

Global rights, local realities: Negotiating gender equality and sexual rights in the Caprivi Region, Namibia

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Abstract

Gender inequalities are frequently cited as a major reason for high HIV-prevalence rates in southern Africa. While steps have been taken to promote and pass legislation that upholds equal rights for women, this paper examines the ways in which discourses of gender equality and ensuing sexual rights can have complex, contradictory and even adverse implications when they are mobilised, resisted and reinterpreted at local level. Drawing upon research undertaken in the Caprivi Region of Namibia, this paper examines this ways in which men and women respond to ideas about gender equality, and seeks to place these responses within the wider context of socioeconomic change and understandings of morality prevalent within the region. The tendency of many young women to seek out relationships with older men and the increasing costs of bride-wealth payments play a key role in reinforcing patriarchal attitudes and fuelling disrespect for women's rights both before and within marriage. In addition, a failure to adhere to customary norms, which uphold men's dominant role, continues to threaten the support networks and assets available to women. The consequences of this situation are examined with particular focus on implications for the future transmission of HIV.

Résumé

L'inégalité des genres est souvent évoquée comme l'une des causes majeures de la forte prévalence du VIH en Afrique australe. Alors que des initiatives ont été prises pour promouvoir et adopter des lois garantissant l'égalité des droits aux femmes, cet article examine comment les discours sur l'égalité des genres et les droits sexuels qui en résultent peuvent avoir des implications complexes, contradictoires et même néfastes quand ils sont utilisés et quand ils font l'objet de résistances et de réinterprétations au niveau local. En exploitant une recherche menée dans la bande de Caprivi (Namibie), cet article examine comment les hommes et les femmes réagissent à la notion d'égalité des genres, et cherche à positionner ces réactions dans le contexte plus large du changement socio-économique et des compréhensions de la moralité qui dominent dans la région. La tendance de beaucoup de jeunes femmes à rechercher des relations avec des hommes plus âgés et l'augmentation de la valeur des dots jouent un rôle clé dans le renforcement des attitudes patriarcales et du manque de respect pour les droits des femmes, aussi bien avant le mariage qu'au cours de la vie conjugale. De plus, les réseaux de soutien et les avantages dont bénéficient les femmes continuent d'être menacés lorsque celles-ci ne parviennent pas à adhérer aux normes traditionnelles qui préservent le rôle dominant des hommes. Cette situation est examinée avec une attention particulière pour ses implications sur les modes de transmission du VIH à l'avenir.

Resumen

Las desigualdades sexuales se nombran con frecuencia como una de las causas principales del alto nivel de prevalencia del VIH en el sur de África. Aunque se han tomado medidas para fomentar y

aprobar leyes que propugnan la igualdad de derechos de las mujeres, en este artículo examinamos cómo los discursos sobre la igualdad de sexos y los derechos sexuales correspondientes pueden ser complejos, contradictorios e incluso con repercusiones adversas cuando son movilizados, resistidos y reinterpretados a nivel local. Con información recabada en la Región de Caprivi en Namibia, en este ensayo analizamos cómo responden hombres y mujeres a determinadas ideas sobre la igualdad de sexos y tratamos de poner estas respuestas en el contexto más amplio del cambio socioeconómico y del concepto de la moralidad predominante en la región. La tendencia de muchas jóvenes de buscar relaciones con hombres mayores y el aumento de los costes para pagar la dote de las novias desempeñan un importante papel a la hora de reforzar las actitudes patriarcales e incentivar la falta de respeto por los derechos de las mujeres tanto antes como durante el matrimonio. Además, si no se cumplen las normas tradicionales que defienden el rol dominante masculino se continúan amenazando las redes de apoyo y bienes disponibles para las mujeres. Aquí examinamos las repercusiones de esta situación prestando especial atención a las implicaciones en la futura transmisión del virus del sida.

Keywords: *HIV, Namibia, gender, rights, lobola*

Introduction

It is well recognised that unequal gender relations create and exacerbate vulnerability to HIV infection. The particular vulnerability of women has received much attention (e.g. Ankrah 1991, Ulin 1992, Heise and Elias 1995, Lawless *et al.* 1996), with focus placed on the ways in which women's generally low status in society and dependence upon men to access key assets has inhibited their attempts to protect themselves within relationships. More recently, focus has been placed on the need to also consider the reasons and means by which men uphold these gender inequalities. Research on the importance attributed to ideologies of masculinity (Campbell 1997, Rivers and Aggleton 1999, Bujra 2002, Brown *et al.* 2005) has provided key insights into explaining the power relations that put not only women, but also men themselves at risk of HIV infection. Linked to these findings, the pursuit of gender equality promoted by international conventions is increasingly considered vital in the achievement of social justice and HIV prevention (Klugman 2000, Merry 2006, UNICEF 2007).

