POLICY BRIEF

Overcoming the Limitations to the Implementation of the Enugu State Violence Against Persons Prohibition Law



Foreign, Commonwealth & Development Office

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Overcoming the Challenges to the Implementation of the **Enugu State Violence Against Persons Prohibition Law**₁





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01. INTRODUCTION

Violence against women (VAW) is defined as "any act of gender-based violence that results in, or is likely to result in physical, sexual, or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or private life".1 It has been identified as the most pervasive human rights violation in the world, and it is estimated to cost countries up to 3.7% of their GDP - more than double what most governments spend on education.² An offshoot of gender inequality, violence against women is a significant cause of female morbidity and mortality, may be physical, emotional, sexual, psychological, or economic harm, and it takes place in the private or public arenas, affecting 1 in 3 women in their lifetime. Considering Nigeria's estimated female population of over 106 million³ as of January 2022, that translates into about 35 million women. Recent happenings such as the lockdown caused by the COVID-19

pandemic further exacerbated the cases of violence against women, particularly sexual violence. The UN brief of May 2020 revealed that during this time, the increase in reports of domestic violence cases in April 2020 was more profound in three states under total lockdown (Lagos state, Ogun state, and the Federal Capital Territory). The number of cases rose from 60 in March to 238 in April, an increase of 127%. Furthermore, women and girls are disproportionately affected by insecurity - Boko Haram insurgency, banditry, kidnappings, herder-farmers conflict, armed robbery, and so on - and an estimated 79% of internally displaced persons are women and children⁴, who are also "targeted for abduction by Boko Haram and are often raped, forced into labour, marriage, or religious conversion, abused, exposed to sexually transmitted infections and are often pregnant upon escaping captivity."5

The Violence Against Persons (Prohi-

¹ UN General Assembly, *Declaration on the Elimination of Violence against Women*, 20 December 1993, A/ RES/48/104, available at: <u>https://www.refworld.org/docid/3b00f25d2c.html</u> [accessed 10 February 2021]

² World Bank. 2019. Gender-based Violence (Violence against Women and Girls) <u>https://www.worldbank.</u> org/en/topic/socialdevelopment/brief/violence-against-women-and-girls

³ https://countrymeters.info/en/Nigeria

⁴ Displacement Tracking Matrix. (2017). Displacement Tracking Matrix: Nigeria Round XV Report 2017. Retrieved from https://data2.unhcr.org/en/documents/download/56254 (assessed on 19th February 2021)

^{5 &}lt;u>https://reliefweb.int/report/nigeria/results-baseline-survey-gender-based-violence-borno-state-nigeria</u>



bition) Act (VAPPA) is the most comprehensive and progressive law for addressing the silent pandemic of violence against women and girls in Nigeria. The main thrust of the VAPPA is to "eliminate violence in private and public life, prohibit all forms of violence against persons and to provide maximum protection and effective remedies for victims and punishment of offenders; and for other related matters"1. It guarantees maximum protection to all citizens by prohibiting all forms of violence and harmful traditional practices against women or men, boys or girls occurring in private and /or public spaces.

The Act is the first criminal legislation which expanded Nigerian criminal jurisprudence by recognising various forms of related crimes hitherto unacknowledged. Accordingly, the definition of rape was expanded beyond penetration of the female genitals and mouth, to forced sexual action on a male. It addresses a broad-spectrum of violence - physical, verbal, emotional, sexual, economic, and psychological abuses, as well as discrimination against persons, particularly women and girls. These include child abandonment, rape, incest, defilement of minors, forced eviction of a spouse and children, harmful widowhood laws and practices, female genital mutilation (FGM), forced financial dependence, attacks with harmful substance, political violence, among others. It also sets appropriate punishment for convicted

perpetrators. For instance, the offence of rape may attract life imprisonment, subject to the circumstance and the discretion of the judge. The offender will also be listed in the sexual offenders' register as a deterrent to others. Similarly, the Act makes provisions for effective remedies for victims of violence - rehabilitation support, and compensation, among others. According to Section 38 (1) of the Act, victims of violence are entitled to material, medical, psychological, and legal assistance from governmental and non-governmental agencies providing such services. Additionally, they are afforded opportunity to acquire skills in any vocation of their choice and access to micro credit facilities.

