

# ANALYSING FEMALE GENDER CRIMES AND THE UPSURGE OF DOMESTIC VIOLENCE AGAINST MEN IN NIGERIA: THE NEED FOR LEGISLATIVE EQUILIBRIUM

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## ABSTRACT

*The traditional view is that crimes are committed by male, and that males are generally more violent than females. The rise in cases of domestic violence by female against male in spousal relationship is a contributory factor to murder of men in Nigeria in recent time. More worrisome is that penalty provision for spousal battery has not deterred offenders in this regard. The paper adopts the doctrinal research method by utilizing source materials in contextualizing in particular the upsurge in domestic and gender based violence in spousal relationship against men in Nigeria. Apart from revealing that there is an upsurge in the death of men in spousal relationship, the lack of uniformity in the application gender based violence legislation in Nigeria may have exacerbated the rise in female criminality in spousal relationship. It advocates for the uniform application of the Violence against Persons (Prohibition) Act, 2015 in Nigeria, as well as an amendment of section 19 dealing with spousal battery to include life imprisonment as the punishment where the offence relates to murder of a spouse.*

**Keywords:** Crime, Spousal Relationship, VAPP Act, Domestic.

## INTRODUCTION

Liability for murder or culpable homicide is gender neutral. Irrespective of the gender of the accused person or defendant, the offence of murder applies without discrimination to all persons charged with the offence. The criminal law system of Nigeria and elsewhere knows no distinction between gender sexes, and this position has reinforced its notion as objective and neutral. It is worthy of note however that it will be safe to tread on the part of caution that no matter how good a criminal law system is, it is likely to be fraught with challenges (Ozuru & Ogunwande, 2020). By being presumably gender neutral or silent about the role of gender vis-a-vis the liability of female offenders, the criminal law neglects or throws a blind eye to the vagaries that characterizes the criminal liability of the female gender compared to crimes committed by male genders. Currently, the trend has taken an upward surge, with female crime in Nigeria mostly in spousal relationship. Historically, statistics have revealed that crime is ascribed to male gender globally. For instance, in the U.S, it is common to have the rate of arrest to be five male to one female, the rate of conviction is ten male to one female, and the rate of committal to correctional institutions of all types is fifteen males to one female (Ameh, 2013). The above position is no less different in Nigeria where a study conducted at Enugu prison in 1988 shows that out of a total inmate population of 1,700, only 4 percent were females, while 96

percent were males. Also, the report from the World Prison Brief further alluded to the fact that over 72 percent of prison inmates in Nigeria are male, while 1.9 percent is female.

In addition, the National Bureau of Statistics, Nigeria, in its 2021 report reaffirm the assertion that females commit crime less than males as people's perception is that committing crime is for male, as such, many efforts to explain crime have been male centered (Ameh, 2013). Outside these prison walls, the same cannot be said today as the number of women taking lead role in crimes is increasing daily mostly in a criminal justice system like Nigeria that is plagued with a myriad of problems. Since the last two decades, Nigeria has been witnessing unprecedented rise as well as sophistication in criminal activities. Hardly any day passes without reports of crime and criminal activities in the news media as they happen in different parts of the country. Although rise in crime cuts across all sexes and children, it is the rise in crime amongst female gender in spousal relationship that is on an alarming rate and worrisome. Aside the Nigerian criminal justice system which punishes offences of all forms of offences regardless of gender, the Violence against Persons (Prohibition) Act, 2015 (VAPP Act) is laudable for punishing gender based violence in Nigeria. Nonetheless, the section 19 (1) dealing with spousal battery and the punishment thereto has not deter the upsurge of gender based violence particularly the male sexes in Nigeria. In addition, the lack of uniformity in the application of the VAPP Act in Nigeria may have exacerbated the upsurge, as some States in Nigeria are yet to domesticate gender based violence legislation. In the light of the above, the paper is divided into seven parts. Part one introduces the paper by discussing the statement of the problem, while part two focuses on the role of gender and crime by e-raying the rise in gender based violence among female. Part three on the other hand took an in-depth analysis of murder with a view to showing the rise in female homicides. The causes and rising in gender based violence against men in Nigeria is the focus of part four. The VAPP Act and the lack of uniformity in the application of the Act to stem the tide of gender violence against men in Nigeria are analysed in part five. Part six offers some recommendations while part seven concludes this paper.

