

A Critical Appraisal of the Violence Against Persons (Prohibition) Act, 2015*

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Abstract

The Violence Against Persons (Prohibition) Act (hereinafter known as ‘the VAPP Act’) came into force on 25th May, 2015. The VAPP Act is comprised of 48 sections and 9 schedules consisting of six forms. According to the long titled of the Act, the object of the VAPP Act is to eliminate violence in private and public life, by providing maximum protection and effective remedies for victims and punishment of offenders. It is recommended that the National Assembly should undertake an amendment of the VAPP Act to eliminate *inter-alia* certain misleading provisions of the Act, such as ss.36(1) and 39.

Keywords: Violence Against Persons, Prohibition from Violent Acts.

1. INTRODUCTION

This work has examined most provisions of the VAPP Act. It is the first criminal legislation in Nigeria to expand the concept of rape beyond penetration of the vaginal and anus by the penis and to include penetration of the mouth by the penis. The VAPP Act is also the first instrument to prohibit and punish female genital mutilation, forced eviction by a person of his/her spouse and children, verbal, emotional and psychological abuses, harmful widowhood practices, political violence, etc.

The VAPP Act also provide for protection order to protect victims of domestic violence. However, the Act is restricted in it’s application to the federal capital territory, Abuja. The reason for this restriction shall be discussed. It is hoped that the component states of the federation of Nigeria will locally enact the Act into law.

The object of this work is to examine the extent of the protection conferred on persons by the VAPP Act, and to show where appropriate, the relationship between the VAPP Act and extant Criminal and Penal Code Acts. The work also attempts to expand the restricted jurisdiction created by the Act. In doing this the author has adopted doctrinal research methodology.

In appraising the VAPP Act, the following research questions were considered: (i) What Acts of violence are prohibited and punished by the VAPP Act? (ii) What is the value of the VAPP Act over an above the pre-existing Criminal and Penal Code Acts? (iii) Why is jurisdiction restricted to Abuja and how could these have been obviated? (iv) What are the implications of the protection order created by the VAPP Act?

The outline of this work is as follows: (i) Abstract (ii) Introduction (iii) Rape (iv) Other sexual offences (v) Physical injury and FGM (vi) Eviction and false imprisonment (vii) Emotional abuse, harmful cultural practices and abandonment (viii) Political violence, incest and indecent exposure (ix) Jurisdiction and protection order (x) Protection order and offences (xi) Victim’s right, prohibited information and service providers (xii) Regulatory bodies and dangerous sexual offenders. (xiii) Conclusion.

RAPE

Section. 1(1) of the VAPP Act provides a novel definition of Rape. A person commits rape whenever he or she intentionally uses any part of his/her body or thing to penetrate the vagina, anus or mouth of another person, provided the other person did not consent or the consent was obtained by fraud or by any other unlawful means.

The traditional concept of rape is restricted to non consensual penetration of the vaginal by the penis.¹ Before the enactment of the VAPP Act, no law specifically criminalises Anal Rape. However, it is submitted that Anal Rape can be punished under s. 214, of the Criminal Code Act and s. 284 of the Penal Code Act, which is *in pari materia* with the former. Section 214 of the Criminal Code Act provides *inter alia* that any person who have carnal knowledge of any other person against the order of nature is punishable with 14 years imprisonment. It is immateria that the other person consent to the act. The phrase ‘against the order of nature’ has been defined in **Mogaji v. Nigerian Army**,² to mean anal intercourse³. In this case, Major Mogaji was convicted by the General Court Marital on a charge of sodomy under s. 81(1)(a) of the Armed Forces Decree No. 105 of 1993⁴, for having had carnal knowledge of four males. The General Court Martial sentenced him to 7 years imprisonment, which

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¹ See Criminal Code Act Cap (38) Laws of the Federation of Nigeria (LFN) 2010, s. 35(7) and the Penal Code Act Cap P3 (LFN) 2010, s.282. Under these Acts non consensual Rape of a Women or Girl is punishable with life imprisonment.

