

## Women's Interest Network

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This article reviews selected developments during the year 2012.<sup>1</sup>

### I. CEDAW

The Convention on the Elimination of all forms of Discrimination Against Women (CEDAW)<sup>2</sup> had 187 parties as of the end of 2012.<sup>3</sup> The United States signed CEDAW on July 17, 1980, but it still has not ratified it.<sup>4</sup> The only other nation to have signed CEDAW but not yet ratified it is the Republic of Palau, which signed CEDAW on September 20, 2011.<sup>5</sup>

On July 18, 2012, the Government of Thailand notified the U.N. Secretary-General that it was withdrawing its reservation exempting Thailand from CEDAW Article 16,<sup>6</sup> a provision dealing with equality between the sexes in marriage and family life.<sup>7</sup> By withdrawing its reservation, Thailand thus now considers itself bound by Article 16. The Committee on the Elimination of Discrimination Against Women considers Article 16 to be one the core provisions of CEDAW.<sup>8</sup> The Committee has also stated that “reserva-

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1. For earlier developments in this field, see Madeleine Giansanti Çağ, *Women's Interest Network*, 44 INT'L LAW. 415 (2010).

2. Sept. 3, 1981, 1249 U.N.T.S. 13 [hereinafter Convention].

3. *Status of the Convention on the Elimination of All Forms of Discrimination Against Women*, U.N. TREATY COLLECTION, [http://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg\\_no=IV-8&chapter=4&lang=en#1](http://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-8&chapter=4&lang=en#1) (last visited Feb. 8, 2013).

4. *Id.*

5. *Id.*

6. *Id.*

7. Convention, *supra* note 2, art. 16(1) (requiring state parties to “take all appropriate measures to eliminate discrimination against women in all matters relating to marriage and family relations” and enumerating a list of specific rights to “ensure, on a basis of equality of men and women”).

8. *Reservations to CEDAW*, UN DIVISION FOR ADVANCEMENT WOMEN, <http://www.un.org/womenwatch/daw/cedaw/reservations.htm> (last visited Feb. 7, 2013) (“Articles 2 and 16 are considered by the Committee to be core provisions of the Convention. Although some States parties have withdrawn reservations to those articles, the Committee is particularly concerned at the number and extent of reservations entered to those articles.”).

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tions to [A]rticle 16, whether lodged for national, traditional, religious or cultural reasons, are incompatible with the Convention and therefore impermissible and should be reviewed and modified or withdrawn.”<sup>9</sup> Thailand was the only nation to withdraw its reservation to Article 16 during 2012.

## II. Protocol on the Rights of Women in Africa

In 2003, the African Union adopted a Protocol to the African Charter on Human and People’s Rights on the Rights of Women in Africa.<sup>10</sup> That Protocol provides a framework for several matters—including measures to punish violence against women—that are slowly being implemented.

The Protocol defines “violence against women” to mean:

all acts perpetrated against women which cause or could cause them physical, sexual, psychological, and economic harm, including the threat to take such acts; or to undertake the imposition of arbitrary restrictions on, or deprivation of, fundamental freedoms in private or public life in peace time and during situations of armed conflicts or of war.<sup>11</sup>

The Protocol on the Rights of Women in Africa calls upon state parties to “integrate a gender perspective in their policy decisions, legislation, development plans, programmes and activities and in all other spheres of life.”<sup>12</sup> It calls upon state parties to “adopt and implement appropriate measures to ensure the protection of every woman’s right to respect for her dignity” as well as the “protection of women from all forms of violence, particularly sexual and verbal violence.”<sup>13</sup> The Protocol also requires state parties to undertake “appropriate and effective measures” in the following areas relating to domestic violence:

- (a) enact and enforce laws to prohibit all forms of violence against women, including unwanted or forced sex, whether the violence takes place in private or public;
- (b) adopt such other legislation, administrative, social, and economic measures as may be necessary to ensure the prevention, punishment, and eradication of all forms of violence against women;
- (c) identify the causes and consequences of violence against women and take appropriate measures to prevent and eliminate such violence;
- (d) actively promote peace education through curricula and social communication in order to eradicate elements in traditional and cultural beliefs, practices, and ste-

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9. *Id.*

10. *Ratification Table: Protocol to the African Charter on Human and Peoples’ Rights on the Rights of Women in Africa*, AFR. COMMISSION HUM. & PEOPLE’S RTS., <http://www.achpr.org/instruments/women-protocol/ratification/> (last visited Feb. 8, 2013). The African Charter Protocol on the Rights of Women in Africa was adopted by the Meeting of Ministers, Addis Ababa, Ethiopia on March 28, 2003, and the Assembly of the African Union at the second summit of the African Union in Maputo, Mozambique, on July 21, 2003. *Id.*

11. African Union [AU], Protocol to the African Charter on Human and Peoples’ Rights on the Rights of Women in Africa, July 11, 2003, art. 1, *available at* <http://www.achpr.org/instruments/women-protocol/>.

12. *Id.* art. 2(c).

13. *Id.* art. 3.4.

