journals.unizik.edu.ng/index-php/jcpl
ISSN: 2736-0342
NNAMDI AZIKIWE UNIVERSITY, AWKA
JOURNAL OF COMMERCIAL AND PROPERTY LAW

Rape as an Endemic Factor in Nigeria: An Examination of its Causes, Effects and Control

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Abstract

Nigeria is presently faced with a number of challenges which are pathetic and raise serious concern for the safety of our society. Insecurity, corruption, unemployment, abject poverty, poor medical care, kidnapping and incessant rape offenses are parts of what is experienced on daily basis. Rape is a global social problem and its perpetrators and victims cut across all age brackets. In Nigeria, rape is a serious offence which attracts life imprisonment. Despite this, the commission of rape offence is on the high side and it has become an endemic in our society. It is not enough to make provisions for punishment against rape offenders, but to also examine the causes, effects and ways to prevent further occurrence in the society. This paper examines the concept of rape under the Nigerian law, causes of rape, effects of rape, factors militating against the efforts to reduce rape and possible ways to reduce rape in our society. This paper adopts doctrinal approach of qualitative method of research with the use of primary and secondary materials such as the Statutes, decided cases, online journals, textbooks, conference papers, published articles and newspaper. This paper concludes that punishment alone cannot eradicate rape, rather adequate attention should be given to the causes, effects and ways to prevent rape in our society since nothing justifies the act of rape. This paper recommends and calls for more awareness and sensitization on the causes and effects of rape in addition to adequate retributive measures to reduce rape in our society.

Keywords: Rape, Causes, Effects, Reduction, Nigerian Laws

1. Introduction

Sexual relationship is generally not an offence if is it done within the bounds of the law. The religious books generally acknowledged and allowed sexual intimacy between legally married couple as a result of the pronouncement God on procreation and companionship.[1] Sexual intimacy becomes an offence when it is done in a way that is against the laws of God and the State, especially, when carnal knowledge is undertaken without a person's consent,.[2] It is not a defense that the victim initially gave consent especially where the offender did not withdraw within a

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[1]Genesis 1:28 (New King James Version)

[2]A Adebayo *et al* 'Definition of Rape and Overview of Surgical Castration as a Punitive Measure for Reducing the Menace in Nigeria' [2021] (8)(3), *Nnamidi Azikiwe University Journal of Private and Commercial*; 16.

reasonable time.[3]The offence of rape did not just emerged in the recent times; there are laws prohibiting the act of rape from the time immemorial. For instance, the first rape law appeared in the Code of Hammurabi in Babylon.[4]The offence of rape is perpetuated against persons of various ages and stages of life from toddlers to older people and it is not limited to female counterparts alone.

Rape is offence which is characterized with force and punishable under the Nigerian laws. Nevertheless, its reoccurrence on daily basis in the society is disturbing and disheartening. The victims of rape are left in devastating and compromised situation without much help from the families and government respectively. Although, it must be pointed out that our laws on rape have short comings especially in the area of definition of rape and the uncertainty of the meaning of consent. Nigerian laws on rape still operates in the past and refused to move with the current practice in the 21st century, where rape has many facets of practice.[5]

Presently the punishment for rape offence in Nigeria is life Imprisonment but this has not in any way deter offenders. It is sacrosanct to observe the causes and effect of rape on victims rather than focusing on punishment. Thus, this paper seeks to look at the concept of rape as an offence under the Nigerian laws, its causes, the effect on victims and the society at large, factors militating against efforts made to curb rape menace and ways to reduce it in the society.

2. The Concept of Rape

Rape is characterized as a sexual offence which involves application of force or act of domineering of the culprits against the victims.[6] In this present century, rape has been observed from different perspective as many activities now qualify as rape under the criminal law. There is no universal definition of rape, however, rape has been explained in various ways to bring the ingredients of the offence through the actions carried out. Thus, rape can be defined as any form of sexual activities void of voluntary or mutual consent between those involved.[7] Rape can also be explained as an unlawful behavior or action which can stimulate sexual urge such as making a child or an adult touch, suck or caress one's private parts to derive sexual pleasure.[8]

Further, rape in medical parlance is referred to as penile penetration of vulva of a girl or woman without the consent of the girl or woman.[9]This definition does not capture sexual offence against male counterpart since a male does not have vulva. In addition to this, the World Health Organization (WHO) sees rape as sexual assault against another person without that person's consent while the violation may be carried out using physical force, coercion, abuse of authority

