

LEGISLATION AND SOCIAL PROTECTION: ASSESSING THE IMPACT OF THE VAPP ACT 2015 IN NIGERIA AFTER TEN YEARS

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Abstract

The legislative process is a cornerstone of representative democracy, serving as the primary mechanism through which elected officials make decisions that affect the welfare and sustainability of the nation. This study examines the dynamics of Nigeria's legislative process, emphasizing the interplay between lawmakers and their constituents in shaping policies and laws. It highlights that legislative decisions are not made in isolation; rather, they are informed by inputs from personal aides, government agencies, lobby groups, and other stakeholders who provide technical and contextual information. The effectiveness of legislation is therefore closely linked to how well it reflects the preferences, aspirations, and needs of the citizenry. Drawing on theoretical and empirical insights, this study underscores that laws gain relevance and legitimacy when they resonate with societal expectations. By focusing on these interdependencies, the research provides a comprehensive understanding of how legislative outcomes are negotiated, formulated, and implemented to serve the public interest.

Keywords: Legislature, Legislative Process, Representative Democracy, Policy-Making, Citizen Participation

INTRODUCTION

At every sitting, the legislature convenes to engage in the work of making decisions for the populace. The main aim is to agree on the diverse issues which affects its citizen and the sustainability of the nation. The Legislative process calls for working with the constituent to make decisions which are critical and are in the best interest of everyone. Anyaebe (2016) contends that in representative democracy, the people chose the legislature to undertake the difficult task of ascertaining the policies and laws the serve the best interest of the constituent. Yet in doing this, Dahida (2013) asserts that the legislature does not work in isolation. To be effective, he adds that they depend so much on inputs and contributions from diverse sources. From personal assistants to personnel from government agency and different lobby groups, the legislature accesses a great deal of technical information. He opines that what the legislature actually decides and enact are dependent on the preferences, views, aspiration and choice of the citizens. Kwaghga (2012) lends credit to this fact when he stated that a law is only relevance when it meets the aspirations and yearning of the society for which it is made. He argues that policy and law have but one essence, to confirm with current realities that satisfies the present aspirations of the people. The above assertions present a clear picture of an ideal legislative and policy process, one based on close knit and positive relationship between the elected and the electee, the legislator and his constituents, elected public officials and the people, whom they claim to represent. Sadly, in some context, the ideal is different from the reality, just like theory and practice. One of such contexts is in Nigeria. This article x-rays, the legislative process in Nigeria and how it affects enacted legislations, with special focus on the Violence and Persons Prohibition Act 2015,

theoretical underpinnings, the deliberate neglect of the legislature of its core mandate and implications for sustainable and national development.

Statement of the problem

The Violence Against Persons Prohibition Act (2015) was enacted in Nigeria to stop the scourge of violence against women and girls, in all its forms and provide protection and remedies for survivors and punishment for perpetrators. The need for the VAPP Act was necessitated by an age history of violence against women and girls fuelled by harmful social, cultural and gender norms in Nigerian Societies. In Nigeria, 28 per cent of all women, almost a third of all women in the country, have experienced physical violence (Eniko, 2008). This is a significant number in a country of about 170 million, where almost half are women (NDHS 2013). According to UN Women (2014) young women between the ages of 15 and 24, are most likely to have experienced physical violence in the past one year. In 2002, some 60 groups and individuals came together and formed the Legislative Advocacy Coalition on Violence Against Women, (LACVAW) (WDF, 2021). This body embarked on a nationwide campaign to advocate on the need to legislate on the growing trend of violence melted against women. This quest came to fruition with the signing into law of the VAPP Act May 25, 2015, a whooping thirteen (13) years, after initiating the quest.

The provisions of the Act were limited to only the federal capital territory. Nigeria practices a federal system of government where powers are shared between the central federal government and the 36 constituent states. In recognition of the cultural and social diversity of the nation, every state is expected to review the Act and domestic it to their unique context. Ten (10) years after the enactment of the VAPP Act, 35 of the 36 states have domesticated and assented into law as similar law (Partners West Africa Nigeria, 2024). However, the question remains, why would such an important law takes over 13 years to pass into law. After a decade of enactment, have VAPP Act been effective and lived up to expectation. This is the thrust of this paper.

METHODOLOGY

The study conducted a desk review of relevant data using secondary data from books, journals, statistical databases, online research articles, and newspapers to generate specific themes around the subject and discuss them.

