

# **THE OFFENCE OF RAPE IN NIGERIA: SUGGESTIONS FOR STATUTORY AND PRACTICAL REFORMS**

**By**  
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## **ABSTRACT**

Rape is a very serious crime the world over. It is a crime that attracts imprisonment, and in some jurisdictions the death sentence. In Nigeria, the offence of rape is provided for in both the Criminal and Penal codes. It is defined as unlawful non-consensual carnal knowledge of a woman by a man punished by imprisonment for life under the Criminal code, and fourteen years under the Penal code with or without caning. Other jurisdictions have the same definition though with the passage of time the definition has been expanded. As serious as the crime of rape is, newspapers reports in Nigeria are replete with cases of rape almost daily. It is against this backdrop that this gives an overview of the offence of rape in Nigeria with the aim of making suggestions for reforms of the law itself, and the process of implementation. This paper posits that statutory provisions are of little or no value where the mechanism for implementation is ineffective.

### **1.1 Introduction**

Nigeria is a signatory to international treaties and conventions on the protection of women and children. Regrettably however, not much has been done to domesticate and enforce the treaties and conventions. Violence, particularly against women and children is a global concern which many nations, including Nigeria, have expressed a commitment to eradicate. In many nations, of which Nigeria is one, the implementation of that commitment is undermined by a weak enforcement and judicial machinery. Same-sex relationships are against the law in Nigeria, but that does not mean the fact that there are people with such proclivities can be ruled out. Indeed in the wake of the 21<sup>st</sup> Century, it will be the height of idealism-nay fantasy to rule out the possibility of a man being raped. What this means is that, it is possible for one man to rape another man, or for a woman to rape a woman. It is also not realistic for the offence of rape to be limited to vaginal penetration, in an increasingly violent and sodomistic world; where there are many forceful sexual acts that are quite dehumanizing to the victim. There is therefore need for a re-definition of the offence of rape in the Nigerian legal system by reviewing the existing laws, and putting in place the regulatory agencies to ensure that the law is followed to the latter.

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## 1.2 Conceptual Discourse

Rape is the act of physically forcing a woman to have sexual intercourse. It is an act of sexual intercourse that is forced upon a woman against her will. Rape is not just a crime against a woman; it is a crime against the entire society. It destroys the entire psychology of a woman and pushes her into deep emotional crisis. It is only by her sheer will-power that she rehabilitates herself in the society which, on coming to know of the rape, looks down upon her in derision and contempt. It is a crime against the basic human rights and violative of the victim's most cherished of the Fundamental Right, namely, the Right to Life.<sup>1</sup>

Rape is a type of sexual assault usually involving sexual intercourse, which is initiated by one or more persons against another person without that person's consent. The act may be carried out by physical force, coercion, abuse of authority or against a person who is incapable of valid consent, such as one who is unconscious, incapacitated, or below the legal age of consent.<sup>2</sup>

Penetration is sufficient to constitute sexual intercourse - penetration is sufficient to constitute rape. To constitute penetration, it must be proved that some part of the virile member of the accused was within the labia of the pudendum of the woman, no matter how little. The only thing to be ascertained is whether the private parts of the accused did enter the person of the woman. It is not necessary to decide how far they entered. It is not essential that the hymen should be ruptured; provided it is clearly proved that there was penetration even though partial. Complete penetration is not necessary.

According to the Black's Law Dictionary<sup>3</sup>, Rape was defined as: "Unlawful sexual activity (esp. intercourse) with a person (usu.) a (female) without consent and usu. by force or threat of injury."