## **Role of Gender and Crime**

According to Hussein (2018), gender refers to the social construction of women and men, of femininity and masculinity, which varies in time and place, and between cultures. Early notion of gender appeared in the seventies and was put forward by feminist theorists who challenged the secondary position of women in society. It departs from the notion of sex to signal that biology or anatomy is not a destiny. Gender, as a social construct role is visible in the criminal law. It does not see the woman as an autonomous, different subject or consider the particularities of a feminine world in terms of language, body, work, nature and culture. Due to this gap, offences are male-defined without accommodating the specialties of women. In relation, the legal process translates everyday experiences into legal relevance. It excludes a great deal which might be relevant to the parties and makes judgment on the structured account. Hence, it disqualifies alternative account of social realities of women. The role of females in a society cannot be over emphasized; it can also not be under emphasized. They are a very important part of the existence of societies. Their role in social division of labour and in the process of socialization is a guide to the way they are perceived in a society and by the male gender. Female gender and crime is a current topic that makes the headline news. This is due to the traditional view that female gender participates less in crime than the male gender (Chesney-Lind, 1986). Thus, when a female

commits or is accused of committing a crime, it tends to make news or raises eyebrows. Current trends seem to place ample credence on the traditional view that the numbers of female offenders remains insignificant in size although there is some evidence of increase in female crimes and criminality (Ebeniro, 2011). This is borne out of the fact that the notions of crime and punishment are best left to the courts, law makers and law enforcement. Crime, in the sense of criminal offence, is an intentional act committed in violation of criminal law (statutory or case law) without defense or jurisdiction against the state authority proscribing it as a felony, misdemeanor or simple offence (Iwarimie-Jaja, 1995).

Gender is one of the most important predictors of criminal behavior, if not arguably the most important. Feminist criminologists, while placing women in the center of their study and research, are seeking out ways of explaining why women engage in certain crimes and the consequences such actions (Sharp, 2006). There is a body of literature which states women tend to engage in some types of crime or criminal behaviour as against the types committed by their male counterparts due to several motivational reasons or factors. For example, it is well known that women engage in victimless criminal activity, such as prostitution, more than men. Women tend to feature in this kind of criminal behaviour which has been attributed to the “*feminisation of poverty*” thesis. Put simply, a poor woman would commit crime in order to put food on the table for her children (Walklate, 2013).

An analysis of types of offending behaviour or offences shows that some types of crimes are dominated by men while others by women. Men are more prone to commit crimes such as robbery, sex offences like rape, theft and drunkenness while crimes such as prostitution are dominated by women. This trend raises the question of why would women engage in certain types of crime or criminal behaviour as against types by men? The key point is that women do not offend as much as men and that their offending behaviour is of a less serious nature (Ebeniro, 2011). In trying to explain why women engage in certain types of crimes as against others which are done by men, some proponents have argued that when females engage in crime they almost always do so for instrumental reasons and their crimes rarely involve risk of physical injury. This is because females evolve a propensity to avoid engaging in behaviors that pose survival risks. Also, according to others, females are concerned with creating and maintaining close bonds and relationships with others thus they engage in lower rates of property and violent crime (Broidy & Agnew, 1997).

