

## GLOBAL IMPACTS OF VIOLATIONS OF WOMEN'S RIGHTS\*

### Abstract

*Women's rights have had international recognition as fundamental human rights in modern international law. The availability of robust normative frameworks and principles for the protection of the rights of women has developed over the years. Through instruments such as the Universal Declaration of Human Rights, International Covenant on Civil and Political Rights, Convention on the Elimination of all Forms of Discrimination Against Women (considered as gender sensitive instrument with particular interest in gender equality and women's fundamental freedom), women's human rights were ultimately considered totally planned out for and secured. However, despite this plethora of laws, discrimination against women and violations of their human rights still persist globally. This article aimed at critically examining the International Human rights of women and the Violations of Women's rights, unearthing the impacts of these violations on women globally. This article employed doctrinal methodology which involves the analysis of primary sources of law and relevant case laws. The research found that violations of women's human right persist having far-reaching negative implications on women all over the world, irrespective of the fact that laws protecting the women's human rights abound and the implementation of these laws has become a challenge. The article recommends that for women's right to be completely protected from violations, there must be put in place, strategies to bridge the implementation gap, public sensitization on the rights of women and legislative reforms.*

**Keywords:** Women, Human Rights, Discrimination, Violence, International Law.

### 1. Introduction

Women's rights are human rights; human rights are inherent in all human. Over the years, the rights of women have been continuously violated. These rights encompasses civil, political, economic, social and cultural rights including; the right to live free from violence, slavery and discrimination, right to the highest attainable standard of physical and mental health, right to be educated, to own property, to political participation, health (including reproductive health rights), dignity and to earn fair and equal wage.<sup>1</sup> The recognition that women's rights are an indivisible and integral part of universal human rights represents one of the most significant developments in international law over the years. From the early formulations of non-discrimination principles in the United Nations Charter to the comprehensive provisions of CEDAW and transformative vision of the Beijing Declaration, the international legal order has progressively articulated standards that acknowledge the distinct and intersectional nature of violations experienced by women.<sup>2</sup>

Violence against women is one of the prevalent human right abuses even at global level. Most women experience physical, sexual and emotional violence in their homes and work places. Despite great strides made by the international women's rights movement over the years, women and girls are still married as children, or trafficked into forced labour and sex slavery. They are refused access to education and political participation, and some are trapped in conflicts where rape is perpetuated as a weapon of war.<sup>3</sup> Around the world, deaths related to pregnancy and childbirth are needlessly high, and

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<sup>1</sup> National Human Right Commission, 'The Rights of Women and Gender related Matters, available at <https://Nigeriarights.gov.ng/focus-areas/women-and-gender-matters.html> accessed 16th April, 2024.

<sup>2</sup> H Charlesworth and C Chinkin, *The Boundaries of International Law: A Feminist Analysis* (Manchester University Press 2000) 1- 15

<sup>3</sup>Human Right Watch, Women's Rights, available at <https://www.hrw.org/topic/womens-rights> accessed 16th April, 2024.

women are prevented from making deeply personal choices in their private lives. In recent years, scholars and advocates have criticized human right law for its failure to accord protection to women facing gender-based violence. It has been argued that International legal order is not a neutral, value-free system but rather a system that privileges men and masculinity.<sup>4</sup> Unless and until women enjoy equal rights as men, we cannot have a free and equal society.

This paper delves into the history of women's human rights, exposes different dimensions of human right violations meted out on women; including violence against women, female genital mutilation, child marriage, vulnerability at work places as well as other obnoxious cultural practices prevalent in some parts of the country. It also considered the legal framework for the protection of women's rights. It prefers recommendations to help end women right violation in Nigeria.

## 2. Women's Rights

Women's rights are rights and entitlements claimed for women and girls worldwide. They formed the basis for the women's right movement in the 19<sup>th</sup> century and the feminist movements during the 20<sup>th</sup> and 21<sup>st</sup> centuries. In some countries, these rights are institutionalized or supported by law, local custom, and behavior, whereas in other countries, they are ignored and suppressed. They differ from broader notions of human rights through claims of an inherent historical and traditional bias against the exercise of rights by women and girls in favour of men and boys.<sup>5</sup> Issues commonly associated with notions of women's rights include the right to bodily integrity and autonomy, to be free from sexual violence, to vote, to hold public office, to enter into legal contracts, to have equal rights in family law, to work, to fair wages or equal pay, to have reproductive rights, to own property and to education.<sup>6</sup> In contemporary Sub-Saharan Africa (SSA), women face a lot of human rights abuses. In Africa, the female folk hardly share experiences of sexual discrimination and abuse, intimate violence, political marginalization and economic deprivation. The age-long marginalization of rights of women applies even to the developed world. For instance, the right to franchise was extended to women only in 1920 in the United States, UK in 1928, France in 1944, Germany in 1919, Nigeria in 1958 and Saudi Arabia in 2015.<sup>7</sup>

