

DOMESTIC VIOLENCE AGAINST WOMEN IN NIGERIA: TIME TO ENGAGE THE CRIMINAL LAW

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Domestic violence is violence or physical abuse directed toward a spouse or domestic partner, usually involving violence by men against women. Any abuse, including physical, emotional, sexual, or financial between intimate partners, often living in the same household is domestic violence. The term is often used specifically to designate physical assaults upon women by their male partners, but, though rarer, the victim may be a male abused by his female partner, and the term may also be used regarding abuse of both women and men by same-sex partners. Partners may be married or not. Domestic violence could also be defined as a pattern of abusive behavior in any relationship that is used by one partner to gain or maintain power and control over another intimate partner. Abuse in a relationship is any act used to gain power and control over another person. Women who are abused physically are often isolated. Their partners tend to control their lives to a great extent as well as verbally degrade them. This paper will discuss firstly, the nature of the crime of domestic violence and secondly, the aspect of women's rights being violated when abused and tortured and the consequences; thirdly, the international perspective of domestic violence looking into specific international instruments protecting women's rights and State responsibility; fourthly, it will discuss domestic violence in Nigeria, cultural beliefs and why domestic violence should be criminalized.

Keywords: Domestic Violence, Women, Criminal Law, Nigeria.

Introduction

Nigeria is a country in the West Africa, it lies eastward to the Republic of Benin, southward to the Republic of Niger and Chad, westward to the Republic of Cameroun and northward to the Gulf of Guinea. Nigeria is a country with over 450 ethnic groups.

The institution of the family has been described as the oldest and most basic unit of human organisation; the most crucial link between generations; the primary transmitter of culture; the sustainer of heritage and the major provider of food, shelter and love. This, however, is not the case in many families in many countries where every day, domestic violence against women shatters the traditional notion of a family whose members are loving, caring and supportive of each other. As stated by the UN Special Rapporteur on Violence against Women, Ms Coomaraswamy:

“The institution of the family is also an arena where historical power relations are often played out. On the one hand, the family can be the source of positive nurturing and caring values where individuals bond through mutual respect and love. On the other hand, it can be

a social institution where labour is exploited, where male sexual power is violently expressed and where a certain type of socialisation disempowers women."¹

Gender imbalance permeates every facet of Nigerian society and comes in several forms, violence being one of them. Violence in the home is a global epidemic. Domestic violence is a serious problem around the world. It violates the fundamental human rights of women and often results in serious injury or death. It occurs in all social, economic, religious and cultural groups. Violence against women is truly a global phenomenon. Virtually every culture in the world contains forms of violence against women that are nearly invisible because they are seen as 'normal'. Even in countries where laws criminalize violence against women, tolerance of violence may be found at all levels of society.

According to the United Nations Special Rapporteur on Violence against Women: *"the greatest challenge to women's rights and the elimination of discriminatory laws and harmful practices comes from the doctrine of cultural relativism"* and can only be addressed with the active involvement of the people most affected".² Most of the time, a woman's greatest risk of violence is from someone she knows. Domestic violence takes many forms, from murder, beatings, rape, psychological abuse, to acid burning, dowry-related violence and so-called "honour" killings. This article, as the title indicates, focuses on domestic violence in Nigeria; it identifies and examines the various factors that have, over the years, militated against the eradication of this type of violence. The article proffers solutions on the best way forward in order to stem this growing tide of violence often targeted against women and female children in Nigerian homes.

Meaning of Domestic Violence

Domestic violence is not exclusive to Nigeria but it is a global issue. It is not an African nor Nigerian thing, it is a global crisis that is sweeping through the world. Domestic violence against women occurs in virtually every corner of the globe, in every culture and social group, and its prevalence is increasing dramatically. Domestic violence exist in nations with varying social, political, economic and cultural structures, and its pervasiveness signifies that the problem does not originate with the pathology of an individual person.³ Domestic violence is basically used by the violator to gain and maintain control, regardless of whatever form used over their wife or spouse/partner.

Black's Law Dictionary defined domestic violence as violence between members of a household usually spouses, an assault or other violent act committed by one member of a household against another. The infliction of physical injury or the creation of reasonable fear, that physical injury or harm will be inflicted by a member of a household against another member of the household.⁴ Domestic violence can be defined as a pattern of abusive behavior in any relationship that is used by one partner to gain or maintain power and control over another intimate partner.⁵ *Merriam-Webster Dictionary* defined domestic violence as "the inflicting of physical injury by one family or household member on another; also: a repeated, habitual pattern of such behavior".⁶

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¹ Subedi, S.P., "Protection of Women against Domestic Violence: The Response of International Law" *European Human Rights Law Review* 1997, 587, www.westlawuk.com (Accessed on 13th November, 2014).

² "Domestic Violence- Law and Policy; The International Legal Framework" www.l.umn.edu/humanrts/svaw/domestic/laws/international.htm. (Accessed on 9th September, 2012).

³ United Nations Children's Fund, Domestic Violence Against Women and Girls, (2000) 6 Innocent Digest 1, 4-5. <http://www.unicef-irc.org/publications/pdf/digest6e.pdf> (Accessed on 24th October, 2014)

⁴ Garner, Black's Law Dictionary, 9th Edition; West.

⁵ Domestic violence; www.ovv.usdoj.gov (Accessed on 22 September 2012)

⁶ Merriam Webster (Accessed on 14 November 2011).

Domestic violence against women is a gender based violence also known as intimate partner violence or spousal violence. It is one of the different forms of Gender Based Violence against women. According to the United Nations Declaration on the Elimination of Violence against Women, violence against women means “...any act of gender-based violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life” and shall be understood to encompass, but not limited to:

- (a) “...Physical, sexual and psychological violence occurring in the family, including battering, sexual abuse of female children in the household, dowry-related violence, marital rape, female genital mutilation and other traditional practices harmful to women, non-spousal violence and violence related to exploitation;
- (b) Physical, sexual and psychological violence occurring within the general community, including rape, sexual abuse, sexual harassment and intimidation at work, in educational institutions and elsewhere, trafficking in women and forced prostitution;
- (c) Physical, sexual and psychological violence perpetrated or condoned by the State, wherever it occurs.⁷

Domestic violence is violence or physical abuse directed toward a spouse or a domestic partner, usually perpetrated by men against women. Any abuse including physical, emotional, sexual, or financial between intimate partners, often living in the same household is domestic violence. The term is often used specifically to designate physical assaults upon women by their male partners, but, though rarer, the victim may be a male abused by his female partner, and the term may also be used regarding abuse of both women and men by same-sex partners. Partners may be married or not. The research area of this writer is focused on domestic violence against women by male partners.

