



E-ISSN: xxxx-xxxx
P-ISSN: xxxx-xxxx
IJCCSL 2021; 1(1): 17-27
© 2021 IJCCSL
www.criminallawjournal.org
Received: 09-11-2021
Accepted: 13-12-2021

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Combatting domestic violence under international law: Assessing the various legal inconsistencies frustrating the protection of women rights in Cameroon

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Abstract

The notion of violence especially on the rights of women has been plagued with lots of plausible euphoria jeopardizing the initial rational and objective of the human rights placement, that of ensuring that everyone should be treated with respect and fundamental dignity. The situation has become appalling and frustrating as women encounter violations on their various status and rights, making them becoming subjects of ridicule. Willing to ensure the recognition and protection of women, Cameroon has adopted a series of international, regional and national laws aiming at ensuring a safe and secured environment for the protection of women rights and status. Regardless of the various measures set by the country, the notion of domestic violence appears to be more of a pandemic than a curable substance as issues of women protection are concerned. This article is of the opinion that the concept of domestic violence in Cameroon is accelerating as most women are still treated as an object of commodity in the eyes of many. There is a continuous violation of women rights especially in aspects of sexual violence and discriminatory practices meted on women. This situation has become worrisome, as many question the future of women rights in Cameroon as issues of sexual violence escalate, thus affecting tremendously the prestigious status to be occupied by women in the society. In answering the above question and hypothesis, there will be the need to evaluate the domestic violence climate in Cameroon by questioning the complexities in the country on issues related to combatting domestic violence, and examining the way forward. It is convenient beyond all reasonable doubt that, sexual violence continue to be a hard nut to crack notwithstanding all the impressive efforts put in place by the government of Cameroon in ensuring its fight. To this set, it is advisable that more efforts, mechanisms and methods should be invested by the government of Cameroon to establish a favourable climate and environment in the protection and preservation of women rights and status in the country.

Keywords: Combatting, sexual violence, Cameroonian law, violations, women rights

Introduction

Women in every given society are treated as abandoned commodities and sometimes susceptible as to what they represent. Notwithstanding the modern conception and advancement, women continue to be treated inhumanely, unsympathetically and callously, and this has affected both their status and rights acquired in the society. Several human Rights instruments, amongst which, the Universal Declaration of Human Right 1948, the Convention on the Elimination of all Forms of Discrimination Against Women, MAPUTO Protocol, African Charter on the Welfare of the Child, and hosts of others have condemned the illegal practices experienced by women on the international scene which has portrayed devastating impact and effect on the status they represent in the society. Regardless of the laudable efforts initiated and set by these instruments, the rates of violation of women rights are increasing and rampant. The international community continue to experience violation done on women rights, examples being, Female Genital Mutilations, Sexual Harassment, Voluptuous Abuses, Rape, widow practices and many other harmful practices. These inhuman, violent and unredeemable practices experienced by women on the international scene are not exempted in Cameroon. Cameroon as a State of Law, dedicates great efforts in certifying that women anguishing from the effects of violence should be protected. In exercising these efforts, the country has ratified a series of international, regional and even sub-regional laws combating violence done to women. Cameroon's dedication in this fight is even more observed in the enactment of National laws such as the Constitution, the Penal Code, Labour Code, Civil Status Registration Ordinance, Civil Code and many others. However, it is surprising despite of the various laws initiated in Cameroon, there exist to date no concrete and concise particular law handling matters of domestic violence.

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The absence of such peculiar law has created a huge impact on women status as we continue to experience an increasing violence on women in the country. The situation of child marriage, Female Genital Mutilation, Breast Ironing, Widow Practices, Property Discrimination, continue to be a nightmare in the country irrespective of the efforts introduced by competent authorities like the State through its ministries, NGOs, Civil Society, and other Women Rights Advocate Group advocating for the elimination and eradication of all forms of violence done to women. These efforts and contributions have been ignore as it has produces little to no interest in matters relating to women rights and status. There is no doubt that, issue of violence is not only experienced in Cameroon. Indeed, the international Community continues to be affected in this capacity. The question posed is in ascertaining whether this continuous silent crime done to women can be eradicated? Will women in their status and rights experience security on their established identity? In its entire ramification, the story of violence experienced by women will be an unacceptable forum to say without terror that the women will be free from bondage of violence on their various statuses. This is really an oblivious hallucination. Women violence is a deeply rooted problem that exists in every country in the world ^[1]. For the most part, nevertheless, the international community has yet to create operational legal standards that will exclusively address the problems and intricacies experienced by the fight against domestic violence. Notwithstanding this unfortunate emptiness, the rights of battered women may be asserted under international and regional human rights conventions that are legally binding upon ratifying states. The International Bill of Human Rights comprised of the Universal Declaration of Human Rights ^[2] the International, Covenant on Civil and Political Rights ^[3] and the International Covenant on Economic, Social and Cultural Rights ^[4] sets forth general human rights standards that victims of domestic violence may invoke against their state of citizenship. That is, battered women who have exhausted all domestic remedies and who still find that the State has failed to adequately address their grievances, may hold the State liable if that State is a party to the above instruments. The same can be done under the Convention on the Elimination of All Forms of Discrimination against Women ^[5] together with its Optional Protocol, ^[6] and under the Convention against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment ^[7]. Likewise, regional instruments may offer protection for battered women. The European Convention for the Protection of Human Rights and Fundamental Freedoms ^[8], the American Convention on Human Rights ^[9] together with the Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women ^[10], and the African Charter on Human and Peoples' Rights ^[11] are the major regional human rights documents invoked for victims of domestic violence. The most critical failing of the institutions discussed below is the lack of adequate enforcement. That is, while some of the international and regional ^[12] courts are capable of rendering binding decisions, the ultimate responsibility lays with the States' Parties to the various conventions to implement these decisions. Domestic violence is one of the numerous forms of violence against women that have been identified worldwide. The United Nations defined the term "violence against women" in a 1993 Declaration as "any act of gender-based violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women,

including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or private life ^[13]." The Declaration further notes that violence against women can occur within the family or within the general community and that it may be condoned or perpetrated by government officials ^[14]. Having included domestic violence as a form of violence against women, the United Nations further explained that, the term 'domestic violence' is used to describe actions and omissions that occur in various relationships.

