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**Effectiveness of Legislation Enacted to Address Violence against  
Women in Nigeria**

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

### **List of Acronyms**

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

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### **Introduction**

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

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

Growing evidence shows that a large proportion of women and girls in Nigeria are subjected to violence by family members, acquaintances, and strangers. Violence against women is often fueled by longstanding social and cultural norms that reinforce its acceptability in society – by both men and women. Women are beaten and inflicted with injuries by men who are supposed to be their husbands. Worse still some provisions of the laws such as section 55 of the Penal Code, Laws of Northern Nigeria<sup>2</sup> which allows a husband to beat his wife for the purpose of correcting her, tend to encourage violence against women in the family.

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

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

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

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

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

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

### **Different Forms of Manifestation of Violence against Women in Nigeria**

In addition to pushing, kicking, hitting, punching, burning, stabbing, throwing of hot water or sulfuric acid and wounding, to killing in extreme cases, forms of physical violence include harmful traditional practices such as female genital mutilation, child marriage, oppressive widowhood practices, levirate marriages/wife inheritance, and denial of inheritance. Sexual offences which are also prevalent include rape<sup>4</sup>, marital rape<sup>5</sup>, incest, indecent assault<sup>6</sup>, sexual harassment in the work-place, forced pregnancy, trafficking in women, deliberately infecting women with HIV/AIDS, etc. Violence by state actors such as rape and indecent assault by police and security forces, torture of women in custody etc. are common in Nigeria.

A large percentage of women in Nigeria have not only been physically abused, they have been subjected to ongoing emotional or psychological abuse - a form of violence that many battered women consider worse than physical abuse. Psychological or emotional violence includes repeated verbal abuse, harassment, confinement and deprivation of financial and personal resources, repeated threats to send victim away from her matrimonial home, men going away from home and leaving the children and mother without any support, in-laws and relations of the husband tormenting the wife and the power they wield determine the fate of the wife in the family and control of contact with family members. Other forms of psychological abuse are sex selective abortion linked to

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*and STDs*, vol. 13. no. 12, pp. 709-716, December 1999.

<sup>4</sup> In rape cases the burden of proof required by the criminal code is so high that victims rarely succeed in securing a conviction of the accused persons in court. Religious laws are often manipulated and misinterpreted by institutions to suit them and to the detriment of women.

<sup>5</sup> The Nigerian Marriage Act specifically provides that Marital Rape is not a crime.

<sup>6</sup> A man who forcefully has sex with a woman/girl in any other way other than penetrating the vagina (e.g. oral sex) has also committed a crime known as **indecent assault**.

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

### **Existing Legal Framework on Violence against Women**

Before 2003<sup>7</sup>, there were no national laws expressly or specifically protecting the rights of women against violence. Where there is a semblance of protection, they are often inadequate, discriminatory or limited by virtue of the undue burden placed on the victim. Remedies under criminal law are confined to the prosecution and possible conviction of the offender. The most commonly used provision of criminal law in dealing with cases of violence against women is Section 383 of the Criminal Code of Nigeria. The provision prescribes a maximum punishment of three years imprisonment on conviction for assault occasioning harm.

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

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

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Penal Code provide punishment for violent acts but the system refuses to deal with violence in the home as crime. It is put in the private realm.

The punishment for rape in the Criminal Code (CC) is life imprisonment with or without whipping<sup>8</sup>. However, under section 357 of the CC, the law requires corroboration<sup>9</sup>, which makes proof of the offence an arduous task. Furthermore, while indecent assault on a girl under 16 years is a misdemeanor (simple offence), the same offence on a male child is a felony and carries stiffer penalty under the CC<sup>10</sup>. Section 221 of the Criminal Code provides penalty of 2 years imprisonment for unlawful carnal knowledge of a girl being above 13 years and under 16 years of age and makes it a defense under the section that the accused *person* believed that the girl was above 16 years. It further provides that prosecution must have begun within 2 months after the offence was committed and there must be corroboration to secure a conviction. It will be extremely difficult to secure a conviction against an offender under this section. In the first place, if prosecution does not commence within two months after the offence was committed, it lapses. Secondly, it is usually difficult to have independent eyewitnesses in offences of this nature, so corroboration is almost impossible. The charge is always most likely to fail. Finally, it is always easy to prove that the victim looks older than her age. Even where there is a conviction and sentence under this section, it cannot serve as a deterrent, because the offender will readily pay a meagre fine in lieu of imprisonment.

Rape is criminalized in the *Sharia* Penal Laws which were introduced from 1999 and are in force in twelve Northern states of Nigeria. It however does not provide sufficient protection or redress for women and girls who have been raped and it discriminates against married women and girls.<sup>11</sup> The definition of rape falls short of the principles

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<sup>8</sup> Section 351 of the Criminal Code, Laws of Nigeria .

<sup>9</sup> This means the requirement of additional evidence to substantiate, support or validate the evidence of the victim.

<sup>10</sup> Section 360 of the Criminal Code, Laws of Nigeria .

<sup>11</sup> Under the Kano *Sharia* Penal Code rape carries different penalties according to the marital status of the perpetrator. It is punishable with death by stoning if the perpetrator is married, and caning and up to life

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underlying the Rome statute definition. As in the CC, sexual intercourse by a man with his wife without her consent is not rape.

