



Examining Domestic Violence Under Nigerian Law and Islamic Law

History of Author	Abstract
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Introduction

Violence against women in the home has been part of human history. The issue of domestic violence is as old as mankind. Domestic violence remains a pervasive and distressing issue that transcends cultural, religious and socio-economic boundaries, impacting societies worldwide. The scourge of domestic violence as well as other forms of violence against women has eaten deep into the fabric of our society creating a lopsided gender balance with the female gender being the greatest victim. This violence manifests in various ways, encompassing sexual, physical psychological, and other forms, ultimately dehumanizing women within our community. Abusive partners and perpetrators rationalize their actions based on male superiority, religious beliefs, legal and cultural norms, economic conditions, family pressures and personal behaviour.

Gender-based domestic violence is skewed against women who are more or less, invariably its victim. Nearly two-thirds of women in Nigeria are believed to have experienced physical, sexual or psychological violence in the family.¹ This is confirmed by an Amnesty International report on Nigeria which says that on a daily basis, women are beaten and ill-treated, raped and even murdered by members of their family.²

On the 27th of February, 2021, The Guardian, Nigeria, reported in their Saturday edition that cases of Domestic Violence are on a high rate, especially the physical aspect of it. The paper reported

¹ See Nigeria's submission to the UN submission to the UN Universal Periodic Review (Fourth Session of the UPR Working Group of the Human Rights Council (Feb. 2009) at 16, available at www.ohchr.org//cedaw30htm. Sourced on 15th October, 2023.

² Itoro Eze-Anaba, 'Domestic Violence and Legal Reforms in Nigeria: Prospects and Challenges', Source: www.cardozolawandgender.com. Last accessed on the 25th October, 2023.

that at least once a week, there is a case of a man beating, maiming or killing his wife, and in some very rare cases, a woman dealing with her husband in like manner. Recently in June, 2020, Nigeria declared a State of Emergency on rape and sexual violence in all 36 States. Nigeria's experience is reflective of global challenges with the result that international treaties have targeted addressing this vice.³

The issue has been a subject of fierce discourse around the globe owing to the persistent cruel or inhuman treatment meted out against women. It is as a result of this that various international instruments such as Convention on the Elimination of All Forms of Discrimination (CEDAW), Declaration on Elimination of Violence Against Women (DEVAW), UNDHR, ACHR, Beijing Declaration and platform for Action, 1995 (BPFA) and other domestic laws have categorically and unequivocally prohibited *inter alia* all forms of domestic violence; yet women continue to suffer different forms of violence at home.

In Nigeria, Violence Against Persons (Prohibition) Act 2015 (VAPPA) was enacted to curb domestic violence in Nigeria. Initially, it was applicable only to the Federal Capital Territory, Abuja. However, several States have now passed their own versions of the law, making it applicable in their respective regions. These States include Anambra, Bauchi, Ekiti, Enugu, Kaduna and Oyo, the VAPP Act addresses various forms of violence, such as sexual abuse, rape and domestic violence, aiming to provide protection and justice for victims. Furthermore, Lagos State has its own Protection Against Domestic Violence Law (PADVL), No. 15, 2007.

Islam is indeed a religion that promotes peace through kind treatment of both tiny and large animals, as well as human beings who are weaker in strength or position in life, like children, women and aged.⁴ The predominant idea in the teachings of Islam with regard to men and women is that a husband and wife should be full-fledged partners in making their home a happy and prosperous place, that they should be loyal and faithful to each other and genuinely interested in each other's welfare and the welfare of the children. Islam's position on domestic violence is drawn from the Qur'an prophetic practice (Sunnah), historical and contemporary legal verdicts (fatwas). The Qur'an and prophetic practice clearly illustrate the relationship between spouses. The Qur'an says that the relationship is based on tranquility, unconditional love, tenderness, protection, encouragement, peace, kindness, comfort, justice and mercy.⁵

The paper seeks to discuss the meaning, nature, causes of domestic violence, gender-based domestic violence in Nigeria and statutory measures taken against combating domestic violence in Nigeria. The paper takes a critical look at and examines the position of Islamic law with respect to domestic violence with much emphasis on the provision of Qur'an 4 verse 34 which confers on the husband the right of corrective disciplinary measures on his recalcitrant wife with a view to determining whether or not such corrective disciplinary measures/actions amount to domestic violence and also whether or not Islamic law condones or condemns domestic violence within marital relationship. The study will conclude with suggestions and necessary recommendations.

Meaning and Nature of Domestic Violence

³ Oluwakemi Adekile, 'Treaty Obligations of States Regarding Gender-based Violence: Commitments and Activities from Nigeria' in *International Journal of Legal Studies and Research (IJLSR)*, (10) No. 1, 2021. ISSN (0): 2278-4764.

⁴ "Al-Qur'an Al-Karim", 16:90.

⁵ "Al-Qur'an Al-Karim," 30:21.

Like most controversial and sensitive issues, it is difficult to give a specific definition to the phrase 'domestic violence'. It has been observed that this difficulty is attributed to the fact that by its nature, domestic violence has a multiplicity of meanings to different people in different context.⁶

Different wordings have been used by different scholars, commentators and authors to explain the true meaning of the concept 'domestic violence'. All the meanings and definitions, given revolve around the fact that the concept means the infliction of direct or indirect harm, threats or violence on one individual by the other, in most cases, the male on the female. According to the Black's Law Dictionary, domestic violence is a violence between members of a household, usually spouses; an assault or other violent act committed by one member of a household against another.⁷ It further defines the phrase as, the infliction of physical injury or the creation of a reasonable fear that physical injury or harm will be inflicted, by a parent or a member or former member of a child's household, against a child or against another member of the household.⁸ The United Nations Declaration on the Elimination of Violence against women defines violence against women as 'any act of gender-based violence that results in, or is likely to result in physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or private life.'⁹ Violence against Persons (Prohibition) Act, 2015 defines it as 'any act perpetrated on any person in a domestic relationship where such act causes harm or may cause imminent harm to the safety, health or well-being of any person.'¹⁰ Domestic violence also known as domestic abuse, spousal abuse, battering, family violence and intimate partner violence.¹¹ Protection Against Domestic Violence Law of Lagos State, provides that domestic violence means acts listed below against any person – physical abuse, sexual abuse exploitation including but not limited to rape, incest and sexual assault; starvation, emotional, verbal and psychological abuse; economic abuse and exploitation; denial of basic education; intimidation; harassment; stalking, hazardous attack including acid both with offensive or poisonous substance; damage to property; entry into the complainant's residence without consent where the parties do not share the same residence; or any other controlling or abusive behaviour towards a complainant, where such conduct harms or may cause imminent harm to the safety, health or well being of the complainant and deprivation.¹²

From the above different definitions, it is understood that domestic violence is a violence involving men and women or parents and children in which both the female and children are usually the victims. It is also refers to the intentional and persistent abuse of anyone in the home in a manner that causes pain, distress, harm or injury. It also involves any abusive treatment of one family member by another which includes battering of intimate partners and others, sexual abuse of children, threats of such acts, coercion, intimidation, harassment and economic abuse.

