



Spotlight Initiative
To eliminate violence
against women and girls



SGBV POLICY BRIEF NO.1

PROTECTING WOMEN AND THE GIRL CHILD FROM VIOLENCE IN ADAMAWA STATE

SUMMARY: The Policy Brief reviews the rationale and basis for protecting persons, especially women and the girl child, from all forms of violence; the provisions of national and international policy standards. It reviews the Sokoto State data and statistics and ends with conclusion on four key issues. The first is the full implementation of the Universal basic education act, the second and third are the enactment of the Violence against Persons Prohibition Law and the Child Rights Law while the fourth is the preparation of a Costed Plan for the Elimination of Violence against Persons.



1. Introduction and Rationale

Two aphorisms are imperative in this introduction. The first is that a chain is as strong as its weakest link while a society is as strong as its most vulnerable groups. The second is that the best gauge of a society's development is how it treats its weakest and most vulnerable groups. Women and the girl child have been identified as vulnerable in most Nigerian societies and their treatment is based on **gender** which is the socially constructed roles and characteristics of men and women influenced by customs, culture, religion, laws, policies, etc. The beauty of customs, culture and tradition is that they are dynamic and evolve as societies are impacted by new influences and norms.

Modern societies are run by rules which govern the resolution of social conflicts as well as allocation of resources, definition of rights, entitlements, duties, functions, and powers of different classes of citizens, authorities, and persons within the country. This is the context of law as the foundation of society and the validating basis of the actions and inactions of men, women, boys, girls, institutions, and authorities. Laws are required to

give effect to human rights and fundamental freedoms. The inherent right of the woman and girl child to human dignity expressed in S.34 of the Constitution of the Federal Republic of Nigeria 1999 (as amended)¹ is the foundation of their right to freedom from violence. This freedom includes freedom from violence against women and girls (VAWG), gender-based violence (GBV), enjoyment of sexual and reproductive health and rights (SRHR) and protection from harmful practices (HP). The Fundamental Rights Chapter of the Constitution guarantees a plethora of rights to be enjoyed and exercised by all citizens of Nigeria without distinction or discrimination based on several grounds including sex and the circumstances of birth.²

Considering the interdependence, indivisibility, inseparability of all human rights and fundamental freedoms, the right to freedom from violence will be difficult to realise in isolation of other rights and freedoms.³The Beijing Declaration and Platform for Action states that⁴:

“Violence against women is an obstacle to the achievement of the objectives of equality, development and peace. Violence against women both violates and impairs or nullifies the enjoyment by women of their human rights and fundamental freedoms”.

Even though, we hold the right to life as sacrosanct, the easiest way of depriving a woman or girl of her right to life is to use structural violence to deny her of a dignified life supporting environment to the point of abrogation. VAWG predisposes women and girls to violence, resulting in poor reproductive and sexual health outcomes, poor access to and control over resources, higher vulnerability to poverty at certain ages in life, poor access to education, lack of inheritance rights, lack of voice and minimal participation in decision making processes at different levels, etc.⁵Thus, while seeking protection from VAWG, a holistic approach to the human rights of women is imperative.

Nigeria is a Federation and states in Nigeria are bound by Nigeria’s international human rights obligations expressed in ratified treaties and other standards and states are expected to implement the contents of these standards in absolute good faith. A state cannot plead its domestic laws and practices in defence of its violation of treaty obligations and standards.⁶

¹ Hereinafter called the Constitution unless the context otherwise indicates.

²See Chapter Four of the Constitution and the guaranteed rights include the rights to life, personal liberty, fair hearing, freedom of religion, speech, to hold opinions, freedom of assembly and movement, rights to own movable and immovable property, etc.

³*All human rights are universal, indivisible, interdependent and interrelated. The international community must treat human rights globally in a fair and equal manner, on the same footing and with the same emphasis- Vienna Declaration and Programme of Action paragraph 5, Product of the World Conference on Human Rights 1993.*

⁴ See Paragraph 112. See also the product of the 1993 World Conference on Human Rights - Vienna Declaration and Programme of Action which highlights the need to eliminate all forms of violence against women in public and private life. The Declaration equally enjoins member states to use all available instruments to ensure the elimination of all forms of sexual harassment, exploitation and trafficking in women.

