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Theories of Domestic Violence in the African Context

Cynthia Grant Bowman

THEORIES OF DOMESTIC VIOLENCE IN THE AFRICAN CONTEXT

CYNTHIA GRANT BOWMAN*

INTRODUCTION

By the mid-1990s, attention had begun to be paid in most African countries to the widespread problem of domestic violence. Studies about partner abuse and femicide—both informal, anecdotal studies and more formal surveys—appeared in Ghana, Tanzania, and South Africa, for example.[1] Much of the initial writing was intended simply to document the existence of such violence and thus to construct it as

* Professor of Law and of Gender Studies, *Northwestern University*.

1. *See, e.g.*, Rosemary Ofei-Aboagye, *Domestic Violence in Ghana: An Initial Step*, 4 COLUM. J. GENDER & L. 1 (1994); *see also* WILDAF TANZANIA, REPORT OF A PILOT STUDY OF INTIMATE FEMICIDE IN TANZANIA (1996) [hereinafter WILDAF TANZANIA]; HUMAN RIGHTS WATCH/AFRICA, SOUTH AFRICA, THE STATE RESPONSE TO DOMESTIC VIOLENCE AND RAPE 44-49 (1995); Lisa Vetten, *"Man Shoots Wife": Intimate Femicide in Gauteng, South Africa*, 6 CRIME & CONFLICT 1 (1996) (reporting on specific instances of domestic violence in South Africa).

a social problem.[2] At the same time, activist groups in a number of countries such as Ghana, Uganda, and Kenya began lobbying for the passage of domestic violence codes, although only South Africa and Mauritius have passed such statutes to date.[3] Women's rights activists in several countries, notably Zimbabwe and South Africa, established organizations that counsel abused women, offer legal assistance, and in some instances provide domestic violence training to government personnel.[4] In Ghana and South Africa, specialized units within the police force were set up to address domestic violence problems affecting women and children.[5] Shelters for abused women have now been set up by non-governmental organizations ("NGOs") in those two countries, as well as in Mauritius, Nigeria, Senegal, and other places.

Although analysis of the problem of domestic violence is much more recent in Africa than in the United States, and most of the writing about it has been undertaken by activists rather than academics, several theories of domestic violence are reflected in this work. As Elizabeth Schneider points out, the theoretical grounding of domestic violence work has important implications for the remedial strategies chosen to address the problem, and especially whether it is seen as an aspect of a larger struggle for gender equality.[6] Schneider

2. *See, e.g.*, Ofei-Aboagye, *supra* note 1, at 1-3; *see also* WiLDAF TANZANIA, *supra* note 1; WOMEN IN NIGERIA, BREAKING THE SILENCE: WOMEN AGAINST VIOLENCE (Elsbeth Robson ed., 1993). For a later example, see BREAKING THE SILENCE & CHALLENGING THE MYTHS OF VIOLENCE AGAINST WOMEN & CHILDREN IN GHANA: REPORT OF A NATIONAL STUDY ON VIOLENCE 60-67 (Dorcas Coker Appiah & Kathy Cusack eds., 1999) (describing results of a 1998 nationwide survey in Ghana).

3. For example, women's rights acivists in Ghana and Uganda have drafted doemstic violence codes, and in Kenya a Violence Against Women bill has been drafted as well. In South Africa, two domestic violence statutes were passed, the Prevention of Family Violence Act in 1993, which was then replaced, after evaluation of experience under the first statute by the South Africa Law Commission, by the Domestic Violence Act of 1998. *See* SA CRIM. L. 133 of 1993; *see also* SA CRIM. L. 116 of 1998; SOUTH AFRICAN L. COMM'N, DISCUSSION PAPER 70, PROJECT 100, DOMESTIC VIOLENCE (1997), *available at* http://wwwserver.law.wits.ac.za/salc/discussn/dp70.html. In Mauritius, a Protection from Domestic Violence Act went into effect in 1997. *See* Mauritius, Protection from Domestic Violence Act, Act No. 6 of 1997.

4. *See, e.g.*, Sheelagh Stewart, *Working the System: Sensitizing the Police to the Plight of Women in Zimbabwe*, *in* FREEDOM FROM VIOLENCE: WOMEN'S STRATEGIES FROM AROUND THE WORLD 157, 157-71 (Margaret Schuler ed., 1992) (describing the Musasa Project, which provides "support, consciousness raising, public education, and training, [and] aims to empower women who have been raped or beaten to mobilize the community on these issues"); *see also* WILDAF, THE PRIVATE IS PUBLIC: A STUDY OF VIOLENCE AGAINST WOMEN IN SOUTHERN AFRICA 50-52 (Charlotte Watts et al. eds., 1995) [hereinafter WILDAF, PRIVATE IS PUBLIC] (describing other activist organizations in Southern Africa).

5. *See* HUMAN RIGHTS WATCH/AFRICA, *supra* note 1, at 83 (describing a specialized unit in Pretoria, South Africa); *see also* Dorcas Coker-Appiah, *Responding to Gender Violence in Ghana: Traditional and Contemporary Strategies*, AMANNEE, Mar. 2001, at 16 (describing similar units in Accra and Kumasi, Ghana).

