

**"EXPLORING DOMESTIC VIOLENCE LAWS IN NIGERIA: ADDRESSING
CHALLENGES AND ENHANCING LEGAL PROTECTIONS"**

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CERTIFICATION

I, **JOHN OZISHAYAMI JOSHUA** with matriculation number **LAW1704750**, hereby certify that apart from references made to those other persons which have been duly acknowledged, this entire work is the product of my personal research and this this project has neither been in whole or in part, been presented for another degree elsewhere.

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APPROVAL

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DEDICATION

This work is dedicated to God the almighty for always being there, to my Family, my backbone, all my friends who have been a support to me, to the Legal Giants class and to every single victim of domestic violence in Nigeria.

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Here I'd like to first thank the one who made it possible that I got through these years successfully despite all the obstacles in the way. My God too sabi. I am so grateful for the gift of my family. For my dad and mum my biggest sponsors and support system. I don't think it's possible to pay back all of the financial and emotional sacrifices you've both made these years, I'm eternally grateful. My siblings Ayuva, Kamshire, and Ushine, my biggest fans, cheering me on no matter when I need it, thank you 1 billion!

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CFRN - Constitution of the Federal Republic of Nigeria

VAPPA – Violence Against Persons Prohibition Act

DOMESTIC VIOLENCE, CRIMES & VICTIMS ACT (UK)

CEDAW – Convention on the Elimination of All Forms of Discrimination Against Women

LSPADV – Lagos State Protection Against Domestic Violence

ICESCR – International Convention on Economic, Social and Cultural Rights

PENAL CODE

CRIMINAL CODE

MATRIMONIAL CAUSES ACT

ABBREVIATIONS

US - United States

UN- United Nations

SBN- Standard Book Number

PTSD- Post Traumatic Stress Disorder

FCT- Federal Capital Territory

OVW- Office on Violence Against Women

ABSTRACT

Domestic Violence is not only an issue of concern in Nigeria, it's a global menace. Going down history lane, domestic violence has been, in many cultures, an accepted way of life. However, it has in recent years, been recognized as a problem and laws have been enacted curb its practice. Despite this development, domestic violence is still culturally acceptable in many societies, including the Nigerian society. This paper addresses the topic of domestic violence in the Nigerian Legal Sphere, focusing on the challenges faced by victims and the effectiveness of existing legal measures in providing protection and justice. The project will delve into various aspects, including the legal framework, enforcement mechanisms, support systems, and potential areas for improvement. By analyzing existing literature, and examining relevant legislation, this research will shed light on the current state of domestic violence laws and propose recommendations for enhancing legal protections.

CHAPTER ONE

GENERAL INTRODUCTION

1.0 Background to the Study

Domestic violence encompasses intentional and ongoing mistreatment of individuals within the household, leading to physical or emotional suffering. This form of abuse involves harmful behavior exhibited by one family member towards another, constituting a violation of fundamental human rights as prescribed by law. It encompasses various distressing acts, such as intimate partner violence, sexual abuse of children, marital rape, and harmful traditional practices particularly affecting women.

Domestic violence, a social and legal concept that in the broadest sense, refers to any abuse—including physical, emotional, sexual, or financial—between intimate partners, often living in the same household. The term is often used specifically to designate physical assaults upon women by their male partners, and on children by guardians, and, though rarer, male partners may also be victims of domestic violence. However, such occurrences are also less likely to be reported, because of the fear of ridicule and the lack of support services made available to male abuse victims.

Globally, domestic violence accounts for nearly one quarter of all recorded crimes.¹ Preliminary results from a World Health Organization (WHO) multi-country study on women's health and domestic violence indicated that “in some parts of the world as many as one-half of women have experienced domestic violence.”² Although the degree differs from community to community and society-to-society, women have been preponderantly at the receiving end in approximately 95% of known cases.³ To further buttress how much women suffer, certain WHO reports once stated that globally, as many as 38% of all murders of women are committed by intimate partners.⁴

¹ Booth, C. 2003, 'Women's rights are human rights.' Paper presented at Access to justice, organized by the British council, Abuja.

² Heise, L. 1999, 'Ending violence against women,' Population report series L, information program.

³ United Nation 2002, 'Shattering the silence of violence against women'. UN Chronicle Vol. 35, Issue 1.

⁴ WORLD HEALTH ORGANIZATION: Global and regional estimates of violence against women: prevalence and health effects of intimate partner violence and non-partner sexual violence(INTERNET) Accessed 22nd July 2023.

Domestic violence is widespread in West Africa and even accepted and encouraged in some societies. According to IRIN reports from 2007, 25% of women in Dakar and Kaolack, Senegal, experience physical abuse from their partners, and very few of them admit it. While 60% of domestic violence victims seek help from a family member, in 75% of those instances, they are told to remain silent and put up with the abuse. In Ghana spousal attacks are the most common form of domestic violence. (I-RIN, 2007)⁵

Frequently there is no workable solution for victims of domestic violence. For some victims, it is usually the case of an unrelenting cycle of violence, which produces diminished self-esteem, helplessness, depression, and exaggerated feelings of imprisonment, even the belief that they deserve abuse.

In African societies, violence against women is perceived as a private issue of marital affairs and victims have been socialized into accepting it as such.⁶ Some cultural practices in Nigeria have exposed women to all forms of abuse in their matrimonial life. Norms about marriage, predominant male positions, and forced marriages have been identified as having risk factors of domestic violence in Nigeria.⁷ In Nigeria, there in fact exist customs that actively support acts of domestic violence such as physical abuse of women by their husbands. It is still socially and culturally accepted in many societies in the Nigerian and victims have come to accept it as a way of life due to cultural reasons and ignorance of human rights laws.

The paper also posits, that domestic violence is a gender-neutral human misconduct which is not peculiar to men. It concedes that comparatively, men can also be equal victims of domestic violence perpetrated by women (Isom Scott, 2018; Straus, 2011). Notwithstanding contrary contentions by Richardson, Feder, and Coid (2002) and Isom Scott (2018) that women are actually more domestically violated and victimized than men.

⁵ Domestic Violence Activities, Factors, And Impacts On Women In Southern Kaduna State Rural Communities In Nigeria: Bahago, Samaila Benedict.

⁶ (Ilika, 2005; Ishola, 2016; Ofeibea-Aboagye, 1994; Oluremi, 2015).

⁷ (Alesina, Brioschi, & Ferrara, 2016; Chika, 2012; Linos, Slopen, Subramanian, Berkman, & Kawachi, 2013).

Perpetrators of domestic violence come from all socioeconomic, cultural, and educational backgrounds. The stresses of poverty and the abuse of such substances as alcohol and drugs contribute to the problem.

In the face of ever increasing acts of lawlessness, social disorder, armed robbery and assassinations in Nigeria, it has become necessary to look for causal explanations that go beyond superficial semantics. This research work is therefore intended to add to the body of literature that go to substantiate the claim that the law is an instrument for control and placement of behaviours in the society and its' there for the safety of lives and property

Additionally, this work will lend credence to the view that the present obstacles in the way of effective societal policing in Nigeria is an inevitable aftermath of a corruption, lack of adequate legislative enforcement of constitutional provisions. Nigeria needs to shade off the apron of corruption that has stymied progress and embrace innovative approaches geared towards combating the obstacles in the way of a detached professionalized legal administration.

To tackle the harmful effects of domestic violence in the society, there is urgent need to challenge this social structure and cultural practices at all levels. The goal of the present study, therefore, is to empirically identify the factors that contribute to domestic violence in Nigeria. The implications for the physical, mental and reproductive wellbeing of victims and prevention of violence are further discussed. This paper is structured into introduction, literature review, methodology, conceptual and theoretical framework, results, discussion of the findings, recommendations and conclusion.

1.1. STATEMENT OF PROBLEM

While domestic violence has received considerable attention, its ongoing prevalence signals that our efforts to address this issue are annoyingly insufficient. Despite significant awareness and advocacy, it remains evident that we have not made enough progress in effectively combating this problem.

This also includes the importance of challenging social norms that support male authority and control over women and sanction or condone violence against women and children, reducing levels of childhood exposures to violence; reforming discriminatory family law; strengthening

women's economic and legal rights; and eliminating gender inequalities in access to formal wage employment and secondary education.

The variation in the prevalence of violence seen within and between communities, countries and regions, highlights that violence is not inevitable, and that it can be prevented. Promising prevention programmes exist, and need to be tested and scaled up. There is growing evidence about what factors explain the global variation documented. This evidence highlights the need to address the economic and sociocultural factors that foster a culture of violence against women.

The experience of being a victim of violence can generate strong negative feelings about the self, including feelings of guilt and shame. Battered women frequently report feeling ashamed about getting involved with the abuser or not acting on the warning signs of the abuse.⁸

Domestic violence is seldom reported because of many reasons. Some could be as a result of fear of reprisal and lack of response from law enforcement officials. Other reasons include the shame of women having to admit they are being abused by their husbands especially for those that live in small communities coupled with the ignorance of the fact that it is wrong and could be corrected.⁹

According to estimates, one third of women in Nigeria experience physical, sexual, and psychological abuse at the hands of their husbands, boyfriends, or fathers. In Nigeria, assault, child sex abuse, marital rape, acid assaults, molestation, corporal punishment, and killing are common types of violence against women. Males, females, children, and adolescents are all victims of domestic abuse. But women and young girls are most impacted. According to estimates, the frequency of violence against women in Nigeria is "shockingly high" (Afrol News, 2007).

The shocking underreporting and lack of documentation of domestic abuse because of cultural factors is even more pitiful.

This essay examines the nature of domestic abuse, its effects on women and their families, and the alleged rise in domestic violence incidents against women in rural southern Kaduna State,

⁸ Nigerian Journal of Social Problems and Social Policy Review (VOL 1, ISSUE 2, October-December 2021) Willie, Mboho & Umanah

⁹ Nigerian Journal of Social Problems and Social Policy Review (VOL 1, ISSUE 2, October-December 2021) Willie, Mboho & Umanah

Nigeria. It also offers recommendations for public education to improve the problem through counselling for domestic abuse. Nigeria, like many other African nations, has a long history of sanctioning the physical abuse of spouses and children as a kind of discipline (UNICEF, 2001). Therefore, parents believe that by physically abusing their kids, they are imparting discipline in them, much like how husbands physically abuse their wives, who are also thought of as children who are prone to indiscipline and need to be restrained. This is especially true if the woman depends on the male for financial support. The society is essentially patriarchal, and women have a clearly inferior position within the system.

1.2 AIMS/OBJECTIVES:

This paper aims to delve into the complex and critical issue of domestic violence, with a specific focus on understanding the existing legal framework surrounding it. The scope of this study is broad and multifaceted, covering various aspects related to domestic violence laws and their implementation. The various aspects to be discussed include:

Definition and Types of Domestic Violence: The project should begin by providing a comprehensive definition of domestic violence and exploring its various forms, such as physical, emotional, sexual, economic abuse, and more. Understanding the different manifestations of domestic violence is essential for crafting effective legal protections.

Historical Context: It would be helpful to trace the historical development of domestic violence laws in the jurisdiction of interest. This context can shed light on the evolution of legal protections and highlight areas where improvements are needed.

Current Legal Framework: Analyze the existing domestic violence laws, both at the national and regional levels, including relevant statutes, regulations, and case law. Assess the strengths and weaknesses of the current legal framework in addressing domestic violence.

Challenges in Implementation: Identify the barriers and challenges faced in the effective implementation of domestic violence laws. This may include issues related to reporting, law enforcement response, access to justice, and support for victims.

Comparative Analysis: Compare the domestic violence laws of the jurisdiction under study with those of other countries or regions known for their robust legal protections. This comparative approach can provide valuable insights into potential improvements and best practices.

Role of Stakeholders: Examine the roles of various stakeholders involved in combating domestic violence, including law enforcement, judicial system, social services, NGOs, and community organizations. Assess their contributions, coordination, and potential areas of collaboration.

Victim Support Mechanisms: Investigate the support mechanisms available to domestic violence survivors, such as shelters, counseling services, legal aid, and financial assistance. Evaluate the adequacy and accessibility of these resources.

Impact of Technology: Consider the impact of technology on domestic violence and how it challenges existing legal protections. This may include cyberstalking, online harassment, and the misuse of technology to perpetrate abuse.

Policy Recommendations: Based on the research findings, propose practical and evidence-based policy recommendations to enhance the legal protections against domestic violence. These suggestions should address the identified challenges and aim to strengthen the overall response to domestic violence cases.

Future Prospects: Discuss potential future developments in domestic violence laws and how they might evolve to meet the changing needs and dynamics of society.

Remember to specify the geographic scope of the study (e.g., a specific country, region, or multiple countries) and conduct an ethical review of the research, particularly when dealing with sensitive topics like domestic violence. The study should also take into account any recent developments in domestic violence laws up to the current date, as laws and regulations may change over time.

By undertaking this project, a comprehensive understanding of the complex dynamics between domestic violence and the law will be attained, contributing to the broader discourse on

improving legal protections for survivors and creating a safer society for all. The objectives of this research work would include:

- a. Examining Domestic Violence in Nigeria and its various forms.
- b. To analyze the various domestic laws that deal with domestic violence.
- c. To examine in detail, the Identification and reporting obstacles faced by victims
- d. Exposing the leakages, through which
- e. To provide recommendations and strategies which will help tackle the deficits of the various laws.

