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Legal and judicial responses to violence against women in Nigeria: a critical analysis of legislative frameworks and case law

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ABSTRACT

Despite an expanding body of legislation aimed at prevention and punishment, violence against women (VAW) remains pervasive and deep-rooted in Nigeria. This article critically examines VAW from a structural rather than individual perspective, arguing that, while the existing frameworks are seemingly progressive, they fall short of adequate measures for practical enforcement and victim protection. In this article, some key statutes such as the Violence Against Persons (Prohibition) Act 2015 and relevant case law have been used to highlight structural gaps, anomalies in judicial interpretations, and sociocultural underpinnings that hinder access to justice. By analysing the law's text, this article demonstrates that VAW is *inter alia* perpetuated by structures that uphold patriarchal norms, leading to unequal power relations between women and men. It is recommended that laws be enacted to reflect the realities of the day such as addressing psychological and systemic forms of VAW. This article is intended to contribute to the growing body of knowledge on the interplay between VAW, patriarchy, cultural influences, legislative actions, and judicial decisions.

Keywords: violence against women (VAW); legislative; judicial; gender-specific legislation; patriarchy.

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INTRODUCTION

Violence against women (VAW) and girls is a widespread human rights abuse and a major barrier to development. It impacts women globally and cuts across cultural, social, and economic divides.[1]

A major report published by the World Health Organization (WHO) and United Nations partners states that VAW continues to be a deeply entrenched and largely neglected human rights issue worldwide, showing almost no improvement over the past 20 years.[2]

VAW is a specific category of gender-based harm that impacts women and girls at far higher rates than men. It includes various forms of abuse such as sexual assault, domestic violence (DV), stalking, coerced marriage, and practices like female genital mutilation (FGM).

There is a close relationship between the meanings of gender-based violence (GBV), DV and VAW. However, VAW is a particular category of GBV that addresses the kind of violence perpetrated against women just because they are women. It is an expression of gender inequality stemming from discrimination, unequal power relations, and social practices.[3]

The phrases 'domestic violence' or 'gender-based violence' play down the severeness of such violence by diminishing its true horror, brutality and habituation,[4] making it seem either to occur in the family or domestic unit, or rather as a phenomenon that occurs equally between men and women. A possible interpretation of the phrases is either that such violence is more private, or it is a minor physical aggression and thereby less criminal in nature. According to the WHO, VAW is:

> any act of gender-based violence that results in, or is likely to result in physical, sexual, or mental harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life.[5]

To further emphasise the real nature of this type of violence, the Protocol to the African Charter on Human and People's Rights (ACHPR) defines VAW as:

> all acts perpetrated against women which cause or could cause them physical, sexual, psychological, and economic harm, including the threat to take such acts; or to undertake the imposition of arbitrary

1 Mary Ellsberg et al, 'Prevention of violence against women and girls: what does the evidence say?' (2015) 385 The Lancet 1555–1566.

2 World Health Organization, 'Lifetime toll: 840 million women faced partner or sexual violence' (WHO 19 November 2025).

3 World Health Organization, 'Violence against women'.

4 S M Edwards, *Sex, Gender and the Legal Process* (Blackstone Press 1996) 180.

5 World Health Organization, 'Violence against women: key facts' (WHO 24 March 2024).

> restrictions on or deprivation of fundamental freedoms in private or public life, in peace time and during situations of armed conflicts or of war.[6]

The above two definitions accurately capture the phenomenon by limiting the meaning to the violence directed at women. It is therefore made clear that VAW is not just random, but instead a gender-targeted action uniquely affecting women and, as such, rooted in unequal power relations that disproportionately affect them. More so, VAW is dynamic and broader in scope than expression of concerns for physical injuries that dominate literary perception of what constitutes violence.[7] In addition to physical violence, it also includes emotional and psychological harm, as well as financial abuse,[8] just as captured by the Protocol to the ACHPR in its definition of VAW.

In this article, therefore, the term 'VAW' has been chosen over 'GBV' or 'DV' in order to draw attention to how women are particularly and disproportionately affected by this form of violence. The term specifically highlights not only the gendered nature of the violence, whether it happens within the home, at school, or in the workplace, but also the systemic discrimination and unequal power relations that women face. This term aligns more closely with the scope and purpose of the article, which addresses the unique experiences of women in the context of gendered violence.

Having clarified the terminology, attention now turns to the phenomenon of VAW, a persistent problem across the globe, pervasive in Africa, and indeed a critical issue in Nigeria. This violence comes in different forms including physical, sexual, emotional and mental. It has been an issue that instigates reactions globally by political actors, government agencies, non-governmental organisations and even actors from the private sector. Currently, in Nigeria, VAW remains prevalent in both urban and remote areas, and, despite the measures put in place by the federal Government to mitigate violence in general, it seems the issue of VAW has not been specifically addressed. In Nigeria, common forms of VAW include rape, acid attacks, molestation, wife beating, and corporal punishment.[9]

There is no doubt that the fight against violence is a highly valued policy measure in Nigeria, but public discourse and public policy on

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6 Commonwealth, 'Definitions of Violence Against Women'.

7 O Akenle and D A Busari, 'A socio-legal approach to violence against women in Nigeria' (2015) 10 LASU Journal of Social Sciences 98–120.

8 National Plan to Reduce Violence Against Women and Their Children, 'What is violence against women?'.

9 N Yusuf, 'Incidence and dimension of violence against women in the Nigerian Society: a case study of Ilorin township' (2000) 10(1) Centrepoint Journal 65–76.

men's VAW are not yet firmly established within the statutory, judicial and law enforcement frameworks. This has led to normalisation and invisibility of this form of violence, reducing the extent to which perpetrators are brought to justice, and leaving society with obvious challenges.

In this context, adopting a rights-based approach becomes crucial as it portrays VAW as a problematic human rights violation that cuts across all ages and religions and could happen anywhere – at work, school, church, on the street, or at home, and perpetrators could be loved ones, including husbands, guardians, friends and family members.[10] Notably, one of the consequences is that it prevents women from pursuing education, employment or exercising their political rights and voice.[11] In furtherance of the above assertion, it has been maintained that across many jurisdictions, VAW is reinforced by discriminatory laws and exclusionary social norms that undermine women's opportunities for education, income and independence.[12] It accompanies shifting power relations within households and communities especially when there is resentment against women who move away from conventional roles.[13] It is also a multifaceted phenomenon, demonstrating the interplay of factors at different levels: individual, community, and larger society.