⁵Banke Akinrimisi - *Discussions on SGBV and the Nigerian Federal Budget 2020.*

⁶ Article 26 of the 1969 Vienna Convention on the Law of Treaties- Every treaty in force is binding on the parties to it and must be performed by them in good faith.

2. Articulating Violence against Women and the Girl Child

Articles 1 and 2 of the United Nations Declaration on the Elimination of Violence against Women⁷ (“DEVAW”) defines it as follows:

Article 1

“For the purpose of this Declaration, the term “violence against women” means any act of gender-based violence that results in, or is likely to result in physical, sexual and psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty whether occurring in public or in private life”

Article 2

“Violence against women shall be understood to encompass, but not limited to the following:

(a) Physical, sexual and psychological violence occurring in the family including battering, sexual abuse of female children in the household, dowry-related violence, marital rape, female genital mutilation and other traditional practices harmful to women, non-spousal violence and violence related to exploitation.

(b) Physical, sexual and psychological violence occurring within the general community including rape, sexual abuse, sexual harassment and intimidation at work, in educational institutions and elsewhere, trafficking in women and forced prostitution;

(c) Physical, sexual and psychological violence perpetrated or condoned by the state, wherever it occurs”.

The Protocol to the African Charter on Human and Peoples’ Rights on the Rights of Women in Africa (Maputo Protocol) defines VAWG as:

“Violence against women” means all acts perpetrated against women which cause or could cause them physical, sexual, psychological, and economic harm, including the threat to take such acts; or to undertake the imposition of arbitrary restrictions on or deprivation of fundamental freedoms in private or public life in peace time and during situations of armed conflicts or of war”

The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)⁸ affirms discrimination as the foundation of the violation of women’s rights including VAWG. The definition of discrimination includes gender-based violence, that is, violence that is directed against a woman because she is a woman or that affects women disproportionately⁹. Article 1 of CEDAW defines discrimination as follows:

⁷ General Assembly Resolution 48/104 of 20 December 1993.

⁸ Adopted and opened for signature, ratification and accession by General Assembly Resolution 34/189 of 18 December 1979 and entered into force on 3 September 1981 in accordance with Article 27 (1) of the Convention. Nigeria ratified the Covenant on 29 July 1993 and enforced same on the 29 October 1993.

⁹ General Recommendation No.19 (11th Session, 1992), Paragraph 6 - Committee on the Elimination of Discrimination against Women.

“For the purposes of the present Convention, the term "discrimination against women" shall mean any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field”.

The Maputo Protocol provides for the elimination of discrimination against women, harmful practices, violence against women while emphasizing the right to dignity, integrity, education, health, etc., of women and the girl child. Furthermore, articulations of VAWG in national legislation include the redefinition of rape, indecent assault, early and child marriage, physical and emotional violence and abuse; forceful eviction from home, female genital mutilation, damage to property, deprivation of personal liberty, economic violence, stalking, mugging, etc.¹⁰

3. What the Standards Demand

The standards demand under the Sustainable Development Goals (SDGs) 5 that States achieve gender equality and empower all women and girls through inter alia the following:

“End all forms of discrimination against all women and girls everywhere. Eliminate all forms of violence against all women and girls in the public and private spheres, including trafficking and sexual and other types of exploitation. Eliminate all harmful practices such as child, early and forced marriage and female genital mutilation. Ensure universal access to sexual and reproductive health and reproductive rights as agreed in accordance with the Programme of Action of the International Conference on Population and Development and the Beijing Platform for Action and the outcome documents of their review conferences”

The standards demand the implementation of the multi-layered duty of State in human rights and in SGBV/VAWG/HP/SRHR; they are the obligations to respect protect and fulfill. The *obligation to respect* demands that Federal, State and Local Governments refrain from directly or indirectly taking action that promotes violation of freedom from VAWG/SGBV or obstructing action taken by women and girls in pursuit of their freedom. However, the deliberate withholding of information by the state - information necessary to protect women and girls from violence is a violation of the obligation to respect¹¹. The *obligation to protect* demands that agents and officials of government take action to prevent violations of freedom from VAWG by third parties - whether private individuals or organisations and to impose adequate sanctions for violations. This is aptly captured in article 4 (c) of DEVAW. The State should:

¹⁰ See the Violence against Persons Prohibition Act, 2015.

