journals.unizik.edu.ng/index-php/jcpl
ISSN: 2736-0342
NNAMDI AZIKIWE UNIVERSITY, AWKA
JOURNAL OF COMMERCIAL AND PROPERTY LAW

Digital Sexual Exploitation of Children in Nigeria: A Legal Discourse

Promise Aaron*

Miller Nzewenta**

Damilola Abidoye***

Abstract

This study examines the role of legal frameworks in addressing the digital sexual exploitation of children in Nigeria, a pervasive issue exacerbated by the rapid expansion of internet access and social media. The study's objective is to evaluate the effectiveness of Nigerian laws, particularly the Child Rights Act (CRA) of 2003 and the Cybercrimes (Prohibition, Prevention, etc.) Act of 2015, to protect children from online exploitation. The methodology involves qualitative research methodology. Specifically, two approaches under qualitative research methodology were adopted namely: the legal doctrinal approach and the comparative analysis approach. The study found significant gaps in the current legal framework, particularly in addressing the nuances of digital exploitation of children in Nigeria. The CRA, while comprehensive in scope, fails to adequately cover digital contexts, leaving children vulnerable. Similarly, the Cybercrimes Act, although addressing child pornography, lacks robust enforcement mechanisms and victim support services. The study recommends strengthening existing laws, enhancing enforcement through specialized units and training, promoting public awareness, and leveraging technology for prevention. Additionally, it calls for greater international collaboration to address the cross-border nature of these crimes effectively.

Keywords: Children, Sexual, Exploitation, Digital, Enforcement

1. Introduction

Digital sexual exploitation of children is a grievous violation of human rights, constituting a significant challenge in Nigeria, where legal and technological infrastructures struggle to keep pace with the growing menace. The term "digital sexual exploitation" encompasses a range of activities, including child pornography, online grooming, sextortion, and cyberbullying, all facilitated by digital technologies.[1] The rise in internet penetration, particularly among youths, has exacerbated this issue in Nigeria, making children increasingly vulnerable to exploitation by perpetrators who often operate across borders with anonymity. The removal of physical barriers has opened up limitless access to a wide range of websites for the consumption of sexual content with the click of a mouse without physically entering a brothel to have immoral sexual satisfaction with a child.[2]

Most crimes committed using the Internet and other IT apps have benefited from anonymity.[3] For instance, one need not worry that someone will find out they are viewing immoral material when they do so in the closet, on a laptop, on a palmtop, etc. Additionally, it has served as a venue for paedophiles to engage their children and teenagers in sex chat rooms and ultimately invite them along for sexual

* **Promise Aaron**, Lecturer, School of Law and Security Studies, Babcock University. Email: aaronp@babcock.edu.ng Tel: 07030098666

** **Miller Nzewenta**, Lecturer, School of Law and Security Studies, Babcock University. Email: nzewenram@babcock.edu.ng

*** **Damilola Abidoye**, Lecturer, School of Law and Security Studies, Babcock University. Email: abidoyed@babcock.edu.ng

[1] L S Ramiro and others, 'Online Child Sexual Exploitation and Abuse: A Community Diagnosis Using the Social Norms Theory' (2019) 96 Child Abuse & Neglect 104080 <https://www.sciencedirect.com/science/article/abs/pii/S0145213419302571> accessed 22 August 2024.

[2] S M, 'Computer Ethics: Are Students Concerned, First Annual Ethics Conference (1996) 'Retrieved from Loyola University Chicago Website <http://www.math.luc.edu/ethics96/papers/sackson.doc accessed>accessed 13 February 2023.

[3] W Kim and others, 'The Dark Side of the Internet: Attacks, Costs and Responses' (2011) 36 Information Systems 675 <https://www.sciencedirect.com/science/article/pii/S0306437910001328> accessed 22 August 2024.

adventures.[4] Thus, the internet holds for children and parents danger and a promise. The Internet warehouse variety of helpful and educational content and resources. However, exposure to sexually explicit content and paedophiles online could endanger children.

The term Child has undergone various legal meanings under the Nigerian jurisprudence. The Nigerian Constitution did not define who a child is, rather the Constitution defined 'person of full age'. According to the Constitution, a person of full age "means the age of eighteen years and above".[5] By this definition, a person of full age will be a person who attends the age of majority or capacity. The age of majority or capacity is the age a person attains full legal rights, especially civil and political rights such as the right to vote.[6] The age of majority or capacity is usually defined by the statute in this regard as it applies to Nigeria, the Constitution which is eighteen. The Child Rights Act defined a Child as "a person who has attained the age of eighteen years".[7] This definition is the same as the provisions of the Universal Declaration on the Rights of the Child. However, some legislations in Nigeria have defined a Child by criminal liability. Thus, the Criminal Code defines that "a person under the age of twelve years is not criminally responsible for any act or omission unless it is proved that at the time of doing the act or making the omission he could know that he ought not to do the act or make the omission."[8] By this definition, a person above the age of twelve shall be criminally liable and considered an adult. In determining the age of a child, the best interest of the child should be considered.[9]

This paper explores the legal frameworks in Nigeria that address the digital sexual exploitation of children, scrutinizing the effectiveness of these laws, the challenges in enforcement, and the gaps that remain. This paper is set against the backdrop of international legal obligations and the broader societal implications of digital child exploitation. By examining these dimensions, the paper objectives are to provide a comprehensive legal analysis of the issue, with recommendations for strengthening the legal response to protect children more effectively.

