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The Role of the International Federation of Women Lawyers (FIDA) as Non-State Actors in the Management of Marital Violence in Ibadan

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Abstract

The issue of marital violence is a major social challenge with devastating consequences. It cuts across Africa, Nigeria, and is prevalent in Ibadan. Marital violence in both rural and urban phenomenon is conflict that involves both male and female gender. State (government) and Non-state (Non-Government) are actors in its management however; complainants appear to prefer the services of Non-state actors utilizing mediation (ADR) mechanism which is pro bono (no charges) fast and appear effective. Existing studies have focused more on the activities of State actors (government) than the activities of Non-State actors. This study was, therefore, designed to examine the role of Non-State actors in managing marital violence in Ibadan, Nigeria, using the mechanism of mediation. The study examined and documented theoretical compliance of the process.

Theories of Structural-Functionalism and Frustration-Aggression provided the framework, while the case study method was adopted. The International Federation of Women Lawyers (FIDA) was purposive in selection for the study. The key informant and In-depth interviews were conducted. Also, ten (10) concluded cases were reviewed. Secondary data was derived from newsletter publications supplied by the organization. Data were content analyzed.

The study showed that in managing marital violence, the organization (Non-state actor) does not encourage divorce, but would counsel separation when a threat to life was involved. There was always an achievement of management at any intervention, although in infinitesimal instances parties truncate the process, and usually, where mechanisms proved abortive, couples were referred to court.

Keywords: *Violence, Marital Violence, Non-State Actors and Mediation*

Introduction

The institution of marriage has been bedeviled by conflict right from its inception, Haralambos, Holborn, and Heald (2008). Conflict generally occurs between two or more people when they disagree on an issue that threatens their respective goals, values or needs, it refers to a confrontation between individuals or a group resulting from opposite or incompatible ends or means. But efforts have not ceased in trying to minimize the scourge, it is intrinsic to human beings and there are formal and informal mechanisms for its management. It is a social necessity and an age-long phenomenon in human relations which is inevitable Albert (2001). Nwolise (2004) agreed with Albert that the inevitability of conflict is proven by the fact that there is always a struggle over values and claims to status, power and scarce resource. The conflict has negative or positive implications in human relations; it forms an integral component in growth, progress, and development as it causes people to consider different ideas and alternatives no matter how conflicting they are to the status quo. Albert (2001) believes that conflict is not necessarily bad, as commonly perceived by most people; the outcome of negative conflict however, necessitates a third party intervention for the maintenance of societal peace. There are daily, different types of conflict arising from various causes and sources confronting humanity such as intra-personal conflict; inter-personal conflict; intra-group conflict; inter-group conflict; and national and

international conflicts. Whichever the type of conflict it is, it has the potentials to be constructive (positive) or destructive (negative), depending on how it is managed. Destructive conflict according to Albert is usually characterized by violence, whether in its physical, psychological or structural connotation. Conflict is said to have become destructive when it exceeds the limits by societal consensus. In destructive conflict, the process of conflict escalation is towards mutual attacks and efforts to destroy each other; there are misjudgment and misperceptions and situational entrapment in which the conflict becomes unduly magnified (Deutsc,1969). Inter-personal conflict, such as is found in marriage is a conflict type that may become violent; it is prevalent in the marriage institution today. There have always been efforts to manage or resolve such through various mechanisms by scholars of diverse cultures worldwide.

Globally, third party interventions such as the traditional courts (litigation) Nwogugu (2014), which is usually formal and governmental, have been used. But in typical traditional African society, Comaroff and Roberts (1981) noted that before the advent of conventional courts, there were hierarchical options for conflict management and resolution, which usually would start from disputants' attempt to resolve the conflict by themselves, to seek the assistance of kinsmen, to the intervention of the headman of the neighborhood and the local chief's

