

NIGERIA'S LEGAL RESPONSE TO GENDER-BASED VIOLENCE: ALIGNING NATIONAL LAWS WITH INTERNATIONAL HUMAN RIGHTS STANDARDS.

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ABSTRACT

Gender-Based Violence is a pervasive issue affecting individuals across the world, and it is rooted in unequal power dynamics, cultural norms, and systematic discrimination. Gender-Based Violence encompasses a range of harmful behaviours, including domestic violence, sexual assault, human trafficking and harmful practices. This study seeks to critically analyze the Nigerian Legal System's response to Gender-Based Violence, focusing on the effectiveness of current legal frameworks, the challenges faced and their implementation, and the broader socio-cultural factors that hinder justice for victims. The legal system's response to Gender-Based Violence is not just a matter of laws on paper but extends to the practical realities of how these laws are enforced, the resources available to survivors and the societal attitude that influence legal outcomes. A comprehensive evaluation of these issues is essential to understanding why Gender-Based Violence continues to thrive despite legal protections and what can be one to improve the system response.

KEYWORDS: Domestic Violence, Intimate Partner Violence, Female Genital Mutilation, Trafficking, Rape, Femicide

1.0. INTRODUCTION

Gender-Based Violence refers to the harmful acts directed at individual based on their gender. It includes physical, sexual, emotional and psychological abuse, and disproportionately affects women and girls.

In “*Voice and Agency: Empowering Women and Girls for shared Prosperity*”, the World Banks Inter Agency Standing Committee defines Gender based violence as “an umbrella term for any harmful act that is perpetrated against a persons will that is based on social ascribed (gender) difference between males and females¹”.

According to the World Health Organization (WHO), about 1 in 3 women globally have experienced physical or sexual intimate partner violence or non-partner sexual violence in their lifetime². The United Nations (UN) reports that 35% of women worldwide have experienced physical or sexual violence. Globally, 137 women are killed daily by a partner or family member (UN member). Statistically, in Nigeria, 45% of Nigerian women have experienced at least on form of GBV by age 15³.

The former Secretary General of the United Nations, Kofi Annan, declared in 2006 in the United Nation Development for Women Report: “Violence against women and girls is a problem of pandemic proportions. At least one out of three women around the world has been beaten, coerced into sex, or otherwise abused in their lifetime with the abuser usually known to her”⁴. Both males and females could be victims of GBV but studies have shown that the number of female victims is far

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¹Klugman et al 2014

² World Health Organization (WHO): 'Global and regional estimates of violence against women', 2013. <https://www.unfg.org> accessed 28 August 2019

³NDHS. The Federal Republic of Nigeria, “*National Demographic and Health Survey 2018*” National Population Commission Abuja, Nigeria

⁴M.A. Marodian, “*Domestic violence Against Single and Married women in Iranian society*”, The Chicago school of professional psychology, Los Angeles, California, August 2009. <https://www.academia.edu> Accessed September 11, 2019.

greater than the male victims⁵. Each time the term is used, what really comes to mind is Violence against Women⁶. According to Committee of the Elimination of Discrimination against Women (CEDAW), GBV is directed primarily against a woman because she is a woman; a weaker vessel⁷.

In this article, women are more of the subject matter because women and girls are seen to be victims than male gender. However, it should also be noted that not only a minority of male are being abused, if in pain, is not allowed to show agony in public. This belief is exacerbated by the patriarchal nature of our society that suggests that men are not supposed to cry. These male victims are hard-to-reach because they prefer to remain in the closet and also because of the stigma that may be attached to them for having shown that they are victims of female in cases of domestic violence or sexual abuse⁸. The 1999 Nigerian constitution focuses on protecting women's right and does not specifically address or acknowledge men as potential victims of sexual violence under GBV. But however, the Criminal Code of (1990) under Section 238-289 criminalize "Unnatural Offenses" (Sodom), but does not explicitly address it as male rape. This also aligns with *Section 284-285 of the Penal Code*. Moreover, Akintola's study identifies societal stigmatization and the prevailing belief in male invulnerability as reasons for the lack of recognition of male as a serious crime⁹. Also in line with rape, Olanrewaju further corroborates this view emphasizing that societal beliefs and the underreporting of male rape contributes to its continued and silent increase in Nigerian¹⁰.

In addition to this, it has been noted that the Supreme Court of Nigeria has recognized the need to protect the male victims of sexual violence, but this has not been explicitly clear. However, Nigeria has made significant progress in acknowledging male victims of sexual violence through the *VAPP Act of 2015 and VAPP LAWS* of various States of Nigeria. This Act and laws provide protection for men who have been sexually abused and this makes it easier for male victims to report sexual violence. In *John Achuku vs the State*¹¹, a Nigerian man was sentenced to 20 years in prison for Sodomy. This is a step in a right direction.

2.0. TYPES OF GENDER-BASED VIOLENCE AND NIGERIA'S RESPONSE TO GBV

Gender is not just about how society expects people to act based on whether they are male or female, but it's also about how the person feels inside. Gender also includes a range of identities beyond just male and female, such as non-binary or gender queer, where people don't fit nearly in to the categories of male and female.

Gender-Based Violence (GBV) refers to harmful action directed at individuals because of their gender. GBV includes physical violence (like hitting/beating), sexual violence (such as rape/harassment), emotional abuse (like threats/insults and even economic harm (like preventing someone from earning money)¹². Common forms includes: domestic violence, sexually assault, human trafficking and harassment. GBV stems from unequal power relationships between genders and societal norms that promote dominance over other based on gender.