### **Analysis of Gender Crime**

Science is now validating and recognizing what observers of domestic violence have always long recognized that female victims of domestic violence are not likely to respond to physical violence in the way that the law presumes that they should. The law recognizes running away or hitting back as legitimate responses to violence but in recognizing these responses, it exhibits male bias. Like most people with rudimentary knowledge of traditional biology, the law has assumed that the typical response to stress is an adrenaline induced fight or flight response. However, scientists have now identified significant gender differences that challenge the ubiquity of this response. In the late 1990s, researchers began to recognize that virtually all of the experiments measuring and observing the fight or flight response had used only males as subjects (Taylor, 2004). When experimenters began focusing specifically on women’s responses to stress or comparing male and female reactions, they found a new response, which they labelled “*tend*

*and befriend*” (Taylor, 2004). One who tends and befriends in times of stress reacts by reaching out to support groups and taking particularly good care of dependents (Taylor, 2004). Thirty studies have examined the differences between how males and females react to stress and all thirty shows that women draw more on social support than do men in times of stress. As psychologist Taylor concludes, “*The difference between women’s and men’s inclination to turn to social groups in times of stress ranks with giving birth as among the most reliable sex differences there are*” (Taylor, 2004).

The key chemical to this observed difference is a hormone called oxytocin, which is released at times of intense emotional attachment, such as when falling in love, when in labor or nursing (Taylor, 2004), and when experiencing certain stressful events (Taylor, 2004). Oxytocin makes people feel as though they have bonded with one another (Johnson, 2004). Although both men and women release oxytocin, the chemical called estrogens enhances its effects, while androgens like testosterone which increases in times of stress block oxytocin effects (Taylor, 2004). Because women have higher estrogens levels than men and men have higher testosterone levels than women, oxytocin affects men and women differently (Taylor, 2004). The way oxytocin interacts with estrogens indicates that women might be chemically more likely to feel attachment than men. This has obvious implications for a woman’s brain chemistry when the man she loves turns violent. Even while he is hitting her, her body chemistry could be driving her to reach out to him, stay where she is, and protect those within her care. The data on oxytocin is new and still developing however its usefulness cannot be taken for granted. One cannot truly find fault in traditional criminal law for not having a twenty-first century understanding of neurochemistry. But one can fault the criminal law for not incorporating a clear emotional difference between men and women; what biochemistry can now only begin to explain was capable of observation a long time ago (Huffer, 1948).

Criminal law presumes that a woman’s decision to leave an abusive situation should be easy. But many women understand the harsh reality of what it may mean to leave. They realize that they may well be risking greater physical danger. They may also be risking increased financial hardship (Mahoney, 1991). The long-term nature of the cycle of violence may also make it more difficult for a woman to extricate herself because periods of reconciliation, hope and mutual emotional attachment are often intermingled with violence (Walker, 2016). The decision to leave is thus far from easy. The battered women’s syndrome attempts to give a defense to women who fail to leave their abusers and eventually retaliate against them by explaining how the violence these women suffer can make them uniquely captive. However, it still paints a simplistic emotional picture, one of a woman who is helpless, not one who is struggling (Schneider, 2008). Expert testimony on battered women’s syndrome generally focuses on women’s “*learned helplessness*” and passivity (Schneider, 2008). It tells the story of a woman who is so broken that she no longer cares that she is mistreated. This defense often fails because when real women get into court, the jury hears a story of a woman who struggles emotionally if not physically. Such struggles show signs of initiative and urgency that are inconsistent with battered women’s syndrome (Mahoney, 1991). When the woman fails to choose the emotionally simplistic background option-leave-or conform to the emotionally simplistic alternative-give up completely-the law has no place for her and thus assumes that she must be culpable when she finally fights back (Fagman & Wright, 1997).

It is thus pertinent to highlight that the absence of an adequate legal interpretation of women's experiences with domestic violence stems from the criminal law's failure to recognize emotional complexity. A battered woman often does not come to experience just one feeling of helplessness; she is likely to experience an extensive range of emotion, including anger, love, hope, attachment, frustration, fear and pain. A litigation strategy that tries to define this emotional complexity as a simple, uniform reaction is bound to fail. It is pertinent to state that while the analysis depicts western experiences, there is a dearth of scholarly analysis of an expanded research on gender crime in developing countries. Nonetheless, the paper will argue that there is an upsurge of gender based violence that is taking a reverse trend in Nigeria but this time it against men.

