

OVERVIEW OF THE VIOLENCE AGAINST PERSONS (PROHIBITION) ACT (2015)

Dr Cheluchi Onyemelukwe

**Centre for Health Ethics Law and
Development**

www.domesticviolence

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INTERNATIONAL CONTEXT FOR DEVELOPING LEGISLATION ON VIOLENCE

- Nigeria has signed or ratified
 - The Convention on Elimination of Discrimination Against Women
 - The African Charter on Human and Peoples Rights (domesticated)
 - The Convention on the Rights of the Child (domesticated as the Child Rights Act, law in 24 states)
 - The African Protocol on Human and Peoples' Rights on the Rights of Women in Africa (Maputo Protocol)
 - SDGs – Achieve gender equality and empower all women



THE VAPP ACT – WHAT IS IT ?

- “An Act 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 related 46 Sections
- Defines violence as “Any act or attempted act, which causes or may cause any person physical, sexual, psychological, verbal, emotional, verbal or economic harm whether this occurs in private or public life, in peace time and in conflict situations” s.46. (cf. the WHO definition above)



THE VAPP ACT 2015: AN OVERVIEW

- 26 Offences, 6 parts
- Applicable only in FCT – Section 46
- Incorporates the rights guaranteed under the Constitution – s. 38
- Types of Violence Covered: Sexual Violence; Physical Violence; Emotional Violence; Economic Violence



TYPES OF VIOLENCE COVERED BY ACT

Sexual	Physical	Economic	Psychological	General
Rape	Female Genital Mutilation	Forced Financial Dependence or Economic Abuse	Emotional, Verbal, Psychological Abuse	Coercion Offensive Conduct
Incest	Deprivation of Liberty	Damage to Property	Damage to Property	Indecent Exposure
	Spousal Battery		Forced Isolation	Making False Statements
		Abandonment of Spouse without Sustenance	Stalking	Political Violence
			Intimidation	Frustrating Investigation



SEXUAL OFFENCES - RAPE – S. 1

- Rape is 1. **intentional penetration** of the vagina , anus or mouth of another person with any other part of his or her body
- 2. or **anything else**
- 3. **without consent** or consent is obtained by force or by means of intimidation of any kind or by fear of harm or by means of false and fraudulent representation as to the nature of the act or the use of any substance or additive capable of taking away the will of such person.
- Life imprisonment (various other imprisonments)



INCEST S. 24; INDECENT EXPOSURE S. 26

- Incest – without consent
 - Without consent – 10 years, no fine; With consent 5 years, no fine
 - 1 year, 500,000
- Indecent exposure – exposure of genitals with intent to cause distress, or induce to commit an act of violence; induce another to massage or touch for perpetrator's sexual enjoyment



(PHYSICAL VIOLENCE)

PHYSICAL INJURY – SECTION 4

- A person who willfully causes and inflicts physical injury on another person by means of any weapon , substance or object
- Attempts to commit the act
- Incites , aids, abets or counsels another person to commit the.
- Imprisonment not exceeding 5 years or a fine not exceeding N100,000.00 or both
- Imprisonment not exceeding 3 years or to a fine not exceeding N200,000.00 or both
- Imprisonment not exceeding 3 years or to a fine not exceeding N200,000.00 or both




SPOUSAL BATTERY S. 19

- Intentional and unlawful use of force or violence on a person, unlawful touching, beating or striking of another person against his or her will with the intention of causing bodily harming
- 3 years; 200,000
- Aiding, abetting, or counselling – 1 year or 200,000



ATTACK WITH HARMFUL SUBSTANCE S.21

- Attack with harmful substance or liquid
 - Administering a substance with intent to stupefy or overpower a person to engage in sexual activity
 - Life imprisonment, no option of a fine
 - Attempt, incite, abet, aid, receives, aids, – not more than 25 years, no fine
 - Differs from rape. Can be charged for both.
 - 10 years, 500,000
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PHYSICAL VIOLENCE

FEMALE GENITAL MUTILATION – SECTION 6

- Prohibits genital mutilation of the girl child or woman
- Attempt, inciting, aiding, abetting, counselling,
- Performance or engagement of another to perform - 4 years imprisonment; 200,000 or both
- 100,000 or 2 years or both



FORCEFUL EJECTION FROM HOME – S. 9/ DEPRIVATION OF LIBERTY – S. 10

- Forceful eviction of a spouse (male or female)
- Inciting, aiding, abetting
- Deprivation of liberty except by order of court
- Attempt
- Inciting, aiding, abetting, counselling,
- Assisting
- 300,000 or 2 years, or both
- 200,000 or 1 year or both
- 2 years or 500,00 or both
- 1 year
- 2 years, 300,000
- 1 year, 100000



(PSYCHOLOGICAL VIOLENCE)

DAMAGE TO PROPERTY S.11/ STALKING S. 17

- Causing mischief, destruction, damage to property with intent to cause or knowing it is likely to cause distress
 - 2 years, imprisonment, both
- Attempt, inciting, aiding, abetting, counselling - 1 year, 200,000, both
- Stalking – watching, loitering, following, pursuing, accosting
 - 2 years, 500,000 – attempt etc. 200,000



FORCED ISOLATION – S. 13; EMOTIONAL PSYCHOLOGICAL AND VERBAL VIOLENCE S.14

- Forced isolation from family and friends
- Emotional, psychological and verbal violence
- Inciting, aiding, abetting
- 100,000 or 6 months or both
- 200,000 or 1 year or both
- Half



HARMFUL TRADITIONAL PRACTICES

- All traditional behaviour, attitudes or practices, which negatively affect the fundamental rights of women, girls, or any person and includes harmful widowhood practices, denial of inheritance or succession rights, female genital mutilation, forced marriage, forced isolation
- 4 years, 500,000



