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Legal Response to Gender Based Violence in Nigeria

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ABSTRACT

Despite concerted efforts by the United Nations in addressing gender inequality between men and women and the protection of women's rights, Gender-Based Violence (GBV) remains pervasive. GBV is a human rights violation that has far reaching effects on both the physical and mental health of women. This paper took a look at what constitutes Gender-Based Violence, the causes a drivers of GBV and the legal response to GBV in Nigeria. This was done by analyzing the laws and the capabilities of the various institutions in the response to GBV. The paper further examined the areas of apparent injustice in the existing laws relating to the protection of women and girls against violence in Nigeria. The work found that there are not adequate laws to protect women and girls from violence and that where the laws exist, they are either discriminatory or improperly implemented due to the attitude and un-readiness of the relevant agencies and institutions. The work revealed that despite the existence of these numerous international and regional treaties to which Nigeria is a signatory, the legal response to GBV still leaves much to be desired, This paper calls for an end to gender based violence and recommends that Nigeria needs to domesticate CEDAW and that all the States in Nigeria should pass the Violence against Persons (Prohibition) Act into Law for the provisions to be legally enforceable in the entire country..

Keywords: Gender, Violence, Abuse, Perpetrator

1. INTRODUCTION

In Nigeria, women suffer inequality and various forms of violence from the cradle until death. On a daily basis, we are inundated with stories of women being abused physically, emotionally in their house; place of work and even on the streets. At birth a male child is preferred and pampered, the girl child is not so welcomed. The female child undergoes female genital mutilation at a tender age; she is subjected to overburdening household chores to prepare her for the societal role of home keeping. During and after marriage, she is inferior to the man. She is not allowed to inherit, and is subjected to physical, psychological and mental abuse and violence.

The issue of Gender-based Violence (GBV) the world over is very sensitive and has been on the front burner. Gender-based violence is violence that is directed at an individual based on his or her biological sex or gender identity. Both males and females could be victims of Gender-Based Violence but studies have shown that the number of female victims is far greater than male victims,[1] so each time the term is used, what readily comes to mind is violence against women and girls. The term gender-based violence is used interchangeably with violence against women.[2] This is more so as available data shows that one in three women have been physically or sexually abused in their lifetime.[3] A former Secretary General of the United Nations, Kofi Annan declared in 2006 United Nations Development for Women report: "Violence against women and girls is a problem of pandemic proportions. At least on out of every three

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[1] Isley PJ, Gehrenbeck-Shim D, 'Sexual assault of men in the Community', J Comm. Psych. 1997; 25(2): 159-166 www.scholar.google.com accessed September 9, 2019.

[2] Krantz G et al, "Violence Against Women" Journal of Epidemiology and Community Health 59 (10) 818-821 <www.Jech.com> or <www.ncbi.nlm.nih.gov/pmc/articles/pmc1732916> accessed September 10 2019.

[3] World Health Organization (WHO): 'Global and regional estimates of violence against women', 2013. <www.unfpa.org> accessed 28 August 2019.

women around the world has been beaten, coerced into sex, or otherwise abused in her lifetime with the abuser usually known to her".[4] This paper will therefore focus on violence against women and girls and the terms "Gender-based violence" (GBV) and "Violence against Women" (VAW) will be used interchangeably. Gender-Based Violence is one of the most oppressive forms of gender inequality, posing a fundamental barrier to the equal participation of women in social, economic, and political spheres.[5] GBV includes physical, sexual, verbal, emotional and psychological abuse, threats and coercion, and economic or educational deprivation.[6]

The World Bank's Inter Agency Standing Committee defines Gender-based Violence as "an umbrella term for any harmful act that is perpetrated against a person's will and that is based on socially ascribed (gender) differences between males and females.[7] The United Nations also defines GBV as "any act of gender based violence that results in, or is likely to result in physical, sexual, or psychological harm or suffering to women including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or private life"[8]

No single day goes by in Nigeria without a story of one form of violence or the other against women and girls. Women are battered by their partners; scores or women and girls are raped on daily basis; women and girls are abducted and trafficked; women and girls are rendered homeless; the list is endless. Violence against women happens throughout a woman's life cycle – from pre-birth, through infancy, girlhood, adolescence up to old age. At a session on Gender Violence at the last 2019 NBA Annual General Conference, Mrs. Itoro Eze Anaba, the founder of Mirabel Centre (a Sexual assault referral centre) in Lagos said that the youngest rape victim she has seen in her centre was 3 months old while the oldest was 80 years old. A girl suffers violence before she is born in form of sex selective abortion. A girl can also be born with birth defects due to effects of battering suffered by her mother when she was pregnant for her. At infancy, girlhood and adolescence, the girl child suffers female child abandonment; physical, sexual and psychological abuse; incest; child prostitution; rape; child trafficking for purposes of sexual exploitation or economic exploitation (child labour); and economically coerced sex. In the quest for employment, a woman faces the challenge of being sexually violated by a potential boss to secure the job. In most of our higher institutions, sex for marks is an everyday occurrence.

The thrust of this paper is to examine to what extent Nigerian laws have prevented GBV and protected women and girls from violence. The paper takes a look at the different forms of GBV in Nigeria, the causes and main drivers of GBV, the effects, consequences of GBV, the available laws for the prevention and protection of women and girls against GBV and the readiness and extent to which the relevant agencies respond to GBV in Nigeria.

This paper is divided into seven parts. The first part introduces the subject matter and gives a background of the study with some definitions of Gender-based Violence. Part two deals with the different forms of GBV that women and girls suffer in Nigeria and the effects of GBV and consequences that women are faced with as a result of the violence they suffer. The third part examines the drivers of GBV, while part four x-rays GBV as a violation of human rights of women. Parts 5 and 6 examine the legal protection for women and girls against violence under International law and Nigerian municipal law. The last part is the conclusion here, suggestions and recommendations on how to improve the lot of women in Nigeria with regards to GBV are proffered.

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[4] Cited in Moradian M A, "Domestic Violence against Single and Married Women in Iranian Society", The Chicago School of Professional Psychology, Los Angeles, California, August 2009. www.academia.edu/2435646 accessed September 11, 2019.

[5] Gender-Based Violence: An Analysis of the Implications for the Nigeria for Women Project 2019 International Bank for reconstruction and Development/The World Bank. <www.worldbank.org>

[6] Meghan O, "What Does That Mean? Gender-based Violence, November, 2017. <www.womenforwomen.org> accessed 3 September 2019.

[7] Klugman J et al, 2014 "Voice & Agency: Empowering Women and Girls for Share Prosperity". Washington, DC: The World Bank. <www.researchgate.net> accessed 30 August, 2019

[8] United Nations General Assembly (UNGA): Declaration on the elimination of violence against women. Proceedings of the 85th plenary meeting, Geneva, 20 December, 1993. <www.unfpa.org> accessed 28 August 2019.

