

ADAMAWA STATE HOUSE OF ASSEMBLY

A BILL FOR

A LAW TO ELIMINATE VIOLENCE IN PRIVATE AND PUBLIC LIFE, PROHIBIT ALL FORMS OF VIOLENCE AGAINST PERSONS AND TO PROVIDE MAXIMUM PROTECTION AND EFFECTIVE REMEDIES FOR VICTIMS AND PUNISHMENT OF OFFENDERS; AND FOR RELATED MATTERS.

Date of Commencement ()

BE IT ENACTED by the House of Assembly of Adamawa State of Nigeria and by the authority of same as follows:

PART I - PRELIMINARY

Short title and Commencement 1. This Law may be cited as the Violence against Persons (Prohibition) Law, 2020 and shall come into operation on the day of2020.

Interpretation 2. In this Law unless the context otherwise requires: "Abandonment of women, children and other persons" means deliberately leaving women, children and other persons, under the perpetrator's care, destitute and without any means of subsistence; "Accredited service provider" means governmental, non-governmental, faith based, voluntary and charitable associations or institutions providing shelter, homes, counseling, legal, financial, medical or other assistance to victims of domestic violence and are registered with the appropriate Government Ministry under the provisions of this Law; "Circumcision of a girl or woman" means cutting off all or part of the external sex organs of a girl or woman other than on medical grounds; "Civil proceedings" means: (a) proceedings for the making, variation or discharge of a protection order, safety order or interim protection order; (b) proceedings by way of appeal or case stated which are related to proceedings to which paragraph (a) applies; or (c) proceedings under this Law for compensation or award; "Court" means both the Magistrates Court and High Court;

"Damage to property" means the willful destruction or causing of mischief to any property belonging to a person or in, which a person has, a vested interest;

"Dangerous weapon" means an instrument or machine directed toward a person with the intention of inflicting bodily harm on such person and includes a gun, knife, stick, whip or other household appliance capable of inflicting bodily harm on a person;

"Domestic relationship" means a relationship between any person and a perpetrator of violence constituted in any of the following ways -

- (a) they are or were married to each other, including marriages according to any law, custom or religion;
- (b) they live or have lived together in a relationship in the nature of marriage, although they are not or were not married to each other;
- (c) they are the parents of a child or children or are the persons who have or had a parental responsibility for that child or children;
- (d) they are family members related by consanguinity, affinity or adoption;
- (e) they are or were in an engagement, dating or customary relationship, including actual or perceived romantic, intimate or sexual relationship of any duration; or
- (f) they share or recently shared the same residence;

"Domestic violence" means any act perpetrated on any person in a domestic relationship - where such act causes harm or may cause imminent harm to the safety, health or well-being of any person;

"Economic abuse" means -

- (a) forced financial dependence;
- (b) denial of inheritance or succession rights,
- (c) the unreasonable deprivation of economic or financial resources to which any person is entitled or which any person requires out of necessity, including -
 - (i) household necessities,
 - (ii) mortgage bond repayments, or
 - (iii) payment of rent in respect of a shared residence; or
- (d) the unreasonable disposal or destruction of household effects or other property in which any person has an interest;

"Emergency monetary relief" means compensation for monetary losses suffered by any person arising from an act of violence and does not in any way constitute a maintenance order, including-

- (a) loss of earnings;
- (b) medical and dental expenses;

- (c) relocation and accommodation expenses;
- (d) household necessities; or
- (e) legal fees related to obtaining and serving the protection order;

"Emotional, verbal and psychological abuse" means a pattern of degrading or humiliating conduct towards any person, including-

- (a) repeated insults;
- (b) ridicule or name calling;
- (c) repeated threats to cause emotional pain; or
- (d) the repeated exhibition of obsessive possessiveness, which is of such a nature as to constitute a serious invasion of such person's privacy, liberty, integrity or security;

"Forced isolation from family and friends" includes preventing a person from leaving the home or from having contact with family, friends or the outside community;

"Harassment" means engaging in a pattern of conduct that induces fear of harm or impairs the dignity of a person including-

- (a) stalking;
- (b) repeatedly making telephone calls or inducing another person to make telephone calls to a person, whether or not conversation ensues; and
- (c) repeatedly sending, delivering or causing delivery of information such as letters, telegrams, packages, facsimiles, electronic mail, text messages or other objects to any person;

"Harmful traditional practices" means all traditional behaviour, attitudes or practices, which negatively affect the fundamental rights of women, girls, or any person and includes harmful widowhood practices, denial of inheritance or succession rights, female genital mutilation or female circumcision, forced marriage and forced isolation from family and friends;

"Incest" means an indecent act or an act which causes penetration with a person who is, to his or her knowledge, his or her daughter or son, granddaughter or son, sister or brother, mother or father, niece or nephew, aunt/uncle, grandmother or granduncle;

"Indecent exposure" means the intentional exposure of the genital organs, or a substantial part thereof, with the intention of causing distress to the other party;

"Intimidation" means the uttering or conveying of a threat or causing any person to receive a threat, which induces fear, anxiety or discomfort;

"Perpetrator" means any person who has committed or allegedly

committed an act of violence as defined under this Law;
"Persons" in this Law is as defined in the Interpretation Act under section 18, Cap. 192, Laws of the Federation of Nigeria, 2004;
"Physical abuse" means acts or threatened acts of physical aggression towards any person such as slapping, hitting, kicking and beating;
"Political¹ violence" means any act or attempted act of violence perpetrated in the course of political activities, such as elections, and includes any of the following acts -

- (a) thuggery:
- (b) mugging:
- (c) use of force to disrupt meetings: or
- (d) the use of dangerous weapons that may cause bodily harm or injury;

"Protection officer" means an officer appointed under Section 43 of this Law in relation to and for the purpose of this Law;

"Protection Order" means an official legal document, signed by a Judge that restrains an individual or State actors from further abusive behaviour towards a victim;

"Sexual abuse" means any conduct which violates, humiliates or degrades the sexual integrity of any person;

"Sexual assault" means the intentional and unlawful touching, striking or causing of bodily harm to an individual in a sexual manner without his or her consent;

"Sexual exploitation" occurs where a perpetrator, for financial or other reward, favour or compensation invites, persuades, engages or induces the services of a victim, or offers or performs such services to any other person;

"Sexual harassment" means unwanted conduct of a sexual nature or other conduct based on sex -or gender which is persistent or serious and demeans, humiliates or creates a hostile or intimidating environment and this may include physical, verbal or non-verbal conduct;

"Sexual intimidation" means -

- (a) any action or circumstances which amount to demand for sexual intercourse with either a male or a female under any guise, as a condition for passing examination, securing employment, business patronage, obtaining any favour in any form, as defined in this Law or any other enactment;
- (b) the actual demand for sexual intercourse with either a male or female under any guise, as a condition for passing examination, securing employment, business patronage and or obtaining any favour in any form, as defined in this Act or any other enactment;

- (c) acts of deprivation, withholding, replacing or short-changing of entitlements, privileges, rights, benefits, examination or test marks or scores, and any other form of disposition capable of coercing any person to submit to sexual intercourse for the purpose of receiving reprieve thereto: or
- (d) any other action or inaction construed as sexual intimidation or harassment under any other enactment in force in Nigeria.

"Spouse" means husband or wife as recognized under the Matrimonial Causes Act, Islamic and Customary Law;

"Spousal battery" means the intentional and unlawful use of force or violence upon a person, including the unlawful touching, beating or striking of another person against his or her will with the intention of causing bodily harm to that person;

"Stalking", means repeatedly -

- (a) watching, or loitering outside of or near the building or place where such person resides, works, carries on business, studies or happens to be; or
- (b) following, pursuing or accosting any person in a manner which induces fear or anxiety;

"State actors" means group of persons; structured or organized institutions and agencies;

"Substance attack" means the exposure of any person to any form of chemical, biological or any other harmful liquid with the intention to cause grievous bodily harm, which includes acid attack, hot water, or oil;

"Trafficking" means the supply, recruitment, procurement, capture, removal, transportation, transfer, harbouring, sale, disposal or receiving of a person, within or across the borders of the Federal Republic of Nigeria, for use in sexual acts, including sexual exploitation or pornography of any person;

"Victim" -

- (a) means any person or persons, who, individually or collectively, have suffered harm, including-
 - (i) physical or mental injury.
 - (ii) emotional suffering,
 - (iii) economic loss, or
 - (iv) substantial impairment of their fundamental rights, through acts or omissions that are in violation of this Law or the criminal laws of the country; and
- (b) includes the immediate family or dependants of the direct victim and any other person who has suffered harm in intervening to assist victims in distress;

"Violence" means any act or attempted act, which causes or may cause any person physical, sexual, psychological, verbal, emotional or economic harm whether this occurs in private or public life, in peace time and in conflict situations;

"Violence in the private sphere" means any act or attempted act perpetrated by a member of the family, relative, neighbour or member of a community, which causes or may cause any person physical, sexual, psychological, verbal, emotional or economic harm;

"violence in the public sphere" means any act or attempted act perpetrated by the State or non-State actors before, during and after elections, in conflict or war situations, which threatens peace, security and well-being of any person or the nation as a whole;

"Violence perpetrated by non-State actors" includes-

- (a) wrongful arrest and detention;
- (b) assault;
- (c) use of force without lawful authority;
- (d) unlawful entry into the premises; or
- (e) demolition of property without due processes;

"vulnerable groups" means women, children, persons living under extreme poverty, persons with disability, the sick and the elderly, ethnic and religious minority groups, refugees, internally displaced persons, migrants and persons in detention.

