

BEYOND THE OFFENDER: RE-IMAGINING VICTIMHOOD, INSTITUTIONAL TREATMENT AND STRUCTURAL RIGHTS FOR SURVIVORS OF SEXUAL VIOLENCE IN NIGERIA

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ABSTRACT

Nigerian criminal justice continues to treat the survivor of sexual violence as an instrument of the prosecution rather than as a bearer of rights. The State owns the charge, controls the evidence and collects the penalty, while the survivor supplies testimony and absorbs the cost. This article argues that the problem is not an absence of law but a misalignment of law. The Violence Against Persons (Prohibition) Act 205, the Administration of Criminal Justice Act 205 and the Evidence Act 20 each contain protective provisions, yet those provisions are discretionary in form, fragmented across jurisdictions and not supported by funding or institutions. Drawing on the decisions of the Supreme Court of Nigeria, the jurisprudence of the ECOWAS Community Court of Justice and comparative experience from Kenya, South Africa and the United Kingdom, the article examines the survivor's passage through the police station, the medical examination, the family and the courtroom, and identifies the points at which the system converts a victim of crime into a casualty of process. It finds that judicial reliance on a corroboration warning, the leave-based structure of the rape-shield provision in section 234 of the Evidence Act, the absence of a State-funded compensation scheme and the confinement of the Violence Against Persons (Prohibition) Act to the Federal Capital Territory together account for much of the gap between statutory promise and practical outcome. It also examines the counselling and referral centres established by States, which have grown from fifteen in 2009 to fifty in 2025 but remain largely donor-dependent. It recommends a statutory charter of survivors' rights, statutory State funding and coverage for counselling and referral centres, a national victims' compensation fund modelled on the existing trafficking victims' trust fund, mandatory forensic standards, specialised courts operating under fixed timelines, and the amendment of the Evidence Act to put the treatment of a complainant's sexual history and the corroboration warning on a principled statutory footing.

KEYWORDS: sexual violence; victims' rights; secondary victimisation; VAPP Act; victim compensation; criminal justice reform

1. INTRODUCTION

Sexual violence in Nigeria is not marginal, neither is it episodic. The national Violence Against Children Survey, the first of its kind in the country, found that one in four girls and one in ten boys had experienced sexual violence before the age of eighteen, and that fewer than five per cent of the children who had suffered violence received the help they needed to recover.¹ Those figures describe children; the experience of adult survivors is not much documented but no less grave. What the figures also disclose is that silence, not prosecution, is the ordinary outcome of sexual violence in Nigeria.

The criminal law has not been idle. In the last decade the National Assembly enacted the Violence Against Persons (Prohibition) Act 205 (hereinafter "the VAPP Act"),² the Administration of Criminal Justice Act 205 (hereinafter "the ACJA")³ and the Evidence Act 20,⁴ and most States have since enacted corresponding laws. Yet the survivor who walks into a police station today meets an institution whose basic orientation has not changed much, despite the establishment of gender-based offence unit at the police stations. The State prosecutes in its own name, defines success as conviction and treats the complainant as a principal witness. Whatever the survivor needs that does not serve the prosecution, whether medical care, safety, privacy, information or redress, is left to her family, to non-governmental organisations or to chance and God.

This article is not arguing that Nigeria lacks laws on sexual violence. Far from it. The work argues that the laws it has are not aligned to the proper objective. Their protective provisions are framed as judicial discretions rather

than enforceable entitlements; they are distributed across federal and State enactments of uneven reach; and are unaccompanied by the funding and institutions that would make them real. The analysis proceeds in parts. Part 2 sets out the conceptual and theoretical framework. Part 3 examines the legal framework while Part 4 follows the survivor through the stages of the process. In Part 5, it examined the counselling and referral centres that States have established in response to sexual violence with Part 6 assessing the judicial treatment of corroboration, consent and credibility. Part 7 considers Nigeria's regional obligations and comparative experience with Part 8 setting out a reform agenda, and Part 9 drawing conclusions.