2. Forms and Effects of Gender-based Violence in Nigeria

Violence against women and girls permeates every facet of the Nigerian Society and it cuts across all social and economic strata. It takes a number of forms and arises in a number of situations. Gender-based violence comes in several forms which include overt physical abuse, psychological Abuse, Treatment of women and girls as commodities and deprivation of resources needed for physical and psychological well-being. Some forms of violence against women and girls in Nigeria are rape, domestic violence, sexual harassment, reproductive coercion, female genital mutilation, early marriage, trafficking in women and forced prostitution. The sites for GBV in Nigeria span across the family, the community/society and the State. It is in the family that children are prepared for social life and gender stereotypes are formed. The family which ideally should be a safe haven for her members has also become an arena for spousal battering, sexual assault, sexual abuse, forced marriage, threats, insults and neglects, overt control of a woman's sexuality through either forced pregnancy or forced abortion and in extreme cases spousal deaths.

Due to its patriarchal nature, the Nigerian society, violent behaviors of male abusers are condoned and justified. The State on its part seems to condone and reinforce the act of violence against women and girls through the enactment of discriminatory laws or discriminatory application of laws. A great majority of the violence against women can be described as harmful traditional practices (HTPs) against women. Some of the common HTPs against women in our communities include female genital mutilation (FGM), child marriage, ritualistic widowhood practices, domestic violence, and sexual freedom for husbands, traditional land tenure systems and patterns of inheritance, battery, trafficking in women, murder, kidnapping and induced prostitution. We will examine some of the above listed forms of violence.

2.1. *Sexual Violence*

Sexual violence seems to be the most prevalent form of violence against women and girls. The terms 'sexual violence', 'rape', 'sexual assault' and 'sexual abuse' are generally considered to be synonymous and often used interchangeably.[9] Sexual violence can be described as a situation where a woman is physically pressured, coerced or forced against her wish by a male counterpart to have sexual intercourse with him against her consent or when she is afraid of the consequences of her refusal to do so, or when consent is obtained by fraud or misrepresentation. Sexual violence can be by Intimate Partners (Intimate Partner Violence) or by someone other than a partner (non-partner sexual violence). Most perpetrators of rape and sexual assault are people well known by the victim and include family members. Girls are abused by parents and care givers physically by beating, sexually or psychologically. The 2018 story of Elizabeth Ochanya, a girl in Benue State, who was continuously raped by her aunt's husband and his son from the age of 9 until the age of 13 when she eventually died from health complications, is still fresh in our minds.[10] The story of the alleged rape of Busola Dakolo as a teenager by the founder and Senior Pastor of Commonwealth of Zion Assembly church is still trending.

Sexual violence include Sexual Slavery, Sexual harassment, trafficking for purposes of forced prostitution, Forced Exposure to Pornography, Forced Sterilization, Forced Abortion, Forced Marriage, Female Genital Mutilation, Virginity Test, Rape (Individual and Gang Rape), Marital Rape, and Military Rape.[11] Sexual violence has many devastating effects on women. It ranges from emotional, mental, Post traumatic stress, acute injuries, chronic pain, insomnia, eating disorders, reproductive health problems, sexually transmitted diseases, chronic infection, unwanted pregnancy, unsafe abortion, infertility, pelvic pains and pelvic inflammatory diseases, urinary tract infections, flashbacks, dissociation, substance abuse, self harm and suicidal attempts.[12]

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[9] Sexual Violence: prevalence, Dynamics and Consequences <www.who.int,guidelines_chap2> accessed 5 August 2019

[10] See report by Ameh Comrade Godwin in the Daily Post of October 23, 2018. <www.dailypost.ng> accessed 3 September 2019.

[11] Sexual Violence:Prevalence, Dynamics and Consequences <www.who.int,guidelines_chap2> accessed 5 August 2019

[12] Isis in Iraq, '2 Yazidi Girls Kill Themselves Everyday' after being raped by Insurgents, <http://www.ibtimes.co.uk/isis>; Effects of Sexual Assault <http://rainn.org/get-information/effect-of-sexual-assault> accessed 7 August 2019.

The list enumerated above is in-exhaustive as women and girls who are victims of sexual abuse, most times spend the rest of their lives in pains, self pity and regrets. At the last NBA Annual General Conference which held between 23rd and 29th of August 2019, the founder of Mirabel Centre, a Sexual Assault Referral Centre (SARC), Mrs. Itoro Eze Anaba said that a rape survivor once told her that the first thing she remembers when she wakes up in the morning and the last thing she thinks about before going to bed is her rape experience.

2.2. *Widowhood practices*

Widows are most times subjected to severe social, cultural and economic sanctions. Despite the fact that there are constitutional provisions that guarantee the rights of citizens against torture and dehumanisation, women who lose their husbands are treated in the most inhumane ways under the guise of culture. The woman's hair is forcefully shaved and sometimes, the woman is given the bath water of her deceased husband to drink to prove her innocence in his death. Under the Ibo customary law, a widow is not to succeed to the personal or real estate of her deceased husband. The Ibo culture of widow inheritance subjugates the woman. The only mitigating factor under this system is the right of the widow to be maintained from the proceeds of the estate of the late husband for as long as she lives within the compound. Statutory and Islamic laws provide for women's capacity to inherit assets following the husband's death. In practice, this is often overridden by local customary laws on succession; widows are most times subjected to severe social, cultural and economic sanctions. These may involve both physical and psychological violence. A vivid illustration of such violation can be found amongst the Kalabari people of Rivers State, where the culture demands that widows must sleep on the bare floor during the mourning period. On the other hand a man who loses his wife is pampered and given all the care he deserves in his grief.

2.3. *Female Genital Mutilation*

Female Genital Mutilation (FGM) is another form of violence against women and issue of concern within many of the local cultures of Nigeria as it is a violation of the right to privacy. FGM is defined by the World Health Organisation (WHO) as the partial or total removal of the external genitalia or other injury to the female genital organs whether for cultural, religious, or other non-therapeutic reasons.[13] Despite the constitutional provision,[14] which guarantees the rights of all against torture and other forms of inhuman or degrading treatment, female genital mutilation (FGM) is widespread among various ethnic groups in Nigeria. The prohibition of the circumcision or genital mutilation of the girl child or a woman by the Violence against Persons (Prohibition) Act, 2015[15] has not helped matters that much. Many young girls face several health risks including of HIV infection due to unhygienic methods used for the mutilation such as the repeated use of the same blade/knife on different girls, using unclean rags as swabs whilst cross infecting patients etc. Despite the fact that some states[16] have passed laws prohibiting female circumcision and genital mutilation, efforts to combat it have not yielded much results.