While notions of rights and equality are often posited on an individual's ability to act freely of cultural and institutional constraints, in reality people's choices are influenced by sociocultural obligations which define their relationships with others and enable or constrain their access to key resource assets (Merry 2006). Tensions also exist between formal commitments to upholding universal rights conventions and the tacit respect within such conventions for the customary laws and norms that uphold 'culture'. In turn, these cultural laws and norms are often considered to undermine gender equality through the upholding of patriarchal relations. While 'culture' can clearly influence the day-to-day frameworks within which understandings of morality and acceptable behaviour are played out (Cowan *et al.* 2001, Murray 2006), it is vital to recognise that it is not necessarily a negative force, and that the co-existence of civil laws and local hierarchies and frameworks of belief and understanding can offer a range of options and incentives upon which different people can draw under different circumstances (Nyamu 2000, Cleaver 2001).

In order to understand the role that universal concepts of gender equality and sexual rights can play in reducing risk and vulnerability to HIV, therefore, it is important to recognise that they can have complex, contradictory and even adverse implications for individuals when they are mobilised, resisted and re-interpreted at local level (Cowan 2006, Merry 2006, Murray 2006). Such circumstances suggest the need for more in-depth,

locally specific understanding of the ways in which ideas about gender equality and the ensuing sexual rights of women and men are interpreted and enacted within existing cultural and institutional frameworks (Nyamu 2000, Griffiths 2001). Drawing upon research undertaken in the Caprivi Region in the far North East of Namibia, this paper examines the extent to which gender equality has significance beyond the rhetorical policy agreements made at international and national levels by examining the ways in which such ideas are interpreted within the sociocultural and economic contexts that exist at a local level. Focus is placed upon the changing economic, institutional and cultural pressures facing both women and men to keep reinvesting in structures and norms that uphold gender inequalities, and in turn potentially increase their risks of HIV infection.

At a reported 43% amongst ante-natal attendees, the Caprivi Region has by far the highest levels of HIV prevalence in Namibia (Ministry of Health and Social Services [MOHSS] 2004). The region's proximity to areas of neighbouring countries with high HIV prevalence, its location on a major truck route and the deployment of military forces in the region in the late 1990s partly account for this. However, gender inequalities, and the extreme stigma attached to HIV/AIDS are key factors that both fuel and exacerbate the epidemic.¹ One such inequality is evident in the fact that most women still rely on men to access key resources including land and cattle, essential in an area characterised by subsistence cultivation and livestock rearing. However, education and increased mobility mean that there are increasing opportunities for women to gain employment in the civil service sector and as traders.

Methods

Findings reported in this paper derive from ethnographic work carried out in three rural settlements in the Caprivi Region in 2003–2004 as part of a larger study on the impacts of HIV/AIDS on livelihoods, vulnerability and social support networks. Twelve sex-segregated focus groups were conducted involving 66 men and women aged between 18 and 75 to explore the relative importance of civil and customary institutions and norms; the ways these institutions have changed over time; and their impact on the sexual behaviour and expectations of young men and women. While focus groups can result in uniform and 'officialised' statements (Mosse 1994), the information recorded here was supported through the findings of the wider research study and reiterated through informal conversations held over the field-work period. Interviews were also conducted with twelve members of three traditional authorities, religious leaders representing the three most well attended churches in the study sites, and ten representatives from the Ministry of Women Affairs and Child Welfare, the MOHSS, the Ministry of Education and the Ministry of Agriculture, enabling insight to be gained into dominant ideas about morality, acceptability and notions of gender equality. Five languages were used (Silozi, Balangwe, Subia, Shiyeyi and English), often interchangeably during focus groups and interviews, thus it was necessary to employ a translator. Interviews were tape recorded (with permission) and transcribed in the field, enabling continuous cross checking and clarification of information.²

Historical and institutional context

Under South African rule, both men and women in Namibia suffered racial discrimination and economic underdevelopment. However, apartheid laws, the contract labour system

and religious principles exacerbated the subordination of women (Ipinge and LeBeau, 1997). Since Namibia gained independence in 1990, this inequality has been widely recognised and civil authority structures at national and regional level have gained considerable ground in pursuing affirmative-action policies, which adhere to international human rights conventions to specifically promote equal rights for women. Such policies include: the Married Person's Equality Act (1996), which outlaws the power of a man over the actions and property of his wife and grants men and women equal rights in civil marriage and divorce; the Combating of Rape Act (2000) and the Combating of Domestic Violence Act (2003), which deal with domestic and sexual violence; and the Communal Land Reform Act (2002), which grants equal rights to women applying for access to communal land and protects the rights of a widow to continue using her deceased husband's land. To oversee this policy, the Ministry of Women's Affairs and Child Welfare was created in 2000 and a Women and Law Committee was established to facilitate the elimination of legal disparities between women and men (Muhato 2003).

