



Policy Brief

Violence Against Persons [Prohibition] Act, 2015: Gaps and the Way Forwards

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Table of Content

Overview	1
The Major Legislative Response to the Scourge of Violence Against Persons in Nigeria	2
Existing Legislative Framework Before the VAPP Act 2015	2
Violence Against Persons Prohibition Act, 2015	3
Domestication of the Violence Against Persons [Prohibition] Act In Various States of The Federation	5
What We Know: Demography, Analysis of Response of State Actors.	6
Findings of Fact	9
Recommendations/ Further Policy Measures	12
References	15

01 | Overview

Given the prevalence of the scourge of violence against persons, the inadequacies of existing legal and regulatory frameworks such as the penal code and the criminal code act to cover new dimensions of violence, the Violence Against Persons Prohibition Act was conceived in 2015 to criminalize both conventional and modern violent practices. The Act which is in itself inadequate as it restricts its application to Abuja, the Federal Capital Territory leaves the government of states across the federation no choice but to domesticate or simply adapt it to unique challenges of the state. Years after its commencement and resounding domestication in various states across the federation, much is still left to be desired in its domestication and implementation. The demography of violence against persons remains significantly unaffected by the new laws, if one is to go by the National Demographic and Health Survey (2018), research has it that since violence can result in injury, death, psychological harm, or deprivation, huge implications exist for the Republic and its states in quality of life and progress of the society if state actors do not take further charge of the situation. (Krug et al., 2002). Thus, a sense of urgency must be deployed in approaching the phenomenon.

Against the backdrop, this policy brief

examines the gaps in the existing VAPP and suggests to state actors, evidence-based strategies to thwart the incidence of violence against persons across Nigeria. The study relies on desk review of research reports and authors' observations. Findings are summarised into what are the restrictions of existing laws on violence post-2015, the inevitability of further domestication of anti-violence laws and the observations of flawed implementation. Recommendations are premised on the findings of the research undertaken.



02 | The Major Legislative Response to the Scourge of Violence Against Persons in Nigeria

EXISTING LEGISLATIVE FRAMEWORK BEFORE THE VAPP ACT 2015

The extant criminal laws in the country, the Criminal Code operative in the South and the Penal Code in force in the North did not adequately protect women from violence. For example, while rape was a crime punishable by life imprisonment, marital rape was not covered under either Code as sexual relations was traditionally considered a right of the husband. The criminal law did not allow for negotiations or provide civil remedies which can be as, indeed sometimes more relevant to a woman. Some provisions in the Criminal Code delineate mild punishments for sexual violation, permit spousal or marital rape. Other provisions in the Penal Code, for instance section 55 of the Penal Code Act allows husbands to beat wives in chastisement. Offences such as domestic violence were therefore not provided in substance for in the two principal pieces of criminal legislation. In summary, existing laws were inadequate, gave impetus to inequality, were discriminatory to women, and allowed violence against women. (Onyemelukwe, 2016).

At the Federal level, the Child Rights Act, which amongst other things prohibits and sexual violence or offences against children, was enacted in 2003, domesticating to a large extent the Convention on the Rights of the Child. The federal government also passed the Trafficking in Persons (Prohibition) Law Enforcement and Administration Act in the same year (Onyemelukwe, 2016). At the state level, several states, such as Edo and Osun states, passed laws to criminalize female genital mutilation. Twenty-four states have adopted the federal Child Rights Act, which prohibits child marriage (Onyemelukwe, 2016). Other states criminalized harmful widowhood practices, including Cross River, Oyo, and Anambra, while others criminalized domestic violence, such as Lagos, Ekiti, Ebonyi, and Jigawa. These laws have varying provisions on the same matter. Many of these pieces of legislation are fragmentary, covering only certain aspects of violence against women and girls but not others, thus still leaving gaps in protections for women (Onyemelukwe, 2016).

VIOLENCE AGAINST PERSONS PROHIBITION ACT, 2015

The Violence Against Persons (Prohibition) Act (VAPPA) is the most comprehensive and progressive law for addressing the silent pandemic of violence against women and girls in Nigeria (see Box 1). The main thrust of the VAPPA is to “eliminate violence in private and public life, prohibit all forms of violence against persons and to provide maximum protection and effective remedies for victims and punishment of offenders; and for other related matters” (VAPPA, 2015). It guarantees maximum protection to all citizens by prohibiting all forms of violence and harmful traditional practices against women or men, boys or girls occurring in private and /or public spaces.

