Fighting Domestic Violence - Nigeria

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# 1. Legal provisions

## 1.1 What are the relevant statutes and codes?

[Violence Against Persons (Prohibition) Act (2015)](https://www.ilo.org/dyn/natlex/docs/ELECTRONIC/104156/126946/F-1224509384/NGA104156.pdf)(VAPPA)

Overarching statute to be implemented at state level. This act provides protections from domestic violence in general regardless of gender. This federal law applies only to domestic violence offenses committed in Nigeria's Federal Capital Territory (Abuja).

Nigeria Criminal Code Act, 1990 (**"Criminal Code"**)

The Nigerian Criminal Code Act is an act of the National Assembly (the federal legislature under Nigeria's federal system of government). All 36 states in Nigeria have a state version of the Criminal Code Act promulgated as a Criminal Code Law (for states comprising the old Western Region and Eastern Region of Nigeria) and the Penal Code Law (for states comprising the old Northern Region of Nigeria). The provisions of these state laws and the federal Criminal Code Act are very similar.

State-level domestic violence legislation such as the Protection Against Domestic Violence Law of Lagos State, 2007 (PADVL)

Law to Provide Protection Against Domestic Violence and for Connected Purposes of Lagos (2007), Chapter (18), § 1(h) (Nigeria). This has so far only been implemented in nine states of Nigeria (Lagos, Osun, Ondo, Ekiti, Bayelsa, Edo, Cross River, Rivers and Anambra).

Child Rights Act, 2004

Child Rights Act, Chapter 50, Laws of the Federation of Nigeria (2004) (Nigeria).

## 1.2 What is the controlling case law?

*IHRDA & WARDC (on behalf of Mary Sunday) v. The Federal Republic of Nigeria*[1]

*Gira v. the State*[2]

*Ugbotor v. Ugbotor*[3]

## 1.3 What are the specific parts of the court system that address domestic violence?

Domestic violence cases are dealt with by different courts, depending on the state in which the case is brought. Nigeria is a federal republic of 36 states and one Federal Capital Territory.

In the first instance, jurisdiction is given to:

district courts (Northern Nigeria)

magistrates' courts (Southern Nigeria) in the relevant state of Nigeria

If this is escalated in that jurisdiction, jurisdiction is given to:

Sharia court or high court (state or federal) (Northern Nigeria)

high courts (state or federal) (Southern Nigeria in Federal Capital Territory)

## 1.4 What are potential causes of action?

Both civil proceedings and criminal penalties (imprisonment) can be brought against an abuser.[4]

# 2. Introduction: framework guiding domestic violence law

## 2.1 Are there civil and criminal legal remedies for domestic violence victims?

In some states of Nigeria, there are civil and legal remedies, while in certain states, violence is legal:

There are civil and criminal legal remedies for domestic violence in the Federal Capital Territory and the 13 Nigerian states that have adopted the [VAPPA](https://www.ilo.org/dyn/natlex/docs/ELECTRONIC/104156/126946/F-1224509384/NGA104156.pdf) as described [here](https://www.dataphyte.com/gender/its-not-freedom-for-women-in-nigeria-as-23-states-hold-back-signing-on-the-violence-against-persons-prohibition-act/). This includes medical, psychological, legal, social, rehabilitation, reintegration and vocational remedies and assistance.

In 2017, a UN Convention on the Elimination of All Form of Discrimination Against Women (CEDAW) [report](http://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d%2fPPRiCAqhKb7yhsqMFgv33OTgoZv7ZAgL6thDkAcuu60Ke5O8oUKpz5hHtAD5CcXiD5zZx29kup5sgJh%2fbrUteC%2bF%2b7JPizHj03e4vdMY2Qx6U%2fxeHbOGQf%2fbTOpIjhu5tZXVb1T90JN81eA%3d%3d) noted: "The Committee notes the State party's efforts to provide legal aid services to women and girls, but is concerned at reports that women's access to justice is often impeded by insufficient budget allocations for legal aid, alleged corruption and stereotyping within the judiciary."

A UN High Commissioner for Refugees [report](https://www.refworld.org/docid/548168e14.html), citing statements from the Nigerian NHRC, indicated that laws are poorly implemented. The commission noted that Lagos State is the only state where domestic violence law is applied in practice.

There are also laws in Northern Nigeria that encourage violence, including using domestic (wife) beatings as a form of correction (Section 55(1)(d) of the Penal Code) as described [here](https://www.thelawyerschronicle.com/are-there-sufficient-laws-protecting-women-from-domestic-violence-in-nigeria/)  and [here](https://www.refworld.org/docid/3ae6ad6984.html).

## 2.2 Is domestic violence identified in national law as a human right (noting that at a European level protection from domestic violence has not been explicitly identified as a human right but is indirectly captured by the other provisions)?

