

Nigéria : lois discriminatoires et accès à la justice pour les femmes victimes de violence liée au genre

Renseignement de l'analyse-pays de l'OSAR

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Ce rapport repose sur des renseignements d'expert-e-s et sur les propres recherches de l'Organisation suisse d'aide aux réfugiés (OSAR). Conformément aux standards COI, l'OSAR fonde ses recherches sur des sources accessibles publiquement. Lorsque les informations obtenues dans le temps imparti sont insuffisantes, elle fait appel à des expert-e-s. L'OSAR documente ses sources de manière transparente et traçable, mais peut toutefois décider de les anonymiser, afin de garantir la protection de ses contacts.

1 Introduction

Les questions suivantes sont tirées d'une demande adressée à l'analyse-pays de l'OSAR :

1. Quels sont les principaux obstacles auxquels font face les femmes qui sont victimes de violence liée au genre et qui tentent d'obtenir une protection de la part de l'État nigérian ?
2. De quel accès à la justice dispose une femme victime de violence liée au genre au Nigéria ? Cet accès est-il limité ou entravé par l'attitude ou le comportement des forces de l'ordre ou du personnel judiciaire ?
3. Les lois, et de manière générale, le système judiciaire nigérian, discriminent-ils des femmes ?
4. Si oui, l'État a-t-il pris des mesures efficaces pour lutter contre cette discrimination ?

L'analyse-pays de l'OSAR observe les développements au Nigéria depuis plusieurs années.¹ Sur la base de ses propres recherches ainsi que de renseignements transmis par des expert-e-s externes, elle apporte les réponses suivantes aux questions ci-dessus.

2 Cadre légal

2.1 Une structure de gouvernance fédérale et un système juridique pluraliste qui affaiblissent la protection des femmes

Une loi de 2015 protège les femmes contre la violence liée au genre et donne le droit aux victimes de recevoir protection et assistance. Cependant, cette loi fédérale ne s'applique que dans un tiers des États du pays. La majorité des femmes ne sont donc pas protégées par la loi. Selon *Onyeka C. Okongwu*, maître de conférence en droit à la *Liverpool Hope University*, pour lutter contre la violence liée au genre, le gouvernement du Nigéria a adopté en 2015 une loi sur l'interdiction de la violence contre les personnes (VAPPA). Cette loi interdit les pratiques traditionnelles néfastes et les pratiques de veuvage, les mutilations génitales féminines (MGF) et toutes les formes de violence contre les personnes (*Okongwu*, 22 décembre 2020). Le Département d'État américain (USDOS) indique que cette loi fédérale cite entre autres comme délits les violences conjugales, l'expulsion forcée du domicile, la dépendance financière forcée ou l'abus économique, les pratiques de veuvage préjudiciables ou encore les MGF. Les victimes et les survivant-e-s de la violence ont droit, en vertu de la loi, à une assistance médicale, psychologique, sociale et juridique complète. Elles ont également droit à avoir leur identité protégée au cours des procédures judiciaires. Toutefois, cette loi ne s'applique qu'à une minorité de Nigérian-e-s. En septembre 2020, seuls treize des 36 États du pays et le Territoire de la capitale fédérale (FCT) avaient adopté cette loi. La majorité

¹ www.osar.ch/publications/rapports-sur-les-pays-dorigine.

des Nigérien-e-s ne sont donc pas protégé-e-s par la loi (USDOS, 30 mars 2021). Selon le Comité pour l'élimination de la discrimination à l'égard des femmes (CEDAW), la loi de 2015 qui criminalise la violence envers les personnes est uniquement applicable sur le territoire de la capitale fédérale. Par ailleurs, le cadre de « procédure d'application » pour mettre cette loi en œuvre n'avait toujours pas été élaborée en juillet 2017 (CEDAW, 14 juillet 2017).

Le Nigéria a ratifié la CEDAW, mais celle-ci n'a pas été domestiquée et n'a donc pas d'effets concrets dans le pays. Une structure de gouvernance fédérale qui complique la transposition des dispositions de la convention dans l'ordre juridique national. Selon *Okongwu*, même si le gouvernement a bien ratifié la Convention sur l'élimination de toutes les formes de discrimination à l'égard des femmes (CEDAW), cela n'a pas d'effets concrets sur la protection des droits des femmes. En effet, la convention n'a pas été domestiquée car aucune loi correspondante n'a été adoptée par le parlement nigérian. Une tentative a été faite en 2007 pour passer un projet de loi basé sur la Convention, mais celui-ci a échoué, notamment en raison de la forte opposition de parlementaires qui considéraient le projet comme anti-Dieu, anti-famille et qu'il encourageait l'avortement et l'indulgence sexuelle (*Okongwu*, 22 décembre 2020). Le rapport du CEDAW relève que la structure fédérale de l'État nigérian, qui établit un système tripartite de gouvernance à trois niveaux (national, étatique et local), pose des problèmes en matière de transposition des dispositions de la Convention dans l'ordre juridique national. Le CEDAW est particulièrement préoccupé par le fait qu'en raison de ce régime de gouvernance, les femmes et les filles sont soumises à des lois et politiques différentes qui offrent divers niveaux de protection. Le CEDAW note également que le projet de loi sur l'égalité des sexes et des chances, qui vise à incorporer la Convention dans l'ordre juridique national, ne semble pas être une priorité pour le gouvernement (CEDAW, 14 juillet 2017).

Un système juridique pluraliste qui rend difficile l'harmonisation de la législation et complique la protection des droits des femmes. Selon le CEDAW, il existe au Nigéria un système juridique pluraliste où les droits écrits, coutumiers et islamiques s'appliquent de manière complémentaire. Certains aspects de ces lois sont incompatibles entre eux et avec la Convention (CEDAW, 14 juillet 2017). Selon *Eghosa Ekhator*, maître de conférences en droit à l'université de Derby, le système juridique pluraliste du Nigéria se compose de la common law anglaise, du droit coutumier, du droit islamique (charia) et du droit écrit. Le droit coutumier est prédominant dans la partie sud du pays, tandis que le droit islamique est largement utilisé dans de nombreux États de la partie nord. Selon cette source, il existe trois variantes du code pénal dans le pays, à savoir le code pénal qui couvre la partie sud du pays, le code pénal de la charia dans douze États du nord du pays, et le code pénal qui est opérationnel dans les États à majorité non-musulmane du nord (*Ekhator*, 2015). Selon *Okungwu*, l'application de ces trois systèmes juridiques est entachée de contradictions et d'incohérences et rend difficile l'harmonisation de la législation et l'élimination de la discrimination. *Okungwu* analyse que tout progrès réalisé par les conventions internationales et la législation a été affaibli par l'application des lois coutumières et religieuses qui sont discriminatoires envers les femmes et ont un impact négatif (*Okongwu*, 22 décembre 2020).

Selon la loi fédérale, les auteurs de viol encourent des peines pouvant aller jusqu'à la prison à vie. Toutefois, en pratique les peines restent souvent légères car la loi ne s'applique que sur une partie du territoire. Selon USDOS, au Nigéria, le viol est criminalisé, mais il reste très répandu. La loi fédérale prévoit pour ce crime des peines allant de douze ans d'emprisonnement à la prison à vie. Cependant, USDOS relève que les peines

infligées aux personnes reconnues coupables de viol et d'agression sexuelle sont souvent incohérentes et mineures. Cette loi fédérale n'ayant été adoptée que dans un tiers des États, les codes pénaux des États ont continué à régir la plupart des affaires de viol et d'agression sexuelle. Les peines prévues dans ces États sont généralement moins lourdes. Alors que certains États, principalement ceux du sud, ont promulgué des lois interdisant certaines formes de violence liée au genre, la majorité ne disposent d'aucune législation en la matière (USDOS, 30 mars 2021). Selon *Godiya Allanana Makama*, enseignante en sciences politiques à la *Nasarawa State University*, dans le cas du viol, différentes lois s'appliquent dans différentes parties du pays. En outre, bien que le viol soit criminalisé, en pratique les femmes ne bénéficient souvent pas de ces dispositions légales (*Makama*, 2013).

2.2 Des lois et coutumes discriminatoires à l'égard des femmes

Lois et pratiques coutumières discriminatoires envers les femmes. Les femmes sont souvent considérées comme des objets ou des biens. Selon *Ekhtator*, il existe au Nigéria de nombreuses lois qui sont discriminatoires à l'égard des femmes. Parmi ces lois figurent certains aspects des pratiques du droit coutumier, la loi sur le travail, la charia et certaines dispositions constitutionnelles, entre autres (*Ekhtator*, 2015). Selon *Hadiza Iza Bazza*, chercheuse à l'Université de Maiduguri au Nigéria, les lois et coutumes nigérianes classent la femme comme un objet qui n'est pas tout à fait humain. Les lois qui existent sont souvent inadéquates ou limitées dans leur champ d'application en raison du fardeau excessif imposé aux victimes, qui doivent s'acquitter de la charge de la preuve. Ces lois sont également souvent formulées dans des dispositions qui sont sexistes. Parfois, les victimes ne sont même pas conscientes de l'existence de ces lois (*Bazza*, 2010). Selon *Okongwu*, de nombreuses lois coutumières et pratiques culturelles au Nigéria sont préjudiciables et discriminatoires envers les femmes, y compris les pratiques qui concernent le veuvage, l'héritage des femmes, la déshérence des femmes et les MGF. Selon certaines lois coutumières, les terres et biens fonciers sont uniquement hérités par les héritiers masculins, les femmes étant laissés pour compte en cas de décès du mari et du père (*Okongwu*, 22 décembre 2020). *Ekhtator* indique que selon certaines lois coutumières utilisées dans certaines communautés du pays, les femmes n'ont accès à la terre que par le biais de relations masculines. *Ekhtator* analyse que les femmes sont considérées comme des biens et ne peuvent donc pas posséder de biens elles-mêmes. En vertu du droit coutumier, même les femmes mariées n'ont peu ou pas de droits sur les biens de leurs conjoints (*Ekhtator*, 2015).

