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INVESTIGATING THE ROLE OF GOVERNMENT LEGISLATION AND ITS IMPLEMENTATION IN ADDRESSING GENDER- BASED VIOLENCE AMONG RETURNEE REFUGEE WOMEN IN LIBERIA¹

Olajumoke Yacob-Haliso²

Abstract: Empirical evidence has demonstrated that in contemporary wars, women and children bear the brunt of the violence unleashed in the form of killings, abductions, and various forms of gendered violence. This research investigates the ways in which returnee refugee women in post war Liberia experience gender-based violence in their everyday lives. It also investigates the role of governmental agencies in addressing this violence and the implications of all these for the reintegration of returnee women and peace in the country generally. To this end, fieldwork was carried out in Liberia employing in-depth and semi-structured interviews, focus group discussions, document review, and observation. One hundred persons participated in the study including returnee women across the country, community leaders, and NGO and government staff. The research was framed within human rights theory, which locates women's rights within human rights and provides practitioners and disadvantaged women alike a vocabulary to frame political and social wrongs.

The responses indicate that returnee refugee women in Liberia continue to confront generalized and gender-specific violence. The implementation of government legislation such as the new rape law continue to encumber the drive to tackle gender-based violence (GBV) while other initiatives such as a national GBV taskforce move the country in the right direction. The implications are that reintegration of returnee refugee women remains slow and, although women constitute a remarkable proportion of government, most returnee women have yet to find meaningful ways of contributing to the success of the nascent political order.

Introduction: Setting the Context

In recounting African history, Liberia usually stands out in a unique position alongside Ethiopia as the only territories not effectively colonized by European powers in the period of the so-called “scramble for Africa”. However, in spite of enjoying 133 years of relative calm, the tiny country established as an independent state in 1847, exploded in violence in the ‘rice riots’ of April 14, 1979, an incident which many analysts believe was a long overdue response to the prolonged rule of the totalitarian, corrupt, and brutal Americo-Liberian political class. A year after the rice riots, on April 12, 1980, a group of noncommissioned army officers overthrew the government of William Tolbert in a bloody coup. This event finally ended the years of Americo-Liberian political dominance since all the officers that executed the coup were indigenous Liberians.

However, Liberia quickly descended into ethnic violence as the Samuel Doe regime created and perpetuated ethnic divisions by executing all suspected political opponents from other ethnic groups and filling government positions with members of his minority Krahn ethnic group. Nine years and one attempted coup and an election after, in 1989, rebels from the northern Nimba County led by Charles Taylor began an armed campaign to oust Samuel Doe from power. The situation quickly degenerated into an all-out ethnically based civil war, even sporting some genocidal tendencies as both sides took to killing all identified members of the ethnic group of their opponents. Thus began a period of civil, social, and political unrest and war that was to last another fourteen years.

As the violence spread, tens of thousands of Liberians poured across the borders into neighboring Guinea and Côte d'Ivoire. By early February 1990 an estimated 120,000 Liberian refugees had fled (USCR 1992). By the end of the year, the number had risen to over 700,000 persons (Hyman, 2003). The majority of these were women and children.

The years of the civil war were characterized throughout by brutality and violence, suffered mainly by the civilian population. Pillaging, extortion, killing, mutilation,

cannibalism, physical abuse, rape, mass massacres, burning, and looting are some of the atrocities perpetrated on all sides by all parties to the conflict. In fact, as the war progressed and splinter factions multiplied, these gross human rights abuses escalated as each faction seemed to want to outdo the others in brutality and terror. According to some estimates, over ten percent of the population, three-million strong, was killed in the course of the fourteen-year war, a majority of who were innocent civilians. Another three-quarters of the population became either refugees or displaced people in that time. Women and girls suffered the most whether they chose to remain in the country or they fled as refugees.

