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An Appraisal of the Violence Against Persons Prohibition Act of 2015 Vis-A-Vis the Healthcare Provision for IPV Survivors Support in Nigeria

Olawunmi Opeyemi Ogundipe

Lecturer Private and Property Law Department,
Redeemers University, Ede; PhD Candidate, Faculty of Law,
Babcock University, Nigeria.

Cheluchi Onyemelukwe, PhD

Professor of Law,
Jurisprudence and Private Law Department, Babcock University,
Nigeria.
Centre for Health Ethics Law and Development, Lagos, Nigeria

Abstract

Generally, there is a culture of silence amongst the survivors of intimate partner violence (IPV), however, IPV has serious impacts on the health of the survivors which makes them visit healthcare settings more than those who do not experience IPV. To effectively support IPV survivors, healthcare providers (HCPs) need to know their roles and what is expected of them. This paper focuses on evaluating the VAPP Act and how it addresses IPV in relation to Healthcare Providers (HCP) and the World Health Organization's (WHO) advocated evidence-based systematic approach to assisting IPV victims. In achieving the research objective, the doctrinal research methodology will be adopted, coupled with critical analysis of the concept of IPV and the various ways it might manifest, the WHO's global plan of action and the corresponding recommended strategy for responding to these types of assaults, the VAPP Act and some key provisions pertaining to the topic in terms of their sufficiency for combating IPV and providing healthcare support for IPV survivors, and the extent and necessity of implementing the WHO's global plan of action. The study finds that there is a need for a national legal framework for the healthcare support of IPV survivors and there is currently no national protocol or legislation for the healthcare support of IPV survivors in Nigeria. Unfortunately, *this lack of provision or the legal basis of the HCPs has made it difficult for the survivors to get adequate support to discontinue the abuse or recover from the abuse. This paper, therefore, recommends that all the related laws should be considered to create an effective legal framework for the health care support of IPV survivors in Nigeria.*

Keywords: Global Plan of Action, HCP, Legal framework, VAPP Act, Violence,

1. Introduction

The closest statute(s) existing in Nigeria that deals with issues of domestic violence is the Violence Against Persons Prohibition Act 2015 and the various iterations of it with marked differences or the same reproduction as Laws in the States of the Federation. The effect is that while the VAPP Act is strictly exclusive in application to the Federal Capital Territory, the VAPP Laws are limited in jurisdictional application solely to the States which have so far adopted it by re-enacting same in their legislative houses.[1]

Before the enactment of the VAPP Act, there were no laws that specifically prohibited domestic violence in Nigeria or were applicable across the Federation and prosecutions for violence in the family or within an intimate setting relied on the laws of common assault[2] and other criminal provisions. In other words, though there were various cases of intimate partner violence, such as cases of physical and sexual abuse, including wife-battering, offences were subsumed under the offence of assault.[3]

Violence however takes place in various situations and forms and given the rate of IPV in Nigeria where an average of 1 in every 4 women has experienced IPV and studies revealing that including Nigeria, it is prevalent worldwide, and the evidence point to the need for an immediate and effective response to the problem,[4] it becomes necessary to consider the VAPP Act and how it addresses IPV vis-a-vis the Healthcare Providers (HCP) and the recommended evidence-based systematic approach espoused by the World Health Organisation (WHO) in helping victims of IPV.

This paper will therefore consider the concept of IPV and the various forms in which it could manifest, the global plan of action per the WHO and the corresponding

[1] Cheluchi Onyemelukwe, Legislating on Violence Against Women: A Critical Analysis of Nigeria's Recent Violence Against Persons (Prohibition) Act, 2015, 5 DePaul J. Women, Gender & L. (2016) Available at: h? p://via.library.depaul.edu/jwgl/vol5/iss2/3 accessed 20 August 2022

[2] Criminal Procedure Act, CAP. 77, Laws of the Federation, 1990: sections 351-356 deals specifically on the offence of Assault.

[3] Criminal Procedure Act (supra), note specifically sections 355 which states that 'any person who unlawfully assaults another and thereby does him harm is guilty of a felony, and is liable to imprisonment for 3 years' and the provisions of section 357 deals specifically on sexual assault

[4] Faith Owunari Benebo, Barbara Schumann and Masoud Vaezghasemi, 'Intimate Partner Violence Against Women in Nigeria: A Multilevel Study Investigating the Effect of Women's Status and Community Norms' (2018) 18 BMC Women's Health.

recommended approach to combating intimate partner violence and sexual violence against women, the extent and necessity of implementing the global plan of action in Nigeria, the VAPP Act and certain essential aspects relating to the subject topic, and their sufficiency for combating IPV and providing healthcare support for IPV survivors.

