheluchi Onyemelukwe, ‘Legislation of Violence Against Women: A Critical Analysis of Nigeria’s Violence Against Persons (Prohibitions) Act 2015’ (2016) 5 DePaul Journal on Women Gender and the Law 3; Fakhriyyah Hashim, ‘How Nigeria’s Conservative Northern Region Came to Terms with Its Me Too Movement’ (*Quartz Africa*, 22 July 2019) <<https://qz.com/africa/1671204/nigeria-metoo-movement-shook-up-north-with-arewametoo/>> accessed 24 August 2020.

⁷ *ibid.*

⁸ Michel Forst, ‘Report on the Situation of Women Human Rights Defenders’ (A/HRC/40/60, Human Rights Council, 25 February–22 March 2019).

⁹ *ibid* para 6. Within the context of this paper, the protection spectrum includes human rights litigation, advocacy and the formation of human rights norms and institutions at the domestic, regional and international levels.

following discussions examine the concept of patriarchy, its role in shaping human rights law, and how it influences activities within the human rights movement. The paper commences with an introduction to the background of SGBV in Nigeria and the role that HRDs have come to play in filling practice and protection gaps left by institutional inaction. Following this, the discussion will engage with critical perspectives on the contested concept of patriarchy that are set forth in the social sciences scholarship. The literature will analyse cross-disciplinary, scholarly, and practitioner works on patriarchy, how it plays out within the human rights project, and its threat to the security and wellbeing of HRDs. Not considered in the following literature review, however, is literature on patriarchal communities. This is due to the limited research conducted in this field and specifically on HRDs working within the Nigerian context. In providing deeper context of the activities and challenges of HRDs in Nigeria, this paper briefly outlines the HRD framework and Nigeria's laws, policies, and international obligations. The paper will conclude by summarising the research findings, which highlight the role of cultural and religious fundamentalism in shaping societal perceptions and institutional responses to the activities of HRDs working on SGBV issues. It will also discuss how HRDs navigate patriarchy through compromise and male allyship.

As part of the empirical research, seven WHRDs and three male HRDs (MHRDs) were interviewed. Through engagement with the literature and drawing from the experiences of these HRDs, this paper therefore contributes to the limited but growing research on the activities of HRDs by examining and understanding the constraints posed by patriarchy, which may aid the effectiveness of the activities of HRDs working on initiatives against SGBV in Nigeria.

2 Literature Review

The opening section of this paper discussed how the activities of HRDs can put them at risk of violence and violations of their human rights. The literature considers these challenges at length, most often focussing on the analysis of patriarchy and its relationship with religion, human rights law, and the human rights movement. It discusses how these challenges can lead to the shrinking of the civic space, which can create an environment where HRDs are vilified and their activities criminalised.¹⁰ HRDs face a range of intersecting challenges that are based on gender, stereotypical notions of femininity and masculinity, culture, and religion. Shaped by a range of factors such as community, ethno-religious institutions, and public structures, some of the challenges and push-back that HRDs encounter stem from the patriarchal ideologies that people continuously interface with in their everyday lives. As this section illustrates, patriarchal systems, both social and legal, go beyond the creation of oppressive systems and structures, extending to stifling and suppressing voices and initiatives fighting for women's rights.

2.1 Understanding Patriarchy

Patriarchy has been subjected to various conceptual interpretations at different points in history and in different socio-spatial spheres.¹¹ In its

¹⁰ Civic Space is the political, legislative, social, and economic environment that enables citizens to come together, share their interests and concerns and act individually and collectively to influence and shape the policymaking (<https://civicspacewatch.eu/what-is-civic-space/>). Michel Forst, 'World Report on the Situation of Human Rights Defenders' (United Nations Special Rapporteur on the Situation of Human Rights Defenders, December 2018) 8; Editorial, 'Report of the Challenges Faced by Women in Civil Society in Nigeria' (*CIVICUS*, March 2011) <https://www.civicus.org/view/media/Challenges_Faced_by_Women_in_Civil_Society_in_Africa.pdf> accessed 24 February 2021.

¹¹ Fionnuala Ní Aoláin, 'Women, Security, and the Patriarchy of Internationalized Transitional Justice' (2009) 31 HRQ 4, 1060.

earliest socialised iteration, patriarchy was primarily understood as domination by the father, grandfather, son, or other older male figure over women or younger men in a household or family.¹² Men were deemed to be ‘naturally’ placed to function as heads of the family, a position that has been shored up by socio-economic factors, culture, and religious constructs.¹³ The entrenched societal perception of men as protectors and providers has extended to control over familial property, decision-making and even the sexuality and reproductive rights of women.¹⁴ In contrast, as Chisale notes, women's roles in the family stereotypically centre around catering, nurturing the family, and satisfying male sexual desires.¹⁵

In her influential work *Theorising Patriarchy*, Walby defines patriarchy as ‘a system of social structures and practices in which men dominate, oppress and exploit women’.¹⁶ This definition is notable for its conceptualisation of patriarchy as extending beyond the household into wider societal structures, which inform the treatment and status of the women within them. Scholars such as Benstead and Hunnicutt note the significance of building upon the rich explorations of previous works such as *Theorising Patriarchy*. Benstead argues that the multidimensionality of patriarchy, which has metamorphosed across different epochs, makes it particularly difficult to explain various mechanisms sustaining gender inequality, hence the importance of reflecting on previous works.¹⁷ Thus, Hunnicutt's theorisation of patriarchy as spanning the macro and micro levels is crucial in gaining

¹² Sinenhlanhla Sithulisiwe Chisale, ‘Patriarchy and Resistance: A Feminist Symbolic Interactionist Perspective of Highly Educated Married Black Women’ (MA thesis, University of South Africa 2017), 14.

¹³ Reshma Sathiparsad, Myra Taylor, and Siyabonga Dlamini, ‘Patriarchy and Family Life: Alternative Views of Male Youth in Rural South Africa’ (2008) 22 *Agenda* 76.

¹⁴ Chisale (n 12) 14.

¹⁵ Chisale (n 12) 14.

¹⁶ Sylvia Walby, *Theorising Patriarchy* (Basil-Blackwell 1990), 20.

¹⁷ Lindsay J Benstead, ‘Conceptualizing and Measuring Patriarchy: The Importance of Feminist Theory’ [2020] *Mediterranean Politics* 5.

a nuanced understanding of patriarchy's functioning.¹⁸ The macro level of society encompasses 'bureaucracies, government, law, markets and religion and the micro level involves interactions, families, organisations, and patterned behaviours between individuals'.¹⁹ However, notwithstanding the space in which it exists, at patriarchy's core lies the inequality that exists between men and women.²⁰ This has been systematised to such an extent that women are constricted and oppressed within the spaces they find themselves.²¹ It is important to note that patriarchy is not geographically bound; it exists in both western and African societies to varying degrees and in different forms. However, Tamale argues that, although pre-colonial Africa was not immune to some forms of oppression of women, the prevalence and institutionalisation of patriarchy within African societies is a consequence of colonialism. She notes that the influence of religions that are perceived to exalt men over women have also contributed to entrenching patriarchal ideals in African societies.²² The preeminent role religion plays in most African countries necessitates a greater analysis of its relationship with patriarchy and how it impacts on the work of HRDs.

