

United Nations  Nations Unies

**United Nations Office on Drugs and Crime
United Nations Division for the Advancement of Women**

Expert Group Meeting on good practices in legislation on violence against women
United Nations Office at Vienna, Austria
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**Effectiveness of Legislation Enacted to Address Violence against
Women in Nigeria**

Expert Paper prepared by:

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* *The views expressed in this paper are those of the author and do not necessarily represent those of the United Nations.*

List of Acronyms

CIRDDOC:	Civil Resource Development and Documentation Centre
CRC:	(United Nations) Convention on the Rights of the Child
DAW:	(United Nations) Division for the Advancement of Women
DV:	Domestic Violence
FGM:	Female Genital Mutilation
GBV:	Gender Based Violence
LACVAW:	Legislative Advocacy Committee on Violence against Women
NACVAW:	National Coalition on Violence against Women
NHRC:	National Human Rights Commission
VAW:	Violence against Women

Introduction

Violence against women is a profound social and health problem for women in Nigeria. It is a significant cause of female morbidity and mortality. It is a social problem in terms of the cultural prerogatives assigned to men by sexism. The culture in Nigeria is patriarchal and this culture fosters belief in men's entitlement to the service, obedience, loyalty and subservience of women and authorizes men's violence towards women in the service of those entitlements. In a patriarchy, the power assigned to men in intimate relationships and the violence permitted to sustain that power foster the social control of women by men in the culture. Violence should be seen as the final expression of patriarchal values of sexual domination in society. These values are accentuated by certain cultural myths which continue to victimize women and to a large extent shape their attitudes towards violence. These myths suggest for instance, that domestic violence is a private family affair, and that women who are raped or sexually harassed asked for it either because of their seductive postures or dressing. It is also this cultural

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mystification ascribing the ownership of women's sexuality to men that justifies genital mutilation and child marriage in order to preserve a woman's virginity for her husband.¹

Growing evidence shows that a large proportion of women and girls in Nigeria are subjected to violence by family members, acquaintances, and strangers. Violence against women is often fueled by longstanding social and cultural norms that reinforce its acceptability in society – by both men and women. Women are beaten and inflicted with injuries by men who are supposed to be their husbands. Worse still some provisions of the laws such as section 55 of the Penal Code, Laws of Northern Nigeria² which allows a husband to beat his wife for the purpose of correcting her, tend to encourage violence against women in the family.

Under the Nigeria Criminal Code, a husband cannot be guilty of the offence of rape against his wife even when he has sex without the consent of the woman. Similarly, coercive environments such as trafficking of children and women and child prostitution have negative impacts on women such as exposing them to HIV infection. Trafficking of girls is also more likely to lead to situations of domestic work or work in streets and markets where sexual violence is a high risk.

Many Nigerian women are excluded from inheriting, evicted from their lands and homes by in-laws, stripped of their possessions, and forced to engage in risky sexual practices in order to keep their property. Although few clinical studies have been conducted, it is clear that at least some forms of FGM increase the HIV transmission risk faced by women and girls, both in that unsterile instruments may be used in the cutting and because some FGM is associated with chronic genital injury and tearing, ulceration, and delayed healing of injuries, all of which may increase HIV risk.³ The presumption that

¹ Okwori J; Ed. International Human Rights Law Group Advocacy Training Manual, 2004.

² Section 55 provides that nothing is an offence which does not amount to infliction of grievous hurt upon any person and which is done by a husband for the purpose of correcting his wife, such husband and wife being subject to native law and custom in which such correction is recognised as lawful.

³ Margaret Brady, "Female genital mutilation: Complications and risk of HIV transmission," *AIDS Patient Care*

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marriage entails automatic consent to sexual relations of which the terms are dictated by the husband is shored up by divorce and property laws and customary practices that disadvantage women who try to escape abusive marriages.

Different Forms of Manifestation of Violence against Women in Nigeria

In addition to pushing, kicking, hitting, punching, burning, stabbing, throwing of hot water or sulfuric acid and wounding, to killing in extreme cases, forms of physical violence include harmful traditional practices such as female genital mutilation, child marriage, oppressive widowhood practices,

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male child preference ideology, daughters and women being thought of as “good for nothing” and not worth educating, desertion of wives because they are sick or because the man wants to live with a girlfriend, perpetual fear of being beaten, attacked or harassed, and husbands restricting their wives’ movements.

Existing Legal Framework on Violence against Women

Before 2003⁷, there were no national laws expressly or specifically protecting the rights of women against violence. Where there is a semblance of protection, they are often inadequate, discriminatory or limited by virtue of the undue burden placed on the victim. Remedies under criminal law are confined to the prosecution and possible conviction of the offender. The most commonly used provision of criminal law in dealing with cases of violence against women is Section 383 of the Criminal Code of Nigeria. The provision prescribes a maximum punishment of three years imprisonment on conviction for assault occasioning harm.

