



**The Impact of Domestic Violence Legal Regulation and
Enforcement Among Nigerian Immigrants in Ireland**

Bruno Obialo Igwe

A thesis submitted

**in fulfilment of the requirements for the award
of Doctor of Philosophy**

**Department of Law
Maynooth University, Ireland
2018**

Research Supervisor: Dr Sibio Banda

Declaration

I declare that this thesis, which I now submit to Maynooth University for assessment on the programme of study leading to the award of a PhD degree is entirely my work. I exercised reasonable care to ensure that the work is original, and to the best of my knowledge, does not breach any copyright law, and has not been taken from the work of others save and to the extent that such work has been cited and acknowledged within the text in the footnotes.

Candidate: Bruno Obialo Igwe

Signed:

Student Number: 11250166

Date

Supervisor: Dr. Sibio Banda

Signed:

Date:

Dedication

This thesis is dedicated to:

My loving wife, Norah Chikodi Igwe, and our children, Chinelo Elemgbo Laetitia Igwe and Ogechi Niamh Igwe. Together, they are the major source of inspiration, strength and love that made it possible for me to complete this thesis.

My parents, late Sir Isaac Obialo Igwe and late Lady (Ezinne) Elemgbo Laetitia Igwe whose faith, dedication and exemplary life continue to inspire their children, grandchildren and great-grandchildren.

My brothers and sisters: Chief Hilary Igwe, Sir Herbert Igwe, Rev. Fr. (Dr) Paschal Igwe, Professor Isaac Igwe, late Mrs (Ezinne) Carol Oduka (nee Igwe), Mrs Mary Onwumere (nee Igwe), Mrs Theresa Mbachu (nee Igwe), and Mrs Chinelo Ehiahuruike (nee Igwe), and my nieces and nephews.

Ubuntu - “Humanity” I am because we are, thanks to my family. You all have given me everything. I am blessed to have such a wonderful and caring family. May the love continue to blossom!

Acknowledgments

The challenges of writing a doctoral thesis are so enormous that it can hardly be overcome by an individual effort. For this reason, I would like to acknowledge those who assisted me directly and indirectly to achieve this feat of completing this thesis successfully.

To my supervisor, Dr Sibó Banda, it has been an immense pleasure to have someone like you as a supervisor right from my Masters dissertation to doctoral thesis. As my academic mentor, you have lived up to your profession. You have guided me through thick and thin, always there to encourage me and offer constructive criticism. Your desire for a coherent and cohesive work has paid off - *Asante sana, Ninashukuru.*

To all the staff of the Department of Law, Maynooth University, I am grateful for your invaluable contributions in the form of advice and encouragement that assisted me to complete this project. The spirit of teamwork in the department is second to none.

To my colleagues in the department and other colleges, especially Dr Florence Anaedozie and Gbemisola Johnson. Thank you for your support and encouragement. Both of you provided shoulders to lean on whenever the going became tough – thank you.

To my cousins, Jerry Enyimuche and Bede Igwe, thank you for your encouragement. Special thanks to Mrs Eziada Clara Anyiam, my foot soldier in Nigeria who crisscrossed the whole country in search of information for the writing of this thesis. Without your effort in collecting the much-needed information in Nigeria, it would have been a daunting task for me – *Dalu.*

To all my friends and well-wishers, who always encouraged me, especially Ifeanyi Ibeh, Benji Nweke, Christian Obiako Izuakobi, Nwabueze Uloko, Emeka Agbaka

(Ayico), Jude Ikerionwu, Mike Umeh, Emeka Ejezie, Dona/Ifeoma Okanume, Peter Dike, Chidi Mekamam, Ebere Onuoha, Kenneth Edeh, Rev. Fr. Louis Illa, and all the members of Ideato Union Ireland and Otu-Umunna club of Ireland/UK – *Daluoh, nmadu ka eji aka.*

To all the participants that were interviewed for this project and those who indicated interest but were not chosen due to the limited number required, I thank you all.

Abstract

The purpose of this study was to appraise the efficacy of law and its enforcement in changing peoples' perceptions and attitudes toward domestic violence and raising awareness about it. The study explored the role of legal regulation and enforcement in tackling domestic violence by investigating how its regulation and enforcement in Ireland impacted on the Nigerian immigrants' perceptions and attitudes toward it. It queries if both jurisdictions are protecting human rights adequately within their domains. The universal theory of human rights and the feminist legal theory were used to guide the claim of this thesis that cultural, traditional and religious beliefs and practices in Nigeria impede the understanding of domestic violence, encourage the behaviour and hinder the enacting of emancipatory human rights laws in the country. The study employed a qualitative method of enquiry within a socio-legal approach to obtain empirical data through a semi-structured interview of ten (10) participants. The participants were selected through a heterogeneous or maximum variation sampling technique. The data were analysed using an Interpretative Phenomenological Analysis (IPA) method. The study found that legal regulation and enforcement are efficacious in changing perceptions and attitudes toward domestic violence. All the participants (100%) affirmed change of their perceptions and attitudes toward domestic violence since taking up residence in Ireland. The study equally revealed that domestic violence awareness campaign in Ireland as well as law and its effective enforcement contributed in increasing the participants' knowledge and understanding of domestic violence. The participants affirmed that the legal process in Ireland, especially regarding access to justice and enforcement of laws is more protective of peoples' human rights than the process in Nigeria. The findings also revealed that Nigerian immigrants in Ireland are supportive of reporting incidences of domestic violence to the authorities. Thus, the findings imply that law is effectual in transforming peoples' perceptions and attitudes toward domestic violence. Consequently, the study recommends adopting a legal approach to tackling domestic violence. In addition, the study calls on the Nigerian Government (both

State and Federal) to ensure the Federal law against domestic violence (VAPP Act 2015) has a nationwide applicability.

Table of Contents

Declaration.....	i
Dedication	ii
Acknowledgments.....	iii
Abstract.....	v
Table of Contents.....	vii
List of Figures	xii
List of Tables	xiii
List of cases	xiv
List of Acronyms.....	xix
Chapter 1.....	2
Introduction and background to the study.....	2
Section One	3
1.0 Introduction and background to the study.....	3
1.1 Rationale, Motivation and Statement of the Problem	6
1.2 Aims and Objectives.....	11
1.3 Research Questions	12
1.4 Scope and Significance of the study	12
1.5 Sources of Materials	14
1.6 Methodological Overview.....	14
1.7 Thesis Structure and Chapter Overview	15
Section Two.....	16
1.8 Introduction	16
1.9 Feminism and Feminist Legal Theory.....	19
1.9.1 First Wave Feminism.....	21
1.9.2 Second Wave Feminism	22
1.9.3 Third Wave Feminism	24
1.9.4 Feminist Theory and Domestic Violence.....	26
1.10 Universal Theory of Human Rights	29
1.10.1 Human Rights: Universalism and Relativism Debate	33
1.11 Conclusion.....	40

Chapter 2.....	41
Literature Review	41
Section One	42
2.0 Introduction	42
2.1 Definitional Exploration	42
2.1.1 Forms/Types of Domestic Violence	51
2.1.2 Effects of Domestic Violence	53
Section Two.....	58
2.2 Domestic Violence Legal regulation and Enforcement: The Impact.....	58
Section Three	73
2.3 Perceptions and Attitudes toward domestic violence: The Implications	73
2.4 Conclusion.....	76
Chapter 3.....	78
Methodology and Empirical Fieldwork	78
Section One	79
3.0 Introduction	79
3.1 Research Design	79
3.1.1 Phenomenology	81
3.1.2 (a) Bias.....	82
3.1.2 (b) Sample Size	83
3.1.3 The Study Group	86
3.1.4 Selection of Participants	88
3.1.5 Profile of the Participants	91
3.1.6 Ethical Considerations.....	92
3.1.7 Data Collection.....	93
Section Two.....	95
3.2 Data Analysis.....	95
3.2.1 Presentation of findings.....	97
3.3 Conclusion.....	111
Chapter 4.....	113
Combating domestic violence in Nigeria: The role of culture, tradition and religion	113
Section One.....	114

4.0 Introduction	114
4.1 Domestic Violence: The Experience in Nigeria	114
4.1.1 Domestic Violence Awareness Campaign: The Triggers	123
Section Two.....	126
4.2 The Influence of Culture, Tradition and Religion	126
4.2.1 Patriarchy	132
4.2.2 Gender Value System.....	133
4.2.3 Inheritance Rights	136
4.2.4 The Culture of Silence and Shame	141
4.2.5 Sense of Ownership	145
4.3 Conclusion.....	149
Chapter 5.....	150
Domestic Violence in Nigeria: Legal and Institutional Response.....	150
Section One	151
5.0 Introduction	151
5.1 Nigeria: An overview	152
5.1.1 Nigerian Legal System (NLS).....	158
5.1.2 Sources of Law in Nigeria	158
5.1.3 The Judiciary.....	165
Section Two.....	169
5.2 The State Government and Domestic Violence Law	169
5.2.1 Lagos State – The Prevention against Domestic Violence State Law No. 15A, 197 of 2007	170
5.2.2 The States’ Domestic Violence Law: Analysis and Commentary	176
Section Three	184
5.3 The Federal Government and Domestic Violence Law	184
5.3.1 Violence against Persons (Prohibition) Act 2015 (VAPP).....	185
5.3.2 Violence against Persons (Prohibition) Act 2015: Analysis and Commentary	188
5.3.3 Nationwide Applicability of the VAPP Act: The Issue.....	198
5.3.4 Discriminatory domestic violence Law against women in Northern Nigeria.....	200
5.3.5 Domestic Violence: Institutional Response	202
Section 4.....	207

5.4 Regional Response	207
5. 4.1 The Community Court (ECOWAS Court) of Justice of the Economic Community of West Africa (ECOWAS)	208
5.5 Conclusion.....	214
Chapter 6.....	215
Domestic Violence in Ireland: Legal and Institutional Response	215
Section One	216
6.0 Introduction	216
6.1 Republic of Ireland: An Overview	217
Section Two.....	220
6.2 Irish Legal System (ILS).....	220
6.2.1 Sources of Irish Law	220
Section Three	225
6.3 Domestic Violence: The Experience and Prevalence in Ireland.....	225
6.3.1 Legal Response.....	231
6.3.2 Institutional Response	255
6.3.2. (a) Government Institutions.....	256
6.3.2 (b) Non-Governmental Organisations (NGOs).....	269
Section 4.....	271
6.4 Regional Response	271
6.4.1 European Court of Human Rights (ECtHR).....	272
6.4.2 The Council of Europe Convention on preventing and combating violence against women and domestic violence (Istanbul Convention) 2011	278
6.5 Conclusion.....	283
Chapter Seven.....	285
What has Law Got to do with it?	285
Section One	286
7.0 Introduction	286
7.1 Law as an instrument of social change	287
Section Two.....	291
7.2 Legal Pluralism	291
7.2.1 Non-State Laws and Domestic Violence – Prospects and Challenges	293
7.3 Is Law Enough?.....	299

7.4 Conclusion.....	301
Chapter 8.....	302
Discussion of Findings, Recommendations and Conclusion	302
Section One	303
8.0 Introduction	303
9.1 Discussion of findings.....	304
8.1.1 Domestic violence within migrant communities in Ireland	316
Section Two.....	318
8.2 Summary of findings	318
8.2.1 Recommendations and Implications of the Research	320
8.2.2 Limitations of the Research	324
8.2.3 Opportunities for further research	326
8.2.4 Contributions to Knowledge	326
Bibliography	329
Appendices.....	361
Appendix A – Participant invitation	362
Appendix B - Participants’ Information Sheet	364
Appendix D - The Interview Guide Questionnaire	372
Appendix E - Advertisement for Participants in Metro Éireann Newspaper	373
Appendix F - Advertisement for Participants in AfricaWorld News.....	374
Appendix G – The poster was a joint winner at the Socio-Legal Studies Association Annual Conference 2016 poster competition held at Lancaster University, UK.	376

List of Figures

Figure 1 Picture of domestic violence	7
Figure 2: Purposive Sampling Technique.....	89
Figure 3: Lagos State Governor, A. Ambode, campaigns against DV.....	204
Figure 4: A campaigner holding a poster during DSVRT 2016 State-wide campaign.....	205
Figure 5: DSVRT partners with traditional ruler for DV awareness campaign .	206
Figure 6: Incidences of abuse reported to Women’s Aid in 2014.....	228
Figure 7: Incidences of abuse reported to Women’s Aid in 2015.....	228
Figure 8: Incidents of Domestic Abuse 2013 - 2017.....	265
Figure 9: Proposed three levels of Human Rights coordinators in the three arms of government in Nigeria.....	296

List of Tables

Table 1: Types of abuse of children disclosed to women’s aid (2015 -2017).....	56
Table 2: Population of Nigerians in Ireland 2002 - 2016	87
Table 3: Profile of the Research Participants	92
Table 4: Amounts Awarded Under Local Awareness Raising Grant Scheme 2015 relating to Domestic, Sexual and Gender-based Violence	257
Table 5: Amounts Awarded for National Campaign 2015 Under Cosc Awareness Raising Grant Scheme relating to Domestic, Sexual and Gender-based Violence	259
Table 6: Domestic violence figures applications and outcomes in the District Courts 2013 - 2017	261
Table 7: Domestic violence figures applications and outcomes in the District Courts 2016 & 2017.....	262

List of cases

Ireland

D K v Judge Crowley & ors [2002] IESC 66

DPP v Delany [1997] 3 IR 453

King v AG [1981] IR 233

McA v McA [2000] 1IR 457

McGee v AG [1974] IR 284 the SC

O'B v O'B. [1984] IR 182

Sinnott v Ireland [2001] IESC 63

TF v Ireland [1995] 1 IR 321

The North Western Health Board Plaintiff v H W and C W Defendants [2001]
IESC 90

Nigeria

Alfa v Arepo (1988) 2 NWLR

Andre v Agbebi [1931] 5 NLR 47

Fawehinmi v Abacha [1990] 9 NWLR

Ladepe v Oyetunde (1944) AC 170

Lois Chituru Ukeje & son v Gladys Ada Ukeje SC.22/2014

Mojekwu v Mojekwu (2004) NWLR 883

Mojekwu v Mojekwu [1997] 7 NWLR 283

Nezianya v Okagbue [1963] ALL NLR 358 SC

Nzekwu v Nzekwu [1989] 2 NLR 373

Suberu v Sunmonu [1957] 2 FSC 31

Sule v Ajisegiri [1937] I3 NLR 146

Ugboma v Ibeneme [1967] FNLR 251

Ukeje v Ukeje [2014] LPELR-22724 (SC)

African Court of Human Rights

Femi Falana v African Union App no 001/2011(AfCHPR, 26 June 2012)

Community Court of Justice – ECOWAS

Mary Sunday v Federal Republic of Nigeria App no ECW/CCJ/APP/26/15 (ECOAWS, 24 January 2017)

European Court of Human Rights

A v Croatia App no 55164/08 (ECtHR, 14 Oct 2010)

Běleš And Others v Czech Republic App no 47273/99 (ECtHR, 12 Feb 2003)

Bevacqua And S v Bulgaria App no 71127/01 (ECtHR, 12 Sept 2008)

E S and Others v Slovakia – App no 8227/04 (ECtHR, 15 Sept 2009)

Golden v United Kingdom [1975] ECHR 1

Kalucza v Hungary App no 57693/10 (ECtHR, 24 Aug 2012)

Opuz v Turkey App no 33401/02 (ECtHR, 9 June 2009)

Runor v Italy [2014] ECHR 557

Valiuliene v Lithuania App no 33234/07 (ECtHR, 26 Mar 2016)

India

Aruna Pramod Shah v Union of India [2008] WP. Cr. 425/2008

Dennison Paulraj v Union of India [2009] A I R (Noc) 2540 (Mad)

Narayan Ganesh Dastane v Sucheta Narayan Dastane Narayan [1975] Insc 79

UK

Kodeeswaran v Attorney-General of Ceylon [1970] A C 1111

List of Legislation

Ireland

Domestic Violence (Amendment) Act 2002 (30/2002).
Domestic Violence Bill Section (Seanad) (Number 13 of 2017)
Domestic Violence Act 2018
Domestic Violence Act 1996
Domestic Violence (Amendment) Act 2002
Family Law (Maintenance of Spouses and Children) Act 1976
Family Law (Protection of Spouses and Children) Act 1981
McGee v The Attorney General [1974] IR 284
Non-Fatal Offences Against the State Act 1997
Public Health (Tobacco) Act 2002

Nigeria

A Law to prohibit domestic violence against women and maltreatment of widows, 2005 – Cross River State
Domestic Violence and other Related Matters Law, 2006 – Jigawa State
Gender-Based Violence (Prohibition) Law, 2011- Ekiti State
High Court Laws of Lagos State Cap 52, 1973
Osun State Protection Against Domestic Violence Bill, 2012
Protection against Domestic Violence and Related Matters Law, 2005 – Ebonyi State
The Penal code of Northern Nigeria, section 55 (1) (d)
The Protection Against Domestic Violence Law, 2007 – Lagos State
Violence Against Persons (Prohibition) Act, 2015 (VAPP Act)

UK

The Serious Crime Act, 2015

Australia

Queensland Criminal Law (Domestic Violence) Amendment Act, 2015

Trinidad and Tobago

Domestic Violence Act, 1999

India

Protection of Women from Domestic Violence Act, 2005

Costa Rica

Criminalization of Violence against Women Law, 2007

List of Treaties

Community Court of Justice – ECOWAS 2005

Council of Europe Convention on preventing and combating violence against women and domestic violence (Istanbul Convention) 2011

Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment 1984

Convention on the Prevention and Punishment of the Crime of Genocide 1948

Economic Community of West African States (ECOWAS) Revised Treaty 1993

European Convention on Human Rights (ECHR) 1950

European Court of Human Rights (ECtHR) 1959

Protocol to the African Charter on Human and Peoples Rights

Supplementary Protocol A/SP.1/01/05 of the Revised ECOWAS Treaty 2005

Supplementary Protocol A/SP.2/06/06 of the Revised ECOWAS Treaty 2006

Universal Declaration of Human Rights (UNDHR) 1948

List of Acronyms

ACHPR	-	African Charter on Human and Peoples' Rights
ACRWC	-	The African Charter on The Rights and Welfare of The Child
ACRWC	-	The African Charter on the Rights and Welfare of the Child
AIDS	-	Acquired Immune Deficiency Syndrome
AU	-	African Union
BC	-	Before Christ
CEDAW	-	Convention on the Elimination of All Forms of Violence Against Women
CEO	-	Chief Executive Officer
COSC	-	National Office for the Prevention of Domestic, Sexual and Gender-based Violence
CRC	-	Convention on The Rights of The Child
DV	-	Domestic Violence
DVPA	-	Domestic Violence Protection Order
ECHR	-	European Convention on Human Rights
ECOSOCC	-	Economic, Social and Cultural Council of the African Union
ECOWAS	-	Economic Community of West African States
ECtHR	-	European Court of Human Rights
EIGE	-	European Institute for Gender Equality
EU	-	European Union
FCT	-	Federal Capital Territory, Abuja, Nigeria
FGM	-	Female Genital Mutilation
FRA	-	European Union Agency for Fundamental Rights
GBV	-	Gender-Based Violence
HIV	-	Human Immune Deficiency Virus
HOD	-	Head of Department

ICCPR	-	International Covenant on Civil and Political Rights
ICESCR	-	International Covenant on Economic, Social and Cultural Rights
IHRDA	-	Institute for Human Rights and Development in Africa
ILS	-	Irish Legal System
ILS	-	Irish Legal System
IPA	-	Interpretative Phenomenological Analysis
IPV	-	Intimate Partner Violence
IRC	-	The International Rescue Committee
LASGAT	-	Lagos State Gender Advocacy Team
LLM	-	Masters in Law Degree
NASS	-	Nigerian National Assembly
NDHS	-	Nigeria Demographic and Health Survey
NGO	-	Non-Governmental Organisations
NLS	-	Nigerian Legal System
NPF	-	Nigerian Police Force
OECD	-	Organisation for Economic Co-operation and Development
PTSD	-	Post Traumatic Disorder
STD	-	Sexual Transmitted Disease
UDHR		Universal Declaration of Human Rights
UK	-	United Kingdom
UN	-	United Nations
UNODC	-	United Nations Office on Drugs and Crime
USA	-	United States of America
VAPP Act	-	Violence Against Persons (Prohibition) Act, 2015
VAW	-	Violence Against Women
VOA	-	Voice of America
WHO	-	World Health Organisation
WW11	-	World War 11
WWW	-	World Wide Web

Chapter 1

Introduction and background to the study

There are two sections in chapter one:

Section one is the general introduction of the study, which explores the rationale and statement of the problem, aims and objective of the study, scope and significance of the study, the thesis structure and chapter overview.

Section two appraises the theoretical perspective underpinning this research which is based on and draws from the universal theory of human rights and the feminist legal theory.

Section One

1.0 Introduction and background to the study

There has been an over-concentration on the consequences of political violence and not enough on domestic violence. We need to think a lot harder about how we tackle these issues.¹

This study explored the role of legal regulation and enforcement in tackling domestic violence by investigating how the regulation and enforcement in Ireland impacted on the Nigerian immigrants' perceptions and attitudes toward it. Domestic violence as a social problem has reached epidemic and alarming proportions in Nigeria.² It is ravaging many families and causing untold hardship to the victims. Arguably, it represents one of the major sources of human rights abuses in the country, but least in attracting regulatory intervention, support for victims, public awareness, and funding for NGOs and researchers specialising in the field. The endemic nature of domestic violence in Nigeria requires a focused approach from the point of view of legal regulation and enforcement as has been the case with other social phenomena such as corruption and political violence. However, it appears the issue of domestic violence is still struggling to get the desired attention it deserves, especially in prohibiting it through legal regulation. It was only in 2015 that the federal law against domestic violence in Nigeria, The Violence Against Persons (Prohibition) Act, 2015 (VAPP Act)³, was passed after nearly a fourteen year sojourn in the Federal legislative chambers.⁴ It is noteworthy

¹ James Fearon and Anke Hoffler, 'Benefits and Costs of the Conflict and Violence Targets for the Post-2015 Development Agenda Post-2015 Consensus' Copenhagen Consensus Center- Conflict and Violence Assessment Paper
<http://www.copenhagenconsensus.com/sites/default/files/conflict_assessment_-_hoffler_and_fearon_0.pdf> accessed 21 October 2014.

² Ose N Aihie, 'Prevalence of Domestic Violence in Nigeria: Implications for Counselling' (2009) 2 (1) Edo Journal of Counselling 1; Ishola Balogun & Aderonke Adeyeri, 'Domestic Violence: It's assuming epidemic proportions – Effah-Chukwuma' *Vanguard* (Lagos, 14 June 2013)
<<http://www.vanguardngr.com/2013/06/domestic-violence-its-assuming-epidemic-proportions-effah-chukwuma/>> accessed 17 July 2017; AfroNews, 'Half of Nigeria's Women experience domestic violence' (31 May 2007)
<<http://www.afrol.com/articles/16471>> accessed 5 July 2017.

³ The Violence Against Persons (Prohibition) Act 2015 (VAPP Act) Nigeria.

⁴ Sola Ogundipe, 'Senate finally passes VAPP bill' *Vanguard* (Lagos, 5 May 2015)
<<http://www.vanguardngr.com/2015/05/senate-finally-passes-vapp-bill/>> accessed 5 July 2017.

that the VAPP Act is only applicable in the Federal Capital Territory, Abuja (FCT), and only five out of thirty-six states in Nigeria have a specific law prohibiting domestic violence.⁵ The limited coverage of the law in this area has serious consequences.⁶

Some of these consequences are: (a) more than two-thirds (2/3) of Nigerians are exposed to the horrors of domestic violence without recourse to civil remedies of protection and/or barring order to safeguard themselves from continuous abuse (b) various forms of support such as financial, accommodation, legal aid, and counselling that some of these laws contain are not available to the victims of domestic violence residing outside of the FCT and these five states (c) women residing outside these states and the FCT cannot avail themselves of these laws to protect themselves against some forms of abuse that are predominantly perpetrated against females such as marital rape, female genital mutilation (FGM), early forced marriage, eviction from marital home, dispossession of children, harmful and degrading widowhood practices, and (d) perpetrators living outside these states and the FCT cannot be prosecuted under these specific domestic violence laws.

The seeming lacklustre attitude of most State Governments in Nigeria to pass specific domestic violence law and the reluctance of the Federal legislators to extend the effect of VAPP Act to the rest of the federation provoke some pertinent questions:⁷ Why are most states in Nigeria unwilling to enact a specific law against domestic violence? Why are the Federal legislators unwilling to extend the effect of VAPP Act to the rest of the federation? Why is the issue of domestic violence not receiving the same attention as corruption and political violence in Nigeria? These questions are thought-provoking and indicative of the perceptions and attitudes of the government and many Nigerians toward domestic violence.⁸ Consequently, one is compelled to enquire whether domestic violence is socially

⁵ VAPP Act, (n 3) Section 47.

⁶ Mercy Makinde, 'Why Domestic Violence is on The Rise' *The Guardian* (Lagos, 16 February 2016) <<https://guardian.ng/guardian-woman/why-domestic-violence-is-on-the-rise/>> accessed 5 July 2017.

⁷ Anthony N Nwazuo, 'A Critical Appraisal of the Violence Against Persons (Prohibition) Act, 2015' (2016) 47 *Journal of Law, Policy and Globalization* 73.

⁸ M O Bakara, M D Asuquo and A O Agomoh, 'Domestic Violence and Nigeria Women - A Review of the Present State' (2010) 8 (2) *Nigerian Journal of Psychiatry* 5.

acceptable in Nigeria. Also, one may ask whether Nigerians consider domestic violence as a crime and an abuse of peoples' human rights.

The reasons many Nigerians do not regard domestic violence as a crime and abuse of the victims' human rights have been the focus of many studies. Also, several studies have endeavoured to ascertain the reasons many State Governments have not outlawed domestic violence and the reason for restricting the VAPP Act to the FCT. Studies reveal that the cultural, traditional and religious beliefs and practices of most ethnic groups in Nigeria encourage the perpetuation of domestic violence and impedes the understanding and willingness to tackle the problem.⁹ Similarly, it appears these beliefs and practices are the major reason behind the reluctance to pass a specific law against domestic violence by many states. Furthermore, these beliefs and practices appear to be the major reason it took the National Assembly nearly fourteen years before they passed the VAPP Act into law. Consequently, this study will also examine the role of culture, tradition and religion in impeding the understanding of domestic violence in Nigeria and the willingness to tackle it through legislative intervention.

The United Nations through its various treaties has brought domestic violence under the ambit of international law, which suggests that its perpetration constitutes human rights abuse.¹⁰ Interestingly, there has been an increase in the embrace of legal intervention to tackling domestic violence as an unacceptable social problem.¹¹ While there is a growing trend in the embrace of law as one of

⁹ S N Obi and B C Ozumba, 'Factors associated with domestic violence in south-east Nigeria' (2007) 27 (1) *Journal of Obstetrics and Gynaecology* 75; Ose N Aihie, 'Prevalence of Domestic Violence in Nigeria: Implications for Counselling' (2009) 2 (1) *Edo Journal of Counselling* 1; Ishola Balogun & Aderonke Adeyeri, 'Domestic Violence: It's assuming epidemic proportions – Effah-Chukwuma' *Vanguard* (Lagos, 14 June 2013) <<http://www.vanguardngr.com/2013/06/domestic-violence-its-assuming-epidemic-proportions-effah-chukwuma/>> accessed 17 July 2017; AfroNews, 'Half of Nigeria's Women experience domestic violence' (31 May 2007) <<http://www.afrol.com/articles/16471>> accessed 5 July 2017.

¹⁰ Ronagh J A McQuigg, *International Human Rights Law and Domestic Violence: The effectiveness of international human rights law* (Routledge 2011) 46.

¹¹ United Nations (UN), 'More countries have laws banning domestic violence, says UN women's rights official' UN News Centre 'The number of countries with laws tackling the scourge of domestic violence has surged in the last three years, with 89 States now with some sort of provisions, the head of the United Nations Development Fund for Women (UNIFEM Executive Director, Noeleen Heyzer, told reporters in New York on 22 November 2006) <<http://www.un.org/apps/news/story.asp?NewsID=20703&Cr=unife>> accessed 12 December 2017.

the means of combating domestic violence, there is a dearth of research on the impact of law in changing perceptions and attitudes toward it.¹² This study is designed to contribute to the literature in this area as it comparatively explores the impact of law in transforming peoples' perceptions and attitudes toward domestic violence as well as appraising its effect in raising awareness about it.

This study is a socio-legal research which employed a qualitative paradigm to examine the efficacy of law and its enforcement in transforming the perceptions and attitudes toward domestic violence among the study group, Nigerian immigrants. It is not a doctrinal research which sees 'law as a more or less coherent set of principles and rules that relate to each other according to a particular logic or dynamic'.¹³ Rather, as an interdisciplinary socio-legal study, 'it used tools of social science to gain valuable insights on the interaction of law and society'.¹⁴ Therefore, the discussion of themes in this thesis reflects the core principles underpinning socio-legal research: 'the interaction between law and society and the effects of law on society and *vice versa*'.¹⁵

1.1 Rationale, Motivation and Statement of the Problem

Reports indicate an increase in incidences of domestic violence and the reporting of same in Nigeria.¹⁶ For instance, the Lagos State Domestic and Sexual Violence Response Team (DSVRT) reported a 100 percent increase in the number of domestic violence incidences reported to the agency as at October 2017 compared to the same period in 2016.¹⁷ Similarly, the Lagos State Government has 'expressed concern over the spate of increasing domestic violence in the state, vowing to prosecute Mrs. Udeme Otike Idibie, for allegedly murdering her lawyer

¹² Lori L Heise, 'What Works to Prevent Partner Violence? An Evidence Overview' (Working paper (version 2.0, OECD 2011) <<https://www.oecd.org/derec/49872444.pdf>> 27 August 2017

¹³ M A H van der Woude, 'Studying outside the box of legal logic: Law & Society research' (Universiteit Leiden Law Blog, 31 August 2016) <<http://leidenlawblog.nl/articles/studying-outside-the-box-of-legal-logic-law-society-research>> accessed 4 December 2017.

¹⁴ *ibid.*

¹⁵ *ibid.*

¹⁶ Denrele Animasaun, 'Put a full stop to domestic violence' *Vanguard* (Lagos, 30 July 2017); Gbenga Salau, Tobi Awodipe and Ogochukwu Celestine, 'Lagos records 100 per cent increase in domestic, sexual violence' *The Guardian* (Lagos, 17 October 2017).

¹⁷ Gbenga Salau, Tobi Awodipe and Ogochukwu Celestine, 'Lagos records 100 per cent increase in domestic, sexual violence' *The Guardian* (Lagos, 17 October 2017).

husband, Symphorosa, recently at their residence at Diamond Estate Ajah'.¹⁸ According to Animasaun, incidences of domestic violence are on the increase in Nigeria.¹⁹ In decrying the alarming rise of incidences of domestic violence in Nigeria, Makinde remarks that 'everyday we wake up to terrifying headlines that leave you not only gobsmacked but completely distraught and agitated. Headlines such as these...to mention a few, screams at you everyday'.²⁰

- Six months pregnant woman brutally battered by the husband.
- Man stabbed to death by his wife just after their wedding.
- Husband baths his wife with acid.
- Barren woman attacked and bathed her husband with acid.
- Woman killed and dumped her 4-year-old daughter inside a well.
- Woman battered and inflicted with a deep cut by her husband in Lagos.

Figure 1 Picture of domestic violence



Source: Vanguard Nigeria (14 June 2013).

¹⁸ Akinwale Akintunde, 'Lagos Decries Increasing Spate of Domestic Violence, Killings' *ThisDay* (Lagos, 29 May 2018).

¹⁹ Denrele Animasaun, 'Put a full stop to domestic violence' *Vanguard* (Lagos, 30 July 2017).

²⁰ Makinde (n 6).

Bazza remarked that ‘The fact that domestic violence prevails across all strata of the Nigerian society is no longer debatable’.²¹ A cursory glimpse of reports on domestic violence in Nigeria reveals harrowing abuses of the victim’s human rights. According to Shija, ‘In Nigeria, an average of 300–350 women are killed every year by their husbands, former partners, boyfriends, or male relations’.²² Following the brutal murder of a female banker, Titi Arowolo, by her husband in their home in Lagos in 2011, she became the face of domestic violence in Nigeria, as the incident of her murder and sentencing of her husband to death was widely reported in the media throughout the country.²³ Since then, the reporting of domestic violence incidences became widespread, thus revealing a shocking trend of cases in the same vein, such as:

- Ronke Shonde, a banker, and a mother of two was found dead in her Lagos home early last year (2016), allegedly beaten to death by her husband Lekan Shonde, who fled the scene, but was later arrested by the police.
- In Ibadan, in the same 2016, Yewande Fatoki-Oyediran, a female lawyer, stabbed and killed her husband, Oyelowo Oyediran.
- In Makurdi, a young Air Force male recruit named Kalu shot and killed his girlfriend (also an Air Force recruit) named Shola. According to reports, he shot her because he found out that she was double-dating.
- A Lagos driver, Shakiru Bello, was arrested for allegedly killing his wife, Sherifat, and cutting her remains into pieces.²⁴

Similarly, a growing body of research highlights the magnitude of the problem of domestic violence in Nigeria. For instance, Obi and Ozumba carried out a study of factors associated with domestic violence in the Southeast of Nigeria, which

²¹ Bazza Hadiza Iza, ‘Domestic Violence and Women’s Rights in Nigeria’ (2010) 4 (2) *Societies Without Borders* 172.

²² *ibid.*

²³ Abdulwahab Abdulah, ‘Wife Murder: Evidence that sent Arowolo to hangman’s noose’ *Vanguard* (Lagos, 27 February 2014) <<http://www.vanguardngr.com/2014/02/wife-murder-evidence-sent-arowolo-hangmans-noose/>> accessed 17 July 2017; Jacqueline Ogoh, ‘Nigeria Domestic Violence’ *TV2 Africa*, (Ghana, 18 March 2014) <<https://www.youtube.com/watch?v=HM6dxKAZlJI>> accessed 17 July 2017.

²⁴ Josephine Effah-Chukwuman, ‘The Enemy within: Domestic Violence in Nigeria’ *ThisDay* (Lagos, 28 March 2017) <<https://www.pressreader.com/nigeria/thisday/20170328/281891593109500>> accessed 17 July 2017.

reveals 70% of the respondents reported abuse in their home with a victim ratio of 92% female and 8% male.²⁵

Several scholars have also highlighted the health and social implications of domestic violence, especially on the most predominant victims, females.²⁶

According to Kolawole and Bamikale:

[I]t has been noted that the physical and emotional symptoms that women experience as a result of violence – including unwanted pregnancy, sexually transmitted diseases and HIV/AIDS infection, complications from abortion, and fear or loss of desire for sex – often last throughout their lives.²⁷

There is a growing body of literature that correlates Nigerians' perceptions and attitudes toward domestic violence and why many victims seemingly tolerate and do not regard it as an abuse of the victim's human rights.²⁸ As Kolawole and Bamikale state 'The attitude of victims of violence is crucial to the success of anti-violence intervention programmes'.²⁹ Likewise, Antai and Antai in their study of attitudes of women toward intimate partner violence in rural areas in Nigeria, contend that:

Ending IPV in Nigeria, as in many other patriarchal societies, requires long-term commitment and strategies involving all of the society. This may require stronger commitments by governments to passing and enforcing laws that ensure women's legal rights and the punishment of abusers. In addition, community-based strategies can focus on empowering women, reaching out to men, and changing the beliefs and attitudes that permit abusive behaviour.³⁰

²⁵ S N Obi and B C Ozumba (n 9).

²⁶ Aihie (n 2); Simon Adewuyi Ishola, 'Domestic Violence: The Nigerian Experience' (2016) 13 Asia-Africa Journal of Mission and Ministry 3.

²⁷ Kolawole Azeez Oyediran and Bamikale Feyisetan, 'Prevalence and Contextual Determinants of Intimate Partner Violence in Nigeria' (2017) 3 (1) African Population Studies 3436.

²⁸ Anita Kalunta-Crumpton, 'Attitudes and solutions toward intimate partner violence: Immigrant Nigerian women speak' (2017) 17 (1) Criminology & Criminal Justice 3; D S Riggs, C M Murphpy and K D O'Leary, 'Intentional falsification in reports of interpartner aggression' (1989) 4 Journal of Interpersonal Violence 220.

²⁹ Kolawole and Bamikale (n 27).

³⁰ D E Antai and J B Antai, 'Attitudes of women toward intimate partner violence: a study of rural women in Nigeria' (2008) 8 (996) Rural and Remote Health (Internet)
<<http://www.rrh.org.au/articles/subviewnew.asp?ArticleID=996>> accessed 5 July 2017.

My motivation for this research stems from the fact that most customs, traditions and religions in Nigeria do not offer any form of safeguards to victims of domestic abuse.³¹ Thus, many countless victims suffer serial domestic abuse at the hands of their family members with little or no recourse to the customary and/or religious laws for protection and support.³² Similarly, there is an apparent inequality in the treatment of men and women and the favouritism accorded to male children over their female siblings (inequality in this context is used to denote a systematic denial of rights where cultural, traditional, religious, and legal discrimination leaves women inferior to their male counterpart. Some of these areas women are discriminated against include but not limited to lack or limited inheritance rights, child custody rights, access to education, freedom of marriage and reproductive rights, employment and earnings, and political participation.³³ I am a firm believer in the principles of gender equality, justice and fairness, and hold a strong view, that, those concepts are unrealisable, especially, for women in Nigeria under the present dispensation.

Therefore, I have chosen to express my aversion for inequality and discrimination no matter wherever and whosoever it affects through academic activism. My Masters in Law (LLM) thesis explored the inequality and discriminatory practices of women's inheritance rights in Nigeria.³⁴ Thus, my decision to embark on this research stems from the belief that some cultural, traditional, and religious practices that directly or indirectly permit the acts of domestic violence in Nigeria, would need to be reformed. Also, politicians' subjective cultural, religious, and traditional beliefs, should not trump the need to make laws to protect the vulnerable citizens from inequality, inequity, and discrimination.

³¹ *ibid.*

³² *ibid.*

³³ S C Ifemeje and Nneka Umejiaku, 'Discriminatory Cultural Practices and Women's Rights among the Igbos of South-East Nigeria: A Critique' (2014) 25 *Journal of Law, Policy and Globalization* 18.

³⁴ Bruno O Igwe, 'Inheritance Rights of Women in Nigeria: Progress in the 21st Century' (LLM Thesis, Maynooth University Ireland 2012).

According to Jones, ‘while this research has emancipatory ideals, I do not presume to ... have discovered the solution to the problem of domestic violence’.³⁵ Nevertheless, I do hope that the findings of this research will contribute to the literature in this field and reinforce the debate for adopting a legal approach to tackling the issue of domestic violence. Also, as Ifemeje contends:

Law as an instrument of social change is definitely an indispensable weapon in the hands of our legislators and policy makers to effect this much-desired changes in ... customary laws. Nigeria should as a matter of urgency put in place gender based specific laws to deal with gender based violence which is on the increase.³⁶

1.2 Aims and Objectives

The primary purpose of this study is to appraise the efficacy of law in transforming perceptions of and attitudes toward domestic violence and to ascertain the role of legal regulation and effective enforcement in raising awareness about domestic violence. The objectives are as follows:

1. Assess how domestic violence laws in Ireland and their enforcement have impacted on the perceptions and attitudes of Nigerian immigrants toward domestic violence.
2. Appraise the effectiveness of legal regulation and enforcement in raising awareness about domestic violence.
3. Examine how Nigerian immigrants in Ireland feel about the protection of their human rights pertaining to domestic violence based on the approach adopted by Irish and Nigerian Governments in tackling the issue.

³⁵ Michelle Jones, ‘A Fight About Nothing: Constructions of Domestic Violence’ (PhD Thesis, University of Adelaide 2004) 9.

³⁶ Ifemeje and Umejiaku (n 33).

1.3 Research Questions

1. How has the enforcement of domestic violence laws in Ireland impacted on Nigerian immigrants' perceptions and attitudes toward it?
2. How has the domestic violence awareness campaign in Ireland impacted on Nigerian immigrants' knowledge of it?
3. How do Nigerian immigrants feel about the protection of their human rights in Ireland in relation to domestic violence compared to Nigeria?
4. How do Nigerian immigrants in Ireland view the reporting of domestic violence to the relevant State and non-State agencies/bodies and organising seminars to enlighten people about it?
5. How do Nigerian immigrants in Ireland view outlawing domestic violence throughout Nigeria?

1.4 Scope and Significance of the study

The study comparatively evaluates the efficacy of law in transforming perceptions and attitudes toward domestic violence and its effect in raising awareness about it. By using a qualitative paradigm, within a socio-legal lens, the study appraises the benefit of adopting a legal approach in tackling domestic violence through a phenomenological analysis of primary empirical data. This study investigates the commitment of the Nigerian and Irish Governments regarding the protection of the human rights of their citizens in relation to domestic violence.

Numerous studies have been undertaken in the field of domestic violence. However, this study is unique, as it empirically appraises the efficacy of domestic violence law in changing perceptions and attitudes of people based on their experiences in two different jurisdictions – to the best of my knowledge, this is the first study of its kind in this field of research. The subject of the study is migrants from Nigeria living in Ireland. Nigeria is a country that provides limited legal protection to victims of domestic violence. The federal law against domestic violence in Nigeria, the VAPP Act, was passed into law only in 2015. The jurisdictional reach of the VAPP Act is only limited to the Federal Capital Territory

(FCT), Abuja. Also, only five out of thirty-six States in Nigeria have a specific law against domestic violence. Conversely, Ireland has a specific law prohibiting domestic violence throughout the country since 1996.

While there are studies that assessed the effect of specific provisions of domestic violence law such as the impact of protection or barring order.³⁷ This study assesses whether domestic violence law and its enforcement in Ireland including awareness campaign increase the participants' knowledge of domestic violence. Knowledge as used in this thesis includes but not limited to understanding different forms of domestic violence and acts that constitute them, realise that domestic violence is an offence and an abuse of the victim's human rights, realise that victims need to report the abuse to the relevant authorities and that both men and women can be victims as well as perpetrators, understand that domestic violence has consequences and should not be tolerated. Also, the study examines the feelings of the research participants concerning the protection of their human rights in the two jurisdictions; the research participants' view on reporting incidences of domestic violence to the State and non-state agencies; their disposition towards organising domestic violence seminar; and their views regarding the need to introduce domestic violence law throughout Nigeria. As a socio-legal study, it draws on an interdisciplinary research approach to holistically examine domestic violence which affects people of all ages, socioeconomic, educational, religious, cultural, urban/rural, and gender classification.³⁸

Accordingly, it will contribute to new knowledge in this field as the findings will add to the existing literature, reinforce the debate, and strengthen the argument to embrace legal regulation and effective enforcement in combating domestic violence. In addition, the study relates to existing research as it draws on earlier studies in the field of domestic violence. It will also add to the growing body of

³⁷ Christopher T Benitez, Dale E McNeil and Renée L Binder, 'Do Protection Orders Protect?' (2010) 38 (3) *Journal of the American Academy of Psychiatry and the Law* 376; L Goodmark, 'Law is the answer? Do we know for sure? — questioning the efficacy of legal interventions for battered women' (2004) 23 (7) *Saint Louis University Public Law Review* 7.

³⁸ K A Oyediran, and U C Isiugo-Abanihe, 'Perceptions of Nigeria women on domestic violence: Evidence form 2003 Nigeria demographic and health survey' (2005) 9 (2) *African Journal of Reproductive Health* 38.

knowledge on domestic violence.³⁹ Thus, the study will: (a) highlight the law, policy and approaches to tackling domestic violence in Nigeria and Ireland and their effects in combating the issue; (b) highlight areas that require policy and law reform in Nigeria and Irish's Government's approach to tackling domestic violence. The outcome may also influence/contribute to the change in policy/law in both Nigeria and Ireland (c) highlight/contribute to academic debate by stimulating interdisciplinary socio-legal research in the field of domestic violence and law.

1.5 Sources of Materials

The sourcing of materials for this study involved an extensive search of primary and secondary sources of information. The primary sources used to glean information include, but are not limited to case laws, constitutions, legislation, international and regional human rights treaties, customary and religious laws. Similarly, secondary sources used include books, academic journals, articles and commentaries, blogs and internet publications. Electronic research (World Wide Web) presents vast information on almost all facts of life and events. The importance of its use in this type of study cannot be over emphasized because of the transient nature of incidences of domestic violence. However, the reliability of information on WWW could be tricky; hence, information obtained through WWW were crosschecked as far as practicable before they were used.

1.6 Methodological Overview

The research design adopted a qualitative method of enquiry. The data was collected through a semi-structured interview of ten participants selected from the study group, Nigerian immigrants living in Ireland. There were selection criteria which the potential participants had to meet before being considered for selection. The interview of the participants was recorded with their consent and transcribed. The data obtained from the interview was analysed using Interpretative Phenomenological Analysis (IPA) method. The findings were presented in two

³⁹ Aihie (n 2).

formats: the first was the presentation of the findings without reference to existing literature (Chapter 3 Section 2). The second was the discussion of the findings that involved putting them in a wider context with reference to existing literature (Chapter 8).

1.7 Thesis Structure and Chapter Overview

To undertake this study and attempt to find answers to the research questions, I identified active discursive domains that have the potential to enrich the reader's knowledge about domestic violence and efforts to combat it in Nigeria and Ireland. In addition, the discussion will evaluate law as an agent of social change and the role of culture, tradition, and religion in impeding the understanding and combating of domestic violence. There are no finite delineations in these domains of discussion, which is likely to bring about crossovers and intersections within and between them as they are explored in this thesis. Hence, this thesis will bring together various themes in each of the domain.

The discussion of the themes in this thesis will adopt a combination of descriptive and critical engagement of the issues. The descriptive discussion of the experiences and situations of people about domestic violence is necessary to bring the story live to the readers. Similarly, to understand the two jurisdictions, Ireland and Nigeria, which are central to this thesis and their approaches to tackling domestic violence requires a descriptive discussion of their government structures and legal processes. A critical analysis will enable a comparative evaluation of legal and procedural issues relating to combating domestic violence in the two jurisdictions, Ireland and Nigeria.

This research work is divided into eight chapters. Chapter one contains the introduction and background to the study, which includes: rationale for the study, the objectives, research questions, scope and significance of the study, sources of materials, synopsis of the methodology, and theoretical framework. Chapter two contains the literature review where books, scholarly articles and other relevant sources of information were examined to provide a critical evaluation of these

works as they relate to the problem the research investigated. Chapter three holistically appraises the research methodology adopted in this study. Also, it contains a detailed analysis of the processes involved in the data collection, analysis and presentation of research findings. Chapter four examines some aspects of culture, tradition and religious beliefs and practices in Nigeria that impede the understanding and willingness to tackle domestic violence in the country. Chapter five appraises the legal and institutional approach to tackling domestic violence in Nigeria, the difficulties in promulgating human rights laws and domesticating international human rights treaties. In addition, it examines the government structure and Nigeria legal system (NLS) and concludes with a highlight of conflicting and discriminatory law against women, in the area of domestic violence, in the Northern region of the country. Chapter six reviews the existing laws and policies on domestic violence and their enforcement in Ireland. It also examines the Irish Legal System (ILS) and the government structure. Chapter seven investigates the fundamental debate concerning the relationship between law and social change and the pluralism of law. It also considers whether law alone is enough in tackling domestic violence and raising awareness about it. Chapter eight contains the detailed discussion of the research findings, summary of the research findings, implications of the research, recommendations and opportunities for further studies.

Section Two

Theoretical Framework

1.8 Introduction

The theoretical perspective underpinning this research is based on and draws from the feminist legal theory and the universal theory of human rights. Together, they underpin the argument of this thesis that cultural, traditional and religious beliefs and practices in Nigeria impede the understanding of domestic violence, encourage the behaviour, and hinder the enacting of domestic violence and other

emancipatory human rights laws. In addition, they guide this thesis's appraisal of the efficacy of law in transforming peoples' perceptions and attitudes toward domestic violence. The feminist's conception of domestic violence is relevant to understanding the inequalities in gender relationship in many ethnic groups' culture, religion and tradition in Nigeria. Furthermore, it provides the basis for investigating the role of these intersections; namely, culture, tradition, religion and the legal system and how they create and sustain gender discrimination. Feminists theory also points to how the law could be incorporated to ensure gender equality. In support of the foregoing, Juergens posits that 'Feminist Jurisprudence argues that we must look at the norms embedded in our legal system and rethink the law'.⁴⁰ Sharmani illustrates the intricate nature and role of law in societal engineering, noting that:

Law is an instrument that can be used in the pursuit of gender justice. But it is equally an obstacle to the achievement of greater gender equality. The legal arena is, then, both a site of oppression and an important means of social transformation.⁴¹

She further expounds on the interrelationship between law and feminist jurisprudence:

Feminist legal scholarship has drawn attention to the nuanced interplay between legal reforms and feminist activism, and strategies, tactics, and struggles that animate the use of the law to create, contest, or challenge social meanings and practices.⁴²

The second theory used to guide the argument of this thesis is the universal theory of human rights. The universal theory of human rights advances the notion that human rights ought to be universal, and that every person is entitled to the respect of his/her human dignity irrespective of gender, race, ethnicity, religion and culture. In addition, the universal human rights theory will form the basis for the discussion on cultural relativism, which rejects the notion of universal application

⁴⁰ Ann Juergens, 'Feminist Jurisprudence: Why Law Must Consider Women's Perspectives' (1991) Faculty Scholarship Paper, Mitchell Hamline School of Law 31 <<http://open.mitchellhamline.edu/facsch/111>> accessed 2 July 2017.

⁴¹ Mulki AL Sharmani (ed), *Feminist Activism, Women's Rights, and Legal Reform* (ed, Zed Books 2013) 1 - 23.

⁴² *ibid.*

of human rights. Relativists believe that ‘each society should formulate their own human rights standards in their context’.⁴³ Hence, according to Ghafournia, ‘[human rights] is socially constructed and should not be imposed to other contexts’.⁴⁴ Thus, the universal theory of human rights will guide the discussion on the universalism and cultural relativism debate on the application international human rights treaties and laws to achieve gender equality. This is essential in the context of challenging, reforming and/or jettisoning cultural, traditional and religious beliefs and practices that infringe on peoples’ human rights in Nigeria. Furthermore, it will aid the discussion on the role that culture, and religion play in impeding the passing of human rights laws in Nigeria and its implications in tackling social issues such as domestic violence. The discussion will focus on two structures of the universal human rights project, horizontal and vertical, as expounded by Walter.⁴⁵ She contended that:

The horizontal dimension is about the different ways one can approach the topic “human rights” from different disciplines. It is threefold, consisting of the moral question about its normative ideals, the political endorsement of a concrete conception of human rights and its legal implementation (including the actual enforcement on the ground). The vertical dimension adds a second layer to the horizontal dimension by asking for the scope of application of human rights in different cultures. It consequently is concerned with the fundamental question whether human rights are universal or particularistic.⁴⁶

In the next section, I will engage in the discussion of feminism and feminist legal theory, which will include a brief overview of the three waves of feminism. The discussion will also seek to explain the feminist view on domestic violence as an expression of gender inequality embedded in many socio-cultural and religious practices that encourage the practice. Feminist theory as used in this framework is

⁴³ Katiuzhinsky, Anna and David Okech, ‘Human Rights, Cultural Practices, and State Policies: Implications for Global Social Work Practices and Policy’ (2012) 10 (11) *International Journal of Social Welfare* 1.

⁴⁴ Nafiseh Ghafournia, ‘Culture, Domestic Violence and Intersectionality: Beyond the Dilemma of Cultural Relativism and Universalism’ (2014) 11 (2) *International Journal of Critical Cultural Studies* 23.

⁴⁵ Linda Walter, ‘Theories of Universal Human Rights and the Individual’s Perspective’ (2014) 25 *IAPSS Political Science Journal* 120.

⁴⁶ *ibid.*

not confined to the quest for women's emancipation alone but includes a broader and more inclusive view of what feminism seeks to achieve: 'the objective of feminism is to advance gender equality, not a particular gender...'⁴⁷ Hence, the feminist ideal advanced in this framework is the quest for a society where no one's life (male or female), opportunities and status in society is determined by their gender identity.⁴⁸

1.9 Feminism and Feminist Legal Theory

As Persdadie states, 'Feminism can be simultaneously understood as a theory and social movement, which can be aided by the theoretical component'.⁴⁹ According to Frye, feminism as a theory may consist of 'systems of concepts, propositions and analysis that describe and explain women's situations and experiences and support recommendations about how to improve them'.⁵⁰ What are these situations and experiences of women as illustrated by Frye? In answering the above question, comment by Aristotle (350 BC) becomes not only instructive, but it also elucidates the implications of these women's situations and experiences in their political, social and economic interaction with men.

...the male is by nature superior, and the female inferior; and the one rules, and the other is ruled; this principle, of necessity, extends to all mankind. Where there is such a difference as that between soul and body, or between man and animals..., the lower sort is by nature slaves, and it is better for them as for all inferiors that they should be under the rule of a master.⁵¹

The implications of this notion of natural inequality and its use as a justification for the unequal social, political and economic relationship between men and

⁴⁷ George Elerick, 'Feminism Is About Equality, Not a Particular Gender: An Interview With Inga Schowengerdt' (HuffPost, 8 February 2015) <https://www.huffingtonpost.com/george-elerick/feminism-is-about-equality-not-a-particular-gender_b_6260362.html> accessed 28 November 2017.

⁴⁸ Hanna Rosin, 'The End of Men: How Women are Taking Control—of Everything' *Feministing* (16 June 2010) <<http://feministing.com/2010/06/16/is-female-dominance-a-success-for-feminism/>> accessed 28 November 2017.

⁴⁹ Persadie Natalie Renée Beulah, 'A critical analysis of the efficacy of law as a tool to achieve gender equality and to address the problem of domestic violence: the case of Trinidad and Tobago' (PhD Thesis, The University of Birmingham 2007) 25.

⁵⁰ Marilyn Frye, "Feminism" in Lorraine Code (ed) *Encyclopaedia of Feminist Theories* (London, Routledge, 2003)195.

⁵¹ Makinde (n 6).

women engendered the struggle for gender equality and equity championed by women. According to Randall, ‘Feminism emerged as a movement and body of ideas that aimed to enhance women’s status and power. It called into question power relations between men and women that were conventionally defended as “natural”’.⁵² Thus, the quest for women emancipation and equality are common features in most definitions of feminism. The Oxford Concise Dictionary defined feminism as:

...a way of looking at the world, which women occupy from the perspective of women. It has as its central focus the concept of patriarchy, which can be described as a system of male authority, which oppresses women through its social, political and economic institutions.⁵³

Chambers Dictionary puts it as ‘advocacy of women’s rights, or of the movement for the advancement and emancipation of women’.⁵⁴ As such, ‘the term feminism can be used to describe a political, cultural or economic movement aimed at establishing equal rights and legal protection for women’.⁵⁵ The feminist legal theory has many strands ranging from liberal, cultural, dominance, Marxist/socialist, to black, and difference feminism, among others.⁵⁶ These strands were developed during the three, or often argued four, waves of feminist activism which dates to the late 18th and early 19th century.⁵⁷ These models of feminism portray ideological differences in feminist activists, which in-turn distinctly influence their strategies and affiliations in the struggle for the common goal, equality. While these theoretic ideological differences permeate feminist jurisprudence; in practice, they often overlap. Also, some feminists identify themselves with several feminist thoughts.⁵⁸ Thus, ‘Feminist legal theory does not constitute a unified body of knowledge or a set of universal concerns or

⁵² Randall Vicky, “Feminism” in David Marsh and Gerry Stoker (eds), *Theory and Methods in Political Science* (Palgrave MacMillan 2002)110.

⁵³ Oxford Concise Dictionary (11th ed. 2009) 522.

⁵⁴ Chambers Dictionary (13th ed. 2014).

⁵⁵ Scientific-Information Center ICWC (SIC ICWC), ‘History and Theory of Feminism’ (undated) <http://www.gender.cawater-info.net/knowledge_base/rubricator/feminism_e.htm> accessed 3 July 2017.

⁵⁶ Josephine Donovan, *Feminist Theory: The Intellectual Traditions* (4th ed. Continuum Publishing Corporation 2012) 79.

⁵⁷ *ibid.*

⁵⁸ *ibid.*

perspectives, but is shaped by different political agendas and institutional frameworks occurring within particular societies'.⁵⁹ Similarly, Persadie described the feminist legal theory as '...multidisciplinary in its approach and draws upon the lived experiences of women'.⁶⁰ Next, I will discuss of the three waves of feminism, which comprise different feminist ideological perspectives in pursuit of a common goal in political, socio-cultural and economic spheres of human endeavour.⁶¹

1.9.1 First Wave Feminism

The desire to end the subordinate status of women spurred the forerunners of women liberation movement in North America and Europe to challenge the normative notion of women as inferior to men, which as propounded by Aristotle affects 'her ability to reason and, therefore, her ability to make decisions'.⁶² According to Rampton:

The first wave of feminism took place in the late nineteenth and early twentieth centuries, emerging out of an environment of urban industrialism and liberal, socialist politics. The goal of this wave was to open up opportunities for women, with a focus on suffrage.⁶³

The subtle struggle for women emancipation long started before the gathering of about 300 women and men in what is known as "Seneca Falls Convention" held in Seneca Falls, New York in 1848.⁶⁴ For instance, Mary Wollstonecraft, a feminist writer, intellectual and activists, published famous feminist revolutionary books in the 1700s: *A Vindication of the Rights of Woman* (1792) and *Thoughts on the Education of Daughters* (1787).⁶⁵ Through her books, she abhors the subordination of women and preached for gender equality. She believed that education is the key

⁵⁹ Sharyn L Roach Anleu, 'Critiquing the Law: Themes and Dilemmas in Anglo-American Feminist Legal Theory' (1992) 19 *Journal of Law and Society* 423.

⁶⁰ Ogundipe (n 4).

⁶¹ Humm, Maggie, *The dictionary of feminist theory* (Columbus, State University Press 1990) 27.

⁶² Abeda Sultana, 'Patriarchy and Women's Subordination: A Theoretical Analysis' (July 2010 – June 2011) *The Arts Faculty Journal*, University of Dhaka 4.

⁶³ Martha Rampton, 'Four Waves of Feminism' (Pacific University, 25 October 2015) <<https://www.pacificu.edu/about-us/news-events/four-waves-feminism>> accessed 2 July 2017.

⁶⁴ Mathews V Jean, *Women's Struggle for Equality: The First Phase, 1828-1876* (Ivan R. Dee Published 1997) 53.

⁶⁵ Stanford Encyclopaedia of Philosophy (19 August 2018) <<https://plato.stanford.edu/entries/wollstonecraft/>> accessed 25 August 2018.

and that women should be given the same educational opportunities as men.⁶⁶ However, the “Serena Falls Convention” could be assumed to be the first active and obvious demonstration of resistance to injustice and subordination of women. The rally was convened to agitate for women’s equality, especially the right to vote and other corollary political rights. It produced a Declaration of Sentiments drafted by Elizabeth Cady Stanton, asserting that “all men and women are created equal”.⁶⁷ Amongst those who signed the declaration, only Charlotte Woodward, a glove-maker, lived to cast a vote in 1920, at age ninety-one.⁶⁸

Mathews contends that the fight for equality of all sexes was much more than the fight for a franchise.⁶⁹ She opines that the women battle for equality in the form of “women's movement” was one of the most significant social and political forces of the nineteenth century.⁷⁰ The struggle continued from the right to vote in the late eighteenth and early nineteenth century, to a fight to end violence against women in the middle nineteenth century. The achievements of the first wave feminism laid the foundation for and gave impetus to the second wave of feminism.

1.9.2 Second Wave Feminism

Though, it is difficult to exactly delineate the end of the first wave and the beginning of second wave feminism, some commentators suggest it began in the early 1960s lasting up to the late 1980s.⁷¹ As Whelehan contends, ‘the second wave was a continuation of the earlier phase of feminism involving the suffragettes in the UK and USA’.⁷² Also, in comparing the first and second-wave of feminism, Freedman states that ‘the first wave focused on rights such as suffrage, whereas the second-wave was largely concerned with other issues of equality, such as

⁶⁶ *ibid.*

⁶⁷ Mathews V Jean (n 64).

⁶⁸ *ibid.*

⁶⁹ *ibid.*

⁷⁰ *ibid.*

⁷¹ N D Arora, *Political Science for Civil Services Main Examination* (2nd ed. India, Mac Graw Hill Education 2016) 127.

⁷² Imelda Whelehan, *Modern Feminist Thought: From the Second Wave to Post-Feminism* (NY, New York University Press 1995) 25.

ending discrimination'.⁷³ This period witnessed the emergence of famous feminist authors who championed the cause of the struggle through scholarly outputs in books, journal articles, conference papers and so on. One of them is Carol Hanisch, feminist activist and author, who coined the slogan "The Personal is Political" which became synonymous with the second wave.⁷⁴ Also, the second wave feminists saw 'women's cultural and political inequalities as inextricably linked and encouraged women to understand aspects of their personal lives as deeply politicised and as reflecting sexist power structures'.⁷⁵ Notable scholarly works which dominated the scholarly debate during the period include, De Beauvoir's *The Second Sex*, Betty Friedan's *The Feminine Mystique*, Germaine Greer's *The Female Eunuch*, and Juliet Mitchell's *Psychoanalysis and Feminism*.⁷⁶

The period also witnessed the emergence of different ideological paradigms of feminism such as liberal, radical, socialist/Marxist, and psychoanalytic.⁷⁷ The creation of awareness about domestic violence and the advocacy for legislative intervention gathered momentum during this period. The unwavering campaign by feminists helped to put the issue of domestic violence in the front burner of political discussion both in national and international spheres. Furthermore, the debate concerning the private/public dichotomy in relation to the disposition of the states concerning issues that happened in the private and public became popular during this period. As Okin opines, 'state is (paradigmatically) public, and the family, domestic, and intimate life are (again paradigmatically) private'.⁷⁸ The feminist standpoint is that the state has always accorded man the right and authority free from state intervention in running his household and controlling the members of his private sphere.⁷⁹ MacKinnon condemns this attitude of the state's reluctance to intrude in the private domain, noting that 'The liberal state coercively and

⁷³ Freedman B Estelle, *Feminism, Sexuality and Politics* (The University of North Carolina Press 2006) 85.

⁷⁴ *ibid.*

⁷⁵ *ibid.*

⁷⁶ Makinde (n 6).

⁷⁷ *ibid.*

⁷⁸ Okin Susan Moller, "Gender, the Public, and the Private", in Anne Phillips (ed) *Feminism and Politics* (Oxford: Oxford University Press 2009) 67 - 90.

⁷⁹ Makinde (n 6).

authoritatively constitutes the social order in the interest of men as a gender - through its legitimating norms... and substantive policies'.⁸⁰

1.9.3 Third Wave Feminism

The third wave feminism began in the 1990s not as a continuation of the second wave, but as a revolution against the perceived exclusionary nature of earlier feminist's agenda.⁸¹ In this sphere, feminists sought to challenge the way women issues were hitherto presented in the struggle, which seemed to only emphasis the concerns of white, well-educated, upper-middle-class married women.⁸² Thus, they queried the dominance concept and classification of all women independent of race, class, ethnicity and nationality. Spelman argues against gender realism contending that 'If gender were separable from, for example, race and class in this manner, all women would experience womanhood in the same way. And this is clearly false'.⁸³ This is the basis for the criticism advanced by MacKinnon 'that sexual objectification is the common condition that defines women's gender for failing to take into account differences in women's backgrounds that shape their sexuality'.⁸⁴ This period witnessed the emergence of other strands of feminism such as black, Asia, Arab, Muslim, and India feminist domains based on race, ethnicity and religion.⁸⁵ According to Fisher, 'The Proponents of third-wave feminism claim that it allows women to define feminism for themselves by incorporating their own identities into their belief system of what feminism is and what it can become'.⁸⁶ She contends that:

The roots of Intersectional Feminism can be said to be found in the roots of third-wave feminism, which usually incorporates elements of queer theory,

⁸⁰ Catherine MacKinnon, "The Liberal State", in Catharine MacKinnon, *Toward A Feminist Theory of the State* (Cambridge, Harvard University Press 1989) 157 - 170.

⁸¹ Freedman (n 73).

⁸² J A Fisher, 'Today's Feminism: A Brief Look at Third-Wave Feminism' (Being Feminist, 16 May 2016) <<https://beingfeministblog.wordpress.com/2013/05/16/todays-feminism-a-brief-look-at-third-wave-feminism/>> accessed 3 July 2017.

⁸³ E Spelman, *Inessential Woman* (Boston, Beacon Press 1988) 114.

⁸⁴ A Harris, "Race and Essentialism in Feminist Legal Theory" in *Feminist Legal Theory: Foundations*, D K Weisberg, (ed.) (Philadelphia, Temple University Press 1993) 31 - 35; Stone A, 'Essentialism and Anti-Essentialism in Feminist Philosophy' (2004) 1 *Journal of Moral Philosophy* 135.

⁸⁵ Sharon Smith, 'Black feminism and intersectionality' (2009) *International Socialist Review* <<http://isreview.org/issue/91/black-feminism-and-intersectionality>> accessed 20 July 2017.

⁸⁶ Persadie (n 45).

anti-racism and women of colour, as well as people of colour, consciousness, womanism, girl power, post-colonial (anti-Imperialism) theory, postmodernism, transnationalism, cyber feminism, ecofeminism, individualist feminism, new feminist theory, Transgender politics and a rejection of the gender binary.⁸⁷

The development of intersectional feminism was a huge milestone in identifying and incorporating different ways women experience discrimination in the feminist struggle for equality. Arguably, intersectional feminism allows for the voices of ‘women of all races, economic standings, religions and identities’ to be heard, and taken into consideration in strategic planning and advocacy for gender equality.⁸⁸ Crenshaw coined and defined intersectional feminism as ‘the interconnected nature of social categorizations such as race, class, and gender as they apply to a given individual or group, regarded as creating overlapping and interdependent systems of discrimination or disadvantage’.⁸⁹ She contends that ‘The way we imagine discrimination or disempowerment often is more complicated for people who are subjected to multiple forms of exclusion’, she continued that ‘The good news is that intersectionality provides us a way to see it’.⁹⁰ Hawk explained the benefit of adding intersectionality to feminism as follows:

Intersectionality is a term used to describe how different factors of discrimination can meet at an intersection and can affect someone's life. Adding intersectionality to feminism is important to the movement because it allows the fight for gender equality to become inclusive. Using intersectionality allows us all to understand each other a little bit better.⁹¹

Having discussed the feminism and feminist legal theory, I shall now turn to examine the nexus between feminist theory and domestic violence. As Jo Dixon asserts:

⁸⁷ *ibid.*

⁸⁸ Taylor Hawk, ‘Intersectional Feminism: What It Is And Why We Need It For A Truly Gender Equal World’ Denison- Women and Gender Studies (26 July 2016) <<https://denison.edu/academics/womens-gender-studies/feature/67969>> accessed 28 November 2017.

⁸⁹ Kimberlé Crenshaw, ‘Why intersectionality can’t wait’ *Washington Post* (Washington, 24 September 2015); Patricia Hill Collins and Sirma Bilge, *Intersectionality (Key Concepts)* (Polity 2016) 114.

⁹⁰ *ibid.*

⁹¹ Hawk (n 88).

The Feminist constructions of domestic violence as a social problem vary and range from early constructions focusing on family preservation to later ones emphasizing mental illness, sex differences in intersubjectivity, male domination, family conflict, and survival.⁹²

The discussion will include some notable critique of feminist theory and its construction of domestic violence as culturally supported male enterprise.⁹³

1.9.4 Feminist Theory and Domestic Violence

Kathy Lay and James Daly assert that ‘feminist theory offers a perspective for understanding human behaviour in the social environment by centring women and issues that women face in contemporary society’.⁹⁴ They further suggest that ‘the understanding and analysis of oppression are central to feminist theories’.⁹⁵ Flax contends that ‘oppression is embedded in the very socio-economic and political organization of our society; and that structure is the patriarchy, which has deep roots in the culture at large’.⁹⁶ The feminist theory of domestic violence, according to Amaral:

...emphasizes gender and power inequality in opposite-sex relationships. It focuses on the societal messages that sanction a male’s use of violence and aggression throughout life, and the proscribed gender roles that dictate how men and women should behave in their intimate relationships. It sees the root causes of intimate partner violence as the outcome of living a society that condones aggressive behaviours perpetrated by men, while socializing women to be non-violent.⁹⁷

⁹² Jo Dixon, ‘Feminist Theory and Domestic Violence’ (2014) *Criminology and Criminal Justice*. New York: Springer Verlag 1612.

⁹³ Donald G Dutton and Tonia L Nicholls, ‘The Gender Paradigm in Domestic Violence: Research and Theory’ (2005) 10 *Aggression and Violent Behaviour* 680.

⁹⁴ Kathy Lay and James G Daly, ‘A Critique of Feminist Theory’ (2007) 8 (1) *IUPIU* 49.

⁹⁵ *ibid.*

⁹⁶ Jane Flax, ‘Postmodernism and Gender Relations in Feminist Theory’ (1987) 12 (4) *Journal of women in culture and society* 621.

⁹⁷ Richard Amaral, ‘Explaining Domestic violence using feminist theory’ (*Psychology for Growth*, 21 March 2011) < <http://www.psychologyforgrowth.com/domestic-violence-feminist-theory/>> accessed 3 July 2017.

It is noteworthy that it is not only feminist theory that conceptualises domestic violence as a male-perpetrated enterprise encouraged by power inequality in many societal settings. According to Peters *et al.*:

... [There are] three theoretical approaches to domestic violence [which] view the violence as caused by specific deficits: Deficits in ego skills or coping mechanisms; deficits in anger control; and deficits in communication and cognitive skills. In contrast, ... feminist theory, states that the violence inflicted on the victim is not a by-product of underlying deficits, but instead is inflicted strategically and intentionally. Feminist theorists argue that domestic violence is used by men to exert power and control over their female partners.⁹⁸

At the crux of feminist theory's approach in explaining and understanding domestic violence is the premise that in most societies, male's violence against women are encouraged by cultural, traditional and religious beliefs and practices. The difference in male and female orientation in most ethnic groups in Nigeria coupled with the superior status/value accorded to men over women appears to corroborate feminist's theory that sees domestic violence as a weapon used by men to exert authority and control over women. The apparent discrimination of women in almost all spheres of life in Nigeria and having laws in some parts of the country that encourage violence against women resonate and lend credence to feminist's theory on domestic violence.⁹⁹ This underpins its relevance as a basis to discuss the high prevalence of domestic violence in Nigeria, notwithstanding the critics of the theory on how it conceptualizes intimate partner violence.

The critiques of feminist theory on domestic violence mostly centres on the argument of feminists that men's violence against women is a bye-product of gender and power inequality in the society. Dutton contends that:

Feminist theory views all social relations through the prism of gender relations and holds, in its neo-Marxist view, that men (the bourgeoisie) hold power advantages over women (the proletariat) in patriarchal societies and

⁹⁸ Jay Peters, Todd K Shackelford and David M Buss, 'Understanding Domestic Violence Against Women: Using Evolutionary Psychology to Extend the Feminist Functional Analysis' (2002) 17 (4) Violence and Victims 255 [Emphasis added].

⁹⁹ The Penal code of Northern Nigeria, section 55 (1) (d).

that all domestic violence is either male physical abuse to maintain a power advantage or female defensive violence, used for self-protection.¹⁰⁰

Furthermore, Dutton and Tonia comment that:

The feminist paradigm supports the notion that domestic violence is primarily a culturally supported male enterprise and that female violence is always defensive and reactive. When women are instigators, in this view, it is a "pre-emptive strike," aimed at instigating an inevitable male attack.¹⁰¹

Also, critiques of feminist theory have been consistent in condemning feminist's standpoint concerning support for men's victims of domestic violence as Cruz elucidates:

Proponents of feminist theory acknowledge that women can also be violent in their relationships with men; however, they simply do not see the issue of women abusing men as a serious social problem, and therefore, does not deserve the same amount of attention or support as violence against women.¹⁰²

The feminist's reluctance to acknowledge that some women can be as violent as men, and that men victims of domestic violence deserve as much attention as women in terms of support may have created an unbalanced and biased view of the feminist theory. It is also incompatible with the feminist's vision of equality and opened cracks in the feminist theory for attacks. It has been suggested that the feminist's reluctance to acknowledge the impact of women's domestic violence against men, and their need for support, bothers on funding concerns. It appears they are concerned about a situation where men and women support programs may be struggling for funds from the same source.¹⁰³

¹⁰⁰ Donald G Dutton, *Rethinking Domestic Violence* (University of British Columbia Press 2007) 95 - 184.

¹⁰¹ Donald G Dutton and Tonia L Nicholls, 'The Gender Paradigm in Domestic Violence: Research and Theory' (2005) 10 *Aggression and Violent Behaviour* 680.

¹⁰² D Kurz, "No: Physical Assaults by male partners: A major social problem" in Walsh M R (ed) *Women, men, & gender: Ongoing debates* (New Haven, Yale University Press 1997) 67.

¹⁰³ Jen Gerson, 'Privately run shelter for male victims of domestic abuse forced to close its doors due to lack of funding' *National Post* (Canada, 20 March 2013) <<http://news.nationalpost.com/2013/03/20/>> accessed 7 July 2017.

However, notwithstanding the criticism of the feminist theory of gender and power inequality as one of the causes of domestic violence in a patriarchal society like Nigeria, the critics have not been able to completely dislodge that notion. This is evident, especially in societies where patriarchy is juxtaposed with embedded cultural, religious and traditional practices. In his critique of feminist theory, Dutton argues that ‘in societies where violence against women are not generally accepted, such as North America, violent men are not living up to a “cultural norm”’.¹⁰⁴ However, he acknowledged that ‘[cultural] norm may exist in patriarchal societies, such as Korea or Islamic countries’.¹⁰⁵

In Nigeria, considerable empirical research lends credence to the feminist’s theory contending that gender and power inequality generates relational violence.¹⁰⁶ From the foregoing, I believe that feminist legal theory is a suitable framework amongst other potential theories that will aid the discussion and understanding of the peculiarities associated with domestic violence in Nigeria.

1.10 Universal Theory of Human Rights

The origin of human rights could be traced as far back as the Roman Justinian’s *Corpus Luris Civilis* which, according to Slotte and Helme-Tuomisaari, contained elements leading to the creation of modern human rights treaties.¹⁰⁷ The concept of human rights could be found in the Holy books and teachings of different world religions which sought to uphold “human dignity” based on divine law.¹⁰⁸ Similarly, there are other documents with a set of rules, codes, and laws which established human rights principles within national legal frameworks. Some notable ones are the Magna Carta (1215), the English Bill of Rights (1689), the

¹⁰⁴ Dutton (n 100).

¹⁰⁵ *ibid.*

¹⁰⁶ Clifford O Odimegwu, ‘Couple formation and domestic violence among the Tiv of Benue State, Nigeria’ (Paper presented at the International Colloquium Gender, Population and Development in Africa organised by UAPS, INED, ENSEA, IFORD, Abidjan 16-21 July 2001); S N Obi and B C Ozumba, ‘Factors associated with domestic violence in south-east Nigeria’ (2007) 27 (1) *J Obstet Gynaecol* 75; Oyediran Kolawole Azeez and Isiugo-Abanihe C Uche, ‘Perceptions of Nigerian Women on Domestic Violence: Evidence from 2003 Nigeria Demographic and Health Survey’ (2005) 9 (2) *African Journal of Reproductive Health* 38.

¹⁰⁷ Pamela Slotte and Miia Helme-Tuomisaari, *Revisiting the Origins of Human Rights* (Cambridge University Press 2015) 63.

¹⁰⁸ *ibid.*

French Declaration on the Rights of Man and Citizen (1789), and the US Constitution and Bill of Rights (1791).¹⁰⁹ However, the drawback of some of these earlier documents as Nancy Flowers suggests was ‘[M]any of these documents, when originally translated into policy, excluded women, people of colour, and members of certain social, religious, economic, and political groups.’¹¹⁰

The modern notion of human rights took root after the horrors of the Second World War (WWII), which gave rise to the establishment of the United Nations; and subsequently, the Universal Declaration of Human Rights (UDHR) on 10 December 1948.¹¹¹ The concept and principle of universal human rights as contained in UDHR has been virtually accepted by all nations.¹¹² Although, the declaration is not a legally binding document, it has achieved the status of a “customary international law” as people regard it as ‘a common standard of achievement for all people and all nations’.¹¹³ The UDHR has influenced the concept of human rights to be incorporated by virtually all nations in their constitution.¹¹⁴ The UDHR together with the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR) is known as “The International Bill of Human Rights”.¹¹⁵ The UN has adopted more than 15 treaties aimed at ensuring the human rights and fundamental freedoms of people all over the world.¹¹⁶

Regional institutions have extended the International Bill of Rights by establishing regional documents for the protection and promotion of human rights. Some of the

¹⁰⁹ Nancy Flowers, *Human Rights Here and Now: Celebrating the Universal Declaration of Human Rights* (1st ed, Minneapolis, Human Rights Resources Centre 1999).

¹¹⁰ *ibid.*

¹¹¹ Jack Donnelly, *Universal Human Rights in Theory and Practice* (2nd ed, Cornell University Press 2003) 22 - 38.

¹¹² Jean (n 64).

¹¹³ Hannum Hurst, ‘The Status of The Universal Declaration of Human Rights in National and International Law’ (1995) 25 *Georgia Journal of International & Comparative Law* 287

¹¹⁴ *ibid.*

¹¹⁵ Arora (n 71).

¹¹⁶ Sandy Ghandhi, *International Human Rights Documents* (6th ed, OUP 2008) - Some of the notable UN human rights treaties include: Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) 1979; Convention on the Rights of the Child (CRC) 1989; International Convention on the Elimination of All Forms of Racial Discrimination 1966; The Convention on the Prevention and Punishment of the Crime of Genocide 1948; Convention on the Political Rights of Women 1952; The Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment 1984.

regional human rights instruments include: The African Charter on Human and People's Rights (1981); Arab Charter on Human Rights (2004); Convention for the Protection of Human Rights and Fundamental Freedoms (1950); The American Convention on Human Rights (1969).¹¹⁷ One cardinal characteristic of these human rights instruments, whether regional or international, is their universal application to all concerned irrespective of gender, national or ethnic origin, colour, religion, language, or any other status.¹¹⁸ As Saleha noted 'Universality is one of the essential characteristics of human rights. All human beings are holders of human rights, irrespective of their national citizenship and community'.¹¹⁹ Mark illustrates two implications which flow from the universal nature of human rights:¹²⁰

- The obligations related to such rights are also universal, to be implemented to the best of their possibility by all agents who are in a position to help, whether they are the State authorities or to others belonging to the same country or other States and international organizations.
- They should receive the highest priority in the use of resources and capacities of all other agents in fulfilling these obligations, trumping all other demands on them.

Judging from the two implications of human rights as illustrated above, one is tempted to ask the following rhetorical questions: to what extent is the Nigerian Government fulfilling its obligation to ensure the protection of her citizens' human rights and fundamental freedom as enshrined in its constitution and regional and international human rights instruments it has adopted. Similarly, how is the principle of universal human rights observed and respected by the Nigerian

¹¹⁷ *ibid.*

¹¹⁸ Stephanie Farior, 'Color' in the Non-Discrimination Provisions of the Universal Declaration of Human Rights and the Two Covenants' (2015) 14 (4) Wash U Global Stud L Rev 751.

¹¹⁹ Jean (n 60).

¹²⁰ Stephen P Mark, *The Right to Development: A Primer* (New Delhi, Sage Publications 2004) 50 cited in Saleha-Tus Rabia 'Theory of Universal Human Rights' (undated).
<https://www.academia.edu/21435495/Theory_of_Universal_Human_Rights> accessed 5 July 2017.

legislative authority. An appraisal of the federal law prohibiting domestic violence in Nigeria and her attitude in domesticating international treaties may shed light on the above questions.

Nigeria is a signatory to almost all the international human treaties but has so far failed to domesticate most of them.¹²¹ Without their domestication, they cannot be relied upon as a source of law in the country, pursuant to Section 12 (1) of the Constitution of Nigeria.¹²² Recently, Nigeria passed a law against domestic violence, Violence Against Persons (Protection) Act, 2015 (VAPP Act).¹²³ The law was passed after nearly fourteen years deliberation in the Nigerian National Assembly (NASS).¹²⁴ It has been alleged that one of the impediments that NASS is encountering in the effort to domesticate some international human rights treaties that Nigeria has adopted is the objection by some legislators that view some of the provisions contained in these treaties as contrary to their cultural and religious beliefs.¹²⁵ The same issue was also advanced as the reason for the delay in passing the VAPP Act. In the case of the VAPP Act, it was alleged that some members of NASS demanded the section that outlawed marital rape be removed before they could support its passage.¹²⁶ The issue mostly encountered in passing equality laws and domesticating international human rights treaties in Nigeria centres on disagreements between legislators, traditional and religious leaders who share the notion of the universality of human rights and those who view human rights through the lens of cultural relativism. This disagreement mirrors the lingering debate rooted in two popular human rights school of thoughts: (1)

¹²¹ Edwin Egede, 'Bringing Human Rights Home: An Examination of the Domestication of Human Rights Treaties in Nigeria' (2007) 51 (2) *Journal of African Law* 249.

¹²² Adedunmade Onibokun, 'We Need To Domesticate Our International Treaties' *LegalNaija* (13 January 2016) <<http://www.legalnaija.com/2016/01/we-need-to-domesticate-our.html>> accessed 5 July 2017; Edwin Egede, 'Bringing Human Rights Home: An Examination of the Domestication of Human Rights Treaties in Nigeria' (2007) 51 (2) *Journal of African Law* 249.

¹²³ Anthony N Nwazuoke, 'A Critical Appraisal of the Violence Against Persons (Prohibition) Act, 2015' (2016) 47 *Journal of Law, Policy and Globalization* 69.

¹²⁴ SOAWR, 'Legislative Advocacy Coalition on Violence Against Women (LACVAW)' (Undated) <<http://www.soawr.org/blog/legislative-advocacy-coalition-violence-against-women-lacvaw>> accessed 5 July 2017.

¹²⁵ Leonie Taylor, 'Domestic Violence: The problem pervading Nigeria' (Think Africa Press, 14 March 2012) <<http://thinkafricapress.com/nigeria/domestic-violence-problem-pervading>> accessed 27 June 2017.

¹²⁶ Takyiaa Manuh, 'African women and domestic violence' (Open Democracy, 26 November 2007) <<file:///F:/African%20women%20and%20domestic%20violence%20%20openDemocracy.html>> accessed 30 June 2017.

Universalism - the theory that human rights are universal and must be upheld equally by all (2) Cultural Relativism - the theory that human rights are relative to one's culture and cannot be universally applied.¹²⁷ Next, I will discuss these two contradicting concepts of Universalism and Cultural Relativism in relation to the duty of the Nigerian Government in fulfilling its obligation to ensure the protection of her citizens' human rights as enshrined in its constitution and in several regional and international human rights treaties it ratified.

1.10.1 Human Rights: Universalism and Relativism Debate

The advocates of the universalism of human rights principally base their argument on the premise that universal human rights are needed to protect the basic dignity of human life.¹²⁸ Donnelly captured the essence of the universalism of human rights when he stated 'We have human rights not to the requisites for health but to those things "needed" for a life of dignity, for a life worthy of a human being, a life that cannot be enjoyed without these rights'.¹²⁹ The universalists believe and argue that 'If the promotion and protection of human rights should be perceived as culturally relative, then they would, as a result, be subjected to state discretion, rather than to international legal norm'.¹³⁰ Ayton-Shenke vehemently denounced States that hide under the garb of cultural relativism of human rights to abdicate their obligation, stating that 'by rejecting or disregarding their legal obligation to promote and protect universal human rights, those States advocating cultural relativism could raise their own cultural norms and particularities above international law and standards'.¹³¹ Basnet and Albaloooshi contend that:

Human rights are part of the inherent dignity of every human being: they belong to all in equal measure because all are human, be they male or female, young or old, rich or poor, atheist or believer. Universalists thus base their understanding of human rights on the liberal tradition that rights accord to the individual a set of minimum standards by virtue of his or her

¹²⁷ Renteln Alison Dundes and Tom Zwart, *International Human Rights: Universalism Versus Relativism* (Quid Pro LLC 2013) 47.

¹²⁸ Ogundipe (n 4).

¹²⁹ Donnelly (n 111).

¹³⁰ Ayton-Shenker Diana, 'The Challenge of Human Rights and Cultural Diversity' (1995) United Nations Department of Public Information (DPI/1627/H, March 1995) <<http://www.un.org/rights/dpi1627e.htm>> accessed 5 July 2017.

¹³¹ *ibid.*

being human – a universal concept in that they reach out to every person alive.¹³²

Most proponents of human rights appear to justify its universal application based on legal arguments with less emphasis on ontological, moral and ethical basis for advocating its universal acceptance.¹³³ As Kazemi contends, ‘There is no doubt that human rights cannot be reduced to, or exclusively identified with legal rights. In other words, it can be argued that human rights in the final account should be identified as moral rights’.¹³⁴ Furthermore, Kazemi argues that human rights should be viewed both from the lens of moral, ethical and legal rights.¹³⁵ He comments that ‘Human rights originate as moral rights and their legitimacy is necessarily dependent upon the legitimacy of the concept of moral rights’.¹³⁶ Many commentators believe that the notion of human rights is derivable on other grounds other than legal instruments, and its enforcement and compliance is not achievable only by employing state intuitions.¹³⁷ However, James emphasises the importance of institutions in achieving the universal application of human rights arguing that ‘human rights should be understood as practical entitlements, or effectively enforceable claims, i.e. human rights only exist when they are effectively enforceable’.¹³⁸ It appears that James’s argument that enforcement is required to achieve human rights is not limited to using State institutions, but other means of enforcement that are locally recognised by a particular community, culture or religion.

In contending the universality of human rights, cultural relativists have refused to budge in their fierce criticism, scepticism and fear of the true intention of these

¹³² G Basnet and M H Albaloooshi, ‘Human Rights Debate: Universalism versus Relativism OPED’ (Eurasia Review, 27 June 2012) <www.eurasiareview.com/27062012-human-rights-debate-universalism-versus-relativism-oped/> accessed 5 July 2017.

¹³³ Kazemi A Ali, ‘Ontological Dimensions of Human Rights’ (undated) <https://www.academia.edu/6874435/Ontological_Dimensions_of_Human_Rights> accessed 28 November 2017.

¹³⁴ *ibid.*

¹³⁵ *ibid.*

¹³⁶ *ibid.*

¹³⁷ *ibid.*

¹³⁸ James Susan, ‘Rights as enforceable claims’ (2003) 103 (1) Proceedings of the Aristotelian Society 133.

western masterminded, all-inclusive rights, dressed in the garb of human rights. Cultural Relativists argue that ‘human rights are culturally dependent, and that no moral principles can be made to apply to all cultures’.¹³⁹ The relativists believe that human rights should be adaptable to peoples’ culture instead of trumping it. They hold the view that ‘culture is the principal source of the validity of a moral right or rule’.¹⁴⁰ Laura Graham contends that:

Cultural relativism is the idea that one’s beliefs, morals, ethics and customs are relative to the social context within which one lives. Thus, what is right and what is wrong, or moral and immoral, are culturally specific. What may be considered as right in one culture may also be deemed as wrong in another. Since there is no universal standard of morality, it is impossible to judge the customs or beliefs of one society.¹⁴¹

The relativists have not only questioned the legitimacy and motive of these rights but, also, the time of the proclamation of the United Nations Universal Declaration of Human Rights (UDHR) in 1948. They argue it contrasted with the realities on the ground at that time (when most of the African countries were still under colonial rule).¹⁴² The relativists have further labelled the concept of human rights as merely ‘an instrument of Western political neo-colonialism’.¹⁴³ Tharoor, in his article “Are Human Rights Universal?”, alleges that ‘human rights might turn out to be a Trojan horse, surreptitiously introduced into other civilizations, which will then be obliged to accept those ways of living, thinking and feeling ...’¹⁴⁴ He further cautioned that:

¹³⁹ Global Policy Forum, ‘Cultural Relativism v. Universalism’ <<https://www.globalpolicy.org/home/163-general/29441.html>> accessed 28 November 2017.

¹⁴⁰ Donnelly Jack, *International Human Rights* (4th edn, Westview Press 2013).

¹⁴¹ Laura Graham, ‘Cultural Relativism and the Universality of Human Rights’ (tuftshumanrightsforum.wordpress.com 6 September 2013) <<https://en.wordpress.com/typo/?subdomain=tuftshumanrightsforum>> accessed 28 November 2017.

¹⁴² Donnelly Jack, ‘Cultural Relativism and Universal Human Rights’ (1984) 6 *Human Rights Quarterly* 400; M Mutua, ‘The Complexity of Universalism in Human Rights’ in Sajo (ed) *Human Rights with Modesty: The Problem of Universalism* (Kordinlinye Brill NV 2004).

¹⁴³ Donnelly Jack, ‘The Relative Universality of Human Rights’ (2007) 29 (2) *Human Rights Quarterly* 281.

¹⁴⁴ Tharoor Shashi, ‘Are Human Rights Universal? - World Policy Journal - World Policy Institute’ (2000) XVI (4) *World Policy Journal*.

Some developing countries cannot afford human rights since the tasks of nation-building and economic development are still unfinished. Hence, suspending or limiting human rights by such societies shall thus be the sacrifice of the few for the benefit of the many.¹⁴⁵

Basnet and Albalooshi in expressing the view of relativists comment that:

For Cultural Relativists, however, human rights represent values that attach to communities: it is the latter and not the individual that is their intended beneficiary. Relativists hold that because values are culturally specific, human rights should also be culturally oriented. As such they must of necessity reflect cultural, social and ideological diversities thus ruling out any justification for a single universal set of human rights.¹⁴⁶

It appears that the concept of universalism and cultural relativism of human rights presents an ideological conflict that constitutes a dilemma to the enforcement of international human rights laws. The crux of the relativists' argument is that:

Though all cultures may subscribe to human rights the definition of such rights would differ from one culture to the next and would not be universally applied. The implication of this worldview is that moral evaluations are ultimately relative to an individual's cultural identity, and therefore, no universal moral claims exist. It is through this theoretical framework that cultural relativists regard the notion of universal human rights.¹⁴⁷

However, in denouncing this notion, Bteddini contends that:

The universalistic framework views human rights as dealing with the rights of all human beings on the basis of physiological needs and commonalities, the notion of universal human rights seems natural and cultural relativist claims against the universality of such rights are deemed unfounded.¹⁴⁸

It is apparent that the proponents of these two-contrasting notion of human rights have made and continue to make assertions that are worthy of careful consideration. Their claims on the applicability of human rights seem to present arguments that are difficult to reconcile. However, having assessed these two

¹⁴⁵ *ibid.*

¹⁴⁶ Basnet and Albalooshi (n 126).

¹⁴⁷ Bteddini Linda, 'Reconciling the Debate on Universal Human Rights Reframing the Notion of Identity' (2008) 7 Human Security Journal 104 – 117.

¹⁴⁸ *ibid.*

concepts, Universalism and Cultural Relativism, concerning their potential to uphold the human rights of individuals in a community, I concluded that in many societies like Nigeria, the adoption of universalism of human rights approach is essential and should be used as a standard to reform cultural and religious practices. The consideration of this question helped to inform my decision: what would be the preferred criteria to objectively evaluate the two concepts to ascertain the consequences of adopting either of them to individuals in a community? According to Boven, 'Most human rights instruments, notably the Universal Declaration and the International Covenants take the individuals as the principal beneficiaries of universal human rights'.¹⁴⁹ Hence, I believe the two approaches should be weighed bearing in mind how each can be able to afford individuals in a community the opportunity to enjoy the rights contained in the Universal Declaration as well as the international human rights covenants.

Accordingly, it appears that subjecting universal human rights to the acceptability of communities based on their cultural and religious norms and principles would defeat the idea behind the formulation of universal human rights. It would deny some members of the community the opportunity to enjoy these fundamental rights and freedoms as contained in international human rights instruments. As Boven noted, 'The inclusive nature of human rights not only implies that, as a matter of principle all human beings without distinction are entitled to the enjoyment of human rights and fundamental freedoms'.¹⁵⁰ Arguably, the vision of the framers of the Universal Declaration and other international human rights instruments would not be realisable if universal human rights are subjected to cultural and religious evaluation by communities to ascertain their conformity or otherwise. The practice would present the risk of assessing universal human rights on the standards of culture and religion, which, I believe, has the potential to defeat the idea of universal human rights. According to the proponents of universal human rights:

¹⁴⁹ Boven Theo Van, *Human Rights from Exclusion to Inclusion: Principles and Practice* (Fons Coomans et al, ed, Kulwer Law International 2000) 285.

¹⁵⁰ Boven (n 146) 284.

It appears that the concept of Universalism with its supporting theories of natural law, rationalism and positivism finds the source of human rights in international law, rather than in individual cultures. Human Rights are extra cultural.¹⁵¹

Furthermore, it is fair to assert that in almost all the ethnic groups in Nigeria, social relations are regulated by cultural and/or religious norms and practices. Whereas some of these cultural and religious norms and practices encompass the tenets of universal human rights principles of justice and equality, most do not. Therefore, the rejection of international human rights may lead to continuous and systematic abuses of human rights of individuals in these communities. In Nigeria, for instance, inhuman and degrading practices are entrenched in many ethnic group's cultures, traditions and religious beliefs, which are wittingly or unwittingly being perpetrated on innocent citizens of the country.¹⁵² These discriminatory and degrading practices find expression in several ways such as disinheritance of female children and widows, female genital mutilation (FGM), the chastisement of children and married women, early child and forced marriage, domestic violence, and sexual abuse, among others.¹⁵³ How could the argument of cultural relativists justify the non-intervention of national and international human rights regulatory instruments in prohibiting these practices? Similarly, how could they justify the actions of legislators that stifle the passing of laws to ensure gender equality in Nigeria due to religious and cultural considerations? Does the acceptance and enforcement of human rights laws automatically translate to the abolition of cultures and religions of any society?

The use of international human rights instruments as a standard to reform some cultural and religious norms and practices in Nigeria is essential to ensure all the citizens of the country regardless of their ethnic and/or religious affiliation are

¹⁵¹ Universalism and Cultural Relativism In Human Rights International Law Essay' (Lawteacher.net, July 2018) <<https://www.lawteacher.net/free-law-essays/international-law/universalism-and-cultural-relativism-in-human-rights-international-law-essay.php?vref=1>> accessed 24 July 2018

¹⁵² Osita Nnamani Ogbu, 'Punishments in Islamic Criminal Law as Antithetical to Human Dignity: The Nigerian Experience' (2011) 9 (2) *The International Journal of Human Rights* 165 -182.

¹⁵³ Piwuna M G, 'The Acts of Torture and Other Forms of Ill-Treatment of Citizens by Some Institutions and the Role of Criminal Justice System in Nigeria' (2015) 5 (10)(1) *International Journal of Humanities and Social Sciences* 208 – 217.

entitled to the enjoyment of human rights and fundamental freedoms. The current situation in some regions in Nigeria where women do not have inheritance rights or have unequal inheritance rights due to cultural and religious norms and practices is unjustifiable, and such practice is not acceptable by international human rights instruments. In Nigeria, religious and cultural considerations of ethnic groups play a vital role in the willingness of most members of the Nigerian National Assembly (NASS), religious and traditional leaders to support the enactment of human rights legislations.¹⁵⁴ Thus, they will stifle the passing of any legislation they consider its provisions to be contrary to their cultural and religious norms and practices. The rejection of the Gender Equality Bill by the Nigerian Senate was a classic example of the influence of cultural and religious consideration in passing human rights laws in Nigeria. According to Makinde *et al*:

In Nigeria, a Gender and Equal Opportunities Bill had been under consideration in the Nigerian Senate since 2010 to be enacted as a Nigerian law as part of effort toward MDG 3. After six years, the Bill was voted out for “lack of merit”. There were concerns based on the content of the Bill. It was agreed by members of the Nigerian Senate that the content of the Bill was not in line with the religious and cultural beliefs of most of the Nigerian population and thus, unworthy to be enacted as a Nigerian law.¹⁵⁵

The above example is one of the limitations of the arguments of cultural relativists’ approach on human rights. How could they justify the rejection of an Equality Bill by the Nigerian Senate mainly on the basis that some of the provisions of the Bill was contrary to the cultural and religious beliefs of some regions in the country. I believe that it is only by encouraging the adoption of universalists approach in Nigeria that progress could be made in combating most of the human rights abuses in their various forms such as domestic violence.

Lastly, it is noteworthy that most national and international legal instruments accord recognition to cultures and religions in every society.¹⁵⁶ Likewise, they

¹⁵⁴ Makinde OA, Onyemelukwe C, Onigbanjo-Williams A, Oyediran K A, Odimegwu C O, ‘Rejection of the Gender and Equal Opportunities Bill in Nigeria: A setback for sustainable development goal five’ (2017) 32 (3) Gender in Management: An International Journal 234 - 240.

¹⁵⁵ *ibid*.