² (2008) 34 NSCQR (pt 1) 108.

³ Ibid at P. 139.

⁴ Now Armed Forces Act Cap A2 LFN 2010,s . 81(1)(a).

sentence was reduced to 5 years imprisonment by the confirming authority. On subsequent appeal to both the Courts of Appeal and the Supreme Court, the Courts affirmed the decision of the General Court Martial.

The infraction of s. 1(1)⁵ of the VAPP Act is punishable with life imprisonment. However, this is not a mandatory sentence. This is born out of paragraphs (a)–(c) of s. 1(2)⁶ which gives the judge a discretion to impose sentences less than life imprisonment. Where the offender is below 14 years, he may be sentenced to a maximum of 14 years imprisonment. Offenders who are 14 years and above are liable to a minimum of 12 years imprisonment. In the case of gang rape, the offenders are jointly and severally liable to a minimum of 20 years imprisonment.⁷

There is no doubt that the VAPP Act has expanded the Nigerian Criminal Jurisprudence on Rape. It has introduced the concept of Oral rape by the penis and the non consensual penetration of the vagina, anus and mouth by any other part of a person's body or object. Furthermore, the Act imposes severe punishment for rape than the existing Criminal Code Act and Penal Code Act. Under the VAPP Act, apart from cases of children below 14 years, the minimum sentence for rape is 12 years imprisonment⁸. Although the punishment⁹ for rape under the criminal Code Act is life imprisonment, the Courts have not interpreted it to mean a mandatory sentence. For example, in **Popoola v. State**,¹⁰ the appellant was charged under s.358 of the Criminal Code Law, Laws of Ogun State 1978, which is similar to s. 358 of the Criminal Code Act. The appellant was alleged to have raped a student of Abeokuta Grammar School, Ogun State. He was sentenced to 5 years imprisonment,¹¹ which sentence was affirmed by both the Court of Appeal and the Supreme Court. Also in **Iko v. The State**¹², the appellant was sentenced to seven (7) years imprisonment for rape of a school girl. However, the judgment was disallowed by the Supreme Court for want of corroboration.

In all cases of rape, the prosecution must prove that there was penetration. The Supreme Court has held that penetration is the most important ingredient of the offence of rape, and penetration no matter how slight is sufficient. It is not necessary to prove that there was a rupture of the hymen or an injury to constitute the offence of rape¹³. Another important ingredient of rape is corroboration. Corroboration is not a requirement of law but a rule of practice. However, it is usually required. In **Iko v. State**,¹⁴ Kalgo JSC referred with approval to the definition of corroboration by Lord Reading in **R v. Baskerville**¹⁵, to wit: "...evidence in corroboration must be independent testimony which affects the accused by connecting or tending to connect him with the crime." In other words, it must be an evidence which implicates the accused and confirms in some material particular not only the commission of the crime but also that the accused committed it.

In **D.P.P v. Hester**¹⁶, Lord Diplock observed the danger which the rule on corroboration is intended to obviate. In the view of his Lordship, the risk is that the story told by the witness may be inaccurate. Whether the risk be of deliberate inaccuracy as in the cases of accomplices or unintentional inaccuracy as in the case of children and some complainants in cases of sexual offences¹⁷. Another reason for the rule requiring corroboration is to protect a person from being framed up for rape.

In rounding up the discussion on rape, it is necessary to point out that neither a husband nor a male person below the age of 12 years under ss. 6 and 30 of the criminal code Act respectively could not be guilty of rape. Section 30 provides an irrebuttable presumption of law that such a male person is incapable of having carnal knowledge. However, a husband will be guilty of rape where the marriage has been divorced¹⁸, or as was held in **R v. Clarke**¹⁹, where there is a separation order which contains a clause that a woman is no longer bound to cohabit with the husband and so long as the order is in force, it is rape to have carnal knowledge of the woman without her consent. In other words, the separation order amounts to a withdrawal by the wife of the consent implied by the marriage. Moreover, under section 357 of the criminal code act, a woman could not be guilty of rape since this offence can only be committed by a man.²⁰

⁵ Violence Against Persons (Prohibition) Act 2015, s.1(1).