1.1 Overview of Digital Sexual Exploitation Globally and in Nigeria

Globally, digital sexual exploitation of children has emerged as a pervasive issue, with the advent of the internet and social media providing new avenues for perpetrators. The ease of access to digital devices and platforms has led to a surge in cases of child exploitation online. According to the International Centre for Missing and Exploited Children,[10] millions of images and videos depicting child sexual abuse circulate on the internet, contributing to a multi-billion-dollar illegal industry.

In Nigeria, the situation is equally dire. The expansion of mobile internet and social media has made Nigerian children particularly vulnerable to online predators. Cases of online grooming, child pornography, and sextortion have become increasingly common, with law enforcement agencies often struggling to keep up with the sophisticated methods used by perpetrators.[11] The cultural context, which

[4] L Olumide, et al., Exposure of Children and Teenagers to Internet Pornography in South Western Nigeria, Trends & Implications, (2007) 7(3) *Journal of Information Technology Impact*, 195.
[5] Constitution of the Federal Republic of Nigeria (as Amended), 1999, s. 29(4)
[6] B A Garner (ed), *Black's Law Dictionary* (10th edn, Thomson Reuters, 2014)
[7] Child Rights Act, 2003, s. 277
[8] Criminal Code Act, 2004, s. 30
[9] T Iyoha-Osagie and O I George, 'The Right to Online Data Protection of Children: Examining the Adequacy of the Legal Frameworks to Combat Child Online Data Breaches in Nigeria' (2019) 3 ABUAD Private and Business Law Journal 82 <10.53982/apblj.2019.0301.05-j> accessed 25 July 2024
[10] International Centre for Missing and Exploited Children, 'Home - International Centre for Missing & Exploited Children' (*International Centre for Missing & Exploited Children*2018) <https://www.icmec.org/> accessed 22 August 2024.
[11] O A Okpokwasili, 'Online Predators: Protecting Teenagers from Internet Sexual Exploitation' (2023) <https://www.researchgate.net/profile/OgochukwuOkpokwasili/publication/373265153_Online_Predators_Protecting_Teenagers_from_Internet_Sexual_Exploitation/links/64e43de30453074fbda54e20/Online-Predators-Protecting-Teenagers-from-Internet-Sexual-Exploitation.pdf> accessed 22 August 2024.

includes widespread poverty and low levels of digital literacy, further exacerbates the vulnerability of children to such exploitation.

2. Historical Context of Child Protection in Nigeria

Nigeria has a complex history concerning child protection. In the Nigerian traditional society, the Ubuntu ideology emphasises collaboration among family members, faith-based organizations, and the community to protect the child. The Ubuntu model created a six-tier protection, which included biological or nuclear families first, then extended family (kinship care), community care, official foster care, adoption, and ultimately a residential child-care facility.[12] In the past few decades, significant legal developments have been made about the protection of the child with the enactment of the Child Rights Act 2003 and Cybercrime (Prohibition, Prevention, etc.) Act, 2015.

The Child Rights Act (CRA), enacted in 2003, marked a critical step in codifying the rights of children, incorporating provisions from international treaties such as the United Nations Convention on the Rights of the Child. The Child Rights Act protects the child from all forms of sexual abuse and exploitation.[13] The CRA protects children from all kinds of maltreatment, exploitation, and negligence, including sexual exploitation and the use of a child for pornographic or other sexual perversions. The digital age has introduced new challenges that were not anticipated when these laws were initially drafted. For instance, the CRA primarily addresses conventional forms of abuse, neglecting the specific threats posed by digital exploitation. This gap necessitates a re-evaluation of the legal framework to ensure it is robust enough to protect children in the digital era.

The legislative gap found in the Child Rights Act, of 2003 necessitated the enactment of Cybercrime (Prohibition, Prevention, etc.) Act, 2015.The Act prohibits the production, distribution and transmission of child pornography. According to the Act, anyone who knowingly uses a computer system or network to produce, offer, make available, distribute, or transmit child pornography, obtain child porn for themselves or another person, or possess child pornography in a computer system or on a computer-data storage medium commits an offence under the Act and is subject to imprisonment upon conviction.[14] Additionally, it is stated that anyone who knowingly creates or distributes additional pornographic images via unsolicited computer transmission conducts an offence and is subject to a one-year prison sentence, a fee of =N=25, 000,000.00, or both upon conviction.[15]

The act of engaging in sexual activity with a child while using coercion, inducement, force, threats, abuse of a recognized position of trust, authority, or influence over the child, including within their family, or abuse of a particularly vulnerable circumstance of the child, constitutes grooming or soliciting a child through any computer system or network; whoever violates the Act is subject, upon conviction, to a term of imprisonment of not more than 10 years and a fine of not more than =N=15, 000,000.00, or based on the offence committed, to a term of imprisonment of not more than 15 years and a fine of not more than =N=25, 000,000.00.[16] The Act went further to describe "child pornography,"including pornographic content that graphically shows a minor engaging in sexual activity, a person who appears to be a minor engaging in sexual activity, and realistic images of a minor engaging in sexual activity[17], while a "child" or "minor" is an individual who is under the age of 18.[18]

[12] K Abusaleh and others, 'Ubuntu Model as Child Protection Mechanism: A Comparative Analysis of Nigeria, Ghana and Bangladesh' in B Mayaka, C Uwihangana and A D van Breda (eds), The Ubuntu Practitioner: Social Work Perspectives (IFSW, 2023)
[13] Child's Rights Act, 2003, ss. 31 & 32
[14] Cybercrime Act, 2015 s. 23(1)
[15] Ibid, s. 23(2)
[16] Ibid, s. 23(3)
[17] Ibid, s. 23(4) (a-c)
[18] Ibid, s. 23(5)

