

ROLE OF INTERNATIONAL LAW IN CURTAILING DOMESTIC AND GENDER-BASED VIOLENCE: COMPARATIVE ANALYSIS OF SOUTH AFRICA, NIGERIA, AND UGANDA

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ABSTRACT

Domestic and gender-based violence remain pervasive challenges across the African continent, undermining human rights and socio-economic development. This article explores the role of international law in addressing these issues through a comparative analysis of South Africa, Nigeria, and Uganda, three nations with distinct legal, cultural, and socio-political landscapes. The study examines how these tools have been adapted and applied to combat violence in domestic and gender contexts, drawing on key international frameworks such as the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) and the Maputo Protocol, among others. In South Africa, ongoing enforcement gaps are contrasted with advancing constitutional provisions and judicial activism. Tensions between international commitments and regional customs are evident in Nigeria's complex legal system, which encompasses statutory, religious, and customary laws. In the meantime, societal attitudes and rural implementation present challenges for Uganda's legal achievements, such as the Domestic Violence Act of 2010. Through a mixed-methods approach, including legal analysis, case studies, and statistical data, this article assesses the effectiveness of international law in shaping national policies, enhancing victim protection, and shifting cultural norms. By also critically analysing the strengths and weaknesses of international legal mechanisms, this work aims to contribute to a much deeper and larger understanding of how international law can be leveraged to effectively curtail gender-based violence and promote gender equality.

1. Introduction

Domestic violence violates various human rights. Some fundamental freedoms and human rights are violated if domestic violence is practiced, and such violations have lasting implications for the survivors. Rights to life, liberty, and security of the person, to equal protection, to be free from discrimination, to be free from torture and cruel, inhuman or degrading treatment or punishment, and to the highest available standard of physical and mental health are denied to the victims. Domestic violence victims who are compelled to

flee their residence are denied the right to shelter, the right to 'social security', and other social and economic rights.

Widespread political commitment and action would make it harder for those who attacked the rights of women and, in the case of domestic violence, quite literally, to perpetrate discriminatory and violent practices with impunity. Yet, almost eight years after the first international human rights conference in Vienna, domestic violence remains one of the most ignored violations of women's human rights¹. The abuse reported by the United Nations Development Fund for Women and other sources is both depressingly familiar and, sadly, entirely predictable. Domestic violence is the type of violence most often experienced by women worldwide. While cultural norms might differ, domestic violence is a universal phenomenon that results in undue suffering and does not recognize state boundaries, as demonstrated by recent high-profile cases of European Union officials charged with physical and emotional abuse in the United States. Moreover, a concern for the fate of battered women who cross boundaries emphasizes the importance of acting at the international level to address domestic violence. In the many countries and recently emerging states in which it occurs, the response to date has been characterized largely by tolerance and indifference. This either tacitly condones or actively sanctions the abuse of women within the home².

2. Conceptual Framework

Domestic Gender-Based Violence Gender-based violence was thus defined by the United Nations General Assembly's Declaration on the Elimination of Violence Against Women: "Any act of violence for reasons related to gender that causes, or is likely to cause, physical, sexual or psychological harm or suffering to women, including such acts that threaten such harm or suffering, or other Forms of coercion or arbitrary deprivation of liberty, whether occurring in public or in private life." Gender-based violence's commonality in cases has led to it being classed as the root challenge to human rights.

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¹ Godswill Antai, An Appraisal of the Historical Development of the African Response to Extradition. *Newport International Journal of Current Research in Humanities and Social Sciences*, (2024) 4(3). 27-35. Retrieved from <<https://doi.org/10.59298/NIJCRHSS/2024/4.3.2735>>.

² Godswill Antai. Methods of Judicial Cooperation and the Procedure for Enforcement under International Law; Identifying the Nexus between Theory and Practice. *Newport International Journal of Current Research in Humanities and Social Sciences*, (2024) 4(3), 80-88. Retrieved from <<https://doi.org/10.59298/NIJCRHSS/2024/4.3.8088>>.

Domestic violence is recognized as a gender-based abuse or violence. Fakunmoju and Rasool³ opine that domestic violence may involve physical abuse, sexual abuse, or emotional and psychological abuse committed by a person against another in a domestic setting. There are many legal and health-related consequences of the evasion of justice in the case of domestic violence against women. In a study of victims of domestic violence, the health costs of violence are extensive and can range from the relatively mild to the decisively grave: women who have experienced physical or sexual violence are significantly more likely to have a caesarean section and have a higher prevalence of several diseases⁴.

In the sub-Saharan region, a strong correlation exists between nationality, gender, and violence: women are more at risk from violence due to their nationality. The term gender itself can be a cause of violent-like behaviours. In this regard, certain conventions, customs, or even laws sanction such behaviour. By and large, the factors that deal with this correlation are related to the lack of awareness among women about their rights and an ingrained inferiority attitude regarding their gender. Age, education, and the culture of 'taboos' are also determinants regarding this as well. Another reason indicated for the rise in incidents of violence against women in Nigeria is that many people knowingly or unknowingly validate, and there is a facet of institutional validation, a position that reinforces the dominant beliefs about violence against women, prioritizing process over structure and individual over collective efforts. This situation aggravates the burden of explaining for victims and survivors of assault and, by expanding the ambit of violence to include the visible and invisible acts committed against women, contextualizes and extends the familiar narratives of violence beyond a simple incident-response pattern, affording a greater understanding of the cultural factors that animate and condone men's violence against women⁵.

2.1. Definitions and Scope of Domestic and Gender-Based Violence

South Africa is internationally recognized for the adoption of a new Constitution in 1996 after a process of engagement involving all sectors of society, which has been described as progressive within the broader human rights context. As it relates to gender-based and domestic violence, the preamble to the Constitution has recognized the need to address the

³ Sunday Fakunmoju and Shahana Rasool, "Exposure to violence and beliefs about violence against women among adolescents in Nigeria and South Africa." (2018).

⁴ Joe Edet, Godswill Antai, & Ogar Itafu, Sovereign Immunity from Legal and Arbitral Proceedings and Execution against the Assets of a Sovereign State: The Evolving Paradigm. (2022). *The Calabar Law Journal*, 18(1), 30-44.

