

FACTORS THAT ESCALATE GENDER-BASED VIOLENCE IN NIGERIA: A CRITICAL ANALYSIS*

Abstract

Gender based violence occurs in all societies of the world, within the home or in the wide community and it affects women and girls disproportionately. This research sets out to critically analyze the factors that escalate gender based violence in Nigeria including the types of gender based violence. These problems associated with gender based violence cannot be solved if the recipients of this article cannot use the knowledge to contribute meaningfully in the society. The research methodology was doctrinal approach, using expository and analytical research design. The main sources of data collection were various legal literatures, both from the physical library and the e-library. Therefore, it was recommended among others that Nigerian legislators and the judiciary should adopt the sound principles and related provisions in foreign jurisdictions to stop any form of gender inequality. There should be public campaign to put a stop on gender based violence by organizing rural women who have no access to public opinions and who are illiterates to report all cases of domestic violence for prosecution of offenders. Finally, this article was made to be significant to all stakeholders in human right and feminism.

Keywords: Gender, Women, Abuse, Domestic Violence

1. Introduction

The world we live in is characterized with violence against women. This is universally present in many forms like wife battering, sexual assault and abuse, female genital mutilation and rape, in war and in peace time. Gender based violence is the fate of millions of women all over the world and these are affecting their productivity both in the homes, communities and places of work. There are different types of gender based violence; which occur at different levels like within the family, community and state. Domestic violence which typically occurs when a man beats his female partner is the most prevalent form of gender-based violence and this occurs within the families and inside the homes. Violence against women within the general community includes battery, rape and sexual assault, forced treatments and the exploitation and commercialization of women's bodies. The social exclusion of women in some parts of the world in general and the purdah system in the Northern part of Nigeria in particular are among the violence against women that are perpetrated by the state. Gender-based violence is a universal reality in all societies regardless of income, class and culture. It would be difficult to find one woman, whom at one time or the other in her lifetime had not been afraid merely because she is a woman. Those women who are particularly vulnerable to violence are those who live in extremely precarious conditions or who are discriminated against on the basis of race, language, ethnic group, opinion, religion or membership in a minority group.

2. The Concept of Gender-Based Violence

The platform for action adopted at the fourth world conference on women and development in Beijing in 1995 defined violence against women as: any act of gender-based violence that result 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.¹ It was also defined to encompass but not limited to physical, sexual and psychological violence occurring in the family and in the community, including battering, sexual abuse of the female children, dowry related violence, rape, harmful traditional practices affecting women's reproductive health rights, such as female genital mutilation etc. Sexual harassment of women, forced prostitution and violence perpetrated or condoned by the state. Other acts of violence against women include violation of women's human rights in armed conflict situation in particular systematic rape, sexual slavery and forced pregnancy. Acts of violence against women also include forced sterilization and forced abortion, coercive/forced use of contraceptives etc.² United Nations once more in 1993 described violence against women as encompassing, and also to include violence perpetrated by state, physical, sexual abuse of female children in the household, dowry related violence, marital rape, female genital mutilation and other traditional practices harmful to women non-spousal violence and violence related to exploitation, physical, sexual and the general community including rape and intimidation at work in educational institutions and elsewhere, trafficking in women and forced prostitution.³

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¹J N Ezeilo, *Law Reproductive Health and Human Rights, Women's Aid Collective* (Enugu Publishing Company, 2006) 29.

²*Ibid*, 30.

³D C Arinze-Umeobi, *Domestic Violence Against Women in Nigeria: A Legal Anatomy* (Folmech Printing Publishing Co. Ltd, 2008) 3.