2.2.1 Patriarchy and Religion

Religion has a prominent place in African societies, influencing culture, shaping legislation, and playing a role in developing a community's ideals and values.²³ Its practice predominantly takes the form of

¹⁸ Gwen Hunnicutt, 'Varieties of Patriarchy and Violence against Women' (2009) 15 *Violence Against Women* 5.

¹⁹ *ibid.*

²⁰ Sylvia Walby, 'The "Declining Significance" and the "Changing Forms" of Patriarchy?' in Valentine Moghadam (ed) *Patriarchy and Development: Women's Position in the Twentieth Century* (OUP 1996).

²¹ *ibid.*

²² Sylvia Tamale, 'Women's Sexuality as a Site of Control & Resistance: Views on the African Context' (Paper Presented at the International Conference on Bride Price Makerere University, Uganda, 16–18 February 2004).

²³ Sylvia Tamale, 'Exploring the Contours of African Sexualities: Religion, Law and Power' (2014) 14 *AHRLJ* 152.

Christianity, Islam, and, in some cases, the worship of traditional deities. Examining the existence and influence of patriarchy in the practice of religion provides a nuanced understanding of how societal structures impact upon the rights of women. The literature discusses how this influence is predominantly manifested in the practice of the monotheistic religions. Chisale, for example, argues that, in societies where harmful cultural practices and ‘religious misperceptions’ exist, those who challenge patriarchal powers are often put in a precarious position.²⁴ Van der Vyver, however, cautions against generalising religions as inherently patriarchal, noting that adherents of monotheistic religions may discount notions of a patriarchal bias or inequality within their religion.²⁵ Regardless of such perceptions, analysis of monotheistic Abrahamic religious practices shows an overwhelming domination of men in places of worship — as religious leaders and teachers, as well as in the organisation of religious spaces.²⁶ As a consequence of occupying such positions of authority, men are often afforded a monopoly in the interpretation of religious doctrines and in the practice of the religion itself. In communities where the subjugation of women exists, either as a result of colonial vestiges or cultural beliefs, those monopolising interpretation may construe religious texts in ways that become harmful to women. This, alongside challenges such as poverty, conflict, discrimination, and economic inequality, compounds the disadvantaged position of women.²⁷ The position of women in so-called religious societies often affects the lives and work of both male and female HRDs, because they are seen as challenging the status quo. The United Nations Special Rapporteur on Violence Against Women noted that WHRDs can be subjected to ‘corrective’

²⁴ Chisale (n 12) 14.

²⁵ Johan D van der Vyver, ‘Religious Fundamentalism and Human Rights’ (1996) 50 *J Int'l Aff* 1, 21.

²⁶ Pamela J Prickett, ‘Negotiating Gendered Religious Space: The Particularities of Patriarchy in an African American Mosque’ (2015) 29 *Gender & Society* 1, 54.

²⁷ Report submitted by the UN Special Rapporteur on Violence Against Women, Yakin Erturk to the 61st session of the Commission on Human Rights (E.CN.4/2005/72, 17 January 2005) para 22) citing Coomaraswamy, A/CONF.189/PC.3/5, para 2.

physical and sexual violence in an attempt to ‘place them back’ into socially constructed gender roles.²⁸ MHRDs who advocate for women's rights also encounter some similar challenges. They experience physical violence, vilification by members of their communities, and smear campaigns.²⁹ In some cases, their masculinity is questioned and measured through the lens of stereotyped and socially constructed notions of masculinity.³⁰ This section has examined the effect of patriarchal interpretations of religious texts and the practice of religion on the activities of HRDs. Attention now turns to consider other iterations of patriarchy found within international human rights law and the human rights movement.

2.2 Patriarchy within International Human Rights Law and the Human Rights Movement

Before discussing the ways in which patriarchal norms and values manifest in the human rights movement, it is pertinent to understand how patriarchal norms have shaped the formation of international human rights law (IHRL) and its application at various scalar levels. In her pivotal monograph *Violence against Women under International Human Rights Law*, Edwards posits that IHRL ‘privileges the realities of men's lives while marginalising those of women’.³¹ In making this assertion, the author highlights that it was only in the mid-1990s that rape, forced pregnancy, and other forms of gender-based violence were recognised as war crimes and crimes against humanity.³² Drawing upon this apparent inequality in the recognition of crimes that affect women at the international level, Edwards presents the following four criticisms of the wider system: 1) the exclusion of women in the formation of laws

²⁸ *ibid.*

²⁹ Forst, ‘World Report on the Situation of Human Rights Defenders’ (n 10) 8.

³⁰ Editorial, *Being a Man in Nigeria: Perceptions and Realities* (Voices 4 Change Nigeria 2015).

³¹ Alice Edwards, *Women Under International Human Rights Law* (CUP 2011), 7.

³² *ibid.*

and regulatory mechanisms; 2) the marginalisation of concerns that affect women; 3) criticism of the private and public dichotomy of international law; and 4) the essentialisation of women's experiences.³³ Although all four criticisms touch on issues raised in this paper, the first two criticisms are discussed in turn because of the length of this paper.

The first criticism articulated by Edwards centres on the omission of women's voices and experiences in the formation of IHRL.³⁴ Men have dominated politically at the international and regional levels, playing influential roles in 'negotiating, developing, articulating, drafting, monitoring, implementing, and enforcing human rights norms'.³⁵ This has led to a delay in prioritising laws and policies that specifically concern women. Although CEDAW exists at the international level, more specific policy documents such as the Declaration on the Elimination of Violence against Women (DEVAW) does not have the binding legal authority of a convention, thus showing a lack of prioritisation of the prevalent issue of violence against women. Moreover, the state-centric focus of human rights bodies such as the United Nations (UN) and the African Union (AU) make it fundamentally difficult for women's voices to inform the creation of laws and policies that are responsive to the challenges they encounter.³⁶ This is because state parties play a key role in the decision-making process, and men lead most states. This has a bearing on the substance, language, and types of laws and policies created at the regional level.³⁷ Edwards, drawing on Kaufman and Lindquist's *Critiquing Gender Neutral Treaty Language*, highlights that:

³³ *ibid.*

³⁴ *ibid* 37.

³⁵ *ibid* 44.

³⁶ Jaclyn Grace, 'The Human Rights Patriarchy: Masculine Liberal Subjects and the Paradox of Universalism' (AMES 450S: Human Rights in Islam, Duke University, 29 April 2013), 6.

³⁷ *ibid.*

When the interpretation of laws is undertaken by men ... or by women who have been socialised to accept the male elite's norms and interests as their own, women's lives within the law are constructed from a male-centred perspective.³⁸

The nature of such interpretations is apparent from the international level to the regional and domestic levels, where women are again typically under-represented at the decision-making table. This inadvertently leads to the unequal prioritisation of issues that specifically affect women, as opposed to those that affect men.³⁹ Edwards's second criticism regarding the privileging of men's lives and the marginalisation of concerns that affect women in the functioning of IHRL, as illustrated in the normative prioritisation of civil and political rights, exemplifies this point.⁴⁰ Charlesworth and Chinkin posit that:

Human rights law has put primacy on civil and political rights (CPR) which most times focusses on men and their relationship with the state. Economic, Social and Cultural Rights (ESCR), although state responsibility, impacts more on women and their role in the private sphere.⁴¹

Where states, at the international and domestic levels, continue to avoid legislating and enforcing both CPR and ESCR in a way that encompasses the realities of both men and women, women's rights under IHRL will continue to be excluded. As advanced by Edwards, these criticisms demonstrate the pervasiveness and multidimensionality of patriarchy. They also show how patriarchy exists not only in systems and societies that are considered oppressive but also within the formal 'protective spaces' that elucidate, promote, and protect universal standards of human rights. The inequality in the prioritisation of rights

³⁸ Edwards (n 31) 46.