The National Assembly passed the Anti-Trafficking Act (Trafficking in Persons (Prohibition) Law Enforcement and Administration Act) in 2003. The bill for the Act was initiated by the wife of the Vice President of Nigeria, Hajia Titi Atiku Abubakar through her pet project – the Women Trafficking and Child Labour Eradication Foundation (WOTCLEF), an NGO working towards combating trafficking in Nigeria. The government (i.e. the executive) followed suit and established an implementation agency - the National Agency for the Prohibition of Traffic in Persons (NAPTIP) with the responsibilities of enforcing all the provisions of the law, coordinating all other laws against trafficking in persons and adopting other measures to ensure the eradication of trafficking in persons. The Agency is headed by an Executive Secretary.

In 2005, the Act was amended by the legislature to increase penalties for traffickers. Examples of offences under the Anti-Trafficking Law include procurement of persons for illicit sexual intercourse with another (10 years imprisonment), procurement for prostitution (14 years).

Some provisions of Nigerian laws, instead of protecting women from violence, reduce their ability to escape violent relationships. For example, under the Matrimonial Causes Act, one of the grounds for the dissolution of marriage is irretrievable break down of the marriage. Section 15 lists a series of conduct, the result of which the petitioner cannot reasonably be expected to live with the respondent, one of which is cruelty. Others include physical assaults, humiliating treatment, etc.<sup>12</sup> To secure a divorce on ground of

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imprisonment if the perpetrator is unmarried. If a woman who alleges that she has been raped fails to produce 4 witnesses to prove the rape, she is liable to imprisonment for one year or up to 100 lashes.

<sup>12</sup> As a general rule, the courts do not consider a single act of cruelty sufficient to evoke the application of that section of the law. It has to be a behaviour pattern based on cruelty which leads the court to infer that cohabitation can no longer subsist between the parties. For example, it has been held that where on the same occasion, the respondent beat the petitioner, pushed her down and locked her up, the acts did not amount to that sustained behaviour envisaged by section 15 (2) (c).

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

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

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

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<sup>13</sup> Section 16 (e).

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(Prohibition) Law 2000, Rivers State Abolition of Female Circumcision Law No. 2, 2001, Ogun State Female Circumcision and Genital Mutilation (Prohibition) Law 2000, Ebonyi State Abolition of Harmful Traditional Practices Against Women and Children Law No. 10 of 2001 etc. These laws have criminalized FGM and prescribed penalties for offenders. It must also be pointed out that most of these laws are very scanty, having been pruned down by legislators before passage, and do not provide adequate protection for women.

On widowhood practices, the following laws which make it unlawful to infringe on the fundamental rights of widows and widowers were passed: the Enugu State Law on the Prohibition of Infringement of Widow's and Widower's Fundamental Rights Law No. 3 of 2001; the Oyo State Widows' Empowerment Law, 2002; the Anambra State Malpractices against Widows and Widowers (Prohibition) Law in 2004; Edo State Inhuman Treatment of Widows (Prohibition) Law 2004; and the Ekiti State Widowhood Law.

### **Administration of Justice Sector Reforms**

Following agitations from civil society organizations over the poor status of human rights protection in Nigeria, the government embarked on a series of sector reforms including the justice sector. A committee headed by a retired Supreme Court judge was set up to make recommendations for reform of the administration of justice sector. This committee worked with the Law Reform Commission to review the laws including Criminal law, Evidence law etc. Women's rights organizations submitted memoranda highlighting the provisions of Nigerian laws that were inimical to the welfare of women in Nigeria. Recommendations made included the introduction of victim and witness protection provisions in the laws, particularly in domestic violence cases, integration of equality clauses and affirmative action clauses in the constitution and the laws. The Attorney General also commissioned a team of experts to draft a bill on domestic violence, a move seen by the women's rights organisations as duplication of LACVAW's bill that was already pending in the National Assembly at the time. Both bills have since been

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

In August 2005, the Federal Government constituted the Committee on the Review of Discriminatory laws against Women, which operated under the auspices of the National Human Rights Commission (NHRC) with a mandate to review discriminatory legislation in Nigeria<sup>14</sup>. It submitted its final report to the Federal Ministry of Justice on 16 May 2006 along with a draft bill titled "Abolition of all Forms of Discrimination against Women in Nigeria and Other Related Matters Act 2006". The bill is also pending before the National Assembly.

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

Nigeria has also incorporated the provisions of the African Charter on Human and Peoples Rights into the local laws thus making it a part of the domestic laws in the country. The Act provides that every individual shall have the right to the respect of the dignity inherent in a human being and prohibits all forms of exploitation and

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<sup>14</sup> The author of this paper served on that committee.

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degradation<sup>15</sup> particularly slavery, slave trade, torture, cruel, inhuman or degrading punishment and treatment.

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

### **Background of the VAW Bill**

It is in the light of the inadequacies of existing laws and their failure to protect women that a group of women's rights activists came together under an umbrella organization – the National Coalition on Violence against Women (NACVAW) – to join forces to move this socio-cultural phenomenon from a private space, in which it is always cloaked in shame, into the public sphere and commence serious work on combating the menace. It was the consensus very early in the life of the coalition that legislation must be put in place against VAW for the efforts to combat it to succeed. It is with that in mind that the Legislative Advocacy Coalition on Violence against Women (LACVAW) was formed<sup>16</sup>. A working group of members and consultants drafted a Violence against Women bill and after due consultations with stakeholders, presented it before the National Assembly in 2002. Legislative advocacy commenced in earnest but unfortunately the former National Assembly did not pass the bill before its life came to an end.