While recognizing that women may also be perpetrators of domestic violence in their homes,

⁶ . Mandy Burton, 'Legal Responses to Domestic Violence' Routledge, Cavendish, 2008, 2 in Suzzie Onyeka Ofuani, 'Domestic Violence and Rule of Protective Law' Epiphany Azinge (ed) in *Law of Domestic Violence in Nigeria*, Nigerian Institute of Advanced Legal Studies, 2012, 100.

⁷ Bryan A. Garner, *Black's Law Dictionary Eighth Edition*, St. Paul: West Thomson, 2004, 1601

⁸ Ibid.

⁹ Innocent Digest No. 6 June, 200: 'Domestic Violence Against Women and Girls' www.unicef-irc.org. (Last assessed on 20th October, 2003, it is also contained in General Assembly Resolution 48/104 of December, 1993.

¹⁰ Violence Against Persons (Prohibitions) Act, 2015.

¹¹ Ozioma Izuora, 'The Perspective of Nigerian Women on Domestic Violence, in *Law of Domestic Violence in Nigeria*' Epiphany Azinge, Lilian Uche (ed) Nigerian Institute of Advanced Legal Studies, 2012, 66.

¹² Protection Against Domestic Violence Law of Lagos State, No. 15, 2007.

their actions account for a small percentage of domestic violence.¹³ Most forms of domestic violence are perpetrated by men who are in positions of trust, intimacy and power over the woman.¹⁴ It can occur in any intimate or family relationship irrespective of whether the parties are living together or not, whether they are married or cohabiting together as lovers.¹⁵

Another form of violence which has received a lot of recent attention in Nigeria is acid baths. Acid baths are actions of violence where the perpetrator throws acid on to his or her victim's body, resulting in disfigurement and possible loss of eye sight.

Causes of Domestic Violence

Several factors contribute to the occurrence of domestic violence, and various possible reasons have been identified for such assaults. One significant factor is the intoxicated or drunk state of spouses, as alcohol or substance abuse can escalate conflicts and lead to violent behaviour. Financial issues and frustration resulting from economic hardship may also play a role in triggering violent incidents within households.

Moreover, the rejection of sexual advances from a partner can lead to heightened tensions and potentially result in physical violence. Relationship inequality is another critical indicator of physical violence in domestic settings. Arrogance, disobedience stubbornness on the part of the wife and refusal to submit and respect the husband or his parents may also lead to violence.

Surprisingly, higher levels of wife beating have been observed when the woman is the primary breadwinner or earns more money than her husband or partner. This may be associated with the feelings of diminished control experienced by the male partner within the relationship, leading to a disproportionate use of violence as a means of asserting dominance. The perpetration of physical violence is often linked to controlling behaviour exhibited by husband or partners. Women who find themselves in relationships with highly controlling parties are more susceptible to experiencing physical violence.¹⁶

The cursing or use of foul or abusive language/words by one partner against the other partner may also result into physical violence. In *State v Rhodes*¹⁷, the defendant was indicted for an assault and battery upon his wife, Elizabeth Rhodes. The jury returned a special verdict of not guilty in law on the ground that she uttered some abusive words on her husband. Also suspicion of adultery by the man or the actual commission of adultery by the wife may also cause violence. Barrenness or infidelity on the part of the wife may cause hatred between the couple which may result to verbal or at times physical abuse.

Domestic Violence in Nigeria

¹³ A. Onanuga and J. Jibueze 'Domestic Violence and Rule of 'Protective' Law' The Nation 27th March, 2012. Available at <http://www.thenationonline.net/2011/index.php/law/41091-domestic-violence-and-rule-of-%E2%8%98protective%E2%80%99-law.html> Accessed on the 25th October, 2023.

¹⁴ UNICEF "Domestic Violence against Women and Girls" Innocent Digest No. 6, Italy, June, 2006, 2. Available at http://www.unicef-irs.org/publications/pdf/digest_6.pdf. Accessed on 22nd October, 2023.

¹⁵ Department of Criminal Justice Services Victims Services Section "Domestic Violence Protective Orders – A Guide for Victims of Domestic Violence in Virginia" Available at <http://www.dcjs.virginia.gov/victims/documents/podomesticviolence.pdf> Accessed on the 23rd of October, 2023.

¹⁶ Rose Line Tasha, 'Relevance of Domestic Violence in Nigeria: Implication for Counselling' in Epiphany Azinge and Lilian Uche (ed) *Law of Domestic Violence in Nigeria*, Nigerian Institute of Advanced Legal Studies, 2012, 323.

¹⁷ 61 N.C 453 (1868).

Domestic violence is prominent in Nigeria as in other parts of Africa. There is a deep cultural belief in Nigeria that is socially acceptable to hit a woman as a disciplinary measure. Cases of domestic violence are on the high and show no signs of reduction in Nigeria, regardless of the age, tribe, religion or even social status. In Nigeria, women usually face physical violence in the hands of their loved ones, family members and the society. The most common forms of this violence include rape, murder, slapping, assault, battery and kicking. In *Ezewediufu v State*,¹⁸ the appellant killed his own mother in cold blood, with a machete and buried her in a shallow grave. He claimed that his mother hated him. The trial court found him guilty of murder and sentenced him to death. Dissatisfied, the appellant appealed to the Court of Appeal which in determining the appeal considered the provisions of section 33(5) and (6) of the 1979 Constitution, sections 27 and 28 of the Criminal Code and dismissed the appeal. He further appealed to the Supreme Court. The Supreme Court unanimously dismissed the appeal, and affirmed the death sentence.

In *Nweke v State*,¹⁹ the appellant and the deceased were husband and wife. They both lived together until the death of the deceased. He took the deceased to their kolanut farm, and slashed her throat, there because, according to him, his wife (the deceased) was carrying a pregnancy that did not belong to him. The Supreme Court affirmed the judgment of the Court of Appeal, which had earlier on affirmed the death sentence passed on the appellant by the trial court. In *Idowu v State*,²⁰ the deceased, an infant aged 4 years and 9 months was placed in the custody of the appellant, her uncle, by her parents who had traveled. The appellant pulled off her niece pant and, had carnal knowledge of her forcefully. The infant died. The learned trial judge found the appellant guilty of murder, convicted him and sentenced him to death by hanging. In *Oni v State*,²¹ the appellant was charged and tried for the murder of his daughter. According to his wife (PW1), the appellant poured some liquid, which turned out to be acid, into the mouth and on the body of the baby which led to her death. The trial court found the appellant guilty of the offence as charged, convicted him and sentenced him to death. On subsequent appeal to the Court of Appeal and the Supreme Court respectively, they both upheld his conviction and dismissed the appeals.