[3] T Bennett, 'Consent Interruptus: Rape Law and Cases of Initial Consent' [2017] (19) *Flinders Law Journal*; 160.
[4] S Gold and MWyat, 'The Rape System: Old Roles and New Times The Rape System: Old Roles and New' [1978] (27)*Times, Catholic University Law Review*; 696.
[5] The provision of Criminal Code and Penal Code still project gender-imbalance on the issue of rape that only male can rape with the penetration of penile organ.
[6]A O Joseph, 'An Examination of Impact of Rape on the Victim and the Socio-Development of Nigeria' [2018] (9) *Afro Asian Journal of Social Sciences*; 2.
[7]Adebayo, et al, (n3).
[8]M E Omoniyi, 'Rape Endemic in Nigeria: Causes, Effect and Probable Way Out' [2017] (3)(12) *The Journal of Social Sciences Research*, 120-121.
[9]C P Davis,'Definition of Rape'<available online at https://www.rxlist.com/rape/definition.htm> accessed 10 January, 2024.

or with a person who is incapable of valid consent.[10]Rape may involve unlawful behavior or action such as making a child touch, suck or caress one's private parts to derive sexual pleasure even when the child does not understand the nature of such an act.[11]

The offence of rape can be committed against a person who has weak ability to consent or resist the action such as people who are impaired either with their sight or physical challenge individuals or someone suffering from autism.[12]The offence of rape can also be committed through applying force on the victim to engage in oral sex either with the use of weapon or not.[13] It does not matter whether there was a physical restraint from the victim as many of them would be scared of bodily harm. It is important to state that rape offence can also be committed between spouses, this is usually referred to as marital rape, although, this has not been recognized under the Nigerian laws.[14]

3. Legal Framework on Rape

The offence of rape is prevalent and it is on the vive globally. Rape is criminalized in all parts of the world and as a result several legislations have been made to prohibit it. The offence of rape is unlawful under the Criminal Code in the South and Penal Code in Nigeria. Section 357 of the Criminal Code provides that:

> *any person who has unlawful carnal knowledge of a woman or girl, without her consent or with her consent, if the consent is obtained by force or by means of threats or intimidation of any kind, or by fear of harm, or by means of false and fraudulent representation as to the nature of the act, or in the case of a married woman, by personating her husband is guilty of an offence which is called rape.[15]*

This provision appears elaborate on the issue of rape, however, the definition is faulty in the sense that it limited rape offence only to men. Whereas, men can equally be raped by women. Section 358 provided for the punishment of rape which is life imprisonment without an option of fine.[16]Furthermore, in Northern Nigeria, section 282 of the Penal Code prohibited rape when it states that:

> *(1) A man is said to commit rape who has sexual intercourse with a woman in any of the following circumstances:- (a) against her will; (b) without her consent; (c) with her consent, when her consent has been obtained by putting her in fear of death or of hurt; (d) with her consent, when the man knows that he is not her*

[10] World Health Organization, 'Understanding and Addressing Violence Against Women' <https://apps.who.int/iris/bitstream/handle/10665/77434/WHO_RHR_12.37_eng.pdf;jsessionid=72DFEE0E0C6E48EFFBDC008EA0F8DFC7?sequence=1> accessed on 13 January 2024.

[11]M CAgbo, 'Child Rape in Nigeria, Implications on the Education of the Child' [2019] (2) *Journal of Children and Teenagers*; 14-15.

[12]CAdoch, 'Defining Rape: The Problem with Consent'[2022] (6)*Strathmore Law Journal*; 74-75.

[13]L HSchafran, 'Barriers to Credibility: Understanding and Countering Rape Myths', <https://www.nationalguard.mil/portals/31/documents/j1/sapr/sarcvatraining/barriers_to_credibility.pdf.>accessed on 13Janauary2024.

[14]L W Siegel, 'The Marital Rape Exemption: Evolution to Extinction'[1995] (43) *Cleveland State Law Review*; 2. See also, Kalyani Abhyankar and Anushka Datta, 'Marital Rape: Legal Status and Development' [2022] (5)<available online at https://journals.sagepub.com/doi/10.1177/25166069221117191>accessed on 15 January 2024.

[15] S 357 of the Criminal Code, Cap. C. 38, Laws of the Federation of Nigeria, 2004.

[16] S358 ibid.

> *husband and that her consent is given because she believes that he is the man to whom she is or believes herself to be lawfully married; (e) with or without her consent when she is under fourteen years of age or of unsound mind*.[17]

This provision made more clarification on the concept of rape but at the same time it is defective because it does not provide for situations where a woman can rape a man. In addition to this, a man cannot be held guilty of raping his wife who has attained puberty.[18]The notion is predicated on the then generally accepted view of the common law based on a theory articulated by Mathew Hale, Chief Justice in England in the18th century that the husband cannot be guilty of a rape committed by himself upon his lawful wife, for by their mutual matrimonial consent and contract, the wife hath given up herself in this kind unto her husband which she cannot retract unless the marriage has dissolved, there is judicial separation or the order of decree nisi[19] has been granted.[20]

The Violence Against Persons (Prohibition) Act (VAPP) gave a better provision on rape. Section 1 provides that: a person commits the offence of rape if (a) he or she intentionally penetrates the vagina or anus or mouth of another person with any other part of his or her body or anything else (b) the other person does not consent to the penetration; or (c) the consent is obtained by force or means of threat or intimidation of any kind or by the fear of harm or by means of false and fraudulent representation as to the nature of the act or the use of any substance or addictive capable of taking away the will of such person or in the case of a married person by impersonation his or her spouse.[21] This provision appears more accurate because it makes both male and female liable for an offence of rape.