Long before then in 2001 the Civil Resource Development and Documentation Centre in collaboration with BAOBAB for Women's Human Rights, in a bid to break the silence

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<sup>15</sup> Section 5.

<sup>16</sup> Civil Resource Development and Documentation Centre (CIRDDOC) Nigeria is a founding member and member of the Coordinating Committee of NACVAW and LACVAW. The author of the paper is the Executive Director.

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

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

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

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

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

### **Rationale and Key Features of the Nigerian Bill**

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

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

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

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

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

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

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

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

### **Key Features of the Bill**

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**It repeals inadequate laws:** The bill was used to indirectly repeal provisions of other laws which are inconsistent with the provisions of the bill or adjudged inadequate such as any definition of rape in any provision that was inconsistent with the definition of rape in the bill,<sup>18</sup> any provision that requires corroboration<sup>19</sup> or exempts marital rape from a list of crimes under the law.

**It incorporates Gang Rape:** The law incorporates gang rape and prescribes heavy penalties for offenders<sup>20</sup>.

**It establishes a Trust Fund for victims of Violence** for the purpose of providing assistance for the victim of violence through rehabilitation, reintegration into the society, provision of shelter, provision of legal aid, programmes on violence; provision of guidance and counseling; payment of medical expenses; and support of organisations which give direct assistance to victims of violence.

**It defines domestic violence** comprehensively, to include the offences created under sections 1 to 8 of the bill or any other act of violence when perpetrated on a victim in a domestic relationship including placing the victim in fear of physical injury, causing physical injury to the victim, coercion of victim to engage in conduct or act, sexual or otherwise, to the detriment of the victim's physical or psychological well-being, incest, confining or detaining the victim against his/her will, causing mischief, destruction or damage to property with intent to cause or knowing that it is likely to cause distress or annoyance to the victim, forced labour; economic denial, forced isolation from family

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<sup>18</sup> “A person commits the offence of rape if he intentionally penetrates the vagina, anus or mouth of a woman with his penis or with any other part of his body or anything else and the woman does not consent to the penetration; or the consent is obtained by force or means of threat or intimidation of any kind or by fear of harm or by means of false and fraudulent representation as to the nature of the act or in the case of a married woman by impersonating her husband”.

<sup>19</sup> Section 9.

<sup>20</sup> Section 1(4) Where the act ... is committed by a group of persons on the victim, the offence shall be known as gang rape and on conviction the persons shall be liable to a minimum of 20 years imprisonment without parole.

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

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

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

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

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

**It provides the following remedies:**

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

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**b. Compensation order**<sup>21</sup> in consonance with tort law principles of awarding damages for mental and physical suffering caused due to illegal conduct, the bill empowers a magistrate to order additional relief for mental torture and emotional distress in gang rape cases, indecent assault, and willfully causing harm.

**c. Emergency Monetary relief**<sup>22</sup> - orders for monetary relief can be passed to meet actual expenses incurred due to medical expenditure, loss of earnings, etc and includes compensation and maintenance.

**d. Protection Order/Interim Protection Order**<sup>23</sup>: The court may, by means of a protection order prohibit the respondent from committing any act of domestic violence; enlisting the help of another person to commit any such act; entering a shared household, entering the victim's residence or place of employment or preventing the victim from entering or remaining in the shared household; alienating, disposing or encumbering the shared household or committing any other act from which it is necessary to protect the victim, including an order directing the respondent to secure alternative accommodation for the victim. A breach of a protection order or any interim order constitutes an offence and carries a penalty of a fine of N50,000 or 5 years imprisonment or to both.

**d. Custody order**<sup>24</sup> - Orders for temporary custody may be passed in favor of the aggrieved person in pending applications for protection orders. The nature of custody provided is temporary and has no effect on personal/civil laws governing issues of permanent custody. The issue of custody is to be decided in keeping the interest and welfare of the children in mind.

**e. Interim orders**<sup>25</sup> – the magistrate is empowered to issue interim orders if a *prima facie* case is made out under the bill. This Section is important in providing immediate and emergency relief to women in situations of violence.

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<sup>21</sup> Section 1 (5). Section 32 provides for civil claim for compensation and damages. The law empowers magistrates to award the prescribed damages, compensation or fine even if the stipulated award is beyond the jurisdictional limitation on the power of the magistrate.

<sup>22</sup> Section 12, 16(4)

<sup>23</sup> Section 13, 14, & 15

<sup>24</sup> Section 16(6)

<sup>25</sup> Section 14

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**Infrastructure under the law**

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

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

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

For quality control, the Commission will ensure the registration of accredited service providers, draw up guidelines for their operations and supervise their activities to give full effect to the provisions of the Act. The law, when passed, will mandate the Commission to ensure that the victim has easy access to accredited service providers, transportation to an alternative residence or a safe shelter, transportation to the nearest hospital or medical facility for treatment, if the victim so requires.

The composition of the Commission includes the representative of the police, Government and NGOs.

