



Volume 38 No. 2, Agustus

P-ISSN: 1412-2723

THE CAUSES OF THE RISING INCIDENCE OF DOMESTIC VIOLENCE IN NIGERIA: PROPOSING JUDICIAL SEPARATION AS A PANACEA

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ARTICLE INFO

Keywords:

Domestic; Violence; Osinachi; Judicial; Separation; Nigeria.

DOI :

10.26532/jh.v38i2.21592

ABSTRACT

Peningkatan kekerasan dalam rumah tangga di Nigeria telah menjadi fenomena luar biasa. Kematian Osinachi Nwachukwu (seorang penyanyi terkenal) yang dikaitkan dengan kekerasan dalam rumah tangga, mendorong diskusi tentang kekerasan dalam rumah tangga menjadi lebih sering dilakukan. Meskipun beberapa undang-undang dan badan kelembagaan dibentuk untuk mengurangi insiden kekerasan dalam rumah tangga, tampaknya ada peningkatan fenomena kekerasan dalam rumah tangga di Nigeria. Penelitian ini menggunakan metode penelitian hibrida, untuk memastikan penyebab meningkatnya kekerasan dalam rumah tangga saat ini di Nigeria dan mengusulkan pemisahan yudisial sebagai solusi yang efektif. Berkaitan dengan itu, berbagai literatur dan undang-undang ditelaah mengenai kesesuaian pemisahan yudisial sebagai solusi dalam mengurangi kekerasan dalam rumah tangga. Selanjutnya 350 kuesioner dibagikan kepada responden untuk memastikan penyebab meningkatnya kekerasan dalam rumah tangga saat ini dan solusi yang mungkin dilakukan. Penelitian ini menemukan bahwa penyalahgunaan alkohol, gangguan psikologis, kesulitan ekonomi, dan kepercayaan tradisional adalah beberapa penyebab peningkatan kekerasan dalam rumah tangga saat ini di Nigeria. Studi ini juga menemukan bahwa pemisahan yudisial dapat menjadi alat hukum yang layak untuk mengurangi kekerasan dalam rumah tangga, mengingat hal itu mempertahankan status quo pernikahan. Oleh karena itu, penelitian ini merekomendasikan agar korban kekerasan dalam rumah tangga terbuka dan menganut konsep pemisahan yudisial.

The increase in domestic violence in Nigeria has become overwhelming. However, the death of Osinachi Nwachukwu (a popular gospel artist singer), which has been linked to domestic violence, prompted the discussion of domestic violence to be more pronounced. Although several laws and institutional bodies are set up to curtail the incidence of domestic violence, there seems to be

an increase in the monster in Nigeria. In this regard, this study adopts a hybrid method of research to ascertain the causes of the current increase in domestic violence in Nigeria and proposes judicial separation as a panacea. In this regard, various literature and laws were analysed concerning the suitability of judicial separation as a panacea in curtailing domestic violence. Furthermore 350 questionnaire was distributed to respondents to ascertain the causes of the current increase in domestic violence and possible solution. The study, therefore, found that alcohol abuse, psychological disorder, economic hardship, and traditional belief are some of the causes of the current increase in domestic violence in Nigeria. The study also found that judicial separation could be a viable legal tool to curtail domestic violence, given that it preserves the status quo of the marriage. Therefore, the study concludes and recommends that victims of domestic violence should open up and embrace the concept of judicial separation.

A. INTRODUCTION

Domestic abuse is a common problem within the global terrain¹; however, the case of domestic violence keeps increasing in Nigeria. If it is not about a man assaulting, choking, harassing, beating, maiming, or killing his wife, it is about a woman dealing with her husband in the same manner². However, it has been established that women suffer the most from domestic violence in Nigeria. In this regard, it must be noted that women who are enslaved in a circle of poverty and often suffers from neglect, discrimination, abuse, emotional trauma, and exploitation. They are also subjected to different forms of violence by their male counterparts³. According to the World Health Organization, about 40%-70% of the murder of women is caused by domestic violence or physical abuse by intimate partners⁴. Although women are often believed to be the victim of domestic violence, it also suffices to state that domestic abuse also happens to many men, though not as rampant as women do experience⁵. Domestic abuse against men can include physical violence and emotional and psychological

- 1 Hyunzee Jung *et al.*, Gender differences in intimate partner violence: A predictive analysis of IPV by child abuse and domestic violence exposure during early childhood. *Violence against Women Journal*, Vol. 25 No. 8, (2019), page 903–924; Michele Lloyd, Domestic violence and education: Examining the impact of domestic violence on young children, children, and young people and the potential role of schools, *Frontiers in Psychology*, Vol.9, 2018, pages 2094-3011
- 2 Onyedika Agbede *et al.*, *Domestic Violence: Why Nigeria is Eperiencing an upsurge*, Published in Guardian news on 27/02/2021 <https://guardian.ng/saturday-magazine/domestic-violence-why-nigeria-is-experiencing-an-upsurge/> Accessed on 19/04/2022.
- 3 Olaniyi Makinde, Kaj Björkqvist and Karin Österman, Overcrowding as a risk factor for domestic violence and antisocial behaviour among adolescents in Ejigbo, Lagos, Nigeria, *Glob. Ment. Health*, Vol.10 No.3, 2016, pages 34-53
- 4 Ujunwa C. Okoli *et al.*, Ekpunobi, A study of self- regulation, Domestic Violence and Gender as Correlate to Tendency To Commit Crime among Adolescents, *International Journal of Social Science and Humanities Research*, Vol.8 No.2, 2020, pages 121–129.
- 5 Andrew M. Campbell, An increasing risk of family violence during the COVID-19 pandemic: Strengthening community collaborations to save lives. *Forensic Sci. Int. Rep.* Vol.12 No.2, 2020, pages 245-156.

bullying, sexual violence, or financial control and abuse⁶.

It is apt to state that it is not strange to hear that not all married couples have a peaceful home. Some marriages are not free from domestic violence. In an actual sense, marriage should be a thing to be enjoyed rather than to be suffered. Furthermore, marriage should not be a punishment, nor should it be a lion's den or death sentence to the man or woman, as in the case of Nwachukwu Osinachi's death, who was a gospel singer in Nigeria. In this regard, it suffices to state that in a scenario where a couple is statutorily married in Nigeria and there is continued domestic violence, the parties could opt for judicial separation as a viable legal option to resolve such incessant domestic violence within such family. This is concerning that judicial separation could be a preferred alternative or option to divorce. This is because there are parties to a marriage who are traditionally committed to their marriage.