3. Drivers of Gender-based Violence

3.1. *Social Norms*

The patriarchal nature of our society and gender stereotypes makes men socially superior to women and gives them the right to assert their power over women. Patriarchy signifies unequal relations between men and women.[17] From birth, a male child is more welcomed in the home than a female child with the reason that the girl will eventually get married and leave the home while the boy will grow to carry on the family's name. This translates to the special treatment and privilege that is given to the male child in

[13] WHO, Violence Against Women: a priority health issue, Geneva: World Health Organization, 1997

[14] Section 34 (1) of the 1999 Constitution

[15] Article 6 (1)

[16] For example, Cross River, Delta, Edo and Ogun States have outlawed Female Genital Mutilation

[17] Erturk Yakin, "Towards a Post-patriarchal Gender Order: Confronting the Universality and the Particularity of Violence against Women" Sociologisk Forskning Vol.46 No. 4 (2009) 61-70. <www.Jstor.org/stable/20853687> accessed 10 September 2019.

terms of educational opportunities. The boy gets to have the first choice of being educated while the girl is left at home to take care of domestic chores and sometimes hawk on the streets to help with the economic situation of the family. The irony of it is that the proceeds are usually used to support the male child. Such girls are usually exposed to different forms of violence and to strangers who could take advantage of them which could result to rape, unwanted pregnancy or even death.

There is a deep cultural belief in Nigeria that it is socially acceptable for a husband to beat his wife under the guise of disciplining a spouse.[18] The supposed superiority of the man gives him the right to "correct" or discipline his wife's behaviour if he considers it inappropriate or disrespectful. This justifies wife battering and other forms of domestic violence. A man can go as far as telling his educated wife not to work and stay home to take care of the home and children because there is this belief that financially independent women are difficult to control. More so, the mere fact that he paid a dowry or bride price is an indication that the woman is his property that he can deal with as he likes. Of course the woman will have to obey because it is her responsibility to make the marriage work and any complaint from her will be seen as a mark of disrespect. Physical violence is even seen as an acceptable way of resolving conflicts within a relationship. Most often than not, these acts of domestic violence are regarded as "private affairs" that should not leave the four corners of the home, thereby reinforcing the culture of silence that characterise domestic violence. Most incidents of domestic violence are not reported due to societal norms, as it is regarded as a taboo to speak out. Issue of stigmatisation is also responsible for under reporting of violence against women especially sexual offences like rape.

3.2. *Gender Inequality*

Gender-based violence is rooted in inequality between women and men. Inequality can be described as discrimination in opportunities and responsibilities and in access to and control of resources that is rooted in the socio-culturally ascribed notion of masculinity as superior to femininity.[19] Gender Equality does not mean that women and men will become the same but that a person's rights, responsibilities and opportunities do not depend on whether they are born male or female.[20] The United Nations Declaration on the Elimination of Violence against Women states

> *Violence against women is a manifestation of historically unequal power relations between men and women, which have led to domination over and discrimination against women by men and to the prevention of the full advancement of women, and that violence against women is one of the crucial social mechanisms by which women are forced into a subordinate position compared with men.*[21]

The principal roles ascribed to women are that of bearing and rearing children and this job of home-making and home keeping is not recognized nor compensated, it is usually classified as unproductive labour. Women are therefore not economically empowered, thereby making them vulnerable to GBV particularly with poverty been identified as one of the main drivers of Gender-based violence. In search of better opportunities, women are lured with false claims of better jobs and life only to be trafficked and forced into prostitution. Women still have a higher unemployment rate than men. Those employed are concentrated in the informal sectors like agriculture, petty trading and services. Men thus use their economic advantage to perpetrate domestic violence, leaving the women with no alternative than to remain in an abusive relationship.

3.3. *Armed Conflicts and Militancy*

Women have suffered massive massacre, rape, sexual abuse, social psychological trauma, aggravated poverty, unemployment, hunger, and anger, low self esteem, bitterness, frustration, desperation, fear,

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[18] <www.wikipedia.org/Domestic_Violence_in_Nigeria> accessed 10 September 2019.

[19] ibid (n. 2)

[20] Klugman J, 'Gender Inequality and Development – Introduction and Overview' July 7, 2017. <https://cdn1.sph.harvard.edu/wp.content/uploads/sites/134/2017/07/kugman-jindal-gender-and-development-2017.pdf> accessed 9 September 2019.

[21] United Nations General Assembly (UNGA) – Declaration on Elimination of Violence against Women – United Nations A/RES/48/104. Äddressing gender-based violence: advancing human rights" United Nations Population Fund (UNFPA) <www.en.wikipedia.org/wiki/Violence_against_women> accessed 10 September 2019.

tension due to armed conflicts and militancy. The case of Boko Haram Insurgency in the North East part of Nigeria is apt. In April 2014, over 200 girls were abducted from a secondary school in Chibok, Borno State and they stayed in captivity for over two years before some of them were released. A good number of them are still unaccounted for. In February 2018, the same scenario played out in Dapchi with about 110 girls abducted from their school. While 104 of them have been released after over one month in captivity, the fate of the other six, one of which is Leah Sharibu, is still unknown. Unspeakable things happen to these girls while in captivity. They are used as sex slaves to satisfy the sexual desires of the sex starved insurgents. Some of them are even forced into marriage with these insurgents. Even security and law enforcement agents sent to keep peace in these areas are also not exonerated in perpetrating sexual violence.

4. Gender-based Violence: A Human Rights Violation

Violence against women is a serious violation of women's human rights. The rights of women violated include but not limited to health and reproductive rights, economic and social welfare rights, inheritance and property rights.

4.1. *Health and Reproductive Rights*

Gender-based violence makes enjoyment of Health and Reproductive Rights by women and girls in Nigeria almost an illusion. Incidences of gender-based violence have health consequences and result in health complications including miscarriages, long term disabilities, unwanted pregnancies, HIV/AIDS and other sexually transmitted diseases. Women are not given the opportunity to exercise their reproductive rights. It is generally believed that it is a man's world and he determines the number of children he wants and when he wants them. Inadequate spacing of children takes its toll on the health of women. Nigeria is one of the nations with very high rate of maternal mortality. Bill Gates in his speech on 22 March 2018 to the National Economic Council (NEC) in Abuja, observed that Nigeria is among the most dangerous countries to give birth and the fourth worst maternal mortality rate in the world behind Sierra Leone, Central African Republic and Chad.