6. *See* ELIZABETH M. SCHNEIDER, BATTERED WOMEN & FEMINIST LAWMAKING 23

describes a number of different types of explanations for domestic violence and contrasts them with the feminist one: explanations rooted in individual psychology; ones centering on sociological forces, such as family dysfunction; and others focusing upon male aggression, poverty, and the culture of violence.[7] The various theories yield quite different prescriptions for social action to confront the problem, such as individual psychotherapy or family therapy, more stringent crime control measures, legal reforms, or far-reaching social and economic transformation.

In this commentary I describe theories about domestic violence that are explicit and/or implicit in the literature produced in the Anglophone African context,[8] a literature produced primarily by local activists and by international NGOs, and examine the implications of those theories for the work to be done. Part One describes a variety of theories about domestic violence to be found in African writings, some of which are implicit in explanations or descriptions of causation. In examining the implicit theories offered in African writing about domestic violence, I note that many feature a feminist explanation but often combine it with suggestions for liberal democratic legal reforms, undergirded by a theory of human rights. Other explanatory theories are particular to the African context, such as so-called "cultural" explanations, or explanations rooted in the transition to a more urbanized and individualistic society, and explanations based upon a so-called culture of violence produced by the colonial experience. Part Two speculates about the implications of each theory for determining where domestic violence activists should focus their energies in order to decrease the phenomenally high level of violence that has now been revealed.[9]

I. THEORIES THAT APPEAR IN THE AFRICAN LITERATURE OF DOMESTIC VIOLENCE

Five general categories of theory appear in the literature on domestic violence in Africa: (1) rights theories; (2) feminist theories;

(2000) (noting that domestic violence is linked to women's oppression in other areas as well, including discrimination in the workplace and lack of educational opportunities.

7. *See id.* at 23-27.

8. My research has focused primarily on the many English-speaking nations south of the Sahara and largely excludes French-speaking Africa and Northern Africa. This is an important limitation on the conclusions discussed in this Article.

9. *See* NAOMI NEFT & ANN D. LEVINE, WHERE WOMEN STAND: AN INTERNATIONAL REPORT ON THE STATUS OF WOMEN IN 140 COUNTRIES 154 (reporting the following percentages of women reporting physical abuse by a male partner in the years 1986-1993: Tanzania, 60%; Uganda, 46%; Kenya, 42%; Zambia, 40%; United States, 28%).

(3) "cultural" explanations; (4) "society-in-transition" explanations; and (5) "culture of violence" explanations. Interestingly, explanations explicitly based upon economics are relatively rare, as are theories that ground the phenomenon in individual psychology or family dysfunction, although these are common in the United States literature.

A. Rights Theories

Most African constitutions and legal systems follow Western models based upon individual rights, and most African countries have ratified numerous international covenants that either explicitly or implicitly interpret domestic violence to be a violation of human rights.[10] Despite this fact, theories about domestic violence based on the assertion of individual human rights are not frequent in the African literature. While some articles on domestic violence in Africa draw a link between freedom from violence and human rights guarantees in various international charters, the rights-based arguments often appear to be tacked on[11] and to fit uneasily with the author's overall analysis of the problem. For example, Fitnat N-A Adjetey, after discussing domestic violence in Ghana as one small part of a much larger pattern of violence against women, including female genital mutilation, rape, child marriage, widowhood rites, widow inheritance, and female religious bondage (*trokosi*[12]), includes in her article advice about how specific provisions of international human rights conventions might be used to accomplish piecemeal legal reforms.[13] Yet if domestic violence is just one manifestation of a much larger phenomenon of gender inequality and violent treatment of women, piecemeal legal reforms are unlikely to provide an effective remedy.

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10. *See, e.g.*, Convention on the Elimination of All Forms of Discrimination Against Women, art. i, as interpreted by U.N. Committee on the Elimination of Discrimination Against Women General Recommendation 19; *see also* International Covenant on Civil and Political Rights, arts. 7, 9; African Charter on Human and People's Rights, arts. 4, 5, 6.

11. *See, e.g.*, Edzodzinam Tsikata, *Doing Violence, Dealing with Violence: State Policy and Practice in Africa*, *in* WOMEN IN NIGERIA, BREAKING THE SILENCE: WOMEN AGAINST VIOLENCE 19, 23 (Elsbeth Robson ed., 1993); *see also* Henrietta Abane, *Towards Research into Wife Battering in Ghana: Some Methodological Issues*, *in* COUNCIL FOR THE DEVELOPMENT OF SOCIAL SCIENCE RESEARCH IN AFRICA ("CODESRIA"), MEN, WOMEN AND VIOLENCE 1, 11 (Felicia Oyekanmi, ed., 1997).

12. *See* Fitnat N-A Adjetey, *Violence Against Women in Ghana: A Pervasive Yet Ignored Problem*, *in* RIGHTS OF WOMEN UNDER NATIONAL AND INTERNATIONAL LAWS 10, 27 (1995) (describing *trokosi* as a practice by which virgin girls are given to shrines in one area of Ghana and enslaved sexually to the priests to pay for the "offenses" of their families).

