

The need for a multifaceted approach to curbing domestic violence in Nigeria

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Declaration

I, Adetokunbo Johnson declare that the work presented in this dissertation is original. It has never been presented at any university or institution. Where other peoples work have been used, references have been provided and in some cases quotations made. It is in this regard that I declare this work originally mine. It is hereby presented in partial fulfilment of the requirement for the award of the MPhil degree in Multidisciplinary Human Rights.

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List of Abbreviations and Acronyms

African Charter- African Charter on Human and Peoples Rights
AI- Amnesty International
AIDS- Acquired Immune Deficiency Syndrome
CEDAW- Convention on the Elimination of all forms of Discrimination against Women
CEDOVIP- Centre for Domestic Violence Prevention
CFRN- Constitution of the Federal Republic of Nigeria
CLEEN Foundation - Centre for Law Enforcement Education
CPR- Civil and political rights
DFID- Department for International Development
DPSP- Direct Principles of State Policy
DV- Domestic violence
ESCR- Economic, Social and Cultural Rights
FCT- Federal Capital Territory
FGM- Female Genital Mutilation
FRN- Federal Republic of Nigeria
GBV- Gender based violence
GR- General Recommendation
HIV- Human Immune Virus
ICCPR- International Covenant on Civil and Political Rights
ICESCR- International Covenant on Economic Social and Cultural Rights
LTV- Lagos Television
NAP- National Action Plan
NCCGBV- National Council on Gender Based Violence
NDHS- National demographic health survey
NGOs- Non-governmental Organisations
NGP - National Gender Policy
NSP- National Strategic Plan
OAU- Organisation of African Unity
PADVL- Protection against Domestic Violence Law

POWA- People Opposing Women Abuse

Universal Declaration- Universal Declaration of Human Rights

UN- United Nations

Committee On CEDAW - Committee on the Convention on the Elimination of all forms of
Discrimination against Women

SASA- Start Awareness Support Action

Soul City- Soul City Institute for Health and Development Communication

VAPPA -Violence against Persons Prohibition Act

VAW- Violence against women

WHO- World Health Organisation

WRAPA- Women Rights Advancement and Protection Alternative

Abstract

Nigerian women continue to suffer violence in the privacy of their homes on a daily basis. This research investigates the need for a gender sensitive and specific law that not only prohibits domestic violence but that is also binding on all states in Nigeria. However, this research argues that mere legislation on DV is just not enough in attempts to curb domestic violence. This is especially considering the complexities and inadequacies of the Nigerian legal framework. A multifaceted approach therefore becomes imperative if there is to be any serious attempt towards curbing this violence in Nigeria.

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Chapter 1

1 Introduction

1.1 Thesis Statement

Nigeria is yet to enact a gender sensitive and specific legislation on domestic violence (DV) at its national level. Although, this country does not have a law that specifically outlaws DV, it has recently enacted the 2015 Violence against Persons Prohibition Act (VAPPA) as well as a few state laws on DV. The enactment of any legislation on DV is a step in the right direction. However, this research will attempt to show that it is merely a first step. Arguably, relying on any DV legislation as the expectant savior of women from DV in Nigeria is essentially a mere illusion and fallacy. As such, this study would show how Nigeria could instead benefit from a multi-faceted approach in attempts to curb DV.

1.2 Research Questions

- What are the arguments for Nigeria's adoption of domestic legislation on DV?
- Would adopting legislation on DV be sufficient on its own in efforts to curb DV in Nigeria?
- To what extent would Nigeria benefit from the adoption of a multi-faceted approach to DV?

1.3 Assumptions/Hypothesis

- That the existence of legislation on DV alone would not necessarily translate to a change in behavior or conduct.
- That a country's domestic, regional and international legal obligations on DV single-handedly is insufficient in efforts to curb DV.

1.4 Background/ Rationale of the Study

Nigerian women suffer varying degrees of grievous bodily harm and in extreme cases die. This is usually as a result of the violence suffered at home in the hands of the men they at one time or the other trusted and loved.¹ Consequently, the home which used to be a safe haven has become the most dangerous and terrorizing place for the Nigerian woman.²

¹R Manjoo 'Report of the Special Rapporteur on violence against women, its causes and consequences: violence against women as a barrier to the effective realization of human rights' (2014) United Nations General Assembly 69th Session A/69/368

<http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N14/523/34/PDF/N1452334.pdf?OpenElement> 421 (accessed 22/02/15).

²I Eze-Anaba 'Domestic violence and legal reforms in Nigeria: Prospects and challenges' (2007) 14 *Cardozo Journal of Law and Gender* 39.

Article 2 of the 1993 United Nations (UN) Declaration of Violence Against Women categorizes violence against women (VAW) into three groups.³ These groups include the physical, sexual and psychological VAW that occurs within the family context, the physical, sexual and psychological VAW that occurs within a community as well as the physical, sexual and psychological VAW that a state deliberately ignores.⁴ This research would limit itself to the VAW within the family. This includes wife battering, sexual abuse of female children in the household, dowry-related violence, marital rape, female genital mutilation (FGM) and other traditional practices harmful to women.⁵

Legislation is often believed to be crucial in efforts to curb DV. In fact, Muli highlights a significant increase in the introduction and legislation of punitive laws against DV perpetrators globally.⁶ Yet, as Adamu and Para-mallam argues although law is important, it is inadequate in guaranteeing rights for women.⁷ Consequently, although this research demonstrates the necessity for a specific gender sensitive law on DV, it highlights the inadequacy of law on its own to effectively curb DV in Nigeria. The importance of a multifaceted approach in efforts to curbing DV in Nigeria therefore becomes evident.

1.5 Theoretical framework

One theory cannot satisfactorily explain why DV occurs. Bowman points out that the most adequate explanatory theory for DV incidences is a multi-faceted theoretical framework.⁸ This kind of framework allows the freedom to explain DV using different theories permitting multi-faceted remedies. It also refuses to see the enactment of laws as the single or the only answer to curbing DV in Nigeria. A one dimensional theoretical explanation of DV would only be interested in seeking a one dimensional solution. As such, there should be a focus on a multi-faceted approach where different theories could explain why DV occurs.

This research will be primarily based on a feminist theoretical framework. The main thrust of the feminist argument which this study lends itself to, is the belief that there are inequalities

³The United Nations Declaration on Violence Against Women (1993) The General Assembly's 85th plenary meeting A/RES/48/104 at www.un.org/documents/ga/res/48/a48r104.htm (accessed 24/10/14).

⁴As above (accessed 24/10/14).

⁵As above (accessed 24/10/14).

⁶E Muli 'Rethinking access to justice: Enforcing women's rights in cases of domestic violence in Kenya' (2004) 2 *The East African Journal of Human Rights & Democracy* 222.

⁷F Adamu and O Para-mallam 'The role of religion in women's campaigns for legal reform in Nigeria' (2012) 22 *Development in Practice* 803.

⁸C Bowman 'Theories of domestic violence in the African context' (2002-2003) 11 *American University Journal of Gender, Social Policy and Law* 863.

between men and women. These inequalities arise from a number of factors including the patriarchal values ingrained in the (Nigerian) society. These values emphasize the superiority of the Nigerian man over the woman that ultimately perpetuates DV.

This research also relies on the theory of change. This theory attempts to find solutions to social ills like DV.⁹ Thus in an attempt to curb DV in Nigeria for instance, this theory emphasizes the importance of the context where VAW occurs.¹⁰ It places the primary obligation to curb DV with the state.¹¹ It underscores that a multifaceted approach is likely to have a greater impact.¹² It also highlights social change as crucial.¹³ It propounds that although backlash is likely to occur in efforts to curb DV, it can be managed.¹⁴ It foresees NGOs as allies; as well as the empowerment of women as critical in efforts to curb DV.¹⁵

1.6 Research Methodology

The research questions would be answered using information obtained from mainly secondary sources. Analytical desk review of secondary sources would be used to answer the questions. These sources include journal articles, textbooks, reports, newspapers as well as credible internet sources and websites.

1.7 Literature Review

Despite the pervasiveness and gravity of DV in the Nigerian home, the government has refused to investigate DV, punish perpetrators and protect victims.¹⁶ This violence manifests in diverse forms in the country. The most prevalent form is physical assault. It ranges from husbands physically beating, slapping, kicking, and abusing their wives on a daily basis over flimsy excuses like the woman's nagging, refusing sex or simply to show male superiority.¹⁷

DV in Nigeria is a by-product of issues like patriarchy, cultural and religious beliefs as well as people's personal characteristics and learned behaviour. Unfortunately, the Nigerian legal framework has condoned these issues for a long time and as a result, is ill-equipped on its own to

⁹Action Aid 'A theory of change for tackling violence against women and girls' (2012) http://www.actionaid.org.uk/sites/default/files/doc_lib/theory_of_change_on_vawg.pdf 3 (accessed 15/04/15).

¹⁰As above 5 (accessed 15/04/15).

¹¹As above 6 (accessed 15/04/15).

¹²As above 7 (accessed 15/04/15).

¹³As above 9 (accessed 15/04/15).

¹⁴As above 11 (accessed 15/04/15).

¹⁵As above 12, 13 (accessed 15/04/15).

¹⁶A Abayomi and K Olabode 'Domestic violence and death: Women as endangered gender in Nigeria (2013) 3 *American Journal of Sociological Research* 55.

¹⁷Eze-Anaba (n 2 above) 39.

adequately deal with DV. Peters argues that women's rights in Nigeria are often violated by the very same legislation that should protect them.¹⁸ He attributed these violations to traditional and religious practices which essentially constitute a part of Nigeria's law.¹⁹ Consequently, violations on women particularly in the home often go unchallenged and unresolved because of the inextricable link these practices have to the Nigerian legal system.

Although, Nigeria has recently enacted the 2015 VAPPA and has domesticated the African Charter on Human and Peoples Rights (African Charter), it has failed to domesticate other international instruments that would effectively guarantee the rights of women especially in the homes. According to Zahn, the inadequacy of the Nigerian legal framework is a major hindrance to the fulfilment of rights for women.²⁰ Thus, despite the existence of a legal framework that ostensibly exists to ensure that the rights of women are guaranteed, Nigerian women continue to be victims of DV in the privacy of their homes.

The unreliability of the Nigerian legal framework stems from its cultured nature that maintains the subordination and subjugation of women as the status quo.²¹ Williams elaborates that DV as a form of gender inequality is prevalent in the Nigerian society because of the relationship that exists between law and culture.²² She argues that law or particularly gender neutral laws are undependable and incapable of making a significant difference in women's rights issues in Nigeria.²³ For her, this is because most times these laws are largely influenced by discriminatory cultural beliefs.²⁴ As such, the problem begins where it is difficult to determine where law starts and culture ends or vice versa in Nigeria.

Furthermore, the patriarchal nature of the Nigerian legal framework renders it insufficient on its own to curb DV. This patriarchal legal framework perpetuates the dominance of men over women. Iwobi maintains that patriarchal tendencies characteristic of the Nigerian legal framework makes it difficult if not impossible for women's rights particularly in the home to be guaranteed.²⁵ One therefore becomes wary of a law enacted ostensibly to protect women from DV that is

¹⁸D Peters 'The domestication of international human rights instruments and constitutional litigation in Nigeria' (2000) 18 *Netherlands Human Rights Quarterly* 373.

¹⁹As above 373.

²⁰R Zahn 'Human rights in the plural legal system of Nigeria' (2009) 1 *Edinburgh Student Law Review* 79.

²¹As above 83.

²²S Williams 'Nigeria, its women and international law: beyond rhetoric' (2004) 4 *Human Rights Law Review* 229.

²³As above 230.

²⁴As above 230.

²⁵A Iwobi 'No cause for merriment: the position of widows under Nigerian law' (2008) 37 *Canadian Journal Women and Law* 44.

legislated and enforced within a patriarchal structure. This is especially where patriarchal tendencies and attitudes ironically pervade the thinking of the people making, enforcing and implementing the law. How the law for instance, would resolve potential clashes that might occur when the protection of women from the violence in the home threatens the patriarchal tendencies and structures embedded even within the home are questionable.

Moreover, the plurality and tripartite nature of Nigeria's legal framework makes it difficult to rely on it solely to protect women from DV. According to Durojaiye, the presence of tripartite legal systems in Nigeria is a challenge for the realisation of women's rights.²⁶ Consequently, the, confusion and inconsistencies characteristic of the simultaneous application of Nigeria's customary, religious and English laws especially as regards women and marriages is a problem. This is because it is usually unclear which law is to be used in any given context. It therefore becomes obvious why despite how imperative legislation is in attempts to curb DV; it is grossly inadequate in Nigeria.

State governments' obligations have now shifted to give room for positive obligations as regards DV. According to Stedman, responsibility is thrust on governments to not only modify and amend laws that perpetuate DV but to also apply effective and efficient due diligence measures in efforts to curb violations against women particularly DV.²⁷ Although, these measures might include making specific laws against DV, they must go over and beyond mere law making. As Boyd has rightly argued simply making laws alone would not necessarily break the deeply entrenched values that perpetuate DV.²⁸ She stressed that instead simply making laws might even present additional challenges for women.²⁹ Nigeria therefore needs to look beyond mere enactment of new laws to taking concrete multifaceted steps to curb DV.

A multifaceted approach to curbing DV refuses to focus solely on a law-centric strategy but explores factors beyond legislation that would make law effective and more responsive in curbing DV.³⁰ Manjoo stresses that this kind of approach to curbing DV recognises the fact that there are

²⁶E Durojaiye 'Woman, but not human: Widowhood practices and human rights violations in Nigeria' (2013) 27 *International Journal of Law, Policy and the Family* 176.

²⁷B Stedman 'The Leap from theory to practice: Snapshot of women's rights through a legal lens' (2013) 29 *Merkourios-Utrecht Journal of International & European Law* 19.

²⁸S Boyd 'Can law challenge the public/private divide? Women, work, and family' (1996) 15 *The Windsor Yearbook of Access to Justice* 161.

²⁹As above 161.

³⁰R Manjoo 'Report of the Special Rapporteur on violence against women, its causes and consequences: Multiple and intersecting forms of discrimination and violence against women' (2011) 23rd session Human Rights Council A/HRC/17/26 <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G11/130/22/PDF/G1113022.pdf?OpenElement> 12 (accessed 24/02/15).

multiple forms, causes, consequences and impact of VAW and as such, this approach becomes best suited in efforts to curb it.³¹

1.8 Chapter Outline

Chapter 1: Introduction. This chapter provides a background for the study. Chapter 2: The Nigerian legal framework and its protection of DV. This chapter answers the first research question. Chapter 3: Legislation as a lone approach in curbing DV in Nigeria: a case study of the 2007 Lagos State Protection against Domestic Violence Law (PADVL). This chapter answers the second research question. Chapter 4: Multifaceted factors necessary to curbing DV in Nigeria. This chapter answers the last question. Chapter 5: Conclusions and recommendations. This chapter offers conclusions and recommendations.

³¹As above 17 (accessed 24/02/15).

Chapter 2

2 The Nigerian legal framework and its protection of domestic violence

2.1 Introduction

This chapter describes the domestic, regional and international obligations that Nigeria bears as regards DV. It would also analyse Nigeria's international, regional and domestic obligations to protect its women from DV. Specifically, under the Universal Declaration of Human Rights, (Universal Declaration) the International Covenant on Economic Social and Cultural Rights (CESCR) and the International Covenant on Civil and Political Rights (ICCPR), the Convention on the Elimination of all forms of Discrimination against Women (CEDAW), the African Charter as well as the African Charter on Human and Peoples Rights on the Rights of Women (Maputo Protocol)

Thereafter, it demonstrates that not only are there fundamental defects that characterises the Nigerian legal framework but also that these defects have undermined its ability to curb DV on its own within the country.

2.2 Prevalence of DV in Nigeria

Literature and research on DV is still relatively new and scant although DV itself cannot be said to be a new occurrence in Nigeria. This is given the widespread media reports on DV on a daily basis. Its apparent newness springs from the attention it fails to receive from the Nigerian government.³² Amnesty International (AI) highlighted that there are no official statistics available on DV in Nigeria.³³ According to the report, any existent statistic or record on DV is grossly unreliable.³⁴

One would expect that at least ten years after the AI report, there should have been some changes. However, Folami argues that not only is literature on DV still scarce in Nigeria but the available research on this violence is largely dominated by foreign scholars.³⁵ He stressed that studies on DV are relatively small and predictably narrow in focus and tend to be conducted solely by either national or international non-governmental organisations (NGOs) in Nigeria.³⁶ Despite

³²O Folami 'Survey of unreported cases of domestic violence in two heterogeneous communities in Nigeria' (2013) 4 *International Review of Law* 2.

³³Amnesty International 'Nigeria: Unheard voices' (2005) <http://web.amnesty.org/library/index/engaf440042005> 9 (accessed 12/08/14).

³⁴As above 10 (accessed 12/08/14).

³⁵Folami (n 32 above) 2.

³⁶As above 2.

the fact that these NGOs provide the only available research on this violence, Bowman has faulted it as mere documentation of incidences that lack academic expertise.³⁷

The AI report attributed the limited research on DV in Nigeria to not only the familial relationship that the perpetrators and victims of this violence share, but also to the invisibility and privacy that shrouds DV.³⁸ Arguably, these factors characteristically make it extremely difficult to study and report DV. Consequently, the limited research on DV can probably be traced to the fact that although this violence occurs on a daily basis in the Nigerian home, it is still treated as private.

Closely linked to this is the fact that for a long time DV has not been perceived essentially as a serious crime especially compared to other crimes like robbery. The fact that there is yet to be comprehensive data on DV in Nigeria reflects how seriously DV is perceived as a crime.³⁹ A Nigerian woman for instance, is more likely to be taken seriously if she reports a robbery incident than marital rape or assault, based on a flawed belief that because this crime is committed within the confines of the home the woman must have acquiesced thereto. Facts such as these in addition to the attendant stigmatization have made women not only refuse to report DV but many have come to accept and even justify it.

The Centre for Law Enforcement Education Foundation's (CLEEN) report traced the scarcity of official statistics on DV in Nigeria to the fact that DV is usually not considered a real crime.⁴⁰ Real crimes are believed to be the ones committed on the Nigerian streets only and not necessarily in the homes. Yet, DV had been rightly identified as one of the most prevalent form of crimes in Nigeria.⁴¹ However, the Nigerian government in its 5th periodic report to the African Commission claimed that whilst there was limited statistics on DV previously, there are now statistics on the violence.⁴² According to the report, the government claimed that about 46% of Nigerian women generally not only suffer from DV but also do not see anything wrong with this

³⁷Bowman (n 8 above) 848.

³⁸Amnesty International (n 33 above) 10.

³⁹O Ojigho 'Prohibiting domestic violence through legislation in Nigeria' (2009) 23 *Agenda: empowering women for gender equity* 87.

⁴⁰I Chukwuma 'Crime and policing in Nigeria: Challenges and options' (2004) CLEEN Foundation at <http://www.cleen.org/CRIME%20AND%20POLICING%20IN%20NIGERIA.pdf> 90 (accessed 12/08/14).

⁴¹E Alemika 'Criminal victimization, policing and governance in Nigeria' (2013) <http://www.cleen.org/Criminal%20Victimization.pdf> 19 (accessed 12/08/14). This report is based on a population sample of 11, 518 male and female Nigerians in the 36 states and the Federal Capital Territory (FCT). From this study, 30% of Nigerian women are believed to have experienced DV.

⁴²Nigeria's 5th periodic country report: 2011-2014 on the implementation of the African Charter in Nigeria' (2014) <http://www.achpr.org/states/nigeria/reports/5th-2011-2014/25>(accessed 25/02/15).

abuse.⁴³ The report highlighted that 48% of married women justified this perceived discipline from their spouses whilst 37% of women who suffer DV are not even married.⁴⁴

It is acknowledged that although there might be available statistics, they are still limited and speculative with different sources quoting contradictory numbers.⁴⁵ According to Nigeria's 2013 National Demographic Health Survey (NDHS) report, about 35% of Nigerian women generally not only suffer from DV but also do not see anything wrong with this abuse.⁴⁶ The report highlighted that although the number of women who justified DV had reduced considerably especially when compared to the last 2008 NDHS report, DV is still prevalent and well-practiced amongst Nigerians.⁴⁷

These statistics and reports are usually derived from sensational media, police and medical reports as well as field interviews. The fear of stigmatisation and the culture of silence that most victims display make it misleading to think that these statistics actually depict the true picture of the violence that occurs in the home. Folami validates this point when he described how in 2009 for instance, the Nigerian police had only recorded a mere 1,952 DV cases for the entire country.⁴⁸ He highlighted that these figures failed to portray the actual situation especially considering that a 2010 survey conducted by a local government in Nigeria had documented 5,567 DV cases.⁴⁹

However, although DV statistics are scarce and speculative these figures are insightful revealing that the numbers of women suffering from DV has increased significantly in Nigeria.⁵⁰ This increase is believed to be closely linked to the perceived acceptance and tolerance of this violence as a reality of married life.