2.1. Factors Contributing to Sexual Exploitation of Children in Nigeria

i. Socio-Cultural Factors Contributing to Sexual Exploitation of Children

In Nigeria, several socio-cultural factors contribute to the prevalence of digital sexual exploitation of children. Poverty is a significant factor, as it often forces children into situations where they are more susceptible to exploitation.Poverty is the denial of education, health services, shelter, food, clothing and material conditions, which is a denial of healthy living and self-fulfilment. It is about going to bed at night hungry, cold and maybe even homeless for many days. To put an end to this cycle, a famished child may be compelled to engage in sexual favours to earn money to buy food.[19]

Additionally, deeply rooted patriarchal norms and practices that devalue the rights of children, particularly girls, increase their vulnerability.[20]Patriarchy is a sex-based social stratification structure that benefits men while restricting women's responsibilities and activities.[21]The stigma associated with sexual abuse further complicates the issue, as victims are often reluctant to report incidents, fearing ostracization or reprisal.

Furthermore, the low level of digital literacy among parents and guardians means that many are unaware of the dangers their children face online. This lack of awareness, coupled with inadequate supervision, creates an environment where children are easily exploited by online predators who manipulate them through social media and other digital platforms.[22]

ii. Technological Factors Contributing to Digital Sexual Exploitation of Children

The rapid advancement of technology has significantly contributed to the rise of digital sexual exploitation of children, especially the use of the Internet and email. The widespread availability of smart phones and increasing internet penetration has made it easier for offenders to exploit children.[23] Social media platforms, in particular, have become hotspots for such activities, with predators using these platforms to groom and exploit minors.[24] According to McCartan and McAlister, about 47% of teenagers are owners of smart phones. The rising access children have to mobile phone technology, with the majority having access to the Internet, raises concerns about child safety regarding sexual exploitation.[25]

The anonymity provided by the internet also encourages offenders, making it challenging for law enforcement agencies to track and apprehend them.[26] Moreover, the global nature of the internet means that perpetrators can operate across borders, further complicating enforcement efforts. The use of encrypted communication and the dark web by sexual offenders also poses significant challenges to law

[19]V Ramiah, 'Poverty and Patriarchy as Contributors to Child Sexual Abuse' (LLM Dissertation School of Law, Howard College University of KwaZulu-Natal 2019) <https://researchspace.ukzn.ac.za/bitstreams/661c5f16-3cce-4b89-a564-7540b66426f9/download> accessed 23 August 2024.

[20] Y Rafferty, 'International Dimensions of Discrimination and Violence against Girls: A Human Rights Perspective' (2013) 14 Journal of International Women's Studies 1 <https://vc.bridgew.edu/jiws/vol14/iss1/1/> accessed 23 August 2024.

[21]V Ramiah, (n 19).

[22] Y C Wong, 'Cyber-Parenting: Internet Benefits, Risks and Parenting Issues' (2010) 28 Journal of Technology in Human Services 252 <https://www.tandfonline.com/doi/abs/10.1080/15228835.2011.562629> accessed 23 August 2024.

[23] M Cezário and others, 'Technology and Sexual Abuse - the Role of Technology in Facilitating Child and Adolescent Sexual Abuse: A Systematic Review' (2024) 6 Rima <https://caroa.org.br/revista/index.php/rima/article/view/236> accessed 28 June 2024.

[24] KF McCartan and R McAlister, 'Mobile Phone Technology and Sexual Abuse' (2012) 21 Information & Communications Technology Law 257 <https://doi.org/10.1080/13600834.2012.744223> accessed 26 August 2024.

[25] Ibid.

[26] M Balfe and others, 'Internet Child Sex Offenders' Concerns about Online Security and Their Use of Identity Protection Technologies: A Review' (2014) 24 Child Abuse Review 427 <https://onlinelibrary.wiley.com/ doi/abs/10.1002/car.2308> accessed 26 August 2024.

enforcement agencies, who often lack the technical expertise and resources to combat these sophisticated methods.[27]

3. Legal Framework against Digital Sexual Exploitation of Children in Nigeria

3.1 Overview of Nigerian Laws Addressing Child Exploitation

Nigeria has established several laws aimed at protecting children from various forms of exploitation, including digital sexual exploitation. The most prominent of these is the Child Rights Act (CRA) of 2003, which provides a comprehensive framework for the protection of children's rights in Nigeria.[28] The CRA incorporates many provisions of the UNCRC, making it a critical tool in the fight against child exploitation.[29]

The Cybercrimes (Prohibition, Prevention, etc.) Act of 2015 is another significant legal instrument that addresses crimes committed through digital platforms, including child pornography and cyber stalking.[30] This Act criminalizes the production, distribution, and possession of child pornography, with significant penalties for those found guilty. However, the enforcement of these laws has been inconsistent, with challenges such as inadequate training for law enforcement officers and limited resources for investigation and prosecution hindering their effectiveness.

i. Child Rights Act, 2003

The Child Rights Act (CRA) of 2003 is Nigeria's primary legal instrument for children's rights protection. It provides a broad framework that includes provisions for the protection of children from all forms of abuse and exploitation, incorporating elements from international conventions such as the UNCRC. [31] The CRA mandates the protection of children from sexual exploitation, physical and psychological abuse, and neglect, making it a comprehensive legal tool.

Despite its comprehensive nature, the CRA has limitations in not addressing the nuances of digital exploitation. The Act was primarily designed to address conventional forms of abuse and does not specifically cover the exploitation of children through digital platforms. This gap has left children vulnerable to online predators who exploit the lack of specific legal provisions to carry out their activities.