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***Courts empowered to deal with applications:*** An aggrieved woman or any of the listed persons<sup>26</sup>, on her behalf may file an application for reliefs to a Magistrate. An application under the Act can also be filed in pending proceedings affecting the aggrieved woman. The law makes it mandatory for medical facilities and shelter homes to provide services to aggrieved women.

### **Analysis of commonalities and differences in legal approaches in Nigeria**

Apart from the initiative of NACVAW and LACVAW at the federal level, NGOs launched projects to secure laws at the state level to deal with the different aspects of violence against women. The Legal Defense and Assistance Project (LEDAP) implemented an advocacy project for a domestic violence bill at the state level. At least two states have passed the law. The legal process under the bill is quasi criminal and quasi civil in nature. It is only when a perpetrator or anyone else disobeys the court order or any prohibition in the law that arrest and punishment take place.

The rationale behind that position is that criminal proceedings require long procedures and usually depend on the commitment and efforts of the investigating and prosecuting police officer.<sup>27</sup> Women encounter a lot of obstacles in the course of the process. They are often faced with policemen who refuse to file their complaints on the ground that it is a family matter and it is difficult to obtain relevant technical documents needed by the complex criminal law such as medical report from a government hospital. Women are generally afraid to file criminal complaints because they fear that the incarceration of their husbands would result in a loss of face or social status for the family or their husbands would become more violent after incarceration or they would be left without a source of income if the husband is sent to jail. Finally, they do not wish to place their

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<sup>26</sup> Section 13(1) lists the following: The victim; the Commission; Police; a relation of the victim; a social or health worker; an accredited service provider or any person who witnesses the act of Violence. Failure by a police officer to comply with an obligation imposed in terms of the Act, without just cause, constitutes an offence punishable with a fine of N20,000.00 or a term of imprisonment of one year or to both.

<sup>27</sup> LEDAP; Domestic Violence Zero Tolerance, Report on Network of Nigerian Men against Domestic Violence; p. 254.

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

The legal process under the bill does not involve arrest, trial or punishment of the perpetrator but only aims at protecting the survivor from violence within the home. They believe that the Protection order which the bill provides for will provide women with other means of ending the violence to which they are subjected. The court order under the civil justice process will involve less complicated and quicker legal proceedings resulting in the enforced discipline or separation of the perpetrator of the violence from the family home for a certain period of time as well as rehabilitation of the victim. The order also compels the spouse to continue to provide for his family during the time he is under legal sanction and counseling.

The state laws mentioned in this paper have adopted different approaches. Most of them are quasi-criminal in nature. Each state law dealt with an aspect of violence or two.

### **Effectiveness of Laws on VAW**

The effectiveness of the Violence Prohibition Bill would be known or measured after it has been passed and evaluated. I will therefore be focusing on other state and national laws in this section.

Although over 20 state laws have been passed on the different aspects of violence against women, in the most part, they have been accumulating dust on the shelves. Implementation has actually not taken off for lack of political will on the part of the government to put structures in place for that purpose. None of the States has bothered to reflect its commitment to the reduction of violence against women in the budgets and none whatsoever has done something positive to support the implementation of the existing laws.

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Combating trafficking has been the subject of numerous high-profile declarations by government, but states continue to allow anti-trafficking programs to be underfinanced and inadequately supported by effective implementation plans and law enforcement practices. The Federal government however, has, through its support for NAPTIP displayed political will to fight the war against trafficking in human persons. The agency has since commissioned its headquarters in the Federal capital Territory. The activities of NAPTIP have led to the bursting of syndicates who carry out this atrocity, reduction of their activities, repatriation and rehabilitation of victims of trafficking and bringing the culprits to book.

In 2006, the government reported 81 trafficking investigations, 23 prosecutions and 3 convictions. Sentences imposed on traffickers were however, inadequate. Two convicted traffickers received 2 years' imprisonment while the third was sentenced to only one year in prison. NAPTIP has established shelters in six cities and provide victims with short term care in those shelters. 352 victims were assisted in 2007. In 2006, the government developed a national action plan against trafficking.<sup>28</sup> By 2007, the country had moved from tier 2 watch list to tier 2, which, according to the Executive Secretary NAPTIP, is a great achievement for the country.

**Challenges:** Some of the challenges encountered in the course of advocacy for the passage of the bill and in the implementation of existing laws against violence in Nigeria include:

- Patriarchal mindset not only of the general public, but also of legislators, government structures and even civil society;

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<sup>28</sup> Nigeria (Tier 2) Extracted from US. State Dept. Trafficking in Persons Report, June 2007.

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- Issues related to political situation in the country took legislators' attention away from legislative duties. They were distracted by impeachment fever that gripped the Assemblies and the third term bid of the then president;<sup>29</sup>
- Lack of evidence based data on violence against women contributed in the non-passage of the law as some legislators challenged us to prove that the problem has reached such magnitude as to require a separate law.
- Lack of awareness of the existence of the laws, even among the women that the laws seek to protect is one of the reasons the law is not used.
- Lack of political will on the part of government to allocate adequate resources to support the implementation of the laws. Institutions and Homes necessary for the implementation of the laws e.g. the Child's Rights Act, Gender and Equal Opportunities Laws etc. have not been provided for in the budgets.
- Lack of resources on the part of victims to access the provisions of the laws for the enforcement of their rights to freedom from violence.