13. *Id.* at 28-31.

In addition, there is a potential and potent conflict between basing gender equality upon rights theory, with its notions of individual autonomy, and women's lived experience as relational. As Robin West and others have noted, women live their lives in relationship, in a complex web of connections, rather than as individual atoms.[14] The conflict between the language of individual rights and a more relational notion of the self is even more pronounced in the African context. It is not only that women experience themselves as embedded in relationships but also that traditional African societies typically are not based upon the individualism that underlies much of our social thought. In particular, the family and its interests are considered prior to the individual, and a woman's status is a derivative one. Thus, for example, her reproductive capacity is considered "owned" by the husband's lineage after marriage.[15] In a context where the notion of personal autonomy is not common, especially for women, claims articulated in terms of individual rights and equality may indeed sound foreign. They also are unlikely to attract the widespread support necessary to effect social change.

Nonetheless, rights language and remedies based on it coexist with other theories in the writing on domestic violence in Africa. Professor Schneider notes how the language of individual rights—natural rights theory—performed an influential function in the development of women's rights claims in the United States, as the Seneca Falls Declaration transformed claims that might otherwise appear trivial, domestic, or private into universal rights, forming a dialectical "moment" that universalized those claims and helped overcome privatization and themes of personal blame.[16] Human rights conventions, declarations and resolutions, and international conferences today perform the same function for women raising claims to the right to be free of violence in Africa by transforming claims that might otherwise be seen as trivial and domestic into universal rights.[17]

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14. *See, e.g.*, Robin L. West, *The Difference in Women's Hedonic Lives: A Phenomenological Critique of Feminist Legal Theory*, 3 WIS. WOMEN'S L.J. 81 (1987); *see also* Jennifer Nedelsky, *Reconceiving Autonomy: Sources, Thoughts, and Possibilities*, 1 YALE J. L. & FEMINISM 7 (1989); Mary Becker, *Towards a Substantive Feminism*, 1999 U. CHI. LEGAL F. 21.

15. *See* Tola Olu Pearce, *Women's Reproductive Practices and Biomedicine: Cultural Conflicts and Transformations in Nigeria*, *in* CONCEIVING THE NEW WORLD ORDER: THE GLOBAL POLITICS OF REPRODUCTION 195, 202 (Faye D. Ginsburg & Rayna Rapp eds., 1995) (noting that a "woman's body is seen as a vehicle for bearing children to ensure the prosperity and growth of the patrilineage").

16. *See* SCHNEIDER, *supra* note 6, at 38-40, 55.

17. *See id.* at 53-56.

B. Feminist Explanations

In contrast to rights theories, explicitly feminist explanations are frequent in the domestic violence literature in Africa. Indeed, it is difficult to *avoid* interpreting domestic violence in Africa in terms of pervasive gender inequality. Almost every traditional African society was patriarchal, and a woman's place within this scheme was decidedly subordinate. Institutionalization of this inequality remains common in African customary law. For example, under most African systems of customary law, women have no right to inherit from their husbands,[18] are not regarded as sharing ownership of marital property, are excluded from ownership of land,[19] and are almost without remedy upon divorce.[20]

Because gender inequality is so widespread, domestic violence is often discussed by African authors as simply a brief subsection in articles on violence against women in general or about gender inequality in Africa.[21] The conclusion reached by these authors is that unless the systemic inequality between men and women is addressed, the problem of violence will persist. For example, Rosemary Ofei-Aboagye wrote one of the first studies of domestic violence in Ghana; she published it in an American journal of gender and law in 1994.[22] She begins by simply documenting the incidence of domestic violence among women seeking assistance from a legal aid office in Accra, seeing this documentation of the problem as an essential first step in dealing with it. But Ofei-Aboagye's analysis of the women's comments leads her to attribute domestic violence in large part to the subordinate position, passivity, and economic dependence of married women in her society.[23] She concludes that "[a]lthough there is no one answer to this dilemma, changing the social order which teaches a woman that she is incapable of even small decisions and confines her to waiting for her husband to lead the way in all that

18. *See, e.g.,* GENDER AND LAW: EASTERN AFRICA SPEAKS 67-72 (Gita Gopal & Maryam Salim eds., 1998) (discussing customary law of inheritance in Tanzania).

19. *See, e.g.,* Florence Butegwa, *Using the African Charter on Human and Peoples' Rights to Secure Women's Access to Land in Africa*, *in* HUMAN RIGHTS OF WOMEN: NATIONAL AND INTERNATIONAL PERSPECTIVES 495-99 (Rebecca J. Cook ed., 1994) (describing women's lack both of access to land and of rights to marital property upon divorce and widowhood).

20. *See, e.g.,* Fareda Banda, *The Provision of Maintenance for Women and Children in Zimbabwe*, 2 CARDOZO WOMEN'S L.J. 71, 79-81 (1995) (discussing the dilemma of divorced women under customary law in Zimbabwe).

21. *See, e.g.*, Sylvia Tamale, *Law Reform and Women's Rights in Uganda*, 1 E. AF. J. PEACE & HUM. RTS. 164, 184 (1993); *see also* Adjetey, *supra* note 12, at 10, 19-21.