2.3 Legal framework for DV in Nigeria

Nigeria has ratified a number of international human rights treaties that protect women's rights generally and DV particularly. Nigeria has signed the Universal Declaration that requires no

⁴³As above 55 (accessed 25/02/15).

⁴⁴As above 55 (accessed 25/02/15).

⁴⁵It is estimated that out of every five Nigerian women; at least one woman has suffered some form of DV. Eze- Anaba states roughly one of every four Nigerian women has suffered DV. AI states more than a third and nearly two-thirds of Nigerian women have experienced DV. Also, Women Rights Advancement and Protection Alternative (WRAPA) a NGO receives an average of eight DV cases within 7 days whilst Project Alert, another NGO reportedly receives an average of roughly 10 cases within 7 days.

⁴⁶National Population Commission Nigeria and ICF International 'Nigeria: Demographic and Health Survey 2013' (2014) <https://dhsprogram.com/pubs/pdf/FR293/FR293.pdf> 293 (accessed 15/03/15). Survey respondents were men and women aged 15-49 randomly gathered from the 36 states and the FCT.

⁴⁷As above 295 (accessed 15/03/15).

⁴⁸Folami (n 32 above) 3.

⁴⁹As above 3.

⁵⁰As above 3.

ratification. Although, DV is not specifically mentioned in the Universal Declaration, however, the right of women to be free from DV can be implicitly interpreted from articles 1, 2, 3, 5 and 7 of the Universal Declaration.⁵¹

Also, Nigeria ratified the CESCRR and the ICCPR in 1993. DV is not mentioned in these instruments however, the right to be free from DV can be implicitly implied from some of its provisions. Article 2(2) of the CESCRR prohibits discrimination on the basis of sex. Article 3 provides for equality of men and women. Article 2(1) of the ICCPR provides for non-discrimination on the basis of sex, article 4 provides equal rights for everyone, article 6 provides the right to life and article 7 grants the right to be free from torture, inhumane or degrading treatment.

By ratifying CEDAW, it is assumed that the Nigerian government is not only aware of the discrimination its women face daily but also commits to taking the appropriate measures to ensure redress. Nigeria ratified CEDAW in 1985 without reservations and the Optional Protocol to CEDAW in 2004.⁵² Under article 1 and 2, CEDAW explicitly defines discrimination as any distinction made on women because of their sex. State parties like Nigeria are obligated to adopt legislative as well as other measures to end discrimination against women. Although, VAW including DV was initially omitted in CEDAW, this omission has since been corrected with the introduction of the General Recommendation (GR) 12 and 19 on VAW.⁵³

The UN Committee on Convention on the Elimination of all forms of Discrimination against Women (Committee on CEDAW) in a number of its concluding comments to Nigeria had expressed concerns on the prevalence of VAW and DV in the country.⁵⁴ Specifically, the non-existent legislations and policies to address DV were identified.⁵⁵ Recommendations were made to

⁵¹Article 1 of the Universal Declaration provides for dignity and equality of persons. Article 2 provides non-discrimination on the basis of sex. Article 3 provides right to life. Article 5 provides for freedom from torture or degrading treatment and article 7 provides for equality of all persons before the law. According to Viljoen, although, the Universal Declaration is not a binding instrument some of its provisions can be regarded as part of customary international law. F Viljoen *International human rights law in Africa* (2012)30.

⁵²'Reporting status for Nigeria'
http://tbinternet.ohchr.org/_layouts/TreatyBodyExternal/Countries.aspx?CountryCode=NGA&Lang=EN (accessed 12/03/15).

⁵³There is also the Beijing Platform of Action where DV was identified as a critical concern and the need for state governments like Nigeria to end VAW was reiterated. Other conferences where governments were urged to take adequate action in dealing with VAW and DV were in Mexico City 1975, Copenhagen 1980 and Nairobi 1985.

⁵⁴Report of the Committee on the Elimination of Discrimination against Women (1998) (Eighteenth and nineteenth sessions); General Assembly Official Records; 53rd session; Supplement No. 38 (A/53/38/Rev.1)
<http://www.un.org/womenwatch/daw/cedaw/reports/18report.pdf> paragraph 164 (accessed 12/03/15).

⁵⁵As above paragraph 164 (accessed 12/03/15). The Committee urged Nigeria to prioritise the enactment of legislation on DV. The Committee mentioned that the legislation must treat DV as a crime; ensure women and girls who are

the Nigerian government to take specific action against DV including the need for CEDAW to be domesticated into Nigeria's national law.⁵⁶

Although, laws are important, the Committee on CEDAW stressed the need for Nigeria to take other measures to address DV. It asked the government to gather data on DV and implement appropriate and effective programmes addressing VAW and DV.⁵⁷ The need for the government to provide shelters and support services including adequate trainings for the police and health service providers to support victims was emphasized.⁵⁸ The government was also urged to introduce into school curricula, courses on women's rights, raise the awareness of Nigerians on the evils of VAW as well as foster a positive culture based on the equality and non-discrimination of women across the country.⁵⁹

Traditionally, state responsibility had been narrowly defined to allow state governments ignore human rights violations that were committed by non-state actors. However state governments' responsibility and obligations have now shifted and expanded to give room for violations of human rights perpetrated in the private sphere.⁶⁰ According to the tenets of the due diligence principle, state governments can be held guilty where it fails to exercise due diligence to respond and prevent human rights violations perpetrated by private actors.⁶¹ Although the due diligence concept originated from the Inter-American human rights system, it has now expanded and includes specifically DV actions perpetrated by private individuals.⁶²

victims of this violence have access to justice and are protected as well as ensure that perpetrators are not only punished but also prosecuted.

⁵⁶Concluding Observations of the Committee on the Elimination of Discrimination against Women: Nigeria (2008) [Part of A/63/38] CEDAW/C/NGA/CO/6 <http://www2.ohchr.org/english/bodies/cedaw/docs/co/CEDAW-C-NGA-CO-6.pdf> 3 (accessed 12/02/15).

⁵⁷Report of the Committee on the Elimination of Discrimination against Women (n 54 above) paragraph 164(accessed 12/03/15).

⁵⁸Concluding Observations of the Committee on the Elimination of Discrimination against Women: Nigeria (n 56 above) 6 (accessed 12/02/15).

⁵⁹As above 6 (accessed 12/02/15).

⁶⁰Stedman (n 27 above) 19.

⁶¹R Manjoo 'Report of the Special Rapporteur on violence against women, its causes and consequences: State responsibility for eliminating violence against women' (2013) Human Rights Council A/HRC/23/49 http://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session23/A_HRC_23_49_English.pdf 4 (accessed 12/02/15).

⁶²L Hasselbacher 'State obligations regarding domestic violence: The European Court of Human Rights, due diligence and international legal minimums of protection' (2009) 8 *Northwestern Journal of International Human Rights* 193.

In *A.T. v. Hungary*, the Committee on CEDAW elaborated on the due diligence obligation of states in relation to DV.⁶³ In this case, the Committee on CEDAW stressed that states are accountable for actions committed by private actors where there is a negligence to act with due diligence to prevent, investigate and punish human rights violations as well as provide victims' reparations.⁶⁴ The due diligence standard as regards DV therefore thrusts positive obligations on state governments to prevent DV, protect women from DV, investigate violations where they occur, prosecute and punish perpetrators as well as restore violated right by providing reparations.⁶⁵

The due diligence prevention obligation emphasizes a state's responsibility to take concrete efforts to not only curb DV but also stop it from happening in the first place.⁶⁶ The obligation to protect emphasizes the duty of governments to create an environment free from DV.⁶⁷ Under the obligation to prosecute, all forms of DV should be regarded as a crime.⁶⁸ The punishment obligation requires states to ensure perpetrators are not only identified but effectively punished.⁶⁹ However, Stefiszyn and Kombo argue that although all DV cases should be thoroughly investigated not all cases should lead to prosecution and punishments.⁷⁰ Finally, the obligation to provide redress ensures that the survivor is adequately satisfied, enjoys restitution, is well compensated, is rehabilitated and adequately reassured that the violence would not be repeated.⁷¹

At the regional level, there are treaties that now outlaw DV. Nigeria has ratified the African Charter without reservations in 1983. DV is not explicitly mentioned but the right to be free from DV can be implicitly interpreted from Article 2 and 18 (3).⁷² Nigeria has also signed the African Union Declaration on Gender Equality. Although, it is not a binding instrument, it reflects

⁶³Communication No 2/2003, Ms. A. T. vs. Hungary UN Committee on CEDAW (26 Jan 2005)
<http://www.un.org/womenwatch/daw/cedaw/protocol/decisions-views/CEDAW%20Decision%20on%20AT%20vs%20Hungary%20English.pdf> (accessed 12/02/15).

⁶⁴As above (accessed 12/02/15).

⁶⁵Y Ertürk 'The due diligence standard as a tool for the elimination of VAW': Report of the Special Rapporteur on Violence Against Women; its causes and consequences' (2006) Economic and Social Council 62nd Session UN doc.E/CN.4/2006/61 <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G06/103/50/PDF/G0610350.pdf?OpenElement> 6 (accessed 12/04/15). See also, Manjoo (n 61 above) 5 (accessed 12/02/15).

⁶⁶K Stefiszyn and B Kombo 'Due diligence and state responsibility to eliminate violence against women in Africa' (2014) available at www.duediligenceproject.org 18 (accessed 22/02/15).

⁶⁷As above 26.

⁶⁸Hasselbacher (n 62 above) 201.

⁶⁹Stedman (n 27 above) 17.

⁷⁰Stefiszyn and Kombo (n 66 above) 34.

⁷¹As above 46.

⁷²Article 2 of the African Charter provides for non-discrimination on the basis of sex. Article 18(3) provides for non-discrimination of women and protection of the rights of women and children.

customary international law.⁷³ Nigeria ratified the Maputo Protocol without reservations in 2004 which calls for the elimination of discrimination against women in Article 2. Article 3 emphasizes the right of women to dignity. Article 4 provides women with the right to life, integrity and security of the person. Article 4 (2) for the first time in a human rights instrument explicitly obligates Nigeria to take appropriate and effective due diligence steps to end public and DV.

There is limited jurisprudence from the African Commission on Human and Peoples Rights (African Commission) on DV. In its concluding observations to Nigeria's 3rd report, the African Commission expressed concern about the lack of a specific legislation at the national level on discrimination against women and VAW. It asked the government to enact specific legislation that would prohibit FGM, VAW and discriminatory practices against women.⁷⁴

At the domestic level, section 1 of the 1999 Constitution of Nigeria provides that the Constitution is the highest law in the country.⁷⁵ Although, freedom from DV is not explicitly mentioned in the Constitution, it can be implicitly implied in a number of its provisions. Chapter 2 of the Constitution contains the fundamental objectives and the direct principles of state policy (DPSP). Under section 15(2), discrimination on the basis of sex is prohibited. Section 17 provides for equality before the law. However, DPSP mean that the realization of these rights is dependent on the discretion of the Nigerian government. Chapter 4 of the Constitution provides for the fundamental rights and freedoms of all Nigerians. Under section 33, persons have the right to life while section 34 provides that every individual is entitled to respect for the dignity of his person. Section 34 (1)(a) states that no person shall be subject to torture, inhuman or degrading treatment.

The 2015 VAPPA was signed into law on the 25th May 2015 and only applies to the Federal Capital Territory (FCT).⁷⁶ This law commendably prohibits all forms of violence against persons in the public and in the private spheres. Section 1 of the VAPPA bans rape, section 2(1) prohibits wilful injury on another person. Section 3 forbids a person from causing another person physical, emotional or psychological harm. Section 6 outlaws FGM. Forceful ejection or abandonment of spouses is disallowed under section 9. Section 10 outlaws deprivation of liberty by any person. Financial or economic abuse caused by any person is an offense under section 12.

⁷³ See generally <http://www.achpr.org/instruments/declaration-on-gender-equality-in-africa/> (accessed 22/02/15).

⁷⁴ Consideration of Reports submitted by State Parties under Article 62 of the African Charter on Human and Peoples' Rights Concluding Observations and Recommendations on the Third Periodic Report of the Federal Republic of Nigeria (2008) http://www.achpr.org/files/sessions/44th/conc-obs/3rd-2005-2008/achpr44_conc_staterep3_nigeria_2008_eng.pdf paragraph 23 and 37 (accessed 22/02/15).

⁷⁵ 1999 Constitution of the Federal Republic of Nigeria (CFRN) Section 1.

⁷⁶ See the 2015 Violence against Persons Prohibition Act (VAPPA) for full details on all the sections of the law.

Section 13 provides that isolation of a person from family and friends is a crime. Furthermore, section 14 states that a person who commits verbal, emotional and psychological violence on another has committed an offence. Section 19 states that anyone who beats his or her spouse is guilty of an offence. Section 20 makes it a crime for anyone to practice harmful traditional acts on any person. Under section 21, the use of harmful liquids or substances on another person is an offence.

On the 4th June 2015, the Sexual Offences Bill outlawing rape and other sexual crimes was passed by the National assembly and is presently awaiting presidential assent.⁷⁷

2.4 Critical analysis of existing legal framework as regards DV in Nigeria

At the national level, the Nigerian government is yet to enact a specific law on DV. This is despite the 2015 VAPPA recently enacted after nearly thirteen years at the National Assembly. This law as highlighted above commendably contains protections from DV. However, the law's ability to curb DV in Nigeria is debateable. This is given the gender neutrality of the law and more importantly the complexities that exist with federal and state laws with regards to issues that concern women.

These complexities can be illustrated by the fact that the federal and state governments in Nigeria share legislative powers. It is this sharing of powers between the federal and state governments that according to Oba explains the differences that exist in federal and state laws and even amongst the different states laws within the same Nigeria.⁷⁸ These two levels of governments have powers to enact criminal laws. States in Nigeria under the Constitution's concurrent list are expected to make laws for issues that relate to women.⁷⁹

According to the second schedule part 1 item 61 of the Nigerian Constitution, the federal government can only make laws for statutory marriages and cannot intervene in marriages that have been contracted under Islam or the custom.⁸⁰ Thus, since DV often happen in marriages, where the marriage is contracted under Islam or custom, the newly enacted federal VAPPA cannot apply. A state has to enact its own prototype VAPPA or DV law that will be applicable within its

⁷⁷ 'Senate passes sexual offences bill, rapists gets life imprisonment' PM News Nigeria 3 June 2015 <http://www.pnnnewsigeria.com/2015/06/03/senate-passes-sexual-offences-bill-rapists-get-life-imprisonment/> (accessed 05/06/15).

⁷⁸ A Oba 'Religious and customary laws in Nigeria' (2011) 25 *Emory International Law Review* 883.

⁷⁹ 1999 CFRN Section 4.

⁸⁰ 1999 CFRN Second schedule part 1 item 61.

jurisdiction. On its part, the Sexual Offences Bill has raised a lot of controversies.⁸¹ Thus, there have been repeated calls on the President to reassess this bill if it is to be signed into law.⁸²

The Nigerian Constitution recognises the existence of plural laws yet it fails to illustrate how conflicts can be resolved when it arises between the different laws.. According to Gbadamosi, the introduction and extension of Sharia law in the 12 northern states of Nigeria for example, has increased the potential for conflict.⁸³ This conflict arises because most Nigerians are still subject to customary and Islamic law when it comes to personal matters.⁸⁴ Yet, most Islamic and customary laws are not known to be particularly friendly to women. Marriages for instance, fall under personal matters and as highlighted earlier, it is within marriages that DV tend to occur in Nigeria. As Folami notes, married women are expected to endure whatever happens in their homes and are forbidden from washing their dirty linens outside.⁸⁵

Customary laws are also very disjointed and not codified in any document. As such, there is a tendency that discriminatory customs and traditions against women particularly still thrive and are upheld in courts.⁸⁶ Bangbose describes how although the practice of FGM for instance, is condemned in the Nigeria's Constitution yet, customary law condones this practice.⁸⁷ It is regarded as a custom and societal duty and one loses respect if denied. Thus, where there are conflicts between women's rights as provided in the Constitution and the woman's custom, there is a higher tendency that the custom would prevail. The Constitution's supremacy is therefore undermined particularly where women rights clash with religious or customary laws.

According to Ewelekwu, customs and religious law should ideally pass through the natural justice, equity and good conscience test.⁸⁸ The stark reality however is that there is yet to be a developed, uniform, acceptable or harmonised standard for the test particularly for making judgements and interpretations in Nigeria. Where there have even been standards for the tests,

⁸¹'Senate inadvertently makes 11 the age of consent with new sexual offences bill' Nigerian Watch June 2015 <http://www.nigerianwatch.com/news/7106-senate-inadvertently-makes-11-the-age-of-consent-with-new-sexual-offences-bill> (accessed 05/06/15).

⁸²'Lagos faults Sexual Offences bill, seeks amendments' Punch Newspaper 25 June 2015 <http://www.punchng.com/news/lagos-faults-sexual-offences-bill-seeks-amendments/> (accessed 25/06/15).

⁸³O Gbadamosi 'Intersection between Shari'a and reproductive and/or sexual health and human rights (2012-2013) 36 *University of West Australia Law Review* 54.

⁸⁴Zahn (n 20 above) 73.

⁸⁵Folami (n 32 above) 2.

⁸⁶U Eweluka 'Post-colonialism, gender, customary injustice: widows in African societies' (2002) 24 *Human Rights Quarterly* 424.

⁸⁷O Bamgbose 'Translating traditional concepts into legislation and practice: Nigerian women in focus' (2005) 1 *International Journal of African and African American Studies* 62.

⁸⁸Ewelekwu (n 86 above) 450.

they have been vague and have tended to disfavour women generally.⁸⁹ The question then arises as to who defines and determines natural justice, equity and good conscience. Assuming there is even a general consensus as to what natural justice and equity actually means what or who ultimately decides whether an action has been done in good conscience. Ultimately, judges are left to make decisions based on their discretion.

Although, the Nigerian Constitution is the highest law in the land, there is no specific provision in the entire Constitution that clearly defines discrimination.⁹⁰ Although, Nigeria has entrenched a Bill of Rights in its Constitution, Zahn has highlighted how the government is merely paying lip service to these rights.⁹¹ Consequently, there is tremendous gap between legislation in the books on the one hand and the actual reality of Nigerian women particularly in their homes on the other hand.⁹² The reality is that the Constitution that should ideally protect women from discrimination contains discriminatory provisions itself.

The Constitution which is supposedly the letter and the spirit of the entirety of Nigerians reinforce discrimination towards women who constitute about half of the populace. It is as though Nigerian women are invisible or are not considered citizens deserving protection. The language used in the entire document for example, supposedly granting rights to all citizens is unapologetically male oriented. The male pronoun is used with impunity throughout the Nigerian Constitution without any clarification as to the use of this pronoun to refer and apply to both sexes.⁹³

The rule of indigene-ship subtly stated in the Constitution also gives rise to discrimination against women.⁹⁴ This rule is where a Nigerian receives special privileges by virtue of being an indigene of a state. These special benefits are incurred or conferred simply because of the person's state of origin rather than the state where the person lives. A married woman for instance on the basis of this rule is usually denied political positions or even employment privileges in her

⁸⁹ As above 451.

⁹⁰ 1999 CFRN section 42(1) Non-discrimination on the basis of sex is provided for under chapter 2 directives of state policy where most of the non-justiciable rights are present. It suggests that it is up to the government to decide whether or not to discriminate.

⁹¹ Zahn (n 20 above) 75.

⁹² Women Aid Collective for Nigeria NGO Coalition on CEDAW Report 'CEDAW and accountability to gender equality in Nigeria: A shadow report' (2008)
<http://www2.ohchr.org/english/bodies/cedaw/docs/ngos/NigeriaNGOCoalition41.pdf> 21 (accessed 12/03/15).

