



Research Article



## Curtailing Male Rape in Nigeria: Legal Issues and Challenges

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**Abstract:** Despite the increasing prevalence and significant impact of male rape on the lives of many men in Nigeria, the issue has received limited attention. This study employs a hybrid research methodology to investigate the occurrences of male rape and the challenges in addressing its incidence in Nigeria. A total of 303 questionnaires were distributed to respondents, and the data were analyzed using descriptive and analytical methods. The findings reveal that male rape is indeed a widespread issue in Nigeria, and the existing legal framework is insufficient to effectively address this problem. Additionally, the study highlights that various legal, social, and psychological factors hinder efforts to reduce male rape in the country. The study concludes by emphasizing that rape is not a crime that exclusively affects women, but also constitutes a violent act against men. Therefore, the Nigerian government and stakeholders within the criminal justice system must take urgent steps, through legal reforms and justice mechanisms, to combat the silent but growing crisis of male rape in Nigerian society.

**Keywords:** Male rape; Violence act; Criminal justice system



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## INTRODUCTION

The issue of rape is a global phenomenon being experienced all over the global environment.<sup>1</sup> However, why some developed countries have taken punitive measures in curtailing the incidence of rape,<sup>2</sup> and some countries most especially developing countries are struggling to curtail the monster known as rape.<sup>3</sup> Rape is defined as the act of forcibly engaging in abusive, violent, and non-consensual sexual intercourse with a victim. It can occur in various forms, including gang rape, public group rape, marital rape, war rape, and statutory rape, the latter involving sexual relations with a minor, a physically challenged person, or someone with mental

<sup>1</sup> Adogu, Paul Oduwu, Adinma, E. Daniel, Onyiaorah, V. Innocent and Ubajaka, C. Fredrick "Perception, Prevalence and Predictors of Rape among Female Students in a Tertiary Institution South East Nigeria" *International Journal of Clinical Medicine*, 5, (2014), 819-828. <http://dx.doi.org/10.4236/ijcm.2014.514110>

<sup>2</sup> Devries, Kurt, Watts C0ma, Yoshihama Moses, Kiss, Larry., Schraiber, L. Braibe, Deyessa, N., Garcia-Moreno, "Violence against women is strongly associated with suicide attempts: Evidence from the WHO multi-country study on women's health and domestic violence against women" *Social Science & Medicine*, 7(3), (2014), 79-86. <http://doi.org/10.1016/j.socscimed.2011.05.006>

<sup>3</sup> Aidonojie, Paul Atagamen, The Societal and Legal Missing Link in Protecting a Girl Child against abuse before and Amidst the Covid-19 Pandemic in Nigeria, *Jurnal Hukum UNISSULA*, 38(1), (2022), 61-80 <https://doi.org/10.26532/jh.v38i1.18412>



disabilities. Based on this definition and the various forms rape can take, it is clear that rape is a crime committed against both females and males.<sup>4</sup> The act can involve violent, abusive, and non-consensual sexual acts, including vaginal, anal, or oral intercourse.

It is evident that rape has become a significant and pervasive issue in Nigeria, deeply affecting society.<sup>5</sup> While the government, non-governmental organizations, and various stakeholders within the Nigerian criminal justice system are working together to combat this crisis, their efforts predominantly focus on addressing rape against females.<sup>6</sup> This is largely due to the common societal belief that males cannot be victims of rape and are often perceived as the perpetrators. For instance, in December 2021, 20 state governments in Nigeria, through the Office of the First Lady, launched a 16-day campaign aimed at raising awareness of sexual violence against women.<sup>7</sup> Research has indicated that, while male rape is prevalent, it remains underreported. This has led to a legal framework that predominantly addresses issues related to female victims of rape, leaving male victims overlooked. Akinola's<sup>8</sup> study identifies societal stigmatization and the prevailing belief in male invulnerability as reasons for the lack of recognition of male rape as a serious crime. Olanrewaju<sup>9</sup> further corroborates this view, emphasizing that societal beliefs and the underreporting of male rape contribute to its continued and silent increase in Nigeria. In light of these challenges, it is crucial to acknowledge that, for effective prevention of the rising cases of male rape, there must be comprehensive sensitization and reorientation efforts. These should focus on recognizing that rape is not exclusively a crime against females; males can also be victims, and their experiences must be equally addressed within the legal and social frameworks.

