

**AN ANALYSIS OF DOMESTIC VIOLENCE IN MATRIMONY AND IT'S
SOCIOLOGICAL AND LEGAL IMPLICATION IN NIGERIA**

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**BEING A LONG ESSAY WRITTEN AND SUBMITTED TO THE FACULTY
OF LAW, UNIVERSITY OF BENIN, IN PARTIAL FULFILMENT OF THE
REQUIREMENTS FOR THE AWARD OF BACHELOR OF LAWS (LL.B)
DEGREE OF THE UNIVERSITY OF BENIN, BENIN CITY.**

OCTOBER, 2023

CERTIFICATION

I, **Aimalohi Tehillah SADO** (Mat. No. **LAW 1704807**) hereby certify that apart from the references made to other people's work as duly acknowledged herein, this entire project is the product of my personal research, and has neither in part nor in whole presented for another degree elsewhere.

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APPROVAL

We certify that this project work was completed and written by **Aimalohi Tehillah SADO** (Mat. No **Law 1704807**), in partial fulfillment of the requirements for the award of the Bachelor of Laws (LL.B) Degree of the University of Benin.

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DEDICATION

This long essay is dedicated to Almighty God, who in His infinite mercy has granted me the strength and wisdom to start and finish this project. It is also dedicated to my dearest mother, Unuigbokhai Omolegho Lysander, whose unwavering support and guidance has been instrumental in my journey. I am eternally grateful to her for all the love and care.

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The Violence Against Women Act, 2013

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DEVAW.	Declaration on the Elimination of Violence Against Women
FCT.	Federal Capital Territory
PTSD.	Post-Traumatic Stress Disorder
UNPFA.	United Nations Population Fund
WHO.	World Health Organization

ABSTRACT

Domestic violence in matrimony is a widespread issue that affects people globally. Throughout history, many cultures have accepted domestic violence as a normal part of life. In recent years, there has been a shift in recognizing domestic violence as a criminal issue in some places. However, it is important to note that in certain societies, like the Nigerian society, it is still culturally accepted. This study adopts a doctrinal method of research. It examined legal framework addressing domestic violence, highlighted the various forms of abuse that can occur within the households and its consequences. It further examines the factors that contribute to domestic violence and the legal framework put in place by the government to protect victims of domestic abuse as well as the punishments for offenders. Notwithstanding the extant legal regime, incidences of domestic violence has remained unabated. The study examined the prevalence of domestic violence in other jurisdictions.

Finally, this study concluded that domestic violence in matrimony is a global issue and it recommended immediate steps to be taken by the government agencies and other bodies to combat the menace of domestic violence in order to have peace and security in the society.

CHAPTER ONE

GENERAL INTRODUCTION

1.1 BACKGROUND TO THE STUDY

Violence at home has been seen throughout history.¹ In ancient Rome, husbands considered their wives as their property and had control over them.² Back in ancient Rome, the law allowed men to physically harm, divorce or even kill their wives for dishonoring them or posing a threat to their property.³ These actions were seen as private matters and were not subject to public scrutiny.⁴

The study is rooted in the recognition of domestic violence as a serious problem that is entrenched in many societies across the globe and Nigeria is not an exception. The issue of violence against women is widespread across the globe. Throughout history, domestic violence has been widely accepted in many cultures as a normal part of life⁵ In Nigeria it has been a cultural belief that domestic violence is socially acceptable as a disciplinary measure for women such as hitting. Domestic violence remains a prevalent issue in Nigeria and there are no signs of it decreasing.⁶ It has been recorded that cases of domestic violence are on a high rate, especially the physical aspect of it, that at least once a week, there is a case of a man beating his wife.⁷

¹ Jackie Davis, 'Domestic Abuse' *School of Law Enforcement Supervision Session* [2019] (17) 2 accessed 19 July 2023.

² Ibid

³ Ibid

⁴ Ibid

⁵ Aihie Ose, 'Prevalence of domestic violence in Nigeria; implications for counseling' *Edo Journal of counseling* [2009] (2) (1)

⁶ Tomi Grace Ogagboye and Elizabeth Ada Fesofo, 'Socio-Legal Approaches to Curbing Domestic violence in Nigeria' *International Journal of Comparative Law and Legal Philosophy* [2019](1)(1) 130 <https://www.nigeriajournalsonline.com/index.php/IJOCLLEP/article/view/1184> accessed 25 July 2023

⁷ Ijeoma Ibegbulam et al 'Combating Domestic Violence Against Women in Nigeria: The Role of Library and Information Science Professionals' *Library Philosophy and Practice E-Journal* [2022] 7310.

The Convention on the Elimination of All Forms of Discrimination against Women, adopted by the United General Assembly some 20 years ago is yet to fully take its course in Africa.⁸ Data collected from several Demographic and Health Surveys has revealed a high percentage of women who have experienced abuse from their spouse or partner.⁹ In Cambodia (18 %), Colombia (44 %), Dominican Republic (22 %), Egypt (34 %), Haiti (29 %), India (19 %), Nicaragua (30 %), Peru (42 %) and Zambia (48%).¹⁰ Reports from the Integrated Regional Information Network show that in Dakar and Kaolack in Senegal, women face physical violence from their partners and most of them do not admit it, while 60% seek help from family, but are often told to stay silent and endure the abuse.¹¹ The World Health Organization (WHO) multi-country study on women's health and domestic violence indicated that "in some parts of the world as many as one-half of women have experienced domestic violence. Although the degree differs from community to community and society to society, women have been preponderantly at the receiving end in approximately 95 percent of known cases."¹²

In Nigeria, there are alarming reports of a disturbingly high level of violence against women.¹³ According to Amnesty International reports, a third (and in some cases) two-thirds of women are believed to have been subjected to physical, sexual, and psychological violence carried out primarily by husbands, partners and fathers.¹⁴

⁸ Seth Christopher Yaw Appiah, 'Domestic Violence and its Effect on Women' *SSRN Electronic Journal* [2013] (10) 5
https://www.academia.edu/11514095/Domestic_Violence_and_Its_Effect_on_Women accessed 8th July, 2023.

⁹ Ibid.

¹⁰ Ibid.

¹¹ Fareo Dorcas Olufemi, 'Domestic Violence Against Women in Nigeria' *European Journal of Psychological Research* [2015](2)(1)

¹² United Nation Chronicle, Shattering the Silence of Violence Against Women (2002)35(1).

¹³ Ibid (note 11)

¹⁴ Ibid

More disheartening is the discovery that domestic violence is often reported or documented due to cultural influences.¹⁵

In 2019, a study conducted in Lagos revealed alarming rates and a rising trend of domestic violence, where 400 adult women (ages 18-73 years) who have been in an intimate relationship for at least one year participated in the study and the statistic of intimate partner violence was 73%.¹⁶

Different regions in Nigeria have conducted studies that reveal a wide range of intimate partner violence, ranging from 42% in the North, 29% in the South West, 78.8% in South East, and 41% in South South.¹⁷ In a 2004 research study conducted in two private antenatal hospitals in Lagos, the statistics showed that 80.1% of women who participated reported that they had been victims of domestic abuse.¹⁸ Among the 197 women who reported abuse, 11.7% experienced it for the first time during their current pregnancy, 49.2% experienced abuse before and during pregnancy, and the remaining 39.1% had experienced abuse prior to the current pregnancy.¹⁹ According to the research, the most common type of abuse reported was the verbal abuse which is 53.3%, followed by economic deprivation at 30%, physical abuse at 25%, threats of violence at 10.8% and forced sex at 14.2%. The perpetrators of the abuse were primarily husbands and boyfriends (78.7%), followed by in-laws (31.5%) and other relatives (6.1%)²⁰

¹⁵ Bernard Chine et al. 'Paranoid Indention and Anxiety as Correlates of Domestic Violence Among Married Police Officers' *Practicum Psychologia* [2016] (6) (1)
<http://journals.aphriapub.com/index.php/PP/article/view/141> accessed 6 October 2023

¹⁶ Aisha Morunhunfolo, Domestic Violence in Nigeria; The Laws and the Limitations (December 28th 2021).

¹⁷ Ibid

¹⁸ Ibid

¹⁹ Ibid

²⁰ Ibid

According to a study conducted by the Ministry of Women Affairs and Social Development and the United Nations Population Fund (UNPFA), it was found that 28% of Nigerian women between the ages of 25-29 have experienced physical violence since the age of 15.²¹

Violence against women in Nigeria is on the rise, with two out of every three women in certain communities experiencing violence within their families.²² A lot of women do not report the abuse because they feel ashamed that their marriages are not working and in Nigeria, divorce is often not seen as an option so many women suffer silently.²³

It is a huge human rights issue that often gets ignored or brushed off as important. Domestic violence has only started getting more attention in recent years, we are now finding out that the problem is way more widespread and awful than we ever imagined.²⁴ It is really confusing to see violence within families, after all families should be a safe haven from the pressures of the outside world. Until recently, domestic violence was seen as a trivial issue in Ghana so it did not get much attention or investigation which was due to the fact that because the authorities saw violence in the home as a private matter, so they did not give it much importance or attention.²⁵ Victims who reported their cases to the police were often discouraged and told to settle the issue at home with their partners, which was served as a warning sign for them.²⁶ There were many reasons for this, including the strong influence of the traditional settings and socio-cultural beliefs in Ghana; this was seen as something

²¹ Asia Morunhunfolo (note 16)

²² Ibid (note 11)

²³ Ibid

²⁴ Walker, *The Battered Woman* (Harper Colophon Books 1980) 5

²⁵ Ibid (note 8)

²⁶ Ibid (note 8)

that could not be avoided.²⁷ Violence in the home was seen as a small issue that did not deserve any investigation.²⁸

This research examines domestic violence as any form of aggression committed by a family member, especially the husband against the wife. However, it should be noted that domestic violence is not limited to men as perpetrators. Domestic Violence can take many forms, including physical aggression, or assault such as hitting, kicking, shoving, slapping, biting, torture, battery, throwing objects or threats, sexual abuse, controlling or domineering, intimidation, and economic deprivation.²⁹ Studies have shown that a lot of Nigerian couples are affected by this, which is why there has been more awareness and condemnation of the issue in recent years. According to Amnesty International in 2007, it is estimated that about one-third and in some cases even two-thirds of women have experienced physical, sexual and psychological violence, mostly from their husbands or partners.³⁰

Women are often the ones who suffer from domestic violence in marriage, this might be because society sees women as the weaker gender and men as the head of the family who must be obeyed hence they often stay silent because they depend on the male perpetrator economically and they fear poverty as well as losing their livelihood.³¹ Women are more at risk compared to men because they don't have the same access to prestige, power, control of resources and the freedom to obtain knowledge and basic needs.³² According to World Health Organizations (WHO) 96%

²⁷ Seth Christopher Yaw Appiah (note 8)

²⁸ Ibid

²⁹ Patrica Yahemba Iordya, *Influence of Domestic Violence on Academic Performance of public Secondary School Students in Benue State, Nigeria* (PhD thesis of the Faculty of Education University of Benin 2019)

³⁰ Ibid (note 5)

³¹ Ibid (note 29)

³² World Health Organization, *Multi-Country Study on Women's Health and Domestic Violence Against Women* (2005)

of reported assaults on spouses or ex-spouses are by men against women, and in every one in three women experiences domestic violence from their supposed protectors. Additionally, approximately one in five women encounters some form of violence during their lifetime, which can lead to severe injury or even death.³³ Many victims choose not to report rights violations due to fear of societal backlash, which can lead to condoning such violations. Therefore domestic violence continues to be a concealed and ongoing issue because of the abuser's power and control and the victim's intimidation and humiliation all contribute to this problem; hence it has gained attention from different disciplines, governmental bodies, religious groups and professional associations.