22. Ofei-Aboagye, *supra* note 1.

23. *Id.* at 9-11 (observing that women have accepted, and in some cases, are proud to be appendages of their husbands).

she does, must be our primary focus."[24] In short, the struggle against domestic violence is clearly seen as just one part of a much broader context, the struggle for gender equality.

C. Cultural Explanations

Another set of causal theories in the emerging African literature emphasizes the power of tradition and norms within African culture as explaining the widespread incidence of domestic violence. Some see this connection as a direct one, arguing that wife battering is regarded as normal within traditional African culture.[25] In support of this proposition, one author describes interviews at the Social Welfare Office in the Ibadan region of Nigeria, at which police officers "remind wives that Yoruba culture allows men to beat women."[26] Other cultural explanations are more indirect, pointing, for example, to the uneven distribution of power within traditional African marriages, the impact of polygamy, the acceptance of male promiscuity, the power of the extended family over the married couple, and the almost universal institution of brideprice as underlying the widespread abuse of wives.[27] The payment of brideprice to the wife's family at the time of their marriage makes it difficult for women to leave abusive husbands, unless their families of origin are willing to return the amount paid.[28]

Alice Armstrong carried out one study of domestic violence in Zimbabwe, which involved interviewing twenty-five male abusers and seventy-five female victims of spousal abuse in the Shona-speaking region.[29] Her findings can be interpreted to support the role of cultural factors as causative of domestic violence among the Shona, but more complex interpretations also emerge from them. Armstrong reports that violence arises most frequently in Zimbabwe out of quarrels over money and jealousy.[30] For example, violent

24. *Id.* at 10.

25. *See, e.g.*, Women in Nigeria, Edo State Branch, *Spouse Abuse*, *in* BREAKING THE SILENCE: WOMEN AGAINST VIOLENCE 66, 68 (Elsbeth Robson ed., 1993) ("[S]pouse abuse is considered normal and any calls to stop it, considered alien."); *see also* Morayo Atinmo, *Sociocultural Implications of Wife Beating Among the Yoruba in Ibadan, Nigeria*, *in* CODESRIA, MEN, WOMEN AND VIOLENCE 80-81, 93, 111 (Felicia Oyekanmi ed., 1997); *see also* Abane, *supra* note 11, at 16 ("Ghanaian culture by and large perceives women as inferior beings who can be used and battered at will.").

26. Atinmo, *supra* note 25, at 111.

27. *See, e.g.*, Stewart, *supra* note 4, at 158-61; WILDAF, PRIVATE IS PUBLIC, *supra* note 4, at 11-13.

28. *See* Stewart, *supra* note 4, at 161.

29. *See* ALICE ARMSTRONG, CULTURE AND CHOICE: LESSONS FROM SURVIVORS OF GENDER VIOLENCE IN ZIMBABWE 2 (1998).

30. *See id.* at 8-9 (noting that men mentioned jealousy and money as the causes for domestic violence).

arguments erupt in Shona couples when the wife simply asks her husband for money, thereby challenging the traditionally absolute control by the male head of household over family finances.[31] A similar dynamic is at work in violence initiated by what is termed "jealousy." Although male promiscuity has traditionally been accepted, a woman's sexuality was zealously controlled by her husband and/or family.[32] Two types of domestic violence-producing situations relate to this double standard. The first situation is when a wife is seen as challenging her husband's authority and prerogatives by inquiring about his extramarital involvements. In this scenario, violence erupts when women ask their husbands where they have been and with whom, or express their sense of threat at the addition of multiple wives, which is increasingly seen—realistically in the modern economy—as a threat to the economic survival of the first wife, her children, and also as a potential source of HIV/AIDS.[33] In short, the wife's questioning is itself a challenge to the husband's traditional rights and is seen as a threat to his culturally prescribed position, provoking violence in response.

The second situation involving jealousy as a "cause" of domestic violence centers on the husband's jealousy of his wife's contact with other men. In traditional African society, a married woman would have minimal contact with men other than her husband, but this is much less possible today, especially when the couple lives in an urban area and/or the woman works. Yet tradition-minded husbands feel threatened by interaction between their wives and other men and may act out violently because of that threat, whether imagined or real.[34]

Other commonly reported causes of arguments that escalate to violence are: (1) disputes about the husband's traditional economic obligations to his extended family, now seen as a direct threat to the economic survival of the nuclear household;[35] (2) anger over the wife's perceived failure to adequately fulfill the role of a wife within

31. *See id.* at 9-12. The same sources of argument appear to be the causes of domestic violence in Nigeria as well. *See* Women in Nigeria, Akwa Ibom State Branch, *Nature and Frequency of Spouse Abuse in Our Community*, *in* WOMEN IN NIGERIA, BREAKING THE SILENCE: WOMEN AGAINST VIOLENCE 89-90 (Elsbeth Robson ed., 1993).

