

## **What is sexual violence?**

Sexual violence is any sexual act or attempt to obtain a sexual act by violence or coercion, acts to traffic a person or acts directed against a person's sexuality, regardless of the relationship to the victim. It is widespread and is considered to be one of the most traumatic, pervasive, and most common rights violations [1].

## **SEXUAL VIOLENCE AND THE MALE GENDER**

Sexual violence against men and boys is alarmingly common and takes a markedly consistent form across contexts in terms of how it affects victims and societies as a human rights violation that is a taboo to talk about. It has been committed in all cultures, geographic regions, and time periods. Today, while some of the silence surrounding the issue of sexual violence against women is being broken, unfortunately effective measures of justice and redress are still not understood or applied in ways that can support male victims.

Rape and sexual assaults are seen as a woman's issue, the stereotypical instance is that of the female being the victim, and the perpetrator male. Recently though, it is no longer adequate to pretend, as some people do, that rape and sexual assault are only committed by men against women, the proportion of men who report sexual abuse cases are exceedingly low and the number of victims are also far greater than the government or media coverage would suggest.

Male rape victims are usually faced with a colossal amount of social prejudice in coming forward. An international organization working with male victims said *"very few men would attempt to report to the police a rape situation, they do not want to feel emasculated, they do not want to feel gay"*

There are more organizations and bloggers than I can count who talk about female victimization and their needs. They've been doing it for decades and have been able raise our cultural consciousness and develop a broad array of resources to help victims. This is good; many women did and some still do suffer in silence and with little support. Due to decades of women speaking out and speaking up, they've developed a broad array of resources and the funding to support them. But juxtaposing this with the case of men and boys is sadly different. We need to do a better job of raising awareness so that when a guy admits he's been raped, we don't scorn him for being vulnerable, but instead we give him the support he needs. We need

to develop more resources so that when a guy acknowledges that he's been hurt and needs help, he can get it.

Sexual discriminations also stems from assumptions about gender, for example that men are strong and able to cope while women are weak and vulnerable. Men and women are still persecuted for not conforming to gender stereotypes. Not only does 'society's persistence in equating 'feminine' with 'inferior' results in a continued discrimination against women, it also results in discrimination against men perceived to have 'transgressed masculine norms' hence the flawed assumption that men cannot be raped.

Coming down to the Nigerian society, it is a sadder scenario, in a society where institutionalized misogyny is a serious issue and where women have been suppressed for years, this is one of the few cases where the female gender has it so much better. Preceding the advent of The Violence Against Persons Prohibition Act, the Criminal and Penal Code were the laws in force in Nigeria, governing all issues concerning sexual abuse.

The under listed are segments of these laws addressing rape and sexual abuse.

Section 357 of the Criminal Code Act, CAP 77, LFN 1990 defines rape as:

*"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."*

The Criminal Code applies exclusively to states in southern Nigeria. Laws regarding sexual abuse in northern Nigeria are governed by the Penal Code.

The Penal Code terms rape as:

*"A man can be held guilty of rape if he has sexual intercourse with a woman without her consent, or with her consent, if consent was unlawfully obtained"*.

From the aforementioned definitions, it is clear that the various definitions of rape under Nigerian law had one thing in common: they were only applicable in the case of women and girls, not only by explicitly stating so, but also through their technical definitions of rape. Under the latin phrase in statutory construction, Expression Unius Est Exclusion Alterius which

translates to “the express mention of one person, thing or consequence implies the exclusion of all others”. A variation of this principle of statutory interpretation is *Expressum Facit Cessare Tacitum* ; meaning “what is expressed puts an end to what is implied”. Simply put, where a statute or law by its terms is expressly limited to certain matters or persons, an interpretation or construction cannot be extended to others.

This principle presupposes that the makers of the law would not have made specific enumerations in a law or statute if the intention was not to restrict its meaning and confine its interpretation to those terms that were expressly mentioned. Thus, the absence of the mention of women as possible perpetrators of rape, totally excludes them from ever committing such an offence.

These extant laws could not be used to match the glaring realities of the hike in male sexual abuse in Nigeria, which can be seen from the following instances:

- In November 2016, a 49-year-old man named Darlington in Lagos State was arrested for molesting several boys who were part of the football team he coached. He would invite them to his room after the daily practice, tell them to undress and then proceed to sexually abuse them up to and including anally raping the boys. This is a man who had used his position of power to abuse vulnerable young boys who would probably one day be the next big thing in football. He was not charged with rape, however, as there are no provisions within Nigerian law that explicitly state that males can be raped. Instead, the Lagos State Division of the Nigerian Police Force announced that he would be charged with sodomy in line with the provisions of Section 214(1) of the Criminal Code Act which states that: *“any person who has carnal knowledge of any person against the order of nature is guilty of felony and is liable to imprisonment for fourteen years”*. It should be noted that the Nigerian Supreme Court describes the term *“against the order of nature”* as constituting ‘sodomy’ and also defines the offence itself as sodomy. Hence, if a male sexually abuses another male, like Darlington did to the many helpless boys, he may be convicted of the offence of sodomy and not rape under Nigerian law.
- Also, 28-year old Kenechi narrated on Nigerian social media his harrowing ordeal of sexual abuse at the hands of a woman when he was 8 years old. Befriending his mother

