

Exploring Alternative Sanction to Curb Rampancy of Rape Cases in Nigeria

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DOI: <https://doi.org/10.36348/sijlcj.2026.v09i06.008>

| Received: 13.04.2026 | Accepted: 05.06.2026 | Published: 16.06.2026

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Abstract

Despite the punishment meted on rape offenders and the creation of sexual offenders' register in some states of the federation in Nigeria, most accused persons damn the consequences of their actions by continuously committing the offence with impunity without considering the deleterious effect of their sinister action on their victims, and the society at large. Rape is the most serious sexual offence that is characterised with unpleasant experiences such as stigmatisation, anxiety, unwanted pregnancies, sexually transmitted disease, trauma, depression and even death. This study examined the concept of rape, factors responsible for the offence of rape in Nigeria, legal framework on rape in Nigeria and alternatives punishment for rape offenders. This study found that castration is the most appropriate punishment that deters the offender and the public from engaging in the heinous crime called rape. The study adopted doctrinal research methodology, it was descriptive and analytical in nature. It relied on primary sources of data such as statutes, case law, conventions and secondary sources of data such as textbooks, articles in journals, periodicals, online materials among others. The study concluded that rape has done no good to the victims and society and there is a need to frantically tackle same in Nigeria by finding effective solution that would serve as effective deterrence to future offenders. The study recommended castration as alternative punishment to life imprisonment for rape offenders in Nigeria.

Keywords: Castration, Nigeria, rape, sanction.

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1.0 INTRODUCTION

Historically, in the capitalist states, the offence of rape was linked to the notion of protection of property and theft than the principle of security of persons. To the capitalist, the law of rape was enacted to protect the ruling class men whose daughter and wives may be assaulted. The essence of this was to protect the man's property in the female body. Rape is the violation of the fundamental human right and freedom of the victim and her family [1]. Rape is often regarded as the oldest crime in human history [2]. It is an unwanted act that subverts the sexuality of the victim [3]. The historical origin of

rape can also be traced to the Holy Bible between Dinah and Shechem [4]. Rape is a global social problem and the most serious sexual offence that is often unreported due to the trauma and stigma associated with investigation and prosecution of rape cases in Nigeria and across the globe. Most victims are often traumatised, depressed, infected with HIV or other sexually transmitted diseases, suffer post-traumatic stress disorder nightmares and some may lose their lives in the process. It violates the privacy, self-preservation and dignity of the victim and

¹ A A Mohammed and A M Abubakar., 'Readdressing Rape Phenomenon in Yobe State: An Islamic Alternative' (2022) 6 (12) *International Journal of Research and Innovation in Social Science* 398-404 at 398.

² S O Afolayan., 'Comparative Analysis of the offence of Rape in Nigeria, United Kingdom and the United States'

(2023 3(2) *International Journal of Criminal Common and Statutory Law* 55-63 at 55.

³ K U Agoha and N. C Akas., 'The Representation of Rape in Kunle Afolayan's October 1 and Moses Inwang's Alter Ego' (2023)6(6) *African Journal of Social Sciences and Humanities Research* 124-138;125.

⁴ Genesis 34:1-31.

sometimes leads to the death of the victim [5]. It is a serious sexual offence and crime against women. It may also lead to physical abuse in an attempt to overcome resistance from the victim. It becomes frightening when children are also victims of the dastardly act of rape [6]. In other words, there is no age limit to being victims of rape in Nigeria. The prevalence of rape in Nigeria has led to public outcry on the need for government to take responsibility, reduce the menace and ensure that offenders are brought to book [7].

Despite the punishment of life imprisonment prescribed for the offence of rape in Nigeria, rape cases keep increasing on regular basis without deterrence. In Nigeria, most victims of rape do not report to the police due to the shame of being stigmatised or labeled a victim of rape. When these cases are not reported, the offender invariably escapes punishment and moves to the next victim. The failure of victims to report rape cases has significantly contributed to the repeated case of rape in the society. Equally, the punishment meted out on the culprits of reported cases of rape has not serve as deterrence to future rapist or would be rapist. The causes of the increasing incidence of rape in Nigeria have been connected to the type of punishment stipulated by the law which has not been sufficient or effective to deter potential rape offenders from committing the crime. In the same vein, perception of women as the weaker vessel has created a kind of inequality and subjugation of the female folks which has led to the increase in rape [8]. To proffer a lasting solution to the incidence of rape in Nigeria, this study will examine the concept of rape, factors responsible for rape, legal framework on rape in Nigeria and the alternative punishment for rape and its benefits.

