



LAW HUB DEVELOPMENT
AND ADVOCACY CENTRE

GENDER PROVISIONS IN THE ADMINISTRATION OF CRIMINAL JUSTICE LAWS

In relation to Violence Against Persons Prohibition (VAPP)
Act and Child Rights Laws of States for Information, Education,
and Communication (IEC)



©Law Hub Development and Advocacy Centre 2023

With support from:

MacArthur Foundation

All rights reserved. No part of this publication may be reproduced, stored in a retrieval system, or transmitted in any form or means, electronic, mechanical, photocopying, recording, or otherwise, without prior permission of the publisher.

Published by:

CM360 Prints Limited

Suite 8-9 Block A3 Commerce Plaza Area 1 Garki Abuja

Tel: 09094301230, 8030780040, 09088888334

www.cm360prints.com

Table of Contents

Table of Contents	2
Acronyms	3
Background	4
Forms of violence against women and children	7
Socio-economic deprivation	7
Sexual Violence	8
Physical assault	10
Psychological violence.....	11
Discrimination in family and work life	11
The inferable lack of political will to curb violence against women and children	12
<u>Amplifying the gender provisions in ACJL, VAPPL & CRL in states</u>	
Oyo State.....	16
Enugu State	18
Nassarawa State	20
Adamawa State	21
Akwa Ibom State.....	23
Kano State.....	25
Conclusion	25
List of Figures	
<u>Figure 1:</u> Adoption of Administration of Criminal Justice Laws by states	18
<u>Figure 2:</u> Directory of Sexual Assault Referral Centres in Nigeria	20
<u>Figure 3:</u> States that have adopted the Child Rights Act	21
<u>Figure 4:</u> Amplifying the gender provisions in ACJL, VAPPL and CRL	13

ACRONYMS

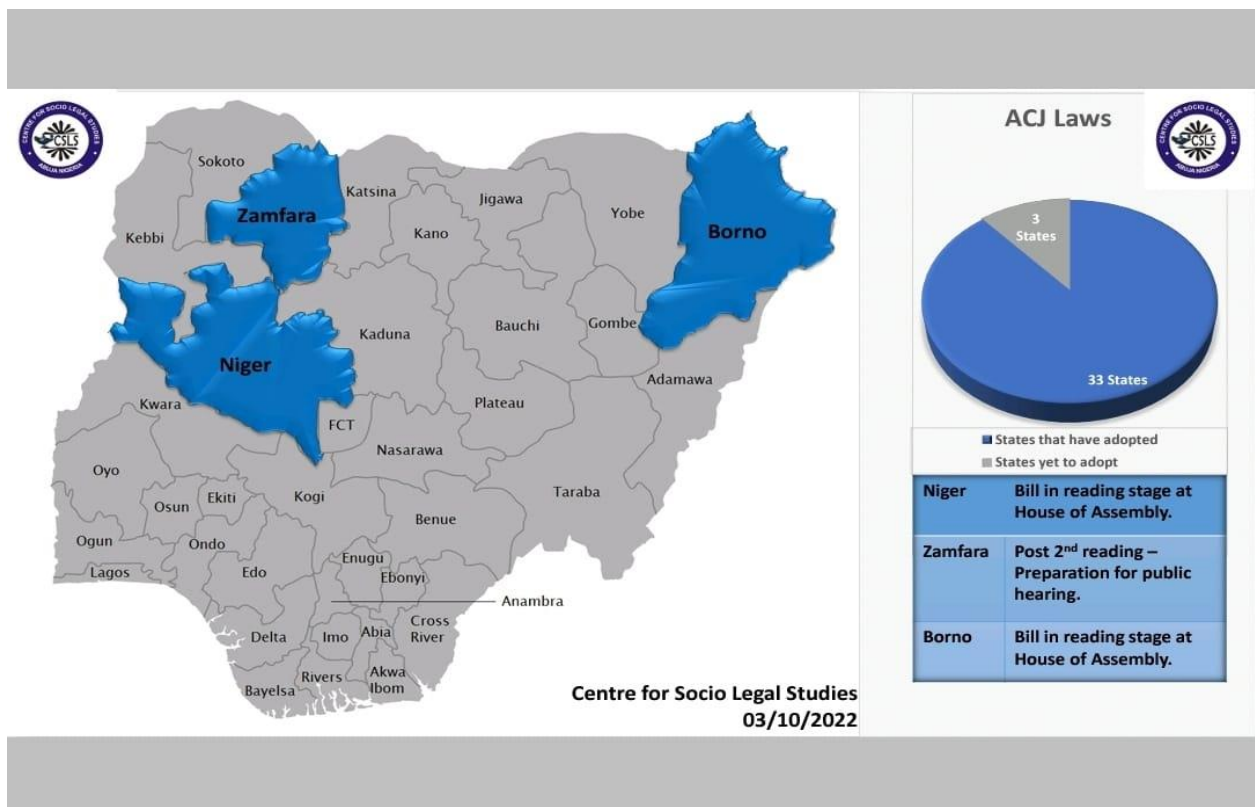
ACJA	Administration of Criminal Justice Act
ACJ	Administration of Criminal Justice
ACJL	Administration of Criminal Justice Law
ACHPR	African Charter on Human and Peoples Right
ACRWC	African Charter on the Rights and Welfare of the child
CEDAW	Convention on the Elimination of All Forms of Discrimination against Women
CISLAC	Civil Society Legislative Advocacy Centre
CRA	Child Rights Act
CRL	Child Rights Law
CRC	Convention on the Rights of the Child
DNA	Deoxyribonucleic Acid
FRN	Federal Republic of Nigeria
GBV	Gender-Based Violence
IAWJ	International Association of Women Judges
ICPC	Independent Corrupt Practices Commission
IEC	Information, Education and Communication
ILO	International Labour Organization
LGA	Local Government Area
NCSA	Nigerian Correctional Service Act
NGF	Nigerian Governors Forum
NGO	Non-Governmental Organization
NIS	Nigeria Immigration Service
NPC	Nigeria Police Force
NPR	Nigeria Police Regulation
SARC	Sexual Assault Referral Centres
SDG	Sustainable Development Goals
UN	United Nations
VAAPA	Violence Against Persons Prohibition Act
VAPPL	Violence Against Persons Prohibition Law
VVF	Vesicovaginal Fistula
VAWL	Violence Against Women Law

BACKGROUND

Gender can be defined as a social construct which identifies a person either as a man (male) or a woman (female). In Nigeria records numerous violence against people based on gender, whereas **Section 42(1) of the 1999 Constitution** of the Federal Republic of Nigeria (as amended) prohibits discrimination on account of gender.

The **Administration of Criminal Justice Act (ACJA) 2015** also introduced major gender reforms in relation to the rights of women. Some of these gender reforms include the right of women to stand as surety for a defendant in bail proceedings; the rights of a married woman to hold property in her own name and obtain redress by way of criminal proceedings for the protection of her own separate property against all persons, including the husband of the marriage as an unmarried woman. See **Section 167 (3), Sections 189 (g) and 191 ACJA** respectively.

Zamfara was the most recent state to adopt their ACJL, thus Borno and Niger states are the only states yet to adopt the law.