There are no national laws in Nigeria specifically regarding domestic violence, although VAPPA, a federal law, prohibits violence generally according to this CEDAW [report](https://www.wilpf.org/wp-content/uploads/2017/06/Nigeria_CEDAW_FINAL_June_2017.pdf)  and this [article](https://www.thelawyerschronicle.com/are-there-sufficient-laws-protecting-women-from-domestic-violence-in-nigeria/). However, this is only applicable to the Federal Capital Territory, and it is only binding if states choose to adopt it, as noted [here](https://www.law.cornell.edu/women-and-justice/resource/violence_against_persons_%28prohibition%29_act). [Dataphyte](https://www.dataphyte.com/gender/its-not-freedom-for-women-in-nigeria-as-23-states-hold-back-signing-on-the-violence-against-persons-prohibition-act/)  notes that only 13 of the 36 states (Oyo, Ogun, Lagos, Osun, Ekiti, Edo, Anambra, Enugu, Ebonyi, Benue, Cross River, Kaduna and Plateau) have adopted this act.

Lagos identifies domestic violence as a crime under Section 1 of the PADVL: "As from the commencement of this Law no person shall commit any act of domestic violence against any person."

Protection against domestic violence is a recognized as a human right through other provisions, including the Maputo Protocol and CEDAW.

## 2.3 Has your country signed and ratified the Council of Europe's Istanbul Convention (2011) preventing and combating violence against women and domestic violence (CETS No. 210)?

Nigeria is not a signatory to the Istanbul Convention.

## 2.4 If it has ratified the Istanbul Convention, how has this convention been implemented into national law?

N/A

## 2.5 If it has not ratified or signed the Istanbul Convention, is it envisaged that your country will do so?

No, there is no evidence to suggest Nigeria will sign the Istanbul Convention.

## 2.6 If it has ratified the 1979 Convention, how has the recommendations part of General Comment No. 35 been implemented into national law?

Nigeria has ratified the 1979 Convention, but there are significant gaps with regard to the implementation of these protections at a national level.

The country has implemented a federal law (VAPPA), but this is not binding at state level and was only adopted by 13 of the 36 states, as detailed above.

A 2017 CEDAW [report](https://www.wilpf.org/wp-content/uploads/2017/06/Nigeria_CEDAW_FINAL_June_2017.pdf)  notes that only 11 states (Anambra, Bauchi, Cross Rivers, Ebonyi, Edo, Ekiti, Imo, Lagos, Enugu, Bayelsa and Rivers) have laws specifically against gender-based violence.

The Women's International League for Peace and Freedom summarized the actions needed for implementation [here](https://www.wilpf.org/outcome-of-cedaw-review-of-nigeria-greater-action-needed-to-implement-the-wps-agenda), noting:

Regarding discrimination and gender-based violence, the Committee called on Nigeria to domesticate the Violence Against Persons Prohibition Act, Child Rights Act, and the CEDAW Convention in all States; to expedite the adoption of the Gender and Equal Opportunities Bill; and to address the root causes of trafficking of women and girls, including by addressing their economic situation.

## 2.7 If the 1979 Convention has not been ratified or signed, is it envisaged that your country will do so?

N/A

# 3. Similarities and differences in terminology

## 3.1 Domestic violence

Domestic violence is defined under the [PADVL](https://cheld.org/wp-content/uploads/2012/05/Lagos-State-Protection-Against-Domestic-Violence-Law.pdf)  to include, among others, physical abuse, sexual exploitation, entry into the complainant's residence without consent where the parties do not share a residence, emotional, verbal and psychological abuse and stalking.[5]

The [VAPPA](https://www.ilo.org/dyn/natlex/docs/ELECTRONIC/104156/126946/F-1224509384/NGA104156.pdf)  defines domestic violence as 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.

"WHO Domestic violence figures,"notes that domestic violence is used in many countries to refer to partner violence but the term can also encompass child or elder abuse, or abuse by any member of a household.[6]

## 3.2 Stalking

[VAPPA](https://www.ilo.org/dyn/natlex/docs/ELECTRONIC/104156/126946/F-1224509384/NGA104156.pdf)  defines "stalking" as repeatedly watching or loitering outside of or near the building or place where such a person resides, works, carries out business, studies or happens to be; or following, pursuing or accosting any person in a manner that induces fear or anxiety.

## 3.3 Harassment

The  [Criminal Law of Lagos State](http://lagosministryofjustice.org/wp-content/themes/moj/documents/CRIMINAL_CONDUCT.pdf)  defines harassment as unwelcome sexual advances, request for sexual favors and other visual, verbal or physical conduct of a sexual nature, which, when submitted to or rejected: (a) implicitly or explicitly affects a person's employment or educational opportunity or unreasonably interferes with the person's work or educational performance; (b) implicitly or explicitly suggests that submission to or rejection of the conduct will be a factor in academic or employment decisions; or (c) creates an intimidating, hostile or offensive learning or working environment. Any person who sexually harasses another is guilty of a felony and is liable to imprisonment for three years.

## 3.4 Victim

[VAPPA](https://www.ilo.org/dyn/natlex/docs/ELECTRONIC/104156/126946/F-1224509384/NGA104156.pdf)  defines victim as 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 act or the criminal laws of the country. VAPPA provides that the aforementioned includes the immediate family or dependents of the direct victim and any person who has suffered harm in intervening to assist victims in distress.