2.0 Concept of Rape

Rape is an unlawful sexual activity. It is the act of having carnal knowledge of the victim without consent [9]. It is a sexual abuse that violates the right of victims. It is an offence that thrives in secrecy. Offenders use rape as a way of humiliating, exerting power and control over their victims [10]. Despite the cruel nature of rape, victims of rape are often blamed for the unlawful

acts committed against their body instead of the offender who committed the act. Most victims of rape are women and children. Rape is a violent crime against the body of the victim that causes the accused to use sex to inflict pain or exert power on the victim. Rape is a heinous crime that constitutes an invasion of the privacy of the victim; with devastating effect on the victim and his family. The offence of rape has both the *actus reus* and *men rea*. In proving the offence of rape, the intention and act of the accused must be established by the prosecution in the offence of rape as there is no accidental rape. The physical act of unlawful carnal knowledge must be committed without the consent of the victim. Sometimes such consent may be obtained by fraud or threat or deceit. The intention of the accused person must be to have unlawful carnal knowledge of the victim.

While rape involves penetration or carnal knowledge without the consent of the victim, sexual assault does not involve carnal knowledge but inappropriate touching. However, when it comes to the unlawful carnal knowledge of a child, it is known as defilement, it does not matter if the child or underage gave her consent because the child is presumed not to have the intellectual capability to distinguish between right and wrong. Rape may take different forms such as custodial rape, gang rape, date rape, payback rape, and acquaintance rape [11].

It is important to note that a man or woman can be responsible for the offence of rape. In other words, rape can be committed by both male and female. However, by virtue of the provision of the Penal and Criminal codes, only the male gender can be responsible for the offence of rape. A woman cannot commit the offence of rape. While a man can only be liable for the offence of rape, the victim must also be a woman. An argument in support of this is to the effect that rape is complete upon penetration of the female organ whereas the male organ does not accommodate such penetration [12]. However, when a man penetrates another man or a woman penetrates another man, it is regarded as an intercourse against the order of nature [13]. Despite the fact that the female gender cannot be held liable for the

⁵ M Joseph and T Bamigboje., Rape Under the Nigerian Laws and the Need for Amendment <https://legalpediaonline.com/rape-under-the-nigerian-laws/#_ftnref2> accessed 22 August 2025.

⁶ M Falade and G O Ishola., 'Curbing the Menace of Rape through Upper Basic Social Studies Curriculum in Nigeria' (2021)2(2) *Journal of African Studies* 34-47;35.

⁷ S T Anyo, T Mpem, and J O Ortyom., 'A Survey on the Causes of Rape and its Effect on the Victims in Benue State, Nigeria' (2022) 9 (2) *Benue Journal of Sociology* 1-19 at 2.

⁸ M Joseph and T Bamigboje., Rape Under the Nigerian Laws and the Need for Amendment <https://legalpediaonline.com/rape-under-the-nigerian-laws/#_ftnref2> accessed 22 August 2025.

⁹ *Aliyu v. State* (2019) LPELR 47421 SC; *Mamuda v. State* (2019) LPELR 46343 SC.

¹⁰ C J Onyejekwe., 'Nigeria: The Dominance of Rape' (2008)10(1) *Journal of International Women's Studies* 48-63;50.

¹¹ O O Afolabi, A O Olaniyi and V F Iyanda., 'Rape Trajectory and the Manipulation of Religion in Nigeria Society' (2023)11(10) *Global Science Journal* 316-332;318-320.

¹² E E Alobo., *Criminal Law and Sexual Offence in Nigeria* (Princeton & Associates Publishing Co. Ltd,2016) 105

¹³ Criminal Code Act, s214; D A Ijalaiye., 'Sexual Offence in Nigeria' (1991)2 *Interfaculty Law Journal*, 1.

offence of rape, they can be convicted for rape when they aid, counsel or procure the commission of the offence of rape [14]. In this case, the woman or girl responsible for this act will be liable under section 7 of the Criminal Code as a principal offender of the offence of rape and will be liable to the full punishment of rape [15].

