



## Male Child Victim of Sexual Abuse in Nigeria

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### Abstract

Child sexual abuse is a vice that is sadly prevalent in our world today. Children are used for all sorts of sexual perversion from rape to defilement and even use of children for pornography.

However, in the Nigerian context, by reason of the laws defining rape as well as conventional, child sexual abuse usually connotes abuse predominantly of the female child unfortunately to the neglect of the male child sufferer of sexual abuse. These children's perspectives have rarely been explored in relation to the help they receive towards their emotional and mental well-being. At times the affected children are reluctant to seek consultation with specialists or quickly cease further contact. It is therefore imperative to evolve legal and policy instruments to involve young male children in decisions and mechanisms likely to affect their lives and future endeavours.

This paper thus seeks to examine the incidence of male child sexual abuse in Nigeria, looking at the laws and suggesting areas where the Law might be needed reform in order to provide instruments that will adequately protect both the male and female children against sexual abuse.

**Key word:** Male child victim; Sexual abuse; Examine

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## INTRODUCTION

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In uncomplicated terms, sexual abuse refers to unwanted sexual activity forced on a person by another through coercion or threats.<sup>1</sup> It may involve rape, sexual assault, sexual molestation or pornography. The definition of sexual abuse with children is when an older person, a youth or an adult uses a child or youth in his or her own sexual gratification.<sup>2</sup> This kind of violation includes all sorts of activities from rape of any orifice on the child, to fondling the genitals of the child, to forcing the child to fondle or touch the abuser's genitals, to forcing the child to perceive sexually explicit acts in any form (media, directly or reading).

Abuse may also be as a result of cultural practices such as child marriage and female genital mutilation.

A child by definition, under the Child's Rights Act (CRA), is any person under the age of 18 years.<sup>3</sup> By all standards, a child is vulnerable compared to the adult and as such he/she require care and protection from anything that may occasion harm or threat to his/her well being.

Unfortunately, a good number of adults take undue advantage of a child's vulnerability and exploit the child. In particular, sexual exploitation of children has become a rampant feature in societies the world over. According to the British National Society for the Prevention of Cruelty to Children (NSPCC), statistics on Child Sexual Abuse gave the results to the effect that nearly a quarter of young adults experienced sexual abuse during childhood<sup>4</sup>. Also a survey on 134 men and 202 women aged 25 to 44 years in Nicaragua found that 19% and 27% of men and women respectively reported sexual abuse in childhood and adolescence. (Omorodion, 1994) While it is generally acknowledged that sexual abuse is existent in all countries the world over, available statistics concerning the prevalence of child sexual abuse in Sub-Saharan Africa are very limited (Terry & Lalor, 2004). It should be noted at this juncture that the statistics cannot be too accurate because of the problem of non-reporting of sexual offences, due to a variety of factors such as the social stigma attached to it, more abuse and injury consequent upon the report, fear of retribution and ridicule, and lack of confidence in investigators, police and health workers.<sup>5</sup> In South-Eastern Nigeria, according to a scholar, a survey of reported cases of child sexual abuse in three major towns in that region showed that 60% of the cases involved girls below the age of 12 years.

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<sup>1</sup> Cultural Dictionary. Retrieved 2012, September 7 from <http://dictionary.reference.com/browse/sexual+abuse>

<sup>2</sup> Definition of Sexual Abuse. Retrieved 2012, September 7 from <http://www.child-abuse-effects.com/definition-of-sexual-abuse.html>

<sup>3</sup> Section 277, Child's Rights Act, Cap C50, Laws of the Federation of Nigeria, 2004.

<sup>4</sup> National Society for the Prevention of Cruelty to Children (NSPCC) Statistics on Child Sexual Abuse, June 2012, Retrieved 2012, September 7 from [http://www.nspcc.org.uk/Inform/resourcesfor-professionals/sexualabuse/statistics\\_wda87833.html](http://www.nspcc.org.uk/Inform/resourcesfor-professionals/sexualabuse/statistics_wda87833.html)

<sup>5</sup> Terry K. J. & Lalor K., *op cit*.

Generally and considering the above, statistics on child sexual abuse in Nigerian communities, as saw in health facilities, are scanty (Abdulkadir et al., 2011). Thus there is a vacuum in existing literature in this regard.

Scholars researching in this area have come to the conclusion that these improper activities done to or with or around the children have both short term and long term negative effects on their well-being, with a range from separation anxiety (in the short term) to post traumatic stress disorder or substance abuse (in the long term).<sup>6</sup>

In addition to the above, the personality of the abuser also matters; in most cases, abusers are people who are close to the child and as such have the child's confidence to an extent. It may be a biological parent, or a step parent, or an extended relative, or a caregiver.<sup>7</sup> Abuse could be perpetrated by either a male or female adult, although it has been alleged that in most cases, males are more prevalent as sexual abuse offenders (Biodun, 2000).