In this context, it is important to note that male rape is often underreported and does not receive the necessary attention as a serious crime in Nigeria. This is largely due to the perception that male rape is an unrealistic concept, existing in isolation from the broader discourse on sexual violence. Many scholars define rape in ways

<sup>4</sup> Aidonjje, Paul Atagamen, Ikubanni O. Oluwaseye, Okoughae Nosa and Ayoedeji A. Ifeoluwa, (2021), The challenges and relevance of technology in administration of justice and human security in Nigeria: Amidst the Covid-19 pandemic, *Cogito Multidisciplinary Journal*, Vol. 13(3), PP. 149 – 170; Heller, Kevin, and Markus Dubber. *The Handbook of Comparative Criminal Law*. Edited by Stanford Law Books. 2019; Larcom, Shaun. "Legal Dissonance: The Interaction of Criminal Law and Customary Law in Papua New Guinea." Edited by Berghahn Books, Incorporated. 2015.

<sup>5</sup> Oladipupo S. Olaleye and Ademola J. Ajuwon, "Youths and non-consensual sex: exploring the experiences of rape and attempted rape survivors in a tertiary institution in Ibadan, Nigeria" *Ghana Medical Journal* 53(4), (2019), 279-286 <http://dx.doi.org/10.4314/gmj.v53i4.5>

<sup>6</sup> Michael O. Ogunlana, Ifeoma B. Nwosu, Abiola Fafolahan, Bose F. Ogunsola, Toluwatomi M. Sodeke, Opeyemi Mercy Adegoke, Nse A. Odunaiya & Pragashnie Govender (2021) Pattern of rape and femicide during COVID-19 lockdown: content and discourse analysis of digital media reports in Nigeria, *Journal of Gender Studies*, <https://doi.org/10.1080/09589236.2021.2012134>

<sup>7</sup> Majekodunmi, T. Afolabi, Oluwaseun, J. Akintola, Aidonjje, Paul Atagamen, Ikubanni, O. Oluwaseye and Oyebade A. Alade, (2022), Legal Issues in Combating the Scourge of Terrorism: Its Impact on International Trade and Investment: Nigeria as a Case Study, *KIU Journal of Humanities*, Vol. 7(3), PP. 129-139

<sup>8</sup> Akinola Raji. "The Gender Bias in Nigeria's Rape Laws: A Critical Analysis". *Journal of African Law*, 61(2), (2017): 245-264.

<sup>9</sup> Olanrewaju Fashola, "Sexual Violence and Male Victims in Nigeria: The Untold Stories". *African Journal of Criminology and Justice Studies*, 13(1), (2020): 33-47



that focus exclusively on female victims. For instance, Catherine MacKinnon defines rape as the penetration of a woman's body without her informed or prior consent, framing it as an expression of male dominance, gender inequality, and the abuse of women by men.<sup>10</sup> Similarly, Michelle Anderson argues that rape primarily constitutes a crime committed against women and criticizes any definition that includes males as potential victims. Anderson emphasizes the need to prioritize the prosecution of rape cases involving female victims.<sup>11</sup> Such scholarly perspectives contribute to a narrow understanding of rape, which centers on women as the sole victims and excludes men from the discourse. Cultural and societal norms in Nigeria further reinforce this limited view, with many people and traditional practices holding the belief that rape cannot be committed against men due to their perceived masculinity and ability to resist such acts. However, while men are often considered to be naturally stronger than women, it is important to recognize that certain groups of men, such as prisoners, apprentices, male children, and prisoners of war, are vulnerable and can be susceptible to sexual abuse by individuals who wield power over them. Additionally, societal stigma plays a significant role in silencing male victims of rape. In Nigerian society, it is considered shameful for a man to admit to being a victim of rape, as it is seen as a sign of weakness. This stigma often prevents male victims from speaking out about the crime, further perpetuating the underreporting and lack of attention given to male rape.

Given the aforementioned context, the prevailing ideologies, beliefs, and opinions regarding male rape have contributed to significant deficiencies within the legal framework for adequately addressing male rape in Nigeria. For instance, the criminal code and penal code of Nigeria predominantly frame rape as an offense perpetrated by a male against a female, thereby implying that rape cannot be committed against males. Although the Violence Against Persons Prohibition Act (VAPP Act), enacted in 2015, has expanded the definition of rape to encompass all forms of sexual offenses, including male rape, its applicability is limited to the Federal Capital Territory. Consequently, male rape is only officially recognized in one of Nigeria's 36 states, perpetuating a legal void in the remaining 35 states. This situation not only hampers the effective implementation and enforcement of laws against male rape but also results in a lack of competent and adequately trained personnel to handle such cases. The inadequate attention afforded to male rape exacerbates these issues, reflecting a broader challenge in addressing this crime within the Nigerian legal system.