## 2. Legal Framework for the Protection of Rights of Women

### Constitution of the Federal Republic of Nigeria (CFRN) 1999 (as amended)

The constitution is the *grundnorm* or the supreme law of the country and it provides for the protection of human rights generally. Section 33 of the Constitution provides that every person has a right to life and no one shall be deprived intentionally of his life, save in execution of a court sentence in respect of a criminal offence of which he has been found guilty in Nigeria. The rights to good healthcare, amenities and safe motherhood, are essential for the protection of the right to life. Access to information and education on preventable diseases that can shorten the life span of women and children is essential in protecting this right to life.<sup>8</sup> Section 34(1) (a) of the 1999 Constitution of Nigeria, provides that every individual has a right to dignity of his person and as such shall not be subject to torture, inhuman or degrading treatment amongst others. It also provides that no person shall be held in slavery or servitude or be required to perform forced or compulsory labour. Torture has been defined to include mental harassment and physical brutalization while inhumane treatment characterizes any act without feelings for the sufferings of the other. The implication of this is that the stigmatization of women living with HIV & AIDS, ostracizing young girls with VVF, harmful Widowhood Rites all amount to breach of their rights to dignity of the human person, which is in fact an infringement of their rights.<sup>9</sup> Section 14

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<sup>4</sup> H Charlesworth, C Chinkin and S Wright, 'Feminist Approaches to International Law' 1991, 85 *American Journal of International Law* 613, 615.

<sup>5</sup> Hosken FP, 'Towards a Definition of Women's Rights' in *Human Rights Quarterly*, Vol. 3, No. 2 (May 1981) pp. 1-10.

<sup>6</sup> Lockwood B, *Women's rights: A Human Rights Quarterly Reader* (John Hopkins University Press, 2006).

<sup>7</sup> Okogbule, N. S. (2017), 'Localizing human rights in a globalizing world: The challenges for Africa', An Inaugural Lecture Series No. 145, RSU, Port Harcourt

<sup>8</sup> MIO Nwogu and AN Okonkwo, 'Cultural and Legislative Constraints Militating against Women's Rights in Nigeria: The way forward for more Inclusive Protection' [2023] *NAUJILJ* 14(1).

<sup>9</sup> *Ibid.*

(2) provides that the security and welfare of the people shall be the primary purpose of government. This is in line with the scope of reproductive health, which includes ‘a state of complete physical, mental and social well-being’.

Section 17(1) of the Constitution also provides that the State social order is founded on ideals of Freedom, Equality and Justice. Section 17(2) (a) stipulates that in furtherance of the social order, every citizen shall have equality of rights, obligations and opportunities before the law. In essence, the Nigerian Constitution promotes gender equality under the law. Section 17(3) (d) under the social objectives and directives policies, stipulates that the government is obligated to direct its policies towards ensuring adequate medical and health facilities for all. Section 17(3) (b) stipulates that working conditions should be just and humane and there should be adequate facilities for leisure, social, religious and cultural life. This provision, if properly harnessed, will cater to the reproductive health and rights needs of working class mothers. It is however unfortunate that the rights contained in this section and the whole of Chapter 2 of the 1999 Constitution are unenforceable. Hence, one cannot even rely on it to get redress in court for the breach of those rights provided therein. The earlier this part of the constitution is made justiciable, the better because the lives of citizens of this country would have been better-off, if the government implements these rights. Section 42(1) of the Constitution provides for freedom from discrimination. Discrimination is one of the major setbacks to the protection and enforcement of women's rights in Nigeria. The patriarchal nature of the Nigerian society encourages discrimination against women; hence, they are denied access to some platforms, which men have unfettered access to.<sup>10</sup>

### **Labour Act**

Section 54 (1) of the Labour Act, offers protection for pregnant working women and provides that; ‘In any private industrial or commercial or any agricultural undertaking or in any branch thereof, a woman:

- i. Shall have the right to leave her work if she produces a medical certificate given by a registered medical practitioner that her confinement will probably take place within six weeks.
- ii. Shall not be permitted to work during the six weeks following her confinement.
- iii. If she is absent from work pursuant to paragraph (a) or (b) of this subsection and been continuously employed by her employer for a period of six months or more immediately prior to her absence, shall be paid not less than 50 per cent of the wages she would have earned if she had not been absent; and
- iv. Shall in any case, if she is nursing her child, be allowed half an hour twice a day during her working hours for that purpose.

Section 54 (2) provides that subsections (1) and (2) shall have effect notwithstanding any law relating to the fixing and payment of minimum wage. The provisions of subsections 54 (2) and (3) entitle the woman to at least 12 weeks maternity leave. In practice however, only few women take the leave as provided by the Act, the preference is that women take 12 weeks postnatal leave.