2. Conceptual and Theoretical Framework

2. Victim, Survivor and Secondary Victimization

The VAPP Act defines a victim broadly as a person who has suffered harm as a result of an act or omission that constitutes an offence under the Act.⁵ The international point of reference remains the United Nations Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power, which recognises any person who has suffered physical or mental injury, emotional suffering or economic loss through criminal conduct, whether or not the offender is identified, apprehended or convicted as a victim.⁶ The last qualification matters. A victim's status, and the State's obligations to her, do not depend on the success of the prosecution.

This article uses "survivor" and "victim" interchangeably. The first emphasises agency and recovery; the second is the language of the statutes and of rights. Neither term should obscure the concept that does most analytical work here: secondary victimisation. The term describes the further harm a person suffers not from the offence itself but from the response of institutions to it: disbelief at the police counter, an intrusive or delayed medical examination, a hearing adjourned for the tenth time or a cross-examination directed at her character rather than the facts. Secondary victimisation is significant precisely because it is produced by the State's own agencies, and is therefore within the State's power to prevent.

2.2 From Offender-Centred to Victim-Inclusive Justice

The adversarial model inherited from English law casts criminal proceedings as a contest between the State and the accused. Its guarantees, among them the presumption of innocence, the right to confront witnesses and proof beyond reasonable doubt, are constitutional and must be preserved.⁷ However, the model has no natural place for the person harmed. Victimology, and in particular the procedural justice literature, has shown that victims value being informed, being heard and being treated with respect almost as much as they value outcomes. Restorative justice, in turn, treats repair of harm as an object of the criminal process rather than a by-product of it.

Nigerian legislation has already accepted the principle in outline. Section () of the ACJA declares that the purpose of the Act includes the protection of the rights and interests of the suspect, the defendant and the victim.⁸ The theoretical position taken in this article is that the survivor is a rights-holder whose interests in dignity, privacy, safety, information and redress are legally recognisable, and that those interests can be secured without any dilution of the fair-trial guarantees owed to the accused. The reforms proposed in Part 8 are reviewed against that standard.

3. The Legal Framework Governing Sexual Violence in Nigeria

3. Constitutional Foundations

The Constitution guarantees to every person the right to respect for the dignity of his person,⁹ the right to privacy¹⁰ and freedom from discrimination on the ground of sex.¹¹ Section 36(4) requires criminal trials to be held in public, but its proviso permits a court to exclude persons other than the parties and their legal representatives in the interest of, among other things, the welfare of persons under eighteen and the protection of the private lives of the parties.¹² The constitutional power to protect a survivor's privacy in court therefore exists but what is lacking is a rule that requires its application.

3.2 The Criminal Code, the Penal Code and the Child's Rights Act

The legacy codes remain the principal source of the law of rape outside the Federal Capital Territory and the States that have enacted VAPP Laws. Section 357 of the Criminal Code defines rape as unlawful carnal knowledge of a woman or girl without her consent, or with consent obtained by force, threats, intimidation, fraud or impersonation.¹³ The definition is confined to vaginal penetration of a female by a male, and the word "unlawful"

has long been understood to exclude intercourse within marriage.¹⁴ Section 282 of the Penal Code is more explicit still: intercourse by a man with his own wife is not rape if she has attained puberty.¹⁵ For children, the Child's Rights Act 2003 creates the offence of unlawful sexual intercourse with a child, in respect of which consent is no defence.¹⁶

These definitions shape the survivor's experience long before trial. A male survivor, a survivor of oral or anal penetration and a wife raped by her husband fall wholly or partly outside the codes, and the police officer who receives their complaint may reasonably conclude that there is no offence to investigate.

