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ARTICLE

The Incessant Cases of Pedophilia in Nigeria: Law to the Rescue?

Olusegun O. Onakoya* and Yetunde Ajibola Folaranmi**

Abstract

In the last decade, statistics have shown that sexual offences are on the increase. However, one of such offences generating serious concern in Nigeria and other parts of Africa is the unusual sexual interactions between a male adult and the girl child. Sometimes, this act occurs between biologically related persons, for example, between a father and his girl child. This social behaviour is clearly differentiated from other sexual offenses, such as rape, indecent assault on females, defilement, and other acts classified as unnatural offences which are expressly provided for in both the Criminal Code Act and Penal Code Law. Until the last two decades, adult sexual disorder which consists of adult's desire for sexual gratification through child molestation, particularly among prepubescent children was not prevalent. This paper seeks to examine the factors responsible for the frequency of pedophilia in Nigeria, its effects on society, and the adequacy of law or otherwise to curb the menace. The possibility of using other instruments for the total eradication of the act or such that will deter persons with such traits outside the legal instrument will be considered. This work will make recommendations that seek to either totally eradicate the practice or reduce its incidence.

Keywords: Pedophilia, Sexual offences, Criminal justice, Mental insanity

1.0 Introduction

Nigeria, ditto some countries in Africa considered some sexual interactions unacceptable. The reasons can be attributed to religion, norms, cultural values, and heritage. This has therefore resulted in the enactments of various

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legislations that criminalize and penalize such practices. Traditionally, sexual offences chief among them, rape, same-sex- marriage (homosexuality) indecent assault, abduction of the girl child, etc. are criminalized and punishable under the law.

However, with the frequency of sexual exploitation and sexual abuse of children particularly instances where male adults derive satisfaction and pleasure in sexual interactions with female minors or underage, whether sexual intercourse occurs or not, (depending on the preference of the male adult) gives serious cause for concern.

According to the New International Webster's Comprehensive Dictionary¹, pedophilia is defined as a perversion of sexual expression of which children are the desired object. It can also be described as a condition of being sexually attracted to children²

Pedophilia is defined as a persistent, focused and intense sexual interest in prepubescent children (typically up to 13 years of age), as manifested by one's sexual fantasies, urges, thoughts, arousal, patterns, or behaviours³. In contrast, however, Cohen and Galynker⁴ explained that pedophilia is a clinical term used to depict a sexual disorder and continuous sexual desires, urges, fantasies and possibly, but not necessarily, behaviour. The authors refer to pedophilia as a psychiatric disorder for which symptom constitute a criminal act. Interestingly, in the fifth edition of the Diagnostic and Statistical Manual of Mental Disorders, pedophilia has been depathologised, as it has been defined as a mere sexual preference for prepubescent children.⁵

The uniqueness of pedophilia in contrast to other sexual offences is that it can take different forms and classifications based on the preference of the pedophile for a targeted victim such as the victim's age, gender and relationship between the parties. Pedophilia subtypes could be classified as follows:

exclusively and non-exclusive, ii. incestuous and non- incestuous, iii. heterosexual, iv. homosexual or v. bisexual⁶. Exclusive pedophiles usually have a sexual preference for only prepubescent children while non-exclusive could sometimes sexually abuse adults, i.e. sexual preference for both children and adults. Incestuous pedophilia was previously uncommon in

¹ Encyclopedic edition (2004) Naples Florida, Trident Press International: 930.

² Collins English Dictionary, Ninth edition. Glasgow HarperCollins Publishers: 1168

³ Pedophilia- an overview. Science Direct Topics Retrieved Jan. 221, 2022 from <https://www.sciencedirect.com/topics>

⁴ Cohen L.J. & Galynker, I. I. (2002) Clinical Features of Pedophilia and implications for treatment. Journal of psychiatric practice, vol. 8, No. 5:277

⁵ DSM 5, American Psychiatric Association (2013) in Scarpazza, C., Pennati, A & Sartori, G (2018) Mental insanity assessment of pedophilia: the importance of Trans-Disciplinary Approach. Reflection on Two Cases. Frontiers in Neuroscience, Volume 12

⁶ Article 335-2. Retrieved Jan. 17, 2021 from www.frontiersin.org

Nigeria and some other parts of Africa; however, this act has become prevalent in recent times.