4.2. *Economic and Social Welfare Rights and Women's Right of Inheritance*

Violence against women and girls in Nigeria reduces them to economic wrecks and makes them perpetually dependent on the male folk. In some parts of Nigeria, women are still being regarded as part of their husband's property and as such cannot inherit her husband's property, but must be inherited alongside other property by another male of her late husband's family. This explains why in most parts of Igbo land, any of the brothers of a deceased is at liberty to marry his widow. In *Okonkwo v Okagbue*[22] the Supreme Court declared a custom which allowed a sibling to marry his deceased brother's wife as being repugnant to natural justice. The right of a woman who loses her husband to their house is limited to right to only occupy. Her interest in the property, even the house she occupied with her husband before his demise is merely possessory and not proprietary.[23]

In the eastern part of Nigeria, female children are still discriminated against on issues of inheritance despite the Court of Appeal's decision in Mojekwu v Mojekwu[24] where the court declared the 'Oli-Ekpe' custom of Nnewi which permits the son or the brother of a deceased person to inherit his property to the exclusion of his female children, discriminatory. The reasoning by Justice Niki Tobi is in tandem with Article 21(2) of the Maputo Protocol which states that "women and girls shall have same rights as men and boys to inherit in equal shares their parents' properties". Due to the discriminatory practice of disinheriting women, majority of women are poor and this hinders their right to dignity, food security and adequate housing.

4.3. *Marriage, Separation, Divorce and Women's Property Rights*

Although Article 7 of the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa, 2003 provides for both parties of a marriage to enjoy equal rights within and after

[22] (1994) 12 SCNJ, 89

[23] See Nzekwu v Nzekwu (1989) 3 SCNJ, 167

[24] (1997) 7 N.W.L.R. (pt 512) P.228; See also the case of UKEJE v UKEJE (2014)LPELR-22724 (SC)

marriage, in issues of custody and access to an equitable share of the joint property deriving from the marriage, this is not the case in Nigeria. Three forms of marriage are recognized in Nigeria – Customary, Islamic and Marriage under the Act. The reality of women married under Customary and Islamic law has not yet been affected by the Protocol. Unlike in marriage under the Act, a woman who marries under customary law or Islamic law in Nigeria does not enjoy adequate legal protection in the distribution of assets. A woman married under customary law is entitled to be provided with a home by her husband as long as the marriage is in existence. This right terminates upon divorce as she has no claim over a house she jointly owned with her husband. Her position is not helped by the provisions of the Matrimonial Causes Act in respect of maintenance and settlement of property, which expressly excludes the application of its provisions to marriage under Customary and Islamic Law. Article 21 of the Protocol to the Charter on Human and Peoples Rights on the rights of women in Africa, otherwise known as the Maputo Protocol states that "a widow/widower shall have the right to inherit each other's property in the event of death whatever the matrimonial regime, to continue living in the matrimonial home".

5. Legal Protection of Women and Girls from Violence under International Law

Legal protections for violence against women are provided for under various international instruments. There are several international laws, treaties and conventions that expressly prohibit discrimination against women. The United Nations Charter was signed on 26 June 1945 and came into force on 24 October of the same year. In its preamble, the United Nations (UN) stated among other things that it is determined to "reaffirm faith in fundamental human rights, in the dignity and worth of the human person, in the equal rights of men and women and of nations large and small".[25] In its Article 1(3), the UN stated that one of its purposes is "to achieve international cooperation ... in promoting and encouraging respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language, or religion".[26] The provisions of Article 13(1) (b) of the charter are in tandem with Article 1(3). Article 8 of the charter further states that "The United Nations shall place no restrictions on the eligibility of men and women to participate in any capacity and under conditions of equality in its principal and subsidiary organs". The provisions of Articles 55, 62(2), 68 and 76 (c) are all to the effect that the promotion, respect and observance of human rights and fundamental freedom shall be non-discriminatory. With the formation of the Commission on Human Rights and the Commission on the Status of Women in 1946, and the adoption of the United Nations Declaration of Human Rights (UDHR) in 1948, the UN began its work on behalf of women with a drive to establish the legal basis for the promotion of their equal rights. Under this section we will briefly look at the various instruments, conventions and declarations for the promotion and protection of the rights of women and impliedly provide for the protection of women and girls against violence.

5.1 *Universal Declaration of Human Rights (UDHR)*

The Universal Declaration of Human Rights[27] (Universal Declaration), proclaimed by the United Nations General Assembly (UNGA) in Paris on 10 December 1948, sets out, for the first time, fundamental human rights to be universally protected. It is an international document that states basic rights and fundamental freedoms to which **all** human beings are entitled (*emphasis ours*). Article 1 of the Universal Declaration states that "all human beings are born free and equal in dignity and in rights"

The Universal Declaration includes civil and political rights like right to life, liberty, free speech, privacy. It also includes economic, social, and cultural rights like the right to social security, health and education. Though the Universal Declaration does not directly create legal obligations for countries, it is an expression of the fundamental values shared by all members of the international community and has had a profound influence on the development of international human rights law. Most importantly, the 1945 Universal Declaration on Human Rights served as the basis for subsequent declarations on the rights of

[25] Available at <www.un.org/en/sections/un-charter/preamble/index.html> assessed 10 September 2019.
[26] Available at <https://treaties.un.org/doc/publication/ctc/uncharter.pdf> assessed 10 September 2019.
[27] General Assembly Resolution 217 A

peoples geared towards the protection of the rights of women and has given rise to a range of other international agreements which are legally binding on countries that ratify them.

5.2 *The International Covenants on Human Rights*

The International Covenants on Human Rights comprises the International Covenant on Civil and Political Rights (ICCPR)[28] and the International Covenant on Economic, Social and Cultural Rights (ICESCR)[29]. Both covenants are part of the International Bill of Rights alongside the Universal Declaration of Human Rights (Universal Declaration) and were adopted by the General Assembly of the United Nations in accordance with the Charter of the United Nations and the Declaration of Human Rights.

With regards to the rights of women, both Covenants have non-discriminatory provisions. The provisions of Articles 2(1) and 26 of the ICCPR, and Article 2(1) of the ICESCR stress on the right to equality and non-discrimination. Article 3 of both the ICCPR and the ICESCR provide that there should be equal rights of men and women to the enjoyment of all the rights set forth in the Covenants.

