



RESEARCH ARTICLE

REVISED A socio-legal imperative of domestic violence prohibition in Africa vis-a-vis Nigerian legal structure for sexually abused women [version 5; peer review: 3 approved]

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Abstract
 Domestic violence is a major issue globally. It is one of the most heinous crimes which has and still results in numerous deaths, still receives the least amount of attention, and its negative influence is being underrated. In Africa, it is customarily acceptable for a woman to be beaten by her husband as a form of discipline, and Nigeria is not an exception. To think otherwise, that it cannot be socially acceptable and legally upheld for a man to beat his wife as a form of discipline, is to deny an existing reality. Section 282 of the Nigerian Penal Code encourages men to beat their wives when necessary. This form of permissible violence is often viewed as a family issue. Hence women are hesitant or reluctant to speak up about their experiences. The stigma that usually follows speaking up or voicing out is better imagined than experienced. This study, therefore, provides credible information on domestic violence incidents in Nigeria and Africa. The methodology utilised is the doctrinal legal research method with reports from existing literature and tertiary data sources such as newspapers and website sources. It discusses legislation enacted to prevent and prohibit domestic violence in Nigeria and how influential they have been on the nation at large. By way of comparative analysis, we examine domestic violence occurrences in some selected African

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countries and the European continents in relation to Nigeria. It also delves into the violation of the principles of gender equality by some Nigerian customs and traditional practices. This study then makes recommendations on how to address the issue. Through its insightful engagement, this study found, among others, that domestic violence is widespread in Africa and that a national law prohibiting the act and holding perpetrators accountable is not only imperative in Nigeria but across the African continent.

Keywords

Africa; Custom; Domestic Violence; Gender-Based Violence; Nigerian Legislation; Sexual Abuse Experiences.

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A significant enhancement has been implemented in the manuscript, particularly in relation to the literature review. This overhaul was carried out to address specific gaps in the existing literature, as highlighted by the reviewer. Your valuable input and guidance have been instrumental in this process. Thank you.

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Introduction

Violence is a concept that has existed since the dawn of civilisation, and it has been a part of the human experience. Violence has numerous conflicting definitions. The World Health Organisation (WHO) defines violence as:

“the intentional use of physical force or power, threatened or actual, against oneself, another person, or a group or community that results in or has a high probability of resulting in injury, death, or psychological harm, mal-development, or deprivation”.¹

The United Nations defines violence against women as “any act of gender-based violence that causes or is likely to cause physical, sexual, or mental harm or suffering to women, including threats of such acts, coercion, or arbitrary deprivation of liberty, whether occurring in public or private life”.² For an act to be regarded as violence, the following must be present: it must be intentional, unwanted, nonessential, and harmful.¹ In other words, without these four elements, the act is not necessarily ‘violence’. Violence against women comes in different forms. It could be sexual, physical, emotional, gender-based, gender discrimination, barbaric traditional practises like forced/early marriage, female genital mutilation (FGM), and many more. It may also include sexual violence and intimate partner violence (IPV) which is also known as domestic violence. Violence against women is a major health and human rights issue.³ It does not only affect their health, it affects their ability to participate fully in society, hinders their enjoyment of sexual and reproductive health and rights, and causes physical and psychological suffering for both the women and their families.⁴

According to WHO, sexual violence “is any sexual act which includes rape, attempt to obtain sexual act or any other act directed against a person’s sexuality through coercion by any person regardless of their relationship with the victim, in any setting”.⁴ Sexual violence can be experienced by anyone. However, the majority of those who experience sexual violence are women and children,⁵ with perpetrators of the act most likely to be either family members, close friends, acquaintances, or strangers.⁶ Just like violence, sexual violence can take many forms, including but not limited to compelled sex in marriages and dating relationships, stranger rape, sexual harassment, and child abuse. Domestic violence is a series of demeaning behaviours of a person in any intimate affairs or relationships like dating, cohabitation or family, and marriage against the other [1] The general aim of this study, using the doctrinal research methodology, is to examine domestic violence as a form of sexual abuse and experiences suffered by women in Africa. It also aims to a spotlight on sexual violence as experienced by women in Nigeria while highlighting relevant Nigerian legislation that prevents or prohibits such sexual experience. This study equally attempts a comparative assessment of legislation on domestic violence in Europe, America, Asia and Africa. The African countries selected for the survey were based on the fact that they are signatories to African Charter on Human and Peoples’ Rights, 1986 (African Charter), and the 2005 Protocol to the said African Charter, known as (Maputo Protocol). These legal instruments advocate for the protection and sustainability of African women rights including security against all forms of harmful practices like IPV. Specifically, Articles ii, v, vi, and xvii of the Maputo Protocol condemns all form of discrimination, harmful practices, cultural practices, and inequalities against women.

Research Methodology

The authors adopted the doctrinal research methodology, which is majorly used by legal scholars, lawyers and judges researching the law to draw out new legal theories logically. It involves the qualitative research approach where data is drawn from primary and secondary sources via consultation with legal instruments, such as legislation, case laws, statutes, and policies. The African countries selected for the study were based on the fact that they are signatories to African Charter, and the Maputo Protocol. The Asia country (India) selected was based on the similarities it has with Nigeria. India is reported to be the most populated in the Asian continent and Nigeria is the most populated country in the African continent [2]. They both have diversity in ethnicity, linguistics, culture, and religion, and they are categorised as developing countries that operate common law systems, as well as colonised by the same British colonial master [2]. Therefore, these similarities make it worthy of a comparative study.

Domestic violence as a form of gender-based violence

Violence against women encompasses a wide range of behaviour and acts perpetrated against women, but the most common form is that which occurs between men and their female partners. This form of violence occurs in all cultures

and affects women of all ages, irrespective of socio-economic and educational backgrounds.⁷ The definition of violence can be influenced by what obtains in a particular custom and tradition since there are different traditions and customs. Hence, there will be varieties of the definition of domestic violence. Hence, there is no generally accepted definition of domestic violence. Domestic violence is a type of violence that takes place in an intimate or family relationship.⁸ Thus it can also be referred to as intimate partner violence (IPV). The perpetrator is a member of the victim's 'domestic environment' such as an intimate partner, husband, former intimate partner, family member, friend, or acquaintance. IPV is defined by how close the relationship is between the perpetrator and the abused victim. Hence, domestic violence, in the context of this study, will be any destructive behaviour in an intimate relationship where one person tries to dominate and control the other, be it a dating or marital relationship or cohabitation, which causes physical, psychological, or sexual harm to those in that relationship. It includes acts of physical aggression and assault such as hitting or beating with hands or objects, psychological abuse like intimidation, constant belittling or humiliation, forced sexual intercourse, or any other force or forceful controlling or manipulatively disturbing behaviour which can result in isolating a person from family and friends, tracking their movements, and limiting their access to information or assistance and much more.

Domestic violence is based on inequality between "sexes and anyone".⁹ Anyone can be a victim of domestic violence, in other words, men can also be victims of domestic violence [3], but studies have shown that women and girls are most vulnerable to domestic violence.¹⁰ According to data gathered from international sources, men account for 2% of victims of domestic violence committed by a spouse or partner, women account for 75% and reciprocal violence accounts for 23% [2]. Violence against men and women differ in the sense that men more often experience violence in open spaces, whereas women more often experience violence within close social relationships.¹¹ The terms 'domestic violence' and 'violence' in the immediate social environment are interchangeably used and refer to adult-on-adult violence. Hence violence by parents or parent proxies against children is not included in the definition of domestic violence rather, it is referred to as child abuse [3].

Victims of domestic violence go through unimaginable trauma. They must navigate the complexities of an intimate relationship with the offender, as well as the intricacies of a specific trauma and the fear of future assaults by a known assailant. Domestic violence is influenced by unhealthy societal cultural practises or norms which many perpetrators believe they have the right to implement, and in the exercise of these norms along with control tactics on their partners, they tend to find social support for their acts.

Domestic violence has been visible throughout history. In early Roman society, a woman was considered the husband's property and hence subject to his control.¹² A man could beat, divorce, or murder his wife for offences that tarnished his honour or jeopardised his property rights, according to early Roman law. These were regarded as private matters and not subjected to public scrutiny.¹³ Under the common law, a man had a right to beat his wife to maintain family discipline, and this was carried out under the principle of 'rule of thumb', which allowed a man to beat his wife as long as the stick was no bigger than his thumb.¹⁴ Historically in Nigeria, the forefathers also practised patriarchy long before the advent of the colonial masters, but the patriarchal system was not challenged but rather adopted as part of colonial rule. Hence, even after freedom from colonial authority, male supremacy was still being passed down to generations.¹⁵ This has made it culturally acceptable for women to regard violence as a form of discipline from their husbands, and they teach their daughters and granddaughters to see it as the same and also as a form of being loved and submissive. While on the sons' and grandsons' perspective, patriarchy has led to a preference for a male child over a female which boosts their ego [5]. Furthermore, male children have been thought religiously and customarily to assert authority in every way possible even if it leads to domestic violence over their spouse [6]. These traditions are fairly common in numerous cultures and even in Nigerian laws [4].