In Nigeria, a wife cannot succeed in an action against her husband because rape is not a crime between husband and wife. Even if there are evidences to establish the offence of rape against the husband, he will still not be capable because sex is considered as part of the activities in marriage and an absolute right of the husband that can be carried out with or without consent. In other words, the form of rape known as marital rape or spousal rape is not a crime in Nigeria. Rape may however become a crime when both parties are divorced or separated or where there is an undertaking by the husband not to return to his wife, because an unlawful carnal knowledge excludes husband and wife. However, the husband can be guilty of assault or grievous bodily harm committed in an attempt to rape his wife [16].

Ingredients of Rape

For the prosecution to establish the offence of rape against an accused person, the following must be established by the prosecution beyond reasonable doubt. Both the physical and mental acts of the accused must be established by the prosecution. See *Boniface v. The State*. The ingredients are:

1. Consent
2. Carnal Knowledge
3. Capacity

Consent

Consent is the permission given by someone to another person to do something. It means agreeing to an act known to you [17]. It must be mutual and voluntary. A relationship between a man and a woman does not imply consent. Consent is an essential element in the offence of rape. It is a central issue in the offence of rape because absence of consent supports the criminal behaviour of the accused person. For an accused to be liable, consent must be absent. For consent to be properly obtained, it must be real, free from threat, fraud, intimidation, trick or false representation. The fact that the victim did not scream or attempt to escape does not imply consent [18]. Having carnal knowledge of someone who is sick, drunk, asleep or unconscious or

someone who cannot withhold or give consent doesn't mean consent [19].

Consent may be obtained by force or fraudulent misrepresentation of the nature of the act. Absence of consent must be established by the prosecution notwithstanding the age of the victim (whether young or old). The prosecution must lead evidence to show absence of consent demonstrated by resistance, force and struggle because she is expected to resist where she has the power to [20]. Where consent is established between the man and the woman, then the charge of rape cannot succeed [21]. Also, where there is an ambiguity as to whether there was consent or not, it will be resolved in favour of the accused person. Submission cannot amount to consent because it can be as a result of force or threat or intimidation or exhaustion.

Carnal Knowledge

This is the *actus reus* (i.e., physical element) of the offence of rape. It is an unlawful sexual intercourse or carnal connection that takes place between people who are not husband and wife. The prosecution must establish an unlawful carnal knowledge. The prosecution must establish penetration of the victim's female organ with the accused's male organ [22]. The sexual intercourse must be without the consent of the victim and it is complete upon penetration. There cannot be rape without penetration and the slightest penetration will justify the offence of rape [23]. Penetration is an indispensable element in the elements of rape. Emission or the rupture of the hymen is not important in establishing the offence of rape [24]. Penetration in rape must be through the female organ, not any other part of the body and it can only be a male organ. However, penetration by any object, finger or stick can only be classified as injury occasioning harm; indecent assault; or assault with intention to commit unnatural offence [25].

Capacity

On the capacity of a person to commit rape, a child below the age of seven years is incapable of committing a crime and cannot be liable for the offence of rape [26]. Also a person under the age of twelve is incapable of committing a crime provided he is able to establish that he did not know he ought not to do the act or make the omission. A child under the age of twelve is presumed to be incapable of having carnal knowledge or committing rape but he may be punished for indecent assault.

¹⁴ *R v. Cogan and Leak* (1975) Crim L.R. 584.

¹⁵ Aloba (n12) 106.

¹⁶ *Ibid*.

¹⁷ *Ibid* 121.

¹⁸ O Bamigbose and S. Akinbiyi., *Criminal Law in Nigeria* (Evans Brothers (Nigeria Publishers limited, 2015) 201

¹⁹ *Ibid*.

²⁰ Aloba (n12) 120.

²¹ *Rabiu v. The State* (2005) 7 NWLR (Pt. 925) 491.

²² P A Ocheme., *The Nigerian Criminal Law* (Liberty Publications Ltd, 2008) 168.

²³ *Posu v. The State* (2011) 2 NWLR (Pt. 1234) 393; *Adeoti v. State* (2008) JELR 52125 (CA)

²⁴ *Iko v. State* (2001) 35 WRN 1.