In this article, it is crucial to mention that, in Nigeria, there is lack of insight on how this type of violence is sustained by established institutions such as the legislature and the judiciary. This research gap limits our understanding of its deep-rootedness and true nature. The lack of clear understanding of the dynamics of such violence, one might argue, leads to proffering of solutions at a micro level, which has proved inadequate. In light of the foregoing, examining the judicial and legislative responses to VAW in Nigeria is necessary in order to assess the effectiveness of the legal system in ensuring women's rights are protected. In doing so, one could argue that, in Nigeria, women's rights are not taken seriously because of many reasons including lack of faith in constituted authorities, as well as a judicial structure that allows the presence in court proceedings of people other than the victims, witnesses and lawyers, especially in matters involving matrimonial and partner relationships. These and many more factors make victims shy away for fear of breach of confidentiality. This becomes worse in sexual abuse and intimate violence cases where, because of public exposure,

10 B Obaji, 'Victims of violence against women in Nigeria' (*Your Commonwealth* 23 February 2018).

11 Selim Jehan, 'Violence against women, a cause and consequence of inequality' (*UNDP Blog* 19 November 2018).

12 Ibid.

13 Ibid.

victims might not feel comfortable to speak up when the courtroom is not a private space.

Nevertheless, as part of an effort to fight discrimination against women, the Nigerian Government became a state party to the Convention on the Elimination of all forms of Discrimination against Women (CEDAW) by its ratification in 1985 without reservations. Nigeria also signed the Optional Protocol in 2000 and ratified it in 2004. Further to complement its efforts in achieving this goal, Nigeria adopted in 2006 a framework and plan of action for the National Gender Policy with an aim to promote gender equality, women's empowerment, and to eliminate all forms of discrimination against women. Consequently, the federal and state governments adopted several legislative and policy instruments, including the Violence Against Persons (Prohibition) Act (VAPP Act 2015), which prohibits FGM, harmful widowhood and traditional practices and all forms of violence against persons in both private and public life. However, while these steps are commendable, the full enforcement of these legal frameworks is still lacking due to deep-rooted cultural and societal norms, weak enforcement and implementation, as well as legal and institutional barriers.

All things considered, this article adopts the position that VAW arises as a result of unequal power relations between women and men. It further argues that this type of violence is sustained by a lack of an adequate legal and institutional framework occasioned by pervasive patriarchal norms supported by long-existing cultural and religious influences.

LEGAL INSTRUMENTS AND HUMAN RIGHTS MECHANISMS IN NIGERIA

Despite the broad constitutional provisions regarding violence in Nigeria, there is still the need for gender-specific legal protection as these constitutional guarantees lack explicit language. This omission not only reveals a lack of legislative thoroughness, but also highlights a structural failure to address VAW as a systemic and widespread issue. It is quite agreeable that the Constitution of the Federal Republic of Nigeria 1999 guarantees the right to dignity and prohibition of torture and inhuman treatment[14] as well as freedom of expression,[15] but it failed to specifically address VAW. Rather, these protections are framed in loose terms, hiding the gendered nature of violence, and have consequently failed to address women as particular subjects of legal

14 Constitution of the Federal Republic of Nigeria 1999, s 34(1).
15 Ibid s 39.

concern. It can be argued that this lack of recognition is a pointer that the drafters of the Constitution framed violence through a personalised and narrow lens that diminishes the presence of patriarchal power behind such framing, thereby reinforcing the obscurity of women's experiences within the legal order. It may, however, be argued that section 34(1)(a) of the 1999 Constitution[16] indirectly guarantees protection against domestic or sexual violence by providing for the right to dignity of a person by stating that 'Every individual is entitled to respect for the dignity of his person' and it also prohibits torture or 'inhuman or degrading treatment'. Obviously, VAW and sexual violence are forms of torture and an infringement on personal dignity and honour. Nonetheless, on strict examination of the section, one might say that it does not fully provide a framework that addresses the continuum of violence inflicted on women both in private and public spaces.

Resulting from this constitutional inadequacy, the VAPP Act 2015[17] was enacted to assuage the persistent critiques of the legal system. The VAPP Act 2015 not only criminalises rape, domestic abuse, FGM and other forms of violence, but it is also a normative shift that expands longstanding definitions of violence and rape. As an illustration of such a shift in standards, section 1 broadens rape definition beyond penile penetration to encompass a wide range of non-consensual sexual acts, completely deviating from older laws. In a similar manner, sections 14 and 16 acknowledge the complex realities faced by women through violence by bringing various forms of violence, such as emotional abuse, psychological abuse, and abandonment within the scope of VAW.

Notwithstanding the progressive nature of the VAPP Act 2015, its major limitation stems from its applicability within the Federal Capital Territory (FCT) of Nigeria. This lack of nationwide applicability results in a patchwork of protections, leading to inequalities in women's access to justice depending on the location of the victim. For example, while states like Anambra, Enugu, and Kaduna have made a positive effort to domesticate the Act, various other states have not followed suit, leaving many women without the protection that the VAPP Act 2015 affords. More so, the Act focuses more on criminalisation without making adequate provisions for prevention, rehabilitation of offenders, or long-term support for survivors. Therefore, while the Act is symbolically significant, its emphasis on punishment reveals a legal reform where criminalisation takes primacy over the need to dismantle structural inequalities that give rise to VAW.

From the foregoing, it suffices to say that the interplay between the Constitution and the VAPP Act 2015 highlights the inadequacy of a

16 Ibid s 34(1)(a).
17 VAPP Act 2015.

legal system that has historically made invisible women's experiences of violence. This situation calls for the need to not only expand legal coverage, but also to reimagine justice as a phenomenon that captures the lived experiences of women by addressing violence as an expression of deep-rooted gender hierarchies.