5.3 *The Convention on the Elimination of All Forms of Discrimination against Women*

The United Nations Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) was adopted by the United Nations General Assembly in 1979 and entered into force on 3 September 1981. CEDAW recognises violence as part of discrimination against women. Article 5 of CEDAW specifically "encourages nations to modify the social and cultural patterns of conduct of men and women with a view to eliminate inferiority and superiority of either sexes or stereotype roles of men and women". The Convention provides for ways in which State parties are to eliminate discrimination by making appropriate Legislation prohibiting discriminations, ensuring the legal protection of women's rights, refraining from discriminatory actions, protecting women against discrimination by any person, organisation or enterprise, and modifying or abolishing discriminatory legislation, regulations and penal provisions. It requires positive action on the part of the State. The Convention defines discrimination against women as

> *...any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field.*[30]

The Convention provides the basis for achieving equality between women and men through ensuring women's equal access to, and equal opportunities in political and public life including the right to vote and to stand for election as well as education, health and employment. State parties agreed to take all appropriate measures, including legislation and temporary special measures, so that women can enjoy all their human rights and fundamental freedoms. In 1999, the United Nations adopted the Optional Protocol to CEDAW and designated 25th November as the International Day for the Elimination of Violence against Women.

5.4 *African Charter on Human and People's Rights (ACHPR) and the Maputo Protocol*

The African Charter on Human and Peoples Rights which has been transformed into law in Nigeria in the form of the African Charter on Human and Peoples Rights (Enforcement and Domestication) Act Cap 10, 1990,[31] forbids every form of discrimination against everyone, including women. Article 2 of the Charter provides as follows:

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[28] The ICCPR was adopted and opened for signature, ratification and accession by General Assembly Resolution 2200A (XXI) of 16 December 1966 and entered into force 23 March 1976, in accordance with Article 49. <www.ohchr.org/Documents> accessed 10 September 2019

[29] The ICESCR was adopted by the United Nations General Assembly on 16 December 1966 and entered into force on 3 January 1976. <www.ohchr.org/Documents> accessed 10 September 2019.

[30] Article 1 Convention on the Elimination of Discrimination Against Women (CEDAW) 1979.

[31] Domesticated in 1982

> Every individual shall be entitled to the enjoyment of the rights and freedoms recognized and guaranteed in the present Charter without distinction of any kind such as race, ethic group, color, sex, language, religion, political or any other opinion, national and social origin, fortune, birth or other status.

The provisions of Article 3 are to the effect that "Every individual shall be equal before the law and every individual shall be entitled to equal protection of the law".

The Regional Regime has also been very proactive in terms of making specific provisions for women under the **Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa, 2003.**[32] This protocol prohibits all forms of harmful, violent and prejudicial practices against women from Article 2 to 25. The Protocol to the African Charter on Human and People's Rights on the Rights of Women in Africa is a unique piece of legislation because it takes into consideration the provisions of other international instruments on human rights that touch on women's rights, the need for equality and freedom from discrimination.

5.5 *The United Nations Declaration on the Elimination of Violence against Women*

The 1993 United Nations General Assembly Declaration on the Elimination of Violence against Women[33] was the first International Instrument to explicitly define violence against women.[34] The UN in the preamble of this Declaration preamble affirms that violence against women constitutes a violation of the rights and fundamental freedoms of women, and is concerned that violence against women is an obstacle to the achievement of equality, development and peace.

5.6 *The Beijing Declaration and Platform for Action 1995*

The Fourth World Conference on Women held in Beijing, China in 1995 made gender development, equality and peace an agenda for women development and empowerment. The Beijing Platform for Action articulated women's rights as human rights and focuses on 12 critical areas concerning the implementation of women's rights and which must be addressed to achieve gender equality and women's empowerment.

- Women and Poverty
- Education and training of women
- Women and health
- Violence against women
- Women and armed conflict
- Women and the economy
- Women in power and decision making
- Institutional mechanisms for the advancement of women
- Women and the media
- Women and the environment
- The girl child

5.7 *The Vienna Declaration and Programme of Action 1993*

The Vienna Declaration clearly stated that "Women's Rights are Human Rights" and that "the human rights of women and of the girl child are an inalienable, integral and indivisible part of Universal Human Rights (Article 18). Article 38 of the Declaration also stresses on the "importance of working towards the elimination of violence against women in public and private life, the elimination of all forms of sexual harassment, exploitation and trafficking in women, the elimination of gender bias in the administration of justice and the eradication of any conflicts which may arise between the rights of women and the harmful effects of certain traditional or customary practices, cultural prejudices and religious extremism".

[32] This Protocol, otherwise known as the Maputo Protocol was ratified by Nigeria on 18 February 2005

[33] Proclaimed by General Assembly Resolution 48/104 of 20 December 1993 <www.un.org/en/genocideprevention> accessed 11 September 2019.

[34] Ibid, Article 1

5.8 *The International Conference on Population and Development 1994*

The International Conference on Population and Development 1994 held in Cairo emphasised on "advancing gender equality and equity and the empowerment of women, and the elimination of all kinds of violence against women, and ensuring women's ability to control their own fertility" which they referred to as cornerstones of population and development *related* programmes. This conference links Violence against women to reproductive health rights and provides recommendations to governments on how to prevent and respond to violence against women and girls.

5.9 *Millennium Development Goals (MDGs)*

The Millennium Development Goals (MDGs) are the eight (8) international development goals that were established following the millennium summit of the United Nations in 2000, following the adoption of the United Nations Millennium Declaration. The entire UN member States and about 23 International Organisations committed to help achieve the 8 time bound goals by 2015. MDG Goals numbers 3 and 5 deal with women's rights and well being. Whilst Goal number 3 is to promote Gender Equality and empowerment of women, Goal number 5 deals with the reduction of maternal mortality.

5.10 *The United Nations Conference on Sustainable Development (Rio + 20) 2012*

The United Nations Conference on Sustainable Development which was held 20 years after the Rio de Janeiro conference of 1992 resulted in the document tagged "The Future we want". The Future we want[35] affirms the commitments of States to "Women's equal rights, access and opportunities for participation and leadership in the economy, society and political decision making". It also includes explicit references to accelerating the implementation of commitments in the Convention on the Elimination of All Forms of Discrimination against Women, the Beijing Platform for Action and the Millennium Declaration. It also states that Gender Equality and the effective participation of women are important for effective action on all aspects of sustainable development and calls for repeal of discriminatory laws and for ensuring women's equal access to justice.

6. Legal Protection of Women and Girls from Violence under Nigerian Law

Nigeria being a signatory to most, if not all international human rights treaties and instruments ignited the hope that Nigerian women will enjoy their basic human rights and be shielded from age long anachronistic practices but the reality is still a far cry from the ideal. Notwithstanding the fact that Nigeria has ratified the main international and regional women's rights protection instruments, discrimination against women persists widely both in law and practice. The legal framework for women's rights in Nigeria is based on the Constitution primarily, and other local laws and international treaties relating to women ratified by the country. Despite the fact that women constitute about 49% of the total population of Nigeria, they are discriminated against in all spheres of social, political, and economic activities. The marginalization of Nigerian women is much more pronounced in the native laws and custom which constitutes a major aspect of the sources of Nigerian law.