¹⁵⁶ ICCPR Art. 27; ECHR Art. 9; ACPHR Article 22.

prohibit interference with their practice provided they conform to internationally accepted human rights norms. Therefore, human rights laws are not antagonistic to the practice and enjoyment of peoples' cultures and religions. Rather, they provide guidelines to ensure they are practised humanely and equitably devoid of the abuse of peoples' human rights. Basnet and Albalooshi clarify further:

Thus, human rights are capable of breaking down cultural barriers and of becoming fully accepted as global norms while at the same time showing respect for different political, social and cultural values. Indeed, respect for multiple identities within different cultures and within different social traditions is already provided for in Article 27 of the International Covenant on Civil and Political Rights 1966, a major international human rights instrument.¹⁵⁷

1.11 Conclusion

The chapter illustrates the development of feminism and feminist legal theory and the ideological underpinning of different strands of the movement. In addition, the feminist's concept of domestic violence was examined with a view to demonstrate the nexus between the perception, understanding and combating the malaise in Nigeria. The feminist's influence in policy development to approaches in tackling domestic violence underscores the basis for its suitability as a framework to examine the impact of legal regulation and enforcement in transforming people's perceptions and attitudes toward it. Similarly, the universal theory of human rights provides an essential platform to discuss the attitude of the Nigerian Government in fulfilling its international obligations to protect the citizen's human rights and fundamental freedoms. Together, the two theories provide a solid foundation for developing the argument of this thesis, choice of research questions, and methodology. Their ease of application, relevance to the issue under study, and explanatory power make the theories appropriate as the framework for this project.

In the next chapter, I will review literatures on domestic violence as contained in books, scholarly articles and other sources relevant to the area of research problem being investigated.

¹⁵⁷ Basnet and Albalooshi (n 132).

Chapter 2

Literature Review

Chapter two consists of three sections:

Section one explores the legal and institutional definitions of domestic violence in Nigeria and Ireland as well as the regional and international perspectives on the issue.

Section two focuses on the evaluation of empirical studies, commentaries and opinions on the effect of legal regulation and enforcement in combating domestic violence.

Section three appraises the role of law in transforming perceptions and attitudes toward domestic violence.

Section One

2.0 Introduction

This chapter reviews the works of professionals in various fields of study about domestic violence in three distinct domains. These areas were chosen for exploration due to their relevance to the wider discussion of issues relating to domestic violence and violence against women in the preceding chapters. Also, they are relevant in explaining the reasons for selecting the research questions and buttressing the theoretical framework underpinning this research. The domains are discussed in three sections: Section one explores the legal and institutional definitions of domestic violence in Nigeria and Ireland as well as the regional and international perspectives on the issue. This definitional exploration extends beyond the conceptualisation of domestic violence to its broader view under the canopy of violence against women. Similarly, the history, various forms, and impact of domestic violence are discussed in this section. Section two focuses on the evaluation of empirical studies, commentaries and opinions on the effect of legal regulation and enforcement in combating domestic violence. Section three delves into the perceptions and attitudes toward domestic violence and the role of law in transforming them. Furthermore, I traced research developments on domestic violence, identified gaps and located this study within the context of existing literature.

2.1 Definitional Exploration

The first known use of the expression “Domestic Violence” in modern context was during an address in the United Kingdom’s Parliament in 1973. Subsequently, the world’s first domestic violence support service agency, “Women’s Aid”, was established some months later in 1974.¹ It provides a wide range of services to victims of domestic violence in the United Kingdom. Since then, the expression

¹ Greg Dorey, ‘Terror in the house’ (Foreign & Commonwealth Office, 25 November 2011) <<http://blogs.fco.gov.uk/gregdorey/2011/11/25/terror-in-the-house/>> accessed 20 June 2017.

has become popular, commonly used and, to a certain degree, the standard expression used in the discussion of violence within the confines of the household. Other words such as domestic abuse, spousal abuse, family violence, dating abuse and intimate partner violence, gender violence or abuse are also used to describe violence within the household. These words or expressions are used interchangeably with the expression domestic violence and they all, to a certain extent, mean the same thing. However, some hold the view that there is a difference between domestic violence and domestic abuse, even though they are often associated with the same meaning. According to Kelly:

Domestic violence suggests aggression and physical harm while abuse encompasses a wider range of behaviour such as sexual, emotional, financial and psychological abuse encompassing aggression, intimidation, ... humiliation'.²

Nonetheless, domestic violence appears to have gained popularity and widely used to include all forms of violence occurring in the home. Dobash and Dobash contend that how domestic violence is defined is important as it reveals and affects how the issue is perceived by victims and perpetrators of the violence.³ Also, definition plays a major role on the overall view of domestic violence as well as influence the directions for research and the way responses and interventions are developed and implemented.⁴ There are many views on domestic violence held by different professions based on their experience in dealing with victims and perpetrators. These differing views and understandings result in many competing definitions of domestic violence both in Ireland and internationally. Following the increase in domestic violence awareness in Ireland in the 70s and 'its appearance on the political agenda and social discourse as a result of changes in societal values

² L Kelly, 'Taking the Easy Option: Risk Factors and Cycles of Violence' (Domestic Violence – Feminists Approaches in the New Millennium, Social Policy Research Group Conference, University of South Australia, Magill 1999) cited in Michelle Jones, 'A fight about nothing: Constructions of Domestic Violence' (PhD thesis, School of Social Sciences, University of Adelaide 2004) 25 accessed 12 July 2017.

³ R E Dobash and R P Dobash, 'How Theoretical Definitions and Perspectives Affect Research and Policy' (1990) in DJ Besharov (ed) *Family Violence: Research and Public Policy Issues* (Washington DC, The AEI Press) 185 - 205.

⁴ *ibid.*

and norms’,⁵ many agencies, advocates and professionals-initiated research on domestic violence. One of the early studies on domestic violence in Ireland was by Casey.⁶ According to Mahony, the objectives of Casey’s study ‘were to describe women’s experiences of violence and to examine the responses of agencies to women who seek assistance’.⁷ Also, the courts contributed in giving insight to what may constitute domestic violence. In the case of *O’B v O’B*⁸, the Supreme Court accepted that physical violence is not required before an application for a protective order maybe granted. However:

The court was divided over whether the respondent’s conduct, which included ‘rudeness by the husband in front of the children, a lack of sensitivity in his manner to her and efforts by him at dominance in running the home’ and which resulted in ‘tensions, strains and difficulties’ amounted to ‘serious misconduct on the part of the offending spouse.’⁹

Majority of the judges found that the respondent’s conduct fell within the ‘ordinary wear and tear of married life’ and so failed to mount to serious misconduct. In his dissenting opinion, Griffin J, asserted that the respondent had ‘constantly indulged in ... conduct which no woman should be required to put up with’ and which ‘was bound to have an adverse effect on the physical and emotional health of the wife and children’.¹⁰ In view of these studies and judicial opinions, many definitions of domestic violence began to emerge. Kelleher and O’Connor in “Making the Link” defined domestic violence as:

...encompassing mental, physical and sexual violence, actual or intimated, being made to have sex without giving consent, mental cruelty, isolation from family and friends, deprivation of family income or car, prevented

⁵ Noreen Kearns, Liam Coen and John Canavan, ‘Domestic Violence and/or Sexual Violence in Ireland: an overview of national strategies and relevant international literature on prevention and intervention initiatives in service provision’ (2009) Child and Family Research Centre, NUI Galway 5 - 7.

⁶ Casey Maeve, ‘Domestic violence: The women’s perspective’ (1993) Social and organisational psychology research unit, University College Dublin 64.

⁷ Mahony Carol, ‘The problem of domestic violence. Private violence and Public Policy’ (Masters Dissertation, St. Patrick’s College Maynooth 1996) 42.

⁸ [1984] IR 182; [1984] ILRM 1.

⁹ [1984] IR 189, per O’Higgins CJ in The Law Society’s Law Reform Committee, ‘Domestic violence: The case for reform’ (May 1999); see *Mca v Mca* [2000] 1IR 457 & *L v Ireland* [2008] IEHC 241.

¹⁰ [1984] IR 189, per O’Higgins CJ in The Law Society’s Law Reform Committee, ‘Domestic violence: The case for reform’ (May 1999).

from taking up employment, or attending education or training; deliberate damage to pets, clothes, property or other personal items.¹¹

The definition like most other definitions of domestic violence in Ireland is gender neutral. Notwithstanding that the study was commissioned by women's advocacy agency, the definition was carefully crafted to ensure it is neutral and not gender-specific. The mention of "sexual violence" and "being made to have sex without giving consent" typifies a change in the thematic view of marital sexual violence against women in Ireland.¹² Apparently, the change in law – the Criminal Law (Rape)(Amendment) Act 1990, Section 5 abolished marital exemption in relation to rape in Ireland and made non-consensual marital sex an offence. This change in law culminated in the trial and conviction of a forty-six-year-old Sligo man on 18 July 2012.¹³ The trial made legal history in Ireland as it was the first conviction for marital rape since the law was changed to allow for the prosecution of marital rape in the country.¹⁴ Many women rights groups welcomed the verdict, but none discerned the absence of the mention of domestic violence during the trial and sentencing. The omission is consistent with domestic violence cases which are usually prosecuted under the relevant criminal law code in many jurisdictions.¹⁵ In most jurisdictions, the criminal justice system does not recognise domestic violence as a crime in its own right. The effect is that the crime of domestic violence is being denied the much-needed publication which would assist in raising its awareness and depicting it as a crime. I believe that the absence of a separate head of crime of domestic violence prosecutable under the specific laws prohibiting it undermines the effort to create its awareness and acceptance as a crime.

¹¹ Patricia Kelleher and Monica O'Connor, 'Making the Link towards an Integrated Strategy towards the Elimination of Violence against Women in Intimate Relationships with Men' (Women's Aid Ireland 2009).

¹² *ibid.*

¹³ Criminal Law (Rape)(Amendment) Act 1990, Section 5; Marese McDonagh, 'Landmark Verdict as man convicted for marital rape' *Independent.ie* (Dublin, 19 July 2012) <<http://www.independent.ie/irish-news/landmark-verdict-as-man-convicted-of-marital-rape-26041796.html>> accessed 13 June 2017.

¹⁴ *ibid.*

¹⁵ Domestic violence offences like assault is prosecuted under the Non-Fatal Offences Against the State Act 1997.

It has been argued that the Kelleher and O'Connor report "Making the Link" in 1995, triggered the setting up of the "Task Force on Domestic Violence" tasked with the formulation and recommendation on domestic violence policy direction in the country.¹⁶ The task force defined domestic violence, which according to Kearns *et al.*, underpinned the institutional development of domestic violence in Ireland as:

Domestic violence is the use of physical or emotional force or threat of physical force, including sexual violence, in close adult relationships. This includes violence perpetrated by spouse, partner, son, daughter or any other person who is a close blood relation to the victim.¹⁷

The definition of the task force is comprehensive and encompasses most conceivable incidences of domestic violence that could take place in the home including elder abuse. The definition is gender neutral and has been accepted as the standard definition of domestic violence in Ireland.¹⁸ Clancy and Ward, extended the definition to include economic abuse. They defined economic abuse to mean:

The control by male perpetrators of their female partners' access to economic resources, household budgets, financial resources and disposable income. It is a form of control that exacerbates women's vulnerability and dependency. Increasingly, it is understood as a form of violence in itself.¹⁹

The Domestic Violence Act 2018 has expanded the horizon of offences of domestic violence to include the offence of coercive control.²⁰ Coercive control, according to Evan Stark, is 'a strategic course of oppressive behaviour designed to secure and expand gender-based privilege by depriving women of their rights and liberties and establishing a regime of domination in personal life'.²¹ Stark's

¹⁶ Kearns *et al.* (n 5).

¹⁷ Office of the Tánaiste, Report of the Task Force on Violence against women (Government Publications, Dublin 1997).

¹⁸ Probation Service, "Policy and Practice Guideline" 200
<<http://www.probation.ie/pws/websitepublishingdec09.nsf>> accessed 3 June 2017

¹⁹ N Clancy and E Ward, 'Women, Violence and Poverty in Ireland: exploring economic abuse' (2005) Galway, Community Response to Domestic Violence Network.

²⁰ The Domestic Violence Act 2018, Section 39.

²¹ Evan Stark, 'Information for Professionals' New York State Office for the Prevention of Domestic Violence
<<http://www.opdv.ny.gov/professionals/abusers/coercivecontrol.html>> accessed 25 June 2017.

definition seems to be gender biased, which may be based on the premise that women are more vulnerable and are more likely to be subjected to coercive control and economic abuse. However, it appears that definition of domestic violence that excludes men from the horizon of such abuse may be incomplete. Like women, men could also be victims of acts of coercive control. Notwithstanding statistics that continue to show the existence of gender pay gap in favour of men, women are taking up high-paying jobs and are pursuing lucrative courses in college.²² Hence, women are becoming breadwinners in many families, thereby having the ability to subject their male partners to coercive control and economic abuse. Thus, I support the United Nation's recommendation that 'any definition of domestic violence that includes psychological and/or economic violence [should be] enforced in a gender-sensitive manner'.²³

In Nigeria, the federal law against domestic violence defines it as:

Domestic violence means any act perpetrated on any person in a domestic relationship where such act causes harm or may cause imminent harm to the safety, health or well-being of any person.

Economic abuse means:

- (a) Forced financial dependence.
- (b) Denial of inheritance or succession rights.
- (c) The unreasonable deprivation of economic or financial resources to which any person is entitled or which any person requires out of necessity, including:
 - (1) Household necessities;
 - (2) Mortgage bond repayments; or
 - (3) Payment of rent in respect of a shared residence; or
- (d) The unreasonable disposal or destruction of household effects or other property in which any person has an interest.²⁴

²² Emma Luxton, 'Which European countries have the biggest gender pay gaps?' (World Economic Forum, 18 December 2015) <<https://www.weforum.org/agenda/2015/12/which-european-countries-have-the-biggest-gender-pay-gaps/>> accessed 24 June 2017; Morgan McKinley, 'Gender Pay Gap Ireland 2016'. <https://www.morganmckinley.ie/sites/morganmckinley.ie/files/gender_pay_gap_in_ireland_2016.pdf> accessed 24 June 2017.

²³ The United Nations, *Handbook for Legislation on violence against women* (United Nations, New York 2010) 13 - 16.

²⁴ Violence Against Persons (Prohibition) Act 2015, Section 46.

Ekiti State, which is one of the states in Nigeria promulgated a law against domestic violence, Ekiti State Gender-Based Violence (Prohibition) Law, 2011.

The Ekiti State law comprehensively defines domestic violence as an offence:

Gender-Based Violence means:

- I. Violence that affects a person or group of persons disproportionately because of their sex.
- II. Any act that inflicts physical, mental or sexual harm or suffering, threats of such acts, coercion and other deprivation of liberty.
- III. All acts of violence whether those acts occur in the public sphere or in the private sphere.
- IV. All acts of violence which impair or nullify the enjoyment of human rights and fundamental freedoms under general international law or under human rights conventions as discrimination.²⁵

There have been calls in Ireland to include a statutory definition of domestic violence in the legislation prohibiting the act. According to Bergin-Cross, the absence of definitional guidance in what constitutes domestic violence has ‘...led to considerable variance amongst practitioners and even within judicial decisions’.²⁶ She argues that ‘A statutory definition in future Irish domestic violence legislation will ensure that all agencies, both governmental and non-governmental, are defining, treating and tackling the problem in the same way’.²⁷ Despite this awareness and calls to include a definition of domestic violence in the legislation prohibiting it in Ireland, there is no definition of domestic violence in the Domestic Violence Act 2018.²⁸ When there was no common shared definition of domestic violence in the UK, Cook *et al.*, contended that ‘Lack of a common definition of domestic abuse has led to misinterpretations and hampered research and policy recommendations with different agencies and the government using a variety of different definitions’.²⁹

²⁵ Ekiti State Gender-Based Violence (Prohibition) Law 2011, Section 2 (a) (I – iv).

²⁶ Caroline Bergin-Cross, ‘Anomalies of the Domestic Violence Act 1996 and the Need for Reform’ (2013) 4 Irish Journal of Family Law 117.

²⁷ *ibid.*

²⁸ Domestic Violence Bill 2017 [Seanad] (Number 13 of 2017).

²⁹ D Cook, M Burton and A Robinson, ‘Enhancing “Safety and Justice: The Role of Specialist Domestic Violence Courts in England and Wales’ (2006) 7 (8) British Society of Criminology 1.

Several regional and international institutions have provided definitional perspectives on domestic violence mainly within the context of violence against women. Their conceptualisation of domestic violence particularly violence against women is extensive encompassing all conceivable forms of violence. The definition of violence against women incorporating domestic violence as proffered by the Council of Europe in their campaign to stop “domestic violence against women” is very comprehensive:

Gender-based violence, which results in, or is likely to result in, physical, sexual, or psychological harm or suffering to women, including threats of such acts, coercion, or arbitrary deprivation of liberty, whether occurring in public or private life. This includes, but not limited to, the following: a violence occurring in the family or domestic unit, including, inter alia, physical and mental aggression, emotional and psychological abuse, rape and sexual abuse, incest, rape between spouses, regular or occasional partners and cohabitants, crimes committed in the name of honour, female genital and sexual mutilation and other traditional practices harmful to women, such as forced marriages.³⁰

Similarly, the Council of Europe Convention on preventing and combating violence against women and domestic violence (Istanbul Convention) defines violence against women and domestic violence respectively as:

Violence against women” is understood as a violation of human rights and a form of discrimination against women and shall mean all acts of gender-based violence that result in, or are likely to result in, physical, sexual, psychological or economic harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life.

Domestic violence” shall mean all acts of physical, sexual, psychological or economic violence that occur within the family or domestic unit or between former or current spouses or partners, whether or not the perpetrator shares or has shared the same residence with the victim.³¹

³⁰ Council of Europe, ‘Campaign to Combat Violence Against Women, Including Domestic Violence (2006-2008) <<http://www.coe.int/t/dg2/equality/Domesticviolencecampaign/>> accessed 21 June 2017.

³¹ Council of Europe, ‘Council of Europe Convention on preventing and combating violence against women and domestic violence’ (12 April 2011) <<https://www.coe.int/en/web/istanbul-convention/home?desktop=true>> accessed 24 June 2017.

The CEDAW committee states that the definition of discrimination against women includes gender-based violence, that is:

Violence that is directed against a woman because she is a woman or that affects women disproportionately. It includes acts that inflict physical, mental, or sexual harm or suffering, threats of such acts, coercion and other deprivations of liberty.³²

Similarly, the African Union (AU) Commission on Human and Peoples Rights (ACHPR) Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa defines violence against women 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 restrictions on or deprivation of fundamental freedoms in private or public life in peace time and during situations of armed conflicts or of war.³³

The need for clarity on what constitutes domestic violence by placing it on legislative footing in Ireland cannot be over-emphasised. The lack of statutory definition of domestic violence in Ireland according to Bergin Cross, continues to lead to considerable variance amongst lawyers and judges in handling domestic violence cases.³⁴ Domestic violence covers several forms of behaviours and occurs in different kinds of familiar relations. It can be perpetrated on anyone, male or female, regardless of socio-economic class, race, and religion. Hence, due to its multifaceted nature, clarity is essential for all involved in advocacy, legislation, adjudication, academia, victims and perpetrators. The definition of an issue is essential to the understanding of the problem and finding solutions to it. As Einstein once said, 'If I were given one

³² CEDAW, 'General recommendations made by the Committee on the Elimination of Discrimination against Women' (General Recommendation No. 19 (11th session, 1992) <<http://www.un.org/womenwatch/daw/cedaw/recommendations/recomm.htm>> accessed 14 August 2018 .

³³ The African Union, Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa <<http://www.achpr.org/instruments/women-protocol/#5>> accessed 24 June 2017.

³⁴ Bergin Cross (n 26).

hour to save the planet, I would spend 59 minutes defining the problem and one minute resolving it'.³⁵

2.1.1 Forms/Types of Domestic Violence

In the early stages of domestic violence awareness and research, physical violence appeared to be the most widely recognised form of spousal abuse.³⁶ However, over time, other forms of abuse were recognised and added to the definition of domestic violence. The effect is that the definition of domestic violence continues to expand prompting advocacy for the prohibition newly recognised forms of abuse.³⁷ In spite of the recognition that domestic violence encompasses a range of behaviours, physical violence remains the most widely recognised form of abuse. Research has found that physical violence is still regarded by many people as the only form of spousal abuse in Nigeria.³⁸ The following are the forms of domestic violence widely recognised and prohibited in many jurisdictions.

a) Physical violence

According to Benedictis *et al.*, 'Physical abuse is the use of physical force against another person in a way that ends up injuring the person or puts the person at risk of being injured. Physical abuse ranges from physical restraint to murder'.³⁹ As Aihe asserts, it is one of the commonest forms of abuse and includes, but not limited to 'beating, kicking, knocking, punching, choking, confinement. Female genital mutilation is physical abuse. Physical abuse is one of the commonest forms of abuse'.⁴⁰ In a study carried out by Obi and Ozumba in Southeast Nigeria, 83% of respondents reported physical abuse.⁴¹

³⁵ Alice Calaprice (ed) *The Ultimate Quotable Einstein* (New Jersey, Princeton University Press 2010).

³⁶ Paula McGovern, 'Verbal abuse in the home can be as damaging as fists' *Journal.ie* (Dublin, 17 February 2012) <<http://www.thejournal.ie/readme/column-verbal-abuse-in-the-home-can-be-as-damaging-as-fists-357316-Feb2012/>> accessed 25 June 2017.

³⁷ Global Rights for Women, 'Coercive control now a crime in the UK' <<http://globalrightsforwomen.org/2015/02/06/targeting-domestic-abuse-in-the-united-kingdom/>> accessed 25 June 2017.

³⁸ McGovern (n 36).

³⁹ Tina de Benedictis, Jaelline Jaffe, and Jeanne Segal, 'Domestic Violence and Abuse: Types, Signs, Symptoms, Causes, and Effects' (2014) *The American Academy of Experts in Traumatic Stress* <<http://www.aaets.org/article144.htm>> accessed 25 June 2017.

⁴⁰ Ose N Aihie, 'Prevalence of Domestic Violence in Nigeria: Implications for Counselling' (2009) 2 (1) *Edo Journal of Counselling* 1.

⁴¹ S N Obi and B C Ozumba, 'Factors associated with domestic violence in South-East Nigeria' (2007) 27 (1) *Journal of obstetrics and gynaecology* 75.

b) Sexual abuse

Sexual abuse encompasses forcing someone to participate in an unwanted, unsafe and degrading sexual activity, marital rape, forcing someone to look at pornography or participate in pornographic film making.⁴² Attempts to commit acts of sexual violence often results in simultaneous committing of physical violence against the person.⁴³

c) Economic/Financial abuse

This includes withholding essential means of accessing money such as credit and bank cards, stealing or defrauding a partner of money or assets, withholding or destroying physical resources such as food, necessary medication, clothe, preventing a partner from working or forcefully controlling her/his income, and exploiting a partner's resources for personal gain.⁴⁴

d) Verbal abuse

Due to non-physical nature of verbal abuse, it is often not recognised as constituting domestic violence. However, research shows that its impact is as devastating as physical violence or any other form of spousal abuse.⁴⁵ Often, verbal abuse precedes physical abuse, and it is a very debilitating form of controlling mechanism often deployed by perpetrators to subdue their victim.⁴⁶ Most victims of verbal abuse rarely report it as it is difficult to prove. As McGovern opinions, 'The irony of verbal abuse is that it is the one form that is so hidden, difficult to prove, so minimised in society and yet it is the one that so many women identify as hurting them the most'.⁴⁷

⁴² Tina de Benedictis, Jaelline Jaffe and Jeanne Segal, 'Domestic Violence and Abuse: Types, Signs, Symptoms, Causes, and Effects' (2014) The American Academy of Experts in Traumatic Stress <<http://www.aaets.org/article144.htm>> accessed 25 June 2017; Aihie Ose N, 'Prevalence of Domestic Violence in Nigeria: Implications for Counselling' (2009) 2 (1) Edo Journal of Counselling 1.

⁴³ Tina de Benedictis, Jaelline Jaffe and Jeanne Segal, 'Domestic Violence and Abuse: Types, Signs, Symptoms, Causes, and Effects' (2014) The American Academy of Experts in Traumatic Stress <<http://www.aaets.org/article144.htm>> accessed 25 June 2017.

⁴⁴ *ibid.*

⁴⁵ McGovern (n 36).

⁴⁶ *ibid.*

⁴⁷ *ibid.*

e) Emotional abuse

Emotional takes many forms ranging from:

Threatening a person or his or her possession or harming a person's sense of self-worth by putting him/her at risk of serious behavioural, cognitive, emotional or mental disorders. Shouting at a partner which was found to be the most common abuse by Obi and Ozunba (2007) is included. Also included in emotional abuse are name-calling, criticism, social isolation, intimidating or exploitation to dominate, routinely making an unreasonable demand, terrorizing a person verbally or physically and exposing a child to violence.⁴⁸

f) Spiritual abuse

Spiritual abuse includes restricting someone from exercising his/her right to religious practice or belief, with its corollary right to change his/her belief or religion. It also includes using one's religious belief to manipulate, dominate or control him/her.⁴⁹

g) Coercive control

According to Stark, 'Coercive control is a strategic course of oppressive behaviour designed to secure and expand gender-based privilege by depriving women of their rights and liberties and establishing a regime of domination in personal life'.⁵⁰ This form of domestic abuse is very prevalent, and it was outlawed recently in England and Wales.⁵¹

2.1.2 Effects of Domestic Violence

Domestic violence impacts on people in all kinds of ways, either directly or indirectly. Besides its impact on the direct victims, domestic violence impacts on children, the elderly, friends, neighbours, animals, community, taxpayers, governments, service providers and the emergency services.⁵² The experience of domestic violence can have a short or long-term effect on the victims. Its short-term effect may include physical, emotional, psychological injury, fear, anxiety,

⁴⁸ Aihie (n 40).

⁴⁹ *ibid.*

⁵⁰ Evan Stark, 'Abusive partner' (2013) Office for the Prevention of Domestic Violence (OPDV) interview with Evan Stark
<<http://www.opdv.ny.gov/professionals/abusers/coercivecontrol.html>> accessed 25 June 2017.

⁵¹ The Serious Crime Act 2015 (the 2015 Act) UK, s 76.

⁵² Albert Roberts, *Handbook of Domestic Violence Intervention Strategies: Policies, Programs, and Legal Remedies* (OUP 2002) 343.

depression, social isolation, unable to study or work, medical appointments, police reporting, obtaining a restraining order, changing locks in the house, nightmares, legal issues and seeking shelter or safe accommodation.⁵³ Similarly, its long term effect may range from poverty, isolation, disability, homelessness, unemployment to lack of confidence and self-esteem, post-traumatic disorder (PTSD), difficulty establishing trust in new relationships and death.⁵⁴

a) Impact on women/Men

According to Chung, an expert on domestic violence from the University of South Australia, as reported by O'Brien, domestic violence is the biggest single cause of death or disability for women aged between 15 and 44.⁵⁵ She believes that 'domestic violence has a serious health impact on the lives of women compared to other types of health-risk factors'.⁵⁶ As acknowledged by the World Health Organisation, 'Women who have experienced domestic violence are at an increased risk of depression and suicide attempts; physical injuries; psychosomatic disorders; unwanted pregnancies; HIV and other STD's; being killed by a partner'.⁵⁷ 'Domestic violence robs women of their fundamental right to maintain control over their own lives, and women victims of domestic abuse live in fear and isolation in the one place they should always feel safe, their home'.⁵⁸ Likewise, domestic abuse affects men the same way it affects women. According to Amen, male victims of domestic abuse are likely to feel ashamed, frightened, experience a loss of self-worth and confidence, feel isolated, guilty and confused about the situation.⁵⁹

⁵³ *ibid.*

⁵⁴ *ibid.*

⁵⁵ Kerry O'Brien, 'Domestic violence cost put at \$8b' TV Program Transcript 21/03/2005 (Australian Broadcasting Corporation, 21 March 2005)
<<http://www.abc.net.au/7.30/content/2005/s1328611.htm>> accessed 3 July 2017.

⁵⁶ *ibid.*

⁵⁷ World Health Organisation (WHO), 'World Report on Violence and Health' 2002
<http://whqlibdoc.who.int/publications/2002/9241545615_eng.pdf> accessed 2 July 2017.

⁵⁸ John M Grohol, 'Understanding the Effects of Domestic Violence' (2016) Psych Central
<<http://psychcentral.com/lib/understanding-the-effects-of-domestic-violence/000345>> accessed 2 July 2017.

⁵⁹ Amen, 'The Male victim' <<http://www.amen.ie/victims/>> accessed 2 July 2017.

b) Impact on Children

One of the most tragic outcomes of domestic violence is its impact on children. As Carol contends, ‘It is a sobering thought: When a mother [or father] is domestically abused, she is not the only one who carries the haunting scars — so do the kids’.⁶⁰ Research shows that ‘one-third of the children witnessing [domestic] violence show behavioural and emotional disruptions, anxiety, sleep disruption, and school problems’.⁶¹ Reeves, a domestic violence survivor, says ‘as a mother and a survivor of domestic violence, the impact was much greater than I would have ever imagined it to be. Long after the physical scars have healed, there were the scars of emotional and mental abuse’.⁶² Furthermore, she opines that ‘a woman who escapes abuse thinks “it is over now”, but it is the opposite; and counsels that, ‘you have to undo the damage that was done to your children’.⁶³

Similarly, Lieberman of UCLA Neuropsychiatric Institute opines that, ‘Kids are terribly scarred when there is domestic violence in the home because they feel helpless and unable to protect their abused parent (most often their mother)’.⁶⁴ She contends that it ‘makes little boys feel impotent and inadequate, so that they grow up fearing they will not be able to be good enough husbands’.⁶⁵ Furthermore, she avers that ‘abusive fathers act as inadvertent role models, sometimes making it hard for little boys to avoid becoming abusers themselves’.⁶⁶ Similarly, ‘when little girls see that their mother stays with their father, even though he abuses her, it tells the little girls that [they] should put up with abuse, as well’.⁶⁷ According to Women’s aid:

⁶⁰ Sarah W Carol, ‘Witnessing domestic violence: The effects on children’ (2012) She Knows Parenting <<http://www.sheknows.com/parenting/articles/972135/witnessing-domestic-violence-the-effect-on-children>> accessed 3 July 2017.

⁶¹ G Olsen, M L Fuller, *Home-School Relations: Working Successfully with Parents and Families* (3rd edn, Pearson 2008) 172.

⁶² Carol (n 60).

⁶³ *ibid.*

⁶⁴ Carole Liberman, quoted in Rosemary Black, ‘Children of mean, psychologically abusive mothers suffer well into adulthood: report’ *Daily News* (7 May 2010) <<http://www.nydailynews.com/life-style/children-psychologically-abusive-mothers-suffer-adulthood-report-article-1.181243>> accessed 2 July 2017.

⁶⁵ *ibid.*

⁶⁶ *ibid.*

⁶⁷ *ibid* [Emphasis added].

There were 3,552 disclosures of abuse of children in the context of domestic violence made to Women’s Aid in 2017. The abuse of children disclosed included children being physically, sexually and emotionally abused as well as witnessing the abuse against their mothers.⁶⁸

Table 1: Types of abuse of children disclosed to women’s aid (2015 -2017)

Types of abuse	2015	2016	2017
Emotional	5, 582	3, 558	3, 286
Physical	212	136	228
Sexual	69	47	38
Total	5, 966	3, 823	3, 552

There seem to be a reduction in the reported number of abuses in the three categories except physical abuse which increased from 136 in 2016 to 228 in 2017. However, the issue is whether the reduction in the reported number of abuses represent a reduction in the rate of abuse. According to some domestic violence support agencies, ‘Many of our service users report that they are tolerating or have tolerated abuse for the sake of their children. Others fear speaking about it due to the stigma attached to admitting that you are a... victim of abuse’.⁶⁹ Similarly, according to the Immigrant Council of Ireland, ‘immigrants are “feeling trapped” in violent relationships because they fear reporting abuse could affect their ability [or that of their spouse who may be the abuser] to remain in the country’.⁷⁰

Research indicates that:

Domestic violence against children negatively affects education of the victim (child) in one way or the other’ as it ‘has a pronounced negative impact on children’s adjustment in school, including their ability to learn and their academic concentration levels thereby impairing social and educational development of victimized children which may result in unsatisfactory intellectual and academic functioning.’⁷¹

⁶⁸ Women’s Aid Ireland, *Annual Report 2017* <www.womensaid.ie> accessed 28 July 2018.

⁶⁹ *ibid.*

⁷⁰ ‘Domestic violence victims ‘trapped’ by immigration laws’ *The Journal.ie* (9 August 2013) <<http://www.thejournal.ie/domestic-violence-immigration-2-1028246-Aug2013/>> accessed 29 July 2018.

⁷¹ Kanchiputu P G, Mwale M, ‘Effects of Domestic Violence on Children’s Education: The Case Study of Mpemba in Blantyre District Malawi (2016) 5 (152) *Journal of Psychological Abnormalities* <<https://www.omicsonline.org>> accessed 29 July 2018.

c) Impact on Tax Payers and Governments

Notwithstanding that domestic violence takes place in the confines of family homes, its impact resonates far beyond the walls of the home in which the abuse happened to the pockets of innocent taxpayers and government coffers. It also impacts on productivity, social and health care services. Hence, in many countries, governments and NGOs are making efforts to estimate the cost of domestic violence. The reason for finding these estimates according to Laing 'is to gain government and community support for efforts to prevent and overcome the effects of domestic violence'.⁷² The annual estimate cost of domestic violence in the USA is \$8.3 billion consisting of \$5.8 billion in medical cost and \$2.5 billion loss of productivity.⁷³

According to the National Council to Reduce Violence against Women and Their Children in Australia, it estimated the cost of domestic violence to the Australian economy to be around \$13.6 billion annually.⁷⁴ Furthermore, the agency contends that 'it is a huge cost to the Australian economy - not only in responding directly to domestic violence but also to things like the impact on work and productivity, impact on the healthcare system, impact on the legal system and so on'.⁷⁵

In Ireland, Dermot Ahern, TD, the former Minister for Justice, speaking at the International Conference on Domestic Violence, Waterford, May 2008, said, 'Domestic Violence costs the Irish economy €2.2 billion a year'.⁷⁶ The total estimated cost of domestic violence in Northern Ireland is £180,000,000

⁷² Lesley Laing, 'Australian Studies of the Economic Costs of Domestic Violence' (2001) Australian Domestic and Family Violence Clearinghouse <http://www.austdvclearinghouse.unsw.edu.au/PDF%20files/eco_costs_final.pdf> accessed 2 July 2017.

⁷³ Robert Pearl, 'Domestic Violence: The Secret Killer That Costs \$8.3 Billion Annually' *Pharma & Healthcare* (5 December 2013) <<https://www.forbes.com/sites/robertpearl/2013/12/05/domestic-violence-the-secret-killer-that-costs-8-3-billion-annually/#4bd28a124681>> accessed 2 July 2017.

⁷⁴ Herbert Bronwyn, 'Domestic violence costs \$13bn a year' *Australian Broadcasting Cooperation* (3 July 2011) <<http://www.abc.net.au/news/2011-03-07/domestic-violence-costs-13bn-a-year/57284>> accessed 1 July 2017.

⁷⁵ *ibid.*

⁷⁶ Conor Ryan, 'Domestic violence costs the country €2.2bn' *The Irish Examiner* (Dublin 30 May 2008).

annually.⁷⁷ These figures ‘highlight the enormous cost of domestic violence to society generally and the immense human and emotional costs to individuals and their families who suffer the violence and its consequences’.⁷⁸ It also underscores the need to adopt a more pragmatic approach to tackle the problem of domestic violence.

In the next section, I will examine research findings, commentaries and opinions on the impact of legal regulation and enforcement in combating domestic violence. Furthermore, I will evaluate the development of domestic violence research as well as gaps in the study, and the justification for socio-legal research focusing on the impact of law in tackling domestic violence.

Section Two

2.2 Domestic Violence Legal regulation and Enforcement: The Impact

There is a plethora of research on domestic violence, and the field continues to attract research interest from diverse professions and agencies. As a result, there has been a steady increase in research conducted on, almost, all aspects of domestic violence since the mid-80s.⁷⁹ Prior to this period, there were dearth of studies carried out in the field of domestic violence.⁸⁰ As Hammel and Nicolls rightly pointed out, ‘A revolution is taking place in the field of domestic violence’.⁸¹ Since the issue of domestic violence was brought to the national and international limelight through feminist activism, there have been relentless efforts to unmask the propensity of perpetrators who indulge in the act, its impact on the victims and society, and various interventions and rehabilitation strategies to combat the problem.

⁷⁷ The department of Health, Social Services and Public Safety Northern Ireland, ‘Tackling Violence at Home’ 18 <<https://www.womensaidni.org/assets/uploads/Tackling-Violence-at-Hom.pdf> > accessed 17 August 2013.

⁷⁸ *ibid.*

⁷⁹ Amanda J Grovert, ‘Domestic Violence Against Women: A Literature Review’ (Master's thesis, Pacific University 2008) 4.

⁸⁰ *ibid.*

⁸¹ John Hammel and Tonia L Nicolls, *Family Interventions in Domestic Violence: A Handbook of Gender-Inclusive Theory and Treatment* (Springer Publishing Company 2006) 9 - 56.

Research on domestic violence was dominated by feminist researchers in its budding period.⁸² The feminists helped, not only, to draw attention and interest in the subject matter, but developed the understanding of domestic violence from the feminist perspectives and ideology. Consequently, some commentators argue that feminist ideology influenced research specific to domestic violence as well as institutional and governmental approaches to tackling it.⁸³ Some commentators argue that feminists influenced government's reliance on the criminal justice system to tackle domestic violence and query the efficacy of law in combating it.⁸⁴

Despite these criticisms, research that aims to ascertain the efficacy of law in tackling domestic violence and raising its awareness has attracted little interest. As Heise asserts, 'There are still no studies directly assessing the impact of legal reforms on overall rates of partner violence, arrest, prosecution or conviction'.⁸⁵ Research in this area mainly concentrates on a particular aspect of the law, mostly the deterrent effect of police arrests, incarceration and the protection order.⁸⁶ Emphasising the lack of research to ascertain the overall deterrent effect of the law, Heise contends that 'We were unable to locate any ... studies ... that attempt to estimate the potential deterrent effect of the law on ... partner violence ...'.⁸⁷ Furthermore, Dugan comments that 'Yet, as proactive domestic violence legislation receives widespread political support, only small body of research

⁸² Jean V Mathews, *Women's Struggle for Equality: The First Phase 1826 – 1876* (Ivan R Dee Publisher 1997) According to Mathews, in July 1848, the first convention agitating for women's rights in the United States, held in Seneca Falls, New York, produced a Declaration of Sentiments asserting that "all men and women are created equal." Of those who signed it, only Charlotte Woodward, a glove-maker, lived to cast a vote in 1920, at age ninety-one. Mathews contends that the fight for equality of all sexes was much more than the fight for a franchise; Mary Wollstonecraft, *A Vindication of the Rights of Women* (Lulu 2013) The book was originally published in 1792.

⁸³ Rachel Ann Taylor, 'Professional Perceptions of Domestic Violence: The Relationship between Causal Explanations and Views on Prevention and Intervention' (Master Thesis, Edith Cowan University, Australia 2006) 30 - 31.

⁸⁴ J A Baer, 'Our Lives before the Law: Constructing a Feminist Jurisprudence' (NJ, Princeton University Press 1999) 84.

⁸⁵ Lori L Heise, 'What Works to Prevent Partner Violence? An Evidence Overview' (Working paper (version 2.0, OECD 2011) <<https://www.oecd.org/derec/49872444.pdf>> accessed 27 August 2017.

⁸⁶ Simpson S Sally *et al.*, 'The Influence of Legal Reform on the Probability of Arrest in Domestic Violence Cases, (2006) 23 (3) Justice Quarterly 297.

⁸⁷ *ibid.*

assesses its efficacy'.⁸⁸ This study aims to fill this gap through a qualitative empirical analysis of primary data and contribute to the growing body of literature on domestic violence research. It examines the impact of the law in transforming perceptions and attitudes toward domestic violence, which are vital to the understanding and tackling the issue. This study also provides descriptive and comparative analysis on the role of law and its enforcement in upholding peoples' human rights.

The limited research done on domestic violence in Nigeria seems to concentrate on its prevalence, causes and its effect on women and children.⁸⁹ I could not find any study that is designed to ascertain the impact of legal regulation and enforcement in combating domestic violence. Similarly, there are no studies that evaluate the impact of the law in changing the perceptions and attitudes of people about domestic violence. This outcome is not surprising given that the enactment of domestic violence laws is a recent development in Nigeria. In addition, there appears to be lack of government incentive in embarking on domestic violence research in Nigeria. Likewise, in Ireland, research on domestic violence is still limited to the monitoring of its prevalence rates, its causes and its effect on, mostly, women and children.⁹⁰ There appears to be dearth of research on the impact of law and its enforcement in combating domestic violence in Ireland. This could be explained as law and its enforcement seem to relate to criminal law; and domestic violence is prosecuted under the general criminal law in Ireland, as opposed to any new specific offence of domestic violence. This leaves me with the only option to examine the literature in this area of domestic violence as contained in studies, reports, opinions and commentaries in other jurisdictions.

⁸⁸ Laura Dugan, 'Domestic violence Legislation: Exploring its impact on the likelihood of domestic violence Police involvement, and arrest' (2003) 2 (2) *Criminology and Public Policy* 283.

⁸⁹ Oyediran Kolawole Azeze and Uche C Isiugo-Abanihe, 'Perceptions of Nigerian Women on Domestic Violence: Evidence from 2003 Nigeria Demographic and Health Survey' (2005) 9 (2) *African Journal of Reproductive Health* 38.

⁹⁰ Safe Ireland, 'Our Publications' <<http://www.safeireland.ie/knowledge-centre/our-publications/>> accessed 25 June 2017; Women's Aid, Women's Aid Publications' <<https://www.womensaid.ie/about/policy/publications.html>> accessed 25 June 2017; Cosc, Publications' <<http://www.cosc.ie/en/COSC/Pages/WP08000130>> accessed 25 June 2017.

In 2014, the Voice of America (VOA) reported in its Africa programme that ‘Stiffer Penalties Fail to Deter Domestic Violence in Malawi’.⁹¹ This follows an appraisal of the law against domestic violence in the country and its deterrent effect on men engaged in violence against their partners. Malawi enacted a law against domestic violence, The Prevention of Domestic Violence Act (PDVA), in 2006 due to high prevalence rate of gender-based violence in the country.⁹² The law imposed a stiff penalty of a 14-year maximum prison term for offenders.⁹³ In 2010 (four years after the enactment of the law), the Malawi’s Demographic and Health Survey reported that ‘One in ten ever married women has experienced both physical and sexual violence, and 7 percent have experienced all three forms of violence by their husband or partner’.⁹⁴ Also, eight years on, in 2014, the VOA report highlighted failure of the law to deter domestic violence and curtail the commission of the offence. According to the report, the Police officials said they handle such cases daily, noting that:

Domestic violence continues to dominate caseloads of the Malawi Police Service's Victim Support Unit [VSU]. The cases include disfigurement and mutilation ... The minor ones are sorted out right away at the VSU, while those with criminal element are referred to the court.⁹⁵

The failure of the law to reduce the gender-based violence in the country according to the report ranges from lenient and inconsistent court sentences to cultural practices.⁹⁶ However, it seems the report only assessed the efficacy of the law based on the number of gender-based violence that was reported to the police. The report failed to recognise that the increase in the number of reported cases of gender-based violence might have been as a result of the positive effect of the law. For instance, the domestic violence law may have made people become aware of their rights. Also, it may have given the victims the impetus to report incidences

⁹¹ Masina Lameck, ‘Stiffer Penalties Fail to Deter Domestic Violence in Malawi’ *VOA* (15 August 2014) <<https://www.voanews.com/a/stiffer-penalties-fail-to-deter-domestic-violence-in-malawi/2414348.html>> accessed 24 June 2017.

⁹² *ibid.*

⁹³ *ibid.*

⁹⁴ Malawi Demographic and Health Survey 2010 (September 2011)

<<https://dhsprogram.com/pubs/pdf/FR247/FR247.pdf>> accessed 24 August 2018.

⁹⁵ *ibid.*

⁹⁶ *ibid.*

of abuse to the police as against when there was no law prohibiting the offence. Kaliya with Malawi's Gender Coordinating Network buttressed this assertion by stating:

Nowadays people have had a lot of awareness. They know when the wrong things are happening, they simply say, 'this is wrong you can't simply do this,' because they are aware that when violence is happening you need to report. Therefore, when you start comparing things, you would see that there is a big difference with the way we used to live before when we were just keeping quiet.⁹⁷

As the report stated, the law could have been ineffective due to the lenient and inconsistent court sentences as well as cultural practices. The effectiveness of any law largely depends on the effectiveness of its implementation.⁹⁸ A poorly implemented law according to Roo and Jagtenberg is likely to become a "paper tiger".⁹⁹ Law is not an end to solving social problems, but one of the means to an end. Hence, effective implementation of the law is needed to ensure the realisation of its full benefits. Furthermore, cultural and religious beliefs and practices have the potential to impede the effectiveness of the law to tackle societal issues like domestic violence which are entrenched in most ethnic group's traditions and religious beliefs. Hence, to ensure the effectiveness of law in tackling domestic violence in countries like Nigeria, the citizens need to be enlightened to overcome their cultural, traditional and religious beliefs and practices. According to Bilz and Nadler:

Legal regulation can ... transform the social meaning of behaviour, changing people's perceptions regarding the moral acceptability or desirability of the behaviour. But sometimes, social meaning change is difficult to manage through regulation when regulation is perceived as attacking the fundamental identity and status of a discrete cultural group.¹⁰⁰

⁹⁷ McGovern (n 36).

⁹⁸ Michael Bothe, Thomas Kurzidem, and Peter MacAlister-Smith, *National Implementation of International Humanitarian Law: The proceedings of an International Colloquium held at Bad Homburg, June 17 – 19 1988* (Kluwer Academic Publishers 1990) 93.

⁹⁹ A J Roo and R W Ragtenberg (eds) *Yearbook Law and Legal Practice in East Asia, 1997-1998* (Kluwer Law International 1998) 17.

¹⁰⁰ Bilz Kenworthy and Janice Nadler, Law Moral Attitude, and Behavioural Change (Eyal Zamir and Doron Teichman eds, Oxford Handbook on Behavioural Economics and Law 2014) 241.

Bilz and Nadler cited an example of gun control in America where ‘people who are relatively hierarchical and individualistic in cultural orientation tend to oppose gun regulations, because they believe law-abiding citizens would be vulnerable to predation as a result of regulation’.¹⁰¹ Therefore, members of these cultural group who identify with guns are sceptical about gun control as they believe they are being ‘undermined and their status is threatened by gun regulation’.¹⁰² Similarly, the concern over whittling down their power and authority enjoyed in a patriarchal society appears to be the basis why some men resist human rights laws which seek to promote equality between sexes and bring to an end discriminatory and abusive practices such as domestic violence. The equality and equity message of human rights laws is a source of concern for some men who feel that their status is threatened and that their power and authority is undermined by these laws.

Kulkarni *et al.*, in their article “Four walls and the cry for help” assert that despite a landmark legislation in 2006 which made wife-beating a crime in India, the incidences of domestic violence continues to rise.¹⁰³ India passed a law against domestic violence in 2006, The Protection of Women from Domestic Violence Act, 2006, which among other things prohibits wife-beating with strict consequences for offenders.¹⁰⁴ According to the article:

Cases of domestic violence against women by their husbands and other relatives comprised over 43 per cent of all crimes against women in 2011. Domestic violence also accelerated, with the annual rate rising from 8.25 per cent in 2006 to 11.41 per cent between 2006-2011 despite a landmark legislation in 2006 declaring “wife-beating” a crime.¹⁰⁵

Though the report showed a considerable increase of 3.6% in the rate of prevalence of domestic violence from 2006 to 2011, one obvious issue with the report is the absence of a benchmark rate on which the stated rate of increase was gauged. The

¹⁰¹ *ibid.*

¹⁰² *ibid.*

¹⁰³ Vani S Kulkarni, Pandey K Manoj and Gaiha Raghav ‘Four walls and the cry for help’ *The Hindu* (22 May 2013) <<http://www.thehindu.com/opinion/op-ed/four-walls-and-the-cry-for-help/article4736753.ece>> accessed 25 June 2017.

¹⁰⁴ P K Das, *Protection of Women from Domestic Violence: Act & Rules* (3ed, Universal Law Publishing 2010).

¹⁰⁵ Lesley (n 72).

report failed to include the prevalence rate before the coming into force of the law as that would enable the comparison of the rates prior and post the 2006 law. Also, if the monitoring of domestic violence prevalence rates started after the law came into force, how certain is it that the figure represents an increase and not a decrease. Furthermore, if the monitoring started after the passage of the law in 2006, it is expected that the rate will still be high as time is needed for people to become aware of the law and internalise it before it becomes effective. However, from reports in other countries, it appears that the rate of reporting of domestic violence to the authorities increases with the passage of a law against it, and begins to decrease some years after.¹⁰⁶ The most current report by The Indian National Crime Records Bureau follows this trend as it reported a slight dip in the rate of crime against women in 2015.¹⁰⁷ That was nine years after the law came into existence and four years after the survey from 2006 – 2011, which showed an increase in domestic violence crime against women. The report shows a recording of 3, 27, 394 cases of crime against women in 2015 compared to 3, 37, 922 cases in 2014, which represents a decrease of 3.1%.¹⁰⁸ Though the report is a welcome development, but I doubt if it suggests that crimes against women in India in all ramifications are abating. For instance, the same report shows an increase of 2.5% in sexual offences against women in 2015.¹⁰⁹ Some of the reasons for the ineffectiveness of the law to deter crime against women in India, as Vasundhara contends, include poor implementation by the law enforcement agents, cultural beliefs and practices, and budgetary constraints.¹¹⁰

2.2 (a) Arrest

The impact of arrest on recidivism of offenders is one of the areas of domestic violence intervention strategies that have witnessed considerable interest in research. The outcome of research in this area has had a significant influence in government intervention policy development in domestic violence, especially in

¹⁰⁶ Aihie (n 40).

¹⁰⁷ Indian National Crime Bureau Report 2015 <<http://ncrb.nic.in/>> accessed 26 June 2017.

¹⁰⁸ *ibid.*

¹⁰⁹ *ibid.*

¹¹⁰ Simate Vasundhara, 'Good Law, Bad Implementation' *The Hindu* (18 May 2016) <<http://www.thehindu.com/opinion/lead/good-laws-bad-implementation/article5639799.ece>> accessed 25 June 2017.

the United States of America.¹¹¹ Maxwell *et al.*, carried out a study which provides a consistent, precise and less ambiguous estimation of the impact of arrest on intimate partner violence using data from five states in the USA. They ‘found good evidence of a consistent and direct, though modest, deterrent effect of arrest on aggression by males against their female intimate partners’.¹¹² According to the report:

The victim interviews indicate that the arrest of the suspect and any subsequent confinement, when compared with the alternative interventions collectively ... significantly reduced the expected frequency of subsequent aggression by 30 percent. Similarly, arrest may have reduced by a smaller amount the number of times the police responded to subsequent domestic violence incidents involving the same victim and suspect and may have extended the time between the initial incident and the first subsequent incident.¹¹³

This study supports an earlier finding by Sherman and Berk in their research on the effects of arrest practices on domestic violence recidivism, which ‘found a reduced rate of domestic violence for the group of alleged offenders who had been arrested’.¹¹⁴ The study shows that police arrest, even for a short duration, has a significant effect in reducing the propensity of the perpetrators to reoffend.¹¹⁵ The study demonstrates the effectiveness of arrest in deterring recidivism over police mediation or physical separation of the perpetrator from the victim.¹¹⁶ The outcome of this study as Dugan comments led to a widespread adoption of mandatory and pro-arrest policies in America.¹¹⁷ However, further studies in this area produced mixed outcomes on the deterrent effect of arrest. Hirshel *et al.*, found a negative deterrent effect of arrest on an offender, suggesting that arrest ‘could even increase offender’s proclivity towards future violence’.¹¹⁸ The efficacy

¹¹¹ Christopher D Maxwell, Garner H Joel and Jeffrey A Fagan, (2001) ‘The Effects of Arrest on Intimate Partner Violence: New Evidence From the Spouse Assault Replication Program’ National Institute of Justice <<https://www.ncjrs.gov/pdffiles1/nij/188199.pdf>> accessed 25 June 2017.

¹¹² *ibid.*

¹¹³ *ibid.*

¹¹⁴ L W Sherman and R A Berk, ‘The specific deterrent effects of arrest for domestic assault’ (1984) 49 *American Sociological Review* 261 in Ventura A Lois and Davis Gabrielle, ‘Domestic Violence: Court Case Conviction and Recidivism’ (2005) 11 (2) *Violence Against Women* 255.

¹¹⁵ Judy Trevena and Suzanne Poynton, ‘Does a prison sentence affect future domestic violence reoffending?’ (2016) 190 *Crime and Justice* (Sydney, NSW Bureau of Crime Statistics and Research).

¹¹⁶ *ibid.*

¹¹⁷ Albert (n 52).

¹¹⁸ *ibid.*

of arrest as Sherman concludes ‘depends heavily on the perpetrators’ perceived cost of being detained’.¹¹⁹

While agreeing with Sherman that the deterrent effect of arrest on perpetrators hinges on the perceived cost of detention, I believe that shame plays a role in deterring offenders. The shame of being arrested, detained and prosecuted for engaging in family violence is a consideration many people would ponder seriously before engaging in such an act. The negative deterrent effect as found by Hirshel *et al.*, is likely to manifest if the offender is a pathological criminal who has nothing to lose and no reputation to protect. In addition, if the perpetrators perceive a weak enforcement system, they may take advantage of it believing the chances of their re-arrest may be slim. This is likely to be the situation in Nigeria where police response is inadequate, and the victims sometimes may have to foot the bill for arresting the offender. The arrest of offenders is an intervention strategy that should be carefully applied in consideration of all the circumstances of the victim’s situation and need. While further studies are needed to ascertain different scenarios where its application is desirable, it appears to hold promise for deterring offenders.

2.2 (b) Conviction/Incarceration

The efficacy of offenders’ conviction and/or incarceration in deterring recidivism has been widely studied with mixed results. Jackson and Hay carried out a study which examines the effect of convictions for domestic violence on the recidivism of batterers. They found a positive correlation between convictions and domestic violence recidivism. Their findings show a deterrent effect of conviction on offenders to commit domestic violence.¹²⁰ Maxwell and Garner reviewed published studies ‘...that provide evidence regarding the crime control benefits from prosecution, conviction, and sentencing of IPV offenders’... The study produced a mixed result, which shows that:

¹¹⁹ *ibid.*

¹²⁰ Lois A Ventura and Gabrielle Davis, ‘Domestic Violence Court Case Conviction and Recidivism’ (2005) 11 (2) *Violence Against Women* 255.

... sanctions that follow an arrest for IPV have no effect on the prevalence of subsequent offending. This finding holds for the prosecution, conviction and sanction severity hypotheses. However, among the minority of reported analyses that do report a statistically significant effect, two-thirds of the published findings show sanctions are associated with reductions in repeat offending and one third show sanctions are associated with increased repeat offending.¹²¹

The varied outcomes of research on the deterrent effect of engaging the criminal justice system in combating domestic violence indicates the need for continued and more rigorous studies in this area of family violence. However, the generalisation of studies, without classification of offenders, is unlikely to produce a uniform result due to individual circumstances of offenders. As domestic violence cuts across all socio-economic classes,¹²² the effect of engaging the criminal justice system in combating the problem is predisposed to produce differing outcomes. Like other crimes, efforts to reduce the prevalence of domestic violence and to understand the reason(s) people engage in the act have witnessed the application of various criminology theories in domestic violence intervention programs. While it is outside the scope of this project to engage in a comprehensive evaluation of these theories, I will briefly discuss two of the criminology theories (deterrence and rational choice) that are key elements in the engagement of the criminal justice system in combating domestic violence.

Deterrence Theory (DT) asserts that ‘people are most likely to be dissuaded from committing a crime if the punishment is swift, certain and severe’.¹²³ The proponents of deterrence theory ‘believe that people choose to obey or violate the law after calculating the gains and consequences of their actions’.¹²⁴ According to Ball, ‘Most jurists take the position that deterrence is necessary for the maintenance of the legal system and the preservation of society’.¹²⁵ This

¹²¹ Christopher Maxwell and Joe Garner, ‘The Crime Control Effects of Criminal Sanctions for Intimate Partner Violence’ (2012) 3 (4) Partner Abuse 1.

¹²² Sonali Khan, ‘Domestic violence cuts across all socio-economic classes’ (2016) One World South Asia <<http://southasia.oneworld.net/>> accessed 26 June 2017.

¹²³ Boyd Natalie, ‘Deterrence Theory of Punishment: Definition & Effect on Law Obedience’ *Study mode* <<https://study.com/academy/lesson/deterrence-theory-of-punishment-definition-effect-on-law-obedience.html#transcriptHeader>> accessed 31 July 2018.

¹²⁴ Hobbes T, ‘Early Classical Philosophers of Deterrence Theory’ (n.d.) 41 (1) Criminology 99.

¹²⁵ Boyd (n 118).

conception of deterrence is behind the reliance on the criminal justice system as one of the foremost methods of crime prevention. Salmon in support of the theory states that ‘Punishment is before all things deterrent, and the chief end of the law of crime is to make the evil doer an example and a warning to all who are like-minded with him’.¹²⁶ The adherents of deterrence theory believe that it is not the deep moral value that is behind people’s choice not to commit a crime, but the fear of punishment for committing the crime.¹²⁷ There are two types of deterrence: general and specific. Hence:

General deterrence is designed to prevent crime in the general population. Thus, the state’s punishment of offenders serves as an example for others in the general population who have not yet participated in criminal events. It is meant to make them aware of the horrors of official sanctions in order to put them off committing crimes. Examples include the application of the death penalty and the use of corporal punishment.¹²⁸

Conversely:

Specific deterrence is designed—by the nature of the proscribed sanctions—to deter only the individual offender from committing that crime in the future. Proponents of specific deterrence also believe that punishing offenders severely will make them unwilling to reoffend in the future. A drunk driver, for example, would be deterred from drinking and driving because of the unpleasant experience he or she suffered from being arrested, or having his or her license taken away or his or her car impounded. The state must apply enough pain to offset the amount of pleasure derived from drinking.¹²⁹

While the effectiveness of embracing the criminal justice system in tackling domestic violence remains contentious, I submit that it has holds potential in dissuading people from engaging in the crime. I believe that the absence of laws

¹²⁶ Hobbes (n 119)

¹²⁷ Boyd (n 118).

¹²⁸ Clarke R V & Cornish D B, ‘Modeling offenders’ decisions: A framework for research and policy’ (1985) 6 In M. Tonry & N. Morris (Eds) *Crime and justice: An annual review of research* (Chicago:University of Chicago Press 147); Criminal Justice Research, ‘Criminology Theories’ Criminal Justice <<http://criminal-justice.iresearchnet.com/criminology/theories/rational-choice-theory/>> accessed 31 July 2018.

¹²⁹ Andenaes J, *Punishment and deterrence* (1974) (Ann Arbor, University of Michigan Press); Criminal Justice Research, ‘Criminology Theories’ Criminal Justice <<http://criminal-justice.iresearchnet.com/criminology/theories/rational-choice-theory/>> accessed 31 July 2018

against domestic violence in any jurisdiction sends a wrong signal regarding its criminal nature (that it is not a crime).

The Rational Choice Theory (RCT) ‘presumes that criminal behaviour, like legal behaviour, is not determined by biological, psychological, or environmental factors acting on the person, compelling him or her to commit crimes.’¹³⁰ Rather, RCT argues that:

People voluntarily, wilfully choose to commit criminal acts such as burglary, car theft, and assault just like they wilfully choose to do other things, such as work in a grocery store, go to college, or use recreational drugs. In this theory, then, criminal acts are the product of choice, which means that people make decisions about whether to commit crimes.¹³¹

RCT believes that crimes are committed because people make conscious decision to commit crimes.¹³² In addition, RCT posits that there are costs and benefits associated with criminal activity. Put simply, there are costs and benefits for committing a crime as well as costs and benefits for not committing a crime. Thus, before people decide to commit a crime, they consider the related costs and benefits of committing the crime. Similarly, since there are costs and benefits for not committing a crime, people also consider them before deciding not to get involved in a criminal activity. The decision whether to commit or not to commit a crime is entirely up to the person involved, hence it is subjective. However, there are factors that may influence the person to decide whether to commit a crime or not. The value system of people depends on so many factors, including family, environmental, religious and socio-cultural orientation.¹³³ Hence, the effect conviction and incarceration have on individuals may depend on their desire in life. Domestic violence conviction is a grave issue that can affect and change

¹³⁰ Kubrin C E, Stucky T D, & Krohn M D, *Researching theories of crime and deviance* (New York, University Press 2009); Criminal Justice Research, ‘Criminology Theories’ Criminal Justice <<http://criminal-justice.iresearchnet.com/criminology/theories/rational-choice-theory/>> accessed 31 July 2018.

¹³¹ McCarthy B, ‘New economics of sociological criminology’ (2002) 28 *Annual Review of Sociology* 417.

¹³² Nagin D S, ‘Moving choice to center stage in criminological research and theory’ (2007) 45 *Criminology* 259.

¹³³ Sunniva Heggertveit-Aoudia, ‘Culture, Values and the Impact at Work’ (2017) *Diversity Journal* <<http://www.diversityjournal.com/9823-culture-values-and-the-impact-at-work/>> accessed 25 June 2017.

someone's life forever. It can affect the ability of the convict to compete for public service jobs, to be considered for admission in certain professions, to access a loan, child custody consideration, renting and leasing. It may also lead to bankruptcy as well as negatively affect the public record of perpetrators.¹³⁴ These considerations may likely have deterrent effects on classes of people desirous of maintaining their reputation and career prospects.

2.2 (c) Civil Remedies

The impact of civil remedies in the form of protection and restraining orders is vital to the overall evaluation of the efficacy of domestic violence legislation and enforcement in deterring offenders. This area of research has also been the focus of several studies since the early 70s when governments started embracing legislation against spousal abuse.¹³⁵ Domestic violence victims usually avail of the civil remedies of protection and barring orders in its various forms to safeguard themselves from further violence pending the outcome of any other action they may wish to take. Hence, they are the first considerations for victims and more popular than criminal sanctions, which victims usually resort to in extreme violent cases. Studies in this area have also produced mixed results regarding the efficacy of civil remedies of protection and restraining orders in domestic violence recidivism. The UK Home Office in conjunction with the London Metropolitan University & Middlesex University carried out a pilot programme to evaluate 'The impact of [Domestic Violence Protection Orders] DVPO on re-victimisation was examined by comparing differences in the numbers of pre-and post-domestic violence incidents between DVPO cases and matched similar cases where DVPOs were not used'.¹³⁶ They found that DVPO was effective in reducing domestic violence and abuse. However, they noted that 'We cannot conclusively rule out the

¹³⁴ Gerry Hold, 'England riots: What is the impact of a criminal record?' BBC News (17 August 2011); Family and Friends Connection, 'After Effects of a Domestic Violence Conviction' (13 May 2012) <<http://www.famfc.org/domestic-violence-awareness/after-effects-of-a-domestic-violence-conviction-1>> accessed 25 June 2017.

¹³⁵ Alesha Durfee, 'Victim Narratives, Legal Representation, and Domestic Violence Civil Protection Orders' (2009) 4 (1) 7.

¹³⁶ Liz Kelly *et al.*, 'Evaluation of the Pilot of Domestic Violence Protection Orders' (2013) (Home Office Research Report 76) 6.

possibility that factors other than DVPOs (that we were unable to statistically control) may be responsible for these findings.¹³⁷

Following the findings of this pilot study, the researchers recommended a wider roll-out of the domestic violence protection orders in the UK.¹³⁸ This finding is consistent with earlier results of similar studies which found ‘that 40% to 50% of women who filed protective orders reported no further physical abuse’.¹³⁹ Similarly, Chaudhuri and Daly in their study interviewed victims two months after filing protective orders and found that 60% reported no further abuse.¹⁴⁰ Also, Grau *et al.*, found 76% of domestic violence victims reported no further abuse four months after filing a protection order.¹⁴¹ Holden examined the risk factors associated with re-abuse and found a decrease of 66% in police contact when comparing results of physical contact in 2 years before the protection order compared to the two years post the protection order.¹⁴²

Holden assessed risk factors that may influence the propensity to re-abuse post protection order. He identified three factors: socio-economic, intervention and family characteristics. Further, he asserts that economic dependency is one of the reasons women are reluctant to leave their abusive partners which makes them susceptible to abuse.¹⁴³ Likewise, men on the low socio-economic ladder are less likely to be deterred by restraining orders as they do not have much to lose and reputation to protect.¹⁴⁴ Conversely, men on a high socio-economic ladder are more likely to be deterred by restraining orders for fear of putting their career at

¹³⁷ *ibid.*

¹³⁸ *ibid.*

¹³⁹ A Harrell, and B Smith, ‘Effects of restraining orders on domestic violence victims’ (1996) in E Buzawa and C Buzawa (eds) *Do Arrests and Restraining Orders Work?* (CA, Sage, Thousand Oaks) 214.

¹⁴⁰ M Chaudhuri and K Daly, ‘Do restraining orders help? Battered women's experience with male violence and legal process’ (1992) in Buzawa E and Buzawa C (eds) *Domestic Violence: The Criminal Justice Response* (CA, Sage, Thousand Oaks) 227.

¹⁴¹ J Grau, J Pagan and S Wexler, ‘Restraining orders for battered women: Issues of access and efficacy’ (1985) in Schweber C and Feinman C (eds) *Criminal Justice Politics and Women: The Aftermath of Legally Mandated Change* (New York, Haworth Press) 13.

¹⁴² George Holden, ‘Protective orders and domestic violence: Risk factors for re-abuse’ (1999) 14 (2) *Journal of Family Violence* 205.

¹⁴³ *ibid.*

¹⁴⁴ *ibid.*

risk.¹⁴⁵ Furthermore, offenders that have been previously arrested may be less prone to re-abuse to avoid the risk of re-arrest. In the case of family characterises, Holden states that:

The more invested a man is in his family, the less likely he may be to continue to abuse his partner if he feels that doing so may negatively impact their relationship. What these findings indicate is that arrest may be most effective for men who feel more investment in their families, and thus face a greater sense of loss than men who feel less investment.¹⁴⁶

The effectiveness of protection orders in its various forms, barring, emergency barring, safety, and interim barring orders were captured by Holden in the following words ‘Despite the common perception that protection orders are ineffective, this study provides new evidence that there is indeed merit to this legal tool for combating domestic violence’.¹⁴⁷ I believe that protection orders serve as a crucial “safety tool” especially for migrant women from countries with poor human rights record regarding discriminatory practices against women. In countries like Nigeria, protection orders are either not available, or there is lack of awareness of its existence coupled with poor enforcement of laws. In such situations, domestic violence victims, mostly women, are left at the mercy of their abusive partners and continue to suffer in silence. Migrant women in countries that have legal mechanisms for their protection against domestic violence, may initially be reluctant to avail of the law in safeguarding themselves for so many reasons. These reasons will include but not limited to their dependency on their partner for the renewal of their immigration residency permit, financial dependency, fear of being labelled as “Westernised” and ostracised in their community, fear of the effect it would have on their partner, shame factor of washing their dirty linen in public, cultural and religious belief of preserving their marriage at all cost, and fear of losing their partner to another woman, among others.

Also, the perceptions and attitudes of migrants regarding domestic violence plays a vital role in their willingness to avail of legal mechanisms to safeguard

¹⁴⁵ *ibid.*

¹⁴⁶ *ibid.*

¹⁴⁷ *ibid.*

themselves from abuse. The perception immigrants hold of domestic violence before emigrating from their country of origin determines, to a considerable extent, how they approach domestic violence issues. After living in their new country of residence for some time, they may begin to realise that domestic violence is not tolerated and there are laws to safeguard victims as well as sanction offenders. This awareness may start to impact on their perceptions and may change their view about domestic violence. Overtime, their attitude may start to change concerning their approach to domestic violence. In the next section, I will discuss the impact of legal regulation and enforcement in transforming peoples' perceptions and attitudes toward domestic violence.

Section Three

2.3 Perceptions and Attitudes toward domestic violence: The Implications

Studies appear to suggest a correlation between high prevalence of domestic violence in a country and majority of the population's perception of it as being justified under certain circumstances.¹⁴⁸ It means that how people perceive domestic violence plays a significant role in their understanding and attitudes toward it. The prevalence rate of domestic violence in Nigeria has been described as reaching an epidemic level.¹⁴⁹ Available research reveals a high percentage of women acknowledged being subjected to at least one form of domestic violence.¹⁵⁰ In 2007, Obi and Ozumba carried out a cross-sectional survey of 600 patients in two tertiary health institutions in the Southeast of Nigeria.¹⁵¹ The study aimed to determine the factors associated with domestic violence. According to the result, 'More than two-thirds (70%) of respondents reported abuse in their family, with

¹⁴⁸ Oyediran Kolawole Azeez and Uche C Isiugo-Abanihe, 'Perceptions of Nigerian Women on Domestic Violence: Evidence from 2003 Nigeria Demographic and Health Survey' (2005) 9 (2) *African Journal of Reproductive Health* 38; Atul Pratap Singh, 'Domestic Violence: Perception of Women Living in Delhi' (2009) 5 (1-2) *Indian Journal of Developmental Research and Social Action*.

¹⁴⁹ Regina O Arisi and Patrick Oromareghake, 'Cultural Violence and the Nigerian Woman' (2011) 5 (4) *African Research Review* 369.

¹⁵⁰ *ibid.*

¹⁵¹ S N Obi and B C Ozumba, 'Factors associated with domestic violence in south-east Nigeria' (2007) 27 (1) *J Obstet Gynaecol* 75.

92% (n=385) of the victims being female partners and the remaining 8% (n=35) male'.¹⁵² This finding is consistent with the results of numerous other studies carried out to determine the prevalence of domestic violence in Nigeria.¹⁵³

In recognition of the crucial role changing peoples' perception plays in combating domestic violence and the lack of published works on how people perceive domestic violence in Nigeria, Oyediran and Isiugo-Abanihe carried out a study to determine the perception of wife beating in the country.¹⁵⁴ They derived data for the study from the 2003 Nigeria Demographic and Health Survey (NDHS). Applying both descriptive and analytical methods to 'assess the net effects of socio-demographic factors on women's perceptions of domestic violence'.¹⁵⁵ The result reveals that 62.4% of the 9, 810 women interviewed agreed that a husband is justified in beating his wife.¹⁵⁶ Most of the women they interviewed, perceived wife beating as necessary under the following conditions:

One half of the respondents agreed that a husband is correct in beating his wife if she goes out without telling him, and about half (48.5%) agreed that she should be beaten if she neglects the children. However, smaller percentages supported wife beating if a woman argues with her husband (42.9%) or refuses to have sex with him (36.7%). Three out of 10 women felt that a husband is right in beating his wife if she burns the food.¹⁵⁷

A study carried out by Odimegwu among Tiv People in Benue State, Nigeria reveals a similar result. 40% of respondents to the survey (648 women) agreed to the statement that it is often necessary for a husband to beat the wife'.¹⁵⁸ The attitude of the community to the issue of domestic violence can be discerned from the excerpts of the interview as follows:

¹⁵² *ibid.*

¹⁵³ *ibid.*

¹⁵⁴ Vasundhara (n 110).

¹⁵⁵ *ibid.*

¹⁵⁶ *ibid.*

¹⁵⁷ *ibid.*

¹⁵⁸ Clifford O Odimegwu, 'Couple formation and domestic violence among the Tiv of Benue State, Nigeria' (Paper presented at the International Colloquium Gender, Population and Development in Africa organised by UAPS, INED, ENSEA, IFORD, Abidjan 16-21 July 2001).

From the women:

The beating of stubborn wives is normal and still commonour men will never stop beating us because that is a traditional way of disciplining and correcting us.

... if you are not yet beating by your husband then you do not know the joy of marriage, and that means you are not yet married ...

From the men:

... you mean you want a Tiv man not to beat his wife. It is not possible. As for me, I will continue to beat my wife anytime she misbehaves...¹⁵⁹

Though there are virtually no thematic empirical studies to show the correlation between perception of domestic violence and its prevalence, and the effect of changing peoples' perception will have in combating it. However, the high rate of prevalence of domestic violence in countries where most of the populace perceive acts of domestic violence as justified under certain circumstances *prima facie* shows a strong correlation.

India is another example of a country where the prevalence of domestic violence is disproportionately high, and most of the population perceive domestic violence as justified under certain circumstances. A summary of studies showing the prevalence rate of domestic violence in India is as follows:

A nationwide survey conducted by ICRW (2000) reveals 52 percent of women suffer at least once incident of physical or psychological violence in their life time. In 2005, a UN Population Fund Report found that 70 per cent of married women in India between ages 15 and 49 were victims of beating, rape, or forced sex. Another large study in India found that 43.5 per cent of women reported that they were psychologically abused by their partners, and 40.3 per cent reported that they were physically abused.¹⁶⁰

¹⁵⁹ *ibid.*

¹⁶⁰ Atul Pratap Singh, 'Domestic Violence in India: A Study of Prevalence, Nature and Impact' in A K Singh, S P Singh and S K Biswas, *Gender Violence in India: Perspective, Issues and Way Forward* (eds) (Delhi, Bal Vikas Prakashan Pvt Ltd 2013).

A study of women's perception of domestic violence in India carried out by Singh in 2009 shows that 64% of 25 married women who participated in the study justified wife beating and 60% justified verbal abuse. The study also examined their perception on seeking help. It showed that their perception of domestic violence impacts on their willingness to ask for help as 'Majority of Indian women are part of [the] existing formal and informal system which is governed and directed by set gender role ideologies and societal norms. This clearly impact on women help seeking behaviour'.¹⁶¹ Similarly, the study reveals that neighbours do not intervene or assist the victims as they perceive domestic violence as an 'internal family issue and none of their business, thereby tacitly condoning the phenomenon'.¹⁶²

Arguably, the perception of domestic violence affects the victims in several ways – in acquiescing to abuse meted to them on grounds of societal norms internalised in submission to cultural, traditional or religious beliefs and practices. Also, it dissuades victims from seeking help in situations where they are being subjected to abuse. Similarly, it affects the perpetrators as it beclouds their ability to understand the gravity and criminality of their actions. Therefore, as Oyediran and Isiugo-Abanihe assert, 'changing people's perception is a major step toward behavioural change, ... This is a prelude to any attempt at effecting a serious change in societal attitude' ... [toward domestic violence].¹⁶³

2.4 Conclusion

This chapter laid the foundation on which to hinge the arguments, appraisals, and discussions on the preceding chapters. It thematically illustrated the meaning, forms and impact of domestic violence, as well as its history. The exploration of domestic violence definition highlights its glaring omission in legislative instruments prohibiting the offence in Ireland. Furthermore, the consequences of

¹⁶¹ Atul Pratap Singh, 'Domestic Violence: Perception of Women Living in Delhi' (2009) 5 (1-2) *Indian Journal of Developmental Research and Social Action*.

¹⁶² *ibid.*

¹⁶³ Vasundhara (n 110).

this omission underscore the need for its inclusion in future amendment of the domestic violence legislation in the country.

In the next chapter, I will discuss the research methodology adopted in this study and a detailed description of the processes involved in the data collection, analysis and presentation of research findings.

Chapter 3

Methodology and Empirical Fieldwork

This chapter contains two sections:

In section one I will discuss the research design which includes the investigative method employed in carrying out the study and the method used in data collection and analysis.

Section two has two sub-sections. In the first sub-section, I will examine the process and materials used in the data collection and analysis. In the second sub-section, I will present the findings of the research without reference to existing literature.

Section One

‘If we knew what it was we were doing, it would not be called research, would it?’

– Albert Einstein¹

3.0 Introduction

In this chapter, I will outline the sources of materials and data used for this study. Then, I will proceed to describe the research design and the method employed to obtain data for the study. I will also give reasons for the choice of the data collection method used in this study. Furthermore, I will explain the strengths and limitations of the research approach and data collection method used. This data that I collected was obtained from a group of people that I consider to be vulnerable. As a consequence, the question of ethical consideration in carrying out research had to be addressed. In that respect, I will discuss ethical considerations in Socio-legal research that use a vulnerable group as research participants. Lastly, I will present the findings of the research which is based on the analysis of the data without reference to existing research.

3.1 Research Design

This is a qualitative socio-legal study, which used a phenomenological research method to examine the effectiveness of law in transforming perceptions and attitudes toward domestic violence. The qualitative research method is commonly used in empirical socio-legal research.² Denzin and Lincoln described qualitative research as a ‘field of inquiry in its own right. It cuts across disciplines, fields and subject matters’.³ Unlike quantitative method, the ‘qualitative approach emphasises the qualities of entities, processes and meanings that are not

¹ Richard Stedman and Beckley M Thomas, ‘If we knew what it was we were doing, it would not be called research, would it?’ (2007) 20 (10) *Society & Natural Resources* 939.

² Reza Banakar and Max Travers, *Theory and Method in Socio-Legal Research* (Hart Publishing 2005).

³ Norman K Denzin and Yvonna S Lincoln, *HandBook of Qualitative Research* (SAGE Publications 2000) 1 - 30.

experimentally examined or measured regarding quantity, amount, intensity or frequency'.⁴ In qualitative research, quality is central, 'which refers to essence and ambience of a thing – what, how, when and where of it'.⁵ Thus, 'qualitative research refers to the meanings, concepts, definitions, characteristics, metaphors, symbols and description of things'.⁶ Alan contends that 'the most fundamental characteristic of qualitative research is its express commitment to viewing events, actions, norms, values... from the perspective of the people who are being studied'.⁷

There are many methods of qualitative enquiry and each method is uniquely appropriate for seeking answers to specific types of research questions.⁸ Researchers have endeavoured to group these methods of qualitative enquiry according to their mode of application and the type of information sought.⁹ The most commonly used qualitative research methods include: Ethnographic, Phenomenology, Grounded Theory, Basic Interpretative Qualitative Study, Narrative Analysis, Critical Qualitative Research, Case Study, and Postmodern Research.¹⁰ After evaluating the appropriateness of other qualitative research methods for this study, I chose the phenomenological method. The phenomenological method is appropriate because the research participants were required to talk about their perceptions, attitudes and awareness of domestic violence in Nigeria and Ireland. In addition, the participants were given the opportunity to express their thoughts about their lived experiences, especially the influence of culture and religion in their lives in relation to domestic violence. Furthermore, they were required to express their views on the involvement of public authorities in addressing domestic violence and human rights in both jurisdictions.

⁴ *ibid.*

⁵ *ibid.*

⁶ *ibid.*

⁷ Bryman Alan, *Quantity and Quality in Social Research* (Routledge1998) 45.

⁸ *ibid.*

⁹ *ibid.*

¹⁰ Patton Q Patton, *Qualitative Research & Evaluation Methods* (3edn Sage Publications 2002) 5 - 18.

3.1.1 Phenomenology

According to Smith *et al.*, ‘Phenomenology is a philosophical approach to the study of experience’.¹¹ As Bound explained, ‘the phenomenological method interprets an experience or fact by listening to the different stories of the participants. The method examines the phenomena through the subjective eyes of the participants’.¹² In phenomenological enquiry, ‘the researcher investigates the effects and perceptions of either a shared single incident or shared condition, through the narration of the participants of that experience or condition’.¹³ Sharon comments on the versatile use of phenomenological enquiry, noting that it can be applied to the study of myriad of experiences and to examine the different perspectives of participants’ experiences of an incident or a condition that occurred over a lengthy period of time such as in domestic violence, or a single point in time, such as the moment Ireland won the Eurovision contest for the first time in 1970.¹⁴

The use of phenomenological enquiry is not limited to a linear time variety like the examples above, it can take the form of a shared condition such as the participants’ experiences of converting from Christianity to Islam or converting from Anglicanism to Catholicism.¹⁵ Regardless of experience, good phenomenological research must first identify the event or shared experience clearly.¹⁶ Phenomenological enquiry like other qualitative methods, is not devoid of challenges, limitations, and concerns. Notable concerns over the use of phenomenological enquiry are researcher’s bias and sample size.¹⁷

¹¹ Smith A Jonathan, Paul Flowers and Michael Larkin, *Interpretative Phenomenological Analysis: Theory, Method and Research* (Sage Publications 2009) 11.

¹² Mark Bound, ‘Qualitative Method of Research: Phenomenological’ in Amedeo Giorgi, *The Descriptive Phenomenological Method in Psychology: A Modified Husserlian Approach* (Duquesne University Press 2009).

¹³ *ibid.*

¹⁴ Sharon B Merriam, *Qualitative Research in Practice* (Jossey-Bass 2002).

¹⁵ Patton (n 10).

¹⁶ Smith A Jonathan *et al.* (n 11).

¹⁷ *ibid.*

3.1.2 (a) Bias

Bound contends that ‘a researcher’s bias regarding the phenomenon being studied could lead to a misinterpretation of the data and erroneous conclusions, regardless of the detail and thoroughness of the research’.¹⁸ Irrespective of the research method used, the bias of the researcher can compromise the result of the study. Thus, Bound suggests, ‘it is, therefore, a sound practice to identify, ... from a researcher’s point of view, areas that could create bias and thereby nullify the research conclusions’.¹⁹ Similarly, Creswell opines that ‘as difficult as it may be, researchers must attempt to limit their personal bias and approach the phenomenon with an open mind’.²⁰ According to Smith and Noble, ‘...bias exists in all research, across research designs and is difficult to eliminate; [it] can occur at each stage of the research process; [it] impacts on the validity and reliability of study findings’.²¹ Smith and Noble identified some research areas where bias can be an issue and these include: design bias, participant selection bias, data collection bias, and analysis bias.²²

Bearing these challenges in mind, I tried to minimise bias in all the stages of this study. To start with, I clearly articulated the rationale for the study by selecting an appropriate research design, which as Smith and Noble suggest ‘can reduce common pitfalls in relation to bias’.²³ The Maynooth University Ethics Committee thoroughly evaluated the research design and methodological approach and found them suitable to address the problem being investigated.²⁴ Secondly, the participants were selected through a process that was designed to eliminate bias as described in section 3.1.4 of this chapter. Thirdly, the interview questionnaire was vetted by the ethics committee to ensure its appropriateness. Smith and Noble remark that during the analysis stage, ‘the researcher may naturally look for data

¹⁸ Mark Bound (n 12).

¹⁹ *ibid.*

²⁰ J Creswell, *Qualitative Inquiry and Research Design: Choosing Among Five Approaches* (2nd edn Sage Publication Inc 2007).

²¹ Joanna Smith and Noble Helen, ‘Bias in Research’ (2014) 17 (4) *Evid Based Nur* 100.

²² *ibid.*

²³ *ibid.*

²⁴ *ibid.*

that confirm their hypotheses or confirm personal experience, overlooking data inconsistent with personal beliefs'.²⁵ I avoided this pitfall as all the opinions of the participants as expressed and included in the research data were used during the analysis and presentation stages. The process of member checks (participant or respondent validation) was employed by sending the transcribed data, results, and analysis of the findings to the participants for their confirmation that they represent their views, feelings and experiences. The participants gave useful feedback and confirmed the accuracy and completeness of the findings; hence, attested to their validity and credibility. Lincoln and Guba, as well as other researchers, contend that member check 'is the most crucial technique for establishing credibility'.²⁶

3.1.2 (b) Sample Size

Another concern raised over the use of phenomenological enquiry is the number of participants, which is mostly in a single digit.²⁷ Critics have questioned how a generalisation of the study group can be made based on such a small sample of participants.²⁸ Lester remarks that 'it can be hard to get over to people that a single-figure sample is valid'.²⁹ However, he notes that 'If the sample size is increased a common misunderstanding is that the results should be statistically reliable'.³⁰ Continuing, he concludes that:

Phenomenological approaches are good at surfacing deep issues and making voices heard. This is not always comfortable for clients or funders, particularly when the research exposes taken-for-granted assumptions or challenges a comfortable status quo. On the other hand, many organisations value the insights which a phenomenological approach can bring in terms of cutting through taken-for-granted assumptions, prompting action or challenging complacency.³¹

²⁵ *ibid.*

²⁶ Y S Lincoln and E G Guba, *Naturalistic Inquiry* (CA, Sage Publications 1985); Melissa Harper and Patricia Cole, 'Member Checking: Can Benefits Be Gained Similar to Group Therapy?' (2012) 17 (2) *The Qualitative Report* 1; Creswell J W, *Qualitative inquiry and research design: Choosing among five traditions* (2nd, Sage Publications 2007).

²⁷ *ibid.*

²⁸ Stan Lester, 'An introduction to phenomenological research' (1999) Taunton UK, Stan Lester Developments cited in Alex Ashton, 'Drawing on the "Lived Experience" —An Investigation of Perception, Ideation and Praxis' (2014) *Art and Design Review* 43.

²⁹ *ibid.*

³⁰ *ibid.*

³¹ *ibid.*

The determination of a sample size that is appropriate in a qualitative research has been a contentious issue among qualitative researchers with no generally agreed number. Patton states that ‘there are no rules for sample size in qualitative enquiry’.³² However, what seems to be generally accepted is that samples in qualitative studies are much smaller than those used in quantitative research.³³ Ritchie *et al.*, provide the reason for this assertion:

There is a point of diminishing returns to a qualitative sample—as the study goes on, more data do not necessarily lead to more information. This is because one occurrence of a piece of data, or a code, is all that is necessary to ensure that it becomes part of the analysis framework. Frequencies are rarely important in qualitative research, as one occurrence of the data is potentially as useful as many in understanding the process behind a topic. This is because qualitative research is concerned with meaning and not making generalised hypothesis statements.³⁴

Bound contends that ‘while there are other factors that affect sample size in qualitative studies, researchers generally use saturation as a guiding principle during data collection’.³⁵ The concept of “saturation” refers to a situation ‘when the collection of new data does not shed any further light on the issue under investigation’.³⁶ Patton notes that ‘sample size depends on what you want to know, the purpose of the enquiry, what’s at stake, what will be useful, what will have credibility, and what can be done with the available time and resources’.³⁷ Furthermore, Patton argues that ‘the validity of the data we collect and the understanding we gain will have more to do with our data collection skills than the sample size’.³⁸ Creswell recommends using between five to twenty-five sample

³² Patton (n 10).

³³ Marson Mark, ‘Sample Size and Saturation in PhD Studies Using Qualitative Interviews’ (2010) 11(3) *Forum Qualitative Sozialforschung / Forum: Qualitative Social Research*, 11(3) Art 8 <<http://nbn-resolving.de/urn:nbn:de:0114-fqs100387>> accessed 20 July 2017.

³⁴ Ritchie Jane, Lewis Jane, and Elam Gillian, ‘Designing and selecting samples’ In Jane Ritchie & Jane Lewis (eds.), *Qualitative research practice. A guide for social science students and researchers* (Thousand Oaks, CA: Sage 2003).

³⁵ Mark Bound (n 12).

³⁶ *ibid.*

³⁷ Patton (n 10).

³⁸ *ibid.*

sizes in phenomenological studies, while Morse recommends at least six.³⁹

Jonathan and Mike assert that:

Interpretative phenomenological analysis (IPA) studies are conducted on a small sample size. The detailed case-by-case analysis of individual transcripts takes a long time, and the aim of the study is to say something in detail about the perceptions and understandings of this particular group rather than prematurely make more general claims.⁴⁰

Similarly, Bound notes that ‘qualitative research is very labour intensive, analysing a large sample can be time-consuming and often simply impracticable’.⁴¹ Wolf contends that one practical concern for phenomenological researchers is knowing how many interviews to complete, especially for first-time phenomenological researchers.⁴² He opines that if there is an ideal number, knowing when to stop would have been easy, but since there is no ideal number, it creates a problematic situation for phenomenological researchers.⁴³ He advises that, as a guide, ‘one should be able to recognise when the description is over, and the reduction is about to begin, and not to make the mistake of looking for an officially sanctioned number of interviews’.⁴⁴ In an interpretative phenomenological analysis studies, the use of a small participant number, as in this study, is common. For instance, McCosker *et al.*, carried out a phenomenological study of women’s experience of domestic violence during the childbearing years with six participants.⁴⁵ Similarly, Oliveira *et al.*, used a phenomenological approach with ten participants in a study to understand the experiences of women victims of domestic violence.⁴⁶ Cooper *et*

³⁹ Creswell J, *Qualitative inquiry and research design: Choosing among five traditions* (Thousand Oaks CA Sage 1998); Morse M Janice, ‘Designing funded qualitative research’ in Norman K Denzin and Yvonna S Lincoln (eds.), *Handbook of qualitative research* (2nd edn, Thousand Oaks CA Sage 1994).

⁴⁰ Jonathan A Smith and Mike Osborn, ‘Interpretative Phenomenological Analysis’ in Jonathan Smith (ed), *Qualitative Psychology: A Practical Guide to Research Methods* (Sage Publications Ltd 2008) 53 (Emphasis added).

⁴¹ Mark Bound (n 12).

⁴² Richard F Wolf, ‘Self-Reflection: An Essential Quality for Phenomenological Researchers’ in Sharan B Merriam and Associates, *Qualitative Research in Practice: Examples for Discussion and Analysis* (Jossey-Bass 2002).

⁴³ *ibid.*

⁴⁴ *ibid.*

⁴⁵ McCosker Heather, Alan Barnard and Rod Gerber, ‘Phenomenographic Study of Women’s Experiences of Domestic Violence During the Childbearing Years’ (2004) 9 (1) A Scholarly journal of the American Nurses Association <<http://www.nursingworld.org>> accessed 15 July 2017.

⁴⁶ Oliveira, Patricia Peres de *et al.*, ‘Women victims of domestic violence: a phenomenological approach’ (2015) 24 (1) *Texto contexto-enferm* 196.

al., successfully used a phenomenological method with six participants to explore students' experiences of learning qualitative research in a variety of academic fields.⁴⁷

3.1.3 The Study Group

The study group consists of Nigerian immigrants in Ireland. Existing evidence suggests that Nigerians have maintained a presence in Ireland dating back to the early nineteenth century, if not earlier.⁴⁸ The historical link between the two nations hinges on the Irish missionaries who, according to Ejorh, 'left a "historical legacy" overtime in the region and this Irish Diaspora was part of the new European consciousness that introduced drastic changes to the traditional sensibility of communities where it manifested its presence'.⁴⁹ Most of the early Nigerian migrants to Ireland were students who came to the country for further studies. One of the forerunners of this class of migrants was the late Margaret Ekpo who was educated at Rathmines School of Domestic Economics in Dublin in 1948, where she obtained a Diploma in Domestic Economics.⁵⁰ Besides students, members of the diplomatic corps and professionals on work transfer, an influx of other classes of Nigerians to Ireland began in the early 1990s.⁵¹ The economic crisis, which started in Nigeria in the '80s, and which remains unabated mainly due to grand corruption, ethnoreligious and political hostilities resulted in the continuous emigration of Nigerians, both professionals and non-professionals, to other countries in search of a better life.⁵² Conversely, the economic boom in Ireland "Celtic Tiger" in the 1990s and a favourable immigration policy were some of the reasons that attracted a massive influx of immigrants into Ireland, including

⁴⁷ Cooper Robin, Anne Fleischer, and Fatima A Cotton, 'Building Connections: An Interpretative Phenomenological Analysis of Qualitative Research Students' Learning Experiences' (2012) 17 (17) *The Qualitative Report* 1 <<http://nsuworks.nova.edu/tqr/vol17/iss17/1>> accessed 20 July 2017.

⁴⁸ Theophilus Ejorh, 'Immigration and Citizenship: African Immigrants in Ireland' cited in Theophilus Ejorh, 'Modern African Migrations to Ireland: Patterns and Contexts. (2012) 38 (4) *Journal of Ethnic and Migration Studies* 577.

⁴⁹ Theophilus Ejorh, 'African immigrant mobilisation in Ireland: organisations as agents of social and policy change' (2011) 9 (4) *Journal African Identities* 465.

⁵⁰ Attoe Stella and Jaja S O, *Margaret Ekpo: lioness in Nigerian politics* (ALF Publications 1993).

⁵¹ Komolafe Julius, 'Nigerian migration to Ireland: movements, motivations and experiences' (2008) 41 (2) *Irish Geography* 225.

⁵² *ibid.*

Nigerians.⁵³ The population of Nigerians in Ireland grew steadily from early 2000 to its peak in 2011.⁵⁴ It witnessed a decrease in 2016 census supposedly due to the migration of Nigerians from Ireland to other countries and a reduction in the number taking up residence in the State.

Table 2: Population of Nigerians in Ireland 2002 - 2016

Census Year	Population
2002	9, 229
2006	16, 425
2011	17, 642
2016	16, 569

Source: Central Statistics Office (CSO)

Komolafe classified Nigerian migrations to Ireland into two categories – those that came to Ireland directly from Nigeria and those that emigrated to Ireland from other European countries.⁵⁵ Notwithstanding their motivation and migration patterns to Ireland, Nigerians have established themselves and integrated into the Irish society. They are active in Irish politics, social-cultural, sporting, religious, and economic activities in the country. In June 2007, Laois County Council made history by electing Cllr Rotimi Adebare as the country’s first black Mayor.⁵⁶ Rotimi Adebare is a Nigerian from Ogun State who migrated to Ireland in 2000 as an asylum seeker. Many Nigerians have established themselves in various professions in the country, including medical, accounting, engineering, legal, education, public service, business, news media, and religious professions.

⁵³ Theophilus Ejorh (n 48).

⁵⁴ Central Statistics Office Ireland (CSO), ‘Figure 5.6 Population of top 10 non-Irish nationalities usually resident in the State by size and census year’
 <http://www.cso.ie/en/media/csoie/releasespublications/documents/population/2017/Chapter_5_Diversity.pdf> The figure for 2016 was generated through the following link: EY020: Population Usually Resident and Present in the State 2011 to 2016 by Sex, Birthplace, Age Group and Census Year’
 <<http://www.cso.ie/px/pxeirestat/Statire/SelectVarVal/Define.asp?maintable=EY021&PLanguage=0>> accessed 26 July 2017.

⁵⁵ Komolafe (n 51).

⁵⁶ Ronan McGreevy, ‘Portlaoise elects Ireland's first black mayor’ *The Irish Times* (27 June 2007).

Besides professional engagements, Nigerians are highly engaged in religious and social-cultural activities. There are numerous Nigerian socio-cultural associations and Pentecostal Churches in Ireland as well as restaurants and African shops. These places present an ideal platform for the congregation of Nigerians for various activities. In addition, they present a good recruitment base for researchers who may be interested in any study involving Nigerians as participants.

3.1.4 Selection of Participants

Ten participants were selected for the study through a heterogeneous or maximum variation sampling technique. Heterogeneous or maximum variation sampling technique is one of the forms of purposive sampling methods used in a qualitative enquiry. I employed this method because I consider it the most appropriate method for selecting a representative sample of participants within the study group. Dudovskiy opines that in maximum variation sampling, the ‘... researcher relies on his or her own judgment when choosing members of population to participate in the study’.⁵⁷ Patton believes it is suitable for ‘identification and selection of information-rich cases for the most effective use of limited resources’.⁵⁸ One of the challenges of using purposive sampling technique is ‘the low level of reliability and high level of bias and the difficulty in generalising the research finding’.⁵⁹ As stated earlier in this chapter, efforts were made to minimise bias during all the stages of this research to ensure the reliability and validity of the findings. To qualify for selection, the participants had to meet the following criteria:

1. Must be a Nigerian immigrant and must have lived in Ireland for 5 years or more.
2. Must have been 18 years before he/she emigrated from Nigeria.
3. Must have spent 10 years out of the 18 years in Nigeria prior to emigrating from Nigeria.⁶⁰

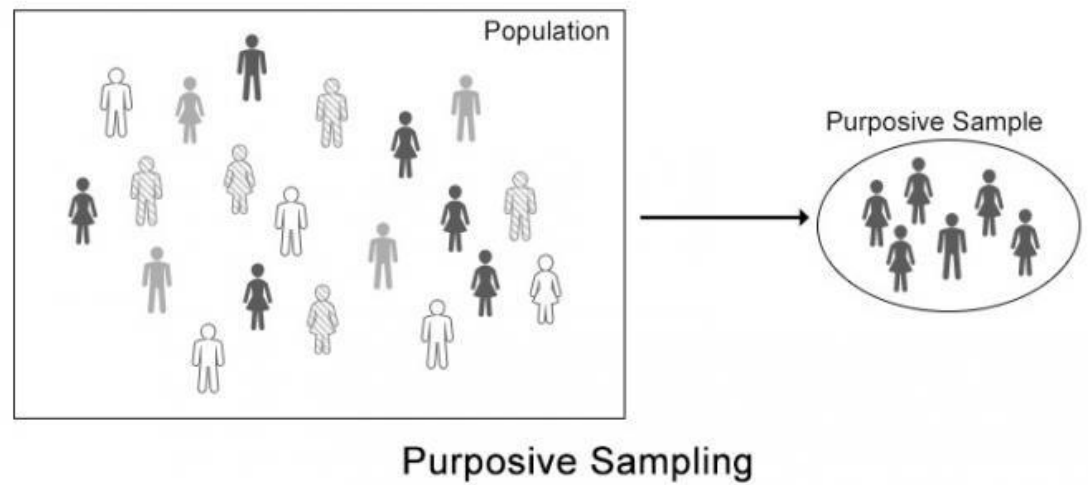
⁵⁷ John Dudovskiy, *The Ultimate Guide to Writing a Dissertation in Business Studies: A Step-by-Step Assistance* (research-methodology.net 2011).

⁵⁸ Patton (n 10); Palinkas A Lawrence *et al*, ‘Purposeful sampling for qualitative data collection and analysis in mixed method implementation research’ (2015) 42 (5) *Adm Policy Ment Health* 533.