An Analytical Overview of Domestic Violence as a Global Problem

Domestic violence across the European continent

The lifetime prevalence of violence in intimate partnerships is reported to be between 10% and 36% in various European countries.³⁰ The percentage of formal complaint of violence against women is low in central Europe because it is normalized, and the victims are usually blamed.³⁰ The government in Europe (judicial system), also have a hand in the large estimate of violence against women because they are of the notion that women are always the offending party.³⁰ In Germany, research conducted by the German Federal Ministry for Family Affairs, Senior Citizens, and Women indicated that violence against women predominantly occurred within their homes.³¹

A survey was conducted by the European Union Agency for Fundamental Rights (FRA) on the various forms of violence against women among the (28) member states of the European Union. This survey revealed some contradictions in these member states except for Latvia, indicating that 32% of the women have experienced sexual or physical violence by an intimate partner from the age of 15 years old.³² Records of psychological abuse across the European Union showed an

average of 43%, while Latvia was 60%.³² Another survey which investigated domestic violence in Switzerland showed that 21% of domestic violence in the country was physical and sexual violence by an intimate partner, while 40% were cases of psychological abuse [12].⁷ Equally, the Netherlands and Sweden understudies showed that 22% of the women surveyed have experienced gender-related violence in their lifetime, and approximately 10% of adult women were forced to perform undesirable or uncomfortable sexual acts.³³ The intimate partners of half of these women were identified as perpetrators [13].

The FRA survey in Bulgaria showed that the physical and sexual violence ratios of partner violence are higher than the European Union's average, while non-partner violence percentages for the same questions are lower than the European Union's average.³⁴ The reason for this is that the criminal justice system prosecutes physical or sexual violence committed by non-partners, while the violence which occurs in a partnership or domestic setting is considered a family or private affair, thus, it is hard to prosecute. However, in 2005, Bulgaria was one of the first European states to pass a law criminalising domestic violence, namely 'The Protection against Domestic Violence Act' way before it became a signatory to the Istanbul convention in 2016.³⁴ The FRA data in Poland highlights how the different cultural contexts toward domestic violence influence responses even within the similar geopolitical space of recent European Union membership and communist histories.³⁵ The percentage of physical and sexual violence by both intimate partners and non-partners is lower in European Union than the average in Poland because gender equality is highly politicised.³⁵ In addition, Poland has resources available for victims of domestic violence, like shelter homes.

Domestic Violence in America

According to a 1998 Commonwealth Fund survey, about one-third of American women (31%) have been physically or sexually assaulted by a husband or lover at some point in their lives.³⁶ The National Violence Against Women Survey, which was performed from November 1995 to May 1996, stated that about a quarter of all American women had been raped and/or physically attacked by a current or previous spouse, cohabiting partner, or 'date' at a certain stage in their lives.⁵ Firstly, the U.S. Congress entreated a multi-year strategy to eradicate and address issues of violence against women and girls in 2012 and the strategy was updated in 2016. Meanwhile, the violence against Women Reauthorisation Act of 2013 prevents GBV and any forms of violence in marriage. However, the said strategy was a national plan to end violence in the United States, and it was adopted in 2022 [14].

In most American states, marital rape is also prohibited and criminalized. In *PEOPLE V LIBERTA*, 64 N.Y.2d 152, the Court held that a marriage license should not be used as an avenue for a husband to forcibly rape his wife with impunity.

The Johnny Depp and Amber Heard Case³⁷ is one of the most famous cases of domestic violence. This case, however, shows a downside, while studies have shown that women are most vulnerable to domestic violence. The case reveals that men are most vulnerable to negative use of these statistics. Thus, while women generally are victims of domestic violence, innocent men can be made victims of such domestic violence prevalence, as a man who claims domestic violence will not be believed by a woman who claims so. Again, while the Court has ruled in many instances of domestic violence against men, it will not be disfavoured to rule against a woman who is found guilty of domestic violence.

Domestic Violence in India as the selected country in Asian Continent

The justifications for the selection of India among all other Asian countries among others are domestic abuse affects 70% of women in India physically, sexually, emotionally, and economically.²⁵ According to India's National Crime Records Bureau, recorded cases of crime against women rose by 41% (13,892) in 2021 when compared with 2020 (9,782) records, and 31% of the crimes registered were domestic violence.²⁶ Sadly, 65% of men in India believe women should accept such kind of abuse to hold the family together and that women sometimes deserve to be battered.²⁶ Comprehensively, there is a lack of substantial data on the cases of domestic violence in India because most cases go unreported due to fear of the victim or fear of mockery or embarrassment as well as the pressure not to jeopardise the family's honour. However, based on the information from National Commission for Women in India, Pandit reported that almost 7,000 cases of domestic violence were filed by women across India in 2022 [10].

It is interesting to know that section 498A of the Indian Penal Code 1860 was established to protect women from the cruelty of their husband or their relatives.²⁷ This section emanated from the case of *ONKAR NATH MISHRA V. STATE*,²⁸ where a woman was beaten by her husband and also maltreated by her in-laws. Articles, 14, 15, and 21 of The Protection of Women Against Domestic Violence Act (WADV) 2005 established remedies under civil law for women who are victims of domestic violence, and it prevents domestic violence in society. This WADV applies to women who are or have been in a relationship with the abuser and are related by consanguinity, marriage or a relationship like marriage or adoption; relationships with family members living together as a joint family are also included. Despite this laudable provision and case law, most cases of domestic violence in India still go unreported [11], due to the reasons earlier

mentioned. In the case of *SARASWATHY V BABU*,²⁹ the Supreme Court held that the victim was entitled to compensation and damages for injuries, including mental torture and emotional distress as a result of the acts of domestic violence committed by her husband. Even those women who are sisters, widows, mothers, single women, or those living with such victims are entitled to get legal protection under the Act.

Domestic violence incidents in Africa and other selected countries

Domestic violence is as old as recorded history and has been reported virtually in every society and civilisation.¹² Studies have shown that one in three (35%) of women worldwide have experienced either physical and or sexual intimate partner violence or non-partner sexual violence in their lifetime, and as many as 38% of murders of women are committed by an intimate partner [7]. The commonest violence committed against women is intimate partner violence (domestic violence).¹⁶ The WHO report of 2005 shows that 36 to 71% of women in other sub-Saharan African countries experience domestic violence [17].¹⁷ A study which examined the issues of domestic violence in other cultures found that 48% of women in Zambia experience intimate or spousal partner violence (domestic violence) [18].¹⁸ The same research shows the prevalence of domestic violence in other countries like Colombia, Egypt, India, Cambodia, Peru, and Nicaragua.¹⁸

Globally, Africa has the highest rate of cases of violence against women.¹⁹ Many African women experience intimate partner abuse and sexual assault early in life because they either marry in their teenage years or have immature sexual relationships. For example, in Southern Africa, at least half of the teenage population marries men who are more than five years older than them.²⁰ Zambia and Ethiopia have the highest prevalence rates of violence against wives and intimate partners, with 90% for Zambia and 71% for Ethiopia.¹⁹ A report shows that the reasons for the rampage of intimate partner violence in Sub-Saharan Africa could be associated with the polygyny nature of the 16 African countries examined.²¹ There are higher peculiar IPV happenings among women in polygamous marriages in Malawi, Ethiopia, Burundi, Uganda, Mozambique, Angola, Zimbabwe, and Zambia compared with the women in polygyny in Nigeria and Cameroon.²¹ The finding indicates that the family structure adopted by most of Sub-Saharan Africa makes women vulnerable to diverse intimate partner violence. The study conducted between 2015-2020 by a group of scholars in Rwanda revealed a decrease in IPV against men and an increase in IPV in women but associated the prevalence with a lack of education due to the available policies in the country that prohibit, prevent, and redress domestic violence [22].²² According to some scholars, comparably and among 27 Sub-Saharan African countries surveyed, teenage girls between the age of 15 to 19 and young women between the ages of 20 to 24 are found with the highest prevalence of partner violence victimisation with the ratio of 16.1% in Central Africa, 10.4% in Southern Africa, 10.1% in Eastern Africa, and 7.7% in West Africa [23].²³ The fact that sexual assault is frequently combined with physical and psychological abuse by a partner emphasises the special burden that women face in violent relationships.

Until recently, domestic violence was seen as a trivial issue in Ghana, which does not merit any investigation because violence in the home was considered a private matter by the state's law enforcing agencies, and as such, it received or accorded it less importance and attention.²⁴ The victims are discouraged from speaking up because their cases are often disregarded by the police with a piece of advice that it should be settled at home [8]. Domestic violence was perceived as a norm in Ghana, and it was also considered a part of their culture.²⁴ It was and still very difficult for women to admit in public that they are being maltreated by their partners because some found it disgraceful to bring their family matters to the public domain. A study conducted by Adjah and Agbenafle reported that the prevalence of domestic violence remains unacceptably high in Ghana despite the governmental provision of shelter for domestic abuse victims, the adoption of the Declaration on Elimination of Violence Against Women (DWEVAW) convention, and the creation of domestic violence and victims' Support Unit of the Ghana Police service [9].