Pour le même délit, la peine est plus lourde pour les femmes. Selon *Ekhtator*, le système légal traite les hommes et les femmes de manière inégale. Un exemple de cette inégalité concerne les attentats à la pudeur. En effet, en vertu de l'article 360 du code pénal, un homme reconnu coupable d'avoir agressé une femme de manière illégale et indécente risque une peine de prison de deux ans. Selon l'article 353 du code pénal, une femme reconnue coupable du même délit envers un homme risque elle jusqu'à trois ans de prison (*Ekhtator*, 2015).

2.3 Des lois lacunaires et discriminatoires qui protègent les auteurs de violence liée au genre

Une définition lacunaire du viol. Le viol conjugal n'est pas reconnu. Selon *Ekhator*, les viols sont particulièrement répandus au Nigéria mais ils ne sont que rarement signalés. Cela est notamment dû à la forte stigmatisation sociale qui y est attachée, mais également au fait qu'il est très difficile pour une femme de faire condamner son agresseur. Un mari ne peut être tenu coupable de viol envers sa femme. En effet, l'article 6 du code pénal ne considère le viol que comme un acte entre un homme et une femme qui ne sont pas mariés. Il est considéré qu'en se mariant, une femme donne son consentement à ce que son mari ait des relations sexuelles avec elle pendant toute la durée du mariage et il ne lui est pas permis de se retirer de cet engagement de manière unilatérale. Les seules exceptions prévues sont lorsqu'un divorce a été prononcé, lorsque l'homme et la femme vivent séparément de manière officielle, lorsqu'un homme s'est engagé à ne pas retourner auprès de sa femme ou lorsqu'une ordonnance interdit à l'homme tout contact avec la femme (*Ekhator*, 2015).

Des condamnations pour viol ou agression sexuelle très difficiles à obtenir. Les accusations se retournent souvent contre les femmes dont la « moralité » est mise en cause. Selon *Ekhator*, bien que l'article 357 du code criminel criminalise le viol, un obstacle majeur est que la « moralité sexuelle » de la victime peut être invoquée. Ainsi, ce n'est pas seulement sa crédibilité en tant que témoin ou victime qui est prise en compte, mais également sa « moralité sexuelle ». De manière générale, une femme qui accuse un homme de viol fera l'objet d'un jugement sur sa personnalité et moralité. Selon la loi islamique, le viol est une forme de zina (relations sexuelles illicites). Pour prouver qu'elle a été victime de viol, la femme doit produire quatre témoins de l'acte. Si elle ne peut remplir cette condition et que l'accusé ne fait pas d'aveux, alors elle risque non seulement de se faire accuser de diffamation, mais également de zina (*Ekhator*, 2015). Selon *Makama*, la manière dont un procès pour viol est mené et la nature des preuves requises exposent les femmes à l'indignité. Bien qu'il s'agisse du procès d'un homme, il s'agit souvent d'une épreuve plus difficile pour la femme (*Makama*, 2013). *Bazza* cite l'exemple de l'article 221 de la loi sur le code pénal qui traite de la défloration des filles de moins de seize ans. Selon *Bazza*, cette loi rend difficile l'obtention d'une condamnation contre l'auteur de tels actes. Pour que des poursuites soient engagées, il faut que celles-ci soient engagées dans les deux mois qui suivent la commission de l'infraction. Un autre obstacle est qu'il faut que l'accusation de la victime soit corroborée par au moins un témoin oculaire indépendant (*Bazza*, 2010).

Des lois discriminatoires qui favorisent la violence liée au genre. Battre sa femme n'est pas un crime, tant que le mari ne lui inflige pas des blessures trop « graves ». Selon *Ekhator*, il existe une multitude de lois qui encouragent la violence domestique au Nigéria. L'article 55 du code pénal permet par exemple aux maris de battre leurs femmes tant que les blessures infligées à la femme ne sont pas « graves ». L'article 241 du code pénal précise que les « blessures graves » comprennent « l'émasculatation, la perte permanente de la vue, de la capacité d'entendre ou de parler, la privation d'un membre ou d'une articulation, la destruction ou l'altération permanente des pouvoirs d'un membre ou d'une articulation, la défiguration du visage, la fracture d'un os ou la dislocation d'une dent ». Des lois similaires dans le code de la charia permettent la violence domestique. Dans le nord du pays, battre sa femme n'est en effet pas un crime tant que le mari n'inflige pas de « lésions corporelles graves » à sa femme. Selon *Ekhator*, cela explique pourquoi de nombreuses femmes refusent d'engager des poursuites pour agression et brutalité contre leur mari devant les tribunaux. La loi est biaisée à l'avantage du sexe masculin et les femmes sont à la merci de leurs maris et

de la loi (*Ekhator*, 2015). Pour *Bazza*, l'article 55 du code pénal favorise la violence domestique en fournissant un soutien juridique à ceux qui perpètrent cette forme de violence domestique (*Bazza*, 2010).

Des lois qui entravent la protection des femmes victimes de violence domestique. Selon *Bazza*, certaines lois, notamment celles qui régissent le droit matrimonial, interfèrent avec la capacité des femmes à échapper à une relation violente et abusive. Par exemple, l'un des motifs de dissolution du mariage en vertu des sections 15(2)(c) et 16(1)(e) de la loi sur les causes matrimoniales (2004) est que le mariage a été rompu de manière irrémédiable, c'est-à-dire que le mari s'est comporté d'une manière telle que l'on ne peut raisonnablement s'attendre à ce que la femme reste avec son mari. Pour obtenir une condamnation, la femme doit prouver au tribunal que, depuis le mariage et au cours d'une période d'un an précédant immédiatement la date de la requête, le mari a été condamné pour les faits suivants : a) avoir tenté d'assassiner ou tué illégalement la femme ; b) avoir commis une infraction impliquant l'infliction intentionnelle d'un préjudice grave ou d'une blessure grave à la femme. En conséquence, pour qu'une femme victime de violence domestique puisse sortir légalement de sa relation, elle doit au préalable obtenir une condamnation de son mari pour avoir tenté de la tuer ou de lui infliger des blessures graves (*Bazza*, 2010).

3 Traitement des femmes par la société

Une société patriarcale où des pratiques et stéréotypes perpétuent la subordination des femmes. Des rôles clairement définis où les hommes sont les chefs et les femmes leur doivent obéissance. Selon le CEDAW, des pratiques préjudiciables et des stéréotypes discriminatoires concernant les rôles et responsabilités des femmes et des hommes dans la famille et la société continuent de persister au Nigéria. Ces pratiques et stéréotypes perpétuent la subordination des femmes dans la sphère privée et publique et contribuent au statut inégal des femmes dans la société (CEDAW, 14 juillet 2017). Selon *Ekhator*, la société nigériane est essentiellement patriarcale, notamment en raison de l'influence des diverses religions et coutumes dans de nombreuses régions du Nigeria. Considérées comme le « sexe faible », les femmes sont victimes de pratiques discriminatoires de l'État et de la société qui sont largement tolérées (*Ekhator*, 2015). D'après *Okongwu*, dans la culture nigériane, les hommes sont les chefs de famille et les femmes, qui leur sont subordonnées, doivent obéir et respecter leur autorité. Les rôles sont clairement définis, avec les hommes responsables de l'entretien financier de la famille et les femmes devant s'occuper des enfants et du travail domestique. Dans cette société, le pouvoir est attribué aux hommes en tant que chefs et dirigeants de la société et des familles. Les femmes sont rendues économiquement dépendantes des hommes, notamment à travers un système de droits de succession et de propriété foncière qui prive les femmes de ressources (*Okungwu*, 22 décembre 2020).

Des croyances religieuses qui renforcent l'inégalité entre hommes et femmes. Selon *Chisaa O. Igbokwu et al.*, chercheurs à la *Landmark University* et à la *University of Ibadan* au Nigéria, il est probable que les croyances religieuses et traditionnelles, qui prêchent la soumission totale de la femme, contribuent à la persistance de la violence domestique. Le pouvoir supérieur conféré par la religion à l'homme légitime le fait qu'il exerce son autorité sur la femme. En outre, les religions pratiquées au Nigéria encouragent la femme à endurer les éventuels abus des hommes pour préserver leur foyer. Il existe une forte pression sociale

sur les femmes pour que celles-ci respectent la tradition, même si elle leur est nuisible (*Chisaa O. Igbolekwu et al.*, février 2021). Selon *Okongwu*, la religion renforce l'inégalité entre hommes et femmes au Nigéria. Les religions prédominantes au Nigéria considèrent que les hommes sont les leaders de la famille et de la société. Les garçons sont ainsi élevés dans la croyance que Dieu leur a donné le droit d'être chef de famille et que les filles doivent être de bonnes épouses, soumises à leur mari (*Okongwu*, 22 décembre 2020).