Moreover, the implementation of the CRA has been inconsistent across Nigeria, with some states yet to domesticate the law.[32]The domestication of children's rights treaties in Nigeria faces several significant challenges, primarily stemming from the country's legal pluralism. Nigeria's legal system is characterized by a mix of common law, Islamic law, and customary law, which creates conflicts and complicates the process of adopting uniform child rights legislation. The differing legal norms and cultural perceptions of childhood across various regions make it difficult to achieve consensus on these important issues.[33]

Perhaps, the Nigerian population is divided along religious and cultural lines, with notable differences in views on children's rights between the predominantly Muslim north and the largely Christian south. This fragmentation leads to challenges in achieving a unified approach to child rights legislation, as some states have resisted re-enacting the Child Rights Act 2003 (CRA). Attempts to enact comprehensive children's rights legislation have often faced opposition from religious and traditional groups who argue

[27] S Kaur and S Randhawa, 'Dark Web: A Web of Crimes' (2020) 112 Wireless Personal Communications <https://link.springer.com/article/10.1007/s11277-020-07143-2> accessed 26 August 2024.
[28] Child Rights Act, 2023, s. 2
[29] Convention on the Rights of the Child, 1989, Article 2(2)
[30] Cybercrimes Act, 2015, ss. 1, 23, 24
[31]O F Chukwuemeka, 'Child Rights Act 2003: Safeguarding the Future through Legislation' (*Kwik Attorneys LP*29October 2023)<https://www.kwikattorneys.com/child-rights-act-2003-safeguarding-the-future-through-legal-empowerment/> accessed 26 August 2024.
[32] D Ogunniyi, 'The Challenge of Domesticating Children's Rights Treaties in Nigeria and Alternative Legal Avenues for Protecting Children' (2018) 62 Journal of African Law 447 <https://doi.org/10.1017/S0021855318000232> accessed 26 August 2024.
[33] Ibid.

that such laws conflict with Islamic and customary norms. This opposition has historically stalled legislative efforts, as evidenced by the failed attempts to pass a children's rights bill in 1993.[34]

In addition to these cultural and political dynamics, there is also the issue of inconsistent implementation. Even where the CRA exists, some states have enacted laws that lower standards for child protection, undermining the effectiveness of the CRA. For instance, while the CRA prohibits marriage for children under 18, some state laws allow marriage at the age of 13, which further complicates the landscape of children's rights in Nigeria.[35]

Finally, the federal structure of Nigeria requires that state assemblies be consulted on child-related treaties, which can complicate the domestication process. The need for state-level approval means that even if a treaty is domesticated at the federal level, it may not be re-enacted in all states, leading to inconsistent application of children's rights across the country.[36] These challenges highlight the complexities involved in effectively implementing children's rights treaties in Nigeria, necessitating a multifaceted approach to address the legal, cultural, and political barriers.

ii. Cybercrimes (Prohibition, Prevention, etc.) Act, 2015

The Cybercrimes Act of 2015 is Nigeria's primary legal framework for addressing crimes committed through digital platforms. The Act criminalizes a wide range of activities, including hacking, cyber stalking, and the distribution of child pornography. Under this Act, individuals found guilty of producing, distributing, or possessing child pornography can face significant penalties, including imprisonment and fines.[37]

The Act provided for the establishment of a Cybercrime Advisory Council, which is responsible for creating a conducive environment for members to share knowledge, experience, intelligence, and information on cybercrime prevention and promotion in Nigeria. It formulates policy guidelines for implementing the Act and advises on measures to prevent computer-related offences and threats to national cyberspace.[38] Also, the Act established the National Computer Emergency Response Team (CERT) to oversee the implementation of the Act and respond to cyber threats.[39] However, the effectiveness of the Cybercrimes Act has been hampered by several challenges, including inadequate training for law enforcement officers, lack of resources, and the slow judicial process.[40]

One of the significant limitations of the Cybercrimes Act is its reliance on traditional judicial processes, which can be slow and cumbersome. The rapid evolution of digital technologies means that the law often struggles to keep pace with new forms of exploitation, making it difficult to prosecute offenders effectively.[41] Additionally, the Act does not provide sufficient protection for victims of digital sexual exploitation, particularly in terms of support and rehabilitation services.

---

[34] I Ogunniran, 'Child Rights Act versus Sharia Law in Nigeria: Issues, Challenges and Way Forward' (2024) <https://ir.unilag.edu.ng/bitstreams/615b3873-1dff-444e-8f9f-3f4503106cb1/download> accessed 26 August 2024.

[35] C OkaforNwonu and I Oyakhiromen, 'Nigeria and Child Marriage: Legal Issues, Complications, Implications, Prospects and Solutions' (2014) 29 Journal of Law, Policy and Globalization <https://core.ac.uk/download/pdf/234649997.pdf> accessed 26 August 2024.

[36] Constitution of the Federal Republic of Nigeria, 1999, s. 4

[37] Cybercrimes Act, 2015, s. 23

[38] Ibid, s. 42

[39] Cybercrimes Act, 2015, s. 41

[40] E O C Obidimma and R OnyekachiIshiguzo, 'Cybercrime Investigation and Prosecution in Nigeria: The Critical Challenges' (2023) <https://journals.ezenwaohaetorc.org/index.php/AFJCLJ/article/download/2537/2611> accessed 27 August 2024.

[41] C Fehr, 'Criminal Law and Digital Technologies: An Institutional Approach to Rule Creation in a Rapidly Advancing and Complex Setting' (2019) <https://lawjournal.mcgill.ca/article/criminal-law-and-digital-technologies-an-institutional-approach-to-rule-creation-in-a-rapidly-advancing-and-complex-setting/> accessed 27 August 2024.

