

# VALUES CLARIFICATIONS IN MARITAL RAPE: A NIGERIAN SITUATION

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## Abstract

This paper focuses on the volatile and ignored issue of rape within the context of marriage in Nigeria. It is a topic that is not discussed as a form of domestic and sexual violence against women because of some socio-cultural factors like religion, unbalanced gender, norms, early marriage, particularly and power relations. There is a need to look at the issues of marital rape from the lens of Morals and values because of the parlance in which sociologists operate and the need to provide an adequate understanding of human beings within the society. An attempt will be made in this paper to describe marital rape, the cultural contextualization and the basis of the evaluation of human behavior as determined by values.

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**Keywords:** Marriage, rape, consent, values, Nigeria

## Introduction

Violence against Women according to the 1993 World Development Report estimated that “it is a cause of death and incapacity among women of reproductive age as cancer, and a greater cause of ill-health than traffic accident and malaria combined”. As defined in the Declaration on the Elimination of Violence against Women, violence against women is a prevalent harm to the basic rights, freedoms, health and welfare of women. It occurs in many settings and at many hands, including those of relatives, acquaintances, employers, and the State (Human Rights Dialogue, 2003)

It can be deduced from the definition above that violence in any form could be perpetrated by anybody including a father, friend, strangers, in-laws, child and husband. The highest rates of sexual violence have been reported in relation to rape by intimate partners including husbands (Sexual Violence Research Initiative, 2007). No rape free societies exist today.

Marital rape which is a form of sexual violence is a sensitive and serious issue that has not always been discussed with openness in most of the sub-Saharan African countries. According to Ambekar (2009), marital rape

refers to any unwanted and undesired sexual act by a spouse which is committed without consent or against the persons will. It serves multiple functions including its use as a socially sanctioned strategy to punish women; a tactic to assert masculinity and maintain a patriarchal social order; a method to 'resolve' domestic conflicts, and a male behavior to take sexual pleasure (Sexual Violence Research Initiative, 2007).

The right to be free from coercion and violence in relation to sex is a human right that is defined in several regional and international laws like the United Nations Convention on the Elimination of all Forms of Discrimination against Women (CEDAW) and the Protocol on the Right of Women in Africa. To be lawful, sexual acts within marriage must be agreed to by both parties equally (Amnesty International, 2011).

Marital rape however, is legal in Nigeria. Both the penal code, applicable in the Northern states, and the criminal code, applicable in the Southern States, define rape to be sexual intercourse with a woman or carnal knowledge of a woman when consent is obtained by use of fraud, intimidation, threats to life, or physical harm. "Carnal knowledge" and sexual intercourse are defined for the purpose of both codes as act of penetration. In general, both criminal codes in Nigeria do not recognize marital rape as a crime because it is culturally accepted.

In view of the foregoing, the aim of this paper is to:

- i. Assess the influence of values on marital rape,
- ii. Challenge respondents to articulate and examine their values towards marital rape,
- iii. Understand the impact that personal attitudes have on marital rape and its elimination.

### **Significance of the study**

It has been established from various literatures and opinion papers that marital rape in most of the sub-Saharan Africa countries especially Nigeria is legally and culturally accepted (Dilek, 2011; Omoniyi, 2011; Chika, 2011; Salaam, 2003) which invariably makes it the least researched form of gender-based violence.

In other to eliminate or curb marital rape, it is highly imperative to explore and clarify ones values through debates, discussions, group exercises, in-depth interviews and focus group discussions to do a self-reflection on the impacts, implications and consequences of one's sexual acts and the attitudes and values that influence them. This is necessary as an important first step in initiating a male involvement change towards eliminating all forms of violence especially sexual violence in a country like Nigeria. In addition, this study will explore the differing opinions of individuals on marital rape. This will demonstrate that people have a broad

range of opinions and experiences about marital rape that one may agree or disagree with. A central assumption of this study is that self-reflection and personal change is a necessary component of behavioral transformation. A practice that is deeply entrenched in culture cannot be challenged in communities without first examining people's beliefs. This brings about personal transformation which helps to get rid of old and archaic ideas, thereby influencing behavior change which will have more lasting effects.