PART II – OFFENCES

Definition of Rape	<p>3. (1) A person commits the offence of rape if-</p> <ul style="list-style-type: none">(a) he or she intentionally penetrates the vagina, anus or mouth of another person with any other part of his or her body or anything else;(b) the other person does not consent to the penetration; or(c) 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 the use of any substance or additive capable of taking away the will of such person or in the case of a married person by impersonating his or her spouse.
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Recommendation and Justification: This is in tandem with the VAPP Act and moves away from the old restrictive definition of rape. The inclusion of mouth, anus and the fact that it can be done with any other part of the body or anything else besides the sexual organs is a welcome development. There is no assumption that it must be perpetrated by a man on a woman as a woman can also rape a man. Consent must be actual, not influenced by force, threat or intimidation, false representation, use of any substance that takes away the will of the survivor etc. It lays to rest the clamour for the creation of the offence of marital rape. It should be retained.

This subsection has removed the mischief in existing law which limited the penetration to the male and female sex organs. In **Edet Okon Iko V. State (2001) 14 NWLR (Pt 732) 221**, EJIWUNMI, J.S.C. held that sexual intercourse is deemed complete upon proof of penetration of the penis into the vagina. Also seen in the case of **Posu V. State (2011) 2 NWLR (Pt 1234) 393** per J.A Fabiyi, J.S.C: *“It has been held that the most important ingredient of the offence of rape is penetration. However, penetration with or without emission is sufficient even where the hymen was not ruptured. The slightest penetration will be sufficient to constitute the act of sexual intercourse”*. **Jegade V. State (2001) 14 NWLR (Pt 733) 264**.

On consent: In **Isa V Kano State (SC.35/2013) [2016] NGSC 62**, **Clara Bata Ogunbiyi, JSC stated that** the act of rape is by nature unlawful because the concept involves an aggressive carnal knowledge of a female without her consent. Consent in this context must be devoid of any form of external influence. A child who is underage is not however capable of giving consent.

Add a new subsection (1) (d) to read:

“(d) if he or she perpetrates any of the acts described in paragraph (a) above on a child”.

This is premised on the fact that a child is incapable of granting consent in law to a sexual act per **Clara Bata Ogunbiyi, JSC, supra**.

(2) A person convicted of an offence under subsection (1) of this section is liable to imprisonment for life except -

- (a) where the offender is less than 14 years of age, the offender is liable to a maximum of 14 years imprisonment;
- (b) in all other cases, to a minimum of 12 years imprisonment without an option of fine; or
- (c) in the case of rape by a group of persons, the offenders are liable jointly to a minimum of 20 years imprisonment without an option of fine.

(3) The Court shall also award appropriate compensation to the victim as it may deem fit in the circumstance.

Recommendation and Justification: The punishment should be harmonized with S. 261. (1) of the Penal code which states that “Whoever commits rape, shall be punished with imprisonment for life or for a term of not less than twenty one years”. It is evident that the VAPP provision seems to water down the more appropriate penalty of the Penal Code. Also, S. 211 of the Penal Code states that: “*Any person who has sexual intercourse with a child is guilty of an offence and shall be liable to imprisonment for life*”. There should be harmony among penal laws so that offenders do not get away with lenient sentences when they can be punished more severely. The following is therefore recommended:

“(2) Whoever commits rape, shall be punished with imprisonment for life or for a term of not less than twenty one years provided that where the offender is less than fourteen years of age, the offender will be liable to maximum of fourteen years imprisonment”.

“(3) In the case of rape by a group of persons, the offenders are jointly liable to a minimum of twenty five years imprisonment without an option of fine”.

(4) Any person who rapes a child shall be liable to imprisonment for life.

The heavier penalty in subsection 3 is to deter gang rape.

The old subsection 3 which should become subsection 5 which calls for compensation to the victim is a welcome development as it introduces compensation to the survivor. It moves away from the old criminal law fixation with that state versus the offender and introduces a mechanism to compensate the victim for the wrong suffered. The victim is the first person offended while the state whose norms are violated also suffers a violation. This is in accordance with the Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power.¹ Paragraphs 8 and 9 of the Principles states:

8. Offenders or third parties responsible for their behaviour should, where appropriate, make fair restitution to victims, their families or dependants. Such restitution should include the return of property or payment for the harm or loss suffered, reimbursement of expenses incurred as a result of the victimization, the provision of services and the restoration of rights.

9. Governments should review their practices, regulations and laws to consider restitution as an available sentencing option in criminal cases, in addition to other criminal sanctions.

For the avoidance of doubt, it is also pertinent to reproduce section 261 (2) of the Adamawa State Penal Code as subsection (4). it is as follows:

“(e) When a court is trying the offence of rape, corroboration shall be immaterial”.

This is to remove the unnecessary encumbrance in the old jurisprudence in proving rape when corroboration was needed.

The old subsection 4 will now be subsection 5.

(4) A register for convicted sexual offenders shall be maintained and accessible to the public.

Recommendation and Justification: The register of sexual offenders names and shames the offenders beyond the jail term and compensation. It a very welcome development that deters future rapists.

Inflicting physical injury on a person

4. (1) A person who willfully causes or inflicts physical injury on another person by means of any weapon, substance or object, commits an offence and is liable on conviction to a term of imprisonment not exceeding 5 years or a fine not exceeding

¹ Adopted by General Assembly resolution 40/34 of 29 November 1985.

N300,000.00 or both.

(2) A person who attempts to commit the act of violence provided for in subsection (1) of this section commits an offence and is liable on conviction to a term of imprisonment not exceeding 3 years or to a fine not exceeding N200,000.00 or both.

(3) A person who incites, aids, abets, or counsels another person to commit the act of violence provided for in subsection (1) of this section commits an offence and is liable on conviction to a term of imprisonment not exceeding 3 years or to a fine not exceeding N200,000.00 or both.

(4) A person who receives or assists another who, to his knowledge commits an offence under subsection (1) of this Section, is an accessory after the fact and is liable on conviction to a term of imprisonment not exceeding 3 years or to a fine not exceeding N200,000.00 or both.

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

Recommendation and Justification: The word “receive” in subsection 4 calls for clarification. The word “assist” that comes after the word “receive” is understandable in the definition of accessory after the fact but receiving may create some difficulties of interpretation especially in the realm of determining a guilty mind. Practically, does it mean that a person who is guilty of the offence can no longer visit or be received by any other citizen. Reconsider and delete the word “receive” in the subsection. However, retain the other subsections as they are in tandem with modern developments on the prohibition of violence.

Coercion

5. A person who coerces another to engage in any act to the detriment of that other person's physical or psychological wellbeing commits an offence and is liable on conviction to a term of imprisonment of 3 years.

Recommendation and Justification: This will include instances of compulsion, duress, intimidation, constraint, oppression, pressure, restraint, force, persuasion, repression of the free-will, etc. Retain as it tallies with developments in modern jurisprudence.

Offensive conduct.

6. (1) A person who compels another, by force or threat, to engage in any conduct or act, sexual or otherwise, to the detriment of the victim's physical or psychological well-being commits an offence and is liable on conviction to a term of imprisonment not exceeding 2 years or to a fine not exceeding N150, 000.00 or both.

(2) A person who attempts to commit the offence provided for in subsection (1) of this section commits an offence and is liable on conviction to a term of imprisonment not exceeding 1 year or to a fine not exceeding N100,000.00 or both.

(3) A person who incites, aids, abets, or counsels another person to commit the offence provided for in subsection (1) of this section commits an offence and is liable on conviction to a term of imprisonment not exceeding 1 year or to a fine not exceeding N100,000.00 or both.

