



AN APPRAISAL OF THE LEGAL REGIME FOR COMBATING DOMESTIC VIOLENCE IN NIGERIA

By

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Abstract

This paper appraised the legal regime aimed at combating domestic violence in Nigeria. This paper which adopted the doctrinal legal research style of writing, attempted to add to existing literature by defining the term domestic violence while analyzing primary and secondary sources of data. It discussed the legal framework on domestic violence as it presently exists in Nigeria, it looked at the Constitution of the Federal Republic of Nigeria 1999 and the Violence Against Persons (Prohibition) Act 2015. State laws such as the Domestic Violence Laws of Lagos State 2007, Rivers State Abolition of Female Circumcision Law 2001, and the Rivers State Violence Against Person (Prohibition) Law 2020 were also analyzed. The paper brought to the fore the challenges confronting the enforcement of the laws against domestic violence in Nigeria. Such challenges include societal perception of domestic violence, fear by the victim of reprisal attack after reporting a case of abuse, and ignorance of the existence of anti-domestic violence laws. The paper suggested among others that shelters be created in each of the Local Governments Areas to accommodate victims of domestic violence till an undertaking of safety is gotten from their abusers. It also emphasized the need for the education and enlightenment of the general public about the severity of the crime of domestic violence. Another recommendation made was as to the establishment of a desk office with officers in each Police station in Nigeria to handle cases of domestic violence.

Keywords: *Domestic Violence, Patriarchy, Gender-based violence, Human Rights.*

1.0 Introduction

The term domestic violence is peculiar to a family or home setting where one or some members of the family (whether nuclear or extended) exercise violent or abusive measures to control other members of the family. It is important to note that family here refers to persons related by blood, marriage, adoption, or any other arrangement (such as domestic staff) wherein they live together. Domestic violence is a menace to the global community and cuts across several societies both developed and developing societies.

Domestic violence is not the preserve of a particular gender however; it is thought that there are more female victims of domestic violence than men. This may be blamed on religion and patriarchy which subtly encourage the subjugation of females, whether as girls or women. The Holy Bible teaches that wives are to submit to their husbands, as the husband is the head of the home.² It also teaches husbands to love their wives.³ One would think that the teaching of love would mean that husbands are enjoined to be kind to their wives. However, studies show that in many instances where women are victims of domestic violence, they are violated by their husbands or intimate partners. Similarly, the Quran teaches

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² Holy Bible, King James Version, Ephesians 5:22-24

³ *Ibid*, vs 25.



wives to bow before and prostrate to their husbands, as well as to obey their husbands as these are key for them to enter into paradise.⁴ The teaching of bowing and prostrating before husbands promotes the idea of subjugation of women and reinforces male dominance.

Another major factor responsible for the surge in domestic violence is culture. Many cultures promote the subjugation of women, while their male counterparts are elevated above the females. An example of a culture that subjugates women is the widowhood practice in several cultures in Nigeria. Widows are made to face inhuman, barbaric, and dehumanizing cultural practices at the demise of their husbands. While some of the practices such as drinking the bath water of the deceased husband, are aimed at her proving her innocence in having a hand in the death of her husband, some others, such as sleeping on bare floor, eating stale food from broken plates, shaving her hair and so on, are merely practices passed down as rituals for widows. It should be noted that patriarchy is built on such cultures and traditions as these which are passed down from one generation to the next.

It should be noted that the need to combat domestic violence is hinged on the human rights of all. Every human in the family or home setting is entitled to the enjoyment of his or her human rights without fear of their violation by others within the space. The equality of all entitles all to the enjoyment of their human rights including respect for the dignity of their person. This human rights principle presupposes that no person shall be subjected to torture or inhuman or degrading treatment.⁵

Thus, domestic violence is an age-long phenomenon, however, it still occurs in contemporary times. This paper is geared towards assessing the legal framework about combating domestic violence, to determine if the is sufficient to tackle the menace of domestic violence. Challenges hampering the combat of domestic violence will also be discussed and recommendations made to tackle this issue.