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## **1. INCIDENCES AND EFFECTS OF MALE CHILD SEXUAL ABUSE**

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Incidences of sexual abuse of a male child are as prevalent in societies as those of the female child. For example, a hospital-based review in KwaZulu-Natal, South Africa revealed that there were 131 reported cases of sexually abused boys over a three year period (Steven, 2005).

Also, in the study carried out by Isa Abdulkadir<sup>8</sup>, it was reported that it is noteworthy that no cases of male child victims of sexual abuse was found, owing to the fact that male child victims are less likely to disclose their experience following the sexual abuse. However, that is not to say that the incidences of male child victims do not occur.

Even though the incidence rates have only marginal differences, it seems that the cases of female abuse have received more attention. Researchers have discovered that the male child victim is more likely to be at a disadvantage compared to his female counterpart, in terms of having a redress of the problem. This disadvantage is directly linked with the reluctance of the male child victim to report the incidences. The non-reporting of incidences could be due to a variety of reasons. First of all, consciously or unconsciously, because females are said to be the "weaker sex", they are perceived to be more disadvantaged sexually and thus more prone to be victims of sexual abuse than their male counterparts. This notion however may not be correct at all times.

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<sup>6</sup> Understanding Child Sexual Abuse, Education, Prevention and Recovery. Retrieved 2012, September 7 from <http://www.apa.org/pubs/info/brochures/sex-abuse.aspx>

<sup>7</sup> Konklin, K. (2012). "Child Sexual Abuse I: An Overview" Advocates For Youth © Retreved 2012 September 7 from <http://www.advocatesforyouth.org/publications/410?task=view>

<sup>8</sup> Isa Abdulkadir et al *op cit*.

Another reason is that a man's ego and masculinity may prevent him from exposing an action that seemed to have robbed him of them. Men are likely to find it difficult to admit to having been sexually abused because a number of cultures around the world encourage male dominance, making them believe they should be in charge of every aspect of their lives, such that when boys are abused, they often think they should have been able to confront and, if possible, arrest the situation and stop the abuser.<sup>9</sup>

Also, a profound scholar in this regard (Lisak, 1994) said that male gender norms dictate that "appropriately masculine" men do not acknowledge and certainly do not express their own pain, vulnerability or feelings of helplessness.

For all the above reasons, even though the incidences occur, abuse cases involving male (child) victims are less reported than their female counterparts.

Sexual abuse on male children has been found, by scholars, to have lasting and profound effects on the abused child, even throughout the continuum of life (Hopper, 2012). Depending on a variety of factors, the effects of the abuse vary from one victim to the other.

Such factors include the age of the child when the abuse happened; the younger a child at the onset of the abuse, the worse the long lasting effects on the child.

Another factor is the personality of the abuser. The effects of the abuse are worse if the abuser is a close relative. This is due to the fact that the child feels disappointed in the known adult in whom he deposited trust.

Another factor to be considered is the reaction of those whom an abused child decides to share his experiences with. Generally, an abused child is reluctant to tell anyone about his experiences; the response of the confidant, in the event that the child decides to open up, is thus very important. If the confidant is impatient or judgmental, it may make the abuse have more profound negative effects on the child, making the child have feelings of guilt as if it were his fault the abuse happened.

An abuse that involved physical violence and the severity of the violence is another factor that could make the effects of the abuse more profound. Again, an abuse that lasted over a long period of time is more likely to have worse effects than one otherwise. (Hopper, 2012)

Other factors that determine the extent or severity of the effect of abuse include whether the abuse involved a deliberate emotional humiliation of the child; for instance, if an abuser accompanies his actions with hurtful words emphasising the fact that the child is helpless or perhaps teasing about his genitals, the abuse in question is more likely to have profound effects on the child.

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<sup>9</sup> "When Males Have Been Sexually Abused: A Guide for Men", Sexual Abuse Information Series 2008. National Clearinghouse on Family Violence. Public Health Agency of Canada. Retrieved 2012, August 29 from <http://www.phac-aspc.gc.ca/nc-cn>. Cultures that promote this notion include Canada and most parts of Africa.

In some societies, abuse is somewhat acceptable. In such places, the prevailing culture has some degree of acceptability for the acts that constitute the abuse. For example, female genital mutilation (which is also a form of sexual abuse), though widely condemned by international health experts as damaging to physical and psychological health, is widely practiced in Africa and Asia. Such acceptability is definitely not formal but rather that such acts are no longer morally reprehensible. Therefore in such societies, a child who has experienced an abuse and finds it disturbing may not find any empathetic adult to confide in.

In a similar vein, other negative abusive acts might be acceptable, such as physical or verbal abuse. This may also affect the outlook of the child in correctly seeing the sexually abusive act as an aberration.