### **Violence against Persons Prohibition (VAPP) Act 2015**

VAPP Act came into force on the 25th day of May 2015. The introductory part of this Act is intended to prohibit all forms of violence against persons in public and private life and to provide maximum protection and effective remedies for victims as well as punishment for offenders. Section 1 of VAPP Act defines rape as; ‘the intentional penetration of the vagina, anus or mouth of another person with any other part of his or her body or anything else without consent or consent is obtained by force or by means of intimidation of any kind or by fear of harm or by means of false and fraudulent representation as to the nature of the act or the use of any substance or additive capable of taking away the will of such person’. This definition is a marked improvement of the definition of rape as encapsulated in the Criminal Code as it broadened the definition of rape. The Criminal Code Act only considered penile penetration as rape. Section 6(1) of the VAPP Act prohibits female circumcision and female genital mutilation (FGM) and further prescribes punishment for a person who performs FGM with a term of

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<sup>10</sup>AA Oluwakemi. ‘Women and Reproductive Health Rights in Nigeria’ available at <https://www.ssmc/link/OIDA/int-Journal-sustainable-Dev.html> accessed 22nd April 2024.

imprisonment not exceeding 4 years or a fine of N200, 000 or both in Section 6(2). Section 19(1) provides for an offence known as spousal battery. It stipulates that a person who batters his or her spouse commits an offence and is liable to conviction for a term of imprisonment not exceeding 3 years or to a fine not exceeding N200,000 or both. Section 20 of the VAPP Act further prohibits harmful traditional practices and prescribes a term of imprisonment not exceeding 4 years or a fine of N500, 000 or both for anyone who carries out harmful traditional practices.

### **African Charter on Human and Peoples Rights**

The African Charter on Human and Peoples Rights (ACHPR) also known as the Banjul Charter was adopted at the 18th Conference of Heads of States and Governments of Organization of African Union (now African Union) in Banjul in June 27th 1981. It has been domesticated and forms part of Nigerian Laws see the case of *Gani Fawehinmi v Abacha*.<sup>11</sup> It was incorporated as The African Charter on Human and Peoples Right (Ratification and Enforcement) Act, Cap 10 Laws of the Federation of Nigeria 2004. Article 2 of the ACHPR provides for freedom from discrimination. Article 3 of ACHPR stipulates that everyone is equal before the law and entitled to equal protection of the law. Article 5 provides for dignity of the human person and protection from cruel, inhumane and degrading treatment. Article 28 provides that every individual shall have the duty to respect and consider his fellow beings without discrimination.

### **Protocol to the African Charter on Human and People's Rights on the Rights of Women in Africa 2003 (Maputo Protocol)**

This was adopted by the African Union in Maputo, Mozambique in July 2003. Article 2 of the Protocol provides that State parties shall combat all forms of discrimination against women through appropriate legislative, institutional and other measures. Article 5 provides that State parties shall prohibit and condemn harmful traditional practices against women. Article 6(b) stipulates that the minimum age for marriage for women shall be 18 years. Article 8 provides equal protection and benefit of the law. Article 9 provides for participation if women in political life of their countries through affirmative action. Articles 20 and 21 provide for the protection of widows' rights and inheritance rights. It is yet to be domesticated by Nigeria. It was however applied in the case of *Dorothy Njemanze & three others v. Federal Republic of Nigeria*.<sup>12</sup>

### **Convention on the Elimination of All Forms of Discrimination against Women**

The Convention on the Elimination of all forms of Discrimination against Women (CEDAW) is a gender specific instrument. The Convention takes the understanding of human rights from being gender neutral or gender blind to being women focused, taking into cognizance the specific and different needs of women on the basis of biology and gender or social construction.<sup>13</sup> It is the most extensive instrument dealing extensively with the rights of women as it sets out practices regarded as discriminatory and lists actions to be taken to remedy the situation. It recognizes not only the prohibition of discrimination against women but also places positive obligations on the State for the fulfilment of women's right to equality. This Convention was signed and ratified by Nigeria in 1985 but is still yet to be domesticated as required by Section 12 of the Constitution and as such, it does not form part of our municipal laws. 189 states have ratified CEDAW.

CEDAW has 30 articles divided into 6 parts. Part I (Articles 1-6) focuses on non-discrimination, sex stereotypes, and sex trafficking. Part II (Articles 7-9) outlines women's rights in the public sphere with emphasis on political life, representation and rights to nationality. Part III (Articles 10-14) describes the economic and social rights of women particularly focusing on education, employment and health. This part also includes special protection for rural women and the problems they face. Part IV (Articles 15 and 16) outlines women's right to equality in marriage and family life along with right to equality before the law. Part V (Articles 17-22) establishes the Committee on the Elimination of Discrimination against

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<sup>11</sup>(1996) 9 NWLR (Pt.475) 710.

<sup>12</sup>ECW/CCJ/JUD/08/17.

<sup>13</sup> LA Omonfuegbe, 'A Critical Appraisal of Women's Reproductive Rights in Nigeria', (2019), Vol.10, *Journal of Sustainable Law and Policy*, p. 274.

Women as well as state parties' reporting procedure. Part VI (articles 23-30) describes the effects of the convention on other treaties, the commitment of the state parties and administration of the convention.