La violence envers les femmes est profondément ancrée dans une société nigériane fondamentalement patriarcale. L'utilisation de la violence est vue comme nécessaire pour garder la femme « sous contrôle ». Selon *Chisaa O. Igbolekwu et al.*, le contexte social de la violence à l'égard des femmes au Nigeria est lié aux sociétés patriarcales africaines traditionnelles, qui définissent la structure de pouvoir entre hommes et femmes. Ainsi, dans une société fondamentalement patriarcale dans laquelle la place de la femme est celle d'une subordonnée, battre sa femme ou ses enfants est considéré comme une forme de discipline nécessaire. Dans ce contexte, cette violence exercée contre la femme est vu comme un moyen d'imposer la conformité au rôle de la femme dans la société coutumière. Dans ce cadre, cette violence tend à être largement ignorée et non-déclarée et la forte stigmatisation qui y est liée encourage une culture du silence qui condamne la victime plutôt que l'auteur de cette violence (*Chisaa O. Igbolekwu et al.*, février 2021). Selon *Bazza*, au Nigéria, la violence liée au genre est ancrée dans la famille, institutionnalisée par la structure sociale et motivée par un arrangement patriarcal ou une stratification des classes et des sexes. Selon *McDonnel*, auteure d'un livre sur l'inégalité des sexes au Nigéria, citée par *Bazza*, les Nigérien-e-s ne parlent pas de la violence domestique car celle-ci est acceptée comme faisant partie intégrante du mariage. C'est une pratique courante qui semble acceptée comme normale est nécessaire pour garder les femmes sous contrôle. Ainsi, les auteurs de ces violences ne considèrent pas que la justice doive se mêler de ces choses (*Bazza*, 2010).

4 Obstacles dans l'accès à la justice pour les femmes

4.1 Attitude des forces de l'ordre envers les femmes victimes de violence liée au genre

La police refuse souvent d'intervenir dans des cas de violence domestique, estimant que cela doit se régler « en famille ». La victime est souvent blâmée. Selon *Bazza*, la plupart des cas de violence domestique sont considérés par la police comme des querelles familiales qui doivent être traitées au sein de la famille. Les policiers refusent souvent d'intervenir et conseillent aux victimes de rentrer chez elles et de régler les « affaires de famille » (*Bazza*, 2010). *Chisaa O. Igbolekwu et al.* confirment que lorsque des cas de violence domestique sont signalés à la police, celle-ci tend à encourager la résolution du problème par la famille elle-même, y compris par les aîné-e-s. Dans certains cas, la police peut également accepter des pots-de-vin et rejeter des affaires qui auraient dû faire l'objet d'une enquête approfondie (*Chisaa O. Igbolekwu et al.*, février 2021). D'après *Okungwu*, l'attitude nonchalante de la police, qui traîne souvent des pieds pour enquêter sur des incidents de violence liée au genre, contribue à aggraver cette forme de violence. Citant un article du *Guardian*, *Okungwu* rapporte le cas d'une étudiante qui a été violée et assassinée dans un église en

mai 2020. Ce n'est que lorsque des membres de la société civile se sont indignés de l'inaction de la police que celle-ci a daigné ouvrir une enquête. Selon *Okungwu*, ce type de comportement de la police, mais également le fait que la victime soit souvent blâmée, encourage une culture du silence qui favorise l'impunité des auteurs de ces crimes (*Okungwu*, 2 décembre 2020).

Une culture masculinisée au sein de la police qui favorise des attitudes d'hostilité et d'insensibilité envers les victimes de violence domestique et aggrave ainsi leur traumatisme. Selon *Abena Asefuaba Yalley et al.*, chercheuses à la *University of Ibadan* au Nigéria, qui se sont penchées sur la question de savoir comment la culture masculinisée de la police influence sa réponse face à la violence domestique au Ghana et au Nigéria, malgré l'existence dans ces deux pays de lois criminalisant cette violence et visant à en protéger les victimes, la culture professionnelle masculinisée de la police entrave la réalisation de ces objectifs et complique la situation des victimes de violence domestique. Les auteures de l'étude ont constaté que la masculinité est une composante majeure de la culture policière et cela se traduit notamment dans la manière dont la police perçoit et traite les cas de violence domestique. Un problème est que la violence domestique est vu comme un crime « féminin » et que les unités de police de violence domestique sont en quelque sorte considérées comme le bras féminin de la police. En conséquence, ces unités sont dévalorisées et se voient attribuer moins de ressources que les autres unités. Un autre problème constaté par les auteures de l'étude est que des traits typiquement masculins d'agression, de force, de domination et de violence se manifestent lors des interventions de police concernant des incidents de violence domestique. Lors de ces interventions, les policiers mettent l'accent sur l'utilisation de la force, de l'hostilité et de l'insensibilité. Cette attitude augmente invariablement le traumatisme psychologique des victimes. Celles-ci deviennent par la suite plus hésitante à demander l'aide de la police. Les auteures de l'étude concluent à l'incapacité du système de justice pénale à répondre efficacement à la violence domestique, en partie parce que les hommes et les idéologies patriarcales régissent l'ensemble des institutions de justice pénale, y compris les unités de violence domestique au sein des forces de police (*Abena Asefuaba Yalley et al.*, 2020).

4.2 Système judiciaire

Accès à la justice entravé par un manque d'aide juridique et par la prévalence de stéréotypes au sein de l'appareil judiciaire. Le CEDAW relève que l'accès des femmes à la justice est entravé par un manque de financement des programmes d'aide juridique, par la corruption ainsi que par la prévalence de stéréotypes au sein du système judiciaire (CEDAW, juillet 2017). Selon USDOS, au Nigéria, les victimes de viol ou d'agression sexuelle n'ont généralement que peu ou pas de recours à la justice. Dans la majorité des États du pays, il n'existe pas de législation pour lutter contre la violence liée au genre ou pour fournir assistance et protection aux victimes (USDOS, 30 mars 2021).

Des tribunaux islamiques biaisés en faveur des hommes, notamment lors de jugements pour adultère. Selon USDOS, les tribunaux islamiques au Nigéria traitent les hommes et les femmes de façon différente. En général, ces tribunaux accordent moins de poids aux témoignages des femmes et des non-musulman-e-s qu'à celui des hommes musulmans. Par ailleurs, certains juges des tribunaux de la charia autorisent des exigences différentes en matière de preuves pour les défenseurs-euses masculins et féminins afin de prouver l'adultère

ou la fornication. La grossesse, par exemple, est considérée comme une preuve admissible de l'adultère ou de la fornication d'une femme. En revanche, ces mêmes tribunaux ne condamnent les hommes que s'ils avouent ou s'il y existe un témoin oculaire (USDOS, 30 mars 2021). *Okongwu* indique que selon la charia, en cas d'adultère la femme écopera d'une peine plus lourde qu'un homme. En effet, si un homme et une femme sont reconnu-e-s coupable d'adultère, la femme sera punie, mais l'homme avec qui elle a commis l'adultère peut être laissé tranquille s'il prête serment d'innocence (*Okongwu*, 22 décembre 2020).

5 Sources:

Abena Asefuaba Yalley et al., 2020:

« *This study examined how police masculinised culture was implicated in police response to domestic violence. **Although the domestic violence laws in Ghana and Nigeria aim to improve the care and well-being of DV victims, the masculinised occupational culture of the police impeded their success, thereby complicating the plight of domestic violence victims. Masculinity was a major component of police culture and this did not only manifest in the training content of the Ghana and Nigeria police, but greatly translated into how police perceived and handled domestic violence cases.** Domestic violence as a crime was generally feminised and, as a result, the domestic violence units in the two police institutions were considered the feminine arm of the police. The units were therefore demeaned, highly neglected, and under-resourced compared with other units such as anti-robbery and counter-terrorism units which are more masculine. Critical to the conceptualisation of masculinity is the underlining principle that it is a mere social construct acquired through socialisation rather than being biologically inherent. This was demonstrated in policewomen who were found to be more hostile and demonstrated more attributes of hegemonic masculinity than policemen in the two police institutions. It can, therefore, be argued that the inherent masculinity in policing is a learned and acquired behaviour. **Hegemonic masculine traits of aggression, force, dominance, and violence manifested in police interventions in domestic violence. Domestic violence operations emphasised the use of force, hostility, insensitivity, and dominance. This invariably increased victims' psychological trauma, thereby decreasing their willingness to seek police assistance subsequently.** The study also found police officers display of solidarity with offending police officers by shielding them from punishment and not giving much recognition for domestic violence offences involving police officers. This conforms with feminist theorists' observation that responses to domestic violence guard masculinity instead of targeting gender equality (Abrams, 2016). Thus, **the criminal justice system's failure to effectively respond to domestic violence indicates that men and patriarchal ideologies regulate the entire criminal justice institutions, including the police and DV units within the police force.*** » Source: Abena Asefuaba Yalley et al., Gender, masculinity and policing: An analysis of the implications of police masculinised culture on policing domestic violence in southern Ghana and Lagos, Nigeria, 2020: www.sciencedirect.com/science/article/pii/S2590291120300668#bib2.

Bazza, 2010:

« *Shija reports that here in Nigeria, an average of 300–350 women are killed every year by their husbands, former partners, boyfriends, or male relations. **Most times the incidences are***

considered family feuds, which should be treated within the family. Most police refuse to intervene and advise the victims to go back home and settle “family matters”.

*Domestic violence affects women in Nigeria irrespective of age, class, educational level and place of residence. **Nigerian law and custom categorises a woman as an object who is not quite human.** Gender-based violence is perhaps one of the most terrifying illustrations of inequality between male and female. Women are more at risk from violence than men in all sectors of the society. This is because of the differential access to prestige, power, control of materials resources, freedom to obtain knowledge and other basic needs of life among the gender. **Violence against women is entrenched in the family, institutionalized by the social structure and driven by patriarchal arrangement, or class/gender stratification.** The family which has been regarded as the ideal basic unit of the society where there is support, love, understanding and care, has turned out to be and can be the most oppressive institution for serious violence, hostility and conflicts. Yet according to Nwankwo, the law still ignores the gravity of the problem. [...]*

There is no systematic research on wife battering in Nigeria, but circumstantial evidence shows that it is real. Records indeed have it that violence within the family in Nigeria has reached alarming proportions. Reports of beating, torture, acid attacks and killing of women in the family or relationships are regular features in the media and documented reports. [...]

