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Domestic Violence against Women in Nigeria: Economic and Legal Dimensions

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Abstract

Several reports reveal escalating levels of violence against women in Nigeria and around the world. This paper thus investigated domestic violence in Nigeria from the perspective of economic costs and legal instruments enacted to control the menace. The result confirms that domestic violence has severe economic cost in Nigeria ranging from cost of justice, health care services, social services, education, business and employment cost, to household and personal cost running into billions of naira. Various international and local legal instruments applicable in Nigeria have also been examined. However, the numerous gaps, inconsistent provisions and poor implementation of laws have denied women in Nigeria the protection the law can guarantee. The paper thus recommends the harmonization of all legislation related to domestic violence. All legislation be also amended to bring them in line with the human rights and gender equality requirements. Finally, Religious and traditional institutions should be co-opted to sensitize the people within their domain on the ills of violence particularly of this genre.

**Keywords: Domestic Violence, Domestic Abuse, Discrimination,
and Economic**

1. 0 Introduction

Domestic violence or abuse is violence or other form of abuse by one person towards another in a domestic setting, such as in marriage or co-habitation. It can also be defined as an intentional and persistent abuse of anyone in the home in a way that causes pain, distress or injury. It refers to any abusive treatment of one family member by another, thus violating their basic human rights. The United Nations Centre for Social Development and Humanitarian Affairs¹ termed it as intimate partner violence when committed by a spouse or partner in an intimate relationship against the other spouse or partner, and can take place in heterosexual or same-sex relationships, or between former spouses or partners.

Principally, domestic violence involves violence against children, parents, or the elderly. It takes such forms as physical, verbal, emotional, economic, religious, reproductive and sexual abuse, ranging from subtle to coercive/violent forms. These include marital rape and violent physical abuse such as choking, beating, female genital mutilation, and acid throwing that results in disfigurement or death.² Domestic violence is common in male dominated cultures as it is justified in customs and traditions, and condoned by law. Some of the domestic violence cases go unreported as women and children most often suffer in silence.³

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¹ The United Nations Declaration on the Elimination of Violence Against Women resolution 48/104 of 20 December 1993.

² Nigerian women fearing gender based violence or harm (2016) Country Information and Guidance, Version 2
<<https://www.refworld.org/docid/57b70ff44.html>> accessed 31 August 2019.

³ Philip, G. K and Marisen M. 'Effects of Domestic Violence on Children's Education: The Case Study of Mpemba, in Blantyre District in Malawi' [2016](5)(2) *Journal of Psychological Abnormalities*; 2-5; Fareo, D. O. 'Domestic Violence against Women in Nigeria' [2015](2)(1) *Journal of Psychological Research*; 24-34.

Domestic violence occurs globally.⁴Families from all social, racial, and economic backgrounds experience domestic violence in different ways.It is thus reported that every year in the United States of America (USA), about 4.8 million women and children become victims of intimate partner related physical assaults and rape.⁵ In Asia as well,domestic violence is prevalent.For instance,56% of Indian women surveyed by an agency justified beating of wife on grounds like bad cooking, disrespecting in-laws, producing more girls, among other reasons.⁶

In Nigeria, several reports reveal high level of violence against women. Afrol News⁷ and Amnesty International⁸ report that a third and in most cases two-thirds of women are believed to have been subjected to physical, sexual and psychological violence carried out primarily by husbands,⁹ partners and fathers while girls are often forced into early marriage and are at risk of punishment if they attempt to escape from their husbands.Astaggering 97.2% of them do not report the crime to the Nigeria Police.¹⁰ They endure and sometimes die in silence, either based on the belief that the law will not protect them¹¹ or from cultural and religious inhibitions.

It therefore implies that women are mostly at the receiving end of violence in the society. Against this background, the paper sets out to examine domestic violence with specific reference to women in Nigeria from economic perspective and the available legislation to

⁴UNICEF (2005) Violence at Home (archive) Voices of Youth Forum.<<http://www.unicef.org/roy/discussions/archived/index>>accessed on 8 October 2008.

⁵Rhys, O., Barnaby, A., Stephen, R.,and Miriam, W. 'The economic and social cost of domestic violence' (2019) *Research Report 107*.

⁶Choji, R. And Agbo, C. 'Domestic Violence Against Women. Any End in Sight?'<leadership/news/382501>accessed on 31 August 2019.

⁷Afrol News, 2018 Report.

⁸ Transparency International, 2018 Report.

⁹ 50% of women are battered by their husbands according to Transparency International (n10).

¹⁰ See n8.

¹¹Alhie, O. N. 'Prevalence of Domestic Violence in Nigeria: Implications for Counselling' [2009](2)(1)*Edo Journal of Counselling*;1-8.

halt the menace in Nigeria. The paper is divided into various sections; the introduction followed by domestic violence in Nigeria, economic dimensions, legal dimensions, conclusion and recommendations.