Lastly but certainly not exhaustively, a child in a conflict-ridden or strained home already has enough emotional strain; sexual abuse on such a child could turn out to have more profound effects. (Hopper, 2012)

Having considered some of the factors that may occasion lasting effects of sexual abuse on male child victims, we want to look at some of the effects upon the victims. Some of these lasting effects have been identified to be anxiety; depression; dissociation; hostility and anger; impaired relationships; low self esteem; sexual dysfunction; sleep disturbance; suicidal ideas and behaviour.

A research study was conducted on a group of men who were molested as young boys. In the findings of the study, it was reported that most of the men interviewed complained about overwhelming feelings of rage, which they struggled to suppress. This anger, unexpressed, had resulted in the perpetration of considerable violence. The subjects of this anger range from the abuser to the adults with whom they had direct relationships, to the world at large, which could not protect them from the abuse. Some of the victims recalled how they were eventually rebuffed or ignored when they attempted to report the abuse to their parents.<sup>10</sup>

Some others of the abused men in the same research study complained about gripping and pervasive feelings of fear. Fear and anxiety were thus identified as another consequential effect of sexual abuse on some of these male child victims. As a matter of fact, fear turned out to be one of the most frequently coded themes. They experienced feelings of fear during the abuse, during childhood even after the abuse had ceased, and throughout their lives in adulthood. Some participants described the fear experienced as reaching degrees as high as resulting in panic attacks and immense anxiety.<sup>11</sup>

Quite a number of the men interviewed in the same research study experienced feelings of alienation, isolation and dissociation from other childhood peers.

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<sup>10</sup> Lisak, D. *op cit*.

<sup>11</sup> Lisak *op cit* at pp.532-533.

These feelings were borne out of a need to internalise the stigma of the abuse they experienced. So also, the introduction to sexual activities at an early stage had made them feel they had matured before their time and thus had lost out on childhood; thus while still being children, they felt they could no longer fit in with other children.<sup>12</sup>

Critically looking at some of the effects sexual abuse can have on men, it has been discovered that some of these effects have turned out to be possibilities of occasions of crime. For instance, uncontrolled anger can lead to crimes of violence. In some of the interviews in the research study, one of the men was quoted as saying that in a fit of rage, he found himself uncontrollably strangulating a woman. A lot of their pent up anger resulted in physical violent expressions of beating people up, or creating images of violence against others in their minds' eye. Some of the men were more enraged because they felt they had no empathy and help from a world that was ready to assist only female victims of sexual abuse, but would rather downplay a distress call of a male victim.<sup>13</sup>

Some of the men experienced problems with their sexuality generally as an effect of the abuse. This has been found to probably result in some of the victims themselves turning out to be sexual perverts and abusers. Thus, victims of sexual abuse have at times perpetrated the same offense on other victims later in life. Quoting Lisak, "*For a minority of the men, the need to feel in control drove them to victimize other people.*"<sup>14</sup>

In a similar vein, other victims have turned out to have problems with homosexuality issues, especially when the abuse was perpetrated by a male abuser. These victims became sexually disoriented and confused, and struggled with establishing whether or not they were abused by men because they were inherently homosexual. In other words, they were unsure if they themselves were homosexuals and thus attracted the abuser, or whether they had transformed into homosexuals as a result of the abuse.

It should be noted at this point that while homosexuality is not a criminal offence in some jurisdictions,<sup>15</sup> homosexuality remains a criminal offence in Nigeria.<sup>16</sup>

Another of the identified negative effects of sexual abuse on male victims is depression. Depression has been linked to suicide or suicidal thoughts and behaviour. Even though countries no longer prescribe suicide as an offence, its attempt still remains an offence.<sup>17</sup>

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<sup>12</sup> Lisak *op cit* at pp.535-536.

<sup>13</sup> Lisak *op cit* at p.531.

<sup>14</sup> At p.534.

<sup>15</sup> For example the Sexual Offences Act, 1967 in the UK decriminalised homosexuality.

<sup>16</sup> Section 217, Criminal Code Act, Cap C38. Laws of the Federation of Nigeria 2004.

<sup>17</sup> Attempted suicide is one of the inchoate offences. No man has any right to take any life, even if it were his own life. See Okonkwo & Naish (2005). Criminal Law in Nigeria. Spectrum Books Limited, Ibadan. p.184.