The first limitation of this provision is that it does not protect women from violence in relationships e.g. marriage. It deals with assault generally. The second limitation inherent in criminal law is that it does not provide reliefs such as maintenance, shelter, custody etc. Thirdly, criminal law provisions, being State driven, have little space to consider the victim’s needs. Assault occasioning harm being a non-compoundable offence, that section does not allow a woman any scope for entering into settlements once the case reaches the court. Fourthly, there is a higher standard of proof required in criminal law, which is proof beyond reasonable doubt. In many cases this high burden is difficult to discharge as women find it difficult to recall incidents of violence. Finally, there are many instances where the police refuse to file complaints by victims under this provision and send them away to seek reconciliation instead. The general perception is that such cases are private and should never be put in the public realm. The Criminal Code and

⁷ In 2003, the Trafficking in Persons (Prohibition) Law Enforcement and Administration Act was passed.

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cruelty, the petitioner has to satisfy the court that “since the marriage, and within a period of one year immediately preceding the date of the petition, the respondent has been convicted of (i) having attempted to murder or unlawfully kill the petitioner; or (ii) having committed an offence involving the intentional infliction of grievous harm or grievous hurt on the petitioner or the intent to inflict grievous harm or grievous hurt on the petitioner.”¹³ Until the petitioner is able to secure a conviction against the respondent for attempting to kill her or for inflicting grievous harm on her, she cannot get out of the relationship lawfully.

One of the significant omissions from our matrimonial laws is the fact that none of them, whether statutory, muslim, christian or customary, contain any declaration of a right to reside in the matrimonial home. The general belief is that the matrimonial home belongs to the husband. Without the recognition of a right to reside, civil laws on divorce provide little in terms of support to women in violent situations. This is the root cause of the vulnerability of a woman in her matrimonial home. It is also one of the major factors by which it is possible to drive out a woman to the street and then blackmail her into agreeing to an unfair settlement. The breakdown of marriage in our society with its attendant discrimination means virtual civil death for women. Hence, in many cases there are women who do not want a divorce but want to end the violence. The law on divorce has no answers for such women.

There was no national or state statute law against harmful traditional practices before 1999 except the constitution of the Federal Republic of Nigeria 1999 which protects the right to dignity of the human person under its fundamental human rights provisions. However, with the return of democracy in Nigeria in 1999, several states passed laws prohibiting Female Genital Mutilation (FGM), widowhood practices, early marriage etc. Examples are the Edo State Female Circumcision & Genital Mutilation (Prohibition) Law No. 4 of 1999, Cross Rivers State Girl-Child Marriages and Female Circumcision

¹³ Section 16 (e).

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(Prohibition) Law 2000, Rivers State Abolition of Female Circumcision Law No. 2, 2001, Ogun State Female Circumcision and Genital Mutilation (Prohibition) Law 2000, Ebonyi State Abolition of Harmful Traditional Practices Against Women and Children Law No. 10 of 2001 etc. These laws have criminalized FGM and prescribed penalties for offenders. It must also be pointed out that most of these laws are very scanty, having been

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harmonized on the initiative of the then Chair of the Senate Committee on Women's Affairs.

In August 2005, the Federal Government constituted the Committee on the Review of Discriminatory laws against Women, which operated under the auspices of the National Human Rights Commission (NHRC) with a mandate to review discriminatory legislation in Nigeria¹⁴. It submitted its final report to the Federal Ministry of Justice on 16 May 2006 along with a draft bill titled "Abolition of all Forms of Discrimination against Women in Nigeria and Other Related Matters Act 2006". The bill is also pending before the National Assembly.

In 2003, the National Assembly passed the Child's Rights Act, which is the first national law to put the age of marriage at 18 years, indirectly outlawing Early/child marriage. The Act incorporates the basic principles of the United Nations Convention on the Rights of the Child (CRC), to which Nigeria is a signatory and State Party. The Act, among other things, prohibits and criminalizes traditional and cultural practices that constitute violence and violate the rights of the girl child such as child marriage & child betrothal, tattoos & skin marks, Female Genital Mutilation, exploitative labour, buying, selling, hiring etc. for the purpose of hawking, begging for alms or prostitution, unlawful sexual intercourse with a child, other forms of sexual abuse & exploitation. The law provides for and establishes a child justice system different from the regular court procedure.

Nigeria has also incorporated the provisions of the b7rW1AaD 0.252 a65c78.of Tw avuum65c.25 0

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degradation¹⁵ particularly slavery, slave trade, torture, cruel, inhuman or degrading punishment and treatment.

In summary, none of the existing laws provides protection for women against violence. The existing criminal law does not provide reliefs or any guarantee of a satisfactory outcome as it does not allow space for any negotiations. The idea of a separate law on violence against women was therefore conceived because it was extremely difficult for Nigerian women to access existing remedies satisfactorily. The obstacles as mentioned above are the patriarchal nature of the society and the attitude of the police that matrimonial misunderstandings should remain in the private realm.