McDonnel argues that Nigerians do not talk about domestic violence “because it seems to be an acceptable part of marriage”. She found that 40 percent of urban women in research conducted in Lagos and Ibadan claimed that they have been victims of domestic violence.

*In a study conducted in Guma and Makurdi Local Government Areas of Benue State, Nigeria shows that **domestic violence is a common practice that seems to be accepted by men as normal in order to keep the women under control. Batterers fail to see this as an act worth bringing before the law.** [...]*

There is no specific or direct national law that protects the right of women against violence in Nigeria. Even where the law exists, they are inadequate or limited in scope by virtue of the undue burden placed on the victims to discharge the burden of proof. Most of the times some of these laws are couched in provisions that are gender biased and sometimes the women victims are not even aware of the existence of the laws. [...]

*Despite all the above mentioned constitutional rights, it is imperative to note that **the Nigerian state through its laws has actively encouraged the perpetration of domestic violence. By section 55(1)(d) of the penal code applicable in the northern parts of the country provides that:***

nothing is an offence which does not amount to infliction of grievous hurt upon any person and which is done by . . . (d) a husband for the purpose of correcting his wife such husband and wife being subject to any routine law or custom on which such correction is recognized as lawful.

*Of course, **the injunction of the penal code contradicts the constitution of the Federal Republic of Nigeria, which upholds the rights of the dignity of women and men. Commenting on the provision of this law Shija notes that, the law fails to provide a criteria for measuring hurt that are grievous. Agabi also adds that the law has viewed the woman***

as incapable of expressing her will. Furthermore, the inclusion of women (wives) suggests that women are to some degree less than human and could be brazenly dehumanized. It may not be correct to say that the preponderance of wife battering is due to this law but it is not completely out of place to note that it has provided the legal backing of those who perpetrate this form of domestic violence in Nigeria.

In addition, there are certain laws especially, in matrimonial causes that interfere with the ability of women to escape violent relationship. For instance, one of the grounds for dissolution of marriage under the matrimonial causes Act Sections 15(2)(c) and 16(1)(e) of (2004) is that the marriage has broken down irretrievably, that is that the respondent has behaved in such a way that the petitioner cannot reasonably be expected to leave with the respondents.

To secure conviction on grounds of cruelty, the petitioner has to satisfy the court that since the marriage and within a period of one year immediately preceding the date of the petition, the respondent has been convicted of:

- i. having attempted to murder or unlawfully killed the petitioner;**
- ii. having committed an offence involving the intentional inflicting of grievous harm or grievous hurt on the petitioner.**

*It follows from the above that **until the petitioner is able to secure a conviction against the respondents from attempting to kill her or infliction of grievous harm on her, she cannot get out of the relationship lawfully or successfully.** It is desirable for this section of the law to be amended in order to allow a battered woman get out of the violent relationship before she loses her life in the process.*

Furthermore, section 221 of the criminal code Act that deals with defilement of girls less than sixteen years provides thus:

*any person who has or attempts to have unlawful carnal knowledge of a girl being above thirteen years and under sixteen years of age is guilty of a misdemeanor and is liable to imprisonment for two years with or without whipping. It is a defense to a charge in this section to prove that the accused person believes on reasonable grounds that the girl was above sixteen years. **A prosecution for any offence in this section must begin within two months after the offence is committed.** Any person cannot be convicted of any of the offence in this section upon the uncorroborated testimony of the witness.*

*It could be deduced from this section that, it will be difficult to secure a conviction against an offender. In the first place, **if prosecution does not commence within two months after the offence was committed, it lapses.***

Secondly, it is difficult to always have an independent eye witness in offence of this nature. Where the evidence of the victim is uncorroborated, the charge fails. Finally, it is always easy for the victim to look older than her age. Even where there is a conviction and sentence under this section it cannot serve as a deterrent because the offender will readily pay a fine which is meager sum in lieu of imprisonment. » Source: Bazza, Domestic Violence and Women's Rights in Nigeria, 2010, p.176, 178-179, 184-187 : <https://scholarlycommons.law.case.edu/cgi/viewcontent.cgi?referer=https://www.google.com/&httpsredir=1&article=1133&context=swb>.

CEDAW, 14 juillet 2017:

9. Le Comité rappelle ses précédentes observations finales (CEDAW/C/NGA/CO/6, paragraphes 9 et 10) et note que **la structure fédérale de l'État partie, qui établit un système tripartite de gouvernance comprenant les niveaux national, étatique et local, continue de poser des problèmes en matière de transposition des dispositions de la Convention dans l'ordre juridique national. Des lois qui ont un impact sur les droits des femmes, telles que la loi portant interdiction de la violence envers les personnes, adoptée en 2015, ne s'appliquent qu'au territoire de la capitale fédérale.** Le Comité est particulièrement préoccupé par ce qui suit :

- a) **Le régime de gouvernance de l'État partie est tel que les femmes et les filles sont soumises à des lois et politiques différentes offrant divers niveaux de protection;**
- b) **L'interdiction de la discrimination à la section 42 de la Constitution ne prévoit pas de définition globale de la discrimination en accord avec l'article premier de la Convention;**
- c) **Le projet de loi sur l'égalité des sexes et des chances, qui vise à incorporer la Convention dans l'ordre juridique national, piétine et il n'y a pas de calendrier pour l'adoption des projets de loi en souffrance, tels que le projet de loi sur les droits des personnes handicapées. [...]**

11. Le Comité prend note des efforts visant à faire réviser les lois discriminatoires par la Commission nigériane de réforme des lois et à travers le processus de révision constitutionnelle en cours. Il prend également note du système juridique pluraliste dans l'État partie où les droits écrit, coutumier et islamique s'appliquent de manière complémentaire. Il s'inquiète du fait que certains aspects de ces lois sont incompatibles entre eux et avec la Convention. **Le Comité est particulièrement préoccupé par le fait que, malgré l'audit exhaustif des lois discriminatoires mené par la Commission de réforme des lois, diverses dispositions discriminatoires, depuis la ratification de la Convention en 1985, restent en vigueur, dont :**

- a) **La section 42 3) de la Constitution, qui valide toute loi qui pourrait imposer des restrictions discriminatoires à l'égard des nominations dans la police nigériane;**
- b) **La section 118 g) de la loi sur la police, qui interdit le recrutement de femmes mariées dans la police;**
- c) **L'article 55 du Code pénal, qui autorise un mari à battre sa femme pour la corriger tant qu'aucune lésion corporelle grave n'est infligée. [...]**

13. Le Comité prend note des efforts déployés par l'État partie pour fournir des services d'aide juridique aux femmes et aux filles, mais reste **préoccupé par les renseignements selon lesquels l'accès des femmes à la justice est souvent entravé par des allocations budgétaires insuffisantes pour l'aide juridique, la corruption présumée et les stéréotypes au sein du système judiciaire. [...]**

17. Le Comité prend note des efforts déployés par le Ministère de la condition féminine et du développement social en vue d'améliorer les droits des femmes, notamment l'installation de responsables de la coordination des questions d'égalité des sexes dans les ministères d'exécution, les ministères et les organismes gouvernementaux, et pour faire en sorte que la problématique hommes-femmes soit prise en compte systématiquement et que la budgétisation tienne compte de la problématique hommes-femmes. **Le Comité est toutefois préoccupé par le fait que le Ministère, en tant que mécanisme national de promotion de la femme, ne**

dispose pas des ressources humaines, techniques et financières à même de lui permettre de mener à bien sa mission de promotion et de protection des droits des femmes. [...]

21. *Le Comité prend note des efforts déployés par l'État partie en vue de lutter contre les stéréotypes et pratiques préjudiciables, notamment par la révision du Code de radiodiffusion en 2010 afin d'établir des normes minimales dans l'industrie des médias et cinématographique dans le cadre de la lutte contre les stéréotypes. **Le Comité reste toutefois préoccupé par la persistance de pratiques préjudiciables et de stéréotypes discriminatoires concernant les rôles et les responsabilités des femmes et des hommes dans la famille et dans la société, qui perpétuent la subordination des femmes dans les sphères privée et publique. Il constate que de tels stéréotypes contribuent également à l'augmentation du mariage d'enfants, de la polygamie et du lévirat, et, donc, du statut inégal des femmes dans la société.** Le Comité est également préoccupé par le fait que l'État partie n'a pas procédé à une étude d'impact de sa campagne nationale de sensibilisation à l'élimination des stéréotypes. [...]*

25. *Le Comité prend note des efforts déployés par l'État partie pour mettre fin à la violence sexiste à l'égard des femmes, notamment par l'adoption de la loi portant interdiction de la violence envers les personnes en 2015, qui n'est toutefois applicable que sur le territoire de la capitale fédérale. Le Comité note avec préoccupation ce qui suit :*

a) La violence sexiste à l'égard des femmes et des filles, y compris la violence domestique, demeure répandue;

b) Le cadre de « procédure d'application » pour la mise en œuvre de la loi portant interdiction de la violence envers les personnes adoptée en 2015 n'a pas été élaboré à ce jour;

c) Les foyers sont insuffisants et il n'existe aucun renseignement sur leur accessibilité pour les femmes et les filles, surtout dans les régions éloignées. [...]