What constitute offences against person in VAPP Act 2015?

Rape; Inflicting Physical Injury on a person; Coercion; wilfully placing a person in fear of physical injury; Offensive conduct; Prohibition of female circumcision or genital mutilation; frustrating investigation; wilfully making false statements; forceful ejection from home; depriving a person of his or her liberty; damage to property with intent to cause distress; force financial dependency or economic abuse; force isolation or separation from family and friends; emotional and psychological abuse; harmful widowhood practices; abandonment of spouse; children and other dependants without sustenance; stalking; intimidation; spouse battery; harmful traditional practices; attack with harmful substances; administering a substances with intent; political violence; violence by the state actors; incest schedule; and indecent exposure

The Act is the first criminal legislation which expanded Nigerian criminal jurisprudence by recognising various forms of related crimes hitherto unacknowledged. The Act provides for a range of offences, twenty-six in all, which constitute violence. Importantly, for the purposes of violence against women, these include, but are not limited to, provisions criminalising rape, physical injury, spousal battery, harmful traditional practices, intimidation, coercion, and political violence. The Act, among other things, prohibits female circumcision, forceful ejection from home and harmful widowhood practices. It also prohibits abandonment of spouses, children and other dependents without sustenance. Each of these attracts some penalties ranging from life imprisonment in certain cases of rape, to two years imprisonment or the option of a fine

for giving false information to the judiciary. The Act also provides for the issuance of a protection order to victims of domestic violence. (Onyemelukwe, 2016).

Amongst its innovative and progressive features is the criminalisation of matters previously not explicitly recognised as offences under Nigerian law. These include harmful traditional practices, female genital mutilation, emotional abuse, abandonment, and attack with harmful substances. (Onyemelukwe, 2016). Under section 1 of the Act, the definition of rape is now inclusive and gender-neutral. The law in its section 2 also provides for compensation for rape as well as for criminal sanctions. It also in its section 46 requires the establishment of a sex offender register, which should be helpful in preventing further crime and protecting potential victims. The Act also recognises the important role of international law. Thus, through its Section 38(1), it provides that victims of violence have the right to all remedies allowed under international law.

However, since it was enacted in 2015, the Act has the force of law in the Federal Capital Territory (FCT) and does not apply throughout the federation. The implication of this is that, it only applies only to percentage of the Nigerian population. The Act just mandates National Agencies for the Prohibition of Trafficking in Persons and other related matters (NAPTIP) to administer the provisions of the Act and collaboration with relevant stake holders, including faith-based organizations (ANYOGU, 2017). Researchers have noted that NAPTIP is already saddled with too much responsibility and may not be able to cope with an added responsibility. Also, there is no provision on sexual harassment and indecent assault in this Act (ANYOGU, 2017).



DOMESTICATION OF THE VIOLENCE AGAINST PERSONS [PROHIBITION] ACT IN VARIOUS STATES OF THE FEDERATION

No fewer than 27 out of the 36 states have passed and domesticated the equivalent of the VAPP Act in their states. For Lagos and Ekiti states, there seem to be a domestication of the Act but cited as Protection Against Domestic Violence Law and Gender Based Violence Prohibition Law respectively and they have some of the provisions found in the VAPP Act. This is narrower in scope than the general VAPP Act provisions on violence. Only 5 states (Gombe, Kano, Katsina, Zamfara and Niger States) are yet to pass the VAPP Act. Although passed in Taraba state House of Assembly on the 24th February 2022, the Bill is yet to be assented by the Governor.

Religion, culture and traditions have been advanced as reasons for the non-domestication of the VAPP Act in some states. Lack of political will has also been noted on the part of some states which do not take violence against persons as a priority. (The Punch, 2021)



A photograph of a busy street scene, likely in an urban area. In the foreground, a person is seen from the back, carrying a large, heavy bundle of folded clothes on their head. They are wearing a light-colored t-shirt and a dark vest. In the background, several other people are walking, and a white van is visible. The entire image is overlaid with a semi-transparent red filter. The text is positioned in the lower-left quadrant of the image.