32. *See, e.g.*, Fitnat Naa-Adjeley Adjetey, *Reclaiming the African Woman's Individuality: The Struggle between Women's Reproductive Autonomy and African Society and Culture*, 44 AM. U. L. REV. 1351, 1351-52 (1995) (observing that African women frequently have little or no reproductive autonomy).

33. *See* ARMSTRONG, *supra* note 29, at 13-16.

34. *Id.* at 15-16 (noting that in agrarian societies where husbands and wives work together, there is little contact between wives and other men, thus less likelihood that a woman will have extramarital sexual relations).

35. *Id.* at 17-20.

the traditional division of household labor;[36] and (3) violence occasioned by the wife's "talking back," that is, failure to conform to the expected behavior of a wife to be submissive, not to question or argue with her husband, and to ask his permission for all her activities.[37] In this way, domestic violence functions as a means of enforcing conformity with the role of a woman within customary society.[38]

The explanations described in this section can be characterized as cultural theories of domestic violence—not because they attribute it to violence endemic in African societies, but because they emphasize the close link between violence and the enforcement of conformity to traditional roles for women and dominance for their husbands. They also see violence as emerging almost inevitably out of a society that treats women as property, socializes women to be passive, reduces their bargaining power through the institution of polygamy, and the like. In this sense, the cultural arguments may merge with those based on gender inequality.

Arguments based on culture are problematic in the African context for a number of reasons. Culture in Africa varies widely among groups and regions, changes over time, and may be hotly contested even within the same group.[39] Multiple interpretations of tradition exist, yet it is invariably those of dominant males within the society that have been taken as authoritative. Armstrong herself suggests that culture is often an excuse for male violence, rather than a cause of it.[40] Finally, what is characterized as cultural in Africa would be interpreted quite differently in the United States. For example, as in Shonaland, arguments about money and jealousy lead to domestic violence in the United States, but here they are analyzed as issues of power and control, or as a result of the individual batterer's psychological condition, rather than as cultural issues. Apparently, the United States is presumed to be without culture in this respect. Perhaps the absence of cultural explanations in the United States should be examined instead.[41]

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36. *Id.* at 20-21.
37. *Id.* at 21-22.
38. *Id.* at 28 (contending that women who assert themselves outside of their traditional gender roles are often beaten into submission).
39. *Id.* at 28-29; *see also* Celestine Nyamu, *How Should Human Rights and Development Respond to Cultural Legitimization of Gender Hierarchy in Developing Countries?,* 41 HARV. INT'L L.J. 381, 404-06 (2000).
40. *See* ARMSTRONG, *supra* note 29, at 28.
41. *See* Leti Volpp, *Blaming Culture for Bad Behavior*, 12 YALE J. LAW & HUMANITIES 89, 89-96 (2000) (describing invisibility of hegemonic culture and ascription of individual acts to group culture in communities of color).

D. Society in Transition Explanations

Another theory of domestic violence sees it as emerging from the fact that African societies are in transition from traditional cultures to a modern, urbanized society. Beneath the surface, many of the violent quarrels described by Armstrong are occasioned in many instances by social change and men's sense of threat in the face of it.[42] For example, quarrels erupt because of men's inability in the modern economy to support multiple wives or extended families, women's growing independence as they take "second" jobs and interact with other men, and the difficulty for women to perform household work in traditionally expected ways when they also work in the cash economy.[43] All of these are situations that might not have arisen if African society had remained untouched by the modern world, but they seem almost inevitable in the economic distress and social dislocation typical in most of Africa today. Moreover, traditional norms may now fail to control men's behavior in a variety of ways. One author points to a general weakening of social controls attendant upon migration and urbanization, which have "brought many families and individuals in Africa into situations entirely unknown in traditional lifestyles, uprooting them out of the context of corporate morality, customs and traditional solidarity."[44] With increasing urbanization, couples may live far from their families of origin, who traditionally mediated disputes about domestic violence and at least moderated the severity of wife abuse.[45] The influence of the family over its members may be weakening in other ways as well, as some of its members enter the cash economy and are thus not as interdependent economically as they were previously.[46] As a result, family elders may not have the same authority to regulate daily life.[47] Moreover, in the past, although household resources were controlled by the man, they were seen as collective, to be used for the good of the other members of the family.[48] Now, income and resources have become more individualized (wages, for example, rather than herds of cattle); and the man may see them as his alone.[49]

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42. *See* ARMSTRONG, *supra* note 29, at 10-11, 14, 18, 21-22.
43. *Id.*
44. Abane, *supra* note 11, at 16.
45. Stewart, *supra* note 4, at 161-62. For a description of traditional, family-based remedies for domestic violence, see Mary Maboreke, *Violence Against Wives: A Crime* Sui Generis, 4 ZIMBABWE L. REV. 88, 90-91 (1986) .
46. *See* ARMSTRONG, *supra* note 29, at 60-61.
47. *See id.* (discussing how the cash economic system has splintered the family dynamic).
48. *See id.* at 10 (noting also a resentment by men against their spouses for spending money the husbands earned).
49. *See id.* at 11.