In 2015, the Violence Against Persons Prohibition Act (VAPPA) was enacted as the only legislation in Nigeria focusing on the issues of gender violence as it affects persons, whether male or female. The law elaborately prohibits and criminalizes all forms of violence against persons, including physical, sexual, psychological, domestic violence in both private and public life.

Rape as a major form of gender-based violence is prevalent in Nigeria and well defined under VAPPA as the intentionally penetration of the vagina, anus, or mouth of another person with any other part of his or her body or anything else, without consent.

This expanded definition of rape presupposes the possibility of rape against a male or female person and this definition is what most states VAPPLs have adopted.

Further, Section 32(3)(c) of VAPPA 2015 authorizes police officers to collect DNA from those accused and convicted for offenses under the Act. This is a remarkable step to address the major problem of the absence of DNA and verified material evidence when investigating sexual violence.

There is also inadequate Sexual Assault Referral Centres (SARCs) as a one-stop-shop to providing medical, psychological, legal, rehabilitation and re-integration needs for victims of violence as provided for in section 38 of VAPPA. The map below indicates that less than half of the total numbers of states in Nigeria have established SARC.



Under section 39 of the Act, where there is a conflict between the Act and any other provision on similar offence in the criminal/penal code, the provisions of the VAPP Act shall prevail.

Three northern states have not adopted VAPPA as shown in the map below.

Y7Photo credit: RoLAC (Rule of Law and Anti-corruption)

The Child Rights Act 2003 on the other hand was enacted specifically for the protection of the rights and well-being of children as vulnerable members of the society. It prohibits child marriages and provides that anyone who has sexual intercourse with a child commits an offence because under the law, a child is presumed not to have the mental capacity to give consent.

Only three northern states in Nigeria are yet to adopt the CRA. Adamawa was the most recent state to adopt the law in November 2022.



Photo credit: RoLAC (Rule of Law and Anti-corruption)

This document is an information, education, and communication (IEC) document which seeks to highlight the gender provisions in the ACJLs of six (6) states (Nassarawa, Enugu, Adamawa, Akwa Ibom, Oyo, and Kano), while amplifying the discriminatory issues and attendant reforms of the relevant provisions in the VAPPL and Child Right Laws

The reason for amplifying the reforms in the state laws is because state laws have more direct bearing with the rural communities and the notable innovations and paradigm shifts in these laws are largely unknown amongst stakeholders and beneficiaries in rural areas where the abuse of women and children rights is prevalent in such areas.

In rural areas in Africa, life is almost reduced to a state of nature as Thomas Hobbes describes it, ‘ life is poor, nasty, brutish, and short’ . There is lack of information and insufficient sensitization on the gender reforms. Women and children continue to be vulnerable in these communities and suffer series of abuses, due to religious and cultural beliefs.

Forms of violence against women and children

1. Socio-economic deprivation

In the agricultural sector for example, the land tenure system discriminates against women when it comes to ownership of land and intestacy based on the patriarchal structure in Africa, whereas the women contribute immensely to this sector. The customary law on intestacy in Nigeria recognizes that a woman cannot own property; instead, she is part of the property to be acquired and inherited. In **Ogunkoya V. Ogunkoya CA/L/46/48 p. 56 unreported**, the Court of Appeal held that wives are also regarded as chattels which are themselves inheritable by other members of the family of the deceased under certain conditions. See also **Suberu V. Sumonu (1975) 2 FSC 31**).

Numerous academic authorities lean on all fours with this position that women do not inherit property because the widow is in fact regarded as part of the estate (acquired by the deceased husband upon payment of her dowry at the time of marriage) to be inherited by the son or relative.

As a result, female members of the family under customary law are regarded as mere articles with no right or duties of her own. See R.A Onuoha (2008) ‘ *Discriminatory Property Inheritance Under Customary Law in Nigeria: NGOs to the Rescue*’ The International Journal of Not-for-Profit Law; GBA Coker, *Family Property Among the Yorubas* (London, Sweet & Maxwell, 1996) 226.

Approximately 54 million Nigerian women are based in rural areas and constitute 60% to 80% of the rural work force. They carry out 70% of agricultural production, 60% of agricultural processing activities and 50% of the animal husbandry. At the same time, they have access to less than 20% of the agricultural resources. Whereas 90% of agricultural land is owned by men and 66% of all bank account owners are male (OECD, 2019) OECD, 2019, “ Social Institution & Gender Index (SIGI) Nigeria” . <https://www.genderindex.org/country/nigeria/>

Sadly, this economic abuse affects the productivity of women even though they contribute a lot of labor in the agrarian and real estate sectors.

Significantly altering this position is the decision of the Supreme Court of Nigeria in **Ukeje v. Ukeje (2014) LPELR 22724 (S.C)** where the court declared as discriminatory and unconstitutional the Igbo culture that precluded women from inheriting property. Justice Rhodes-Vivour (JSC as he then was) held that regardless of the circumstances of the birth of a female child, she is entitled to an inheritance from her late father’ s estate. Therefore, the Igbo native law and custom which deprives children born out of wedlock, especially females, from sharing the benefit of their father’ s estate was deemed repugnant to natural justice, equity, and good conscience.

Subsequently, on 1st of March 2019, the **Oyo State** High court presided by the Chief Judge of the state - Justice Munta Abimbola delivered judgement, in a property suit between a divorced couple - Toyin Arajulu, formerly known as Mrs. Toyin James and her former husband, Mr Monday James based on the provisions of the Married Woman Property Act 1882. **The court had held that “a husband who marries a wife and builds a house during the pendency of the marriage stands the risk of losing that house if he later divorces the woman, especially if the marriage is blessed with children, unless such woman of her own volition leaves the matrimonial home.” Women have a right to the matrimonial building; that is a house built during the pendency of the marriage.**

Justice Abimbola further held that the belief that patriarchy is so entrenched in the Nigerian system and women have no rights even under the law is an erroneous one, majorly propounded by those ignorant of the rights provided under the law. While ruling on the matter, he emphasized that it does not matter in whose name the property stands or who pays what (on the property) but simply what is fair and just in the circumstances of the case, citing the case of **Home Vs Home (1962) 1 WLR 1124 at 1128.**

Interestingly, the ACJLs now recognize the rights of a married woman to own property and seek protection over the property. This provisions when put side by side the VAPPL of some states also give credence to the rights of women to own properties acquired during the subsistence of a marriage, whether the document evidencing ownership carries her name. See **Section 11 VAPPL of Cross River State 2021** which provides that all properties acquired during the subsistence of a marriage shall jointly belong to the parties to the marriage **except otherwise stated in writing by the parties and it shall not be a defence that the document evidencing ownership carries the name of one party to the marriage.**

More recently, on 15 September 2022, the Rivers State government ended the denial of women inheritance cultures and traditions by signing into law the **Rivers State Prohibition of the Curtailment of Women’ s Right to share in Family Property Law No. 2 of 2022**

Further, the Child Rights Law prohibits discrimination based on sex and recognizes the rights of a child to be considered in the distribution of deceased parent’ s estate.

2. Sexual violence (SGBV)

Sexual violence involves harassing or compelling a person(s) to participate in a sexual act without consent. It is immaterial if consent is obtained, where the person is a child, a person with mental disability, or a person severely intoxicated or unconscious. It includes rape, defilement, indecent exposure, child marriage, forced marriage, sextortion, sexual assault, intimate partner violence, sodomy, sex trafficking etc.

