

# VIOLENCE AGAINST MEN: THE NEED FOR GENDER SYMMETRICAL IN THE PROVISIONS OF VIOLENCE AGAINST PERSONS (PROHIBITION) ACT, 2015

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## ABSTRACT

The Nigerian Violence Against Persons (Prohibition) Act, 2015 not only seeks to prohibit violence against persons but aimed at eliminating violence in public and private life of victims. It provides for punishment for perpetrators of violence and remedies for victims. No doubt, the Act made provisions for violence towards men and women generally. Early Nigerian criminal statutes on crime such as Penal Code and Criminal Code defined some of the offences covered in the Act either directly or indirectly. Adopting a doctrinal approach with a cursory look at some specific offences in Violence Against Persons (Prohibition) Act, 2015, such as female genital mutilation, harmful widowhood practices etc. reveals that women related offences were specifically captured by the Act. It is however the findings of this work that men related violence such as castration, conscription in war times, genital torture etc. were neglected. Hence, the call for gender symmetrical in subsequent reviews more so that many States in Nigeria are already domesticating the law. This recommendation is at the time of insurgency in Nigeria when men undergo all forms of men related violence and with impunity.

## INTRODUCTION

Generally, asserting a fact that men can be victims of violence especially domestic violence seems as taking a default position<sup>i</sup>. This work discusses violence in general including domestic violence. In the current societal context, public consciousness tends to associate domestic violence with violence by a man against a woman<sup>ii</sup>. Legal response to issues on violence has both international and domestic dimensions. This work examines the provisions of Nigerian Statute “Violence Against Persons (Prohibition) Act, 2015” applicable to the Federal Capital Territory, Abuja<sup>iii</sup>. The provisions of this Act are been domesticated by some States in Nigeria.

Men are victims of so many violence, such as military conscription, male rape etc. How has the Violence Against Persons (Prohibition) Act, 2015 by its provisions balance the interest of men as victims of violence against the female folk form the basis of this work. The scope of its provisions in the prohibitions of violence against persons cut across the male and female gender. There are however, specific violence against women such as the prohibition of female circumcision or genital mutilation, harmful widowhood etc. sought to be eliminated by the Act but the Act did nothing on some more harmful and inhumane practices against men such as castration, genital torture etc. Hence the need for gender neutrality in subsequent reforms.

## CONCEPTUAL ISSUES

Section 46 of VAPA defines violence as:

*Violence means any act or attempted act, which causes or may cause any person physical, sexual, psychological, verbal, emotional or economic harm whether thus occurs in private or public life, in peace time and in conflict situations.*

“Violence perpetrated by non-State actors” includes-

- a. Wrongful arrest and detention;
- b. Assault;
- c. Use of force without lawful authority;
- d. Unlawful entry into the premises; or
- e. Demolition of property without due processes.

The Act went further to distinguish violence in a private sphere from violence in the public sphere.

*“violence in the private sphere” means any act or attempted act perpetrated by a member of the family, relative, neighbor or member of a community which causes or may cause any person physical, sexual, psychological, verbal, emotional or economic harm;*

*“Violence in the public sphere” means any act or attempted act perpetrated by the State or non-State actors before, during and after elections, in conflict or war situations which threatens peace, security and well-being of any person or the nation as a whole;”*

It is an intentional abuse that causes pain which may be physical, psychological, emotional or economic such as refusal to provide basic needs or support. Gender refers to a system of roles ascribed to biological male or female by socio cultural forces. It is a process by which individuals who are born into biological categories of male and female become the social categories of men and women through the acquisition of locally defined attributes of masculinity and femininity <sup>iv</sup>.

Biologically, the physical abilities of men and women differ. Statistically, it has been shown that on the average, males are 10% taller, 20% heavier and 30% stronger, especially in their upper bodies. While men have 65% water content in their bodies, a woman has 60%.<sup>v</sup> With all these inadequacies in women, they have been referred to as weaker vessels who are always objects of attacks and violence by men. But in reality, today because of the changing economic power and role of women coupled with some physically strong specie of women, the trend is now changing, that some women now subject their husbands to all sorts of violence in the home.