In the Caprivi Region, regional government ministries as well as service providers and non-Governmental Organisations (NGOs) play a key role in advocating gender rights via the media (particularly radio) and through awareness-raising visits to rural settlements. Structures are also in place through the Regional Ministry of Women's Affairs and Child Welfare to provide women with legal advice and support in a wide range of areas including cases of rape, violence and property dispossession. Women and Child Protection Units have also been established in each region to facilitate the implementation of the Combating of Domestic Violence Act.³ In theory therefore, women are able to draw upon their rights in civil law to ensure equality within relationships and to take legal action to redress any violation of their rights. However, while principles and policies of gender equality would appear to offer an environment in which women and men are able to negotiate safer sexual relationships, notions of gender equality, as upheld by civil authority structures, remain largely remote and are in fact deemed quite inappropriate to the everyday lives of most women and men in rural Caprivi. At the same time, the tendency of many young women to seek out relationships with older men and the increasing costs of bride-wealth payments play a key role in reinforcing patriarchal attitudes and fuelling disrespect for women's rights both before and within marriage. This situation is largely explained by the powerful role of the traditional authorities and religious leaders who uphold dominant ideas regarding gendered expectations and morality, as well as by the wider socioeconomic changes which have affected the region in recent decades.

While ultimate authority in legislation is held by the civil authorities, the traditional authorities continue to function in Namibia and are particularly prominent in the north of the country in the former apartheid 'homelands'. Their main role now relates specifically to the administration of customary laws, which are officially subordinate to policies endorsed by civil law. The Traditional Authorities Act states that the provisions of the national constitution supersede 'any custom, tradition, practice or usage which is discriminatory or which detracts from or violates the rights of any person as guaranteed by the [Namibian] Constitution' (Republic of Namibia 2000: 12). The isolated location and inaccessibility of the Caprivi Region until the late 1980s (cf. Fisch 1999) has enabled traditional authorities to maintain an extremely powerful role within the region, continuing to oversee the administration of customary law and cultural matters. In addition to the four central *khutas* (traditional authorities) that now operate in the Caprivi, a local chief is appointed within every settlement to oversee the administration of customary law and to promote the upholding of cultural norms. A key responsibility of the traditional authorities is to mediate

social relations and arbitrate local disputes when family members are unable to resolve issues themselves. At present, the civil authorities offer no viable alternative to the traditional authorities at local level and, therefore, rarely engage on such a direct or frequent level with the social issues that govern people's daily lives. The traditional authorities maintain considerable influence in determining ideas about acceptable behaviour between men and women and are also able to fine any person considered to have violated local rules.

Ideas about behaviour within relationships are said to be informed by long-held cultural 'tradition'. However, customary laws and norms are not static (cf. Nyamu 2000) and, in interviews and focus group discussions, women and men acknowledged that in recent decades they had drawn particularly heavily on Christian principles of morality which denounce sex before marriage and reassert patriarchal control within a relationship. This influence is not surprising when one considers that the church was one of the very few 'legally' endorsed institutions in the region under apartheid and remains one of the only 'civil society' affiliations in existence in rural villages in the Caprivi today. The adaptive nature of customary norms has also resulted in the traditional authorities outlawing *mayolo* (wife inheritance), largely in response to fears regarding HIV transmission, although other aspects of traditional marriage remain largely intact.

While the involvement of women in the administration of customary law is officially encouraged and women are able to vote people on to the *khutas*, no women were ever known to have worked as *indunas* (local chiefs) in any of the central *khutas*. It was widely stated (by both men and women) that women were not suitable for election since they would gossip about cases brought before them, although it was also acknowledged that women who had attempted to gain leadership positions had later retreated in the face of social pressures from their communities. Under these circumstances, it was generally acknowledged amongst informants, including the traditional authorities themselves, that women's opinions and needs were poorly represented, particularly in cases of domestic violence and rape. However, despite recognising this, claiming to understand the concept of gender equality, and knowing that legislation had been passed to uphold it, it was commonly stated during focus groups with both men and women, that while women had rights, the entrenched cultural and religious frameworks on which people drew in their immediate and every day lives meant that men should still be attributed more rights than women. To fully understand the major factors accounting for this, it is necessary to place them within the context of wider socioeconomic changes affecting the region.

Social and cultural and economic change in the Caprivi Region

Marriage in the Caprivi was traditionally seen not only as a union between two individuals, but as a union between the two families concerned. The norm, therefore, was for the parents of the man to choose a girl from a family based on their existing knowledge of that family and, as a consequence, marriages within the locality were common. Girls were considered suitable for marriage whilst in their teens, while men would commonly be in their twenties before they were deemed capable of supporting a family.

Because the unification of families was a central feature of marriage, considerable care was taken to ensure that appropriate investment was made by each family to ensure a successful outcome. The traditional authorities reported that when a girl was chosen for marriage (often at a very young age) it was the duty of the man's family to provide her and her family with gifts and support until she was old enough for marriage. This support

culminated in the payment of *lobola* (bride-wealth), which involved a man living in the village of his parent's-in-law and rendering service to them in the form of labour until a child was born to his wife. The man's father would then provide the son with a cow to give to his wife.