In 2002, the World Health Organization (WHO) defined it as: "Physically forced or otherwise coerced penetration- even if slight- of the vulva or anus, using a penis, other body part or an object."<sup>4</sup>

## 1.3 The Legal Regime for Combating the Offence of Rape in Nigeria

### i. The Criminal and Pinal Codes Act

In Nigeria, the Criminal Code Act and the Penal Code Law are the two main statutes that regulate crime. Many offences are common to the two legislations. Under the Criminal Code Act applicable to the states in the South, section 357, provides that:

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<sup>1</sup> **Samantha Gluck** *Effects of Rape: Psychological and Physical Effects of Rape* <http://www.healthyplace.com/abuse/rape/effects-of-rape-apsychological-and-physical-effects-of-rape/> Accessed on 14<sup>th</sup> Feb, 2014

<sup>2</sup> See Rape Victims: Facts, Aftermath & Psychological Effects

<http://study.com/academy/lesson/rape-victims-facts-aftermath-psychological-effects.html> Accessed 20<sup>th</sup> Feb, 2014

<sup>3</sup> Seventh ed.

<sup>4</sup> Sexual violence - World Health Organization

[www.who.int/violence\\_injury\\_prevention/violence/global\\_campaign/.../chap6.pdf](http://www.who.int/violence_injury_prevention/violence/global_campaign/.../chap6.pdf) Accessed on 20<sup>th</sup> Feb, 2014

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.<sup>5</sup>

Section 282 of the Penal Code Act on the other hand states that:

“A man is said to commit rape who, save in the case referred to in subsection (2), 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 husband and that her consent is given because she believes that he is another 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<sup>6</sup>.

...Mere penetration is sufficient to constitute the sexual intercourse necessary to the offence of rape.

Rape is punishable under S 358 of the Criminal Code, and S 283 of the Penal Code. S 358 of the Criminal Code is to the effect that :‘Any person who commits the offence of rape is liable to imprisonment for life, with or without caning.’ S 283 of the Penal Code<sup>7</sup> on the other hand provides:

Whoever has carnal intercourse against the order of nature with any man, woman or animal shall be punished with imprisonment for a term which may extend to fourteen years and shall also be liable to fine.<sup>8</sup>

The essential ingredient of the offence of rape under both statutes is penetration. Emission is not a necessary requirement of the offence of rape. Any or even the slightest penetration will be sufficient to constitute the act of sexual intercourse. Where

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<sup>5</sup> Section 357, Cap. 38, LFN, 2004

<sup>6</sup> Cap. 89, Laws of Northern Nigeria, 1962

<sup>7</sup> Cap. P3 LFN 2004

<sup>8</sup> *ibid*

penetration is proved but not of such a depth as to injure the hymen, it will be sufficient to constitute the crime of rape.<sup>9</sup>

The Supreme Court case of *Jegade v. State*<sup>10</sup> is illustrative on the essential ingredient of the offence of rape; penetration and lack of consent. The apex court stated that to prove the offence of rape, the prosecution must prove penetration of the vagina and the penetration must be linked with the accused. Failure to prove this will lead to exoneration.

## **ii. Violence Against Persons Prohibition (VAPP) Act 2015**

The VAPP Act attempts to eliminate violence in private and public life; prohibit all forms of violence, including physical, sexual, psychological, domestic, harmful traditional practices; discrimination against persons and to provide maximum protection and effective remedies for victims and punishment of offenders.<sup>11</sup> The Act expands the meaning of rape remarkably, and is a total departure from the provisions of the Penal Code and the Criminal Code. The Act defines rape as;

when a person intentionally penetrates the vagina, anus or mouth of another person with any other part of his or her body or anything else without consent, or where such consent is obtained by force or means of threat 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 the use of any substance or additive capable of taking away the will of such person or in the case of a married person by impersonating his or her spouse.<sup>12</sup>

By implication, both males and females are protected against rape under the Act. The gender biased definition therefore has been removed by the Act, and the offence itself is given a broader scope.

## **iii. Other Sexual Offences Bill**

Against the backdrop of new sexual offences creeping up worldwide and in reaction to the gruesome murder of Cynthia Osokogu by her facebook friends; there were calls by Nigerians for the amendment of our criminal corpus juris, in relation to the abduction of females by online fraudsters. This Sixth Senate in reaction to the above saga came up with a Bill for the Regulation of Rape and other Sexual offences which was sponsored by Senator Chris Anyanwu<sup>13</sup>. However, the Bill was not passed into law by the Sixth Senate.