From our discussions above, it is very evident that sexual abuse has profound effects especially on the male child victim.<sup>18</sup>

## 2. DOMESTIC NIGERIAN LAWS PROTECTING CHILDREN AGAINST SEXUAL ABUSE

It has been earlier mentioned that sexual abuse upon a child connotes different actions which include the contact ones, like rape, or non-contact ones like watching pornography. However, in Nigeria, rape has been said to be the worst or most serious kind of sexual assault that could be committed.<sup>19</sup> Section 357 of the Nigerian Criminal Code defines rape as having unlawful carnal knowledge of a woman or girl, without her consent, or where the consent was not freely given, or was given as a result of fraudulent misrepresentation. Carnal knowledge under this Law, by virtue of Section 6 thereof, cannot be completed until penetration is achieved. Therefore in this context, it is only a man that can be charged for the offence of rape. A woman can thus not be charged for committing rape upon a man for the above reason that a woman cannot penetrate (as she has no penis); and also because Section 357 spells it out that the offence can only be committed against a woman or girl.<sup>20</sup>

Apart from rape which has been identified as the most serious of the sexual offenses, other sexual offenses, as provided for under the Nigerian Criminal Code, include indecent treatment of boys under 14;<sup>21</sup> defilement of girls under 13;<sup>22</sup> householder permitting defilement of young girls on his premises;<sup>23</sup> defilement of girls under 16 but above 13;<sup>24</sup> indecent treatment of girls under 16;<sup>25</sup> causing or permitting seduction of a girl under 16;<sup>26</sup> allowing persons under 16 to be in brothels<sup>27</sup>; abduction of girls under 18 with intent to have carnal knowledge.<sup>28</sup>

Others yet are indecent assault on males;<sup>29</sup> indecent assault on females;<sup>30</sup> and abduction of girls under 16.<sup>31</sup>

Indecent assault on females is a misdemeanour punishable with two years'

<sup>18</sup> For a full discussion on the effects of sexual abuse on male child victims, see generally Lisak, *op cit* at pp.525-548.

<sup>19</sup> Okonkwo & Naish, *op cit* at p. 271.

<sup>20</sup> See Okonkwo & Naish *op cit* at p.272.

<sup>21</sup> Section 216, CC.

<sup>22</sup> Section 218, CC.

<sup>23</sup> Section 219, CC.

<sup>24</sup> Section 221, CC..

<sup>25</sup> Section 222, CC

<sup>26</sup> Section 222A, CC.

<sup>27</sup> Section 222B, CC.

<sup>28</sup> Section 225, CC.

<sup>29</sup> Section 353, CC.

<sup>30</sup> Section 360, CC.

<sup>31</sup> Section 362, CC.



imprisonment. However, consent is a defence to this charge. Thus if it can be proven that the girl gave her consent for the indecent act to be done to her, then that should mitigate the punishment due to the offender.

The offence of abduction is of a greater degree of being a felony, making offenders in this regard liable to imprisonment for seven years. The abduction of a girl under 16 years is however a misdemeanour, punishable with imprisonment of two years. For the offence of abduction of girls, unlike that of indecent assault on girls, it is no defence that consent was given or that the offender believed the girl to be above the age of 16 years.<sup>32</sup>

Apart from the Nigerian Criminal Code, there are other domestic instruments that are meant to protect the Nigerian child from sexual abuse in the forms mentioned above. The CRA<sup>33</sup> is another comprehensive legislation that in fact seems to be a compendium of all legislation on the protection of the Nigerian child. Sections 21 & 22 thereof prohibit child marriage and child betrothal respectively. These two acts, even though culturally acceptable in some parts of Nigeria, have been regarded by scholars as a form of sexual abuse. This is because if a child is allowed to marry, the child would be compelled to perform all the necessary incidents/obligations associated with married life, such as consummation of the marriage. Section 30 (2) (a) & (e) of the CRA prohibits the use of children for the use of prostitution or sexual labour, pornographic purposes or for any unlawful or immoral purpose. In a similar vein, the Labour Act<sup>34</sup> contains provisions protecting children from undertaking any form of labour that is of an immoral nature. Section 59 (6) thereof states that no young person shall be employed in any employment which is injurious to his health, dangerous or immoral.

Section 31 of the CRA, prohibits sexual intercourse with a child by an adult, whether or not the child gives consent. The reason for this is apparent as it is believed that a child lacks the requisite capacity to give a valid consent for any sexual activity; and so any consent obtained is deemed to be an invalid one.

Another domestic legislation that seeks to protect children against sexual exploitation is the Adoption Law of Lagos State.<sup>35</sup> A Law to provide for the adoption of certain juveniles and for purposes connected therewith, it contains provisions that protect female juveniles from being adopted by sole male applicants. This provision seems to protect female juvenile from being exposed to any form of sexual abuse that may be occasioned by reason of being in the custody of an adult male, who may have initiated the adoption for inordinate reasons.

Section 3(2) provides “An adoption order shall not be made in respect of a female juvenile where the sole applicant is a male unless there are exceptional

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<sup>32</sup> See Okonkwo & Naish *op cit* at pp.275-277.

<sup>33</sup> Child’s Rights Act, Cap C50, Laws of the Federation of Nigeria, 2004.

