

VIOLENCE AGAINST PERSONS (PROHIBITION) ACT 2015: A POSITIVE STEP TO THE ERADICATION OF DOMESTIC VIOLENCE IN NIGERIA*

Abstract

The statistical trend of domestic violence in Nigeria is daunting and sky-rocketing, marital homes have turned to boxing rings and family unions become Trojan battles, the situation does not appear to lessen anytime soon, rather it is on the increase. One begins to wonder, what is the role of the Nigerian legislature to rescue the situation? Are there no laws to curb domestic violence in Nigeria? Or is it that the long hand of the law is not catching up with the perpetrators? Or are the punishments prescribed in the laws not stiff enough to keep perpetrators with such intentions at bay? In resolving these agitations, this paper examined the concept, forms and causes of domestic violence in Nigeria. The paper further analysed some recent reported incidences of domestic violence in Nigeria including the 28-year-old Ibadan-based female lawyer's case. The Violence against Persons (Prohibition) Act, 2015 was further appraised with special focus on identifying the types of violence covered by the Act, the issue of jurisdiction and human rights protection under the Act and some of the progressive features of the Act in curbing domestic violence in Nigeria.

Keywords: *Violence against Persons (Prohibition) Act 2015, Domestic Violence, Eradication, Nigeria*

1. Introduction

The concept of domestic violence is a relatively developing term with no unanimous agreement among writers on the meaning and scope of the concept. Many writers have used different expressions to describe violence between intimates. For some, it is a problem of women in marital relationships being assaulted, and the term 'wife abuse' or 'wife battering' is most appropriate. Others note that the real problem is the tacit societal acceptance of violence against women. After all, the act of battering occurs just as frequently among couples who are dating or living together but are not married.¹

Some writers are even assertive of the view that although injuries due to violence occur disproportionately against women and that men commit more serious violent acts, both genders engage in violence. For this reason, proponents of this perspective favor the gender-neutral terms domestic violence, domestic assault, intimate partner violence, or intimate partner assault because they are intrinsically less limiting. One of these proponents has defined domestic violence as violence between intimates living together or who have previously cohabited.² Domestic violence in Nigeria is a problem affecting almost every part of the African continent; however the situation in Nigeria is generally influenced by the prevailing cultural belief especially among women. Violence against a wife is seen as a tool that a husband uses to chastise and improve her. The Yoruba women refer to their husbands as 'olowo ori mi' meaning 'he owns me'. The act of marriage is culturally seen to give the husband full ownership of the wife, this is mainly symbolized in the payment of the bride price, thus making the man believe he is the overlord over the woman and all her rights is subject to his own convenience. Culture and cultural belief are therefore major factors for the recurring acts of domestic violence in Nigeria. The society cannot continue to fold hands to see domestic violence escalate like wild fire, the instrument of the law must be used to curb the rising trend of domestic violence in Nigeria, thus necessitating the enactment of the Violence against Persons (Prohibition) Act of 2015 by the National Assembly.

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¹ E.S. Buzawa and C.G. Buzawa, *Domestic Violence: The Criminal Justice Response* (London: Sage Publications Ltd, 2002) 100-103

² *ibid*

2. Theoretical Concept of Domestic Violence

Domestic violence is the willful intimidation, physical assault, battery, sexual assault, and/or other abusive behavior as part of a systematic pattern of power and control perpetrated by one intimate partner against another.³ It includes physical violence, sexual violence, psychological violence and emotional abuse. Domestic violence can result in physical injury, psychological trauma, and in severe cases, even death. The devastating physical, emotional, and psychological consequences of domestic violence can cross generations and last a lifetime.⁴ The United Kingdom government defines domestic violence as ‘any incident of threatening behavior, violence or abuse (psychological, physical, sexual, financial or emotional) between adults who are or have been intimate partners of family members, regardless of gender or sexuality.’⁵ Domestic violence, also known as domestic abuse, spousal abuse, battering, family violence and intimate partner violence, is a pattern of abusive behaviours by one partner against another in an intimate relationship such as marriage, dating, family or cohabitation.⁶

Domestic violence and abuse is not limited to obvious physical violence. It can also mean endangerment, criminal coercion, kidnapping, unlawful imprisonment, trespassing, harassment and stalking to gain or maintain power and control over another intimate partner.⁷ Another author defines domestic violence as a pattern of assaultive and coercive behaviors, including physical, sexual, and psychological attacks, as well as economic coercion, that adults or adolescents use against their intimate partners.⁸ The same author further posits that domestic violence has many names: wife abuse, marital assault, woman battery, spouse abuse, wife beating, conjugal violence, intimate violence, battering, partner abuse, for example. Sometimes these terms are used interchangeably to refer to the problem, while at other times a particular term is used to reflect a specific meaning (e.g., ‘woman abuse’ to highlight the fact that most victims are women). In addition to these multiple terms, there are different behavioral and legal definitions for domestic violence. With so many varying terms and definitions, there can be a lack of clarity about what is meant by domestic violence, leading to inconsistencies in identification, assessment, and interventions as well as inconsistencies in research.⁹ He further identified the key elements of domestic violence to include:

1. Conduct perpetrated by adults or adolescents against their intimate partners in current or former dating, married or cohabiting relationships of heterosexuals, gay men, and lesbians.
2. A pattern of assaultive and coercive behaviors, including physical, sexual, and psychological attacks as well as economic coercion.
3. A pattern of behaviors including a variety of tactics — some physically injurious and some not, some criminal and some not — carried out in multiple, sometimes daily episodes.
4. A combination of physical attacks, terrorist acts, and controlling tactics used by perpetrators that result in fear as well as physical and psychological harm to victims and their children.

