

DOMESTIC VIOLENCE IN NIGERIA: WITHAL THE LAWS?

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Abstract

Despite the available of laws and institutions for curbing the menace of domestic violence in Nigeria, reports from news medium reveals a seemingly increase in the plight of victims of domestic violence in Nigeria. The essence of this paper is to establish the adequacy and challenges with the existing institutional and legal framework on this subject. The paper argues that domestic violence violates the victim's fundamental human rights and the right to life and dignity of its victim. Its further reveals that, unfortunately, many countries have legislation that provides effective protection against gender-based violence. The paper also appraises evidence from Nigeria regarding the passage of new legislation at the Federal and State levels. Further still, the paper critically examines how effective these laws will be. Necessary analyses are brought to bear on these existing legal frameworks on domestic violence. The paper concludes by recommending the combined effect of both internal laws and the adoption of international laws worldwide from advanced countries with standard and effective legal frameworks.

Keywords: Domestic violence, Victims of domestic violence, laws on domestic violence

1. Introduction

Every human being enjoys the right to live a life free from abuse or violence. Domestic violence breaches the victim's core human rights;

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it infringes on the victim's right to life and dignity. Efforts have been made both locally and globally to safeguard victims from domestic violence; these attempts resulted in the passage of legislation and the acceptance of numerous treaties on the rights and protection of women from domestic abuse. Prior to the introduction of the “Violence against Persons (Prohibition) Act”, there was no explicit or national legislation outlawing domestic violence, other than the conventions.

Nigeria has signed many international human rights laws that safeguard the rights of women in general and domestic abuse in particular. Nigeria has signed the Universal Declaration of Human Rights, 1948. The right to be free from domestic violence may be interpreted implicitly from articles 1-7 of the Universal Declaration, despite the lack of a direct statement on domestic abuse¹. According to Vijoer, although the universal declaration is not a binding instrument some of its provisions can be regarded as part of customary international law.²

In addition, in 1993, Nigeria signed the International Covenant on Economic, Social, and Cultural Rights (CESCR) and the International Covenant on Civil and Political Rights (ICCPR). Domestic violence is not stated in any of these agreements; nonetheless, certain of their clauses may imply the right to be free from domestic abuse.³

The Nigerian government ratified the Convention on the Elimination of Discrimination against Women (CEDAW) in 1985, committing to taking appropriate measures to address the discrimination women face

¹Article 1 of the Universal Declaration provides for dignity and quality of person, article 2 provides for freedom from torture or degrading treatment and article 7 provides for equality of all persons before the law.

² F Vijoer *International Human Right Law in Africa* (2012) 30

³ Article 2(2) of the ICESCR prohibits discrimination on the basis of sex. The article provides for the equality of men and women. Article 2011 of the ICCPR provides for non-discrimination on the basis of sex. Article 4 provides for equal rights for everyone. Article 6 provides for the right to life. Article 7 provides for the right to be free from torture inhuman degrading treatment.

daily. The Convention on the Elimination of Discrimination against Women (CEDAW) emphasizes the need for Nigerians to take decisive action against domestic violence, including the domestication of CEDAW into Nigerian national law. Nigeria is a signatory of the African Charter on Human and Peoples Rights, which protects women against domestic violence. However, the criminal code does not protect women from domestic violence and does not provide compensation for victims. Existing laws are inadequate, discriminatory, and allow violence against women. The Violence Against Person (Prohibition) Act 2015 is the only national law against violence, but it does not make specific provisions prohibiting domestic abuse against women.

The first part of this paper examined the concept of domestic violence while the second part deals with the legal framework for domestic violence in Nigeria. The third part of the paper deals with judicial attitude towards domestic violence in Nigeria and the fourth part examine the international framework for domestic violence. The fifth part of the paper examines the legal and policy challenges confronting the implementation of laws on the subject of discourse. The paper appraised factors responsible for domestic violence in its sixth part and concludes with recommendations on efficient use of existing laws on domestic violence.