In a large-scale analysis of homicide records in many African countries, husbands or partners were responsible for 44.8% of all homicides against women, while women's partners were responsible for only 4.4% of homicides against men.²⁴ Injury-related mortality is the most traumatic effect of intimate partner violence, as intimate partner violence is responsible for many of the homicides of women in South Africa.¹¹

Recently, IPV is gradually becoming an issue of open discussion, but the culture of silence remains an issue as society views IPV as a family matter. Meanwhile, most of the African countries mentioned within, specifically Nigeria is signatory to African Charter, and the Maputo Protocol whose roles are to mitigate IPV and all forms of violence against women. For example, the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa, 2005, signed by 42 of 55 African countries prohibits all forms of violence against women. The convention widely ratified by almost all African countries excluding 2, also protects women against violence and discrimination, the same as the International Convention on Civil and Political Rights, 1966. Significantly, the signed and ratified international African Charter, and Maputo Protocol made a number of the Member states create domestic policies that address the issue of IPV in their respective countries. In Nigeria, for instance, The Violence Against Persons (Prohibition) Act 2015 was

enacted to address issues of violence in public and private life, including IPV in the capital city of Nigeria, and it provides remedies for victims and penalties for offenders.

At this juncture, it is trite to say that domestic violence is an established global problem that is being faced by diverse continents. They have either adopted policy or provided guidelines/case laws to prevent, prohibit, and redress the issue. However, the challenge remains in the society due to lack of proper implementation of the policies, fear of retaliation from the perpetrators, barbaric cultural and religious practices, and stigmatization by the society.

A critical review of domestic violence in Nigeria

Domestic abuse cases in Nigeria have increased in recent years, particularly the physical aspect of it. According to legal findings, the South Eastern part of Nigeria has a higher rate of intimate partner violence, accounting for 78.8%, while the prevalence of intimate partner violence was reported to be 29% in South West Nigeria, 42% in Northern Nigeria, and 41% in Southern Nigeria.⁴⁴ Nigerian society is structured along gender lines, resulting in a situation in which women have little or no input in their governance by men.³⁸ Men are considered the dominant group and consequently, have access to large material resources, whilst women a secondary and inferior gender.³⁹ The Nigerian societal customs and religious beliefs concerning women reinforces men's abusive practises such as harmful traditional practises to control women, early girl marriage, nutritional taboos and other uncouth pregnancy-related practises, unfavourably widowhood practises, inheritance, and religious practices such as *talaq* under Islamic law marriage which gives the man the right to unilaterally pronounce divorce on his wife without equal right of unilateral divorce on the part of the woman. When considered with the corresponding principle of *khul* that permits a wife to ask for her husband's permission for divorce, it shows that there is no equality on the right of divorce, especially in cases where the woman is unable to refund the *mahr* where she exercises her right of *khul* [16].⁴⁴

In the Northern part of Nigeria, a man is allowed to marry a girl once she attains the age of puberty, which could be as early as nine years old for some girls, thereby subjecting the girl to sexual practices that can impair her physical and psychological well-being.⁶ There have been numerous reports of young females being married, getting pregnant, and becoming victims of domestic violence. Christian law also favour men above women.⁴⁵ The holy Bible says that husbands are the head of women and women are not only instructed to submit everything including their bodies to their husbands, but to remain quiet as women are not allowed to teach or exercise authority over men [5]. This automatically places women at the mercies of their husband even when they are domestically abused. More also, Under the Islamic religion, a woman cannot refuse to have sex with her husband unless she is ill, menstruating, or has just given birth.⁴⁸ It is a widespread belief that a woman who refuses her husband's sexual advances will be cursed by Allah's angels for the duration of her refusal.⁴⁸ This indicates that any violent sexual relationship, be it rape, between a wife and a husband is not classified as unlawful. Equally in the Christian faith, the wife's body belongs to her husband; therefore, a wife is forbidden from denying her husband the pleasure of her body.⁴⁹ In both faith and even among the traditional deity worshippers, there are no religious injunctions that impose penalties on violators, and these have the power to shape people's way of life and thinking, which may have an impact on their secular laws.

Unfortunately, this religious practice has found its way into the cultural spheres. In some tribes, when a man dies, the wife is usually suspected and often accused of having a hand in his death.⁴⁶ This indicates that wife of the deceased may be accused of being the murderer or an accomplice to the act leading to the deceased's death. The wife is then subjected to some heinous activities to prove her innocence. For instance, in some places, the widowed woman is forced to drink the coloured water used earlier to wash the corpse of her husband. In most cases, her refusal to undergo these 'trial by ordeal' activities is seen as a self-admittance of guilt or a show of culpability in the death of her husband. On the other side, the widowed husband, who has lost his wife, receives more communal commiseration without any investigation as to the cause of the death of his wife, even if she may be a victim of domestic violence. The issue of 'trial by ordeal' to prove the innocence of the husband is never in view. It can even be seen as taboo to question the husband over the death of the wife. Again, the custom has outplayed itself.

Traditionally, as in many other African countries, the beating of wives and children is widely accepted as a form of discipline [15]. The implication of this is that when parents beat their children, they believe they are imparting discipline to them. The women, by culture, suffer the same fate, as they are seen by their husbands as being prone to indiscipline, and the best way to curtail this is through beating.

Domestic violence against women is often seen as belonging to the private realm in Nigerian society and hence is sheltered from public scrutiny.⁴⁰ Men use violence as a powerful means of degrading women and are generally at an advantage in terms of how women's lives are restricted and controlled through the use of such violence.⁴⁰ According to feminist views, marital abuse is inextricably linked to the historical creation of a family in a capitalist society, the division

of the public and private worlds, and the specialisation of permissible male and female family responsibilities.⁴¹ Unfortunately, many women in Nigeria are victims of domestic violence, which is less talked about because it has become acceptable, following the widespread conundrum of the woman that 'I do not want my marriage to collapse, ...'. This recently played out in the widely reported case of a popular Nigerian gospel artist, Osinachi Nwachukwu, who suffered prolonged abuse from her husband before her untimely death.⁴³ Revelations from family, friends, and acquaintances who knew about her domestic violence experiences have emerged; she was advised on several occasions to leave her marriage which she refused to heed and turned down any effort to save the situation. The identified factor for her refusal to speak up or seek refuge was her professed love for her husband and the apparent societal stigma that may affect her now-gained popularity as a gospel singer.

Like Osinachi's case, the more men assert their dominance as a right backed by cultures and tradition, the more violence is used against women, breaking the woman's will, and leaving no strength for resistance. It can therefore be said that the most important element reinforcing domestic violence at the personal level is the actuality of control in the social realm.

Legal Framework on Domestic Violence in Nigeria

Some statutory provisions that promote components of domestic violence

These cultural and religious practices further found its way into the law and acquire validity to the extent that the marital rape of a wife by her husband in African society especially in Nigeria, is not deemed as an offence legally.⁴⁷ Nigerian law presumes that if a man is married to a woman, he is protected from rape charges against her. This immunity applies to husbands in both statutory and customary marriages. It is assumed that a wife has agreed to have sexual intercourse with her partner through marriage and that such consent can only be revoked by a separation agreement or divorce [6]. The Penal Code, in Section 282 (2), 1959, does not consider rape as sexual intercourse between a man and his wife if the wife has reached puberty. The provision of subsection (2) of section 282 is in contradiction with subsection (1) of section 282, which provides for the offence of rape. The contradiction is that subsection (2) established a marital exemption for the crime of rape under the Penal Code. The implication of this is that a man can be guilty of raping his wife if she has not reached puberty. However, due to cultural and religious beliefs, the provision of that law has not been enforced and it might never be. The combined effect of section 357 of the criminal code, CAP C38, Laws of Federation of Nigeria, 2004, which defines rape as having carnal knowledge, and section 6 of the criminal code, which defines carnal knowledge, excluding the sexual relations between the husband and wife and equally states that carnal relation between man and wife is legal, thus legalises marital rape. In essence, there is no clear but indirect information on domestic violence in Nigeria because cases of such are rarely contained in the judicial precedents. However, domestic violence could be a basis to establish the ground that a marriage has broken down irretrievable in divorce cases filed by litigants against their abusers.⁴²

Undermining the legal battle, such as Section 55 of the Nigerian Penal Code (applicable in Northern Nigeria), which permits husbands to beat their wives for correction as long as grievous harm is not caused. According to Section 241 of the Nigerian Penal Code, grievous harm includes; emasculation, permanent loss of sight, hearing or speech, facial disfigurement, deprivation of any limb or joint, bone fracture or tooth dislocation, and other life-endangering harm. Thus, where a husband and wife are subject to customary law that permits wife beating as a form of correction for the wife, the husband can lawfully correct the wife by beating her as long as it does not amount to grievous injury under section 241. Similarly, section 55 (1) (d) of the Penal Code is discriminatory and contradicts the provisions of Section 42 (1) of the 1999 Constitution of the Federal Republic of Nigeria that prohibit discrimination based on sex and gender as well as Article 26 of the International Covenant on Civil and Political Rights which prohibits the discrimination of all persons. The illegality of Section 55 (1) (d) of the Penal Code is compounded by the fact that it gives exclusive right to the husband to discipline his spouse, leaving the spouse helpless with no intervening right. That is, right that is premised on the male gender.