**Lessons learnt:** The lessons learnt in the process of advocating for the passage of a VAW law in Nigeria include:

- For legislative advocacy to be meaningful and successful, coalition building and capacity building for NGOs are necessary. There is strength in numbers and no one organization can go it alone.
- Failure to sensitise the community including the women themselves and the "gate keepers" to understand the benefits of the bill led to a backlash.
- Without proper dissemination of the contents of the law and its implementation, the fact that it exists will not make a difference.

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<sup>29</sup> In the last political dispensation (2003 – 2007), the Economic and Financial Crimes Commission (EFCC) waged a serious war against corrupt government officials and several governors were found wanting. This war divided the legislators in those states with some supporting the governors and other working with EFCC to impeach the governors to make way for their prosecution. In another development supporters of Mr. President were busy lobbying for an amendment of the constitution to elongate his tenure after he had served his full term of 4 years.

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

**Good practices:**

- Building coalition and partnership among the stakeholders.
- Involving different institutions in the drafting of the bill brings in different perspectives to the bill.
- Management transparency coordination of the project by a Steering Committee of stakeholders in different fields ensured a level of trust to the project by different persons.
- Establishment of partnerships between CSOs and government, represented by the Ministry of Women Affairs, contributed to the little success achieved in the project
- Using media as an ally – partly because of the sensational nature of the topic, mass media campaign helped to raise awareness of the problem and sensitized the government and legislators.
- Enlisting support of high profile legislators and government officials was a good practice.
- Framing sensitive issues in a culturally appropriate context is important.
- Simplifying and translating existing laws into local languages as well as including a simple step by step procedure guide on how to use the laws

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(particularly at the state and local levels) will improve the level of implementation and effectiveness of the laws.

- Building and strengthening the capacity of the government Legal Aid Council to make the implementation of the laws on violence against women a core focus of their services and provide free legal services to victims.

**Conclusion:** The approaches discussed above have yielded credible results from which a number of lessons can be drawn. Although the Violence Prohibition bill was not passed into law before the end of the life of the former legislature, a lot of lessons were learnt and these would guide the next phase of advocacy on the bill when it resumes. It is also a fact that capacity building is needed for CSOs to ensure that they become an important social force capable of influencing the male dominated and patriarchal legislature to pass the bill into law.

**Annex 1: Violence Prohibition Bill**

*Extraordinary*

# **Federal Republic of Nigeria Official Gazette**

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**No. 26A**

**Lagos – 6th May, 2003**

**Vol. 90**

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Government Notice No. 53A

The following is published as Supplement to this Gazette:

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

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

**ARRANGEMENT OF CLAUSES**

**CLAUSE:**

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

26 – Interpretation

27 – Citation

SCHEDULES

**C 187 2003 No.**

*Violence (Prohibition)*

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# **A BILL**

**FOR**

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

Sponsors:

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

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

**C 188 2003 No.**

*Violence (Prohibition)*

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

**C 189 2003 No.** *Violence (Prohibition)*

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[Commencement]

1 ENACTED by the National Assembly of the Federal Republic of Nigeria:  
2 **1-(1)** Subject to the provisions of this Act, any reference to rape in any law shall  
**Rape** 3 be construed as a reference to the offence of rape under this section and this  
4 section shall override any other law where there are inconsistencies.  
5 (2) A person commits the offence of rape if  
6 (a) (i) he intentionally penetrates the vagina, anus or mouth of a woman with his  
7 penis or  
8 (ii) he intentionally penetrates the vagina, anus or mouth of a woman with any  
9 other part of his body or anything else  
10 (b) the woman does not consent to the penetration; or  
11 (c) the consent is obtained by force or means of threat or intimidation of any kind  
12 or by fear of harm or by means of false and fraudulent representation as to the  
13 nature of the act or in the case of a married woman by impersonating her husband  
14 (3) A person guilty of an offence under this section shall, where the victim is

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

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

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

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

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

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

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

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

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

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

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

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

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**Wilfully** 10 4 (1) Any person who wilfully causes another person harm by pouring or using  
**Causing** 11 on that person any substance, chemical agent such as acid etc. or other thing  
**Harm** 12 capable of causing disfigurement or harm commits an offence and upon  
13 conviction is liable to 10 years imprisonment  
14 (2) The court may also award appropriate compensation to the victim as it may  
15 deem fit in the circumstance.  
16 (3) The foregoing subsection shall not prejudice any civil action that may arise  
17 from or that may be brought in respect of such act or the standard of proof required  
18 in such action.

**Incest** 19 5 - (1) A man commits an offence of incest if being over 18 years has sexual  
20 intercourse with a person he knows to be his grand daughter, daughter, sister, half  
21 sister, mother, niece or aunt.  
22 (2) A person convicted of an offence under this section shall be liable to 2 years  
23 imprisonment.