### **Universal Declaration of Human Right (UDHR)**

The UDHR is a declaration adopted by the UN General Assembly on 10<sup>th</sup> December, 1948. The UDHR although not a treaty, is a human right document that has inspired numerous constitutions and treaties. It was ratified by Nigeria in 1985. The experience of the Second World War led to the birth of UDHR which represents the first global expression of rights to which all human beings are inherently entitled. The UDHR has 30 articles which deal specifically on human rights in general and human rights of women. Article 1 states that 'all human beings are born free and equal in dignity and rights and they are endowed with reason and conscience and should act towards one another in a spirit of brotherhood. Article 2 provides that everyone is entitled to all rights and freedom set forth in this Declaration without distinction of any kind such as race, colour, sex, language, religion, etc. Article guarantees the right to life, liberty and security of persons. Article 3 and 5 read together implies non-discrimination clause. It implies that any form of violence against women which can be construed as threat to her life, liberty and security of a person or which constitutes torture or cruel or degrading treatment is not in keeping with the spirit and purport of the UDHR and is therefore a violation of the international obligation of member states.<sup>14</sup>

### **3. Dimensions of Violation of Women's Rights**

#### **Domestic/Gender-Based Violence**

Violence against women and the threat of violence are main barriers to women's empowerment and equal participation in the society. The UN Declaration on Violence Against Women, adopted in 1993, defines violence against women as encompassing any act of gender-based violence that results in, or is likely to result in physical, sexual, psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty whether occurring in public or private life.<sup>15</sup> Violence is a serious violation of the human rights of women and girls, and it takes a heavy toll on their physical and mental health. Women in all countries, irrespective of status, age, caste or religion, experience violence in virtually all spheres of life, whether in the home, at work, on the street, in government institutions or in times of conflict. Domestic violence takes place at home or within the family. It presumes a close relationship between the victim and the offender. This violence includes emotional abuse, sexual abuse or harassment and physical violence. It involves husbands battering their wives at the slightest provocation and fathers sexually abusing the female child as well as acquaintance.<sup>16</sup> This class of violence happens to the women irrespective of their class, age, sexual orientation, religion or social status.<sup>17</sup> Globally, on average 30% of all women who have been in a relationship have experienced physical and or sexual violence committed against them by their partner.<sup>18</sup> Rape of women has been used to humiliate opponents, to drive communities and groups off land and to wilfully spread HIV.<sup>19</sup> In addition, during conflict, the concept of masculinity often involves aggressive and misogynist behavior whereby women and their bodies are seen as territory to be conquered and possessed in order to increase some men's humiliation or to reward others.

The high rate of women mortality that consistently occur in Nigeria arise out of domestic abuse and violence by the spouses and intimate partners of these women. What is more devastating is that the

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<sup>14</sup>I Nnadi, 'Legal Instruments Against Gender Discrimination and Violence Against Women in Nigeria; How adequate? (2016) *LFRP* Vol. 1 Zubic Infinity Concept, Owerri, p.74.

<sup>15</sup> Violence Against Women, the Monee Project No. 6 1999.

<sup>16</sup>Oluremei FD, Domestic Violence against Women in Nigeria (2015) (2) (1) *European Journal of Psychological Research*.

<sup>17</sup> MO Izzi, Domestic Violence and the Human Rights Challenge in Nigeria (2012) (3) *Rivers State University Journal of Public Law* 215.

<sup>18</sup> Amnesty International, 'Women's Rights are Human Rights' available at <http://www.amnesty.org/en/what-we-do/discrimination/women-rights> accessed on 16<sup>th</sup> April, 2023.

<sup>19</sup> United Nations (2006), In-Depth Study on all Forms of Violence against Women. The UN Document A/61/122/Add.1 available at <https://eige.europa.eu/terms> accessed on 21<sup>st</sup> April 2023.

women who go through these abuses do not leave the toxic relationship until they fall victims. The case of late Osinachi Nwachukwu, the popular Nigerian gospel singer, remains fresh in our memories and the fact that some women endure a lot of abuses in marriages for the sake of what the church or the society would say remains very appalling. Domestic violence violates women's human rights guaranteed under Chapter IV of the Constitution of Federal Republic of Nigeria 1999 (as amended), section 34(1)(a) which provides that every individual is entitled to respect for the dignity of his person and accordingly, no person shall be subject to torture or inhuman or degrading treatment. Before the enactment of Violence Against Persons Prohibition Act, 2015, the Penal Code Law which is applicable to states of the Northern Region of Nigeria, particularly s. 55(d), permits a man to reasonably chastise his wife for the purpose of correcting her.<sup>20</sup> Another form of violence against women is sexual abuse or marital rape. We find situations in which husbands forcefully have carnal knowledge of their wives without her consent and the woman most of the times is scared to speak out. Section 357 of the Criminal Code<sup>21</sup> provides that any person who has unlawful carnal knowledge of a woman or girl, without her consent, or with consent obtained by force or by means of threats 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 her husband, is guilty of an offence which is called rape. Section 6 of the Criminal Code Act for the sake of clarity define carnal knowledge to mean 'carnal connection which takes place otherwise than between husband and wife'. This section exonerates husband; hence a wife cannot be heard saying that her husband raped her no matter the circumstances of the carnal knowledge. This is a very unfair law that should be expunged with immediate effect.