3.3 The Violence Against Persons (Prohibition) Act 2015

The VAPP Act was the product of more than a decade of advocacy and represents the most significant reform of the law of sexual violence since independence. Section (1) defines rape in gender-neutral terms, extending it to penetration of the vagina, anus or mouth by any part of the body or by any object, and contains no marital exemption.¹⁷ Section (2) prescribes a maximum of life imprisonment, and section (3) directs the court to award appropriate compensation to the victim.¹⁸ Section (4) requires a register of convicted sexual offenders to be maintained,¹⁹ and section 43 permits the court to declare repeat offenders dangerous sexual offenders.²⁰

The protective provisions are equally important. Sections 28 to 37 establish a regimen of protection orders, which the court may issue to restrain a respondent from further violence, contact or approach, backed by a power of arrest.²¹ Section 38 entitles every victim to necessary materials and comprehensive medical, psychological, social and legal assistance through governmental or non-governmental agencies, and to rehabilitation and reintegration programmes.²² Section 39 prohibits the publication of information that may identify the parties,²³ while sections 40 to 42 provide for the registration of service providers, the appointment of protection officers and a Coordinator for the Prevention of Domestic Violence.²⁴ Section 44 designates a regulatory body, a role performed by the National Agency for the Prohibition of Trafficking in Persons (NAPTIP).²⁵

Three structural limitations follow this achievement. The first is jurisdictional. Section 27 confers jurisdiction under the Act on the High Court of the Federal Capital Territory alone.²⁶ Outside Abuja, the Act operates only to the extent that a State has enacted a corresponding law, and the State laws, enacted at different times, differ in content and in the institutions they create. Even by optimistic counts some States had not done so several years after 2015.²⁷ A survivor's rights therefore depend on where the offence occurred.

The second is fiscal. Section 38 confers entitlements to medical, psychological and legal assistance without identifying who is to pay for them or appropriating any money for the purpose. An entitlement without a funding source is a policy aspiration. In practice the gap has been filled largely by Sexual Assault Referral Centres, a development examined in Part 5 of this work. The first of them, the Mirabel Centre in Lagos, was established in 2013 and has since served more than ten thousand survivors.²⁸ Such centres remain unevenly distributed, and one recent account placed their number at about thirty-two across roughly nineteen States.²⁹

The third concerns compensation. Section (3) makes compensation an incident of conviction and a liability of the offender. Where the offender is not identified, not convicted or not solvent, which describes most cases, the survivor receives nothing. Commentators have also criticised the Act's overlap with the legacy codes, the uncertain interaction between its penalties and those of the codes, and the absence of oversight mechanisms for the benefits

it promises.³⁰ The repeated proposals in the National Assembly to repeal and re-enact the Act are themselves evidence that its structural difficulties are recognised.³¹

3.4 The Administration of Criminal Justice Act 2015

The ACJA supplies procedural tools of real value to survivors, although few were designed with them in mind. Section 232 permits the court, in trials of sexual offences and certain other offences, to protect the identity of victims and witnesses, including by the use of screens and pseudonyms.³² Sections 39 and 32 empower the court to order a convicted person to pay compensation to any person injured by the offence, or to make restitution, in addition to or in lieu of any other penalty.³³ Section 396 requires trials to proceed from day to day after arraignment and limits the number and length of adjournments.³⁴

Each of these provisions is permissive. The court may protect identity, may award compensation and is directed, but not compelled by any sanction, to proceed from day to day. None confers on the survivor a corresponding right to apply, to be heard or to appeal. Section 232 depends on the prosecution asking for protection; sections 39 and 32 depend on the offender having means; and section 396 depends on judicial resources that many courts do not have. The ACJA thus states the right principle in section 396 and leaves its realisation to discretion.

