



Toolkit for Engaging with the VAPP Act:

A Guide for Nigerian LGBTQ+ Community Members and Civil Society



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Acknowledgements

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Introduction



This toolkit has been developed by The Initiative for Equal Rights (TIERs) to help LGBTQ+ persons in Nigeria understand the provisions of Violence Against Persons Prohibition (VAPP) Act, their rights under the Act, and the steps they can take to seek justice for any violence or abuse they experience.

In Nigeria, LGBTQ+ persons face multiple forms of discrimination and violence, including the threat of harmful conversion practices. Despite rising condemnation of these practices, they continue to persist in Nigeria through various harmful methods, such as whipping, electroshock therapy, hormone therapy, and talk therapy. The consequences of these practices can be devastating to the mental and psychological well-being of those who are subjected to them.

The VAPP Act was enacted in 2013 to address and prevent various forms of violence against persons, including gender-based violence and harmful practices. While the Act provides important protections for victims of violence, including LGBTQ+ persons, challenges remain in its implementation and enforcement.

The purpose of this toolkit is to provide information and guidance for LGBTQ+ persons in Nigeria on how to access justice under the VAPP Act. This toolkit aims to:



Explain the provisions of the VAPP Act and how they apply to LGBTQ+ persons.



Outline the steps to take in reporting SOGIE-based violence and conversion practices



Explain the protection orders available for victims and the challenges they may face in accessing justice.



Highlight the challenges faced by LGBTQ+ persons in accessing justice under the VAPP Act and provide strategies for overcoming them.



Provide a list of resources for LGBTQ+ persons seeking support and assistance.

By using this toolkit, LGBTQ+ persons can better understand their rights under the VAPP Act and take steps to seek justice for any violence or abuse they experience. The information in this toolkit is intended to be accessible and easy to understand, while still providing accurate and useful guidance.

Section 1

How Does the VAPP Act Protect Against Conversion Practices?



1.1 Overview of the VAPP Act and its provisions

The Violence Against Persons Prohibition (VAPP) Act is a comprehensive piece of legislation enacted in Nigeria in 2013 to address and prevent various forms of violence against persons. It was passed by the National Assembly on 14 May 2015 and signed into law by President Goodluck Ebele Jonathan on 28 May 2015. The VAPP Act was created with the goal of eliminating violence in all its forms and providing protection and remedies for victims and punishment for perpetrators. Although the VAPP Act does not specifically mention conversion practices, it provides a framework for eradicating harmful practices that can be utilised in advocacy against SOGIE conversion practices. In this section, this report provides an overview of the Act, starting with the historical rationale for its emergence and its origins in women's rights groups advocacy for gender equality legislation before proceeding to discuss the Act's structural overview and key provisions, particularly those that pertain to the eradication of conversion practices.

Part I of the VAPP Act provides a comprehensive list of offences that are acts of violence against persons. Of particular importance are the provisions of Section 1 of the VAPP Act which criminalises the act of rape and provides for its punishment.





Key offences under the act include:

Rape Intentionally penetrating the vagina, anus or mouth of another person with any other part of his or her body or anything else without the other person's consent or by obtaining consent through force, threat, intimidation, fear of harm, false representation, or use of a substance to take away the victim's will).

Coercion Forcing another person to do anything that will have a negative effect on that person's well-being.

Offensive conduct Any act or conduct that has a negative impact on the victim's well-being.

Economic and financial abuse causing forced financial dependence or economic abuse on another person

In the next section, we look at how these provisions are related to conversion.

1.2 Applicability of the Act to SOGIE conversion practices



Rape and conversion practices

Section 1 of the Act prohibits acts of rape, including a prevalent form of conversion practice called "corrective" rape, which is often targeted towards LGBTQ+ individuals. Other forms of conversion practices such as virginity tests, sexual slavery, sexual exploitation, forced anal testing, and guided masturbation will also be included under the acts prohibited under this section. Homophobic rape affects women, men, and gender diverse persons and this provision makes it easier for victims of homophobic rape to seek protection under the Act.

Physical injury and conversion practices

Section 2 of the Act criminalises conduct that causes physical injury to another person by means of any weapon, substance, or object. Similarly, section 4 criminalises placing a person in fear of physical injury. Physical injury can be caused by various forms of conversion practices such as assault, sexual assault, or aversive methods, leading to individuals experiencing a real or perceived fear of physical injury. When initiators of conversion practices subject individuals to physical harm, many cases of abuse go unreported for fear of suffering additional harm.