**Violence** 24 6 - (1) Any person who-  
**against** 25 (a) wilfully mutilates the genitals of a woman; or  
**persons** 26 (b) forces any woman to isolate herself from family or friends; or  
27 (c) abandons his wife or children without any means of subsistence or  
28 sustenance; or  
29 (d) in a domestic relationship wilfully or knowingly places another in fear of  
30 physical, sexual or psychological injury or causes such injury to another by such  
31 act which is known or ought to have been known to the perpetrator would result  
32 in physical, sexual or psychological injury;  
33 (e) subjects another person, without that person's consent to any custom  
34 or traditional practice which degrades or has the effect of dehumanising the  
35 victim; or

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1 (f) sexually harasses another, commits an offence and upon conviction is liable to  
2 imprisonment for 2 years or fine of N300,000 or both.  
**Attempt** 3 7. Any person who attempts to commit any of the offences under this Act is  
4 guilty of an offence and is liable on conviction to:

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

- Jurisdiction** 1 12. (1) The jurisdiction to hear and determine issues/matters, including the award  
2 of emergency relief or the trial and punishment for offences under this Act, is  
3 vested in the magistrate courts.  
4 (2) Any court within the area in which:  
5 (a) the victim permanently or temporarily resides, carries on business or is  
6 employed.  
7 (b) the respondent resides, carries on business or is employed; or  
8 (c) the cause of action arose,  
9 has jurisdiction to grant a protection order as contemplated in this Act.  
10 (3) Notwithstanding any jurisdictional limitation on the power of the magistrate  
11 court in relation to the award of damages/compensation or the imposition of fines  
12 or terms of imprisonment contained in any law, a magistrate court before which  
13 issues/matters arising under this Act are being heard and determined or offences  
14 created in this Act are being tried shall have the full jurisdictional powers to  
15 award any emergency monetary relief it considers appropriate or impose up to  
16 the maximum penalties prescribed for the offences in this Act.  
17 (4) A protection order is enforceable throughout the Federal Republic of Nigeria.
- Application** 18 13.(1) An application supported by affidavit for a protection order may be made  
**for** 19 by any of the following before the Court following a complaint of domestic  
**Protection** 20 violence under this Act:  
**order** 21 (a) The victim;  
22 (b) the Commission;  
23 (c) Police;  
24 (d) a relation of the victim;  
25 (e) a social or health worker;  
26 (f) an accredited service provider or  
27 (g) any person who witnesses the act of Violence.

**C 193 2003 No.** Violence (Prohibition)

- 1 Provided that the application where brought by a person other than the victim  
2 must be brought with the written consent of the victim except in circumstances  
3 where the victim is:  
4 a) a minor  
5 b) mentally retarded  
6 c) illiterate  
7 d) unconscious; or  
8 e) a person who the court is satisfied is unable to provide the required consent.  
9 2) Notwithstanding the provisions of any other law, any minor, or any person on  
10 behalf of a minor, may apply to the court for a protection order without the  
11 assistance of a parent, guardian or any other person.  
12 3) Supporting affidavit referred to in subsection (1) of this section may be  
13 deposed to by any person who has knowledge of the matter concerned.  
14 4) If the victim is not represented by a legal practitioner, the police officer with  
15 whom the complaint is lodged or the registrar of the court shall inform the victim  
16 (a) of the relief available in terms of this Act; and  
17 (b) of the right to also lodge a criminal complaint against the respondent, if a  
18 criminal offence has been committed by the respondent.
- Consideration** 19 14 (1) The court must as soon as is reasonably possible consider an application  
**of application** 20 submitted to it in terms of section 13 and may, for that purpose, consider such  
**and Issuing** 21 additional evidence as it deems fit, including oral evidence or evidence by  
**of Interim** 22 affidavit, which shall form part of the record of the proceedings.  
**Protection** 23 (2) If the court is satisfied that there is prima facie evidence that the respondent is  
**order** 24 committing, has committed or that there is imminent likelihood that he/she may  
25 commit an act of domestic violence the court shall notwithstanding the fact that  
26 the respondent has not been given notice of the proceedings contemplated in

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

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

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

**Issuing of  
Protection  
Order**

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

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

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

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

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

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

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

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

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

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

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

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

**C 195 2003 No.** Violence (Prohibition)

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

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

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

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

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

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

12 (c) entering a shared household:

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

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

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

**C 196 2003 No.**

*Violence (Prohibition)*

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- 1 (4) The court may order the respondent to pay emergency monetary relief having  
2 regard to the financial needs and resources of the victim and the respondent, and  
3 such order has the effect of a civil judgment of a court.  
4 (5) (a) The physical address of the victim shall be omitted from the protection  
5 order, unless the nature of the terms of the order necessitates the inclusion of  
6 such address.  
7 (b) The court may issue any directions to ensure that the victim's physical  
8 address is not disclosed in any manner, which may endanger the safety, health or

9 well being of the victim.  
10 (6) If the court is satisfied that it is in the best interests of any child it may-  
11 (a) refuse the respondent contact with such child; or  
12 (b) order contact with such child on such conditions as it may consider  
13 appropriate.  
14 (7) (a) The court may not refuse  
15 (i) to issue a protection order; or  
16 (ii) to impose any condition or make any order which it is competent to impose  
17 or make under this section, merely on the grounds that other legal remedies are  
18 available to the victim.  
19 (b) If the court is of the opinion that any provision of a protection order deals  
20 with a matter that should, in the interests of justice, be dealt with further in terms  
21 of any other relevant law, including the Matrimonial Causes Act, 1970, Child's  
22 Rights Act, 2003, the court must order that such a provision shall be in force for  
23 such limited period as the court determines, in order to afford the party concerned  
24 the opportunity to seek appropriate relief in terms of such law.  
**Warrant** 25 17 (1) Whenever a court issues a protection order, the court shall make an order-  
**of arrest** 26 (a) authorising the issue of a warrant for the arrest of the respondent, in  
**upon** 27 the prescribed form; and  
**Issuing of** 28 (b) suspending the execution of such warrant subject to compliance with any  
**Protection** 29 prohibition, condition, obligation or order imposed in terms of section 16.  
**Order** 30 2) The warrant referred to in subsection (1) (a) remains in force unless the  
31 protection order is set aside, or it is cancelled after execution.