<sup>34</sup> Labour Act, Cp L1, Laws of the Federation of Nigeria, 2004.

<sup>35</sup> Adoption Law Cap A5, Laws of Lagos State, 2004.



circumstances which the court thinks justify the making of such an order.<sup>36</sup> There is also the Trafficking in Persons (Prohibition) Law Enforcement and Administration Act, 2003. It is an Act of the National Assembly to establish a National Agency for the Prohibition of Traffic in Persons and other related matters. Human trafficking is done for the purposes of meeting different ends like prostitution, unlawful carnal knowledge, pornography, drug trafficking, compulsory recruitment in armed conflict, forced labour of any form and even killing. The Act contains provisions that seek to protect children from transporting them to any place within or without Nigeria, against them or their guardians will, for the purposes of forced prostitution.<sup>37</sup> It protects children from being transported to any place within or without Nigeria, for the purposes of forced or illicit sexual intercourse<sup>38</sup>; protects children from being procured for pornographic purposes<sup>39</sup>; and also protects children from being used for bestiality.<sup>40</sup>

The Sections discussed above are those which prohibit the contact type of sexual abuse.

Apart from the contact type abuse, some other Sections in the Act protects children from the indirect type of sexual abuse. For example, Section 35 prohibits the importation of harmful publications. This is with a view to protecting children from having access to such harmful publication in order to protect them from the harmful and seductive contents.

Even though the “harmful publication” was not expressly defined in the Act, it can be safely presumed that harm in this regard will include sexual corruption, apart from violence and all such other things that are too weighty and incomprehensible for the tender mind of a child. This prohibition is similar to the ruling in the English case of *Shaw v DPP*,<sup>41</sup> where the House of Lords held that there is such an offence as the conspiracy to corrupt public morals, and that even though that offence was as at then unknown to the Common Law, the courts could act as a custodian of morals.

Another domestic legislation that sheds more light on the harmful publication prohibition is the Children & Young Person’s (Harmful Publications) Law.<sup>42</sup> This Statute expressly prohibits the publication in or importation into Nigeria, any written publication, which has children as its targeted audience by the fact that the prints in it are more pictorial than written, and which has any content capable of corrupting a child.

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<sup>36</sup> The provisions of this Section is similar to those of Section 129 of the CRA.

<sup>37</sup> Sections 11, 13, Trafficking in Persons Act.

<sup>38</sup> Section 12, 14, 17 thereof.

<sup>39</sup> Section 15 thereof.

<sup>40</sup> Section 18 thereof.

<sup>41</sup> [1962] A. C. 220 HL.

<sup>42</sup> Cap C11, Laws of Lagos State, 2004.

Section 32 of the CRA prohibits all other forms of sexual abuse and exploitation that may be done to a child which has not been mentioned expressly in the Act. This Section thus provides for all forms of indecent acts done unto children, whether the contact type or the indirect type.

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### **3. INTERNATIONAL INSTRUMENTS PROTECTING CHILDREN AGAINST SEXUAL ABUSE**

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This section is to highlight efforts of law making bodies in randomly picked countries. In addition to efforts made by individual countries, there would also be a look at International Bodies' efforts on stemming the menace of sexual abuse on child victims.

In the United States of America, studies on child molestation were unknown, if at all existent, until the 1920s. Child Sexual Abuse came to the fore in the public in the 1970s and 1980s. By 1968, 44 out of 50 States in the U.S. had enacted mandatory laws that required physicians to report cases of suspicious child abuse. Thus, if a child reported at a hospital or medical facility with any complaint that may have been, even if remotely, occasioned by sexual abuse, the physician or health professional attending to such a child was legally obliged to report such a case to the appropriate authorities.

By 1974, the Child Abuse Prevention and Treatment Act (CAPTA) were enacted. The Act was most recently amended and re-authorised in December, 2010 by the CAPTA Reauthorisation Act. The main purpose of the CAPTA is to provide Federal funding to States in support of prevention, assessment, investigation, prosecution, and treatment activities. It is also meant to provide grants to public agencies and non-profit organizations, including Indian Tribes and Tribal organizations, for demonstration programmes and projects.<sup>43</sup>

Since the creation of the Act, it has been observed that reported child abuse cases have increased considerably.

Finally in 1979, the National Abuse Coalition was created with the aim of making Congress to create more Laws on sexual abuse, as the need arose. It is thus to be noted that the American legislature realised that there was a need to create an avenue such that legislation could keep up with the dynamic nature sexual offenses could take.

In 1986, Congress passed the Child Abuse Victims Rights' Act. This Act gave children the right to a civil claim in sexual abuse cases. This meant that apart from the criminal prosecution of the offenders, the victim could also claim damages for the trauma caused him/her by the abusive act.