1.3 SCOPE OF STUDY:

This study focuses on bringing to light the damning and permanent effects of domestic violence in the Nigerian Society, and why it is important to take steps to strip it of its destructive power. Domestic violence is a pervasive issue that affects countless individuals and families, leaving indelible scars on victims and their communities.

The first objective of this study is to shed light on the deeply ingrained nature of domestic violence within Nigerian society. It will explore the historical, cultural, and social factors that have contributed to its prevalence, as well as the various forms it can take, such as physical, emotional, and financial abuse. Understanding the roots and manifestations of domestic violence is crucial in order to effectively combat it.

1.4 METHODOLOGY:

To achieve the objectives of this study, this research adopts the expository, analytical and doctrinal research methodology. Reliance would be mostly on primary sources such as the various acts and secondary sources such as electronic reports, articles and journals.

Specifically, this essay applies mainly the Nigerian Association Of Law Teachers Uniform Format and Citation Guide (NALT). The foregoing research method is complemented where necessary by the Oxford University Standard for Citation of Legal Authorities (OSCOLA) style of research. Furthermore, the research relies on primary legal resource materials which include: The Constitution of the Federal Republic of Nigeria 1999 (as amended)¹⁰; Violence Against Persons Act 2015¹¹; Protection Against Domestic Violence Law 2007 (PADVL)¹² and such other State legislations regulating the protection against domestic violence. Also, judicial authorities on domestic violence are cited and relied upon to properly drive home the importance of law in the interception of domestic violence in our society

Apart from the foregoing primary legal resources on this topic, secondary legal materials on this topic shall be referenced where necessary. They include: textbooks, journals, newspaper articles, periodicals and scholarly online works on domestic violence.

1.5 STRUCTURE OF RESEARCH

This research work will span five chapters;

The first chapter will introduce the topic and intimate the reader with the general scope of this research work. It addresses the background to the study, statement of the problem, aim and objectives of research work, scope of the study, expected findings, research methodology and finally the structure of research.

Chapter two discusses the definition of domestic violence according to several authorities, the various types, the believed causes and how it affects each individual in the family. (The victim perspective of Husbands, wives and children)

¹⁰ CFRN 1999

¹¹

¹² Laws of Lagos 2007

Chapter three examines the challenges faced by victims in reporting domestic abuse, whilst also discussing issues related to evidence gathering and burden of proof and barriers to obtaining restraining orders or protective orders for victims of domestic abuse.

Chapter four extensively evaluates the current legal protections, available to victims of domestic abuse, whilst also examining the gaps or weaknesses in existing laws and making comparison against legal frameworks across other jurisdictions.

Chapter five then proffers new innovative approaches with a review of innovative legal interventions and programs, whilst also promoting promising practices for enhancing victim safety and perpetrator accountability, and then provides conclusions and recommendation for the study.

1.6 EXPECTED FINDINGS:

The findings attributed to this research work are that:

- a. Domestic violence, despite being infamous, is still very prevalent.
- b. Our current laws, although available, are quite still inadequate to quench this evil.
- c. That there are strategies which would help in the enforcement and eradication of Domestic violence.

CHAPTER TWO

CONCEPTUAL/THEORETICAL FRAMEWORKS AND LITERATURE REVIEW

2.0 INTRODUCTION:

Nigeria, as the most populous black nation with a population exceeding 200 million, exhibits a demographic composition wherein women constitute a significant portion, estimated at approximately 49%, and children at about 42%.¹³ Despite its prominence, Nigeria still grapples with varying societal challenges, including but not limited to violence, insecurity, corruption, and poverty.

One prevalent issue that has increasingly afflicted Nigeria is domestic violence, a phenomenon that has witnessed a surge in prevalence over the decades. Domestic violence represents a substantial public health concern, impacting a substantial number of individuals and resulting in both physical and emotional injuries, as well as tragic fatalities, eating deep into the fabric of society.

Globally, numerous nations have responded to this pressing challenge by enacting legislation aimed at combating domestic violence. These measures encompass policy development, strategic planning, awareness campaigns, provision of justice for victims, and prosecution of

¹³ World Population Review, < <https://worldpopulationreview.com> > Accessed 2nd October 2023

perpetrators.¹⁴ Nigeria, too, has demonstrated its commitment to addressing this issue by implementing laws and establishing federal ministries, governmental agencies, and non-governmental organizations dedicated to combating domestic violence, leading to notable achievements in this endeavor.

Several state governments within Nigeria have also actively contributed to the fight against domestic violence through coordinated efforts involving their ministries, parastatals, and legislative actions. The influence of cultural factors, public awareness campaigns, and government policy initiatives aimed at curbing domestic violence has played a pivotal role in the collective effort to eradicate this menace.

However, while there has been commendable advancements resulting from these initiatives, certain deficiencies persist in the fight against domestic violence in Nigeria. The legal framework for addressing domestic violence in the country has encountered irregularities, with some states lacking dedicated legislation to address this issue, while others possess laws that may fall short in providing comprehensive protection, particularly for children and men. Moreover, the level of protection and remedies available to victims of domestic violence requires further enhancement and refinement. Our laws ought to provide a secure place to run to when in need. Safe reporting strategies, and rehabilitation programmes which might help protect victims and our society in general.

¹⁴ Aisha Morohunfola, <<https://www.linkedin.com/pulse/domestic-violence-nigeria-laws-limitations-aisha-morohunfola/>> Accessed 3rd October 2023

In order to comprehensively address the issue of domestic violence in Nigeria, it is imperative to first understand certain concepts.

2.1 CONCEPTUAL CLARIFICATION:

In this part, concepts such as Family, violence, and domestic violence would be properly defined for sake of clarification going forward.

2.1.1 FAMILY:

A family is a group of two or more persons who are related either by birth, marriage, or adoption who live together; all such related persons are considered as members of one family. The family is often regarded as the most basic institution of society. In Nigeria, a basic feature of a family includes a legal marriage between a man and wife. The idea of a family is generally meant to portray love and affection, but it is now a popular statement and on-going theme that marriage is not always a bed of roses.

2.1.2 VIOLENCE:

The word Violence has a strong subtext. It is a highly expansive concept which can be scaled enormously.¹⁵ According to the Black's Law Dictionary,¹⁶ violence is...

“the use of physical force accompanied by fury, vehemence, outrage, especially physical force unlawfully exercised with the intention to harm. It is the application of brutal force on another person in a situation that is extremely uncalled for.

¹⁵ Violence may be discussed in terms of terrorist attacks, global wars etc.

¹⁶ Black's Law Dictionary 9th Edition Bryan A.G (New York: Simon & Macmillan, 2009)

Violence is a behaviour that is intended to hurt or kill somebody. It is any action, behaviour, attitude against people based on anger, frustration, stress, power, ego, or even ignorance which could lead to injury, harm or even death.”¹⁷

The World Health Organization¹⁸ defines violence as;

“the intentional use of physical force or power, threatened or actual, against oneself, another person, or against a group or community, which either results in or has a high likelihood of resulting in injury, death, psychological harm, mal-development, or deprivation.

The Violence against Persons (Prohibition) Act, 2015, (VAPPA) defines violence thus;

“Violence means any act or attempted act, which causes or may cause any person physical, sexual, psychological, verbal, emotional, or economic harm whether this occurs in private or public life, in peace time and in conflict situations; Violence therefore refers to behaviours that are intended to hurt other people physically.

Violence affects the lives of millions worldwide, irrespective of socio-economic status and it cuts across ethnic, cultural and religious barriers, impeding the rights of persons (especially children and women). Violence is a worldwide phenomenon that has raised great concern from both the local and international sphere. Violence is in different forms namely: domestic violence, political violence, religious violence, electoral violence, and economic violence.

2.1.3 DOMESTIC VIOLENCE

¹⁷ Black’s Law Dictionary, 9th Edition Bryan A.G (New York: Simon & Macmillan, 2009).

¹⁸ World Health Organization < www.worldhealthorganization.com > Accessed 29th September 2023

According to the Black's Law Dictionary,

'Domestic Violence is the infliction of physical injury or the creation of a reasonable fear that physical injury or harm will be inflicted by a parent or a member or former member of a child's household, against a child or against another member of the house hold; it is also termed domestic abuse or family violence.

Section 18(i)-(xiv) of the Lagos State Protection Against Domestic Violence Law defines domestic violence to mean

acts against any person; physical abuse, sexual abuse, exploitation including but not limited to rape, incest and sexual assault, starvation, emotional, verbal and psychological abuse, economic abuse, denial of basic education, intimidation, harassment, stalking, hazardous attack including acid bath with offensive or poisonous substance damage to property, entry into complainants residence without consent where the parties do not share the same residence or any other controlling or abusive behavior towards a complainant where such conduct harms or may cause imminent harm to the safety health or well-being of the complainant.

Domestic violence is any form of violence that occurs within the home in a way that causes pain, distress or injury. Within several homes, violence occurs on a daily basis. Some persons try to exert and exercise their authority on other individuals and in the process carry out violence on one another. Domestic violence has also been termed spousal battery, however, domestic violence also covers the various types of violence inflicted on children in homes, intimate partner

violence, or any type of violence between people who live together. Domestic violence and abuse is not limited to obvious physical violence. It can mean endangerment, criminal coercion, kidnapping, unlawful imprisonment, trespassing, harassment and stalking.¹⁹ In some traditional systems, women are allowed to be beaten by their husbands thereby correcting them.²⁰ Domestic violence also covers non obvious physical damage such as emotional violence, verbal violence, and psychological violence.

Richard L, Rob Canton and Siegel view domestic violence from the perspective of the general understanding that domestic violence could be perpetuated against any of the partners in a relationship, gender regardless. This view appears to be a liberal interpretation of the term "domestic violence" and acknowledges the possibility of men who are historically considered the perpetrators of domestic violence also being victim of domestic violence.

Again, Sandra Walkate and Bakare et al, took a different approach from the above, they viewed this term from feminist perspective. According to them, the concept of domestic violence is essentially one that plagues the woman folk and nothing more. They see domestic violence as violence perpetuated against the women folks in relationships in pursuance of male dominance in the family. These forms of violence range from the physical infliction of harm as well as sexual violence and so on.

2.2 HISTORICAL FRAMEWORK

¹⁹ National Network to End Domestic Violence, 'crime' 2011. <http://www.womenlaw.org/laws_state_type.php> accessed on 4th October, 2023.

²⁰ Section 55 Penal Code (2004) FRN CAP 53 LFN.

The issue of domestic violence is not a recent phenomenon; its roots extend far into history. As early as 753 BC, during the reign of King Romulus in Rome, the practice of physically disciplining one's wife was not only accepted but also condoned under 'The Laws of Chastisement'.²¹ These laws granted husbands absolute authority to administer physical punishment to their wives. This legal provision aimed to shield husbands from potential harm caused by their wives' actions since, according to the law, husbands were held responsible for their wives' crimes. Even in the 14th Century, the Roman Catholic Church's Rules of Marriage encouraged Christian husbands to "soundly beat their wives," not out of malice or anger but as a form of care, believing it to be beneficial both for the husband and the wife's spiritual well-being.²²

However, in the 19th century, domestic violence began to emerge as a significant social concern. This shift coincided with the rise of the middle class and the emergence of leisure opportunities, which enabled women to become more active in social and political matters.²³ Before the mid-1800s, most legal systems regarded wife beating as a legitimate exercise of a husband's authority over his spouse. This viewpoint stemmed from the belief that a wife was the "property" of her husband, giving him the right to employ any means necessary to "control" her. Such attitudes were deeply ingrained in society, contributing to the perception that domestic violence was not a matter for law enforcement but rather a private issue confined within the household.

In Renaissance France, domestic violence led to significant loss of life among women and children, along with their contributions to the economy.²⁴ This prompted lawmakers to take

²¹ Reva B. Siegel, 'The Rule of Love; Wife Beating as a Prerogative and Privacy' Yale Law Journal (1995) Yale L.J 2119

²² Ibid

²³ Susan M. Cruea, 'Changing Ideals of Womanhood During the Nineteenth-Century Woman Movement' Bowling Green State University Journal 2005.