Wellbeing and conversion practices

Section 3 of the Act makes it a criminal offense to force another person to do anything that will have a negative effect on that person's well-being. LGBTQ+ individuals who have undergone conversion therapy have reported experiencing significant emotional stress and harm, leading to negative impacts on their mental well-being. Coercive practices, such as forced marriage and other measures forming part of SOGIE conversion efforts, can derogate an individual's right to be free from torture and other cruel, inhuman, or degrading treatment or punishment.

Offensive conduct and conversion practices

Section 5 of the Act criminalises any act or conduct that has a negative impact on the victim's well-being, including public outing, shaming, or verbal abuse of LGBTQ+ individuals. This section of VAPP can be utilised to provide protection from the mental and physical harms perpetrated through conversion practices aimed at expressing or acting in a manner which derogates the human dignity of LGBTQ+ persons. This can involve the use of slurs or harmful language in public and social spaces, including digital social media.



Financial dependence and conversion practices

The law prohibits causing forced financial dependence or economic abuse on another person. Conversion attempts often involve making people financially dependent on those who are trying to change their sexual orientation or gender identity. This can make individuals feel like they have no other choice but to submit to conversion practices. LGBTQ+ youth are especially vulnerable to financial and economic abuse. If they do not conform to heteronormative values, they may lose access to financial support from their families. This can lead to homelessness, hunger, and other forms of economic instability. Forced marriage is also a common tactic used by those trying to force individuals to change their sexual orientation or gender identity. This can happen when individuals have less financial control over their lives. Blackmail can also be used to threaten individuals with being outed at work, which can result in job loss and economic instability.

Forced isolation and conversion practices

The law also prohibits forcefully isolating or separating someone from their family and friends. This is often used as a tactic in conversion practices. Isolating LGBTQ+ individuals from emotional support structures and people they can interact with can make it easier for those trying to change their sexual orientation or gender identity to control them. By regulating or restricting contact with friends, individuals may not be able to pursue romantic or platonic relationships that support their expression of their sexual orientation or gender identity. Restricting access to family members can also limit access to economic resources from more accepting family members. Forceful isolation can be particularly harmful as it often is used in conjunction with restricting movement or access to technological devices used for communication. Some individuals have been institutionalised at live-in “treatment” facilities and/or locked in isolation, to force them to change their sexual orientation or gender identity.

Non-physical abuse and conversion practices

The law also prohibits emotional, verbal, and psychological abuse. This includes a pattern of degrading or humiliating conduct towards any person, including repeated insults, ridicule or name-calling, repeated threats to cause emotional pain, or the repeated exhibition of obsessive possessiveness that invades a person’s privacy, liberty, integrity, or security. Various forms of conversion practices such as talk therapy, interventions, and kito use emotional, verbal, and psychological abuse to control and influence sexual expression.

The VAPP Act provides protection from harmful actions based on the impact and effect on the well-being of the individual, rather than just criminalizing specific actions. This means that the VAPP Act can be applied to conversion practices that have a harmful impact on an individual’s well-being, including those involving physically violent and harmful actions, as well as those involving implied or restrictive actions. Coercion, forced isolation, and economic abuse are elements of conversion practices that involve indirect forms of violence and can contribute to the overall impact on an individual’s well-being.



1.3 Institutional framework for enforcing the Act

Protection orders from the High Court

The VAPP Act allows victims of violence to apply for protection orders from the High Court. These orders can prohibit the perpetrator from continuing with conversion practices or entering certain places. Police officers are required to assist victims of violence, and the Act explains how to apply to vary or cancel a protection order.

Roles of Service Providers

Part III of the VAPP Act explains what service providers can do to help victims of violence. They are not allowed to reveal the identity of any party involved in the proceedings, which can help protect victims in Nigeria, where LGBTQ+ identity is still stigmatised. Service providers, like voluntary associations, can record violence incidents, provide medical assistance, and offer a safe place for victims to stay. The government is responsible for appointing protection officers in each area council, and they can direct employers, debtors, or banks to pay the complainant or deposit money with the court to help victims receive emergency monetary relief.

Monitoring Domestic Violence

Section 42 of the VAPP Act provides for the appointment of a Coordinator for the prevention of domestic violence, who submits an annual report to the Federal Government and a copy to the National Bureau for Statistics. This can help track and address incidences of domestic violence in Nigeria, including conversion practices.