Unfortunately, sexual violence is prevalent in Nigeria against women and children – both male and female children. More worrisome are recent reports on increased sexual violence against minors (some by their biological parents) and mentally challenged persons, under the belief that such act brings wealth.

<https://punchng.com/bizarre-pleasure-sad-stories-of-mentally-ill-women-raped-impregnated-by-randy-men/>

During the COVID-19 lockdown, there was an upsurge of sexual violence cases prompting the Nigerian Governors Forum (NGF) in June 2020 to declare a state of emergency on the

increasing rate of sexual violence in the country. Series of high-profile cases of violence perpetrated against women sparked nationwide protests by activists both online and at rallies. For instance:

- On 17 October 2018, a 13-year-old Elizabeth Ochanya Ogbanje died due to complications from Vesicovaginal fistula (VVF) due to allegations of constant rape by her guardian and his son, since she was 9 years old. Mr. Andrew Ogbuja a lecturer at the Benue State Polytechnic Ugbokolo, and his fugitive son, Victor, were allegedly fingered in the serial rape of the deceased until she took ill and died at the Federal Medical Centre in Makurdi where she was receiving treatment.
- April 2019, there was an Abuja Police Raid on women resulting in the arrests and sexualized abuse of more than 100 women in Abuja clubs/nightlife scene.
- On 27 May 2020, Uwaila Vera Omozuwa a 22-year-old University of Benin Microbiology student was brutally raped inside a Church in Benin City Edo state, and she died three days later.
- On 26 February 2022, Bamise Ayanwole was allegedly raped and killed after being abducted by a Lagos BRT bus driver - Nice Andrew Ominikor. The matter is pending and we await the court judgment.

According to police records in the All-Nigeria Records www.allnigeria.com an estimated 717 rape cases were recorded in the country between January and May 2020, and it is unclear whether police investigations have led to the prosecution of offenders.

Sadly the 2021 Amnesty International's report titled, 'A harrowing Journey', was specific on the upsurge of rape cases across Nigeria during the 2020 lockdown, with the victims and their families having difficulty in trying to access justice years later.

Again, the Inclusive Study on Violence Against Women in Nigeria by the Initiative for Equal Rights TIERS, 2021 further indicates the comparatively low number of cases reported and prosecuted due to the deeply entrenched culture of victim blaming and shaming.

This among other sexual violence issues are plaguing our society rapidly and increasingly in the most cruel, dehumanizing, and demeaning manner, such that it has been termed a humanitarian crisis. See the Africa report on sexual violence in 6 Africa countries.

<https://www.rainn.org/sites/default/files/Finalized%20Africa%20Report.11.4.21.pdf>

The VAPP and Child Rights Laws of various states unanimously criminalize and impose sanctions for sexual violence in any form. However, Nigeria's legislation is not as strict as Russia and some other countries which have very strict legislation on sexual violence against children, such as using forced chemical castration of pedophiles.

Further, sextortion as a form of sexual violence was recognized by the International Association of Women Judges (IAWJ) in 2008 as a pattern of abuse of authority for the purpose of sexual exploitation.

According to Transparency International, sextortion happens when those entrusted with power use it to sexually exploit those dependent on that power. The persons are coerced into paying a bribe with sexual acts rather than money and it has long been a silent form of corruption, hiding in plain view.

<https://www.transparency.org/en/publications/breaking-the-silence-around-sextortion>

On 7th October 2019, the BBC Africa's eye released a documentary titled 'Sex for Grades', after a year-long undercover investigation, which exposed the naked abuse of power by lecturers who use their positions to sexually intimidate and exploit their female students in exchange for grades, thereby abusing the trust reposed in them as parent figures to these students. The documentary focused on harassment at the University of Lagos, Nigeria, and the University of Ghana. BBC after gathering dozens of testimonies from current and former students, sent undercover journalists acting as students into the Universities. These journalists were sexually harassed while wearing secret cameras. The report generated public uproar from high profile figures and social media users within and outside the country, calling for action. <https://youtu.be/we-F0Gi0Lqs>

In June 2021, Premium Times Newspaper reported that both lecturers indicted by the documentary have been dismissed by the institution upon conclusion of investigation.

<https://www.premiumtimesng.com/news/headlines/465272-sexforgrades-almost-two-years-after-unilag-sacks-lecturers-indicted-in-scandal.html?tztc=1>

Presently, the Independent Corrupt Practices Commission (ICPC) has expanded the scope of their jurisdiction to include trial of sexual offences in tertiary institutions due to the prevalence of these offences.

In a bid to utilize social and conventional media to create awareness amongst citizens on the dangers of sextortion, the Civil Society Legislative Advocacy (CISLAC) launched a trusted electronic App called the TIMBY App to help victims of sextortion in education institutions report the incident and pursue redress, in a confidential manner.

Further, the National Assembly on 8 June 2023, passed a bill for the prohibition and punishment of sexual harassment by teachers/lecturers in tertiary institutions.

Sextortion is not only prevalent in the educational system but other spheres. For instance, most survivors of sextortion are sexually extorted when requesting basic services such as food, medication, or domestic supplies especially in areas of armed conflict or while seeking employment and most survivors are reluctant to speak out because of the blame game culture.

3. Physical assault

Physical assault is an attack which causes minor or grievous bodily harm or even death. It can also result in damage to property, because of unwanted or unlawful physical force. Examples include coercion, battery, harmful widowhood practices, female genital mutilation, infanticide etc.

The list of physical violence women go through in Nigeria is endless, especially with disturbing reports of wife battery prevalent in marriages. Unfortunately, records also indicate that men suffer physical violence in marriages.

Sometimes examples of physical and psychological violence are of a crosscutting nature such that the impact of an action can have both physical and psychological consequences. For example, trafficking, child labor, forced isolation or separation from family and friends, forced financial dependence or economic abuse etc.

Remarkably, VAPPA has made extensive provisions prohibiting such acts.

4. Psychological violence

Psychological violence can take the form of intimidation, threat, defamation, verbal insult, harassment, distress, ejection, abandonment, deliberately placing another in fear of physical injury, emotional abuse, forced financial dependence or economic abuse, forced isolation or separation from family and friends, stalking, intimidation, cyberbullying, non-consensual sexting, forced financial dependence etc.

In the Becheve tribe of Obanliku LGA, Cross River state, there is a culture of modern slavery called the ‘ Money Woman’ , where families offer up their female children in exchange for a loan as low as 2,000 naira. The creditor is not obligated to take care of the ‘ money woman’ and in the event of her death, the debtor is obligated to replace her with another daughter. If the creditor dies, the ‘ money woman’ is inherited by the creditor’ s next of kin.

<https://www.channelstv.com/2018/05/04/money-marriage-an-ancient-obanliku-culture-where-girls-are-sold-for-money-food>

Also, a culture of child 'witch' is common in **Akwa Ibom State**, resulting in countless children being abandoned, displaced, and killed. Some are exposed to traffickers, incarceration, horrific exorcism in the form of severe beatings and torture to elicit a confession, poisoning to death, burning alive, drowning etc.

https://www.unicef.org/nigeria/media/1661/file/Nigeria-situation-analysis-women-and-children-2011_1.pdf.pdf

Reports have emerged indicating that infanticide is still ongoing in about 68 communities of the across the Federal Capital Territory, despite efforts since 1876 by Mary Slessor, a Scottish missionary to change the wrongly perceived notion that twins are evil.