³ National Coalition against Domestic Violence, ‘What is Domestic Violence?’ available at www.ncadv.org/needhelp/what-is-domestic-violence accessed 12 May, 2016

⁴ *ibid*

⁵ Barking & Dagenham, ‘What is Domestic Violence/Definition’ (2016) *Domestic Violence London*, available at www.domesticviolencelondon.nhs.uk accessed 12 May, 2016

⁶ S. Ogunmosunle, ‘The Odds Against Domestic Violence Laws’ *PM News*, June 19, 2012 available at www.pmnewsnigeria.com

⁷ *ibid*

⁸ A.L. Ganley, *Understanding Domestic Violence* (1999) available at www.waprosecutors.org/manuals accessed 6 May, 2016. 16-17

⁹ *ibid*

5. A pattern of purposeful behavior, directed at achieving compliance from or control over the victim.¹⁰

The definition of domestic violence varies depending on the context in which the term is used. A clinical or behavioral definition is ‘a pattern of assaultive and/or coercive behaviors, including physical, sexual, and psychological attacks, as well as economic coercion, that adults or adolescents use against their intimate partners.’¹¹

There is no single nationally and internationally agreed definition of the concept of family violence, the United Nations Declaration on the Elimination of Violence against Women defines violence against women as ‘any act of gender-based violence that results in, or is likely to result in, physical sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or private life.’¹² Historically called ‘domestic violence,’ intimate partner violence describes physical, sexual, or psychological harm by a current or former intimate partner or spouse, although this type of violence can also occur among heterosexual or same-sex couples.¹³ Intimate partner violence (IPV) is defined as threatened, attempted, or completed physical or sexual violence or emotional abuse by a current or former intimate partner.¹⁴ It can be committed by a spouse, an ex-spouse, a current or former boyfriend or girlfriend, or a dating partner.¹⁵ Intimate partner violence can also be described as any behaviour by an intimate partner or ex-partner that causes physical, sexual or psychological harm, including physical aggression, sexual coercion, psychological abuse and controlling behaviours.¹⁶ Intimate partner and sexual violence are mostly perpetrated by men against women and child sexual abuse affects both boys and girls. International studies reveal that approximately 20% of women and 5–10% of men report being victims of sexual violence as children, hence, violence among young people, including dating violence, is also a major problem.¹⁷

3. Causes and Forms of Intimate Partner Violence and Domestic Violence in Nigeria

Women are often times at risk of sexual violence and the victims come from every age group, religion, ethnic/racial group, socioeconomic level, educational background and sexual orientation.¹⁸ In a review, the causative factors of domestic violence were identified as follows:¹⁹

¹⁰ *ibid*

¹¹ S. Schechter and J. Edelson, *Effective Intervention in Domestic Violence and Child Maltreatment Cases: Guidelines for Policy and Practice* (Reno, NV: National Council of Juvenile and Family Court Judges, 1999), 122–123.

¹² Declaration on the Elimination of Violence against Women 20 December 1993, UN GAOR, A/RES/48/104 (entered into force generally on 23 February 1994), art. 1

¹³ National Institute of Justice, ‘Intimate Partner Violence’ (2007) Available at: <http://www.nij.gov/topics/crime/intimatepartner-violence/Pages/welcome.aspx> Accessed June 2, 2015

¹⁴ Canadian Bar Association, ‘Intimate Partner Violence: Adverse Health Conditions and Health Risk Behaviours Associated with Intimate Partner Violence’ Legal Professional Assistance Conference, 2015. Available at: http://www.Ipac.ca/main.Courses_01/Violence.aspx. Accessed June 2, 2015

¹⁵ *ibid*

¹⁶ World Health Organization, ‘Violence against Women: Intimate Partner and Sexual Violence against Women’ *Fact sheet No 239*. Nov., 2014. Available at: <http://www.who.int/mediacentre/factsheets/fs239/en/> Accessed June 5, 2015

¹⁷ *ibid*

¹⁸ Mbadugha, ‘Intimate Partner Violence and Sexual Violence against Women’ (2016) 5(1) *International Journal of Medical and Biomedical Research* 9-18

¹⁹ C.C. Igbokwe, M.C. Ukwuma and K.J. Onugwu ‘Domestic Violence against Women: Challenges to Health and Innovation’ (2013) 11 *JORIND* 27-35. Available at:

- i. Ascribing stereotypical roles in which women are seen as subordinate to men which constrain the woman's ability to exercise choices that would enable her end the abuse.
- ii. Poverty and financial insecurity.
- iii. Frustration in the man: If a man cannot establish his authority intellectually or economically, he would tend to do so physically.
- iv. The image created by the society which portrays a man to be viewed as being strong, educated, creative, and clever while a woman is the opposite of all these traits.