2.0 Domestic Violence against Women in Nigeria

In Nigeria, the beating of wives and children is widely sanctioned as a form of discipline. Therefore, in beating their children parents believe they are instilling discipline in them, much the same way as in husbands beating their wives, who are regarded like children to be prone to indiscipline. This is especially so when the woman is economically dependent on the man. The society is basically patriarchal and women's place within the scheme is decidedly subordinate. Domestic violence thus functions as a means of enforcing conformity of women within customary society.¹² The CLEEN Foundation reports that 1 in every 3 women respondents admitted to being a victim of domestic violence. The survey also found a nationwide increase in domestic violence in Nigeria from 21% in 2011 to 30% in 2013.¹³

The UN High Commissioner for Refugees Protection Monitoring Report¹⁴ for North East, Nigeria noted that cases of rape or sexual assault were reported in 676 households, with the highest proportion of incidents reported in Taraba (51%), with Adamawa (23%) and Borno (13%) respectively. Robsam S. Ohayi and others noted a high level of rape in Enugu over a year period of 2012-2013, in which

¹²Akanle, O. and Basiru, D 'A Socio-Legal Approach to Violence Against Women in Nigeria. Research Gate'[2015]
<<https://www.researchgate.net/publication/317166924>> accessed 31 August 2019.

¹³A CLEEN Foundation's National Crime and Safety Survey (2012) Report<<http://www.cleen.org/Criminal%20Victimization.pdf>> accessed on 21 August 2019.

¹⁴UN High Commissioner for Refugees (UNHCR) December 2015 Protection Monitoring Report.

period they noted that out of 1374 gynaecological emergencies, there were 121 (8.8%) rape cases.¹⁵

3.0 The Economics of Domestic Violence in Nigeria

Economics is the study of the allocation of scarce resources among competing ends.¹⁶ In order to make rational decisions about how public resources should be allocated, policy makers need to have scientific information about end results. Every recognizable effect of violence has a cost whether it is direct or indirect. Direct costs come from the use of goods and services for which a monetary exchange is made. Direct costs exist for capital, labour and material inputs. Indirect costs stem from effects of domestic violence that have an imputed monetary value even though they do not involve an actual monetary exchange, such as lost income or reduced profits.

By measuring the economic costs and consequences of violence, policy makers can observe how changing funding priorities affects outcomes.¹⁷ In every case of violence, early prevention and intervention costs are vastly less than later-stage crisis care and other societal consequences. It can be seen that an investment in detecting and ending violence against women at an early stage, and in good treatment programmes will result in huge social savings in the future.¹⁸ Measuring the costs of violence proves with accountability, that preventing domestic violence is not only the right thing to do but is also the financially prudent thing to do.

The types of costs that can be incurred from abuse have been classified into four categories the first of which is direct and

¹⁵Prevalence and pattern of rape among girls and women attending Enugu State University Teaching Hospital, southeast Nigeria <<https://doi.org/10.1016/j.ijgo.2015.02.017>> accessed 8 October 2019.

¹⁶Jhingan, M. L. Advanced Economic Theory (Vrinda Publication(s) 2006).

¹⁷ Scott, M. Singer and others 'Economic Abuse: Untold Cost of Domestic Violence' available on <<https://www.ilr.cornell.edu/sites/default/files/Economic-Abuse-Untold-Cost-of-DV.pdf>> accessed 31 August 2019.

¹⁸ Tanis, D., Katherine, M. And Audra, B. The Economic costs of Domestic Violence Against Women. An Evaluation of Literature. (London, Ontario: United Nations and the University of Western Ontario, 2005), 11 – 14.

tangible costs.¹⁹ These are actual expenses paid representing real money spent. Examples are taxi fare to a hospital and salaries for staff in a shelter. These costs can be estimated through measuring the goods and services consumed and multiplying by their unit cost (this is usually expressed as $P \times Q$).

The second are indirect tangible costs which have no monetary value in the economy, but are measured as a loss of potential. Examples are lower earnings and profits resulting from reduced productivity. These indirect costs are also measurable, although they involve estimating opportunity costs rather than actual expenditures. Lost personal income, for example, can be estimated by measuring lost time at work and multiplying by an appropriate wage rate.

The third are direct intangible costs which result directly from the violent act but have no monetary value. Examples are pain and suffering, and the emotional loss of a loved one through a violent death. These costs may be approximated by quality or value of life measures.

Finally are the indirect intangible costs which result indirectly from the violence, and have no monetary value. Examples are the negative psychological effects on children who witness violence which cannot be estimated numerically.