Furthermore, there are parties whose faith strongly discourages divorce, for instance, the Christian faith. In this regard, judicial separation will help serve such couples better in relieving them from domestic violence that tends to send either of the couples to its grave, as in the case of Osinachi's death. However, unlike divorce, judicial separation will not end a valid marriage in existence. This is concerning that judicial separation is a physical separation of a husband and a wife who are legally married under the Act, thereby relieving the petitioner from any obligation to cohabit or live under the same roof. A decree of separation may continue to be valid, but it does not affect the marriage or the status and rights of the parties to the marriage. However, for a court to grant a decree of separation, the petitioner must substantiate the existence of any of the grounds as provided in sections 15(2) and 16(1) of the Matrimonial Cause Act⁷.

It is concerning the above that this study tends to employ a hybrid research method to examine the rising incidence of domestic violence and its causes. Furthermore, the study will also examine the legal concept of judicial separation and propose the same as a better remedy that could savage and curtail the current rising incidence of domestic violence in Nigeria.

B. RESEARCH METHODS

The study employs a hybrid method of research which includes a combined doctrinal and non-doctrinal research method. Concerning the doctrinal research method, it enables the researcher to critically examine various literature such as; textbooks, journal articles, internet articles, and any other relevant materials to the research as they relate to the incidence and causes of the current rise of domestic violence in Nigeria. Also, it will enable the researcher to examine the concept and legal framework of judicial separation.

However, non-doctrinal methods are utilized in this study to enable

6 Marianna Mazza *et al.*, Danger in danger: Interpersonal Violence during COVID-19 Quarantine, *Psychiatry Res*, Vol.8 No.4, 2020, pages 289-296

7 Matrimonial Causes Act

the researcher to gather and collate extensive data with an online questionnaire survey. The study adopts a descriptive and analytical approach in analyzing the data obtained through the questionnaire. The essence of adopting a non-doctrinal method is to enable the researcher to ascertain the current causes and rise of domestic violence in Nigeria and possible remedy.

C. LITERATURE REVIEW

1. Incidence of Domestic Violence in Nigeria

Domestic violence is known as a spouse or partner violence, and this can also mean a deliberate behavior of a partner or either spouse to coerce, control, threaten and dominate someone else⁸. The provision of section 46 of the Violence against Persons Act⁹ captured domestic abuse to mean an act that is perpetrated against any person in a domestic relationship whereby the act committed against the person causes harm or may cause imminent harm to the safety, health, or well-being of any person.

It suffices to state that domestic violence can take different forms like physical, sexual, emotional, and mental. Traditionally and ordinarily speaking, domestic violence is mainly committed against females. Still, this view should not be taken too far since, obviously speaking, research and experience have shown that many men are also a victim of domestic violence. Domestic violence against men deals with domestic violence faced by men in a domestic setting, such as in marriage or cohabitation; domestic violence or abuse against men can take the form of physical violence, emotional, verbal, or sexual abuse from their wives¹⁰.

However, in Nigeria, domestic violence has become prominent and a daily act often perpetrated by a spouse against themselves, and most often, female is the adverse parties in domestic violence. This is concerning the fact that there is a cultural belief that a husband can discipline his wife by hitting her. Incidence of domestic violence cases in Nigeria includes battery, torture, acid baths, beatings, choking, rape, and then resulting in the victims' death, which includes and affect men also as the victim of domestic violence. There are a plethora of incidences of domestic violence in Nigeria. The most recent case or incidence of domestic violence in Nigeria is that of the gospel singer Nwachukwu Osinachi's death. The public received the report about her death with mixed feelings; her death initially was reported to have been caused by throat cancer despite her being on life support for several days at the

8 Fareo Dorcas Oluremi, Domestic Violence against Women in Nigeria, *European Journal of Psychological Research*, Vol.2 No.1, 2015), pages 45-67.

9 Violence against Persons (Prohibition) Act 2015

10 Chioma Gabriel, *Domestic Violence 2: Are Men also Victims?*, Published in Vanguard News on July 13th, 2013 <https://www.vanguardngr.com/2013/07/domestic-violence-2-are-men-also-victims/amp/> accessed 19th March, 2022

Abuja Hospital¹¹. Many of her fans believed the earlier report that she died of throat cancer until her colleague in the gospel music industry, Frank Edwards, spilled the ordeal of Osinachi¹². Frank Edwards was furious at the death of Nwachukwu Osinachi and was determined to expose to the public that it was the husband that tormented Osinachi to death. This he said on his verified Facebook social media platform in this manner so that unreasonable human beings finally put off a shining light¹³. In a video exposed by The Cable Lifestyle, Amarachi Eze, Osinachi's twin sister, alleged that her sister's husband, the deceased, was an abusive partner. He took control of the singer's finances and dictated her movement¹⁴. Also, Osinachi's children, mother, and sister narrate the domestic abuse and assault she suffered from her husband, which resulted in her death¹⁵. The first son of Osinachi, in a conversation with the deceased's friend Ene Ogbe, revealed that the father was always in the habit of abusing, beating, and assaulting the mother¹⁶. Osinachi's son further narrated how their father also seized two of the deceased's cars given to her while asking her to board bikes¹⁷. Given the narration from Osinachi's colleagues, mother, son, and neighbors as to the reason behind Nwachukwu osinachi's death, one could infer that her death resulted from constant domestic abuse and assault and battery from her husband.

Furthermore, domestic violence cases in Nigeria are high despite the police arrest of the culprit. However, this arrest seems not to deter or reduce the occurrence of domestic violence in Nigeria. This is concerning the fact that there are several other incidences of domestic violence in Nigeria. For example, another scary incidence of domestic violence that occurred in Lagos State between husband and wife on Wednesday, February 17, 2021, claimed the wife's life¹⁸. The fact of the incident is that on Wednesday, February 17, 2021, the police arrested David Idible for the death of his 42-years old wife, Juliana Edible¹⁹. According to the police spokesperson, they found the body of Juliana in their apartment after a neighbor reported the incident to the police. The report was that the deceased person had dragged and engaged the accused into a heated argument and quarrel on some marital issue and challenge. In

11 Bridget Edokwe, *Heartbreaking: Osinachi's Twin Sister, Aged Mother Share Details of late Singer's Troubled Marriage*, <https://barristerng.com/heartbreaking-osinachis-twin-sister-aged-mother-share-details-of-late-singers-troubled-marriage/> Accessed on 20th April, 2022.