3.5 The Evidence Act 2011

Two features of the Evidence Act bear directly on the survivor. The first is section 234, which provides that in a prosecution for rape, attempted rape or indecent assault, no evidence may be adduced, and no question asked in cross-examination, about any sexual experience of the complainant with a person other than the defendant, except with the leave of the court.³⁵ This is a genuine rape-shield provision and an important departure from the colonial position under which a complainant's "immoral character" could be put in issue. It is, however, incomplete. It does not cover other sexual offences; it leaves the complainant's sexual history with the defendant entirely unregulated; and it states no criteria for the grant of leave, so that the protection is only as strong as the individual judge's view of relevance. The provision also appears to be seldom invoked in reported decisions.

The second concerns corroboration. Corroboration of a child's unsworn evidence is required by section 209,³⁶ and certain provisions of the Criminal Code still require corroboration for particular sexual offences.³⁷ For adult complainants in rape, corroboration is not a requirement of law but the courts continue to warn themselves of the danger of convicting without it, a practice examined in Part 6 hereunder.

4. The Survivor's Journey: Institutional Failure at Each Stage

4.1 First Contact: The Police

The first official response to a disclosure frequently determines whether there will be a case at all. Many police divisions despite creating gender-based desks, lack trained officers, private interview space or established referral arrangements with medical services, and advocates frequently report questioning that dwells on the survivor's dress, movements and relationship with the suspect. Operational resources are thin: civil society observers report that the cost of evidence gathering and investigation is frequently borne by survivors, their families or non-governmental partners rather than by the State.³⁸ Where the survivor must fund the investigation of the crime committed against her, equal protection of the law is compromised at its source.

The Nigeria Police Force has established gender desks and family support units in some commands. Their existence is welcome, but without statutory standards, dedicated budgets and mandatory training they remain dependent on individual commitment.

4.2 Medical and Forensic Evidence

The forensic link is the weakest in the chain. Standardised sexual assault evidence kits are not routinely available in public hospitals; samples are often collected without chain-of-custody documentation; and DNA analysis, where it is available at all, is expensive and frequently paid for privately. The consequence is evidential as well as humanitarian. The Supreme Court has recognised that medical evidence of injury or of the presence of semen is the classic form of corroboration in rape,³⁹ and the absence of such evidence throws the entire burden of proof onto the survivor's oral testimony. A system that fails to collect forensic evidence and then warns itself of the danger of convicting on uncorroborated testimony creates the very weakness against which it guards.

4.3 Family, Community and the Pressure to Settle

Social pressure operates alongside institutional neglect. Survivors are frequently urged by families, religious leaders or community elders to withdraw complaints and accept private settlement, often in the name of family honour or community peace. Where the offender is a relative, a teacher, a clergyman or an employer, the pressure is greater still. The criminal law does not recognise such settlements, but in practice they end a large proportion of cases before trial, and the State rarely intervenes. The national survey finding that most children never tell anyone of their experience is the measure of how effective that pressure is.⁴⁰

4.4 The Trial

For the minority of cases that reach court, the trial itself is a further ordeal. Proceedings are slow, adjournments frequent and the survivor may be required to attend repeatedly over several years. In most courts there are no screens, no separate waiting areas and no live-link facilities, so that the survivor gives evidence in open court, often in the presence of the accused and his family. Cross-examination in the adversarial system legitimately tests the evidence, but without the controls described in Part 3 of this work, it readily becomes an examination of the survivor's character. The VAPP Act's prohibition of identifying publications, the ACJA's identity protections and the proviso to section 36(4) of the Constitution each offer some protection, but none is applied as a matter of course.