2. Intimate Partner Violence and its Various Forms

Intimate partner violence (IPV)[5] is defined as physical or sexual assault, emotional abuse, or controlling conduct by a current or previous intimate partner, according to the World Health Organisation.[6] IPV also known as spousal violence is one of the forms of domestic violence which has been declared to be a human rights violation[7] because it infringes on the right to dignity of the person of the survivor,[8] as it usually entails an attack on the person of the victim. The result is that the survivor loses a sense of self-worth leading to low self-esteem which gives the perpetrator the desired power over the survivor. This consequently, makes such a person prone to more abuse or in some instances, the commission of a crime (spousal violence) leading to the death of either or both parties.[9]

Per the WHO, IPV is not confined to a single country, social class, or race. It has evolved into a major global health hazard[10] because up to 71% of women aged 18 to 60 who have ever been in a relationship have been subjected to some sort of abuse,

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[5] Referred to as IPV for the rest of the study

[6] Onyemelukwe Cheluchi, 'Intersections of Violence Against Women and Health: Implications for Health Law and Policy in Nigeria' (2015) 22 *Wm. & Mary J. Women & L.,* 609.

[7] Bartolomei Maria Rita, 'Domestic Violence and Human Rights: An Anthropological View' (2015) 31 *Ex Aequo*, 91-104; Heise L. and Garcia-Moreno C., 'Violence by Intimate Partners' (2002) 1 *World Report on Violence and Health*, 87-113 <https:// www.popline.org/node/233489> accessed 20 May 2019; Vietnam UN women, 'Women and Sustainable Development Goals Towards 2030' (2016) Hanoi: Vietnam UN Women <http://www.un.org.vn/en/publications/doc_details/498-women-and-sustainable-development-goals-viet-nam-towards-2030.html> accessed May 2019; Women U.N., 'Domestic Violence Legislation and its Implementation. An Analysis for Asean Countries Based on International Standards and Good Practices. Bangkok: East and Southeast Asia Regional Office 2011' (2019) <https://asiapacific.unwomen.org/en/digital-library/publications/2015/03/domestic-violence-cedaw-legislation-and-its-implementation> accessed 24 May 2019; Okwundu Stella Chinyere, 'Gender Based Violence in Nigeria: A Review of Attitude and Perceptions, Health Impact and Policy Implementation' (2017) (5) (4) Texila International Journal of Public Health, 1-21.

[8] UNFPA, 'Gender Based Violence' UNFPA <https://www.unfpa.org/gender-based-violence> accessed 1 August 2022.

[9] Aborisade Richard A. and Abimbola R. Shontan, 'Killing the Beloved: Psychosocial Factors Precipitating Spousal Homicide in Nigeria' (2017) (25.2) *IFE PsychologIA: An International Journal,* 350-365.

[10] WHO, 'Understanding and Addressing Violence Against Women' (*Who.int*, 2022) <https://www.who.int/reproductivehealth/topics/violence/vaw_series/en/> accessed 11 January 2022; Giulia Ferrari and Others, 'Domestic Violence and Mental Health: A Cross-Sectional Survey of Women Seeking Help from Domestic Violence Support Services' (2014) 7 Global Health Action.

which includes emotional, physical, or sexual violence.[11] It was further found that 30% of women are affected by IPV and male partners are responsible for up to 38% of all female killings.[12]

In Nigeria, a country deeply entrenched in religiosity, IPV has been termed an epidemic that cuts across different classes of people,[13] whether educated, illiterate, rich, poor, employed, or unemployed with the victims suffering most because the male perpetrators hide under the religious provision of the husband being the head of the wife or the patriarchal system seemingly enforced by religion. The survivors are therefore subjected to the abuse purportedly fulfilling a religious injunction submission.[14] Thus, in Nigeria, an average of 1 in every 4 women is reported to have experienced IPV thereby making it prevalent worldwide, and reinforcing the need for an immediate and effective response to the problem[15] yet cases of IPV are still grossly under-reported.

2.1. Forms of IPV

At this point, it becomes clear that IPV is often perpetrated by men against women and girls and it may either be domestic abuse or violence.[16] In other words, IPV comes in different forms whether physical, economic, emotional and/or psychological abuse which falls within the possibilities of abuse.

Physical abuse involves actions such as pushing, restraining, slapping/punching, kicking, scratching, and so on which is the most common form of IPV. Emotional abuse usually starts with a verbal assault. In this instance, abusers utilise it as a means of humiliating and belittling their victims with the purpose being to make their partner feel worthless. Economic Abuse occurs when a partner refuses to let their spouse manage their own money. Here, abusers frequently refuse to let their partners work or attain any kind of independent achievement. Psychological abuse