In Nigeria, legislative authorities often ignored cases of intimate partner abuse in the community, believing that women are inferior to males and must live under their rule. According to the Nigerian Federation Laws of 1990, the Criminal Code Act in its Section 353 states that "any individual who unlawfully and indecently assaults any male person commits a felony and is punishable by up to three years in prison. Section 360 of the Criminal Code Act, on the other hand, provides that anyone who unlawfully and indecently assaults a lady or girl is guilty of a misdemeanour and is punishable by imprisonment of two years. Nigerian legislation predominantly demonstrates substantial inequities in the treatment of men and women. For instance, an assault on a man is considered a significant offence and is classified as a 'felony', which is a major offence of assault on a woman. On the other hand, it is classified as a misdemeanour or minor felony and is punished less severely than violence against men. This shows the obvious disparity between how the law regards women's abuse when compared to men's abuse. In addition, there are other laws in Nigeria which make provision for marital rape, such as the Armed Forces Act, and the Sharia Penal Code Law but, these provisions bear much semblance with that of the PCA and the CCA.

Legal framework that Prohibits and Addresses Domestic Violence in Nigeria

The Nigerian Evidence Act (EA)

Women in marriages are protected under the Evidence Act, which provides some forms of legal remedy in marriages. Women in marriages may take comfort in the fact that the Evidence Act provides a legal remedy for physical abuse. Section 182 (1) (c) of the Evidence Act, 2011 Cap E14, Laws of the Federation of Nigeria provides that a man could be criminally accountable for inflicting violence on his wife. This is by way of exception that a wife or husband shall testify against the wife or husband charged where the line charged has harmed the one that has to testify.

This provision has been of less influence since despite the protection from domestic abuse that it provides, women are still afraid to report incidents of domestic violence to the local authorities with the power to intervene, and also because the authorities, when they eventually do intervene do rarely decide in their favour. The likely reason for the poor implementation of this provision could either be that those that ought to implement or invoke the said legal provision are not even aware of it, or there is minimal prosecution, which makes this provision inoperable since the other couple will not be compelled to testify.

The Constitution of the Federal Republic of Nigeria (CFRN)

The CFRN [19] provides that everyone deserves a level of respect and freedom from all forms of torture or degrading treatment. Rape could indirectly fall within the ambit of disrespect to the dignity of a person whether he or she is lawfully married to the rapist. Meanwhile, rape is defined as the forceful or harmful penetration of any parts of another person's body including the private parts and mouth without consent [7].

The Administration of Criminal Justice Act (ACJA)

This Act permits married women to seek redress by way of criminal proceedings against anybody including their husbands to ensure their personal security and property is protected [21]. The provision indicates that any married woman that is domestically abused can rely on this provision to seek redress before any Federal Courts of Nigeria and Courts situated in Federal Capital Territory, Abuja.

Violence Against Persons' Act (VAPPA)

The VAPPA is Nigeria's first criminal legislation to outlaw and penalize female genital mutilation, forced eviction of a person's spouse and children, verbal, emotional, and psychological assaults, damaging widowhood practises, political violence, and so on. It is important to state that this Act applies to everyone irrespective of their biological sex, gender, and nature of marriage. The VAPP Act also includes a protection order to safeguard domestic abuse victims. The Act prohibits a wide range of acts that were previously acceptable in Nigerian society. The VAPP Act provided a protection order and described it as an order issued by a judge that restrains a person, whether a private or a State actor, from future harmful behaviour toward the victim.⁵¹ The statute-barred principle does not apply to a protection order but must be done as prescribed by the Act. The application for such an order can also be filed on behalf of a victim.⁵² Section 44 of the VAPP Act establishes the National Agency for the Prohibition of Trafficking in Persons and Other Related Matters (NAPTIP) as a regulatory entity tasked with enforcing the provisions of the law and working with relevant parties, including faith-based organisations.

According to section 46 of the Violence Against Persons' Act of the Federal Capital Territory, Abuja, 2015 (VAPPA), spouses are equally protected under the VAPPA, and spousal battery is also prohibited by the Act, indirectly including spousal rape. However, there are no specific provisions that directly condemn marital or spousal rape in the VAPPA, a shortcoming of the legal instrument. Although the VAPPA provides that a body shall be appointed to manage issues related to or incidental to domestic violence and shall report to the Federal Government annually and the government shall forward such reports to the government parastatal in charge of Bureau statistics [20]. This implies that spousal rape could be classified under domestic violence under this policy. The challenge that could be foreseen is that this VAPPA is not applicable in all Nigerian States, but in matters that arose in FCT or instances where parties are residence in FCT, and Courts residence in FCT. It is pertinent to note that VAPPA was enacted by the Federal Legislature, because the nature of the rights that the State addresses falls under the residual list of the CFRN. Hence, the law cannot be uniformly applicable across Nigerian States, and each State may choose to enact a domestic version of the law with or without variation as it suits them. Nevertheless, this idea received several resistance from some States based on their cultural and religious practices. For example – most states that are reluctant to adopt this policy are doing so because of their expectations to continue harmful customary or religious practices, such as child marriages, polygamy, and divorce, among others. However due to the persistence of the minister of women affairs 'Pauline Tallen' in 2022, the said policy has been domesticated by a substantive numbers of Nigerian states including the Federal Capital Territory, Abuja. Northern states like Kano and Kastina, are yet to domesticate the policy, and this is likely because they are States majorly dominated by people of the Islamic faith, which glaringly advocates against women equality [4]. Since this policy only applies to the

Federal Capital Territory, some other States of the country adopt the policy into their State laws. However, the adoption of the policy is remarkable, but the functionality and effectiveness are yet perceived in the country.

The Strength of the CFRN, ACJA and VAPPA

As earlier discussed in this article, the PCA, CCA, some cultural practices, and religious laws do not recognize marital or spousal rape as an offence, the CFRN which is the foundation of all other Nigerian laws, ACJA, and the VAPPA empower women to defend and seek remedies against their husbands in case of any criminal violation of their private or public rights. Meanwhile, the strength of VAPPA is that it does not only apply to FCT residence, but applies to both men and women, and the provision falls within matters that are in the residual list of the CFRN. In the same vein, the ACJA falls under exclusive list of the CFRN, and applies to all Courts of the Federal Capital Territory, as well as all Federal Courts of Nigeria. The challenge of the ACJA is that the provision applies only to married women so they can maintain equal rights to the safety of their separately owned properties as if they were still single or unmarried. This implies that married men cannot invoke this provision against their wives and others when their privately owned properties are endangered, a shortcoming of the ACJA.

Nevertheless, the significance of the ACJA is just like VAPPA, it can be invoke on criminal matters categorised by an Act of the National Assembly and other offences sanctioned in the FCT, Abuja. When there is conflict between VAPPA or ACJA and any other law like PCA and CCA, the VAPPA or ACJA supersedes and outweighs them. Meanwhile, section 1(3) of the CFRN is trite that any law or policy that is inconsistent with the provisions of the CFRN will be rendered null and void to the extent of its inconsistencies. Therefore, even though the VAPPA is not applicable in all Nigerian States, it is a legal instrument that cannot be taken with levity.

Nigerian States and VAPPA

There have been several initiatives in various states in Nigeria to develop a statutory framework for domestic violence protection. Currently, (33) thirty-three states of the Federation, have domesticated the VAPP Act as of 2022 [7]. Despite the adoption of this policy, the available regulations in these States are short of providing efficient remedies to victims in the absence of any practicable support since there is no quick housing or accommodation plan and safe housing for victims during the crisis, no assurance of prompt execution of policy, no financial security, and proper public awareness. The laws are yet to be properly tested in the states that have adopted them.

Following the VAPP Act closely in its influence and priority of legislation on domestic violence is the 2007 Lagos State Law on Domestic Violence. For two main reasons, the Lagos State Prohibition against Domestic Violence Law of 2007 is currently regarded as one of the most advanced in Nigeria.⁵³ In addition to criminalising domestic abuse in appropriate situations, it provided a proper civil procedure for dealing with domestic violence events. It is more profound and comprehensive since it targets any victim of domestic abuse, whether women, men, or children, and it also caters to both married and unmarried families. Section 1 of the Law provides that no person shall commit any act of violence against another. This section makes it clear that domestic violence may be committed by any member of the household, and it is not confined to only parties who are married. Section 18 (1) provides for what constitutes domestic violence.

Domestic violence is defined in section 18(g) of the Lagos State Domestic Violence Law as physical abuse, sexual abuse, and exploitation, including but not limited to rape, incest, and sexual assault; starvation; emotional, verbal, and psychological abuse; economic abuse and exploitation; denial of basic education; intimidation; harassment; stalking; hazardous attack including acid both with offensive or poisonous substance; property damage; entry into the complainant's residence. This section also enables a victim of abuse to obtain a protective order in the High or Magistrate Court. This can be lodged by the complainant or any person with his consent who has an interest in the complainant's well-being, such as a counsellor, health care provider, Nigerian Law enforcement officer, social worker, organisation, or teacher. Where the complainant is a minor, mentally handicapped, unconscious, and incapable of consenting for fear of refusal or a person who the Court is satisfied is unable to grant the required consent, another person may apply without the complainant's consent under this same section. Section 2 (5) provides that the application for domestic violence must be filed along with an affidavit and submitted to a court registrar, who must submit it to the Court within 72 hours. However, if the complaint may suffer hardship if the application is not resolved swiftly, it must be brought before a court in chambers.