Besides, the provision does not limit the definition of rape to penetration of vagina alone, it also covers any other part or things that can be used to penetrate. However, this provision has it limitation as it is only applicable to the Federal Capital Territory, Abuja. Thus, it is important to note that both the Criminal and Penal Codes provisions are not gender-neutral on the concept of rape because in the world of science and technology, is it possible for a woman to penetrate a man through the anus or even her fellow woman with the use of sex toys. It is important to state that it does not matter whether there was in-depth penetration or ejaculation to amounts to rape.[22] At the same time, it is worthy of note that where a person consents to sexual activities initially but shortly after withdraws the consent, any attempt to force him or her to continue will amount to rape.

4. Factors Instrumental to the Cause of Rape

The offence of rape is prevalent in our society. A lot of factors are attributes to its persistent occurrence. Hence, it is important to address some of the causes of rape in Nigeria:

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[17]S 282 of the Penal Code Cap. 89, Laws of Northern Nigeria, 1963, sections 282 and 283.
[18]S 282 (2) ibid.
[19]*R v.O'Brien* (1974)3 ALL ER 63 where Parke J held that a decree nisi of divorce effectively terminated a marriage and it was possible thereafter for the husband to rape his wife
[20] See the cases of *R v Clarke* (1949)2 ALL ER 448; *R v Roberts* (1986) Crim L R 188 and *R v Steele* (1977)65 Cr App Rep 22 respectively.
[21] Section 1of VAPP
[22] In *Posu v The State* (2011)3 NWLR (Pt. 1234)393, the court held that the most important ingredient of the offence of rape is penetration. Its significance lies in the fact that penetration, with or without emission, is sufficient even where the hymen was not ruptured.

i. **Silence and the role of law officers:** One of the major factors that promote rape offences in our society is culture of silence and fear of being ostracized by those who consider rape as a sign of dishonour to the family of the victim. In addition, most of the rape cases in Nigeria are not reported because the abuser is either a close relative or an important person in the life of the victim and sometimes it could be the parents of the victim.[23]. Most victims of rape find it hard to report to the law officers because of the stigma attached with it and as a result many of the victims are frequently abused.[24]

   The few who are bold enough to report rape cases would not be unwilling to testify in court to avoid public disgrace. The situation is worsen when the victim of rape is a male, it is not surprising that some police officers will consider such as a blessing in disguise for such man who has been raped by a woman. More so, some of these rape victims are subjected to humiliation, intimidation and negative judgment by the society and police while some of the victims are also alleged to have provoked the abuser to such an attack. Thus, the attitude of silence and fear of reporting has caused a lot of havoc in the society by making the victims to perpetually be under the attack and threat from the sexual abuser.

ii. **Lacuna and poor implementation of rape laws in Nigeria:** Law is an instrument of control of every society. This goes with the general saying that *where there is no law there is no sin***.** The position of Nigerian laws especially the Criminal and Penal Codes on rape is obsolete, dicey, full of lacunas and are poorly enacted. Despite the trend of civilization in this 21st century, our laws on rape are still operating in the past. Up till now, our laws on rape still closed its eyes to the fact that men can also be raped. In addition to that, the laws only limited rape to the penetration of the virginal or anus by a penis as the condition to sustain rape conviction in court.[25] A situation where someone has been molested sexually with an insertion of other objects such as sex toys, fingers, bottles, stick or where there is a penetration of the penis inside the mouth of the victim would not be qualified as rape under the Criminal and Penal Codes respectively. Nigerian factors are another issue where a common man has the impression that justice is only for the rich and against the poor.[26]

iii. **Myths and erroneous belief about sex:** The cultural influence is one of the things that make rape offence common in the society. Some ethnic beliefs are detrimental to the victims of rape and aid the prevalence of such heinous act. For example, in some ethnic groups, it is believed that without premarital sex, male will have small testicles, suffer from constant chronic stomach ache, painful pimples, challenges with erection and find it hard to perform better in marriage.[27] This belief usually creates a desire to have sexual intercourse among the young male at all cost to prevent the challenges believed to come

[23]K OAzeez, 'The Culture of Silence on Rape and the Plights of the Girl Child in the Nigerian Society: An Encounter with FUOYE and EKSU Students' [2020] (18)(3), *Gender & Behaviour*; 1600-1600.

[24]S Schmitt *et al*, 'To add insult to injury: Stigmatization reinforces the trauma of rape survivors – Findings from the DR Congo' [2021] (13) *SM - Population Health*; 3.