Domestic violence is a broad term and it could take different forms. It could be physical (slapping, pinching, grabbing, biting, beating, twisting arms, kicking, using weapon on victim), sexual (forcing or attempting to force any sexual contact or behavior without consent, making the victim do sexual things against his/her will, marital rape, attacks on sexual parts of the body, treating in a sexually demeaning manner as if victim is a sex object), emotional (Undermining an individual’s sense of self-worth and self-esteem, to insulting victim in public or in private, putting victim’s friends and family down, name-calling, constant humiliation), economic (to make a victim financially dependent on the abuser and this could be achieved in the following ways; withholding victim’s access to money, preventing victim from working, sabotaging victim’s job) or psychological (causing fear by intimidation and could be done in the following ways; threatening physical harm to self, children, victim’s family) actions or threats of actions that influence another person. This also includes any action that intimidates, manipulates, humiliates, isolates, frightens, coerces, threatens, blames, terrorizes, hurts, injures, embarrasses, or wounds someone and some even lead to death of the victim.⁸

In *Uzoukwu v. Ezeonu*⁹ the Court of Appeal states that violating a right of a person to human dignity includes mental harassment, physical brutalization, belittling of one’s societal status or character, lack of human sentiments and degradation of one’s value or position as a person. Thus, domestic violence is a gross violation of women’s right to dignity of human person.

Domestic violence is usually associated with inequality between women and men, it starts as a result of societies viewing women as unequal with men.

⁷ Ezeilo, J.N., (ed) Article 1 and 2 of the United Nations General Assembly Resolution 48/104 of 20 December 1993, Human Rights Document Relevant to Women and Children’s Rights in Nigeria, (Women Aid Collective, 2008) 104.

⁸ Akinola, G.T., Domestic Violence against Women in Nigeria: The Role of the Nigerian Government., The Nigerian Law Journal, Vol 17, No. 1, 2014, 162 at 171

⁹ (1991) 6 NWLR Pt. 200, 708 at 764-778

International Law and Women's Human Rights

Human rights became an issue of international law and concern with the end of the World War II and the establishment of the United Nations. Through the ongoing work of the various International organizations, the universality of human rights has been clearly established and recognized in international law. Although there is no global government as such to protect human rights, it is being protected by the various bodies of the United Nations and the inter-governmental organizations. The Universal Declaration of Human Rights is a primary proclamation of the international community's commitment to human rights as a common standard of achievement for all peoples and all nations. The Universal Declaration has provided bedrock for human rights globally.

Justice is the primordial essence of human rights, it presupposes a conscious effort at bringing justice and equality to bear on the entire life of man. This was aptly elucidated by Thomas Jefferson (the third President of United States) thus:

*"We hold this truth to be self-evident, that all men are created equal, that they are endowed by their creator with inalienable rights that among these are life, liberty and the pursuit of happiness"*¹⁰

Human rights are rights which all human beings have by virtue of their humanity. They are rights which accrues to a person by the reason of the person being human regardless of sex, race, colour, language, ethnic, religion etc., they are inherent and inalienable rights of all members of the human family¹¹ and everyone is entitled to all these rights without distinction of any kind¹².

Basically, women's rights are those that apply to both men and women and are contained in general human rights such as the ICCPR, the ICESCR among others which entrench rights exercisable by all without discrimination of any form.¹³ There are also some that are specific to women such as the Convention on the Elimination of all Forms of Discrimination against Women (CEDAW) which specifically addressed the needs of women. Thus, human rights are women's rights too.

Violence against women, of any form is a human rights abuse. It constitutes a violation of the rights and fundamental freedoms of women and impairs or nullifies their enjoyment of those rights and freedoms. Domestic violence is a violation of women's human rights, i.e. right to dignity of human person. Right to dignity is a summary of the right not to be subjected to torture or to cruel, inhuman or degrading treatment. Defining dignity, Oxford Advanced Learner's Dictionary¹⁴ states that dignity is a calm and serious manner that deserves respect, the fact of being given honour and respect by people. According to the United Nations studies report, the most common form of violence experienced by women around the world is physical violence inflicted by an intimate partner.¹⁵

The importance of this right is provided for in the Universal Declaration of Human Rights (1948) and cannot be underestimated. In the declaration, the provisions in the declaration states that all human beings are born free and equal in dignity and rights.¹⁶ From the Ontological perspective, the word 'dignity' has been understood, according to Immanuel Kant: "*Man regarded as a person...is exalted*

¹⁰ Esein Azu Udu, *Human Rights in Africa*, 2011, 6.

¹¹ Preamble to the Universal Declaration of Human Rights, Human Rights, A Compilation of International Instruments, Vol. 1(First Part) Universal Instruments, (United Nations Publication, New York and Geneva, 1994) 1

¹² Article 2 of UDHR, Ibid, 2

¹³ Akinola, G.T., "Domestic Violence against Women in Nigeria: The Role of the Nigerian Government", 2014 Vol. 17, No.1, *The Nigerian Law Journal* 162- 188 at 176-177

¹⁴ International Student's Edition, p.407

¹⁵ United Nations Department of Public Information, U.N. Secretary-General's Campaign, Unite to End Violence Against Women Factsheet, DPI/2498 (February, 2008). <http://www.un.org/en/women/endviolence/pdf/VAW.pdf> (Accessed 14th, January, 2015)

¹⁶ Article 1 OF THE Universal Declaration of Human Rights, Human Rights, A Compilation of International Instruments, Vol. 1(First Part) Universal Instruments, (United Nations Publication, New York and Geneva, 1994) 2

above any price,...he is not to be valued merely as a means...he possesses a dignity (absolute inner worth) by which he exacts respect for himself from all other rational beings in the world”¹⁷

From the thought of the writer above, dignity appears to be a label that is stamped on every individual by their reason of being human and must be recognized by all. Human dignity renders one worthy or deserving of respect in every area. On the national level, the 1999 Constitution of Nigeria provides for the right to dignity of human person by stipulating that no one shall be subjected to torture, inhuman and degrading treatment or punishment.¹⁸ This guarantees women’s rights to Dignity and non-discrimination. Kofi Anan, (former UN Secretary-General) when he was Secretary-General states that *“Violence against women is perhaps the most shameful human rights violation. It knows no boundaries of geography, culture or wealth. As long as it continues, we cannot claim to be making real progress towards equality, development, and peace.”¹⁹*

Usually, because domestic violence takes place between private individuals, it is assumed and believed that it does not come within the ambit of the traditional interpretation of human rights law. Violence against women in the family occurs in developed and developing countries alike. It has long been considered a private matter, but such private matters have a tendency to become public tragedies. One of the major obstacles to the recognition of domestic violence as a human rights violation was the belief that international human rights law did not apply to “private harm” and domestic violence has historically being viewed as “private” issue within the home. In the past, violence against women in the home was viewed as a private matter, not an issue of civil and political rights. Today, the international community has explicitly recognized violence against women as a human rights issue involving state responsibility. International human rights trend recognizes the right of women to be free from violence and government has the obligation to take steps to eliminate violence against women. Violence against women constitutes a violation of the rights and fundamental freedoms of women and it impairs or nullifies their enjoyment of those rights and freedoms. It also recognizes that opportunities for women to achieve legal, social, political and economic equality in society are limited by continued endemic violence.