2.0 Definition of Terms

There is a need for the examination of some terms to provide an understanding of these words as it will guide the conversation in this paper. These words are domestic violence, gender-based violence, intimate partner violence, sexual violence, physical violence, psychological violence, and economic violence.

2.1 Domestic Violence

According to the World Health Organization, domestic violence is "any behaviour within an intimate relationship that causes physical, psychological, or sexual harm to those in the relationship, including acts of physical aggression, sexual coercion, psychological abuse and controlling behaviours."⁶ Domestic violence is distinguished from other types of violence that occur within an intimate relationship that is capable of causing physical, emotional or sexual harm to persons within the relationship.

The American Psychological Association describes domestic violence as "a pattern of abusive behaviour in any relationship that is used by one partner to gain or maintain power and control over

⁴ Holy Quran 4:34

⁵ Constitution of the Federal Republic of Nigeria 1999, s. 34(1) (a).

⁶ World Health Organization, 2012.

another intimate partner."⁷ Such abusive behaviours include physical violence, emotional abuse, sexual assault, and other forms of coercive control. This definition attempts to provide a reason for domestic violence as being “to gain or maintain power and control over another intimate partner”.

Thus, domestic violence is violence that occurs within intimate relationship such as family relationship or cohabitation relationship where one partner uses abusive behaviour to gain or maintain power or control over the other or others in such relationship. It should be noted that domestic violence could be physical, sexual, emotional, psychological or economic and may involve the use of coercive behaviours or threats aimed at influencing or controlling other persons within the family setting on intimate partner setting. It has been argued that domestic violence is a consequence of patriarchy which is hinged on social structures and practices where men dominate, oppress and exploit women.⁸ Patriarchy and the practice of twisted religion have contributed to the surge of domestic violence which also falls under gender- based violence in Nigeria.

2.2 Gender-based Violence

Gender based violence may simply be described as the violence associated to a person’s gender. Women face particular violence because of their gender. This violence is peculiar to women by reason of their gender. It can simply be defined as violence directed at a woman because she is a woman or violence that affects women disproportionately.⁹ It includes any act that results in or is likely to result in physical, sexual, or psychological harm or suffering to women including threats, coercion, or arbitrary deprivation of liberty whether occurring in private or public life.¹⁰ The forms of violence against women and girls is in-exhaustive and include forced or early marriage, degrading widowhood practices, marital rape, female circumcision, acid attack, honour killing, and so on. It also extends to discrimination against women in sectors such as education, political participation, economic empowerment and political and public participation, bride burning, female infanticide, and so on.

2.3 Intimate Partner Violence

Intimate partner violence describes physical violence, sexual violence, stalking, or psychological harm by a current or former partner or spouse and affects millions of people around the world. This type of violence can occur among heterosexual or same-sex couples and does not require sexual intimacy.¹¹ It extends to abuse or aggression that occurs in a romantic relationship and could refer to both current and former spouses and dating partners.

It varies in how often it happens and how severe it is ranging from one episode of violence that could have a lasting impact to chronic and severe episodes over the years.

2.4 Sexual Violence

The World Health Organisation defines sexual violence as

⁷ American Psychological Association, 2021.

⁸ L. Mshweshwe, Understanding Domestic Violence: Masculinity, Culture and Traditions, (2020) *Heliyon* 6, 1-5.

⁹ United Nations, ‘Ending Violence against Women, From Words to Action’ [1999] *Population Report Series No. 11*, 11.

¹⁰ UN Declaration on the Elimination of Violence against Women, Art 1.

¹¹ Centre for Disease Control and Prevention, ‘Intimate Partner Violence’ <<https://www.cdc.gov/violenceprevention/intimatepartnerviolence/index.html>> accessed 3 July 2021.

any sexual act, attempt to obtain a sexual act, unwanted sexual comments or advances, or acts to traffic, or otherwise directed, against a person's sexuality using coercion, by any person regardless of their relationship to the victim, in any setting, including but not limited to home or work.