(4) A person who receives or assists another who, to his or her knowledge, committed the offence provided for in subsection (1) of this Section is an accessory after the fact and is liable on conviction to a term of imprisonment not exceeding 3 years or to a fine not exceeding N200,000.00 or both.

Recommendation and Justification: Retain as it tallies with developments in modern jurisprudence.

Prohibition of FGM

7. (1) The circumcision or genital mutilation of the girl child or female or woman is hereby prohibited.

(2) A person who performs female circumcision or genital mutilation or engages another to carry out such circumcision or mutilation commits an offence and is liable on conviction to a term of imprisonment not exceeding 4 years or to a fine not exceeding N300,000.00 or both.

(3) A person who attempts to commit the offence provided for in subsection (2) of this section commits an offence and is liable on conviction to a term of imprisonment not exceeding 2 years or to a fine not exceeding N150,000.00 or both.

(4) A person who incites, aids, abets, or counsels another person to commit the offence provided for in subsection (2) of this section commits an offence and is liable on conviction to a term of imprisonment not exceeding 2 years or to a fine not exceeding N150,000.00 or both.

Recommendation and Justification: FGM has been shown not to have any benefits but comes with a number of health challenges. According to the World Health Organization:²

² <https://www.who.int/news-room/fact-sheets/detail/female-genital-mutilation>

“FGM is recognized internationally as a violation of the human rights of girls and women. It reflects deep-rooted inequality between the sexes, and constitutes an extreme form of discrimination against women. It is nearly always carried out on minors and is a violation of the rights of children. The practice also violates a person's rights to health, security and physical integrity, the right to be free from torture and cruel, inhuman or degrading treatment, and the right to life when the procedure results in death”.

Retain as it is in line with Nigeria’s international obligations especially article 5 (b) of the Maputo Protocol which obliges Nigeria to prohibit:

“through legislative measures backed by sanctions, of all forms of female genital mutilation, scarification, medicalisation and para-medicalisation of female genital mutilation and all other practices in order to eradicate them”

The Concluding Resolution of the CEDAW Committee after considering Nigeria’s sixth periodic report called on Nigeria to enact specific legislation abolishing FGM.

Frustrating investigation 8. Any person who, with intent to defraud or conceal an offence or frustrate the investigation and prosecution of offenders under this Law or under any other enactment:

- (a) destroys, alters, mutilates, or falsifies any book or document., dress or clothing which could serve as evidence or exhibits;
- (b) omits, or is privy to omitting, any material particular from any such document, book, dress or clothing;

commits a felony and is liable on conviction to a term of imprisonment not exceeding 3 years or to a fine not exceeding N200,000.00 or both.

Recommendation and Justification: Retain as this a common provision in many penal enactments and is in accordance the due enforcement and process of law.

Forceful ejection from home 9. (1) A person who forcefully evicts his or her spouse from his or her home or refuses him or her access commits an offence and is liable on conviction to a term of imprisonment not exceeding 2 years or to a fine not exceeding N200,000,00 or both.

(2) A person who attempts to commit the offence provided for in subsection (1) of this section commits an offence and is liable on conviction to a term of imprisonment not exceeding 1 year or to a fine not exceeding N100,000.00 or both.

(3) A person who incites, aids, abets, or counsels another person to commit

the offence as provided for in subsection (1) of this Section commits an offence and is liable on conviction to a term of imprisonment not exceeding 1 year or to a fine not exceeding N100,000.00 or both.

(4) A person who receives or assists another who, to his or her knowledge, committed the offence provided for in subsection (1) of this section is an accessory after the fact and is liable on conviction to a term of imprisonment not exceeding 1 year or to a fine not exceeding N100,000.00 or both.

Recommendation and Justification: Retain as this provision gives effect to the constitutional right to human dignity because a person without a home or who is forcefully ejected or restrained from entering his home has been subjected to inhuman and degrading treatment.³ Separate homes for the spouses should be by consent and agreement of the parties or by court order but not the unilateral action of one party. It is also in consonance with the right to adequate housing which forbids forced eviction and evictions without the due process of law.⁴ Forced evictions have been described as follows:⁵

“Forced evictions constitute gross violations of a range of internationally recognized human rights, including the human rights to adequate housing, food, water, health, education, work, security of the person, freedom from cruel, inhuman and degrading treatment, and freedom of movement”.

“Forced evictions are often linked to the absence of legally secure tenure, which constitutes an essential element of the right to adequate housing. ..Forced evictions can be broadly defined as the permanent or temporary removal against their will of individuals, families and/or communities from the homes and/or land which they occupy, without the provision of, and access to, appropriate forms of legal or other protection”.

“As a result of forced evictions, people are often left homeless and destitute, without means of earning a livelihood and often with no effective access to legal or other remedies. Forced evictions intensify inequality, social conflict, segregation and invariably affect the poorest, most socially and economically vulnerable and marginalized sectors of society, especially women, children, minorities and indigenous peoples”.

Depriving a person of his or her liberty

10. (1) A person who deprives another of his or her liberty, except pursuant to a court order commits an offence and is liable on conviction to a term of imprisonment not exceeding 2 years or to

³ S.34 of the Constitution of the Federal Republic of Nigeria 1999 (as amended). Any other reference in this analysis to the Constitution is a reference to the above Constitution unless the context otherwise indicates.

⁴ See article 11 of the International Covenant on Economic Social and Cultural Rights as well as General Comment No.7 of the United Nations Committee on Economic, Social and Cultural Rights on the Right to Adequate Housing.

⁵ <https://www.ohchr.org/EN/Issues/Housing/Pages/ForcedEvictions.aspx>

a fine not exceeding N200,000.00 or both.

(2) A person who attempts to commit the offence provided for in subsection (1) of this section commits an offence and is liable on conviction to a term of imprisonment not exceeding 1 year or to a fine not exceeding N150,000.00 or both.

(3) A person who incites, aids, abets, or counsels another person to commit an offence as provided for in subsection (1) of this section commits an offence and is liable on conviction to a term of imprisonment not exceeding 2 years or to a fine not exceeding N200,000.00 or both.

(4) A person who receives or assists another who, to his or her knowledge, committed the offence provided for in subsection (1) of this section is an accessory after the fact and is liable on conviction to a term of imprisonment not exceeding 1 year or to a fine not exceeding N100,000.00 or both.

Recommendations and Justification: Retain as S. 35 of the Constitution entrenches the right to personal liberty and states the conditions for derogation from the right. The section is explicit as it provides as follows in subsection 1.

35. (1) Every person shall be entitled to his personal liberty and no person shall be deprived of such liberty save in the following cases and in accordance with a procedure permitted by law -

(a) in execution of the sentence or order of a court in respect of a criminal offence of which he has been found guilty;

(b) by reason of his failure to comply with the order of a court or in order to secure the fulfillment of any obligation imposed upon him by law;

(c) for the purpose of bringing him before a court in execution of the order of a court or upon reasonable suspicion of his having committed a criminal offence, or to such extent as may be reasonably necessary to prevent his committing a criminal offence;

(d) in the case of a person who has not attained the age of eighteen years for the purpose of his education or welfare;

(e) in the case of persons suffering from infectious or contagious disease, persons of unsound mind, persons addicted to drugs or alcohol or vagrants, for the purpose of their care or treatment or the protection of the community; or

(f) for the purpose of preventing the unlawful entry of any person into Nigeria or of effecting the expulsion, extradition or other lawful removal from Nigeria of any person or the taking of proceedings relating thereto:

The acts prohibited in this section of the VAPP Bill are not cognizable as the grounds and exceptions to the general rule under the Constitution. They are therefore illegal and properly forbidden and made subject to penal sanction by the Bill. The right to personal liberty finds resonance in article 9 of the Universal Declaration of Human Rights, articles 9, 10 and 11 of the International Covenant on Civil and Political Rights and article 6 of the African Charter on Human and Peoples Rights. By section 8 (2) of the Administration of Criminal Justice Act, a civil wrong or breach of contract cannot be a ground for the denial of the right to personal liberty.

Forced financial
dependence or
economic abuse

11. (1) A person who causes forced financial dependence or economic abuse of another commits an offence and is liable on conviction to a term of imprisonment not exceeding 2 years or to a fine not exceeding N200,000.00 or both.

(2) A person who attempts to commit the offence provided for in subsection (1) of this section commits an offence and is liable on conviction to a term of imprisonment not exceeding year or to a fine not exceeding 100,000.00 or both.