Violence against women was about a third more likely to be reported by third parties to the police regardless of the gender of the attacker,<sup>vi</sup> although the most likely to be reported gender combination was a male perpetrator and female victim.<sup>vii</sup> The use of stereotypes by law enforcement is a recognised issue,<sup>viii</sup> and international law scholar Solange Mouthaan argues that, in conflict scenarios, sexual violence against men has been ignored in favour of a focus on sexual violence against women and children.<sup>ix</sup>

Men who are victims of domestic violence are at times reluctant to report it or to seek help. According to some commentators there is also a paradigm that only males perpetrate domestic violence and are never victims.<sup>x</sup> Shamita Das Dasgupta and Erin Pizzey are amongst those who argue that, as with other forms of violence against men, intimate partner violence is generally less recognized in society when the victims are men.<sup>xi</sup> Violence of women against men in relationships is often 'trivialized'<sup>xii</sup> due to the supposed weaker physique of women; in such cases the use of dangerous objects and weapons is omitted.<sup>xiii</sup> Meyer reports that sexual violence by women against men is often understudied or unrecognized.<sup>xiv</sup>

## **FORMS OF VIOLENCE AGAINST MEN**

### ***a. Wartime Sexual Violence***

Wartime sexual violence committed by men against men is used as psychological warfare in order to demoralize the enemy.<sup>xv</sup> The practice is ancient, and was recorded as taking place during the Crusades.<sup>xvi</sup> It is difficult to gauge the extent to which men suffer sexual violence during armed conflict, because there is a lack of studies on rape and other forms of sexual violence against men during armed conflict.<sup>xvii</sup> The little evidence that is available suggests that men are also raped, albeit to a far lesser extent than women.<sup>xviii</sup> If during an armed conflict sexual violence occurs, then this is not limited to women and children. Men also suffer sexual violence, in particular in situations of detention. Soldiers do overstep the line, and their transgressing may involve sexual violence. There seems to be an intrinsic problem in armed conflict, and indeed occupation, that gives free rein to sexual abuse against women and children, but also against men.

### ***b. Castration***

This is used as a means of physical torture with strong psychological effects, namely the loss of the ability to procreate and the loss of the status of a full man.<sup>xix</sup> It is done through the removal of the testicles of a man. When this is done, the victim is deprived of power, vitality or vigour. This inhuman violence is common against men.

**c. Military conscription and war**

A form of compulsory enlistment of people in a national service, most often, a military service. It is also called a draft conscription which dates back to antiquity and it has continued to the present day under various names. It is often targeted at men especially in times of war.

**d. Enforced Nudity**

A practice of violence against men in detention during wartimes.

**e. Genital Torture**

A kind of torture involving application of pain or constriction to the penis or testicles. It involves painful activities such as genital piercing, wax play, genital spanking, genital flogging. Apart from pain, many of the practices carry significant health risk.

## **VIOLENCE AGAINST MEN UNDER INTERNATIONAL LAW**

Generally, international law has a limited approach to crimes of sexual violence, even when it is dealt with under the umbrella of torture. Crimes of sexual violence against men should form part of the more debate about crimes of gender-based violence. Sexual violence during armed conflict is a common occurrence and refers to physical and/or mental violence carried out through sexual means or by targeting sexuality.<sup>xx</sup> To date, international law has addressed sexual violence with regard to women and children, albeit insufficiently,<sup>xxi</sup> but these provisions are not always transferable to men.<sup>xxii</sup> Provisions that deal with international law are either specifically aimed at women and children, therefore precluding other categories of people, or are perceived to aim at the protection of women and children to the exclusion of men.

## **VIOLENCE AGAINST PERSONS (PROHIBITION) ACT, 2015**

The Act was enacted by the National Assembly of the Federal Republic of Nigeria and came into force on 25<sup>th</sup> May 2015, applicable to the Federal Capital Territory.<sup>xxiii</sup> It is divided into parts, sections, subsections and paragraphs.

Part I - deals with the offences.  
Part II – jurisdiction of the court  
Part III – service providers  
Part IV – regulatory body  
Part V – consequential Amendment  
Part IV – interpretation  
The Act also has schedules.