4. International Legal Frameworks against Digital Sexual Exploitation of Children

i. United Nations Convention on the Rights of the Child (UNCRC)

The United Nations Convention on the Rights of the Child (UNCRC) is the most comprehensive international treaty on children's rights, providing a universal standard for the protection of children from all forms of abuse and exploitation.[42] Nigeria ratified the UNCRC in 1991 and subsequently incorporated many of its provisions into the Child Rights Act of 2003.[43]

Before the enactment of CRA, the Children and Young People's Act (CYPA), enacted in 1943 by the colonial administration, was the main legislation in Nigeria dealing with issues affecting children. The CYPA underwent many amendments and was finally included in Nigeria's federal statutes in 1958, just before Nigeria's October 1960 independence. The legal provisions of the African Charter on the Rights and Welfare of the Child (ACRWC) and UNCRC, enacted more than two and a decade after independence, respectively, were superior to the norms found in the CYPA. Other existing legislation on children in the country include the Criminal Code Laws in the South and the Penal Code in the North; children laws in some Southern States and Abuja, Nigeria's capital city; the Trafficking in Persons (Prohibition) Law Enforcement and Administration Act 2003; and Chapter 4 of the 1999 Constitution of the Federal Republic of Nigeria.[44]

The UNCRC obligates signatory states to take all appropriate measures to protect children from sexual exploitation and abuse, including through digital means. The UNCRC specifically addresses the obligation of states to protect children from all forms of sexual exploitation and abuse.[45] Nigeria's ratification of the UNCRC and the domestication of its provisions in the CRA represent a significant commitment to protecting children from exploitation. However, the challenge lies in the effective implementation of these provisions, particularly in the context of digital exploitation.

ii. Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography

The Optional Protocol to the UNCRC on the Sale of Children, Child Prostitution, and Child Pornography specifically addresses the exploitation of children including the exploitation of childrenthrough digital platforms. The Optional Protocol to the UNCRC on the Sale of Children, Child Prostitution and Child Pornography provides that state parties to the Protocol should ensure that digital sexual exploitation of children in the form of producing, distributing, disseminating, importing, exporting, offering, selling, or possession of child pornography is criminalized, whether committed internationally or domestically.[46]It also requires states to provide support and rehabilitation services to victims of these crimes.[47]Nigeria ratified this Optional Protocol in 2000, committing to take measures to prevent and combat the sale of children, child prostitution, and child pornography.[48]Nigeria's ratification of the Optional Protocol and the

[42]UNICEF, 'Convention on the Rights of the Child' (1989) <https://www.unicef.org/child-rights-convention/convention-text> accessed 27 August 2024.

[43]M O Opeloye, 'Proceedings of ICWC 2016 Subang Jaya, Malaysia 1st International Conference on Women and Children Legal and Social Issues Dorsett Grand Subang Malaysia' (2016) <http://repository.unika.ac.id/23259/1/PROCEEDINGS-OF-ICWC-2016-SUBANG-JAYA-MALAYSIA%281%29.pdf#page=183> accessed 27 August 2024.

[44] E Ojo, A multi-disciplinary analysis of the protection of children from harmful practices in Nigeria (LL.M Dissertation Faculty of Law University of Pretoria 2014)

[45] Convention on the Rights of the Child, 1989, Article 34

[46] Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution, and Child Pornography, Article 3 (1) (ii) (c)

[47] Ibid, Article 9 (3)

[48]I Ogunniran, 'Forward Looking or Backward Stepping: Evaluating Child Protection from Sexual Exploitation in Nigeria' (2017) 3 Journal of Human Trafficking 167 <https://doi.org/10.1080/23322705.2016.1146519> accessed 27 August 2024.

subsequent incorporation of its provisions into national law, such as the Cybercrimes Act, represents a significant step in the fight against the digital sexual exploitation of children.[49]

However, as with the UNCRC, the challenge lies in the effective implementation of these provisions. The lack of adequate resources and training for law enforcement agencies, coupled with the slow judicial process, especially in Nigeria, has hindered the effective prosecution of offenders and the provision of support services to victims.[50]

iii. African Charter on the Rights and Welfare of the Child

The African Charter on the Rights and Welfare of the Child is a regional instrument that complements the UNCRC, providing additional protections for children in Africa. Nigeria ratified the African Charter in 2001, further strengthening its commitment to protecting children from exploitation and abuse. Nigeria, operating a dualist legal system was the first country to ratify and domesticate the African Charter. This is by virtual of the provision of the Nigerian Constitution, 1999. The 1999 Nigerian Constitution provides that 'No treaty between the federation and any other country shall have the force of law except to the extent to which any such treaty has been enacted into law by the National Assembly'.[51]

The African Charter emphasizes the protection of children from all forms of exploitation and abuse, including sexual exploitation. The Charter specifically addresses the obligation of states to protect children from sexual exploitation and abuse, including through digital means.[52] The African Charter also obligates states to take measures to prevent the exploitation of children, including through public education and awareness campaigns.