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<sup>9</sup> *Ahmed v. Nigerian Army* (2011) 1 NWLR (PT. 1227) P.89 at 111-112 Paras. H-B

<sup>10</sup> (2001)14 NWLR PT. 733, P. 274-275, Paras. H-A

<sup>11</sup> The Violence Against Persons (Prohibition) Act: A CHELD Brief <http://cheld.org/wp-content/uploads/2012/04/Violence-Against-Persons-Prohibition-Act-2015-A-CHELD-Brief.pdf> Accessed on 14 March 2016

<sup>12</sup> Violence Against Persons Prohibition Act 2015

<https://nzesylva.wordpress.com/2015/09/11/download-violence-against-persons-prohibition-act-2015/> Accessed on 14<sup>th</sup> March 2016

<sup>13</sup> <http://news24.com/nigeria/National/News/Sexual-offences-Bill-passes-second-reading-in-the-senate-20131121/html> Accessed 3<sup>rd</sup> March, 2014

The proposed bill observed that there are new crimes in the country as well as in the world all over, which are not being punished in Nigeria because of the absence of the punitive provisions in our extant legislation. Such include ; sexual tourism, sexual crimes committed through the social media and sexual crimes committed against minors.<sup>14</sup>The Bill canvasses for a sentence of life imprisonment for pedophiles. It seeks to make Sexual assault to be a felony which is punishable by imprisonment for a term of not less than 10 years and which could be extended to a life imprisonment<sup>15</sup>. The Bill also proposes for a compulsory documentation and supervision of sexual offenders as well as the medical treatment for victims which would be in the same manner and standard as obtained in other parts of the world<sup>16</sup>.

Also, one of the innovations in the proposed Bill is for the creation of a Special unit of the Nigerian Police Force where trained professionals would ensure the preservation of the rights of humanity. In furtherance to these, there should be a Witness protection package as well as the prohibition of the stigmatization of the victims<sup>17</sup>.

#### **1.4 The Legal Regime for Combating the Offence of Rape in Selected Jurisdictions**

In England and Wales, rape is a statutory offence created by S 1 of the Sexual Offences Act 2003; it states thus:

‘... A person (A) commits an offence if-

He intentionally penetrates the vagina, anus or mouth of another person (B) with his penis

B does not consent to the penetration, and

A does not reasonably believe that B consents.

2) Whether a belief is reasonable is to be determined having regard to all the circumstances, including any steps A has taken to ascertain whether B consents.

3) ...

4) A person guilty of an offence under this section is liable, on conviction on indictment, to imprisonment for life.’

In India S 375 of Criminal Law (Amendment) Act 1983 provides;

“Rape- A man is said to commit “rape” who, except in the case hereinafter excepted, has sexual intercourse with a woman under circumstances falling under any of the six following descriptions:

<sup>14</sup><http://www.dailyindependentnig.com/20/11/2013/sexual-offences-bill-passes-the-second-reading-at-the-National-Assembly.html> Accessed 1<sup>st</sup> August, 2014

<sup>15</sup> <http://news.naij.com/52533> Accessed 5<sup>th</sup> March, 2014

<sup>16</sup><http://news24.com/nigeria/National/News/Sexual-offences-Bill-passes-second-reading-in-the-senate-20131121/html> Access 10th Feb, 2014

<sup>17</sup> *ibid*

•Firstly- Against her will

Secondly- Without her consent

Thirdly- With her consent, when her consent has been obtained by putting her or any person whom she is interested in fear of death or of hurt

Fourthly- With her consent, when the man knows that he is not her husband, and that her consent is given because she believes that he is another man to whom she is or believes herself to be lawfully married.

Fifthly- With her consent, when, at the time of giving such consent, by reason of unsoundness of mind or intoxication or the administration by him personally or through another of any stupefying or unwholesome substance, she is unable to understand the nature and consequences of that to which she gives consent.