Another state legislation worthy of note is the Ekiti State Gender-based Violence (Prohibition). The Ekiti State Law prohibiting, Gender-based violence is a combination of Lagos State laws and the Federal Capital Territory's Violence against Persons Prohibition Act 2015.⁵³ It elaborates on violence against people of all genders. Gender-based violence was defined under section 1 in this law as "violence that affects a person or group of people disproportionately because of their gender; any act that causes physical, mental, or sexual harm or suffering; threats of such acts, coercion, or other deprivation of liberty; and all acts of violence that inhibit or neutralize the enjoyment of human rights and fundamental

freedoms under general international law or human rights convention as discrimination". Section 2(b) describes gender-based violence as offences ranging from physical abuse to rape, sexual assault, and violence against women.

The Ekiti State Government has demonstrated that it has one of the most advanced gender-based violence programs in the country.⁵⁴ The 2019 Ekiti State Gender-Based Violence (Prohibition) Law, the Domestic Violence Protection Order (DVPO), and the 2020 Sexual Violence against Children Compulsory Treatment and Action Care Law are just a few instances of state laws enacted to combat gender-based violence. So far, the government has guaranteed that these rules are followed and perpetrators penalized. Section 3 (1) (2) (3) provides a penalty for persons who wilfully inflict or cause injury on another through the use of a weapon or persons who commit or aid and abet the commission of an act of violence against another.^{54,55} Section 4 provides a penalty for persons who coerce another person to engage in acts which can be detrimental to their physical or psychological health. Section 10 prohibits the ejection of a spouse from their matrimonial home.

It is important to note and discuss the Cross River legislation on domestic violence. There are two major restrictions to the Cross River State Domestic Violence and Maltreatment of Widows Prohibition Law.⁵³ Firstly, it criminalises domestic abuse by making it a crime to subject any woman to any sort of unpleasant treatment or domestic violence, punishable by imprisonment or a fine. The law solely applies to domestic abuse against women. Although the majority of domestic abuse incidents indeed involve women, the problem cannot be limited to women. As a result, the law is deemed discriminatory.⁵⁶ Second, the law limits the definition of domestic violence to cover any abusive use of physical force or energy to inflict damage or injury to a woman at home, in the house, or at any other location.⁵⁷

Ebonyi state followed the same path as Cross-river in criminalising domestic abuse. The law on domestic violence in Ebonyi state addresses domestic violence perpetrated between persons in domestic relationships, which was defined as a marital or familial tie between the victim and the respondent.⁵⁸ Domestic violence, unlike in cross-river legislation, is characterised as physical assault or abuse, including verbal assaults capable of causing emotional and psychological harm. However, male victims were also excluded under this law.⁵⁹

Conclusion

This study examined the socio-legal imperative of domestic violence prohibition in Africa, focusing on the Nigerian legal structure for sexually abused women. It found that domestic violence is a global problem, particularly in Africa and specifically in Nigeria. Despite the prevalence of domestic violence in these other countries discussed, the majority of them still face intimate partner abuse but, have legislation and continually update the regulatory framework from time to time to prohibit and penalize the act. Beyond the law, they have taken further steps to provide resources like shelter and places to easily access audiences when victims are faced with domestic violence. However, in Nigeria, despite the numerous legal enactments on the prevention, prohibition and redressal of domestic violence in society, domestic violence remains a challenge due to several reasons that are possible of being addressed but persists. The study observed that Nigeria's legal framework has passed the era of the gender maligning Act addressing issues of sexual violence, and now has a gender-neutral act which has been adopted by almost all the Nigerian States. Yet, these legal provisions do not translate into the rate of domestic violence occurrences in Nigeria. An empirical study could be conducted to ascertain this fact, a gap for further studies. This indicates that addressing domestic violence goes beyond the provision of adequate legal frameworks and unveiling and addressing the root cause of the act in society. Women face inequities in almost every sector of their endeavour, inclusive of their matrimonial homes. This predicament is intensified by the presence of diverse customary practices such as patriarchy, sex preference, and discrimination in the family, community, and workplace. Discrimination is common and is fostered by the persistence of preconceptions and customs that contradict human rights principles of natural justice, equity and good conscience.

Also, under the provisions of the Criminal code Act, and Penal Code Act of Nigeria, Marital rape is not regarded as a punishable offence. However, the Constitution of the Federal Republic of Nigeria (CFRN) provides that everyone deserves a level of respect and freedom from all forms of torture or degrading treatment. Rape could indirectly fall within the ambit of disrespect to the dignity of a person whether he or she is lawfully married to the rapist. The Criminal Code Act, CAP C38, Laws of Federation of Nigeria, 2004, s. 357 (Defines rape) and s. 6 (Defines carnal knowledge). Similarly, the Violence Against Persons' Act of the Federal Capital Territory, Abuja, 2015 provides that a body shall be appointed to manage issues related to or incidental to domestic violence and shall report to the Federal Government annually and the government shall forward such reports to the government parastatal in charge of Bureau statistics.

In addition, the Administration of Criminal Justice Act permits married women to seek redress by way of criminal proceedings against anybody including their husbands to ensure their personal security and property protection.

In essence, though some specific laws do not recognize marital or spousal rape as an offence, the CFRN which is the foundation of all other laws, ACJA, and the VAPPA empower women to defend and seek remedies against their husbands in case of any criminal violation of their private or public rights.

The study concludes that the Nigerian government has adopted a robust legal structure for women in sexually abusive relationships, but barbaric cultural practices, implementation, awareness of those provisions, ignorance, illiteracy, poverty, lack of governmental shelter for victims, etcetera could be the reasons people remain in abusive relationships or intense occurrence of domestic violence in the society, a gap for empirical further studies. Hence, the need for stakeholders to address the root causes of domestic violence in African societies, especially the eradication of customary and religious practices that are contrary to the principles of natural justice, equity, and good conscience.

Recommendations

The recommendations are as follows;

- Barbaric beliefs and practices should be prohibited by the law to mitigate domestic violence from the grassroots.⁶⁰
- Domestic violence should be included in the list of Nigerian criminal offences because a unified legal framework could mitigate domestic violence in Nigeria as opposed to the States' fragmented structure.⁶¹
- Governmental and non-governmental organisations should increasingly educate the public about the dangers of domestic violence through the media or otherwise.⁶²
- Perpetrators of such acts should be brought to book in every way possible to deter potential ones.⁶³
- Religious leaders should be encouraged and educated to advocate against marital violence in their various places of worship, particularly within the Muslim religion.⁶⁴
- Domestic violence victims must be encouraged to break the culture of silence.⁶⁵
- For the protection or advancement of women's rights, the government and non-governmental organisations must organise enlightenment campaigns to raise public awareness.⁶⁶
- Victims should be encouraged to seek medical or external assistance, such as therapists or counsellors, if necessary, to save lives and sanity.⁶⁷
- The younger generation should be taught and encouraged not to abhor such behaviour. This is because a child raised in an abusive home is more likely to imitate such behaviour in the future. Parents indulging in such activities should restrain from doing so and be seen as apologetic about their previous activities.⁶⁷
- Further reading has been recommended alongside the references to guide or aid readers in having comprehensive knowledge about this subject.

Data availability

No data are associated with this article.

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Open Peer Review

Current Peer Review Status:   

Version 5

Reviewer Report 15 December 2023

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Olanike Adelakun 

¹ School of Law, American University of Nigeria, Yola, Adamawa, Nigeria

² School of Law, New York University, New York, New York, USA

This version is a better improvement on the previous version. The author should pay attention to the opening paragraph of the heading 'Legal framework on domestic violence in Nigeria'. The sentence and paragraph appear broken and some information appears to be missing. This affects the flow of the next paragraph. If the statement is a subheading, it is important for the publisher to adopt a font that signifies this or to italicize it.

The next heading appears unnecessary because the legal framework should cover the laws that promote and prohibit domestic violence. Creating another subheading on the legal framework that prohibits domestic violence appears confusing and repetitive.

Competing Interests: No competing interests were disclosed.

Reviewer Expertise: Family Law, Gender Studies, Conflict Studies, Sexual and Reproductive Health Rights, Child and Women Protection.

I confirm that I have read this submission and believe that I have an appropriate level of expertise to confirm that it is of an acceptable scientific standard.

Version 4

Reviewer Report 26 July 2023

<https://doi.org/10.5256/f1000research.152794.r187457>

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Olanike Adalaku 

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² School of Law, New York University, New York, New York, USA

While there has been good improvement with the work, I believe that the article could be better improved to fill certain gaps in the literature as I pointed out in the review. Please see comments in [document here](#).

Competing Interests: No competing interests were disclosed.

I confirm that I have read this submission and believe that I have an appropriate level of expertise to confirm that it is of an acceptable scientific standard, however I have significant reservations, as outlined above.

Version 2

Reviewer Report 03 July 2023

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Olanike Adalaku 

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The article examines domestic violence prevalence in Nigeria and examines some other jurisdictions.