⁶ Ibid.

⁷ Ibid, s. 1(2)(a) – (c).

⁸ Violence against the persons (prohibition) Act, - s. 1(2) (a) – (c).

⁹ Criminal Code Act, s.358.

¹⁰ (2013) 17 NWLR (Pt 138).

¹¹ In *Popoola v. the State*, *Supra*, at p. 120, the Supreme Court criticized the sentence of the learned trial judge as being unnecessarily lenient and loose. However, there was no appeal against the sentence.

¹² (2001) 14 NWLR (Pt 732) 221.

¹³ Ibid at p. 245.

¹⁴ Ibid at p. 241.

¹⁵ (1916 – 17) All E . R. 38 at 43.

¹⁶ (1973) AC 296 at 315.

¹⁷ *Iko v. State*, *supra* at p. 242.

¹⁸ Okonkwo and Nash, *Criminal Law in Nigeria*; (2nd ed.) London, Sneet and Maxwell, 1980, p. 272.

¹⁹ *R v. Clarke* (1949) 33 CR. APPR. 216.

²⁰ Okonkwo and Nash *op. cit.* p. 272.

However, under s. 1(1) of the VAPP Act, a woman who in the performance of a sexual act inserts an object into the anus of a male person without his consent is guilty of anal rape and is liable to be sentenced to a term of imprisonment not less than 12 years.²¹

Unlike s.30 of the criminal code act, s.1(2) (a) of the VAPP Act under scores the fact that a male person below the age of 12 may have reached the full state of puberty and thus capable of having carnal knowledge. Consequently, the Act provides that a person below the age of 14 years who breaches provisions of s.1(2)(a) of the VAPP Act will be liable to a term of imprisonment up to 14 years. This provisions were buttressed by a case in New Zealand in which an 11 years old boy impregnated a woman of 36 years²².

OTHER SEXUAL OFFENCES

Section 22 of the VAPP Act makes it an offence for anybody to intentionally administer a substance to another person with the intention of overpowering or stupefying such person, so as to enable any other person to engage in sexual activity with that person. The offence is punishable on conviction to a term of imprisonment not exceeding 10 years or to a fine of ₦500,000.00 or both. It is submitted that where in addition to administering the said substance, the victim was raped, an offence will also have been committed under s.1(1) of the VAPP Act.

The criminal Code Act²³ provides a severe penalty for the commission of an offence similar to that in s. 22 of the VAPP Act. It provides that any person who with intent to commit or facilitate the commission of a felony, administers or attempt to administer any stupefying or overpowering substance on any person is guilty of an offence and is liable to imprisonment for life.

In the case of rape or other sexual offences, where there is evidence that the victim has suffered physical and/or psychological harm, the offender shall be liable upon conviction to imprisonment for three years.²⁴

PHYSICAL INJURY AND FGM

A person who inflicts physical injury on another by means of any weapon, substance or object commits an offence and is liable on conviction to a term of imprisonment not exceeding 5 years or a fine of 100 thousand naira or to both.²⁵ Physical injury extends from light injury to the more aggravated form known as grievous hurt. Under s.335 of the Criminal Code Act grievous hurt is punishable upon conviction with 7 years imprisonment. On the other hand, a person who batters his or her spouse commits an offence which punishable with imprisonment not exceeding 3 years or to a fine not exceeding ₦200,000.00 or both²⁶. Where a person incites, aids, abets or counsels the infliction of physical injury or the battering of a spouse, he will be punishable in the former on conviction to a term of imprisonment not exceeding 3 years or a fine not exceeding ₦200,000.00 or both, and in the latter, to imprisonment not exceeding one year or a fine not exceeding ₦200,000.00 or both²⁷.