Cameroonian laws also have provisions that protect human rights. Firstly the Constitution of Cameroon of 18 January 1996 in its preamble mentions a good number of human rights under the Universal Declaration on Human Rights and especially those to the African Charter on Human and People's Rights. Subject to the provision of law No 2008/001 of 14 April to amend and supplement law No 96/06 of January 18, 1996 amending the Constitution of June 2, 1972 on the Constitution of the Republic of Cameroon in its preamble states that, we, the people of Cameroon,

Declares that persons without distinction as to race, religion, sex, or belief pose inalienable and sacred rights. Affirm our attachment to the fundamental freedom enshrined in the Universal Declaration On Human Rights, the African Charter On Human And People's Right and all duly ratify international convention relating thereto, in particular the following principles ^[15].

All persons shall be equal before the law part 1 article 1(1), the citizens shall have equal right to vote at the age of 20 years and above article 2(3) ^[16] no person shall be subjected to torture, cruel inhuman and degrading treatment, the State shall guarantee all citizens of either sex their rights and freedom, no person shall be arrested on ground of origin, religious, philosophical or political opinion or believe subject to public order ^[17]. The Penal Code in art 278 states that no person is entitled to torture, physical and moral integrity, it also protects the right to life. It also states that serious injury caused by assault art 279, Slight Injury art 281, Simple Injury art 280 are punishable except in cases of self-defence if provided by the law ^[18]. The Civil Status Registration Ordinance subjected to law No 2011/011 of 6 May 2011 amending and completing some provisions of Order No 81/02 of 29 June 1981 on the organization of the civil status registration and various aspects relating to the physical person in section 77(2), states that upon the death of the husband, the heir to the husband has no right to control the widow on how to dispose her husband's property, she can remarry after the 180 days of widowhood without laying hands or claims on the husband's property ^[19]. The Civil code ordinance 81/02 of 29 June 1981 in its article 65 states that consent to marriage shall not be obtained through force, threat or abuse. Women are given the right to initiate divorce justified by adultery or domestic violence art 229 - 246. Thus the law protects women rights ^[20].

The Penal Code also prohibits forced marriages and punishes the offender with imprisonment and a fine art 356 of the 1981 law. It also punishes sexual harassment from six months to one year imprisonment and a fine of 100,000FRS and punishes sexual assault from to an imprisonment from 5 to 10 years ^[21].

In article 277/01 of the 2016 law sexual harassment, female genital mutilation is punishable from 10 to 20 years imprisonment and a fine and such penalty may increase for the recidivist and if it led to the death of the victim ^[22].

In Cameroon, the important attention given to local traditions has affected women so badly in that traditions don't give as much protection as modern equality laws. The Constitution upholds the principle of gender equality but there are several obstacles to gender equality. Beside the fact that there are rules relating to women's legal status reflecting social attitude affecting the human rights of women, such laws have direct impacts on women's ability to exercise those rights, regarding the legal context of the family life. Cameroon laws affecting women's socio-economic status, access to education, to labour market, and politics contribute to violence against women and their access to redress and reparation. In customary laws, the judges are mostly men and they believe that women live to respect their decisions. They can have many wives, mistresses and even commit adultery yet the customary law does nothing. With such acts, they tend to foster inequality and promote men domination thus leading to suppression of the women, the degrading their status prejudice to her position and property^[23]. Domestic violence whether it is perpetrated by private or state actors constitutes a violation of human rights^[24]. It is the duty of the State to ensure that there is no impunity for perpetrators of such violence.

I. Analysing the Various Legal Uraemia Scrupling Combatting Domestic Violence in Cameroon

There is no doubt that the State of Cameroon has initiated laudable efforts in ensuring that issues of domestic violence are waned and even eradicated in the country through its countless laws and instruments may they be international, regional, or domestic. The situation gets appalling and frustrating as the female gender continues to experience gross violations of its fundamental rights and status, thus making the various legal instruments of an absolute questionable character. The question one will need to ask is to ascertain and find out the real problem on the legal platform that has made issues of domestic violence more of a pandemic than an epidemic with the possibility of being curable of all ailments and misfortune. This is a real twisting euphoria difficult to handle.

A. The discrepancy in various instruments

The tendency is that there are so many instruments illustrating and combatting matters and issues of violence against women at the international, regional and Cameroonian level. We have a plethora of these instruments in all areas. Take a good look at the international level where we have the 1948 Universal Declaration of Human Right, the 1966 international Covenant on Civil and Political Right, the International Covenant on Economic, Social and Cultural Right 1966, the Convention on the Elimination of all Forms of Discrimination Against Women, the Convention Against Torture, the Convention on the Right of the Child and a host of others international laws to which Cameroon has not only signed but equally ratified. Even at the Regional level, we have the African Charter on Human and People's Right, the Convention on the Welfare of the Child and even the Maputo Protocol in which all are dealing with violence against women and the need for States in respecting these laws and provisions set^[25].

Looking also at the domestic level, many laws and instruments have been enacted like the Cameroon Constitution, Penal Code, Civil Code, Labour Code, Civil Status Registration Ordinance, Southern Cameroon High Courts Law and a series of proliferated laws in dealing with

issues of domestic violence or violence against women. We are not saying that those laws are not essential, they are, and are commendable and recommendable efforts of the State of Cameroon in setting beautiful laws and legal initiative in handling violence of women. The 1996 Constitution equally provides that all duly ratified instruments signed and ratified by Cameroon, takes priority over domestic laws^[26]. Our main worry here is that these laws are just so numerous, rendering its application and enforcement confusing and questionable, as there exist no situation of effectiveness and competence, as the laws expect Member States to respect and execute, and failure will amount to breach of fundamental rights and instruments. Maybe the State of Cameroon was signing and ratifying all these instruments without understanding their implications in dealing with violence on women rights and protection. It will always be impracticable to use all these laws that deal with women violence to combat situations of violence and abuse of women rights at all levels. We cannot and will never refuse or question the fact that the objective and responsibility of the Cameroonian Government in issues of human right protection is in ensuring that violence against women should be combatted and even eradicated. The problem we are having now is the provision and existence of too many laws and instruments which will rather destroy the whole combatting process as the law enforcement officers will be confused as to which law should be applicable. It is the beautiful intention of the laws to create and ensure that violence against women should be combatted and even eradicated as it constitutes violation of the fundamental rights, status and dignity of the womanhood. The diversified nature of different laws and instruments in combatting violence against women in Cameroon has made it difficult for the State of Cameroon to combat violence on women. Fantastic, great and plausible in the existence of all these laws on violence against women, but the problem we are facing is rather at the stage of recognition and application. Worst of them, lies on the fact that these laws or instruments do not have the same connotations and meanings making it difficult and complex in handling cases of domestic violence or violence on women in general. Handling cases of violence on women is not as easy as we can imagine, talk less of combating, and when a standard law cannot be determined, it becomes more complicated. Violence on women is an issue complex in nature and of questionable character as it encloses a wide range of understanding to the society and the world at large. It is becoming more complicated when looking at the numerous instruments put in place in combatting this silent crime in Cameroon. All of these instruments provided in combating violence on women are inconsistent, diverse, and indifferent in their application and appellations, rendering the fight of these crimes cumbersome, worrisome and even impossible.

