



RULE OF LAW AND EMPOWERMENT INITIATIVE
also known as **PARTNERS** WEST AFRICA NIGERIA

FACTSHEET ON THE VIOLENCE AGAINST PERSONS PROHIBITION ACT 2015

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AN ACT TO REPEAL THE VIOLENCE AGAINST PERSONS (PROHIBITION) ACT 2015 AND ENACT 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 MATTERS.

INTRODUCTION

In May 2015, the Nigerian National Assembly passed the **Violence Against Persons Prohibition (VAPP) Act**, a landmark law designed to address the escalating issue of violence against individuals, particularly gender-based violence. The Act was introduced to bridge gaps in existing laws, providing a comprehensive framework to criminalise various forms of violence, including domestic abuse, sexual violence, harmful traditional practices, and psychological abuse.



Source: Getty Images

Its gender-neutral approach ensured equal protection for all but with special attention to the disproportionate impact of violence on women and vulnerable populations.

The VAPP Act also introduced stronger penalties for offenders, and support services for survivors, and targeted harmful cultural practices like female genital mutilation and forced marriage, signalling a shift towards modernizing Nigeria's legal response to violence.

The passage of the Act involved collaboration among diverse stakeholders, including civil society organizations, international bodies, and lawmakers, all working together to address the inadequacies of prior legal frameworks.

Despite its progressive nature, the Act only applies to the Federal Capital Territory (FCT), with each state responsible for its own domestication, a process that has seen mixed success.

Advocacy efforts by civil society have aimed to push more states towards full implementation to ensure nationwide protection against violence.

However, in 2022, a bill to repeal the VAPP Act was introduced in the Senate, led by Senator Jibrin Isah (APC: Kogi). The proposed bill seeks to reform the law, addressing perceived issues such as strict liability offences, revising imprisonment terms and fines, and introducing a Victims' Support Fund for better compensation to survivors.

The bill also aims to align the Act with "current realities," adjusting legal language for inclusivity and addressing ambiguities in the existing law. This call for reform has reignited debates about the effectiveness of the VAPP Act and the need for adjustments that reflect Nigeria's diverse cultural, religious, and social landscape.

This paper aims to compare the original VAPP Act of 2015 with the proposed Act to repeal it. By juxtaposing and analyzing the provisions of both laws, it will explore the legal implications of the repeal and examine the advocated amendments in contrast to a full repeal.

Additionally, the paper will assess the broader legal, social, and cultural impacts of both legislative frameworks.

THE VIOLENCE AGAINST PERSONS PROHIBITION ACT 2015:

The Violence Against Persons (Prohibition) Act, 2015 long titled "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 Matters." contains **48 sections and Six (6)** .

- Offences (Ss.1-26)
- Jurisdiction of the Court (Ss.26-38)
- Service Providers (Ss. 39-43)
- Regulatory Body (S.44)
- Consequential amendment (S.45)
- Interpretation (Ss.46-48)

Long Titled as above, and otherwise known as the VAPP Repeal Bill, contains 56 sections and five (5) .

- Offences (Ss.1-27)
- Jurisdiction of the Court (Ss.28-40)
- Establishment and Management of Survivors of Violence Support Fund (Ss. 41-48)
- Service Providers (Ss.49-51)
- Regulatory Body and Consequential Amendment (Ss.52-56)

This contextualization captures the key similarities and differences between the VAPP Act 2015 and the VAPP Repeal Bill 2024, focusing on unchanged provisions, innovations, changes in punishments, and removed sections.

SIMILARITIES

Consistency in Core Definitions and Provisions:

Rape (Section 1): Both the VAPP Act 2015 and the VAPP Repeal Bill 2024 retain similar definitions for rape, ensuring continuity in the legal framework addressing this serious offence.

The punishment options, including life imprisonment, remain consistent, maintaining established legal precedents and ensuring stability in enforcement.

Coercion (Section 4): The provisions concerning coercion, including penalties, have not changed between the two versions of the law. This consistency preserves the legal standards established in the 2015 Act.