In the recent case of *State v. Dr. Olufemi Olaleye*,²² the Lagos State Sexual Offences and Domestic Violence Court sitting in Ikeja on Tuesday, 24th of October, 2023 sentenced the defendant, who is the Medical Director of Optional Cancer Care Foundation, to life imprisonment for the defilement and unlawfully having carnal knowledge of his wife's 15 year old niece. His wife Aderemi Olaleye testified that he first introduced pornography and oral sex to the victim and he released sperm into her mouth and he threatened to kill her if she told anyone. Also on the 16th November, 2023, the Lagos State Sexual Offences and Domestic Violence Court, Ikeja found one Gabriel Awaye, a bricklayer guilty of having carnal knowledge of a 13-year old girl, convicted and sentenced him to life imprisonment.²³ Also, on Monday, January 23, 2014, Lagos State Sexual Offences and Domestic Violence Court, Ikeja

¹⁸ (2008) Vol. 1 WHRC 129 as reported in Quadri, F. A; Beacon of Hope; Women's Human Rights Cases, Life Gate Publishing Co. Ltd, Ibadan, (2008), pp. 128 – 161. Also, reported in Emmanuel Chinweike Ibezim, 'Gender-Based Domestic Violence in Nigeria: A Socio-Legal Perspective', in Epiphany Azinge and Lilian Uche, *Law of Domestic Violence in Nigeria*, Nigerian Institute of Advanced Legal Studies, 2012, 199.

¹⁹ (2008) vol. 1 WHRC 106, *ibid*, pp. 106-128.

²⁰ (2008) vol. 1 WHRC 467.

²¹ (2008) vol. 1 WHRC 1.

²² The Punch Newspaper, Tuesday, 24th of October, 2023. Also available at <https://theclicknewsng.com/just-in-lagos-doctor-olaleye-bags-lifeimprisonment-for-rape>. Accessed on the 24th October, 2023.

²³ Available at <https://daily.post.ng>2023/11/16>. Accessed on the 16th November, 2023.

sentenced a father, Ademola Oladimeji to life imprisonment for sexually assaulting his three children who were aged five, seven and nine.²⁴

Judging from the above Nigerian cases, it is apparent that domestic violence remains a prominent issue in Nigeria as is the case in other part of Africa. Unfortunately, there exists a deeply ingrained cultural belief in Nigeria that justifies the use of violence as a disciplinary measure against women as it happened in the case of *State v Rhodes*,²⁵ where the defendant was indicted for an assault and battery upon his wife, Elizabeth Rhodes. The court discharged and acquitted him on the ground that he had a right to whip to correct his wife. Consequent appeal was equally dismissed.

The alarming trend persists across all demographics, regardless of age, tribe, religion or social status. Disturbingly, statistics reported by The Guardian in 2022 revealed that the Lagos State Domestic and Sexual Violence Agency recorded 4,860 cases of domestic and sexual violence in the year, resulting in the tragic loss of eleven women due to domestic violence incidents within 20 months. Among the eleven victims, five lost their lives in the current year, and six in the previous year.²⁶ Domestic violence is so entrenched in the society that even the victims condone such violations of their rights, some claiming it is a sign of love.²⁷

Perception of domestic violence in Nigeria varies significantly based on regional, religious and class factors. For instance, among the Tiv community in Nigeria, wife beating is disturbingly viewed as a “sign of live” and is widely encouraged, as evident from the belief that experiencing beatings from one’s husband signifies the joy of marriage and being truly married.²⁸ This perspective reflects a deeply ingrained cultural belief that normalizes violence as a means of asserting control within marital relationship. The prominence of domestic violence in Nigeria is evident in the Amnesty International report on Nigeria, thus:

On a daily basis, women are beaten and ill-treated for supposed transgressions, raped and even murdered by members of their family. In some cases, vicious acid affects leave them with horrific disfigurements. Such violence is too frequently excused and tolerated in communities and not denounced. Husbands, parents and fathers are responsible for most of the violence against women.²⁹

The impact of domestic violence in Nigeria is indeed far-reaching, creating a profound ripple effect that extends beyond individual victims. The prevalence of domestic violence has detrimental effects on the overall well-being and progress of Nigerian society. The economic costs of addressing domestic violence, such as medical care, legal interventions, and social support services, burden the healthcare and justice systems, diverting resources that could otherwise be invested in societal development.

Measures Taken Against Domestic Violence in Nigeria

Nigeria has demonstrated significant commitment to addressing domestic violence through the

²⁴ Available at <https://newswirelawandevents.com>. Accessed on the 24th January, 2024.

²⁵ 61 N.C 453 (1868).

²⁶ The Guardian Newspaper, Saturday Edition of the 27th of February, 2021.

²⁷ Itoro Eze-Anaba, ‘Domestic Violence and Legal Reforms in Nigeria; Prospects and Challenges’ Source: www.cardozolawandgender.com. Last accessed on the 23rd of October, 2023.

²⁸ Ibid.

²⁹ Ibid. Also Kenechukwu Mbajorgu, ‘Domestic Violence: The Problem Pervading Nigeria’ in Epiphany Azinge and Lilian Uche (Ed.) *Law of Domestic Violence in Nigeria*, Nigerian Institute of Advanced legal Studies, 148.

promulgation of various laws and policies. The cornerstone of this legal effort is the Violence Against Persons (Prohibition) Act (VAPP Act) enacted in 2015. The comprehensive legislation takes a strong stance against all forms of violence, including domestic violence, by criminalizing such acts and providing legal protection for victims. The VAPP Act covers a wide range of abuses, encompassing physical, sexual, emotional and economic violence, as well as harmful traditional practices and discrimination against widows.³⁰

Section 19 of the Act provides that:

A person who batters his or her spouse commits an offence and is liable on conviction to a term of imprisonment not exceeding 3 years or to a fine not exceeding N200,000.00 or both.

Also, subsection 2 provides that:

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 N100,000.00 or both.

Also, subsection 3 provides that:

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 N100,000.00 or both.

Also, subsection 4 provides that:

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 1 year or to a fine not exceeding N200,000.00 or both.

From the foregoing provisions, it is apparent that the Act takes a strong stance against domestic violence in the sense that it does not only prohibit and penalize spousal battery and assault which are common form of domestic violence, but, also prohibits and penalizes the attempt to commit domestic violence, inciting, aiding, abetting and counseling another person to commit the act of domestic violence and the receiving, assisting and harbouring another person who, to his or her knowledge committed the offence of domestic violence.

Despite the fact that rape is an offence under both Criminal Code Act³¹ and Penal Code³² Laws of Northern Nigeria, the Act itself in its section 1 prohibits and penalizes the offence of rape³³ as another form of domestic violence in Nigeria. The Act is very comprehensive and detailed in its provisions prohibiting and criminalizing all forms of violence against persons both in private and public life. The Act prohibits and penalizes inflicting physical injury on a person,³⁴ coercion,³⁵ female circumcision or genital mutilation,³⁶ forceful ejection of spouse from home,³⁷ depriving a person of

³⁰ Sections 1, 2, 3, 4, 5, 6, 11, 12, 13, 14, 15, 19, 20, 21 and 25 of Violence Against Persons (Prohibition) Act, 2015.

³¹ See sections 357 and 358 of the Criminal Code Act, Cap 17, Laws of the Federation, 2014.