2. Legal Framework for curbing Domestic Violence in Nigeria

Generally, there are two types of laws that deal with domestic violence in Nigeria. They are federal laws on domestic abuse and State laws on domestic violence.

i. Federal Law on Domestic Violence

The issue of domestic violence does not fall within the exclusive legislative list and as such the doctrine of covering the field cannot prevail, we can safely conclude that it comes squarely within the legislative competence of the states.

The campaign to persuade the National Assembly to enact a federal law prohibiting domestic violence could be justified on so many

grounds particularly considering the fact that there were some states which had state laws already laid down, but amongst the 36 states there were just 3 states which had state laws and as such other states without state laws had nowhere to fall to when matters involving domestic violence arise.

After a prolonged campaign and lobbying that lasted nearly fourteen years, the National Assembly passed the Domestic Violence and Related Offences Bill on the 4 of May 2015 which the president signed into law on 25 May 2015.⁴ The law is known and cited as the Violence Against Persons (Prohibition) Act 2015.⁵ This law was described as an achievement because, for the first time in the history of Nigeria, a Federal law was made to tackle matters relating to domestic violence.

The VAPP Act is an amalgamation of different bills which sought to abolish all obsolete laws relating to matters such 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. This law was extensively discussed in chapter four of this long essay under the National Laws on domestic violence. However, there are still other federal laws like the criminal code, Penal code, and Trafficking in Person Act, etc. which also makes provisions that cover domestic violence.

i. The Constitution of the Federal Republic of Nigeria 1999 (As Amended)

There is no specific or direct national law that protects the right of victims of domestic violence in Nigeria. Even where the law exists, they are inadequate or limited in scope by virtue of the undue burden placed on the victims to discharge the burden of proof. Most of the time, some of these laws are couched in provisions that are gender

⁴Kim Sumaina, Nigeria: Vapp Bill: Emulate FG on Bill passage, States urged This Day (Lagos 31" May 2015)

⁵Violence against Person (Prohibitions) Act 2015 (VAPE Act) Nigeria

biased and sometimes, the victim are not even aware of the existence of the law.

The absence of any legislative framework for victims of domestic violence does not absolve the government in its duty to protect and guarantee the Fundamental Human Rights of its citizens as set out in Chapter IV of the 1999 Constitution, (as amended) and strictly binding under the *jus cogens* principle of obligations under International Law in line with section 19(d) CFRN 1999. Which states

“Respect for international law and treaty obligations as well as the seeking of settlement of international disputes by negotiation, mediation, conciliation, arbitration, and adjudication.”

Under Chapter IV of the CFRN 1999 as amended, it provides for eleven fundamental rights of Nigeria.

ii. Violence Against Persons Prohibition Act 2015

The Violence Against Persons (Prohibition) Act (hereafter called the VAPP Act') came into force on 25 May 2015 after ten years in the legislative process. It is an amalgamation of different bills which sought to abolish all obsolete laws relating to such matters such 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. Before the VAPP Act became law, the Violence Against Persons (Prohibition) Bill 2011 (VAPP Bill) sought to establish an independent body to administer the law when passed, unfortunately, that part of the bill was scrapped and the National Agency for the Prohibition of Trafficking in Persons (NAPTIP) is empowered to administer the provisions of the Act in collaboration with relevant stakeholders including faith-based organizations⁶.

⁶ Section 44 VAPP Act 2015.

iii. Trafficking in Persons (Prohibition), Enforcement and Administration Act 2015

Human trafficking, a serious crime and violation of human rights, affects thousands of men, women, and children worldwide. UNODC, guardian of the United Nations Convention against Transnational Organized Crime (UNTOC), assists states in implementing the Protocol to Prevent, Suppress, and Punish Trafficking in Persons (Trafficking in Persons Protocol). The Act involves recruitment, transportation, and transfer of persons, while the means involve duress, fraud, deception, abuse of power, or payments. The purpose of exploitation includes sexual exploitation, forced labor, slavery, and organ removal⁷.