## 3.5 Abuser

The term abuser has been defined by the [Cambridge Dictionary](https://dictionary.cambridge.org/dictionary/english/abuser) as (a) someone who [treats](https://dictionary.cambridge.org/dictionary/english/treat) another [person](https://dictionary.cambridge.org/dictionary/english/person) in a [cruel](https://dictionary.cambridge.org/dictionary/english/cruel), [violent](https://dictionary.cambridge.org/dictionary/english/violent) or [unfair](https://dictionary.cambridge.org/dictionary/english/unfair) way; or (b) someone who uses something in a way that is [harmful](https://dictionary.cambridge.org/dictionary/english/harm) or [morally](https://dictionary.cambridge.org/dictionary/english/morally) [wrong](https://dictionary.cambridge.org/dictionary/english/wrong).

## 3.6 Civil protection order

[VAPPA](https://www.ilo.org/dyn/natlex/docs/ELECTRONIC/104156/126946/F-1224509384/NGA104156.pdf)  defines protection order as an official legal document signed by a judge that restrains an individual or state actor from further abusive behavior toward a victim.

Section 5 of the [PADVL](https://cheld.org/wp-content/uploads/2012/05/Lagos-State-Protection-Against-Domestic-Violence-Law.pdf) empowers the court to issue an interim protection order against a respondent; notwithstanding the fact that the respondent has not been given notice of the proceedings. Such an order may be made where the respondent is committing or has committed an act of domestic violence and where undue hardship may be suffered by the complainant as a result of such domestic violence if a protection order is not issued immediately. Furthermore, Section 7 of the law stipulates that the court may make protection orders that prohibit the respondent from committing any act or any further act of domestic violence, enlisting the help of another person to commit any such act, entering a residence shared by himself/herself and the complainant, among others.

## 3.7 Causes of action

The term cause of action has been defined by the  [Supreme Court of Nigeria](https://nigerialii.org/ng/judgment/supreme-court/2006/10-8)  as the fact or combination of facts that give rise to a right to sue[7]

## 3.8 Marital rape

The  [Criminal Law of Lagos State](http://lagosministryofjustice.org/wp-content/themes/moj/documents/CRIMINAL_CONDUCT.pdf)  defines rape as unlawful sexual intercourse by any man with a woman or girl without her consent. This law states that a woman or girl does not consent to sexual intercourse if she submits to the act by reason of force, impersonation, threat or intimidation of any kind, fear of harm or false or fraudulent representation as to the nature of the act. Sexual intercourse is complete on the slightest penetration of the vagina. A man found guilty of the offence of rape is liable on conviction to imprisonment for life.

The [National Criminal Justice Reference Service](https://www.ncjrs.gov/App/Publications/abstract.aspx?ID=176619)defines marital rape as any sexual activity by a legal spouse that is performed or caused to be performed without the consent of the other spouse.

Marital rape is currently not an offence in Nigeria. The Nigerian Criminal Code in Section 357 states that:

Any person who has unlawful carnal knowledge of a woman or 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 personating her husband, is guilty of an offence which is called rape.

Section 6 of the Criminal Code defines unlawful carnal knowledge as that which takes place otherwise than between husband and wife; and the offence is complete upon penetration.

In the Penal Code, Section 281(1) provides that:

A man is said to commit rape who... has sexual intercourse with a woman in any of the following circumstances — (a) against her will; (b) without her consent; (c) with her consent, when her consent has been obtained by putting her in fear of death or of 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 herself to be lawfully married; (e) with or without her consent, when she is under 14 years of age or of unsound mind.

Similarly, under the Penal Code, there is no offence of marital rape, provided the wife has attained the age of puberty.

It has been argued that the VAPPA prepares the ground for future prosecution of marital rape in Lagos State as it defines "domestic violence" as:

physical abuse; sexual abuse exploitation including but not limited to rape, incest and sexual assault; starvation; emotional, verbal and psychological abuse; economic abuse and exploitation; denial of basic education; intimidation; harassment; stalking; hazardous attack including acid bath with offensive or poisonous substance; damage to property; entry into the complainant's residence without consent where the parties do not share the same residence; or any other controlling or abusive behavior towards a complainant, where such conduct harms or may cause imminent harm to the safety, health or well-being of the complainant; and deprivation.

## 3.9 Are there any other important domestic violence terms defined in relevant domestic violence statutes and codes?

[The Criminal Law of Lagos State](http://lagosministryofjustice.org/wp-content/themes/moj/documents/CRIMINAL_CONDUCT.pdf)  defines sexual assault as sexually touching (by any part of the body or with anything else) another person without consent.[8]

[VAPPA](https://www.ilo.org/dyn/natlex/docs/ELECTRONIC/104156/126946/F-1224509384/NGA104156.pdf)  defines the following:

**Sexual abuse**

Any conduct that violates, humiliates or degrades the sexual integrity of any person

**Spousal battery**

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

**Abandonment of women, children and other persons**

Deliberately leaving women, children and other persons, under the perpetrators' care, destitute and without any means of subsistence

**Forced isolation from family and friends**

Includes preventing a person from leaving the home or having contact with family, friends or the outside community

**Harmful transitional practices**

All traditional behavior, attitudes or practices, which negatively affect the fundamental rights of women, girls or any person and include harmful widowhood practices, denial of inheritance or succession rights, female genital mutilation or female circumcision, forced marriage and forced isolation from family and friends

**Violence in the private sphere**

Any act or attempted act perpetrated by a member of the family, neighbor or member of a community that causes or may cause any person physical, sexual, psychological, verbal, emotional or economic harm

# 4. Protection for domestic violence victims and relief granted

## 4.1 Civil protection orders

## 4.1.1 Are there civil protection orders available to victims of domestic abuse?

Yes, protection orders are available to victims of domestic abuse in Nigeria.

