

## Contemporary Issues on Reproductive and Sexual Health Vis-À-Vis the Rights of Women in Nigeria\*

### Abstract

*Sexual and Reproductive Health Rights (SRHR) of women is the state of the physiological wellness of the female organs for sexual intercourse, conception and childbirth which are naturally endowed and could be legally protected. However, there are perennial bottlenecks to effective legal regimes in Nigeria to spearhead this. Sequel to these cankerworms, the aim of this article and the major objective, was to analyze the contemporary issues in the reproductive and sexual health of women vis-à-vis their rights in Nigeria. The research methodology was doctrinal approach, using expository and analytical research design. It was observed that some Nigerian laws are inimical to women's reproductive rights; also most illnesses among women of 15 to 40years old in Nigeria are related to pregnancy, abortion, childbirth, reproductive tract infections, HIV/AIDS, domestic sexual violence and other culturally associated issues. The main sources of data collection were various legal literatures, both from the physical library and the e-library. Therefore, it was recommended among others that Nigerian legislators and the judiciary should adopt the sound principles and related provisions in foreign jurisdictions to advance women's sexual and reproductive rights. Finally, this article was made to be significant to all stakeholders in human right and feminism.*

**Keywords:** Reproductive Right, Sexual Right, Human Right, Contraceptive, Abortion, Infectious Diseases.

### 1. Introduction

Sexual and reproductive health rights have been a taboo in the traditional African societies even in the recent past but it is now popular among African scholars and internationally acclaimed. The right to health has been an internationally recognized human right. Sexual and reproductive health rights and the need for women to have access to quality reproductive health services as medical care, planned family, safe pregnancy, delivery care and treatment and prevention of sexually transmitted infections such as HIV/AIDS is increasingly gaining recognition in Africa at large and in Nigeria in particular.

Sexual and reproductive health right issues took the center stage in 1994 at the United Nation International conference on population and development (ICPD) held in Cairo Egypt when 179 countries agreed that population growth and stabilization can be effectively controlled and determined only if women advancement is made a prime priority. The ICDP rose with an agreement and recognition that there is real need for proper information directed towards male and female on the necessity surrounding access to safe, effective and affordable means of contraceptives and other health care services.<sup>1</sup>

In 1995, 185 United Nations member states met in China to deliberate about the broad issues and links between population, sustainable economic growth, sustainable development and advances in health as well as education, economic status and empowerment of women. The agreement reached at this meeting was expressed as a twenty year programme of action. This document gave a foundation to the discussion on Sexual reproductive health as against the

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<sup>1</sup> J Mwetusand *Local Action Global Change* (New York: UNIFEM Publishers, 1999)61.

former limiting term of family planning.<sup>2</sup> Men and women are entitled to the full protection of their rights because they are human beings.<sup>3</sup> At its most basic level, human rights are safeguarded and prerogative granted because a person is alive.<sup>4</sup>

Sexual and reproductive health is not only about physical wellbeing it includes the right to healthy and respectful relationships, health services that are inclusive, safe and appropriate, access to accurate information, effective and affordable methods of contraception and access to timely support and services in relation to unplanned pregnancy.<sup>5</sup> Good sexual and reproductive health is a state of complete physical, mental and social well-being in all matters relating to the reproductive system. It implies that people are able to have a satisfying and safe sex life, the capability to reproduce, and the freedom to decide if, when, and how often to do so.

To maintain one's sexual and reproductive health, people need access to accurate information and the safe, effective, affordable and acceptable contraception method of their choice. They must be informed and empowered to protect themselves from sexually transmitted infections. And when they decide to have children, women must have access to services that can help them have a fit pregnancy, safe delivery and healthy baby. Every individual has the right to make their own choices about their sexual and reproductive health. UNFPA, together with a wide range of partners, works toward the goal of universal access to sexual and reproductive health and rights, including family planning.<sup>6</sup>

## **2. Conceptual Framework**

There are several terms which need to be defined for proper understanding of this work and there include the following.