⁹³ 1999 CFRN section 33(1) provides that "everyone has a right to life and no one shall be robbed intentionally of 'his' life." Notice the use of the 'his' pronoun (emphasis mine). This assumes that either Nigeria only recognises men as citizens or that it only becomes an offence when men are deprived of their lives and so it could be acceptable if women are killed.

⁹⁴ 1999 CFRN section 14(3) read together with section 318(1).

husband's home state on the grounds that she is a non-indigene and yet she is denied these same privileges in her home state by virtue of marriage.⁹⁵ This illustrates the invisibility that shrouds a woman by virtue of marriage.

Another discriminatory provision contained in the Constitution is in the granting of citizenship. Section 26(2) awards foreign women married to Nigerian men citizenship but then fails or forgets to extend this same gesture to Nigerian women married to foreigners.⁹⁶ Married women irrespective of age under the Constitution are also regarded as adults.⁹⁷ Section 29(4)(b) has been misconstrued and employed to encourage child marriage and potentially DV in the country.⁹⁸

Criminal matters are prescribed through two legal codes in Nigeria.⁹⁹ There is the Northern Penal Code and Sharia applicable in the 19 Northern states and the Southern Criminal Code in the 17 Southern states of the federation. The Criminal and Penal Codes in Nigeria recognize violence generally. However, they fail to identify DV specifically as a form of violence. In the Northern Penal Code, a man is allowed to physically discipline his wife as long as it doesn't amount to grievous bodily harm.¹⁰⁰ Grievous bodily harm according to section 55(1)(d) of this Code suggests that until a man physically disables or disfigures his wife, his actions are not taken seriously.¹⁰¹

Section 353 of the Southern Criminal Code if used where DV acts are committed is grossly inadequate. The Criminal Code provides that if a man is attacked, the perpetrator could face a three year prison sentence.¹⁰² However, if a woman is attacked in the same way, it is considered a mere misconduct and attracts a two year prison sentence.¹⁰³ These provisions on assault therefore fail to adequately protect women from DV and do not meet due diligence standards as regards DV.

The Constitution ostensibly provides for the right to life and even emphasizes that no person can deprive another of his life.¹⁰⁴ Yet it is rather quiet and blind to the countless women

⁹⁵ The Nigeria CEDAW NGO coalition shadow report submitted at the 41st Session of the United Nations Committee on CEDAW (2008) <http://www2.ohchr.org/english/bodies/cedaw/docs/ngos/BAOBADNigeria41.pdf> 3 (accessed 12/03/15).

⁹⁶ 1999 CFRN section 26(2).

⁹⁷ 1999 CFRN section 29 (4)(b).

⁹⁸ The Nigeria CEDAW NGO coalition shadow report (n 95 above) 61 (accessed 12/03/15).

⁹⁹ Ojigbo (n 39 above) 88.

¹⁰⁰ Northern Nigeria Penal Code section 55(1)(d).

¹⁰¹ As above.

¹⁰² 1990 Nigerian Criminal Code Act section 353.

¹⁰³ 1990 Nigerian Criminal Code Act section 360.

¹⁰⁴ 1999 CFRN section 33(1).

who are either killed or harmed grievously within the confines and privacy of their homes as a result of DV. The Constitution consciously reinforces the divide between public and private life by recognising an assault on a woman in public yet it refuses to acknowledge when that same woman is assaulted within the confines of her home. Charlesworth and Chinkin argues that most times although legislations supposedly provide for the right to life, this right often focuses solely on state actions in the public realm whilst blind to life threatening actions that occur in the private.¹⁰⁵

Dada argues that the right to life as provided for in the Nigerian Constitution is subjected to derogation clauses.¹⁰⁶ He described how under section 33, the reasons a person can be deprived of his life is cited.¹⁰⁷ According to this section of the Constitution, a law enforcement officer or police can kill an individual whilst purportedly defending property.¹⁰⁸ However, as Dada accurately emphasises, the kind of ‘property’ that would warrant depriving persons of their lives was not clarified.¹⁰⁹ Thus, one wonders the value that the Constitution places on human life when ‘property’ is considered to be worth more than life.

Atoyan correctly highlights that the right to life has been expanded and defined to include freedom from torture and inhumane treatment.¹¹⁰ The Nigerian Constitution provides for protection against torture and degrading treatment yet somehow manages to overlook DV. Stedman corroborates this argument when she highlighted the fact that there are no laws in Nigeria that expressly recognise marital rape as a violation of women’s rights.¹¹¹

A constitution has often been defined as an agreement between the citizenry and its elected government. However, the origins and development of the 1999 Nigerian Constitution is flawed. This flaw has its roots in the perceived military influences in the compilation of the document. Ogowewo argues that the Nigerian Constitution is a document that lacks a moral basis, its

¹⁰⁵H Charlesworth and C Chinkin ‘The gender of jus-cogens’ (1993) 15 *Human Rights Quarterly* 63.

¹⁰⁶J Dada ‘Human rights under the Nigerian constitution: Issues and problems’ (2012) 2 *International Journal of Humanities and Social Science* 42.

¹⁰⁷As above 42.

¹⁰⁸ 1999 CFRN section 33(2a).

¹⁰⁹Dada (n 106 above) 42.

¹¹⁰N Atoyan ‘The ineffective protections and guarantees of human rights conventions of women and children’ (2012-2013) 12 *Whittier Journal of Child and Family Advocacy* 107. Adopting Atoyan’s argument and placing it in Nigeria’s context, DV could be said to have the four elements that normally characterise an act as torturous. The act must namely; inflict physical pain; must be intentional; must intimidate and lastly condoned by public officials or government. If this argument is valid then it can be safely inferred that DV is a form of torture that somehow the constitution fails to adequately protect women from.

¹¹¹Stedman (n 27 above) 19.

legitimacy as well as legal validity is often questioned.¹¹² As such, these flaws as well as its gender blindness has resulted in the Nigerian Constitution's description as a mere guideline.¹¹³

The Constitution makes a distinction between male oriented civil and political rights (CPR) and economic, social and cultural rights (ESCR). This is evident where the CPR is immediately justiciable whilst ESCR mostly found under section 6(6) of the Constitution is under DPSP.¹¹⁴ As Dada aptly notes, most ESCR are not immediately realisable and not justiciable in the Nigerian courts.¹¹⁵ The implications are that most of these rights primarily beneficial to Nigerian women although provided for in the document are not entirely guaranteed. The fact that they are listed under the DPSP means that it is up to the discretion of the government whether or not to grant these rights. This illustrates the male emphasis and superiority exemplified in this document. No wonder, the rights to food, health and DV protection crucial for women are often disregarded and overlooked.

Dada explains that the CPR and ESCR distinction in the Nigerian Constitution is also clearly contrary to the structure of the African Charter which the Nigerian government has integrated into its law.¹¹⁶ Thus, how the Nigerian government intends to resolve the conflicts that might arise from such existing distinction of these rights within the Constitution on one hand and the African Charter on the other hand is uncertain. However, the supremacy of the Constitution means that where such conflicts do arise, the Constitution takes precedence and so ESCR remains non-justiciable.¹¹⁷ Bearing in mind the highlighted deficiencies in the domestic context of Nigeria, it is difficult to consider how the Constitution and other existing laws can serve as a strong framework for curbing DV in the country.

The Nigerian government has consistently failed to domesticate and integrate international treaties that specifically eliminate DV into its national law. This failure can be traced to its dualist approach to treaties.¹¹⁸ This approach is buttressed by section 12 of the Nigerian Constitution. Section 12 provides that a treaty cannot be applied to the Nigerian law until such treaty has been

¹¹²T Ogowewo 'Why the judicial annulment of the Constitution of 1999 is imperative for the survival of Nigeria's democracy' (2000) 44 *Journal of African Law* 135.

¹¹³J Ihonvbere 'How to make an undemocratic constitution: The Nigerian example' (2000) 21 *Third World Quarterly* 343.

¹¹⁴1999 CFRN section 6(6).

¹¹⁵Dada (n 106 above) 39.

¹¹⁶As above 40.

¹¹⁷As above 40.

¹¹⁸E Egede 'Bringing human rights home: An examination of the domestication of human rights treaties in Nigeria' (2007) 51 *Journal of African Law* 250.

duly passed by its National Assembly.¹¹⁹ This provision in effect guides any relationship between an international treaty and its domestic application in Nigeria. As such, for any treaty relevant to eliminating DV to be integrated into Nigeria law, it must pass the section 12 criteria. By virtue of section 12 of the Constitution, no matter how valuable a treaty is, it is worthless if it has not been integrated into the Nigerian law. So far, the Nigerian government has only domesticated the African Charter into local law through the African Charter Act.¹²⁰

Issues of women and children fall within the legislative competence of states and the residual legislative list in the Nigerian Constitution and so the complexities of section 12 become apparent. According to the controversial section 12, international treaties like CEDAW and the Maputo Protocol that deal with women cannot be enforced in states unless at least 23 of the 36 states that make up Nigeria have ratified this treaty, otherwise each state has to enact separate laws.¹²¹ This constitutional provision potentially creates a number of problems for women's rights. Dada describes how this provision has often been used to deny Nigerians their human rights.¹²² Ojigho also explains that it is this same provision that forces DV victims to rely solely on civil and criminal remedies provided within national law.¹²³ This suggests that for Nigerian women to enjoy protection from DV as guaranteed under the CEDAW or the Maputo Protocol, section 12 of the Nigerian Constitution has to be duly amended or completely removed.

Thus, the usefulness of the Nigerian government ratifying international treaties in the first place could be questioned particularly when it appears that the government has no intention of domesticating these treaties. Nonetheless, there have been attempts at domesticating CEDAW in Nigeria. A CEDAW bill was brought before the National Assembly in 2006. Unfortunately, this bill was vehemently opposed and thereafter discarded. The failure of this bill at the time arose primarily due to religious and cultural reasons.¹²⁴ The bill opponents had argued that the bill was contrary to their beliefs. They insisted that the CEDAW bill was ungodly and against sacred

¹¹⁹1999 CFRN section 12(1). Section 12(2) grants the national assembly powers to enact laws for treaty purposes outside of the exclusive list. Section 12(3) then appears to take these powers back by stating that where a law outside of the exclusive list is to be made before it is enacted or receives presidential assent; a majority of the state houses of assembly should have passed the law.

¹²⁰1990 African Charter on Human and Peoples' Rights (Ratification and Enforcement) Act Laws of the Federal Republic of Nigeria (FRN).

¹²¹1999 CFRN section 12(3).

¹²²Dada (n 106 above) 39.

¹²³Ojigho (n 39 above) 87.

¹²⁴O Para- Mallam et.al 'The role of religion in women's movements: The campaign for the domestication of CEDAW in Nigeria' (2011)59 Religion and development in Nigeria research programme working paper <http://www.birmingham.ac.uk/Documents/college-social-sciences/government-society/rad/working-papers/wp-59.pdf> 4 (accessed 12/03/15).

African values.¹²⁵ These opponents also alleged that certain CEDAW provisions were sexually permissive encouraging promiscuity and abortion.¹²⁶

Regional commitments that should provide a legal basis for the promotion of the specific needs of Nigerian women within Africa have also proved inadequate. Rebouch validates this point when she highlighted that the need for a CEDAW prototype in Africa originated initially from the inadequacy and failure of the Organisation of African Unity's Charter (OAU Charter) to specifically address women.¹²⁷ The OAU Charter was completely quiet about women's rights. Unfortunately its successor, the African Charter was disappointing in its attempted manner of providing rights for women in Africa. It only made reference to women twice in article 2 highlighting protection from discrimination and article 18(3) which simply lumps the rights of women with that of the child.¹²⁸

Nigeria has incorporated the African Charter into its law yet, very little seemed to have improved in the lives of women. One possible reason for this can be linked to a popular Supreme Court's decision where it was held that although the African Charter had been incorporated into Nigerian law, it is inconceivable for it to have more substance and weight than the Constitution which is the supreme law of the land.¹²⁹ This is contrary to another Supreme Court decision that held that by virtue of the African Charter's domestication, women can utilize its provisions to hold government legally accountable to guarantee their rights.¹³⁰ The Supreme Court's inconsistent stance illustrates the contradictions that abound between the African Charter and the Constitution. The relevance of domesticating the African Charter is therefore questioned if Nigeria continues to use its internal laws as an excuse to shun its commitments and shows an unwillingness to honour its obligations.

The Maputo Protocol came into force largely to address the inadequacies of the African Charter particularly as regards guaranteeing the rights of African women. Bond describes the Maputo Protocol as an innovative document that contains comprehensive rights for African

¹²⁵E Oji 'Fighting discrimination in Africa through CEDAW: Hard fights easy fights' (2010) 16 *New England Journal of International and Comparative Law* 108.

¹²⁶Para- Mallam et.al (n 124 above) 18.

¹²⁷R Rebouch 'Health and reproductive rights in the Protocol to the African Charter: Competing influences and unsettling questions' (2009-2010) 16 *Washington and Lee Journal of Civil Rights and Social Justice* 80.

¹²⁸ African Charter article 2, 18(3)

¹²⁹Abacha and Others vs. Fawehinmi Part (2000) 6 NWLR (Pt 660)228.

¹³⁰Williams (n 22 above) 234.

women.¹³¹ The Maputo Protocol provides for the explicit right of women to be protected from DV. Nonetheless, the ability to depend upon the Maputo Protocol as part of the Nigerian legal framework to curb DV is contentious. This is given that although Nigeria has incorporated the African Charter into its law, it has not domesticated the Maputo Protocol which complements the Charter.¹³² However, there have been arguments that the Maputo Protocol has been indirectly domesticated into the Nigerian legal framework by virtue of the African Charter Act.¹³³ Even if this is true, there have not been efforts by Nigerian women or lawyers to utilize this opportunity.

The hypocrisy of the Nigerian government towards its international treaty obligations is apparent in the lack of political will to promote rights for women. Oji describes a lack of political will that suggests that the Nigerian government might merely be paying lip service to guaranteeing women's rights.¹³⁴ This is unsurprising given the few numbers of women in decision making positions in Nigeria. As at 2014, only about 12% of women were in the National Assembly.¹³⁵ With such insignificant numbers, it becomes difficult to foresee how women issues and rights can be brought to the limelight.

The lack of compelling sanctions by international treaties mechanisms to ensure compliance is also problematic. CEDAW for instance has been accused of lacking well sharpened teeth to ensure that its obligations are properly enforced.¹³⁶ Thus, despite treaty bodies' lacklustre attempt to ensure compliance through naming and shaming as well as imposition of economic sanctions, for as long as there is no world prison to compel implementation, Nigerian women for instance are likely to continue to have their rights violated and experience DV. Under article 26 (1) of the Maputo Protocol, Nigeria is obliged to submit state reports on measures it has taken to improve the rights of its women.¹³⁷ Commendably, Nigeria has recently submitted its 5th periodic report to the African Commission where it enumerated measures taken in guaranteeing rights for

¹³¹J Bond 'Gender, discourse, and customary law in Africa' (2009-2010)83 *Southern California Law Review* 522.

¹³²Egede (n 118 above) 274.

¹³³V Ayeni 'Nigeria' in 'the impact of the African Charter and Women's Protocol in selected African states' (2012)123.

¹³⁴Oji (n 125 above) 107.

¹³⁵African Women's Decade 2010-2020 '2014 annual review' (2014)

http://www.makeeverywomancount.org/index.php?option=com_content&view=category&layout=blog&id=82&Itemid=206 98 (accessed 25/02/15).

¹³⁶L Keller 'Convention on the Elimination of Discrimination against Women: Evolution and (non)implementation worldwide' (2004-2005) 27 *Thomas Jefferson Law Review* 41.

¹³⁷Maputo Protocol article 26(1).

women.¹³⁸ However, the challenge is the government's refusal to follow the Maputo Protocol's guidelines in compiling and submitting reports.

It is very difficult to ascertain whether a state is complying with its obligations under international treaties particularly where it concerns DV. As Nanda rightly notes, although state parties are obligated to act with due diligence with regards to DV, it is difficult to evaluate if Nigeria is acting with due diligence.¹³⁹ This is considering that there are no existing indicators or criteria yet to measure this due diligence.¹⁴⁰ Manjoo buttresses this point when she argues that despite considerable efforts made to demonstrate due diligence measures as regards DV, it is still difficult to ascertain when diligence as regards DV is due.¹⁴¹

Generally, Nigerian women's socialized roles are defined primarily by traditional and religious beliefs. Mostly, these beliefs override rights or DV protection as provided in these treaties. Buenger stresses that although the need to achieve gender equality is globally recognised, this equality is usually dependent on the society's religious and cultural beliefs as well as women's socialised roles.¹⁴² Sadly, these roles have become so deeply ingrained right from childhood where the boy child is preferred over the girl child and children are socialized about their different roles in Nigeria. Even when these roles are questioned, women themselves become defensive of these roles. Oji described how mothers unconsciously reinforce these stereotypes.¹⁴³

As such, where rights as guaranteed under these treaties contradict society's socialised roles for women as well as religious and traditional beliefs, it tends to be strongly opposed. The Islamic inheritance law in Nigeria for instance gives a son more than double the inheritance of what the daughter receives, yet this law continues to be upheld despite being perceived as discriminatory in CEDAW.¹⁴⁴ There are few exceptions to this status-quo, in *Mojekwu vs. Mojekwu* for example, the established tradition that recognised only males as sole heirs to inheritance was described as discriminatory as well as unconstitutional.¹⁴⁵ The judge in this instance relied on Nigeria's commitment to CEDAW when making this decision. While, this judge's decision is commendable

¹³⁸The African Commission on Human and Peoples Rights <http://www.achpr.org> (accessed 12/03/15).

¹³⁹V Nanda 'Human rights of women and children under international law-an introduction' (2013-2014)42 *Denver Journal of International Law and Policy* 114.

¹⁴⁰As above 114.

¹⁴¹Manjoo (n 61 above) 5 (accessed 15/02/15).

¹⁴²M Buenger 'Human rights conventions and reservations: An examination of a critical deficit in the CEDAW' (2013-2014) 20 *Buffalo Human Rights Law Review* 86.

¹⁴³Oji (n 125 above) 95.

¹⁴⁴Oba (n 78 above) 894.

¹⁴⁵*Mojekwu vs. Mojekwu* (1997) FRN.

it can be argued that this decision was taken solely on this particular judge's discretion. Such unique decisions like this might not necessarily be taken across board in the country.

According to Rebouch, the Maputo Protocol unconsciously reinforces the gender stereotypes it attempts to tackle.¹⁴⁶ Thus, it has been blamed for protecting the rights of African women in inconsistent, haphazard and contradictory manner. Isanga argues that the Maputo Protocol does not reflect the interests and the dignity of the African woman.¹⁴⁷ For him, the Maputo Protocol is based on western ideologies that are irrelevant to the African woman.¹⁴⁸ He claimed that the Maputo Protocol is flawed to the extent that it attempts to redefine gender.¹⁴⁹ Isanga maintains that the right to abortion in certain circumstances as provided by the Protocol demonstrates the political and selfish nature of the Protocol's provisions.¹⁵⁰ For him therefore, these provisions do not necessarily reflect what African women want or what they think their rights should be.¹⁵¹

The language of these international treaties also presents difficulties for the guarantee of women's rights in Nigeria. Buenger describes how the broad wordings of CEDAW like many human rights instruments often allow for misinterpretations and misunderstandings.¹⁵² Such misinterpretations about these treaties can potentially hinder their domestication. However, Cusack and Pusey have commended the innovativeness of the Committee on CEDAW in now explaining and clarifying vague and open-ended provisions.¹⁵³ They argue that the Committee on CEDAW have begun to compile general comments on specific provisions of CEDAW that have previously been misinterpreted.¹⁵⁴

Most Nigerian women are not even aware of international treaties like the Maputo Protocol or CEDAW. According to Oji, a large number of Nigerian women are unaware and ignorant about the rights that they are entitled to under these international treaties.¹⁵⁵ This lack of awareness has meant that women cannot properly lobby for rights as provided under these treaties to be

¹⁴⁶Rebouch (n 127 above) 110.

¹⁴⁷J Isanga 'Foundations of human rights and development: A critique of African human rights instruments'(2012-2013) 11 Ave Maria Law Review 136.

¹⁴⁸As above 136.

¹⁴⁹As above 136.

¹⁵⁰As above 136.

¹⁵¹As above 136.

¹⁵²Buenger (n 142 above) 69.