There is a need for diligent proofreading of the article. The last three sentences of paragraph 3 and the first 3 sentences of paragraph 4 are the same. There are other repetitions in the work that distort the flow of the work.

Some parts of the article refer to statistical data and other scholarly work but there were no corresponding references. This needs to be addressed. For instance, the data on the percentage of men and women that experience domestic violence was not referenced.

The claim that daughters and grand-daughters are taught to normalize domestic violence and GBV should be revised to reflect the position of male children. Does preferential treatment also suggest that male children are taught to believe and exert domination over females? Is that also a way of normalizing domestic violence for male children which contributes to the unbroken chain?

Reference to domestic violence in Ghana suggests that things have changed but there is no

indication throughout the paper on what has changed and if any progress has been made in Ghana. This leaves a gap in the mind of the reader on what that aspect tends to communicate.

The claim that there is no data on domestic violence in India should be revisited. There is a difference between lack of data and inadequate or inaccurate data.

Reliance on data from a 1995-1998 survey to take a position on domestic violence in America is outdated. Does that suggest that nothing has been done since 1998 that will change the statistics? Also, the discussion of domestic violence in America under a sub-heading that suggests that the section is focused on Europe is misleading.

On page 7, the position that domestic violence is a ground for divorce in Nigeria should be changed to reflect that domestic violence can be claimed to prove that a marriage has broken down irretrievable. The only ground for divorce of statutory marriage is that the marriage has broken down irretrievably. Also, the reference on this note (42) should be corrected to section 15(2)(e) and not 15(1)(e) of the MCA.

The claim of the one-sided right to divorce in Islamic marriage should be reviewed. The authors may argue on the imbalance or inequality in divorce rights and not one-sided rights. It is important to compare the concept of talaq and khul to effectively make this argument.

The author's position on marital rape needs to be updated. Though, under sections 6 & 357 of the Criminal Code Act and section 382(2) of the Penal Code Act, marital rape is not recognized as a crime. However, the authors should evaluate this argument in line with VAPPA, ACJA, and the Constitution. Section 42(2) of the VAPPA is important in resolving conflict of laws in this regard. Though the authors made reference to this towards the end of the paper, this is a very important argument and should flow appropriately.

On the gender perspective of domestic violence in Nigeria, the authors needs to review the general application of the VAPPA to all persons irrespective of the nature of the marriage entered into.

The claim that the authorities often ignored cases of IPV in Nigeria is misleading. Several reports from the appropriate government agencies, NGOs, and INGOs show otherwise. Institutional restructuring across Nigeria also shows otherwise. For instance, in recent times, many police stations now have a gender desk with officers constantly trained to empower them in responding to domestic violence and GBV cases. Advocacy work is also evident in this area. The effectiveness and progress made may be worth evaluating.

The authors claim that only four states in Nigeria have enacted laws on domestic violence whereas the corresponding reference shows about 8 states. Presently, almost 20 states have taken legislative and policy steps directly and indirectly on domestic violence in Nigeria. There is a need to refer to current literature on this aspect in order to provide an up to date information.

The conclusion of a scholarly work should basically give a summary of what has been done and not introduce something new that was not discussed in the paper. The authors should reflect on this and avoid introducing new elements in the conclusion. Also, avoid making reference to other works in the conclusion and recommendations since these parts are expected to be solely your

work.

Finally, the authors' voices were missing from the paper. There is a need to clearly take a position that reflects the stand of the authors.

Is the work clearly and accurately presented and does it cite the current literature?

Partly

Is the study design appropriate and is the work technically sound?

Partly

Are sufficient details of methods and analysis provided to allow replication by others?

Yes

If applicable, is the statistical analysis and its interpretation appropriate?

Not applicable

Are all the source data underlying the results available to ensure full reproducibility?

Partly

Are the conclusions drawn adequately supported by the results?

Partly

Competing Interests: No competing interests were disclosed.

Reviewer Expertise: Family Law, Gender Studies, Conflict Studies, Sexual and Reproductive Health Rights, Child and Women Protection.

I confirm that I have read this submission and believe that I have an appropriate level of expertise to confirm that it is of an acceptable scientific standard, however I have significant reservations, as outlined above.

Author Response 07 Jul 2023

OLUSOLA JOSHUA OLUJOBI

THE ARTICLE EXAMINES DOMESTIC VIOLENCE PREVALENCE IN NIGERIA AND EXAMINES SOME OTHER JURISDICTIONS

There is a need for diligent proofreading of the article. The last three sentences of paragraph 3 and the first 3 sentences of paragraph 4 are the same. There are other repetitions in the work that distort the flow of the work.

Authors Responses

Many thanks for the pain, time and effort used to review our paper, and thanks for the candid comments and suggestions to make the work robust. God bless you and your family. Once again, thank you for your efforts. Diligent proofreading of the

article has been meticulously and painstakingly done. The last three sentences of paragraph 3 and the first 3 sentences of paragraph 4 which appeared the same have been corrected. Also, other repetitions in the work that distort the flow of the work have been overhauled diligently. Thanks, sir. It was done in compliance with the reviewer's comments. Please see pages 1-2.

Some parts of the article refer to statistical data and other scholarly work but there were no corresponding references. This needs to be addressed. For instance, the data on the percentage of men and women that experience domestic violence was not referenced.

Authors Responses

Once again, thank you for your efforts. Statistical data and other scholarly work mentioned are now referenced. For instance, the data on the percentage of men and women that experience domestic violence is now referenced. Thanks, sir. The correction was done in compliance with the reviewer's comments. Please see pages 1-20.

The claim that daughters and granddaughters are taught to normalize domestic violence and GBV should be revised to reflect the position of male children. Does preferential treatment also suggest that male children are taught to believe and exert domination over females? Is that also a way of normalizing domestic violence for male children which contributes to the unbroken chain?

AUTHORS RESPONSE

Thank you for your efforts. The claim that daughters and granddaughters are taught to normalize domestic violence has been revised to reflect the position of male children. Preferential treatment which suggests that male children are taught to believe and exert domination over females appear to normalise domestic violence for male children which has contributed to the unbroken chain of violence. This has made it culturally acceptable for women to regard violence as a form of discipline from their husbands, and they teach their daughters and granddaughters to see it as the same and also as a form of being loved and submissive. While on the sons' and grandsons' perspective, patriarchy has led to a preference for a male child over a female which boosts their ego. Furthermore, male children have been thought religiously and customarily to assert authority in every way possible even if it leads to domestic violence over their spouse. Thanks, sir. The correction was done in compliance with the reviewer's comments. Please see page 5.

Reference to domestic violence in Ghana suggests that things have changed but there is no indication throughout the paper on what has changed and if any progress has been made in Ghana. This leaves a gap in the mind of the reader on what that aspect tends to communicate.

AUTHORS RESPONSE

Many thanks for the pain, time and effort used to review our paper, and thanks for the candid comments and suggestions to make the work robust. God bless you and

your family. Once again, thank you for your efforts. The reference to domestic violence in Ghana which suggests things have changed has been included in the paper with the progress made in Ghana. A study conducted by Adjah and Agbenafle reported that the prevalence of domestic violence remains unacceptably high in Ghana despite the governmental provision of shelter for domestic abuse victims, the adoption of the Declaration on Elimination of Violence Against Women (DVAW) convention, and the creation of domestic violence and victims' Support Unit of the Ghana Police service. The correction was done in compliance with the reviewer's comments. Please see page 6.

The claim that there is no data on domestic violence in India should be revisited. There is a difference between lack of data and inadequate or inaccurate data.

AUTHORS RESPONSE

Many thanks for the pain, time and effort used to review our paper, and thanks for the candid comments and suggestions to make the work robust. God bless you and your family. Once again, thank you for your efforts. The claim that there is no data on domestic violence in India has been revisited. The statement there is an inadequate data or inaccurate data has been corrected. The correction was done in compliance with the reviewer's comments. Please see page 7

Reliance on data from a 1995-1998 survey to take a position on domestic violence in America is outdated. Does that suggest that nothing has been done since 1998 that will change the statistics? Also, the discussion of domestic violence in America under a sub-heading that suggests that the section is focused on Europe is misleading.

AUTHORS RESPONSE

Many thanks for the pain, time and effort used to review our paper, and thanks for the candid comments and suggestions to make the work robust. God bless you and your family. Once again, thank you for your efforts. According to a 1998 Commonwealth Fund survey, about one-third of American women (31%) have been physically or sexually assaulted by a husband or lover at some point in their lives. The National Violence Against Women Survey, which was performed from November 1995 to May 1996, stated that about a quarter of all American women had been raped and/or physically attacked by a current or previous spouse, cohabiting partner, or 'date' at a certain stage in their lives. Firstly, the U.S. Congress entreated a multi-year strategy to eradicate and address issues of violence against women and girls in 2012 and the strategy was updated in 2016. Meanwhile, the violence against Women Reauthorisation Act of 2013 prevents GBV and any forms of violence in marriage. However, the said strategy was a national plan to end violence in the United States, and it was adopted in 2022. The correction was done in compliance with the reviewer's comments. Please see page 8.