intervention. Traditional rulers were the political, cultural, economic, and social administrators of the various domains. This lineage idea was subsumed by the modern traditional system of courts (state) which are often, overcrowded, inaccessible, time-wasting and expensive, Albert, Awe, Herault Omitoogun (1995). The observed negative features of these legal courts (state) led to the search for Alternative Dispute Resolution (ADR) mechanisms being used by non-governmental organizations (non-state). It is using the least expensive methods in which parties are satisfied as well as preserving relationships after settlement has been reached. The ADR mechanisms include fact-finding, in-depth research and case studies, facilitation, arbitration, negotiation, conciliation, mediation, and brokerage, (Best, 2006). The noticed surge and diversification in the conflict spectrum also made stakeholders in the management and resolution of conflicts at various levels to embrace the other options of ADR to complement government (state) efforts. Consequently, spouses in conflict can either turn to legal (courts) or ADR mechanisms.

Many scholars have however worked on these mechanisms from different perspectives of conflict such as land, ethnic, religion, and others; talking about their effectiveness and other attributes, but not much has been done on the use of ADR mechanisms by non-state actors in the intervention of marital conflict. More so, there is an African adage that *we do not go to court*

to wash our dirty linen in the open during marital conflict, so that a lot of effort goes into the discouragement of litigation in resolving marital conflict, hence the need for this study. This study attempted to advance knowledge by examining the mechanisms for the management and resolution of marital conflicts by a prominent non-government organization working as non-state actors.

Theoretical perspectives.

The study is premised upon the Structural-Functionalist Theory propounded by Auguste Comte (1798-1857), adopting Merton's (1948) version of the argument; and Frustration-Aggression theory propounded by John Dollard (1939) with his research associates and later developed by scholars like Leonard Berkowitz (1962) and Aubrey Yates (1962).

The structural-functional theory is a framework that sees society as a complex system, whose parts work together for unity and solidarity. It is otherwise known as functionalism. It addresses society as a whole in terms of the function of its constituent element (norms, customs, traditions, and institutions). Merton argues that contrary to the assumption of functionalists on the functional unity of society, where there are alternatives to structural organs, the organ becomes dispensable. Until it is established that functional unity exists, functional autonomy should be considered and viewed. Thus, a change in a particular institution may have little or no effect on others. Merton also debunked the assumption of universal functionalism; that

is, that all standardized social or cultural forms have positive functions. He argues that thinking should go beyond the fact that any part of society is functional, dysfunctional, or non-functional. He suggests that the postulate should be replaced by "the provisional assumption that it should be subjected to 'relativity'". Finally, on structural/functional assumption that certain institutional or social arrangements are indispensable to society, Merton avers that there is no justification for assuming that any institution is indispensable; more so, some societies do not have them as part of their societal structure.

Merton also notes that there may be functional alternatives to the institutions and structures currently fulfilling the functions of society. This means that the institutions that currently exist are not indispensable to society. Merton states that "just as the same item may have multiple functions, so may the same function be diversely fulfilled by alternative items" cited in Holmwood,(2005, 91). This notion of functional alternatives is important because it reduces the tendency of functionalism to imply approval of the status quo.

The second is the Frustration-Aggression theory propounded by John Dollard (1939) with his research associates and later developed by scholars like Leonard Berkowitz (1962) and Aubrey Yates (1962). It best explains the violent reactions that emanate from unmet needs. The "want-get ratio" of what people feel they want or deserve to what they get, Feierabend's, (1969:

256-7) and the difference between "expected need satisfaction" and "actual need satisfaction" Davies, (1962:6). Where expectation does not meet attainment, the tendency is for people to confront those they hold responsible for frustrating their ambitions. The major explanation of the frustration-aggression is that aggression is not just undertaken as a natural reaction or instinct as realists and biological theorists assume, but that it is the outcome of frustration and that in a situation where the legitimate desires of an individual are denied either directly or by the indirect consequences of the way the society is structured, the feeling of disappointment may lead such a person to express his anger through violence that will be directed at those he holds.