From the above, it implies that sexual violence may be viewed as an act where a person intentionally, without consent, coerces or forces a person to engage in sexual acts against their will.¹² It includes but is not limited to rape, sexual assault, and violation of the victim's body. It includes sexual acts by violence or coercion. It may be perpetrated by a total stranger as well as by a close associate such as a family member, intimate partner, or ex-partner. It is a form of sexual bullying. It may be inflicted on any of the genders. It is one of the most traumatic, pervasive, and most common rights violations against women.

Sexual violence may include but is not limited to rape within marriage or dating relationships; unwanted touching; sexual abuse of mentally or physically challenged people; sexual abuse of children; and forced marriage or cohabitation including the marriage of children. It also includes denial of the right to use contraceptives; forced abortions; forced genital mutilation and obligatory inspection for virginity; forced prostitution; showing one's naked body or genital to others without their consent; masturbating in public; watching someone in a private act of sexual nature without consent; and so on.

The effects of sexual violence include psychological traumas, physical injury, mental health issues, and in extreme cases death. Victims of sexual violence are prone to sexual health problems such as contracting sexually transmitted infections and pregnancy, or both, which have both immediate and long-term consequences.¹³

2.5 Physical Violence

Physical abuse refers to harmful acts carried out against the victim of domestic violence that leave the victim in bodily pain or harm.¹⁴ Physical violence is almost always accompanied by psychological abuse and affects a woman's self-worth. These acts include slapping, biting, beating, choking, strangling, burning, and threats with an object or weapon.

2.6 Psychological Violence

These are acts that are not necessarily physical or seen but include all forms of cruelty, like denigrating the victim as if the victim were a child, ignoring the victim, refusing to give affection or sexual satisfaction, forced sexual intercourse, lack of moral support, controlling the victim's relationship with the wider community, friends, colleagues, and relatives, telling and making the victim feel worthless, inferior and incompetent.¹⁵

¹² Y. Olomjobi, *Human rights on Gender, Sex and the Law in Nigeria* (2015, Princeton Publishing Co) 62.

¹³ United Nations, *World Population Prospects: The 2000 revision* (New York: United Nations 2001).

¹⁴ K. Mbajjorgu, 'Domestic Violence: The Problem pervading Nigeria' in Epiphany Azinge and Lilian Uche (eds), *Law of Domestic Violence in Nigeria* (Nigerian Institute of Advanced Legal Studies 2012), 147-168, 153.

¹⁵ F. Waziri, 'An Analysis of Domestic Violence against Women in the United States' in Epiphany Azinge and Lilian Uche (eds), *Law of Domestic Violence in Nigeria* (Nigerian Institute of Advanced Legal Studies 2012), 120-146, 25-126.



Psychological violence is arguably the most sublime form of domestic violence and a culmination of all other forms of domestic violence as the victim may be without physical scars but with a high possibility of dysfunctional behavioural patterns.¹⁶ It is a behaviour that is intended to intimidate and persecute the victim by threats of abandonment, destruction of objects, constant humiliation, isolation from the victim's family and friends, and so on.¹⁷

2.7 Economic Violence

Economic (financial) violence or abuse is a situation where the violator or abuser uses money as a means of controlling his victim.¹⁸ It is utilized in situations where the victim does not work and depends on the perpetrator for financial support and the perpetrator could prevent the victim from resource acquisition, limit the amount accessible to the victim, or make the victim account for every money spent.¹⁹ It also extends to rigidly controlling the victim's finances, collecting all salaries from the victim, preventing the victim from working, and the like.

3.0 Legal and Institutional Framework for Combating Domestic Violence in Nigeria

This section of the paper will discuss laws in Nigeria that are geared towards combating the menace of domestic violence in Nigeria. National, regional, and international legislation will be analysed. Similarly, the institutions aimed at curbing domestic violence will also be discussed.