## **Conceptual Clarifications**

### **Marriage**

Marriage according to the definition of Malinowski (1956) is a contract for the production and maintenance of children. A dictionary of Sociology defines marriage as “an institution that sanctions the relationship of a man and a woman and binds them in a system of mutual obligations as husband and wife and rights essential to the functioning of family life. According to the Biblical standpoint on marriage, 1 Corinthians 7:5, New International Version says” The wife’s body does not belong to her alone but also to her husband. In the same way, the husband’s body does not belong to him alone but also to his wife. Do not deprive each other except by mutual consent and for a time, so that you may devote yourselves to prayer. Then come together again so that Satan will not tempt you because of lack of self-control”

This translates to the fact that both of them can never say no to sex- and in an ancient patriarchal society, the real effect was to give the husband sexual autonomy but not the wife (Zoe, 2008). In the same vein, Matthew Hale a Chief Justice, mid-17<sup>th</sup> century, England in “Pleas of the crown”, Vol1 at p.69 noted that “The husband cannot be guilty of a rape committed by himself upon his lawful wife, for by their mutual matrimonial consent and contract, the wife hath given up herself in this kind unto her husband which she cannot retract”.

This brings us to the discussion on the concepts of consent and sexual autonomy in marriage which are two distinct concepts. According to Amnesty International (2011), the concept of consent as used in domestic Criminal Law imports a notion of individual choice, typically without a consideration of the reality of abuse of power (whether evidence through physical force, or other forms of coercion ) and other factual conditions that may prevail before, during and perhaps after the sexual acts. A consideration of whether an individual was able to exercise sexual autonomy, by contrast, takes into account the overall dynamic and environment surrounding those sexual acts and how these had an impact on the victims’ ability to make a genuine choice. An individual’s sexual autonomy is an aspect of physical and mental integrity, the core human right value protected by the

criminalization of sexual violence (Amnesty International, 2011: pg 13 para: 1 and 2).

Conclusively, marriage in Nigeria is a highly valued institution. The onus of making a marriage successful falls on women alone. Nigerian women sacrifice a lot to keep the sanctity of marriage, to avoid rebuke, dishonor and disgrace of divorce. A successful marriage means, in effect, providing sex whenever their husbands demand it (Isiramen, 2003).

### **Marital Rape**

Marital rape or spousal rape is non-consensual sex in which the perpetrator is the victims' spouse. It is a form of partner rape, of domestic violence, and of sexual abuse (Wikipedia). Marital rape can be defined as any unwanted intercourse or penetration (vaginal, anal or oral) obtained by force, threat of force or when the wife is unable to consent (Bergen, 1996; Pagelow, 1992; Russel, 1990). Marital rape refers to any unwanted and undesired sexual act by a spouse which is committed without consent or against a person's will (Ambekar, 2009). The person's consent may be obtained by force and the act may be committed through threat of force or intimidation or even when the person is not capable of consenting. Omoniyi 2011 opined that it is as widespread as other sexual offences but grossly underreported. It includes sexual intercourse, anal or oral sex, forced sexual behavior and other sexual activities that are considered by the victims as degrading, humiliating, painful and unwanted. It is also referred to as spousal rape or wife rape or rape in matrimony.

### **Values**

Sugh (2007) defined values as philosophical considerations which help an individual to personally judge how reasonable and appropriate his/her actions and relationships with others are. Ikwuba (2011) noted that the values of an individual form the person's basic ideas and beliefs of what is good or not which means that values have negative or positive side. This beliefs Sugh (2007) emphasized that it affects people conscience, decision making, perception of others and appreciation of things. These beliefs and ideas also determine an individuals actions concerns for others and efforts towards development.