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1 (3) The registrar of the court shall issue the victim with a second or further  
2 warrant of arrest, if the victim files an affidavit in the prescribed form in which it  
3 is stated that such warrant is required for her or his protection and that the  
4 existing warrant of arrest has been-

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

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- 1 (b) the seriousness of the conduct comprising an alleged breach of the  
2 protection order; and  
3 (c) the length of time since the alleged breach occurred.
- 4 (6) Whenever a warrant of arrest is handed to a police officer in terms of  
5 subsection (4) (a), the police officer shall inform the victim of his  
6 or her right to simultaneously lay a criminal charge against the  
7 respondent, if applicable, and explain to the victim how to lay such  
8 a charge.
- Variation or Setting** 9 18(1) A victim, the respondent or the commission may apply to the court  
**aside of Protection**  
**Order** 10 for the variation or setting aside of a protection order referred to in  
11 section 15 in the prescribed manner.  
12 (2) If the court is satisfied that good cause has been shown for the  
13 variation or setting aside of the protection order, it may issue an order to  
14 this effect:  
15 Provided that the court shall not grant such an application to the victim  
16 unless it is satisfied that the application is made freely and voluntarily.
- 17 (3) The registrar of the court shall forward a notice as prescribed to the  
18 victim and the respondent if the protection order is varied or set aside as  
19 contemplated in subsection (1).
- Contravention** 20 19 (1) A person who –  
**of protection** 21 (a) contravenes a protection or an interim protection order;  
**order.** 22 (b) while an interim protection order is in force, refuses to permit the  
23 victim to enter and remain in the place to which the order relates  
24 or does any act for the purpose of preventing the applicant or such  
25 dependent person from so entering or remaining;  
26 (c) publishes any information which might reveal the identity of any  
27 party to the proceedings in respect of protection order;  
28 (d) in an affidavit referred to in section 17 (4) (a), willfully makes a false  
29 statement in a material respect;  
30 commits an offence and is liable on conviction to a fine of N50,000 or a  
31 maximum of 5 years imprisonment or to both fine and imprisonment.

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

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

**Establishing  
of Commission  
on violence**

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

**Functions**

27 21(1) The Commission shall:

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of the 28 (a) monitor and supervise the implementation of the provisions of this  
Commission 29 Act;  
30 (b) administer the operations of the Trust Fund;  
31 (c) recruit staff for the Commission;  
32 (d) provide and manage rape crisis centres for victims;  
33 (e) register accredited service providers, draw up guidelines for their  
34 operations and supervise their activities;  
35 (f) perform such other functions as may be specified by any law or  
36 enactment; and

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1 (g) undertake such other activities as are necessary or expedient for  
2 giving full effect to the provisions of this Act.  
3 (2) The commission shall also co-ordinate the activities of the police and  
4 the accredited service providers to ensure that the victim:  
5 (a) has easy access to accredited service providers;  
6 (b) has easy access to transportation to an alternative residence or a safe  
7 shelter, the nearest hospital or medical facility for treatment, if the victim  
8 so requires;  
9 (c) is able to collect his/her belongings or properties from a shared  
10 household or his/her residence, if the victim so requires;  
11 (d) is able to access the court for order under this Act; or  
12 (e) has access to every possible assistance in the service of interim  
13 protection order on the respondent, and the enforcement of any order that  
14 may have been made by the court under this Act.  
15 (3) The commission may, upon the failure of the respondent to make  
16 payment ordered by the court under this Act, direct an employer or a  
17 debtor of the respondent or any bank in which the respondent operates  
18 any account, to directly pay to the victim or deposit with court a portion  
19 of the wages or salaries or debt due to or accrued to the credit of  
20 respondent or monies in any bank account operated by the respondent,

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

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

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

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- Management** 1 24- The Commission shall be empowered to:-  
**of the** 2 (a) disburse funds:  
**Commission** 3 (b) appoint external auditors:  
4 (c) oversee its own administration:  
5 (d) engage in fund raising for the purpose of carrying out its functions.
- Establishment** 6 25- (1) There is hereby established for the Commission a Trust Fund for  
**of Trust** 7 victim of violence.
- Fund** 8 (2) The Trust Fund shall be set up primarily for the purpose of providing  
9 aid for the victim of Violence through:-  
10 (a) rehabilitation of victim, individually or as a group