5. Counselling and Survivor Support Centres: The State Response

5. The Legal Basis for State Counselling Services

The obligation of the State to provide counselling to survivors is not a matter of policy preference alone. Section 38 of the VAPP Act entitles every victim to comprehensive psychological and social assistance,⁴¹ and sections 40 and 41 contemplate a network of registered service providers and protection officers through which that assistance is to be delivered.⁴² The State VAPP Laws reproduce these provisions, and some States have gone further by creating dedicated institutions. Ekiti State's Gender-Based Violence (Prohibition) Law 209 is administered by a Gender-Based Violence Management Committee, under whose framework the State opened a Sexual Assault Referral Centre, the Moremi Clinic, at the Ekiti State University Teaching Hospital in June 2020.⁴³ Lagos State has gone furthest. The Lagos State Domestic and Sexual Violence Agency Law, signed on 20 September 2022, converted an existing response team into a statutory agency charged, among other things, with providing support, counselling, information and referrals for survivors; establishing shelters and safe houses in each senatorial district; and providing online psychosocial support and counselling.⁴⁴ At the federal level, the National Guidelines and Referral Standards on Gender-Based Violence issued by the Federal Ministry of Women Affairs set out the referral pathways through which survivors are to be passed between medical, psychosocial, legal and shelter services.⁴⁵

5.2 The Growth of Sexual Assault Referral Centres

The principal vehicle for State counselling services has been the Sexual Assault Referral Centre (SARC), a one-stop facility, usually located within a public hospital, offering forensic medical examination, emergency treatment, counselling and psychosocial support, and referral to police and legal services. The model was introduced in Nigeria by the non-governmental Mirabel Centre in Lagos in 2003,⁴⁶ and was carried into the public sector with the support of international development programmes. Under one European Union programme, SARCs were established in Borno, Yobe and Adamawa States; by January 2009 they had served 375 survivors, submitted 243 forensic medical reports to the police and contributed to two convictions, and the governments of Yobe and Adamawa had undertaken to support and extend them.⁴⁷ Edo State, through its Ministry of Social Development and Gender Issues, opened a SARC in Benin City in February 2020 offering forensic examination, counselling and support in pressing charges.⁴⁸ The first SARC in the Federal Capital Territory, the Awyetu Centre at Bwari General Hospital, opened in November 2020,⁴⁹ and Lagos State opened the Idera Centre at Alimosho General Hospital in March 2022.⁵⁰ In Anambra State, the Ntasi Centre at the General Hospital, Enugwu-Ukwu, is listed among the functioning SARCs.⁵¹

The expansion has been rapid. A national assessment found only fifteen SARC in Nigeria in November 2019.⁵² By June 2022 the federal government reported thirty-one centres in seventeen States, which had assisted more than seventeen thousand survivors, seventy-three per cent of them under eighteen years of age.⁵³ By November 2025 the number had risen to fifty centres in twenty-four States, which had together served more than fifty-eight thousand survivors.⁵⁴ The predominance of children among those served is itself a finding of the first importance. It confirms that the counselling needs generated by sexual violence in Nigeria are overwhelmingly those of minors, and that the services must be designed accordingly.

5.3 A Critical Appraisal

The establishment of these centres is the most significant practical advance in the treatment of survivors since 2005. It is nonetheless fragile, and five weaknesses stand out.

The first is financial. A 2025 national assessment found that about eighty per cent of SARCs depend heavily on donor funding for their survival, and that shelters remain unavailable in several locations.⁵⁵ The federal government itself acknowledged in 2022 that State-led SARCs lacked the funding needed for adequate service delivery.⁵⁶ A centre that closes when a development programme ends offers the survivor no assurance of continuing care, and counselling, unlike a forensic examination, is a service that must continue over months.

The second is coverage. Fifty centres in twenty-four States leave twelve States without any SARC at all, and in the States that have them, a single centre in the State capital or a general hospital is out of practical reach for most rural survivors. The Lagos commitment to a shelter in each senatorial district indicates the minimum scale the problem requires.

The third concerns the quality of counselling. Most health workers in Nigeria have had no specific training in responding to sexual violence, and the few specialised centres have been described as both understaffed and underfunded.⁵⁷ Hospital-based centres are well suited to the immediate medical and forensic response, but long-term psychological counselling, particularly for children, requires trained professionals and a continuity of care that a referral centre is not always designed to provide.

