

Sexual Crime Among Married Couples in Yoruba Ethnic Group of Nigeria

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Abstract *This study investigates the extent and trend of sexual crime among married couples in Yoruba ethnic group of Nigeria. Descriptive research design was used. The population consist all married couples in the South West geopolitical zone of Nigeria, the domain of the Yoruba ethnic group. A sample of 500 married couples was drawn using multistage sampling technique. Data were collected using both quantitative and qualitative methods. The research instrument for the quantitative data was a questionnaire and both FGD and IDI were used for the qualitative data. Frequency distribution and chi-square were employed in the analysis of the quantitative data while the qualitative data were analyzed using content analysis and ethnographic summaries. The findings of the study reveal that sexual crime perpetrated by a partner is common but not punishable under Nigeria law, for reasons alluded to in the study. It is therefore recommended that victims of sexual crimes need be educated on bodily and human right.*

Introduction

Man, having chosen his sphere and centered his interests, remains comparatively indifferent to woman's dilemma. The co-ordination, therefore, between woman and her life activities must be made by the woman herself [Scott and Nellie Nearing, 1914]

Sexual acts which are prohibited by laws in a jurisdiction are also called sex crimes. In general the law prescribes acts which are considered either sexual abuse or behavior that societies consider to be inappropriate and against the social norms. In addition, certain categories of activity may be considered as criminal even if freely consented to, sexual laws vary from place to place, while some sexual behaviors are accepted as normative in some societies, the same may be criminalized in others. Sexual violations are therefore, forms of human sexual behavior that are crimes. Someone who commits grievous sexual offence is said to be a sex offender, some sex crimes are violent, and others are violation of social taboos, such as incest, sodomy, indecent exposure or exhibitions. There is much variations among creatures as to what is considered a crime or not, and in what ways or to what extent crimes are punished. Western cultures are often far more tolerant of acts, such as oral sex. In sub Saharan Africa the act is seen as amoral, condemned and abhorred.

The list of common sex crimes include, rape, lust, murder and spousal rape, obscenity, frotteurism (sexual arousal through rubbing oneself against a non consenting stranger in public), exhibitionism and voyeurism, if deliberate and non consensual is called "indecent exposure "peeping tom," incest between close relatives, telephone scatologia (making obscene telephone calls for the purpose of sexual arousal), sex with animal (sodomy), sexual harassment, prostitution, sexual fetishes etc. are all some of the forms of sexual crimes that we have in Nigeria like any other human society.

A variety of laws exists to protect against rape or marital rape among married couples in modern society. Marital rape is also known as spousal rape; it is a non-consensual sex in which the perpetrator is victim's spouse. As such, it is a form of domestic violence or sexual abuse. Once widely condoned or ignored by law, spousal rape is now being repudiated by international conventions and increasingly criminalized. Still, in many countries such as Nigeria, spousal rape either remains legal, or illegal but widely tolerated and accepted as husband's prerogative.

In 2006, it was estimated that marital rape could be prosecuted in at least 104 countries (in four of these countries, marital rape could be prosecuted only when the spouses are judicially separated) and since 2006 several other countries have outlawed spousal rape. In many countries, it is not clear if marital rape may or may not be prosecuted under ordinary rape laws. Several countries in Eastern Europe and Scandinavia made spousal rape illegal before 1970, but

other countries in Western Europe and the English speaking western world outlawed it much later mostly in the 1980s and 1990s. Most developing countries outlawed it in the 1990s and 2000s.

Research literature, particularly in the areas of incidence and effect of sexual crimes may extend the use of the term spousal/marital rape to include divorced or illegally separated ex-spouses or unmarried cohabiting partners, current state law, however, often treat rape by ex-spouses or intimate partners as different.

This can be seen in the common law in force in North America and the British Commonwealth where the very concept of marital rape was treated as near impossibility. This was illustrated most vividly by Sir Matthew Hale, in his 1736 legal treatise. *Historia placitorum coronal* or History of the pleas of the crown, where he wrote that such a rape could not be recognized since the wife "hath given up herself in this land into her husband, whom she cannot react". Hale's statement in history of the pleas of the crown was not supported by an Judicial authority but was believed to be a logical consequence of the law of marriage and rape as understood at the time.