In like manner, while jurisdictional laws like the Protection Against Domestic Violence Law of Lagos State (PADVL) 2007,[18] and Ekiti State Gender-Based Violence (Prohibition) Law 2011 (amended 2019)[19] offer comprehensive legal frameworks to prevent and address VAW as well as to protect victims and provide legal and social support mechanisms, they not only lack the required public awareness but they also suffer from deep-rooted patriarchal values which challenge and hamper access to justice for GBV victims/survivors and their families.[20]

Equally, notwithstanding the importance and roles played by the Criminal Code Act 1916[21] and Penal Code Act 2004[22] in Nigerian Criminal jurisprudence, significant limitations reduce their adequacy in the protection of women against violence. The Criminal Code, applicable in the South of the country, in its sections 357 and 358 excludes marital rape from its definition of rape, reinforcing longstanding and outdated notions of spousal consent. More so, section 360 validates gender-based discrepancies in sentencing by prescribing a lower penalty for indecent assault against women compared to similar crimes against men (section 353), leading to legal ambiguities. The Penal Code, applicable in the North, similarly, reinforces patriarchal norms that both marginalise and subordinate women. For example, section 282(2) clearly normalises non-consensual marital sex by particularly excluding sex within marriage from its definition of rape unless the wife is below puberty, thereby removing spousal rape as a legal category. More so, of special note is the right of the husband to 'correct' his wife as long as grievous harm is not inflicted (section 55). This section legitimises violence in the name of discipline and further reinforces androcentric interpretation of legal texts, exposing how Nigeria's approach to VAW is shaped by gender biases and sociocultural ideologies.

Similarly, the Child Rights Act 2003 (CRA 2003)[23] primarily provides for the rights and welfare of children to mitigate GBV against girls. However, while sections 11(2)(b) and 31 prohibit harmful

18 PADVL 2007.
19 Ekiti State Gender-Based Violence (Prohibition) Law 2019.
20 Invictus Africa, 'Ekiti State: Womanity Index (GBV) Ranking 2023' (Invictus Africa 2023).
21 Criminal Code Act 1916 (Cap C 38 LFN 2004).
22 Penal Code Act 2004, Federal Republic of Nigeria (Cap 53LFN 2004).
23 Act No 26 of 2003, Child's Rights Act 2003 (Nigeria) (CRA 2003).

traditional practices and sexual exploitation by offering protection against violence that disproportionately affects female children, such as early marriage and FGM, its lack of nationwide implementation, especially in the Northern part of Nigeria due to cultural and religious opposition, has led to fragmented domestication across states. This has led to inconsistencies and a lack of legal certainty in the wider efforts to protect women from violence since implementation is dependent on state-level political will and socio-religious dynamics.

INTERNATIONAL LEGAL FRAMEWORKS ON VIOLENCE AGAINST WOMEN

Interestingly, the evolution of instruments from implicit acknowledgment to explicit condemnation of VAW through international and regional legal frameworks highlights the increasing awareness that such violence stems from a systemic and structural form of gender-based discrimination. Instruments such as CEDAW and the Protocol to the ACHPR on the Rights of Women in Africa (the Maputo Protocol) have historically played significant roles in spearheading this shift in the legal landscape despite limitations in enforcement due to structural barriers at the national level.

While CEDAW does not explicitly refer to VAW and girls, the UN Committee on the Elimination of Discrimination Against Women (CEDAW Committee), in 1992, clarified in its General Recommendation (GR) 19[24] that GBV is a form of discrimination. GR 19 stated that VAW constitutes a form of discrimination aimed at women simply because they are women which disproportionately impacts them.

In furtherance of expanding the legal and conceptual scope of GBV, the CEDAW Committee responded to the evolving categories of VAW through other GRs. For instance, GR 28 (2010)[25] covers the core obligations of state parties under Article 2. This recommendation emphasises the general obligations of states under the CEDAW Convention and responds to the issue of VAW within this broader framework by stressing the importance of laws and policies that prevent and protect victims of VAW. The GR also encourages states to recognise and address the root causes of GBV, including patriarchal structures and societal norms that perpetuate inequality.

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24 CEDAW/c/Gc/35/2017 General Recommendation No 35 on Gender-based Violence Against Women, Updating General Recommendation No 19.

25 Committee on the Elimination of Discrimination against Women, General Recommendation No 28 on the Core Obligations of State Parties under Article 2 of the CEDAW Convention (2010) UN Doc CEDAW/C/GC/28.

Likewise, GR 33 (2015)[26] addresses access to justice for women, especially those experiencing violence. It also emphasises the necessity of effective legal redress for women experiencing violence and demands for initiation of special procedures to help victims of violence which includes the establishment of women's police stations or specially assigned family courts.

Building upon these foundational principles and in line with new trends in crime, GR 35 (2017)[27] further expands GR 19 by including such crimes as cybersecurity and trafficking for sexual exploitation and establishes that violence targeted at women because of their gender is not merely incidental but structural, and thus requires systemic intervention. It suggests a multisectoral strategy to combat violence especially in the areas of health, education, and employment. It also calls for state parties to direct their focus in the collection and analysis of data on GBV to inform policy and action.

Extending this recognition of structural violence, GR 36 (2017)[28] deals with girls' rights focusing on the right to education. This GR acknowledges the impact of violence on girls' access to education and calls for safe spaces for them at school. This GR is an acknowledgment that, because GBV compromises educational access and outcomes, it is connected to lack of empowerment and gender inequality. Here, the Committee acknowledged how GBV – whether through school-based harassment or societal norms – undermines educational access and outcomes. The call for safe, inclusive learning environments, therefore, connects the issue of violence to long-term empowerment and gender equality.

A possible interpretation of the foregoing is that these instruments reveal violence as an expression of power imbalances stemming from deep-rooted patriarchal underpinnings. However, while CEDAW is meant to protect women's rights, especially in the area of violence, it has some limitations. For example, because it relies on state parties to implement its provisions, it lacks enforcement mechanisms which is 'one of the challenges of the international legal system, because while the municipal legal system has developed mechanisms for law enforcement, ranging from the police forces, the courts and prison

26 Committee on the Elimination of Discrimination against Women, General Recommendation No 33 on Women's Access to Justice (2015) UN Doc CEDAW/C/GC/33.

27 Committee on the Elimination of Discrimination against Women, General Recommendation No 35 on Gender-Based Violence Against Women, Updating General Recommendation No 19 (2017) UN Doc CEDAW/C/GC/35.