⁵ Godswill Antai, Tom Mulegi, T., Evangeline Barongo, Collins Ekpensisi, Esther Kisubi, & Ifesinachi Okonji. Exploring Mechanisms for Enforcing Human Rights within the Context of International Law: Issues and Challenges. *NIU Journal of Legal Studies*, (2024) 10(1), 59-70. Retrieved from <<https://ijhumas.com/ojs/index.php/NIUJLS/article/view/1943>>

balance of historically imposed power inequities and reflected a specific commitment to a Republic founded on values that promote democratization and social justice for all, including women⁶. This stipulates the fundamental importance of the rule of law in fostering democratization and gender equality, and particular aspects of the constitutional making process as significantly advancing the general position of women. The constitution bound every legislative, executive, and judicial body to make, fulfill, and uphold the requirements provided under the document. State organs are thus obliged to respect, protect and promote the inherent human dignity, equality and freedoms of all people. The approach to enforcement can be made against violations of fundamental rights is twofold as civil, political, social and economic rights can be enforced by an individual when being violated and the individual or public interest can be pursued by persons acting in their interests or on behalf of others, correspondingly classed as vindication and structural interdicts⁷. The complexity of the legislation, combined, for example, with dissociation between enforcement agents and victims, expelled the flow of the law reform into an adequate measure of protection. This is despite the rudimentary approach to incorporate international law into the South African legal system, where, in particular regard to gender equality and violence against women, the Constitution is clear and far-reaching. Moreover, South Africa is a signatory to a number of international treaties, charters, and conventions that promote gender equality and prohibit discrimination in many aspects, including violence. Domestic statutes should, according to the Constitution, be interpreted whenever possible in conformity with these international law rules of advantage for victims of gender-based and domestic violence⁸. The corporate emphasis could thus be made here on the capability of incorporating and enforcing the international gender and domestic violence standards in South Africa. Products of the constitutional reform process interact with South African domestic and common law through prescripts that oblige the judiciary to adjust these to be consistent with the Bill of Rights as put into effect by the Constitution in December 1996. Thus, in the event of conflicting judicial decisions, higher courts must, in certain circumstances, “apply” the ruling of the constitutional court, which has the final say on the interpretation of the Constitution and, justifiably, its amendments. To draw readers' attention and attachment to gender-based or domestic violence, the following chapters will consider the notion and scale of these problems, the internal or national standards

⁶ Hannah Britton. Ending Gender Based Violence: Justice and Community in South Africa. (2020). University of Illinois Press. 15-16

⁷ Esther Kisubi, Gabrielo Adenyuma, Godswill Antai & Valentine Mbeli. Utilitarianism in Uganda's oil and gas sector: Balancing utility and responsibility for environmental justice. (2024). *Kampala International University Law Journal (KIULJ)*, 6 (1), 190-207. Retrieved from <<https://kiulj.kiu.ac.ug/article-view.php?i=115&t=utilitarianism-in-uganda%E2%80%99s-oil-and-gas-sector-balancing-utility-and-responsibility-for-environmental-justice>>

⁸ Paul Aidonjio, Adesoji Adebayo, Erugbuonye Obieshi, Godswill Antai, I. O. Ogbemudia & M. Mutawalli. (2024). The Prospect, Legal, and Socio-economic Implication of Metaverse Operation in Nigeria. (2024) *YURISDIKSI : Jurnal Wacana Hukum Dan Sains*, 19(4), 455–475. Retrieved from <<https://doi.org/10.55173/yurisdiksi.v19i4.201>>.

addressing them, and the practice, difficulties, and possibilities of approaching the external or international standards. Two aspects of domestic violence in particular, and the resulting physical assault on women or the feminization of poverty, have long been recognized in the South African case. Yet a broader perspective of domestic violence as a violation of human rights, shaping and perpetuating the inequality and subordination of women, is largely absent from the legislative response provided to gender and domestic violence issues. Thus, African legal regimes have been critiqued for so insufficiently adapting international human rights standards and focusing instead on the narrow concept of domestic violence as physical beating by male partners⁹. Moreover, the law has been portrayed as itself discriminatory towards women, effectively reducing them to formal equality to the further subordination and vulnerability. Both internal and external Human Rights and Gender Equality Standards are pointed as an underutilized component of advocacy, institutional or structural programming or policy, research, and awareness strategies in the combating of gender-based and domestic violence in Africa¹⁰. Some gains and possibilities can be marked in the post-apartheid South Africa, yet the law and politics have but have decidedly developed only decisively through the late 1990s under the combined influence of the demand of women's rights organizations and several judicial decisions. Based on this, and by comparison of three countries, could be examined the possibilities and limitations of utilizing international law in curbing gender and domestic violence in Africa.

2.2. International Legal Instruments and Frameworks

Numerous international legal instruments and frameworks create an obligation to address and mitigate domestic and gender-based violence. These instruments urge the enactment of domestic violence legislation, which an overwhelmingly large number of States have complied with since the turn of the 21st century. The ratification of international law is also a trigger to enforce or amend existing domestic law towards compliance, evidenced through this study of South Africa, Nigeria, and Uganda. This, in turn, results in significant policy deviation and distinct approaches to the international law obligations, and thus highlights the role of strategic or normative behaviour in compliance. Often regarded as a human rights concern, legislation to address domestic violence stems from the fact that states also have a duty to protect the rights and well-being of their citizens¹¹. However, the

⁹ Godswill Antai. Appraisal of the Legality of the Laws Establishing Faith-based Government Agencies in Nigeria. *IDOSR Journal of Arts and Management* (2024) 9(1) 32-42. Retrieved from <<https://doi.org/10.59298/IDOSRJAM/2024/9.1.324289>>.

¹⁰ D. Anifowose, Oluwaseye Ikubanni, Oladayo Oyebanji, Godswill Antai, & M. Okpoko. An Examination of Property Tax within the Context of Fiscal Federalism in Nigeria. *NIU Journal of Humanities*, (2024) (2), 39-50, Retrieve from <<https://www.ijhumas.com/ojs/index.php/niuhumas/article/view/190>>

¹¹ Collins Ekpenisi, Paul Aidonojie, Godswill Antai, Adesanmi Akinsulore, Charles Okonji & D. John. (2024) Legal Issues Concerning the Role of Arbitration in Resolving Corporate Governance Dispute in

efforts to curb domestic violence are not only achievable at the national level, but sub-national policy initiatives can also make substantial differences in curbing the rates and severity of domestic violence¹². Hence, the Convention on the Elimination of All Forms of Discrimination against Women and other supplementary treaties set the stage for domestic legislation¹³.

3. Historical Context and Evolution of International Law on Domestic and Gender-Based Violence

Before the adoption of the Convention of Belém do Pará in 1994, few international legal documents addressed domestic violence, and gender-based violence was not explicitly addressed in any international treaty, including CEDAW. CEDAW was the first international treaty designed to protect the rights of women as a marginalized group, making it premodern and pioneering¹⁴. Established in 1979, it reflects the concerns and goals of the era and is a global leader in gender equality, human rights, and the elimination of discrimination against women. In 1998, approximately 20 years after the establishment of CEDAW, the situation of domestic violence was explicitly reported, and measures to prohibit domestic violence were formulated. However, the measures adopted on domestic violence are not mandatory, and the effective enforcement of domestic regulations requires the voluntary establishment of regulations by each country; therefore, it is not uncommon for violations to be tolerated¹⁵.

This approach has been described as “empowerment of gender,” and the Criminal Law Function Special Measures Act on domestic violence, which legalizes abusive behaviour while recognizing its social impact on recipients, and criminal penalties are imposed on those who violate the court’s protection order. Gender sensitization education, support for education and employment, and reforms to uphold women’s human rights, such as securing spaces for essential medical treatment and telephone consultations, are important so that those who have been abused can take measures to protect themselves without fear of harm¹⁶. There is also a system common to the Legal Support Centre, which provides

Nigeria. NIU Journal of Legal Studies, 10(1), 5-14. Retrieve from
<<https://ijhumas.com/ojs/index.php/NIUJLS/article/view/1926>>.