3.1 National legislation

The Constitution of the Federal Republic of Nigeria (1999) sets the stage for combating domestic violence as it provides for the protection of human rights of all citizens both male and female. The Constitution contains quite several provisions that take a stand in combating domestic violence. These include the right to dignity of the human person;²⁰ right to personal liberty;²¹ freedom from discrimination based on one's circumstances of birth or any other reason;²² freedom of assembly and association;²³ *et cetera*. The right to dignity of the human person prohibits all forms of inhuman and degrading treatment which is any unwarranted and unjustified treatment of a person resulting in physical pain and mental distress.²⁴ This right prohibits any form of degrading treatment or inhuman treatment of another irrespective of tribe, sex, colour, religion, or nationality; or being held in slavery or servitude, or being made to perform forced or compulsory labour.

The Violence Against Persons (Prohibition) Act was passed in 2015 and it covers issues of sexual abuse such as rape, domestic violence and other related crimes. The VAPP Act makes provisions prohibiting rape, spousal battery, forceful ejection from home, forced financial dependence or economic abuse, harmful widowhood practices, female circumcision or genital mutilation, and abandonment of children,

¹⁶ Mbajiorgu, (n 13), 154.

¹⁷ *Ibid*.

¹⁸ S. O. Opara, 'Women and Girls facing Violence: An Examination of the Violation of their Human Rights' [2018] 8(1) *Journal of Property and Contemporary Issues*, 217-231, 222.

¹⁹ L. F. Akunesiobike, 'The Effect of Domestic Violence on Male Victims: The Law's Response' [2019] 10(1) *The Journal of Property Law and Contemporary Issues*, 192-208, 200.

²⁰ Constitution of the Federal Republic of Nigeria 1999 as amended, s.34.

²¹ *Ibid*, S.35;

²² *Ibid*, S.42(1).

²³ *Ibid*, S.40.

²⁴ n.19.



among others, whether in private and public life and provides protection and remedies for victims as well as punishment for offenders. The Act expanded the concept of rape to involve male victims, it also made provision for compensation of victims as well as the protection of their rights.

The Lagos State Protection Against Domestic Violence Law 2007 was enacted by the Lagos State Government as its legislative response to combat the issue of domestic violence within the State. The law was enacted to ensure that victims of domestic violence are protected, and ensure strict compliance of police officers in apprehending suspects, providing alternative orders such as interim protection orders and expanding the definition of the laws that constitute domestic violence. The law considers cases of domestic violence to range from physical abuse, sexual abuse, exploitation, starvation, emotional, verbal, and psychological abuse, economic abuse and exploitation, denial of basic education, deprivation and stalking, intimidation, harassment, hazardous attack, and so on. The law further provides that for one to be a victim or a perpetrator of domestic violence, one must be in a domestic relationship with the other party. The domestic relationship includes where both parties are spouses; both parties live or previously lived together in a romantic relationship, where both parties are parents or guardians who have or had parental responsibility for a child, where both parties are family members, for example, are siblings, cousins *et cetera*.

The Rivers State Abolition of Female Circumcision Law was enacted on the 17th of August, 2001 as a tool by the River State Government to curb the incidents of female circumcision or Female Genital Mutilation (FGM) which in itself is a violation of the rights of the girl child. The complications of FGM include severe pain, shock, hemorrhage, infection, urine retention, ulceration of the genital region and injury to adjacent tissue, wound infection, urinary infection, fever, and sometimes death. The Rivers State House of Assembly enacted the Abolition of Female Circumcision Law in a bid to protect women from the negative effects of FGM. The law which has just nine (9) sections categorically abolishes female circumcision notwithstanding any custom or usage. This bold statement today plays a significant role in the fight against domestic violence.

The Rivers State Violence Against Persons (Prohibition) Law 2020 is a domestication of the VAPP Act of 2015. One of the significant provisions in this law is the redefinition of rape to include intentional penetration into the vagina, anus, mouth, or any other part of the body either by using any part of the body or any object.²⁵ The prescribes the punishment for rape as life imprisonment. However, where the offender is less than 18 years of age, he shall be subject to the Child Justice System according to the Child's Rights Act 2003. It clearly prohibits incest and punishes 10 years imprisonment without an option of fine to offenders. The law also prohibits physical violence (whether committed in domestic settings or not);²⁶ spousal battery;²⁷ harmful traditional practices;²⁸ as well as psychological, emotional, and verbal violence.²⁹

3.2 Regional and International Legislation

²⁵ Rivers State Violence Against Persons (Prohibition) Law 2020, s. 1.