In Nigeria, rape has traditionally been perceived as a gender-specific issue affecting only females, due to their perceived vulnerability within society. Consequently, there has been minimal attention given to male rape, which has led to its growing prevalence and a culture of silence surrounding the suffering of male victims. In light of this, the present study aims to employ a hybrid research methodology to investigate the incidence of male rape in Nigeria. This includes an examination of the existing legal framework, the challenges associated with addressing male rape, and the formulation of potential solutions to mitigate this issue.

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<sup>10</sup> Catherine MacKinnon. *Toward a Feminist Theory of the State*. Harvard University Press, 1989.

<sup>11</sup> Michelle Anderson. 'Diminishing the Legal Impact of Negative Social Attitudes Toward Rape Victims: How Much Progress Has Been Made?' *Fordham Law Review*, 84(3), (2005): 829-863.



## METHOD

To effectively investigate the incidence and challenges associated with male rape in Nigeria, this study employs a hybrid research methodology incorporating both doctrinal and non-doctrinal approaches. The doctrinal methodology focuses on the theoretical exploration of rape as it pertains to males in Nigeria. This involves a comprehensive review of relevant legal frameworks and scholarly literature, including laws, journal articles, textbooks, and online resources, to understand the existing legal definitions and perspectives on male rape. In contrast, the non-doctrinal methodology aims to examine the practical aspects of male rape, including the various methods by which it occurs, the challenges in addressing these incidents, and potential solutions. To achieve this, questionnaires were distributed to respondents across Nigeria. Concerning the sample size of this study, 303 respondent's resident in the Federal Republic of Nigeria were adopted as sample size. Furthermore, the researcher adopted a simple random sampling technique in selecting or identifying the respondents. The simple random method of sampling techniques is said to possess numerous advantages. Respondents from a homogeneous population are better selected to respond to the questionnaire with the use of simple random sampling techniques based on the reason: (1) that a random sampling technique or method is more reliable in obtaining an unbiased result; (2) that it is a hassle-free process of selecting respondents from diverse or different cultural backgrounds; and (3) that a simple random technique is more suitable and preferable to a non-doctrinal or empirical legal research method. The collected data were then analyzed using mathematical, statistical, and descriptive techniques. Overall, the study adopts both descriptive and analytical approaches to evaluate data obtained from primary and secondary sources, thereby providing a well-rounded analysis of the issue.

## RESULT AND DISCUSSION

### *Conceptual Issues Concerning Male Rape in Nigeria*

Rape is regarded as a global issue that affects virtually the global environment. This is concerning the fact that the incidence of rape has been experienced in most or all countries within the global environment.<sup>12</sup> It is often described as a grievous violation that inflicts severe psychological trauma, social stigmatization, and the risk of sexually transmitted diseases on its victims.<sup>13</sup> The repercussions of rape are far-reaching, impacting victims' social well-being as well as their physical and mental health. While many countries have established mechanisms to combat and address rape, developing nations continue to face significant challenges in this regard.<sup>14</sup> To support these countries in their efforts to tackle this severe issue, the international community has engaged in various treaties and conventions aimed at combating the atrocity of rape

<sup>12</sup> Sunday B. Fakunmoju, Tina Abrefa-Gyan, Ntandoyenkosi Maphosa "Rape Myth Acceptance: Gender and Cross-National Comparisons Across the United States, South Africa, Ghana, and Nigeria. *Sexuality & Culture* 25, 18–38 (2021). <https://doi.org/10.1007/s12119-020-09755-za>

<sup>13</sup> Adesola A. Ogunfowokan, Oluwayemisi E. Olagunju, , and Phyllis W. Sharps, *Correlates of Self-Report of Rape Among Male School Adolescents in Ile-Ife, Nigeria*, SAGE, 31(4), 2014 <https://doi.org/10.1177/0886260514556104>

<sup>14</sup> Aidonojie Paul Atagamen, Majekodunmi Toyin Afolabi, Ikubanni, O. Oluseye and Ibrahim Nathan, *The causes of the Rising incidence of domestic violence in Nigeria: Proposing Judicial Separation as a Panacea*, *Jurnal Hukum UNISSULA*, 38(2), (2020), 61-80, <https://doi.org/10.26532/jh.v38i2.21592>





and providing assistance in curbing its prevalence.<sup>15</sup> Nigeria, as a developing country, is significantly affected by the issue of rape, with numerous reported cases and incidents.<sup>16</sup> Despite efforts by various stakeholders in the criminal justice system to combat this issue, the focus of anti-rape initiatives in Nigeria has predominantly been on female victims.<sup>17</sup> This gender-specific approach has led to a neglect of male victims, who also suffer from sexual violence, particularly through anal and oral intercourse, which are often not recognized as forms of rape under the current legal framework.

