

## **Beyond Women's Rights.**

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**Abstract:** *The actualization of women rights has been a concern worldwide. Decades of outcry of dehumanization, degradation, humiliation, exclusion, discriminations, arbitrary deprivation of liberty and gender-based violence have led to numerous efforts at curbing these issues at the international, regional, national level and through legal framework, conferences, conventions, programmes. Similarly, there has been a rise in social advocacy groups at national, regional and global level. Yet, the problem is far from being ameliorated much less eliminated. This paper presents a descriptive analysis, based on literature review, of the major issues in women's right. It examines the various debacles to actualizing women's right one of which is patriarchy, and the inability of State to implement many of the legal frameworks. The paper finds that a major cause of women's right violation is the financial dependency of women on their male counterparts. It recommends, as a departure from previous writing which demands more responsibility from State, the need for women's responsibility. This is because social advocacy for women's right without social responsibility from women will produce affirmative action for women who have opportunities they never explore. This does not seek to undermine the policy recommendations in other literature rather it is a call to rise above and beyond limitations through self-motivating steps that places a demand on women's abilities and capacities.*

**Key words:** *Gender Based Violence, Women's Rights,*

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### **I. Introduction.**

For several decades women's right advocacy has revolved among many issues which include female suffrage, gender discrimination, women empowerment, women's participation, Women Liberation, Women equality and Access and Gender based violence. The specific focus of this study is gender based violence also known as violence against women. Gender based violence has been extensively defined in literatures but the most encompassing definition is one given by United Nations Declaration on the Elimination of Violence against Women (CEDAW) According to this definition

"Gender-based violence which include among other physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or private life. It encompasses, but is not limited to, physical, sexual and psychological violence occurring in the family, including battering, sexual abuse of female children in the household, dowry related violence, marital rape, female genital mutilation and other traditional practices harmful to women; non-spousal violence and violence related to exploitation; physical, sexual and psychological violence occurring within the general community, including rape, sexual abuse, sexual harassment and intimidation at work, in educational institutions and elsewhere; trafficking in women and forced prostitution; and physical, sexual and psychological violence perpetrated or condoned by the state, wherever it occurs".(United Nations Declaration on the Elimination of Violence against Women, 1979).

This definition is widely accepted particularly because it redefines gender-based violence from physical dimension to encompass other aspects which had not previously been considered as violence. One of such include the psychological dimension which encompasses intimidation, exploitation and other subtle means through which a man tries to control his neighbor (Abama & Kwaja 2009:24, WHO,2012). This paper employs secondary data to examine the causes, response and challenges of gender-based violence.

### **II. Issues In Women's rights: Gender Based Violence**

Violence against women has occupied the forefront in women's rights (Abama&Kwaja 2009:23). This is so because, Violence Against women has been one of the most humiliating, dehumanizing and denigrating social menace affecting the basic fundamental human right of women of all age, color, race, ethnicity, continent and country across the globe (Geneva Centre for the Democratic Control of Armed Forces, 2005). More so, studies by Danielson et tal 1998 Coker et tal 2000, Barkan, et tal 2000, cited by Family violence prevention Fund, 2004, link the increasing prevalence of violence against women to increasing rate of maternal death, HIV/AIDs and health challenges such as disability, arthritis, chronic pain, migraine, frequent headaches, sexually transmitted infections like chronic pelvic pain, stomach ulcers, and spastic colon (Augustyn et tal,

2004). Additionally, the World Health Organization confirms that violence against women causes more death and disability among women aged fifteen to forty-four than cancer, malaria, traffic accidents, and war (WHO, 2004)

However, defining and delineating the concept of violence against women has been a challenge for lawyers, sociologists, psychologists, academics, students and its precise definition remains an uncertain and controversial social subject. Women's Aid (UK women's NGO) defines violence against women as "physical, sexual, psychological or financial violence that takes place within an intimate or family-type relationship and that forms a pattern of coercive and controlling behavior (Women's Aid, 2008). One of the limitations of the Women's Aid definition is that it restricts violence against women to the home while violence against women takes place surreptitiously beyond homes. Therefore, violence against women refers to all gender-based violent acts perpetrated against women, including physical, sexual, and psychological violence that occurs within the family or outside the family. (Aluko *et al.* 2007). Similarly, Abama&Kwaja2009, noted that violence against women is a prevalent harm to the basic rights, freedoms, health, and welfare of women. It occurs in many settings and at many hands, including those of relatives, acquaintances, employers, and the state (Abama & Kwaja 2009:24). Violence Against Women is a simple phrase that encompasses a horrifying list of abusive behavior both physically and psychologically (Onyejekwe 2004:36).