Thus, it is trite to say that the practice of human rights provides a powerful mechanism to realize the underlying dignity of the person.²⁰

Consequences of Domestic Violence

The consequences of domestic violence are legion—it takes a devastating toll on women, families and nations, and furthermore, recent research has shown increasing links between domestic violence and the high vulnerability of women to human immunodeficiency virus (HIV)/acquired immunodeficiency syndrome (AIDS).²¹ It jeopardizes women’s lives, bodies, psychological integrity, wellbeing and freedom. It has been described as the most pervasive yet least recognized human rights abuse in the world.

Victims of domestic violence are often dependent on their abusers. For some victims the unrelenting cycle of violence produces diminished self-esteem, helplessness, depression, emotional disorder sometimes leading to suicide, life time disability, and death and exaggerated feelings of imprisonment, even the belief that they deserve abuse. More material obstacles stand in the way of most victims. Many are financially dependent on their abusers, and, since many abuse victims are mothers, they particularly fear being unable to support their children if they leave a violent partner. Many fear reporting the crime because the police can offer no reliable protection against retaliation. One of the worst problems is that

¹⁷ Olomjobi Y., *Human Rights on Gender, Sex and the Law in Nigeria*, Princeton Publishing Co., 2013, p. 50

¹⁸ Section 34 of the 1999 Constitution of the Federal Republic of Nigeria.

¹⁹ <http://www.wecanbc.ca/resources/violence-against-women> (Accessed 23rd January, 2015)

²⁰ Olomjobi, Y., *op. cit.*, at 51.

²¹ Ifemeje Sylvia Chika; *Gender-Based Domestic Violence in Nigeria: A Socio-Legal Perspective*, *Indian Journal of Gender Studies*; February 2012 vol. 19 No.1, 137-148

typical abusers often become most violent and vengeful precisely when women try to leave; many women have been murdered by male partners when they tried to press charges or win orders of protection. Domestic violence not only affects those abused, but also has gross effect on family members, friends, co-workers and the society at large thereby destroying the very essence and fabric of the global society. Children are the major victims of domestic violence. Children who grow up witnessing domestic violence are among those seriously affected by the crime but it basically teaches them that domestic violence is a normal way of life, this increases their risk of becoming society's next generation of victims and abusers. Witnessing abuse and living in an environment where domestic violence is the norm can be devastating for a child. Some researchers have found that children whose mothers were abused by their partners have intelligence quotients (IQs) lower than usual.²² Many women believe that abuse is a normal part of marriage and are unconvinced that life without it can exist.

Specific International Instruments Relating to Women's Rights in Nigeria

Nigeria has over the years signed ratified or domesticated some treaties which generally or specifically guarantee the rights of women. The following are some of the international and Regional signed, ratified and domesticated instruments relevant to Women's rights:

- i. *Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) and its Optional Protocol*: is a specific convention that focuses entirely on eliminating all forms of discrimination against women. The Convention provides the basis for realizing equality between women and men through ensuring women's equal access to, and equal opportunities in, political and public life -- including the right to vote and to stand for election -- as well as education, health and employment. The Convention's content, more than simply defining women's human rights, stresses two concepts: equality between the sexes as a basic objective, and the necessity of eliminating discrimination as an ultimate goal.

CEDAW states that women have the rights to equality before the law and laws which discriminate against women must be abolished or reformed and laws must be established to prevent discrimination against women, to participate fully in public and political life, have equal rights with men regarding nationality, and the nationality of their children, have the right to equal access to all levels of education, equal access to work, to choice of profession, job security and benefits, vocational training, social security and paid leave, and equal pay for work of equal value, equal access to health care services, including family planning, have full economic rights, including access to family benefits, bank loans, mortgages and other forms of credit, to make decisions about marriage, divorce, parental rights and responsibilities, the number and spacing of children, guardianship and adoption, and property ownership. States parties agree to take all appropriate measures, including legislation and temporary special measures, so that women can enjoy all their human rights and fundamental freedoms.²³

The Optional Protocol (OP) to CEDAW permits the CEDAW Committee to deliberate on petitions from individuals or groups who have not attained justice in their national jurisdictions, where a complaint is filed, the Committee has the discretion to adopt interim measures to protect the complaint from discrimination. The OP does not create new rights, but it seeks to strengthen implementation of the CEDAW Convention by establishing two additional measures – the

²² BBC NEWS Education (2003) violence at home hits children's IQ. Accessed 11 June 2003 from <http://news.bbc.co.uk/1/hi/education/2981312.stm>

²³ Articles 1-16 of The Convention on Elimination of All Forms of Discrimination Against Women, Human Rights, A Compilation of International Instruments, Vol. 1(First Part) Universal Instruments, (United Nations Publication, New York and Geneva, 1994), 151-159

communications procedure and the inquiry procedure – to address violations of women’s and girls’ rights. The communications procedure gives individual women or groups of women the right to complain to the CEDAW Committee about violations of rights contained in the Convention while the inquiry procedure allows the Committee to investigate serious or systematic violations of women’s rights in a particular country.²⁴ The OP does not establish new rights but it basically allows the rights guaranteed in the CEDAW to be enforced, it seeks to enhance the effectiveness of compliance with State party observation of international obligations.

ii. *Convention on the Political Rights of Women*: is a Convention which declares that everyone has the right to participate in the government of his country, and to access public services. The *Convention on the Political Rights of Women* specifically protects this right for women. Women are given the right to vote or hold office, as established by national law, on equal terms with men and without discrimination on the basis of sex.²⁵

iii. *The International Covenant on Civil and Political Rights (ICCPR)*: according to the preamble of the ICCPR, consideration is given to the principles proclaimed in the Charter of the United Nations (UN) which recognizes the inherent dignity and equal and inalienable rights of all human beings as the foundation of freedom, justice and peace in the world, the State parties to this covenant recognize that in accordance with the UDHR, a person can only enjoy civil and political freedom free from fear if conditions are created to ensure this enjoyment. ICCPR protects against cruel, inhuman and degrading treatment. It recognizes right to life, liberty, security, privacy, fair trial and equality before the law and prohibits slavery, arbitrary arrest and detention as well as the guarantee of freedom of opinion, expression, thought, religion and association amongst others.²⁶

According to ICCPR, everyone has the right to self-determination and by extension can determine their political status and freely pursue their economic, social and cultural development and State parties accordingly have the responsibility to promote the realization and respect of the right to self-determination in conformity with the UN Charter.²⁷ The ICCPR also makes it clear that everyone has access to these rights without distinction or discrimination of any kind (such as, race, sex, colour, language, religion, political or other opinion, national or social origin, property, birth or other status) and that state parties undertake to ensure the equal right of men and women to the enjoyment of all civil and political rights set forth in the ICCPR.²⁸ (*Underlining mine*).