²⁴ Ibid

action in order to mitigate the effects of such chastisement. One statute, deemed progressive at the time, sought to "limit" the physical punishment of wives and children to actions like "blows, thumps, kicks, or punches on the back that did not leave any visible marks."²⁵ However, it also included the statement, "the man who cannot control his wife is not worthy of being a man." Another law, intended to safeguard women and children, stipulated that "all inhabitants had the right to beat their wives as long as it did not result in death."²⁶

Prior to 1980, when domestic situations were reported to the police, responses were often inadequate. Calls were diverted by dispatchers, given low priority, or officers arrived at the scene only to depart quickly without meaningful intervention.²⁷ Nevertheless, in 1871, an Alabama court made a significant ruling, affirming that men no longer possessed the right to physically abuse their wives, marking a crucial step towards change and a legal stance against spousal abuse.²⁸

In 1878, Frances Power Cobb, an activist wrote an article titled "wife torte in England."²⁹ This article brought battery of women into the lime light and had significant impact on public opinion. Cobb's activism can be regarded as one of the earliest against the issue of domestic violence, and it eventually led to the Wife Beater Act 1882, which allowed courts to confine wife beater or

²⁵ R. Emerson Dobash and Rusell Dobash, 'Violence Against Wives' The Free press New york (1979)

²⁶ Hutchison, I. W., & Hirschel, J. D. (1994). Limitations in the Pro-Arrest Response to Spouse Abuse. *Journal of Contemporary Criminal Justice*, 10(3), 147-163. <<https://doi.org/10.1177/104398629401000302>> Accessed 4th October 2023

²⁷ Bloch, Ruth H. (2007). "The American Revolution, Wife Beating, and the Emergent Value of Privacy". *Early American Studies*. University of Pennsylvania Press. 5 (2): 223–251. <[doi:10.1353/eam.2007.0008](https://doi.org/10.1353/eam.2007.0008). [JSTOR 23546609](https://www.jstor.org/stable/23546609). [S2CID 144371791](https://www.s2cid.org/144371791)>. Accessed 10th October 2023

²⁸ Bradely v. State (1882)

²⁹ Start and Flit Craft, 'Domestic Violence' <<http://www.historyofdomesticviolence.html>>accessed 5th October 6, 2023.

child beater in a pillory³⁰ for up to four hours and permitting long prison sentence for a second offense.

In a historic milestone, Tennessee took the groundbreaking step of prohibiting wife beating in 1850, with several other states swiftly following suit. By 1878, the UK Matrimonial Causes Act granted women in the UK the ability to legally separate from abusive spouses. By the late 1870s, most U.S. courts had rejected the notion that husbands had a legitimate right to physically discipline their wives. As the early 20th century dawned, it became increasingly common for law enforcement to intervene in domestic violence cases in the United States, although arrests remained infrequent.³¹

However, a significant shift occurred in the 1950s and 1960s, as civil rights and anti-war movements challenged the status quo and laid the groundwork for the feminist movement. As women made substantial gains in the 1970s, spousal abuse emerged as a prominent public issue, particularly within the framework of feminism and women's rights. Concerns about the physical abuse of wives began to receive widespread attention.³²

The term "domestic violence" in its modern context, denoting abuse or violence within marital or domestic relationships, first appeared during an address to the UK Parliament in 1973. In that same year, the world's first federation of domestic violence services, known as Women's Aid,

³⁰ A wooden confinement in public, that had spaces for head and hands to be locked, it was primarily use to shame offenders in the pass for petty crimes.

³¹ Lentz, Susan A. "Revisiting the rule of thumb: an overview of the history of wife abuse". *Women & Criminal Justice*. 10 (2): 9–27 . (1999) <[doi:10.1300/J012v10n02_02](https://doi.org/10.1300/J012v10n02_02)> Accessed 10th October 2023

³² Institute of Health, 'Domestic Violence in the 1970's' <<https://circulatingnow.nlm.nih.gov> › 2015/10/15 > Accessed 10th October 2023

was established in England to provide practical and emotional support to women and children experiencing violence.³³

With the rise of the women's movement in the 1990s, the issue of domestic violence against women garnered even greater prominence. In the United States, the battered women's movement gained traction and visibility, thanks in part to three preexisting social movements: women's liberation, women's health, and anti-rape activism. These movements possessed resources and networks from which the battered women's movement could draw strength. Consequently, numerous battered women's shelters were established across the United States, with the Women's Advocates shelter in St. Paul, Minnesota, being the first to open its doors in 1973.

It wasn't until 1984 that a comparable bill, known as The Family Violence Prevention Services Act, made its way through the U.S. parliament, marking another important step in addressing domestic violence.

In most legal systems around the world, the issue of domestic violence has been addressed only from the 1990s onwards; indeed, before the late-20th century, in most countries there was very little protection, in law or in practice, against Domestic Violence.³⁴ In 1993, the UN published *Strategies for Confronting Domestic Violence: A Resource Manual*. This publication urged countries around the world to treat domestic violence as a criminal act, stated that the right to a private family life does not include the right to abuse family members and acknowledged that, at the time of its writing, most legal systems considered domestic violence to be largely outside the

³³ Womesh's Aid Federation, "Our History" Internet Archive October 2006 < https://en.wikipedia.org/wiki/Women%27s_Aid#cite_note-3 > Accessed 8th October 2023.

³⁴ Smith Bonnie G, 'Domestic Violence Overview' *The Oxford Encyclopedia of women in world history*, Oxford England New York: Oxford University Press (2008)

scope of the law. Indeed, in the case of violence against wives, there is a widespread belief that women provoke, can tolerate or even enjoy a certain level of violence from their spouses.³⁵

In recent decades, there has been a significant surge in the emergence of women's rights organizations and advocacy groups, as well as various sectors of society, all fervently calling for the criminalization of domestic violence. This global movement has been driven by a growing recognition of the grave impact of domestic violence on individuals and society as a whole, transcending geographic and cultural boundaries. In response to these impassioned pleas, many countries around the world have taken proactive measures by enacting legislation and implementing comprehensive frameworks to combat domestic violence. These efforts range from defining domestic violence as a criminal offense to establishing support services for victims, raising public awareness, and holding perpetrators accountable. The collective endeavor to criminalize domestic violence underscores the commitment to protect the fundamental rights and dignity of all individuals, irrespective of gender, and marks a pivotal step towards creating safer and more equitable societies worldwide.

2.3 LITERATURE REVIEW:

Available Literature on Domestic Violence Laws in Nigeria are quite numerous, but have in their own respective ways, contributed towards the thrashing of the issue of domestic violence in Nigeria. The endemic of domestic violence has no specific position in Nigerian literature as various writers have taken different stands on the actual expression of this phenomenon.

³⁵ United Nations Office on Drugs and Crime, 'Strategies for Confronting Domestic Violence: A Resource Manual' SBN 9789211301588. (1958).

While most have analyzed it from the point of view of Gender Violence (against women) others have analyzed it from a holistic point of view, (to include women, men and children, and then a few from the very unpopular view of the victimized male under the subject of domestic violence. However, the meeting point of all their takes is that domestic violence is an evil in society which must be consciously worked against.

Bakare et al³⁶ stated that domestic violence is the form of violence that occurs in a situation of intimate or family relationships. They further stated that females are usually victims of this form of violence. To them they define domestic violence as physical abuse, sexual abuse, emotional and verbal abuse between people who have at some time had an intimate or family relationship. The writer further stated that what constitutes abuse against women are influenced by the socio - cultural norms of a particular society. The Nigerian society is patterned along gender lines leading to a situation where men control women. As the dominant group, men have access to significant material resources, while women are cheapened as secondary and inferior. Men of different social classes and races can possibly use violence as a strong mode of subjecting women. Although there are several ways society reinforces female subjugation in social circumstances,³⁷ violence stands as the most conspicuous and functional means of control. They asserted that men as a group gain from how women's lives are inhibited and contained.

In their scholarly article titled "An Evaluation of Section 55 of the Penal Code in Northern Nigeria: Implications for Domestic Violence against Women and Children," Aladeitan and

³⁶ M. O, M D Asuqud, A O Agomoh, 'Domestic Violence and Nigeria Women- A Review of Present State' Nigeria Journal of Psychiatry Volume 8, No 2, April-June 20.

³⁷ The concept of women as property in marriage, and their nearly inexistent Inheritance rights in customary laws, to mention a few.

Ashade³⁸ critically examined the legal provisions outlined in Section 55 of the Penal Code, as applicable to the Northern region of Nigeria. This section of the code sanctions the use of physical chastisement by husbands upon their wives and fathers upon their children, under the premise of corrective action.

The authors expressed profound disapproval of this legal provision and meticulously deliberated upon the ramifications it engenders. Their scholarly discourse meticulously detailed the assertion that the authorization of such punitive measures by the Penal Code effectively constitutes an endorsement of domestic violence against women and children within the region. They underscored the urgent need for the elimination of this particular provision from the Penal Code, advocating for legal reforms aimed at safeguarding the rights and well-being of women and children in Northern Nigeria.

Azubike undertook a comprehensive exploration regarding the rights enshrined within Chapter IV of the 1999 Constitution of Nigeria, particularly those pertaining to the fundamental rights of liberty and human dignity.³⁹ He emphasized the intrinsic entitlement of every individual to be treated with due respect for the dignity inherent in their personhood. Notably, he posited that domestic violence is predominantly rooted in the prevailing patrilineal dominance deeply ingrained in Nigerian society.

He offered a critical analysis of the legal provisions contained within Section 55 of the Penal Code and the Criminal Code. He highlighted the troubling aspect of these statutes, pinpointing the disproportionate penalties they prescribe for unlawful and indecent assaults based on gender. Specifically, he highlighted the discrepancy where the Criminal Code imposes a 2-year

³⁸ O. Aladeitan and A. Ashade, "An Evaluation of Section 55 of the Penal Code in Northern Nigeria: Implications for Domestic Violence against Women and Children" *Abuja Law Journal* Vol. 4 (2012/2013)

³⁹ Uche Azubike, 'Addressing Domestic Violence in Nigeria' *University of Port Harcourt Law Journal* Volume 9 (2010)

imprisonment term for such assaults against females, whereas the penalty for similar offenses against males is set at 3 years. Azubike astutely connected this disparity to the underlying issue of gender bias, identifying it as a pivotal factor perpetuating domestic violence within the familial context. Azubike's scholarly inquiry delved into the disconcerting observation that while legal frameworks do exist, they either tacitly support domestic violence, as evident in the Penal Code, or are simply insufficient in addressing this grave concern. Consequently, he articulated a compelling argument for the imperative of bolstering the constitutional right to dignity, as articulated in Chapter IV of the constitution, through more robust and inclusive legislative measures. This stance underscores his belief in the necessity of additional legal instruments to effectively combat domestic violence and safeguard the rights and dignity of all individuals within the Nigerian society.

Fegbongbe's discourse delves into the jurisprudential aspects of Sharia law, particularly its stipulations regarding domestic violence. He discusses the inherent gender inequalities prevalent within this legal framework, wherein women are relegated to an inferior status relative to men.⁴⁰ Notably, the Sharia law permits men to enter into polygamous unions by marrying up to four wives, thereby granting them a certain degree of authority over women. Within this context, Fegbongbe sheds light on the vulnerability of women to spousal violence, considering their husbands as their masters. Furthermore, the discourse scrutinizes the Sharia law's treatment of women found guilty of adultery, revealing the stark contrast in punitive measures between the genders, how women often face inhumane consequences for their actions, whereas men evade similar punishment for the same transgressions.

⁴⁰ Ali Fegbongbe, 'Prevalence of Domestic Violence in Nigeria: Implications' African Journals (2012)

Ibezim engaged in a comprehensive discussion concerning the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) and its associated limitations, particularly its non-domestication within the framework of Nigerian law.⁴¹ The discourse pertained to how CEDAW encompasses provisions aimed at the eradication of domestic violence against women and underscored the imperative necessity for its incorporation into the domestic legal framework of Nigeria.

Additionally, Ibezim delved into the implications of Article 10 of the International Convention on Economic, Social, and Cultural Rights (ICESCR), emphasizing its role in safeguarding the rights of mothers during pregnancy and postpartum periods. Furthermore, the discourse accentuated the vital importance of domesticating these international legal instruments, thereby enabling their comprehensive implementation and ultimately contributing to the eradication of domestic violence, particularly concerning women and children.

Aloy Ojilere, Jorge Nkwoh, and Nnamdi Obiaraeri in their work “Domestic Violence Victimization in Nigeria: The Often-Ignored Perspective”⁴² sought to challenge the prevailing notion that women are exclusively the victims while men are the perpetrators. The paper asserts that men can also be victims of domestic violence perpetrated by women. In many jurisdictions, including Nigeria, domestic violence is commonly perceived as a problem where women are the victims and men are the perpetrators. They challenged this perception by presenting evidence that men can also be victims of domestic violence in a patriarchal society like Nigeria. Their work emphasizes that domestic violence is a gender-neutral issue, highlighting common

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⁴² Aloy Ojilere, Jorge Nkwoh, and Nnamdi Obiaraeri, “Domestic Violence Victimization in Nigeria: The Often Ignored Perspective” ResearchGate www.researchgate.com/domestic-violence-victimization-in-nigeria-the-often-ignored-perspective

instances and reasons for female-perpetrated domestic violence against men. The paper defines domestic violence as a pattern of abusive behavior within intimate relationships and asserts that it is not exclusive to either gender. It cites a study indicating that a significant percentage of Nigerian men have experienced different forms of domestic violence, including verbal, psychological, and sexual violence, perpetrated by women. They assert that while Nigeria lacks specific federal laws addressing domestic violence against men, the Violence against Persons (Prohibition) Act of 2015 contains gender-neutral provisions that can protect both men and women from domestic violence. This law challenges the traditional perception of domestic violence as solely a male-on-female issue.

Their paper argues that patterns of domestic violence against men resemble those against women, encompassing verbal, physical, and psychological abuse. It highlights specific forms of abuse, such as slapping, kicking, and sexual violence, where women are physically stronger than men. In extreme cases, men have been seriously injured or killed by their female partners. They suggested the reasons for violence against men include jealousy, sexual issues, infidelity, excessive financial pressure, and role reversals due to poverty. Finally, they believed that terminology change was a great step in putting an end to it. Advocating for the use of gender-neutral terms like "intimate partner violence" to eliminate gender bias in discussions of domestic violence.