¹¹ Article 16 (1) (e) of CEDAW.

“Exercise due diligence to prevent, investigate and, in accordance with national legislation, punish acts of violence against women, whether those acts are perpetrated by the State or by private persons”¹²

There must be a legislation under which VAWG is punishable. The *obligation to fulfil* requires governments to take appropriate legislative,¹³ judicial, administrative, budgetary, economic, and other measures, to the maximum of available resources, to ensure freedom from violence to women and girls. This is a positive obligation that involves targeted action to fulfil its requirements.

4. The Adamawa Facts

Adamawa State records high levels of SGBV/VAWG and this includes survival sex, exploitation for accommodation, intimate partner violence, rape, sexual assault, incest, etc.¹⁴The enrolment and completion rates for primary, junior and senior secondary schools as well as tertiary institutions is below the national average.¹⁵ Like in most states of the Federation, instances of physical, sexual and domestic violence have been reported in Adamawa State.¹⁶ Early marriage and teenage motherhood is another major challenge. The Multiple Indicator Clusters Surveys indicates that this practice is high in Adamawa State.¹⁷ Early marriage deprives the girl child of access to basic education as well continuing education to higher levels. This reduces her opportunity to acquire life skills that will open economic opportunities as well improve her health and that of her children. It accentuates poverty and deprivation. There are still gaps in the proportion of women who have been able to access antenatal care services from skilled service providers in Adamawa State over the last couple of years as well as women delivered by skilled birth attendants and at health facilities.¹⁸ These gaps indicate the opportunities of improving maternal and child health as well as opportunities to reduce child and maternal mortality.

Maternal mortality is an important indicator for women’s reproductive health. Maternal deaths are a subset of all female deaths and are associated with pregnancy and childbearing. Preventable maternal deaths are unacceptable and beyond SGBV and SRHR. It is an event that extinguishes the right to life, which is the fulcrum upon which other rights revolve. It is a matter of life and death. According to the Adamawa State 2017 Annual Report on Maternal and Prenatal Death Surveillance Response, the State has a maternal mortality ratio of 848 per 100,000 live births which is above the national average of 576 per 100,000 live births.¹⁹

¹² This is also the position of prevalent international jurisprudence in the decision of the Inter-American Court of Human Rights in the *Velasquez Rodriguez e v Honduras* of July 29 1988, Series C, Decisions and Judgement, No.04.

¹³ Underlining supplied for emphasis.

¹⁴ National Demographic and Health Survey (NDHS), 2013 and 2018.

¹⁵ *Sexual and Gender Based Violence and the Budget, (A Review of Adamawa State: 2016-2019)*; CSJ for the Spotlight Initiative. See further, Nigerian Educator Indicators 2016.

¹⁶ National Demographic and Health Survey 2013 and 2018.

¹⁷ MICS 2011 and 2016.

¹⁸ See NDHS 2013 and 2018 and MICS 2011 and 2016.

¹⁹ *Sexual and Gender Based Violence and the Budget, (A Review of Adamawa State: 2016-2019)*;supra.

5. Praxis and Next Steps

Considering that physical, economic and structural violence against women and girls is the foundation for the foregoing negative set of Adamawa indicators and facts, it has become imperative for the state to fulfill the constitutional rights of women and girls to human dignity and freedom from violence through the enactment of new laws and full implementation of extant laws.

The first is the **full implementation of the Compulsory, Free, Universal Basic Education Act** to ensure that all boys and girls have access to and attain basic education and are equipped with life skills. This will reduce early and child marriage, improve economic opportunities, and improve the standard of living in the state. Education is a right as well as an empowerment to demand, claim and vindicate rights when they are violated. Adamawa State needs to access all its funds in the Universal Basic Education Scheme.

The enabling law states that basic education must be compulsory, universal and free. These characteristics of basic education must be enforced by executive, legislative and judicial action. The legislature should by appropriation provide the resources needed to implement the law and policy while the judiciary ought to interpret the law to sanction anyone who takes steps that violates the law. The executive should ensure the full implementation of the law by implementing budgets, policies and leading the new direction of basic education for all. Considering the historic marginalization of the girl child in the State, special attention should be given to girl child education.