### **2.1 Reproductive Health**

World Health Organization defined health as a state of complete physical, mental and social well-being and not merely the absence of disease or infirmity, reproductive health, addresses the reproductive processes, functions and system at all stages of life<sup>7</sup> Reproductive health therefore implies that people are able to have a satisfying and safe sex life and that they have the capacity to reproduce and the freedom to decide if, when and how often to do so.<sup>8</sup> The interpretation of this implies that men and women ought to be informed of and to have access to safe, effective, affordable and acceptable methods of birth control and also access to health care services of sexual, reproductive medicine and implementation of health education programs to stress the importance of women to go safely through pregnancy and child birth which will provide couples with the best chance of having a healthy infant. It also includes everything that affects reproduction, such as safe motherhood, preventing and treating sexually transmitted diseases, avoiding unwanted pregnancies and promoting responsible social behaviours particularly during adolescence, family planning, prevention of harmful practices such as female

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<sup>2</sup> International Federation of Women Lawyers, Kenya Chapter, *Women of the World Laws and Policies Affecting their Reproductive Lives* (New York: The Centre for Reproductive Laws and Policy 2000) 91.

<sup>3</sup> I Okagbue, *Women's Rights are Human Rights*, (2000) Nigeria Institute of Advanced Legal Studies, Lagos P1.

<sup>4</sup> OS Oyedele, 'Women's Right in Africa: Myth or Reality' (2006) *University of Benin Journal* 9(1) P28.

<sup>5</sup> Sexual and Reproductive Health and Rights, including Family Planning. <https://www.unfpa.org/sexual-reproductive-health> assessed on 22 march, 2022.

<sup>6</sup> *ibid.*

<sup>7</sup> WHO, 'Reproductive Health' <[http://who.int/topics/reproductive\\_health/en](http://who.int/topics/reproductive_health/en). Assess on 12<sup>th</sup> March 2022.

<sup>8</sup> Metus (n1) 62.

genital mutilation (FGM), early and forced marriage and violence related to sexuality and reproduction.<sup>9</sup>

## 2.2 Reproductive Rights

Reproductive rights are legal rights and freedoms relating to reproduction and reproductive health.<sup>10</sup> The World Health Organization defines Reproductive rights as the recognition of the basic right of all couples and individuals to decide freely and responsibly the number, spacing and timing of their children and to have the information and means to do so, and the right to attain the highest standard of sexual and reproductive health. They also include the right of all to make decisions concerning reproduction free of discrimination, coercion and violence.<sup>11</sup> Women's reproductive rights may include some or all of the following: abortion-rights movements; birth control; freedom from coerced sterilization and contraception; the right to access good-quality reproductive healthcare; and the right to education and access in order to make free and informed reproductive choices. Reproductive rights may also include the right to receive education about sexually transmitted infections and other aspects of sexuality, right to menstrual health and protection from practices such as female genital mutilation (FGM)<sup>12</sup>

As defined in the Beijing Platform for Action (BPFA)<sup>13</sup> and the International Conference on Population and Development (ICPD) documents. Reproductive rights are certain human rights recognized in national and international legal and human rights documents and other consensus documents including the basic rights of all couples and individuals to decide freely and responsibly the number and spacing of their children and to have the information, education and means to do so, the right to attain the highest standard of sexual and reproductive health; the right to make decision concerning reproduction free from discrimination, coercion and violence.

The current international understanding of reproductive rights includes the following:

- (a) *Right to reproductive health as a component of over-all life – long health*
- (b) *Right to information on all matters relating to reproductive health*
- (c) *Right to reproductive decision making including, choice of marriage partners, family formation and determination of the number, timing and spacing of children and the means to exercise those choices.*
- (d) *Right to equality and equity for women and men to make free and informed choices in all spheres of life, free from all forms of discrimination and violence.*
- (e) *Right to reproductive security, including freedom from sexual violence and coercion and the right to privacy.*<sup>14</sup>

<sup>9</sup> JN Ezeilo, *Law, Reproductive Health and Human Rights* (Women's Aid Collective, Enugu) 23.