Other factors found to be associated with intimate partner and sexual violence include lower levels of education, exposure to child maltreatment, witnessing family violence, antisocial personality disorder, harmful use of alcohol, having multiple partners or suspected by their partners of infidelity, and attitudes that are accepting of violence and gender inequality.²⁰

Intimate partner violence can take several forms and include the following main types:²¹

- i. Physical violence is the intentional use of physical force (such as shoving, choking, shaking, slapping, punching, burning, or use of a weapon, restraints, or one's size and strength against another person) with the potential for causing death, disability, injury, or physical harm.
- ii. Sexual violence which includes:
 - a. the use of physical force to compel a person to engage in a sexual act unwillingly, whether or not the act is completed.
 - b. an attempted or completed sexual act involving a person who, because of illness, disability, or the influence of alcohol or other drugs, or because of intimidation or pressure, is unable to understand the nature or condition of the act, decline participation, or communicate unwillingness to engage in the act.
 - c. abusive sexual contact.
- iii. Threats of physical or sexual violence communicate the intent to cause death, disability, injury, or physical harm through the use of words, gestures, or weapons.
- iv. Psychological/emotional violence traumatizes the victim by acts, threats of acts, or coercive tactics (such as humiliating the victim, controlling what the victim can and cannot do, withholding information, isolating the victim from friends and family, denying access to money or other basic resources). In most cases, emotional violence has been preceded by acts or threats of physical or sexual violence.

Another author has identified other causes of domestic violence in Nigeria, they include the following:²² Neglect: this includes failure to provide for dependants who may be adults or children, denying family members food, clothing, shelter, medical care, protection from harm or a sense of being loved and valued.

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

<http://www.transcampus.org/JORINDV11Dec2013/jorind%2520Vol11%2520No2%2520Dec%2520Chapter5.pdf> Accessed May 27, 2015

²⁰ Mbadugha (note 18 above) 16

²¹ Centre for Disease Control and Prevention, *Intimate Partner Violence: Definitions*. Available at: <http://www.cdc.gov/violenceprevention/intimatepartnerviolence/definitions.html>. Accessed June 27, 2015

²² O. N. Aihie, 'Prevalence of Domestic Violence in Nigeria: Implications for Counseling' (2009) 2(1) *African Journals Online* 4 available at www.ajol.info/index.php/ejc/article/view accessed 14 May, 2016

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

Emotional Abuse: this includes threatening a person or his or her possession or harming a person's sense of self-worth by putting him/her at risk of serious behavioural, cognitive, emotional or mental disorders. Another author has attributed shouting at a partner to be the most common form of abuse. Also included in emotional abuse are name-calling, criticism, social isolation, intimidating or exploitation to dominate, routinely making unreasonable demand, terrorizing a person verbally or physically and exposing a child to violence. Abuse may occur once, or it may occur repeatedly often in an escalating manner.²³

Intimate partner violence is a frequently recurring incidence in Nigeria. It has persisted so much that it has become a socially acceptable norm in our environment. In a Nigerian survey, 81 percent of married women reported being verbally or physically abused by their husbands, while forty-six percent report being abused in the presence of their children.²⁴ 'A lot of our Nigerian/ African sisters, mothers aunts and nieces are being battered by their husbands and there seem to be a deadly code of silence as the battered women have no place to run to'.²⁵ Violence against women is all too frequently excused and tolerated in communities where women are assigned an inferior role, subordinate to the male head of the family, therefore, the violence persists because discriminatory laws condone and even legalize certain forms of violence against women.²⁶

Another major issue that fuels this crime is the deadly culture of silence that victims of violence have adopted over the years. This is because 'the battered women have no place to run to, some are denied by their own family, most have no money to be on their own and risk losing their children, others stay with their husbands and on a lot of occasions are murdered by those same husbands'. Even the few victims who summon enough courage to report the matter to the police face a greater frustration from the police who make them either go through a lot of rigour to have their matter attended to, dismiss the matter as a family affair or even harass the woman because the police force is male-dominated.²⁷

The dismissive attitudes within the police and an inaccessible justice system compound the failures of the state to protect women's rights.²⁸ The criminal justice system and the Police provide little protection for the victims and often dismiss domestic violence as a family matter and fail to investigate or press charges.²⁹

²³ S. N. Obi, and B.C. Ozumba 'Factors Associated with Domestic Violence in South-East Nigeria' (2007) 27(1) *Journal of Obstetrics and Gynaecology* 75 – 78

²⁴ G. Olanrewaju, 'Violence against Women in Nigeria. Myth or Fact?' *Nigerians in America (N.I.A)* March 29, 2013. Available at: <http://www.ViolenceagainstWomeninNigeriaE280A6.MythorFactN.I.A.htm> Accessed June 20, 2015

²⁵ H. Nwozo, 'Culture of Silence and Domestic Violence: The Death of Nkechi and Unborn Child, True Story' *The Nigerian Voice* Feb. 9, 2012. Available at: <http://www.thenigerianvoice.com/news/82327/1/culture-of-silence-and-domestic-violencethe-death.html> Accessed June 12, 2015