²⁵ Criminal Code, s354, 360 and 352.

²⁶ See Section 30 Criminal Code.

3.0 Factors Responsible for the Frequent Occurrence of Rape Incident in Nigeria

Despite the existence of legislation on rape and sexual offences, rape has been on significant increase in Nigeria. The increasing nature of rape has become a public, ethical, economic, health and legal concern in Nigeria. For instance, in the year 2020, Uwaila, a 100 level student of University of Benin was rape and killed in a church while reading [27]. Martina aged 15 years was raped by fulani herdsmen who took turns to engage in the unlawful act until she also lost her life [28]. Ngozi was allegedly raped to death by unknown persons while her body was found in the bush after declaring her missing [29]. Barakat, aged 18 years, was raped during robbery in her house in Ibadan, she was thereafter murdered by her rapist [30]. Three armed men allegedly gang-raped a street hawker in Ado Ekiti [31]. Favour an 11 year old girl was gang raped to death in Lagos [32]. A 6 year old Khadijah was raped to death in Kaduna [33]. These are few of the rape cases that have not only traumatised the victims but also claimed their lives. Amnesty international has also reported that failure to effectively deal with rape crisis has given perpetrators the courage to repeat that act and increases the silence of victims [34]. These cases of rape in Nigeria have been prompted by various causes. Some of the factors responsible for rape in Nigeria are:

3.1 Culture of Silence:

This is the most common cause of rape in Nigerian society. Silence and failure to report cases of rape by victims and their families has made offenders to repeat the act or move to the next victim. Most rape cases are not reported due to stigmatisation, intimidation and humiliation of the victim [35]. Victims are often scared of reporting for the fear of being stigmatised and being labelled as rape victim in the society. The culture of silence has led to public sensitisation and awareness by non-governmental organisations on how victims can get

justice by speaking out and thereby contributing to the reduction of its occurrence in the society.

3.2 Indecent Dressing:

Most sexual and rape offenders often mention indecent dressing by ladies as an encouragement for rape in Nigeria. Some accused persons or offenders claim that the exposure of sensitive parts of the female body attracts undue attention from men and sometimes lead to sexual harassment and rape [36]. Some also see indecent dressing as an invitation to treat from the victims and provocation of the act of rape or indecent assault [37]. Ande and Diaka also state that parents who buy these revealing dresses for their children contribute to the increase in rape incident in the society. Ande and Diaka also opine that the seductive inscription such as kiss me deep, hug me, romance me etc. can arouse sexual urge in men [38].

3.3 Weak Criminal Justice System:

The inadequacies associated with Nigerian criminal justice system has contributed to the incidence of rape in Nigeria. The three main institutions under the criminal justice system are the police, court and the correctional centre. The police are the first point of call for rape victims. They are saddled with the responsibility of arresting, investigating and prosecuting rape offenders. When victims' complaints are inappropriately handled, it can frustrate the victim and may back out of the case. Unprofessionalism of the police in handling the case can lead to abrupt termination of the case [39]. Also the long adjournment of cases and overloaded court dockets have contributed to the delay in administration of justice. The years taken in ensuring that the offender or accused is brought to book may sometimes be a discouraging factor for victims and their families in seeking justice in the court of law. Also, reluctance of victim to give evidence in the open court against the

²⁷ E Akinwotu., Rape and Murder of Student in Church Sparks Outrage across Nigeria <https://www.theguardian.com> accessed 28 May 2026.

²⁸ A Okoli, V. Nkwopara, D Agbo, U Alaribe et'al., 'Violated! Sordid Stories of Rape in Igboland (28 October 2020 Vanguard Newspaper <https://www.vanguardngr.com> accessed 5 September 2025.

²⁹ Ibid

³⁰ K Adejumo., 'How my Daughter Barakat was Gang Raped, Killed-Father' <https://www.premiumtimesng.com> accessed 6 September 2025.

³¹ Another Student Raped Killed in Ibadan, Ekiti Hawker Defiled' <https://share.google/a96D4GavuiTBxsDLn> accessed 6 September 2025.

³² E Usman., 'Girl 11, Gang-Raped to Death in Lagos' <https://www.vanguardngr.com> accessed 6 September 2025.

³³ '6-Year Old Raped to Death in Kaduna' <<https://www.dailytrust.com>> accessed 6 September 2025.

