

NIGERIAN MEN IN MARRIAGES: A NEED FOR SPECIAL LEGISLATIVE PROTECTION*

Abstract

Gender based violence has become rampant in the Nigerian society in recent times. Spousal abuse which is mostly physical sometimes extends to psychological torture via uncensored utterances aimed at reducing the self-worth of the abused spouse. However, there seems to be a penchant among many people for assuming that the woman is always the victim of spousal abuse while the man is the constant culprit. This belief has led to the enactment of 'ad hominem' legislation which dresses the men folk in the robes of an offender. The aim of this paper is to show that this belief and such laws to the extent of the above stated are erroneous and that women are as guilty as men when it comes to gender based violence to the point that men could also be in need of special legislation protecting them from domestic violence perpetrated by their wives. The mode of discourse is mainly empirical.

Keywords: Marriages, Men, Nigeria, Special Legislative Intervention

1. Introduction

The Lagos State of Nigeria's House of Assembly is reported to have passed two laws on child abuse and domestic violence against women. These laws, according to the report, became necessary because the state government and the society could no longer accept the treatment of domestic violence as a 'family affair'¹ Without being a masculine buff, a male chauvinist or attempting to court or stoke controversy, it is the writer's belief that the above statement further engraves in the collective psychic of members of the society that women are the only victims of domestic violence that need legislative protection. It is our disagreement with this perception that birthed the theme of this article, which is to show that the masculine gender in marriages is also in dire need of legislative protection from abusive spouses. The discourse on violence goes beyond physical violence and entails both psychological and emotional trauma.

2. Why the Need for Special Legislative Protection?

The law maker should always bear in mind that society is organic and dynamic (sometimes negatively) and what were once vices are now virtues. Hence, there may be a need to enact legislation to meet up with and check this negative growth and dynamism which were yesteryears curtailed by moral suasions because of their rampancy in the society and their attendant consequences which may sometimes be grave. Adaramola puts the point this way:

Sociological jurisprudence urges development oriented law. One of its objectives is that the law-maker ought to hold in view and attain through continuous assessment and the continual adjustment and improvement of the law, thereby making it function more effectively in society. It urges society to strive without ceasing, to achieve the highest and noblest it can in natural endeavours, through a juristic balancing of competing social claims, carried out with utmost economical and ecological emphases.²

Every man has a right to life³, and no one shall intentionally deprive him of this, save in execution of the sentence of a court in respect of a criminal offence of which he has been found guilty in Nigeria. To actualize this constitutionally guaranteed right, any act or action that has the tendency of abrogating this right or derogating from its fullest enjoyment, which does not fall under the constitutionally provided exceptions, should be met with penal sanctions. The men folk in contemporary Nigerian society suffer a lot of domestic abuse that has the tendency of interfering with their constitutionally guaranteed right to life but society expects them to bear it with equanimity and many because of this expectation suffer and die in silence.⁴ Obadeyi opines on the above point thus:

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¹ 'News Extra' (Name of reporter not stated): 'Indecent dressing' *The Sunday Punch Newspaper*, (Lagos, Sunday November 15th, 2015), 54. The Oyo State House of Assembly has also enacted a similar law. See 'Ajimobi signs Oyo violence against women bill into law'. www.premiumtimesng.com. Accessed on 4th March, 2017 at 14.24pm.

²Funsho Adaramola, *Jurisprudence*, Fourth Edition, (Lexis Nexis Butterworths, 2008), 253.

³ See section 33(1) of the Constitution of the Federal Republic of Nigeria, 1999.

⁴Bayo Olupohunda: 'When marriage becomes a death trap', *Punch Newspaper*, (Lagos, Tuesday, June 7th, 2016), 22, reports that 'in Ibadan, the table was turned on the perception that women are the victims of abuse. The case of Yewande

There are some men who daily live through abusive relationships or marriages. Yes, anyone who thinks only men abuse women must be from another planet. I am aware that a lot of men, for the sake of avoiding washing their matrimonial dirty linens in public, shield their predicament from everyone, enduring their tantrums, ill temper and violent behavior. Ah...when you see such women 'at work', you will pray that God should spare you that life of misery. Indeed, most men who, who are unlucky to be in this bind, react to their sad situations in different ways. While some embrace God, looking unto him for deliverance, others seek 'salvation' in liquor! Such men, who get 'called to the bar', spend such a long time running away from the 'terror' at home that when the bar owner says it is time to shut down for the night, they are crestfallen. Going home becomes a nightmare.⁵