Background of the VAW Bill

It is in the light of the inadequacies of existing laws and their failure to protect women that a group of women's rights activists came together under an umbrella organization – the National Coalition on Violence against Women (NACVAW) – to join forces to move this socio-cultural phenomenon from a private space, in which it is always cloaked in shame, into the public sphere and commence serious work on combating the menace. It was the consensus very early in the life of the coalition that legislation must be put in place against VAW for the efforts to combat it to succeed

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around violence against women and girls organised a “mock tribunal” in which 33 women and girls told a panel of respected judges their stories of abuse including rape, incest, wife battery, murder, attempted murder, trafficking etc. The event was presided over by a Panel of Judges comprising a serving Supreme Court Judge, a Retired Supreme Court Judge, a member of the United Nations CEDAW Committee, the NDRC Rapporteur on VAW and a Senior Advocate of Nigeria. It was covered by the national media and hundreds of people came to witness the event. The testimony of the women brought many in the audience to tears, and when the judges came back from their deliberations, they had reached a powerful verdict including recommendations for changing Nigeria’s policy to better protect women from violence and human rights abuses. One of them was the need for legislation that would have sanctions as deterrence for those who abuse women.

Violence against women had long been trivialised in Nigeria. The extent of domestic violence and abuse was not publicly recognised, and there was no government effort to address it. The mock tribunal was timed to correspond with democratic elections in Nigeria so that newly elected representatives would gain greater perspective on the issue and be confronted with the need to include it in their schedule of legislation. It was also aimed at promoting greater public appreciation of the issue of domestic violence. The mock tribunal added faces, stories and experiences to the statistics of violence against women to give greater weight to the issue.

The tribunal which was attended by government and law enforcement agencies, ministries, local government officials, UN agencies, cultural and religious leaders, schools, donors, NGOs and individuals had a striking impact, and the women’s testimony moved witnesses to look at the issue of violence against women and demand action. Several of the legislators present pledged their support for a *Violence against Women Bill*. In the longer term, the tribunal raised awareness about violence against women, and actively engaged journalists who continued to highlight the issue more regularly in their reporting. The tribunal created a reference point for the discussion of women’s human

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rights and violence against women. National and state level legislation to protect women were developed as a result of the mock tribunal.¹⁷

Earlier on in 1999, a similar tribunal was held in Calabar, Cross River state by CIRDDOC. The Panel of Judges in that tribunal recommended the passage of a law to prohibit FGM which is prevalent in the state. Two years, later the Northern Cross River State Women Association, who participated in the tribunal successfully lobbied for a law against FGM.

Rationale and Key Features of the Nigerian Bill

Rationale: The original title of the bill was “Violence against Women Bill”. It was later changed to “Violence Prohibition Bill” with a long title - “A Bill for an Act to prohibit all forms of Violence which includes Physical, Sexual, Psychological, Domestic Violence, Harmful Traditional Practices; Discrimination against Women; to provide adequate remedies for Victims; Punishment for offenders; Establish a Commission on Violence and a Trust Fund for victims of such Violence”.

The purpose of the bill is to prevent violence, punish offenders and restore a woman to a position of equality within the marriage so as to give her the time and the space to decide on what she wants to do with the rest of her life. The absolute precondition for that is to stop the violence promptly.

There were many discussions at the drafting stage on the title and contents of the law. It was agreed that the contents of any successful law on domestic violence would have to include some basic provisions including a clear declaration of the basic intent of the law, namely, the object of preventing domestic violence; a clear and unambiguous statement of the right to be free from domestic violence and the recognition of domestic violence as a violation of the human rights of women; the definition of domestic violence, which

¹⁷ For more information on the mock tribunal including testimonies of the victims, refer to Fijabi, M; “A Mock Tribunal to Advance Change, New Tactics in Human Rights” in www.newtactics.org/en/tags/violence.

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captures women's experience of abuse with some degree of precision; the definition of the 'shared household' so that rights can be protected within that household; the relief that can be given to protect women from violence; the infrastructure available to victims of violence that can make the remedy accessible e.g. clarity and simplicity of court procedures; monitoring the functioning of the law to see whether it was serving its intended purpose; providing a coordinated response to domestic violence by recognizing the role of other agencies such as NGOs, the medical profession, shelter homes and the police in assisting in the prevention of domestic violence.

At the initiation of the campaign for a VAW bill, the first policy decision that needed to be made was on the nature and contents of the law that would address the inadequacies in the existing legal regime. It was decided that the bill ought to recognize the right to equality and the right of women to live lives free from violence. The drafting of the bill also was an effort to codify common law, which states in no ambiguous terms that a woman has the right to reside in her matrimonial home.

Many proposals on the title were considered and the group's attention remained focused on the title that will be acceptable to both men and women. The bill was submitted as the Violence against Women Bill but the title was changed by the legislators to read the Violence (Prohibition) Bill, 2003. Their rationale for the change was that there are men who suffer violence in the hands of their wives and such men should be protected in the provisions too.

The initial advocacy efforts on the bill were targeted at the legislators who would sponsor the bill. Altogether, 25 legislators, out whom only 10 were female volunteered to sponsor the bill. The bill was produced massively and distributed widely amongst CSOs, legislators, government officials and women's groups across the country who would take the campaign forward in their states.