It is surprising that the VAPP Act deviates from the time tested classification of principal offenders with respect to inciting, aiding or counseling the commission of a crime. Under s. 7 of the criminal code act, a person who incites, aids or counsels the commission of a crime is a principal offender. A principal offender is deemed to have taken part in the commission of an offence and may be charged for the commission of the offence²⁸. The act of abetting the commission of a crime under s.85 of the Penal Code Act is similar to the act of inciting, aiding or counseling the commission of an offence. In **Usman Kaza v. State**,²⁹ the Supreme Court listed the ingredients of abetment. According to the Court, for an accused person to be convicted of abetment, the prosecution must prove:

- “(i) *that there was an encouragement, incitement, setting-on, instigation, promotion or procurement of offence.*
- (ii) *Any of the above acts must be positive, unequivocal and specifically*

²¹ Violence, Against Persons (Prohibition) Act, s.1(2)(b).

²² James Rush, “Boy, 11, fathers child with 36 year Old mother of school friend prompting calls for reform of New Zealand’s Rape laws” available at www.dailymail.com.uk/news/article-2342015/Boy-is-fathers-child-36years-old-mother-school-friend-promptingcalls-reform-NewZealands-rape-laws.html. Retrieved 23/10/2015.

²³ Criminal Code Act CAP C38 LFN 2010 section 331. The rape of Cynthia Asokogbu consequent upon the administration of a stupefying substance known as rohypnol was an example of the crime which sections 22 and 331 of the Act and the Criminal Code respectively intended to punish: punch, Cynthia Osokogbu: Alleged killers had it all planned says witness available at www.punchng.com/news/cynthia-osokogbu-alleged-killers-had-it-all-planned-says-witness/retrieved on 24/10/2015.

²⁴ Violence Against Persons (Prohibition) Act, s. 3.

²⁵ *Ibid.* s. 2.

²⁶ *Ibid.* s. 19(1).

²⁷ *Ibid.* ss. 2(3), and 19(3).

²⁸ Okonkwo & Nash *op. cit.* p.157.

²⁹ (2008) 2SCNJ 375.

- addressed to the commission of the offence.*
- (iii) *The act abetted must be committed in consequence of the abetment.*
 - (iv) *An accused person could be convicted of the offence of abetment on proof by the prosecution of any of the above acts.*
- In other words, the acts mentioned in (i) above are in the alternative and not cumulative.”*

Section 4(1) of the VAPP Act makes it an offence punishable with imprisonment not exceeding two years or fine not exceeding ₦200,000 or both for any person to intentionally place another in fear of physical injury. This offence is similar to the tort of Assault. It is suggested that the court in interpreting the offence created in s.4(1) may revert to the principles established in respect to the tort of Assault.

In the tort of Assault of the action of the defendant should have been such that a reasonable man might fear that violence was about to be applied to him. The test is objective rather than subjective³⁰. It is submitted that the defenses available in cases of Assault should also apply in respect to the present offence.³¹

Section 6 of the VAPP Act prohibits female circumcision otherwise known as female genital mutilation. A person who performs or procures another to perform female circumcision, is punishable with a term of imprisonment not exceeding 4 years or a fine not exceeding ₦200,000 or both. Where a person attempts to engage in female circumcision is liable to imprisonment not exceeding 2 years or a fine not exceeding ₦100,000 or both.³² Female genital mutilation refers to the removal of a part or all of a female's genitalia. The severest form is infibulation or pharaonic circumcision.³³

EVICITION AND FALSE IMPRISONMENT

Where a person forcefully evicts or refuses his or her spouse access to his or her home, he commits an offence punishable with imprisonment which may extend to 2 years imprisonment or a fine not exceeding ₦300,000 or both.³⁴ On the other hand, the offence of unlawfully depriving another of his or her personal liberty is created by s.10 of the VAPP Act. This offence is similar to the thought of false imprisonment. Like in the case of falsified imprisonment, it seems that for this offence to be committed, the plaintiff must prove that his freedom of movement in all directions has been restrained. Again, it is not necessary for the plaintiff to prove that any physical force has been applied on him. It suffices that the plaintiff has been restrained by the use of authority. This is the case where police officers wrongfully order a person to accompany them to the station³⁵.