The Liberian Civil war came to a shaky end in 2003 when series of peace talks culminated in Charles Taylor going into voluntary exile in Nigeria on August 11 as an imperative for progress in the peace process. An interim government was put in place to supervise, with the help of the international community and United Nations peacekeepers, various aspects of the transition process, importantly, scheduled elections, the demobilization of ex- combatants, and the repatriation of refugees. Between 2002 and 2004, the transition situation was essentially a 'no war/ no peace situation' (UNHCR, 2004), in which, although conflict subsided, instability and insecurity persisted. Peace remained elusive even as Monrovia, the capital city of Liberia, erupted in riots in the latter part of 2004. However, elections were conducted in October 2005 and run offs in November, which culminated in the inauguration of Africa's first female head of state, Ellen Johnson Sirleaf, in January 2006. It is within this background that the problem of returning refugees arises.

In the nascent political order, individuals find themselves either privileged or disadvantaged, depending on various possible factors. Elements such as gender, age, ethnic affiliation, level of education, geographical location, war experiences, and so on have definitive consequences for the individual's ability to cope with the environment. In every circumstance women face extraordinary hardships and vulnerabilities. This is because in crisis, conflict, war, and post- war periods women experience

gender-specific forms of aggression in addition to generalized violence. The hostility that women know in peacetime is aggravated in conflict and in the immediate post-conflict and early transition period.

It is in the context of these givens that this paper sets out to investigate specific aspects of the reintegration of returnee refugee women to Liberia. The objectives of this paper, therefore, are to identify the ways in which returnee refugee women experience violence, the role of governmental agencies and legislation in addressing this violence, and the possible implications of these for the sustainable reintegration of returnee refugee women in Liberia.

This paper will proceed from a brief examination of the background and theoretical framework to a discussion of the findings from the field investigation, after which conclusions will then be drawn.

Methods

The choice of research methods was dictated solely by the kind of information needed to make sense of the questions of this research. Therefore, we favored the use of non-quantitative research techniques, guided by feminist and interpretive modes of inquiry that allow a contextual rendering of data collected. According to Erin K. Baines (2005) feminist methods “potentially provide more context-rich analysis by situating research subjects in their everyday lives and collecting data that specifically seek to reflect the participants’ perspectives” (p.146).

Thus, field research was conducted in Liberia with returnee refugees and the persons and agencies working with them. One hundred persons participated in this research, fifty-nine of whom were returnee refugee women. The primary mode of interrogation was the interview, of which one semi-structured interview and forty-one in-depth interviews were conducted. It is necessary in research of this kind to triangulate, and therefore the interviews were supplemented with focus group discussions (FGDs), document review and plain old observation.

Theoretical Frame

Although various theoretical schemes have been applied in explaining the situation of returning refugees and several feminist writers have attempted feminist interpretations of the situation of refugee and returnee refugee women, I find most relevant and fitting, as well as inclusive and comprehensive, a liberal human rights based approach. From this perspective, the human rights of a person are defined as

Those [privileges] which should be or sometimes stated to be those which are legally recognized and protected to secure for each individual the fullest spiritual, moral and other independence. They are conceived as rights inherent in individuals as rational, free willing creatures, not conferred by some positive law nor capable of being abridged or abrogated by positive law (Obaseki , 1992; ,p. 246-247 in Enemuo, 1999;, p. 147).

This perception is succinctly echoed in one United Nations definition of human rights: ‘Human rights could be generally defined as those rights which are inherent in our nature and without which we cannot function as human beings’ (United Nations, 1987).

From the liberal point of view, human rights have certain important characteristics, deducible from the two definitions offered above. These include that (1) Human rights are founded on respect for the dignity and worth of each person; (2) They are *universal*, applicable without discrimination; (3) Human rights are *inalienable*; (4) Human Rights are *indivisible*, interrelated and interdependent. The withholding of selected rights jeopardizes the realization of other rights, and compromises the attainment of the individual’s personal satisfaction (United Nations, 2002a, p. 3). (5) Human Rights are basic for achieving and satisfying our needs as humans for respect and protection as well as for achieving the fullest and highest potentials.