All forms of domestic violence constitute gender based violence and this domestic violence shall be understood to mean amongst other things, any violence between current or former partners in an intimate relationship, wherever and whenever the violence occurs. This violence may include physical, sexual, emotional or financial abuse.⁴

3. Levels of Gender Based Violence

There are three levels of gender based violence. These are the home or family level, the community and the state level.⁵

Violence within the Home

Domestic violence is the most prevalent form of gender based violence. It typically occurs when a man beats his female partner. Psychological abuse always accompanies physical abuse and majority of women abused by their partners are abused many times. Physical, sexual and psychological violence against within a couple and in the family consists of battery, sexual abuse, female genital mutilation and other traditional practices harmful to women and girls, marital rape, dowry-related violence, incest, non-spousal violence. Like a son's violence against his mother and violence related to exploitation and deprivation of freedom. In spite of all the available data on gender based violence, there is no accurate information on gender based violence in some countries. A culture of silence surrounds cases of violence against women in most countries like Nigerians, making it difficult to get a true picture of its extent. Some of the reasons why it is difficult to get an accurate account are that, most of the gender based violence occurs in private spheres within families, inside homes and out of sight.

Violence against Women within the general Community

Physical, sexual and psychological violence occurring within the general community include battery, rape, sexual assault, sexual harassment and intimidation in school or work, forced treatments and abusive medication, the exploitation and commercialization of women's bodies which is related to increased poverty that is mainly as a result of unbridled economic liberalism. These types of violence occurring within the general community also include contraception imposed on women by constraints or force, forced sterilization of abortions, selective abortion of female foetus and female infanticide.⁶

Violence against Women Perpetrated by the State

Physical, sexual and psychological violence are too often perpetrated or tolerated by states that prioritize customs or traditions over the respect of fundamental freedom. In some countries, the rise of religious fundamentalism is extremely disturbing as regards women's right to their economic autonomy and their freedom of choice. The social exclusion of women is so great that it constitutes a new form of apartheid. Women are considered second class beings of lesser value, deprived of their fundamental rights. Violence against women is also exercised as a weapon of war in situation of armed conflict. It has many forms including murder, rape, sexual slavery, hostage taking and forced pregnancy.⁷ Other additional violations of human rights and fundamental freedoms are trafficking in women and girls for sex trade, forced prostitution, rape, sexual abuse and sex tourism that have become the focus of international crimes.

4. Types of Gender Based Violence

Sexual Violence: Sexual violence includes Rape/child sexual abuse, sexual harassment in educational institutions and workplaces, forced sex in marriage- marital rape.

Rape: Forcing anyone into sexual intercourse against her will is rape. It is a violent, terrifying and humiliating assault. Rape is pervasive form of gender based violence. Victims of rape range from few months old to their 90's. Rape includes marital rape. Section 357 of the criminal code Act ⁸ provides that any person who has unlawful carnal knowledge of a woman without her consent or with her consent if the consent is obtained by force...or in the case of a married woman by impersonating her husband is guilty of an offence which is called rape. All women regardless of age, color, ethnicity, society, class and so forth are potential victims of violence.⁹ Rape can affect the productivity of a woman. A raped girl can become sick, hospitalized and be unable to go to school or work for days. She can become pregnant without anybody to take care of her pregnancy. Her

⁴ *Ibid*, 4.

⁵ Medline Plus, 'Domestic Violence' <<http://www.Ips news.Net/Africa/nota.asp.on6/12/2011> > accessed on 4th May , 2022.

⁶ *Ibid*.

⁷ [Http://www.Ips news.Net/Africa/nota.asp](http://www.Ips news.Net/Africa/nota.asp) culled on 6/12/2011

⁸ Cap C38 LFN 2004

⁹ Ezeilo (n 1) p.43

academic career can be ruined and if she is a working class type, she may not be able to cope effectively with her equals. Sexual harassments and assault is a crime in RV Beaulieu.¹⁰ A man who was out of prison sexually assaulted Margot Blackburn. The accused was later convicted for sexual assault causing bodily harm and sentenced to 12 years imprisonment.