For instance, in the case of *Magaji v. Nigerian Army*, the defendant was convicted for the rape of four males through anal sex and sentenced to seven years imprisonment by the General Court Martial.<sup>18</sup> This case highlights that while vaginal rape is predominantly recognized, male victims of anal and oral rape face significant legal and social challenges. The persistent disregard for the possibility of male rape has contributed to its growing prevalence and has exacerbated the suffering of male victims. The stigma and silence surrounding male rape have had severe psychological, social, mental, and physical effects on these individuals. It is crucial to address and combat this issue proactively to prevent male rape from becoming entrenched as a norm within Nigerian society.

### ***Issues and Modus of Male Rape in Nigeria***

The issue of rape is profoundly detrimental, with severe impacts on victims that encompass psychological, physical, mental, and emotional impairments.<sup>19</sup> Despite widespread societal condemnation of rape, male rape has increasingly infiltrated Nigerian society, largely because sexual harassment is often perceived as a gender-based issue predominantly affecting females.<sup>20</sup> Several challenges complicate the effective management and prevention of male rape incidents in Nigeria. A preliminary review of Nigeria's primary legislation on male rape, the Violence Against Persons (Prohibition) Act, suggests that it is insufficient and ineffective in addressing the complexities associated with male rape. Additionally, the legal processes and requirements for proving male rape are frequently complex and cumbersome. The psychological effects of societal and social stigmatization further exacerbate the issue.

<sup>15</sup> Fakunmoju Sunday, Abrefa-Gyan Tina and Maphosa Ntandoyenkosi, "Confirmatory factor analysis and gender invariance of the Revised Illinois Rape Myth Acceptance (IRMA) Scale in Nigeria". *Journal of Women and Social Work*, 34(1), (2019) 83–98. <https://doi.org/10.1177/0886109918803645>

<sup>16</sup> Sunday B. Fakunmoju and Funmi O. Bammeke, Gender-based violence beliefs and stereotypes: Cross-cultural comparison across three countries. *International Journal of Asian Social Science*, 7(9), (2017), 738–753. <https://doi.org/10.18488/JOURNAL.1.2017.79.738.753>

<sup>17</sup> Obierufu, Prisca and Ojedokun Oluyinka "Masculinity as predictor of rape-supportive attitude among men". *Psychological Studies*, 64(1), (2019), 41–48. <https://doi.org/10.1007/s12646-019-00478-2>

<sup>18</sup> Schabas, Williams A. *Relationships between International Criminal Law and Other Branches of International Law*. Edited by Brill publisher. 2022; Babatunde, Layi. *A Hand Book Of Criminal Law And Procedure Through Cases*. 2nd ed. Lawbreed Limited. 2018.

<sup>19</sup> Aidonojie, Paul Atagamen, Odojor, Anne Oyemwosa, and Agbale, Patience Omohoste, 'The Legal Impact of Plea Bargain in Settlement of High Profile Financial Criminal Cases in Nigeria', *Sriwijaya Law Review*, 5(2), 2021, 161-174 <https://doi.org/10.28946/slrev.Vol5.Iss2.852.pp161-174>

a Morenike O. Folayan, Morolake Odetoyinbo, Abigail Harrison & Brandon Brown(2014) Rape in Nigeria: a silent epidemic among adolescents with implications for HIV infection, *Global Health Action*, 7(1), (2014), <https://doi.org/10.3402/gha.v7.25583>

<sup>20</sup> Sunday B. Fakunmoju and Funmi O. Bammeke, Gender-based violence beliefs and stereotypes: Cross-cultural comparison across three countries. *International Journal of Asian Social Science*, 7(9), (2017), 738–753. <https://doi.org/10.18488/JOURNAL.1.2017.79.738.753>.

There is also a prevalent misconception that males cannot be raped, and the problem is compounded by the under-reporting of male rape incidents. According to the respondents' confirmation of the existence of male rape incidents in Nigeria. Specifically, 81.2% of the participants acknowledge that male rape does occur, although it is frequently under-reported. Conversely, the remaining respondents disagree. This indicates that among the 303 individuals surveyed, a significant majority recognize male rape as a genuine social issue, while only a small minority deny its occurrence.