In 2015, the Nigerian government identified 943 victims of trafficking, including 429 victims of sex trafficking and 514 of labour trafficking. People engage in human trafficking due to high unemployment, poverty, economic issue such as devaluation of the local currency and political unrest, each of which contribute to high rates of both internal and external migration.⁸

iv. National Agency for the Prohibition of Trafficking in Person (NAPTIP)

The Federal Government of Nigeria established the National Agency for the Prohibition of Trafficking in Persons (NAPTIP) in 2003 to fight human trafficking and other similar human rights crimes. NAPTIP was created on the 14th of July, 2003 by the Trafficking in Person (Prohibition) Enforcement and Administrative Act 2003.⁹

The Agency is the Federal Government of Nigeria's reaction to the problem of human trafficking. It satisfies the country's international

⁷ Joint UN Commentary on the EU Directive A human rights-based approach, Prevent Combat Protect Human Trafficking (2011) pg 33

⁸Labour Exploitation Accountability Hub <<https://accountabilityhub.org/country/nigeria/>> accessed February 15, 2021

⁹ Wikipedia, National Agency for the Prohibition of Trafficking in Persons <https://en.m.wikipedia.org/wiki/National_Agency_for_the_Prohibition_of_Trafficking_in_Persons> accessed on March 28, 2021

commitment under the Trafficking in Persons Protocol, which supplements the United Nations Transnational Organised Crime Convention (UNTOC), to prevent, prohibit, and punish trafficking in persons, particularly women and children. On December 13, 2000, Nigeria signed the Transnational Organised Crime Convention and its Trafficking in Persons Protocol. Article 5 of the Protocol on Human Trafficking calls on States Parties to criminalise practices and actions that expose human beings to all types of exploitation, including sexual and labour exploitation¹⁰.

v. Child Rights Act (CRA) 2003

The Child Rights Act, which became law in 2003, ensures the protection of every child in Nigeria. Sections 21-25 of the Act prioritize the best interest of the child in all actions, regardless of the individual, public body, institution, court, or administrative authority. The Act defines a child as anyone aged zero-17, while those aged 18 and above are considered adults. The Child Rights Act of 1999¹¹ guarantees children fundamental human rights, including those in Chapter IV of the Nigerian constitution. The Act also provides specific rights for children, as outlined in sections 4, 5, 10, 11, 14, 16, 17, 20, and 30.

vi. The Criminal Code Act

The Nigerian Criminal Code, specifically applicable to southern states, has actively encouraged domestic violence. Section 6 of the code legalizes marital rape, allowing for gender violence by defining rape as virginal penetration. However, Nigerian law does not protect those sexually abused with other instruments, such as hands, bottles, or sticks. Indecent assault, which has a lower sentence than rape, is also a potential defense. Section 221 deals with the defilement of girls under 16 years old, stating that a person cannot be convicted of unlawful carnal knowledge or knowing a woman or girl to be an idiot or

¹⁰Devex, National Agency for the Prohibition of Trafficking in Persons (NAPTIP), Nigeria <<https://www.devex.com/organizations/national-agency-for-the-prohibition-of-trafficking-in-persons-naptip-nigeria-127167/>> accessed on March 28, 2021

¹¹See 3(1) Child Right Act 2003

imbecile based on uncorroborated evidence. Sections 252 and 253 of the Criminal Code Act criminalize assault, stating that a person who strikes, touches, moves, or applies force to another person without their consent or consent if obtained by fraud, is considered an assault. Section 253 criminalizes all forms of assault, making it unlawful and constitutionally a crime. Both sections are gender-neutral and can be used to protect potential victims from violence. However, there are over 35 exceptions through which an offender may escape liability as long as the assault is not excessive. Section 218 also criminalizes and punishes any person who has unlawful carnal knowledge of a girl below the age of thirteen years. And it is immaterial whether she gave consent or not. The Act punishes rape with life imprisonment, with or without whipping in accordance with the definition given in Section 357 of the Act. The Act also put in place unnecessary hurdles which must be crossed before the crime of rape can be established. This makes it difficult most times for victims to want to press forward knowing at the end that their proof may not be beyond all reasonable doubt and at the end their efforts, are futile.