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<sup>43</sup> Child Welfare Information Gateway. (2011). *About CAPTA: A Legislative History*. Washington, DC: US Department of Health and Human Services, Children's Bureau. Retrieved 2012 December 28 from <https://www.childwelfare.gov/pubs/factsheets/about.cfm>

The number of laws created in the 1980s and 1990s began to create greater prosecution and detection of child sexual abusers. By 2004, the Megan's Law was enacted; this Law furnishes the public with access to knowledge of and information about sex offenders throughout the United States of America.<sup>44</sup> This is particularly commendable because it equips the public with knowledge of the kind of people that could abuse a child and thus serve as enlightenment to otherwise ignorant parents and child custodians as to the personality of abusers. It also gives access to profile of these offenders so that parents/guardians who wish to may protect their child from any interaction with a known offender.

Apart from the United States, India has also demonstrated landmark legislative efforts in curbing sexual abuse on children. In 2007, the Ministry of Women and Child Development published a study: "Study on Child Abuse: India 2007". The Study's main findings included 53.22% of reported cases of child sexual abuse. Among this number, 52.94% were boys while 47.06% were girls. Despite these alarming figures, for many years in India, there was no specific legislation carved out to protect children against sexual abuse as opposed to umbrella legislation against sexual offences. However in very recent times thankfully, the Protection of Children Against Sexual Offences Bill, 2011, was passed by the Indian parliament. The Act is meant to protect children below the age of 18 years from any form of sexual abuse. The Act is gender neutral, not protecting any sex more than the other. It provides for special courts for the speedy trial of cases. The Act is child-friendly, seeking to protect the victims against stigmatisation by making trials in-camera. The burden of proof in such cases rests on the accused this time and not on the prosecution as with other criminal trials. Finally, punishments attached to offenders in this category are stringent, extending even to life imprisonment.<sup>45</sup>

Earlier in 2012, The Uttar Pradesh Police launched an investigation into allegations that officials of the Noida police had disclosed the identity of a 17-year-old girl rape victim. She was allegedly gang-raped on February 24. The inquiry was ordered after the National Commission for the Protection of Child Rights (NCPCR) and the Uttar Pradesh Commission for Women sought a report and asked for action against the erring police personnel. This action shows the extent to which the Indian Parliament seeks to protect child victims of sexual abuse against stigmatisation and reluctance to report cases as a result thereof. Police are not meant to reveal the identity of victims nor give statements castigating the character of the victims.<sup>46</sup>

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<sup>44</sup> See Child Sexual Abuse @ retrieved 2012, September 7 from [http://en.wikipedia.org/wiki/Child\\_sexual\\_abuse](http://en.wikipedia.org/wiki/Child_sexual_abuse)

<sup>45</sup> Retrieved 2012, December 29 from <http://www.indianexpress.com/news/parliament-passes-bill-to-protect-children-from-sexual-abuse/952483>

<sup>46</sup> Retrieved 2012, December 29 from <http://www.indianexpress.com/news/noida-gangrape-centre-seeks-report-on-police-action/917645/1>. The police gave statements that the victim had voluntarily consumed alcohol (before she was allegedly gang-raped).

Evidently, the Indian Parliament has risen to the need of protecting child victims from sexual abuse, and especially catering for the areas that might pervert the course of meting out justice to offenders in this regard.

There are also some international conventions protecting children from sexual abuse. The United Nations Convention on the Rights of the Child is an international treaty with about 193 countries as signatories.<sup>47</sup> The Convention legally obliges States to protect children's rights. Articles 34 & 35 particularly outlaw coercion of a child to perform sexual activity, child prostitution, and the use of children in pornography. It also outlaws abduction, trafficking or sale of children. It generally outlaws all forms of sexual abuse and exploitation meted out on children.

Another international instrument protecting children from sexual abuse is the Council of Europe Convention on the Protection of Children Against Sexual Exploitation and Sexual Abuse (CEPCSESA). Article 1 of the Convention spells out its purposes to be prevention and combat of sexual exploitation and sexual abuse of children; protecting the rights of child victims of sexual exploitation and sexual abuse; and to promote national and international cooperation against sexual exploitation and sexual abuse of children.

Sadly however, Nigeria is not a signatory to this international treaty.

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#### **4. CIVIL AND CRIMINAL PROCEEDINGS ON CHILD SEXUAL ABUSE**

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In the United States of America, legal action began to become more prevalent in the 1970s with the enactment of the Child Abuse Prevention and Treatment Act. As was mentioned earlier, with the enactment of the Child Abuse Victims' Rights Act, the victims of the abuse had an opportunity to file civil lawsuits against offenders. Particularly from around 2001, it became a public scandal on the Roman Catholic Church where there began to come out many alleged sexual abuse of boys by Catholic Priests; most of these boys were altar boys who served Mass with the Priests. Prominent was the sexual scandal of Reverend Father Marcial Maciel, the leader of a Roman Catholic Order, the Legion of Christ (McKenzie, Baker, & Lee, 2012). A lot of these allegations culminated in lawsuits and prosecutions which earned some convictions and also saw the Church paying as much as \$30.9 million as out of court settlements to 12 victims in 1998; and up to \$1.1 billion out of court settlement for about 375 cases with about 1551 victims between 2003 and 2009. These cases of abuse were reported to include sodomy, oral penetration among other indecent acts on the boys. Victims here were said to be as young as 3 years but more commonly between 11 and 14 years.

