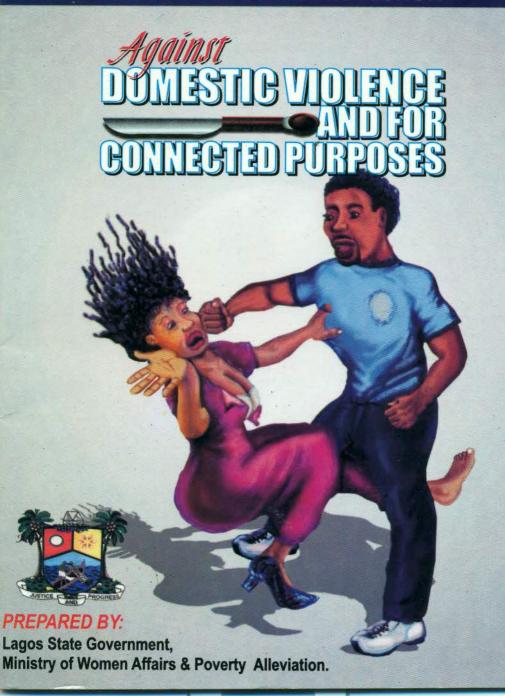
### A LAW TO PROVIDE PROTECTION



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"A LAW TO PROVIDE PROTECTION AGAINST DOMESTIC VIOLENCE AND FOR CONNECTED PURPOSES"

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#### "A Law To Provide Protection Against Domestic Violence And For Connected Purposes"

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#### **Table of Contents**

1	About the Law	1
2	What is Domestic Violence?	4
3	Who can Apply under the Law?	9
4	How to Apply?	13
5	Jurisdiction of the Court	14
6	Different orders the court can make	17
7	Roles of the Police Officers	21
8	Role of Social Workers	25
9	Role of Lawyer	27
10	Penalty	29

#### **Foreword**

#### DOMESTIC VIOLENCE LAW

Every society has standard rules of behavior which are aimed at ensuring peaceful co-existence of members and protecting the interest of those that are vulnerable due to physical, physiological, psychological or socio-economic weaknesses among others. These rules are stated and codified in documents for everyone to read and understand as ignorance is no excuse in law. This is what we have done with the *Domestic Violence Law*, which is the law that prescribes and regulates the behavior of every citizen of Lagos State in their domestic environment.

This Law is made not only to protect our women who are most times the target of domestic violence, but also to safeguard the interest of men, children, servants, maids and everyone who may be a victim of domestic violence. The legal process permitted within the ambit of the law for redressing such wrongs are prescribed, to avert the temptation of taking the laws into our own hands or seeking revenge without due recourse to legal procedures. Two wrongs only increase the casualties of the law.

The Domestic Violence Law has been written in a simple and easy to understand language and the roles of every stakeholder has been stated and explained in a systematic and easy to be interpreted manner.

I therefore urge everyone to read, study and digest this legal document, and become an officer of the law by reporting any infringement so we can stem the tide of domestic violence in the State. It is our collective responsibility and it is for our collective good.

I thank everyone who has contributed in putting this together so we can all live together in peace and harmony.

Thank you.

Hon. Adejoke Orelope-Adefulire Deputy Governor Lagos State.

## CHAPTER 1

## About The Law



A Lagos State High Court or Magistrate Court

- i. This law is a Lagos State law.
- ii The law is aimed at protecting people against domestic violence and acts of abuses in the home, regardless of sex, age or marital status.