Values, in the ordinary sense, are defined as accepted principles or standard of a person (Erinosho, 2008). According to De Villier (198:162) as quoted by Iwuoha (2011) and Olaogun (2012) the basis of the evaluation human behavior is to be found in a system of values. Hence, values meaningfully impact on an individual and prompt one to:

1. Determine what one regards as rights, good, worthy beautiful and ethical.

2. Provide the standards and norms by which one guides his/her day to day behavior.
3. Determine one's attitudes toward the causes and issues such as social, political, economic and industrial with which one comes into contact daily.
4. Determine which ideas, principles and concepts one can accept, assimilate, remember and transmit without distortion (McMurry, 1977:315) as quoted by Iwuoha (2011).

Values are closely related to and are affected by our beliefs, ideals and knowledge and they can affect our attitudes and behaviors.

### **Values Clarification**

Values clarification is a process through which individuals engage in honest, open minded and critical reflection and self-examination on their assumptions, values and beliefs about an issue. Since its original conception in the late 1960s, values clarifications interventions have been applied to a variety of health and social issues (Global Trainers' Network Weblog, 2008). Given the central role that values play in our lives, it is important to understand how values form and how they affect our decisions making and behavior. In order for our choices and actions to be the result of informed choice, reasons, thoughts and feelings, values clarification was developed (Dewey, 1939). It is both a theory and an intervention. The theory was inspired by the field of humanistic psychology led by such thinkers as Abraham Maslow and Carl Rogers, who believed that people are responsible for discovering their values through honest, open minded self-examination. According to Milton Rokeach, values clarification is the process of examining one's basic values and moral reasoning (Rokeach, 1973). Values clarification is done to understand oneself to discover what is important and meaningful (Steele, 1979).

### **Brief Literature Review**

#### **Women's rights in Marriage in Nigeria**

Sexual rights are human rights related to sexuality. They are constituted by a set of entitlements related to sexuality that emanates from the rights to freedom, equality, privacy, autonomy, integrity and dignity of all people. In a paper by Hon. Justice Izuako (2002) at a seminar on HIV/AIDS and Human Rights: The Role of the Judiciary," human rights were described in the words of former Indian Chief Judge, Justice B. N Bhagwati, as not ephemeral, not alterable with time, space and circumstances.

The concept of human right is grounded in concepts of human dignity and equality, which can be found in most cultures, religions and traditions

that are today reflected in many legal systems. The World Health Organization (WHO, 2004) working definition of sexual rights include the right of all persons, free of coercion, discrimination and violence, to:-

- The highest attainable standard of sexual health including access to sexual and reproductive health care services;
- Seek, receive and impart information related to sexuality;
- Sexuality education;
- Respect for bodily integrity;
- Choose their partner;
- Decide to be sexually active or not;
- Consensual sexual relations;
- Consensual marriage;
- Decide whether or not, and when, to have children; and
- Pursue a satisfying, safe and pleasurable sexual life.

The responsible exercise of human rights requires that all persons respect the rights of others.

In spite of the fact that the Nigerian Constitution adopted in 1999, Africa Charter on Human and People’s Rights on the Rights of women in Africa clearly outlines the basic human rights of all citizens of Nigeria especially women, they are still treated and considered inferior to men. This according to ‘Yar Uwa Tajiki (2012) resulted from the meaning given to marriage which turns a woman into “necessary accessories” like clothes to be bought, worn and discarded at will.

A woman’s rights within marriage for most Nigerian women are not known to them and when they know, they cannot exercise such rights. This can be greatly attributed to the way they were socialized. A woman’s rights within marriage and the family greatly affect her ability to control her life and make voluntary, informed reproductive choices. Equal rights within marriage were among the first human rights pertaining to women’s status to be explicitly recognized under International Law. One of the basic principles governing marriage under human rights law is that no one may be forced to enter into marriage against his or her will (Universal Declaration of Human Right (1948a)

Moreover, according to the Universal Declaration of Human Rights and the International Covenant on Civil Political Rights, men and women have equal rights upon entry into marriage, during marriage and at its dissolution (Universal Declaration, 1948b)

### **Recognition of Marital Rape in Nigerian Law**

Section 357 of the Criminal Code Act CAP 77 LFN 1990 defines rape as

*“ any person 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 by means of false threats or intimidations of false or fraudulent representation as to the nature of the act or in case of a married woman by impersonating her husband is guilty of an offence called rape”*

Sec 283 of the Penal Code defines rape as follows:

*“ a man can be held guilty of rape if he has sexual intercourse with a woman without her consent or with her consent if consent was unlawfully obtained”*

Under Sex 358, the crime of rape in Nigerian Criminal Law is punishable by life imprisonment. Marital rape which is a form of sexual violence experienced by women within marriage is not recognized as it should in Nigerian laws.