### **Analyzing the Causes and Upsurge of Gender Based Violence in Nigeria**

Events in pre-colonial era in Nigeria exemplify women as nonviolent, and contented with their pacifist role in the society (Chukuezi, 2006). Citing the Igbo tribe of Eastern Nigeria, Chukuezi observed that, the lower incidence of reported crime committed by women during the pre-colonial period according to some researchers is attributed to their restricted social roles, the mechanism for enforcing moral codes and the rural based pattern of living. However, with the advent of British rule, factors such as money economy, emergence of private property, employment, have been attributed to the changes of social and economic lives of women thus bringing about a turnaround in the mentality and perception of women in colonial era. Adler (1975), Chukuezi (2006) agreed with their views that there is a relationship between the changing roles of women and the increase in the number of crime they commit. The point is further buttressed thus: As labor force participation increases, opportunities to engage in criminality by women should expand for them as well, in particular, financial and white-collar offences ought to become more common on the part of women. It will also not be out of place to find women who migrate from rural areas to urban cities and get involved in bad habits and commit crimes.

Although the fact remains that women do not generally have criminal tendencies in their nature like men, as there are still more men committing crime than women. (Ozuru & Ogunwande, 2020) while using the United States of America and Nigeria as case study held a contrary view to opine that female criminality is on the drastic rise thus: In the United States of America, the rate of men to women in arrests is in the ratio of 5:11, conviction 10:1 and actual committal to prison is 15:1.14. In Nigeria, following a study conducted in Enugu prison in 1988 by Igbo statistics show that women make up only 4 percent of the total inmates of 1,700, while men were 96 percent of the total population. This gives the impression that, as at three decades past, men were still more into crime than women were. Nevertheless, this impression is changing, as women seem to be leading in criminality daily (Ozuru & Ogunwande, 2020).

Offences such as such drug trafficking, armed robbery, kidnapping, human trafficking and corruption which were normally male dominated offences are now being ascribed to women. For instance, women are more likely to be in the lead and leaders of criminal organizations in the offence of human trafficking compared to men. The above position was amplified by (Wijkman & Kleemans, 2019) thus: Over the period 2011–2015, the Dutch Public Prosecution Service registered a total of 1332 suspects of trafficking in human beings. On average, 17 percent (N=227) of the suspects were women. In the Netherlands, this man-woman distribution of

roughly 5:1 is more or less the same. Worldwide, 38 percent of the suspected perpetrators of human trafficking are female. Women from Central Europe and East Asia are even twice as likely to be a suspect of human trafficking as men (68% *versus* 32%).

With such rate of criminality now reaching its crescendo, it will not be out of place to argue that females are as criminally minded as their male counterparts, regardless of the indications of official criminal statistics (Ameh, 2013). Ozuru & Ogunwande (2020) on the other hand agrees with the above view noting that the surge in crime in the society today does not exempt any gender and includes children. The question which necessarily follows is that what could be responsible for the rise in female criminality in Nigeria? Nigeria has been witnessing unprecedented rise in sophisticated criminal activities. Hardly any day passes without reports of crime and criminal activities in the news media as the phenomenon has become a daily occurrence in the different parts of the country (Otakey et al., 2021). While there are no generally acceptable reasons for the upsurge in female criminality in Nigeria, analyzing a few would buttress the aim of this paper.