Frustrating Investigation (Section 7): This section remains unchanged, reflecting a stable approach to offences that impede legal investigations.

Deprivation of Liberty (Section 11): While the structure of this offence remains similar, minor adjustments to penalties have been made, maintaining overall consistency in addressing unlawful deprivation of liberty. The VAPP Act sets a maximum sentence of 2 years for offenders, while the repeal bill increases this to 3 years. Additionally, the repeal bill increases the fine for attempted offences from N200,000 to N300,000.

Abandonment of Spouse, Children, and Dependents Without Sustenance (Section 16): The penalties remain consistent, with imprisonment of up to 3 years and a fine up to N500,000. However, a new sub-clause in the Repeal Bill introduces additional provisions. It provides for the court's power, in addition to the outlined punishments under subsection 1-4, to award appropriate compensation to victims as the court deems fit in every circumstance.

Stalking (Section 17): This section continues to carry the same penalties, with imprisonment of up to 2 years and a fine of up to N500,000.

Intimidation (Section 18): The penalties for intimidation remain unchanged, with imprisonment of up to 1 year and a fine of up to N200,000.

Spousal Battery (Section 19): Provisions concerning attempts, incitement, and accessories remain consistent with the old Act.

Harmful Traditional Practices (Section 20):

The definitions and penalties for harmful traditional practices are retained, including imprisonment of up to 4 years or a fine of N500,000 for the primary offence.

INNOVATIONS AND CHANGES

1. Enhanced Penalties:

Section 1-Rape: The minimum sentence for rape has been increased to 12 years, with life imprisonment as the maximum. This adjustment indicates a shift towards more stringent legal consequences for sexual offences.

Section 3 - Inflicting Physical Injury: The Repeal Bill significantly increases the fine for inflicting physical injury from ₦100,000 to ₦1,000,000, reflecting a more severe stance against such offences.

Section 5 – Willfully Placing a Person in Fear of Physical Injury: The Bill raises the imprisonment term from 2 to 3 years and increases fines from N200,000 to N500,000. It also imposes harsher penalties for related offences.

Section 6 – Offensive Conduct: The Bill increases the maximum imprisonment term from 2 years to 4 years while maintaining the fine at N500,000.

Section 7 – Female Genital Mutilation (FGM): The punishment for FGM is increased to 5 years in prison, up from 4 years in the old Act. The fine is also raised from N200,000 to N500,000. Additionally, the Bill introduces stricter penalties for attempts and related offences.

Section 9–Willfully Making False Statements: Penalties are increased, with the fine rising to N500,000 and imprisonment extending to 5 years, up from N200,000 and 12 months respectively.

Section 10 – Forceful Ejection from Home: The Bill increases the imprisonment term to 3 years and raises fines from N300,000 to -

N500,000. Penalties for attempting, inciting, aiding, abetting, and counselling offences are also more severe.

Section 11 – Damage to Property with Intent to Cause Distress: The imprisonment term is raised from 2 to 3 years, and the fine is increased from N300,000 to N500,000.

Section 12 – Forced Financial Dependence or Economic Abuse: The Bill increases the jail term from 2 to 4 years and the fine from N500,000 to N1,000,000.

Section 13 – Forced Isolation and Separation: The Bill raises the imprisonment term from 6 months to 5 years and the fine from N100,000 to N1,000,000.

Section 14 – Emotional, Verbal, and Psychological Abuse: The Bill increases the imprisonment term from 1 year to 4 years and the fine from N200,000 to N500,000.

Section 15 – Harmful Widowhood Practices: The Bill increases the imprisonment term from 2 years to 5 years, though the fine remains at N500,000.

Section 19 – Spousal Battery: The Bill increases the imprisonment term from 3 years to 5 years and the fine from N200,000 to N500,000.

Section 20 – Harmful Traditional Practices: The Bill raises the fine from N200,000 to N300,000 and introduces a new Subsection 5 requiring courts to award compensation to victims.

Section 23 – Administering a Substance with Intent: The Bill increases the imprisonment term from 10 years to 20 years and broadens the scope of the offence to include other unlawful activities with the victim.