⁵ P.J. Isley, D. Gehrenbeck-Shim, 'Sexual assault of men in the community', J. Comm. Psych. 1997;25(2):159-166 <https://www.scholar.google.com> accessed September 9, 2019

⁶ Krantz G et al "Violence against Women" Journal of Epidemiology and community Health 59(10)818-821

⁷ CEDAW (2017). "General recommendation 35 on gender violence against women", updating No 19 (2017), UN Doc. CEDAW/C/GC/35/Para 10

⁸ OIDA Intl. Journal of Sustainable Development 12(3), 11-18, 2019

⁹ R. Akintola, "The Gender Bias in Nigeria Rape Laws: A critical analysis". Journal of African Law, 61(2), (2017); 245-246

¹⁰ F. Olanrewaju, "Sexual Violence and Male Victim in Nigeria: the Untold Stories". African Journal of Criminology and Justice Studies, 13(1), (2020): 33-47

¹¹ (2014) LPELR-22989 (CA) at 12

¹² O. Meghan, "What Does That Mean?" Gender Based Violence, November 2017 <https://www.womenforwomen.org> accessed 3 September, 2019

The Nigerian Legal System comprises authority, customary and religious laws, creating a complex landscape for addressing GBV. Although there have significant legislative milestones, such as Violence Against Persons (Prohibition) Act (VAPP) of 2015 and VAPP Laws of various States of Nigeria such as the Imo State violence Against Persons (Prohibition) Law of 2021, there are notable limitations in terms of implementation and geographical reach, as not all states in Nigeria has adopted these laws, the VAPP Act addresses various forms of violence and is a step toward broader legal protection, but issues persist in terms of law enforcement, judicial handling of cases and societal attitude towards gender and violence, GBV is one of the most oppressive forms of inequality, posing a fundamental/barrier to the equal participation of women in social, economic and political spheres¹³.

A critical analysis of Nigeria's response to Gender-Based Violence, therefore, requires exploring the gaps between policy and practice, examining socio-cultural challenges, and evaluating the roles of law enforcement, the judiciary and civil society. Effective reform efforts must address these multi-layers challenges to create a responsive, unified and enforceable system that can protect all citizens from Gender-Based Violence to mention but a few;

2.1. RAPE

According to Webster Dictionary, Rape is an unlawful sexual activity and usually sexual intercourse carried out forcibly or under threat of injury against a person's will or with a person who is beneath a certain age or incapable of valid consent because of mental illness, mental deficiency, intoxication, unconsciousness or deception¹⁴. Rape is an act carried out by physical force, coercion, abuse of authority, or against a person who is incapable of giving valid consent, such as one who is unconscious, incapacitated, has an intellectual disability or is below the legal age of consent¹⁵. According to World Health Organization (WHO), rape is seen as a form of sexual assault¹⁶. The word "RAPE" originates from the Latin word "*rapere*" (*supine stem raptum*), "to snatch, to grab, to carry off"¹⁷.

However in cases of rape, Consent is pointed out. Consent in this context refers to the permission or freedom and capacity to make a choice on whether to have sex or not. When a woman say "no" to sex, her "no" should be taken as "no".in the case of *Ahamefule vs Imperial Med Centre*¹⁸, Consent was defined by the court thus 'an element of volition, a voluntary agreement which is the deliberate and free act of the mind. The punishment for rape in Nigeria could be found in Section 358 of the Criminal Code, Section 283 of the Penal Code also in Section 1(2) of the VAPP Act 2015 of which any person convicted of the offense will be liable to imprisonment for life.

2.2. FORCED/CHILD MARRIAGE

The term "Child" is defined as "a person who has not attained the age of 18"¹⁹. Also the term "Marriage" is defined as a formalized, binding partnership between consenting adult. Marriage is seen as to be permanent and includes mutual rights and obligations between two or more persons. According to *Agbikim*, "Marriage is a socially and ritually recognized union or legal contract between spouses that establish rights and obligations between them and their in-laws"²⁰. Child

¹³ Gender-Based Violence: An analysis of the implications for Nigerian women project 2019 International Bank for reconstruction and development the World Bank. <https://www.worldbank.org> accessed April 2019

¹⁴ Rape Definition and Meaning <> accessed 9 June 2025.

¹⁵ "Chapter 6: Sexual Violence PDF". World Health Organization.2002.retrieved 11 April 2021.

¹⁶ Krug, Estienne G; et al.eds (2002). "*World Report of Sexual Assault*". World Health Organization p 149

¹⁷ C.J. Saunders, *Rape and Ravishment in the Literature of medieval England*, Boydell and Brewer, 2001, p 207

¹⁸ (2005) 5NWLR (prt17), 51.

¹⁹ Child's Right Act; Section 277, hereinafter referred to as CRA

²⁰ N. Agbikim, '*An Extergetico-Theological Interpretation of Genesis 2:23-24 and its implication for Christian marriage*, *Niger Delta Journal of Religious Studies*', Vol. 2, ISSI, p 128

marriage is the same as early marriage simply because such marriage takes place before the age of 18²¹. Forced marriage can be defined as marriage that lacks the free and valid consent of at least one of the parties. It is also seen as a marriage where one or more persons are married without their consent or against their will²². It has been estimated that 14million Nigerian girls married before 18 years. This represents a national average 39% and 16% of girls married before the age of fifteen years. Most often, Forced Marriage in Nigeria starts with the betrothal of the girl child awaiting the maturity of the bride and payment of dowry to a man who is most times twenty to thirty years older than hers definitely before puberty²³. However, it has been discovered that rural girls are more likely to engage in early marriage than urban girls. For instance, while 29% of urban girls in North-West get married at age 15, 65% of rural girls in the same geo-political zone are married at 21 and above²⁴. Some factors that motivate child or forced marriage in Nigeria are illiteracy, poverty, family pressure and culture. One of the major consequences of Child Marriage is Vesico-Vaginal Fistula.²⁵ This is a form of deformity inflicted on women during childbirth through incisions made by traditional birth attendants to the fragile pelvic bones during labour.²⁶ Furthermore, Child Marriage usually leads to frequent and numerous child bearing and production of deformed children²⁷.