Domestic violence affects individuals of all ages, regardless of gender, ethnicity or socio-economic status. Although many cases go unreported because they often happen within the privacy of people's homes. It is a serious issue and it can have major consequences for everyone involved.

Domestic violence is a global problem that has a negative impact on families, societies and countries and it has a complex nature because it can manifest in different forms³⁴ This is the reason why many countries have enacted more laws to safeguard domestic violence victims and lessen its impact on them.³⁵ Nigeria is yet to have a national law but there exists laws in some few states in the country, such as Ebonyi State Violence against Persons (Prohibition) Law 2015, Protection against Domestic Violence Law of Lagos State 2007, Ekiti State Gender-Based Violence (Prohibition) Law 2014.

³³ Adebayo Abayomi, 'Domestic Violence and Death : Women as Endangered Gender in Nigeria' *American Journal of Sociological Research* [2013] (3)(3) 5
<https://www.academia.edu/download/89031607/showpaperpdf.pdf> accessed 17th July 2023

³⁴ Ibid (note 29)

³⁵ Ibid

The sociological and legal implications of domestic violence are complex and multifaceted. Sociological factors that contribute to the domestic violence include gender inequality, social norms and cultural beliefs that condone violence.

Domestic violence has its own legal implications so laws have been enacted as well as policy framework to address this issue. The law enforcement and judicial system have a role in responding to domestic violence.

This study is also motivated by the need to evaluate the effectiveness of existing legal frameworks and policies in addressing domestic violence and to propose recommendations for improving the current situation.

1.2 STATEMENT OF THE PROBLEM

Recently there has been high incidence of various forms of spousal abuse, like sexual violence, rape, courtship violence, acquaintance violence and spousal rape, wife battering, sexual harassment, verbal violence, emotional and psychological violence, economic deprivation, wife abandonment, acid baths, widow's dehumanization and bride price related violence.³⁶

It has been discovered that various forms of domestic violence exist in some family relationship and has degenerated into various marital problems among which are child negligent, communication gaps, destruction of property, divorce, separation and ultimately death. Based on this, this study is meant to determine the influence of domestic violence in family relationship among couples.

Here are some research questions;

1. What are the cultural and social factors that contribute to domestic violence in Nigeria?

³⁶ Ayesoro Sunday Adesina and Sunday Stephen Ojo *Perception of Spousal Abuse: The Bane of Family Stability in Nigerian Contemporary Society. A study of Lafia Local Government Area, Nasarawa State.*(Emerald publishing Limited 2022) 18

2. What are the challenges and barrier to addressing domestic violence in Nigeria?
3. What are legal and policy frameworks in Nigeria for addressing domestic violence?
4. What are the best practices and interventions for addressing domestic violence in Nigeria?

1.3 AIM AND OBJECTIVES OF THE STUDY

The aim of this study is to examine the prevalence of domestic violence in Nigeria and to analyze its sociological and legal implications. The study seeks to identify the causes of domestic violence, the effects of domestic violence on victims, and the effectiveness of existing legal framework and the policies in addressing domestic violence.

The objectives of this study are:

1. To examine the underlying causes of domestic violence in Nigeria
2. To examine the sociological and cultural factors that contributes to domestic violence.
3. To examine the effects of domestic violence on its victims.
4. To examine the legal frameworks and policies that is in place to address domestic violence.

1.4 SCOPE AND LIMITATION OF THIS STUDY

1.4.1 Scope

The Scope of the Study includes an analysis of domestic violence in Nigeria, with a focus on the sociological and legal implications of the issue. The study will cover the prevalence of domestic violence, the causes and effects of domestic violence, and the effectiveness of these legal frameworks and policies that are in place to address domestic violence and the effectiveness of this frameworks and policies. The study

will only examine domestic violence in matrimony and not other forms of domestic violence such as violence against children. This study will also look at domestic violence in other jurisdictions such as the United States of America and the United Kingdom.

For this research the researcher will examine primary sources such as legislations, regulations, conventions: Constitution Of The Federal Republic of Nigeria 1999 [as amended], Violence Against Person [prohibition] Act 2015, Protection Against Domestic Violence Law 2007, Ekiti State Gender-Based Violence Law 2014, Protection Against Domestic Violence Law of Lagos State 2007, Ebonyi State Violence Against Persons (Prohibition) Law 2015. The researcher will also consider secondary sources such as relevant articles published by scholars.

1.4.2 Limitation: This study will also be limited by the availability of data and information on domestic violence in Nigeria as well as the willingness of victims to come forward and share their experiences. Additionally, the study will be limited by the resources available to the researcher, including the time and funding, which may impact the depth and breadth of the analysis.

1.5 SIGNIFICANCE OF THE STUDY

The purpose of this research work is to critically examine the issue of domestic violence in matrimony in Nigeria and its sociological and legal implications. The significance of this study lies in the potential to contribute to the prevention and intervention of domestic violence in Nigeria as well as the factors that contribute to the problem. This project will provide important insights into the experiences of victims of domestic violence in Nigeria.

This study is also significant because it will evaluate the effectiveness of existing legal frameworks and policies in addressing domestic violence in Nigeria. This

evaluation can inform policy and practice in the areas for improvement in current legal and policy frameworks.

Furthermore, the study will shed light on the sociological and cultural factors that contribute to domestic violence in Nigeria. This information can be useful in the development of culturally sensitive prevention and intervention strategies that are grounded in the local context. It will also help to draw the attention of the government, private individual and cooperate bodies to accept the fact that violence from home has a proportional effect on society.

1.6 RESEARCH APPROACH/ METHODOLOGY

The method that will be adopted for this research work is the doctrinal legal research approach. It is a library-based research approach which involves sourcing for relevant materials analyzing and utilizing the information gotten to evaluate the research topic and make recommendations.

CHAPTER TWO

CONCEPTUAL AND THEORITICAL FRAMEWORK

2.1 MEANING OF DOMESTIC VIOLENCE

Domestic violence can be broadly defined as a pattern of abusive behavior by one or both parties in an intimate relationship, such as marriage, cohabitation, during or within the family. Domestic violence can happen to anyone regardless of age, race, sexual orientation, religion, or gender.³⁷ Domestic violence is also known as domestic abuse, spousal abuse, battering, family violence and intimate partner violence.

Domestic violence is that abuse (physical, sexual, verbal, financial and emotional) which occurs within the home. There are different ways to define domestic violence, but in general it refers to when someone is victimized by the person they have had an intimate, romantic, spousal relationship. Domestic violence is when one family member physically abuses others in the family.³⁸

Violence is when someone purposefully inflicts physical or mental harm on another person, causing pain or forcefully them to do things they do not want to do.³⁹

Domestic violence has been further defined as “any act perpetrated on any person in a domestic relationship where such an act causes harm or may cause imminent harm to the study, health and wellbeing of the person”⁴⁰

The United Nations defines violence against women as:

“an act of assault that results in or is likely to result in bodily harm or suffering to women including threats of such acts,

³⁷ Jain R, *Sociology: An Introduction to Sociology*, (AITBS Publishers 2012) 7

³⁸ Giddens A and Sutton P, *Sociology* : (Policy Press 2009).16

³⁹ Cusack, k et al *Violence against Women and Children*, in Ghana (Yemen Publishing Ltd 1999) 38

⁴⁰ Section 46, *Violence Against Persons (Prohibition Act) 2015*, section 46

compulsion, or arbitrary deprivation of liberty whether occurring in public or private life”⁴¹

Section 18 (g) of Lagos State Domestic Violence Law defines domestic violence to include physical abuse, sexual abuse, exploitation including but not limited to rape, incest, and sexual assault; starvation, emotional abuse and exploitation, denial of basic education, intimidation, harassment, stalking, hazardous attack including acid both with offensive 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 controlling or abusive behavior towards a complainant, where such conduct harms or may cause imminent harm to the safety, health or well-being of the complainant, deprivation against any person.⁴²

The Centre of Gender Studies of the Benue State University, Makurdi in a redrafted Bill on domestic Violence submitted to the Beune State House of Assembly in 2005 defined domestic violence in section 2 thus:

Domestic violence includes assault, battery, damage, to property emotional, verbal, sexual, and psychological abuse or exploitation, forceful entry into complainant's premises or residence, deprivation, stalking, starvation, occurring in or connected with a domestic relationship.⁴³

Black's law dictionary defines domestic violence as “violence between members of a house hold usually spouses, an assault or other violent act committed by one member of a household against another”⁴⁴

⁴¹ United Nations Declaration on the Elimination of Violence Against Women, Resolution (1993)48(104)

⁴² Ijeoma Ibegbulam et al ‘Combating Domestic Violence Against Women in Nigeria: The Role of Library and Information Science Professionals’ *Library Philosophy and Practice E-Journal* (2022) 7310

⁴³ George Genyi, ‘Family stability and National Development: The Challenge of Domestic Violence’ *The Journal of Family Development* (2008) 3.