12 Ibid

13 Ibid

14 Ibid.

15 Bridget Edokwe, *Osinachi's Death: My Father Said Beating Women is Good, Pushed Mum out of Her Car – Son Reveals*, <https://barristerng.com/osinachis-death-my-father-said-beating-women-good-pushed-mum-out-of-her-car-son-reveals/> Accessed on 20th April, 2022.

16 Ibid

17 Ibid

18 Onyedika Agbedo *et al.*, *Domestic Violence: Why Nigeria is Experiencing an Upsurge*, <https://guardian.ng/saturday-magazine/domestic-violence-why-nigeria-is-experiencing-an-upsurge/> Accessed on 19th April, 2022.

19 Ibid

this heated argument and a hit from the husband, the deceased fell and sustained a severe head injury. While lying in the pool of her blood, the angry husband refused to rescue her until she gave up the ghost²⁰.

Similarly, on the incidence of domestic violence in Nigeria, the marriage between Pastor Ijeoma Okoli and her husband, Ifeanyi Okoli, was dissolved over domestic violence²¹. The petitioner, who was an indigene of Delta state, described her husband as a drug addict, saying her husband had been very hostile and aggressive against the children and her²². To worsen the hostility resulting from drug abuse, he eventually became abusive and violent toward his wife and the children by hitting them angrily. She further stated that if timeous care and intervention are not taken to end the marriage, her husband might end up killing the wife and the children and that since the man had been a drug addict, their marriage has been toxic, full of domestic violence, threats to life and verbal abuse²³.

However, it is quite worthy to note that men are also victims of domestic violence, just like women. This is concerning the fact that, on Wednesday, February 17, 2021, there was a case of domestic violence in Ondo state²⁴. The police arrested one Queen Beatrice for allegedly killing her husband, Mr. Emmanuel Ikujuni, at Omotosho town, in Okitipupa local council. It was reported that the woman hit the head of the deceased husband with a plank following an argument between them just because the deceased spoke with another woman on the phone in her presence. The deceased was said to have collapsed after his wife hit him with the plank; their neighbors rushed him to a nearby hospital, where he was confirmed dead²⁵. There are several other incidences where men have also been victims of domestic violence, leading to the loss of life²⁶.

It suffices to state that the rising and disturbing incidence of domestic violence in Nigeria is becoming worrisome. Therefore, there is a need to trace the root cause of domestic violence to curtail the increased incidence of domestic violence.

2. Causes of Domestic Violence in Nigeria

It suffices to state that domestic violence has always existed in our society and will continue to be there due to certain factors that

20 Ibid

21 Don Silas, *Popular Pastor Loses 11-Year-Old Marriage to Domestic Violence*, <https://dailypost.ng/2018/06/04/popular-pastor-loses-11-year-old-marriage-domestic-violence/> access 26th of April, 2022

22 Ibid

23 Ibid

24 Adekintunde Oyedokun, *Police Arrest Woman For Allegedly Killing Her Husband For Receiving Call From Female Friend In Ondo*, <https://topnaija.ng/police-arrest-woman-for-allegedly-killing-her-husband-for-receiving-call-from-female-friend-in-ondo/> accessed 26th of April, 2022

25 Ibid.

26 Majekodunmi Toyin Afolabi *et al.*, The causes of the Rising incidence of Terrorism occasioning Deprivation of the Right to Life in Nigeria, *KIU Journal of Humanities*, Vol.7 No.2, 2022, page.5-19

ensure its continued existence²⁷. Some of the factors that cause domestic violence in Nigeria are as follows;

a. Financial Factor

Financial problem in a family has the effect of increasing the bitterness, stress, aggression, and hostility of either spouse. When there is such a constant financial duel in the family, it often leads to domestic violence and abuse. This is concerning the fact that a little financial misunderstanding between the spouses can generate a fight, assault, and abuse. Furthermore, a level of unemployment in a country can contribute to the fact that people quarrel and fight in families. In this regard, accumulated bitterness or stress due to lack of money in a family usually results in domestic violence and abuse. Traditionally and practically, in the Nigerian family system, the man or husband must cater and provide for the family²⁸. This is one of the reasons the husband is often regarded as the breadwinner of the family. In this regard, where the husband is financially stranded and unable to discharge his duty as the family's breadwinner due to unemployment or financial problem, there is bound to be violence or crisis. Given this, it is apt to state that when violence arising from a financial problem is not properly managed, it will result in domestic violence. Also, it suffices to opine that the danger of domestic violence most often arises from financial challenges. This is concerning that when a wife believes that the husband makes money or have money but fails to provide sufficiently for his family, it often results in a series of quarrel and physical abuse²⁹.

b. Childlessness and Male Child Syndromes

In an average Nigerian family, the issues of childlessness and male child syndrome are also one of the causes of domestic violence in many families³⁰. This is concerning the fact that there are many reported incidences in Nigeria where several spouses engage in domestic violence as a result of childlessness. Also, it suffices to state that, though an inability to bear children could medically be attributed to the man or woman, however, in Nigeria, it is culturally seen as a fault of the woman than the man. In this regard, blaming childlessness on a woman often empowers the man or husband to abuse and maltreat the wife at the slightest provocation. Furthermore, most time, women are often blamed for not giving birth to male children. In this regard, the obsession of an average traditional

27 Paul Atagamen Aidonjje, The Societal and Legal Missing Link in Protecting a Girl Child against abuse before and Amidst the Covid-19 Pandemic in Nigeria, *Jurnal Hukum UNISSULA*, Vol.38 No.1, 2022, pages.61-80; Ose N. Ahiie, Prevalence of Domestic Violence in Nigeria: Implications for Counseling, *Edo Journal of Counseling*, Vol.2 No.1, 2009, pages,23-41.