EMOTIONAL ABUSE, HARMFUL CULTURAL PRACTICES AND ABANDONMENT

Section 14 of the VAPP Act creates the offence of verbal Emotional and Psychological Abuse. The penalty does not exceed imprisonment for 1 year or a fine not excess of ₦100,000 or both. It is arguable that most of the offences created by the VAPP Act could cause Emotional and Psychological Discomfort, and this is true with offences such as Rape, inflicting Physical Injury, eviction or false imprisonment. Thus, the question which the Courts must decide is the level of Emotional any Psychological Discomfort sufficient to fall within the offence established in Section 14 of the VAPP Act.

In Nigeria, widows are often subjected to certain Harmful cultural practices upon the death of their husbands. For example, they may have their hair forcefully shaved or may be made to drink the water resulting from bathing their husbands' corpses. Thus any person who subjects a widow to any harmful cultural practices is liable on conviction to a term of imprisonment not exceeding 1 year or to a fine not exceeding ₦500,000 or both.³⁶

On the other hand, where a spouse abandons his or her wife, husband, children and other dependents, the spouse commits an offence and he/she is liable on conviction to imprisonment which extends to three years or to a fine which is not more than ₦500,000 or to both such imprisonment and fine.³⁷

POLITICAL VIOLENCE, INCEST AND INDECENT EXPOSURE

Where a private person or a state actor commits political violence, he or she is liable to imprisonment not exceeding 4 years and to a fine not exceeding ₦500,000 or ₦1,000,000 respectively. A person who incites or counsels the commission of political violence is liable to imprisonment for a term not exceeding 2 years or to a

³⁰ Kodilinye and Aluko, the Nigerian Law of Torts, (2nd ed.): Ring Road, Spectrum Books Ltd., 1999, p.12.

³¹ *Ibid.* pp. 15-25.

³² Violence Against Persons (Prohibition) Act, s. 6(2) and (3).

³³ M. O. Imasogie, "Reproductive Rights as Human Rights," Essays in Human Right Law (A. N. Nwazuo Ed): Abakaliki, Department of Commercial and Industrial Law, 2004, p. 105.

³⁴ Violence Against Persons (prohibition) Act, s.9(1).

³⁵ Kodilinye and Aluko *op. cit.* p. 14.

³⁶ Violence Against Persons (Prohibition) Act s.15(1).

³⁷ *Ibid* s. 16(1).

fine not exceeding ₦300,000 or both³⁸. Political Violence has been defined by s. 46 of the VAPP Act as “any act or attempted act of violence perpetrated in the course of political activities, such as elections, and includes any of the following acts (a) thuggery (b) Mugging (c) Use of force to disrupt meetings or (d) the use of dangerous weapons that may cause bodily harm or injury.” It is obvious that this definition is not exhaustive.

Certain persons are prohibited from getting married under s.3 of the Matrimonial Causes Act³⁹. These are people related by blood (consanguinity) and by Marriage (Affinity). This is to Avoid Incestuous Marriage⁴⁰. Under s. 46 of the VAPP Act, ‘incest’ is defined as sexual intercourse between a person and anyone who is to his or her knowledge, a daughter or son, granddaughter or son, a sister or brother, mother or father, niece or nephew, aunt/uncle, grandmother or granduncle.

Thus, under s.25 of the Act it is an offence for any person to intentionally have Carnal Knowledge of another within the prohibited degrees of Consanguinity and Affinity. Such a person commits incest, which is punishable with a minimum of 10 years imprisonment without an option of fine. The consent of the other person is irrelevant.

Section 26 of the Act Establishes an offence known as Indecent Exposure. It provides that a person who intentionally exposes his or her genital organ or a substantial part thereof, and consequently causes stress to another person or induces such a person to commit any of the offences established by the VAPP Act, commits an offence and is liable on conviction to imprisonment not more than one year or to a fine not more than ₦500,000 or both.