Nigeria's ratification of the African Charter and the incorporation of its provisions into national law, such as the CRA and the Cybercrimes Act, represents a significant commitment to protecting children from exploitation. However, as with other international instruments, the challenge lies in the effective implementation of these provisions, particularly in the context of digital exploitation.[53]

5. Analysis of Legal Gaps and Challenges

5.1 Inadequacies in Existing Legal Frameworks

The existing legal frameworks in Nigeria, while comprehensive in some respects, have significant gaps when it comes to addressing the digital sexual exploitation of children. The Child Rights Act (CRA) of 2003, for example, does not adequately address the nuances of digital exploitation, leaving children vulnerable to abuse through digital platforms. Similarly, the Cybercrimes Act of 2015, while addressing some aspects of digital exploitation, lacks the specificity and enforcement mechanisms needed to tackle this issue effectively.[54]

One of the critical gaps in the legal framework is the lack of provisions for the protection of victims of digital sexual exploitation. While the Cybercrimes Act criminalizes the production, distribution, and possession of child pornography, it does not provide sufficient protection and support services for victims, such as counselling and rehabilitation services. Additionally, the Act does not adequately address the use

[49] A B Abdulkadir and A O Abdulkadir, 'Cybercrimes Act in Nigeria: Experimenting Compliance with Internationally Recognized Human Rights Provisions' (2019) 15 *Journal of International Studies* 117 <https://e-journal.uum.edu.my/index.php/jis/article/view/9262> accessed 28 August 2024.

[50] I P Enemo, 'Challenges Still Facing the Domestication and Implementation of Key Provisions of Nigeria's Child Rights Act of 2003' (2021) 39 Nordic Journal of Human Rights 358 <https://www.tandfonline.com/ doi/abs/10.1080/18918131.2021.1976440> accessed 28 January 2022.

[51] Constitution of the Federal Republic of Nigeria, 1999, s. 12(1)

[52] The African Charter on the Rights and Welfare of the Child, 1990, Article 27

[53] Ibid, Article 11

[54] L Tsado and others, 'Combatting the Threat of Cybercrime in Nigeria: Examining Current Laws and Policies' (2023) 5 *Journal of applied and theoretical social sciences* 413.

of emerging technologies, such as encryption and the dark web, by offenders to carry out their activities, making it challenging for law enforcement agencies to track and apprehend them.[55]

5.2 Enforcement Challenges

The enforcement of laws related to the digital sexual exploitation of children in Nigeria faces several challenges. Law enforcement agencies often lack the necessary training and resources to investigate and prosecute digital crimes. The rapid evolution of digital technologies means that law enforcement agencies struggle to keep up with new forms of exploitation, making it difficult to prosecute offenders effectively.[56]

Moreover, the judicial system in Nigeria, which is often slow and overburdened, struggles to keep pace with the rapidly evolving nature of digital crimes. The reliance on traditional judicial processes, which can be slow and cumbersome, limits the effectiveness of the legal framework in addressing digital sexual exploitation.[57] Corruption and weak institutions further exacerbate these challenges, allowing perpetrators to act with impunity.

Another significant challenge is the lack of coordination and collaboration between different agencies and stakeholders involved in combating the digital sexual exploitation of children. The lack of a centralized database for tracking cases of child exploitation and the lack of collaboration between law enforcement agencies, social services, and non-governmental organizations (NGOs) further hinder the effectiveness of the legal framework.[58]

6. Comparative Analysis of other Jurisdictions on Digital Sexual Exploitation of Children

6.1 Legal Approaches in Other Jurisdictions

To gain insights into potential solutions for Nigeria, it is essential to examine how other countries have addressed the issue of digital sexual exploitation of children. Countries like the United Kingdom, the United States, and Australia have implemented robust legal frameworks and enforcement mechanisms to combat digital exploitation effectively.

In the United Kingdom, the Protection of Children Act 1978, the Sexual Offences Act 2003, and the Serious Crime Act 2015 are key legislative instruments that address various forms of child sexual exploitation, including through digital means. The UK has also established specialized units within law enforcement agencies, such as the Child Exploitation and Online Protection (CEOP) Command, to investigate and prosecute digital crimes involving children.[59]

Similarly, in the United States, the Protect Our Children Act of 2008 and the Child Protection and Sexual Predator Punishment Act of 1998 provide a robust legal framework for addressing the digital sexual exploitation of children. The Federal Bureau of Investigation (FBI) and the National Center for Missing

[55] EFG Ajayi, 'Challenges to Enforcement of Cyber-Crimes Laws and Policy' (2016) 6 Journal of Internet and Information Systems 1 <https://academicjournals.org/journal/JIIS/article-full-text-pdf/930ADF960210>.

[56] O O Amoo and others, 'The Legal Landscape of Cybercrime: A Review of Contemporary Issues in the Criminal Justice System' (2024) 21 World Journal of Advanced Research and Reviews 205 <http://dx.doi.org/10.30574/wjarr.2024.21.2.0438> accessed 29 August 2024.

[57] PA Aidonojie, SA Wakili and D Ayuba, 'Effectiveness of the Administration of Justice in Nigeria under the Development of Digital Technologies' (2023) 1 Journal of digital technologies and law 1105 <Ayuba> accessed 29 August 2024.

[58] ECPAT International, 'The Commercial Sexual Exploitation of Children in the Commonwealth of Independent States' (2014) <https://ecpat.org/wp-content/uploads/2021/05/Regional-CSEC-Overview_CIS-English.pdf> accessed 29 August 2024.