In the late 1900s, a new rule was introduced in the Caprivi whereby two cows were to be paid to the parent's of the girl prior to the marriage if she were a virgin, and one if she was not (Becker and Hinz 1995). This was considered a small amount to pay relative to the number of cattle owned (Pretorius 1975). As the man was expected to provide support and labour to his wife's parents for a number of months or even years, it appears that the principal role of *lobola* was not to give power to a man over his wife, but to cement familial relationships and prove commitment to his wife, as the following comment from an older focus group participant demonstrates:

'It's not that you have power to control her as you have to remember that the parents of the girl have looked after her since she was in the womb and they have been feeding that child until she is even twenty. So you can't think that you can just take that child without giving them something to thank them. You should give something that makes them happy if you are taking their daughter.'
(David, men's focus group, Lusese)

While caution must be exercised when interpreting expressed 'nostalgia' for past and apparently more supportive and 'moral' times, research in southern Africa supports the claim that relatively high levels of sexual regulation *were* in existence prior to extensive social and economic change (Delius and Glaser 2002, Mufune 2003). With such an investment made via *lobola*, it is perhaps unsurprising that people in the Caprivi Region claimed that relationships had been closely regulated by the families concerned, and pre- and extra-marital relationships were reported to be uncommon. That the success of the marriage was in the interests of both families, and that action that jeopardised this would be considered extremely disrespectful to local traditions also accounts for this:

'In the past people were told that that woman is reserved for that man, so everyone knew that she was already engaged to someone else so no-one would try to marry her. You would be ashamed to do so. The parents would tell you, she is already married and they might even charge you.'
(Paul, men's focus group, Sangwali)

As this comment indicates, the families concerned played a key role in negotiating and 'reserving' the girl for marriage. The public nature of the marriage process was also said to deter other suitors, particularly as they risked being charged by the traditional authorities if seen to be disrupting the union. However, when asked if marriage had changed over time, respondents of all ages reacted with dismay regarding the manner in which relationships are conducted today, and most felt that such changes provided a key explanation for the increase in HIV and AIDS in the region. It was widely reported that today a recognised commitment and ceremonial marriage was no longer a prerequisite for sexual relations. The role of the family in negotiating relationships has also declined, with many women commenting that they did not even know that their daughters were in a relationship until they became pregnant. During focus group discussions, many young women acknowledged that they and their peers engage in a larger number of sexual relationships than would have been the case in the past.

Social pressures from within their peer group, the difficulties facing women in accessing assets and the subsequent need to seek relationships that offer reward and support, were considered to be the main reasons for this, with relationships with 'sugar daddies'⁴ reported

to be common. However, amongst the traditional authorities and many older men and women, this change in behaviour was thought to correspond not only to economic and social pressures but also to the equal rights accorded to women since independence. A major factor accounting for this was the availability of education for women, which, prior to independence, had remained a largely male reserve. While girls' enrolment in school decreases significantly at Grade 10⁵, considerable progress has been achieved in the Caprivi in increasing girls' enrolment and retention at primary and lower secondary level (UNICEF 2007). During focus group discussions, parents explained that education and increasing exposure to outside influences had led to a decline in respect and reluctance for young people, particularly girls to listen to the advice of their elders:

'They are not listening because they are educated and their parents were not educated in the olden days. So whatever that parent would tell a person they would follow because they could not give another reason. Like saying "I know, I've been in Windhoek and you haven't been there". So you'll find that because people have education now it's causing misunderstandings and problems between parents and children.' (Carina, women's focus group, Lusese)

Similarly, interviews and focus groups revealed a commonly held view that because women now had rights that allowed them to act more freely, they were engaging in immoral behaviour and were flaunting taboos, which led to the spread of HIV and other sexually transmitted diseases:

'The problem now is mostly with daughters. We don't know when she starts menstruating so she doesn't get advice from the old women. There are no ceremonies. The parents will just be told that their child has got married. These days we are wondering why girls have many boyfriends or husbands when in the past they just had one. That's why you'll find AIDS is more now, because there are many girls with many husbands.' (Induna, Chinchimane *khuta*)

'Not knowing when girls are grown up is a problem because you won't even know if your child is pregnant and if she does an abortion, when she comes back again she will share a chair with her father which will bring death.' (Jeremia, elderly focus group, Sangwali)

When asked why they did not try to regulate their children's behaviour or to discipline them, parents explained that they feared that if they did, their children would report them to the civil authorities where they would be charged for violating their human rights. While no case of this actually happening was reported during this research, such action appeared to be a very real concern amongst older generations. In some respects, this change in attitude can be considered a positive step forward in terms of respecting individual liberties. However, in reality such a situation has not only fuelled the blame directed against young women for the spread of HIV but has reinforced the belief amongst elder generations that women, by virtue of their 'immoral' behaviour, should not be considered as equals. At the same time, attitudes regarding moral righteousness inherent in the gendered power relations upheld by customary belief have been strengthened. One way in which this can be seen to be played out is through the continued importance attributed to *lobola* (bride-wealth) payments in order to validate a customary marriage.