Nevertheless, it is pertinent to note that while all the above definition shed more light into the concept, this perception is not a complete representation of the types of violence and thus it is restricted. This definition is narrow in scope because "violence against women may include not only the intimate partner relationships of spousal, live-in partners and dating relationships, But other form of harmful traditional practice" (National Coalition against Domestic Violence, 2005). However, it is important to include at this juncture that although women and girls are in most cases the victims, men and boys can also be the target group of gender-based violence.

Furthermore, men are not always the perpetrators; but women also commit gender based violence either against men, or against other women (Funk et al 2005). However, there exists broad empirical evidence that the huge majority of perpetrators of gender-based violence are male, whilst most of the victims are female (U.S. Department of justice, 2007). However, for purpose of this study the definition of violence against women given by Declaration on the Elimination of violence Against Women (DEVAW) will be adopted. It state thus

"Any act of gender-based violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or private life. It encompasses, but is not limited to, physical, sexual and psychological violence occurring in the family, including battering, sexual abuse of female children in the household, dowry related violence, marital rape, female genital mutilation and other traditional practices harmful to women; non-spousal violence and violence related to exploitation; physical, sexual and psychological violence occurring within the general community, including rape, sexual abuse, sexual harassment and intimidation at work, in educational institutions and elsewhere; trafficking in women and forced prostitution; and physical, sexual and psychological violence perpetrated or condoned by the state, wherever it occurs." (United Nations Declaration on the Elimination of Violence against Women, 1979).

However, gender based violence occurs everywhere, be it in the home, school, workplace or wider society. The Commission on the Review of Higher Education in Nigeria (CRHEN) suggests that the occurrence of gender based violence is gradually assuming a serious dimension even as students identified sexual harassment as being among the stressors hindering academic work in the Universities(Odu & Olusegun, 2012).

### **III. Causes Of Violence Against Women**

It is pertinent to note that numerous causes of violence against women have been identified by scholars. The first and foremost cause of violence against women is cultural and gender-specific socialization (Abama &Kwaja 2009:25). This include cultural definitions of appropriate sex roles, expectations of roles within relationships, belief in the inherent superiority of males, values that give men proprietary rights over women and girls, notion of the family as the private sphere and under male control, customs of marriage (bride price/dowry), acceptability of violence as a means to resolve conflict(UNICEF, 2000).

Secondly, women's economic dependence on men, limited access to cash, credit, and poverty forces many women to remain in violent and dangerous relationships where they are often subject to rape and HIV infection by their HIV-positive partners. (Krug, *et al.*, 2002).In the same vein, Heise (1994) observed that discriminatory laws regarding inheritance, property rights, use of communal lands, and maintenance after divorce or widowhood, limited access to employment in formal and informal sectors, limited access to education and training for women are the causes of increasing violence against women(Hiese ,1999)

Furthermore, lesser legal status of women either by written law and/or by practice, laws regarding divorce, child custody, maintenance and inheritance, legal definitions of rape and domestic abuse, low levels of legal literacy among women, insensitive treatment of women and girls by police and judiciary are also identified

causes of domestic violence (WHO, 1997). In addition, political under-representation of women in power, politics, in the media as well as legal and medical professions; notions of family being private and beyond control of the State; risk of challenge to status quo/religious laws; limited organization of women as a political force; limited participation of women in organized political system amongst other (Heise, 1994).