27. *Le Comité se félicite de la révision de la loi d'application et d'administration de la loi portant interdiction de la violence envers les personnes, qui est entrée en vigueur en 2015, et de la création, en 2008, du fonds d'affectation spéciale pour les victimes de la traite. Le Comité est particulièrement préoccupé par :*

a) Le fait que l'État partie reste un pays d'origine, de transit et de destination pour la traite des personnes, en particulier des femmes et des filles, à des fins d'exploitation sexuelle et d'exploitation par le travail;

b) Le fait qu'en raison des flux migratoires dans la sous-région, les femmes et les filles déplacées à l'intérieur du pays et les femmes vivant dans la pauvreté sont exposées à la traite;

c) La réduction du budget alloué à l'Agence nationale pour l'interdiction de la traite des personnes en raison de la récession économique dans l'État partie;

d) Le fait qu'il n'y a que huit foyers pour les victimes de la traite dans l'ensemble du territoire de l'État partie;

e) Le fait que les femmes prostituées seraient victimes de harcèlement et de mauvais traitements notamment par la police et le personnel de maintien de l'ordre. » Source: Comité pour l'élimination de la discrimination à l'égard des femmes (CEDAW), Observations finales concernant le rapport unique valant septième et huitième rapports périodiques du Nigéria, 24 juillet 2017, p.1-9: <https://docstore.ohchr.org/SelfServices/FilesHan->

[dler.ashx?enc=6QkG1d%2fPPRiCAqhKb7yhsqMFgv33OTgoZv7ZAgl6thD-kAcuu60Ke5O8oUKpz5hHtAD5CcXiD5zZx29kup5sgJkmQOI%2f6vblrO8e%2f0smQPZQqDhhf-fAat12YyjTHfx3Zm0](https://www.ashx?enc=6QkG1d%2fPPRiCAqhKb7yhsqMFgv33OTgoZv7ZAgl6thD-kAcuu60Ke5O8oUKpz5hHtAD5CcXiD5zZx29kup5sgJkmQOI%2f6vblrO8e%2f0smQPZQqDhhf-fAat12YyjTHfx3Zm0)

Ekhtator, 2015:

« Nigeria is a federal state with a population of about 150 million. Women make up more than half of the population. **Nigeria's legal system is pluralist. It is made up of English common law, customary law, Islamic (Sharia) law and statutory law. Customary law is prevalent in the southern part whilst Islamic law is widely made recourse to in many of the states in the northern part.**

The Nigerian society is inherently patriarchal. This is due to the influence of the various religions and customs in many parts of Nigeria. Here, women are seen as the 'weaker sex' and discriminatory practices by the State and society (especially by men) are condoned. Thus, it has been argued that "the traditions and culture of every society determine the values and behavioural patterns of the people and society...a culture that attributes superiority to one sex over the other exposes the sex that is considered to be inferior to various forms of discrimination" (Ngwankwe, 2002:143; Alemika, 2010).

Furthermore, Ibidapo-Obe (2005:262) contends that "human rights is flavoured by the culture within which it is to be invoked...the perception of human rights is conditioned, in space and time, by a combination of historical, political, economic, social, cultural and religious factors."

Discrimination against women is endemic and was also highly prevalent in ancient societies such as Rome, Athens and Africa amongst others (Opota, 1989). Unfortunately, in some areas in Nigeria (even until present times), in some cultures women and children are regarded and treated as chattel or property (Akande, 1993). Thus, women are said to be among the vulnerable groups subjected to discrimination in Nigeria (Olubor, 2009).

Discrimination against Women in Nigeria

Generally, many laws discriminate against women in Nigeria. Some of these laws include some aspects of customary law practices, the Labour Act, Sharia law and some constitutional provisions amongst others. [...]

Sexual Violence Laws that Discriminate against Women in Nigeria

There are three variants of criminal codes in Nigeria, and they are the Criminal Code operational in the southern part, the Sharia Penal Code operational in about 12 states in the northern part of Nigeria and the Penal Code which is operational in the non-Muslim majority states in the North (Alemika & Alemika, 2005).

Originally the Penal Code (which dealt with Islamic personal or civil matters) was operational in all the states in the North. However, recently some northern states have extended the remit of the Penal Codes to criminal matters.

Violence against women can be defined as "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” (Paragraph 113 of the Beijing Platform for Action in Ashiru, 2010:97).

Rape against women is a major ill plaguing the Nigerian society and one of the least reported crimes in Nigeria. This is due to the societal stigma attached to it in Nigeria (Ashiru, 2010; Fagbongbe, 2010; Alemika & Alemika, 2005). It is mainly perpetuated by men against women. It is said to be a “sex-specific offence which can only be committed by men on women” in Nigeria (Imasogie, 2010:14).

Section 357 of the Criminal Code Act states that:

Any person who has unlawful carnal knowledge of a woman or a girl, without her consent, or with her consent, if the consent is obtained by force or by means of threats or intimidation of any kind, or by fear of harm, or by means of false and fraudulent representation as to the nature of the act, or, in the case of a married woman, by impersonating her husband, is guilty of an offence which is called rape.

A major hindrance in rape cases in Nigeria is the rules of evidence which are stacked up against the victims in courts. For example, Section 211 of the Evidence Act states thus:

When a man is prosecuted for rape or for attempt to commit rape or for indecent assault, it may be shown that the woman against whom the offence is alleged to have been committed was of a generally immoral character, although she is not cross-examined on the subject; the woman may in such a case be asked whether she has a connection with other men, but her answer cannot be contradicted and she may also be asked whether she had connection on other occasions with the prisoner, and if she denies it may be contradicted.

This passage is based on the old English common law maxim where the general bad character as to the sexual morality of the prosecutrix is relevant, not only to her credibility as a witness, but also to the issue (Aguda, 1998; Ashiru, 2010).

*The Penal Code has similar provisions to the Criminal Code as per the offence of rape in Nigeria. However, **in Nigeria, a husband cannot be guilty of the offence of ‘rape’ of his wife.***

This is because Section 6 of the Criminal Code defines ‘unlawful carnal knowledge’ as carnal connection which takes place otherwise than husband and wife.

The basis of this law is founded on the culture and religious antecedents of the Nigerian society. Also, it can also be localised in the erstwhile English common law. In the case of R v Roberts, the court held that “the status of marriage involves that the woman has given her consent to her husband having intercourse with her during the subsistence of the marriage...she cannot unilaterally withdraw.”

The exceptions under common law (also applicable in Nigeria) include where a decree of divorce is in existence, where the parties are living separately under a separation order of a court, where the husband has given an undertaking not to return to the wife, where a party has filed or started divorce proceedings, where there is a separation order agreed upon by the parties and where there is a court order prohibiting contact with the wife (Imasogie, 2010).

This provision goes against the current worldwide trend in legislating against marital rape in other jurisdictions. It also contrary to a plethora of international treaties which Nigeria is party to, such as the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), the African Charter on Human and Peoples Rights and the Protocol on Rights of Women in Africa amongst others.

Under the Sharia Penal Code, a husband cannot be guilty of marital rape. Section 127 of the Zamfara harmonised Sharia Code states:

A man is said to commit rape if he has sexual intercourse with a woman in any of the following circumstances: (a) against her will (b) without her consent (c) when her consent has been obtained by putting her in fear of death or hurt (d) with her consent when the man knows that he is not her husband and that her consent is given because she believes that he is another man to whom she is or believes to be lawfully married (e) with or without her consent when she is under fifteen years of age or of unsound mind. (Oyelade, 2007-2009:266)

This provision is similar to the Penal Code.

*Furthermore, “under Islamic law, a husband may be liable for injury caused or occasioned by forced sex with his wife, but he can never be liable for rape so long as there is a valid subsisting marriage between them” (Oyelade, 2007-2009:266). This is similar to the provision of the Criminal Code. **Evidence shows that women who accuse men of rape are subject to judgement of their character and there is no recognition of marital rape, thus there is limited protection for women in Nigeria** (Anaba, 2007). Here, the victims (who are mostly women) have to rely on the provisions in the Criminal Code on common assaults in cases of ‘marital rape’ occasioned by the activities of their husbands.*

In terms of sentencing both the Penal and Criminal Codes prescribe life imprisonment as punishment for offenders. Under the Sharia Penal Codes, rape is form of ‘zina’, that is, illicit sexual intercourse (Ashiru, 2010). To prove the offence of ‘zina’, a confession of four witnesses is essential; otherwise, the victim could be liable for defamation where a confession cannot be procured from the offender. (Ashiru, 2010). Also, the victim could be prosecuted for the offence of rape, where the required number of witnesses (four) is absent.

Furthermore, the Sharia Codes provide for discriminatory punishments for married and unmarried offenders (usually women). Here “married offenders are liable to stoning to death while unmarried offenders are liable to the lenient punishment of only one year imprisonment and caning with lashes up to a maximum of one hundred” (Alemika & Alemika, 2005:89-90).

These provisions of the Sharia Codes are unconstitutional and go against various provisions of the Constitution prohibiting degrading treatment of people, freedom of religion and protection against discrimination amongst others. However religion is a highly politicised issue in Nigeria, and this is a stumbling block to promotion of women’s rights in some parts of Nigeria, especially in the North.

Indecent Assault Laws

*Generally, in Nigeria, **indecent assaults committed against males and females carry different punishment.** Here, the punishment for an indecent assault committed on a female is*

lighter than that of a male (Ashiru, 2010). Under Section 353 of the Criminal Code, a person who unlawfully and indecently assaults a man is guilty of a felony and liable to imprisonment for three years. However by virtue of Section 360 of the Criminal Code, a person who unlawfully and indecently assaults a woman is guilty of a misdemeanour and is liable to imprisonment for two years.

Laws Accentuating Wife Battery in Nigeria

Section 34(1) of the Nigerian Constitution bestows on an “individual respect for dignity of his person.” However, a plethora of laws encourage wife brutality in Nigeria. Some of these laws will be highlighted in this section.