[11] Claudia Garcia-Moreno and others, 'Prevalence of Intimate Partner Violence: Findings from The WHO Multi-Country Study on Women's Health and Domestic Violence' (2006) 368 The Lancet <https://www.sciencedirect.com/science/article/abs/pii/S0140673606695238> accessed 20 May 2019
[12] WHO (n 10).
[13] Amos Atsiya Pius, Hauwa Mohammed Maimona, and Godiya Atsiya Pius, 'Marital Domestic Violence and Maternal Health in Nigeria: Evidence from the Demographic and Health Survey' (2021) 11 International Institute for Science, Technology and Education in Research on Humanities and Social Sciences Research on Humanities and Social Sciences <https://doi.org/10.7176/rhss/11-2-07> accessed 26 October 2022.
[14] Nwaomah Evans, 'Attitudes and Perceptions of Intimate Partner Violence in a Conservative Christian Church in Nigeria' (2019) <htttps://www.researchgate.net/publication/335000917> accessed 26 October 2022.
[15] Benebo, Schumann and Vaezghasemi (n 4).
[16] Bagwell-Gray M, "Sexual Violence Perpetrated by Men against Women in Intimate Relationships" [2021] The SAGE Handbook of Domestic Violence 77

for its part includes the use of words or actions to instil fear in another person.[17] Usually, survivors may experience only one, two, or more of these forms in a single relationship. The abuse usually starts with one and if not checked, the perpetrator metamorphoses into another one, before the survivor realises the truth of their situation, they have gone deep into the abuse, and leaving becomes difficult. The situation is even particular with emotional abuse because the survivor would have been fed with enough words to make them feel worthless, deserving of such treatment, and only needs to change herself or do more for the perpetrator to earn their respect.

3. The WHO and the Global Plan of Action and its Corresponding Recommended Approach to Combating IPV and Sexual Violence Against Women

Given the gross underreporting of cases of IPV, it is the case that several survivors pass through the healthcare system undetected and or detected but not helped which unfortunately leads to them committing crimes or dying either from the complications of the violence or being killed by their intimate partners. The nexus between the healthcare system and IPV is not unfounded because, in the efforts by several countries to fight the surge and effect of IPV, one of the major hindrances has been how to identify and help the abused since IPV can be violent and non-violent[18] and the abused most times do not speak out due to several reasons ranging from cultural beliefs, threats from the perpetrator or ignorance of the abuse.[19] In Nigeria particularly, survivors, perhaps as a result of a culture of silence,[20] opt to rather remain silent than report at the police station or seek help. The culture of silence is strengthened by the fear of societal rejection and ostracisation, consideration of the emotional, psychological and social impact of a broken marriage on the children of the marriage, religious sentiments, seeing marriage as a private matter, having the hope that the abuser can and will change while holding unto the mindset that there is no perfect marriage, whereas some are ignorant of the

[17] Rachel Brooks, 'What Is the Most Common Form of Domestic Violence?' (2019) *Attorney at Law* <https://attorneyatlawmagazine.com/most-common-domestic-violence> accessed 14 January 2021.

[18] Lili Wang, 'Factors Influencing Attitude Toward Intimate Partner Violence' (2016) 29 Aggression and Violent Behavior <https://www.sciencedirect.com/science/article/abs/pii/S1359178916300660#:~:text=Attitude%20toward%20intimate%20partner%20violence%20has%20been%20consistently%20demonstrated%20as,gender%20role%20and%20so%20on.> accessed 14 January 2021.

[19] Joy Ikekhu, 'Speaking Up and Out: How Nigerian Women Are Resisting and Changing Cultural Silence By Sharing Their Experiences' (*Pulitzer Center*, 2019) <https://pulitzercenter.org/stories/speaking-and-out-how-nigerian-women-are-resisting-and-changing-cultural-silence-sharing> accessed 24 July 2019.

[20]

availability of anti-gender-based legal provisions and how to access them[21] while for others, it is either they still loved the abuser, would not want him imprisoned and the children accusing her of putting their father in jail, or because individuals who report their abuser will probably to be sent back to them and so silenced indirectly.[22] This is a huge problem in Nigeria, leading to the survivors keeping mute about the abuse until it gets to the peak where they are killed or kill the perpetrator in retaliation or defence.

It has nevertheless been found that these survivors at one time or the other encounter HCPs, and where the HCPs fail or neglect to ask or document the issue of IPV which most likely led to the health challenge complained of by the survivor, they return to the abusive situation where they end up dead or killing the perpetrator.[23] Studies further reveal that an abused person's initial point of contact with a professional is generally an emergency clinician,[24] and globally it has been observed that healthcare providers have more contact with the survivors through the different stages of the abuse.[25]

On this premise, the World Health Assembly of the WHO supported a global plan of action to increase the health system's involvement in addressing interpersonal violence as part of a national multisectoral response.[26] This worldwide action plan was a technical document that drew from research, industry standards, and WHO technical recommendations. It provides a list of actionable steps that Member States can take to improve their health systems and reduce interpersonal violence, especially those directed at women, girls, and children. The strategy also identifies tasks for the WHO Secretariat to do to assist Member States.