³⁴ Amnesty International, 'Nigeria: Failure to Tackle Rape Crisis Emboldens Perpetrators and Silences Survivors'

³⁵ M E Omoniyi., 'Rape Endemic in Nigeria: Causes, Effect and Probable Way Out' (2017) 17 (2) *Global Journal of Human Social Sciences*, 1-6 at 4.

³⁶ Ibid.

³⁷ M Falade and G O Ishola., 'Curbing the Menace of Rape through Upper Basic Social Studies Curriculum in Nigeria' (2021)2(2) *Journal of African Studies* 34-47;38.

³⁸ A U Ande and P E Diaka., 'The Role of Religion and State in Preventing Female Children Rape in Nigeria' (2020)25(7) *Journal of Humanities and Social Science* 56-64; 60.

³⁹ Asking the victim questions that increases the psychological torture and pain may be unprofessional in certain cases.

offender often hamper the administrator of justice and delays the process [40].

3.4 Media Influence:

The social media is one of the benefits of civilization and innovation of information technology. Despite the benefits of social media, it is sometimes used as a tool to commit crime such as rape. The exposure of rape offender to pornography, sexual graphic and videos has contributed to the urge for sex and the need to satisfy their urge or experiment what they have learnt on the opposite sex. Extracting the contacts of rising content creators from their pages and inviting them for jobs in a private location where they are subsequently raped or killed is another evil created by media influence.

3.5 Peer Influence and Lack of Parental Care:

Young people who keep company of rape offenders tend to be influenced by their acts. Their conversations about sexual acts may lead to rape. Associating with criminals who rape their victims can influence anyone who is found in the company of criminals. The irresponsibility and poor parental care has an active role to play in the lives of children or young persons who are victims of rape as a result of parental negligence, lack of care and guidance [41].

3.6 Poverty and Desperation:

These are also seen as one of the causes of rape in Nigeria. Children from poor background or children whose parents are poor and cannot afford the basic necessities of life are allowed to hawk or roam around the street. Children from poor background are often victims of child labour such as street hawking which often exposes them to societal vices such as rape [42]. While hawking or roaming around, they are lured with cash and material gifts and thereafter raped [43]. On the other hand, some people out of desperation to acquire wealth, fame, power, affluence in the society rape innocent children due to the belief that the destiny of the children would be transferred to the offender through diabolical means.⁴⁴ Incessant consumption of various intoxicating substances which potentially put sexual offenders on dangerous high mood during which period they are capable of any mischief including rape offences among other crimes. Knitted or connected to the foregoing is the availability of sex enhancing drugs and

substances which after consumption promotes uncontrollable libido in the offender and thereby prompting him to go for anything in skirt.

4.0 Legal Framework of the Offence of Rape in Nigeria

There are numerous legal framework on the offence of rape in Nigeria. Apart from the Constitution, Child Rights Right Act, Violence against Persons (Prohibition Act), Criminal Code and Penal Code that criminalises the offence of rape, international instruments such as the Declaration on the Elimination of Violence against Women adopted by the United Nations General Assembly in 1993, Rome Statute 1998 and the Protocol to the African Charter on Human Peoples' Rights on the Rights of Women in Africa (Maputo Protocol) 2003 make provisions for the offence of rape.

4.1 Constitution of the Federal Republic of Nigeria (CFRN) 1999 (As Amended)

The Constitution of Nigeria also known as the 1999 Constitution prohibits unfair treatment and acts that violate the human rights and freedom of any person. An example of the act that violates human rights is the offence of rape because it is often committed without the consent of the victims. The Constitution prohibits torture, inhuman and degrading treatment and sees these acts as the violation of the fundamental human right of anyone who suffers any or all of these act [45]. Though the Constitution does specifically refer to rape but rape encompasses torture, inhuman and degrading treatment. In other words, the offence of rape is a violation of the fundamental human right of the victim.