³² See sections 282 and 283 of the Penal Code Laws of Northern Nigeria.

³³ Section 1, Violence Against Persons (Prohibition) Act, 2015.

³⁴ Ibid, section 4(1).

³⁵ Ibid, section 4(2).

³⁶ Ibid, section 6.

³⁷ Ibid, section 9.

his or her liberty,³⁸ forced isolation or separation from family and friends,³⁹ emotional verbal and psychological abuse,⁴⁰ harmful widowhood practices,⁴¹ abandonment of spouse, children and other dependants without sustenance,⁴² harmful traditional practices,⁴³ attack with harmful substance,⁴⁴ incest,⁴⁵ indecent exposure⁴⁶ and many other acts.⁴⁷ Notably, the VAPP Act establishes special courts to specifically handle cases related to violence against individuals.⁴⁸

Protection Orders

One major measure or strategy for combating gender-based domestic violence in Nigeria introduced by VAPP Act is the issuance of protection orders against batterers. The Act itself defines “Protection Order” as ‘an official document, signed by a judge that restrains an individual or State actors from further abusive behaviour towards a victims’. Under the Violence against Women Act, 1994 of the United State of America, a protection order is defined as ‘any injunction or other order issued for the purpose of preventing violent or threatening acts or harassment against or contact or communication with, or physical proximity to, another person.’⁴⁹ The VAPP Act empowers victims to seek protection orders from the High Court to prevent further acts of violence. This protection order may prohibit the abuser from coming near the victim or engaging in further abuse.⁵⁰

Protective orders are issued by a judge upon application of the victim and prohibit batterers from coming near the applicant.⁵¹ If such order is granted, following a complaint of violence by the complainant, it shall be effective throughout the Federal Republic of Nigeria and no time limit or prescription will apply in relation to a person seeking to apply for such protection order.⁵² The Act further empowers the court to issue an interim protection order against the respondent where the court is satisfied that there is *prima facie* evidence that the respondent is committing, has committed or that there is imminent likelihood that he may commit an act of domestic violence.⁵³ The aim of this order is to interimly or temporarily protect the applicant/victim even if the court processes are yet to be served on the respondent. The said an interim order has to be served on the respondent inviting him to court to show cause why a protection order should not be issued.⁵⁴

Furthermore, if the respondent does not appear on a return date and the court is satisfied that proper service has been effected on him and that the application contains a *prima facie* evidence

³⁸ Ibid, section 10.

³⁹ Ibid, section 13.

⁴⁰ Ibid, section 14.

⁴¹ Ibid, section 15.

⁴² Ibid, section 16.

⁴³ Ibid, section 20.

⁴⁴ Ibid, section 21.

⁴⁵ Ibid, section 25.

⁴⁶ Ibid, section 26.

⁴⁷ Ibid, section 28.

⁴⁸ Ibid, section 46.

⁴⁹ International Association of Chiefs of Police ‘Protecting Victims of Domestic Violence – A Law Enforcement Officer’s Guide to Enforcing Orders of Protection Nationwide’ Available at <http://www.vaw.umn.edu/documents/protect/project/html>. Accessed on the 30th July, 2023.

⁵⁰ Section 28 of VAPP.

⁵¹ Ibid.

⁵² Section 28 of VAPP Act, 2015.

⁵³ Section 29 (2) of VAPP Act, 2015.

⁵⁴ Ibid, section 29(3).

that the respondent has committed, is committing or that there is an imminent likelihood that he may commit an act of domestic violence, the court shall issue a protection order.⁵⁵ However, if the respondent appears on the return date in order to oppose the issuing of a protection order, the court shall proceed to take the evidence of both parties for the purpose of just determination of the issues in the matter. The Act empowers the court to, after hearing of both parties, issue a protection order if it finds, on a balance of probabilities, that the respondent has committed, is committing or that there is an imminent likelihood that he may commit an act of domestic violence.⁵⁶ The court may, by means of protection order, prohibit the abuser from attacking, striking, telephoning, or disturbing the peace of the victim, committing any act of domestic violence, enlisting the help of another person to commit any such act, entering a shared household, entering the complainant's residence, entering the complainant's place of employment and so forth.⁵⁷

The beauty of this Act is its strong determination to eliminate all forms of violence both in private and public life as it is evident from the above provisions of the Act which permit the court not to wait for the abuser to commit an act of domestic violence before it can issue a protection order against him. By virtue of these provisions of the Act, the said protection order can as well be issued not only where the abuser has committed an act of domestic violence, but even, where same is being committed or where there is an imminent likelihood that he may commit an act of violence.⁵⁸ With this last leg of the provision, the Act is determined to completely discourage, prohibit and equally punish an act of domestic violence which has not yet been carried out with a view to stamping it out of Nigerian society.

In fact, the court may further impose any additional condition such as seizure of any arm or dangerous weapon in the possession or under the control of the respondent, ordering a temporary relocation to any safe place, directing the respondent to secure alternative accommodation for the complainant and approving a mediation channel upon submission by the complainant with a view to protecting and providing for the safety, health or well-being of the complainant.⁵⁹

In the Republic of South Africa under the Domestic Violence Act, once the protection order is obtained, it is operative throughout the Republic and may be reported to any Police Station even if this is different to the Police Station identified in the original application form.⁶⁰

For countries that have protective orders in place, the aims of such laws are usually to ensure the prevention and suppression of domestic violence and to ensure efficient measures to persuade the perpetrators of violence and others not to commit violence and remove the consequences of the violence committed by prescribing protective measures⁶¹ as done by VAPP Act. In a bid to improve the effectiveness of protective order, police is by law/under the Act granted the power of arrest within the enforcement mechanisms of such orders. The Act empowers a police officer, at the scene of an

⁵⁵ Ibid, section 30(1).

⁵⁶ Ibid, section 30(2, 3 and 4).

⁵⁷ Ibid, section 31.

⁵⁸ Ibid, section 29(2) and 30(1).

⁵⁹ Ibid, section 31(12).

⁶⁰ Nikki Naylor 'Drafting Domestic Violence Legislation in Nigeria: Lessons from South Africa', 13. Available at http://www.wlce.co.za/morphassets/themelets/explorer/violence_against_women/General/LessonsfromDomesticViolenceLaw.pdf. Accessed on the 28th October, 2023.