1. The Pathetic Scattering of Legal Instruments for the Promotion and Protection of the Rights of Women and Children

Notwithstanding that there are discrepancies in the laws handling violence on women in Cameroon due to its numerous position, or instruments in protecting and promoting women and children rights, these laws in all its embryos are pathetic and frustrating. It seems as if regards or recognition is not given to these categories of persons. Human rights problems are not only limited to children and women rights in the world as it concerns other categories of persons. The situations of women and children rights instruments are

exaggerated and confusing. Every law wants to prove that they handle issues relating women, to the extent that we do not even understand if it is the same issues they are dealing with. Women violation and violence requires to be given optimum attention by everyone, it is not in scattering laws here left and right that we are going to understand that there is the need to combat this violence. The manner in which laws are scatter is worrisome and questionable. The State of Cameroon has brought this problem to itself by taking laws everywhere just in the need to combat violence made to women. Let us face facts here! When dealing with combatting violence done on women and children, it is not something that we are begging the government to do, it is the responsibility of the government in ensuring that these vulnerable categories of persons in the society should be given that adequate protection through the enactment of credible laws and mechanisms for protection. It appears from an appreciation of the situation on the fields that even in the next 100 years, it will be difficult for the said government to combat this silent crime affecting seriously the status and rights of these categories of persons. The laws that were supposed to be organised and positioned to handle these plagues of violence done on women is in their own essence confused and problematic. It will be impossible and practically difficult in solving a given problem especially those affecting women and children in a scattered manner. Cameroon itself is confused on it when combating violence done to women and children as at one point reference is made to the Universal Declaration on Human Right, on another point they refer to the Convention on the Elimination of all forms of discrimination done on the women, the Maputo Protocol, the Convention on the Right of the Child and a Host of other laws. At the Cameroonian level, we have the Penal Code taking care of criminal matters; the Labour Code is also there, Matrimonial Causes Act 1973, Civil Status Registration Ordinance, Civil Code, and many others. These laws and instruments are really scattered and pathetic to an extent that rendering protection and promotion of female and children rights is difficult. Why could these laws not be harmonising to save the interest at hand? What difference those violence on women and children have that should be scatter in this manner? We all know the initial difficulty that one may face when handling issues dealing with violence done on women and children in our society, lots of problems and harmful practices are meted on these categories of persons making it questionable. When we start mixing and scattering laws here and there, how do we expect in combating this common problem that is experienced everywhere in which handling and solving it is not an issue of immediate responsiveness. The laws and instruments in Cameroon handling issues of domestic violence should be responsible and organised if they really want to combat this tribulation done on women and children in Cameroon. We are not refusing or denying in any way that these laws should not exist, for they really occupy a place in every society that wants to be prospective and developed in situation of protection and promotion of human rights especially those pertaining to women and children rights. Our problem or worry here is in the manner in which the laws are disperse and disband, making it difficult for combating to really take place in the domain of women and children rights. Cameroon should bear with us that the system of our laws is the problem they are facing in handling cases related to combating violence done on women as a whole.

2. The Problem of Harmonizing Domestic Legislation with International Legal Instruments

There has been complains in the manner in which instruments and laws have been scattered here and there in issues related to combating domestic violence in Cameroon. Others are complaining about the discrepancies in the instruments on Violence on Women in Cameroon. The question we should be asking is regarding the determination of what have been done domestically in handling this pandemic tackling women and children rights in Cameroon. The State of Cameroon has established a series of proliferated laws, legal provisions, and institutions having overlapped mandates in various documents regarding the protection of women and children rights in its territory. Despite the available laws, international instruments have remained the main instruments that should be used by this State in regulating the treatment of women and children within the State. With all these laws, for a long period, women have continued to experience oblivion and obsoleted practices done on their fundamental human right and status. Women and children in Cameroon continue to experience aspects of violence, discrimination, and illegal practice on their womanhood which has become of questionable character. Blames in it all should not be apportioned on all these laws that the State of Cameroon has enacted and established on issues related to women violence. Our main problem and concern here is establishing whether all these laws from civil, labour, criminal, customarily and otherwise are adopted in a way that complies with those prescribed by international instruments to which Cameroon is a party and signatory. Take for example we have the main law governing children rights on the international scene that is the Convention on the Right of the Child principal instrument on children rights. Having good laws and instruments on our national laws that deal with children right, there is no conformity as to that related to international law. Cameroon has failed to create a comprehensive legal regime that protects victims and holds perpetrator accountable. The supposed family law that was drafted in 1997 to address issues of domestic violence has not yet been adopted. Even with those laws and instruments that are existing in the country in handling issues of violence done on women are not even harmonised to correspond with prescription stipulated by international law. We see aspects of laws on women rights in different instruments in the country. At a point in time, there is the Penal Code, Labour Code, Matrimonial Causes Act, Civil Status Registration Ordinance, and others that gave their own different interpretation on what will amount to violations on these women rights which in no way corresponds with those on the main instrument dealing with women's rights ^[26]. The situation becomes even precarious and devastating in laws dealing with children rights. Looking at the Convention of the Rights of the child which try in providing a definition on what will amount to child, by stating that anyone below the age of 18 will be considered as a child ^[27]. Looking at article 52 of the Civil Code which provides that the minimum age of a girl to get married is 15, and the boys 18 becomes contradictory. Here looking at the convention on the rights of a child provides that any marriage celebrated where the girl is below the age of 18 will be considered as force marriage which needs to be cancelled and considered as violation on the right of a girl child. It becomes worrisome when Cameroon has signed and ratified this Convention on the Rights of the Child and is still unable to draft its laws in conformity with those of the Convention. This is just one of