In this instance, the pedophilia has an exclusive preference and recurring sexual arousing urges, fantasies, or behaviour involving sexual activity with prepubescent children who are blood or biologically-related⁷. As the name indicates, non-incestuous refers to pedophilic acts against prepubescent children who are not biologically related to the pedophile. Pedophiles that are heterosexual in nature have sexual preference and attraction toward children who are of the opposite sex. The commonest form of pedophilia in Nigeria, which is widely reported, is this form. It usually occurs between a male adult and a girl-child.

Homosexual, otherwise referred to as “same-sex” occurs when a particular gender pedophile is attracted to a prepubescent child of the same sex. For example, a male pedophile is sexually aroused and desire sexual interaction with a boy-child. Widjajanti and Windari posited that the case of pedophiles “is not only a matter of dangerous violation of law, nor solely a problem of the malicious mental attitude of the perpetrator⁸, but the problem is more complex because it involves mentally abnormal and deviant psychological conditions of the perpetrators”.

The position of the authors cannot but be an apt description of how problematic it could be to analyse all issues relating to pedophilia which range from the “person” of the pedophile, the action, the victim, the causes, the effects on the victim, and the society at large. This is fundamentally responsible for a diverse approach to the study of this menace. The lawyers, sociologists, psychologists, and psychiatrists view pedophilic actions from diverse standpoints. The consensus, however, is that the act is not acceptable in any society as it is morally reprehensible conduct. According to a sociological school of thought, pedophilia is classified as “evil”⁹

The issue of treating pedophilia as more of a psychiatry disorder rather than an offence resulting purely from the pedophile’s sexual preference being a product of his controlled measure (choice) remains controversial. The consequences of both differ, while the former is punishable under the law, the latter may serve as a defense or legal excuse for the action. Insanity has always been a defense to criminal liability. *The diagnostic and statistical Manual of Mental Disorders (DSM5)* prescribed that three criteria should be met in the diagnosis of pedophilic disorder as follow:

The first criterion covers sexually arousing fantasies or urges or behaviour involving sexual activity with a child of (often) 13 years or younger for a period of at least 6 months, while the second criterion involves the actual act

⁷ This usually happens between father and daughter, uncle and niece, step-father and step-daughter etc.

⁸ Widjajanti, E. & Windari, R. (2021) Pedophilia as a form of sexual deviance from a social bonds theory. *IJUM Law Journal*, Vol. 29:178

⁹ Javid, A. (2015) The Sociological and social science of “evil”: is the conception of pedophilia “evil”? *Academic Journals*, Vol. 6 (1) :8

of the person to satisfy his pedophilic fantasies causing noticeable distress in his day to day life, and third, covers his age to be at least 16 years and a minimum of 5 years older than the child.¹⁰ It is instructive to note, therefore; that mere deviated sexual interest is not sufficient to stamp the condition as a mental disorder. The pedophile must have manifested other conditions such as “distress or impairment of person’s own life, its social or occupational aspects of life”.

2.0 Legislations on Child related Sexual Offences

Nigeria, like many nations of the world, has laws that seek to protect children from sexual offences in their various forms. Such laws are contained in the Criminal Code Act¹¹ and Penal Code Law¹². The Child’s Right Act also criminalizes unlawful sexual intercourse with a child and other forms of sexual abuse and exploitation against a child.¹³

All the enactments listed above have specific provisions designed to punish sexual offences against children of both sexes. For instance, section 216 Criminal Code Act criminalizes indecent treatment of boys under the age of fourteen years, and any person found guilty of this felony is liable to imprisonment of seven years. This provision however, appears not to put into consideration ‘attempts’, where “sexual intercourse” or “carnal knowledge” did not occur, hence may not be interpreted to cover the full scope of pedophilic act.

Interestingly, the provisions of law which deal with defilement of girl-child under the age of thirteen, clearly exclude the defilement of boys and this takes it out of the common definition of pedophilia. Besides, a *proviso* that a person cannot be convicted of the offences defined under the said section of the Criminal Code Act (CCA) without the corroboration of at least one witness will affect the potency of the provision as such heinous crimes are usually committed in the secret, out of the prying eyes of others except for other conspirators who in most cases will not readily accept to testify for the prosecutors.