<sup>10</sup> RJ Cook and others, 'Advancing Reproductive Rights beyond Cairo and Beijing'. *International Family Planning Perspective* (Volume 22, No 3) 115-121.

<sup>11</sup> Gender and Reproductive Rights <<http://who.int/reproductive-health/gender/index.html>> accessed on 31st March 2021.

<sup>12</sup> Wikipedia the Free Encyclopedia, [https://en.wikipedia.org/wiki/Reproductive\\_rights](https://en.wikipedia.org/wiki/Reproductive_rights) accessed on 31st March 2022.

<sup>13</sup> UN Women (1995) Fourth World Conference on Women <http://www.un.org/womenwatch/daw/beijing/platform> accessed on 31st March 2022.

<sup>14</sup> Ezeilo (n7) 24.

### **2.3 Sexual Health**

The World Health Organization<sup>15</sup> defines sexual health as a state of physical, mental and social well-being in relation to sexuality. It requires a positive and respectful and respectful approach to sexuality and sexual relationships as well as the possibility of having pleasurable and safe sexual experiences, free from coercion, discrimination and violence.

### **2.4 Sexual Rights**

Unlike the other aspects of reproductive and sexual health rights, the struggle for sexual rights include and focuses on sexual pleasure and emotional sexual expression. The Platform for Action from the 1995 Beijing Conference on Women established that human rights include the right of women freely and without coercion, violence or discrimination, to have control and make decisions concerning their own sexuality, including their own sexual and reproductive health.<sup>16</sup>

#### **2.4.1 Reproductive and Sexual Rights of Women**

The term reproductive and sexual rights can be grouped into five parts under the broad concept of women's rights. These are:

- (a) The right to be reproductive and sexual health as a component of over-all life – long health
- (b) The right to information on all matters relating to reproductive health
- (c) The right to sexual and reproductive decision making including, choice of marriage partners, family formation and determination of the number, timing and spacing of children and the means to exercise those choices.
- (d) The right to equality and equity for women and men to make free and informed choices in all spheres of life, free from all forms of discrimination and violence.
- (e) The right to sexual and reproductive security, including freedom from sexual violence and coercion and the right to privacy.<sup>17</sup>

Reproductive and sexual rights include all international recognized and protected rights of women relating to her procreative activities, specially the cluster of civil liberties relating to pregnancy, abortion and sterilization, especially the personal bodily rights of a woman in her decision whether to become pregnant or bear a child. The phrase includes the idea if being able to make reproductive decisions free from discrimination, coercion or violence.<sup>18</sup>

#### **2.4.2 Components of Reproductive and sexual Health**

The following ideals have been enumerated as component of reproductive and sexual health.

- a. Safe motherhood which comprises pre- natal care, safe delivery, essential obstetric care, prenatal and neonatal care and breast feeding.
- b. Access to family planning information and services.
- c. Provisions of safe abortion services where the law permits.
- d. Prevention and management of reproductive tract infection especially sexually transmitted infections (STIs) including Acquired Immune Deficiency Syndrome (AIDS).

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<sup>15</sup>ibid

<sup>16</sup> Beijing Platform for Action, Paragraphs 92, 93 and 96.

<sup>17</sup>Ezeilo (n7) 24

<sup>18</sup> C Arinze-Umobi and FA Anyogu, 'Reproductive Rights of Women in Nigeria: Fundamental or Illusory? (2011) 8(7) *UNIZIK Law Journal*, 129.