[25] See sections 357, 358 of the Criminal Code and Section 282 of the Penal Code

[26] Amnesty International Press Release, Rape victims worldwide denied justice and dignity<https://www.amnesty.org/en/latest/press-release/2010/03/rape-victims-worldwide-denied-justice-and-dignity/>accessed on 20January2024.

[27]S Aker et al., 'Sexual Myth Beliefs and Associated Factors in University Students' [2019] (13) *Turkish Journal of Family Medicine and Primary Care*; 473.

when there was no pre-marital sex. This ethnic wrong perception is not limited to boys alone, ladies without premarital sex are also perceived to have small breast, experience early menopause, painful menstrual flow and difficulty in breast feeding babies.[28] To crown it all, there is an assumption and a myth that, if a person infected with HIV have sexual intercourse with a virgin, such a person would be cured.[29]

iv. **Hard substances and influence from pressure group:** It is not in doubt that the youth of today are found of taking different hard substances to make them intoxicated.[30] Most adolescents are led into sexual promiscuity as a result of what they learnt from the western movies especially in erotic and crimes related movies and after watching they will want to try the act which eventually contributes to the high incidence of rape in the society.[31] Peer pressure is another important factor that is increasing the commission of rape in the society. While many engage in rape for sexual pleasure or to show their counterpart what they are capable of, others do it for powers, rituals rites, sourcing for wealth or initiation into a cultic or fraternity group with the aim to have good luck and prosperity.[32]

v. **Lust and indecent dressing:** The inability to control sexual urge is a big challenge which can lead to high rate rape commission in the society. Most times, sexual offenders do hide under a defense of poverty and indecent dressing to justify their wrongful act.[33]The way one dresses would determine how such would be addressed, thus, the essence of clothing is to improve a moral standard of dressing acceptable to the society. However, the reverse is the case now, the manner of dressing of some people is worse than when they work around naked by wearing seductive and provocative dresses to expose the erogenous areas of female parts which can call for an undue attention and sexual harassment that can lead to rape.[34]However, it is important to state that provocative and seductive dressing is not a sufficient reason to commit a rape offence such act deserves adequate punishment like surgical operation to curb the occurrence in our society.[35]

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[28]S Achen, 'The role of culture in influencing sexual and reproductive health of pastoral adolescent girls in Karamoja sub-region in Uganda' Pastoralism: Research, Policy and Practice' [2021] (25) <https://pastoralismjournal.springeropen.com/articles/10.1186/s13570-020-00188-9>accesed on 23 January 2024.

[29]S Brink, 'Fake Cures for AIDS have along and Dreadful History' <https://www.npr.org/sections/goatsandsoda/2014/07/15/331677282/fake-cures-for-aids-have-a-long-and-dreadful-history>accessed on 21 January 2024.

[30]L Bonkat-Jonathan and L A. Tongs, 'Rising Drug Use and Youths in Nigeria: A Need for an Urgent Legislative Action' [2021] *Issue Brief*, 2021 <https://ir.nilds.gov.ng/bitstream/handle/123456789/435/Rising%20Drug%20Use%20and%20Youths%20in%20Nigeria.pdf www.nils.gov.ng>accesed on 24 January 2024.

[31]D Arowolo, 'The Effects of Western Civilisation and Culture on Africa' [2010] (1)*Afro Asian Journal of Social Sciences*<http://onlineresearchjournals.com/aajoss/art/53.pdf.>accessed on 25 January 2024.

[32]H C Achunike and R H Kitause, 'Rape Epidemic in Nigeria: Cases, Causes, Consequences and Responses to the Pandemic' [2014] (2) *International Journal of Research in Applied*; 34.

[33]Njideka, Nnaji Chinomnso, 'The Menace of Rape in the Present Day Nigerian Society and The Effect on Its Victims: The Way Forward' [2020].<available at SSRN: https://ssrn.com/abstract=3675618 or. http://dx.doi.org/10.2139/ssrn.3675618. >accessed 26 January 2024.

[34] E A Akinade, 'Socio-legal factors that influence the perpetuation of rape in Nigeria' [2010] (5) *Procedia Social and Behavioural Science;* 1761.

[35]Adebayo, (n3)

5. Effect of Rape on the Victims

Rape experience can bring about negative effects in the life of a victim. Rape is an offence against humanity in which the impact can be felt by the victim till death. Thus, some of the effects are:

i. **Death and suicidal attempt:** Death or an attempt to commit suicide is one of the major effects of rape. The culprits are found in the habit of killing their victims in order to escape justice or conceal the evil act.[36] Many victims of rape have attempted suicide due to stigma, sexuality problems and psychological trauma they experience after the incident.[37] The incident of killing after rape can also be experienced by married couples who are separated. For instance, in the case of *Kono v the State*[38]an estranged husband visited his wife and attempted to have sexual intercourse with her but she refused. He inflicted cutlass wounds on her leading to her death. Also in the case of *Kluvia v the State*[39]the husband slashed his pregnant wife to death with a cutlass because she refused to sleep with him on the same bed.