Section 28(1) of the [VAPPA](https://www.ilo.org/dyn/natlex/docs/ELECTRONIC/104156/126946/F-1224509384/NGA104156.pdf) provides that a complainant can apply for a protection order that would be effective throughout Federal Nigeria if granted. Violence includes any act or attempted act that causes or may cause any person physical, sexual, psychological, verbal, emotional or economic harm in private or public life, in peace time and in conflict situations.

In Lagos specifically, Section 2(1) of the [PADVL](https://dsvrtlagos.org/wp-content/uploads/2020/11/PROTECTION-AGAINST-DOMESTIC-VIOLENCE-LAW-2007.pdf), provides that any person who is or has been in a domestic relationship with a respondent and who is or has been subjected or allegedly subjected to an act of domestic violence (including any child in the care of the complainant) can apply for a protection order. Nigerian courts also have inherent jurisdiction to grant protection orders under the laws establishing the court. For example, Lagos State High Courts have power to grant protection orders in both civil and criminal cases under Chapter 2 of the High Court of Lagos State Law.

## 4.1.2 Who can petition for civil protection orders?

Applications for a protection order can be brought either by the complainant or any other person on behalf of the complainant (as long as they have an interest in the well-being of the complainant, including by way of example, a counsellor, health service provider, member of the Nigeria Police Force, social worker, organization or teacher).[9]

 It is important to note that a person bringing the application for a protection order on behalf of the complainant must have the written consent of the complainant unless the complainant is: a minor; mentally retarded; unconscious or a person whom the court is satisfied is unable to provide the required consent.[10]

## 4.1.3 Are there temporary custody of a child or child support orders?

**Child custody orders**

Yes, Nigerian law provides for temporary child custody orders.

If the court is satisfied that it is in the best interest of the child, it may make various orders relating to contact and custody of the child. For example, the court may refuse the respondent contact with the child or order contact with such child on such conditions as it will consider appropriate.[11] Further, under the PADVL in Lagos, the court may also make an order as to the custody of the child.[12]

**Child support orders**

**Emergency monetary relief in domestic violence cases:** There is no provision covering child support orders for domestic violence cases specifically. It explicitly states under VAPPA that emergency monetary relief (which the court could order the respondent to pay to the complainant) does not constitute, in any way, a maintenance order.[13]

**General right to maintenance for children:** Notwithstanding the above, under the  [Child's Rights Act 2003](https://www.refworld.org/pdfid/5568201f4.pdf) (CRA), every child has the right to maintenance by their parents or guardians and to enforce this right in the family court, in appropriate circumstances.[14]

**Child maintenance order:** Under the CRA, the court may order that a parent or guardian[15] contribute to the maintenance of a child where such a child has been committed to care of an individual or institution under the CRA, due to neglect of the parent or guardian. This may capture neglect in terms of domestic violence, although the law does not explicitly state this.

## 4.1.4 Is there a provision to order the abuser to move out or stay away from places that the victims frequent?

Yes. Through the protection order, the court can prohibit the respondent from entering the place where the complainant lives (whether or not the accommodation is shared with the respondent) and the complainant's place of work.[16]

## 4.1.5 Are there any other types of emergency, preventive and civil protection orders?

Yes, there are various types of civil protection orders.[17] These orders are generally made on the terms and conditions the court thinks just.

**Emergency restraining order:** The police may issue this if a complainant is in immediate danger or cannot immediately file a more permanent restraining order with the court. It usually expires after a few days.

**No-contact order:** A judge may issue this if the case goes to court and the abuser is charged with a crime. It means the abuser may not have any contact with the complainant. The length of a no-contact order will depend on the facts of the case.[18]

**Domestic violence restraining order:** A judge may issue this after a court hearing. A domestic violence restraining order lasts longer than emergency or temporary restraining orders, possibly for several years.

## 4.1.6 Can these orders be requested by direct or indirect victims or legal representatives in children's cases?

Yes, orders can be requested by the direct victim, an indirect victim (if a child of the complainant) or on behalf of a child by their legal representatives as long as such a person has an interest in the well-being of the complainant.

 In children's cases, the child's consent is not required to bring an application for a protection order on behalf of the child. The application can be brought on behalf of a child by any other person (without the assistance of the parent or guardian or any other person) and with a supporting affidavit by persons who have knowledge of the matter concerned that may accompany the application.[19]

## 4.1.7 Are there different types of civil protection orders, e.g., for a short- term period?

Yes, the court may issue a temporary protection order to protect a victim of domestic violence before their case goes to court.[20] These may be issued at the first hearing, unless the complainant is unable to provide evidence that the application for a protection order is urgent. Temporary restraining orders usually last for about seven to 14 days.[21]

## 4.1.8 Are ex parte orders permitted without the aggressor being present?

Yes, a court may issue an interim protection order (i.e., an *ex parte* order) notwithstanding the fact the respondent has not been given notice of the proceedings.[22] As the respondent would not have been put on notice, they would not be aware and, therefore, could not be present at the hearing.