It is within this human rights framework that the Convention on the Elimination of All Forms of Discrimination against Women

(CEDAW) locates women's rights, and notes that discriminating against women restricts the full development of their potential. It is, however, unfortunate to note here that, although CEDAW attempts to accord to women certain rights on the basis of equality with men³, it fails to specifically address violence against women.

Obviously then, the human rights based approach to studying women's issues has its limitations. It is expedient to note here that traditionally the vocabulary of human rights law is thoroughly gendered in favor of men and it takes some conceptual stretching to seek its application to women on the basis of equality – the enterprise of liberal feminism⁴. Feminist critiques of human rights law has also observed that a basic feature of human rights law that has worked against women is that

All human rights law rests on and reinforces a distinction between public and private worlds, and this distinction operates to muffle, and often completely silence the voices of women...[This is] also a normative distinction, because greater significance and power attaches to the public, male world. The assignment of women to the domestic sphere entrenches their inequality with men [and] the privacy of domestic life makes women's concerns invisible and ensures preservation of the status quo (Charlesworth, 1994, p. 68-69).

At the international level, the philosophical dilemma (Christenson 1991: 312) has been posed in the form of the question: 'Can a state be held accountable in international law for the actions of private individuals given that the traditional international legal rules confine state responsibility to activities by, or at the instigation of, its public officials?' (Charlesworth, 1994, p. 72).

However, the human rights framework remains relevant for our analysis here as it provides a springboard for understanding the human-ness of women's rights and women's problems⁵; informs the types of interventions that have been sought by

various parties for these problems; and provides opportunities for expanding the state-centric and androcentric-rights discourse in favor of women. And, according to Hilary Charlesworth (1994), “because women in most societies operate from such a disadvantaged position, rights discourse offers a recognized vocabulary to frame political and social wrongs”(p.61); in the words of Patricia Williams (1987), “‘Rights’ is the magic wand of visibility and invisibility, of inclusion and exclusion, of power and no power” (pp. 401, 431).

Violence Experienced by Returnee Refugee Women in Liberia

While we focus on the post war experiences of returnee refugee women in this section, we acknowledge feminist research that indicates that experience of violence is holistic for the individual. Especially for women, life experiences cannot be compartmentalized into time periods because, in all reality, the heart and body, if/when repeatedly battered, never forgets the experience, feels it each time a new hit is taken, and lives on anticipating the next blow. For the woman, violence in her personal life is one long continuum.

In the current early “post conflict”⁶ period in Liberia, returnee refugee women experience both generalized violence and certain gender-specific forms of aggression. The general forms of violence which affect returnee refugee women, too, include armed robbery, fear of attack by armed robbers (referred to as *Isakabba*⁷), physical assault such as battery, intimidation, murder of family members, child abuse, and ritual killings. Sometimes, the experience is of tribal attacks, especially in those areas of the country where the war was fought on tribal terms. Thus some informants spoke of “rumours of Mano and Gio people planning to destroy the Mandingo to end the...land business....” (Interviewee, personal communication, September 28, 2006)

It must be noted that even with violence that seems general and gender-neutral, such as armed robbery, an underlying gender vulnerability can be detected because more often than not, single women or female-headed households tend to be targeted and more frequently, too, than male-headed households.

In terms of gender-based or gender-specific forms of violence, returnee women interviewed in different parts of Liberia report the prevalence of rape, sexual exploitation, incest, sexual harassment, domestic abuse, ritualistic killings, teenage pregnancy, and female-genital mutilation. In the words of one woman interviewee, we identify an intersection of this type of violence in one single case: "I know of a girl about 13 years old, carrying pregnancy for her father. There are so many rape cases in that area...." As this author has observed elsewhere (Yacob-Haliso, 2008, pp.11-12), such a case layers in one person's experience rape, child abuse, incest, teenage pregnancy, and girl motherhood. This represents a parsimonious account of the diverse and varied ways in which returnee refugee women in Liberia encounter and confront violence both in their private and public lives.