the difficulties encountered which has made the fight difficult. There are lots of other cases and circumstances like that of labour relationship where the Labour Code as obscure and obsolete as it is does comply to the international prescription placed and welcomed by the provisions of the International Labour Organisation in which Cameroon equally is a signatory and party to. There are lots of violations and abuses of female workers rights in Cameroon because the country has failed in meeting up the standard put in place by international legal instruments on issues related to employment and treatment of workers. We are not saying that the country should totally use the provisions of the international laws and instruments on their domestic manoeuvre and recognition, but we believe most of these international instruments are like a standard and model that every country that wants to protect and promote human rights should use as a guide and mirror. Combatting is not something we just sit and accomplish without a guide, in which the State of Cameroon has failed in its various commitments when issues of violence against women are concerned. There is a lot a country stands to gain when respecting the provisions of international laws and dispositions in which the same country have signed and ratified. The lack of harmonization of domestic laws to that of international prescription has really been a threat to combatting the crime in question. It will be difficult in combatting violence against women if domestic legislations do not cooperate with those of international law as it is always from laws and instruments that a country will be inspired in forming its own laws and regulations.

3. The Mixed Application of Legal and Regulatory Provisions by Societal Actors

There is always a mixed or confusing understanding when dealing with legal and monitoring mechanisms used by the so called community or social actors when dealing or treating issues related to violence on women. They failed to understand that the laws are there to establish that there is a need to combat violence done on women. The provision of the law is just a theory that needs implementation on the side of the social actors or community sponsors on women rights. Therefore, it becomes the responsibilities and duties of these social actors by reminding the State that it is their obligation and duty to ensure that provisions of the legal instruments in which they are not only signatory but equally ratified should be respected. What these entire social actors need is to provide for the regulatory provisions which need to be provided. It is really essential that the regulatory provisions cannot exist without those of the legal provisions, but when mixing the two of them it becomes confusing and cumbersome. What we need most especially is the regulatory provision as to what should be done in combatting or handling issues related to violence done on women as a whole. When reference of both concepts is done at the same time it becomes confusing, so it should be independently. The social actors should be more interested in the respect and enforcement of the law by the State rather than talking on both legal and regulatory provisions. The laws are there, and in need of regulatory frameworks for existence. At this point in time, what the actors should rather be talking about is on the regulatory frameworks by ensuring that the provisions stipulated down in the relevant legal instruments stated down by the State of Cameroon should be respected and enforced. Emphasising on the regulatory provisions of the law is more

important than having a look as to legal provisions even though both of them are important when dealing with combatting violence against women. The diversified application and both the legal and regulatory provisions have made combatting this offence or crime to be difficult or hectic.

B. The Coexistence of Written Law and Custom;

The tendency is that violence on women has been stipulated in series of laws ranging from legal to customary. In every given society, there are two laws which are written and customary laws that govern that society. The same situation or scenario exists in Cameroon where there are present written laws ^[28] spelled out in relevant legal documents such as the constitution, labour code, criminal code, civil status registration order and others. The fact that issues of customary laws have been existing for a very long time and the practice has been carried out by the people; the existence of written laws to check elements of customary law becomes questionable. Even though the provision of Section 27 is clear as to these customs that are incompatible with the written laws of the land should be questionable as it is consider as repugnant to natural justice, equity and good conscience. These written laws in the country have been considered by many as a threat to the existing customary practices. It is not really a bad issue of mentioning the laws that deal with violence against women whether these laws are written or customary. But when dealing with aspects of combatting, we believe laws should be used separately. What the State should be doing to these communities who are so indented to these harmful practices is by telling the people about the ills and consequences that the eradication of these harmful practices will have on the status and right of the women rather than talking about the law. The custom or tradition is the bone of contention here and not the law where those combatting should lay emphasis on. Combatting and suppressing these harmful practices that affect the status and right of the women is a complex and complicated issue that needs lots of precaution in handling. It becomes the responsibility of the State to ensure to fight them even though eradication will be impossible. The existence of the laws on violence should be used diligently in its application and one should be used differently from the other. The law laid down ^[28] must be separated from the laws as it ought to be ^[29] when dealing with issue of combatting. There can never be a proper correlation between the written laws and customary laws when issues of combatting are concerned. The mixing up and coexistence of the legal text and customary law will be confusing and demanding sometimes.

1. The Reluctance of the Judicial Actors

The problem sometimes is not at the level of identifying, discrepancies and complex nature of the laws that deals with domestic violence. The most difficult issue is at the level of those who are supposed to enforce and implement these laws put in place by the legal text. They hesitate and even sometimes are unwilling in ensuring that the laws should be implemented. Most of them do not even see the necessity of intervening on issues related to the family as they believe the family is the most important unit or organ of the society that need maximum protection and safety, and they believe the dispute between the spouses can be resolve amicably rather than pushing the offender of the violence which in most cases is the husband. The issue of rape that is provided in our Penal Code which talks of punishing the rapist for an imprisonment

term of five to ten years is a fallacy when dealing with issues related to marital rape. We know that issue of sexual intercourse is one of the duties attached to couples after the solemnity or celebration of the marriage,^[30] and under no circumstances should this right be violated and a refusal to consummate the marriage can be considered a valid ground for the granting of a divorce. The family being unique should be protected by everyone including the law enforcement officers. If those who are supposed to ensure that those who commit this crime on women, are the same people who are reluctant in solving or handling the problem, then there is a serious problem and which will automatically have an impact on combatting. The victims of the rape incident or other related violent will always be affected as the judicial actors become reticent to its combat. The laws have provided room or circumstances in order for those who commit those violence on women to be punishable, and it thus left for the judicial actors like the court, law officials and other enforcement officer in ensuring total application on the legal texts and laws, but every day we see cases of female violations being ignored and even avoided by these officers. This reluctant nature or aspect of domestic violence actions by the judicial actors constitutes a discouraging aspect of most of the women who do not even see the need of reporting cases of violence to these actors as they know that nothing will be done concerning them, and thus continuous violations. We believe the judicial actors should be capable of doing what they are vested by the law when issues of domestic violence are concerned. A criminal is a criminal whether it is the husband or wife. There is the need to impose on them punishment in case of violence on the woman. What about the situation where the actors of the judiciary are men, it makes it difficult for implementation and combatting. Most men believe that women are property,^[31] and how can property own a property, and because of this the judicial officers look at women as inferior thereby finding it difficult to provide a solution to the existing problem faced by women. The issue of adultery provided for in Section 361^[32] of the Penal Code as Criminal is insignificant when it comes to the law enforcement officials. They still have the conception that man by nature or from the origin are polygamist, and committing adultery on the part of the man or husband is but normal which needs not to over emphasise. The provision itself is problematic as it provides that for the men to be punished for the act of adultery, the act should have been committed in their homes or elsewhere habitually. This is falsified and pushed environment for the supposed law enforcement officers to violate the law. The law says for adultery to be committed elsewhere, it must be habitual^[33] as to the men. So when women report cases of adultery to the judicial actors, they are reluctant in the context of this provision and sometimes even ignore the law as they claim that they cannot be proof of adultery since having direct evidence as to adultery is always difficult^[34].