It is believed that proper utilisation of the plan can reduce the reluctance of the abused to admit being abused and cry for help as against being urged to keep mute

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[21] Adebusola Okedele, 'Silent epidemic of intimate partner violence' (The Nation 2022) <https://thenationonlineng.net/silent-epidemic-of-intimate-partner-violence/> accessed 3 August, 2022

[22] Rakovec-Felser Z., 'Domestic Violence and Abuse in Intimate Relationship from Public Health Perspective' (2014) 2 (3) Health Psychol Res, 1821 doi: 10.4081/hpr.2014.1821. accessed 3 August 2022.

[23] Jean Abbott, 'Injuries and Illnesses of Domestic Violence' (1997) 29 Annals of Emergency Medicine <https://pubmed.ncbi.nlm.nih.gov/9174526/> accessed 14 July 2019; Robert S. Thompson and others, 'A Training Program to Improve Domestic Violence Identification and Management in Primary Care: Preliminary Results' (1998) 13 Violence and Victims <https://pubmed.ncbi.nlm.nih.gov/10328446/> accessed 14 July 2019.

[24] Hamberger LK, Rhodes K, and Brown J, 'Screening and Intervention for Intimate Partner Violence in Healthcare Settings: Creating Sustainable System-level Programs' (2015) 24 (1) J Women's Health, 86-91 <https://www.liebertpub.com/doi/abs/10.1089/jwh.2014.4861> doi: 10.1089/jwh.2014.4861 accessed 8 August 2022

[25] Onyemelukwe (n 1).

[26] WHO, 'Global Plan of Action to Strengthen the Role of the Health System Within a National Multisectoral Response to Address Interpersonal Violence, in Particular Against Women and Girls, and Against Children' (2016) <https://www.who.int/publications/i/item/9789241511537> accessed 2 November 2022.

because of societal and cultural values. The global plan of action states further that there is a need for each member state to have holistic legislative provisions to aid the healthcare system in adequately supporting IPV survivors.[27] In detail, this plan of action urged governments and other national and international partners to take action in four strategic directions: 1) strengthening health system leadership and governance 2) strengthening health service delivery and healthcare providers' capacity to respond 3) strengthening programming to prevent violence, and 4) improving information and evidence.[28] The effect it is noted will be that more survivors of IPV will get help through early and effective intervention. To achieve the global plan of action objectives, the following guiding principle is to be followed:

Guiding principles		
1.	**Life-course perspective**	Address the risk factors and determinants of violence, and the health and social needs of survivors/victims at an early stage of the life-course, focusing on children, as well as at all other stages of the life-course (adolescence, adulthood and older ages).
2.	**Evidence-based approach**	Be informed by the best available scientific evidence while tailoring interventions to each context.
3.	**Human rights**	Respect, protect and fulfil human rights, including those of women, girls and children, in line with international human rights norms and standards, including the right to the highest attainable standard of health.
4.	**Gender equality**	Advocate for addressing gender inequality and gender-based discrimination as key underlying determinants of violence, in particular against women and girls, by: (a) challenging unequal power relations between women and men, and sociocultural norms that emphasize male dominance and female subordination; and (b) strengthening the engagement of men and boys in prevention, alongside efforts to empower women and girls.
5.	**Ecological approach**	Address the risk factors and determinants that occur at multiple levels of the ecological framework (individual, relationship, community and societal).
6.	**Universal health coverage**	Ensure that all people and all communities receive the quality services they need and are protected from health threats, and do not suffer from financial hardship.
7.	**Health equity**	In addition to universal health coverage, pay particular attention to the needs of groups that are marginalized, face multiple forms of discrimination, and are more vulnerable to violence and barriers in access to services.
8.	**People-centred care**	Provide victim/survivor-centred care and services that: respect their autonomy to make full, free and informed decisions regarding the care they receive; respect their dignity by reinforcing their value as persons, not blaming, discriminating or stigmatizing them for their experience of violence; empower them by providing information and counselling that enable them to make informed decisions; and promote their safety by ensuring privacy and confidentiality in provision of care.
9.	**Community participation**	Listen to the needs of communities and, in particular: encourage the voices of women and adolescents to be heard; support and ensure their full and equal participation; use participatory approaches to build community ownership; form partnerships with civil society, especially women's and youth organizations; and strengthen capacities for identifying sustainable solutions.
10.	**Comprehensive multisectoral response**	Build and strengthen partnerships and coordination between the health and other sectors, and between the public and private sectors, including for-profit and non-profit service providers, civil society, professional associations and other relevant stakeholders, as appropriate to each country's situation.