¹⁵³S Cusack and L Pusey 'CEDAW and the rights to non-discrimination and equality' (2013)14 *Melbourne Journal of International Law* 59.

¹⁵⁴As above 59.

¹⁵⁵Oji (n 125 above) 108.

guaranteed. However, even the few women that are aware of these provisions have insufficient resources as well as little or no access to justice.

The existing unstable democratic process in Nigeria has made it not only difficult for women's rights treaties to be domesticated but also women's rights to be achieved. Nigeria's democracy has been characterised by severe corruption, patronage culture and mismanagement of resources.¹⁵⁶ Unfortunately this situation not only affects the entire country but particularly women. The emergence of the terrorist Boko-Haram sect in Nigeria's northeast has reinforced a polity of violence and fear within the state.¹⁵⁷ This terrorist group have engaged in several deadly attacks targeted at mainly women and girls.¹⁵⁸ A correlation can therefore be rightly drawn between Nigeria's poor record of guaranteeing women's rights and the existence of terrorism in the country.¹⁵⁹

These heightened conflicts and state of emergencies in the country have cultivated a culture of violence within the Nigerian polity. Unfortunately, this violence culture seems to have been extended to the Nigerian homes where men have assumed dictatorial tendencies. Thus, treaty domestication particularly protecting women from DV has remained underemphasized.¹⁶⁰ The shortcomings in international treaties particularly in the Nigerian environment as highlighted above, therefore makes it problematic to envisage these treaties as a strong framework for curbing DV in the country.

2.5 Conclusions

From the foregoing, it is clear that the Nigeria's legal framework has deficiencies that have made it difficult to consider it a reliable framework for curbing DV in the country. If the Constitution as the highest law of the land contains discriminatory provisions towards women, this makes mockery of the ability of other existing laws including the 2015 VAPPA to curb DV. The complexities under section 12 of the Constitution and the contradictions that exist between federal and state

¹⁵⁶As above 108.

¹⁵⁷Amnesty International 'Nigeria: Trapped in the cycle of violence' (2012) <http://www.amnesty.org/en/library/asset/AFR44/043/2012/en/04ab8b67-8969-4c86-bdea-0f82059dff28/af440432012en.pdf> 10 (accessed 24/02/15).

¹⁵⁸Human Rights Watch 'Those terrible weeks in their camp Boko Haram violence against women and girls in Northeast Nigeria' (2014) www.hrw.org/sites/default/files/reports/nigeria1014web.pdf 3 (accessed 24/02/15). This includes the recent abduction of over 200 girls from their school in Northern Nigeria (Chibok) in 2014. This is amidst countless Nigerians that have died in these violent attacks and conflicts.

¹⁵⁹V Mackinnon 'Lifting the veil on terrorism: An analysis of the relationship between women's oppression and terrorism' (2010)4 *Homeland Security Review* 93.

¹⁶⁰The Nigeria CEDAW NGO coalition shadow report (n 95 above) 15 (accessed 12/03/15).

laws particularly as it concerns marriages also make protecting women from DV a challenge. Ultimately, Nigeria's present legal framework falls short of what this chapter argues for namely, a targeted gender sensitive and effective DV law. This is necessary given the prevalent DV rates in Nigeria as well as its international and regional due diligence obligations as regards DV.

Chapter 3

3 Legislation as a lone approach to curbing domestic violence: a case study of the 2007 Lagos State Protection against Domestic Violence Law (PADVL)

3.1 Introduction

The Nigerian government has recently enacted the 2015 VAPPA. However as demonstrated in the previous chapter, the complexities in the Nigerian legal architecture especially as regards marriages within which DV mostly occurs, makes law inadequate on its own to curb DV in Nigeria.¹⁶¹ The due diligence standard as regards DV thrusts positive duties on state governments like Nigeria to prevent, protect against, prosecute, punish and provide compensation for acts of violence perpetrated on women in the private.¹⁶² Unfortunately, most African states including Nigeria have neglected these due diligence standards particularly when enacting domestic legislation on DV.¹⁶³

For this chapter's purposes therefore, the Lagos state 2007 PADVL would be used merely as a case study to buttress and illustrate through the lenses of the PADVL that law is just not enough on its own to curb DV in Nigeria. The PADVL is used as an example in this chapter since it is too early to evaluate the ability of the recently enacted 2015 VAPPA to curb DV.

3.2 The 2007 Lagos State Protection against Domestic Violence Law (PADVL)

Lagos State has been described as a progressive state. Akintayo notes that it is as a result of this progressive nature that other states in Nigeria tend to copy its laws and policies.¹⁶⁴ The enactment of the 2007 PADVL by the Lagos State government has been highlighted as signalling the state government's good intentions to curb DV in its state. Ojigho argues that, although the PADVL is undeniably not the only state law that outlaws DV in Nigeria, it is the most detailed law on DV in the country.¹⁶⁵ The PADVL became operational in the state on the 18th May 2007.¹⁶⁶

3.3 Specific provisions of the PADVL

This section states briefly some provisions in the Lagos State 2007 PADVL.

¹⁶¹By virtue of the 1999 CFRN second schedule part 1 item 61, the federal government cannot enact laws for marriages that have been contracted under Islam and custom. States have to enact their own laws to be applied within their jurisdictions.

¹⁶²Manjoo (n 61 above) 5 (accessed 13/04/15).

¹⁶³Stefiszyn and Kombo (n 66 above) 17 (accessed 22/02/15).

¹⁶⁴A Akintayo 'Planning law versus the right of the poor to adequate housing: A progressive assessment of the Lagos State of Nigeria's urban and regional planning and development law of 2010' (2014) 14 *African Human Rights Law Journal* 555.

¹⁶⁵Ojigho (n 39 above) 89.

¹⁶⁶Law 15 of 2007 'A Law to Provide Protection against Domestic Violence and for Connected Purposes' (PADVL) Lagos State.

Section 1 outlaws any act of DV against any person. Section 2(1) grants a victim the right to apply for a protection order. Section 2(2)(b) provides a right to report a criminal offence if a crime has been perpetrated. Section 2(3) provides that any person may apply for protection order on behalf of the victim including a policeman, health worker, a neighbor and anyone who has the best interests of the DV victim. Section 3 outlines duties of policemen or health officials to assist DV victims. Section 4 specifies duties of policemen particularly to be able to make arrests without a warrant in DV cases. Section 5 and 6 provides for issuing interim protection orders and protection orders.¹⁶⁷

3.4 Challenges in implementation of the 2007 Lagos State PADVL

This section stresses some implementation challenges of the PADVL. These challenges can also be applicable to the recently enacted 2015 VAPPA particularly where both laws share similar features. These shortcomings are highlighted in order to argue that law is just not enough on its own to curb DV in Nigeria.

The PADVL states that its primary objective is to protect people against DV regardless of sex.¹⁶⁸ By virtue of this provision, this law seeks to not only provide protection for women and children affected by DV but it also protects the small proportion of men who might be victims of DV. Ojigho argues that although women are not the only ones protected in the PADVL, its broad DV definition allows women victims of DV to also be included.¹⁶⁹

However, this law's intention is here argued to be problematic. This is because by virtue of this provision, the PADVL is far from being women specific or gender sensitive. It rather applies to anyone in Lagos State who might be experiencing DV.¹⁷⁰ Its ability to protect women who are more disproportionately affected by DV in the state is thus questionable. Although, this provision in itself is not necessarily bad, it makes mockery of internationally recognized due diligence standards. Due diligence standards as regards DV thrusts duties on states to adopt gender sensitive laws that recognize the consequences of the multiple and intersecting forms of discrimination that

¹⁶⁷See the 2007 Lagos State PADVL for full details on all the sections of the law.

¹⁶⁸PADVL 15 of 2007 section 1. See also a simplified version of the PADVL Falana F 'A law to provide protection against domestic violence (PADVL) and for connected purposes' (2013) Women Empowerment Legal Aid Lagos State Government Ministry of Women Affairs and Poverty Alleviation 1 <http://www.lagosstate.gov.ng/LAWTOPROVIDEPROTECTION.pdf> (accessed 15/04/15).

¹⁶⁹Ojigho (n 39 above) 89.

¹⁷⁰PADVL 15 of 2007 section 1. See also Falana (n 168 above) 2.

women are exposed to especially when compared to men.¹⁷¹ It is here acknowledged that although Nigerian men might be victims of DV, the rarity of these cases does not justify enacting or equating the same law to apply for both men and women.

Manjoo rightly notes that enacting the same DV law for both men and women suggests that men who are victims of this violence require and deserve the same resources as women victims.¹⁷² This is done without considering the stark reality that violence against men is not as pandemic and pervasive as VAW. Most times, violence against men does not result from prevalent societal inequalities and discrimination that women are susceptible to and face on a daily basis. Manjoo has argued that any law on DV that is not specific to women or that fails to specifically recognize women as victims of DV is grossly inadequate.¹⁷³ The fact that the same DV law was enacted for both men and women in Lagos state reflects the insensitivity to the huge plight that women experience in their homes daily. Thus, it can be inferred that the gender neutrality of laws like PADVL makes it inadequate to effectively curb DV.

The PADVL reflects the patriarchal nature of the Nigerian society where men are considered physically, mentally and emotionally superior to women. Thus, enacting a gender sensitive and specific law that effectively curbs DV becomes difficult. This is particularly in a male dominated state legislature as evidenced in Lagos state.¹⁷⁴ It is therefore not surprising that the PADVL reflects the interests of men despite the fact that it is known that it is mostly Nigerian women that are victimized at home. It can be suggested that the gender neutrality of the PADVL was accepted as a compromise of sorts in order that there would be legislation on DV and not necessarily out of a need to effectively curb DV in the state.

The PADVL commendably provides for different types of court orders that can potentially be issued.¹⁷⁵ This includes protection orders against perpetrators of DV that can be enforced

¹⁷¹General Recommendation made by the Committee on the Elimination of Discrimination Against Women; General Recommendation 19 (1992) eleventh session; para 24 (b), (t) (i); (u) and (v.) <http://www.un.org/womenwatch/daw/cedaw/recommendations/recomm.htm> (accessed 22/02/15).

¹⁷²R Manjoo 'Report of the Special Rapporteur on violence against women, its causes and consequences: Violence against women, twenty years of developments within the United Nations' (2014) Human Rights Council 26th Session A/HRC/26/38 <http://daccess-dds-nv.un.org/doc/UNDOC/GEN/G14/037/00/PDF/G1403700.pdf?OpenElement> 17 (accessed 22/02/15).

¹⁷³As above 17 (accessed 22/02/15). Even the recently enacted 2015 VAPPA unfortunately fails to recognise the huge plight of DV women face compared to men.

¹⁷⁴Note that as at 2007 when the PADVL was enacted and even beyond, the Honorable members of the 6th and 7th Lagos State House of assembly (2007-2011, 2011-2015) had only 3 women out of 41 members <http://www.lagoshouseofassembly.gov.ng/?in=&up=pofflist&lvid=2&maxRetr=15&maxPage=2&maxRetr=15&maxPage=3> <http://www.lagoshouseofassembly.gov.ng/?in=&up=houseatglance> (accessed 22/03/15).

¹⁷⁵PADVL 15 of 2007 section 2(1).

anywhere in the country. It is admirable that the PADVL attempts to follow international due diligence standards of ensuring that DV victims can get protection orders. According to Ertürk, protection orders are prerequisites that state governments should include in any legislation on DV.¹⁷⁶ By virtue of the PADVL, perpetrators of DV can be issued protection orders which can be executed and applied anywhere in the country. Project Alert, an NGO in Lagos received about 15 interim protection orders as at 2014 out of which there were no reports of disobedience.¹⁷⁷ This could mean that either these protection orders are working to curb DV in the state or more than likely these women do not bother to report cases of disobedience.

However, as Schneider rightly observes most times, these orders are just pieces of paper that the police and other law enforcers find difficult to enforce.¹⁷⁸ The police often find it extremely difficult to monitor the perpetrator's compliance to these orders.¹⁷⁹ As a result, there have been reports where women victims are killed even where these orders have already been issued.¹⁸⁰ Sometimes, these protection orders are considered too long and often written in legal terminology that is very difficult to read and understand.¹⁸¹ According to Stefiszyn and Kombo, many of these protection orders are not adequately implemented particularly in African countries.¹⁸² Only about 11% of Nigerian NGOs for example, believe that protection orders have any effect in curbing DV in the country.¹⁸³ This is added to the fact that, many women are not even aware of the existence of these protection orders.

The PADVL provides for the roles that policemen are expected to play in DV cases.¹⁸⁴ It attempts to follow international due diligence standards of prescribing roles for policemen in DV situations. Thus, suggesting that the police can no longer regard DV as a private matter. However, as Ojigbo rightly notes the ability of the Nigerian policemen and judicial officers to actually

¹⁷⁶Ertürk (n 65 above) 6 (accessed 12/04/15).

¹⁷⁷Immigration and Refugee Board of Canada (IRB)Nigeria: 'Domestic violence, including Lagos State, legislation, recourse, state protection and services available to victims(2011-2014)'(2014)[NGA104980.E] http://www.ecoi.net/local_link/291839/412404_en.html(accessed 15/02/15).According to the report, an interim protection order lasts only 28 days but most women would not go beyond this even where there is apparent disobedience of the order.

¹⁷⁸E Schneider 'Domestic Violence Law Reform in the twenty-first century: Looking back and looking forward' (2008) 42 *Family Law Quarterly* 357.

¹⁷⁹As above 357.

¹⁸⁰Stefiszyn and Kombo (n 66 above) 26 (accessed 15/3/15).

¹⁸¹As above 26 (accessed 15/3/15).

¹⁸²As above 26 (accessed 15/3/15).

¹⁸³As above 27 (accessed 15/3/15).

¹⁸⁴PADVL 15 of 2007 sections 8, 9.

investigate, prosecute, and punish perpetrators of DV is debatable.¹⁸⁵ This argument is particularly true with the absence of state police in Nigeria.¹⁸⁶ The ability of the Nigerian police or the police in Lagos state to conduct independent, impartial as well as publicly scrutinized investigations particularly where it concerns DV cases can be questioned. As highlighted in a British Council report, violence is entrenched in the Nigerian police.¹⁸⁷ Consequently, the police tend to still tolerate DV, treat it as a private matter and are often influenced most times by their personal sentiments and stereotypes.¹⁸⁸ Inadequate manpower within the police system to deal with all criminal activities has also meant that policemen tend to prioritize issues into what might be considered serious and unserious crimes in order to reduce case work.

The lack of discipline added to the bribery and corrupt practices displayed by most Nigerian policemen make exemplary diligence and promptness that the sensitivity of DV requires on the part of the police authorities difficult.¹⁸⁹ This is coupled with the fact that these policemen are poorly paid and unmotivated. As a result, it can be argued that the police's corrupt practices as well as lack of discipline makes it difficult for the PADVL to achieve its objective of curbing DV. This is considering that a rich influential man might likely get away with battering his wife if he is able to pay the right price.

Folami identifies that many Nigerian women do not trust policemen.¹⁹⁰ He highlighted that women for instance prefer to report a DV case to a family head, community leader or even a neighbour rather than report such cases to policemen.¹⁹¹ This explains why the police are only aware of less than one percent of DV cases.¹⁹² This mistrust potentially prevents the police from fulfilling their obligations as spelt out in the PADVL and remains a challenge to curbing DV. Equally, the lack of gender sensitive training is a problem because many policemen have not been trained on how to respond adequately to DV. The gender insensitivity that the police mostly display has been rightly identified as one of the major reasons Nigerian women are reluctant to

¹⁸⁵Ojigho (n 39 above) 87.

¹⁸⁶There had been recent calls for the need for state police in Nigeria where each state would have control of the police authorities in their state. However, the Nigerian national government still controls the police and can largely determine the hire and deployment of policemen.

¹⁸⁷British Council's gender in Nigeria report 'Improving the lives of girls and women in Nigeria: Issues; policies and action' (2012) https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/67333/Gender-Nigeria2012.pdf vii (accessed 15/3/15).

¹⁸⁸Ojigho (n 39 above) 87.

¹⁸⁹Human Rights Watch 'World report: Nigeria' (2014) <http://www.hrw.org/world-report/2014/country-chapters/nigeria> (accessed 15/3/15).

¹⁹⁰Folami (n 32 above) 3.

¹⁹¹As above 9.

¹⁹²As above 3.

report incidents of DV.¹⁹³ This is despite a reported existence of police stations where there are family support units and human rights officers to deal with DV complaints in Lagos.¹⁹⁴ Available NGOs trainings are scarce and usually conducted in a haphazardly short term basis with little or no impact. This situation is coupled with insufficient funds, high staff turnovers, sudden deployment and transfers characteristic of the Nigerian police.¹⁹⁵

The PADVL recognizes economic abuse, starvation and psychological abuse as forms of VAW. It has attempted to provide what Ojigho describes as a comprehensive definition of what constitute DV.¹⁹⁶ However, this supposed comprehensive definition is flawed; this is highlighted where DV is defined to include psychological and economic violence.¹⁹⁷ Such definition according to UN's UNITE report becomes challenging considering the difficulty in proving when an individual has been psychologically abused.¹⁹⁸ There is the danger of even perpetrators using such provisions to also apply for protection orders claiming that their partners have psychologically violated them.¹⁹⁹

The PADVL lumping of physical abuse with economic abuse and psychological abuse is potentially problematic. This is because many Nigerian women might not necessarily expect that psychological or economic abuses perpetrated against them should receive the same or a similar judicial response as physical abuse. As a result, it has been rightly highlighted that if definitions of DV must include psychological and economic violence, efforts must be made to ensure it is rightly implemented in a gender sensitive manner.²⁰⁰ Unfortunately, it is unclear how the PADVL intends to show its gender sensitivity since the law is for any person regardless of sex. The flaw in the PADVL's definition of DV is also highlighted in the failure of the law to specifically recognize

¹⁹³Stefiszyn and Kombo (n 66 above) 32 (accessed 15/3/15).

¹⁹⁴Immigration and Refugee Board of Canada (IRB) (n 177 above) (accessed 15/02/15).

¹⁹⁵Folami (n 32 above) 3.

¹⁹⁶Ojigho (n 39 above) 89.

¹⁹⁷PADVL 15 of 2007 sec 18(g). The PADVL defines DV as any of the following acts against any person; 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 bathe or poisonous substance; damage to property; entry into the complainant's residence without consent where the parties do not share the same residence or any other controlling or abusive behavior towards a complainant where such conduct harms or may cause imminent harm to the safety, health or wellbeing of the complainant.

¹⁹⁸Division for the Advancement of women and Department of Economic and Social Affairs 'handbook on legislation for violence against women' (2010)
<http://www.un.org/womenwatch/daw/vaw/handbook/Handbook%20for%20legislation%20on%20violence%20against%20women.pdf> 25 (accessed 15/02/15).

¹⁹⁹As above 25 (accessed 15/3/15).

²⁰⁰As above 25 (accessed 15/3/15).

marital rape for instance as a form of DV. According to the UN UNITE report, any model legislation on DV must specifically recognize and criminalize marital rape as a form of DV or sexual violence.²⁰¹ It is here argued that this flaw in the PADVL stems from the erroneous patriarchal, cultural and religious belief that most Nigerians tend to hold that it is incomprehensible for a man to rape his wife.

There is a continuous tension about which legal response as regards DV is the most effective. Gatang argues that both the civil and criminal justice responses on their own and independently cannot adequately deal with this violence.²⁰² The civil justice response to DV emphasizes the protection of DV victims. However, this protection could be weakened where there is no effective enforcement.²⁰³ As a result, in most cases, women DV victims are potentially still in danger. The criminal justice response to DV portrays this violence as a serious crime. However, it is undermined by its need for proof beyond reasonable doubt and its failure to address the specific needs of the victim.

The PADVL allows for criminal processes to be taken against perpetrators, particularly where a protection order is disobeyed and where criminal offences have been committed.²⁰⁴ It then attempts to avoid the enormous barriers and delays women victims tend to face under the traditional criminal judicial process.²⁰⁵ Ojigho elaborates on the PADVL's attempt to respond to DV cases quickly particularly where there is perceived danger.²⁰⁶ However, there is a lack of clarity in the PADVL as to what criteria would be used to determine this perceived danger. It is also unclear whether the victim in the event of lodging a criminal complaint would return to the traditional criminal court procedures particularly if there is no perceived danger. Considering women's mistrust of the Nigerian police as well as the lack of commitment of policemen to the behaviour expected by the PADVL, the huge responsibilities thrust on the police in these situations is possibly problematic.²⁰⁷

²⁰¹As above 26 (accessed 15/3/15)

²⁰²G Gatang 'Curbing Domestic Violence in Botswana: An Analysis of the Domestic Violence Act' (2009) 11 *European Journal of Law Reform* 403.