(3) A person who incites, aids, abets, or counsels another person to commit the offence as provided for in subsection (1) of this section commits an offence and is liable on conviction to a term of imprisonment not exceeding 1 year or to a fine not exceeding N100,000,00 or both.

(4) A person who receives or assists another who, to his or her knowledge, .committed the offence provided for in subsection (1) of this section is an accessory after the fact and is liable on conviction to a term of imprisonment not exceeding 6 months or to a fine not exceeding N50,000.00 or both.

Recommendation and Justification: Retain. This may be linked to the right to work protected under the African Charter on Human and Peoples Rights and ICESCR.⁶ This provision has not been articulated in a Nigerian case law. Instances from literature will include taking control and possession of a spouse earnings and income, restraining a spouse from working to earn a livelihood or unduly and unreasonably restricting the working house, ruining career advancement, stopping someone from working outside the home, using credit cards without permission and

⁶ Article 15 of ACHPR: Every individual shall have the right to work under equitable and satisfactory conditions, and shall receive equal pay for equal work; see also article 6 of the ICESCR.

running the credit history through exceeding the limits, borrowing money and making charges without repayment, etc.⁷ Furthermore:

Financial abuse involves controlling a victim's ability to acquire, use, and maintain financial resources. Those who are victimized financially may be prevented from working. They (the abused) may have their own money restricted or stolen by the abuser. And rarely do they have complete access to money and other resources. When they do have money, they often have to account for every penny they spend.⁸

Forced isolation or separation from family and friends

12. (1) A person who forcefully isolates or separates another from family and friends commits an offence and is liable on conviction to a term of imprisonment not exceeding 6 months or to a fine not exceeding N100,000.00 or both.

(2) A person who attempts to commit the act of violence provided for in subsection (1) of this section commits an offence and is liable on conviction to a term of imprisonment not exceeding 3 months or to a fine not exceeding N100,000.00 or both.

(3) A person who incites, aids, abets, or counsels another person to commit the offence as provided for in subsection (3) of this section commits an offence and is liable on conviction to a term of imprisonment not exceeding 3 months or to a fine not exceeding N100,000.00 or both.

(4) A person who receives or assists another who, to his or her knowledge, committed the offence provided for in subsection (1) of this section is an accessory after the fact and is liable on conviction to a term of imprisonment not exceeding 3 months or to a fine not exceeding N100,000.00 or both.

Recommendations and Justification: Retain. The human being is a social animal; removed from family and friends, he/she loses an essential part of his sense of family and humanity. This practice prohibited above violates the rights to human dignity, personal liberty, rights to free movement and freedom of assembly which are rights guaranteed under the Fundamental Rights Chapter of the Constitution.

⁷ See <https://memphisdivorce.com/tennessee-divorce-law/financial-abuse-narcissists-money-a-divorce-lawyers-perspective/> and <https://www.verywellmind.com/financial-abuse-4155224>

⁸ <https://www.verywellmind.com/financial-abuse-4155224>

Emotional, verbal and psychological abuse

13. (1) A person who causes emotional, verbal and psychological abuse on another commits an offence and is liable on conviction to a term of imprisonment not exceeding 1 year or to a fine not exceeding N200,000.00 or both.

(2) A person who attempts to commit the act of violence provided for in subsection (1) of this section commits an offence and is liable on conviction to a term of imprisonment not exceeding 6 months or to a fine not exceeding N 100,000.00 or both.

(3) A person who incites, aids, abets, or counsels another person to commit the act of violence as provided for in subsection (1) of this section commits an offence and is liable on conviction to a term of imprisonment not exceeding 6 months or to a fine not exceeding N100,000.00 or both.

(4) A person who receives or assists another who, to his or her knowledge, committed the offence provided for in subsection (1) of this section is an accessory after the fact and is liable on conviction to a term of imprisonment not exceeding 6 months or to a fine not exceeding N 100,000.00 or both.

Recommendations and Justification: Retain. No Nigerian case law on the subject matter but they could be viewed as forms of degrading treatment forbidden in S.34 of the Constitution. To degrade is to make another to be less moral and less deserving of respect whilst inhuman refers to lacking moral, human qualities of kindness, pity, etc. to be extremely cruel or brutal. Degrading is defined to mean reviling, holding one up to public obloquy and odium, lowering a person in the estimation of the public, exposing to disgrace, dishonour and contempt.⁹

Verbal abuse includes name calling, condescension, unnecessary and constant criticism, degradation, manipulation, blame, accusations, withholding or isolation, gaslighting, circular arguments and threats. On the other hand, emotional abuse has been articulated as:

“Emotional abuse is a way to control another person by using emotions to criticize, embarrass, shame, blame, or otherwise manipulate another person. In general, a relationship is emotionally abusive when there is a consistent pattern of abusive words and bullying behaviors that wear down a person's self-esteem and undermine their mental health. What's more, mental or emotional abuse, while most common in dating and married relationships, can occur in any relationship including among friends, family members, and co-workers. Emotional abuse is one of the hardest forms of abuse to recognize. It can be subtle and insidious or overt and manipulative. Either way, it chips

⁹ *Isenalumhe v Amadin* (2001) cited in Cases on Human Rights li.

away at the victim's self-esteem and they begin to doubt their perceptions and reality. The underlying goal of emotional abuse is to control the victim by discrediting, isolating, and silencing".¹⁰

Psychological abuse has been articulated:¹¹

Psychological abuse involves the regular and deliberate use of a range of words and non-physical actions used with the purpose to manipulate, hurt, weaken or frighten a person mentally and emotionally; and/or distort, confuse or influence a person's thoughts and actions within their everyday lives, changing their sense. Examples of psychological violence include acts such as isolation from others, verbal aggression, threats, intimidation, control, harassment or stalking, insults, humiliation and defamation.

Harmful widowhood practices

14. (1) A person who subjects a widow to harmful traditional practices commits an offence and is liable on conviction to a term of imprisonment not exceeding 2 years or to a fine not exceeding N500.000.00 or both.

(2) A person who attempts to commit the act of violence provided for in subsection (1) of this section commits an offence and is liable on conviction to a term of imprisonment not exceeding 1 year or to a fine not exceeding N200.000.00 or both.

(3) A person who incites, aids, abets, or counsels another person to commit the act of violence as provided for in subsection (1) of this section commits an offence and is liable on conviction to a term of imprisonment not exceeding 1 year or to a fine not exceeding N200.000.00 or both.

(4) A person who receives or assists another who, to his or her knowledge, committed the offence provided for in subsection (1) of this section is an accessory after the fact and is liable on conviction to a term of imprisonment not exceeding 6 months or to a fine not exceeding N100,000.00 or both.

Recommendation and Justification: Retain. Widowhood practices are a part of harmful

¹⁰ National Network to End Domestic Violence; <https://www.verywellmind.com/identify-and-cope-with-emotional-abuse-4156673>

¹¹ See Safelives.org.uk, psychological abuse and eige.europa.eu, thesarus, term

practices defined in the Maputo Protocol as:¹²

"Harmful Practices" means all behaviour, attitudes and/or practices which negatively affect the fundamental rights of women and girls, such as their right to life, health, dignity, education and physical integrity"

States parties to the Maputo Protocol are under obligation to:¹³

"enact and effectively implement appropriate legislative or regulatory measures, including those prohibiting and curbing all forms of discrimination particularly those harmful practices which endanger the health and general well-being of women"

Harmful widowhood practices are part of the inhuman and degrading treatment forbidden in S.34 of the Constitution as it is not in accordance with respect for the dignity of the human person. They are also discriminatory and as they are meted on females and not applicable to males.

Abandonment of Spouse, Children and other Dependents without sustenance

15. (1) A person who abandons a wife or husband, children or other dependent without any means of sustenance commits an offence and is liable on conviction to a term of imprisonment not exceeding 3 years or to a fine not exceeding N500,000.00 or both, without sustenance.

(2) A person who attempts to commit the act of violence provided for in subsection (1) of this section commits an offence and is liable on conviction to a term of imprisonment not exceeding 2 years or to a fine not exceeding N200,000.00 or both.

(3) A person who incites, aids, abets, or counsels another person to commit the act of violence as provided for in subsection (1) of this section commits an offence and is liable on conviction to a term of imprisonment not exceeding 2 years or to a fine not exceeding N200,000.00 or both.

(4) A person who receives or assists another who, to his or her knowledge, committed the offence provided for in subsection (1) of this section is an accessory after the fact and is liable on conviction to a term of imprisonment not exceeding 1 year or to a fine not exceeding N100,000.00 or both.

Recommendation and Justification: Retain. The family is the foundational and fundamental

¹² See the interpretative article 1 (g) of the Maputo Protocol.