Ezirigwe, in his work " Customary Law Perspective of Violence against Women; The Position Under the Nigeria Legal System" discussed the harmful cultural practices and laws that have been put in place to combat the practices and as well as the critics of these laws. He averred that

too many customs either support or ignore violent acts from men to their wives⁴³. He submitted that customs are dynamic, and change with time, and therefore engendered the society to take active steps towards criminalizing such behaviour.

Umobi and Ikpeze⁴⁴ conducted an insightful analysis regarding the pivotal roles played by the government, law enforcement agencies, and society in the endeavor to eradicate domestic violence. They emphasized that it is the government's responsibility to establish and enact legislation targeting domestic violence while also ensuring effective enforcement mechanisms. Additionally, they underscored the importance of revisiting existing laws to align them with contemporary standards.

The study emphasized the government's duty to create a secure environment and establish support institutions to aid victims of domestic violence. In addressing the issue of law enforcement, the authors called for a more proactive and empathetic approach by the police force, emphasizing the necessity of specialized training for handling domestic violence incidents reported to them. Furthermore, they highlighted the significance of societal involvement in combatting domestic violence. They recommended the establishment of a reporting platform, accessible in all states of the country, through which the community can report potential domestic violence cases. This initiative is particularly essential as existing laws often lack explicit definitions of domestic violence, and the associated sanctions may not be sufficiently stringent to deter such behavior.

CONCLUSION:

⁴³ O.A Ezirigwe, 'Customary Law Perspective of Violence against Women; The Position Under the Nigeria Leal System' ed. Epihany Azinze and Lilian uche 2012. Nigeria Institute of Advanced Legal Studies.

⁴⁴ Umobi Arinze and U. Ikpeze, 'Discriminatory Practices And Policies Inimical To Women's Right In Nigeria, Chukwuemeka Odumegwu Ojukwu University Journal of Commercial and Property Law Journal (COUJCPL). Volume 3, Number 1, 2020/2021.

The majority of existing literature addressing domestic violence in Nigeria tends to focus predominantly on the victimization of women and children. However, this research endeavors to offer a more comprehensive perspective on the complex issue of domestic violence. It seeks to encompass various dimensions of gender-related violence, including both females and males, and explores recent developments and legislative measures implemented to mitigate the scourge of domestic violence in Nigeria. Drawing insights from international jurisdictions, this study also delves into alternative strategies aimed at eradicating domestic violence entirely within the Nigerian context.

CHAPTER THREE

DOMESTIC VIOLENCE IN NIGERIA: CAUSES

3.0 INTRODUCTION

Whenever Roselyn disagreed with her husband, it would earn her a beating. For the eight years she lived with him, Roselyn was beaten more than 60 times. Sadly, her now 16-year old son witnessed several sessions of the ugly incident. With each scar, came a sting of pain in her heart that kept multiplying until she ran for her dear life. Even though she noticed signs of his aggressive nature before they got married, she thought it would be a one-time event. He slapped her once when they were courting but she waved it aside.

According to Roselyn, a French graduate, her ex-husband believed she shouldn't have a say in their marriage. It was an abomination to him. She felt discouraged at the life she was living. She needed to take permission from him, to visit her family otherwise he would beat her till she fainted. She was literally living in hell.

Filled with regrets at the turn of events in her life, Roselyn said she would have put two and two together, because he told her his father used to beat his mother a lot. While beating her, he tells her, 'my father used to beat my mother and she didn't die, if I beat you, you will not break, you are not an egg.'

During the nine months' duration of her pregnancy, the beating worsened. On one occasion, he threw a lit lantern at her, but luckily for her, she dodged and the settee in their sitting room almost caught fire.

At another time, he held a knife to her head. The horror she felt that day was better imagined as her whole life flashed before her eyes and she begged to stay alive for her son. His eyes were blood shot, and she didn't believe that she would survive that encounter.⁴⁵

This chapter will delve into the underlying factors that contribute to domestic violence and examine the far-reaching consequences they result into. By understanding the root causes and the

⁴⁵Kate Halim and Vera Wisdom-Bassey, Abused, battered, abandoned: Horrible stories of Nigerian women who survived violent, murderous spouse, The Sun Nigeria
<<http://sunnewsonline.com/horriblestoriesofnigerianwomenwhosurvivedviolentabuse>>Accessed 22nd September 2023.

ripple effects of such incidents, we can gain insights into how critical it is to address these issues effectively. The various expressions of domestic abuse, and how it affects each family member from their own perspective are the major scope of this study. Through this exploration, we aim to highlight the urgent need for comprehensive strategies to prevent domestic violence in our society to a reasonable extent.

3.1 BACKGROUND

The family is the primary institution through which every individual is socialized, and the general attitude and common belief is that regardless of type of family, (nuclear or extended), it is the haven of love, security, safety and tranquility⁴⁶. Everyone is first considered a member of a family before being recognized as a member of any other group or the society in general. Boys grow up to be men "like their fathers" and girls to be women "like their mothers"⁴⁷

The relationship between family and domestic violence is deeply intertwined, as domestic violence often occurs within the confines of familial relationships, such as intimate partnerships, parent-child relationships, or between siblings. This corrosive dynamic not only inflicts immediate harm on its victims but also has far-reaching consequences for society as a whole in the long run. Families shattered by domestic violence can perpetuate cycles of abuse, leading to intergenerational patterns of violence and trauma. The ripple effect extends beyond individual households, contributing to a broader societal fabric marred by increased healthcare costs, strain on social services, decreased workplace productivity, and a climate of fear and insecurity. Furthermore, the normalization of such violence perpetuates harmful gender norms and

undermines the foundation of healthy relationships, eroding the social cohesion essential for a thriving and equitable society. Addressing domestic violence is not only a moral imperative but also a crucial step toward fostering a safer, more harmonious, and resilient community. Thus, the causal factors of domestic violence will be properly addressed now.

3.2 CAUSES OF DOMESTIC VIOLENCE:

Domestic violence, a pervasive societal issue, results from a complex interplay of various factors. It often stems from power imbalances, including gender inequality and a history of abusive behavior. poverty can exacerbate tensions, while mental health issues may also contribute. Stressors such as financial problems can trigger violence, but ultimately, it is a grave violation of trust and respect within intimate relationships.

3.2.1 Violence in Family of Origin: This is often the most popular cause of domestic violence, because of its psychological aspect, affecting generations to generations and then becoming an unending vicious cycle. Male children unconsciously follow in the footsteps of their fathers. Men who come from abusive homes and who have watched their mothers being mercilessly beaten by their fathers have the tendency to do the same to their partners or wives. Ladies who have witnessed their domestic help being beaten by their mothers have a tendency to do the same to their domestic help later in life, while those who witnessed their mum get beaten over and over again might grow up scared of getting married because of the PTSD. This is usually referred to as the social learning theory. This theory postulates that people sub-consciously learn from others, by observing and modelling their behaviour.⁴⁸ It states that with positive reinforcements

⁴⁸ Murrell AR, Christoff KA, Henning KR (2007). Characteristics of Domestic Violence Offenders: Associations with Childhood exposure to Violence. J. Fam. Violence 22(7)

the behaviour continues. A US study of 1099 adult male perpetrators of domestic violence, found that most witnessed domestic violence as children.⁴⁹

3.3.2 Lack of Education: The level of education a person has achieved affects the way such person thinks and how they respond to certain situations in the family, for example it might show in how men react to being provoked, or how women react to being cautioned by their husbands. Some uneducated men usually have an attitude of inferiority complex and when they are wronged by their wives, their perception is that their honor has been put to the test so, inadvertently, they resort to beating their wives to prove that they are still men and the head of the home. Exposure, which is another form of education is also a big factor here, many men do not know so much about how the world works in other places. Their limited world view makes it nearly impossible for them to understand the effect of their actions.⁵⁰

3.2.3 Culture: The culture of a particular society affects their way of life to a large extent and this affects also, the manner in which women are treated and accorded respect in the family and community.⁵¹ Customary practices across Nigeria generally hold that the man is the head of the house and has the greatest control and decision-making powers⁵². Due to this fact, the woman is regarded as the property of the man and he is therefore entitled to discipline her as he sees fit. In fact in Northern Nigeria, the Penal code which is almost fully influenced by Islamic law, permits by law, a man to discipline his wife. Upon examination of Section 55 of the Penal Code Act, it

⁴⁹ Ibid

⁵⁰ Logan T, Walker R, Cole J, Ratliff S, Leukefeld C. Qualitative differences among rural and urban intimate violence victimization experiences and consequences: a pilot study. *J Fam Violence*. [2003;18:83–92]

⁵¹ Offiong E. E 'Society in Transition' The Encounter of Traditional Socio-Cultural and Religious Practices with Modernity in Calabar' *Lafia Journal of African Heritage Studies* (2016)

⁵² Mojekwu-Chikeaze N. M. "African Women Sentenced by Tradition: A.A Nuokebi and Company (2012)

becomes apparent that it is not an offense when a husband causes harm to his wife ‘with the intention of correcting her behavior’. This provision appears to grant men the freedom to engage in various forms of violence unhinged. The notion of subjugation of women is so entrenched that many people in Nigerian society tend to accept violence against a woman as justified.⁵³ So in order to assert this power and control, the victim is sexually, verbally, emotionally, or financially abused.⁵⁴

3.2.4 Poverty: Poverty is a state of being poor or having little money and other basic resources of life like shelter, food and clothing. Poverty causes educational disadvantage and gender discrimination and these potent factors could force people to engage in child marriage and domestic violence. A connection exists between poverty and mental health difficulties, such as stress, depression, and anxiety, which can serve as contributing factors to involvement in acts of domestic violence. Financial problem in a family has the effect of increasing the bitterness, stress, aggression, and hostility of either spouse. The pressures of low financial income often leads to domestic violence and abuse.⁵⁵

Traditionally and practically, in the Nigerian family system, the man or husband must cater and provide for the family,⁵⁶ and is often regarded as the breadwinner of the family. In many cases, where the husband is financially stranded and unable to discharge his duty as the family's breadwinner due to unemployment or financial problem, he eventually ends being violent, he starts perceiving it as a threat to his masculinity, leading him to seek an alternative means of

53 Adeyemo, O. O., & Bamidele, I. (2016). The Menace of Domestic Violence: Improving the Lives of Women in Nigeria. *African Journal of Legal Studies*, 9(3), 177-198. <https://doi.org/10.1163/17087384-12340007>

⁵⁴ Jewkes R. “Intimate Partner Violence: Causes and Prevention” <<http://dx.doi.org/10.1016/j.ajl.2013.09.001>> <accessed 22nd September 2023>.

⁵⁵ National Institute of Justice ‘Economic Distress and Intimate Partner Violence’ <<https://nij.ojp.gov/topics/articles/economic-distress-and-intimate-partner-violence>>

⁵⁶ Unity Awolowo, Facing the Problem We are Avoiding, *The Nigerian Tribune*, 2013

control, ultimately resorting to the use of physical violence. In cases where a wife holds the belief that her husband has a significant income or financial resources, yet perceives an insufficient provision for the family, it frequently culminates in a sequence of disputes and instances of physical abuse.⁵⁷

3.2.4 Religious Orientations: Nigeria is a very religious nation and on the basis of the scriptural message that wives should be submissive unto their husbands, many men have abused their wives either physically or verbally.⁵⁸ In fact, women in many cases believe it perfectly normal to be abused so, they believe that the man is the master of the home and she is only meant to be subservient to him.