While this type of violence exists in all societies, whether in peacetime or wartime, the atmosphere of decay, impunity, and moral morass characteristic of post-war situations increases both the incidence and brutality of these acts of human rights violation (cf UN, 2002b; El Bushra & Fish, 2004; Jolly & Reeves, 2005). This is especially true in Liberia.

Liberia presents a veritable case of this post-conflict violence that makes it of particular interest for study. According to Mbadlanyana and Onuoha (2009),

Liberian society remains one of the most traumatised and violent in West Africa. On the surface there seems to be some return to a semblance of law and order in Liberia, but the increase in the incidence of serious crime poses a serious threat to the re-establishment of the rule of law and the protection of human rights. The high levels of criminality in post-conflict

Liberia could be considered to stem from the disconnection between societal expectations and legitimate means of achieving them. Notwithstanding numerous attempts by the Liberian government and other actors (both local and international) to address criminality in its totality, the issue of rising crime has become a central concern to Liberians and it remains one of the most prevalent challenges to security in the country. Highlighted in the UN Secretary-General's 2007 and 2008 Progress Reports on UNMIL, criminality is one of the key threats to sustained peace and stability. Of particular concern are the burgeoning incidences of rape, murder, armed robbery, mob justice and ritual killings. These crimes have assumed such worrying proportions that the Liberian president recently described the situation as a 'bad state of affairs'.... (p.2)

In light of the above, we investigate below a particular strand of government attempts to intervene in this dire state of affairs.

Government Legislation and Implementation on GBV in Liberia

Undoubtedly, in all transitional contexts the composition, character, and commission of government are keys to decoding and addressing the different types of violence in that specific country. In terms of gender-based violence, Liberia is endowed with the rare privilege of having a female president, who was actively involved in national politics before, during, and since the end of the war. Madam Ellen Johnson Sirleaf herself experienced some of the horrors that her fellow Liberian women underwent during the war. Thus from the standpoint of empathy with the cause of womanhood, there seems to be no doubt on the part of the president. Furthermore, an estimated forty percent (40%) of elective and appointive positions in the

Liberia government are occupied by women. It seems therefore that, from a rational standpoint, women ought not to be disadvantaged.

In some ways, this is true. Laws that attempt to privilege women have been resurrected from the dusty archives where some of them resided, and some of them are newly enacted or revised to reflect the current transition from long years of abuse to a reinstatement of women's human rights. Legislation such as the Act to Govern the Devolution of Estates and Establish Rights of Inheritance for Spouses of both Statutory and Customary Marriages, the Act Adopting a New Domestic Relations Law, the Establishment of a Ministry of Gender and Development.

Especially remarkable is the "new" rape law (Government of Liberia, 2005) that was enacted by the National Transitional Legislature on December 29, 2005, on the eve of handing over to the newly elected democratic government. This landmark legislation is remarkable because it is an explicit attempt at addressing one of the most aggressive acts of violence against Liberian women, which also happens to be one of the most pervasive. The law specifies that rape, under certain conditions, is a felony of the first degree and when so determined can carry a maximum sentence of life imprisonment. For the first time, "rape" is legally defined and penalty attached to the commission of the offence. Furthermore, the law recognises and penalizes gang rape and includes also acts of sexual abuse of girls under the legal age of consent – 18years of age.

It seems, however, that enforcement of the law is dependent on the victim testifying against the perpetrator of the act. In all contexts this is difficult, less a situation in which disarmament of the population and of ex-combatants is not yet complete, and in which the majority of perpetrators are family members or known persons. Furthermore, there seems to be a conflict of opinion between government operatives such as the police and the courts, and human rights based NGOs that work with the victims as to whether the case *must* be prosecuted whether the victim so wishes or not.