Since it was enacted in 2015, the Act has the force of law in the Federal Capital Territory (FCT) and in twenty-three (23) states across Nigeria where it has been adopted into law.

The Act recognizes as punishable a wide range of sexual and gender-based violence (SGBV) offences including forced financial dependence or economic abuse, harmful widowhood practices, genital mutilation, abandonment of children, harmful substance attacks, and incest. Furthermore, due to its all-encompassing nature, the Act does not just protect women and girls from violence, it can also be used to improve the participation of women in politics and other positions of power. This is because violence and discrimination are amongst the reasons why

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Violence against Persons Prohibition Act, 2015

women get excluded from politics and other aspects of public life.

Prior to the enactment of the VAPPA, there was no comprehensive legislation on violence against women at the national level. Nigeria only had disparate pieces of legislation, which did not address violence against women or gender-based violence uniformly across the country. A few states had passed legislation on domestic violence, harmful traditional practices, or gender-based violence. A few others had attempted to do so unsuccessfully. Much of the existing legislation was outdated, not sufficiently comprehensive, not specifically directed to this grave problem, and not adequately enforced. The coming together of more than fifty-five (55) different groups and individuals under the umbrella of the Legislative Advocacy Coalition on Violence Against Women, (LACVAW), eventually helped mobilise action to improve the legislative landscape for violence against women in Nigeria in 2002. The result of that activism was the signing into law of the Violence Against Persons Prohibition Act on May 25, 2015, after about thirteen (13) years in the legislative process. The National Agency for the Prohibition of Trafficking in persons (NAPTIP) is responsible for overseeing the implementation of the law at the Federal Capital Territory (FCT), Abuja.

This policy brief gives an update to the status of the uptake of the VAPPA by the 36 states and provides information on the current status of the Enugu State Violence Against Persons Prohibition Law specifically. It is aimed at guiding decision makers and relevant stakeholders in facilitating effective engagement towards successful implementation of the law in the state.

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02. OVERVIEW OF THE NATIONAL RESEARCH ON THE IMPACT OF THE VAPP ACT AND RELATED LAWS

Between January and March 2021, the Westminster Foundation for Democracy (WFD) commissioned a national research in twelve (12) states of the federation to assess the impact of the VAPP Act in Nigeria, five (5) years after it was enacted. Titled "The Impact of the Violence against Persons (Prohibition) Act and Related Laws in Nigeria"¹, the project aligned with WFD's objective of promoting inclusion by ensuring gender equality and protecting women and girls from violence. The increased number of cases of violence against women and girls in particular in the context of COVID-19 and the frequent cases of perpetrators of gender-based violence facing insubstantial punishment provided the need for research on the uptake of the VAPPA by the states as well as the implementation of the Violence Against Persons Prohibition Law (VAPPL) in states that had already domesticated the Act across the country. The research is the first national impact assessment of the Act since its enactment.

Originally designed to focus on the implementation of the Act in the Federal Capital Territory (FCT) and in eleven (11) out of the eighteen (18) states across the six geo-political zones where it had been domesticated at that time, the study assessed the adoption, successes, and challenges of the implementation of the Act, identified the factors that promote or limit the implementation of the Act, as well as the gaps that need to be addressed to ensure the Act achieves its objective of prohibiting violence against citizens, especially women, and promoting gender equality in the Nigerian society. It was also aimed at assessing the level of citizen participation and engagement in the adoption and implementation processes of the VAPPA.

The study was undertaken in Abia, Akwa Ibom, Anambra, Bauchi, Cross River, Edo, Enugu, FCT, Kaduna, Lagos, Osun, and Plateau States. It was however noted during the planning process that contrary to available data, three (3) of the selected states - Cross River, Osun,

^{1 &}lt;u>https://www.wfd.org/2021/12/07/the-impact-of-the-violence-against-persons-prohibition-act-and-related-laws-in-nigeria/</u>

and Plateau - were only in the process of domesticating the VAPPA, while the domestication process was yet to start in Lagos State as of January 2021. Although those four states did not have a VAPPL in place yet, they had various legislations to protect women and girls from violence. Therefore, for ease of analysis, the study integrated related anti-violence against women and girls' laws into the research framework by identifying major pieces of legislation for protecting women and girls from the various forms of violence in those states. It assessed the legal and policy frameworks to determine how adequately the laws protect women and girls from violence; it also elicited information on the processes being undertaken to domesticate the Act.

