

Innovations

Nexus between Online Sexual Abuse and Sustainable Development Goals in Nigeria: A Call for an Inclusive Legislation

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Abstract: *The advent of technology within the global sphere have continued to benefit the social, cultural, and global aspects of human life. Despite the positive impact occasioned by use and application of technology and the internet, it has made it easier for criminals to perpetrate crimes against women and girls online. As a result, Online Sexual Abuse (OSA) has become a common kind of online assault which in future may lead to retardation in any countries' growth and sustainability. This form of abuse is defined as any form of sexual abuse against women that is facilitated by information communication technology (ICT). The proliferation of this menace has become a significant global issue, particularly in Nigeria. Consequently, in order to eradicate this trend, it is imperative that appropriate legislation be implemented to improve the protection of victims and the attainment of the Sustainable Development Goals (SDGs). Consequently, the objective of this paper is to assess the concept of online sexual abuse, its correlation with the Sustainable correlation Development Goals (SDGs) that target women, analyse the legislation that safeguards victims, pinpoint deficiencies, and provide critical suggestions for combating the issue. In order to accomplish this, a doctrinal legal research methodology was implemented, utilising both primary and secondary sources of legislation. The Violence against Persons and Prohibition Act (VAPP Act) 2015 and the Cyber Crime Act, 2015 are among the primary sources of laws. Additionally, secondary sources of laws, including books written by renowned scholars, internet materials, and peer-reviewed journals, were employed. In conclusion, the study recommended for an all-inclusive and comprehensive legal framework which create for better harmonisation of our segmented laws on online sexual abuse in Nigeria.*

Keywords: *Online Sexual Abuse, Sustainable Development Goals, Protection, Victims and Nigeria.*

1.0 Introduction

The global importance of technology in today's interconnected society cannot be exaggerated due to its increasing prominence and development. Technology has greatly influenced OSA by increasing awareness, creating Artificial Intelligence (AI)-assisted tools to detect abuse, developing AI-powered chatbots (UN Women, 2022), and offering online help. The software helpio, developed by Nigerian programmer Sa'adat Aliyu, offers online support, information, and services, along with expedited assistance for individuals who have experienced internet - based sexual bullying, harassment, or extortion. Nevertheless, in recent years, technological advancements have exacerbated the issue of sexual abuse online, resulting in a significant rise in OSA against women. These unlawful actions have a detrimental impact on women and society as a whole. They result in a decrease in women's productivity and profit-generating activities online in Nigeria's cyberspace. Studies reveal that females are more prone to experiencing online abuse and abuse compared to males, resulting in significant repercussions for both genders (GREVIO, 2021).

The gender digital divide hinders the potential of many women and girls from fully enjoying the benefits of the digital age. OSA means the abuse against women facilitated by ICTs or other digital means in a society that is increasingly tech savvy. Several empirical studies have documented how the technological advancement has aggravated conventional types of prejudice and discrimination against women across the globe. Besides, the COVID-19 pandemic has led to increased use and availability of Information and Communication Technologies (ICTs). These have encouraged new forms of abuse against women and girls as well as the escalation of existing forms of abuse including sexual harassment.

Women continue to be abused through the internet in different ways. The most frequent cases are observed in the most popular social networks like Facebook, Instagram, WhatsApp, WeChat, and Twitter as well as in various chat rooms through video games, streaming services, websites and forums, search engines, instant messengers, blogs, dating platforms and applications, media comments, virtual and augmented reality tools, and professional applications. The various forms of online sexual assault conducted using the specified site include, but are not limited to, stalking, sextortion, unauthorised sharing of images, pornography, and similar actions.

This phenomenon, despite its ever-evolving nature, is not a recent event in Nigeria. Nigeria has the greatest population of individuals with internet connection among African countries, according to statistics. A study conducted on a sample of 14,000 adolescent females, aged 15 to 25, from 22 nations, including Nigeria, and has

revealed that over fifty percent of these girls have encountered OSA (Narvaez, 2020). The report also revealed the frequency of cyber assault targeting women on the internet and social networks (Narvaez, 2020). A survey carried out by the United Nations Broadband Commission for Sustainable Development in 2015, showed that 64% of those involved in gender-based abuse were male while 72% of the victims were female (. In an Economist Intelligence Unit survey across 45 countries, 85% of women said that they have been harassed online, or know someone who was. The rate of such harassments was established to be 74% in Europe, 91% in Latin America and the Caribbean and 90% in Africa. By executing a transnational investigation in Europe, the United States, and New Zealand, Amnesty International found that 23% of women polled in the study encountered online and technology-facilitated gender-based abuse at least once in their lives (Amnesty International, 2018).