Sixthly- With or without her consent, when she is under sixteen years of age.”

The provisions of the Indian are similar to the provisions of the Criminal Code and the Penal Code, while the VAPP Act shares a lot in common with the Sexual Offences Act of England and Wales.

Under the India law, consent is vitiated when it is obtained by fear of death or of hurt to the victim or any person the victim is interested in. This implies that the consent of a woman cannot be said to be obtained, if she fears that the lack of consent may occasion harm to her husband, fiancé, child or anyone she is interested. Also a person of unsound mind cannot be said to have consented.

Generally speaking, a man cannot rape his wife under the Penal Code or the Penal Code, provided the wife has attained the age of consent. However, if words are to be given their ordinary meaning in statutory interpretation, it would seem by virtue of the VAPP Act, marital rape is now recognized in Nigeria. The Act defines rape as

‘...He or she intentionally penetrates the vagina, anus, or mouth of another person with any 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 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 additive capable of taking away the will of

such person or in the case of a married person by impersonating his or her spouse.<sup>18</sup>

VAPP does not make an exception for spouses.

Under Indian law, a wife below the age of fifteen years lacks the capacity to consent<sup>19</sup>. A man can be guilty of abetment of rape by another on his wife. This was held in the notorious case of Lord Audley who held his wife by force while his butler ravished her.<sup>20</sup> In *Tatyatukaramkhabali*<sup>21</sup>, a husband suspecting the fidelity of his wife, went about in search of her, with nine companions, and found her in the company of her paramour. By way of punishment the wife was there and then ravished by all the nine companions in succession while the husband while the husband was looking on. The nine persons were held guilty of rape.

Marital rape is recognized as illegal in the United States.<sup>22</sup> Rape is considered as "The carnal knowledge of a female forcibly and against her will" to "The penetration, no matter how slight, of the vagina or anus with anybody, part or object, or oral penetration by a sex organ of another person without the consent of the victim".<sup>23</sup> The definition is not gender specific and includes oral sex, anal penetration and penetration by objects as other forms of rape.

In the US, rape is often called "criminal sexual conduct in the first degree". The definition differs from state to state but, rape is generally defined as sexual contact or penetration achieved; without consent; with the use of physical force, coercion, deception, threat; when the victim is mentally incapacitated or impaired physically (due to voluntary or involuntary alcohol or drug consumption), asleep or unconsciousness. The definition implies that even when a woman is voluntarily intoxicated, she lacks the capacity to consent to sex<sup>24</sup>.

### 1.5 The Enforcement of Law Against Rape in Nigeria

Notwithstanding the numerous provisions of Nigerian laws on the offence of rape, the enforcement of such laws still remains a problem. Strict enforcement of rape laws is required to minimize the rate of the crime. There is no doubt that the laws, especially in Nigeria are everything but adequate to cope with recent development in human and criminal trend in society.

Under Nigerian law, the Medical Report from a government hospital is still a requisite before an accused can be convicted. In other words, the testimony of the victim is not sufficient to grant conviction. This has for many times worked in favour of the accused

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<sup>18</sup> Is there a law against marital rape in Nigeria? <http://authorityngr.com/2016/03/is-there-a-law-against-marital-rape-in-Nigeria/> Accessed on 14<sup>th</sup> September 2016

<sup>19</sup> Hurreemohunmythee (1890) 18 CAL 49

<sup>20</sup> Mervin Lord Audley (1631) 3 St Tr 401

<sup>21</sup> (1930) Cr App Nos. 19 and 20 of 1930

<sup>22</sup> **Monica Steiner**, Marital Rape Laws <http://www.criminaldefenselawyer.com/marital-rape-laws.html> Accessed on 14<sup>th</sup> September 2016

<sup>23</sup> <http://en.org/Rape> - Accessed 20th Nov, 2013

<sup>24</sup> <http://www.pandys.org/whatisrape.html> – Visited 10<sup>th</sup> Jan, 2014

persons. This is because an average innocent girl raped in this clime goes ahead and hides herself and sobs into her pillow. She feels she has lost her self-esteem and dignity. Some of them do not even share this ugly experience with anyone until a sometime later when they are able to pull themselves together and at which time, it would have been too late to conduct medical examination on the victim.