The above types of costs can be borne by individuals, including victims, perpetrators, or other individuals affected by violence; businesses; governments at all levels; and by society in general.²⁰ Violence against women prevents an economy from attaining its full economic potential as aggregate demand is skewed towards goods and services related to the effects of violence thereby diverting

¹⁹ Rhys, O., Barnaby, A. Stephen, R. And Miriam, W. The Economics and Social Costs of Domestic Abuse. (2019) Research Report 107.

²⁰ Scott, M. Singer and others 'Economic Abuse: Untold Cost of Domestic Violence' available on <https://www.ilr.cornell.edu/sites/default/files/Economic-Abuse-Untold-Cost-of-DV.pdf> accessed 31 August 2019.

resources from their optimal use. This results in lowering economic growth and a reduced standard of living.

Furthermore, aggregate supply is also reduced through lower productivity, reduced output and exports, and reduced savings and investments. Additionally, the reduction in output is even larger because of the economic multiplier whereby a dollar lost represents more than just a dollar. Rather it represents the lost tax revenue and the benefits thereof, as well as the lost savings and spending that is passed on to others to save and spend many times over. Violence, therefore, has a significant negative influence on Gross Domestic Product (GDP) and national economic well-being. In general, billions of dollars of resources are spent annually in treating violence against women that could be used to further develop a non-violent economy.

3.01 Specific Categories of Cost Incurred from Abuse

A common way to organize the economic costs of violence is to place them in categories based on the consequences of violence and the services utilized as a result of violence.²¹ Costs in this regard can be found in seven major categories²² the first of which is the cost of justice. The cost of justice includes policing, court trials, penal costs and related costs such as victim compensation, administering community sentences, and support of the incarcerated.²³ They include labour, capital and material inputs. Most of these costs are usually borne by the public sector. In addition to the direct costs, the indirect costs include the lost earnings of those incarcerated for violence, as well as those attending court proceedings.

The second is the cost of health which is another area that is expensive for the state, and individuals depending on what extent health care is publicly or privately funded.²⁴ Health costs result

²¹Walby, S. and Towers, J. 'Untangling the concept of coercive control: Theorizing domestic violent crime' [2018](18)1(*Criminology and Criminal Justice*); 7–28.

²²See n21

²³Walby, S. and Towers, J., n20.

²⁴ See n20.

from direct and indirect health concerns caused by violence. Direct health costs in the community include short run and long run health care in doctor's offices/clinics of all types and hospitals. As in the case of justice costs, health costs include capital, labour and material inputs.

The third are social costs which stem from the provision of public services to victims and perpetrators of violence against women. Social services include social welfare agencies helping abused women, abusive men and their children. Each agency incurs the direct costs of capital, labour and material inputs. Finally, government bears costs related to violence against women such as time in creating laws, administration of ministries responsible, policy analysis, research initiatives and public information programmes.²⁵

Another form of costs are the education costs which can include the added demand for special education services related to behavioural problems and learning disabilities in children who witness abuse at home, as well as school programmes with the aim of reducing violence against girls. Training programmes for women to re-enter the workforce after leaving abusive partners are also included. An indirect cost is the reduced earning capacity of women and girls who have reduced educational attainment as a consequence of violence.

Another form of costs are the Business and Employment costs. When violence happens at home, the woman's paid work environment is affected as well. These effects have a serious impact on the business sector stemming from her lost time at work and reduced attention, the time her co-workers spend covering for her, actual time she may need to take off work, administrative costs for the search and training of a replacement employee if she leaves the job, lost profits from her decrease in output, and the increase in overtime payments to other workers who cover for her. Some of these costs are accounted for in the woman's personal loss of income. In sum, violence against women lowers their earning potential which results

²⁵ Rhys, O., Barnaby, A. Stephen, R. And Miriam, W. 'The Economics and Social Costs of Domestic Abuse' (2019) Research Report 107.

in lost tax revenue from reduced output and income and consequently lower GDP.

More so, household and personal costs may result from violence against women. Victims spend a great deal in direct out-of-pocket costs for such things as transportation, childcare, alternative therapies, replacing destroyed belongings, relocation, and medications. These expenditures greatly affect household consumption, skewing it away from the goods and services that would be chosen in the absence of violence. Additionally, individuals and their households pay indirectly through attaining lower income. Finally, the household faces costs if the victim leaves the abusive household and loses the economies of scale derived from sharing one domicile.

Furthermore, another genre of costs are the intangibles. Many consequences of violence are not tangible.²⁶ Intangibles are very difficult to cost nevertheless they represent very important and significant costs. A few examples include the fear that women harbour as a result of abuse; pain and suffering or the loss of life; and second generation effects of violence. It is impossible to measure the costs associated with fear and, while attempts have been made at developing measures of pain and suffering or loss of life, they are imprecise at best.²⁷

Even though the estimates are conservative, results from various countries indicate that the measurable national costs of violence against women are in the billions of dollars annually. For New Zealand, the estimated costs was \$N5.3 billion, \$CDN 4.2 billion for Canada, \$12.6 billion for US, and £23 billion for

²⁶ Reed, S., Roe, S., Grimshaw, J. and Oliver, R. 'The economic and social costs of modern slavery' (2018) <https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/729836/economic-and-social-costs-of-modern-slavery-horr100.pdf> accessed on 9 December 2018.