iv. *The International Covenant on Economic, Social and Cultural Rights (ICESCR)*: the preamble of the ICESCR is similar to that of the ICCPR. The Covenant guarantees the enjoyment of all economic, social and cultural rights.²⁹ It guarantees the right to work under just and favourable conditions that ensure a decent living, the right to form and join trade unions and the right to strike in conformity with national laws, right to social security, right to protection of family, motherhood, childhood and of young persons, right to free consent of marriage, right to adequate food, clothing, housing and standard of living and right to education amongst others.³⁰ The State

²⁴ Hayes, C., A Lever for Change: Using the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women, http://www.equalityhumanrights.com/sites/default/files/documents/humanrights/a_lever_for_change.pdf (Accessed on 25th November, 2014) and Articles 2-4 and 8-9 of the Optional Protocol to CEDAW.

²⁵ Articles I-III of the Convention on the Political Rights of Women, Human Rights, A Compilation of International Instruments, Vol. 1(First Part) Universal Instruments, (United Nations Publication, New York and Geneva, 1994), 164.

²⁶ Articles 6 -27 of International Covenant on Civil and Political Rights, Human Rights, A Compilation of International Instruments, Vol. 1(First Part) Universal Instruments, (United Nations Publication, New York and Geneva, 1994), 22-30

²⁷ Articles 1, Para 1 and 3 of the International Covenant on Civil and Political Rights, *Ibid*, at 21

²⁸ Articles 2(1) and 3 of the of International Covenant on Civil and Political Rights,, *ibid* at 21

²⁹ Article 3 of the International Covenant on Economic, Social and Cultural Rights, Human Rights, A Compilation of International Instruments, Vol. 1(First Part) Universal Instruments, (United Nations Publication, New York and Geneva, 1994), 9.

³⁰ Articles 6-15 of International Covenant on Economic, Social and Cultural Rights, Human Rights, *ibid*, at 10-15

Parties to the ICESCR must undertake to guarantee that these rights will be exercised without discrimination of any kind whatsoever including sex/gender and that rights are accessible to all regardless of sex.³¹

- v. *The Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT)*: the convention makes provisions that aim to prevent torture and other cruel or inhuman treatment or punishment. The convention prohibits torture, and requires parties to take effective measures to prevent it in any territory under its jurisdiction. This prohibition is absolute and non-derogable. No exceptional circumstances whatsoever may be invoked to justify torture, including war, threat of war, internal political instability, public emergency, terrorist acts, violent crime, or any form of armed conflict.³² Torture cannot be justified as a means to protect public safety or prevent emergencies nor can it be justified by orders from superior officers or public officials.³³ The prohibition on torture applies to all territories under a party's effective jurisdiction, and protects all people under its effective control, regardless of citizenship or how that control is exercised.³⁴
 - vi. *The International Convention on the Elimination of all Forms of Racial Discrimination (CERD)*: the Convention, directs States parties to condemn racial discrimination and undertake to pursue by all appropriate means and without delay a policy of eliminating racial discrimination in all its forms. The convention also directs State Parties to condemn racial segregation and apartheid and undertake to prevent, prohibit and eradicate all practices of this nature in territories under their jurisdiction. The Convention commits State Parties to use all appropriate measures including legislation to eliminate racial discrimination and ensure that all public actors conform to this obligation and also calls for the review and amendment of all domestic policies that have the effect of creating or perpetuating racial discrimination, and to take affirmative measures to protect against racial discrimination. The Convention commits state parties to eliminate all forms of racial discrimination and to promote understanding among all races, not to discriminate on the basis of race, not to sponsor or defend racism, and to prohibit racial discrimination within their jurisdictions. They must also review their laws and policies to ensure that they do not discriminate on the basis of race, and commit to amending or repealing those that do. Specific areas in which discrimination must be eliminated among others are rights to equal treatment, security of person, freedom of movement, marriage and choice of spouse, to own property, inherit, freedom of thought, opinion, work, public health, education etc.³⁵
- The Convention also mandates States Parties to provide effective institutional protections and remedies against any acts of racial discrimination and to seek just and adequate reparation including financial compensation for any damage suffered as a result of such discrimination and requires States Parties to adopt measures that combat prejudices that lead to racial discrimination; promote racial understanding and tolerance; and teach the principles embodied in the Universal Declaration of Human Rights, and other human rights conventions.³⁶
- vii. *Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) and its Optional Protocol*: is a specific convention that focuses entirely on eliminating all forms of

³¹ Articles 2(2) of International Covenant on Economic, Social and Cultural Rights, Human Rights, *ibid*, at 9

³² Article 2 (2) of Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Human Rights, A Compilation of International Instruments, Vol. 1(First Part) Universal Instruments, (United Nations Publication, New York and Geneva, 1994), 294.

³³ Article 2 (3) of Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, *Ibid*.

³⁴ Articles 2 (1) of Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, *Ibid*.

³⁵ Articles 1-5 of International Convention on the Elimination of All Forms of Racial Discrimination, Human Rights, A Compilation of International Instruments, Vol. 1(First Part) Universal Instruments, (United Nations Publication, New York and Geneva, 1994), 66-71.

³⁶ Articles 6-7 of International Convention on the Elimination of All Forms of Racial Discrimination, *Ibid* at 71

discrimination against women. The Convention provides the basis for realizing equality between women and men through ensuring women's equal access to, and equal opportunities in, political and public life -- including the right to vote and to stand for election -- as well as education, health and employment. The Convention's content, more than simply defining women's human rights, stresses two concepts: equality between the sexes as a basic objective, and the necessity of eliminating discrimination as an ultimate goal.

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- viii. *Convention on the Political Rights of Women*: is a Convention which declares that everyone has the right to participate in the government of his country, and to access public services. The *Convention on the Political Rights of Women* specifically protects this right for women. Women are given the right to vote or hold office, as established by national law, on equal terms with men and without discrimination on the basis of sex.³⁹
- ix. *African Charter on Human and Peoples' Rights*: is an African Regional human rights instrument. Nigeria has ratified and domesticated it by the African Charter on Human and Peoples' Rights (Ratification and Enforcement) Act CAP A9 LFN. It is an human rights instrument created to protect the human rights and basic freedoms of people living on the African Continent. The African Charter on Human and Peoples' Rights covers both civil and political rights as well as

³⁷ Articles 1-16 of The Convention on Elimination of All Forms of Discrimination Against Women, Human Rights, A Compilation of International Instruments, Vol. 1(First Part) Universal Instruments, (United Nations Publication, New York and Geneva, 1994), 151-159

³⁸ Hayes, C., A Lever for Change: Using the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women, http://www.equalityhumanrights.com/sites/default/files/documents/humanrights/a_lever_for_change.pdf (Accessed on 25th November, 2014) and Articles 2-4 and 8-9 of the Optional Protocol to CEDAW.