³⁹ Edwards (n 31) 46.

⁴⁰ Edwards (n 31) 37.

⁴¹ Hilary Charlesworth and Christine Chinkin, 'Gender of Jus Cogens' (1993) 15(1) HRQ 69.

transcends the substance of IHRL and the problematic structuring of systems of IHRL. It may also manifest in the activities of the human rights movement in different ways, from the way cases are handled and issues of discrimination to the various forms of abuse women encounter within the workplace.

2.2.1 Patriarchy within the Human Rights Movement

International human rights norms, policies, and practices contribute to shaping laws and practices at the regional and domestic levels.⁴² This means that a lack of prioritisation of women's rights at the international level can play a role in determining its prioritisation at the domestic level. Within the human rights movement, NGOs have been criticised for their approach in the implementation of some of their activities and campaigns. This includes issues of discrimination and the absence of gender and cultural sensitivity. There have also been criticisms about the positioning of WHRDs within structured work environments, where their work is sidelined, their opinions are ignored, and they are prevented from taking up leadership positions. This paper now discusses a recent example of patriarchy within the human rights movement.

In 2018, the NGO Safe Spaces published an open letter to Amnesty International Netherlands. Here, Safe Spaces raised concerns about the glamorisation and sexualisation of the experiences of refugee women of colour in Amnesty International's publications. A recent refugee campaign by Amnesty that showcased a woman 'posing alluringly on a bed of life jackets' prompted Safe Space to write:

The simple and inconvenient fact that has been erased by Amnesty Netherlands is that many black women and women and girls of colour who constitute the majority of the world's refugees exist in contexts where their bodies do not belong to

⁴² Anne-Marie Slaughter and William Burke-White, 'The Future of International Law Is Domestic (or the European Way of Law)' (2006) 47(2) Harv Int'l LJ 327.

them.⁴³

The action raised concerns about the ‘harmful, racist and sexist portrayal of women, causing patriarchal harm and damage to women from the global south’.⁴⁴ Aoláin observes that there is a lack of focus on ‘dissecting the patriarchy inherent in international institutions’ and a masculinity bias, which prioritises the lives and experiences of men, that may be inherent in the organisations and their representatives.⁴⁵ The publication by Amnesty indicates how human rights organisations can be participatory in the suppression of women's rights, where a gender-sensitive lens is not adopted in the implementation of projects. Also, where the composition of organisations does not include diverse women, the portrayal of women's lives and experiences may be misrepresented or, as in the case of Amnesty Netherlands, may become ‘harmful, racist and sexist’.

As Grace presciently observes, the fact that an organisation presents itself as human rights-focussed does not automatically preclude the existence of patriarchal biases.⁴⁶ Initiatives and approaches by human rights organisations geared towards dismantling patriarchy in social structures must be adopted and implemented within human rights spaces. One way in which this may be achieved is through the inclusion of more women in organisational leadership positions, as well as the adoption of a gender-sensitive lens in the initiation and implementations of projects. Furthermore, action must be taken where WHRDs are working in structured, professional organisational environments, as it is documented that women are more likely to

⁴³ Editorial, ‘An Open Letter to Amnesty International from NGO Safe Space’ (*Media Diversified*, 19 December 2018) <<https://mediadiversified.org/2018/12/19/an-open-letter-to-amnesty-international-from-ngo-safe-space/>> accessed 1 July 2020.

⁴⁴ *ibid.*

⁴⁵ Fionnuala Ní Aoláin, ‘Women, Security, and the Patriarchy of Internationalized Transitional Justice’ (2009) 31(4) HRQ 1055.

⁴⁶ Grace (n 36).

experience indices of patriarchy than independent HRDs.⁴⁷ In a policy brief on gender, intersectionality, and security, Nah and Dwyer Smith document a number of instances where WHRDs were subjected to violence and discrimination within NGOs. The authors highlight that WHRDs are abused and harassed, with their work sidelined and not given due recognition.⁴⁸ These challenges that WHRDs confront in the workplace are illustrations of Grace's contention, where she notes that the focus of human rights law on the masculine subject also exists in human rights institutions and organisations. Where these patriarchal leanings and masculinity biases within the law and practice of the human rights system are not addressed, they may become inherently discriminatory,⁴⁹ thereby reinforcing existing systems of inequality and creating temporary solutions to the challenges women face.

2.2.2 Negotiating Patriarchy: MHRDs as 'Gatekeepers'

The literature notes an increasing presence of men around the world working either alongside or independently of women's rights organisations on gender equality matters and the elimination of violence against women.⁵⁰ In some instances, where patriarchy is prevalent in social, cultural, and political structures, the involvement of men is essential to WHRDs' activities and campaigns. Mwiine assesses the motivation for this, suggesting that involving men in the work of WHRDs can be a useful tool in addressing resistance to issues of gender equality.⁵¹ Researching gender equality before Uganda's parliament, Mwiine reports an interview with a women's rights activist who noted that 'when a man brings an issue of gender to parliamentary

⁴⁷ Alice M Nah and Hannah Dwyer Smith, 'Gender, Intersectionality and Security' (Human Rights Defender Hub Policy Brief 6, Centre for Applied Human Rights, University of York, 2018).

⁴⁸ *ibid.*

⁴⁹ *ibid.*

⁵⁰ Amon Ashaba Mwiine, 'Negotiating Patriarchy? Exploring the Ambiguities of the Narratives on "Male Champions" of Gender Equality in Uganda Parliament' (2019) 33 *Agenda* 1.

⁵¹ *ibid* 110.

debate, it is taken seriously by fellow males as well as female MPs'.⁵² This practice of men functioning as 'gatekeepers' in the implementation of women's rights initiatives is arguably a manifestation of Nnaemeka's theory of 'nego-feminism'. In her monograph, the author discusses the importance of 'shared values ... and principles of negotiations, give and take, compromise and balance in African Cultures'.⁵³ Distinguishing western feminism from African feminism, Nnaemeka goes on to highlight that 'African feminism challenges through negotiation and compromise. It knows when, where and how to negotiate with or negotiate around patriarchy in different contexts.'⁵⁴ This sense of navigating around patriarchy recognises that progress will not be immediately achieved by directly challenging oppressive systems. Therefore, in pursuit of the dismantling of patriarchal structures, concessions within those structures first have to be made. However, theorisations such as Nnaemeka's that encourage compromise have been criticised, especially where such compromise places men at the forefront of women's rights initiatives. Shamim Meer cautions that in doing so 'men are once again in charge — only this time they are in charge of women's liberation struggles'.⁵⁵ A consequent marginalisation of women's voices and the loss of their agency has also been highlighted. Mwiine suggests that this may lead to the institutionalisation of a system 'where men are now expected to speak on behalf of women'.⁵⁶ For progress to be made, however, partnerships and concessions are often necessary. Where men take centre stage in conversations on women's rights and SGBV specifically, it is likely going to create a vicious cycle of oppression where women's voices, experiences and contributions continue to go unheard.