This provision is strange. The first issue is, what substantial exposure will be necessary to ground this offence? Secondly, how does a court determine that the exposure in question has caused stress or induced a person to commit an offence established by the Act?

Thirdly, where a person supposedly, induced Rapes a person guilty of indecent exposure, will the Rapist be discharged and acquitted on the ground of his having been induced in the first instance?

JURISDICTION AND PROTECTION ORDER

Section 27 confers on the High Court of the Federal Capital Territory Jurisdiction to entertain matters arising from the VAPP Act or to grant an application made pursuant to the said Act. The confirmation of jurisdiction on the High Court of the Federal Capital Territory by the VAPP Act means that no other Court can exercise jurisdiction at first instance over the provisions of the VAPP Act.

One reason which may be adduced for this, is that under the concurrent legislative list both the National Assembly and the State Houses of Assembly could legislate on issues of crime. Thus, the national assembly could not confer jurisdiction on a state high court in respect of the Act.

However, the VAPP Act could have vested jurisdiction over its provisions on the Federal High Court since the jurisdiction of the Federal High Court under s.251 of the Constitution of the Federal Republic of Nigeria as amended may be extended “To such other jurisdiction as may be conferred upon it by an act of the National Assembly.” By so doing persons in every state in Nigeria would have been able to enforce the VAPP Act.

Jurisdiction means the substantive and procedural competence of a court to hear a case and exercise judicial powers. Jurisdiction is statutorily provided for and does not depend on the consent of the parties.⁴¹ Where a Court lacks jurisdiction whatever it does is a nullity.⁴²

Protection Order and Offences

Section 23 of the VAPP Act provides for a protection order. A protection order has been defined in the interpretation section⁴³ as an order issued by a judge and which restrains a person, whether a private person or a State Actor from further abusive behaviour towards the victim. An application for a protection order can be made at anytime, since there is no time restriction within which the application shall be made.⁴⁴

The format which an application for a protection order shall take is provided for in the schedule to the VAPP Act.⁴⁵ The persons who on behalf of the victim or complainant may file an application for a protection order are provided for in s.28(4) of the VAPP Act. However, the victim must give his consent in writing before

³⁸ *Ibid.* ss. 23(1) and (3) and 24(1) and 3).

³⁹ Cap. M7 L. F. N. 2010.

⁴⁰ D. I., Efevwerhan, Principles of Civil Procedure in Nigeria, (2nd ed.), Enugu, Snap Press Ltd., 2013, p. 603.

⁴¹ *Madukolu v. Nkemdilim* (1962) 2SCQR 341; *Akeem v. UNIBADAN* (2003) 10 NWLR (pt. 829) 545 and *Afribank (Nig) Plc v. Bronik Ind. Ltd.* (2006) 5 NWLR. (pt 673) 3000.

⁴² J. A. Agaba, Practical Approach to Criminal Litigation in Nigeria, Lagos, Law Lords Publication, 2011, p. 130.

⁴³ Violence Against Persons (Prohibition) Act, s. 46.

⁴⁴ *Ibid* s. 23(1).

⁴⁵ *Ibid* s.28(2).

the said persons can act on his behalf. The requirement of consent is discountenanced with where the victim is a minor, mentally retarded or unconscious. Interestingly, under s. 28(5) of the VAPP a minor or a person acting on behalf of a minor can apply for a protection order without the consent or assistance of the minor's parents or guardian.

Where notice of proceedings for a grant of a protection order has not been served on the respondent, the court may issue an interim protection order if it is satisfied that there is a prima facie evidence that the respondent is committing, has committed or there is an imminent likelihood that he or she might commit an act of domestic violence. Section 46 of the VAPP Act defines 'domestic violence' as any act "perpetrated on any person in a domestic relationship. Where such act causes harm or may cause imminent harm to the safety, health or well being of any person." Domestic violence from its definition can only arise within the family setting. It is with respect to this kind of violence that an interim protection order will be issued.