Under Section 55 of the Penal Code, husbands are permitted to chastise their wives. Here, under Subsection 10, “nothing is an offence which does not amount to the infliction of grievous harm upon a person and which is done by a husband for the purpose of correcting his wife...”

Thus, under the Penal Code, a husband can beat his wife insofar it does not lead to serious injuries or grievous harm. In essence, the Penal Code condones domestic violence against women (Ashiru, 2010). Under Section 241 of the Penal Code, “grievous hurt includes emasculation, permanent loss of sight, ability to hear or speak, deprivation of any member or joint, destruction or permanent impairing of the powers of any member or joint, facial disfigurement, bone fracture or tooth dislocation.”

Similar provisions permitting wife battery are in the Sharia Codes. In northern Nigeria, wife beating is not a crime insofar as it does not inflict grievous bodily harm on the woman. This provision is archaic and is an example of state sanctioned brutality against women. It can be contended that it is one of the reasons why many women decline to institute cases of assault and brutality against their husbands in Nigerian courts. The law is skewed to the advantage of the male sex and women are at the mercy of their husbands and the law. [...]

Customary Practices/Law and Women in Nigeria

Some customary practices also discriminate against women in Nigeria. For example, “Customary laws of several communities impose conditions that make women access land only through male relations. More often, women are regarded as property and therefore cannot own property themselves” (Olubor, 2009:15). However, this customary practice is not universal in Nigeria. For example, in many communities women can own property. In Benin Kingdom in the southern part of Nigeria, many women own property distinct or separate from their spouses (Attah, 2012).

With respect to property rights, “Women married under the [Marriage] Act have their property rights protected by the Act thereby making them entitled to a share in the matrimonial property, including the husbands’ property, and the jointly owned and acquired property” (Olubor, 2009:15).

Women married under customary law have little or no rights over their spouse's property. Here women "are more often entitled to kitchen utensils and whatever their husbands may give to them as gifts made *inter vivos*" (Olubor, 2009:16).

There are a plethora of other laws discriminating against women which are not analysed in this paper. They include Taxation, Maternity and Wills Act amongst others. » Source: Eghosa Osa Ekhaton, *Women and the Law in Nigeria: A Reappraisal*, 2015, p.285-290: <https://vc.bridgew.edu/cgi/viewcontent.cgi?article=1797&context=ijws>.

Chisaa O. Igbolekwu et al., février 2021:

« *Domestic violence is prevalent among women and girls in Nigeria. It is synonymous with close partner violence, family violence, beating, domestic abuse or spousal abuse. More complicating is the reality that the social context of violence against women in Nigeria is related to traditional African patriarchal societies, which defines the gendered power structure* (Rydström, 2010, Ajayi & Airewele, 2018). To illustrate: in marriage in many societies, a woman surrenders to her husband's exclusive sexual rights and obedience. **Traditionally, in Nigeria, as in many other African countries, the beating of wives and children is widely sanctioned as a form of discipline** (Adomako & Prah, 2009; Qayum & Ray, 2010). **Consequently, by beating their children, parents believe that they are instilling discipline in them, much the same way as husbands beat their wives—who are also regarded as children and as such prone to indiscipline. The society is basically patriarchal, and women's place within the scheme is absolutely subordinate.**

Intimate partner violence functions as a means of enforcing conformity with the role of a woman within customary society. It does not matter if the woman is economically dependent or not; her position, like that of the children, is subordinate (Katembo, 2015). Several women are believed to have been subjected to physical, sexual, and psychological violence carried out primarily by husbands, partners, and fathers (Ajayi & Airewele, 2018; Maherjian, 2016), while some girls are often forced into early marriages and are at risk of punishment if they attempt to escape from their husbands. More pathetic is the revelation of **gross underreporting and non-documentation of domestic violence due to cultural factors** (Nittis, Hughes, Gray & Ashton, 2013). **A culture of silence reinforces the stigma attached to the victim rather than condemn the perpetrator of such crimes** (Muhammad-Farooq, Saeed-Ali, Parpio, Lalani, & Marjorie, 2017).

Several incidences of intimate partner violence are reported to the police, who themselves could be judgmental in cases of this nature. The police may also feel that issues on domestic violence are better settled within the confines of the family, with the elders involved. In some cases, they may even collect bribes and dismiss cases that should have been thoroughly investigated. This contributes largely to the problem of estimation and culture of silence on domestic violence. Hence, many experts (Adekeye, Abimbola & Adeusi, 2013; MuhammadFarooq, et al 2017) believe that the true magnitude of the problem is hard to estimate (Centre of Disease Control and Prevention, 2011). Culture has been identified by Adomako & Prah (2009) and Arisukwu, Igbolekwu, Efugha, Nwogu, Osuke, and Oyeyipo (2019) as a tool used in justifying domestic violence against women through claims that such practices are part of "culture". [...]

Furthermore, high level of poverty and socio-economic challenges in Nigeria undoubtedly contribute in no small measure to the prevalence of domestic violence (Odumakin, 2013). Consequent upon the aforementioned cultural and economic assets, most rural women in Nigeria are victims of domestic violence. Although this inimical practice may be considered to be as old as humanity, its prevalence tends to be increasing with modernization. This implies that education and other indicators of contemporary societies may not have influenced the practice of domestic violence (Ajayi & Airewele, 2018). [...]

The major causes of domestic violence against women in rural communities include economic dependence of women on men, community's tolerance of abusive behaviors, cultural values that support domestic violence, such as early marriage and bride price, among others. This is also consistent with the findings of Ajayi and Airewele (2018). These rural women who had little or no educational qualification naturally occupied the lower socio-economic status. They had to depend on their husbands for virtually all of their needs. This positions them at the mercy of their husbands, who out of financial constraints and frustrations, may begin to beat their wives. [...]

There are also indications that **a large number of the study population is of the opinion that religious and traditional beliefs contribute to the persistence of domestic violence as most religion preach total submission; hence the role and place of a woman is ignored, even when the man is wrong and the woman has a genuine case to be heard.** This also confirms the findings of Ihalainen, Schure, Sola, (2020), Igbolekwu & Nwokocha, (2019), and Egun (2013) on the impact of culture and religion on individual perceptions and the fact that most women are forced to accept cultural practices irrespective of its (cultural practice) negative impact on them. Also, **religion has conferred on men superior power over women, which gives men reasons to exercise authority over women.** This is consistent with the Black feminist perspective. **All the religions practiced in Nigeria encourage women to endure the atrocities of men and keep their homes. Most of the religions profess that women are "home-makers" at all cost, even in the wake of violence against them. Traditionally, women's opinions are insignificant in many important cultural issues; they are not allowed to be present at some meetings. Also, cases of domestic violence are rampant because most of the women are encouraged to respect tradition, even when it is harmful or cruel.** [...]

Furthermore, the findings from this study are in line with the position of Anna and Wang (2011) who posits that **the social context of violence against women in Nigeria is related to traditional African patriarchal society, which became layered with colonial power structures while eradicating some precolonial pathways towards women's empowerment which defines the gendered power structure.** Anna and Wang (2011) posited that it is only through improving the economic condition of women who are mostly dependent on small and medium enterprises that women could be helped to leave unhappy marriages especially in strong patriarchal societies. Again, this assertion complements the proponents of the Radical and Black feminist perspective on patriarchy. By implication, **the patriarchal nature of the African society will continue to serve as bedrock for the superiority of the male folk over women.** Unfortunately, this cultural practice has experienced little or no influence by civilization or education. [...]

This study also discovered that some women do not always like to report cases of abuse for fear of stigmatization and revenge from abusers and some do not have anyone to

report incidences of violence to. This study is in line with the findings of Fagbamigbe, et al (2017), Olofinbiyi, Akintayo, Ade-Ojo, Atiba, Olaogun & Oluwadiya (2013), Amnesty International (2012), among others, which revealed that **Nigeria is among one of the countries recording high incidences of female domestic abuse in sub-Sahara Africa, where two-thirds of women are found to be suffering male partner violence and are often scared of reporting the issue because of the fear of negative social stereotyping that may arise.** This study, therefore, beams light on the plight of these rural women who may have been undergoing different forms of abuse and domestic violence. » Source: Chisaa O. Igbolekwu et al., Domestic Violence against Women in the Nigerian Rural Context , février 2021, p.226-227, 238-240: <https://vc.bridgew.edu/cgi/viewcontent.cgi?article=2370&context=jjws>.

Makama, 2013:

« *Nigeria criminal law has a number of provisions relating to sexual and domestic offences that are especially relevant to women's rights. However different laws, for instance on rape, apply to different parts of the country.*

*Rape is defined in a gender-specific manner, as "carnal knowledge" or sexual intercourse with a woman or girl without her consent or under duress. Besides the restrictive nature of the definition, which does not extend to the rape of males, it must be pointed out **that in practice most rape victims are unable to benefit from these provisions. The way in which a rape trial is conducted and the nature of the evidence required exposes women to indignity, making it a man's trial but a woman's tribulation. The law needs to be extended to cover marital rape. Currently the Penal Code specifically excludes "sexual intercourse by a man with his own wife" from the definition of rape, so long as she has attained puberty.***

With respect to the criminal law, it is also necessary to remove the gender disparity in punishments applicable for indecent assault. Presently, there is a dichotomy, which creates the impression that one gender is superior to the other. Sections 350 and 363 of the Criminal Code cover the same offence (unlawful and indecent assault) but provide for a lesser punishment when the victim is female (two years imprisonment) than when the victim is male (three years imprisonment).