Furthermore, attention should be paid to combating abuse against women and girls through digital technologies in order to eliminate violent actions. This is well aggravated by the presentation of the UNGA77 report by the Secretary-General in September 2022. The report underlines the significance of strengthening initiatives to address all types of abuse against women and girls (UN Women, 2022). The Action Coalition on Technology and Innovation for Generation Equality (ACTIGE) took part in the 2021 Generation Equality Forum. While the priority mentioned before is now being discussed inside the United Nations organisation, UN women have developed a strategy to address technology-facilitated sexual abuse. They contend that in order to efficiently tackle and mitigate digital abuse, it is imperative to establish and enforce legislation and regulations, fill in gaps in data and research, modify essential services to support victims, and actively strive to change societal norms and engage men and boys in combating gender-based abuse.

Despite numerous and ongoing attempts to enhance legislation and protect victims of OSA, the desired effect or objective has not been achieved. The Women Business section of the World Bank Group has recently conducted a legal project and determined that only around one-third of nations have enacted rules to safeguard women against OSA. Hence, it is imperative to establish stringent protocols to mitigate the hazard (Affoum et al., 2023).

This study is significant because the adverse consequences of online sexual abuse on victims in Nigeria are frequently underestimated. This study aims to assess the concept of online sexual abuse targeting women, examine the existing legal framework for safeguarding victims, identify any inadequacies, and propose effective solutions for resolving this issue.

1.1 Research Methodology

The primary sources, which were used for the analysis, were crucial for the analysis of numerous laws, including Criminal Code, Evidence Act, Cyber Crime Act, and Abuse against Persons and Prohibition Criminal Act. Moreover, investigating the Conventions such as the Council of Europe Convention on Preventing and Combating Abuse against Women and Domestic Abuse also known as the Istanbul Convention, the Committee on the Elimination of All Forms of Discrimination against Women (CEDAW), the United Nations Special Rapporteur on Violence against Women, Its Causes and Consequences and the Maputo Protocol was also pivotal. The inadequacies in the existing laws were uncovered by these sources. Conversely, secondary sources, including textbooks, online websites, journals, and periodicals, proved indispensable during the literature review.

1.2 Conceptual Clarification

The concepts of sustainable development objectives and online sexual abuse will be examined.

1.2.1 Online Sexual Abuse (OSA)

Generally, OSA, is a form of Violence against Women. According to the United Nations (UN) Women, OSA is any act that is committed, made more probable, worsened, or intensified with the help of information and communication technology or other digital means that has a negative impact on the physical, sexual, psychological, social, political, or economic well-being of a person, or violates their rights and freedoms (UN Human Rights Council, 2018).

Furthermore, there is no legally binding definition of OSA that is universally accepted at the European Union level. However, the European Commission's Advisory Committee for Equal Opportunities for Women and Men has approved the use of the subsequent definition, thus: Online Sexual Abuse against women refers to gender-based violence that is committed with the help of information and communication technology, while causing physical, sexual, psychological, or economic harm or suffering to women and girls. It can occur in both the public and the private sphere, and it can interfere with the rights and freedoms of the individuals in those realms. The examples of Online Sexual Abuse against women are the violation of privacy, stalking, cyberstalking, sharing of content without one's permission, sharing of sexually explicit content, unauthorized access to personal information, and that includes physical violence. Cyber-violence as a type of violence against women is linked to and supports various forms of violence in the offline environment.

In addition, OSA are types of violence that are perpetrated against women because of their gender and/or that have a higher impact on women. It includes any act of violence targeting a woman facilitated, encouraged, or escalated by ICTs including smart phones, GPS trackers, e-mail, social networks, drones, and offline internet capture devices. It also includes abuse against women that is either caused by gender or affects women more severely (UN, 2015). As explained by Henry and Anastasia, enabled OSA entails a number of actions in which technology is used to facilitate sexually destructive actions in both cyberspace and the physical world. (Henry and Anastasia, 2016). The increased use of social media platforms after the digital revolution has led to the increased cases of unethical actions or behaviors such as bullying, harassment, and extortion among others as noted by Henry and Powell (Henry and Powell, 2016).