⁵⁹ Dudovskiy (n 57).

⁶⁰ See Appendix B.

Figure 2: Purposive Sampling Technique



Source: Research-methodology.net

The reason for the choice of participants who have lived ten years or more in Nigeria before their departure and five years since their arrival in Ireland was to ensure they spent enough time in both jurisdictions. These periods of time would have enabled them to experience the interventionist approaches to tackling domestic violence in the two countries. Likewise, these periods of time would have afforded them the opportunity to be acquainted with the effects of the approaches and their relevance to domestic violence concerning the protection of their human rights and awareness of domestic violence as a social and human rights issues. Consequently, the participants' length of stay in both countries would have impacted on their perceptions and attitudes toward domestic violence.

The search for the research participants began with publishing ads in two widely read migrants' print and online media respectively. The ad was published in Africa World online newspaper (Africaworldnews.net) and Metro Éireann print newspaper.⁶¹ Metro Éireann, arguably, is the most widely read migrant newspaper in Ireland and very popular among Nigerians. It has been in existence for over 17 years. Likewise, Africa World online news is popular among Nigerians. Both

⁶¹ See Appendix F and G.

Metro Éireann and Africa World online are published by Nigerian immigrants. In addition, the search for participants was widely circulated on social media and several Nigerian socio-cultural and religious community associations in Ireland. The response was encouraging, as 75 people responded and indicated interest to participate. Out of the 75 people, 72 qualified to be selected based on the criteria above. 13 out of the 72 people that were qualified for selection are women and 49 are men. In selecting the 10 participants, consideration was given to marital status, gender and geographical area the person hails from in Nigeria. The purpose was to have participants from different regions (North, East and West) of the country as well as different marital status and gender. I selected the 10 participants to ensure a balanced representation based on these criteria. The original design was to have equal number of men and women. However, it was difficult because of challenges encountered in getting participants (men and women) from the Northern region of the country. Also, there were challenges in getting women that were selected as participants to take part in the interview.

The profile of the participants (Table 8) shows there were more men than women. The initial 5 women that I selected later declined to participate citing family and work-related issues for their inability to make out time for the interview. Some of the women, I guessed, declined to take part in the interview because they did not want the conversation to be recorded. Some may have changed their mind to participate after discussing it with their husband or partner, and he refused to permit them. Also, some may have feared the implication of their participation, especially if they disclose information regarding abuse that the researcher would have been obliged to report to the authority (see Appendix B: Participants' Information Sheet – Limit of Confidentiality 1 & 2).

Three potential participants (two woman and one man) from the North that met the selection criteria and were selected later declined before the scheduled interview date without giving any reason for withdrawing. Some potential participants made contact and agreed to volunteer on the condition that the interview will not be recorded. This was despite assurances of their anonymity in the entire process. A

woman expressed interest to participate after seeing the ad on Facebook, but later withdrew citing family issues as an excuse. Another woman was selected to participate, but due to family and other commitments, she was not able to make out time for the interview. She said it would be better to schedule the interview during school breaks/holidays when women are more likely to have time to participate and express their opinion on this important research topic that affects many migrant families in Ireland.

3.1.5 Profile of the Participants

There were ten participants made up of eight men and two women. All the participants have lived in Ireland for over ten years. Also, all the participants were twenty years of age or more before they emigrated from Nigeria. Two of the participants, a man and a woman, were separated while the rest were married. The participants were in the age bracket ranging from 35 to 60 years. Most were active within their various community groups and came from different regions of the country. The participants were employed in different professions in Ireland as well as in Nigeria before they emigrated from the country. They were among thousands of law-abiding Nigerians living in Ireland. Their social characteristics and experiences made them ideal participants for this research.

Table 3: Profile of the Research Participants

Participants	Gender	Marital Status	Age Bracket	Region
A	Female	Separated	40 – 50	West
B	Male	Married	45 – 55	West
C	Male	Married	45 – 55	East
D	Male	Separated	50 – 60	East
E	Male	Married	50 – 60	North
F	Male	Married	50 – 60	West
G	Female	Married	30 – 40	East
H	Male	Married	45 – 50	West
I	Male	Married	45 – 55	East
J	Male	Married	45 – 55	West

3.1.6 Ethical Considerations

The ethical clearance to conduct the research was given by Maynooth University's Research Ethics Committee.⁶² Arrangements were made with professional counsellors to assist the participants should they need assistance because of taking part in the interview. In addition, details of support services in each of the participant's locality was included in the information pack given to them. The participants were not remunerated and were furnished with necessary information according to the ethics committee's guidelines to enable them to give informed consent, including their right to withdraw from participating before, during or after the interview.⁶³ In addition, the participants were assured of the anonymity of their responses and identity for the purposes of this research and its publication.

⁶² See Appendix A.

⁶³ See Appendix B.

3.1.7 Data Collection

The data used in this study was collected through a semi-structured in-depth face-to-face interview technique. Before embarking on the main research interview, I conducted a pilot interview using fellow postgraduate colleagues as participants. The pilot interview presented an excellent opportunity to pre-test the interview questionnaires, get acquainted with the semi-structured interview method, identify potential issues that may arise during the actual interview, and ensured that the recording equipment was functioning properly as well as become familiar with how to use it. The pilot interview was valuable and helped to boost my confidence in conducting the actual interview. According to Teijlingen and Hundley, 'Pilot studies are a crucial element of a good study design. Conducting a pilot study does not guarantee success in the main study, but it does increase the likelihood of success'.⁶⁴

I was solely responsible for collecting the data for this research. A total of ten interviews were conducted at various locations across Ireland that were convenient for the participants. Only the participants and I were present during the interview. It allowed the participants to freely express themselves regarding their views on perceptions and attitudes toward domestic violence while they lived in Nigeria, and whether it had changed since taking up residence in Ireland. The participants voiced their opinions concerning the absence of a law against domestic violence throughout Nigeria. They also expressed their feelings and experiences of the domestic violence laws in Ireland and its impact on their knowledge and attitude toward domestic violence. They answered the questions calmly, and some were brief or hesitant in the discussion of issues surrounding, either their direct or indirect experience of domestic violence. The interviews lasted between 45 to 60 minutes and were recorded on a Dictaphone and played back to the interviewee for his/her affirmation. I communicated with the participants through telephone calls prior to the date we met for the interview. The use of semi-structured interview for

⁶⁴ Teijlingen Van and V Hundley, 'The importance of pilot studies' (2002) 16 (40) *Nursing Standard* 33 <<http://journals.rcni.com/doi/pdfplus/10.7748/ns2002.06.16.40.33.c3214>> accessed 25 July 2017.

data collection proved to be the most suitable method, as it allowed the participants the opportunity to express themselves freely. When compared to other data collection methods like a case study or focus group, they would have presented insurmountable challenges regarding cost, logistics - difficulty in assembling the participants and the likely unwillingness of the participants to freely express themselves amid other participants, especially given the sensitive nature of the topic (domestic violence).

As Gillham posits, 'face-to-face interview is preferable and appropriate where depth of meaning is important, and the research is primarily focused on gaining insight and understanding'.⁶⁵ Nigel asserts that 'semi-structured interview is consistent with participatory and emancipatory models' and listed the following as some of the reasons for its choice as a data collection method in qualitative research:

- It provides the opportunity to generate rich data.
- Language use by the participants was considered essential in gaining insight into their perceptions and values.
- Contextual and relational aspects were seen as significant to understanding others' perceptions.
- Data generated can be analysed in different ways.⁶⁶

⁶⁵ B Gillham, *The Research Interview* (London 2000) 9.

⁶⁶ Newton Nigel, 'the use of semi-structured interviews in qualitative research: strength and weaknesses' (PhD Thesis, University of Bristol 2010) 2.

Section Two

3.2 Data Analysis

The data analysis employed Interpretative Phenomenological Analysis (IPA) method. IPA is one of the brand names of descriptive – interpretive qualitative research analysis methods.⁶⁷ As Elliott and Timulak assert, ‘descriptive–interpretive qualitative research methods go by many ‘brand names’ in which various common elements are mixed and matched according to ... researchers’ predilections’.⁶⁸ Some of the current brand names in use are grounded theory, empirical phenomenology, hermeneutic-interpretive research, interpretative phenomenological analysis, and consensual qualitative research.⁶⁹ All these methods rely on linguistic rather than numerical data and employ meaning-based rather than statistical forms of data analysis.⁷⁰

The inductive qualitative research analysis approach was adopted over the deductive approach, as it ‘...involves analysing data with little or no predetermined theory, structure or framework and uses the actual data itself to derive the structure of analysis’.⁷¹ The inductive approach is comprehensive and time-consuming but allowed for the emergence of new phenomena as the interview progressed.⁷² According to Smith *et al.*, ‘IPA is a qualitative research approach committed to how people make sense of their major life experiences. IPA is phenomenological in that it is concerned with exploring experience in its own terms’.⁷³ They described IPA as:

...an interpretative endeavour and is therefore informed by hermeneutics, the theory of interpretation. IPA shares the view that human beings are sense-making creatures, and therefore the accounts which participants

⁶⁷ Patton (n 10).

⁶⁸ Robert Elliott and Ladislav Timulak, ‘Descriptive and interpretive approaches to qualitative research’ in Jeremy Miles and Paul Gilbert, *A Handbook of Research Methods for Clinical and Health Psychology* (Oxford University Press 2005) 147 – 160.

⁶⁹ *ibid.*

⁷⁰ *ibid.*

⁷¹ P Burnard *et al.*, ‘Analysing and presenting qualitative data’ (2008) 204 *British Dental Journal* 429.

⁷² *ibid.*

⁷³ Smith A Jonathan (n 11).

provide will reflect their attempt to make sense of their experience. IPA also recognises that access to experience is always dependent on what participants tell us about that experience, and that the researcher then needs to interpret that account from the participant in order to understand their experience.⁷⁴

The use of IPA as an analytical tool enabled the interpretation of the research data, which helped to determine the participants' experiences of living in two jurisdictions, Nigeria and Ireland. As mentioned in chapters one and four, only five out of thirty-six States and the Federal Capital Territory (FCT) Abuja have a specific law prohibiting domestic violence in Nigeria; consequently, there is no specific law prohibiting it throughout the country. Conversely, Ireland has laws that prohibit domestic violence throughout the country. In addition, the use of IPA as an analytical tool assisted in ascertaining how their experience living in these two jurisdictions has affected their perceptions and attitudes toward domestic violence and the protection of their human rights. I consider IPA to be the most suitable method of analysis to use in this study when compared to other methods because it allowed for a broader interpretation of data using themes and categories.

According to Smith *et al.*, there is no hard and fast rule in the sequence of qualitative data analysis.⁷⁵ The data analysis was done in four stages. Stage one commenced with selective transcribing of the recorded interview as expressed by the participants. The recordings were selectively transcribed because, according to Smith *et al.*, 'It is pointless to transcribe information which will not be analysed'.⁷⁶ This stage involved lots of reading and re-reading of the transcript and listening to the audio recording. It was a time-consuming process but helped to make the participants 'the central focus of the analysis',⁷⁷ as well as ensure the transcripts reflected the participants' lived experiences and feelings. Stage two involved line by line assessment of the data, identifying themes and generating codes. The familiarity of the data because of reading and re-reading in first stage helped to

⁷⁴ *ibid.*

⁷⁵ *ibid.*

⁷⁶ *ibid.*

⁷⁷ *ibid.*

identify important moments during the interview, where participants made notable comments, used quotations, laughed, paused, repeated words, and used metaphor to illustrate their opinions, feelings, and/or ideas. The manual open coding of the data happened at this stage after identifying these important moments and extracting themes and categories. The aim of open coding, according to Burnard *et al.*, ‘...is to offer a summary statement or word for each element that is discussed in the transcript’.⁷⁸ According to Anaedozie, ‘Open coding helps the researcher in breaking apart and separates the data analytically, leading to thematic conceptualisation’.⁷⁹ Also, Stage three involved the creation of conceptual comments and a move into a more interpretative stage of analysis. The data was de-contextualised at this stage to ‘bring into detailed focus the participants’ words and meanings’.⁸⁰ This resulted in the emergence of sub-themes and searching for connections and discrepancies in the emergent themes and categories to prepare for the findings and discussion of the study. The fourth and final stage was divided into two parts. Part one was the presentation of the research findings without reference to existing literature. Part two involved the discussion of the findings, which resulted in the work being placed in a wider context. At this stage, I engaged in a discussion of the findings with reference to existing literature. The research findings are presented in the next section, while the result and discussion of the research findings are presented in chapter eight.

3.2.1 Presentation of findings

The findings of the research derived from the analysis of the interview data transcripts will be presented in ten recurring themes and categories. These themes and categories emerged from the open coding of the data transcripts, which was part of the data analysis phase, as explained above. It allowed the building of collective recurring themes, as expressed by the interviewees, which represented their views based on their knowledge, experiences, and impact of domestic

⁷⁸ Burnard *et al.* (n 71).

⁷⁹ Anaedozie Florence, ‘A Critical Analysis of Grand Corruption with Reference to International Human Rights and International Criminal Law: The case of Nigeria’ (PhD Thesis, Dublin Institute of Technology 2017) 262.

⁸⁰ Smith A Jonathan (n 11).

violence in Nigeria and Ireland. The themes and categories present the in-depth feelings of the participants as they expressed at the time of the interview and member check process. The member check process, as earlier explained, involved presenting the results of the data transcript to the participants. They gave useful feedback and confirmed the accuracy and completeness of the findings, which reinforces validity and credibility. The themes and categories are:

- Theme 1. Knowledge and awareness of domestic violence.
- Theme 2. Cultural acceptability of domestic violence and regarding it as a private family matter.
- Theme 3. Perceptions and attitudes toward domestic violence.
- Theme 4. Consideration of domestic violence as an abuse of the victim's human rights.
- Theme 5. Reasons for change of perceptions and attitudes.
- Theme 6. Protection of the citizen's human rights and fundamental freedoms.
- Theme 7. Reporting of domestic violence to the authorities and speaking out about it.
- Theme 8. Views on having laws against domestic violence in all the states in Nigeria and the Federal Capital Territory (FCT).
- Theme 9. Occurrence of domestic violence within the immigrant communities in Ireland.
- Theme 10. Views on organising domestic violence seminars and conferences, especially for the immigrant communities.

Theme 1: Knowledge and awareness of domestic violence

All the interviewees acknowledged they had limited knowledge of domestic violence throughout the period they lived in Nigeria before relocating to Ireland. The question "Can you describe your knowledge of domestic violence in terms of acts that constitute it and its consequences during the period you lived in Nigeria and Ireland" elicited a convergence of responses. These responses portrayed either the participants' complete lack of knowledge of what constitutes domestic violence

or limited knowledge of only certain forms of it. For instance, participant C said, 'In fairness, when I lived in Nigeria, I did not have a good knowledge of domestic violence'. Similarly, participant H began his response to the question as follows: 'Back in Nigeria, I did not know anything about domestic violence'. Furthermore, their responses indicate that some of them witnessed incidences of domestic violence either in their family, neighbourhood or community, but were unaware of its consequences, as it was regarded as a normal thing that happens in a relationship. This was echoed by participant C who said, 'Basically, in Nigeria, domestic violence is quite rampant, but people see the act from a different point of view, it is not usually considered as an abuse'. Also, participant H contended that domestic violence '...was not regarded as an issue to be concerned about'. Participant C said living in Ireland has made him realise that some of the treatments meted to them as children by their parents were acts of domestic violence and that he witnessed his father beat his mother on several occasions without any consequence.

In comparing their knowledge and awareness of domestic violence since they started living in Ireland, all the participants said living in Ireland had broadened their knowledge and awareness of it. Participant F said, 'My experience in Ireland [of domestic violence] is an "eye opener" as it exposed me to the consequences of domestic violence'. Likewise, most of the participants believed their knowledge of domestic violence had broadened since coming to Ireland and seeing the way the issue is being treated here compared to the process in Nigeria.

In response to what factors may have contributed to their greater knowledge and awareness of domestic violence since taking up residence in Ireland, law and its effective enforcement coupled with awareness campaign were recurrently mentioned by the participants. They believed laws against domestic violence in Ireland and the campaign by government institutions and NGOs played a significant role in enlightening them about it.

Theme 2: Cultural acceptability of domestic violence and regarding it as a private family matter

Most of the interviewees regarded domestic violence as a private family matter and culturally acceptable during the period they lived in Nigeria. Their attitude towards it then mirrored that of the rest of the society as expressed by participant E that it was regarded as ‘a private family affair and no body’s business’. Likewise, participant B contended that it was viewed as a ‘private family affair and families decide how to deal with it’. This was equally the opinion of participant C, as he stated ‘Where I come from, incidences of domestic violence are culturally acceptable because there are no consequences for indulging in the act. Sometimes the families decide to handle it in their own way’. Furthermore, participant D believed that ‘It was on rare occasions that cases of domestic violence are made public in terms of reporting to the police or inviting non-family members to settle the matter’. Conversely, participant F had a different reason for not considering it a private matter while living in Nigeria: ‘I did not consider it as a private matter when I was living in Nigeria because you need to let people know what she has done to warrant what happened to her. People should know that she was being disobedient or stubborn’. His view for not regarding it as a private matter was to justify the abuse meted to the victim, mostly women. Participant J believed that it might be the case that it was not culturally acceptable in Nigeria, but ‘for the fact that no one speaks out against it made it seem that it was culturally accepted’.

All the participants attested to a change of view on how they regarded domestic violence since taking up residence in Ireland. For instance, participant H said, ‘My view has changed since I started living in Ireland’. He further explained that he had come to realise that it was wrong to engage in any act of domestic violence against any person, man or woman. In addition, participant J believed ‘domestic violence should not be treated as a private matter because it is a gradual killer’.

Theme 3: Perceptions and attitudes toward domestic violence

Nine of the interviewees were unequivocal in affirming they did not consider domestic violence as a crime during the period they lived in Nigeria. They advanced diverse reasons for not perceiving it as a crime. Participant H was quick to respond to the question ‘Explain whether you considered domestic violence as crime and abuse of the victim’s human rights when you were living in Nigeria?’ to which he echoed, ‘No! No! No! I did not consider it as a crime. There are no human rights in Nigeria, and because there are no human rights in Nigeria, many people did not consider it as a crime’. Also, participant B in affirming he did not consider domestic violence as a crime while living in Nigeria opined that ‘the society did not consider it as a crime as well. This was because there are issues that the people believe are more serious than domestic violence. Hence, domestic violence was not regarded as a serious matter that needs attention’. According to participant F, ‘Culturally, your words should be a law to your spouse. From the cultural point of view, I did not consider it [Domestic violence] as a crime’. Rather, it was considered as a ‘deterrent for future misbehaviour’. Similarly, the reason participant I gave for not considering domestic violence as a crime also hinges on cultural beliefs. He stated, ‘back then in Nigeria, the prevailing perception was that your wife is your property and you have the right to discipline her the way you like without anyone’s interference. Hence, I did not regard it as a crime when I was living in Nigeria’. One of the two female participants, G, was among the nine that did not consider domestic violence a crime when she was residing in Nigeria. According to her, she maintained that view for some time while living in Ireland believing that women who call the police for their husband for whatever reason, including being subjected to acts of domestic violence, had ulterior motives for doing so. She believed they might want to leave a carefree life devoid of control. However, her view has changed, like the other participants.

The only respondent, a man, that regarded domestic violence as a crime during the period he lived in Nigeria responded to the question, stating: ‘Yes, but not with the knowledge I have acquired about domestic violence since I started living in Ireland’. He said living in Ireland had a profound effect in increasing his

knowledge about domestic violence as well as transformed his perception and attitude towards it. One of the female respondents, participant A, said she was aware domestic violence was wrong when she was living in Nigeria. However, according to her, she was powerless to take proactive action against it, stating: ‘I could not fight the system’. All the participants (100%) affirmed that their perceptions and attitudes toward domestic violence have changed since they took up residence in Ireland.

The participants showed genuine change of perceptions and attitudes toward domestic violence during the interview. All the participants acknowledged that they would never tolerate or condone any form of domestic violence nor perpetuate such acts. They stated that their change of perceptions and attitudes toward domestic violence was not because of the fear of legal consequences of indulging in the act. Rather, it was because they have realised that domestic violence is a wrongful act, and that nobody is supposed to be subjected to such inhumane and degrading treatment. However, only participant F believed some migrants do not indulge in acts of domestic violence because of fear of the law. He said ‘I believe it is the fear of the law [... that] is keeping most African men in check from committing acts of domestic violence against their wives’. The participants discussed freely about their experiences of domestic violence, especially when they were living in Nigeria. The participants demonstrated that their change of perceptions and attitudes are internalised and would not change if they happen to return to Nigeria to live.

Theme 4: Consideration of domestic violence as an abuse of the victim’s human rights

None of the participants regarded domestic violence as a violation of the victim’s human rights while living in Nigeria. Participant A said that she knew domestic violence was wrong when she was residing in Nigeria but did not regard it as an abuse of the victim’s human rights. According to her ‘it is not usually considered as a violation of the victim’s fundamental human rights’. Likewise, participant H believed ‘There are no human rights in Nigeria, and because there are no human

rights in Nigeria, many people did not consider it as a crime'. He was trying to illustrate the attitude of the government towards the protection of peoples' human rights in Nigeria. To him, human rights did not exist in Nigeria because he believed the government was not making any effort in protecting the peoples' human rights. Participant E in re-echoing his previous stance on whether he considered domestic violence as a crime when he lived in Nigeria reiterated that 'I said it before that it was not considered as a crime in Nigeria neither was it considered as a violation of the victim's human rights'.

Theme 5: Reasons for change of perceptions and attitudes toward domestic violence

Law and its effective enforcement in Ireland were a recurrent phenomenon adduced by the participants as one of the reasons for their change of perceptions and attitudes toward domestic violence. The participants were unequivocal in attributing effective enforcement of domestic violence law and policies as being central to their realisation that domestic violence is a crime and abuse of the victim's human rights since they started living in Ireland. Consequently, they attributed their change of perceptions and attitudes toward domestic violence to the law and its effective enforcement in Ireland. The response of participant A captured the current perceptions and attitudes toward domestic violence as expressed by most of the participants; 'My perception and attitude towards domestic violence have changed, and I will not condone such acts now as I would when I was living in Nigeria'. In her response to the question of what contributed to her change of perception and attitude towards domestic violence in Ireland, she believed 'knowledge in the form of awareness of domestic violence law and policies in Ireland' was the major contributor to her change of perception and attitude about domestic violence. Other participants shared the same opinion such as participant I; 'Law is the principle reason that changed my perception and attitude towards domestic violence, as law acts as a deterrence to committing crimes'. Participant I extended the notion further by contending that 'law makes one think before indulging in the act [domestic violence]'. He believed that 'Law and its effective enforcement in Ireland serve as a deterrent to people from

committing domestic violence offence'. Furthermore, Participant F contended that:

The fear of the law contributed to my change of perception and attitude towards domestic violence because the laws are taken seriously here [Ireland], and nobody wants the law to come after him. Also, I believe it is the fear of the law and the fact that women have equal rights or “even more” in Ireland that is keeping most African men in check from committing acts of domestic violence against their wives.

Other reasons the participants mentioned that contributed to their change of perceptions and attitudes toward domestic violence since they started living in Ireland include environmental factors such as societal attitude towards domestic violence. Participant D explained that the Irish society has a “zero tolerance” to acts of domestic violence and many immigrants have no choice than to obey the law of the land and behave as the saying goes “if you live in Rome, do as Romans do”. Participant F captured this reasoning ‘Law acts a deterrent for future misbehaviour’. In his response to whether he considered domestic violence as a crime when he was living in Nigeria, he stated:

Well, my culture will interfere here because I married in a cultural way, and I married a fellow Nigerian. Hence, culturally, my wife is supposed to be respectful and abide by my commands. However, in respect to the law of the land, if the law says it is a crime, then, it is a crime.

The participants demonstrated a good knowledge of laws in Ireland, particularly domestic violence and traffic laws. Many Nigerians living in Ireland are graduates. Some graduated in Nigeria before migrating to Ireland while others went to college in Ireland. There are many lawyers and law graduates among the Nigerian immigrants living in Ireland. Some of them were trained in Nigeria, Ireland and/or other countries. These lawyers and law graduates are good sources of information about laws in Ireland. Also, as I explained in 3.1.3 (the study group), there are many Nigerian community associations and religious groups in Ireland. They do organise seminars for various purposes, including information sessions on “know your rights”. Some Nigerian immigrants are working in various sectors of the Irish economy, including citizen’s information centre, and that presents a good source

of awareness and knowledge regarding laws and policies in Ireland. Another source of awareness and knowledge of laws and policies in Ireland is through interactions with friends and neighbours. Also, as the saying goes that experience is the best teacher, some Nigerians have had brushes with the law mostly traffic offences and family issues. The domestic violence awareness raising campaign by NGOs is another good source of knowledge about civil law remedies of barring, protection and safety orders as well as support services available to victims.

Theme 6: Protection of the citizens' human rights and fundamental freedoms

The participants were asked to compare the protection of their human rights and fundamental freedoms and/or that of the victims of domestic abuse in Nigeria and Ireland. They were absolute in stating that their human rights are more protected in Ireland than Nigeria. Most of the participants bemoaned how peoples' human rights are violated in Nigeria by customary, religious and government establishments without consequences. The participants consistently blamed inefficient law enforcement and corruption in the judicial system as some of the reasons the processes in Nigeria are not protective of the citizen's human rights. The response of participant H was instrumental in understanding the feelings of participants about the protection of their human rights in Nigeria. He responded as follows: 'You cannot compare the two because there are no bases for comparison. The law does not work in Nigeria, hence there is no protection of human rights there. The law works here (Ireland); hence, peoples' human rights are protected'. Similarly, other participants followed the same line of reasoning such as participant E:

My human rights are better protected here [Ireland] than in Nigeria because the laws are effectively enforced here than in Nigeria. Also, the laws against domestic violence only have effect in the cities in Nigeria. It does not have any effect in the rural areas and women there are still being subjected to all kinds of inhumane treatments.

The two female participants, A and G, stated, respectively: Participant A 'The policies and laws in Ireland and how they are enforced are more protective of the citizen's human rights compared to what obtains in Nigeria'. Participant G 'My

human rights are more protected in Ireland than in Nigeria because of effective implementation of laws and policies on human rights here'. Participant C explained the issue of corruption in the law enforcement agencies and judiciary in Nigeria as follows: 'There is no justice in Nigeria as the judicial system is corrupt. People buy justice; hence, it is difficult for an ordinary person to get justice in Nigeria. I wonder how such a system can protect anyone's human rights'. While acknowledging that the system in Ireland is more protective of peoples' human rights, participant D seemed to have concerns regarding the outcome of judicial settlements of cases involving domestic violence and queried if the outcomes are as they were supposed to be.

Theme 7: Reporting of domestic violence to the authorities and speaking out about it

The response of the participants to the question "What is your opinion about reporting of domestic violence to the authorities and/or speak out about it?" was indicative of a change in their perceptions and attitudes toward domestic violence since they started living in Ireland. Thus, all the participants supported reporting domestic violence to the authorities, especially when there is apparent endangerment of someone's life as a result of continuous abuse. Participant I believed domestic violence should be reported to the authorities though one must be sure of the situation before reporting it. However, he advised that if there is a good reason to report such an incident, it is better to report it before it is too late. He does not believe in keeping quiet and dying in silence. Participant B responded to the question by comparing the attitude of the Nigerian Government, especially the law enforcement agents when issues of domestic violence are reported to them and how such issues are handled in Ireland:

Of course! It should be reported to the authorities. It is one of the issues that the government here in Ireland gives attention and people who violate the law "knows what the story is". When such matter is reported in Ireland, it is given the attention it deserves whereas for you to report such a matter in Nigeria, you must have money to buy your way through. If you want to report any matter in Nigeria, you should be ready to spend money to get justice – "that is not justice".

Participant D cautioned against frivolous reporting of domestic violence by some women whose intention is to get rid of their husband and leave a care-free life and/or to take advantage of the benefits (welfare system) given to single mothers. He said that his own experience of domestic violence investigation and judicial outcome in Ireland is “very, very poor”. He lamented that the number of African immigrant’s children in the State care is very high. According to him, some migrant women always frame the men up and call the police which results in sending the men out of the house without considering the relationship of the man with his children and the role he is supposed to play in their upbringing. These same women, he alleged, do become a liability to the State through the social welfare system, and some of them may become mentally unstable which may result in taking the children away from them. He voiced displeasure at the rate immigrant children are taken into State custody.

Theme 8: Views on having laws against domestic violence throughout Nigeria

The participants wholly agreed with the idea of having domestic violence laws throughout the country to ensure all the citizens are protected from the scourge of domestic violence. Most decried the absence of a law against domestic violence in 31 out of the 36 states in Nigeria, emphasising that it was not encouraging and did not show seriousness on the part of the Federal and State Governments to tackle the problem in the country. Thus, participant C responded to the question as follows:

I strongly recommend that because for only five states out of thirty-six states and the Federal Capital Territory (FCT) to have a law against domestic violence “is very, very poor”. He believes human rights laws that guarantee equality to Nigerians, male and female, are hard to pass in the country due to religious and cultural considerations of different ethnic groups in the country.

However, most of the participants were sceptical of the possibility of having domestic violence laws throughout Nigeria due to religious considerations of some ethnic groups. For instance, while participant A supported the idea of having a law against domestic violence throughout the country, she stated that ‘it may not be

possible to have a uniform law throughout the country because some states practice Sharia law’.

Similarly, participant A shared the same view, stating:

As a matter of principle, I do not expect such a law throughout Nigeria due to cultural and religious beliefs and practices. In the Northern States in Nigeria like Sokoto and Katsina States, it would be a suicidal act for anyone to go there and mention domestic violence because the Muslim women are not expected to rise above their men, and that equally obtains in the South West and East of the country. But, it is recommended based on achieving justice for everyone regardless of sex.

The issue of ineffective implementation of existing laws in the country seemed to be the primary concern of participant B:

I support having a uniform law in all the states, but the most important issue is whether the law that exists in the five states out of the thirty-six states are being enforced as they are supposed to be. There is no need to have a hundred laws that are not being enforced. Therefore, enforcement of the laws and changing how the system works in Nigeria is more important, and it is only when the system is right that people can get justice.

The participants expressed strong support for a domestic violence law that is applicable throughout the country. They also believed that other laws that would guaranty equality to all Nigerians regardless of gender, disability, age, ethnicity, marital status, among others should be encouraged. The participants demonstrated support for equality within marriage, especially in some areas such as inheritance rights.

Theme 9: Occurrence of domestic violence within the immigrant communities in Ireland

In the process of the interview and due to the inductive approach of the research design, the issue of occurrence of domestic violence within the immigrant communities in Ireland emerged early during the interview. Interestingly, the participants showed enthusiasm in their response to the question, which subsequently became a follow-up question throughout the interview. All the participants alleged the occurrence of domestic violence in the immigrant

communities in Ireland. Participant G, one of the female participants, alleged that ‘it happens, but due to our culture, we always like to cover up’. The other female participant, A, responded that ‘Yes, it occurs, but at a reduced rate compared to the rate it occurs in Nigeria. The fear of the law is responsible for the reduced rate of its occurrence here in Ireland’. Further enquiry to ascertain the reason for the occurrence of domestic violence within the immigrant families in Ireland revealed several reasons. As participant E opined:

It happens though it may not be physical, but it happens. The reason it happens is not because of lack of awareness as everybody is aware of it. It is just the notion that, as men, they are in-charge and have the right to exert authority over all other members of the household.

Conversely, participant I denounced culture as the reason domestic violence occurs within the immigrant communities in Ireland. Rather, he attributed it to ‘the personal dispositions of the perpetrators’. However, he expressed a high degree of certainty that it occurs within the immigrant communities in Ireland by alleging that ‘It happens, including emotional abuse’. He further stated that ‘It may be the case that someone is abused every two minutes’. Although Participant F also claimed that domestic violence occurs within the immigrant communities in Ireland, he believed the rate of its occurrence has reduced:

Yes, it does, or should I say it did because the prevalence has reduced”. The rate of its occurrence was high when immigrants first started coming into the country [Ireland], but with time, they came to realise that such acts are not condoned here, and most of the migrants began to live according to the laws of the land.

The participants’ response to the question alleging the occurrence of domestic violence within the immigrant communities in Ireland and specifically, the Nigerian/African migrant communities was significant in several ways. First, it corroborates reports by several domestic violence support groups which shows a considerable number of people that contact them each year identified themselves as migrants. According to the 2016 Impact Report of Women’s Aid Ireland:

In 550 calls to the 24hr National Freephone Helpline, women identified that they were Migrant women, Traveller women and/or women with disabilities. The biggest group were migrant women at 90% followed by women with a disability (6%) and Traveller women (4%).⁸¹

Secondly, it supported earlier findings of research carried out in Ireland to ascertain immigrant's experience of domestic violence. For instance, Fagan carried out a research in Ireland on the issues facing migrant women in situations of domestic violence and the experience of service providers in meeting their needs in 2008 titled: 'Research on migrant women and domestic violence in Ireland: The experiences of Domestic Service Providers'.⁸² It focused mainly on the types of abuses experienced by migrant women, barriers to their reporting of domestic violence and assessing domestic violence support services. Her research revealed incidences of domestic violence occurring among immigrants in Ireland but did not go further to determine the prevalence.

The finding of this study is indicative of the fact that some migrants, especially those of Nigerian/African extraction may not have fully overcome their cultural and religious beliefs and practices to understand the implications of indulging in domestic violence. Thirdly, the finding prompted the question of whether migrant's socio-cultural and religious associations in Ireland are aware of the occurrence of domestic violence in their communities. If yes, what are they doing to tackle it? Fourthly, it reinforces the need for the involvement of migrant communities in all the processes of planning and execution of government strategies aimed at tackling the issue of domestic violence in the country. Finally, it illustrates the need for organising domestic violence seminars to enlighten migrants about domestic violence and supports available.

⁸¹ Women's Aid Ireland, *Impact Report 2016*
<https://www.womensaid.ie/download/pdf/womens_aid_impact_report_2016.pdf> accessed 29 July 2017.

⁸² Paula Fagan, 'Migrant Women and Domestic Violence in Ireland: The Experience of Domestic Violence Service Providers' (2008).
<http://adaptservices.ie/file_uploads/Migrant_Women_and_Domestic_Violence_in_Ireland-.The_Experience_of_Domestic_Violence_Service_Providers.pdf> accessed 26 August 2018.

Theme 10: Views on organising domestic violence seminars and conferences, especially for the immigrant communities

All the participants (100%) support organising seminars and conferences to enlighten people about domestic violence, especially the members of the immigrant community. Participant A said it would be beneficial and an “eye opener” for some members of the immigrant community who still believe in their cultures and traditions that encourage domestic violence. She contends that ‘yes, that would go a long way in enlightening people about it. It would be an ‘eye opener’ for some people, especially those who are not used to going out’. Participant C shared the same opinion and said he was involved in organising such seminars as an official of one of the Nigerian community associations. According to him, he received positive feedback from people who attended the seminar. While he supports organising domestic violence seminars for the migrant communities, Participant F said he would like to advise women of African background at the seminar that they ‘should leave up to their cultural responsibilities and expectations and not take advantage of the laws of the land to jettison their cultural responsibilities’. Participant J said, ‘Yes, I believe it is necessary to organise such seminars and conferences. I will suggest it to migrant associations that I belong to, and advice the leadership to consider it seriously as something necessary’.

3.3 Conclusion

The research findings revealed in-depth feelings and views of the participants in all the questions asked during the interview. The participants seemed to be uneconomical with expressing their thoughts on most of the issues raised during the interview, which helped in the collection of valuable data for analysis. The willingness of the participants to discuss personal and family issues indicated how interested they were in the topic – domestic violence. I believe that it would be appropriate for the government to consider the findings of this research and similar findings concerning the occurrence of domestic violence within the migrant communities in Ireland, especially in planning intervention strategies to tackle the

issue in the country. This may include but not limited to given special preference to migrant associations in the Cosc's domestic violence awareness raising grants.

I will discuss the research findings and its implications in Chapter 8. The findings will be discussed with reference to existing literature. Hence, the findings will be placed in a wider context with a focus on how it answered the research questions.

In the next chapter, I will examine some cultural, traditional and religious beliefs and practices that hinder the understanding and combating of domestic violence in Nigeria. In some patriarchal societies, it is through the practice of, and reverence for these cultures, traditions and religions that perceptions and attitudes are internalised, and their practice often result in the violation of peoples' human rights such as domestic violence. Therefore, it is essential to examine some of these cultural, religious and traditional beliefs and practices.

Chapter 4

Combating domestic violence in Nigeria: The role of culture, tradition and religion

Chapter three consists of two sections:

Section one discusses the influence of culture, tradition and religion in the understanding and combating of domestic violence in Nigeria as a social wrong.

Section two examines the experience of domestic violence in Nigeria and traces development of its awareness in the country. It appraises the efforts of both the State and Federal Governments and NGOs in domestic violence awareness raising campaigns in the country.

Section One

Culture and traditions provide strength of families and individuals. The culture that we grow up in affects our beliefs, values, behaviours, and how we deal with problems. Our culture, ethnic group, religion, and economic background all contribute to forming a complicated set of influences, constraints, and resources.¹

4.0 Introduction

This chapter examines some aspects of culture, tradition and religious beliefs and practices in Nigeria that have the potential to impede the understanding of the harmful nature of domestic violence and willingness, on the part of the public, to tackle it in the country. The chapter acts as a focal point on which other subsequent chapters gravitate. The issues that are discussed in this chapter will help to further the comprehension of the concepts that other later chapters will postulate. For instance, the chapter aligns with the previous chapter as it attempts to explain why most Nigerians are oblivious to the acts that constitute domestic violence. The chapter has two sections: section one examines the development of domestic violence in Nigeria, including the awareness raising campaign by both the Federal and State Governments and Non-Governmental Organisations (NGOs). Section two discusses the influence of culture, tradition and religion in understanding, influencing and tackling domestic violence in the country.

4.1 Domestic Violence: The Experience in Nigeria

According to a UK based NGO, The Haven Wolverhampton, which supports women and children affected by domestic violence and homelessness, ‘Nigeria has one of the highest rates of domestic violence in Africa’.² This assertion was corroborated by an Amnesty International report on domestic violence, which

¹ K Clenin, ‘Cultural Strengths and Challenges’ (2001) cited in Colorado Bar Association, ‘Cultural Considerations in Recognizing and Responding to Domestic Violence’ <<http://www.cobar.org/index.cfm/ID/21097>> accessed 25 June 2017.

² The Haven Wolverhampton, ‘Domestic violence in Nigeria’ <<http://www.havenrefuge.org.uk/index.php/about-the-haven/international-projects/nigeria>> accessed 9 May 2017.

called the Nigeria's rate of domestic violence as "shocking".³ Mikala of Amnesty International states that:

on a daily basis, Nigeria women are beaten, raped and even murdered by members of their family for supposed transgressions, which can range from not having meals on time to visiting family members without their husband's permission.⁴

Surveys on gender-based violence in Nigeria indicate a high level of occurrence. Project Alert, a Nigerian based NGO that supports female victims of domestic violence, carried out a survey to determine the prevalence of intimate partner violence in Lagos State in 2001. They conducted interviews with women in most sectors of the economy, including young women in university and secondary schools. Out of the 45 working-class women interviewed at the work place, 64.4% admitted experiencing abuse by a partner (husband or boyfriend), and 56.8% of 48 women interviewed in the market place admitted experiencing abuse by a partner.⁵ Similar interviews carried out in Oyo State, in the South West geopolitical zone, and other parts of Nigeria yielded comparable result.⁶

Asekun, a lawyer working with project Alert, in decrying the spate of domestic violence among young couples, states that:

The most alarming is the increase in the rate of domestic violence among couples aged 25-40; one would expect that young couples these days who are said to marry "for love" will have minimal to non-existent cases of violence and more understanding because they are meant to learn from the

³ Amnesty International, 'Nigeria: Unheard voices – violence against women in the family' (2005) <<http://www.amnesty.org/library/index/engaf44vo42005>> accessed 23 May 2017.

⁴ Stephane Mikala, 'Nigeria: New report finds shocking level of violence against Women's right's rights right's rights in the home' (Amnesty International, Nigeria 2005) <<http://www.amnesty.org.uk/press-releases/nigeria-new-report-finds-shocking-level-violence-against-womens-rightss-rightss>> accessed 8 May 2017.

⁵ Osinachi Orikinla, 'Violence against women in Nigeria' *Nigerian Times* (Lagos, 16 June 2005) <<http://nigeriantimes.blogspot.ie/2005/06/violence-against-women-in-nigeria.html>> accessed 21 May 2017.

⁶ Clifford O Odimegwu, 'Couple formation and domestic violence among the Tiv of Benue State, Nigeria' (Paper presented at the International Colloquium Gender, Population and Development in Africa organised by UAPS, INED, ENSEA, IFORD, Abidjan 16-21 July 2001); S N Obi and B C Ozumba, 'Factors associated with domestic violence in south-east Nigeria' (2007) 27 (1) *J Obstet Gynaecol* 75; Oyediran Kolawole Azeez and Isiugo-Abanihe C Uche, 'Perceptions of Nigerian Women on Domestic Violence: Evidence from 2003 Nigeria Demographic and Health Survey' (2005) 9 (2) *African Journal of Reproductive Health* 38.

mistakes of their parents and all that. But the reverse is the case. For instance, out of the 10 DV cases received by Project Alert in January 2014, seven of the victims are under the age of 40, as well as the perpetrators.⁷

The issue of young couples indulging in domestic violence in Nigeria is disturbing, but not entirely unexpected. One would have expected young couples to learn from the unfortunate experiences of their parents from this social malaise, domestic violence. However, it is an inundating task for them to accomplish without the necessary intervention, in the form of counselling, stimulating awareness, adequate legal regulation and enforcement, and transformation of perceptions and attitudes toward it. Research shows that children who witness domestic violence are more susceptible to become potential perpetrators and/or become receptive of abuse.⁸ The insidious and contagious nature of domestic violence allows it to breed unfettered inside the four walls and roofs of many households in Nigeria with harmful impacts on the victims.

Until the late nineties, the issue of domestic violence was not in existence in the public domain as it is now in Nigeria. There was almost non-coverage of such incidents in the print and news media. There were not as many NGOs as currently obtains championing the cause against domestic violence and, specifically, violence against women. The issue, then, was not in the policy consideration of many State and Federal Government. Hence, adequate attention was not paid to the noxious incidences of domestic violence in the country, and the spate of its prevalence was left unabated for decades.

Besides the indifference at the Federal and State Government levels to tackle the issue of domestic violence before the late nineties in Nigeria, the customary laws treated it with levity. The customary laws do not stipulate any sanction for perpetrators of domestic violence.⁹ At the customary legislative level, the issue of

⁷ Tobi Asekun, 'Stemming domestic violence in Lagos' *Nigeria Punch* (Lagos, 31 March 2014).

⁸ Sahana, 'Witnessing Domestic Violence: The Impact on Children and Teens' <<http://www.mysahana.org/2011/10/witnessing-domestic-violence-the-impact-on-children-and-teens/>> accessed 12 March 2017.

⁹ Itoro Eze-Anaba, 'Domestic violence and Legal Reform in Nigeria: Prospects and Challenges (200) 14 *Cardozo Journal of Law and Gender* 21.

wife battering was and still is largely viewed as a private/family issue that does not warrant intervention by non-family members.¹⁰ In rare cases, the battered women may report the abuse to their families and depending on the severity of the incident, or if they felt their life was in danger, they may return to their parents to stay for a while. The norm was for the women to endure the abuse and take it as part of married life.¹¹ Battered women then, and currently to a certain extent, are not encouraged to leave their matrimonial home, even when their life is in apparent danger. Traditionally, women who left their husband's house for whatever reason, including fleeing from domestic violence, are viewed as uncultured and bring shame to their parents and relatives. For instance, Mrs Perpetua Mbanefo, a medical doctor, narrated her encounter with her parents when she wanted to leave her abusive husband:

And in many cases, there is no support from the family for a woman who is considering leaving her husband. When I went to my parents for help after years of abuse, my father urged me to drop all the charges filed against my husband, whilst my mother was worried about the family's reputation. "My mother said they want to return me back, so I don't disgrace her. Even after the beating she said I have to save the face of the family. You have to go back. So, I went back."¹²

Dr Mbanefo's ordeal in trying to leave her abusive husband is common in Nigeria because 'Despite high levels of violence within relationships in Nigeria, wedding vows are still regarded as sacred, and women are urged to stay with bullying husbands'.¹³ Women who left their husband's house for whatever reason do not command any respect in the community, and their families may be subjected to ridicule.¹⁴ Hence, battered women do not have the incentive to leave their matrimonial home as it may scare away potential suitors for their unmarried female siblings. This is based on the reasoning that the family does not raise their

¹⁰ *ibid.*

¹¹ Perpetua Nneka Oli, 'Public perception of violence against women in Urban and Rural Areas of Anambra State' (PhD Thesis, University of Nigeria Nsukka 2012) 21 - 25.

¹² Wana Udobang, 'We are brought up to think suffering this violence is OK': domestic abuse in Nigeria' *The Guardian International* (5 January 2018) <<https://www.theguardian.com>> accessed 25 August 2018 [Emphasis added].

¹³ *ibid.*

¹⁴ *ibid.*

daughters to be humble and obedient wives. This belief has caused many women to endure life-threatening abuses, which often result in deformity, depression or death.¹⁵

In some cases, the families of the battered women do report the abuse meted to their daughters to the husband's kin, often with a warning that such incident should not repeat itself. They usually request the spouse's kin to warn their "brother" not to beat their "daughter" again. If the incident continues despite repeated warnings, the woman's family may ask their daughter to return home.¹⁶ Besides this extraordinary intervention by the families of battered women, many customary regulatory systems in Nigeria have no policy against domestic violence.¹⁷ While domestic violence is habitually associated with women, the issue of men suffering abuse is regarded as a taboo to discuss.¹⁸ Men in the eyes of most Nigerian cultures and traditions are not susceptible to domestic abuse. Men are viewed as strong and that women are not able to abuse them. They are raised up to be strong, macho and domineering. There appears to be an internalised belief that men are stronger than women and that women should be subservient to men. Hence, some men find it difficult to acknowledge themselves as victims of domestic abuse.¹⁹

In Nigeria, the most commonly recognised form of domestic violence is physical abuse;²⁰ Other types of violence are hardly perceived as abuse; especially, sexual, financial, psychological, emotional or verbal abuse.²¹ While it is widely believed that women may not be strong enough to inflict physical abuse on their partners;

¹⁵ Nkeiru Igbolina Igbokwe, 'Contextualizing Gender Based Violence within Patriarchy in Nigeria' (Pambazuka News, 30 May 2013)

<<http://www.pambazuka.net/en/category.php/features/87597>> accessed 14 April 2017.

¹⁶ Chinua Achebe, *Arrow of God* (Heinemann Educational Books, Nigeria 1989) 11 Note: Though Chinua Achebe's book is a work fiction, but it illustrates the culture of the Igbos in Nigeria at the time.

¹⁷ Itoro Eze-Anaba (n 9).

¹⁸ Anthony Abayomi Adebayo, 'Domestic Violence against Men: Balancing the Gender Issues in Nigeria' (2014) 4 (1) *American Journal of Sociological Research* 14.

¹⁹ *ibid.*

²⁰ Cheluchi Onyemelukwe and Florida Uzoaru, 'The Red Diary Tips for Surviving Domestic Violence and Abuse a Directory for Help in Nigeria' <<http://cheld.org/wp-content/uploads/2014/12/The-Red-Diary1.pdf>> accessed 25 July 2017.

²¹ Udo Osisiogu, 'Physical abuse of women in the home: A Nigerian Perspective (2017) 5 (3) *Humanities and Social Science Review* 379.

however, they have been known to perpetuate other forms of abuse, such as psychological, verbal, financial/economic, and emotional abuse.²²

The developments that led to domestic violence paradigm change in Nigeria started in the 1990s. It may be difficult, if not impossible, to pinpoint exactly to events that gave rise to the current wave of change in attitudes toward domestic violence in Nigeria. However, it may be possible to locate some series of events that culminated to the slow but encouraging change of attitudes toward domestic violence in Nigeria.

4.1 (a) BEIJING 95

One of such events was the “Fourth World Conference on Women”, which took place in Beijing, China between 4 - 25 September 1995. The theme of the conference was “Action for Equality, Development and Peace” popularly known and often referred to as “Beijing ‘95.”²³ The conference in terms of impact on the creation of awareness of women’s equality struggle and the need for reform was one of the most successful conferences organised by the United Nations on women’s equality struggle. Two decades after the conference, the agreements reached at the conference still serve as a reference point to the standard of gender equality expected of each country and institutions worldwide. Soon after the conference, many governments around the world, including Nigeria Government established a dedicated ministry to oversee women empowerment and gender equality in the country.²⁴ Also, many state governments in Nigeria established ministries of women’s affairs.²⁵ Several NGOs dedicated to championing Women’s equality struggle started to spring up in Nigeria.²⁶

²² Anthonia O Uzuegbunam, ‘Women in Domestic Violence in Nigeria: Gender Perspectives’ (2013) 3 (1A) *Open Journal of Philosophy* 185.

²³ The United Nations, ‘Fourth World Conference on women 1995’ <<http://www.un.org/geninfo/bp/women.html>> accessed 25 July 2017.

²⁴ UN Women, The Federal Ministry of Women Affairs and Social Development (FMWASD) Abuja, Nigeria was established in 1989 <evaw-global-database.unwomen.org> accessed 25 August 2018.

²⁵ The Benue State Ministry of Women Affairs and Social Development was created in 1997, following the resolutions from the Beijing platform for action to upgrade the commission for Women Affairs to a full-fledged ministry <<https://benuestate.gov.ng/ministry-of-women-affairs-and-social-development/>> accessed 25 August 2018.

²⁶ Project Alert, established in 1999 <<http://www.projectalertnig.org/about.html>>; Cheld, established in 2010 <www.cheld.org> accessed 12 May 2017.

Other events that led to the change in attitude toward domestic violence include the signing of international and regional human rights treaties by the Nigerian Government. Nigeria ratified The African Charter On Human And Peoples' Rights 1981 (ACHPR) in 1983; The Convention On The Rights Of The Child 1989 (CRC) in 1991; The African Charter On The Rights And Welfare Of The Child 1990 (ACRWC) in 2001; The International Convention On The Elimination Of All Forms Of Discrimination Against Women 1979 (CEDAW) in 1985; The Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment 1988 in 2001; and signed The Protocol To The African Charter On Human And Peoples' Rights On The Rights Of Women In Africa 2003 in 2003.²⁷ Also, pressure from NGOs, human rights activists, and academics from various disciplines who are involved in research and reporting on domestic violence contributed to drawing the government's attention to the prevalence and devastating effects of domestic violence. As a consequence, the State and Federal Governments in Nigeria started to respond by gradually enacting legislation against domestic violence.

There are currently five States in Nigeria out of thirty-six States that have a specific law against domestic violence. They are Lagos, Ekiti, Cross River, Ebonyi, and Jigawa State. The Federal law against domestic violence and related offences, Violence Against Persons (Prohibition) Act, 2015 (VAPP Act) was passed in 2015. It received an overwhelming commendation, nationally and internationally, when it was signed into law by President Goodluck Jonathan.²⁸ However, the applicability of the VAPP throughout the country is still in shrouded in doubt, as Anarado avers, '...the applicability of VAPP outside the Federal Capital Territory (FCT) is a matter of legal debate'.²⁹ It is still unclear whether VAPP Act can be

²⁷ E Egede, 'Bringing the Human Rights Home: An examination of the Domestication of Human Rights Treaties in Nigeria' (2007) *Journal of African Law*, 51 (2) 249.

²⁸ Hanibal Goitom, 'Nigeria: Bill on Elimination of Violence Against Persons Enacted into Law' (2015) *Global Legal Monitor* <<http://www.loc.gov/law/foreign-news/article/nigeria-bill-on-elimination-of-violence-against-persons-enacted-into-law/>> accessed 27 July 2017.

²⁹ Chinedu Anarado, 'Why Nigeria's New Violence Against Persons (Prohibition) Act Is only the Beginning' *Ventures Africa* <<http://ift.tt/1GHQrOe>> accessed 25 July 2017.

enforced or relied upon outside the FCT, as it is stated in Part VI (47- Application) of the Act that ‘This Act applies to the Federal Capital Territory, Abuja’.³⁰

It is pertinent to raise the issue concerning the levity with which the Nigeria’s National Assembly (The Federal House of Representatives and The Senate) handled the Violence Against Persons (Prohibition) Bill, which was in sharp contrast to the haste with which they treated the Anti-Terrorism Bill. The discussion of the reasons the National Assembly did not expedite the passage of the Domestic Violence Bill as it did the Anti-Terrorism Bill will buttress this thesis’s argument that culture, and religion impedes the passing of emancipatory human rights laws in Nigeria. Regarding the swiftness they accorded the Anti-Terrorism draft Bill, Ekundayo wrote:

On December 10, 2010, the Executive-sponsored the Anti-Terrorism Bill was read in the Senate. On February 17, 2011, it was overwhelmingly passed by the upper chamber before the lower chamber did the same thing on February 22, 2011, leading to it becoming law on June 2, 2011, following the President’s assent.³¹

The Domestic Violence Bill was deliberated at the National Assembly for nearly fourteen years. It was first introduced to the House of Representatives in May 2002.³² In 2008, the Bill on Violence Against Women was harmonised with eight other similar bills to produce the VAPP Bill³³ that was passed into law on 25 May 2015.³⁴ The discrepancy in the swiftness of passage of the two bills prompts these pertinent questions: Is domestic violence not considered a grave issue that warrants urgent passage of a bill to tackle it? Why is it that terrorism attracts more attention than domestic violence? Why did it take the Nigerian National Assembly such a long time to pass the domestic violence bill as opposed to how they swiftly passed the anti-terrorism bill? The answer to the first two questions may not be difficult

³⁰ Violence Against Persons (Prohibition) Act, 2015 (VAPP Act).

³¹ Vera Ekundayo, ‘Nigeria Terrorism Act: A Right Step Forward’ *Punch* (Lagos, 24 January 2012).

³² Voices for Change, ‘VAPP ACT signed into law; May 25th, 2015’ (Voices4Change 28 May 2015) <<http://www.v4c-nigeria.com/vapp-act-signed-into-law-may-25th-2015/>> accessed 28 July 2017.

³³ Anarado (n 29).

³⁴ Voices for change (n 32).

to ascertain given that acts of terrorism receive more attention worldwide than incidences of domestic violence. Therefore, one may assume that Nigeria's National Assembly may have acted in an analogous manner as most national assemblies would act by prioritising the passage of laws to tackle acts of terrorism over that of incidences of domestic violence. For instance, a former member of United States House of Representative, Mark Green from Wisconsin, echoed the lacklustre attitude the issue of domestic violence receives in the USA, 'If the numbers we see in domestic violence were applied to terrorism or gang violence, the entire country would be up in arms, and it would be the lead story on the news every night'.³⁵ Also, Hoeffler and Fearon stated that:

There has been an over-concentration on the consequences of political violence and not enough on domestic violence. We need to think a lot harder about how we tackle these issues' and that 'Domestic violence kills more people and costlier than terrorism and civil war'.³⁶

While the answers to the first two questions may be straightforward and convincing, they are not the main reasons for the delay in the passage of the domestic violence bill by the Nigeria National Assembly. I believe that the more cogent reason for the delay relates to cultural, religious and traditional beliefs and practices in the country. Some members of the National Assembly opposed the passage of the bill because some of its provisions were contrary to their cultural and religious beliefs.³⁷ They demanded that those provisions of the bill be removed before it could receive their support. As Manuh clarifies, 'The provision on marital rape, which some view as "Western" and "against the culture of Nigeria" has been invoked to explain the slow progress of the bill; settling it, would, it was claimed, allow the bill to be passed into law'.³⁸ It appears that the cultural and religious consideration of various ethnic groups in Nigeria has been a clog in the passage of

³⁵ Colorado Department of Human Services 'Domestic Violence Program, 2010 Annual Report' (CDHS 2010) <<http://www.colorado.gov/cs/Satellite?blobco>> accessed 25 June 2017.

³⁶ Anke Hoeffler and James Fearon, 'Beyond civil war: the costs of interpersonal violence' in *Prioritizing Development: A cost benefit analysis of the United Nations Global Goals* (Björn Lomborg ed, Cambridge University Press 2017).

³⁷ Takiwaa Manuh, 'African women and Domestic violence' *Open Democracy* (26 November 2007) <https://www.opendemocracy.net/article/5050/ghana_domestic_violence> accessed 27 July 2017.

³⁸ *ibid.*

emancipatory human rights laws in the country. The Gender Equality Bill was recently rejected by the Nigerian legislative upper chamber, the Senate, for reasons bordering on cultural and religious beliefs.³⁹ Though, the VAPP Act is now law, but it is not applicable nationwide and foreseeing the challenges these presents, Chinedu Anarado comments:

The VAPP Act cannot be a piece of paper. This legislation will need to translate into having real meaning for the lives of Nigerians. We need to move towards a Nigeria where Uzoma, Iniobong and Tunde not only get justice, but also where cultural and traditional lifestyles and practices will undergo such a fundamental change that violence becomes the exception, not the rule.⁴⁰

4.1.1 Domestic Violence Awareness Campaign: The Triggers

The domestic violence awareness drive is gaining momentum in Nigeria. It is mostly championed by NGOs and some state governments, like Lagos State. Also, the mainstream media, which hitherto paid less attention to the issue is currently taking the lead in reporting and condemning incidences of domestic violence. Interestingly, the emergence of social media has enhanced the rate of spreading the awareness and reporting of incidences of domestic violence in Nigeria and globally. The Nigerian law enforcement agencies are not left out in the current wave of tackling the issue of domestic violence. The police, which previously, used to treat issues of domestic violence as a “private/family matter” and were always reluctant to investigate or press charges when such issues were reported to them, are now receiving training organised by various NGOs and the government on the appropriate response to domestic violence.⁴¹ Though, the police have not reached the level of response and compliance expected of them in dealing with domestic violence matters, they are, nonetheless, far better than they were some of years ago. The story of a young woman, Blessing, who lived in Enugu, the capital of Enugu State in the South East geopolitical zone in Nigeria serves to illustrate the shortcomings of the past Police practice. Blessing was a PhD holder and an

³⁹ BBC News, ‘Nigeria's Sultan of Sokoto rejects gender equality bill’ *BBC News* (28 December 2016) <<http://www.bbc.co.uk/news/world-africa-38449822>> accessed 28 July 2017.

⁴⁰ Anarado (n 29).

⁴¹ Police Service Commission, Nigeria, ‘Domestic Violence Policy for The Nigeria Police Force’ <<http://www.psc.gov.ng/files/domestic-violence-policy.pdf>> accessed 27 July 2017.

appointee of then newly established Anti-Corruption Commission. She reported to the police that her husband and his two sisters threatened to kill her. The police told her to go home and come back in two days if the situation did not improve. She did not live to keep the appointment as she was murdered by her husband and his two sisters on the eve of the appointment.⁴² Eze-Anaba, of the Legal Defence and Assistance Project of Amnesty International in Nigeria has condemned how the Nigerian law enforcement agents treat reported cases of domestic violence, ‘dismissive attitudes within the police and a justice system that is difficult to access compound the failures of the state to protect Women’s rights’.⁴³

The Nigerian justice system now appears to be dealing with the issue of domestic violence with the seriousness it deserves. They seem to feel as well as respond to public impulse on the matter. The judiciary showed their determination not to spare domestic violence perpetrators by sentencing the husband of Titilayo Arowolo who was murdered by her husband in their home in Lagos to death.⁴⁴ Titilayo was a career banker and had a daughter with her husband. Her murder galvanised the push for stiffer penalties for domestic violence perpetrators and the passing of the domestic violence bill by the National Assembly. The murder of Titilayo prompted a nationwide campaign for more robust responses to reported cases of domestic violence by the police and other law enforcement agencies. Another domestic violence case that made headline news all over the country was that of the ex-paramount ruler of the Akure Kingdom in Ondo State. The paramount ruler of Akure Kingdom, the Deji of Akure, Oluwadare Adesina Adepoju (Osupa111), was deposed by the Ondo State Government on 10 June 2010, for beating up his estranged wife, Bolanle.⁴⁵ The action taken by the State Government in deposing

⁴² Project Alert, No Safe Haven (Project Alert, July – September 2003) <<http://www.projectalertnig.org/randd.html>> accessed 13 May 2017; Amnesty International, ‘Nigeria: Unheard Voices – Violence against women in the family’ (31 May 2005) <<http://www.refworld.org/docid/439463b24.html>> accessed 6 June 2017.

⁴³ Ito Eze-Anaba, ‘Nigeria: New report finds shocking level of violence against Women’s right’s rights’s rights’s rights’s rights in the home’ <<http://www.amnesty.org.uk/press-releases/nigeria-new-report-finds-shocking-level-violence-against-womens-rightss-rightss>> accessed 8 May 2017.

⁴⁴ Henry Ojelu & Irene Nwaro, ‘Arowolo sentenced to death for killing banker wife’ *PMNews* (Lagos, 21 February 2014).

⁴⁵ Dayo Johnson, ‘I have learnt my lessons, deposed Deji of Akure begs for reinstatement’ *Vanguard* (Lagos, 23 December 2013).

the King was praised by many Nigerians who saw it as a wake-up call to all and sundry that no position of authority will shield anyone from prosecution if he/she perpetuates any act of intimate partner violence in the country.

While the efforts to tackle the spate of domestic violence in Nigeria are gathering momentum on all fronts, it appears that some Nigerians are not aware of acts that constitute it.⁴⁶ Moreover, their awareness of domestic violence, if any, is mainly limited to physical violence. Even in the case of physical abuse, as earlier mentioned in chapter two, research shows that many women do not perceive it as a crime or an infringement on their human rights.⁴⁷ Likewise, most Nigerian men that are victims of domestic violence are oblivious of the abuse.⁴⁸ They regard certain behaviour by their wives, which constitutes domestic violence as normal, such as verbal abuse, name-calling, belittling, and unjustified refusal of sex.⁴⁹ It appears that due to limited understanding of what constitutes domestic violence, some Nigerians either indulge in the act or become victims without regarding it as an abuse. Furthermore, this limited knowledge of the acts that constitute domestic violence, cuts across all spheres of the Nigerian society – the educated, working-class professionals, religious, traditional rulers, politicians, and even those in the medical, teaching, and legal professions.⁵⁰

In order to enlighten the public on the issues of domestic violence and the state's law against it, the Lagos State Gender Advocacy Team (LASGAT) started embarking on a state-wide campaign to raise awareness of domestic violence.⁵¹ Furthermore, LASGAT sought to enlighten Lagosians on the existence of the Lagos State Domestic Violence Law titled: Protection Against Domestic Violence

⁴⁶ Clifford O Odimegwu (n 6).

⁴⁷ Oyediran Kolawole Azeez and Uche C Isiugo-Abanihe, 'Perceptions of Nigerian Women on Domestic Violence: Evidence from 2003 Nigeria Demographic and Health Survey' (2005) *AJRH* 9(2) 38-53.

⁴⁸ Clifford Odimegwu (n 6).

⁴⁹ Anthony Abayomi Adebayo (n 18).

⁵⁰ Women for women, 'The Reality of Domestic Violence in Nigeria' (Women for women International 27 April 2017) <<http://www.womenforwomen.org/blog/reality-domestic-violence-nigeria>> accessed 25 July 2017.

⁵¹ LASGAT and GPGDC embarked on a state-wide domestic violence campaign in the period from 13 to 17 October 2014. The domestic violence campaign is a yearly event undertaken by LASGAT and GPGDC to create awareness of domestic violence throughout Lagos State.

and Connected Purposes Act.⁵² The law was enacted in 2007 and cited as Lagos State Domestic Violence, 2007.⁵³ The Grassroots people and Gender Development Centre (GPGDC), which is a member of LASGAT, also participated in the awareness campaign, and helped to bring it to the grassroots in the four corners of Lagos State including, market places, schools and places of worship.⁵⁴ When the GPGDC team visited the Toluwani Montessori School, Egan Igando in Lagos State, the proprietor of the school, Mrs Akanji Mobolaji, ‘appreciated the GPGDC team for taking the campaign message to the grassroots and to the pupils of the school. She expressed her joy over the campaign and remarked, ‘I am so happy to see things happening in Nigeria since after the Commission on the Status of Women (CSW) in Beijing’.⁵⁵ Also, a participant at one of the enlightenment campaigns, Mr Chidi, said during the interactive session that:

Women are usually beaten due to their nagging behaviour or for disobeying the husband or when she refuses to stay where her husband wants her to stay. He said that there is a deep cultural belief in Nigeria that it is socially acceptable to hit a woman to discipline her, even as religious beliefs also tend to suggest that women must obey their husband whether the issues are in her interest or not.⁵⁶

Section Two

4.2 The Influence of Culture, Tradition and Religion

What have culture, tradition and religion got to do with domestic violence in Nigeria? Often, as Fernando observes, Africans use adherence to culture as an excuse for their violent behaviour towards their partner; hence, they sometimes try to justify their violent behaviour with sayings such as, ‘where I come from

⁵² Chukwudi Nweje, ‘Taking campaign against domestic violence to the grassroots’ *Daily Independent* (Lagos, 20 October 2014); Also see Newsafrica.com, ‘Taking the campaign against domestic violence to the grassroots’ <<http://newsafricanow.com/taking-campaign-against-domestic-violence-to-the-grassroots/>> accessed 16 July 2017.

⁵³ *ibid.*

⁵⁴ *ibid.*

⁵⁵ *ibid.*

⁵⁶ *ibid.*

everybody does it' or that, 'it is normal'.⁵⁷ This is, in contrast, according to Fernando, to how Europeans or Americans would explain their violent behaviour towards their partner; they would say 'she pushed me into it'.⁵⁸ The Africans' use of adherence to culture to justify their violent behaviour towards their partner prompts one to ask whether domestic violence is culturally acceptable in Nigeria.

I noted in chapters 1 and 2 that some state governments and NGOs are organising workshops, campaigns and other enlightenment programmes to educate the public about domestic violence and existing laws against it. However, it appears that a major obstacle to the success of these campaigns is the engrained cultural, traditional and religious beliefs and practices of some ethnic groups in Nigeria.⁵⁹ Cultural, traditional and religious beliefs and practices appear to impede the understanding of domestic violence by many Nigerians. Furthermore, these beliefs and practices perpetuate as well as influence the perceptions and attitudes of the people toward domestic violence.⁶⁰ Arguably, these practices adversely affect the efforts to tackle domestic violence, especially the willingness to enact laws to prohibit it throughout the country. This outcome buttresses the opinion of a commentator who states that 'although the elements of abuse are universal, a person's cultural background influences how individuals deal with abuse'.⁶¹ No doubt, Nigeria like many other African countries has an amazing tapestry of cultures and traditions.⁶² These cultures and traditions find expression in many African ways of life and value system.⁶³ 'In the African culture, the "self" is not separate from the world, it is united and intermingled with the natural and social environment'.⁶⁴ Hence, 'it is through relations with one's community and

⁵⁷ *ibid.*

⁵⁸ Fernando Mederos, 'Domestic Violence and Culture: Moving Toward More Sophisticated Encounters' <http://www.melissainstitute.org/documents/eighth/domestic_violence_culture.pdf> accessed 15 June 2017.

⁵⁹ Jude E Eze and Ogechi Fine Orji, 'Eliminating Domestic Violence in Nigeria: The Role of Law' (College Project, Nnamdi Azikiwe University Awka, Nigeria 2015) 11 - 25.

⁶⁰ Oyediran and Isiugo-Abanihe (n 47).

⁶¹ Colorado Department of Human Services (n 35).

⁶² Janheinz Jahn, *Manut: African Culture and The Western World* (Reprint edition, Grove Press 1994) 185 - 209.

⁶³ *ibid.*

⁶⁴ Victoria Falls Guide, 'African Culture' <<http://www.victoriafalls-guide.net/african-culture.html>> accessed 16 June 2017.

surroundings that an individual becomes a person of volition, whose actions and decisions affect the entire group rather than just oneself'.⁶⁵ In Nigeria as in other African countries, there are various religious sects which play major roles in forming and shaping peoples' beliefs and value systems. Some of these religions are indigenous, while the rest are foreign. 'Arabs began crossing into North Africa from the Middle East in the 7th century, A.D., bringing with them the religion of Islam'.⁶⁶ Europeans began settling in the southern portion of the continent in the mid-17th century, bringing with them the religion of Christianity, while South Asians, introduced the Hindu religion in some parts of Southern Africa.⁶⁷ In Nigeria:

...Islam dominated the North and had a number of supporters in the South Western Yoruba part of the country. Nigeria has the largest Muslim population in Sub-Saharan Africa. Protestantism and local syncretic Christianity are also evident in Yoruba areas, while Catholicism dominates the South Eastern part, Igbo part, of the country and closely related areas.⁶⁸

According to Ngbea and Achunike, 'Religion is an important phenomenon in contemporary Nigeria as it affects every segment of the Nigerian Society'.⁶⁹ Nigerians from all indications, take their religion seriously and are very protective of the beliefs and practices of these religious sects. This is evident as 'There are so many religious festivals observed in Nigeria as Public holidays which has a huge impact on the Nigerian economy'.⁷⁰ In addition, Nigerian Christians and Muslims are among the world highest number of religious adherents that go on pilgrimage to the holy Lands of Israel and Mecca each year.⁷¹ As Ngbea and Achunike assert, 'There is so much religiosity in Nigeria in this 21st century'.⁷² Likewise, they contend that 'Religious Piety is at the increase in Nigeria...'⁷³ Adherence to religious beliefs and morals has been invoked on several occasions to reject the

⁶⁵ *ibid.*

⁶⁶ *ibid.*

⁶⁷ *ibid.*

⁶⁸ Ngbea G T & Achunike H C, 'Religion: Past and Present in Nigeria' (2014) 7(2) *International Journal of Sciences: Basic and Applied Research* 156 [Emphasis added].

⁶⁹ *ibid.*

⁷⁰ *ibid.*

⁷¹ *ibid.*

⁷² *ibid.*

⁷³ *ibid.*

passing of human rights laws in the country. For instance, adherence to religious beliefs and morals was one of the main reasons which triggered the uproar that ensued when the domestic violence law, Violence against Persons (Prohibition) Law No. 12 of 2012, was passed in Imo State.⁷⁴ Many top religious clerics in the state condemned the law because of the provision of the law that appears to legalise abortion.⁷⁵ The State Government later repealed the law in ‘compliance with the clamour by the Church and some sections of the society’.⁷⁶ Similarly, adherence to religious beliefs and morals has been cited as being responsible for certain discriminatory practices against girls in some states in Nigeria that practice Sharia law:

Children from religious minority communities face discrimination, abuse and sometimes even expulsion. Reported violations include the denial of access to specific courses, non-release of final results, being compelled to study a religion different from their own, and the denial of admission or scholarships.⁷⁷

Similarly, underage marriage is permitted in some Northern states for being in accordance with Sharia law.⁷⁸

The role of these religions alongside indigenous cultures and traditions in giving rise to high prevalence of domestic violence in Nigeria/Africa continues to elicit divergent opinions. As Sokoloff and Dupont assert, ‘Many domestic violence scholars are struggling to comprehend the role that culture may play in perpetuating domestic violence and how to talk about the two’.⁷⁹ Most commentators on domestic violence in Africa appear to lay the blame for its high

⁷⁴ Nyi, ‘Catholic Bishops, Women Groups Disagree On Imo Abortion Law’ Information Nigeria (23 September 2013) <<http://www.informationng.com/2013/09/catholic-bishops-and-women-groups-disagree-on-imo-abortion-law.html>> accessed 3 May 2017; Chidi Nkwopara, ‘Okorocho, Catholic doctors at war over abortion law’ (27 August 2013) Vanguard <<http://www.vanguardngr.com/2013/08/okorocho-catholic-doctors-at-war-over-abortion-law/>> accessed 6 May 2017.

⁷⁵ *ibid.*

⁷⁶ Amby Uneze, ‘Nigeria: Okorocho Signs Law Repealing Abortion in Imo’ *ThisDay* (Lagos, 4 October 2013).

⁷⁷ Christian Solidarity Worldwide, ‘Discrimination on the Basis of Religion or Belief in Education’ (2018) <http://faithandafuture.com/wp-content/uploads/2018/02/Faith_and_a_Future_HR.pdf> accessed 1 August 2018.

⁷⁸ *ibid.*

⁷⁹ Natalie J Sokoloff and Ida Dupont, ‘Domestic Violence at the Intersections of Race, Class, and Gender: Challenges and Contributions to Understanding Violence Against Marginalized Women in Diverse Communities’ (2005) 11 (1) *Violence Against Women* 38.

occurrence in Africa on the doorsteps of African cultures, traditions and religions.⁸⁰ The extent this assertion is true is still contentious. Mrs Chingandu, the Executive Director of Southern Africa HIV and AIDS Information Dissemination Service (SAfAIDS), has lamented the shocking high prevalence of domestic violence in Zimbabwe, ‘these figures are shocking, but what is worse is the fact that in most cases this violence against women is carried out under the guise of culture and tradition, which is intolerable’.⁸¹ However, she denounced the belief that only culture and tradition are to blame for the high prevalence of domestic violence in Africa:

In my culture, when I got married, my father gave my husband a stick. That stick came with a message - that my husband should never beat me. So where is this culture of beating coming from? It is not and has never been an African value or part of our culture that wives should be beaten or battered. If there are problems within the home, we need to go back to the extended family to take up the issues. This should happen before a beating and battering rather than afterwards.⁸²

Dasgupta in his commentary on domestic violence among immigrants and minorities in the USA, cautions against the ‘quick allocation of blame to an immigrant’s culture when discussing domestic violence’.⁸³ He further states that ‘although culture may be used to justify violence against women, there is a danger of presenting the role of culture in domestic violence as a purely negative force’.⁸⁴ Dasgupta *et al.*, have argued against the stereotyping of culture and tradition as having only a negative influence in perpetuating domestic violence in particular and violence against women in general and call for a more balanced and nuanced

⁸⁰ Cynthia Grant Bowman, ‘Theories of Domestic Violence in the African Context’ (2003) 11 (2) *Journal of Gender, Social Policy & the Law* 847; Vernellia R Randall, ‘Theories that Appear in the African Literature of Domestic Violence’
<<http://academic.udayton.edu/health/06world/Africa03a.htm>> accessed 23 July 2017.

⁸¹ Lois Chingandu, ‘Domestic Violence is not part of African Culture’ SAFAIDS
<<http://www.safaims.net/content/domestic-violence-not-part-african-culture>> accessed 16 July 2017.

⁸² *ibid.*

⁸³ S D Dasgupta, ‘Women’s Realities: Defining violence against women by immigration, race and class’ in R K Bergen (ed) *Issues in Intimate violence* (Sage, Thousand Oaks, CA 1998) Cited in Natalie J Sokoloff and Ida Dupont (n 79).

⁸⁴ *ibid.*

approach.⁸⁵ They assert that ‘all too often, the fact that cultural practices and beliefs can serve as protective factors for battered women is ignored or denied’.⁸⁶

Therefore, it is pertinent to acknowledge that some Nigerian cultural, traditional and religious beliefs and practices do not tolerate or support the perpetuation of domestic violence. The value system and morals inherent in some African cultures and traditions are arguably more protective of the citizens’ human rights and fundamental freedoms when weighed against some international human rights treaties. However, like most things in life, there are always two contrasting sides – the good and bad, non-discriminatory and discriminating, humane and inhumane, amongst others. In Nigeria, there are some cultural, traditional and religious beliefs and practices that affect the men’s behavioural paradigms towards women and *vice versa*. Behavioural paradigms in this context is a setting within which people learn habits, behaviours, and so on, which can be negative or positive. As Dutta states ‘every habit you have, both positive and negative, is a behavioural paradigm’.⁸⁷ Consequently, an accusing finger continues to be pointed to some Nigerian/African cultural, traditional and religious beliefs and practices, as an underlying behavioural paradigm that permits the acts of domestic violence, especially against women. Blaming culture and religion as one of the contributing factors to the prevalence of domestic violence in Nigeria, Effah-Chukwuma comments that:

Culture and religion play a major role in the continued perpetration of violence against women in general and domestic violence in particular. This is because people hide under the guise of both, to justify acts of domestic violence. You hear people saying things like “it’s our culture”; “the African culture allows it”. The Bible says a woman should be submissive, and if she is not, she should be beaten, “a foolish woman breaks her home”. All these add up to keep women in abusive relationships, while encouraging their husbands to continue their abusive acts.⁸⁸

⁸⁵ *ibid.*

⁸⁶ S D Dasgupta and S Warriar, ‘In the footsteps of “Arundhati” Asian Indian women experience of domestic violence in the United States’ (1996) 2 (3) *Violence Against Women* 238.

⁸⁷ Dutta Swarup, ‘Behavioural Paradigms’ <<http://www.evancarmichael.com/library/swarup-dutta/Behavioral-Paradigms.html>> accessed 17 July 2017.

⁸⁸ Ishola Balogun and Aderonke Adeyeri, ‘Domestic Violence: It’s assuming epidemic proportions’ Adeyeri, *Vanguard Newspaper* (Lagos, 14 June 2013).

There are numerous instances where Nigerians do not blame culture and tradition alone as a reason for indulging in domestic violence. Some Nigerians have gone as far as blaming it on the “devil”.⁸⁹ However, the prevailing belief is that culture, tradition and religion remain the main culprit in influencing and sustaining acts of domestic violence in Nigeria.⁹⁰ I will now turn to examine some of these cultural, traditional and religious beliefs and practices and how they wittingly or unwittingly influence the perceptions and attitudes Nigerians toward domestic violence.

4.2.1 Patriarchy

Patriarchy is defined as a “social system” or “organisation” of a group of people that exists together.⁹¹ According to Napikoski, ‘feminist theorists have expanded the definition of patriarchal society to describe a systemic bias against women’.⁹² Feminists understand and use term patriarchy to depict a social system where men hold power at the expense of women. As Napikoski illustrates:

A patriarchal society consists of a male-dominated power structure throughout organized society and in individual relationships. Power is related to privilege. In a system in which men have more power than women, men have some level of privilege to which women are not entitled.⁹³

Walby describes patriarchy as ‘a system of social structures and practices in which men dominate, oppress and exploit women’.⁹⁴ She argues that patriarchal practice helps to achieve and maintain gender inequalities crucial for the subordination of

⁸⁹ Florence Amagiya ‘Domestic Violence: Always blaming it on devil – Victims cry out’ *Vanguard Newspaper* (Lagos, 14 June 2013).

⁹⁰ Balogun and Adeyeri, (n 88).

⁹¹ Frances B O'Connor and Becky S Drury, *The Female Face in Patriarchy: Oppression as Culture* (Michigan University Press 1999).

⁹² Napikoski Linda, ‘Patriarchal Society: Feminist Theories of Patriarchy’ (1 December 2017) ThoughtCo <<https://www.thoughtco.com/patriarchal-society-feminism-definition-3528978>> accessed 7 August 2018.

⁹³ Napikoski (n 92).

⁹⁴ Walby Sylvia, ‘Theorising Patriarchy’ (1989) 23 (2) *sociology* 213.

women.⁹⁵ She contends that patriarchy operates both in public and private domain towards the same end, the subordination of women.⁹⁶

The operation of patriarchy and the strategies it employs to achieve and maintain the subordination of women differs from one society to another. Though the most notable outcome of patriarchal practice is women subordination; however, due to differences in cultures and beliefs, it does not have a uniform manifestation in all societies. For instance, in Nigeria, the gender value system permeates every human existence of men and women and determines not only the role each gender plays in the society, but their rights and obligations.⁹⁷ Patriarchy is practised in most regions and ethnic groups in Nigeria.⁹⁸ Though, there are slight differences in its mode of operation by each ethnic group, the core theme of the patriarchal practice, women subordination, is evident in their gender value systems and other cultural and religious practices and beliefs that encourages domestic violence, especially against women. I shall now discuss the role of these religious, customary and traditional beliefs and practices in relation to how they encourage domestic violence.

4.2.2 Gender Value System

Schalkwyk opines that ‘gender identities and gender relations are critical aspects of culture because they not only shape the way daily life is lived in the family, but also in the wider community and the workplace’.⁹⁹ In Nigeria, as in many other African countries, the pattern of gender value system is unequal and tends to accord more value, respect and recognition to men than women.¹⁰⁰ The

⁹⁵ Walby Sylvia, *Theorising Patriarchy* (Basil Blackwell, 1990) 138.

⁹⁶ *ibid.*

⁹⁷ O'Connor F B and Drury B S, *The Female Face in Patriarchy: Oppression as Culture* (Michigan University Press 1999).

⁹⁸ Ekhaton Osa Eghosa, ‘Women and the Law in Nigeria: A Reappraisal’ (2015) 16 (2) *Journal of International Women's Studies* 285.

⁹⁹ Johanna Schalkwyk, ‘Culture’ *Culture, Gender Equality and Development Cooperation* Canada (2000) Canadian International Development Agency (Cida) <<http://www.oecd.org/social/gender-development/1896320.pdf>> accessed 23 July 2017.

¹⁰⁰ S C Ifemeje, ‘Gender-Based Domestic Violence in Nigeria a Socio-Legal Perspective’ (2012) 19 (1) *Indian Journal of Gender Studies* 137; OECD, ‘Social Institutions & Gender Index, OECD Development Centre: Nigeria <<http://genderindex.org/country/nigeria>> accessed 27 July 2017.

Cambodian's perception of women as portrayed in this old Cambodian proverb appears to mirror how Nigerians regard women, especially female children:

Men are a piece of gold, and women are a piece of cloth. The piece of gold, when it is dropped in mud, is still a piece of gold. But a piece of cloth, once it's stained, it's stained forever. If you are a prostitute, if you have been raped, if you are a widow, you are no longer that virginal piece of cloth. But men, whether they are criminal or have cheated on their wives, they are still a piece of gold. When there is such a saying, a perception, then there is something wrong with that culture and that's when you want to change.¹⁰¹

The arrival of a new baby brings joy and happiness to every family in Nigeria as in other countries. However, across most of the ethnic groups in Nigeria, the male child is more valued and accorded more rights and privileges than his female counterpart.¹⁰² A family in many ethnic groups, especially the Igbos in the South East that does not have a male child is considered incomplete.¹⁰³ Men in most cases will take a second wife if they do not have a male child with their first wife. Similarly, couples that may have decided to have three children may end up with ten children as they try to get a male child.¹⁰⁴

Furthermore, this unequal gender value system is apparent in how some families treat their male and female children.¹⁰⁵ If there are scarce resources and the parents have to make a decision as to which of their children are to be trained in school, male children are likely to be given preference over their female siblings.¹⁰⁶ Married women and girls are not allowed to participate in special community meetings where important decisions are taken, and laws made for the community.¹⁰⁷ In the Igbo nation of the South East, Nigeria, kola nut is not

¹⁰¹ Alison Forsyth (ed), *The Methuen Drama Anthology of Testimonial Plays* (Bloomsbury 2013) 273.

¹⁰² Morire Oreoluwapo Labeodan, 'The Family Lifestyle in Nigeria' (2005) 2
<<http://paa2005.princeton.edu/papers/51248>> accessed 27 August 2017.

¹⁰³ Kenneth Chukwuemeka Nwoko, 'Female Husbands in Igbo Land: Southeast Nigeria' (2012) 5 (1) *The Journal of Pan African Studies* 5(1) 69.

¹⁰⁴ Special Report, 'Child sex controversy: The search for a male child' *Vanguard*, Nigeria (Lagos, 24 November 2012).

¹⁰⁵ J Okeke and S N Agu, 'Epistemology of womanhood, contending the uncontended among the Igbo women of eastern Nigeria' (A paper presented at an international conference with the theme Emergent Issues in Humanities in Africa in the Third Millennium, Organized by the Faculty of Arts, University of Nigeria, Nsukka. April 23rd to 28th, 2012).

¹⁰⁶ *ibid.*

¹⁰⁷ *ibid.*

presented to women.¹⁰⁸ The Igbo ethnic group revere Kola nut and use it to welcome visitors in their homes and at “special” occasions. A female child is not allowed to become head of a family no matter her position in the family; neither do female children have inheritance rights in many ethnic groups in the country.¹⁰⁹ This relegation of women in many Nigerian societal settings, unsurprisingly, manifests in the gathering of Nigerians in the Diaspora. Where ever there is a congregation of Nigerians, the women do unconsciously separate themselves from the men, and if it happens to be in a residential house, they are likely to gravitate towards the kitchen and leave the men in the sitting room.

The female children are taught from childhood to be respectful and submissive, while the males are thought to be macho, outgoing, outspoken and domineering.¹¹⁰ Religion does not treat women any better, nor does it accord them equal rights and privileges. The role of women in Christian and Islamic religions is not at parity with that of men.¹¹¹ Women are not allowed in the Catholic Church to become Priests. In Islam, certain restrictions apply to women Iman that is not applicable to male Iman.¹¹²

Most female children in Nigeria are brought up with this mentality of subordination to their male counterpart. If a woman with such internalised mentality happens to marry an abusive man, it may be difficult for her to consider the abuse meted to her by her husband as a crime. Also, the husband may think his abusive behaviour is normal; that he is living up to his cultural expectations as the head of the family, which includes controlling and chastising his wife and children

¹⁰⁸ Mary Basil Nwoke, ‘Influence of Culturalvalue System and Home on Child-Rearing Practices in the Contemporary Nigeria Society’ (2013) 3 (1) *Open Journal of Philosophy* 200.

¹⁰⁹ Bruno Obialo Igwe, ‘Women Inheritance Rights In Nigeria: Towards Progress in the 21st Century’ (LLM Thesis, Maynooth University Ireland 2012) 25 - 30.

¹¹⁰ S C Ifemeje and Ogugua Ikpeze, ‘Global Trend Towards Gender Equality: Nigeria’s Experience in Focus’ (2012) 2 (3) *Kuwait Chapter of Arabian Journal of Business and Management Review* 51.

¹¹¹ Christian Aid Nigeria, ‘Masculinity and Religion in Nigeria Findings from qualitative research’ (2015) <<http://www.christianaid.org.uk/programme-policy-practice/sites/default/files/2017-01/Masculinity-and-Religion-Nigeria-Dec-2015.pdf>> accessed 26 July 2017.

¹¹² Muzammil Siddiqi, ‘Woman Imam Leading Men and Women in Salat’ (Dhul-Qa’dah 2017) <<http://www.islamicity.org/2576/woman-imam-leading-men-and-women-in-salat/>> accessed 26 July 2017.

if they fail to conform to his instructions. Hence, the husband may be perpetuating the abuse in ignorance and the wife acquiescing to it in ignorance. Both are blinded by their cultural, traditional and religious unequal gender value system. The study mentioned earlier in this chapter that was carried out by Oyediran and Isugo on women's perception of wife beating in Nigeria appears to confirm these observations. In the study, 64.4 percent of ever married and 50.4 percent of unmarried women agreed with the practice of wife beating.¹¹³ If these women and their abusive husbands are enlightened to overcome their perceptions and attitudes toward domestic violence, they may comprehend that domestic violence is a crime and abuse of the victim's human rights.

4.2.3 Inheritance Rights

Ezeilo observes that:

... the lives of the majority of Nigerians are governed by customary laws. Not surprisingly, about 80% of dispositions of property are settled under customary law. The fact that many states do not have appropriate laws to deal with intestate succession has also increased the application of customary laws in the distribution of real and personal property.¹¹⁴

In Nigeria, the law recognises two kinds of dispositions of property on death – testate and intestate inheritance. They are governed by three heads of laws – Common law, Statutory law and Customary law. I will concentrate on the customary law, because as Ezeilo contends, 'majority of Nigerians are governed by customary laws'.¹¹⁵ Customary law 'encapsulate all the beliefs, social institution and religion that characterises and are unique to a community or race'.¹¹⁶ Elias defines it as a body of customs accepted by members of a community as binding upon them'.¹¹⁷ It is the organic or living law of the indigenous people regulating their lives and transactions. They have some inherent

¹¹³ K A Oyediran and U C Isiugo-Abanihe (n 47).

¹¹⁴ Joy Ezeilo, 'Laws and Practices Relating to Women's' Inheritance Rights In Nigeria: An Overview' (undated)
<<http://www.muslimpersonallaw.co.za/inheritancedocs/lawandpractices%20in%20nigeria.pdf>>
accessed 23 May 2017.

¹¹⁵ *ibid.*

¹¹⁶ *ibid.*

¹¹⁷ T O Elias, *The Nature of African Customary law* (Manchester University Press London 1956) 11.

characteristics and are unwritten. Islamic law is known as ‘Sharia’ which is set out in the Quran and the teachings of Prophet Mohammed in the Sunnah.¹¹⁸ Unlike Customary law, Islamic law is written, substantially rigid and governs the way of life of Muslims, Islamic law among other things governs inheritance right of Muslims, especially those in the Northern region.

The customary law of each ethnic group is a body of customs accepted by members of a community as binding upon them.¹¹⁹ While there may be slight variations in the application of customary laws within each ethnic group, the main principles remain largely the same.¹²⁰ In all the ethnic regions in Nigeria, one can easily find traces of discriminatory inheritance practices against women, either as a female child, wife or widow. The severity of these discriminatory practices differs according to each ethnic region. Ezeilo notes that ‘Since customary laws are generally heavily weighted against women, their rights of inheritance suffer unduly in the face of systematic gender discriminatory and oppressive rules’.¹²¹ It may not be possible to discuss the customary inheritance rights of all the ethnic groups in Nigeria; hence, I briefly discuss the customary inheritance laws of the three major ethnic groups in Nigeria: The Igbo, Yoruba and Hausa.

4.2.3 (a) Yoruba Custom

Under the Yoruba Customary law of inheritance, male and female children of a person who died intestate are entitled to inherit their father’s property on his death intestate to the exclusion of other relations.¹²² In *Sule v Ajisegiri*,¹²³ it was held that the partition must be equal between those entitled regardless of sex. However, a wife has no right of inheritance of her deceased husband’s estate.¹²⁴ As Jibowu F.J., observed in *Suberu v. Sunmonu*, ‘It is a well settled rule of native law and

¹¹⁸ Yekini Abubakri Olakulehin, ‘Women and intestate succession in Islamic law’ (2008) SSRN , <<http://ssrn.com/abstract=1278077>> accessed 21 July 2017.

¹¹⁹ Reginald Akujobi Onuoha, ‘Discriminatory Property Inheritance Under Customary Law in Nigeria: NGOs to the Rescue’ (2008) 10 (2) *The International Journal of Not-for-Profit Law* <http://www.icnl.org/research/journal/vol10iss2/art_4.htm> accessed 27 July 2017.

¹²⁰ *ibid.*

¹²¹ Joy Ezeilo (n 114).

¹²² E I Nwogugu, *Family Law in Nigeria* (Revised ed. HEBN Publishers PLC 2011) 399 - 413.

¹²³ *Sule v. Ajisegiri* [1937] I3 NLR 146; *Andre v. Agbebi* [1931] 5 NLR 47.

¹²⁴ *Suberu v Sunmonu* [1957] 2 FSC 31.

Custom of the Yoruba people that a wife could not inherit her husband's property since she herself is, like a chattel, to be inherited by a relative of her husband'.¹²⁵

4.2.3 (b) Igbo Custom

In Igbo custom, daughters and widows have no right of inheritance to their father's or husband's movable or immovable property upon his death intestate.¹²⁶ In the case of *Ugboma v. Ibeneme*,¹²⁷ Rev. Ibeneme's daughters from Awkuzu in Anambra State were parties to the dispute concerning the sale of the deceased property. The learned trial Judge held that in accordance with the general Igbo custom which is also the custom of Awkuzu, women are not entitled to inherit land from their father. Consequently, the female plaintiffs were held to have no *Locus standi* in the action.¹²⁸ The only situation where a daughter can inherit her deceased father's property is where, for example, she chooses to remain, unmarried, in her father's house intending to raise children in the father's home. This is known as *Nrachi* or *Idegbe* institution. It usually happens when a man has only female children. The idea behind this practice is to save the lineage from extinction. The daughter, as an *Idegbe* or *Nrachi* is entitled to inherit both movable and immovable property of her father on his death intestate. Similarly, in *Nezianya v. Okagbue* the Supreme Court held that:

Under the native law and custom of Onitsha, a widow's possession of her deceased husband's property is not that of a stranger and however long it is, it is not adverse to her husband's family and does not make her owner; she cannot deal with the property without the consent of his family. She cannot by the effluxion of time claim the property as her own, if the family does not give their consent, she cannot it would appear, deal with the property. She has, however, the right to occupy the building or part of it, but this is subject to good behaviour. Further, the Court stated that no equity arose in the widow's favour through her long possession, it having been acquired by her qua member of her husband's family with consent (actual or implied) of his family.¹²⁹

¹²⁵ *ibid*

¹²⁶ *Nezianya v. Okagbue* [1963] ALL N.L.R. 358 SC.

¹²⁷ *Ugboma v. Ibeneme* [1967] F.N.L.R. 251.

¹²⁸ *ibid*.

¹²⁹ *Nezianya v. Okagbue* [1963] ALL NLR 358 SC.

This line of reasoning was also followed in *Nzekwu v. Nzekwu*.¹³⁰ Ezeilo asserts that ‘wives do not inherit because of the customary notion that women are property and, therefore, object of inheritance themselves’.¹³¹

4.2.3 (c) Islamic Custom

Under Islamic law, the children of a deceased man, both male and female including the wife or wives are entitled to a share of the deceased’s estate where the deceased died intestate. Male children are entitled to have equal shares and female are entitled to only half of the male shares. A child may only be disinherited if he/she is not a Moslem.¹³² After paying the funeral expenses, debts, legacies, and other charges, the remainder of the estate is shared as follows under Islamic law:

- a) Father, one-sixth ($\frac{1}{6}$)
- b) Grand-father, one-sixth ($\frac{1}{6}$)
- c) Mother, one-sixth ($\frac{1}{6}$) with a child, and one-third ($\frac{1}{3}$) without a child.
- d) Grandmother, one-sixth ($\frac{1}{6}$) with a child, and one-third ($\frac{1}{3}$) without a child.
- e) Husband, one-fourth ($\frac{1}{4}$) with a child, and one-half ($\frac{1}{2}$) without a child.
- f) Wife or wives, one-eighth ($\frac{1}{8}$) with a child, and one-fourth ($\frac{1}{4}$) without a child.
- g) Daughter, half ($\frac{1}{2}$) when alone, and two-third ($\frac{2}{3}$) if more than one son.
- h) Son’s daughter, howsoever like above.¹³³

¹³⁰ *Nzekwu v. Nzekwu* [1989] 2 NLR 373.

¹³¹ Joy Ezeilo (n 114).

¹³² *ibid.*

¹³³ M A Ambali, *The Practice of Muslim Family Law in Nigeria* (Princeton & Associate Publishing 2013) 340; Ibrahim Naiya Sada, Fatima L. Adamu, Ali Ahmad, ‘Promoting Women’s Rights Through Sharia in Northern Nigeria’ (Centre for Islamic Legal Studies, Ahmadu Bello University, Zaria 2005) 25 <http://www.ungei.org/resources/files/dfid_promoting_womens_rights.pdf> accessed 29 July 2017.

The courts have ruled against some of this discriminatory customary inheritance laws against women in Nigeria, especially those of the Igbo. However, it appears the practice still persists in some places, because some women are oblivious of their rights or their inability to fond legal proceedings to assert their rights or the fear of retribution from relatives of the deceased. In a landmark judgment, *Lois Chituru Ukeje & Anor v. Gladys Ada Ukejea*, the Supreme Court of Nigeria ‘voided the aspect of Igbo native law and custom that denies female children’s inheritance’.¹³⁴ Justice Bode Rhodes-Vivour, who read the lead judgment in the case stated: ‘No matter the circumstances of the birth of a female child, such a child is entitled to an inheritance from her late father’s estate’.¹³⁵ Consequently, he averred:

The Igbo Customary Law, which disentitles a female child from partaking in the sharing of her deceased father’s estate, is in breach of Section 42 (1) and (2) of the Constitution, a fundamental rights provision guaranteed to every Nigerian. The landmark judgement, therefore, declared the discriminatory customary law, void.¹³⁶

I believe that discriminatory customary inheritance practices constitute domestic abuse, which leaves the victims, mostly women, emotionally traumatised. I was privy to an inheritance dispute concerning a widow who had been given a piece of land by her deceased husband. She farmed on this land for over forty years she lived with her husband before his death. Upon the death of her husband, the eldest son of the man who has a different mother, took the farmland and the cash crops from the widow. This action of the eldest son of the deceased man was justified on the ground that the widow has no right of inheritance from her late husband’s estate. As Obioha opines, ‘married women customarily enjoy what belongs to their husbands while they are alive, and reverse becomes the case when they die’.¹³⁷ The

¹³⁴ [2014] SC.224/2004 LN-e-LR/2014/13 (SC).

¹³⁵ *ibid.*

¹³⁶ Editorial, ‘Supreme Court Verdict on Igbo Women’s Inheritance Rights’ *The Sun Newspaper* (Abuja, 30 April 2014).

¹³⁷ Emeka Obioha, ‘Inheritance rights, access to property and deepening poverty situation among women in Igboland, Southeast, Nigeria’ (Paper Presented at A Sub-Regional Conference on Gender and Poverty Organized by Centre For Gender And Social Policy, Obafemi Awolowo University Ile-Ife, NIGERIA 2003).

widow bemoaned her predicament and suffered a stroke some weeks later, from which she never recovered and died. Related stories abound throughout Nigeria due to the belief and practice of these discriminatory customary inheritance laws.