3.3. FORMS OF DOMESTIC VIOLENCE AGAINST WOMEN

Across the globe, women constitute the most significant group affected by domestic violence. This stems from the inherent and evident physical and biological differences between women and men, which often lead to women being referred to as the 'more vulnerable gender'. The average Nigerian family is often patriarchal, that is, the man is often the sole provider of the family, and is often worshipped. The family operates as a form of kingdom in which the man is the king and the wife and children subjects and whatever he does within the privacy of the home

⁵⁷ IBID

⁵⁸ Ephesians 5:22-23

often escapes public scrutiny as it dwells in his jurisdiction to do however, he pleases with his family.⁵⁹

3.3.1 Physical Abuse:

Physical abuse can be defined as a maltreatment of a person which can result in harmful and adverse effects in respect of his or her physical health. Physical abuse may involve hitting, shaking, throwing, poisoning, drowning, suffocating, burning or scalding a person.⁶⁰

For centuries, women have been subjected to the whims and brutality of their husbands. Battering is the major cause of injury to women. It is more rampant than auto accidents, rapes or muggings.⁶¹ Findings have indicated that two thirds of the women in Nigeria are believed to have experienced physical, sexual or psychological harm in the family.⁶² Again, three out of every 10 women suffer domestic violence from family members.⁶³ Wife-battering is a gender-based violent act. It could be psychological or physical in nature. A man who batters his wife does so with the intention of controlling her and showing that he is superior to her. He does so by inflicting fear or pain on her. This act is common amongst men who still believe that they have the right to rule and control women. Though a man may have authority over his family as he is often regarded as the head of the family, some men have misinterpreted this, creating an avenue

59 Una Divac, Maurilio Felici, 'Gender Issues in Comparative Legal History' Springer Textbooks in Law (2021)

⁶⁰ Cheam Academies Network, 'Categories of Abuse' < <https://www.canschools.co.uk/937/categories-of-abuse#:~:text=Physical%20abuse%3A,induces%2C%20illness%20in%20a%20child.>> Accessed 8th October 2023

⁶¹ K. A.Oyediran, 'Explaining Trends and Patterns in Attitudes Towards Wife beating Amongst Women In Nigeria'

for abuse. These kinds of men beat their wives as often as possible in order to prove their superiority and make them subordinate to them.⁶⁴

A recent form of violence against women in Nigeria is the use of acids, which are corrosive chemicals usually used in laboratories and factories, and cause permanent disfigurement of the victims. Many cases of acid baths are a result of the refusal of the woman to renew, or at times submit to, a relationship with the perpetrator.⁶⁵

3.3.3 Sexual Abuse and Rape:

For many women and girls, sexual coercion and abuse are defining features of their lives. Forced sexual contact can take place at any time in a woman's life and includes a range of behaviours, from forcible rape to nonphysical forms of pressure that compel girls and women to engage in sex against their will. In such cases, a woman lacks choice and faces severe physical, social, or economic consequences if she resists sexual advances.⁶⁶ Studies indicate that much non-consensual sex takes place within consensual unions and includes a woman being compelled to have sex when she does not want it, or to engage in types of sexual activity that she finds degrading or humiliating.⁶⁷ Reasons why men rape women may include as a strategy of dealing with rejection; to entrench or express power and feeling superior to women; as revenge or as a manifestation of psychological problems.⁶⁸

3.3.4 Psychological and Emotional Abuse:

Psychological and emotional abuse could include neglect, lack of proper care, verbal insults and a situation whereby such victims are made to feel worthless and less confident of herself. Neglect could also extend to the stage of pregnancy whereby the woman is left alone to care for herself and her baby without the needed support. This type of abuse could escalate mental health problems and suicidal tendencies.⁶⁹

3.3.5 Traditional and Cultural Practices:

There are many cultural practices perpetrated against women which constitute a form of abuse to them. One of such forms of abuse is Female Genital Mutilation which comprises all procedures that involve partial or total removal of the female external genitalia and or injury to the female genital organs for cultural or any other non-therapeutic reasons. The procedure is typically performed on girls aged between four and thirteen, but in some cases, it is performed on new born infants or on young women before marriage or pregnancy. A number of girls and women die as a direct result of the procedure from blood loss or infection, either following the procedure or subsequently in childbirth. The operation is extremely bloody and painful, and performed without anesthesia. The immediate and long-term risks to health include; death due to hemorrhage, postoperative shock, septicemia, tetanus, human immunodeficiency virus infection; uterine and urinary infection; and infertility caused by endometriosis when the menstrual flow cannot escape.⁷⁰

⁷⁰ Buggio L, Facchin F, Chiappa L, Barbara G, Brambilla M, Vercellini P. Psychosexual Consequences of Female Genital Mutilation and the Impact of Reconstructive Surgery: A Narrative Review. Health Equity. 2019.

3.3.6 Spiritual Abuse:

This includes preventing a person from engaging in his/her spiritual or religious practices or using one's religious belief to manipulate, dominate or control him/her.

3.3.7 Economic abuse:

This includes stealing from or defrauding a loved one, withholding money for essential things like food and medical treatment, manipulating or exploiting a family member for financial gain, preventing a loved one from working or controlling his/her choice of occupation.

3.4 FORMS OF DOMESTIC VIOLENCE AGAINST MEN

This paper does not deny the menacing phenomenon of domestic violence against women. Rather, it argues that domestic violence is a human factor and that in some cases; men are the victims while women are the aggressors or perpetrators. It also posits that as a result of egocentrism prevalent in patriarchal Nigeria, most men would rather remain silent and not report domestic violence by their wives or partners in order not to be socially ridiculed as “weaklings” because *‘I was beaten by my wife’* is a derogatory misnomer.

The forms of domestic violence against men are not different from those against women. Usually, these violations may therefore be verbal, physical, emotional or psychological. In one study on domestic violence against men in Nigeria, Fayankinnu⁷¹ found that 84% of the men in the study, had suffered at least one act of domestic violence perpetrated by women, and that out of this number, 76% suffered verbal violence, 61% suffered psychological violence while 59% suffered sexual violence. Common forms of domestic violence against Nigerian men include

⁷¹ Fayankinnu Emmanuel Abiyodun, Gender Based violence in Akungba-Akoko of Southern Nigeria, the Nigerian Journal of Sociology and Anthropology 2007.

slapping, kicking, nail scratching, biting, punching, especially when the woman is physically stronger than the man. Other violations include sex deprivation, food starvation and abandonment on sickbed. Recent findings also reveal that in extreme cases, some men have been severely assaulted, poisoned, bathed with acid or even stabbed or hacked to death by their wives or intimate partners.⁷²

Men in the global north countries are not spared of these forms of domestic violence or murder. Hughes⁷³ cited a 7th January 1999 Dispatches programme broadcast in the UK, which reported the experiences of 100 male victims of domestic violence committed by women, and found that 30% had been attacked while asleep; 25% had been kicked in the genitals; 25% of the male victims had themselves been arrested after seeking police help, and 89% felt that the police had not taken their complaints seriously. Only 7% of the female assailants had been arrested and none was subsequently charged.

The victimhood of males in the Nigerian society, is less apparent, this is because it is often assumed for example that a man seen with a black eye or bruises, got them from a fight with another man, or was in an accident. Even when they try to report, these victims are sometimes left astonished when no one believes them.⁷⁴

3.5 FORMS OF DOMESTIC VIOLENCE AGAINST CHILDREN

Violence against children takes many forms. It can be physical, emotional or sexual. It happens in all countries and in any setting – in a child's home, community, school and online.

⁷² Aloy Ojitere, Domestic Violence in Nigeria: The Often Ignored Perspective, Research Gate, <<https://www.researchgate.net/publication/349732436>> Accessed 23rd September 2023.

⁷³ John Hughes, International Journal for Intersectional Feminist Studies, Volume 5, Issue 1-2, November 2019, ISSN 2463-2945

⁷⁴ Hidden Hurt "Male Victims of Domestic Violence" <www.hiddenhurt.com.uk/male-victimsofdomesticviolence.html> Accessed 28th of September 2023.

3.5.1 Physical Abuse: In some parts of the world, violent discipline is socially accepted and common. And for many girls and boys, violence comes at the hands of the people they trust – their parents or caregivers, teachers, peers and neighbors. This is especially so in Africa where; the predominant cultural belief is that children must be submissive to elders in the family and society. It has generally become socially permissible for parents to inflict any level of discipline they deem necessary, to correct their children. So, in several cases, parents have been found to abuse this seeming right to discipline their own children, going further to inflict more damage than is averagely necessary. Just last year, a father was reported to have beaten his 11-year-old daughter to death for disobeying him. Although initially denying the reports and claiming she had underlying health problems which led to her death, however upon examination by doctors it was revealed that she had suffered major trauma to her head and died as a result of the loss of blood that followed.⁷⁵

Also, mere exposure to traumatic experiences such as violence between parents amount to domestic abuse of children as it affects them psychologically.

3.5.2 Sexual Abuse:

It is no news that adolescents and even children suffer sexual abuse from not just close relatives but even parents. Instances exist where only one parent is in the know of the ongoing abuse, and threatens the child not to say anything to anyone, however instances also exist where both parents are actively involved in the abuse. It can manifest in forms of rape, molestation,

unwanted touch, exposing children to watch sex or masturbation etc. Sexual abuse can be perpetuated by anyone in the family, from uncles, to aunties, fathers, mothers and even siblings. According to a report 1 in 4 girls and 1 in 10 boys are sexually abused before their 18th birthday⁷⁶. Being Children, they are often scared, and do nothing about the situation. In fact, they are often threatened by the violators not to say a word of it to anyone.

3.5.3 Verbal Abuse:

Verbal abuse directed towards children is one of the most prevalent manifestations of domestic child abuse, given its widespread presence in numerous households. Instances occur where parents begin to use negative statements, demeaning language, and engage in general maltreatment, which can result in the neglect of infants, children, and adolescents. This form of abuse not only leaves lasting emotional scars but can also hinder a child's healthy development, affecting their self-esteem, mental well-being, and overall quality of life. It is crucial for society to recognize the seriousness of verbal abuse and take steps to prevent and address it, ensuring that children grow up in safe and nurturing environments.

3.5.4 Emotional Abuse: Emotional or psychological violence includes restricting a child's movements, denigration, ridicule, threats and intimidation, discrimination, rejection and other non-physical forms of hostile treatment. Children also often suffer emotional abuse from actions of their parents such as withholding affection, excessive control over every move of a child, experiencing violence between parents, constant criticism, etc. These factors contribute to the emotional distress experienced by children, particularly because parents may be unaware that

their behavior constitutes abuse, and the children may lack the coping mechanisms to deal with the psychological impact.

3.6 IMPACT OF DOMESTIC VIOLENCE ON VICTIMS

The impact of domestic violence is often so damning and far-reaching. It's a deeply troubling and pervasive issue that affects individuals and families across the globe. This insidious form of abuse, characterized by physical, emotional, or psychological harm inflicted by one family member upon another, has far-reaching consequences that extend well beyond its immediate victims. The impact of domestic violence is both profound and multifaceted, touching upon not only the physical and emotional well-being of those directly involved but also on the broader social fabric and community health, therefore the impact of domestic violence will be discussed from two ambits thus:

Physical Trauma: Victims of domestic violence (whether children or adults) may suffer physical injuries such as minor cuts, scratches and bruises. Others may be more serious and cause lasting disabilities such as broken bones, internal bleeding and head trauma, among others. This is usually the direct results of physical violence in any form. In recent years there have been too many reports and cases where domestic violence in various families results in the death of a husband or wife.

The death of popular Nigerian Gospel Artiste Osinachi,⁷⁷ was a shocking revelation to the public. The 42-year-old was initially stated to have purportedly died after suffering from “an undisclosed illness” at a hospital in Abuja, by her husband and manager, Peter Nwachukwu, who

⁷⁷ Emmanuel Akinwotu 'Nigerian Gospel Singer's Death Puts Divorce Beliefs in Spotlight' The Guardian, <https://amp.theguardian.com/world/2022/may/05/nigerian-gospel-singers-death-puts-divorce-beliefs-in-spotlight> Accessed October 2nd 2023.

is also a pastor. However, in the days that followed, the truth was uncovered as family members and friends alleged that she had died from injuries sustained from domestic abuse.

It was later revealed by her children who were previously sworn to secrecy by their father that indeed the deceased artiste had suffered constant violence at the hands of their father. According to them, she had been receiving medical treatment for several weeks before her death. It was also alleged that on one occasion doctors found clusters of blood around her chest that were a result of being struck.

Another popular case of domestic violence leading to death is the death of the son a former Chairman of the People's Democratic Party, Bilyamin Bello.⁷⁸

Bilyamin, was allegedly stabbed to death by his wife, Maryam Sanda. According to reports, she stabbed her husband in the neck and chest while he slept in the bedroom at their home in Maitama, Abuja, after suspecting him of infidelity.

It was later revealed that instances of violence were not a new matter in their home, as Bilyamin had previously reported on several occasions to family friends of her frequent violent disposition.

Cases abound where domestic violence has resulted in the eventual death of the victim, in fact many times it is not a premeditated result, but that does not strip it of its evil nature.

Psychological Trauma: The psychological aspect of domestic violence is often ignored; however, this part is very critical in domestic violence conversations. Children are often principal victims of domestic violence. Witnessing abuse and living in an environment where someone else, usually a care giver is a victim of abuse, can be psychologically devastating for a

child. Straus⁷⁹ reports that children who are hit by parents have higher rates of depression than those whose parents disciplined in other ways and are more likely to think about suicides. Some researchers have also found that children whose mothers were abused by their partners have intelligence quotients (IQs) lower than usual.⁸⁰ Violent punishments such as corporal punishment have been found to lead to delinquency in adolescent and subsequently violent crimes. Domestic Violence has been described as a threat to adolescents. The adolescent can become socialized into violent behavior, leading to confusion and anger. This anger may be directed towards either parents or peers, resulting in increased aggression and disruptive behavior both at home and school. Additionally, they may withdraw from social interactions, isolating themselves and exhibiting academic underachievement.⁸¹

Exposures to traumatic events (by victims) can lead to stress, fear and isolation, which, in turn, may lead to depression and suicidal behaviour, therefore victims of domestic violence experience serious psychological trauma. One serious health issue related to abuse is traumatic brain injuries (TBI). Some injuries are not physical but emotional. Victims often have low self-esteem, finding it difficult to trust others. The anger and stress experienced by victims may lead to depression and other emotional disorders sometimes leading to suicide. Victims may also exhibit harmful health behaviour like excessive smoking, alcohol abuse, use of drugs and engaging in risky sexual activity. An abused child, for instance, may grow up not to trust other people, may go into relationships with an aggressive mode or may become withdrawn, afraid to go into intimate relationship. This usually results in involvement in risky sexual behaviour. Being raised in an

⁸⁰ BBC News Education (2003) 'Violence At Home Hits Children's IQ
<http://news.bbc.co.uk/1/hi/education/2981312.stm> Accessed 11th September 2023.

abusive environment can desensitize a person to the disturbing spectacle of someone being subjected to physical harm or brutality. It can lead young individuals to find enjoyment and excitement in engaging in criminal activities on behalf of unscrupulous politicians. Ultimately, domestic violence contributes to the emergence of a more violent society, as it reinforces the notion that one's upbringing significantly influences their behavior, since 'charity begins at home'.