²⁶ *Ibid.*, s. 2.

²⁷ *Ibid.*, s. 17.

²⁸ *Ibid.*, s. 18.

²⁹ *Ibid.*, s. 13.



Regional and international legislation have helped a great deal to shape Nigeria's legislative framework on domestic violence. The African Charter on Human and Peoples Rights 1981 as well as its Protocol on the Rights of Women in Africa 2003 laid the foundation for human rights of all irrespective of gender, circumstance of birth, or any other consideration. Similarly, the Universal Declaration of Human Rights 1948, the Convention on the Elimination of All Forms of Discrimination Against Women 1979, the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment 1984 as well as the Declaration on the Elimination of Violence Against Women 1993 have positively influenced the Nigeria's legislation towards combating domestic violence.

4.0 Challenges of Enforcement of Laws Against Domestic Violence in Nigeria

There are several challenges associated with the enforcement of laws against domestic violence in Nigeria.

4.1 Privacy Concerns

Despite the plethora of legislation prohibiting domestic violence in Nigeria, it is still generally considered a private matter and continues to thrive since patriarchy promotes and institutionalizes violence.³⁰ Privacy concern usually affects the implementation of the provisions of laws as it concerns domestic violence. Many cases of spousal assault go unreported simply because of the affinity between the parties involved. The relationship between the offender and the victim works to the disservice of the victim who in most cases is reluctant to lodge a formal complaint against the offender. Victims of domestic violence are made to believe that it is a norm in families and are discouraged from bringing theirs to the public domain.

4.2 Societal Perception

There exists the societal perception that women are the weaker sex, so where in spousal assault, the woman is the perpetrator of domestic violence, society scorns the man for not being man enough and allowing himself to be beaten by a woman. This is a major concern in society today as many men are victims of domestic violence, but only a few can speak up. Similarly, male victims of domestic violence trivialize cases of physical, sexual, emotional, and economic violence meted out to them because the perpetrators are women. This societal perception mitigates the implementation of legislation, especially concerning male victims.

4.3 Fear of Reprisal Attacks

The thought of a reprisal attack by the offender on the victim for having the audacity to lodge a formal complaint against such violent attacks inhibits victims from stepping forward to make official statements on incidents of domestic violence. This is particularly so where the victim continues to live with or depend on the perpetrator for sustenance.

4.4 Cultural and Patriarchal Ideologies

³⁰ E. Adu-Gyamfi, 'Challenges Undermining Domestic Violence Victims' Access to Justice in Mampong Municipality of Ghana' [2014] *Journal of Law, Policy and Globalization* 27, 75-90, 84.



Many cultures in Nigeria legitimize domestic violence, especially against women. This is seen in patriarchal values handed down from generation to generation concerning land ownership, control of family wealth, inheritance rights, widowhood practices, and so on. Men who grow up in patriarchal family structures are more likely to become violent adults who will be perpetrators of domestic violence. Unfortunately, where males are the victims of domestic violence, they are unable to speak up as culturally, a man is entrusted with strength, power, and might, so it sounds abnormal for a man to be the victim of domestic violence.³¹

4.5 Culture and Religious-Tainted Legislations

Religious traditions have encouraged various forms of violence against people in the North, which amongst others includes wife beating.³² The Penal Code, which is applicable in the North recognizes reasonable chastisement of a person³³. This is one such provision that requires urgent abrogation, and repeal. Other forms of violence prescribed in the Code include amputation, lashes, mutilation, stoning, and crucifixion. Thus, the operation of Sharia law mitigates against the implementation of laws combating domestic violence. Again, Criminal Code provides that unlawful carnal knowledge does not include carnal knowledge between husband and wife, thereby not recognizing the concept of marital rape.³⁴ Beyond existing legislation, many victims of domestic violence, particularly women believe that challenging domestic violence perpetrated by one's spouse could lead to divorce. The mindset of many victims has always been to preserve matrimonial sanctity by all means thereby continually being victims of domestic violence and institutionalizing it.