Table 1: Summary of guiding principles to inform the implementation of this plan Guiding principles[29]

The vision per the plan is, therefore, to create a world in which everyone is free from all forms of violence and discrimination, their health and well-being are protected and promoted, their human rights and fundamental freedoms are fully recognised, and gender equality and women's and girls' empowerment are the norms.[30] To that end, the health system's role should be to advocate for a public health perspective, to identify those experiencing violence and provide them with comprehensive health services at all levels of health service delivery (i.e., primary health care and referral levels), to develop, implement, and evaluate violence prevention programmes as part of its population-level prevention and health

[27] WHO (n 25).
[28] Ibid.
[29] Ibid.
[30] Ibid.

promotion activities, and to document the magnitude of the problem, its causes, and its consequences.[31] However, the report acknowledges that the health system alone cannot adequately prevent and respond to interpersonal violence, particularly violence against women and girls, and violence against children, because many risk factors and determinants of violence exist outside the health system, necessitating a holistic, integrated, and coordinated response across different sectors, professional disciplines, and governmental, private, and nongovernmental institutions.[32] As a result, following the "health in all policies" approach, governments should allow the health system to interact with and coordinate its response with a variety of other sectors, such as police and justice, social services, education, housing/shelter, child protection, labour and employment, and gender equality or women's empowerment. As such, the health system can: advocate on behalf of other sectors to address the risk factors and determinants of violence, facilitate survivors' access to multisectoral services, including effective referral mechanisms; informed multisectoral violence prevention policies and programmes, and support the testing and evaluation of interventions in other sectors.[33] More particularly, the evidence-based recommendations for the pathway towards the achievement of the healthcare's role in support of IPV survivors are the need for the healthcare support of IPV survivors to be women(survivor)-centred, identify and take care of survivors of IPV, train healthcare providers on IPV and sexual violence, healthcare policy and provision, and mandatory reporting of intimate partner violence[34] among others as well as the role of the legislation in resolving these.

4. The VAPP Act vis-à-vis its Sufficiency for Combatting IPV and Providing Healthcare Support for IPV Survivors

With violence on the increase in all spheres of human interaction whether in the family or the larger society, it became necessary to enact a law that was better suited for regulating violence either by prevention or punishment. The Violence Against Persons (Prohibition) Act (VAPP Act)[35] was therefore passed into law in May 2015. The first observation concerning the Act is that it is an improvement on the penal and criminal code concerning violence. Furthermore, the Act's explanatory memorandum makes it plain that its goal is to outlaw all types of violence against people in both private and public life while also offering victims the greatest level of protection, the most practical remedies, and the ability to hold perpetrators accountable.[36]

[31] Ibid.
[32] WHO (n 25).
[33] Ibid.
[34] WHO, 'Responding to Intimate Partner Violence and Sexual Violence Against Women: WHO Clinical and Policy Guidelines' (2013) World Health Organisation Geneva 2013 <https://www.who.int/publications/i/item/9789241548595> <https://www.who.int/publications/i/item/WHO-RHR-13.10> accessed 23 August 2022.
[35] VAPP Act, 2015.
[36] Ibid.

Given the nature and victims of IPV, particularly with reports of spousal maiming or killings or scorned lovers instigating and causing violence, it is apposite to state that VAPP Act was also a response to survivors of violence and particularly violence occurring in the private sphere which in relations to IPV as has been highlighted, comes in different forms. Accordingly, "violence in the private domain" is defined by the VAPP Act as any act or attempted act that causes or may cause any individual physical, sexual, psychological, verbal, emotional, or economic harm that is committed by a family member, relative, neighbour, or member of the community. Additional definitions of violence include any act or attempted act committed by a family member, relative, neighbour, or member of the community that causes or may cause any person physical, sexual, psychological, verbal, emotional, or financial harm, whether it occurs in private or public life, in times of peace or conflict.[37]

One key definition proffered by the VAPP Act about violence akin to IPV is 'domestic violence' and 'domestic relationship'. According to the Act, domestic violence is defined as any act committed against a person while they are in a domestic partnership that endangers their safety, health, or general well-being.[38] From the foregoing definition, it can be deduced that the persons covered are only those in a 'domestic relationship' which as defined reveal the forms of relationship in question which may pass also for intimate partner relations and consequently violence. It provides thus:

> "domestic relationship" means a relationship between any person and a perpetrator of violence constituted in any of the following ways— (a) they are or were married to each other, including marriages according to any law, custom or religion; (b) they live or have lived together in a relationship in the nature of marriage, although they are not or were not married to each other; (c) they are the parents of a child or children or are the persons who have or had a parental responsibility for that child or children: (d) they are family members related by consanguinity, affinity or adoption; (e) they are or were in an engagement, dating or customary relationship, including actual or perceived romantic, intimate or sexual relationship of any duration; or (f) they share or recently shared the same residence.[39]

Further, the VAPP Act provided for certain key rights to victims of violence inclusive of IPV survivors. In the words of the Act,

> In addition to the rights guaranteed under Chapter IV of the Constitution of the Federal Republic of Nigeria, 1999, or any

[37] VAPP Act, 2015, s 46
[38] Ibid.
[39] Ibid.