<https://guardian.ng/news/68-fct-communities-still-practice-infanticide/>

Discrimination in family and work life

An example of discrimination of women in family life is the case instituted by Prof. Priye Iyalla-Amadi in February 2008 challenging the discriminatory practice that women ought to get written permission from their husbands before the issuance of an international passport. The Nigerian Immigration Service (NIS) in Port Harcourt, Rivers State had maintained that the married women are classed alongside ‘ minors’ who require consent from the head of family. The NIS further argued that it was a way of perpetuating the authority of the man over his wife, no matter her status in the society, to prevent an unnecessary breakdown of the marriage institution in the country. On 1 June 2009, Justice Olotu, the presiding judge of the Federal High court threw out as unconstitutional, the entrenched age-old practice that required married woman to obtain husband’ s consent before acquiring or renewing their international passport. He stated that this kind of policy was discriminatory against women and had no place in 21st century Nigeria.

In a similar vein, the discrimination of women in the workplace is also evident. In January 2020, the Nigeria Police Force (NPF) purportedly dismissed a female police officer for getting pregnant out of wedlock. Civil rights groups raised concerns, that such act was

discriminatory and weighed heavily against women. The Nigerian Bar Association (NBA) went further to institute an action against the NPF, stating that the provisions of the Nigeria Police Regulations (NPR) conflicts with section 37 of the 1999 Constitution (as amended) and discriminates against unmarried female police officers.

On 21 February 2022, the Federal High Court per Justice Ekwo dismissed the suit stating that the provisions of Sections 127 of the NPR which provides for the sack of an unmarried woman police officer who gets pregnant was clear to the said female officers before her enlistment in the Force.

In a reverse judgment, the National Industrial Court sitting in Akure on 12 January 2023, held that the police regulation for female police officers getting pregnant out of wedlock is illegal because same is not applicable to men, thereby making the provision discriminatory and contrary to the Constitution of the Federal Republic of Nigeria. Justice Dashe Damulak accordingly struck out the regulation for being inconsistent with Section 42 of the 1999 Constitution (as amended) and Article 2 of the African Charter on Human and People's Rights which abolishes discrimination based on gender. However, the court refused to reinstate the female police officer on the grounds that '...as a probationary staff, the claimant is not yet clothed with the garb of statutory protection, so even when her termination is wrongful, she cannot be reinstated'. The court awarded her aggravated and punitive damages assessed at N5million for being wrongfully denied a lifetime opportunity of serving in the Nigerian Police based on a discriminatory law.

<https://www.thisdaylive.com/index.php/2023/01/12/court-declares-police-regulation-on-unmarried-pregnant-female-officers-illegal-discriminatory/>

Further, the issue of "glass ceiling" is still evident as a barrier that limits the number of women that can attain the peak of corporate hierarchy even though over the years, women have ventured into traditionally male dominated professions, shattering the glass ceiling, and getting to the zenith of their careers, such as Ngozi Okonjo-Iweala, the first black women to head the World Trade Organisation, to mention but a few.

According to a 2000 monograph by the International Labor Organization (ILO), workplace bullying by itself may be relatively minor but cumulatively can become a very serious form of violence. See *D.C. Yamada, "creating a legislative response to workplace bullying"*, *Employee Rights and Employment Policy Journal*, Vol. 8, p.475 2004. Also, the General Conference of the International Labour Organization (ILO) on 10 June 2019, has gone a step further to make accompanying recommendations to combat violence and harassment in the world of work.

The inferable lack of political will to curb violence against women and children

The diminutive legal status accorded women, the bane of masculine domination prevalent in our cultural norms and religious practices and weak justice system are amongst others, reasons for continuous increase in gender-based violence in Nigeria.

Unfortunately, there seems to be a lack of commitment and political will on the part of the government to curb the spate of violence against women and children.

For instance, in Nigeria, the right to education especially for children is one of the socio-economic rights which is non-justifiable and non-enforceable under the 1999 Constitution as

amended. State Governments utilize their discretion based on available resources and budgetary provisions to decide the priority on the right to education.

The right to education of a child should not be at the discretion of any government, instead it should be an enforceable right, which is government is compelled to provide just as provided in Article 17 (1) of the African Charter on Human and peoples' Right (ACHPR) 1981 which guarantees the right to education for every child. Equally, Articles 28 of the Convention on the Rights of the Child 1 (CRC) 1989 contains extensive provisions on progressive realization of the right of the child to education. Article 11 of the African Charter on the Rights and Welfare of the Child (ACRWC) 1989 equally enshrines the right to education for all children, while also spelling out the duties of states parties towards achieving the full realization of the child' s right to education. See 4 Int'l J. Advanced Legal Stud. & Governance 1 (2013) ' The Fulfillment of Key Socio-Economic and Fundamental Rights in Nigeria: Akwa Ibom State as a Paragon' pg. 9

<https://heinonline.org/HOL/LandingPage?handle=hein.journals/ijalsg4&div=3&id=&page=>

As it affects women, people wonder why the United Nations (UN) Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) which Nigeria adopted in 1979 and ratified without reservations in 1985, is yet to be domesticated. Article 10 of CEDAW places an obligation on States parties to take steps to eliminate discrimination against women in education and ensure that they enjoy equal rights with men.

However, the government of Nigeria has failed to implement the 30% & 35% affirmative action in the Nigeria Women Policy 2000 and the Nigeria Gender Policy 2006 respectively.

Further attempts to reintroduce CEDAW vide the Gender and Equal Opportunity Bill in 2016 and 2019, were rejected by the National Assembly, even though both bills seek nothing more than guaranteeing the rights of women to equal opportunities in employment, education, marriages, political and public life as well as increase their capacity to own and inherit properties.

Again, on 1st of March 2022, during the constitution amendment, the National Assembly at both chambers voted against the five-amendment bills termed ' gender bills' which sought to:

- grant citizenship to foreign husband of Nigerian women
- allow women to claim their husbands' State of origin after at least five years of marriage.
- ensure women occupy at least 35% in political and appointive positions.

In comparism with more advanced climes, countries such as Spain have gone ahead to enact sexual and reproductive health laws for fully paid menstrual leave, recognizing the need for women to take time off work when they have their period. The law known as the Gender Equality Ministry law was approved by parliament in February 2023 and came into effect on 2 June 2023.