REVIEW OF RELEVANT LITERATURE

The division of modern government into three different arms, the executive, legislative and the judiciary is attributed to the work of the French political and philosopher, Baron de Montesquieu (Nwekeaku 2014). Montesquieu asserts that when executive and legislation powers are concentrated on the same body, it will be an end to liberty, an end to everything (Gay, 2011). In keeping with this postulation, Nigeria adopted a federal three tier system of government where the organs of government are separated and distinct from each other at every tier. The legislative arm of government in Nigeria is comprised of the Senate and House of Representatives, a bi-cameral legislature model, together known as the national assembly. The Nigerian Constitution (1999) section 4 (1, 2 & 4) empowers the national assembly to enact laws for the country.

According to Streamsowers & Köhn (2022) and Mogaji (2017), there are five legislative procedures to make law. The First step is termed first Reading. This is the introduction of the bill by the Clerk of the National Assembly, who reads only the short title of the bill notifying the house that a bill is before it for consideration. The next step is second reading where the bill is deliberated in its entirety and debate upon by the assembly. At the committee stage following the second reading, the bill is referred to the relevant Standing committee for further comprehensive consideration, public hearing and consultations with relevant Stakeholders. At the report stage, the Committee's report on the proposed bill is presented to the assembly for consideration by the whole representatives, clause by clause. If they are in agreement with the working and report of the committee, the stage is thus set for third reading. At the third reading, the Bill is cleaned and harmonized, all clauses and text of the bill are confirmed. The Bill is read the third time and passed. In all undergoing these processes, the legislature does not work in isolation.

The legislature work with the central government in the legislative process in three major ways. First, through the provision of presidential or Governor's assent for laws and by-laws by chairperson of a local government. Igbokwe-Ibeto & Anazodo (2015) asserts that owing to the powers conferred on the federal, state and local governments by means of Presidential or Governorship assent to bills or by-laws by Chairmen, they play a crucial part in lawmaking. Ileka (2022) explains that the legislature needs the consent of the president for the federal government, governor for the state house of assembly and chairperson for the councillors at the local government before a law could be enacted. Onyebuchi (2013) justifies the assent or veto powers of the government in law making as a mechanism of checks and balances. The second area is through delegated legislation. Onu (2022) defines delegated legislation also called subsidiary legislation as legislation made or enacted through the power bequeathed by means of principal legislation. In other words, delegated legislation gets legitimacy through the enabling statute empowering it, which can be the constitution or an act of parliament. Onyewo (2016) is of the view that delegated legislation is pertinent owing to ever busy schedule of the legislatures of the modern state, who are expected to legislate in virtually all spheres of endeavour of the citizens. Benson (2014) proffers that certain legislations are technical and requires expertise which beyond the grasp of the law makers. Thus, powers are given to those who are proficient in such areas to legislate on it. Imhanobe (2012) supports the notion of delegating law making powers to bodies other than the legislature because it caters for unforeseen occurrence in situations like war, disasters and epidemic. The point is that through the instrument of delegated power, other organs of government collaborate with the legislature in law making. Finally, the state governments domesticate laws made by the federal government in areas where both layers of government can legislate on.

The Violence Against Persons Prohibition Act

Hammawa (2015) observes that organizations like Women Right Advancement and Protection Alternative (WRAPA), Voice 4 change, International Federation of Women Lawyers (FIDA), IPAS, Development Dynamics and Project Alert, traditional institutions, faith based organizations, the media, youth groups and captains of industries, sixty groups altogether formed the Legislative Advocacy Coalition on Violence against Women (LACVAW) in 2001, to demand for a legislation to stem the growing tide of violence against women in Nigeria.

Anarado (2015), confirms that LACVAW lead the harmonisation of nine bills which the Nigerian national assembly refused to pass into one – the VAPP bill and demanded for its enactment. The harmonised bills include: Circumcision of Women (Prohibition) Bill, 2000; Violence Against Women (Prohibition) Bill, 2001; Violence against Women (Prohibition) Bill, 2003; Public Nudity, Sexual Intimidation and Other Related Offences (Prohibition and Punishment) Bill, 2007; Discrimination and Related Offences (Prohibition and Punishment) Bill 2008; Domestic Violence (Prevention) Bill, 2008; Abolition of Discrimination Against Women Bill, 2009; Elimination of Violence in Society Bill, 2011 and Sexual Offences Bill, 2013.