Quarrels over the division of resources among multiple wives can be encompassed by the society-in-transition category as well. In the past, a man was expected to maintain his wives equally, and in the agrarian setting this was often possible.[50] In the modern economy, however, there is often not enough to support just one wife and her children; and polygamy may consist of leaving the first wife in the countryside to fend for herself while going to the city to work in the cash economy, taking a "city wife" as well.[51] Thus when the wife in the village asks for money, her husband reacts with anger because his income is barely enough for his own needs; moreover, he may see it as his own because they have not produced it cooperatively, as would have been the case in the past. In sum, occasions for violent quarrels multiply—because of the stresses produced by transition to a different economy and system of social relations, because of the widespread poverty in that economy, and because of the sense of threat experienced by those whose traditional life, and the well-being that went with that existence, are disappearing.

E. Culture of Violence Explanations

Some observers attribute part of the blame for domestic violence, and violence against women in general, to an alleged "culture of violence" in modern Africa, within which violence is accepted as a way to resolve disputes, and link this to the colonial heritage, when Africans were treated coercively and violently by their colonizers.[52] Lengthy civil wars and the repressive practices of many post-colonial regimes continue this culture of violence. This is particularly apparent in South Africa, where there has been a dramatic post-Apartheid increase in violence specifically directed at women, including both rape and domestic violence.[53]

Again, it is interesting to note the absence of such "culture of violence" explanations of domestic violence in the United States. The only contexts that spring to mind which occasion "cultural" theories in the United States are the "culture of poverty"[54] and,

50. *See, e.g.*, Amie Gaye & Mahen Njie, *Family Law in The Gambia*, *in* WOMEN AND LAW IN WEST AFRICA: SITUATIONAL ANALYSES OF SOME KEY ISSUES AFFECTING WOMEN 1, 6-7 (Akua Kuenyehia ed., 1998) (discussing polygamy in Islamic regions).

51. ARMSTRONG, *supra* note 29, at 14.

52. *See, e.g.*, WILDAF, PRIVATE IS PUBLIC, *supra* note 4, at 11-12; Tsikata, *supra* note 11, at 21-22.

53. *See, e.g.*, HUMAN RIGHTS WATCH/AFRICA, *supra* note 1, at 50-57 (describing the "epidemic" of rape in South Africa).

54. The "culture of poverty" is a notion that certain groups within a society are poor because they have cultural attributes, such as attitudes toward work, that do not allow them to take advantage of opportunities that other groups avail themselves of. The idea has been used most recently in connection with the behavior of women

occasionally, the "gun culture."[55] Although domestic violence is widespread in the United States, it is never attributed to any general cultural factors; studies of male batterers instead attempt to explain their violent behavior in terms of individual psychology or family dysfunction, susceptible to therapeutic intervention.[56]

F. Absence of Psychological and Economic Explanations in Africa

Theories of domestic violence that are current in the United States—theories based on the individual psychology or psychopathology of the batterer—do not appear in the African literature at all. Individual psychological explanations of battering are relatively common in the United States literature, especially in the literature produced by those who work with male batterers.[57] This literature may emphasize, for example, that the batterers' need to control their intimate partners is based on personal insecurity and deep psychological dependence upon the partners they abuse.[58] Many African authors also emphasize the batterer's desire to exert power and control over the woman, but this falls under the rubric of a "cultural" rather than psychological explanation, apparently because it is so widespread. Similarly, explanations based on family dysfunction have little currency in Africa. Perhaps this is because physical discipline of a wife is so deeply entrenched in traditional communities that it is not regarded as abnormal or dysfunctional. Yet, as Leti Volpp points out, explanations based on individual psychology suggest that the actor is in fact capable of rational behavior, while cultural explanations suggest a limited capacity for agency, will, or rational thought.[59] In other words, the psychology versus culture dichotomy recapitulates the traditional, and racist, stereotype that associates the West with reason and depicts non-Western people as driven by irrational forces.

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receiving welfare. *See, e.g.,* Jody Raphael, *Domestic Violence and Welfare Receipt: Toward A New Feminist Theory of Welfare Dependency*, 19 HARV. WOMEN'S L.J. 201, 209 (1996).

55. The "gun culture" is used to refer to the American devotion to the private ownership of guns. *See, e.g.,* PETER SQUIRES, GUN CULTURE OR GUN CONTROL? FIREARMS, VIOLENCE & SOC'Y (2000).

56. *See, e.g.,* Richard M. Tolman & Larry W. Bennett, *A Review of Quantitative Research on Men Who Batter*, 5 J. INTERPERS. VIOLENCE 87 (1990); Edward W. Gondolf, *Male Batterers, in* FAMILY VIOLENCE: PREVENTION AND TREATMENT 230, 230-53 (Robert L. Hampton et al. eds., 1993).

57. *See, e.g.*, NEIL S. JACOBSON & JOHN M. GOTTMAN, WHEN MEN BATTER WOMEN: NEW INSIGHTS INTO ENDING ABUSIVE RELATIONSHIPS (1998); DONALD DUTTON, THE ABUSIVE PERSONALITY: VIOLENCE AND CONTROL IN INTIMATE RELATIONSHIPS (1998); Tolman & Bennett, *supra* note 56.

58. *See, e.g.,* JACOBSON & GOTTMAN, *supra* note 57, at 38.