**WHAT WE KNOW:
DEMOGRAPHY,
ANALYSIS OF RESPONSE
OF STATE ACTORS**

Demography of Violence Against Persons in Nigeria Pre-2015

It is to be noted that Gender-based Violence (GBV) is the most common violence against persons in Nigeria falling under the categories of physical, sexual and emotional violence. (Oseremen, 2016) research shows that sexual violence against children is one form of GBV that is reported to still be on the rise even in the light of the VAPP Act.

The 2013 NDHS collected information on gender-based violence. As at 2013, there was a noticeable decrease in the proportion of women who experienced physical violence in the 12 months preceding the survey. The said rate decreased from 15 percent in 2008 to 11 percent in 2013 before the enactment of the VAPP Act. (NPC, 2013). In research published in 2015, the same year for the passage of the Act, women with disabilities were also still considered twice as likely to experience all forms of GBV as other women and up to three times more likely to experience sexual assault by a stranger or acquaintance (NSRP 2015). Similarly, field research in Edo, Katsina, and Taraba is found to have confirmed that the acceptance rate for wife beating is high.

Demography of Violence Against Persons in Nigeria Post-2015

Nonetheless, despite legislation and ongoing efforts to protect women and vulnerable populations against violence, there still is no end in sight for the scourge of violence in Nigeria. Thus, in the 2018 NDHS, the prevalence of all forms of violence was found to be higher in 2018 than in 2008 and 2013 respectively. Overall, the prevalence of spousal physical, sexual, or emotional violence increased from 31% in 2008 and 25% in 2013 to 36% in 2018 after the passage of the VAPP Act. The percentage of women who have experienced physical violence since age 15 increased from 28% in both 2008 and 2013 to 31% in 2018. After decreasing from 15% in 2008 to 11% in 2013, the percentage of women who had experienced physical violence in the past 12 months increased to 14% in 2018. (NPC, 2018)

As it relates to economic violence, Women in male-dominated occupations, such as quarry work, shoe and bag making, farming (subsistence and large-scale cultivation), and cloth dyeing are found to be particularly vulnerable to harassment and violence. Some of the female participants in the study in view claim that the men often feel threatened by successful women and therefore harass or insult them as a way of discouraging them from participating. Other field research also indicated that membership in some economic groups, such as cooperatives and trade groups, is highly restrictive, ensuring that only men can access their benefits to the exclusion of women. The study under consideration was published in 2019. (World Bank, 2019). In the same vein, there is still a noticeable

high prevalence of women being publicly harassed, verbally insulted, and physically abused in public spaces. The harassment specifically targets women who are economically active and who are participating in social life in the public realm.

It is sad that even after the advent of the Act, many Nigerian societies appeared to still largely condone unsavoury culture of wife beating, where they believe that a husband's chastisement of his wife by beating her is embedded in the culture. Female genital mutilation is still noted to be unchecked as reports shows that most communities still indulge in such practice. (Onyemelukwe, 2016). For violence which are political or organised by state actors, there are cases of some policemen, who acting under unprofessional conduct, sexually assault persons under their detentions as well as committing human rights abuse by some police who through their action inflict violence against some innocent citizens. (Nigeria Watch 2017).

From the foregoing, there is no doubt that there is still much to be desired in relation to the elimination of violence against persons post-enactment of the 2015 VAPP Act. Stakeholders have identified various gaps in the existing VAPP Act. For instance, in August 2020, Hon. Zakariya'U Mohammed Galadima introduced the Violence Against Persons (Prohibition) Act (Amendment) Bill, 2020¹ to provide for new emerging violence against persons. Under the bill, new offences were identified which includes defilement; attempted defilement; exploitation of prostitution; and prostitution of persons with mental disabilities. These were not initially covered in the existing Act. Although the bill was not scale through it was re-introduced in February 2022 by Sen. Ibrahim Abdullahi Gobir. Another Violence Against Persons (Prohibition) Act (Repeal and Re-enactment) Bill, 2021 was also introduced to prohibit the discrimination against widow and all forms of repression and degrading widowhood practices. The bill recognised the right of a widow and proposed national day for widow, women and girls. The emergence of new offences against person shows a clear shortfall in the VAPP Act 2015.

¹Hon. Zakariya'U Mohammed Galadima



03 | Findings of Fact

01

The VAPPA does not offer a national coverage since it is by its provisions restricted in application to the Federal Capital Territory. Thus, states are increasingly domesticating the provisions. 75% of the states has ensure its full domestication with only 25% still considering or not given it a thought. More can still be done as regards the domestication for states that are yet to domesticate.