28 Committee on the Elimination of Discrimination against Women, General Recommendation No. 36 on Girls' Right to Education (2017) UN Doc CEDAW/C/GC/36.

systems, there is no equivalent in international law'.[29] Nigeria, for example, ratified the Convention in 1985, however, it has not yet domesticated its provisions,[30] meaning they are still not directly enforceable under national law as 'Section 12 of the Nigerian Constitution states that no treaty between the Federation and any other country shall have the force of law unless it has been enacted into law by the National Assembly.'[31]

As the role of the CEDAW Committee is limited to issuing recommendations rather than making binding rules, states may not make meaningful changes in their domestic legislation despite signing and ratifying the Convention. This gap between international expectation and domestic implementation reveals the inherent challenges posed by the nature of international treaties not being able to directly create binding national laws.

REGIONAL COMPLEMENT: THE MAPUTO PROTOCOL 2003 AND THE AFRICAN PERSPECTIVE

The Maputo Protocol (the Protocol) is a women's human rights instrument and a legally binding multilateral supplement to the ACHPR[32] which directly addresses state responsibility to eliminate VAW. While CEDAW is the main international instrument on the rights of women, the Maputo Protocol is regarded as the first legislative instrument for the protection of African women against all forms of discrimination, and its 31 articles form a series of provisions for the protection of specific rights of women and girls in Africa, taking account of the sociocultural environment.[33] The Protocol considers the problems experienced by African women with regard to discriminatory practices violating the universal principle of equality between men and women, such as polygamy, legal incapacity in matters of inheritance, forced marriage, genital mutilation and so on.[34] Specifically, the Maputo

29 Donald R Rothwell et al, 'Enforcement of international law' in *International Law Cases and Materials with Australian Perspectives*, edited by Donald R Rothwell et al (Cambridge University Press 2019).

30 Attu Vera Felicitas, 'The impact analysis of the Convention on All Forms of Discrimination Against Women (CEDAW) Treaty on Women Participation in Nigerian Politics 2011–2020' (2022) 3(2) Zamfara Journal of Policy and Development 56–64.

31 Constitution of the Federal Republic of Nigeria 1999 (as amended), s 12.

32 F Viljoen, 'An introduction to the Protocol to the African Charter on Human and People's Rights on the Rights of Women in Africa' (2009) 16(1) Washington and Lee Journal of Civil Rights and Social Justice 11–46.

33 Z Kane, 'CEDAW and Senegal: discriminations still persist' (*Heinrich Böll Stiftung* 10 December 2019).

34 Ibid.

Protocol characterises VAW and girls as encompassing physical, sexual, psychological, and economic abuse, as well as threats of such harm. This protection applies in both private and public spheres, whether in peacetime or during conflict. Articles 3 and 4 oblige states to safeguard women's rights to dignity, bodily integrity, and security. States are required to introduce the necessary legislative, administrative, social, and economic measures to prevent, punish, and eliminate all forms of VAW, including trafficking. They must also identify the underlying drivers of such violence, allocate adequate funding and resources for monitoring implementation, and ensure the availability of accessible services, education, rehabilitation, and reparations for survivors.

A LANDMARK STEP: THE AFRICAN UNION CONVENTION ON ENDING VIOLENCE AGAINST WOMEN AND GIRLS

On 28 February 2025, the African Union heads of state and government formally adopted the African Union Convention on Ending Violence Against Women and Girls (AU-CEVAWG) during the 38th Ordinary Session of the Union. This historic legal instrument, although not yet in force, marks a transformative milestone in the continent's commitment to eliminating GBV. The full legal text was made publicly available earlier, on 16 February 2025.[35]

At its core, AU-CEVAWG seeks to establish a comprehensive, legally binding framework for the prevention, elimination, and effective response to all forms of VAW and girls.[36] These include physical, sexual, psychological, and economic harm; FGM; early, child, and forced marriage; sexual violence in conflict settings; as well as emerging forms of violence such as cyberviolence and economic violence. The Convention obliges state parties to adopt proactive and holistic measures, reflecting a unified continental approach.

Importantly, the Convention moves beyond immediate legal protections to address the root causes and structural drivers of violence. It emphasises the need to strengthen legal and institutional frameworks while advancing human rights, gender equality, and the dignity of women and girls.[37] By recognising the influence of entrenched sociocultural norms and unequal power dynamics, the Convention aims to catalyse transformative change through law, education, and public policy.

A strategic objective of the Convention is to build solidarity among state parties and harmonise their approaches to GBV.

35 African Union, African Union Convention on Ending Violence Against Women and Girls 2025.

36 Ibid Art 5(a).

37 Ibid Art 10.

This harmonisation is expected to foster mutual accountability, enhance cross-border collaboration, and strengthen enforcement mechanisms.[38] Public advocacy is explicitly encouraged, urging governments and civil society to work together through awareness campaigns, community engagement, and education initiatives.[39] One of the Convention's progressive contributions is its embrace of 'positive masculinity,'[40] which seeks to engage men and boys as constructive allies in the effort to dismantle patriarchal structures. Rather than framing men solely as perpetrators, the Convention promotes inclusive, respectful models of male identity and calls for non-violent engagement. This recognition of men's roles in creating sustainable change marks a significant step toward transformative justice.

The Convention opened for signature and ratification in July 2025, and as of mid-2025, countries including Angola, Burundi, Djibouti, the Democratic Republic of Congo, Liberia, and The Gambia have signed the instrument.[41]

Nigeria's position vis-à-vis AU-CEVAWG presents a complex scenario. Domestically, Nigeria has enacted the VAPP Act 2015, which criminalises various forms of GBV and provides legal protection for victims. However, implementation remains uneven, as only some states plus the FCT have domesticated the Act, with several states, particularly in the North, yet to do so. This patchy domestication underscores the challenge of aligning national law with regional commitments.

In light of these domestic inconsistencies, the prospect of ratifying AU-CEVAWG brings both opportunities and challenges. The likelihood of Nigeria ratifying AU-CEVAWG may depend on sustained advocacy, both domestically and from regional bodies. Without such pressure, ratification could be delayed or contested. However, should Nigeria proceed with ratification and ensure robust implementation, significant benefits may follow. Chief among them is the potential to harmonise Nigeria's legal framework with continental standards, thereby reinforcing the VAPP Act 2015 and addressing existing legislative gaps. Furthermore, ratification would signal a firm national commitment to eradicating GBV and could serve as a catalyst for broader institutional reforms and stronger enforcement mechanisms.