Expanded NAPTIP mandate

Part IV of the VAPP Act mandates the National Agency for the Prohibition of Trafficking in Persons and Other Related Matters (NAPTIP) as the body responsible for administering the provisions of the Act. NAPTIP's responsibility is to prevent and prohibit trafficking in persons and other related matters, including gender-based violence.



Section 2

How Can Individuals and Organisations Use the VAPP Act?



2.1 Understanding protection orders under the Act

Protection orders under the VAPP Act provide a critical legal remedy for victims of domestic violence in Nigeria. They are an effective tool for preventing further harm and ensuring that victims are protected from violence and abuse. However, the process of obtaining a protection order can be complex, and victims may require support and assistance from legal professionals or other service providers. This section provides an overview of the protection order process to empower individuals with the information they need to take action against domestic violence.

What are protection orders?

Protection orders are legal documents granted by a court to protect victims of domestic violence from further harm. They prohibit the respondent from committing domestic violence, entering certain places, disposing of shared property, and more. Protection orders can also specify arrangements for the care and custody of children, prohibit contact between the victim and the respondent, and order the respondent to pay maintenance or other costs.

Who can apply for protection orders?

Anyone who is a victim of domestic violence or has reasonable grounds to believe that they are at risk of domestic violence can apply for a protection order. The application can be made by the victim or someone acting on their behalf, such as a friend, family member, or legal representative.

How do you apply for protection orders?

To apply for a protection order, the victim must file an application with the High Court. The application must provide detailed information about the violence, including the date, time, and location of each incident, and the names of any witnesses or other evidence that supports the application.

What to expect during the application process?

Once the application is filed, the court will review it and may issue an interim protection order if it believes the victim is at immediate risk of harm. The respondent will then be served with a copy of the application and given an opportunity to respond. If the respondent contests the application, a hearing will be held, and evidence will be presented to the court.

If the court grants the protection order, it will specify the terms of the order, including the duration and the conditions that the respondent must follow. The respondent may also be ordered to pay damages or costs associated with the violence.

2.2 Steps to take in reporting SOGIE-based violence and conversion practices

Document the Incident:

If you or someone you know has experienced SOGIE-based violence or conversion practices, document the incident in as much detail as possible. This includes the time and location of the incident, the names and descriptions of the perpetrators, and any witnesses to the incident. Describe the incident in detail and the language used by perpetrators. This will help to establish whether there is a motivation based on hate.

Contact a trusted individual or community organisation:

Reach out to a trusted individual who can offer support and guidance, such as a friend, family member, or community leader. It is important to have someone who can provide emotional support and help you navigate the reporting process.

Seek legal assistance:

Contact a lawyer or a legal aid organization for assistance in seeking justice under the VAPP Act. They can provide guidance on legal options and assist with navigating the legal process.

Seek medical attention:

Seek medical attention if you have been physically harmed or if you are experiencing psychological distress. Ask the medical personnel to document the incident in your medical records.

Utilise protection orders:

Seek a protection order under the VAPP Act to prevent the perpetrator from further contact with you or from entering your residence if possible.

Section 3

How Can Human Rights Defenders Improve Implementation of the VAPP?



3.1 General challenges with implementing the VAPP Act in Nigeria

While the VAPP Act provides an important legal framework for addressing and preventing various forms of violence against persons, its implementation and effectiveness face several challenges in Nigeria. This section of the toolkit aims to highlight some of these challenges and suggest ways to address them.



Inefficient justice system

The Nigerian justice system is notoriously slow and inefficient, which could hinder the proper implementation of the Act. There are concerns about the capacity of the courts to handle the volume of cases that may arise from the effective implementation of the Act.

Recommendation:

Advocacy efforts should be directed towards the Nigerian government to increase funding and resources for the courts to ensure that they have the capacity to handle cases in a timely and effective manner.

Cultural and social factors

Cultural and social factors may hinder the enforcement of protection orders, as some victims of violence may not report incidents to the authorities due to fear of retaliation, social stigma, or the belief that domestic disputes should be resolved within the family.

Recommendation:

Advocacy efforts should focus on raising awareness about the importance of reporting violence and seeking legal protection. NGOs and community-based organizations should also work with the government to provide support and resources to victims of violence.