⁴⁴ Black's Law Dictionary, 7th Edition

According to Oxford dictionary of law “domestic violence is physical violence on a person by their husband, wife or cohabitant.”⁴⁵

The Meriam Webster dictionary defines domestic violence as “the inflicting of physical injury by one family or household members on another, also a repeated/habitual pattern of such behavior.”⁴⁶

Article 2(a) of the United Nation Declaration on the Elimination of Violence Against Women (DEVAW) which was adopted by the United General Assembly in 1994, defines domestic violence as “ an act of physical, sexual and psychological violence whether they are in the family or the community”⁴⁷

The World Health Organization (WHO) defines domestic violence as:

Any behavior within an intimate relationship that causes physical, psychological or sexual harm including act of physical aggression such as slapping or hitting or constant belittling and humiliation, intercourse and other forms of sexual coercion, various controlling behavior such as isolating a person from family and monitoring their movement and restricting their access to information or assistance.⁴⁸

Domestic violence refers to violence within a household. It can be called domestic abuse, spousal abuse, battering, family violence and violence between current partners or former partners in an intimate relationship, regardless of where or when it happens. It is a situation where someone gains power by physical or emotional coercion and it is mostly

⁴⁵ Oxford Dictionary of Law, 6th Edition,

⁴⁶ Meriam Webster Dictionary, 7th Edition.

⁴⁷ United Nations Declaration on the Elimination of Violence Against Women, Resolution (1993)48(104)

⁴⁸ World Health Organization, Multi-Country Study on Women’s Health and Domestic Violence Against Women (2005)

seen by women and the violence can manifest as abuse or controlling behavior which tends to deteriorate become worse.⁴⁹

2.2 HISTORY/ EVOLUTION OF DOMESTIC VIOLENCE

Domestic violence has been present throughout history, even as far back as 753BC during Romulus's reign in Rome. Under the Laws of Chastisement, it was permitted to engage in wife beating.⁵⁰ According to these laws, the husband has complete authority to physically discipline his wife because the law holds the husband responsible for any crimes committed by his wife.⁵¹ During the 14th century, the Roman Catholic Church's Rules of Marriage encouraged Christian husbands to give their wives a good beating, not out of anger or spite but with the intention of benefiting both the man and his wife's spiritual growth.⁵²

In the 19th Century, people began to acknowledge domestic violence as a societal issue. This change happened as the middle class expanded and women became more engaged in social and political affairs⁵³ Before this time, it was widely accepted that husbands had the right to control their wives, considering them as their property. As a result, many legal systems deemed wife beating acceptable.⁵⁴

In Renaissance France, lawmakers decided to do something about domestic violence after witnessing its destructive consequences. They enacted a law that restricted the

⁴⁹ C.A Umobi and O. Ikpeze, 'Domestic Violence Against Women; Governments Laissez-Faire and Police Lackadaizw in Assumption of Jurisdiction: A minus on *Government's Nassarawa State University Law Journal* [2012] (5) 56

⁵⁰ Osagumwenro Aibueku, *A Comprehensive Study of the Law on Domestic Violence* (LLM Dissertation Faculty of Law University of Benin 2016)

⁵¹ Ibid

⁵² Ibid

⁵³ Smith Bonnie *The Oxford Encyclopedia of Women in World History* (Oxford University Press, 2008) 94

⁵⁴ Osagumwenro Aibueku (note 14)

severity of physical punishment to non-visible marks while still emphasizing the husband's authority over his wife.⁵⁵

A law was later enacted to supposedly protect women and children, allowing beatings as long as they did not result in death. Before 1980, the police often downplayed domestic violence situations or responded without providing meaningful intervention.⁵⁶ In 1871, an Alabama court made a ruling that abolished the right for men to physically harm their wives, marking a significant change.⁵⁷ In 1878, activist Frances Power Cobb wrote an article titled *Wife Torture in England* which brought attention to the issue of domestic violence against women and had an impact on public perception. Cobb advocated for abusers to be jailed and for families to receive alimony while the abuser was incarcerated. As a result of Cobb's campaign, the Wife Beaters Act of 1882 was passed, allowing courts to publicly punish offenders and impose longer prison sentences for repeated offenses.⁵⁸

Under the Common Law of England the term, it was believed that men could use a stick not wider than their thumb to discipline their wives, leading to the term "Rule of Thumb". In the past, people would be confined in a wooden frame with holes for their head and hands as a way of punishment.⁵⁹

In the 19th century, political activism brought about changes in public opinion and laws on domestic violence. In 1850, Tennessee took the lead by being the first US State to explicitly state that wife beating was illegal, followed by other states. In 1878, the Matrimonial Causes Act gave women the right to legally separate from abusive husbands. By the late 1870s, most US courts disagreed with the idea of husbands

⁵⁵ Ibid

⁵⁶ Ibid

⁵⁷ Fulgham v The State [1871] 46 Ala. 143, 1871 WL 1013

⁵⁸ Ibid (note 14)

⁵⁹ Osagumwenro Aibueku (note 14)

physically disciplining their wives. In the early 20th century, police involvement in domestic violence cases increased in the US, but arrests were still uncommon.⁶⁰

In the 1950s and 1960s, civil rights and anti-war movements laid the foundation for the feminist movement. As women made advancements in the 1970's, spousal abuse became a focal point within the feminism movement and women's right. The term 'domestic violence' was first used in a modern sense during a speech to the UK parliament. That same year, Women's Aid, the world's first federation of domestic violence services, was founded in England.⁶¹ In the 1990s, as the women's movement gained momentum, there was increased focus on domestic violence. In the US, the battered women's movement emerged, drawing support from existing women's liberation, women's health and anti-rape movements.⁶² In 1973, the first battered women's shelter, Women's Advocates, opened in St. Paul, Minnesota. However, it was not until 1984 that a similar bill, The Family Violence Prevention Service Act, was successfully passed through parliament⁶³

In recent years, there has been strong movement to stop domestic violence from going unpunished. Previously it was often justified as a private matter. The Istanbul Convention, the first legally-binding agreement in Europe on domestic violence and violence against women, aims to eliminate the acceptance of such violence in both law and practice.⁶⁴

⁶⁰ Ibid

⁶¹ Ibid

⁶² Ibid

⁶³ Ibid

⁶⁴ Ibid

2.3 FORMS OF DOMESTIC VIOLENCE

The definitions of domestic violence show that domestic violence can manifest in different forms. The forms of domestic violence range from physical, sexual, psychological, economic and cultural abuse.

2.3.1 Physical Abuse

Physical abuse is when someone intentionally inflicts pain, injury, other physical suffering or bodily harm. It is the use of physical force on someone in a manner in a way that causes harm or puts someone in danger. Physical violence refers to any action where someone purposefully uses force against another person's body, putting them at risk of physical injury, harm or pain.⁶⁵

There is a wide range of behaviours that fall into category of physical abuse, some of them includes; hitting, choking, slapping, punching, confinement, biting, grabbing, throwing things, and assault with a weapon. In Nigeria, physical abuse is one of the most common forms of domestic violence that occurs.⁶⁶

There have been instances where physical abuse has led to the tragic death of the victim, as reported in many cases. A very recent case was that of popular gospel singer Osinachi Nwachukwu who was a victim of physical abuse which led to her death.⁶⁷ In the case of *Kunbun v Bauchi Native Auhtority*, the appellant caused the death of the deceased by hitting him with a one meter long stick, resulting to his death. He was convicted of causing death even though he meant to cause harm and he was sentences to 5 years imprisonment.⁶⁸

⁶⁵ Dutton M.A, *Women's Response to Battery: Assessment and Intervention* (Springer 1992) 21

⁶⁶ Ibid (note 6)

⁶⁷ Tsa G, 'Osinachi's Death: Court remands Husband, Nwachukwu in Kuje Prison' *The Sun* (Lagos, 3 June 2022) <http://www.sunshineonline.com/osinachis-death-court-remands-husband-nwachukwu-in-kuje-prison/> accessed 1st august 2023.

⁶⁸ *Kunbun v Bauchi Native Auhtority* [1963] NNLR 49

The World Health Organization reports that 40% -70% of women's murders are caused by domestic violence or physical abuse from their partners.⁶⁹

2.3.2 Sexual Abuse

This includes all forms of sexual assaults, harassment or exploitation. It involves forcing a person to participate in sexual activity. The 2018 Nigeria Demographic and Health Survey showed that 30% of the females between 15 and 49 years of age have faced sexual violence.⁷⁰ It is unfortunate that many cases of sexual abuse within the marriage in Nigeria often go unreported due to the belief that any sexual act between a husband and wife cannot be considered abusive.

In *Alausa v Odusote*, the court held that if a husband uses force or violence to have sex, he could be charged with assault or causing injury, however, he may not face the full extent of the law.⁷¹

2.3.3 Economic Abuse

Economic abuse is also known as financial abuse. It is a pattern that aims to exercise control, exploit, or restrict someone's access to financial resources, ensuring their financial dependence.⁷² This can involve taking money or deceiving a loved one, like food and medical care, manipulating or exploiting a withholding funds for necessities family member for financial benefit and controlling their employment choices.⁷³

2.3.4 Psychological Abuse

Psychological abuse is also known as emotional abuse. Psychological abuse involves actions intended to have an emotional impact on the victim. Psychological violence

⁶⁹ Ibid (note 6)

⁷⁰ Ibid

⁷¹ *Alausa v Odusote* [1941] WACA, 140

⁷² Osagumwenro Aibueku (note 14)

⁷³ Kehinde Maculay 'Assessing Domestic Violence in Nigeria' *Texila International Journal of Academic Research* [2016] (3)2

involves making threats towards a person or their belongings, as well as undermining their self-worth, which can lead to serious behavioural, cognitive, emotional or mental issues.⁷⁴ Psychological violence involves actions which restrict a person's freedom, autonomy and self-esteem. This can involve repeated verbal abuse, harassment and threats.⁷⁵

People often overlook domestic violence if it does not involve physical harm, but emotional abuse can have lasting and profound effects.⁷⁶ You cannot see emotional injuries, which is the hurt someone feels inside when attacked by a supposed loved one.⁷⁷ All of these things make the victims feel disturbed, making it difficult for them to carry on with their normal lives due to fear and nervousness.⁷⁸

2.3.5 Cultural Abuse

Cultural abuse happens when abusers exploit a victim's culture, identity of spirituality to cause suffering or gain control. Some cultural abuses include misusing the traditions, practices and expectations of the spiritual or cultural community to which the victim belongs as a means to normalise or suppress abusive behaviours, silence the victim, or prevent the victim from seeking support and help.⁷⁹

⁷⁴ Osagumwenro Aibueku (note 14)

⁷⁵ Ibid

⁷⁶ Ibid

⁷⁷ Ibid

⁷⁸ Ibid

⁷⁹ Ibid (note 6)

CHAPTER THREE

SOCIOLOGICAL IMPLICATIONS OF DOMESTIC VIOLENCE

3.1 Domestic Violence in Nigeria

The violence against women in Nigeria has its origins in event that occurred before the colonial era.⁸⁰ The different groups that eventually came together as one nation shared a patriarchal system that marginalized women socially and politically.⁸¹ However, it is important to note that these circumstances were rare, and women were never considered equal to men in terms of status.⁸² Men held dominant positions in both the cultural and socio-economic aspects, often exerting repressive control.⁸³ In various Nigerian societies, including Hausa, Igbo and Yoruba, women were viewed as the “property” of men. They were expected to conform to roles and conditions that served the interests of their male and masters and owners.⁸⁴ It was into this imbalanced system of gender power dynamics that colonialism entered.⁸⁵

In Nigeria, domestic violence is unfortunately common, with spouses often inflicting harm on each other and women are often the victims in these cases.⁸⁶ It is worrying that there is a cultural belief in Nigeria that allows husbands to use physical discipline

⁸⁰ Shola Omotola and Saheed Aderinto, ‘Domestic, Community and State-Sponsored Violence in Nigeria’ in David Wingeate Pike (eds) *Crimes Against Women* (Nova Science Publishers, Inc. 2011) 146-151.