Perceived efforts to safeguard the rights of women and children

In an interestingly twist of events, an Abuja Federal High court in 2022 ordered the federal government to comply with the 35% affirmative action for women to occupy positions of appointments and to ensure more inclusivity. The court further held that the 2016 National Gender Policy was not a mere policy statement as alluded to by the defendants, but a policy that must be backed by action. Also, that the continuous neglect of the international treaties and conventions the defendant had willingly subscribed to and ratified, is a breach of the international treaties the defendant is bound by. See **WELA Initiative & 8 Ors. v. Federal Republic of Nigeria (FRN)** (unreported)

Further, on 31 May 2023, the “ Gender and Equality Opportunities Bill’ passed second reading at the senate. According to the sponsor of the bill, Senator Biodun Olujimi, if signed into law, the proposed legislation will encourage women to aspire and reach their full potentials as well as dislodge the barriers to women’ s equal access to all forms of financial credit, technical assistance, family benefits and other aspects of cultural life. <https://www.channelstv.com/2023/05/31/gender-bill-scales-second-reading-at-senate/>

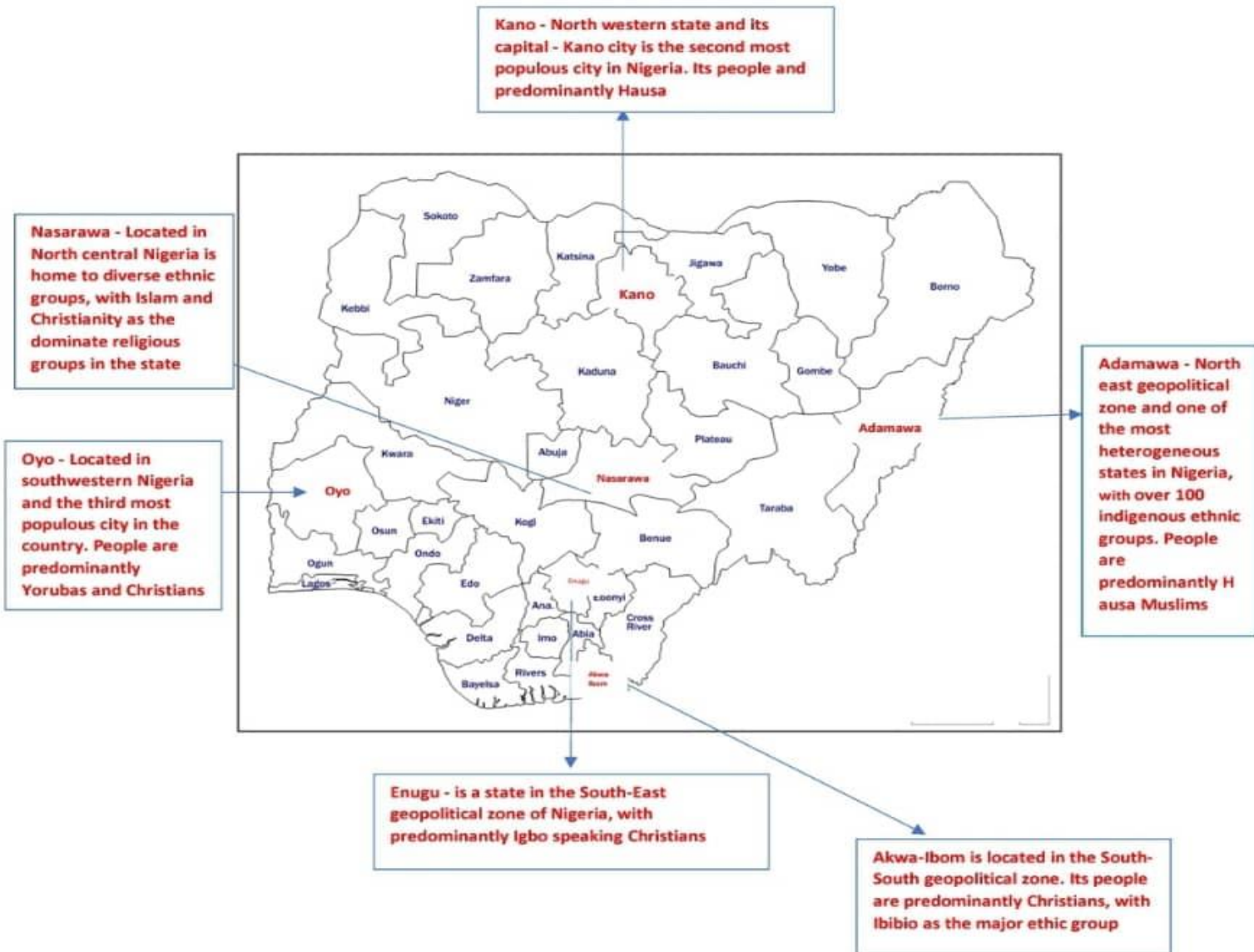
The introduction of the **Nigerian Correctional Service Act (NCSA) 2019** demonstrates an effort at safeguarding the rights of women and children in custody in line with the Universal Declaration of Human Rights 20 (UDHR) 1948 which guarantees adequate standard of living for everyone, while mothers and children are entitled to special care and assistance. Section **34 of the NCSA** also introduces the provision of separate facilities for female inmates and makes provision to address the special needs of female inmates, including pregnant women, nursing mothers and babies, in custody.

We also see the courts decisions attracting aggravated sentences for violence against women and children. For instance, **Idams V. FRN (2020) NWLR (pt.1737) 1 @ pg.13 the Supreme court per Galumje JSC** held that the offence of rape is on the increase and the courts have a role to play in sending a clear message that there will be severe punishment for such acts. The court further stated that the appellant being a police officer at the time of the commission of the offence was supposed to protect the prosecutrix. He abused his position, used his profession to threaten, frighten and rape the helpless 13-year-old, the daughter of his fellow policeman without shame. He had no excuse for what he had done and was lucky to have escaped with what I think was a light sentence, given the gravity and prevalence of the offence and the naked exercise of power. The court however shied away from increasing the sentence for being manifestly inadequate, because of the general rule that an appellate court will not interfere in the lower court’ s sentencing discretion, except it is manifestly excessive or the sentence is appealed against.

Merely berating the defendant is not enough justice, as the court has a duty to send a clear message through its sanctions and sentences, to ensure that justice is not only said to be done but seen to be manifestly done.

We look forward to seeing the appellate court increasing the sentences of defendants guilty of gross violence against women and children when it is manifestly inadequate as a drastic step to utilize sentencing discretion to curb such human rights violations, thereby serving as a deterrent to other criminal minded persons.

Amplifying the gender provisions in ACJL, VAPPL & CRL in states



1. Oyo State

ACJL 2017		
I.	14(3)	Where a suspect is to be arrested enters a building physically occupied by a woman who, according to custom or religion does not appear in public, the person making the arrest shall, before entering the building, give notice to the woman that she may withdraw and shall afford her every reasonable facility for withdrawing and may then enter the building
II.	147(3) &(6)	During search upon reasonable suspicion, where the person to be searched is a woman she shall be searched by another woman and may be taken to a police station for that purpose. Or where a place to be searched is a building physically occupied by a woman who, according to custom or religion does not appear in public, the person making the search shall, before entering the building, give notice to the woman that she may withdraw and shall afford her every reasonable facility for withdrawing and may then enter the building
III.	166(3)	No persons should be denied standing as surety for a defendant in a criminal matter on the grounds that the person is a female
IV.	188(f)(v)	recognizes the rights of a married woman not only to hold property in her own name as though she is an unmarried woman
V.	190	A married woman can obtain redress or remedies by way of criminal proceedings for the protection and security of her person and her own separate property to the exclusion of everyone including her husband.
VI.	405	Where a woman found guilty of a capital offence is pregnant, the sentence of death shall be passed on her, but its execution shall be suspended until the baby is delivered and weaned for a period of 2 years
VII.	457(2)(j)	The ACJ Monitoring committee shall have a representative of a Civil society working on human rights, access to justice or women's rights to serve on the committee for 2 years
VIII.	454(5)	In discharging a community sentence, where the convict is a female, the supervising officer shall be a female
Violence Against Women Law (VAWL) 2016		
I.	3(1)	Offence of causing or inflicting physical injury on a person
II.	4	Offence of coercing another to engage in any conduct to the detriment of a woman's physical or psychological well-being
III.	5(1)	Offence of compelling another by force or threat to engage in any conduct to the detriment of the victim's physical or psychological well-being
IV.	6(1)	Offence of raping a woman
V.	7(1)	Offence of defilement of a girl under the age of 11 years
VI.	8a	Offence of defilement of a girl above 11 and below 13
VII.	8b	Offence of defilement of a with mental disorder
VIII.	9	Prohibition of female circumcision or genital mutilation of a girl child or woman

