

The Violence against Persons (Prohibition) Act: A CHELD Brief

The Violence against Persons (Prohibition) Act, 2015 was signed into law on the 25th of May 2015 after over ten years in the legislative process. It is an amalgamation of different bills which sought to abolish all obsolete laws relating to matters such as rape, assault etc. It aims to improve upon similar provisions on violence as contained in Nigeria's Criminal and Penal Code. In part, initial delays stemmed from the gender-sensitive nature of earlier bills. Thus, it was initially focused on violence against women, with the title: Violence against Women (Prohibition) Bill. Passage of this bill proved difficult because of the significantly masculine make-up of the houses of the National Assembly. The male-dominated body also resisted the addressing of issues relating to marital rape. As a pragmatic (some might argue retrogressive) step, the Bill was changed to Violence against Persons (Prohibition) Bill, receiving much more support than had hitherto been the case. Following advocacy efforts by stakeholders, public hearings were held in March this year, followed by passage by the Senate. Continued advocacy eventually culminated in Presidential Assent this week.

Of what significance is the Act? One important aspect is the broad definition of "violence." The Act defines violence thus:

Violence" in this Act, unless the context otherwise requires violence means any act or attempted act, which causes or may cause any person physical, sexual, psychological, verbal, emotional or economic harm whether this occurs in private or public life, in peace time and in conflict situations.¹

The definition is all embracing as it tries to capture every form of scenario imaginable – violence against men, women, children, political violence et cetera.

Further, being a national law, its provisions extend overarching protection against violence throughout the country. This is a significant development because of the previously patchwork nature of law against violence, particularly gender-based violence. For instance, only five states

¹ Section 1.

have specifically legislated against domestic violence in the past (Ebonyi, Lagos, Jigawa, Ebonyi). Only a few other states have legislated against female genital mutilation (Edo, Cross Rivers), a few others have developed legislation prohibiting traditional harmful widowhood practices (for example, Anambra, Cross Rivers) while only Ekiti State has developed legislation prohibiting all gender-based violence. The Violence Against Persons (Prohibition) Act “VAPP Act” provides more comprehensive, national legislative coverage against violence. In future briefs, CHELD will analyse in greater depth the significance of the Act in relation to specific offences and generally in relation to existing states’ legislation.

Importantly for the purposes of violence against women, the Act among other things prohibits female circumcision/female genital mutilation (FGM), forceful ejection from home and harmful widowhood practices. It also prohibits abandonment of spouses, children and other dependents without sustenance, battery and other harmful traditional practices.

Worthy of special note is the prohibition of female genital mutilation and circumcision. Previously, this practice was not specifically banned by law in many parts of the country. A policy existed which aimed to eliminate this practice - Several states such as Delta and Cross River also enacted laws to prohibit the practice in their states. However, there was no general legal prohibition throughout the country. Such general prohibition was necessary because this practice is still regarded as the culture in certain parts of our society. FGM under the VAPP Act is now an offence punishable with a term of imprisonment of not more than five years or an option of fine of not more than N100, 000 or both, while inciting, aiding or counseling to carry out the above attracts two years imprisonment or a fine of not more than N50, 000 or both.²

In addition to the stringent punishment of perpetrators of act of violence, the VAPP Act has some welcome developments;

- Compensation of victims and protection of their rights.³ In addition to the fundamental human rights stipulated in the constitution, victims of violence, have their rights protected under the Act. They are also entitled to compensation for harm done to them or to family members or for any loss incurred as a result of the violence by the perpetrators.

- Setting up a regulatory or implementation commission which will ensure the full implementation of the Act.⁴

- Part 14 Of the Act makes provision for the establishment of a special trust fund for the victims. The fund is to provide all form of needed assistance to victims of violence in terms of legal fees,

² Sec 4 VPP Act 2015

³ Part 12, Sec 37 ibid

⁴ Part 13 ibid

shelter, rehabilitation etc. As CHELD has highlighted in other places, the lack of a fund for victims of gender-based violence has limited effective assistance.

If the commission set up in the Act performs its functions as envisaged, it will, it is hoped, go a long way in reducing the incessant cases of abuses on women. These would include all traditional practices and behaviours in the name of culture which negatively affect the fundamental rights of women and girls will drastically reduce.

In future briefs, CHELD plans to address important aspects of the VAPP Act, highlighting gaps in the Act for the purpose of encouraging amendments, and to provide a roadmap for ensuring that the Act accomplishes its objectives.

It is necessary now that the law has been enacted to ensure that it is not merely words on paper, in other words, that it is implemented. At this time, we wish highlight one key aspect of achieving the purpose of the Act, namely awareness. Awareness of the Act's provisions is critical to ensure effectiveness and uptake by those who stand to benefit from the provisions of the Act. Women, and other individuals need to be educated about the potential benefits of the Act. The wheels of justice can only start turning if a case of violence is reported to the appropriate authority. If not, the Act cannot act in vacuum. Although, complaints can be made by third parties,⁵ in most cases, it is still the victim that needs to speak out and make a case. However, awareness is also important for the authorities to whom a victim would report. These authorities have traditionally not been very helpful to the cause of victims, in particular, victims of sexual assault and domestic violence. Law enforcement authorities, including the police and the judiciary should receive training on the provisions of the Act. Health professionals also should learn about their obligations under the Act.

At CHELD, we look forward to doing our part in ensuring the implementation of this Act, in part through creating of awareness via our Conversations on Domestic Violence, our domestic violence website – www.domesticviolence.com.ng and our social media avenues – Facebook and Twitter.

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⁵ See definition of “complaints” in the Act, section 1.