The study, however, identifies with the perspective of Merton by using Structural-Functional Theory to understand the mechanisms of intervention in the marital conflict by non-state organizations (NGOs), knowing that no institution of the society such as the state is indispensable. Corroborating Merton (1948) and contrary to Comte, society would not always be at equilibrium. For instance, institutions such as marriage are dysfunctional and have attracted the intervention of NGOs because state institutions (courts) have been inefficient. While other theorists have viewed the theory from a macro level of society, this study looks at it from the micro-level of marriage and the influence of NGOs. This is because the institution known as

the family is a product of marriage, which (family) also, is a part of the constituents that make up the society as the theory posits. Marriage is conducted and influenced by various cultural components (norms, customs, and traditions) and institutions that vary from society to society. Hence, any mechanism to resolve the marital conflict would bother on the identification and understanding of whichever of these cultural components from which the conflict has arisen. It could be as a result of a misunderstanding due to varying ideologies and values, as a result of a difference in cultural tradition on the side of the parties. It could also be a result of an action or inaction of any of the other institutions of the society (government, religious institutions, the economy, educational institutions, and others). For instance, a marital conflict could arise from religious differences between the parties. The study juxtaposed Structural-Functional Theory with the mechanisms for intervention in the marital conflict by NGOs. Non-governmental organizations were seen as alternatives to the failure of the government as an institution of society. The institution of marriage from which the family, a part of the body of the society, is produced is seemingly abstract, yet integral. Therefore, this study is focused on how FIDA deploys intervention mechanisms for the management and resolution of marital conflicts. Following the Frustration-Aggression theories, when needs are not adequately met, the tendency is for people to confront those they

hold responsible for frustrating their ambitions and become violent. The findings of the study established that most of the time, the complainants obtain the desired result from ADR options.

Conceptual clarification and Review of Literature

Violence: Violence is viewed from the context of the conflict in this study. Conflict occurs when two or more people disagree on an issue that threatens their respective goals, values, or needs. The term conflict is a derivative of the Latin word 'conflictus' which means a contest, confrontation, battle, or struggle (Okoosi:1997a and 1997b). Coser (1956) and Nwolise (2004) have defined conflict as a struggle between opponents, and in extension over values and claims to scarce status, power and resources in which the conflicting parties aim to assert their values or claims over those of others. Looking at conflict from another angle, Wertheim, et al (1998) opine that conflict occurs when there are real or perceived differences in interests (wants, needs, fears, concerns) that cannot be simultaneously satisfied. This perhaps, explains the realities of conflict in marriage.

Marital Violence: Marital violence is interpersonal conflict exemplified in violence against the husband or the wife in marriage. It is defined as 'the state of tension or strife between marital partners due to differences in character or interests after solemnization in any form of marriage, statutory or customary as the couple

tries to carry out their marital roles' Ala (2019). Scholars like Ayodele (1995) have identified marital conflict to be as a result of the followings: childlessness, incompatibility, unwanted pregnancy, communication gap, interference by in-laws, finances, infidelity, sex of children, custody of children, abandonment, forced marriage, religious differences and lack of appreciation. All of these could also be summed up as values, resources, and psychological needs. Marital conflict may result in unpleasant end products like spouse battering, spousal abuse, sexual abuse, marital irresponsibility, incest, rape, and the subtle struggle for control between the couple, among others.

Marital conflict is escalating at alarming proportions to the extent where media reports on marriage linked homicide feature virtually daily. The recent killings of spouses during domestic conflicts show that marital conflict is not abating and thus requires better and more efficient third-party intervention with the best mechanisms in operation. Evidence abounds on victims of marital conflicts that became homicidal in Ibadan, Nigeria. Amongst the ones that occurred in Ibadan include that of; Ronke Sonde, Titilola Arowolo, Roseline Sourgie, and Oyelowo Oyediran- who died during a domestic conflict with his wife, Yewande (The Punch, 04, 2016).

Non-State Actors: in the context of this study, they represent the Non-Governmental Organisations(NGOs). They do not form part of the government and are not profit-oriented with

their origin in the United Nations (UN), 1945. Whether NGOs are funded totally or partially by governments, it maintains its non-governmental status by excluding government representatives from membership in the organization. NGOs have been involved in conflict management and resolution as third-party in different forms, such as political, economic, social and religious.