The paradox of lobola

Young men and women attending focus groups were well aware of the concepts of gender equality and sexual rights since such issues are strongly emphasised within their school

education⁶. However, despite this awareness, socioeconomic change and pressures to conform to customary expectations in the pursuit of marriage were found to compromise men's respect for these rights. The attitudes of many young men towards relationships prior to, and within, a customary marriage were influenced directly by their perception of women's behaviour and the difficulties they faced in affording *lobola* payments. The continued expectation of these payments by young women and their families jarred with men's understanding of gender equality and, in turn, exacerbated the beliefs of many that women had forfeited their rights to be held as their equals.

The fact that marriages were, in the past, arranged between families already known to each other meant that the amount of *lobola* given could be negotiated to correspond with the ability of the man's family to pay and the perceived worth of the woman. However, the declining role of the family in founding and fostering relationships means that young men can no longer automatically expect assistance in raising the requested *lobola*, particularly if their relatives disapprove of the girl in question. The difficulties of paying *lobola* have been further exacerbated by a widespread increase in the payments demanded by a woman's relatives. While it was reported that *lobola* prices began to rise in the 1970s, it was commonly claimed that they have risen significantly since the early 1990s. Reasons for this include the lack of negotiation between families as people marry beyond their locality, the monetisation of the economy, the overall increase in cattle owned (although with large discrepancies between households), the equal status officially accorded to women since independence and, as a result of this, the higher level of education and employment potential of women. Depending on the woman's background, the price of 15–20 cattle or cash equivalent is now commonly requested. Additional costs were also demanded by a woman's family if the man had already engaged in sexual relations with her prior to obtaining their approval. This was seen as a way of charging the man for disrespectful behaviour and recompensing the family for the 'loss' of their daughter.

Many men in their late teens and early twenties explained that while they would like to get married, the cost of *lobola* was currently beyond their means. While it was widely recognised that *lobola* payments were integral to the validation of a customary marriage, young men attending focus group discussions questioned how this custom could be reconciled with the concept of gender equality that had been promoted throughout their education. Why they asked, if women were equal to men, did they and their families still expect men to pay *lobola*? That additional charges were levied for not obtaining prior approval for relationships in which women had been fully consensual was considered particularly unfair:

'Today they [women] talk about *lobola*. That thing is unfair—if you are in love and you agree in the marriage the parents can still charge you more than 21 cattle and that's too much...My wife is with me once we are married—but you'll find she also has to continue supporting her parents while my parents lose out. It's a big problem.' (Paul, men's focus group, Sangwali)

For a number of young men the expectation that such high *lobola* would be paid was considered as a sign that women did not respect them and in turn, undermined their beliefs that women were entitled to claim and enjoy gender equality:

'In the past *lobola* was nice when it wasn't money that was paid—just like an axe handle—the person could just make that and take it to the parents. Now you have to pay cattle and the family who has had to pay the cattle won't have any left so they won't be able to plough. Now wives are

not respecting their husbands so why should we respect them.’ (Kwawele, men’s focus group, Masokotwane)

This attitude was upheld by a common belief that most young women were interested in a relationship primarily for the financial benefits it would accrue, with a number of young men citing incidents in which they had been rejected in favour of wealthier (usually older) men. At the same time, it became evident that a number of young men felt that when casual relationships with younger women were available to them (even if only via some form of remuneration), waiting until marriage and paying the cost of *lobola* for sexual relations was a ‘waste of time’ and ‘expense’ beyond the means of those without a regular income:

‘You’ll find that men now might go for five or six girlfriends. It’s because of money—there are a lot of men in the village who are not married but because they don’t have money it [marriage] can’t happen.’ (Paul, men’s focus group, Sangwali)

‘If you find that the [*lobola*] charges are very high you just leave it because she is not the only woman, there are many...you don’t have to waste your time on an expensive one.’ (Charles, men’s focus group, Sangwali)

As well as avoiding *lobola* charges, young men also explained that a major advantage of casual relationships was that they were free of the responsibilities to wife and family that were associated with a traditional marriage. As William stated, it is easy to deny involvement in, and thus any responsibility for, a relationship in which *lobola* has not been paid:

‘Since I don’t want to pay someone for *lobola*, I will just go out and sleep with other women and I won’t pay *lobola* for them. If anyone asks me, I can deny that relationship.’ (William, men’s focus group, Sangwali)

Such statements clearly imply that respect within relationships is being undermined by changing socioeconomic pressures, a situation that has potentially serious implications for both HIV transmission and other sexually transmitted infections, and also for the support networks and resource assets available to a woman should she become pregnant whilst in a ‘casual’ relationship.