Women suffer domestic and conjugal violence within the home; the battery of wives is sanctioned culturally. Domestic violence against women is downplayed as there is no specific law to protect women against domestic violence or wife battery unless a woman brings an action under the general provisions against Assault. The provision of the Penal Code (PC) (criminal law applicable in the Northern part of Nigeria) specifically on domestic violence encourages violence against women. It allows for the beating of a wife for the purpose of correction.[36] Most times, the law enforcement officers are reluctant to take action where cases of domestic violence are reported to them because the general assumption is that it is a 'private affair' and should be settled by the parties or their extended family. Additionally, cultural and financial consideration and the high cost of justice often prevent women from pressing charges against their husbands or partners in cases of domestic violence against them. There is a complete failure of the law to provide adequate respite.

[35] United Nations General Assembly Resolution 66/288

[36] See Section 55 (1) (d) of the Penal Code

This part of the paper looks legal protection of women and girls against violence by Laws protecting the rights of women, laws which are discriminatory and Challenges of enforcing laws protecting women in Nigeria.

6.1 *Laws Protecting the Rights of Women in Nigeria*

Nigeria is a heterogeneous society. It consists of multi-religious and multi-ethnic groups. As a result, this study cuts across the various legal systems that have direct impact on the rights of women in Nigeria. Taking into account the plural nature of the Nigerian legal system, this work examined the protection of the rights of women under the Constitution, the Customary Law and the Islamic Law.

It is worthy of note that there are a plethora of laws addressing the issue of Rights of Women in Nigeria including sexual violence and other forms of discrimination against women in Nigeria. The Constitution of the Federal Republic of Nigeria 1999 forms the basis of the rights inherent in every citizen. Sections 33 to 44 of that constitution grants inherent fundamental human rights such as the right to life,[37] fair-hearing,[38] personal dignity,[39] personal liberty, freedom of thought, conscience and religion, freedom from discrimination[40] and the right to compulsory acquisition of property among others.

Importantly, S. 19 (d) of the Nigerian Constitution declares respect for international law and treaty obligations. In applying international laws and treaties relating to the human rights of women in Nigeria, the Constitution is the primary source of law. The Constitution as the supreme law of the land[41] allows a system whereby international laws and treaties ratified and adopted into law by the parliament becomes part of the accepted law of the land. Problems occur however because many of the Nigerian states have not adopted and passed into law most of the treaties and covenants ratified by the country.

The 1945 Universal Declaration on Human Rights served as the basis for subsequent declarations on the rights of peoples geared towards the protection of the rights of women such as the Convention on the Elimination of All Forms of Discrimination against Women 1979 to which Nigeria is a party.[42] Some of the international treaties applicable to women and ratified by Nigeria include:

- International Covenant on Civil and Political Rights (ICCPR) 29 July, 1993,
- International Covenant on Economic, Social and Cultural Rights (ICESCR) 29 July, 1993,
- Optional Protocol on ICCPR concerning individual petition,
- Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) 28 June, 2001,
- International Convention on the Elimination of all Forms of Racial Discrimination (CERD) 16 October, 1967,
- Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) 23 April, 1984,
- Optional Protocol on the Elimination of all Forms of Discrimination against Women 22 November, 2004.

Women's rights are often challenged in Nigeria most especially in family law areas such as succession rights and widowhood issues. Most cultures in Nigeria do not afford women with rights such as afforded by the international instruments and local laws including the constitution of Nigeria. Although under the Constitution and other Legislative Instruments to which Nigeria is a party, the rules governing rights and empowerment of women are clearly spelt out, to what extent have these laws protected the rights of women in practice, in particular against violence?

[37] Section 33 of the Constitution
[38] Section 36
[39] See Section 35 of the Constitution provides for the personal dignity of individuals including women.
[40] Section 42
[41] S. 1 (1) of the Constitution of the Federal Republic of Nigeria 1999.
[42] The treaty was ratified by Nigeria on 23 April 1984. The Optional Protocol to CEDAW was also signed by Nigeria on 8 September 2000 and ratified on 22 November 2004

6.2. *The Violence against Persons Prohibition Act*

The first law passed in Nigeria specific to the protection of persons including women and girls against violence is the Violence against Persons (Prohibition) Act (VAPP), 2015,[43] which was signed into law on 23rd May 2015, after 10 years of the life span of the bill in the National Assembly. The VAPP Act provides for 26 offences and incorporates the rights guaranteed under the Constitution. With regards to violence against women and girls, VAPP prohibits female circumcision or female genital mutilation;[44] forceful ejection from home;[45] harmful widowhood practices;[46] abandonment of spouses, children and other dependants without sustenance;[47] battery;[48] and other harmful traditional practices.[49]

6.3 *The Child Rights Act*

The Child Rights Act 2003 (CRA) incorporates all the rights and responsibilities of children into a single law; and specifies the duties and obligations of government, parents and other authorities, organizations and bodies. The Child Rights Act protects the girl child until the age of 18. The provisions prohibit the use of corporal punishment for children below the age of 18 years. Having been enacted at the national level, the States are expected to formally adopt the Act for domestication as State laws. Issues of child rights protection are on the residual list of the Nigerian constitution, giving States exclusive responsibility and jurisdiction to make laws relevant to their specific situations. To date only 24[50] of the country's 36 States have passed the Act. 12 States[51] (all in the Northern Region of Nigeria where issue of girl child marriage is prevalent), are yet to domesticate the law to protect Nigerian child. This explains why this legislative achievement has not yet translated into improved legal protection for the children throughout the federation. On 1 June 2017, UNICEF called for adoption of Child Rights Act in all States.[52] In a statement to mark 2017 Children's day tagged 'Child Protection and the Sustainable Development Goals', the UN body said millions of Nigerian children still suffer some form of physical, emotional or sexual violence despite Sustainable Development Goals (SDGs) to end the practice by 2030. According to a 2014 survey by the National Population Commission with the support from UNICEF and the U.S. Centres for Disease Control and Prevention, six out of ten Nigerian children experience at least one of these forms of violence before they reach 18 years old.