²⁶ *ibid*

²⁷ M.O. Esere, A.I. Idowu, I.A. Durosaro and J.A. Omotosho, 'Causes and Consequences of Intimate Partner Rape and Violence: Experiences of Victims in Lagos, Nigeria' (2009) 1 *Journal of AIDS and HIV Research* 1-7

²⁸ *ibid*

²⁹ *ibid*

Domestic violence has become rampant among women and children, who constitute the vulnerable groups in the society. This has manifested in diverse forms such as neglect, physical and emotional violence, sexual abuse, rape, trafficking, torture, inhuman and degrading treatment or punishment, forced and child marriage, acid attacks, killing in the name of honour and forced begging among others.³⁰

The various reasons why women may stay in violent relationships include:³¹ i. fear of retaliation; ii. lack of alternative means of economic support; iii. concern for their children; iv. lack of support from family and friends; v. stigma or fear of losing custody of children associated with divorce; and vi. love and the hope that the partner will change.

4. Some Reported Incidences of Domestic Violence in Nigeria

In Nigeria, spousal abuse has become a scourge and there is a report that 50 percent of the women have been battered by their husbands at one time or the other, and unbelievably, more educated women are in this terrible situation with 65 percent as compared with 55 percent of their counterpart with low income earning.³² In another report, it was revealed that 25 percent of women in Nigeria have to go through ordeal of domestic violence. The worst forms of them are battering, trafficking, rape and homicide.³³ According to Amnesty Internationally in 2007, a third of women in Nigeria are believed to have been subjected to physical, sexual and psychological violence carried out primarily by husbands, partners and fathers; this is terribly reprehensible.³⁴ Domestic violence is widespread and shows no sign of lessening in Nigeria. The CLEEN Foundation reports 1 in every 3 respondents admitting to being a victim of domestic violence. The survey also found a nationwide increase in domestic violence in the past 3 years from 21 percent to 30 percentage in 2013.³⁵

Furthermore, the commemoration of the International Day for the Elimination of Violence against Women held in Nigeria reveals statistics which estimate that 80 million women and girls will experience significantly worse life chances than men.³⁶ According to the Nigerian Stability and Reconciliation Program, NSRP, one out of ten women in the Niger-Delta has reported either been raped or attempted being raped. 46.5 percent in Africa have experienced some form of violence and in the Northern Nigeria, this figure is said to rise to one in three women.³⁷ Also, at the fifth International Conference on Women and Children held at the Institute of International Affairs, the wife of the President of the Federal Republic of Nigeria, Hajia Aisha Buhari, noted that over the past two decades, violence against women has come to be understood as a real violation of women's human right and gender-based

³⁰ I. Opara, 'Towards Eliminating Violence among Women and Children' *The Guardian Newspaper* 03 January, 2016

³¹ World Health Organization, 'Understanding and Addressing Violence against Women' Publication No. WHO/RHR/12.36. 2012. Available at: http://www.who.int/iris/bitstream/10665/77432/1/WHO_RHR_12.36_eng.pdf Accessed June 2, 2015

³² Ogunmosule (note 6 above) 16

³³ K.. Maymurah, 'Shame of Nigeria-Statistics of Violence against Women' available at <http://www.naij.com> accessed 6 May, 2016

³⁴ S. Ebhohimen, 'Prevalence of Domestic Violence in Nigeria' *The Nigerian Observer* available at www.nigerianobservernews.com 20th June, 2015

³⁵ CLEEN Foundation, 'Public Presentation of Findings of the National Crime Victimization and Safety Survey, 2013' available at www.cleen.org accessed 10 May, 2016

³⁶ S. Ironsi, 'When will Domestic Violence against Women End?' *Leadership* Nov. 28, 2015. Available at www.leadership.ng/news accessed 11 May, 2016

³⁷ *ibid*

discrimination.³⁸ The poverty of the Nigerian women, their lack of empowerment, as well as their marginalisation resulting from their exclusion from social and economic policies, has placed them at the increased risk of violence.³⁹

Despite the rising awareness against domestic violence, what is still typical is that cases of domestic violence still go unreported. This is largely because of the dominant cultural perspective.⁴⁰ In a Nigerian survey, eighty-one percent of married women report being verbally or physically abused by their husbands.⁴¹ Forty-six percent report being abused in the presence of their children. Nigeria was ranked 110 out of the 135 countries in the 2012 Gender Gap index.⁴² There are several recorded cases of domestic violence recorded in Nigeria, an instance was the one recorded in Lagos on the 7th April, 2012 between Mrs. Mercy Nnamdi and her husband. After the husband alleged her 37-year old wife of having an affair with his father, he reached for an extremely hot pressing iron and heartlessly placed it on his wife's naked body as she laid helplessly on their matrimonial bed at about 11pm. Worse still, the same man in his fit of anger was accused of killing their one year old son, supposedly because he was not sure he was his biological father.⁴³ Also, a case was reported in 2010 of a 29-year old banker, Titilayo Arowolo who was allegedly killed by her husband, Akolade, after an argument that turned to a brawl.⁴⁴ Before this incidence, there was the story of wife battering by the Nigerian High Commissioner to Kenya, Dr. Wilcox Wigwe and the Deji of Akure, Oba Adesina Adepoju who killed his wife, thus bringing the issue of spousal abuse to the front burner.⁴⁵ The shocking story is that, a staggering 97.2 percent of cases of domestic violence are not reported, rather the victims endure and sometimes die in silence, believing that the law will not protect them.⁴⁶ In a recent public case, Mrs. Nwogo Nzedebe had reported to a police station with bits of her ear dangling, and claimed her husband came after her with pliers. Report from the friend of the woman indicated that it was not the first time in the 11 months the couple had been married, that the husband had assaulted his wife.⁴⁷