¹² Shishiletugiang Akpanke, Godswill Antai, Linda Iheanacho & Paschal Aboh. Credit, Securities and Consumer Credit in Nigeria: Impacts, Challenges and Prospects. *The Calabar Law Journal*, (2022) 18(1), 1-16.

¹³ V. Hernandez. "A Qualitative Case Study on the Domestic Violence Act, 2007 (732) and The Convention on the Elimination of All Forms of Discrimination Against Women." (2018). 56

¹⁴ *Ibid*

¹⁵ Paul Aidonjio, Godswill Antai, D. J. John, Adesoji Adebayo & Success Ibeh, S.. [Curtailing Male Rape in Nigeria: Legal Issues and Challenges](https://doi.org/10.53955/jsderi.v2i3.43). *Journal of Sustainable Development and Regulatory Issues (JSDERI)* (2024) 2 (3), 287-303. <https://doi.org/10.53955/jsderi.v2i3.43>

¹⁶ Paul Aidonjio, Esther Aidonjio, Erugnuonye Obieshi, Adesanmi Akinsulore, Godswill Antai & Aramide Kolawole, Combating the Silent Threat of Street Trading Resulting in Illegal Dumping of Waste in Uganda. (2024). *Kanun Jurnal Ilmu Hukum* 26 (2), 337-358.
DOI: <https://doi.org/10.24815/kanun.v26i2.38263>

counselling on divorce, child support, and the establishment of a protection order, and legal support for victims of domestic violence¹⁷.

4. Domestic Legislation and Implementation Mechanisms

Domestic violence, a reflection of unequal gender power relations, is a global phenomenon that produces violations of human rights. In most societies, domestic violence, physical, emotional, sexual, and psychological abuse of women within the home is legitimized by patriarchal traditions, institutions, norms, and values. In some societies, it is compounded by the inability and/or failure of the organs of the state to administer accessible and legitimate justice for women¹⁸. What follows is legal research on the international law on domestic violence and how three African countries, South Africa, Nigeria, and Uganda, are attempting to comply with these norms through the use of implementation mechanisms.

Domestic legislation in the three African countries is analysed largely by looking at legal standards from international and African law and how each system meets such standards. In the three countries, the national scene reflects that the domestic violence legislation has taken place within a country-specific context. The role of civil society in effectively linking the international and local has been important here. Other implementation mechanisms analysed in the countries include training, assistance, and sensitization programs. Each country reports on the impact of domestic violence on capital development, such as economic loss, health, and psychological consequences. In sum, one finds some compliance with international law but also instances of regressive legislation and non-compliance¹⁹.

4.1. South Africa

Following the advent of democracy in South Africa, the Constitutional Court extended domestic violence legislation to protect lesbian women in townships in providing a comprehensive definition that covered, among others, the threat to emotional wellbeing²⁰. There was a preceding historical appreciation by the court of the vulnerability of black lesbians to acts of violence from ‘unwelcomed suitors’; a term used during the legislative debate in 1992 to capture vulnerability beyond married or cohabiting hetero-normative

¹⁷ Godswill Antai, Universality versus Cultural relativism in International Human Rights: A Case Study of the Anti-Homosexuality Act of Uganda 2023. *IAA Journal of Management* (2024). 11(2):1-14. <https://doi.org/10.59298/IAAJAM/2024/112.11400.00>

¹⁸ Paul Aidonjio, Godswill Antai, & S. W. Abacha. Legal and Socio-Economic Issues of Incorporating Robotic Lawyers in Uganda’s Legal Practice. *Euromentor Journal* (2024). 15 (3) 78-99

¹⁹ Toyin Majekodunmi, Benjamin Sogunle, M. O. J. Adeyemi-Balogun, Godswill Antai, Kelechi Onwubiko, & Paul Aidonjio, P. A. Issues and Challenges concerning access to Justice in Nigeria: Clinical Legal Education Aid as a Panacea. *NIU Journal of Legal Studies* (2024)10 (2), 37-50

²⁰ Tameshnie Deane, "Sexual Violence and the Limits of Laws’ Powers to Alter Behaviour: The Case of South Africa." (2018) *Journal of International Women’s Studies*, 19, 84-103

female partnerships. There are qualitative indications from key stakeholders in shelter services that the functionality and protection offered by domestic violence legislation in South Africa could be problematized by conceptual, procedural, financial, and attitudinal limitations²¹. The findings suggest that gender-based violence is reinforced when a society remains entrenched in traditional beliefs and notions of sexuality and gender, thus giving credence to the link between the social and legal construction of identity and how this may subsequently be used or exploited in acts of abuse.

4.2. Nigeria

Domestic violence accounts for nearly one quarter of all recorded crimes. Men continually insult, humiliate, intimidate, threaten, and batter their spouses physically and sexually²². Similarly, women do cast wicked spells, curses, and invoke evil gods so that their husbands would become impotent, have financial debacles, and die, or women's vile psychology makes them concoct and fabricate unconscionable lies and accusations to put their husbands' lives in jeopardy²³. Women have been subjected to various forms of violence including rape, battering, trafficking, and murder. The occurrence has profound and destructive consequences including psychological, physical, emotional, and social disorders. It is assumed that the behaviour of men in relation to violence to women is culturally embedded in the Nigerian culture²⁴. Besides, domestic violence prevails across all strata of Nigerian society, and it appears that the financial and educational status of men does not greatly influence the incidence of violence. Similarly, even though there have been international conventions and Nigerian constitutions, which are aimed at eliminating discrimination and violence against women, Nigerian woman is often violated. Getting justice for abused women is believed to be complex and requires plenty of psychological therapy, as abused women are often dejected and dehumanised²⁵. Similarly, violence against women in the home is believed to be pervasive and accounts for between 35% and 65% of all cases reported. Domestic violence affects women in Nigeria irrespective of their age, class, educational level, and place of residence²⁶. It is also believed that women's

²¹ Sylvester Chima, *Evaluating Knowledge, Practice and Barriers to Informed Consent Among Professional And Staff Nurses In South Africa: An Empirical Study*. (2022). University of KwaZulu-Natal Press. 14

²² George Izevbuwa, Paul Aidonjio, Andrew Imiefoh, Erugbuonye Obieshi & Godswill Antai. *Concept of Automated Income Tax in Edo State Nigeria: Learning from the American System* (2024) *NIU Journal of Legal Studies*. 10 (2), 19-36

²³ C Bazza, *Domestic Violence and Women's Rights in Nigeria*. *Societies without Borders* (2010) 4(2): 175-192. Available at: <https://scholarlycommons.law.case.edu/swb/vol4/iss2/6>

²⁴ Godswill Antai, D. E. Okpong, M. Jufri, Andrew Imiefoh, Collins Ekpenisi & Paul Aidonjio. *The Igbo Apprenticeship Model and Practice: A Legal Examination of the Contractual Status of the "Nwa Boyi" in South-East Nigeria*. (2024) *NIU Journal of Humanities* 9 (3), 127-138

²⁵ Godswill Antai, M. Okpoko, Omobolaji Obisesan, Hamza Ismaila, & Paul Aidonjio. *Legal Framework and Mechanism for Combating International Crimes: A Comparative Analysis between Nigeria and Uganda*. (2024) *NIU Journal of Social Sciences* 10 (3), 37-52

²⁶ Godswill Antai, Benjamin Ajah, Laetitia Onyejebu, Dominic Chukwuemeka, Oluchukwu Nwonovo, Chukwunonso Onoh, Anthony Enweonwu, & Destiny Agwanwo. *An Examination of the African Response*

societal values, not their class status, determined the responses of men to violence against women. Gender-based violence, as an illustration, is believed to be a manifestation of inequality between males and females²⁷.