6.4 *Nigerian Laws which are Discriminatory*

Section 42 of the Constitution of the Federal Republic of Nigeria, 1999 provides as follows:

> A citizen of Nigeria of a particular community, ethnic group, place of origin, sex, religion or political opinion shall not, by reason only that he is such a person:-
>
> (a) be subjected either expressly by, or in the practical application of, any law in force in Nigeria or any executive or administrative action of the government, to disabilities or restrictions to which citizens of Nigeria of other communities, ethnic groups, places of origin, sex, religion or political opinion are not made subject; or …

This constitutional provision which prohibits every form of discrimination represents an important expansion in the area of legal protection for human rights. However, there are a number of laws and practices that are predisposed in favour of male and actively encourage gender disparity in Nigeria. There

[43] Available at <https://www.ilo.org/dyn/natlex/docs/ELECTRONIC/104156/126946/F-1224509384/NGA104156.pdf> accessed 12 September 2019.
[44] VAPP Act Article 6 (1)
[45] Ibid Article 9 (1)
[46] Ibid Article 15 (1)
[47] Ibid Article 16 (1)
[48] Ibid Article 19 (1)
[49] Ibid Article 20 (1)
[50] The States include Abia, Akwa-Ibom, Anambra, Bayelsa, Benue, Cross-River, Delta, Ebonyi, Edo, Ekiti, Enugu, Imo, Kogi, Kwara, Lagos, Nassarawa, Niger, Ogun, Ondo, Osun, Oyo, Plateau, Rivers, and Taraba.
[51] Kano, Sokoto, Kaduna, Kebbi, Adamawa, Bauchi, Yobe, Borno, Zamfara, Gombe, and Katsina are yet to domesticate the Child Rights Act. "12 States yet to domesticate law to protect Nigerian children – UNICEF". <www.legit.ng/1237939> accessed 12 September 2019
[52] Available at <www.thisdaylive.com/index.php/2017/06/01> accessed 12 September 2019

are various provisions of the same constitution that seem to reinforce discrimination against women in Nigeria which is a form of violence against women. For instance,

- Section **26 (2) (a)** of the Constitution permits any foreign woman who is married to a Nigerian male citizen to be registered as a citizen of Nigeria. However, the constitution is silent on whether the same thing applies to a foreign man married to a female citizen of Nigeria. This impliedly means that the Constitution does not allow a Nigerian Woman to transmit her nationality to her husband if he is a foreigner. Consequently, children born to such a woman do not automatically acquire Nigerian citizenship.
- Section 55 of the Penal Code (applicable in northern Nigeria) permits wife battery as chastisement as long as grievous harm is not afflicted.

6.4.1 Child Marriage

The Constitution[53] appears to promote the marriage of a girl child as it states that "any woman who is married shall be deemed to be of full age". This constitutional provision seems to strengthen the violence against girl children contrary to the provisions of Article 16 of the Convention on the Elimination of All Discrimination against Women (CEDAW), which prohibits the betrothal and marriage of a girl child. This section validates forced marriage as a young woman who is forced into marriage whether she is up to the age of consent or not, will be deemed to be of full age. This section is very absurd and legitimizes infant marriages despite the hazards of exposing infant to early sex and child birth which has been medically certified unsafe for young women.[54] The effect of child marriage is gruesome and includes higher maternal mortality and greater prevalence of conditions such as Vesfico Virgina Fistula (VVF). Though some states have taken positive steps against child marriages,[55] the effect of these are yet to make any meaningful impact on the fate of the Nigerian girl child.

6.4.2 Sexual Offences

The Nigerian Criminal Code (applicable in the South) and the Nigerian Penal Code (applicable in the North) makes it a criminal offence to subject a woman to indecent sexual assault, rape and defilement. Although there are provisions in section 357 Criminal Code (applicable in the southern part of Nigeria) and the Penal Code against various forms of sexual assault against women, these provisions are not effectively implemented due to the technical Court procedure and evidential rules, coupled with women's apathy to report such cases for fear of social stigma.

For instance, Rape under the Nigerian Laws attracts the punishment of life imprisonment but the manner in which rape trials are conducted and the nature of evidence[56] required exposes the woman victim to indignity, making it a man's trial, but a woman's tribulation. The legal hurdle in proof of rape is so cumbersome that most rape victims prefer not to go through more excruciating mental and psychological torture after falling victim to rape.[57]

In our criminal justice system, the burden of proof rests with the prosecution and guilt must be established beyond reasonable doubt. However, in rape cases, the victim is required to prove that she did not consent to rape. Quite often, medical evidence will show that the victim was raped but failure to provide 'corroboration' will jeopardize the prosecution's case. In certain instances, corroborating the evidence of the victim may create a problem for the prosecution to prove the case of sexual assault. For example, in the case of State v. Akingbade Gabriel,[58] the accused having been charged with the offence of rape of a 20-year old girl was later discharged and acquitted despite being found to have raped victim for lack of corroboration of the victim's statement.

[53] Section 29 (4) of the 1999 Constitution

[54] Child Marriages, 39,000 Every Day <http://www.unicef.org/media_68114.html>; The Impacts of Early Pregnancy on Adolescent Women <http://www.advocatesforyouths.org/publications/publications> accessed 10 September 2019.

[55] See the case of Bauchi State where a law banning child marriages has been enacted.

[56] Section 211, Evidence Act (2011)

[57] See the South African case of Mulula v State (2014) ZASC, 103 where the Supreme Court set aside the 15 years imprisonment secured at the lower court. See also Popoola v State (2013) 17 NWLR (pt 1382) 96 and Musa v State (2013) 9 NWLR (pt 1359)

[58] (1971) All NLR 508

The requirement of penetration to prove rape cases which though is not part of the definition of rape but has been used over the years in decided cases, has also denied women that are victims of rape the deserved justice from law courts. For these reasons, many rape cases go unreported and rape victims suffer and die in silence.

The Nigerian Penal Code[59] provides that a man is not capable of raping or indecently assaulting his wife. This was the common law stance as stated in the case of R v. Steel[60] where the court held that, "the husband cannot be guilty of rape committed by himself upon his lawful wife, for by their mutual matrimonial consent and contract, the wife had given up herself in this kind … to her husband from whom she cannot retreat." Section 282 of the Penal Code provides that "Sexual intercourse by a man with his own wife is not rape if she has attained puberty". This provision does not only condone marital rape, it also condones defilement of young girls under the age of 16. This is because the onset of puberty differs from girl to girl. Commencement of menstrual period is deemed to be the onset of puberty and some girls start as early as the age of 9 years to menstruate.

Gender disparity exists in the punishment applicable for cases of indecent assault.[61] Sections 353 and 360 of the Criminal Code cover the same offence (unlawful and indecent assault) but provides for a lesser punishment where the victim of assault is female. While indecent assault on males is a felony which attracts 3 years imprisonment, on females it is a misdemeanour for which the punishment is a statutory maximum of 2 years.

Furthermore, some provisions of the Criminal Code Act and Penal Code are also very discriminatory. A juxtaposition of Section 216 of the Criminal Code Act with Section 222 of the same Act shows clearly that the same offense of indecent treatment of girls under the age of 16 which is punishable with imprisonment for two (2) years, is punishable with seven (7) years imprisonment when committed on boys under the age of fourteen. Provisions such as these have a way of reinforcing stereotypes and violence against women who are deemed to be more vulnerable.