#### **IV. Consequences Of Violence Against Women**

It is however important to emphasize that violence against women has implications on the total wellbeing of women. The consequences of violence against women are numerous they include, but not limited to, the following: infectious diseases, mental health disorders, and other diseases such as hypertension, diabetes, dermatitis, asthma, allergy, acne, and abnormal menstrual bleeding (WHO, 1996). Victims of childhood abuses are at high rates of adult anti-social behavioral patterns that have the potential for creating or worsening existing health problems (WHO, 2002). These behaviors include smoking, the use of alcohol, driving while intoxicated, avoiding regular gynecological examinations, and not wearing seat belts, sedentary lifestyle, and high-risk sexual encounters (Walker, 1999). Also, these victims show higher rates of numerous medical condition than the non-abused (WHO, 2012). Some of these medical conditions includes physical disabilities, arthritis, migraine, stammering, sexually transmitted infections, chronic pelvic pain, stomach ulcers and spastic colon (Taliaferro, 2004).

Other heinous impacts of gender-based violence are that it affects women's access to basic services, specifically their ability to obtain contraceptives (USAID, 2006). It also has the ability to jeopardize making an informed choice about family planning, which input additional burden on an already overwhelmed health care systems, increases the likelihood of maternal complications and undermine progress in reproductive health and HIV/AIDS prevention (USAID, 2008)

#### **V. Violence Against Women And Prevalence Of Hiv/Aids**

It is also pertinent to note that emerging studies have shown a strong relationship between violence against women and the spread of HIV/AIDS in the developing world (Joint Report by UNAIDS, UNFPA, UNIFEM 2004). Gender-based physical and sexual violence is associated with a range of negative health and development consequences, including increased risk of HIV (Abama&Kwaja, 2009:23). According to the published report of Geneva Centre for the Democratic Control of Armed Forces on gender-based violence and HIV/AIDS, women and girls who are raped or sexually coerced do not have the ability to negotiate condom use while the men who are the perpetrators of such violent acts do not offer to use condoms in most cases (Geneva Centre for the Democratic Control of Armed Forces, 2005).

Vaginal lacerations and trauma from sexual violence further increases the risk of acquiring HIV. (Report on Gender-based Violence and HIV/Aids August 2006). In fact, a research carried out by Human right watch, 2003 in Uganda alleges that abusive men often intentionally infect their partners with HIV (Karanja, 2003). Globally, half of all people living with HIV were female, and the proportion of women being affected by the epidemic continues to grow (UNAIDS, 2013). In 2005, 17.5 million women were living with HIV—one million more than in 2003 (UNAIDS/WHO, 2005). In sub-Saharan Africa alone, of the 25.8 million adults and children living with HIV, about 13.5 million were women (UNAID, 2005). The United Nations estimates that 6,000 young people aged 15 to 24 become infected with and a staggering two-thirds of these new infections were among women (WHO, 2002). Gender norms and inequalities increases vulnerability to HIV and exacerbate the difficulties associated with being infected and affected by HIV/AIDS, for women (US Report on HIV and Gender-Based Violence November, 2006).

Also, across-sectional study carried out on 1,388 women presenting for antenatal care at four health center in Soweto, South Africa found that women with violent partners have a 50% greater risk of acquiring HIV than women without violent partners (Dunkle et al 2004). A similar study of women attending an HIV counseling and testing clinic in Tanzania reports that young HIV-positive women were 10 times more likely to report violence than HIV-negative women which supports the findings of Dunkle et al 2004 that HIV/AIDS epidemic is affecting women and girls in increasing numbers (Maman *et al.*, 2002). Furthermore, in Rwanda, where rape was used as a form of ethnic cleansing during the 1994 genocide, it is estimated that of the 250,000 women who were raped and are still alive, 70% had tested HIV positive (Amnesty, 2004).

#### **VI. Violence against Women and Impact on Children.**

It is becoming increasingly evident that violence against women impacts negatively on their children. A study by Family Violence Prevention Fund, American Academy of Pediatrics in collaboration with other notable organization that work on Gender-based violence notes that the impact of living in homes where violence is present is detrimental to the emotional, developmental and physical well-being of children (Augustyn et al, 2004). Studies have shown that living with domestic violence increases children's risk of encountering the juvenile justice system (Kronkowsky Charitable Foundation, 2005). A Massachusetts study found that children

who grew up in violent homes had a six times higher probability of attempting suicide, a twenty-four percent chance of committing sexual assault crimes, seventy-four percent increased incidence of committing crimes against a person, and a fifty percent increased chance of abusing alcohol or drugs (Impact of Domestic Violence"; American Bar Association, 2005).