²⁷ Ohman, A. 'Fear and Anxiety' (2019) quoted in Lewis, M., Haviland-Jones, J. and Barrett, L. (Eds.) *The handbook of emotions* (The Guilford Press 2019).

Britain.²⁸ When violence is stemmed, these resources are freed up to be used in alternative economic activities in line with Lionel Robbins definition²⁹ that economics is the science which studies human behaviour as a relationship between ends and scarce means which have alternative uses.

4.0 International Legislative Framework on Domestic Violence against Women

Nigeria is signatory to a number of International human rights instruments such as the Universal Declaration of Human Rights (UDHR), adopted in 1948,³⁰ the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), adopted in 1979,³¹ and the Convention on the Rights of the Child (CRC), adopted in 1989, affirm the principles of fundamental rights and freedoms of every human being³². Both CEDAW and the CRC are guided by a broad concept of human rights that stretches beyond civil and political rights to the core issues of economic survival, health, and education that affect the quality of daily life for most women and children. The two Conventions call for the right to protection from gender-based abuse and neglect. The strength of these treaties rests on an international consensus, and the assumption that all practices that harm women and children, no matter how

²⁸ Rhys, O., Barnaby, A. Stephen, R. And Miriam, W. 'The Economics and Social Costs of Domestic Abuse' (2019) Research Report 107.

²⁹ Robbins, L. *An Essay on the Nature and Significance of Economic Science* (Macmillan 1932) 15

³⁰ <<https://www.jus.uio.no/lm/en/pdf/un.universal.declaration.of.human.rights.1948.portrait.letter.pdf>> accessed 15 August 2019. Adopted by the United Nations General Assembly at its third session on 10 December 1948 as Resolution 217 at the Palais de Chaillot in Paris, France.

³¹ Adopted and opened for signature, ratification and accession by General Assembly resolution 34/180 of 18 December 1979 entry into force 3 September 1981

<<https://www.ohchr.org/Documents/ProfessionalInterest/cedaw.pdf>> accessed on 15 August 2019.

³² Onyemelukwe, C. 'Legislating on Violence against Women: A Critical Analysis of Nigeria's Recent Violence Against Persons (Prohibition) Act, 2015' [2016](5)(2) *DePaul Journal of Women, Gender and Law*; 1-59

deeply they are embedded in culture, must be eradicated.³³ Legally binding under international law for governments that have ratified them,³⁴ these treaties oblige governments not only to protect women from crimes of violence,³⁵ but also to investigate violations when they occur and to bring the perpetrators to justice.³⁶

Nigeria is also a signatory to the African Charter on Human and Peoples Rights (ACHPR),³⁷ which it has taken the extra steps to domesticate³⁸, thus making the Charter a domestic law in Nigeria. The African Charter provides that every individual shall have the right to the respect of the dignity inherent in a human being and prohibits all forms of exploitation.³⁹ In addition, the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (PACHPRWA),⁴⁰ to which Nigeria is a signatory, requires State parties to enact and enforce laws to prohibit all forms of violence against women, and take all necessary legislative and other measures to eliminate harmful practices.⁴¹

5.0 Nigerian Legislative Framework on Domestic Violence against Women

The Nigerian Legal system has a plurality of sources of Law which are justiciable in various courts. The Law relating to women is also

³³Article 19 of the CRC, Articles 1 and 5 of the UDHR, Articles 1 and 5 of the CEDAW.

³⁴ See Article 4 of the United Nations Declaration on Violence Against Women (DEVAW) Proclaimed by General Assembly resolution 48/104 of 20 December 1993 <https://www.un.org/en/genocideprevention/documents/atrocities-crimes/Doc.21_declaration%20elimination%20vaw.pdf> accessed 31 August 2019.

³⁵ See Article 4 of the Protocol on the Rights of Women in Africa.

³⁶UN ECOSOC, Report of the Special Rapporteur on Violence Against Women, E/CN.4/1996/53 para 33.

³⁷African Charter on Human and Peoples Rights Adopted in Nairobi June 27, 1981 Entered into Force October 21, 1986.

³⁸See *Abacha&Ors v GaniFawehinmi* (2000) 6 SC NWLR (Pt.600) 228.

³⁹Article 5 of the ACHPR.