Augoye⁶ shares her thoughts on this point thus:

While physical injury may be the most obvious danger, the emotional and psychological consequences of domestic abuse are also severe. Emotionally abusive relationships can destroy your self-worth, lead to anxiety and depression, and make you feel helpless and alone. ...Sometimes, relationships are just wrong and cannot be salvaged. For your sake, and for the sake of your mental health, try hard to recognize as early as possible whether or not this relationship is worth working on. Remember that it's unlikely that your abuser will change.⁷

Often, one comes across these women at the work place and other public arenas in all their bellicose and cantankerous majesty and one cannot but send thoughtful and heartfelt condolences to their husbands for the calamity of being sentenced to an eternally damned marital life. Where the man refuses to trade his status as the husband of his home, they go all out with the help of women of their ilk to destroy the man and his career by maligning and mudslinging him. Their aim in this regard (we believe) is to send strong signals to men that are wont to be of the same mind set of the sometimes misquoted Shakespearean line that 'hell is incomparable with the fury of a woman scorned'. The warning here is that if the man does not fall in line, he would be treading a war path that could lead to his paying the supreme sacrifice. However, the condition precedent for the release of this 'hellish fury' is that the woman must be scorned or must be the victim and not the culprit. Though the law of Karma or retribution sooner or later catches up with such women, the victim may not be alive to get the satisfaction of being vindicated.

Irawo⁸ elucidates on the epidemic nature of the subject of our discourse this way:

Men are largely misunderstood, they are asking for help globally and they are not really getting it, because there is a perception that we don't have emotions or needs, we don't deserve to be helped. Men are perceived as wicked people without knowing what they do is for a reason. We are not saying what they do is right, we are just saying whichever way a man acts, something is informing it. Get to the root of what is informing his behaviour, you will get to know why he is behaving that way. If he can change the information he has previously, you will probably get a different reaction...I think what is responsible is that men don't talk. Men hardly share their emotions, so people feel since he is not talking, he must be okay. What is happening is that they have not created the environment that allows him to talk. If you create that environment, he will talk. Another issue is the way we have socialized boys this side of the world; men don't have the maturity to be able to string their words together. When you tell children-a boy-not to cry, not to show emotions, you have shut down emotions, you have shut down a process that would have allowed him to be able to learn how to express himself, talk; relate, listen. If you tell him at an age that he can't show emotion, you lock up something in him. When he's hurting or in pain, he can't talk. It is not that he can't feel pain; he just doesn't express it, because that's what he's been told from a young age. The misconception is that he is okay or he is just being wicked. The challenge is that he can't talk; even when he needs to...When you can't share your emotions, what you do is look for freedom in things

Fatoki Oyediran, who was alleged to have stabbed her husband, Oyelowo, to death is tearing two families apart. Both the families of Yewande and Oyelowo have become sworn enemies. The enmity between the two families will make the Montague and Capulet families feud of Shakespearean Romeo and Juliet play seem like a child's play. The feud shows how domestic violence tears families apart. The death of Oyelowo has even prompted a hashtag on social media demanding justice for the dead husband. But the family of Yewande has absolved their daughter of any guilt. They say she acted in self-defence. They insist she was a victim of violent abuse by Oyelowo. The blame game continues until the court decides who is responsible for the death of Oyelowo.

⁵Olawale Obadeyi, Masculine Line, Sunday Guardian center spread magazine, *Sunday Guardian Newspaper*, (Lagos, Sunday, February 1st, 2015), 3.

⁶Jayne Augoye: 'Overcome spousal abuse' *Sunday Punch Newspaper*, (Lagos, Sunday, May 15th, 2016), 34.

⁷*Ibid.*

⁸Deji Irawo's interview by Ruby Leo, *Daily Trust Newspaper*, (Abuja, Friday, May 6th, 2016), 31.

that give some form of release, a breather. That is why you would find a lot of men drink, use drugs, womanizes, because they are looking for a release; there's so much bottled up. What is bottled up is not going away but there is no space for it to find expression, so they indulge in substance abuse and all that to be able to find release. The challenge is that it just hurts you more. Most times, these things do more harm to your body and to your mind. There are a lot of negatives – you begin to have men who start to have health issues – hypertension, cancer, drug abuse, STIs from multiple sexual partners – the system shuts down, they drop dead. They are not solving the problem; they are getting more because they don't know the way out... I think we need to understand that we have a national emergency in our hands.⁹

In *Shobowale v Shobowale*,¹⁰ in granting the dissolution of marriage, the court held that the wife was a suspicious woman who was used to imagining things and acting on such imaginations.