> other international human rights instrument to which Nigeria is a party, every victim of violence, as defined in section 1 of this Act, is entitled to the following rights –(a) to receive the necessary materials, comprehensive medical, psychological, social and legal assistance through governmental agencies or non-governmental agencies providing such assistance; (b) to be informed of the availability of legal, health and social services and other relevant assistance and be readily afforded access to them; (c) to rehabilitation and re-integration programme of the State to enable victims to acquire, where applicable and necessary, pre-requisite skills in any vocation of the victim's choice and also in necessary formal education or access to micro credit facilities; (d) any rules and or regulations made by any institution or organization prohibiting or restraining the reporting of offences or complaint with the provisions of this Act, shall, to the extent of the inconsistencies be null and void…[40]

The implementation of this section with an appropriate and corresponding obligation on all stakeholders will aid the health care support of IPV survivors.[41] IPV survivors who were raped would need emergency-specific medical treatments to protect them against infection and unwanted pregnancy, IPV survivors generally would need comprehensive care which would include but is not limited to the treatment of wounds, therapy, counselling, continuous medical care, major operations, etc.[42] Nevertheless, for this section to be implemented in the healthcare system to cater for IPV survivors, there is a need for the government to ensure that all the interventions needed to support the survivors are available and easily accessible to them. This accessibility includes funding, location of the interventions, availability of the support staff, and the standard of the support based on best standard practice among many others.[43]

For its gains and radicalness in combating domestic violence and by extension IPV, the VAPP Act is not without its shortcomings particularly concerning its sufficiency for Combatting IPV and Providing Healthcare Support for IPV Survivors.

For instance, while the VAPP Act did make provisions for the right of the survivor to comprehensive medical, psychosocial and legal assistance through governmental agencies or non-governmental agencies providing such assistance, there is no law mandating these agencies to provide such for the survivors. It thus may be taken to mean that an IPV survivor would be unable to lay demand for these rights from

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[40] VAPP Act, 2015, s 38 (1) (a)-(d)

[41] O.O. Ogundipe, *The Intervention of Law in the Healthcare Support of Intimate Partner Violence Survivors in Nigeria* (PhD Thesis Babcock University, Ogun State, 2022).

[42] Ibid.

[43] Ibid.

these agencies whether governmental or non-governmental. It is therefore not enough to create rights, there must be provisions to ensure that such rights are enjoyed and this the VAPP Act failed but needs to address.

In a similar vein, the specific nature of care or the modalities appropriate for each case is at the HCP's discretion, the danger of such discretion is that the HCPs have different individual opinions and approaches to issues of IPV and this can create room for survivors to be treated without the thorough and appropriate care. The case of a petitioner who sought to be judicially separated from her spouse is illustrative here. In that case, a lady alleged that her spouse had poured scalding water on her for using a pot to cook that he had warned her not to use. The connection to the current discussion was that the woman reported that after the incident with her husband, she was rushed to the clinic for treatment but the HCPs on duty insisted she gets a police report before she could be treated or attended to. After being contacted, the organisation's Chief Security Officer and Legal Officer went to the police station, which was a distance from the clinic, and went through the strenuous procedure of filing a complaint and setting up the abuser's arrest while the woman's pains went unattended. She ultimately sought and was granted a judicial separation from her husband.[44]

Also, the VAPP Act made the scope of intervening agencies too wide, there ought to be a corresponding provision in the National Health Act for the provision of all these interventions to be made available within the healthcare system especially at the primary healthcare level to aid access by every member of the community while also saving the survivor the stress of narrating the whole gory story repeatedly to different providers. A record of the survivor provided to the first provider can be accessible to all the providers within the healthcare facilities and treatment can commence while other interventions are taking place at the same time.

Concerning the right of IPV survivors to be informed of the availability of legal, health and social services and other relevant assistance and readily afforded access to them, there is no provision as to who should inform them or how they are to access information about these interventions. Therefore, there is a need for a law that ensures the availability of legal, health, social services and other relevant interventions for IPV survivors and enough awareness about the available ones. Given this, the WHO suggested that fliers and stickers which provide information on interventions for IPV should be pasted in conspicuous places within healthcare facilities. This is a shortcoming of the VAPP Act that may be looked into.

Also, relating with survivors requires empathy and expertise. IPV survivors have expectations that their sufferings be reduced whereas, people have diverse opinions on IPV. Therefore, not every legal, health and social services and other relevant provider can attend to IPV survivors, hence, the provision for the IPV survivors to

[44] Unreported

approach every and any of these providers is too wide a blanket that needs to be streamlined to strictly trained and qualified providers.

The Act provides that survivors have a right to rehabilitation and re-integration program of the state to enable victims to acquire where applicable and necessary, prerequisite skills in any vocation of the victim's choice and also in necessary formal education or access to micro-credit facilities, this is laudable and necessary but no law places an obligation on states to provide for this program considering the non-justiciability status of the socio-economic rights in Nigeria. Therefore, of what use is a right without a corresponding duty? For this right to be enjoyed, the Nigerian Constitution needs to be reviewed to place an obligation on the government to provide for these programs and policies must be put in place to provide for the rehabilitation and re-integration of the IPV survivors. The Act is also silent on the financial responsibility for the services of these organizations supposedly responsible for care.