Similarly, as a consequence of violence against women in homes, many children exhibit signs of post-traumatic stress disorder after witnessing domestic violence (William, 2006:313). Symptoms may include inability to sleep throughout the night, bedwetting, anger acted out through temper tantrums or directed inwards and manifested by withdrawal or disassociation (American Bar Association, 2005). As children grow older, they may experience feelings of guilt for not protecting their mothers and may turn to drugs or alcohol to numb these feelings. School-age children show poor academic performance, are frequently absent and may either have anti-social behavioral pattern or withdraw and disassociate (Lantern Project, 2005)

Other equally significant repercussions of violence against women on their children in the absence of timely intervention and support include, psychiatric disorders, developmental problems, academic under performance, suicide, abuse drugs, and alcohol, run away from home, engage in teenage prostitution, and commit sexual assault crimes (William, 2006:312-313). This plethora of negative implications of violence against women has made it a major concern at national, regional and global levels. The next section examines the responses to violence against women in details.

## **VII. Responses To Women's Rights Issues**

The right to respect, protect and ratify women right which is critical to stopping violence against women have been a recurring issue in human right discuss, not only because these treaty deal with women right that have been constituted to be an inalienable, integral and indivisible part of universal human rights but much more because they concern issues of human dignity and decency which are fundamental to human progress and development. In various countries and continents world over, conscious steps are taken to make violence against women history. These responses are from International community, Regional organization, State actors, local and Non-State actors (Non-Government Organizations, Community Base Organizations and Faith-Based Organizations). At the global level, there has been massive effort to curb the indignity on women. This is evident in numerous conferences that has been held, protocol, agreement, conventions and framework that has been ratified. Similarly, the United Nations that represents the apex of global community has through his numerous specialized institutions responded to violence against women.

Since women's right has become an integral aspect of human right various international and regional instruments and declarations have recognized violence against women as a "form of discrimination and a violation of women's human rights" (Kofi Anan, 2006). More so, the widespread inclusion of the prohibition of gender-based violence in international and regional treaties and declarations, its recognition and application by the international tribunals, as well as its prevalence in the national legislation of the majority of States indicates that this prohibition represents a consensus in the international community about the normative force of prohibition on gender-based violence (Stark, 2006).

For instance, Article 27 of the Fourth Geneva Convention adopted in 1949 provides that "women shall be especially protected against any attack on their honor, in particular against rape, enforced prostitution, or any form of indecent assault" (Geneva Convention, 1949). In addition, Protocols supplementing the 1949 Geneva Conventions adopted in 1977 also prohibit violence against women whether as sexual violence or rape. The International Covenant on Civil and Political Rights (ICCPR) and the Universal Declaration of Human Rights (UDHR) contains provisions prohibiting discrimination on the basis of sex. Although, these instruments do not explicitly refer to violence against women, sexual violence has been interpreted as falling under the prohibition against "inhuman or degrading treatment" in the ICCPR (Dean, 2005)

Similarly, Other important international legal framework and Declarations addressing Gender- based violence include the Vienna Conference on Human Rights (1993), the Programmed of Action of the International Conference on Population and Development (1994), the Beijing Declaration and Platform for Action, adopted at the Fourth World Conference on Women (1995), and the Addendum on the Eradication of All Forms of Violence against Women and Children (1998).