3.7 CONCLUSION

The multitude of factors contributing to domestic violence in Nigeria often stems from deeply entrenched cultural practices and beliefs. The significant harm it inflicts underscores the urgency of taking proactive measures to tackle these underlying causes, thereby preventing the adverse outcomes. Marriage should ideally be a source of happiness and mutual enjoyment for both partners. It is not meant to be a punishment; neither should it be a lion's den nor a death sentence to a spouse, as in the case of Nwachukwu Osinachi's death linked to domestic violence. In this regard, the next chapter properly articulates the existing laws in Nigeria which govern domestic violence and brings to light, the gaps in our laws.

CHAPTER FOUR

EXISTING LEGAL FRAMEWORK ON DOMESTIC VIOLENCE IN NIGERIA AND OTHER JURISDICTIONS

4.0 INTRODUCTION:

This chapter is dedicated to a rigorous examination of the presence and positioning of legal instruments within the context of domestic violence in Nigeria, both at the national and state levels. Additionally, it will explore legislative approaches and strategies employed to address domestic violence in other select jurisdictions. Subsequently, a comparative analysis of these legislative frameworks will be presented.

4.1 NATIONAL LEGISLATION:

Acts of the legislature of Nigeria which in one way or another deal directly or indirectly with the issue of domestic violence ARE subsequently discussed.

4.1.1 The Constitution of the Federal Republic of Nigeria (CFRN) 1999 (as amended):

The government, in its obligation to safeguard and ensure the fundamental rights of its citizens as delineated in Chapter IV of the Constitution of the Federal Republic of Nigeria⁸² and firmly established under the jus cogens principle governing our international legal obligations in line with the foreign policy objectives of the constitution which is to protect fundamental values of the international community, are hierarchically superior to other rules of international law and are universally applicable.⁸³ Under Chapter IV⁸⁴ of the Constitution of the Federal Republic of Nigeria, there are eleven fundamental rights guaranteed therein. These rights according to sectional provisions include:

- Section 33 - Right to life
- Section 34 - Right to dignity of the human person
- Section 35 - Right to personal liberty
- Section 36 - Right to fair hearing
- Section 37 - Right to private and family life
- Section 38 - Right to freedom of thought, conscience and religion
- Section 39 - Right to freedom of expression and the press
- Section 40 - Right to peaceful assembly
- Section 41 - Right to freedom of movement
- Section 42 - Right to freedom from discrimination
- Section 43 - Right to acquire immovable property anywhere in Nigeria.

The elaborate and concise listing of these rights has been reinforced by the provisions of sections 13 and 14 which set out the fundamental obligations of government to the Nigerian people. The

⁸² Constitution of the Federal Republic of Nigeria [Nigeria], Act No. 24, 5 May 1999

⁸³

⁸⁴ Ibid

courts of Nigeria have upheld these rights where the Supreme Courts Per Kayode Eso in the case of *Ransome Kuti v .A.F.G*⁸⁵ described the nature of fundamental human rights as "A right that transcends the laws of this nation and, in reality, predates the very formation of the political society; it represents the fundamental prerequisite for a civilized existence."

Section 14(2)(b) states that "the security and welfare of the people shall be the primary purpose of government."⁸⁶ In general therefore, government programmes, policies, strategies and legislation must be such that enhance the security and welfare of Nigerians by safeguarding the fundamental rights of Nigerians both in private and in public.

Domestic violence constitutes a human rights concern, and the Nigerian Constitution prohibits the infringement upon an individual's fundamental human rights.⁸⁷ Consequently, infringements upon rights such as the right to life, human dignity, personal liberty, and privacy are identical to the rights violated in instances of domestic violence. Section 34(1)(a) of the Constitution⁸⁸ especially provides that every person is entitled to respect for the dignity of his person and accordingly no person shall be subjected to torture or to inhuman or degrading treatment. Regardless of the fact it does not specifically mention the topic of domestic violence, the above is the Constitution's own way of dealing with domestic violence.

4.1.2 THE CRIMINAL CODE:

The Nigerian Criminal Code Act⁸⁹ is an act of the National Assembly. The Criminal Code Act was promulgated as a Criminal Code Law (for states comprising the old Western Region and Eastern Region of Nigeria) and the Penal Code Law (for states comprising the old Northern

⁸⁵ *Ransome Kuti v A.G Federation* (1985) NWLR (Pt. 6) 211

⁸⁶ Constitution of the Federal Republic of Nigeria [Nigeria], Act No. 24, 5 May 1999

⁸⁷ Section 33-43 Constitution of the Federal Republic of

⁸⁹ Criminal Code Act, Cap C38, Laws of the Federation of Nigeria

Region of Nigeria). The provisions of these state laws and the federal Criminal Code Act are very similar.

Given the absence of a dedicated national law addressing domestic abuse in Nigeria, many victims seek protection under the general provisions of the Criminal Code, specifically those concerning assault. Under the purview of the Criminal Code, all forms of violence against individuals, regardless of their category, are proscribed, as long as they fall within the definition of assault as outlined in sections 252 and 253 of the Criminal Code. Section 252 Criminal Code provides thus:

*“that any individual who intentionally strikes, touches, or applies force to another person without their consent, whether obtained by deception or by any physical act or gesture, or who attempts or threatens to use such force without consent, provided they have the present ability to do so, commits an act of assault.”*⁹⁰

It is important to note that, in common usage, the term "assault" in this context also encompasses the concept of assault and battery, as defined in section 252.⁹¹

One crucial feature of the Criminal Code is gender neutrality, allowing any person to avail themselves of its protection. The Criminal Code Act delineates penalties for assault under sections 351, 353, and 355, categorizing unlawful assault as a misdemeanor punishable by up to one year of imprisonment, and unlawful and indecent assault as a felony, carrying a potential sentence of three years of imprisonment.

While the Criminal Code tangentially addresses aspects of domestic violence, it does not specifically address this issue, and the remedies it offers are often deemed inadequate. Moreover,

⁹⁰ Ibid

⁹¹ Ibid

the Code does provide defenses against charges of assault, such as the concept of provocation, which permits a person to claim provocation if their self-control is genuinely compromised by the provoking circumstance, leading them to act suddenly and before their passions have cooled. At common law, the plea of provocation arises only in cases of homicide. However, in Nigeria provocation maybe a valid defense to a charge of assault.⁹² The Criminal Code captures other forms of violence against persons like economic neglect and strictly prohibits and holds the head of the family to the duty of providing necessities for the children.⁹³ It explicitly states that the head of a family with a child under the age of 14 years residing in their household is obligated to supply the essential requirements for the child's well-being. Furthermore, they can be held responsible for any adverse outcomes to the child's health or life due to a failure to fulfill this duty. The Criminal code also makes provisions for unlawful grievous bodily harm done to another, by this provision, anyone who causes harm to another to a dangerous extent would be liable to imprisonment for seven (7) years. The act of maliciously administering poison with intent to harm is an example of grievous harm. Another aspect of domestic violence captured by the Code is that which concerns abandonment of children. The Code makes it abundantly explicit that, "a person who unlawfully abandons or exposes a child under the age of seven years, in such a manner that any grievous harm is likely to be done to such a child is guilty of a felony punishable with 5 years imprisonment."⁹⁴

The Criminal Code has copies provision on sexual assault most especially rape against women. The act of rape is contained in the Criminal Code' as it provides that: Any person who assaults another with intent to have carnal knowledge of him or her against the order of nature is guilty of

⁹² Note however that, for a plea of provocation to be sustained, the force used must be proportionate to the provocation.

⁹³ Section 301 Criminal Code Act, Cap C38, Laws of the Federation of Nigeria

⁹⁴ Section 302 Criminal Code Act, Cap C38, Laws of the Federation of Nigeria

a felony and is liable to 14 years.⁹⁵ This provision deals with sexual offences in unnatural manner. However, with regards to rape, being the most degrading of assault and most common and serious kind of sexual assault, is punishable under the Criminal Code with imprisonment for life with or without caning.

However, under the Criminal Code, a husband cannot be guilty of the offence of rape against his wife because under common law, which gave rise to the Criminal Code there is mutual consent and a contract between a man and his lawful wife. In its second and third periodic reports to CEDAW⁹⁶, Nigeria stated:

*“In a traditional setting, spousal rape is inconceivable. Under Nigerian Laws in both section 357 of the Criminal Code and section 282 of the Penal Code, a husband cannot be charged with marital rape. Once the marriage is subsisting and the wife has attained puberty then any sexual intercourse with her is never rape.”*⁹⁷

Lastly, an offence of indecent assaults on females is a punishable offence under the Criminal Code for a term of two years under section 260,⁹⁸ if however, the complainant is under the age of sixteen (16) years (13 outside Lagos) the charge may properly be laid under section 222.⁹⁹

In conclusion, one can discern, based on this preceding analysis of the Criminal Code's provisions, that while it constitutes a commendable legislative effort to address domestic

⁹⁵ Section 352 Criminal Code Act, Cap C38, Laws of the Federation of Nigeria

⁹⁶ Convention on the Elimination of All Forms of Discrimination Against Women, (CEDAW) an international legal instrument that requires countries to eliminate discrimination against women and girls in all areas and promotes women's and girls' equal rights.

⁹⁷ "Gender-based violence laws in sub-saharan Africa" p. 21; Branda, F (2008) Project on a Mechanism to Address Laws that Discriminate Against Women" commissioned by the OHCHR. p. 87

⁹⁸ Criminal Code Act, Cap C38, Laws of the Federation of Nigeria

⁹⁹ Which discusses the indecent treatment of girls under the age of sixteen.

violence, it proves inadequate in addressing other facets of domestic violence. Furthermore, it undermines its own efficacy through certain provisions such as the provision for the defense of provocation, which may be claimed by an aggressor in cases of domestic violence and there for detract from the overall effectiveness of the legislation.

4.1.3 THE PENAL CODE:

The Penal Code¹⁰⁰ is the equivalent of the criminal code in the Northern part of Nigeria. The Penal code is greatly influenced by Islamic Law so it differs in several ways from the Criminal Code. Section 282 of the Penal Code provides for the offence of rape and prescribes a punishment of life imprisonment to a person convicted of the offence.¹⁰¹ A very conspicuous feature of the code noticeable on a first reading is that this provision does not extend to married women if the act is carried out by the husband. According to the code, sexual intercourse by a man with his wife can never amount to rape if she has attained puberty.¹⁰² This makes it quite clear that the Penal Code condones and ignores marital rape as well as defilement of young girls under the age of sixteen (16). Also, the age of puberty is not outlined so any girl who for instance has commenced her menstrual period is deemed to have attained puberty. Consequently, the act acknowledges that there are instances where children are married off before that age of puberty, the girl children given out in marriages are sexually assaulted without their consent and without redress from the society or the law.

Furthermore, Section 55 of the same Code" provides that the infliction of grievous hurt is not an offence if carried out by a husband on the wife for the purposes of correction if they are married under customary law and such customary law permits such.

¹⁰⁰ The Penal Code Act. (2004) Federal Republic of Nigeria, CAP 53 LFN.

¹⁰¹ Ibid

¹⁰² Section 282 (2) Penal Code Act.(2004) Federal Republic of Nigeria, CAP 53 LFN

4.2.4 THE MATRIMONIAL CAUSES ACT:

Divorce is one of the major solutions to the menace of resolving domestic violence, as it helps separate victims from their abuser legally. The major laws guiding the divorce process in Nigeria are the Matrimonial Causes Act ¹⁰³ and Matrimonial Causes Rules.¹⁰⁴

In accordance with the provisions of the MCA, there is only one ground upon which a court is actually entitled to dissolve a marriage, which is that the marriage has broken down irretrievably. Nevertheless, there are eight various species of breakdowns and one of them reads “where the respondent has behaved in such a manner that the petitioner cannot reasonably be expected to live with the respondent”¹⁰⁵ In addition Section 16 of the Matrimonial Causes Act, goes ahead to point out circumstances, facts which if proven, will constitute the fact that the respondent has behaved in a way that the petitioner cannot be reasonably be expected to live with the respondent, they include rape, sodomy, attempted murder, or infliction of grievous bodily harm, etc.

Therefore, victims of domestic violence can on the strength of this provision ask the courts for a dissolution of the marriage, where they have been abused in one way or the other, in order to avoid repeat shows in the future.