Marriage gave conjugal rights to a spouse, and marriage could not be revoked except by private Act of parliament. It therefore seemed to follow that a spouse could not legally revoke consent to sexual intercourse, and if there was consent there was no rape.

The principle was repeated in east's treatise of the crown in 1803 and in Arbold's pleading and evidence in criminal cases in 1822, but it was not until RU Clarence (1888) 22 QBD 23 that the question of the exemption first arose in English courtroom. Clarence was determined on a different point and there was no clear agreement between the nine judges regarding the status of the rule.

From the beginnings of the 19th century women's movement activist challenged the presumed right of men to engage in forced sex with their wives. In the United States, "the nineteenth-century women's rights movement fought against a husband right's to control marital intercourse in a campaign that was remarkably developed, prolific, and insistent, given nineteenth-century taboos against the public mention of sex or sexuality.

Suffragists including Elizabeth Cady Stanton and Lucy Stone "singled out a woman's right to control marital intercourse as the core component of equality. Nineteenth century feminist demands centered on the right of women to control their bodies and fertility, positioned consent in marital sexual relations as an alternative to contraception and abortion (which many opposed), and also embraced eugenic concerns about recessive procreation. British liberal feminists John Stuart Mill and Starriet Taylor attacked marital rape as a gross double standard in law and as central to the subordination of women.

Advocates of free love include early and arch-feminists such as Volatairine de Olegre and Emma Goldman, as well as Victoria Woodhul Thomas low Nicholas and Marys. Gove Nicholas, joined a critique of marital rape and advocacy for women autonomy, and sexual pleasure. Moses Aarman, a Kansas-based publisher and advocate for women right, was jailed twice under the construct laws for publishing articles by a woman who was victimized and a doctor who treated marital rape. De-Cleyre defended Herman in a well-known article "sexual slavery". She refused to draw any distinction between rape outside of, and within marriage; and it is rape where a man forces himself sexually upon a woman whether he is allowed by the marriage law or not. Marital rape is criminalized only if the couple is legally separated otherwise it is known not to be criminalized.

As the concept of human rights has developed, the belief of a marital right to sexual intercourse has become less widely held. Feminist worked systematically since the 1960s to overrun the marital rape exemption and criminalized marital rape. Increasing criminalization of spousal rape is part of a world wide reclassification of sexual crimes "from offenses against morality, the family, good customs, honor or chastity...to offenses against liberty, self-determination or physical integrity. In December 1992, the United Nation High Commissioner for human right published the declaration on the elimination of violence against women. Despite these trends and international move, criminalization has not occurred in all member states in 1997. UNICEF reported that just 17 states criminalized marital rape. In 2003 UNIFEN reported that more than 50 states did so. In 2006 the UN Secretary General found out that marital rape may be prosecuted in at least 104 states, of these, 52 have made marital rape illegal from general rape provisions. Four states criminalized marital rape only when the spouses are judicially separated. Countries which were early to criminalize marital rape include the Soviet Union (1922/1960), Poland (1932) Czechoslovakia (1950), Denmark (1960), Sweden (1963), Norway (1971) and some other members of the communist bloc. The Israel Supreme Court affirmed marital rape as crime in a 1980 based on the Talmud (book of Jewish law).

Experiences of forced sexual relations, often perpetrated by an intimate partner, have been increasingly documented over the last decade. An analysis of over fifty population - based surveys revealed, for example that between 10 and 50 percent adult women globally reported having been physically assaulted by an intimate male partner, including husbands, at some points in their lives, sexual abuse are also experienced (Heise, 1999).

The World Report on Violence and Health has defined sexual violence as any act or attempt to obtain a sexual act,

unwanted sexual comments or advances or acts to traffic, or otherwise directed against a person's sexuality using coercion by any person regardless of their relationship to the victim (King et al 2002). Others have defined coerced sex to include "more contested that require young women to marry and sexually service men not of their choosing (Heise *et al.*, 2002), clearly any sexual act which the woman herself is unwilling and which she cannot refuse without suffering adverse social and physical consequences is coercive, even if the perpetrator is the victim's husband.