The national research also identified best practices in the focal states, and generated recommendations to encourage rapid progress in the implementation of the VAPP Law of the states and /or its adoption by the states yet to domesticate it, while contributing to existing body of knowledge on the impact of anti-violence against women and girls' laws in Nigeria.

2.1. Key Findings

The national research revealed that:

- □ The VAPPA does not offer a universal coverage to all Nigerian women and girls as the uptake by states was generally low across the country.
- The culture of silence and concealment; stigmatisation; trivialisation; threats and intimidation; and inadequate funding of necessary structures and mechanisms for implementing anti-violence against women and girls' legislations are key constraints to the achievement of the significant success in the fight violence against women and girls in Nigeria.
- More cases of violence against women and girls are reported and taken up in places es where the relevant implementation structures are put in place.
- Although the VAPPL seems to have helped in the decrease in the incidence of violence against women and girls in some states, the implementation can still be observed to be largely weak.
- □ The Sexual Offenders' Register (SOR) is an effective deterrent to perpetrators in states where such has been established, updated, and publicised.
- The VAPPA and related laws are more effectively implemented in states where the First Ladies take a keen interest in and contribute to efforts aimed at eliminating violence against women and girls.
- The intersection of disabilities, violence and gender is not often considered in the implementation of the VAPPA/VAPPL. As such, response mechanisms do not prioritise persons with disabilities who usually experience VAW differently.
- □ Institutions and personnel expected to be involved in the implementation include

the police, the judiciary, desk-officers, relevant ministries and agencies. However, they are challenged by lack of capacity in terms of training, funding, effects of corruption, and corrupt practices.

- Though some level of awareness of some of the VAPPL and anti-violence against women and girls' laws has been created, many of the research participants do not know of their existence or the mechanisms to implement them.
- Ignorance, cultural beliefs and practices, misinterpretation of the major religions, misinformation, poor socialisation, and poverty are the major barriers to the effective implementation of the VAPPA/VAPPL and other anti-violence against women and girls' legislation.
- There is a general satisfaction with the VAPPA as an all-encompassing legal instrument. However, study participants largely faulted the implementation within the FCT and in states where it is in force for reasons of lack of political will, paucity of funds, lack of infrastructure, and low capacity among implementing officers.
- □ The simplification and popularisation of the VAPP Act and related laws help keep children, especially the girl-child, in school.
- Active collaboration between state actors and non-state actors enhances the level of effectiveness of the VAPPA/VAPPL.
- □ The VAPPA/VAPPL is rarely used to promote women's political participation.
- The National Agency for the Prohibition of Trafficking in Persons (NAPTIP) is not adequately resourced to solely lead the implementation of the Act in the FCT effectively.
- There are still gaps in the laws, specifically relating to response and coordination in some of the states, and what specific penalties are attached to specific violations. These need to be reviewed and clearly designated.
- The challenges to the implementation structures set up by the government ranged from lack of synergy, intimidation, slow judicial process, to inadequacy of interventions specific to various needs or categories of victims.
- Poverty remains one of the factors that heightens the vulnerability of women and girls to all forms of sexual and gender-based violence.

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The Act provides under Section 38 that every victim of violence is entitled to receive the necessary medical, psy-chological, social, and legal assistance through govern-mental and non-governmental agencies providing such assistance.

2.2. Barriers to the effective implementation of the Violence Against Persons Prohibition Act/Laws and related laws

The study also highlighted some of the barriers to the success of the VAPPA. These include:

- Ignorance: For 39% of the research participants across the research sites, ignorance was the major barrier to the utilisation of the laws by the citizens.
- Cultural beliefs and practices: 25% of the study participants confirmed that patriarchal traditions and cultural beliefs ascribe power and control to men and boys. Therefore, VAWG has been normalised in most communities.
- Lack of political will by governments at the national and state levels was identified by 23% of the respondents as another barrier to effective implementation of the laws. What this means is that it is not enough to enact a law, the political will to ensure its successful implementation must be evident.
- Misinterpretation of the major religions is a limiting factor in the opinion of 9% of the respondents.
- Other factors such as misinformation, poor socialisation and poverty were highlighted for consideration when discussing the barriers to the implementation of the VAPPA and related anti-VAWG laws by the last 4% of the survey population.