**Table 1.** Various ways of male rape are committed in Nigeria

Ways Male Rape can be committed	Cluster Response	of Percentage
Male rape by correctional officers	214	87.3%
Male rape by an inmate convicted or awaiting trial	239	97.6%
Gang rape	136	55.5%
Marital rape (by a same-sex couple)	64	26.1%
Male rape by a guardian	193	78.8%

Table 1 draws valid clusters of respondents identifying the various ways male rape can be committed in Nigeria. A study conducted to explore the various ways male rape in Nigeria can be committed has revealed multiple scenarios in which this form of sexual violence occurs. The data indicate that male rape can be perpetrated in correctional facilities by correctional officers, with 87.3% of respondents acknowledging this occurrence. Moreover, 97.6% reported instances where male rape was committed by fellow inmates, either convicted or awaiting trial, highlighting the vulnerability of individuals within the prison system. Additionally, gang rape involving multiple perpetrators was identified as another significant method of male rape, with 55.5% of respondents reporting awareness of such cases. Within same-sex relationships, marital rape was also a concerning issue, although less frequently noted, with 26.1% recognizing its occurrence. Furthermore, male rape by guardians—individuals entrusted with the care and supervision of victims—was acknowledged by 78.8% of respondents, emphasizing the risk of abuse in such power dynamics. This data underscores the various contexts in which male rape can take place, revealing the prevalence of sexual violence in institutional settings, interpersonal relationships, and situations of guardianship.

### ***Challenges of Male Rape Mitigation in Nigeria***

Several challenges hinder efforts to curtail male rape in Nigeria, as highlighted by recent data. One of the most prominent issues identified is the inadequacy and ineffectiveness of national laws addressing male rape, with 85.4% of respondents indicating this as a major obstacle. Compounding this challenge are the cumbersome legal requirements needed to establish the incidence of male rape, cited by an overwhelming 98% of respondents. This legal complexity likely contributes to the difficulty in pursuing justice for male rape victims. Societal attitudes also play a critical role in exacerbating the issue. For instance, 73.6% of respondents reported that a widespread perception exists that males cannot be victims of rape, further marginalizing male survivors and perpetuating harmful stereotypes. Additionally,



social stigmatization continues to deter victims from coming forward, with 55.3% acknowledging this as a significant barrier to addressing male rape.

Moreover, the challenge of under-reporting remains a persistent issue, with 42.3% of respondents highlighting that many male rape cases go unreported. This further complicates efforts to accurately assess the scope of the problem and implement effective solutions. In summary, the data reveal that legal inadequacies, societal misconceptions, and under-reporting are the primary challenges impeding the effective curtailment of male rape in Nigeria.

**Table 2.** Challenges mitigating against curtailing male rape in Nigeria

Challenges mitigating against curtailing male rape in Nigeria	Cluster of Responses	Percentage
Inadequate and ineffective national laws on male rape	210	85.4%
Cumbersome legal requirements in establishing the incidence of male rape	241	98%
Societal and social stigmatization	136	55.3%
The general perception is that males cannot be rape	181	73.6%
The challenges of under-reporting incidence of male rape	104	42.3%

Concerning the above, it suffices to state that from the findings it is very evident that there are incidences of male rape in Nigeria. Furthermore, several challenges are necessitating the continuous committing of male rape in Nigeria. In this regard, suffices to opine that the issue of rape is a serious criminal offense that the law condemns. However, rape against males seems to be more prevalent in Nigeria, given the fact that it is under-reported and the belief that males cannot be raped.

### ***Nigeria's Legal Framework on Male Rape***

Nigeria is a signatory to several international legal frameworks aimed at addressing violence and human rights abuses. These include the Declaration on the Elimination of Violence against Women (DEVAW), the Universal Declaration of Human Rights, the Convention Against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment, the International Convention on the Elimination of All Forms of Racial Discrimination, and the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW). Despite Nigeria's commitment to these international instruments, their effectiveness in addressing male rape within the country remains limited. These frameworks often do not specifically address male rape, resulting in insufficient protection and recognition for male victims. Additionally, according to Section 12 of the Nigerian Constitution, international treaties must be ratified by the National Assembly before they can be enforced in Nigeria. In terms of male rape, the Nigerian Constitution does not explicitly cover this issue, as it generally addresses criminal offenses. However, Section 34(1) of the Constitution condemns any form of inhuman or degrading treatment, which could be interpreted to include male rape. At present, Nigeria has some primary legislation related to male rape, though these laws face various challenges and limitations, which will be discussed further.