## OFFENCES UNDER THE ACT

The Act made provisions for offences ranging from rape<sup>xxiv</sup>, inflicting physical injury on a person<sup>xxv</sup>, placing a person in fear of physical injury<sup>xxvi</sup>, offensive conduct<sup>xxvii</sup>, female circumcision or genital mutilation<sup>xxviii</sup>, frustrating investigation<sup>xxix</sup>, making false statement<sup>xxx</sup>, forceful ejection from home<sup>xxxi</sup>, depriving a person of his or her liberty<sup>xxxii</sup>, damage to property with intent to cause distress<sup>xxxiii</sup>, economic abuse<sup>xxxiv</sup>, forced separation from the family<sup>xxxv</sup>, emotional or psychological abuse<sup>xxxvi</sup>, harmful widowhood practice<sup>xxxvii</sup>, abandonment of spouse<sup>xxxviii</sup>, stalking<sup>xxxix</sup>, intimidation<sup>xl</sup>, spousal battery<sup>xli</sup>, harmful traditional practices<sup>xlii</sup>, attack with harmful substance<sup>xliii</sup>, administering substance with intent to overpower person to engage in sexual activity<sup>xliv</sup>, political violence<sup>xlvi</sup>, violence by State Actors<sup>xlvi</sup>, incest<sup>xlvii</sup>, indecent exposure<sup>xlviii</sup>.

The offences listed above indicate that many extant laws in force in Nigeria have defined some of the offences and punishment provided. The Penal Code for the Northern States of Nigeria and the Criminal Code made provisions for offences such as rape, assault, criminal intimidation, perjury etc. we shall examine some of the offences.

### **i. Rape**

Offence of rape as provided by this Act seems to have expanded the definition of rape under the Criminal Code and the Penal Code<sup>xlix</sup>. Section 1 of Violence Against Persons (Prohibition) Act, 2015 states:

- (1) A person commits the offence of rape if –
  - a. he or she intentionally penetrates the vagina, anus or mouth of another person with any other part of his or her body or anything else;



- b. the other person does not consent to the penetration; or
- c. the consent is obtained by force or means of threat or intimidation of any kind or by fear of harm or by means of false and fraudulent representation as to the nature of the act or the use of any substance or additive capable of taking away the will of such person or in the case of a married person by impersonating his or her spouse.

It is noted that the English Language is bereft of terms and phrases which accurately described male rape<sup>1</sup>. In 2012, a UNHCR report stated that sexual and gender-based violence (SGBV) against men and boys has generally been mentioned as footnotes in reports<sup>li</sup>.

### **ii. Female Circumcision or Genital Mutilation**

Section 6 of the Act provides for the prohibition of the female genital mutilation. The practice is also known as female genital cutting. It is a cultural practice in most countries in Africa. The extent of prevalence differs from country. The practice is considered harmful to girls and women and a violation of human rights. The practice now decreases in Nigeria in view of the law's response and civilization.

### **iii. Harmful Widowhood Practice**

Section 15 of the Act provides:

- (1) A person who subjects a widow to harmful traditional practices commits an offence and is liable on conviction to a term of imprisonment not exceeding 2 years or to a fine not exceeding N500,000.00 or both.
- (2) A person who attempts to commit the act of violence provided for in subsection (1) of this section commits an offence and is liable on conviction to a term of imprisonment not exceeding 1 year or to a fine not exceeding N200,000.00 or both.
- (3) A person who incites, aids, abets, or counsels another person to commit the act of violence as provided for in subsection (1) of this section commits an offence and is liable on conviction to a term of imprisonment not exceeding 1 year or to a fine not exceeding N200,000.00 or both.
- (4) A person who receives or assists another who, to his or her knowledge, committed the offence provided for in subsection ( 1) of this section is an

accessory after the fact and is liable on conviction to a term of imprisonment not exceeding 6 months or to a fine not exceeding N1 00,000.00 or both.

The above definition is not vague but nebulous, more so that the Act does not define what amounts to harmful widowhood practice. The practice often stems from custom and cultures that are not uniform in a multi ethnic societies like Nigeria.