Powell and Henry (Powell and Henry, 2015) also pointed out that OSA is likely to be committed by men on women. The National Crime Agency (NCA, 2016) stated that women are more likely to be targeted with online sexual abuse, including revenge pornography, cyber stalking, and rape. Therefore, this study mainly concentrates on women.

1.2.3 Sustainable Development Goals (SDGs)

The 2030 Agenda for Sustainable Development outlines the sustainable development goals (SDGs) as a conceptual framework that provides a chance to meet the obligations recognized by states in international conventions and documents regarding the prevention of violence against women. One of the main goals of SDG 5 focused on gender equality and women's and girls' empowerment is dedicated combating violence. The goal is to eliminate negative actions and violent actions against women and girls. Thus, it is important for sustainable development to eliminate all the forms of violence and negative behaviours against women and girls in Nigeria. The United Nations (UN) Sustainable Development Goals (SDGs) include the pursuit of the achievement of gender equality and women and girls' empowerment. Combatting violence against women and girls is imperative on a global level as a part of the UN Women's strategy. These include, adoption and enforcement of legislations, creation of measures to address and prevent digital violence, filling the knowledge and information gap, and adapting important service for the combating of OSA.

Also, elimination of OSA contributes to the advancement of the SDGs. It enhances family well-being, health of women, children, it lowers the risks of mental illness and drug abuses. It increases economic productivity, higher educational attainment, and decreased susceptibility to HIV and other STDs infections. In addition to the above, it

reduces poverty through mutual cooperation between the government and the stakeholders to combat violence against women, improved harmony, inclusivity, and collaboration between the public, private, and civil society groups (Fulu, Kerr Wilson and Lang, 2014).

1.2.4 Nexus between Online Sexual Abuse and SDGs

i.) SDGs 3 - Health

Steven et al in his work, emphasized that OSA may cause victim to experience distress, anxiety, depression and attempted suicide. It is a public health and human right issue with a great detrimental effect on victims. (Stevens, Nurse and Arel, 2021). Interestingly, technology has been of tremendous impact on the sexual and reproductive rights of women although, it still has the capacity to hinder a woman's access to good health (IGWG, 2023). In a qualitative study concluded by Amnesty International, they revealed that online abuse can cause psychological damage and suffering (Amnesty International, 2018). Also, a review from Cain accounted thus: 'I was a wreck, abuse was continuously disparaging. I was afraid of working on my computer and talking to anybody' (Amnesty International, 2018).

ii.) SDGs 4 – Education

The advent of AI has greatly impacted on education. Particularly, the Covid-19 surge in 2020 led to an increase in the demand for virtual learning and enhancing the educational system. Despite these innovation, it has created a great risk on users. Most learners employ the use of digital devices in learning. These goes to show that users may be exposed to online threats. Hence, women are not out of place, these threats can make women withdraw from the online space thereby creating a digital divide. Inadvertently, once the digital space becomes unsafe, there will be a hindered access to equal education.

iii.) SDGs 5 – Gender Equality

SDG 5 in aiming at achieving gender equality and empowering women and girls carries much significance in addressing OSA. The goal aims at eliminating practices and violence against women and girls. For sustainable development to foster equality, any form of violence and harmful practices in Nigeria that targets women and girls needs to be addressed, in a bid to empower them and achieve gender equality.

The United Nations (UN) Sustainable Development Goals (SDGs) have placed emphasis on achieving gender equality and women as well as girls' empowerment. Combating violence against women and girls is an essential step that can be taken globally as part of the UN Women's strategy. This will include enacting legislation and

bringing out policies on addressing OSA, filling the knowledge gap and designing, changing or enhancing effective services for responding to sexual abuse in the digital environment.

1.3 International and Regional Legal Framework on Online Sexual Abuse (OSA)

Several conventions have been established towards combatting OSA against women. However, despite their significance there is no specific convention which addresses OSA hence that largely accounts for the difficulty in the prosecution of the offences. An ample example of some of these international legal instruments are:

1.3.1 Committee on the Elimination of All Forms of Discrimination against Women (CEDAW)

The Committee on the Elimination of All Forms of Discrimination against Women (CEDAW) explicitly forbids any form of gender-based discrimination, including differentiation, exclusion, or limitation, against women (CEDAW, 2017). Recommendation 35 of the CEDAW expanded the scope of violence against women to include "technology-mediated environments," thereby incorporating online sexual abuse against women (CEDAW, 2017).