4.2 Criminal Code and Penal Code

The Criminal Code makes provision for the offence of rape and the punishment attached. Section 357 of the Criminal and 282 of the Penal Code make provision for unlawful carnal knowledge between a man and a woman who are not married. The Criminal Code recognises rape as an act committed by a man without the consent of the victim (a woman). These provisions are not applicable to rape between husband and wife otherwise known as marital rape. The Criminal Code and Penal Code did not give a clear definition of rape so as to assist parties in situations where consent was given at the

⁴⁰ O Tade and C Udechukwu., Characterizing Rapist and their Victims in Selected Nigerian Newspaper' in Sexual Ethics (University of Ibadan 2020) 3

⁴¹ A U Ande and P E Diaka., 'The Role of Religion and State in Preventing Female Children Rape in Nigeria' (2020)25(7) *Journal of Humanities and Social Science* 56-64; 60.

⁴² Y J Amuda., 'Prevalence of Rape Endemic and Mechanism for Its Prevention and Consequences on Victims in Nigeria' (2021)24(3) *Journal of Legal Ethical and Regulatory Issues* 1-12;4.

⁴³ M A Aliyu., 'An Overview of Rape Cases: Jigawa State Ministry of Justice's Perspective (A Paper Presented during the Value Re-orientation: Stakeholders' Engagement on Rape and other Social Vices Organised by National Orientation Agency Jigawa State on 23rd July 2020 at the Federal Secretariat Dutse)

⁴⁴ A U Ande and P E Diaka., 'The Role of Religion and State in Preventing Female Children Rape in Nigeria' (2020)25(7) *Journal of Humanities and Social Science* 56-64; 59.

⁴⁵ Constitution of the Federal Republic of Nigeria (CFRN) 1999, s34(1).

beginning and withdrawn while performing the act or vice versa. However, under the UK sexual offences Act, the accused will be liable when the accused continues with the act after the victim had withdrawn consent. Also, the provision of section 30 of the Criminal Code as to incapability of a child less than 12 years is irrefutable. In other words, a child less than 12 years cannot be convicted of rape. The punishment for the offence of rape as provided by the Criminal Code and Penal Code is life imprisonment [46].

4.3 Violence against Persons (Prohibition) Act 2015

The Violence against Persons Prohibition Act (VAPPA) addresses gender based violence and sexual assault such as the offence of rape. It provides a more detailed and expansive definition of rape. Penetration under VAPPA is not restricted to the vagina alone as provided in the Penal and Criminal Code. It further includes penetration of the vagina, anus or mouth of another person with any part of the body or object, without consent [47]. This section widens the definition and scope of rape in addition to the provisions of the Penal and Criminal Codes. By the provision of this Act, rape can be committed by a male or female without consent. Consent must not be obtained by intimidation, threat, force, fear of harm or in a condition where valid consent cannot be given (e.g. in a state of intoxication or disability). The punishment for rape is life imprisonment [48]. However where the offender is less than 14 years, the offender will be liable and punishable with not less than 12 years imprisonment. In addition to the term of imprisonment for the offence of rape, the offender is liable to pay a fine as compensation for the act done against the victim. Victim of rape may also apply for protective order [49]. The application for protective order is often made to the court to restrain the offender from further acts of violence or abuse [50]. Law enforcement agencies are saddled with the responsibilities of handling rape cases with confidentiality, sensitivity and eradicate any barrier to justice. Consequently, despite the robust provisions of this Act, it is only applicable to the Federal Capital Territory.

4.4 The Universal Declaration of Human Rights (UDHR) 1948

The United Nations Conventions recognises rape as an act of violence against the victim of rape. The

Universal Declaration of Human Rights (UDHR) 1948, prohibits acts that violate the fundamental human rights without specifically mentioning rape. Articles 1 and 2 UDHR guarantee the right to equality, dignity and freedom from discrimination [51]. Example of act that violates the dignity of a person is the offence of rape because the offender has no respect for the person and body of the victim and when it terminates the life of the victim, it violates the right to life of the deceased victim [52]. Article 5 [53], also prohibits torture, cruel, inhuman and degrading treatment; acts that are commonly associated with rape. On the other hand, the recognition and protection of victim from stigmatisation is provided in Article 6 of the UDHR. The Convention on the Elimination of all Forms of Discrimination against Women (CEDAW) 1979 has no specific provision on rape but protects women from acts or practices that discriminate against women [54]. CEDAW General Recommendation No. 19 (1992) recognises gender based violence such as a form of discrimination against women.