The fourth is the link between support and justice. The SARCs have demonstrated that counselling and forensic services can strengthen prosecutions: the forensic medical report produced at the centre is often the only independent evidence available. Yet the conversion of those reports into convictions remains poor, with one federal account recording that of about three thousand cases in six States only eleven had been successfully prosecuted.⁵⁸ A centre that supports a survivor through examination and counselling, only for the case to fail in the police station or the courtroom, risks becoming a substitute for justice rather than a pathway to it.

The fifth is legal protection of the counselling relationship. The Evidence Act recognises privileges for communications with legal practitioners and for certain other relationships, but it confers no privilege on communications between a survivor and her counsellor.⁵⁹ Counselling records may therefore be sought by the defence and used in cross-examination. The absence of protection may deter survivors from speaking frankly in counselling, and it places counsellors in an uncertain legal position.

The State response to sexual violence through counselling centres has thus moved from absence to presence within a decade, but it has not yet moved from project to institution. The reforms proposed in Part 8 of this work are designed to make that transition.

6. The Judicial Attitude: Corroboration, Consent and Credibility

The Supreme Court has settled the elements of rape under the Criminal Code. In *Ogunbayo v. State*, the Court held that the prosecution must prove unlawful sexual intercourse, absence of consent and penetration, and that the slightest penetration suffices; consent obtained by force, threat or fraud is no consent.⁶⁰ In *Posu v. State* the Court restated those elements and observed that, because rape is committed in private, eyewitness corroboration will rarely be available.⁶¹

On corroboration the Court's position is that it is desirable but not a requirement of law. In *Ogunbayo* the Court held that a conviction may rest on the uncorroborated evidence of the complainant, provided the trial court warns

itself of the danger of so doing.⁶² The same approach appears in *Iko v. State*⁶³ and *Sambo v. State*.⁶⁴ More recent decisions have continued to treat corroboration as very desirable rather than mandatory.⁶⁵ In the older case of *Okpanefe v. State*, the Supreme Court declined to treat medical evidence and an early complaint by a young complainant as sufficient corroboration.⁶⁶

This jurisprudence has two difficulties. The first is doctrinal. The corroboration warning in sexual cases rests on an assumption, inherited from English common law, that complaints of sexual offences are peculiarly likely to be false. It is submitted that this assumption has no empirical basis and has been abandoned in the jurisdictions from which Nigeria received it.⁶⁷ Nigerian scholarship has argued that the warning should be repealed rather than reformed, since it subjects sexual offences to a standard of proof applied to no other serious crime.⁶⁸

The second difficulty is practical. Where forensic evidence is not collected, the warning operates in effect as a requirement, and the absence of corroboration is attributable not to any weakness in the complainant's account but to the State's own failure to gather evidence.

Sentencing is a related concern. A study of Nigerian rape sentencing has shown wide variation in the terms imposed for comparable offences and little attention to the harm suffered by the victim in the sentencing process.⁶⁹ Nigerian courts have no settled practice of receiving victim impact statements, and recent scholarship has argued that their introduction would give the survivor a voice at the stage of the proceedings where her interests are most directly in issue.⁷⁰

7. Regional Obligations and Comparative Lessons

7. The ECOWAS Court and the Due Diligence Standard

Nigeria is a party to the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (the Maputo Protocol), article 4(2)(f) which obliges States to establish mechanisms and accessible services for information, rehabilitation and reparation for victims of violence against women.⁷¹ The ECOWAS Community Court of Justice has applied these obligations to Nigeria in a series of decisions. In *Dorothy Njemanze v. Federal Republic of Nigeria*, the Court found that the arrest and abuse of women by State agents amounted to gender-based discrimination and violated their dignity, and held that the State's failure to investigate was itself a breach of its obligations; it awarded damages to three applicants.⁷² In *Mary Sunday v. Federal Republic of Nigeria*, the Court found a violation of the right to a fair hearing where the police failed to investigate properly a serious act of domestic violence.⁷³ In *Aircraftwoman Beauty Igbozie Uzezi v. Federal Republic of Nigeria*, which arose from a servicewoman's allegation of rape by a superior officer, the Court found violations of the rights to dignity, liberty, work and health.⁷⁴