As Otakey et al. (2021) believes that the causes of rise in female criminality in Nigeria may be Social, Cultural, Psychological, and Economic factors. Other factors closely related to the above still subsist and have made more headlines in Nigeria. For instance, lack of trust in matrimonial relationship has made female criminality topical in recent times in Nigeria. Nonetheless, the views of (Otakey et al., 2021) will explain the position of this paper better. From the point of socio economic factors, it is believed that when the social status of women provides parity with men, their crime patterns and frequency will more seem like those of their male counterparts, which has been linked on the association between the startling rise in Female Criminality and the women's liberation movement and new feminism (Otakey et al., 2021). The position of Yusuf is equally helpful in looking at the historical connection to socio economic factor as responsible for the rise in female criminality thus: The general socio-economic condition that nurtured the increase in crime rates generally in the post-independence era equally have the necessary impetus for the growth of female criminality in the country. Prior to that and amongst other factors, the difficulty in securing farmland in the rural areas brought about the migration of women to the urban centers. However, with the oil boom; this took a new dimension. It could be recalled that this phenomenon induced the expansion of the urban wage sector. The doubling of urban areas in the space of few years seemed to offer women more opportunities and hope for a better future. In addition to this, increased money in circulation in the urban areas have woman with no formal education the opportunity to take out a living form trading. What is more, expansion of infrastructure and the need for more manpower in the oil dominated economy resulted in women, who had formal education finding some employment in both the public and private sectors as clerical workers, secretaries, nurses and teachers. These increased opportunities, though still low when compared with those of men, contributed to the growth of female criminality.

Today, women are not only clerical workers, secretaries, teachers anymore. Women have contested for presidents, heads of national legislative positions, won and have occupied same positions in what seem to be the exclusive preserve of men. Another factor adduced for increase in female criminality in Nigeria is that of biological factors, wherein it is argued that women participate in criminal behaviour due to some biological incompatibilities (Otakey et al., 2021). It is opined that due to the internal physio-chemical characteristics, the females are more

conservative and play a neutral role; consequently, committing less crime than male (Otakey et al., 2021). It has also been argued that there is nothing particularly inherent in the human biological sex that predisposes men or women towards crime, as there is no concrete and proven evidence that reveals that the inherent personality predisposition of women and girls is quite different from that of men and boys (Rasheed et al., 2016). This further gives credence to the above position that in terms of personality, for example, it is not uncommon to see females committing crimes. Also, not all males are involved in crime (Rasheed et al., 2016). While this may be correct, factors such as poverty, childhood abuse, peer influence, relationship instability may have contributed to the rise in female criminality in Nigeria. For instance, child trafficking offences is on the rise in Nigeria particularly in the eastern part of the country. Facing family discomfort, a woman paid two million naira (approximately \$3,600) for a male child in a “*baby factory*” in Aba, Abia State of Nigeria. This is in addition to reported cases of “*baby factory*” where women are paid to produce children for trafficking (Eseadi et al., 2015).

More worrisome is the factor as Penis Envy that may accounts for the current rise in female criminality in Nigeria, mostly as it relates to matrimonial or spousal relationship. This factor is attributed to the fact that female crimes take place in various forms and in different contexts, from family, community, religion, schools though to political institutions (Hussein, 2018). At the family level, women are engaging in a variety of domestic violence against husband, relatives, adopted children, rivals and rival’s children (Hussein, 2018). A typical example was the case of Maryam Sanda, who saw a text message on her husband’s phone by another woman, stabbed him to death out of sheer jealousy, and on the grounds of extra marital affair. This trend is on the rise in Nigeria but surprisingly, it is not given the media coverage compared to domestic violence against women by men. As opined thus: Although the subject of domestic violence against men is gaining increasing popularity, it is still treated with less importance, especially in comparison to violence against women. This could be attributed to a number of reasons; one of which is underreporting. Underreporting of incidents where men are abused by their partners is a major problem. The norm, particularly in Nigeria, is that most men hardly report such cases because they fear they may be perceived as being less masculine. Sadly, some cases have seen the brutal end of victims who died from it.