An interim protection order must not only be served on the respondent but requires him or her to show cause on the return date why a protection order should not be issued against him or her⁴⁶ where the court is satisfied that the respondent has been served with the interim order and he fails to appear on the return date, the court shall issue a protection order against him.

However, where the respondent appears and opposes the issuance of an interim protection order, the Court shall proceed to hear the matter⁴⁷. A protection order may restrain the respondent or anyone acting on his behalf from committing domestic violence. The order may bar the respondent from entering a shared household or any specified part or the complainant's place of work. The said protection order may prohibit the respondent from preventing the complainant access to the afore-mentioned house or any part thereof. The order may also prevent the respondent from disposing a shared household or his right in that house, except in favour of the complainant. Any additional conditions which the Court deems necessary to protect the safety, health or wellbeing of the complainant may be imposed.

Where a protection order has been granted, the court may impose a liability on the respondents to discharge any Mortgage payment or rent or to pay to the complainant emergency monetary relief. Section 46 defines 'emergency monetary relief' as "compensation for monetary loses incurred by the complainant consequent upon suffering domestic violence." Where a child or a minor is involved, the order may deny the respondent contact with the child or minor or define the limit of any such contact⁴⁸.

A protection order is always accompanied with a warrant of arrest of the respondent. The Court shall not suspend the execution of the said warrant except where the respondent has complied with any prohibition, condition or obligation imposed by the protection order. The warrant of arrest shall remain in force until the protection order has been executed or set aside.⁴⁹

Either the complainant or the respondent upon the issuance of notice to the other party and to the court may apply for a variation or setting aside of the protection order. The order may be varied or set aside, where the Court is satisfied that a good cause has been shown. Upon the variation or setting aside of the order, it is the duty of the registrar of the Court to serve a notice to that effect on both the respondent and complainant. Section 35 of the VAPP Act deals with the class of persons who may apply to discharge a protection order.

Any respondent who contravenes an interim order or a protection order by denying the complainant access or preventing him from remaining in the place or house to which the order relates commits an offence and is liable on conviction to a term of imprisonment not more than 6 months or a fine of not exceeding ₦300,000. It is an offence for anyone to willfully make a false statement in an affidavit filed pursuant to proceedings for a protection order. The offence is punishable with imprisonment which may be up to six months or fine which may not be more than ₦200,000⁵⁰.

VICTIM'S RIGHT, PROHIBITED INFORMATION AND SERVICE PROVIDERS

A victim of violence ⁵¹ under s.38(1) of the VAPP Act is entitled to material, medical, psychological and legal assistance from governmental or non governmental agencies providing such services. He or she is also entitled to be informed of the availability of those services. The victims shall be afforded opportunity to acquire skills in any vocation of his choice and access to micro credit facilities.

The persons whose presence may be allowed during the proceedings of the court have been specified in

⁴⁶ Ibid s. 29(2) – (4).

⁴⁷ Ibid s. 30(1) and (2).

⁴⁸ Ibid s. 31.

⁴⁹ Ibid s. 34.

⁵⁰ Ibid s.36(1) and (3).

⁵¹ The VAPP Act in s.46 defines a victim of violence to mean a person or persons who have individually or collectively suffered harm, including physical, mental, emotional, economic loss and substantial impairment of their fundamental rights. It also includes the defendants of the victim who have suffered harm in assisting the victim.

s.38(3) of the VAPP Act. Section 39 of the Act protects the identity of the party to the proceedings. It provides that no information capable of revealing the names or other particulars of the parties by which their identity may be discovered shall be published. However, publications made by way of law reports are allowed provided they do not reveal the identities of the parties or witnesses. Any contravention of the provisions of s.39 attracts a term of imprisonment not in excess of one year or a fine not exceeding ₦200,000 or both.