Domestic Violence: This includes women battering, Acid bathe, murder, incest, economic disempowerment, psychological violence. Battery means the use of force against another, resulting in harmful or offensive conduct, an unlawful application of force to another person.¹¹ Battery is the intentional or negligent and direct application of force to another person¹². There are some instances of battery leading to murder; an example is the case of a girl (Miss Pamela Sunday) who happily visited his police boyfriend but unfortunately, she was battered, stabbed several times, killed and was deposited in a mortuary with a false name.¹³ There is also another case of Deborah Odeyemi, a mother who the police husband poured acid on, together with their 15 years daughter; accusing the woman of having extra marital affairs and building a house without his knowledge.¹⁴ Incest has been defined as the sexual relationship between family members or close relatives including children related by adoption.¹⁵

Harmful Traditional Practices: This includes female genital mutilation, child marriage, forced marriage, widowhood rites, widow disinheritance, male-child preference, girl-child neglect. Female Genital mutilation is the most serious form of violence against women. It is a violent caused to the out sex organ of group of people that can bear children or produce eggs, like girls and women by exercising (removing) parts of the organ or causing substantial damage.¹⁶ This practice according to doctors can be associated with HIV, the virus that causes AIDS through cuts and abrasions in scar tissues, during intercourse and childbirth. It leads to lack of orgasm and depression and the health consequences include shock, pain, infections, injury of the adjacent tissue and organs, urinary retention and tetanus. Long term effects may include cysts and abscesses, urinary incontinence, psychological and sexual problems, obstructed labor, Vesico Vaginal Fistula (VVF) and Recto Vaginal Fistula (RVF).¹⁷ Female genital mutilation is still being practiced in many states in Nigeria. Child marriage has all the dangers associated with Female Genital Mutilation too because the reproductive organ of the child has not fully developed especially for sex and child bearing. In child marriage, the consent of the child is dispensed with and her parents enter into agreement for her. It is therefore not a marriage.¹⁸ In Muslim law, a father can contract marriages on behalf of their virgin daughters without her consent through the power of *ijabar*. But our courts are becoming more proactive on this issue. Thus, in *Karimatu Yakubu v Alhaji Paiko*,¹⁹ the first appellant Karimatu was a 19 year old girl. She was given in marriage by her father, the 1st respondent to the 2nd respondent. She resented the marriage and applied to the Area court Minna for its annulment on the ground that it has been contracted without her consent as her father had chosen the 2nd appellant as her husband. Karimatu won her case both in the Area court and an appeal in the Upper Area court. But the decision was reserved on for the appeal by the Sharia Court of Appeal Minna. The court reasoned that since Karimatu was a virgin, her father under the Maliki school of Islamic Law had the power of *Ijabar* over her marriage, irrespective of her preference. At the court of Appeal, the sharia court of Appeal decision was reserved on the ground that the father after dissuading Karimatu from marrying one of her three suitors, permitted her to choose between the 2nd respondent and the 2nd appellant and therefore lost his power of *Ijabar*. This is commendable as it clearly indicates that the need for the consent of a girl or woman in her marriage is indispensable and desirable. Widowhood rituals include the physical and emotional torture which a widow is subjected to, ranging from the violent shaving of her hair, to making her drink the water used to wash the corpse of the deceased husband. After the burial of the late husband, in a place like Ihiala in Ihiala Local Government Area of Anambra State, widows are not allowed to go to the market throughout the six months mourning period, they do not attend meeting and they also wear a set of clothes for mourning period etc. These widowhood rites are contrary to Sections 34,35,40,41 and 42 of the Constitution of the Federal Republic of Nigeria 1999.

On the issue of inheritance, in Igbo Land, widows are not allowed to administer their deceased husbands estate especially where the widows is childless, has only daughters and the male child is a minor. In Onitsha, the

¹⁰ (1992) RJQ 2959

¹¹ Arinze- Umeobi (n 3) 43.

¹² I P Enemuo, *Notes on the Law of Tort* (Syscom Ltd, 1998) 157.

¹³ Arinze- Umeobi (n 3) 43 .

¹⁴ *Ibid*, 55.

¹⁵ *Ibid*, 136.

¹⁶ *Ibid*, 60.