Oviawe (2016) enumerates other steps taken by the stakeholders to facilitate the passage of the VAPP Act as follow: Provision of technical assistance in drafting and redrafting the bill,; mobilising the citizens for public hearing and making an input in the committee report; Advocacy and Networking within the group. Roles were assigned to members based on their professional expertise; Raising awareness of the bill at all levels using various platforms; Lobbying of vocal and influential members of the legislature for support on the bill; Establishment of the Gender Technical unit for tracking of the bill process at the National Assembly; Active mobilization of the youths using the peer to peer model and the new media in support of the VAAP bill; facilitated capacity building workshop for law makers and other staff of the National Assembly to better acquaint them with the content of the VAAP bill and secure their buy-in and Production of targeted information and educative materials in a bid to mobilize the citizens and the law makers in support of the bill.

Socio-economic factors considered in the development of the policy

The socio-economic factors considered in the development of this Act includes, poverty, ownership of property and levels of educational attainment. The relationship between violence against women the socio-economic factors have been documented in academic literature. For instance, Ashimolowo and Otufale, 2012 and Igbokwe (2013), found that that poverty is one major cause of violence against women in Africa. It also reveals that women who are educated will disagree with men abusing their wives, if there were to step without his consent or refuse their husband sexual advances. Dalal et al, (2007) posits that economically dependent women who contribute to the upkeep of the household are less likely abused. Women in Nigeria are predominantly poor, less educated, dependent and alienated in all spheres. The VAAP Act considered these issues and provided for their protection.

Why the delay in enactment?

Oviawe (2006) argues that the enactment of the VAPP Act was stalled for 13 years across 4 different legislative tenure in the National Assembly by the following barriers:

Harmful social and gender norms, coupled with the belief system in Nigeria: In Northern Nigeria, it is culturally acceptable for a 13-year-old to get married (Onyemulukwe, 2016). The practice is also sanctioned by Islam, the dominant religion in the region. Of 109 members of the senate, the majority are from this region (Igwe, 2012).

The patrilineal nature of the Nigerian Society: While southern Nigeria seems to be educationally advanced than the north, it is a highly patrilineal society, where girls undergo female genital mutilation, widows are robbed of their late husband inheritance and the girl child is not entitled to an inheritance (Uwaezuoke, 2015). These

dominant issues, stalled the passage of the bill for 13 years, before it was finally passed into law in 2015. The challenge with implementing the law includes the slow judicial process and inadequate interventions for survivors of violence.

Cumbersome legislative processes of the National legislature in Nigeria: Nigeria's bicameral legislature is fraught with a cumbersome process which negates the speedy passage of bills. For instance, Edoawe (2016) avers that there is a standing order in the assembly which stipulates and makes it compulsory for bills that failed to get passage in a particular legislative tenure to start afresh in the next dispensation.

Misconception of certain provisions of the bill: The male dominated national assembly were not comfortable with certain provisions of the bill. For instance, they queried the criminalization of marital rape, the provision on reproductive health rights of women particularly access to safe abortion services for victims of sexual violence and incest, and the applicability of the Protection Order under the economic circumstances of women.

Low political participation of women in Nigeria: The Nigeria national assembly is male dominated with only a handful of women, which results in little or no priority on gender issues. Inter-parliamentary union (2012) asserts that Only 3.38% of elected officials are women in Nigeria, and the highest was 7% in 2010. The male dominated assembly are reluctant to legislate on a bill perceived to empower and protect women.

The enablers of the VAPP Act in Nigeria

A global commitment to end violence against women: According to Westminster foundation for democracy (2021) the Committee on the Elimination of Discrimination against Women urged member states of the United Nation to take measures which will provide protection for women against all kinds of violence. Also in 2008, Ban Ki-Moon's, the then UN Secretary-General launched a campaign to "UNITE to End Violence against Women". UN Women (2014) explains that the campaign focused on the adoption and implementation of measures to end all forms of violence against women and girls. As member of the UN and a signatory to major global convention on violence against women, Nigeria moved to domesticate its own law.

Continued Advocacy by civil society coalitions: Coalitions of civil society groups in Nigeria launched a massive enlightenment campaign to sensitize the citizens on the bill to secure their support and clamour for the passage of the bill. Igbokwe et al (2013) explains that such targeted and sustained advocacy secured the buy in of major political and social key influencers, religious leaders & community gate keepers, who joined the call to pass the bill into law.

The heightened spate of gender-based violence in Nigeria: While issues of gender violence have remained prevalent in Nigeria, the year before the bill was passed was remarkable. Onyemulukwe (2016) recalls how 276 secondary school girls were abducted by the Boko Haram sect in 2014. The issues generated international attention and gave birth to the bring back our girls campaign. Similar, abductions also took place the following year. This heightened the call to enact a legislation to protect adolescent girls and women.