Under s. 40(1) of the VAPP Act non-governmental organizations or associations registered under the Companies and Allied Matters Act,⁵² with the objective of protecting the rights and interest of victims of violence are also required to register under the VAPP Act, whenever the necessary rules are made. Such organizations or associations are to be known as accredited service providers. The VAPP Act does not only specify the responsibility of accredited service providers but also protect them from any suit in respect of actions taking in good faith.⁵³

The VAPP Act empowers the appropriate government ministries to appoint any number of protection officers⁵⁴ in each area council for the purpose of assisting the Court in the discharge of its duties, the act does not define ‘appropriate government ministries’. However, this may include the Ministries of Justice and Women’s Affairs.⁵⁵ Protection officers are to co-ordinate the activities of the police and accredited service providers, and shall ensure that the victims of violence have easy access to an accredited service providers or transportation to an alternative residence or shelter or medical facility for the treatment of the victim, where he so requires. The protection officer should also ensure that the victim is able to remove his belongings from a shared household and to gain access to the court for the orders provided by the VAPP Act. Where the Court orders a respondent to make any payment to the complainant and he fails to do so, a protection officer may direct the respondent’s employer, debtor or any bank in which the respondent operates an account to pay to the complainant or deposit in a court a portion of the wages or salaries, debt or money accruing to him in any bank.⁵⁶

REGULATORY BODIES AND DANGEROUS SEXUAL OFFENDERS

Section 44 of the VAPP Act mandates the National Agency for the Prohibition of Trafficking in Persons (NAPTIP)⁵⁷ to administer the provision of the Act. It seems from the provisions of s.42 of the VAPP Act that NAPTIP is also responsible for the appointment of a co-ordinator for the prevention of domestic violence. It is the duty of the co-ordinator to submit to the federal government an annual report on the administration of the act. A copy of the report shall also be submitted to the National Bureau for statistics.

Where a person has been convicted more than once for a sexual offence or for a sexual offence with a child, the Court shall declare such a person ‘a dangerous sexual offender.’ It seems that the intention of the Vapp Act is that the court shall maintain a single blacklist of dangerous sexual offenders, which shall be available for public inspection.⁵⁸

CONCLUSION

This work has undertaken an appraisal of the VAPP Act, it is suggested that the National Assembly should amend the Act as quick as possible so as to remove certain misplaced information. For example, s. 36(1) provides that a victim of violence is defined in s.1 of the VAPP Act. There is no such definition in s. 1. Section 46 merely defined a ‘victim’. Secondly, s.46 defines a protection officer as “an officer appointed under s. 39 of this act in relation to and for the purpose of this Act.” There is no reference to a protection officer in s. 39. Protection officers was first referred to in s. 40, on his or her duties were specified in s. 41.

Another provision which is in need of amendment is s. 2(2) of the VAPP Act. It imposes a severe fine on a person who attempt to commit an offence than that imposed by s.2(1) on an actual offender. That this is not the intendment of the National Assembly is shown by ss.3(2), 4(2) and 5(2) for example.

It is suggested that the National Assembly should extend Jurisdiction over the VAPP Act to the Federal High Court. This will enable those in different state of the Federation to readily enforce the provisions of the

⁵² Cap. C10 L.F.N. 2010.

⁵³ Violence Against Person (Prohibition) Act, s. 40(1) – (4) for other bodies included in the definition of ‘Accredited service Providers’ see s.46 of the Act.

⁵⁴ Section 46 of the VAPP Act defines ‘protection officers’ as ‘an officer appointed under s. 39 of this Act in relation to and for the purpose of this Act. There is no reference to protection officers in s. 39 of the VAPP Act. Protection officers were mentioned in passing in s.40. However, it is s.41 that states the duties of protection officers.

⁵⁵ *Ibid* s. 41(1).

⁵⁶ *Ibid* ss. 41(1) (a) – (e) and 42.

⁵⁷ NAPTIP is the body which administers the provisions of the Trafficking in Persons (Prohibition) Administration and Enforcement Act, 2003.

⁵⁸ Violence Against Persons (Prohibition) Act, s.43 (A) – (C).

VAPP act. Furthermore, the component units of Nigeria should also be encouraged to adopted the VAPP Act.

Moreover, the protection order established by the VAPP Act is novel, in the sense that it confers on victims of violence wide ranging protection against perpetrators of violence.