Field work for this research further discovered that, as at the time of data collection, modality for the implementation of the rape law was still hazy and largely disputable. At a meeting of the national GBV taskforce, which brings together the GBV representatives from all agencies, governmental and non-governmental working on the ground all over the country, and attended by this researcher during the field visit, an on-going concern was voiced by NGO workers to the government representatives present. While discussing matters arising from the minutes of the last meeting, NGO workers reported that police officers (in Maryland, Lofa and some other counties) were visiting health centres, demanding to interrogate victims of rape, including child victims that were undergoing treatment. A government official attempted to clarify the matter, and the ensuing discussion, abridged here, reflects weaknesses in the implementation of the law that have calamitous consequences for the victims and their families:

Government official: The laws on rape state that when rape occurs, and there is a suspect, the incident must be reported to the police, who will then take the case to court. Then the suspect is arrested by the police...and then they will gather information.... Then it is the state that takes the suspect to court. It is the state, not the victim that takes the case to court.

NGO staff 1: But health workers, social workers are being intimidated as the police carry out their investigations and soon fewer people will seek our services.... Must everybody report a rape to the police?

Government official: Yes! It's the law!

NGO staff 2: How about forcing people-- health workers and victims-- to report? What about choice in reporting the whole matter...?

NGO staff 3: Where is the victim when the state goes to court?

Government official: No private person can claim rape in the court. That is why the police

must be allowed to investigate, gather information and take the case to court....

NGO staff 3: The victim under the law also has a right to refuse that his/her case be taken to court!

Government official: No! A rape case is not a private matter; it is a crime and must be dealt with as such. If not reported, it is as if you are aiding and abetting a crime...As it stands, this is the law and if this procedure is not followed, then you are breaking the law⁸.

An additional revelation was the interpretation given by the Ministry of Justice to the stipulation of the law that “the trial of all cases under section 14.70 shall be heard *in camera*”⁹. It was learnt that “*in camera*” does not mean that nobody but the judge will be in the court room. On the contrary, in addition to the judge, the jury, the defendant/s and his/their lawyer/s, the victim, the witnesses, and other court officials will also be present. In fact, the rape case will be held *in open court*, a situation that denies and definitely adds to the victim’s suffering.

In addition to the above shortcomings, various NGO, UN, and government staff interviewed cited the absence of the government in certain areas as contributory factors in the prevalence of gender-based violence in the post-war country. This implies that the government is absent to provide security as well as absent to monitor abuses. Also frustrating for victims, their families, and human rights workers is the crippled justice system. Judges and magistrates are scarce, city solicitors all want to practice only in Monrovia, there is a severe lack of lawyers, discouragingly poor salaries, illiteracy of most magistrates in remote areas, negative attitudes of the male-dominated justice system as it is towards GBV cases, lack of basic infrastructure to support work, e.g. courthouses, transportation around the district/county, and so on.

To illustrate, Lofa County, one of the largest regions in the country, had no lawyers at all to make the system work for the

citizens; the only two persons with legal training were the circuit-court judge and the UNMIL legal officer posted there. In fact, as at the time of field work for this research, in Lofa no rape case had so far been prosecuted with an indictment. There are also confirmed reports from other areas of the police freeing perpetrators of violence without bail, of magistrates demanding money to hear cases or rule in favour of persons, and of the police interviewing both rapists and their victims together in the same room at the same time.

Inevitably then, while the government seems to have taken one or two strides towards addressing gender-based violence (such as the national GBV taskforce, relevant legislation, the establishment of the Truth and Reconciliation Commission to document and address wartime violence, etc.), it seems that this type of violence might be ballooning out of control as perpetrators capitalize on the very obvious incapacities of the system-- and get away literally, with murder.

Conclusions and Implications

This paper has established specific violence experienced by returnee refugee women in Liberia and the role of government legislation in addressing these. For most returnee women interviewed, the challenge of return and reintegration is first and foremost the challenge of survival, addressed in two related and interdependent dilemmas: how do I get food to eat for the physical sustenance of myself and my children, and how do I avoid other agencies that pose a threat to my survival in this environment? The latter question is the challenge that violence poses to the reintegration of returnee refugees. As long as that question remains, reintegration is not complete.