Theoretical Framework

The persistent push for the enactment of the VAPP Act was underpinned by the deliberative theory of human right, postulated by Dembour (2010) and the legitimate struggle theory proposed by Heyns and Steffiszyn (2006).

Dembour shares the belief that human rights as values that is willingly adopted by liberal societies. It is borne out of deliberations and negotiations, which drives change and challenges the status quo, leading to societal agreements. The deliberative school of thought believes that while human right is not universal, it will eventually happen, only requiring time. Miller, Jason and Christopher (2011) also lent credence to this fact. They posit that new norms in a society are eventually accepted over time and is influence by the social environment.

This is true of the Nigerian society, having seen first-hand the disabling effect of sexual and genderbased violence over the years, especially on adolescent girls and young woman, has necessitated deliberations and discussions on stopping this anomaly. The Violence Against Persons Prohibition Act, is a result of such discussion, and consensus. Also, the legitimate struggle theory proposed by Heyns and Stefiszyn (2006) believes that individual legitimate struggles will be the end of impunity in societies. Basing their premise on the social contract theory of state, where the citizens surrender their inalienable rights to the state, in return for protection of life and property and provision of necessities. They posit that resistance is a certain outcome when the tenets of the social contract are neglected. This resistance haven given rise to women advocacy which is a core ingredient in the quest to eliminate sexual and domestic violence against women. Fittingly, legitimate women struggle have given rise to abolition of some repressive laws like denial of universal suffrage and enabling a widow to take ownership of her deceased spouse estate (Freedman 2007). Women advocacy have also given rise to the VAPP act and the enforcement of its provisions.

An Appropriation Assembly or a National Assembly?

Ochonma (2021) believes that the powers ascribed to the national assembly to make laws gives it primacy over the other arms of government, in that governance revolves around law making, implementation and conflict resolution arising from its enforcement. He further adds that the powers ascribed to the national assembly propels it in the forefront of spearheading national development, through its actions. Oviawe (2016) argues otherwise. He asserts that Nigeria's national assembly deliberately chose not to champion the nation's development through the introduction of obnoxious rules which have no footing or background in the constitution. For instance, Order XII, Rule 94 and Order XII, Rule 96 of the national states that all pending bills before the national assembly is considered dead at the end of that assembly and 'MUST' be introduced afresh in the next assembly to be considered. The effect of such obnoxious rule is seen with the unnecessary delay spanning over a decade before the enactment of the VAPP act.

Edoawe (2016) Nyitse, (2015), provides a timeline of events: May 2002 - the Violence against women bill was first introduced First introduced at the National Assembly; May 2003 - the national assembly acknowledged receipt and had it published at the Legislative Gazette. The tenure of that assembly ended same month and the bill was thrown out; March 2004 - the bill was reintroduced in the House of Representative. Nothing again was done on the bill till the end of the legislative tenure in May 2007; December 2009 – the VAPP bill was again presented to the formally presented to the House of

Representatives; 30th June 2010 - the bill was read for the first time in the House of Representatives; February 2011 - Second Reading in the House of Representatives; February 2011 - A Public Hearing was convened on the

bill in the House of Representatives. The tenure of that legislative assembly ended in May 2011; November 2011 - the bill was introduced again to the House of Representatives; February 2012 - the VAPP Bill was gazetted and went through the first reading; March 2013 - went through the second, committee stage, third reading and passage in the house of representatives; March 2013 - the House of Representatives transmitted the bill to the House of Senate for Concurrence. It is pertinent to note that the Senate has the power to pass the bill or kill it; March 2014 - the bill was read for the first time in the Senate; October, 2014 - Second reading in the senate; March 2015 - the senate held a public hearing on the bill and considered the report; May 2015 - the bill underwent the third reading in the senate and was passed. The president also assented to the bill making it a law.

The nonchalant attitude of the Nigerian legislature in legislating against violence which is a recurring decimal in the Nigerian polity found expression in the elite theory. The theory of an elite class is associated with Plato and the Greek antiquity and in the 19th century through the work of Vlfredo Pareto, Gaetano Mosca and Robert Michels (Bakare & Bello, 2020). The elite theory believes that a select minority holds and wield power and control in the society. University of California (2022) explains that the governing elite is characterized by indifference, information distortion, apathy and largely passive masses. The elite theory adopts a top-down approach in law making. Ajisola (2023) contends that the elite only champion policies which reflect their values and interest and the aim is to maintain hegemony over the governed. The above assertions clearly explain the working of the Nigerian legislature. As an elite class, it was reluctant to pass the VAPP act into law because its provisions would empower a hitherto marginalised group and bequeath more power to the downtrodden, hence, the delays.