¹³ Article 2 (1) (b) of the Maputo Protocol.

unit of society. Article 18 (1) of the African Charter on Human and Peoples Rights states that *the family shall be the natural unit and basis of society. It shall be protected by the State which shall take care of its physical health and moral.* It is the place for character formation and training and should encourage responsibility. Societies fail when family life disintegrates and encourages irresponsibility. Therefore, no one should be permitted to abandon his or her responsibilities. This provides a heavier penalty than S.213 of the Adamawa Penal Code:

“Any person who, being the parent, guardian or other person having the lawful care or charge of a child or an adult, wilfully and without lawful or reasonable cause deserts the child or an adult and leaves him without means of support, is guilty of an offence, and shall be punished with imprisonment for a term not exceeding One Year and shall be liable to fine of not less than One Hundred Thousand Naira without prejudice to the recovery of any cost that any other person may have reasonably incurred with respect to the upkeep of the child or the adult”.

Stalking

16. (1) A person who stalks another commits an offence and is liable on conviction to a term of imprisonment not exceeding 2 years or to a fine not exceeding N150,000.00 or both.

(2) A person who attempts to commit the act of violence provided for in subsection (1) of this Section commits an offence and is liable on conviction to a term of imprisonment not exceeding 1 year or to fine not exceeding N100,000.00 or both.

(3) A person who incites, aids, abets, or counsels another person to commit the act of violence as provided for in subsection (1) of this section commits an offence and is liable on conviction to a term of imprisonment not exceeding 1 year or to a fine not exceeding N100,000,00 or both.

(4) A person who receives or assists another who, to his or her knowledge, committed the offence provided for in subsection (1) of this section is an accessory after the fact and is liable on conviction to a term of imprisonment not exceeding 1 year or to a fine not exceeding N100,000.00 or both.

Recommendation and Justification: Retain. Stalking includes unwarranted intrusion on privacy and may lead to violence or other criminal acts. Stalking behaviour has been defined to include:¹⁴

- Repeatedly calls your phone, including hang-ups
- Follows you and shows up wherever you are
- Sends unwanted gifts, letters, texts, or emails

¹⁴ <https://victimconnect.org/learn/types-of-crime/stalking/>

- Damages your home, car, or other property
- Monitors your phone calls or computer use, possibly through spyware
- Uses technology, like hidden cameras or global positioning systems (GPS), to track where you go
- Drives by or lingers near your home, school, or work
- Threatens to hurt you, your family, friends, or pets
- Performs other actions that control, track, or frighten you
- Uses other people to try to communicate with you, like children, family, or friends

Intimidation

17. (1) A person who intimidates another commits an offence and is liable on conviction to a term of imprisonment not exceeding 1 year or to a fine not exceeding N200,000.00 or both.

(2) A person who attempts to commit the act of violence provided for in subsection (1) of this section commits an offence and is liable on conviction to a term of imprisonment not exceeding 6 months or to a fine not exceeding N100,000.00 or both.

(3) A person who incites, aids, abets, or counsels another person to commit the act of violence as provided for in subsection (1) of this section commits an offence and is liable on conviction to a term of imprisonment not exceeding 6 months or to a fine not exceeding N100,000.00 or both.

(4) A person who receives or assists another who, to his or her knowledge, committed the offence provided for in subsection (1) of this section is an accessory after the fact and is liable on conviction to a term of imprisonment not exceeding 6 months or to a fine not exceeding N100,000.00 or both.

Recommendation and Justification: Retain. Intimidation is to make someone fearful for his life, physical or any other harm that may befall his person; reasonable apprehension' of injury, damage or violence to a person or property belonging to a person, etc.

Spousal battery

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

(2) A person who attempts to commit the act of violence provided for in subsection (1) of this section commits an offence and is liable on conviction to a term of imprisonment not exceeding 1 year or to a fine

not exceeding N100,000.00 or both.

(3) A person who incites, aids, abets, or counsels another person to commit the act of violence as provided for in subsection (1) of this section commits an offence and is liable on conviction to a term of imprisonment not exceeding 1 year or to a fine not exceeding N200,000.00 or both.

(4) A person who receives or assists another who, to his or her knowledge, committed the offence provided for in subsection (1) of this section is an accessory after the fact and is liable on conviction to a term of imprisonment not exceeding 1 year or to a fine not exceeding N200,000.00 or both.

Recommendation and Justification: Retain. This is prevalent in our society and needs to be curbed. Assault and battery is already criminalized across Nigeria and this is just to make a specific provision for the spousal type.

Harmful traditional practices

19. (1) A person who carries out harmful traditional practices on another commits an offence and is liable on conviction to a term of imprisonment not exceeding 4 years or to a fine not exceeding N500,000.00 or both..

(2) A person who attempts to commit the act of violence provided for in subsection (1) of this section commits an offence and is liable on conviction to a term of imprisonment not exceeding 2 years or to a fine not exceeding N300,000.00 or both.

(3) A person who incites, aids, abets, or counsels another person to commit the act of violence as provided for in subsection (1) of this section commits an offence and is liable on conviction to a term of imprisonment not exceeding 2 years or to a fine not exceeding N300,000.00 or both.

(4) A person who receives or assists another who, to his or her knowledge, committed the offence provided for in subsection (1) of this Section is an accessory after the fact and is liable on conviction to a term of imprisonment not exceeding 2 year or to a fine not exceeding N200,000.00 or both.

Recommendation and Justification: Retain. Harmful practices are defined in the Maputo Protocol as:¹⁵

¹⁵ See the interpretative article 1 (g) of the Maputo Protocol.

"Harmful Practices" means all behaviour, attitudes and/or practices which negatively affect the fundamental rights of women and girls, such as their right to life, health, dignity, education and physical integrity"

States parties to the Maputo Protocol are under obligation to:¹⁶

"enact and effectively implement appropriate legislative or regulatory measures, including those prohibiting and curbing all forms of discrimination particularly those harmful practices which endanger the health and general well-being of women"

Harmful traditional practices are part of the inhuman and degrading treatment forbidden in S.34 of the Constitution as it is not in accordance with respect for the dignity of the human person.

Attack with harmful substance

20. (1) A person who uses chemical, biological or any other harmful liquid on another commits an offence and is liable on conviction to a term of life imprisonment without an option of fine.

(2) A person who attempts to commit the act of violence described in subsection (1) of this section commits an offence and is liable on conviction to a term of imprisonment not exceeding 25 years without an option of fine.

(3) A person who incites aids, abets, or counsels another person to commit the act of violence, as provided for in subsection (1) of this Section, commits an offence and is liable on conviction to a term of imprisonment not exceeding 25 years without an option of fine.

(4) A person who receives or assists another who, to his or her knowledge, committed the offence provided for in subsection (1) of this section is an accessory after the fact and is liable on conviction to a term of imprisonment not exceeding 25 years without the option of fine.

Recommendation and Justification: Retain with modifications. It may be imperative to link the use of the harmful substance with the hurt, injury or pain inflicted on the survivor. Automatic life imprisonment seems too harsh and judges may find it difficult to convict against the background of the automatic heavy sentence which offers no option of fine and Nigeria has no parole system. 25 years imprisonment seems reasonable. Alternatively, the categorization of grievous hurt in S.218 of the Adamawa Penal Code may be considered in the circumstances and punishment prescribed according to the degree of the hurt: The following kinds of hurt are designated as grievous:-

¹⁶ Article 2 (1) (b) of the Maputo Protocol.

- (a) emasculation;
- (b) permanent deprivation of the sight of an eye, or the hearing of an ear;
- (c) deprivation of any member or joint;
- (d) destruction or disfiguration of the head or face;
- (e) permanent disfiguration of the head or face;
- (f) fracture or dislocation of a bone or tooth; and
- (g) any hurt which endangers life or which causes the sufferer to be in severe bodily pain or unable to follow his ordinary pursuits.

Administering a
Substance with intent

21. (1) A person commits an offence if he intentionally administers a substance to, or causes a substance to be administered to or taken by, another person with the intention of stupefying or overpowering that person so as to enable any person to engage in a sexual activity with that person.

(2) A person who commits an offence under this section is, in addition to any other offence under this Act, liable on conviction to a term of imprisonment not exceeding 10 years or a fine not exceeding N500,000.00 or both.

Recommendation and Justification: Retain. it is a societal ill that needs to be punished and deterred.

Political violence.

22. (1) A person who commits a political violence as defined under this Law relating to political violence commits an offence and is liable on conviction to a term of imprisonment not exceeding 4 years or to a fine not exceeding N500,000.00 or both.