vii. Penal Code Act

Under the penal codes¹² section 55 creates a fertile ground for violence against women, the section provides;

‘Nothing is an offence which does not amount to grievous hurt upon any person which is done by the husband for the purpose of correcting his wife, such husband or wife being subject to native law and custom in which such law is regarded as lawful’.

One can argue that this provision condones domestic violence and may be used as a justification for abuse against women in matrimonial relationships.

viii. Matrimonial Causes Act 1970

The provision of section 15 of the Matrimonial Cause Act (hereinafter called the MCA) is considered to be one of the main objectives of the Act which was to make irretrievable breakdown the sole ground for divorce in Nigeria.

¹² Section 55 Nigerian Panel Code (Cap. 89) Laws of Northern Nigeria 1963.

It provides that “A petition under this Act by a party to a marriage for a decree of dissolution of the marriage may be presented to the court by either of the party to the marriage upon the ground that the marriage has broken down irretrievably.”

According to Nnaemeka Agu, JSC (of blessed memory) "it is necessary to bear in mind the fact that although the Act created one ground of divorce, which is that the marriage is irretrievably broken down, yet that the facts which may lead to the marriage breaking down irretrievably are categorized under subsections (a)(h) of section 15(2). Only those facts can suffice to find a petition for divorce as applied in *Ezirim v Ezirim*.¹³

Under section 15(2) (c), it is provided that where the petitioner cannot be expected to live with the respondent due to their behavior since the marriage. Section 16 went further to give a breakdown of what section 15(2)(c) of the Act would entail including rape in (1)(a) and infliction or attempted infliction of grievous harm or hurt in paragraph (e) and so on, all these are acts of domestic violence.

It should be noted that under the Act, the requirement is to prove that the petitioner/victim can no longer be reasonably expected to live with the respondent and the burden of proof is significantly lighter than it was to prove cruelty under common law. In *Otunga v Otunga*¹⁴ it was stated that the particular section of section 15(2) which the petitioner wants to rely upon in his petition must be pleaded in order to assist the court in determining, if the marriage in question had broken down irretrievably.

In addition, in *Ekrebe v Ekrebe*¹⁵ Mohammed JCA held that for a divorce petition to succeed on the ground of domestic violence, the

¹³ Suit No. FCA/L/56/78 (unreported) February 6, 1981, Court of Appeal, Lagos Division.

¹⁴ (Unreported) WD/119/70 of 19 April 1971. and *Oki v. Oki* (Unreported) WD/80/70 of 30th July, 1971.

¹⁵ (1999) 3NWLR (pt. 596) 514 at 517.

petitioner must plead one of the facts stated in section 15 and that if the petitioner fails to prove any of the facts stated in the law, the petition must be dismissed, even the solution is desired by both parties. From the provisions above it can be concluded that the Matrimonial Causes Act does not condone domestic violence at all, it has zero tolerance for it and even went as far as declaring it as a sufficient ground for divorce.¹⁶

But it should be noted that Nigeria, still upholds the principle proposed by Matthew Hale in 1736 and assumed to be law in *R v Miller*¹⁷ that a husband could not be guilty of a principal offence of rape of his own wife because of implied consent to sexual intercourse which arose from the married state and continued until the consent was put aside by a decree nisi of divorce, a separation order or, in certain circumstance by a separation agreement. But if the exercise of his right involves the use of force or violence, he may be guilty of wounding or causing actual bodily harm.

ix. State Laws on Domestic Violence

The state which has the main responsibility of creating laws relating to domestic violence has far created only five states' legislations these are:

- i. Cross River Domestic Violence and Maltreatment of Widows (Prohibition) Law, 2004;
- ii. The Ebonyi State Protection Against Domestic Violence and Related Matters Law, 2005;
- iii. The Lagos State Protection Against Domestic Violence Law 2007 and;
- iv. Domestic Violence and Other Related Matters of Jigawa State 2006;
- v. Ekiti State Bill Prohibiting Gender-based Violence 2011.