## 4.1.9 Do emergency orders also extend protection for abuse and intimidation to family members of the victim?

Emergency orders can extend protection for abuse and intimidation to children in the care of the victim, but there is nothing in Nigerian law to extend protection orders to other family members of the victim.

## 4.1.10 How long do the orders last?

They can last from a few days up to a few years. For example, temporary restraining orders can last between seven to 14 days and a domestic violence restraining order could last for a few years. It is up to the discretion of the judge.

## 4.1.11 Please provide any data or hyperlinks to government or NGO websites that include information on how often civil protection orders are issued, and any relevant demographics information, e.g., police reports, convictions, etc.

Pursuant to Section 42 of the VAPPA, a coordinator for the prevention of domestic violence will submit annual reports with such data to the federal government, with a copy lodged with the National Bureau of Nigeria. However, these annual reports do not appear to be publically available.

There are a few NGOs that help victims of domestic violence to navigate the legal processes and obtain protection orders from the courts, but they do not contain data on how often civil protection orders are issued and the demographic information:

**The Lagos State Domestic and Sexual Violence Response Team:** This is a collection of professional service providers and officials that respond as a group to the various needs of domestic and sexual violence survivors (Lagos State residents). They provide legal, medical and emergency assistance, respond to complaints regarding domestic violence and help women obtain restraining orders from the magistrates' courts in Lagos. Website: [https://www.dsvrtlagos.org](https://www.dsvrtlagos.org/Who%20we%20are.html)/.

**LawyerUp Nigeria:** Managed by a team of young enthusiastic lawyers who educate the average Nigerians about their rights and duties. They also provide pro bono services to indigent Nigerians. Website: [www.lawyerupng.org](http://www.lawyerupng.org/).

**The Women Helping Hand Initiative:** Provides shelter homes for young mothers and out-of-school girls who are victims of domestic violence, sexual, gender-based violence, etc. Website: [www.twhhi.org](http://www.twhhi.org/).

**Dorothy Njemanze Foundation:** Provides first response services to victims of sexual, gender-based violence and domestic violence. Website: [www.dnf.org.ng](http://www.dnf.org.ng/).

## 4.2 Steps for receiving a protective order

## 4.2.1 What documentation is needed to obtain a civil protection order?

In order to obtain a protection order, the complainant must file the application for the order and an affidavit to the relevant court.[23]

## 4.2.2 Does the victim need to attend a hearing?

No, the victim does not need to attend a hearing. The people who must be present at the proceedings for a protection order are (to the extent applicable): officers of the court, person bringing application on behalf of the complainant, legal representative of party and witnesses, and not more than three people supporting the complainant.[24]

## 4.2.3 Can you request remedies?

The VAPPA provides for up to three years' imprisonment, a maximum fine of NGN 200,000 (USD 635), or both, for conviction for spousal battery.[25] There is no reference to remedies for the complainant. However, it is suggested that other legal remedies may be available to complainants, but it does not state what these are or whether the complainant can request such remedies. It simply provides that the court may not refuse to issue a protection order, to impose any condition or make any order that it is competent to impose or make, merely because other legal remedies are available to the complainant.[26]

## 4.2.4 Are there time limits?

According to VAPPA, no time limit or prescription will apply in relation to a person applying for a protection order.[27] However, there is an obligation on the courts to review the applications for protection orders as soon as reasonably possible.[28]

## 4.2.5 Are there different rules in emergencies?

No, not for a person applying for a protection order.

## 4.3 Judicial discretion

## 4.3.1 What discretion does a judge have in granting a civil protection order or other protective orders?

The court will issue a protection order if it finds, on a balance of probabilities, that the respondent has committed, is committing or there is an imminent likelihood that he or she may commit an act of violence.[29] A civil protection order is an injunction or interlocutory order granted based on judicial discretion, which must be exercised judiciously based on cogent, compelling and relevant facts.

 The applicant must show the existence of legal rights, urgency and need for judicial protection, pending when the order side would be on notice to avoid irreparable damage and chance of success in the main trial — by preponderance of the evidence.

## 4.3.2 Are there age limits on who can obtain orders?

No, there are no age limits and even children can apply for protection orders.[30]

## 4.4 Restitution and remedies available to victims

## 4.4.1 Can victims obtain reimbursement for costs and restitution paid?

Yes, where this is a civil suit, as generally only the state can prosecute a criminal act. In Nigerian civil proceedings, the courts have the power to order that parties pay the other side's costs. The general rule, as contained in the [Federal High Court (Civil Procedure) Rules 2000](https://www.wipo.int/edocs/lexdocs/laws/en/ng/ng039en.pdf), is that the successful party is entitled to recover its costs from the unsuccessful party.[31] This means that a victim who is successful in their application for a protection order should be able to get their costs covered. However, the judge has the discretion to determine the amount of costs to be paid.