Although not explicitly stated, it is likely that the concept of gender equality, coupled with on-going socioeconomic pressures, was seen as a threat to the version of masculinity that was simultaneously being promoted via the rhetoric of ‘custom’. Under these circumstances, it is perhaps not surprising that many young men were keen to assert their control over women. While young men no longer considered the payment of *lobola* necessary for sexual relations, all of those participating in focus groups wanted to get married and most felt that such a commitment was necessary to demonstrate their masculinity and ensure a level of ‘ownership’ over their wife:

‘If you don’t pay *lobola* then that woman is not really your wife and any man can come along and have sex with her—you have no power. If they ask “did this man pay *lobola*?”—if the answer is no you can go to hell! If you give birth to a baby girl you have given birth to a cash box. So it’s like a sale.’ (Kevin, men’s focus group, Masokotwane)

In addition, interviews with the traditional authorities stressed that a *lobola* payment was considered an important factor influencing the outcome of a dispute between a man and woman. Whilst they were reluctant to state that *lobola* gave a man total control over a

woman, it was agreed that non-payment of *lobola* was likely to weaken the man's case should the dispute be taken before them:

'One of the things we usually ask here if there is a case at the *khuta*, is "did you pay *lobola*", and if he didn't we say "you are not her husband". *Lobola* is like a marriage certificate.' (Induna, Chinchimane Khuta)

It was also recognised that without the commitment of marriage, few women would undertake unpaid or unreciprocated work for a man other than a close relative. For women, marriage is considered particularly important in gaining status and respect and in enabling them to secure access to, and make productive use of, the key resource assets required for subsistence cultivation.

The Communal Land Reform Act (2002) officially treats women as equals to men when they apply for rights to communal land. However, no instances of this actually occurring were known in the study sites and the majority of those interviewed were not aware of the policy change. Even when women did have access to livestock and land (via their fathers), their ability to utilise these assets still tended to be mediated through men. Accessing cattle to plough is a particular problem for unmarried women, whose interests are likely to be subordinate to those of other family members. Marriage therefore fulfils a social and economic role and, by ensuring both male and female labour for a household, decreases the necessity to rely upon others (relatives or paid labour) to undertake livelihood activities that are gendered.

Although *lobola* payments are not a pre-requisite for the validation of civil marriages, the 2001 Census for Namibia found that 87% of those married in the Caprivi were married customarily, compared with a national average of only 26% (National Planning Commission 2003). Despite a high level of awareness regarding the existence of civil marriage and the legal rights that uphold gender equality inherent within it, the vast majority of focus group participants, including both men and women from younger age groups, felt that customary marriage remained a preferable option. This was because customary marriages were considered 'stronger' as any dispute arising between the couple would be arbitrated by relatives and local *indunas* who, already knowing the couple and their circumstances would be able to offer more appropriate solutions than 'outside' institutions:

'Those who are married traditionally are better off as if something goes wrong you can call the relatives—your parents, to come and advise you. But if it's a civil marriage you have to go to court to solve the issue. That's a problem as the magistrate might tell you to leave your husband or wife but you might still love them. And sometimes someone doesn't love you anymore and he might be afraid to tell you because of the marriage certificate you have. And then he might just start treating you badly so you leave him and then he will get all the belongings.' (Leila, women's focus group, Masokotwane)

That the customary authorities were seen to encourage couples to rectify their differences rather than leave the relationship was considered particularly important for women since it was felt that they were highly unlikely to be able to remarry if they already had children with another man. However, while gender relations within marriage are considered to be best dealt with by customary procedures, it is argued here that the support networks which would once have provided a level of security to women within marriage are being eroded as *lobola* payments increase.

Gender relations with marriage

The declining role of the family in negotiating and overseeing relationships has meant that close regulation of a relationship by both of the families concerned is now uncommon. As the following comment demonstrates, the *lobola* transaction can be carried out between families virtually unknown to one another:

‘In the past, when one was charged *lobola*, you could see the cattle in the *kraal* [enclosure]. But now, people can just put money into another person’s bank account and you don’t even see them.’ (Charles, men’s focus group, Sangwali)

Paying *lobola* in the Caprivi is a pre-requisite for the validation of a customary marriage. However, in many cases it is becoming primarily a material transaction, detached from the customary processes of negotiation and regulation that previously provided greater security for the woman within a relationship. This not only means that the families concerned do not co-operate to regulate and oversee the relationship, it also implies that once the payment is made, the woman’s family have little claim over, or ability to regulate, her treatment within marriage. While the higher education and employment potential of women since independence has contributed to the rising price of *lobola*, paradoxically a significant number of young men such as Vincent, felt that having made such a high payment they were entitled to greater control over their wives, and greater power and entitlements within the household:

‘Women now also have some rights to control their husbands, but he has more right to control her. If he has twenty percent, she should have ten percent.’ (Vincent, men’s focus group, Lusese)

During focus group discussions, physical and sexual violence against women in marriage was identified as a major issue, supporting findings from a recent survey in which 91% of men in the Caprivi thought that violence against their wife was justified if she argued with him or refused sex (UNICEF 2007). Polly’s quote illustrates how domestic violence has become ingrained within Caprivi ‘culture’:

‘Men this time are becoming very strong, Even if a woman is harsh, she will fail completely. In our culture, if your husband says something you must obey—anything. These men became very clever. We were under colonialism and this is what brought the problems as the men were beaten all of the time. So now these colonialists have left, the men are doing it to their wives. Even in school you can see these young guys are becoming very strong...they can give [a girl] ten cents which is enough for some sweets. They take it and then they get pregnant and get HIV.’ (Polly, women’s focus group, Lusese)

While women of all ages claimed to be aware of their rights, they felt that because of the *lobola* payment, they were unable to seek support or protection against such violence. However, whilst they recognised that the custom acted as an obstacle to gender equality, they argued that abolishing or altering the custom could also be detrimental to their empowerment and their entitlements since familial safety nets may be less forthcoming:

‘If your husband didn’t pay for you then people will be talking and your parents will be complaining. If you go to them with any problem you have they will say they cannot help you—why should they when he’s just a boyfriend rather than a husband. My parents would not be feeling nice as they would think that the man had married you free of charge and that wouldn’t look good.’ (Precious, women’s focus group, Lusese)

During the research, women explained that their relatives were the first people they would turn to if they experienced difficulties within marriage. However, it was also felt that if *lobola* had been paid, their relatives had little power and, as the *lobola* may have to be paid back if the relationship deteriorated, often little incentive to intervene in the relationship. When asked how their relatives would react if they complained that their husbands were violent, Polly's comment was typical:

'What are they going to do for you? They will just take you back again and say why don't you go and see his relatives—go and report to them and then *they* will call us.' (Polly, women's focus group, Lusese)

The lack of support available to women is further exacerbated by the patrilocality system of residence which displaces women from their familial support networks, a situation exacerbated in recent years by the increasing ease with which women can marry outside of their immediate locality. Thus, whilst in theory women could turn to their relatives for help and support this was often not practical on a day to day basis, nor in cases considered particularly productive. Under these circumstances, the social, material and psychological support available to a woman residing in her husband's village now depends largely upon her acceptance by his relatives. A major factor found to influence this support was the woman's adherence to customary expectations in which the gaining of respect was conditional on her remaining subservient to her husband. Women seen to be asserting unwelcome authority or considered to be disrespectful to their husband's wishes were generally seen by his relatives as well as by other older women as 'trouble-makers' who should be punished:

'If the relatives of the husband don't like you, he can beat you the whole night and they won't even wake up and go to help you.' (Trudy women's focus group, Lusese)

As has been widely reported across southern Africa (e.g. Mararaj and Cleland 2004; Muhwava 2004), condom use was deemed to imply infidelity and was therefore unacceptable to both men and women within marriage. However, while infidelity was occasionally reported amongst women, it was widely accepted that it was usually men who engaged in extra-marital relationships. Women felt that they had little bargaining power to control their husband's behaviour, and implied that it was often more beneficial to deny the infidelity, as challenging it may again result in the withdrawal of key support networks. Refusing sex whilst married was considered 'unnatural' and disrespectful and was likely to result in declining support from a husband's relatives as the following conversation demonstrates:

Gladys: 'If my husband says I must have sex with him, if I refuse him he can beat me.'

Precious: 'The other thing is that when you are beaten because of that thing [refusing sex], people in the village when they note that you are fighting just because of that, they will think that you are not normal. How can you refuse while you are married? And when you see those relatives of his they will make you feel bad.'

Polly: 'People think that once you are married he has already bought you...What he thinks is that his family have bought you and therefore you have no right to say something else [argue].'
(Women's focus group, Lusese)

While women of all ages were aware that legal support mechanisms were in place via the civil authorities to support them if they decided to take action against their husbands, none had

sought this support and nor did they intend to. As well as feeling too afraid and intimidated to report their case to the police or civil authorities, they also feared that by attempting to uphold their civil rights, they may jeopardise the more immediate social and economic ‘rights’ available to them through the support networks provided by a husband and his relatives:

‘The thing nowadays that women are being told is that they can go to the policeman. But they cannot do that—they don’t know how to be open and talkative and they fear going to the policeman. She can be beaten but she will stay with the husband—she has nowhere to go, nothing to do, what she can do is only to go to the *khuta* to report there.’ (Polly, women’s focus group, Lusese)

In addition to this, few women felt that they had the time or resources necessary to travel to the town of Katima Mulilo to report such issues to the relevant authorities and then to follow the case through over a period of months or even years. It was also felt that because the civil authorities would only offer them advice, rather than material support, the type of justice administered was not particularly helpful to them.

The legal support mechanisms offered via the civil authorities were not therefore considered by women to provide an appropriate or viable alternative in their daily realities to those offered under customary law. In fact, despite women’s reservations about the unfair treatment they may encounter from the customary courts, they were considered an overwhelmingly preferable option due to their proximity and the relative speed at which the case could be heard. Importantly, it was also felt that going to the customary courts was more likely to result in a fine being levied against the perpetrator and that the ensuing compensation provided ‘justice’ in a more gratifying and tangible form.