⁵² *ibid* 112.

⁵³ Obioma Nnaemeka, 'Nego-Feminism: Theorising, Practicing and Pruning African Ways' (2004) 29(2) *Signs* 377.

⁵⁴ *ibid* 378.

⁵⁵ Shamim Meer, 'Place of Men and Men's Organisations in the Struggle for Gender Equality' (Open Debate, 22 November 2011).

⁵⁶ Mwiine (n 50) 109.

2.3 ‘The Personal Is Political’: Analysing Public/Private Patriarchy

In understanding how patriarchy impacts on the work of HRDs, it is important to analyse how various aspects of patriarchy operate and intersect within the private and public sphere. Walby's explanation of private patriarchy focusses on the domestication of women by limiting their ‘function’ to household labour and the rearing of children, effectively keeping women occupied and away from public spaces.⁵⁷ Public patriarchy is accordingly different because it is ‘based on public structures other than the domestic or family space’.⁵⁸ Walby goes on to differentiate between private and public forms of patriarchy based on the ‘relations between the structure and the institutional form of each structure’ — with the former being exclusionary and latter segregationist.⁵⁹ However, the research of this paper indicates that private and public realms of patriarchy are cyclical, with different ends feeding into each other, as opposed to conceptualising them as mutually exclusive. This discussion looks beyond the private towards the broader consequences of patriarchy. Feminist theorists have criticised this differentiation of patriarchy on the basis that the private or domestic does not exist in isolation of the public.⁶⁰ Drawing on the work of Okin, Romany argues that the ‘public/private dichotomy ignores the political character of power unequally distributed in family life, [which] obscures the political nature of private life’.⁶¹ One implication of the political nature of the private sphere is that states configure it in such a way that perpetuates and maintains the subjugation of women. This can be done through the absence of legislation that protects women against various forms of violence and/or discriminatory laws and policies,

⁵⁷ Walby, *Theorising Patriarchy* (n 16) 178.

⁵⁸ Walby, *Theorising Patriarchy* (n 16).

⁵⁹ Walby, *Theorising Patriarchy* (n 16).

⁶⁰ Susan M Okin, *Justice, Gender and Family* (Basic Books 1989); Celina Romany, ‘Women as Aliens: A Feminist Critique of the Public/Private Distinction in International Human Rights Law’ (1993) 6 Harv Hum Rts J 8; Edwards (n 31).

⁶¹ Romany (n 60) 100.

which restrict women's participation in work life. This has the capacity to affirm and reinforce male domination in the private sphere, regardless of its detriments to the lives of women within them. Romany, for example, suggests that 'the family ... remains a sanctuary of privacy into which one can retreat to avoid state regulation. As long as the family remains the consolidating unit of male hierarchy, the state can remain neutral towards it'.⁶² In discussing the public–private divide in the interpretation of human rights, Lajoie notes that 'rights violations that take place in the "private sphere" are not traditionally addressed in human rights discourse as they are viewed as outside of the realm of state accountability'.⁶³ The creation of IHRL is a public endeavour and consequently seen as largely controlled by men.⁶⁴ Grace observes that 'international law-making institutions have always been, and continue to be, dominated by men, while international human rights law has developed to reflect the experiences of men and largely to exclude those of women'.⁶⁵ Therefore, where the international regime does not prioritise 'private issues', which disproportionately affect women, states may take advantage of legislative and regulatory gaps to reinforce patriarchal culture or traditions.⁶⁶

3 Setting the Context

Attention now turns to consider the wider context of the human rights defender paradigm and concomitant state obligations at the international and regional levels. Following this, an analysis of Nigeria's political and legal system and its human rights situation is provided in order to contextualise the legal realities within which Nigerian HRDs operate. The section concludes by discussing a number

⁶² Romany (n 60) 104.

⁶³ Amie Lajoie, 'Challenging Assumptions of Vulnerability: The Significance in the Work, Lives and Identities of Women Human Rights Defenders' (PhD thesis, National University of Ireland Galway 2018), 10.

⁶⁴ Grace (n 36) 6.

⁶⁵ Grace (n 36).

⁶⁶ Hilary Charlesworth and Christine Chinkin, *The Boundaries of International Law: A Feminist Analysis* (Manchester UP 2000), 57.

of Nigeria's laws, policies, and practices that directly influence the work of HRDs and ultimately considers whether the state has complied with its obligations to create an enabling environment for HRDs.

3.1 The Human Rights Defender Paradigm

Throughout history, individuals and groups have promoted equality, human rights, and social justice. From the anti-slavery movement to the struggle against colonialism and the recognition of women's rights as human rights, the importance of courageous people challenging 'accepted norms' and confronting systems of injustice cannot be overemphasised. The UN's 1998 Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms⁶⁷ (hereafter the Declaration on HRDs) formally recognises the role of individuals and groups as critical stakeholders in the promotion and protection of human rights.⁶⁸ Whilst non-binding in its nature, the Declaration on HRDs draws upon rights and obligations enshrined in legally binding instruments such as the International Covenant on Civil and Political Rights (ICCPR), the International Covenant on Economic, Social and Cultural Rights (ICESCR), and the African Charter on Human and Peoples' Rights (AfCHPR).⁶⁹ The central tenets of the Declaration on HRDs are translated at the regional level through declarations and resolutions such as the Grand Bay Declaration and Plan of Action, the Kigali Declaration, and the

⁶⁷ The declaration was adopted by consensus by the UN General Assembly exemplifying the state's commitment to its implementation.

⁶⁸ Luis Enrique Eguren Fernández, and Champa Patel, 'Towards Developing a Critical and Ethical Approach for Better Recognising and Protecting Human Rights Defenders' (2015) 19(7) *IJHR* 896, 897.

⁶⁹ International Covenant on Civil and Political Rights (adopted 16 December 1966, entered into force 23 March 1976) 999 UNTS 171 (ICCPR); International Covenant on Economic, Social and Cultural Rights (adopted 16 December 1966, UNTS 993); African Charter on Human and Peoples' Rights (adopted 27 June 1981, entered into force 21 October 1986) (1982) 21 *ILM* 58 (AfCHPR).

Resolution on the Protection of Human Rights Defenders in Africa, among others.⁷⁰ These mechanisms also enjoin African states to take appropriate measures to adopt the Declaration's provisions and provide an environment conducive to HRDs carrying out their activities.