Key Features of the Bill

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It repeals inadequate laws: The bill was used to indirectly repeal provisions of other laws which are inconsistent with the provisions of the bill or adjudged inadequate such as any definition of rape in any provision that was inconsistent with the definition of rape in the bill,¹⁸ any provision that requires corroboration¹⁹ or exempts marital rape from a list of crimes under the law.

It incorporates Gang Rape: The law incorporates gang rape and prescribes heavy penalties for offenders²⁰.

It establishes a Trust Fund for victims of V

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and friends, verbal and emotional abuse, harmful widowhood practices, abandonment of wife and children without means of subsistence and harassment, intimidation or stalking.

It defines domestic relationship broadly to include a relationship between a person and his or her spouse, former spouse, a child resident in the household, any other member of the family; or resident in the household or a relationship between a victim and a respondent in marriage or relationship in the nature of marriage, although they are not married to each other, or are parents of a child or they are in an engagement, dating or customary relationship, or they share or recently shared the same residence.

It defines violence to include physical, sexual, psychological, emotional or economic violence occurring in the family, workplace and community; discrimination (that is applicable to women and girls only); any action which inflicts physical, sexual or psychological hurt or injury on a woman or girl; domestic violence; and acts constituting the offences created in sections 1 to 8 of the bill.

It recognizes the right to freedom from violence: It recognizes a woman's right to freedom from violence of any form and the right to live in a violence free home. A woman who has faced domestic violence from the respondent is entitled to reliefs under this law.

It defines a child: as a person under 18 years, indirectly prohibiting early marriage.

It provides the following remedies:

a. Criminal sanctions: The bill prescribes penalties for the offence of rape, indecent assault, coercion, willfully causing harm (including the pouring of acid), incest, violence against persons (FGM, isolation from friends, abandonment of wife and children, placing one in fear, subjecting one to a degrading and humiliating traditional practice); sexual harassment.

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b. Compensation order²¹ in consonance with tort law principles of awarding damages for mental and physical suffering caused due to illegal conduct, the bill empowers a magistrate to order additional relief for mental torture and emotional distress in gang rape cases, indecent assault, and willfully causing harm.

c. Emergency Monetary relief²² - orders for monetary relief can be passed to meet actual expenses incurred due to medical expenditure, loss of earnings, etc and includes compensation and maintenance.

d. Protection Order/Interim Protection Order²³:

Infrastructure under the law

Creation of a special desk at all police stations: The bill gives responsibilities to the Inspector General of Police to issue regulations for the creation of a special desk in each police station to handle reports from victims and special training for officers designated to handle sexual offences.

The establishment of Rape Crisis Centres: The bill mandates each state government to take steps to establish Rape Crisis Centres within its jurisdiction within one year of the coming into effect of the law.

Establishment of Commission on Violence: The bill proposed the establishment of a National Commission on VAW to be fully funded by government as the supervising body of the legislation. Other responsibilities proposed for the Commission in the legislation are administration of the operations of the Trust Fund, provision and management of rape crisis centres for victims, co-ordination of the activities of the police and the accredited service providers and the enforcement of any order that may have been made by the court under this Act.

For quality control, the Commission will ensure the registration of accredited service providers, draw up guidelines for their operations and supervise their activities to give full effect to the provisions of the Act. The law, when passed, will mandate the Commission to ensu

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Courts empowered to deal with applications: An aggrieved woman or any of the

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children in a situation where they will have to see their father in jail. With all these at the back of their minds, they decided to make the DV bill a civil law.

The legal process under the bill does not involve arrest, trial or punishment of the perpetrator but only aims at protecting the survivor from violence within the home. They believe that the Protection order which the bill provides for will provide women with other means of ending the violence to which they are subjected. The court order under the civil justice process will involve less complicated and quicker 1

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Combating trafficking has been the subject of numerous high-profile declarations by government, but states continue to allow anti-trafficking programs to be underfinanced and inadequately supported by effective implementation plans and law enforcement practices. The Federal government however, has, through its support for NAPTIP displayed political will to fight the war against trafficking in human persons. The agency has since commissioned its headquarters in the Federal capital Territory.

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- Issues related to political situation in the country took legislators' attention away
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- Having a law will give legitimacy to the campaign to end violence against women and provide incentive for the involvement of the government and local authorities. They will feel an obligation to initiate or support the efforts to combat violence.
- Activists working on legislation on violence against women must ensure that the problem of violence is widely recognized and understood at the local level, as this will make it easier to secure support for the proposed legislation.
- Political environment can have a strong influence on the way society perceives the project. One of the reasons the bill was not passed was that the legislators were distracted by other issues such as the Government's third term bid.
- Political will is necessary to the successful implementation of a law on violence against women; Government's third term bid.