and presenting herself as a respectable, motherly individual, Kenechi's abuser gained frequent, unsupervised access to him. During his times alone with her, she had forced Kenechi into repeatedly performing oral sex on her up to the point that he developed a mouth infection. After being diagnosed with an STD at a hospital, Kenechi opened up to his mother about what had been going on and they subsequently went on to confront the woman. Unluckily for them, she was a very prominent member of the local church and had a rich husband who frequently donated to said church. When confronted, she promptly feigned innocence and put on the victim cloak. Members of the church, community and neighbours descended on Kenechi and his mother by calling them names and scolding them for attempting to defame an upstanding member of society.

*"People, mothers and fathers said I was accusing her falsely [...] I was heckled, laughed at and made fun of"* said Kenechi . *"I stopped going to school for a while when I couldn't bear the sneers from people I knew as fellow church members or friends"* he continued. The event shook Kenechi and it took him many years to come to terms with and live with what had now become a psychological scar that would probably never heal. Recounting his experience with a so-called specialist who dealt with children who had gone through childhood trauma, Kenechi narrated how the specialist had asked him if he "enjoyed it" when he told him about what he had gone through.

*"The society failed me and it has continued to fail vulnerable children who are victims of abuse"* Kenechi said.

In the case of Kenechi, there is a section of the Criminal Code that should have given him justice and punished the abuser. Section 216 of the Criminal Code Act states: *"any person who unlawfully and indecently deals with a boy under the age of fourteen years is guilty of a felony and is liable to imprisonment for seven years"*. The section also goes on to clarify that the term "unlawfully and indecently deals with" covers the performance of any act on the child which, if done without consent would count as assault. The provisions of this section are wide enough to accommodate a wide range of acts which constitute sexual abuse perpetrated by both females and males on boys below the age of fourteen. This is an offence which also carries a fourteen-year jail time.

While all these laws provide various protections for men and male children, they all explicitly fail to express the fact that men and boys can be raped. In the case of Uroko Onoja who was raped to death at knife point by his six wives, what were the laws in place that would have helped him specifically get justice had he survived at the time? Why did we just until recently remain so narrow with our definition of rape when many countries and organizations all over the world have adopted more inclusive and liberal definitions?

For example, the United Nations (UN) defines rape as “Sexual intercourse without valid consent” ; The World Health Organization (WHO) in 2002 defined it as “Physically forced or otherwise coerced penetration – even if slight – of the vulva or anus, using a penis, other body parts or an object”; and after 85 years, in 2012 the Federal Bureau of Investigation (FBI) in the United States redefined rape as “The penetration, no matter how slight, of the vagina or anus with any body part or object, oral penetration by a sex organ of another person, without the consent of the victim.”

The reason for Nigeria failing to earlier modify its definition of rape before 2015 essentially boils down to the nature of our patriarchal society and its perception of rape as something that dehumanizes the victim. This is all too evident in the case of female victims who even if consoled and supported, are also often stigmatized and shamed.

For many years, there had been calls by various interest groups for a reform of our penal and criminal codes to incorporate emerging acts classified as violence and abuse in our society. No doubt, our penal and criminal codes have some of the offences defined as domestic violence, it fails to capture the expanded definition to incorporate emerging issues and practices over time; hence the passage into law of the The Violence Against Persons (Prohibition) Act, 2015.

One of the very notable provisions of the Act is its expansion of the meaning of rape and its prohibition thereof. While other existing laws limited their scope of rape to protect only females in relation to vaginal penetration without consent[18], the VAPP Act has taken a giant stride to expand the meaning and scope of rape. By virtue of the Act, rape is 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.

PART 1 of the Act states as follows:

1. (1) A person commits the offence of rape if-

(a) he or she intentionally penetrates the vagina, 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 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.

(2) A person convicted of an offence under subsection (1) of this section is liable to imprisonment for life except -

(a) where the offender is less than 14 years of age, the offender is liable to a maximum of 14 years imprisonment;

(b) in all other cases, to a minimum of 12 years imprisonment without an option of fine; or

(c) in the case of rape by a group of persons, the offenders are liable jointly to a minimum of 20 years imprisonment without an option of fine.

(3) The Court shall also award appropriate compensation to the victim as it may deem fit in the circumstance.

(4) A register for convicted sexual offenders shall be maintained and accessible to the public.