¹⁶ Section 15(2) (c) and Section 16(1) (a) and (e)

¹⁷ (1954) 2NWLR 138; (1954) 2ALL ER, 529

(a) Cross River State Domestic Violence and Maltreatment of Widows (Prohibition) Law

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. Moreover, the law limits its operation to domestic violence against women only. While it is true that are the major victims of domestic violence, domestic violence by its very nature, cannot and should not be limited to just women. The laws can also be challenged as discriminatory. The law also provides for a restricted definition of domestic violence to cover only “any abusive e of physical force or energy to cause damage or injury to a woman at home, in the house or any other place.”¹⁸

(b) Ebonyi State Domestic Violence and Related Matters Law

Domestic violence in Ebonyi State is criminalized under Cross River State law, focusing on domestic relationships between victims and respondents. This approach differs from Cross River law, which includes physical attacks and abuse, causing emotional and psychological pain¹⁹. Domestic abuse is a complex issue in Nigeria, with Section 5 of the law empowering victims to seek for protection orders from a Magistrate's court. Under Section 9, police officers and social workers are required to assist victims by using force, arranging accommodation, directing medical treatment, and arresting the offender. In cases of repeated domestic violence or undue hardship, the court may issue a protection order against the respondent on the victim's application. The court will hear all relevant evidence and, if an adequate case is made, make a protection order, restraining the respondent from further domestic violence against or around the applicant²⁰. Ebonyi state law is similar to Lagos state law in this regard.

¹⁸ E.I. Nwogugu, *Family Law in Nigeria* 3rd edition, (HEHN Publishers, Ibadan). Pp. 113

¹⁹ *Ibid*

²⁰ *ibid*

(c) Lagos State Protection against Domestic Violence Law

Besides criminalizing domestic violence in appropriate cases, the Lagos States Protection against Domestic Violence Law²¹ established an appropriate civil procedure for dealing with the incidence of domestic violence. This cannot be said to be present in other legislation on domestic violence. By the provisions of Section 1 which forbids any form of domestic violence against any person²², Section 18(1) Lagos State Protection against Domestic Violence Law 2007 provides protection against physical, sexual, and emotional abuse, as well as exploitation, rape, incest, and sexual assault. The law also addresses emotional, verbal, and psychological abuse, including repeated insults, ridicule, threats, and obsessive possessiveness. If the complainant is not represented by a legal practitioner, they must be informed by the court or registrar of their rights, including the right to lodge a criminal complaint against the respondent if a criminal offense has been committed.

The law provides for financial assistance by the state through the Office of the public defense or legal aid council to victims of domestic violence who may be financially handicapped to seek redress in court under the law. Therefore, a lack of money cannot hinder a person from seeking redress under the law.²³

Domestic relationship complainants who have been subjected to violence may apply for protection orders in the High Court or Magistrate's Court, or any court with criminal jurisdiction. The complainant can also apply for an interim protection order against the respondent, even if they are minor, insane, unconscious, or incapable of giving consent. The Lagos State Law grants jurisdiction to Magistrates or High Courts, regardless of the complainant's or

²¹ Jackie Repilia. 'history is made as Nigeria passes domestic violence law (2013<<http://policy.pracepfam.org.uk> accessed 21 February 2021

²² BADBAB, overview or simplification of the protection against domestic violence 2007) accessed 21 February, 2021

²³ Prohibition against domestic violence law 2007 Section 137(2) accessed 21st February 2021

respondent's residence, business, or employment within the state. A protection order is enforceable throughout Nigeria, regardless of its location.