IX.	12(1)	Offence of forcefully eviction of his or her spouse from his or her home or refusing him or her access
X.	13(1)	Offence of causing mischief, destruction, or damage to a woman' s property with the intent of causing harm
XI.	14(1)	Offence of causing forced financial dependence or economic abuse
XII.	15	Offence of depriving a woman of her entitlement on the grounds of her sexuality, when she refuses to do the unlawful inordinate bidding of a person
XIII.	16(1)	Offence of forced isolation or separation from family and friends.
XIV.	17(1)	Offence of subjecting a widow to harmful traditional practices
XV.	18(1)	Offence of desertion of wife without any means of sustenance
XVI.	19(1)	Offence of stalking a woman for the purpose of forcing her to have sex or causing her bodily harm
XVII.	20	Offence of indecently exposing himself in the open in the presence of the opposite sex
XVIII.	21(1)	Offence of a person who in a position of authority repeatedly sends, delivers electronic mail to a woman to induce fear, harm and anxiety, unwelcome sexual advances, or request
XIX.	22(1)	Offence of battering one' s spouse or lover
XX.	23(1)	Offence of harmful traditional practices
XXI.	24(1)	Offence of administering substances to be taken by a woman with the intention of stupefying or overpowering the woman, so as to engage in sexual activity with the woman
XXII.	25(1)	Offence of incest
XXIII.	26(1)	Offence of discriminating against a woman on account of her gender, pregnancy, childbirth or any other condition
XXIV.	27(1)	Offence of sexually exploiting a woman for economic gain
		<ul style="list-style-type: none"> The Oyo state law provides heavily and specifically for the protection of women' s rights; thus the title of the law is VAWL
Child Rights Law 2006		
I.	13(a)	Prohibition against the physical, mental or emotional injury, abuse, neglect or maltreatment, including sexual abuse of a child;
II.	17(5)	A female child who become pregnant under special circumstances, before completing her education shall be given the opportunity, after delivery, to continue with her education, based on her individual ability
III.	23	Prohibition of child marriage i.e., the marriage of a person under 18 years
IV.	24	Prohibition against child betrothal
V.	26	Prohibition of female children from genital mutilation
VI.	31(1)	Prohibition of the use of a child for forced or exploitative labour.
VII.	34(1)	Prohibition of any unlawful sexual intercourse with a child
VIII.	35(1)	Prohibition of a child to be used for any sexual abuse and exploitation

2. Enugu State

ACJL 2017		
S/N	Sections	Provisions
I.	96(3)	No persons should be denied standing as surety for a defendant in a criminal matter on the grounds that the person is a female
II.	343	recognizes the rights of a married woman to hold property in her own name
III.	345	A married woman can obtain redress or remedies by way of criminal proceedings for the protection and security of her person and her own separate property to the exclusion of everyone including her husband as if such property belonged to her as an unmarried woman.
IV.	397	Where a woman found guilty of a capital offence is pregnant, the sentence of death shall not be passed on her, but life imprisonment
VAPPL 2019		
I.	3(1)	Offence of rape is committed when one intentionally penetrates another vaginal, anus or mouth with his sex organ or any other part of his body or anything else, no matter how slight, without consent
II.	5(1)	Offence of inflicting physical injury on a person
III.	6(1)	Offence of coercing another to engage in any conduct to the detriment of the victim's physical or psychological well-being
IV.	7(1)	Offence of willfully or knowingly placing a person in fear physical injury
V.	8(1)	Offence of compelling another to engage in any conduct, sexual or otherwise, to the detriment of the victim's physical or psychological well-being
VI.	9(1)	Prohibition of female circumcision or genital mutilation of a girl child or woman
VII.	10(1)	Offence of forcefully eviction of his or her spouse from his or her home or refusing him or her access
VIII.	11(1)	Offence of causing economic abuse
IX.	12(1)	Offence of forced isolation or separation from family and friends.
X.	13(1)	Offence of causing emotional, verbal, and psychological abuse on another commits an offence Offence of causing forced financial dependence or economic abuse
XI.	13(1)	Offence of subjecting a widow to harmful traditional

		practices
XII.	14(1)	Offence of causing emotional, verbal, and psychological abuse on another commits an offence
XIII.	15(1)	Offence of abandoning wife or husband, children or other dependents without any means of sustenance
XIV.	16(1)	Offence of stalking
XV.	17(1)	Offence of intimidation
XVI.	18(1)	Offence of spousal battery
XVII.	19(1)	Offence of harmful traditional practices
XVIII.	20(1)	Offence of substance attack by using chemical, biological or any harmful liquid on another
XIX.	21(1)	Offence of administering substances to be taken by a person with the intention of stupefying or overpowering the person, to engage in sexual activity with the person
XX.	22(1)	Offence of indecently exposing one' s genital or a substantial part thereof for the purpose of causing distress or tempting or inducing another into committing a crime
Child Rights Law 2016		
I.	12(1)	Prohibits the discrimination of a child merely by reason belonging to a community or ethnic group or by reason of place of origin, sex , religion, or political opinion
II.	12(2)	Prohibits deprivation by reason of the circumstances of the child' s birth
III.	17(5)	A female child who become pregnant, before completing her education shall be given the opportunity, after delivery, to continue with her education, based on her individual ability
IV.	19(2)&(3)	the unborn child of a parent who dies intestate is entitled, if conceived during the lifetime of the father or survives the mother, is to be considered in the distribution of the estate of the deceased father or mother.
V.	23	Prohibits child marriage
VI.	24	Prohibits child betrothal
VII.	27	Prohibits female genital mutilation
VIII.	33	Prohibits the use of children for alms begging, prostitution, domestic or sexual labor, slavery, or trafficking, forced labor, etc.
IX.	34	Prohibits having sexual intercourse with a child
X.	37	Prohibits the recruitment of children into the Armed Forces
XI.	121	Prohibits foster parent from marrying a child fostered by him
XII.	150	Prohibits adopted parents from marrying adopted child
XIII.	239(3)	A female child offender placed in an institution shall be treated fairly; receive no less care, protection, assistance, treatment, and training than a male child; and be given special attention as to personal needs and problems