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38 Ibid Art 13(b).

39 Ibid Art 13(a).

40 Ibid Art 6(e).

41 African Commission on Human and Peoples' Rights, 'Joint Press Statement on the Signing of the African Union Convention on Ending Violence Against Women and Girls by Angola, Burundi, Democratic Republic of Congo, Djibouti, Liberia, and The Gambia' (2025).

CHALLENGES IN IMPLEMENTING INTERNATIONAL LEGAL STANDARDS IN NIGERIA

It is true that some international and regional human rights instruments have been signed and ratified by Nigeria for the promotion and protection of women against violence.[42] However, section 12 of the Constitution of the Federal Republic of Nigeria 1999 requires that an international treaty be domesticated in Nigeria in order for it to apply. The author is aligned with the position that lack of incorporation into domestic law of international instruments that protect women's rights is a major reason for not realising the goal of gender equality and elimination of all kinds of VAW. For example, Nigeria ratified CEDAW[43] in 1985 but has not yet incorporated it into domestic law. Moreover, despite Nigeria incorporating the Maputo Protocol into domestic law,[44] the National Assembly has not been able to make laws on VAW to include psychological, emotional and economic abuse as articulated in the ACHPR. More so, even when international standards have been incorporated into Nigerian law, enforcement remains weak due to corruption and inefficiency, leaving gaps in enforcement due to systemic issues. For example, the VAPP Act 2015 was enacted to align with international standards such as CEDAW in addressing various forms of violence, including sexual offences, but, as of September 2025, at the time of writing this article, 33 out of 36 states have adopted the Act. Therefore, while Nigeria has made some notable moves through legislative imperatives to mitigate the spate of VAW, its fractured legal regime and the overall reliance on general provisions of the Constitution fail to address the lived experiences of women labouring under the consequences of violence.

JUDICIAL APPROACHES TO VIOLENCE AGAINST WOMEN IN NIGERIA

Gender-based violence in widowhood practices

Widowhood practices are mostly based on the sociocultural beliefs of a group of people. As Izzi and Adiele note, these include 'burial rites, mourning rites, inheritance right of widows and the general code of conduct imposed on the widow by the community'.[45] In the South

42 M O Izzi and O N Adiele, 'Judicial approach to gender based violence in Nigeria: an evaluation' (2021) 1(2) International Journal of Civil Law and Legal Research 1–36, 30.

43 CEDAW 1979.

44 Protocol to the ACHPR on the Rights of Women in Africa 2003.

45 Izzi and Adiele (n 43 above) 31.

Eastern part of Nigeria, predominantly made up of the Igbos, a widow is required to tie one wrapper and have her hair shaved off by the female relatives of the deceased husband, and she is most often required by tradition to sleep on the bare floor; she is also required to remain in isolation for a period of time according to the dictates of the members of the late husband's kindred.[46] These are all rooted in patriarchal sociocultural ideologies that dictate how a woman should grieve her husband, and, as such, the role of the judiciary in either sustaining or challenging these norms is very critical. The case of *Theresa Onwo v Nwafor & 12 Others*[47] then becomes instructive. In that case a widow's refusal to have her hair shaved based on religious grounds was met with harsh responses by her husband's kinsmen. Though the trial court dismissed the action on the ground that a fundamental right is not enforceable against a private individual, the Court of Appeal unanimously allowed the appeal stating that where fundamental rights are invaded not by the government agencies but by ordinary individuals, such victims have the right against the perpetrators. The Appeal Court declared the action as repugnant to natural justice, equity and good conscience. This case represents a positive response by the Court to the increasing wave of GBV in Nigeria.[48] This case not only highlights the legal challenges faced by women but also marks a crucial step towards addressing GBV in Nigeria. It reflects a growing recognition of women's rights and the need for legal frameworks that protect them from harmful cultural practices.

Sexual violence

In Nigeria, the legal landscape surrounding marital rape reveals a troubling acceptance of DV as a private matter. Under current laws, a husband cannot be prosecuted for raping his wife as long as their marriage subsists. This effectively relegates what should be considered a crime to the realm of domestic issues. This legal loophole was underscored in *Musa v State*,[49] where the court reinforced that rape is defined as unlawful sexual intercourse between a man and a woman who is not his wife. Thus, consent to sexual intercourse becomes irrelevant within the confines of marriage.

This judicial attitude transcends private settings, as evidenced in the case of *Mrs Izonebi Cook v The President of the Federal Republic of Nigeria*,[50] where, despite the plaintiff's brave testimony of violence and violation during the Odi conflict, the court condemned the action

46 Ibid.
47 *Theresa Onwo v Nwafor & 12 Others* 6 NWLR Pt 456, 1996, 584.
48 Izzi and Adiele (n 43 above).
49 *Musa v State* 9 NWLR, Pt 1359, 2013, 214.
50 Izzi and Adiele (n 43 above).

of the soldiers but ultimately dismissed her case, citing procedural technicalities and the protective shield granted to public officers under section 2(a) of the Public Officers (Protection) Act 2004.[51] This ruling, while condemning the actions of the soldiers as barbaric, underscored a disheartening reality: accountability for state-sponsored violence is all but non-existent. These cases not only highlight systemic failures in addressing VAW but also serve as discouragement to women seeking justice. They reflect a broader societal reluctance to confront the deep-seated issues of VAW, revealing the urgent need for legal reform and greater protections for victims. In a landscape where women's voices are often marginalised, the struggle for recognition and justice remains a formidable challenge. It is the considered opinion of the author that the Court should have exercised judicial activism in stating that the provisions of section 2(a) of the Public Officers (Protection) Act 2004 should not apply in this case due to violating section 34(1) of the Constitution of the Federal Republic of Nigeria 1999 as amended, which guarantees the right to dignity of the human person, as well as sections 357, 358, and 282 of the Criminal Code and the Penal Code which respectively prohibit rape. The Court should also have declared that the Federal Government of Nigeria should compensate the victim since the soldiers committed the alleged offence in the course of their official duty.