³⁹ Articles I-III of the Convention on the Political Rights of Women, Human Rights, A Compilation of International Instruments, Vol. 1(First Part) Universal Instruments, (United Nations Publication, New York and Geneva, 1994), 164

economic, social and cultural rights. The Charter, furthermore, not only includes rights for individuals but also for peoples.

The Charter's individual rights and freedoms (civil, cultural, economic, political and social) include rights to: non-discrimination, liberty and security of person, fair trial, receive, express and disseminate information and opinions, property and education, as well as provision that States parties have an obligation to protect and assist the family⁴⁰. The peoples' rights enshrined in the African Charter ensure inter alia that all peoples: are equal; may freely dispose of their wealth and natural resources; and have the right to a general satisfactory environment favourable to their development⁴¹.

- x. *Protocol to the African Charter on Human and People's Rights Relating to the Rights of Women in Africa*: also known as the Maputo Protocol guarantees women's rights on the continent. It focuses on the enforcement and protection of women's rights. It deals with the elimination of all forms of discrimination against women by State parties, it enshrines the right of women to dignity and respect, the right, to be treated as human beings and a recognition and protection of their human and legal rights as well as right to the free development of their personality, respect for life and integrity and security of every woman and prohibition of all forms of exploitation cruel, inhuman or degrading punishment and treatment. It seeks to eliminate all forms of harmful practices, which negatively affect the human rights of women and fall short of international standards, enshrines equality of right for women and men in marriage, provides for equal rights for women and men in case of separation, divorce or annulment of marriage, enshrines right to participative governance and equality of participation of women and men in the political life of countries, it provides for non-discrimination against women, equal opportunity, and respect for and promotion of the rights to health of women including sexual and reproductive health and access to education and training, right to inheritance amongst others.

Treaties that enhance women's rights remain a veritable tool for promoting women's rights.⁴² The effectiveness of ratified human rights treaties in Nigeria is predicated on their being domesticated. Non-domestication of treaties and conventions that guarantees women's rights has acted as an impediment to the actualization of these rights. Nigeria is yet to domesticate instruments that recognizes the human rights of women and therefore has not provided an appropriate and ideal legal framework for the implementation and application of their provisions. This is a strong impediment to the promotion of women's rights in Nigeria.

Amongst all the above international and regional human rights instrument relevant to women's rights that Nigeria has signed or ratified, only the African Charter on Human and Peoples' Rights has been domesticated and transformed into our municipal law. Others are yet to be domesticated, hence are not applicable in Nigeria.

Domestication of Treaties in Nigeria

The method and procedure for implementing treaties are matters flowing directly from state sovereignty and hence are governed exclusively by municipal law.⁴³ The position of International law within the sphere of municipal law varies from State to State.

⁴⁰ Articles 2,6,7,9,14,17 and 18 of the African Charter on Human and Peoples' Rights (Ratification and Enforcement) Act CAP A9 LFN

⁴¹ Articles 19, 21 and 24 of the African Charter on Human and Peoples' Rights (Ratification and Enforcement) Act, *Ibid.*

⁴² Imasogie, M., *op. cit.*, at 159

⁴³ Akinyemi, A.B (ed.), *Readings on Federalism*, (NIIA/University of Ibadan Press, 1979) 52

The concept of *domestication* of international treaties simply means the incorporation of such treaties into national law of a state party. A State party has it as a duty to determine the legal status and force its legal system will accord to a treaty within its system. It is only when such international treaties and instruments and its provisions have become part of domestic law that it becomes applicable by all and sundry in such states.

Traditionally, there are two approaches scholars have postulated in respect of the reception of international law into the national legal system, as a result characterizing states as either *monist* or *dualist*.⁴⁴ Domestication of treaties is the transformation of treaties into municipal law i.e. subjecting treaties made on behalf of the Federation to the legislative process, as is the case with other municipal legislation.

Every State has its own rule regarding the domestic application of international treaties. While treaty provisions, in some states, automatically acquire the force of law upon ratification i.e. *monist*, some others insist that such treaty must have been domesticated by a legislative enactment before it can be enforceable within the municipal legal system i.e. *dualist*. Nigeria adopts the latter approach and as such, no treaty is enforceable in Nigeria except same has been ‘transformed’ or domesticated via a legislative enactment. In Nigeria, Section 12 (1) of the 1999 Constitution portrays Nigeria as operating a Dualist system. This section provides for the domestication of all treaties before they can apply within the country. The implication of this provision is that the efficacy of a treaty is determined by its domestication and transformation into municipal laws. It provides that:

‘No treaty between the federation and any other country shall have the force of law except to the extent to which any such treaty has been enacted into law by the National Assembly.’

The locus classicus on the question of domestic application of international treaties in Nigeria is the Supreme Court’s decision in *Abacha v Fawehinmi*⁴⁵ where the Supreme Court held, inter alia, that the provisions of the African Charter on Human and People’s Right has become part and parcel of the corpus of the Nigerian law as it has been reenacted by the National Assembly. Also in *MHWUN v Minister of Health & Productivity*⁴⁶, the Court of Appeal held that the provisions of an international labour convention cannot be invoked and applied by a Nigerian Court until same has been reenacted by an Act of the National Assembly. His lordship, Muntaka- Coomassie JCA had this to say on domestic application of International Labour Convention in Nigeria:

“... There is no evidence before the court that the ILO Convention, even though signed by the Nigerian Government, has been enacted into law by the National Assembly... In so far as the ILO convention has not been enacted into law by the National Assembly, it has no force of law in Nigeria and it cannot possibly apply....where, however, the treaty is enacted into law by the National Assembly as was the case with the African Charter which is incorporated into our municipal (i.e domestic) law by the African Charter on Human and People’s Rights (Ratification and Enforcement Act, Cap. 10, Laws of the Federation of Nigeria, 1990.... It becomes binding and our courts must give effect to it like all other laws falling within the judicial powers of the Courts”

Hence, logically, treaties after domestication should occupy the same place occupied by other Nigerian statutes; all being subject to the Nigerian Constitution with the exception of ratified international conventions, treaty or protocol of which Nigeria has ratified relating to labour, employment, workplace, industrial relations or matters connected therewith which can be applied without domestication by the National Industrial Court.⁴⁷ Section 254 C (2) provides that “Notwithstanding anything to the contrary in

⁴⁴ Steiner, H.J, Alston, .P. & Goodman, .R. (eds.) *op.cit.* at 987.