While under Nigerian law, a boy who is below the age of fourteen is incapable of committing the offence of rape. In Indian law, there is no such presumption that a boy under the age of fourteen is incapable of committing rape. A boy who is charged with rape and wishes to avail himself of the defence to want of capacity to do the act must produce evidence to that effect. A boy between thirteen and fifteen years of age who had the power of erection and probably that of emission according to medical evidence, was held guilty of attempt to commit rape as penetration was sufficient to complete the offence<sup>25</sup>.

In India conviction can be sustained on the sole testimony of the prosecutrix, if it inspires confidence and appears to be natural and truthful. Sexual intercourse with a woman suffering from disease of the mind: Consent given by a woman of unsound mind is of no avail<sup>26</sup>. Where therefore a man had carnal knowledge of a girl of imbecile mind, and jury found it was without her consent, she being incapable of giving consent from defect of understanding, it was held that amounted to rape<sup>27</sup>.

The Supreme Court of India has deprecated the practice of casting stigma on the character of a rape victim. In *State v. Gurmit Singh*<sup>28</sup>, the trial court characterized the prosecutrix as a "girl of loose morals". It also observed: "The moral probability is that the girl was a girl of loose character. She wanted to dupe her parents and decided to reside in the house of her maternal uncle, but for the reasons best known to her, she did not do so and she preferred to give company to some persons". Describing the remarks as uncharitable and unjustifiable which shocked the judicial conscience of the court, the Supreme Court stated:

We must express our strong disapproval of the approach of the trial court and its casting a stigma on the character of the prosecutrix. The observations lack sobriety expected of a Judge. Such like stigma have the potential of not only discouraging an even otherwise reluctant victim of sexual assault to bring forth complaint for trial of criminals, thereby making the society suffer by letting the criminals escape even a trial. The courts are expected to use self-restraint while victim of the sex crime is concerned and even wider implications on the society as a whole

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<sup>25</sup> Gopala Bin Rama (1896) CR R. No. 31

<sup>26</sup> S. 90 Criminal Law (Amendment) Act

<sup>27</sup> Fletcher (1859) 8 Cox 131

<sup>28</sup> AIR (1996) SC 1393

where the victim of the crime is discouraged, the criminal encouraged and in turn crime gets rewarded.

It must be noted that. India has developed her law to the extent that it provides for trial in rape cases to be held in camera. By Section 114A of the Criminal Law (Amendment) Act and Section 327 subsections 2&3 of the Code of Criminal Procedure, rape trials are to be held behind closed doors. The Supreme Court of India recognized these provisions in *Shakshi's case*<sup>29</sup>, when it held that:

The whole inquiry before a Court being to elicit the truth, it is absolutely necessary that the victim or the witnesses are able to depose about the entire incident in a free atmosphere without any embarrassment.

### 1.6 International Standard on the Enforcement of the Law against Rape

Treatment of rape by the International Criminal Tribunals on Rwanda and Yugoslavia are relevant to this work. In two cases, the defendants Mr Akayesu and Furundzija were both charged with war crimes including rape and were both found guilty, convicted and sentenced imprisonment. The Tribunal equated rape to torture under the ambits of the International law. Akayesu's case established that genocidal rape falls within the ambit of genocide. The defendant was the Mayor of the Taba Commune from April 1993 until June 1994<sup>30</sup>. He personally supervised the murder of various Tutsis and gave out a death list to other Hutus and ordered house to house searches to locate Tutsis. He was arrested in Zambia in October, 1995 and was extradited to Tanzania to face genocidal crimes charges. He was tried on 15 counts of genocide crimes against humanity, including rape.<sup>31</sup> The ICTR in finding Mr. Akayesu guilty of the counts held that rape is a '...physical invasion of sexual nature, committed on a person under circumstances which are coercive, and sexual assault, constitute acts of genocide in so far as they were committed with the intent to destroy, in whole or in part, a targeted group...'