An abusive wife could blight the career of an otherwise promising man. Adebayo¹¹ aptly captures this point thus:

Drawing from my personal experience of life, I have known some brilliant men who appeared as if the whole world was under their feet and the sky was the limit. Then they choose to marry wives who turn their lives into misery and blighted their careers. In my time at the University College, Ibadan, there was an undergraduate colleague who was in every way a paragon of excellence and an embodiment of all that is best. He read classics. In his academic work, he was top of the class. In social life, he was incomparable – neat and elegant, his conversation sparkingly with wit and humour... We knocked at the door of his house. The door was opened by a sour looking lady who sized up each of us in turn. She was indeed a formidable woman... Shortly after, our friend appeared. I could not believe my eyes at the change which had taken place in his features and his behaviour. He was a ghost of his former self. I shouted all his nicknames and expected the usual

⁹ *Ibid.*

¹⁰ Citation not provided but discussed in Afe Babalola: *Impossibility made possible*, (Afe Babalola, Ibadan, 2008), 87-88. The Author writes that this was the case of a most faithful, loving and dedicated man. He met his wife while studying Architecture in London. The lady had tuberculosis and was treated and became completely free of the disease. The lady was however asked not to do any hard work in life. The man knew all these and got married to her and undertook never to allow her do any hard work. When they arrived in Nigeria, the man took up appointment as Architect in the Ministry of Works, Ibadan. He bought a car for the woman, and also engaged housekeepers for her. The woman would estimate the time when the husband ought to arrive in the office and phone to confirm his arrival in the office to ensure that he did not call anywhere else. She would also phone in the afternoon to know whether he had left the office and calculate the time he would arrive in the house. If the man was going for social engagements like Tennis Club, she would also phone to ascertain whether he was there or not and when he left the club. On one occasion, she suspected that the Secretary to the husband was friendly to the husband. She then came to the husband's office and beat up the Secretary. She also ransacked the husband's drawer in the office to check whether there were love letters there. On another occasion, the husband travelled to England on an official course which was scheduled for two weeks but never arrived in Nigeria until two days after he was supposed to have returned. The wife then suspected that he must have stayed behind because of a woman. When the man came back, he was tired and slept in his room. The woman went quietly to the room and set the window blinds on fire. It was the smoke that woke up the man. On yet another occasion, the man returned from his overseas trip a day or two late. The woman did not say a word. The following morning, the man went to the bathroom to have a bath. He closed the door. The woman went quietly to the bathroom door and locked it from outside. The man made efforts to unlock the door but the woman insisted that she would not open the door. She shouted and told the husband that she was punishing him for coming late from his overseas trip. The man remained in the bathroom for hours. As luck would have it, the woman's uncle came to visit her and asked after the husband. The woman said the husband had gone to the office. When the uncle was on his way out, the husband who was in the bathroom called the uncle that he was locked up in the bathroom. It was the uncle who eventually opened the bathroom door for him. There was another time when the man told the wife that he was going to visit his parents in his home town on a Christmas eve. The woman did not object. In the morning, when he started his car in order to set out on his journey, he found that the wife had poured salt in the engine of the car so that the engine could not function. When the man found he could not cope anymore, he decided to pack into a very quiet, unknown hotel. He did not tell anybody where he was. The woman did not see him for weeks. She decided to look for him. She eventually found that he was in that hotel. The man had left a message that nobody should come up except he had invited such a person. The woman knew that if she mentioned her real name, she would not be allowed in. She then told the waiter: 'Tell him that his sister from Lagos had come to see him'. She gave the name of the sister. The man then allowed her in. When she saw the husband, she caused a row in the hotel and the man had to follow her back to their home. After this incident, the man briefed me for an action for judicial separation. The court granted one year separation. Before the end of the period, the woman had become pregnant for another man. Surprisingly, she sent a card to the husband which read as follows: 'Congratulations. It is a baby boy.'