The court proceedings involve various parties, including the officer, parties, legal representatives, witnesses, and those bringing applications. The court can hear private proceedings or exclude individuals. Confidentiality of party identities and information is crucial, as publishing it could result in a penalty of 20,000 naira or imprisonment²⁴.

(d) Domestic Violence and Other Related Matters of Jigawa State 2006

Section 2 of state legislation addresses domestic violence, focusing on the affected person's interests. It covers various forms of violence, including intimidation and threats, and provides an exhaustive list of acts. The Act also offers an interim protection order for victims, prohibiting respondents from performing further acts of domestic violence. However, it lacks punishment for offenders, despite its extensive definition.

(e) Ekiti State Gender Based Violence (Prohibition) Law 2011.

In 2011, Nigeria's Governor Kayode Fayemi signed a bill prohibiting gender-based violence in Ado-Ekiti, aiming to protect both genders from physical and psychological abuse. The law covers all forms of violence, including domestic, sexual, psychological, and traditional practices. However, only five states have a legal framework, highlighting the need for more action to curb domestic violence.

3. Judicial Attitude towards Domestic Violence in Nigeria

Domestic violence in Nigeria is increasing, with an estimated 300-350 women killed either by husbands, boyfriends, former partners, or male relations annually²⁵.

²⁴ BAOBAB, overview or simplification of the protection against Domestic Violence Law (page 59) <baobabwomen.org/padvl.doc.> accessed 21st February 2021.

²⁵ Bazza Hadiza Iza Domestic Violence and Women Right in Nigeria (2010)

In 2011, Titilayo Arowolo, a 29-year-old Nigerian banker, was brutally murdered by her husband in Lagos, exposing domestic abuse in the country. The incident was widely reported in the media²⁶, Reporting of violence incidences became widespread, revealing shocking trends of cases such as:

- i. The story of the Deji of Akure, Adesina Adepoju now deposed, who allegedly assaulted his wife, made rounds, thus bringing the issue of domestic violence once again to the front burner²⁷.
- ii. Mrs. Ronke Shonde, a mother of two, was discovered dead in her Lagos home after reportedly being assaulted by her husband, Mr. Lekan Shonde. Mr. Shonde attempted to flee but was apprehended by the Police.
- iii. Shakiru Bello, a Lagos driver, was detained for reportedly murdering his wife, Sherifat, and chopping her corpse into pieces²⁸.

Maryan Sanda's recent case of domestic violence in Nigeria involved her husband's death, with fair court judgments. Other crimes like rape and indecent assault also fall under domestic violence, but people often don't speak up.

Despite domestic abuse statutes and programs, there are still certain gaps in court measures. Women are also unaware of their rights, which mean that enforcing these rights will be difficult. Marital rape is still a subject of contention in sexual assault law and the court's interpretation of it. Customary laws in many nations have long regarded sex inside marriage as inherently consenting, leading to the

²⁶ Abdulwahab Abdulah 'wife murder: Evidence that sent Arowolo to hangman's noose' vanguard newspaper (lagos, 27th Feb. 2014) <http://www.vanguardngr.com/2014/02/wife-murder-evidence-sent-Arowolo-hangman-s-noose/> accessed 25 March 2021

²⁷ Ibid

²⁸ Josephine Effah Chukwu 'the enemy within violence Domestic violence in Nigeria' This day (Lagos 28th March 2017) <http://www.pressreader.com/nigeria/this-day/20170338/28189158109500>

conceptual impossibility of a man raping his wife. This is based on old conceptions of women as property. This viewpoint emphasizes the marital rape exemption, which still remains in many jurisdictions. Marriage remains a legal defence in some nations, including Nigeria, particularly in the country's north. In *Weishaupt v Commonwealth*,²⁹ the Supreme Court of Virginia noted that it is hard to imagine how charging a husband with the violent crime of rape can be more disruptive than the violent act itself." This was in answer to those who quote public policy of non-interference in marital affairs as a reason for not punishing marital rape. Furthermore, the requirement of combination in establishing the case of rape is another legal and judicial backing for inequality before the law. In *State v Akingbade*³⁰ it was clear that the accused committed rape but the courts did not convict him as the prosecution could not lead sufficient evidence to establish same.