There is an urgent need to address the discriminatory inheritance rights of women in Nigeria. The intervention by the courts in rebuffing these customary laws should be followed by a grassroots campaign to enlighten the populace that the application of these laws wherever they exist is illegal and inhumane.¹³⁸ The traditional, religious and community leaders need to be enlightened to overcome their belief and allegiance to these laws. Similarly, the populace needs to be made aware that the practice of these laws constitutes domestic abuse. The victims often suffer economic, psychological and emotional abuse because of the practice of these oppressive customary laws of inheritance.

4.2.4 The Culture of Silence and Shame

In many Nigerian communities, the first advice that is usually given to young couples by their elder relatives at the time of their getting married is to “always keep your marital issues within” meaning they should try and resolve any dispute without the assistance of outsiders. To a certain extent, it is not a bad advice, but where to draw the line between trying to resolve marital issues within the family and seeking assistance from non-relatives and professionals is the puzzle. It is a matter of common sense that not every issue that may arise between couples may require the intervention of non-family and professionals to resolve. Similarly, not every trivial marital issue should be blown out of proportion, as there is a need for an element of tolerance in every marital engagement. The Indian Supreme Court echoed this in *Dastane v Dastane* that:

The foundation of sound marriage is tolerance, adjustment and respecting one another. Tolerance of each other’s fault to a certain bearable extent has to be inherent in every marriage. Petty quibbles, trifling differences should not be exaggerated and magnified to destroy what is said to have been made

¹³⁸ *Mojekwu v. Mojekwu* [1997] 7 NWLR 283.

in heaven. A too technical and hyper-sensitive approach would be counter-productive to the institution of marriage.¹³⁹

Tolerance and respect are one of the bedrocks of every successful marriage or relationship. The ability to realise when to seek outside assistance is very crucial. The culture of silence, which is the attitude of keeping quiet in the face adversity is prevalent in Nigeria as in many other African countries and, indeed, many parts of the world.¹⁴⁰ The adherence to the culture of silence has been blamed for the under reporting of domestic violence in Nigeria and other countries.¹⁴¹ In the case of Nigeria, the culture of silence manifests not only in the issues of domestic abuse. It manifests in, almost, every aspect of ordinary Nigerian's interactions with outsiders. In many Nigerian communities, children are not encouraged to freely express their feelings, whether positive or otherwise in the presence of adults. Nigerians are very tolerant of government official's mismanagement and wasteful spending of their resources and corruption. The late famous Afro Beat king, Fela Anikulapo Kuti, termed Nigerian's attitude of this culture of silence as "Suffering and Smiling".¹⁴² However, in the case of domestic violence, I term it "Suffering and Dying". Many Nigerians are dying because of the culture of silence prompted by the belief and adherence to its practice. Attorney Ike Ezekwu, Sr, a Nigerian residing in the USA, narrated the ugly incident of a young woman that was brought to his attention:

On Monday, I received a call from Nigeria from a friend about Ms Nkechi Ngene [maiden name]. Ms Ngene was 8 months pregnant, an unemployed mother of two minor children, and the wife of a man, that is known to his friends as Chico Chime- a motorcycle spare part dealer In Enugu. Both reside in Enugu GRA and are from Akwuke Autonomous Community [Nkanu] in Enugu South LGA of Enugu State. On January 31, 2012, she confronted her husband about his incessant infidelity, and he responded by

¹³⁹ Narayan Ganesh Dastane V. Sucheta Narayan Dastane Narayan [1975] Insc 79; Das P K, Protection of Women from Domestic Violence (3rd edn, India, Universal Law Publishing 2009) 12.

¹⁴⁰ Channels Television Nigeria, 'Culture of Silence in Nigeria And Rising Gender Based Violence' (14 December 2014) <<http://www.channelstv.com/2014/12/14/culture-silence-nigeria-rising-gender-based-.violence/>> accessed 30 July 2017.

¹⁴¹ Paul Lewis, 'Senators condemn 'culture of silence' enabling domestic violence in sports' *The US Guardian Newspapers* (2 December 2014); Alicia Wood, 'Standing up to domestic violence in a culture of silence' *The Sydney Daily Telegraph* (Sydney, 13 June 2013).

¹⁴² Thom Jureck, 'The complete works of Fela songs' <www.allmusic.com/album/the-complete-works-of-fela-anikulapo-kuti-mw0002073846> accessed 25 July 2017.

beating the crap out of her. Ms Ngene sustained various bruises, but the worst was that she began to bleed profusely and uncontrollably. The unkindest cut of all was that her husband left her to die. Abandoned on the cold floor helpless, in the full glare of their children, and life slowly but painfully slipping away from her, with her last breath she called a friend. She was rushed to the nearest hospital, and after two days of spirited medical help, she died as well as her unborn child.¹⁴³ Nwozo lamented about the culture of silence that is militating against the reporting, seeking assistance and combating of domestic violence in Nigeria: Many Nigerians and African women have died in silence. Ms Nkechi Ngene and her unborn child must not die in Vain. Let us make a difference in another person's life by breaking this culture of silence. Domestic Violence is now a silent killer in our homes and lives. This is the time to take a stand and proclaim: NEVER AGAIN!¹⁴⁴

The culture of silence is exacerbated by its cousin in delinquency, “the culture of shame” (which is the attitude of not speaking out to avoid public ridicule or stigmatization). Many Nigerians regard reporting of domestic violence or seeking help as shameful and washing of one's dirty linen in public. In many Nigerian communities, families regard it as shameful for their married daughter to separate/divorce from her husband, even in the face of threatening danger and looming risk of being battered to death by their husband and/or his relatives. Also, in many Nigerian communities, there is a cultural tendency to blame the women for marriage breakdown, as they are required to endure whatever situation they find themselves in marriage.¹⁴⁵ It is noteworthy that many rape cases go unreported in Nigeria to avoid stigmatisation of the victim. I consider rape victims in Nigeria as “double victims”. Firstly, they are victims of the crime of rape. Secondly, they are victims of the stigmatisation that they may suffer if they muster courage and report it. Effah-Chukwuma asserts that ‘stigmatisation is one of the factors that cause victims to remain silent’.¹⁴⁶ Also, Balogun and Adeyeri concurred with

¹⁴³ Ike Melchyesedech Ezekwu, ‘Culture of Silence and Domestic Violence: The Death of Nkechi and Unborn Child. True Story’ *The Nigerian Voice* (9 February 2012) [Emphasis added]. <<http://www.thenigerianvoice.com/news/82327/1/culture-of-silence-and-domestic-violence-the-death.html>> accessed 25 July 2017.

¹⁴⁴ Harris Nwozo, ‘Culture of Silence and Domestic Violence: The Death of Nkechi and Unborn Child. True Story’ *The Nigerian Voice* (9 February 2012). <<http://www.thenigerianvoice.com/news/82327/1/culture-of-silence-and-domestic-violence-the-death.html>> accessed 25 July 2017.

¹⁴⁵ Perpetua Nneka Oli (n 11); Women for women, ‘The Reality of Domestic Violence In Nigeria’ (women for women 12 April 2017) <<http://www.womenforwomen.org/blog/reality-domestic-violence-nigeria>> accessed 29 July 2017.

¹⁴⁶ Ishola Balogun and Aderonke Adeyeri (n 88).

Effah-Chukwuma's assertion that '... stigmatisation is an issue, as it causes victims to keep silent, and not cry out for help'.¹⁴⁷

In rape cases, domestic abuse and other related violent crimes, 'culture of silence reinforces the stigma attached to the victim rather than condemning the perpetrator of such crimes'.¹⁴⁸ Nwosu, a Nigerian lawyer, blamed stigmatisation and religious beliefs as one of the reasons women remain in marriages in Nigeria, despite obvious treats to their life and wellbeing: '... because of the social stigmatisation associated with failed marriages, some women have remained attached to the marriage even where none exists anymore, hoping against hope that things would change'.¹⁴⁹ According to Paschal, '...getting out seems to be an attractive option, but the church teachings against divorce have left many to try to redeem their marriages at great cost to their selves including but not limited to emotional traumatisation'.¹⁵⁰

Men like women are also victims of culture of silence and shame concerning domestic violence. Due to men's upbringing to be macho, domineering and superior to the women, many men suffer in silence in situations of domestic abuse by their wives. Men feel ashamed to acknowledge, report or seek help when abused by their wives. Hence, they fall victim of the culture of silence and shame and, as a result, many have become depressed, develop high blood pressure or other related health problems while trying to endure constant abuse from their wives.

Nigerians need to overcome these cultures of silence and shame in relation to seeking help when confronted with domestic violence. Many innocent lives have been lost because of domestic violence, which would have been saved, had the victims and the perpetrators had the courage to speak out and seek help on time. Besides, friends, colleagues and relatives of victims or perpetrators, who may be

¹⁴⁷ *ibid.*

¹⁴⁸ Afronews, 'Half of Nigeria's Women experience domestic violence' (*AfrolNews online* 2007) . <<http://www.afro.com/awrticles/16471>> accessed 25 July 2017.

¹⁴⁹ Paschal Nwosu, 'An Overview Of Domestic Violence And Homicide In Nigerian Marriages' *The Leader* (14 April 2014) <<http://theleaderassumpta.com/2014/04/14/an-overview-of-domestic-violence-and-homicide-in-nigerian-marriages/>> accessed 25 July 2017.

¹⁵⁰ *ibid.*

aware of ongoing abuse in their friends, colleagues or relative's home, should be encouraged to speak out and notify the authorities. There is a compelling need to overcome the belief that women who leave their matrimonial home bring shame to their families. Finally, the beliefs and practises of these cultures of silence and shame should be jettisoned, and the idea of encouraging couples to be vocal and seek help in situations of domestic violence encouraged.

4.2.5 Sense of Ownership

There is a prevailing cultural belief in many parts of Nigeria that married women are properties of their husband.¹⁵¹ This belief finds expression in many ways that men tend to control their wives, which includes but not limited to beating. As mentioned earlier in this chapter, there was a study by Abiola *et al.*, on the perception of Nigerian men on domestic violence, especially wife battery, which was based on the 2008 Nigeria Demographic and Health Survey (NDHS).¹⁵² In the study, seven reasons were listed from which men were asked to state their opinion whether a man is justified in hitting or beating his wife.¹⁵³ The reasons listed include:

1. If she goes out without telling him.
2. If she neglects the children.
3. If she argues with him.
4. If she refuses to have sex with him.
5. If she burns food.
6. If she does not cook on time.
7. If she refuses to have more children.

¹⁵¹ Joy Ezeilo (n 114).

¹⁵² Fadeyibi O Abiola, *et al.*, 'A quantitative assessment of the perceptions of Nigerian men on domestic violence in the 2008 Nigerian Demographic and Health Survey' (Paper presented at the 6th African Population Conference – African Population, past, present, and future. Ouagadougou, Burkina Faso, 5 -9 December 2011).

¹⁵³ *ibid.*

The analysis of the survey shows that majority of men perceive wife beating as justified if a woman disobeys or argues with her husband on most of the reasons listed above.¹⁵⁴ The result may not surprise many people that grew up in some parts of Nigeria given the cultural belief that men own their wives and have the right to control them. This cultural belief is one the reasons that prompt some men to engage in the attitude of controlling their wife's earnings, her social life/relationship with other people, including her family members, religious affiliation, choice of profession, and participation in politics, amongst others. Some men stretch this belief too far, by demanding that their wife accounts for every expense she made, her whereabouts whenever she goes out, and the type of dress she wears. This belief is reinforced and embedded in the women subconsciously through some traditional axiom in many parts of the country. For example, this Igbo adage: "*agwa wu nma nwayi*" which means that a woman's beauty is measured by her degree of obedience. Hence, no matter how beautiful a woman may be, if she is not obedient, she is not beautiful.

This sense of obedience inculcated in the mindset of women appears to be one of the reasons some of them perceive beating by their husband as "normal and justified".¹⁵⁵ In one of the visits to my fiancé's house before we got married, we saw a married woman, who happens to be their neighbour that was battered by her husband with bruises all over her face. The sight of her prompted us to start conversation on the issue of wife battering; unbeknown to us, a married woman nearby overheard our discussion and approached us. What she said, surprised me. She said that women have the habit of drifting out of order and need to be occasionally beaten by their husbands, to bring them back to order. Her reasoning aligns and corroborates another popular traditional maxim in many parts of Nigeria, that "to beat a woman is bad, but not to beat them at all is the worst".

This belief is behind one of the traditional folklores in Nigeria, A couple went to court to seek divorce and the issue of how to share their properties arose. The trial

¹⁵⁴ *ibid.*

¹⁵⁵ K A Oyediran and U C Isiugo-Abanihe (n 47).

judge asked them to list their properties, and the woman listed the family house and car as her private property because she bought them devoid of her husband's financial contribution. When the man submitted his list, his wife was the first item on the list. In delivering judgment in the case, the Judge told the woman that though the family house and car belonged to her, since she was the property of the man, all that belongs to her automatically belongs to her husband.

Furthermore, the feeling of the sense of ownership appears to be behind some customary practices in some parts of Nigeria, like that of the Tiv in the Middle Belt area of Nigeria. There was an alleged customary practice among the Tiv people, whereby if a man visits his friend from a distant place, the host usually offers his August visitor his wife (though, it has recently been contested that it was their female slave and not their wife that they offer to the visitor) to keep him company at night. In the morning, the host will enquire from his visitor if the woman satisfied him, a negative answer may portend trouble for the woman. Hence, she would do her utmost best to satisfy the guest to avoid incurring the ire of the man.¹⁵⁶ As the debate continues whether it was their wife or female slave that they offer to their guests and/or whether the custom is a myth or reality; the issue is that, if such a practise ever happened, it was caused by the man's feeling of sense of ownership of the woman.

4.2.6 Bride Price

Many commentators have blamed the traditional practice whereby a man pays a bride price to the family of the bride as one of the reasons, which 'led to the idea of ownership of the woman'.¹⁵⁷ The proponents of this school of thought regard

¹⁵⁶ Regina O Arisi and Patrick Oromareghake, 'Cultural Violence and the Nigerian Woman' (2011) 5 (4) African Research Review 369; John Akevi, 'Misconception About Tiv Hospitality' (Pointblanknews 31 July 2014) <<http://pointblanknews.com/pbn/articles-opinions/misconception-tiv-hospitality/>> accessed 29 July 2017.

¹⁵⁷ Adebayo Waheed *et al.*, 'Nigeria: Is Bride Price Still Relevant to Marriage?' *Leadership* (Abuja, 26 January 2014) 'A clergyman, Pastor Lazarus Ufomba of the Salvation Ministries, ...blames the culture of marriage practice in Igboland as being responsible for late marriages in the region. He laments the high bride price levied on intending grooms there, describing it as callous'.

‘the exchange of bride price being evidence of a commercial transaction’.¹⁵⁸ Conversely, some argue that the institution of bride price wherever it is practised in Nigeria was never conceived to be a commercial transaction, whereby the family of the bride exchanges their daughter for a certain sum of money.¹⁵⁹ There is an emerging notion that the payment of bride price is to compensate the bride’s family for their expenses and efforts in nurturing her. This perception is reinforced by how expensive it is to get married in many parts of Nigeria, especially in the South of the country. According to Ilobanfor, a Christian from the Southeast of Nigeria, the ‘payment of dowry is an African culture. It is like having cultural access to such a person. And immediately the dowry is paid, the woman becomes your property’.¹⁶⁰ In many towns in the Southeast region of Nigeria, many eligible suitors remain unmarried for many years as they cannot afford the cost of getting married.¹⁶¹ And for those who can afford the cost, after spending huge quantum of money trying to meet the demands of the bride’s family and kin, the idea of complete ownership of the woman starts to take hold in their mindset. Hence, as Adewunmi and Sunday assert, ‘In modern times... the bride price symbolizes sale of the girl and ownership by her husband and his family’ and ‘due to this misinterpretation of customary law, the woman is regarded as the property of the man who is entitled to discipline her as he thinks fit’.¹⁶²

Overcoming this belief of sense of ownership will assist the men to realise that some of their actions toward their wife are cruel, inhumane, and constitutes domestic abuse. Furthermore, it will assist the women to realise they are being abused and acquiescing to these practices in ignorance. Therefore, instead of clinging to this cultural sense of ownership, couples should endeavour to nurture

¹⁵⁸ Yetunde Adebunmi Aluko, Aluko-Arowolo and Sunday Olusola, ‘The Silent Crime: A Sociological Appraisal of Gender-Based Violence Experienced By Women In Yoruba Culture Of Nigeria’ (Paper presented at The Fifth African Population Conference, Arusha, Tanzania 10-14 December 2007).

¹⁵⁹ J Akande, ‘Women and the Law’ in A O Obilade (ed) *Women in Law* (Democracy in Africa Publication 1993).

¹⁶⁰ *ibid.*

¹⁶¹ *ibid.*

¹⁶² *ibid.*

respect and love for each other. Respect for one another is the key to a fulfilling relationship devoid of violence of any kind.

4.3 Conclusion

The chapter traced the development of domestic violence awareness in Nigeria. The prevalence of domestic violence as indicated in many researches carried out in the country shows the seriousness of the issue and its devastating effect. In chapter two, I argued that perceptions and attitudes of many Nigerians toward domestic violence emanate from their belief, practice and reverence to culture, tradition and religion. I further argue that the influence of these beliefs and practices account for the high prevalence rate of domestic violence in the country. The most worrying is that majority of people are ignorant of the acts that constitute domestic violence, which is one the reasons that victims acquiesce to the crime. Similarly, I argue that cultural, traditional and religious considerations appear to be the main reason behind the reluctance in enacting human rights laws in the Nigeria. They are also behind the delay in passing the VAPP Act and the lacklustre attitude in domesticating international human rights treaties. Thus, I recommend the involvement of traditional and religious leaders in the effort in creating awareness and tackling domestic violence in the country since they exercise a profound influence on their subjects.

In the next chapter, I will appraise the efforts of the State and Federal Governments in tackling domestic violence in Nigeria.

Chapter 5

Domestic Violence in Nigeria: Legal and Institutional Response

This chapter contains four sections:

Section one explores Nigeria government's structure and legal system. The political, economic, religious and social landscape of the country will be examined to comprehend how their interaction impacts on efforts to promulgate and enforce human rights laws in the country.

Section two examines the State Government's response to domestic violence. Nigeria has thirty-six states and a Federal Capital Territory (FCT). The State laws against domestic violence will be examined and a commentary will follow on why only five out of the thirty-six States have outlawed domestic violence.

Section three considers the Federal Government's response to domestic violence. The Federal law against domestic violence (VAPP Act, 2015) will be evaluated to ascertain its conformity with established international standard against domestic violence legislation. Furthermore, discriminatory laws against women in the Northern region of Nigeria will be highlighted and a commentary will follow on the restriction of the VAPP Act to have effect only in the FCT.

Section four explores the jurisprudence of the Court of Justice (Community Court or ECOWAS Court) of the Economic Community of West Africa (ECOWAS) on domestic violence. This discussion became necessary following the Court's recent decision on a domestic violence case against Nigeria. The decision has the potential to create a fertile ground for litigation that may rapidly generate evolving case-law on domestic violence in the region.

Section One

5.0 Introduction

The purpose of this chapter is to evaluate the legal approach to tackling domestic violence and the existing laws against it in Nigeria. The chapter also aims to evaluate domestic violence awareness campaign in Nigeria and the attitude of the law enforcement agencies in ensuring its implementation and enforcement. Furthermore, the chapter discusses the difficulties of enacting human rights laws in Nigeria. Lastly, I highlighted a conflicting and discriminatory law against women in the Northern region of Nigeria. The first section of this chapter adopts a descriptive approach to enable the readers to have a good understanding of Nigeria and her executive, legislative and law enforcement institutions.

This chapter enables the comprehension of the existing laws against domestic violence in Nigeria. Nigeria is the country of origin of the participants in this study. Therefore, it is pertinent to understand the customs, legal, and religious background in which the participants lived before migrating to Ireland. These factors, to a considerable extent, influence the perceptions and attitudes of the people on many issues such as domestic violence.¹ The aim of this chapter and chapter 6 is to give a holistic understanding of the two jurisdictions, Nigeria and Ireland, which are the origin and the host country of the research participants.

I will commence the discussion in this chapter by giving a description of the powers and functions of the executive, legislative and judiciary arms of both the Federal and State Governments. Furthermore, I will give a brief overview of the population of Nigeria, including its ethnic makeup as well as a brief account of the social, economic and political challenges that Nigeria is currently facing

¹ Tony Cassidy, *Environmental Psychology: Behaviour and Experience in Context* (1st edn, Hove & New York, Psychology Press 1997); Matt McGue and Thomas J Bouchard Jr, 'Genetic and Environmental Influences on Human Behavioral Differences' (1998) 21 *Annu. Rev. Neurosci.* 1–24; Elizabeth D Hutchison, *Dimensions of Human Behavior: Person and Environment* (5edn, USA Sage Publication 2015).

5.1 Nigeria: An overview

The Federal Republic of Nigeria (FRN) is commonly known and referred to as Nigeria.² It is one of the Sub-Saharan West African countries. It is a multi-ethnic nation comprising of over 300 ethnic nationalities each with a distinct language, religion, customs and traditions.³ Nigeria was formed in 1914 by amalgamating the Southern and Northern protectorates which were British colonies.⁴ Nigeria gained independence from Britain in 1960. However, the history of British presence in Nigeria dates back to the 18th century when they displaced the Portuguese as leaders of slave trade in the region.⁵ According to Falola, 'prior to British colonial rule the diverse societies of the Nigerian region had ruled themselves as independent states'.⁶ The three major ethnic nationalities in Nigeria are Igbo in the Southeast, Yoruba in the Southwest and Hausa in the Northern part of the country.⁷ Besides the difference in linguistic and cultural practices in Nigeria, the most significant, contentious and sensitive subject of division in the country is religion.⁸ Nigeria is divided roughly in half along religious line with Christians in the South and Muslims in the North. Traditional and animist religion is practised by a minority of the population, mostly in the Southern part of the country.⁹ There are thirty-six States in Nigeria, and the Federal Capital Territory (FCT) is located in Abuja.¹⁰ The thirty-six States are grouped into six geopolitical

² Toyin Falola and Matthew Heaton, *A History of Nigeria* (Cambridge University Press 2008) 85 - 110.

³ Richard Olaniyan, *Nigerian History and Culture* (illustrated edn, Addison-Wesley Longman Limited 1985) 121 - 153.

⁴ Falola Toyin, *History of Nigeria* (Cambridge University Press 2008) 39.

⁵ *ibid.*

⁶ *ibid.* 6.

⁷ Jerry Sampson, *Nigeria History, Precolonial History from year 1500: Civil War, Slave Trade, Abolition of the Slave Trade, Unification of Nigeria, The Yoruba Wars, Government, Politics, Economy* (Sonit Education Academy 2016) 101 - 125.

⁸ Moses Ochon, 'The roots of Nigeria's religious and ethnic conflict' (Globalpost, 10 March 2014) <<http://www.globalpost.com/dispatch/news/regions/africa/nigeria/140220/nigeria-religious-ethnic-conflict-roots>> accessed 6 May 2016; Also see ArticlesNG, 'Religious Crisis in Nigeria' (22 June 2013) 'Religion has remained a core, largely divisive part of the politics of regions and ethnicity in Nigeria'... The Bible and Koran have become part of the staple of playing the divide and conquer strategy in the geopolitics of the country of almost 110 million [then] largely boisterous citizens. It has been so even long before Nigeria's political independence of 1 October 1960'. <<http://articlesng.com/religious-crisis-nigeria/>> accessed 4 May 2016.

⁹ A A Jekayinfa, 'Implications of Competitive Ethnicity in The Process of Nation Building in Nigeria' (2002) 4 (1) *Nigerian Journal of Social Studies* (NJSS) 1.

¹⁰ National Population Commission (NPC), Nigeria <<http://www.population.gov.ng/index.php?start=6>> accessed 3 May 2016.

zones, namely: Northeast, Northwest, North-Central, Southeast, Southwest, and South-South.¹¹

Nigeria operates a federal system of government which comprises of three tiers: Federal, State, and Local government.¹² The Federal Government (FG) is the highest and most powerful ruling body in the country. The President is the head of the Federal Government, and the executive powers of the Federation are vested in him by virtue of Section 5 (1) (a) of the 1999 Constitution as amended. It is the duty of the FG to ensure the safety of life, properties and well-being, including the human rights of the citizens of the country as provided for in the Constitution, Statutes, and the regional/international treaties. The FG has a vital role to play in combating domestic violence in Nigeria by encouraging its prohibition throughout the federation, repealing of gender discriminatory laws in any part of the country, supporting research and creating awareness about it, and ensuring the domestication of regional and international treaties on human rights.

The thirty-six federating States in Nigeria have an executive arm known as the “State Government”. The powers of the State Government are vested in the Governor of the state by virtue of Section 5 (2) (a) of the 1999 Constitution as amended.¹³ While the Federal Government ensures the safety of life, properties and well-being, including the human rights of the citizens throughout the country, the responsibilities of the State Government are limited, in that respect, to the inhabitants of the State. Like the Federal Government, the State Government has a crucial role to play in the effort to combat domestic violence. The State Government has the power to legislate against domestic violence in its own jurisdiction through the legislative arm of the State, the State House of Assembly. Also, State Government can support the effort in combating domestic violence by funding domestic violence awareness campaign, legislating against it or adopting the VAPP Act.

¹¹ *ibid.*

¹² The Constitution of the Federal Republic of Nigeria, 1999, Section 2 (2) and (1) (6).

¹³ *Ibid* Section 5 (2) (a).

The Local Government is the executive arm that is closest to the people. It was established by virtue of Section 7 (1) of the Constitution. The functions of the Local Government are set out in the Fourth Schedule of the Constitution as amended.¹⁴ The Local Government has a significant role to play in the effort to combat domestic violence. Though their power to make laws are limited compared to those of the State and Federal Governments. However, by virtue its proximity to the people, it is better placed to liaise with traditional rulers for the purpose of prohibiting customs and traditions that encourage the abuse of citizens' human rights, including domestic violence and related offences. In addition, the Federal and State Governments can leverage the closeness of the local government structure to the people to disseminate information aimed at creating awareness about the damaging nature of domestic violence. Nigeria has a border with the Republics of Chad and Niger in the North, the Republic of Benin in the West, Cameroon in the East, and the Gulf of Guinea in the South.¹⁵ The official language of Nigeria is English.

According to the most recent population and housing census in Nigeria held in 2006, the total population of the country, then, was 140, 431, 790, which comprised of 71, 315, 488 male and 69, 122, 302 female.¹⁶ However, the Department of Economic and Social Affairs, Population Division, of the United Nations estimates the population of Nigeria in 2017 to be 182, 202, 000 comprising of 92 million males and 89 million females.¹⁷ According to the chairman of National Population of Nigeria, the agency responsible for monitoring the population of the country and other related matters, the population of Nigeria is estimated to have reached 198 million people as at April 2018.¹⁸ This corresponds

¹⁴ *ibid* Fourth Schedule.

¹⁵ Adefi Olong, *The Nigerian Legal System* (2nd ed. Malthouse Press 2007) 6.

¹⁶ NPC (n 10).

¹⁷ United Nations, 'World Population Prospects: The 2015 Revision, Key Findings and Advance Tables' (2015) Department of Economic and Social Affairs, Population Division. Working Paper No. ESA/P/WP.241. <http://esa.un.org/unpd/wpp/Publications/Files/Key_Findings_WPP_2015.pdf> accessed 18 April 2018.

¹⁸ National Population Commission (NPC), 'The Chairman of National Population Commission (NPC), delivering Nigeria's statement in New York on Sustainable Cities, Human Mobility and International Migration in the 51st Session of Commission on Population and Development, has put Nigeria's present population at 198 million people. The Chairman, Eze Duruiheoma said that

to the Countrymeter's live monitoring of Nigeria's population which estimates the population of the country as at 8 August 2018 to be 197, 764, 044 consisting of 100, 134, 175 males (50.6% of the population) and 97, 611, 885 females (49.4% of the population).¹⁹ There is a notable difference in the population of men and women in both the official census of 2006 of 2 million and the estimates of 2017 and 2018 of 3 million. The sex ratio of men to women according to these figures stands at 102 men per 100 women (1.02). The percentage distribution of Nigeria's population by gender continues to witness a considerable number of males compared to women.²⁰ Though, 'At birth, boys outnumber girls everywhere in the world, by much the same proportion—there are around 105 or 106 male children for every 100 female children'.²¹ However, in the case of Nigeria, it is pertinent to enquire if higher birth rate for boys is the only reason that accounts for gender ratio in favour of boys in the country. Also, it may be necessary to ascertain if there are deliberate efforts by couples to give birth to male instead of female children. Whilst research shows higher birth rate for boys than girls in most parts of the world.²² However, according to Sen:

...after conception, biology seems on the whole to favour women. Considerable research has shown that if men and women receive similar nutritional and medical attention and general health care, women tend to live noticeably longer than men. Women seem to be, on the whole, more resistant to disease and in general hardier than men, an advantage they enjoy not only after they are forty years old but also at the beginning of life, especially during the months immediately following birth, and even in the womb. When given the same care as males, females tend to have better survival rates than males.²³

"Nigeria remains the most populous in Africa, the seventh globally with an estimated population of over 198 million" (n.d.) <<http://population.gov.ng/nigerias-population-hit-198m-people-npopc-chairman/>> accessed 8 August 2018.

¹⁹ CountryMeters, 'Nigeria Population Clock (Live)' <<http://countrymeters.info/en/Nigeria>> accessed 8 August 2018.

²⁰ Kale Yemi, 'Statistical Report of Women and Men in Nigeria 2015' National Bureau of Statistics <<http://www.nigerianstat.gov.ng/>> accessed 8 August 2018.

²¹ Sen Amartya, 'More Than 100 Million Women Are Missing' *The New York Review of Books* (20 December 1990) <<https://www.nybooks.com/articles/1990/12/20/more-than-100-million-women-are-missing/>> accessed 8 August 2018.

²² Dama Madhukar Shivajirao, 'Sex Ratio at Birth and Mortality Rates Are Negatively Related in Human' (2011) 6 (8) *PLOS* <<http://journals.plos.org/plosone/article?id=10.1371/journal.pone.0023792>> accessed 8 August 2018.

²³ Sen (n 21).

As Sen noted, since females tend to have better survival rate than males if given the same care coupled with the fact that the life expectancy of women is higher than that of men in Nigeria,²⁴ it is fair to expect the difference in the gender ratio in the country to have considerably narrowed or evened out or depicts more women than men. The fact that this gender ratio has remained the same over a long period makes it pertinent to explore if there are other factors that contribute to the unequal gender ratio in favour of men in the country. In Nigeria, it appears there are other factors that contribute to the higher gender ratio of the population in favour of men.

One obvious fact is the preference for male than female child in Nigeria.²⁵ This has led many couples to embrace various methods that increase their chances of conceiving a boy.²⁶ Similarly, according to Oludura, sex-selective abortion is becoming prevalent in Nigeria due to ‘high social value placed on having male over female children and the spread of prenatal sex-determination technology leads to high rate of selective destruction of baby girls through abortion...’²⁷ In addition, according to World Health Organisation (WHO), ‘Every single day, Nigeria loses about 2,300 under-five year olds and 145 women of child bearing age, making the country the second largest contributor to under-five and maternal mortality rate in the world’.²⁸ Maternal mortality is arguably a major contributor to the low population of women than men in Nigeria. Furthermore, other variables that may affect the survival rate of women in Nigeria are cultural practices and economic rights, including inheritance rights.²⁹ Research shows more women are less likely to get formal education in Nigeria which may enhance their chances of being

²⁴ National Bureau of Statistics, ‘Statistical Report on Women and Men in Nigeria 2015’ (November 2016) <www.nigerianstat.gov.ng/> accessed 8 August 2018.

²⁵ Oluduro Olubayo, ‘Son Preference in Nigeria: The Human Rights Implications’ (2013) Medical Sociology Online <<http://www.medicalsociologyonline.org/resources/MedSoc-2013-Conference-Posters/Oluduro-poster.pdf>> accessed 8 August 2018.

²⁶ *ibid.*

²⁷ *ibid.*

²⁸ Adio Tihamiyu, ‘Nigeria loses 2,300 under five, 145 women of childbearing age daily’ BusinessDay (22 March 2017) <<https://www.businessdayonline.com>> accessed 8 August 2018.

²⁹ Aroge Stephen Talabi, ‘Socio-Economic Effects of Women’s Participation on Adult and Non-Formal Education in Akoko North West Local Government Area of Ondo State, Nigeria’ (2016) 5(3) Journal of Education and Human Development 116.

gainfully employed outside the home.³⁰ Similarly, the unequal or lack of inheritance rights of women in Nigeria contributes to their financial dependency to their male counterparts in any form of relationship.³¹ These factors do not only affect women's ability to access good health care services, but also affects their ability to leave an abusive partner or male relative. The number of women victims of domestic violence homicide far outnumber that of men in Nigeria.³² Arguably, domestic violence homicide is a major contributor to the low population of women in the country. Also, women are more vulnerable to health risks than men in Nigeria in terms of infection of deadly diseases.³³ According to the National Agency for the Control of AIDS (NACA):

Gender-based violence and gender inequality are increasingly cited as important determinants of women's HIV risk. In Nigeria, women and girls abducted by the insurgency groups are forced to marry, convert and endure physical and psychological abuse, forced labour, and rape in captivity. More than 500 Nigerian women and girls have been abducted since 2009.³⁴

In Nigeria, about 58% of estimated 3.6 million people living with HIV/AIDS are women.³⁵ Some of the reasons adduced for women's high rate of HIV infection are gender inequality, culture, religion and law.³⁶ Nigeria has one of the highest gender gap in the world and was 'placed 122nd out of 144 for the size of its 'gender gap', meaning that it is has one of the most unequal balances of power between men and women in the world'.³⁷ To what extent has the Nigerian legal system

³⁰ British Council, 'Girls' Education in Nigeria Report 2014: Issues, Influencers and Actions' 20 <<https://www.britishcouncil.org/sites/default/files/british-council-girls-education-nigeria-report.pdf>> accessed 8 August 2018.

³¹ Bazza, "Domestic Violence and Women's Rights in Nigeria' *Societies Without Borders* (2010) 4 (2) 175.

³² Eniola Toluwani, '2017: Year of deadly domestic violence cases' *The Punch* (Lagos, 31 December 2017).

³³ Anugwom Edlyne and Anugwom Kenechukwu, 'Socio-cultural Factors in the Access of Women to HIV/AIDS Prevention and Treatment Services in South-southern Nigeria' (2016) 45(6) *Iranian Journal of Public Health* 754.

³⁴ Muanya Chukwuma, 'Nigeria: Why Females Are More Vulnerable to HIV/Aids – NACA' *Guardian* (Lagos, 15 December 2016).

³⁵ The National Agency for the control of AIDS (NACA) Nigeria, 'FACT SHEET: HIV Prevention program' <<https://naca.gov.ng>> accessed 9 August 2018; Avert, 'HIV and AIDS in Nigeria' (25 May 2018) <<https://www.avert.org/professionals/hiv-around-world/sub-saharan-africa/nigeria>> accessed 8 August 2018.

³⁶ The National Agency for the control of AIDS (NACA) Nigeria, 'FACT SHEET: HIV Prevention program' <<https://naca.gov.ng>> accessed 9 August 2018.

³⁷ World Economic Forum, 'The Global Gender Gap Report 2017' <http://www3.weforum.org/docs/WEF_GGGR_2017.pdf> accessed 9 August 2018.

assisted in alleviating the plight of women in Nigeria? In the next sections, I will appraise the Nigerian legal system with a view to assess how instrumental it has been in ensuring gender equality in the country.

5.1.1 Nigerian Legal System (NLS)

The Nigerian legal system is principally based on the English common law tradition resulting from its colonial experience.³⁸ According to Obilade, English law has a tremendous influence on the Nigerian legal system and ‘... forms a substantial part of Nigerian law’. As Oba asserts, ‘Nigeria is pluralistic, regarding ethnicity, religion, and laws’.³⁹ The sources of Nigerian law include: The Constitution, Legislation, English law, Customary law, Islamic law, and international law.⁴⁰

5.1.2 Sources of Law in Nigeria

1. The Constitution

The provisions of the Constitution of the Federal Republic of Nigeria are supreme to all other laws and have binding force on all authorities and persons throughout the country.⁴¹ The current Constitution in force in Nigeria is the 1999 Constitution as amended, which came into force on 29 May 1999.⁴²

2. Legislation

Both the Federal and State Governments have a legislative arm that has the power to make laws. The legislative power of the Federal Republic of Nigeria is vested by virtue of Section 4 (1) of the Constitution in the National Assembly of the Federation which consists of the House of Senate (Upper House) and the House of Representatives (Lower House). Section 4 (2) of the Constitution stipulates that “The National Assembly shall have powers to make laws for the peace, order and

³⁸ Elias T O, *The Nigerian legal system* (London, Routledge & Paul 1963) 63 - 71.

³⁹ Akintunde Olusegun Obilade, *The Nigerian legal system* (Sweet & Maxwell 1979) 45 - 49.

⁴⁰ Yemisi Dina, John Akintayo and Funke Ekundayo, ‘Guide to Nigerian Legal Information’ (2005) Globalex <<http://www.nyulawglobal.org/globalex/Nigeria.html>> accessed 24 April 2016.

⁴¹ Constitution (n 9) Section 1.

⁴² The Constitution was promulgated by Decree No. 24 of 1999. It came into force on 29 May 1999, the day the current democratic dispensation commenced after more nearly two decades of military dictatorship.

good government of the Federation or any part thereof...”⁴³ There are one hundred and nine (109) members of the Senate and three hundred and sixty (360) members of the House of Representatives.⁴⁴ The laws made by the National Assembly are called “Acts” and are applicable throughout the Federation (Federal Law).

The thirty-six federating states have a legislative arm known as the State House of Assembly. The legislative power of a State by virtue of Section 4 (6) of the Constitution is vested in the House of Assembly of each State. Section 4 (7) provides that ‘The House of Assembly of a State shall have powers to make laws for the peace, order and good governance of the State or any part thereof...’⁴⁵ The laws made by the House of Assembly of each federating state are applicable only to the territorial jurisdiction of the state - they are called “Laws”. The supremacy of the National Assembly (Senate and House of Representatives) over other legislative bodies in the country is captured in Section 4 (5) of the Constitution as follows:

Any law enacted by the House of Assembly of a State [that] is inconsistent with any law validly made by the National Assembly, the law made by the National Assembly shall prevail, and that other law shall to the extent of the inconsistency be void.⁴⁶

On several occasions in the past, Nigeria was governed by Military juntas. During the military regime, laws made by the Federal Military Government were referred to as “Decrees”, and those made by the State Military Administrators were referred to as “Edicts”. Nigeria has also experienced colonialism. From 1914 to 1960, Nigeria was a colony of Britain. The laws made by the colonial legislature were referred to as “Ordinances”.⁴⁷

⁴³ Constitution (n 9) Section 4 (2).

⁴⁴ *ibid* Sections 48 and 49.

⁴⁵ *ibid* Section 4 (7).

⁴⁶ *ibid* Section 4 (5).

⁴⁷ Yemisi Dina *et al.* (n 40).

3. English (Common) Law

The common law tradition has its origin in England and found its way to former territories of the Commonwealth such as Nigeria.⁴⁸ In the case of *Kodeeswaran v. Attorney-General of Ceylon*, Lord Diplock noted that:

In the case of most former British colonies which were acquired by conquest or cession, the English common law is incorporated as part of the domestic law of the now independent State because it was imposed upon the colony...”.⁴⁹

The reception of English law in Nigeria occurred through the process of legal transplant known as the “doctrine of reception”.⁵⁰ Consequently, any statute of general application in force in England on or before 1 January 1900 became applicable in Nigeria on that date and became part of the law in force in the country. The common law, the doctrine of equity, statutes and subsidiary legislation on specified matters, and English law (statutes) applicable in Nigeria before 1 October 1960 (Nigeria’s Independence Day) are still applicable in independent Nigeria and continues to be in force unless repealed by the Federal Government.⁵¹ These laws can be amended, repealed, and replaced by the legislature as it deems fit. According to Dina *et al.*:

The failure to review most of these laws, especially in the field of criminal law has occasioned the existence of what may be described as impracticable laws or legal provisions which are honoured more in breach than in observance.⁵²

4. Customary Law

There are more than 300 ethnic groups in Nigeria, and ‘within these groups are distinctive subgroups and communities’.⁵³ Each ethnic group has its own customs and traditions that include their collectively held values, visual art, music and

⁴⁸ John Merryman, *The Civil Law Tradition: An Introduction to the Legal Systems of Western Europe and Latin America* (Stanford: Stanford University Press 1985) 3.

⁴⁹ *Kodeeswaran v. Attorney-General of Ceylon* [1970] A C 1111 at page 1116.

⁵⁰ Adefi M Olong, *The Nigerian Legal System* (2nd Revised ed. Malthouse Press Ltd 2007) 2.

⁵¹ Yemisi Dina *et al.* (n 40).

⁵² *ibid.*

⁵³ Richard Olaniyan, *Nigerian History and Culture* (Addison-Wesley Longman Limited 1985) 48 - 61; Toyin Falola, *Culture and Customs of Nigeria* (Greenwood Publishing Group, 2001) 25 - 32.

dance forms, as well as their attire, cuisine, and language dialects.⁵⁴ In one of his numerous writings about the Igbo culture and tradition, Afigbe asserts that the Igbo people do not only value and respect their culture and tradition, but they hold them in high esteem. These have great influence on their way of life, on the way people interact with one another and with the society at large.⁵⁵ Such is also observable among other ethnic groups. It is from these beliefs and practices of these customs and traditions that the customary laws of the people emanate. Hence, customary law was defined by Dina *et al.*, as ‘a system of law that reflects the culture, customs, values and habits of the people whose activities it regulates’.⁵⁶ Similarly, Ehiribe described the customary law in Nigeria as ‘simply an amalgam of customs or habitual practices accepted by members of a particular community as having the force of law as a result of long established usage’.⁵⁷ Although, the customary law of a given community or ethnic group arises from their customs and traditional practices, not all their customary practices form part of their customary law. The difference between the customs and customary law of a community was captured by Olong as follows:

It is often the element of sanction and the fact that it is recognized as obligatory by its members that distinguish customary law from mere customs as not all customs are embodied in customary law nor is customary law made up entirely of the customs of a given community.⁵⁸

Customary laws are largely unwritten and are ‘particularly dominant in the area of personal and family relations like marriage, divorce, guardianship and custody of children and succession’.⁵⁹ However, its *non-scripta* attribute according to Olong, ‘is gradually fading away as widespread use of writing, legislative interference in traditional relations and the influence of court precedent’ is transforming the

⁵⁴ Richard Olaniyan, *Nigerian History and Culture* (Addison-Wesley Longman Limited 1985); S Ogunro, ‘The culture of Ndigbo – part 1’ (2011). <<http://enyi-oha-one-of-naiji.blogspot.ie/2011/04/culture-of-ndigbo-part-1.html>> accessed 22 April 2016.

⁵⁵ A E Afigbo, *Ropes of Sands: Studies in Igbo History and Culture* (Nsukka University press 1981) 1 - 31.

⁵⁶ Yemisi Dina *et al* (n 40).

⁵⁷ Ike Ehiribe, ‘The Validity of Customary Law Arbitration in Nigeria’ (1996) 18 *The Comparative Law Yearbook of International Business* 131; Ese Malemi, *The Nigerian Legal Method* (2nd edn, Princeton publishing Co 2012) 25 - 36.

⁵⁸ Adefi O Olong (n 50) 44.

⁵⁹ Yemisi Dina *et al.*, (n 40).

natural characteristics of customary law.⁶⁰ Customary law is and has always been flexible and dynamic as opposed to being rigid.⁶¹ In *Alfa v. Arepo*, Judge Rufus stated that ‘customary law is not, however, a static law, the law can and does change with the times and the rapid development of social and economic conditions’.⁶² The consequence of codification of customary law is that it is robbed of its inherent flexibility and dynamism since codification freezes it in both time and space. Furthermore, there have been legislative and judicial interventions ‘to modify and at times abrogate rules of customary law’.⁶³ Thus, Section 26 (1) of the High Court Laws of Lagos State provides that:

The high court shall observe and enforce observance of every customary law which is applicable and is not repugnant to natural justice, equity and good conscience and not incompatible either directly or by implication with any law for being in force.⁶⁴

Consequently, before the application of customary law by the courts, it has to pass a repugnancy test. In *Ladepe v. Oyetunde*, the court was of the view that the repugnance test was necessary to invalidate barbarous customs, especially those that are discriminatory and undermines the citizens’ human rights.⁶⁵ Recently, judicial activism in this regard was evident in the case of *Mojekwu v. Mojekwu*; the court held that any custom which discriminates against women and girls in the distribution of the property of their late father is repugnant to natural justice, equity, and good conscience.⁶⁶ Hence, the customary practice obtainable in the Igbo nation whereby women and girls were not allowed to inherit their father’s and/or husband’s property was struck down by the court. The Nigerian Supreme Court in the case of *Ukeje v. Ukeje* affirmed this decision and extended the rights of women and girls to inherit their late father’s and/or husband’s property, especially those located in the village.⁶⁷ Customary laws are usually enforced in

⁶⁰ Adefi O Olong (n 50) 46.

⁶¹ *ibid.*

⁶² *Alfa v Arepo* (1988) 2 NWLR pt.77, p.445 at 461 SC.

⁶³ Yemisi *et al.* (n 17).

⁶⁴ High Court Laws of Lagos State Cap 52 1973.

⁶⁵ *Ladepe v. Oyetunde* (1944) AC 170.

⁶⁶ *Mojekwu v. Mojekwu* (2004) NWLR 883.

⁶⁷ *Ukeje v. Ukeje* [2014] LPELR-22724 (SC).

customary courts, which is the lowest court in the hierarchy of courts.⁶⁸ However, they are equally enforced in higher courts through their enabling laws.⁶⁹

Some customary law, customs and traditions exacerbate the perpetration of domestic violence through the continued enforcement of archaic beliefs and practices that discriminate and ignore some members of the society, especially women. Some of these practices include, disinheritance of women, bride-price payment, the gender value system, amongst others.⁷⁰ The customary regulatory authority (the Kings, Chiefs and Elders in a community) still views domestic violence as a private/family issue that does not warrant the intervention of outsiders. Hence, domestic violence at the customary level is mostly left unregulated.⁷¹

5. Islamic/Sharia Law

Sharia law, in most cases, is classified under the canopy of customary law in Nigeria.⁷² However, as Yemisi *et al.*, opines, ‘it is better to accord Islamic law its distinct status as a separate source of law because of its peculiarities in terms of origin, nature, territorial and personal scope of application’.⁷³ The Koran is the principle source of Islamic law known as “the Sharia”. ‘The Sharia contains the rules by which a Muslim society is organised and governed, and it provides the means to resolve conflicts among individuals as well as between the individuals and the state’.⁷⁴ For Muslims, it ‘forms the basis for relations between man and God, and between individuals whether Muslim or non-Muslim, as well as between a man and things which are part of creation’.⁷⁵ Unlike customary law, it is written,

⁶⁸ Yemisi *et al.* (n 40).

⁶⁹ High Court Laws of Lagos State Cap 52 1973.

⁷⁰ S C Ifemeje and N Umejiaku, ‘Discriminatory Cultural Practices and Women’s Rights among the Igbos of South-East Nigeria: A Critique (2004) 25 Journal of Law, Policy and Globalisation 18; OECD, ‘Social institutions & development index, OECD development centre, Nigeria’ (2014) <<http://genderindex.org/country/nigeria>> accessed 6 May 2016.

⁷¹ R N Ozoemena, ‘African customary law and gender justice in a progressive democracy’ (LLM Thesis, Rhodes University South Africa 2006) 35 - 38.

⁷² Ikenga K E Oraegbunam, ‘Nigeria, Sharia Praxis and National Integration: Any Lessons from the Sudan Experience?’ (2014) 2 (4) Global Journal of Politics and Law Research 6.

⁷³ Yemisi *et al.* (n 40).

⁷⁴ Ngex, ‘Sharia Law in Nigeria’ (2013) <<http://ngex.com/nigeria/sharia/>> accessed 21 April 2016.

⁷⁵ *ibid.*

and its principles are relatively clearly defined.⁷⁶ Sharia law has been in force in some Northern parts of the country for decades. However, the scope of application of Sharia law has been broadened since it became part of the 1999 Constitution of Nigeria.⁷⁷ Currently, twelve out of the nineteen Northern States in Nigeria have adopted Sharia law as one of their sources of law.⁷⁸ As Yemisi *et al.*, averred, ‘The principal feature of this new development is the introduction of religious based criminal offences, especially on matters of morality and the introduction of punishments sanctioned by the Koran’.⁷⁹ The adoption of Sharia law by some states in the Northern part of the country has prompted debate and questions about ‘certainty of law, the supremacy of law (State laws and Sharia law), separation of state and religion, and strict standards of evidence and proof’.⁸⁰

It appears there is a dearth of literature on the issue of domestic violence and the practice of Islamic religion in Nigeria. Many scholars chose to write about domestic violence without reference to any religion, especially Islam. However, literatures from around the world on the relationship between domestic violence and Islamic faith seems to differ on whether the practice of Islam encourages and/or supports domestic violence and *vice versa*.⁸¹ The argument mainly centres on how different Muslim clerics and scholars interpret verse 34, *Surah An-Nisa*, in the Qur'an (which translates as follows: ‘Men are the protectors and maintainers of women...’ meaning, the man is responsible for the woman, and he is her maintainer, caretaker and leader who disciplines her if she deviates).⁸² There are

⁷⁶ Abdulmumini A Oba, ‘Religious and Customary Laws in Nigeria, (2011) 25 Emory International Law Review 882.

⁷⁷ The Shaira legal system was introduced and given Constitutional recognition in Nigeria in the 1999 Constitution, which came into force on 29 May 1999.

⁷⁸ The States in Nigeria that have adopted Sharia law are Zamfara, Jigawa, Bauchi, Gombe, Kaduna, Katsina, Yobe, Niger, Kano, Sokoto, Kebbi, and Borno.

⁷⁹ Yemisi *et al.* (n 40).

⁸⁰ Hauwa Ibrahim and Princeton N Lyman, ‘Reflections on the New Shari’a Law in Nigeria’ (2004) Prepared in cooperation with the Africa Policy Studies Program at the Council on Foreign Relations < file:///C:/Users/Owner/Downloads/Reflections_on_the_New_Sharia_in_Nigeria.pdf> accessed 22 April 2016.

⁸¹ Edip Yuksel, ‘Beating Women, or Beating around the Bush, Or...’ Sisters in Islam <<http://www.sistersinislam.org.my/news.php?item.599.12>> accessed 4 May 2017; Hajjar Lisa, ‘Religion, state power, and domestic violence in Muslim societies: A framework for comparative analysis’ (2004) 29 (1) Law & Social Inquiry 1.

⁸² Kecia Ali, ‘Muslim Sexual Ethics: Understanding a Difficult Verse, Qur'an 4:34’ Sisters in Islam <<http://www.sistersinislam.org.my/news.php?item.656.12>> accessed 4 May 2017.

contrasting opinions regarding whether the verse supports the battering of women.⁸³ It is outside the purview of this thesis to engage in the debate. However, it is worthy to note that many Muslim countries have outlawed domestic violence, which indicates the determination of Islamic nations to combat it.⁸⁴

6. International Law

Nigeria is a member of many regional and international bodies such as the United Nations, Commonwealth of Nations, and the African Union, among others. These bodies make laws in the form of treaties for various purposes including the protection of human rights and the facilitation of commercial transactions. Nigeria has ratified some of these treaties, but before any reliance can be placed on them as a source of law in the country, they need to be enacted into national law (domesticated) by the National Assembly pursuant to Section 12 (1) of the Constitution.⁸⁵ Nigeria has a dualist perspective on the relationship between domestic law and international law. Consequently, international treaties do not automatically apply in Nigeria unless they have been incorporated into domestic law through an Act of the National Assembly. In *Fawehinmi v. Abacha*, the court stated that once the national assembly domesticates a treaty, it constitutes a commitment by the state to be bound by its provisions.⁸⁶

5.1.3 The Judiciary

There is a famous saying that ‘the judiciary is the last hope of the common man’.⁸⁷ The courts in Nigeria, lately, have demonstrated their willingness to protect the human rights and fundamental freedoms enshrined in the Constitution and in the regional and international treaties. The Judicial activism in the area of women’s rights and domestic violence became apparent following

⁸³ Sadiyya Shaikh, ‘Exegetical Violence: Nushuz in Quranic Gender Ideology’ Sisters in Islam <<http://www.sistersinislam.org.my/news.php?item.656.12>> accessed 4 May 2017.

⁸⁴ ‘Making Domestic Violence a Crime in Muslim Countries’ Sisters in Islam <<http://www.sistersinislam.org.my/news.php?item.656.12>> accessed 4 May 2017.

⁸⁵ E Egede, ‘Bringing the Human Rights Home: An examination of the domestication of Human Rights Treaties in Nigeria’ (2007) 51 (2) Journal of African law 249.

⁸⁶ *Fawehinmi v. Abacha* [1990] 9 NWLR (pt 475) 710.

⁸⁷ M I Attahir, ‘Judiciary as The Last Hope of Itself’ (Undated) <<http://www.gamji.com/article5000/NEWS5474.htm>> accessed 25 May 2017.

judgments of the courts in cases concerning women's inheritance rights, wife battering and domestic violence homicide.⁸⁸ The role of the courts in the effort to combat domestic violence in Nigeria remains vital to its success. Section 6 (5) (a) to (i) of the Constitution establishes courts for the Federation and States.⁸⁹ The National Assembly and the State House of Assembly are empowered by virtue of Section 6 (4) (a) to establish courts with subordinate jurisdiction to the High Court, Court of Appeal and Supreme Court. Access to court, inordinate timeframe for hearing cases and exorbitant cost of litigation contribute to difficulty in the realisation of human rights in Nigeria.⁹⁰ These issues need to be addressed to ensure adequate protection of the citizens' human rights.

5.1.4 Conclusion

From the foregoing, the plural nature of the Nigeria legal system and complex government structure are apparent. Ezeilo observes that the nature of the Nigerian Legal System, 'clogs the effectiveness of the whole system to enact laws for the protection of human rights and to tackle corruption and other social problems in the country'.⁹¹ Furthermore, she avers that the existence of a complex legal system in a country of many ethnic groups, religion and language portends incoherency in the administration of justice and the protection the citizens' human rights.⁹² On how the complex system affects the status of women, Ezeilo asserts:

The complex interaction of this multi-tiered legal structure which functions, simultaneously, in conjunction with very significant informal social controls based on gender, ethnicity, and religion affects the status of women, particularly, in marriage.⁹³

⁸⁸ Abdulwahab Abdulah and Onozure, 'Court sentences Arowolo to death for killing banker wife' *Nigerian Vanguard* (Lagos, 22 February 2014).

⁸⁹ The Supreme Court of Nigeria, The Court of Appeal, The Federal High Court, The High Court of the Federal Capital Territory (FCT), Abuja, A High Court of a State, The Sharia Court of Appeal of the Federal Capital Territory, Abuja, A Sharia Court of Appeal of a State, The Customary Court of Appeal of the Federal Capital Territory, Abuja, A Customary Court of Appeal of a State.

⁹⁰ Jacob Abiodun Dada, 'Impediments to Human Rights Protection in Nigeria' (2002) 18 (1) (6) Annual Survey of International & Comparative Law 67.

⁹¹ Itoro Eze-Anaba, 'Domestic Violence And Legal Reforms In Nigeria: Prospects And Challenges' (2007) 36 - 41

<https://www.researchgate.net/publication/265498031_Domestic_Violence_and_Legal_Reforms_in_Nigeria_Prospects_and_Challenges> accessed 12 April 2017.

⁹² Joy Ezeilo, 'Laws and Practices Relating to Womens' Inheritance Rights in Nigeria: An Overview' Women Aid Collective (WACOL) <<http://wacolnigeria.org/wacol/>> accessed 5 May 2017.

⁹³ *ibid.*

The fact that ethnic and religious differences militate against coherency in governance in Nigeria is self-evident. It plays out in many ways ‘to slow the progress of the nation’.⁹⁴ For example, the requirement to reflect federal character (The Federal Character Principle) in the appointment of Government Ministers and key position in government institutions undermines the selection of best candidates. According to Joshua *et al.*:

While the quota system came into being prior to Nigeria’s independence in 1960, the federal character principle became officially recognised in the 1979 constitution. These policies were aimed at addressing the issues of ethnic representation in the public sector. The implication of these was that issues of admission, recruitment, promotion and appointment became based on these principles.⁹⁵

Many commentators have criticised the unfairness inherent in the “Quota System” which according to Egbujo has no place in a progressive minded nation:

Our political culture breeds and rewards indolence. The legitimization of arbitrariness and sectionalism is located in the adoption of quota system and federal character principle. If the National Defence Academy takes comparatively inferior candidates because some kind of balance must exist in the officers’ cadre in our military, then we are never at our best. We can no longer justify the trade-offs. We can’t continue to pretend to be united. Quota system has outlived all usefulness.⁹⁶

It is under this complex system that the campaign to persuade the government to legislate against domestic violence has been ongoing. Over time, the campaign gradually started to have a positive effect as some states began the process of legislating against domestic violence. In the next section, I will examine the State laws against domestic violence, its enforcement and awareness campaign.

⁹⁴ *ibid.*

⁹⁵ S Joshua, R E Loromeke and I P Olanrewaju, ‘Quota System, Federal Character Principle and Admission to Federal Unity Schools: Barriers to Learning in Nigeria’ (2014) 2 (2) International Journal of Interdisciplinary and Multidisciplinary Research 1.

⁹⁶ Ugoji Egbujo, ‘Quota system and the Menace of Mediocrity’ *Vanguard* (Lagos, 16 April 2016) <<https://www.vanguardngr.com/2016/04/quota-system-menace-mediocrity/>> accessed 5 December 2017.

Section Two

5.2 The State Government and Domestic Violence Law

As explained earlier in this thesis, each federating State in Nigeria is empowered to make laws through the State House of Assembly. Such laws are applicable only in the territorial jurisdiction of the State. In response to the high prevalence of domestic violence in Nigeria, which Amnesty International described as “shockingly high”, some states have prohibited domestic violence through legislation.⁹⁷ The following states currently have legislation against domestic violence:

1. **Lagos State** (South West) - The Protection Against Domestic Violence Law No. 15A, 197 of 2007
2. **Ekiti State** (South West) - Gender-Based Violence (Prohibition) Law, No. 21 of 2011
3. **Jigawa State** (North West) - Domestic Violence and other Related Matters Law - 2006
4. **Ebonyi State** (South East) - Protection against Domestic Violence and Related Matters Law No. 003 of 2005
5. **Cross River State** (South South) - A Law to Prohibit Domestic Violence against Women and Maltreatment of Widows No. 6 of 2005
6. **Imo State** (South East) - Violence against Persons (Prohibition) Law No. 12 of 2012 (**Repealed**)

⁹⁷ S Mikala, ‘Nigeria: Unheard voices – violence against women in the family’ (2005) Amnesty International report describes the prevalence of domestic violence against women in Nigeria as shocking. <www.amnesty.org/en> accessed 5 May 2017; The Haven Wolverhampton, ‘Domestic violence in Nigeria’ reports that ‘Nigeria has one of the highest rates of domestic violence in Africa’ <<http://www.havenrefuge.org.uk/index.php/about-the-haven/international-projects/nigeria>> accessed 5 May 2017.

Brief Comment

There are remarkable similarities in the provisions of all the State's domestic violence laws. Consequently, I will discuss domestic violence law of Lagos State in detail, and I will use it as a representative benchmark of the standard set by the domestic violence laws of all the five States. This approach avoids repetition. I will endeavour to point out and explain major areas of difference observed in these laws.

5.2.1 Lagos State – The Prevention against Domestic Violence State Law No. 15A, 197 of 2007

Lagos State is one of the states in the Southwest geopolitical zone. It was the capital of Nigeria until 12 December 1991 when it was moved to the present capital, Abuja.⁹⁸ It is the most cosmopolitan city in Nigeria and the commercial nerve centre of the country.⁹⁹ According to the latest census in Nigeria, 2006 Census, Lagos had a population of 9,113,605 which comprised of 4,719,125 males and 4,394,480 females. Lagos State has a total land size of 3,496.45 Km² (1,381 sq. mi).¹⁰⁰ There are twenty Local Government Areas (LGAs) in the State. The State was created on 27 May 1967 and its capital is Ikeja.¹⁰¹ The Lagos State House of Assembly (LSHA) is the legislative arm of the State Government established by virtue of Section 90 of the Constitution of the Federal Republic of Nigeria (FRN) as amended. It has 40 members who are elected to represent their constituencies.¹⁰² The LSHA passed legislation against domestic violence in 2007, and it is known and cited as 'The Protection Against Domestic Violence Law 2007'

⁹⁸ The capital of Nigeria was moved to its present location, Abuja, on 12 December 1991. On 3 February 1976, the then military head of State of Nigeria, General Murtala Mohammed, made a national broadcast, that the capital of Nigeria will be moved to Abuja, upon accepting the recommendation of a seven-man panel (Dr. Akinola Aguda, Chairman; Chief E. E. Nsefik, Secretary; Dr. Tai Solarin, Professor O. K. Ogan, Colonel M. P. Professor A. Gandonu, Members) he set up on 5 February 1976 to examine the issue of a new capital for the country. Consequently, Decree No. 6 of 1976 was promulgated by the Federal Government establishing the Federal Capital Development Authority (FCDA). The Decree charged the FCDA with the responsibility for planning, designing and developing the Federal Capital Territory (FCT).

⁹⁹ Bose Adelaja, 'In the Spirit of Lagos, a reward for exemplary lifestyle' (3 June 2015) *Vanguard* <<http://www.vanguardngr.com/2015/06/in-the-spirit-of-lagos-a-reward-for-exemplary-lifestyle/>> accessed 5 May 2017.

¹⁰⁰ NPC (n 10).

¹⁰¹ Lagos State Government official website <www.lagosstate.gov.ng> accessed 3 May 2017.

¹⁰² *ibid.*

(LASG Law).¹⁰³ The commencement date of LASG law was 18 May 2007. The Law has 19 Sections with provisions which, among other things provided for the protection of and, to a certain extent, the compensation victims of domestic violence in the state. Its main provisions are as follows:

1. Definition,

Section 18 of LASG law defines domestic violence to include: physical, psychological, verbal, emotional and sexual abuse/exploitation (rape and incest), economic exploitation, denial of basic education, starvation, intimidation, harassment, stalking, hazardous attack, including acid bath with offensive or poisonous substance, and damage to property meted to anyone in a domestic relationship.¹⁰⁴ The definition captures all conceivable relationship between family members related by consanguinity, affinity or adoption, and housemaids.¹⁰⁵ The definition is broad, progressive, and gender neutral.

2. Prohibition of Domestic Violence, the Duty to Assist and to Inform

Section 1 prohibits the commission of any act of domestic violence against any person in the state. Section 3 (1) mandates members of State or Federal employee (the Nigerian Police Force, health workers, among others), at the scene of an ongoing domestic violence incident or following the reporting of the incident, to render such assistance to the victim as may be required. Assistance may include the making of arrangements for the complainant to find suitable shelter and to obtain medical treatment.¹⁰⁶ Also, the State or Federal employees have an obligation under the law to issue a notice containing information to the victim as prescribed, and explain the context of such notice, including ‘the remedies at his or her disposal in compliance with this law’.¹⁰⁷ Furthermore, they are obliged to inform the victim of his/her right to lodge a criminal complaint, if applicable’.¹⁰⁸ The information and explanation have to be done in the language the complainant

¹⁰³ The Protection Against Domestic Violence Law (LASG Law) 2007 of Lagos State.

¹⁰⁴ *ibid* Section 18.

¹⁰⁵ *ibid* Section 16.

¹⁰⁶ *ibid* Section 3 (1).

¹⁰⁷ *ibid* Section 3(11).

¹⁰⁸ *ibid* Section 3 (111).

understands.¹⁰⁹ The victim might make a criminal complaint to the police for investigation and prosecution if the perpetrator committed an offence punishable by the criminal codes in the state.¹¹⁰

3. Arrest without warrant, application and the issuance of protection order

Section 4 (1) of this law gives the police the power to arrest at the scene of a domestic violence incident, whom he/she reasonably suspects has committed an offence containing an element of violence against the complainant. Any person arrested in pursuance of section 4 (1) cannot not be detained beyond the time prescribed by the Constitution of the Federal Republic of Nigeria 1999 as amended.¹¹¹ The application for protection order may be made by complainant under Section 2 (1) of the LASG law. However, Section 2 (3) of the LASG law permits an application to be made on behalf of the complainant by:

...any other person, including a counsellor, health service provider, member of the Nigeria Police Force, social worker, organization or teacher, who has an interest in the well-being of the complainant' so far the complainant is not a 'a minor, mentally retarded, unconscious, incapable to consent for fear of refusal, or a person whom the court is satisfied is unable to provide the required consent.¹¹²

I am of the view that the requirement for consent before someone else could make an application for a protection order on behalf of a victim is very restrictive and may leave many victims (especially mentally retarded individuals, minors, among others) at the mercy of the perpetrator. Besides, such restriction may defeat the urgency of such an application to ensure the safety of the victim. The restriction needs to be reviewed to ensure persons most vulnerable to abuse in the society benefits from the law. On the hand, this can be abused by persons with sinister motives. Section 2 (4) permits the application for a protection order to be brought

¹⁰⁹ *ibid* Section 3 (11).

¹¹⁰ Criminal code of Lagos State, Nigeria.

¹¹¹ The Constitution (n 9) Section 35 (4 – 7) stipulates the period of detention for anyone lawful detained by the law enforcement agents in Nigeria. The section is not exhaustive of all the detention periods as they may vary depending on the offence. However, the section provides wide ranging guidelines to be abide with in most scenarios that may involve depriving a citizen of his freedom, a constitutional guaranteed right.

¹¹² LASG Law (n 80) Section 2 (3).

to a judge in chambers where the complainant may suffer undue hardship if the complaint was not dealt with immediately. Section 5 (1) (a-b) permits a court to issue an interim protection order against the respondent *ex parte* (notwithstanding that he/she has not been served a notice of proceedings). This provision is necessary to ensure the complainant's protection within a reasonable time and to avoid undue delays which are rampant in the court system in Nigeria.¹¹³

If the court decides to issue a protection order upon hearing the case or in *ex parte*, the order remains in force until set aside, 'and the execution of such order shall not be automatically suspended upon the notice of appeal'.¹¹⁴

4. Court powers in respect of issuing a protection order

The court has wide-ranging powers regarding the issuance of a protection order as outlined in Section 7. The section empowers the court by means of a protection order referred in sections 5 and 6, to prohibit the respondent from committing any act of domestic violence, or enlisting the help of another person to commit any of such act, or entering the complainant's residence or specific part of it, or entering his/her place of work, among others.¹¹⁵ The court may impose additional conditions which it deems reasonably necessary to protect and provide for the safety, health or well-being of the complainant, including but not limited to:

1. An order for a police officer to accompany the complainant to a specific place to collect his/her belongings.
2. To seize any arms or dangerous weapon in the possession or under the control of the respondent and to deposit them at the police station (Section 9).
3. Impose on the respondent obligations as to the discharge of rent or mortgage payment having regard to the financial needs and resources of the complainant and the respondent (Section 7) (3).
4. To pay emergency monetary relief, having regard to the financial needs and resources of the complainant and the respondent, and such

¹¹³ Yusuf O Ali, 'Delay in the Administration of Justice at the Magistrate Court- Factors Responsible and Solution' (2006) 4 (2) NBJ.

¹¹⁴ *ibid* Section 6 (7).

¹¹⁵ *ibid* Section 7.

order has the effect of a civil judgment of the relevant court (Section 7) (4).

5. In the best interest of the child if any is involved in the relationship, the court may refuse the respondent contact with such child, or order contact with such child on such conditions as it shall consider appropriate or make orders as to the custody of the child (Section 7) (6).
6. Order that the respondent or the complainants as the case may be, or any other person as it shall deem fit, undergo a compulsory period of counselling in respect of the matter for which the application was brought' (Section 7) (8) (a).
7. If the court decides to issue a protection order against the respondent, Section 8 requires the court to authorise the issuance of an arrest warrant for the arrest of the respondent; and suspending the execution of the warrant subject to 'compliance with any prohibition, obligation or order imposed in compliance with Section 7' by the respondent. The warrant remains in force unless the protection order is set aside, or it is cancelled after execution.¹¹⁶

5. Hearing in Camera and publication

Section 11 (1) (a-c) prohibits the presence of an unauthorised person during the proceedings except:

- (a) officers of the court
- (b) the parties to the proceedings; or
- (c) any person bringing an application on behalf of complainant in compliance with Section 4(3), which may be;
 - (i) any legal representative of any party to the proceedings;
 - (ii) witnesses;
 - (iii) not more than three persons for the purpose of providing support to the complainant; or

¹¹⁶ *ibid.*

- (iv) any other person whom the court permit to be present. Provided that the court shall, if it deems fit, exclude any person from attending any part of the proceedings; and
- (d) Nothing in this subsection shall prevent the court from hearing proceedings in camera or excluding any person from attending such proceedings.¹¹⁷

Section 11 (2) (a-c) forbids any publication of the proceedings that may directly or indirectly reveal the identity of the parties or witnesses.

6. Offences and penalty

The LASG law creates offences and penalties under Section 15, against the breach of orders imposed by the court pursuant to sections 7, 8, 9, and 11. Section 15 provides:¹¹⁸

- (a) Any person who contravenes any prohibition, condition, obligation or order imposed in Section 7, shall be guilty of offence and liable on conviction to a fine N100.000 or imprisonment for a period not exceeding five years or to both such fine and imprisonment;
- (b) Any person who contravenes the provision of Section 11(2) (a) or 11(2) (b) shall be guilty of an offence and liable on conviction to a fine of N20.000 or imprisonment for a period not exceeding one year (1year) or to both such fine and imprisonment;
- (c) Any person who wilfully makes a false statement in an affidavit referred to in Sections 8 (4) and (9) (a) shall be guilty of an offence and liable on conviction to a fine of N20, 000 or imprisonment for a period not exceeding one year (1year) or to both such fine and imprisonment.

7. Appeal and Review

Section 14 provides for an appeal as follows: ‘The provisions in respect of appeal and review in the Magistrates’ Court Review Laws or High Court laws of the State shall apply to any proceedings in compliance with this Law’.¹¹⁹

¹¹⁷ *ibid.*

¹¹⁸ LASG law (n 80) Section 15 created penalties for breaching court orders in relation to protection order (Section 7), proceeding and protection of publication (Section 11) (2) (a), and wilfully makes false statement in an affidavit (Section) (4) and Section 9 (a).

¹¹⁹ LASG law (n 103) Section 14.

5.2.2 The States' Domestic Violence Law: Analysis and Commentary

It may seem doubtful that only five out of thirty-six States have outlawed domestic violence and related offences in their respective states in Nigeria despite campaigns/lobbying to proscribe it throughout the country. I made effort to ensure that no state that has a domestic violence law was left out. Consequently, I searched the internet, contacted various NGOs, human rights organisations, many legal practitioners, and sent email to many State House of Assembly clerks to ascertain the exact number of states that has domestic violence law. All my efforts did not uncover any other state beside the five listed above that has a law against domestic violence. I encountered difficulties during the search to ascertain the number of states that has a law against domestic violence. One of the difficulties was that some states in Nigeria do not have a dedicated portal in their official State Government or House of Assembly website where you can find existing laws in the state or Bills going through the legislative process. Therefore, it is important for States and Local Governments in Nigeria to embrace the opportunities made available by the World Wide Web (WWW - internet) in dissemination of information. If they leverage this opportunity, it would enhance the search for information concerning the executive, legislative and judicial arms of any state government, and other relevant information about the state. In addition, they should make sure relevant information like legislations, court judgments, and other information that may be useful to the public are regularly uploaded and updated on their website. Having an up-to-date and informative website will ease the difficulties researchers, students and others encounter in trying to obtain information in Nigeria.

According to available information, the number of States in Nigeria that have outlawed domestic violence is five. In addition, there are some states (Osun and Rivers) that domestic violence and related offences bills are going through the legislative process.¹²⁰ In my opinion, the number of States that has a law against

¹²⁰ 'Osun State Protection Against Domestic Violence Bill 2012' *Osundefender* (23 January 2013) <<http://www.osundefender.org/2013/01/23/osun-assembly-considers-domestic-violence-bill/>> accessed 3 May 2017; Ike Wigodo, 'Rivers State Domestic Violence Bill' *The Tide* (25 April

domestic violence is not encouraging, especially in a country where its prevalence rate has been described as “shockingly high”.¹²¹ Though most States in the country do not have specific laws against domestic violence, some forms of the domestic violence offences are covered under the criminal law of almost all the states in the country. For instance, physical violence which is an aspect of domestic violence would constitute a violation of the general criminal laws relating to assault even in states that do not have specific laws against domestic violence. In Lagos States, assault is a criminal offence contrary to Part 5-chapter 21 section 168 of Lagos State Criminal Law.¹²² The punishment for assault as provided in section 170 of the Law stipulates that, ‘Any person who unlawfully assaults another is guilty of a misdemeanour, and is liable, if no greater punishment is provided, to imprisonment for one year.’¹²³ Despite this kind of provision in almost all the state government’s criminal laws, there is need for a specific law against domestic violence in the thirty-six States and the Federal Capital Territory (FCT), Abuja. The reluctance of some states to prohibit domestic violence through legislation has been the subject of much speculation and commentaries.¹²⁴ Some of the reasons advanced for the lacklustre attitude towards tackling domestic violence through legislative means, include:

1. Prolonged military regime

The military was at the helm of affairs in the country for twenty-eight out of fifty-six years since the country gained independence in 1960.¹²⁵ This period witnessed an unprecedented abuse of human rights in the history of the country. Many Decrees and Edicts promulgated during the military regime restricted press freedom and some citizens’ fundamental human rights.¹²⁶ During this period, the focus of many human rights organisations and activists, civil society, and women’s rights organisations was on pressurising the military to return to the barracks and

2014) <<http://www.thetidenewsonline.com/2014/04/25/rivers-chieftaincy-domestic-violence-bills-get-to-cttee/>> accessed 3 May 2017.

¹²¹ S Makila (n 97).

¹²² Lagos State Criminal Law, Part 5 Chapter 21 Section 168

¹²³ *ibid*, Sectio 170.

¹²⁴ Itoro Eze-Anaba (n 91).

¹²⁵ Olayemi Akinwumi, *Crises and Conflicts in Nigeria: A Political History Since 1960* (Germany, LIT Verlag Munster 2004).

¹²⁶ *ibid*.

hand over power to a civilian government through a free and fair election.¹²⁷ The agitation overshadowed the lobbying and advocacy for issues such as legislation against domestic violence and other related human rights issues. Consequently, many years were lost, during which considerable progress could have been made in human rights advocacy. It is noteworthy that the military created almost all the States in the country during the military regime, none of the existing domestic violence laws was enacted during the military era.¹²⁸ The current democratic dispensation in Nigeria which started on 29 May 1999, enabled the lobbying and advocacy for laws and policies to combat domestic violence and other social problems in the country.¹²⁹

2. Cultural and religious beliefs

Cultural and religious beliefs have a significant influence on the lifestyle of many Nigerians and their view on so many issues like abortion, same-sex marriage and domestic violence, among others.¹³⁰ Similarly, in Nigeria, culture, tradition and religion are blamed for the reluctance to legislate against cultural and religious sensitive issues like domestic violence and other gender equality laws.¹³¹ According to Eze-Anaba a domestic violence legal reform advocate, she was challenged by some group of legislators after making a presentation about domestic violence law at one of the State's House of Assemblies in Nigeria. She was looking for a legislator to sponsor a Domestic Violence Bill she prepared.¹³² Legislators that were against the bill confronted her arguing that 'the concept of domestic violence is foreign, contrary to cultural norms and practices for a woman to take her husband to court; more so, over a trivial matter like wife beating'.¹³³ In

¹²⁷ Itoro Eze-Anaba (n 91).

¹²⁸ All the states domestic violence laws were enacted during the current democratic government in Nigeria, which commenced from 29 May 1999. The first state to outlaw domestic violence in Nigeria is Ebonyi State on 22 June 2005.

¹²⁹ Itoro Eze-Anaba (n 91).

¹³⁰ A E Afigbo, 'Ropes of Sands: Studies in Igbo History and Culture (Nsukka University press 1981). He states that 'The Igbo do not only value and respect their cultures and traditions, they have a great influence on their ways of life, interaction with one another and the society at large'. The same applies to other ethnic groups in the country.

¹³¹ Takyiwaa Manuh, 'African women and Domestic violence' (Open Democracy, 26 November 2007) <https://www.opendemocracy.net/article/5050/ghana_domestic_violence> accessed 27 August 2017.

¹³² Itoro Eze-Anaba (n 91).

¹³³ *ibid.*

another state House of Assembly that she visited, probably in the Northern region, she was asked, ‘What exactly do you gain risking your life to come to this State. You are not from this State; neither do you live here, what is your gain?’¹³⁴ Similarly, in another state, a female legislator whom she wanted to sponsor a domestic violence bill, said, ‘Are you saying that if my brother beats his wife she can take him to court because of that beating? Do you think she can come back to that house?’¹³⁵ Likewise, during a debate on domestic violence bill in Rivers State House of Assembly, one of the Honourable members, Hon. Llyod, urged his colleagues not to support the bill arguing that:

If it is passed, it will make all the male go to jail. He condemned some clauses such as [physical] aggression and controlling, domineering, saying it is the function of the man as the head of the house to control ... his home; even as he said, every woman should be treated well.¹³⁶

In the Southern region of Nigeria, there is a clear separation of cultural and Christian religious practices, which enables Southerners to easily embrace laws that may affect their cultural and religious beliefs and practices.¹³⁷ Conversely, in the Northern region, culture and religion are interwoven without a clear demarcation, which makes it difficult for Northerners to embrace laws that may affect their religious beliefs and practices¹³⁸ Only one state in the Northern region has a law against domestic violence, Jigawa State. The remaining four states that have laws against domestic violence are in the Southern region.¹³⁹

3. Difficult lobbying and advocacy environment

Nigeria’s political terrain makes it difficult for human rights lobbyists and advocacy groups to be successful in their mission.¹⁴⁰ One of the reasons advanced by lobbyist and campaigners is the lack of financial incentive at the disposition of

¹³⁴ *ibid.*

¹³⁵ *ibid.*

¹³⁶ Ike Wigodo, ‘Rivers State Domestic Violence Bill’ *The Tide* (Port Harcourt, 25 April 2014) <<http://www.thetidenewsonline.com/2014/04/25/rivers-chieftaincy-domestic-violence-bills-get-to-cttee/>> accessed 3 May 2017.

¹³⁷ Yemisi *et al.* (n 40).

¹³⁸ *ibid.*

¹³⁹ Jigawa State is the Northwest geopolitical zone in Nigeria. Lagos and Ekiti State are from the Southwest. Ebonyi is from the Southeast. Cross River State is from the South-South.

¹⁴⁰ Itoro Eze-Anaba (n 91).

the lobbyists.¹⁴¹ Some politicians in Nigeria are corrupt, hence, in most situations, offering a bribe is the norm to secure a favour.¹⁴² Commercial lobbyists are often more successful than human rights advocates for the simple reason that they are financially more buoyant than their human rights counterparts. However, it does not mean that bribery was involved in securing every contract or the passage of every law in the country. However, it may be difficult to rule out, completely, elements of bribery, corruption, nepotism, and ethnic interest in every policy decision and appointments in Nigeria.¹⁴³ Another factor is the skills of the lobbyists and advocates involved. In this regard, Eze-Anaba noted:

With the coming into power of the civilian government, there was a need for a change of tactics in order to ensure citizen's participation in the new democracy. However, women's rights activists have been found wanting in the art of lobbying and advocacy in a democratic setting. This was particularly evident in the first legislative year 1999 – 2003, when the Violence against Women Bill was submitted by the National Coalition to the House of Representatives...¹⁴⁴

The knowledge and experience of the legislators may be another factor. It appears that some of the state legislators are not experienced and knowledgeable on human rights issues. The reason may not be far-fetched - as far as election in Nigeria is concerned, it is neither the academic knowledge nor experience of the politicians that is considered, but their wealth and sponsors (Godfathers).¹⁴⁵ Consequently, politicians that do not have good understanding of human rights and gender equality issues are elected as legislators.

As I mentioned earlier in this chapter, a closer scrutiny of the domestic violence laws of the five States reveal a remarkable similarity in most of their provisions with the exemption of the Cross River State domestic Violence Law, which is

¹⁴¹ Megan R Wilson, 'Nigerian power shift leaves lucrative lobbying contracts in limbo' (4 March 2015) The Hill <<http://thehill.com/business-a-lobbying/237823-nigerian-power-shift-leaves-k-st-contracts-in-limbo>> accessed 5 May 2017.

¹⁴² Florence Anaedozi, 'Is Grand Corruption the Cancer of Nigeria? A Critical Discussion in The Light of an Exchange of Presidential Letters' (2016) 12 (5) ESI 1.

¹⁴³ Itoro Eze-Anaba (n 67).

¹⁴⁴ *ibid.*

¹⁴⁵ Edigin Lambert Uyi, 'Political Conflicts and Godfatherism in Nigeria: A Focus on the Fourth Republic' (2010) 4 (4) AJOL 174.

gender bias favouring women. All the other State's laws are gender neutral. Their definition captures all conceivable acts that constitute domestic violence: physical, economical, psychological, emotional, sexual, verbal, and coercion.¹⁴⁶ Another progressive minded aspect of the laws is the duty to assist the victim by the police, social workers, medical personnel, court registrar, among others. While the provision to assist the victims contained in the State's domestic violence laws is commendable, its implementation to achieve the aim and vision of the lawmakers is where the problem lies. First, domestic violence, to a certain extent, is still considered a family affair by the law enforcement authorities and the public in Nigeria.¹⁴⁷ Some Nigerians are still reluctant to intervene in family matters even when it concerns their relatives.¹⁴⁸ Rendering of assistance as required by the laws involves financial expenses. If government fails to make finance available for assisting domestic violence victims, the aim of this provision may be defeated. The Ekiti State Domestic Violence Law Section 32 provides for setting up of a Gender-Based victims' assistance fund. Similarly, Section 38 of the Ekiti State law provides for the establishment of a committee to manage the fund. These provisions made by the Ekiti State law is a right step in the right direction towards effective implementation of the provisions of the law that requires rendering assistance to victims of domestic violence. Other States that are yet to enact a domestic violence law and those that may be thinking of amending theirs should emulate Ekiti State in establishing victims' assistance fund and a management committee to administer it.

Most of the State's laws have a provision that empowers the police to arrest suspected offenders with or without a warrant. Some states authorise someone who is not a police officer to arrest the alleged perpetrator (Ekiti State DV law, Section 10) without a warrant. While the arrest of suspected offenders is a necessary aspect of the law enforcement procedure, but its implementation in matters of this nature

¹⁴⁶ African Charter on Human and Peoples' Rights; African Charter on the Rights and Welfare of the Child; Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa <<http://www.achpr.org/instruments/achpr/>> accessed 2 May 2017; CEDAW <<http://www.un.org/womenwatch/daw/cedaw/>> accessed 2 May 2017.

¹⁴⁷ Hadiza Iza Bazza, 'Domestic Violence and Women's Rights in Nigeria' (2009) 4 (2) *Societies Without Borders* 175.

¹⁴⁸ *ibid.*

may present some challenges. In the Western world, victims of crime may telephone the police from the comfort of their home and expect a prompt response within a reasonable time; the situation is different in Nigeria. Most police stations do not have a dedicated telephone number to report incidents that need their attention, especially those that are in rural areas. The effect is that victims of crime must physically go to the police station to report such incidents. It is one of the factors that hinders the reporting of crime in Nigeria, including incidences of domestic violence.

Furthermore, in Nigeria, when a victim reports a crime at the police station, which may involve the arrest of the suspected offender, he/she may be required to provide a vehicle that will convey the police to arrest the suspect. The police, most times, may give an excuse of non-availability of an official vehicle to go to the crime scene. In extreme cases, the victim may have to bribe the police before they may agree to go and arrest the suspected offender.¹⁴⁹ Besides, 'Wealthy perpetrators and those who have relatives and friends in the police force are believed to influence the decisions of the police whether to prosecute and, at times, who to prosecute'.¹⁵⁰ As Eze-Anaba asserts, 'Due to the high level of corruption and inefficiency of the Nigerian police, the average Nigerian has no faith in the integrity and competence of the police'.¹⁵¹ In situations as described above, the effectiveness of the police required to implement the law to achieve the aims and vision of the lawmakers become exiguous. The effect is that those that hope to rely on the law to ensure the protection of their human rights and well-being continue to suffer.

The provision for the application of a protection order and granting of same by the court featured in all the state laws. This provision involves litigation and in the absence of financial assistance as articulated by the Ekiti State law, or the support of NGOs, some of the victims, especially those that are financially dependent on the perpetrator and those living in rural areas may not have the financial means to

¹⁴⁹ Itoro Eze-Anaba (n 91).

¹⁵⁰ Ramon Oladimeji, 'Nigerian courts pamper the rich, punish the poor' *The Punch* ((Lagos, 5 May 2016); Itoro Eze-Anaba (n 91).

¹⁵¹ *ibid.*

withstand a prolonged court process.¹⁵² In Nigeria, legal aid may not be available to victims of domestic violence who are not defendants in a criminal case.¹⁵³ There is a dilemma of accessing legal fund for the protection of human rights in Nigeria, coupled with the underfunding of the legal aid Council.¹⁵⁴ Another obstacle that may be encountered in the pursuit of justice arising from both civil and criminal cases is the ease of access to the courts. The courts are usually located in cities and towns and few in rural areas, which makes it difficult for those living outside the city to contemplate approaching the courts to seek relief coupled with delays in reaching conclusions and financial expenses involved.¹⁵⁵

The penalty for breaching court orders as contained in most of the state laws are not stringent enough to act as a deterrent or punishment to some class of offenders. The Ekiti State law has the most severe penalty of all the other state laws.¹⁵⁶ The first offenders in the state are liable to pay a sum not less than N20, 000.00 (€60 or \$65) and not more than N50, 0000.00 (€151 or \$164). While subsequent offenders are to pay an amount not less than N50, 000.00 and not more than N500, 0000.00 (€1, 510 or \$1,645). Similarly, the extension of the prison term for contravening the protection order from “not more than two years” for first offenders to “not less than three years” for a subsequent offence has the potential to act as a deterrent.¹⁵⁷

The Imo State law became controversial upon its signing by the State Governor as religious, medical, civil and political organisations as well as some individual fiercely opposed Section 40 (1) of the law, which permits abortion on certain conditions.¹⁵⁸ This prompted the law to be repealed. The offending section 40 (1) provided:

¹⁵² Yusuf O Ali, 'Delay in The Administration of Justice at The Magistrate Court- Factors Responsible and Solution' (2006) 4 (2) NBJ 1.

¹⁵³ Itoro Eze-Anaba (n 91).

¹⁵⁴ *ibid.*

¹⁵⁵ *ibid.*

¹⁵⁶ Ekiti State Gender-Based Violence (Prohibition) Law, 2011 Section 4.

¹⁵⁷ *ibid.*

¹⁵⁸ Chidi Nkwopara, 'Okorochoa, Catholic doctors at war over abortion law' *Vanguard* (27 August 2013) <<http://www.vanguardngr.com/2013/08/okorochoa-catholic-doctors-at-war-over-abortion-law/>> accessed 6 May 2017.

That every woman shall have the right to enjoy reproductive right including the right to medical abortion in the case of sexual assault, rape, incest and where the continued pregnancy endangers the life or physical, mental, physiological or emotional health of the mother.¹⁵⁹

The opponents of the law argued that the section was unethical and against the culture and religious belief of the people of the state.¹⁶⁰ Conversely, some groups such as the Advocacy Coalition on Violence against Women, (ACOVAW) disagreed and threw their weight behind the law referring it as ‘a wonderful and proactive piece of legislation that should be applauded rather than subjected to all sorts of misinterpretations and misrepresentations’.¹⁶¹

In summary, the bold step taken by these five states to prohibit domestic violence in their respective states is worthy of emulation by other states. Jigawa State is the first and only state out of the 19 Northern States to have a specific law against domestic violence as at the time of writing this thesis. The law has been in existence since 2006 without conflict with the practice of Islamic faith, which is the predominant religion in the state. It demonstrates that sharia can coexist and be practised without interference by laws to protect the peoples’ human rights.

Section Three

5.3 The Federal Government and Domestic Violence Law

The campaign to persuade the National Assembly to enact a federal law prohibiting domestic violence could be justified on so many grounds, particularly, considering the number of states in the country (five out of thirty-six), that has a law against it.

¹⁵⁹ Violence Against Persons (Prohibition) Law No. 12 of 2012 of Imo State, Section 40 (1).

¹⁶⁰ Kissinger Ikeokwu, ‘Legalization of Abortion in Imo State’ *Global Reporters* (31 August 2013) <<http://globalreportersnews.com/2013/08/legalization-of-abortion-in-imo-state/>> accessed 7 May 2017.

¹⁶¹ Nyi, ‘Catholic Bishops, Women Groups Disagree On Imo Abortion Law’ *Information Nigeria* (23 September 2013) <<http://www.informationng.com/2013/09/catholic-bishops-and-women-groups-disagree-on-imo-abortion-law.html>> accessed 3 May 2017.

After a prolonged campaign and lobbying that lasted nearly fourteen years, the National Assembly passed the Domestic Violence and related offences Bill on 4 May 2015, and the president signed it into law on 25 May 2015.¹⁶² The law is known and cited as ‘Violence against Persons (Prohibition) Act 2015’ (hereinafter, the “VAPP Act” or the “Act”).¹⁶³ After the Bill was passed, the Deputy Senate President described it as ‘an achievement’, noting that, ‘It is the primary responsibility of the executive to protect the lives and property of its citizens, especially against violence, while ours (the legislature) is to enact laws to support such responsibility’.¹⁶⁴ The VAPP Act received applaud from many national and international human rights organisations, NGOs, researchers and the general public. Nigeria joined the league of nations that have a specific law against domestic violence. However, the law that was eagerly awaited to provide a legal platform to challenge the human rights violations of all the citizens in the sphere of domestic violence and related offences was found to lack national application. The application of the law is restricted to the Federal Capital Territory (FCT), Abuja.¹⁶⁵

5.3.1 Violence against Persons (Prohibition) Act 2015 (VAPP)

The VAPP Act has six parts and creates twenty-six offences. The main object of the VAPP Act is to ‘eliminate violence in private and public life, prohibit all forms of violence against persons and to provide maximum protection and effective remedies for victims and punishment of offenders and related matters’.¹⁶⁶ The VAP Act covers all the conceivable forms of physical, emotional, verbal, psychological, economic, and sexual violence and harmful traditional practices perpetrated on any person both in public and domestic spheres. I will explain the relevant parts of the Act that pertains to domestic violence and compares it to the

¹⁶² Kasim Sumaina, ‘Nigeria: Vapp Bill - Emulate FG On Bill Passage, States Urged’ *This Day* (Lagos, 31 May 2015).

¹⁶³ Violence Against Persons (Prohibition) Act 2015 (VAPP Act) Nigeria.

¹⁶⁴ Sola Ogundipe, ‘Senate finally passes VAPP Bill’ *Vanguard* (Lagos, 5 May 2015).

¹⁶⁵ VAPP Act (n 138) Section 47.

¹⁶⁶ VAPP Act (n 138) Explanatory Memorandum.

United Nations international standard on domestic violence legislation and best practices.

1. Definition

The VAPP Act contains an explanation of what constitutes domestic violence.¹⁶⁷

2. Arrest warrant

The Act authorises a police officer to arrest a suspected offender with or without the orders of the court or arrest warrant, and to assist the victim. The officer is empowered to seize any dangerous weapon, to collect and preserve evidence and to perform any other act that may be necessary to ensure the safety and well-being of the complainant. The power of arrest in the Act is limited to the police officer, whereas some state law permits citizens to arrest suspected offenders.¹⁶⁸ Also, the courts are mandated to issue a warrant of arrest upon the granting of a protection order, which remains enforce until the order is set aside or executed.

3. Protection Order

The Act provides for a protection order to be applied by the complainant, or on his/her behalf by a police officer, a protection officer, counsellor, teacher, health or social service provider, or any person that has an interest in the well-being of the complainant. Application for a protection order made on behalf of the complainant must be supported by his/her written consent unless such a person is a minor, mentally challenged, unconscious or a person whom the court determines is unable to provide consent. The requirement to provide a written consent of the complainant before an application can be made on his/her behalf may act as an impediment for such application. The reason is that most of the victims of domestic abuse are hesitant to report it to the authorities as well as make formal complaints against perpetrators. Upon the application of a protection order, the court shall consider it as soon as reasonable and may issue an interim protection order pending the hearing of the case. After the hearing, the courts may issue a protection order if it finds, on a balance of probabilities, that the respondent committed or is likely

¹⁶⁷ VAPP Act, Section 46.

¹⁶⁸ Ekiti State Domestic Violence Law (n 133) Section 10.

to commit an act of domestic violence. The courts have a wide range of powers regarding the issuing of a protection order. The courts may impose certain restrictions and obligations on the respondent or other persons to ensure the safety and well-being of the complainant (Section 31). The complainant or respondent can jointly or severally apply to the court to amend, vary or discharge the protection order. The court will consider the application and submissions of agencies such as the health and social workers, counsellors, if necessary, before deciding to grant the application as requested or as the court determines necessary for the safety and well-being of the complainant (Section 35).

4. Hearing and Publication

The court is obliged to consider the application for a protection order as soon as reasonable and may in so doing, impose certain restrictions concerning the publication of the names of the applicant and respondent. The court may also decide to hear the matter in camera or exclude any person from attending the hearing (section 39). The contravention of this section is an offence punishable by a term of imprisonment not exceeding one year or a fine not exceeding 200, 000.00 Naira (approximately €604 or \$658) or both.

5. Protection Officers

The Act provides for the appointment of protection officers in each Local Council Area to assist in the implementation and ensuring the effective and efficient implementation of the law. The protection officers shall assist the court to discharge its duties under the act as well as coordinate the activities of the police and service providers to ensure the safety and well-being of victims and survivors of the domestic violence (Section 41). The duties of the protection officers as specified in the Act are crucial to achieving the objective of the law and may need a professional in the field of domestic violence.¹⁶⁹ However, the Act did not specify the qualifications such a person may hold or experience in the field, as well as mandatory training for such a person.

¹⁶⁹ VAPP Act (n 138) Section 41 (a-e).

6. Regulatory Body and Coordinator

The regulatory body entrusted with the implementation of the Act is “The National Agency for the Prohibition of Trafficking in Persons and Other Related Matters (NAPTIP). Section 42 provides for the appointment of a coordinator by the regulatory body for the prevention of domestic violence who shall submit an annual report on the implementation of this Act and a copy deposited at the National Bureau of Statistics.

7. Registration of Service Providers

The Act requires service providers to be registered with the Corporate Affairs Commission (CAC) under the Companies and Allied Matters Act 1990 and with the appropriate ministry before they can provide services under this Act to the victims. The registration would enable the service providers to avail of protections offered by the Act in so far as they are acting in good faith to ensure the objectives of the Act are met (Section 40).

8. Jurisdiction

Section 27 stipulates that only the High Court of the Federal Capital Territory, Abuja shall have the competence to hear and grant an application brought under the Act. The limiting of jurisdiction to the High Court Abuja means that no other High Court in the federation has the authority to 'exercise jurisdiction at first instance over the provisions of the VAPP Act'.¹⁷⁰

5.3.2 Violence against Persons (Prohibition) Act 2015: Analysis and Commentary

In this section, the VAPP Act will be examined with the intent to ascertain its conformity with international standards on domestic violence legislation and best practices. The international standards on domestic violence legislation emanate from various equality provisions in international treaties and laws. These

¹⁷⁰ Anthony N Nwazuoke, 'A Critical Appraisal of the Violence Against Persons (Prohibition) Act, 2015' (2016) 47 *Journal of Law, Policy and Globalization* 73.

international standards according to Cheluchi, ‘have developed over time and which have drawn from the benefit of the experiences of different countries, research studies on the impact of these laws, logical reasoning, and the experiences of women [and men]’.¹⁷¹ The UN Special Rapporteur recommended “A Framework for Model Legislation on Domestic Violence” (The 1996 UN Model Framework), which provides valuable guidance on provisions that domestic violence legislation should contain.¹⁷² The objective of this model legislation according to the UN Special Rapporteur is to ‘to serve as a drafting guide to legislatures and organizations committed to lobbying their legislatures for comprehensive legislation on domestic violence’.¹⁷³ Also, international standards on domestic violence legislation could be gauged based on international treaties that recognise the right to equality, such as The Universal Declaration of Human Rights (UDHR, Articles 1 and 7).¹⁷⁴ Others include the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (Article 3).¹⁷⁵ Put together, these treaties attempt to give a clear guideline on what domestic violence legislation should comprise of and aim to achieve.

I will base the analysis of the VAPP Act on the recommendation of the UN Special Rapporteur’s recommendation on Violence against women framework model on Domestic Violence legislation. The reason I prefer to use the Special rapporteur’s recommendation despite its gender specific connotation is that it is comprehensive and captures all the conceivable provisions that a model domestic violence legislation should contain.

¹⁷¹ Cheluchi Onyemulukwe, ‘Legislating on Violence Against Women: A Critical Analysis of Nigeria’s Recent Violence Against Persons (Prohibition) Act, 2015’ (2016) 5 (2) DePaul J. Women, Gender & L.