4.5 Declaration on the Elimination of Violence against Women (DEVAW) 1993

The Declaration on the Elimination of Violence against Women (DEVAW) 1993 is a landmark legal instrument that specifically prohibits the act of rape. It prohibits acts of violence such as physical, sexual and psychological violence against women [55]. It prohibits rape, sexual abuse and marital rape [56]. The Rome Statute of the International Criminal Court 1998 defines rape as a crime against humanity when committed against civilians [57], war crime in national and international armed conflicts [58], and genocide when committed to partially or out-rightly destroy an ethnic or religious group [59]. The Protocol to the African Charter on the Rights of Women in Africa 2003 otherwise known as Maputo Protocol is a regional instrument that protects the rights of women in Africa. Nigeria is a signatory to this protocol. It prohibits any kind of violence against women (including rape) [60]. This protocol protects women sexual and reproductive rights in relation to abortion or unwanted pregnancy resulting from the act of rape [61].

5.0 Alternative Punishments for Rape and its Benefits

In Nigeria, the punishment for rape is life imprisonment while in Egypt, China and South Arabia, it is death penalty. Despite the imposition of these

⁴⁶ Criminal Code Act, s358 and Penal Code Act, s282.

⁴⁷ Violence against Persons (Prohibition) Act 2015, s.1.

⁴⁸ *Ibid*, s1(2).

⁴⁹ *Ibid*, s23

⁵⁰ *Ibid*.

⁵¹ Universal Declaration of Human Rights (UDHR) 1948.

⁵² *Ibid*, art3.

⁵³ Universal Declaration of Human Rights (UDHR) 1948; African Charter on Human and Peoples' Rights 1981, art 5.

⁵⁴ Convention on the Elimination of all Forms of Discrimination against Women 1979, art 1 & 2.

⁵⁵ Declaration on the Elimination of Violence against Women (DEVAW) 1993, art 1.

⁵⁶ *Ibid*, art 2(a)

⁵⁷ Rome Statute 1998, art 7(1)(g).

⁵⁸ *Ibid*, art 8.

⁵⁹ *Ibid*, art 6(b)

⁶⁰ Maputo Protocol 2003, art 4(2).

⁶¹ *Ibid*, art 14.

punishments on offenders in these country (including Nigeria), it has not deterred offenders from raping their victims on regular basis. To curb the incidence of this menace in Nigerian states like Ekiti, Lagos, Edo, Ogun, Bayelsa, Akwa Ibom, Bauchi, Kaduna, Adamawa and Abia also introduced the sex offenders register where convicted offenders or accused persons' names are registered and published. Despite the registration and publication of the names of sex offenders by these states, the dastardly act of rape remains unabated. Against the backdrop of the inefficacies of various punitive measures put in place to curb rape incidence, castration has been canvassed as a viable alternative punishment. Castration is a procedure by which a male individual loses his testicles or a process that involves the removal of testicles [62]. It an act depriving someone from virility, strength and effectiveness [63]. It is the extirpation of the male genital and infliction of pain on such individual. It can be done through chemical or surgical excision of one or both testicles [64]. It reduces the production of certain hormones called testosterone [65]. The essence of castration is to prevent the repetition of the crime of rape by surgically or medically cutting the organ used to commit the act [66]. When a rape offender is castrated, it tends to prevent the offender from repeating such act and deter future offenders from committing the offence. There are two type of castration. Surgical castration and chemical castration. Surgical castration [67], involves the permanent and irreversible removal of the testicles while chemical castration is a reversible medical procedure that involves the use of drug, implants or injection to suppress the performance of the testicles and reduce production of hormones [68].

Castration is not a common punishment in Nigeria. Only Kaduna State has amended its Law to include castration as punishment for sex offender [69]. Section 258(1) prescribes surgical castration and death for anyone who rapes a male child below the age of 14years [70]. Section 258(4) also prescribes surgical castration and life imprisonment for anyone who rapes a child above 14years of age [71]. However, where the accused person is a female adult and she is held liable for raping a child, upon conviction, such female adult will be punished with Bilateral Salpingectomy and death [72]. These provisions of the Kaduna State Penal Code (Amendment) Law 2020 has paved way for subsequent

legislation on castration of convicted sex offenders in addition to listing or registering their names on sex offenders register. This development will go a long way in reducing the incidence of rape in Nigeria.