Annex 1: Violence Prohibition Bill

Extraordinary

Federal Republic of Nigeria Official Gazette

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Government Notice No. 53A

The following is published as Supplement to this Gazette:

<i>S. I. No.</i>	<i>Short Title</i>	<i>Page</i>
SB.307	A Bill for an Act to Prohibit all forms of Violence which includes Physical, Sexual, Psychological, Domestic Violence, Harmful Traditional Practices; Discrimination Against Women; to provide adequate remedies for Victims; Punishment for offenders; Establish a Commission on Violence and a Trust Fund for Victims of such Violence.	C185-C199

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C 186 2003 No. Violence (Prohibition) Bill, 2003

ARRANGEMENT OF CLAUSES

CLAUSE:

- 1 – Rape
- 2 – Indecent Assault
- 3 – Coercion
- 4 – Wilfully causing harm
- 5 – Incest
- 6 – Violence Against Persons
- 7 - Attempt
- 8 – Aiding and abetting
- 9 - Evidence and Defence
- 10 – Creation of Special Procedure
- 11 – Institution of Civil Proceedings
- 12 – Jurisdiction
- 13 – Application for Protection Order
- 14 – Consideration of Application and Issuing of Interim Protection Order
- 15 – Issuing of Protection Order
- 16 – Court’s Power in respect of Protection Order
- 17 – Warrant of Arrest upon Issuing of Protection Order
- 18 – Variation or setting aside of Protection Order
- 19 – Contravention of Protection Order
- 20 – Establishing of Commission on Violence
- 21 – Functions of the Commission
- 22 – Composition of the Commission
- 23 – Quorum
- 24 – Management of the Commission
- 25 – Establishment of Trust Fund

26 – Interpretation

27 – Citation

SCHEDULES

C 187 2003 No.

Violence (Prohibition)

A BILL

FOR

AN ACT TO PROHIBIT ALL FORMS OF VIOLENCE, WHICH INCLUDES PHYSICAL, SEXUAL, PSYCHOLOGICAL, DOMESTIC VIOLENCE, HARMFUL TRADITIONAL PRACTICES; DISCRIMINATION AGAINST WOMEN; TO PROVIDE ADEQUATE REMEDIES FOR VICTIMS; PUNISHMENT FOR OFFENDERS; ESTABLISH A COMMISSION ON VIOLENCE AND A TRUST FUND FOR VICTIMS OF SUCH VIOLENCE

Sponsors:

1. Hon. Farouk Lawan
2. Hon. Saudatu Sani
3. Hon. Aminu Bello Masari
4. Hon. Abdul Ningi
5. Sen. Daisy Danjuma
6. Hon. Akindahunsi Titilayo
7. Hon. Binta Garba
8. Hon. Iquo Inyang
9. Hon. Chidi Nwogu
10. Hon. Musa Mahmood
11. Hon. John Enoch
12. Hon. Jumoke Okoya-Thomas
13. Hon. Tayo Akande Sarumi
14. Hon. Pat Udogu

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15. Hon. Patricia Akwhashiki
16. Hon. Abdulazeez Idris – King
17. Hon. Patience U. Ogodo
18. Hon. Ogunbanjo Olusegun
19. Hon. Eta Enang
20. Hon. Abdul Oroh
21. Hon. Bala Ibn Na’Allah
22. Sen. Iyabo Anisulowo
23. Sen. Joy Emordi
24. Sen. Gbemisola Saraki
25. Hon. Biodun Olujimi

C 188 2003 No.

Violence (Prohibition)

26. Hon. Azumi Bebeji
27. Hon. Patricia Ette
28. Hon. Jessie U. Balonwu
29. Hon. Temi Harriman
30. Hon. Jummai Ango
31. Hon. Mercy Almona Isei
32. Hon. Maimuna Adaji
33. Hon. Fatima S. Talba
34. Hon. Fanta Baba Shehu
35. Hon. Emiola Fakeye
36. Hon. Andona Dabo-Adzuana
37. Hon. Hamisu Shira
38. Hon. Faruk Mustapha
39. Hon. Seth Karfe

C 189 2003 No.

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15 under 14 years of age, be liable to a minimum of 20 years imprisonment and in
16 all other cases to a minimum of 14 years imprisonment

17 (4) Where the act described under this section is committed by a group of persons
18 on the victim, the offence shall be known as gang rape and on conviction the
19 persons shall be liable to a minimum of 20 years imprisonment without parole.

20 (5) The court may also award appropriate compensation to the victim as it may
21 deem fit in the circumstance.

22 (6) The foregoing subsection shall not prejudice any civil action that may arise
23 from or that may be brought in respect of such act or the standard of proof
24 required in such action.

Indecent 25 2- (1) A person commits the offence of indecent assault if:

Assault 26 (a) for whatever reason other than sexual, he intentionally penetrates the vagina,
27 anus or mouth of a woman with any part of his body other than the penis or with
28 anything else; and

29 (b) the victim does not consent to the penetration; or

30 (c) the consent is obtained by force or by means of threat or intimidation of any
31 kind or by fear of harm or by means of false and/or fraudulent representation as
32 to the nature of the act or by deception of any kind whatsoever.

33 (2) A person convicted of an offence under this section shall be liable to
34 20 years imprisonment where the victim is under 14 years of age, and 14 years
35 imprisonment in all other cases.