Apart from the medical consequences of Child Marriage, it has been discovered that many victims of Child/Forced Marriage suffer prolonged domestic violence, but may not be able to walk out of the marriage as a result of forced economic dependence, pressure, public validation, lack of family support and other social circumstances. This condemnable and barbaric development most time forces these young brides to engage in self-harm and suicide²⁸.

2.3. FEMALE GENITAL MUTILATION

Nigeria has the highest rate of FGM in the world in total numbers²⁹. It is usually experienced by girls aged 0 to 15 years old. It involves either partial or complete removal of the vulval clitoris or other injury to the Female Genital organs and has no medical benefit³⁰. As of 2012, 27% of Nigerian women aged 15 to 49 underwent FGM. While in some regions of Nigeria, the prevalence of FGM has halved in the past 30years as of 2016, as of 2022 it is rising among girls aged 0-14, placing Nigeria as the third highest country for FGM worldwide in terms of percentage, according to United Nations Children's Fund (UNICEF)³¹. In May 2015, the then President Goodluck Ebele Jonathan signed a federal law banning FGM. However, activists and schools stress the necessity of a cultural shift to fully eradicate the practice, as the new law alone may not address the broader issue of violence against women and girls and the status of women in Nigeria³². Female Genital Mutilation is mostly done under unsanitary conditions, using non-sterile sharp objects to perform the cutting, hence, the girls and women are made vulnerable to infections, such as wound infections and long term diseases like Human Immuno-deficiency Virus (HIV) which is caused by using contaminated objects³³.

²¹ J. Ayodele; *The socio-Economic Effect of Marriage in the North-West Nigeria Meds Terranean Journal of Social Sciences*, Volume 5 Articles 14, 2013, p 583

²² B. Itebiye, *Forced and Early marriages: Moral failure vs Religious nuances*, European Scientific Journal, June 2016 edition, Vol. 12, no 17, p 305

²³ E. Nwogugu, *Family Law in Nigeria*, (Ibadan, Claverianum Press, 1996) pg. 20

²⁴ I. Ogunniram, *Child Bride and Child Sex: Combating Child Marriages in Nigeria* op. Cit. pg. 89

²⁵ Hereinafter referred to as VVF

²⁶ C. Chukwu et al *Violence against women in Igboland, South-East Nigeria: A critical quest for change* op cit.

²⁷ WHO, *Causes of Death among Adolescents: Maternal, new-born, child and adolescent*.

²⁸ V.M Lambo, *Implications of Child Marriage and their Development Effects on young Girls/Women in sub0sharia Africa*, African Renaissance, Vol. 16, No. 2 June, 2019, pg. 78

³¹ UNICEF warn FGM on the rise among young Nigerian girls. "Organization launches community-led initiative to end harmful practice on International Day of Zero Tolerance for FGM" <https://www.unicef.org/nigeria> accessed 6 February 2022

³² Goldberg, Eleanor *Nigeria Bans Female Genital Mutilation but advocate say there's still more work to do*. The Huffington [post. Retrieved 2016-05-28].

³³ Health risks of female genital mutilation (FGM)" <https://www.who.int> accessed in 2023-11-25

This practice, has mental torture on the Children giving effect to lost of trust on the people that are supposed to take care and protect them due to the ugly experience as a result of FGM.³⁴

2.4. DOMESTIC VIOLENCE.

This includes physical violence, emotional abuse, sexual violence, and psychological violence³⁵. Domestic Violence is prominent in Nigeria as in other parts of Africa. There are cases of domestic Violence which are high and show no signs of reduction in Nigeria, regardless of age, tribe, religion or even social status³⁶.

A CLEEN FOUNDATION'S 2012 National Crime and Safety Survey demonstrated that 31% of the national sample confessed to being victims of domestic violence. It also reported that 1 in every 3 respondents identify themselves as victims of Domestic violence. The survey found a nationwide increase in Domestic violence in the past 3 years from 21% in 2011 to 30% in 2013³⁷. Domestic Violence is mostly committed against women in the form of battery, beatings, torture, acid baths, rape and consequently death. It has been estimated that 1 in every 3 women who suffer domestic violence are from the hands of those who claim to love, and supposedly protect them. Though there are few cases of a woman beaten up a man, a woman dealing with her husband in the same manner but very rare.³⁸ The Nigerian government has taken legal proceedings to persecute men who abuse women in several states with the domestication of the VAAPPACT. There is currently in Nigeria, ressure on the Nigerian Government concerning domestic violence and for a stronger positive national response and support for domestic violence issues³⁹, According to Ishola (2016) the causes of Domestic Violence in Nigeria includes but not limited: Family upbringing and moral value, cultural and religious belief, financial constraint, the issue of childlessness, male-child preference over and above the girl-child, hard drugs(mkpuru nmiri) and alcoholism to mention but a few.⁴⁰ It has been reported that pregnant women who are financially viable experience high level of Domestic Violence in Nigeria. They are subject to violence from not only their spouses, but also from their in-laws.⁴¹

2.5. TRAFFICKING

Human Trafficking is the trade of humans for the purpose of forced labour, sexual slavery, or commercial sexual exploitation⁴². Human Trafficking can occur within a country or trans-nationally. Trafficked people, particularly women and children, are recruited from within and outside the country's borders for involuntary domestic servitude, sexual exploitation, street hawking, mining, begging etc.⁴³ Human Trafficking in Nigeria is due to population boom and unfavourable economic conditions that aggravate unemployment, underemployment and insecurity which prompt citizens to seek for better opportunities in other countries. These opportunities include education, decent jobs⁴⁴ and higher income. About 15 million Nigerians reside outside Nigeria as a result of demand for access to quality education and jobs. Human Trafficking remains a major challenge to the global

³⁴Female Genital Mutilation (FGM) frequently asked questions. United Nations population fund, retrieved 2023-22-25

³⁵Abuse: <https://www.thehotline.org/resources/learn-more-about-abuse>

³⁶ Amnesty Nigeria. *'Nigeria unheard voices-violence against women in the family'*, from the original on 2005-08-07 retrieved May 19, 2021.