For instance, in 2016, the Committee addressed the digital aspect of violence against women in official reports. This new form of gender-based violence targeting women was recognized in General Recommendation No. 35 as online and technology-facilitated abuse. Concerning the General Recommendation No. 35, violence against women is understood as a complex of interrelated and repeated acts which take place in various settings from private to public, including those facilitated by technology (online). The statement also recognizes "acts of violence that take place in the cyber space and other online forms." Similarly, CEDAW has extended the digital perspective into its sphere of concerns and difficulties. (CEDAW, 2017).

However, it is important to note that broad ideas that is, recommendations do not require approval from states parties, as they are not regarded as treaties. Although not legally binding, these declarations carry substantial authority as statements that define the amount of legal obligations that states parties should assume. In order to effectively tackle OSA on a global scale, it is imperative to overhaul the Committee for the Elimination of All Forms of Discrimination against Women (CEDAW). States parties must incorporate the provisions of this legal document into their national laws. However, this statement is valid in specific states. The difficulty arises from the lack of severe consequences for State parties that fail to comply or adopt the treaty.

1.3.2 The Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (Istanbul Convention)

The Istanbul Convention and the Explanatory Report were adopted by the Council of Europe Committee of Ministers on 7 April 2011. The treaty was presented for ratification on 11 May 2011 in the 121st session of the Committee of Ministers in Istanbul. So far, 34 States within Europe have ratified and adopted the convention as of October 2021 while the convention came into force on the 1st of August, 2014. Any European country that is willing to meet the requirements of the convention has the capacity to become a party to it (Council of Europe, 2023). The Istanbul Convention is a vast and legally binding human rights instrument that effectively addresses all the aspects of violence against women and domestic violence. It serves as an effective tool in managing OSA. While the Istanbul Convention of 2023 does not explicitly contain a clause on OSA, it has been deduced from the literal interpretation of certain articles within the Convention.

1.3.3. The Council of Europe Convention on Cybercrime (Budapest Convention)

The Budapest Convention on Cybercrime was created by the Council of Europe and is open for membership to any State party (Budapest Convention, 2004). The treaty was officially approved and accepted in the year 2001, with a collective number of 65 countries or organisations that signed it. The policy was enacted in July 2004. This method addresses transnational cybercrime by harmonising domestic laws and promoting the sharing of knowledge about current risks and effective strategies, hence improving worldwide communication. The Budapest Convention which is a primary international treaty with legal obligations pertains to cybercrime and electronic evidence. It enables them to seek legal redress for online and technologically facilitated gender-based abuse particularly to women. Parties have the ability to declare certain conduct as unlawful where they relate to computer data and systems. This include activities related to the generation, distribution or possession of child pornography. However, several scholars posit that the term 'revenge porn' should be reconsidered as the following norms have brought positive impacts. For image-based sexual abuse, Mary Rogers believes that it should fall under the Budapest Convention. She builds her argument on the assumption that states are gradually integrating prohibitions against Non-Consensual Pornography (NCP) in Criminal Codes, albeit slowly and unevenly (Rogers, 2018). In *Volodina v. Russia's case* (Volodina, 40419/19), the applicant claimed that the state had breached its obligation to safeguard her right to privacy (Article 8 ECHR) against cyber harassment and unlawful circulation of her sexually explicit images. The European Court of Human Rights decided that Article 8 of the ECHR has been breached. Therefore the court directed the state to compensate the victim whose rights were infringed on..

Furthermore, the ongoing challenge of insufficient enforcement of the Convention's standards is mainly due to the lack of severe sanctions for noncompliance by participating States. Hence, it is imperative to amend the agreement in order to faithfully depict the existing legal and economic conditions among the governments involved.