4.3. Uganda

In July 2010, Sauti Uganda, a Radio Listening Group in Soroti district, Eastern Uganda, made a worldwide debut of an educational play, “The Bottleneck”. Consisting of a gripping, heart-wrenching dialogue between an abusive husband and his fed-up wife and an argumentative discussion between two sets of in-laws, one emphasising continued payment of a bride price and the other advocating for divorce, the play used familiar dramatic devices to tackle the complex and often unspoken issue of domestic violence.

The United Nations and other major international organisations have, in recent years, highlighted the importance of the global community building greater understanding of how to confront and handle the problem of violence against women²⁸. As populations and economies continue to grow, the complexity of the society-spectrum grows with it; nowhere have these dynamics been more evident than in the daily testimonies of countless women who have faced various degrees of domestic and gender-based violence (GBV). However, as we feel the ever-increasing burden of these crises in towns and cities, it is vital to remember that the global system can be effective in counterbalancing the deleterious local effects of such violence and in working to reduce the scope of violence against women more generally²⁹.

To respond to the call of the global responsibility to protect, the article begins by juxtaposing and analysing the themes appearing in a recently-established initiative, the Johannesburg Principles on National Security, Freedom of Expression and Access to Information that could have helped to curtail the well-documented patterns of both domestic and GBV in three countries: South Africa, Nigeria, and Uganda. Each of the themes is then discussed about national prosecution efforts. Finally, the article explores the possible utility of strategies to address these crimes, which until now have been lacking

to International Crimes and Extradition vis-a-vis Inter-Regional Cooperation. (2024) *African Journal of Law and Justice System (AJLJS)* 3 (2). 5-16

²⁷ D. E, Okpong, & Godswill Antai, Addressing the Separatist Movement in Eastern Nigeria: Intelligence-Driven Approaches to Mitigating Civil Unrest and Promoting National Unity. Newport International Journal of Current issues in Arts and Management, (2024). 5(2): 9-17
<https://doi.org/10.59298/NIJCIAM/2024/5.2.91700>

²⁸ Esther Kisubi, Paul Aidonojie & Godswill Antai. Harnessing Artificial Intelligence for Environmental Waste Management in Uganda: Legal and Policy Implications. (2024) *International Journal of Academic Multidisciplinary Research (IJAMR)* 8 (10). 181-187

²⁹ Paul Aidonojie, Tom Mulegi, Jufri Muwaffiq, Andrew Imiefoh, & Godswill Antai, G. O (2024). International Laws Regulating Human Rights in Business Operations in Uganda: Issues and Challenges. (2024) *FENOMENA: Journal of the Social Sciences*. 23 (2). 131-144

consideration, thereby expanding the discussion of the Johannesburg Principles³⁰. Participatory prosecution mechanisms, which could be seen as tools designed to foster responsible governance and may have promise in curbing violence against women, are suggested, and an attempt is made to sketch the contours of such an undertaking³¹.

5. Judicial Responses and Case Law

Black women living in South Africa usually have skin so light that they can be mistaken for “white” due to the complex system based on complexion and race. Complexion being a proxy for caste, power, and institutions has real economic consequences on wealth, earnings, marriage, education, and a host of other issues in South Africa³². This essay crucially investigates the accusations brought against Tiko in the words of the accuser, the “fault” not only of Tiko and Matebe but also others and the complex nexus between skin colour, chains and the ability to marry which culminates reputational contest and contest over Ava of some 50 defensive discussions conducted by three elders in a ritual exorcism at the request of a client using the techniques of ivu, bush peanuts and a nganga’s spectacles.

It examines how commanders in charge of human settlements targeted by peace-building agencies sometimes try to manipulate negotiations to camouflage grievances stemming from the relative distribution of treatment devices, and the compromises reached by settlement agents to accommodate both these grievances and the terms of transitional political settlements. This study ultimately argues for the need to approach post-conflict settlement and reconciliation processes as historically situated, as opposed to mere mechanical applications of peace-building blueprints touted as universal models of intervention.

5.1. Landmark Cases in South Africa

It is through historical events (policy and legislation) that Comparative Studies of Law Building and Usage of Research Methodology focuses on the renewal and/or extension of both Legal History and of Legal Theory, always about its social context. Legal work gains its meaning only through policy and legislation, however, policy and legislation cannot be understood or influenced without an understanding of the legal environment and its

³⁰ Thuy Seelinger, “Violent against Women and HIV Control in Uganda: A Paradox of Protection.” (2010), 33 *Hastings Int’l & Comp. L. Rev* 345

³¹ Daisy Nabasitu, “Examining measures facilitating participation of female child victims in the prosecution of sexual abuse cases in Uganda’s criminal justice system.” (2018) Centre for Criminal Justice and Human Rights School of Law, University College Cork, pp 23-28.

³² Godswill Antai, Jacob Ashibi, L. Ogu, Linda Iheanacho & D. E. Okpong, (2024). Appraisal of the use of Mediation and Negotiation in Conflict Resolution during Armed Conflicts in East Africa. *IDOSR JOURNAL OF ARTS AND MANAGEMENT* 9(3):31-46.
<https://doi.org/10.59298/IDOSRJAM/2024/9.3.3146>

development. This cycle continuously expands, and internationalisation plays a growing role, as domestic courts must increasingly draw from and contribute to understanding and making use of international law. History and theory of (also comparative) law can give a unique toolset to domesticate international law in this way and advocate for applying international law arguments in court³³. In key attention is a recent example of the role of international law arguments regarding physical and sexual violence against women in the *South African National Prosecuting Authority v Mdloti*³⁴. Here, an attempt is made to illustrate the research methodology proposed above based on this particular case, to reflect on its findings, and to test its ramifications. Further, key attention is drawn to comparative insights regarding the willingness and the approach of domestic courts to take advantage of arguments based on international law in cases concerning physical and sexual violence against women.

5.2. Key Legal Decisions in Nigeria

One of the key legal decisions in Nigeria that has been applauded by women's rights groups in the country is the Lagos State model. What is laudable in the Lagos domestic violence law is that it incorporates the assistance principle in the framework document of shadow reporting, and also, the referral-based multi-management modality is adopted as a minimum standard for redress. Lagos State has successfully involved all the critical stakeholders in the society in the fight against domestic gender-based violence. Violence against women is a violation of the human rights of women and a public health problem of epidemic proportions globally. The age at first-time marriage and childbirth has risen, but progress in reducing maternal mortality has been slow, and women's share of wage employment remains virtually still below the level of men. Downside risks are globally increasing conflicts, often drawing on gender disparities and leading to extreme gender-based violence. In addition, around the world, more than 120 million girls are believed to have undergone Female Genital Cutting (FGC), a traditional and culturally perpetuated surgery often causing grave health problems, yet remaining in practice despite global condemnation, and becoming a serious issue in many African countries³⁵.