²⁰³As above 436.

²⁰⁴PADVL 15 of 2007 section 2(2b), 8(4) and 8(5). See also Falana (n 168 above) 2.

²⁰⁵PADVL 15 of 2007 section 2(4).

²⁰⁶Ojigho (n 39 above) 90.

²⁰⁷PADVL 15 of 2007 section 8(6) states that a policeman is expected to explain the criminal procedures to the victim. The reality is that most Nigerian policemen have negative stereotypes towards women themselves and thus their ability to be empathetic or fulfill their obligations in the PADVL can be debatable.

The PADVL provides that for anyone to apply under this law, this person must be in a domestic relationship, cohabiting or married under statute, native law and custom.²⁰⁸ Whilst, it is commendable that the PADVL covers people who are not necessarily married; however, it seems like this law does not explicitly reflect or has overlooked marriages that are contracted under Islamic rites. This is a huge omission considering the number of people who get married solely under Islam. This is except native law and custom as provided under the PADVL somehow also includes and extends to Islamic marriages. If this is so, this is flawed as research has shown that Islamic law cannot necessarily be equated to native or customary law.²⁰⁹ Again, this springs up the complexities and the tripartite nature of the Nigerian legal framework particularly as regards marriage.

The PADVL provides for financial assistance to be given to DV victims.²¹⁰ This provision suggestively offers monetary relief to victims of DV particularly where there is financial dependence on the perpetrator of the violence. It has been stressed that model legislations on VAW must ensure that DV victims are financially supported in a timely and efficient manner.²¹¹ However, this provision of financial assistance could be contentious in Lagos state. This is considering the bureaucracy that usually characterizes the Nigerian public service process generally.

The PADVL states that this financial assistance would be provided through the Public Defender and Legal Aid Office.²¹² However, it is unclear what criteria would be used to evaluate whether a DV victim qualifies for such assistance. Even if this is criteria was clear unfortunately Lagos state is not exempt from the high level corruption and patronage culture that pervades the Nigerian society.²¹³ The existence of corrupt enforcers of law in Nigeria potentially undermines the effectiveness and reliability of the PADVL to financially assist genuine DV victims who might be unwilling to report the violence because of their economic and financial dependence on the perpetrator. Unfortunately, where this objective is not achieved, the ability of the PADVL to curb DV is further undermined.

²⁰⁸PADVL 15 of 2007 section 18.

²⁰⁹Oba (n 78 above) 885.

²¹⁰PADVL 15 of 2007 section 13(2). See also Falana (n 168 above) 2.

²¹¹Division for the Advancement of Women and Department of Economic and Social Affairs (n 198 above).

²¹²PADVL 15 of 2007 section 13(2). See also Falana F (n 168 above) 2.

²¹³Bureau of Democracy Human Rights and Labour 'Country Reports on Human Rights Practices for 2013: Nigeria' (2013) <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2013&dldid=220146#wrapper> (accessed 22/03/15).

The PADVL expands the people who can bring an application on behalf of a DV victim. Ojigho notes that this provision brings DV from the private sphere into the public where DV has become everybody's business.²¹⁴ However, the fact that the PADVL requires consent from a DV victim is potentially problematic.²¹⁵ Arguably, this provision can only benefit a minor where most times it is clear when a minor is abused. However, for a woman it could be challenging for a NGO or even a neighbour for example, to report on behalf of the woman. One reason for this is the acceptance of DV as a reality of married life in Nigeria. The ability of a neighbour to report on behalf of the woman victim with her consent is therefore difficult particularly where there is still a perception by the victim and even the neighbour that the victim deserves the violence for an alleged wrongdoing. Thus, how neighbours can intervene in a DV incident with the victim's consent in a culture that still accepts and justifies DV is uncertain.

The PADVL provides for establishment of special courts such as family courts that would hear DV cases.²¹⁶ Establishment of these special courts is admirable as these courts could likely improve the manner in which DV cases are treated.²¹⁷ By virtue of this provision, there is an attempt to not only reduce delays in justice but also expedite access to justice for DV victims. However, these courts appear to be relatively scarce in the state and could explain why the PADVL allows magistrate courts within the state to also issue protection orders.²¹⁸ However, the advantage of having a special court solely to hear DV cases is then compromised.

The PADVL prescribes duties for social workers, counsellors, healthcare officers and psychologists.²¹⁹ However, the challenge is the fact that most of these workers have not received adequate gender sensitive training on DV. As such, it is very difficult to evaluate the ability of these relevant officials to support DV victims adequately. This is especially when these officials themselves are guilty of the same crime in their homes or still holds negative stereotypes.

The PADVL imposes a fine of N100, 000 or a prison sentence of not more than five years only where a party disobeys an order made by a court on a DV case.²²⁰ This demonstrates a general triviality towards DV cases. According to Manjoo, there is a need for severe penalties for DV

²¹⁴Ojigho (n 39 above) 90.

²¹⁵PADVL 15 of 2007 section 2(3). According to the section, consent is required except in cases of a minor, a mentally challenged person, an unconscious person or a person that is afraid of general outcomes of reporting a DV case.

²¹⁶PADVL 15 of 2007 section 12(4). Falana (n 168 above) 14.

²¹⁷Stefiszyn and Kombo (n 66 above) 38 (accessed 22/02/15).

²¹⁸PADVL 15 of 2007 section 12(1). There does not seem to be family courts created so far if they exist at all, they appear limited except the already existing magistrates' courts.

²¹⁹PADVL 15 of 2007 section 3, 3(i).

²²⁰PADVL 15 of 2007 section 15(a).

crimes in order to guard against future reoccurrences.²²¹ To impose token amounts as fines where the consequences of DV can be severe and often has tremendous negative impact on the lives and health of its women victims ridicules the overall objective of the PADVL.

The penalty options of either a fine or a prison sentence seems to lie at the discretion of the judge since the PADVL fails to provide a criteria that would be used to determine whether one perpetrator deserves a prison sentence and another perpetrator deserves a fine. The danger here is that relying on a judge's discretion in issuing penalties might mean perpetrators could get away with DV crimes if the judge is a DV perpetrator or is sympathetic to acts of DV. The neutrality of the PADVL is also contentious by virtue of the soft penalties provided. The PADVL seems to be unknowingly targeting poor perpetrators only who might be unable to afford the fine or challenge the prison sentence. This somehow provides leeway for wealthy and influential DV perpetrators.

The simplified version of the PADVL states that it is not a divorce law but a law that removes a perpetrator from the violent place until the violence is corrected.²²² This might be understood as the PADVL's objective is to protect the victim and not necessarily to punish or prosecute the perpetrator. This objective of the PADVL could be commended for its reconciliatory nature considering that Nigerian laws have generally been accused of been antagonistic.²²³ However, this corrective objective of the PADVL is problematic because it gives the view that DV is not a serious crime and potentially allows perpetrators not to take the process seriously. Thus, this raises questions about the ability of the law to effectively curb DV and create the much needed balance between effectively dealing with DV and the perpetrator.

The cultured nature of the PADVL is reflected in the provision that states that the aim of this law is not to dissolve a marriage.²²⁴ This provision emphasizes the cultural status and prestige that Nigerians generally place on marriages. This provision as Nwankwo has rightly noted considers that although most Nigerian women would want to end the violence, they might not necessarily want to end the marriage.²²⁵ However, this provision unwittingly encourages the cultural status that been married thrusts on a woman and the attendant need to keep the marriage at all

²²¹Manjoo (n 61 above) 1 (accessed 12/02/15).

²²²Falana (n 168 above) 2. The simplified version is also looked at here simply because it is more than likely that this is the version that will be easily accessed by the average Nigerian woman.

²²³Eze- Anaba (n 2 above) 39.

²²⁴Falana (n 168 above) 2.

²²⁵O Nwankwo 'Effectiveness of legislation enacted to address violence against women in Nigeria' (2008) United Nations Division for the advancement of women EGM/GPLVAW/2008/EP.08

http://www.un.org/womenwatch/daw/egm/vaw_legislation_2008/expertpapers/EGMGPLVAW%20Paper%20_Oby%20Nwankwo_.pdf 8 (accessed 15/03/15).

costs.²²⁶ It is this kind of relationship that exist between the PADVL and culture as Williams had highlighted that potentially makes this law undependable on its own to curb DV.²²⁷ Thus, this law like the Nigerian legal framework generally is consciously or unconsciously influenced by religious and cultural beliefs.

The fulfilment of the due diligence standard depends largely on an effective practice.²²⁸ As such, it is necessary to investigate how effective the PADVL has been in practice and what problems hinder its effective implementation in the state. There have been some efforts to implement the PADVL.²²⁹ However, as Nwankwo observes DV laws are still poorly executed generally demonstrating a lack of political will to ensure effective implementation.²³⁰

Another problem with this law is that it is clearly a state law.²³¹ This means it only applies to Nigerians that reside in Lagos State. This poses challenges because for a law on DV to be effective in Nigeria, it needs to be applicable to all states in Nigeria. The differing levels of acceptance of DV as a crime amongst states of the Nigerian federation does not augur well if DV is to be seriously curbed in the country. Although, there is a PADVL in Lagos and a VAPPA in the FCT, the fact that a similar law has not been enacted by majority of states in Nigeria is potentially problematic. This is because if women are not protected in a majority of the states against DV, there is a tendency for this violence to continue and still not be regarded as a serious offence or crime especially when compared to crimes like murder.

The differing levels of acceptance of this violence within the country could undermine the PADVL's objective. This situation is particularly glaring in the Northern part of the country where

²²⁶The Nigerian society frowns and negatively labels a single mother, woman that is either divorced or unmarried no matter the reasons. An unmarried woman for instance in her late forties is usually labelled negatively because there is a cultural status and prestige marriage is seen to bestow on women. A matured single or divorced mother in Yoruba land is also usually perceived and regarded in a derogatory manner.

²²⁷Williams (n 22 above) 230.

²²⁸Manjoo (n 61 above) 1 (accessed 12/02/15).

²²⁹'Domestic violence: Lagos inaugurates response team' The Nigerian Tribune Newspaper 2014 <http://www.tribune.com.ng/tribune-law/item/15986-domestic-violence-lagos-inaugurates-response-team-commence-inquiry-into-vandalism-of-buses-today/15986-domestic-violence-lagos-inaugurates-response-team-commence-inquiry-into-vandalism-of-buses-today> (accessed 12/03/15). In 2014, The Lagos State Gender Advocacy Team and a Lagos State DV task force was established to assist with creating awareness of the PADVL in the state. The former deputy governor of the state in 2014 also held a press statement reiterating the government's commitments to curbing DV in the state. Domestic violence no longer a family affair' (2013) <http://www.lagosstate.gov.ng/event.php?k=512&ek=176> (accessed 12/02/15). 'Domestic violence is a crime' (2014) <https://c21stnigeria.wordpress.com/tag/lagos-state-domestic-violence-law/> (accessed 12/02/15).

²³⁰Nwankwo (n 225 above) 20 (accessed 15/03/15).

Lagos State Government (LASG) 'Mainstreaming gender & social inclusion in LASG planning & budget process' (2011) www.sparc-nigeria.com/rc/files/2.2.7_mainstreaming_gsi_in_lagos_5 (accessed 15/03/15).

²³¹Falana (n 168 above) 1.

there still exists the Penal Code that recognizes the right of a husband to discipline his wife as long as it does not amount to grievous hurt.²³² The condoning and acceptance of this discipline in the laws of the Northern states suggestively makes mockery of laws like the PADVL and the VAPPA in a few states that prohibits such ‘discipline’ in the same country. Nigerians in other states that have not enacted a DV law are therefore at liberty to continue to violate their wives. This situation affects the ability of the PADVL to curb DV.

The PADVL as a relatively new law presents challenges. As Zahn has rightly noted, new laws by virtue of their newness usually fail to adequately deal with the issues they are meant to tackle.²³³ The relative newness of the PADVL has therefore made it difficult for it to achieve its objective of curbing DV in the state. Linked to this as Ojigbo has argued, is the fact that the PADVL is yet to be tested in courts.²³⁴ Eight years after its enactment, there is yet to be a significant development of case law on DV despite the high prevalence of DV in the state.²³⁵

Many people including women, lawyers, judicial officers and even policemen are not aware of the PADVL.²³⁶ Thus, the non-awareness of PADVL by the women victims it is expected to protect for instance, and law enforcers expected to execute the letter of the PADVL arguably, ridicules its ability to curb DV. Notwithstanding, there have been recent efforts by the Lagos State government to create awareness on the law through media jingles and through the simplification of the legislation into simple and easy to read language.²³⁷ Although these actions could be commended, they can be criticized as merely short term awareness raising activities that most times have very little impact.

Another problem with implementation of the PADVL is inadequate support services for DV victims. It is unclear in the PADVL what the Lagos State government plans are concerning the provision of services and one stop centres for victims of DV and perpetrators of violence. Presently, there are two shelters in Lagos state; one is owned by the state government and the other

²³²Northern Nigeria Penal Code section 55(1)(d).

²³³Zahn (n 20 above) 72.

²³⁴Ojigbo (n 39 above) 91.

²³⁵‘Nigeria: Using law to curb domestic violence in Nigeria’ Daily Trust Newspaper 2015
<http://allafrica.com/stories/201503170441.html> (accessed 12/02/15).

According to this article despite the existence of these DV laws in states like Lagos there has been no scapegoats yet

²³⁶‘Taking campaign against domestic violence to the grassroots’ Daily Independent 2014
<http://dailyindependentnig.com/2014/10/taking-campaign-domestic-violence-grassroots/> (accessed 12/02/15).

²³⁷See on YouTube ‘Beat your woman and spend some months in jail’ www.youtube.com/watch?v=kLwq-MlExso (accessed 15/03/15). See also the simplified version of the PADVL at Falana (n 168 above).

by a NGO.²³⁸ As a result, it is possible to argue that the PADVL's effectiveness is seriously undermined by the insufficiency of support services for DV victims' and even perpetrators of DV.

An added problem with implementation of the PADVL is patriarchy. The patriarchal Nigerian society reinforces the superiority of men over women. Manjoo insists that VAW including DV is simply a result of power, dominance and control of men over women.²³⁹ It is this kind of patriarchal view of the man as superior in the home reinforced in African legal systems like Nigeria that legitimizes and perpetuates VAW and DV.²⁴⁰ In the Nigerian society, these patriarchal tendencies manifest in different forms. A typical example is marital rape where women are typically seen as sex objects used to gratify the sexual desires of men. Izugbara highlighted a flawed patriarchal perception and view of Nigerian women as merely objects for men's pleasure.²⁴¹ Male officials in Nigeria for example, usually talk of women and girls as bush meat allowance and part of the spoils of office.²⁴² This implies that women and their bodies are made to satisfy men and are therefore inferior to men and their bodies. If women's bodies are men's properties, men have license to violate them.

Another patriarchal practice that perpetuates DV in Nigeria is the widespread preference for the male child to the detriment of the female child. This is as a result of according to Izugbara, an early unequal process of socialization ingrained in most cultures.²⁴³ These cultures instill into both sexes specific personalities and differential roles right from cradle. This is apparent where practices like child betrothal, payment of dowry and bride price reinforce the superiority of the man over the woman. These practices are then used mostly to justify DV. Unfortunately, it is unclear how the PADVL intends to eliminate these patriarchal tendencies that perpetuate DV. This is considering that the entire Nigerian legal framework including the PADVL itself is institutionalized in patriarchy.

DV justified on the basis of religion presents another problem. Most Nigerians are very religious and they tend to ascribe a lot of respect and reverence to their religious beliefs.

²³⁸The Nigeria CEDAW NGO coalition shadow report (n 95 above) 67 (accessed 12/03/15). There has also been the recent creation of a response centre for rape victims (The Mirabel Centre) by a NGO in Lagos state.

²³⁹Manjoo (n 172 above) 9 (accessed 15/3/15).

²⁴⁰Stefiszyn and Kombo (n 66 above) 13 (accessed 22/02/15).

²⁴¹C Izugbara 'Patriarchal Ideology and Discourses of Sexuality in Nigeria' (2004) Africa Regional Sexuality Resource Centre Understanding Human Sexuality Seminar Series 2 <http://www.arsrc.org/downloads/izugbara.pdf> 23 (accessed 14/02/15).

²⁴²As above 24 (accessed 14/02/15).

²⁴³As above 28 (accessed 14/02/15).

Christianity commands women to submit to their own husbands as unto the Lord.²⁴⁴ This command is often interpreted and used to emphasize the inferior status of the woman particularly in the home. Nigerian women are told that a true Christian wife should submit to her husband as her head.²⁴⁵ The man as the husband therefore uses his supposedly God-given authority as the head to perpetuate terror on any wife seen to be wanting.

Islam also demands strict submission of the woman to the lordship of the husband. The Koran supposedly ascribes to men a guardianship role over women that place them on inferior standing vis-à-vis men. This perceived God-given role makes men perpetuate violence on their wives. Gbadamosi alludes to the brutality that Nigerian women are exposed as a result of Islam and its attendant Sharia laws.²⁴⁶ However, he maintains that these holy books contain numerous references to gender equality and so where inequalities exist; it is based on a fundamentalist and out of context interpretation of a male dominated clergy.²⁴⁷ Most times, these beliefs stem from an inaccurate view of God where women experiencing DV tend to perceive such situations as fate or destiny. Thus, the effectiveness of the PADVL to curb DV is compromised by religious beliefs that emphasize the superiority of men over women.

Statutory marriages in Nigeria are generally believed to be under the legislative competence of the federal government whilst customary and Islamic marriages are usually under the preserve of state governments. According to the second schedule part 1 item 61 of the Nigerian Constitution, the federal government cannot intervene in marriages that have been contracted under Islam or the custom.²⁴⁸ In fact, it was this argument that was held by a former Attorney General of Nigeria when there were questions about the possible prosecution and legality of the 'marriage' of a former senator to a thirteen year old child.²⁴⁹ The argument of the then Attorney

²⁴⁴The Amplified version of the Bible, Ephesians 5 verse 22, 24 of states that "wives be subject (be submissive and adapt yourselves) to your own husbands as (a service) to the Lord". "As the church is subject to Christ, so let wives be subject to their husbands in everything."

²⁴⁵As above, Ephesians 5 verse 23 states that "for the husband is the head of the wife as Christ is the head of the church."

²⁴⁶Gbadamosi (n 83 above) 40.

²⁴⁷As above 36.

²⁴⁸1999 CFRN second schedule part 1 item 61.

²⁴⁹T Braimoh 'Child marriage in Northern Nigeria: Section 61 of Part I of the 1999 Constitution and the protection of children against child marriage' (2014) 14 *African Human Rights Law Journal* 486. There was a lot of uproar when former Senator Yerima married the thirteen year old daughter of his Egyptian driver. This makes mockery of his duties as a member of the legislature expected to make laws for the country.

General of Nigeria at that time was since the marriage had been contracted under Islamic rites, the federal government simply could not intervene.²⁵⁰

By virtue of item 61 of the Nigerian Constitution, the question then arises does it mean a woman resident in Lagos State married under Islam can be disciplined by her husband since in the Northern part of Nigeria, husbands are generally allowed to discipline their wives. This is given that most Islamic marriages are governed by the dictates of Sharia. As Zahn has noted most times religious laws like Sharia can operate outside of the structures and mechanisms of the state.²⁵¹ This means that it is possible for Muslims in Lagos to be following the dictates of Sharia even though it is not formally operational in this state. Thus, the effectiveness or the ability of the PADVL to intervene in DV cases that occur under marriages contracted under Islam could be questioned.

As Braimoh rightly argues, despite the existence of a national Child Rights Law prohibiting child marriage in Nigeria for instance, this practice remains prevalent particularly in Northern Nigeria because of religious beliefs.²⁵² Where the practice of child marriage is pervasive, DV is twice as likely to occur. This is because of the unequal power dynamics that exist between the usually older man and the child. Thus, adopting Braimoh's argument in this context, if despite the existence of a national law, child marriage is still excused for religious reasons particularly in Northern Nigeria;²⁵³ it can be argued that despite the existence of any DV law such as the PADVL or the more recent 2015 VAPPA, DV would probably still be excused in Nigeria for religious reasons.