#### **1. Violence Against Person (Prohibition) Act (VAPP ACT)**



The Violence Against Persons (Prohibition) Act, enacted by the National Assembly and coming into force in 2015, was introduced in response to the rising levels of violence against individuals both domestically and within the broader society. This law emerged as a result of advocacy by various organizations and human rights groups. The VAPP Act is significant as it represents the first piece of legislation in Nigeria to explicitly expand the definition of rape beyond the traditional notion of vaginal rape. It includes penetration of the mouth or anus, which are recognized as common forms of male rape.<sup>21</sup> Traditionally, in societies like Nigeria, male rape is not acknowledged due to the belief that men are too powerful to be victims of rape. Consequently, male rape cases are rarely reported despite their existence. The VAPP Act challenges this misconception by broadening the legal definition of rape. According to Section 1(1) of the Act, rape is defined as the intentional penetration of a victim's vagina, mouth, or anus with any part of the perpetrator's body or an object, without the victim's consent. This definition also covers situations where consent is obtained through force, fraud, or misrepresentation.

The VAPP Act is a pioneering piece of legislation in Nigeria, as it is the first law to explicitly acknowledge that men can be victims of rape. Prior to this, Nigerian laws primarily addressed rape in terms of vaginal penetration, leading to the implication that only women could be raped. The VAPP Act, however, broadens this definition to include anal penetration and oral penetration, recognizing these forms of sexual violence as well. Anal and oral penetration, which are not exclusive to any one gender, can occur with or without consent and are now legally recognized as forms of rape under the Act. Thus, the VAPP Act unequivocally establishes that men, like women, are capable of being raped.

Prior to the enactment of the VAPP Act, the legal definition of rape in Nigeria was narrowly confined to the traditional concept, which involved the vaginal penetration of a woman or girl by the penis without her consent, or with consent obtained through force or deceit, as outlined in Section 357 of the Nigerian Criminal Code. Although anal rape was acknowledged under Section 357, it was categorized differently under Section 214 of the Criminal Code, which addressed unnatural offenses. Specifically, Section 214(1) and (3) stipulated that any person who engages in carnal knowledge of another person contrary to the natural order, or who allows such acts against them, is guilty of an offense punishable by 14 years imprisonment. The term "against the order of nature" was judicially interpreted in the case of *Magaji v. Nigerian Army* (2008) 34 NSCQR (pt 1) 108 to refer to anal intercourse. In this case, Magaji was charged with the carnal knowledge of four males and was initially sentenced to seven years imprisonment by the General Court Martial, a sentence later reduced to five years.

The VAPP Act stipulates specific penalties for the crime of rape. According to Section 1(2) of the Act, the prescribed punishment for rape is life imprisonment, unless the offender is under the age of 14, in which case the maximum sentence is 14 years

<sup>21</sup> Yakubu, Ademola J., and Ademola T. Oyewo. *Criminal Law and Procedure in Nigeria*. Malthouse Press. 2000; Wigwe, Chris C. *Introduction to Criminal Law in Nigeria*. Mounterest University Press. 2016.; Agba, James Atta. *Practical Approach to Criminal Litigation in Nigeria*. Edited by Renaissance Law Publishers, Limited. 2017; Aloba, Eni Eja. *Criminal Law and Sexual Offences in Nigeria*. Princeton & Associates Publishing Company Limited. 2016.





imprisonment. Additionally, the Act mandates a minimum sentence of 12 years imprisonment for those convicted of rape. In contrast, while the Nigerian Criminal Code also provides for life imprisonment as a penalty for rape, courts have historically interpreted this as a non-mandatory sentence. For example, in *Popoola v. State*,<sup>22</sup> the trial judge sentenced the appellant to five years imprisonment, and in *Iko v. State*,<sup>23</sup> the accused was sentenced to seven years imprisonment despite being found guilty. The VAPP Act, however, clarifies that courts must impose either life imprisonment or a minimum of 12 years imprisonment for rape convictions, except in cases involving offenders under Section 1(2)(a).

Despite the VAPP Act's notable advances, it remains insufficient in fully addressing the issue of male rape.<sup>24</sup> Although the Act was enacted by the National Assembly, Section 47 restricts its applicability to the Federal Capital Territory (FCT), Abuja, and Section 27 grants jurisdiction over crimes defined by the Act exclusively to the High Court of the FCT. Furthermore, while some states have adopted the Act, others, such as Kano, Zamfara, and Katsina, have yet to do so. This raises a critical question: What protections and legal remedies are available for male rape victims in these states where the Act has not been domesticated?