⁶¹ Article 6, 'The Proclamation of the Law on Protection from Domestic Violence 2005 of Bosnia and Herzegovina' Available at <http://www.hsph.harvard.edu/population/domesticviolence/bosnia.domesticvio.105.pdf>. Accessed on the 28th September, 2023.

incident of violence or to whom a report of violence has been made to assist the victim of violence to file a complaint regarding the violence, arrange safe transport for the victim to an alternative residence, provide or arrange transportation for the victim to the nearest hospital for treatment of injuries where such treatment is necessary, explain to him his or her right to protection against violence and remedies available to him or her and her right to lodge a criminal complaint in addition to any remedy available under the Act.⁶² In addition to this, a police officer may, without an order of court or a warrant of arrest, arrest any person whom he or she suspects upon reasonable grounds to have committed offence of domestic violence and to whom a complaint of domestic violence has been made.⁶³

Consequently, a breach of an interim protection order or a protection order or refusal to comply with the said orders qualifies as a misdemeanor, criminal offence or criminal contempt for which the batterer or perpetrator could be arrested, prosecuted/tried and penalized, on conviction, with a fine or imprisonment.⁶⁴

The Violence Against Persons Prohibition Act (VAPP) when enacted in 2015, it was initially applicable only in the Federal Capital Territory, Abuja. However, several States have now passed their own versions of the law making it applicable in their respective regions. These States include Anambra, Bauchi, Ekiti, Enugu, Kaduna and Oyo State. Furthermore, Lagos State has its own Protection Against Domestic Violence Law (PADVL), which was established in 2007. This law specifies different types of domestic violence, including sexual abuse, exploitation, emotional and verbal abuse, economic abuse, denial of basic education, deprivation, harassment and intimidation.⁶⁵

Domestic Violence Under Islamic Law

Islamic teachings highlight the rights and responsibilities bestowed upon both husbands and wives, emphasizing their mutual duty to foster a harmonious and prosperous marital life. Allah in His wisdom, has enjoined upon them certain rights and duties while encouraging actions that promote the well-being and preservation of the family unit. It is essential to recognize that each member of the family holds responsibility for its welfare, and neither should impose demand beyond the other's capacity. The Qur'an emphasizes equality and fairness in the marital relationship, stating 'And they (women) have rights similar to those of men over them in kindness.'⁶⁶ This clearly shows that the relationship of men and women is not of bondage or disparity but of pure clear camaraderie and cooperation in the path of virtue. And in camaraderie, all the members are equal.⁶⁷

Islam as a religion for all times has provided guidance in all spheres of life. Matrimony is sanctified as an honourable undertaking.⁶⁸ Within that framework, the relationship between spouses is considered to be of utmost concern to the society as a whole. It is for this reason that the Qur'an contains explicit verses honouring femalehood. It elevates the position of women to a higher degree by guaranteeing their status as the basis of society. Apart from guaranteeing the status of women in society and elevating their position generally, Islam has specifically conferred additional honour on

⁶² Section 32(1) of the VAPP Act, 2015.

⁶³ Ibid, section 32(2).

⁶⁴ Ibid, section 36(1).

⁶⁵ Section 18(1) of *Protection Against Domestic Violence Law*, Lagos State, No. 15, 2007.

⁶⁶ "Al-Qur'an Al-Karim" 2:228.

⁶⁷ S. Iqbal, *Woman and Islamic Law*, Adam Publishers and Distributors, N. Delhi, 16.

⁶⁸ See generally, "Al-Qur'an Al-Karim," 4:19, 2:228 and 236.

the wife as the anchor that guarantees and promotes peace and tranquility in the management of the matrimonial home. In view of this critical role of wives, Islam exhorts husbands to ensure good companionship to the wife and provide care and comfort to make her matrimonial life pleasant, eventful and successful.⁶⁹

Islam's position on domestic violence is drawn from the Qur'an, prophetic practice (sunnah), historical and contemporary legal verdicts (Fatwa). The Qur'an and prophetic practice clearly illustrate the relationship between spouses. The Qur'an says the relationship is based on tranquility, unconditional love, tenderness, protection, encouragement, peace, kindness, comfort, justice and mercy. Allah says in the Qur'an thus:

And among His signs is that He created mates for you among yourselves, that you may dwell in tranquility with them, and He has put love and compassion between you: verily in that are signs for those who reflect.⁷⁰

Almighty Allah also says in the Qur'an thus:

O you who believe!...treat women with kindness, then, if you dislike them, it may be that you dislike something which Allah has placed abundant good in it.⁷¹

It is evident from the above verses that husbands must treat their wives with kindness, honour and respect. Therefore, they must not oppress, disrespect, humiliate, hit, beat or domestically abuse them. While explaining the principle of good character, the Prophet (SAW) said: 'The most complete believers are those who possess the most excellent characters and the best of you are those who treat their wives in the most excellent ways.'⁷²

In the same vein, the Prophet (SAW) provides the most excellent example of a caring and a loving husband even to the point that he used to play and make polite jokes with his wives in promotion of domestic tranquility.⁷³ Thus, the Prophet (SAW) was reported to have said, 'Everything in life is but, jest and amusement except one of four things; joke with one's wife, to train one's horses, to learn how to swim and to walk between two places.'⁷⁴ The Prophet (SAW) set direct examples of these ideals of a marital relationship in his personal life. There is no clearer prophetic saying about a husband's responsibilities toward his wife than his response to what constitutes rights of women: Their right over you is to feed them, cloth them, do not insult them or slap them on the face and do not desert them outside the matrimonial home.⁷⁵

The Prophet (SAW) considered kind treatment of women very vital, to the extent that it is considered a sign of perfection of one's faith. He was quoted as saying: 'The most perfect of believers in faith is he who is best in conduct. And the best of you are those who are best to their wives.'⁷⁶ In another tradition, he was reported as saying: 'None but a dignified person treats them (women) in a dignified

⁶⁹ M. I. Sa'id and M.L. Ahmadu, 'Domestic Violence in Nigeria: Legal and Islamic Law Perspectives' in *Journal of Islamic and Comparative Law* (UDUS) JICL Vol. 1, 2010, 162.

⁷⁰ "Al-Qur'an Al-Karim" 30:21.

⁷¹ "Al-Qur'an, Al-Karim" 4:19.

⁷² Al-Jazai'ri, A. *Minhajul Muslim*, Darul Fikr, Beirut, 8th ed., 1976, 94.

⁷³ Sa'id and Ahmadu, (n 69) 162.

⁷⁴ Al-Jazairi, (n 72) 94.

⁷⁵ Ibid.

⁷⁶ Ibid.

way, and none but a crook person treats them in despair.⁷⁷ The Prophet (SAW) further stressed the importance of kindness towards women in his farewell pilgrimage. He maintained that the violation of their material rights is a breach of the couple's covenant with Allah.⁷⁸ Abusive behaviour towards a woman is also forbidden because it contradicts the objectives of Islamic jurisprudence specifically the preservation of life and reason, and the Qur'anic injunctions concerning righteousness and kind treatment.

Domestic violence is addressed under the concept of harm (darar) in Islamic Law. It includes a husband's failure to provide obligatory financial support (nafaqa) for his wife, a long absence of the husband from home, the husband's inability to fulfill his wife's sexual needs, or any mistreatment of the wife's family members. In fact, Islam allows an abused wife to claim compensation under *ta'azir* (discretionary punishment). The 19th century Syrian jurist Ibn Abidin said: *ta'azir* is mandatory for a man, who beats his wife excessively and breaks bone, 'burns skin', or 'blacknes' or 'bruises her skin.' It is for this reason that the Prophet (SAW) also expressly prohibited any form of violence against women, whether directly or indirectly.⁷⁹

By examining the above numerous Qur'anic verses and prophetic traditions govern marital relations, it becomes evident that Islam advocates for both parties to treat each other with respect, justice and mercy and for the husband to specifically treat wife with kindness which shows that Islam does not permit or condone any form of cruelty, mistreatment or violence against women. The rationale for this is that where domestic violence is allowed against women, there will never be harmonious matrimony. Where this eludes the society, there can never be social equilibrium. The absence of equilibrium will certainly lead to a dysfunctional society. A disjointed society is a failed society and Islam is against failed societies.⁸⁰

Husband's Right of Correction of Recalcitrant Wife in Islamic Law vis-à-vis Domestic Violence

The fact that man is in charge and the maintainer of the woman, Islamic law concedes to him the right to correct his wife's doings and behaviour whenever it is necessary. The Holy Qur'an exhorts.