The inferior traditional and familial functions and obligations that women are expected to perform in the Nigerian society encourages DV. Manjoo argues that certain discriminatory cultural and traditional practices create environments that are conducive to acts of VAW.²⁵⁴ Women's inferior roles have been traced to the patriarchal nature of the Nigerian society that emphasizes the superiority of men over women in every sphere including the family, political process and in all manners of decision making. As such, the inferior women and superior men roles have been given a naturalness and reification. Hence, a perceived failure to perform these traditional and customary functions that have been thrust on the women usually results in DV. This also explains

²⁵⁰ As above 486.

²⁵¹ Zahn (n 20 above) 77.

²⁵² Braimoh (n 249 above) 486.

²⁵³ As above 481.

²⁵⁴ Manjoo (n 30 above) 12 (accessed 12/03/15).

why Nigerian women justify DV. As such, it becomes difficult for the PADVL to intervene in exploitative social values like DV that have become deeply entrenched.

A link can be rightly drawn between DV and literacy. Nigerian women are disproportionately uneducated especially when compared to the men.²⁵⁵ It can be argued that uneducated women are more likely to be unaware and ignorant of the PADVL. Thus, if it is true that knowledge is power then most Nigerian women are powerless and it becomes difficult for uneducated women to properly utilize and engage with this law. How the PADVL intends to curb DV in the state is therefore questionable unless efforts are made to empower these women. Arguably, even where women are educated and empowered, exploitative patriarchal social values are still reinforced and socialized in homes and schools. Oji describes how textbooks in schools are used to reinforce male superiority and female inferiority.²⁵⁶ Consequently, the ability of the PADVL to curb DV on its own is questioned particularly where Nigerians have been socialised to accept DV as the norm.

Many Nigerians are poor and cannot afford the basic necessities of life. Nigerian women have been identified as poorer compared to men.²⁵⁷ Most women are still financially and economically vulnerable as widespread economic and social underdevelopment still characterizes the Nigerian state. According to Manjoo, poor women are at a greater risk of experiencing DV.²⁵⁸ DV is therefore still encouraged in Nigeria because many women remain economically and financially dependent on the men perpetrators. The economic dependency of (Nigerian) women on men continuously places them on an inferior position and invariably renders them susceptible to male violence. This suggests that as long as women remain poor and financially dependent on men, they will continue to suffer human rights violations especially within their homes. The PADVL is therefore limited on its own to curb DV to the extent that it is unable to provide sufficient structures and institutions that would ensure that most women become financially and economically independent.

²⁵⁵British Council's gender in Nigeria report (n 187 above) 32 (accessed 12/03/15).

²⁵⁶Oji (n 125 above) 95.

²⁵⁷Gender Equality Briefing Kit (2013)

http://www.ng.undp.org/content/dam/nigeria/docs/InclusiveGrwth/UNDP_NG_inclusiveGrwth_Gender-Briefing-Kit230513.pdf 23 (accessed 12/04/15).

²⁵⁸Manjoo (n 30 above) 17 (accessed 22/02/15).

The Nigerian media reinforces DV. The Nigerian film industry popularly known as Nollywood portrays films to Nigerians on a daily basis where DV is portrayed as the norm.²⁵⁹ The dominant patriarchal and cultural idea that men are physically, mentally and emotionally superior to women is exhibited through this medium. Although there have been attempts to make films that portray the ills of DV, these films are still very few and thus the greater number of home-grown movies in Nigeria still emphasizes negative stereotypes for women. Thus, the prevalence of movies that perpetuate DV in Nigeria proves the inability of the PADVL to curb DV on its own.

Nigerians generally have become so accustomed to a culture of violence. Unfortunately, Lagos State is not exempt from this violent culture. Violence has become part of the everyday lives of Nigerians mostly employed when resolving conflicts. This suggests that violent men who employ violent methods in public are more likely to exhibit such violence and its methods within the confines of the home. The long standing military rule as well as religious, ethnic crisis and the recent boko haram attacks have become so pervasive within Nigeria that women now perceive violence at home as normal. In a culture that justifies DV, there is no indication in the PADVL how it intends to shadow and monitor DV compliance. Thus, the culture of violence that has eaten deeply into the fabric of the Nigerian society illustrates the inadequacy of the PADVL on its own to curb DV in Nigeria.

The existence of a state law like the PADVL is undermined by the tripartite nature of the Nigerian law which renders curbing social evils like DV difficult. The confusion and contradictions that result from the tripartite system in Nigeria presents difficulties for women's rights generally and DV particularly.²⁶⁰ Customary and religious laws have more authority than Nigeria's secular law. Eze-Anaba has explained that although in principle the statutory law is supreme, in reality women's personal issues are governed more by religious and customary laws.²⁶¹ This suggests that where custom and religion dictate for instance the beating of women, this custom would most likely be obeyed than the PADVL that stipulates otherwise.

The culture of silence and the justification of DV as a reality of married life make it difficult for the PADVL to achieve its objective. This is because the PADVL can only be effective where the woman as the victim and the man as the perpetrator realize that DV is an offence. It becomes

²⁵⁹Yoruba films are examples of Nigerian movies that portray women as inferior to men and even depict acts of DV as the norm. See excerpts from films like 'ile olorogun' and 'ife gbona'

²⁶⁰UN Press Release 'Tripartite Legal System Hinders Progress Towards Gender Equality In Nigeria' (2004) 637th& 638th Meetings WOM/1427 <http://www.un.org/News/Press/docs/2004/wom1427.doc.htm> (accessed 15/03/15).

²⁶¹Eze-Anaba (n 2 above) 55.

extremely tricky for the PADVL to intervene in DV where the woman feels that it's acceptable and her husband is justified for hitting her. Nigerian women's reluctance to report DV cases presents a challenge for the PADVL. This is because the PADVL can only be effective to the extent that women are willing to report cases. However the fear of stigma and ostracizing usually prevent most women from reporting preferring to suffer DV in silence.

Lastly, the due diligence obligation to prevent acts of DV from occurring in the first place seems to be missing from the PADVL. The PADVL by virtue of its name suggest a sole intention to protect against DV. There is no clear indication on how acts of DV would be prevented from arising. This clearly is contrary to international recognized standards where prevention has been identified as key in efforts to curbing DV.²⁶²

3.5 Conclusions

This chapter has attempted to use the PADVL as a case study to answer whether law on its own is enough to curb DV in Nigeria. It is clear that although law is important, it is grossly insufficient on its own in attempts to curb DV in Nigeria. As highlighted above, despite the good intentions of the PADVL, its inadequacies and implementation shortcomings buttresses the need for a targeted gender sensitive and effective law in Nigeria that prohibits DV and is binding on all states without exception. This is imperative solely to set the minimum standards for the multifaceted approach that is strongly advocated for in this research. Consequently, beyond law, much more is needed if DV is to effectively curbed in Nigeria.

²⁶²Manjoo (n 61 above) 19 (accessed 15/03/15).

Chapter 4

4 Multifaceted factors necessary to curbing domestic violence in Nigeria

4.1 Introduction

This chapter argues that beyond just enacting any legislation on DV, there are societal, religious and cultural values as highlighted in the preceding chapter that make legislation on its own insufficient to curb DV in the country. As Gatang has rightly emphasized, for legislation to be an effective approach in curbing DV, it must contain measures that can be implemented and which can adequately deal with DV.²⁶³ She further noted that although effective legislation is crucial for protecting DV victims, it is merely a starting point for other effective measures to curbing this violence.²⁶⁴

As such, this chapter explores and engages with multifaceted factors that would not only aid the effective adoption and implementation of DV law in Nigeria but also beyond the law, how these factors can help curb DV in the country.

4.2 Why the need for a multifaceted approach to curbing DV

A multifaceted approach to curbing DV recognizes the fact that because there are many factors that contribute and perpetuate DV, the remedies to curb this violence would require and demand multifaceted strategies.²⁶⁵ Such an approach therefore explores factors beyond legislation that would not only make law effective and more responsive but would also help in curbing DV.²⁶⁶ As Manjoo has rightly argued this approach stresses the need for efforts to be concentrated on combating DV before it even occurs.²⁶⁷ Consequently, unless efforts are made to proactively deal with DV before it actually occurs, legislations as a strategy on their own would be grossly insufficient in efforts to curb DV.

Although, international and soft laws that address VAW including DV emphasize the need for states to enact legislation on VAW and DV, there is a growing realization that legislation alone tends to be reactive and not proactive. In GR 12 and 19 of CEDAW as well as the Maputo

²⁶³ Gatang (n 202 above) 417.

²⁶⁴ As above 419.

²⁶⁵ The United Nations Special Rapporteur on Violence against Women, its Causes and Consequences '15 years of the United Nations Special Rapporteur on violence against women, its causes and consequences (1994-2009): A critical review' (2009) (A/HRC/11/6/Add.5)

<http://www.ohchr.org/Documents/Issues/Women/15YearReviewofVAWMandate.pdf> 26 (accessed 15/03/15). See also, Manjoo (n 30 above) 12 (accessed 14/04/15).

²⁶⁶ Manjoo (n 30 above) 17 (accessed 15/03/15).

²⁶⁷ Manjoo (n 61 above) 6 (accessed 15/03/15).

Protocol for instance, states parties are urged to enact specific laws to tackle DV.²⁶⁸ However, these instruments recognize the fact that these legislations would have little or no impact without adopting other effective measures to ensure that VAW in the public and DV particularly is eliminated.²⁶⁹

Despite the existence of state laws such as PADVL that outlaw DV at the state level in Nigeria, there are clearly still implementation problems as demonstrated in the preceding chapter. It has been shown that even where there are legal sanctions against social ills like DV, these sanctions have little or no impact in an environment that continuously upholds social values that perpetuate this violence. A Department for International Development (DFID) report highlighted how changing societal values and cultures rather than imposing legal sanctions have proved to be more effective in not only curbing but also preventing social ills like FGM for instance in many countries.²⁷⁰

Manjoo describes how the due diligence standard has been criticized for its narrow and traditional response and remedy to DV.²⁷¹ According to her, this response to DV narrowly emphasizes the need for legislation, access to justice as well as provision of services for women victims of DV whilst ignoring the need to change structural and institutional causes and consequences of DV.²⁷² This could explain why states have traditionally tended to concentrate efforts strictly and solely on a law-centric response to DV. The problem with this kind of response is that where social norms that still encourage DV exist, it would still be difficult for women to access justice.²⁷³ Thus, despite the importance of legislation and service provision in curbing DV, efforts must move beyond these traditional actions to finding creative solutions that would deal decisively with DV.²⁷⁴

²⁶⁸General Recommendation made by the Committee on the Elimination of Discrimination Against Women General Recommendation 12 and 19 (n 171 above) paragraph 24 (b), (t), t(i), (u) and (v) (accessed 15/03/15).

²⁶⁹As above (accessed 16/03/15). These other measures include the need for provision of shelters for DV victims as well as trainings for relevant officials who would deal with VAW and DV.

²⁷⁰Department for International Development (DFID) practice paper 'A theory of change for tackling violence against women and girls' (2012) CHASE guidance note 1 https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/264401/VAWG-guidance-chase.pdf 8 (accessed 15/03/15).

²⁷¹Manjoo (n 61 above) 6 (accessed 13/04/15).

²⁷²As above 6 (accessed 13/04/15).

²⁷³Department for International Development (DFID) practice paper (n 267 above) 6 (accessed 15/03/15).

²⁷⁴L Michau 'Community Mobilization: Preventing Partner Violence by Changing Social Norms' (2012) EGM/PVAWG/EP.10 <http://www.unwomen.org/~media/headquarters/attachments/sections/csw/57/egm/egm-paper-lori-michau%20pdf.pdf> 1 (accessed 13/04/15).

The due diligence standard as regards DV has now been expanded to recognize the need for concrete actions to be taken to combat the structural and systemic barriers that cause and results in DV.²⁷⁵ State responsibility to act with due diligence in relation to DV now means that states not only have a traditional duty to prevent, protect prosecute and punish but also, states are now accountable to effectively address the root causes and consequences of DV.²⁷⁶ Thus, the necessity for a multifaceted approach that encourages the use of a variety of methods to tackle DV therefore becomes apparent.²⁷⁷

4.3 Multifaceted factors to be addressed in curbing DV in Nigeria

Given the inadequacies of the present Nigerian legal framework as regards DV highlighted in previous chapters, this section engages with multifaceted factors that that would help fulfil the due diligence obligations as regards DV and ultimately curb DV in Nigeria. These factors have been identified based on legal, cultural, religious and economic factors unique to Nigeria's local context

4.3.1 Effective and gender sensitive legislative framework on VAW including DV

A coordinated and comprehensive response to DV relies on the adoption of an effective gender sensitive legislative framework. The former UN Secretary General established the UNITE to end VAW in 2008.²⁷⁸ One of the main objectives of this UN agency is to ensure that by 2015, all UN member states commit to ending VAW including DV in their states.²⁷⁹ This commitment begins by enacting specific legislation on ending VAW including DV.²⁸⁰ However, despite growing momentum by countries globally to end VAW including DV through their legislations; Nigeria is one of a few countries yet to enact a specific legislation on this violence at the national level despite the prevalence of DV in the country. The Nigerian government therefore holds an obligation to adopt and prioritize DV legislation particularly at the national level.

The UN has compiled a report which provides guidance on how legislation on DV should be drafted.²⁸¹ According to the report, such legislative framework should have a well and clearly defined objective which includes following due diligence standards of preventing, protecting,

²⁷⁵Manjoo (n 61 above) 6 (accessed 13/04/15).

²⁷⁶As above 7 (accessed 13/04/15).

²⁷⁷Manjoo (n 30 above) 1 (accessed 15/03/15).

²⁷⁸United Nations Secretary General's Campaign UNITE to end violence against women <http://endviolence.un.org/about.shtml> (accessed 15/04/15).

²⁷⁹As above (accessed 15/04/15).

²⁸⁰Division for the advancement of women and Department of Economic and Social Affairs (n 198 above) 1 (accessed 15/03/15).

²⁸¹As above 1 (accessed 15/03/15).

punishing, prosecuting and providing services and compensation for acts of violence perpetrated against women in the private and public domains.²⁸² The report also emphasizes the need for all relevant stakeholders to be consulted when enacting such legislation.²⁸³ It also requires that such legislation must not only be evidence based but also be effectively monitored and implemented.²⁸⁴ Thus, in order for the Nigerian government to effectively curb DV in the country, it is not enough to merely adopt or enact legislation on DV at the national level. A mere legislation would have little or no impact in actually curbing or preventing DV in this country particularly if such a legislation is not specific, gender sensitive and effective.

For the Nigerian government to adopt such DV legislation at the national level that would actually help curb this violence there is the need to reform and harmonize the legal framework in Nigeria. This point was reiterated in a UN report where the tripartite, complex and confusing nature of the Nigerian legal framework has been identified as a major barrier to curbing DV in the country.²⁸⁵ This confusion stems from the fact that when rights are guaranteed in one legal system, these same rights could potentially be taken back by other existing legal systems in Nigeria. This argument was further buttressed in a due diligence report where the Nigerian government was urged to harmonize and unify its legal system so that rights for women in the country could be fully realized.²⁸⁶

Likewise, there is need for the repeal of all discriminatory laws that encourage all forms of VAW including DV in Nigeria. This point was stressed by the Committee on CEDAW in its concluding observations to Nigeria's 6th report. The Committee on CEDAW had urged the Nigerian government to draw up a timetable or timeline within which it expected to repeal all discriminatory laws towards its women.²⁸⁷ Discriminatory laws like the controversial section 55(1)(d) of the Northern Nigeria penal code which allow husbands to discipline their wives as long as it does not amount to grievous bodily harm amongst others must be repealed.

For any DV legislation to be effective at the national level in Nigeria; there is need to close the gaps that exist between international instruments and national laws in Nigeria. According to a 2006 UN report, VAW and DV is still prevalent globally largely because of the failure of

²⁸²As above 57(accessed 15/03/15).

²⁸³As above 57 (accessed 15/03/15).

²⁸⁴As above 58 (accessed 15/03/15).

²⁸⁵UN Press Release (n 260 above) (accessed 15/03/15).

²⁸⁶Stefiszyn and Kombo (n 66 above) 20 (accessed 15/03/15).

²⁸⁷Concluding Observations of the Committee on the Elimination of Discrimination against Women: Nigeria (n 56 above) 3 (accessed 12/02/15).

governments to implement internationally recognized standards.²⁸⁸ This include domesticating these instruments into national law as well as applying internationally recognized due diligence standards for acts of violence perpetrated against women particularly in private. This point had been reiterated by the Committee on CEDAW in its concluding observations to Nigeria's 6th CEDAW state report. It had urged the Nigerian government to speedily ensure the domestication and integration of CEDAW into national law.²⁸⁹ It had observed the many violations of women's rights in the country were as a result of the government failure to domesticate CEDAW and comply with its obligations in the instrument.²⁹⁰ A targeted gender sensitive and effective DV legislative framework advocated here is necessary to set the minimum standards for the multifaceted approach to curbing DV in Nigeria.

4.3.2 Adopting a National Action Plan (NAP) on eliminating VAW including DV

Legislation would have little impact on curbing DV particularly in Nigeria if there is no NAP to map out clear strategies and actions that the government intends to take to curb and prevent DV in the country. This point was stressed in a due diligence report where drafting a NAP on ending VAW and DV had been highlighted as a promising practice.²⁹¹ NAPs on ending VAW and DV are carefully articulated plans that spell out activities and strategies that a government wants to take to tackle VAW and DV. According to Stefiszyn and Kombo, NAPs provide a framework for remedies and interventions necessary to respond to the problem of DV.²⁹² The report further stressed how developing a NAP by any country showed the governments political will to curb DV.²⁹³ This is particularly when the NAP has adopted multifaceted and multi-sectoral approach to curbing the violence.

One of the objectives of the UN agency, UNITE Against Violence Against Women is to ensure that by 2015, all UN member states commit to ending VAW including DV by adopting NAPs in their states.²⁹⁴ This commitment can best be demonstrated by implementing a well-funded

²⁸⁸Report of the Secretary General 'Ending violence against women: From words to action' (2006) <http://www.un.org/womenwatch/daw/vaw/publications/English%20Study.pdf> 132 (accessed 15/03/15).

²⁸⁹Concluding observations of the Committee on the Elimination of Discrimination against Women: Nigeria (n 56 above) 6 (accessed 15/03/15).

²⁹⁰As above 6 (accessed 15/03/15).

²⁹¹Stefiszyn and Kombo (n 66 above) 20 (accessed 15/03/15).

²⁹²As above 20 (accessed 15/03/15).

²⁹³As above 20 (accessed 15/03/15).

²⁹⁴United Nations Secretary General's Campaign UNITE to end violence against women (n 278 above) (accessed 15/04/15).

NAP on VAW including DV.²⁹⁵ The UN has also compiled a report on a model framework for an effective and functional NAP that countries are expected to adopt to curb VAW including DV.²⁹⁶ Namibia for example is one of a number of countries that have adopted a five year National Plan of Action on Gender based Violence (2012-2016) where actions and strategies that would help curb and prevent all forms of gender based violence (GBV) including DV in the country have been outlined.²⁹⁷ Although, it is difficult to ascertain whether the adoption of this Plan has helped curb DV in Namibia but its adoption does demonstrate some commitment by the government to deal proactively with GBV and DV in Namibia.

Nigeria has a National Gender Policy (NGP) adopted in 2007.²⁹⁸ One of the key objectives of the NGP is to achieve gender justice and ensure discrimination against women is eliminated in the country.²⁹⁹ However, one of the problems with the NGP is it does not specifically address VAW and DV although; it can be implicitly interpreted since DV is a form of discrimination.³⁰⁰ However, the NGP has been described as a mere piece of paper that has no legal backing and the required teeth needed to eliminate discrimination against women how much more curb DV in the country.³⁰¹ Thus, it can be inferred that without a comprehensive NAP that carefully details plans or strategies to curb DV in Nigeria, DV legislation would be rendered ineffective.

To adopt an effective NAP that will help curb DV therefore, the Nigerian government should adopt a specific, well-funded NAP on eliminating VAW and DV. This NAP, following internationally recognised standards should outline specific strategies and interventions that the government intends to proactively implement within set timelines. Importantly, the NAP should be granted adequate legal backing binding on all states in Nigeria.