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<sup>47</sup> Although the US is not a signatory, Nigeria is one of the signatories.

Some of the victims were only able to open up several years after the abuse was stopped, while some could not even make it to opening up as they simply committed suicide (McKenzie, Baker, & Lee, 2012).

Some other countries like Tanzania and the Philippines were also able to speak up and bring to fore cases of Clergy sexual abuse of boys following the US cases; however the cases are not as much as those reported in the US.<sup>48</sup>

In Nigeria, the statistics do not show so many reported cases of child sexual abuse. This is probably due to the social stigma that such a report would earn the victim.<sup>49</sup> That is not to say that it is non-existent as some scholars have been able to give some statistics however scanty. One of researchers working in this area, Olusanya, reported that in Benin City, victims of sexual molestation comprised of children and adolescents aged 6-12 years and 13-19 years respectively (Olusanya et al., 1986). Omorodion, another researcher, revealed that 58% of the reported rape cases in hospitals in Benin City were child victims (Omorodion & Olusanya, 1998).

However beyond police report, there have not been too many court room trials of child victims of sexual abuse.

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## CONCLUSION AND RECOMMENDATIONS

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Child sexual abuse is not a strange occurrence in many parts of the globe. Sexual abuse of all forms has been done to children for many years although it just began to gain both international and local attention in recent times. The reason for this might be because the victims of sexual offences usually have social stigma issues to contend with. Therefore the report of such offences may end up in them being viewed as the villain instead of the victim they truly are.

Another reason for the slow progression of addressing this ill is that the effect which abuse has on the child victims could result in them recoiling and not wishing to discuss the event with anyone, as in most cases the abuser may have issued threats in order to ensure secrecy of their heinous acts. As was discussed earlier, most of the victims suffered from alienation and dissociation in a bid to cut off the shame from other childhood peers.

Again although sexual abuse victims have initially been erroneously believed to be predominantly females, it has been discovered that males too suffer at the hands of these abusers. Culture and the male person have made the male child, unfortunately, to keep the incidences to himself. Quoting Lisak, he said *“The norms dictate that ‘appropriately masculine’ men do not acknowledge and certainly do not express their own pain, vulnerability or feelings of*

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<sup>48</sup> See generally Catholic Sex Abuse Cases. Retrieved 2012 September 7 from [http://en.m.wikipedia.org/wiki/Catholic\\_sex\\_abuse\\_cases](http://en.m.wikipedia.org/wiki/Catholic_sex_abuse_cases)

<sup>49</sup> Biodun Ogunyemi “Knowledge and Perception of Child Sexual Abuse in Urban Nigeria: Some Evidence from a Community-Based Project” *op cit* at p.46.

*helplessness.*<sup>50</sup> And so the fact that the statistics do not reveal the true number does not necessarily mean that the abuse does not occur and that it is not prevalently done to the male child. The Roman Catholic abuse cases were mostly done to boys, and they occurred not only in the US but virtually all over the world. While the US incidences have gained a lot of publicity, such issues are still discussed in hushed tones in the third world perhaps because of the respect and awe that is given to the Church (and religious issues generally) in the third world.

The study in India earlier discussed also revealed that the greater percentage of the abused children were boys.<sup>51</sup>

This erroneous notion that the victims of child sexual abuse are in most cases female ought not to be and should be corrected. Article 2 of the CECPCSESA provides for a non-discriminatory principle that says the rights intended shall be secured without discrimination on any ground such as sex, among others.

Narrowing down to Nigeria, the scenario is not different. Apart from the issue of reluctance to report cases of abuse by boys, the legislation we have in Nigeria seems to be discriminatory against the boy child and tends to be more favourable towards the girl child. Of all the discussed laws protecting children against sexual abuse, majority of the sections were worded explicitly to protect the girl child. For instance, there is no reason why the Law should only seek to prevent abduction of girls with intent to have carnal knowledge of them or to marry them, because boys could be abducted for these same reasons as well.

The section which prescribes the offence of rape seems to me to be a discriminatory section against males, as the offence can only be committed against females and only by males.