In addition, the lack of reporting of gender based violence against men by female may account for another reason for the spike. As Olarinmoye et al. (2013) observed: Obviously, many cases of Domestic Violence Against Men (DVAM) were not reported by those respondents who experienced it. To some people, the concept of domestic violence against men is so unthinkable that men often end up choosing to stay quiet if they become victims of domestic violence. In this study, perceived barriers to seeking help included pride, avoiding embarrassment, culture, lack of awareness, and psychological depression. In support of this, male domestic violence victims may be reluctant to get help for a number of reasons, or just not willing to complain. Because the society perceives the man as the stronger sex, there is tendency for law enforcement and the criminal justice system to perceive female intimate violence perpetrators as victims rather than the actual offenders of violence against men, or believe that the man was just aggressive. When and if men do report, the men were often treated as the aggressor in the situation, and often even placed under arrest. In addition, the African patriarchal system often influences how men feel and furthermore, the fear of being ridiculed or judged negatively by the rest of society and this

could make men not to complain. Many men that reported their abuse to the authorities often face social stigma.

The above view is no less different from the position of Adetoro when it further observed thus: Men are seen and expected to be tough and dominant in an intimate relationship or family, and this inhibits them from sharing and reporting domestic violence and abuse. In the past, when men tried to relieve or express their struggle or frustration within marriage and family, they were scarcely listened to and perceived as being weak or lazy, so many are ashamed of washing their dirty linens in public and would rather suffer in silence. At best, they would discuss it in private; in fact, very few Nigerian men who have been a victim of domestic abuse will admit to their extended family members that their wives have ever beaten them. This situation is similar to what exists in India; in fact, it is regarded as a taboo and the men would be laughed at.

### **Is there A Case of Domestic PR Gender Based Violence against Men in Nigeria?**

The term domestic violence though has attained the notoriety with its avalanche of definitions, it is worthy of note to espoused some of the meanings ascribed to the words. Violence is the use of physical force usually accompanied by fury, vehemence or outrage, especially physical force unlawfully with the intent to harm Black's Law Dictionary. When gleaned from Sect. 1 of the VAPP Act, the vagaries of definitions of violence thus: "*violence*" means any act or attempted act, which causes or may cause any person physical, sexual, psychological, verbal, emotional or economic harm whether this occurs in private or public life, in peace time and in conflict situations: "*violence in the private sphere*" means any act or attempted act perpetrated by a member of the family, relative, neighbor or member of a community, which causes or may cause any person physical, sexual, psychological, verbal, emotional or economic harm; "*violence in the public sphere*" means any act or attempted act perpetrated by the State or non-State actors before, during and after elections, in conflict or war situations, which threatens peace, security and well-being of any person or the nation as a whole; supports the view that the definitions is robust and wide enough to cover both possible and conceivable areas of violence against men, women, children, and political violence both in normal and abnormal situations.

Domestic violence on the other hand is violence between members of a household usually spouses; an assault or other violent act committed by one member of a household against another Black's Law Dictionary. Adetoro citing (Susmitha, 2016) sees domestic violence a complex pattern of behaviors, incidents or pattern of incidents of controlling, coercive or threatening behaviour, violence that may include, physical, psychological, sexual or financial and emotional abuse that takes place within an intimate or family-type relationship and forms a pattern or coercive and controlling behaviour. Whether from scholarly or statutory meaning ascribed to the term violence or domestic violence, there is the already perceived consensus that domestic violence apart from been repetitive and life-threatening (Kaur & Garg, 2008), and well recognized major public health problem (Hegarty et al., 2000), it is generally believed that women experience domestic violence at far greater rates than men do.

There is no denying the fact anymore that domestic violence affects people from all walks of life, and it is neither unique to women nor a gender issue. It is a human social problem that requires broad attention from different disciplines. Amplifying the position adumbrated above, Adetoro observed thus: This is a major variable that has been ignored for a long time, and

it is not begging for attention, rather it is seeking urgent intervention because of its likely adverse effect on social formation. In simple terms, men are equally victims of domestic violence or silent victims of intimate relationship violence. According to a report by men's rights campaign group Parity, Men assaulted by their partners are often ignored by police, see their attacker go free and have far fewer refuges to flee to than women.