²⁹⁵As above (accessed 15/04/15).

²⁹⁶United Nations UNITE to end violence against women and UN women 'handbook for National Action Plans on violence against women' (2012)11 <http://www.un.org/womenwatch/daw/vaw/handbook-for-nap-on-vaw.pdf> (accessed 15/03/15).

²⁹⁷Ministry of Gender Equality and Child Welfare Republic of Namibia 'National Plan of Action on Gender Based Violence 2012-2016' http://www.na.undp.org/content/dam/namibia/docs/womenempowerment/undp_na_womenempowernt_National%20Plan%20of%20Action%20on%20GBV.pdf(accessed 12/03/15).

²⁹⁸National Gender Policy: Nigeria (2007)http://www.aacoalition.org/national_policy_women.htm(accessed 12/03/15).

²⁹⁹National Gender Policy: Nigeria (2007) http://www.aacoalition.org/national_policy_women.htm#iq_15 (accessed 12/03/15).

³⁰⁰As above (accessed 12/03/15).

³⁰¹The Nigeria CEDAW NGO coalition shadow report (n 95 above) 6 (accessed 12/03/15).

4.3.3 Increased representation of women in political and decision making processes

An increased representation of Nigerian women in all spheres of political and decision making is necessary in efforts to curb DV. Without an increased representation of women in political and decision making spheres, it will be difficult to not only enact DV legislation but also ensure its effective implementation. Even where such DV legislation is enacted, its impact as well as its ability to curb DV in the country would be limited and questionable. This is because according to a British Council report, policies made by men on behalf of women in Nigeria are inadequate as only women can best represent the interest of women.³⁰²

A promising practice Nigeria can learn from is Rwanda's quota system effectively employed to ensure an increased number of women representation in its Parliament.³⁰³ However, it could then be argued that an increased representation of women in the Rwandan parliament has not necessarily translated to reducing DV in that country.³⁰⁴ This suggests that an increase in women representation in political and decision making sphere might not necessarily guarantee that DV would be curbed. Nevertheless, whilst this could be true, it does not remove the fact that, to deny women who constitute more than half the Nigerian population an increased political and decision making platform in itself is fueling the inequalities that perpetuate DV. As Manjoo rightly notes, DV is a result of the discrimination against women in a male dominated political sphere.³⁰⁵

Anan highlights how challenging negative societal norms that encourage DV would require women to be politically empowered.³⁰⁶ If this is true, it is difficult to imagine how these negative norms that perpetuate DV can even be challenged in Nigeria considering the few women representation in the National Assembly.³⁰⁷ As such, if Nigeria's legislative arm particularly the National Assembly is male dominated, how women's issues can even be considered or prioritised in the country is questionable. Abayomi and Olabode link the fact that DV continues with impunity in Nigeria to the few numbers of women representation in political and decision making

³⁰²British Council's gender in Nigeria report (n 187 above) 58 (accessed 12/03/15).

The argument that women may not always represent women's interests is here acknowledged. However, this argument is flawed to the extent that for as long as women constitute about or almost half of a country's population; they deserve equal representation and where this is not done it potentially fuels the inequalities that could perpetuate DV.

³⁰³UN Women 'Framework for implementation of at least 35% affirmative action on women's political advancement and representation in democratic governance in Nigeria' (2013) 38.

³⁰⁴'A drive to beat Rwanda's gender-based violence' The Guardian November 2013

<http://www.theguardian.com/global-development-professionals-network/2013/nov/22/rwanda-gender-based-violence> (accessed 12/03/15).

³⁰⁵Manjoo (n 172 above) 14 (accessed 22/02/15).

³⁰⁶Report of the Secretary General (n 288 above) 122 (accessed 15/03/15).

³⁰⁷African Women's Decade (n 135 above) 98 (accessed 15/03/15). As highlighted earlier, only about 12% women were represented at Nigeria's National Assembly in 2014.

spheres.³⁰⁸ Thus, an increased representation of women in these spheres would help curb DV in Nigeria.

Nigeria's NGP provides for special measures including 35% quota system to encourage increased women's participation in politics by 2015.³⁰⁹ However as highlighted above, the lack of legal force coupled with the fact that most Nigerian women are not even aware of this Policy document makes its realization difficult.³¹⁰ In adopting an effective and functional quota system that would increase women's participation in the political and decision making sphere therefore, one possible option is strengthening the NGP to ensure that at least 35% quota system is no longer a voluntary measure but becomes a legal requirement at all levels and institutions in Nigeria.

4.3.4 Awareness raising campaigns

Efforts to engage in awareness campaigns that would challenge hegemonic patriarchal ideas reinforced in the Nigerian society is necessary to curb DV. According to Stefiszyn and Kombo, raising awareness is crucial in efforts to curb DV without which legislation would have little or no impact.³¹¹ For awareness raising to be effective, the message must be rightly drafted, the language and culture of the targeted audience must be well understood, creative and practical ideas must be adopted and these ideas must then be adequately funded to reach as many people as possible.³¹²

The People Opposing Women Abuse (POWA) in South Africa an example of a NGO that have engaged in effective local public awareness projects like poster campaigns and outreach programmes about DV from provinces to government levels.³¹³ Another promising practice that the Nigerian government can learn from is the Ndabezitha Izimbizo Project also in South Africa.³¹⁴ This project focuses on executing public awareness activities on DV particularly in the rural areas.³¹⁵ Through this project, people in the rural areas are targeted and awareness is raised on not only the ills of DV but also on the necessary laws that could be used to protect women from DV.³¹⁶

³⁰⁸Abayomi and Olabode (n 16 above) 57.

³⁰⁹National Gender Policy: Nigeria (2007) http://www.aacoalition.org/national_policy_women.htm#iq_15 (accessed 12/03/15).

³¹⁰The Nigeria CEDAW NGO coalition shadow report (n 95 above) 8 (accessed 12/03/15).

³¹¹Stefiszyn and Kombo (n 66 above) 22 (accessed 12/03/15).

³¹²Michau L and Naker D (eds) 'Preventing Gender-based Violence in the Horn, East and Southern Africa: A Regional Dialogue' (2004) Raising Voices and UN-HABITAT Safer Cities Programme 23.

³¹³POWA website <http://www.powa.co.za/projects/raising-her-voice.html> (accessed 12/03/15).

³¹⁴Stefiszyn and Kombo (n 66 above) 23 (accessed 12/03/15).

³¹⁵As above 23 (accessed 12/03/15).

³¹⁶As above 23 (accessed 12/03/15).

The Committee on CEDAW in its concluding observations to Nigeria's 6th CEDAW report had urged the government to engage in public awareness campaigns specifically on VAW including DV.³¹⁷ In adopting an effective awareness campaign project in Nigeria therefore, campaigns should aim to target men, women and children. This is given that awareness raising programmes that target both sexes have been identified to be crucial in efforts to curb VAW and DV.³¹⁸ Efforts should also be made to simplify relevant laws and human rights documents that could help protect women from DV into easy to read and understand English language including the three major languages in Nigeria and even Pidgin English.

4.3.5 Engagement with traditional leaders through community mobilization strategies

Mere legislation on DV without adopting effective community mobilization strategies on how to curb DV would have little impact in Nigeria. Michau highlights the need to go beyond short term awareness raising programmes to more long term and sustainable community mobilization strategies in attempts to end DV.³¹⁹ Community mobilization campaigns have been defined as long term strategies that seek social change by transforming attitudes and values.³²⁰ These strategies should involve working with members of communities to deal with root issues that promote DV.

Michau highlights specific guiding principles that are crucial in efforts to effectively mobilize communities against VAW and DV.³²¹ For him, community mobilization campaigns are effective in curbing DV where there is a realization that it is not enough to react only when DV occurs but it is crucial to adopt strategies that would prevent the violence from occurring in the first instance.³²² As such, primary prevention strategies that interrogate long term and sustainable root causes of DV should be implemented. Effective community mobilization strategies would also require that all members of communities be fully engaged in the mobilization campaigns rather than to narrowly focus on a particular group.

The Centre for Domestic Violence Prevention (CEDOVIP) an NGO based in Uganda for instance engaged an entire community in efforts to curb DV in the Kawempe division.³²³ Men were

³¹⁷Concluding observations of the Committee on the Elimination of Discrimination against Women: Nigeria (n 56 above) 5 (accessed 12/03/15).

³¹⁸Stefiszyn and Kombo (n 66 above) 22 (accessed 12/03/15).

³¹⁹L Michau 'Approaching old problems in new ways: Community mobilization as a primary prevention strategy to combat violence against women' (2007)15 *Gender & Development* 97.

³²⁰As above 97.

³²¹As above 98.

³²²As above 99.

³²³As above 106.

targeted in the community when there was an initial backlash by men who felt women were being given enormous power as a result of these campaigns.³²⁴ Subsequently, women were targeted when there was reluctance by women themselves to join the campaigns against DV.³²⁵ The necessity for community mobilization strategies to be adopted as a process that would eventually lead to social change rather than a haphazard implementation therefore, becomes apparent in attempts to curb DV.

From the above, if the Nigerian government is serious about curbing DV, it is clear that legislation is merely the starting point. There is a need for the Nigerian government to adopt long term awareness and effective community mobilization campaigns. For these campaigns to be effective there is a need to continuously expose community members to positive ideas against DV. According to Michau, people need to be continuously exposed to the idea that women are not to be violated from a range of different sources.³²⁶ When this is done and sustained, there is a higher likelihood for social change to occur.³²⁷ It is not enough for instance, to simply organise awareness campaigns on DV whilst leaving out other institutions like the media that could potentially and continuously perpetuate norms that encourage DV. Effective community based mobilization strategies must also be based on the human rights approach. The need for women to be protected against DV because they have rights must be emphasized. Arguably, this approach has higher chances of curbing DV than a sympathetic or a good will appeal or approach.

Community mobilization strategies to curbing DV have to consciously engage traditional leaders. There is a need for community members particularly the leaders to share a sense of ownership and not necessarily feel that these positive ideas are foreign.³²⁸ This is because these traditional leaders are usually the gate keepers of any community and they largely determine dominant cultural norms. Thus, there is a need for these leaders to buy into the positive idea that emphasizes the bodily integrity and dignity of women. This is to ensure a sense of ownership by the community where human rights norms concerning DV can be translated and vernacularized into the local culture.

The Nigerian government could therefore learn from the CEDOVIP in Uganda. Specifically, how this NGO used community mobilization strategies to curb DV over a four year

³²⁴ Michau and Naker (n 312 above) 22.

³²⁵ As above 32.

³²⁶ Michau (n 319 above)101.

³²⁷ As above 101.

³²⁸ As above 103.

period in the Kawempe division.³²⁹ The CEDOVIP engaged with the community on DV by allowing the campaign to be led and sustained by community members themselves. In addition, the Start Awareness Support Action (SASA) a community mobilization campaign initiated by the NGO Raising Voices Uganda is also a promising practice that Nigeria could learn from.³³⁰ This campaign targets communities and addresses VAW, DV and HIV with some reported success rates.³³¹

The involvement of traditional leaders in attempts to curb DV in Nigeria is crucial considering that Nigeria has over 250 ethnic groups with different cultural values. These traditional leaders are usually regarded as the gate keepers of culture and traditions. Thus, these leaders need to be actively involved in publicly condemning DV and propagating positive human rights norms that can be translated into the local cultures. These traditional leaders should employ community mobilization campaigns that would engage in counter hegemonic discourses and question patriarchal ideas that perpetuate DV like male child preferences etc. With such counter hegemonic discourses in the long term, it is highly likely that social change occurs and DV is significantly curbed in Nigeria

4.3.6 Engagement with religious and faith institutions

DV legislation would have little impact if religious and faith leaders and institutions are not included in the need to curb DV in Nigeria. According to Isanga, DV is not just a private matter; it is also a matter of spirituality as such the need to involve the church in efforts to curb DV.³³² As such, religious leaders have been identified as key allies in efforts to shift and challenge norms around VAW and DV.³³³ This is particularly true for Nigeria. There is a need to challenge patriarchal beliefs that are entrenched in these religious settings through a male dominated religious leadership. According to Abayomi and Kolawole, there needs to be a questioning of the traditional interpretation and misinterpretation of religious texts which reinforces the male superiority over the female and perpetuate DV if this violence is to be curbed in Nigeria.³³⁴ In fact,

³²⁹As above 106.

³³⁰Raising voices preventing violence against women 'SASA Campaign' <http://raisingvoices.org/sasa> (accessed 14/03/15).

³³¹As above (accessed 14/03/15).

³³²J Isanga 'Mulieris dignita tem, Ephesians 5 and domestic violence: Grounding international women's human rights' (2009-2010) 8 *Ave Maria Law Review* 419.

³³³Department for International Development (DFID) (n 267 above) 7 (accessed 15/03/15).

³³⁴Abayomi and Olabode (n 16 above) 57.

a due diligence duty on state government to challenge hegemonic misinterpretations of religious texts has been highlighted.³³⁵

There have been efforts from BAOBAB for Women Human Rights, a NGO in Nigeria for instance to engage with the Christian and Moslem religious texts to encourage an in-context interpretation of some of the religious texts that have been mis-(re)interpreted to perpetuate DV. This NGO has also held national discussions and dialogues involving religious leaders from the three major religions in Nigeria in efforts to curb DV in Nigeria. However, it could then be argued that these efforts have not necessarily translated into DV reduction. Even, if this assertion is valid, it does not change the fact that engaging with religious leadership is crucial in efforts to curb DV in Nigeria.

It is here argued that because NGO's efforts are usually short term and largely dependent on available resources, there is a need for the Nigerian government to take its due diligence responsibility as regards DV seriously. To do this, it must challenge the male hegemony in religion that promotes DV in the country through long term counter hegemonic discussions. Mere legislation on DV would achieve very little if the male dominated religious leadership and institutions do not carefully interrogate misinterpretations of religious text that perpetuate DV in Nigeria.

4.3.7 Involvement of men and boys

There is the need for men and boys who are considered the highest perpetrators of DV to be involved in efforts to curb this violence in Nigeria. According to a DFID report, involving men and boys can be a very useful and effective strategy in shifting attitudes and behaviours as regards VAW.³³⁶ Thus, unless, men and boys become crucial allies and part of efforts to curb DV, mere legislation would achieve very little.

Recent research has begun to appreciate and emphasize the importance of involving men and boys in challenging patriarchal and cultured norms that engender DV.³³⁷ This is buttressed by

³³⁵The United Nations Special Rapporteur on Violence against Women, Its Causes and Consequences (n 275 above) 41 (accessed 15/03/15).

³³⁶Department for International Development (DFID) (n 267 above) 10 (accessed 15/03/15).

³³⁷United Nations Division for the Advancement of Women and Department of Economic and Social Affairs (2008) 'Women 2000 and beyond The Role of Men and Boys in Achieving Gender Equality' <http://www.un.org/womenwatch/daw/public/w2000/W2000%20Men%20and%20Boys%20E%20web.pdf> 2 (accessed 14/03/15). The Centre for Human Rights at the University of Pretoria also seeks creative interventions and strengthens the capacity of people from civil society and government through its annual short courses on the role of men and boys in curbing GBV and DV.

the need to avoid a backlash against DV campaigns.³³⁸ Although backlash from men particularly is inevitable in DV campaigns, involving men and boys in these campaigns reduces the backlash drastically.³³⁹ For instance, Sonke Gender Justice, an NGO based in South Africa, have employed promising practices and campaigns where they involve men and boys in efforts to eliminate VAW including DV. An example of such campaigns is the ‘one man can campaign’ where this NGO engages with men and boys to question and challenge patriarchal ideas and masculinities that encourage and perpetrate VAW in South Africa.³⁴⁰ The white ribbon campaign is another example of a successful campaign involving men and boys in efforts to curb DV.³⁴¹ In the white ribbon campaign for instance, men and boys make pledges never to take part, perpetrate, condone or be silent about acts of DV and VAW.

Arguably, despite the involvement of men and boys in efforts to curb DV, it remains rampant. One argument attributed to this is that some men and boys campaigns have been overtaken by male dominated organisations that do not necessarily share feminists’ values and commitments to ending VAW and DV. Even if this argument is true, it does not remove the fact that involving men especially boys in the campaign to curb DV is crucial. Long term and sustained training of men and boys on DV as an unacceptable crime should be highlighted. Effective and functional coalitions and groups of men who share feminist values should then be formed and sustained at all levels in the Nigerian society.

4.3.8 Poverty reduction

Poverty has been identified as a major cause of DV. According to Manjoo, poverty increases the likelihood for violence and is drastically reduced when women have access to resources.³⁴² As such, Nigerian women who are financially and economically dependent are at a higher risk of experiencing DV. Consequently, merely enacting legislation without dealing with poverty or ensuring that women have access to resources and adequate standard of living would render such legislation ineffective no matter how well intentioned such a law might be. This is considering that as Anan explained to effectively challenge negative societal norms that encourage DV, women have

³³⁸World Health Organisation (WHO) (2005) ‘WHO Multi-country Study on Women’s Health and Domestic Violence against Women: Initial results on prevalence, health outcomes and women’s responses’ Geneva: World Health Organisation http://www.who.int/gender/violence/who_multicountry_study/en/ (accessed 14/03/15).

³³⁹Report of the Secretary General (n 288 above) 122 (accessed 15/03/15).

³⁴⁰Sonke Gender Justice ‘One Man Can Campaign’ <http://www.genderjustice.org.za/community-education-and-mobilisation/one-man-can/> (accessed 14/03/15).

³⁴¹Report of the Secretary General (n 288 above) 125 (accessed 14/03/15).

³⁴²Manjoo (n 30 above) 17 (accessed 15/03/15).

to be economically empowered.³⁴³ Manjoo also buttresses the need for efforts to be concentrated on the right to adequate standard of living in order to curb VAW including DV.³⁴⁴

A promising practice that the Nigerian government could learn from is the IMAGE programme in South Africa.³⁴⁵ In this programme, not only are women offered microfinance credit but these women are also offered 12 month training on issues relating to gender, VAW and HIV during their repayment meeting.³⁴⁶ As a result of this intervention, it was reported that within a year, there was not only a significant reduction in DV but also these women had acquired greater confidence in making informed decisions.³⁴⁷

Nigerian women are believed to be worst hit by poverty and inequalities in all sectors of the economy which makes them highly susceptible to DV.³⁴⁸ Consequently, if the Nigerian government is serious about curbing DV, efforts must be made beyond simply enacting a law on this violence to ensuring that poor women become able to afford the basic necessities of life. This includes providing economic support and incentives through micro finance credit. This facility should be accessible to all women coupled with providing long term sustainable vocational training and employment opportunities. Equipping women with vocational skills or employment opportunities as well as the provision of sufficient fund to assist women DV victims and potentially at risk women in volatile relationships to be financially independent becomes imperative.

4.3.9 Involvement of mass media

Legislation on DV would make little or no difference if the media is not involved in efforts to curb this violence. In order to challenge patriarchal and negative societal attitudes that promote DV in Nigeria there is a need to actively and consciously engage the media. This would elicit positive change in the way women are portrayed in electronic, print and social media. The new media has been identified as presenting enormous opportunities in preventing DV despite its challenges.³⁴⁹

³⁴³Report of the Secretary General (n 288 above) 34 (accessed 15/3/15).

³⁴⁴Manjoo (n 30 above) 17 (accessed 15/03/15).

³⁴⁵OECD Development Centre Policy paper (2013) 'Transforming social institutions to prevent violence against women and girls and improve development outcomes'
http://www.oecd.org/social/poverty/OECD_DEV_Policy%20Brief_March%202013.pdf 13 (accessed 15/03/15).

³⁴⁶As above 13 (accessed 15/03/15).

³⁴⁷As above 13 (accessed 15/03/15).

³⁴⁸British Council's gender in Nigeria report (n 187 above) 59 (accessed 15/03/15).

This report highlighted the various inequalities Nigerian women face in virtually all sectors of the society.

³⁴⁹Commission on the Status of women (CSW) 'Report of the Expert Group Meeting on Prevention of Violence against Women and Girls' (2012) EGM/PP/2012/Report

<http://www.unwomen.org/~media/Headquarters/Attachments/Sections/Library/Publications/2012/11/Report-of-the-EGM-on-Prevention-of-Violence-against-Women-and-Girls.pdf> 22 (accessed 15/03/15).