⁴⁵ (2000) 6 NWLR (Pt. 660) 228

⁴⁶ .(2005) 17 NWLR pt. 953 p. 120

⁴⁷ Section 254C(2) of the 1999 Constitution of the Federal Republic of Nigeria (Third Alteration Act, 2010)

this Constitution, the National Industrial Court shall have the jurisdiction and power to deal with any matter connected with or pertaining to the application of any international convention, treaty or protocol of which Nigeria has ratified relating to labour, employment, workplace, industrial relations or matters connected therewith” (Underlining mine).

This provision renders impotent, as far as international labour Treaties is concerned, the constitutional requirement that no treaty between the Federation and any other country shall have the force of law except to the extent to which any such treaty has been enacted into law by the National Assembly. The implication of this provision is that claimants can now invoke, before the National Industrial Court, the relevant provisions of international treaties ratified by Nigeria notwithstanding that same has not been domesticated by an Act of the National Assembly. This provision however relate only to international conventions or treaties relating to labour, employment, workplace or industrial relations. Thus, the case of *MHWUN v Minister of Health & Productivity (Supra)* and its like will be decided differently today.

The position is that Nigeria must institute municipal measures to guarantee the application of such treaties within its domestic legal system. The requirement is that a treaty must be enacted as a municipal law before it can be enforced in Nigeria. Thus, treaties generally have to be enacted to Statute for its proper implementation and application in Nigeria, otherwise such treaties cannot have force of law in Nigeria but with the exception of Labour, employment and workplace treaties of which Nigeria is a signatory, which can be applied directly without domestication by the National Industrial Court.

State Responsibility

In becoming party to a treaty, the state undertakes binding legal obligation and must ensure conformity of national law with treaty provisions. The states remain primarily responsible in international law for ensuring protection of human rights within their jurisdictions, international protection requires national measures to implement human rights treaties and to strengthen national institutions linked to the full observance of human rights and the rule of law.⁴⁸ In other words as stated in the Vienna Declaration and Programme of Action on Human Rights, in June, 1993 that ‘human rights and fundamental freedoms are the birthright of all human beings’ and their protection and promotion should always be the first responsibility of Governments. The state is therefore expected to take all appropriate measures to guarantee women’s rights and ensure the protection of these rights.

International protection requires national measures to implement human rights treaties and to strengthen national institutions linked to the full observance of human rights and the rule of law.⁴⁹ The rules on state obligations is the obligation to ‘respect and ensure’ rights and to ‘undertake all necessary measures to give effect to rights’ contained in conventions without discrimination on prohibited grounds. This language has been interpreted as including not only negative obligations -- the obligations to refrain from violating rights -- but also positive obligations, namely obligations to take positive steps to ensure that rights are protected, even in the sphere of relations between individuals.⁵⁰ A state has the responsibility to not only refrain from engaging in or encouraging acts of violence against women but to actively intervene in and exercise due diligence in prevention of such acts.⁵¹

⁴⁸ Dada, J.A & Ibanga, M.E., “Human Rights Protection in Nigeria: From Rhetoric to Pragmatic Agenda”, (2011) Volume 1 Number 2 *African Journal of Law and Criminology*, 70-81 at 77

⁴⁹ *Ibid* at 77

⁵⁰ Radacic, I., 2008 “Feminism and Human Rights: The Inclusive Approach to Interpreting International Human Rights Law”, *University College London Jurisprudence Review* 251-252. www.westlawuk.com (Accessed on 13th, November, 2014).

⁵¹ Coomaraswamy, R., “Preliminary Report Submitted by the Special Rapporteur on Violence Against Women, Its Causes and Consequences, in Accordance with Commission on Human Rights Resolution 1994/45”, 4-9. www.unhchr.ch/Huridocda/Huridoca.nsf/TestFrame/75ccfd797b0712d08025670b005c9a7d?Opendocument (Accessed 24th August, 2013)

The concept of due diligence describes the threshold of effort which a state must undertake to fulfil its responsibility to protect its citizens from abuses of their rights. It includes taking steps to prevent abuses and ensure justice is done without discrimination of any kind. Failure of a state to actively intervene in preventing domestic violence against women, either by condoning such acts or failure to provide a legal system that fully protects women from domestic violence amounts to lack of due diligence in carrying out its obligations. This is simply a case of failure of the state to provide equal protection for its citizens and has thereby failed to exercise due diligence.

State responsibility to eliminate violence against women is supported by the foundational treaty on women's human rights, CEDAW, specifically its General Recommendation No. 19 on Violence against Women (1992). General Recommendation 19 defines violence as a form of discrimination against women and establishes the obligation of States to act with 'due diligence' to prevent and respond to violence against women and girls. For example, Article 2 of CEDAW provides that the State must enshrine the principle of gender equality in the national constitution, enact legislation prohibiting discrimination against women; ensure effective legal protection for the right to be free from discrimination, including through the creation of national tribunals and other institutional mechanisms ; ensure that no public authority discriminates against women; ensure that no private individual or organization discriminates against women; abolish existing discriminatory laws, customs and practices. The participation by states is voluntary, the obligations of the human rights treaties have been freely assumed. It is the legal character of these rights which places them at the core of the international system of human rights protection. For these rights generate corresponding legal duties upon state actors, to protect against, prevent, and remedy human rights violations.⁵²

The promise of equality which human rights treaties holds for Nigerian women remains unfulfilled. The lot of women, in Nigeria, is worsening and the equality gaps are widening. Efforts should be made by the government of Nigeria to provide a better legal framework to protect women from discrimination.

Domestic Violence and Women's Rights in Nigeria

Domestic violence is one of the most common form of violence against women in Nigeria. In Nigeria, the degree of violence against women is very high. Women in Nigeria suffer various forms of violence mostly owing to the patriarchal nature of the Nigerian society. In Nigeria, reports show a very high level of violence against women of various pedigrees. Amnesty International (2007) reports that a third (and in some cases two-thirds) of women are believed to have been subjected to violence often carried out primarily by husbands, 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. The incidence of domestic violence is very high, in a study carried out on factors associated with domestic violence in South East Nigeria, 70% of respondents reported abuse in their family with 92% of the victims being female partners⁵³. Usually, majority of issues of domestic violence in Nigeria are underreported and the police often dismiss complaints of domestic violence as a private matter. Police in Nigeria are usually reluctant to intervene in domestic violence cases, unless the woman has sustained serious injury.

Domestic violence occurs mostly in a patriarchy based society like Nigeria is, it is a society that has a structure that endorses domestic violence by its legal, cultural and religious systems.

The different forms of violence against women in Nigeria amongst others includes, wife battering and verbal abuse, emotional and psychological abuse, marital rape, sexual exploitation and harassment especially in academic institutions, corporate organisations and in police custody, rape, trafficking; forced prostitution, forced marriage, widowhood rites, and female genital mutilation.

⁵² Introduction to the UN Human Rights Treaty System, <http://www.bayefsky.com/introduction.php> (Accessed on 7th January, 2015).