More so, at the regional level there are legal Instruments aimed at protecting the rights of women against violence. In Africa, there are treaties or regional instruments at regional and sub-regional levels that prohibit gender-based violence. The African Charter on Human and People's Rights, Part 1, Chapter 1, Articles 1- 18 stipulates the basic rights of every African (man, woman and child) and this significantly includes women as well. Furthermore, the Protocol on the Rights of Women in Africa is yet another regional instrument. It is an instrument for the advancement of women's rights in the continent and was adopted on July 11, 2003 by the 53 member nations of African Union (Atsenuwa, 2006). Also, in Southern Africa which consist of South Africa, Zimbabwe, Zambia, Mozambique and Southern African Development Community's Declaration on Gender and Development (1997) also exist to protect women's dignity

Significantly at the national level, States have responded to women rights and specifically violence against women in its entire ramification. Protections of the rights of women are implicitly stated in national constitution of most nations. The Nigeria federal constitution of 1999 protects the dignity of the human person and guarantees the right of every Nigerian (man, woman and child), to equality (section 42). The section states that "Every Nigerian has a right not to be subjected to cruel, inhuman, and degrading treatment or punishment. All forms of gender-based violence are inhuman, degrading, and dehumanizing. Also, states within the federation have also enacted laws prohibiting violence against women. For instance, in Lagos State, a Domestic Violence and Related Matters Bill was passed in the House of Assembly in 2007. The bill was passed and become known as Law No 15 of "A Law to provide Protection against Domestic Violence and for Connected Purpose As part of the response to violence against women (BAOBAB 2007).

Fundamentally, it is important to note that since the Second World War which marked the emergence of non-state actor and their increasing participation in Global arena a number of transnational non-government actors have also responded to issue of violence against women. Significant of these transnational institutions was Amnesty International. Amnesty International's has pioneered several global campaigns to Stop Violence against Women. It must be noted that individual on their own has spoken out against violence these includes statesmen, Clerics, Celebrities, Politician and ordinary citizen has well.

### **VIII. Road Block To Enforcing Women's Rights**

However, it is pertinent to note that far from ameliorating violence against women, increasing statistics makes it seem nothings had been done. There are numerous factors seen to be hindering the alleviation of violence against women. This section focuses on the challenges to eliminating violence against women drawing majorly from Nigeria examples.

A fundamental challenge to the eradication of violence against women is the failure of the States most of whom are signatory to the numerous international legal framework to effectively domesticate most of this international framework. Similarly, customary laws contribute to the persistence of violence in the family, and in some cases directly condone certain forms of violence against women. For instance, the Penal Code, applicable in northern States of Nigeria, allows the "correction of child, pupil, servant or wife" as long as it does not amount to grievous hurt (Section 55. (4). Also, marital rape is explicitly excluded from the definition of rape and is therefore, not a crime under Sharia penal legislation in Northern States of Nigeria or under the Criminal Code in force throughout other States of the federation. This is a challenge because the legal instrument of State that is supposed to promote and protect right of women but in this case these same law gives opportunity for violation of this same right.

Fundamentally and as corollary to the above a major roadblock to ameliorating violence against women is the limitation and restriction of the concept of violence against women in some State law to domestic violence that is violence within family and specifically wife battery while neglecting other similar violence such as rape genital mutilation, sexual harassment, child marriage, discrimination against women in workplaces, insensitiveness of many company policies to women plight. Similarly, a major challenge is that of negligence. Historically, the response by various stakeholders in the society, such as the police, service providers, religious organizations, family members and friends, has been highly insensitive to the plight of the female victims. Victims of Gender Based Violence specifically women, are often blamed for their plight (Chukwuman, 2005)

Chukwuman, 2005 note extensively that the attitude of blaming violence in the home on the victim rather than the perpetrator was found not only among police officers and law enforcement officials but also among some prosecutors and judges. Intimidating and patronizing questions asked by prosecutors and judges during investigation and trial deter women from reporting rape and other crimes of sexual or family violence. Women fear the public and intrusive questioning about their private lives that may be used to undermine their case. Further compounding this problem, is the traditional insensitive and passive response to victims' complaint by the society in general, and the police in particular. The major duty of the police is to maintain law and order in society, and protect lives and property. These lives include those in the home (Chukwuman, 2005).

Significantly and worthy of note is the nature of language used in the law. With specific reference to Nigeria the laws protecting women's rights contain a whole lot of ambiguities. For instance, the Nigerian constitution and even the penal code do not give a framework from which domestic violence is to be defined. Simply put, the law consists of too many ambiguities which many times create crisis of interpretation and misinterpretation. For instance, the issue of rape which is another dimension to domestic violence the law does not state explicitly what should be define as consent in cases of rape, no definition of consent is provided in the Criminal or Penal Codes of Nigeria, none of the codes provide a usable definition of the offense.