3.2 Nigeria as a Case Study

Nigeria is a country of more than 193 million people, comprising over 200 ethnic groups spread across 36 states.⁷¹ Its historic and contemporary heterogeneity, which has intermittently led to political crises and ethnic strife, rendered federalism a suitable political model after colonialism.⁷² Nigeria operates a pluralist legal system, with statutory law coexisting with Shariah law (Islamic law) in the north and customary law in both the north and south.⁷³ With regard to the transposition of international and regional treaties, the country's dualist nature requires domestication by Acts of the National Assembly before such Acts can have national effect.⁷⁴ Laws enacted federally become applicable at the state level when domesticated by respective state Houses of Assembly. This legislative process has led to uneven progress across states, especially in respect of laws and policies on human rights and women's rights. This is further complicated by the influence of

⁷⁰ Grand Bay (Mauritius) Declaration and Plan of Action 1999, para 19 <<https://www.achpr.org/legalinstruments/detail?id=44>> accessed 23 July 2020; Kigali Declaration 2003, para 28 <<https://www.achpr.org/legalinstruments/detail?id=39>> accessed 22 July 2020; Resolution 69 (XXXV) 04 on the Protection of Human Rights Defenders in Africa; Resolution 119 (XXXXII) 07 on the Situation of Human Rights Defenders in Africa; Resolution 196 (L) 11 on Human Rights Defenders in Africa.

⁷¹ National Bureau of Statistics, '2017 Demographic Statistics Bulletin' (May 2018), 12; William O Mbamalu, 'Revisiting Shari'ah, Democracy and Human Rights in Nigeria' (2012) 46(2) *In die Skriflig/In Luce Verbi* 1.

⁷² Said Adejumobi, 'Civil Society and Federalism in Nigeria' (2004) 4(2) *Regional & Federal Studies* 214.

⁷³ *ibid.*

⁷⁴ *ibid.*

religion and culture on the type of laws enacted and prioritised by states.⁷⁵

Nigeria has had a complex relationship with human rights. Whilst the country has ratified all nine core human rights treaties, the protection and prioritisation of human rights at the national level has not received as much attention.⁷⁶ The introductory section of this paper explained that SGBV is one of the major challenges women and girls confront in Nigeria. The inadequacy of judicial, executive, and legislative mechanisms in curbing its prevalence is primarily rooted in the inequality that exists between men and women. Both institutionally and socially, women's rights have not been prioritised, leading to an absence of 'gender equality mainstreaming' in the enforcement and application of laws and policies.⁷⁷ These challenges are further magnified by patriarchal interpretations of religious texts that are prevalent in both the northern and southern parts of Nigeria. In an attempt to protect victims of abuse, in 2015 the National Assembly passed the Violence Against Persons (Prohibitions) Act (VAPP Act).⁷⁸ Whilst the Act does not address the issue of gender inequality caused by patriarchy, it remains a significant piece of legislation due to its prioritisation of SGBV. It does this by providing a broad definition for rape, expanding acts that constitute SGBV, and increasing the punishment for various forms of SGBV, among other salient provisions.⁷⁹ Despite the importance of the Act in protecting the rights of women, the VAPP Act

⁷⁵ Rebecca Zahn, 'Human Rights in the Plural Legal System of Nigeria' (2009) 1 *Edin Student LR* 66, 83.

⁷⁶ United Nations Office of the High Commissioner for Human Rights, 'Status of Ratification' <<https://indicators.ohchr.org/>> accessed 30 June 2020; Nlerum S Okogbule, 'Access to Justice and Human Rights Protection in Nigeria: Problems and Prospect' (2005) 3(2) *SURIJHR* 95.

⁷⁷ Nkiru Igbelina-Igbokwe, 'Contextualizing Gender-Based Violence within Patriarchy in Nigeria' (*Pambazuka*, 2013) <<https://www.pambazuka.org/gender-minorities/contextualizing-gender-based-violence-within-patriarchy-nigeria>> accessed 20 April 2020.

⁷⁸ Violence Against Persons (Prohibition) Act 2015 (VAPP Act).

⁷⁹ *ibid.*

has not been consistently domesticated across the country. Since the Act's enactment in 2015, only 15 out of the 36 states in the country have domesticated the VAPP.⁸⁰ Of those states yet to domesticate its provisions, over half are located in the northern states.⁸¹ Possible explanations for states' reluctance are put forward in the literature. The World Bank, for example, notes that 'the main barriers to the domestication of [this law] are resistance based on entrenched norms of gender inequity and opposition to concepts around equality and rights that are perceived as foreign'.⁸² Some states become reluctant to domesticate laws that promote equality and the protection of women where it is thought that such laws are against cultural and religious beliefs.⁸³ Interestingly, states' reluctance to domesticate what are perceived as 'foreign norms or beliefs' is only raised when the issue of women's rights and protection arises.

3.3 National Laws, Policies, and Practices

International and regional mechanisms outlining the nature of states' obligations to HRDs, including the Declaration on HRDs, have not been implemented in any meaningful way in Nigeria.⁸⁴ The enjoyment of rights to freedom of assembly, association, and expression — some of the key rights underpinning the work of HRDs — are illustrative of this. These rights are nominally protected by central legal mechanisms of Nigeria. Chapter IV of the Constitution of the Federal Republic of

⁸⁰ Rule of Law and Empowerment Initiative, 'VAPP Tracker' (*Partners Nigeria*) <<https://www.partnersnigeria.org/vapp-tracker/>> accessed 22 July 2020.

⁸¹ Seun Durojaiye, 'Hall of Shame: 23 States Yet to Pass Anti-Rape Law, the Majority Are from the North' (*ICIR Nigeria*, 12 June 2020) <<https://www.icirnigeria.org/hall-of-shame-23-states-yet-to-pass-anti-rape-law-majority-are-from-the-north/>> accessed 22 July 2020.

⁸² Editorial, 'Gender-Based Violence: An Analysis of the Implication for the Nigerian Women Project' (The World Bank 2019), 8.

⁸³ Cheluchi Onyemelukwe, 'How Well Does the Law Protect Women at Home? An Analysis of Nigeria's Domestic Violence Legislation' (2018) 60 *Int JLM* 2.

⁸⁴ Zahn (n 75).

Nigeria, the AfCHPR,⁸⁵ and the ICCPR, to which Nigeria is also a state party, all guarantee these rights. Although qualified in their nature, in some instances pieces of local legislation in Nigeria have been used to curtail these rights.⁸⁶ Freedom of assembly, for example, is regulated by the Public Order Act, which requires individuals or groups to request a permit before they can carry out protests.⁸⁷ The permit is usually issued by the police force, meaning that the process is often vulnerable to abuse. The discretion given to the police may lead to the arbitrary use of power and the infringement of people's fundamental human rights in Nigeria. In the everyday work of HRDs, this may manifest in the following ways. When a protest is taking place, state actors opposed to the protest may give directives for the protests to be disrupted. HRDs use protests as a tool to challenge government policies, protection gaps, and the infringement of people's rights. Therefore, the disruption of their activities contributes to the shrinking of the civic space and prevents them from holding government officials accountable. The role of HRDs and NGOs in challenging oppressive government systems/policies is important because of their critical function of stepping into protection gaps created by the state's inaction. Non-state actors are therefore actively participating in monitoring, advocating, and bringing more attention to human rights issues more broadly. With regard to continued efforts to eradicate SGBV, organisations have created shelters and provided legal, medical, and psychosocial support to victims.⁸⁸ These organisations have also participated in advocating for more progressive laws against SGBV and the strengthening of institutional support, by organising protests, educational initiatives, and

⁸⁵ Constitution of the Federal Republic of Nigeria (as amended) 1999, s 39–40; AfCHPR, arts 9(2), 10–11.