Another occurrence of domestic violence recorded in Nigeria was in 14th May, 2016 where a middle-aged man, Christopher Okon, an indigene of Ikot Abasi Local Government Area of Akwa Ibom State, has been arrested by the police for allegedly killing his wife and mother of his five children while defending his secret lover from the wife who intended to beat the intruder in Porthacourt, the capital city of Rivers State.⁴⁸ Also, on 17th February, 2016 one Yewande Oyediran, a 28-year-old Ibadan-based female lawyer was accused of killing her husband, Lowo Oyediran and was arraigned before the Chief Magistrate's Court in Iyaganku, Ibadan, Oyo State capital. The occurrence was reported to have taken place on 2nd February, 2016.⁴⁹ On the 12th July, 2013 it was reported that tragedy struck at Iroye area of Ilesha, Osun State when a middle aged man allegedly beat his wife to death. The victim simply

³⁸ Opara (note 30 above) p10

³⁹ *ibid*

⁴⁰ Ironsi, (note 36 above) p12

⁴¹ Olarenwaju, (note 24 above) p6

⁴² The Gender Gap Index was developed in 2006 by the World Economic Forum to capture the magnitude and scope of gender based disparities around the world. *ibid*

⁴³ Escalation of Domestic Violence in Nigeria, PM News 26 April, 2012 available at www.pmnewsnigeria.com accessed 6 January, 2015

⁴⁴ *ibid*

⁴⁵ *ibid*

⁴⁶ *ibid*

⁴⁷ Ironsi, (note 36 above) p11

⁴⁸ O. Olumide, 'Woman Dies after Husband Beat her while Defending his Lover in Porthacourt' *Information Nigeria*, 14 May, 2016 available at www.informationng.com accessed 16 May, 2016.

⁴⁹ D. Ogbeche, 'Trial of Female Lawyer accused of Stabbing Husband to Death Continues' *Daily Post*, www.dailypost.ng accessed 16 May, 2016

identified as Jumoke was beaten by her spouse named Wale Agbaje. The husband was said to have hit the wife with concrete block on her forehead, and she went into coma and was rushed to the hospital by sympathizers before her death.⁵⁰

A 33 year old man was also alleged to have murdered his wife with acid in Anambra. The man named Sunday Eze from Obiofia Nnewichi Nnewi in Anambra state went to his father-in-law's house at Edoji Uruagu to see his estranged wife, a 23 year old Ebere Eze who had moved back to her father's house after falling out with her husband. It was reported that Sunday Eze turned his wife into a punching bag, beat her with iron, poured acid on her and forced some of the acid down her throat.⁵¹ It was also reported in the same source that one Mr. Chris Elvis, who claims to sell computer accessories, allegedly locked his son, Godrich in the room, padlocked his mouth and beat him to death with an object that inflicted deep cuts all over his body, claiming that the boy was an Ogbanje,⁵² it was the police officers that discovered the dead body of the boy.⁵³

The Vanguard newspaper also reported on the 5th November, 2015 that one Nsukka, a middle aged man at Aku, Igbo-Etiti Local Government Area of Enugu State allegedly beat his wife to death over a misunderstanding. The deceased, identified as Mrs. Angela Oyibo, aged 36 was said to have engaged her husband, Charles Oyibo, aged 50 in a heated argument. He allegedly pounced on her and gave her a thorough beating.⁵⁴

5. Appraisal of the Violence against Persons (Prohibition) Act, 2015 (VAAP Act)

The Violence against Persons (Prohibition) Act, 2015 was signed into law on the 25th of May 2015 after over ten years in the legislative process. It is an amalgamation of different bills which sought to abolish all obsolete laws relating to matters such as rape, assault etc. It aims to improve upon similar provisions on violence as contained in Nigeria's Criminal and Penal Code.⁵⁵

The Violence against Persons (Prohibition) Act, 2015 is a national law and its provisions applicable throughout the country. This is a significant development because of the previously detached nature of law against violence, particularly gender-based violence. For instance, only five states have specifically legislated against domestic violence in the past (Ebonyi, Lagos, Jigawa, Ebonyi). Only a few other states have legislated against female genital mutilation (Edo, Cross Rivers), a few others have developed legislation prohibiting traditional harmful widowhood practices (for example, Anambra, Cross Rivers)⁵⁶ while only Ekiti State has developed legislation prohibiting all gender-based violence.⁵⁷ A major significance of this Act is its broad definition of 'violence.' The Act defines violence thus:

Violence in this Act, unless the context otherwise requires violence means any act or attempted act, which causes or may cause any person physical, sexual, psychological,

⁵⁰ 'Man Beats Wife to Death' *Leadership Newspaper* - 12 July, 2013 available at www.leadership.ng accessed 17 May, 2016

⁵¹ SDQ Impact Venture, 'Man Allegedly Murders Wife with Acid in Anambra' available at www.naijaurban.com accessed 17 May, 2016

⁵² Evil child that dies and reincarnates repeatedly

⁵³ SDQ Impact Venture, 'Father Padlocks 4 year old son's Mouth, Beats Him to Death in Lagos' available at www.naijaurban.com accessed 17 May, 2016

⁵⁴ C. Ozor, 'Man Beats Wife to Death in Enugu' *Absconds* - 5 November, 2015

⁵⁵ C. Onyemelukwe and I. Okekeogbu, 'The Violence against Persons (Prohibition) Act: A CHELD Brief' (Centre for Health Ethics Law and Development (CHELD), 2015) available at www.cheld.org accessed 15 May, 2016

⁵⁶ Mbadugha, (note 18 above) p8

⁵⁷ Ekiti State Gender-Based Violence (Prohibition) Law, 2011. No. 21 2011. Ekiti State of Nigeria

verbal, emotional or economic harm whether this occurs in private or public life, in peace time and in conflict situations.⁵⁸

The definition appears all encompassing as it captures every form of imaginable nature of violence like violence against men, women, children, political violence *et cetera*. The VAPP Act is an Act enacted to eliminate violence in private and public life, prohibit all forms of violence against persons and to provide maximum protection and effective remedies for victims and punishment of offenders. The Act provides for 26 Offences, it is divided into 6 parts. Section 46 of the Act incorporates the rights guaranteed under the Constitution.

Another notable provision in the Act is in relation to prevention of violence against women, the Act among other things prohibits female circumcision/female genital mutilation (FGM), forceful ejection from home and harmful widowhood practices. It also prohibits abandonment of spouses, children and other dependents without sustenance, battery and other harmful traditional practices. Worthy of special note is the prohibition of female genital mutilation and circumcision. Previously, this practice was not specifically banned by law in many parts of the country. A policy existed which aimed to eliminate this practice. Several states such as Delta and Cross River also enacted laws to prohibit the practice in their states. However, there was no general legal prohibition throughout the country. Such general prohibition was necessary because this practice is still regarded as the culture in certain parts of our society. Female Genital Mutilation under the Violence Against Persons Prohibition Act is now an offence punishable with a term of imprisonment of not more than five years or an option of fine of not more than N100, 000 or both, while inciting, aiding or counseling to carry out the above attracts two years imprisonment or a fine of not more than N50, 000 or both.⁵⁹

Types of Violence Covered by Violence against Persons (Prohibition) Act, 2015 (VAPP Act)

The Nigerian Violence against Persons Prohibition Act, 2015 clearly provides for various types of violence, the categorization are as follows: Sexual violence to include rape, incest; physical violence to include Female Genital Mutilation, spousal battery, deprivation of liberty; economic violence to include forced financial dependence or economic abuse, damage to property; emotional to include abandonment of spouse without sustenance; psychological violence to include isolation, stalking, emotional abuse, verbal abuse, psychological abuse, intimidation, general coercion, offensive conduct, deprivation, indecent exposure, making false statements; political violence to include intimidation, frustrating investigation etc. These categories will be examined in *seriatim*.

Sexual Offences - Rape – Section 1

The Act defines rape as the intentional penetration of the vagina, anus or mouth of another person with any other part of his or her body or anything else without consent or consent is obtained by force or by means of intimidation of any kind or by fear of harm or by means of false and fraudulent representation as to the nature of the act or the use of any substance or additive capable of taking away the will of such person. The Act provides for a punitive measure of life imprisonment (various other imprisonments) for anyone found guilty of this offence under the Act. Another sexual offence stipulated in the Act is incest,⁶⁰ this offence can be committed with or without consent, and the prescribed punishment if without consent is 10years without option of fine; if done with consent, the punishment is 5 years, without option of fine. Section 26 of the VAAP Act further provides for indecent exposure, exposure

⁵⁸ Violence against Persons (Prohibition) Act, 2015 s.1

⁵⁹ s.4 *ibid*

⁶⁰ s.24, *ibid*

of genitals with intent to cause distress, or induce to commit an act of violence; induce another to massage or touch for perpetrator's sexual enjoyment attracts the punishment of 1 year sentence or a fine of N500,000 or both.

Physical Violence - Physical Injury – Section 4

A person who willfully causes and inflicts physical injury on another person by means of any weapon, substance or object has committed an offence and punishable with imprisonment not exceeding 5 years or a fine not exceeding N100,000.00 or both. Where an attempt to commit the act is made, the punishment is an imprisonment not exceeding 3 years or to a fine not exceeding N200, 000.00 or both. Anyone who however incites aids, abets or counsels another person to commit the act is guilty of an offence with the punishment of imprisonment not exceeding 3 years or to a fine not exceeding N200, 000.00 or both.