59. *See* Volpp, *supra* note 41, at 96.

I am not aware of any African writer directly blaming the high incidence of domestic violence on the widespread poverty in Africa, except perhaps as causative of the culture of violence just described. Poverty nonetheless appears indirectly in the arguments Alice Armstrong describes about money, obligations to the extended family, and polygamy. Moreover, poverty is clearly an important background condition, given the dire situation of most African economies as a result of the fall in prices of primary products, structural adjustment programs imposed by the World Bank, and often the funneling of profits into the hands of corrupt government elites. Widespread poverty has an impact not only on family relations and the stresses felt by family members but also on governmental capacity to deal effectively with domestic violence. Even if domestic violence codes and remedies were in effect, many African states simply do not have the administrative and law enforcement capacity to implement them.

Poverty is also clearly relevant to the situation of wives trapped in abusive marriages and unable to support themselves independently. Linda Gordon, writing about when women began to voice claims of the right to be free of domestic violence in the United States is quoted by Schneider in the historical chapter of her book, asking, "[W]hat conditions are necessary for an extremely subordinated group to talk of rights?"[60] Gordon concludes that this is possible only when social and economic conditions make it feasible for married women to be independent of their husbands, and only if they are willing to sever the relationship if necessary.[61] These conditions rarely exist for the majority of women in Africa today, given their dependence upon men and marriage for economic survival.

II. THEORIES DICTATE REMEDIES

We care about the theories underlying analyses of domestic violence in Africa because they influence the actions that are perceived to be necessary to address the problem. For example, if domestic violence is rooted in gender inequality, then a variety of measures to improve the status of women are helpful; by contrast, if it is rooted in individual pathology, then therapeutic intervention is presumably called for. Indeed, perhaps one reason that psychological explanations are eschewed in Africa is that intensive

60. *See* SCHNEIDER, *supra* note 6, at 43 (quoting Linda Gordon, *Women's Agency, Social Control, and the Construction of 'Rights' by Battered Women*, *in* NEGOTIATING AT THE MARGINS 126-27 (Sue Fisher & Kathy Davis eds., 1993)).

61. *See id.*

therapy would be virtually impossible in that setting, due both to its unavailability and unaffordability. In this section, I point very briefly to the types of remedial interventions that appear to be called for by the various theories I have described as current in the African literature on domestic violence.

A. Rights Theories

Rights theories of domestic violence see abuse as resulting from a failure to recognize the individual human rights of women. Remedies based on such a theory would presumably involve proposals for legal reform and education about the legal and political rights of women. The provision of a domestic violence code, offering women orders of protection from the court system, would be a direct outcome of such an analysis. Legal reform of this type is repeatedly proposed in articles by African domestic violence activists.[62] Others suggest use of international and regional conventions and mechanisms both to monitor the problem in their countries and to lobby African governments to incorporate their obligations under international law into domestic law, as has been done in South Africa.[63]

B. Feminist Explanations

Feminist explanations of domestic violence, seeing it as a result of the pervasive inequality of men and women, counsel much broader intervention. Law reform would be part of a broader solution—for example, reform of laws concerning marriage, divorce, child maintenance, inheritance, and reproductive rights—as well as the provision of direct remedies for domestic violence. Given a lack of confidence in the capacity of the legal system—especially a male-dominated legal system—to deal with many of these issues, organizing campaigns and widespread public education about gender equality would also be in order. Activities to remove the economic and social

62. *See, e.g.,* Ofei-Aboagye, *supra* note 1, at 20-21; Stella Saror, *Spouse Abuse: A Study in Samaru-Zaria, Kaduna State, Nigeria*, *in* BREAKING THE SILENCE: WOMEN AGAINST VIOLENCE 70, 82 (Elsbeth Robson ed., 1993); Women in Nigeria, Edo State Branch, *supra* note 25, at 69; WILDAF, PRIVATE IS PUBLIC, *supra* note 4, at 58 (calling for legislation and greater enforcement of anti-abuse laws in order to increase women's confidence in the law).

63. *See, e.g.,* WILDAF, PRIVATE IS PUBLIC, *supra* note 4, at 52-55. The Preamble to the South African Domestic Violence Act specifically states that it was passed to implement "the international commitments and obligations of the State towards ending violence against women and children, including obligations under the U.N. Conventions on the Elimination of All Forms of Discrimination Against Women and the Rights of the Child." Domestic Violence Act, 1998 SA CRIM. L. 133, at pmbl.

domination of men would form part of this campaign, including the support of women-owned enterprises, education and training of female children and adult women. Socializing women to be more independent is also necessary, perhaps by changing school textbooks and promoting mass media campaigns. Of course, attempting to influence the socialization of women alone is insufficient; while girls are socialized to be submissive, boys are socialized to dominate them, and changing the first without the second might well lead to an increase in violence.