2. The lack of litigation

The problem of litigation or issue of lawsuit are absent or even lacking when dealing with issues related to domestic violence or violence on women. How many women who are victims of domestic violence will be confident in bringing actions against their husbands sometimes the women who file complains turn to withdraw due to further violence and some even refuse that the case should not be taken to court. Limited file cases and withdraw might cause be as a result of the fear

to be mock by other women in the family or other family member or friend. Sometimes pursuing a case is too expensive and the process is too long. This tends to discourage them. Victims sometimes show the centre to be weak and that it can only recommend, does not take effective decision and a means of enriching themselves. For example overheard a conversation between staff of a withdraw case by the complainer that is a victim file a complaint and later withdraw it due to threat. Since the victims are afraid of been mocked, they prefer to keep quiet thereby leading to an increase in domestic violence since the perpetrator knows the partner cannot file a complained. How will the law even entertain or even show possible actions in handling violence against women cases when there no existence of lawsuit by the victims of the violent. They women are complaining everyday about the abuse done on them or the violation of their rights as a woman by their supposed husband who exerts assault on them, but they lack the courage to prosecute their husband. They believe that marriage is a sacred institution which needs to protect at all cost, so bringing or taking an action against their husbands will constitute a breach of confidence of upholding this prestigious institution. They prefer to bear and die in silence even when they are aware that they are victims of violence from their husbands. Some even stay and refuse to report abuse cases for the sake of their children as they think it is their responsibility to protect their children against public mockery and insults. There is also the aspect that women in the rural areas have little or no knowledge about the existence of the centre and other NGOs that they can complain to. It is very difficult of the centre to go into the remote areas to educate the population there about human rights and women's rights in particular. Women who have knowledge about the centre are afraid to lay their complaint because of the fear of violating their traditions. This fear causes them to remain quiet and live in pains. This problem of unawareness is due to the fact that since many communities are inaccessible and no service van to go to such areas makes the people remain ignorant of the fact that domestic violence is a crime against humanity. They continue to live in violence and do not see anything wrong in it since they have no ideal of it been considered as a crime under Cameroonian laws. Combatting violence or domestic violence on women is a difficult and pragmatic unrealities that will be a nightmare on the part of the law to handle as most of the victims of the violence are women who in most cases find it difficult in reporting cases of violence. Most traditions in Cameroon do not consider rape between husband and wife. This is because they believe that the husband has the right to have intercourse with the wife as he wish. The wife is seen as a property as does not belong to the husband alone but to the whole family. With all this out caded traditions, the centre finds it difficult to change the mentality of the people. Women who are victims of domestic violence cannot even file a complained or return to their father's house. Reasoning being that tradition forbids return of bride price and as a taboo. Some of these women are even afraid of being punished by the custodian of their traditions. All this makes things difficult for us to experience complete combatting or suppression of the crimes on them. Those that even disclosed it are still afraid. The fear in them makes them to make a request of not disclosing it to anyone. We believe the law will not force these women in bringing actions against their husbands' in case of abuse or violence, they women or the supposed victims are those suffering from these plagues or

violent on their right, but how many of them have that courage to bring actions against their husbands. They believe that they owe that obligation to be submissive and respect their husband as they consider them as the sole provider of the family, bringing or reporting cases of violence against them will make them to be deprived of the privileges that they acquired. It thus the fundamental human right of the women to be treated humanely as the law gives and maintain their position and status that they occupied, they should be bold enough in bringing or reporting cases when face with abuse or violations of their rights and status by their husbands, they laws official are they to help them combat this crime by punishing those who violates or abuses their right and status. But it will difficult in handling this issue of combatting violence if cases of violence or abuses are not reported. It was not by chance the Universal Declaration of Human Right 1948 it its article 2 talks about that it is the responsibility of everyone to respect the dignity of all regardless of their genetic characteristics ^[34]. Cameroon has recognised this right in its preamble by ensuring that fundamental human right are respected ^[35] in which those pertaining to women are not an exception ^[36]. We believe that issue of reporting cases by women should rather be an obligation not that of helping them since the law gives room for this.

II. The infelicities and inconsistencies surrounding the Cameroon penal code

There are lots of infelicities and discrimination when dealing or having a deep inside on the Cameroon Penal Code when analysing issues related to violence on women, for they are highly discriminatory making difficult in combatting this dangerous pandemic worse than even the corona virus plaguing the world today. When having an understanding of some of the provisions of the code, one becomes confuse and question whether the so called violent against women will ever be at the finishing lane. Glaring examples of these are those referred to adultery and abortion.