Section 218 CCA provides *inter-alia*:

any person who has unlawful carnal knowledge of a girl under the age of thirteen years is guilty of felony and is liable to imprisonment for life, with or without caning. Any person who attempts to have unlawful carnal knowledge of a girl under the age of thirteen years is guilty of a felony and is liable to imprisonment for fourteen years, with or without canning.¹⁴

¹⁰ Doshi, S. M., Zanzukiya, K. & Kumar, L. (2018) Paraphilic infantilism diaperism and pedophilia: A review. Journal of Forensic and Legal Medicine.

¹¹ See generally sections 216-222B Criminal Code Act Cap C38 Vol.4 LFN 2004

¹² The Penal Code Law Cap 105

¹³ See generally sections 31 to 33 Child Rights Act Cap C50 LFN 2004

¹⁴ Section 218 C.C.A

Similarly, section 221 (1) CCA which provides for defilement of girls under age sixteen (16) but above thirteen (13) years of age did not add anything different or exceptional, other than the enlargement of the age- bracket which accommodates other category of teenagers between fourteen and sixteen years. It should be noted that the combined effect of a *proviso* that states that it shall be a defense to the charge brought under sections 219, 221(1) and 222 of the CCA where the accused person can prove that he believed, on reasonable grounds, that the girl was of or above the age of sixteen (16) years have whittled-down the potency of the offences defined therein. The standard test in this instance is subjective and this could further weaken the effectiveness of charges brought under the said provisions of the law. The fact that almost all the examined provisions under the CCA focused only on girl- child will make them unsuitable for the sexual offence, pedophilia as earlier defined.

The major sexual offense under the Penal Code is Rape and incidentally most of the sexual offences in Nigeria are usually erroneously classified as *Rape*, notwithstanding the age or gender of the victims and also without considering the circumstances.

Section 282 Penal Code generally provides as follows:

1. A man is said to commit rape who, save in the case referred to in sub-section (2),
 - a. 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 the consent has been so 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.¹⁵

It is therefore a cheering development when the child's Rights Act came into force on 31st July, 2003. The Act was enacted with a view to provide and protect the rights of a Nigerian Child; and other related matters. Section 31 of the Child's Rights Act (CRA) makes unlawful sexual intercourse with a child an offence. The CRA provides in the said section extensively as follows:

1. *No person shall have sexual intercourse with a child.*

¹⁵ Section 282(1) (e) of the Penal code appears to have taken care of an aspect of the description of pedophilic act. The provision seeks to criminalize sexual immorality against a girl child without considering male- child victim. Attempt to commit the offence, which may serve as preventive measure is not also criminalized.

2. *A person who contravenes the provision of sub-section (1) of this section commits an offence of rape and liable on conviction to imprisonment for life.*
3. *Where a person is charged with an offence under this section, it is immaterial that-*
 - (a). *The offender believed the person to be of or above the age of eighteen years; or*
 - (b). *The sexual intercourse was with the consent of the child.*

In a bid to ensure maximum and comprehensive protection for children, CRA furtherer provides that-

- (1). *A person who exploits a child in any other form or way not already mentioned in this part of this Act which is prejudicial to the welfare of the child commits an offence.*
- (2). *A person who commits an offence under subsection(1) of this section is liable on conviction to a fine of five hundred thousand naira or imprisonment to a term of five years, or to both such fine and imprisonment¹⁶*

This Act is no doubt a departure from the previous legislation on sexual offences in Nigeria. For the first time, this law takes cognizance of the Right of a male child victim. The Act is no doubt gender-sensitive.

However, it is instructive to note that the Act employs the word ‘Rape’ and also ‘attempt’ to commit the offence is not provided for; hence for a charge of this nature to be proved against an accused person, penetration must be proved. This substantive provision appears merely punitive and not preventive.

Child’s Rights Act is National legislation; so far 28 states have domesticated the Act into law, with the effect that it is not only applicable but also enforceable in those states. Eight states in the Northern parts of Nigeria are yet to domesticate the law.¹⁷ None of the stated sexual offences fits perfectly the sexual deviance against children, referred to as pedophilia. In Nigeria, verified media reports reveal that sexual crimes against children are increasing daily and these are commonly referred to as *rape*.

3.0 Rape vs Pedophilia

There are notable distinctions between the offence of rape and pedophiliac offences. At common law, rape is described as unlawful sexual intercourse

¹⁶ See generally section 33 of the Child’s Rights Act.