It has been revealed from earlier discussions that it is important to protect boys especially from sexual abuse as these practices have long lasting and profound effects on the boy child even throughout the continuum of life. Violent and negative emotions, insecurity and low self esteem, as well as sexual dysfunction and problems with sexuality generally are some of the effects that sexual abuse has on a male child victim. It is profoundly etched on them for reasons that the male masculinity has been affected because of the perceived “weakness and helplessness” of the boy in not being able to fight off the abuser.

Medical science as well as psychology has been able to offer some degree of cure for some of these abused boys and the effect it has on them. However, the Law ought also to be able to offer some more protection on both sexes, such that one child will not be protected to the neglect of the other child. In this regard, some recommendations have been proffered:

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<sup>50</sup> Lisak *op cit* at p.537.

<sup>51</sup> 53.22% were boys while 47.06% were girls out of the reported cases of sexual abuse in India as at 2007.



A) The wordings of Section 357 of the Nigerian Criminal Code, read with Section 6 should be modified to reflect the fact that (anal or oral) penetration can be done on boys too, not only the girl/female. The wordings should also reflect that penetration can be done by women using fingers. In a similar vein, some of the provisions of the Code that protect only girls (for example abduction of girls under 16, permission of indecent acts on girls on one's premises, or causing prostitution of a girl under 16) should be modified to accommodate boys too; this is because male prostitution is no longer a novel trend and this may well be done to boys. In like manner underage boys could be abducted for the purposes of sexual abuse. To sum it up, the wordings of Nigerian legislation should be more gender neutral just like the Indian law on Protection of Children Against Sexual Offences Bill.

B) It has been identified that sexual abuse victims show a great reluctance to report incidences of abuse; more so male victims. The Law ought to be reformed to make the criminal trials or civil suits of this nature to, at all times and in all cases, be done *in camera*. This would encourage the child victims, particularly the boys, to come forward and report as well as seek justice without any fear of social stigma, weakened masculinity or fear of the abuser. This suggestion is again akin to what is in practice in India. And it is also suggested that any violation of this requirement should be sanctioned as has been seen to be done to the Indian Nodia Police.

C) The Nigerian Law of Evidence<sup>52</sup> provides that a conviction cannot be secured upon the uncorroborated and unsworn evidence of a child. However in most cases of sexual abuse on children, the clandestine nature of the act makes it difficult for there to be any other witness apart from the child. This would mean that in most cases conviction would not be achievable. This is a clear erosion of justice<sup>53</sup>. It is therefore suggested that this requirement of corroboration be relaxed and left to the discretion of the Judge whether or not to admit it, especially if it can be proven that the child is intelligent enough to understand the necessity to speak the truth and recount events accurately. In addition, the corroborative evidence may not always be direct evidence of another adult.

D) There ought to be included in the existing laws aspects that protect children not only from harmful publication but harmful viewings. As at the time the Statutes were enacted, there was not enough access to electronic media as we have today. The Law therefore needs to be modified since there is now so much access to harmful things as could be seen from cable/satellite television as well as the internet. While parental control is available in most cable TVs, it should be

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<sup>52</sup> Section 209, Evidence Act Cap E14, Laws of the Federation of Nigeria, 2004.

<sup>53</sup> N. A. Police vs. Allah Nagari, in which a 7-year-old girl gave evidence against the man she claimed raped her. Her bloodstained clothes were produced as evidence while a medical report confirmed injury to her genitalia. Despite this evidence, the man was not convicted because of this provision of the Evidence Act. This was cited by Christine Adebajo "Coercive Sex and Nigerian Law: An Overview of the Current Status" in *The International Encyclopedia of Sexuality: Nigeria*. Retrieved 2012, September 10 from <http://www2.hu-berlin.de/sexology/IES/nigeria.html>



regularly reviewed by local agencies to suit local exposure of children, as the age limits suitable for a certain country might not be suitable for the Nigerian child of the same age bracket.

E) Similarly, cyber cafes should be mandated to request ages of their customers before admitting them in to browse; underage customers who nonetheless require internet services for good intentions could then be ushered into the children's section which would not have access to pornographic or any other indecent, harmful and inappropriate sites. This suggestion could be incorporated into Section 35 of the Child's Rights Act.

F) Just like the American Child Abuse Victims' Rights Act, which enables the victims to institute civil suits against offenders, similar legislation should be enacted in Nigeria. The effects of sexual abuse are grave and immense, and especially when done on children, which we have seen could cause problems that last throughout the victim's life. Societal/State punishment is not enough because the victim would need a long process of treatment to overcome the abuse. Sexual abuse is a direct offence against the person of the victim. That in itself requires compensation in the form of damages. Apart from that, the course of treatment (ranging from psychological to medical) is capital intensive. Therefore, there is need for victims to get monetary compensation in the form of damages to augment whatever the cost of treatment.

Some of these recommendations are intended not only to cater for the male child but also the female child. Concern is only more focussed on the male child as they seem to be the most disadvantaged and less catered for under the existing laws.

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