¹⁷ Ezeilo (n 1) p 140

¹⁸ Arinze- Umeobi (n 3) p 89

¹⁹ *Karimatu Yakubu v Alhaji Paiko* (Unreported) Appeal No. CA/K?805/85.

possessory right lasts as long as the consent of the husband family lasts- *Nezianya v Okagbue*. Our courts are now trying by declaring their obnoxious customs contrary to statutory provisions and repugnant to natural justice, equity and good conscience and also discriminatory – *Muojekwu v Ejikeme*²⁰, *Muojekwu v Muojekwu*²¹, *Muojekwu v Iwuchukwu*²² Another aspect of harmful practices on females in Nigeria is son preference to our people, the family lineage is carried on by male children. The preservation of family name is guaranteed through the son(s) as a result of this son preference, there is discrimination in feeding and caring for the female infants. This is inhuman and violates the fundamental right to life²³ and right to freedom from discrimination²⁴, Article 2, 3, 4, 5²⁵, Article 2.²⁶ Trafficking in Women/Girls comprising forced prostitution, debt bondage, deceit, exploitation, forced labor. Article 3(a) of the Protocol to Prevent, Suppress and Punish Trafficking in Persons, defined trafficking in persons as the recruitment, transportation, transfer, harboring or receipt of persons by means of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Women/girls trafficking is the most modern gender based violence on women. Article 11 and 35 of Convention on the Rights of the Child prohibits child trafficking. State violence includes extra-judicial killings, discrimination in policies and practices e.g. bail, sexual violence, lack of protection.

5. Factors that escalate Gender Based Violence

Cultural Factors

The overbearing influence of cultural tradition tends to treat women as appendages of men and also fails to recognize the individuality of children beyond seeing them as gifts from God. Some culture in Nigeria defines sex roles, the parent usually bring up their female children in that way thereby creating disparity between boys and girls. When boys grows up and get married to a woman, who comes from a home where duties are shared equally between boys and girls, this can create tension that might lead to violence. There is this belief in inherent superiority of males and that males have priority rights over women and girls including the notion that the family is under the control of males. This is traceable directly to the patrilineal system of many communities in which inheritance is by male descent. The girl child is regarded as a bad investment because she will marry outside off at an early age without obtaining her consent. It is patriarchy that sustains gender discrimination in any society as well non inheritance rights of the females. In *Sunguro-Davies v Sunguro-Davies*,²⁷ it was held that devolution of property follows blood and consequently, a widow was deprived of inheritance rights in her deceased husband estate. Furthermore, there is an aspect of the hidden economic motive (the enticement of bride price) or the desire to establish or cement alliances with powerful families. This practice is fundamental violation of CEDAW which in Article 16 states that both parties have the same right freely to choose a spouse and to enter into marriage only with their free and full consent. Furthermore, it adds that state parties should take all necessary actions including legislation to specify a minimum age for marriage and to make the registration of marriage in an official registry compulsory. There is no official minimum age of marriage in many parts of Nigeria and there is no compulsory registration of marriage in many parts of Nigeria, this make it easy for parents/guardians to marry off their daughters at a premature age without any risk of legal sanction. Correcting this legal anomaly should be one of the highest priorities.

Economic Factors

Women's economic dependence on men, limited access to cash and credit, discriminatory laws regarding inheritance, property rights, use of communal land, and maintenance after divorce or widowhood, limited access to employment in formal and informal sector, limited access to education and training of women.²⁸ In Nigeria especially in the east, women mostly depend on men for financial assistance because they have limited access to money and have no facility for securing loans. This is because they hardly own lands and buildings. There are many discriminating principles and precedents laid down by the courts. In the Islamic law, they inherit a half of what males inherit but in Igbo society, they cannot inherit anything whether as wives or daughters - *Nezianya v Okagbue* ²⁹ but cases like *Muojekwu v Mojekwu* ³⁰ *Muojekwu v Ejikeme* ³¹ are fast changing the tide. In wider

²⁰*Muojekwu v Ejikeme* (2007) 7NWLR (Pt 657) 413.

²¹ *Muojekwu v Muojekwu* (1997) 5NWLR (Pt 512) 413.

²² *Muojekwu v Iwuchukwu* (2004) 11NWLR (Pt) 196.

²³ Constitution of the Federal Republic of Nigeria 1999 (as amended) section 33.

²⁴ *Ibid*, section 42.

²⁵ African Charter on Human and Peoples Rights, 1981.

²⁶ Convention on Elimination of All Forms of Discrimination against Women (CEDAW) 1979 .

²⁷ *Sunguro-Davies v Sunguro-Davies* (1929) 2NLR 79.