¹⁷ The states of the Federation yet to domesticate the Child’s Right Act are: Adamawa, Borno, Bauchi, Gombe, Jigawa, Kebbi, Yobe, Knao and Zamfara. Retrieved Feb. 22, 2022 from <https://www.unicef.org/Nigeria/press-releases>.

committed by a man with a woman not his wife against her will and without her consent. The common law required that there must be at least a slight penetration of the penis into the vagina.¹⁸ However, most of the states have broadened the definition of rape by referring to the offence as unlawful sexual activity, by means of intercourse with a person, usually female without the victim's consent sometimes through the use of physical force or administering drugs or antioxidants, with a view of preventing resistance.¹⁹ This offence is clearly different from pedophilic act which is specifically a sexual offence against children under 14 years of age, both male and female children could be victims, while the giving and or obtaining of consent is immaterial. Section 31 of the Child's Rights Act appears to be the closest provision to the description of pedophilia, except for the use of the word 'rape' in the said provision.

Child abuse and pedophilic acts are not the same; pedophiles may simply manifest the traits without acting on it. Another problematic issue is that not all *child sex offenders* could be classified as pedophiles, while in the same vein, not all pedophiles are child sex offenders. This may be so, given the use of the word "sexual attraction to children"²⁰ in the description of pedophilia.

4.0 Causes and Challenges of Prosecution.

Identification of the factors that cause pedophilia will in no small measure determine the proper approach in curbing this sexual violence against children. According to Richards, there are public perceptions as to the causes of pedophilia and four of such causes which are identified may not be entirely correct, however, there is *iota* of truth in them.²¹

First, there is a general perception that pedophiles are born with the pedophilic traits that is they have natural sexual attraction toward children, whether the act is carried out or not. In some instances, such feelings are so obvious but never result in the act, while in others such feelings are put into action.

Secondly, it has also been attributed to psychiatry or mental disorder. Authors, such as Cohen and Galynker asserted that research has shown that pedophiles may share some psychiatric features beyond deviant sexual desire, including high rates of comorbid axis I disorder (affective disorders, substance use disorders, impulse control disorders, other paraphilias). They

¹⁸ Black's Law Dictionary, 2004. Eight ed. St. Paul MN. West Publishing Co: 1288

¹⁹ Ibid: 1288

²⁰ Richards, K. (2011) Misperceptions about Child sex offenders. Retrieved February, 25, 2022 from <http://ojp.gov>nncjrs>abstracts>

²¹ Richards, K. (2018) the causes of pedophilia and child sexual abuse are more complex than the public believes. Retrieved March 1, 2022 from <http://theconversaion.com>. Accessed 25 February 2022

also identify severe “axis II psychopathology (especially antisocial and cluster C personality disorders).²²

Third, the cycle of abuse theory deals with the pedophile who were once victims themselves and later grew to have such sexual preferences; and

Fourth, the larger numbers of the public of the view that is primarily the choice of the pedophile to determine his/her sexual preference, which is sexual attraction to prepubescent children. This is usually likened to persons with diverse forms of sexual preferences such as same-sex relationship, bisexual and heterosexuals. The difference however is that children who lack the capacity to consent in law are involved in the case of pedophilia.

A major challenge that will affect the prosecution process of the offenders or accused person is the issue of mental illness as a cause of the pedophilic act. It is an elementary principle of criminal justice system that for there to be an offence, there must be concurrence of the *actus reus* (act) and *mens rea* (intention).²³ It is noteworthy that for there to be a conviction, the accused person must be proved to have the mental capacity and therefore intended his action

If pedophilia is considered an act of which the cause is mental disorder, then it will pose a grave danger not only to the victims but the society as a whole, this is simply because insanity is a common law defense to a criminal charge. The rationale for the insanity defense is the principle that criminal punishment should only be imposed upon those who are responsible for their conduct.²⁴

However, contrary to the general principle on criminal liability stated above, pedophilia which is classified in the Diagnostics and Statistical Manual of Mental Disorders (DSM-IV) as a paraphilia is one of the few psychiatric disorders for which the symptoms constitute a criminal act.