C 190 2003 No. Violence (Prohibition)

1 (3) The court may also award appropriate compensation to the victim as it may
2 deem fit in the circumstances.

3 (4) The foregoing subsection shall not prejudice any civil action that may arise
4 from or that may be brought in respect of such act or the standard of proof
5 required in such action.

Coercion 6 3 - Any person who coerces another person (by force or threat) to engage in any
7 act not being an act already provided for in this Act, to the detriment of that other
8 person's physical or psychological wellbeing, commits an offence and upon
9 conviction is liable to 2 years imprisonment.

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- 5 (a) in the case of rape imprisonment for a minimum of half of the term prescribed
6 for that offence
- 7 (b) in all other cases imprisonment for half of the term prescribed for that offence
8 or fine of half of the term prescribed for that offence or both.
- Aiding** 9 8. Any person who incites, aids or abets or counsels another person to commit
10 any of the offences under this Act is deemed to have taken part in committing the
and abetting 11 offence and is liable on conviction to the same punishment as the principal
12 offender.
- Evidence** 13 9. (1) Any rule of law or practice requiring the corroboration of evidence or
and 14 requiring the judge in criminal proceedings to remind himself or herself that it is
Defence 15 dangerous to convict a person on the uncorroborated evidence of a witness shall
16 not apply to any of the offences created under this Act.
- 17 (2) Nothing in this section shall be construed as affecting the power of the judge
18 in criminal proceedings involving the alleged commission of a sexual offence to
19 make observations regarding the unreliability of any evidence.
- 20 (3) A marital or other relationship previous or existing shall not be a defence to
21 any offence under this Act.
- Creation** 22 10. (1) The Inspector General of Police shall within 4 months of the coming into
of Special 23 force of this law take steps to issue regulations on receipt of complaints from
Procedures 24 victims of sexual offences and violence.
25 Such steps shall include but not be limited to creation of a special desk in each
26 26 police station to handle reports from victims.
- 27 (2) The Inspector General shall take steps to ensure that special training is
28 provided for officers designated to handle sexual offences.
- 29 (3) Each state government shall within 1 year of the coming into effect of this
30 law take steps to establish Rape Crisis Centres within its jurisdiction.
- Institution** 31 11.- A victim of any act of violence under this Act may institute civil
of civil 32 proceedings in court against the respondent to seek appropriate redress
proceedings 33 including compensation and damages.

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- Jurisdiction 1** 12. (1) The jurisdiction to hear and determine issues/matters, including the award
2 of emergency relief or the trial and punishment for offences under this Act, is
3 vested in the magistrate courts.
4 (2) Any court within the area in which:
5 (a) the victim permanently or temporarily resides, carries on business or is
6 employed.
7 (b) the respondent resides, carries on business or is employed; or
8 (c) the cause of action arose,²⁷

EGM/GPLVAW/2008/EP.08
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27 subsection (1) of this section, issue an interim protection order against the
28 respondent, in the prescribed manner.
29 (3)(a) An interim protection order must be served on the respondent in the
30 prescribed manner and must call upon the respondent to show cause on the return
31 date, specified in the order why a protection order should not be issued.
32 (b) copy of the application referred to in section 13 and the record of any
33 evidence taken in terms of subsection (1) of this section shall be served on the
34 respondent together with the interim protection order.

C 194 2003 No. Violence (Prohibition)

1 (4) If the court does not issue an interim protection order in terms of subsection
2 (2) of this section, the court shall direct the registrar of the court to cause certified
3 copies of the application concerned and any supporting affidavit to be served on
4 the respondent in the prescribed manner, together with a prescribed notice calling
5 on the respondent to show cause on the return date specified in the notice why a
6 protection order should not be issued.

7 (5) The return dates referred to in subsections (3)(a) and (4) of this section may
8 not be less than 5 days after service has been effected upon the respondent.

**Issuing of
Protection
Order**

9 15 (1) If the respondent does not appear on a return date contemplated in
10 section 14 (3) or (4) and if the court is satisfied that:

11 (a) proper service has been effected on the respondent; and
12 (b) the application contains prima facie evidence that the respondent has
13 committed, is committing or that there is an imminent likelihood that he/she may
14 commit an act of domestic violence, the court shall issue a protection order in the
15 prescribed form.

16 (2) If the respondent appears on the return date in order to oppose the issuing of a
17 protection order, the court shall proceed to hear the matter and:

18 (a) consider any evidence previously received in terms of section 15 (1) and

19 (b) consider such further affidavits or oral evidence as it may direct, which shall
20 form part of the record of the proceedings.

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21 (3) The court may, on its own accord or on the request of the complainant, if it is
22 of the opinion that it is just or desirable to do so, order that in the examination of
23 witnesses, including the victim, a respondent who is not represented by a legal
24 practitioner-

25 (a) is not entitled to cross – examine directly a person who is in a domestic
26 relationship with the respondent; and

27 (b) shall put any question to such a witness by stating the question to the court,
28 and the court is to repeat the question accurately to the witness.