³⁷Centre for Law Enforcement Education in Nigeria (CLEEN) foundation. *"National Crime Victimization Surveys" 2013*

³⁸Domestic violence: Why Nigeria is experiencing an upsurge. The Guardian Nigeria News-Nigeria and World news. 2021-02-27. Retrieved 2013-09-21

³⁹ Eradicating domestic violence in Nigeria (1/2) Daily Times. Archived from original on November 18, 2021 retrieved 2013-09-21

⁴⁰ S.A Ishola (2018) *"Domestic Violence: The Nigerian Experience. Asia-Africa Journal of mission and ministry"*, 13-03-16

⁴¹ N. Ameh and M.A Abdul, *"Prevalence of Domestic Violence amongst pregnant women in Zaria, Nigeria"*. Annals of African medicine, 2004

⁴² *"UNODC on Human Trafficking and migrant smuggling"*. United Nations Office on drugs and crime, 2011. Retrieved 22 March, 2011

⁴³ Trafficking in Persons report 2010 country narratives-countries. N through Z". US Department of State 17 June 2010, Retrieved 17 February, 2023

⁴⁴ Kazeem, Yomi (25 May 2019). *"Nigeria's on-going middle-class brain drain is costing it two generations in one swoop"*. Quante Africa retrived 20 January, 2021

community because it is a threat to human and the causes of crimes in the world at large. Since 2009, Nigeria has made efforts to tackle human trafficking through collaboration with the Police, Customs, Immigration, Network against Child Trafficking Abuse and Labour (NACTAL)⁴⁵

The US State Departments office to monitor and combat trafficking in Person in Nigeria in “Tier 2 Watchlist” in 2017⁴⁶. Nigerians accounted for 21% of the 181,000 migrants that arrive in Italy through the Mediterranean in 2016 and 21,000 Nigerian women and girls have been trafficked to Italy since 2015.⁴⁷

2.6. FEMICIDE

Femicide is a term for murdering of females, often because of their gender. Femicide can be perpetrated by either sex but is more often committed by men. The term “Femicide” was introduced in England in 1801 by a writer named John Cory, to signify “The killing of women”⁴⁸. In 1848, the term was established in Wharton's Law Lexicon⁴⁹. The term stems from the Latin “Femina”, meaning “Female” and “Cide” from the Latin “Caedere” meaning to kill.

The current usage emerges with the 1970's feminist movements, which aimed to raise female class consciousness and resistance against gender oppression. The term has been used to call attention to violence against women. American author Carol Orlock is widely credited with initiating this usage of the term in her unpublished anthology on Femicide⁵⁰.

2.7. INTIMATE PARTNER VIOLENCE

Intimate Partner Violence (IPV) is domestic violence by a current or former spouse or partner in an intimate relationship against the other spouse or partner. Intimate Partner Violence can take a number of forms, including physical, verbal, emotional, economic and sexual abuse. The World Health Organization (WHO) defines Intimate Partner Violence as “any behaviour within an intimate relationship that causes physical, psychological or sexual harm to those in the relationship, including acts of physical aggression, sexual coercion, and psychological abuse and controlling behaviours”⁵¹. According to a study conducted in 2010, 30% of women globally aged 15 and older have experienced physical and/or sexual intimate partner violence.

Those who are victims of Intimate Partner Violence are also more likely to experience depression, PTSD, anxiety and suicidal. There is higher risk of sexually transmitted infections like HIV, which is due to forced or coerced sex. Also children whose parents experience are more likely to become victims or become perpetrators of IPV later in life. Common injuries seen on victims are fractures (neck, face and head), strangulation injuries, concussion and traumatic brain injuries⁵².

3.0. OVERVIEW OF LAWS ON GENDER-BASED VIOLENCE AND INSTITUTIONAL FRAMEWORK

The purpose of this overview is to examine the legal and institutional frameworks governing gender based violence within the Nigerian Legal system. It aims at providing a comprehensive understanding of the laws and institutions involved in GBV regulations in Nigeria. For legal

⁴⁵ Trafficking in persons report 2010 country narratives, countries N through Z”. US Department of State. 2010-06-17

⁴⁶ “Trafficking in persons report 2017: Tier placement”. <https://www.state.gov> Archived from the original on 28 June 2017

⁴⁷ “Escape: the women who brought her trafficker to justice”. The Guardian 27 August, 2020. Also, “Nigeria: Human Trafficking Factsheet”, <https://www.pathfindersji.org> retrieved 20 January, 2021

⁴⁸ The history of the term “Femicide” in Canada. 6th September, 2012

⁴⁹ The Oxford English Dictionary, 2nd edition (1989) pg. 285

⁵⁰ Josie, Kaye (3rd November, 2007) “Femicide”. Online Encyclopedia of Mass Violence, Retrieved 18 March, 2013. Archived 23 January, 2013

⁵¹ E.G Krug; L.L Dahlberg; J.A Mercy; A.B Zuri; R. Lozano (2002). “World report on violence and health”. Geneva, Switzerland, Pg. 238

⁵² E. Miller; B. McCaw (February 28, 2019. “Intimate Partner Violence”. New England Journal of Medicine, 380(9): 850-857

documents, it analyses the Constitution of the Federal Republic of Nigeria 1999, the Criminal Code Act CAP C38, LFN and the Penal code CAP 49, the VAPP Act, Childs Right Act, VAPP Laws of various States of Nigeria. etc. Furthermore, it evaluates the performance and effectiveness of institutions like National Agency for the Prohibition of Trafficking in Persons (2003), Police Force, Nigerian Drug Law Enforcement Agency etc.