The Criminal Law of Northern Nigeria provides in section 282(1) that

*“a man is said to commit rape who save where he had sexual intercourse with his wife, has sexual intercourse with a woman in any of the following circumstances:*

- Against her will
- With her consent
- With her consent when her consent has been obtained by putting her in fear of death or of hurt
- With her consent, when the man knows that he is not her husband and that he is not another man to whom she is or believes herself to be lawfully married.
- With or without her consent, when she is under 14 years of age or of unsound mind.

Section 282(2) of the Penal Code provides expressly that sexual intercourse by a man with his own wife is not a rape, if she has attained puberty.

This situation according to Goldstein (1995) shows that the State of Nigeria has passed a law saying that females, but not males forfeit their rights to the protection of Criminal Law on marrying. It is sex discrimination, which violates not only the civil and political covenant, but the constitution of Nigeria.

Similarly, the Criminal Code Act which governs the criminal law of the Southern States of Nigeria Section S. 357 states that:

*“any person who has unlawful Carnal knowledge of a woman or girl, without her consent if the consent is obtained by force or fraudulent representation as to the nature of the act, or in the case of married, by representing her husband is guilty of an offence which is rape”*

According to Enyie (2011), these provisions of the law (that is, the combined effect of the Penal Code and the Criminal Code Act) presuppose

that marriage being a lawful union between a man and a woman implies consent for a husband to have sexual intercourse, anytime he demands it with his wife. The institution of marriage presupposes the presence of consent.

Country reports on Human Right Practices (2006) states that marital rape is recognized under the law in Nigeria, but it is hard to prove in court. The burden of proof required by the criminal code in marital rape is so high that victims rarely succeed in court. As a result, there is a culture of silence on marital rape which means that many cases are unreported.

## **Theoretical Framework**

### **The Values Theory**

The values theory defines values as desirable trans-situational goals, varying in importance, that serves as guiding principles in people's lives. The crucial content aspect that distinguishes between values is the type of motivational goal they express. The values theory (Schwartz, 1992; 2005a) adopts a correction of values that specifies six main features that are implicit in the writings of many theorists:

- Values are beliefs linked inextricably to emotion, not objective, cold ideas.
- Values are a motivational construct. They refer to the desirable goals which people strive to attain.
- Values transcend specific actions and situations. They are abstract goals. The abstract nature of values distinguishes them from concepts like norms and attitude, which usually refer to specific actions, objects or situations.
- Values guide the selection or evaluation of actions, policies, people and events. That is, values serve as standards criteria.
- Values are ordered by importance relative to one another. Peoples values form an ordered system of value priorities that characterized them as individuals. This hierarchical feature of values also distinguishes them from norms and attitudes.

This theory explains how an individual with values serving as guiding principles that guides the selection or evaluation of his/her own actions or others actions views marital rape.

### **The Theory of Patriarchy**

The central theoretical argument of this theory is that patriarchy leads to the subordination and oppression of women and causes the historical pattern of systematic violence directed against wives (Dabash and Dobash, 1979, Pagelow 1984, Vilo 198, 1993). The theory maintains that the primary element of patriarchy is a relationship of dominance, where one party is

dominant and exploits the other party for the benefit of the former (Wikipedia).

The theorists of patriarchy view males very much as Marxist view the ruling class. Males are seen as controlling access to institutional power and it is argued that they mold ideology, philosophy, art, and religion to suit their needs within patriarchy men, “by force, direct pressure, or through ritual, tradition, law and language, customs, etiquette, education and the division of labor” define the part that women shall (or shall not) play (Millet, 1969)

Browmiller (1975) identified patriarch attitudes towards women with those of the most violent males. Rape is thus not an individual problem. It is a societal problem arising from a “distorted masculine philosophy of aggression.