29 (4) The court shall after a hearing as contemplated in subsection (2), issue a
30 protection order in the prescribed form if it finds, on a balance of probabilities,
31 that the respondent has committed, is committing or that there is an imminent
32 likelihood that he/she may commit an act of domestic violence.

33 (5) Upon the issuing of a protection order the registrar of the court shall forthwith
34 in the prescribed manner cause-

35 (a) the original of such order to be served on the respondent; and

36 (b) a certified copy of such order, and the original warrant of arrest contemplated

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1 in section 17 (1) (a) be served on the victim.

2 (6) The registrar of the court shall forthwith in the prescribed manner forward
3 certified copies of any protection order and of the warrant of arrest contemplated
4 in section 17 (1) (a) to the police station of the victim's choice.

5 (7) Subject to the provisions of section 16 (7), a protection order issued in terms
6 of this section remains in force until it is set aside, and the execution of such
7 order shall not be automatically suspended upon the filing of an appeal.

Court's power 8 16 (1) The court may, by means of a protection order referred to in section 14 or
In respect of 9 15, prohibit the respondent from-

Protection 10 (a) committing any act of domestic violence;

Order 11 (b) enlisting the help of another person to commit any such act;

12 (c) entering a shared household:

13 Provided that the court may impose this prohibition only if it appears to be in the
14 best interests of the victim;

15 (d) entering a specified part of such a shared household;

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- 16 (e) entering the victim's residence;
17 (f) entering the victim's place of employment;
18 (g) preventing the victim from entering or remaining in the shared household or a
19 specified part of the shared household;
20 (h) alienating or disposing the shared household or encumbering same;
21 (i) renouncing his rights in the shared household except in favour of the victim; or
22 (j) committing any other act as specified in the protection order.
23 (2) The court may impose any additional conditions, which it deems reasonably
24 necessary to protect and provide for the safety, health or well being of the
25 victim, including an order-
26 (a) to seize any arm or dangerous weapon in the possession or under the control
27 of the respondent;
28 (b) that a police officer must accompany the victim to a specified place to assist
29 with arrangements regarding the collection of personal property; or
30 (c) directing the respondent to secure alternative accommodation for the victim.
31 (3) In ordering a prohibition contemplated in subsection 1 (c) of this section, the
32 court may impose on the respondent obligations as to the discharge of rent or
33 mortgage payments having regard to the financial needs and resources of the
34 victim and the respondent.

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- 1 (4) The court may order the respondent to pay emergency monetary relief having
2 regard to the financial needs and resources of the victim and the respondent, and
3 such order has the effect of a civil judgment of a court.
4 (5) (a) The physical address of the victim shall be omitted from the protection
5 order, unless the nature of the terms of the order necessitates the inclusion of
6 such address.

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- 5 (a) executed and cancelled; or
6 (b) lost or destroyed.
- 7 (4) (a) A victim may hand the warrant of arrest together with an affidavit in the
8 prescribed form, wherein it is stated that the respondent has contravened any
9 prohibition, condition, obligation or order contained in a protection order, to any
10 police officer.
- 11 (b) If it appears to the police officer concerned that, subject to subsection (5),
12 there are reasonable grounds to suspect that the victim may suffer imminent harm
13 as a result of the alleged breach of the protection order by the respondent, the
14 police officer shall forthwith arrest the respondent for allegedly committing the
15 offence referred to in section 19(a)
- 16 (c) If the police officer concerned is of the opinion that there are insufficient
17 grounds for arresting the respondent in terms of paragraph (b), he or she shall
18 forthwith hand a written notice to the respondent which:
- 19 (i) specifies the name, the residential address and the occupation or status of the
20 respondent;
- 21 (ii) calls upon the respondent to appear before a court, and on the date and at the
22 time specified in the notice, on a charge of committing the offence referred to in
23 section 19(a); and
- 24 (iii) contains a certificate signed by the police officer concerned to the effect that
25 he or she handed the original notice to the respondent and that he or she
26 explained the import thereof to the respondent.
- 27 (d) The police officer shall forthwith forward a duplicate original of a notice
28 referred to in paragraph (c) to the registrar of the court concerned, and the mere
29 production in the court of such a duplicate original shall be prima facie proof that
30 the original thereof was handed to the respondent specified therein.
- 31 (5) In considering whether or not the victim may suffer imminent harm and

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32 (2) The provisions of subsection (I) shall be without prejudice to any
33 Punishment or sanction as to contempt of court or any other liability,
34 whether civil or criminal that may be incurred by the respondent.