3. Nassarawa State

ACJL 2018		
S/N	Sections	Provisions
I.	167 (3)	No persons should be denied standing as surety for a defendant in a criminal matter on the grounds that the person is a female
II.	188(g)	recognizes the rights of a married woman to own property
III.	190	Recognizes the rights of a married woman to obtain redress or remedies by way of criminal proceedings for the protection and security of her person and her own separate property to the exclusion of everyone including her husband.
VAPPL 2020		
I.	2(1)	Offence of rape against a male or female persons
II.	3(1)	Offence of inflicting physical injury on a person
III.	5(1)	Offence of willfully placing a person in fear of physical injury
IV.	6(1)	Offence of compelling another, by force or threat, to engage in any conduct to the detriment of the victim's physical or psychological well-being
V.	7(1)	Prohibition of female circumcision or genital mutilation of a girl child or woman
VI.	10(1)	Offence of forcefully eviction of his or her spouse from his or her home or refusing him or her access
VII.	11(1)	Offence of depriving a person of his or her liberty
VIII.	12(1)	Offence of causing damage to property with intent to cause distress.
IX.	13(1)	Offence of causing forced financial dependence or economic abuse
X.	14(1)	Offence of forced isolation or separation from family and friends.
XI.	15(1)	Offence of causing emotional, verbal, and psychological abuse on another commits an offence
XII.	16(1)	Offence of subjecting a widow to harmful traditional practices
XIII.	17(1)	Offence of abandoning wife or husband, children or other dependents without any means of sustenance
XIV.	18(1)	Offence of stalking
XV.	19(1)	Offence of intimidation
XVI.	20(1)	Offence of spousal battery
XVII.	21(1)	Offence of harmful traditional practices
XVIII.	22(1)	Offence of using uses chemical, biological or any other harmful liquid on another
XIX.	23(1)	Offence of intentionally administers a substance to, or causes a substance to be administered to or taken by, another person with the intention of stupefying or overpowering that person so as to enable any person to engage in a sexual activity with that person
XX.	26	Offence of incest

Child Rights Law 2005		
I.	10 (1)	Prohibits the discrimination of a child merely by reason belonging to a community or ethnic group or by reason of place of origin, sex , religion, or political opinion
II.	15(5)	A female child who become pregnant, before completing her education shall be given the opportunity, after delivery, to continue with her education, based on her individual ability
III.	17(2)&(3)	the unborn child of a parent who dies intestate is entitled, if conceived during the lifetime of the father or survives the mother, is to be considered in the distribution of the estate of the deceased father or mother.
IV.	21,22&23	Prohibits child marriage
V.	236 (3)	A female child offender placed in an institution shall– be treated fairly; receive no less care, protection, assistance, treatment and training than a male child; and be given special attention as to personal needs and problems

4. Adamawa State

ACJL 2018		
I.	168(3)	No persons should be denied standing as surety for a defendant in a criminal matter on the grounds that the person is a female
II.	190(g)	recognizes the rights of a married woman not only to hold property in her own name as though she is an unmarried woman
III.	192	A married woman can obtain redress or remedies by way of criminal proceedings for the protection and security of her person and her own separate property to the exclusion of everyone including her husband.
IV.	470(i)&(k)	The ACJ Monitoring committee shall has a representative of a Civil society working on human rights, access to justice or women’ s rights to serve on the committee for 2 years
VAPPL 2019		
I.	3(1)	Offence of rape against a male or female persons
II.	4(1)	Offence of causing or inflicting physical injury on a person
III.	5(1)	Offence of coercing another to engage in any conduct to the detriment of the victim's physical or psychological well-being
IV.	6(1)	Offence of willfully or knowingly placing a person in fear physical injury
V.	7(1)	Offence of compelling another to engage in any conduct to the detriment of the victim's physical or psychological well-being
VI.	8(1)	Prohibition of female circumcision or genital mutilation of a girl child or woman
VII.	11(1)	Offence of forcefully eviction of his or her spouse from his or her home or refusing him or her access
VIII.	12(1)	Offence of depriving a person of his or her liberty
IX.	13(1)	Offence of causing damage to property with intent to cause

		distress.
X.	14(1)	Offence of causing forced financial dependence or economic abuse
XI.	15(1)	Offence of forced isolation or separation from family and friends.
XII.	16(1)	Offence of causing emotional, verbal, and psychological abuse on another commits an offence
XIII.	17(1)	Offence of subjecting a widow to harmful traditional practices
XIV.	18(1)	Offence of abandoning wife or husband, children or other dependents without any means of sustenance
XV.	19(1)	Offence of stalking
XVI.	20(1)	Offence of intimidation
XVII.	21(1)	Offence of spousal battery
XVIII.	22(1)	Offence of harmful traditional practices
XIX.	23(1)	Offence of substance attack by using chemical, biological or any harmful liquid on another
XX.	24(1)	Offence of administering substances to be taken by a person with the intention of stupefying or overpowering the person, to engage in sexual activity with the person
XXI.	27	Offence of incest
XXII.	28(1)	Offence of indecently exposing one' s genital or a substantial part thereof for the purpose of causing distress or tempting or inducing another into committing a crime
Child Rights Law 2022		
I.	7(a)	Prohibition against the physical, mental or emotional injury, abuse, neglect or maltreatment, including sexual abuse of a child;
II.	11(6)	A female child who become pregnant under special circumstances, before completing her education shall be given the opportunity, after delivery, to continue with her education, based on her individual ability
III.	14(2)&(3)	the unborn child of a parent who dies intestate is entitled, if conceived during the lifetime of the father or survives the mother, is to be considered in the distribution of the estate of the deceased father or mother. However, the provisions of this section shall not apply to derogate the principles of Islamic Law on inheritance.
IV.	24	Offence of sexually abuses or exploits a child
V.	221 (3)	A female child offender placed in an institution shall– be treated fairly; receive no less care, protection, assistance, treatment and training than a male child; and be given special attention as to personal needs and problems
		<ul style="list-style-type: none"> • Sadly, there is no provision prohibiting child marriage which is prevalent in the north

5. Akwa Ibom State

ACJL 2017		
S/N	Sections	Provisions
I.	167 (3)	No persons should be denied standing as surety for a defendant in a criminal matter on the grounds that the person is a female
II.	189(g)	Recognizes the rights of a married woman to hold property in her own name
III.	191	Recognizes the right of a married woman to obtain redress or remedies against all persons, including the husband of the marriage, by way of criminal proceedings for the protection and security of her person and her own separate property own separate property as if such property belonged to her as an unmarried woman.
IV.	404&415	Where a woman found guilty of a capital offence is pregnant, the sentence of death shall be passed on her, but its execution shall be suspended until the baby is delivered and weaned.
V.	466(5)	In discharging a community sentence, where the convict is a female, the supervising officer shall be a female
VAPPL 2020		
I.	1(1)	Offence of rape against a male or female persons
II.	2(1)	Offence of inflicting physical injury on a person
III.	3(1)	Offence of coercing another to engage in any conduct to the detriment of the victim's physical or psychological well-being
IV.	4(1)	Offence of willfully or knowingly placing a person in fear physical injury
V.	5(1)	Offence of compelling another to engage in any conduct to the detriment of the victim's physical or psychological well-being
VI.	6(1)	Prohibition of female circumcision or genital mutilation of a girl child or woman
VII.	9(1)	Offence of forcefully eviction of his or her spouse from his or her home or refusing him or her access
VIII.	10(1)	Offence of depriving a person of his or her liberty
IX.	11(1)	Offence of causing damage to property with intent to cause distress.
X.	12(1)	Offence of causing forced financial dependence or economic abuse
XI.	13(1)	Offence of forced isolation or separation from family and