6.4.3 Sharia Penal Codes

Another emerging issue affecting the legal status of women in Nigeria is the introduction of Sharia Penal Code in most of the Northern States of Nigeria[62]. The implementation of the Sharia Penal Code has been adjudged as inadequate in protecting the rights of women. Access to justice is seen as having been abridged particularly in the Area and Sharia Courts. Often times, judges' attitude and biases affect the type of judgment they render with women testimony devalued and treated as that of a minor, without necessary legal capacity. The extension of the law from personal to the criminal sphere as revealed in notorious cases decided by the Sharia trial courts in respect of adultery or fornication (Zina) raises a lot of question on the commitment of the Nigerian State to the protection of women against violence. In most of the cases affecting women handled by these courts, the procedural guarantees were not observed in favour of accused person, thereby resulting in violation of basic human rights and often times expose women to violence. Adultery attracts death sentence by stoning while fornication attracts a minimum of 100 lashes. The law gives room for gender disparity where women who are raped and/or are pregnant are being condemned to death by stoning. The surprising thing is that this seeming injustice on women in these Northern States is in total disregard of the Nigerian Constitution. It is clear that Nigeria practices a multiple system of laws, however, in the event of any conflicts; the constitution should be supreme[63] and upheld in favour of the protection of women where the customary and sharia laws are discriminatory and unjust. Nigeria is a party to the International Covenant on Civil and Political Rights (ICCPR),

[59] Section 282 of the Penal Code. Section 6 of the Criminal Code equally provides that sexual intercourse between a husband and a wife cannot amount to rape unless there is a decree absolute or possibly a decree nisi. This provision therefore encourages marital rape and domestic violence in families.

[60] (1977) CLS 270

[61] Sections 353 and 360 Criminal Code Cap 77 Laws of the Federation 1990

[62] Sharia Penal Code was introduced in 2000 by Zamfara State and was quickly followed by over eleven other states

[63] Section 1(3) of the 1999 Constitution provides that "if any other law is inconsistent with the provisions of this constitution, this constitution shall prevail and that other law shall to the extent of the inconsistency be void".

International Covenant on Economic, Social and Cultural Rights (ICESR), The Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), and the African Charter for Human and People's Rights and yet, our laws have not been reviewed to align with the international norms and standards of human rights and with the constitutional provisions. These international treaties are yet to be incorporated into our domestic law in line with the constitutional provisions[64].

6.4 Challenges of Enforcing Laws Protecting the Rights of Women in Nigeria

The problem with protecting the rights of women in Nigeria is not the dearth of laws but the enforceability of those laws. Legal framework for the protection and promotion of women's rights in Nigeria remains weak, incoherent and largely awkward. Cultural prejudice and unfortunate beliefs rather than constitutional, legal or international obligations influence and dictate the rights and accesses which women enjoy.

It would not be entirely correct to say that Nigeria has done nothing towards the protection of the rights of women but the question still remains how effective these measures have been. Some of the positive actions already taken include:

- Adoption of a Gender Policy in 2007
- Establishment of Science Schools for girls
- Establishment of women development centres in 36 States
- Adoption of the Trafficking in Person's (Prohibition) Law Enforcement and Administration Act.
- Establishment of a national agency for the prohibition of trafficking in persons
- Adoption of a National Policy on HIV/AIDS, reproductive health and Female Genital Mutilation

However, there are some factors militating against the rights of women and they include:

- *Socio-Cultural Factors* –Traditional and Cultural factors are part of the problems militating against the realisation of women's rights in Nigeria. In Nigeria, women are meant to be seen and not heard. Even the President of the Federal Republic of Nigeria Muhammadu Buhari said, in the full glare of other world leaders, that his wife's place is in the kitchen and "the other room". It is almost impossible for women to stand up for their rights in a society like ours where the society sees women as wives and mothers and nothing more;
- *Economic factors* – Women are subjected to economic violence in various forms. Some men do not allow their educated wives to work or engage in any paid employment and the work they do at home is not remunerated. Because of poverty, women can neither rise to claim their rights as stipulated in the laws, nor challenge the violators of their rights.
- *Political factors* - The number of women in politics and those who hold political positions does not represent the accurate figure of men/women ratio in the society. This explains why most Bills on the rights of women do not scale through the male dominated National Assembly;
- The patriarchal structure of Nigerian society;
- Failure of the National Assembly to pass the Abolition of All Forms of Discrimination Against Women in Nigeria and Other Related Matters Bill and failure to pass a national bill prohibiting violence against women;
- Failure of the government to domesticate the protocol or enact appropriate legislation necessary for bringing to pass its obligations and undertakings under the Protocol.

CONCLUSION

The Human Rights provisions of the 1999 Constitution and the provisions of other international and regional instruments especially the Convention on the Elimination of All Forms of Violence against Women (CEDAW), the Convention on Rights of the Child 1989, the Child Rights Act 2003 and the Violence against Persons (Prohibition) Act 2015, have rich provisions for the protection of women and girls from violence. However, despite these copious provisions in our municipal laws and international instruments, there appears to be a gap between law and practice and gender-based violence seem to be on the increase. Women and girls still suffer unimaginable forms of abuse and violence in Nigeria.

[64] Section 12 of the 1999 Constitution

RECOMMENDATIONS

1) The National Assembly should domesticate the CEDAW which has long been ratified by the Federal Government and adopt a law to allow CEDAW to be invoked before Nigerian Courts.
2) States in Nigeria must also be encouraged to pass into law, provisions of the ratified international instruments and municipal laws advocating the protection of women and girls from violence. Most importantly, States should pass the Violence against Persons (Prohibition) Act for the rights of women in Nigeria.
3) There is need to review existing laws and remove all provisions that are inconsistent with the anti-discrimination provisions of the Constitution and the CEDAW. Laws and regulations that are discriminatory need to be brought into conformity with the provisions of the constitution which provide for gender parity.
4) Victims of gender-based violence should be encouraged to openly speak out and break the culture of silence that leaves the perpetrators move about freely and sends no serious warning to would-be perpetrators.
5) There should be adequate training and sensitisation of Stakeholders who, in the operation of their duties, knowingly or ignorantly, perpetrate injustice against women. These stakeholders include judges, magistrates, lawyers, police officers, traditional rulers, religious leaders and health personnel.
6) Lawyers should also be encouraged to undertake more pro bono cases to assist women who really need legal representation and advice. Measures should be taken to protect women from violence such as criminalizing domestic violence and marital abuse, making it easy to access justice and prosecuting offenders
7) Sexual Assault Referral Centers and Shelters should be established for Victims of domestic violence, assault and all other forms of abuse.

The best way to end this paper is by aligning with the position of Mrs. Itoro Eze-Anaba who SIn her words: Instead of saying “Itoro was raped” say “David is a rapist".