There are diverse non-governmental organizations in Nigeria, there are faith-based organizations (FBO); corporate/professional organizations (PO); Soda bee, neighborhood associations; among others, for peaceful co-existence among citizens. This is to ensure settlement of any conflict without approaching the court, which might take so long due to the delay in the government justice system, for settlement. Over time, the tardiness of the process of government institutions in the intervention of marital conflict necessitated the involvement of NGOs. Using informal structures to intervene in social issues have, according to Fenn, recorded so much success that even the courts now modify their rules to suit such (ADR) methods to be incorporated into their range of resolution options Fenn et al, (1998). This study examines the effectiveness of ADR mechanisms for intervention in the marital conflict by an NGO in Ibadan.

Joseph (2003) at the international seminar on conflict resolution claims that the multiplication and escalation of conflicts at

various levels underscore the need for governments, international organizations and non-international organizations to be involved in the resolution of conflict. There is an awareness that more resources and time need to be set apart for managing conflicts and that the work for peace has to be by harnessing the cooperation of several agencies at different levels. According to him, governments because of their rigid structure often fail to adequately address questions related to conflicts of delicate and complex nature. As a result of this, other tracks of conflict resolution and resources to complement the government's efforts have to be sought. Over the years, however, there has been a tremendous increase in the number of NGOs, so also the variety of their activities and their geographical spread. But despite all Joseph's account of the role of NGOs, there is no mention of NGOs' involvement in marital conflict, whereas they are equally active in the intervention of marital conflict.

Methodology

The study was done qualitatively with interview and observation methods of data gathering from primary and secondary sources. Data from the primary source was based on in-depth-interview (IDI) to elicit an explanation of the mechanisms of intervention in marital conflict with a vivid description of the process. Observation helped to explore the disposition of complainants and the approach of operators to mechanisms during the processes. The data

generated are analyzed with the content analysis technique.

One selected NGO, International Federation of Women Lawyers (FIDA) is chosen as a non-state actor because it has a marital conflict as its core term of reference; and since the study is on mechanisms of intervention in the marital conflict by a non-state actor, it was just appropriate. The data were gathered between April and August of 2017 from interviews with the respondents purposefully selected. The head of the organization, that is, the chairperson of FIDA was interviewed as a key informant using the instrument of key interview (KI) guide questions. Six (6) lawyers from the organization were also interviewed (In-depth) with guide questions as well. Ten (10) complainants were interviewed with the instrument of structured interview guide questions. The study considered these complainants to be reliable respondents because they have used the services of the organizations and thus were able to give an authentic opinion on the efficiency or otherwise. One (1) administrative person was for an in-depth-interview (IDI) as well, bringing the total number of interviewees to eighteen (18). The choice of the respondent was purposive to ensure that the experienced people in the subject matter were interviewed for the authenticity of data. A secondary source of data was the review of case notes of complainants whose cases have been investigated and concluded by the organizations. This is used to measure the outcome of interventions. Other

information secured through printed materials that were supplied by the organization in the course of study also falls under secondary sources. Based on information from the pilot study, the organization attends to an average of eight (8) cases in a month which translates to about one hundred (100) cases annually. As such, ten (10) cases, representing 10% of the annual number of cases treated were randomly selected from the organization for analysis. Data was collected with the use of an electronic device (handset) during the interview but was later transcribed to text and contents were analyzed.

Mechanisms of intervention

Mechanisms are processes that have been set up to accomplish a particular goal. In this context, they are processes of administering intervention in marital conflict. In all societies of the world, there are two broad ways of intervention in resolvable conflicts. There are adversarial and non-adversarial mechanisms of intervention.

According to Macfarlene (2007), the government (state) mechanism is adversarial and is conducted in the law court. The traditional court processes involve litigation in which official courts of the land impose a binding decision on disputing parties. Litigation is a formal system regulated by rules of evidence, rules of procedure and directions from the courts. It is an adversarial system that signifies that the parties themselves define the dispute and present the evidence. The court's role is

essentially to decide based on the evidence and arguments presented. The adversarial system although attempts reconciliation before procedure for divorced is commenced, it has not been effective enough. Litigation usually produces binary outcomes, with clear winners and losers. It is coercive, in that parties can suffer penalties if they do not participate in the process or comply with orders of the court on matters such as the production of documents, Boulle and Nesic (2001). As Africans, it is believed that 'we do not come back from court to continue friendship' so, a mechanism that allows for the continuation of relationship after the settlement of conflict is preferred. Non-State actors make use of ADR (mediation) to achieve this objective.