- reotypes that legitimize and exacerbate the persistence and tolerance of violence against women;
- (e) punish the perpetrators of violence against women and implement programmes to rehabilitate women victims; and
  - (f) establish mechanisms and accessible services for effective information, rehabilitation[,] and reparation for victims of violence against women.<sup>14</sup>

The Protocol also requires state parties to “take all necessary legislative and other measures” to protect “women who are at risk of being subjected to harmful practices or all forms of violence, abuse and intolerance.”<sup>15</sup> A right to be free from violence is also specifically recognized for elderly women<sup>16</sup> and women with disabilities.<sup>17</sup>

### **III. Implementing the Protocol on the Rights of Women in Africa: The Lagos Domestic Violence Law**

Implementing the Protocol on the Rights of Women in Africa has been slow, particularly in the case of domestic violence against women. Lagos State in Nigeria enacted a domestic violence law in 2007, one of the few states in Nigeria to have such a law. But even though more than five years have passed since the Lagos domestic violence law was enacted, its specific provisions remain a mystery to many lawyers, magistrates, and domestic violence victims.<sup>18</sup> And even when police officers in Lagos State are aware of the law, some of those officers do not enforce the law but instead send women back to their homes “to settle with their husbands.”<sup>19</sup> Efforts were made during 2012 to improve understanding of the law and its proper implementation.

The Lagos State Domestic Violence Law of 2007 defines “domestic violence” broadly as:

acts against any person; physical abuse, sexual abuse, exploitation including but not limited to rape, incest and sexual assault, starvation, emotional, verbal and psychological abuse, economic abuse, denial of basic education, intimidation, harassment stalking, hazardous attack including acid bath with offensive or poisonous substance, damage to property, entry into the complainants 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.<sup>20</sup>

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14. *Id.* art. 4.2.

15. *Id.* art. 5(d).

16. *Id.* art. 22.

17. *Id.* art. 23.

18. *E.g.*, David Olagunju, *Magistrates, Lawyers Advocate Implementation of Lagos Domestic Violence Law*, NIGERIAN TRIBUNE (Mar. 19. 2012), <http://tribune.com.ng/index.php/tribune-law/37823-magistrates-lawyers-advocate-implementation-of-lagos-domestic-violence-law>.

19. *Id.* (noting that Ayilara Olukayode, the Area Crime Officer of Area M Police Headquarters in Lagos, stated that “most police officers do not think that they should wade into domestic matters and usually [send] the complainants home[] to go settle with their husbands” and that with “being a family matter,” police officers normally “only interfere when such domestic issues become a criminal matter”).

20. Protection Against Domestic Violence Law (2007) Cap. (15), § 18(l)(g)(i)-(xiii) (Nigeria).

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This domestic violence statute applies broadly to family relationships such as marriage under any law, custom, or religion as well as cohabitation and even courtship.<sup>21</sup>

The Lagos domestic violence “law empowers police officers to arrest without a warrant any person reasonably suspected of having committed an offense containing an element of domestic violence.”<sup>22</sup> Detentions and arrests must be in accordance with the Nigerian Constitution.<sup>23</sup> The law permits courts to issue interim protective orders (IPOs) to prohibit respondents from committing any acts of domestic violence on the complainant, enlisting the help of others to do violence against the complainant, and establishing rules about entering a residence shared with the complainant.<sup>24</sup> A breach of a protective order can result in five years’ imprisonment or a fine of 100,000 Nigerian Naira (approximately US \$640).<sup>25</sup> The court can also order police to seize any dangerous weapons or to escort the complainant to collect personal property from a shared residence.<sup>26</sup> Other legal protections and remedies may be available.<sup>27</sup>

Several events were held in Lagos during 2012 to promote understanding of the domestic violence law as well as to shed light on the extent of domestic violence in Nigeria.<sup>28</sup> One report estimated that between one-half to two-thirds of Nigerian women are subject to domestic violence in their homes.<sup>29</sup> Many women and girls are unable to escape domestic violence because of their disadvantaged economic status.<sup>30</sup> A “culture of silence” also “stigmatizes the victims of domestic violence rather than the perpetrators.”<sup>31</sup> And problems remain when discriminatory customary practices and legal frameworks (such as section 55 of the Nigerian Penal Code<sup>32</sup> and section 295 of the Nigerian Criminal Code<sup>33</sup>) indirectly encourage some forms of violence against women. Until such laws are repealed, and until laws such as the Lagos law against domestic violence are fully implemented to protect victims of domestic violence, the unacceptable situation of domestic violence will remain a serious concern.

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21. *Id.* § 18(I)(f).

22. *Overview/Simplification of the Protection Against Domestic Violence Law 2007 by BAOBAB for Women’s Human Rights*, BAOBAB FOR WOMEN’S HUM. RTS., 1 [hereinafter BAOBAB], available at [www.baobabwomen.org/PADVL.doc](http://www.baobabwomen.org/PADVL.doc).

23. *Id.*; see also Olagunju, *supra* note 18.

24. See BAOBAB, *supra* note 22, at 1-2.

25. *Id.* at 2.

26. *Id.*

27. See *id.*

28. See, e.g., Adebisi Onanuga & Joseph Jibueze, *Domestic Violence and Rule of ‘Protective’ Law*, THE NATION (Mar. 27, 2012), <http://www.thenationonlineng.net/2011/index.php/law/41091-domestic-violence-and-rule-of-protective-law.html>.

29. Leonie Taylor, *Domestic Violence: The Problem Pervading Nigeria*, THINK AFR. PRESS (Mar. 14, 2012, 11:45 AM), <http://thinkafricapress.com/nigeria/domestic-violence-problem-pervading>.

30. *Id.*

31. *Id.* (“[W]omen were told to go home and be a good wife when they brought complaints to the police, making women fear the label of being a bad wife.”) (punctuation omitted).

32. Under section 55 of the Penal Code of Northern Nigeria, husbands are permitted to beat their wives provided it does not rise to the level of “grievous hurt.” Penal Code (Northern States) Federal Provisions Act (1990) Cap. (345), § 55 (Nigeria).

33. Section 295 of the Nigerian Criminal Code (South) provides that “[a] blow or other force, not in any case extending to a wound or grievous harm, may be justified for the purpose of correction . . . .” Criminal Code Act (1990) Cap. (77), § 295 (Nigeria).