 Additionally, costs can be awarded to compensate the successful party for delay caused by interlocutory motions. However, it is worth noting that the current practice of Nigerian courts means that costs are rarely awarded on a compensatory basis and the costs awarded may not reflect the actual costs incurred by a party in the prosecution of the case. Nigerian courts are notorious for awarding a very low amount for damages.

## 4.4.2 Can they recover wages and profits lost?

The victim may be able to recover lost earnings, but the relevant Nigerian law does not distinguish between wages and lost profits. The court may order the respondent to pay emergency monetary relief to the complainant. This emergency monetary relief is compensation for monetary losses suffered by a complainant arising as a result of the violence, and it includes loss of earnings.[32]

## 4.4.3 Is a separate civil process required?

No, there is no separate civil process required.[33]

# 5. Prosecutorial considerations

## 5.1 Police procedures

## 5.1.1 When do the police get involved in domestic disputes or legal actions?

Police rarely get involved and would ordinarily request relatives to resolve the domestic disputes unless there is a breach of criminal law.

## 5.1.2 What circumstances effect law firm involvement?

Law firms can be involved when briefed or where there is a violation of fundamental rights.

## 5.2 Standard of proof

## 5.2.1 Is proof required by any legal means?

Yes.

## 5.2.2 Are there any requirements regarding evidence and documents?

Yes, the Evidence Act governs this.

## 5.2.3 Is proof "beyond a reasonable doubt" required?

Yes, if the act constitutes a breach of the Criminal Code. The same is true in a civil action. If the fact being alleged constitutes a criminal offense (as is in this case), that fact must be proved beyond reasonable doubt.

## 5.2.4 Is the standard of proof different for ex parte orders?

Yes. An *ex parte* order only needs to show the existence of legal rights, urgency and need for interim judicial protection pending when the other side would be on notice. The prosecution or plaintiff must show a reasonable chance of success.

## 5.3 Affirmative defenses

## 5.3.1 Are affirmative defenses available to the accused?

Yes.

## 5.3.2 Is willful intent required?

Generally, it depends on the language of the law prescribing an act as a crime. However, yes, in most cases, as in this case.

## 5.3.3 Are false accusations punishable for the victim?

Yes, under any of the offenses in Chapter 14 of the Criminal Code dealing with offenses related to the administration of justice.

## 5.3.4 How is consent discussed in the law?

Under Nigerian law, consent cannot be given for the waiver of a law enacted for the protection of a victim or a constitutional right.

## 5.3.5 Is self-defense or insanity a defense?

Yes, both are defenses under the Criminal Code (Sections 285-288 for self-defense; Section 28 for insanity).

## 5.4 Witness status

## 5.4.1 What is a witness's duty to testify honestly and completely?

Witnesses have a duty to testify honestly and there is a right against self-incrimination. Failure to give honest testimony is perjury under the Criminal Code.

## 5.4.2 Who may abstain from testifying in certain situations?

 By virtue of Section 182 of the Evidence Act, a spouse is a competent and compellable witness where offences stated in subparagraphs a, b and c are involved. However, communication during marriage is privileged. Spouses can also refuse to answer questions if it would expose them or their partner to prosecution.

## 5.4.3 What potential "excuses" can a witness raise to refuse to testify in a domestic violence action?

In Nigeria, all witnesses are competent and compellable subject to some exemptions (minors, lack of mental capacity, etc.) and the need to corroborate the evidence.

## 5.4.4 What is the impact of domestic violence on witnesses who are children?

No special law provides any special protection to children testifying. The law, however, enables the court not to disclose the name of the child.

## 5.4.5 Can children be called upon to testify?

Yes, evidence of a child is admissible if the court is able to establish that the child understands the nature of an oath (Section 183 of the Evidence Act).

## 5.4.6 What is the effect of a child victim on the charges against the offender?

No special effect.

## 5.5 Penalties and sentencing; penalty enhancements

## 5.5.1 What are the penalties and sentencing laws for first-time domestic violence offenses?

The penalties in law are the same, although the judge may impose a heavier sentence for repeat offenders.

## 5.5.2 Are there criminal penalties?

Yes. Rape: maximum of 14 years for persons under 14; minimum of 12 years' imprisonment for all others and a minimum of 20 years for each person.

## 5.5.3 What is the result of a violation of an existing order for protection?

The penalty for disobeying an order of the court is a fine of NGN 100,000 or imprisonment for a period not exceeding five years or both a fine and imprisonment.[33]

## 5.5.4 What fines and other penalties are imposed besides incarceration and liberty restriction?

There are none for criminal offenses. However, in a civil lawsuit, it depends on the reliefs sought by the plaintiff.

## 5.6 Post-release restrictions

## 5.6.1 Does the law notify the victim of the offender's release from custody?

Not in practice, and there's no law that requires notification.

# 6. Special issues

## 6.1 Battered woman syndrome

## 6.1.1 Can lawyers present evidence of battered woman syndrome or other domestic abuse as an affirmative defense to crimes that the battered woman has committed? (Note: Battered Woman Syndrome is accepted by courts in certain jurisdictions to show that battered women can use force to defend themselves and sometimes kill their abusers due to abusive and life-threatening situations.)