### **Vulnerability/ Sexual Harassment in the Work Place**

Sexual abuse and harassment are also experienced in work places. Women are more likely to work in lower status positions, increasing the potential for abuse by male supervisors. The male supervisors usually make sexual advances to these women and when they refuse to play to their tunes, they threaten to terminate their employment. Women are also often subject to gender-based discrimination in their work place. Equal pay for the same work is a human right. Often, women are denied access to a fair and equal wage. It has been shown that women currently earn roughly 77% of what men earn for the same work. This leads to a life time financial disparity for women, prevents them from fully exercising independence, and means of increased risk of poverty in later life.<sup>22</sup> In the case of *Ejike v Microsoft Nigeria Limited and Ors*<sup>23</sup>, the court noted that sexual harassment is contrary to S. 34(1) (a) of the Constitution of Federal Republic of Nigeria, together with Articles 2 and 5 of the African Charter which recognizes respect of dignity of person as a human right and prohibits all forms of degrading treatment. Unfortunately, victims rarely seek legal redress because they are ashamed or scared of dismissal, bullying or resentment by other colleagues who are friends with the perpetrator, while some are not willing to go through the rigours of legal proceedings.<sup>24</sup>

### **Child Marriage**

Child marriage is formal or informal union before age 18. It is any marriage where at least one of the parties is under 18 years. It is a violation of children's human rights and a form of gender-based violence that robs children of childhood. Nigeria has the highest number of child brides in West Africa and the third highest number in the world.<sup>25</sup> According to a 2017 report by UNICEF, 43% of Nigeria

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<sup>20</sup> Victoria Daor, Contextual and Historical Dimensions of Violence Against Women, the Transmitter, August 8, 2020.

<sup>21</sup> Criminal Code, S. 357

<sup>22</sup> Amnesty International, 'Women's Rights are Human Rights' available at <http://www.amnesty.org/en/what-we-do/discrimination/women-rights> accessed on 16<sup>th</sup> April, 2023.

<sup>23</sup> [2012] NICN/LA/492

<sup>24</sup> Mohd NL et al, 'Factors Influencing Sexual Harassment in the Malaysian Work place', *Assian Academy of Management Journal* [2007] 12(2) 15-31.

<sup>25</sup> UNFPA & UNICEF. 'Child Marriage in West and Central Africa: At a Glance' September 2018 available at [www.unicef.org](http://www.unicef.org) accessed 21<sup>st</sup> April, 2024.

girls are married off before their 18<sup>th</sup> birthday, while 17% are married before they turn 15.<sup>26</sup> Child marriage also disrupts their education and drives vulnerability to violence, discrimination and abuse. Early marriage has devastating consequences for a girl's life. Effectively, child marriage ends her childhood. Girls are forced into adulthood before they are physically and mentally ready. Child brides are frequently deprived of their rights to health, education, safety and participation. Child marriage is a global problem and is compounded by poverty. Despite efforts to end child marriage globally, millions of girls are still married off every year.

In Nigeria, girl children face early and forced marriage more and this is considered a violation of children's rights as they have several harmful effects on children's lives including early and frequent pregnancies, higher risk of maternal mortality and morbidity, limited decision making in family matters and school dropout. Article 16 of the Universal Declaration of Human Rights states that persons must be at 'full age' when married and that marriage should be entered into 'freely' and with 'full consent'<sup>27</sup>. By virtue of Art. 29(4) (1), 'full age' means the age of eighteen years and above. The Child Rights Act states that the age of marriage shall be 18 years. Despite these provisions, child marriage is still on the increase especially in the Northern parts of the country. Factors responsible for child marriage include poverty, parental desire to prevent sexual relations outside marriage, fear of rape, lack of education or employment opportunities for girls, and the traditional notions of the primary role of women and girls as wives and mothers.<sup>28</sup>

### **Issues of Political Participation**

Article 7 of Convention on Elimination of Discrimination on all forms of Discrimination Against Women (CEDAW) guarantees right to women's participation in politics and public life. Despite this and other provisions, women remain underrepresented in parliaments, governments, judiciaries and other decision-making bodies. Barriers that deter women from participating in politics include patriarchy (there is this deep-rooted societal belief that politics is reserved for the male domain), violence and intimidation by their male counterparts, financial constraint etc. Research shows that women's participation in politics is associated with increased attention to issues affecting women, children, and families, as well as social welfare more broadly.<sup>29</sup> Women legislators help to bring about laws that favour women and children, for instance, their representation will more likely prioritize health, education and social protection.

### **Reproductive Rights Violations**

Reproductive rights are the right of women as individuals to control and make decisions relating to reproduction and childbearing, especially with regard to contraception and abortion. Reproductive rights recognize that a woman should be able to defend her right over her body and personal choices concerning her body.<sup>30</sup> Reproductive rights are concerned with reproduction, as stipulated in National Laws, and other documents such as reports from International Human Rights Institutions; and must therefore be respected and enforced by State parties. These rights include inter alia:

- i. The rights of all couples and individuals to decide freely and responsibly the number and spacing of their children with accessible and available means of contraception;
- ii. The right to have information, education and the means to do so;
- iii. The right to safe abortion under specific circumstances and conditions;
- iv. The right to be free from violence;

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<sup>26</sup> UNICEF, Ending Child Marriage, Progress and Prospect (2017) UNICEF Child Marriage Report; see also Girls not Brides, 'Child Marriage around the World: Nigeria', 2014 available at <http://girlsnotbrides.org/child-marriage/nigeria/> accessed 21<sup>st</sup> April, 2024.

<sup>27</sup> Article 16 Universal Declaration of Human Rights.