¹⁷² Lawyers Collective Women’s Rights Initiative, India ‘Domestic Violence Legislation and its Implementation’ p. viii < [www.http://asiapacific.unwomen.org/](http://asiapacific.unwomen.org/)> accessed 27 July 2017.

¹⁷³ UN Women, ‘Handbook and Supplement for legislation on violence against women’ 1996 <<http://www.un.org/womenwatch/daw/vaw/v-handbook.htm#handbook>> accessed 15 August 2018.

¹⁷⁴ *ibid.*

¹⁷⁵ *ibid.*

The UN Special Rapporteur on Violence against Women recommended that a Domestic Violence law (UN Model Code) should:

1. Comply with international standards sanctioning domestic violence.
2. Recognise domestic violence as gender specific violence directed against women, occurring within the family and within interpersonal relationships.
3. Recognise that domestic violence constitutes a serious crime against the individual and society.
4. Create a wide range of flexible and speedy remedies.
5. Assure survivors the maximum protection.
6. Establish departments, programmes, services, protocols and duties to aid survivors.
7. Facilitate enforcement of the criminal laws by deterring and punishing violence against women.
8. Enumerate and provide by law comprehensive support services.
9. Expand the ability of law enforcement officers to assist complainants and to enforce the law effectively in cases of domestic violence and to prevent further abuses.
10. Train judges to be aware of the issue.
11. Provide for and train counsellors to support police, judges and the survivors of domestic violence and to rehabilitate perpetrators of domestic violence.
12. Develop greater understanding within the community of the incidence and causes of domestic violence and encourage community participation in eradicating domestic violence.

I merged the above recommendations into groups according to their similarity for the discussion as follows:

1. Recognise domestic Violence as an offence.
2. Recognise domestic violence as a gender-specific offence directed against women

3. Ensure maximum protection, wide-range of flexible and speedy remedies for victims.
4. Ensure available support services and create departments to oversee domestic violence and related matters.
5. Robust sanctions to act as a deterrent and ensure effective enforcement of the law.
6. Empowerment of the law enforcement officers, training for judges, the provision of counsellors and rehabilitation of perpetrators and victims.
7. Community involvement in awareness creation and eradication of domestic violence.

Since coming into force, the VAPP Act has received many favourable commentaries with some describing it as ‘innovative and a step in the right direction in the protection of women and other victims of violence’.¹⁷⁶ A thorough reading of the Act confirms its progressive landscape with wide-ranging provisions that dealt with matters previously not covered under the existing criminal code operational in the country.¹⁷⁷ Some of these innovative issues include, but not limited to criminalising of female genital mutilation (FGM), harmful traditional widowhood practices, intimidation, coercion, political violence, forceful ejection from home and abandonment of spouses, children and dependents without means of support.¹⁷⁸ According to Cheluchi, ‘the Act made a great stride to bring the Nigerian law against these issues at par with international standards and requirements’.¹⁷⁹

1. Recognise domestic Violence as an offence

The recognition of domestic violence as an offence and abuse of victim’s human rights has received international acknowledgement.¹⁸⁰ The failure of the Act to recognise domestic violence as an offence is an obvious missed opportunity for it

¹⁷⁶ Cheluchi Onyemulukwe (n 171).

¹⁷⁷ *ibid.*

¹⁷⁸ *ibid.*

¹⁷⁹ *ibid.*

¹⁸⁰ Radhika Coomaraswamy (UN Special Rapporteur on Violence against Women), ‘A framework for model legislation on domestic violence’ submitted to the United Nations (E/CN.4/1996/53/Add.2) on 6 February 1996
<http://hrlibrary.umn.edu/commission/thematic52/53-wom.htm> accessed 25 August 2018.

to comply with international guidelines on domestic violence legislation. According to Cheluchi, 'Previous versions of the Act contained an offence of domestic violence; it is not clear why the enacted version omitted such offence'.¹⁸¹ I posit that the omission may be because of opposition by some legislators to make it an offence due to traditional, cultural and religious beliefs and practices. Though domestic violence was not overtly made an offence in the Act, most of the acts that constitute it are an offence, such as spousal battery that could cover physical violence, emotional, verbal and psychological abuse, financial abuse, harassment, coercion and intimidation.¹⁸² Domestic violence victims can bring charges and seek redress under these provisions of the Act.¹⁸³ Furthermore, the failure to make domestic violence an offence in the Act appears to indicate the failure of the legislators and the Federal Government to 'recognise that domestic violence constitutes a serious crime against the individual and society' according to the recommendation no. 3 of the UN Special Rapporteur on violence against women.¹⁸⁴ Notwithstanding this failure to make domestic violence an offence, the Act prohibited laws, beliefs and practices that support a man's right and authority to chastise his wife and children.¹⁸⁵ It also challenges the view held by some Nigerians that domestic violence is a family matter that does not require intervention by non-family members and the authorities.¹⁸⁶

2. Recognise domestic violence as gender specific offence directed against women

The Act adopted a gender-neutral stance in all its provisions regarding the commission of offence and punishment of offenders, with the exemption of the offence of FGM and harmful widowhood practices, which are clearly offences that women can only be victims. Some commentators have denounced the neutral language of the Act and its failure to recognise domestic violence as a gender

¹⁸¹ Cheluchi Onyemulukwe (n 171).

¹⁸² The VAPP Act, Sections 11 - 19.

¹⁸³ *ibid.*

¹⁸⁴ Radhika Coomaraswamy (n 180).

¹⁸⁵ see the Penal Code of Northern Nigeria Section 55).

¹⁸⁶ S C Ifemeje, 'Gender-Based Domestic Violence in Nigeria A Socio-Legal Perspective' (2012) 19 (12) *Indian Journal of Gender Studies* 137.

specific offence that is committed disproportionately against women, arguing that the ‘gender-neutral experiences language also has the possibility of imperilling and relegating the women’s rights’.¹⁸⁷ There has been a lot of scholarly debate on whether domestic violence should be classified as a gendered issue or not. McNeely *et al.*, contend that:

Domestic violence, like all violence, is a human issue. It is not merely a gender issue. Classifying spousal and partner violence as a women's issue, rather than a human issue, is erroneous. In domestic relations, women are as inclined as men to engage in physically abusive acts. Yet most reports appearing in the popular press, and in scholarly journals, have framed the issue as essentially a masculine form of assaultive behaviour, thereby imbedding into the national consciousness a false and inaccurate view of the problem.¹⁸⁸

They argue that conceptualising domestic violence as gendered issue perpetrated by men against women ‘contributes to men's increasing legal and social defencelessness, it also leads to social policies that obstruct efforts to address the problem of domestic violence successfully’.¹⁸⁹ On the other side of the spectrum, advocates insist on viewing domestic violence through the prism of those who are mostly the victims, women. Thus, Robinson and Walklate assert:

Over time, domestic violence scholarship and research evidence has become much more nuanced, and our understanding of both the diversity of people who are affected by such violence, as well as the diversity of their individual experiences, grows each year. This more nuanced understanding makes it easier, rather than harder, for us to say that, yes, domestic violence is still a women’s issue.¹⁹⁰

While I acknowledge that women, mostly, have been at the receiving end of domestic violence in Nigeria; however, social and mainstream media are reporting increased incidences of domestic violence homicide committed by women.¹⁹¹ In

¹⁸⁷ Cheluchi Onyemulukwe (n 171).

¹⁸⁸ McNeely R L, Cook P W, and Torres J B ‘Is domestic violence a gender issue, or a human issue?’ (2001) 4 (4) *Journal of Human Behaviour in the Social Environment* 227.

¹⁸⁹ *ibid.*

¹⁹⁰ Robinson A and Walklate S, ‘Domestic Violence: Still a woman’s issue? Oxford University Press, 8 March 2015) <<https://blog.oup.com/2015/03/domestic-violence-womens-issue/>> accessed 14 August 2018.

¹⁹¹ Gbenro Adesina, ‘Lawyer who stabbed her husband docked for murder’ *The News* (Lagos, 6 February 2016); Nkem Ikeke, ‘Woman Kills Fiance Over Sex In Lagos’ (NAIJ.COM October 2015)

addition, women are increasingly becoming financially buoyant than their husbands and, in some cases, are the breadwinners in the family. Hence, the ability of women to indulge in acts of economic, emotional and psychological abuse, as well as family abandonment without means of sustenance is on the increase. I am of the view that the neutral language adopted by the legislators in the Act aligns with the best practice in international legislation against domestic violence. Few countries have a gender specific legislation against domestic violence such as India, which has a legalisation to protect women from domestic abuse.¹⁹²

3. Ensure maximum protection, wide-range of flexible and speedy remedies for victims

Ensuring the protection and provision of remedies for victims of domestic violence is an integral requirement of international documents dealing with the prevention and combating of domestic violence.¹⁹³ Hence, legislations and policies in this regard should recognise the need for the protection of victims and provisions of remedies.¹⁹⁴ The Act, interestingly, contains an internationally recognised best practice of protecting victims of domestic violence from continued abuse, which is the issuance of a protection order against the perpetrator. The Act made it possible for certain persons and agencies to apply for a protection order on behalf of certain categories of victims and for the order to be effective throughout the Federation (section 28).¹⁹⁵ Besides the protection order, the Act obliges the police to render assistance to a victim as he/she may require to ensure his/her safe removal from the scene of a domestic violence incident, provision of alternative accommodation, the collection of personal belongings, help in filing complaints, amongst others (section 32).¹⁹⁶ The Act aligns with the international standard and best practice in this area of legislation against domestic violence .

<<https://www.naij.com/531878-demanding-sex-woman-unthinkable-fiance-lagos.html>> accessed 27 July 2017.

¹⁹² Protection of Women from Domestic Violence Act, 2005 India (No. 43 OF 2005) came into force on 15 September 2005. Spain also has gender specific domestic violence law.

¹⁹³ Radhika Coomaraswamy (n 180).

¹⁹⁴ Cheluchi Onyemulukwe (n 171).

¹⁹⁵ VAPP Act (n 138) Section 28 (4).

¹⁹⁶ *ibid* Section 32.

4. Ensure available and coordinated support services and create a department to oversee Domestic Violence and related matters

The creation of a government parastatal to oversee a coordinated approach to tackling domestic violence and related offences is a prime requirement for domestic violence legislation.¹⁹⁷ Due to the multifaceted nature of domestic violence, matters related to the identification, intervention and prevention strategies are handled by different professionals and groups. As Witwer *et al.*, stated, ‘professionals within the various specialised fields that deal with these personal tragedies are often separated by discipline-specific systems, languages, and routines’.¹⁹⁸ They further assert that ‘In the past, advocates for each of these groups have rarely talked to one another about coordinating prevention and intervention strategies’.¹⁹⁹ The lack of coordination among professionals involved in domestic violence intervention results in an incoherent approach to dealing with the issue. This is one of the reasons there is a need for a separate department to oversee the coordination of intervention strategies, awareness raising activities and professional training for those working in the field.²⁰⁰ The creation of such a department will provide a platform for multidisciplinary engagement and participation of various sectors; namely, law enforcement, education, health, media and social services.²⁰¹ The Act failed to create a dedicated ministry or department to coordinate the various sectors involved in the intervention and prevention of domestic violence in the country. Rather, it vested the enforcement of the Act with the National Agency for the Prohibition of Trafficking in Persons and Other Related Matters (NAPTIP).²⁰² The failure to create a department in charge of the implementation of the Act and coordination of domestic violence issues falls short of international requirements and best practice.²⁰³ Some individuals and groups have raised concerns regarding how effective NAPTIP

¹⁹⁷ Radhika Coomaraswamy (n 180).

¹⁹⁸ Martha Witer *et al.*, ‘A Coordinated Approach to Reducing Family Violence: Conference Highlights (1995) (Conference paper organised by the U.S. Department of Justice Office of Justice Programs) <<https://www.ncjrs.gov/pdffiles/redfam.pdf>> accessed 21 October 2016.

¹⁹⁹ *ibid.*

²⁰⁰ *ibid.*

²⁰¹ *ibid.*

²⁰² VAPP Act (n 138) Section 44.

²⁰³ Radhika Coomaraswamy (n 171).

would be as the primary regulatory institution of the Act.²⁰⁴ Many countries have set up a dedicated government department to act as a focal point for the coordination of issues relating to domestic violence and other related matters. For instance, The National Office for the Prevention of Domestic, Sexual and Gender-based Violence (Cosc) was set up by the Irish Government to ‘improve the delivery of a well-co-ordinated effective response to domestic, sexual and gender-based violence in Ireland’.²⁰⁵ I recommend that given the prevalence of domestic violence in Nigeria as highlighted by Amnesty International, service providers and researchers, it would be appropriate for the government to set up a dedicated parastatal to oversee the implementation of a well-coordinated approach to domestic violence and related offences.²⁰⁶

5. Robust sanctions to act as a deterrent to perpetrators

The inclusion of adequate sanctions has become one of the key components of legislation on domestic violence. Though, there remain divergent views on the effectiveness of sanctions as a deterrent to committing acts of domestic violence. However, the prevailing best practice recommends an adequate sanction to act as a deterrent.²⁰⁷ It appears there are mixed reactions about the adequacy of the sanctions provided by the VAPP Act. While some commentators believe the sanctions that the Act stipulates for certain offences are adequate, some express reservation concerning the adequacy of the sanctions for such offences as spousal battery.²⁰⁸ The Act provides a maximum three years’ imprisonment or a fine of 200, 000.00 Naira (approx. €604 or \$658) or both for spousal battery. Cheluchi opines that allowing the option of fine may remove the deterrent effect of the punishment.²⁰⁹ I contend that the option of fine may be allowed for first offenders, depending on the severity of the episode, but should not be an option for repeated

²⁰⁴ Cheluchi Onyemulukwe (n 171).

²⁰⁵ The National Office for the Prevention of Domestic, Sexual and Gender-based Violence (Cosc) <cosc.ie> accessed 28 July 2017.

²⁰⁶ Amnesty International, ‘Nigeria: Unheard Voices’ (Amnesty International’s report on Nigeria following own research in the area of violence against women in the country. Published on 30 May 2005) <<https://www.amnesty.org/en/documents/AFR44/004/2005/en/>> accessed 11 October 2016

²⁰⁷ Radhika Coomaraswamy (n 180).

²⁰⁸ Cheluchi Onyemulukwe (n 171).

²⁰⁹ *ibid*

offence.²¹⁰ The sanction for spousal battery under the VAPP Act is similar to the sanction for general offence of assault between strangers, which the law stipulates that, ‘Any person who unlawfully assaults another is guilty of a misdemeanour, and is liable, if no greater punishment is provided, to imprisonment for one year’.²¹¹ Also, assault occasioning harm is a felony and attracts a three-year jail term.²¹² I believe that if the law is effectively implemented, the sanctions contained in the VAPP Act for various offences are punitive and dissuasive enough.

6. The provision of training, counsellors and rehabilitation of perpetrators and victims

The training of personnel involved in all aspects of intervention and prevention of domestic violence remains one of the vital components of domestic violence legislation. Likewise, the engagement of counsellors and rehabilitation program for offenders and victims are crucial. The Act has been identified as falling short of its obligation in these aspects.²¹³ The Act did not specify nor made provision for the training of personnel involved in dealing with domestic violence issues, such as the police, social workers, judges, service providers, among others. Cheluchi states that the Act was overtly interested in sanctions than intervention and preventative measures.²¹⁴ The Ekiti State domestic violence law made specific provision for counsellors and training of personnel involved in dealing with domestic violence issues (section 43).²¹⁵ The Act failed to provide for the rehabilitation of offenders and victims. Likewise, the Act failed to make provision of funds for the rehabilitation and compensation of victims. Research shows that most victims of domestic violence remain with the offender and continue to endure abuse for fear of losing financial support from the perpetrator.²¹⁶ Therefore, without the assurance of adequate support for victims, they may find it difficult to report abuse and leave the offender. Interestingly, the Ekiti State domestic violence

²¹⁰ *ibid.*

²¹¹ Nigerian Criminal Law, Section 351.

²¹² *ibid.* Section 355.

²¹³ *ibid.*

²¹⁴ *ibid.*

²¹⁵ Ekiti State Law (n 156) Section 32.

²¹⁶ VAPP Act (n 163).

law covered this aspect by making specific provision in the legislation for the establishment of ‘a Gender-Based Violence Support Fund’ (section 32).²¹⁷ The law went further to establish a board to oversee the management of the fund.²¹⁸

7. Community involvement in awareness creation and eradication of Domestic Violence

The negative impact of domestic violence is felt not only by the victims/survivors but the entire community. ‘It impacts all aspects of [the] community including community health, crime rates, the ability to participate in the workforce, child development, and family dynamics.’²¹⁹ It is, therefore, necessary and good practice to involve the community in every effort to eradicate the problem of domestic violence. The Act failed to make a specific provision for the involvement of communities in raising the awareness of domestic violence in their localities. Though the Act provided for the appointment of protection officers in each council area of the federation to assist the court to discharge its duties under the Act, and to coordinate the activities of the police and accredited service providers to ensure victims of violence receive the assistance they need. However, it is doubtful if their functions extend to liaising with the communities in raising awareness about domestic violence. This is another criticism of the Act that its focus is more on sanctions than intervention and preventative measures. As Cheluchi asserts:

It is well known that there is a need to raise awareness, as many people do not understand that behaviours ordinarily sanctioned by culture often constitute violence; additionally, many women/[men] are simply unaware of avenues for help, and the provisions of the recent legislation.²²⁰

5.3.3 Nationwide Applicability of the VAPP Act: The Issue

The VAPP Act is currently applicable only in the Federal Capital Territory (FCT), Abuja. Similarly, only the High Court of the Federal Territory in Abuja is vested

²¹⁷ Ekiti State Law (n 156) Section 32.

²¹⁸ *ibid* Section 34.

²¹⁹ PATH, ‘Community Impact of Domestic Violence’ <<http://pathssk.org/wp-content/uploads/2011/04/Community-Impact-of-Domestic-Violence2.pdf>> accessed 28 July 2017.

²²⁰ Cheluchi Onyemulukwe (n 146).

with the jurisdiction to hear and grant an application brought under the Act.²²¹ This limiting jurisdictional application of the Act falls short of the international requirement for domestic violence legislation.²²² It is essential that any law dealing with family violence should apply nationally and protect all the citizens of the country.²²³ However, due to the structure of the Nigerian government as explained earlier in this chapter, both the State and the Federal Governments have the right to make laws, and each has a law-making arm. While the law made by the State House of Assembly is applicable only within the State, Acts of the National Assembly applies throughout the federation. Hence, one would expect the Act, which is a product of the National Assembly to apply automatically throughout the federation. This is one of the obvious examples that depict the complexity of the multi-layered government structure and law-making in Nigeria.

The Nigerian Constitution stipulates areas of legislative prerogative for the three tiers of government; namely, the Federal, the State, and the Local Government.²²⁴ The legislative lists in the Constitution, exclusive and concurrent, stipulates areas where the Federal and State Governments have authority to make laws.²²⁵ The exclusive list is assigned to the Federal Government and has sixty-eight items.²²⁶ The Federal and State Government's legislative arms have the power to make laws on matters that fall under the concurrent list, which has twelve items.²²⁷ According to Elaigwu, 'all matters not identified in the exclusive, concurrent, and the local government lists come under the jurisdiction of the states'.²²⁸ They are known as residual matters and are extensive.²²⁹ Hence, the states have the exclusive power to make laws over residual legislative matters.²³⁰ As Cheluchi clarified, 'violence clearly falls into the realm of criminal law', which is a residual matter that the

²²¹ The VAPP Act (n 163) Section 27.

²²² Radhika Coomaraswamy (n 180).

²²³ *ibid.*

²²⁴ Isawa J Elaigwu, *The politics of federalism in Nigeria* (London, Adonis & Abbey 2007).

²²⁵ *ibid.*

²²⁶ The Constitution of the Federal Republic of Nigeria, Second Schedule, Section 4 Part 1.

²²⁷ *ibid.*, Section 4 Part 11.

²²⁸ *ibid.*

²²⁹ *ibid.*

²³⁰ Cheluchi Onyemulukwe (n 171).

states have the exclusive power to legislate. Therefore, since the VAPP Act is a Federal law, it cannot be implemented in the states automatically.

There are two ways the jurisdiction of the Act could be extended to the states for it to have a nationwide applicability:

1. As Nwazuke suggests, ‘the VAPP Act could have vested jurisdiction over its provisions on the Federal High Court since the jurisdiction of the Federal High Court under s.251 of the Constitution of the Federal Republic of Nigeria as amended may be extended “To such other jurisdiction as may be conferred upon it by an act of the National Assembly.” By so doing persons in every state in Nigeria would have been able to avail of the VAPP Act’.²³¹
2. As Cheluchi states, ‘the VAPP Act has the potential to apply widely if and when the VAPP Act is adopted by the States. In this regard, where a matter falls into the residual list on which states have exclusive authority to make law, the states can adopt it. Should it be adopted by States, it will override any existing laws on violence, including extant criminal law’.²³²

The National Assembly should consider the two options to ensure the nation-wide application of the Act. Currently, only Imo State which repealed its domestic violence and related offences law has started the process to domesticate the Act into law to be known as Violence Against Persons (Prohibition) Law of Imo State. Hon. Ugonna Ozuruigbo sponsored the bill and it has passed first reading in the Imo State House of Assembly on 18 October 2016. There is a necessity for other states to commence the process to adopt the Act, and this should be the next task for advocacy efforts.

5.3.4 Discriminatory domestic violence Law against women in Northern Nigeria

In Nigeria, there are existing laws in some regions of the country that are discriminatory against women. This is despite Nigeria’s Constitutional provision that prohibits discrimination in all its ramifications. Article 42 of the Constitution of the Federal Republic of Nigeria as amended states:

A citizen of Nigeria of a particular community, ethnic group, place of origin, sex, religion or political opinion shall not, by reason only that he is

²³¹ Anthony N. Nwazuke (n 170).

²³² Cheluchi Onyemulukwe (n 171).

such a person: -(a) be subjected either expressly by, or in the practical application of, any law in force in Nigeria or any executive or administrative action of the government, to disabilities or restrictions to which citizens of Nigeria of other communities, ethnic groups, places of origin, sex, religious or political opinions are not made subject . . .²³³

Similarly, as stated earlier in this chapter, Nigeria is a signatory to many regional and international treaties that prohibit the discrimination against women and, which mandates each state party to take positive steps through legislation to ensure the protection of women from discrimination and unjust cultural practices, among others.²³⁴ The two prominent of these treaties are The Protocol to the Africa Charter on Human and Peoples' Rights on the Rights of Women in Africa and The Committee on the Elimination of Discrimination against Women (CEDAW). The Nigerian women are guaranteed the right to dignity, the right to life, integrity and security of persons; freedom from discrimination; the right to equality, among others by virtue of these treaties.

To what extent is the government of Nigeria abiding by its international and regional obligations toward ensuring the protection of women's rights under these treaties? Though the government has taken some positive steps in this regard, which includes the establishment of women development centres in the 36 states, adoption of a gender policy in 2007 and the recent enactment of the VAPP Act. However, there are existing laws in some regions of the country that are discriminatory against women, which is contrary to the provisions of the Constitution and that of the regional and international treaties that Nigeria has adopted.

One of the offending laws is the penal code of Northern Nigeria, section 55 (1) (d), which gives a man the right to chastise his wife for the purposes of correction as

²³³ The Constitution (n 9) Section 42.

²³⁴ E Egede, 'Bringing the Human Rights Home: An examination of the Domestication of Human Rights Treaties in Nigeria' (2007) *Journal of African Law*, 51 (2) 249.

long as he does not inflict grievous bodily harm, and so far, as the native laws and customs of the couple permit it. Section 55 of the Northern code states:

Section 55. Correction of Child, Pupil, Servant or Wife.

- (1) Nothing is an offence which does not amount to the infliction of grievous hurt upon any persons which is done:
 - (a) by a parent or guardian for the purpose of correcting his child or ward
 - (b) by a schoolmaster for the purpose of correcting a child . . .
 - (c) by a master for the purpose of correcting his servant or apprentice . . .
 - (d) by a husband for the purpose of correcting his wife, such husband and wife being subject to any native law or custom in which such correction is recognised as lawful.²³⁵

This law is still applicable in the Northern region of the Nigeria despite efforts by human rights advocacy groups to persuade the National Assembly to repeal the law. It appears this discriminatory law will cease to be applicable in any of the Northern states that adopt the VAPP Act by virtue of section 45 (2) of the Act, which states that: ‘Any provision of this Act shall supersede any other provision on similar offences in the Criminal Code, Penal Code and Criminal Procedure Code’.²³⁶

Since the National Assembly has not considered repealing the law despite continued efforts by many advocacy groups, the only hope of repealing the offending law lies on the willingness of the Northern states to adopt the VAPP Act. Hence, I recommend continued effort in advocacy for the repeal of the law and adoption of the VAPP Act not only by the Northern states but all the states in the Federation.

5.3.5 Domestic Violence: Institutional Response

The institutional response to domestic violence in Nigeria is championed by the NGOs, some state government and University research institutions. The University

²³⁵ The penal code of Northern Nigeria, section 55 (1) (d).

²³⁶ VAPP Act (n 163) section 45 (2).

research institutions are very active in research and publication on issues of domestic violence and violence against women within the gender rights and equality domain.²³⁷ The University research institutions contribute to the knowledge of legislative instruments by analysing and explaining them to the understating of an ordinary person without a legal background. In the process, they critic the legislation and proffer possible recommendations for amendments. Similarly, some State governments have set up parastatals to coordinate issues concerning domestic violence and related offences in their state. Notable among them is The Lagos State Domestic and Sexual Violence Response Team (DSVRT).²³⁸ The team has been very active in domestic violence awareness campaign in Lagos State and supporting victims of domestic and sexual violence.²³⁹ DSVRT embarks on a yearly intensive campaign against domestic violence throughout the state. Recently, DSVRT flagged off their 2017 state-wide ‘sensitisation campaigns at communities like Fagba, Ajuwon, Surulere, Ikeja, Kosofe, Ikorodu, Iwaya, Epe, Badagry, Onike, Ijanikin, Ojo, Idimu, Lagos Island, Alimosho and Agege’.²⁴⁰ According to DSVRT coordinator in Lagos State:

The campaign will be conducted through door-to-door canvassing, engagement of children in schools, town hall meetings, market rallies, engagement at religious gatherings, and visitation to salons. There would also be an extensive media outreach through Billboards, radio and television jingles in English, pidgin and other indigenous languages. The DSVRT Coordinator also said that the team would ensure that relevant details on Domestic Violence prevention are distributed through local governments and marriage registries to intending couples. She said the aim of the six months intensive campaign is to drive increased awareness within the populace, improve on coordination of response and more effective prosecution of cases with better witness corroboration, and ultimately a reduction in the number of SGBV cases within the state.²⁴¹

²³⁷ Anthony N. Nwazuoke (n 145); Cheluchi Onyemulukwe (n 170).

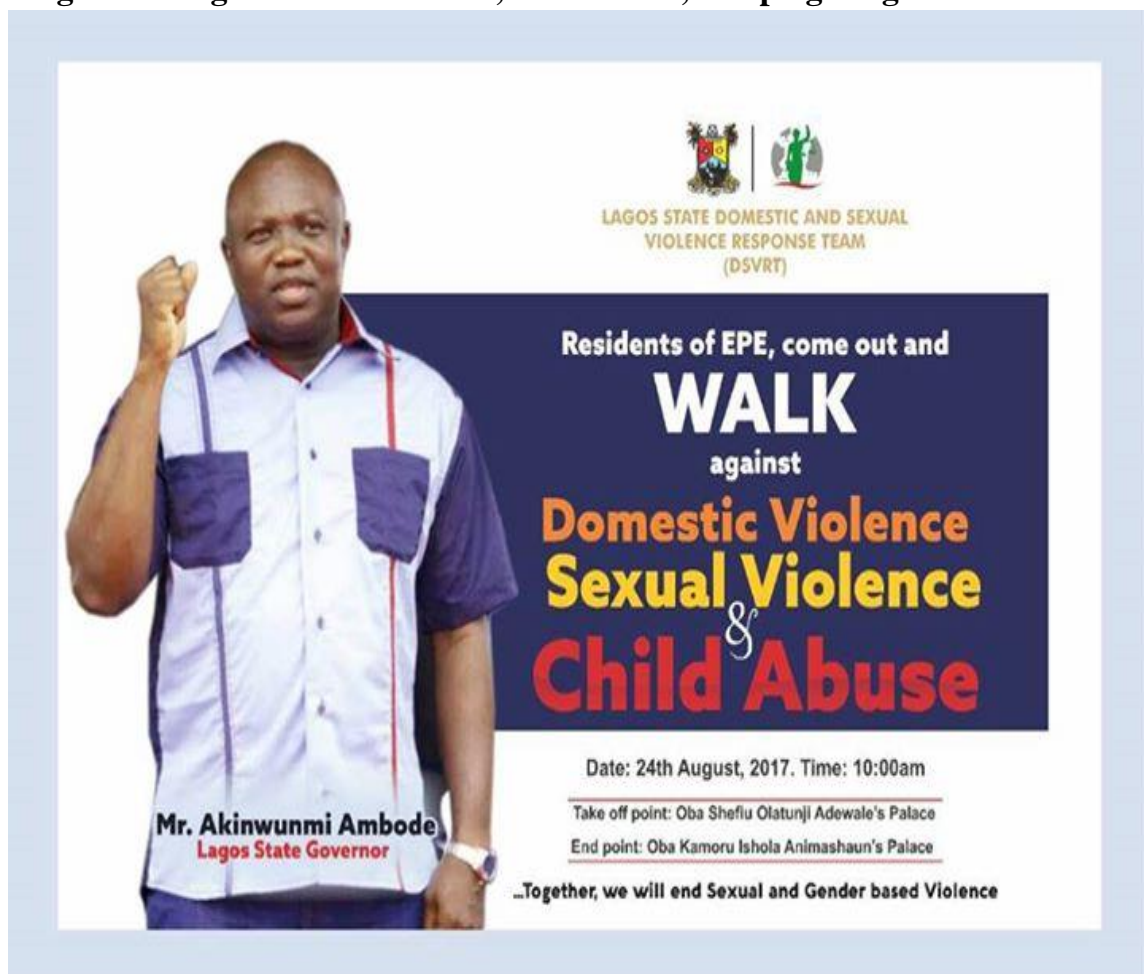
²³⁸ Premium Times, ‘Lagos commences mass campaign against domestic, gender violence’ (Premium Times 30 July 2017) <<http://www.premiumtimesng.com/regional/ssouth-west/238622-lagos-commences-mass-campaign-domestic-gender-violence.html>> 15 July 2017.

²³⁹ DSVRT <<http://dsvrtlagos.org/index.html>> accessed 25 July 2017.

²⁴⁰ Premium Times (n 238).

²⁴¹ *ibid.*

Figure 3: Lagos State Governor, A. Ambode, campaigns against DV



Source: DSVRT

Figure 4: A campaigner holding a poster during DSVRT 2016 State-wide campaign



Source: DSVRT

Figure 5: DSVRT partners with traditional ruler for DV awareness campaign

 | 
LAGOS STATE DOMESTIC AND SEXUAL
VIOLENCE RESPONSE TEAM
(DSVRT)

Do you know that Rape, Domestic
Violence and Child Abuse are **CRIMES?**

Do you know that you have a
ROLE to play?

Come and get answers at the
Town Hall Meeting
scheduled to take place on

Wednesday | July
13th | 2016

at
Oba Ayangburen's Palace
Time: 9.00am

Lagos State Domestic and Sexual Violence
Response Team
08137960048

Source: DSVRT

There are several NGOs in Nigeria that are involved in domestic and sexual violence awareness campaign and support services.²⁴² They have been very active in lobbying for domestic violence legislation throughout the country and played a vital role in the passing of the VAPP Act.²⁴³ Also, the NGOs are involved in research and publications on issues of domestic violence and violence against women.²⁴⁴ They remain the bedrock of domestic violence awareness campaign and the provision of support services to victims in the country, and their efforts are commendable.

Section 4

5.4 Regional Response

Beside efforts to tackle domestic violence in Nigeria, there are regional responses to the issue through various institutions in Africa. It will be too vast and outside the scope of this thesis to appraise all the regional institutions and treaties involved in addressing the issue of domestic violence in Africa, hence, I will only examine the evolving jurisprudence of the Community Court of Justice (ECOWAS Court) of the Economic Community of West Africa (ECOWAS) pertaining to its recent decision on a domestic violence case against Nigeria.²⁴⁵ The decision has the potential to create a fertile ground for litigation that may rapidly generate evolving case-law on domestic violence in the region. In addition, it has the potential to make a positive impact on the perceptions and attitudes of Nigerians toward domestic violence. Furthermore, it has the potential to impact on Nigeria Government's response in addressing the issue of domestic violence in the country,

²⁴² Ikeke Nkem, 'Agencies responsible for the protection of women's rights in Nigeria' Note: This is not an exhaustive list of NGOs in Nigeria <<https://www.naija.ng>> accessed 21 August 2018.

²⁴³ SOAWR, 'Legislative Advocacy Coalition on Violence Against Women (LACVAW)' (Undated) <<http://www.soawr.org/blog/legislative-advocacy-coalition-violence-against-women-lacvaw>> accessed 5 July 2017.

²⁴⁴ Centre For Health Ethics Law And Development (CHELD) <<http://cheld.org/>> accessed 12 December 2017; Project Alert On Violence Against Women <<http://www.projectalertnig.org/>> accessed 12 December 2017.

²⁴⁵ *Mary Sunday v Federal Republic of Nigeria* App no ECW/CCJ/APP/26/15 (24 January 2017)

especially in compliance with the Government's obligations as contained in various human rights treaties (regional and international) it has ratified. Nigeria is a member of ECOWAS, which is a sub-regional group in Africa established in 1975.²⁴⁶

5. 4.1 The Community Court (ECOWAS Court) of Justice of the Economic Community of West Africa (ECOWAS)

The Community Court of Justice functions as the judicial arm of ECOWAS²⁴⁷ with a mandate to 'to ensure the observance of law and of the principles of equity and in the interpretation and application of the provisions of the Revised Treaty and all other subsidiary legal instruments adopted by Community'.²⁴⁸ It was created 'pursuant to the provisions of Articles 6 and 15 of the Revised Treaty of the Economic Community of West African States (ECOWAS)'.²⁴⁹ The Revised Treaty of 1993 established the Court of Justice as an institution of ECOWAS.²⁵⁰ The Revised has been amended twice to produce a supplementary protocols of 19 January 2005 and 14 June 2006 respectively.²⁵¹ The supplementary protocol of

²⁴⁶ 'Established on May 28, 1975 via the treaty of Lagos, ECOWAS is a 15-member regional group with a mandate of promoting economic integration in all fields of activity of the constituting countries. Member countries making up ECOWAS are Benin, Burkina Faso, Cape Verde, Cote d' Ivoire, The Gambia, Ghana, Guinea, Guinea Bissau, Liberia, Mali, Niger, Nigeria, Sierra Leone, Senegal and Togo. Considered one of the pillars of the African Economic Community, ECOWAS was set up to foster the ideal of collective self-sufficiency for its member states. As a trading union, it is also meant to create a single, large trading bloc through economic cooperation'.

²⁴⁷ ECOWAS, 'Community Court of Justice – ECOWAS' <www.courtecowas.org> accessed 19 August 2018

²⁴⁸ *ibid.*

²⁴⁹ ECOWAS, 'Revised Treaty of the Economic Community of West African States (ECOWAS)' (24 July 1993) Articles 6 & 15.

²⁵⁰ *ibid.*, 'Revised Treaty of the Economic Community of West African States (ECOWAS)' (24 July 1993) Article 15.

²⁵¹ ECOWAS, SUPPLEMENTARY PROTOCOL A/SP.2/06/06 AMENDING ARTICLE 3 PARAGRAPHS 1, 2 AND 4, ARTICLE 4 PARAGRAPHS 1, 3 AND 7 AND ARTICLE 7 PARAGRAPH 3 OF THE PROTOCOL ON THE COMMUNITY COURT OF JUSTICE (14 June 2006); ECOWAS, 'SUPPLEMENTARY PROTOCOL A/SP.1/01/05 AMENDING THE PREAMBLE AND ARTICLES 1, 2, 9, 22 AND 30 OF PROTOCOL A/P.1/7/91 RELATING TO THE COMMUNITY COURT OF JUSTICE AND ARTICLE 4 PARAGRAPH 1 OF THE ENGLISH VERSION OF THE SAID PROTOCOL' (19 January 2005).

2005 expanded the Court's jurisdiction to include human rights claims by individuals.²⁵²

The Court has jurisdiction in the following areas:

1. Advisory:

- The Court 'gives legal advisory opinion on any matter that requires interpretation of the Community text'.

2. Contentious:

- The Court examines cases of failure by Member States to honour their obligations under the Community law;
- The Court has competence to adjudicate on any dispute relating to the interpretation and application of acts of the Community;
- The Court adjudicates in disputes between Institutions of the Community and their officials;
- The Court has power to handle cases dealing with liability for or against the Community;
- The Court has jurisdiction to determine cases of violation of human rights that occur in any Member State;
- The Court adjudges and makes declarations on the legality of Regulations, Directives, Decisions, and other subsidiary legal instruments adopted by ECOWAS.

3. Arbitration:

- Under Article 16 of the Revised Treaty, the Court has competence to act as Arbitration pending the establishment of an arbitration tribunal.²⁵³

Access to the Court is open to the following:

- All Member States and the Commission, for actions brought for failure by Member States to fulfil their obligations;

²⁵² *ibid*, 'SUPPLEMENTARY PROTOCOL A/SP.1/01/05 AMENDING THE PREAMBLE AND ARTICLES 1, 2, 9, 22 AND 30 OF PROTOCOL A/P.1/7/91 RELATING TO THE COMMUNITY COURT OF JUSTICE AND ARTICLE 4 PARAGRAPH 1 OF THE ENGLISH VERSION OF THE SAID PROTOCOL' (19 January 20005).

²⁵³ *Ibid*, 'Revised Treaty of the Economic Community of West African States (ECOWAS)' (24 July 1993) Article 16.

- Member States, the Council of Ministers and the Commission, for determination of the legality of an action in relation to any Community text.
- Individuals and corporate bodies, for any act of the Community which violates the rights of such individuals or corporate bodies;
- Staff of any of the ECOWAS Institutions;
- Persons who are victims of human rights violation occurring in any Member State;
- National courts or parties to a case, when such national courts or parties request that the ECOWAS Court interprets, on preliminary grounds, the meaning of any legal instrument of the Community;
- The Authority of Heads of State and Government, when bringing cases before the Court on issues other than those cited above.²⁵⁴

Cases are filed before the Court through written applications addressed to the registry. Such applications must indicate the name of the applicant, the party against whom the proceedings are being instituted, a brief statement of the facts of the case, and the orders being sought by the plaintiff.

The Court applies the Treaty, the Conventions, Protocols and Regulations adopted by the Community and the general principles of law as set out in Article 38 of the Statute of the International Court of Justice.

In the area of human rights protection, the Court equally applies, *inter alia*, international instruments relating to human rights and ratified by the State or States party to the case.

Decisions of the Court are not subject to appeal, except in cases of application for revision by the Court; decisions of the Court may also come under objection from third parties. Decisions of the Court are binding, and each Member State shall indicate the competent national authority responsible for the enforcement of decisions of the Court.²⁵⁵

One interesting feature of the Court is the wide-range of people and institutions that can bring cases before it for determination, advice or arbitration. This is in

²⁵⁴ ECOWAS Court <www.courtecowas.org> accessed 21 August 2018.

²⁵⁵ *ibid.*

variance to the restriction on access to the African Court on Human and Peoples' Rights of the African Union.²⁵⁶

Mary Sanders v Nigeria ECW/CCJ/APP/26/15 (17 May 2018): The Impact

In August 2015, two NGOs, the Women Advocates Research Documentation Centre (WARDC) and the Institute for Human Rights and Development in Africa (IHRDA), 'filed a suit at the Court on behalf of Nigerian citizen, Ms. Mary Sunday, an alleged victim of severe domestic violence from her fiancé (a policeman), which had taken place three years earlier in August 2012'.²⁵⁷ Subsequently, The Nigerian Government filed a preliminary objection and urged the Court to dismiss the case for lack of merit on the grounds that 'the Applicants had not established a cause of action; that the Applicants had no *locus standi*, and that the Court lacked the jurisdiction to hear the case'.²⁵⁸ On 24 January 2017, the Court held that 'the case was admissible; that the Applicants had established a cause of action and also have locus standi to file the case'.²⁵⁹ The ruling according to the Court, 'was based on its human rights mandate'.²⁶⁰ Thus, the case surmounted the first hurdle that would have had a restrictive impact in domestic violence litigation in the region as it was the first domestic violence case to be brought to the Court. The judgment cleared the way for the substantive hearing of the case. The summary of the case is as follows:

Mary Sunday was engaged to a policeman, Corporal Isaac Gbanwuan in Lagos. They had an argument in August 2012 which degenerated into a situation where he started beating her. In a bid to escape the beatings, she ran into a neighbour's kitchen. Isaac was able to force his way into the kitchen and poured a burning stove with a cooking pot of stew on it on Mary

²⁵⁶ There is a restriction on Individuals to institute an action before the African Court on Human and Peoples' Rights based on Article 34 (6) of the Protocol to the African Charter on Human and Peoples Rights (the Protocol), which states that: At the time of the ratification of this Protocol or any time thereafter, the State shall make a declaration accepting the competence of the Court to receive cases under article 5 (3) of this Protocol. The Court shall not receive any petition under article 5 (3) involving a State Party which has not made such a declaration.

²⁵⁷ Airey Siobhan, 'Landmark decision in first case of domestic violence brought to ECOWAS Community Court of Justice (ECCJ) (Ruling ECW/CCJ/APP/26/15, 24th January 2017)' IntLawGrrls (19 February 2017) <<https://ilg2.org>> accessed 21 August 2018.

²⁵⁸ *ibid.*

²⁵⁹ *ibid.*

²⁶⁰ ECOWAS Court 'ECOWAS Court Delivers Rulings in Two Cases Involving Nigeria' <www.courtecowas.org> accessed 21 August 2018.

Sunday's head and body, setting her on fire. The Nigerian Police has refused to conduct an effective investigation into the incident and has not prosecuted the perpetrator.²⁶¹

The applicants alleged that 'Mary Sunday's fundamental rights were violated by the failure of the defendant to carry out an independent and impartial investigation on the allegations of severe domestic violence suffered by the victim'.²⁶² They also alleged that 'these violations constituted gender-biased violence and discrimination against women and demanded N20, 000,000 (twenty million naira) in compensation, for health specific damages and the trauma suffered by the victim'.²⁶³

After several postponements, the case was heard between November 2017 and January 2018.²⁶⁴ The Court delivered its judgment on 17 May 2018 in favour of the complainant. The Court 'finds Nigeria in violation of Mary's right to access to justice and right to have her cause heard, and orders Nigeria to pay Mary reparation of 15 Million Naira – about USD 41,500'.²⁶⁵ However, the Court found Nigeria not to be in violation of her right to freedom from discrimination and gender-based violence'.²⁶⁶ Notwithstanding the exoneration of Nigeria from violating the rights of the victim to freedom from discrimination and gender-based violence, The Court's decision has been described as a 'progressive and important jurisprudence for the promotion and protection of women's rights in Nigeria and Africa as a whole'.²⁶⁷ The decision of the Court not to find Nigeria in violation of the victim's right to freedom from discrimination appears to be based on the fact that the failure of the Government to protect the victim was not because of her gender or any other classification that was particular to her. The Court may have believed that such failure is wide-spread in Nigeria and affects the citizens regardless of gender,

²⁶¹ IHRDA, 'WARDC & IHRDA on behalf of Mary Sunday v The Federal Republic of Nigeria (Mary Sunday case)' (n.d.) <<https://www.ihrda.org>> accessed 21 August 2018.

²⁶² ECOWAS Court (n 260).

²⁶³ *ibid.*

²⁶⁴ *ibid.*

²⁶⁵ *ibid.*

²⁶⁶ Dumo Eric, 'ECOWAS court orders FG to pay abuse victim N50m' *The Punch* (Lagos, 19 May 2018).

²⁶⁷ *ibid.*

ethnicity, age and other attributes. However, there are reasons to believe that women are being discriminated in almost all spheres of human endeavour in Nigeria. Research and commentaries are awash with various forms of discrimination that women face in Nigeria.²⁶⁸ The Court, in my opinion should have found a violation of the victim's right to freedom from discrimination. I believe the social status of the victim and the fact the perpetrator was a member of the Nigerian Police Force played a role in the failure of the relevant authorities to investigate the case and prosecute perpetrator. In the case of *Opuz v Turkey*,²⁶⁹ the European Court of Human Rights (ECtHR) found Turkey in violation of the victim's right to freedom from discrimination under Article 14 of the European Convention on Human Rights (ECHR).²⁷⁰ This is in addition of finding Turkey in violation of the victim's rights under Articles 2 (Right to Life) and 3 (Prohibition from Torture).²⁷¹ The exoneration of Nigeria from gender-based violence may be understood from the belief that it is an offence that can only be committed by an individual against another individual and not a government against an individual. Hence, it may not be tenable to hold a government in violation of gender-based violence. However, governments are held responsible for failure to take positive steps to protect their citizens from gender-based violence and to punish offenders.²⁷² The Court's jurisprudence in violence against women, including domestic violence and human rights are at its early developing stage, and according to Adjolohoun 'Although it has not reached the irradiating model of the European Court of Human Rights, the ECCJ [ECOWAS Court] has the potential of becoming a human rights promoter in the region and beyond'.²⁷³ The decision of the ECOWAS Court in this case would have positive impact in the struggle to combat domestic violence in Nigeria. The decision, undoubtedly, would encourage

²⁶⁸ Ajai Taiwo, 'Gender discrimination in land ownership and the alleviation of women's poverty in Nigeria: A call for new equities' 17 (1) *International Journal of Discrimination and the Law* 51; Olabode K Tand Adeigbe K Y, 'Gender discrimination and the Nigerian scenario: a review' (2016) 14 (1) *African Journal Online* <<https://www.ajol.info>> accessed 24 August 2018.

²⁶⁹ *Opuz v Turkey* App no 33401/02 (ECtHR, 9 June 2009).

²⁷⁰ *ibid.*

²⁷¹ *ibid.*

²⁷² *Valiuliene v Lithuania* App no 33234/07 (ECtHR, 26 Mar 2016).

²⁷³ Adjolohoun H S, 'The Ecowas Court as A Human Rights Promoter? Assessing Five Years' Impact of The Koraou Slavery Judgment' (2013) 31 (3) *Netherlands Quarterly of Human Rights* 342.

NGOs to bring similar cases to the Court as well encourage victims to report abuse to the police and NGOs. The government at all levels would begin to realise that it is “No Longer Business as Usual” whereby they ignore their responsibilities toward citizens without consequences. The decision would reinforce the determination of the judiciary and law enforcement agents in Nigeria to treat cases of domestic violence with the seriousness it deserves.

5.5 Conclusion

The chapter examined the efforts of the State Governments in Nigeria as well as the Federal Government in tackling the issue of domestic violence in the country. The fact that domestic violence is not outlawed throughout the country is not encouraging, neither is it a welcome development in the fight against the issue. There is an urgent need to ensure that the VAPP Act is applicable throughout the country. In addition, there is a need to support various institutions involved in the provision of support services to victims of domestic violence and those involved in the awareness raising campaigns. In the next chapter, I will examine the legal and institutional as well as the regional response to domestic violence in Ireland, which is the resident country of the study group.

Chapter 6

Domestic Violence in Ireland: Legal and Institutional Response

This chapter contains four sections:

Section one explores the structure of Irish Government and institutions.

Section two examines the Irish legal system (ILS) with emphasis on sources of law and the judicial system.

Section three appraises the response of the Irish Government to domestic violence with a focus on the Domestic Violence Act 2018.

Section four explores the regional response to domestic violence by appraising the jurisprudence of the European Court of Human Rights (ECtHR) and the Council of Europe Convention on preventing and combating violence against women and domestic violence (Istanbul Convention) 2011.

Section One

6.0 Introduction

Domestic violence is an acknowledged global issue affecting men and women of different ages and status in both developing and developed nations, as well as in rural and urban areas.¹ Studies have shown the commonality of its experience worldwide with varying prevalence rates in different countries and regions.² Thus, revealing that no country, region or continent is immune to the problem posed by domestic violence. Similarly, countries and region's attitude in acknowledging and developing legal frameworks to tackle incidences of domestic abuse varies, which appears to depend on the cultural/religious beliefs and practices and '... acceptance of domestic violence as a private family matter that should not be referred to authorities'.³

This chapter appraises the laws and policies on domestic violence and their enforcement in Ireland ("Ireland" wherever used in this thesis refers to the Republic of Ireland) as well as the domestic violence awareness campaign, including the involvement of NGOs in the process. Also, it examines the Irish Legal System (ILS) and Government structure.

The chapter gives insight into the world of domestic violence in Ireland and the jurisprudence of the European Court of Human Rights on domestic violence as well as the Council of Europe Convention on preventing and combating violence against women and domestic violence (Istanbul Convention) 2011. It is pertinent to understand the regulation and enforcement of domestic violence laws and policies in the country where the research participants reside, which provides the

¹ Karen Latchana Kenney, *Domestic Violence* (1st edn, ABDO 2011) 56.

² World Health Organisation (WHO), 'Multi-country study on women's health and domestic violence against women' (Geneva, 2005).

³ The Thomson Reuters Foundation, 'A Landscape Analysis of Domestic Violence Laws' [Report] <<http://www.trust.org/contentAsset/raw-data/02bf55c6-0d6b-4799-b9ba-eab57c5b93a9/file>> accessed 28. October 2016; Karen Latchana Kenney, *Domestic Violence* (1st edn, ABDO 2011) 57.

platform to compare their experiences in their country of origin. Understanding the government structure of the host country of the participants will highlight the reasons that make it easier to develop a coordinated approach to tackle domestic violence in Ireland compared to Nigeria. This chapter aligns with the preceding chapter 5 to give an overview of the existing laws/policies and their enforcement in both the country of origin and the host country of the research participants. I will begin the discussion in this chapter with an overview of the Republic Ireland.

6.1 Republic of Ireland: An Overview

Ireland is an Island situated in the northern Atlantic Ocean west of Britain.⁴ It is separated from Britain by the Irish Sea.⁵ Politically, Ireland is divided into two – The Republic of Ireland (officially named Ireland - Eire) is an independent country while the Northern Ireland is part of the United Kingdom.⁶ There are twenty-six counties in the Republic of Ireland and six counties in Northern Ireland.⁷ The population of Ireland according to the 2016 national census was 4, 761, 865.⁸ According to the 2016 census, the population consisted of about 88.4% Irish and 11.6% non-Irish.⁹ Similarly, the religious affiliation of the population as estimated from the 2016 census was Roman Catholic 78.3%, Church of Ireland 2.7%, other Christian 3.2%, Muslim 1.3%, other 2.1%, unspecified 2.6%, none 9.8%.¹⁰ It has a total area of 27,135 sq. mi. (70,280 sq. km) and a land area of 26,598 sq. mi (68,889 sq. km).¹¹ The official languages are English and Gaelic. The capital is Dublin and the official currency is Euro (formerly Irish pound [punt]). Ireland is a member state of the European Union (EU).¹²

⁴ Richard Killeen, *A Short History of Ireland* (2nd Revised edn, Gill & Macmillan Ltd 2005); P.W. Joyce, *A Concise History of Ireland* (Featured edn, Create Space Independent Publishing Platform 2015); John Bowman, *Ireland: The Autobiography: One Hundred Years of Irish Life, Told by Its People* (Penguin 2016).

⁵ *ibid.*

⁶ *ibid.*

⁷ *ibid.*

⁸ Central Statistics Office (CSO) 'Census 2016' <www.cso.ie> accessed 9 August 2018.

⁹ *ibid.*

¹⁰ *ibid.*

¹¹ *ibid.*

¹² European Union (EU) '28 members of the European Union' <https://europa.eu/european-union/about-eu/countries_en> accessed 29 July 2017.

Ireland's economy experienced a significant transformation from a high rate of unemployment, high inflation, slow growth, high emigration and a huge public debt to one of the fastest growing economies in the European Union in the late 1990s.¹³ As O'Donnell noted, 'Rapid growth of exports, output and employment have led market analysts to describe Ireland as the "Celtic Tiger"'.¹⁴ During the Irish economic boom (Celtic Tiger), the country 'boasts one of the world's highest levels of GDP per capita, some 20 percent above the European average...'.¹⁵ The success story of the economy resulted in the massive influx of immigrants into the country and fewer Irish citizens desiring to emigrate. The country is now home to many people from all over the world who migrated for different purposes as diplomats, students, skilled and unskilled workers, and asylum seekers. Among these categories of immigrants in the country are the research participants and the researcher. Ireland is now a multicultural society with the immigrant population representing about 15.5% of the population.¹⁶

Ireland operates a parliamentary democratic system of government. It has a National Parliament (Oireachtas), which consists of the President (An tUachtarán) and two Houses: House of Representatives (Dáil Éireann) and a Senate (Seanad Éireann).¹⁷ There are two tiers of government in the State: The central which has the Taoiseach as the head of the government and the local authority. There are thirty-one local authorities (known as County, City, and City and County Councils) in the State which is the form of government that is closest to the people.¹⁸ Each local authority has an appointed Chief Executive that performs its statutory

¹³ Sean Dorgan, 'How Ireland Became the Celtic Tiger' (Heritage, 23 June 2006) <<http://www.heritage.org/research/reports/2006/06/how-ireland-became-the-celtic-tiger>> accessed 29 July 2017.

¹⁴ Rory O'Donnell, 'Ireland's Economic Transformation: Industrial policy, European Integration and Social Partnership' (1998) Centre for European Studies, University of Pittsburgh Research Paper 2/1998 <<http://aei.pitt.edu/27/1/Odonnell.pdf>> accessed 29 July 2017.

¹⁵ Kim Iskyan, 'Tiger, Tiger, Fading Fast - Could other countries replicate Ireland's economic transformation?' (The World, 27 December 2004) <http://www.slate.com/articles/news_and_politics/foreigners/2004/12/tiger_tiger_fading_fast.ht..ml> accessed 29 July 2017.

¹⁶ Central Statistics Office (CSO) 'Census 2011' <www.cso.ie> accessed 29 July 2017.

¹⁷ Houses of the Oireachtas (Irish Parliament) <<http://www.oireachtas.ie/parliament/>> accessed 30 July 2017.

¹⁸ Mark Callanan and Justin F Keogan, *Local government in Ireland: inside out* (Institute of Public Education 2003) 2 - 20; Desmond Roche, *Local Government in Ireland* (Institute of Public Education 1982).

functions and elected councillors that are the principal decision-making body and legislative arm of each council.¹⁹ In the next section, I will appraise the Irish Legal system (ILS).

¹⁹ *ibid.*

Section Two

6.2 Irish Legal System (ILS)

Ireland is one of many countries around the world that was colonised by Britain.²⁰ Like most of the former British colonies such as Nigeria, India, Ghana, New Zealand, Kenya, among others, Ireland retained the English common law tradition some of which is still in force and effective.²¹ As Byrne and McCutcheon noted, ‘...common law was introduced into each country which was colonised by the English or British and, with some exceptions, it is the system which was found in those countries which formerly made up the British Empire’.²²

6.2.1 Sources of Irish Law

1. The Constitution of Ireland

The Constitution of Ireland (Bunreacht na hÉireann) is the basic law of the State and takes precedence over other sources of law.²³ Hence, ‘common law or legislative rule that conflicts with the provision of the Constitution is invalid and, consequently, has no legal effect’.²⁴ It was enacted by the people on 1 July 1937 and entered into force on 29 December 1937.²⁵ According to Byrne and McCutcheon, ‘The Constitution establishes the State and its institutions, and it articulates in broad terms the fundamental principles on which the governance of the State is based’.²⁶ It outlines what are considered the personal rights of the citizens under five headings, namely: personal rights, the family, education, private property and religion.²⁷ Besides the rights expressly mentioned in the Constitution, the Courts through judicial activism have held in a series of cases that there are

²⁰ Raymond Byrne and Paul J McCutcheon, *et al.*, *Byrne and McCutcheon on the Irish Legal System* (6th edn, Bloomsbury 2014) 6.

²¹ *ibid.*

²² Raymond Byrne and Paul J McCutcheon, *The Irish Legal System* (4th edn, Tottel Publishing 2007) 5 - 15.

²³ *ibid.*

²⁴ *ibid.*

²⁵ *ibid.*

²⁶ *ibid.*

²⁷ *ibid.*

other personal rights whose existence ‘result(s) from the Christian and democratic nature of the State’ and which are implicitly guaranteed by the Constitution.²⁸ These rights are known as unenumerated rights and some of them are: ‘The right to bodily integrity, the right not to have one’s health endangered by the State, the (qualified) right to work and to earn a livelihood, the right to marital privacy, the right of access to the courts, the right of the citizen to sue the State in court, the right to justice and fair procedures, the right to travel within and outside the State, the right to marry, the rights of the unmarried mother in regard to her child’.²⁹ The Constitution may be amended only by a referendum, and the courts are entrusted with the interpretation of its provisions.³⁰

2. Legislation

The Constitution designates the Oireachtas (The National Parliament) which comprises the Dáil Éireann (House of Representatives) and the Seanad Éireann (The Senate) as the sole law-making body in the State.³¹ The laws made by the Oireachtas are known as the Acts of the Oireachtas and applicable throughout the country.³² After both houses pass a Bill, it is presented to the President for his/her assent and, consequently, promulgated as a law.³³ The members of the Dáil Éireann are known as ‘Teachtaí Dála (TDs)’.³⁴ The Dáil has 158 members elected in a general election by 41 Constituencies in the country.³⁵ Each constituency elects 3 - 5 TDs per Dáil constituency according to its population.³⁶ The Seanad has 60

²⁸ McGee v. AG [1974] IR 284 the SC; The Supreme Court of Ireland, ‘The Legal System - Fundamental Rights’

<<http://www.supremecourt.ie/supremecourt/sclibrary3.nsf/pagecurrent/D5F78352A387D74480257315005A419E?opendocument&l=en>> accessed 22 January 2017

²⁹ The Supreme Court of Ireland, ‘The Legal System - Fundamental Rights’

<<http://www.supremecourt.ie/supremecourt/sclibrary3.nsf/pagecurrent/D5F78352A387D74480257315005A419E?opendocument&l=en>> accessed 22 January 2017; Michael Green, .

‘Constitution and Government of Ireland’ (undated) <<http://www.ireland-information.com/reference/congov.htm#PRE>> accessed 2 January 2017.

³⁰ Raymond Byrne and Paul J McCutcheon (n 22).

³¹ The Constitution of Ireland, Article 15 (2).

³² Raymond Byrne and Paul J McCutcheon (n 22).

³³ *ibid.*

³⁴ Houses of the Oireachtas, ‘TDs & Senate’ <<http://www.oireachtas.ie/parliament/>> accessed 25 January 2017.

³⁵ *ibid.*

³⁶ The House of Oireachtas <<https://www.oireachtas.ie/>> accessed 9 August 2018; Green Michael, ‘Constitution and Government of Ireland’ (undated) <<http://www.ireland-information.com/reference/congov.htm#PRE>> accessed 2 January 2017.

members. The members of the Seanad are not elected, but nominated as follows: the Taoiseach nominates eleven, six are selected by graduates of the University of Dublin, the National University of Ireland and such other institutions of higher education as may be designated by law, and the remaining forty-three are elected from five panels made up of people representing different vocational and professional interests and services.³⁷

3. Common Law

The common law remains a major source of law in the State, and as Byrne and McCutcheon assert, ‘significant areas of law are governed by common law rules largely unaffected by rules derived from other sources.’³⁸ Common law is made up of decisions of the courts, ‘which by virtue of the doctrine of precedent, enjoy binding force of law’.³⁹

4. European Community (EU) Law

Ireland became a member of the European Union (formerly European Economic Community - EEC) on 1 January 1973 following a referendum on 10 May 1972, which saw 83% of voters supporting membership.⁴⁰ The EU as an international organisation has a ‘legal system complete with a body of law which is applicable and enforceable in each member state’.⁴¹ One of the characteristics of the community law is that it ‘enjoys supremacy over conflicting national law (including national constitutional provisions) both as a matter of community law and national law’.⁴² Consequently, it follows that Ireland’s ‘entry to the European Communities entailed yielding to Community law and to this extent national sovereignty was curtailed’.⁴³ The Constitution of Ireland was amended by the

³⁷ *ibid.*

³⁸ Raymond Byrne and Paul J McCutcheon (n 22).

³⁹ *ibid.*

⁴⁰ Jason Kelleher, ‘Referendum 1972: Accession to the European Communities’ (Irish Political Maps) <<http://irishpoliticalmaps.blogspot.ie/2011/07/referendum-1972-accession-to-european.html>> accessed 25 January 2017; The European Union ‘The history of the European Union – 1972’ <https://europa.eu/european-union/about-eu/history/1970-1979/1972_en> accessed 25 January 2017.

⁴¹ Raymond Byrne and Paul J McCutcheon (n 22).

⁴² *ibid.*

⁴³ *ibid.*

insertion of a new provision, Article 29.4.3 which reflected this arrangement.⁴⁴ However, whilst the Community law enjoys unquestioned supremacy, its remit is limited to areas it has competence, which is set out in various community treaties. Hence, national laws which lie beyond the remit of the Community law remain unaffected.⁴⁵

5. International Law

Ireland like many other countries is a member of many regional and international bodies such as the United Nations, the Council of Europe and the European Union. These bodies make laws in the form of treaties for various purposes. These laws govern the States in their relationship with one another, while others are for the protection of human rights, commercial transactions, asylum, and immigration, among others.⁴⁶ International law may not be relied on as a source of law in Ireland until it is incorporated into the national law by the Act of the Oireachtas.⁴⁷ The Constitution stipulates the incorporation of treaties into domestic law in Article 29.6.⁴⁸ However, international law may prove to be persuasive in that Article 29.3 of the Constitution provides that the State ‘accepts the generally recognised principles of international law as its rule of conduct in its relation with other States’.⁴⁹ In addition, the courts adopt a presumption of compatibility with international law when interpreting legislations to ensure that domestic provisions are in consonance with international legal obligations.⁵⁰

6. The Judiciary

The judiciary like other institutions in the State derives its powers from the Constitution and laws.⁵¹ While the Constitution specifically provided for the Supreme Court, Court of Appeal and High Court, the Circuit Court and District Courts are products of Statutory Instruments. The judiciary is presumed

⁴⁴ *ibid.*

⁴⁵ *ibid.*

⁴⁶ *ibid.*

⁴⁷ *ibid.*

⁴⁸ Irish Constitution (n 31) Article 29.6.

⁴⁹ Byrne Raymond and J Paul McCutcheon (n 22) 8.

⁵⁰ *ibid.*; *O’Domhnaill v Merrick* [1984] IR 151.

⁵¹ Irish Constitution (n 31) Article 34.

independent and provides fair and efficient judicial process. The District and Circuit Courts mostly handle cases involving domestic violence, except in homicide cases, which may be referred to the Central Criminal Court. The application and granting of Safety, Barring and Protection Orders are made in the District and Circuit Courts. The Judiciary regularly often come under criticism by women's rights groups that accuse them of being lenient with sentencing offenders convicted of domestic violence and sexual offences.⁵² These women's rights group allege that the 'law is being applied differently in different areas by different judges'.⁵³ The Gardaí (Police) on the hand, are often accused of lacklustre attitude and inconsistency in investigating reported cases of domestic violence and, to some extent, still regards it as a private family matter.⁵⁴ Besides the Courts and Gardaí, some of the other judicial agencies involved in domestic violence issues include the Probation Service and the Legal Aid Board.⁵⁵

Unlike the multifaceted Nigerian government structure, legislative and judicial systems as discussed in chapter 5, Ireland has a non-complex legislative and government structures. In addition, the strict adherence to the principle of separation of power enables the judiciary and legislators to perform their duties without interference from the government, religious, political, traditional and other interest groups. The society to a considerable extent is free from ethnic sentiment and bickering. Hence, the passage and application of laws in the country are devoid of the difficulties encountered in Nigeria as discussed in chapter 5. In the next section, I will examine the trend of the ongoing efforts by the government and institutions to tackle domestic violence in Ireland. This will include the legislative and enforcement efforts, the awareness campaign, and the involvement of NGOs in tackling domestic violence in the country.

⁵² Safe Ireland, 'The State we are in 2016: Towards a safe Ireland for women and children' 8.

⁵³ *ibid.*

⁵⁴ *ibid.*

⁵⁵ Cosc <www.cosc.ie> accessed 3 January 2017.

Section Three

6.3 Domestic Violence: The Experience and Prevalence in Ireland

Through the efforts women's rights groups devoted to raising awareness of domestic in Ireland, spousal abuse began to be recognised as a societal problem that needs intervention. Consequently, there has been a steady increase in public awareness about domestic violence as well as government response through legislative protection and provision of services to victims.⁵⁶ As Hammel and Nicolls rightly pointed out, 'A revolution is taking place in the field of domestic violence' in Ireland and worldwide.⁵⁷

The NGOs, different professional bodies and individuals are involved in domestic violence research in Ireland. They produce current statistics that show the prevalence and nature of domestic violence in the country.⁵⁸ Women's Aid commissioned the seminal work on the prevalence and nature of domestic violence in Ireland titled, "Making the Links", which was published in 1995.⁵⁹ Its publication has been described as the "catalyst for change" on the approach to tackling domestic violence in Ireland.⁶⁰ The publication also became instrumental to the realisation of the prevalence and damaging effects of domestic violence and helped to stimulate public discourse on the issue.⁶¹ Furthermore, the publication made the Government to appreciate the need to develop policy and intervention strategies to tackle domestic violence in the country. Consequently, a Task Force on violence against women was set up by the Government in 1996.⁶² The

⁵⁶ The setting up of The National Office for the Prevention of Domestic, Sexual and Gender-based Violence (COSC) to ensure a well-coordinated Government response to domestic violence and related offences and the passing of the domestic violence Acts 1996 and 2002 are some of the efforts made by the government towards tackling these issues.

⁵⁷ John Hammel and Tonia L Nicolls, *Family Interventions in Domestic Violence: A Handbook of Gender-Inclusive Theory and Treatment* (Springer Publishing Company 2006).

⁵⁸ The Probation Service Ireland, *Domestic Violence: Policy and Practice Guidelines* (Probation Service 2009).

⁵⁹ *ibid.*

⁶⁰ *ibid.*

⁶¹ *ibid.*

⁶² *ibid.*

Government also established the National Steering Committee on violence against women and regional and local structures to address the problem.⁶³ Further research and publications such as the Sexual Abuse and Violence in Ireland survey (SAVI Report, 2002) and the National Crime Council Survey (NCC Survey, 2005) ‘provided further evidence that there was no room for complacency.... [as] domestic violence continues to be a pervasive and widely experienced crime within ... [the Irish] society’.⁶⁴

As recent as in 2012, Ireland’s domestic violence figures were described as “horrific and a sad indictment of Irish society” by the director of one of the agencies involved in the provision of domestic violence support services.⁶⁵ The reality of the above statement becomes evident when contrasted with the figure which shows that between January 1996 and June 2005, 109 women were murdered in Ireland and, out of this number, 72 of them were murdered in their own home.⁶⁶ This figure corroborates the ‘Women’s Aid Female Homicide Media Watch, which shows that between 1996 - 2016, 211 women have been murdered in Ireland.’⁶⁷ The report shows that 62% of the women were killed in their own home, while a partner or ex-partner killed 55% of the women.⁶⁸ In resolved cases, 99% of perpetrators were men’.⁶⁹ In 2015, Women’s Aid reported that there were ‘970 of threats to kill women, children and family members disclosed to Women’s Aid. There were 579 additional disclosures of assaults with weapons, threats with weapons and being strangled and smothered’.⁷⁰

A national survey to ascertain the extent, nature and impact of domestic violence on men and women was undertaken in 2003. The report of the survey shows that:

⁶³ *ibid.*

⁶⁴ *ibid.*

⁶⁵ RTE, ‘Director of SAFE Ireland says 11,000 women and children used their services’ (TV broadcast 27 November 2012) <<http://www.rte.ie/news/2012/1127/355071-irish-domestic-violence-figures-horrific/>> accessed 8 January 2016.

⁶⁶ Deborah Condon, ‘Violence against women in Ireland’ (Irishhealth.com 2005) <<http://www.irishhealth.com/article.html?id=7787>> accessed 9 January 2017.

⁶⁷ Women’s Aid Ireland, ‘Domestic violence and Female Homicide 1996 to March 2016’ (November 2016) <<https://www.womensaid.ie/about/policy/natintstats.html>> accessed 9 January 2017.

⁶⁸ *ibid.*

⁶⁹ *ibid.*

⁷⁰ Women’s Aid Ireland, *Women’s Aid Impact Report 2015*, 32.

- 15 percent of women and 6 percent of men have experienced severely abusive behaviour from a partner.
- 11 percent of the Irish population has experienced a pattern of abusive behaviour with actual or potential severe impact.
- 29 percent of women and 26 percent of men suffer domestic abuse when severe abuse and minor incidents are combined.
- 13 percent of women and 13 percent of men suffer physical abuse or minor physical incidents.
- The study suggested that in the region of 213,000 women and 88,000 men in Ireland have been severely abused by a partner at some point in their lives.
- Less than 25 percent of those severely abused reported to An Garda Síochána.
- 29 percent of women and only 5 percent of men report to the Garda Síochána.
- 33 percent of those who had been severely abused has never told anybody.⁷¹

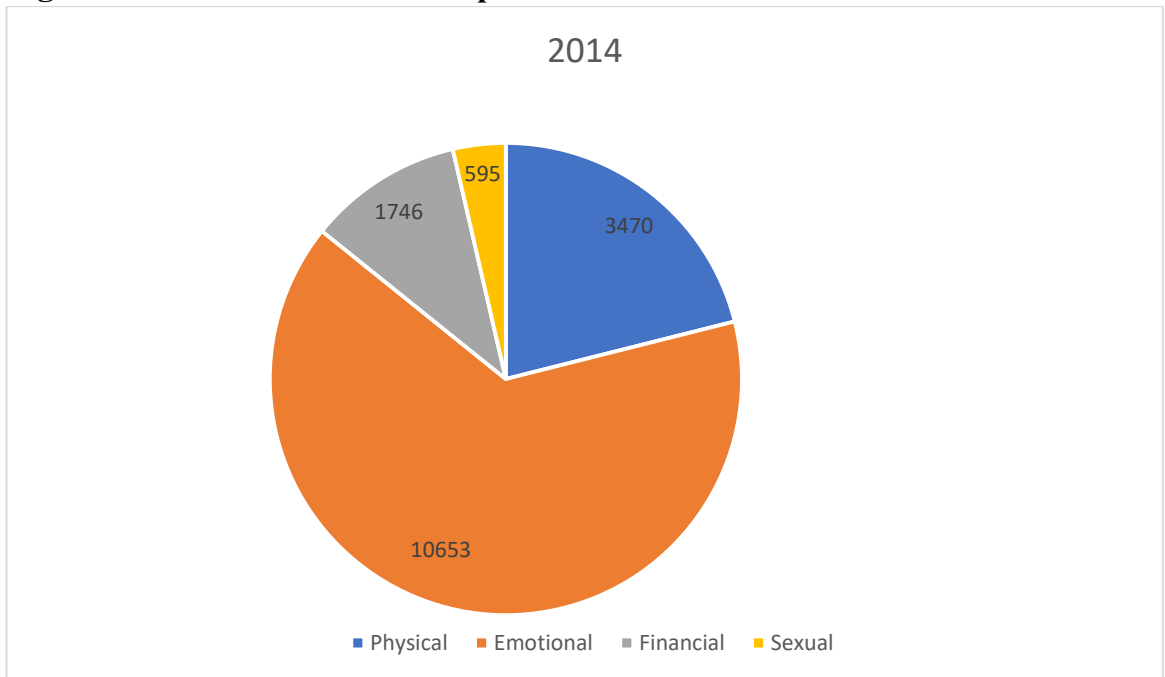
In 2015, Women’s Aid reported that a total of 12, 041 contacts were made with their victims’ direct services unit, ‘during which a total of 16,375 disclosures of domestic violence against women and 5,966 disclosures of child abuse were made’.⁷² The number is similar to the number of people reported by Safe Ireland that receives support from the agency annually.⁷³

⁷¹ D Watson and S Parsons, ‘Domestic Abuse of Women and Men in Ireland: report on the national study of domestic abuse’ (National Crime Council, Dublin 2005); Cosc, ‘National Study of Domestic Abuse (2003)’ <<http://www.cosc.ie/en/COSC/Pages/WP08000146#nsda>> accessed 8 January 2017.

⁷² Women’s Aid, *Women’s Aid Impact Report 2015*, 12.

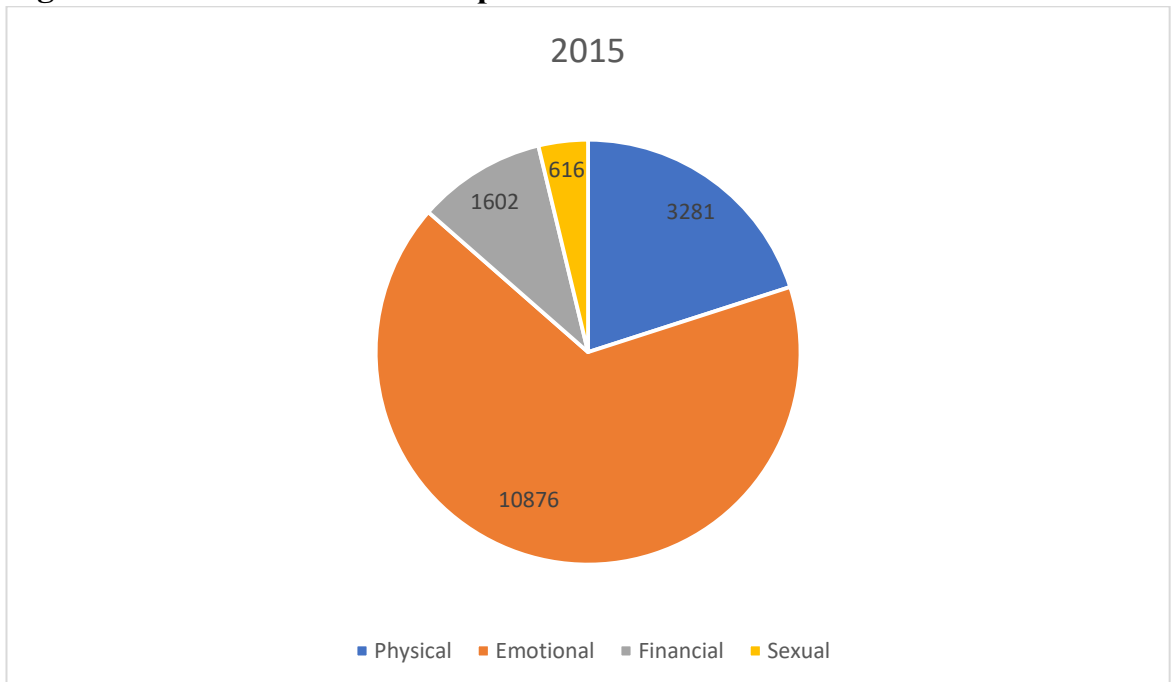
⁷³ Safe Ireland, *The State we are in 2016: Towards a safe Ireland for women and children* 6.

Figure 6: Incidences of abuse reported to Women’s Aid in 2014



Source: Women’s Aid Impact Report 2014/15

Figure 7: Incidences of abuse reported to Women’s Aid in 2015



Source: Women’s Aid Impact Report 2014/15

From the figure above, emotional abuse was the most common type of abuse reported to the Women's Aid in 2015. The divulged forms include:

- Being controlled, manipulated and isolated from family and friends.
- Threats to kill the woman, the children, or the woman's family.
- Abuser refusing to call the woman by her name, constant name calling and being shouted at.
- Being accused of being a bad mother and being told that she is going mad.
- Being blamed for the abuse and being told that it's her fault.
- Being shaken, kicked and woken during the night resulting in sleep deprivation.
- Being ignored and given silent treatment for days on end.
- Having belongings destroyed including treasured possessions.
- Being stalked, having to change contact details and being harassed by phone, text and online after the relationship has ended.⁷⁴

Physical abuse was the second highest reported type of abuse and include:⁷⁵

- Being beaten, bitten and spat at.
- Being punched, thrown, slapped and kicked to the point of bleeding and threatened with a knife or gun.
- Being beaten while pregnant, being beaten when holding an infant.
- Being locked in the house and/or car for hours.
- Attempted arson while she and the children are in the house.
- Being choked, pulled by the hair, being stabbed and cut with knives and blades.
- Being hit with weapons including hammers, axes and everyday household items.⁷⁶

The patterns of financial abuse reported were as follows:

- Being denied access to vital medical care and intervention.
- Abuser controlling all family income including woman's salary and/or welfare payments.
- Being left without means as the abuser has gambled or spent the household income.
- Being left to pay all household expenses including bills, food and clothing for the children.
- Abuser withholding maintenance payments.
- Being left with debt in her name and being vulnerable to homelessness as the abuser is not paying mortgages and other bills taken out in her name.⁷⁷

⁷⁴ Women's Aid, Women's Aid Impact Report 2015 18.

⁷⁵ *ibid.*

⁷⁶ *ibid.*

⁷⁷ *ibid.*

The divulged forms of sexual abuse include:

- Being drugged and raped while unconscious.
- Being sexually assaulted with weapons.
- Being raped by partner who says that sex is his right.
- Feeling that she cannot say no as it will mean a physical attack. Easier to ‘give in’.
- Being denied access to family planning.
- Being forced to carry out humiliating and painful sexual acts.⁷⁸

The figures above show that domestic violence remains a serious issue in Ireland as it is in Nigeria and many other countries. The number of reported cases of different forms of abuse remains a cause for concern. It raises the question of whether enough efforts in terms of raising awareness of the issue, legal protection and enforcement, provision of services such as counselling of offenders and victims are being made. It also raises the question of whether the authorities are taking cognisance of the immigrant community (new Irish) in their policies to tackle domestic violence. Research shows that members of the immigrant community face more difficulties in reporting cases of abuse and availing of support services.⁷⁹ In the most recent report of Safe Ireland, which dealt with the analysis of how “safe” Ireland is for women and children living with violence in their homes and lives titled, “The State we are in 2016”, the CEO of Safe Ireland, O’Halloran, contends that:

While there have been many welcome developments... notably, the progress being made by An Garda Síochána, Tusla and the Courts Service, one thing remains stubbornly the same. Two years on - with countless women and children traumatised and brutally injured, some fatally, or made homeless, or seeking counselling, or seeking endless safety and barring orders or making yet another trip to court – we are still not taking this issue seriously. We are still not recognising domestic violence as the most prevalent offence in the country.⁸⁰

⁷⁸ *ibid.*

⁷⁹ Paula Mayock and Sarah Sheridan, ‘Migrant Women and Homelessness: Key Findings from a Biographical Study of Homeless Women in Ireland. Women and Homelessness in Ireland’ (Research Paper 2), School of Social Work and Social Policy and Children’s Research Centre, Trinity College Dublin (February 2012) 6.

⁸⁰ Sharon O’Halloran, *The State we are in 2016: Towards a safe Ireland for women and children* (Safe Ireland 2016) 6.

The issue of whether the government is doing enough to tackle domestic violence in the country remains contentious. The government often come under criticism of not paying adequate attention to the problem of domestic violence as it deserves. However, the government was praised recently for its efforts in ratifying the Council of Europe Convention on preventing and combating violence against women and domestic violence (Istanbul Convention) and launching the Second National Strategy on Domestic, Sexual and Gender-Based Violence 2016 – 2021.⁸¹ In the next section, I will examine the legal and institutional responses to domestic violence in Ireland.

6.3.1 Legal Response

According to Gernholtz, Executive Director of the Women’s Rights Division at Human Rights Watch, ‘while specific domestic violence laws were uncommon just a few decades ago, a lot of countries have created legislation that specifically targets the issue’.⁸² Women’s rights groups mostly champion the need for a specific law targeting acts of domestic violence in many jurisdictions.⁸³ The women’s rights groups continue to argue that specific domestic violence law is needed to supplement ordinary criminal law that outlaw violence in general. As Gernholtz recommends, it is ‘important for countries to adopt specific legislation that targets domestic abuse because the violence is so invisible you need laws to enrol judges, police and other authorities to look for it and prosecute it’.⁸⁴ Similarly, I believe that ordinary criminal laws in some instances are inadequate in ensuring the much-needed protection of the victims from the abusers. Some of the ordinary criminal laws do not have the civil law remedies of barring order and safety orders, which are the core components of domestic violence laws. In

⁸¹ Women’s Aid (n 72).

⁸² Charlotte Alfred, ‘These 20 Countries Have No Law Against Domestic Violence’ *The Huffington Post* (3 August 2014) <http://www.huffingtonpost.com/2014/03/08/countries-no-domestic-violence-law_n_4918784.html> accessed 16 January 2017.

⁸³ Emily Rauhala, ‘China’s domestic violence law is a victory for feminists. But they say it doesn’t go far enough’ *The Washington Post* (Online, 29 December 2015) <https://www.washingtonpost.com/news/worldviews/wp/2015/12/29/chinas-domestic-violence-law-is-a-victory-for-feminists-but-they-say-it-doesn-t-go-far-enough/?utm_term=.106c7b4d6ce8> accessed 16 January 2017.

⁸⁴ Alfred (n 82).

addition, domestic violence is such a serious, widespread and complex offence that merits a specific legislation to adequately tackle it.⁸⁵

Ireland joined other nations that have a specific law against domestic violence on 27 February 1996 when it enacted the country's Domestic Violence Act, 1996.⁸⁶ Before the Domestic Violence Act, 1996, The Offence Against the Person Act, 1861 provided some form of protection against persons experiencing family violence. However, prior to the Domestic Violence Act, 1996, the domestic violence was largely unregulated and treated as a private family affair, and in the eyes of the law "no crime has occurred".⁸⁷ The effort to have a specific law targeting domestic violence in Ireland began with the Family Law (Maintenance of Spouses and Children) Act, 1976 which provided, for the first time, the civil law remedy of barring order.⁸⁸ Further progress was made in the Family Law (Protection of Spouses and Children) Act, 1981 which sought to strengthen the previous legislation, the Family Law (Maintenance of Spouses and Children) Act, 1976.⁸⁹ These two pieces of legislation together with the Offence Against The Person Act, 1861 provided the legal platform for prosecuting domestic violence offences and protection of victims till the enactment of the Domestic Violence Act, 1996.

6.3.1 (a) Domestic Violence Acts, 1996, 2002 and 2018

The Domestic Violence Acts, 1996 (DV 1996) like most similar laws in other jurisdictions provide civil remedies and protection for victims of domestic violence. It was the main principle law prohibiting domestic violence in Ireland, and several amendments were made to the Act including the Domestic Violence (Amendment) Act 2002.⁹⁰ The 1996 and the amended 2002 Act were cited as the Domestic Violence Acts, 1996 and 2002.⁹¹ In February 2017, the Deputy Prime

⁸⁵ *ibid.*

⁸⁶ Domestic Violence Act 1996 (1/1996).

⁸⁷ The Probation Service, *Policy and Practice Guidelines* (Probation Service 2009) 4.

⁸⁸ *ibid.*

⁸⁹ The Family Law (Protection of Spouses and Children) Act 1981 provided the civil law remedy of protection order, for the first time, as it sought to fill the gap identified in the previous legislation.

⁹⁰ Domestic Violence (Amendment) Act 2002 (30/2002).

⁹¹ The Domestic Violence (Amendment) Acts 1996 and 2002, Section 2(2).

Minister (Tánaiste) of Ireland published the Domestic Violence Bill 2017. According to her, ‘The new Domestic Violence Bill will improve the protections available to victims of domestic violence and the reforms will bring Ireland a step closer to ratifying the Istanbul Convention’.⁹² The Bill was passed into law on 8 May 2018 and can be cited as Domestic Violence Act 2018.⁹³ It is an Act to:

[C]onsolidate the law on domestic violence; to provide for emergency barring orders in certain circumstances; to provide for evidence to be given through television link in certain proceedings; to provide for the right of an applicant to be accompanied in certain proceedings; to provide for the obtaining of the views of a child in certain proceedings; to provide for the giving of information on support services to victims of domestic violence; to provide for the making of recommendations for engagement with certain services by respondents; to provide for restrictions on those present in court during certain proceedings; to prohibit the publication or broadcast of certain matters; to provide for an offence of forced marriage; to repeal provisions for exemption, in certain cases, from minimum age requirements for marriage; for those and other purposes to repeal the Domestic Violence Act 1996 and the Domestic Violence (Amendment) Act 2002 and to provide for the consequential amendment of certain other enactments; and to provide for related matters.⁹⁴

First, I will embark on a brief descriptive explanation of the main provisions of the Domestic Violence Act 2018 before subjecting it to critical analysis to ascertain its conformity with international standards on domestic violence legislation and best practices. The analysis of the Acts will be based on the recommendation of the UN Special Rapporteur on Violence against women framework model on domestic violence legislation.

The Main Provisions of the Act

(1) Safety Order

The Act provides in Section 6 for the application of a safety Order. A safety Order is a civil remedy granted by a court to an applicant of the order to prevent the respondent (perpetrator) from committing further violence, or threatening

⁹² Department of Justice and Equality Ireland, ‘Tánaiste publishes landmark Domestic Violence Bill’ (3 February 2017) <<http://www.justice.ie/en/JELR/Pages/PR17000033>> accessed 10 August 2018.

⁹³ Domestic Violence Act 2018 (Number 6 of 2018).

⁹⁴ *ibid.*

violence, against the applicant and his/her dependants.⁹⁵ The Act also provides in Section 11 for a safety order to be applied on behalf a person by the Child and Family Agency as outlined in Section (a – d) of the Act.⁹⁶ The following are Persons who can apply for or on whose behalf the Agency can apply for a Safety Order:

- (i) The spouse of the respondent.
- (ii) The civil partner of the respondent.

⁹⁵ Free Legal Advice Centre (FLAC) Ireland, *Domestic Violence* (FLAC July 2014) 6.

⁹⁶ Domestic Violence Act 2018 (n 93).

Power of the Agency to apply for certain orders Section 11:

- (1) Subject to subsections (2), (3) and (4), this section applies where the Agency—
 - (a) becomes aware of an alleged incident or series of incidents which in its opinion puts into doubt the safety or welfare of a person (in this section referred to as the “aggrieved person”),
 - (b) has reasonable cause to believe that the aggrieved person has been subjected to molestation, violence or threatened violence or otherwise put in fear of his or her safety or welfare,
 - (c) is of the opinion that there are reasonable grounds for believing that, where appropriate in the circumstances, a person would be deterred or prevented as a consequence of molestation, violence or threatened violence by the respondent or fear of the respondent from pursuing an application for a safety order, a barring order or an emergency barring order on his or her own behalf or on behalf of a dependent person, and
 - (d) considers, having ascertained as far as is reasonably practicable the wishes of the aggrieved person or, where the aggrieved person is a dependent person, of the person to whom paragraph (e) relates in respect of the dependent person, that it is appropriate in all the circumstances to apply for a safety order, a barring order or an emergency barring order in accordance with this Act on behalf of the aggrieved person.
- (2) The Agency may apply to the court on behalf of the aggrieved person for a safety order, a barring order or an emergency barring order for which the aggrieved person or, where the aggrieved person is a dependent person, the person to whom subsection (1)(c) relates in respect of that dependent person, could have applied.
- (3) Where an application is made by the Agency in accordance with this section, the court shall, in determining whether, and if so to what extent, to exercise any of its functions under section 6, 7, 8, 9, 10 or 21, have regard to any wishes expressed by— (a) the aggrieved person, or (b) where the aggrieved person is a dependent person, the person to whom subsection (1)(c) relates in respect of the dependent person and, where the court considers it appropriate, the dependent person.
- (4) The provisions of paragraphs (a) and (b) of subsection (1) need not be complied with where an application relates to an aggrieved person who is a dependent person, or in respect of so much of an application as relates to an aggrieved person who is a dependent person, if the court is of the opinion that there is reasonable cause to believe that— (a) the dependent person has been or is being assaulted, ill-treated, sexually abused or seriously neglected, or (b) the dependent person’s health, development or welfare has been, is being or is likely to be avoidably impaired or seriously neglected, and that if the order is made the likelihood of harm to that dependent person will not arise or will be materially diminished.
- (5) The court shall not make a barring order, an interim barring order or an emergency barring order where the aggrieved person is a dependent person unless the Agency satisfies the court that the person to whom subsection (1)(c) relates in respect of that

- (iii) A person who is not the spouse or civil partner of the respondent and is not related to the respondent within a prohibited degree of relationship but was in an intimate relationship with the respondent prior to the application for the safety order (unmarried partners).
 - (iv) Parent of the respondent and the respondent is of full age and is not, in relation to the parent, a dependent person.
 - (iv) A person of full age that resides with the respondent in a relationship the basis of which is not primarily contractual.
 - (v) Parent of a child whose other parent is the respondent.
- “kindred”, in relation to two or more persons, means the relationship of each of those persons to the other person or to the rest of those persons by blood, adoption, marriage or civil partnership.⁹⁷

If the relationship is not based on marriage or a civil partnership the court considers the following factors:

- (1) The length of time the people involved have lived together.
- (2) The type of duties carried out by either person for the other or for their family.
- (3) If any payment or other consideration was made by one person to the other for living expenses.
- (4) Other matters the court considers appropriate in a particular situation.⁹⁸

The Safety Order if granted prohibit the respondent to the application from doing one or more of the following:

- (a) Using or threatening to use violence against, molesting or putting in fear, the applicant or the dependent person.
- (b) If he or she is residing at a place other than the place where the applicant or that dependent person resides, watching or besetting a place where the applicant or the dependent person resides.
- (c) Following or communicating (including by electronic means) with the applicant or the dependent person.⁹⁹

⁹⁷ Domestic Violence Act 2018 (n 93).

⁹⁸ *ibid.*

⁹⁹ *ibid.*

Safety Order does not require the respondent to leave the family home.¹⁰⁰ A Safety Order can be made by a District or Circuit Court and can last up to five years.¹⁰¹ The Court may grant a Safety Orders ‘if it considers there are reasonable grounds for believing that a person’s physical or psychological safety or welfare (or that of a dependant) is at risk’.¹⁰² In addition, ‘A Safety Order can be varied by application to the Court which made the original order. The person who applied for the original order or the respondent to the Order can make this application on notice to the other party’.¹⁰³ According to the Court Service 2017 annual report, application for a safety order increased by 5% in 2017 (6,368 compared to 6, 069 in 2016).¹⁰⁴

(2) Barring Order

Unlike a Safety Order, once a Barring Order application is granted, it directs the respondent according to the order of the Court to do one or some or all of the following:

- (1) To leave the family home and stay away from the family home of the applicant and/or dependent children.
- (2) Not to threaten or use violence against or molest or put the applicant or a dependent person in fear.
- (3) Not to attend at or be in the vicinity of, or watching or besetting, a place where the applicant or a dependent person resides.
- (4) Not to follow or communicate (including by electronic means) with the applicant or a dependent person.¹⁰⁵

The following persons may apply for a Barring Order:

- (1) The spouse of the respondent.
- (2) The civil partner of the respondent.
- (3) A person who is not the spouse or civil partner of the respondent and is not related to the respondent within a prohibited degree of

¹⁰⁰ FLAC (n 95).

¹⁰¹ *ibid.*

¹⁰² *ibid.*

¹⁰³ *ibid.*

¹⁰⁴ The Court Service Annual Report 2017, ‘Domestic Violence’ 61.

¹⁰⁵ Domestic Violence Act 2018 (n 93).

relationship but lived with the respondent in an intimate relationship prior to the application for the barring order (unmarried partners).

- (4) A parent of the respondent and the respondent is a person of full age who is not, in relation to the parent, a dependent person.¹⁰⁶

Also, the Child and Family Agency can apply for Barring Order on behalf an adult or his/her dependent children.¹⁰⁷ A barring order can be made for up to three years.¹⁰⁸ The Court:

In deciding whether or not to make a barring order ... shall have regard to the safety and welfare of any dependent person in respect of whom the respondent is a parent or in *loco parentis*, where the dependent person is residing at the place to which the order, if made, would relate.¹⁰⁹

In relation to the applicant and respondent's legal or beneficial interest in the property where the Order will apply:

The court shall not make a Barring Order in circumstances where the applicant has no legal or beneficial interest in the home or property, or where the court is of the opinion that the applicant's legal and beneficial interest in the home or property is less than the respondent. However, whatever views of the applicant or the respondent might have as to their interest in the property, it is a matter solely for the court to determine the parties' relative property rights after considering all the evidence.¹¹⁰

If an application for a Barring Order was refused for whatever reason, the Court can still grant a Safety Order only if there is an application for a Safety Order before the Court concerning the same matter.¹¹¹ Hence, it is advisable to also apply for a Safety Order when applying for a Barring Order. According to the Court Service 2017 annual report, application for a Barring Order showed a small decrease in 2017 (2, 613 compared to 2, 658 in 2016).¹¹²

¹⁰⁶ *ibid.*

¹⁰⁷ *Ibid.*

¹⁰⁸ *ibid.*

¹⁰⁹ *ibid.*

¹¹⁰ FLAC (n 95).

¹¹¹ *ibid.*

¹¹² The Court Service Annual Report 2017 (n 102).

3. Interim Barring Order

Section 8 of the Act provides for the granting of an interim barring order if the court believes there are reasonable grounds for believing that there is an immediate risk of significant harm to the applicant or any dependent person.¹¹³ In addition, the Court may grant an Interim Barring Order if ‘the making of a protection order would not be sufficient to protect the applicant or a dependent person’.¹¹⁴ Interim barring order, as the name suggests, is an interim measure or a temporary order made by the court to protect an applicant and dependents, if any, until the application for a Barring or Safety order is heard and decision made. If the order is made, it requires the respondent to leave the family home.¹¹⁵ In addition, interim Barring Order can be made *ex parte*.¹¹⁶ However:

If an interim barring order is made *ex parte* that order shall have effect for a period, not exceeding 8 working days, specified in the order unless on application by the applicant for the barring order and on notice to the respondent the interim barring order is confirmed within that 8-day period by order of the court.

The Domestic Violence Act 1996 did not have a fixed period that the Interim Barring Order made *ex parte* should cease to be enforce. Hence, the granting of an Interim Baring Order has been a subject of litigation in relation the Constitutionality of Section 4(3) of the Act 1996. In the case of *D K v. Judge Crowley & ors*¹¹⁷, the applicant sought *inter alia* by way of judicial review a declaration that subsections (1), (2), and (3) of the Domestic Violence Act, 1996 were invalid insofar and to the extent that they were repugnant to the provisions of the Constitution and, in particular, Article 38.1, 40.3, 41.1 and 50.1.¹¹⁸ On 6 November 1998, the first named defendant granted an Interim Barring Order on an application by the applicant’s wife who accused the applicant (her husband) of

¹¹³ Domestic Violence Act 2018 (n 93).

¹¹⁴ *ibid*.

¹¹⁵ *ibid*.

¹¹⁶ *ibid* s. 8 (10); Domestic violence Act 1996, s. 4 (3).

¹¹⁷ *D K v. Judge Crowley & ors* [2002] IESC 66.

¹¹⁸ *ibid*.

subjecting her to a various forms of domestic violence. The Order was to last for a period of three months. The counsel for the applicant submitted that:

... s.4(1), (2) and (3) of the 1996 Act deprived the applicant of natural justice and of his constitutional right to equal treatment before the law and to fair procedures. The applicant was deprived of his right to be present in court to hear the allegations made against him and of his right to confront or cross-examine the second named notice party on the accusations made against him in her sworn information. The court, in operating the provisions of the 1996 Act, had also failed to protect and vindicate his good name contrary to the provisions of the Article 41(1) of the Constitution.¹¹⁹

The counsel for the respondents submitted that:

... the provisions contained in the 1996 Act for the making of barring orders constituted an essential protection for victims or potential victims of domestic violence and spousal and/or parental abuse. He said that it constituted a necessary and reasonable legislative response to an accepted and pressing social need. An interim barring order could only be made ex parte in exceptional cases where the court considered it necessary and expedient in the interests of justice and where there was an immediate risk of significant harm to the applicant or dependants of the applicant.

In its judgment, the Court noted that:

... the procedures prescribed by subsection (1), (3) and (4) of the 1996 Act, in failing to prescribe a fixed period of relatively short duration during which an interim barring order made ex parte is to continue in force deprive the respondents to such applications of the protection of the principle of audi alteram partem in a manner and to an extent which is disproportionate, unreasonable and unnecessary. The appeal will accordingly be allowed, the order of the High Court set aside, and an order substituted therefor granting a declaration that sub-section (3) of S4 of the 1996 Act is invalid having regard to the provisions of the Constitution and an order of certiorari quashing the interim barring order of the District Court.¹²⁰

The judgment necessitated the enactment of the Domestic Violence (Amendment) Act 2002 which amended Section 4(3) of the 1996 Act by inserting in Section 4(3)(d) that:

¹¹⁹ *ibid.*

¹²⁰ *ibid.*

The order shall have effect for a period, not exceeding 8 working days, to be specified in the order, unless, on application by the applicant for the barring order and on notice to the respondent, the interim barring order is confirmed within that period by order of the court.¹²¹

In 2017, a total of 917 Interim Barring applications were made and 693 were granted.¹²²

4. Protection Order

A protection order like an interim barring order is a temporary order to protect the applicant and any of his/her dependents until the hearing of an application for a Barring or Safety Order and a decision made. Thus:

Where the court, on application to it for a safety order or a barring order or between the making of that application and its determination, is of the opinion that there are reasonable grounds for believing that the safety or welfare of the applicant for the order concerned or of a dependent person so requires, the court shall by order shall prohibit the respondent to the application from doing one or more of the following:

- (1) Not to threaten or use violence against or molest or put the applicant or a dependent person in fear.
- (2) Not to attend at or be in the vicinity of, or watching or besetting, a place where the applicant or a dependent person resides.
- (3) Not to follow or communicate (including by electronic means) with the applicant or a dependent person.¹²³

The order if granted does not require the respondent to leave the family home.¹²⁴ There were 5, 869 applications for a protection order made in 2017 and 5, 006 were granted.¹²⁵ Protection order has the highest granting rate out of all the orders contained in the Act. By virtue of Section 10 (8) of the Domestic Violence Act 2018, 'A protection order may be made *ex parte* where, having regard to the

¹²¹ Domestic Violence (Amendment) Act 2002, Section 4(3)(d).