- iii. It is not only a woman that can apply under this law. A man, a child, or a domestic worker can also apply.
- iv. It does not matter whether there is a validly contracted marriage between the victim and the perpetrator of the act as long as there is co-habitation or living together in a home setting.
- v. The law is not to dissolve a marriage. It is not a law of divorce.
- vi. It seeks to remove the perpetrator of an abuse from the venue pending the time the abuse is corrected.
- vii. Anyone who resides in Lagos State can apply under this law regardless of his/her state of origin or where he/she contracted the marriage.
- viii. The law provides for financial assistance by the state through the Office of the Public Defender/Legal Aid Council to victims of domestic violence who may be financially handicapped to seek redress in court under this law, therefore lack of

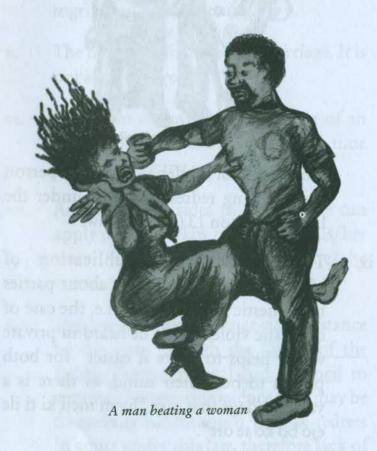


money cannot hinder an aggrieved person from seeking redress in court under the law. See section 13 (2) of the law.

ix. The law prohibits publication of identities and information about parties to domestic violence cases, i.e. the case of domestic violence can be heard in private which helps to make it easier for both parties to bear their mind, as there is a yoruba adage that says "Eyan meji ki ti ile ejo bo ko se ore".

# CHAPTER 2

#### **What Is Domestic Violence?**



Although this law does not define "Domestic Violence"; however "Domestic Violence" can be defined in general as a "violence which occurs in the home or between people who live or have lived together".

## ACTS THAT CONSTITUTE DOMESTIC VIOLENCE

Section 18(g) lists the acts that constitute "Domestic Violence." These acts include, but not limited to the following:-

i. physical abuse;

ii. sexual abuse/exploitation including but not limited to rape, incest and sexual assault;

iii. Starvation:



A starved child

iv. Emotional, verbal and psychological abuse;

v. economic abuse and exploitation;

vi. denial of basic education;

vii. intimidation;

viii. harassment;

ix. Stalking;

x. hazardous attack including acid bath with offensive or poisonous substances;



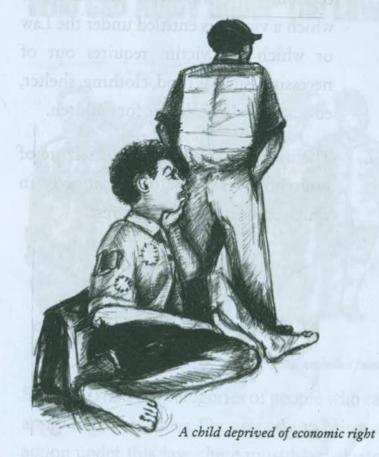
An acid bath incident

xi. damages to property;

xii. entry into the complainant's residence without consent where the parties do not share the same residence;

behaviour towards a complainant,
where such conduct harms or may
cause imminent harm to the safety,
health or well being of the complainant;
or

xiv. deprivation.



Economic abuse is a common form of abuse, but often overlooked by most people is a form of domestic violence

#### "ECONOMIC ABUSE" Includes:

- i. The unreasonable deprivation of economic or financial resources to which a victim is entitled under the Law or which the victim requires out of necessity, such as food, clothing, shelter, education, medicals e.t.c for children.
- ii. The unreasonable disposal or seizure of household effects or other property in which the victim has an interest.

# CHAPTER 3

### **Who Can Apply Under The Law?**



An extended family

S18 (I) (f) lists the categories of people who can apply under this law. For any one to bring an action under this law, there must have existed

or be in existence "a domestic relationship". Therefore, the victim and the perpetrator must be in one of the following listed relationships:

- i. Be married, which includes but not limited to marriage under:-
- (a) The Law
- (b) Native law and custom
- ii. Any resident of Lagos State whether the marriage was conducted in Lagos-State or outside Lagos-State.
- iii. Living together in nature of marriage although not married.
- iv. Also housemaids, domestic servants/staff, house keepers or unpaid licensee.
- 2. Under this law the following can also bring an application on behalf of a victim of domestic violence:
- (a) A counselor
- (b) Health service provider



A Counselor Counselling a domestic violence victim

- (c) Member of the Nigeria Police Force
- (d) Social worker
- (e) Organizations such as a Non-Governmental Organization (NGO) or a human rights organization.
- (f) Teacher.
- (g) Parent or any one who has or in the past had parental responsibility.
- (h) Family members related in any way, even by adoption.
- (i) Person who has an interest in the well being of the victim. "You can be your brother's keeper".