ii. **High risk of sexually transmitted disease/infection (STDs/STIs):** Another effect of rape is behavioural and medical consequences especially where the sexual activities was unprotected.[40] Sexual initiation through rape can lead to unwanted pregnancy with increased risk of being infected with sexually transmitted diseases. The common effect of rape is Sexual Transmitted Diseases as victims become infected with the disease like HIV/AIDS and this can permanently damage the victims' lives.

iii. **Posttraumatic stress disorder (PTSD):** This usually emanates from psychological and social system effect surrounding rape. Rape creates strange feelings of unworthiness, mistrust, guilt, shame, mental health problems and so on within the victims as a result of painful memories that lives and follow them to grave.[41]While some rape victims might be lucky to receive help from social system personnel, others might experience multiple complications inform of posttraumatic depression, victimization, fear of second rape, substance abuse, disorder and serious health problems, mental instability, nightmares with painful flashbacks, stress and eating disorder, low self-esteem and so on.[42]

iv. **Frustration and health complications:** Rape can cause the victim to be a drop out, engaged in early, rush and unplanned marriage or eventually settling with an unwanted

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[36] S Nath and HK Pratihari, 'Why Murder After Rape'? [2018] (11) *Journal of Forensic Sciences & Criminal Investigation*; 1-2.See also, Judith Fabricant, 'Homicide in Response to A Threat of Rape: A Theoretical Examination of the Rule of Justification' [1981] (11) *Golden Gate University Law Review*; 945-946.

[37] O Tade and CUdechukwu, 'Characterizing Rapists and their Victims in Select Nigeria Newspapers'. <file:///C:/Users/ASUS/Downloads/71723.pdf.>accessed on 30 January 2024.

[38] (1 G.L.R., 1965)

[39] (1 G.L.R., 1965)

[40] L A Tenaw, 'Medical and psychological consequences of rape among survivors during armed conflicts in northeast Ethiopia' [2022]*National Library of Medicine Journal*, <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC9744300/>accessed on 30 January 2024.

[41] B O Rothbaum, *etal.*'A prospective examination of post-traumatic stress disorder in rape victims' [1992] (5). *Journal of Traumatic Stress*; 462; see also Ask Elklit1 and Dorte M. Christiansen. 'ASD and PTSD in Rape Victims' [2010] (25) (8) *Journal of Interpersonal Violence*; 1475.

[42] P U Bassey and O A Emmanuel, 'Rape Post –Traumatic Stress Disorder Symptoms and Perception of Female Young Adults' [2019] (3) *International Journal of Research and Innovation in Social Science* (IJRISS); 158-159.

spouse.[43]Because rape is not a palatable action to be proud of, the victim might make a move to abort the pregnancy which can either lead to death of the victim and cause permanent damage in the body of the victim. The experiences of stigmatization and victimization can affect the victims' mental health due to inability to get over the bad experience.[44]

6. Factors Militating Against the Efforts to Reduce Rape in Nigeria

Rape can be said to be more heinous crime than murder since the victim dies throughout the period of living each time the memory flashes. It is not in doubt that there are laws that provided sanctions for rape offence as discussed in this work, however, some impending factors contribute to the increase number of rape cases in Nigeria, some of which are:

i. **Lack of confidence in the Nigerian judicial system:** The weakness of the Nigerian Criminal Justice System is a serious issue combating the effort to curb rape offence in Nigeria. This challenge begins from the point of lodging a complaint of rape at the police station. This is because before the police officer commences investigation, the victim must be financially and materially buoyant.[45]The act of foot dragging by the police to investigate and prosecute offenders especially on rape offences has drawn the attention of an Abuja High Court Judge, Umoh Enah, who recently condemned the Nigerian Police for its poor investigation and prosecution of an alleged rapist.[46]The nonchalant attitude of some prosecution police officers has made several culprits escape prosecution and sentencing.[47]

ii. **Poverty, unemployment and poor support for rape victims:** Poverty is usually referred to a situation in which an individual lacks the resources necessary for subsistence which include food, water, shelter, good health care, education and so on.[48] Poverty creates classes and inequality in the society which make some people to be subjected to various inhumane tortures like sexual slaves.[49]In addition to this, like the general saying goes, '*an idle man is the devil's workshop*'. Unemployment rate in Nigeria is disheartening and this can push many youth to commit crimes such as rape.[50]

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[43]P Bhate-deosthali and S Rege, 'Denial of Safe Abortion to Survivors of Rape in India' [2019] (21) *Health and Human Rights Journal*; 191-192.

[44]E AZacchaeus and L AIruo, 'The Mental Health Impact of Sexual Violence: Attending to the Unmet Needs of Rape Survivors in Bayelsa State', [2020] (4)(10) *International Journal of Research and Innovation in Social Science (IJRISS)*; 367-368.

[45]C K Arich*eet al*., 'Prevalence of Sexual Violence against Women in Nigeria: The Red Flags and the Way Forward' [2023] (20) (4) *Journal of Contemporary Research;* 107-108.