During the Bosnian war, women of all the ethnic groups were affected as rape was used as a systemized instrument of war predominantly targeting women in order to achieve physical and moral destruction<sup>32</sup>. About 20,000 to 50,000 women were adjudged to have been raped during the conflict, hence the term 'genocidal rape' which was used by the Tribunal and which pertains to the coordinated use of rape as a weapon of war against an ethnic group or race<sup>33</sup>.

After the war, there was the creation of a Tribunal to adjudicate on matters affecting the infringement of the International Convention on Genocide and Crimes Against Humanity.<sup>34</sup> This Tribunal is acclaimed to be the first International non-military Tribunal

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<sup>29</sup> (2004)Cr. LJ 2881 SC

<sup>30</sup> Paul Akayesu – (ICTR-96-4)

<sup>31</sup> *ibid*

<sup>32</sup> <http://icty.org/side/1084> - Accessed 20th May, 2014

<sup>33</sup> <http://icty.org/sid/7609> Accessed 5th June, 2014

<sup>34</sup> [www.lawschoolcasebriefs.net](http://www.lawschoolcasebriefs.net) Accessed 15<sup>th</sup> May 2014

established for the purpose of prosecuting persons responsible for serious violations of International Humanitarian law committed in the territory of Yugoslavia since 1991 without a distinction as to whether the person is a Serb, a Croat or a Moslem.<sup>35</sup> Mr. Anto Furundzija was according to the amended indictment report; subjected a married civilian Bosniack(Bosnian Muslim) woman to extreme torture. She was denuded before 40 soldiers and was questioned. One of the soldiers threatened to mutilate her genital parts if she did not come up with the truth<sup>36</sup>.

Thereafter, she was taken to another room where she was confronted with a Bosnian Croat who had assisted her family in the past. The man had been badly beaten and a soldier was still beating his toes with a truncheon. On the other hand, another soldier forced the woman to perform oral and vaginal sex acts on him. She remained a prisoner in that facility until 15<sup>th</sup> August, 1993 and she was reportedly raped several times whilst in their captivity<sup>37</sup>.

Furundzija was arrested and transferred to the ICTY for trial. The Tribunal came up with the Verdict that there was an armed conflict in Central Bosnia-Herzegovina<sup>38</sup>. The testimony of the afore-stated Bosnian woman was taken into consideration. The victim was subjected to oral and vaginal sexual assaults by the soldier at the behest of the accused, who by his conduct, encouraged the soldier. The rape was equated to torture under the ambits of the International law governing the Tribunal. The Tribunal also found in International law that aiding and abetting rape requires practical assistance, encouragement and moral support having a substantial effect on the perpetration of the crime(actus reus) and the knowledge that such acts will help in the commission of the offence (mens rea). The defendant would be responsible as a co-perpetrator of torture, if he/she participates in an integral part of the torture and partakes of the prohibited purpose behind the torture; the intent to obtain information or a confession, to punish or intimidate, coerce or discriminate against the victim or a third person.<sup>39</sup>

## **1.7 Challenges Militating Against the Enforcement of the Laws of Rape in Nigeria**

### **i. The Nature of Public Reaction and Assessment**

The relationship between the system and members of the public is founded on whether the system can meet realistic public expectations. If people do not have confidence in the criminal justice system, there is a risk of under-reporting of criminal offences and broader disengagement from criminal justice processes.<sup>40</sup>

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<sup>35</sup> [www.scrib.com/doc/384686](http://www.scrib.com/doc/384686) Accessed 25th March, 2014

<sup>36</sup> *ibid*

<sup>37</sup> *ibid*

<sup>38</sup> [www.trial-ch.org/en/resources/trial-watch/trial-watch/profiles/iro/action/show/controller/profile.html](http://www.trial-ch.org/en/resources/trial-watch/trial-watch/profiles/iro/action/show/controller/profile.html) 2<sup>nd</sup> July, 2014