28 Unity Awolowo, Facing the Problem We are Avoiding, *The Nigerian Tribune*, 2013

29 Ibid.

30 Erabhor Sunday AIdemudia and Silas Makhubela, Gender Difference, Exposure to Domestic Violence and Adolescents' Identity Development, *Gender and Behaviour*, Vol.9 No.1, 2011, pages.3443-3465

Nigerian man just to have a male child in the family at all cost often result in domestic violence. As a result, some women who find themselves in this situation are sometimes abandoned and left to cater to the female children³¹.

c. Traditionally belief

There are customs or traditions in Nigeria that believe that beating women, instilling discipline, and commanding obedience are acceptable. Most African (especially in Nigeria) traditions and customs operate a patriarchal system, where males are believed to be superior to females. Furthermore, there is a cultural belief that it is socially acceptable to hit a woman to discipline a spouse in some customs³². This ideological misnomer belief often resulted in husbands bullying, abusing, and maltreating their wives as a second-class family members. Most annoying is that female who find themselves in such a situation often accept it as a fate and cross they have bear in their lifetime.

d. The jealousy factor

Refers to the feeling or state of envy and has to do with suspicion and distrust among spouses. In this regard, where there is jealousy among spouses arising from a suspicious act of infidelity or distrust, there is bound to be domestic violence and abuse in such a family³³. This is concerning the fact that jealousy among couples tends to degenerate into the heat of anger, resulting in domestic violence and abuse in a family. This is because anger can cause misunderstanding, quarreling, and lack of mutual respect between the spouse and thereby cause resulting in domestic abuse and violence³⁴.

3. The Legal Concept of Judicial Separation as a Panacea to Domestic Violence

Judicial separation is a matrimonial relief that can help relieve or bring to an end domestic violence against either couple in a marriage³⁵. In this regard, in the circumstances where husband and wife are no longer in amity or at peace, any of the aggrieved parties may apply to the court for judicial separation. However, under the Nigeria matrimonial causes act (hereinafter called MCA), the grounds upon which a court

31 Ibid

32 Faith Owunari ABenebo, Barbara Schumann and Masoud Vaezghasemi, Intimate Partner Violence Against Women In Nigeria: A Multilevel Study Investigating The Effect Of Women's Status And Community Norms, *BMC Women's Health*, Vol.18 No.1, 2018, pages.136-152

33 Moses O. ABakare, Monday D. Asuquo and Alero O. Agomoh, Domestic Violence And Nigeria Women-A Review Of The Present State, *Nigerian Journal of Psychiatry*, Vol.8 No.2, 2010, pages.5-14

34 Zain Agu, *Major causes of violence in Nigeria*, <<https://www.legit.ng/1159361-major-domestic-violence-nigeria.html>> Accessed 20/04/2022

35 Oluwaseye Oluwayomi Ikubanni and Paul Atagamen Aidonjje, The Legality of Virtual Marriage in Nigeria given the Covid19 Pandemic Social Distancing: An X-Ray of the Matrimonial Causes Act, *Madonna University Faculty of Law Journal*, Vol.6 No.1, 2021, pages.47-68

may grant a decree of separation are the same as the grounds upon which a court may grant a divorce. In this regard section, 15(2) and 16(1) of the MCA provide for the ground upon which a court may grant a decree of separation, and they are:

- a. Willfully and persistent refusal to consummate
- b. Adultery
- c. That the respondents is irresponsible
- d. Dissertation of the petitioner for a Year
- e. Parties Living Apart
- f. Refusal to Conjugate
- g. Presumption of Respondent Death.

4. Bar or Defense to a Decree of Judicial Separation

It is trite law that the petitioner for a decree of judicial separation must establish before the court any of the conditions or grounds contained in section 15(2) and section 16(1) MCA. In this regard, a petitioner who applies for a decree of judicial separation will not succeed if failed to prove the ground(s) upon which the application is based. However, section 40 of the MCA and sections 26-32 of the MCA can also serve as a bar to a decree of judicial separation. Given the above, the following can serve as a bar to judicial separation;

- a. Condoning or inducement by the Petitioner: Where the petitioner induced, contributed, condoned, or conspired in any act that forms the ground upon which an application for a decree of judicial separation is brought, the court will not grant the application³⁶.
- b. Petitioner Conspiracy to Pervert Justice: A party bringing the application is guilty of conspiracy with intent to perverse justice or cause an injustice to the other party³⁷.
- c. Where Petitioner is Guilty of Adultery: The court may also refuse a decree of separation where the petitioner has been found to have committed adultery and had not been condoned by the respondent³⁸.
- d. Where parties married is just less than two years in their marriage: The court will not order a decree of separation if the parties to suit have not been so married within two years before the application is brought, except by leave of court³⁹.
- e. Joining a Third Party when a ground for the application is Rape or Adultery: The ground upon which the application is brought is that the respondent had committed adultery or rape. The person with whom the respondent committed the act must be joined as a party to the suit⁴⁰.

36 Sections 26 and 28(c) of Matrimonial Causes Act

37 Ibid Section 27

38 Ibid Section 28(a)

39 Ibid section 30(1)

40 Ibid section (1) and (2)

5. Effect of a Decree of Judicial Separation

The effect of judicial separation means the extent to which parties to a suit of judicial separation can be affected concerning all their rights as a married couple under statutory law. In this regard, it suffices to state that the effect of a judicial decree of separation is as follows:

- a. **Obligation to Cohabit:** By a decree of judicial separation, parties are no longer entitled to live or cohabit under the same roof. In this regard, the petitioner is discharged of the obligation of living with the respondent⁴¹.
- b. **Status of being married under the Act:** A decree of judicial separation does not affect the status of the parties as a party married under the Act⁴². Parties are still regarded as validly married under the Act. Given the above, if any of the parties remarry, it will constitute an offence of bigamy.
- c. **The obligation of Parties:** A decree of separation does not affect the obligation of the husband to provide for and maintain his wife⁴³. Section 42(3) of MCA further provides that when a decree of separation is made, the court will also order that maintenance be paid to the wife where the man is wealthier or the breadwinner of the home, failure of which the husband will be held liable for every necessary supply to his wife.
- d. **The right to Institute a Suit:** a decree of judicial separation does not preclude any parties from instituting a suit when there is a breach of contract or in tort⁴⁴.
- e. **The right to Inheritance:** It does not affect the rights of the petitioner and respondent as parties married under the Act, such as the right of inheritance after the demise of any of the parties. In this regard, the property of either of the parties who died intestate shall be inherited by the surviving party⁴⁵.
- f. **Exercise of Joint power:** During a decree of separation, both parties still possess the power to act where they are so empowered to do so jointly, e.g., operation of a joint account by a husband and wife. In this regard, where husband and wife have been given the power to act jointly, neither the husband nor the wife can be discriminated against on the basis that they have been separated⁴⁶.
- g. **Institution of Dissolution Marriage:** A decree of separation does not preclude any of the parties from instituting a suit for dissolution of marriage⁴⁷.