There is nothing to suggest that lawyers can present evidence of battered woman syndrome, or other domestic abuse, as an affirmative defense to crimes committed by the battered woman. It may, however, be presented for reducing the sentence.

## 6.2 Domestic violence in the workplace

## 6.2.1 Can courts issue orders to protect employees suffering from domestic violence?

Yes. Under the PADVL, courts can issue protection orders to protect any person suffering from domestic violence. The employee must be (or have been) in a domestic relationship with the respondent. The domestic violence can include stalking, etc., and does not need to have happened within the employee's home.

 In addition, the organization can bring the application for the protection order to the court on behalf of the complainant (employee) as long as they have an interest in the well-being of the complainant, and have their consent.

## 6.2.2 Can departure be deemed "for good cause" if related to domestic violence?

There is no "for good cause" departure or similar principle under Nigerian employment law.

## 6.2.3 Can family members of domestic violence victims take reasonable leave to help the victim seek treatment or obtain help and services?

No statutory allowance, except for casual leave.

## 6.3 Immigration

## 6.3.1 Does the law include provisions that are intended to prevent abusers who are citizens or permanent residents from using immigration laws to perpetrate domestic violence against their spouse?

A principle of Nigerian law is that the law cannot be used as an engine of fraud or illegality ("Re Burgle Press," (1961) Chapter 270).

## 6.3.2 If battered immigrants cooperate with law enforcement in domestic violence, can they obtain immigration remedies?

There's no legal provision, so this may depend on the exercise of administrative discretion by an immigration officer or if the immigrant applies to court for relief under Chapter IV of the Nigerian Constitution dealing with fundamental human rights.

## 6.3.3 Does domestic violence law discuss asylum accessibility?

VAPPA does not discuss asylum accessibility.

## 6.4 Armed forces

## 6.4.1 Can a victim seek a military protective order if the abuser is in active military?

It appears it can only be administrative (by a superior officer) where the abusive officer is not court-martialed for scandalous conduct unbecoming of an officer. However, where they are court-martialed, a military protection order can be made by the court under the Armed Forces Act. The order could only be made by a court-martial.

## 6.5 Child custody and child/spousal support

## 6.5.1 Do judges follow special rules to determine custody or visitation of children in domestic violence cases?

Yes. The "interest of the child" rule, as espoused in *OKOBi v. OKOBI* (2020) 1 NWLR (pt. 1705) 301.

## 6.5.2 Can the judge consider the testimonies of the other spouse and the children when determining custody?

Yes.

## 6.6 Housing rights of domestic violence victims

## 6.6.1 Does the law include any barriers to prevent landlords from forcing a tenant to move out because they are victims of domestic violence?

No.

## 6.6.2 Does the law allow a tenant to terminate his/her lease early due to domestic violence?

No.

## 6.6.3 Can an order exclude the abuser from the residence?

Under Section 7(1) of the [P](https://www.dsvrtlagos.org/pdfs/PROTECTION%20AGAINST%20DOMESTIC%20VIOLENCE%20LAW%202007.pdf)ADVL the order will prohibit the respondent from entering the following places, in particular:

a residence shared by the respondent and the complainant(s) (the court imposes this application if it appears to be in the best interests of the complainant)

a specific part of such a shared residence

## 6.6.4 Can abusers be forbidden by court orders to alienate or mortgage the property in his/her name if it is the family domicile?

Yes, in a civil or criminal action.

# 7. Endnotes

[1]    ECW/CCJ/APP/26/15. The case is celebrated for setting the tone for state responsibility to victims of domestic violence regarding their right to a fair trial. However, the ECOWAS Community Court of Justice (ECCJ) did not find the defendant state to be in violation of the complainant's right to freedom from discrimination and gender-based violence. This decision engenders legal discourse on the standard for state responsibility as well as the forms of domestic violence acts that are appropriate to warrant intervention at international law level.

[2]    (1996) 4 NWLR (pt 443) p.375.

[3]    (2006) LPELR-7612 (CA) pp. 14-15, paragraphs E-A.

[4]    <https://www.refworld.org/docid/548168e14.html> accessed on 28 October 2020. According to the representative of the National Human Rights Commission (NHRC), protection orders can be obtained "by applying to a magistrates' court or high court of a state," upon commencement of a court case. For example, the Violence Against Persons (Prohibition) Act (2015) provides that any person who carries out harmful traditional practices on another commits an offense and is liable, on conviction, to a term of imprisonment not exceeding four years or a fine not exceeding NGN 500,000 or both. There are also penalties for attempting, inciting, aiding and abetting the offense. Additionally, as provided under the act, sanctions range from a maximum imprisonment for three years or a fine of NGN 200,000 (USD 1,000) for spousal battery, to a six-month term of imprisonment or a fine of NGN 100,000 (USD 500) for forced isolation or separation from family.

[5]    <https://tayooyetibolaw.com/protection-against-domestic-violence-and-use-of-no-contact-orders/> (accessed on 9 November 2020).