4. International Instruments on Domestic Violence

Domestic violence, a form of gender-based violence, has led to international action. The African Charter on Human and People's Rights and the Convention on the Elimination of Discrimination against Women address domestic violence. However, many treaties are not operational in countries due to lack of domestication. This has made the law an ordinary document in the nation's legal framework.

i. United Nations Resolutions (UN) 1985, 1990 and the General Recommendation 19 of 1992

The United Nations Resolution 1985 was one of the first to address the public ramifications of domestic abuse, emphasizing the destructive effect of domestic violence on children, families, and victims. The resolution specifically mentions women as victims of crime and encourages "Member states concerned to take particular measures urgently in order to combat domestic violence and to render appropriate support to victims thereof." According to the Resolution, states should enact civil and criminal laws addressing domestic abuse,

²⁹ (1984)315 524 847; Virginia Report 227 Va. 389

³⁰ (1971) All NLR, 508.

enforce such legislation, protect traumatized family members, and prosecute criminals.

II. Declaration on the Elimination of Violence against Women (DEVAW)

The Declaration on the Elimination of Violence against Women was adopted by the General Assembly of the United Nations on 20 December 1993, to complement and strengthen CEDAW and the Vienna Declaration and Problem of Action. It is greatly shaped by the requirements of General Recommendation 19. It classifies three types of violence as violations of international law: domestic violence, public violence, and state-sanctioned violence, regardless of where it happens.

It also remembers and reflects the same rights and the principles found in agreements such as the Universal Declaration of Human Rights, and Articles 1 and 2 give the most often embraced definition of assault against women. It has been argued that DEVAW is the most explicit international instrument regarding domestic violence even though it is not a treaty. This is why in 1999, the General Assembly led by a representative from the Dominican Republic designated 25th November as the International Day for the Elimination of Violence against Women.

5. Legislation and Policy Implementation Challenges

Delayed enactment of legal reforms and policies address domestic violence, but gaps persist due to traditional beliefs about male superiority and patriarchy. These gaps in laws, along with the lack of comprehensiveness in their content, contribute to the perpetuation of domestic violence. Addressing these challenges is crucial for addressing the issue of domestic violence. Some of the other factors responsible for the slow pace of efforts are socio-cultural in nature. A few of these issues are examined below:

i. Socio-Cultural and Religious Issues

Socio-cultural biases favor males over females and encourage chastisement for correction, hindering the implementation of legal

policies. Community attitudes and beliefs often reflect the tolerance of violence as a normal aspect of relations, leading to a lack of enthusiasm and refusal to discuss it. Traditional African culture has been used as a justification for abusing women, as women are nurtured to believe that a man who does not beat his wife when she makes a mistake does not love her. This belief makes it acceptable for women to be abused by their parents, and the shame resulting from being violated and respect for traditional African family values often leads women to turn a blind eye to violence. Religions that promote patriarchy *stricto sensu* do not help matters.

ii. Lack of Monitoring and Evaluation (M&E) Framework

There is no standard definition of a monitoring and evaluation framework. However, for many Organizations, an M and E framework is a table that describes the indicators that are used to measure whether the program is a success or not. Monitoring and Evaluation initiatives addressing violence can be hampered by several obstacles leading to their inefficiency or complete failure, for instance, lack of comparable definitions, indicators, and instruments, especially on the prevalence of forms of violence. Also, many studies measure processes and outcomes rather than impact, for example, there could be data provided on the number of domestic violence victims receiving assistance from the state but no data on the impact the state rendered to them by the state had on them personally, behaviourally and other. Often change is measured at the individual level rather than at the community level. For all-d management, it is vital to broaden the focus and measure the overall impact. This is highly bene in most Monitoring and Evaluation Framework used in Nigeria to combat domestic violence and as a result, there exists no elaborate and uniform technique that has been imploridin getting concise information on the extent and incidence of domestic violence and the appropriate measures to take to reduce such occurrences. In addition to the provision of the legislative framework, if the government can put in place an active M and E. framework, then the progress of the implementation of these laws can be safely monitored.