(2) A person who attempts to commit the act of violence provided for in subsection (1) of this section commits an offence and is liable on conviction to a term of imprisonment not exceeding 2 years or to a fine not exceeding N300,000.00 or both.

(3) A person who incites, aids, abets, or counsels another person to commit the act of violence as provided for in subsection (1) of this section commits an offence and is liable on conviction to a term of imprisonment not exceeding 2 years or to a fine not exceeding N300,000.00 or both.

(4) A person who receives or assists another who, to his or her knowledge, committed the offence provided for in subsection (1) of this section is an accessory after the fact and is liable on conviction to a term of imprisonment not exceeding 2 years or to a fine not exceeding N200,000.00 or both.

Violence by
state actors

23. (1) A state actor who commits political violence commits an offence and is liable on conviction to a term of imprisonment not exceeding 4 years or to a fine not exceeding N1,000,000.00 or both.

(2) A person who attempts to commit the act of violence provided for in subsection (1) of this section commits an offence and is liable on conviction to a term of imprisonment not exceeding 3 years or to a fine not exceeding N700,000.00 or both.

(3) A person who incites, aids, abets, or counsels another person to commit the act of violence as provided for in subsection (1) of this section commits an offence and is liable on conviction to a term of imprisonment not exceeding 2 years or to a fine not exceeding N500,000.00 or both.

(4) A person who receives or assists another who, to his or her knowledge, committed the offence provided for in subsection (1) of this section is an accessory after the fact and is liable on conviction to a term of imprisonment not exceeding 1 year or to a fine not exceeding N300,000.00 both.

(5) The State is liable for the offence committed by its agents and the Court shall award appropriate compensation commensurate with the extent and amount of damages.

Recommendation and Justification: The provisions on political violence seems out of sync with other parts of this Bill. It looks like it belongs to the Electoral Act amendment process.

Indecent exposure

24. (1) A person who intentionally exposes his or her genital organs, or a substantial part thereof, with the intention of causing distress to the other party, or that another person seeing it may be tempted or induced, commits an offence under this Law, commits an offence termed "indecent exposure".

(2) A person who intentionally exposes his or her genital organs, or a substantial part thereof, and induce another to either massage, or touch with the intention of deriving sexual pleasure from such acts commits an

offence under this section.

(3) A person who commits an offence under this Section is liable to upon conviction to a term of imprisonment of not less than 1 year or to a fine not exceeding N500.000 or both.

Recommendation and Justification: Retain.

PART III – JURISDICTION OF THE COURT

Jurisdiction

25. Only the High Court empowered by the Law shall have jurisdiction to hear and grant any application brought under this Law.

Application for protection order

26. (1) An application for a protection order may, be made before the High Court following a complaint of violence by the complainant and such order, if granted, shall be effective throughout the Federal Republic of Nigeria and no time limit or prescription shall apply in relation to a person seeking to apply for such protection order.

(2) Any complainant may, in the prescribed manner, apply to the Court for a protection order.

(3) If the complainant is not represented by counsel, the police officer with whom a complaint of violence has been lodged shall inform the complainant of the remedies he or she may be entitled to under this Law including the right to lodge a criminal complaint against the respondent if a criminal offence has been committed.

(4) Notwithstanding the provisions of any other law, the application may be brought on behalf of the complainant by any other person, including a police officer, a protection officer, an accredited service provider, a counselor, health service provider, social worker or teacher who has interest in the well-being of the complainant.

Provided that the application shall be brought with the written consent of the complainant, except in circumstances where the complainant is -

- (a) a minor;
- (b) mentally retarded;
- (c) unconscious; or
- (d) a person who the court is satisfied is unable to provide the required consent.

(5) Notwithstanding the provisions of any other Law, any minor, or any person on behalf of a minor, may apply to the Court for a protection order without the assistance of a parent, guardian or any other person and supporting affidavit by persons who have knowledge of the matter

concerned may accompany the application.

(6) The application and affidavits shall be filed in Court.

Consideration of application

27. (1) The Court shall as soon as is reasonably possible, consider an application submitted to it under section 26 (1) of this Law and may, for that purpose, consider such additional evidence as it deems fit, including oral evidence or evidence by affidavit, which shall form part of the record of the proceedings.

(2) If the Court is satisfied that there is prima facie evidence that the respondent is committing, has committed or that there is imminent likelihood that he may commit an act of domestic violence, the Court shall, notwithstanding the fact that the respondent has not been given notice of the proceedings contemplated in subsection (1) of this section, issue an interim protection order against the respondent, in the prescribed manner.

(3) An interim protection order shall be served on the respondent in the prescribed manner and must call on the respondent to show cause on the return date, specified in the order why a protection order should not be issued.

(4) A copy of the application referred to in section 26 (1) of this Law and the record of any evidence taken under Sub-section (1) of this section shall be served on the respondent together with the interim protection order.

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

(6) An interim protection order shall be served on the respondent in the prescribed manner and shall call on the respondent to show cause on the return date, specified in the order why a protection order, should not be issued

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

Issuance of protection order

28. (1) If the respondent does not appear on a return date contemplated in section 27 (3) or (5) of this Law and if the Court is satisfied that-

- (a) proper service has been effected on the respondent; and
- (b) the application contains a prima facie evidence that the respondent has committed, is committing or that there is an

imminent likelihood that he may commit an act of domestic violence,

the court shall issue a protection order in the prescribed form.

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

- (a) any evidence received under Section 27 (1) of this Law and
- (b) such further affidavits or oral evidence as it may direct, which shall form part of the record of the proceedings.

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

- (a) is not entitled to cross-examine directly a person who is in a domestic relationship with the respondent; and
- (b) shall put any question to such a witness by stating the question to the Court, and the court is to repeat the question accurately to the witness.

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

(5) Upon the issuing of a protection order, the Registrar of the Court shall, in the prescribed manner cause-

- (a) the original of such order to be served on the respondent; and
- (b) a certified copy of such order, and the original warrant of arrest contemplated in section 29 (1) (a),

to be served on the complainant,

(6) The Registrar of the Court shall, in the prescribed manner, forward certified copies of any protection order and of the warrant of arrest contemplated in section 31 (1) to the police station of the complainant's choice.

(7) Subject to the provisions of section 27 (7) of this Law, a protection order issued under this section remains in force until it is set aside, and the execution of such order shall not be automatically suspended upon the filing of an appeal.

Court's powers in respect of protection order

29. (1) The Court may, by means of a protection order referred to in section 28 of this Law prohibit the respondent from:

- (a) committing any act of domestic violence;
- (b) enlisting the help of another person to commit any such

- act;
 - (c) entering a shared household provided that the court may impose this prohibition only if it appears to be in the best interest of the complainant;
 - (d) entering a specified part of such a shared household;
 - (e) entering the complainant's residence;
 - (f) entering the complainant's place of employment;
 - (g) preventing the complainant from entering or remaining in the shared household or a specified part of the shared household;
 - (h) alienating or disposing the shared household or encumbering same;
 - (i) renouncing his or her rights in the shared household except in favour of the complainant; or
 - (j) committing any other act as specified in the protection order.
- (2) The Court may impose any additional condition, which it deems reasonably necessary to protect and provide for the safety, health or well-being of the complainant, including an order-
- (a) to seize any arm or dangerous weapon in the possession or under the control of the respondent;
 - (b) that a police officer shall accompany the complainant to a specified place to assist with arrangements regarding the collection of personal property;
 - (c) directing the respondent to secure alternative accommodation for the complainant;
 - (d) order a temporal relocation to any safe place as may be deem fit in the interest of the complainant; or
 - (e) approve a mediation channel upon submission by the complainant.
- (3) In ordering a prohibition under subsection (1) (c) of this section, the Court may impose on the respondent obligations as to the discharge of rent or mortgage payments having regard to the financial needs and resources of the complainant and the respondent.
- (4) The Court may order the respondent to pay emergency monetary relief having regard to the financial needs and resources of the complainant and the respondent, and such order has the effect of a civil judgment of a court.
- (5) The Court may issue any direction to ensure that the complainant's physical address is not disclosed in any manner, which may endanger the safety, health or well-being of the complainant.
- (6) If the court is satisfied that it is in the best interests of any child, it may-
- (a) refuse the respondent contact with such child; or
 - (b) order contact with such child on such conditions as it may consider appropriate.

(7) The Court may not refuse to issue a protection order or impose any condition or make any order which it is competent to impose or make under this section, merely on the grounds that other legal remedies are available to the complainant.