⁵³ S.N. Obi and B.C. Ozumba (2007) "Factors associated with domestic violence in South-East Nigeria". *Journal of Obstetrics and Gynaecology* 27 (1) 75-78

There is the traditional and cultural belief that women are chattels and property to be owned by their husband, the Nigerian society is basically a patriarchal one and a woman is seen as a subordinate figure, hence domestic violence functions as a means of enforcing the role.

Though the Constitution makes provision for Fundamental Human Rights of which the right to dignity and the right not to be tortured and subjected to cruel treatment is inherent in every citizen of Nigeria regardless of sex, also Nigeria has ratified or signed or domesticated different international and regional instruments that guarantees the right to dignity of women, but in reality there are certain factors that aids violence against women in Nigeria making the full enjoyment of the right of women to dignity a mere illusion.

Domestic violence against women is given a pride of place in some customs in Nigeria. There is the traditional and cultural belief that women are chattels and property to be owned by their husband, the Nigerian society is basically a patriarchal one and a woman is seen as a subordinate figure, hence domestic violence functions as a means of enforcing the role. Battering women is regarded as normal because it is believed to be a way of discipline. As a result they lack the power and self-confidence to compete and speak up with men and often times become victims of violence. For instance, beating of wives as a means of correction is widespread and common.

For example domestic violence is celebrated by the Efik ethnic group in the South-South Zone of Nigeria. This is believed to show a husband's authority over his wife.⁵⁴

While domestic violence is a violation of fundamental human rights, which the Nigerian Constitution is against, there are still provisions that make it legal to engage in domestic violence against women. The provision of the Penal Code applicable in the Northern part of Nigeria specifically encourages violence against women. Underneath its provisions, the beating of a wife for the purpose of correction is legal by use of (Section 55 (1) (d) of the Penal Code). It is rather unfortunate that the *Penal Code* contains a provision that promotes violence against women. *Section 55(1)* of the *Penal Code* states, inter alia, that it is not an offence for a man to chastise his wife for the purpose of correcting her. Thus, this section allows the correction of the wife by beating in as much as the beating does not amount to grievous hurt. This provision condones act of violence and abuse towards women. It is a violation of women's right not to be tortured or subjected to cruel or inhuman and degrading treatment. It is right to submit, that this provision of the Penal Code is obsolete, inconsistent with the constitution and, above all, does not accord with the realities of the times.⁵⁵

Marital rape is domestic violence. The omission of marital rape from the definition of rape under the penal laws applicable in Nigeria encourages violence against women in the home because it is not recognised by law as a crime. Also under customary laws, most customs do not recognise marital rape as a form of rape. There is the belief that once a woman is married to a man, you have given automatic sexual consent to him and the latter has access to the wife anytime he wants, there is marital immunity to the offence of rape based on the perceived continual marital consent.

In the Nigerian case of Musa Yussuf, he allegedly killed his wife for refusing to submit to his sexual demand, the accused allegedly committed the offence on Nov. 17, 2012 on a farm. The brother of the deceased, Sanni Suleiman, told the court that the woman took food to her husband on the farm but did not return home. Suleiman said when a search party was organized, her corpse was found on her husband's farm with mark of violence on her face. The body, he said, was concealed under weeds. The prosecutor Zachaeus Funsho, told the court that the accused "callously clubbed his wife to death".⁵⁶

⁵⁴Bazza, HadizaIza, 2009, "Domestic Violence And Women's Rights in Nigeria". *Societies without Borders*, Vol.4, No. 2 .

⁵⁵ Nzarga, F.D., Mohammed, I, and Omengala, K., "Appraisal of Cultural Vices affecting Women and Children's Human rights in Nigeria" Vol 2, No 5, 8-21 December, 2014 *Global Journal of Politics and Law Research* 16 www.eajournals.org (Accessed on 7th January, 2015)

⁵⁶ Adebayo, A.A. and Kolawole, T.O., "Domestic Violence and Death: Women as Endangered Gender in Nigeria", *American Journal of Sociological Research*, Vol. 3 No. 3, 2013, pp. 53-60. doi:10.5923/j.sociology.20130303.01. <http://article.sapub.org/10.5923.j.sociology.20130303.01.html>

Domestic Violence against women is regarded as belonging to a private sphere in Nigeria and is shielded from the public scrutiny. A culture of silence reinforces the stigma attached to the victim rather than condemning the perpetrator of such crimes.⁵⁷ Domestic violence is considered a private affair and the police and legal system treat it as a family matter. A culture of silence is imbibed by a large number of women and they bear this pain of domestic violence most often afraid to voice out their ordeals. Domestic violence against women in Nigeria is further reinforced by the culture of silence about violence against women. Most women are not aware of the fact that an act of violence against them is a form of human rights violation. Some who are aware are afraid of stigma and tolerate violence and suffer in silence. Some women have even come to accept violence as a way of life. Most women say they endure the battery and violence because of their children.

The cases of violence against women in Nigeria mostly go unreported because the victims suffer in silence. This negative mind set largely accounts for the mismanagement of domestic violence cases by the police and is also responsible for the culture of keeping silence over abusive personal relationships. Many of the victims do not speak out about violations of their rights due to lack of positive response from the society. Domestic violence is so entrenched in the society that even the victims condone such violations of their rights, some claiming it is a sign of love. Also, due to poverty and economic dependence on men, many victims suffer in silence for fear of losing the economic support of the male perpetrator—where a victim summons the courage to report to law enforcement agents, the issue is trivialized and termed a “private matter”. One strong issue in domestic violence is the reluctance of female victims to report to the Police. This is attributed not just to the feeling of humiliation and fear of stigmatization but also the antagonistic response or at best indifference of the law enforcement officers charged with receipt of complaints.⁵⁸

The incidence of domestic violence is so high in Nigeria now, that most even lead to death or permanently maiming the victim. There have been reports of horrible violence against women in the media in the last decade. In the punch Newspaper of January 3rd, 2013, a serious case of domestic violence was published, a middle-aged man identified as Ude Sebastine on Wednesday allegedly murdered his wife, Abigail in cold blood after both of them engaged in a midnight quarrel and the reason for Ude’s action could not be immediately ascertained, the man, who had engaged in an all-night squabble with his wife, was said to have given Abigail several machete cuts that led to her death.⁵⁹