The relevance of these two dilemmas to assessing progress of the political aspects of reintegration is quite direct. Because returnee women are preoccupied with maintaining physical survival and security, they report that they are unable to follow and/or participate in political processes that would have increased their identification with the political system. Furthermore, the reluctance of most returnee women found in the city (especially in Monrovia) to return to their previous

counties of residence indicates that they still harbour a fear of persecution that the nascent political order is yet to identify, much less address in meaningful ways. So long as these concerns persist, women cannot lay claim to fundamental rights that would ensure their full assimilation into post-war Liberian society.

The impact of violence is such that it also bequeaths psychological instabilities that detract from returnee women's social reintegration. Generalized and gender-specific forms of violence deny women access to social services and other productive resources that would otherwise benefit them and contribute to their reintegration. For returnees who have returned 'home' with high hopes of a more peaceful existence than they experienced while in exile, these incidences constitute for them a setback to the process of reintegration back into their homeland.

The multifaceted process of reintegration is thus affected by the violence and instability that returnee women experience in their daily lives, both in private and in public. We must also realize that the various aspects of reintegration cannot be divorced one from the other. Instead, the political, social, legal, and economic aspects of returnee reintegration are intimately linked-- especially for women-- and whenever one aspect suffers a setback, for the individual concerned, her/his entire existence is affected.

In other transitional contexts women are documented as playing significant roles in the process of peace-building since they often possess the peculiar ability to weave social bonds that had been tattered by the war. In a situation where a significant proportion of these women are disabled by their circumstances and consigned to live a rudimentary day-to-day, hand-to-mouth existence, their ability to creatively and intentionally contribute to peace-building efforts will become secondary to the survival dance.

Unfortunately, too many of the returnees interviewed in Liberia indicated their regret at return and their willingness to go back to the country of exile if given the means. In fact, in an

interview with one of the officials of the Liberian Repatriation, Reintegration and Resettlement Commission (LRRRC) in Lofa County, we learnt that one major problem faced by the repatriation office is that of refugees crisscrossing between Liberia and Guinea, maintaining bases in both countries -- returning, yet not really returned. This has implication for government policy and processes in the border counties where this is most often the case.

However, this period of political transition and the consolidation of peace and democracy could be an important opportunity for the government of Liberia to address and redress the injustices of the past by promoting gender equity, tackling the root causes of gender violence, and redefining the rules of engagement with these violations of women's human rights in order to promote women's social and political empowerment.

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³ Rights such as the right to equal opportunities for education, participation in public life, right to work, reproductive rights, citizenship rights, and so on.

⁴ Liberal feminism seeks to redress women's marginalization by seeking equal treatment, non-discrimination of women in public life and reform of existing laws to achieve these ends.

⁵ After all, "women's rights are human rights"!

⁶ The term "post conflict" is only used here for convenience and familiarity purposes, and should not be interpreted to mean "peacetime" because feminist critique has observed and rightly, too, that for women, peace is not

the absence of active hostilities between rival political, warring parties; the conflict in their daily private lives is as real as any wartime hostilities.

⁷*Isakabba* is a term used to refer to the brutal armed robbers that raid homes in Liberia, especially in the capital city of Monrovia. The name is gotten from the title of a similar gang in a Nigerian movie that was popular in the a few years ago, and which obviously impacted beyond the Nigerian borders.

⁸ Meeting of the National Gender based Violence Taskforce, Held October 6, 2006 at the conference room of the Ministry of Gender and Development, Monrovia, Liberia.

⁹ Government of Liberia, *An Act to Amend the New Penal Code chapter 14 sections 14.70 and 14.71 and to Provide for Gang Rape*, December 29, 2005. Section 5 (a).