## **Methodology**

### ***Respondents***

220 male participants were purposively selected in Ado-Ekiti, Ekiti State Southwest Nigeria. This was done to understand marital rape from the perspective of the local population it involves. It was especially effective in this study to obtain culturally specific information about the values, opinions, attitudes and self-reflection on marital rape.

### ***Instrument of Data Collection***

A questionnaire for values clarification developed in 2002 at the Johns Hopkins Bloomberg School of Public Health Center for communication programs was adopted and adapted for used. It contained an individual component and as group component.

### ***Procedure***

The group component was used to do a qualitative study in order to provide a substantive explanation to the issue of marital rape. 5 focus group discussions were conducted among respondents organized by occupation, educational status and religion.

The purpose of the study was explained to the participants. It was to help them explore their own values and attitudes toward marital rape, provoke them to challenge deeply-held assumptions and myths and increase empathy about marital rape. Information collected was reported verbatim.

### ***Findings***

Responses from the focus group discussion are presented in 3 sections. The socio-demographic characteristics of the study participants are summarized in table 1, values Rating and Ranking, and Influence of values on marital rape.

**Table 1: Socio-Demographic Characteristics of Respondents (n = 220)**

Characteristics	Categories	Frequency	Percentage (%)
<b>Marital Status</b>	Single	78	35.5
	Married	115	52.3
	Divorced/Separated	25	11.4
	Widower	2	0.9
<b>Age Group</b>	15 – 25 years	29	13.2
	26 – 35 years	56	25.5
	36 – 45 years	77	35.0
	45 years and above	58	26.3
<b>Educational Status</b>	No formal education	33	15.0
	Primary education	39	17.7
	Secondary education	51	23.2
	Tertiary education	86	93.1
	No response	11	5.0
<b>Occupation</b>	Farming	16	7.3
	Civil servant	71	32.3
	Trading	43	19.5
	Student	59	26.8
	Artisan	31	14.1
<b>Religion</b>	Christianity	129	58.6
	Islam	53	24.1
	Traditional	23	10.5
	Others *	15	6.8
<b>Place of Residence</b>	Rural	35	15.9
	Urban	185	84.1

\*Others include Eckankar and Grail message

### Values Rating and Ranking

This was done in order to share the top 5 most important values of participants from a list of values. These values and reasons why they are important were discussed. Table 2 shows the list of values chosen by the participants.

**Table 2: Values Rating and Ranking**

Values	Explanations	% of Participants
<b>Moral fulfillment</b>	Feel that whatever I do contribute to a set of moral standards which I feel are very important.	153 (69.5%)
<b>Approval</b>	Having other people like me	10 (4.5%)
<b>Knowledge</b>	Understanding gained through study and/or experience	149 (67.7%)
<b>Respect</b>	Having other people think highly of me and hold in good esteem	129 (58.6%)
<b>Make decisions</b>	Has the power to decide courses of action	130 (59%)

<b>Enjoyment of life</b>	Enjoying life, having fun in life	57 (25.9%)
<b>Loyalty</b>	Sticking with people who are close to me and/or believe what I do.	121 (55%)
<b>Justice</b>	Being fair and just and having others treat me fairly and justly	133 (60.4%)
<b>Stability</b>	Have a routine and duties that are largely predictable.	71 (32.2%)
<b>Good character</b>	Knowing inside that I do the right, moral just thing.	183 (83.1%)

Out of all the values listed above, the things most of the participants (83%) value very much is good character (83%) followed by moral fulfillment (69.5%), knowledge (67.7%), justice (60.4%) and to make decisions (59.0%) respectively.