Also in the report of PREMIUM TIMES, “a late banker, Mrs Titilayo Arowolo, was allegedly murdered by her husband, Akolade. A horrifying detail came to light during Akolade's trial as his late wife was said to have been stabbed 76 times. The consultant pathologist, John Obafunwa, who was in charge of the victim's post-mortem, stunned an Ikeja High Court, where the case had been on-going for months, when he disclosed that he examined 76 stab wounds on Mrs Arowolo's body. Arowolo, her husband, was charged to court for allegedly stabbing his wife to death on June 24, 2011, at their residence, 8 Akindeinde St., Isolo, Lagos... Obafunwa, the Chief Medical Examiner of the Lagos State University Teaching Hospital (LASUTH), Ikeja, said external and internal examination of the body during autopsy showed multiple stab wounds and incised wounds on Mrs Arowolo's chest, arm, abdomen and other parts of her body. The pathologist made a slide presentation of the wounds to the court, saying the various wounds were consistent with wounds inflicted with a sharp weapon with single-edged blade. He identified an alleged weapon already admitted by the court as exhibit, which he confirmed was consistent with some of the wounds on the body of the deceased.⁶⁰

It has been argued that women’s lack of access to financial resources and their being dependent on men for support, makes the issue of domestic violence more predominant and the dependency has been a

⁵⁷Retrieved May 22, 2008 from <http://www.afro.com/awrticles/16471>)

⁵⁸ Adebayo, A.A. and Kolawole, T.O., *op. cit.*

⁵⁹ Akasike, C., Punch Newspaper, 3rd January, 2013. <http://www.punchng.com/metro/man-kills-wife-with-machete-after-midnight-quarrel/>

⁶⁰ Adebayo, A.A. and Kolawole, T.O., *op. cit.*

bases to the husbands to violently abuse them. But, results have shown recently that women that are financially and economically empowered, independent and stable have been victims of domestic violence whether educated or not. The saying that an educated woman is more likely to be respected by her husband, and female education tends to expose women to egalitarian dispositions that create an enabling environment for equality and equity in power relation has not really subsided the incidence of domestic violence in Nigeria. Out of the three women I interviewed, all well-educated and with good jobs, showed that domestic violence is a way of exercising control by the spouse over the woman.

Mrs. A, said that the problem started when the husband lost his job and she became the breadwinner of the family. Mr. A, started with their 3 year old daughter, beating her at the slightest provocation then shifted to her. She said she gave him access to her account so he does not feel like she is the one doing the spending, but that did not solve the problem. He would even go to the extent of coming to embarrass and beat her in her place of work but any time the police is involved, they say it is a private affair that they should go settle it amicably.

Mrs. B, said that because she had a better paying job than the husband, when they had their first child, he begged her to resign and take care of the kids that she can always get a job later. The beating and psychological trauma started from then. Mr. A, went to the extent of using cutlass on her and beats her at every opportunity.

Mrs. C, was continually beaten and humiliated that the husband who was spoken to by a friend to stop it said, his mother went through that in his father's hands and she too should condone it, that it was a way of discipline.

All these men are educated, likewise the women, but they still cannot understand and take it, why women should be independent without depending on them, this is as a result of the patriarchal order that is still very present in the Nigeria System in all of its spheres. The Policing system has contributed immensely to domestic violence against women, women often are reluctant to report cases of domestic violence because the police apart from seeing it as a private matter usually feel the women contributed to it, they usually ask questions like, what did you do to your husband? And they believe women are the cause of domestic violence because they disobey their husbands. There is already a preexisting mindset that makes women reluctant to seek help.

The Need for Legislation against Domestic Violence

The gravity of the acts of domestic violence in Nigeria is so severe, that it has caused so many women their lives, maimed some, destroyed children's lives. Such act should not be seen as just mere family matter, harsh and stricter laws should be put in place to give women back their lives.

It is the duty of the State to put substantive measures in place to protect women's rights against violence by both state and non-state actors. The State should put adequate legal structure in place to combat any form of victimization, discrimination and abuse against women and their rights in the society. Legislation is usually considered to be a potent weapon to combat crime and achieve justice for the people in any given society. Legislation should be very adequate to combat any form of victimization in a society, it should grant succor to anyone who has been unduly victimized in any form.

Legislation regarding domestic violence should not address physical violence only, but should be definitions which include all of the following types of violence: physical, sexual, emotional and/or psychological, and economic violence.

There is no national law specifically addressing domestic violence against women in Nigeria. The current laws in operation in the country do not adequately protect victims of domestic violence. There is the need for a Domestic Violence Law in Nigeria, specifically criminalizing domestic violence as an offence. Though there has been an attempt to do this by the Domestic Violence and Other Related Matters Bill, 2006, the bill is innovative as it allows the police to arrest and investigate allegations of domestic violence. As earlier stated, police are usually reluctant to arrest perpetrators of

domestic violence, it is believed to be a realm of private family issue which the police should not interfere with. As at today, the bill is still pending before the National Assembly.

Nigeria ratified the convention for the Elimination of Discrimination against Women, a specific human rights instrument for women in 1985 as well as some important human rights instruments, but international treaties can only become applicable in Nigeria when they are domesticated as earlier stated above, thereby limiting these international treaties to disuse.

However, few legal reforms have got underway. Some states in Nigeria have adopted legislation addressing discrimination and violence against women. In 2007, the Lagos State House of Assembly passed a law to provide protection against domestic violence and for connected purposes. Other states that have followed suit in enacting similar law on Domestic Violence include Ebonyi, Jigawa, Cross Rivers and Ekiti states out the 36 states in Nigeria. This shows that there is still a lot of advocacy to be done in ensuring a legal framework for elimination of domestic violence against women. The Government has the obligation to take steps to eliminate violence against women.

Conclusion

In Nigeria, the predominance of domestic violence has gotten to an alarming level. The promise of equality which human rights treaties hold for Nigerian women remains unfulfilled. The lot of women, in Nigeria, is worsening and the equality gaps are widening. From our discussion, it is evident that Nigeria lacks adequate laws and policies to curb domestic violence against women which is fast becoming an overwhelming menace to the Nigerian women. The Government has a duty to exercise due diligence in ensuring that the provisions of various international documents relating to the protection of women's human rights are upheld. The recognition of domestic violence against women as a human rights issue and the development of legal mechanisms for addressing such abuses will be an initiative long overdue.

Laws that condone or fail to protect women against domestic violence exacerbate women's vulnerabilities. The failure of the policing system to treat domestic violence as a serious issue and simply regarding it as a private matter unworthy of serious police attention should no longer be condoned. Efforts should be made by the government of Nigeria to provide a better legal framework to protect women from discrimination and domestic violence, as a result, the incidence of domestic violence will be reduced to the barest minimum. The existence of a legal system is not enough, the government must also effectively ensure the enjoyment of rights, measures like effective responses from law enforcement agencies –the police, judiciary, formal measures of protection, and prosecution and punishment of perpetrators. The entire legal and justice system should treat domestic violence seriously and not regard it as simply a private matter.

In all, there should be the recognition of the fact that domestic violence and discrimination against women is a violation of their human rights and that these rights are essential to enable women live free from violence, with dignity and equality. Domestic violence has become a global social malady that requires an effective approach to curtail, it builds a violent society.