The Act further provides for an offence known as spousal battery,⁶¹ this is the intentional and unlawful use of force or violence on a person, unlawful touching, beating or striking of another person against his or her will with the intention of causing bodily harming is guilty of an offence punishable with 3 years imprisonment or fine of N200,000. Anyone who aids, abets or counsels the commission of this offence is punishable with 1 year imprisonment or N200, 000. 00. Section 21 of the VAAP Act further provides for attack with harmful substance, the provision states that anyone who attacks with harmful substance or liquid is punishable with life imprisonment with no option of a fine. Anyone who attempts, incites, abets, aids, receives is punishable with not more than 25 years imprisonment with no option of fine. Also, anyone who engages in administering a substance with intent to stupefy or overpower a person to engage in sexual activity is guilty of an offence punishable with 10 years imprisonment or fine of N500, 000.00. This offence differs from rape although a person can be charged for both. The Act prohibits genital mutilation of the girl child or woman, and the performance or engagement of another to perform the act attracts 4 years imprisonment or fine of N200, 000.00 or both. Attempt, inciting, aiding, abetting, counseling to commit the act attracts N100, 000.00 fine or 2 years or both.⁶²

Psychological, Economic and Political Violence

The Act further prohibits the offence of forceful ejection from home,⁶³ deprivation of liberty (psychological violence)⁶⁴, forced financial dependence or economic abuse,⁶⁵ damage to property,⁶⁶ stalking,⁶⁷ forced isolation⁶⁸ and emotional, psychological and verbal violence.⁶⁹ It must also be noted that the Act prohibits harmful traditional practices. All traditional behaviour, attitudes or practices, which negatively affect the fundamental rights of women, girls, or any person and includes harmful widowhood practices, denial of inheritance or succession rights, female genital mutilation, forced marriage, forced isolation are regarded as offences punishable with 4 years or N500,000.00 fine or both.

⁶¹ s.19, *ibid*

⁶² s.6, *ibid*

⁶³ s.9, *ibid*

⁶⁴ s.10, *ibid*

⁶⁵ s.12, *ibid*

⁶⁶ s.11, *ibid*

⁶⁷ s.17, *ibid*

⁶⁸ s.13, *ibid*

⁶⁹ s.14, *ibid*

Abandonment is another offence stated in the Act.⁷⁰ Abandonment of spouse and children without means of sustenance is prohibited by the Act.⁷¹ This appears to be an extension of the provision of the Matrimonial Causes Act which provides for desertion of a spouse as a ground for dissolution of marriage. The VAPP is however expanding and criminalising the act of desertion in matrimonial matters. Coercion,⁷² offensive conduct⁷³ and intimidation⁷⁴ are other punishable offences under the Act. Coercion implies mandating another to engage in any act to the detriment of that other person's physical or psychological being.⁷⁵

Political violence⁷⁶ and violence by state actors⁷⁷ are also identified offences prohibited by the Act. Political violence is seen as any violence perpetrated during political activities, including thuggery, mugging, use of force to disrupt meetings, use of dangerous weapons and it attracts a sentence of 4 years imprisonment or N500, 000.00 fine. A state actor, i.e. group of persons, structured or organised institutions and agencies who commits political violence is also punishable with 4 years imprisonment or N1 million fine or both.

6. Jurisdiction and Human Rights Protection under the Violence against Persons (Prohibition) Act 2015

The issue of jurisdiction of the court to entertain matters stipulated in the Act has been silently put to rest by the Act itself, only the High Court of the Federal Capital Territory has jurisdiction to hear and grant applications relating to the Act.⁷⁸ Applications for others may be brought by police officers, accredited service provider, social worker or teacher. Application must be brought with written consent of the complainant. Consent is not required where the complainant is a minor, mentally retarded, or otherwise deemed unable to consent.⁷⁹ A minor can bring an application without the assistance of the parents, with supporting affidavit from those who know the events.⁸⁰ The Act guarantees some rights to be enjoyed by the complainant and these rights must often times adequately protected.⁸¹ All the rights granted by the Constitution⁸² are enjoyable by the complainant, that is, right to human dignity,⁸³ freedom of movement,⁸⁴ freedom from cruel and degrading treatment,⁸⁵ right to privacy⁸⁶ etc. It must be added that VAPP Act provides that rights granted under applicable International Instruments are enjoyable by the complainants.⁸⁷ Service providers in the areas of protecting rights, legal aid, medical care, financial or other assistance to victims of the violence are also provided for in the Act.⁸⁸ These service providers

⁷⁰ s.18, *ibid*

⁷¹ This provision raises some matters of concern, what if the abandonment is caused by abuse, what of a circumstance where the woman is without means, what about a situation where the spouse is tired of the marriage?