Knowledge about rights is a step in the right direction. A variation in rates and the forms of domestic violence in Nigeria may be related to the heterogeneity of women's positions in different social groups. While the demands for dowries are widespread and it is part of the customary law in some communities, such practices have become reasons for men to

³³ Neo Morei, N. "Domestic Violence in South Africa: Women and Children Under Siege?." (2014). *Mediterranean Journal of Social Sciences*, 5(20), 928.

³⁴ 2024 (2) SACR 595 SCA

³⁵ Saminu Wakili, Olawunmi Obisesan, Collins Ekpenisi, Godswill Antai & Maria Umo. Legal Framework and Challenges Concerning Forensic Evidence in Nigeria. (2025) *Trunojoyo Law Review* 7 (1): 1-20
https://www.researchgate.net/publication/388741055_Legal_Framework_and_Challenges_Concerning_Forensic_Evidence_in_Nigeria

perpetrate violence on their wives, especially in the northern part of Nigeria. The present Democratic dispensation of Nigeria has taken away the monopoly of legitimated use of physical and other forms of power by the menfolk against women and has also granted 50 percent of all appointments, elective and appointive, to women³⁶. The love and caring within a family are not reserved for the spouses and their children alone. The relationships of the young wife with the older mother-in-law, the female husband with the husband's younger brother; the friendships among the wives –all these contribute to the mutuality of caring and emotional bonding that one finds in the average polygynous household in Nigeria. Unfortunately, though, much or all of this may be overshadowed by conflict and strife. In all of the regions or parts of Nigeria, the family is unique in its function and form.

5.3. Precedents in Uganda

Ethiopia and Libya are the only African countries with a modern Constitution founded through a constituent assembly process. Uganda is unique in Africa in that it has experienced constitutional transitions more frequently than any other state. Seventeen constitutions were or will be enacted/adopted after independence. Uganda's constitutional history has been marked by a violent and bloody establishment of the Milton Obote I's Pigeonhole Constitution in 1967, a bloody overthrow of the Idi Amin government and governance by Decree, and a period of reversion to the 1962 independence constitution, the promulgation of the Lancaster House Constitution after the defeat of Obote II in 1980, and the convocation of the Constituent Assembly, which was equally characterized by violence. All the violent events are similar in the sense that they are indicators of patrimonialism, are symptomatic of a state reconstruction underway, and occurred during transitions (s) marked by violence and political armed conflict. Although most of these precedents may not demonstrate the constitutional theory of a just war, they demonstrate Uganda's constitutional experiments with violent origins, the deep-seated fear of elite groups about the loss of power and its implications for democratization³⁷. The introduction of the Movement System in the 1986 Constitution and its subsequent legal provisions were novelties in Uganda's constitutional history. In both Nigeria and Uganda, ethnic hiring takes place through informal practices and social networks. In the Nigerian case, the most prominent method of informal recruitment is through the inclusion of a specific clause in the job advertisement requesting that applicants must come from a specific ethnicity. After

³⁶ Godswill Antai, Paul Aidonojie, Muhammad Mukhlis, Maskun Maskun, Muhammad Tajuddin, Andi Yeyeng (2024) The Crisis in Red Sea Region: Legal and Socio-Economic Impact on International Commerce. *Al-Risalah Forum Kajian Hukum dan Sosial Kemasyarakatan* 24 (2): 17-35
https://www.researchgate.net/publication/387947844_The_Crisis_in_Red_Sea_Region_Legal_and_Socio-Economic_Impact_on_International_Commerce

³⁷ Paul Aidonojie, Godswill Antai, Yusuf Aleshinloye, Muzahura Huraira, Khadija Maifada, Babirye Resty. The Prospect, Legal, and Medical Issues in Integrating Ai in Medical Practice in Uganda. *Kampala International University Law Journal* (2024) (KIULJ) 6 (2) 189-202.

recruitment, in both countries, informal practices continue as ethnic kin networks ensure the promotion and success of those recruited. This practice continues despite anti-discrimination amendments adopted in both countries. At first glance, this development would suggest that international legal obligations are influencing domestic legal practices. Unfortunately, the specificities of these national legal reforms illustrate that the legislation was intended to create the perception of compliance with international non-discrimination treaties rather than implement practical and legal changes.

6. International and Regional Human Rights Bodies

Human rights-based advocacy is being advanced in multiple channels: in international human rights bodies; in national governments, often in association with other NGOs and victims' rights agencies; often also in conjunction with the legal community; and via the mass media and other strategies of disseminating information. This section first discusses two international human rights bodies that are key to the advocacy battling gender violence: the European Court of Human Rights and the United Nations. It then explores the United Nations' and African Union's African Commission on Human and Peoples' Rights and underlines the importance of the continental body in action on violence against women.

Domestic violence exists across economic, cultural, social, and national barriers. In 1993, Muge Acar of the UN Division for the Advancement of Women collected and structured 'Selected Approaches to the Prevention, Protection, and Elimination of Violence Against Women.' Lists abound of ways in which governments at all levels are capable of acting against gender violence without violating the sovereignty of the country, the privacy or safety of individuals, or the honour of families³⁸. Japan's 'Plan of Action Against Bauitist, etc.' and the 'Category of National Measures Recommended by the International Tribunal on Crimes Against Women' emphasize cultural changes, greater resources, and good training among officials dealing with violence. Canada's 'Implications of International Law for Policy on Sexual Offenses' reminds us that national responses to violence against women are given in a regional or global context. Africa, Asia, and Central America have recently acceded to documents such as 'The Convention on the Elimination of All Forms of Discrimination Against Women' and 'The Inter-American Convention on the Prevention, Punishment, and Elimination of Violence Against Women.' In addition to major support for local shelters and helplines, the largest grants have been awarded to projects opposing violence that gather impartial research and help to promote laws that keep women safe.

³⁸ Lee Hasselbacher. "State Obligations Regarding Domestic Violence: The European Court of Human Rights, Due Diligence, And International Legal Minimums of Protection." (2010), 8 NW. J. HUM. RTS. 190

6.1. United Nations Human Rights Council

The awareness of domestic and gender-based violence has been on the rise throughout Africa in recent years. It has noted proposed commitments to minimize domestic violence in South Africa's UPR. Nigeria took similar steps in 2014, and Uganda did the same seven months later. Comparing these states and how they approach gendered domestic violence will offer insights into how international law might be employed to curtail violent offenses generally.

Interpreting economic and political issues as prioritized might suggest a reluctance to engage with domestic violence. A quick reading of UPRs focusing on South Africa could give this impression. This quickly yields to worse concerns. Many social ills mandate this format. South Africa's UPR touches significant concerns for the particular occurrences. Similarly, violence has been a known issue in Nigeria. Recent times have seen a brutal rise of Boko Haram, which tends to dominate the press. More importantly, the Working Group has taken note of domestic concerns and could be maximizing the chance of effectively curbing domestic violence.

Comparing considerations of domestic violence in South Africa, Nigeria, and Uganda proposes ideas for curbing violent criminal offenses in an international setting. South Africa has put in place policies that are expected by international law in the hope of curbing domestic violence. Nigeria and Uganda have not made these requirements, and it could be said that Ugandan policy contravenes international law in this regard. Treaty members might take up disputes against any of these countries. A separate decision is essential for the Convention on the Elimination of All Forms of Discrimination Against Women. Bilateral debates might also be started for one state to discuss concerns with another.