2.3. Update on the uptake of the VAPPA by sub-national governments

Prior to the research, the Act had only been domesticated by twelve (12) states and by the time the report was presented, the figure had increased to fifteen (15). There has been a significant leap in the number of states that have domesticated the Act to twenty-five (25) since the national research was commissioned in January 2021.

Status of the Violence Against Persons (Prohibition) Act in Focal States

S/N	State	January 2021	January 2022
1.	Abia	VAPPL in place	VAPPL In place
2.	Akwa Ibom	VAPPL in place	VAPPL in place
3.	Anambra	VAPPL in place	VAPPL in place



4.	Bauchi	Amendment of VAPPL in	Amended VAPPL awaiting assent
		process	
5.	Cross River	Domestication in process	VAPPL in place
6.	Edo	Amendment of VAPPL in	Amended VAPPL in place
		process	
7.	Enugu	VAPPL awaiting gazette	VAPPL in place
8.	FCT	VAPPA in place	VAPPA in place
9.	Kaduna	VAPPL in place	VAPPL in place
10.	Lagos	No Action towards domesti-	Amendment of anti-VAW laws in
		cation	process
11.	Osun	Domestication in process	VAPPL in place
12	Plateau	VAPP Bill awaiting assent	VAPP Bill awaiting assent

At the time of preparing this Brief, six (6) states had passed their VAPP bills and are awaiting assent by the governors of their respective states. There are five (5) states yet to pass the VAPPA into law – Gombe, Katsina, Kano, Lagos, and Zamfara.

The success recorded within such a short period has been facilitated largely by the efforts of state and non-state actors, particularly the Honourable Minister of Women Affairs and Social Development, Dame Pauline Tallen who has been a strong pillar of support to women's rights organisations and international development agencies working on domestication and adoption of the Act; putting the domestication of the Act on the front burners by civil society actors, especially women's organisations and groups; the accurate data on the uptake of the Act shown by the national research findings; the engagement of development partners, including WFD with the Nigerian Governors' Wives Forum (NGWF); and the dedication of members of the Erelu Bisi Fayemi-led NGWF to ensure universal adoption and effective implementation of the Act by the 36 states to protect women and girls from GBV in the states so that the lives of women and girls can be more meaningful.

The Violence Against Persons (Prohibition) Act PAGE Scorecard



2.4. Findings from the national research on Enugu State

The study revealed that the social and legislative advocacy for the domestication of the VAPP Act in Enugu State was led by the Women Aid Collective (WACOL) with support from USAID and DFID, and the National Democratic Institute (NDI). Other stakeholders involved are the Civil Resource Development and Documentation Centre, (CIRDDOC), and the Federation of International Lawyers (FIDA), members of the Enugu State House of Assembly, Ministry of Gender Affairs, Ministry of Justice (MOJ), Human Rights Commission, among others. Their efforts culminated in the enactment of the Enugu State Violence Against Persons' (Prohibition) Law in 2019, to fill the gaps in the already existing anti-VAWG laws in the state and prescribe adequate punishment for offenders. According to 87.5% of the study participants, the Enugu State VAPPL does not just protect women

and girls from violence, it also fosters an enabling environment for women to participate in politics and other positions of power. This is because the law aims at eliminating discrimination against women, and the offence of and punishment for political thuggery is enshrined in the law to remove fear and threat from women who want to participate in politics. Those two factors have been identified as key factors for women's exclusion from politics over the years. Regardless of the benefits of the law, it was not in force in the state as of February 2021 when the study was undertaken because it had not been gazetted, two years after its adoption. This means that the VAPPL was not yet a public document that can be referred to because it does not have a reference number.

The implication of the delay in effecting that very critical action include the inability of actors to seek justice for survivors and victims of violence in the public and private spheres with the law; operational structures and the mechanisms for effective implementation as enshrined in the provisions of the VAPPL cannot be activated; structures aimed at ensuring effective coordination of monitoring and evaluation, such as the appointment of a woman to chair the monitoring of the implementation agency for the VAPPL; and the establishment of a trust fund for the award of remedies and compensation for victims are put on hold. Moreover, the government has not established shelters for abused women. Furthermore, according to study participants, the law was not popular amongst prosecutors, lawyers and members of the judiciary as only members of the CSO community were creating awareness of the law in the state.