Section 27 – Indecent Exposure: The Bill changes the minimum sentence from "not less than 1 year" to "not exceeding 2 years."

Section 37 – Offenses Relating to Protection Orders: The Bill increases the fine from N300,000 to N500,000 and extends the imprisonment term from 6 months to 2 years.

Section 40 – Prohibition of Publication of Certain Information: The Bill raises the imprisonment term from 1 year to 3 years and the fine from N200,000 to N500,000.

2. New Offenses and Provisions:

- **Defilement of a Child (Section 2):** The introduction of this new section addresses a previously unregulated area, highlighting the Bill’s effort to cover emerging issues in gender-based violence.
- **Expanded Definitions (Section 54):** The Bill provides more detailed definitions for terms such as “economic abuse” and “political violence,” enhancing clarity and aligning the law with contemporary issues.

3. Removal of Certain Provisions:

- **Prohibition of Publication of Certain Information (Section 39):** This provision has been removed in the Repeal Bill, indicating a streamlining of the law to focus on more critical aspects of violence and abuse.

4. New Support Structures:

- **Survivors of Violence Support Fund:** The establishment of this fund represents a significant innovation, providing dedicated financial support to survivors of violence, a feature absent in the 2015 Act.
- **Regulations for Service Providers (Section 49):** The Bill introduces comprehensive regulations requiring service providers to register and offer legal, medical, and shelter services, reflecting a structured approach to victim support.

5. Merging of Regulatory Body and Consequential Amendments:

- **Unified Approach:** The Repeal Bill consolidates sections related to the Regulatory Body and Consequential Amendments into one part, streamlining -

regulatory oversight and legal updates for enhanced efficiency.

REPEALING THE VIOLENCE AGAINST PERSONS (PROHIBITION) ACT, 2015 (VAPP ACT) AND ITS UNINTENDED CONSEQUENCES.

Acts may be repealed when their provisions are consolidated into a new Act. This process usually means that most of the provisions of the original, still required, are repealed in the new Act without substantive change.

If no such changes are made, the legislation may be enacted with the minimum of legislative action. The only significance action will be that of repealing and re-enacting existing law.

It is necessary to make sure that there is full continuity between the old and the new, usually by appropriate savings provisions, and to provide a table of derivations and destinations to show the user where the earlier provisions are now to be found in the re-enacted Act.

The new Act will normally bear the same short title as that replaced. But the question to ask is, is this what is intended by the Law-Maker?

If the VAPP Act is repealed, significant consequences could arise, both legally and socially. The repeal of a law generally has broad implications, especially when the law in question addresses issues as critical as violence prevention and victim protection. Below are key points highlighting the potential unintended consequences of repealing the VAPP Act:

1. Legal Consequences of Repealing a Law

When a law is repealed, it is legally considered to no longer exist, meaning:

- All rights, obligations, penalties, and protections established under the repealed law cease to exist unless specifically preserved by transitional provisions in the new law.
- In criminal law, ongoing prosecutions or civil suits brought under the repealed law may face challenges. Courts may need to determine how the repeal affects those cases, potentially leading to dismissals or reduced charges, especially if the new law provides different or lesser penalties.
- Law enforcement agencies and judicial bodies would need to stop enforcing the provisions of the repealed Act.

If the repeal of the VAPP Act does not include transitional provisions or a clear continuation of certain rights and protections in a replacement law, it could leave victims of violence in a vulnerable position, particularly where states have not yet enacted their laws.

2. Impact on States that have Enacted the VAPP Law.

Currently, the VAPP Act only applies to the Federal Capital Territory (FCT), but various states across Nigeria have domesticated the law, enacting their versions of it. Repealing the federal VAPP Act could have the following unintended consequences for these states:

- **Autonomy of State Laws:** In principle, laws enacted by states remain in effect even if the federal law they are based on is repealed. This means that state-level VAPP laws should continue to operate independently of the repeal at the federal level. However, repealing the federal Act may still have certain ripple effects

- **Legislative Uncertainty:** States may face confusion or pressure to amend their laws, especially if the repeal is justified on grounds of reforming the provisions. This could lead to inconsistencies in the legal frameworks across different states and an overhaul of all efforts put in place to see that various states pass the VAPP Laws.
- **Reduced Advocacy and Support:** The repeal of the federal law could demoralize or discourage ongoing advocacy and reform efforts in states that have yet to pass the VAPP law. It might send a negative signal that could slow down or reverse progress in those regions.