It is perhaps, for the purpose of avoiding the complexity of the principle of criminal liability with respect to an offence of this nature that made the Nigeria criminal justice system to refer generally to such act as “Child rape”.²⁵

5.0 Instances of Cases of Pedophilia in Nigeria

In recent times, reports of rape and pedophilia have cascaded the pages of National dailies and social media. In Nigeria, the word ‘rape’, defilement and pedophilia are used interchangeably.²⁶

²² Cohen, L.J. and Galynker, I.I. (2002) clinical features of pedophilia and implications for treatment. *Journal of psychiatric practice* vol. 8, No.5: 276

²³ Mens rea and actus reus- ICLR. Retrieved March 1, 2022 from <https://www.iclr.co.uk/knowledge/glossary/men-rea-and-actus-reus>

²⁴ The defense of insanity. Retrieved 1st march, 2022 from <https://www.lexinexis.co.uk/legal/gardiance/the-defence-of-insanity>

²⁵ See generally the Criminal Code Act and Child Rights Act, Cap C50 LFN 2004

²⁶ Omobolanle, K. (2020). Prevalence of Rape/Pedophilia in Nigeria; the way out. Retrieved March 1, 2022 from <https://www.opinion.com>

In *Adenekan v. State of Lagos*²⁷, the appellant, a worker in the school attended by the prosecutrix was alleged to have defiled the latter, who was two years and eleven months old at the time, on the school premises. He was arraigned in the High Court of Lagos State for the offence of defilement of a child, contrary to section 137 of the Criminal Law, laws of Lagos State. The appellant denied the charge against him. The trial court found him guilty as charged and sentenced him to 60 years imprisonment. Dissatisfied with the finding of the trial court, the appellant appealed to the court of Appeal. The court of appeal considered some fundamental issues which are very relevant to the subject of discourse in this work, which is pedophilia. The court held and asserted without any ambiguity what constitutes defilement of a child and who a child is for the purposes of sections 137 and 416, Criminal Law of Lagos State as follows:

*...defilement of a child means having sexual intercourse with a child. A child for the purpose of defilement is a person; male or female, who at the time of sexual intercourse in question, is/was under the age of 18 Years. In the instant case, where the prosecution tendered evidence establishing that the appellant defiled the prosecutrix, the lower court properly convicted him for the offence.*²⁸

It is noteworthy that the distinction between the Criminal Law of Lagos State provisions on defilement and pedophilia is the issue of age, whilst the provision under reference expressly stated 18 years or below, pedophilia puts the victim's age at 14 years or below. The provision of the Criminal Law of Lagos State is no doubt preferable.

The appellate court further spelled out the essential elements of defilement as follows; that the accused person had carnal knowledge of, or sexual intercourse with a person under the age of 18 years. However, since carnal knowledge presuppose that there must be some kind of penetration of the penis in the vaginal or another bodily orifice of the victim²⁹, an attempt without actual penetration will not suffice as in the case of pedophilia.

Similarly, the Supreme Court in the case of *Eyong Idam v. Federal Republic of Nigeria*³⁰ examined the provisions of the penal code bothering on the rape of an underage girl child. In the instant case, the appellant was alleged to have raped the prosecutrix who was under 14 years of age as at the time of the incident. He was subsequently arrested and arraigned in the High Court of the Federal Capital Territory (FCT) on a 2-count charge of rape and criminal force contrary to sections 282 and 265 of the penal code. The appellant was found guilty by the trial court and the court of Appeal.

²⁷ (2020) ALL FWLR Pt. 1069; 751 at 811-813

²⁸ Ibid. 811, paras. F-G

²⁹ See generally p.813. *Ahmed v. Nigerian Army* (2016) 17 NWLR (pt. 540); 34

³⁰ (2020) ALL FWLR Pt. 1062; 548

However, dissatisfied with the trial court verdict and that of the court of Appeal which upheld same, the appellant further appealed to the Supreme Court. It is important to note that the maximum punishment for the offence of rape under the penal code is life imprisonment and mandatory fine³¹. The appellant in the instant case was sentenced to 10 years imprisonment. Interestingly, the penal code employed a generic word ‘rape’ often used to describe all forms of sexual offences by the media (both social and traditional media

The Supreme Court clearly outline the essential ingredient of rape thus-

For the prosecution to prove the offence of rape, it must establish the following ingredients:

- a. That the accused had sexual intercourse with the woman in question.
- b. That the act was done in circumstances falling under any of the five paragraphs in section 287(1) of the Penal Code.
- c. That the woman, was not the wife of the accused; or if she was his wife that she had not attained puberty.
- d. That there was penetration of the vagina of the victim no matter how slight by the accused’s penis.