02

The culture of silence and concealment; stigmatisation; trivialisation; threats and intimidation; and inadequate funding of necessary structures and mechanisms for implementing anti-violence against women and girls' legislations are key constraints to the achievement of the significant success in the fight violence against women and girls in Nigeria.

03

Although, there is a general satisfaction with the VAPPA as an all-encompassing legal instrument. However, there is a faulty implementation within the FCT and in states where it is in force for reasons of lack of political will, paucity of funds, lack of infrastructure, and low capacity among implementing officers. The lack of infrastructure problem could be gleaned from the fact that there are only 32 Sexual Assault Referral Center (SARC), which are been used to conduct forensic examinations, treatment, and medical care for victims of sexual abuse, sexual assault, and domestic violence in Nigeria. The SARC only exists in 19 out of the 36 States and FCT. The existing SARC are often affected by limited capacity of Staff to be address the growing cases of GBV across the country. There is also lack of adequate shelters available to victims of abuse which often lead to abuse victims returning to their abusers. The inadequacy of stock drugs, consultations, forensic medical reports, and hospital admission for survivors where necessary also get in the way of effective SGBV responses. All these are attributable to poor implementation strategies of the state actors.

04

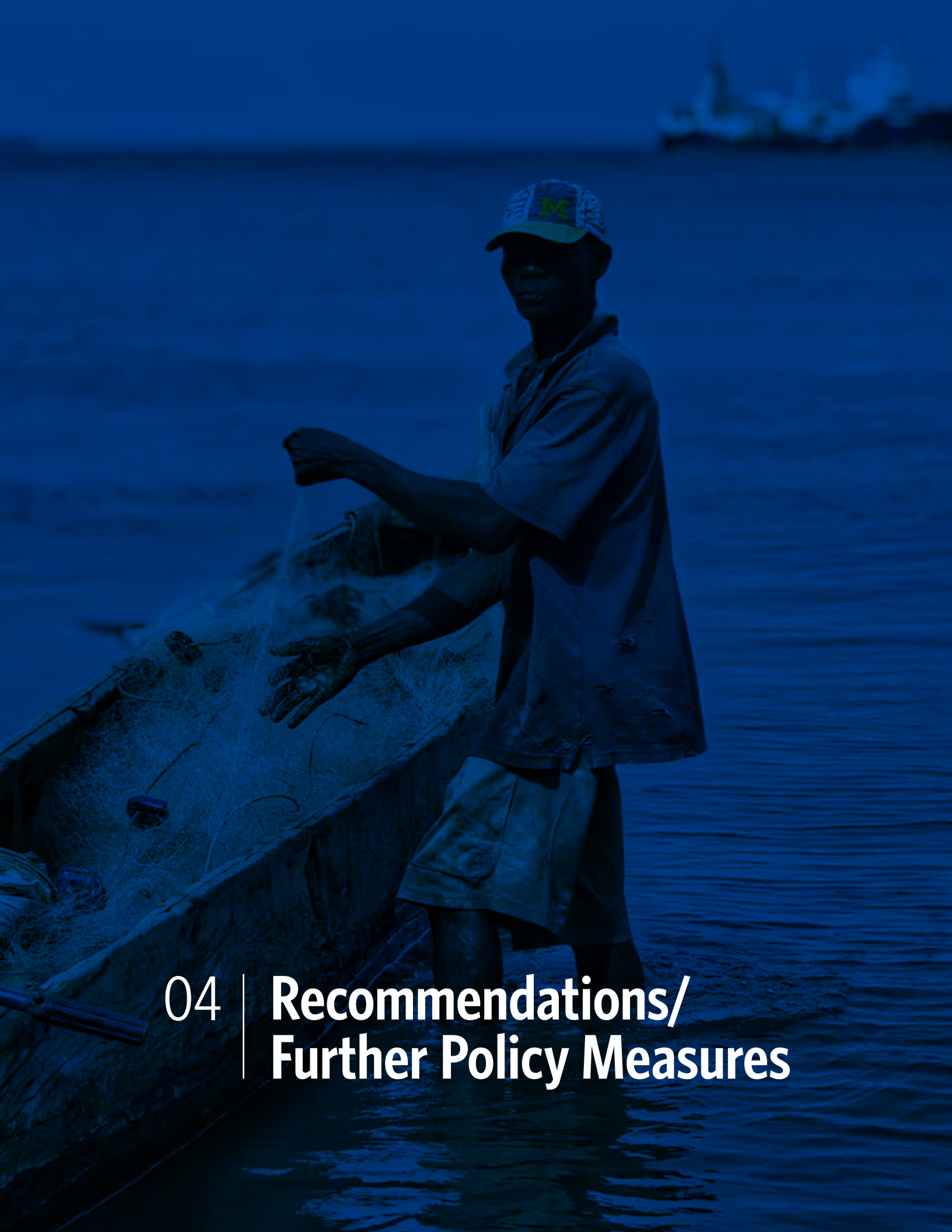
Ignorance, cultural beliefs and practices, misinterpretation of the major religions, misinformation, poor socialisation, and poverty are the major barriers to the effective implementation of the VAPPA/VAPPL and other anti-violence against women and girls' legislation.