3.1. CONSTITUTION OF THE FEDERAL REPUBLIC OF NIGERIA 1999 (AS AMENDED)

The constitution of the federal republic of Nigeria, does not explicitly name gender based violence (GBV). It provides several legal grounds to challenge and combat it, also to protect individuals from such violence. GBV is typically addressed under broader rights and protections such as right to dignity, freedom from discrimination, and also right to life. Section 33 of the CFRN states that every person has the right to life, and no one shall be deprived intentionally of his life. This constitutional provision is used in several gender based cases like, domestic violence, femicide, honour killing (euthanasia), or unsafe abortion. Also section 34 of the CFRN⁵³ states that no person shall be subjected to torture or to inhuman or degrading treatment. This could be used in gender based cases like rape, battery, sexual assault/harassment and female genital mutilation (FGM) which all qualify as degrading or inhuman treatment. In *Mary Sunday vs. Federal Republic of Nigeria*⁵⁴, Mary was burnt by her police officer fiancé, and no justice was done at national level. ECOWAS court found Nigeria guilty of failing to protect her, violating her right to dignity and access to justice.

However, section 42 of the CFRN states that no Nigerian citizen shall be discriminated against on the basis of sex, ethnicity, religion or political opinion. Discriminatory customs or laws that reinforce patriarchy, early/forced marriage or deny women's rights can be challenged in this section. In *Amina Lawal Vs. The State*⁵⁵, Amina was sentenced to death by stoning for adultery under the Sharia law. Her case raised constitutional and human rights questions on discrimination and cruel punishment. She was eventually acquitted after legal and international human rights interventions.

3.2. CRIMINAL CODE ACT CAP C38 LFN

Criminal code of Nigeria does not use the term "gender based violence" explicitly, but it contains several provisions that address the forms of violence that fall under the umbrella of GBV. These include rape, indecent assault, abduction, and domestic violence related offences. However, the law has been criticized for its outdated, gender-biased and limited scope, especially when it comes to modern understanding of GBV. The related sections include, section 357-358 which talks about the definition of rape and its penalties. But however, in the case of *State vs. Akingbade Gabriel*⁵⁶, were an accused was charged for raping a 20 year old woman who had visited him seeking employment assistance. The victim promptly reported the incident to her parents and the police. The court acquitted the accused, emphasizing the lack of corroborative evidence linking him directly to the crime. The judge noted that while the victims prompt report indicated non-consent, it did not serve as corroboration of the accused involvement. This case highlights the challenges victims face in securing convictions for rape under the criminal code, especially when corroborative evidence is absent.

⁵³ Constitution of the Federal Republic of Nigeria (1999) (as amended).

⁵⁴ ECW/CCJ/APP/26/15 (ECOWAS COURT, 2018)

⁵⁵ Sharia Court of Appeal, August 21, 2002

⁵⁶ Suit No. IK/6C/711 (1971) NGHC 22 (14 July 1971)

Furthermore, this section does not recognize males as victims of rape/sexual violence. There are few limitations of criminal code regarding GV. Firstly, the code language and provision often reflect outdated gender norms, failing to recognize male victims or non-heteronormative scenarios. Another is that the code does not specifically address domestic violence or non-physical forms like emotional, psychological or economic abuse, leaving victims without clear legal recourse and this could be seen in section 252-264 of the criminal code⁵⁷. In addition section 353 is indecent assault against male, which is a felony and is punishable by 3 years imprisonment and section 360 is indecent assault for female which is a misdemeanor and is punishable by 2 years imprisonment⁵⁸. Section 361-369 provides protection of women and girls from abduction for sexual purposes or forced marriages.

3.3. THE PENAL CODE ACT CAP 89

A penal code is a systematic body of laws that deals with criminal offenses and their punishments. It serves to define what constitutes a crime, specify the penalties for committing a crime, and provide a framework for prosecuting and punishing offenders. It applies to the Northern States of Nigeria⁵⁹. The Nigerian Penal code addresses gender based violence through various provisions, particularly concerning assaults and rape, but also acknowledging the complexities and limitations within the legal framework. While the law seeks to punish offenders, some provisions are criticized for their potential to be discriminatory or inadequate in addressing all forms of violence against women, especially within relationships like marriage. The penal code does not consider sexual intercourse by a married couple as rape, provided the wife has attained the age of puberty. This means marital rape is not currently an offence in Nigeria, because it is assumed that the wife gives implied general consent to sexual intercourse with her husband upon entering the marriage contract, and this implied consent is revocable either by an order of a court or by a separation agreement⁶⁰.

3.4. VIOLENCE AGAINST PERSONS PROHIBITION (VAPP) ACT

The Nigerian Violence Against Persons Prohibition (VPP) Act was enacted in 2015 and directly addresses gender based violence. The VAPP Act prohibits all forms of gender based violence in Nigeria, including physical, sexual, psychological and emotional abuse. It aims to eliminate violence in both private and public life, and provides protection and effective remedies for victims, while ensuring punishment for offenders. The VAPP Act specifically addresses issues like domestic violence, rape, female genital mutilation, and harmful traditional practices⁶¹. It also addresses issues like forced marriage and denial of inheritance and succession rights which disproportionately affect women and girls. The Act aims to reduce gender inequality and addresses the high incidence of gender based violence.