⁴⁰Adopted by the 2nd Ordinary Session of the Assembly of the Union Maputo, 11 July 2003 <https://www.un.org/en/africa/osaa/pdf/au/protocol_rights_women_africa_2003.pdf> accessed on the 20 August 2019.

⁴¹Articles 2, 3, and 20 of the PACHPRWA.

bedevilled by this plurality of laws and each of them is justiciable in the Courts. Sometimes, conflict may also arise amidst these laws though a system of hierarchy of Laws exists and a test of validity exists to expunge some laws that are repugnant, incompatible or against public policy.⁴² But that such repugnant laws exist portends untold problems that may require another process for redress. Be that as it may, a legal frame work exists for protection of women, some of which are also fraught with discriminatory provisions against women.

5.01 The Constitution of the Federal Republic of Nigeria: The 1979 Constitution was the first Constitution to prohibit discrimination on the basis of sex this is reflected in the 1999 Constitution.⁴³ The 1999 Constitution in Chapter IV provides for human (and woman) rights. Section 42 provides for the right against discrimination on the grounds of sex. However, sub-section (3)⁴⁴ of that section provides a lee way for the discrimination of women even in other statutes. For instance section 111(g) of the Police Act prohibits the enlistment of a married woman into the Police Force. Similarly, an unmarried police officer who becomes pregnant will lose her job and may only be re-listed on the approval of the Inspector General of Police.⁴⁵ Again, an unmarried police woman can only marry upon procuring the written permission of the Commissioner of Police in writing.⁴⁶ All of these have dire

⁴² See section 1(3) Constitution of the Federal Republic of Nigeria (CFRN); see also *Augustine Nwafor Mojekwu v Mrs Theresa Iwuchukwu* (2004) Legalpedia SC KG39.

⁴³ Declaration of Mexico.

⁴⁴ Section 42(3) provides *inter alia*: Nothing in subsection (1) of this section shall invalidate any law by reason only that the law imposes restrictions with respect to the appointment of any person to any office under the State or as a member of the armed forces of the Federation or member of the Nigeria Police Forces or to an office in the service of a body, corporate established directly by any law in force in Nigeria.

⁴⁵ Section 127 of the Police Act.

⁴⁶ Section 124 of the Police Act.

economic implications on the woman and contravene Article 11 of the CEDAW.⁴⁷

On the whole, though the Nigerian Constitution provides for the protection of women's right against violation, it leaves loop holes which validate other repugnant laws.

5.02 The Nigerian Customary Laws: Nigeria is a multi-ethnic country with varying customary laws. Nigerian Law, generally comprises the received English Law and about 350 customary laws, subject to the test of validity. The 1886 Charter of the Royal Niger Company provides that in the administration of justice, the customs and laws of the people(s) in its territory must be respected and upheld.⁴⁸ Many of Nigerian customary laws are replete with a lot of gender bias. An aspect of the customary law that violates women's right is widowhood practices⁴⁹. Most traditions deny widows the right to inheritance which subsequently renders them pauperised.⁵⁰ Some states have however legislated against this with the implication that such customs will not pass the incompatibility test in such states.⁵¹

Another of such customs is the child marriage practice that truncates children's developmental process. Consequently they are unable to handle the complexities that life may thrust at them in such unions with far reaching emotional, psychological, physiological and economic implications. Hitherto, even the Marriage Act does not

⁴⁷ Which provides *inter alia*: States Parties shall take all appropriate measures to eliminate discrimination against women in the field of employment in order to ensure, on a basis of equality of men and women, the same rights.

⁴⁸ Newbury, C. W. *British Policy Towards West Africa: Selected Documents (1875 – 1914)* (Hutchinson & Co. (Publishers) Ltd 1960) 254.

⁴⁹ See *Onwo v Oko* (1996) 6 NWLR 587.

⁵⁰ See *Nzekwu v Nzekwu* (1989) 2 NWLR (Pt.104) 373 SC; *Mojekwu v Mojekwu* (1997) 7 NWLR (Pt.512) 283 CA; *Julie Neziyana and Anor v Anthony Okagbue and 2 others* (1963) Legalpedia SC 81R7.

⁵¹ In Enugu State it is known as the Prohibition of Infringement of Widows and Widowers' Fundamental Rights Law 2001.

provide for marriageable age, however, a number of legislations have been enacted as a response this.⁵²

5.03 The Penal Code: Penal Code was integrated into the Nigerian criminal jurisprudence in 1960.⁵³ It is operational in the Northern part of the country. The Code is replete with provisions which protect women and girls some of which include rape,⁵⁴ sexual assault⁵⁵ and incest.⁵⁶ But the Code also contains provisions which legitimise violence against women. Section 55(1) d of the Act allows for wife beating as a way of correction. This contravenes Article 4 of the United Nations Declaration on Violence against Women 1993 which provides that ‘States should condemn violence against women and should not invoke any custom, tradition or religious consideration to avoid their obligations with respect to elimination.’