Misuse of power

The provision that allows any person, including police officers, to apply for a protection order on behalf of a complainant raises concerns about the potential for abuse of power. There is a risk that individuals may misuse this provision to make false accusations against others or to gain undue influence over vulnerable complainants.

Recommendation:

Advocacy efforts should focus on raising awareness about the proper use of protection orders and the consequences of misusing them. The government should also provide training for police officers and other individuals who may apply for protection orders to ensure that they understand their responsibilities and obligations.

Lack of adequate support services

While the Act provides for accredited service providers, counsellors, health service providers, social workers, and teachers to apply for protection orders on behalf of complainants, there are limited resources available to support victims of violence.

Recommendation:

Advocacy efforts should focus on increasing funding and resources for support services for victims of violence, including safe houses and shelter, counselling, medical care, legal aid, and financial assistance. NGOs and community-based organizations should also work with the government to provide these support services.

Limited Accountability Mechanisms

The Act does not make any provisions for monitoring and accountability mechanisms for institutions such as NAPTIP.

Recommendation:

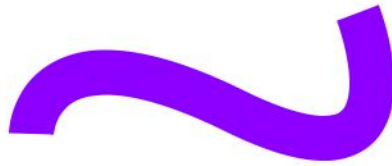
Advocacy efforts should be directed towards the Nigerian government to establish accountability mechanisms to monitor the implementation of the Act and to ensure that institutions such as NAPTIP are held accountable for their responsibilities under the Act.



3.2 Common challenges and barriers faced by LGBTQ+ individuals in accessing justice under the VAPP Act

A major challenge faced by LGBTQ+ persons in accessing justice under the VAPP Act in Nigeria **is the existence of laws that criminalise same-sex relationships**. The Same-Sex Marriage Prohibition Act (SSMPA) passed in 2014 not only criminalises same-sex marriage but also criminalises same-sex relationships and the activities of organisations that support the rights of LGBTQ+ persons. This law, in addition to other criminalising provisions under the Criminal and Penal Codes, has had a significant impact on the ability of LGBTQ+ persons to access justice.

Due to the criminalisation of homosexuality, **LGBTQ+ persons may not feel safe reporting cases of violent or abusive conversion efforts** to the police or seeking legal assistance. This fear of persecution can prevent LGBTQ+ persons from accessing the protection and services provided by the VAPP Act. Similarly, LGBTQ+ organisations that are prohibited under the SMMPA will have to risk legal liability in order to provide protection services under the VAPP Act.



The law has also been used as a tool for extortion and blackmail against the LGBTQ+ community.

Perpetrators of conversion practices may use the threat of reporting their victims to the authorities under the anti-gay law to keep them silent. This can create a further barrier to LGBTQ+ persons seeking justice under the VAPP Act.


Another challenge faced by LGBTQ+ persons in accessing justice under the VAPP Act is the **lack of awareness and sensitivity of law enforcement officials, prosecutors, and judges, regarding SOGIE issues**. This can result in inadequate investigation and prosecution of cases involving LGBTQ+ persons, as well as harsh and unfair treatment of LGBTQ+ persons in the court system. Additionally, some officials may hold biased or prejudiced views against the LGBTQ+ community, which can further hinder their access to justice.



The VAPP Act's implementation has also been limited due to a lack of resources,

including financial, human, and technological resources. This has led to a lack of adequate training for officials on how to handle cases involving LGBTQ+ persons and a lack of specialised units or personnel to handle such cases. As a result, LGBTQ+ persons may face additional barriers in accessing justice, as their cases may not be properly investigated or prosecuted.

To address these challenges, it is important to raise awareness about the rights of LGBTQ+ persons under the VAPP Act and to advocate for the repeal of laws that criminalise same-sex relationships. There is also a need to provide adequate training for law enforcement officials, prosecutors, and judges on how to handle cases involving LGBTQ+ persons. This can include training on SOGIE issues, as well as training on how to investigate and prosecute cases involving conversion practices.



It is also important to provide support services to LGBTQ+ persons who have experienced violence or abuse, including safe houses and shelter, counselling, medical care, legal aid, and financial assistance. NGOs and community-based organisations can play a critical role in providing these services, as well as in advocating for the rights of LGBTQ+ persons under the VAPP Act

Finally, it is important to monitor the implementation of the VAPP Act and to hold those in power accountable for its effective enforcement. This can include monitoring the number of cases involving LGBTQ+ persons that are investigated and prosecuted, as well as monitoring the attitudes.