¹²² The Court Service Annual Report 2017 (n 102).

¹²³ Domestic Violence Act 2018 (n 93).

¹²⁴ *ibid.*

¹²⁵ The Court Service Annual Report 2017 (n 102).

circumstances of the particular case, the court considers it necessary or expedient to do so in the interests of justice.¹²⁶

5. Emergency Barring Order

The Domestic Violence Acts, 1996 and 2002 did not contain a provision for an emergency barring order, but in compliance with the Istanbul Convention, the Domestic Violence Act 2018 provides for it in Section 9. The persons and agency that can apply for an emergency barring order are outlined in Section 9 (1) of the Act.¹²⁷ An Emergency Barring Order may be made *ex parte*, ‘where having regard to the circumstances of the particular case, the court considers it necessary or expedient to do so in the interests of justice’.¹²⁸ Where an emergency barring order was made *ex parte* it shall have effect for such period, not exceeding 8 working days, or specified in the order.¹²⁹ If emergency barring order is granted, the respondent is required to leave the place where the applicant resides, and the Court may if it deems necessary, prohibit the respondent from:

- (a) using or threatening to use violence against, molesting or putting in fear, the applicant or a dependent person;
- (b) attending at or in the vicinity of, or watching or besetting, a place where the applicant or a dependent person resides;
- (c) following or communicating (including by electronic means) with the applicant or a dependent person.¹³⁰

Once an emergency barring order application was granted for an applicant, no further emergency barring order may be granted the same applicant until one month from the date of the expiration of the order unless there are exceptional circumstances that may justify the making of another order.¹³¹

¹²⁶ *ibid.*

¹²⁷ (a) is not the spouse or civil partner of the respondent and is not related to the respondent within a prohibited degree of relationship but lived with the respondent in an intimate and committed relationship prior to the application for the emergency barring order, or
(b) is a parent of the respondent and the respondent is a person of full age who is not, in relation to the parent, a dependent person.

¹²⁸ Domestic Violence Act 2018 (n 93).

¹²⁹ *ibid.*

¹³⁰ *ibid.*

¹³¹ *ibid.*

6. Arrest without warrant

The Gardai (Police) is given the power to arrest offenders without warrant by virtue of Section 35 of the Act as follows:

- (1) Where a member of the Garda Síochána has reasonable cause for believing that an offence is being or has been committed under section 33 the member may, on complaint being made to him or her by or on behalf of the person who was the applicant for the order referred to in subsection (1) of that section, arrest the respondent concerned without warrant.
- (2) For the purpose of arresting a respondent under subsection (1), a member of the Garda Síochána may enter, if need be by force, and search a place where the member, with reasonable cause, suspects the respondent to be.¹³²

The power of arrest without warrant is necessary to protect the victims and arrest the perpetrator. This provision has been deemed necessary for the proper enforcement of the domestic violence laws. It has become a common provision in most of the domestic violence legislations and fast assuming an international best practice status. The Act provides for the arrest of suspected offenders and gives Gardai the power, for the purposes of making such an arrest, to enter without a warrant, if need be, by force and search any place where the member with reasonable cause suspects the offender to be.¹³³

6.3.1 (b) Domestic Violence Act 2018: Analysis and Commentary

In this section, I will analyse the Domestic Violence Act 2018 to ascertain its conformity to the UN Special Rapporteur recommendations on domestic violence legislation and international best practice. For this discussion, I will use the condensed version of the UN Special Rapporteur's recommendations on domestic violence legislation:

1. Recognise domestic Violence as an offence.
2. Recognise domestic violence as a gender specific offence directed against women.

¹³² *ibid.*

¹³³ *ibid.*

3. Ensure maximum protection, wide-range of flexible and speedy remedies for victims.
4. Ensure available support services and create departments to oversee domestic violence and related matters.
5. Robust sanctions to act as a deterrent and ensure effective enforcement of the law.
6. Empowerment of the law enforcement officers, training for judges, the provision of counsellors and rehabilitation of perpetrators and victims.
7. Community involvement in awareness creation and eradication of domestic violence.

1. Recognise domestic Violence as an offence

There is no explicit definition of domestic violence in the 1996 Act, the 2002 amendment Act, and the Domestic Violence Act 2018.¹³⁴ It appears the definition of domestic violence by the Task Force on Violence against Women 1997, is the standard definition of domestic violence in Ireland. The task force defined domestic violence as:

Domestic violence is the use of physical or emotional force or threat of physical force, including sexual violence, in close adult relationships. This includes violence perpetrated by spouse, partner, son, daughter or any other person who is a close blood relation to the victim.¹³⁵

Besides the omission to define domestic violence in the Act, it also failed to recognise it as a crime. This omission is not in consonance with the UN Special Rapporteur recommendations and international standards on domestic violence legislation and best practice. The UN Rapporteur specifically recommended the recognition of domestic violence as an offence in all legislation aimed at combating it.¹³⁶ Domestic violence legislation in many jurisdictions failed short of the UN framework model and international standards and best practice by not overtly making domestic violence a crime. For instance, the Trinidad and Tobago's Domestic Violence Act, 1999 failed to make domestic violence an offence.¹³⁷

¹³⁴ The Domestic Violence Act 2018 (n 93).

¹³⁵ Office of the Tánaiste, Report of the Task Force on Violence against Women (Brunswick Press Ltd 1997).

¹³⁶ Radhika Coomaraswamy (UN Special Rapporteur on Violence against Women), 'A framework for model legislation on domestic violence' submitted to the United Nations (E/CN.4/1996/53/Add.2) on 6 February 1996.

¹³⁷ Domestic Violence Act, 1999 (Trinidad and Tobago).

Conversely, Queensland Criminal Law (Domestic Violence) Amendment Act, 2015 is one of the domestic violence legislations that recognised domestic violence an offence in the Act as recommended by the UN framework on domestic violence legislation.¹³⁸ The omission to define domestic violence as a crime in these legislations appears to entrench the belief that it is outside the ambit of the law to intervene in what is considered a family matter. In addition, this non-recognition of domestic violence as a crime in legislations meant to combat it seems anomalous compared to laws that outlaw other crimes.

These omissions also have consequences. One of them, in my opinion, is that it contributes to the continued disregard and treatment of domestic violence as non-criminal offence. In addition, it undermines the efforts in creating its awareness in that if offenders are prosecuted under the domestic violence legislation, it will assist to enlighten people that it is a crime and abuse of the victim's human rights. For instance, if Oscar Pistorius that was convicted of murdering his girlfriend, Reeva Steenkamp, in their apartment in South Africa (SA) was charged under a domestic violence legislation, it could have created an enormous awareness about domestic violence worldwide, as well as enlighten people about the criminality of committing the act.¹³⁹ The fact that Oscar Pistorius was charged under the relevant SA criminal law undermined the fact that he committed an act of domestic violence. Hence, the incident and its worldwide publication were seen by many as just another case of murder. I believe that offences that are committed within a family setting but prosecuted under general criminal laws rather than specific domestic violence law, undermine efforts to change peoples' perceptions and attitudes toward domestic violence.¹⁴⁰

¹³⁸ Queensland Criminal Law (Domestic Violence) Amendment Act 2015 Part 2 (3) Section 1 2015 (Act No. 17 of 2015) defines Domestic Violence as 'an offence against an Act, other than the Domestic and Family Violence Protection Act 2012, committed by a person where the act done, or omission made, which constitutes the offence is also— (a) domestic violence or associated domestic violence, under the Domestic and Family Violence Protection Act 2012'.

¹³⁹ Fred Barbash, 'Shock in South Africa over 6-year sentence for 'blade runner' Oscar Pistorius for girlfriend's murder' *The Washington Post* (6 July 2016) <<https://www.washingtonpost.com/>> accessed 21 April 2017.

¹⁴⁰ Ethel Klein *et al*, *Ending Domestic Violence: Changing Public Perception/Halting the Epidemic* (1st edn, SAGE Publications Inc 1997).

The CEO of Safe Ireland, a domestic violence services agency, pointed an accusing finger at the perceptions, attitudes and culture of the Irish people and blames them for contributing to the hindrance in reporting, prosecution and ability of victims, especially women to seek help:

To allow these voices to be heard, we must address our culture and attitudes because they affect the ability and confidence of most women to report violence and seek help. It is our culture and attitudes that allow domestic violence to continue as the most underreported, largely undocumented and certainly under prosecuted crime in the country.¹⁴¹

Furthermore, some women's rights groups have criticised the failure to define domestic violence as a crime in the Irish domestic violence legislation.¹⁴² In its 2016 report, Safe Ireland called on the government to 'enact new legislation on domestic violence by the end of 2016, with a commitment to look at the definition of domestic violence to ensure that it is defined as a criminal offence'.¹⁴³ However, it was not defined as a criminal offence in the new domestic violence legislation, Domestic Violence Act 2018.¹⁴⁴

2. Recognise domestic violence as a gender-specific offence directed against women

The Domestic Violence Acts 1996 and 2002 as well as the 2018 Act adopted a gender-neutral stance and language in describing domestic violence. The women's rights groups have been critical of domestic violence legislation that failed to recognise domestic violence as a gender-specific offence perpetrated against women.¹⁴⁵ The debate over whether domestic violence should be classified as a gendered issue perpetrated by men against women has been a subject of debate for decades without a consensus. The United Nations through its various organs

¹⁴¹ Sharon O'Halloran (n 80) 5.

¹⁴² *ibid.*

¹⁴³ *ibid.* 12.

¹⁴⁴ The Domestic Violence Act 2018 (n 93).

¹⁴⁵ Cheluchi Onyemulukwe, 'Legislating on Violence Against Women: A Critical Analysis of Nigeria's Recent Violence Against Persons (Prohibition) Act, 2015' (2016) 5 (2) DePaul J. Women, Gender & L; Margaret Martin, 'Ireland fails to protect human rights of women affected by domestic violence' *The Irish Times* (Dublin, 23 June 2015).

defines domestic violence as a gender specific crime, and recommended that domestic violence should be defined as a specific offence directed against women:

The definition of discrimination includes gender-based violence, that is, violence that is directed against a woman because she is a woman or that affects women disproportionately. It includes acts that inflict physical, mental or sexual harm or suffering, threats of such acts, coercion and other deprivations of liberty.¹⁴⁶

Most studies show that majority of the victims of domestic violence are women.¹⁴⁷

The result of a study carried out by Obi and Ozumba to determine factors associated with domestic violence in the South-East part of Nigeria showed that 92% of the victims were women while only 8% were men.¹⁴⁸ However, the number of victims of domestic violence who are men are increasing as evidenced by studies as well as reports by social and mainstream media.¹⁴⁹ Thus, the increasing acknowledgement of both genders as victims and perpetrators makes it difficult to favour the recognition of domestic violence as a gendered crime against women. While it may be desirable to favour such recognition due to high percentage of women victims compared to men, however, it may lead to ignoring the plight of other classes of victims. For instance, studies show that LGBT people suffer domestic violence in almost the same proportion as heterosexuals.¹⁵⁰ In the United States of America (USA):

A 2015 survey of research by the Williams Institute noted that most studies “found a lifetime prevalence of [intimate partner violence] among lesbian and bisexual women, gay and bisexual men, and transgender people that is as high as or higher than the U.S. general population.” LGBT survivors face

¹⁴⁶ CEDAW, ‘Violence against women’ (1992) 11th session (General Recommendation No. 19) <<http://www.un.org/womenwatch/daw/cedaw/recommendations/recomm.htm>> accessed 14 August 2018.

¹⁴⁷ Walby S and Towers J, ‘Untangling the concept of coercive control: Theorizing domestic violent crime’ (2018) 18 (1) *Criminology & Criminal Justice* 7.

¹⁴⁸ Obi S N and Ozumba B C, ‘Factors associated with domestic violence in Southeast Nigeria’ (2007) 27 *J Obstet Gynecol* 75.

¹⁴⁹ Dobash R E and Dobash R, ‘Women’s violence to men in intimate relationships’ (2004) *British Journal of Criminology* 44(3) 324-349; Bettina Arndt, ‘Domestic violence: data shows women are not the only victims’ *The Australian* (Sydney, 20 August 2016). Usman E. ‘Woman stabs husband to death over PDP, APC presidential candidates’ *Vanguard* (Lagos, 30 March 2015). <www.vanguardngr.com> accessed 12 March 2017.

¹⁵⁰ Thoreson R, ‘Intimate Partner Violence is an LGBT Issue’ (2017) Human Rights Watch <<https://www.hrw.org/news/2017/12/09/intimate-partner-violence-lgbt-issue>> accessed 14 August 2018.

unique barriers to accessing services, ranging from a lack of awareness to heteronormative assumptions that they don't need protection from abuse to overt discrimination and exclusion by service providers.¹⁵¹

I support the neutral language that many countries use in legislations that prohibit domestic violence as it helps to make people recognise that it affects everyone regardless of sexual orientation. However, in some countries like India where issues of violence against women in various forms can best be described as “epidemic”, the recognition of domestic violence and similar offences as gender specific directed against women may be encouraged.¹⁵² This is to enable effective planning to combat the menace.¹⁵³ The Indian domestic violence legislation which is gender specific, India's Protection of Women From Domestic Violence Act, 2005, has witnessed some number of legal challenges on grounds of being gender discriminatory against men, and for alleged violation of the citizen's constitutional right to equality.¹⁵⁴ In the case of *Aruna Pramod Shah v. Union of India*¹⁵⁵, a mother-in-law sought to quash proceedings under the Act initiated against her.¹⁵⁶ She argued that the Act offended Article 14 of the Constitution of Indian because it provided protection only to women and not to men.¹⁵⁷ The petitioner challenged the Constitutionality of the Act on two grounds:

First, the gender-specific nature of the Act, i.e. by excluding men, is arbitrary and, hence, violative of Article 14 of the Constitution. The Court dismissed this contention on the grounds that, there is a difference between class legislation and reasonable classification. Secondly, the petitioner contended that the placing of relationships in the nature of marriage on par with ‘married’ status in section 2(f) of the Act leads to the derogation of the rights of the legally wedded wife. The Court rejected the second contention by holding that there was no reason why equal treatment should not be

¹⁵¹ *ibid.*

¹⁵² Das P K, *Protection of Women from Domestic Violence Act & Rules* (3rd edn, Universal Law Publishing 2009); Saroj Saini, ‘Position of women in India: A special reference to domestic violence act’ (2016) 2 (3) IJAR 436.

¹⁵³ *ibid.*

¹⁵⁴ Kumar P V, ‘Harassed’ husband challenges Domestic Violence Act’ *The Times of India* (Bangalore, 20 March 2013) <<http://timesofindia.indiatimes.com/city/bengaluru/Harassed-husband-challenges-Domestic-Violence-Act/articleshow/19082232.cms>> accessed 13 April 2017.

¹⁵⁵ *Aruna Pramod Shah v. Union of India* [2008] WP. Cr. 425/2008.

¹⁵⁶ Anuja S, ‘Rights of women against Domestic Violence: The Law and Emerging Challenges’ (PhD Thesis, Cochin University of Science and Technology 2013) 282.

¹⁵⁷ *ibid.*

accorded to a wife as well as a woman who has been living with a man as his “common law” wife or even as a mistress.

The Court by referring to the International mandates opined:

Domestic violence is a worldwide phenomenon and has been discussed in International fora, including the Vienna Accord of 1994 and the Beijing Declaration and the Platform for Action (1995). The United Nations Committee Convention on Elimination of All Forms of Discrimination Against Women (CEDAW) *has recommended that States should act to protect women against violence of any kind, especially that occurring within the family*”. There is a perception, not unfounded or unjustified, that the lot and fate of women in India is an abjectly dismal one, which requires bringing into place, on an urgent basis, protective and ameliorative measures against exploitation of women. The argument that the Act is ultra-vires the Constitution of India because it accords protection only to women and not to men is therefore, wholly devoid of any merit. We do not rule out the possibility of a man becoming the victim of domestic violence, but such cases would be few and far between, thus not requiring or justifying the protection of Parliament.¹⁵⁸

Similarly, the constitutionality of the Act was challenged in the case of *Dennison Paulraj v. Union of India*:

On the basis that it was a discriminatory piece of legislation because it does not permit the husband to file a complaint under the Act and hence was violative of Articles 14 and 21 of the Constitution and also affects the life and liberty of the husband and his relatives. Sections 4, 12, 18, 19, 23 & 29 of the Act were challenged as providing preferential treatment to the wife and hence, violated the right to life and liberty of the husband and his relatives.¹⁵⁹

The Court ‘rejected those arguments and held that giving certain preferential treatment to the wife and treating them as a special category could not be termed as violative of either Article 14 or Article 16 of the Constitution of India’.¹⁶⁰

3. Ensure maximum protection, wide-range of flexible and speedy remedies for victims

The protection of victims is one of the core aims of domestic violence laws coupled with the provision of adequate remedies. The conformity of domestic violence

¹⁵⁸ *ibid.*

¹⁵⁹ *Dennison Paulraj v Union of India* [2009] A I R (Noc) 2540 (Mad); Anuja (n 157).

¹⁶⁰ *ibid.*

legislation to this requirement is vital to ensure victims are adequately protected from continued abuse. The Domestic Violence Acts 1996 and 2002 and the 2018 Act contain provisions such as interim barring order, barring order, emergency barring order, safety order, and protection order that victims can avail of to ensure their continued protection from abuse. The 2002 amended Act and the 2018 Act made it possible for an interim barring order to be made *ex parte*.¹⁶¹ The conformity of the Acts to international standards on domestic violence legislation and best practice is apparent and laudable.

However, some commentators and women's rights groups have reservations concerning the adequacy of domestic violence laws in the State to ensure the protection of victims. They argue that more needs to be done to strengthen the legislation to ensure its conformity with international standards and best practice. In June 2015, the UN Committee on Economic, Social and Cultural Rights issued a communique demanding the Irish Government to strengthen its response to domestic violence in the country.¹⁶² The committee states that 'Ireland is falling short of its obligations under international law to protect the human rights of women affected by domestic violence'.¹⁶³ Consequently, in July 2015, Frances Fitzgerald TD, Minister for Justice and Equality, acknowledged the concerns expressed mainly by women's rights groups about the prevalence of domestic violence in the country and the inadequacy of laws to protect victims.¹⁶⁴ She went on to state that 'Domestic violence persists as true horror in too many homes in 21st Century Ireland'.¹⁶⁵ Consequently, the Minister published a new Domestic Violence Bill, which she believes 'will improve the protections available to victims of domestic violence, making it much easier for victims to obtain interim barring

¹⁶¹ DV (Amendment) Act (n 90) Section 1 (3).

¹⁶² Margaret Martin, 'Ireland fails to protect human rights of women affected by domestic violence' The Irish Times (Dublin, 21 June 2015); Safe Ireland 'New laws proposed to support domestic violence victims' <<http://www.safeireland.ie/2015/new-laws-proposed-to-support-domestic-violence-victims/>> accessed 14 March 2017.

¹⁶³ *ibid.*

¹⁶⁴ Department of Justice 'Minister Fitzgerald publishes heads of new Domestic Violence Bill' <<http://www.justice.ie/en/JELR/Pages/PR15000436>> accessed 14 March 2017.

¹⁶⁵ *ibid.*

orders'.¹⁶⁶ Furthermore, the Minister further stated during the publication of the Bill that:

This new bill will particularly improve the protections available to victims of domestic violence, most critically for those victims in crisis situations, making it much easier for them to obtain interim barring orders. The Bill will remove the requirement that a person must have at least an equal interest in a property to apply for an interim barring order (for 8 working days) in an emergency or crisis situation.¹⁶⁷

The Bill was enacted into law in May 2018 (Domestic Violence Act 2018). The Act besides consolidating laws against domestic violence in the State contains considerable improvement on the 1996 and 2002 Acts. Some of them include:

- Access to an interim barring order for 8 working days in an emergency or crisis situation may be extended.
- The victim will no longer have to have a greater or equal property interest in the property from which the perpetrator is being barred.
- The applicant can bring a friend, family member or support worker into court to support her or him during proceedings.
- The victim may give evidence by a televisual link to avoid the risk of intimidation by the perpetrator or an associate.
- The court will be able to appoint an expert to ascertain the views of a child where an order is sought on behalf of, or will partly relate to, the child.
- There will be restrictions on the categories of person allowed to be in court during these proceedings, so that the victim will not have to give evidence, potentially of a distressing nature, before a large number of strangers.
- The Courts Service will be required to give information to the victim on referrals to support services.
- The anonymity of the victim, dependants and of the perpetrator will be protected in criminal proceedings for breaches of orders, other than where the victim chooses not to be anonymous. This provision is intended to protect the privacy of a victim. However, the media will be able to report on these proceedings, providing that they respect the obligations concerning anonymity.
- It will be possible to bar a perpetrator from communicating with the victim electronically.¹⁶⁸

¹⁶⁶ *ibid.*

¹⁶⁷ *ibid.*

¹⁶⁸ *ibid* [Emphasis added].

4. Ensure available support services and create departments to oversee domestic violence and related matters

The availability and ease of access to support services plays a key role in the intervention and combating of domestic violence.¹⁶⁹ Research shows that the availability and easy access to support services is one of the primary concerns of victims.¹⁷⁰ It may also determine their willingness to report the abuser to the authorities and take necessary measures to ensure their safety and that of other family members. Unlike the Nigerian domestic violence law, the Acts did not make specific provisions for supporting the victims of domestic violence and abuse. The primary concern of the Act appears to be the safety of the victims; thereby, leaving the provision of support services to other government agencies and NGOs. In effect, the government is exonerated from any legal and binding obligation to provide support services to victims of domestic abuse. For example, access to justice by victims of domestic violence may be limited because of restrictions on the granting of legal aid. The victims of domestic violence like other citizens that require legal aid are subjected to the same “means test” to determine their eligibility.¹⁷¹ This restriction in some cases exposes victims to the risk of representing themselves in court proceedings facing the perpetrator that may afford private legal representation. In worst case scenarios, the victims may be left with no other alternative than to give up their fight for justice. The new Domestic violence Act 2018 makes it compulsory for the court services to provide information to the victim on referrals to support services.¹⁷² While the information may be of assistance to the victim, but there is no assurance that the victim will get

¹⁶⁹ Paula Mayock and Sarah Sheridan, ‘Migrant Women and Homelessness: Key Findings from a Biographical Study of Homeless Women in Ireland’ (Research Paper 2) School of Social Work and Social Policy and Children’s Research Centre, Trinity College Dublin (February 2012).

¹⁷⁰ Sullivan Cris M, ‘Presenting the Work of Local Domestic Violence Services Within a “Social and Emotional Well-Being Promotion” Conceptual Framework’ (Safe Ireland 2015) 22.; *ibid* 144.

¹⁷¹ Citizens Information, A means test is a way of checking if you have enough financial resources to support yourself and what amount of social assistance payment, if any, you may qualify for. In a means test the Department of Social Protection examines all your sources of income <www.citizensinformation.ie/ie/social_welfare/irish.../means_test.../means_test.html> accessed 15 April 2017.

¹⁷² DV Act 2018 (n 93) Section 28.

the necessary support he/she may need. There is no legal obligation for the support services to assist victims.

While the Act did not expressly state that the National Office for the Prevention of Domestic, Sexual and Gender-based Violence (Cosc) is responsible for a coordinated approach to issues of domestic violence and related offences, it is entrusted with the task. Since the inception of Cosc, issues that relate to the domestic violence awareness campaign, intervention and prevention strategies are coordinated under the canopy of the organisation. The body has helped to ensure a well-coordinated approach to tackling domestic violence and related offences. Cosc and its functions will be explained in more detail under the heading “Institutional Response” 6.3.2 (1). However, for information on Cosc, visit their website, www.cosc.ie.

5. Robust sanctions to act as a deterrent and ensure effective enforcement of the law

The Act provides only civil remedies for the safety of victims of domestic violence, unlike its Nigerian counterpart which has provision for both criminal and civil sanctions.¹⁷³ As stated earlier, the main concern of the Act is the safety of the victims. The victims can rely on the relevant provisions of the Act to apply and obtain safety, barring, interim barring, and protection orders against a perpetrator of domestic violence. The orders in some circumstances can be obtained on behalf of the victims by government agency permitted to do so by the Act such as the Health Service Executive (formerly the Health Board) and the Child and Family Agency (TUSLA).¹⁷⁴ The recommendation/requirements for domestic violence legislations to have robust sanctions which include criminal sanctions are

¹⁷³ The Nigerian Law against domestic violence and related offences, The Violence Against Persons (Prohibition) Act 2015 (VAAP), has provisions for civil remedies and criminal sanctions against perpetrators of domestic violence.

¹⁷⁴ The Health Board was created by the Health Act of 1970. It was tasked with the provision of health and social services throughout Ireland and had eight regional bodies that was later increased to eleven in 1999. The health board was replaced by the Health Service Executive on 1 January 2005 tasked with the same functions. It is under the Department of Health. The Child and Family Agency (TUSLA) was established on the 1st January 2014 and is now the dedicated State agency responsible for improving wellbeing and outcomes for children. It represents the most comprehensive reform of child protection, early intervention and family support services ever undertaken in Ireland’.

necessary to achieve the desired deterrent effect of the law. While civil sanctions may suffice in providing temporary safety measures for the victims, the seriousness of domestic violence crime cannot be felt and recognised by the imposition of the civil sanctions alone. Similarly, the non-inclusion of criminal sanctions in domestic violence legislation underscores the effort being made to create awareness that domestic violence is a crime that needs to be dealt with as other criminal offences. A criminal sanction applies under the Act only when the respondent:

- (a) Contravenes a safety order, a barring order, an interim barring order or a protection order, or
- (b) while a barring order or interim barring order is in force refuses to permit the applicant or any dependent person to enter in and remain in the place to which the order relates or does any act for the purpose of preventing the applicant or such dependent person from so doing, shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding €1,500 or, at the discretion of the court, to imprisonment for a term not exceeding 12 months, or to both.¹⁷⁵

Compared to how effective human rights laws are enforced in Nigeria, which has been described as abysmal, the Courts Service 2017 report appears to indicate an effective enforcement of the Domestic Violence laws in Ireland.¹⁷⁶ However, I believe the reporting of domestic violence incidences remains a big issue in Ireland, especially among the immigrant community. According to the Courts Service report, 14,374 applications were made to the District Court under the Domestic Violence Acts in 2015, which was a 6% increase on that of 2014. It also indicates that:¹⁷⁷

There was a 2% increase in applications for safety orders (5,626 as compared to 5,499 in 2014) and a 16% increase in applications for protection orders (5,108 as compared to 4,406 in 2014). 45 Courts Service Annual Report 2015 Applications for interim barring orders showed a 5% increase (731 as compared to 699 in 2014) while applications for barring

¹⁷⁵ DV Act (n 93) Section 33 (1) (b).

¹⁷⁶ The Court Service Report 2017.

¹⁷⁷ *ibid*

orders showed a slight decrease from 2,671 in 2014 to 2,638. (See Tables 3 & 4).¹⁷⁸

6. The provision of training, counsellors and rehabilitation of perpetrators and victims

According to Stover and Lent, ‘The training of personnel working as victim advocates or batterer interventionists is necessary to ensure adequate and efficient provision of services to victims and the rehabilitation of offenders’.¹⁷⁹ There is no express provision in the Act for the training of personnel involved in intervening on issues of domestic violence, the engagement of counsellors and rehabilitation of offenders. The Act falls short of its obligations on this aspect to comply with international guidelines on domestic violence legislation as recommended by the UN Special Rapporteur.¹⁸⁰ However, government agencies involved in dealing with domestic violence issues do organise training for their staff.¹⁸¹ The Domestic Violence Act 2018 has a provision that empowers the Court to direct a respondent to engage with a counselling service provider to address any issue relating to his/her behaviour that warranted the making of safety, barring or emergency barring order application.¹⁸²

7. Community involvement in awareness creation and eradication of domestic violence

The Act did not specify the establishment of regional and/or community outreach centres for raising the awareness and eradication of domestic violence. Though the Act failed on this respect to comply with the recommendation of the UN Special Rapporteur on Violence against women framework model on domestic violence legislation, the impact is not significant given that government agencies, NGOs and others are heavily involved in domestic violence awareness campaign in

¹⁷⁸ *ibid.*

¹⁷⁹ Stover Carla Smith and Lent Kimberly, ‘Training and certification for Domestic Violence Service Providers: The need for a National Standard Curriculum and Training Approach’ (2014) 4 (2) *Psychology of Violence* 117.

¹⁸⁰ Radhika Coomaraswamy (n 134).

¹⁸¹ Government agencies such as An Garda Síochána (The Police), Court Service, Probation office, etc., trains their staff on how to respond and handle report cases of domestic violence.

¹⁸² DV Act (n 93) Section 29.

Ireland. The Domestic Violence Act 2018 also has no provision for the involvement of communities, especially migrant communities in the effort to tackle the issue. The need to involve the migrant communities in all stages of the efforts to tackle the issue of domestic violence in the state cannot be overemphasised. The migrant communities have roles to play in the efforts to tackle the issue, especially within their various communities. Some of them includes but not limited to organising seminars to raise awareness of the issue and available support services.

8. Evaluation and Geographical Reach of the Act

The Act, unlike its Nigerian counterpart, has a nationwide reach and application. Acts of the Oireachtas (Irish Parliament) has an automatic national application throughout the country except where specified. Conversely, the Acts of Nigerian National Assembly do not have automatic national application. The Act does not contain a provision for its evaluation, however, various organisations involved in domestic violence in Ireland continually engage in the evaluation of the effectiveness of the Act.

6.3.2 Institutional Response

Domestic violence is a multifaceted issue that requires a collaborative approach by government and non-governmental agencies to effectively raise awareness about it, combat its prevalence, provide adequate support services to victims, deter and rehabilitate offenders. The institutional response to domestic violence cuts across both the government and non-government sectors. Most of the institutions involved in the effort to combat domestic violence in Ireland are government agencies and NGOs. Together, these agencies provide the synergy that is needed to tackle the problem posed by domestic violence. Next, I will examine some of the institutions - government and non-governmental, that are involved in dealing with the issue of domestic violence in Ireland.

6.3.2. (a) Government Institutions

1. The National Office for the Prevention of Domestic, Sexual and Gender-based Violence (Cosc)

Cosc (which means “to stop” or “to prevent”) was set up by the Irish Government in 2007:

... to ensure the delivery of a well-co-ordinated "whole of Government" response to domestic, sexual and gender-based violence. The work of Cosc covers issues relating to domestic and sexual violence against women and men, including older people in the community.¹⁸³

Cosc is under the Department of Justice and Equality, and its mission is to ‘to improve the delivery of a well-co-ordinated effective response to domestic, sexual and gender-based violence in Ireland’.¹⁸⁴ Cosc strives to achieve this aim through ‘interaction with interested and relevant organisations either on a one-to-one basis or through a small number of committees’.¹⁸⁵ Cosc is entrusted with the implementation of the National Strategy on Domestic, Sexual and Gender-based Violence in Ireland. The first phase of the strategy ran from 2014 – 2016 and the second strategy is currently running from 2016 – 2021. Under this strategy, Cosc provides funding for domestic violence awareness-raising campaign at local and national levels. It also carries out research and provides information through publications on issues concerning domestic, sexual and gender-based violence in Ireland. Under the second strategy (2016 -2021), Cosc would:

Roll out training for An Garda Síochána starting quarter 1 2018 and ongoing throughout the term of the Strategy.

The Courts Service will provide training for staff who are involved in the administration of family law by quarter 4 2017.

Probation Service relevant staff training, ongoing to the end of the Joint Probation Service / Irish Prison Service Women’s Strategy, quarter 4 2016

¹⁸³ About Cosc, ‘Cosc information leaflet’ <www.cosc.ie> accessed 28 March 2017.

¹⁸⁴ *ibid.*

¹⁸⁵ *ibid.*

and the Joint Irish Prison Service / Probation Service Strategy, quarter 4, 2017.

Develop a shared approach between Tusla and HSE – in collaboration with service provider organisations – towards commissioning of training of frontline professionals in each agency that assures a consistent, appropriate and culturally competent response to persons presenting to services. Training should also include a focus on establishing standards, addressing quality improvement and measuring outcomes. Initiate training by quarter 2 2016 and then ongoing through the term of the Strategy.¹⁸⁶

The provision of training for people involved in handling domestic violence issues is necessary for effective and efficient discharge of their duties. In Nigeria, such coordination is not available due to lack of dedicated agency entrusted with such duties. As I noted earlier in this chapter, the need for migrant communities to be taking into considered while formulating domestic violence training programs is vital. The migrant communities would benefit from such training programs as it would help to increase their knowledge and ability to tackle the issue in the various communities.

Table 4: Amounts Awarded Under Local Awareness Raising Grant Scheme 2015 relating to Domestic, Sexual and Gender-based Violence

Organisation Name	Grant Awarded For	Amount Awarded
Adapt Domestic Abuse Services	Advertising, Information Materials and Awareness Raising Activities excluding flash bands	€5000
Age Action	Information Materials and Awareness Raising Activities excluding Facilitation Costs	€1500
Amen Support Services Ltd	Information Materials	€2000
Ascend Domestic Abuse Service	Advertising	€1500
Athlone (Midland) Rape Crisis Centre Limited	Advertising	€2000
Ballyhoura Development	Awareness Raising Activities	€750.00
Blanchardstown Traveller Development Group	Information Materials and Awareness Raising Activities	€750.00
Clare Haven Services Ltd	Information Materials	€500.00

¹⁸⁶ Cosc. 'Action Plan: Second National Strategy on Domestic, Sexual and Gender-based Violence (2016 – 2021)' 4.

Organisation Name	Grant Awarded For	Amount Awarded
Clare Local Area Network on VAW	Advertising	€1000.00
COPE Galway Waterside House	Advertising and Information Materials	€1000.00
Domestic Violence Advocacy Service	Advertising and Information Materials	€2500.00
Domestic Violence Response Ltd	Advertising	€350.00
Donegal Sexual Abuse and Rape Crisis Centre	Advertising and Information Materials	€1250.00
Dublin 12 Domestic Violence Service	Information Materials	€400.00
Eist Linn	Advertising, Information Materials and Awareness Raising Activities	€500.00
Family Resource Centre CDP	Awareness Raising Activities	€2000.00
Greystone's Family Resource Centre	Advertising and Information Materials	€1250.00
Hospital Family Resource Centre	Information Materials and Awareness Raising Activities	€750.00
Kerry Rape and Sexual Abuse Centre	Advertising and Information Materials	€1500.00
Limerick Women's Network	Awareness Raising Activities	€350.00
Mayo Women's Support Services	Information Materials	€218.00
Mná Feasa	Advertising and Information Materials	€3000.00
Offaly Domestic Violence Support Service	Advertising	€1000.00
Pavee Point Traveller and Roma Centre	€2500 for Training Project and €1250 for photos and web advertising	€3750.00
Rape Crisis and Sexual Abuse Counselling, Sligo	Advertising and Information Materials	€2000.00
Rape Crisis Midwest	Information Materials	€1700.00
Rape Crisis North East	Advertising and Information Materials	€4000.00
Sexual Violence Centre Cork	Information Materials	€3750.00
Spa Field Family Resource Centre	Awareness Raising Activities	€500.00
Tearmann Domestic Violence Service	Advertising	€2000.00
Voice of New Communities Drugs and Alcohol Network	Information Materials and Awareness Raising Activities	€1000.00
Waterford Women's Centre	Information Materials and Awareness Raising Activities	€1000.00
Yana North Cork Domestic Violence Project Ltd	Advertising and Information Materials excluding Website Development	€750.00

Source: Cosc.ie

Table 5: Amounts Awarded for National Campaign 2015 Under Cosc Awareness Raising Grant Scheme relating to Domestic, Sexual and Gender-based Violence

Organisation Name	Grant Awarded For	Amount Awarded	Campaign Schedule
Amen Support Services	Awareness Raising Campaign on Violence Against Men	€20000	15th – 26th June 2015
Dublin Rape Crisis Centre	Awareness Raising - Prevention and Education – target potential perpetrators “Sex without Consent”	€70000	21st September – 4th October 2015 in conjunction with Union Students of Ireland
Men’s Development Network	White Ribbon Campaign	€40000	25th November and during 2015
Safe Ireland	Man Up Campaign	€35000	
Union Students of Ireland	Awareness Raising - Understanding Sexual Assault and Consent	€7000	21st September – 4th October 2015 in conjunction with Dublin Rape Crisis Centre
Women’s Aid	2in2U Campaign	€25000	12th Feb – 12th March and 5th October – 18th October 2015
Women’s Aid	16 Days of Action Campaign	€10000	24th November – 10th December 2015
Women’s Aid	Promotion of Helpline	€20000	5th October – 18th October 2015

Source: Cosc.ie

From the above list of beneficiaries of Cosc’s local and national domestic awareness raising grant scheme that relates to domestic, sexual and gender-based violence in 2015, it appears that only one migrant advocacy group benefited.¹⁸⁷ It may either be that many migrant community associations did not apply, or they did not meet the requirements for the award. I believe Cosc should endeavour to encourage the participation of migrant groups in raising awareness about domestic violence and related issues in their communities. Research shows that migrants are more reluctant to report incidences of domestic violence to the authorities for reasons such as their religious and cultural indoctrination, fear of reprisal from

¹⁸⁷ Voice of New Communities Drugs & Alcohol Network Company Limited by Guarantee.

their community, language barrier, immigration-related issues, among others.¹⁸⁸ Similarly, there appears to be a prevailing belief within some migrant communities that the reporting of domestic violence to the authorities may lead to marriage disintegration. This is consequent upon the belief that these institutions' approach in resolving domestic violence issue is at variance with their cultural and religious beliefs and approach in dealing with marital issues. Some of the migrants prefer their cultural and religious methods of resolving domestic violence issues, which they claim aims to keep the family intact. In contrast, some of the migrants believe that these institutions are more interested in sanctioning the offenders by encouraging the victims to apply for barring, protection, or safety orders, which may lead to the separation of family members. In this respect, Cosc should endeavour to liaise with migrant community associations in its domestic violence awareness raising efforts to demystify these believes within some migrant communities. There are so many registered active migrant community associations in Ireland such as Ideato Union Ireland, Igbo Union Cork, Otu-Umunna Club Ireland, Anioma Union Ireland, Ogun State Association Ireland, Oodua Progressive Union Ireland Chapter, Imo State Indigenes Ireland, Ofuobi International Ireland, Anambra State Association, and Igbo Union Diaspora Dublin (IUD), among others. These above-mentioned associations and similar migrant associations could be used to reach migrant communities in domestic violence awareness-raising campaigns in Ireland.

2. The Courts Service

The Court Service provides a vital role in the enforcement of the law. The application of domestic violence civil remedial orders is made and processed by the Court Service. They endeavour to make the application process as easy as possible and provide helpful information that may assist victims in applying for orders under the Domestic Violence Acts. In addition, they provide information on

¹⁸⁸ Runner M, Yoshihama M, and Novick S, 'Intimate Partner Violence in Immigrant and Refugee Communities: Challenges, Promising Practices and Recommendations' (A Report by the Family Violence Prevention Fund for the Robert Wood Johnson Foundation 2009); European Union Agency for Fundamental Rights, 'Women refugees at high risk of being victims of gender-based violence' (2016) <<http://fra.europa.eu/en/press-release/2016/women-refugees-high-risk-being-victims-gender-based-violence>> accessed 14 April 2017.

the number of orders made and the outcomes in their annual report. The Domestic Violence Act 2018 requires the Courts Service to provide information on domestic violence support services to victims.¹⁸⁹

Table 6: Domestic violence figures applications and outcomes in the District Courts 2013 - 2017

District Court: Domestic Violence: Trends	2017	2016	2015	2014	2013
Barring order applications	2,613	2,658	2,638	2,671	2, 738
Barring order granted	822	1,329	859	877	1, 167

Protection order applications	5,869	5,365	5,108	4,406	4, 529
Protection orders granted*	5,006	4,627	4,225	4,024	4, 142

Safety order applications	6,368	6,069	5,626	5,499	5, 334
Safety orders granted	2,255	3,316	1,917	2,029	2, 386

Interim barring order applications	917	880	731	699	674
Interim barring orders granted	693	676	563	569	522

Other applications	195	255	271	12	----
Others granted	151	107	263	0	----

Some interim barring orders were granted on foot of applications for protection orders. Likewise, some protection orders were granted on foot of interim orders.

¹⁸⁹ DV Act 2018 (n 92) Section 28.

Table 7: Domestic violence figures applications and outcomes in the District Courts 2016 & 2017

Circuit Court: Domestic Violence: Outcomes	2017	2016
Order made	51	40

Source: Court Service Annual Report

3. An Garda Síochána

The An Garda Síochána is the national police service of Ireland that is responsible for providing policing and security service for the State. In most cases, they are the first point of contact when any form of crime or misconduct is committed including domestic violence. They play a vital role in the enforcement of domestic violence laws and protection of victims. The Garda (Police) in Ireland and other countries always come under continuous criticism for their alleged dismissive attitude in handling reported incidences of domestic violence.¹⁹⁰ Many believe that the police, especially in developing world, still treat domestic violence cases as family issues outside the purview of the law.¹⁹¹ The police in many countries like Ireland, UK, Australia, USA, Canada, among others, provide training to their members on how to handle domestic violence issues.¹⁹² Similarly, in Ireland, for example, Garda recruits receive training on domestic violence, which enables them to deal with reported incidences while on duty upon graduation.¹⁹³ Currently, domestic

¹⁹⁰ Sharon O’Halloran, *Domestic violence cases are being failed by the Irish legal system* (Safe Ireland 2015); Lai Ching Leung, ‘It is a matter of Trust: Policing Domestic Violence in Hong King’ (2014) 29 (1) *Journal of Interpersonal Violence* 82- 101; Ivan Y Sun, Mingyue Su, and Yuning Wu, ‘Attitudes Toward Police Response to Domestic Violence A Comparison of Chinese and American College Students’ (2011) 26 (6) *Journal of Interpersonal Violence* 3187–3209.

¹⁹¹ Stephane Mikala, ‘Nigeria’s unheard voices: widespread violence against women in the family’ (Amnesty International 2007) quoting Itoro Eze-Anaba who said that “the police and courts often dismiss domestic violence as a family matter and refuse to investigate or press charges”.

¹⁹² Weaver M, ‘Police to get more training to detect non-physical domestic abuse’ *The Guardian* (21 September 2016) <<https://www.theguardian.com>> accessed 14 August 2018;

¹⁹³ According to the Minister for Justice and Equality, ‘An Garda Síochána Domestic Abuse Intervention Policy 2017 identifies the nature of intervention that personnel within An Garda Síochána are required to make when responding to Domestic Abuse related incidents. The policy incorporates Garda Síochána standards, procedures, relevant legislation and victim support information relevant to Domestic Abuse related incidents. I am informed by the Garda Commissioner that as part of their Phase 1 training Trainee Garda attend a three-hour workshop which covers the relevant legislation, Garda practice, and the assistance and support mechanisms which are available to victims of domestic violence. In addition, training in relation to the legislation and powers of arrest available to members of An Garda Síochána is provided to Trainee Gardaí during this Phase through the roll out of Problem Based Learning Scenarios and the Garda Decision Making Model which guides the Trainee Gardaí to a conclusion of the scenario. Also, during the Officer and Public Safety Training Module of the Phase 1 training, a domestic

violence issues are handled with similar offences by the newly established Garda National Protective Services Bureau (GNPSB).¹⁹⁴ However, there is a need to create a domestic violence special unit within the force to oversee issues that relate to domestic violence only. The Gardai, like other frontline service providers, do come under attack while responding to incidences of domestic violence. In October 2015, a member of the force on duty was shot dead while responding to a violent domestic incident near Omeath, Co. Louth.¹⁹⁵ In October 2017, Garda Martin Kavanagh was attacked and injured while trying to disarm a violent suspect in a domestic incident.¹⁹⁶ He received 16 stitches to a head wound and was awarded a commendation medal on 28 October 2015 for his exceptional courage and bravery that involved risk to life while attending to a violent domestic incident.¹⁹⁷

4. Garda Domestic Violence Special Unit: A Necessity

The establishment of a special unit within the Garda Síochána to oversee domestic violence issues is long overdue. Due to the multifaceted nature of domestic violence and the need for a multi-sectoral/interdisciplinary approach to develop and implement intervention strategies, the need arises to have a special unit within the Garda Síochána. The Garda, most times, is the first point of contact for victims of domestic violence. Their response to calls or reports of a domestic violence issue

violence scenario is rolled out where trainees learn to respond appropriately to a complaint of domestic violence.

I am further informed that during Phase 3 of their training Probation Gardaí attend a 1 day workshop/lecture on domestic violence which is delivered by Garda College Instructors who are trained in the area and also by external speakers from the Women's Aid Agency which are involved in support mechanisms for victims of domestic violence'
<<http://www.ria.irlgov.ie/en/JELR/Pages/PQ-12-07-2018-241>> accessed 14 August 2018.

¹⁹⁴ 'The Garda National Protective Services Bureau (GNPSB) provides advice, guidance and assistance to Gardai investigating the following: Sexual Crime Investigation; Online Child Exploitation Investigation; Child Protection, Domestic Abuse Intervention and Investigation; Human Trafficking Investigation; Organised Prostitution Investigation; ViCLAS; Specialist Interview; Sex Offender Management; Missing Persons; Missing Persons in Care; and, Support for Victims of Crime. The bureau leads the investigation in more complex cases. The bureau also liaises with relevant Government Departments, State Bodies and voluntary groups, embracing the essential multi agency approach to tackling these crimes and their causes. Primary considerations in these cases are the protection and welfare of the victims, while ensuring the proper investigation of the alleged activities'.

¹⁹⁵ Conor Lally, 'Garda Tony Golden among two dead in Louth shooting' *The Irish Times* (Dublin, 12 October 2015).

¹⁹⁶ Annual Report An Garda Síochána, 'Presentation of Scott Medal Certificates' (2015) 50.

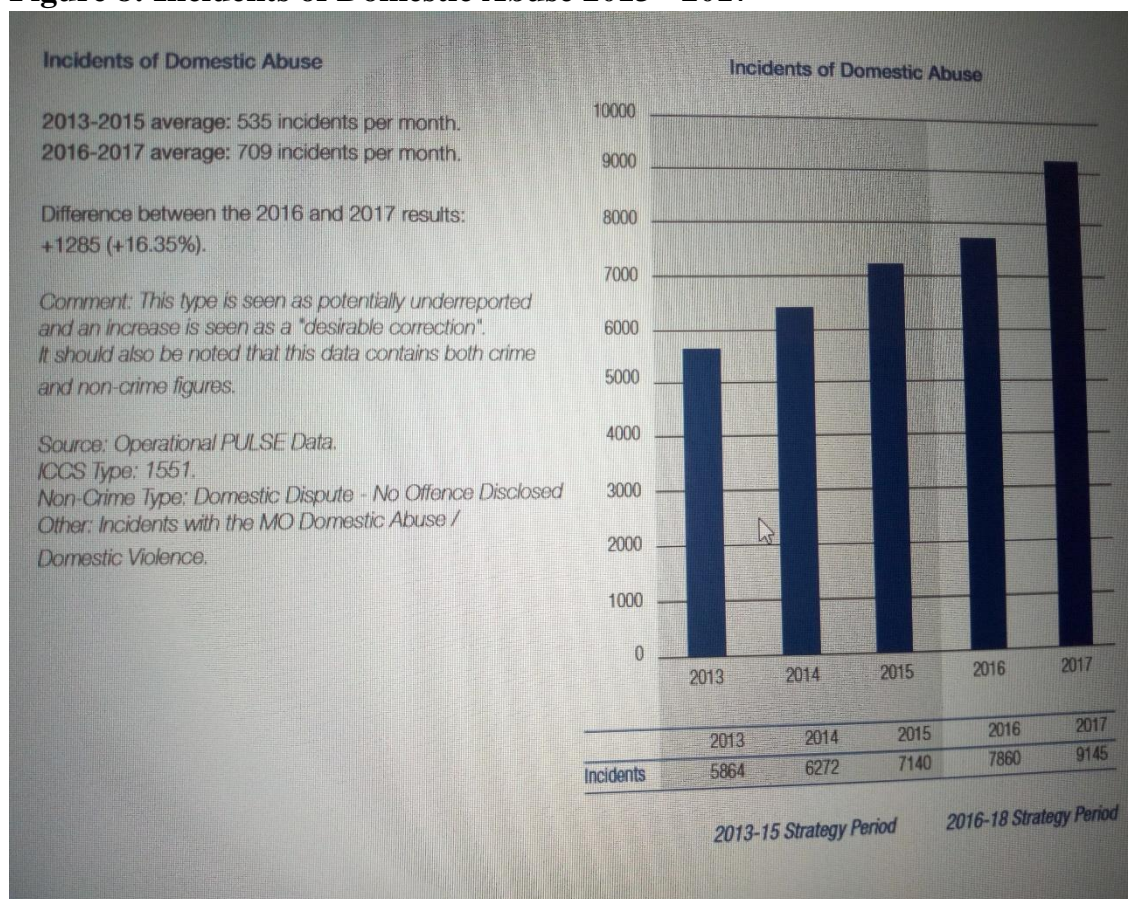
¹⁹⁷ *ibid.*

is vital to the safety of not only the victims and other family members, but also for perpetrators, other members of the community and the officers on duty. Therefore, the need arises to have a special unit manned by trained Garda in the field of domestic violence to handle domestic violence issues, including proper record keeping. Concerns were raised when the Gardaí reported just under 6,000 domestic violence incidences in Ireland in 2016 compared to 29,000 of reported incidences the same year in Northern Ireland with less than half the population of Ireland.¹⁹⁸ There is a need for the Garda to improve their method of domestic violence data collation and reporting. The 2017 Garda Annual Report failed to separate types and forms of domestic violence incidences that were brought to their attention and failed to separate the crime and no-crime figures.¹⁹⁹ Furthermore, there was no mention of the number of reported incidences that resulted in prosecution and the outcome. The data, generally, lack details that would help to appreciate the prevalence, reporting rate and prosecution rates of domestic violence crime in the country. I believe the establishment of a special unit within the Garda to oversee all aspects of domestic violence in the country would improve the response of the Garda to the issue.

¹⁹⁸ RTE, 'Concerns raised about how Gardaí are recording domestic violence incidents' 5 February 2017 <<https://www.rte.ie/news/2017/0205/850363-domestic-violence-figures/>> accessed 12 April 2017.

¹⁹⁹ Annual Report An Garda Síochána 2017, 95.

Figure 8: Incidents of Domestic Abuse 2013 - 2017



Source: Garda Annual Report 2017

The Garda has special units overseeing some serious crimes such as the Criminal Assets Bureau (CAB) and Garda National Economic Crime Bureau, among others.²⁰⁰ The establishment of these special units within the force appears to demonstrate how serious the Gardai in particular and society, in general, consider crimes committed within these domains. Some countries have acknowledged the seriousness of the crime of domestic violence and demonstrated it by creating

²⁰⁰ An Garda Siochana, 'Contacting An Garda Siochana'
 <<http://www.garda.ie/Controller.aspx?Page=3430&Lang=1>> accessed 12 April 2017.

special units within their police force to oversee domestic violence matters.²⁰¹ Almost all the Metropolitan Police Departments in the USA has a domestic violence unit. The District of Columbia (DC) Metropolitan Police Department says about its Domestic Violence Unit that it:

... serves as a liaison among the Metropolitan Police Department (MPD), the US Attorney's Office, other law enforcement agencies, victim service agencies, victim's domestic violence advocates and the community in the Washington, D.C. area. The unit conducts ongoing community outreach and education, provides ongoing training for the members of MPD, and monitors the activities of the District Domestic Violence Investigators and District Patrol Officers. The unit has direct supervision of the Domestic Violence Intake Center Officers and their investigations. The Domestic Violence Unit is part of the MPD's Investigative Services Bureau, Criminal Investigations Division, Special Investigations Branch.²⁰²

In 2010, the Ministry of Internal Affairs (MIA) of Tajikistan established a special unit within the country's police force that is 'especially equipped to work with cases of domestic violence'.²⁰³ According to Tajikistan MIA:

The establishment of special units demonstrates the Ministry of Internal Affairs' commitment to treating domestic violence as a crime. These special units are closely working with community organizations to support victims of domestic violence, particularly since family violence itself is not classified as a separate criminal offence.²⁰⁴

The Government should consider giving priority to the establishment of a special unit within the Garda Siochana to handle domestic violence issues.

5. The Probation Service

The Probation Service is an agency within the Department of Justice and Equality. They play a significant role:

... in helping to reduce the level of crime and to increase public safety by working with offenders to help change their behaviour and make good the

²⁰¹ The UK, Australia, Tajikistan and the USA are some of the countries that domestic violence special unit with their police force.

²⁰² District of Columbia (DC), 'Domestic Violence Unit' <<https://mpdc.dc.gov/page/domestic-violence-unit>> accessed 21 April 2017.

²⁰³ Tajikistan Police Reform, 'Special Police Units are Engaged in Domestic Violence Prevention Issues' <<http://police-reform.tj/index.php/en/bonus-page/gender/141-gender-question>> accessed 21 April 2017.

²⁰⁴ *ibid.*

harm done by crime. [They] are the lead agency in the assessment and management of offenders in our community.²⁰⁵

They deal with persons that commit all sorts of crimes including domestic violence in ‘helping to change their behaviour and make good the harm done by crime’.²⁰⁶ The Probation Service’s annual report 2015 under the heading: “Offence Breakdown of all Referrals and Orders made 2015” has no distinct record of domestic violence offences referred to the agency.²⁰⁷ The omission suggests that either there was no such referral based on domestic violence throughout 2015 or they included it in the miscellaneous offences group. The collection and publication of domestic violence statistics by relevant government agencies in the State would help in the effort to raise awareness of the issue. In 2017, the agency initiated ‘links with the newly established Garda Síochána Divisional Protective Services Units as part of the overall multi-agency response to domestic violence’.²⁰⁸ In addition, the agency participates in collaboration with other agencies in raising awareness about domestic violence. Hence, in December 2016, the agency:

participated in the ‘Orange the World’ ‘campaign, hosting an information morning in support of the sixteen days of activism against gender-based violence. Among the participants were Probation Service staff and representatives from programme providers, MOVE Ireland and the Dublin Safer Families (Daughters of Charity) programme.’²⁰⁹

6. The Child and Family Agency (TUSLA)

Tusla is a government agency that was formed in 2014 and tasked with the responsibility for the well-being, safety and best outcomes for children in the State.²¹⁰ It has a policy and practice guideline on sexual and gender-based violence and numerous other informative publications dealing with domestic abuse and related offences. TUSLA liaises with other government agencies in mapping out

²⁰⁵ The Probation Service ‘Mission Statement’ < <http://www.pprobation.ie/EN/PB/homepage?readform> > accessed 12 April 2017.

²⁰⁶ *ibid.*

²⁰⁷ *ibid.*

²⁰⁸ The Probation Service Annual Report 2017, 16.

²⁰⁹ *ibid.*

²¹⁰ TUSLA <<https://www.tusla.ie/>> accessed 14 August 2018.

National Strategy on Domestic, Sexual and Gender-Based Violence in the State.

TUSLA's services include:

- (1) **Child Protection & Welfare:** The agency has a primary responsibility to promote the safety and welfare of children. It can be contacted if a member of the society has reasonable grounds for concern that a child may have been, is being or is at risk of being abused or neglected. An Garda Síochána also have statutory responsibilities for the safety and welfare of children.
- (2) **Alternative Care:** The Child and Family Agency has a statutory responsibility to provide Alternative Care Services under the provisions the Child Care Act, 1991, the Children Act, 2001 and the Child Care (Amendment) Act, 2007. Children who require admission to care are accommodated through placement in foster care, placement with relatives, or residential care. The Agency also has a responsibility to provide Aftercare services. In addition, services are provided for children who are homeless or who are separated children seeking asylum. The agency also has responsibilities with regards to adoption processes.
- (3) **Family Support Early Years Intervention:** The agency is committed to providing high quality services to children and families at earliest opportunity across all levels of need. The Child and Family Agency is responsible for inspecting pre-schools, play groups, day nursery, crèches, day-care and similar services which cater for children aged 0-6 years.
- (4) **The Educational Welfare Services of the Child and Family Agency** operate under the Education (Welfare) Act, 2000, a progressive piece of legislation that emphasises the promotion of school attendance, participation and retention. The statutory and school support services of the Child and Family Agency's Educational Welfare Services work together collaboratively and cohesively with schools and other relevant services to secure better educational outcomes for children and young people. Schools are obliged by law under the Education (Welfare) Act, 2000 to submit reports on school attendance to the Educational Welfare Services of the Child and Family Agency.
- (5) **Domestic, Sexual & Gender Based Violence Services:** The agency collaborates with other government and non-governmental agencies to tackle the issue of domestic violence.²¹¹

²¹¹ *ibid.*

6.3.2 (b) Non-Governmental Organisations (NGOs)

Beside government institutions involved in ensuring effective implementation of laws and policies on domestic violence, there are several Non-Governmental Organisations (NGOs) that provide various forms of support to victims of domestic violence. These organisations according to Persadie, ‘provide the impetus for action and, depending on the nature of the work undertaken by the organisation, can bring real and immediate relief to those who need it most’.²¹² The support service groups are the driving force behind most achievements made so far in domestic violence legislation and policy advocacy, research and statistics, intervention and support strategies and implementation. There are several of these support service groups located in almost all the counties and locations in the Ireland. Their services can broadly be grouped as follows

1. Research and advocacy
2. Call centre helpline and drop-in consultation
3. Shelter
4. Court accompaniment
5. Awareness raising campaign

Few prominent ones among them are:

1. Safe Ireland

Safe Ireland is one of the organisations in the forefront of providing support to victims of domestic violence and related offences in the country. It provides ‘state of the art and sustainable responses to women and children experiencing domestic violence in our communities’.²¹³ Its work encompasses awareness raising, advocacy, helpline service to victims, supporting of victims including court accompaniment, research and statistics, among others. Besides providing a twenty-four-hour helpline service to domestic violence victims, their annual report and other publications are a reliable source of information on domestic violence in Ireland.

²¹² *ibid.*

²¹³ Safe Ireland <<http://www.safeireland.ie/>> accessed 15 April 2017.

2. Women's Aid Ireland

Women's Aid Ireland provides similar services like Safe Ireland. Women's Aid and Safe Ireland are among the prominent women support organisations in the country that provide information, raise awareness and support mostly female victims of domestic abuse and related crimes. As mentioned earlier in this chapter, the publication of research commissioned by Women's Aid "making the link", was described as a "catalyst for change" that brought the issue of domestic violence to the national attention. They provide training services and a twenty-four-hour helpline to victims of domestic violence. Their annual report and other publications are a reliable source of information on domestic violence in the country.

3. Amen

Amen is the only organisation that provides 'support and practical assistance to male victims of domestic abuse in Ireland'.²¹⁴ According to their mission statement, they aim to 'promote increased awareness and understanding among the wider public of the issues surrounding domestic abuse; and to collaborate with statutory and non-statutory bodies to advance our aims and the needs of our clients'.²¹⁵ The difference in the number of women support organisations compared to men in Ireland appears to support the prevailing belief that victims of domestic violence are mostly women despite studies challenging the notion.²¹⁶ While men can avail of support services provided by other organisations, it would be helpful if other male support agencies and groups are established to assist in raising the awareness of domestic violence and supporting male victims.

²¹⁴ Amen <[www.amen.ie/about us/](http://www.amen.ie/about-us/)> accessed 12 April 2017.

²¹⁵ *ibid.*

²¹⁶ *ibid.*

4. Rathmines Women's Refuge

Rathmines Women's Refuge Provides emergency accommodation and counselling for women escaping domestic violence. They provide a twenty-four-hour service to women with and without children. The Child and Family agency (Tulsa) runs the centre. They are among many support groups providing accommodation for women escaping domestic violence in the country.²¹⁷

Section 4

6.4 Regional Response

Beside efforts to tackle domestic violence at the national level in the country, there are regional responses to the issue through various institutions in Europe. It will be too vast and outside the scope of this thesis to appraise all the regional institutions and treaties involved in addressing the issue of domestic violence in Europe, hence, I will limit the regional response to domestic violence in Europe to the jurisprudence of the European Court of Human Rights (ECtHR) and the Council of Europe Convention on preventing and combating violence against women and domestic violence (Istanbul Convention) 2011. The value of ECtHR to individuals throughout Europe in pursuit of justice through the Court was elucidated by Leach:

²¹⁷ Cosc <<http://www.cosc.ie/>> accessed 17 April 2017.

For information on other groups providing various kinds of services to victims of domestic abuse, visit the Citizen's Information website or Cosc's website.

We owe it to the victims of State violence, and of domestic violence, to the victims of human trafficking and those subjected to extraordinary rendition, to people languishing in inhuman prisons, and many others, to ensure that we maintain a strong and independent human rights court for the whole of Europe.²¹⁸

ECtHR has developed a rich jurisprudence in domestic violence, and its judgments continue to have great impact on both governments and individuals' perceptions and attitudes toward domestic violence throughout Europe. Likewise, the Istanbul Convention according to McQuigg, '... essentially draws together the statements that have been made by UN human rights bodies such as CEDAW as regards this issue and puts these statements on a secure legally-binding footing.'²¹⁹ Furthermore, she contends that:

The Convention contains detailed provisions on the measures states parties should adopt as regards the provision of social support measures to victims and the raising of awareness within society as a whole of the issues involved in domestic violence. Thus, it ... 'will make an important contribution to the movement to combat gender-based violence'.²²⁰

The impact of the Convention is already being felt in Ireland as some provisions were included in the Domestic Violence Act 2018 in compliance to the Convention.²²¹ This would ultimately impact on the perceptions and attitudes of people in Ireland, including the study group, toward domestic violence.

6.4.1 European Court of Human Rights (ECtHR)

The ECtHR is the judicial arm of the ECHR established by virtue of Article 19 to '... ensure the observance of the engagements undertaken by the High Contracting Parties in the Convention and the Protocols thereto ...'²²² The Court has

²¹⁸ Leach, 'What Is Justice? Reflections of a Practitioner at the European Court of Human Rights' (2013) 4 *European Human Rights Law Review* 392.

²¹⁹ Ronagh McQuigg, 'What potential does the Council of Europe Convention on Violence against Women hold as regards domestic violence?' (2011) 16 (7) *The International Journal of Human Rights* 947.

²²⁰ *ibid.*

²²¹ The Emergency Barring Order in Article 9 of the Domestic Violence Act 2018 was added in compliance to the Istanbul Convention requirements for all legislations prohibiting domestic violence.

²²² ECHR, Article 19.

jurisdiction by virtue of Article 32 to hear ‘... all matters concerning the interpretation and application of the Convention and the Protocols thereto which are referred to it as provided in Articles 33, 34, 46 and 47’.²²³ The Court’s case law on domestic violence demonstrates its willingness to denounce family violence, and to hold member states accountable if they fail to take positive measures to protect victim’s human rights in their country. Consequently, in the case of *Opuz v. Turkey*,²²⁴ the Court found the violation of Articles 2, 3 and 14 in a case where the applicant and her mother were subjected to several kinds of violence including death threats by the then husband who went on to shot and kill the applicant’s mother. The decision in the *Opuz* case was very innovative in that the Court recognised the acts of domestic violence meted to *Opuz* and her mother by *Opuz*’s husband amounted to torture, and violated Article 3 of the Convention for ‘failure to take protective measures in the form of effective deterrence against serious breaches of the applicant’s personal integrity by her husband’.²²⁵ The Court emphasised that when authorities are aware of instances of serious domestic violence, they are supposed to undertake effective actions to safeguard the victims. They must not wait for the incident to be reported before they are supposed to act. In addition, the Court found the violation of Article 14 (Prohibition from Discrimination) based on gender and noted that ‘the State’s failure to protect women against domestic violence breaches their right to equal protection of the law and that this failure does not need to be intentional’.²²⁶ Furthermore, the Court appraised the situation of domestic violence in Eastern Turkey where the applicant lived and stated that:

The applicant has been able to show, supported by unchallenged statistical information, the existence of a prima facie indication that the domestic violence affected mainly women and that the general and discriminatory judicial passivity in Turkey created a climate that was conducive to domestic violence.²²⁷

²²³ *ibid* Article 32.

²²⁴ *Opuz v. Turkey* App no 33401/02 (ECtHR, 9 June 2009).

²²⁵ *ibid* 176.

²²⁶ *ibid* 191.

²²⁷ *ibid* 198.

Similarly, violation of Articles 3 and 8 was found by the Court in the case of *E.S. and Others v. Slovakia*,²²⁸ where the applicant alleged that her then husband ill-treated her and her children and even sexually abused one their daughters. In some cases, the Court found a violation of Article 8 alone such as in the cases of *Bevacqua and S v. Bulgaria*, *A v. Croatia*, and *Kaluczka v. Hungary*.²²⁹ The Court appears to adopt a practice whereby if it found a violation of Article 3 where both Articles 3 and 8 were pleaded, it would not continue to examine Article 8 and *vice versa*.²³⁰ McQuigg contends that the ‘the approach of the Court as regards the Articles on which it bases its findings of violations of the Convention tends to be somewhat inconsistent and incoherent, particularly concerning to the use of Articles 3 and 8’.²³¹ According to her, it appears ‘The main rationale for such an approach seems to be that it acts as a time-saving device’.²³² Also, she was of the view that the approach does not disadvantage an applicant to a proceeding in that ‘it is unlikely to matter a great deal whether the ECtHR finds a violation of Article 8, for example, as opposed to Article 3’.²³³ The Court’s finding of the violation of Article 3 in domestic violence cases including its judgement in *Rumor v. Italy*,²³⁴ established the Court’s believe that domestic violence is a serious offence. In *Rumor*, the applicant alleged that her husband inflicted serious violence on her, which resulted in her living in a constant state fear. The applicant argued a violation of her right to be free from torture and inhuman and degrading treatment under Article 3 of the ECHR and a breach of rights Article 14 of the ECHR, prohibition of discrimination. The applicant claimed that the Italian authorities failed to adequately protect and support her following the violence she suffered. The Court acknowledged that the violence she suffered amounted to a breach of

²²⁸ *E S and Others v. Slovakia* - 8227/04 (ECtHR, 15 Sept 2009).

²²⁹ McQuigg R, ‘The European Court of Human Rights and Domestic Violence: *Valiuliene v. Lithuania* App no 33234/07 (ECtHR, 26 Mar 2016) *The International Journal of Human Rights* 18 (7-8) 756; *Bevacqua And S v. Bulgaria* App no 71127/01 (ECtHR, 12 Sept 2008); *A v. Croatia* App no 55164/08 (ECtHR, 14 Oct 2010); *Kaluczka v. Hungary* App no 57693/10 (ECtHR, 24 Aug 2012).

²³⁰ *ibid.*

²³¹ McQuigg R, ‘The European Court of Human Rights and Domestic Violence: *Valiuliene v. Lithuania*’ (2014) *The International Journal of Human Rights* 18 (7-8) 756.

²³² McQuigg R, ‘Domestic Violence as a Human Rights Issue: *Rumor v. Italy*’ (2016) 26 (4) *The European Journal of International Law* 1009.

²³³ *ibid.*

²³⁴ *Runor v. Italy* [2014] ECHR 557.

Article 3 but was of the view that the Italian authorities discharged their obligations under the ECHR in the matter.²³⁵ McQuigg opinions that ‘This finding emphasizes the point that there are limits to how far the doctrine of positive obligations can reach to protect individuals from human rights violations occurring in the private sphere, such as domestic violence’.²³⁶

In the case of *Valiuliene v. Lithuania*, McQuigg contends that ‘the Court was provided with an opportunity to clarify its approach to the issue of domestic violence, an opportunity of which it did not fully take advantage’.²³⁷ According to McQuigg, *Valiuliene v. Lithuania* was the latest case in which the Court found a violation of Article 3 and declined to examine Article 8.²³⁸ In that case, the applicant alleged series of abuses meted to her by her then husband and claimed the violation of her rights by the State of Lithuania for failing to take necessary measures to protect her. She pleaded the breach of her rights under Article 3 and 8 of the Convention. Her country, Lithuania, accepted the violation of Article 8 and denied a breach of Article 3. The Court, therefore, did not examine Article 8 and found a violation of Article 3. However, the Court failed to clarify the reasoning behind its decision to find a violation of Article 3 and not Article 8.²³⁹ Another concern was the amount awarded to the applicant, €5,000, in respect of non-pecuniary damage, which was less than what was awarded to some applicants that the Court found the violation of their Article 8 right.²⁴⁰ It was expected that a violation of Article 3 would attract a more non-pecuniary award.²⁴¹

While agreeing with the submissions of McQuigg that ECtHR has been inconsistent and incoherent in its jurisprudence on domestic violence rulings, I believe that the Court’s decision on *Valiuliene v. Lithuania* case did establish and confirm the Court’s acceptance that an Article 3 violation could lie in domestic

²³⁵ McQuigg (n 231).

²³⁶ *ibid.*

²³⁷ *ibid.*

²³⁸ *ibid.*

²³⁹ *ibid.*

²⁴⁰ In the case of *A v. Croatia*, the Court held that there has been a violation of Article 8 of the Convention and that there was no need to examine the complaints under Articles 2, 3 and 13 of the Convention. The applicant was awarded €9, 000 in respect of non-pecuniary damages and €4, 470 in respect of costs and expenses.

²⁴¹ *ibid.*

violence incident. Though the Court did not state whether it was torture or inhuman and degrading treatment or both that underpinned its decision to find the violation of Article 3 in the Valiuliene case, I believe that it was more likely to be both inhuman and degrading treatment and torture. The conventional view of torture and the threshold of ill-treatment and suffering that people believe would amount to it, may persuade some people to believe that it is unlikely that incidences domestic violence may amount to torture. Torture was defined in Article 1 of the UN Convention Against Torture as ‘the intentional infliction of severe pain or suffering, for a specific purpose (such as obtaining information or punishment) by, or with the consent of, State authorities’.²⁴² Many people hold the view that torture can only be committed by States against individuals and not individuals against one another. However, the case of *Ireland v. UK* is instrumental in differentiating torture from inhuman and degrading treatment in the sphere of human rights discuss. The case:

... concerned the treatment of suspected Irish Republican Army (IRA) terrorists. The UK used an interrogation method known as the ‘Five Techniques’: prolonged ‘wall-standing’ (being forced to maintain a painful stress position), ‘hooding’ (covering a detainee’s head with a hood to disorient them), subjection to noise, deprivation of sleep, and deprivation of food and drink. The question was whether these techniques were compatible Article 3 of the Human Rights Convention.

The Court explained that the distinction between torture and inhuman or degrading treatment lies in the ‘difference in the intensity of the suffering inflicted’. In deciding whether certain treatment amounts to torture, the Court takes into account factors of each individual case, such as the duration of the treatment, its physical and mental effects, and the age, sex, health and vulnerability of the victim. In the *Ireland v UK* case, the Court decided that the UK’s actions did not cause the level and intensity of suffering necessary to amount to torture but did constitute inhuman and degrading treatment.²⁴³

²⁴² United Nations, ‘UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT)’ <<https://www.ohchr.org/en/professionalinterest/pages/CAT.aspx>> accessed August.

²⁴³ Crush J, ‘What is Torture? How do Human Rights Prevent and Remedy It?’ Human Rights News, Views & Info (26 June 2017) <<https://rightsinfo.org/torture-human-rights-prevent-remedy/>> accessed 14 August 2018.

According to Crush, whereas some Human Rights Conventions have a built-in limitation on some rights; for instance, the limitation or suspension of the right to freedom of speech in certain circumstances may be justified if it is necessary in a democratic society to protect the rights and freedoms of others.²⁴⁴ He contends that ‘freedom from torture, Article 3 ECHR, does not have any built-in limitations’.²⁴⁵ Furthermore, he contends that:

The ban on torture requires States to treat people in a humane way at all times. Beyond banning the State, itself (and its agents) from actively inflicting torture, freedom from torture in some circumstances imposes a responsibility on the State to protect people from real and immediate risks of torture by other persons. States are also prohibited from ‘derogating from’ (suspending) the right to freedom from torture in times of war or public emergency threatening the life of the nation. As such, freedom from torture is guaranteed at all times. It reflects one of the most basic commitments of a civilised, democratic society.²⁴⁶

Arguably, some incidences of domestic violence, in my opinion, can reach the threshold of ill-treatment and suffering that could amount to torture. The case of Valiuliene is an example. I am persuaded to believe that based on the ill-treatment, suffering, duration and vulnerability of the applicant that the Court found a violation of Article 3. It may be helpful if the Court clarifies in the future, when the opportunity arises again as in the case of Valiuliene, the bases for finding Article 3 violation. Furthermore, I believe the Court is determined to send a strong message that domestic violence incidences could amount to the violation of Article 3 either on the bases of inhuman and degrading treatment or torture or both. Thus, transforming people’s perception that would otherwise believe that domestic violence is not a serious crime that could amount to the violation of Article 3 of the ECHR.²⁴⁷ This may be the reasoning behind the decision by the Lithuania authorities to concede to the violation of Article 8 thinking that the Court would

²⁴⁴ *ibid.*

²⁴⁵ *ibid.*

²⁴⁶ *ibid.*

²⁴⁷ Craig Scott (ed), *Torture as Tort: Comparative Perspectives on the Development of Transnational Human Rights Litigation* (Bloomsbury Publishing 2001) 669; Office of the High Commissioner for Human Rights (OHCHR), ‘Interpretation of Torture In the Light of the Practice and Jurisprudence of International Bodies’ (OHCHR publication 2011).

be reluctant to accept the treatment and suffering of the applicant to amount to a violation of Article 3.²⁴⁸

Furthermore, I have concerns regarding the amount of non-pecuniary award given by the Court when it finds a violation of the Convention's provisions on domestic violence cases. For instance, in the case of *Valiuliene v. Lithuania*, I consider the award of €5,000 as not proportionate to the negligent act of the State to effectively protect the applicant from the horrors of serial domestic abuse by her husband. The non-pecuniary award in most of the domestic violence violations found by the Court is not adequate as I believe they are not dissuasive enough and fail to send a strong message about the seriousness of the crime of domestic violence. The award should not be viewed as a "windfall or bonanza" for the victims, but to act as a deterrent to states that are negligent of their duties under the Convention.²⁴⁹ This should also reflect on the punitive measures put in place by states in their national measures to tackle the issue of domestic violence.

6.4.2 The Council of Europe Convention on preventing and combating violence against women and domestic violence (Istanbul Convention) 2011

The Istanbul Convention is a significant instrument and a progressive addition to the existing regional human rights laws in Europe to tackle violence against women and domestic violence. It is a recognition by the Council of Europe of the complex nature and dynamics of domestic violence, which generic human rights conventions may be too broad to adequately and effectively serve as an instrument to combat it. The distinct nature of domestic violence requires a specific law which considers several unique techniques deployed by perpetrators to abuse their victims, the vulnerability of the victims, and the victim's handicap in securing their safety. Thus, the Istanbul Convention is a welcome development which would consolidate existing regional and international human right laws in the struggle to eradicate gender-based violence in Europe.

²⁴⁸ Ronagh McQuigg (n 231).

²⁴⁹ *ibid.*

The Convention was adopted and opened for signature on 11 May 2011 and entered into force on 1 August 2014.²⁵⁰ Six years after it opened for ratification, 22 countries have signed the Convention but have not ratified it; hence, it has not entered into force in those countries.²⁵¹ Similarly, the Convention has entered into force in 22 countries through ratification/accession.²⁵² Ireland signed the Convention after a sustained campaign by women’s rights groups and civil society on 5 November 2015 and is yet to ratify it before it can enter into force in the country.²⁵³ However, the Convention has started having an impact in Ireland through legislative and administrative practice. It was in compliance to Article 52 of the Convention (Emergency Barring Order) that led to the inclusion of Section 9 in the Domestic Violence Act 2018.²⁵⁴

The Convention contains many progressive intervention strategies in combating domestic violence, supporting the victims, and ensuring the full realisation of its objectives. It has a monitoring body contained in Article 66 (1) ‘The Group of experts on action against violence against women and domestic violence (hereinafter referred to as “GREVIO”) shall monitor the implementation of this Convention by the Parties’.²⁵⁵ The inclusion of Article 11 on disaggregated data collection at intervals and supporting research in the field would assist in ensuring the compliance of state organs in recording and keeping data, which has been an issue in Ireland and some other countries.²⁵⁶ Another interesting provision is the awareness-raising contained in Article 13. Awareness-raising is vital in educating people about gender-based violence. The provision of legal aid contained in Article

²⁵⁰ Council of Europe ‘Istanbul Convention Action against violence against women and domestic violence’ Historical Background <<http://www.coe.int/en/web/istanbul-convention/historical-background>> accessed 6 May 2017.

²⁵¹ *ibid.*, ‘Chart of signatures and ratifications of Treaty 210’ <<http://www.coe.int/en/web/conventions/full-list/-/conventions/treaty/210/signatures>> accessed 6 May 2017.

²⁵² *ibid.*

²⁵³ *ibid.*

²⁵⁴ Domestic Violence Bill Article 8 (Seanad) (Number 13 of 2017).

²⁵⁵ The Istanbul Convention, Article 66 – The monitoring body, GREVIO, held its 10th meeting, from 3 to 5 April 2017 in Strasbourg, and visited Albania between 24 to 28 April. ‘The organisation of this visit follows GREVIO’s review of Albania’s state report on 5 April. It is one of the steps in the procedure to monitor the implementation of the Istanbul Convention’.

²⁵⁶ Orla O’Connor, ‘Data holds key to tackling violence against women’ *The Irish Times* (Dublin, 24 April 2017).

57 states that ‘Parties shall provide for the right to legal assistance and to free legal aid for victims under the conditions provided by their internal law’.²⁵⁷ I have concerns on the non-obligatory duty of the States to provide legal aid to “established” victims of violence against women (VAW) and domestic violence. The condition attached to this provision leaves a loophole for States to abdicate from their obligation in this regard. In Ireland, everyone seeking legal aid assistance is subjected to a “means test” of their income to ascertain if they are within the threshold for granting them legal aid. The practice of means testing may deprive a victim who may slightly be above the threshold but may not be able to foot his/her legal bill in pursuance of his/her rights. In such situation, the victim may likely abandon the case and continue to suffer in silence with its attendant consequences. Ireland made a reservation on Article 6 (3) (c), the provision of legal aid, when ratifying the ECHR.²⁵⁸ I recommend automatic provision of legal aid to victims of VAW and domestic violence, regardless of their financial status.

The Convention recommends the prohibition of mandatory alternative dispute resolution process, including mediation and conciliation.²⁵⁹ I support the prohibition of mandatory alternative dispute resolution methods that may result in the perpetrator not being sentenced to the extent of the offence. According to Davis, ‘Despite extensive debate concerning the advantages and disadvantages of mediating cases involving domestic abuse, most individuals consider mediation to be inappropriate’.²⁶⁰ Conversely, some people support mediation as they believe it is ‘designed as an alternative to present conflict resolution models, specifically litigation’.²⁶¹ I contend that mediation may be inappropriate in situations where the victim was subjected to a severe physical, verbal and psychological abuse. In such

²⁵⁷ The Istanbul Convention, Article 57.

²⁵⁸ Ireland made a reservation concerning Article 6 (3) (c). The reservation reads: ‘The Government of Ireland do hereby confirm and ratify the aforesaid Convention and undertake faithfully to perform and carry out all the stipulations therein contained, subject to the reservation that they do not interpret Article 6.3.c of the Convention as requiring the provision of free legal assistance to any wider extent than is now provided in Ireland’.

²⁵⁹ The Istanbul Convention, Article 48.

²⁶⁰ Davis A, ‘Mediating Cases Involving Domestic Violence: Solution or Setback’ (2007) 10 (14) <<https://cardozo.jcr.com/vol8no1/CAC101.pdf>> accessed 14 August 2018.

²⁶¹ *ibid.*

situations, mediation is inappropriate as I believe the perpetrator should face the consequences of his/her actions.

The Convention recommends robust sanctions for perpetrators of violence which should be effective, proportionate and dissuasive taking into consideration the seriousness of the offence. The Convention states that the ‘These sanctions shall include, where appropriate, sentences involving the deprivation of liberty which can give rise to extradition’.²⁶² The issue of appropriateness of sanctions have been a subject of debate not only in domestic violence incidents but in all forms of crimes. The recommendation of effective, proportionate and dissuasive sanctions for offences of violence as contained in the Convention, in my opinion, is in recognition of the seriousness of the crime of domestic violence. In Ireland, there have been several cases where perpetrators of sexual offences were given sanctions which some members of the society believe was not proportionate and dissuasive enough.²⁶³ Hence, there were always agitations to appeal the leniency of such sentences. These agitations have resulted in the increase of the penalty of some alleged lenient sentences handed down to sexual offenders.²⁶⁴

On the issue of ensuring that support services are made available to the victims of domestic violence, the Convention states that:

Parties shall take the necessary legislative or other measures to ensure that victims have access to services facilitating their recovery from violence. These measures should include, when necessary, services such as legal and psychological counselling, financial assistance, housing, education, training and assistance in finding employment.²⁶⁵

Furthermore, under article 20 (2):

Parties shall take the necessary legislative or other measures to ensure that victims have access to health care and social services and that services are adequately resourced, and professionals are trained to assist victims and refer them to the appropriate services.²⁶⁶

²⁶² *ibid*, Article 45.

²⁶³ McEnroe J, ‘Lenient sentence for sex offence brings judiciary into disrepute, Dáil told’ *Irish Examiner* (27 October 2017).

²⁶⁴ Giblin R, ‘Jail term for rapist and child abductor increased to 19 years’ *The Irish Times* (3 November 2017).

²⁶⁵ The Istanbul Convention, Article 20 (1).

²⁶⁶ *ibid*, Article 20 (2).

The importance of provision of shelter to the victims of domestic violence cannot be overemphasised. Article 23 of the Convention states that:

Parties shall take the necessary legislative or other measures to provide for the setting-up of appropriate, easily accessible shelters in sufficient numbers to provide safe accommodation for and to reach out pro-actively to victims, especially women and their children.²⁶⁷

As stated earlier in this section, the monitoring body of the Convention is GREVIO, which is made up of a group of experts against violence against women and domestic violence.²⁶⁸ They are tasked with the monitoring implementation of the Convention's provisions by state parties. As McQuigg comments:

The main monitoring mechanism for the Convention is a reporting procedure, similar to that of the UN human rights treaties, such as CEDAW. Under article 68(1) of the Convention, states parties must submit an initial report on national measures giving effect to the Convention's provisions, for consideration by GREVIO. This report should be prepared with reference to a questionnaire prepared by GREVIO. Subsequent reports should be submitted periodically at intervals to be determined by GREVIO.²⁶⁹

Some commentators are of the view that one of the potential difficulties of implementing the Convention is its enforcement mechanism.²⁷⁰ The lack of an effective enforcement system that has a robust penalty mechanism has been identified as a potential limitation to the realisation of the Convention's goals and objectives. Byrne states that 'the limitations of international law generally when it comes to enforcement of binding standards are well known, and international human rights law is no exception in that regard.'²⁷¹ He attributes these limitations to 'lack of an international policing force that demands compliance with

²⁶⁷ *ibid*, Article 23.

²⁶⁸ *ibid*, Article 66.

²⁶⁹ McQuigg R, 'What Potential Does the Council of Europe Convention on Violence against Women Hold as Regards Domestic Violence (2012) *The International Journal of Human Rights* 1.

²⁷⁰ *ibid*.

²⁷¹ Byrnes A, 'Enforcement thought International Law and Procedures' in *Human Rights of Women – National and International Perspectives* ed. Rebecca Cook (University of Philadelphia Press, PA) 191 – 192.

international edicts'.²⁷² Despite the potential implementation difficulties of the Convention, McQuigg contends that:

... the adoption by the Council of Europe of the Convention on Preventing and Combating Violence against Women and Domestic Violence is certainly very much to be welcomed, ... and that this instrument will make an important contribution to the movement to combat gender-based violence.²⁷³

6.5 Conclusion

The chapter illustrates the Irish Government and NGO's response to domestic in Ireland. A number of issues were raised, including the creation of a specialised domestic violence unit within the An Garda Siochana and the need to assist migrant communities through making funds available to them for organising domestic violence awareness seminars. Finally, there was a discussion on the European Court of Human Right's jurisprudence on domestic violence and the Council of Europe Convention on preventing and combating violence against women and domestic violence (Istanbul Convention) 2011. In the next chapter, I will appraise the efficacy of law in combating domestic violence with a focus on whether outlawing the issue alone is enough to tackle it.

²⁷² *ibid.*

²⁷³ McQuigg (n 272).

Chapter Seven

What has Law Got to do with it?

This chapter contains three sections:

Section one examines law as an instrument of social change and the effectiveness of law in changing peoples' perceptions and attitudes.

Section two explores the debate on legal pluralism and the interaction between state and non-state laws in a society with a view on how they could be harnessed to tackle the issue of domestic violence.

Section three examines whether law alone is enough in the effort in combating domestic violence.

Section One



7.0 Introduction

As the aim of this research is to determine the impact of law in transforming peoples' perceptions and attitudes toward domestic violence. Therefore, this chapter focuses on the potency of "law" as a tool for effecting change in a society. I will begin the discussion in section one by appraising the role of law as enacted through formal state structures (the constitution, common law and acts of parliament) in effecting behavioural change in society. I consider this discussion on "law as an instrument of social change" as necessary because social change is an issue of importance in this thesis as the research focusses on the impact and effectiveness of law in addressing domestic violence. As I mentioned in the introduction and background to the study in chapter one, domestic violence has been recognised as a social problem, and law is one of the tools commonly used in tackling it.¹

In section two, I will discuss the interplay between state and non-state laws in addressing domestic violence in the context of legal pluralism. Roseveare defines

¹ United Nation (UN), 'More countries have laws banning domestic violence, says UN women's rights official' UN News Centre' 'The number of countries with laws tackling the scourge of domestic violence has surged in the last three years, with 89 States now with some sort of provisions, the head of the United Nations Development Fund for Women (UNIFEM Executive Director, Noeleen Heyzer, told reporters in New York on 22 November 2006) <<http://www.un.org/apps/news/story.asp?NewsID=20703&Cr=unife>> accessed 12 December 2017.

legal pluralism as ‘...the existence of multiple sources of law (both state and non-state) within the same geographical area’.² He further comments that:

Although the rule of law is often represented as law being made and administered by the state, a growing body of literature suggests that the provision of a range of different legal and quasi-legal security and justice mechanisms creates choices for individuals, communities, and even the state itself.³

The necessity to discuss legal pluralism in this chapter becomes obvious because of the existence of multiple sources of law in Nigeria.⁴ Beside the Nigeria Government structures as discussed in chapter five, there are other non-state regulatory bodies which make laws that regulate the activities of people in various communities in Nigeria. For instance, customary laws are made by Kings and Chiefs and they regulate certain practices in their domain.⁵ Also, there are several non-state actors that make laws and exercise great influence on their subjects.⁶

In section three, I will appraise whether law on its own is enough to combat domestic violence.

7.1 Law as an instrument of social change

Social change, according to Janowitz, means that society (or a large part of it) ‘is engaging in activities or behaviour which they or their parents were either not used to or indifferent about’.⁷ Leicht defines social change as a ‘significant alteration of social structure and cultural patterns through time. Social structure refers to

² Caroline Roseveare, ‘The rule of law and international development’ (2013) Research & Evidence Division Evidence Products (DFID) <<https://assets.publishing.service.gov.uk>> accessed 12 December 2017.

³ *ibid.*

⁴ Abdulmumini A Oba, ‘Religious and Customary Laws in Nigeria’ (2011) 25 (2) Emory International Law Review <<http://law.emory.edu/eilr/content/volume-25/issue-2/religious-nigeria/religious->customary-laws-nigeria.html>> accessed 25 August 2017.

⁵ E. Bankole Oladumiye and Bolajoko Esther, ‘Monarchical Activities of the Yoruba Kings of South Western Nigeria: A Cultural Heritage in Printmaking Visual Documentary’ (2014) The Arts Journal <<http://www.theartsjournal.org/index.php/site/article/viewFile/516/311>> accessed 20 August 2017.

⁶ Lambert H B Asemota, ‘Non-State Law in Nigeria: A “Treasure Trove” or “Pandora’s Box”?’ (2017) I Austrian Law Journal 39 <<http://alj.uni-graz.at/index.php/alj/article/view/73>> accessed 12 December 2017.

⁷ Morris Janowitz, ‘Sociological Theory and Social Control’ (1975) 81(1) American Journal of Sociology, 82.

persistent networks of social relationships where interaction between people or groups has become routine and repetitive'.⁸ Social theorists posit that social change yields "profound social consequences". Some social changes have occurred in family and gender relations.⁹ The feminist movement has been instrumental in securing social change in family and gender relationships. Consequently, the issue of women's political, legal, economic, and managerial under-representation is being addressed in many jurisdictions. Similarly, feminist movements continue to inspire social change in areas such as women's human rights, particularly regarding female genital mutilation, VAW, and domestic violence. Though, some feminists are critical of the law as men's hegemonial tool of subordination against women; however, many feminists believe that law is an appropriate tool to empower women out of positions of inferiority.¹⁰

According to Lippman, there is a school of thought that defines law as a 'self-contained system that is isolated from economics, politics, psychology, and history'.¹¹ However, he holds a contrary view that law and society 'takes a multidisciplinary approach and draws on anthropology, history, political science, psychology, sociology, and philosophy, as well as law and jurisprudence'.¹² Friedman expands on Lipman's view of law by contending that law is both an independent and dependent variable in a society that interacts with other social systems.¹³ He maintains that law 'influences social attitudes and practices'.¹⁴ Pound contends that the role of law is to 'reconcile interests and to ensure that society remains in balance'.¹⁵ Pound in extolling the virtues of law over other means of social control states that 'law is the most important of various

⁸ Kevin T Leicht, 'Social Change' (2013) Oxford Bibliographies
<http://www.oxfordbibliographies.com/view/document/obo-9780199756384/obo-9780199756384-0047.xml> accessed 18 May 2017.

⁹ CliffsNotes, 'Social Change Defined' (2016) <<https://www.cliffsnotes.com/study-guides/sociology/social-change-and-movements/social-change-defined>> accessed 18 May 2017.

¹⁰ Natalie Renée Beulah Persadie, 'A critical analysis of the efficacy of law as a tool to achieve gender equality and to address the problem of domestic violence: the case of Trinidad and Tobago' (PhD Thesis, Birmingham University 2007) 22 - 56.

¹¹ Matthew Lippman, *Law and Society* (Sage Publications 2014).

¹² *ibid.*

¹³ Lawrence Friedman, *Law and society: an introduction* (Prentice-Hall 1977) 12.

¹⁴ *ibid.*

¹⁵ Roscoe Pound, *Social Control Through Law* (Transaction Publishers 2002) 65.

mechanisms of social control'.¹⁶ In elaborating on Pound's vision of law, Parsons describes law as:

The tissue that keeps the parts of the body functioning and cooperating together. Individuals on a daily basis obey the rules of the road, businesses follow the terms of contracts, and landlords and tenants respect the terms of a lease. In other words, law establishes the understanding and expectations that keeps society functioning in a smooth and integrated fashion.¹⁷

According to Lippman, law assists in bringing about social change, as it gradually transforms peoples' perceptions and attitudes toward the act it is designed to abolish.¹⁸ Hence, law facilitated the abolition of segregation in the American school system as well as equal access to restaurants, hotels, and other facilities across America.¹⁹ According to Chantia:

Law brings about social change both directly and indirectly. In many cases law interacts directly with social institutions and brings about obvious changes. A law prohibiting polygamy has a direct influence on society. It alters the behaviour of individuals. On the other hand, law plays an indirect role by shaping various social institutions which in turn have a direct impact on society. For example, the system of compulsory education enables the functioning of educational institutions which in turn leads to social change.²⁰

Lippmann argues that law not only brings about social change, but it also creates rights. For example, the right to vote by women and African Americans were products of law.²¹ Though these changes may be resisted initially as Lippman argues, with time, they become the norm, internalised in the mentality of the society.²² As Chantia clarifies:

Thus, law entails two interrelated processes - the institutionalisation and the internalisation of patterns of behaviour. Institutionalisation means the creation of norms with provisions for its enforcement, whereas internalisation means the incorporation and acceptance of values implicit in

¹⁶ *ibid.*

¹⁷ Talcott Parsons, *The Social System* (Routledge 1991).

¹⁸ Matthew Lippman (n 11).

¹⁹ *ibid.*

²⁰ Alok Chantia, 'Social Change and Law – Sociological Study on Dhankut of District Bahraich Of U.P.' (20 December 2016) < http://alokchantia.weebly.com/.../social_change_and_law.pdf > accessed 25 May 2017.

²¹ *ibid.*

²² *ibid.*

a law. When the institutionalisation process is successful it, in turn, facilitates the internalisation of attitudes and beliefs.²³

However, there is another school of thought that holds a contrary view about the role of law as a vehicle for social change. The proponents of this theory believe that changes in law may be induced by a voluntary shift in society's customs, ethics, perspectives, and attitudes on any social issue.²⁴ In such situations, the law is reactive and follows social change. A classic example is the equality referendum in Ireland on 22 May 2015, which gave the impetus for the Thirty-Fourth amendment of the Irish Constitution permitting same-sex marriage in Ireland. Hence, Ireland became the first sovereign state in the world to pass a law by referendum allowing same-sex couples to marry - The Marriage Act 2015.²⁵ As Judge asserts, 'The law, which is moulded through public opinion is thus the result of state action in accordance with the public opinion...Public opinion [thus] becomes law'.²⁶

In discussing law as an instrument of social change, especially in the context of domestic violence and human rights, it is pertinent to note that in most jurisdictions, there may be more than one normative body of law in operation. The interaction between these bodies has been a major concern for human rights advocates on the bases that non-state laws do not adequately protect the human rights of its subjects.²⁷ In the next section, I will discuss the notion and concept of legal pluralism and assess the implication in achieving gender parity and in combating domestic violence in Nigeria and Ireland.

²³ Alok Chantia (n 20).

²⁴ Ysrao Judge, 'Law and Social Change' (2012) Legal Services India
<<http://www.legalservicesindia.com/article/article/law-and-social-change-1171-1.html>>
accessed 25 May 2017.

²⁵ Ireland held a referendum on 22 May 2015 which brought about the Thirty-Fourth Amendment to the Irish Constitution and the enactment of the Marriage Act 2015. [Emphasis added].

²⁶ Ysrao Judge (n 24).

²⁷ Ryan Goodman and Thomas Pegram, *Human Rights, State Compliance, and Social Change: Assessing National Human Rights Institutions* (Cambridge University Press 2011) 12.

Section Two

7.2 Legal Pluralism

The concept of legal pluralism is underpinned by the notion that ‘state law is not the only reglementary force in modern, Western society, not to mention the rest of the world’.²⁸ According to Griffiths, ‘legal pluralism referred to and resulted from the fact that not all law is state law administered by a single set of state-sponsored institutions’.²⁹ As legal pluralists argue, there exists in every state, other legal regimes that operate in sub-regions, communities, and social entities alongside state-sponsored law.³⁰ Like State laws, these laws perform regulatory functions in their respective polities, and most are well developed, incorporating modes of adjudication, sanctions, and fairness in their dispensation of justice. Legal pluralists continue to denounce the ideology of legal centrism, which posits that ‘law is and should be the law of the state, uniform for all persons, exclusive of all other laws, and administered by a single set of state institutions’.³¹ The proponents of legal pluralism fiercely contends the notion that other legal regulatory systems in any society such as customary and religious laws, social, voluntary, and recreational rules ‘ought to and are in fact hierarchically subordinate to law and institutions of the state’.³² Consequently, Griffith contends that ‘Legal pluralism is a fact. Legal centralism is a myth, an ideal, a claim, an illusion’.³³

Despite the divergent views by proponents of legal pluralism on the sources of legitimate law, Jonathan Crowe postulates that ‘Law derives its efficacy from the way it shapes the content of social norms. The norms people follow in their social

²⁸ Sherman A Jackson, ‘Legal Pluralism Between Islam and the Nation-State: Romantic Medievalism or Pragmatic Modernity?’ (2006) 30 (1) Fordham International Law Journal 5.

²⁹ John Griffiths, ‘What is Legal Pluralism?’ (1986) 32 (24) Journal of Legal Pluralism and Unofficial Law 1.

³⁰ Sherman A Jackson (n 28); Jonathan Crowe, ‘The limits of legal pluralism’ 24 (2) Griffith Law Review 314; Franz von Benda-Beckmann, ‘Who’s Afraid of Legal Pluralism?’ (2002) 34 (47) The Journal of Legal Pluralism and Unofficial 37.

³¹ John Griffiths (n 30).