05

There are still gaps in the laws, specifically relating to response and coordination in some of the states, and what specific penalties are attached to specific violations. For instance, the Act does not establish a special court for the accelerated hearing of violence cases.

06

The challenges to the implementation structures set up by the government ranged from lack of synergy, intimidation, slow judicial process, to inadequacy of interventions specific to various needs or categories of victims.



04 | **Recommendations/
Further Policy Measures**

Further Domestication

It is recommended that states that are yet to domesticate the Act should endeavour to domesticate same. If states can adopt the VAPP Act without truncating and watering down the sterling and innovative provisions; it will mean such a huge step in the development of law in Nigeria. In attempting to domesticate, the shortcomings of the Act must be noted and remedied so as not to create a law of problems most importantly the institutional aspects of the law namely the establishment of special courts or tribunals and further establishment of centres for reporting cases of violence and treatment or accommodation of complainants. Also, domestication should take note of the recent Bills for the repeal of the Act. This is to keep any state law in tune with the recent developments and considerations on the phenomenon of violence against persons. Massive advocacy and sensitization on the existence of this Act is also a very necessary tool that must be employed. Mass education on the need to report crimes to the appropriate and authorize quarters is also very vital as ignorance of the law is no excuse. All hands must therefore be on deck as stake holders such as the NGOs, law enforcement agents, religious bodies, school authorities, and parents must be involved in this arduous task.

Implementation

It is recommended that new approach should be explored in the implementation of the provisions of the laws in states that have domesticated. Executive bodies should be set up to particularize the enforcement and implementation of the laws. Affordable Legal Services and Financial Assistance to poor victims of violence is imperative to enable them access Justice, as required by section 46(4) (b) of the 1999 Constitution of Nigeria, as amended. Police Receptivity should be improved to enhance reporting violence, sex and gender-based crimes. There should therefore be increase in the number of female police officers on the force, and create specialized gender units within police stations, trained in sexual and gender-based violence issues.

Importantly, more funds should be allocated in states budget towards infrastructural development to meet with the demands of the law and to run an effective violence-reporting system for prompt action. This should cater for the limited capacity of SARCS, limited logistics etc. government should also ensure that low knowledge on existence of the centres should be eradicated through mass orientation through print and electronic media.

Creation of Victim Support Fund

Both the executive and the legislature should consider a victim support fund to be institutionalized and should give a speeding passage to complement various provision of laws and policies guiding against all forms of gender-based violence related offences. The non-state actor's stakeholders such as the development partners, CSOs, religious and traditional rulers must see to its implementation. This will not only ensure effectiveness of the law but protect the victims from post abused or post violence experience.

Increased Awareness

Intensive awareness campaign of the Violence Against Persons Prohibition Act 2015 and of the provisions of the Act or laws where domesticated will provide first-hand information to women and men. This should be done at all levels, ranging from the local communities, towns, cities to schools and tertiary institutions by government agencies, nongovernmental (NGOs) organizations, human right activists and concern citizens of Nigeria who are worried by the alarming rate of domestic violence against women in form of wife battery, marital rape, assaults and all forms of abuses perpetrated against women and girls. As a sociological problem, Sociologists should organize seminars and public lectures on the VAPP Act to educate students and the general public on their right to be treated fairly and the provisions of the law as regards defaulters. This would eradicate ignorance and increase the level of awareness among men and women (Okonkwo-Ogabu, 2015).

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