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1 (3) No prosecutor shall -
2 (a) refuse to institute a prosecution; or
3 (b) withdraw a charge,
4 in respect of a contravention of section 18 (1), unless
5 he or she has been authorised thereto, whether in general or in any
6 specific case, by the Director of Public Prosecutions.
7 (4) Failure by a police officer to comply with an obligation imposed in
8 terms of this Act, without just cause, constitutes an offence punishable,
9 on conviction, with a fine not exceeding N20,000.00 or a term of
10 imprisonment not exceeding one year or to both such fine and
11 imprisonment.
12 (5) Prosecution for an offence under subsection (2) of this section shall
13 only be initiated on the written authorisation of the Director of Public
14 Prosecutions.
15 (6) No suit, prosecution or other legal proceedings shall lie against any
16 police officer, the commission, accredited service provider or any other
17 person authorised to take any action under this Act for any thing which is
18 in good faith done or purported to be done by or under this Act.

**Establishing
of Commission
on violence**

19 20(1) There is hereby established a body to be known as the
20 Commission on Violence (herein referred to as “the
21 Commission”).
22 (2) The Commission shall be-
23 (a) a body corporate with perpetual succession and a common seal;
24 (b) capable of suing and being sued in its corporate name.
25 (c) capable of acquiring, holding or disposing of any property, movable
26 or immovable, for the purpose of carrying out its functions.

Functions

27 21(1) The Commission shall:

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of the	28	(a) monitor and supervise the implementation of the provisions of this
Commission	29	

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- 21 which amount may be adjusted towards the emergency monetary relief
22 payable by the respondent.
- 23 (4) The commission to facilitate performance of its function may appoint
24 such number of its officers in each Area Council as it may consider
25 necessary, to assist the court in the discharge of its duties under this Act.
- Composition** 26 22(1) The Commission shall consist of the following members:
of the 27 (a) a Chairperson who shall be appointed by the President and
Commission 28 being a person who by reason of his or her ability, experience,
29 specialised knowledge or professional attainment or outstanding
30 contributions;
31 (b) the representative of-
32 (i) the Inspector-General of Police, not below the rank of an Assistant
33 Commissioner of Police;

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- 1 (ii) the Ministry of Justice;
2 (iii) the Ministry of Health; and
3 (iv) the Nigeria Prisons Service;
4 (c) two representatives of the Ministry of Women Affairs;
5 (d) an Officer of the National Human Rights Commission;
6 (e) an Officer of the Legal Aid Council;
7 (f) 10 persons from the National Advocacy Coalition on Violence
8 Against Women;
9 (g) two representatives from religious organisations;
10 (h) the Director-General, a woman, who shall be the administrative head
11 of the Commission.
- 12 (2) The representatives of the ministries shall be public servants not
13 below the cadres of Grade Level 14 officers;
- 14 (3) A person appointed as a member of the Commission shall hold office
15 for a term of four years only and shall not be eligible for re-appointment.
- 16 (4) A member of the Commission shall cease to hold office if:

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- 17 (i) he or she becomes of unsound mind or is incapable of carrying out his
18 or her duties;
- 19 (ii) he or she becomes bankrupt;
- 20 (iii) he or she is convicted of a felony or any offence involving
21 dishonesty; or
- 22 (iv) he or she is guilty of serious misconduct relating to his or her duties.
- 23 (5) Members of the Commission appointed under this section shall be
24 paid such remuneration and allowances as the President, on the
25 recommendation of the Revenue Mobilization Allocation and Fiscal
26 Commission may direct.
- 27 (6) Subject to Section 27 of the Interpretation Act, the Commission may
28 make standing orders regulating its proceedings.
- Quorum** 29 23. The quorum of the Commission shall be one-third of the members;
30 and the validity of its proceedings shall not be affected by any defect in
31 the appointment of any member or by reason that a person not entitled to
32 do so took part in the proceedings.

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- 11 (b) reintegrating the victim into the society:
- 12 (c) provision of shelter:
- 13 (d) provision of legal aid:
- 14 (e) programmes on violence;
- 15 (f) provision of guidance and counselling;
- 16 (g) payment of medical expenses for victim; and
- 17 (h) support of organisations which give direct assistance to victims of
- 12 violence.

Interpretation

- 19 26- In this Act-
- 20 “accredited service provider” means governmental, non-governmental,
- 21 voluntary and charitable associations or institutions providing shelter,
- 22 homes, counselling, financial, medical or other assistance to victims of
- 23 domestic violence and are registered with the commission on violence
- 24 ;
- 25 “civil proceedings” means
- 26

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8 (e)

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- 3 victim,
- 4 (g) forced labour;

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- 26 “Victim” means any person who suffers or is subjected to or
27 allegedly subjected to any act of violence or to whom any act
28 of violence is meted including any child in the care of such person.
29 “Violence” includes:
30 (a) physical or sexual or psychological or emotional or economic
31 violence occurring in the family, workplace and community
32 (b) discrimination (that is applicable to women and girls only)
33 (c) any action which inflicts physical, sexual or psychological
34 hurt or injury on a woman or girl
35 (d) domestic violence as defined in this Act

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Violence Against Women (Prohibition)

- 1 (e) acts constituting the offences created in sections 1 to 8 of this
2 Act;
3 “welfare” means the physical and psychological welfare of the
4 person in question;
5 “women” includes girls.
6 27 - This Bill may be cited as the Violence
7 (Prohibition) Bill, 2003.

Citation