The perpetration of forced sex against women by their husbands or intimate partners is reinforced by unbalanced gender norms that associate masculinity with toughness and dominance, and femininity with submissiveness. Evidence suggests that traditional gender norms are indeed deeply entrenched and offer married women little room to express their sexual right. At the same time, norms that expect women not to display interest in sex and even resist "wanted sexual advances offer husbands a justification for ignoring their wives preferences. Even when a woman says no to sex a man may believe the woman is playing hard to get. A woman who says no to sex may mean she actually wants sex."

Lack of Social and Legal Support

The social and economic dependence of married women, especially young married women on men and lack of alternative support system that may compromise their ability to regulate sex, prevent forced sex or take recourse in such situation could prevent women from refusal of forced sex. Young women are told prior to marriage that it is only if they comply and provide sex whenever a man wants will they have adequate care, protection and security. In the absence of any other alternative support systems, women will passively accept or acquiesce to nonconsensual or unwanted sexual relations as a means of survival.

The absence of perceived alternative may inhibit women from even reporting forced sexual experience. Access to legal support is also denied to women suffering forced sex in marriage. Great diversity exists across developing countries in terms of the socio-cultural context and legal frame work within which marriage partnership occur, which may influence the risk of non-consensual sex among husband and wife. In different ways in many social settings women have fewer rights than men, and even within marriage they may have limited rights either as a matter of law or practice. For example, not all countries have legislation that gives women the right to refuse a forced marriage, recognize and penalize marital rape. In some countries marital rapes are not recognized as an offence if the woman is over 15 years of age and generally if penile penetration has not occurred. Unequal gender norms condoned the perpetration; young women are socialized to believe that it is their moral duty and obligation to accept the sexual advances of their husbands, even when they are forced Basile (2002). Inability to negotiate with sexual invaders and the lack of skills to negotiate are obvious risk factors on non-consensual sex. Boys cited inability to approach girls as reasons for committing rape while men believe paying the bride price of a woman entitles them to dictate the condition which the sexual act could occur even if it involves force.

The overview suggests that non-consensual sex among married partners in developing countries is relatively a common occurrence that has been seriously overlooked in sexual and reproductive health promotion activities. Evidence in this study has identified a host of factors that place women at risk of non consensual sex and this is a pointer that an important reproductive area of research needs a study on non consensual sexual advances among married people.

Statement of the problem

Sexual crime among intimate partners varies by regions and can reach as high as 25% of the women been subjected to forced sex. In Nigeria, forced sex or marital rape, often occurs with other forms of domestic violence, particularly physical abuse. Sexual crimes are sexual acts or forms of sexual behavior which are prohibited by laws in a jurisdiction. A recent study by Akanle (2008) among the Yoruba ethnic groups reported that sexual violence in the South West among intimate partners amount to between 12-45.5%. Despite the fact that violence against women has become a daily occurrence both in the public and private spheres, violence against women in intimate relationship have received very little attention. With the silence engulfing it's been used as a weapon in further perpetrating the act attempt is been made by government, non-government organizations to address the powerful cultural traditional and religious forces that have hitherto hindered the elimination of sexual crime. However, these programs may be hampered if the incidence, extent and the trend of sexual crime is not known and if the offence remained un-reprimanded under the law. To be able to really understand the issues surrounding sexual crime there is a need to investigate in to the people's opinion concerning sexual crime. To be able to do justice to this study, the following general questions are raised.

- 1.) What is the extent, trend and prevalence of sexual crime among married couples?
- 2.) Is sexual crime a punishable offence in Nigeria or is marital rape criminalized in Nigeria?

- 3.) Are there policies in Nigeria against sexual crime?
- 4.) Do people report cases of sexual crime and how often do they do it?
- 5.) What are the sexual crimes in the community?