## 2. Administration of Criminal Justice Act (ACJA)

The Administration of Criminal Justice Act (ACJA) 2015 represents a significant reform in Nigeria's criminal justice system. Signed into law in May 2015, the ACJA has proven to be a vital tool, especially for legal practitioners, due to its extensive applicability across all federal courts in Nigeria. It is anticipated that states within the Federal Republic of Nigeria will implement the ACJA within their jurisdictions as the Administration of Criminal Justice Law (ACJL). Notably, some states, such as Lagos and Anambra, had already established their own ACJL frameworks prior to the enactment of the ACJA. Additionally, other states, including Enugu, adopted the ACJA following its introduction in 2015.

The Administration of Criminal Justice Act (ACJA) 2015 effectively repealed both the Criminal Procedure Act, which was applicable in southern Nigeria, and the Criminal Procedure Code, used in the northern states. As a result, the ACJA mandates that courts adhere to its procedures for criminal matters at both the federal and state levels, with state jurisdictions adopting the ACJL in alignment with the ACJA. By consolidating the provisions of the Criminal Procedure Act and the Criminal Procedure (Northern States) Act, the ACJA has succeeded in preserving established criminal procedures while also introducing new measures designed to enhance the efficiency of the criminal justice system.

The Administration of Criminal Justice Act (ACJA) extends to the criminal trial of offenses, including rape, as defined under Section 1(1) of the VAPP Act, which encompasses male rape. A notable advancement introduced by the ACJA is found in Section 314, which acknowledges the necessity of providing appropriate remedies for

<sup>22</sup> (2018) LPELR-43853 (SC)

<sup>23</sup> (2001) 14 NWLR Pt 732, 221

<sup>24</sup> Kanovitz, Jacqueline R. Constitutional Law. Abingdon, Oxon ; New York: Routledge. 2015; Oyewo, Oyelowo. Constitutional Law in Nigeria. Alphen aan den Rijn, The Netherlands: Kluwer Law International. 2013.



victims of rape and other sexual offenses. This section also emphasizes the importance of better protection for victims and witnesses throughout criminal proceedings. Prior to the enactment of the ACJA, the criminal justice system primarily focused on punishing offenders rather than compensating victims for their losses. The only form of redress available to victims was the sentencing of the perpetrator, with any fines imposed being directed to the state rather than to the victim. The ACJA's provision for victim compensation under Section 314 represents a significant reform, offering financial support to help victims recover and rebuild their lives post-incident. In cases where victims have died as a result of rape, this section provides compensation to the bereaved family, particularly critical if the victim was the primary breadwinner. This provision marks a substantial improvement in the Nigerian criminal justice system, addressing the hardships faced by victims, including male victims of rape, and ensuring that justice is served for both the victim and the offender.

The phrase “notwithstanding the limit of its civil or criminal jurisdiction” in Section 314(1) of the ACJA indicates that, in the context of a criminal proceeding, the court is not bound by the typical limits on compensation awards. This provision allows the court to grant compensation to the victim beyond the usual jurisdictional limits. Essentially, it means that the court can award compensation as it deems appropriate, without being restricted by the standard limits that normally apply to its civil or criminal jurisdiction.<sup>25</sup>

Another significant innovation introduced by the ACJA in relation to rape is the enhanced protection for victims and witnesses. Section 232 of the ACJA outlines procedures for the trial of certain offenses, including rape, and specifies that trials for these offenses may be conducted in closed courtrooms, rather than in public or open court. This provision is designed to shield victims from potential stigmatization and emotional distress. In the context of a highly patriarchal society like Nigeria, where male rape victims may be subject to severe social stigma and negative judgments, holding a trial in a closed setting helps mitigate the risk of public exposure and associated prejudices. This approach aims to provide a degree of privacy and protection for victims, reducing the likelihood of further emotional and social harm.

Another notable advancement brought by the ACJA to the Nigerian criminal justice system is the provision for expedited trials. Section 306 of the ACJA mandates that courts shall dismiss applications for stays of proceedings in criminal cases to ensure that such cases are concluded within a reasonable timeframe. This provision seeks to prevent delays caused by interlocutory applications and appeals on preliminary matters, which have historically impeded the timely resolution of criminal trials. The importance of Section 306 lies in its capacity to address one of the most pressing issues within the Nigerian criminal justice system: the protracted duration of trials. Extended delays in criminal proceedings often result in justice being delayed, leaving victims to suffer prolonged periods of pain and agony. In some cases, accused individuals may even die before their trials are concluded, depriving victims of the

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<sup>25</sup> De Schutter, Olivier. *International Human Rights Law: Cases, Materials, Commentary*. Cambridge University Press. 2nd ed. 2014; Bantekas, Ilias, and Lutz Oette. *International Human Rights Law and Practice*. Cambridge University Press. June 10, 2013



opportunity for justice and allowing offenders to escape the full consequences of their actions.