Respondents were asked to articulate and examine their attitudes towards marital rape. From their responses, it was evident that their values do not affect or impact their attitudes towards marital rape. A student who is also self-employed reported that:

*“How many women have reported that she was raped by her husband?”*

*This is to show that there is nothing like marital rape in the Nigerian context.*

### **Influence of Values on Marital Rape**

Participants had different opinions on the premise in which marital rape occurs. It was generally discussed and agreed upon that a person with the values ranked most important above will not be involved or commit marital rape provided the person is not under the influence of alcohol and drug use. This opinion is consistent with the findings of studies conducted by Aihie (2009); Osirim (2003); Rumbold (2008); Gessesew & Mesfin (2004); Leonard and Blane (1992); Abbey, Zawacki & Buck (2001) etc. It was further discussed by participants that with high values ranging from good character to moral fulfillment, there is nothing like marital rape in the Nigerian culture. One of the participants in the FGD said;

*“An average Nigerian woman is socialized in a way that she shows a resistance to sexual advances by the opposite sex so that she does not look or behave cheap. My sexual advances to my wife has made me realize that her resistance means continue”*

Corroborating the above, the opinion of a civil servant is presented below:

*“It is possible that a woman will not be in the mood to have sex with the husband, this is quite understandable. In a situation where a woman refuses the husband sex in order to punish him or for negotiation, it is better for the husband to take her by force. This is not rape because sex is not meant to be used for these purposes. A woman/man has given himself/herself to the spouse through the marital vows which is westernized. This is consistent with a Yoruba proverb which says, “T’aba fun ni l’agbo, a jowo e t’okun t’okun” which means when we give out a ram, we release it completely with the rope since the rope will be used in controlling the ram.*

In line with the opinion above, Wamue-Ngare and Njoroge (2011) reported that gender researchers worldwide recognize that the concrete behavior of individuals is a consequence of both socially enforced rules and values that are imparted through socialization process which prescribes and ascribes gender roles.

The respondents observed that the marital vows taken on the wedding day, gave the woman to the man, and vice versa in its totality. The phrase *“To have and to hold, from this day forward, -----”* according to one of the respondents, means that the person belongs to you intimately which means that both of you are committing your bodies to each other until death do you part.

This was supported by the assertion given by three of the respondents:

### **Respondent 1**

- *“Sex is highly valued in marriage because it connects both husband and wife emotionally, giving them sexual pleasure and also for procreation. Men who have extra marital affairs do this due to the non-responsiveness of their wives. It is very rare for women to initiate sex. Men, who are not ready to have extra marital affairs, will rather prefer to take their wives by force. It is allowed.”*

### **Respondent 2**

- *“Taking the marital vow implies that you are giving your body willingly to your husband for as long as you live, but Nigerian women want you to beg them for sex. When you start begging and demanding, there is a power shift. So if I have sex with her without her consent, I am doing it to retain my position as the head and her owner because she belongs to me”.*

### **Respondent 3**

- *“Cases of marital rape are not common in the news because they are not reported. They are not reported because most women aggressively withhold sex in order to punish or negotiate with their husbands. That is when they make demands that you cannot meet. There is no man in his*

*right senses, who is not under the influence of alcohol that will go ahead and force a woman to have sex when she is exhausted and not prepared. In a situation where you insist on having your way by coercing her into having sex, I have discovered that at the end of the day, she will be the most active in the act”.*

## **Conclusion**

From this study, it was revealed that most men believe that marital rape is not the name that should be given to non-consensual sex between husband and wife. This is because women are not always forthcoming when it comes to having sex with their husbands. The way men are socialized gives them total control over their wives and women are subjective to them. It is the African Yoruba value for a wife to be subjective to their husbands. Any woman that is not subjective and obedient is labeled a deviant. These ideas are fully supported and reinforced by the Yoruba cultural and religious beliefs and even the Customary Law.

In conclusion, values which are the attitudes an individual or society holds with respect to worth or desirability are the fundamental guiding principles for interpersonal relationship has not changed the way Yoruba men perceive and react to issues of marital rape. If a man rapes his wife in a bid to hurt and humiliate her, it becomes a violation of her rights. In a situation where this is unreported, there is little or nothing the law can do about this.

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