¹¹ Augustus Adebayo: *One leg One Wing* (Spectrum Books Limited, 2001), xiv –xvi.

formal reaction. But he only gave a thin smile and it was obvious for all to see that he was a terribly unhappy man... We hurriedly dropped out of the house. In my car, my colleagues recounted numerous pathetic stories of the experience of our friend in the hands of his wife. He was a broken man and I was least surprised when, a few years later I heard of his death.¹²

In *Ejoh V Wilcox*¹³, the Court of Appeal, Port Harcourt Division, per Akintan, J.C.A, held:

...with all these very dirty and disgraceful revelations of her behaviour, she still wanted the court to declare that her marriage which she herself dumped for years as valid and still subsisting. There is definitely no doubt that the applicant has not only failed to do equity, she has proved that by her behaviour she is a complete disgrace to womanhood. She has shown beyond any doubt that she lacked any sense of decency, that she is a morally bankrupt woman. Such a person therefore does not deserve to be granted the equitable remedy she claimed before the court because she was in fact the person who had committed the breach...In fact; the entire plaintiff's claim was ill-motivated. It was an action conceived and executed by a woman whose motive is premised on mischief making. She is an evil woman whose greed for materialism has made her to lose her sense of decency and dignity associated with womanhood in a decent society.

In *Rex V Okriyi*¹⁴, it was held on appeal that:

...the trial judge should have considered the question of provocation(which, from his judgment, it appeared he did not do so) for words of provocation coupled with such act as spitting upon the person to whom the words are addressed may (though they need not necessarily) have the effect of reducing the crime from murder to manslaughter... The appellant's action in addressing the people in Court when the sentence was passed indicated that he felt confident that his neighbours shared his sentiments in this respect, but although the learned Judge recorded that the appellant 'clearly protests that such an insult was so provoking that any man would be likely to lose his self-control', it did not apparently occur to him that there might be something in the appellant's plea.

Her activities could even lead to his death.¹⁵

3. Violence against Persons (Prohibition) Act 2015

¹²*Ibid.*

¹³(2003) All FWLR (pt.185) 466 -467. The facts of this case are that the appellant married the deceased under the Act sometime in 1963 but she abandoned the man and her infant children of the marriage for the last 28 years of the man's life. During the same period of her absence, she got married under customary law to another man and she changed her name to that of her newly found husband. She only re-appeared on the day the man died and dishonestly presented herself to the court as Mrs. Ejoh and not as Mrs. Mballey which is the name she had been bearing since her marriage to Chief Mballey in 1978. That is also the name she is known in her place of work at the University of Port Harcourt.

¹⁴12 W.A.C.A., the appellant's wife taunted him with incompetence and then spat in his face. The appellant immediately shot her. The trial judge convicted the appellant of murder.

¹⁵Augustus Adebayo, *op. cit.*, recounts the following incidence thus: '...there was the ugly incident of a Chief Magistrate in Benin City. From Asaba Division, I had been posted to Benin City. My residential quarter was adjacent to that of the Chief Magistrate. Soon after my arrival, I walked across the hedge which divided us, to make my acquaintance. He returned my visit and in due course we became friendly. He was a quiet man, of gentle disposition, a devout Christian and a very pleasant personality. He was under consideration for elevation to the higher bench as a High Court Judge. I knew, from my privileged position as Assistant District Officer, that his appointment had been approved, although not yet announced. But early one morning, there was a terrible tragedy. I saw people rushing to the house of the Chief Magistrate. There was a lot of screaming and wailing. It transpired that the Chief Magistrate had shot himself and he was dead. What could have made a man with such a promising future to commit suicide? In due course, the story began to unfold. The Chief Magistrate had a Steward. The wife of the Chief Magistrate has taken the young man and they had become lovers. One morning shortly after the Chief Magistrate had left for the office; he hurried back home having apparently left behind something he wished to take. He entered the house and made to enter the bedroom. The door was locked from behind. After he had battered the door for some time, the door was finally opened, and lo and behold, his wife and his steward stood before him, the steward still in a state of half undress! The man was said to be quite calm about it all. He only ordered the steward to pack his things and get out of his house. Here the wife was said to have intervened. She told the husband that he could not dismiss the steward and that the steward must stay. It became a trial of power. Anxious to avoid a scene that would lead to a scandal, the man kept his peace and returned to the office. On getting back to the court, he adjourned all cases listed for that day and locked himself in his chambers. It was late in the evening before he left office. Towards dawn the next morning, a shot rang out from his bathroom. He was discovered dead.'