Men are in charge of women by (right of) what Allah has given one over the other and what they spend (for maintenance) from their wealth. So righteous women are devotedly obedient, guarding in (the husband's) absence what Allah would have them guard. But, those (wives) from whom you fear arrogance (first) admonish them; (then if they persist), forsake them in bed; and (finally), beat them (lightly). But, if they obey you (once more), seek no means against them. Allah is indeed Most High, Great.⁸¹

This verse presents a basic concept of the roles in an Islamic marriage, and the steps a husband is permitted to take to resolve conflicts. This verse adjudges the role of a husband as protector and maintainer of his wife and how he should deal with disloyalty on her part. The verse addresses a situation where a wife is being disobedient or showing misconduct within the marital relationship. This verse is specifically addressing the legal issue of *nushuz*, which is contentiously translated as a

⁷⁷ Sayyid Sabiq, *Fiqhus-Sunna*, Darul Fikr, Vol. 2, 160.

⁷⁸ Al-Tabari, *History of Al-Tabari, The last Years of the Prophet*, Poonawala, I.K. (Albany, NY, 1990) pp. 112-113. Also *Sunnah Abu Dawud* 10:1900.

⁷⁹ Sayyid Sabiq, (n 77) 160.

⁸⁰ Sa'id and Ahmadu, (n 69) 163.

⁸¹ "Al-Qur'an Al-Karim", 4:34.

wife's disobedience, flagrant defiance or misbehaviour, infidelity, adultery, unfaithfulness, rebellion, an obvious manner of immoral conduct, conducts that are contrary to Islamic teachings, or other ill-conducts which are threatening the marriage's sacred bond and persistent breach of her marital obligations.⁸² The foregoing verse prescribes certain measures which should be taken by the husband which steps are as follows:

1. Admonition

In the initial stage of conflict and before taking any other measure which may be to the detriment of the couple, the husband should gently and in a polite manner admonish his wife to stop the act of disloyalty, unfaithfulness, infidelity and all manners of misbehaviour being exhibited by the wife. If this proves effective in rectifying the issue, there is no need to resort to a harsher measure.⁸³

2. Severing of Conjugal Relations

If admonition by the husband fails to resolve the conflict or correct the wife, the husband may refrain from sharing his bed with his wife. However, this measure should be limited to a reasonable period of time and not prolonged indefinitely.⁸⁴

3. Light Beating

Wife-beating is generally discouraged by Muslim jurists. However, under certain or exceptional circumstances, if the wife's behaviour clearly violates the injunctions of Allah and the *Sunnah* of the Prophet (SAW), beating in a light manner (without pain or injury) may become necessary. But, the Prophet (SAW) has enjoined that she must not be beaten on the face or in such away as may leave some marks on her body.⁸⁵

In order to determine whether or not this light beating amounts to domestic violence under Islamic Law, recourse shall be had to the proper interpretation of the word "daraba" according to other Qur'anic verses, prophetic traditions and opinions of Islamic jurists/scholars. To this end, the Arabic term used in the verse is "daraba", which can have multiple meanings, including 'to beat'. Scholars have debated the exact meaning of this term. Some interpret it as a symbolic gesture or tapping with a *miswak* (a traditional tooth-cleaning twig), while other argue that it should not be taken literally and that it signifies a last resort after exhausting all other measures and can only be resorted to in an effort to save the marriage. Nonetheless, there are interpretations that emphasize non-violence and consider this measure as a figurative expression rather than physical abuse. They argued that since other Qur'anic verses and Hadith emphasise kindness, respect and mutual understanding in marital relationship, this third measure should not be interpreted as to harm, injure or abuse a woman domestically or otherwise.⁸⁶

The *Surah An-Nisa*, Chapter 4 verse 34 quoted above is often referred to as the "verse of admonition" or "verse of disciplinary measures". This verse has been a subject of controversy among Islamic scholars due to the use of the word "daraba" mostly translated as to "beat". However, for

⁸² AbdulRahman I, Doi, *Shari'ah: The Islamic Law*, Ta Ha Publishers, 1984, 130.

⁸³ Ibid.

⁸⁴ Ibid.

⁸⁵ Ibid.

⁸⁶ Ibid.

proper understanding of this verse and any other Qur'anic verse, it is important to understand the sources and means of Qur'anic interpretation used by scholars.

The primary means of Qur'anic interpretation applied by scholars is to read the Qur'an intratextually, known as *Jafsir al-Qur'an bil-Quran* (interpreting Qur'an with Qur'an). Thus it is extremely important to understand chapter 4 verse 34 in the light of the gender paradigm of the Qur'an itself. From countless verses governing marital relations in the Qur'an, it requires spouses to treat each other with respect, justice and mercy.⁸⁷

There are a number of translations of this verse based on the literal and technical Arabic meaning of the word, and all vary to some extent.⁸⁸ This work would however adopt the interpretation of *tafsir Ibn Kashir*. In his interpretation of this word, the scholar explained that the word *Idhrib*, which literally means to beat as a beating that is not violent as it reported in Sahih Muslim.⁸⁹

By examining the numerous verses that govern marital relations in the Qur'an, it becomes evident that the Qur'an advocates for both partners to treat each other with respect, justice and mercy. These principles underline the Qur'an's perspective on harmonious and equitable interactions between spouses. Some of these verses are: Treat them (women) with kindness, it may be that you dislike something which Allah might make a source of abundant good.⁹⁰ Also in *Surah at-Talaq*, Allah says: 'Do not harm them in order to make things difficult for them'.⁹¹ This highlights the importance of treating wives with compassion, understanding and benevolence. It encourages husbands to maintain a harmonious and respectful relationship with their wives. It further emphasizes the importance of honouring marital contracts and commitments, discouraging any actions that may lead to unfair treatment, enslavement or exploitation of women or domestic violence. Allah also said: 'Then, if they obey you, take no further action against them (wives).'⁹² He also said: 'And those who harm believing men and believing women (for something) other than what they have earned have certainly born upon themselves a slander and manifest sin.'⁹³

In *Surah Sad*, where Allah cautioned Prophet *Ayub* regarding his dealing with his wife is a relevant example. The Qur'an provides that: 'And take in your hand a bundle of thin grass and beat therewith (your wife) and break not your oath.' Surely, we found him patient....'⁹⁴ According to the *Mufasirun*, (Commentators of Al-Qur'an), the verse was revealed with respect to Prophet *Ayyub* who got angry with his wife and was upset about something she had done, so, he swore an oath that if Allah healed him, he would beat her with one hundred blows. When Allah healed him, how could her service, mercy, compassion and kindness be repaid with a beating? So, Allah showed him a way out, which was to take a bundle of thin grass, with one hundred stems, and hit her with it once. Of course, this is a non-violent beating which caused no harm to the wife. Thus, he fulfilled his oath and avoided breaking his vow.