Talking about the concept of adultery, there is lots of controversies surrounding its understanding when dealing with women right protection and status. Taking a good look at the provision of the penal Code in its Section 361 which provides that adultery is systematically if committed by a woman, but is only punishable when committed by a man if it is habitual or takes place in the matrimonial home ^[37]. Taking a good look at this provision it is against punishing the crime of adultery when committed by the husband as emphasis is made as to the circumstances where the sexual intercourse of the husband will amount to adultery. The law has to use the word habitual elsewhere and in sex in the matrimonial home to amount to adultery when they really know that it will be difficult for the husband to admit adultery. It therefore means that if this husband commits adultery just once, it will not be a valid ground for the wife to bring an action against the husband for adultery. The law has provided an exception to what will amount to adultery, meaning that the women will continue suffering violence and threat from the husband whenever issues of adultery are brought up. The law also emphasise that the adultery case must take place on in the matrimonial home, what about sexual intercourse carried out by the spouse outside the matrimonial home, this mean that it will not amount to adultery? ^[38] The situation becomes even more complicated in establishing the crime of adultery in case of customary marriages. On what ground can a spouse brings an action against the husband under customary law. There is

no evidence that the wife can institute since it will difficult to proof adultery and the fact that customary law allows or encourages the husband to marry as many wives as he think fit. The man or husband will never feel guilty of adultery, unless the sexual intercourse occurred with another man's wife. There will always be that defence by the husband that his extra marital relationship with a single woman is that he intends to marry her. It will concretely be difficult for the wife to bring an action for adultery against the husband for infidelity only in the case where the husband abandons her. The situation here is even that it is difficult to proof adultery using a direct witness, as it because practically difficult to see the husband and another wife other than his wife on the matrimonial home or elsewhere committing adultery. Most part of the law depends on some circumstances presumed which in its all cannot amount to adultery.

The situation of abortion is also a serious problem preventing and slowing down the aspect of violence of men in the country. The Cameroon Penal Code is complicated and confusing when dealing with the offence of Abortion. As rightly started under Section 337 of the code provide that:

“(1) any woman procuring or consenting to her own abortion shall be punished with imprisonment from fifteen days to one year or with fine from five thousand to two hundred thousand francs or with both such imprisonment and fine.

(2) Whoever procures the abortion of a woman notwithstanding her consent shall be punished with imprisonment from one hundred thousand to two million francs” ^[39].

It admits or permits abortion only when such abortion is criminalized and applicable if the mother's life is in danger or if pregnancy is the result of rape ^[40]. This is really confusing as we are aware that issue of abortion is a complex issue, placing only two circumstances in which abortion should not be punishable is questionable. There are so many reasons why some women will wants to commits abortion as it becomes a threat on their status and right. What about the situation where the woman is being abandon by the person who impregnated her and is in the running. The law has not considered the trauma psychological, emotional, and physical that this woman will go through before setting the ground for criminalising abortion. The law fails in understanding other circumstances that can affect the woman status or right in cases of abortion. The same law is talking about killing of a foetus to amount to abortion. The question one need to position here is in determining at what period of the pregnancy it will amount to killing the foetus or baby. We are not in any way encouraging the concept of abortion of a woman, for we understand, abortion in its very origin is consider as to be illegal as many considered it a sin. Our worry here is for the legislation or law in understanding that combating violence on a woman is complex issue that needs to be defining beyond all reasonable doubts to be handling. There are some circumstances that the abortion might be caused as a result of the violent done on the spouse by the partner. There should be some modifications of Section 339 of the Penal Code to put more visibility on what is meant by severe danger to the mother's life particularly because the woman health is not only physical. There can be the inclusion of important issues like the severe foetal malformations incompatible with life, incest and the reduction of administrative procedure attached to Section 339 of the Code. Even the situation of rape is still a problem affecting combatting violence on women. The fact that marital rape or

the so called spousal rape is the act of sexual intercourse with one's spouse without the spouse's consent, having sexual intercourse with the spouse without consent will amount to rape. This marital rape in all its implications is considered in most instances as domestic violence and sexual abuse. The common law rule of marital rape exemption is based in the cultural view that marriage makes a woman part of her husband's property, so that forced sexual intercourse is but a husband making use of his property. Taking a good base in the case of *Achu vs. Achu* in the Court of Appeal South West Region held that:

Customary law does not countenance the sharing of property especially landed property, between husband and wife on divorce. The wife is still regarded as part of the husband's property.

That conception is underscored by the payment of dowry on marriage and on the refund of same on divorce. Looking at the situation from the dictum above, once the marriage price has been paid by the husband; it therefore reduces the wife to a property. If the notion or concept that characterised a human being(wife) to become a property of another, then the notion of bringing an action for marital rape will be futile and unnecessary. The husband will not need as to customarily to be petition for rape when it concerned its property being the woman. Right from the day the day that the marriage is celebrated, the woman have given herself to the husband as a living sacrifice in which she must be available at all time the husbands' desires sexual intercourse, bringing an action for rape is useless. The Penal Code has talk of criminalising rape in its Section 296 of the Code by punishing any person who by physical or moral violence forces a woman, including an adolescent to have sexual relations with him. We are not saying that rape is a good thing that should not be criminalised, but we are dealing with marital rape or rape in matrimony it is extremely difficult to bring an action against the husband for rape.

The situation becomes provocative as per the provision of Section 297 of the penal Code which prevents prosecution of rape when marriage has been freely consented to both parties, and the assaulted woman was over the age of puberty during the offence. I believe this is discriminatory and encouraging the phenomenon of rape since the perpetrator knows that he can rape the woman and consented to get married to her and criminal proceeding against him will be discontinued. The issue here is that rape is rape, and when the fact or elements of rape once established should be punishable rather than giving instances where the rape will not amount to a criminal act. How then can we experience combatting when the law is encouraging or giving an opportunity to the rapist to be free from criminal responsibilities? How then can we establish consent in this kind of marriage celebrated where we all know that the initial reasons for the celebration of the marriage derives from the rape incident? The bone of contention here is that it will be difficult for the law or law enforcement officials to really have a proper or effective means of combatting when dealing with the offence of sexual violence on the woman. Neglecting certain fundamental aspect of the offence means that combatting will becomes a total fiasco and disaster, and this will render combatting or eradication difficult. The Cameroon Penal Code being the watchdog in handling or criminalising issues of rape or violence against women is entangled with heaps of infelicities and lacunae's in which relying on it as a tool in combatting or handling issue of violence is questionable. The situation is not only with the

penal code, even other areas of the laws has still become questionable in matters relating to domestic violence.