Methodology

Descriptive research design was used for the study. The population consists of all married couples in the south west geopolitical zone of Nigeria. The Yoruba people are about 20-25 million people who reside in Lagos, Ondo, Ogun, Oyo, Ekiti, Osun states of the south west zone.

A sample of 500 married couples was drawn using a multi stage sampling technique. Both qualitative and quantitative methods were used to gather the data. The research instrument for the qualitative data was questionnaire while Focus Group Discussions (FGDs) and In-depth interview (IDI) was conducted for the qualitative data. In order to find out issues with sexual crime the respondents were asked whether they know of sexual crime, how often they hear of sexual crime in the society, if they have personally experienced sexual crime, whether sex without consent should be punished, if there are policies in Nigeria against sexual crime, whether people report cases of sexual crimes in their society and how often, if they report, to whom do they report to? In addition they were asked if they believe sexual violence should be reported to the police and what are some of the sexual crimes in their community?

Frequency distribution and chi-square were employed in the analysis of quantitative data while the qualitative data were analyzed using content analysis and ethnographic summaries.

Result

Table 1: Socio-Demographic Background of the Respondents

FEATURES	FREQUENCY (500)	PERCENTAGE
AGE		
18-24 years	40	8.0
25-29 years	190	38.0
30-35 years	187	37.4
36-40 years	49	9.8
41 years above	34	6.8
Total	500	100
SEX		
Male	180	36.0
Female	320	64.0
Total	500	100
Educational Background		
No formal education	70	14.0
Religious education	55	11.0
Primary education	187	37.4
Post-primary	160	32.0
Tertiary	28	5.6
Total	500	100
INCOME		
Below N20,000	321	64.2
N21,000-N35,000	138	27.6
N36,000-N50,000	31	6.2
N51,000 above	10	2.0
Total	500	100
MARITAL STATUS		
Married	243	48.6
Unmarried	174	34.8
Divorced	55	11.0
Separated	28	5.6
Total	500	100

Source: Field Survey, 2011

Table 1 shows the socio-demographic variables of the respondents, people who are age 24-35 (75.4%) are more in

number than the rest this indicate the level of maturity of the respondents and the expected capability to answer questions on sexual crimes based on their marital experiences over the years. Even though equal number of male and female respondents were targeted but the female respondents are a little more than half of the total number of respondents, this might be due to the refusal of men to get involved in what some of them called mundane and petty things in the focus group discussion [FGD] organized with them. Majority of the respondents [76%] are educated but 47.5% have religious and primary education, while 38.5% have secondary and tertiary education respectively. It is then not unlikely that their perception of sexual crime among married couples in their society will be greatly affected by their level of education, the more educated the people are the greater the level of their awareness about sexual crime as shown in the table 2.

Table 2: Cross Tabulation of Education and Perception of Respondents

Perception	Educational Attainment					
	No formal education	Religious education	Primary education	Post-primary education	Tertiary education	Total
About women right						
It should be rejected	21(30.0%)	45(28.1%)	39(20.9%)	16(29.1%)	10(35.7%)	131(26.2%)
I don't know	21(30.0%)	45(28.1%)	51(27.3%)	21(38.2%)	5(17.9%)	143(28.6%)
Others	14(20.0%)	29(18.1%)	45(24.1%)	10(18.2%)	10(35.7%)	108(21.6%)
No response	14(20.0%)	41(52.0%)	52(27.8%)	8(14.5%)	3(10.7%)	118(23.6%)
	$X^2= 20.12$			$Df=12$ $p\text{-value} = 0.00$		

Source: Field Survey, 2011

Nearly three quarter of the respondents earn less than twenty thousand a month; this placed them in a vulnerable position particularly the females who often depend on their husbands for sustenance among the Yoruba ethnic group of Nigeria.