4.1.5 CHILD’S RIGHT ACT 2003

The Child Rights Act¹⁰⁶ has undertaken comprehensive efforts in its ‘Parts III, IV, V, and VI’ to address various forms of violence against children, encompassing physical, sexual,

¹⁰³ Matrimonial Causes Act (MCA) LFN 1990

¹⁰⁴ Matrimonial Causes Rules LFN 2002

¹⁰⁵ Section 15 (2) (c) Matrimonial Causes Act

¹⁰⁶ Child Rights Act No. 26 of 2003

psychological, emotional violence, injuries, or abuse.¹⁰⁷ This inclusive approach extends to situations of violence occurring within the family, home, school, neighborhood, workplace, street, and the community at large. Sections 50-52 of the CRA 2003 establishes safeguards for children in need of care and protection, as well as protection against physical or moral peril.¹⁰⁸ These provisions empower individuals such as child development officers, police officers, and duly authorized persons to bring children in need of care and protection before a court for corrective measures. This power is exercised when there exist reasonable grounds to believe that a child is orphaned, abandoned by their relatives, subjected to neglect, ill-treatment, or abuse by their parent, guardian, or custodian.¹⁰⁹ It also applies when a child is discovered in a state of destitution, wandering, homeless, or with a surviving parent undergoing imprisonment, experiencing mental disorders, or facing severe disabilities.¹¹⁰ Moreover, it is invoked when a child is found in the company of a reputed or common thief or prostitute, or otherwise exposed to conditions beyond parental control or moral and physical danger.¹¹¹

4.2 STATE LAWS:

Here, Acts of State Legislature in states such as F.C.T, Lagos, Ekiti, Ebonyi and Jigawa which protect against domestic violence are discussed.

4.2.1 VIOLENCE AGAINST PERSONS PROHIBITION ACT 2015

¹⁰⁷ Section 13,14,16,18 Child Rights Act No.26 of 2003

¹⁰⁸ Section 51 Child's Right Act 2003

¹⁰⁹ Section 17 Child Rights Act No. 26 of 2003

¹¹⁰ Ibid

¹¹¹ Section 317 Child Rights Act No. 26 of 2003

The Violence Against Persons (Prohibition) Act¹¹² came into force on May 25th, 2015 after ten years in the legislative process. The introductory paragraph to this act states that it was enacted ‘to prohibit violence in private and public life, whilst providing protection and remedies for victims of violence’. It is an integration of different bills which sought to abolish all obsolete laws relating to such matters as rape, assault, and other forms of violent crimes including domestic violence, with the aim to eliminate violence in private and public life, by providing maximum protection and effective remedies for victims and punishments for offenders. It is however only applicable in Abuja and some states.¹¹³ It is often regarded as the most appropriate legislation on domestic violence in Nigeria. Section 19 (1) of the Act provides that:

“ a person who batters his or her spouse, commits an offence and is liable on conviction to a term of imprisonment not exceeding 3 years or to a fine not exceeding #200,000.00 or both”

Also, subsection 2 provides that

“a person who attempts to commit the act of violence provided for in subsection (1) of this section commits an offence and is liable on conviction to a term of imprisonment not exceeding 1 year or to a fine not exceeding #100,000.00 or both”

Furthermore, a person who incites, aids, abets, or counsels another person to commit the act of violence as provided for in subsection (1) of this section commits an offence and is liable on conviction to a term of imprisonment not exceeding 1 year or to a fine not exceeding

¹¹²

¹¹³ Anambra, Bauchi, Enugu, Kaduna and Oyo states have also passed it into their law.

#200,000.00 or both. Under the VAPP Act, forcefully ejecting a spouse from the home and refusing him/her access is an offence, also section 12(1) criminalizes forced financial dependence or economic abuse. This means forced financial dependence; denial of inheritance or succession rights, the unreasonable deprivation of economic or financial resources to which any person is entitled or which any person requires out of necessity, including household necessities, mortgage bond repayments or payment of rent in respect of a shared residence; the unreasonable disposal or destruction of household effects or other property in which any person has an interest. Section 19 punishes spousal battery.¹¹⁴ Also worthy of note is the prohibition of female genital mutilation and circumcision which is considered customary in certain parts of the country. Under section 48 anyone who indulges in such practice is punishable upon conviction with a term of imprisonment of not more than five years or an option of fine of not more than #100,000 (One Hundred Thousand Naira) or both,¹¹⁵ while inciting, aiding or counseling to carry out the above attracts two years imprisonment or a fine of not more than #50,000 (Fifty Thousand Naira) or both.¹¹⁶

Another beautiful initiative of the Act is seen in its provision for the compensation of victims and protection of their rights. The Act provides that "victims of violence, have their rights protected under the Act," they are also entitled to compensation for harm done to them or to family members or for any loss incurred as a result of the violence by the perpetrators.¹¹⁷ Part 14¹¹⁸ of the Act makes provision for the establishment of a special trust fund for the victims. The fund is

¹¹⁴ A three-year sentence or Fine of 200,000 or both.

¹¹⁵ The Violence Against Persons (Prohibition) Act 2015

¹¹⁶ Section 48 Violence Against Person (Prohibition Act) 2015

¹¹⁷ Section 41 Violence Against Person (Prohibition Act) 2015

¹¹⁸ Section 23 Violence Against Person (Prohibition Act) 2015

to provide all forms of needed assistance to victims of violence in terms of legal fees, shelter, rehabilitation etc.

Section 45 (2) also went further to say that:

‘The provision of the law shall supersede any other provision on similar offenses in criminal code and penal code, criminal procedure code, and any other law or regulation’.

4.2.2 LAGOS STATE PROTECTION AGAINST DOMESTIC VIOLENCE LAW 2007

The domestic violence law of Lagos is also quite detailed and encompassing because it addresses any victim of domestic violence be it women, men, or children, and also it caters to both married couples and unmarried. Section 1 of the Law provides that:¹¹⁹

‘As from the commencement of the act no person shall commit any act of domestic violence against any person. The Law also extensively in section 18(1),(j) provides an elaborate definition of domestic violence to include:

Abuse, sexual abuse, exploitation not limited to rape, incest, sexual assault, starvation, emotional, verbal, physiological abuse, repeated insults, ridicule, name-calling, repeat threat to cause emotional pain, or repeated exhibition of jealousy, which constitute a serious invasion of complainant privacy, liberty or security.

119 Lagos State Protection against Domestic Violence Law 2007

It also empowers a victim of abuse to seek for a protection order in the High Court or Magistrate Court. This can be filed by the complainant or any person with his consent who has an interest in the well-being of the complainant including a counselor, health services provider, member of the Nigerian Police force, social worker, organization, or teacher.

Section 2 of the law also provides that:

‘Other person may apply without the complainant's consent where the complainant is a minor, mentally retarded, unconscious, incapable to consent for fear of refusal or a person whom the court is satisfied is unable to provide the required consent’.

By the provision of section 2 (5)

Application for domestic violence will be filed along with an affidavit and be submitted to a court registrar who must within 72 hours submit the same to the court. However, where the complainant may suffer hardship if the application is not dealt with immediately, it has to be brought to a judge in the chamber.

After the application has been lodged with the court registrar, the court will issue an interim order of protection against the respondent pending when he will show cause on the next adjourned date. The law also provides a police officer has a duty to assist victims at the scene of Domestic violence Section 3 provides thus:

‘Notwithstanding the provision of any other law, the application may be brought on behalf of the complainant by any other person; including a counselor, health

service provider, member of the Nigeria police force, social worker, organization, or teacher, who has an interest in the well-being of the complainant except in circumstances where the complainant is a minor, mentally retarded, unconscious, incapable to consent for fear of refusal or a person; whom the court is satisfied unable to provide the required consent.”

4.2.3 CROSS RIVER STATE DOMESTIC VIOLENCE AND MALTREATMENT OF WIDOWS (PROHIBITION) LAW 2004

The Cross-River State Law has two significant limitations. It criminalizes domestic violence by providing that "any person who subjects any woman to any form of unwholesome treatment or domestic violence commits an offence" punishable by imprisonment or a fine. Effectively, the law limits its operation to domestic violence against women. However, women are the major victims of domestic violence, domestic violence by its very nature, should not be limited to just women. The law can also be challenged as discriminatory. The law also provides for a restricted definition of domestic violence to cover only "any abusive use of physical force or energy to cause damage or injury to a woman at home, in the house or any other place.

4.2.4 DOMESTIC VIOLENCE AND OTHER RELATED MATTERS OF JIGAWA STATE 2006:

This state legislation in defining domestic violence took into deep consideration the interest of the affected persons, that is, the victims. This is why the definition of domestic violence in section 280 covers the various forms of domestic violence as it provides an exhaustive list of acts which may constitutes domestic violence. For instance, uttering or conveying a threat, or causing

a complainant to receive a threat, which includes fear and anxiety, are all forms of domestic violence under the Law.¹²⁰

The Act also provides for an interim protection order which will be issued in favour of the victim prohibiting the respondent from performing a subsequent act of domestic violence.¹²¹ Despite the strides this act took in the broad and almost exhaustive definition of domestic violence, it failed to provide punishment for offenders.

4.2.5 EBONYI STATE DOMESTIC VIOLENCE AND RELATED MATTERS LAW 2005

Ebonyi State adopted the same approach of criminalizing domestic violence as its Cross-River counterpart. However; it dealt with domestic violence committed between persons in "domestic relationships" defined as "marital, or familial relationship" between the victim and the respondent. Unlike the case in the Cross-River State law, "domestic violence" is defined to include physical attack or abuse including verbal attack capable of causing emotional and psychological pain.

The law also establishes elaborate civil procedure for dealing with instances of domestic violence. It empowers any person who is the subject of domestic violence to apply to a Magistrate court for a protection order¹²². Under Section 52, any police officer or social worker that is at the scene of the violence or learns about the incidence is obliged to assist the victim by using reasonable force to rescue the victim, making arrangement for the victim to find suitable

¹²⁰ Section 21 Domestic Violence and Other Related Matters of Jigawa State 2006

¹²¹ Section 38 Domestic Violence and Other Related Matters of Jigawa State 2006

¹²² Section 48 Ebonyi State Domestic Violence and Related Matters Law 2005

accommodation, directing the victim to obtain medical treatment and arresting the offender.¹²³

In cases of repeated incidence of domestic violence against a particular victim, or if undue hardship may be suffered by victim if a protection order is not made, the court will, on application by the victim, notwithstanding that the respondent is not served notice of proceedings, issue a protection order against the respondent on such terms and condition as it deems appropriate.

On the return date of the application for a protection order or if the respondent is brought to court on the execution of a warrant of arrest, the court will hear all relevant evidence. If satisfied that adequate case has been made, under section 9(1) the court will make a protection order. The order will restrain or prohibit the respondent from committing any further act of domestic violence against or even coming around the applicant.

4.2.6 EKITI STATE GENDER-BASED VIOLENCE (PROHIBITION) LAW 2011

The Ekiti State Gender-Based Violence Law¹²⁴ is a hybrid between the Lagos State Law and the bill passed by the National Assembly. "Gender-based violence" is defined as:

Violence that affects a group of persons disproportionately because of their sex; any act that inflicts physical, mental or sexual harm or suffering; threats of such acts, coercion and other deprivation of liberty; all acts of violence which impair or nullify the enjoyment of human rights and fundamental freedoms under general international law or under human rights conventions as discrimination.

¹²³ Ebonyi State Domestic Violence and Related Matters law 2005

¹²⁴ The Ekiti State Gender-Based Violence (Prohibition) Law 2011

Section 2(b)8 provides a list of acts regarded as gender-based violence ranging from physical abuse to rape, sexual assault and violence against women. Section 10 also prohibits any person from ejecting their spouse from their matrimonial home. Section 386 prohibits all forms of gender-based violence which also constitutes an offence punishable with fine or imprisonment.

Sections 6 to 9 provide for lodging of complaint against gender-based violence with the Police, Police assistance and arrest by Police of a person for an offence of gender-based violence with or without warrant. Application for a protective order, procedure for such an order and the conduct of proceedings are dealt with in sections 12 to 15. The law provides for the establishment of a specialized court known as the Gender court in at least 3 Senatorial Districts of the state to hear cases of Gender-Based violence. The law also provides for the rights of victims in addition to the guarantee of the right under chapter iv of the 1999 constitution as amended and other international human rights. The law also goes further for the provision of a Gender-based violence support fund, the proceed of which shall be applied towards basic materials support of victims of gender-based violence and for caring for affected dependents of Gender-Based Violence.

4.3 OBTAINABLE PRACTICES IN OTHER JURISDICTIONS:

Having examined the domestic violence laws in Nigeria in the previous chapter, it is now imperative to broaden our perspective and embark on a comparative analysis of domestic violence legislation in other jurisdictions. By exploring legal frameworks beyond Nigeria, we can gain valuable insights into different approaches, successes, and challenges in addressing domestic violence. This broader perspective will provide a more comprehensive understanding of the global efforts to combat domestic violence and the diversity of legal responses in various

regions. In this chapter, we delve into the examination of domestic violence laws in different countries, shedding light on the evolving landscape of legislation and its impact on combating this pervasive issue.