By applying this method of interpretation, which involves interpreting one provision of the

⁸⁷ Z Alwani 'Domestic Violence: Islamic Perspective.' 2011. Available at <http://www.Karama.org/wp-content/uploads/2012/domesticviolence-IslamicPerspective/htm/> accessed 21st January, 2022, 4.

⁸⁸ Main Menu, *Islam Awakened*. Retrieved 12 December, 2014.

⁸⁹ Ibid.

⁹⁰ "Al-Qur'an Al-Karim", 4:19.

⁹¹ "Al-Qur'an Al-Karim", 65:6.

⁹² "Al-Qur'an Al-Karim", 4:34.

⁹³ "Al-Qur'an Al-Karim", 35:58.

⁹⁴ Al-Qur'an Al-karim" 38:44

Qur'an in the light of another provision, an understanding of Qur'an 4 verse 34 in conjunction with Qur'an 38 verse 44 clarifies the intention of the law giver, emphasizing a non-harmful form of correction or light beating as the intended meaning.

The second means of interpreting the Qur'an is by using the tradition of Prophet Muhammad (SAW) whose life, words, and actions are regarded as living commentary on the Qur'an and provide the framework within which *tafsir* (commentary) is to be exercised. This type of interpretation is known as *tafsir bilma' thur* (interpretation of the Qur'an using prophetic traditions or Hadith).⁹⁵ It is pertinent to reiterate here that it is the Prophet (SAW) that was given divine authority to interpret and explain the Qur'an clearly to mankind. In His word, Allah says: 'And we have sent down unto you the reminder that you may make clear to men what is sent to them, and that they may give thought.'⁹⁶

If Qur'an 4 verse 34 is measured alongside the examples of the Prophet who condemned domestic violence in both his deeds and words, it becomes clear that this verse does not encourage, allow or condone domestic violence in whatever form. There are hosts of authentic traditions prohibiting domestic violence, some of which are:

Aisha, the wife of Prophet (SAW) reported that the Messenger of Allah never hit anything with his hand, neither a servant nor a woman except when fighting in the cause of Allah.⁹⁷ This Hadith demonstrates the Prophet's practice of non-violence and also highlights his gentle and compassionate nature. In this regard, the best course of action for a Muslim man is to never strike his wife at all. The action of symbolically striking his wife, within the legal units, is considered by scholars to be permissible, but, disapproved (*makruh*), meaning a Muslim man will be divinely rewarded for not doing so. It was also reported in another Hadith that the Prophet said: 'Don't strike her on the face, do not revile her.'⁹⁸ Fear Allah concerning women and you sought their private parts with the word of Allah, verily you have taken them on the security of Allah... You too have rights over them, and that they should not allow anyone whom you dislike to sit on your bed. However, if they do that, you are allowed to discipline them lightly and not severely. They have right upon you that you feed them and clothe them with kindness.⁹⁹ One of you should not beat his wife the way he beats his servants or slaves and then embrace (sleep with) her at the end of the day.¹⁰⁰ The best of you are those who are considered the best to their (wives) and I am the best of you to my wives.¹⁰¹

Generally, the Prophet (SAW) discourages Muslims from beating their wives. It is *haram* (forbidden) in Islam for a man to beat his wife just to prove he has authority over her. The above *Ahadith* emphasize treating one's wife with kindness and respect with a view to promoting a peaceful and harmonious relationship. In Prophet's farewell sermon as recorded in *al-Tabari's* history,¹⁰² and in a *Sahih* (authentic) Hadith collected by *Abu Dawud*,¹⁰³ he gave permission to husbands to lightly beat their wives under certain exceptional circumstances without pain and severity. *Ibn Abbas* asked,

⁹⁵ Z Alwan, (n 87) 4.

⁹⁶ "Al-Qur'an Al-Karim", 16:44.

⁹⁷ *Sunnan Abu Dawood*, Hadith 4786.

⁹⁸ *Sunnan Abu Dawood*, Hadith 2137.

⁹⁹ *Sahih Muslim*.

¹⁰⁰ *Sahih al-Bukhari* 5695, Grade: Sahih.

¹⁰¹ *Sunnan At-Tirmidhi*.

¹⁰² *Al-Tabari, History of Al-Tabari, vol. ix: The Last Years of the Prophet* tripoonawala, I. K. (Albany, NY, 1990) 112-113.

¹⁰³ *Sunnah Abu Dawud*, Hadith 2137.

what is the hitting that is without severity? He replied (with) the *siwak* (tooth-stick) and the like.¹⁰⁴ The Prophet himself never hit a woman and forbade beating one's wife or striking her face.¹⁰⁵ It was also reported by the slave of the Prophet (SAW) that in his ten years that he lived with the Prophet, the Messenger of Allah never for once said to him a word of hurt or any word that suggests annoyance. It was also reported in an *Hadith* that slapping someone across his face is forbidden.¹⁰⁶

It is crucial to understand that these *Ahadith* along with the Qur'an lay the foundation for a balanced and compassionate approach in marital relations. Islam discourages applying physical hitting at all even within the bounds of *Shari'ah*. All of the above *Ahadith* point to the fact that the Prophet's advice was to avoid physical hitting on women as much as possible. Although Qur'an 4 verse 34 permits the husband to discipline his wife as a last resort if she acts contrary to the injunctions of Allah, but, that permission does not extend to beating or flogging her with a cane that can cause her injury because the Prophet warned men not to beat their wives even though it is permissible. Aliyu gave an insight to this as follows:

It is pertinent here to explain that the verse does not give a licence to a man to be bullying his wife any how and any time she commits a wrong or even evil deed. It is only under special circumstance that the husband can resort to that. But, before resorting to that he has to gradually employ the other two measures, namely admonishing and leaving the wife alone in bed.¹⁰⁷

In summary, the Qur'an does not allow Muslims to harm or beat their wives, rather, the beating mentioned in the verse is a symbolic gesture and a last resort to correct a wife's misbehaviour before involving the family arbitrators/judges or initiating divorce. Equally, the above *Hadiths* do not endorse physical harm or disgrace to women. Upon examining the various interpretations provided by scholars, it becomes evident that 'striking' is to be seen as a disciplinary measure without causing harm or pain. Scholars emphasise the importance of using light objects like a toothbrush, handkerchief, the helm of his cloth or palm rather than inflicting injuries with clubs or whips. Striking should not leave any marks or bruises and must not be directed at sensitive areas like the face. These restrictions ultimately prohibit domestic violence and highlight the importance of maintaining a respectful and loving marital relationship.