Table 3: Cross tabulation of income and vulnerability to subordination

INCOME	Subordinate/livelihood				Total
	High	Moderate	I don't know	No response	
Below N20,000	116(36.0%)	81(25.3%)	58(18.1%)	66(20.6%)	321
N21,000-N35,000	47(33.6%)	39(27.9%)	36(25.7%)	18(12.9%)	136
N36,000-N50,000	11(33.3%)	10(30.3%)	10(30.3%)	0(0.0%)	33
N51,000 above	4(40.0%)	4(40.0%)	2(20.0%)	0	10
	$X^2= 13.12$			$Df= 9$ $p\text{-value} = 0.00$	

Source: Field Survey, 2011

Questions were answered by respondents using the frequency counts and percentages of responses their experiences, extent and trend of sexual crime in their community were measured as reflected in table 4.

Table 4: Frequency and percentages of the Experience and Knowledge

S/N	QUESTION	Frequency
1	Do you know what sexual crime is?	
	Yes I know	260
	I don't know	52
2	How often do you hear of the crime	
	Regularly	240
	Not regular	48
3	Have never heard of it	
	Regularly	90
	Not regular	18
4	Do people around you talk about sexual come	
	Yes	250
	No	50
5	Have you experienced the problem of sexual crime before	
	Yes	160
	No	34
6	Do people around you talk about sexual come	
	Yes	440
	No	88
7	Have you experienced the problem of sexual crime before	
	Yes	60
	No	12
8	Have you experienced the problem of sexual crime before	
	Yes	230
	No	46
9	Have you experienced the problem of sexual crime before	
	Yes	270
	No	54

Source: Field Survey, 2011

Table 4 shows the percentage of responses to the extent, trend, prevalence and the experience of sexual crime among the women of Yoruba ethnic group in Nigeria. Fifty two percent [52%] know about sexual crimes 18% heard about it regularly while 88% was of the view that people talk about it in their communities. Sexual crime is prevalent among the Yoruba ethnic group of Nigeria because about 46% have experienced it among the respondents.

The respondents were also asked whether sexual crime is a punishable offence in their country. Answer to this question was generated through the criminal code Cap.77 Laws of the Federation of Nigeria, 1990 subsection 357-360.

The criminal code sees rape as a felony "any person who attempts to commit the offence of rape is guilty of a felony, and is liable to imprisonment for fourteen years without option. Any person who unlawfully and indecently assaults a woman or girl is guilty of misdemeanor, and is liable to imprisonment for two years. About 68% of the respondents believe that Nigerian policies and laws do not support sexual crime, particularly spousal rape. The above criminal code is silent about spousal rape and does not specify whether marital rape or sexual crime committed among intimate partners is a crime or not.

Table 5: Frequency Counts and Percentages of Responses on Sexual Crime.

S/N	QUESTION	Frequency	%
1	Do people report cases of sexual crime		
	Yes they do	260	52
	I don't know	240	48
2	How often do people report cases of sexual crime		
	Regularly	320	64
	Not regular	180	36
3	If they report it, to whom did they report to		
	Police man	370	74
	Lawyer	130	26
4	Do you think sexual crime should be reported to the police		
	Yes	36	72
	No	14	28

Source: Field Survey, 2011

Table 5 shows that 52% reported that people report cases of sexual crime and that the frequency of reporting is about 64% when reported regularly. 74% report to police the report while 26% reports to the Lawyer. Seventy two percent [72%] believes that sexual crime should be reported to the police while 28% do not think sexual crime should be reported to the police.

Table 6: Respondents frequency counts and percentages of types of sexual crimes:

Types of sexual crime	Frequency	%
Rape	11	22
Assault	12	26
Battering	14	28
Harassment	9	18
Others	3	6

Source: Field Survey, 2011

Table 6 shows that 28% of the sexual crime is battering, 26% assault, 22% rape, while 18% is sexual harassment.

Discussion

This study investigated sexual crime among married couples in Yoruba ethnic group of Nigeria. The findings of this study show that 46% of the respondents have experienced one form of sexual crime or the other and confirmed that sexual crime is prevalent in Nigeria. This findings agree with Akanle (2008) who reported that sexual crime among intimate partners in the Southwest Nigeria the domain of the Yoruba ethnic group amount to between 12-45.5%. Sexual crime is prevalent and high among the ethnic group because of the socio-cultural factors such as the social norms, belief and values about sexuality and patriarchal nature of sexuality norms in Yoruba land. In most cases sexual crime is overlooked and excused even when it leads to psychological or emotional frustration or disturbance among women. The social norms and the type of sexual activities in a society regulate and play a major role in determining the type of forced sex that are

allowed or condoned within that particular culture.