[46] Premium Times, 'Judge blasts Nigerian Police over poor handling of rape case', reported on May 8, 2013,<https://www.premiumtimesng.com/news/133299-judge-blasts-nigerian-police-over-poor-handling-of-rape-case.html?tztc=.>accessed on 3 February 2024.

[47]Akinade E. A., 'Socio-legal factors that influence the perpetuation of rape in Nigeria' [2010] (5) *Procedia Social and Behavioural Science;* 1762.

[48]Y Amuda, 'Prevalence of Rape Endemic and Mechanisms for its Preventions and Consequences on Victims in Nigeria' [2021] (24) (3) *Journal of Legal, Ethical and Regulatory Issues*; 6.

[49]J Raphae, 'The Confluence of Gender and Poverty: The Shameful History of the Trafficking of Poor Persons for Sexual Exploitation the Trafficking of Poor Persons for Sexual Exploitation' [2016] (4) *Indiana Journal of Law and Social Equality*; 81-82.

[50]E M C., 'High Rate of Unemployment and Crime Increase in Nigeria' [2021] (3) *Sapientia Foundation Journal of Education, Sciences and Gender Studies* (SFJESGS); 55 -56.

It is pathetic that there is no much institutional support from the Nigeria government for rape victims especially on medical ground except to lodge a complaint at the nearest police station in which such a case can be swept under the carpet. The little support some of the rape victims have received are from the Non-governmental organizations which are limited and restricted to certain states in the country such as Lagos, Abuja and Port Harcourt.[51]

iii. **Inadequate forensic equipment with exorbitant amount to run a test for investigation:** Most of the Nigerian hospitals and medical centres lack the basic equipment and tools for conduct of forensic investigation in rape cases.[52] Whereas, the court would usually request a medical report from a government hospitals to corroborate oral evidence of rape. In fact, it can be concluded that private hospitals have better facilities to run medical tests than most of the government owned hospitals. However, it is unfortunate that many hospitals do not have the appropriate forensic equipment to discover the perpetrator where such person is not clearly unknown to the victim.[53]Most a times, the appropriate forensic equipment are not adequate and very expensive as, a result many Hospital and medical centres cannot afford it. Although, Lagos State produce a manual kits as an alternative to prosecute rape offence.[54]

iv. **Corruption, poor training and financial support for police officers:** One of the negative factors attributed to the Nigerian Police Force is bribery and corruption which has eaten into the system like a cancer.[55] The Nigerian police officers are known for their excessive demand of money before they do their jobs. At times, their loyalty goes to the highest bidder even when such a person is the culprit. Most times, the victims are expected to lodge a complaint with certain amount of money under the disguise of using the money for investigation. It is unfortunate that most of the police officers lack the required training skills to handle some sensitive matters like rape because most times, the nature of the questions they put to the victims of rape will subject them to further emotional torture after

[51]M OIzziand C Obinuch, 'The Challenges of Rape Victims in Nigeria and the Way Forward' [2016] (8)(2) *Journal of Jurisprudence and Contemporary Issues*; 236-237. See also A Lewis, 5 Organisations Supporting the Fight against Sexual Violence in Nigeria [2020]<https://www.globalcitizen.org/en/content/organisations-fighting-sexual-violence-nigeria/.>accesed on 10 February 2024.

[52]R G Ndung'u, *et al*., 'Challenges in the investigation and prosecution of sexual offences in relation to forensic medical evidence in Kiambu County, Kenya' East African Journal of Pathology'[2019](6); 16-17.See also, O Sylvester and M Agbeyi, 'The use of forensic evidence in criminal investigations (A study of Nigeria police force)', [2019] (5)*International Journal of Humanities and Social Science Research*; 96-97.

[53]H Yahaya, 'Nigeria's new anti-rape law still can't help victims much' reported in Premium Times on November 12th, 2019 <https://www.premiumtimesng.com/news/headlines/362308-nigerias-new-anti-rape-law-still-cant-help-victims-much.html> accessed on 15 February 2024.

[54]A Oluwagbemi, Lagos produces manual, kit to prosecute rape cases, reported in Punch Newspaper, [2016], <https://punchng.com/lagos-produces-manual-kit-to-prosecute-rape-cases/.>accessed on 14/February 2024. A Rape Kit is a container that includes a checklist, materials, and instructions, along with envelopes and containers to package specimens collected during a sexual assault and forensic examination.