³² *ibid.*

³³ *ibid.*

lives reflect a broad range of influences and sources'.³⁴ In most contemporary societies, there existed era of colonialism. Thus, during the colonial era in Asia and Africa, for example, the colonial masters introduced their legal systems and institutions, which operated alongside the customs, traditions and religions of the natives.³⁵ Some of the customs, traditions and religions of the natives were recognised and incorporated in the legal systems of the colonial master, and this practice continued after independence in most colonised countries.

The Nigerian Constitution recognised customary ethnic laws.³⁶ The Nigerian Constitution provides that 'Subject to the provisions of this Constitution, an existing law shall have effect with such modifications as may be necessary to bring it into conformity with the provisions of this Constitution...'.³⁷ Sharia, a religious law, was incorporated into the Nigerian Constitution to operate alongside secular state law in Nigeria.³⁸ Besides the customary and religious laws recognised by the Nigerian Constitution, there are myriads of sub-regional traditions and customs that have a profound influence in localities where they exist.³⁹ In addition, non-state actors such as the Boko Haram in Nigeria compels their subjects and captives to adhere to Islamic fundamentalist principles.⁴⁰ These laws non-state laws interact with state laws in Nigeria both in an adversarial and complimentary manner.⁴¹

³⁴ Jonathan Crowe, 'The limits of legal pluralism' 24 (2) Griffith Law Review 314.

³⁵ In Nigeria as many other British Colonies, the customary laws of the ethnic groups were recognised by the colonial government, sometimes, with a condition that it must not be contrary to public policy and is not in accordance with natural justice, equity and good conscience. The First Governor-General of Nigeria, Lord Lugard states that 'The British courts shall in all cases affecting natives (and even non-natives in their contractual relations with natives) recognize native law and custom when not repugnant to natural justice, and humanity or incompatible with any ordinance, especially in matters relating to marriage, land, and inheritance'. For example, in *Dawodu v. Danmole*, [1962] 1 W.L.R. 1053, the Privy Council upheld a Yoruba custom of inheritance through the *Idi-Igi* system, in which the estate is divided in equal shares by the number of wives, with each child then taking an equal share of the portion allotted to his mother's branch of the family.

³⁶ Constitution of the Federal Republic of Nigeria 1999 Section 282; Sections 237(2)(b), 288.

³⁷ Section 315 1999 Constitution of the Federal Republic of Nigeria.

³⁸ Vanessa Emery, 'Women's Inheritance Rights in Nigeria: Transformative Practices' (2005) University of Toronto, Canada 4 <https://www.law.utoronto.ca/documents/ihrp/HIV_emery.doc> accessed 24 May 2017.

³⁹ *ibid* – 'There are also a series of lower level area and customary courts that apply customary law, as well as indigenous systems of justice which are outside of the formal court system'.

⁴⁰ Abimbola O Adesoji, 'Between Maitatsine and Boko Haram: Islamic Fundamentalism and the Response of the Nigerian State' (2011) 57 (4) Africa Today 9.

⁴¹ Johnson Olusegun Ajayi and Benard Owumi, 'Ethnic pluralism and internal cohesion in Nigeria' (2013) 2 (2) International Journal of Development and Sustainability 926; Rose C Uzoma, 'Religious Pluralism, Cultural Differences, and

Similarly, in Ireland, the arrival and settlement of migrants has resulted in the emergence of customary normative practices and religious laws that operate alongside formal State's laws and institutions.⁴² These laws and practices may continue to be introduced into the country by migrants from their countries of origin. Thus, in the next section, I will examine the role of these non-state laws in tackling domestic violence.

7.2.1 Non-State Laws and Domestic Violence – Prospects and Challenges

The expression, law, wherever used in this work, denotes the positivists' notion of law, which is 'the law of the state, uniform for all persons, exclusive of all other laws, and administered by a single set of state institutions'.⁴³ In other words, these are the constitutional provisions, statutory and common law of any country, including regional and international treaties applicable in the country. It excludes any other law applicable to different communities, organisations, social and religious associations within a country, whether officially recognised or not. These are the type of laws referred to as "Non-State" laws in this work.

As discussed in chapter five, there are about 300 different ethnic nationalities in Nigeria, and each of them has its unique language, culture, and tradition.⁴⁴ Though some of the languages, cultures and traditions may be similar or belong to the same regional grouping, notable distinctions exist amongst them.⁴⁵ Similarly, as stated previously in chapter five, religion is another source of classification among the populace in Nigeria.⁴⁶ Amidst these different religious, ethnic, cultural, and traditional groupings, there are sub-divisions.⁴⁷ In relation to the influence of customary laws in the lives of Nigerians, Ezeilo observed that close to 92% of people in Nigeria have their lives governed by customary laws in relation to

Social Stability in Nigeria' (2004) 2 (10) *BYU Law Review* 652.

⁴² Colette Colfer, 'Muslims in Ireland: Adaptation and Integration' (Master of Arts Thesis, Waterford Institute 2009) 12.

⁴³ John Griffiths (n 30).

⁴⁴ Dons Eze, 'Nigeria and the crisis of cultural identity in the era of globalization' (2014) 6 (8) *Journal of African Studies and Development*. 140.

⁴⁵ *ibid.*

⁴⁶ Adefi M Olong, *The Nigerian Legal System* (2ed, Malthouse Press Limited 2009) 1 - 15.

⁴⁷ *ibid.*

inheritance rights.⁴⁸ Consequently, any attempt to limit or to prohibit these customary laws is ignored or resisted.⁴⁹ This may be one of the reasons women's inheritance rights are non-existence or limited in some areas in Nigeria. Likewise, it may be one of the reasons domestic violence and FGM are still rampant in some localities in Nigeria, despite court judgments and laws prohibiting them.

McQuigg opines that when courts invalidate customary laws that are repugnant to human rights norms, it does not necessarily translate into the elimination of the custom.⁵⁰ According to McQuigg, 'Even if a court does make a progressive and dynamic judgment, effective results will not always ensue'.⁵¹ Similarly, Rosenberg posits that 'Legal victories do not automatically or even necessarily produce the desired change'.⁵² Furthermore, Epp states that 'There are limits to the social changes produced by judicial rulings, and those rulings depend on support from government officials'.⁵³ Evidently, it appears that the reform of customary laws through judicial pronouncement is limited. This necessitates finding an approach that supports and/or supplements the effectiveness of court judgments and regulation in eliminating customs that are repugnant to human rights.

One approach is to engage the community and religious leaders (custodian of customs) of the ethnic group to educate, enlighten, and sensitise them concerning the consequences of domestic violence and the need to prescribe it in their communities. As Epp contends, the support of government officials is necessary to effect social change through court rulings.⁵⁴ I am of the view that without support from traditional and religious leaders, it will be difficult to implement court decisions and elicit obedience from local people. The traditional and

⁴⁸ Joy Ezeilo, 'Laws and Practices Relating to Women's' Inheritance Rights In Nigeria: An Overview' (undated)
<<http://www.muslimpersonallaw.co.za/inheritancedocs/lawandpractices%20in%20nigeria.pdf>>
accessed 23 May 2017.

⁴⁹ Jonathan C Madu, 'Domestic Violation legislation for development, peace and security in Nigeria' (2015) 24 (3) 279.

⁵⁰ Ronagh McQuigg, International Human Rights Law and Domestic Violence: *The effectiveness of International human rights law* (New York, Routledge 2013) 17.

⁵¹ *ibid.*

⁵² G N Rosemberg, *The Hallow Hope: Can Courts Bring About Social Change?* (University of Chicago Press 1991).

⁵³ C R Epp, *The Rights Revolution* (University of Chicago Press 1998) 78.

⁵⁴ G N Rosemberg (n 52).

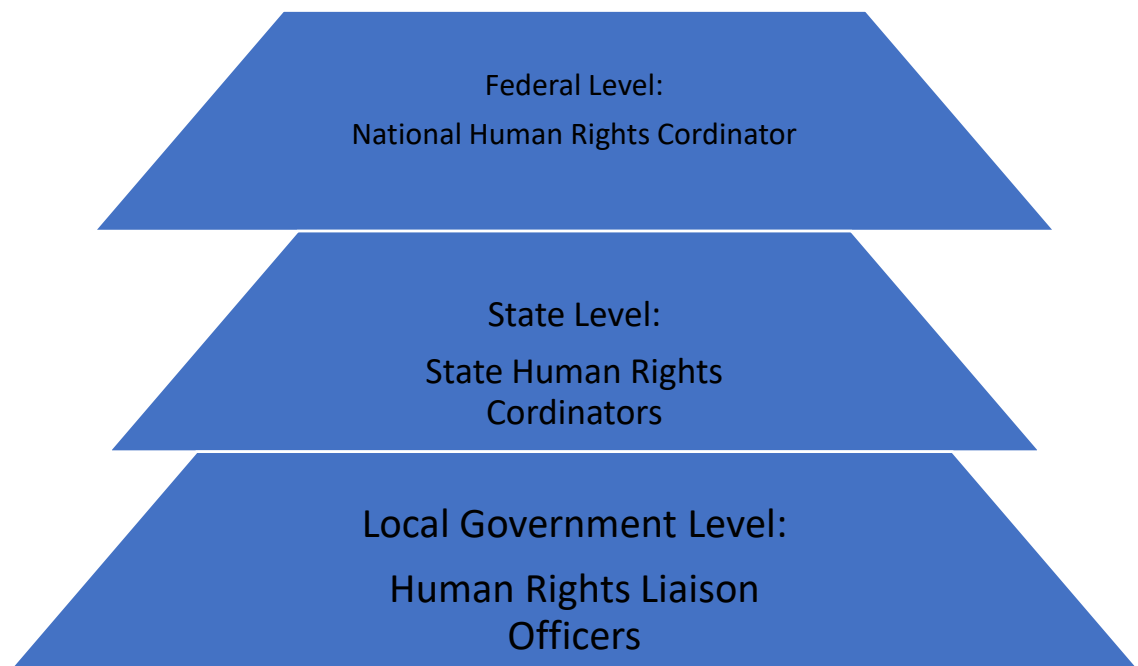
religious leaders as Ifemeje observes, exact great influence on their subjects.⁵⁵ Hence, liaising with them will enhance the acceptance of human rights norms in their communities. As Moscrop asserts, ‘the acceptance of human rights norms into popular culture, political society, and behaviour is the most powerful method of enforcement’.⁵⁶

From the foregoing, to achieve the desired social change in relation to eliminating customs that are repugnant to human rights in Nigeria, the government and NGOs need to liaise with the traditional and religious leaders in raising awareness about domestic violence. The NGOs should endeavour to have local branches covering as many regions as possible. The current situation where most of the NGOs’s offices are located in the major cities, is limiting their campaign outreach to the people in rural localities. For effective coordination, implementation and monitoring of national and international laws on human rights in the country as well as collecting reliable data for policy formulation and evaluation, I suggest the appointment of human rights coordinators in each level of government in Nigeria as explained below.

⁵⁵ Ifemeje S C and Umejiaku N, ‘Discriminatory Cultural Practices and Women’s Rights among the Igbos of South-East Nigeria: A Critique’ (2014) 25 *Journal of Law, Policy and Globalization* 18.

⁵⁶ Hanna Moscrop, ‘Enforcing International Human Rights Law: Problems and Prospects (Cardiff University, April 2014) <<http://www.e-ir.info/2014/04/29/enforcing-international-human-rights-law-problems-and-prospects/>> accessed 3 June 2017.

Figure 9: Proposed three levels of Human Rights coordinators in the three arms of government in Nigeria



At the Local Government level, the primary duty of the human rights liaison officers would be to liaise with the religious and community leaders and groups in creating awareness of human rights in their communities.⁵⁷ Similarly, in consonance with the community and religious leaders, the liaison officers would devise effective means of prescribing these norms and practices that infringe on peoples' human rights and fundamental freedoms. The liaison officers will be responsible for organising seminars and town hall meetings to enlighten people about domestic violence and available support services. In addition, they will keep a record of incidences of domestic violence reported to them and court convictions and orders. The liaison officers will report to the state coordinator of human rights who will be responsible for coordinating the activities of the liaison officers and assist in formulating state and national policies. At the state and national levels, the state coordinators will collate liaison officers' records and send them to the

National coordinator for the re-evaluation of the existing policy, and to serve as a guide for future policy formulation.

The proposed appointment of Human Rights Liaison Officers in the three levels of government in Nigeria denotes a bottom-up approach to creating human rights awareness in the country as opposed to the top-down approach being used by the government. The proposal if implemented, is likely to generate a feeling of recognition among the community and religious leaders and may motivate them to take up the challenge of outlawing human rights abuses in their communities. In addition, the leaders would be tasked with the responsibility of monitoring compliance in consonance with the law enforcement authorities. This, ultimately, may result in a “win win” situation for all concerned. The ultimate goal is to ensure that homes are free from violence and to uphold peoples’ human rights.

Ireland has become cosmopolitan in recent times, and more than 50 ethnic nationalities have made the country their home permanently or temporarily (as in students, diplomats, workers on temporary transfer in the country, etc.).⁵⁸ These migrants, like their counterparts in other countries, have a habit of congregating according to their ethnic or religious groupings. In Ireland, there are many migrant ethnic and religious associations.⁵⁹ These groups have rules which govern them and the interaction with the wider society.⁶⁰ These rules extend to modes of engagement in commercial transactions, social lifestyle, and marriage, among others.⁶¹ Though the rules of these associations are implied to be valid to the extent they are not repugnant to the Irish Constitution and laws.⁶² However, it appears there may be some cultural and religious practices prevalent in these communities that are repugnant to human rights and fundamental freedoms as enshrined in the

⁵⁸ Central Statistics Office, ‘Census 2016’ <cso.ie> accessed 2 June 2017.

⁵⁹ Some of the migrant ethnic group and religious associations in Ireland include, Igbo Union Dublin, Ideato Union Ireland, African Catholic Chaplaincy Dublin, African Catholic Communities of Navan, Drogheda, Dundalk & Ardee (ACCNDDA), Odua People’s Congress (OPC), Igbo Union Cork, Igbo Union Waterford/Kilkenny, etc.

⁶⁰ Almost all the ethnoreligious associations in Ireland have a Constitution which guides them regarding them. For example, is the Igbo Union Dublin (IUD) Constitution which is the rule book of the association.

⁶¹ *ibid.*

⁶² The Irish Constitution is the supreme law in the country which other laws derive their authority. Hence, any law that is repugnant to the Constitution is assumed to be invalid.

Irish Constitution and Statutory laws, as well as regional and international human rights treaties.⁶³

The pertinent question is how these communities could be engaged to support the effort in tackling domestic violence and related issues in Ireland. As suggested earlier in this chapter, the government should engage with communities through their leaders in creating awareness concerning domestic violence and its consequences. The communities should be given special consideration by the office of the National Office for the Prevention of Domestic, Sexual and Gender-based Violence (COSC) in selecting organisations to award the “Awareness Raising Activities” grant. Most of these associations are not aware of the existence of COSC and similar bodies as well as the availability of grants to raise awareness of such issues like violence against women, domestic violence and sexual assault/rape. The ones that may be aware may likely not meet the requirements for awarding such grants. Hence, I suggest granting special considerations to these community and religious associations in the grant award selection process. In addition, COSC should organise training for these communities as a condition for awarding grants to them, in place of requiring them to meet up with the requirements for awarding the grant.

The engagement of the community leaders would not only empower them to tackle issues like domestic violence in their respective communities, it will also inspire them to be conscious of their actions regarding the practice of their customs and traditions that infringe on their subjects’ human rights and fundamental freedoms.

⁶³Joanne McCarthy, ‘Female genital mutilation occurring in Ireland’ (Irishhealth.com 22 October 2008) <<http://www.irishhealth.com/article.html?id=14486>> accessed 12 June 2017.

Section Three

7.3 Is Law Enough?

As calls for robust domestic violence laws continues to gather momentum worldwide, it is patient to ask “if legal regulation is enough” to effectively tackle the issue. Feminists are the vanguards of the advocacy of engaging the justice system in combating domestic violence. According to Heise:

Implicit in the dominant feminist analysis is the principle that the state should treat violence in the private sphere as it does violence in the public sphere - that is, as a crime. To do less excuses domestic abuse, devalues women’s lives and compromises justice.⁶⁴

The underlying principle behind the dominant feminist’s quest for classifying domestic violence as other crimes is to bring the full weight of the law on the perpetrators, who, they believe, are mostly men.⁶⁵ Feminists believe ‘perpetrators should be held accountable for their actions through legal proceedings, including incarceration’.⁶⁶ The feminists’ basic premise for adopting this stance, according to Heise, is because it ‘helps to prevent recidivism and deter abuse’.⁶⁷ However, the critiques of dominant feminists’ focus on the justice system insist that overreliance on law is not achieving the desired outcome in combating domestic violence.⁶⁸ Peterson insists that ‘The ...criminal justice system has generally [been] ineffective at deterring IPV recidivism’.⁶⁹ He observes that:

⁶⁴ Lori Heise, ‘What Works to Prevent Partner Violence? An Evidence Overview’ (2011) (Working Paper 2.0) DFID <<https://www.oecd.org/derec/49872444.pdf>> accessed 13 June 2017.

⁶⁵ Leigh Goodmark, ‘Reframing Domestic Violence Law and Policy: An Anti-Essentialist Proposal’ (2009) 31 (39) *Journal of Law and Policy* 51.

⁶⁶ *ibid.*

⁶⁷ Lori Heise (n 64).

⁶⁸ Richard Peterson, ‘Reducing Intimate Partner Violence: Moving Beyond Criminal Justice Interventions’ (2008) 7 (4) *Criminology & Public Policy* 537.

⁶⁹ *ibid.*

It is time to correct the imbalance between the criminal justice response and other responses to IPV. We need more time, effort, and resources for programmes that empower battered women, promote informal social control, and, most importantly, prevent individuals from committing acts of IPV. To reduce IPV, we need to move beyond responding to victims toward investing more in the prevention of IPV from happening in the first place.⁷⁰

While acknowledging the need to invest in alternative ways that promote social change, I posit that any effort in this direction should be in addition to, and in support of, the current effort in promoting the legal and justice systems' response to domestic violence. Any attempt towards reducing the current momentum in engaging the justice system, in my view, may reverse the progress made so far in tackling the malaise. This observation hinges on research showing the successes of the criminal justice system in tackling the issue of intimate partner violence.⁷¹

According to Heise:

The focus on legal and justice system reform has yielded many important successes over the past 15 years. Many Latin American countries, for example, have implemented a wide range of programmes, policies and laws to counter violence against women. Others have passed important legislative reforms related to rape and domestic violence. Many countries now have inter-institutional commissions that have designed national plans against domestic violence; they have developed policies and protocols to guide the response of the health and judicial sectors; and they have launched specialized services to deal with cases of violence, including special courts.⁷²

Notwithstanding the successes of the justice system in tackling domestic violence, it is evident the justice system needs support to ensure its continued effectiveness in tackling the issue.⁷³ For instance, the provision of support services (accommodation, financial assistance, legal aid, counselling, etc.) to victims of domestic violence may encourage them to take actions, such as leaving the abuser,

⁷⁰ *ibid.*

⁷¹ Christopher D Maxwell, Joel H Garner and Jeffrey A Fagan, 'The Effects of Arrest on Intimate Partner Violence: New Evidence from the Spouse Assault Replication Program' (2001) National Institute of Justice <<https://www.ncjrs.gov/pdffiles1/nij/188199.pdf>> accessed 12 June 2017.

⁷² Lori Heise (n 64).

⁷³ Caitlinrose Fisher, 'Legislation is Not Enough: Turkey Fails to Enforce its Violence Against Women Laws' Global Rights For Women (10 April 2015) <<http://globalrightsforwomen.org>> accessed 11 December 2017.

to safeguard themselves and their dependents.⁷⁴ Furthermore, supporting government and non-governmental organisations involved in domestic violence research and advocacy is necessary to ensure the development of innovative interventionist approaches to tackle the issue.

7.4 Conclusion

The chapter demonstrates how domestic violence is a social problem that requires effective tackling to ensure the transformation of society's' perceptions and attitudes towards it. I suggested the appointment of human rights liaising officers in all the three levels of government in Nigeria. The human rights liaising officers will be responsible for organising seminars and town hall meetings to enlighten people about domestic violence and available support services. Also, the question of whether law alone is enough in combating domestic violence was briefly discussed.

In the next chapter, I will discuss the result of the empirical study as contained in Chapter 3, Methodology and Empirical Fieldwork, to ascertain the impact of the legal regulations and its enforcement in transforming peoples' perceptions and attitudes toward domestic violence. The research findings will be discussed with reference to existing literature. Hence, it will be placed in a wider context with a focus on how it answered the research questions.

⁷⁴ Ronagh McQuigg (n 50).

Chapter 8

Discussion of Findings, Recommendations and Conclusion

This chapter contains two sections:

In section one, I will present the research findings, which involves an in-depth analysis of the findings to explore where they corroborate existing findings of similar studies. In addition, I will also identify areas where the findings depart from previous studies, and I will attempt to explain the reason(s) for the divergence.

In section two, I will present the summary of the research findings and its implications. I will also discuss the limitations of the study and suggest areas for further studies. Lastly, I will make recommendations based on the findings of the study.

Section One

8.0 Introduction

This research is an interdisciplinary socio-legal study. In the study, I adopted a qualitative research method to appraise the efficacy of law in tackling domestic violence through phenomenological analysis of empirical primary data. Furthermore, I used five research questions (**RQ**) to thematically frame the research questions.

- RQ1.** How has the enforcement of domestic violence laws in Ireland impacted on Nigerian immigrants' perceptions and attitudes toward it?
- RQ2.** How has domestic violence awareness campaign in Ireland impacted on Nigerian immigrants' knowledge of it?
- RQ3.** How do Nigerian immigrants feel about the protection of their human rights in Ireland in relation to domestic violence compared to Nigeria?
- RQ4.** How do Nigerian immigrants in Ireland view the reporting of domestic violence to the authorities and organising seminars to enlighten people about it?
- RQ5.** How do Nigerian immigrants in Ireland view outlawing domestic violence throughout Nigeria?

Interpretative Phenomenological Analysis (IPA) method was used to thematically analyse the empirical primary data obtained through semi-structured interview of ten participants. The findings of the analysis were presented in chapter 3 under ten recurrent themes and categories. In this chapter, I will discuss the findings with reference to existing scholarly literature in order to constructively answer the research questions. In addition, I will examine the extent the findings are consistent

with or divergent from existing studies. In that respect, I will attempt to give reason(s) for their consistency or divergence.

9.1 Discussion of findings

RQ1 How has domestic violence legal regulation and enforcement in Ireland impacted on the Nigerian immigrants' perceptions and attitudes toward it?

The research tested **RQ1** to determine the impact domestic violence legal regulation and enforcement has on Nigerian immigrants in Ireland. There are several research that indicates many Nigerians do not perceive domestic violence as a crime.¹ Similarly, many Nigerians regard it as a private and family affair that should be handled by families concerned without the intervention of non-family members and authorities.² According to research carried out by Clifford Odimegwu among Tiv People in Benue State, out of 648 women respondents to the survey questions, '40% agreed to the statement that it is often necessary for a husband to beat the wife'.³ Also, Oyediran and Isiugo-Abanihe carried out a study to determine the perception of wife beating in Nigeria. They derived data for the study from the 2003 Nigeria Demographic and Health Survey (NDHS). Applying both descriptive and analytical methods, to 'assess the net effects of socio-demographic factors on women's perceptions of domestic violence', the result revealed that 62.4% of the 9,810 women interviewed agreed that a husband is justified for beating his wife.⁴

¹ Oli Nneka Perpetua, 'Public perception of violence against women in Urban and Rural Areas of Anambra State' (PhD Thesis, University of Nigeria Nsukka 2012) 11; Aihie Ose N, 'Prevalence of Domestic Violence in Nigeria: Implications for Counselling' (2009) 2 (1) Edo Journal of Counselling 1; Obi S N and Ozumba B C, 'Factors associated with domestic violence in South-East Nigeria' (2007) 27 (1) Journal of obstetrics and gynaecology 75.

² S C Ifemeje, 'Gender-Based Domestic Violence in Nigeria A Socio-Legal Perspective' (2012) 19 (12) Indian Journal of Gender Studies 137; Oli Nneka Perpetua, 'Public perception of violence against women in Urban and Rural Areas of Anambra State' (PhD Thesis, University of Nigeria Nsukka 2012).

³ Odimegwu O Clifford, 'Couple formation and domestic violence among the Tiv of Benue State, Nigeria' (Paper presented at the International Colloquium Gender, Population and Development in Africa organised by UAPS, INED, ENSEA, IFORD, Abidjan 16-21 July 2001). Kolawole Azeez Oyediran and Bamikale Feyisetan, 'Prevalence and Contextual Determinants of Intimate Partner Violence in Nigeria' (2017) 3 (1) African Population Studies 3436.

⁴ Oyediran Kolawole Azeez and Uche C Isiugo-Abanihe, 'Perceptions of Nigerian Women on Domestic Violence: Evidence from 2003 Nigeria Demographic and Health Survey' (2005) 9 (2) African Journal of Reproductive Health 38.

Research and commentaries on Nigerians' perceptions and attitudes toward domestic violence corroborate the findings of this study, as presented in chapter 3 section 2. The research findings show that most (90%) of the participants did not perceive domestic violence as a crime when they lived in Nigeria and regarded it as a family matter that did not warrant intervention by non-family members and authorities. Besides, all the participants (100%) viewed domestic violence as a normal thing that was justified under certain circumstances. Participant F drove this point home by stating that 'Culturally, your words should be a law to your spouse. From the cultural point of view, I did not consider it [Domestic violence] as a crime'. Rather, it was considered as a 'deterrent for future misbehaviour'.

The findings also showed that 100% of the participants acknowledged their perceptions and attitudes toward domestic violence have changed since they started living in Ireland. As elaborated in the presentation of the research findings in chapter 3 section 2, the participants have recognised domestic violence as a crime and abuse of the victim's human rights since taking up residence in Ireland. Similarly, unlike when they were living in Nigeria, the participants did not believe it should be condoned under any circumstance. The response of participant A to the question of whether her perception and attitude towards domestic violence have changed since she started living in Ireland is very instrumental and captured the current attitude of some Nigerians in Ireland towards domestic violence. She responded that 'My perception and attitude towards domestic violence has changed, and I will not condone such acts now as I would when I was living in Nigeria'. All the participants (100%) confirmed that legal regulation of domestic violence and its effective enforcement in Ireland significantly contributed to their change of perceptions and attitudes toward it. This was a recurrent opinion expressed by most of the participants during the interview. Participant F succinctly elaborated on it:

The fear of the law contributed to my change of perception and attitude towards domestic violence because laws are taken seriously here [Ireland], and nobody wants the law to come after him. Also, I believe it is the fear of the law and the fact that women have equal rights or "even more" in Ireland that is keeping most African men in check from committing acts of domestic violence against their wives.

Within scholarly literature, many researches and commentaries lend credence to the finding of this study that law and its effective enforcement are efficacious in combating domestic violence.⁵ For instance, Ifemeje contends that:

Law as an instrument of social change is definitely an indispensable weapon in the hands of our legislators and policy makers to effect this much-desired changes in ... customary laws. Nigeria should as a matter of urgency put in place gender based specific laws to deal with gender-based violence which is on the increase.⁶

Similarly, according to Bilz and Nadler, 'Legal regulation can ... transform the social meaning of behaviour, changing people's perceptions regarding the moral acceptability or desirability of the behaviour'.⁷

Furthermore, change in perceptions and attitudes toward domestic violence have been identified as a key factor in effecting change in societal attitudes toward social issues like domestic violence. As Oyediran and Isiugo-Abanihe assert, 'changing people's perception is a major step toward behavioural change ... This is a prelude to any attempt at effecting a serious change in societal attitude' ... [toward domestic violence].⁸ The statement by participant A that '[She] will not condone such acts now as [she] would when [she] was living in Nigeria' lends credence to the notion that victim's perceptions and attitudes have a significant role to play on how they react to domestic violence. Most likely, those who perceive it as a crime and abuse of their human rights are more likely to take steps to safeguard themselves and report abuse meted to them to the authorities. However, this depends on so many factors, including the availability of law against domestic violence in their country, the attitude of the law enforcement agents and the judicial system. Likewise, it appears perceiving domestic violence as a crime and having

⁵ J C Madu, 'Domestic violence legal regulation for development, peace and security in Nigeria' (2015) 24 (3) *African Security Review* 279; Osai Ojigbo, 'Prohibiting domestic violence through legislation in Nigeria' (2011) 23 (82) *Gender and Law System* 86.

⁶ S C Ifemeje and Umejiaku Nneka, 'Discriminatory Cultural Practices and Women's Rights among the Igbos of South-East Nigeria: A Critique' (2014) 25 *Journal of Law, Policy and Globalization* 18.

⁷ Bilz Kenworthy And Nadler Janice, *Law Moral Attitude, and Behavioural Change* (Eyal Zamir and Doron Teichman eds, Oxford Handbook on Behavioural Economics and Law 2014) 241.

⁸ *ibid* [Emphasis added].

an effectively enforced law against it dissuades recidivism.⁹ As participant F contends, ‘the fear of the law ... is keeping most African men in check [in Ireland] from committing acts of domestic violence against their wives’.

RQ2 How has domestic violence awareness campaign in Ireland impacted on Nigerian immigrants’ knowledge of it?

The research explored the participants’ knowledge about domestic violence during the period they lived in Nigeria. Besides, it investigated how living in Ireland has impacted on their knowledge of domestic violence - whether it has broadened or remained the same. The importance of having good knowledge of domestic violence has continually been emphasised by researchers, advocates, and practitioners in the field. As Jean Ramsay *et al.*, point out:

Historically ... the quality of care for women experiencing abuse has been poor worldwide. Many clinicians agree that domestic violence is a healthcare issue, but often they are reluctant to ask about abuse or do not respond appropriately if domestic violence is disclosed. Such ambivalence is attributed to a number of factors but most frequently cited are a lack of domestic violence knowledge and training and a perceived lack of time and support resources.¹⁰

Christine Murray, the co-founder, of Triumph, a domestic violence advocate and research network, listed five reasons why greater knowledge about domestic violence is important to everyone.¹¹

Reason 1. Knowledge helps you examine patterns in your own life to identify potential risk factors for abuse.

Reason 2. We need to educate young people to help them create healthy relationships from the start.

⁹ Maxwell D Christopher *et al.*, ‘The Effects of Arrest on Intimate Partner Violence: New Evidence From the Spouse Assault Replication Program’ National Institute of Justice (2001) <<https://www.ncjrs.gov/pdffiles1/nij/188199.pdf>> accessed 25 June 2017.

¹⁰ Jean Ramsay *et al.*, ‘Domestic violence: knowledge, attitudes, and clinical practice of selected UK primary healthcare clinicians’ (2012) 62 (602) *The British Journal of General Practice* 647.

¹¹ Christine Murray, ‘In the Words of Survivors: The Importance of Education about Domestic Violence’ (Triumph 4 October 2014) <<http://www.seethetriumph.org/blog/this-october-educate-yourself-and-others-about-domestic-violence>> accessed 29 July 2017.

Reason 3. Through education, we can learn the difference between what may seem “normal” to us and what is safe and healthy.

Reason 4. By educating ourselves, we can educate others.

Reason 5. Knowledgeable communities provide more useful resources.

The participants’ responses to the question: ‘How would you compare your knowledge of domestic violence in terms of acts that constitute it and its consequences during the period you lived in Nigeria and Ireland?’ were indicative they all had limited knowledge about domestic violence. As narrated in the presentation of findings in chapter 3 section 2, participant C said, ‘In fairness, when I lived in Nigeria, I did not have a good knowledge of domestic violence’. Similarly, participant H began his response to the question as follows, ‘Back in Nigeria, I did not know anything about domestic violence’. The finding of this research aligns with several studies and reports, which reveal that many Nigerians lack adequate knowledge about domestic violence. For instance, a study by Kalunta-Crumpton on immigrant Nigerian women in Houston, USA ‘recognizes the absence of adequate knowledge of IPV against immigrant Nigerian women...’.¹² Similarly, Bakare *et al.*, in criticizing the failure of the Nigerian Government not to have promulgated a specific law then to protect women against domestic violence, opined:

Promulgating the law is the first step which would lead to the next step of ensuring implementation. The fact that there is no promulgated law yet in Nigeria to protect the interest of women on domestic violence, coupled with the prevailing ignorance of Nigerian women prevents a lot of cases of domestic violence from being reported and gives the perpetrators of the act a free hand to operate.¹³

¹² Anita Kalunta-Crumpton, ‘Attitudes and solutions toward intimate partner violence: Immigrant Nigerian women speak’ (2017) 17 (1) *Criminology and Criminal Justice* 3.

¹³ M O Bakare *et al.*, ‘Domestic Violence and Nigeria Women - A Review of the Present State’ (2010) 8 (2) *Nigerian Journal of Psychiatry* 5.

All the participants (100%) acknowledged that living in Ireland has significantly increased their knowledge of domestic violence regarding acts that constitute it and its consequences. Participant F believes his experience of domestic violence in Ireland was an “eye opener”, as it increased his knowledge, understanding, and awareness of acts that constitute it and its consequences. The factors the participants mentioned that contributed to their increased knowledge, understanding, and awareness of domestic violence since taking up residence in Ireland include: the attitude of the Irish society and Government, the law against it, and awareness campaigns. The attitude of Irish society and the Government to domestic violence according to the participants, remains a huge influence on their perceptions, attitudes, and understanding of it. Also, the unwavering campaign against domestic violence by Irish Government institutions and NGOs played a vital role in their greater knowledge and understanding of it. The finding of the research on the impact of domestic violence campaign agrees with the study by Damba *et al.*, which contends that the answer to understanding and effective tackling of domestic violence ‘...seems to lie in setting up a knowledgeable society where traditions and culture are questioned’.¹⁴ They concluded that ‘Knowledge of available modes of response is essential and a prerequisite for action, meaning that awareness campaigns are a step nearer to setting up a knowledgeable society where gender-based violence is not tolerated’.¹⁵

RQ3 How do Nigerian immigrants in Ireland feel about the protection of their human rights in relation to domestic violence compared to Nigeria?

In 1950, the United Nations General Assembly proclaimed December 10 as Human Rights Day. It is commemorated yearly as the day the United Nations General Assembly adopted the Universal Declaration of Human Rights’ in 1948.¹⁶ Consequently, The UN General Assembly passed ‘resolution 423 (V), inviting all

¹⁴ Glory Damba, Wilfred Lunga, and Charles Masaruwa, ‘Awareness campaigns as survival tools in the fight against gender-based violence in peri-urban communities of Bulawayo in Zimbabwe’ (2013) 5 (2) *Journal of Disaster Risk Studies*
<<http://www.jamba.org.za/index.php/jamba/article/view/83/187>> accessed 2 August 2017.

¹⁵ *ibid.*

¹⁶ United Nations, ‘Stand up for someone's rights today!’ (Human Rights Day 2016)
<<http://www.un.org/en/events/humanrightsday/>> accessed 2 August 2017.

States and interested organisations to observe December 10th of each year as Human Rights Day'.¹⁷ The slogan of the 2014 Human Rights Day celebration was "Human Rights 365", which 'encompasses the idea that every day is Human Rights Day and calls on all governments and people to ensure that human rights are respected every day of the year'.¹⁸ The then UN Secretary-General, Ban Ki-moon, charged all states 'to honour their obligation to protect human rights every day of the year'.¹⁹ Also, he called 'on people to hold their governments to account'.²⁰ The extent to which Ireland and Nigeria honour their international obligation to protect human rights within their respective countries was one of the subjects of this research's enquiry. The participants were very unequivocal in affirming that their human rights were better protected in Ireland than their country of origin, Nigeria. As presented in the previous chapter 3 section 2, the response of participant H was instrumental in understanding how the participants felt about the protection of their human rights in Nigeria. He pointed out what he believed was the main obstacle to the realisation of human rights in Nigeria by stating, 'You cannot compare the two because there are no bases for comparison. The law does not work in Nigeria, hence there is no protection of human rights there'.

Within scholarly literature on human rights protection in Nigeria, the issue of access to justice is a common feature as one of the factors militating against its realisation. In his article titled, "Access to justice and human rights protection in Nigeria: problems and prospects", Okogbule argues that 'access to justice [is] an essential instrument for the protection of human rights in Nigeria and demonstrates that it is only when an individual has access to courts that his fundamental rights can be enforced'.²¹ He believes 'there is need to strike a delicate and beneficial balance between the desire to maximise human rights protection and the

¹⁷ *ibid.*

¹⁸ 'The importance of human rights protection' *Zambia Daily Mail Limited* (12 December 2014) <<https://www.daily-mail.co.zm/importance-human-rights-protection/>> accessed 2 August 2017.

¹⁹ *ibid.*

²⁰ *ibid.*

²¹ Nlerum S Okogbule, 'Access to justice and human rights protection in Nigeria: problems and prospects' (2005) 2 (3) *Sur. Revista Internacional de Direitos Humanos* <<http://dx.doi.org/10.1590/S1806-64452005000200007>> accessed 2 August 2017[Emphasis added].

imperative of enhancing greater access to justice in Nigeria'.²² Thus, the finding of the research agrees with research and commentaries on the issue of human rights protection in Nigeria. For instance, Angwe contends that 'Access to justice is itself a human right and a denial of this is a denial of the basic tenets of human rights principles'.²³ The Constitution of the Federal Republic of Nigeria 1999 as amended, 'provides for the independence, impartiality and integrity of courts of law and for easy accessibility to be secured and maintained'.²⁴ However, as the participants, most researchers, and commentators contend, the courts in Nigeria remains within reach of "well-connected and deep-pocket" influential individuals who can afford to buy justice at the expense of the common man.

Furthermore, the poor record of Nigerian Government in enacting laws that promote and protect human rights of the citizens, coupled with its reluctance in domesticating most international treaties, further buttresses the affirmation of the participants that the Irish systems are more protective of their human rights than the process in Nigeria. In addition, the finding of this study conforms with major international organisations and governments' reports, which have concerns over Nigeria's human rights record.²⁵ The Country Report on Nigeria's Human Rights Practices 2015 by the United States Department of State, Bureau of Democracy, Human Rights and Labour states that 'Security force use of excessive force, including live ammunition, to disperse demonstrators resulted in numerous killings during the year' and that 'security services committed rape and other forms of violence against women and girls, often with impunity'.²⁶

²² *ibid.*

²³ Bem Angwe, 'Access to Justice and Protection of Rights of Citizens' (A Session of The Refresher Course For Magistrates Onmodern Judicial Practice And Procedure-Modernising judicial Practises And Procedures, Held At The Andrews Otutu Obaseki Auditorium, National Judicial Institute, Abuja 24th-28th April, 2017) 3.

²⁴ *ibid.*

²⁵ Human Rights Watch, Nigeria Events of 2016' <<https://www.hrw.org/world-report/2017/country-chapters/Nigeria>> accessed 4 August 2017.

²⁶ United States Department of State, 'Nigeria 2015 Human Rights Report' <<https://www.state.gov/documents/organization/252927.pdf>> accessed 3 August 2017.

RQ4 How do Nigerian immigrants in Ireland perceive the reporting of domestic violence to the authorities and organising seminars to enlighten people about it?

The response of the participants to the question ‘What is your opinion about reporting of domestic violence to the authorities and to speak out about it?’ was contrary to the views of most Nigerians, as revealed by studies and reports on the issue. This research found that all the participants (100%) supported the reporting of domestic violence to the authorities. This differing view prompted exploring what might be responsible for the participants’ opinion, which is contrary to that of most Nigerians that are resident in Nigeria. For instance, a study carried out by Onoh *et al.*, to determine the prevalence, pattern and consequences of intimate partner violence during pregnancy at Abakaliki Southeast Nigeria, reveals that:

Very few women 23 (16.1%) 23/143 are willing to report to Law enforcement agencies not minding the degree of impact of IPV on them. Among those willing to report a case of IPV, 38% (19/50) supports reporting to Husband's parents while only 10% (5/143) will report to their own parents. A significant percentage (34%) 17/50 will report to pastors, priests or Reverend Fathers. Only 4% (2/50) will report to friends, Doctors, Nurses, and Husband's siblings. Majority of the respondents (47.2%) 58/123 do not support reporting IPV so as to protect their marriage. Another significant reason is personal decision (37.4%) 46/123. Fear of more beating and fear of being driven out of the house accounted for 1.6% (2/123) each while the least reason (0.8%) 1/123 was based on being culturally wrong. Religiously wrong and having been advised against it were other reasons given accounting for 6.5% (8/123) and 5.0% (6/123), respectively.²⁷

The discrepancy in the finding of this study to other studies and reports can be attributed to the earlier findings in RQ1 and RQ2. The findings show that (1) The participants all acknowledged that their perceptions and attitudes toward domestic violence have changed since they started living in Ireland (2) The participants acknowledged having greater knowledge and understating of domestic violence, regarding what constitutes it and its consequences. Again, the statement of participant A regarding her change of perception and attitude towards domestic violence since taking up residence in Ireland is helpful in explaining the variance;

²⁷ Onoh R C *et al.*, ‘Prevalence, Pattern and Consequences of Intimate Partner Violence During Pregnancy at Abakaliki Southeast Nigeria (2013) 3 (4) Ann Med Health Sci Res 484.

‘My perception and attitude towards domestic violence have changed, and I will not condone such acts now as I would when I was living in Nigeria’.

Similarly, all the participants supported speaking out about domestic violence and organising seminars to enlighten people, especially members of the immigrant community about it. This finding is also divergent to research, reports, and commentaries about domestic violence in Nigeria, which show that most Nigerians regard domestic violence as a private family matter that does not warrant the intervention of non-family members and authorities. This change of opinion by the participants may be attributed to the impact of living in Ireland (acculturation) where the government and the people are intolerant of domestic violence and are proactive in tackling it. Therefore, transformation of the participants’ opinion about domestic violence may also have been affected by acculturation. Acculturation is defined as the ‘adoption and assimilation of an alien culture.’²⁸ According to Castro and Rudmin, ‘Acculturation is both an individual level phenomenon and a societal level phenomenon’.²⁹ Redfield *et al.*, explained societal [group] level acculturation as ‘when groups of individuals having different cultures come into continuous first-hand contact, with subsequent changes in the original cultural patterns of either or both groups’.³⁰ Castro and Rudmin remark that ‘If ... [a] minority group acculturates ..., then the minority is assimilated by the majority, causing the minority culture to [either disappear] or change’.³¹ Recall that the research participants are Nigerian immigrants in Ireland as indicated in the abstract and chapters 1, 3 and 5. One of the criteria for selecting the participants (see chapter 3 section 1) is that they must have lived in Ireland for not less than five years. During this period, the participants may have experienced the process of acculturation and assimilated the attitude of the Irish people in not tolerating domestic violence.

²⁸ Castro J and Rudmin F W, ‘Acculturation, Acculturative Change, and Assimilation: A Research Bibliography With URL Links’ (2017) 8 (1) Online Readings in Psychology and Culture <<https://doi.org/10.9707/2307-0919.1075>> accessed 12 December 2017.

²⁹ *ibid.*

³⁰ Redfield R, R Linton and M Herskovits, ‘Memorandum for the study of acculturation’ (1936) 38 *American Anthropologist* 149.

³¹ Castro and Rudmin F W (n 28).

RQ5 How do Nigerian immigrants in Ireland view outlawing domestic violence throughout Nigeria?

All the participants (100%) supported having a specific domestic violence law in all the states in Nigeria and the Federal Capital Territory (FCT). Many of them went further to advocate for a uniform law against domestic violence throughout Nigeria. However, most of the participants doubted the possibility of having a law against domestic violence throughout Nigeria, especially in the Northern region of the country. They believe some adherents of Islamic religion in the north do not to believe in gender equality. This perception may be consequent to open criticism of the Gender Bill by Sultan of Sokoto, Nigeria's most senior Muslim cleric, which many contend was the main reason the Senate rejected the bill.³² Another concern of the participants in promulgating a domestic violence law in all the states in Nigeria was the issue of implementation and enforcement. They were ambivalent of the fate of such a law given Nigeria's poor record of law enforcement and access to justice. Participant B aptly contextualised this concern with this statement:

I support having a uniform law in all the states, but the most important issue is whether the law that exists in the five states out of the thirty-six states are being enforced as they are supposed to be. There is no need to have hundred laws that are not being enforced. Therefore, enforcement of laws and changing how the system works in Nigeria is more important; it is only when the system is right that people can get justice.

This participants' support to outlaw domestic violence throughout Nigeria is not surprising because of how the Irish domestic violence law and its enforcement has impacted on their perceptions, attitudes and knowledge of domestic violence. In addition, the finding aligns with the opinions of most scholars, advocates, and commentators on the issue. Madu in his article 'Domestic violence legislation for development, peace and security in Nigeria, argues for the promulgation of domestic violence law throughout the country, contending that it would help to address the problem of domestic violence in Nigeria. However, like most of the participants, he was not optimistic of the positive effect of the law because of poor

³² BBC, 'Nigeria's Sultan of Sokoto rejects gender equality bill' *BBC News* (28 December 2016) <<http://www.bbc.co.uk/news/world-africa-38449822>> accessed 3 August 2017.

implementation of laws in Nigeria. Hence, he contends that ‘...enacting laws alone is not a magic bullet’.³³ Similarly, Ojigho in his article ‘Prohibiting domestic violence through legislation in Nigeria argues that:

The law prohibiting domestic violence is a mechanism to correct the inadequacies of the legal system by ensuring that victims of domestic violence are protected, the strict compliance of police officers in apprehending suspects, providing alternative orders such as interim protection orders and expanding the definition of the laws that constitute domestic violence.³⁴

The finding has a significant consequence in tackling domestic violence in Nigeria. This is because, as stated earlier, only 5 out of 36 states have a specific law against domestic violence in Nigeria including the Federal Capital Territory (FCT) Abuja.³⁵ This leaves more than 2/3 (two-thirds) of Nigerians without any specific domestic violence law protecting them, and without recourse to any form of support that such laws provide to the victims of domestic violence. All the participants emigrated from Nigeria before the first law against domestic violence was enacted by Ebonyi State on 22 June 2005, followed by Cross River State’s law to prohibit domestic violence against women and maltreatment of widows, which came into force on 25 August 2005.³⁶ Therefore, none of the participants had the opportunity to witness a specific domestic violence law in operation in his or her state before emigrating from Nigeria. Their experience of domestic violence law in Ireland and its impact on them may have influenced their opinion leading to this research finding.

³³ Jonathan Chukwuemeka Madu, ‘Domestic violence legislation for development, peace and security in Nigeria’ (2015) 24 (3) *African Security Review* 279.

³⁴ Osai J Ojigho, ‘Prohibiting domestic violence through legislation in Nigeria’ (2009) 23 (82) *Empowering women for gender equity* 86.

³⁵ The federal law against domestic violence and related offences is applicable on within the FCT.

³⁶ Protection Against Domestic Violence and Relation Matters Law No. 003 of 2005 Ebonyi State, Nigeria; Cross River State Law No. 6 of 2005 – A Law to prohibit domestic violence against women and maltreatment of widows.

8.1.1 Domestic violence within migrant communities in Ireland

One of the advantages of inductive approach to research is its ability to uncover new emerging themes.³⁷ Also, semi-structured interview allows the interviewees to freely express their opinions and thoughts on any given topic, which may lead to new related topics emerging during the conversation.³⁸ The design of this research adopted these two approaches. The approaches allowed for the issue of occurrence of domestic violence within the migrant communities in Ireland to emerge during the conversation. This prompted me (the researcher) to engage in further exploration of the issue on two areas: (1) Whether the participants believe domestic violence occurs within the migrant communities in Ireland, (2) What are factors that contribute to its occurrence? All the participants (100%) affirmed the occurrence of domestic violence within the migrant communities in Ireland, especially the Nigerian/African communities where the participants belong. Participant E, in his response to the question, stated that ‘It happens though it may not be physical, but it happens’. He believed lack of awareness was not responsible for its occurrence, as he contended, ‘it is not about awareness, everybody is aware of it, but it is just the notion that as men, they are in-charge and have the right to exert authority over all other members of the household’. One of the female participants, E, affirmed that ‘it happens, but due to our culture, we always like to cover up’. Participant J was in no doubt that domestic violence occurs within the migrant communities in Ireland. He cited an example of his cousin who is residing in Ireland with his wife. He said that his cousin was in the habit of physically assaulting wife. According to him, he saw his cousin’s wife in an awful condition after an episode of violence meted on the women by his cousin. Participant F also believed it happens and said, ‘Yes, it is happening, but people do not speak out about it. Many are still clinging to the culture of silence which they were used to back home in Nigeria’.

³⁷ J Creswell, *Qualitative inquiry and research design: Choosing among five traditions* (Thousand Oaks CA Sage 1998); Morse M Janice, ‘Designing funded qualitative research’ in Norman K Denzin and Yvonna S Lincoln (eds.), *Handbook of qualitative research* (2nd edn, Thousand Oaks CA Sage 1994).

³⁸ *ibid.*

From the foregoing, the prevalence of domestic violence within the migrant communities in Ireland needs a comprehensive investigation. Hence, the implication of the finding is significant to the Irish authorities as it has reinforced the need for further research in this area. It also illustrates the need to liaise with immigrant communities in organising domestic violence seminars.

Section Two

8.2 Summary of findings

The primary aim of this research was to appraise the efficacy of law in changing perceptions and attitudes toward domestic violence and raising awareness about it. In addition, the study explores the role of legal regulation and enforcement in tackling domestic violence. It queried if both jurisdictions were protecting human rights adequately within their different frameworks. As stated in chapter one section one, three main objectives were formulated to guide the research:

1. Assess how domestic violence laws in Ireland and their enforcement have impacted on the perceptions and attitudes of Nigerian immigrants toward it.
2. Appraise the effectiveness of legal regulation and enforcement in raising awareness about domestic violence.
3. Examine how Nigerian immigrants in Ireland feel about the protection of their human rights pertaining to domestic violence based on the approach adopted by Irish and Nigerian Governments in tackling the issue.

An empirical fieldwork was undertaken to collect data for the research. After the analysis, presentation, and discussion of the research findings, the following major findings were determined:

1. The study found that domestic violence legal regulation and its effective enforcement is efficacious in changing peoples' perceptions and attitudes toward domestic violence. All the participants (100%) affirmed a change of their perceptions and attitudes toward domestic violence since taking up residence in Ireland. Besides law, other factors the participant mentioned that contributed to their change of perceptions and attitudes toward domestic violence include awareness campaign and the societal attitude regarding it (acculturation).

2. The study found that domestic violence legal regulation and its effective enforcement helps to raise awareness and increase the knowledge and understanding of domestic violence.
3. In relation to the protection of human rights and fundamental freedoms, it was found that the Irish Government through its proactive legislation and enforcement of human rights laws and access to justice are more protective of peoples' human rights than the Nigerian Government.
4. The reporting of incidences of domestic violence to the authorities and speaking out about it are findings of significant importance. These findings are summarised as follows:
 - a) All the participants (100%) strongly support the reporting of incidences of domestic violence to the authorities. However, three of the participants, I, D, and G (two men and one woman) cautioned against relying on the law by some people, mostly women, to get rid of their husband from the house to enable them to claim, "single mother" social welfare benefits. Also, Participant D cautioned that some men take advantage of the law to abdicate their duties to take care of their families.
 - b) The participants (100%) support speaking out about domestic violence, as they believe it is a silent killer if kept secret. Participant I advised that people should not waste time to report incidences of domestic violence as it would not serve any useful purpose when the damage has already been done.
5. The study found strong support for laws prohibiting domestic violence throughout Nigeria. All the participants (100%) believe that a law against domestic violence throughout the country is long overdue. They expressed dismay that only five out of thirty-six states in Nigeria and the FCT have specific laws prohibiting domestic violence and related offences. However, most of them were not optimistic that such a law would make any significant impact in tackling domestic violence in the country because of Nigeria's poor record of law enforcement and access to justice.

6. Another finding of the study was the occurrence of domestic violence within the migrant communities in Ireland. All the participants (100%) firmly believe that domestic violence occurs in migrant communities. Participant J supported his assertion of its occurrence by narrating one incident that was brought to his attention in which his relative, a cousin, was the perpetrator. Participant G alleged that some immigrants are still clinging to their cultural perception and attitude about domestic violence. Hence, they are enduring abuse in silence, instead of reporting and/or speaking out about it.

8.2.1 Recommendations and Implications of the Research

Based on the findings of this study, I proffer the following recommendations:

1. **Domestic violence legislation**

Prohibiting domestic violence through legislation and effectively enforcing the law is vital in tackling the problem and curbing its prevalence.³⁹ The finding of this study, which shows that domestic violence law and its effective enforcement is efficacious in changing peoples' perceptions and attitudes toward it, validates several research findings, reports, and commentaries that support legislating against domestic violence as a means of tackling this social problem.⁴⁰ Research acknowledges transforming peoples' perceptions and attitudes toward domestic violence as essential in achieving behavioural change.⁴¹

Therefore, the finding of this research has a policy implication, especially for the Nigerian Government and other governments that are yet to proscribe domestic violence through legislation in their country. The current situation, whereby only five states out of thirty-six states and the FCT have specific laws against domestic violence in Nigeria, does not

³⁹ Osai J Ojigbo (n 34).

⁴⁰ Jonathan Chukwuemeka Madu (n 33).

⁴¹ Oyediran Kolawole Azeez and Uche C Isiugo-Abanihe (n 4).

indicate seriousness in tackling the issue in the country. The Both the State and Federal Governments in Nigeria, have a duty to ensure Nigerians, despite their ethnic and/or religious affiliations, are protected from domestic violence. One of the ways this can be achieved is by prohibiting domestic violence throughout the country. The state governments should be encouraged and supported to adopt the VAPP Act in order to make it applicable throughout the country.⁴² Also, the National Assembly should consider vesting jurisdiction of the VAPP Act on the Federal High Court, Abuja as explained in chapter five, which is another way to achieve its nationwide applicability.⁴³

2. **Human Rights Record**

Although, all the participants (100%) support laws against domestic violence throughout Nigeria, they were ambivalent of the efficacy of such laws, due to Nigeria's poor record of enforcing of laws and lack of access to justice. These are the main reasons all the participants strongly believe and affirm that their human rights are more protected in Ireland than in Nigeria. Angwe, in stressing the importance of access to justice at a refresher course for Magistrates in Nigeria, states:

The United Nations Development Programme (UNDP) has described access to justice as the ability of people from disadvantaged groups to prevent and overcome human poverty by seeking and obtaining a remedy, through the justice system, for grievances in accordance with human rights principles and standards. Again, Section 17(2) (e) of the Constitution of the Federal Republic of Nigeria, 1999 as amended, provides for the independence, impartiality and integrity of courts of law and for easy accessibility to be secured and maintained. All these point to the fact that Access to justice is itself a human right and a denial of this is a denial of the basic tenets of human rights principles.⁴⁴

⁴² Onyemulukwe Cheluchi, 'Legislating on Violence Against Women: A Critical Analysis of Nigeria's Recent Violence Against Persons (Prohibition) Act, 2015' (2016) 5 (2) DePaul J. Women, Gender & L.

⁴³ Anthony N Nwazuoke, 'A Critical Appraisal of the Violence Against Persons (Prohibition) Act, 2015' (2016) 47 Journal of Law, Policy and Globalization.

⁴⁴ Ben Angwe (n 23).

This finding has implication especially for Nigerian Government and other governments that have not outlawed domestic violence through legislation. The Nigerian Government should endeavour to ensure human rights laws are effectively enforced and that all Nigerians are guaranteed access to justice regardless of their status and ethnic/religious affiliation. Similarly, the task of addressing the issue of gender inequality in the country rests on the shoulders of the State and Federal Governments.

Domestic violence awareness campaign

The lack of awareness of acts that constitute domestic violence and its consequences expressed by most of the participants when they were living in Nigeria is worrisome. The Federal Government should set up a dedicated federal agency in-charge of co-ordinating domestic violence and related issues. This will help in the coordination of domestic violence awareness campaigns and in developing strategies to tackle the issue nationwide. Through a dedicated agency like The National Office for the Prevention of Domestic, Sexual and Gender-based Violence (Cosc) in Ireland, grants should be given to NGOs involved in domestic violence awareness campaign and victim support services. Also, gender equalities courses should be included in school curriculums from primary school to University level. In addition, gender equality course should be made compulsory in secondary school leaving certificate examinations. Likewise, professional bodies like the Nigeria Bar Association (NBA) and similar associations should be supported and encouraged to include gender equality courses in their continuous development programme and during new members' induction.

3. Involvement of Traditional and Religious leaders

Traditional and religious leaders are very influential and well respected in their various communities and congregations in Nigeria. The government and NGOs should partner with them for disseminating information about domestic violence. In the case of traditional rulers, they are the custodians of their cultures and traditions and can influence the discontinuing of those

cultural practices that result in inhuman and degrading treatment of people, mostly women. The courts in Nigeria are proactively declaring certain cultural practices unlawful such as disinheritance of widows and female children. However, the court verdicts hardly result in the stopping of these practices. It is always the case that majority of the people in rural areas may not be aware of the court rulings that proscribe these practices, let alone obeying them. The traditional rulers are in a better position to make sure these practices are jettisoned. The government needs to involve the traditional and religious leaders in their efforts in tackling domestic violence in Nigeria.

4. **Domestic violence Research**

Following the finding of this study concerning the occurrence of domestic violence within the migrant communities in Ireland, there is a compelling need to encourage and support research in this area. Although, there have been research projects that focused on migrant communities and their experience of domestic violence in Ireland, none of them were designed to obtain the prevalence, patterns, perceptions, attitudes, awareness, and knowledge of domestic violence. Therefore, this finding has implication for the Irish Government. For policy implications, the Irish Government should encourage research focusing on finding the prevalence of domestic violence within the migrant communities and engage stakeholders in these communities to design strategies aimed at tackling the problem in their communities.

Furthermore, most of the participants believed some migrants are still clinging to their cultural and religious beliefs; hence, they may still be ignorant of the consequences of domestic violence and acts that constitute it. As found by the study, 100% of the participants support organising seminars to enlighten people, especially migrant communities about domestic violence. Therefore, the government should, through Cosc, set aside a special domestic violence awareness fund which will be given to these migrant communities and religious associations for the sole purpose

of organising domestic violence seminars. To this end, Cosc should include a special fund for the migrant communities within its current funding programme or lower the threshold for qualification for migrant associations with a caveat that their representatives must undergo training before they will be considered for the award.

Furthermore, Cosc should consider including funding programme for research students undertaking research in the field of domestic violence to enable them to organise seminars and disseminate information about their research. Research students cannot qualify for Cosc domestic violence awareness funds under the current requirements for the award. If such funds were available to research students, I would have organised at least one of such seminars. It was originally included as part of this research, but abandoned due to financial constraints.

Similarly, the Nigerian Government should encourage and support NGOs, research students, and researchers to enable them carry out research in the field of domestic violence and organise seminars to enlighten the people about it.

8.2.2 Limitations of the Research

Although the research was carefully designed and carried out and has generated significant and novel findings, I would like to explain the limitations of the study. The debate over the generalisation of qualitative research findings has been ongoing for decades. The dynamics of the debate appears to suggest a consensus may never be reached. Some scholars doubt the possibility of achieving the generalisability of qualitative research findings.⁴⁵ Lincoln and Guba argue that ‘The only generalization is: there is no generalization’.⁴⁶ Others ‘emphasise the context-specificity of qualitative research, which limits generalization to other

⁴⁵ Falk Ian and Guenther John, ‘Generalising from Qualitative Research: Case studies from VET in Contexts’ (2007) NCVER <<http://www.avetra.org.au/documents/10-Guenther.pdf>> accessed 20 July 2017.

⁴⁶ Lincoln Y and Guba E, *Naturalistic inquiry* (Sage, Newbury Park 1985).

situations’.⁴⁷ Furthermore, some argue that ‘qualitative research represents a distinctive paradigm and as such should not be judged by conventional measures of generalisability, or validity and reliability’.⁴⁸ Conversely, Falk and Guenther contend that qualitative research findings are generalisable under certain circumstances:⁴⁹

- (a) generalisability is possible from qualitative and mixed research methods,
- (b) generalisability is also possible on the basis of theory building—that is, the ‘inductive’ approach, and
- (c) generalisability is possible because of the receiving audience’s perceptions.

Concerning this study and its generalisability, I would like to point out the following:

1. The findings from this empirical research investigation were limited to data collected only from Nigerian immigrants in Ireland (the study group).
2. The research design and field work were affected by resource constraints.
3. There are unique identities of the study group regarding their ethnoreligious predispositions from their country of origin.
4. I was not able to recruit women participants from the Northern region of the Nigeria. Two women from the region who met the criteria for selection and were selected later declined to participate for undisclosed reasons.

⁴⁷ J Creswell, *Qualitative inquiry and research design: Choosing among five traditions* (Sage Thousand Oaks 1998); Wainwright A, ‘Can sociological research be qualitative, critical and valid?’ (1997) 3 (2) *The Qualitative Report* <<http://www.nova.edu/ssss/QR/QR3-2/wain.html>> accessed 20 July 2017.

⁴⁸ Hammersley M, *Reading ethnographic research* (NY, Longman 1990).

⁴⁹ Falk Ian and Guenther John (n 45).

As Cronbach asserts ‘social phenomena are too context-specific to permit generalisability’.⁵⁰ Therefore, because of these constraints, I do not recommend the generalisation of these research findings. However, it may be useful for extrapolation to similar situations.⁵¹

8.2.3 Opportunities for further research

I believe that this study is a stepping stone to further investigation of the major findings of this research and other areas of domestic violence. Therefore, I believe further studies may be necessary in the following areas:

1. There is a need for further investigation into the occurrence of domestic violence within the migrant communities in Ireland, especially to ascertain the prevalence rate of occurrence, pattern, perceptions, attitudes, knowledge, and awareness of domestic violence and laws against it.
2. It will be interesting to repeat this study on a broader scale using a mixed method (triangulation) in Nigeria, Ireland, or elsewhere, to ascertain the impact of domestic violence legal regulation and its enforcement on people living in their country of origin and/or migrants.
3. It will be interesting to repeat the study in Ireland or elsewhere, either on a broader or the scale of this research, using immigrants from other countries as a study group.

8.2.4 Contributions to Knowledge

The research is related to and complements other studies in the field of domestic violence and legal study. As an interdisciplinary study, it incorporated socio-legal approaches in appraising the efficacy of law and its enforcement in changing peoples’ perceptions and attitudes toward domestic violence. There is no dearth of

⁵⁰ L Cronbach, ‘Beyond the two disciplines of scientific psychology’ (1975) 30 *American Psychologist* 116.

⁵¹ Patton Quinn, *Qualitative research and evaluation methods* (Sage Publications 2001) 429 - 431.

research in the field of domestic violence. However, research has not been carried out to determine the impact of law and its enforcement on migrant's perceptions and attitudes in the context and approach adopted by this research. Therefore, this study has made contributions to the growing body of literature in the field of domestic violence socio-legal research.

First, this research, to the best of my knowledge, is the first study to comparatively examine the domestic violence legal regulations in Ireland and Nigeria. In doing so, their national laws against domestic violence were subjected to critical analysis to ascertain their conformity to the UN Special Rapporteur's recommendations on domestic violence legislation and international best practice.

Secondly, this research is the first study, to the best of my knowledge, to assess the efficacy of domestic violence legal regulation and enforcement in changing peoples' perceptions and attitudes using migrants as a study group. Similar studies examined how laws against domestic violence affected the prevalence rate of its occurrence within the country.⁵² This study enhanced existing knowledge in this area by appraising the impact of domestic violence law on people living outside their country of origin. It eliminated the most common limitation of similar studies, which borders on poor implementation of the law in the country concerned.⁵³

Thirdly, it enhanced existing knowledge on the effect of access to justice and effective enforcement of laws on peoples' feelings/thoughts regarding the protection of their human rights.

Fourthly, the study illustrates the feelings and thoughts of people who have lived in two jurisdictions, Ireland and Nigeria, with differing approaches to tackling domestic violence. The findings illustrate their preference of Ireland's approach in tackling domestic violence.

⁵² Vasundhara Sirnate, 'Good Law, Bad Implementation' The Hindu (18 May 2016) <<http://www.thehindu.com/opinion/lead/good-laws-bad-implementation/article5639799.ece>> accessed 25 June 2017.

⁵³ *ibid.*

Fifthly, the originality of the research was underpinned by the research design and the use of the study group as participants. This study has the potential to act as a springboard to similar studies in the field of socio-legal research. The willingness of the study group to make themselves available for selection as participants was encouraging. The participants were not only willing to participate, but they showed a lot of enthusiasm in discussing the subject of the research, domestic violence. This was evidenced in the way they willingly discussed their own experiences of domestic violence, as well as that of their parents, relations, and friends. It appears that one of the reasons the participants showed interest to take part in this study could be the occurrence of domestic violence in their community and their desire to combat it. Therefore, I hope this study would attract the interest of researchers, policymakers, and NGOs to consider the findings for policy planning and further inquiry. I look forward to and will be pleased to engage in an academic and social discussion of the findings of this study and its implications.

Bibliography

- Abdulah A, 'Wife Murder: Evidence that sent Arowolo to hangman's noose' Vanguard (27 February 2014) <<http://www.vanguardngr.com/2014/02/wife-murder-evidence-sent-arowolo-hangmans-noose/>> accessed 17 July 2017
- Abdulwahab A A, 'Court sentences Arowolo to death for killing banker wife' Vanguard (Lagos, 22 February 2014). <<http://www.vanguardngr.com>> accessed 11 May 2017
- Abdulwahab A and Onozure D, 'Court sentences Arowolo to death for killing banker wife' Vanguard (Lagos, 22 February 2014)
- Abiola F O, et al., 'A quantitative assessment of the perceptions of Nigerian men on domestic violence in the 2008 Nigerian Demographic and Health Survey' (Paper presented at the 6th African Population Conference – African Population, past, present, and future. Ouagadougou, Burkina Faso, 5 -9 December 2011)
- Achebe C, Arrow of God (Heinemann Educational Books, Nigeria 1989)
- Adebayo A A, 'Domestic Violence against Men: Balancing the Gender Issues in Nigeria' (2014) 4 (1) American Journal of Sociological Research 14.
- Adelaja B, 'In the Spirit of Lagos, a reward for exemplary lifestyle' (3 June 2015) Vanguard <<http://www.vanguardngr.com/2015/06/in-the-spirit-of-lagos-a-reward-for-exemplary-lifestyle/>> accessed 5 May 2017
- Adesina G, 'Lawyer who stabbed her husband docked for murder' The News (Lagos, 6 February 2016)
- Adesoji A O, 'Between Maitatsine and Boko Haram: Islamic Fundamentalism and the Response of the Nigerian State' (2011) 57 Africa Today 98
- Adjolohoun H S, 'The Ecowas Court as A Human Rights Promoter? Assessing Five Years' Impact of The Koraou Slavery Judgment' (2013) 31 (3) Netherlands Quarterly of Human Rights 342
- Afigbo A E, Ropes of Sands: Studies in Igbo History and Culture (Nsukka University press 1981) 1 - 31
- African Commission on Human and Peoples' Rights, 'African Charter on Democracy, Elections and Governance' (2007) <<http://www.achpr.org/instruments/charssed>> 21 April 2017
- Afronews, 'Half of Nigeria's Women experience domestic violence' (Afronews online, 31 May 2007) <<http://www.afro.com/awrticles/16471>> accessed 25 July 2017
- Aihie N O, 'Prevalence of Domestic Violence in Nigeria: Implications for Counselling' (2009) 2 (1) Edo Journal of Counselling 1
- Airey Siobhan, 'Landmark decision in first case of domestic violence brought to ECOWAS Community Court of Justice (ECCJ) (Ruling ECW/CCJ/APP/26/15, 24th January 2017)' IntLawGrrls (19 February 2017) <<https://ilg2.org>> accessed 21 August 2018
- Akande J, 'Women and the Law' in A O Obilade (ed) Women in Law (Democracy in Africa Publication 1993)
- Akevi J, 'Misconception About Tiv Hospitality' (Pointblanknews, 31 July 2014) <<http://pointblanknews.com/pbn/articles-opinions/misconception-tiv-hospitality/>> accessed 29 July 2017.
- Akintomide Y, 'Nigeria: Deji of Akure Dethroned, Arrested' Daily Independent (Lagos, 10 June 2010)
- Akintunde Akinwale, 'Lagos Decries Increasing Spate of Domestic Violence, Killings' ThisDay (29 May 2018).

- Akokpari J, Ndinga-Muvumba A, and Murithi T, *The African Union and its Institutions* (Jacana Media 2009)
- Alan B, *Quantity and Quality in Socio Research* (Routledge 1998) 4
- Alfred C, 'These 20 Countries Have No Law Against Domestic Violence' *The Huffington Post* (3 August 2014) <http://www.huffingtonpost.com/2014/03/08/countries-no-domestic-violence-law_n_4918784.html> accessed 16 January 2017
- Ali K, 'Muslim Sexual Ethics: Understanding a Difficult Verse, Qur'an 4:34' *Sisters in Islam* <<http://www.sistersinislam.org.my/news.php?item.656.12>> accessed 4 May 2017
- Ali Y O, 'Delay in the Administration of Justice at the Magistrate Court- Factors Responsible and Solution' (2006) 4 (2) NBJ
- Alimi, 'If you say being gay is not African, you don't know your history' *The Guardian* (9 September 2015) <<https://www.theguardian.com>> accessed 14 August 2018
- Alok C, 'Social Change and Law – Sociological Study on Dhankut of District Bahraich Of U.P.' (20 December 2016) <http://alokchantia.weebly.com/.../social_change_and_law.pdf> accessed 25 May 2017
- Aluko Y A and Olusola S A, 'The Silent Crime: A Sociological Appraisal of Gender-Based Violence Experienced by Women in Yoruba Culture of Nigeria' (Paper presented at The Fifth African Population Conference, Arusha, Tanzania 10-14 December 2007)
- Amagiya F, 'Domestic Violence: Always blaming it on devil – Victims cry out' *Vanguard Newspaper* (Lagos, 14 June 2013)
- Amaral R, 'Explaining Domestic violence using feminist theory' (*Psychology for Growth*, 21 March 2011) <<http://www.psychologyforgrowth.com/domestic-violence-feminist-theory/>> accessed 3 July 2017
- Ambali M A, *The Practice of Muslim Family Law in Nigeria* (Princeton & Associate Publishing 2013) 340
- Amen <www.amen.ie/about-us/> accessed 12 April 2017
- Amen, 'The Male victim' <<http://www.amen.ie/victims/>> accessed 2 July 2017
- Amnesty International, 'Nigeria - Unheard Voices Violence Against Women in the Family' (31 May 2005) AFR 44/004/2005 <<http://www.refworld.org/docid/439463b24.html> [accessed 3 May 2017]> accessed 23 April 2017
- An Garda Siochana, 'Presentation of Scott Medal Certificates' 2015 Annual Report
- Anaodozie F, 'A Critical Analysis of Grand Corruption with Reference to International Human Rights and International Criminal Law: The case of Nigeria' (PhD Thesis, Dublin Institute of Technology 2017) 262
- Anaodozie F, 'Is Grand Corruption the Cancer of Nigeria? A Critical Discussion in The Light of an Exchange of Presidential Letters' (2016) 12 (5) ESI 1
- Anarado C, 'Why Nigeria's New Violence Against Persons (Prohibition) Act Is only the Beginning' *Ventures Africa* <<http://ift.tt/1GHQrOe>> accessed 25 July 2017
- Andenaes J, *Punishment and deterrence* (Ann Arbor, University of Michigan Press 1974)
- Angwe B, 'Access to Justice and Protection of Rights of Citizens' (A Session of The Refresher Course for Magistrates Onmodern Judicial Practice and Procedure-Modernising judicial Practises and

Procedures, Held at The Andrews Otutu Obaseki Auditorium, National Judicial Institute, Abuja
24th-28th April 2017) 3

- Animasaun D, 'Put a full stop to domestic violence' Vanguard (30 July 2017)
- Anleu S L A, 'Critiquing the Law: Themes and Dilemmas in Anglo-American Feminist Legal Theory' (1992) 19 Journal of Law and Society 423
- Anuja S, 'Rights of women against Domestic Violence: The Law and Emerging Challenges' (PhD Thesis, Cochin University of Science and Technology 2013) 282
- Antai D E and Antai J B, 'Attitudes of women toward intimate partner violence: a study of rural women in Nigeria' (2008) 8 (996) Rural and Remote Health (Internet)
<<http://www.rrh.org.au/articles/subviewnew.asp?ArticleID=996>> accessed 5 July 2017
- Arisi R O and Oromareghake P, 'Cultural Violence and the Nigerian Woman' (2011) 5 (4) African Research Review 369
- Arisi R O and Oromareghake P, 'Cultural Violence and the Nigerian Woman' (2011) 5 (4) African Research Review 369
- Arndt B, 'Domestic violence: data shows women are not the only victims' The Australian (Sydney, 20 August 2016) <<http://www.theaustralian.com.au/news/inquirer/domestic-violence-data-shows-women-are-not-the-only-victims/news-story/2749c4517a57c33aca8bc2da9a40e2f9>> accessed 25 July 2017
- Arora N D, Political Science for Civil Services Main Examination (2nd ed. India, Mac Graw Hill Education 2016)
- Asekun T, 'Stemming domestic violence in Lagos' Nigeria Punch (Lagos, 31 March 2014)
- Askola H, Legal Responses to Trafficking in Women for Sexual Exploitation in The European Union (Bloomsbury 2007) 12
- Asemota L H B, 'Non-State Law in Nigeria: A "Treasure Trove" or "Pandora's Box"?' (2017) I Austrian Law Journal 39 <<http://alj.uni-graz.at/index.php/alj/article/view/73>> accessed 12 December 2017.
- Attahir M I, 'Judiciary as The Last Hope of Itself' (Undated)
<<http://www.gamji.com/article5000/NEWS5474.htm>> accessed 25 May 2017
- Attoe St and Jaja S O, Margaret Ekpo: lioness in Nigerian politics (ALF Publications 1993)
- Ayton-Shenker D, 'The Challenge of Human Rights and Cultural Diversity' (1995) United Nations Department of Public Information (DPI/1627/H March 1995)
<<http://www.un.org/rights/dpi1627e.htm>> accessed 5 July 2017
- Baer J A, Our Lives before the Law: Constructing a Feminist Jurisprudence (NJ, Princeton University Press 1999) 84
- Baets A D, 'The Impact of The Universal Declaration of Human Rights on the Study of History' (2009) 48 History and Theory 21
- Bailey K D, 'It's Complicated: Privacy and Domestic Violence' (2012) 49 American Criminal Law Review 1777
- Bakara M O, Asuquo M D, Agomoh A O, 'Domestic Violence and Nigeria Women - A Review of the Present State' (2010) 8 (2) Nigerian Journal of Psychiatry
- Baker-Jordan S, 'Male victims of domestic violence are being failed by the system' Independent (London, 13 March 2017)

- Balogun I and Adeyeri A, 'Domestic Violence: It's assuming epidemic proportions – Effah-Chukwuma' Vanguard (14 June 2013) <<http://www.vanguardngr.com/2013/06/domestic-violence-its-assuming-epidemic-proportions-effah-chukwuma/>> accessed 17 July 2017
- Balogun I and Adeyeri A, 'Domestic Violence: It's assuming epidemic proportions' Adeyeri, Vanguard Newspaper (Lagos, 14 June 2013)
- Banakar R and Travers M, *Theory and Method in Socio-Legal Research* (Hart Publishing 2005)
- Barbash F, 'Shock in South Africa over 6-year sentence for 'blade runner' Oscar Pistorius for girlfriend's murder' The Washington Post (6 July 2016) <<https://www.washingtonpost.com/>> accessed 21 April 2017
- Basnet G and Albaloooshi M H, 'Human Rights Debate: Universalism versus Relativism OPED' (Eurasia Review, 27 June 2012) <www.eurasiareview.com/27062012-human-rights-debate-universalism-versus-relativism-oped/> accessed 5 July 2017
- Bazza H I, 'Domestic Violence and Women's Rights in Nigeria' (2009) 4 (2) *Societies Without Borders* 175
- BBC News, 'Nigeria's Sultan of Sokoto rejects gender equality bill' BBC News (28 December 2016) <<http://www.bbc.co.uk/news/world-africa-38449822>> accessed 28 July 2017
- BBC, 'Nigeria's Sultan of Sokoto rejects gender equality bill' BBC News (28 December 2016) <<http://www.bbc.co.uk/news/world-africa-38449822>> accessed 3 August 2017
- Begley I, 'Motorists can now be tested for driving under the influence of drugs' The Irish Times (Dublin, 20 April 2017)
- Benda-Beckmann V F, 'Who's Afraid of Legal Pluralism?' (2002) 34 (47) *The Journal of Legal Pluralism and Unofficial* 37
- Benedictis de T, Jaffe J, and Segal J, 'Domestic Violence and Abuse: Types, Signs, Symptoms, Causes, and Effects' (2014) *The American Academy of Experts in Traumatic Stress* <<http://www.aets.org/article144.htm>> accessed 25 June 2017
- Benitez C T, McNeill D E, and Binder R L, 'Do Protection Orders Protect?' (2010) 38 (3) *Journal of the American Academy of Psychiatry and the Law* 376
- Bergin-Cross C, 'Anomalies of the Domestic Violence Act 1996 and the Need for Reform' (2013) 4 *Irish Journal of Family Law* 117
- Beulah P N R, 'A critical analysis of the efficacy of law as a tool to achieve gender equality and to address the problem of domestic violence: the case of Trinidad and Tobago' (PhD Thesis, The University of Birmingham 2007)
- Bothe M, Kurzidem T and McAlister-Smith P, 'National Implementation of International Humanitarian Law: The proceedings of an International Colloquium held at Bad Homburg, June 17 – 19 1988 (Kluwer Academic Publishers 1990) 93
- Bound M, 'Qualitative Method of Research: Phenomenological' in Amedeo Giorgi, *The Descriptive Phenomenological Method in Psychology: A Modified Hueserlian Approach* (Duke University Press 2009)
- Bowman C G, 'Theories of Domestic Violence in the African Context' (2003) 11 (2) *Journal of Gender, Social Policy & the Law* 847; Vernellia R Randall, 'Theories that Appear in the African Literature of Domestic Violence' <<http://academic.udayton.edu/health/06world/Africa03a.htm>> accessed 23 July 2017
- Bowman J, *Ireland: The Autobiography: One Hundred Years of Irish Life, Told by Its People* (Penguin 2016)

- Boyd N, 'Deterrence Theory of Punishment: Definition & Effect on Law Obedience' Study mode
<<https://study.com/academy/lesson/deterrence-theory-of-punishment-definition-effect-on-law-obedience.html#transcriptHeader>> accessed 31 July 2018
- Boven T, Human rights from exclusion to inclusion; principles and practice: an anthology from the work of Theo van Boven / edited by Fons Coomans ... [et al.] (London, Kluwer Law International c2000)
- British Council, 'Girls' Education in Nigeria Report 2014: Issues, Influencers and Actions' 20
<<https://www.britishcouncil.org/sites/default/files/british-council-girls-education-nigeria-report.pdf>> accessed 8 August 2018
- Bronwyn H, 'Domestic violence costs \$13bn a year' Australian Broadcasting Cooperation (3 July 2011)
<<http://www.abc.net.au/news/2011-03-07/domestic-violence-costs-13bn-a-year/57284>> accessed 1 July 2017
- Bryman A, Quantity and Quality in Social Research (Routledge 1998)
- Byrne R *et al.*, Byrne and McCutcheon on the Irish Legal System (6th edn, Bloomsbury 2014) 6
- Byrne R and McCutcheon J P, The Irish Legal System (4th edn, Tottel Publishing 2007)
- Brynes A, 'Enforcement thought International Law and Procedures' in Human Rights of Women – National and International Perspectives ed. Rebecca Cook (University of Philadelphia Press, PA) 191 – 192
- Bteddini L, 'Reconciling the Debate on Universal Human Rights Reframing the Notion of Identity' (2008) 7 Human Security Journal 104 – 117.
- Bundy T L, 'Effects of Witnessing Domestic Violence on Children' (Masters Thesis, Grand Valley State University Allendale, Michigan, 1995)
- Burnard P, *et al.*, 'Analysing and presenting qualitative data' (2008) 204 British Dental Journal 429
- Callanan M and Keogan J F, Local government in Ireland: inside out (Institute of Public Education 2003); Desmond Roche, Local Government in Ireland (Institute of Public Education 1982) 2 - 20
- Carmichael J, 'Social Control' (2012) Sociology
<<http://oxfordindex.oup.com/view/10.1093/obo/9780199756384-0048>> accessed 15 May 2017
- Carol S W, 'Witnessing domestic violence: The effects on children' (2012) She Knows Parenting
<<http://www.sheknows.com/parenting/articles/972135/witnessing-domestic-violence-the-effect-on-children>> accessed 3 July 2017
- Casey M, 'Domestic violence: The women's perspective' (1993) Social and organisational psychology research unit, University College Dublin 64
- Cassel D, 'Does International Human Rights Law Make a Difference' (2001) 2 Chicago Journal of International Law 121
- Cassidy T, Environmental Psychology: Behaviour and Experience in Context (1st edn, Hove & New York, Psychology Press 1997)
- Castro J and Rudmin F W, 'Acculturation, Acculturative Change, and Assimilation: A Research Bibliography with URL Links' (2017) 8 (1) Online Readings in Psychology and Culture
<<https://doi.org/10.9707/2307-0919.1075>> accessed 12 December 2017
- CEDAW, 'Violence against women' (1992) 11th session (General Recommendation No. 19)
<<http://www.un.org/womenwatch/daw/cedaw/recommendations/recomm.htm>> accessed 14 August 2018

- CEDAW, 'General recommendations made by the Committee on the Elimination of Discrimination against Women' (General Recommendation No. 19 (11th session, 1992)
<<http://www.un.org/womenwatch/daw/cedaw/recommendations/recomm.htm>> accessed 14 August 2018
- Central Statistics Office (CSO) 'Census 2011' <www.cso.ie> accessed 29 December 2016
- Central Statistics Office Ireland (CSO), 'Figure 5.6 Population of top 10 non-Irish nationalities usually resident in the State by size and census year'
<http://www.cso.ie/en/media/csoie/releasespublications/documents/population/2017/Chapter_5_Diversity.pdf> accessed 25 July 2017
- Chambers Dictionary (13th ed. 2014)
- Channels Television Nigeria, 'Culture of Silence in Nigeria And Rising Gender Based Violence' (14 December 2014) <<http://www.channelstv.com/2014/12/14/culture-silence-nigeria-rising-gender-based-.violence/>> accessed 30 July 2017
- Charlesworth H and Chinkin C, *The Boundaries of International Law – A Feminist Analysis* (Manchester University Press 2000)
- Chaudhuri M and Daly K, 'Do restraining orders help? Battered women's experience with male violence and legal process' (1992) in Buzawa E and Buzawa C (eds) *Domestic Violence: The Criminal Justice Response* (CA, Sage, Thousand Oaks) 227
- Cheld: Centre for Health Ethics Law and Development <www.cheld.org> accessed 12 May 2017
- Chingandu L, 'Domestic Violence is not part of African Culture' SAFAIDS
<<http://www.safaids.net/content/domestic-violence-not-part-african-culture>> accessed 16 July 2017
- Chittenden S, 'Number of UK women convicted of domestic abuse doubles' BBC News UK (London, 6 June 2011)
- Christian Aid Nigeria, 'Masculinity and Religion in Nigeria Findings from qualitative research' (2015)
<<http://www.christianaid.org.uk/programme-policy-practice/sites/default/files/2017-01/Masculinity-and-Religion-Nigeria-Dec-2015.pdf>> accessed 26 July 2017
- Christopher M D, Garner H J, and Jeffrey F A, 'The Effects of Arrest on Intimate Partner Violence: New Evidence from the Spouse Assault Replication Program' (2001) National Institute of Justice
<<https://www.ncjrs.gov/pdffiles1/nij/188199.pdf>> accessed 25 June 2017
- Clancy N and Ward E, 'Women, Violence and Poverty in Ireland: exploring economic abuse' (2005) Galway, Community Response to Domestic Violence Network
- Cleary M, 'Are men victims of domestic violence to the same extent as women?' *The Irish Times* (Dublin, 17 December 2007)
- Clarke R V and Cornish D B, 'Modeling offenders' decisions: A framework for research and policy' (1985) 6 In M. Tonry & N. Morris (Eds) *Crime and justice: An annual review of research* (Chicago: University of Chicago Press 147)
- Clenin K, 'Cultural Strengths and Challenges' (2001) cited in Colorado Bar Association, 'Cultural Considerations in Recognizing and Responding to Domestic Violence'
<<http://www.cobar.org/index.cfm/ID/21097>> accessed 25 June 2017
- Cliffs N, 'Social Change Defined' (2016) <<https://www.cliffsnotes.com/study-guides/sociology/social-change-and-movements/social-change-defined>> accessed 18 May 2017
- Colfer C, 'Muslims in Ireland: Adaptation and Integration' (Master of Arts Thesis, Waterford Institute 2009) 12

- Colorado Department of Human Services ‘Domestic Violence Program, 2010 Annual Report’ (CDHS 2010) <<http://www.colorado.gov/cs/Satellite?blobco>> accessed 25 June 2017
- Collins P H and Bilge S, *Intersectionality* (Key Concepts) (Polity 2016)
- Condon D, ‘Violence against women in Ireland’ (Irishhealth.com 2005) <<http://www.irishhealth.com/article.html?id=7787>> accessed 9 January 2017
- Conor L, ‘Garda Tony Golden among two dead in Louth shooting’ The Irish Times (Dublin, 12 October 2015)
- Constantinides A, ‘Questioning the Universal Relevance of the Universal Declaration of Human Rights’ (2008) 62/63 Cuadernos Constitucionales de la Cátedra Fadrique Furió Ceriol 49
- Constitution of the Federal Republic of Nigeria, 1999
- Constitution of Ireland (Bunreacht na hÉireann) 1937
- Cook D, Burton M and Robinson A, ‘Enhancing “Safety and Justice: The Role of Specialist Domestic Violence Courts in England and Wales’ (2006) 7 (8) British Society of Criminology 1
- Coomaraswamy R, (UN Special Rapporteur on Violence against Women), ‘A framework for model legislation on domestic violence’ submitted to the United Nations (E/CN.4/1996/53/Add.2) on 6 February 1996
- Cosc, The National Office for the Prevention of Domestic, Sexual and Gender-based Violence <www.cosc.ie> accessed 14 May 2017
- Council of Europe <<https://www.coe.int/en/web/istanbul-convention/home>> accessed 13 December 2017
- Council of Europe, ‘Campaign to Combat Violence Against Women, Including Domestic Violence (2006-2008)’ <<http://www.coe.int/t/dg2/equality/Domesticviolencecampaign/>> accessed 21 June 2017
- Council of Europe ‘Istanbul Convention Action against violence against women and domestic violence’ Historical Background <<http://www.coe.int/en/web/istanbul-convention/historical-background>> accessed 6 May 2017
- CountryMeters, ‘Nigeria Population Clock (Live)’ <<http://countrymeters.info/en/Nigeria>> accessed 8 August 2018
- Craig S, (ed) *Torture as Tort: Comparative Perspectives on the Development of Transnational Human Rights Litigation* (Bloomsbury Publishing 2001) 669
- Crenshaw K, ‘Why intersectionality can’t wait’ Washington Post (24 September 2015)
- Creswell J, *Qualitative inquiry and research design: Choosing among five traditions* (Sage Thousand Oaks 1998)
- Creswell J, *Qualitative Inquiry and Research Design: Choosing Among Five Approaches* (2nd edn Sage Publication Inc 2007)
- Cretney A and Davis G, ‘Prosecuting Domestic Assault: Victims Failing Courts, or Courts Failing Victims?’ (1997) 36 (2) The Howard Journal 146
- Cretney A and Davis G, *Punishing Violence* (London, Routledge 1995)
- Criminal Justice Research, ‘Criminology Theories’ Criminal Justice <<http://criminal-justice.iresearchnet.com/criminology/theories/rational-choice-theory/>> accessed 31 July 2018
- Cronbach L, ‘Beyond the two disciplines of scientific psychology’ (1975) 30 American Psychologist 116

- Crowe J, 'The limits of legal pluralism' 24 (2) Griffith Law Review 314
- Crush J, 'What is Torture? How do Human Rights Prevent and Remedy It?' Human Rights News, Views & Info (26 June 2017) <<https://rightsinfo.org/torture-human-rights-prevent-remedy/>> accessed 14 August 2018
- Dada A J, 'Impediments to Human Rights Protection in Nigeria' (2002) 18 (1) (6) Annual Survey of International & Comparative Law 67.
- Dada F O, 'The Justiciability and Enforceability of Women's Rights in Nigeria' (2014) 14 (5) Global Journal of Human-Social Science: Economics 48
- Damba G, Wilfred Lunga, and Charles Masaruwa, 'Awareness campaigns as survival tools in the fight against gender-based violence in peri-urban communities of Bulawayo in Zimbabwe' (2013) 5 (2) Journal of Disaster Risk Studies <<http://www.jamba.org.za/index.php/jamba/article/view/83/187>> accessed 2 August 2017
- Das P K, Protection of Women from Domestic Violence: Act & Rules (3ed, Universal Law Publishing 2010) 12
- Dasgupta S D, 'Women's Realities: Defining violence against women by immigration, race and class' in R K Bergen (ed) Issues in Intimate violence (Sage, Thousand Oaks, CA 1998)
- Dasgupta S D and Warriar S, 'In the footsteps of "Arundhati" Asian Indian women experience of domestic violence in the United States' (1996) 2 (3) Violence Against Women 238
- Davies E, 'Agencies and Decentralised Bodies of the European Union' Online Information Guide (Cardiff University 2013) <http://aei.pitt.edu/74857/1/Agencies_Decentralised_Bodies.pdf> accessed 6 May 2017
- Denzin N K and Lincoln Y S, Handbook of Qualitative Research (SAGE Publications 2000)
- Department of Health, Social Services and Public Safety Northern Ireland, 'Tackling Violence at Home' 18 <<https://www.womensaidni.org/assets/uploads/Tackling-Violence-at-Hom.pdf>> accessed 17 August 2013
- Department of Justice & Equality Ireland, 'CEDAW Response of Ireland to List of Issues and Questions prior to Reporting' (September 2016) <http://www.justice.ie/en/JELR/CEDAW_REPORT_September_2016.pdf/Files/CEDAW_REPORTSeptember_2016.pdf> accessed 8 May 2017
- Department of Justice 'Minister Fitzgerald publishes heads of new Domestic Violence Bill' <<http://www.justice.ie/en/JELR/Pages/PR15000436>> accessed 14 March 2017
- Department of Justice and Equity, 'Minister Fitzgerald welcomes the signature by Ireland of the Istanbul Convention on preventing and combating violence against women and domestic violence' (5 November 2015) <<http://www.justice.ie/en/JELR/Pages/PR15000568>> accessed 2 May 2017
- District of Columbia (DC), 'Domestic Violence Unit' <<https://mpdc.dc.gov/page/domestic-violence-unit>> accessed 21 April 2017
- Dixon J, 'Feminist Theory and Domestic Violence' (2014) Criminology and Criminal Justice. New York: Springer Verlag 1612
- Dobash R E and Dobash R P, 'How Theoretical Definitions and Perspectives Affect Research and Policy' (1990) in DJ Besharov (ed) Family Violence: Research and Public Policy Issues (Washington DC, The AEI Press 1990) 185 - 205
- Dobash R E and R Dobash R P, 'Women's violence to men in intimate relationships' (2004) British Journal of Criminology 44(3) 324-349

- Domestic Violence and Abuse Resource Centre, 'The Queen's College Debacle and Opening Up On Sexual Abuse of children in Nigerian Schools: Some Suggestions and Policy Reforms' (26 April 2016) <<http://domesticviolence.com.ng/the-queens-college-debacle-and-opening-up-on-sexual-abuse-of-children-in-nigerian-schools-some-suggestions-for-policy-reform/>> accessed 8 May 2017
- 'Domestic violence victims 'trapped' by immigration laws' The Journal.ie (9 August 2013) <<http://www.thejournal.ie/domestic-violence-immigration-2-1028246-Aug2013/>> accessed 29 July 2018
- Domestic Violence Act 2018 (Number 6 of 2018)
- Donnelly J, 'Cultural Relativism and Universal Human Rights' (1984) 6 Human Rights Quarterly 400
- Donnelly J, 'The Relative Universality of Human Rights' (2007) 29 (2) Human Rights Quarterly 281
- Donnelly J, Universal Human Rights in Theory and Practice (2nd ed, Cornell University Press 2003)
- Donovan J, Feminist Theory: The Intellectual Traditions (4th ed. Continuum Publishing Corporation 2012)
- Dorey G, 'Terror in the house' (Foreign & Commonwealth Office, 25 November 2011) <<http://blogs.fco.gov.uk/gregdorey/2011/11/25/terror-in-the-house/>> accessed 20 June 2017
- Dorgan S, 'How Ireland Became the Celtic Tiger' (Heritage, 23 June 2006) <<http://www.heritage.org/research/reports/2006/06/how-ireland-became-the-celtic-tiger>> accessed 29 July 2017
- DSRVT <<http://dsvrtilagos.org/index.html>> accessed 25 July 2017
- Dudovskiy J, The Ultimate Guide to Writing a Dissertation in Business Studies: A Step-by-Step Assistance (research-methodology.net 2011)
- Dugan L, 'Domestic violence Legislation: Exploring its impact on the likelihood of domestic violence Police involvement, and arrest' (2003) 2 (2) Criminology and Public Policy 283
- Dumo Eric, 'ECOWAS court orders FG to pay abuse victim N50m' The Punch (19 May 2018)
- Dundes R A and Zwart T, International Human Rights: Universalism Versus Relativism (Quid Pro LLC 2013)
- Durfee A, 'Victim Narratives, Legal Representation, and Domestic Violence Civil Protection Orders' (2009) 4 (1) 7
- Dutta S, 'Behavioural Paradigms' <<http://www.evancarmichael.com/library/swarup-dutta/Behavioral-Paradigms.html>> accessed 17 July 2017
- Dutton D G and Nicholls T L, 'The Gender Paradigm in Domestic Violence: Research and Theory' (2005) 10 Aggression and Violent Behaviour 680
- Dutton D G, Rethinking Domestic Violence (University of British Columbia Press 2007)
- Effah-Chukwuma J, 'The Enemy within: Domestic Violence in Nigeria' The Pressreader <<https://www.pressreader.com/nigeria/thisday/20170328/281891593109500>> accessed 17 July 2017
- Egan S, 'A Missed Opportunity for Domestic. Human Rights Litigation' (2003) 25 DULJ 230
- Egbujo U, 'Quota system and the Menace of Mediocrity' Vanguard (Lagos, 16 April 2016) <<https://www.vanguardngr.com/2016/04/quota-system-menace-mediocrity/>> accessed 5 December 2017

- Egede E, 'Bringing the Human Rights Home: An examination of the domestication of Human Rights Treaties in Nigeria' (2007) 51 (2) *Journal of African law* 249
- Eghosa E O, 'Women and the Law in Nigeria: A Reappraisal' (2015) 16 (2) *Journal of International Women's Studies* 285
- Ehiribe I, 'The Validity of Customary Law Arbitration in Nigeria' (1996) 18 *The Comparative Law Yearbook of International Business*. 131 - 132; Ese Malemi, *The Nigerian Legal Method* (2nd edn, Princeton publishing Co 2012)
- Eide A, 'Making Human Rights Universal: Achievements and Prospects' in Hugo Stokke & Arne Torstensen (ed.), *Human Rights in Development yearbook* (Kluwer Law International, Haag 2000) 1
- Einstein A, in Alice Calaprice (ed) *The Ultimate Quotable Einstein* (New Jersey, Princeton University Press 2010)
- Ejorh T, 'African immigrant mobilisation in Ireland: organisations as agents of social and policy change' (2011) 9 (4) *Journal African Identities* 465
- Ejorh T, 'Immigration and Citizenship: African Immigrants in Ireland' cited in Theophilus Ejorh, 'Modern African Migrations to Ireland: Patterns and Contexts. (2012) 38 (4) *Journal of Ethnic and Migration Studies* 577
- ECOWAS, 'Community Court of Justice – ECOWAS' <www.courtecowas.org> accessed 19 August 2018. ECOWAS, 'Revised Treaty of the Economic Community of West African States (ECOWAS)' (24 July 1993) Articles 6 & 15
- Ekundayo V, 'Nigeria Terrorism Act: A Right Step Forward' *Punch* (Lagos, 24 January 2012)
- Elerick G, 'Feminism Is About Equality, not a Particular Gender: An Interview With Inga Schowengerdt' (*HuffPost*, 8 February 2015) <https://www.huffingtonpost.com/george-elerick/feminism-is-about-equality-not-a-particular-gender_b_6260362.html> accessed 28 November 2017
- Elliott R and Timulak L, 'Descriptive and interpretive approaches to qualitative research' in Jeremy Miles and Paul Gilbert, *A Handbook of Research Methods for Clinical and Health Psychology* (Oxford University Press) 147 – 160.
- Elias T O, *The Nature of African Customary law* (Manchester University Press London 1956) 11
- Elias T O, *The Nigerian legal system* (London, Routledge & Paul 1963) 63 - 71
- Elizabeth D, *Dimensions of Human Behavior: Person and Environment* (5edn, USA Sage Publication 2015)
- Elizabeth M S, 'The Synergy of Equality and Privacy in Women's Rights' (2002) 1 (8) *University of Chicago Legal Forum* 145
- Emery V, 'Women's Inheritance Rights in Nigeria: Transformative Practices' (2005) *University of Toronto, Canada* 4 <https://www.law.utoronto.ca/documents/ihrp/HIV_emery.doc> accessed 24 May 2017
- Epp C R, *The Rights Revolution* (University of Chicago Press 1998) 78
- European Commission, 'Daphne 11 Work Programme 2007' <http://ec.europa.eu/justice/funding/daphne3/awp_daphne3_2007_en.pdf> accessed 5 May 2017
- European Union (EU) '29 members of the European Union' <https://europa.eu/european-union/about-eu/countries_en> accessed 29 July 2017