⁸⁶ This means they can be restricted on the grounds of public order, health, security, and the rights of others.

⁸⁷ Public Order Act 1979, sch 1(2).

⁸⁸ The World Bank (n 82).

legislative and social media campaigns.⁸⁹ However, it has also placed them at the receiving end of some backlash from both state and non-state actors. Whilst there are no specific laws criminalising HRD advocacy on SGBV, actors of the state play a role in restricting activities such as protests, or inflicting physical harm on protesters.⁹⁰ HRDs are also met with vitriol from wider community members such as religious actors and institutions that believe HRDs are acting against the prevailing religion or culture. Whilst preceding sections have outlined the theoretical basis for this paper, it is pertinent at this point to contextualise these discussions through examination of the experiences of HRDs working on SGBV initiatives in Nigeria collected through primary research.

4 Experiences of HRDs Working on SGBV Initiatives in Nigeria

Grounded in engagement with the literature, this section thematically analyses data gathered through extensive qualitative research. Chief among the conclusions drawn from the research are the constraints on the activities of HRDs motivated by cultural and religious fundamentalism in shaping societal perceptions on SGBV, and the creation of oppressive institutions. As discussed in previous sections, regardless of the challenges patriarchy presents, HRDs working on these issues have made some progress in the form of policy and legal reform, education, and the provision of services and support for victims of SGBV.⁹¹ Also, the approach of HRDs in navigating and negotiating patriarchy in the course of their work will be analysed.

⁸⁹ Corlett Letjolare, Connie Nawaigo, and Andrea Rocca, 'Nigeria: Defending Human Rights: Not Everywhere, Not Every Right' (2010) International Fact-Finding Mission, 25.

⁹⁰ *ibid.*

⁹¹ Onyemelukwe, 'Legislation of Violence Against Women' (n 6).

4.1 The Constraints Presented by Cultural and Religious Fundamentalism

Culture is often understood as a value system, a way of living and thinking shared by people in a particular society or community.⁹² Ssenyonjo notes that African societies are considered 'traditional', and as holding sets of values and beliefs separate from western cultures.⁹³ The significance of cultural values is enshrined and illustrated in Article 29(1) of the AfCHPR, which underscores the importance of preserving:

Positive African cultural values in [the] relationship with other member states in the spirit of tolerance, dialogue and consultation and ... to contribute to the promotion of the moral wellbeing of society.⁹⁴

Previous discussions have sought to highlight how the construction and interpretation of culture and religions can be male-centric and largely patriarchal.⁹⁵ This perception was reflected in the responses of research participants. Sani Muhammad, a MHRD, explained how the perception that men have to be strong and tough, perpetuated by cultural norms that traditionally position men as superior, is one factor contributing to the prevalence of SGBV in Nigeria. This can be exacerbated by the misinterpretation of Quranic provisions in different parts of Nigeria, which enjoin men to 'protect and maintain women'.⁹⁶ Muhammad's point strongly reflects a central tenet of feminist scholarship, which emphasises the socially constructed nature of patriarchy, informed by the male-centric hierarchies that exist within the family, in

⁹² Manisuli Ssenyonjo, 'Culture and the Human Rights of Women in Africa: Between Light and Shadow' (2007) 51(1) JAL 39, 50.

⁹³ *ibid* 51.

⁹⁴ Article 29(1), African Charter on Human and Peoples' Rights (adopted 27 June 1981, art 29(1) (entered into force 21 October 1986).

⁹⁵ Hunnicutt (n 18).

⁹⁶ Interview with Sani Muhammad, Executive Director, Bridge Connect (Zoom, 6 July 2020).

communities, and even within the workspace.⁹⁷ These manifestations of patriarchy sustain an environment where violence against women is normalised. Sani Muhammad's responses were again instructive as they demonstrated that the patriarchal nature of Nigerian society results in 'toxic cultural and religious practices that undermine the position of women'.⁹⁸ This often extends to the creation and application of laws. It is important to note, however, that other participants observed that religion and culture are not inherently destructive and do not legitimise SGBV. What exists are men who benefit from a system of patriarchy, thus construing religion and culture in a way that only benefits them.⁹⁹ This perspective is reflective of van der Vyver's caution against the generalisation of the perception that religions are inherently patriarchal.¹⁰⁰

The interview process also demonstrated how culture and religion operate on a spectrum in the realities of everyday life, serving to simultaneously inspire and curtail the activities of HRDs. At one end of the spectrum, some of the participants declared that their religious and cultural background inspired their activism and their desire to advocate for and 'protect' women from SGBV.¹⁰¹ At the other end, the religious practices of some communities and the ways in which beliefs have been institutionalised serve to constrain the activities of HRDs. In some cases, the actions of religious leaders appear to have motivated forms of assault against HRDs working on SGBV initiatives. One participant recounted:

⁹⁷ *ibid.*

⁹⁸ *ibid.*

⁹⁹ *ibid.*; interview with Anonymous Participant A (WhatsApp Call, 27 June 2020).

¹⁰⁰ Van der Vyver (n 25).

¹⁰¹ Interview with Sani Muhammad (n 96); interview with Anonymous Participant A (n 99); interview with Anonymous Participant B (Zoom, 5 July 2020).

I received 17–19 death threats in an hour when an Islamic cleric went to the mosque and said I was making girls protest — it was just a protest against rape.¹⁰²

The participant's description of the reaction of the men in the mosque indicates anger and fear of women clamouring for their right and safety. The influence of religious leaders in shaping perceptions illustrates the fluidity of patriarchy within all facets of society, echoing the discussions in the literature of how patriarchy manifests in both the public and the private sphere, with both institutions coalescing in the oppression of women.

In some conservative northern states, the entrenchment of cultural and religious ideals at an institutional level, in the form of laws and judicial decisions, has resulted in a lack of progress on cases of SGBV.¹⁰³ Campaigns such as the #ArewaMeToo movement have sought to address this absence of political will to engage with SGBV and the continuous rise in cases.¹⁰⁴ Predominantly led by WHRDs, the movement seeks to advocate for the rights of victims of SGBV and push state legislators to domesticate the VAPP Act in northern Nigeria. Although #ArewaMeToo was not well received by some groups, its initiation prompted a wave of protests that spread across the region.¹⁰⁵ In one of the more conservative states in the north, the sultan of Sokoto issued a statement banning the movement and all its activities.¹⁰⁶ One of the prominent leaders and co-convenor of the movement, Fakhriyyah Hashim, a WHRD, received backlash for her work on the movement, which ranged from death threats to intense trolling and harassment on the internet. Recounting one of her experiences, she explained:

¹⁰² Interview with Sani Muhammad (n 96).

¹⁰³ The World Bank (n 82).

¹⁰⁴ 'Arewa' is used to describe the northern part of Nigeria.

¹⁰⁵ Hashim (n 6).

¹⁰⁶ John Campbell, 'Nigeria's Sultan of Sokoto Bans #MeToo Movement' (*Council on Foreign Relations*, 10 December 2019) <<https://www.cfr.org/blog/nigerias-sultan-sokoto-bans-metoo-movement>> accessed 20 August 2020.