(8) If the Court is of the opinion that any provision of a protection order deals with a matter that should, in the interest of justice, be dealt with further under any other relevant law, including the Matrimonial Causes Act, Cap. M7 Laws of the Federation, 2004, Child's Rights Law, the Court shall order that such a provision shall be in force for such limited period as the court determines, in order to afford the party concerned the opportunity to seek appropriate relief under such law.

Powers of Police

30. (1) A police officer, at the scene of an incident of violence or as soon thereafter as reasonably possible or to whom a report of violence has been made, shall have the duty of -

- (a) assisting a victim of violence to file a complaint regarding the violence;
- (b) providing or arranging safe transport for the victim to an alternative residence, safe place or shelter where such is required;
- (c) providing or arranging transportation for the victim to the nearest hospital or medical facility for treatment of injuries where such treatment is needed;
- (d) explaining to the victim his or her rights to protection against violence and remedies available in terms of this Law;
- (e) explaining to the victim that he or she has the right to lodge criminal complaint in addition to any remedy provided under this Law; and
- (f) accompanying the victim to the victim's residence to collect personal belongings.

(2) A police officer may without an order from the Court or a warrant of arrest, arrest any person whom-

- (a) he or she suspects upon reasonable grounds to have committed any of the offences under Part II of this Law; and
- (b) a complaint has been made for having committed any of the offences under Part II.

(3) A police officer in carrying out his or her duties under this Law shall have the power to-

- (a) remove or supervise the removal of a person excluded from a shared residence where the court has issued such an order under this Law;

- (b) remove or supervise the removal of any dangerous weapon used in order to commit an act of violence as contemplated in this Law;
- (c) collect and store fingerprints including DNA of accused and convicted offenders; and
- (d) perform any other act considered necessary in order to ensure the safety and well-being of the complainant.

Warrant of arrest upon issuing of Protection order

31. (1) Whenever a court issues a protection order, the court shall make an order:

- (a) authorizing the issue of a warrant for the arrest of the respondent, in the prescribed form; and
- (b) suspending the execution of such warrant subject to compliance with any prohibition, condition, obligation or order imposed under Section 29.

(2) The warrant referred to in subsection (1) (a) of this section remains in force unless the protection order is set aside, or it is cancelled after execution.

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

- (a) executed or cancelled; or
- (b) lost or destroyed.

(4) A complainant may hand the warrant of arrest together with an affidavit in the prescribed form, where it is stated that the respondent has contravened any prohibition, condition, obligation or order contained in a protection order, to any police officer.

(5) If it appears to the police officer concerned that, subject to subsection (4), there are reasonable grounds to suspect that the complainant may suffer imminent harm as a result of the alleged breach of the protection order by the respondent, the police officer shall forthwith arrest the respondent for allegedly committing the offence referred to in Part I of this Law.

(6) If the police officer concerned is of the opinion that there are insufficient grounds for arresting the respondent under subsection (5), he or she shall hand a written notice to the respondent which-

- (a) specifies the name, the residential address and the occupation or status of the respondent;
- (b) calls upon the respondent to appear before a court, and on the date and at the time specified in the notice, on a charge of committing the offence referred to in section

27 (1); and

- (c) contains a certificate signed by the police officer concerned to the effect that he or she handed the original notice to the respondent and that he or she explained the import thereof to the respondent.

(7) The police officer shall forward a duplicate original of a notice referred to in subsection (6) to the Registrar of the Court concerned, and the mere production in the Court of such a duplicate original shall be a prima facie proof that the original was handed to the respondent specified therein.

(8) In considering whether or not the complainant may suffer imminent harm, as contemplated in subsection (5), the police officer shall take into account the-

- (a) risk to the safety, health or well-being of the complainant;
- (b) seriousness of the conduct comprising an alleged breach of the protection order; and
- (c) length of time since the alleged breach occurred.

(9) Whenever a warrant of arrest is handed to a police officer under subsection (4) (a) of , this section, the police officer shall inform the complainant of his or her right to simultaneously lay a criminal charge against the respondent, if applicable, and explain to the complainant how to lay such a charge.

Variation or
aside
protection

32. (1) A complainant or a respondent may, upon written notice to setting the other party and the court concerned, apply for the variation or of setting aside of a protection order referred to in section 26 in the order prescribed manner.

(2) If the Court is satisfied that a good cause has been shown for the variation or setting aside of the protection order, it may issue an order to this effect, provided that the Court shall not grant such an application to the complainant unless it is satisfied that the application is made freely and voluntarily.

(3) The Registrar of the Court shall forward a notice as prescribed to the complainant and the respondent if the protection order is varied or set aside as contemplated in subsection (1) of this section.

Discharge

33. Where a protection order has been made, any of the following persons may apply to have it discharged-

- (a) if the application for the order was made by a commissioner in respect of any dependent person by -
 - (i) the commissioner,
 - (ii) the person who brought the application; or
 - (iii) the respondent to that application;

- (b) if the application for the order was made by a commissioner in any other case by virtue of Section 26:-
 - (i) the commissioner.
 - (ii) the person who was the applicant for the order, or
 - (iii) the respondent to that application:
- (c) in any other case-
 - (i) the person who was the applicant for the order; or
 - (ii) the person who was the respondent to the application for the order and the Court, upon hearing any such application, shall make such order, as it considers appropriate in the circumstances.

Offences relating to protection order

34. (1) A respondent who contravened an interim protection order or a protection order, or while an interim protection order is in force, refuses to permit the applicant or any dependent person to enter and remain in the place to which the order relates or does any act for the purpose of preventing the applicant or such dependent person from so entering or remaining commits an offence and is liable, on summary conviction, to a fine not exceeding N300, 000.00 or to a term of imprisonment not exceeding 6 months or both.

(2) The provisions of subsection (1) shall be without prejudice to any punishment or sanction as to contempt of court or any other liability, whether civil or criminal that, may be incurred by the respondent concerned.

(3) A person who, in an affidavit referred to in this section, willfully makes a false statement in a material respect commits an offence and is liable on conviction to a fine of not exceeding N200,000.00 or, at the discretion of the Court, to a term of imprisonment not exceeding 6 months.

Application and protection

35. The affidavit, application and forms of Protection order forms of referred to in this Part of the Law shall be in accordance with the order Schedule to this Law.

Schedule

Rights of victims

36. (1) In addition to the rights guaranteed under Chapter IV of the Constitution of the Federal Republic of Nigeria 1999, or any other international human rights instrument to which Nigeria is a party, every victim of violence, as defined in Section 2 of this Law, is entitled to the following rights:

- (a) to receive the necessary materials, comprehensive

- medical, psychological, social and legal assistance through governmental agencies or non-governmental agencies providing such assistance;
- (b) to be informed of the availability of legal, health and social services and other relevant assistance and be readily afforded access to them;
 - (c) to rehabilitation and re-integration programme of the State to enable victims to acquire, where applicable and necessary, pre-requisite skills in any vocation of the victim's choice and also in necessary formal education or access to micro credit facilities;
 - (d) any rules and/or regulations made by any institution or organization prohibiting or restraining the reporting of offences or complaint with the provisions of this Law, shall, to the extent of the inconsistencies be null and void; and
 - (e) no complainant of any offence under this Law shall be expelled, disengaged, suspended or punished in any form whatsoever by virtue of the action of compliance with the provisions of this Law;
- (2) Any head of institution who violates the provisions of this subsection is guilty of an offence and is liable on conviction to a term of imprisonment for 6 months or a fine of N200,000 or both.
- (3) No person may be present during any proceedings under this Law except:
- (a) officers of the Court;
 - (b) the parties to the proceedings;
 - (c) any person bringing an application on behalf of the complainant under section 26 (5);
 - (d) any legal practitioner representing any party to the proceedings;
 - (e) accredited service provider;
 - (f) witnesses;
 - (g) not more than 3 persons for the purpose of providing support to the complainant;
 - (h) not more than 3 persons for the -purpose of providing support to the respondent; and
 - (i) any other person whom the Court permits to be present provided that the court may, if it is satisfied that it is in the interests of justice, exclude any person from attending any part of the proceedings.
- (4) Nothing in this section limits any other power of the Court to hear proceedings in camera or to exclude any person from attending

such proceedings.

PART IV - SERVICE PROVIDERS

Prohibition of 37. (1) No person shall publish in any manner any information publication of which might, directly or indirectly, reveal the identity of any certain information party to the proceedings.

(2) The Court, if it is satisfied that it is in the interest of justice, may direct that any further information relating to proceedings held under this Law shall not be published provided that no direction under this Sub-section applies in respect of the publication of a bona fide law report which does not mention the names or reveal the identities of the parties to the proceedings or of any witness at such proceedings.