Mediation: This refers to other cheaper and less tedious mechanisms for settling disputes aside from litigation. Before the advent of colonialism, there was the indigenous African traditional conflict management and resolution mechanism. Indigenous or sometimes called informal conflict resolution mechanism is the ancient set of practices in almost all the societies in the world with an ultimate application of third party arbitration and mediation. The term is derived from the Latin word "mediare" which means to "be in the middle". Although there are many definitions of the word, it is generally agreed by scholars that it is a process that assists people in reaching a voluntary resolution of a dispute. It is, therefore, simply described as

negotiation facilitated by a third party (Albert, 2001)

Stages of Mediation

International Federation of Women Lawyers (FIDA) makes use of mediation, spiced with negotiation for both management and resolution of marital conflict. Their mode of operation is in line with the dictates of mediation theory, the stages of mediation according to the organization begins with the complainant (woman) who brings the report.

Stage one: Reporting

The stage begins with reporting by the aggrieved woman, of allegations like 'my husband threatens to kill me; my husband beats me; he doesn't give me money for food or upkeep allowance for the family' and so on. In the first instance, only the details (phone number and address) of the respondent (husband) would be taken from the complainant; no story is documented.

Stage Two: Story-telling

A written letter is sent to the husband, inviting him to visit the office. When the husband responds, two of them come together on a fixed date, and the complainant who is the wife is asked to repeat the story as told at the first visit against the husband in his presence. She is allowed to pour out her mind. The husband is then asked to respond to the allegations, stating where she has exaggerated and where the truth has not been told. Sometimes they come with relatives, pastors or friends who are aware of the issues in conflict, they are only allowed into the

secluded office at the consent of both parties to shed light on some grey areas in the conflict.

Stage Three: Joint Problem-Solving

Members of the NGO would appreciate the disputants; educate them on the activities of NGO. Where violence is involved, the husband is shown the new Oyo state policy brochure on Violence against Women's Law of Oyo State 2016, Section 1, Section 3 (1) that has the governor's endorsement for his education.

Stage Four: Caucusing

After listening to both parties, the next stage is caucusing; at this stage, each party has the opportunity to disclose information that is needful in arriving at reconciliation; but would not like to be confrontational about it. The fact that the complainant may be at fault is not ignored or excused. In the event where it is realized after listening that the complainant has issues that need to be corrected, she is not spared of education on why she needs to see reasons with the respondent. The mediation skills of the mediators come to play after caucusing and settlement is agreed upon.

Stage Five: Closing

When the mediators are convinced that there is an agreement on way forward, parties are compelled to make commitment to points either by word of mouth or simple written agreement to include- what is to be done; who is to do it; when it is to be done; and what are the consequences of non-compliance.

The success rate of intervention with the use of ADR mechanisms is put at 85% by most of the

records of FIDA. The organization, however, reiterated that when a situation of conflict involves violence, the law enforcement agency could be invited into it, in which case the agency is only carrying out its normal official assignment and not that it is rendering any special assistance to the organization.

Intervention Success Rate

Although, the organization admitted that, the success rate of their intervention is not a hundred percent, but there are shreds of evidence of a few of their success stories. For example, at FIDA Oyo Week Program held in 2014 during FIDA Nigeria at fifty, some of the cases handled by FIDA were enlisted in the 2015 edition of their newsletter. Some of these achievements include:

- A woman whose husband deserted her with three children was helped to get her husband to be fully responsible for the children's upkeep.
- A case of a full-time housewife who complained of neglect by the husband. The husband, according to the wife, has since changed after receiving a letter from FIDA.
- Case of a woman who left her polygamous husband and was ostracized by the community because of the husband's insistence that she was an adulterer. The community leaders almost forced her out of the community but for the intervention of FIDA Oyo. As

if the threat was not enough, she was maligned by a radio presenter on a Yoruba radio program. The presenter wrote a letter of apology after FIDA's intervention.