In fact, the Nigerian national assembly is an appropriation legislature, one who only prioritise its budget approval function, because of the figures padded to it yearly. Bakare & Bello (2020) lends credence to this fact when he posits that the National Assembly focuses on issues inimical to democratic sustenance and development of Nigeria. Instead, they assert that it has been plagued with scandals of corruption, been unreasonable and insensitive to the needs of Nigeria in critical periods (purchasing bullet proof vehicles per principal member to the tune of \$1,670,000 when the economy is in recession and government cannot pay salaries). Yet, refusing to enact important laws like the Special Criminal Courts Bill (Nnamdi, 2017). Just a year ago, a serving member of the Nigerian senate accused the national assembly of padding and inserting frivolous items in the 2024 appropriation budget to the tune NGN 3.7 trillion (over 3 billion dollars) (PLAC 2024). This simply re-echoes Obasanjo (2003) description of them as 'legislatheives' and enemies of the nation.

Like a seasonal movie, Nigerians are always inundated with glaring abysmally high level of corruption in its national assembly. A legislative arm of government meant to lead the way in shaping the nation's political future and policymaking processes, has persistently been a corruption cesspit and a retirement abode for underperformed former governors, fraudulent politicians, and individuals whose characters are questionable. Thus, the national assembly's limitless corruption cases become a challenge to good and effective governance. The various corrupt practices which the members have been indicted for undermines the trust and confidence reposed in the institution by the populace.

Evaluating the VAPP Act a Decade After, Prosects and Barriers

Westminster foundation for democracy (2021) found that the law has made profound impacts in selected states in the country. It notes that more Cases of sexual and gender-based violence are been prosecuted successfully. It cites the example of a Nigerian Professor, Richard Akindele who got two years imprisonment for sexual harassment. There is also the case of teacher who sexually abused a 3-year pupil and got 60 years in jail. From January 2021 to February 2022, in the Federal capital territory, it prosecuted 46 offenders and secured 38 convictions. Yet, in some of the states, Sharia law is supreme and supersedes civil law. Also, there has been little or no awareness in the rural areas, where harmful gender norms hold sway and remain unreported (IPAS, 2024). The main barriers to the effective implementation of the VAPP Act in Nigeria are the Non availability of Sexual Assault Referral Centers (SARC), inadequate shelters and low rate of conviction of offenders. Voice Male (2022) posits that there just thirty-two (32) SARCs nationwide in nineteen (19) states out of the thirty-six (36) states. This means that about half of the states do not have any SARC. Yet, it is named as the venue for examination, treatments and care of survivors of sexual violence (IPAS, 2024). Apart from the SARCs, there are inadequate shelters for survivors, a place to recuperate before returning to their abode. The report further notes that compared to number of cases been reported, the conviction rate has remained abysmally low.

Implication for Sustainable development

The implication to sustainable development of this menace was captured succinctly by Idowu (2024) inter alia: ‘The persistent occurrence of corrupt practices in the national assembly undermines the socioeconomic stability and democratic principles of Nigeria which is a key factor hindering inclusivity, prosperity and national progress in Nigeria. There is thus no debate about the effect of the nonchalant attitude of the legislature to national and sustainable development. In conclusion, all stakeholder’s in the Nigerian project, media houses, organized civil societies and ordinary citizens should lend their voice to demanding that these representatives be held accountable for their actions and made to face the full wrath of the law. This is a panacea to an all-inclusive and robust legislative process, one that puts national interest ahead of personal aggrandizement and champions the course of sustainable and national development in Nigeria.

Recommendations

There are 3 areas of the Act, the researchers feel should have been developed differently and needs to be amended:

- First, the Act have no provision for preventive measures of violence against people. It only articulated what constitutes offences and spelt out penalties. Also, there were no provisions for training and awareness raising for those who would work in this area. These needs to be amended and clearly spelt out
- The need for sensitization is imperative because the offences stipulated are ometimes sanctioned by social and cultural norm. They should understand that such acts constitute violence and are punishable.
- Further, section 1 of the Act stipulates 14 years’ imprisonment for rape offenders 14years and below. This is inimical to international conventions like the UN convention on the right of the child, which the country is signatory to.

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