⁸¹ Ibid.

⁸² Eno Ikpe, ‘The Historical Legacy of Gender Equality in Nigeria’ in Solomon Akinboye (ed) *Paradox of Gender Equality in Nigeria Politics* (Lagos: Concept Publication, 2004) 21.

⁸³ Ibid (note 1) .

⁸⁴ Ebenezer Lawal and Ronke Ojo ‘Politics of Gender Inequality in Nigeria’ in Emmanuel Ojo (ed) *Challenges of Sustainable Democracy in Nigeria* (Ibadan Nigeria: John Archers Publishers, 2006) 246-330.

⁸⁵ Ibid.

⁸⁶ Paul Atagamen Aidonojie, et al., ‘The Causes of The Rising Incidence of Domestic Violence in Nigeria: Proposing Judicial Separation as a Panacea’ [2023] 38/2 <http://jurnal.unisula.ac.id/index.php/.jurnalhukum/article/view/21592> accessed 20 September 2023.

on their wives.⁸⁷ Incidence of domestic violence cases in Nigeria includes battery, torture, beatings, choking, rape, acid baths, and then resulting in the victim's death. According to Project alert in 2001, in a survey on violence against women conducted interviews with women in the markets and other places of work and girls and young women in secondary schools and universities, in Lagos State, Nigeria.⁸⁸ The common forms of abuse reported were shouting at a partner (93%), slapping or pushing (77%), and punching and kicking (40%).⁸⁹ Similar interviews carried out in Oyo State and other parts of Nigeria yielded similar results.⁹⁰

Domestic violence occurs in all segments of the society, affecting people from various backgrounds. It affects everyone, regardless of the education, religious beliefs, career choices, marital status, as well as all ages.⁹¹ Domestic violence is a prevalent issue in Nigeria and unfortunately, it does not seem to be abating.⁹²

Traditionally in Nigeria, like in many other African countries, it is common for the beating of wives and children to be accepted as a form of discipline.⁹³ Therefore parents believe that by beating their children, they are teaching them discipline so similarly, husbands view their wives as prone to indiscipline and believe that beating

⁸⁷ Ibid.

⁸⁸ Aihie Ose, 'Prevalence of Domestic Violence in Nigeria: Implications for Counseling.' *Edo Journal of Counselling* [2009] (2) 1 <https://www.ajol.info/index.php/ejc/article/view/52648/41252> accessed 19 July 2023.

⁸⁹ Ibid.

⁹⁰ Ibid.

⁹¹ Obagboye Tomi and Feoshi Elizabeth 'Socio-Legal Approaches to Curbing Domestic Violence in Nigeria' *IJOCLLEP* 2019 (1) 1. <https://www.nigerianjournalsonline.com/index.php/IJOCLEEP/ARTICLE/VIEW/1184> accessed 25 July 2023 .

⁹² Ibid.

⁹³ Adebayo Anthony Abayomi, 'Sociological Implications of Domestic Violence on Children's Development in Nigeria' [2014] 6/1 <https://academicjournals.org/wp-content/uploads/2014/12/DOMESTIC-VIOLENCE-AGAINST-WOMWN-IN-NIGERIA.pdf> accessed 20 September 2023.

them will curb it.⁹⁴ In a society where women are financially reliant on men, their position is often subordinate due to patriarchal norms.⁹⁵ Regardless of the woman's economic dependence, her position, along with that of the children, remains subordinate.⁹⁶

In local communities, domestic violence is often seen as something that happens to women who nag, disobey, or challenge the man's authority as the head of the household.⁹⁷ Some people view domestic violence as a way for a man to release his anger or frustration on his wife or children, treating them as lesser beings.⁹⁸ Women are often seen as subordinate to men, with a patriarchal structure in place.⁹⁹

In Nigeria, violence against women in the home is often seen as a private matter and not subject to outside scrutiny.¹⁰⁰ There is a culture of silence that places stigma on the victim instead of holding the perpetrator accountable.¹⁰¹ This results in victims not wanting to report due to fear of retaliation or lack of confidence in the police and judicial system.¹⁰² It is often reported that the police dismiss domestic violence

⁹⁴ Ibid.

⁹⁵ Ibid (note 9).

⁹⁶ Ibid.

⁹⁷ Obagboye Tomi and Feoshi Elizabeth 'Socio-Legal Approaches to Curbing Domestic Violence in Nigeria' *IJOCLLEP* 2019 (1) 1
<https://www.nigerianjournalsonline.com/index.php/IJOCLLEP/ARTICLE/VIEW/1184> accessed 25 July 2023

⁹⁸ Ibid.

⁹⁹ Ibid (note 13).

¹⁰⁰ Musa Salifa and Yunusa Musa 'Theatre for Development as a Competent Vehicle for the Eradication of Domestic Violence against Women' *Tropical Journal of Art sand Humanities* [2013] (5) (1) 66-73 .

¹⁰¹ Hadiza Yakubu 'Boko Haram Insurgency and Violence against Women in Northern Nigeria' *IDOSR* <https://www.idosr.org/wp-content/uploads/2020/08/IDOSR-JHSS-51-95-99-2020-Had.pdf> accessed 15 July 2023.

¹⁰² Ibid (note 13).

complaints as “private matter” so as a result, many cases of violence against women go unreported because victims choose to suffer silently.¹⁰³

In Nigeria, the society is very patriarchal and some men have inflated egos. Domestic violence against women is prevalent, leading to the deaths, brutalization and lifelong harm of many women by violent men.¹⁰⁴ Men can also experience domestic violence from their intimate partners and it is important to recognize that violence can affect anyone, regardless of gender.¹⁰⁵ However, it is important to acknowledge that domestic violence against men is also a significant issue, although it is rare and tends to be underreported.¹⁰⁶

The under-reporting of domestic violence is a widespread problem, and it can be attributed to the sensitive nature of the subject.¹⁰⁷ Physical violence such as husband punching, slapping, kicking, nail scratching, sex deprivation and killing are realities that occur in Nigeria.¹⁰⁸ Men facing this situation often feel compelled to hide and stay silent due to concern about their ego and fear of ridicule in a patriarchal society.¹⁰⁹ “I was beaten by my wife” is a misnomer! In a society that prioritizes male ego, it is rare to hear about such situations openly discussed, so as a result men often choose to endure their suffering silently until it reaches a critical point, potentially endangering their lives.¹¹⁰

¹⁰³ Ibid .

¹⁰⁴ Anthony Adebayo ‘Domestic Violence against Men: Balancing the Gender Issues in Nigeria’ *American Journal of Sociological Research*[2014(4)(1)14-19 <https://citeseerx.ist.psu.edu/document?repid=rep1&doi=0ecc12ccb36491425c9c607d2fdfe2077574c762> .

¹⁰⁵ Sugg N.K, et al, ‘Domestic Violence and Primary Care Attitudes, Practices and Beliefs’ *Archives of Family Medicine* [1999] (8) 301-306.

¹⁰⁶ Ibid (note 25).

¹⁰⁷ Ibid.

¹⁰⁸ Ibid.

¹⁰⁹ Ibid.

¹¹⁰ Ibid.

3.2 THEORIES ON THE CAUSES OF DOMESTIC VIOLENCE

Many theories are associated with the causes of domestic violence. Some researchers focus on biological factors such as genetics or brain functioning, while others examine the socialization and cultural factors. No one theory can fully explain the causes of domestic violence and also provide a reason for battered women continuing with the relationship.

3.2.1 Psychological Theory

Early psychological theories focused on the individual characteristics of violent men and women. Psychological profiles of men who batter and the women who were battered, were developed in the early days of research on domestic violence.¹¹¹ Some posit that both the abuser and victim have some pathological traits. According to psychological theory domestic violence results from specific characteristics of personality and interaction that lead some individuals to perpetrate violence in family relationship.¹¹² According to this theory personality disorders or early experience of trauma predispose some individuals to violence. Being physically abusive is seen as a symptom of underlying emotional problems. Parental abuse, rejection and failure to meet a child's dependence needs can be psychological source of battering. People with the underlying problems may choose partners with whom they can re-enact the dysfunctional relationship, which they had with their parents.¹¹³

3.2.2 Social Learning Theory

This theory which was developed by Albert Bandura asserts that human aggression and violence are learned conduct through direct experience by observing the

¹¹¹ Rosebaum A and Hoge Sk, 'Head injury and marital aggression' *American Journal of psychiatry* [1989] (1) 146.

¹¹² Ibid.

¹¹³ Ibid.

behaviours of others and through imitation.¹¹⁴ Social learning theory is based on behaviorism which proposes that people model their behaviour on the behaviour of those around them¹¹⁵. It proposes that the abuse is learned behavior due to witnessing or having a victim of abuse in their family of origin¹¹⁶. This process can be seen in the development of language, aggression and moral decision making.¹¹⁷

3.2.3 The Feminist Theory

This approach emerged during the decade of 1970s when women's movement was on its height. The theory looks upon violence as male coercion of women. Feminist's theories believe in the feminism which means a movement for complete equality between men and women in every way.¹¹⁸ The forms of violence may vary from each other like various forms of violence are rape, sexual assault, female infanticide, marital rape and female circumcision etc.