VAPP Act also provides that HCPs among others can apply for a protection order for an IPV survivor.[45] This is key to the health care support of IPV survivors because when IPV survivors admit to experiencing IPV, there is the fear of what the abuser can do once discovered that the IPV survivor has opened up and a Protection Order is, therefore, one of the supports that should be part of health care support. However, the provision carries a caveat that the HCP can only apply for a protection order on behalf of the patient with her written consent, and the instances where consent can be waived are where the complainant is a minor, mentally retarded, unconscious, or a person the court is satisfied to be unable to give consent.[46] This appears antithetical because it prohibits mandatory reporting which comparatively in other jurisdictions like California in the United States of America, where the law states that HCPs should report a suspected case of IPV even where the patient does not wish to report and where the HCP fails to report and the patient eventually comes to harm, such HCP is liable for a criminal offence which attracts two years' imprisonment.[47]

Another key shortcoming is the jurisdictional application nature of the Act. It was highlighted in the introduction that the effect of the Act is that it is strictly exclusive in application to the Federal Capital Territory, and in the various States of the Federation, the various iterations of VAPP Laws as has been adopted and re-enacted in their legislative houses.[48] The shortcoming of this is revealed in the absence of certain provisions in the laws of the States that have adopted it. For instance, the VAPP Act stipulates that survivors have the right to information

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VAPP Act, 2015, s 28-38

[46] Sec 28 (4)

[47] California Codes Mandated Reporting, Welfare and Institutions Code, sec 15630 (h) <https://cdss.ca.gov/MandatedReporting/story_content/external_files/California%20Codes%20for%20Mandated%20Reporters.pdf> accessed 3 November 2022.

[48] Onyemelukwe (n 1).

about the availability of legal, health, and social services as well as reintegration and rehabilitation programs. It also states that survivors have the right to receive medical, psychological, social, and legal assistance from accredited service providers, as well as from government and non-governmental organizations that provide such assistance, there is no corresponding provision for the health care support of IPV survivors in Ebonyi VAPP Law. The only statement about medical is that any police officer or social who is at the scene or learns about the abuse should provide or arrange safe transport for the victim to an alternative residence, safe place, or shelter where such is required. There was no mention of ensuring the survivor gets to the destination or was received and attended to appropriately. And to provide or arrange transportation for the victim to the nearest hospital or medical, facility for treatment of injuries where such treatment is needed. There should be modalities for situations where the survivor is too weak, injured, or not in the right frame of mind to seek medical help.

This same applies to Violence Against Women 2016 (Oyo), VAPP Law 2021(Jigawa), VAPP Law 2021 Cross Rivers State, VAPP Law 2018 (Ogun State), and VAPP Law 2021 (Imo State) except that VAPP law Ogun[49] and VAPP law Imo [50] has provision for regular training of service providers which includes HCPs.

5. The Global Plan of Action and the Extent of Implementation in Nigeria via the VAPP Act 2015

To what extent however has the implementation of the global plan of action been achieved under the VAPP Act as well as made use of the recommended suggestions by WHO? For instance, the VAPP Act stipulates that survivors have the right to information about the availability of legal, health, and social services as well as reintegration and rehabilitation programs. It also states that survivors have the right to receive medical, psychological, social, and legal assistance from accredited service providers, as well as from government and non-governmental organizations that provide such assistance. that care should be women-centred, there should be provision and guigelnes on how to identify and care for survivors of intimate partner violence, healthcare providers should be trained on intimate partner violence and sexual violence, there should be health-care policy and provision, policies on mandatory reporting of intimate partner violence.

Regarding women-centred care, women survivors of IPV are more than males.[51] Thus, there is a need for lawmakers to have an understanding of this and particularly, women's reluctance to speak out and receive help. Hence, survivors who disclose their experience of sexual assault by any perpetrator or any form of violence by an intimate partner or other family members should be offered immediate support. Therefore, women who disclose violence should at the least be

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[49] VAPP Law of Ogun State, s 42.
[50] VAPP Law of Imo State, s 66.
[51]

offered first-line support This includes, asking about the woman's history of violence, listening attentively without pressuring her to speak, providing information about resources, including legal and other services that she might find helpful, helping her to increase her self-awareness, and providing practical care and support that addresses her concerns without interfering, providing or mobilising social support, and ensuring that the consultation is conducted in private confidentiality, while informing women of the limits of confidentiality, for example, if there is mandatory reporting.[52]

A typical IPV survivor is a woman who has undergone multi-facet stress and where such reaches out to access healthcare support, stress should not be part of or underlay the support, hence, while the VAPP Act is commendable in its novel provisions, it cannot be said that it is truly provided for care that is women-centred.