The significance of these decisions for domestic law is that they locate the State's responsibility not only in what its agents do, but in what they fail to do. Inadequate investigation, failure to prosecute and failure to protect are themselves violations. This standard of due diligence supplies a principled basis for treating the institutional failures described in Part 4 of this work as breaches of legal obligation rather than mere shortcomings of administration.

7.2 Kenya, South Africa and the United Kingdom

Three comparative models are instructive. Kenya's Victim Protection Act 2004 gives victims statutory rights during the trial process, including rights to be present, to have the trial conducted without unreasonable delay and to give their views on plea agreements;⁷⁵ makes special provision for vulnerable victims;⁷⁶ and establishes a Victim Protection Trust Fund, financed by parliamentary appropriation and other sources, from which compensation

awarded by the court may be paid.⁷⁷ The Kenyan model demonstrates that victims' participatory rights and a State-backed fund can be enacted together in a common law system without compromising the fair-trial rights of the accused.

South Africa's Criminal Law (Sexual Offences and Related Matters) Amendment Act 2007 expressly forbids a court from treating the evidence of a complainant in a sexual offence case with caution on account of the nature of the offence,⁷⁸ confirming the earlier abolition of the cautionary rule by the Supreme Court of Appeal in *S v. Jackson*.⁷⁹ The South African Thuthuzela Care Centres, which co-locate medical, police and prosecutorial services for survivors, offer a model for the integration of Nigeria's Sexual Assault Referral Centres into the formal justice system.

In the United Kingdom, the Criminal Injuries Compensation Scheme, now made under the Criminal Injuries Compensation Act 1995, provides State-funded compensation to victims of violent crime, including sexual offences, on a published tariff and independently of whether the offender has been convicted.⁸⁰ The scheme illustrates the principle, also stated in the United Nations Declaration, that where compensation is not available from the offender the State should provide it.⁸¹

Nigeria need not import any of these models wholesale, but it already has a domestic precedent for the most important of them. The Trafficking in Persons (Prohibition) Enforcement and Administration Act 2005 establishes a Victims of Trafficking Trust Fund, financed in part from the forfeited assets of convicted traffickers, for the benefit of trafficked persons.⁸² There is no principled reason why survivors of sexual violence should be denied a comparable fund.

8. An Agenda for Reform

8. A Statutory Charter of Survivors' Rights

The National Assembly, and each State House of Assembly, should enact a charter of rights for victims of sexual and gender-based violence, drawing on section () of the ACJA and on the Kenyan model. At a minimum the charter should give survivors enforceable rights to be informed of the progress of the investigation and prosecution; to be consulted before a charge is withdrawn or a plea agreement concluded; to apply for protective measures in court; to be accompanied by a support person; and to make a victim impact statement before sentence. Each right should be accompanied by a procedure for enforcement, so that a failure to observe it can be raised before the trial court.

8.2 A State-Funded Compensation Scheme

A National Fund for Victims of Sexual and Gender-Based Violence should be established by statute, with State counterparts. It should be financed from annual appropriations, from fines imposed for offences under the VAPP Act and corresponding State laws, and from the proceeds of forfeited assets, and should pay compensation for medical treatment, counselling, temporary shelter and loss of earnings on a published tariff. Eligibility should depend on the reporting of the offence and cooperation with the investigation, not on the identification, conviction or solvency of the offender. Where the court orders compensation under section (3) of the VAPP Act or sections 39 and 32 of the ACJA and the offender cannot pay, the Fund should pay and be subrogated to the survivor's claim against the offender.