As of recent reports, 35 of the 36 states of Nigeria have domesticated the VAPP ACT. The domestication process involves each state enacting its own version of the VAPP Act into law. The VAPP Act has various functions. It is responsible for the investigation of all cases of violence against persons and related offences. It offers protection, counseling and rehabilitation services through its sexual and gender based violence unit in collaboration with the counseling and rehabilitation department. The VAPP Act seeks and receives information from any person, authority, corporation, or company without hindrance. It engages in advocacy to stakeholders/donor agencies and coordinate the funding and implementation of projects relating to GBV⁶².

⁵⁷ "Assaults ad violence to the person generally: justification and excuse", Chapter 25 of the Criminal Code Act in Nigeria 2025

⁵⁸ S.Olayide; *Criminal Code regards Assaults on women 'Misdemeanor' as Femicide thrives in Nigeria; Foundation for investigative Journalism* <https://www.fij.ng> published on 07-09-2024

⁵⁹ "Nigeria Penal Code Act", Cornell Law School. <> accessed 16th March 2021

⁶⁰ Gender Based Violence; Partners United Organization, <<https://www.partnersunited.org>>. retrieved 2nd December 2021

⁶¹ N. Dakum-Mbi, "Malala fund urges the Nigerian government to protect the VAPP Act". <<https://www.malala.org>> published September 10, 2024

⁶² "Violence Against Persons Prohibition (VAPP) department," National Agency for the Prohibition of Trafficking in Persons (NAPTIP). June 2021

Furthermore, the Act provides for compensation for victims and comprehensive medical, psychological, social and legal assistance. It prescribes penalties for various offenses, including imprisonment and fines. It is important to note that while the act aims for nationwide protection, its implementation and enforcement vary by state. The Act remains a landmark law that provides a framework for protecting individuals from various forms of violence.

3.5. CHILD'S RIGHT ACT, 2003

The Nigerian Child's Right Act of 2003 prohibits any form of gender based violence against children, including sexual abuse, neglect and torture. It emphasizes respect for a child's dignity and protection from harm, whether physical, mental or emotional. The Act also addresses issues like child marriage, slavery and servitude, recognizing that these practices are harmful and violate children's right⁶³. Section 11 of the Child's Right Act explicitly prohibits any act that could cause physical, mental or emotional injury to a child. This includes violence, abuse, neglect and maltreatment. Also section 26 of the Act provides that any person who uses a child for other criminal activities shall be sanctioned with 14 years' imprisonment. Section 31 of the Act prohibits any form of sexual act with a child, stating that "no person shall have sexual intercourse with a child" and whoever commits such act will be sanctioned to life imprisonment. The Act is crucial for protecting children's right and ensuring their well-being in Nigeria. It provides a legal framework for addressing various forms of violence and exploitation against children. The Child's Right Act aims to create a safe and nurturing environment for children, free from violence and exploitation, by prohibiting harmful acts and ensuring their fundamental rights are respected⁶⁴.

3.6. TRAFFICKING IN PERSONS (PROHIBITION) ENFORCEMENT AND ADMINISTRATION ACT 2015

The trafficking in persons (prohibition) enforcement and administration Act was enacted by the National Assembly of the Federal Republic of Nigeria and is aimed at providing a legal and institutional framework to combat human trafficking. Its objectives are to provide an effective and comprehensive legal and institutional framework for the prevention of human trafficking and protect victims of human trafficking. The Act established the National Agency for the Prohibition of Trafficking In Persons (NAPTIP), which is responsible for enforcing the law and coordinating efforts to combat trafficking⁶⁵.

The Act aims to address human trafficking, including its prohibition, prevention, detection, prosecution and punishment, while also protecting victims. The Act has been instrumental in establishing a comprehensive legal and institutional framework in Nigeria to address human trafficking and protect vulnerable individuals.

4.0. INSTITUTIONAL FRAMEWORK;

4.1. NIGERIAN POLICE FORCE (NPF)

The Nigerian Police Force is the principle law enforcement agency in Nigeria. It is responsible for maintaining public order, enforcing laws and preventing and detecting crimes throughout the country. The NPF is the national police, with exclusive jurisdiction throughout Nigeria, as designated by the constitution. Its primary function includes maintaining law and order, investigating crimes and preventing violence. The Nigerian Police Force could be seen from Section 214 to 216 of the 1999 Constitution (as amended)⁶⁶

⁶³ The right of the Nigerian girl child and the future of the Nigeria woman: Alliance for Africa, Owerri, Imo State, Nigeria. <<https://www.allianceforafrica.org>> accessed on 8th October, 2017.

⁶⁴ Child custody and protection in Nigeria; Centre for Health Ethics Law and Development <<https://www.cheld.org>>

⁶⁵ Trafficking in Persons (Prohibition) Enforcement and Administration Act, 2015.

⁶⁶ "History of the Nigerian Police Force" NPF <<https://www.npf.gov.ng>>

The Nigerian Police acknowledges the issue of GBV and is actively working to address it through various initiatives and policies. They have a long-lasting commitment to combating GBV, sexual violence, harassment, and other related crimes, reflected in their actions and statement. The initiative aims to enhance efficiency, improve service delivery and ensure easier access to justice for citizens. GBV desk offices will now be established at the divisional level, ensuring that cases of gender based violence receive prompt, specialized and professional attention.

This integration is designed to provide a holistic approach to handling gender based violence and related cases, fostering a supportive environment for victims and ensuring swift justice delivery. The strengthening of the GBV desk offices underscores the Nigeria Police Force's commitment to safeguarding the rights of victims and survivors of gender based violence. It is proactive response to the increasing need for focused resources and specialized interventions to protect vulnerable populations. The Nigeria Police Force remains steadfast in its mission to uphold justice, ensuring that all citizens' rights and freedoms are protected without discrimination or bias⁶⁷. In a recent high-profile case, police arrested the husband of the late popular gospel singer *Osinachi*, on allegations of domestic violence after death on April 9th 2022, in an Abuja hospital.