C. Cultural Explanations

Cultural explanations, which emphasize the power of tradition and norms within African culture, would lead to similar re-socialization campaigns and education to change attitudes about male-female relations in general. Again, law reform would be in order, for example, to extend property rights to women upon divorce; but there are limits to the effectiveness of this route because of the frequent disjuncture and/or lag between law and social change. In addition, many issues regarding family law are reserved under African constitutions for decision under customary law, immunizing them from change by the central legal system.[64] Thus constitutional change would be necessary to pursue this route, and this would be costly or perhaps even impossible politically.

D. Society in Transition

What are the implications of seeing domestic violence as the outgrowth of a society in transition? Will it diminish with time as the society modernizes? In a generation or so, the conflicts arising from change may be less intense and the tensions raised by them should diminish. There is some basis in the American experience to hope that this will happen. For example, in the early part of the twentieth century, there was a large influx of Polish immigrants to Chicago.[65] They were mostly from rural villages in Poland and brought with them the customs and beliefs of their previous life, including the custom of beating their wives and the belief that this was appropriate behavior within a marriage.[66] Upon arrival to the United States, many

64. *See, e.g.*, KENYA CONST. ch. V, § 82 (1992) (rendering anti-discrimination laws inapplicable if contradicted by customary laws in certain areas); ZIMB. CONST. § 23 (affirming the dominance of African customary law over certain other areas of law with respect to protection granted to Africans).

65. *See* Cynthia Grant Bowman & Ben Altman, *Wife Murder in Chicago: 1910-1930*, 92 J. CRIM. LAW & CRIMINOLOGY 739, 746-47, 765-66 (2002).

66. Elizabeth H. Pleck, *Challenges to Traditional Authority in Immigrant Families, in*

of the wives learned that this was not legally acceptable conduct; in time, the children of those families began to develop different notions of marital relationships and of male-female relationships in general.[67] But the transition was not easy. In fact, the stress of moving to an environment that was so different in terms of the norms concerning marriage and in which wives often worked as well as their husbands—not together on a farm, but in separate workplaces distant from their homes—seems to have exacerbated the problem.[68] When the man felt that his position was threatened, he lashed out and tried to reassert his control by means of violence. Other studies show, however, that attitudes changed with the generations. One study of Italian immigrants' attitudes toward male dominance in the family in New York in the 1920s, for example, suggests that 64% of women under the age of thirty-five questioned the traditional authority of the husband within the family, while only 34% of those over thirty-five did the same.[69] American-born wives also objected to wife beating by immigrant husbands in a way that first-generation women did not.[70] Thus we can speculate that domestic violence caused by the disruption of traditional culture in Africa may also decrease as that culture adjusts to the many changes that have been thrust upon it and as new generations develop different expectations of marriage and family life.

E. Culture of Violence

Finally, what prescriptions result from regarding domestic violence as a product of a culture of violence in post-colonial Africa? The first and most obvious are measures of crime control such as more and better trained police, greater enforcement, and stiffer penalties for conviction of domestic violence offenses. Measures that are repeatedly suggested in South Africa include increasing the police resources devoted to domestic violence, training police to take domestic violence seriously, and increasing the penalties for conviction.[71] Like most strategies focused on punishment, however, these activities need to be combined with remedial measures to

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THE AMERICAN FAMILY IN SOCIAL-HISTORICAL PERSPECTIVE 505 (Michael Gordon ed., 3d ed. 1983) (discussing FLORIAN ZNANIECKI & WILLIAM I. THOMAS, 2 THE POLISH PEASANT IN EUROPE AND AMERICA 1143, 1742 (1974) (1918)).

67. *See id.* at 504.

68. *See id.* at 509.

69. *Id.* at 511 (describing findings in CAROLINE WARE, GREENWICH VILLAGE, 1920-1930 193 (1932)).

70. *Id.* at 512.

71. *See* HUMAN RIGHTS WATCH/AFRICA, *supra* note 1, at 60-83.

address the conditions that have given rise to the culture of violence in the first place. Examples include the provision of educational opportunities and employment for young men, along with education about alternatives to violence as a way to resolve conflicts.

CONCLUSION

Clearly, the only adequate explanatory theory for the incidence of domestic violence in Africa is a multi-causal one. Thus, multiple remedies are required to decrease the rate of violence against women. This perhaps accounts for the lack of a grand theory of domestic violence in Africa and the co-existence of what might appear to be inconsistent theories. An author convinced that nothing short of a total reconstruction of gender relations in society will address the problem of domestic violence may, nonetheless, include advice about how to use provisions of international human rights conventions to accomplish piecemeal legal reforms. There is a certain pragmatism at work here, embracing whatever arguments are necessary to address the particular problem at hand while not making things worse for the future.[72] This is what we often do here as well, but Schneider's interpretation of liberal democratic "rights" theories and feminist theories as existing in a creative dialectic with one another[73] makes it transparent why this is the correct approach in Africa right now. To eliminate, or even just substantially diminish, domestic violence there will require, as in the United States, an effort on many fronts, including piecemeal legal reform as well as major social reconstruction and the investment of resources on the part of society to provide safety for women.

72. *See generally* Margaret Jane Radin, *The Pragmatist and the Feminist*, 63 S. CAL. L. REV. 1699 (1990) (describing the pragmatic approach).

73. *See* SCHNEIDER, *supra* note 6, at 35-38.