All schools of law prohibit striking or beating the wife on the face or in any sensitive area likely to cause injury. All, except Maliki jurists, hold that the wife could claim compensation payment (*diya*) from the husband for any injury she sustained. All Hanbali, Shafi'i and Maliki Schools, allowed a judge to dissolve the marriage at no cost to the wife if any harm has been done to her. In effect, any physical harm is a ground for compensation and divorce since the Prophet had limited striking one's wife to a light beating or tapping that leaves no mark on her.¹⁰⁸

Regardless of the interpretation, it is essential to emphasise that Islam completely prohibits and even condemn any or all forms of domestic violence against women whether directly or indirectly and the principles of compassion, mercy and respect for human dignity are central to Islamic teachings. Abusive behaviour towards a woman is also forbidden. Abusing or causing harm to one's

¹⁰⁴ Al-Tabari, Ibn Jarir, *Jamilu Al Bayan An Ta'wil Aayi al-Qur'an Dral-fikr* vol. 5, 68.

¹⁰⁵ *Sunnah Abu Dawud*, Hadith 2137.

¹⁰⁶ *Sahih al-Bukhrari* 2559-Manumission of Slaves – Sunnah.com.sunna.com Retrieved 2021-08-27.

¹⁰⁷ Ibrahim Ahmad Aliyu *Protection of Women's Rights Under the Shari'ah* Dakwah Corner Bookstore (M) Sdn Bhd, pataing, Jaya, 2010, 93.

¹⁰⁸ Jonathan Andrew Cleveland Brown, born August 9, 1977 is an American Scholar of Islamic Studies.

spouse contradicts these fundamental principles and the objectives of Islamic jurisprudence. Islam encourages dialogue, mutual respect and peaceful resolution of conflicts between spouses and any interpretation of these texts should align with these principles.

Overall, Islamic teachings encourage treating women with respect, mercy, compassion, chivalry and kindness, seeking peaceful resolutions to conflicts, promoting a compassionate and just society. Interpretation of the Qur'anic verses should be guided by the principles of mercy, understanding and empathy. Islam does not support, endorse or condone any form of domestic violence or abuse. Domestic violence is universally condemned, morally wrong and incompatible with Islamic principles of justice and kindness. In conclusion, the Qur'an does not sanction violence against wives and beating (lightly) without pain and severity should be seen as a last resort within specific limits rather than a form of physical abuse. Islam uphold the dignity and rights of all individuals, promoting a harmonious and compassionate approach toward family life.

Conclusion and Recommendations

Domestic violence in Nigeria is an issue that affects people of all religions and cultural backgrounds. The paper has demonstrated the gravity of the effect of gender-based domestic violence on women, and on Nigerian women in particular. The paper has discussed the meaning, nature and form of domestic violence. It identifies causes or reasons for domestic violence which include drunk state of spouses, financial issues, frustration resulting from economic hardship, rejection of sexual advances from the partner, success of the woman, controlling behaviour of the husband, infertility, unfaithfulness and infidelity on the part of the woman and so forth. The paper revealed that domestic violence is prominent in Nigeria as in other parts of Africa due to cultural and religious belief which permit beating of a woman as a disciplinary measure.

It has also been shown with evidence of decided cases in Nigeria, that cases of domestic violence are on the increase and no signs of reduction yet regardless of the sage, tribe, religion or even social status. It has also been shown that in Nigeria, women usually face physical violence in the hands of their loved ones, family members, and the society. Although, in some rare cases, men also face similar violence from their wives. The paper has equally shown that the Nigerian government has demonstrated some level of commitment to addressing or eradicating gender-based domestic violence in Nigeria by enacting the Violence Against Persons (Prohibition) Act (VAPP) Act in 2015 which takes a strong stance against all forms of violence. The paper has carefully examined some salient provisions of this statute, therefore, it is discovered that the law imposes severe penalty on the perpetrators of domestic violence. It has been shown that one major measure or strategy for combating gender-based domestic violence in Nigeria introduced by VAPP Act is the issuance of protection orders by the Court of Law against the abusers. It has been pointed out that the court has power under the Act to issue both an interim protection order as well as substantive protection order against the respondent where the court is satisfied that there is *prima facie* evidence that the respondent is committing, has committed or that there is imminent likelihood that he may commit an act of domestic violence.

The paper carefully examined domestic violence under Islamic Law. It explained that Islamic Law principles related to marriage and family life emphasise the importance of compassion, respect, tenderness, caring, kindness, comfort, peace, justice, mercy and mutual understanding between

spouses. The paper examined a number of Qur'anic verses and prophetic traditions govern marital relations and it was revealed that husbands must treat their wives with kindness, honour and respect. Therefore, they must not oppress, disrespect, humiliate, hit/beat or abuse them domestically or otherwise. In addition to this, the paper has further carefully examined the provision of Qur'an 4 verse 34 which confers the right on the husband, where the wife is being disobedient or showing misconduct, disloyalty, or engaging in infidelity or behaviours which are contrary to the Islamic teachings, to first admonish her, then, refuse to share his matrimonial bed with her, where the first and second measures are ineffective, then, to lightly beat her without pain and severity. In order to give proper interpretation to this verse, the paper has equally examined a number of Qur'anic verses, prophetic traditions and views expressed by the Muslim Jurists and commentators of Al-Qur'an.

The study revealed that the kind of beating permitted under Islamic law entails hitting a wife in a symbolic non-violent form. It is indeed not a physical beating. Any beating that is injurious or leaves mark on the woman's body is actionable as criminal offence. If the husband reaches the unfortunate stage of beating, he must use the helm of his cloth or something soft like handkerchief. The finding further revealed that application of disciplinary measures prescribed in Qur'an 4 verse 34 in domestic relationship should prioritise non-violent means of conflict resolution and promote the principles of compassion, respect and understanding within a marital relationship. The study also found that the Qur'an/Islamic law is not in support of violence between the spouses. The writer's major finding is that Islam prohibits and condemns any or all forms of domestic violence within marital relationship and the principles of compassion, mercy and respect for human dignity are central to Islamic teachings. Abusing or causing harm to one's spouse contradicts these fundamental principles.

To foster a balance approach that safeguards women's rights, several recommendations are proposed. These include engaging religious scholars and leaders in promoting a nuanced understanding of Islamic Law, conducting public awareness campaigns to challenge harmful norms, condemning violence within marital relationships by the government and religious leaders and strengthening legal enforcement to hold perpetrators accountable. Relevant organizations should intensify their efforts to increase awareness through public workshops, courses and by offering psychological therapy and matrimonial counselling in a systematic and professional way so as to minimize the occurrence of cases that may result in the use of force. As for the Muslims, it is recommended that every family member should acquire sufficient knowledge of Islamic Law regarding family matters and other aspects of life and implement that knowledge. Finally, both husbands and wives should fulfil their responsibilities within conscientiousness and a sense of piety (tagwa).

By implementing these recommendations, we can create a society that uphold women's rights, respect cultural and religious sensitivities, work towards eradicating domestic violence and build a society where all individuals can live free from fear and harm.

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