The apex Court then concluded as follows:

in the instant case, where the appellant admitted under cross-examination that he had sexual intercourse with the prosecutrix who was under age at the time, the lower court rightly held the appellant was properly convicted for rape³²

The above provision focused more on “woman” than “children” of both genders.

In *Musa v. The State*,³³ the supreme court deploring the act of rape, particular of a girl-child made this notable pronouncement per I.T. Mohammad, JSC (as he then was) as follows:

...Rape in our society and indeed in any human society is a grave and serious offense committed by those people who were shameless, merciless and animalistic. I cannot imagine a situation where one will put aside his honour, integrity and humanness to over-power or lure a young girl of tender age to have her carnal knowledge. It is against common sense. It is against humanity and God the creator will not allow such a bestial behaviour to go unpunished even here in the mundane life, it is the lesser punishment of God that has caught-up with the appellant. I wish it were heavier.

³¹ Ibid. 558; para. C

³² Ibid. 555-556; paras. G-B

³³ (2013) 3 SCM; 79 at 96; para. E-G

In this case, the appellant was alleged to have raped a 5-year-old girl, Fatimah Muntari in March 2004 twice. He further made a confessional statement to the fact that he raped the girl twice. He subsequently sought to retract the confessional statement. He was found guilty as charged by the trial court; both the court of Appeal and the Supreme Court upheld the verdict of the trial court and dismissed his appeal.

In *Edwin Ezigbo v. The State*,³⁴ the Supreme Court upheld the concurrent findings and verdict of imprisonment passed on the Appellant by the trial court and court of Appeal respectively. The appellant was arrested in April 2004 for the offence of rape of two (2) girls who are siblings ages 8 and 6 years respectively! The two girls, Ogechi and Chioma confessed that the appellant bought ice cream for them and had previously had their carnal knowledge in his shop having gifted them a sum of #30 and #10 respectively. The trial court convicted him of rape as charged by the prosecutor pursuant to section 283 penal code. The accused person appealed the guilty verdict of the High Court of Niger state to the court of Appeal, FCT Abuja.

The Supreme Court, per I.T. Muhammed, JSC (at he then was) made a notable pronouncement deploring the action of the appellant, which is hereafter reproduced verbatim:

The facts revealed in this appeal are sordid and can lead to a conclusion that a man can turn into a barbaric animal. When the appellant was alleged to have committed the offence of rape, he was 32 years. His Two young victims: Ogechi Kelechi, 8 years old, and Chioma Kelechi, 6 years, were by all standard, under aged. What did the appellant want to get out of these under-aged girls? perhaps the appellant forgot that by nature, children, generally are like animals. They follow anyone who offers them food. That was why the appellant, tactfully induced the young girls with ice cream and zobo drinks in order to translate his hidden criminal intention to reality, damning the consequences. Honestly, for an adult man like the appellant to have carnal knowledge of under aged girls such as the appellant's victims is very callous and animalistic. It is against the laws of all human beings and it is against God and the state. Such small (under-aged) girls and indeed all females of whatever age need to be protected against callous acts of criminally like-minded people of the appellant's class. I wish the punishment was heavier so as to serve as a deterrent...³⁵

³⁴ (2012) 8 SCM; 94 at paras. A-G

³⁵ Ibid. at 104

It is instructive to note that there are a plethora of incidences of child rape/defilement reported by the media but as a result of the stigma it may attract the victims were not reported to the police for investigation and prosecution. Some of the cases are usually incestuous, such that girl-child were defiled by their relatives, such as fathers, step fathers, uncles etc.

An instant case was a 38 year old man Baridap Needman arrested for impregnating his biological daughter age 14 years who is in Junior Secondary School in Bayelsa State. A twist however in the narratives was the reported assertion of the girl that she loves he father who did not only have sexual intercourse with her but also impregnated her.³⁶

In the same vein, it was reported that a 35year old man, one Idowu Shittu raped 11 year old girl, his wife's cousin in Ogun State of Nigeria. The case was being investigated by the state Criminal Investigation and Intelligence Department of the Nigeria Police Force at the time of publication.³⁷

Narrating her ordeal, a young lady, Fatima Ada Isiaku stated that she was only 5 years old when her father began too sexually abuse her. In her words:

I was a sex slave for seven years under my mother's nose without her knowing I was being abused.³⁸

In recent times, the media is awash with numerous reports of case child rape, some of which could be classified as pedophilia. Headlines, such as: "Man jailed 12 years for raping minors aged seven years and five years"³⁹ "6-year-old raped to death in Kaduna dumped in the cemetery,"⁴⁰ "court remands Ondo Farmer for raping minor to death, as 70-year-old impregnates teenager"⁴¹ "police arrest AE FUNAI Professor of geophysics for allegedly defiling his house help in Ebonyin,"⁴² "court hears how Benue Lecturer allegedly raped 13-year old student to death"⁴³, "Man rapes four girls aged 7 and below in Borno,"⁴⁴ "My father rapes me every night- 12-year-old girl cries out in Ondo"⁴⁵, daily litter the pages of newspaper and social media in Nigeria.

³⁶ Osahon, J. (2020); "I am in love with my daddy, says 14 year-old girl impregnated by father." The Guardian. January 27, 2022; 12

³⁷ Moses, P. (2022), "Man rapes wife's 11-year-old cousin in Ogun." Daily Trust. March 7, 2022

³⁸ The life-long impact of sexual assault in Nigeria, a survivor speaks out. Retrieved March 6, 2022 from <https://www.spotlightinitiative.org>

³⁹ Retrieved March 15, 2022 from <https://www.premiumtimesng.com/news>

⁴⁰ Retrieved March 15, 2022 from <https://www.guardian.ng/news/nigeria/metro-2020>

⁴¹ Retrieved March 15, 2022 from <https://punchng.com/court-remands-Ondo-farmer-for-raping-minor-to-death-as-70-year-old-impregnates-teenager>

⁴² Retrieved March 15, 2022 from <https://www.vanguard.com/2021/11/police-arrest-ae-funai-professor-of-geophysics-for-allegedly-defiling-his-house-help-in-ebonyi>. The victimin the instant case is reported to be a 13 year-old girl.

⁴³ Retrieved March 15, 2022 from <https://www.dailypost-ng.cdn.ampproject.org/v/s/dailypost.ng/2019/10/12>

⁴⁴ Retrieved March 15, 2022 from <https://www.vanguard.com>

⁴⁵ Retrieved March 15, 2022 from <https://www.vanguard.com>

However, it does not appear this trend is about to abate, for example, in the month of February 2022, it was widely reported in the media that a 25-years old political science student of the Imo State University, Owerri raped a 15-year-old girl; in Abia under the guise of getting her a job.⁴⁶

The United Nations reported in the year 2020 that a total of 11, 200 rape cases were reported; some of these included children who were raped to death.⁴⁷ According to UNICEF, 6 out of every 10 children experience some form of violence, while one in 4 girls and 10 percent of boys have been victims of sexual violence.⁴⁸

6.0. Law to the rescue?

Sexual crimes against children in Nigeria in recent times have witnessed a considerable increase in spite of the Child Right Act, Criminal Code and Penal Code of the various states of the federation, and the Federal Capital Territory. Prominent among these crimes is pedophilia, which as noted earlier is commonly referred to as rape (of children). Both the criminal and penal codes make provisions for rape of girl-child, but are silent on male-child. The issue of *attempt* (in which case penetration is not a condition) is equally not provided for or criminalized in the penal code. The maximum punishment for rape under the penal code is life imprisonment and a fine, however, lesser punishment could be passed, with the court exercising its discretion. Similarly, defilement of girls less than thirteen (13) years of age attract imprisonment for life, with or without caning.

Anyone who attempts to have unlawful carnal knowledge of a girl under the age of thirteen years is guilty of felony and liable to imprisonment for fourteen years, with or without caning. This provision does not put into consideration male-child.⁴⁹ The approach being adopted in addressing the menace of pedophilia has so far involve paying attention exclusively to the criminal justice system to the detriment of pre-emptive and preventive measures. Preventive measure will serve a more meaningful purpose for the victim, while other measures within the ambit of other disciplines such as sociology psychology and medicine may be more effective.