[55]Amnesty International, Nigeria 'Failure to tackle rape crisis emboldens perpetrators and silences survivors' [2021] <https://www.amnesty.org/en/latest/news/2021/11/nigeria-failure-to-tackle-rape-crisis-emboldens-perpetrators-and-silences-survivors/.>accessed on 16February 2024

being made to pay through their noses all in the name of seeking justice.[56] Part of the effect of untrained personnel in the police force is traceable to the demand for sexual gratification from either the offenders or their relative to release culprit on bail and these acts can only increase crime commission in the state.[57]

While discussing the short comings of Nigerian Police Officers, it is important to also point out their challenges. Inadequate equipment is one of the major challenges of the Nigerian police officer which can promote the commission of not only rape offence but for other offences. Much equipment such as good vehicles, communication equipment, stool for investigation and other infrastructural facilities are missing to combat crime commission.[58] Poor condition of work and motivation of services for the law officers in the country has deteriorated the commitment to serve and protect the lives of the citizens.

v. Poor prison arrangement and lack of comprehensive statistic of rape cases: There has been several report of rape by the non-governmental organizations and prison reform committee that women and girls are persistently raped while in detention or when they visit their male relative who in detention.[59] This is rampant because sometimes victims of rape in this situation are vulnerable and in an attempt to secure freedom for their relatives in detention would find it difficult to resist an offer of sex from correctional centres officials or police officers in exchange for the release of the accused person in their custody.

One of the contributing factors to this is the failure to separate men from women in the correctional centre. By keeping men and women in close within the correctional centres can increase the rate of sexual abuse amongst the inmates and correctional officials. It is pathetic that there is no comprehensive statistics of rape cases in Nigeria because most of the cases do not get to court.[60] Thus, it would be hard to know the level of effort needed to reduce such menace.

7. Possible Ways to Deter Offence of Rape in Nigeria

The rape offence can be reduced when some of the following are put in place:

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[56] A Richard *et al,*'Policing rape and serious sexual offences in Nigeria: Officers' experiences and appraisal of police investigative approaches' [2023] (25). *Police Practice and Research*; 10. See also, MKaithwas and N Pandey, 'Incompetency and Challenges of Police in Rape Cases' [2018] (7), *Social Work Chronicle*; 59.

[57] A Richard and Oni, Similade. 'Crimes of the Crime Fighters": Nigerian Police Officers' Sexual and Physical Abuses Against Female Arrestees' [2019] (30) *Women & Criminal Justice;* 15.

[58] A former Inspector General of Police, Mr. Sunday Ehindero, in 2008 observed that infrastructural facilities and the much needed equipment are in short supply in the police force. Vehicles, communication equipment, scientific tools for investigation, intelligence gathering control equipment are grossly inadequate. Less than 5% of policemen in the States and Federal Capital Territory have walkie-talkie for communication during patrols. Less than 20% of the Police Stations have telephones to respond to distress calls from the public during emergencies. In terms of vehicles, about 5% of the commands have one or no lorry and other operational vehicle. Available online at https://www.coursehero.com/file/p8rsj6s/Court-appearances-have-been-called-status-degradation-ceremony-in-which-people/. Accessed on 16 February 2024.

[59] KObiejesi, 'Women, children face untold sexual abuse in Maiduguri prison, detention facilities − Amnesty International' [2019] reported by *International Centre for Investigative Reporting*<https://www.icirnigeria.org/author/kingsley/.>accessed on 18 February 2024.

[60] C Kanayochukwu Ariche et al., 'Prevalence of Sexual Violence against Women in Nigeria: The Red Flags and the Way Forward' [2023] (20) *Journal of Contemporary Research*; 107-108.

i. Adequate laws should be put in place to ensure that rape offenders are justly punished and where a person has become a serial rapist, surgical castration can be done for such person.

ii. The government and non-governmental organization should support the rape victims and also provide adequate resources to track the offenders. This is in line with the provision of Section 38 of the Violence against Persons Prohibition Act (VAPPA), 2015**,**which provides that victims of rape should receive the necessary materials, comprehensive medical, psychological, social and legal assistance through governmental or non-governmental agencies providing such assistance.

iii. Parents and the society have a huge role to play in the reduction of rape cases in the country. Reports showed that, one in four girls and one in 10 boys under age 18 are victims of sexual violence.[61] Also, Juliana Joseph, the manager of Salama Sexual Assault also stated that a larger percentage of the rape victims are sexually abused by the people they know.[62]Thus, parents have the duty to be more careful and conscious about the safety of their children.

iv. There is a need to create awareness through various medium such as the media, seminars, schools and churches on the possible dangers of rape and how it can be avoided. So many times, rape victims unknowingly destroy the necessary evidence such as the tore pants, clothes and other material evidence they need to prove their case or connect the alleged person.