<sup>39</sup> *ibid*

<sup>40</sup> Usifo Ebhuomhan *Investigation: Inside Nigeria's growing rape epidemic*<http://www.premiumtimesng.com/news/171717-investigation-inside-nigerias-growing-rape-epidemic.html>

The nature of public reaction and assessment, and therefore public attitudes towards the criminal justice system, is complex. Attitudes pertaining to criminal justice processes are linked to socio-demographic characteristics and values regarding the nature of crime and the operation of the criminal justice system. For instance, the level of public satisfaction is related to factors such as, the respondent's gender, age, level of education, previous contact with the criminal justice system, history of victimization, satisfaction with personal safety, and sources of information about the criminal justice system<sup>41</sup>.

Public confidence concerns which have been identified by surveys across jurisdictions include the perception that sentences are too lenient, that the criminal justice system does not deal with cases promptly, and that the criminal justice system does not meet the needs of victims. Inadequate sensitization of the public contributes immensely to the offence of rape. The human rights record in Nigeria is weak and as such, enforcement of rape crimes is minimal. Rape and child sexual exploitation are some of the serious human rights problems that are underemphasized in Nigeria by both our legislation and the proper departments that should be responsible for its prevention and enforcement.<sup>42</sup>

## **ii. Stringent Requirement for Proof of Rape**

The stringent requirement for proof of rape is also an inhibiting factor for enforcement. For instance, the victim is expected to prove the allegation by reporting to the police immediately after the act without destroying vital evidence. This is challenging to our cultural orientation. However, many rape cases are never brought to court and victims are frequently encouraged to accept reconciliation instead of prosecution of offenders.<sup>43</sup>

## **iii. Social Factors**

The lists of social factors facilitating the offence of rape are non-exhaustive. Factors affecting sexual crimes and determinants are closely related to poverty, social exclusion, income inequality, cultural and family background, religion, unemployment, education, age, gender, race, urbanization and a host of other economic and socio-demographic factors that influence the mind and behaviour of the individual in making decisions. It is only when a crime is reported that the machinery would be put in place for its enforcement. In most cases, the victims of rape are discouraged from reporting the incidence because of the African cultural value for the preservation of a woman's virginity.<sup>44</sup>

Another factor of the incidence of rape could be blamed on the weakness of existing- anti rape laws, their insufficiency, deficiency and non- implementation. Others factors include, Use of drugs, alcohol and other substances, social and moral decadence, influence of peer group and mass media.<sup>45</sup>

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<sup>41</sup> Hough and Roberts, 2004.

<sup>42</sup> Ibid

<sup>43</sup> Ibid

<sup>44</sup> Emmanuel Onwubiko Huriwa, canvasses office of chief rape prosecutor for Nigeria [http://elendureports.com/index2.php?option=com\\_content&do\\_pdf=1&id=3306](http://elendureports.com/index2.php?option=com_content&do_pdf=1&id=3306)

<sup>45</sup> Ibid

## **1.8 Conclusion**

The Laws and implication of rape should be publicized so that people become more aware of the consequences of this criminal act. Adequate sensitization of the public as to their rights and obligations in relation to the offence of rape should be carried out by Government, Civil society Organizations, NGO's and other relevant bodies. The effect of the awareness will boost public confidence, the victims would feel free to come out and lay their complaints with full confidence that the Government machineries are ready to investigate and punish the offenders if found guilty.

There is need for change in the orientation concerning rape cases. Victims, their families and friends should be encouraged to speak up as a measure towards checking this ugly trend. Arresting, prosecuting and punishing offenders will help rape victims to regain self-esteem and confidence in our judicial system. There should be timeframe for prosecuting rape cases for it is said justice delayed is justice denied.

The establishment of forensic laboratories to assist enforcement agencies in accurately tracking down and investigating rapist is equally very important. Above all, the government should strive to reduce and if possible eradicate poverty by creating employment and empowering the youths through skills acquisition programmes.