POLITICAL VIOLENCE, S.23; VIOLENCE BY STATE ACTORS – S. 24

- Political violence – any violence perpetrated during political activities, including thuggery, mugging, use of force to disrupt meetings, use of dangerous weapons
- A state actor, i.e group of persons, structured or organised institutions and agencies who commits political violence
- 4 years; 500,000;
- 4 years, 1 million or both



(ECONOMIC VIOLENCE)

FORCED FINANCIAL DEPENDENCE OR ECONOMIC ABUSE S.12

- Forced financial dependence or economic abuse
- Economic abuse is defined as forced financial dependence; denial of inheritance rights; unreasonable deprivation of financial resources for necessities, rent etc and unreasonable disposal of property in which the other party has an interest
- 500,000, 2 years, both



ABANDONMENT S. 18

- Abandonment of spouse and children without means of sustenance
- (what about case of abuse, what of a circumstance where the woman is without means, what about a situation where the spouse is tired of the marriage?)



GENERAL – COERCION - S 2; OFFENSIVE CONDUCT – S 5; INTIMIDATION S. 18

- Coerce another to engage in any act to the detriment of that other person's physical or psychological being
- Offensive conduct – Compel another to engage in any act detrimental to victim's physical or psychological well-being
- Intimidation - threats
- 3 years imprisonment; no option of fine
- No definition of coercion
- 2 years imprisonment or fine of 500,000 or both; attempt or inciting – 1 year or 300,000
- No clear difference
- 1 year, 200, 000



JURISDICTION OF COURT S. 27; PROTECTION ORDER S. 28

- Only the High Court of the Federal Capital Territory has jurisdiction to hear and grant applications relating to the Act
- Application can be made for a protection order
- Order, when granted, is effective throughout the country
- Applications for others may be brought by police officers, accredited service provider, social worker or teacher
- Application must be brought with written consent
- Consent is not required where the complainant is a minor, mentally retarded, or otherwise deemed unable to consent
- A minor can bring an application without the assistance of the parents, with supporting affidavit from those who know the events.



PROTECTION ORDERS S. 29

- An interim protection order may be provided by the Court where there is imminent danger of domestic violence – s.29(2)
- Recall that domestic violence is not one of the offences clearly identified.
- Act defines domestic violence as
- An interim order will be served. It will require respondent to keep away from complainant and to show reasonable cause on a specific date why the order should not be extended or made permanent.
- If the respondent fails to appear or is unable to show reasonable cause, it becomes permanent



PROTECTION ORDERS S.31

- A Court may by protection order prohibit:
 - Domestic Violence
 - Entering a shared household or specified part
 - Entering complainant's residence or place of employment'
- A Court may direct respondent to secure alternative accommodation
- A Court may not refuse to grant a protection order on the grounds that there are alternative legal remedies available to complainant
- It may however order that a provision of the protection order be in force for only a specified period to allow a party seek further relief under such law as the Child Rights Act, Matrimonial Causes Act

A Court may direct respondent to secure alternative accommodation

May also approve a channel of mediation



RIGHTS OF COMPLAINANTS – S.38

- All the rights granted by the Constitution – dignity, freedom of movement, freedom from cruel and degrading treatment, right to privacy etc
- Rights granted under applicable International Instruments
- To receive necessary materials, comprehensive medical, psychological, social and legal assistance
- Information on available support to victims and survivors
- Rehabilitation, reintegration, formal education, vocational skills, micro-credit
- Right to make a report cannot be excluded any organisation



SERVICE PROVIDERS S. 39 AND 40

- Service providers in the areas of protecting rights, legal aid, medical care, financial or other assistance to register with state government
- Registration with State Government???? Required.
- Register of providers to be kept by relevant Ministry?
- Immunity from court action to be provided to service providers who act in good faith
- Court appointed protection officers to work in conjunction with service providers – s. 41



COORDINATOR AND REGULATORY BODY (S.

- A Coordinator for the prevention of domestic violence is to be appointed who will submit an annual report to the Federal government and deposit a copy with the NBS s- 42
- NAP TIP – administer the provisions of this Act and collaborate with other organisations including FBOs s. 44



CONSEQUENTIAL AMENDMENT S.45

- Any offence committed prior to this Act under the provisions of the CPA, CPC and the Penal Code shall be enforced by the provisions of the VAPP Act
- Any provision of the Act shall supersede any provision on **similar offences** in the CPA, CPD and the Penal Code




SOME PROGRESSIVE AND INNOVATIVE FEATURES OF THE VAPP ACT

- Wide range of offences covering various aspects of violence
- Rape's definition now inclusive and gender-neutral offence s.1
- Compensation for rape as well as criminal sanctions s. 2
- A Sex Offender Register
- Overlap of some offences such as harmful traditional practices and economic abuse
- Prohibition of several offences not previously considered crimes- FGM, emotional abuse, economic abuse, abandonment, forceful eviction etc



PROGRESSIVE AND INNOVATIVE FEATURES OF THE VAPP ACT

- A minor can apply for an protection order without the assistance of a parent, with a supporting affidavit
 - Recognition of the role of service providers and acknowledgement that government cannot provide all the services alone. S.40
 - Clear acknowledgement of the application of international law – s. 38(1)
 - Appointment of a Coordinator on Domestic Violence - will ensure information on implementation, including Statistical
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GENERAL CONCLUDING COMMENTS

- Clearly does not remove the need for other kinds of Violence dealt with in criminal law such as the Criminal Code and the Penal Code; s. 45
- Currently only applicable in the Federal Capital Territory Abuja



Dr Cheluchi Onyemelukwe

**Executive Director, Centre for Health Ethics Law and
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