[59] Z Hilton, 'Promoting Child Protection Principles in Complex Abuse Investigation Involving Online Offending' in Jon Brown (ed.) Online Risk to Children: Impact, Protection and Prevention (John Wiley & Sons, Ltd 2017)

and Exploited Children (NCMEC) play critical roles in investigating and prosecuting offenders, as well as providing support services to victims.[60]

Australia's approach includes the Criminal Code Act 1995, which criminalizes online child sexual exploitation, and the establishment of the Australian Federal Police's (AFP) Online Child Exploitation Team (OCET), which investigates and prosecutes digital crimes involving children. Australia also collaborates with international organizations, such as INTERPOL and Europol, to combat cross-border exploitation.[61]

6.2 Best Practices and Lessons for Nigeria

The experiences of these countries provide valuable lessons for Nigeria. Firstly, the establishment of specialized units within law enforcement agencies dedicated to investigating and prosecuting digital sexual exploitation of children is crucial. These units should be equipped with the necessary resources, training, and technology to effectively combat digital crimes.[62]

Secondly, the legal framework in Nigeria needs to be updated to address the specific challenges posed by digital exploitation, including the use of emerging technologies by offenders. This could involve the introduction of new legislation or the amendment of existing laws, such as the Cybercrimes Act, to ensure they are comprehensive and up-to-date.[63]

Thirdly, collaboration between different agencies and stakeholders is essential for an effective response to digital sexual exploitation. This could involve the establishment of a centralized database for tracking cases of child exploitation, as well as enhanced collaboration between law enforcement agencies, social services, NGOs, and international organizations.[64]

7. The Role of Non-Governmental Organizations (NGOs) and Civil Society against Digital Sexual Exploitation of Children

7.1 Contribution of NGOs to Child Protection

Non-governmental organizations (NGOs) and civil society organizations (CSOs) play a critical role in the fight against the digital sexual exploitation of children in Nigeria. These organizations provide essential services, including public awareness campaigns, legal aid, counselling, and rehabilitation services for victims of exploitation.[65]

Organizations such as the International Federation of Women Lawyers (FIDA), Save the Children, and the African Network for the Prevention and Protection against Child Abuse and Neglect (ANPPCAN) have been instrumental in advocating for stronger legal protections for children and in providing support

---

[60] A Fernandes-Alcantara, 'Missing and Exploited Children: Background, Policies, and Issues' (2014) <https://www.everycrsreport.com/files/20140801_RL34050_6d86daa6053c4eb95b51421ace6a18989aa5d9a5.pdf> accessed 29 August 2024.

[61] P Kowalick, D Connery and R Sarre, 'Intelligence-Sharing in the Context of Policing Transnational Serious and Organized Crime: A Note on Policy and Practice in an Australian Setting' (2018) 19 Police Practice and Research 596 <https://www.tandfonline.com/doi/abs/10.1080/15614263.2018.1507899> accessed 29 August 2024.

[62] D Willits and J Nowacki, 'The Use of Specialized Cybercrime Policing Units: An Organizational Analysis' (2016) 29 Criminal Justice Studies 105 <http://dx.doi.org/10.1080/1478601X.2016.1170282> accessed 29 August 2024.

[63] C Cross and others, 'Responding to Cybercrime: Perceptions and Need of Australian Police and the General Community' (2021) <https://www.aic.gov.au/sites/default/files/2021-08/CRG_Responding%20to%20cybercrime_0.pdf > accessed 29 August 2024.

[64] J Davidson and others, 'Exploring Policing and Industry Practice in the Prevention of Online Child Sexual Abuse' (2020) Elsevier eBooks 657 <https://doi.org/10.1016/B978-0-12-819434-8.00030-1> accessed 29 August 2024.

[65] N Jones and others, 'Promoting Synergies between Child Protection and Social Protection in Nigeria' (2012) <https://bureau-client-media.ams3.digitaloceanspaces.com/street-children-website-TJ5d7s/wp-content/uploads/2013/07/15141034/Promoting-synergies-between-child-protection-and-social-protection-in-Nigeria.pdf> accessed 29 August 2024.

services to victims.[66] These organizations also collaborate with government agencies and international organizations to combat digital exploitation, offering expertise and resources that complement state efforts.

7.2 Public Awareness Campaigns and Education

Public awareness and education are crucial components of the fight against digital sexual exploitation of children. NGOs and CSOs have been at the forefront of efforts to raise awareness about the online risks children face and to educate parents, guardians, and children about how to stay safe on the internet.[67]

These campaigns often involve the use of social media, workshops, and community outreach programs to disseminate information and provide practical advice on online safety. By increasing public awareness, these campaigns help to reduce the vulnerability of children to online predators and empower communities to take action against exploitation.[68]

7.3 Collaboration with Government and International Organizations

NGOs and CSOs in Nigeria also play a vital role in collaborating with government agencies and international organizations to combat digital sexual exploitation. These collaborations often involve joint efforts in advocacy, capacity building, and resource sharing to enhance the effectiveness of legal frameworks and enforcement mechanisms.[69]

For example, NGOs have been involved in training law enforcement officers on the detection and investigation of digital crimes involving children. They have also provided legal support to victims and their families, ensuring that they receive the justice and rehabilitation services they need.[70] Collaboration with international organizations, such as UNICEF and INTERPOL, also provides access to global resources and expertise, enhancing Nigeria's capacity to combat cross-border exploitation.[71]

8. Conclusion

Digital sexual exploitation of children in Nigeria represents a critical challenge that requires a multi-faceted legal response. While Nigeria has made significant strides in enacting laws to protect children from exploitation, the emergence of digital platforms has exposed the limitations of these legal frameworks. A comprehensive approach that includes strengthening existing laws, enhancing enforcement mechanisms, and promoting public awareness is essential for protecting children from digital sexual exploitation.[72]

Moreover, Nigeria must fulfil its obligations under international law and collaborate with other countries to address this global issue effectively. By leveraging technology and enhancing collaboration between different stakeholders, Nigeria can build a robust legal framework that protects children from digital exploitation and ensures that offenders are brought to justice.[73]

---

[66]F Ogundare, 'FIDA: Fighting for Rights of Women, Children' *This Day* (Lagos, 6 April 2023)

[67] Safe the Kids Thrive, 'Creating Public Awareness about Child Abuse & How to Prevent It' (*Safe Kids Thrive - Keep Kids Safe from Child Sexual Abuse*2017) <https://safekidsthrive.org/the-report/applying-the-framework-a-five-year-plan/public-awareness-campaign/> accessed 29 August 2024.