This lack of judicial redress is emblematic of broader systemic challenges in prosecuting rape cases in Nigeria. The prosecution of rape cases in Nigeria is further compromised by a deep-rooted evidentiary burden that unequally affects victims. The need for corroboration – though not a statutory requirement – has become a judicially formulated obstacle. The cases of *Jegede v State*[52] and *Iko v State*[53] become instructive on how VAW is sustained by laws which reinforce the patriarchal nature of Nigerian society[54] through the requirement for corroborative evidence, and this has made it extremely difficult for a victim of rape to access justice.[55] In *Jegede v State*, the Supreme Court held that 'corroborative evidence capable of grounding a conviction on a charge of rape must be cogent, compelling and unequivocal so as to show without more that the accused committed the offence charged'. Reinforcing the same problematic pattern found in *Iko v State*,[56] the

51 Public Officers (Protection) Act 2004 (Cap P38, Laws of the Federation of Nigeria 2004).

52 *Jegede v State* FWLR 640–846 Pt 66, 722, 728.

53 *Iko v State* FWLR PT 68, 2001, 1161.

54 G A Arowolo, 'Protecting women from violence through legislation in Nigeria: need to enforce anti-criminal laws' (2020) 20(4) International Journal of Discrimination and the Law 247–288.

55 Izzi and Adiele (n 43 above) 34.

56 *Iko v State* (n 53 above) 1161.

Supreme Court in *Jegede v State* failed to reaffirm that corroborative evidence is not a requirement in rape cases. In *Iko*, the Supreme Court held that the law does not mandate corroboration in rape cases, but it is often necessary in practice to ensure a fair conviction. The author argues that, while the Supreme Court states that corroboration is not legally required, its insistence that it is highly desired in practice subtly undermines the credibility of rape survivors. It creates a *de facto* corroboration requirement, implying that a victim's testimony is inherently unreliable unless supported by external evidence. This approach overlooks the reality that rape often occurs without witnesses and without physical evidence, thus placing the unfair burden on victims and discouraging reporting.

It sounds contradictory that, despite the authority of *Jegede v State*, the prevailing judicial practice still emphasises the need for additional evidence to support a victim's account, compromising the prosecution of rape cases.[57] This requirement, lacking statutory foundation, raises concerns about underlying patriarchal influences in the legal system. The author is of the view that this inconsistency suggests a need for analysis through a feminist legal theory framework in order to highlight how structural violence manifests in judicial practices surrounding rape convictions.

Physical assault

The cases of *Akinbuwa v Akinbuwa*[58] and *Alausa v Lydia Ade Odusote*[59] illuminate a troubling legal perspective on DV in Nigeria, where the law often permits the subjugation of women under the guise of cultural practices. In *Akinbuwa*, the court deemed minor assaults by a husband on his wife as acceptable for 'corrective' purposes, reflecting a societal norm that condones violence as a means of discipline. This ruling aligns with section 51(1)(d) of the Penal Code Act in Northern Nigeria, which explicitly allows for wife chastisement, underscoring a legal framework that fails to protect women's rights. Similarly, in *Alausa*, the court reinforced this position by substituting a charge of indecent assault against a husband for the act of shaving his wife's pubic hair with a lesser charge of assault, reasoning that, since a husband cannot be convicted of raping his wife, he similarly should not face severe repercussions for acts of indecency.[60] This ruling revealed the court's view that a husband's violent conduct is rendered less significant simply by virtue of marital status, perpetuating the idea that a husband's control over his wife's body is legally permissible.

57 Izzi and Adiele (n 43 above).
58 *Akinbuwa v Akinbuwa* CA/B/6/94, 13, 1998.
59 *Alausa v Lydia Ade Odusote* 8 WACA 1941:140.
60 Izzi and Adiele (n 43 above).

These cases highlight a broader systemic issue – a legal culture that trivialises and normalises VAW. They reflect the urgent need for a re-evaluation of laws and societal attitudes that permit such injustices, emphasising the importance of safeguarding women's rights and autonomy in all contexts.

Trafficking in women

Quite contrary to the retrogressive developments discussed above, judicial responses to human trafficking have tilted towards a commitment to women's rights. The cases of *Attorney General of the Federation v Christy Egbule*[61] and *Attorney General of the Federation v Samuel Emwinovbanhoe*[62] highlight the courts' willingness to uphold anti-trafficking laws. The court in both cases convicted Egbule and Emwinovbanhoe for organising foreign travel and for attempting to sexually exploit four underage girls, respectively. These two cases marked significant victories in pursuing human dignity and signify not just legal victories but a broader societal acknowledgment of the urgent need to confront and dismantle trafficking operations. They reflect a growing determination to protect the rights and dignity of vulnerable populations, emphasising the importance of sustained efforts to eradicate human trafficking and promote justice in Nigeria.

However, how the judiciary addresses VAW in Nigeria underscores an intricate as well as conflicting judicial environment, oscillating between progress and regression. While cases like *Theresa Onwo v Nwafor* demonstrate the judiciary's willingness to confront harmful cultural norms and promote women's rights, other rulings such as *Musa v State* and *Akinbuwa v Akinbuwa* highlight structural failures that sustain violence perpetuated by patriarchal norms under the cloak of tradition or legal technicalities. Continued adherence to traditional norms in widowhood, non-recognition of marital rape through legislation, difficulty in sustaining rape charges due to an unnecessary evidentiary burden, and permissiveness in DV cases require urgent attention through legal reform and sensitisation programmes. The courts must also be more proactive in order to fall in line with international human rights standards vis-à-vis VAW, so as to live up to their mandate as custodians of justice and as the only hope of women to bring down the structures of inequality that help perpetrate and perpetuate violence in Nigeria.

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61 *Attorney General of the Federation v Christy Egbule* FHC/S/29C/2008, 04/11/2010.

62 *Attorney General of the Federation v Samuel Emwinovbanhoe* B/20C/2005.