III. The complexities of the civil code

Controversially and inexplicable is an aspect that is defying and affecting our Civil Code from its French inception in matters relating to violence especially on women. It becomes confusing when some basic issues cannot be handled, and overweighing pendulum is exercised on the woman status and right within a given society. A glaring example or illustration here can be examined in the domain of marriage as to parties. The code provides in its Article 52 that the minimum age for marriage is 15 years for the girls and 18 years for the boys. We are know that as to the definition provided by the 1989 Convention of the Right of the Child in which Cameroon is not only a signatory but has ratified the said convention, provide in its Article 1 as follow:

"any person who is below the age of 18"^[42]

This becomes contradictory as per the Civil Code which has already fixed the marriage age of women. Even though the same code provide in its Article 49 that girls under 18 are not required to marriage, parental consent is sufficient. This is not a good ground at all in the country as it has really given birth to early or forceful marriage since the law gives the parents the opportunity in pushing their children to marriage before the prescribed day of the law. The code has to follow the provision as provided by Article 1 of the Convention of the Child which is considered as the ship anchored instrument of children right in the country. The law was not foolish in established the minimum age for girls to get married at the age of 18. The law believes that children at that age are still considered as dole incalpac and lack certain faculties to under the concept of marriage^[43] or contract in which she is entering into. This situation of the law has really encouraged early marriage and making it difficult to combat or put an end to these barbaric practices in the country. We find the practices recurrent and practicable in our country like in the Northern part of the country where they believes it is common to give their girl children for marriage at the tender age. The problem here even though a long practice tradition, our laws has also encourages its practices, making it difficult for there to be its elimination and even suppression.

Even the fact that the law gives the husband the right to choose which matrimonial regimes to applicable in the marriage agreement is a serious problem. According to the Cameroon Civil Code in its Article 70 which entails that if no choice is made as to the regime of marriage, and then the couple is married under common law which allows polygamy and community of marital property. So even the law accept encouraging polygamy, and then they want to combat violence, difficult. The situation here is that even if the husband is for the monogamous regime, it doesn't stopped the husband to be polygamous as we know the general adage that; "all Africans by nature are polygamous."

The husband is and will always be considered to be the head of the family^[44]; he also has the sole right to determine the family domicile^[45] and, in the interest of the household and the children, may prevent his wife from taking employment^[46]. This situation becomes rebellious and sarcastic, as we all know how it can ridicule the woman to nothing since the husband has absolute authority over their wife by depriving them for some privileges and advantages that she may derived from, he thinks that he is the sole contributor of the family, and the wife is not in any best

position to provide for the family depriving her own fundamental right as to the right to work which is established in many international human right and convention that Cameroon has signed and ratified. The code in its entirety and realities gives much power to the husband who can violate her right at any time desired. Even the fact that women are deprived to full use and enjoyment of property is a serious problem,^[47] for the husband has the right to administer communal marital property, thereby giving him the right to sell or mortgage the couple's property without his wife's consent. All these provisions are contradictory to our Cameroon constitutions especially in its preamble which provide for equal right to all irrespective of the status, sex, language, nationality in question. Both sexes have the right in enjoying the fundamental human right, and the right to property is not an exception.

It is really shameful in our country that there is no specific laws have been enacted to prohibit violence against women or domestic violence. There are no laws prohibiting traditional harmful practices, and female genital mutilation (FGM) and the practice of breast ironing persist in parts of the North and the South-West of the country.

Although the government report states that Cameroon's body of laws including the Constitution embodies the principle of equality between men and women, there is no legal definition of discrimination provided for by any law. The embodiment of the principle of equality in the preamble of the 1996 Constitution as amended in April 2008 is not sufficient enough to meet with the standards required by CEDAW, because discriminatory laws and practices still prevail. CEDAW is not yet incorporated into national laws. Article 45 of the Constitution states that duly approved or ratified treaties and International Agreements shall, following their promulgation, override national laws. This statement does not confer any rights or redress. Enforcement is therefore weak, since criminal sanctions have to be enacted into law before becoming applicable.

Conclusion

The problem of domestic violence is real and unavoidable with it increase proliferating the polluting the Cameroonian society. The issue here is not just looking as the female pandemic drone damage of democratic and legal society, something needs to be done in remedying this deadly plague that have affected the daily lives of womanhood so as to have a rest and pleasing future for these women undergoing violence in all domains of activities. We know that it will be difficult in eradicating and combatting this violence once and for all, but the question is what should really be done in reducing its rate of existence in the society. We believe there are certain categories of persons in the society who are supposed to be clinging as they have those responsibilities in dealing with issue of domestic violence as they are implicated and involved in its increase and constant abuse. Though the state of Cameroon has done so much in eradicating domestic violence against women, some malpractices such as breast ironing, FGM, sexual harassment, physical violence and more still exist. In the cause of carry out their mission of protecting and promoting women's rights, they faces a lot of roadblocks ranging from inadequate funds, personnel, unawareness, lack of a service car to carry out their activities and many more. Even though so many laws have been put in place to protect human rights and women's rights in particular, women are still victims of domestic violence. This continues to place

threat on the socio-economic situation of the country since the respect of human rights and that of women is indispensable. Therefore, we suggest that credible recommendations should be taken into consideration and acted upon so that a better human rights culture can be implemented. Recommendation like the promulgation of laws for the recognition of the rights of women, and combating domestic violence should be enforce with proper measures put in to place to ensure the better promotion and protection of women's rights, participation of women in certain activities in the country, he creation of more training, professional schools and even inserting programs in school curriculum that will be used to educate the general public on the effects of domestic violence and other legal instruments to protect women and end violence.

References

1. In a 2000 report, Amnesty International indicated that: Violence in the home is a truly global phenomenon. The figures may vary in different countries but the suffering and its causes are similar around the world. According to World Bank figures, at least 20 per cent of women around the world have been physically abused or sexually assaulted. Official reports in the USA say that a woman is battered every 15 seconds and 700,000 are raped every year. In India, studies have found that more than 40 per cent of married women reported being kicked, slapped or sexually abused for reasons such as their husbands' dissatisfaction with their cooking or cleaning, jealousy, and a variety of other motives. At least 60 women were killed in domestic violence in Kenya in 1998-99, and 35 per cent of women in Egypt reported being beaten by their husbands. For millions of women the home is not a haven but a place of terror. Amnesty international, broken bodies, shattered minds: torture and illtreatment of women 10-11 (2000) [hereinafter AI 2000 REPORT].
2. Universal Declaration of Human Rights, G.A. Res. 217A (III), U.N. GAOR, 3rd Sess., at 71, U.N. Doc. A/810 (1948) hereinafter after referred to as UDHR
3. International Covenant on Civil and Political Rights, Dec. 16, 1966, 999 U.N.T.S. 171, hereinafter referred to as ICCPR.
4. International Covenant on Economic, Social and Cultural Rights, Dec. 16, 1966, 999 U.N.T.S. 171, hereinafter referred to as ICESCR.
5. Convention on the Elimination of All Forms of Discrimination against Women, 1979, 1249 U.N.T.S. 13 hereinafter as CEDAW,
6. Optional Protocol to the Convention on the Elimination of Discrimination Against Women, 1999, 2131 U.N.T.S. 83, hereinafter as CEDAW Optional Protocol.
7. Convention Against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment, 1984, 1465 U.N.T.S. 85, hereinafter as CAT
8. European Convention for the Protection of Human Rights and Fundamental Freedoms, Nov. 4, 1950, 213 U.N.T.S. 222 [hereinafter ECHR],
9. American Convention on Human Rights, 1969, 1144 U.N.T.S. 123 [hereinafter ACHR],
10. Inter-American Convention on the Prevention, Punishment and Eradication of Violence Against Women, 1994, 33 I.L.M. 1534, hereinafter as Inter-American Convention on Violence Against Women,