In northern Nigeria the Penal Code specifically precludes as an offence any act which does not amount to the infliction of grievous injury and which is done by "a husband for the purpose of correcting his wife, such husband and wife being subject to any natural law or custom in which such correction is recognized as lawful". The law through the Penal Code condones the widespread problem of domestic violence, by encouraging beating of wives in as much as it does not amount to grievous harm. In case of traditional laws the wife herself is often regarded as property and she is generally not expected to entertain any expectation. In fact, under some traditional customary law systems, especially in south east Nigeria, she is one of the chattels to be "inherited" after the death of her husband. » Source: Makama, Godiya Allanana, Patriarchy and gender inequality in Nigeria: The way forward, 2013, p.126-127: <https://core.ac.uk/download/pdf/236407158.pdf>.

Okongwu, 22 décembre 2020:

« *The Nigerian cultural system has designed and organized the society based on gender which prescribes that men are heads of families and women are subordinate to them and*

must respect and obey their leadership. Roles and responsibilities have been created based on this division with men responsible for the financial upkeep of the family and women for taking care of the children and domestic work. When individuals deviate from these societal ascribed roles, culture is used as an instrument to subjugate, intimidate and ensure compliance (Uchem, 2001). Cultural practices such as male gender preference and early marriages encourage and enhance the discrimination of women while denial of inheritance rights impact on their economic opportunities.

Patriarchy is another factor that exacerbates the inequality of the female gender in Nigeria. Nigeria operates a patriarchal system of stratification that ascribes power to men as heads and leaders in society and families. It provides material advantages to men in terms of inheritance rights and ownership of land thereby economically empowering a man and deprives women resources making them economically dependent on men (Makama, 2013). Makama argues that gender differentials in inheritance rights and legal adulthood sets the framework for structural gender inequality in families and society where men are trained for leadership activities and women are constrained to domestic activities which affect their self-worth and confidence later in their adult life and career. Patriarchal system normalizes the fact that men are leaders in the homes and society and therefore there is a tendency that anywhere a man is seen in a position of power and leadership, it will be viewed as normal while the opposite will be an anomaly.

In addition to culture and patriarchy, religion is another factor that impacts on inequality women face in Nigeria. The predominant religions in Nigeria hold that God created men leaders in families and society and as a result, women are expected to be subordinate and submit to their leadership. Individuals are indoctrinated with these religious views through socialization and education to accept them as natural and a divine order from God. Boys are therefore raised to believe that God has ordained them to be heads in their homes and girls are raised and trained to be good and virtuous wives and to learn to submit to their husbands. Religion was found to be a major factor in defining the responsibility of men and the association of men to leadership (Christian Aid, 2015). Due to this dominance of religion in an African's life, it has been used as an effective tool for subordination of women. The predominant religions in Nigeria hold that God created men leaders in families and society and as a result, women are expected to be subordinate and submit to their leadership.

*The Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW) periodic reports (1998 and 2003) revealed that **discrimination is ingrained in the Nigerian culture and attitudes and being a traditional society, emphasis is placed on the role of women as that of a homemaker and baby factory. Women are relegated to the background and placed in stereotypical roles which are instilled on them as children and they grow up to accept them as normal. The report claims that the Nigerian government is willing to find ways in which to eliminate discrimination in the community.***

In keeping to its commitment to eliminate discrimination, the government put some measures in place through the enactment of laws and ratifying international conventions that promote equality and protect the rights of women. However, despite years of these legal provisions, women continue to be victims of discrimination and are underrepresented in all facets of society. Women account for nearly half of the population at 49.2% but they are underrepresented in the workforce with only 38.16% in the state civil service. The

report from National Bureau of Statistics (NBS) shows that the literacy level of women stand at 59.3% compared to 70.9% of men and in positions of power and decision making, women are under-represented with 5.8% in the National Assembly; 29.4% in the Federal Courts and 15.4% of professors in universities and women were generally under-represented in high-ranking government administrators with decision making powers. [...]

Discriminatory laws and customs

With a population of over 200 million and over 250 ethnic groups (CIA, 2020), Nigeria has a diverse cultures and traditions. **Different customary laws and cultural practices obtain in different communities and many of these are harmful and discriminatory towards women. Some of these customary laws and customs include widowhood practices, wife inheritance, female disinheritance, and female genital mutilation among others (Ifemeje and Umejiaku, 2014). In some ethnic groups, widows are subjected to inhumane treatment and are expected to undergo some rituals to absolve them of any guilt in the death of their husbands such as drinking the water used to wash the corpse, or shaving their hair, sitting and sleeping on the bare floor to help ward off the evil spirit of their deceased husbands (Durojaye, 2013; Ifemeje and Umejiaku, 2014). In some communities, their movements are restricted, and they are banned from economic activities which affect their livelihood while in others, the demise of their husbands does not end the marriage, but they are inherited by their brother-in-law as part of the deceased estate. Female genital mutilation (FGM) is also a discriminatory culture practiced in many societies in Nigeria on the belief that it preserves female virginity, reduces promiscuity in women, prevents still birth and enhances male sexual performance (Ifemeje and Umejiaku, 2014).**

Some Customary and Sharia laws are discriminatory against women for example, under the Sharia law, punishment given to women in adultery cases is disproportionate to that given to men where a woman can be punished for adultery but her co-adulterer can be let off if he swears an oath of innocence (Ifemeje and Ogugua, 2012). The Penal Code also authorizes a man to beat his wife for the purposes of correcting her. Most customary laws are patrilineal in nature whereby land and landed property are inherited by male heirs thereby disinheriting women from their deceased husbands' or fathers' properties. However, the Court of Appeal in *Mojekwu v Ejikeme 1* struck down this customary law that disinherits a daughter from her deceased father's estate as being repugnant to equity and natural justice. [...]

Gender-based violence

Violence against women or Gender-based violence (GBV) is a social phenomenon that mainly affects women and girls. It is a private or public act of gender-based violence that results in physical, sexual or psychological harm to women (United Nations, 1993). GBV is a form of discrimination against women rooted in gender inequality and acts as a barrier to equal participation of women in social, economic and political life. According to the World Bank, one in three women have experienced GBV in their lifetime with 35% experiencing physical or sexual violence from an intimate partner or non-partner (World Bank, 2019).

The most common acts of violence against women in Nigeria are harmful traditional practices, domestic violence, physical violence, sexual violence, socio-economic violence, forced marriages and female genital mutilation (UN News). Cultural and religious norms

have been advanced as reasons why women condone and tolerate these types of violence because they are expected to endure any vices in their marriages or for fear of being ostracized (Ilika and Ilika, 2005). Studies have found that more females experience both physical and sexual violence than males and young age, drinking and smoking have been attributed to perpetration (Iliyasu et al., 2011; Oladepo et al., 2011).

To address GBV, the government passed the Violence Against Persons Prohibition Act 2015 (VAPPA) which prohibits harmful traditional and widowhood practices, FGM and all forms of violence against persons. GBV however remains a problem for the female gender and is compounded by the nonchalant attitude of the police to investigate. As recently as May 2020, a university student who went to read in a church was raped and murdered and it took an outrage from the members of the public for the police to investigate (Guardian, 2020). It is this sort of nonchalant attitude of the police to investigate and prosecute, and sometimes victim blaming that continue to silence women and encourage offenders. [...]

*Despite these efforts, the CEDAW is inadequate to protect women's rights in Nigeria because it has not been domesticated. By virtue of section 12 of the Constitution, treaties which has been signed and ratified will not have any effect until a corresponding law is made by the National Assembly. This was confirmed by the Court of Appeal in MHWUN v Minister of Health and Productivity & ors 4 that the provisions of an International Labour Convention cannot be invoked and applied by a Nigerian court until it has been re-enacted by an Act of the National Assembly (Onomrerhinor, 2016). Therefore, **CEDAW though ratified does not have any effect and is inapplicable if there is no law addressing the purpose of the convention.** Despite the status of CEDAW, the Court of Appeal recognized and applied it in *Mojekwu v Ejikeme*.⁵ In addition, section 254(c)(2) of the Constitution (Third Alteration) Act 2010, empowers the National Industrial Court of Nigeria to apply any ratified international convention, treaty or protocol relating to labour, employment, workplace or industrial relations in order to achieve international best practices (Onomrerhinor, 2016). Though this is a positive development, it does not apply outside of employment.*

*According to Ekhaton (2019), **apart from the Charter, international conventions have not had any positive impact or have had minimal impact on the lives of Nigerian women because they have not been domesticated.** An attempt was made in 2007 to pass a CEDAW Bill in Nigeria but failed after going through the National Assembly (Iman, 2010). **The Bill failed because there was a strong opposition to it by some law makers who believed it was anti-God and anti-family and as a foreign imposition, it was believed it would encourage abortion and sexual indulgence (Iman, 2010). This misconception was based on the belief that the subordination of women to men is a social order designed by God and a challenge to it is a challenge to God and the family institution. A further criticism of CEDAW was that it was insufficient to protect African women against discrimination and it had western values which did not address issues faced by rural women in Africa (Akiyode-Afolabi and Amadi, 2008).** [...]*

Despite the provision of section 42(1) of the Constitution, women still face discrimination because of the limited scope of section 42 and other discriminatory provisions contained in the same constitution and other national laws. The first limitation of section 42 is that the constitution provides protection against 'any law in force in Nigeria or any executive or administrative action of the government', which implies protection for people against discriminatory laws and

executive actions but not from other sources such as from individuals, private organizations, institutions or discriminatory workplace policies or practices. [...]

The second limitation identified from the provision of section 42 is that the constitution only gives protection to Nigerian citizens which means that any woman who is not a Nigerian but lives and works in Nigeria is not protected which is contrary Articles 2 and 7 of UDHR which recognizes equality before the law irrespective of race or nationality. [...]