This credence to the plethora of recent domestic violence cases in Nigeria as exemplified thus: The deceased husband of Maryam Sanda, Bilyaminu Halliru Bello (Hussein, 2018), the late Emmanuel Ikujuni, who was hit on the head with a plank by his wife, Queen Beatrice for speaking with another woman on the phone in her presence and the 25 years old Salisu Shamsudeed stabbed to death by his 19 years old wife, Rabi Shamsudeed at Danjanku village, in Malumfashi local government area of Katsina State and the case of Symphorosa Otiike-Odibi, a Lagos based lawyer stabbed to death and his genital mutilated by his lawyer wife, Udemé amongst others is evident that cases of domestic violence and gender based violence is on the rise in Nigeria, and against men. According to Aghedo *"more than ever, we need to emphasise that every domestic violence case is a potential murder case and survivors, religious leaders, family members and the community at large must be aware of the fact that we are dealing with lives and early reporting is critical."* It is strongly believed that the appropriate response by governments, policymakers and NGOs will be to strengthen existing legal frameworks to reduce the upsurge of domestic and gender based violence against men mostly in spousal relationships.

### **The Need for Legislative Equilibrium**

While it is no longer debatable that the tide has turned towards domestic violence against men in Nigeria, the plethora of legislation both at the international, regional and national levels view domestic violence as a crime against women. This is because the position of authority and superiority accorded the male gender in the African culture and elsewhere tend to give credence to the belief by many people that domestic violence perpetrated by women on men is non-existent in this environment (Olarinmoye et al., 2013). It is not surprising that at the realm of the UN, the Convention on the Elimination of all Forms of Discrimination against Women (CEDAW) is hailed as an international bill of rights for women, apart from defining what constitutes discrimination against women, sets up an agenda for national action to end discrimination against women. While this convention was a welcome development considering its laudable achievements, there is currently no similar convention to stem the tide of domestic violence by women against men. In addition, the Protocol to the African Charter on Human and Peoples Rights on the Rights of Women in Africa further reaffirms the provisions of CEDAW by enjoining all State parties to ensure the elimination of all forms of discrimination against women. While it is submitted that violence against women still persist, incidences of domestic violence perpetrated by their partners have been reported by men both in developed countries and some developing countries (Olarinmoye et al., 2013) whereas this is not the case in Nigeria.

In furtherance of the above, and the fact that the provisions of the above instruments have been domesticated by Member States, scholarly works in this area have amplified the case of discrimination and gender based violence against women without any similar recommendations for the promulgation of laws to prevent gender based violence against men. Scholarly works have also followed this trend which is not out of place. Ekhatör (2015) noted that women in Nigeria face many challenges and discrimination under some Nigerian extant laws, and focused

on some of these laws and their impacts on women in Nigeria. The reason for this can be found in the still age-long notion canvassed above that men commit more violence on women than women on men. It is not surprising therefore that the absence of laws to stem the tide of gender violence against men by women was clearly absent in his final analysis (Ekhaton, 2015). In addition, if laws as an instrument of change is definitely an indispensable weapon in the hands of legislators and policymakers in Nigeria why is there no legislation to stem the tide of gender violence against men by women in spousal relationship in Nigeria which has seen an upsurge in recent times?.