It would appear that the National Assembly has taken the lead in this matter by the enactment of the Violence against Persons (prohibition) Act, 2015. The Act criminalizes forceful eviction of a spouse from or denial of access to the matrimonial home¹⁶, emotional, verbal and psychological abuse¹⁷ and the battering of a spouse.¹⁸

However, the Act is not applicable in the states of the federation unless re-enacted by the State House of Assembly as a law of the state. Secondly, the provisions of the law in our opinion are not comprehensive enough. For instance, such a law should criminalize deceit, misrepresentation of fundamental facts with the intention of cajoling the man to propose marriage, passing off another man's pregnancy and consequently his child as that of the husband, engaging in fetish and diabolical acts with the intention of turning the husband into a Zombie, deceitfully making the husband pay obeisance to an ex-lover by introducing him as her relative thereby exposing the man to mockery and ridicule behind his back, breach of the constitutionally guaranteed right to private and family life by discussing strictly private and matrimonial matters with total strangers without the consent of the husband thereby exposing the husband to danger except where the matter is one that borders on threat to life or any other emergency and her audience must be one that can offer immediate help to avert any untoward consequence(s), flirting or any other form of indecent relationship with other men which does not amount to adultery, age falsification, having a child by another man before marriage without disclosing same to the husband, willful denial of conjugal rights, adultery on the matrimonial bed, causing economic ruin to the husband in order to spite him, inciting the children against their father with the intention that they should hold him in contempt, spreading rumors and falsehood against the husband in order to spite him, stalking or commissioning people to stalk the husband, causing, instigating, aiding, abetting, promoting or stoking marital discord and such other matters that have become rampant in the society. Such men should be entitled to aggravated or exemplary damages in the form of compensation upon conviction of the offending spouse. In other words, the existing actions in tort and their remedies are not sufficient. They should also be made criminal offences in a codified form. This we believe would reduce the resort to self help which usually happens where the offending spouse is caught in the act or where the aggrieved spouse is pushed to the limits.¹⁹

4. Conclusion

As everyman is his brother's keeper, every woman should also care for all. Women should help make their spouses and not mar them. Without being judgmental, it is a sin to do so and notwithstanding that government at all levels may reduce wages in view of the economic recession in Nigeria, it is unlikely that there would be a reduction in the wages of sin. The family unit is about the smallest group unit of the society and care should be taken to ensure that it is intact and in good shape as the state of the family unit reflects positively or negatively on the larger society in the short or long term. Parents should take keener interest in the prospective spouses their children intend to marry and may even go spiritual in the choice of a life partner for their children.

Conclusively, it should be noted that the theme of this article is not borne out of a desire to merely advocate a shift in the perception of gender based violence but a call based on the reality of what obtains in the Nigerian society. Benjamin Cardozo buttresses this point analogically this way:

A jurist is not to innovate at pleasure. He is not a knight errant, roaming at will in pursuit of his own ideal of beauty or goodness. He is to draw his inspiration from consecrated principles. He is not to yield to spasmodic sentiments, too vague and unregulated benevolence. He is to exercise a discretion informed by tradition, methodized by analogy, disciplined by system, and subordinated to the primordial necessity of order in the social life.²⁰

If it is the stance of the Lagos State Government of Nigeria that domestic violence would no longer be treated as a 'family affair', then the statutory protection should be extended to the men folk because if women deserve some kind of special statutory protection, then so do men.

¹⁶See section 9(1) of the Violence Against Persons (Prohibition) Act.

¹⁷*Ibid.* section 14(1).

¹⁸*Ibid.* section 19(1).

¹⁹See *Shande v The State* (2005) 12 NWLR (pt.939) 301. The appellant was arraigned for culpable homicide punishable with death by burning her husband's lover to death. Her conviction by the trial High Court was upheld by the Court of Appeal, hence her appeal to the Supreme Court. She was discharged and acquitted.

²⁰From the citation of Justice Bolarinwa Oyegoke Babalakin when he was being conferred with the LL.D degree of O.A.U Ile-Ife – <http://naijanewsroom.com/featured-article/5544765.html>, accessed on 20/06/2013, 4.00pm.