41 Ibid section 41

42 Ibid section 41

43 Ibid section 41

44 Ibid section 42(1)

45 Ibid section 42(2)

46 Ibid section 43

47 Ibid section 44(1)

6. When Judicial Separation is said to be discharge

By section 45 of MCA, a decree of judicial separation is said to be discharged where both parties voluntarily agreed to resume cohabitation, and neither of the parties had applied to the court to discharge the decree of judicial separation. Therefore, given the application made by either of the parties and the court is satisfied that both parties have agreed to resume cohabitation, the court shall discharge the decree of separation by an order.

Given the above, it suffices to opine that for there to be a valid discharge of a decree of judicial separation; the following must take place:

- a. Parties must voluntarily agree to resume cohabitation, or parties must have resumed cohabitation
- b. Either of the parties must bring an application for the discharge of the decree
- c. The court must be satisfied that both parties voluntarily agreed to resume cohabitation
- d. Lastly, the court must make a pronouncement discharging the decree of separation

D. RESULT

Given the data generated from the online questionnaire, the following data is at this moment analysed as follows:

1. Sample Size and Techniques

The study used an online survey questionnaire, and the online survey questionnaire is aimed at observing the social distancing rule given the Covid-19 pandemic⁴⁸). In this regard, the respondents were randomly selected through a simple random sampling technique. The reason for adopting a simple random approach concerns the fact that Aidonojie et al., in their study, have argued that it is suitable and reliable in selecting respondents from a heterogeneous population like Nigeria. Furthermore, it has been claimed by Aidonojie *et al.*⁴⁹ that a simple

48 Paul Atagamen Aidonojie and Anne Oyenmwosa Odojor, Impact and Relevance of Modern Technological Legal Education Facilities amidst the Covid-19 Pandemic: A Case Study of Law Students of Edo University Iyamho, *KIU Journal of Humanities*, Vol.5 No.4, 2021, page.7-19; Paul Atagamen Aidonojie, Joseph Nwazi and Ugiomo Eruteya, The Legality, Prospect, and Challenges of adopting Automated Personal Income Tax by States in Nigeria: A Facile Study of Edo State, *Cogito Multidisciplinary Journal*, Vol.14 No.2, 2022, page.149-170; Paul Atagamen Aidonojie, Oaihimore Idemudia Edetalehn and Omohoste Patience Agbale, The Legal and Ethical Issues concerning Diagnosing and Treatment of Patients by Pharmacists in Nigeria, *Euromentor Journal*, Vol.13 No.2, 2022, pages.113-138; Odetokun Olukayode Oladele *et al.*, An Empirical Study of Criminalizing Minor Infractions of Tax Laws in Nigeria: The Need for Negotiated Punishments, *KIU Journal of Humanities*, Vol.7 No.2, 2022, page.23-35

49 Paul Atagamen Aidonojie *et al.*, The challenges and relevance of technology in administration of justice and human security in Nigeria: Amidst the Covid-19 pandemic, *Cogito Multidisciplinary Journal*, Vol.13 No.3, 2021, page149-170; Paul Atagamen Aidonojie, Anne Oyenmwosa Odojor, and Odetokun Olukayode Oladele, An Empirical Study of the Relevance and Legal Challenges of an E-contract of Agreement in Nigeria, *Cogito Multidisciplinary Research Journal*, Vol.12 No.3, 2020, page.181; Paul Atagamen Aidonojie

random sampling technique is hassle-free in sampling a heterogeneous population, and there are no chances of being biased.

Concerning the sample size, 350 of respondents living in the various states of the Federal Republic of Nigeria were randomly selected by the study to respond to the questionnaire.

Concerning the data obtained through the use of an online survey questionnaire, it is at this moment analysed as follows:

a. Research Question One

What State do you reside in Nigeria?

350 responses

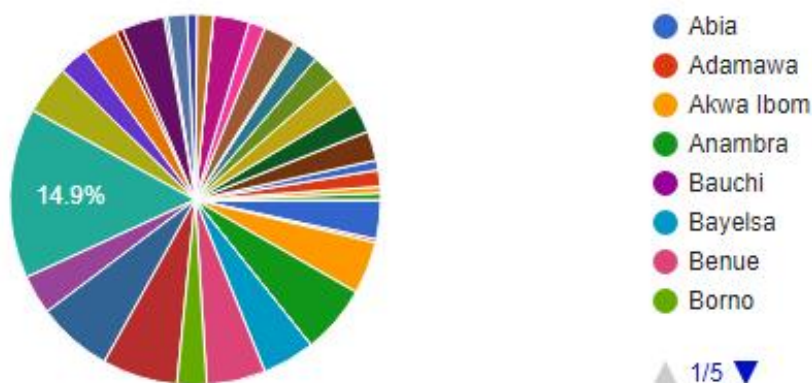


Figure 1: Identification of the various states the respondents reside in Nigeria

S/N	States in Nigeria	Responses of Respondents	Percent
1	Abia	12	3.4%
2	Adamawa	1	0.3%
3	Akwa Ibom	16	4.6%
4	Anambra	21	6%
5	Bauchi	Nil	Nil
6	Bayelsa	16	4.6%
7	Benue	18	5.1%
8	Borno	9	2.6
9	Cross River	23	6.6%
10	Delta	23	6.6%
11	Ebonyi	12	3.4%