On page 7, the position that domestic violence is a ground for divorce in Nigeria should be changed to reflect that domestic violence can be claimed to prove that a marriage has broken down irretrievable. The only ground for divorce of statutory marriage is that the

marriage has broken down irretrievably. Also, the reference on this note (42) should be corrected to section 15(2)(e) and not 15(1)(e) of the MCA.

AUTHORS RESPONSES

Many thanks for the pain, time and effort used to review our paper, and thanks for the candid comments and suggestions to make the work robust. God bless you and your family. Once again, thank you for your efforts. the reference on a note (42) has been corrected to read to section 15(2)(e) of the MCA.

However, they are found as one of the grounds for divorce cases filed by litigants against their abusers, and domestic violence is only a ground to show that the marriage has broken down irretrievably. In section (16) (ii) of the Matrimonial Causes Act, a ground stated for a marriage to be deemed to have broken down irretrievably, which could lead to the dissolution of marriage or the decree Nisi of the court to the permanent separation of the couple or parties' section 15(2)(e) of the MCA. The correction was done in compliance with the reviewer's comments. Please see page 10.

The claim of the one-sided right to divorce in Islamic marriage should be reviewed. The authors may argue on the imbalance or inequality in divorce rights and not one-sided rights. It is important to compare the concept of talaq and khul to effectively make this argument.

AUTHORS RESPONSES

The claim of the one-sided right to divorce in Islamic marriage has been reviewed. The authors have now argued on the imbalance or inequality in divorce rights and compared the concept of talaq and khul. The Nigerian societal customs and religious beliefs concerning women are what reinforce men's abusive practises such as genital mutilation, harmful traditional practises to control women, early girl marriage, nutritional taboos and other uncouth pregnancy-related practises, unfavourably widowhood practises and inheritance, one-sided divorce rights under Islamic marriage system, considering two main principles on divorce under this religion, the 'Talaq' and 'Khul', which govern the way a man and a woman can divorce their spouse. These principles favour man than women. Talaq permits the man to divorce his wife with payment of the *Mahr* if the marriage has been consummated, but if not, he pays half. The *Khul* allow the wife to untie the nut between her and the husband but at a price. The correction was done in compliance with the reviewer's comments. Please see page 10.

The author's position on marital rape needs to be updated. Though, under sections 6 & 357 of the Criminal Code Act and section 382(2) of the Penal Code Act, marital rape is not recognized as a crime. However, the authors should evaluate this argument in line with VAPPA, ACJA, and the Constitution. Section 42(2) of the VAPPA is important in resolving conflict of laws in this regard. Though the authors referred to this towards the end of the paper, this is a very important argument and should flow appropriately.

AUTHORS RESPONSES

The author's position on marital rape has been updated. By virtue of the provisions of

Criminal code Act and Penal Code Act of Nigeria Marital rape is not regarded as a punishable offence. However, the Constitution of the Federal Republic of Nigeria (CFRN) provides that everyone deserves a level of respect and freedom from all forms of torture or degrading treatment. Rape could indirectly fall within the ambit of disrespect to the dignity of a person whether he or she is lawfully married to the rapist. Similarly, the Violence Against Persons' Act of the Federal Capital Territory, Abuja, 2015 provides that a body shall be appointed to manage issues related with or incidental to domestic violence and shall report to the Federal Government annually and the government shall forward such reports to the government parastatal in charge of Bureau statistics.

In addition, the Administration of Criminal Justice Act permits married women to seek redress by way of criminal proceedings against anybody including their husbands to ensure their personal security and property protection.

In essence, though some specific laws clearly do not recognize marital or spousal rape as an offence, but the CFRN which is the foundation of all other laws, ACJA, and the VAPPA empower women to defend and seek remedies against their husbands in case of any criminal violation of their private or public rights.

This important argument now flows appropriately. The correction was done in compliance with the reviewer's comments. Please see page 11.

On the gender perspective of domestic violence in Nigeria, the authors need to review the general application of the VAPPA to all persons irrespective of the nature of the marriage entered into.

AUTHORS RESPONSES

The authors now reviewed the general application of the VAPPA to all persons irrespective of the nature of the marriage. The Violence Against Persons Prohibition (VAPP) Act 2015 is Nigeria's first criminal legislation to outlaw and penalize female genital mutilation, forced eviction of a person's spouse and children, verbal, emotional, and psychological assaults, damaging widowhood practices, political violence, and so on. It is important to state that this Act applies to everyone irrespective of their biological sex, gender, and nature of marriage. The VAPP Act also includes a protection order to safeguard domestic abuse victims. The Act prohibits a wide range of acts that were previously acceptable in Nigerian society. The VAPP Act provided a protection order and described it as an order issued by a judge that restrains a person, whether a private or a state actor, from future harmful behaviour toward the victim. The statute-barred principle does not apply to a protection order but must be done as prescribed by the Act. The application for such an order can also be filed on behalf of a victim. Section 44 of the VAPP Act establishes the National Agency for the Prohibition of Trafficking in Persons and Other Related Matters (NAPTIP) as a regulatory entity tasked with enforcing the provisions of the law and working with relevant parties, including faith-based organisations. The correction was done in compliance with the reviewer's comments. Please see page 13.

The claim that the authorities often ignored cases of IPV in Nigeria is misleading. Several

reports from the appropriate government agencies, NGOs, and INGOs show otherwise. Institutional restructuring across Nigeria also shows otherwise. For instance, in recent times, many police stations now have a gender desk with officers constantly trained to empower them in responding to domestic violence and GBV cases. Advocacy work is also evident in this area. The effectiveness and progress made may be worth evaluating.

AUTHORS RESPONSES

The claim that the authorities often ignored cases of IPV in Nigeria has been corrected to read: In Nigeria, legislative authorities often ignored cases of intimate partner abuse in the community, believing that women are inferior to males and must live under their rule. The correction was done in compliance with the reviewer's comments. Please see page 12.

The authors claim that only four states in Nigeria have enacted laws on domestic violence whereas the corresponding reference shows about 8 states. Presently, almost 20 states have taken legislative and policy steps directly and indirectly on domestic violence in Nigeria. There is a need to refer to current literature on this aspect to provide up-to-date information.

UTHORS RESPONSES

The authors claim that only four states in Nigeria have enacted laws on domestic violence and have been corrected to read 8 states. Presently, almost 20 states have taken legislative and policy steps directly and indirectly on domestic violence in Nigeria. Current literature has been referred to on this aspect to provide up-to-date information. There have been several initiatives in various states in Nigeria to develop a statutory framework for domestic violence protection. However, (33) thirty-three states of the Federation, have domesticated the VAPP Act as of 2022.) while several bills are pending in a male-dominated National Assembly. The correction was done in compliance with the reviewer's comments. Please see pages 13-14.

The conclusion of a scholarly work should give a summary of what has been done and not introduce something new that was not discussed in the paper. The authors should reflect on this and avoid introducing new elements in the conclusion. Also, avoid referring to other works in the conclusion and recommendations since these parts are expected to be solely your work.

AUTHORS RESPONSES

The conclusion has been reworked to give a summary of what has been done only and not introduce something new that was not discussed in the paper. The work is now solely the authors' work. The correction was done in compliance with the reviewer's comments. Please see pages 14-15.

Finally, the authors' voices were missing from the paper. There is a need to take a position that reflects the stand of the authors.

AUTHORS RESPONSES

The authors' voices are now conspicuous in the paper. A clear position that reflects

the stand of the authors is crystal clear in the paper. Many thanks for the pain, time and effort used to review our paper, and thanks for the candid comments and suggestions to make the work robust. God bless you and your family. Once again, thank you for your efforts The correction was done in compliance with the reviewer's comments. Please see pages 1-20.

Competing Interests: NO COMPETING INTEREST WHATSOEVER

Reviewer Report 28 June 2023

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Paul Ejembi

Department of International Law and Jurisprudence, Faculty of Law, Benue State University, Makurdi, Benue, Nigeria

The article presents a panoramic perspective of the socio-legal imperative of domestic violence prohibition in the African Continent with particular reference to Nigeria. It makes a comparative analysis of the occurrences of the menace of domestic violence in different socio-cultural settings particularly in India and Nigeria which have similar socio-political characteristics.

The article is clear, easy to understand and unequivocally addresses the social and legal issues it aims to achieve. It is my calculated opinion that the article is publishable and definitely contributes to knowledge especially as domestic violence in Nigeria is concerned.

It is, however, suggested that the recommendations articulated by the authors should be written in paragraphs or enumerated instead of the dotted symbols used.

Is the work clearly and accurately presented and does it cite the current literature?

Yes

Is the study design appropriate and is the work technically sound?

Yes

Are sufficient details of methods and analysis provided to allow replication by others?

Yes

If applicable, is the statistical analysis and its interpretation appropriate?

Not applicable

Are all the source data underlying the results available to ensure full reproducibility?

Yes

Are the conclusions drawn adequately supported by the results?

Yes

Competing Interests: No competing interests were disclosed.

Reviewer Expertise: Public international law, Human rights, Gender and the law, Jurisprudence, International and comparative disability law, legal theory

I confirm that I have read this submission and believe that I have an appropriate level of expertise to confirm that it is of an acceptable scientific standard.