5.04 Sharia Law: It is a law derived from the Quran and the Hadith.⁵⁷ In Arabic, the term shariah has been said to refer to divine law and is contrasted with fiqh, which refers to its human scholarly interpretations.⁵⁸ It was first introduced in Nigeria in 2019 beginning from Zamfara state.⁵⁹ Today about twelve states in the Northern part of Nigeria have institutionalised Sharia Law.⁶⁰ The law has provisions that benefit women, it however also has provisions that

⁵²Child Rights Act, Child Rights Laws of Lagos and Benue States and the Girl-Child Marriages and Female Circumcision (Prohibition) Law, Cross River State, 2000.

⁵³ Penal Code (Northern States) Federal Provisions Act (No. 25 of 1960) < http://www.ilo.org/dyn/natlex/natlex4.detail?p_lang=en&p_isn=52880&p_country=NGA&p_count=253 > accessed 31 August 2019.

⁵⁴ See section 282 of the Penal Code.

⁵⁵ See section 268 of the Penal Code.

⁵⁶ See section 390 of the Penal Code.

⁵⁷Gilbert Enyidah-OkeyOrdu, ‘Sharia Law in Nigeria: Can a Selective Imposition of Islamic Law Work in the Nation?’ *Journal of Islamic Studies and Culture* [2015](3)(2); pp. 66-81.

⁵⁸<<https://en.wikipedia.org/wiki/Sharia>> accessed 1 September 2019.

⁵⁹< <http://www.socialtheology.com/docs/vol6-ch3.pdf> > accessed 12 August 2019.

⁶⁰These are Zamfara State, Kano State, Sokoto State, Katsina State, Bauchi State, Borno State, Jigawa State, Kebbi State, Yobe State, Kaduna State, Niger State and Gombe State.

allow for the abuse of women. One of such provisions is the age of maturity or adulthood which the Shariah provides as the age of puberty (*bulugh*).⁶¹ By this, a girl child can be given out in marriage at the age of nine as long as she has attained puberty. The provision is contradictory to the provisions of the Convention on the Rights of the Child(CRC) and the Child Rights Act(CRA). Shariah Law also allows for polygyny.⁶² A man is permitted to marry as many wives as he desires in so far as they do not exceed four wives at any point in time this also has economic underpinnings.

The Shariah Law also provides for wife beating as found under Quran 4:34 thus:

Men are the protectors and maintainers of women, because Allah has given the one more (strength) than the other, and because they support them from their means. Therefore the righteous women are devoutly obedient, and guard in (the husband's) absence what Allah would have them guard. As to those women on whose part ye fear disloyalty and ill-conduct, admonish them (first), (Next), refuse to share their beds, (And last) strike them (lightly); but if they return to obedience, seek not against them Means (of annoyance): For Allah is Most High, great (above you all). If ye fear a breach between them twain, appoint (two) arbiters, one from his family, and the other from hers; if they wish for peace, Allah will cause their reconciliation: For Allah hath full knowledge, and is acquainted with all things.⁶³

Another issue is the problem of easydivorce under Shariah Law. A man can dissolve marriage by repudiating his wife three times

⁶¹SiddiquiM, 'The Concept of Wilaya in Hanafi law: Authority versus Consent in al-Fatawa al-Alamgiri'[1998](5)(1) *Yearbook of Islamic and Middle Eastern Law*; 174.

⁶²Sura 4 Verse 3.

⁶³This contravenes Article 4 of the United Nations Declaration on Violence against Women 1993.

(*talaq*). This has rendered many women single mothers with little or no means of survival. Conversely, a woman even if she is being abused in a marriage (such as wife beating⁶⁴) has no right to divorce her husband except he bestows it on her.⁶⁵

5.05 Criminal Code: Criminal Code is used in the administration for criminal justice in the western part of the country. The Code contains provisions which protect women against violence. It is explicit on what constitutes assault, human rights violation and criminal acts. For instance under the Criminal Code unlike the Penal Code, it is a crime for a husband to beat his wife.⁶⁶ He may be convicted of assault, wounding, or grievous harm for his action depending on the degree and effect of the force he used on his wife and sentenced to imprisonment for 2, 3, or 7 years, respectively. Under section 358 of the Criminal Code, rape attracts a sentence of life imprisonment, with or without whipping. Also, chapter 21 of the Act contains a wide variety of offences including causing or encouraging the seduction of a girl under sixteen; abduction of girls under eighteen with intent to have carnal knowledge and persons trading in prostitution.