Widjajanti and Windari,⁵⁰ while addressing a similar issue with respect to the incessant cases of pedophilia in Indonesia stated as follows:

...identification of factors that cause pedophilia contributes to the determination of appropriate means in solving pedophilia cases comprehensively. In order to protect children from sexual violence in the form of pedophilia, it is necessary that

⁴⁶ Retrieved March 16, 2022 from <https://www.vanguard.com/2022/02>

⁴⁷ 11,200 Nigerian women, children raped in 2020-UN.Retrieved March 16,2022 from <https://punchng-comcdn.ampproject.org>

⁴⁸ Retrieved March 16, 2022 from <https://www.unicef.org/nigeria/child-protection>

⁴⁹ See generally section 218 of the Criminal Code Act.

⁵⁰ Widjajanti, E. & Windari, R. (2018). Pedophilia as a form of sexual deviance from a Social Bonds Theory. IIUM Law Journal Vol. 29(SI) 2021; 179-180

the countermeasure extend the scope to other means, such as non-penal means in order to complement the existing law.

In spite of the legal measure and in particular the plethora of provisions of the law criminalizing child-rape, the act continues to grow at a dangerous and alarming rate. Some of the ex-convicts who were not given the maximum punishment of life imprisonment returned back to the society after serving their jail terms, only to become serial rapists, while their identities may not be known particularly in communities different from where the heinous crimes were previously committed. It therefore becomes necessary to resort to other measures to complement the legal process so as to protect the children, and also deter persons with such behavioural patterns of ways of life.

7.0 Conclusion and Recommendations.

It is important and as a matter of urgency too, that different laws at the national and the state levels bothering on pedophilia or child rape be re-examined with a view of incorporating other measures, be it sociological, psychological or forensic with the aim of curbing the menace of such odious act in Nigeria. The effect of the unsavory act is far-reaching on the lives of the victims and the society in general.

Such harmonized laws should be made applicable and holistically enforced in the 36 states in Nigeria and the Federal Capital Territory.

It is therefore recommended as follows:

- i. Taking a cue from the United States (US), medical personnel should be allowed to inject *medroxyprogesterone acetate* into the muscle of persons with proven traits of pedophilia or ex-convict for the same offence. *Medroxyprogesterone* and *Leuprolide* stop the *pituitary gland* from signaling the testicles to reduce testosterone. They thus reduce testosterone levels and the sex drive.⁵¹
- ii. Persons susceptible of having paraphilic traits and ex-convicts for the offence should be made to undergo mandatory counseling/rehabilitation with a view to make them shun such deviant act.
- iii. "Naming and Shaming" of the convicts is also recommended, so that even after serving their jail-terms, their identities will not be hidden and wherever they reside, they will be conscious of their behaviours, knowing fully well that their antecedents are well known to the people in such a community. It however gladdens heart that Ekiti State has already put in place this measure and

⁵¹ Retrieved March 17, 2022 from <https://www.msmanuel.com/home/mental-health-disorders/paraphilia-and-paraphilic-disorders/>

has started implementing same.⁵² It is however disheartening that in spite of the decisions of the 36 state governors in Nigeria to create sex offence register to “name and shame”, it is yet to be implemented since year 2000.⁵³

- iv. For serial child-rapist (pedophile) or persons with proven serial attempts, castration might be necessary so as to protect children who might likely fall victim. This measure has already been introduced in Kaduna State,⁵⁴ and it will not be out of place for other states of the federation to do likewise. One of the “extreme” measures passed into law in Indonesia is chemical castration.
- v. Finally, measures should be put in place to also protect male-child from being victims of pedophilic action. The current structure is female-child focused while male- children suffer neglect. It is suggested that a future retrospective study on the adolescent-male be conducted so as to scientifically determine the rate of male-child victims of pedophilic acts, with a view of determining further actions to be taken in curbing the menace.

In summary, both deterrent and preventive measures should be a put-in place for the safety (and well-being) of children from incessant rape, molestation, and assault.

⁵² Ekiti Govt. Name-Shames First set of sex offenders in 2022. <https://tribuneonline.com/Ekiti-Govt-Name-Shames-First-set-of-sex-offenders-in-2022/>

⁵³ Government to create sex offenders register ‘to name and shame’ in years 2020. from <https://www.vanguardngr-com.cdn.ampproject.org/v/2020/6>

⁵⁴ Nigeria Kaduna passes law to castrate child rapists- surgical castration for raping children under the age of 14. Retrieved 17th March, 2022 from <https://www.bbc-com-cdn.ampproject.org>