1.3.4. The United Nations Special Rapporteur on Violence against Women, Its Causes and Consequences (The UN Special Rapporteur)

In 1994, the United Nations introduced the Special Rapporteur on Violence against Women and Girls with an emphasis on its root causes and impact (United Nations Human Rights Special Procedures, 1994). The goal of this mandate is to provide sufficient and proper response to reports of violence against women that are received from governments, international organisations, specialised agencies, human rights bodies, intergovernmental organisations, non-governmental organisations, and women's organisations. In addition, the UN Special Rapporteur called for the implementation of measures to prevent and eradicate its manifestations on all levels – local, national, regional, and international, to address the causes of the violence committed against women and mitigate the consequences (Human Rights Council, 2019b). Accountability is ensured through filing of many reports such as the annual report, the issue-driven report, country profile, consultation with civil society, and interaction with national, regional, and international bodies. The topic of gender-based violence was first discussed electronically in 2006 by Secretary-General Reem Alsalem (United Nations Special Rapporteur on violence against women and girls, its causes and consequences, 2021). This discussion was a part of extensive deliberation conducted by the United Nations General Assembly regarding different forms of violence faced by women. She further noted that performing more research on the use of ICTs is important in order to understand new forms of violence and address them appropriately. Furthermore, the Human Rights Council in its resolution 20/8 identified the need to conform the rights of persons in the online space equivalent to their offline rights. The UN human rights system operates under the proposition that protection of human rights in the cyberspace must be of equal importance as in the physical world. This acknowledgement also underscores how technology intersects with women's human rights norms at the international and national levels (Refworld, 2023).

In particular, in 2018, the UN Special Rapporteur published a significant report that discussed the use of information and communication technologies (ICTs) as tools of violence and abuse against women and girls online. The study was precisely conducted from the human rights perspective. This article delineates how new technologies may fuel violence against women and reverse the four pillars of

prevention, protection, legal recourse, and retribution. Moreover, it offers recommendations of actions that the United Nations, member states, and online intermediaries may take appropriate action. It has been used for the UN Special Rapporteur's assessment and oversight functions such as in country and thematic reports to establish perspective for future UN missions as well as for other international and national and continental tasks. The UN Special Rapporteur acknowledges differences in terminologies in the use of 'online, cyber or technology' and opts for 'ICT-facilitated violence against women'. However, to make the analysis easier to understand, the Special Rapporteur mostly uses the term "online abuse against women" which is more neutral in terms of language. However, the Special Rapporteur recognizes "online abuse/violence", "cyber abuse/violence", and "technology-facilitated abuse/violence" as other terms.

Although the above is sacrosanct in enforcing OSA, only those which have been domesticated and are in line with Section 12 (1) of the Constitution (Constitution, 1999) are those that can be enforced in Nigeria. According to the provisions of this legal act, the states parties are to enact the provisions of this legal instrument into the domestic legislation. However, this statement is true for some of the states. The main weakness however is the fact that there are no severe penalties for failure to adhere to the standards or domesticate them by member countries. For this reason, the alterations and establishment of severe sanctions for the member states that do not follow its provisions is required.

1.3.5. The Protocol to the African Charter on Human and People's Rights of Women in Africa (Maputo Protocol)

This treaty took effect in the year 2003 July and has been one of the milestones towards enhanced women's rights in Africa. In terms of the treaty, state parties have an obligation to meet the actions to prevent violence against women regardless it happens in private or public domain. It categorically states that women should not be abused in any way shape or form (Maputo Protocol, 2003). The primary purpose of the Maputo Protocol is in offering a range of rights to women in Africa. This is made through imposing obligations and liabilities on family groups, communities, and state parties. The primary objective is human security and human sustainable development. Some of the articles in Maputo Protocol include, articles relating to international instruments on women's equality, security, non discrimination of women, right to dignity and to life, integrity and physical and personal security, right to access to justice and equal protection of the law, right to vote and participate in political process and decision making, right to peace, right to equal protection in case of armed conflicts and others (Maputo Protocol, 2003). This material originated from the AU Gender, Peace and Security Programme from 2015. Even though the

protocol on violence against women and girls is extensive, it fails to offer clear provisions on online abuse. While Nigeria ratified the Maputo Protocol on December 16, 2004, this paper posits that the main issue lies in Nigeria's inability to enforce said protocol within the confines of its jurisdiction. A few laws in the country have contained provisions derived from the Maputo Protocol amongst the few is replicated in the Violence against Persons Prohibition Act of 2015. Consequently, the rising need to amend the protocol, to ensure that it aligns itself with the current legal and economic structures of the member states.