<sup>28</sup> United Nation Children Fund (UNICEF), New York (2008): Child Marriage and the Law, Legislative Reform Initiative Paper Series, Global Policy Section.

<sup>29</sup> UN Women, 'Women's Representation in Local Government: A Global Analysis' (European Parliament 2008) 12-15

<sup>30</sup> LA Omunfuegbe, 'A Critical Appraisal of Women's Reproductive Rights in Nigeria', (2019), Vol.10, *Journal of Sustainable Law and Policy*, p. 274.

- v. The right to be protected from HIV & AIDS and other sexually transmitted diseases affecting the sexual reproductive health of individuals;
- vi. The right to safe motherhood.<sup>31</sup>

The protection of reproductive rights has evolved such that some countries now have laws and state policies addressing the abuse of such rights and providing remedies where necessary. In some Western countries, abortion has been legalized.

In Nigeria however, abortion is criminalized except when it is carried out to save the life of the pregnant woman. Section 228 of the Criminal Code which operates in the Southern States of Nigeria states that any doctor providing a miscarriage to a woman is guilty of a felony and liable to 14 years of imprisonment. Section 229 provides that any woman obtaining a miscarriage is guilty of a felony and may be sentenced to imprisonment for up to 7 years. Section 230 states that anyone supplying anything intended for a woman's miscarriage is also guilty of a felony and may be sentenced to up to 3 years of imprisonment. The Penal Code operates in northern states, with abortion laws contained in sections 232, 233, and 234. The sections of the Penal Code parallel the Criminal Code, besides the exception for abortion with the purpose of saving the life of the mother. The Penal Code's punishments include imprisonment, fine, or both. The offenses of these codes are punishable regardless of whether the miscarriage was successful. No provisions have been made to the Criminal Code making exceptions for the preservations of the mother's life. However, the cases of *Rex v Edgar*<sup>32</sup> and *Rex v Bourne*<sup>33</sup> have made it generally accepted that abortion performed to preserve the mother's life is not an appropriate transgression of the Criminal Code.

Abortion is also illegal in some States of United States of America. In states like New Jersey, New York, Maryland, Illinois, Colorado, California, Washington DC etc, abortion has been legalized. UN human rights experts issued a powerful statement condemning the Supreme Court's decision to overturn *Roe v Wade*<sup>34</sup>, declaring – in no uncertain terms – that in doing so, the United States had violated fundamental, internationally recognized human rights, and 'completely disregarded its binding legal obligations under international law, including those stemming from its ratification of the International Covenant on Civil and Political Rights.' The experts urged the US at state and national level to adhere to its international commitments to 'respect and uphold women's human rights to life, health, equality and non-discrimination, privacy and freedom from violence, torture, and other forms of cruel, inhuman and degrading treatment,' – all implicated in the right to access safe and legal abortion. Today, the United States has still not upheld its international commitments, and the fight for legal equality in the United States still continues.

As more and more US states move to ban or severely restrict abortion, women, girls, and other pregnant people are bearing the devastating, real-life consequences of the 2022 Supreme Court decision. This includes the thousands of women and girls in the United States who have been forced to leave their homes and travel to other states to obtain a safe and legal abortion, the patients who have been denied critical health care for cancer and other life-threatening diseases, the women turned away from hospitals following miscarriage, those forced to give birth to a child with fatal fetal abnormalities, and the untold number of women and girls – including rape and incest survivors – who have had to endure forced pregnancy and motherhood because they could not overcome the many barriers put in place after abortion care was banned in their state.<sup>35</sup> The right to access safe and legal abortion is based on fundamental, internationally recognized human rights, including the right to autonomy and non-discrimination. These human rights are violated when US courts and/or politicians deny pregnant

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<sup>31</sup>*Ibid*

<sup>32</sup> [2003] SCC 47

<sup>33</sup> [1952] 36 Cr App R 125

<sup>34</sup> [1973] 410 U.S 113

<sup>35</sup>The United State is Still Violating Women's Fundamental Human Rights, available at [https://equalitynow.org/news\\_and\\_insights/the-united-states-is-still-violating-womens-fundamental-human-rights/](https://equalitynow.org/news_and_insights/the-united-states-is-still-violating-womens-fundamental-human-rights/)

women and girls access to reproductive health care, subject them to unnecessary cruel and degrading treatment, and deny them the right to make their own decisions about their bodies, their lives, and their futures.<sup>36</sup> Nigeria is a signatory to these documents including the Maputo Protocol that protect the rights of women on decision-making on safe abortion care, and has an obligation to protect those rights. Several international organizations such as the WHO, the International Federation of Gynaecologists and Obstetricians, the Amnesty International, the Royal College of Obstetricians and Gynaecologists, and the United Nations have repeatedly issued guidelines to indicate that women have the right to decide on whether or not to have abortion.<sup>37</sup>