This theory believes that domestic violence prevails due to unequal power relations of men and women in the society and the family. Feminists theorists never use the term such as 'family violence' 'spousal rape' 'marital violence' and 'conjugal violence' rather they advocate terms such as 'wife beating' 'domestic violence' 'battered woman' and 'women abuse' to depict the phenomenon of domestic violence.¹¹⁹

3.2.4 The Family System Theory

This theory emerged during the decade of 1960s to 1980s when more and more scholars and researchers began to understand and analyse domestic violence from a

¹¹⁴ Sunitha P, 'Domestic Violence and Theories' *International Journal of Research in Economics and Social Sciences* [2016] 6 (12), 211

¹¹⁵ Ibid.

¹¹⁶ Ibid.

¹¹⁷ Maren E. Hyde-Nolan and Tracy Juliao, *Theoretical Basis for Family Violence* (Jones and Bartlett Learning 2013) 14.

¹¹⁸ Hornby A and Gatenby E. *The Advanced Learners Dictionary of current English* (1960) 451.

¹¹⁹ Sunitha (note 35)

sociological perspective which maintains that domestic violence or spousal abuse is one form of family violence¹²⁰ Family systems theory is based on the idea that each individual should be viewed not in isolation but in terms of the interactions, transitions and relationships within the family.¹²¹

A central tenet of this theory is that what affects one individual affects the entire family system and what affects the family system affects each member as well.¹²²

Family systems theory provides a framework for observing and understanding general characteristics of human relationships, individual functioning within the nuclear family, ways in which emotional problems are transmitted to the next generation.¹²³

3.2.5 Control Theory

Control theory suggests that conflicts in families arise because individuals seek power and control in relationships.¹²⁴ In many families, the more powerful members (like fathers, parents, husbands) may use force or violence to make less powerful family members (like children, wives) comply. Abusers are motivated by the power they can exert over family members.¹²⁵

Abusers in an effort to maintain control over other members of the family may use many forms of intimidation such as coercion, isolation, economic abuse and denial of personal blame.¹²⁶ The victims typically learn how to respond to the various forms of intimidation, although they struggle to challenge the abuse/abuser may become too

¹²⁰ Ibid.

¹²¹ Gurman A and Kniskern D, *Family Therapy: Concepts and Methods* (Allyson and Bacon, 2004) 146

¹²² McBride JI 'Family Behavioral Issues' *American Academy of Family Physicians Home Study Self-Assessment Program* [2003] 285.

¹²³ Ibid.

¹²⁴ Bostock DJ, et al Family Violence 'Family Violence' *American Academy of Family Physicians Home Study Self-Assessment Program* [2002] 274.

¹²⁵ Ibid (note 38).

¹²⁶ Ibid.

overwhelming or dangerous for the victims.¹²⁷ As a result the victims may begin to modify his/her own behavior slowly, giving up control in order to survive and avoid continued abuse.¹²⁸

3.2.6 Patriarchy Theory

This theory maintains that throughout history violence has been systematically directed towards women.¹²⁹ Economic and social process operate directly and indirectly to support a patriarchal social order, and family structure¹³⁰. According to the theory, patriarchy leads to the subordination of women, supports a systematic violence against wives.¹³¹

3.2.7 Structural Theory

This theory gives more prominence to the socio-cultural factors as causes of domestic violence.¹³² The theory focuses on series of factors that create and transmit stress to the individuals and families including culture and climate that engenders, transmits and provide support for the acceptance and practice of violence.¹³³ According to this theory, individuals who have high stress with low resources would be more aggressive. The main cause of stress is being regarded as economic conditions, bad housing, poverty, lack of job opportunities, unfavourable and frustrating work conditions.¹³⁴

¹²⁷ Ibid.

¹²⁸ Ibid.

¹²⁹ Sunitha (note 35).

¹³⁰ Ibid.

¹³¹ Ibid.

¹³² Sheeba S. 'Domestic Violence against Women; A Conceptual Analysis Academy Law Review' (2007) (32)28.

¹³³ Barri R, *Domestic Crimes, Family Violence and Child Abuse: A study of contemporary American Society* (2002) 180.

¹³⁴ Sunitha P, (note 35)

3.2.8 Reactive Aggression Theory

The theory of reactive aggression focuses on emotional and cognitive processes leading to behavioural responses. This theory posits that violence can occur when an individual experiences an unpleasant situation (e.g. when a man is faced with actual rejection or abandonment by their spouse which causes emotional pain, this can lead to the desire to hurt and thought about hurting their spouse.)¹³⁵ The desire and thoughts may be immediately followed by rage and violent behaviours toward their spouse unless something happens to derail them (e.g. the arrival of police in response to a call from a neighbour or a knock on the door from an unexpected visitor.)¹³⁶

3.2.9 Self-Attitude Theory

This theory maintains that in a society, culture or group that value violence, persons of low self-esteem perform the act of violence to maintain their images in the eyes of others and themselves too¹³⁷. Low self-esteem has long been asserted to be one of the most important determinants of violence behavior.¹³⁸

This theory explains the propensity to violence of those for whom society make it difficult to achieve an adequate level of self-esteem.¹³⁹

3.2.10 Biological Theory

According to this theory, violent behaviour is biological and organic and can be explained by genetics, biochemistry and changes in the brain development due to trauma. For example it is believed that some abusive men have histories of head injuries, which have affected their ability to solve problems and control impulsivity¹⁴⁰.

¹³⁵ Maren E. Hyde-Nolan, PhD and Tracy Juliaio, PhD *Theoretical Basis for Family Violence* (Jones and Bartlett Learning 2013).

¹³⁶ Ibid

¹³⁷ Ibid

¹³⁸ Ibid

¹³⁹ Ibid

¹⁴⁰ Rosenbaum A (note 32)

Researchers have linked the trauma of early exposure to chronic violence to changes in a child's brain functioning that leads to violent behavior as an adult.¹⁴¹

3.2.11 Frustration-Aggression Theory

Dollard came up with a theory in 1939 that explains how frustration leads to aggression.¹⁴² When someone cannot achieve a goal, they get frustrated and that frustration turns into aggression and that aggression is usually directed towards what caused the frustration.¹⁴³

3.2.12 Resource Theory

This theory has developed by Goode in 1971, as the first theoretical approach to apply family violence¹⁴⁴. Goode states that all social systems rest to some degree of force or threat of violence, is used as a last resort when all the resources are exhausted to maintain or advance their interests.¹⁴⁵ By applying this set of assumption to the family, Goode explains that a husband who wants to be the dominant family member but had little education, job prestige or income and lacks interpersonal skills may be likely to resort to violence to be the dominant persons.¹⁴⁶

3.2.13 Marital Power Theory

This hypothesis suggests that power can be divided into three categories: power bases, power processes, and power outcomes.¹⁴⁷Power bases are the assets and resources that allow one partner to dominate the other.¹⁴⁸ Power processes include the interactional techniques that an individual uses to gain control, such as negotiation, assertiveness

¹⁴¹ Ibid

¹⁴² Sunitha (note 35)

¹⁴³ Ibid

¹⁴⁴ Ibid

¹⁴⁵ Ibid

¹⁴⁶ Ibid

¹⁴⁷ Erin Lemkey, *Intimate Partner Violence: Societal, Medical, Legal, and Individual Responses*. (Kluwer Academic/Plenum Publishers, 2001) 13.

¹⁴⁸ Ibid

and problem-solving.¹⁴⁹ Power outcome refers to who actually makes the decision.¹⁵⁰ According to this theory, those partners who lack power will be more likely to physically abuse.¹⁵¹

3.2.14 Traumatic Bonding Theory

This theory explains why women stay with abusive partners. It says two things contribute to this: a power imbalance where the abuser feels dominant, and the intermittent nature of the abuse.¹⁵² Over time, the powerless person becomes dependent on the abuser, especially during moments of affection¹⁵³. The Stockholm Syndrome suggested by Dutton and Golant, describes common experiences like gratitude for small kindness, rationalizing violence, denying anger, trying to understand the abuser, seeing the world from their perspective and showing signs of PTSD.¹⁵⁴

3.2.15 Culture of Violence Theory

In big diverse societies, certain subcultures may have norms that allow more physical violence compared to the dominant culture.¹⁵⁵

In big diverse societies, certain subcultures may have norms that allow more physical violence compared to the dominant culture.¹⁵⁶ As a result, family violence is more likely to happen in violent societies than peaceful ones¹⁵⁷. Peer relationships that endorse patriarchal dominance and the use of violence contribute to this subculture.¹⁵⁸

¹⁴⁹ Ibid

¹⁵⁰ Ibid

¹⁵¹ Erin (note 68)

¹⁵² Ibid

¹⁵³ Ibid

¹⁵⁴ Ibid

¹⁵⁵ Ibid

¹⁵⁶ Ibid

¹⁵⁷ Ibid

¹⁵⁸ Ibid

This theory also suggest that examples from pornography and violent images on TV can contribute to a ‘culture of violence’ against women.¹⁵⁹

3.2.16 Multi-factor Theory

In 1998, Dr Ram tried to create a model explaining all types of violence against women.¹⁶⁰ This Model focuses on the sociological analysis of social structures. According to the model, important factors leading to women’s victimization are status, frustrations, life stresses, career crisis and structural opportunities.¹⁶¹ The person who physically or mentally harms a woman is often someone who feels disadvantaged or superior in demanding something from women.¹⁶² The model suggests that violence is used by frustrated individuals or those with a superiority complex due to lack of adjustment, attachment and commitment in specific circumstances.¹⁶³

Some theories focus on the psychological issues of the victim as the main cause of violence. These theories suggest that offenders who commit violence against women may have problems like depression, impulsiveness, uncontrolled emotions, stress, deprivation, frustration, career crisis and failure in achieving goals/rewards.¹⁶⁴ Other characteristics such as physical weakness, pathological jealousy and low-self esteem are also considered as contributing factors.¹⁶⁵ Some theories even argue that genetic factors like brain structure. Chemical imbalances, dietary deficiencies and hormonal factors can encourage men to commit crimes against women.¹⁶⁶ While these theories help us understand the causes of violence against women. Additionally, political

¹⁵⁹ Ibid

¹⁶⁰ Sunitha (note 35)

¹⁶¹ Ibid

¹⁶² Ibid

¹⁶³ Ibid

¹⁶⁴ Ibid

¹⁶⁵ Ibid

¹⁶⁶ Ibid

reasons such as the under presentation of women in legislatures and decision making processes are often ignore.