1.3.6. The African Union Convention on Cyber Security and Personal Data Protection (AU Cyber Convention)

The AU Convention on Cyber Security and Personal Data Protection, also known as the Malabo Convention, obliges member states to implement legislative policies and regulatory measures to enhance the cyber security management system and tackle the problem of cybercrime (AU Convention on Cyber Security and Personal Data Protection, 2014). However, it is regrettable that most member States continue to face serious challenges in ratifying and subsequently implementing this Convention. The Convention also bans the production, registration, offering, manufacturing, dissemination, transmission, procurement, importation, exportation, and possession of what the Convention defines as 'Child Pornography'. The AU Convention on Cyber Security and Personal Data Protection (AU Convention on Cyber Security and Personal Data Protection, 2014) defines child pornography in relation to digital /computer generated imagery featuring child sexual abuse. The convention has not been fully functional and efficient although due to non-implementation despite it is being domesticated through the introduction of the Data Protection Act, 2023 in Nigeria (Ango et al, 2023). Another problem is the lack of severe penalties in cases of non-compliance and non-domestication of the treaties by member states.

1.4 National Legal Framework for the Advancement of Online Sexual Abuse (OSA)

In Nigeria, the existing legislations on online abuse against women are largely segmented as there is no specific legislation in place to address such acts. The Nigerian government and policymakers are saddled with the responsibility of protecting their citizens by implementing clear legislation that directly address OSA. Unfortunately, the present laws do not provide for an expansive provisions on sexual offences, therefore perpetrators cannot be held accountable for the incessant acts of online sexual abuse that occurs. It is trite under law that if there is no written law, there can be no offense (Aoko v. Fagbemi, 1961). In line with the foregoing, the following laws are therefore examined.

1.4.1 The Criminal Code Act

This is notably relevant in the Southern States of Nigeria. According to section 170(b), the law prohibits the mailing of hazardous and indecent items. The specific section of the Criminal Code being referred to is section 170.

Section 376 deals with the criminal offence of possessing the deliberate intention to extort (Criminal Code, 1990). The provision stipulates that individuals who engage in the act of disseminating, making threats to disseminate, proposing to refrain from disseminating, or proposing to impede the dissemination of defamatory content, with the deliberate aim of coercing monetary or other valuable assets, or with the deliberate aim of acquiring assets or advantages for themselves or others, are committing a felony and may be subject to a prison term of up to seven years (Criminal Code, 1990).

It is important to understand that this Act was enacted in 1990 when there was little or no use of communication or technological tools. It expressly stated publication by post, since it was the most common form of communication at that time. The criminal code has been critiqued by scholars for being largely inadequate to prevent revenge pornography and OSA in Nigeria (Onyemelukwe, 2020).

1.4.2 The Cyber Crime Act, 2015

The Cyber Crimes (Prohibition, Prevention etc.) Act was established in the year 2015 (CCPPA, 2015).

The purpose of the Act was to develop a streamlined and comprehensive legal, regulatory, and institutional framework to effectively address and combat cybercrimes in Nigeria, encompassing their prohibition, prevention, detection, prosecution, and punishment. This Act is structured into eight separate divisions, comprising a total of 59 sections and associated Schedules. Part III of the Act specifically addresses sexual offences perpetrated in cyberspace, within its focus on infractions and their related sanctions. These sections will be extensively analysed.

The legislation was designed to address child pornography and linked operations exclusively. Through the Act, any person who uses a computer system or a network to produce, publish or transmit child pornography, to obtain child pornography for himself or others, or to possess child pornography in computer system or on a computer-data storage medium commit a criminal act under this Act (CCPPA, S. 23).

Given the prevalence of sexual assault against minors in Nigeria, this legislation is especially relevant. The widespread availability of online platforms dedicated to adult and child pornography has fundamentally changed the nature of the internet, enabling adults to engage in this criminal act against vulnerable children. According to the Act, people found guilty of offences falling under categories a, b, and c of this section can be sentenced to ten (10) years in jail or fined up to NGN20, 000,000.00 (Twenty Million Naira). The punishment for offences falling under categories d and e

is either a prison term of five years or a fine not exceeding NGN10,000,000.00 (Ten Million Naira) (CCPPA, S.23 (i) and (ii)).