By this definitive and punishment section, both males and females are protected against rape. The issue of rape being gender biased has been a jurisprudential issue in Nigeria for a while because our law, as it then was, does not recognize situations wherein a man would or could be raped. Thus, instances such as the one reported in Daily Post on the 17th of July, 2012 where a man was allegedly “raped” to death by his wives, was not classified as rape but manslaughter. The Act also, in its progressive nature, took cognizance of the fact that sex now goes beyond the primary sex organs and thus, extended the scope of rape to include anus and mouth. This is

because it was difficult in times past, to bring an issue of forceful anal or oral sex under the umbrella of rape simply because such occasion was not envisaged or accommodated by our laws.

Following the enactment of this Act, its effectiveness is still crippled as it is largely limited in its geographical practicability, as its practicability is limited to only the Federal Capital Territory States are enjoined to quickly domesticate this law as most of these offences are even more committed in jurisdictions where there is limited social-economic awareness. The citizens are strongly encouraged to push for the domestication of this law in their respective states. The Act is the result of 14 years of activism by civil society. The content of the Act is home grown, reflecting the realities of violence in Nigeria today, even as it incorporates provisions based on Nigeria's commitment to international human rights principles. First presented to the House of Representatives in May 2002, the Bill on Violence Against Women became a Bill on Violence Against Persons in 2008 when it was harmonised with 8 other Bills on gender based violence in the National Assembly. It took another seven years for it to become law.

Under the newly enacted law, spousal battery, forceful ejection from home, different forms of rape, forced financial dependence or economic abuse, harmful widowhood practices, female circumcision or genital mutilation, harmful traditional practices, substance attacks such as acid baths, political violence and violence by state actors (especially government security forces) are offences. Victims and survivors of violence are entitled to comprehensive medical, psychological, social and legal assistance by accredited service providers and government agencies, with their identities protected during court cases. The National Agency for the Prohibition of Trafficking in Persons (NAPTIP) is named as the service provider.

Currently, the applicability of the VAPP Act outside the FCT is a matter of legal debate. Whether it needs to be passed in all the 36 States of the Federation is unclear. However, 13 States have enacted related legislation.

The length of time it has taken to get this far is an indication of how deeply violence, particularly violence against vulnerable persons, is entrenched in our society. It is also indicative of how long it takes to change policy.

A new law prohibiting violence is not sufficient enough to change the Nigerian society but it does send a strong message that impunity for such action no longer prevails and that this issue is a matter of national concern. However the government, civil society, international donors and Nigerians need to take continued action and implement the VAPP Act to ensure perpetrators are convicted and, most importantly, that the culture that permits and enables violence changes.

The VAPP Act cannot be a piece of paper. This legislation will need to translate into having real meaning for the lives of Nigerians. We need to move towards a Nigeria where sexually abused men can not only get justice, but also where cultural and traditional lifestyles and practices will undergo such a fundamental change that violence becomes the exception, not the rule.

In the eyes of society, formally and lawfully recognizing men as potential rape victims is the height of emasculation. Men don't cry and men cannot be raped: these are ideologies that need to change. We need to realize that men can be sensitive beings, and that men can need emotional support and can be victims too. A wholesome society where men and boys can share their stories of abuse and seek justice without being shamed and mocked is one which we desperately need. We not only need to revisit our perception of the nature men, but to enforce laws that wholly protect and support them.

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[1] [https://en.wikipedia.org/wiki/Sexual\\_violence](https://en.wikipedia.org/wiki/Sexual_violence)



## REFERENCES

1. NIGERIAN LAWS ON SEXUAL ABUSE. SEE <http://www.naijalegaltalkng.com/article/other-important-legal-info/241-an-easy-guide-to-registering-your-business-in-nigeria>
2. VIOLENCE AGAINST PERSONS (PROHIBITION) ACT 2015.
3. RAPE UNDER NIGERIAN LAW: TIME FOR A REVIEW. SEE <https://saymalcolm.wordpress.com/2012/07/25/rape-under-nigerian-law-time-for-a-review/>
4. NIGERIAN PENAL CODE.
5. CAN A WOMAN RAPE A MAN UNDER NIGERIAN LAW? SEE <https://www.legitng.com/can-a-woman-rape-a-man-under-nigerian-law-by-sunday-fadipe/>
6. CHILD SEXUAL ABUSE IN SUB SAHARAN AFRICA: A LITERATURE REVIEW. SEE <http://www.sciencedirect.com/science/article/pii/S0145213404000547>
7. LAWS ON RAPE WHAT EVERY NIGERIAN SHOULD KNOW. SEE <https://lawpadi.com/laws-rape-every-nigerian-know/>
8. KNOWLEDGE AND PERCEPTION OF CHILD SEXUAL ABUSE IN URBAN NIGERIA. SEE: <https://www.ajol.info/index.php/ajrh/article/view/7708>
9. NIGERIAN CRIMINAL CODE ACT LFN 2004.