My colleague and I were invited to speak on consent at a University, but this was interpreted [by some student groups] as us speaking on westernised conceptions of SGBV, they said our activities were influenced by an LGBTQ agenda, that we were there to destroy their social fabric, to desecrate their traditional and cultural values. This led to death threats, they said: ‘when you come, you are not going to leave this place intact’. The event was eventually cancelled.

Fakhrriyyah's experiences with the student group and the response of the sultan of Sokoto, combined with the previous example of the Islamic cleric's sermon triggering death threats to an HRD, illustrate the extent to which beliefs, which are normatively personal, are brought into public spaces. This is arguably done with the purpose of controlling the actions of women and stifling voices that speak in their defence. This example demonstrates how religious actors in Nigeria often take advantage of the apathy of state actors towards the issue of SGBV, thereby taking advantage of the gaps in the legislation to impose their beliefs on people, state structures, and institutions. Moreover, these empirical examples suggest an intentionality by the male-dominated state in maintaining the status quo of violence and oppression through the entrenchment of culture and religion at institutional levels.

4.1.1 ‘They Were Supposed to Protect Us’: Impact of Cultural and Religious Fundamentalism on Attitudes and Approaches of State Actors

During the preparation for one of our rallies ... I had an encounter with a police officer regarding getting a permit for the rally. He said to me, ‘rape has been going on for a long time and you think your advocacy can change anything? If a person is beating you, you do not beat them back, you beg them to stop’. After refusing to give me the permit, he asked

if I could meet him in a hotel.¹⁰⁷

Reported by a participant in the research, this interaction with a police officer offers one illustration of the nature of daily interactions of Nigerian women, with the representatives of public institutions and services. As previously highlighted, permission to conduct protests is a process that can be open to misuse — ordinarily, requests for permits to conduct a protest should be assessed on the possibilities of leading to public disorder or destruction.¹⁰⁸ As reported by a research participant, this empirical example demonstrates how the transference of personal biases can lead to the demeaning of the WHRD and her work. It also indicates how cultural sentiments, grounded in patriarchal hegemony, are imposed in the execution of a public role. Such interactions often lead to the restriction of the fundamental rights and freedoms of HRDs by outrightly preventing protests, discouraging protests, and inflicting harm on HRDs. In addition, the participants' responses indicate that the activities of WHRDs are being socially perceived as 'a transgression to established norms',¹⁰⁹ and a disruptive representation of a gender often expected to be docile, homely, and domesticated.

Although, in the course of conducting protests and the implementation of their activities, HRDs may experience some form of harassment, the interview process showed that the experiences of MHRDs and WHRDs differed. Whilst Sani Muhammad's activism was questioned by religious leaders, Participant A's interactions with the police, an institution charged with the protection of society, were ultimately reduced to the sexualisation of the participant's body. This comparison exemplifies one consequence of patriarchal societies — the actions or activities of women are undermined by suggestions (by both state and non-state actors) that their place in society is not to challenge or

¹⁰⁷ Interview with Anonymous Participant A (n 99).

¹⁰⁸ Public Order Act 1979, sch 1(2).

¹⁰⁹ Philomina E Okeke-Ihejirika, 'Asserting Agency and Negotiating Patriarchy: Nigerian Women's Experiences' (2017) 34 J Global South Stud 1.

question oppressive systems but to be confined in traditional spaces where they fulfil sexual obligations, rear children, and tend to their families. The experiences of these HRDs indicate a seamless relationship between both forms of patriarchy, reflecting Uberoi's contention that the private mirrors the public and that both spheres are ultimately governed by the same patriarchal principles.¹¹⁰ Therefore, the creation of an enabling and effective environment for HRDs goes beyond the creation of laws and policies that make this possible. It particularly requires taking a few steps back to reorient communities and people who enforce and implement laws about harmful cultural and religious perceptions, which impacts on their work and the rights of individuals.

4.2 'The Compromises We Make': Navigating Patriarchy and Making an Impact

Previous discussions have sought to highlight some of the structural impediments that render Nigeria a challenging environment for the implementation of women's rights initiatives. Initiatives against SGBV have been met with opposition emanating from the legislative and executive branches of governance. One possible reason for this persisting recalcitrance is the absence of women in positions of power and authority. In the National Assembly, for instance, women occupy just seven of 109 seats in the Senate and 11 out of 360 seats in the House of Representatives.¹¹¹ When combined with the country's deep-seated culture and religiosity, the disproportionate nature of representation at the highest levels of governance has frustrated efforts to create and

¹¹⁰ Patricia Uberoi, 'Feminism and the Public-Private Distinction' in Gurpreet Mahajan (ed) *The Public and the Private: Issues of Democratic Citizenship* (SAGE Publications India 2003) 3.

¹¹¹ Editorial, 'Nigerian Women in National Assembly and the Geo Bill: Matters Arising' (*EIE Nigeria*, 26 July 2019) <<https://www.shineyoureya.org/blog/nigerian-women-in-national-assembly-and-the-geo-bill-matters-arising>> accessed 24 August 2020.

implement laws that take action against SGBV. One research participant, Busola Odubela, observed the paradoxical nature of this, remarking that ‘the beneficiaries of patriarchy will not create institutional structures against SGBV’.¹¹² Resistance to facilitating women's access to political positions may be interpreted as a way of controlling the access of women into the public sphere. This consequently leads to the lack of prioritisation of issues affecting women, such as SGBV. These challenges limited the creation of laws against SGBV, to the extent that, even when laws are proposed, such laws take a long time before they are passed at the federal level and even longer at the state level.

4.2.1 Road to the VAPP Act

The absence of women in legislative positions meant that for a long time the laws that existed did not provide sufficient protection for women. Prior to the adoption of the VAPP Act, the key pieces of legislation governing issues of rape and other forms of abuse were the Penal Code Act and Criminal Code Act (applicable in northern and southern Nigeria, respectively). These pieces of legislation are problematic, formalising restrictive interpretations of what constitutes rape. In some cases, the Acts permit the abuse of women,¹¹³ and outline less stringent punishments for SGBV offences than for other criminal offences.¹¹⁴ In discussing reasons for the lack of progress in developing laws against SGBV, one interview participant noted that ‘men cannot legislate on what they are not aware of’.¹¹⁵ This interpretation broadly aligns with Kaufman and Lindquist's writings on male-centred construction and

¹¹² Interview with Busola Odubela, journalist for Premium Times Centre for Investigative Journalism (Google Meet, 20 June 2020).

¹¹³ Onyemelukwe, ‘How Well Does the Law Protect Women at Home?’ (n 83).

¹¹⁴ Onyemelukwe, ‘How Well Does the Law Protect Women at Home?’ (n 83); Penal Code Act, No 25 of 1960, s 55(1); Criminal Code Act [Nigeria], Cap C38 LFN 2004, 1 June 1916, s 353.

¹¹⁵ Interview with Busola Odubela, journalist for Premium Times Centre for Investigative Journalism (n 112).

interpretation of law.¹¹⁶ However, drawing on the findings of this research, this paper argues that the insensibility of legislators towards SGBV is not the product of ignorance but rather a deliberate ploy to evade state accountability. As previous sections have sought to demonstrate, patriarchal control is multidimensional.¹¹⁷ A refusal to legislate on issues that affect women enables men to act with impunity both within the private and public sphere.