11. African Charter on Human and Peoples' Rights, 21 I.L.M. 58, hereinafter as African Charter, 1981.
12. Declaration on the Elimination of Violence against Women, G.A. Res. 48/104, U.N. GAOR, 48th Sess., art. 1, Supp. No. 49, at 217, U.N. Doc. A/48/49 (1993) [hereinafter Declaration on Violence Against Women. 1993.
13. Article 2 stating that violence in the family may include battery, sexual abuse, and marital rape while violence in the general community may include rape, sexual harassment at work, and trafficking in women.
14. Preamble, constitution of the Republic of Cameroon, 18 January 1996
15. Part 1 Article 1(2), 2 (3)
16. Ibid Preamble
17. Penal Code Section 278 - 281
18. Law No. 2011/ 011 of 6th May, 2011 to amend and complete certain provisions of ordinance No. 81/02 of 29th June 1981 on the organization of the civil status Registration and various provisions relating to the status of physical person, section 77(2)
19. Civil Code Ordinance 81/02 of 29 June 1981
20. Penal Code art 365 of the 1981 law
21. Southern Cameroon High Court Laws, 1955, Section 27(1) of the SCHCL 1955
22. Assessing the Beijing Platform of Action in Cameroon P 11
23. Radhika Coomaraswamy, "Combating Domestic Violence", 10.
24. Regional instruments in which Cameroon has duly signed and ratified and binding in its laws.
25. Article 45 of the Cameroon Constitution stipulates that duly ratified treaties takes precedents over national or domestic laws.
26. We are talking here of the Convention on the Elimination of all forms of Discrimination Against Women being the lone international Instruments dealing with women right in which Cameroon has signed and ratified. This instruments makes provision on the manner its expect State to handle treatment given to women, and even goes further in stipulated the various rights of women in which every State should observe and respect.
27. Article 1 of the Convention of the Right to a Child defines a child as anyone under the age of 18
28. The most important one to emphasis on is the 1996 Constitution which is consider as the highest law of the law which other laws have their inspirations
29. The positive law or the *lex lata*
30. Natural law or otherwise known as the *lex feranda*
31. The incident of the right to consortium which parties owes to each other the right to sexual intercourse, and under no circumstances should any of the party deny or refuse the other of this right.
32. Customary law position of the law as to property rights which sees women as property and according to this law a property like woman cannot own a property.
33. This section of the law talks about the aspect of adultery which should be punishable
34. Thanks to the new law of 2016 amending the provision of the 1967 law on adultery. Unlike the 1967 penal code which punished women simply for having sex with individuals other than their spouses, but equally punished men only if they had sex at home or habitually elsewhere with someone other than their wives, the new law punishes both men and women equally for sex with third party irrespective of where or how often. According to Section 361 of the new Code provide that:
35. A woman who, being married, has sexual intercourse with a man other than her husband shall be punished with imprisonment for from two to six months or with a fine from 25000frs to 100,000frs
36. A husband who has sexual intercourse with a woman other than his wife or wives shall be punished as provided by subsection 1 above. However, the burden of proof of the existence of polygamous union shall lie with the husband
37. No prosecution may be commenced without the complaint of the wronged spouse.
38. Consent by wronged spouse to resume cohabitation shall put an end to the effects of conviction.
39. Family law Lecture Notes, Simon Tabe Tabe where it was established that proving adultery on direct eye witness is difficult, as to the provision of Section 1(2) (A) of the Matrimonial Causes Act 1973, since it is difficult to proof adultery by mere eye witness, it has provided for circumstances that the petitioner can use and establish and it will still amount to adultery. Situations such as undue familiarities, evidence of spouses, marital confidence, venereal diseases, blood test and a host of others will amount to adultery.
40. United Nations General Assembly Resolution 217 A
41. Section 65 of the 1996 Constitution provide that the preamble is considered as an integral part of the constitution.
42. Section 1 of the Cameroon Penal Code provides that everyone is equal before the law
43. Section 361 of the Cameroon Penal Code
44. The new Penal Code law of 2016 amending the provision of the 1967 law on adultery. Unlike the 1967 penal code which punished women simply for having sex with individuals other than their spouses, but equally punished men only if they had sex at home or habitually elsewhere with someone other than their wives, the new law punishes both men and women equally for sex with third party irrespective of where or how often. According to Section 361 of the new Code provide that:
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47. No prosecution may be commenced without the complaint of the wronged spouse.
48. Consent by wronged spouse to resume cohabitation shall put an end to the effects of conviction.
49. Section 337(1) and (2) of the Penal Code
50. Section 339 of the Penal Code that talks as to the exception of legalising abortion, or where abortion will be acceptable
51. Article 1 of the Convention on the Right of a Child
52. The situation of sound mind, sound memory and sound understanding is very instrumental for there to be a valid celebration of a marriage. The absent of these three

elements in the celebration of a marriage will render the Marriage ceremony null and void.

53. Article 213 of the Civil Code
54. Ibid, Article 108 and 215
55. Article 74 of the Cameroon Civil Status Registration Ordinance of 1981 provides that a husband may object to his wife's exercise of a trade different from him in the interest of their marriage or children
56. Article 1421 and 1428 is a good example of the Code depriving the women from using the matrimonial property. It continues by saying that only the husband has the right to sell or mortgage the matrimonial property, the wife has no right as to the property of the matrimonial home as she herself is considered as a property, and how can a property own a property.