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12	Edo	52	14.9%
13	Ekiti	15	4.3%
14	Enugu	9	2.6%
15	(FCT) Abuja	11	3.1%
16	Gombe	2	0.6%
17	Imo	13	3.7%
18	Jigawa	1	0.3%
19	Kaduna	6	1.7%
20	Kano	3	0.9%
21	Katsina	5	1.4
22	Kebbi	Nil	Nil
23	Kogi	11	3.1%
24	Kwara	5	1.4%
25	Lagos	10	2.9%
26	Nassarawa	1	0.3%
27	Niger	7	2%
28	Ogun	8	2.3%
29	Ondo	10	2.9%
30	Osun	9	2.6%
31	Oyo	9	2.6%
32	Plateau	3	0.9%
33	Rivers	5	1.4%
34	Sokoto	2	0.6%
35	Taraba	2	0.6%
36	Yobe	Nil	Nil
37	Zamfara	Nil	Nil

Table 1: Valid responses of respondents identifying the states residing in Nigeria

Figure 1 and Table 1 are aptly a data presentation above representing the valid responses obtained from respondents identifying the various states they reside in Nigeria.

b. Research Question Two

Are you aware of the increase incidence of domestic violence in Nigeria?

348 responses

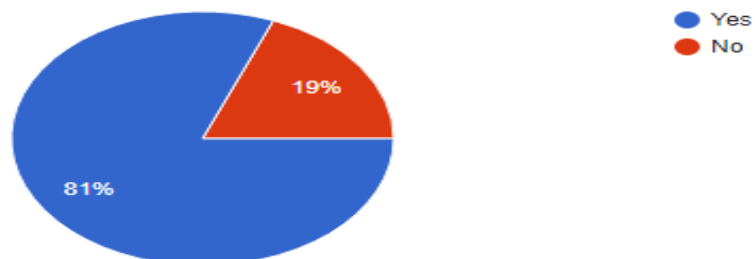


Figure 2: Respondents identifying that they are aware of the current increase of domestic violence in Nigeria

	Response	Percent
Valid Yes	282	81%
Valid No	66	19%
Total	248	100%

Table 2: Respondents identifying their awareness of the current rise of domestic violence in Nigeria

Figure 2 and Table 2 above are respondents identifying their awareness concerning the current rise of domestic violence in Nigeria.

c. Research Question Three

Which of the following constitute the causes of the increase incidence of domestic violence in Nigeria?

344 responses

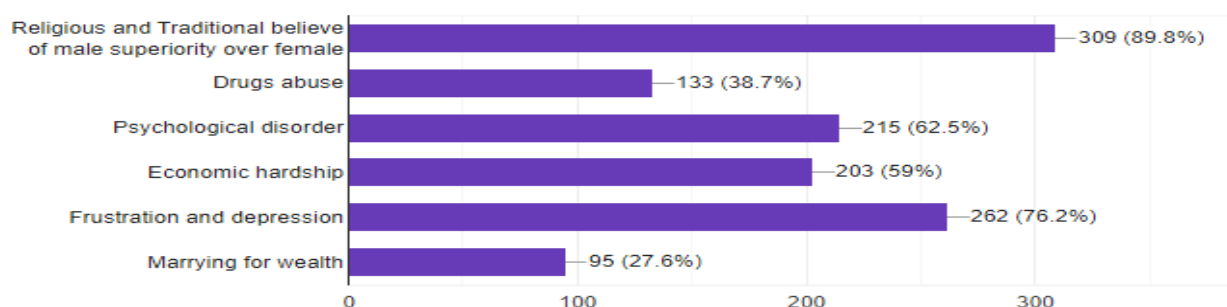


Figure 3: Respondents' cluster responses stating the causes of the increase in domestic violence in Nigeria

Causes of Domestic Violence in Nigeria	Cluster Response	of Percentage
Religious and Traditional beliefs of male superiority over female	309	89.8%
Drugs abuse	133	38.7%
Psychological disorder	215	62.5%
Economic hardship	203	59%
Frustration and depression	262	76.2%
Marrying for wealth	95	27.6%

Table 3: Valid Respondents' cluster responses stating the causes of the increase in domestic violence in Nigeria

Figure 3 and Table 3 are a cluster of responses by respondents stating the causes of the current increase in domestic violence in Nigeria.

d. Research Question Four

Do you agree that instead of divorce or keeping silent, judicial separation could be a better option in curtailing the incidence of domestic violence?

349 responses

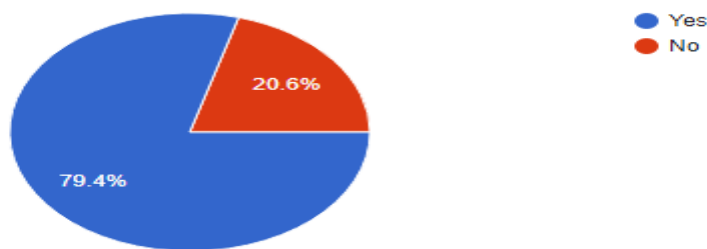


Figure 4: respondents identifying if judicial separation is a viable remedy to curtail domestic violence in Nigeria

	Response	Percent
Valid Yes	277	79.4%
Valid No	72	20.6%
Total	349	100%

Table 4: Valid respondent's response identifying judicial separation as a remedy in curtailing domestic violence in Nigeria

Figure 4 and Table 4 are valid respondents' responses stating that the legal concept of judicial separation is a viable remedy in curtailing the current rise of domestic violence in Nigeria.

e. Research Question Five

Which of the following constitute the reasons for opting for judicial separation as a panacea to curtailing domestic violence in Nigeria?