2.4.1 Mechanisms for Protecting Women and Girls from SGBV

The inactive status of the VAPPL notwithstanding, research participants highlighted some existing anti-VAWG laws which victims and survivors rely on to access justice in the state, including the 1999 Constitution of the Federal Republic of Nigeria (as amended), the Criminal Code law of Enugu State, Enugu State Prohibition of Infringement of Widows and Widowers Fundamental Rights Law, and the Enugu State Marriage Causes Law. The state also has two referral centres for providing support to survivors of sexual violence. The centres are Enugu State Tamar SARC and WACOL Tamar SARC. There are also mediation engagements by FIDA, Citizens Rights Centre managed by MOJ, establishment of Multi-door Courts managed by the judiciary, creation of gender desk in some police stations in the state to handle cases of violence, and so forth. In addition, there are family courts established for the prosecution of SGBV cases prior to the adoption of the VAPPA. However, these are not functional.

Although the VAPPL had not yet been gazetted, WACOL had simplified the law and translated the simplified version into Igbo language for ease of access and as part of its sensitization and awareness efforts on rights and responsibilities under the new law¹. Notable civil society actors like CIRDDOC and FIDA also undertake social advocacy from time to time.

2.4.2 Challenges to the Implementation of the Enugu State VAPPL

The delay in gazetting the Enugu VAPPL two years after it was signed into law was found to be the major challenge to the implementation of the law. Study participants believed that it reflects poor political will towards the elimination of violence against women and girls in the state. Inadequate sensitization of law enforcement personnel, lawyers, and the judiciary (judges and magistrates), as well as the general population to the provisions of the law is also an impediment to the success of the VAPPL.

From the experience of the implementation of some extant laws on the subject matter, some of the constraints to effective implementation limiting the successful implementation of the law as highlighted by study participants include:

- □ Lack of gender-responsive budgeting to undertake the provisions of the laws that require funding support compensation, healthcare, psychosocial support, etc.
- □ Inadequate shelters for abused women as there are only shelters established by non-state actors in the state.
- The culture of silence on the part of the victim to avoid stigmatization and cultural ostracization. The implementation of anti-VAWG laws is severely undermined by family relationship and community allegiance.
- Poor sensitization is also a major challenge because a lot of people are not aware of the law and therefore ignorant.
- □ Inadequate training for relevant stakeholders law enforcement agencies, lawyers, judges, and magistrates to enhance their capacity I the use of anti-VAWG laws.

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https://wacolnigeria.org/violence-against-persons-prohibition-law2019/

03. UPDATE ON THE STATUS OF THE VAPP ACT DOMESTICATION PROCESS BY THE STATE.

The follow up assessment of the progress in the implementation of the VAPPL confirmed that the law has been gazetted and some initiatives have subsequently been undertaken by government. Governor Ifeanyi Ugwuanyi inaugurated the State Action Committee on Gender-Based Violence comprised of relevant state and non-state actors, including the ministry of Budget and Planning, Ministry of Information, Ministry of Justice, the police, National Agency for the Protection of Traficking In ersons (NAPTIP)P, Ministry of Gender Affairs, Religious Organizations, FIDA, WACOL, CPN to monitor and implement all policies, programmes and laws relating to Gender-Based Violence. It is also the responsibility of the committee to develop and implement programmes and policies geared towards the prevention of gender-based violence in the state.

In addition to the advocacy efforts of non-state actors, the First Lady of the State, Mrs. Monica Ugochi Ugwuanyi has also organised some awareness-raising initiatives in schools, churches, markets, and other public places to sensitise residents against SGBV. She advocates provision of psychological, medical, and financial support survivors and victims of violence against women, especially to indigent women and girls.

04. RECOMMENDATIONS

To address the challenges identified during the national research and in the course of the follow-up assessment, the following recommendations are proposed to fast-track effective implementation of the Enugu State VAPPL:

SHORT-TERM

Enugu State House of Assembly

Members of Appropriation sub-committee should demand adequate budgetary provisions for effective implementation of the Enugu VAPPL.