iii. Statutory Provisions

Attempts to come up with gender-sensitive legislation have received inadequate support due to traditional cultures and practices as well as a male-dominated parliament which is gender insensitive and unresponsive. For instance, as earlier stated. Section 55 of the Penal 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. This section apparently is in support of domestic violence. Statutory provisions like this stand as a barrier to the implementation of domestic violence laws.

iv. Judicial Approach

Legislation and programs address domestic violence, but judicial actions still lack consistency. Women are often unaware of their rights, leading to challenges in enforcing them. Marital rape remains a source of controversy in sexual violence legislation, as customary laws define sex within marriage as consensual, undermining the marital rape exception in many jurisdictions. The defense of marriage remains a legal defense in several countries, Nigeria included, especially in the Northern part of the country. In *Weishaupt v Commonwealth*,³¹ the Supreme Court of Virginia noted that "it is hard to imagine how charging a husband with the violent crime of rape can be more disruptive than the violent act itself." This was in answer to those who quote public policy of non-interference in marital affairs as a reason for not punishing marital rape.

Furthermore, the requirement of combination in establishing the case of rape is another legal and judicial backing for inequality before the law. In *State v Akingbade*, it was clear that the accused committed rape but the courts did not convict him as the prosecution could not satisfy the court with all the requirements needed to establish the case of rape. Effective implementation of laws is crucial for their effectiveness. Domestic violence laws in Nigeria are not effectively implemented due to factors that hinder their effectiveness, they include;

³¹ (1971) All NLR 508.

- v. **The Perpetrators are Actually the Ones to Implement the Laws:** Even those implementing laws are guilty of offense, and if they are implemented, they may shoot themselves in the face, leading them to prefer not to enforce them.
- vi. **It Could Lead to Misuse of the Law:** Domestic violence encompasses all family-related issues, including domestic aid, children, and parents. Implementing domestic violence laws could lead to misuse, as domestic aids may exploit the law, while children who are supposed to be corrected may not listen due to their awareness of their rights. This could result in misuse of the law.
- vii. **Difficulty in Amending the Constitution:** The Constitution lacks provisions for domestic violence, making it difficult to amend and implement laws related to it. Chapter two, which deals with domestic violence, is not effective. This makes ensuring the legality of domestic violence legislation challenging.
- viii. **Archaic Perception of the Law:** up to date some persons still feel that domestic violence is not a crime and should be a normal way of life, wife battery, and child molestation is all part of the tradition and should still be in force

All these are part of the contributors to the non-implementation of the laws under domestic violence and if these factors are effectively tackled then we can rest assured that we are one step ahead to making Nigeria a domestic violence-free nation.

6. Conclusion and Recommendations

In conclusion, the paper establishes the existence of laws regulating domestic violence at International and National levels such as the African Charter on Human and People's Right, Declaration on the Elimination of Violence against Women, Violence of Persons Prohibition Act 2015, among others and also appraised strategies for

curbing domestic violence in Nigeria other than court process which include family courts, alternative dispute resolution, and public enlightenment counseling. We considered the policy and implementation of laws and its challenges. It is highly recommended that Nigeria, as a party to international covenants on Civil and Political rights as well as relevant laws listed above under international treaties should be incorporated into the country's domestic laws. The reluctance of the government in this regard has to a large extent hampered the full enjoyment of human rights to freedom from violence especially that of women and girls. The government must develop further capacity through international collaboration with experts in this field. Finally, there is a need to undertake a comprehensive review of the constitution, the need for effective enforcement of the law, the creation of equal access to the laws, irrespective of wealth and gender, and the need to incorporate the principle of equality of men and women in the Nigerian legal system.