Although, the new media is a medium through which women and girls are sexually objectified daily, it still remains a powerful influencer of attitudes and norms around VAW including DV.³⁵⁰ This argument was buttressed by a World Health Organisation (WHO) report where effective campaigns delivered through mass and new media in changing attitudes around gender values was highlighted.³⁵¹

Anan highlights how a Tanzanian NGO in 1998 showed promising practice through television and radio media to vigorously campaign for a law to criminalise FGM in the country.³⁵² Mozambique has also reportedly started a campaign on VAW that would be shown through the television and radio media to strongly campaign against VAW.³⁵³ Soul City Institute for Health and Development Communication (Soul City), a NGO based in South Africa employs popular culture or edutainment strategies to create awareness on VAW and DV. Soul City for instance, has been partnering with three NGOs in Nigeria namely BAOBAB for Human Rights, Girls Power Initiative and the People and Youths living with AIDS to create awareness through a television series on the ills of DV and sexual harassment in the country.³⁵⁴ This series has recently started airing on the Lagos Television (LTV) Station in Nigeria.

The recent advent of social media has also been identified as a promising strategy through which the media can be engaged consciously in efforts to curb DV particularly in Nigeria. When over 200 girls were kidnapped from their school in Chibok, Northern Nigeria by the boko haram terrorist group for instance, a social media campaign 'bring back our girls' was launched by a former Minister in Nigeria. This campaign has gone viral globally and has been very effective in creating awareness on a range of issues including the violence perpetrated on women and girls.

In adopting effective media campaigns to curb DV in Nigeria therefore, the government should strengthen media accountability mechanisms that would effectively monitor the way women and girls are portrayed in the media. This includes ending the objectification of women and girls on the various forms of media. Also, using the Nigerian Nollywood, music industry and social

³⁵⁰As above 22 (accessed 15/03/15).

³⁵¹World Health Organisation briefing paper 'Violence prevention: the evidence promoting gender equality to prevent violence against women' (2009) http://www.who.int/violence_injury_prevention/violence/gender.pdf 6 (accessed 15/03/15).

³⁵²Report of the Secretary General (n 288 above) 124 (accessed 15/03/15).

³⁵³Stefiszyn and Kombo (n 66 above) 23 (accessed 12/03/15).

³⁵⁴The Soul City Television Series 4 on VAW was seen to be successful in changing norms on VAW in South Africa to a large extent. See 'Soul City evaluation results, integrated summary report' (2001) <http://www.soulcity.org.za/research/evaluations/series/soul-city/soul-city-series-4/integrated-research-results> (accessed 12/03/15). Thus, this kind of intervention is been replicated in Nigeria with the above NGOs in collaboration with Soul City and Oxfam.

media proactively to denounce DV and then formulate effective message to target negative values that perpetuate DV.

4.3.10 Inculcating peace education

Adopting legislation without concrete efforts to educate or re-educate Nigerians on the ills of VAW including DV would have little impact in curbing this violence in the country. Even where there is DV legislation unless this legislation is supported by positive education of the citizenry, the law would remain largely unknown and ineffective.³⁵⁵ The importance of re-educating Nigerians becomes obvious particularly as Oji has described how gender stereotypes and patriarchal norms that encourage DV have become so deeply entrenched in the Nigerian society.³⁵⁶ The educational curricula, teaching methods and school textbooks in the formal Nigerian school settings for instance, emphasize differential gender roles and functions for boys and girls that eventually perpetuate DV.³⁵⁷ It is unsurprising therefore that focusing on education institutions have been identified as a crucial first step in any attempt to curb VAW including DV in Nigeria.³⁵⁸

Isanga argues that changing mindsets and attitudes on DV requires measures beyond law to include implementing positive values into educational curricula.³⁵⁹ Thus, it is clear that beyond adopting a law on DV in Nigeria, there should be attempts to integrate gender equality and the ills of VAW and DV into the curricula at all educational levels. A WHO report also highlights how well articulated school programmes can help challenge patriarchal norms that perpetuate DV.³⁶⁰ The H/M programme that was reportedly initiated in some public schools in two states in Brazil corroborates this argument.³⁶¹ This education campaign on VAW and DV is believed to have influenced over two thousand teachers and about five thousand students in Brazil.³⁶² An evaluation exercise carried out on the programme showed impressive attitudinal change had occurred as regards VAW and DV.

³⁵⁵ German Federal Ministry for Economic Cooperation and Development ‘Strengthening women’s rights ending violence against women and girls –protecting human rights good practices for development cooperation’ (2005)Deutsche Gesellschaft für Technische Zusammenarbeit (GTZ) <http://www2.gtz.de/dokumente/bib/05-1048.pdf> 48 (accessed 12/03/15).

³⁵⁶ Oji (n 125 above) 95.

³⁵⁷ As above 95.

³⁵⁸ British Council’s gender in Nigeria report (n 187 above) 51 (accessed 15/03/15).

³⁵⁹ Isanga (n 332 above) 429.

³⁶⁰ WHO briefing paper (n 351 above) 6 (accessed 15/03/15).

³⁶¹ OECD Development Centre Policy paper (n 345 above) 12 (accessed 15/03/15).

³⁶² As above 13 (accessed 15/03/15).

Consequently, teachers, teaching materials and methods, collection of readings, educational handouts, brochures, slides, posters as well as videos that would draw students' attention to the ills of all forms of VAW should be employed and encouraged in the formal, semi-formal and informal school settings in Nigeria. Peace education initiatives must also begin from the home. Izugbara has rightly highlighted the socialization process that begins from the Nigerian home emphasizes patriarchal tendencies that usually encourages DV.³⁶³ It is therefore imperative for the socialization process at home to be re-oriented. Parents and guardians must begin to teach their children from an early age human rights norms and practices that discourage VAW and DV.

4.3.11 Training and building the capacity of key and relevant stakeholders involved in efforts to curb DV

Legislation would have little impact in curbing DV if the relevant stakeholders usually involved in DV cases are not properly trained in Nigeria. It has been stressed that simply enacting legislation would fail to reduce DV in any country in the absence of adequate, well qualified and trained health professionals, police officers, social workers and NGO workers.³⁶⁴ Stefiszyn and Kombo have highlighted that despite how crucial gender sensitive trainings for relevant stakeholders dealing with DV cases is, there are still widespread gaps particularly in African countries like Nigeria.³⁶⁵

There is often unwillingness on the part of governments to allocate adequate resources necessary to ensure long term, standardized and sustainable trainings.³⁶⁶ In fact, the Committee on CEDAW in its concluding observations to Nigeria's 6th CEDAW report drew the attention of the government to the need to ensure that the police, judicial officers as well as health service providers are trained to properly support victims.³⁶⁷ These trainings are vital especially where these relevant officials might likely share the patriarchal prejudices prevalent in a society making it difficult for them to offer the much needed help and support to DV victims.³⁶⁸ As a result, trainings need to be gender sensitive where these officials understand what concrete actions need to be taken to deal adequately with DV.

³⁶³Izugbara (n 241 above) 23 (accessed 14/02/15).

³⁶⁴German Federal Ministry for Economic Cooperation and Development (n 355 above) 40 (accessed 12/03/15).

³⁶⁵Stefiszyn and Kombo (n 66 above) 24 (accessed 12/03/15).

³⁶⁶As above 23 (accessed 12/03/15).

³⁶⁷Concluding observations of the Committee on the Elimination of Discrimination against Women: Nigeria (n 56 above) 5 (accessed 12/03/15).

³⁶⁸German Federal Ministry for Economic Cooperation and Development (n 355 above) 40 (accessed 12/03/15).

South Africa offers some promising practices in the number of training courses it offers on DV particularly for investigators and professionals working in the field. There is a one month family violence and child protection course available for investigators working on DV issues.³⁶⁹ About 250 investigators are also trained annually in South Africa.³⁷⁰ In ensuring effective trainings of stakeholders working in the DV field in Nigeria therefore, lessons can be drawn from South Africa in the form of the adoption of well-designed and formulated training courses where stakeholders can learn and relearn how to support DV victims and handle DV cases properly.

4.3.12 Political will

Political will is necessary in any effort to curb DV. Without sufficient political will from credible leaders in Nigeria, it will be difficult for DV to be curbed. The prevalence of DV globally particularly in countries like Nigeria have been linked to a lack of political will and commitment by the government to curb and deal decisively with this violence.³⁷¹ Thus, it can be inferred that where the government of a country displays adequate political commitment, not only would DV be drastically curbed but it would also be eventually eradicated.

Political will is usually expressed where the government makes clear commitment and efforts aimed at curbing and eliminating VAW including DV. This involves realising that VAW and DV is a serious security concern that affects women. Similarly, DV is prioritized when necessary and sufficient financial as well as other resources that are essential in efforts to curb this violence are allocated. This point was buttressed in a 2006 UN report where it was highlighted that government's genuine commitment to ensuring that DV is curbed is shown by the availability of a sufficient budget and resource allocation to tackle DV and ensure that women are safe in their homes.³⁷² A mere DV legislation cannot be effective without ensuring that the national budget is sensitive to the needs that curbing and preventing DV would require.

A correlation has been drawn between Nigeria's poor record of guaranteeing women's rights including protecting its women from acts of violence on the one hand and the existence of terrorists in Nigeria on the other hand.³⁷³ Thus, if the Nigerian government could rightly draw the links between its poor record of guaranteeing women's rights on the one hand and the existence of

³⁶⁹Stefiszyn and Kombo (n 66 above) 24 (accessed 12/03/15).

³⁷⁰As above 24 (accessed 12/03/15).

³⁷¹Report of the Secretary General (n 288 above) i (accessed 12/03/15).

³⁷²As above 21 (accessed 15/02/15).

³⁷³Mackinnon (n 159 above) 93.

these terrorists in the country on the other hand, it is likely to demonstrate more political will by taking concrete efforts to reduce this violence and treat this violence as a priority.

If the Nigerian government realised that ending VAW including DV could possibly and potentially reduce terrorism in the country; it would treat violence against its women particularly curbing DV with greater urgency. Unfortunately, research has shown that the Nigerian government is yet to give women's issues the required attention and priority it deserves.³⁷⁴ It is here argued that if the Nigerian government understands the huge financial, economic, political and human capital costs attached to its failure to deal decisively with violence; it would make greater efforts.

4.3.13 Provision of support services

Legislation would have little impact on curbing DV particularly in Nigeria if essential support services are not provided for DV victims as well as perpetrators of violence. According to a 2006 UN study; DV victims need to have access and be provided with essential support services.³⁷⁵ This was further buttressed in the very first case handled by the CEDAW Optional Protocol; *AT vs Hungary*. The Committee on CEDAW found the Hungarian government guilty of not taking the requisite due diligence standards as regards DV.³⁷⁶ The Committee on CEDAW argued that the Hungarian government had failed on its duty to protect by its failure to provide the victim with a safe home and shelter. There are a number of support services that are essential for DV victims. Examples of these services include shelters, legal aid, hotlines, welfare support etc. However, emphasis would be placed here on shelters for DV victims.

South Africa is an example of a country that has a wide range of support services for DV victims and survivors. According to Stefiszyn and Kombo, Nigeria with its large population only has 2 shelters owned by NGOs compared to South Africa with a relatively smaller population in comparison has about 60 shelters.³⁷⁷ Thus, it is clear that beyond adopting a law on DV at the national level in Nigeria; there should be attempts to establish safe shelters for DV victims. The Committee on CEDAW in its Concluding Observations to Nigeria's 6th report, called on the government to not only ensure the provision of support services including shelters for victims of DV but to also support, cooperate and fund NGOs that presently provide these services.³⁷⁸

³⁷⁴Abayomi and Olabode (n 16 above) 57.

³⁷⁵Report of the Secretary General (n 288 above) 94 (accessed 15/03/15).

³⁷⁶Communication No 2/2003(n 63 above) (accessed 12/02/15).

³⁷⁷Stefiszyn and Kombo (n 66 above) 30 (accessed 12/03/15).

³⁷⁸Concluding observations of the Committee on the Elimination of Discrimination against Women: Nigeria (n 56 above) 6 (accessed 12/03/15).

However, although the Lagos State Ministry of Women has now established one shelter for DV victims, this is grossly insufficient considering the prevalence of the violence in the country.

There is also the need for one stop centers, counseling and rehabilitation centers for victims of violence on one hand as well as perpetrators and at risk perpetrators who might have a greater tendency to inflict violence on the other hand.

4.3.14 Collection of data

Legislation on DV in Nigeria would remain unknown and ineffective without a comprehensive database on the prevalence, causes and consequences of this violence. According to a 2005 report because many countries still lack inadequate and unreliable data on VAW, this has led to adopting policies that have failed to deal decisively with the problem.³⁷⁹ Comprehensive collection of data on VAW and DV helps government to monitor and evaluate the impact of the interventions used in efforts to curb this violence.

Stefiszyn and Kombo have highlighted the necessity of collecting comprehensive data on VAW including DV.³⁸⁰ According to this report, data collection determines to a large extent the kind of interventions that could be used in curbing the violence.³⁸¹ According to a 2006 UN report, collection of data on the various forms of VAW could be a veritable tool in evaluating and monitoring how this violence affects and influences different groups of women.³⁸² This can include how VAW including DV affects women with disabilities, migrant and women refugees, older women or younger women as well as women from different ethnic groups.

According to Stefiszyn and Kombo, the Gender Based Violence (GBV) unit of the Ministry of Gender and Development in Liberia has adopted a promising practice of monthly and annual compilation of data on VAW and DV.³⁸³ Adopting a similar practice as Liberia for instance, the Nigerian government would need to develop a separate reporting category for DV cases. This would help the collection of evidence based data, ensure the adoption of right interventions as well as promote adequate evaluation of intervention impact in efforts to curb DV in Nigeria.

³⁷⁹German Federal Ministry for Economic Cooperation and Development (n 355 above) 33 (accessed 12/03/15).

³⁸⁰Stefiszyn and Kombo (n 66 above) 24 (accessed 12/03/15).

³⁸¹As above 18 (accessed 12/03/15).

³⁸²Report of the Secretary General (n 288 above) 66 (accessed 15/03/15).

³⁸³Stefiszyn and Kombo (n 66 above) 24 (accessed 12/03/15).

4.3.15 Establishment of a comprehensive and coordination mechanism

It is not enough to adopt legislation on DV but there is a need to establish a coordinating structure and institution that would oversee efforts to curb DV in Nigeria. Institutional mechanisms should be established to not only ensure the effective implementation of legislation but beyond that oversees the effective co-ordination of all efforts and strategies to curbing DV.³⁸⁴

The National Council on Gender Based Violence (NCGBV) in South Africa established in 2012 is an example of a promising practice that the Nigerian government could adopt.³⁸⁵ The NCGBV was established partially in response to the CEDAW's Concluding Observations to the South African CEDAW report.³⁸⁶ The Committee on CEDAW had noted that despite the fact that South Africa had very progressive laws and policies on VAW, this violence was still prevalent in the country.³⁸⁷ This situation was attributed to the absence of a structure and coordinating mechanism to oversee all strategies focused on curbing this violence in South Africa.

Part of the mandate of the NCGBV therefore was to be a multi-sectoral mechanism that would effectively co-ordinate all strategies and efforts including monitoring of efforts aimed at curbing gender based violence including DV in South Africa. The NCGBV was also mandated to assist the South African government with the adoption of a National Strategic Plan (NSP) on GBV.³⁸⁸ This included ensuring the effective implementation of this NSP in the country. Although, the NCGBV has now been suspended, the fact that there is an ongoing campaign to ensure that either a new mechanism is established or the NCGBV is re-branded to ensure that an NSP on GBV in the country is implemented is proof that such a mechanism is a necessity in attempts to curb DV.³⁸⁹

The Nigerian government could therefore learn by adopting a mechanism with a multi-sectorial mandate to co-ordinate all efforts geared at curbing DV in the country. In Nigeria, the proposed institution could work, partner and coordinate efforts from various ministries. These ministries could include ministries of women, education, finance, health, justice and office of statistics to harmonize efforts at curbing DV.

³⁸⁴As above 21(accessed 12/03/15).

³⁸⁵Commission for Gender Equality 'Expectations fulfilled: Evaluating the effectiveness of the National Council on Gender based violence Research report (2013) 13.

³⁸⁶Concluding observations of the Committee on the Elimination of Discrimination against Women South Africa 48th session CEDAW/C/ZAF/CO/4 <http://www2.ohchr.org/english/bodies/cedaw/docs/co/CEDAW-C-ZAF-CO-4.pdf> 6 (accessed 20/4/15).

³⁸⁷As above 6 (accessed 20/4/15).

³⁸⁸Commission for Gender Equality (n 385 above) 13.

³⁸⁹There has been recent campaigns for a NSP in South Africa

4.3.16 Involvement of Non-governmental Organisations (NGOs)

Legislation on DV in Nigeria would be grossly insufficient without the crucial role of NGOs. NGOs and civil society working in the VAW and DV field are crucial allies in efforts to curb VAW including DV.³⁹⁰ Usually, NGOs play an enormous role in efforts to curb DV. These roles include providing information, education, research advocacy, mobilization, service delivery, movement building and litigation, on VAW and DV.

NGOs have been crucial in the field of DV where the Nigerian government has been absent. As highlighted earlier, NGOs have not only taken the lead in providing research and statistics on DV but also provided essential support services like shelters for DV victims in the country. The importance and efforts of these NGOs in curbing DV in Nigeria was recognised by the Committee on CEDAW in its Concluding Observations to Nigeria's 6th report. The Committee on CEDAW therefore called on the government to continuously support, cooperate and fund NGOs working in the DV field.³⁹¹

4.4 Conclusions

From the above, it is clear that adopting DV legislation at the national level is crucial in efforts to curb DV. However, without engaging thoroughly with the non-exhaustive multifaceted factors discussed in this chapter, mere legislation would not only be ineffective but also fail to curb this violence in Nigeria.

³⁹⁰German Federal Ministry for Economic Cooperation and Development (n 355 above) 51 (accessed 12/03/15).

³⁹¹Concluding observations of the Committee on the Elimination of Discrimination against Women: Nigeria (n 56 above) 6(accessed 12/03/15).

Chapter 5

5 Conclusions and Recommendations

DV is a silent terror attack perpetrated on women in the privacy of their homes on a daily basis. As such, the need for the Nigerian government to take urgent and concrete steps to curb DV cannot be overemphasized. In attempts to curb DV in Nigeria therefore, this research has demonstrated that despite the importance of legislation, it is simply insufficient. This argument is clearly obvious given the defects and the tripartite nature of the Nigerian legal framework. This has also been proved through the lens of an existing DV legislation at the state level where the inadequacies and implementation challenges of a mere legislation on DV has been highlighted.

Consequently, the necessity for a multifaceted approach to curbing DV in Nigeria becomes not only glaring but imperative. The research has therefore highlighted and engaged with multifaceted factors that would be crucial in not only ensuring the effective implementation of a DV legislation but also contribute significantly to curbing DV in Nigeria. This research therefore makes the following recommendations.

There needs to be the adoption of an effective gender sensitive and specific DV legislation in Nigeria. This is necessary to set the minimum standards for the multifaceted approach that is advocated for. It is here acknowledged that as at the compilation of this research, the 2015 VAPPA was enacted into law. However, although it is too early to evaluate, this law as demonstrated from the PADVL falls short of what this research advocates for and more importantly fails to meet internationally recognised due diligence standards as regards curbing DV. The complexities in the Nigerian legal architecture highlighted in this research makes the adoption of a gender sensitive and specific legislation prohibiting DV binding on all states of the federation necessary if there is to be a serious attempt at curbing DV in Nigeria.

There is a need to follow the due diligence obligations of prevention, protection against, prosecution, punishment and providing reparations for acts of DV perpetrated on women. Beyond and apart from legislation, any serious attempt by the government to effectively curb DV should involve strong political commitment by proactively engaging with the non-exhaustive multifaceted factors discussed in this research in a coordinated manner. This is essential in order to deal with the systemic root causes of DV in Nigeria and prevent it from happening in the first instance.

Lastly, law cannot really curb a social ill like DV in Nigeria, there is therefore a need for continuous and consistent counter hegemonic discourses where Nigerians begin to see DV as a misnomer and unlearn negative values that perpetuate it. DV will likely remain ignored, justified and uncontrollable unless there are consistent efforts to legitimise and acknowledge women as human beings to be treated with dignity and not necessarily as animals. Such discussions need to start from the home without which mere enacting legislation on DV would remain largely ineffective at best and unknown at worst in Nigeria.

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