So by this law, people who can be tagged "busy bodies" can file an application for Domestic Violence protection as long as the victim of the domestic violence gives his/her consent or agrees with the person to file the application.

The consent of the victim will not be necessary where any of the following class of people is a victim of a domestic violence:-

- (a) A Minor, a child who has not reached the age of 18 years.
- (b) Mentally retarded, or an insane person
- (c) An unconscious person, i.e. person who fainted in the process of the violence.
- (d) A party who does not want to give consent because of fear or because he/she thinks the court may refuse his/her application, and what might happen to him/her if the application is not granted.

### **How To Apply?**

The case of domestic violence can be commenced in a Magistrate Court or a High Court of the State.

The case of a domestic violence is usually commenced by a motion on notice.

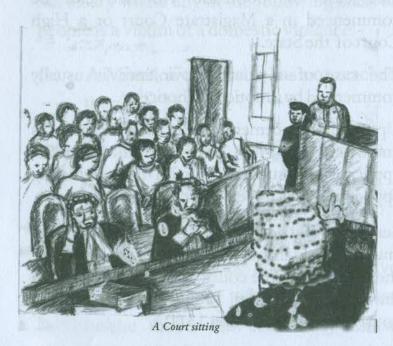
Upon commencement of the case, the court is empowered to grant an order protecting the applicant and such order with the originating application shall be served on the Respondent.

Service of any document in compliance with the law is effected through the manner prescribed by the Registrar of the court, or in accordance with the Sheriffs and Civil Processes Act or as the court shall direct (Section 13 (1)).

Once an action is commenced in a court, the victim of a domestic violence is referred to as the Complainant and the perpetrator as the Respondent.

# CHAPTER 5

#### **Jurisdiction Of The Court**



Any court within the state designated as family court has jurisdiction to adjudicate in the case of domestic violence where:

- (a) The complainant permanently or temporarily resides, carries on business or is employed in the state for any length of time;
- (b) The perpetrator of a domestic violence resides, carries on business or is employed in the state or
- (c) The cause of action arose in the state.

The law Provides that any order made by the court shall be enforceable throughout the federation irrespective of where the order was made.



Enforcement of Lagos State Court order in another State

The law empowers the Chief Judge of the state to create a special court such as a family court which shall have a counseling unit where the Complainants or Respondents, or any other party as the case may be, or as the court may deem fit to undergo compulsory period of counseling.

It further empowers the Chief Judge to set up counseling centers in each Local Government of the State which shall consist but not limited to welfare officers, professional counselors, civil servants, groups or any other relevant institution.

# Different Orders The Court Can Make

The followings are the different orders the court can make:

- i. An order to stop the Respondent from further committing any act of Domestic Violence.
- ii. An order prohibiting the Respondent from enlisting the help of another person to commit such act.
- iii. An Order restraining Respondent from entering the residence shared with the complainant.

- iv. An order restraining the Respondent from entering a specific part of the shared residence.
- v. An order restraining the Respondent from entering the Complainant's residence where they do not share residence.
- vi. An order restraining the Respondent from entering the Complainant's place of work.
- vii. An order of seizure of arm or dangerous weapon in possession of the parties.
- viii. An order compelling Police officer to accompany the Complainant to a specific place/home for the collection of personal properties.
- ix. An order removing the Complainant from the residence shared and put in a protective home.
- x. Any order that the court may deem fit for

(2) The court can grant certain maintenance orders which include but not limited to:-



A respondent complying with the court's maintenance order

- (a) Payment of house rent or mortgage
- (b) Feeding allowance
- (c) School fees for the children
- (d) Monthly expense allowance

The court can also make Orders as to the custody of a child considering the best interest of the child.