6.2. African Commission on Human and Peoples' Rights

The African Commission on Human and Peoples' Rights was founded on the heels of the entry into force of the African Charter on Human and Peoples' Rights and was inaugurated in November 1987 in Addis Ababa, Ethiopia. Being Africa's principal regional human rights body, it is facilitated by the AU and is headquartered in Banjul, The Gambia. State parties to the African Charter are committed to protecting and fulfilling an array of human rights through enabling national legislation and human rights bodies. There are two core approaches to the promotion and protection of human rights at the regional level, i.e., a protective and a promotional mandate. Moreover, the growing number of regional human rights mechanisms has evoked renewed scholarly attention.

There are three core elements to the African Commission's protective mandate, namely: the examination of state parties' reports; the investigation of individual and interstate complaints; and the ad hoc visits to the member states. The establishment of the African

Commission's protective mandate attests to a landmark achievement in the realm of human rights promotion and protection across the African continent. Nonetheless, effective protection remains an issue of serious concern, as the protective yield of the African Commission is said to contain several notable shortcomings³⁹. For instance, the African Commission's recommendations are not binding in nature.

7. Intersectionality and Multiple Forms of Discrimination

Domestic and gender-based violence represent global and widespread issues. Because of the prevalence of this violence in South Africa and the domino effect that this violence has on other human rights, the conversation about this must begin today. Using an in-depth comparative analysis of South Africa, Nigeria, and Uganda, this study magnifies the nations' legal mechanisms using aspects of international law that aim to hinder domestic and gender-based violence and consequently provides recommendations for South Africa. However, before these are elaborated on, it is imperative to adequately define domestic violence and gender-based violence. Indeed, a deepened comprehension of the various aspects of this violence and its entrenchment in patriarchy is elemental for the application of appropriate measures to curtail it.

Innovative and efficacious measures using international law mechanisms to curtail the significant prevalence of domestic and gender-based violence in South Africa are explored. This is imperative given how human rights are not isolated from one another, but rather form a matrix. The violation of one right resonates with the violation of another. This is acutely evidenced in the scope of domestic and gender-based violence in South Africa. Not only do these forms of violence directly violate women's rights, such as the right to life, personal security, non-discrimination, equality between men and women, and physical and mental integrity, but they also obstruct a plethora of women's additional rights that are linked to these violations. Importantly, one of the rights that these forms of violence obstruct is women's human right to participate in public and political life⁴⁰.

7.1. Race and Gender

The intersection of race and gender complicates the situation further. One cannot talk about dealings with gender-based violence in South Africa without at the minimum referring to race. Black and white race still distinguishes life choices, despite a range of activities to deconstruct apartheid. As long as poverty in this state maintains colour, so will violence. Two violent times thus coincide: apartheid marked by the division of property rights, racial

³⁹ Mario Umo, Richard Akwagiobe, Godswill Antai, C. Ekpe (2024) Transboundary Trafficking of Africans for Inhuman and Exploitative Labour: The Nigeria Experience *Kampala International University Law Journal (KIULJ)* 6 (2): 258-273

⁴⁰ Shalene Allen. "The Importance of an Intersectional Approach to Gender-Based Violence in South Africa." (2018), Paper 526 University Honor Theses, Portland State University.

discrimination, social violence, and repression, and the ongoing feminist struggle against male domination that also manifests itself through violence⁴¹. One has to describe the basic patriarchal culture to use the space in which social inequality and social and economic violence can take place. All girls are taught submission; all boys demand it. Hence, girls are rewarded for compliance and punished for empowerment. Rape goes along this continuum when men do not make up their minds to the woman's "no". Women have to be nice.

The Intimate Partner Violence (IPV) Act of 1998 merged into the Domestic Violence Act as an addendum⁴². The Domestic Violence Act (2006) was just one of numerous Acts either adopted or substantially revised in the 1990s to, as the Preamble of the Act expresses them, "place the South African legal system on the foundation laid down in the Constitution of the Republic of South Africa, 1996 (Act 108 of 1996)," to foster "freedom, equality, and dignity so that peace and security may be there for everyone." The Acts, which were adopted, shifted the definitions of most family law terms of reference to make room for the Transactions of Same-Sex Unions Act of 1996 (the recognition of the constitutionality of same-sex relationships). Domestic acts include violence within a heterosexual or same-sex relationship within a family, and children's liabilities in a family or a family. For abusers to flee only to move to another relevant territory after every violent occurrence triggered a so-called geographical restriction clause that greatly complicated the enforcement of the Order on the police and protection staff, and in several incidents, allowed the abuser to walk free⁴³. Because many offenses were not provided in the list of offenses in the Act, but also because conventional evidence of intimidation and threats was excluded, many abusers evaded conviction.

7.2. Socioeconomic Status and Gender

South African society breeds violence. It is a social plague difficult to avoid. Many women are unwilling or unable to confront the violence that has occurred against them. If safe places exist, they are few and far apart. Adults are conscious of the unending corruption, ineptness, and brutality that is entrapped within the police force. Police Officers are often not adequately trained to deal with the psychological damage that domestic violence and rape can breed, evident in the ridiculous questionnaires they make victims of rape answer⁴⁴. One can only imagine the adverse effect similar questioning would have on women who

⁴¹ *Ibid*

⁴² Peter Andrews. "Globalization, Human Rights and Critical Race Feminism: Voices from the Margins." (2000) *Journal of Gender, Race and Justice*, vol 3, p. 373.

⁴³ Paul Aidonojie, Esther Aidonojie, Godswill Antai, Collins Ekpenisi, D Ayuba. Constitutional and Legislative Frameworks for Green and Sustainable Environmental Governance in Uganda. *International Journal of Constitutional and Administrative Law*. (2025) 1(1): 1-20

⁴⁴ *Ibid*

have been beaten. Critically, this is of utmost importance to address, as within private homes is where women are most at risk.

Men learn to justify their violence through various means. From early in their lives, they are exposed to institutions and relationships that place females below their male counterparts⁴⁵. The economy places women in an exigent relationship in it; men often see co-workers in relationships with their bosses. So, they learn not to question their superiority. Culture often serves as the ideal guise, channelling and moulding their upbringing in a way that can easily shape views of superiority. Most African cultures are infused with patriarchal practices. Thus, a natural bond is created between the two as they grow. Alcohol in South Africa is another key concern. With prominent indigenous beer-drinking rituals, the availability and consumption of beer have increased exponentially. Also, the government's withdrawal of television advertising⁴⁶, which once raised pertinent issues such as domestic violence, has lowered the general understanding of the issue. Men are taught to regard women as their possessions, that they are entitled to control them, or even worse, the existence of legitimate subjugation; family structures with the father's authority being seen to always win⁴⁷. In addition, in an economy with a chronic gender pay gap, even if some women are working, the stereotype is rendered in the mind of a man as the family being of no social or essential reward. This leaves wives in danger of being harmful by keeping a home with too poor resources and worse in a relationship that has no beneficial returns. Women nowadays are becoming a growing threat to men's patriarchal world. The adversities brought forth by economic hardship are noticed to affect women only, thus providing them with a threat to the male social structure. Consequently, an outcry for inferiority is heard more and more as a demand from men. Professional success in the world often proceeds from quick action and exact planning of what they desire. Ever hard-working, the more fruitful the better, threats to the rapidly diminishing glass ceiling he has imposed. Without combating the current men paradigms towards women, even the most committed government interventions will not deter the plague of violence that overshadows South Africa.