[68] Ibid.

[69]F Ogundare, 'FIDA: Fighting for Rights of Women, Children' *This Day* (Lagos, 6 April 2023)

[70]Ibid.

[71]D Bianchi and others, 'The Role of International Cooperation in Tackling Sexual Violence against Children' (2012) <https://www.coe.int/t/dg3/children/News/RomePresentations/RomeBackgroundPaperFinal_en.pdf> accessed 29 August 2024.

[72] Safe the Kids Thrive, 'Creating Public Awareness about Child Abuse & How to Prevent It' (*Safe Kids Thrive - Keep Kids Safe from Child Sexual Abuse*2017) <https://safekidsthrive.org/the-report/applying-the-framework-a-five-year-plan/public-awareness-campaign/> accessed 29 August 2024.

[73]Ramesh Babu, B., T. Usha Rani, and Y. V. Naga Kumari. 'AI's Watchful Eye: Protecting Children from Sexual Abuse with Artificial Intelligence' in *Child Sexual Abuse: A Public Health Problem in India* (Springer Nature Singapore, 2024)

9. Recommendations

9.1 Strengthening Existing Laws and Policies

To effectively combat digital sexual exploitation of children in Nigeria, it is essential to strengthen existing laws and policies. This could involve the amendment of the Child Rights Act and the Cybercrimes Act to include specific provisions addressing digital exploitation, as well as the introduction of new legislation where necessary.[74]

The legal framework should also be updated to address the use of emerging technologies by offenders, such as encryption and the dark web. This could involve the establishment of specialized units within law enforcement agencies to tackle these specific challenges, as well as the provision of the necessary resources, training, and technology.[75]

9.2 Enhancing Enforcement Mechanisms

Improving the enforcement of laws related to digital sexual exploitation of children is crucial for an effective response. This could involve the establishment of specialized units within law enforcement agencies, as well as enhanced training and capacity building for law enforcement officers.[76]

The judicial system also needs to be strengthened to ensure that cases of digital exploitation are prosecuted effectively and that victims receive the justice they deserve. This could involve the introduction of specialized courts or fast-track procedures for cases involving digital crimes.[77]

9.3 Promoting Public Awareness and Education

Public awareness and education are critical components of the fight against digital sexual exploitation of children. Efforts should be made to increase public awareness of the risks children face online, as well as to educate parents, guardians, and children themselves about how to stay safe on the internet.[78]

This could involve the use of social media, workshops, and community outreach programs to disseminate information and provide practical advice on online safety. By increasing public awareness, these campaigns can help reduce the vulnerability of children to online predators and empower communities to take action against exploitation.[79]

9.4 Encouraging International Collaboration

International collaboration is essential for an effective response to digital sexual exploitation of children, particularly given the cross-border nature of many of these crimes. Nigeria should enhance its collaboration with international organizations, such as INTERPOL, UNICEF, and Europol, to combat cross-border exploitation and access global resources and expertise.[80]

This could involve joint efforts in capacity building, resource sharing, and the establishment of a centralized database for tracking cases of child exploitation. Enhanced collaboration with other countries

[74] D A Abimbola-Akinola, 'The Cyber Crime and Internet and Internet Sexual Exploitation of Children' (*OPUS Open Portal to University Scholarship*2017) <https://opus.govst.edu/theses/107/> accessed 29 August 2024.
[75] Ibid.
[76] E Yerkes, Christopher Bellavita and Erik Dahl, 'stepping out of the Shadows: Leveraging the Community to Stop the Sexual Exploitation of Minors' (2021) <https://apps.dtic.mil/sti/trecms/pdf/AD1150837.pdf> accessed 29 August 2024.
[77] Ibid.
[78] Safe the Kids Thrive, 'Creating Public Awareness about Child Abuse & How to Prevent It' (*Safe Kids Thrive - Keep Kids Safe from Child Sexual Abuse*2017) <https://safekidsthrive.org/the-report/applying-the-framework-a-five-year-plan/public-awareness-campaign/> accessed 29 August 2024.
[79] Ibid.
[80] D Bianchi and others, 'The Role of International Cooperattion in Tackling Sexual Violence against Children' (2012) <https://www.coe.int/t/dg3/children/News/RomePresentations/RomeBackgroundPaperFinal_en.pdf> accessed 29 August 2024.

could also involve the exchange of best practices and the development of joint strategies for combating digital exploitation.[81]

9.5 Leveraging Technology for Protection and Prevention

Technology can also be leveraged as a tool for protecting children from digital exploitation. This could involve the development of technological solutions, such as artificial intelligence and machine learning algorithms, to detect and prevent online exploitation.[82]

For example, social media platforms and internet service providers could be required to implement robust content filtering systems to detect and remove illegal content, such as child pornography. Law enforcement agencies could also use technology to track and apprehend offenders, as well as to provide support services to victims.[83]

[81]Ibid.
[82]R Babu, B., T. Usha Rani, and Y. V. Naga Kumari. 'AI's Watchful Eye: Protecting Children from Sexual Abuse with Artificial Intelligence' in *Child Sexual Abuse: A Public Health Problem in India* (Springer Nature Singapore, 2024)
[83] Ibid.