[6]    "Understanding and addressing violence against women*,*"World Health Organization, 2012 (Document WHO/RHR/12.36).

[7]    *Elabanjo and Another v. Dawodu* (SC 386/2001) [2006] 10.

[8]    <http://lagosministryofjustice.org/wp-content/themes/moj/documents/CRIMINAL_CONDUCT.pdf> (accessed on 9 November 2020).

[9]    Section 28(2) and (4) [VAPPA](https://www.ilo.org/dyn/natlex/docs/ELECTRONIC/104156/126946/F-1224509384/NGA104156.pdf).

[10]    Section 28(4) of the [VAPPA](https://www.ilo.org/dyn/natlex/docs/ELECTRONIC/104156/126946/F-1224509384/NGA104156.pdf).

[11]    Section 31(6) of the [VAPPA](https://www.ilo.org/dyn/natlex/docs/ELECTRONIC/104156/126946/F-1224509384/NGA104156.pdf).

[12]    Section 7(6)(c) of the [PADVL](https://dsvrtlagos.org/wp-content/uploads/2020/11/PROTECTION-AGAINST-DOMESTIC-VIOLENCE-LAW-2007.pdf).

[13]    Section 31(4) of the [VAPPA](https://www.ilo.org/dyn/natlex/docs/ELECTRONIC/104156/126946/F-1224509384/NGA104156.pdf).

[14]    Section 14(2) [Child's Rights Act 2003](https://www.refworld.org/pdfid/5568201f4.pdf).

[15]    Under Section 52(2)(b) of the [Child's Rights Act 2003](https://www.refworld.org/pdfid/5568201f4.pdf), this also includes a person cohabiting with the mother of the child.

[16]    Section 31(1)(c) - (f) of the [VAPPA](https://www.ilo.org/dyn/natlex/docs/ELECTRONIC/104156/126946/F-1224509384/NGA104156.pdf).

[17]    Chapter 2 of the High Court of Lagos State Laws (there are similar laws for high courts of other states).

[18]    Tayo Oyetibo LP, "[Protection Against Domestic Violence and Use of "NO CONTACT" Orders](https://tayooyetibolaw.com/protection-against-domestic-violence-and-use-of-no-contact-orders/)," 31 January 2019.

[19]    Section 28(5) of the [VAPPA](https://www.ilo.org/dyn/natlex/docs/ELECTRONIC/104156/126946/F-1224509384/NGA104156.pdf).

[20]    Paragraph 8, Practice Direction for Protection Against Domestic Violence 2019.

[21]    Sam Omotoso, "[Restraining Order; A Panacea For Domestic Violence](https://lawyerupng.org/2020/07/09/restraining-order-a-panacea-for-domestic-violence/)," 9 July 2019.

[22]    Section 5(1) of the [PADVL](https://dsvrtlagos.org/wp-content/uploads/2020/11/PROTECTION-AGAINST-DOMESTIC-VIOLENCE-LAW-2007.pdf).

[23]    Section 28(6) of the [VAPPA](https://www.ilo.org/dyn/natlex/docs/ELECTRONIC/104156/126946/F-1224509384/NGA104156.pdf).

[24]    Paragraph 7(3) of the [Practice Direction for Protection Against Domestic Violence 2019](http://dsvrtlagos.org/pdfs/Practice%20Direction%20for%20Protection%20Order%20Against%20Domestic%20Violence%20%2C2019.pdf).

[25]    Section 19(1) of the [VAPPA](https://www.ilo.org/dyn/natlex/docs/ELECTRONIC/104156/126946/F-1224509384/NGA104156.pdf).

[26]    Section 31(7) of the [VAPPA](https://www.ilo.org/dyn/natlex/docs/ELECTRONIC/104156/126946/F-1224509384/NGA104156.pdf).

[27]    Section 28(1) of the [VAPPA](https://www.ilo.org/dyn/natlex/docs/ELECTRONIC/104156/126946/F-1224509384/NGA104156.pdf).

[28]    Section 29(1) of the [VAPPA](https://www.ilo.org/dyn/natlex/docs/ELECTRONIC/104156/126946/F-1224509384/NGA104156.pdf).

[29]    Section 30(4) of the [VAPPA](https://www.ilo.org/dyn/natlex/docs/ELECTRONIC/104156/126946/F-1224509384/NGA104156.pdf).

[30]    Section 28(5) of the [VAPPA](https://www.ilo.org/dyn/natlex/docs/ELECTRONIC/104156/126946/F-1224509384/NGA104156.pdf).

[31]    Order 25, [Federal High Court (Civil Procedure) Rules 2000](https://www.wipo.int/edocs/lexdocs/laws/en/ng/ng039en.pdf).

[32]    Section 31(4) of the [VAPPA](https://www.ilo.org/dyn/natlex/docs/ELECTRONIC/104156/126946/F-1224509384/NGA104156.pdf).

[33]    There is no mention of a separate civil process being required under the [VAPPA](https://www.ilo.org/dyn/natlex/docs/ELECTRONIC/104156/126946/F-1224509384/NGA104156.pdf).

[34]    Article 15(a) of the PADVL.

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