8. Challenges and Gaps in International Legal Frameworks

International policy responses to domestic violence and gender-based violence offer a comparative perspective on legal precedence for addressing these issues. Since the 1990s, the international legal landscape has evolved considerably to address domestic and gender-based violence, as these have continued to be a major impediment to equality worldwide.

⁴⁵ *Ibid*

⁴⁶ Loretta Ogu, Jacob Enyia, Godswill Antai. Rights and Challenges Impacting the Protective Framework for Financial Technology Consumers in Nigeria, (2024). IJEBM 1 (1): 323-340.

⁴⁷ Jennifer Wriggins. *Domestic Violence and Gender Equality: Recognition, Remedy, and (Possible) Retrenchment* (2018). University of Toledo Law Review, Vol. 49, 2018. 5-6

Violence against women is broad and rooted in historical power imbalances between men and women. The post-Beijing period starting in 2010 has seen renewed institutional engagement, though the jury is out on their effectiveness. Academic research on the gendered legacies of liberation struggles remains unexplored. This is a particularly rich vein to mine as law is often at the spear tip of addressing gender inequality. Similarly, across sub-Saharan Africa, many nations face similar struggles to guarantee equality to the majority of the population due to the consequences of colonial and apartheid history⁴⁸. This is a particularly good case to study as the legal responses to domestic and gender-based violence demonstrate both significant breakthroughs, but also major gaps in changing socio-cultural norms. Evolution in soft-law and hard-law initiatives to strengthen the prevalence, prosecution of, and amendment against domestic and gender-based violence are analysed, drawing on a priori hypotheses. Focusing on South Africa, which is particularly interesting because of the dual legacy of legal progressiveness and yet entrenched system deflation, and comparing this progress to developments in peers Nigeria and Uganda, the following patterns emerge.

8.1. Enforcement Mechanisms

International law is one of the various legal structures that countries use to advance norms and agreements both horizontally and vertically. While international law formulates global and regionally specific norms, its usage varies at the national or domestic level. This paper attempts to gauge the efficacy of international legal processes in checking domestic and gender-based violence using South Africa, Nigeria, and Uganda as case studies. These countries were chosen because of their geographic and legal trajectories. The study found that while there are areas where these countries have improved their culture, resources, and practices, there is not congruent engagement with or the necessary effectiveness in enforcement mechanisms.

The paper found a trend of symbolic ratification of apparatuses for addressing domestic and gender-based violence in line with the Convention on the Elimination of All Forms of Discrimination Against Women⁴⁹. However, the way this has played out is through states creating policies and laws of signification. In continuation, there are domestic coalitions of civil society organizations either holding state and other actors to account or vice versa. Yet, the efficacy of these is much more contested. How far international law is implemented or internalized needs analysis that interrogates usage within countries through standardized indicators of impression, incidence, and impact. Most often by governments

⁴⁸ Hannah Britton and Lindsey Shook. "I Need to Hurt You More": Namibia's Fight to End Gender-Based Violence." (2015). University of Kansas Press p. 35

⁴⁹ V. Hernandez. "A Qualitative Case Study on the Domestic Violence Act, 2007 (732) and The Convention on the Elimination of All Forms of Discrimination Against Women." (2018). *Masters Theses 1171 USCFA Edu*

or in agreement with multilateral financial institutions, international legal mechanisms are used in resource diplomacy, conflicts, and private enterprise.

8.2. Resource Allocation

International human rights law guarantees women The Right to live free from violence; international treaties and conventions expressly prohibit violence against women and oblige national governments to eliminate it in all of its forms. The Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW) requires states parties "to take all appropriate measures, including legislation to modify or abolish existing laws, regulations, customs, and practices which constitute discrimination against women." This includes "to take all appropriate measures to eliminate violence against women." Referred to as VAW, gender-based violence (GBV) is the most prevalent human rights violation worldwide and the most embarrassing of human rights atrocities, affecting women and girls globally at all ages and in all societies, regardless of ethnicity, socio-economic status, religion, education, or nationality. Human rights doctrines and conventions have long recognized that violence against GBV is a form of discrimination, and must be criminally prosecuted as such⁵⁰.

Increased levels of legislation, particularly in South Africa, are not necessarily indicative of rule enforcement or institutional culture change. Legislation is necessary but not sufficient for elimination; how budget analyses and gender resources directly impact the TG measures and implementation in South Africa, Nigeria, and Uganda. An analysis of budget allocations and expenditures concerning the TG is warranted. Beyond examining the legislative frameworks, a second necessary step in investigating the actual performance of states in preventing, mitigating, and redressing GBV is to scrutinize the allocation of resources. International legal standards must be domesticated in state legislation to have any practical effect; this, in turn, necessitates financial appropriation⁵¹. The capacity of states to fulfil treaty obligations rests not merely on amending disjunct legislative provisions but also on devising coherent budgets in support of those provisions. Although cross-disciplinary studies have begun to emerge, significant research gaps remain unanswered in order to respond meaningfully and effectively to GBV⁵².

⁵⁰ Anne Hellum, Julie Stewart, Shaheen Ali, Amy Tsanga. *Human Rights Intersecting Plural Legalities and Gendered Realities*, (2007). Weaver Press. P. 78.

⁵¹ Amy Tsanga. *Taking Law to the People: Gender, Justice and Legal Empowerment in Africa*, (2009). Weaver Press. 92-94.

⁵² Clarissa Bencomo, Emily Battistini, Terry McGovern. "Gender-Based Violence Is a Human Rights Violation: Are Donors Responding Adequately? What a Decade of Donor Interventions in Colombia, Kenya, and Uganda Reveals." (2022). ncbi.nlm.nih.gov

9. Best Practices and Success Stories

Gender-based violence is now recognized universally as a violation of human rights⁵³. Even so, its status in international law has not always been certain. Historically, questions of violence perpetuated in the home or within family relationships were viewed as beyond the reach of governments. This disingenuous distinction has come under sustained challenge by a remarkable proliferation of documents and “best practices” directed at violence against women around the globe, sponsored both by the legislative bodies of regional unions and several instruments of the United Nations⁵⁴.

Brutal cultural practices cannot justify severe acts of physical violence against one’s kin, whether originating from intimate partner relationships or within a family environment. Gender-based violence includes spousal abuse and it may even consist of female circumcision, rape as a tool of warfare, and domestic homicide. Unfortunately, many victims feel threatened to report these cases to the police⁵⁵. Outrage and media exposure helped reassess personal prerogatives, seeing abusive relationships as a health issue deserving the State’s attention and services. This incident symbolizes the ongoing tragedy of these avoidable deaths and also showcases the positions that governments and civil society can adopt regarding them. shows that such events receive an unrivalled media coverage and contribute to addressing normative deficits. Even after being declared non-profiled, the emotion of this story still fetches daily press coverage in South African newspapers. Predating her killing, however, she told her family she felt unsafe with her boyfriend, that her “hurts” her and wants to exhibit more aggression to deter him. This worrying revelation, by a notable public figure in South Africa, led to further media exposure on the circumstances women are relegated to regarding inferiority and the difficulty of leaving an abusive relationship.