- European Union Agency for Fundamental Rights (FRA), 'Violence against women: an EU-wide survey' (Luxembourg, Publications Office of the European Union 2014) 21
- Eze D, 'Nigeria and the crisis of cultural identity in the era of globalization' (2014) 6 (8) *Journal of African Studies and Development*. 140
- Eze J E and Orji O F, 'Eliminating Domestic Violence in Nigeria: The Role of Law' (College Project, Nnamdi Azikiwe University Awka, Nigeria 2015) 11 - 25
- Ezeamalu B, 'Court sentences man to death for killing wife' *Premium Times* (Lagos, 23 February 2017)
- Eze-Anaba I, 'Domestic violence and Legal Reform in Nigeria: Prospects and Challenges (2007) 14 *Cardozo Journal of Law and Gender* 21
- Ezeilo J, 'Cedaw And Accountability to Gender Equality in Nigeria a Shadow Report' prepared and presented by Women Aid Collective (WACOL) a coalition of Nigeria NGOs (WACOL 2009)
- Ezeilo J, 'Laws and Practices Relating to Womens' Inheritance Rights in Nigeria: An Overview' Women Aid Collective (undated) (WACOL) <<http://wacolnigeria.org/wacol/>> accessed 5 May 2017
- Ezekwu I M, 'Culture of Silence and Domestic Violence: The Death of Nkechi and Unborn Child. True Story' *The Nigerian Voice* (9 February 2012) [Emphasis added] <<http://www.thenigerianvoice.com/news/82327/1/culture-of-silence-and-domestic-violence-the-death.html>> accessed 25 July 2017
- F A, 'The complete works of Fela songs' <www.allmusic.com/album/the-complete-works-of-fela-anikulapo-kuti-mw0002073846> accessed 25 July 2017
- Fagan P, 'Migrant Women and Domestic Violence in Ireland: The Experience of Domestic Violence Service Providers' (2008). <http://adaptservices.ie/file_uploads/Migrant_Women_and_Domestic_Violence_in_Ireland-The_Experience_of_Domestic_Violence_Service_Providers.pdf> accessed 26 August 2018.
- Falola T and Heaton M, *A History of Nigeria* (Cambridge University Press 2008) 85 - 100
- Falola T, *Culture and Customs of Nigeria* (Greenwood Publishing Group, 2001) 25 - 32
- Farrior S, 'Color" in the Non-Discrimination Provisions of the Universal Declaration of Human Rights and the Two Covenants' (2015) 14 (4) *Wash U Global Stud L Rev* 751
- Fearon J and Hoeffler A, 'Benefits and Costs of the Conflict and Violence Targets for the Post-2015 Development Agenda Post-2015 Consensus' *Copenhagen Consensus Center- Conflict and Violence Assessment Paper* <http://www.copenhagenconsensus.com/sites/default/files/conflict_assessment_-_hoeffler_and_fearon_0.pdf> accessed 21 October 2014
- Federal Ministry of Women Affairs & Social Development, Abuja, Nigeria <<http://www.womenaffairs.gov.ng/>> accessed 5 May 2017
- Festing S and Wilkinson R, 'The ethics of animal research. Talking Point on the use of animals in scientific research' (2007) 8 (6) *Science and Society* 526
- Fisher C, 'Legislation is not Enough: Turkey Fails to Enforce its Violence Against Women Laws' *Global Rights For Women* (10 April 2017) <<http://globalrightsforwomen.org>> accessed 12 December 2017
- Fisher J A, 'Today's Feminism: A Brief Look at Third-Wave Feminism' (Being Feminist, 16 May 2016) <<https://beingfeministblog.wordpress.com/2013/05/16/todays-feminism-a-brief-look-at-third-wave-feminism/>> accessed 3 July 2017

- Flowers N, *Human Rights Here and Now: Celebrating the Universal Declaration of Human Rights* (1st ed, Minneapolis, Human Rights Resources Centre 1999)
- Forsyth A, (ed) *The Methuen Drama Anthology of Testimonial Plays* (Bloomsbury 2013) 273
- Foster C, *Blackness and Modernity: The Colour of Humanity and the Quest for Freedom* (McGill-Queen's Press 2007) 329
- Free Legal Advice Centre (FLAC) Ireland, *Domestic Violence* (FLAC July 2014) 6
- Friedman L, *Law and society: an introduction* (Prentice-Hall 1977) 12
- Frye M, "Feminism" in Lorraine Code (ed) *Encyclopaedia of Feminist Theories* (London, Routledge, 2003)195
- Gartland F, 'Family Court: Husband granted protection after attack by wife' *The Irish Times* (Dublin 30 December 2015)
- Gawanas B, 'The African Union: Concepts and implementation mechanisms relating to human rights' in Anton Bösl and Joseph Diescho (eds) *Human Rights in Africa: Legal Perspectives on Their Protection and Promotion* (Namibia, McMillan Education 2009) 135
- Gerson J, 'Privately run shelter for male victims of domestic abuse forced to close its doors due to lack of funding' *National Post* (Canada, 20 March 2013) <<http://news.nationalpost.com/2013/03/20/>> accessed 7 July 2017
- Ghafournia N, 'Culture, Domestic Violence and Intersectionality: Beyond the Dilemma of Cultural Relativism and Universalism' (2014) 11 (2) *International Journal of Critical Cultural Studies* 23
- Ghandhi S, *International Human Rights Documents* (6th ed, OUP 2008) - Some of the notable UN human rights treaties include: Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) 1979
- Gillham B, *Research Interview* (Continuum Research Methods) (1st ed. Bloomsbury Academic 2000) 9
- Global Policy Forum, 'Cultural Relativism v. Universalism' <<https://www.globalpolicy.org/home/163-general/29441.html>> accessed 28 November 2017
- Global Rights for Women, 'Coercive control now a crime in the UK' <<http://globalrightsforwomen.org/2015/02/06/targeting-domestic-abuse-in-the-united-kingdom/>> accessed 25 June 2017
- Global Rights for Women, 'Coercive control now a crime in the UK' <<http://globalrightsforwomen.org/2015/02/06/targeting-domestic-abuse-in-the-united-kingdom/>> accessed 23 March 2017
- Goitom H, 'Nigeria: Bill on Elimination of Violence Against Persons Enacted into Law' (2015) *Global Legal Monitor* <<http://www.loc.gov/law/foreign-news/article/nigeria-bill-on-elimination-of-violence-against-persons-enacted-into-law/>> accessed 27 July 2017
- Goitom H, 'Nigeria: Gender Equality Bill Fails in the Senate' (Law Library of Congress, 28 March 2016) <<http://www.loc.gov/law/foreign-news/article/nigeria-gender-equality-bill-fails-in-the-senate/>> accessed 11 June 2017
- Goodman R and Pegram T, *Human Rights, State Compliance, and Social Change: Assessing National Human Rights Institutions* (Cambridge University Press 2011) 12
- Goodmark L, 'Law is the answer? Do we know for sure? questioning the efficacy of legal interventions for battered women' (2004) *Saint Louis University Public Law Review* 23 (7) 7
- Goodmark L, 'Reframing Domestic Violence Law and Policy: An Anti-Essentialist Proposal' (2009) 31 (39) *Journal of Law and Policy* 51

- Goodmark L, 'When Is a Battered Woman Not a Battered Woman? When She Fights Back' (2008) 20 (1) *Yale Journal of Law & Feminism* 79; Eliana Dockterman, 'Why Women Stay: The Paradox of Abusive Relationships' (*Time Living* 9 September 2014)
- Grau J, Pagan J and Wexler S, 'Restraining orders for battered women: Issues of access and efficacy' (1985) in Schweber C and Feinman C (eds) *Criminal Justice Politics and Women: The Aftermath of Legally Mandated Change* (New York, Haworth Press) 13
- Grayling A C, 'Rome was not built in a day' *The Guardian* (online 10 December 2008) <<https://www.theguardian.com/commentisfree/2008/dec/10/humanrights-declaration>> accessed 3 May 2017
- Green M, 'Constitution and Government of Ireland' (undated) <<http://www.ireland-information.com/reference/congov.htm#PRE>> accessed 2 January 2017
- Griffiths J, 'What is Legal Pluralism?' (1986) 32 (24) *Journal of Legal Pluralism and Unofficial Law* 1
- Grohol J M, 'Understanding the Effects of Domestic Violence' (2016) *Psych Centra* <<http://psychcentral.com/lib/understanding-the-effects-of-domestic-violence/000345>> accessed 2 July 2017
- Goitom H, 'Nigeria: Gender Equality Bill Fails in the Senate' *Global Legal Monitor* (Official blog from the Law Library of Congress) <<http://www.loc.gov/law/foreign-news/article/nigeria-gender-equality-bill-fails-in-the-senate/>> accessed 2 June 2017
- Grovert A J, 'Domestic Violence Against Women: A Literature Review' (Masters thesis, Pacific University 2008) 4
- Habila H, *The Chibok Girls: The Boko Haram Kidnappings and Islamist Militancy in Nigeria* (Columbia Global Reports 2016) 33
- Hammel J and Nicolls T L, *Family Interventions in Domestic Violence: A Handbook of Gender-Inclusive Theory and Treatment* (Springer Publishing Company 2006) 9 - 56
- Hammersley M, *Reading ethnographic research* (NY, Longman 1990)
- Harrell A and Smith B, 'Effects of restraining orders on domestic violence victims' (1996) in E Buzawa and C Buzawa (eds) *Do Arrests and Restraining Orders Work?* (CA, Sage, Thousand Oaks) 214
- Harris A, "Race and Essentialism in Feminist Legal Theory" in *Feminist Legal Theory: Foundations*, Weisberg D K, (ed.) (Philadelphia, Temple University Press 1993); Stone A, 'Essentialism and Anti-Essentialism in Feminist Philosophy' (2004) 1 *Journal of Moral Philosophy* 135
- Harper M and Cole P, 'Member Checking: Can Benefits Be Gained Similar to Group Therapy?' (2012) 17 (2) *The Qualitative Report* 1
- Hastings M, 'A Logical Critique of the Universal Declaration of Human Rights' 1 <www.academia.edu/.../A_Logical_Critique_of_the_Universal_Declaration_of_Human> accessed 5 May 2017
- Hatzidimitriadou E, Lindsay J, Matczak A, 'Domestic Violence in England: a cross-sectional survey of community prevalence and its impact on health-related factors' (Kingston University and St George's, University of London 2011)
- Hawk T, 'Intersectional Feminism: What It Is And Why We Need It For A Truly Gender Equal World' *Denison- Women and Gender Studies* (26 July 2016) <<https://denison.edu/academics/womens-gender-studies/feature/67969>> accessed 28 November 2017

- Heggertveit-Aoudia S, 'Culture, Values and the Impact at Work' (2017) *Diversity Journal*
 <<http://www.diversityjournal.com/9823-culture-values-and-the-impact-at-work/>> accessed 25 June 2017
- Heise L L, 'What Works to Prevent Partner Violence? An Evidence Overview' (Working paper (version 2.0, OECD 2011) <<https://www.oecd.org/derec/49872444.pdf>> accessed 24 July 2017
- Hobbes T, 'Early Classical Philosophers of Deterrence Theory' (n.d.) 41 (1) *Criminology* 99
- Hold G, 'England riots: What is the impact of a criminal record?' *BBC News* (17 August 2011)
- Holden G, 'Protective orders and domestic violence: Risk factors for re-abuse' (1999) 14 (2) *Journal of Family Violence* 205
- Houses of the Oireachtas (Irish Parliament) <<http://www.oireachtas.ie/parliament/>> accessed 30 July 2017
- Human Rights Watch (HRW), 'Algeria: Inadequate Response to Domestic Violence' HRW (23 April 2017) <<https://www.hrw.org/news/2017/04/23/algeria-inadequate-response-domestic-violence>> accessed 3 May 2017
- Hurst H, 'The Status of The Universal Declaration of Human Rights in National and International Law' (1995) 25 *Georgia Journal of International & Comparative Law* 287
- Ian F and Guenther J, 'Generalising from Qualitative Research: Case studies from VET in Contexts (Conference: AVETRA 10th Annual Conference, At Footscray, Victoria 2007)
- Ibrahim H and Princeton N L, 'Reflections on the New Sharia Law in Nigeria' (2004) Prepared in cooperation with the Africa Policy Studies Program at the Council on Foreign Relations <file:///C:/Users/Owner/Downloads/Reflections_on_the_New_Sharia_in_Nigeria.pdf> accessed 22 April 2017
- Idang G E, 'African Culture and Values' (2015) 16 (2) *Unisa Press* 97
 <<http://www.scielo.org.za/pdf/phronimon/v16n2/06.pdf>> accessed 14 August 2018
- Ifemeje S C and Ikpeze O, 'Global Trend Towards Gender Equality: Nigeria's Experience in Focus' (2012) 2 (3) *Kuwait Chapter of Arabian Journal of Business and Management Review* 51
- Ifemeje S C and Umejiaku N, 'Discriminatory Cultural Practices and Women's Rights among the Igbos of South-East Nigeria: A Critique' (2014) 25 *Journal of Law, Policy and Globalization* 18
- Ifemeje S C, 'Gender-Based Domestic Violence in Nigeria a Socio-Legal Perspective' (2012) 19 (1) *Indian Journal of Gender Studies* 137
- Igwe B O, 'Women Inheritance Rights in Nigeria: Towards Progress in the 21st Century' (LLM Thesis, Maynooth University 2012) 25 - 30
- Igbokwe I N, 'Contextualizing Gender Based Violence within Patriarchy in Nigeria' (*Pambazuka News*, 30 May 2013) <<http://www.pambazuka.net/en/category.php/features/87597>> accessed 14 April 2017
- Ikeke N, 'Agencies responsible for the protection of women's rights in Nigeria' Note: This is not an exhaustive list of NGOs in Nigeria <<https://www.naija.ng>> accessed 21 August 2018
- Ikeke N, 'Woman Kills Fiance Over Sex in Lagos' (*NAIJ.COM* October 2015)
 <<https://www.naij.com/531878-demanding-sex-woman-unthinkable-fiance-lagos.html>> accessed 27 July 2017
- Ikeokwu K, 'Legalization of Abortion in Imo State' *Global Reporters* (31 August 2013)
 <<http://globalreportersnews.com/2013/08/legalization-of-abortion-in-imo-state/>> accessed 7 May 2017

- Indian National Crime Bureau Report 2015 <<http://ncrb.nic.in/>> accessed 26 June 2017
- International Rescue Mission (IRC), Let me not die before my time (IRC 2012)
- Irish Human Rights Commission (IHRC), Ireland and the Convention on the Elimination of All Forms of Discrimination Against Women (Dublin, IHRC January 2017) 25
- Irish Human Rights Commission, 'Article 41.2 of the Constitution of Ireland' (June 2018)
- Ishola S A, 'Domestic Violence: Nigerian Experience' (2016) 13 Asia-Africa Journal of Mission and Ministry 3
- Iskyan K, 'Tiger, Tiger, Fading Fast - Could other countries replicate Ireland's economic transformation?' (The World, 27 December 2004)
<http://www.slate.com/articles/news_and_politics/foreigners/2004/12/tiger_tiger_fading_fast.html> accessed 29 July 2017
- Jackson S A, 'Legal Pluralism Between Islam and the Nation-State: Romantic Medievalism or Pragmatic Modernity?' (2006) 30 (1) Fordham International Law Journal 5
- Jahn J, African Culture and The Western World (Reprint edition, Grove Press 1994)
- Jane Flax, 'Postmodernism and Gender Relations in Feminist Theory' (1987) 12 (4) Journal of women in culture and society 621
- Janice M M, 'Designing funded qualitative research' in Denzin K N and Lincoln Y S (eds.) Handbook of qualitative research (2nd edn, Thousand Oaks CA Sage 1994)
- Janowitz M, 'Sociological Theory and Social Control' (1975) 81(1) American Journal of Sociology, 82
- Jean M V, Women's Struggle for Equality: The First Phase, 1828-1876 (Ivan R. Dee Publisher 1997)
- Jean-Philippe F, 'Hayek's Critique of the Universal Declaration of Human Rights' (1999) 9 (4) Journal des Economistes et des Études Humaines 529
- Jekayinfa A A, 'Implications of Competitive Ethnicity in The Process of Nation Building in Nigeria' (2002) 4 (1) Nigerian Journal of Social Studies (NJSS) 1
- Johnson D, 'I have learnt my lessons, deposed Deji of Akure begs for reinstatement' Vanguard (Lagos, 23 December 2013)
- Jones M, 'A Fight About Nothing: Constructions of Domestic Violence' (PhD Thesis, University of Adelaide 2004) 4
- Joshua S, Loromeke R E and Olanrewaju I P, 'Quota System, Federal Character Principle and Admission to Federal Unity Schools: Barriers to Learning in Nigeria' (2014) 2 (2) International Journal of Interdisciplinary and Multidisciplinary Research 1.
- Judge Y, 'Law and Social Change' (2012) Legal Services India
<<http://www.legalservicesindia.com/article/article/law-and-social-change-1171-1.html>> accessed 25 May 2017
- Juergens A, 'Feminist Jurisprudence: Why Law Must Consider Women's Perspectives' (1991) Faculty Scholarship Paper, Mitchell Hamline School of Law
<<http://open.mitchellhamline.edu/facsch/111>> accessed 2 July 2017
- Kale Y, 'Statistical Report of Women and Men in Nigeria 2015' National Bureau of Statistics
<<http://www.nigerianstat.gov.ng/>> accessed 8 August 2018
- Kalunta-Crumpton A, 'Attitudes and solutions toward intimate partner violence: Immigrant Nigerian women speak' (2017) 17 (1) Criminology & Criminal Justice 3

- Kanchiputu P G and Mwale M, 'Effects of Domestic Violence on Children's Education: The Case Study of Mpemba in Blantyre District Malawi (2016) 5 (152) Journal of Psychological Abnormalities <<https://www.omicsonline.org>> accessed 29 July 2018
- Katiuzhinsky, Anna and Okech D, 'Human Rights, Cultural Practices, and State Policies: Implications for Global Social Work Practices and Policy' (2012) 10 (11) International Journal of Social Welfare 1
- Lay K and Daly J G, 'A Critique of Feminist Theory' (2007) 8 (1) IUPIU 49
- Kearns N, Coen L, and Canavan J, 'Domestic Violence and/or Sexual Violence in Ireland: an overview of national strategies and relevant international literature on prevention and intervention initiatives in service provision' (2009) Child and Family Research Centre, NUI Galway 5 - 7
- Kelleher & Associates and O'Connor M, 'Making the Links Towards an Integrated Strategy Towards the Elimination of Violence against Women in Intimate Relationships with Men' (Women's Aid Ireland 1995)
- Kelleher J, 'Referendum 1972: Accession to the European Communities' (Irish Political Maps) <<http://irishpoliticalmaps.blogspot.ie/2011/07/referendum-1972-accession-to-european.html>> accessed 25 January 2017
- Kelleher P and O'Connor M, 'Making the Link towards an Integrated Strategy towards the Elimination of Violence against Women in Intimate Relationships with Men' (Women's Aid Ireland 2009)
- Kelly E (ed), John Rawls Justice as Fairness: A Restatement (MA, Harvard University Press 2001) Wenar Leif and Edward N Zalta (eds), John Rawls the Stanford Encyclopaedia of Philosophy (Winter edn, 2013)
- Kelly L *et al.*, 'Evaluation of the Pilot of Domestic Violence Protection Orders' (2013) (Home Office Research Report 76) 6
- Kelly L, 'Taking the Easy Option: Risk Factors and Cycles of Violence' (Domestic Violence – Feminists Approaches in the New Millennium, Social Policy Research Group Conference, University of South Australia, Magill 1999) cited in Michelle Jones, 'A fight about nothing: Constructions of Domestic Violence' (PhD thesis, School of Social Sciences, University of Adelaide 2004) accessed 12 July 2017
- Kenneth T W, 'The 1960s: A Decade of Change for Women: Cultural changes led women to fight for equal pay and an end to domestic violence' (US News 12 March 2010) <<https://www.usnews.com/news/articles/2010/03/12/the-1960s-a-decade-of-change-for-women>> accessed 2 February 2017)
- Kenneth W A and Snidal D, 'Hard and Soft Law in International Governance' (2000) 54 International Organisation 421
- Kenney K L, Domestic Violence (1st edn, ABDO 2011) 56
- Kenworthy B and Janice N, Law Moral Attitude, and Behavioural Change (Eyal Zamir and Doron Teichman eds, Oxford Handbook on Behavioural Economics and Law 2014) 241
- Khan S, 'Domestic violence cuts across all socio-economic classes' (2016) One World South Asia <<http://southasia.oneworld.net/>> accessed 26 June 2017
- Killeen R, A Short History of Ireland (2nd Revised edn, Gill & Macmillan Ltd 2005); P.W. Joyce, A Concise History of Ireland (Featured edn, Create Space Independent Publishing Platform 2015)

- Klein E et al., *Ending Domestic Violence: Changing Public Perception/Halting the Epidemic* (1st edn, SAGE Publications Inc 1997)
- Kombo B *et al.*, *Journey to Equality: 10 Years of The Protocol on The Rights of Women in Africa* (Colourprint Ltd 2013)
- Komolafe J, 'Nigerian migration to Ireland: movements, motivations and experiences' (2008) 41 (2) *Irish Geography* 225
- Kubrin C E, Stucky T D, and Krohn M D, *Researching theories of crime and deviance* (New York, University Press 2009)
- Kulkarni V S, Manoj P K, and Raghav G, 'Four walls and the cry for help' *The Hindu* (22 May 2013) <<http://www.thehindu.com/opinion/op-ed/four-walls-and-the-cry-for-help/article4736753.ece>> accessed 25 June 2017
- Kumar P V, 'Harassed' husband challenges Domestic Violence Act' *The Times of India* (Bangalore, 20 March 2013) <<http://timesofindia.indiatimes.com/city/bengaluru/Harassed-husband-challenges-Domestic-Violence-Act/articleshow/19082232.cms>> accessed 13 April 2017
- Kurz D, 'No: Physical Assaults by male partners: A major social problem' in Walsh M R (ed) *Women, men, & gender: Ongoing debates* (New Haven, Yale University Press 1997)
- Lagos State Government official website <www.lagosstate.gov.ng> accessed 3 May 2017
- Laing L, 'Australian Studies of the Economic Costs of Domestic Violence' (2001) *Australian Domestic and Family Violence Clearinghouse* <http://www.austdomesticviolenceclearinghouse.unsw.edu.au/PDF%20files/eco_costs_final.pdf> accessed 2 July 2017
- Lameck M, 'Stiffer Penalties Fail to Deter Domestic Violence in Malawi' *VOA* (15 August 2014) <<https://www.voanews.com/a/stiffer-penalties-fail-to-deter-domestic-violence-in-malawi/2414348.html>> accessed 24 June 2017
- Langwallner D, *Irish Constitutional Handbook* (Dublin, Griffith College 2007) 373
- Lawyers Collective Women's Rights Initiative, India 'Domestic Violence Legislation and its Implementation' p. viii < [www.http://asiapacific.unwomen.org/](http://asiapacific.unwomen.org/)> accessed 27 July 2017
- Leach, 'What Is Justice? Reflections of a Practitioner at the European Court of Human Rights' (2013) 4 *European Human Rights Law Review* 392.
- Leicht K T, 'Social Change' (2013) *Oxford Bibliographies* <<http://www.oxfordbibliographies.com/view/document/obo-9780199756384/obo-9780199756384-0047.xml>> accessed 18 May 2017
- Leonard D and Taylor R, *The Routledge Guide to the European Union* (New York, Routledge 2016) 250
- Lester S, 'An introduction to phenomenological research' (1999) Taunton UK, Stan Lester
Developments cited in Alex Ashton, 'Drawing on the "Lived Experience" An Investigation of Perception, Ideation and Praxis' (2014) *Art and Design Review* 43
- Leung L C, 'It is a matter of Trust: Policing Domestic Violence in Hong King' (2014) 29 (1) *Journal of Interpersonal Violence* 82- 101
- Lewis P, 'Senators condemn 'culture of silence' enabling domestic violence in sports' *The US Guardian Newspapers* (2 December 2014)
- Liberman C, quoted in Rosemary Black, 'Children of mean, psychologically abusive mothers suffer well into adulthood: report' *Daily News* (7 May 2010) <<http://www.nydailynews.com/life->

style/children-psychologically-abusive-mothers-suffer-adulthood-report-article-1.181243>
accessed 2 July 2017

Lincoln Y and Guba E, *Naturalistic inquiry* (Sage, Newbury Park 1985)

Lincoln Y S and Guba E G, *Naturalistic Inquiry* (CA, Sage Publications 1985)

Lippman M, *Law and Society* (Sage Publications 2014)

Lisa H, 'Religion, state power, and domestic violence in Muslim societies: A framework for comparative analysis' (2004) 29 (1) *Law & Social Inquiry* 1

Lobey S, 'History, Role, and Activities of the Council of Europe: Facts, Figures and Information Sources' (2005) *Global Law and Justice*
<http://www.nyulawglobal.org/globalex/Council_of_Europe.html> accessed 13 December 2017

Los Angeles Police Department 'Domestic Violence: Reasons Why Battered Victims Stay With the Batterers' (Undated) < Domestic Violence: Reasons Why Battered Victims Stay With the Batterers> accessed 12 June 2017

Luxton E, 'Which European countries have the biggest gender pay gaps?' (World Economic Forum, 18 December 2015) <<https://www.weforum.org/agenda/2015/12/which-european-countries-have-the-biggest-gender-pay-gaps/>> accessed 24 June 2017

McCarthy B, 'New economics of sociological criminology' (2002) 28 *Annual Review of Sociology* 417

MacKinnon C A, *Feminism Unmodified: Discourses on Life and Law* (Harvard University Press 1987)

MacKinnon C A, "The Liberal State", in Catharine MacKinnon, *Toward A Feminist Theory of the State* (Cambridge, Harvard University Press 1989) 157 - 170

Madu J C, 'Domestic violence legislation for development, peace and security in Nigeria' (2015) 24 (3) *African Security Review* 279

Maggie H, *The dictionary of feminist theory* (Columbus, State University Press 1990) 27

Mahony C, 'The problem of domestic violence. Private violence and Public Policy' (Master Thesis, St. Patrick's College, Maynooth 1996) 7 - 42

Makinde A O *et al.*, 'Rejection of the Gender and Equal Opportunities Bill in Nigeria: A setback for sustainable development goal five' *Gender in Management*' ((2017) 32 (3) *An International Journal* 234.

Makinde M, 'Why Domestic Violence is on The Rise' *The Guardian* (Nigeria, 16 February 2016)
<<https://guardian.ng/guardian-woman/why-domestic-violence-is-on-the-rise/>> accessed 5 July 2017

Making Domestic Violence a Crime in Muslim Countries' *Sisters in Islam*
<<http://www.sistersinislam.org.my/news.php?item.656.12>> accessed 4 May 2017

Manuh T, 'African women and Domestic violence' (*Open Democracy*, 26 November 2007)
<https://www.opendemocracy.net/article/5050/ghana_domestic_violence> accessed 27 August 2017

Mapumulo Z, 'Shocking stats on abuse of women in SA' *City Press* (South Africa, 20 November 2016)
<<http://city-press.news24.com/News/shocking-stats-on-abuse-of-women-in-sa-20161120>>
accessed 23 April 2017

Mark S P, *The Right to Development a Primer* (London, Sage Publications 2004) 50 cited in Saleha-Tus Rabia 'Theory of Universal Human Rights' (undated)

<https://www.academia.edu/21435495/Theory_of_Universal_Human_Rights> accessed 5 July 2017

- Marson M, 'Sample Size and Saturation in PhD Studies Using Qualitative Interviews' (2010) 11(3) Forum Qualitative Sozialforschung / Forum: Qualitative Social Research, 11(3) Art 8.
- Martin M, 'Ireland fails to protect human rights of women affected by domestic violence' The Irish Times (Dublin, 23 June 2015)
- Martin M, 'Ireland fails to protect human rights of women affected by domestic violence' The Irish Times (Dublin, 21 June 2015)
- Mathews J V, *Women's Struggle for Equality: The First Phase 1826 – 1876* (Ivan R Dee Publisher 1997)
- Maxwell C D and Garner J, 'The Crime Control Effects of Criminal Sanctions for Intimate Partner Violence' (2012) 3 (4) Partner Abuse 1
- Maxwell C D, Garner H J, and Fagan J A, 'The Effects of Arrest on Intimate Partner Violence: New Evidence from the Spouse Assault Replication Program' (2001) National Institute of Justice <<https://www.ncjrs.gov/pdffiles1/nij/188199.pdf>> accessed 25 June 2017
- Maxwell C D, Garner J H, Fagan J A, 'The Effects of Arrest on Intimate Partner Violence: New Evidence from the Spouse Assault Replication Program' (2001) National Institute of Justice <<https://www.ncjrs.gov/pdffiles1/nij/188199.pdf>> accessed 12 June 2017
- Mayock P and Sheridan S, 'Migrant Women and Homelessness: Key Findings from a Biographical Study of Homeless Women in Ireland' (Research Paper 2) School of Social Work and Social Policy and Children's Research Centre, Trinity College Dublin (February 2012) 6
- McCarthy J, 'Female genital mutilation occurring in Ireland' (Irishhealth.com 22 October 2008) <<http://www.irishhealth.com/article.html?id=14486>> accessed 12 June 2017
- McCarthy J, 'Garda domestic violence figures under spotlight' The Irish Times (2 April 2017)
- McCosker H, Alan B, and Gerber R, 'Phenomenographic Study of Women's Experiences of Domestic Violence During the Childbearing Years' (2004) 9 (1) A Scholarly journal of the American Nurses Association
- McDonagh M, 'Landmark Verdict as man convicted for marital rape' Independent.ie (Dublin, 19 July 2012)
- McGovern P, 'Verbal abuse in the home can be as damaging as fists' Journal.ie (17 February 2012) <<http://www.thejournal.ie/readme/column-verbal-abuse-in-the-home-can-be-as-damaging-as-fists-357316-Feb2012/>> accessed 25 June 2017
- McGreevy R, 'Portlaoise elects Ireland's first black mayor' The Irish Times (27 June 2007)
- McGue M and Bouchard T J, 'Genetic and Environmental Influences on Human Behavioral Differences' (1998) 21 Annu Rev Neurosci 1
- McKinley M, 'Gender Pay Gap Ireland 2016' <https://www.morganmckinley.ie/sites/morganmckinley.ie/files/gender_pay_gap_in_ireland_2016.pdf> accessed 24 June 2017
- McQuigg J A R, *International Human Rights Law and Domestic Violence: The effectiveness of international human rights law* (New York, Routledge 2013) 117
- McQuigg J A R, *The Istanbul Convention, Domestic Violence and Human Rights* (Routledge 2017)
- McQuigg J A R, 'The European Court of Human Rights and domestic violence: Valiuliene v. Lithuania' (2014) 18 (7-8) The International Journal of Human Rights 756

- McQuigg J A R, 'What Potential Does the Council of Europe Convention on Violence against Women Hold as Regards Domestic Violence (2012) *The International Journal of Human Rights* 1
- McQuigg J A R, 'Domestic Violence as a Human Rights Issue: *Rumor v. Italy*' (2016) 26 (4) *The European Journal of International Law* 1009
- Mederos F, 'Domestic Violence and Culture: Moving Toward More Sophisticated Encounters' <http://www.melissainstitute.org/documents/eighth/domestic_violence_culture.pdf> accessed 15 June 2017
- Merriam S B, *Qualitative Research in Practice* (Jossey-Bass 2002)
- Merry S E, 'Constructing a global law – Violence Against Women and the Human Rights System' (2003) 28 *Law and Social Inquiry* 959
- Merryman J, *The Civil Law Tradition: An Introduction to the Legal Systems of Western Europe and Latin America* (Stanford University Press 1985)
- Meyersfeld B, 'A Theory of Domestic Violence in International Law' (Doctor of the Science of Law (J.S.D.) Dissertation, Yale University 2016)
- Mikala S, 'Nigeria: New report finds shocking level of violence against Women's right's rights right's rights in the home' (Amnesty International, Nigeria 2005) <<http://www.amnesty.org.uk/press-releases/nigeria-new-report-finds-shocking-level-violence-against-womens-rightss-rightss>> accessed 8 May 2017
- Mikala S, 'Nigeria: Unheard voices – violence against women in the family' (2005) Amnesty International report describes the prevalence of domestic violence against women in Nigeria as shocking. <www.amnesty.org/en> accessed 5 May 2017
- Moller O S, 'Gender, the Public, and the Private', in Anne Phillips (ed) *Feminism and Politics* (Oxford, Oxford University Press 2009)
- Moscrop H, 'Enforcing International Human Rights Law: Problems and Prospects (Cardiff University, April 2014) <<http://www.e-ir.info/2014/04/29/enforcing-international-human-rights-law-problems-and-prospects/>> accessed 3 June 2017
- Mutua M, 'The Complexity of Universalism in Human Rights' in Sajo (ed) *Human Rights with Modesty: The Problem of Universalism* (Kordinlinye Brill NV 2004)
- Murithi T, *The African Union* (Routledge 2005)
- Murray C, 'In the Words of Survivors: The Importance of Education about Domestic Violence' (Triumph 4 October 2014) <<http://www.seethetriumph.org/blog/this-october-educate-yourself-and-others-about-domestic-violence>> accessed 29 July 2017
- Ngbea G T and Achunike H C, 'Religion: Past and Present in Nigeria' (2014) 7(2) *International Journal of Sciences: Basic and Applied Research* 156
- Nagin D S, 'Moving choice to center stage in criminological research and theory' (2007) 45 *Criminology* 259
- Napikoski L, 'Patriarchal Society: Feminist Theories of Patriarchy' (1 December 2017) ThoughtCo <<https://www.thoughtco.com/patriarchal-society-feminism-definition-3528978>> accessed 7 August 2018
- National Bureau of Statistics (NBS), Nigeria. <<http://nigerianstat.gov.ng/>> accessed 6 May 2016
- National Bureau of Statistics, 'Statistical Report on Women and Men in Nigeria 2015' (November 2016) <www.nigerianstat.gov.ng/> accessed 8 August 2018

- National Coalition Against Domestic Violence (NCAV), USA <<http://www.ncadomesticviolence.org/>> accessed 25 May 2017
- National Crime Council (NCC) and Economic and Social Research Institute (ESRI), 'Domestic abuse of women and men in Ireland: report on the national study of domestic abuse' (ESRI, 5 July 2005)
- National Population Commission (NPC), 'Nigeria remains the most populous in Africa, the seventh globally with an estimated population of over 198 million' (n.d.) <<http://population.gov.ng/nigerias-population-hit-198m-people-npopc-chairman/>> accessed 8 August 2018
- National Population Commission (NPC), Nigeria <<http://www.population.gov.ng/index.php?start=6>> accessed 3 May 2016
- Newton N, 'the use of semi-structured interviews in qualitative research: strength and weaknesses' (PhD Thesis, University of Bristol 2010) 2
- Nkwopara C, 'Okorochoa, Catholic doctors at war over abortion law' (27 August 2013) Vanguard <<http://www.vanguardngr.com/2013/08/okorochoa-catholic-doctors-at-war-over-abortion-law/>> accessed 6 May 2017
- Nnoli O, *Ethnic Politics in Nigeria* (Enugu, Fourth Dimension Publisher 1978)
- Nwazuoke A N, 'A Critical Appraisal of the Violence Against Persons (Prohibition) Act, 2015' (2016) 47 *Journal of Law, Policy and Globalization*
- Nweje C, 'Taking campaign against domestic violence to the grassroots' Daily Independent (Lagos, 20 October 2014)
- Nwogugu E I, *Family Law in Nigeria* (Revised ed, HEBN Publishers Plc 2011) 399 - 413
- Nwoke M B, 'Influence of Culturalvalue System and Home on Child-Rearing Practices in the Contemporary Nigeria Society' (2013) 3 (1) *Open Journal of Philosophy* 200
- Nwoko K C, 'Female Husbands in Igbo Land: Southeast Nigeria' (2012) 5 (1) *The Journal of Pan African Studies* 5(1) 69
- Nwosu P, 'An Overview of Domestic Violence and Homicide in Nigerian Marriages' *The Leader* (14 April 2014) <<http://theleaderassumpta.com/2014/04/14/an-overview-of-domestic-violence-and-homicide-in-nigerian-marriages/>> accessed 25 July 2017
- Nwozo H, 'Culture of Silence and Domestic Violence: The Death of Nkechi and Unborn Child. True Story' *The Nigerian Voice* (9 February 2012) <<http://www.thenigerianvoice.com/news/82327/1/culture-of-silence-and-domestic-violence-the-death.html>> accessed 25 July 2017
- Nyi C, 'Catholic Bishops, Women Groups Disagree on Imo Abortion Law' *Information Nigeria* (23 September 2013) <<http://www.informationng.com/2013/09/catholic-bishops-and-women-groups-disagree-on-imo-abortion-law.html>> accessed 3 May 2017
- O'Brien K, 'Domestic violence cost put at \$8b' TV Program Transcript 21/03/2005 (Australian Broadcasting Corporation) <<http://www.abc.net.au/7.30/content/2005/s1328611.htm>> accessed 3 July 2017
- O'Connor O, 'Data holds key to tackling violence against women' *The Irish Times* (Dublin, 24 April 2017)
- O'Donnell R, 'Ireland's Economic Transformation: Industrial policy, European Integration and Social Partnership' (1998) Centre for European Studies, University of Pittsburgh Research Paper 2/1998 <<http://aei.pitt.edu/27/1/Odonnell.pdf>> accessed 29 July 2017

- O'Halloran S, 'The real danger to women is within their own home' (Safe Ireland, 18 November 2016) <<http://www.safeireland.ie/2016/the-real-danger-to-women-is-within-their-own-home/>> accessed 26 May 2017
- O'Halloran S, Domestic violence cases are being failed by the Irish legal system (Safe Ireland 2015)
- O'Halloran S, The State we are in 2016: Towards a safe Ireland for women and children (Safe Ireland 2016) 6
- O'Leary M and Iliopoulos K, 'Application No 001/2011 - Femi Falana v. African Union' Justice and Human Rights for Africa (Case Summary 6 February 2013) <<http://arcproject.co.uk/wp-content/uploads/2013/04/CSW-001-2011.pdf>> accessed 24 April 2017
- Oba A A, 'Religious and Customary Laws in Nigeria' (2011) 25 (2) Emory International Law Review <<http://law.emory.edu/eilr/content/volume-25/issue-2/religious-nigeria/religious->customary-laws-nigeria.html>> accessed 25 August 2017
- Obi S N and Ozumba B C, 'Factors associated with domestic violence in south-east Nigeria' (2007) 27 (1) Journal of Obstetrics and Gynaecology 75
- Obilade A O, The Nigerian legal system (Sweet & Maxwell 1979) 45 - 49
- Obioha E, 'Inheritance rights, access to property and deepening poverty situation among women in Igboland, Southeast, Nigeria' (Paper Presented at A Sub-Regional Conference on Gender and Poverty Organized by Centre For Gender and Social Policy, Obafemi Awolowo University Ile-Ife, Nigeria 2003)
- Ochonu M, 'The roots of Nigeria's religious and ethnic conflict' (Globalpost, 10 March 2014) <<http://www.globalpost.com/dispatch/news/regions/africa/nigeria/140220/nigeria-religious-ethnic-conflict-roots>> accessed 6 May 2016
- O'Connell P and Binchy W, 'Pluralism in Ireland: A Comment' (1979) 68 (269/270) Irish Quarterly Review 1
- O'Connor F B and Drury B S, The Female Face in Patriarchy: Oppression as Culture (Michigan University Press 1999)
- Odimegwu C O, 'Couple formation and domestic violence among the Tiv of Benue State, Nigeria' (Paper presented at the International Colloquium Gender, Population and Development in Africa organised by UAPS, INED, ENSEA, IFORD, Abidjan 16-21 July 2001)
- OECD, 'Social institutions & development index, OECD development centre, Nigeria' (2014) <<http://genderindex.org/country/nigeria>> accessed 6 May 2017
- OECD, 'Social Institutions & Gender Index, OECD Development Centre: Nigeria' <<http://genderindex.org/country/nigeria>> accessed 27 July 2017
- Office of the High Commissioner for Human Rights (OHCHR), 'Interpretation of Torture in the Light of the Practice and Jurisprudence of International Bodies' (OHCHR publication 2011)
- Office of the Tánaiste, Report of the Task Force on Violence against women (Government Publications, Dublin 1997)
- Ogbu O N, 'Punishments in Islamic Criminal Law as Antithetical to Human Dignity: The Nigerian Experience' (2011) 9 (2) The International Journal of Human Rights 165
- Ogoh J, 'Nigeria Domestic Violence' TV Africa (18 March 2014) <<https://www.youtube.com/watch?v=HM6dxKAZlJI>> accessed 17 July 2017
- Ogudoro S, 'The culture of Ndigbo – part 1' (2011). <<http://enyi-oha-one-of-naiji.blogspot.ie/2011/04/culture-of-ndigbo-part-1.html>> accessed 22 April 2017

- Ogundipe S, 'Senate finally passes VAPP bill' Vanguard (Lagos, 5 May 2015)
<<http://www.vanguardngr.com/2015/05/senate-finally-passes-vapp-bill/>> accessed 5 July 2017
- Ogundipe S, 'Senate finally passes VAPP Bill' Vanguard (Lagos, 5 May 2015)
- Ogunmade O, 'Modified Gender Equality Bill Passes Second Reading in Senate' This Day (Abuja, 30 September 2016)
- Ojelu H and Nwaro I, 'Arowolo sentenced to death for killing banker wife' PMNews (February 21 2014)
- Ojigbo O J, 'Prohibiting domestic violence through legislation in Nigeria' (2009) 23 (82) Empowering women for gender equity 86
- Okeke J and Agu S N, 'Epistemology of womanhood, contending the uncontended among the Igbo women of eastern Nigeria' (A paper presented at an international conference with the theme Emergent Issues in Humanities in Africa in the Third Millennium, Organized by the Faculty of Arts, University of Nigeria, Nsukka. April 23rd to 28th, 2012)
- Okogbule N S, 'Access to justice and human rights protection in Nigeria: problems and prospects' (2005) 2 (3) Sur. Revista Internacional de Derechos Humanos [Emphasis added]
<<http://dx.doi.org/10.1590/S1806-64452005000200007>> accessed 2 August 2017
- Olakulehin Y A, 'Women and intestate succession in islamic law' (2008) SSRN
<<http://ssrn.com/abstract=1278077>> accessed 21 July 2017
- Olaniyan R, Nigerian History and Culture (Addison-Wesley Longman Limited 1985) 48 - 61
- Oli N P, 'Public perception of violence against women in Urban and Rural Areas of Anambra State' (PhD Thesis, University of Nigeria Nsukka 2012) 21 - 25
- Oliveira P P, *et al.*, 'Women victims of domestic violence: a phenomenological approach' (2015) 24 (1) Texto contexto - enferm 196 <<http://dx.doi.org/>> accessed 15 July 2017
- Oladumiye E B and Bolajoko E, 'Monarchical Activities of the Yoruba Kings of South Western Nigeria: A Cultural Heritage in Printmaking Visual Documentary' (2014) The Arts Journal <<http://www.theartsjournal.org/index.php/site/article/viewFile/516/311>> accessed 20 August 2017
- Oloka-Onyango J, 'Reinforcing Marginalized Rights in an Age of Globalisation; International Mechanisms, Non-State Actors, and the struggle for Peoples' Rights in Africa' (2003) 18 American University International Law Review 852
- Olong A M, The Nigerian Legal System (2nd Revised ed. Malthouse Press Ltd 2007) 1 - 15
- Olsen G, and Fuller M L, Home-School Relations: Working Successfully with Parents and Families (3rd edn, Pearson 2008) 172
- Olubayo O, 'Son Preference in Nigeria: The Human Rights Implications' (2013) Medical Sociology Online <<http://www.medicalsociologyonline.org/resources/MedSoc-2013-Conference-Posters/Oluduro-poster.pdf>> accessed 8 August 2018
- Olusesan A *et al.*, 'Rejection of the Gender and Equal Opportunities Bill in Nigeria: A setback for sustainable development goal five (2017) 32 (3) Gender in Management: An International Journal 234
- Omoigu T, 'Customary Law Practices and Violence Against Women: The Position Under the Nigerian Legal System' (Afribary.com, May 2016) <<https://afribary.com/read/7565/customary-law-practices-and-violence-against-women-ndash-the-position-under-the-nigerian-legal-system-6982>> accessed 26 July 2017

- Omoleye B O, 'Enforcement and Implementation Mechanisms of the African Human Rights Charter: A Critical Analysis' (2015) Vol. 40 Journal of Law, Policy and Globalization 47
- Onibokun A, 'We Need to Domesticize Our International Treaties' LegalNaija (13 January 2016) <<http://www.legalnaija.com/2016/01/we-need-to-domesticate-our.html>> accessed 5 July 2017
- Onoh R C, *et al.*, 'Prevalence, Pattern and Consequences of Intimate Partner Violence During Pregnancy at Abakaliki Southeast Nigeria (2013) 3 (4) Ann Med Health Sci Res 484
- Onuoha R A, 'Discriminatory Property Inheritance Under Customary Law in Nigeria: NGOs to the Rescue' (2008) 10 (2) The International Journal of Not-for-Profit Law <http://www.icnl.org/research/journal/vol10iss2/art_4.htm> accessed 27 July 2017
- Onyegbula S, 'The Human Rights Situation in Nigeria since the Democratic Dispensation' (2001) XIII (3) Development Policy Management Network Bulletin 14
- Onyemelukwe C and Uzoaru F, 'The Red Diary Tips for Surviving Domestic Violence and Abuse a Directory for Help in Nigeria' <<http://cheld.org/wp-content/uploads/2014/12/The-Red-Diary1.pdf>> accessed 25 July 2017
- Onyemelukwe C, 'Legislating on Violence Against Women: A Critical Analysis of Nigeria's Recent Violence Against Persons (Prohibition) Act, 2015' (2016) 5 (2) DePaul J. Women, Gender & L
- Oraegbunam I K E, 'Nigeria, Sharia Praxis and National Integration: Any Lessons from the Sudan Experience?' (2014) 2 (4) Global Journal of Politics and Law Research 6
- Orikinla O, 'Violence against women in Nigeria' Nigerian Times (16 June 2005) <<http://nigeriantimes.blogspot.ie/2005/06/violence-against-women-in-nigeria.html>> accessed 21. May 2017
- Osiogou U, 'Physical abuse of women in the home: A Nigerian Perspective (2017) 5 (3) Humanities and Social Science Review 379
- Oxford Concise Dictionary (11th ed. 2009)
- Oxford Dictionary (7th edn, Oxford Dictionary Press 2013)
- Oyediran K A and Feyisetan B, 'Prevalence and Contextual Determinants of Intimate Partner Violence in Nigeria' (2017) 3 (1) African Population Studies 3436
- Oyediran K A and Isiugo-Abanihe U C, 'Perceptions of Nigerian Women on Domestic Violence: Evidence from 2003 Nigeria Demographic and Health Survey' (2005) AJRH 9(2) 38
- Ozoemena R N, 'African customary law and gender justice in a progressive democracy' (LLM Thesis, Rhodes University South Africa 2006) 35 - 38
- Palinkas A L *et al.*, 'Purposeful sampling for qualitative data collection and analysis in mixed method implementation research' (2015) 42 (5) Adm Policy Ment Health 533
- Pamela J *et al.*, *Stopping Domestic Violence: How a Community Can Prevent Spousal Abuse* (Springer Publishing 2001) 41
- Parsons T, *The Social System* (Routledge 1991)
- PATH, 'Community Impact of Domestic Violence' <<http://pathssk.org/wp-content/uploads/2011/04/Community-Impact-of-Domestic-Violence2.pdf>> accessed 28 July 2017
- Patton Q P, *Qualitative Research & Evaluation Methods* (3edn Sage Publications 2002) 429 - 431

- Payton M, 'Nigerian Senate votes down gender equality bill due to 'religious beliefs' The Independent (London, 17 March 2016)
- Pearl R, 'Domestic Violence: The Secret Killer That Costs \$8.3 Billion Annually' *Pharma & Healthcare* (5 December 2013) <<https://www.forbes.com/sites/robertpearl/2013/12/05/domestic-violence-the-secret-killer-that-costs-8-3-billion-annually/#4bd28a124681>> accessed 2 July 2017
- Persadie N R B, 'A critical analysis of the efficacy of law as a tool to achieve gender equality and to address the problem of domestic violence: the case of Trinidad and Tobago' (PhD Thesis, Birmingham University 2007) 22 - 56
- Piwuna M G, 'The Acts of Torture and Other Forms of Ill-Treatment of Citizens by Some Institutions and the Role of Criminal Justice System in Nigeria' (2015) 5 (10)(1) *International Journal of Humanities and Social Sciences* 208
- Jay Peters, Todd K Shackelford and David M Buss, 'Understanding Domestic Violence Against Women: Using Evolutionary Psychology to Extend the Feminist Functional Analysis' (2002) 17 (4) *Violence and Victims* 255
- Peterson R, 'Reducing Intimate Partner Violence: Moving Beyond Criminal Justice Interventions' (2008) 7 (4) *Criminology & Public Policy* 537
- Police Service Commission, Nigeria, 'Domestic Violence Policy for The Nigeria Police Force' <<http://www.psc.gov.ng/files/domestic-violence-policy.pdf>> accessed 27 July 2017
- Pound R, *Social Control Through Law* (Transaction Publishers 2002) 65
- Premium Times, 'Lagos commences mass campaign against domestic, gender violence' (Premium Times (30 July 2017) <<http://www.premiumtimesng.com/regional/ssouth-west/238622-lagos-commences-mass-campaign-domestic-gender-violence.html>> 15 July 2017
- Probation Service, "Policy and Practice Guideline" 200 <<http://www.probation.ie/pws/websitepublishingdec09.nsf>> accessed 3 June 2017
- Project Alert, No Safe Haven (Project Alert, July – September 2003) <<http://www.projectalertnig.org/randd.html>> accessed 13 May 2017
- Ramon O, 'Nigerian courts pamper the rich, punish the poor' *The Punch* (Lagos, 5 May 2016)
- Rampton M, 'Four Waves of Feminism' (Pacific University, 25 October 2015) <<https://www.pacificu.edu/about-us/news-events/four-waves-feminism>> accessed 2 July 2017
- Ramsay J *et al.*, 'Domestic violence: knowledge, attitudes, and clinical practice of selected UK primary healthcare clinicians' (2012) 62 (602) *The British Journal of General Practice* 647
- Rauhala E, 'China's domestic violence law is a victory for feminists. But they say it doesn't go far enough' *The Washington Post* (Online, 29 December 2015) <https://www.washingtonpost.com/news/worlddomestic-violence/news/wp/2015/12/29/chinas-domestic-violence-law-is-a-victory-for-feminists-but-they-say-it-doesnt-go-far-enough/?utm_term=.106c7b4d6ce8> accessed 16 January 2017
- Redfield R, Linton R and Herskovits M, 'Memorandum for the study of acculturation' (1936) 38 *American Anthropologist* 149
- Richards D L and Haglund J, 'How laws around the world do and do not protect women from violence' *The Washington Post* (11 February 2015)
- Richard F W, 'Self-Reflection: An Essential Quality for Phenomenological Researchers' in Sharan B Merriam and Associates, *Qualitative Research in Practice: Examples for Discussion and Analysis* (Jossey-Bass 2002)

- Riggs D S, Murphy C M, and O’Leary K D, ‘Intentional falsification in reports of interpreter aggression’ (1989) 4 *Journal of Interpersonal Violence* 220
- Ritchie J, Lewis J, and Gillian E, ‘Designing and selecting samples’ in Ritchie J and Lewis J (eds.) *Qualitative research practice. A guide for social science students and researchers* (Thousand Oaks, CA: Sage 2003)
- Roberts A, *Handbook of Domestic Violence Intervention Strategies: Policies, Programs, and Legal Remedies* (OUP 2002) 343
- Robin C, Fleischer A, and Cotton F A, ‘Building Connections: An Interpretative Phenomenological Analysis of Qualitative Research Students’ Learning Experiences’ (2012) 17 (17) *The Qualitative Report* 1 <<http://nsuworks.nova.edu/tqr/vol17/iss17/1>> accessed 20 July 2017
- Roo A J and Jagtenberg R W, (eds) *Yearbook Law and Legal Practice in East Asia, 1997-1998* (Kluwer Law International 1998) 17
- Rosenberg G N, *The Hollow Hope: Can Courts Bring About Social Change?* (University of Chicago Press 1991)
- Rosin H, ‘The End of Men: How Women are Taking Control—of Everything’ *Feministing* (16 June 2010) <<http://feministing.com/2010/06/16/is-female-dominance-a-success-for-feminism/>> accessed 28 November 2017
- Runner M, Miekko Y, and Novick S, ‘Intimate Partner Violence in Immigrant and Refugee Communities: Challenges, Promising Practices and Recommendations’ (A Report by the Family Violence Prevention Fund for the Robert Wood Johnson Foundation 2009)
- Ryan C, ‘Domestic violence costs the country €2.2bn’ *The Irish examiner* (Dublin 30 May 2008)
- Sada I N, Adamu F L, Ahmad A, ‘Promoting Women’s Rights Through Sharia in Northern Nigeria’ (Centre for Islamic Legal Studies, Ahmadu Bello University, Zaria 2005) 25 <http://www.ungei.org/resources/files/dfid_promoting_womens_rights.pdf> accessed 29 July 2017
- Sadiqi F, ‘Domestic Violence in the African North’ (2010 – 2011) 131 (132) *al-raida* 37
- Safe Ireland ‘New laws proposed to support domestic violence victims’ <<http://www.safeireland.ie/2015/new-laws-proposed-to-support-domestic-violence-victims/>> accessed 14 March 2017
- Safe Ireland, ‘The State we are in 2016: Towards a safe Ireland for women and children’ (Safe Ireland, 2016) 8
- Safe Ireland, ‘The real danger to women is within their own home’ (Safe Ireland, 18 November 2016)
- Saint Martha’s Hall, ‘History of Battered Women’s Movement’ (2017) <<http://saintmarthas.org/resources/history-of-battered-womens-movement/>> accessed 3 February 2017
- Salamone N, ‘Domestic Violence and Financial Dependency’ *Forbes* (2 September 2010) <<https://www.forbes.com/2010/09/02/women-money-domestic-violence-forbes-woman-net-worth-personal-finance.html>> accessed 25 May 2017
- Salau Gbenga, Awodipe Tobi and Celestine, Ogochukwu ‘Lagos records 100 per cent increase in domestic, sexual violence’ *The Guardian* (17 October 2017).
- Sally S S *et al.*, ‘The Influence of Legal Reform on the Probability of Arrest in Domestic Violence Cases, (2006) 23 (3) *Justice Quarterly* 297

- Sampson J, Nigeria History, Precolonial History from year 1500: Civil War, Slave Trade, Abolition of the Slave Trade, Unification of Nigeria, The Yoruba Wars, Government, Politics, Economy (Sonit Education Academy 2016)
- Schalkwyk J, 'Culture' Culture, Gender Equality and Development Cooperation' Canada (2000) Canadian International Development Agency (Cida) <<http://www.oecd.org/social/gender-development/1896320.pdf>> accessed 23 July 2017
- Schneider E M, Battered Women and Feminist Lawmaking (Yale University Press 2002)
- Scientific-Information Center ICWC (SIC ICWC), 'History and Theory of Feminism' (undated) <http://www.gender.cawater-info.net/knowledge_base/rubricator/feminism_e.htm> accessed 3 July 2017
- Scott C (ed), Torture as Tort: Comparative Perspectives on the Development of Transnational Human Rights Litigation (Bloomsbury Publishing 2001) 669
- Shaikh S, 'Exegetical Violence: Nushuz in Quranic Gender Ideology' Sisters in Islam <<http://www.sistersinislam.org.my/news.php?item.656.12>> accessed 4 May 2017
- Sharmani M A L (ed), Feminist Activism, Women's Rights, and Legal Reform (ed, Zed Books 2013)
- Sharon Smith, 'Black feminism and intersectionality' (2009) International Socialist Review <<http://isreview.org/issue/91/black-feminism-and-intersectionality>> accessed 20 July 2017
- Shashi T, 'Are Human Rights Universal? - World Policy Journal - World Policy Institute' (2000) XVI (4) World Policy Journal
- Sherman L Wand Berk R A, 'The specific deterrent effects of arrest for domestic assault' (1984) 49 American Sociological Review 261 In Ventura a Lois, Davis Gabrielle, 'Domestic Violence: Court Case Conviction and Recidivism' (2005) 11 (2) Violence Against Women 255
- Shivajirao D M, 'Sex Ratio at Birth and Mortality Rates Are Negatively Related in Human' (24 August 2011) Plosm <<http://journals.plos.org/plosone/article?id=10.1371/journal.pone.0023792>> accessed 8 August 2018
- Siddiqi M, 'Woman Imam Leading Men and Women in Salat' (Dhul-Qa'dah 2017) <<http://www.islamicity.org/2576/woman-imam-leading-men-and-women-in-salat/>> accessed 26 July 2017
- Singh P A, 'Domestic Violence: Perception of Women Living in Delhi' (2009) 5 (1-2) Indian Journal of Developmental Research and Social Action
- Singh P A, 'Domestic Violence in India: A Study of Prevalence, Nature and Impact' in Singh A K, Singh S P, and Biswas S K, Gender Violence in India: Perspective, Issues and Way Forward (eds) (Delhi, Bal Vikas Prakashan Pvt Ltd 2013)
- Sirnate V, 'Good Law, Bad Implementation' The Hindu (18 May 2016) <<http://www.thehindu.com/opinion/lead/good-laws-bad-implementation/article5639799.ece>> accessed 25 June 2017
- Slotte P and Helme-Tuomisaari M, Revisiting the Origins of Human Rights (Cambridge University Press 2015) 63
- Smith A J, Flowers P, and Larkin M, Interpretative Phenomenological Analysis: Theory, Method and Research (Sage Publications 2009) 11
- Smith J and Noble H, 'Bias in Research' (2014) 17 (4) Evid Based Nur 100

- Smith J C and Osborn M, 'Interpretative Phenomenological Analysis' in Jonathan Smith (ed), *Qualitative Psychology: A Practical Guide to Research Methods* (Sage Publications Ltd 2008) 53 (Emphasis added)
- SOAWR, 'Legislative domestic violence Advocacy Coalition on Violence Against Women (LACVAW)' (Undated) <<http://www.soawr.org/blog/legislative-domestic-violence-advocacy-coalition-against-women-lacvaw>> accessed 5 July 2017
- Sokoloff N Jand Ida Dupont I, 'Domestic Violence at the Intersections of Race, Class, and Gender: Challenges and Contributions to Understanding Violence Against Marginalized Women in Diverse Communities' (2005) 11 (1) *Violence Against Women* 38
- Solic P, 'Private Matter or Public Crisis? Defining and Responding to Domestic Violence' (2015) 8 (10) *Origin* 25
- Solidarity for African Women's Rights (SOAR), 'General Comment No. 2 on Article 14.1 (a), (b), (c) and (f) and Article 14. 2 (a) and (c) of the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa' (SOAR 2014) <<http://www.soawr.org/>> accessed 28 April 2017
- Spelman E, *Inessential Woman* (Boston, Beacon Press 1988)
- Stark E, 'Abusive partner' (2013) Office for the Prevention of Domestic Violence (Opdomestic Violence) interview with Evan Stark <<http://www.opdomesticviolence.ny.gov/professionals/abusers/coercivecontrol.html>> accessed 25 June 2017
- Stedman R and Thomas B M, 'If we knew what it was we were doing, it would not be called research, would it?' (2007) 20 (10) *Society & Natural Resources* 939
- Steiner H, Goodman R, and Alston P, *International Human Rights in Context: Law, Politics, Morals: Text and Material* (3 edn, Oxford University Press 2008) 891
- Stover Carla Smith and Lent Kimberly, 'Training and certification for Domestic Violence Service Providers: The need for a National Standard Curriculum and Training Approach' (2014) 4 (2) *Psychology of Violence* 117
- Suk J, *At Home in Law* (Yale University Press 2011)
- Sullivan C M, 'Presenting the Work of Local Domestic Violence Services Within a "Social and Emotional Well-Being Promotion" Conceptual Framework' (Safe Ireland 2015) 22
- Sultana A, 'Patriarchy and Women's Subordination: A Theoretical Analysis' (July 2010 – June 2011) *The Arts Faculty Journal, University of Dhaka* 4
- Sumaina K, 'Nigeria: Vapp Bill - Emulate FG On Bill Passage, States Urged' *This Day* (Lagos, 31 May 2015)
- Sun Y I, Su M, and Yuning W, 'Attitudes Toward Police Response to Domestic Violence a Comparison of Chinese and American College Students' (2011) 26 (6) *Journal of Interpersonal Violence* 3187–3209
- Supreme Court of Ireland, 'The Legal System - Fundamental Rights' <<http://www.supremecourt.ie/supremecourt/sclibrary3.nsf/pagecurrent/D5F78352A387D74480257315005A419E?opendocument&l=en>> accessed 22 January 2017
- Susan J, 'Rights as enforceable claims' (2003) 103 (1) *Proceedings of the Aristotelian Society* 133.
- Susan Osborne, *Feminism* (Pocket Essentials 2011) 8

- Talabi A S, 'Socio-Economic Effects of Women's Participation on Adult and Non-Formal Education in Akoko North West Local Government Area of Ondo State, Nigeria' (2016) 5(3) *Journal of Education and Human Development* 116
- Tamale S, 'Homosexuality is not un-African' *Aljazeera America* (26 April 2014) <<http://america.aljazeera.com>> accessed 14 August 2018
- Tajikistan Police Reform, 'Special Police Units are Engaged in Domestic Violence Prevention Issues' <<http://police-reform.tj/index.php/en/bonus-page/gender/141-gender-question>> accessed 21 April 2017
- Taylor A A, 'Professional Perceptions of Domestic Violence: The Relationship between Causal Explanations and Views on Prevention and Intervention' (Master Thesis, Edith Cowan University, Australia 2006) 30 - 31
- Taylor L, 'Domestic Violence: The problem pervading Nigeria' (Think Africa Press, 14 March 2012) <<http://thinkafricapress.com/nigeria/domestic-violence-problem-pervading>> accessed 27 June 2017
- Tejlingen V and Hundley V, 'The importance of pilot studies' (2002) 16 (40) *Nursing Standard* 33 <<http://journals.rcni.com/doi/pdfplus/10.7748/ns2002.06.16.40.33.c3214>> accessed 25 July 2017
- Tertsakian C, 'Political Sharia? Human Rights and Islamic Law in Northern Nigeria' *Human Rights Watch* (24 September 2014) <<https://www.hrw.org/report/2004/09/21/political-sharia/human-rights-and-islamic-law-northern-nigeria>> accessed 12 June 2017
- Tiamiyu A, 'Nigeria loses 2,300 under five, 145 women of childbearing age daily' *BusinessDay* (22 March 2017) <<https://www.businessdayonline.com>> accessed 8 August 2018
- Ting L and Panchanadeswaran S, 'Barriers to Help-Seeking Among Immigrant African Women Survivors of Partner Abuse: Listening to Women's Own Voices' (2009) 18 (8) *Journal of Aggression, Maltreatment & Trauma* 718
- The Court Service Annual Report 2017, 'Domestic Violence' 61
- The Haven Wolverhampton, 'Domestic violence in Nigeria' <<http://www.havenrefuge.org.uk/index.php/about-the-haven/international-projects/nigeria>> accessed 9 May 2017
- Thomson Reuters Foundation, 'A Landscape Analysis of Domestic Violence Laws' [Report] <<http://www.trust.org/contentAsset/raw-data/02bf55c6-0d6b-4799-b9ba-eab57c5b93a9/file>> accessed 28 October 2016; Karen Latchana Kenney, *Domestic Violence* (1st edn, ABDO 2011) 57
- Thoreson R, 'Intimate Partner Violence is an LGBT Issue' (2017) *Human Rights Watch* <<https://www.hrw.org/news/2017/12/09/intimate-partner-violence-lgbt-issue>> accessed 14 August 2018
- TNS opinion & social, 'Special Eurobarometer 449 Report Gender-based Violence' (Belgium, TNS Opinion & Social 2016) (The Survey requested by the European Commission, Directorate-General for Justice and Consumers and co-ordinated by the Directorate-General for Communication) 8
- Toluwani E, '2017: Year of deadly domestic violence cases' *The Punch* (31 December 2017)
- Trevena J and Poynton S, 'Does a prison sentence affect future domestic violence reoffending?' (2016) 190 *Crime and Justice* (Sydney, NSW Bureau of Crime Statistics and Research)
- TUSLA <<https://www.tusla.ie/>> accessed 14 August 2018

- United Nations, 'Gender-Specific Language in Domestic Violence Laws' <<http://www.endomesticviolenceawnow.org/en/articles/1677-gender-specific-language-in-domestic-violence-laws.html>> accessed 15 April 2017
- United Nations, Handbook for Legislation on violence against women (United Nations, New York 2010) 13 - 16
- United Nations, 'More countries have laws banning domestic violence, says UN women's rights official' (22 November 2017)
- United Nations, 'World Population Prospects: The 2015 Revision, Key Findings and domestic violence Prevalence (United Nations 2015)
- United Nations, 'Fourth World Conference on women 1995' <<http://www.un.org/geninfo/bp/women.html>> accessed 25 July 2017
- UNICEF, 'Domestic Violence against women and girls' (Unicef Publication 2010)
- United Nations Development Programme (UNDP), African Human Development Report 2016 (UNDP 2016) 92
- United Nations Office on Drugs and Crimes (UNODC), Global Study on Homicide 2013 (UNODC 2013)
- United Nations, 'UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT)' <<https://www.ohchr.org/en/professionalinterest/pages/CAT.aspx>> accessed August
- Usman E, 'Woman stabs husband to death over PDP, APC presidential candidates' Vanguard (Lagos, 30 March 2015). <www.vanguardngr.com> accessed 12 March 2017
- Udobang W, 'We are brought up to think suffering this violence is OK': domestic abuse in Nigeria' The Guardian International (5 January 2018) <<https://www.theguardian.com>> accessed 25 August 2018
- Uyi E L, 'Political Conflicts and Godfatherism in Nigeria: A Focus on the Fourth Republic' (2010) 4 (4) AJOL 174
- Uzuegbunam A O, 'Women in Domestic Violence in Nigeria: Gender Perspectives' (2013) 3 (1A) Open Journal of Philosophy 185.
- Vasundhara S, 'Good Law, Bad Implementation' The Hindu (18 May 2016) <<http://www.thehindu.com/opinion/lead/good-laws-bad-implementation/article5639799.ece>> accessed 25 June 2017
- Ventura L A and Davis G, 'Domestic Violence Court Case Conviction and Recidivism' (2005) 11 (2) Violence Against Women 255
- Vicky R, "Feminism" in David Marsh and Gerry Stoker (eds), Theory and Methods in Political Science (Palgrave MacMillan 2002)110
- Victoria Falls Guide, 'African Culture' <<http://www.victoriafalls-guide.net/african-culture.html>> accessed 16 June 2017
- Voice of America (VOA), 'Cases of Domestic Violence Increase in Kenya' VOA (4 March 2017) <<http://www.voanews.com/a/cases-of-domestic-violence-increase-in-kenya-86691287/113574.html>> accessed 24 April 2017
- Walby S, 'Theorising Patriarchy' (1989) 23 (2) sociology 213
- Walby S, *Theorising Patriarchy* (Basil Blackwell, 1990) 138

- Walby S and Towers J, 'Untangling the concept of coercive control: Theorizing domestic violent crime' (2018) 18 (1) *Criminology & Criminal Justice* 7
- Waheed A *et al.*, 'Nigeria: Is Bride Price Still Relevant to Marriage?' *Leadership* (Abuja, 26 January 2014)
- Wainwright A, 'Can sociological research be qualitative critical and valid?' (1997) 3 (2) *The Qualitative Report* <<http://www.nova.edu/ssss/QR/QR3-2/wain.html>> accessed 20 July 2017
- Walsh S, 'Mediating in Cases in Domestic Violence – Between a Rock and a Hard Place' *Kluwer Mediation* (6 November 2013) <<http://mediationblog.kluwerarbitration.com>> accessed 12 December 2017
- Walter L, 'Theories of Universal Human Rights and the Individual's Perspective' (2014) 25 *IAPSS Political Science Journal* 120
- Wassenberg B, *History of the Council of Europe* (Council of Europe Publishing 2013) 10
- Watson D, Parsons S, 'Domestic Abuse of Women and Men in Ireland: report on the national study of domestic abuse' (National Crime Council, Dublin 2005)
- Weaver M, 'Police to get more training to detect non-physical domestic abuse' *The Guardian* (21 September 2016) <<https://www.theguardian.com>> accessed 14 August 2018
- Whelehan I, *Modern Feminist Thought: From the Second Wave to Post-Feminism* (NY, New York University Press 1995)
- Wigodo I, 'Rivers State Domestic Violence Bill' *The Tide* (25 April 2014) <<http://www.thetidenewsonline.com/2014/04/25/rivers-chieftaincy-domestic-violence-bills-get-to-cttee/>> accessed 3 May 2017
- Wigodo I, 'Rivers State Domestic Violence Bill' *The Tide* (25 April 2014) <<http://www.thetidenewsonline.com/2014/04/25/rivers-chieftaincy-domestic-violence-bills-get-to-cttee/>> accessed 3 May 2017
- Wilson M R, 'Nigerian power shift leaves lucrative lobbying contracts in limbo' (4 March 2015) *The Hill* <<http://thehill.com/business-a-lobbying/237823-nigerian-power-shift-leaves-k-st-contracts-in-limbo>> accessed 5 May 2017
- Witer M *et al.*, 'A Coordinated Approach to Reducing Family Violence: Conference Highlights (1995) (Conference paper organised by the U.S. Department of Justice Office of Justice Programs) <<https://www.ncjrs.gov/pdffiles/redfam.pdf>> accessed 21 October 2016
- Women for women, 'The Reality of Domestic Violence in Nigeria' (women for women 12 April 2017) <<http://www.womenforwomen.org/blog/reality-domestic-violence-nigeria>> accessed 29 July 2017
- Women for women, 'The Reality of Domestic Violence in Nigeria' (Women for women International 27 April 2017) <<http://www.womenforwomen.org/blog/reality-domestic-violence-nigeria>> accessed 25 July 2017
- Women's Aid Ireland, 'About us' <<https://www.womensaid.ie/about/>> accessed 3 February 2017
- Women's Aid Ireland, 'Domestic violence and Female Homicide 1996 to March 2016' (November 2016) <<https://www.womensaid.ie/about/policy/natintstats.html>> accessed 9 January 2017
- Women's Aid Ireland, *Annual Report 2017* <www.womensaid.ie> accessed 28 July 2018
- Women's Aid Ireland, *Annual Report 2012* <www.womensaid.ie> accessed 2 July 2017
- Women's Aid Ireland, *Impact Report 2016* <https://www.womensaid.ie/download/pdf/womens_aid_impact_report_2016.pdf> accessed 29 July 2017

- Women's Aid, 'Making The Links' (1995) <www.womensaid.ie> accessed 2 July 2017
- Wood A, 'Standing up to domestic violence in a culture of silence' The Sydney Daily Telegraph (Sydney, 13 June 2013)
- World Health Organisation (WHO), 'Global and regional estimates of violence against women: prevalence and health effects of intimate partner violence and non-partner sexual violence' (WHO 2013) 16
- World Health Organisation (WHO), 'Multi-country study on women's health and domestic violence against women' (Geneva, 2005)
- World health Organisation (WHO), 'World Report on Violence and Health' 2002
<http://whqlibdoc.who.int/publications/2002/9241545615_eng.pdf> accessed 2 July 2017
- Yemisi D, Akintayo J and Ekundayo F, 'Guide to Nigerian Legal Information' (2005) Globalex
<<http://www.nyulawglobal.org/globalex/Nigeria.html>> accessed 24 April 2017
- Yuksel E, 'Beating Women, or Beating around the Bush' Sisters in Islam
<<http://www.sistersinislam.org.my/news.php?item.599.12>> accessed 4 May 2017
- Yvonne M Dutton, 'Commitment to International Human Rights Treaties: The Role of Enforcement Mechanisms' (2012) 34 (1) University of Pennsylvania Journal of International Law 24

Appendices

Appendix A – Participant invitation

**Department of Law
Maynooth University Ireland**

PARTICIPANTS NEEDED FOR RESEARCH

Research Title

The Impact of Domestic Violence Legal Regulation and Enforcement Among Nigerian Immigrants in Ireland

A PhD student is looking for volunteers to take part in a study exploring the impact of the law in the context of its role in raising the awareness of domestic violence and transforming peoples' perception and attitude towards it. To qualify for selection:

1. You must be a Nigerian immigrant and must have lived in Ireland for 5 years or more.
2. You must have been 18 years before you emigrated from Nigeria.
3. You must have spent 10 years out of the 18 years in Nigeria prior to emigrating from Nigeria.

Volunteering to Participate in this study would involve an informal interview by the researcher. The participants would be asked questions about their knowledge and perception of domestic violence and the impact of laws prohibiting it in Ireland and Nigeria. The interview will take between 45 to 60 minutes to complete. If the participant consents, the interview will be audio recorded. The participants' identity and any information they provide will be kept confidential and anonymised.

Taking part in this study is voluntary. There is no monetary reward/compensation for volunteering to participate. If you decide to participate, you can refuse to discuss any issue raised during the interview. Also, you can choose to withdraw

from taking part at any time without any consequences, even after the interview has started or completed.

For more information about this study, or to volunteer for this study, please contact:

The Researcher: Bruno Obialo Igwe, PhD candidate, Maynooth University.
Office: Room 46, New House, South Campus. Tel: 0894836801. Email:
Bruno.Igwe.2012@mumail.ie

This study has been reviewed by, and received ethics clearance from the Maynooth University Research Ethics Committee.

Appendix B - Participants' Information Sheet

Research Title:

The Impact of Domestic Violence Legal Regulation and Enforcement Among Nigerian Immigrants in Ireland

This information sheet is part of a process called “informed consent” designed to assist you to understand this study before you decide to participate or not. Please read it carefully and ask any question(s) you may have before agreeing further to take part and sign the consent form. Please do not hesitate to contact me (see contact and questions below) should you need more clarification before deciding to consent.

The Researcher and Institution: My name is Bruno Igwe. I am the researcher undertaking this study. I am a final year PhD law student at Maynooth University, Maynooth, Co. Kildare. The research supervisor is Dr. Sibio Banda, a lecturer in law at the same university.

What is the study about? The research is being carried out to ascertain the impact of legal regulation and enforcement in raising the awareness of domestic violence and its effect in transforming perception and attitude towards it. The study group is Nigerian immigrants in Ireland.

The objective of the research is to contribute and broaden existing knowledge in this area of study that would assist in raising awareness and understanding of domestic violence, including its legal regulation, enforcement, and support services.

The aim/purpose of the study is to examine/assess the benefit of adopting a legal approach to tackling the issue of domestic violence and to provide information that may be beneficial to the legislators, non-governmental organisations, law enforcement agencies, academics, and others involved in the effort in combating domestic abuse. Also, to provide information that may serve as a base for further research or helpful in collaborating existing knowledge in the area.

What is Domestic Violence?

There are different forms of domestic violence a person may be subjected to in the home. They include:⁵⁴

1. **Physical abuse:** This is the use of physical force in a way that injures the victim or puts him/her at risk of being injured. It includes beating, kicking, knocking, and punching, choking, confinement. Female genital mutilation is physical abuse. Physical abuse is one of the commonest forms of abuse.
2. **Sexual abuse:** This includes all forms of sexual assaults, harassment or exploitation. It involves forcing a person to participate in sexual activity, using a child for sexual purposes including child prostitution and pornography. Marital rape also comes under this.
3. **Neglect:** This includes failure to provide for dependants who may be adults or children, denying family members food, clothing, shelter, medical care, and protection from harm or a sense of being loved and valued.
4. **Economic abuse:** This includes stealing from or defrauding a loved one, withholding money for essential things like food and medical treatment, manipulating or exploiting family member for financial gain, preventing a loved one from working or controlling his/her choice of occupation.
5. **Spiritual Abuse:** This includes preventing a person from engaging in his/her spiritual or religious practices or using one's religious belief to manipulate, dominate or control him/her.
6. **Emotional Abuse:** This includes threatening a person or his or her possession or harming a person's sense of self-worth by putting him/her at risk of serious behavioural, cognitive, emotional or mental disorders. Shouting at a partner, which was found to be the most common abuse by Obi and Ozunba (2007). Also, included in emotional abuse are: name-calling, unjustified criticism, social

⁵⁴ Aihie O N, Prevalence of Domestic Violence in Nigeria: Implications for Counselling <www.ajol.info/index.php/ejc/article/download/52648/41252> accessed 21 April 2015

isolation, intimidating or exploitation to dominate, routinely making unreasonable demands, terrorising a person verbally or physically and exposing a child to violence.

Abuse may occur once, or it may repeatedly occur often in an escalating manner. A person may be subjected to more than one form of abuse.

What you are required to do: If you agree to take part in this study, I will interview you. The interview will be informal, and I will ask you questions about your experience of living in Nigeria that does not have a law-making domestic violence a crime throughout the Federation. Also, I would enquire about your experience of living in Ireland that has a law-making domestic violence a crime and the impact your experience in Ireland has had regarding your perception and attitude towards domestic violence. In addition, we would compare which of the two countries offers more protection for your human rights, as regards to being subjected to the various types of domestic violence listed above. The interview will take between 45 to 60 minutes to complete. I will agree with you the most convenient date, time and place to hold the interview. With your permission, the interview will also be audio recorded.

Risks and Benefits: I do not anticipate any likelihood of physical risk, threat to safety or repercussion of any sort arising from participating in the study. However, the length of the interview and the logistics of getting to the venue may cause stress to you. Participation in this research does not constitute a form of counselling. If you experience any distress associated with participation in the study, please contact any of the professional counsellors listed in the information pack.

The professional counsellors have agreed to attend to the research participants if the need arises. As a participant in this research, you will not be liable to pay the professional fees of the counsellors, as the researcher will bear the cost. Please do not hesitate to contact the counsellors if the need arises.

The benefit of taking part in the study is to help build-up the knowledge bank on domestic violence, which is an issue in Nigeria and many Nigerian communities abroad. Also, your participation would help in the effort by the researcher to

examine and evaluate the importance of adopting a legal approach in combating domestic violence, especially in Nigeria.

Your answers will be confidential: Any information you provide will be kept confidential. I will not use your personal information for any purpose outside of this research project. Also, I will not include any information in any report arising from this study that will make it possible to identify you. Research records will be kept secure in a locked cabinet in the University campus, and I will be the only person that will have access to them. If I record the interview, I will delete the recording after transcribing it, which I anticipate will be within two months. However, subject to your consent to deposit the audio recorded an interview with the Irish Qualitative Data Archive (IQDA) (<http://www.iqda.ie/>), it will be kept there for a minimum period of 10 years after the completion and publication of the study, and access to it will be restricted for research purposes only. The completion and publication of the study are expected to be in September 2017. After the completion of the research project, all other identifying information will be destroyed accordingly, with the exemption of the recorded interview (audio files) and interview transcripts that will be retained for ten years. The researcher will anonymise the recorded interview (audio files) and block all identifiers before depositing it with the IQDA. The interview transcripts will not contain the participants' names; the participants will be identified as "participant A, B, C, etc." This is to ensure that the confidentiality of the participants is maintained, especially if they do not wish to be identified in the interview and during re-use by other researchers. The participants that agree to be identified in the interview may not have their recorded interview anonymised before depositing it with the IQDA. However, their consent will be sought to this effect beforehand.

Limit to confidentiality: I wish to inform you that the pledge of confidentiality has limitations:

(1) Pursuant to section 3 (3) of the Maynooth University Research Ethics Policy, which states that 'It must be recognised that, in some circumstances, confidentiality of research data and records may be overridden by the courts in the event of litigation or the course of an investigation by lawful authority. In such

circumstances, the University will take all reasonable steps within the law to ensure that confidentiality is maintained to the greatest possible extent.’

(2) The researcher has a legal obligation to report unlawful activities that may come to light during the interview to the authorities, and this includes incidents of abuse of or by participants. Also, the research is obliged to protect participants or their partners from abuse if incidents of such abuse come to light during the interview by reporting of such incidents to the authorities.

Taking part is voluntary: Taking part in this study is voluntary. There is no monetary reward or compensation for volunteering to participate. The study is an academic endeavour by the researcher as part of the requirements for the award of a doctor of philosophy degree. If you decide to take part, you can refuse to discuss any issue raised during the interview. Also, you can decide to withdraw from participating at any time without any consequences, even after the interview has started or completed.

Access to the study outcome: After the successful completion of the study, it will be published in the form of a thesis and journal article. The participants can access the thesis through the Maynooth University library. I will inform the participants the journal article that published the study.

Contacts and Questions: You may ask any question(s) you have now, or if you have questions later, you may contact:

(1) Researcher: Bruno Obialo Igwe, PhD Candidate, Maynooth University. Office: Room 46, New House, South Campus. Tel: 0894836801; Email: Bruno.Igwe.2012@mumail.ie

(2) Supervisor: Dr. Sibó Banda, Lecturer, Maynooth University. Office: Room 308, Department of Law, New House, South Campus. Tel: 01- 7086630; Email: Sibó.Banda@mumail.ie

Appendix C - The Participants' Consent Form

Research Title

**The Impact of Domestic Violence Legal Regulation and Enforcement
Among Nigerian Immigrants in Ireland**

Researcher

Bruno Obialo Igwe

Supervisor

Dr. Sibbo Banda

Please read the information and the questions carefully before making your decision.

(1) Recorded interview will be deposited with the IQDA with the consent of the participant. Also, the interview transcript will be deposited with the IQDA. Access to the recorded interview and the interview transcripts deposited with the IQDA is restricted for research purpose only. The IQDA have a rigorous process for granting access to deposited data to other users, which includes completing a data access form and signing a legal agreement. The recorded interview and interview transcripts will be deposited with the IQDA for 10 years after the completion and publication of the study. The completion and publication of the study are expected to be in September 2017. The participant reserves the right to withdraw his/her consent for depositing the recorded interview. Prior to depositing the recorded interview, it will be anonymised to maintain the confidentiality of the participant, unless the participant agrees to be identified and his/her consent will be sought in this regard.

(2) The researcher has a legal obligation to report unlawful activities that may come to light during the interview to the authorities, and this includes incidents of abuse of or by participants. Also, the researcher is obliged to protect participants

or their partners from abuse if incidents of such abuse come to light during the interview by reporting of such incidents to the authorities.

I have read the above information and those contained in the information sheet; I feel, I understand the study well enough to decide about my participation. I have received answers to the question(s) I asked. Also, I understand that if the researcher has any concerns about my safety or the safety of others, such concerns will be reported to relevant authorities.

I consent to take part in the study under the terms above.

In addition to agreeing to participate:

1. I consent to have the interview audio recorded. Yes [] No []
2. I consent to the audio recorded interview (in line with the conditions outlined above and on the information sheet) to be archived with the IQDA and for re-use by other bona fide researchers. Yes [] No []
3. I consent to be identified in this interview (meaning that the recorded interview may not be anonymised before depositing it with the IQDA) and in any subsequent publications or re-use. Yes [] No []

Name of participant:

Signature of the participant: Date of consent:

Researcher: Bruno Obialo Igwe:

Signature of the Researcher: Date:

Contact Details of Researcher and Supervisor:

(1) **Researcher:** Bruno Obialo Igwe, PhD candidate, Maynooth University. Office: Room 46, New House, South Campus. Tel: 0894836801. Email: Bruno.Igwe.2012@mumail.ie

(2) **Supervisor:** Dr. Sibó Banda, Lecturer, Maynooth University. Office: Room 308, Department of Law, New House, South Campus. Tel: 01- 7086630. Email: Sibó.Banda@mumail.ie

Note: If during the course of your participation in this study, you feel the information and guidelines that you were given have been neglected or disregarded in any way, or if you are unhappy with the process, please contact the Secretary of the Maynooth University Ethics Committee at research.ethics@nuim.ie or +353 (0)1 708 6019. Please be assured that your concerns will be dealt with in a sensitive manner.

Appendix D - The Interview Guide Questionnaire

Research Title

The Impact of Domestic Violence Legal Regulation and Enforcement Among Nigerian Immigrants in Ireland

1. How would you compare your knowledge of domestic violence in terms of acts that constitute it and its consequences during the period you lived in Nigeria and Ireland?
2. Can you describe your perception and attitude about domestic violence regarding its cultural acceptability when you lived in Nigeria?
 - (a) What is your view about regarding domestic violence as a private matter?
 - (b) How would you describe your perception and attitude about domestic violence today?
 - (c) Explain whether the law against domestic violence in this country affected your view and attitude about it.
3. Explain whether you considered domestic violence as a crime and abuse of the victim's human rights when you were living in Nigeria.
 - (a) Describe whether your view has changed about it since living in Ireland.
 - (b) If your view has changed, can you explain what contributed to the change?
4. How would do you compare the protection of your human rights and fundamental freedoms or that of the victims of domestic abuse in Nigeria and Ireland.
5. What is your opinion about reporting of domestic violence to the authority and/or speak out about it?
6. In your opinion, would you recommend domestic violence seminars and conferences to enlighten people in the community about it?
7. What is your opinion about having a law against domestic violence in every state in Nigeria?

Appendix E - Advertisement for Participants in Metro Éireann Newspaper

been involved
d high-profile

more oppor-
ty in the area
facilities and
well as more
says. "Since
club in New
helped a lot
achieve their
for schools
scholarships
hard with me

ed national
op two boys
Vagner and
who have
ornaments
e and are
gles spots."
ools."

at the funding launch. "I am
deeply concerned by reports
from the UN that a steady
process of ethnic cleansing is
underway in several areas of
South Sudan and that there is a
clear risk of genocide.

where he took part in a round-
table discussion on conflict in
the Horn of Africa.

"The conflict in the South
Sudan is forcing people to
flee to neighbouring countries
in increasing numbers," said
Minister McHugh. "I saw the

UN refugee operations in Juba, South Sudan (Photo: ...)

impact of this first hand when
I visited Adjumani Refugee
Settlement in Uganda in July,

where many women
children had fled fighting
violence. Many were ill

**Department of Law
Maynooth University**

PARTICIPANTS NEEDED FOR RESEARCH

Research Title:
The Impact of Domestic Violence Legal Regulation
and Enforcement Among Nigerian Immigrants in Ireland

A PhD student is looking for volunteers to take part in a study exploring the impact of the law in the context of its role in raising the awareness of domestic violence and transforming peoples' perception and attitude towards it.

To qualify for selection:

1. You must be a Nigerian immigrant and must have lived in Ireland for 5 years or more.
2. You must have been 18 years before you emigrated from Nigeria.
3. You must have spent 10 years out of the 18 years in Nigeria prior to emigrating from Nigeria.


Volunteering to participate in this study would involve an informal interview by the researcher. The participants would be asked questions about their knowledge and perception of domestic violence and the impact of laws prohibiting it in Ireland and Nigeria. The interview will take between 45 to 60 minutes to complete. If the participants consent, the interview will be audio recorded. The participant's identity and any information they provide will be kept confidential and anonymised.

Taking part in this study is voluntary. There is no monetary reward/compensation for volunteering to participate. If you decide to take part, you can refuse to discuss any issue raised during the interview. Also, you can decide to withdraw from participating at any time without any consequences, even after the interview has started or completed.

For more information about this study, or to volunteer for this study, please contact:

The Researcher: Bruno Obialo Igwe, PhD candidate, Room 46, New House, South Campus, Maynooth University, Co Kildare
Tel: 089 483 6801 Email: Bruno.Igwe.2012@mumail.ie

This study has been reviewed by, and received ethics clearance from the Maynooth University Research Ethics Committee.


A.C. Pendered
& Co. Solicitors

We specialise
EU law, UN
Constitution
both Irish and

We represent
various app
application
application

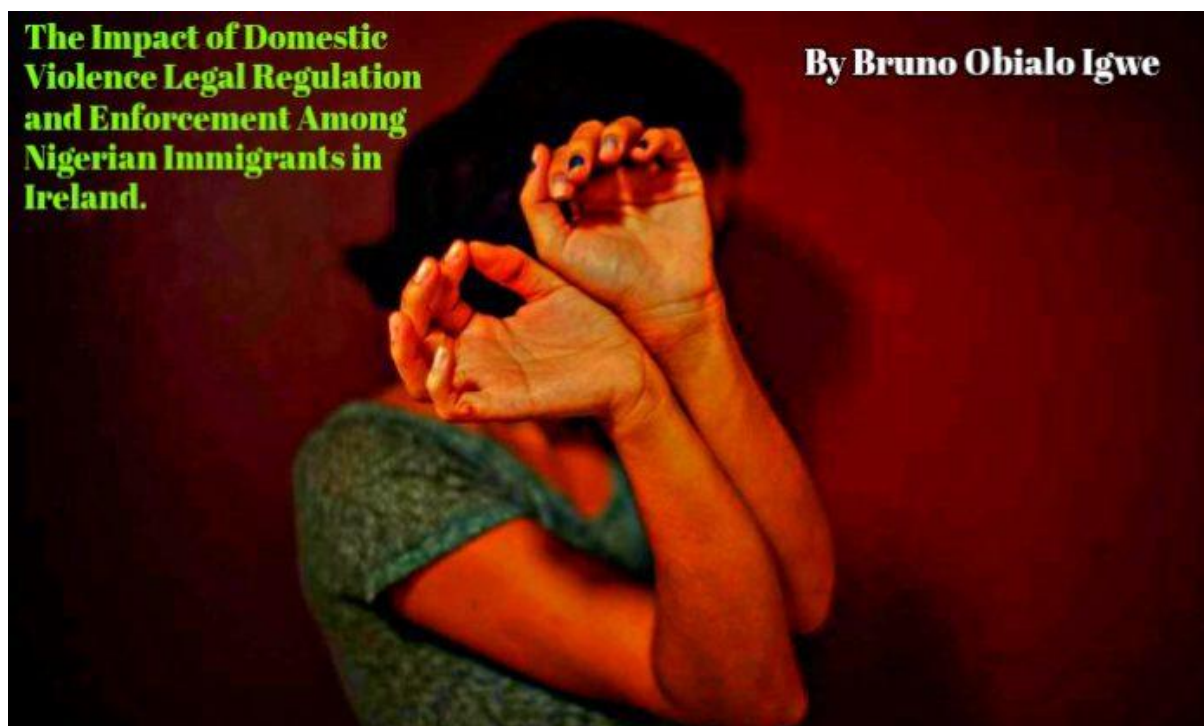
Ant

Suit

Email

Also a

Appendix F - Advertisement for Participants in AfricaWorld News



Department of Law

Maynooth University Ireland

PARTICIPANTS NEEDED FOR RESEARCH

Title

**The Impact of Domestic Violence Legal Regulation and Enforcement
Among Nigerian Immigrants in Ireland**

a pan-African magazine
THE African
INTERNATIONAL

A PhD student is looking for volunteers to take part in a study exploring the impact of the law in the context of its role in raising the awareness of domestic violence and transforming peoples' perception and attitude towards it. To qualify for selection:

1. You must be a Nigerian immigrant and must have lived in Ireland for 5 years or more.
2. You must have been 18 years before you emigrated from Nigeria.
3. You must have spent 10 years out of the 18 years in Nigeria prior to emigrating from Nigeria.

Volunteering to Participate in this study would involve an informal interview by the researcher. The participants would be asked questions about their knowledge and perception of domestic violence and the impact of laws prohibiting it in Ireland and Nigeria. The interview will take between 45 to 60 minutes to complete. If the participant consents, the interview will be audio recorded. The participants' identity and any information they provide will be kept confidential and anonymised.

Taking part in this study is voluntary. There is no monetary reward/compensation for volunteering to participate. If you decide to participate, you can refuse to discuss any issue raised during the interview. Also, you can choose to withdraw from taking part at any time without any consequences, even after the interview has started or completed.

For more information about this study, or to volunteer for this study, please contact:

The Researcher: Bruno Obialo Igwe, PhD candidate, Maynooth University. Office: Room 46, New House, South Campus. Tel: 0894836801. Email: [Bruno.Igwe.2012@mumail.ie](mailto: Bruno.Igwe.2012@mumail.ie)

This study has been reviewed by, and received ethics clearance from the Maynooth University Research Ethics Committee.

Appendix G – The poster was a joint winner at the Socio-Legal Studies Association Annual Conference 2016 poster competition held at Lancaster University, UK.

The Impact of domestic violence legal regulation and enforcement in Ireland on Nigerian Immigrants

Bruno Obialo Igwe
PhD Candidate
Department of Law, Maynooth University, Ireland
Email: Bruno.igwe.2012@mumail.ie

SLSA
Annual Conference 2016

"There has been an over-concentration on the consequences of political violence and not enough on domestic violence. We need to think a lot harder about how we tackle these issues".
(Anke Hoefler & James Fearon, 2014)

► Introduction

- High prevalence of domestic violence in Nigeria (Amnesty Int., 2005)
- Research indicates many Nigerians do not perceive domestic violence as a crime or abuse of their human rights (Oyediran & Isiugo-Ahanike, 2003)
- Traditional, cultural & religious beliefs and practices hinders the understanding and combating of domestic violence in Nigeria (Ajetomobi, 2015)
- Lack of adequate legal regulation, enforcement and awareness campaign to combat domestic violence (Itoro-Eze Anaba, 2007)
- Conflict and discriminatory laws - The penal code of Northern Nigeria, section 55 (1) (d) gives a man the right to chastise his wife for the purpose of correction as long as he does not inflict grievous bodily harm, and so far as the native laws and customs of the couple permit it
- Article 42 (1) of the Constitution of Nigeria forbids discrimination on the grounds of "ethnic groups, places of origin, sex, religious or political opinions"
- Article 34 (1) stipulates that: "Every individual is entitled to respect for the dignity of his person, and accordingly - (a) no person shall be subject to torture or to inhuman or degrading treatment..." (Constitution of the Federal Republic of Nigeria 1999)



Research questions

What is the efficacy of legal regulation, enforcement and awareness campaign against domestic violence in the transformation of peoples' perception/attitude towards it?

1. What is the impact of domestic violence law and its enforcement in Ireland on Nigerian immigrants' perceptions/attitudes regarding it?
2. How do Nigerian immigrants in Ireland feel about the protection of their human rights, safety and dignity as a result of the approach to tackling domestic violence in Ireland compared to the approach in Nigeria?

Theoretical framework

- Feminist legal theory – Liberal, sexual & dominance models
- Viewing law as an instrument for perpetuating women's subordinate status
- International Human Rights – Universalism versus cultural relativism debate
- The state's responsibility to take positive steps to uphold and protect the citizen's human rights

Potential impact flow

- Create awareness of domestic violence and its consequences
- Assist to overcome traditional, religious and cultural beliefs and practices that hinder the understanding and combating of domestic violence
- Contribute to the rationale for legal regulation and enforcement of laws against domestic violence
- Contribute to body of knowledge in the field

Comparative considerations

- The legislative process in the two jurisdictions
- Legislation and enforcement of national laws and policies on domestic violence
- Ratification of international human rights treaties
- Awareness campaign and involvement of the NGOs in the process
- Emancipatory laws to achieve gender parity
- Dedicated government parastatal to oversee domestic violence issues

A socio-legal research design

An interdisciplinary approach to ascertain the efficacy of the law as an agent of social change in raising the awareness of domestic violence and transforming perceptions/attitudes regarding it.

- Empirical research
- Research method: Qualitative - Phenomenological
- Participants: Nigerian immigrants in Ireland, adult men and women, which meet the selection criteria
- Sampling: Maximum variation purposeful sampling strategy
- Data collection: Semi-structured in-depth face-to-face interview
- Inductive open coding concept
- Data analysis: interpretative phenomenological analysis (IPA) - descriptive framework of analysis

References

- Ajetomobi, D. (2015). Domestic violence: Beyond tradition and culture. Commentaries, The Nigeria Lawyer. Retrieved from <http://thenigerialawyer.com/domestic-violence-beyond-tradition-and-culture/>
- Amnesty International (2005, May 31). Nigeria: Unheard voices – violence against women in the family. Doi: AFR 44/004/2005
- Constitution of the Federal Republic of Nigeria 1999
- Itoro Eze-Anaba (2007). Domestic violence and legal reforms in Nigeria: Prospects and challenges. Retrieved from https://www.researchgate.net/publication/265498031_Domestic_Violence_and_Legal_Reforms_in_Nigeria_Prospects_and_Challenges
- Oyediran, K. A., & Isiugo-Ahanike, U. C. (2005). Perceptions of Nigeria women on domestic violence: Evidence from 2003 Nigeria demographic and health survey. African Journal of Reproductive Health, 9 (2), 38-53
- The penal code of Northern Nigeria, section 55 (1) (d). Retrieved from http://www.qualitynow.org/law/the_penal_code_of_northern_nigeria

Acknowledgement:

Department of Law
Maynooth University, Ireland for
financial assistance
to attend the conference