However, the Criminal Code states that any person "who unlawfully and indecently assaults a woman or girl is guilty of a misdemeanor, and is liable to imprisonment for two years," but provides no guidance on what constitutes "unlawful and indecent assault". It is pertinent to note as corollary to the ambiguities in the language of law, the inequality in the administration of justice to violators show that more punitive measure for

women than given to men. For instance, a woman or girl results in two years imprisonment (pursuant to art. 360 of the Criminal Code); the same crime merits three years if the victim is male (pursuant to art. 353). Such differences in sentencing, which are contingent only on the gender of the victim, contravene the constitutional and human right to both equal treatment and equality before the law. In setting different standards for the same crime, the legislature is effectively declaring that female victims are worth less than males this further pose more challenge to alleviate violence against women because men then to perceive women as reason for their pain rather than partners in progress of human race.

Another fundamental deterrent to the actualization of women's rights are women themselves. This may sound contradictory but closer observations of the major issues according to CEDAW definition of violence majority of this violence were carried out by women against women. For instance, take most harmful traditional practice such as female genital mutilation, widowhood rite are perpetrated by women against their fellow women.

Fundamentally, a major challenge to ameliorating violence against women is the psychological perception of women has the weak and prey for men. Other equally significant challenges include poverty, illiteracy, tradition, custom, sexual stereotyping of social roles and other cultural prejudice, economic powerlessness of women individually and as a class in society constitute barrier and challenge. For instance, culturally a woman is regarded as having been created primarily to reproduce "mankind" and to satisfy men's sexual appetite, lack of legal literacy are fundamental roadblock to eradicating violence against women.

### IX. Recommendations/Conclusion

In view of this numerous challenges, what then is the way forward? As complement to existing effort, the following are the policy recommendation for alleviating violence against women.

First, there is need to create more knowledge work for women. The world economy is run by knowledge not farming and other hard labour work that require tilling the land. This is not to say that farming and other work which women have hitherto engage in should be abolish rather it is a call to expand women skills and capacity beyond farming to other area of life where their potentials can be best maximize. Put differently, the mind of everyman including women is a mine whose resource can be mined to benefit not just the individual but the society at large. Simply stated, the mind is the world unlimited natural resources which for long has not being mine enough to access the unlimited value inherent in it. Similarly, empowerment should move beyond rhetoric's and quick fix training workshop to encapsulate training women in lifelong learning attitude that keeps them on the edge rather than the one that confine them within a particular field of endeavor. This is because the world is continually being flattened by forces of technology which in itself is eroding traditional job which hitherto has been reserve for women.

Secondly, there is need for women to find inner strength to combat the menace against them not through violent mean or through reactionary process that undermine their femininity and credibility but one that emphasis their femininity without undermining their credibility. In other words, older women like women in primitive times, should show strength of character, tenacity of purpose, uncommon humility, and admirable public conduct, consistent and passionate pursuit of common good. These qualities will put them in good standing above the board and make them a beacon of hope to member of younger generation (Adegbola, 2007)

Finally, there is need for responsibility on part of women to take their destiny in their hands. To see themselves as responsible for the outcome of their life. It is generally believe that no person move forward as long as they look to outside forces for their deliverance. The freedom of women must come from women who have chosen to rise above all limitations and barrier. This is beyond what international legal framework can do, or what advocacy alone can achieve, or even what national and regional legal framework can do or what millennium development goals can do but rather it is a call to responsibility.

A call to develop competencies and capabilities that places them at par and above their male counterpart. As no sensible leadership promotes a person beyond the level of competence. It was Oprah Winfrey that said excellent is the greatest deterrents against all forms of racism, sexism and other form of discrimination. The legendary leader and post-apartheid first black president of South Africa in closing his bestselling autobiography *Long walk to freedom* noted that "for with freedom comes responsibility and I dare not linger, for my long walk is not yet ended" same I believe for women that with women right comes women duties as with freedom comes responsibility.

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