⁷² s.2 of the Violence against Persons (Prohibition) Act, 2015

⁷³ s.5, *ibid*

⁷⁴ s.18, *ibid*

⁷⁵ s.2, *ibid*

⁷⁶ s.23, *ibid*

⁷⁷ s.24, *ibid*

⁷⁸ s.27, *ibid*

⁷⁹ s.28, *ibid*

⁸⁰ *ibid*

⁸¹ s.38, *ibid*

⁸² 1999 Constitution of the Federal Republic of Nigeria, As Amended

⁸³ s.34 *ibid*

⁸⁴ s.41 *ibid*

⁸⁵ s.34 *ibid*

⁸⁶ s.37 *ibid*

⁸⁷ s.38 Violence against Persons (Prohibition) Act 2015

⁸⁸ s.39, *ibid*

enjoy immunity from court action and it is to be provided to only service providers who act in good faith.⁸⁹

In addition to the stringent punishment of perpetrators of act of violence, the VAPP Act has provided for compensation of victims of violence and protection of their rights.⁹⁰ The implication of this is that the victims of unlawful violence have their rights protected both by the constitution⁹¹ and another Act of the National Assembly which is the VAPP Act. Victims of violence are also entitled to compensation for harm done to them or to family members or for any loss incurred as a result of the violence by the perpetrators. The Act also provides for setting up a regulatory or implementation commission which will ensure the full implementation of the Act.⁹²

In a bid to properly cater for victims of violence in Nigeria, the Act further makes provision for the establishment of a special trust fund for the victims. The fund is to provide all form of needed assistance to victims of violence in terms of legal fees, shelter, rehabilitation etc.⁹³ If the commission set up in the Act performs its functions as envisaged, it will, it is hoped, go a long way in reducing the incessant cases of abuses on women. These would include all traditional practices and behaviours in the name of culture which negatively affect the fundamental rights of women and girls will drastically reduce. The Act further allows complaints on violence against persons to be made by third parties, and not only restricted to victims of the violence.⁹⁴

7. Some Progressive Features of the Violence against Persons (Prohibition) Act 2015

In an attempt to consider the progressive features of the VAPP Act, Onyemelukwe⁹⁵ identified some of these features to include:

- i. Wide range of offences covering various aspects of violence
- ii. Rape's definition now inclusive and gender-balanced
- iii. Overlap of some offences such as harmful traditional practices and economic abuse
- iv. Prohibition of several neutral offence.⁹⁶
- v. Compensation for rape as well as criminal sanctions.⁹⁷
- vi. A Sex Offender Register
- vii. Offences not previously considered crimes are now crimes – Female Genital Mutilation, emotional abuse, economic abuse, abandonment, forceful eviction etc
- viii. A minor can apply for an protection order without the assistance of a parent, with a supporting affidavit
- ix. Recognition of the role of service providers and acknowledgement that government cannot provide all the services alone.⁹⁸
- x. Clear acknowledgement of the application of international law.⁹⁹

⁸⁹ s.40, *ibid*

⁹⁰ Part 12, s.37, *ibid*

⁹¹ 1999 Constitution of the Federal Republic of Nigeria, As Amended

⁹² Part 13, Violence against Persons (Prohibition) Act 2015

⁹³ Part 14, *ibid*

⁹⁴ See definition of 'complaints' in the Act, s.1, *ibid*

⁹⁵ Dr. Cheluchi Onyemelukwe, Executive Director, Centre for Health Ethics, Law and Development (CHELD) Lagos, Nigeria.

⁹⁶ s.1, Violence against Persons (Prohibition) Act 2015

⁹⁷ s.2, *ibid*

⁹⁸ s.40, *ibid*

⁹⁹ s.38(1), *ibid*

It must however be noted that the VAPP Act clearly does not remove the need for other kinds of violence dealt with in criminal law such as the Criminal Code and the Penal Code,¹⁰⁰ and the Act is currently only applicable in the Federal Capital Territory Abuja

8. Concluding Remarks

The development of law in the fight against domestic violence in Nigeria is a matter that calls for urgent attention, thus the enactment of the Violence against Persons (Prohibition) Act, 2015 is a remarkable step in the right direction. A holistic evaluation of the Act¹⁰¹ reveals that the Act is meant to operate alongside some international instruments signed and ratified by the country to curb violence against persons in Nigeria, some of these international instruments include: The Convention on Elimination of Discrimination Against Women; The African Charter on Human and Peoples Rights (domesticated); The Convention on the Rights of the Child (domesticated as the Child Rights Act, law in 24 states); and The African Protocol on Human and Peoples' Rights on the Rights of Women in Africa (Maputo Protocol).

The envisaged challenge however is, what happens where a provision in the Violence against Persons (Prohibition) Act, 2015 contravenes any of the provisions of the domesticated international instruments in Nigeria, especially the African Charter on Human and Peoples Rights (which appears to be an extension of the provision of Chapter IV of the Nigerian Constitutional)? Also, what should be the role of judicial officers in ensuring the application and operation of this legislation especially where the prosecutors decide to charge offenders with the conventional Nigerian criminal laws like the Criminal Code or the Penal Code? The drafters of this legislation limits the application to the Federal Capital Territory and only the High Court of the Federal Capital Territory has jurisdiction to entertain matters arising from the Act, does it mean the doctrine of covering the field does not apply to the Act to make it have overriding application in all states of the federation? If the answer is in the negative, then the problem of domestic violence in Nigeria has only been solved only in the Federal Capital Territory leaving out the other thirty six states of the federation.

¹⁰⁰ s.45, *ibid*

¹⁰¹ s.40, *ibid*