The Act however contains provisions that also perpetuate a culture of violence and discrimination against women. For instance sections 216 and 360 of the Act provide for the offences of indecent assault against a boy and woman/girl respectively. While in the case of the boy the offence attracts a punishment of incarceration for a period of seven years, in the case of women/girls, the same offence attracts a punishment of incarceration for a period of two years. This disparity is a flagrant show of discrimination against the abuse of women/girls.

⁶⁴Permissible under Quran 4:34-35.

⁶⁵<<http://www.legalserviceindia.com/article/I393-Divorce-under-Muslim-Law.html>> accessed 1 September 2019; This offends a woman's right to association, see section 40 CFRN.

⁶⁶Sections 335, 351 & 352 CCA.

Again the difficulties occasioned by the limitations placed on the enforcement of section 218 make a caricature of the provision. In the first instance, prosecution is limited within a two month window of the commission of the offence. Again, a person can only be convicted upon the corroborated testimony of a witness. These limitations provide a lee way for offenders to go unpunished leaving the victim without justice.⁶⁷

5.06 The Child Right Act 2003: The Child Rights Act (CRA) was enacted in 2003. The Act domesticated to a large extent the Convention on the Rights of the Child, 1989. The CRA has been adopted by various States as their Child Rights Law some of which include Abia, Akwa-Ibom, Anambra, Benue, Lagos and Taraba States. At the state level, several states, such as Edo and Osun states, passed laws to criminalize female genital mutilation.⁶⁸ Twenty-four states have adopted the federal Child Rights Act, which prohibits child marriage. These laws have varying provisions on the same matter⁶⁹. Many of these pieces of legislation are fragmentary, covering only certain aspects of violence against women and girls but not others, thus still leaving gaps in protections for women. The upshot is that there remains a need for comprehensive legislation covering all aspects of violence against women on account of gender.

5.07The Violence against Persons(Prohibition) Act, 2015: The Act defines violence as ‘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.’⁷⁰ In this regard, it

⁶⁷ See *Oludotun Ogunbayo v The State* (2007) Legalpedia SC 3YEQ; *Upahar v The State* (2003) FWLR 1513.

⁶⁸ Defined by the World Health Organisation as including procedures that intentionally alter or cause injury to the female genital organs for non-medical reasons <<https://www.who.int/news-room/fact-sheets/detail/female-genital-mutilation>> accessed 31 August 2019.

⁶⁹ Udo, C., O. ‘Physical abuse of women in the home: A Nigerian perspective’ [2016](5)(3) *Humanities and Social Sciences Review*; 379-394.

⁷⁰ The Violence Against Person (Prohibition) Act, 2015.

provides a broad description of acts that may be described as violent. It does not limit violence to physical violence or sexual violence but also covers economic harm. For the purposes of violence against women, these include, provisions criminalising rape⁷¹, physical injury, spousal battery, harmful traditional practices, intimidation, coercion, and political violence. The Act, among other things, prohibits Female Genital Mutilation (FGM) or female circumcision, forceful ejection from home and harmful widowhood practices (see Sections 6, 13 and 46 of the Act). It also prohibits abandonment of spouses, children and other dependents without sustenance. Each of these attracts some penalties ranging from life imprisonment in certain cases of rape, to two years imprisonment or the option of a fine for giving false information to the judiciary. Some states like Abia, Bayelsa, Benue, Cross Rivers, Edo, Ogun, Osun, Rivers and Bayelsa have domesticated the law. Thus, violence against women, including Female genital mutilation, are only partially regulated and prohibited in the country.

The Act also provides for the issuance of a protection order to victims of domestic violence. Section 38(1) provides that victims of violence have the right to all remedies allowed under international law. Matters that have not received any recognition under Nigerian law, for instance economic abuse, are addressed in this Act.⁷² Economic abuse is an insidious form of violence that keeps women, particularly in domestic violence situations, from seeking help. Economic abuse not only harms the abused women, it hinders the country's socio-economic development by limiting the ability of women to contribute productively to the economy. In the Act, economic abuse is described as forced financial dependence,⁷³ this implies that the denial of inheritance or succession rights, the unreasonable deprivation of economic or financial resources to which any person is entitled or which any needs including household necessities, mortgage bond repayments or payment of

⁷¹*Posu & Anor v. The State* [2011] 3 NWLR 393, 414 (Nigeria).

⁷²Section 12 of the Act.

⁷³Section 12 of the Act.

rent or unreasonable disposal or destruction of household effects or other property in which a woman has an interest and the absence of which make her financially dependent are captured by this section..The Court has given credence to this law as can be seen in *Ukeje v Ukeje*.⁷⁴It remains to be seen how effective implementation will be, given that even law enforcement agents are raised in this cultural milieu and have often in the past expressed the view that domestic violence is a private affair, thus denying complainants their rights to investigation and protection under the law.