- 11 (b) reintegrating the victim into the society:  
12 (c) provision of shelter:  
13 (d) provision of legal aid:  
14 (e) programmes on violence;  
15 (f) provision of guidance and counselling;  
16 (g) payment of medical expenses for victim; and  
17 (h) support of organisations which give direct assistance to victims of  
12 violence.
- Interpretation** 19 26- In this Act-
- 20 “accredited service provider” means governmental, non-governmental,  
21 voluntary and charitable associations or institutions providing shelter,  
22 homes, counselling, financial, medical or other assistance to victims of  
23 domestic violence and are registered with the commission on violence  
24 ;
- 25 “civil proceedings” means
- 26 (a) proceeding for the making, variation or discharge of a protection  
27 order, safety order or interim protection order;  
28 (b) proceedings by way of appeal or case stated which are related to  
29 proceedings to which paragraph (a) applies;  
30 (c) proceedings under this Act for declaration, compensation or award;
- 31 “Child” includes any biological, adopted, step or foster child or any  
32 other minor, who is below the age of 18 years;  
33 “Court” means the High Court and the Magistrate Court;

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- 1 “Commission” means the Commission on Violence  
2 established under this Act;  
3 “Domestic relationship” includes a relationship between a person and –  
4 (a) his or her spouse  
5 (b) his or her former spouse  
6 (c) a child resident in the household;  
7 (d) any other member of the family; and

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- 8 (e) any other resident in the household  
9 or a relationship between a victim and a respondent in any of the  
10 following ways-
- 11 (a) they are or were married to each other, including marriage according  
12 to any law, custom, religion or usage,  
13 (b) they live or lived together in a relationship in the nature of marriage,  
14 although they are not or were not, married to each other, or are not able  
15 to be married to each other,  
16 (c) they are parents of a child or are persons who have or had parental  
17 responsibility for that child (whether or not at the same time),  
18 (d) they are family members related by consanguinity, affinity or  
19 adoption,  
20 (e) they are or were in an engagement, dating or customary relationship,  
21 including an actual or perceived romantic, intimate or sexual relationship  
22 of any duration, or  
23 (f) they share or recently shared the same residence;
- 24 “Domestic violence” includes the offences created under sections 1 to 8  
25 of this Act when perpetrated on a victim in a domestic relationship or  
26 any other act of violence perpetrated on a victim in a domestic  
27 relationship including the following-
- 28 (a) wilfully or knowingly placing or attempting to place the victim in fear  
29 of physical injury,  
30 (b) causing physical injury to the victim by such act which is known or  
31 ought to have been known would result in physical injury,  
32 (c) coercion of victim to engage in conduct or act, sexual or otherwise, to  
33 the detriment of the victim’s physical or psychological well-being,  
34 (d) incest,  
22 (e) confining or detaining the victim against his/her will,

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- 1 (f) causing mischief, destruction or damage to property with intent to  
2 cause or knowing that it is likely to cause distress or annoyance to the

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- 3 victim,  
4 (g) forced labour;  
5 (h) economic denial,  
6 (i) forced isolation from family and friends,  
7 (j) verbal and emotional abuse,  
8 (k) harmful widowhood practices  
9 (l) abandonment of wife and children without means of subsistence and  
10 (m) harassment, intimidation or stalking;  
11 “emergency monetary relief” means compensation for monetary  
12 losses suffered by a victim or any child at the time of the  
13 issue of a protection order as a result of the domestic violence  
14 including but not limited to:  
15 i) loss of earnings  
16 ii) medical and dental expenses  
17 iii) relocation and accommodation expenses,  
18 iv) loss caused due to the destruction, damage or removal of any  
19 property from the control of the victim,  
20 v) maintenance for the victim as well as his/her children, if  
21 any, or  
22 vi) compensation for the domestic violence inflicted upon the  
23 victim;  
24 “functions” means powers and duties;  
25 “harassment” means engaging in a pattern of conduct that induces the  
26 fear of harm to a victim, including -  
27 (i) repeatedly watching or loitering outside of or near the building or  
28 place where the victim resides, works, carries on business, studies  
29 or happens to be,  
30 (ii) repeatedly making telephone calls or inducing another person to  
31 make telephone calls to the victim, whether or not conversation  
32 ensues,  
33 (iii) repeatedly sending, delivering or causing the delivery of letters,

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34 telegrams, packages, facsimiles, text messages, electronic mails or other  
objects to the  
35 victim;  
36 “harmful traditional practices” means any custom or tradition

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1 which degrades or has the effect of dehumanising the victim;  
2 “household” means a family living together with a domestic  
3 relationship;  
4 “Intimidation: means uttering or conveying a threat, or causing a  
5 victim to receive a threat, which induces fear;  
6 “respondent” means any person who has committed or allegedly  
7 committed an act of violence against the victim;  
8 “sexually harasses” shall include:  
9 (a) making unsolicited sexual remarks at a person and especially  
10 after that person disapproves of such remarks,  
11 (b) making physical contact of sexual coloration with any person  
12 without that person’s consent.  
13 (c) threatening to or actually exposing any person to any  
14 disadvantage in order to get that person to or for failure of that  
15 person to subject himself or herself to any form of sexual gratification  
16 or consideration.  
17 (d) offering or promising any person to offer any advantage or  
18 favour on the condition that that person subjects himself or  
19 herself to any form of sexual gratification or consideration  
20 “spouse” means person married under the Marriage Act or under  
native  
21 law and customs, Islamic law and persons who though not married are  
22 in cohabitation;  
23 “Stalking” means repeatedly following, pursuing, or accosting the  
24 victim;  
25 ‘survivor’ means the same as victim

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

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*Violence Against Women (Prohibition)*

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

**Citation**