Enugu State Government

- Develop protocols and guidelines for GBV management and reporting.
- Fund existing sexual assault referral centres (SARCs) and establish more centres to provide the much-needed psychosocial, legal, and medical support for survivors in Enugu state.
- Create and strengthen coordinated GBV response structures at the local government and community levels
- Match political will with deliberate concrete action by making budgetary provisions for the implementation of the VAPPL. Adequate funding should be made available to the relevant agencies Judiciary, law enforcement, Ministry of Women Affairs, Ministry of Justice, GBV Committee, Sexual Assault Referral Centres, and NGOs providing service to abused women and girls.
- □ Provide hotlines for ease of reporting of cases of violence against women and girls.
- Provide capacity building opportunities by way of training and retraining to equip agencies and ministries tasked with the duty of implementing these laws, members of the judiciary, and civil society organisations on service delivery.
- □ Make copies of the simplified and translated VAPPL available to all citizens as much as possible. Translate into pidgin.
- Provide necessary logistics to the Police to respond prompt to reported cases. Set up monitoring and evaluation mechanisms to ensure the funds are used for the purpose they were given.
- Set up and manage shelters for abused women to provide temporary safe place for women and girls running from abusive environments.
- Set up a response/implementation mechanism that would also be responsible for reporting, monitoring, evaluation, and learning.
- Revisit the family courts and provide necessary operational infrastructure for effectiveness. Create more across the state and appoint more female judges.

Civil Society Organisations

- Embark on intensive awareness creation on the VAPPL to advocate its effective implementation.
- Establish an advocacy coalition for the monitoring the implementation of the VAP-PL and engender partnerships between CSOs and government at the legislative and executive levels.

- Monitor the implementation of the VAPPL and track release of funds to ensure judicious use for the intended purposes.
- Partner with traditional and new media organisations to hold the relevant government agencies accountable for the implementation of the VAPPL in the state.
- Depularize the simplified and translated Enugu State VAPPL.
- Support government to carry out the functions that will operationalize the provisions of the VAPP Act such as: setting up an offenders' register; development of guidelines for those operating as service providers in the state, set up a register for them and circulate same; appointment of 'Protection Officers' for each local government area to help the Court and Police in coordinating actions; and appointment of a Coordinator that will oversee actions towards ending violence against women and girls and report annually.

Development Partners

- Provide strategic support to state and non-state actors working on different aspects of the implementation of the VAPPL.
- □ Engage with CSOs actively working to provide support legal, psychosocial, and medical as well as shelter to abused women.
- Enhance the capacity of partners to collect and interpret data reflecting diversity and inclusion.

MEDIUM-TERM

House of Assembly

 Constitute a panel/committee to review the effectiveness of the anti-VAWG laws in the state.

Enugu State Government

- Set up anti-GBV School Clubs to address school-related gender-based violence (SRGBV) in the state.
- Increase advocacy through relevant government agencies such as national orientation agency (NOA) and the ministry of information as well as CSOs to create awareness. The sensitization should reach every nook and cranny of the state by employing traditional and cultural media in communities.
- Establishment of Specialised Courts and Practice Direction to guide the implementation of the VAPPL and related laws.

Civil Society Organisations

- Enlist the support of state and national assembly legislators, top government officials, and social media influencers in the campaign against violence against women and girls in the state.
- Sensitise and collaborate with local level administration traditional rulers and local government council leaders advocate the implementation of the VAPPL to stop VAWG in the communities.
- Undertake sensitization of state actors on the need for the VAPPL to be integrated into the school curriculum.

Development Partners

Undertake research on good practices in GBV response at national and sub-national levels and produce factsheets.

LONG-TERM

House of Assembly

- Undertake periodic review of the effectiveness of the VAPPL in the state and amend the Law where necessary.
- □ The House Committee on Women Affairs should prioritise the success of the VAP-PL in its oversight functions

Enugu State Government

- Integrate the VAPPL in the school curriculum when adopted. Include the simplified version of the VAPPL in the reading list of primary school curriculum. This will go a long way in raising a next generation of anti-VAWG adults.
- □ Establish a forensic laboratory for processing evidence.

Civil Society Organisations

- **Continuous sensitization of the general populace on the VAPPL**
- Media practitioners should increase their scope at public sensitisation of the VAP-PL.

Development Partners

Enhance the capacity of lawmakers to periodically assess the effectiveness of the law and review as appropriate.