They have also enhanced their working relationship with NAPTIP and NHRC to address sexual offenses. The NPF acknowledges that a significant number of GBV cases go unreported due to fear of the perpetrators, negative social responses, or the belief that authorities will not take the case seriously⁶⁸.

NATIONAL HUMAN RIGHTS COMMISSION (NHRC).

The National Human Right Commission was established in 1995 to promote and protect human rights in the country. The commission serves as an extra-judicial mechanism, offering avenues for public enlightenment, research and dialogue. It collaborates with the stakeholders, civil society organizations, government agencies, police force and other law enforcement agencies to address GBV cases⁶⁹. The NHRC participates in the 16 Days of Activism against gender based violence, a global campaign that takes place annually. They organize events and activities to mark Human Rights Day and raise awareness about GBV.

FEDERACION INTERNATIOALE DE ABOGADAS (FIDA)

Federacion Internationale de Abogadas (FIDA) was formally established in Mexico in 1944. The name translates to the International Federation of Women Lawyers. In 1964 Ambassador Aduke Alakija established the Nigerian branch of the organization, FIDA Nigeria. FIDA Nigeria is a non-profit, non-political voluntary association of women called to the practice of law in Nigeria. The extant chairperson of FIDA is *Tamunoibuemi Life-George*. FIDA Nigeria's mission is to protect, promote and preserve the rights, interest and well-being of women and children through the use of legal framework to ensure that they live free from all forms of discrimination, violence and abuse in the society. Its core values are transparency, accountability, teamwork, integrity, mutual respect, commitment and service. Also, its vision is for a just, peaceful and equitable Nigerian society where women and children's right, interests are guaranteed, in which they have the freedom to choose and live their own future⁷⁰.

⁶⁷ "Human Rights: IGP strengthens, expands GBV desk offices to divisions across Nigeria". NPF-Home <<https://www.npf.gov.ng>>

⁶⁸ R. Mbaegbu and S/ Duntoye, "Nigerians condemn physical discipline but see gender based violence as a private matter" <<https://www.AfroBarometer.org>> accessed 21 July 2022

⁶⁹ Gender Based Violence: NHRC flags off 16-day activism. Vanguard Newspaper by Ikechukwu Nnochiri <<https://www.vanguardngr.com>> accessed November 22, 2024

⁷⁰ "The International Federation of Women Lawyers" About-FIDA <<https://www.fida.org.ng>>

NATIONAL AGENCY FOR THE PROHIBITION OF TRAFFICKING IN PERSONS (NAPTIP)

The National Agency for the Prohibition of Trafficking In Persons was established in 14th of July 2003 by the Trafficking in Persons (Prohibition) Enforcement Administration Act. This action fulfilled Nigeria's international obligations under the trafficking in person's protocol to the United Nations Transnational Organized Crime Convention (UNTOC). NAPTIP's creation aimed to address the issue of human trafficking, especially targeting women and children, criminalizing practices that subject individuals to exploitation⁷¹.

NAPTIP is deeply involved addressing gender based violence (GBV) in Nigeria, particularly through the implementation of the Violence against Persons Prohibition (VAPP) Act. They are mandated to prevent and respond to gender based violence, and have established various initiatives, including awareness campaigns and legal support⁹⁴. NAPTIP is the lead agency responsible for administering the VAPP Act, which recognizes GBV as a form of violence and requires states to take measures to prevent and respond to it. NAPTIP core mandate includes addressing various forms of violence against persons, including GBV, and providing legal support and protection to victims⁷².

5.0. CHALLENGES OF GENDER BASED VIOLENCE

Gender based violence (GBV) presents significant challenges due to a complex interplay of factors, including harmful social norms, limited resources, and systematic barriers. These challenges hinder prevention, reporting and access to support services for survivors. This chapter highlights the challenges victims of gender based violence face on a daily.

5.1. SOCIO-CULTURAL CHALLENGES

Gender based violence is of the many social vices that have been recorded in almost, if not all, human communities over time. There are several socio-cultural challenges that causes gender based violence in our communities today, which will be stated out in this study.

Firstly, the harmful gender roles and stereotypes have deeply ingrained cultural norms and beliefs that perpetuate gender inequality and justify violence against women and girls remain a major obstacle. These norms often portray women as inferior and men as dominant, to acceptance and even normalization of violence⁷³. In some rural areas in Nigeria like Hausa/Fulani, the exploitation of women are perpetuated, where the relationship between men and women is that of senior and junior. Women are seen as baby making machines, and have no opinion to make for the contribution and growth of the country. The first society is the family, and if a child grows up or happens to be in a family where they witness GBV, they however exercise this in their normal life, and they see it to be a normal behaviour or accepted generally. *In Olawoyin vs. Commissioner of Police*⁷⁴, it involves the issue of assault, with gendered implications. The case reflected a time when women's rights were secondary to cultural and patriarchal norms. Also the study of Ezeh and Gage (1998)⁷⁵ and Marrow that at the societal level, the discrimination of women is traceable to male authority and decision making in the home. rigid gender roles, definition of masculinity that are linked to dominance or male honour, economic inequality between men and women, and the use of physical force for conflict resolution.