### **Widowhood Practices**

A widow who is still shocked by the news of her husband's demise and who among other things is thinking of how to cope without her husband, in training the children who are left at her care, is also made to go through some archaic and anachronistic customs, all in the name of mourning her husband the right way. In addition to the grief occasioned by the loss of their husbands, women are meant to put up with the challenges brought about by harmful cultural practices.<sup>38</sup> the woman's hair is scraped with razor blade or even broken bottle and in the process, different infections are transferred to the woman who after mourning her husband, end up going from hospital to hospital trying to cure infections she contracted at the process of hair shaving. Some heartless women go the extra mile of giving the widow the water which was used to clean her husband's corpse to drink in order to prove her innocence that she was not the one who killed her husband. Some women become unfortunate because just immediately after mourning their husband or even at the process of the mourning, become sick due to infections they contracted at the time of hair shaving and such infections might end up killing the woman and boom, those women who were nowhere to be found when the widow's husband was sick, will now claim that their brother was actually killed by his wife. These widowhood practices are so harmful and must be discouraged. They expose women to degradation, dispossession, physical and psychological harm and ultimately undermine their fundamental human rights.<sup>39</sup>

On the death of a wife, however, the husband is not subjected to any of these sadistic and dehumanising experiences, rather those men are usually encouraged to marry another wife as fast as possible to keep them company and to help in training the children. This is a serious discriminating practice and it violates the provisions of the law. These treatments meted out to widows in Nigeria are clear indication of the persistent violation of women's rights. In *Mojekwu v. Mojekwu*,<sup>40</sup> the Court of Appeal stated: 'Oliekpe' custom, which permits the son of a deceased or brother of a deceased person to inherit his property to the exclusion of his female child, is discriminatory and therefore inconsistent with the doctrine of equity.

The enactment of the Violence against Persons (Prohibition) Act<sup>41</sup>, has brought some relief to women who go through this inhuman and degrading treatments. Section 15<sup>42</sup> of the Act criminalizes harmful widowhood practices, while Section 20 criminalizes harmful traditional practices. Section 15(1) provides that any person who makes a widow to suffer harmful traditional practices is liable on conviction of the offence to imprisonment for a period not exceeding 2 years or to a fine of N500, 000. 00, or to both fine and imprisonment. Such practices include every form of traditional practices, attitudes or behaviours which affect negatively the fundamental rights of girls and women and prevent them from enjoying similar rights like their male counterparts. This also includes any traditional or

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<sup>37</sup> Restrictive Abortion laws put Nigerian women in Danger available at <https://theconversation.com/restrictive-abortion-laws-put-nigerian-women-in-danger-183153> accessed 22nd April, 2024.

<sup>38</sup> E Durojaye, 'Women But not Human: Widowhood Practices and Human Rights Violations in Nigeria' (2013) 27(2) *International Journal of Law and Policy and Family* 179-196 available at <https://academic.oup.com/lawfam> accessed 21st April, 2024.

<sup>39</sup> U C Kalu and O Umunna, 'An Appraisal of Women's Rights in Nigeria and some other Jurisdictions' (2022) *International Journal of Comparative Law and Legal Philosophy (IJOCLLEP)* 4 (2)

<sup>40</sup> [1997] 7 NWLR (Pt.512) 226 at 288-289.

<sup>41</sup> Violence against Persons (Prohibition), 2015.

<sup>42</sup> VAPP Act, S. 15

widowhood practices which denies or is likely to deny a woman or girl her succession or inheritance rights, encourages female circumcision or genital mutilation, forced marriages etc.

### **Son Preference**

This is another form of women right violation that is prevalent in Igbo land. Son preference dates back to the pre-historic times and it is tied to inheritance and the desire to carry on the family name and guarantee the family lineage.<sup>43</sup> Most families with limited means who cannot afford costs such as school fees, uniforms, and supplies for all of their children will prioritize education for their sons. Families may also rely on girls' labor for household chores, carrying water, and childcare, leaving limited time for schooling. In most cultures in Nigeria, just like in several other countries, the birth of a male child is often heralded with great joy as compared with a female child. Son preference offends the provisions s. 39 of the Constitution<sup>44</sup> particularly as it relates to the right to dignity of person, and freedom from discrimination. The practice inflicts on the psychology of girls, a perpetual internalization of inferior status and low premium accorded them by the society, and may affect their behavior and mannerism in the society.<sup>45</sup> Son preference impacts negatively on the health of the women; prolonged child bearing (for search of male children) exposes the women to some health-related issues and sometimes leads to the untimely death of the woman.

## **4. Global Impacts of Violations of Women's Rights**

**Social and Health Impacts:** One of the most immediate impacts of violations of women's right is the damage to health and well-being caused by practices like child marriage, female genital mutilation, domestic violence and denial of reproductive health expose women and girls to physical injury, mental trauma, or even death. The psychological impacts of violence including trauma, depression, anxiety and post traumatic disorder, can persist for years and affect all aspects of women's lives.<sup>46</sup> Discriminations against girl children e.g. son preference limits their ability to participate fully in family and community life. Girls who are denied education are usually trapped in poverty cycles causing them to be too dependent and vulnerable to harm. This not only affects them directly but also affects their future and the future of their children, as educated women are more likely to raise healthier, better educated families.