Author Response 28 Jun 2023

OLUSOLA JOSHUA OLUJOBI

Many thanks for the pains, efforts, time you took to review our work and for your candid comments and suggestions to make the work robust. God bless you and your family. Once again, thank you for your efforts.

The recommendations section has suggested by the reviewer is now written in paragraphs or enumerated instead of the dotted symbols used earlier. Thank you.

Competing Interests: No competing interests were disclosed.

Reviewer Report 13 June 2023

<https://doi.org/10.5256/f1000research.149013.r176483>

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Chisaa Onyekachi Igbolekwu 

Centre for Gender, Humanitarian and Development Studies, Redeemer's University, Ede, Osun, Nigeria

The revisions made are in order, kindly index the article. Thank you.

Is the work clearly and accurately presented and does it cite the current literature?

Yes

Is the study design appropriate and is the work technically sound?

Yes

Are sufficient details of methods and analysis provided to allow replication by others?

Yes

If applicable, is the statistical analysis and its interpretation appropriate?

Yes

Are all the source data underlying the results available to ensure full reproducibility?

Yes

Are the conclusions drawn adequately supported by the results?

Yes

Competing Interests: No competing interests were disclosed.

Reviewer Expertise: Medical Sociology, Demography, Gender issues, especially in women's health, fertility and GBV

I confirm that I have read this submission and believe that I have an appropriate level of expertise to confirm that it is of an acceptable scientific standard.

Version 1

Reviewer Report 17 May 2023

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Chisaa Onyekachi Igbolekwu

Centre for Gender, Humanitarian and Development Studies, Redeemer's University, Ede, Osun, Nigeria

Abstract

Secondary data and not tertiary is preferably used.

The result or findings section of the abstract should incorporate more findings made by the study.

Introduction

The introduction of the paper was quite elaborate and well-articulated. However there is need for a proper gap identification that will help the readers understand the focal point of study.

Objective of this study

There is need for clarity on the objective of the study as that will help to guide the focus of the study.

An analysis of domestic violence incidents in Africa and other selected countries

Under this subheading, the authors projected legal framework around domestic violence as it were in the traditional societies and failed to project the current move by different countries to ameliorate the menace of domestic violence.

Domestic violence is no longer a hush-hush issue as it were in the past. The culture of silence over domestic violence has been broken, many people are beginning to speak out. Similarly the paper should also look into the roles of some of the treaties many of the aforementioned African counties are signatory to that has also helped to reduce domestic violence.

Similarly some states in Nigeria have also adopted more stringent sanctions and panel codes for some types of gender based violence, the functionality and effectiveness of some of the laws should also be interrogated.

Asian continent with a focus on India as the selected country

Under this subheading and in the previous one, the authors should justify the reasons for selection of India among all the Asian countries. Similarly, the criteria used for the selection of some of the countries under discuss should also be made clear.

The lack of clarity in the justification and criteria could also be because the authors did not dedicate a subheading to address the methodology used in the study, it was only mentioned in the abstract. Therefore there is need to dedicate a section of the manuscript to explain the methods.

Summary of review

The study is well articulated, comprehensive, detailed and addressed a very pressing social problem that cannot be over emphasized in Africa and especially Nigeria.

The conclusion was precise and drawn from the research findings and the recommendations are apt, Approve for publications after minor corrections,

Is the work clearly and accurately presented and does it cite the current literature?

Yes

Is the study design appropriate and is the work technically sound?

Yes

Are sufficient details of methods and analysis provided to allow replication by others?

Partly

If applicable, is the statistical analysis and its interpretation appropriate?

Yes

Are all the source data underlying the results available to ensure full reproducibility?

Yes

Are the conclusions drawn adequately supported by the results?

Yes

Competing Interests: No competing interests were disclosed.

Reviewer Expertise: Medical Sociology, Demography, Gender issues, especially in women's health, fertility and GBV

I confirm that I have read this submission and believe that I have an appropriate level of expertise to confirm that it is of an acceptable scientific standard, however I have significant reservations, as outlined above.

Author Response 21 May 2023

OLUSOLA JOSHUA OLUJOBI

We the authors deeply appreciated the reviewer for taking the time to review our article. The comments and observations are valued. Our responses to some of the issues raised are presented below:

Abstract

Secondary data and not tertiary is preferably used. The result or findings section of the abstract should incorporate more findings made by the study.

Response: The authors adopted the doctrinal research methodology, which is majorly used by legal scholars, lawyers and judges researching in law to draw out new legal theories logically. It involves the qualitative research approach where data was drawn from primary and secondary sources via consultation with legal instruments, such as legislation, case laws, statutes, and policies. The use of secondary data is not necessary for the study. The robust methodology is one of the areas that F1000Research emphasized for article publication consideration. Thank you exceedingly for the pain, time and efforts to review our paper, candid comments and suggestions to make the work robust.

Introduction

The introduction of the paper was quite elaborate and well-articulated. However, there is a need for a proper gap identification that will help the readers understand the focal point of the study.

Response: Proper identification of the gaps to help the readers understand the focal point of the study has been discussed and identified succinctly. Thank you exceedingly for the pain, time and efforts to review our paper, candid comments and suggestions to make the work robust.

The objective of this study: There is a need for clarity on the objective of the study as that will help to guide the focus of the study.

Response: The general aim or objective of this study, using the Doctrinal research methodology, is to examine domestic violence as a form of sexual abuse and experiences suffered by women in Africa. It also aims to a spotlight on sexual violence as experienced by women in Nigeria while highlighting relevant Nigerian legislation that prevents or prohibits such sexual experience. This study equally attempts a comparative assessment of legislation and case laws on domestic violence in some selected countries. The aim of the study has been brought out with clarity to guide the focus of the study. Thank you exceedingly for the pain, time and efforts to review our paper, candid comments and suggestions to make the work robust.

The African countries selected for the survey were based on the fact that they are signatories to several international legal instruments advocating against IPV. The Asia country (India) selected was based on the similarities it has with Nigeria. India is reported to be the most populated in the Asian continent and Nigeria is the most populated country in the African continent. They both have diversity in ethnicity, linguistics, culture, and religion, and they are categorised as developing countries that operate common law systems, as well as colonised by the same British colonial master. Therefore, these similarities make it worthy of a comparative survey.

An analysis of domestic violence incidents in Africa and other selected countries

Under this subheading, the authors projected a legal framework around domestic violence as it were in traditional societies and failed to project the current move by different countries to ameliorate the menace of domestic violence.

Domestic violence is no longer a hush-hush issue as it was in the past. The culture of silence over domestic violence has been broken, many people are beginning to speak out. Similarly, the paper should also look into the roles of some of the treaties many of the aforementioned African counties are signatories to that have also helped to reduce domestic violence.

Similarly, some states in Nigeria have also adopted more stringent sanctions and panel codes for some types of gender-based violence, the functionality and effectiveness of some of the laws should also be interrogated.

Response

Recently, IPV is gradually becoming an issue of open discussion, but the culture of silence still remains an issue as society views IPV as a family matter. Meanwhile, most of the African

countries mentioned within, specifically Nigeria are signatories to several international legal instruments whose roles are to mitigate IPV and all forms of violence against women. For example, the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa, 2005, signed by 42 of 55 African countries prohibits all forms of violence against women. The convention widely ratified by almost all African countries excluding 2, also protects women against violence and discrimination, the same as the International Convention on Civil and Political Rights, 1966. Significantly, the signed and ratified international legal instruments made a number of the Member states create domestic policies that address the issue of IPV in their respective countries. In Nigeria, for instance, The Violence Against Persons (Prohibition) Act 2015 was adopted to address issues of public and private forms of violence including IPV in the capital city of Nigeria, and it provides remedies for victims and penalties for offenders. Since this policy only applies to the Federal Capital Territory, some other States of the country adopt the policy into their State laws. However, the adoption of the policy is remarkable, but the functionality and effectiveness are yet perceived in the country. Further discussion on IPV and Nigerian States law, could be seen in the latter parts of the study.

Asian continent with a focus on India as the selected country

Under this subheading and in the previous one, the authors should justify the reasons for the selection of India among all the Asian countries. Similarly, the criteria used for the selection of some of the countries under discussion should also be made clear. The lack of clarity in the justification and criteria could also be because the authors did not dedicate a subheading to address the methodology used in the study, it was only mentioned in the abstract. Therefore there is a need to dedicate a section of the manuscript to explain the methods.

Response:

The justifications for the selection of India among all other Asian countries among others are domestic abuse affects 70% of women in India physically, sexually, emotionally and economically. According to India's National Crime Records Bureau, recorded cases of crime against women rose by 41% (13,892) in 2021 when compared with 2020 (9,782) records, and 31% of the crimes registered were domestic violence. Sadly, 65% of men in India believe women should accept such kind of abuse in order to hold the family together and that women sometimes deserve to be battered. There is no accurate data on the cases of domestic violence in India because most cases go unreported due to fear of the victim or fear of mockery or embarrassment as well as the pressure not to jeopardise the family's honour. It is interesting to know that section 498A of the Indian Penal Code 1860 was established to protect women from the cruelty of their husband or their relatives. A subheading has been dedicated to address the methodology used in the study to explain the methods.

Competing Interests: No competing interests whatsoever.

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