(3) A person who contravenes the provisions of this subsection commits an offence and is liable on conviction to a term imprisonment not exceeding 1 year or to a fine not exceeding N200,000.00 or both.

Registration and 38. (1) Subject to such rules as may be made, any voluntary powers of service association registered under the Companies and Allied Matters providers Act 1990 by the Corporate Affairs Commission or any other law for the time being in force with the objective of protecting the rights and interests of victims of violence by any lawful means including providing of legal aid, medical, financial or other assistance shall register itself with the State Government as a service provider for the purposes of this Law.

(2) The appropriate Government Ministry shall -

- (a) keep a register of all accredited service providers and circulate same to all police stations, protection officers and the courts; and
- (b) draw up guidelines for the operation of the accredited service providers.

(3) A service provider so registered under subsection (1) shall have the power to-

- (a) record the violence incidence report in the prescribed form if the aggrieved person so desires and forward a copy to the Magistrates and the Protection Officer having jurisdiction in the area where the violence took place;
- (b) get the aggrieved person medically examined and forward a copy of the medical report to the Protection Officer and the police station within the

- locality of which the violence act took place; and
- (c) ensure that the aggrieved, person is provided shelter in a shelter home, if he or she so requires and forward a report of the lodging of the aggrieved person in the shelter home to the Police station within the locality of which the violence act took place.

(4) No suit, prosecution or other legal proceeding shall lie against any service provider who is or who is deemed to be acting or purporting to act under this Law, for anything which is in good faith done or intended to be done in the exercise of powers or discharge of functions under this Law towards the prevention of the commission of violence.

Protection officers

39. (1) The appropriate Government Ministry shall appoint such number of protection officers in each Local Government Council as it may consider necessary, to assist the Court in the discharge of its duties under this Law to co-ordinate the activities of the police and the accredited service providers in his or her Local Government Council to ensure that the victims or survivors of violence-

- (a) have easy access to accredited service providers;
- (b) have easy access to transportation to an alternative residence or a safe shelter, the nearest hospital or medical facility for treatment, if the complainant so requires;
- (c) are able to collect their belongings or properties from a shared household or her residence, if the complainant so requires;
- (d) are able to access the court for orders under this Law; or
- (e) have access to every possible assistance in the service of interim protection order on the respondent, and the enforcement of any order that may have been made by the court under this Law.

(2) The protection officer may, upon the failure of the respondent to make payment ordered by the Court under this Law, direct an employer or a debtor of the respondent or any bank in which the respondent operates any account, to directly pay to the complainant or deposit with Court a portion of the wages or salaries or debt due to or accrued to the credit of respondent or monies in any bank account operated by the respondent, which amount may be adjusted towards the emergency monetary relief payable by the respondent.

Coordinator for

40. The body vested with the enforcement of this Law shall

prevention of violence appoint a person as the Coordinator for the prevention of domestic violence who shall submit annual report to the State Government on the implementation of this Law, a copy of which shall be deposited with the National Bureau for Statistics.

Dangerous sexual offenders 41. A court may declare a person who has been convicted of a sexual offence a dangerous sexual offender if such person has-

- (a) more than one conviction for a sexual offence;
- (b) been convicted of a sexual offence which was accompanied; or
- (c) been convicted of a sexual offence against a child.

PART V - REGULATORY BODY

Regulatory Body 42. All relevant institutions, ministries, department and agencies of Government are mandated to administer the provisions of this Law.

PART VI - CONSEQUENTIAL AMENDMENT

General savings repeal 43. (1) Any offence committed, or proceedings instituted before the and commencement of this Law under the provisions of the:

- (a) Penal Code Law;
- (c) any other Law or regulation relating to any act of violence defined by this Law shall as the case may require be enforced or continue to be enforced by the provisions of this Law.

(2) The provision of this Law shall supersede any other provision on similar offences as contained in the Penal Code.

SCHEDULE
(Sections 26 and 31)

AFFIDAVIT, APPLICATION AND FORMS OF PROTECTION ORDER

FORM 1

GENERAL FORM OF APPLICATION FOR PROTECTION ORDER

In theCourt.
In the.....Division/District.
Suit No.

Between
A.E.....Complainant
And
C.DRespondent

APPLICATION FOR PROTECTION ORDER BY THE VICTIM

The Complainant applies that he/she be protected by the Honourable Court by the issuance of a protection order against the Respondent.

Dated this..... day of.....

.....
Complainant/Complainant's Counsel

FORM 2
**GENERAL FORM OF APPLICATION FOR PROTECTION ORDER BY A PERSON OTHER
THAN THE VICTIM**

In the..... Court.
In the..... Division/District.
Suit No.....

Between
A.B..... Complainant
and
C.D.....Respondent
and
EF.....,..... Guardian/Social Worker/Police Officer, etc.

APPLICATION FOR PROTECTION ORDER BY A PERSON OTHER THAN THE VICTIM

1, E.F. Guardian to A.B. the Complainant, hereby applies that AB be protected by the Honourable Court by the issuance of a Protection Order against the Respondent.

Dated this..... day of.....

.....
Guardian/Police Officer/Social Worker, etc.

FORM 3

AFFIDAVIT IN SUPPORT OF APPLICATION FOR PROTECTION ORDER

In the..... Court.
In the..... Division/District.
Suit No.

Between

A.B..... Complainant
and

C.D..... Respondent

E.F..... Respondent

I, A.B of..... hereby make oath and state as follows:

1. That I am the Complainant/Guardian of the Complainant/A Police Officer/A Protection Officer/An Accredited Service Provider/A Counsellor/A Health Service Provider/Social Worker/Teacher, etc.

.....
DEPONENT

Sworn to at..... Court Registry
This..... day of.....

**BEFORE ME
COMMISSIONER FOR OATHS**

FORM 4

CONSENT TO APPLICATION FOR PROTECTION ORDER IN RELATION TO A PERSON NOT BEING A MINOR, MENTALLY RETARDED PERSON, UNCONSCIOUS OR A PERSON WHO THE COURT IS SATISFIED IS UNABLE TO PROVIDE CONSENT

In the..... Court
In the,..... Division/District
Suit No.....

Between

A.B..... Complainant
and

C.D..... Respondent

EF..... Guardian

CONSENT TO APPLICATION FOR PROTECTION ORDER

I, A.B..... Complainant in this case hereby consents to the application.
by EF, for the issuance of a Protection Order on my behalf.

Dated this..... day of.....

.....
Complainant

FORM 5

GENERAL FORM OF INTERIM PROTECTION ORDER

In the..... Court.
In the..... Division/District.
Suit No.

Between

A..B..... Complainant
and

C.D..... Respondent
and

E.F..... Guardian/Police Officer, etc.
To: CD..... Respondent

INTERIM PROTECTION ORDER

WHEREAS the Complainant! Guardian, etc. has applied that the Complainant be protected by this Honourable Court against you;

AND WHEREAS there is a prima facie evidence that you have committed an act or acts of domestic violence against the Complainant, or that there is imminent likelihood of your committing such violence against the Complainant; You are hereby commanded to show cause on the day of..... the return date, why a protection order should not be issued against you.

THIS ORDER shall serve as a protection order for the Complainant until the return date.

Given under my hand this day of.....

.....
Judge/Magistrate

FORM 6

GENERAL FORM OF PROTECTION ORDER

In the..... Court,

In the..... Division/District.

Suit No.....

Between

A.B....., :..... Complainant

and

C.D..... Respondent

and

E.F..... Guardian/Police Officer, etc.

To: CD..... Respondent

PROTECTION ORDER

WHEREAS the Complainant/Guardian, etc has applied that the complainant be protected by this Honourable Court against you;

AND WHEREAS there is a prima facie evidence that you have committed an act or acts of domestic violence against the complainant, or that there is imminent likelihood of your committing such violence ' against the complainant;

You are hereby prohibited from:

(Insert whichever is appropriate)

- (a) committing any act of domestic violence;
- (b) enlisting the help of another person to commit any such act;
- (c) entering a shared household: Provided that the court may impose this prohibition only if it appears to be in the best interest of the complainant;
- (d) entering a specified part of such a shared household;
- (e) entering the complainant's residence;
- (f) entering the complainant's place of employment;
- (g) preventing the complainant from entering or remaining in the shared household or a specified part of the shared household;
- (h) alienating or disposing the shared household or encumbering same;
- (i) renouncing his rights in the shared household except in favour of the complainant;
- (j) committing any other act as specified in the protection order; or
- (k) as the court deems fit.

Given under my hand this day of.....

.....
Judge/Magistrate