v. Other States in Nigeria should borrow a cue from the Lagos State government being the first state in Nigeria to commence the detail publication of sex offenders' register. The sex offenders' register is utilized by governmental authorities of countries to keep track of activities of sex offenders including those who have completed their criminal sentences.[63] In Nigeria, the sex offenders' register is a creation of the Violence Against Persons Prohibition Act (VAPPA), 2015. The provisions of VAPPA establish the legal framework for the establishment of the sex offenders' register.[64] It further name the National Agency for the Prohibition Trafficking in Persons (NAPTIP) as an agency responsible for the implementation of the Act. NAPTIP is required to work in synergy with other sister agencies like the Ministry of Women Affairs, the police and the Civil Defence etc.[65]

vi. There is a need for the provisions on rape to be amended in Criminal and Penal Codes in Nigeria. The provisions for rape in both Criminal and Penal are not gender-balanced. The laws do not recognize that female are capable of raping male. The Violence Against Persons Prohibition Act (VAPPA), 2015, provided for an elaborate definition of rape by referring to other means of sexual assault that can qualify as rape but this enactment is only

[61] Azeezat Adedigba, 'Sexually Abused Minors Exposed to Future Harm as Abusers Roam Free'[2022], <https://humanglemedia.com/sexually-abused-minors-exposed-to-future-harm-as-abusers-roam-free/>accessed on 20 February 2024. See also World Health Organization, 'Violence against Children'[2022]<https://www.who.int/news-room/fact-sheets/detail/violence-against-children.>accessed on 20 February 2024.

[62]Gift Agiriga, 'Epidemic of Rape Assailed in Nigeria', [2019,]<https://www.voanews.com/a/africa_epidemic-rape-assailed-nigeria/6174474.html. >accessed on 20 February 2024.

[63]N Banjo 'Lagos publishes names, pictures of sex offenders' punch online (10 March, 2022)

[64] Violence Against Persons Prohibition Act, 2015, s. 1(1)

[65]JOdudu 'What Nigerians should know about sex offenders' register-RoLAC official' Premium Times (24 November 2019).

application in Abuja and not all the states in Nigeria have adopted the provisions in VAPPA.

8. Conclusion

The offence of rape is prohibited globally and as a results, many jurisdictions have amended their laws to give a stricter punishment ranging from life imprisonment, castration to death. The act of rape comes with a force and coercion to have a carnal knowledge of the victim. In this 21st century, the offence of rape goes beyond when there is forceful penetration into the vulva. In other jurisdiction like the United Kingdom, the offence of rape is not limited to male sex alone or the use of penile organ. The substantive laws regulating criminal acts in both Northern and Southern Nigeria do not provide a comprehensive definition of rape. The Criminal Code for the South and Penal Code for the North create gender-imbalance in the offence of rape with indication that only male can rape. Although, the Violence Against Persons (Prohibition) Act gave a more comprehensive explanation on rape, however, the application of this provisions is limited to Abuja, the Federal Capital Territory.

The incessant act of rape in the recent times is alarming. This is attributed a lot of factors which are instrumental to the commission of rape offence. These factors are not limited to; silence and the role of law officers, lax, lacuna and poor implementation of rape laws in Nigeria, myths and erroneous belief about sex, hard substances and influence from pressure group, lust and indecent dressing, influence of modernity and globalization to mention a few. Many a times, the act of rape leaves an indelible mark on the victims due to various effect it has on them. The effect of rape on a victim cannot be overemphasized, hence, a victim of rape can suffer any of the following; death and suicidal attempt, infection of diseases, posttraumatic stress disorder (PTSD), and unwanted pregnancy, frustration and health complications.

The Nigerian government is making a lot of effort to curb this menace but there are a lot of factors sabotaging the effort. Some of the factors militating against the effort to combat rape are; lack of confidence in the Nigerian judicial system, poverty, unemployment and poor support for rape victims, inadequate forensic equipment with exorbitant amount to run a test for investigation, corruption, poor training, financial support for police officers, poor prison arrangement and lack of comprehensive statistic of rape cases. The Nigerian government needs to put more efforts by sensitizing the masses on the needs to report rape offences and also put a stricter punishment on the abusers. It is also important to state that the parental roles to teach modesty should be handled with utmost seriousness especially on female children.

Finally, the Nigerians legislations especially the Criminal and Penal Codes should be amended to give a comprehensive overview of the concept of rape. This paper concludes that punishment alone cannot eradicate rape, rather adequate attention should be given to the causes of rape, the effect it has on the victims and better ways to prevent it in our society since nothing justifies the act of rape. Rape is a condemnable, heinous and wicked act that should not have a place in our society.

9. Recommendations

i. This work recommends that the punishment of rape should be stricter than life imprisonment, this is because many a times a person convicted of rape might be released after a number of years and they will be reabsorbed back into the society. Hence, it is recommended that stiffer punishment such as; castration, death penalty**,** hanging, lethal injection should be introduced.

ii. The trial of rape cases should be conducted in camera. This can encourage the victims to be bold enough to report rape incident and also testify for the prosecutors during trial provided their identity will not be within the public domain.

iii. There should be a special court for rape cases just like family court. This court will seek to how rape victims can seek justice, protect their dignity and make adequate provision for them.

iv. This work also recommends that there is a need to amend the Criminal and Penal Codes to have elaborate provisions on rape with gender balance structures. This can be achieved by incorporating the provision of section 1 of the VAPPA, 2015.