Several sessions of mediating and counseling couples who are on the verge of diverse divorces were conducted to ensure that the interests of the children of the marriage are taken care of.

The list is endless. The services offered to clients at the center are rendered on a pro bono basis even when cases have to be taken to court or when there is a need to hold a watching brief on behalf of clients.

Limitations and constraints

- Marital conflict is seen as a private and sensitive matter and so, would not be discussed publicly to the extent that despite the permission granted for observation, recordings of the story-telling part of the processes were not allowed.
- Most times, interviewees failed to keep the appointments, and even when they were available, they were always in a hurry to leave after an intervention session, thereby denying the researcher an opportunity to interview them.
- As a result of the above, there were series of postponements of interview appointments which prolonged the time spent on the study.

Most of the interviewees preferred to be anonymous

Discussion and Recommendations

There is no gainsaying the effectiveness of the use of ADR mechanisms by non-state actors in the intervention of marital conflict. Whereas the marriage institution is supposed to serve as a mechanism for conflict resolution, Ovuede,(2016), the observed trend in destructive marital conflict proves otherwise. Therefore, there is a need for the best method of stemming the menace in the interest of peaceful co-existence and survival of the God-ordained institution; which is what ADR is set to achieve and is achieving. It is worthy of note that the studied NGO recorded a significant success rate in their interventions in marital conflict irrespective of their constitution and gender. FIDA, for example, is an all-women NGO that specializes in marital conflict counseling; this, they do without fear but with fervor when violence is involved. The organization frowns severely at violence against women and strongly upholds the tenets of the Oyo state Act on violence against women, Prohibition Act (2016).he organization does not accord any advantage to the woman (complainant) for being a woman, rather, the organization tries as much as possible to be objective in its approach. Sometimes, the woman comes hurting with her complaint, expecting sympathetic hearing, but by the time she is cross-examined and found out to be on the wrong side, she gets educated on how to manage her home to prevent a total break-down.

The existence of this particular organisation has delivered a lot of women from the repercussions of the culture of silence. More women now come out to discuss their marital issues contrary to cultural sentiments that have held them bound hitherto. The NGO focuses on awareness for women to bring their issues on pro bono. The perceived consequences of their activities should grant them automatic government backing.

The ADR mechanisms are not without shortcomings. The proceedings are sometimes abandoned midstream by either of the parties to the conflict, making the case inconclusive. This is because most times the respondents are aware that the organization does not have the power to enforce any decision upon them; they can only appeal.

Therefore, it is recommended that there should be legislation for the empowerment of non-state actors to be able to enforce settlement decisions on the parties to conflict. Conflicting couples should be made to first go through ADR processes (mediation and counseling) before litigation. Moreover, there should be designated ADR centers with certification for parties that have attended the sessions to prevent the activities of dubious lawyers that are conflict entrepreneurs, and the adversarial effects of dissolution, which is often the result of litigation on the institution of marriage. Lastly, like other social issues in the society, there should be a public campaign towards these processes.

Conclusion

Alternative dispute resolution (ADR) processes are universally recognized and accepted as mechanisms for conflict resolution. According to an international guide, it is defined as 'a wide variety of dispute resolution mechanisms that are short of, or alternative to full-scale court processes. United Nations Security Council Resolution 1325 of October 2000 recognizes the importance of women in the peace process. Similarly, Articles 40 (4) and 44 (e) of the ECOWAS Protocol Relating to the Mechanism for Conflict Prevention, Management and Resolution also reiterate the importance of women in conflict resolution. The findings of the study have shown that the combination of mediation and counseling are healing therapies to marital conflict, to warrant the coalition of more women organizations, seek legislations on how to help fellow women in marital distress get redress without necessarily incurring cost and wasting time; or worst still, die on the culture of silence. The studied organization was established in the quest for women involvement and women as non-state actors in situations germane to them.

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