The law empowers the court to vary or set aside an order of protection earlier granted to the Complainant, where the court is so satisfied that good cause has been shown.

In furtherance to the Orders which the court can make, the court also has power to issue warrant of arrest and remand order.

The court who make its order under this law can make recourse to other relevant laws (Section 7 (7(b)).

# CHAPTER 7

#### **Roles Of The Police Officers**



A Police officer making an application in a court

1. (a) A police officer may without warrant of arrest, arrest any domestic violence perpetrator at the scene of the domestic

The colore can also make Orders as to the custod,

- violence, where the police officer reasonably suspects the domestic violence perpetrator of having committed an offence which falls within the definition of domestic violence. (See Section 4).
- (b) Under this law, it is the duty of Police officer to enforce all orders made by the court and to effect arrest where order for such is made.
- (c) Section 2 (3) provides that a Police officer may bring an application to court on behalf of a Complainant.
- (d) Section 8 (4-6) Provides that where the Respondent has breached an Order of Protection issued by the court to the Complainant, the Complainant may hand the warrant of arrest issued by the court for such contravention to a police officer.
- (e) A Police Officer has duty not to refuse to institute a prosecution or withdraw a charge in respect of contravention of section 15(a) of the law, unless he or she has been authorised by the Attorney General of the State (See Section 16)

#### 2. The police officer shall:-

(a) Make an arrest on the Respondent where there is sufficient reason to do so.



An officer making an arrest

- (b) And where there is no such sufficient reason to arrest the perpetrator, the Police officer shall serve a written notice to appear in court on the specified date and time.
- (c) Shall forward a copy of the notice to be served to the Registrar of the court.
- (d) Shall inform the complainant of his or her right to lay a criminal charge against the Respondent and the process of bringing such criminal charges.



A Policeman seizing dangerous weapon from the perpetrator

A police officer shall seize any weapon of threat from the Respondent or either party to the domestic violence act, where there was a threat or intention to kill, injure or harm himself or any other party in a domestic relationship (see section 9).

The Police officer is required to hand over such seized weapons to the Nigeria Police Force and must be kept in accordance with the law.

The weapon may be returned to the owner only on the Order of the court.

#### **Roles Of Social Workers**



A Social worker counseling a victim

Social workers include but not limited to:

- a. Guidance and Counselors;
- b. Health care officers;
- c. Psychologists and Psychoanalysts;
- d. Career counselors; etc

- 1. Under this law it is the duty of the social workers to counsel, monitor and follow up the parties to a domestic violence case from the time when the court gives an order until such an order/orders are vacated.
- 2. The law empowers this category of people to commence an action on behalf of a victim of domestic violence where the need arises.

## Roles Of A Lawyer



A victim briefing a Lawyer

1. It is the duty of a lawyer to ensure that a victim of a domestic violence gets justice.

2. The lawyer is expected to advise the victim on the options available to him/her, such as filing an application in court, getting relief from the appropriate Government Agencies such as alternative accommodation, police protection etc

It is not mandatory to get a lawyer, but it is advisable, since a lawyer would be more familiar with court procedures and would always ensure compliance and proper implementation of the court Order.



A Lawyer representing a victim in a Court

### netroe?) drod to Penalty mi may ano



An offender facing penalty

1. Where a party disobeys the Order made by a court, the court shall impose a fine of N100, 000.00 or an imprisonment of not more than five years or both.

- 2. Where the court proceedings are published or the name(s) of the parties are published against the provision of Section 11 (2) of the law, such a publisher shall be guilty of an offence and liable to pay a fine of N20,000.00 or one year imprisonment or both (Section 15 (b)).
- 3. Section 15 (c) provides that any person who willingly makes a statement that is not true in an affidavit is guilty of an offence and shall be liable upon conviction to a fine of N20,000.00 or imprisonment for a period not exceeding one year or to both.