		friends.
XII.	14(1)	Offence of causing emotional, verbal, and psychological abuse on another commits an offence
XIII.	15(1)	Offence of subjecting a widow to harmful traditional practices
XIV.	16(1)	Offence of abandoning wife or husband, children, or other dependents without any means of sustenance
XV.	17(1)	Offence of stalking
XVI.	18(1)	Offence of intimidation
XVII.	19(1)	Offence of spousal battery
XVIII.	20(1)	Offence of harmful traditional practices
XIX.	21(1)	Offence of substance attack by using chemical, biological or any harmful liquid on another
XX.	22(1)	Offence of administering substances to be taken by a person with the intention of stupefying or overpowering the person, to engage in sexual activity with the person
XXI.	25(1)	Offence of incest
XXII.	26(1)	Offence of indecently exposing one's genital or a substantial part thereof for the purpose of causing distress or tempting or inducing another into committing a crime
Child Rights Law		
I.	10 (1)	Prohibits the discrimination of a child merely by reason belonging to a community or ethnic group or by reason of place of origin, sex , religion, or political opinion
II.	15(5)	A female child who become pregnant, before completing her education shall be given the opportunity, after delivery, to continue with her education, based on her individual ability
III.	17(2) &(3)	the unborn child of a parent who dies intestate is entitled, if conceived during the lifetime of the father or survives the mother, is to be considered in the distribution of the estate of the deceased father or mother.
IV.	21,22&23	Prohibits child marriage
V.	236 (3)	A female child offender placed in an institution shall be treated fairly; receive no less care, protection, assistance, treatment and training than a male child; and be given special attention as to personal needs and problems

6. Kano State

ACJL 2019		
I.	35(3)	Where a suspect is to be arrested enters a building physically occupied by a woman who, according to custom or religion does not appear in public, the person making the arrest shall, before entering the building, give notice to the woman that she may withdraw and shall afford her every reasonable facility for withdrawing and may then enter the building.
II.	177(3)	No persons should be denied standing as surety for a defendant in a criminal matter on the grounds that the person is a female
III.	197(3)	recognizes the rights of a married woman not only to hold property in her own name
IV.	199	A married woman can obtain redress or remedies by way of criminal proceedings for the protection and security of her person and her own separate property to the exclusion of everyone including the husband of the marriage.
V.	398/408(4)	Where a woman found guilty of a capital offence is pregnant, the sentence of death shall be passed on her, but its execution shall be suspended until the baby is delivered and weaned for a period of 2 years
VI.	448(5)	In discharging a community sentence, where the convict is a female, the supervising officer shall be a female
<ul style="list-style-type: none"> • Kano state is yet to adopt a VAPPL and Child's Right Law 		

Conclusion

The beauty of these laws is the dynamism with which the laws are adopted to suit the peculiarities of each state. However, it is important to note that some states under the guise of religious and cultural belief have unnecessarily watered down the provisions of the VAPPA and CRA, such that the mischief for which the Acts were enacted to cure is no longer realizable.

For instance, the Child Rights Law of Adamawa State does not provide for the prohibition of child marriage. Whereas child marriages are prevalent in the North, where at an early age, young girls who are supposed to be in schools and have no mental capacity to comprehend the intricacies of marriages are married off. This results in numerous psychological and health risks, including Vesicovaginal Fistula (VVF) and some girls have had their lives destroyed by such marriages.

Therefore, there must be strong advocacy against the deliberate removal of germane provisions which are the fulcrum on which these laws are enacted, to safeguard the rights and dignity of not just the girl child and women but of persons in general. To safeguard women's rights, archaic practices against women under the guise of religion and culture must be abolished.

Oyo State's Violence Against Women's Law, which was one of the first laws passed immediately after the enactment of VAPPA, is highly commendable as it speaks to the rights of women specifically as endangered species in the society.

The pockets of efforts by the government are commendable but inadequate to abate the spate of violence currently faced by women and children, thus the need for more holistic and concerted efforts to stem this tide.

The enactment of gender friendly laws such as VAPPA and the proposed enactment of the Gender and Equality bill are steps in the right direction, which must be backed up the political will to implement and enforce the laws to the letter, as a good law is useless if it is not well implemented.

This must be followed up by the introduction of a comprehensive policy guidelines and periodic action plans by government agencies to complement existing laws. This guideline will set out in detail the roles and activities of all stakeholders - including government agencies, civil society organizations, local communities, development partners and individuals to reduce bureaucracy and encourage inter-agency cooperation.

For the laws and guidelines to be implemented, the necessary infrastructure must be in place. Thus, there is need for an improved funding of the criminal justice sector. Equipping and developing the capacity of the Law enforcement agencies to carry out thorough investigations and diligent prosecutions, which impacts on the judiciary' s ability to deliver sound judgement, is one way of ensuring accountability and promoting speedy and fair trials. This remains a critical aspect to ensuring justice, equity, and fairness, as there cannot be healing and closure if there is no justice.

Again, if the criminal justice sector is functional, the public will have more confidence to report offences, and this will serve as a deterrent to perpetrators. Educating, enlighten and sensitizing the public on available laws which protect their rights is equally as important.

Sexual Assault Referral Centers (SARCs) as a one-stop shop to providing medical, psychological, legal, rehabilitation and re-integration needs for victims of violence is a comprehensive solution. Development partners and NGOs have championed the establishment of SARC as well as the provision of shelter homes and livelihood support for employment creation and skills acquisition to socio-economically empower women and girls. Also, the collection of data on GBV has been very useful for adequate planning, while mainstreaming gender across the specific states. It is recommended that Development partners and NGOs should be more pragmatic in their approach by spending less on conferences and hotel bookings and engage more of field work to address and support victims/survivors.

Family as the smallest unit of society and the foundation for human learning, should invest more time in bringing up empathetic children who grow to be humane in attitude and compassionate gin actions, especially the male children. Man is born a tabular rasa; it is what he learns in his formative years that becomes part of him. Family should be more committed to ensuring the rights and wellbeing of children are upheld.

Equitable growth is not an abstract notion; it operates in a society devoid of discrimination and is simply one of the many means of achieving sustainable development. The UN has set out the Sustainable Development Goals (SDGs) to meet the needs of the present without compromising the abilities of future generation to meet their own needs. For the SDGs to be achieved, and for men and women to engage in and sustain the development process, there must be equal, equitable and just access to rights and opportunities.

Violence against women is not a women' s issue. It is a societal and human issue, and silence is a position against the survivor. We must speak out, break the silence, and end the scourge of violence against women and children. We must take a stand against it NOW! Let us join the belief that a world without violence is possible and together we can make a difference.

Supported by



Address: 2nd floor, Block 1, Suite 4, Millennium Builders Plaza,
251 Herbert Macaulay Way, Central Business District, Abuja.

Phone Number: +234 906 995 9458

Website: www.lawhubdev.org

Email: info@lawhubdev.org