A perusal of the provisions of the VAPP Act, and the criticism against its original nomenclature (Ekhaton, 2019), reveals that there is only one provision dealing with spousal battery, that is section 19 (1). It 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 three years or to a fine not exceeding N200,000.00 or both. The section fails to take into consideration of cases that goes beyond battery, as in the case of death of a spouse, or reference to gender violence that may lead to murder in spousal relationship. Although the confirmation of death sentence by hanging of Maryam Sanda by the Court of Appeal in Nigeria will serve as a deterrent to persons involved in gender based violence in spousal relationship, this paper does not support the use of death sentence as a form of deterrence. It is thus submitted that the gaps in a recent legislation such as the VAPP Act may still exacerbate female gender crime in Nigeria if a review of the punishment section for such offence where the crime relates to murder of a spousal partner is not reviewed. It is on the basis of this that this paper also aligns with the views of Justice Mustapher who observed thus on the need for existing laws to reflect the changing realities of societal needs: The challenges of societal growth, demands and dynamisms are tackled through the instrumentality of the law. In fact, law does not only change with societal changes, but actually initiates the changes in society. Hence, law's indispensable role as a veritable tool for social engineering (Ekhaton, 2019).

In addition, the current lack of uniformity in the application of the VAPP Act across Nigeria may have contributed to the recent upsurge in female criminality and gender based violence against men in Nigeria. The VAPP Act under Section 47 only applies to the High Court of the Federal Capital Territory (Abuja), being federal legislation enacted in regard to criminal law (Ekhaton, 2015). The reason for this is that criminal law in Nigeria is a matter listed on the residual list of the Constitution. A residual matter is one over which the states in Nigeria have power to make legislation exclusively. Buttressing this position, observed thus: Ever since Nigeria became a federation, the power to make laws for the creation of offences generally, as well as for providing for the procedure in criminal trials, has always been a matter usually reserved exclusively for the States. This was on the basis that it was a residual matter that was not contained in any of the legislative lists. The 1954, 1960, 1963 and 1979 Constitutions contained this arrangement, which was also adopted under the 1999 Constitution (Olarinmoye et al., 2013).

This has made the VAPP Act of little relevance in curbing domestic and gender based violence in spousal relationship across the entire federation. Notwithstanding its defects, however, the Act is a radical intervention that is poised to have a profound effect upon the protection of Women in Nigeria. Thus far, only nine states in Nigeria are yet to domesticate the VAPP Act. While this is a welcome development, more still needs to be done to curtail the

upsurge of domestic and gender based violence mostly as it relates to the death of men in spousal relationships in Nigeria.

## CONCLUSION

According to the findings majority of respondents agreed that gender violence against men is a new and upcoming development in Nigeria. That been the case, and with the number of rising cases of domestic violence against men, the appreciable contributions of both of international instruments such as CEDAW and the Maputo Protocol in driving home the issues of all forms gender discrimination against women is very well acknowledged. In addition, the provision of VAPP Act is a step in the right direction in the elimination of all forms of domestic and gender based against men including in cases of spousal relationship. It on the basis of the above that the paper re-echoes the need for the amendment of section 19 (1) to include a life imprisonment as punishment for any domestic or gender based violence that leads to the murder of a spouse without an option of fine. In addition to the above, all states yet to domesticate the VAPP Act should be encouraged to do so with the inclusion of the proposed amendment to section 19 (1) of the VAPP Act. There is also the need for value orientation by the various government information agencies and media houses to draw the attention of the private and general public on the dangers and threat posed by the current upsurge of domestic and gender based violence with respect to spousal relationship in Nigeria.

It is in this regard that a database for recording and reporting of crime for both male and female offenders be created under the Federal and States Ministries of Justice as a way of guiding the media houses on the rising trend in gender based crimes. The level of gender based violence and discrimination against women cannot be over emphasized anymore. This has led to the introduction of several international, regional and national instruments which has seen a decrease in gender based violence and discrimination against women. However, with the recent upsurge in female criminality particularly those relating to gender based violence against men in spousal relationship in Nigeria, it is submitted that domestic violence against men is not uncommon in Nigeria. With the general awareness in this area spiked by the Maryam Sand's case, there is the need for uniform application and enforcement of gender based violence legislation in the Nigerian criminal law system in all States of the Federation. More importantly, the penalty provision on spousal battery should be amended to life imprisonment for gender based violence regardless of the sex of the accused person in Nigeria to stem the tide of gender based violence.

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