3.3 THE EFFECTS OF DOMESTIC VIOLENCE IN NIGERIA

Domestic violence in Nigeria has many causes and so it also has devastating effects on women and society. Domestic violence has caused a significant decrease in women's self-esteem and has subjected them to traumatic experiences.¹⁶⁷ Tragically, some have even lost their lives or suffered permanent deformities. It is crucial to recognize that the most prevalent consequence of domestic violence is the violation of the victim's fundamental human rights.¹⁶⁸ Some of the effects of domestic violence are examined as follows:

3.3.1 Physical Effect

Domestic violence can have different effects on each victim, but it often leads to physical and mental problems.¹⁶⁹ When domestic violence occurs, immediate injuries like bruises, broken bones, head injuries, lacerations and internal bleeding may happen.¹⁷⁰ These injuries often need medical attention and sometimes even hospitalization. Victims of domestic violence may experience chronic health conditions such as arthritis and irritable bowel syndrome.¹⁷¹ Pregnant victims of domestic violence face higher risk of miscarriage, pre-term labour and harm to the baby.¹⁷² In 2005, a study was conducted in Abuja, over a period of 9 months,

¹⁶⁷ Ogunkorede Oluwayemi 'The Prevalance of Domestic Violence against Women in Nigeria: Causes and Consequences' *Benson Idahosa University Journal of Private and Property Law* [2018] 167-185 .

¹⁶⁸ Ibid

¹⁶⁹ Ibid

¹⁷⁰ Kehinde Maculay 'Assessing Domestic Violence in Nigeria' *Texila International Journal of Academic Research* [2016] (3)2.

¹⁷¹ Ibid

¹⁷² R.H Jones 'The American College of Obstetricians and Gynecologists: A Decade of Responding to Violence against Women' *International Journal of Gynecology and Obstetrics*[1997] (58)(1) 43-50 .

psychological abuse was found to be the most common type, followed by physical and sexual abuse and ground 20% of women needed medical treatment due to physical abuse with premature labor.¹⁷³ Assault in a range of injuries, from bruises and fractures to more severe consequences like permanent hearing or vision loss and burns may also cause disfigurement, abdominal or thoracic injuries, eye damage and reduced physical functioning.¹⁷⁴

3.3.2 Psychological Effect

Living with these abusers often leads to increased stress, fear and anxiety for survivors.¹⁷⁵ Survivors of abuse often feeling guilty and being subjected to harsh criticism.¹⁷⁶ It is reported that around 60% of victims meet the criteria for depression and have a higher risk of suicidal thoughts.¹⁷⁷ Many People affected by domestic violence often experience Post-Traumatic Stress Disorder (PTSD) as a result.¹⁷⁸ PTSD in victims can cause flashbacks, intrusive images, heightened startle response, nightmares and avoidance of triggers related to the abuse and these symptoms typically persist for a prolonged period after the victim has escaped the dangerous situation.¹⁷⁹ According to many researchers , PTSD is considered the most fitting diagnosis for the psychological effects of domestic violence as it encompasses the range of symptoms commonly experienced by trauma survivors.¹⁸⁰

3.3.3 Economic Effect

¹⁷³ Simon Ishola ‘Domestic violence; The Nigerian Experience’ *Asia-Africa Journal of Mission and Ministry* [2016] (3) 2.

¹⁷⁴ Ibid (note 88)

¹⁷⁵ Chinwe Iioka ‘Domestic Violence: Cryptograms, Propellers and Repercussion’ *Law and Social Justice Review* [2022] (3)1.

¹⁷⁶ Fareo Oluremi ‘Domestic Violence against Women in Nigeria’ *European Journal of Psychological Research* [2015] (1)1.

¹⁷⁷ Olaw Barnett, *Trauma, Violence & Abuse* (Sage Publishers, Inc. 2001) .

¹⁷⁸ Ibid (97)

¹⁷⁹ Ibid

¹⁸⁰ Ibid

In some divorce cases, women may choose to forgo alimony to protect themselves from further abuse by their partner, even if they do not have a source of income.¹⁸¹ In cases where a man is convicted of killing his wife due to physical abuse, the children are left without proper care and this puts the children at risk of relying on their peers for support and potentially being exposed to negative influences such as joining gangs and cheating and causing trouble in society.¹⁸² The economic factors are intertwined with cultural and political factors. For centuries, cultural norms and societal views have limited the role of women, leaving them economically vulnerable.¹⁸³ Other economic factors include high unemployment rates, women's dependence on men, limited access to education and poverty.¹⁸⁴ When women have greater economic capacity, they become more financially independent and it can also help reduce instances of domestic violence.¹⁸⁵ Violence against women has a negative impact on society, leading to lower productivity, diminished human capital and capabilities and the perpetration of intergenerational cycle of violence.¹⁸⁶

¹⁸¹ Ogunkorede (note 88)

¹⁸² Ibid

¹⁸³ Ibid

¹⁸⁴ Naved R.T, et.al 'Women's Health and Domestic Violence against Women in Bangladesh' *Health and Science Bulletin* [2006] (4)(2) 1-6 .

¹⁸⁵ Giridhar N. 'Global Spread of Domestic Violence Legislation: Causes and Effect' *International Relations Honour thesis, New York* [2012] <https://as.nyu.edu/content/dam/nyu-as/politics/documents/GiridharNisha.pdf> accessed 19 September 2023.

¹⁸⁶ Ibid (note 88)

Financial Effect

After survivors escape their abuser, they may be shocked by how much their freedom was taken away.¹⁸⁷ As a result of the abusers control over finances and isolation, victims often have limited money and support when seeking help.¹⁸⁸ This is a major hurdle for domestic violence survivors and can greatly discourage them from leaving their abusers.¹⁸⁹ Despite not having enough money, survivors of domestic violence often lack the necessary skills, education and training to find good jobs and this can be challenging especially when they have children to support.¹⁹⁰

3.3.4 Long-Term Effect

Domestic Violence can cause various reactions in survivors, which are important for professionals assisting them to understand.¹⁹¹ Experiencing domestic violence can have serious effects on a person's mental health and physical well-being and it can also lead to homelessness and poverty due to a lack of resources.¹⁹²

¹⁸⁷ Pankaj Chhikara et al, 'Domestic Violence: The Dark Truth of our Society' *Journal of Indian Academy of Forensic Medicine* [2013](35)(1) 71-75 .<https://www.indianjournals.com/ijor.aspx?target=ijor:jiafm&volume=35issue=1&article=018>

¹⁸⁸ Ibid (note 41)

¹⁸⁹ Mbadugha E.I 'Intimate Partner Violence and Sexual Violence against Women: Any End in Sight?' *International Journal of Medicine and Biomedical Research* [2016] (5)(1) 9-18 <https://www.ajol.info/index.php/ijmbt/article/view/133169> accessed 23 September 2023.

¹⁹⁰ Ibid

¹⁹¹ Ibid (note 97)

¹⁹² Ibid

CHAPTER FOUR

LEGAL IMPLICATIONS OF DOMESTIC VIOLENCE

4.1 LEGAL REGIME OF DOMESTIC VIOLENCE IN NIGERIA

Keeping families and communities safe and peaceful relies heavily on addressing domestic violence, which is an extremely crucial matter. It is absolutely vital for achieving a serene and harmonious family and community life. In order to maintain peace and order in the society.

4.1.1 The Constitution of the Federal Republic of Nigeria, 1999 (As Amended)

Although the Nigerian constitution does not specifically address domestic violence, it does offer provisions that can be utilized to combat certain aspects of it. Section 34(1) of the constitution guarantees the right for everyone to be free from torture and other inhuman or degrading treatment.¹⁹³ Thus in the case of *Uzouhuhwu v Ezeonu*, the Court of Appeal described the term ‘torture, inhuman or degrading treatment’ in Section 34(1)(a) of the 1999 Constitution to mean

“some forms of pain, which could be extreme, it also means to put a person to some forms of anguish for excessive pain.... It could be physical brutalization of the human person, it could also be mental in the sense of mental agony or mental worry. It covers situations where the person’s mental orientation is very much disturbed and cannot think and do the things rationally...¹⁹⁴

The court of appeal also defined ‘inhuman treatment’ as “a barbarous, uncouth and cruel treatment, which has no human feeling on the person inflicting the barbarity”

Therefore it is safe to say that section 34 of the Constitution serves as an essential tool for victims of domestic violence to seek protection and justice.

¹⁹³ Section 34, Constitution of the Federal Republic of Nigeria 1999 (As Amended)

¹⁹⁴ *Uzouhuhwu v Ezeonu* (1991) 6 NWLR, (PT 703) 769

4.1.2 Violence Against Person’s Prohibition Act, 2015

The purpose of the Act is to completely ban all types of violence in both private and public settings. It aims to offer the highest level of protection and effective solutions for victims, while also ensuring that offenders are appropriately punished.

Section 46 of the Act provides for that “domestic violence is any act perpetrated on any person in a domestic relationship where such act causes harm or may cause imminent harm to the safety, health or well being of the person”

Section 19(1) of the Act provides that “a person who batters his or her spouse commits offense and is liable on conviction to a term of imprisonment not exceeding 3 years or a fine not exceeding N200,000.00 or both.”¹⁹⁵

Section 19(2) provides that: “a person who attempts to commit the act of violence provided for in subsection (1) of this section commits an offense and is liable to conviction to a term of imprisonment not exceeding 1 year or to a fine not exceeding N100,000.00 or both”¹⁹⁶

Section 19(3) provides that “a person who incites, aids, or abets or counsels another person to commit the act of violence as provided for in subsection (1) of this section commits an offence and is liable on conviction to a term of imprisonment not exceeding 1 year or to a fine not exceeding N200,000.00 or both” ¹⁹⁷

Section 19(4) provides that: “a person who receives or assists another who, to his or her knowledge committed the offense provided for in subsection (1) of this section is an accessory after the fact and is liable on conviction to a term of imprisonment not exceeding N200,000.00 or both”¹⁹⁸

¹⁹⁵ Section 19(1) Violence Against Person’s Act, 2015

¹⁹⁶ Section 19(2) Violence Against Person’s Act, 2015

¹⁹⁷ Section 19(3) Violence Against Person’s Act, 2015

¹⁹⁸ Section 19(4) Violence Against Person’s Act, 2015

This Act is only applicable in FCT Abuja, however some States which includes Amanbra. Bauchi, Enugu, Kaduna and Oyo states have also enacted it into their laws to combat the prevalence of domestic violence

4.1.3 Protection against Domestic Violence Law of Lagos State 2007

Protection against Domestic Violence Law 2007 covers for victims of domestic violence, irrespective of their gender, age and marital status. This law is only applicable only in Lagos State.