Manifestations of systemic violence against women in Nigeria

VAW stems from systemic gender inequality across countries – it is both a cause and consequence of gender inequality, an abuse of the power imbalance, and a means of social control that maintains unequal power relations between women and men; it reinforces women's subordinate status and is used to enforce gender roles and norms.[63] In addition, it has been maintained that discrimination includes GBV.[64] A proper interpretation of this would lead to the understanding that unequal access to rights, opportunities, and power structures supported by some pieces of legislation and encouraged by lack of judicial activism lead to perpetration and perpetuation of violence. VAW has very wide connotations which include 'any physical, psychological, emotional, financial or social harm caused to a woman by individuals, groups, institutions or states, based primarily or in part on the fact that she is a woman'.[65] Despite the existence of violence at the individual level and the efforts by the state to intervene in order to address it, the state also is complicit in facilitating the kind of violence targeted at women because of their gender. This facilitation is linked to other systems of inequality based on sexuality, race, and class.[66]

In support of the above, it is argued that responses to abuse victims can unintentionally undermine broader challenges to patriarchy. For instance, providing therapy to a survivor as a means of addressing trauma might unintentionally individualise the issue. This has the potential of limiting the political space in which the survivors could comprehend the violence as a form of gendered oppression, and then unite to combat it.[67]

Part of the problem is also cultural underpinning which plays a great role in shaping the attitudes and perceptions of a people.[68] In that sense, patriarchy with structural factors such as cultural conservatism and gender-based economic marginalisation lead to multiple kinds of violence, and being able to assess such a degree of structural violence requires an integrated ecological framework which involves the

63 International Planned Parenthood Federation, 'Gender Equality: The Key to Ending Violence Against Women'.

64 Committee on the Elimination of Discrimination against Women (CEDAW), General Recommendation No 19: Violence against Women, UN Doc A/47/38 (1992).

65 A K Gill, G H Cote and E Williams, 'Introduction: violence' (2016) 112 Feminist Review 1–10.

66 Ibid.

67 Ibid.

68 R M Cusari and S F Abdullah, 'The influence of culture in domestic violence against women in Nigeria' (2017) 2(6) Journal of Islamic, Social, Economics and Development 275.

interplay of personal, situational, and sociocultural factors.[69] With the current state of affairs in Nigeria, laws are not adequately put in place to protect women from violence due to 'so many factors including the strong influence of pervasive culture, religious gender bias and gender discrimination/male chauvinism'.[70] These have helped to sustain the tripartite legal system that was inherited from the colonial administration, which consists of statutory law, customary law, and Islamic/Sharia law. It is maintained that this type of legal system leads to difficulty in harmonising legislation and removing discriminatory measures against women.[71]

In response to the systemic reinforcement of discriminatory policies in Nigeria, the CEDAW Committee,[72] in 2017, expressed concern about Nigeria's 'complex and lengthy legislative process, which was particularly detrimental to women' and also pointed to the fact that 'the Convention had still not been domesticated' at the federal and state levels. The Committee also expressed concern that the simultaneous application of statutory, customary and religious laws could create differentiated degrees of protection for women's rights. Additionally, other issues highlighted by experts were the grey areas of the Gender Equality and Opportunities Bill, sexism in the judiciary, the negative impact of Boko Haram on women's and girls' rights, blanket screening by the military, protracted detention of women, the high proliferation of small arms and weapons, the use of schools for military purposes, endemic VAW, and sexual exploitation of internally displaced women.[73]

The author maintains that the laws in Nigeria fall short of expectation with regard to VAW. For example, despite positive efforts by the legislature at the federal level through the VAPP Act 2015 to recognise marital rape, there is no nationwide uniformity in prosecuting offenders since it has not been adopted by all states. Thus, since the offence of spousal rape is not known to any law in some states of Nigeria, a conviction cannot be secured against a man for spousal rape in non-compliant states. Critically viewed, the author submits that this law likens a woman to a piece of chattel belonging to a man, and, as far as the marriage subsists, there is an implicit agreement to sexual intercourse at the instance of the husband. More so, the Penal Code Act[74] of Nigeria provides that sexual intercourse by a man with

69 P Sinha et al, "Structural violence on women: an impediment to women empowerment" (2017) 42(3) Indian Journal of Community Medicines 134–137.

70 Arowolo (n 54 above).

71 Ibid.

72 United Nations Human Rights Office of the High Commissioner: Committee on the Elimination of Discrimination against Women examines the reports of Nigeria (2017).

73 Ibid.

74 Penal Code Act (n 22 above) s 282 (2).

his own wife is not rape if she has attained puberty. One might suggest that this piece of legislation, therefore, reinforces male dominance in social and sexual relations with women, and thus falls short of the expected adequacy needed for the protection of women from violence.

In furtherance of the proposition that VAW is sustained by some national laws or judicial practices which reinforce the patriarchal nature of the Nigerian society,[75] one could refer to *Jegede v State*,[76] cited earlier regarding the unnecessary requirement for corroborative evidence in rape cases.[77] This requirement, devoid of statutory foundation, raises concerns about underlying patriarchal influences in the legal system, and, critically viewed, the non-application of *Iko v State*[78] in *Jegede v State* underscores how structural violence manifests in judicial practices surrounding rape convictions.

CONCLUSION

This article has critically evaluated the legislative and judicial responses to VAW in Nigeria. The significance of this approach is to highlight the macro-level violence meted out to women due to structures supported by the cultural underpinnings of the Nigerian patriarchal society. The dominant narrative in the political and legal discourses has been that VAW takes place at an individual level. As a result of this, interventions and measures have been undertaken by employing a micro-level approach. But in this article, it has been demonstrated that the prevailing deep-rooted cultural influences have helped sustain patriarchy in Nigeria. As a consequence, patriarchal underpinnings have negatively impacted the legislative and the judicial spheres in making provisions and taking decisions with regard to protecting women from violence.

Looking at the situation of women's rights, there are apparent deviations from the obligations stemming from Nigeria's ratification of CEDAW in 1986 because, since CEDAW has not been domesticated, no Nigerian court can uphold women's rights on the basis of CEDAW, nor can any court in Nigeria strike down legal provisions that are inconsistent with the provisions of CEDAW. This is so because section 12(1) of the 1999 Constitution of the Federal Republic of Nigeria makes it impossible for any treaty to have the force of law in Nigeria unless it is domesticated by the National Assembly. Although it may be easy for a treaty to be signed and ratified by Nigeria, its domestication and implementation often remain difficult to achieve,

75 Arowolo (n 54 above).
76 *Jegede v State* (n 52 above) 728.
77 Izzi and Adiele (n 43 above) 34.
78 *Iko v State* (n 53 above) 1161.

not only because Nigeria operates a dualist system, but also because of the lack of will at the institutional level to mitigate factors that foster gender discrimination and gendered violence. Action needs to be taken by the legislature to initiate constitutional amendment in order to expunge section 12(1) and replace it with a provision that will engender a monistic framework in the Nigerian constitutional tradition for domesticating international law.