8.3 Forensic Capacity and Evidence Rules

The Federal Ministry of Health, in collaboration with the Nigeria Police Force, should issue binding national protocols for the clinical management of sexual assault, including standard evidence kits, chain-of-custody documentation and storage requirements. Every designated public hospital should be required to examine survivors free of charge, and the cost of forensic analysis should be borne by the State. Regional forensic laboratories with DNA capacity should be established in each geopolitical zone. The Evidence Act should provide that a forensic report prepared by an accredited laboratory in accordance with the national protocol is admissible on production, subject to the defendant's right to require the attendance of its author.

8.4 Specialised Units and Courts

Gender desks and family support units should be placed on a statutory footing in every divisional police headquarters, staffed by officers who have completed accredited training in trauma-informed interviewing and evidence handling. Each State Chief Judge should designate divisions of the High Court and Magistrates' Courts to hear sexual offence cases, equipped with screens, live-link facilities and separate waiting areas, and operating under practice directions that fix time limits for the conclusion of trials consistent with section 396 of the ACJA.

8.5 Placing Counselling and Referral Centres on a Statutory Footing

Every State should enact a law establishing its Sexual Assault Referral Centres as permanent public institutions, with a dedicated budget line in the annual Appropriation Law rather than dependence on development partners.

The law should require at least one centre in each senatorial district, attached to a general or teaching hospital, and a counselling service in every local government area, delivered directly or through accredited service providers registered under the VAPP Laws. It should prescribe minimum standards for staffing, including qualified counsellors and clinical psychologists trained in child and adolescent care, and provide for the accreditation and periodic inspection of centres. Counselling should be available free of charge for as long as it is clinically required, and not merely in the period immediately after the assault, and the costs should be recoverable from the compensation fund proposed above. The Evidence Act should be amended to confer a qualified privilege on communications between a survivor and her counsellor, displaceable only by order of the court where disclosure is necessary to a fair trial. Finally, each State should integrate its centres with the police, the Ministry of Justice and the State Domestic and Sexual Violence agencies through a statutory referral protocol, and publish annual data on the survivors served and the outcomes of their cases.

8.6 Closing the Gaps in the Evidence Act and the Codes

Section 234 of the Evidence Act should be amended to extend to all sexual offences; to regulate evidence of previous sexual experience with the defendant; and to set out statutory criteria for the grant of leave, requiring the defence to show that the evidence is relevant to a specific issue and that its probative value substantially outweighs its prejudicial effect. A new provision, modelled on the South African legislation, should forbid any court from treating a complainant's evidence with caution on account only of the nature of the offence. Finally, the National Assembly and the States should harmonise the definition of rape across the Criminal Code, the Penal Code and the VAPP Laws, adopting the gender-neutral, penetration-based definition in section of the VAPP Act and removing the marital exemption wherever it survives.

9. CONCLUSION

The survivor of sexual violence in Nigeria is today better protected on paper than at any time in the country's history. The VAPP Act, the ACJA and the Evidence Act 20 together contain the elements of a survivor-centred system: a modern definition of rape, protection orders, rights to assistance, identity protection, compensation orders and a rape-shield provision. What they lack is binding force, territorial reach, funds and institutions. The counselling and referral centres that States have established since 203 show what can be achieved when institutions do exist, but they remain dependent on donors, unevenly distributed and unprotected by law. Each protective measure is a discretion; each entitlement is unfunded; and each depends on the survivor having reported in the right jurisdiction, to a willing officer, with evidence the State did not collect.

The reforms proposed here would not make the survivor a party to the prosecution or weaken the guarantees owed to the accused. They would make the State answerable for the treatment of those on whose testimony it relies. The jurisprudence of the ECOWAS Court has already established that Nigeria's failures to investigate, protect and repair are breaches of its legal obligations. The task for Nigerian legislators and courts is to give that standard domestic effect, so that the survivor is treated not as evidence for the State but as a person to whom the State owes a duty.

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