²⁸ Arinze- Umeobi (n 3) 139.

²⁹ *Nezianya v Okagbue* (1963) 1 ALL NLR 352.

³⁰ *Ibid* (n 20).

environment as in the work place, community state or national levels, women experience public discrimination. Thus with regard to employment, stiff conditions like no maternity leaves or termination to appointment once pregnant *Ajiboye v Dresner Nig Ltd*.³² Maintenance is regrettably unknown to our customary law. Once a customary law marriage is dissolved, there is a clean break and the man is not obliged to maintain his wife who might have been financially dependent on him as a result of her multiple role as child bearer, child career and home keeper. All her intangible and unquantifiable services are left unrewarded.³³

Legal Factors

Lesser legal status of women either by written law and /or by practice, law regarding divorce, child custody, maintenance and domestic abuse, low levels of legal literacy among women, incentive treatment of women and girls by police and judiciary. In all status but using the constitution as an example, the language is to say the least masculine in all aspects e.g. the qualification of citizenship in Section 27 made reference only to 'he' nothing like 'she'. In indecent assault as provided for in Section 350³⁴ and 363³⁵ when against a man, the punishment is for 3 years, making it a felony, whereas same offence against a woman attracts only 2 years imprisonment, that is a misdemeanor. Also by Section 55 (d)³⁶, chastising a woman by the husband for the purpose of correcting the wife does not amount to infliction of grievous hurt. In practice, on the issue of rape, if there is no witness, the police will not take woman serious on her complaints about physical and sexual abuse. The manner of investigation and the type of question with intimidations can make rape victims to withdraw the case. In the court, the thorough cross-examination by the defense counsel including attacks on the veracity of the victim in order to establish reality makes the rape victims afraid and it is also not easy witnesses to testify in the court. The vigorous procession and the manner of filling an application for divorce makes it difficult for divorce women to opt out of their marriages and it must be the violated that can bring the application – *Olusola Oyegbeme v AG Federation* ³⁷ and *Captain S.A Asemota v Colonel Yesufu & Anor*.³⁸ Above all, many women are not legally literate, they do not know their rights because if they do, most of these gender based violence on female would have been a thing of the past.

Political Factors

Under representation of women in power, politics, media, legal and medical professions are forms of domestic violence not taken seriously. The notion of a family being private and beyond the control of the state, risk of challenge to status-quo/religion laws, limited organization of women as a political force, limited participation of women in organized political system. As regard politics, women's historical of discrimination puts them at a disadvantage economically. Political campaigns are expensive and require solid financial lacking for it to be successful. Only few women that are affluent possesses the economic power to engage in political campaign. The society believes that men stand better chances to succeed in politics. The resultant effect is that issues concerning women would continue to lack power attention as many women are not among policy makers to put things in order. In politics, few women that participate are regarded as prostitutes. Women are mostly involved in petty trading, selling wares in the market, hawking etc. rather than going into professional fields because they lacked proper education from childhood. Some religious doctrine militates against the active participation of women in politics and position of authority. Islamic doctrines strictly bar women from some political endeavour and public speaking that can facilitate their political ambitions. On the issue of quota system, which is the proportional share assigned to a person or group of persons. It is also allotment as currently experienced in Jamb Admissions to Universities or in the unity college Admission. Presently, the cut-off mark for girls seeking entrance to unity schools is higher than that of their male counterparts: *Badejo v Federal Ministry Of Education*.³⁹ Other factors include a man's extreme alcoholism, a woman's sexual unfaithfulness, a man's sexual unfaithfulness, violent background of male and the female, intake of hard drugs, confinement of professional women to a position of house wives (leading to blocked goals).⁴⁰ Inordinate sexual demand or denial, account for domestic violence against women – *Akinbuwa v Akinbuwa*.⁴¹ Illiteracy and ignorance tend to perpetuate discriminatory practices in the society. Greater percentage of Nigeria women is illiterate because custom holds

³¹ *Ibid* (n 19).

³² *Ajiboye v Dresner Nig Ltd* (1972) CCHCJ 57.