Many traditional norms in Africa and especially in Nigeria condone coercion of the female. Sexual abuse committed by men is to a large extent rooted in the ideology of patriarchy and male sexual entitlement. These belief systems, grant women extremely few legitimate options to refuse sexual advances. Most women in Africa particularly in Nigeria do not define their experiences of forced sex in marriage as rape. Some believe that only stranger rape is "real rape;" and other women see sex in marriage as an obligation and define forced sex as a "wifely duty," not rape (Bergen, 1996). Basile (2002) found that 61% of women who had unwanted sex with their partners did so out of a sense of obligation. If they do not define their experiences as rape, women are unlikely to report the violence or seek outside assistance. Many men also cannot imagine a wife refusal of sexual advances particularly the wife they have paid dowry on, they simply exclude that possibility.

The finding of this study shows that rape is a punishable offence in the criminal code, but that of marital rape is not. Nigeria is listed among countries that have not made spousal rape a criminal offence. In many developing countries it is believed - by both men and women - that the husband is entitled to sex anytime he demands it and that if the wife refuses him, he has the right to use force. In most cases most women depend on their husbands for life sustenance. Some of these women are either illiterate or very poor. This situation leaves, women with very little sexual autonomy. Often when asked by their husbands for sex, they are not in a position to refuse, they have to choose between unwanted sex and being subjected to violence: or unwanted sex and being abandoned by their husbands and ending up living in abject poverty and squalor. Marital rape is not criminalized in Nigeria therefore one cannot say it is illegal or legal, what is known is that spousal rape is tolerated and accepted as the husband prerogative in Yoruba ethnic group. These may be due to the silence of the law on the issue as it is perceived that the wife has given up herself to her husband at marriage. In the FGD conducted a woman retorted in Yoruba *Oko Iolori aya* - the husband is the head to the wife – another said whatever my husband wants I do, he is the driver of the vehicle. These are belief systems that have strong roots in the culture of the Yoruba ethnic group which have been passed down from generations.

The study shows that 52% of the respondents were of the view that people should report cases of sexual crime to the police and 64% says the reporting should be regular. Seventy four percent [74%] report the cases of sexual crime to policemen while 28% do not think sexual crime should be reported to the police probably because of the shame and stigma associated with it in Nigerian society. This finding supports some of the well-documented view of Koss & Cook (1998) in the study of violence against women that rape is a largely underreported crime.

The finding of this study does not support that of Bergen (1996), Browne (1987) and Russell, 1990 which reported that many women do not report sexual violence to the police because they are ashamed to do so or because they fear being blamed. Even though some women in some ethnic groups would not disclose sexual violence the Yoruba group seems to be willing to do so. This shows there is a significant difference across cultures in the willingness to disclose sexual violence to researchers. Furthermore the Yoruba ethnic group is highly educated in Nigeria, Therefore disclosing sexual violence to the police might have been influenced by the level of education of the people and the knowledge or information they have got concerning the issue of sexual right and the determination of people to eliminate sexual violence among intimate partners. Many NGO's in the Western part of Nigeria have been campaigning that people should disclose issues of marital violence to the public so that offenders are punished and therefore serve as deterrent to would be offenders.

Conclusion

Even when sexual crime among intimate partners is prevalent in Nigeria, it has not been criminalized. Nigerian women find the continuous lip service on women's rights as un acceptable.

The constitution and other laws which supposedly guarantee human rights still discriminate against women in several areas, the criminal code; rules of court procedures as well as rule of evidence undermine women humanship. Customary laws and practices and gender perceptions all merge to increase the exclusion and abuses of the rights of women in Nigerian society.

Recommendation

Based on the findings the following were recommended.

- a.) People should be educated on bodily rights
- b.) There should be a review of the 1999 constitution, the review process should protect women's right and should ensure that sexual crime among intimate partners is criminalized.

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