The eventual legislative prioritisation of the VAPP Act came about following more than a decade of advocacy, lobbying, and negotiation by women's rights groups. The Act was intended to address both the shortcomings of the laws and the lacklustre attitude of legislators.¹¹⁸ The Legislative Advocacy Coalition on Violence against Women (LOCVAW) took a prominent role in this process, notably initiating the bill's drafting in 2002. Whilst hailed as a moment of progression, the Act itself was shaped by a number of compromises. This was discussed in some of the interviews. Osai Ojigho indicated that one such compromise was its very name.¹¹⁹ The LOCVAW initially proposed the 'Violence against Women Bill', which was rejected by the legislators.¹²⁰ Ojigho described in the interview how the present name was eventually chosen to reflect a more 'gender-neutral' legislation.¹²¹ The earliest phases of the VAPP were also marked by other tensions such as the inclusion of marital rape.¹²² At its broadest level, the story

¹¹⁶ Edwards (n 31) 46.

¹¹⁷ Benstead (n 17).

¹¹⁸ Onyemelukwe, 'How Well Does the Law Protect Women at Home?' (n 83).

¹¹⁹ Interview with Osai Ojigho, country director, Amnesty International Nigeria (Google Meet, 23 June 2020).

¹²⁰ Onyemelukwe, 'Legislation of Violence Against Women' (n 6). The name of the Act was changed by legislators to the 'Violence (Prohibition) Bill' in 2003 on the basis that 'not only women experience violence'.

¹²¹ Onyemelukwe, 'Legislation of Violence Against Women' (n 6).

¹²² This, however, did not make it to the final Act, passed in 2015. Interview with Osai Ojigho (n 119).

of the VAPP Act serves to exemplify many of the fundamental challenges that HRDs working in Nigeria confront, such as the absence of enabling laws and the political will of legislatures. The VAPP Act also brings to the fore the criticisms by Edwards regarding the exclusion of women in the formation of laws and regulatory mechanisms, which similarly exist at the domestic level.¹²³ This is illustrated in the case of the National Assembly, which is the central law-making body of Nigeria, and the creation of the VAPP Act and other laws on women's rights, thus reaffirming the pervasive nature of patriarchy and how it creates obstacles from the international to the domestic level.

4.3 Navigating Patriarchy through 'Allies'

'Allies are necessary, but the fight is ours.'¹²⁴

When interview participants were asked about the role of men in their initiatives against SGBV, all ten participants reiterated the importance of male allies in advocating and implementing activities against SGBV. One interview participant went as far as asserting that 'we need men to penetrate patriarchal systems'.¹²⁵ This response demonstrates the reality of women's rights advocacy in Nigeria, that campaigns and strategies do not usually make much headway when women are solely at the forefront of activities. As the VAPP's advocacy journey shows, the prioritisation of some Acts usually takes years of activism, strategic negotiation and liaising with stakeholders within and outside the governance structure. It is, however, important to note that the negotiations and navigation that have been shown to be crucial to successful activism are not limited to legislative advocacy. Such negotiations necessarily require the embryonic implementation of initiatives at the communal level, in interactions with religious leaders,

¹²³ Edwards (n 31) 7.

¹²⁴ Interview with Khadijah EL-Usman, lawyer (Zoom, 24 June 2020).

¹²⁵ Interview with Anonymous Participant B (n 101).

and even within the human rights and development network. Fakhriyyah Hashim observes that in legislative or communal advocacies ‘the presence of men often give[s] activities legitimacy’.¹²⁶ For interview participant B, the successful domestication of the VAPP Act in Bauchi State could be credited to strong male ‘allyship’.¹²⁷ This participant also noted that one of the reasons this was possible was because of the intense social advocacy/campaigns conducted across northern states. These campaigns led to the creation of important allies within the government.¹²⁸ However, whilst the significance of the allyship of MHRDs cannot be discounted, it is crucial to note that their involvement sometimes results in women being ignored or sidelined in the course of their work against SGBV. One female participant explained:

Sometimes when we go for outreach visits in schools to teach young children about consent, the boys do not listen to me when I speak, but when my male colleague says exactly what I said, they respond.¹²⁹

Interactions with research participants have shown that the inclusion of men is necessary in the fight against SGBV. As Sani Muhammad observes, ‘the quest to dismantle patriarchy is not a women's rights issue, it is a human rights issue’.¹³⁰ Nonetheless, there must be sustained awareness of any detrimental consequences this may impart. The involvement of men in facilitating access into traditionally male-dominated spaces should be undertaken in a way that prioritises the agency of women and makes clear their pivotal role in championing these causes.

¹²⁶ Interview with Fakhriyyah Hashim (Zoom, 6 July 2020).

¹²⁷ Interview with Anonymous Participant B (n 101).

¹²⁸ Interview with Anonymous Participant B (n 101).

¹²⁹ Interview with Anonymous Participant A (n 99).

¹³⁰ Interview with Sani Muhammad (n 96).

The negotiation of patriarchy, which the empirical research has shown unfolds through methods such as the use of allies, compromising on needs, or political leveraging on the power of votes, indicates a practical illustration of Nnaemeka's nego-feminism.¹³¹ Although this theory typifies what is needed to make progress in a patriarchal African society, it simultaneously reinforces and solidifies patriarchal structures. When the default response to patriarchal oppression is always negotiation, it is unlikely going to create real, sustainable change. Such negotiations may create a reoccurring cycle where HRDs have to continuously yield to the demands of patriarchy.

5 Conclusion

This paper has sought to advance understanding of the influence of patriarchy on the activities of HRDs working on SGBV initiatives in Nigeria. This research does not suggest that the experiences of HRDs, and WHRDs in particular, are monolithic, however, instead observing similarities in the experiences of those people working on SGBV initiatives in Nigeria. In doing so, the paper has presented an interdisciplinary analysis of various iterations of patriarchy, which in turn formed the theoretical basis for the empirical research. The discussion on patriarchy brought into focus its multidimensional fluidity within various sectors of society. While noting the presence of laws and policies for the protection of HRDs, this paper has noted how the male-centric human rights sphere does a disservice to women and HRDs working on women's rights issues. Underpinned by the responses of research participants and the submissions in the literature review, this paper has found that patriarchy indeed plays a critical role in shaping the activities of HRDs. The pre-eminence of culture and religion, which are mostly patriarchal or interpreted within patriarchal boundaries, has influenced the ability of HRDs to push for legislation that can hold perpetrators accountable and carry out initiatives in support of victims.

¹³¹ Nnaemeka (n 53) 377–78.

This plays out in their interactions with both state and non-state actors. The analyses further suggest that, for HRDs to make progress with their initiatives against SGBV, they have to find ways to navigate patriarchy either with the use of male allies to infiltrate patriarchal spaces or through conceding certain patriarchal demands, albeit not those that compromise the core of their work.

The importance of providing an enabling and protected environment for HRDs to work safely is a budding area of human rights law and practice globally. Within the Nigerian context, it is an area with very sparse research and one that policymakers have not legislated upon. The recognition of the work of activists, NGO staff, and other human rights actors as HRDs may be a vital step in creating an institutional framework that prioritises the rights of HRDs and their ability to make an impact.