An examination of this provision shows that the penalty for the offence is very strict, and the lawmakers should be praised for it. Nevertheless, the difficulty lies in the implementation and adherence to this legislation. There should be a strong system in place to monitor the use of the internet in Nigeria. The lack of a regulatory framework for the internet has led to a pervasive addiction among individuals, creating difficulties for government and law enforcement agencies in their attempts to monitor, capture, and lawfully prosecute these criminals. Until this objective is achieved, the legislation may continue to be ineffectual, notwithstanding the occurrences in Nigeria that have shown that children have been victims of this crime. Under Section 23 (3), it is criminal for an individual to knowingly use a computer system or a computer network to propose or encourage, or request a child to arrange a meeting for the purpose of a sexual nature with the child through force, pressure, physical dimension or force. The act of abuse is when a person uses a position of trust, power or prestige they have over a child for example within the family.

A violation of Section 23(3) of the CCPPA is committed if the individual takes advantage of a child by recruiting or enticing the child, using force or threat against the child, displaying or causing the child to perform pornographic material or deriving benefit or capitalizing on the vulnerable status of the child for the purpose of engaging in the said activities (CCPPA, 23(3)).

If the offender is convicted, the Act requires a prison term of ten (10) years and a fine of up to NGN15, 000.00 (Fifteen Thousand Naira) for offences falling under category (a). The Act uses the conjunction "and" to indicate that, in addition to the 10-year prison sentence, the offender must also pay a monetary penalty. The perpetrator will be sentenced to 15 years in jail and will also be obligated to pay a fine of up to NGN25,000.00 (Twenty Five Thousand Naira) for offences falling under categories (b) and (c). According to the Act, individuals who deliberately send or cause to be sent highly offensive, pornographic, indecent, obscene, or threatening messages or content through computer systems or networks are committing a crime under the Act. If found guilty, individuals might face a maximum prison term of 3 years or a fine that does not exceed N7,000.00 (Seven Thousand Naira) only, as stated in the CCPPA, S. 24(1).

The penalty in this situation is alternative. The potential outcomes include either a financial penalty or a spell of imprisonment. The problem with this particular penalty is that the wrongdoers will continuously pay the fine (where the amount is not severe

enough, as in this situation) and continue to freely engage in illegal activity. As a result, they are unintentionally supporting the Act more through breaking it than following it. In order to successfully deter others from committing acts of sexual violence, it is imperative that the consequences for such offences are harsh. Moreover, no terminology was provided for technology-enabled sexual abuse. The manifestations of sexual assault seem limited, hence there is a need to expand its reach. Without a doubt, the Act provides safeguards for individuals against cybercrimes. Nevertheless, it falls short in effectively tackling sexual offences, which presents a substantial challenge. The lack of adequate protections and procedures to prevent sexual offences consistently puts the safety of victims at risk (Starr and Lavis, 2018).

1.4.3 Violence against Persons and Prohibition Act (VAPP Act)

The Violence against Persons (Prohibition) Act 2015 was implemented to prohibit all forms of violence against individuals in both public and private settings, with a particular focus on safeguarding women (Violence against Persons and Prohibition Act, 2015). According to the VAPP Act, it is unlawful to coerce someone into actions that harm their physical or mental well-being, instill fear of physical harm, emotionally, verbally, or psychologically abuse someone, intimidate them, indecently expose them, or stalk them (VAPP Act, 2015). The law also considers harassment to include activities such as stalking, frequent calls, and the regular distribution of material through text messages, email, or other means. While the exact scope of this provision may be subject to interpretation, it is reasonable to assume that it covers cyber stalking as well. In addition to the prescribed penalties upon conviction, victims of these offences also have the option to seek protection orders from the court. The Act fails to expressly prohibit OSA which is currently a global concern. Hence, the need for this research to fill the gap in the existing national legal framework.

1.4.4 Evidence Act

On 12th June, 2023, President Bola Ahmed Tinubu signed the Evidence (Amendment) Act 2023 into law. The Evidence Act 2011 (the "Principal Act") is not repealed by the Act; instead, it incorporates significant innovations that are contemporaneous with global reality and evolving technological improvements regarding supporting evidence that are vital (Omoaka and Michael, 2023)

With the global advancement of technology, the Act has incorporated provisions for electronic documents and their acceptance as evidence in legal proceedings. An electronic record or data is created, saved, received, or sent in an electronic format or microfilm (Omoaka and Michael, 2023).