The maxim "justice delayed is justice denied" underscores the critical need for timely judicial processes. The ACJA's provision for speeding up trials is a significant step towards rectifying this issue, ensuring that victims, including those of rape, receive swift justice. In the case of *FRN v. Lawan* (2018) LPELR-43973 (CA), Justice Uwa emphasized that the purpose of enacting the Administration of Criminal Justice Act was to facilitate speedy trials and the expeditious disposal of criminal cases, thereby safeguarding the rights of victims, defendants, and society at large.

### ***Possible Remedies in Curtailing Male Rape in Nigeria***

To effectively curtail the incidence of male rape in Nigeria, several remedies have been identified as crucial. A significant majority (86.2%) of respondents emphasize the need to intensify the institutional and legal frameworks surrounding male rape. This highlights the importance of reforming laws and strengthening institutions responsible for addressing this form of sexual violence. Furthermore, the swift prosecution of perpetrators was noted by 93.9% of respondents as an essential measure. Speedy legal actions against offenders are seen as a deterrent and a means of securing justice for victims. Alongside this, 60.2% of respondents advocate for the eradication of technicalities in the enforcement of male rape laws, calling for a more straightforward and less bureaucratic legal process to ensure efficient handling of such cases.

In addition to legal reforms, psychosocial support is also recognized as important. A significant portion of respondents (63.4%) point out the need for counseling and rehabilitation services for male rape victims, indicating that comprehensive support for survivors is critical to their recovery and reintegration into society. Finally, public sensitization is seen as a vital component in addressing the issue. Nearly half of the respondents (47.2%) agree that there is a pressing need for greater public awareness regarding the incidence of male rape. Public education campaigns could challenge harmful stereotypes, reduce stigma, and encourage more victims to come forward. In conclusion, the data suggest that a multifaceted approach, combining legal reforms, swift justice, victim support, and public sensitization, is necessary to effectively address the issue of male rape in Nigeria.

**Table 3.** Possible remedies in curtailing male rape in Nigeria

Remedies in curtailing incidence of male rape in Nigeria	Cluster of Responses	Percentage
There is a need to intensify the institutional and legal framework concerning the incidence of male rape in Nigeria	212	86.2%
Swift's prosecution of the perpetrator of male rape	231	93.9%
Eradication of any form of technicalities in the enforcement of male rape	148	60.2%
Counseling and rehabilitation of victims of male rape	156	63.4%
Sensitization of the general public concerning incidences of male rape in Nigeria	116	47.2%



## CONCLUSION

The Violence Against Persons (Prohibition) Act (VAPP Act) and the Administration of Criminal Justice Act (ACJA) are two of the most transformative legal statutes enacted in Nigeria since 2015. Both laws have significantly enhanced the Nigerian justice system by addressing gaps in the pre-existing legal framework. However, despite the progressive changes introduced by these statutes, considerable challenges remain, particularly regarding the issue of male rape. Historically, the legal understanding of rape in Nigeria has predominantly focused on female victims, largely due to the narrow definitions provided by laws such as the Criminal Code. The VAPP Act has been instrumental in resolving this issue by explicitly recognizing male rape, thereby ending the long-standing legal ambiguity surrounding the matter. In contrast, while the ACJA has substantially improved the overall criminal justice process in Nigeria, it does not adequately address the issue of male rape. Given that the ACJA was enacted in the same year as the VAPP Act, it is reasonable to expect that the legislature would have provided clear procedural guidelines for addressing male rape, complementing the substantive provisions of the VAPP Act. The failure to do so has created a significant procedural gap in the Nigerian criminal justice system, leaving the issue of male rape inadequately addressed. Several key measures are essential for effectively addressing the issue of male rape in Nigeria. First, a thorough review of the existing legal framework on male rape is required to ensure that it adequately responds to the complexities and challenges of this crime. Secondly, there is an urgent need to eliminate any procedural technicalities and burdensome requirements in establishing cases of male rape, thereby enabling a more streamlined and effective prosecution process. Furthermore, a robust public sensitization campaign is necessary to raise awareness about the realities of male rape, challenge deeply ingrained societal misconceptions, and reduce the stigma that discourages victims from coming forward. Lastly, it is imperative that stakeholders within the Nigerian justice system collaborate with non-governmental organizations (NGOs) and international bodies to strengthen efforts aimed at combating male rape. Such partnerships will enhance the collective capacity to address this pressing issue and ensure a more coordinated approach to justice and victim support.

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