Section 1 of the Act provides that “as from the commencement of this Law no person shall commit any act of domestic violence against any person”

Section 18(1)(g) of the Act provides that domestic violence means acts listed below against any person: physical abuse; sexual abuse exploitation including but not limited to rape, incest and sexual assault; starvation; emotional abuse and exploitation; denial of basic education ;intimidation; harassment, stalking ;hazardous attack including acid bath with offensive 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 behaviour towards a complainant where such conduct harms or may cause imminent harm to the safety, health or well being of the complainant and deprivation.¹⁹⁹

The Act empowers victims to seek protection order from the High Court or Magistrate Court.²⁰⁰ The complaint can be filed by the victim or any person with their consent who cares about their well-being; including a worker, health service provider, member of the Nigeria Police Force, social worker, organization or teacher.²⁰¹ To apply for a domestic violence order, an affidavit and the application will be submitted

¹⁹⁹ Section 18(1)(g) Protection Against Domestic Violence Law of Lagos State 2007

²⁰⁰ Section 2(1) Protection Against Domestic Violence Law of Lagos State 2007

²⁰¹ Section 2(3) Protection Against Domestic Violence Law of Lagos State 2007

to a Court Registrar who then must promptly submit them to the court within 72hours.²⁰² However, if there is a risk hat the complainant may suffer hardship, the application can be brought directly to a judge in their chamber.²⁰³

4.1.4 Ekiti State Gender-Based Violence (Prohibition) Law 2014

The Act defines violence as gender-based violence, which encompasses acts that primarily target individuals based on their gender which includes physical, mental, and sexual harm as well as threats, coercion and deprivation of liberty; all acts of violence that hinder or eliminate he ability to enjoy human rights and fundamental freedoms are considered discrimination under international law and human rights convention.²⁰⁴

Section 20(1) of the Act provides that: “a person who batters his or her spouse commits an offense and is liable on conviction to a minimum of 1 year imprisonment or fine of N200,000.00 or both.”²⁰⁵

Section 20(2) of the Act provides “a person who attempts to commit the act of violence provided for in subsection (1) of this section commits an offense and is liable on conviction to a term of imprisonment for 6 months or to a fine of N100,000.00 or both.”²⁰⁶

Section 20(3) of the Act provides that “a person who incites, aids, abets or counsels another person to commit the act of violence as provided for in subsection (1) of this section commits an offense and is liable on conviction to a term of imprisonment for 6 months or to a fine of N100,000.00 or both.”²⁰⁷

²⁰² Section 2(5) Protection Against Domestic Violence Law of Lagos State 2007

²⁰³ Section 2(4) Protection Against Domestic Violence Law of Lagos State 2007

²⁰⁴ Section 2 Ekiti State Gender-Based Violence (Prohibition) Law 2014

²⁰⁵ Section 20(1) Ekiti State Gender-Based Violence (Prohibition) Law 2014

²⁰⁶ Section 20(2) Ekiti State Gender-Based Violence (Prohibition) Law 2014

²⁰⁷ Section 20(3) Ekiti State Gender-Based Violence (Prohibition) Law 2014

Section 20(4) of the Act provides that “a person who receives or assists another who, to his or her knowledge committed the offense provided for in subsection (1) of this section is an accessory after the fact and is liable on conviction to a term of imprisonment for 6 months or to a fine of N100,000.00 or both.”²⁰⁸

4.1.5 Ebonyi State Violence Against Persons (Prohibition) Law 2015

Section 3 of the Act defines domestic violence as “any act perpetrated on any person in a domestic relationship where such act causes harm or may cause imminent harm to the safety, health or well-being of any person.”²⁰⁹

Section 25(1) of the Act provides that “a person who batters his or her spouse commits an offense and is liable on conviction to a term of imprisonment of 3 years or to a fine of N200,000.00 or both.”²¹⁰

Section 25(2) of the Act provides that “a person who attempts to commit the act of violence provided for in subsection (1) of this section commits an offense and is liable on conviction to a term of imprisonment of 1 year or to a fine of N100,000.00 or both.”²¹¹

Section 25(3) of the Act provides that “a person who incites, aids, abets or counsels another person to commit the act of violence as provided for in subsection (1) of this section commits an offense and is liable on conviction to a term of imprisonment of 1 year or to a fine of N200,000.00 or both.”²¹²

Section 25(4) of the Act provides that “a person who receives or assists another who, to his or her knowledge, committed the offense provided for in subsection (1) of this

²⁰⁸ Section 20(4) Ekiti State Gender-Based Violence (Prohibition) Law 2014

²⁰⁹ Section 3 Ebonyi State Gender-Based Violence (Prohibition) Law 2015

²¹⁰ Section 25(1) Ebonyi State Gender-Based Violence (Prohibition) Law 2015

²¹¹ Section 25(2) Ebonyi State Gender-Based Violence (Prohibition) Law 2015

²¹² Section 25(3) Ebonyi State Gender-Based Violence (Prohibition) Law 2015

section is an accessory after the fact and is liable on conviction to a term of imprisonment of 1 year or to a fine of N200,000.00 or both.²¹³

4.2 THE LEGAL REGIME IN THE UNITED STATES OF AMERICA

Domestic violence means harmful actions that happen in close relationships or among family members. The U.S has strong laws at the federal, state and local levels to address domestic violence and these laws are designed to help victims, punish offenders and offer support through protective orders, defined offences and assistance programs. Laws can differ between states so it is important to confirm the specific legislation used in your area. The Violence Against Women Act, 2013 is a federal law in the United States that protects the rights of victims of violence against Women.²¹⁴

4.2.2 The United State Crimes and Criminal Procedure Statute 1948

The United State Crimes and Criminal Procedure Statute 1948 which is known as Title 18 provides for the punishment for offenders.²¹⁵ These laws do not apply to just a particular state but the United States as a federal state.

Section 2261 of The United State Crimes and Procedure Act 1948, provides that a person who travels in interstate or foreign commerce or enters or leaves Indian country or is present within the special maritime and territorial jurisdiction of the United States with the intent to kill, injure, harass or intimidate a spouse, intimidate partner, or dating partner and who in the course of or as a result of such travel or presence, commits or attempts to commit a crime of violence against that spouse,

²¹³ Section 25(4) Ebonyi State Gender-Based Violence (Prohibition) Law 2015

²¹⁴ The Violence Against Women Act, 2013

²¹⁵ The United State Crimes and Criminal Procedure Statute 1948

intimate partner or dating partner, shall be punished as provided in subsection (b).²¹⁶

This means that if a spouse enter the United States with the intention to commit domestic violence, they can be punished under subsection (b) of the law.

Subsection (b) provides for the penalties of the offender of this section, it states that the offender shall be fined under the Title.²¹⁷ It could be imprisonment for life or any term of years, if the victim is dead as a result of such act of domestic violence.²¹⁸ If as a result of the act permanent disfigurement or life threatening grievous bodily harm was inflicted on the victim, the offender will face imprisonment for not more than 20 years.²¹⁹

In the case of *People v Evans*²²⁰, in February 1997, the defendant faced charges of spousal abuse and dissuading a witness following a violent incident with his wife. He entered a plea of no contest to spousal abuse, which helped him avoid state prison and have the charge of dissuading a witness dismissed, instead he was put on probation. On January 9, 1998, there was another argument between him and his wife in front of their daughters, which escalated into a choking incident. He left when the children mentioned calling the police. He got arrested for battery and making terrorist threats, but he was later released on bail. On January 12, 1998, his probation officer filed a declaration accusing him of multiple probation violations, his probation was then revoked and he was held without bail. On January 13, the defendant's wife discovered unsettling messages and damaged property at their home, which were likely caused by the defendant. On January 21, 1998, the defendant was confronted with fresh charges, including dissuading a witness. He agreed to plead no contest, but probation was

²¹⁶ Section 2261 United State Crimes and Procedure Act 1948

²¹⁷ Section 2261(b) United State Crimes and Procedure Act 1948

²¹⁸ Section 2261(b) (1) United State Crimes and Procedure Act 1948

²¹⁹ Section 2261(b) (2) United State Crimes and Procedure Act 1948

²²⁰ *People v Evans* 92 Cal.APP.4th 664, 112 Cal. Rptr. 2d 166 (Cal.ct.App.2001)

denied to him. Instead in April 1998, they filed information accusing him of multiple offenses, such as assault, child abuse and making terrorist threats. On December 10, 1999, the jury made its decision. Regarding the choking incident in January 1998, the jury found the defendant not guilty of misdemeanor battery against his spouse. They also convicted him of dissuading a witness by threatening his wife after the incident. Additionally, the jury found the defendant guilty to two misdemeanor counts of child abuse for causing emotional harm to his daughters by abusing their mother in their presence. However, they found the defendant not guilty of making terrorist threats. As for the events in July 1999, the jury acquitted the defendants of stalking his wife and dissuading his wife's eldest daughter from testifying. Nevertheless, they determined him to be guilty of threatening a witness by telling his wife that she would not make it to court. The jury also found the defendant guilty of two counts of violating a court order by contacting his wife on the 29th and the 30th. During sentencing, the court gave a prison sentence of seven years for all three cases. The court also imposed three restitution fines of probation officer's calculation of 389 pre-sentence custody credits for the defendant.

In the case of *Hammon v Indiana*²²¹ when the police were called to respond to a domestic disturbance, they found Amy Hammon visibly distressed on the porch, while Herschel Hammon was inside the residence. Upon receiving consent to enter the premises, the police noticed a broken furnace in the kitchen and scattered glass on the floor. The officers then proceeded to question Amy and Herschel separately, denying Herschel's repeated attempts to enter the room where his wife was being interviewed. Afterward, Amy gave a sworn statement with several allegations, including Herschel breaking their furnace, pushing her onto the broken glass and

²²¹ *Hammon v Indiana* 547 US 813 (2006)

physically assaulting her. As a result, Herschel's trial, Amy Hammon declined to testify in person. Nonetheless, the trial court chose to admit her affidavit as evidence after it had been verified by the interrogating officer. The Supreme Court in its ruling, held that the affidavit should be seen as testimonial. They reached this conclusion because the circumstances of the interrogation showed that it was part of an investigation into possible past criminal behaviour.