Copy

286 responses

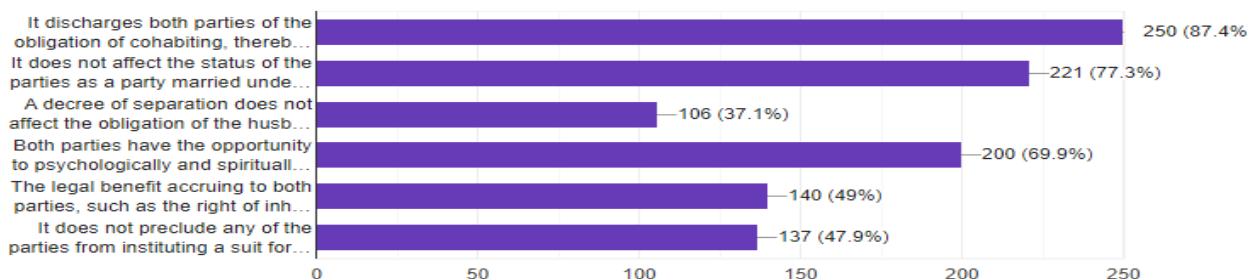


Figure 5: respondents identifying the advantages of identifying judicial separation as a remedy to domestic violence

Advantages of judicial separation as a remedy to domestic violence	Responses of respondents	Percentage
It discharges both parties of the obligation of cohabiting, thereby reducing or mitigating the incidence of domestic violence	250	87.4%
It does not affect the status of the parties as a party married under the Act, thereby maintaining the status quo of being legally married	221	77.3%

A decree of separation does not affect the obligation of the husband to provide and maintain his wife	106	37.1%
Both parties have the opportunity to psychologically and spiritually resolve their challenges	200	69.9%
The legal benefit accruing to both parties, such as the right of inheritance after the demise of any of the parties	140	49%
It does not preclude any of the parties from instituting a suit for dissolution of marriage	137	47.9%

Table 5: Valid respondents' responses concerning the advantages of judicial separation as a remedy to domestic violence

Figure 5 and Table 5 are a cluster of respondents' valid responses identifying the relevance and advantages attributed to the concept of judicial separation as a viable remedy in curtailing the increase of domestic violence in Nigeria.

f. Research Question Six

Do you agree that there are challenges preventing domestic violence victims from exploring possible solutions such as judicial separation?

350 responses

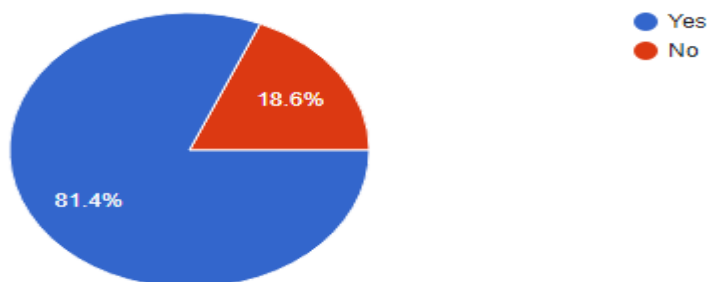


Figure 6: respondents identify if there are challenges to exploring judicial separation as a viable remedy to curtail domestic violence in Nigeria

	Response	Percent
Valid Yes	285	81.4%
Valid No	65	18.6%
Total	250	100%

Table 6: Valid respondents' responses identifying challenges of judicial separation as a remedy in curtailing domestic violence in Nigeria

Figure 6 and Table 6 are valid respondents' responses stating that some challenges often mitigate exploring the legal concept of judicial separation as a viable remedy in curtailing the current rise of domestic violence in Nigeria.

g. Research Question Seven

Which of the following serve as challenges to prevent a victim of domestic violence from exploring the possible solution such as judicial separation?



301 responses

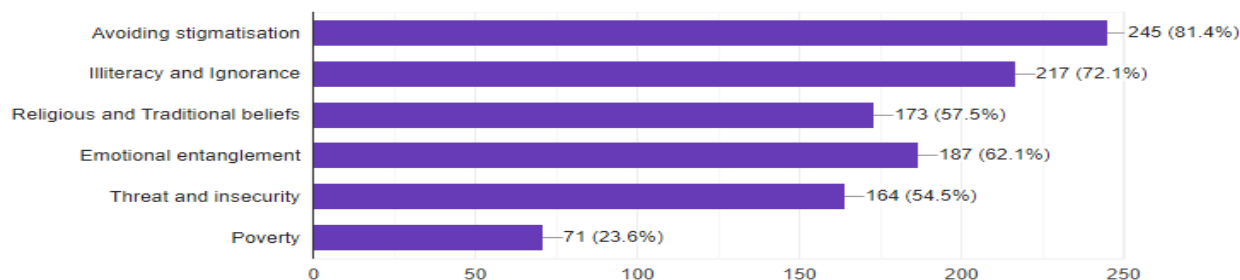


Figure 7: Respondents identifying challenges limiting victims of domestic violence from exploring judicial separation

The challenges of adopting judicial separation to remedy domestic violence	Cluster of Responses	Percentage
Avoiding stigmatization	245	81.4%
Illiteracy and Ignorance	217	72.1%
Religious and Traditional beliefs	173	57.5%
Emotional entanglement	187	62.1%
Threat and insecurity	164	54.5%
Poverty	71	23.6%

Table 7: Valid respondents' identification of challenges limiting victims of domestic violence in exploring judicial separation

Figure 7 and Table 7 represent respondents' valid cluster of responses stating some of the challenges limiting victims of domestic violence from exploring judicial separation in Nigeria.

h. Research Question Eight

Which of the following serves as a possible solution to curtailing the above challenges?



301 responses

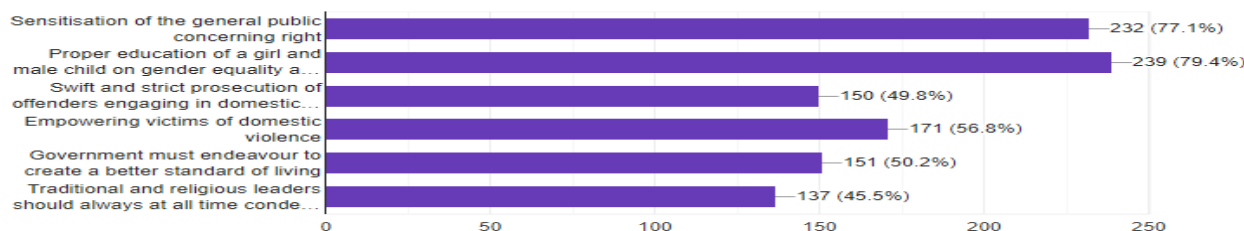


Figure 8: Remedies concerning the challenges limiting victims of domestic violence from exploring judicial separation

The remedies concerning challenges of adopting judicial separation to remedy domestic violence	Cluster of Responses	Percentage
Sensitisation of the general public concerning right	232	77.1%
Proper education of a girl and male child on gender equality and the evil of domestic violence	239	79.4%
Swift and strict prosecution of offenders engaging in domestic violence	150	49.8%

Empowering victims of domestic violence	171	56.8%
Government must endeavor to create a better standard of living	151	50.2%
Traditional and religious leaders should always at all time condemn the monster of domestic violence	137	45.5%

Table 8: Remedies concerning the challenges limiting victims of domestic violence from exploring judicial separation

Figure 8 and Table 8 represent respondents' valid cluster of responses stating some of the remedies that could aid curtail the challenges limiting victims of domestic violence from exploring judicial separation.