4.6 Ignorance of Anti Domestic Violence Laws

Although domestic violence still occurs in urban settlements, high figures of it occur in rural areas where the literacy level of the victims is usually low and they may not be aware that such acts are criminal. Many persons in the society are not aware of the existence of the laws against domestic violence. This lack of awareness hinders some victims from assessing help and the possibility of prosecution of their offenders.

4.7 Economic and Financial Dependence on Perpetrator

Where the victim is financially dependent on the perpetrator of domestic violence, she or he will be reluctant to report and prosecute the offender. Again, such victims may not have the financial muscle to prosecute the matter either at the complaint level at the Police Station or in court.

5.0 Recommendations

As may be deduced from this paper, the challenges of domestic violence do not include a lack of national legislation to combat it. The issue lies more in the implementation of existing laws, especially the Violence Against Persons (Prohibition) Act 2015. Concerning domestic violence, the issue of implementation could be at the domestic level and the public level. At the domestic level, parents must train their children to treat themselves with respect and equality irrespective of their gender. Parents should shun male chauvinism and the entrenchment of patriarchy within the family unit. This is

³¹ M. E. Esaaba, 'Domestic Violence in Ghana: The Attitude of Male Victims in Accra' [2019] 9(1) *African Journal of Social Work*, 1-8, 2.

³² *Ibid*, 2.

³³ Penal Code Act, s. 55.

³⁴ Criminal Code Act, s. 6.

achievable when parents treat both sexes equally and allow all children of the family to inherit and manage family wealth irrespective of gender. This paper will make more specific recommendations that could combat domestic violence in Nigeria.

- a. There is a need for the enlightenment and education of the public that domestic violence is not a private matter but a crime against the State. People should be educated to know that it is a crime and can attract several years of imprisonment, including life imprisonment. Non-Governmental Organisations and media houses should be at the fore leading this education and enlightenment campaign. Such enlightenment programmes should be geared towards creating awareness of the basic provisions against and penalties for domestic violence as provided by law.
- b. Police officers also need to be enlightened on the severity of this crime and educated on how to handle reports of domestic violence. Where Police officers handle domestic violence professionally, it will encourage others to speak up knowing that their complaints will be properly investigated and addressed.
- c. Considering the sensitive nature of domestic violence and the high rate of its occurrence in our society, it is suggested that every Police station should have a dedicated desk and officers saddled with the responsibility of handling reports of domestic violence.
- d. There is a need for the creation of safe shelters in each of the Local Government Areas in each State. These shelters will serve as homes where victims of domestic violence will be kept after a report of abuse is reported. This will serve as an interim home to ensure the victim is temporarily separated from his or her abuser until an undertaking of safety is provided by the abuser. Such safe shelters will also serve as a home to rehabilitate victims and give medical treatment where necessary before their return to their homes.
- e. There is a need for the abrogation and repeal of laws that continually aid domestic violence and reinforce the gender superiority of the male sex leaving the females as an endangered species. This will reduce the influence of laws in subtly encouraging domestic violence.
- f. There is a need for political, community leaders, and religious leaders to set good examples for their followers to emulate. Such leaders should teach in words and deeds that no one should engage in domestic violence. Rather, communication, tolerance, and other mediation processes should be encouraged among family members.
- g. Since we know that men are also victims of domestic violence, more men should be involved in the fight against domestic violence. This will encourage more men to break the silence, speak up, and tear down the walls of stigmatization against male victims of domestic violence.

6.0 Conclusion

Domestic violence is a menace that has eaten deep into the society. It is not only peculiar to developing societies but occurs even in developed societies. It is violence within the home or intimate partner relationship perpetrated by family or household members whether living together or not. Several laws in Nigeria are geared towards combating domestic violence. However, there also exist many challenges bedeviling the implementation of such laws. Some recommendations to stem the tide of domestic violence in Nigeria have been itemized in this paper.