The Criminal Code encourages violence towards women by making it a felony to assault a man (maximum sentence imprisonment for 3 years) while it makes it a misdemeanour to assault a woman or girl (maximum sentence for imprisonment for 2 years). The Penal Code is disproportionate in the way it applies to women in adultery cases. The charge for adultery carries a death sentence for someone who is married or divorced. For a man to be convicted of adultery, he would have been caught in the act by four independent witnesses whereas a woman needs only be convicted on the evidence of pregnancy alone (Tertsakian, 2004). Section 55 of the Penal Code Act does not make it an offence if a husband inflicts harm on his wife for the purpose of correcting her. Other areas of laws found discriminatory are in the provisions of the Nigerian Military Force and Nigeria Tax laws. [...]

The legal system

Nigeria has a tripartite legal system with its sources of law from common law, customary law and the Islamic Law. The application of the three legal systems is flawed with contradictions and inconsistencies and makes it difficult to harmonize legislation and eliminate discrimination. Any progress achieved by International Conventions and legislation has been weakened by the application of customary and religious laws which are discriminatory against women and has a negative impact. Culture has a negative impact on Nigerian women's lives (Abara, 2012), and for customary rule to become law, it has to undergo three tests – (a) it must not be repugnant to natural justice, equity and good conscience, (b) it is not incompatible directly or by implication with any law in force and (c) it is not contrary to public policy. However many of the culture practiced in most places in Nigeria is against these principles such as the denial of women to own property contrary to section 43 of the Constitution that grants right to own immovable property and this was affirmed in the 2004 Supreme Court case of *Mojekwu v Iwuchukwu*. [...]

Calls to have efficient and comprehensive laws that promote equality and protect women against all forms of discrimination have been an uphill task. However, from the foregoing discussion, it is apparent that there are laws, that lawyers and judges can use to protect women's rights in Nigeria. Despite this, inequality and gender-based discriminatory practices against women persist because of ingrained religious and cultural beliefs and practices that prevail. Lawmakers have also expressed that religion and culture are the primary reason they opposed gender equality laws because it is a challenge to God and the Nigerian way of life. Therefore, to address gender inequality in Nigeria, laws are not necessarily the first step to promoting equality. This is because equality laws do not change normative culture nor end discriminatory practices but focus on equal rights between men and women which ignores assumptions about gender that informs social practices and contribute to systemic discrimination of women (Smith, 2014). [...]

Though there are some equality provisions in Nigeria, laws and policies are unlikely to have a profound impact on sex discrimination without a major shift in mindset. This was evident in the previous rulings of the Supreme Court which asserted the legitimacy of discriminatory customary laws that disinherited women despite the existence of section 42 of the Constitution. It was not until recently that the court decided to use the section to strike down discriminatory inheritance laws. **Until religious and cultural beliefs that promote superiority of the male gender are changed through education and awareness, discrimination will continue to be a problem to the female gender in Nigeria.** Equality bills will continue to meet strong oppositions because the legislature is made up of citizens who have these ingrained beliefs about the role of women in society and will not be receptive to change. Change needs to start from the grass-root and the government must demonstrate its will by supporting this change through education and awareness-raising. » Source: Onyeka C Okongwu, Are laws the appropriate solution: The need to adopt non-policy measures in aid of the implementation of sex discrimination laws in Nigeria, 22 décembre 2020: <https://journals.sagepub.com/doi/full/10.1177/1358229120978915>.

USDOS, 30 mars 2021:

« **Women and non-Muslims may testify in civil or criminal proceedings and give testimony that carries the same weight as testimony of other witnesses. Sharia courts, however, usually accorded the testimony of women and non-Muslims less weight than that of Muslim men. Some sharia court judges allowed different evidentiary requirements for male and female defendants to prove adultery or fornication. Pregnancy, for example, was admissible evidence of a woman's adultery or fornication in some sharia courts. In contrast, sharia courts could convict men only if they confessed or there was eyewitness testimony. Sharia courts provided women increased access to divorce, child custody, and alimony, among other benefits. [...]**

Rape and Domestic Violence: Federal law addresses sexual violence, physical violence, psychological violence, harmful traditional practices, and socioeconomic violence. The law cites spousal battery, forceful ejection from the home, forced financial dependence or economic abuse, harmful widowhood practices, female genital mutilation/cutting (FGM/C), other harmful traditional practices, substance attacks (such as acid attacks), political violence, and violence by state actors (especially government security forces) as offenses. Victims and survivors of violence are entitled by law to comprehensive medical, psychological, social, and legal assistance by accredited service providers and government agencies, with their identities protected during court cases, although during the year these services were often limited due to resource constraints. As of September only 13 of the country's 36 states (Kaduna, Anambra, Oyo, Benue, Ebonyi, Edo, Ekiti, Enugu, Osun, Cross River, Lagos, Plateau, and Bauchi) and the FCT had adopted the act, meaning that most Nigerians were not yet protected by the law.

The law criminalizes rape, but it remained widespread. According to the 2018 Nigeria Demographic and Health Survey, approximately 31 percent of women between ages 15 and 49 had experienced some form of physical violence and 9 percent had experienced sexual violence. On May 27, a university student was raped and killed while studying inside a church in Benin City, Edo State. With support from Edo State, the inspector general of police sent a special homicide team to investigate, which resulted in the arrest of six suspects in August. Four were charged and remained in jail awaiting trial until October, when they escaped during

a mass jailbreak during the #EndSARS protests. At year's end they remained fugitives, while two more suspects had yet to be charged because authorities could not locate them.

Sentences for persons convicted of rape and sexual assault were inconsistent and often minor. Federal law provides penalties for conviction ranging from 12 years' to life imprisonment for offenders older than 14 and a maximum of 14 years' imprisonment for all others. It also provides for a public register of convicted sexual offenders and appointment of protection officers at the local government level to coordinate with courts and provide for victims to receive various forms of assistance (e.g., medical, psychosocial, legal, rehabilitative, and for reintegration) provided by the law. The law also includes provisions to protect the identity of rape victims and a provision empowering courts to award appropriate compensation to victims of rape. **Because the relevant federal law had only been adopted in one-third of states, state criminal codes continued to govern most rape and sexual assault cases and typically allowed for lesser sentences. While some, mostly southern, states enacted laws prohibiting some forms of gender-based violence or sought to safeguard certain rights, a majority of states did not have such legislation. Victims generally had little or no recourse to justice.** In September, Kaduna State enacted laws increasing the maximum penalty for rape to include sterilization and the death penalty.

The law provides for up to three years' imprisonment, a monetary fine, or both for conviction of spousal battery. It also authorizes courts to issue protection orders upon application by a victim and directs the appointment of a coordinator for the prevention of domestic violence to submit an annual report to the federal government.

Domestic violence remained widespread, and many considered it socially acceptable. A 2019 survey on domestic violence found that 47 percent of respondents had suffered from domestic violence or knew someone who had; 82 percent of respondents indicated that violence against women was prevalent in the country.

Police often refused to intervene in domestic disputes or blamed the victim for provoking the abuse. In rural areas courts and police were reluctant to intervene to protect women who formally accused their husbands of abuse if the level of alleged abuse did not exceed local customary norms.

Female Genital Mutilation/Cutting (FGM/C): Federal law criminalizes female circumcision or genital mutilation, but there were few reports that the government took legal action to curb the practice. The law penalizes a person convicted of performing female circumcision or genital mutilation with a maximum of four years in prison, a monetary fine, or both. It punishes anyone convicted of aiding or abetting such a person with a maximum of two years' imprisonment, a monetary fine, or both. The federal government launched a revised national policy on the elimination of FGM for 2020-24. [...]

Sexual Harassment: Sexual harassment remained a common problem. No statutes prohibit sexual harassment, but assault statutes provide for prosecution of violent harassment. The law criminalizes stalking, but it does not explicitly criminalize sexual harassment. The law also criminalizes emotional, verbal, and psychological abuse and acts of intimidation.

The practice of demanding sexual favors in exchange for employment or university grades remained common. Women suffered harassment for social and religious reasons in some regions. [...]

Discrimination: Although the constitution provides the same legal status and rights for women as for men, and there were no known legal restrictions on women's working hours or jobs deemed too dangerous for women, there were limitations on women's employment in certain industries such as construction, energy, and agriculture. Women experienced considerable economic discrimination. The law does not mandate equal remuneration for work of equal value, nor does it mandate nondiscrimination based on gender in hiring.

Women generally remained marginalized. No laws prohibit women from owning land, but customary land tenure systems allowed only men to own land, with women gaining access to land only via marriage or family. Many customary practices also did not recognize a woman's right to inherit property, and many widows became destitute when their in-laws took virtually all the deceased husband's property.

In the 12 northern states that adopted religious law, sharia and social norms affected women to varying degrees. For example, in Zamfara State local governments enforced laws requiring the separation of Muslim men and women in transportation and health care.

The testimony of women carried less weight than that of men in many criminal courts. Women could arrange but not post bail at most police detention facilities. » Source: US Department of State (USDOS), 2020 Country Report on Human Rights Practices : Nigeria, 30 mars 2021: www.ecoi.net/en/document/2048101.html.

L'Organisation suisse d'aide aux réfugiés OSAR est l'association faîtière nationale des organisations suisses d'aide aux réfugiés. Neutre sur le plan politique et confessionnel, elle s'engage pour que la Suisse respecte ses engagements en matière de protection contre les persécutions conformément à la Convention de Genève relative au statut des réfugiés. Les activités de l'OSAR sont financées par des mandats de la Confédération et par des dons de particuliers, de fondations, de communes et de cantons.

Vous trouverez les publications de l'OSAR sur le Nigéria ainsi que sur d'autres pays d'origine de requérant-e-s d'asile sous www.osar.ch/publications/rapports-sur-les-pays-dorigine.

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