Education in the State must meet the core parametres of *availability, accessibility, acceptability* and *adaptability*. Availability – functional institutions and facilities are needed in sufficient quantity. Accessibility in terms of non-discrimination, physical accessibility and economic accessibility for all. Acceptability in terms of its cultural appropriateness and being of good quality while adaptability refers to its being able to meet the changing needs of society in terms of its functionality.

The second is that Adamawa State **needs to enact a Violence against Persons Prohibition Law (VAPP)**. The contours of the VAPP include the full articulation and definitions of various sexual offences, updating existing definitions in line with modern developments as well as creating new offences that have arisen after the last legal enactments. These include:

- ❖ Rape, coercion, physical injury, willfully placing a person in fear of physical injury, offensive conduct, prohibition of female genital mutilation, forceful ejection from home, deprivation of personal liberty, damage to property with intent to cause distress, forced economic or financial dependence, forced isolation.

- ❖ Others are emotional, verbal, and psychological abuse, harmful widowhood practices, abandonment of spouse, children and other dependents without sustenance, stalking, intimidation, spousal battery, harmful practices, attacks with harmful substance, administering a substance with intent, incest, indecent exposure, etc.
- ❖ Creation of a Sexual/Violent Offences Response Team and one stop shop comprising of different competencies/skills for addressing sexual and violent offences. The Team will provide legal, medical, emergency assistance, counselling and psychological and psycho-social support thereby creating deep collaboration among professionals working to end SGBV.
- ❖ The deterrence of creating a Sexual Offences Register and increased penalties for offenders.
- ❖ Compensation for survivors and a victim centric approach that recognizes the three-way interests in a criminal prosecution vis, the interest of the state, the victim of crime and the accused person.

VAPP will also create pathways to concrete remedies for survivors of violence in accordance with the legal maxim of *ubi jus ibi remedium* – where there is a right, there is a remedy. The law need not only be enacted, it should be fully implemented through provision of adequate resources and collaboration between the three arms of government. The private sector and civil society also needs to come on board.

The third is that Adamawa State needs a ***Child Rights Law*** to enforce the rights and advance the welfare of the child and to consolidate legislation that seeks to advance the rights of children in the State. The key contours of such a law should include:

- ❖ Respect to dignity of the person and freedom from being subjected to physical, mental or emotional injury, abuse, neglect or maltreatment, including sexual abuse or subjected to torture, inhuman or degrading treatment or punishment;
- ❖ Right to the enjoy the best attainable state of physical, mental and spiritual health; appropriate health care for expectant and nursing mothers;
- ❖ Right to basic education and the second chance opportunity vis “A female child who becomes pregnant, before completing her education, shall be given the opportunity, after delivery, to continue with her education, on the basis of her individual ability”.

- ❖ Prohibition of child marriage and its nullity; child betrothal by parents or guardians being void *ab initio* – not voidable.
- ❖ Sexual intercourse with a child being a person under 18 years is outlawed and criminalized.
- ❖ Definition of “age of maturity” as the age at which a person attains the age of 18 years while a child is any person under the age of 18 years.

The fourth next step is to prepare a **Costed Plan for the Elimination of Violence against Persons**. This will contain the key policy thrust, strategies, measures of implementation, the timeline, indicators of success, monitoring and evaluation, resources required for implementation and the source of the resources. This will involve multi stakeholder dialogue and interventions. The stakeholders in the public sector will include the Ministries of Women Affairs, Education, Health, Justice. Others will include the Judiciary and legislative committees. The private sector and civil society will also be involved.

6. Conclusion

The time to act is now and the support of all stakeholders is needed. The stakeholders include traditional and religious institutions, civil society including women’s rights groups, the media and non-governmental organisations, political parties as well as the executive in various ministries, departments and agencies of government, especially the Ministries of Justice and Women Affairs. These ministries need to champion the preparation of the costed plan to eliminate violence against persons.

The Adamawa State House of Assembly needs to perform this urgent and important State assignment of enacting the VAPP and Child Rights Bills while His Excellency, the Governor signs the bill into law. This will be the beginning of the process that will demand further action for the protection of rights.

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