**Economic Consequences:** Women's right violations have significant economic costs at both national and global level. The World Bank estimates that gender inequality costs the global economy trillions of dollars in lost human capital and economic output.<sup>47</sup> Women make up a large portion of the world's population, when their work is undervalued, poverty level increases and economic growth slows down. The International Labour Organization estimates that closing the gender gap in labour force participation could add trillions of dollars to global GDP.<sup>48</sup> Deprivation of education, employment, equal pay, right to own property etc bring about weak or poor economies and directly affect the woman, making them poor and vulnerable to lots of ills. This also affects their confidence and make them bring timid children, especially the female children.

**Political and Governance Impacts:** The exclusion of women from political decision-making weakens governance and democracy and constitutes both a rights violation and a barrier to addressing other violations. Women tend to bring more coordination and leadership qualities, hence, when their voices are missing from political spaces, laws and policies are less likely to address issues such as healthcare, education, childcare and gender-based violence. In any leadership cycle devoid of women, there is usually this gap that makes certain decision making haphazard.

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<sup>43</sup> I Nnadi, Son Preference- A Violation of Women's Human Rights: A Case Study of Igbo Custom in Nigeria, (2003) *Journal of Politics and Law* 6(1).

<sup>44</sup> Constitution of Federal Republic of Nigeria 1999 (as amended), s. 39

<sup>45</sup> I Nnadisupra (n.31)

<sup>46</sup> WHO, 'Understanding and Addressing Violence Against Women: Health Consequences' (WHO 2012) 2-4.

<sup>47</sup> World Bank, 'World Development Report 2022: Gender Equality and Development'(World Bank 2022)45

<sup>48</sup> International Labour Organization, 'World Employment and Social Outlook: Trends 2023' (ILO 2023) 45

### **5. Has there been any Relief so far with regards to these Women's Right Violation in Nigeria?**

Nigeria is one of the countries with a lot of cultural values. Some of those cultural values are the major reasons why women are seen as subordinates to men, as weaker vessels and as chattels to be owned. The Constitution made salient provisions in the bid to protect human rights generally as seen in Chapter IV of the Constitution. These provisions include right to life, human dignity, right to freedom from discrimination, freedom thought, conscience and religion, right to privacy, right to vote and be voted for, right to own properties, etc. Irrespective of these provisions, women's human rights abuse or violation still persists. For instance, some societies still encourage and practice some archaic customs like widowhood practices, son preference, female genital mutilation, polygamy, etc. These practices are age-worn yet still prevalent in some traditional societies in Nigeria. Some of our laws permit women right violations. For instance, the Criminal Code does not criminalize marital or spousal rape. The Penal Code which is applicable in the Northern States, permits a man to reasonably chastise the wife as a means of correcting her. These provisions of the law should be expunged with immediate effect as they violate women's human rights. A lot of relief were however brought to Nigerian women facing some obnoxious traditional practices, by the enactment of the VAPP Act, 2015, which criminalized some harmful traditional practices like the female circumcision and female genital mutilation, widowhood practices, etc. This Act also criminalized wife battery which was allowed by the Penal Code.

### **6. Conclusion and Recommendations**

Women's human right violation is of global concern; it cuts across many nations of the world. These violations have far-reaching consequences. Nigeria as well as other countries, in striving to bring women's right violation to an end, has made some laws including some provisions of the Constitution prohibiting discrimination on the basis of sex. In recent years, there has been increased efforts to enhance the protection and promotion of women's rights through the International, regional and national enactments of laws and policies. Such efforts have given rise to standard setting documents like CEDAW, UDHR, VAPP Act, etc. Nigeria has gone ahead to ratify and domesticate a few of these instruments. Despite the adoption of some of these laws, the fundamental promise of women's right as human rights remains unfulfilled for a lot of women and girls world over. The implementation gap between international standards and national realities remain persistent, with many states failing to translate treaty obligations into concrete policy changes. A number of measures are necessary:

The Legislature should carry out a total cleansing of some provisions of our laws that have become archaic and anachronistic. For instance, the provision of the Penal Code that allows a husband to chastise his wife as a means of correcting her, is a law that should not be allowed to persist. This encourages domestic abuse and is an affront to women's right. Laws like that no longer pass the test of time. They should be reformed to meet international best practices to protect women and their human rights.

There should be creation of awareness for women and girls, where they are informed about their rights and encouraged to speak out through the right medium whenever they face one abuse or the other. Organizing fora where both men and women are allowed to interact and air their views on women's right, will help educate men who might be acting out of ignorance. These kinds of fora will enable human rights activists to know men's notion and understanding about women's rights and how best to help them learn how to handle issues with their wives.

Education of women and girls should be encouraged, because when you train a woman, you have trained a nation. Making education free at all levels, will enable women to get proper training that will help them know their rights and worth and know how to protect their rights when infringed.

Making Chapter II of the Nigerian Constitution justiciable will enable the protection of women's rights. This is because this chapter covers some of their rights including rights to education, health and wellness, if it remains non-justiciable, women's rights may not completely be protected.

Amendment of Section 12 of the Constitution on domestication. National Assembly need to domesticate all the international instruments that have been ratified, of which Nigeria is a signatory to. This will strengthen women's rights and prevent certain violations of their rights.

Human Rights Activists and NGOs should be more proactive to rescue women that have been in perpetual domestic violence and are scared to leave the abusive relationships, help them to regain their confidence and start up a business to help them sustain a living especially for those who have no jobs.