The phrase "electronic record" has been substituted for the word "document" in the clause of the Principal Act concerning computer-generated evidence. Consequently, the Act's incorporation of electronic records allows documents and electronic records to be directly accepted as evidence if they meet the requirements outlined in the Act. Documents that are generated by a computer and stored in various formats, such as paper, optical or magnetic media, or cloud computing databases, are now universally recognised as valid evidence in Nigerian courts. These electronic records can be admitted in judicial proceedings without the need for additional proof or the presentation of the original document, as long as the conditions outlined in the Act are met. (Evidence Act (as amended), 3(1)). The Evidence Act only concentrates on admissibility of documents and does not provide any connection with technology facilitated sexual violence against women.

1.5 Challenges Militating Against Prosecution of Online Sexual Abuse

Some of the challenges militating against the prosecution of Online Sexual Abuse are identified as follows;

Firstly, issues of Cross-jurisdiction are a major challenge as it creates conflict in laws. Online offences generally calls for jurisdictional issue being an offence with trans-boundary effect. (I K E Oraegbunam, 2015). Usually, this occurs when a victim or offender is a foreigner or when the evidence is maintained by a Foreign Service Provider. For instance, the question that seeks answer is, how can a Nigerian victim who has been sexually abused online through social media platforms or any other means by a Chinese (offender) be prosecuted in law? (Powell and Henry, 2018). Our laws may need to be reformed to address this lacunae for efficient remedy on cross-jurisdictional issues. International cooperation is required for this problem to be resolved in cases of online crime prosecution, a conflict of laws may arise especially regarding where the crime is committed in another jurisdiction but the offender is in another country or when the crime includes parties or data from different jurisdictions (Saha, 2010).

Secondly, lack of compensatory scheme for victims is another major bane in this discourse. Legally, victims should be allowed to seek financial redress. Although no amount of money can reasonably compensate a victim (particularly child sexual abuse), the fund can go a long way in providing reparation and therapeutic supports for such a victim.

In addition to the above, inadequate funding is another challenge. Adequate funding and resources are needed for training of law enforcement agencies in the use of technology to investigate online related crimes. This may affect investigations and responses the crime victims when such officers are not adequately trained.

Epileptic power supply or poor internet facilities as well as excessive cost of forensic analysis, are another challenges. If a computer-related crime is committed, a warrant is required to confiscate the computer, and the device may be analysed for up to eight months. This protracted delay may occasion injustice and may mar investigation. Hence, the need for synergy and cooperation among the various stakeholders in the criminal justice administration in Nigeria and to guarantee human rights and protection of the victim's rights.

Although the Cyber Crimes (Prohibition, Prevention) Act made provision for protection of individuals on internet-related crimes, it made little mention of online sexual abuses with inadequate sanctions for perpetrators which is a major challenge hindering the efficacy of the Act. The lack of adequate legal protection and prevention of OSA continue to jeopardise victims' safety.

1.6 Conclusion

One of the strongest goal of SDGs is to combat violence against women. It is therefore apt to state that the only way there can be massive increase the productivity and realization of the identified goals of SDGs, is the implementation of a targeted and an all-inclusive legal framework for addressing online sexual abuse. The study having achieved a robust analysis on existing legal framework, there is a great need for a broad change and improvement on Nigeria's existing laws.

1.7 Recommendations

Having identified the above challenges, the following recommendations are hereby suggested:

- i.) Research and data collection on online sexual abuse should be conducted at regular intervals and made easily accessible to the public. This will aid in formulating policies and enacting laws that are tailored to local circumstances and geographical differences, rather than simply replicating foreign laws that do not address local issues.
- ii.) Nigeria need a concised legislation and an expansive definition on online sexual abuse to criminalize, and prosecute online sexual offences. Also, future legislation should provide civil and criminal remedies for victims of online sexual abuse in Nigeria, including compensation, therapy, rehabilitation, and re-orientation.
- iii.) To address the cross-border aspect of online sexual abuse, jurisdictional problems must be defined under the law with a unified legal framework.
- iv.) Effective solutions require significant financial and human resources at both national and local levels. If possible, budgetary resources should be made available to help victims of online sexual abuse.

- v.) To combat online sexual abuse and prevent other types of violence, a statutory commission should be established with a legal framework to coordinate, implement, monitor, report, and evaluate policies, and future interventions.
- vi.) Digital literacy and online safety curriculums and awareness should be occasionally organized for Citizens.

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