³³ SC Ifemeje, 'A Critique to Gender Discriminatory Practices in Igbo Customary Law' *Journal of Women and Minority Rights*, Faculty of Law, Nnamdi Azike University Awka, Nigeria 2008, 1(1) 60.

³⁴ Criminal Code, Cap C 38 Laws of the Federation, 2004.

³⁵ Penal Code, Cap P 3 Laws of the Federation, 2004.

³⁶ *Ibid*.

³⁷ *Olusola Oyegbeme v AG Federation* (1982) 3 NCR 895.

³⁸ *Captain S.A Asemota v Colonel Yesufu & Anor* (1981) NCR 420

³⁹ *Badejo v Federal Ministry Of Education* (1996) 9-10 SCNJ P 518.

⁴⁰ Arinze-Umobi (n 3) 140.

⁴¹ *Ibid*.

academic investment on female on females as wrong. Consequently, women lose the right to freedom of speech and right to participate in government programmes. Many are not aware of their rights under the law as a result of illiteracy. In these conditions, it has proven difficult for government to introduce laws, policies and programmes to uphold the rights of children and women. Actual practice is driven more by constitutional, legal or international obligations.

6. Effects of Gender-based Violence

The effects of gender-based violence can be devastating and lasting. They pose danger to a woman's reproductive health and can scar a survivor psychologically, cognitively and interpersonally. A woman also experience domestic violence and lives in an abusive relationship with her partner or have an abortion against her will, or her partner may knowingly expose her to a sexually transmitted infection like syphilis, Gonorrhoea, HIV/AIDS etc. Violence may withdraw impacts on female children. A child who has undergone or witnessed violence may withdraw anxiously or depressed on one hand, on the other hand, the child may become aggressive and exert control over young siblings.⁴² Boys usually carry out the aggressive form of behaviour and as adults may beat their spouses. If boys grow up with their traditional practice of stereotyped roles, it becomes a problem in their future home. The effect of female genital mutilation is terrifying ranging from intense pain, bleeding, painful abdominal menstruation, infection, trauma, obstructed labour, tetanus, death etc. Violence against women is an obstacle to the achievement of the objectives of equality, development and peace.

7. Conclusion and Recommendations

Gender based violence is a crime against humanity and it leaves the victims with psychological, mental and physical effects. The problem we have in Nigeria is that most victims do not report experiences assuming they survive it because of fear of social stigmatization and the unnecessary stress, hurdles and prosecutions in the law courts. The major disturbing aspect of all these is that the government is not putting enough measures in place to combat gender based violence in Nigeria. It is suggested that every citizen must try his/her best to make sure that gender based violence is totally eliminated in Nigeria. Focused advocacy campaigns could help tackle some of the direct causal factors responsible for the gender based violence on females. There should be public campaign to put a stop on gender based violence by organizing rural women who have no access to public opinions and who are illiterates to report all cases of domestic violence for prosecution of offenders. Health care system has an important role to play in collaboration with systems such as the legal, police, media, social and educational sectors and civil society organizations to give necessary support to the victims and to give evidence when required. Health professionals are often in a position to identify the Health consequences of sexual violence and to respond effectively to the health of survivors. It is advocated that the Section 12(1) CFRN 1999 should be jettisoned so that international treaties favourable to women can apply directly. CEDAW which is an international treaty like a bible on women's rights has ratified but not yet domesticated and as such unenforceable. More local legislation is needed in all parts of the country like the Widowhood/Widower-hood (Malpractices) Prohibition Law, 2005 of Anambra State. A more social security policy should be put in place to enhance women's access to education by providing scholarships. Good governance is what will bring a lasting solution on the long run and it depends a lot on the government to cater for the welfare of the masses. Government should promote policies that can reduce the level of discrimination meted out on women and ensure equity in distribution of resources among the citizens. Some of the contemporary issues should be taught in the social studies programme including law related education, family life education and peace education to ensure the existing social studies curriculum to equip students to have awareness of and develop attitudes and values for combating gender-based violence in understanding Nigerian society.

⁴²M Smith and J Segal, 'Domestic Violence and Abuse: Signs of Abuse and Abusive Relation' *Online Database* <www.murdoch.university.electronic.law.journal> Accessed on 3rd May, 2022.