Success stories and ‘best practices’ in addressing domestic violence and the violence against women were compiled from various documents prepared by regional and international organizations and others produced by the governments of South Africa, Nigeria, and Uganda. A comparative analysis facilitated the discernment of some possible patterns and recommendations. Organs of the AU have instated the Protocol to the African Charter on Human and Peoples’ Rights of Women in Africa, a specifically intended document, also known as the Maputo Protocol. Other bodies, such as the EU, have signed numerous conventions, the most notable of which is the United Nations Convention on the Elimination of All Forms of Discrimination Against Women. The Office of the High Commissioner for Human Rights created an electronic platform for good practices to be

⁵³ *Ibid*

⁵⁴ J Cillers, J Schunemann, J Moyer. Power and Influence in Africa: Algeria, Egypt, Ethiopia, Nigeria and South Africa, (2015). African Futures Paper No. 14. 22-23

⁵⁵ *Ibid*

shared in August 2014, with contributions being gathered from permanent missions, governmental bodies, international organizations, civil society, and national human rights institutions. Each contribution briefly showcases activities of merit, followed by contacts and additional documentation. Over 120 submissions were gathered, covering a wide array of topics, from addressing discrimination with regard to employment opportunities to prevention and punishment of harmful traditional practices. Impressive as this may be, the best practices platforms of the EU and the Council of Europe have included a broader range of documented initiatives. Sinful financial stipulations congealed an interest in these African nations' experiences regarding a dire social problem. Decently gathered research has been collected on domestic violence itself and the nations' legal and physical implications against it, providing vital settings for understanding the intricate problem under scrutiny.

9.1. Effective Implementation Strategies

The purpose of this article is to examine both the role that international human rights law can play in effectuating domestic legal change addressing domestic and gender-based violence, as well as the obstacles to successful reform presented by the highly gendered nature of the legal profession itself and the culture in which it is embedded. This will be accomplished through a comparative analysis of three African common law countries South Africa, Nigeria, and Uganda chosen because of the varying degrees of their commitments to international legal systems of human rights, which in turn is reflective of 3 different levels of development and infrastructure, their changing roles in regional politics, and the different approaches of applying the international instruments within domestic legal frameworks or relying on substantive domestic provision, respectively determined by each legal system's relationship to noted international legal systems of human rights. Also considered will be implications for the effective implementation of international human rights law in other developing countries arising from the (in)directly comparative method, the findings obtained from the comparison, and from insights gained regarding common exceptions to the rule amongst countries in the Global South⁵⁶.

To facilitate the discussion of the success or failure of implementing certain international and regional norms, the focus will be on the most widely ratified instruments that tackle domestic and gender-based violence: the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), and the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (the Maputo Protocol), recognized as creating obligations for member states against domestic and sexual violence in the continent with the highest rates of both. It is through these focal instruments that international norms established by vested (rights-based) parties shall have been expressly adopted, on a consensual basis, by the majority of states party to each legal body, and which

⁵⁶ *Ibid*

are then encoded into binding obligations affecting variations of expansive technical and procedural consequences⁵⁷.

9.2. Community-Led Initiatives

In many countries, communities are expected to play a critical role in addressing social challenges, but little is known about the factors that motivate them to act. Hypothesizing that community action emerges through the combination of a perceived civil society mandate and local engagement, we examined community-led initiatives in Kenya to address domestic violence. Analysis of focus group discussions with community organisations and survivors of violence, and in-depth interviews, revealed that public demands for security and the devolution of government had increased awareness of the state's responsibilities. This was reinforced by community engagement for advice, donations, and requests for community-led action. Insufficient government support, contradictory responses, fear of retribution, community divisions, resource constraints, a lack of expertise, ignorance about the law, and the poor structural capacity of some community organisations prevented action⁵⁸. Community engagement was often superficial. These results challenge simplistic assumptions of a natural propensity for community action and offer a nuanced understanding that is relevant for community-led approaches. The importance of qualification is stressed in new analyses of the motivations and responses of community organisations and residents. In South Africa's Western Cape, informal settlement residents developed communal responses to safety and crime, including domestic violence, and occasionally negotiated initiatives to seek assistance from the police. These seldom occurred and seemed to fail, yet they reveal significant and under-acknowledged efforts by residents, based on prevalent philosophies of communal self-protection⁵⁹. Efforts were intended to address problems through collective action and support, drawing on social relationships, local authorities, practices of communal participation or self-organised policing. Yet these mechanisms may be distorted by ill-functioning or corrupt municipalities, historical patterns of unequal service delivery and police action, or by political exploitation of social divisions⁶⁰. Analysing these insights from the perspective of informal residents, this article reflects on the shortcomings of state post-apartheid reform in advancing community safety and participation. It discusses the potential policy for more enlightened approaches. Together, the findings offer a challenging view of violence, the often-hidden micro-politics of local engagement, and the

⁵⁷ *Ibid*

⁵⁸ Andrew Kamau. *Researching AIDS, Sexuality, and Gender*, (2013). Zapf Chancery Publishers Africa. 41-42

⁵⁹ Adetutu Aina-Pelemo. *Gender Discrimination and Significant Factors Enhancing Inequality in Nigeria*, (2023). Redeemer's University Nigeria, *Journal of Jurisprudence and International Law (RUNJJIL)*, Volume 3 Issue 1, 2023.

⁶⁰ Felipe Dos Santos. *Combating Gender-Based Violence through Islam, Tradition and Law*, (2008). Kachere Series. p59

mechanisms of community driven responses. They suggest that, rather than invoking victims, survivors, and communities in a technocratic response to their protection, greater emphasis should be placed on structural and democratic transformation in the restoration and extension of the social contract between the state, capital, and the citizenry.

10. Conclusion and Recommendations

Writing in the early 1970s, Friedan noted that despite an almost universal expectation of continued violence and disruption in that society most people in Northern Ireland continued to live normal lives (caring for children, keeping house, and going to work, shops, pubs, and church) almost as though the intense violence and disruption of the incipient civil war were not happening, and despite more than 300 deaths most did manage to continue to live such “normal” lives⁶¹. The “troubles” in Northern Ireland were “just about all ordinary violence,” and the presence over some 20 years of several hostile armies in Ulster absorbed, directed, and concentrated the usual violence. Italian and American mafia continue to coexist peacefully with industrial states, and English peasants in the fourteenth century continued to plough, sow, and reap amidst the incessant violence of barons and churchmen⁶². A history of extreme violence also exists, reservedly for interpretive triumphs drawn from elitist proclivities of the literary establishment in the public mind of the verbose? This is essentially Tilly’s thesis.

⁶¹ *Ibid*

⁶² S. Obiedelu. In Defense of the Gender Bills from the Cold Ears of Inequality, (2022). National Open University of Nigeria. 5