E. DISCUSSION OF FINDINGS

Concerning the data obtained and analysed as presented in the above figure and table, figure 1 and table 1 further represent that the respondents (250 respondents) were carefully selected from the various states in Nigeria. In this regard, it suffices to state that the essence of figure 1 and table 1 is aimed at ensuring that there is credibility that the respondents are residing within Nigeria. Furthermore, it will also enable the researcher to ascertain that the respondents residing in Nigeria will be well knowledgeable to give an informed answer concerning the rising incidence of domestic violence. However, in establishing if the respondents are aware of the increasing incidence of domestic violence in Nigeria, a significant 81% responded yes, as presented in figure 2 and table 2 above. However, in figure 3 and table 3, the respondents were able to identify the reason or causes of the current rise in domestic violence in Nigeria. In this regard, 89.8% of the respondents stated that the causes of the increase of domestic violence in Nigeria are due to religious and traditional beliefs of male superiority over females. 59% and 76.2% of respondents identify economic hardship, frustration, and depression, respectively. Also, 38.7% and 62.5% of the respondents also identify drug abuse and psychological disorder as some of the causes of the rise of domestic violence in Nigeria.

It suffices to state that, having identified the root causes of the rise of domestic violence in Nigeria, as represented in figure 3 and table 3. Figure 4 and table 4 further represent the fact that most of the respondents (79.4% of the respondents) identify judicial separation as a viable legal remedy to curtail the current rise of domestic violence. However, in figure 5 and table 5, the respondents stated the reasons for suggesting judicial separation as follows;

1. 87.4% of the respondents indicated that it discharges both parties of the obligation of cohabiting, thereby reducing or mitigating the incidence of domestic violence
2. 77.3% of respondents stated that it does not affect the status of the parties as a party married under the Act, thereby maintaining the status quo of being legally married
3. 37.1% also identify that a decree of judicial separation does not affect the obligation of the husband to provide and maintain his wife

4. 69.9% of the respondents stated that both parties have the opportunity to psychologically and spiritually resolve their challenges
5. 49% identify that the legal benefit accruing to both parties, such as the right of inheritance after the demise of any of the parties
6. 47.9% stated that it does not preclude any of the parties from instituting a suit for dissolution of marriage

As identified by respondents, the above reasons postulate why judicial separation is preferable to divorce as a remedy in curtailing the incidence of domestic violence in Nigeria. This is concerning the fact that most victims of domestic violence tend to keep silent because they want to embark on the option of divorce, which is the usual advice often rendered to them as the only remedy. However, in figure 6 and table 6, the respondents (81.4% of the respondents) identify the fact that there are challenges mitigating against victims of domestic violence in adopting the option of judicial separation as a viable legal remedy in curtailing the rise of domestic violence in Nigeria. In this regard, in figure 7 and table 7, as presented above, the respondents further identify some of the challenges mitigating the use of judicial separation by victims of domestic violence in Nigeria as follows;

1. 81.4% of respondents stated that avoiding stigmatization is one of the challenges limiting victims from opting for judicial separation as a remedy in curtailing domestic violence
2. 72.1% identify illiteracy and ignorance
3. 57.5% selected religious and traditional beliefs
4. 62.1% stated emotional entanglement
5. 54.5% of the respondents identify threat and insecurity
6. Furthermore, 23.6% of the respondents stated poverty

However, in ascertaining possible remedy in curtailing the above challenges mitigating against victims utilizing the legal remedy of judicial separation in curtailing incidence of domestic violence. In figure 8 and table 8, as presented above, the respondents further identify some of the remedies as follows;

1. 77.1% of the respondents stated that sensitization of the general public concerning right
2. 79.4% identify proper education of a girl and male child on gender equality and the evil of domestic violence
3. 49.8% of the respondents stated that there is a need for swift and strict prosecution of offenders engaging in domestic violence
4. 56.8% stated empowering victims of domestic violence
5. 50.2% further stated that government must endeavor to create a better standard of living
6. Also, 45.5% of the respondents stated that traditional and religious leaders should always at all times condemn the monster of domestic violence

Given the above discussion of the findings, it suffices to state that the Nigerian society and government must savage the current rise of domestic violence that is becoming the order of acceptance within the Nigerian community. In addition, however, it suffices to state that given the relevance and advantage of judicial separation, a victim of domestic violence should endeavor to adopt the concept of judicial remedy to curtail the continuous act of abuse from their spouse.

F. CONCLUSION

In this study, it has been well articulated that the issue of domestic violence is a common global problem. However, there has been a recurrent increase in domestic violence in Nigeria. This is concerning the fact that this study has observed that there have been recurrent reports of assaulting, choking, harassing, beating, maiming, or killing among spouses in Nigeria. It suffices to state that it was Nwachukwu Osinachi's death (who was a gospel singer in Nigeria) as a result of domestic violence suffered in silence that further ignited the discussion of the current rise of domestic violence in Nigeria.

Also, it suffices to state that the study further highlighted some current incidence of domestic violence that has led to the taking of either spouse's life. Furthermore, the studies also identify some of the causes of domestic violence, including psychological disorders and traditional and religious beliefs. The study also identifies economic hardship, frustration, and depression as some of the major causes of the rise of domestic violence in Nigeria.

However, it must be noted that marriage ought to be a thing of joy to be enjoyed by a spouse. Marriage is not a punishment; neither should it be a lion's den nor a death sentence to a spouse, as in the case of Nwachukwu Osinachi's death linked to domestic violence. In this regard, it suffices to state that gone are the days' traditions, and religion should dictate that the place of a woman is her husband's house or a man should be silent even in the act of being violently abused. In this regard, the study therefore concludes and recommend that to curtail the monster of domestic violence, there is a need for parties to domestic violence to embrace the legal concept of judicial separation, given the numerous benefit already highlighted in this study.

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