- **Legal Precedents and Jurisprudence:** A repeal at the federal level may weaken the legal foundation upon which some state laws are built, especially if the federal law has been used as a reference in court decisions or law enforcement practices.

3. Social and Cultural Impact.

- **Reversal of Progress:** The VAPP Act is considered a progressive piece of legislation aimed at addressing gender-based violence, domestic abuse, and harmful traditional practices. Its repeal could be seen as a step backwards, potentially emboldening those who seek to uphold harmful cultural practices or minimize the severity of violence against vulnerable groups.
- **Advocacy Fatigue:** The repeal could demoralize civil society organizations, NGOs, and advocacy groups that have spent years campaigning for the implementation and enforcement of the VAPP Act. This could weaken the momentum for ongoing efforts to eliminate violence against persons in Nigeria.

4. State-Level Challenges.

- **Incomplete Domestication:** Several states have yet to domesticate the VAPP law. The repeal of the federal Act could stall or deter these efforts.
- **Potential for Fragmentation:** If states continue to operate under different versions of the VAPP law after the federal Act is repealed, it may create inconsistencies and confusion in the application of justice. This lack of uniformity could undermine efforts to provide cohesive protection nationwide.

AMENDMENT RATHER THAN REPEALING?

Amending the Violence Against Persons (Prohibition) Act, 2015 (VAPP Act) rather than repealing is likely to be a more effective approach to protecting victims of gender-based violence while strengthening the law. The VAPP Act already provides comprehensive protection against various forms of violence. Instead, targeted amendments can address specific gaps, such as refining penalties, introducing the element of mens rea for certain offences, and enhancing victim compensation, without discarding the entire legal framework and birthing a new Act which in reality the proposed repeal law contains similar provisions and by extension, strengthens the law. Amendments offer a way to build on existing progress, avoid setbacks for advocacy groups, and ensure consistency across states. Rather than weakening protections, amendments would reinforce and modernize the Act, making it more robust and responsive to evolving forms of violence, while maintaining the crucial momentum for combating violence against persons in Nigeria.

MENS REA, A NEW CONCEPT IN THE REPEAL BILL?

To explore the argument that the VAPP Repeal Bill 2024 introduces mens rea elements, it's essential to compare various sections of the Repeal Bill with corresponding provisions in the VAPP Act 2015 to see whether there is a shift towards emphasising the mental state (intent) of the offender.

Here are additional sections where mens rea may be relevant, followed by a comparison with the 2015 Act:

Nb: ALL SECTIONS REFERRED TO HERE ARE AS CONTAINED IN THE REPEAL BILL.

1. Section 5: Wilfully Placing a Person in Fear of Physical Injury.

- **VAPP Repeal Bill 2024:** This section criminalizes wilfully placing a person in fear of physical injury. The word "**wilfully**" explicitly introduces a mental element, indicating that the person must have deliberately engaged in actions meant to cause fear of injury.
- **VAPP Act 2015:** The original 2015 Act also contained this provision with the same wording, meaning the mens rea requirement was already present. The Repeal Bill increases the penalties but does not fundamentally alter the mental requirement.

2. Section 9: Wilfully Making False Statements

- **VAPP Repeal Bill 2024:** This section penalizes a person who wilfully makes false statements in relation to any offence. The word "wilfully" introduces the need for mens rea, i.e., the person must knowingly and intentionally make the false statement.
- **VAPP Act 2015:** The same wording was used in the VAPP Act 2015, meaning the mental element (mens rea) was already part of this offense. The 2024 Bill simply enhances the penalties, maintaining the mens rea requirement.