Choosing to leave an abusive husband was not considered an option for most women and, until the past few years, was considered an offence that could incur a N\$3,000 (or fifteen cow) fine by the traditional authorities (van Wingerden 1996). While the Ministry of Women Affairs and Child Welfare reported not to have seen such a case since they outlawed the practice in 2001, the fact that many key assets are still accessed via men acts as a considerable barrier to women who wish to leave an abusive relationship.

Discussion and conclusion

Although laws exist to promote sexual rights and gender equality in Namibia, the *de facto* implementation of these rights has yet to be accomplished in any meaningful manner in the rural areas of the Caprivi Region and the conditions in which HIV is spread remain rife. This is due in large part to the continuing strength of the customary institutions, which assert the predominantly patriarchal frameworks within which understandings of morality and acceptable behaviour are played out on an everyday basis. At the same time, the social transformations and economic pressures experienced in the Caprivi Region since the early 1990s have led to a situation in which young women who are engaging in relationships that offer reward and support are considered to be undermining morality and, in turn, strengthening belief amongst older generations that women should not be considered as equals. This attitude is also evident amongst young men who, because of the high costs of *lobola* and the perceived commoditisation of women, are engaging in casual relationships in which they do not feel the need to take responsibility for their actions. Paradoxically, the increasing costs demanded for *lobola* as women receive an education and increase their employment potential has strengthened the belief amongst many young men that they are entitled to even greater power over women within marriage. This situation was reported to be exacerbated when the profits accrued from *lobola* and its detachment from the

‘traditional’ processes of negotiation and regulation undermined the power and incentive for a woman’s family to intervene in an abusive relationship.

While it may be the case that women who achieve a high level of education and actually fulfil their employment potential *are* able to assert equal rights within a relationship, this was not the case amongst women in the rural areas of the region who rely primarily on subsistence livelihood activities that continue to be mediated through men. Adherence to customary norms can undermine women’s civil rights, but such compliance was found to be necessary for them to access and make productive use of the more immediate social and economic entitlements or ‘rights’ that they require for day-to-day subsistence.

It can be argued that the fact that women themselves continue to invest in institutions that subordinate their rights is a clear indicator of their lack of empowerment to do otherwise. At the same time, however, the research found that the concept of gender equality advocated by the civil authorities was regarded as too remote, both conceptually and geographically, to provide a viable alternative support mechanism in the daily lives of rural women. Similarly, the kind of justice meted out by the civil authorities was not deemed appropriate to the immediate social and economic needs of rural women and was seen by many as potentially jeopardising to their long-term welfare. Under such circumstances, the support networks and the version of ‘rights’ offered through familial and customary institutions were seen to offer a more realistic and rewarding outcome for women, not only through encouraging the couple to stay together and reconcile their differences, but also in their potential to provide direct material support.

Whilst it is clearly desirable to strive for long-lasting change in which gender equality and ensuing sexual rights are upheld and enforced, it would be wrong to conclude that adherence to customary rules and norms results in wholly negative outcomes for women in their more immediate daily lives. It is important therefore that ‘culture’ is not held as the sole focus of blame when considering interventions which promote sexual rights and gender equality, and that openings and opportunities for the negotiation and changing of customary rules and norms that build upon more locally accepted core values such as respect, justice and fairness are identified. The passing of civil legislation promoting gender equality presents a vital first step in bringing about conditions conducive to change. However, much more investment is needed to ensure that the policy and structures in place via the civil authorities are made more accessible and relevant to the everyday needs and realities of women and men in rural Caprivi. To achieve this, it is vital that on-going consultation and communication is initiated between the civil and customary authorities to identify ways in which potentially harmful rules and norms can be re-interpreted and revised without undermining women’s access to key support networks and assets, and to identify ways in which gender equality and sexual rights can be promoted through the positive core values and practices of the culture. In particular, the role of, and values inherent within, the *lobola* transaction could be re-examined in the light of wider social and economic changes affecting the region and important questions addressed to decide how the custom should continue, with what rationale and with what consequences.

Notes

1. The intense stigma associated with HIV/AIDS in the region meant it was only possible to discuss experiences of HIV/AIDS in a general and non-personalised manner.
2. A number of interviews as well as informal conversations held with government representatives and young people were conducted in English, thus enabling triangulation of data with that being translated

3. The Combating of Domestic Violence Act (2003) outlaws physical, sexual, economic, psychological, emotional or verbal abuse and intimidation and harassment within a 'domestic relationship'. Anyone suffering this abuse has the right to apply for a protection order against the perpetrator via the civil courts.
4. 'Sugar daddy', meaning an older man who provides reward or support in exchange for sexual relations, was a widely used and understood term in the study sites.
5. The age of learners in Grade 10 in the study sites tended to be 15–16. Fees and school rules make it difficult for students over the age of 16 who fail the Grade 10 Junior Secondary School Certificate to repeat the year through the formal education system.
6. Since independence in 1990, the Ministry of Education has incorporated the principle of 'equality for all' into the national curriculum and emphasis is placed on citizenship, responsibility, co-operation and moral values.

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