The Act has however excluded women in intimate relationships that are not married from benefitting from financial support when abused by not making express provisions for them. This is reflective of the general non-recognition of such relationship under Nigerian Law. The Act also fails to address matters such as forced abortion, forced prevention of contraception and virginity checks, all of which are rampant in Nigerian society and violate the bodily integrity and fundamental rights of women.

5.08 The Marriage Act: The Marriage Act (MA) covers matters incidental to statutory marriage in Nigeria. The Act offers protection to women who are married under the Act much more than those who are married under Customary Law. This is seen most especially as relates to the issue of succession to the estate of their husbands.⁷⁵ The effect of this is that the Act creates financial security to a widow as it grants her access to administer her deceased husband's estate.⁷⁶ The MA however has some provisions which undermine the rights of women and create a window for violence against women. For instance, the Act does not provide for a marriageable age. In the alternative, the Act provides under section 48 that where a person intends to marry a minor being less than 21 years old, consent of the parents of the minor be obtained. This provision allows for child marriage which contravenes section 23 of the Child's Right Act.

⁷⁴*Ukeje v. Ukeje* [2014] 4 KLR (Pt.345) 627.

⁷⁵ This as seen under Section 12 of the VAPP Act is a form of abuse.

⁷⁶ See *Olaiya v Olaiya* (2002) FWLR pt. 109 p. 1588; *AdakuAmadi v Edward N. Nwosu* (1992) 5 NWLR pt. 239 p. 273.

5.09 Trafficking in Persons (Prohibition) Law Enforcement and Administration Act, 2003: this Act protects the interest and rights of women. The Act generally provides protection against a wide range of sexual exploitation such as abduction, defilement, kidnapping, pornography, prostitution, rape, seduction, slavery and trafficking for prostitution or slavery.⁷⁷

The Act has however been criticised⁷⁸ for creating extra territorial offences⁷⁹ which have brought to question the jurisdiction of the Court to try offences committed outside Nigeria *vis a vis* section 270(1) CFRN. The courts have nevertheless been moved by section 286(1)(b) and (c) of the CFRN to rule in favour of the Act and thus assume jurisdiction.⁸⁰

6.0 Recommendations

A consistent legal framework is one of the key requirements of legislation on violence against women. As the UN Handbook⁸¹ explains, this requires that all legislation, including legislation on family and divorce law, property law, housing rules and regulations, social security law, and employment law be reviewed and amended to bring them in line with the human rights and gender equality requirements. Accordingly, the Violence against Persons Prohibition Act, 2015 should contain a savings and consequential amendments

⁷⁷ These are generally found in sections 11 to 26 of the National Agency for the Prohibition of Trafficking in Persons (NAPTIP) Act.

⁷⁸ Joy Ngozi Ezeilo, *Women Law & Human Rights Global and National Perspectives* (Acena Publishers AP, 2011) p. 131.

⁷⁹ Section 61 of the Act provides generally for Offences committed outside Nigeria, etc. 1) Where an offence under this Act is committed in any place outside Nigeria by any citizen or person granted permanent residence in Nigeria, he may be dealt with in respect of such offence as if it was committed at any place within Nigeria. (2) The Agency has the power to engage the service of International Police or any local or international Agency on the detection of cross border crimes through the Nigerian Police.

⁸⁰ See generally *Waziri v The State* (1997) 3 NWLR (496) 691; *Njovens v The State* (1973) NNLR 76; *National Union of Electricity Employees & Anor. v Bureau of Public Enterprises* 2012 Legalpedia SC QNAW.

⁸¹ <<https://www.ohchr.org/Documents/Publications/HRhandbooken.pdf>> accessed on the 21 August 2019.

provision which would allow its provisions repeal any conflicting provisions.

The government and leaders at all levels should exhibit readiness and political will to promote gender equity by embarking on policies that will ensure liberation of women from domestic and other forms of violence. Individual women should be encouraged to report cases of right violations as at when due. To achieve this, issues that have to do with stigmatisation must be well addressed

Parents should be educated on children rights in order to prevent domestic violence against children. Sensitizing parents on children's rights can make them aware that children also deserve dignity as adults. And also sensitization of parents may influence adults to change from their bad parental styles to safe parental styles.

Finally, education and enlightenment are keys to making laws truly effective. For the law to effectively eliminate violence against women, the general citizenry must be educated on the implications of violence and abuse on the individuals who abuse, the victims of the abuse, near relations and the larger society.

7.0 Conclusion

Conclusively, there is a direct negative economic implication of domestic violence or abuse on the abuser, the victim of the abuse, their dependants, and the larger society. Where the tide of abuse is stemmed, the society can re-channel such funds to viable development. An effective way of stemming the tide is by legislation and effective enforcement of same. Work remains to be done in terms of aligning all existent legislation with human rights instruments as well as the effective enforcement/implementation of same in the interest of the nation at large.