Castration of a male adult shrinks and stops his male organ from functioning, thereby reducing his sexual interest. This measure of punishment is necessary to curb the incidence of rape and to serve as deterrent to others. In other words, the fear of permanent or temporary loss of sexual function may send strict warning and deter future offenders. It prevents recidivism and promotes public safety. Castration is a way of paying sex offenders back in their own coin. It supports the philosophy of punishment known as retribution. Just like retribution, castration is a revengeful or teeth for tat punishment that make the sex offender go through the same pain he inflicted on the victim. In other words, a sex offender who has no regard for the sanctity of the body of the victim, has lost his right to his own human rights. Favourable and healthy balance must be maintained as a person cannot claim adherence to the recognition and respect for his own right while callously violating the rights of others.

The maximum punishment of imprisonment for life has not sufficiently reduced the incidence of rape in Nigeria. Apart from the fact that the impact of this punishment is not felt in Nigeria, its implication on the Nation's economy cannot be justified. For instance, funds spent on feeding inmates, improved security measures in cases of incessant jail break and escape of inmates, maintenance of correctional facilities can be channelled towards development projects that will be beneficial to citizens. While the essence of life imprisonment is to incapacitate sex offenders, it does not deter others in the society from committing the same act. Castration on the other hand tends to deter future offenders and incapacitates the sex offender while also serving as a way of decongesting the correctional centre. This punishment presents an attraction as an effective punishment in criminal jurisprudence with punitive measure that incapacitates an offender from repeating the same offence and a representation of the strong stance of government in curbing rape in the society.

⁶² 'Meaning Castration' <<https://dictionary.cambridge.org>> accessed 11 November 2025.

⁶³ 'Castration Definition' <<https://www.merriam-webster.com>> accessed 11 November 2025.

⁶⁴ T J Omidoyin and B D Awosusi., 'Castration as Punishment for Rape in Kaduna State, Nigeria: Beaming Searchlight for Reproductive Health Right Perspective' (2021)110 *Journal of Law Policy and Globalisation* 1-5;2.

⁶⁵ Ibid

⁶⁶ Ibid

⁶⁷ It otherwise called Orchiectomy. It can be unilateral (i.e. removal of one testicle) or bilateral (i.e. removal of both testicles).

⁶⁸ S Itty and R H Getzenberg, 'How do we Define "Castration in Men on Androgen Deprivation Therapy?" (2020)22(5) *Asian Journal of Andrology* 441.

⁶⁹ Kaduna State Penal Code (Amendment) Law 2020.

⁷⁰ Ibid.

⁷¹ Ibid.

⁷² Ibid. s258(3); Bilateral Salpingectomy is a procedure that involves the removal of the fallopian tubes.

6.0 CONCLUDING REMARK AND RECOMMENDATIONS

Rape is the most devastating and under reported sexual offence that has caused a lot of havoc, such as depression, stigmatisation, injuries, unwanted pregnancies, loss of self-worth, anxiety, post-traumatic stress disorder (PTSD), suicide, sexually transmitted diseases and even death in Nigeria. Despite the efforts of Nigerian governments and non-government organisations to create awareness and encourage victims to speak up when raped, it has remained a nightmare in the Nigerian society. Also, the culture of silence associated with rape creates a way of escape from justice for offenders, motivates repetition of the dastardly act and strengthens the belief that women's rights are secondary and are property to be acquired someday. While the National Laws prescribes life imprisonment for sex offenders, this punishment has not adequately

deterred sex offenders due to the increase in the number of rape cases in Nigeria. As a result of this, there is the urgent need for a stiffer punishment for rape so as to deter perpetual sex offenders who have not been caught in the web of the law and potential sex offenders. This will go a long way in curbing the menace in Nigeria. This study recommends amendment of our criminal laws to include surgical and chemical castration. Surgical castration should be pronounced on perpetual sex offenders and offenders who take pleasure in violating minors while chemical castration should be pronounced on first time sex offenders. There is also the need for wide publicity on the sensitization and treatment of rape victims. Rape victims should be encouraged to speak up so that the perpetrator of the dastardly act of rape can be arrested, prosecuted and punished. Laws should be enacted to prosecute anyone who stigmatises or treats rape victims unjustly. This will encourage victim to speak up so that the offender can be brought to book.