## **ENFORCEMENT OF THE PROVISIONS OF THE ACT**

Section 27 of the Act empowers the High Court of the Federal Capital Territory Abuja to hear and determine application for protection brought before it pursuant to the provisions of the Act. The application may be brought by the victim of violence as complainant or any person on behalf of the complainant including a police officer, a protection officer, an accredited service provider, a counsellor, health service provider, social worker or a teacher who have interest in the well-being of the complainant.<sup>lii</sup>

## **REGULATION OF THE ACT**

The National Agency for the Prohibition and other Related Matters (NAPTIP) is to administer the provisions of the Act and collaborate with relevant bodies including faith based organizations.<sup>liii</sup>

## **GENDER NEUTRALITY**

The Violence against Persons (Prohibition) Act deals with offences that abuse male and female. Some of the offences like rape has gained a little wider definition from the traditional Nigerian Penal Statutes definition of the subject as a crime that can only be committed by men against the women folk. The definition however seems not to address the real issues of men rape in any detail. In recent times, women are also perpetrators of rape. Sometimes, not by aggression but through indecent exposure, cunning and subtlety. These elements of rape common with women in luring men into sexual activities are not covered by the Act.

The Act defines and prohibit female circumcision and genital mutilation. The focus is purely on the side of the women and girls. Genital violence and abuse ought not to be a matter for the female folk alone as men also suffers the same abuse even from women. Traditional practices such as harmful widowhood practices have been prohibited by the Act. The widowhood



practices relate to only women. There are very serious traditional practices against men like castration and sterilization on the part of men which the Act could have defined and punishment provided for the purpose of gender neutrality.

## CONCLUSION

The basic principle of criminal justice in Nigeria follows the English principle of an offence been defined by a written law and punishment prescribed. This principle expressed as “*nulla poena sine lege*” entails or requires that one cannot be punished for doing something that is not prohibited by law. All violence against men in Nigeria by the above principle requires clear Penal prescriptions with the requisite punishment. The failure of the celebrated Violence Against Persons (Prohibition) Act, 2015 of Nigeria to clearly define conducts that account for violence only against men in its provision will need further examination in subsequent review of the law. All the Federating State that are currently domesticating the laws can make provisions on specific violence against men.

## ENDNOTES

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<sup>i</sup> Men as Victims of Domestic Violence; Discussion Paper No.2, 2001. Domestic Violence and Incest Resource Centre, Melbourne p.9

<sup>ii</sup> Ibid p.9

<sup>iii</sup> Section 47 of the Act.

<sup>iv</sup> Maurice Okechukwu Izunwa, Factors Responsible for Global Gender based Violence; Alluman Rights Perspective NJFDHL< Vol.3 No. 1, 2010. P. 49. Edwin-Ubong E.N. Violence against Women in Nigeria. The Constitution Vol. 10.No. 2, 2010. P. 77.

<sup>v</sup> ibid

<sup>vi</sup> Felson, Richard B.; Feld, Scott L. (November–December 2009). "When a man hits a woman: moral evaluations and reporting violence to the police". *Aggressive Behavior*. Wiley. 35 (6): 477–488.

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<sup>viii</sup> Brown, Grant A. (June 2004). "Gender as a factor in the response of the law-enforcement system to violence against partners". *Sexuality and Culture*. Springer. 8 (3–4): 3–139. Doi: 10.1007/s12119-004-1000-7 (<http://doi.org/10.1007%2Fs12119-004-1000-7>).

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- <sup>xxiii</sup> Sec 47 of the Act
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- <sup>xxvi</sup> Section 3 of the Act
- <sup>xxvii</sup> Section 4 of the Act
- <sup>xxviii</sup> Section 5 of the Act

- xxix Section 6 of the Act
- xxx Section 7 of the Act
- xxxi Section 8 of the Act
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- xxxiii Section 10 of the Act
- xxxiv Section 11 of the Act
- xxxv Section 12 of the Act
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<sup>lii</sup> Section 28(4)

<sup>liii</sup> See Section 44