⁷¹ "About NAPTIP" National Agency for the Prohibition of Trafficking in Persons (NAPTIP) <<https://www.naptip.gov.ng>>

⁷² "NAPTIP in collaboration with the National Judicial Institutes organizes technical retreat for judges and prosecutors on the prosecution of sexual and gender based violence cases", <<https://www.naptip.gov.ng>> accessed June 6, 2023

⁷³ Five causes of gender based violence; Concern worldwide <<https://www.concern.net>> accessed on 2 November, 2023

⁷⁴ (1961) NGHC 1 (24 January 1861), 25

⁷⁵ A.C Ezeh; A.J Gage (1998); "The cultural and economic context of Domestic Violence in Uganda"; paper presented at the 1998, annual meeting of the Population Association of America, Chicago, Illinois, April 4

ECONOMIC CHALLENGES

Gender based violence creates significant economic challenges, hindering both individual well-being and broader societal development. It can perpetuate dependence abusive partners, limit economic opportunities and reduce overall productivity. The global economic cost of gender based violence is substantial, with estimates suggesting a loss of billions of money annually, impacting various sectors like healthcare, education and economic growth. According to the International Monetary Funds (IMF), gender based violence resources productivity, increases healthcare costs, and loses economic opportunities in which due to violence can strain national budgets and impact various sectors⁷⁶.

Economic insecurity can perpetuate cycles of violence, making it difficult for survivors to escape abusive relationships and build independent lives. According to European Institute for Gender Equality, it highlights how gender based violence can manifest as economic violence, controlling access to resources and financial decisions⁷⁷. The global economic impact of GBV is estimated to be a significant percentage of global GDP. This underscores the need for comprehensive strategies to address GBV, not only for humanitarian reasons but also for economic development and societal progress. Addressing GBV is crucial for achieving sustainable development and promoting inclusive economies. By empowering women reducing inequalities, and creating safe and supportive environments, societies can unlock the full potential of their human capital and achieve greater economic prosperity.

There is lack of economic empowerment for women. Women are forced to become housewives because they are told that is the only responsibility they are to perform. They are not given the opportunity to enter into the economic market and promote themselves economically. Women are limited to only working at home rather than being business owners or working for large firms to earn a living. However, in the U.S. they have ensured that women are given economic independence to avoid being vulnerable to GBV. They collaborate with NGO's like the International Rescue Committee (IRC), to address GBV all over regions⁷⁸.

RELIGIOUS CHALLENGES

Religious challenges of gender based violence arise from various interpretations and practices that can either perpetuate or mitigate violence against women. Some religious beliefs and traditions like the Islamic Religion in Nigeria, reinforce patriarchal structures and gender inequalities, also justifying or normalizing GBV, while others can provide a framework for condemning and addressing it. Sadly, Religious leaders and organizations are mostly seen as perpetrators of GBV. They use the medium of having midnight prayer session in pastor's room or office, and are eventually violated sexually. In 1 out of 10, 8 of them remain silence. They are either threatened or promised that if they keep silence whatever they are praying for will be manifested. The founder of iReign Christian Ministry, Oluwafeyiropo Daniels, was sentenced to life imprisonment for raping a church member. The trial judge, Rahman Oshodi of the Ikeja Sexual Offences Defenses and Domestic Violence Court, found the Lagos-based pastor guilty of tape and sexual assault of a tamale worshipper.⁷⁹ Some religious beliefs have reinforce harmful gender stereotypes, such as viewing women as less intelligent on rational than men or as being primarily responsible for their husbands well-being. They have viewed women as puppets who are subjected to their husbands and have to opportunity to contribute in any idea for the well-being of the family as well as making decisions or themselves.

⁷⁶ R. Ouedraogo and D. Stenzel; "The Heavy Economic toll of Gender Based Violence: Evidence from Sub-Saharan Africa", International Monetary Fund (IMF) Volue 2021: issue 277

⁷⁷ European Institute for Gender Equality, "Understanding economic violence against women" <<https://www.eige.europa.eu>> accessed 2 August, 2023

⁷⁸ What is Gender-Based Violence and how to prevent it <<https://www.rescue.org>> accessed August 22, 2023

⁷⁹ Nigeria Pastor bags life imprisonment for rape <<https://www.premiumtimesng.com>>, Lagos State accessed by agency report on January 26, 2024

HEALTH CHALLENGES

Gender based violence presents significant health challenges, impacting individuals physically, mentally and emotionally. Physical injuries, unwanted pregnancies and sexually transmitted infections (STIs) are common outcomes. Mental health issues like depression, anxiety, and post-traumatic stress disorder (PTSD) are also prevalent among survivors.⁸⁰ GBV can cause a range of physical injuries, including broken bones, burns, fractures and injuries to internal organ. It can lead to unwanted pregnancies increasing the risk of complications during pregnancy and childbirth. Most of the time, the pregnancy occurs among girls who are around the age of 13 and above, and because their body is not prepared for the weight of the pregnancy, it could lead to some complications during the pregnancy and during the delivery of the baby, and in some worst cases it can lead to death. Furthermore, it increases the risk of contracting STIs or HIV. GBV is strongly linked to higher risk of depression, anxiety, PTSD, and other mental health issues.

CONCLUSION

The Nigerian legal systems response to gender based violence reflects a complex interplay of progressive legislative intent and persistent structural weaknesses. Over the years, legislative measures such as the Violence against Person (Prohibition) Act and violence against persons law of various states of Nigeria, Child's Right Act, and other state-level laws have signaled a growing commitment to addressing GBV. However, despite this legal advancement, the reality on the ground tells a different story. Survivors continue to face numerous obstacles, including lack of speedy dispensation of justice, discrimination in enforcement of the law, cultural stigma, inadequate institutional support, and limited access to justice. These challenges point to the fact that legal reforms, though essentials, are not sufficient on their own.

A truly effective legal response must go beyond statutory provisions to address these systematic barriers through coordinated policy measures, enhanced legal enforcement, judicial reform and sustained public sensitization. Ultimately, the fight against GBV in Nigeria demands not only legal reform but a holistic societal transformation that upholds the rights and dignity of all individuals, particularly women.

⁸⁰The International Rescue Committee (IRC). "What is gender based violence and how do we prevent it <<https://www.rescue.org>.> accessed on August, 2023