4.3.1 THE VIOLENCE AGAINST WOMEN ACT (THE UNITED STATES OF AMERICA):

The Violence Against Women Act (VAWA) is a federal law designed to safeguard the rights of domestic violence victims. Enacted in 1994, it marked the first federal effort to combat offenses against women, encompassing sexual assault, stalking, and domestic violence in the U.S.¹²⁵ The legislation of 1994 prohibited violence against women and mandated all 50 states to recognize and adopt this legislation. VAWA was also enacted to ensure the confidentiality of victims.¹²⁶ Its programs offer shelter and safeguard for victims and their families.¹²⁷

Under VAWA, protection extends to child abuse, dating violence, domestic violence, emotional abuse, financial abuse, physical abuse, sexual abuse, and sexual assault.¹²⁸ One of the noteworthy features of this act is the establishment of the national domestic violence hotline, which aids individuals dealing with domestic violence issues while preserving their privacy.¹²⁹ Prior to VAWA, abusers often evaded law enforcement and court orders by relocating to another state. In

¹²⁵ Section 40221 and 40281 Violence Against Women Act 1994 (As Amended)

¹²⁶ Section 40131 Violence Against Women Act 1994 (As Amended)

¹²⁷ Section 40241 Violence Against Women Act 1994 (As Amended)

¹²⁸¹²⁸ Section 40111-40114 Violence Against Women Act 1994 (As Amended)

¹²⁹ Section 40211 Violence Against Women Act 1994 (As Amended)

response, VAWA made it a federal offense to travel across state lines or internationally with the intent to commit domestic violence.¹³⁰

VAWA also introduced the concept of "mandatory arrest," which compels law enforcement officers to arrest individuals when they have reasonable grounds to believe that a domestic violence incident has occurred.¹³¹ This measure is primarily aimed at preventing the escalation of violence and sending a clear message that domestic violence will not be tolerated. The decision to make an arrest is now legally mandated, rather than being left to the discretion of the victim or the on-scene officer.

Moreover, VAWA extends its protection beyond violence within marriages and homes, addressing individuals in relationships who may be experiencing such issues.¹³² A 2014 study on the financial aspects of VAWA grants revealed that the Office on Violence Against Women (OVW) disbursed a total of 510 discretionary awards, amounting to just under \$224 million.¹³³ In the fiscal year 2015, 471 discretionary awards were granted, totaling just over \$220 million. Additionally, in 2015, the OVW awarded 472 discretionary awards, amounting to just under \$225 million.¹³⁴

4.3.2 LAW 2020-936 (FRENCH CRIMINAL CODE)

The French state recently adopted a bill that aims to better protect victims of domestic violence. Their National Assembly had adopted the same text on July 16, 2020. The bill was signed into law on July 30, 2020.

¹³⁰ Section 40445 Violence Against Women Act 1994 (As Amended)

¹³¹ Section 40231 Violence Against Women Act 1994 (As Amended)

¹³² Section 40295 Violence Against Women Act 1994 (As Amended)

¹³³ The Biennial Report 2016

¹³⁴ Ibid

This new law contains several measures aimed at detecting and fighting domestic violence. One of the most significant measures is the creation of an exception to the rules of medical confidentiality.¹³⁵ Under the new law, doctors or other medical professionals who find that the lives of patients are in immediate danger due to domestic abuse, and that the patients are not able to protect themselves due to the abuser's psychological control over them, will not be in violation of medical confidentiality if they inform a prosecutor's office of the situation. Medical professionals should try to obtain the victim's consent if possible, but if this is impossible, they should tell the victim that they have informed the prosecutor's office.

This new law also introduces the use of distancing bracelets: a violent spouse or partner may be required to wear a geolocation bracelet that automatically alerts the victim if the wearer comes within a perimeter set by a judge. The French minister of justice indicated that these bracelets became available for use in September 2020.

Additionally, the law introduced a new provisions in the Penal Code to prevent abusive spouses or partners from using geolocation devices to know their victims' whereabouts.¹³⁶ These new provisions make it illegal for anyone to record or transmit another person's geolocation information without that person's consent. Additionally, the theft of a communication device by a spouse or partner is now a prosecutable offense.¹³⁷

Other new measures introduced by the new law include the suspension of parents' custody and visitation rights over their children when those parents are charged with abusing their partner.¹³⁸

Harassment of a spouse or partner, which was already punishable by up to five years in jail and a

¹³⁵ Article 50 Criminal Code 2020-963

¹³⁶ Article 43 Criminal Code 2020-963

¹³⁷ Ibid

¹³⁸ Article 19 Criminal Code 2020-963

fine of 75,000 euros (about US\$88,850) if it rendered the victim incapacitated for work or was done in the presence of a minor, will now be punished by up to 10 years in jail and a fine of 150,000 euros if the harassment caused the victim to commit or attempt suicide. Law enforcement authorities may now seize any weapons in the possession of a person under investigation for domestic violence.¹³⁹ The new law also does away with mediation procedures in divorces of couples where one of the spouses was physically abusive.¹⁴⁰

4.3.3 DOMESTIC VIOLENCE, CRIME AND VICTIMS ACT (UNITED KINGDOM)

In England, the laws for dealing with domestic violence are very thorough. The main legislation that focuses on this issue is called the Domestic Violence, Crime and Victims Act.¹⁴¹ It is an important law that recognizes the seriousness of domestic violence and provides protections for victims. It includes provisions for restraining orders, criminal offenses tied to domestic violence and support services for victims. It is a crucial law in England that tackles domestic violence. It acknowledges the severity of domestic violence as a crime and offers legal safeguards for victims. The act includes rules about restraining orders, criminal offenses linked to domestic violence and services to support victims. Its purpose is to guarantee the safety and well-being of those facing domestic violence while holding the perpetrators responsible for their actions.¹⁴²

Section 5(1) of the Act provides that a person commits an offense if a child or vulnerable adult dies or experiences severe physical harm, due to the unlawful actions of someone who was part of the same household as the child or the vulnerable adult and had frequent contact with the child

¹³⁹ Article 18 Criminal Code 2020-963

¹⁴⁰ Article 17 Criminal Code 2020-963

¹⁴¹ Domestic Violence Crimes and Victims Act

¹⁴² Domestic Violence, Crimes and Victims Act 2004

or the vulnerable adult¹⁴³ or at that time, there was a significant likelihood of severe physical harm occurring to the child or the vulnerable adult due to the unlawful actions of such a person.¹⁴⁴

There are other laws and policies in England that specifically target domestic violence such as Family Law Act 1996 and the Protection from Harassment Act 1997. These laws are designed to make sure that individuals who are facing domestic violence are safe and well-cared for. They also make sure that those responsible for the violence are held responsible for their actions.

4.4 COMPARATIVE ANALYSIS:

In light of this study's objectives, it is pertinent to conduct a comparative assessment between Nigerian laws and those of other jurisdictions. Therefore, we will scrutinize legal frameworks, enforcement hurdles, and innovative initiatives to facilitate meaningful comparisons.

4.4.1 Legal Framework:

Nigeria has made commendable strides in developing a comprehensive legal framework addressing domestic violence, as reflected in its rich legislative landscape. These laws not only serve to define domestic violence but also extend to the establishment of protective orders and the imposition of penalties for those found guilty of domestic abuse. Among these legal instruments, the VAPPA Act stands out as a beacon of hope, playing the role of a modern-day champion in this domain.

¹⁴³ Section 5(1)(a) Domestic Violence, Crimes and Victims Act 2004

¹⁴⁴ Section 5(1)(c) Domestic Violence, Crimes and Victims Act 2004

Nonetheless, when we juxtapose Nigeria's legislative efforts against those of some other jurisdictions, there emerges room for substantial improvement. For instance, the United States, through its Violence Against Women Act (VAWA), has not only established a federal law but has also ensured its consistent implementation across all 50 states. This approach aims at fostering uniformity in legislation and providing equitable protection to victims of domestic violence throughout the country. In contrast, Nigeria's adoption of the VAPP Act has not been embraced uniformly across its various states. Only a handful of states have implemented the VAPPA, while a few others have introduced their own legal frameworks to address domestic abuse. However, considering that the VAPPA is a more recent and presumably improved piece of legislation in this field, it would be prudent to consider repealing outdated laws and promoting its adoption across all states in the federation. By doing so, Nigeria can aspire to establish a more cohesive and effective nationwide system for combating domestic violence, offering greater protection to its citizens.

4.4.2 Support Services:

Nigeria has organizations and shelters that offer support to domestic violence victims, but the availability and quality of these services are very suspect. Not enough funding is actually ever provided for the protection of victims.

4.4.3 Enforcement Challenges: Enforcement of domestic violence laws can be inconsistent due to issues such as inadequate resources, cultural norms, and lack of awareness, and indifference of police officers to domestic violence report in Nigeria compared with these other countries. Indeed, some critics estimate that up to 80% of charges for domestic

abuse are dropped before trial.¹⁴⁵ Even in the cases that do go to trial, there can be a delay of several months between when a victim first approaches the police and when the abuser is tried in court. Without additional means and training for law enforcement and the court system, all Nigerian legislation are merely symbolic.

4.4.4 Brilliant Initiatives:

The Nigerian laws on Domestic Violence do not possess any significant inherent strategies towards the curbing of domestic violence, although VAPPA already introduces a system where NGOs, teachers, etc can make reports. However compared to Jurisdictions such as France, where the strategy towards getting more reports of domestic violence cases through doctors is adopted.

¹⁴⁵ The Trendsetters, "Effectiveness of Domestic Violence Laws" <https://thetrendsetters.com/effectiveness-if-domestic-violence-laws>> Accessed 7th October 2023.

CHAPTER 5

SUMMARY, RECOMMENDATIONS AND CONCLUSION

5.0 SUMMARY:

This study delved into the complex issue of domestic violence in Nigeria, offering a comprehensive overview of its conceptual/historical context, root causes, and profound effects on men, women, and children. It was revealed that domestic violence is an enduring societal problem that necessitates immediate attention to prevent its escalation. Within the Nigerian context, cultural beliefs and even certain legislative frameworks have inadvertently condoned this menace, highlighting the urgency of addressing the issue.

The existing regulatory laws in Nigeria at both the National and state levels were properly dissected, shedding light on the inadequacies in their enforcement. It becomes evident that, despite existing legal provisions, these laws often fall short of effectively protecting victims and prosecuting perpetrators. The study observed that Nigeria's legal framework has passed the era of the gender maligning as now most acts generally produce a gender-neutral feel. Yet, these legal provisions do not translate into a reduction of the rate of domestic violence occurrences in

Nigeria. This predicament is intensified by the presence of diverse customary practices such as female genital mutilation, patriarchy, sex preference, and discrimination in the family, community, and workplace. Discrimination is common and is fostered by the persistence of preconceptions and customs that contradict human rights principles of natural justice, equity and good conscience.

Ultimately, this study envisions a Nigeria where domestic violence is no longer tolerated, where victims are adequately protected, and where perpetrators are held accountable, forging a safer and more equitable society for all.

In light of these findings, the study proposes the following recommendations.

5.1 RECOMMENDATIONS:

- The role of society, cultural influence, and parental guidance cannot be over-emphasized in the curbing of domestic violence in our nation. A cultural reorientation that encourages mutual respect and preservation of human rights of all ages and genders will go a long way in curbing domestic violence. Cultural marital institutions should promote respect and dignity in marital settings and judicial conflict resolution that satisfies all.
- The importance of a nationwide political will and determination to be demonstrated by all arms of the government in eradicating domestic violence. This involves adequate financing, mass education and promotion of human rights, female education, and nationwide public orientation against domestic violence.
- The role of lawmakers in putting in place effective, generalizing, and updated laws and reforms to combat domestic violence on all fronts to permeate the prevention, legislation,

protection, punishment, and rehabilitation in cases of domestic violence is very important.

- Section 55 of the Penal Code apparently is in support of domestic violence and contrary to and an affront on the Constitution which is the organic law of the land and should thus be invalidated to the extent of its inconsistencies with the Constitution. It is highly unimaginable as to why such a provision in a law still stands and exists side by side with the Constitution. This provision ought to be set aside.
- Barbaric beliefs and practices such as female genital mutilation should be prohibited by our laws to mitigate domestic violence from the grassroots.
- Domestic violence should be included in the list of Nigerian criminal offences because a unified legal framework could mitigate domestic violence in Nigeria as opposed to the States' fragmented structure.
- Governmental and non-governmental organizations should increasingly educate the public about the dangers of domestic violence through the media or otherwise.
- Perpetrators of such acts should be brought to book in every way possible to deter potential ones.
- Religious leaders should be encouraged and educated to advocate against marital violence in their various places of worship, particularly within the Muslim religion.
- Domestic violence victims must be encouraged to break the culture of silence.
- For the protection or advancement of women's rights, the government and non-governmental organizations must organize enlightenment campaigns to raise public awareness.

- Victims should be encouraged to seek medical or external assistance, such as therapists or counsellors, if necessary, to save lives and sanity.
- Also, life-skill classes empower survivors with skills that strive towards self-sufficiency and establishing an independent stable life away from the abuser. These may include helping victims to build healthy relationships and self-esteem.
- The younger generation should be taught and encouraged to abhor such behaviour. This is because a child raised in an abusive home is more likely to imitate such behaviour in the future. Parents indulging in such activities should refrain from doing so and be seen as apologetic about their previous activities.

5.2 CONCLUSION:

In conclusion, domestic violence remains a pervasive menace that erodes the very fabric of our society. Without conscious and concerted efforts to eradicate this deeply entrenched evil, we risk perpetuating a vicious cycle of suffering and injustice. It is imperative that we take concrete action, implementing the necessary changes in legislation, challenging cultural norms, and prioritizing education and awareness. Only through these collective efforts can we hope to break the cycle of domestic violence and create a safer, more equitable society for all.

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