Concerning the need for identification and care for survivors of intimate partner violence, it meant that healthcare providers should ask about exposure to intimate partner violence when assessing conditions that may be caused or complicated by intimate partner violence to improve diagnosis/identification and subsequent care (and not “Universal screening” or “routine enquiry”, that is, asking women in all health-care encounters should not be implemented).[53] Also, written information on IPV should be available in healthcare settings in the form of posters, pamphlets or leaflets made available in private areas such as women’s washrooms (with an appropriate warning about taking them home if an abusive partner is there).[54] Unfortunately, the VAPP Act which would be the first to radically address the issue of violence did not go beyond definitions of different forms of IPV. It could also state lists of signs that may suggest the patient is going through abuse. Thus, VAPP Act needs to create guidelines on the interventions for taking care of the survivors. The VAPP Act also needs to regulate and make provisions for safe and effective care by providing guidelines for what is the accepted best practice and ensuring it is complied with by the healthcare system, to ensure cost-effective care, the healthcare system must be regulated to ensure that both private and public hospitals give cost-effective care and such plans for the law must have the interest of both the survivor and person connected therewith[55] as indicated in the *Re- Anaishaly***.**[56]

It is essential that HCPs receive pre-qualification training in first-line support for women who are survivors of IPV and sexual assault as part of their training on IPV and sexual violence (in particular doctors, nurses and midwives).[57] In other words, healthcare providers offering care to women should receive in-service training to ensure that they are enabled to provide first-line support.[58] The training would

[52] WHO (n 33).
[53] Ibid.
[54] WHO (n 33).
[55] Ogundipe (n 41).
[56] In re Anaishaly C., 213 A. 3d 12 - Conn: Appellate Court 2019
[57] WHO (n 33).
[58] Ibid.

teach them appropriate skills, including, when and how to enquire, the best way to respond to women, identification and care for survivors of IPV and clinical care for survivors of sexual assault, and how to conduct forensic evidence collection where appropriate.[59] It would also address basic knowledge about violence, including laws that are relevant to victims of intimate partner violence and sexual violence, knowledge of existing services that may offer support to survivors of intimate partner violence and sexual violence (this could be in the form of a directory of community services), inappropriate attitudes among HCPs (e.g. blaming women for the violence, expecting them to leave, etc.), as well as their own experiences of partner and sexual violence.[60]

A country needs multi-sectoral care for survivors of intimate partner violence and sexual assault for different levels of the health system, and priority should be given to providing training and service delivery at the primary level of the health system. Care for women experiencing intimate partner violence and sexual assault should, as much as possible, be incorporated into existing health services rather than as a stand-alone service.[61] In the Nigerian instance, it would mean that a healthcare provider (nurse, doctor or equivalent) who is a trained gender-sensitive sexual assault care and examination provider should be available at all times of the day or night (on location or on-call) at the primary healthcare levels.[62] Further, in Nigeria, this will require that practice and policy must be drafted and implemented for the VAPP Act, Laws at the state levels and other statutes, for the provision of an integrated health and advocacy service delivery to support identification and interventions, use of electronic health record (EHR) tools, and cross-sector partnerships.

Regarding mandatory reporting, different jurisdictions have diverse opinions on the mandatory report of suspected or identified intimate partner violence in a healthcare setting with some believing it should be encouraged and others believing that it conflicts with the confidentiality right of the survivor. The recommendation, however, is that mandatory reporting of intimate partner violence by the healthcare provider to the police is not recommended, but HCPs should offer to report the incident to the relevant authorities (including the police) subject to the woman's consent, and is aware of her rights as well as the risks of reporting and that in the case of child maltreatment and life-threatening incidents, it must be reported by the HCP to the appropriate authorities where there is a legal requirement to do so.[63]

The comments regarding this recommendation, however, stated that there is growing consensus that nations with mandatory child-reporting laws should give kids and families more access to private services where they can get support

[59] Ibid.
[60] Ibid.
[61] WHO (n 33).
[62] Ibid.
[63] Ibid.

voluntarily. They also stated that the purpose of mandatory reporting is particularly dubious in circumstances where there is no working legal or child-protection system to act on a report.

In the Nigerian case and particularly under the VAPP Act and Laws at the state levels, third parties, including HCPs have the power to apply for a protection order for the IPV survivors against the abuser but subject to the written consent of the IPV survivor.

6. Conclusion and Recommendation

In conclusion, though the provisions of the VAPP Act and Laws of the various states are novel and brilliant statutes being radical enactments in the fight against IPV and all forms of violence, the Act, in particular, is not without its shortcomings concerning the provision of healthcare for IPV survivors per the global plan of action and the recommended holistic approach in Nigeria. It is, therefore, necessary that the Act be reviewed and amended or a legal framework for the healthcare support of IPV survivors be enacted. The reason for this is that this lack of provision or legal basis for the HCPs has made it difficult for the survivors to get adequate support to discontinue the abuse or recover from the abuse. This paper thus recommends that the VAPP Act and all the related laws should be considered to come up with an effective legal framework in line with the WHO recommendation for the health care support of IPV survivors in Nigeria.