3. Section 23: Administering a Substance with Intent

- **VAPP Repeal Bill 2024:** This section is particularly significant because it directly uses the phrase “with intent” to overpower or harm someone using a substance. This language explicitly introduces a mens rea element, making it necessary to prove that the substance was administered knowingly with the intent to cause harm.
- **VAPP Act 2015:** The 2015 Act contained a similar offence under different wording but also required the offender to act with intent. The Repeal Bill broadens the scope by including new additions like “other unlawful activities,” but the mental element remains crucial in both versions.

4. Section 14: Emotional, Verbal, and Psychological Abuse

- **VAPP Repeal Bill 2024:** This section introduces a provision that criminalizes causing emotional, verbal, or psychological harm. Although there’s no explicit mention of “intent,” the nature of the offense implies that the harm must be intentional or deliberate, as accidental emotional harm would not likely result in criminal liability.
- **VAPP Act 2015:** This section also existed in the VAPP Act 2015, with similar implications regarding mens rea, although the penalties have been increased in the Repeal Bill.

5. Section 7: Female Circumcision or Genital Mutilation

- **VAPP Repeal Bill 2024:** The Repeal Bill penalizes any person who circumcises or mutilates the genitalia of another **intentionally**. Though the word “intentionally” is implied, the mental state (mens rea) is critical to the offense.

- **VAPP Act 2015:** The same provision was present in the 2015 Act, meaning the mens rea requirement was also embedded in the original law.

Juxtaposition: VAPP Act 2015 vs. VAPP Repeal Bill 2024.

- **VAPP Act 2015:** Several provisions in the 2015 Act already implied or explicitly required mens rea, particularly in offenses such as willful false statements, intentional physical harm, and psychological abuse. Many offenses in the 2015 Act necessitated proving intent, even if the language was sometimes implicit.
- **VAPP Repeal Bill 2024:** The Repeal Bill refines these offenses by often making the mens rea more explicit, such as using terms like “willfully” or “with intent”. It also introduces new offenses (e.g., defilement of a child) where intent is either clearly stated or strongly implied. Overall, while the Repeal Bill does reinforce the concept of mens rea in certain areas, many of these elements were already present in the 2015 Act.

Conclusion

In conclusion, the comparison between the Violence Against Persons (Prohibition) Act 2015 and the proposed VAPP Repeal Bill of 2024 reveals a legislative evolution aimed at addressing the complexities of violence in both private and public life. While the core principles of protecting victims and punishing offenders remain consistent, the new additions are critical enhancements such as stricter penalties, broader definitions and new support structures like the Survivors of Violence Support Fund.

The decision to repeal the VAPP Act, rather than amend it, poses potential legal, social, and cultural risks. Repealing a law could create enforcement gaps, disrupt ongoing cases, and undermine state-level efforts. Furthermore, the repeal risks reversing the progress made in advancing gender-based violence advocacy and legislation in Nigeria; and the innovations that is being introduced into the existing Act.

Instead of repealing, amending the VAPP Act would allow the law to evolve while preserving its critical protections and legal framework. Targeted amendments could address emerging challenges, such as expanding protections for vulnerable groups and refining the mental elements (*mens rea*) of certain offenses, ensuring that the law remains responsive to modern realities.

Therefore, in order to ensure the priority of protecting the rights of victims, ensuring effective remedies, and upholding justice for all. Strengthening the VAPP Act through careful reform, rather than wholesale repeal, is essential to maintaining progress in the fight against violence in Nigeria.

MORE ABOUT US

The Rule of Law and Empowerment Initiative is also known as Partners West Africa Nigeria (PWAN) is a non-governmental organization dedicated to enhancing citizens' participation and improving security governance in Nigeria and West Africa broadly.

VISION:

Robust good governance & accountable institutions in Nigeria and West Africa.

MISSION:

Enhances citizens' participation and improves security governance in Nigeria and West Africa.

VALUES:

Integrity, Trust, Inclusion, Humility, Accountable collaboration, Courage of Conviction, Innovation.



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