On the other hand, since Nigeria has not yet incorporated CEDAW into its domestic law, it can learn from other like jurisdictions with dualist legal systems. While these countries have not specifically domesticated CEDAW, they have implemented various measures to safeguard women in line with their CEDAW obligations. For example, the United Kingdom Government has not taken any steps to directly incorporate CEDAW into domestic law, but a number of CEDAW rights have been given domestic effect.[79] More so, the devolved governments of Wales and Scotland are actively working to enhance human rights protections in domestic law on matters within their jurisdictions, including the potential further incorporation of UN treaties like CEDAW. In that regard, the Welsh Government promotes CEDAW principles through policies on gender equality and VAW such as the Violence Against Women, Domestic Abuse and Sexual Violence (Wales) Act 2015 which aligns with CEDAW's recommendations. Scotland also has made some positive moves to integrate international human rights treaties into its framework such as in the Scottish National Action Plan for Human Rights (SNAP)[80] and gender equality policies which reflect CEDAW's goals. Furthermore, the Scottish Human Rights Incorporation Bill[81] aims to make CEDAW enforceable in Scottish law, though it is still in progress.

It has thus been emphasised in this article that VAW in Nigeria exists both at the individual and structural levels. Even though there are laws against violence, there are no gender-specific ones intended for the protection of women against the kinds of violence inflicted on them just because they are women, except laws on rape, FGM and the like, and, unfortunately, there are still elements of gender-neutrality in these laws.[82]

It is also worthy to note that the approach of judges in matters of violence ultimately hinders the protection of women especially in

79 A number of CEDAW rights are given partial effect through the Equality Act 2010, the Human Rights Act 1998 and other legislation, policies and programmes. See also Penal Code Act (n 22 above) s 1.1.

80 Scottish Human Rights Commission, Scottish National Action Plan for Human Rights (2013).

81 Scottish Human Rights Commission, Human Rights Bill for Scotland (2023).

82 See VAPP Act 2015. See also CRA 2003 (n 23 above).

the area of violence perpetrated at home. This judicial attitude plays down the seriousness of family violence, and the consequence is the reinforcement of androcentric dominant ideologies. As a result, protection and justice are denied while the wrongdoer remains unchecked, and this consequently encourages a social order where VAW is unofficially accepted as normal. It suffices to say that lack of adequate responses may be as a result of lack of knowledge of the dynamics of violence, particularly violence directed at women, because of resolute adherence to a dominant androcentric culture common in Nigerian families, fuelled by the prevailing patriarchal superstructure of the society. It should also be noted that this androcentric mentality leads to inadequate sentencing, inadequate fines, and inadequate imprisonment which are not enough to serve as a deterrent to offenders since oftentimes the male perpetrator is usually discharged conditionally or absolutely, with very few incarcerations.

Against this background, there is an urgent need for the legislative arm of the Government as a law-making institution to live up to expectations by enacting laws according to the immediate and foreseeable needs of the society. This is important in order to meet the internationally recognised standard of justice expected of Nigeria. In this sense, therefore, all international tenets as advanced by the UN and various international treaties must be closely followed so as to make laws that will be in tandem with standard customary international laws. For example, laws relating to the rights of the child must also be observed, and conventions regarding VAW, as well as discrimination on grounds of sex must be properly enacted into law. This will help in eliminating the cultural ideologies that make it impossible to achieve, through legislation, a violence-free society for women.

This article suggests that, because of the social, economic and political vulnerabilities that disproportionately affect women, positive measures should be taken to protect them against the neglect of the Government and the pervasive culture of lawlessness under which they live, orchestrated by other members of society.[83] This is crucial because it has been argued that violence causes serious short- and long-term physical, mental, sexual and reproductive health problems for women, which also affects their children's health and wellbeing, leading to high social and economic costs for them, their families and societies.[84]

Finally, in identifying the various statutory and judicial responses to VAW in Nigeria, it has been revealed through some of their inadequacies that the relevant institutions have not played a particularly significant role in mitigating the problem posed by the prevalence of such violence. It has also been demonstrated in this article that part of the reason why

83 Obaji (n 10 above).

84 WHO (n 5 above).

legislation has not adequately addressed the issue of VAW in Nigeria is because of sociocultural factors that create an enabling environment for male dominance and gender inequality. It is, therefore, important that the Nigerian legislature and the judiciary do what is necessary through the lens of structural violence anchored on a feminist legal paradigm to save Nigerian women from the hegemony of an underlying patriarchal matrix that drives actions and measures even at the institutional level.

Having said that, it is a welcome development that the Federal Government of Nigeria had, on the 24 October 2024, inaugurated a committee to review and update archaic Nigerian laws within six months.[85] Hopefully, the laws on violence may benefit from the expected reform and update by including some gender-specific provisions in favour of women such as making clear provisions for DV as a distinct crime, as well as facilitating enforcement of modern protections for victims, such as restraining orders.

Nonetheless, despite this promising initiative, concerns have emerged regarding the committee's progress and transparency. As of September 2025, there is no publicly available confirmation that the committee inaugurated on 24 October 2024 has delivered its final report or draft volumes as mandated. This lack of clarity gives rise to several possibilities. It is conceivable that the committee may have completed its task and submitted the report, but that the Government has not announced or disseminated the outcome to the public. Alternatively, the work of the committee may still be ongoing, possibly due to an extension beyond the original six-month timeline, although no formal communication has confirmed such an extension. It is also possible that the Government has received the report but has chosen not to publish or publicise it, thereby leaving stakeholders and the general public uninformed. Until an official update is provided, the status of the committee's assignment remains uncertain, raising concerns about transparency and the overall pace of legal reforms in Nigeria.

85 Samuel Anyanwu, 'FG inaugurates 46 man committee to review, update outdated laws' (Federal Ministry of Information and National Orientation 24 October 2024).