4.2.3 Minnesota State Law 1963

Minnesota State Law is also known as the Criminal Code.²²² This law protects the citizens of Minnesota State only, to safeguard the well-being of the public by discouraging criminal acts through the deterrent impact of permissible sentences, the reformation of individuals who have been found guilty, and their incarceration when it is deemed necessary for public safety and the broader societal interest²²³ When it comes to domestic violence also referred to as domestic assault in this act, Section 609.2242 subdivision 1 provides that any one who does any of the following against a family or member of the household as defined in Section 518B.01. subdivision 2, commits an assault and is guilty of a misdemeanor.²²⁴ Where a family member commits an act with intent to cause fear in another of immediate bodily harm of death²²⁵ or intentionally inflicts or attempts to inflict bodily harm upon another.²²⁶ Section 518B.01, subdivision 2(a) 2 defines domestic abuse the infliction of fear of imminent physical harm, bodily injury, or assault.²²⁷ This means that if someone

²²² Minnesota State Law 1963

²²³ Section 609.01 subdivision 1(1) Minnesota State Law 1963

²²⁴ Ibid (n 31)

²²⁵ Section 609.2242 subdivision 1(1), Minnesota State Law 1963

²²⁶ Section 609.2242 subdivision 1(2), Minnesota State Law 1963

²²⁷ Section 518B.01, subdivision 2(a) 2, Minnesota State Law 1963

commits an act of violence against their spouse, it is considered domestic assault and the person responsible is guilty of a misdemeanor.

4.3 THE LEGAL REGIME IN THE UNITED KINGDOM

In England, the laws for dealing with domestic violence are very thorough. The main legislation that focuses on this issue is called the Domestic Violence, Crime and Victims Act 2004. It is an important law that recognizes the seriousness of domestic violence and provides protections for victims. It includes provisions for restraining orders, criminal offenses tied to domestic violence and support services for victims. There are other laws and policies in England that specifically target domestic violence such as Family Law Act 1996 and the Protection from Harassment Act 1997. These laws are designed to make sure that individuals who are facing domestic violence are safe and well-cared for. They also make sure that those responsible for the violence are held responsible for their actions.

4.3.1 Domestic Violence, Crimes and Victims Act 2004

It is a crucial law in England that tackles domestic violence. It acknowledges the severity of domestic violence as a crime and offers legal safeguards for victims. The act includes rules about restraining orders, criminal offenses linked to domestic violence and services to support victims. Its purpose is to guarantee the safety and well-being of those facing domestic violence while holding the perpetrators responsible for their actions.²²⁸

Section 5(1) of the Act provides that a person commits an offense if a child or vulnerable adult dies or experiences severe physical harm, due to the unlawful actions of someone who was part of the same household as the child or the vulnerable adult

²²⁸ Domestic Violence, Crimes and Victims Act 2004

and had frequent contact with child or the vulnerable adult²²⁹ or at that time, there was a significant likelihood of severe physical harm occurring to the child or the vulnerable adult due to the unlawful actions of such a person.²³⁰

4.3.2 Serious Crimes Act 2015

The Serious Crimes Act 2015 addresses a wide range of criminal activities and brings about significant changes to existing laws and procedures regarding these offenses. It is applicable only in England and Wales. Section 76 states the following, controlling or coercive behaviour in an intimate or family relationship is considered an offense when a person engages in behaviour that is controlling or coercive towards another person repeatedly or continuously²³¹ if at any time of this behaviour, the two person have a personal connection,²³² this behaviour significantly affects one of them²³³ and the person is aware or should be aware that this behaviour will have a significant impact on the other person.²³⁴

4.4 ENFORCEMENT PROCEDURES OF DOMESTIC VIOLENCE.

1. Reporting Issues: Even though all three nations have put in place legal protections for victims of domestic violence, the rates at which incidents are reported vary significantly. In Nigeria, many victims of domestic violence are hesitant to report it due to the social stigma attached to it. They fear judgment from society and possible retaliation from their abusers. On the other hand, the reporting rates for domestic violence are relatively higher in the United States and the United Kingdom. However, there are still challenges in effectively identifying and protecting all victims.

²²⁹ Section 5(1)(a) Domestic Violence, Crimes and Victims Act 2004

²³⁰ Section 5(1)(c) Domestic Violence, Crimes and Victims Act 2004

²³¹ Section 76(1)(a) Serious Crimes Act 2015

²³² Section 76(1)(b) Serious Crimes Act 2015

²³³ Section 76(1)(c) Serious Crimes Act 2015

²³⁴ Section 76(1)(d) Serious Crimes Act 2015

2. The Response of Law Enforcement: When it comes to responding to domestic violence in Nigeria, the police have adopted the practice of arresting and detaining perpetrators, especially in cases involving serious offences like sexual violence, severe physical assault, homicide, threats to the victim's life and economic abuse when other measures have been unsuccessful.²³⁵

The law enforcement agencies still limit their involvement in domestic violence cases because they still consider as a private matter. Thousands of women who face experience domestic violence do not report because of the lack of adequate protection under the law.²³⁶

²³⁷ The Police see arrest and detention as a way to instill fear in perpetrators and send a strong message to both offenders and the public about the gravity of domestic violence, thereby discouraging others from engaging in such acts.²³⁸

In all three countries, there have been instances where law enforcement officials were accused of not taking domestic violence seriously enough. However, the severity of the issue differs, in the United States and United Kingdom for instance, there have been cases where police officers did not properly investigate or prosecute violence incidents.²³⁹

²³⁵ Abena Yalley, 'Beyond the Laws: Analysing Police Intervention Strategies for Handling Domestic Violence in Ghana and Nigeria' *Buana Gender Jurnal Studi Gender dan Anak* [2023] (7) 2 https://www.researchgate.net/publication/368492907_Beyond_the_Laws_Analysing_Police-Intervention_Strategies_for_Handling_Domestic_Violence_in_Ghana_and_Nigeria accessed September 26 2023

²³⁶ Joy Bob-Echikwonye 'Domestic violence and Access to Justice in Nigeria' (December 10, 2021)

²³⁷ Abena Yalley, 'Beyond the Laws: Analysing Police Intervention Strategies for Handling Domestic Violence in Ghana and Nigeria' *Buana Gender Jurnal Studi Gender dan Anak* [2023] (7) 2 https://www.researchgate.net/publication/368492907_Beyond_the_Laws_Analysing_Police-Intervention_Strategies_for_Handling_Domestic_Violence_in_Ghana_and_Nigeria accessed September 26 2023

²³⁸ Ibid

²³⁹ Keyur Tripathi 'Domestic Violence: A Comparative Analysis in the Uk, USA and Russia' *The Law Communicants* 2023 <https://thelawcommunicacants.com/domestic-violence-in-the-uk-usa-russia> accessed September 29 2023.

3. Cultural and Social Factors: Cultural and social factors have a big impact on domestic violence, and these factors can differ greatly from one country to another. In Nigeria, there is a prevalent patriarchal mindset that can normalize violence against women. By virtue of the cultural practices in Nigeria, men are seen as the head of the house and so they have absolute control in the home. Additionally, cultural expectations of women being submissive to their husbands can contribute to an environment of abuse. In the US, the culture of gun ownership can increase the risk of homicide in domestic violence cases.²⁴⁰

4. Governmental Response: In different Countries, governments respond to domestic violence in various ways. For example, in the United States and the United Kingdom, there has been increased funding for support services and stronger laws implemented.²⁴¹

In Nigeria, the government's focus on the welfare of the people and addressing cases of domestic violence may be lacking. It's crucial for governments to take action and prioritize the safety of those affected by domestic violence.

²⁴⁰ Ibid

²⁴¹ Ibid (n 43)

CHAPTER FIVE

RECOMMENDATIONS AND CONCLUSION

5.1 SUMMARY OF FINDINGS

This study has carefully analyzed domestic violence in Nigeria and its implication to the environment. This study came up with the following findings:

1. That in spite of various legal regimes to combat the scourge, there is still a high rate of domestic violence.
2. That most of the cases of domestic violence is hardly reported by the victims to the appropriate authority to enforce the laws put in place to curb the menace.
3. That in some cases where domestic violence is reported, the law enforcement agency (the police) most times considers it a family issue that should be resolved by the parties and the respective parents.
4. That various forms of domestic violence in matrimony are particular to women considering the economic impact that very many of them suffer if they report their spouses for the offense.

5.2 RECOMMENDATIONS

This study revealed that despite the various laws enacted for the prohibition of domestic violence, the rate of such incidence has continued unabated.

From the above findings it can now be established that domestic violence in matrimony is a prevalent issue. Therefore it needs immediate attention to combat the menace of domestic violence in order to have peace, order and a safe society.

- a) There is a need for intensive advocacy for the removal of discriminatory legal provisions and the adoption of legislation that protects women's rights in all states in Nigeria. All states in the country should as a matter of importance enact a replica of the Violence Against Persons Prohibition Act 2015. In addition, it is

important to ensure that other important international and regional treaties that Nigeria has been ratified are implemented within the country. This includes domesticating treaties such as the Convention on the Elimination of All Forms of Discrimination against Women and the Protocol on Women's Rights in Africa. Presently, only the African Charter on Human and Peoples Rights have been incorporated into the Nigerian law. Furthermore, it is important to actively monitor and fully implement the laws that safeguard women's rights in Nigeria. It is equally important to ensure that offenders face appropriate punishment, serving as a deterrent to others.

- b) The victims of domestic violence need to be educated and be empowered as this will help in curbing domestic violence. Gender equality in education has been widely discussed and remains a significant topic in all countries, including Nigeria. There are significant disparities in education that boys and girls receive. Female illiteracy poses a grave challenge in developing nations, including Nigeria. There is a significant number of girls who are unable to attend school which is influenced by cultural and social factors. It is important to promote equal access to education for both boys and girls. When a woman is educated she is mentally empowered and in a better social standing. She also stands a better chance of being financially independent. Education also empowers women and girls to know more about their fundamental human rights and how they can protect themselves.
- c) There is also a need to change the social and cultural norms that promote the idea of women's inferiority and reinforce stereotypical gender roles. This involves eradicating prejudices, customs, traditions and practices that undermine women's equality and limit their potential. By challenging these beliefs and promoting gender equality, we can create a more inclusive and empowering society for

everyone. According to the International Human Rights Law, countries must combat and eliminate gender-based stereotypes and discriminatory attitudes towards women to prevent gender-based violence.

- d) There is the need for the government to organize workshops and seminars in both urban and rural areas. Non-governmental organizations should make wider their sensitization projects to the rural areas through electronic and print media. To ensure that the awareness of violence against woman permeates the grassroots. Non-governmental organizations should work with Ministry of Social welfare and Women Affairs to achieve this.
- e) There is the need for the government to create agencies solely for handling of domestic violence, that will take the right steps in ensuring the victims are protected and the law takes its full course.

5.3 CONCLUSION

It is evident that domestic violence in matrimony has significant sociological and legal implications. Sociologically, it affects family dynamics and reinforces harmful and gender norms. Legally, it violates human rights, necessitating the implementation of robust legal frameworks for protection and justice. It is crucial to raise awareness, provide support for victims and advocate for policy changes to address this pressing issue in society.

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