- e. Adolescence reproductive health and sexuality, responsible and safe sex throughout the life time and gender equality.
- f. Elimination of traditional practices harmful to women such as Female Genital Mutilation (FGM), Early/ Forced Marriage, Domestic and Sexual Violence against women.
- g. Management of non-infection condition of the reproductive system such as genital fistula, cervical cancer and reproductive health problems associated with menopause.<sup>19</sup>

### 3. Infringement on the Reproductive and Sexual Rights of Women in Nigeria

Nigeria women suffer violations and abuse of their human rights in various areas of their lives especially as they affect the reproductive and Sexual Rights of Women. Women and men share many similar health challenges but the difference is that a woman deserves a special attention. They experience conditions that have negative impact on their wellbeing. Some of these are pregnancy and child birth which lead to many health issues and complications, though they are not diseases but they are biological and social processes that carry health risks and require health care. Throughout human history, pregnancy and child bearing have been major contributors to the health problem and disability among women. Maternal mortality (the death of women during pregnancy, delivery or the post-partum period) is a key indicator of women's health status.<sup>20</sup> This indicator is very high in Nigeria as it has been observed that over the past three and half decades, Nigeria has progressively shown one of the abysmally poor reproductive health indices in the world.<sup>21</sup>

#### 3.1 Rape

Rape is defined as an unlawful carnal knowledge of a woman or girl, without her consent, or with her consent if that consent is obtained by force or by means of threats or intimidation of any kind, or by fear or by means of false or fraudulent representation as to nature of the act, or in case of a married woman, by personating her husband.<sup>22</sup> It follows that any sexual intercourse with a woman without her consent, by force, fear or fraud amounts to rape. The offence of rape is complete upon mere penetration of the male sexual organ into the vagina of the female victim. The law of evidence also provides strict evidential rule of corroboration of the testimony of the victim and a consideration of the character of the victim by the court<sup>23</sup> these provisions of law make the offence of rape difficult to prove in our courts because of peripheral elements of penetration and corroboration. Many times the rapist is allowed by the court to go free due to the difficulty in proving the offence.

In *Uphar v State*,<sup>24</sup> the Court of Appeal not only required corroboration but widen it. The Supreme Court in *Oladuton v State*<sup>25</sup> confirmed this position when it held that penile penetration is essential and corroboration desirable. This is not only degrading to women but amounts to double jeopardy. The offence of rape is a violation of the bodily integrity of the victim and the right to sexual security while it exposes the female to health risk such as unwanted pregnancies

<sup>19</sup> N Aniebue, *Reproductive Health Rights of Nigeria Women* (Enugu: Institute for Development Studies, 2008)1.

<sup>20</sup> World Health Organization (2009) *Today's Women and Health Evidence, Tomorrow's Agenda*, WHO Press, Geneva, P40

<sup>21</sup> MT Ladan, *Law and Policy on Health, HIV-AIDS, Maternal Mortality and Reproductive Rights in Nigeria*, (Zaria, Faith Printers and Publishers, 2007) 89.

<sup>22</sup> Criminal Code Act, Cap C 18, Laws of the Federation of Nigeria 2004, s 357

<sup>23</sup> Evidence Act, Cap E 14, Laws of the Federation of Nigeria 2011, s 179.

<sup>24</sup> (2003) 6NWLR (Pt 816) 230.

<sup>25</sup> (2008) WHRC Vol 1, 106.

and sexually transmitted diseases. The offence of rape is the most heinous sexual offence under the Nigerian criminal Code and the abhorrence and repulsion of it by the civil society informed the prescription of a very stiff penalty of life imprisonment<sup>26</sup> by the draftsman. The offence of rape also forms cause of action under Chapter IV of the Constitution.<sup>27</sup> This act of crime and violence fall squarely with sections 33 and 34 of the Constitution<sup>28</sup> which guarantees right to life and dignity of human person.

Unfortunately some women have lost their lives at the hands of the rapists who heartlessly terminate the lives of their victims so as not to be found out. Some female victims of rape were infected with deadly diseases and many survivors of rape are subjected to torture or inhuman or degrading treatment. Rape is a violation of the bodily integrity of the victim. The female victim is always subjected to torture and degradation contrary to the constitutional provisions. Section 46<sup>29</sup> of the Constitution guarantees everyone who alleges that any of the provisions of Chapter IV has been, is being likely to be contravened in any state in relation to him or her, to apply to a High Court for redress. Rape and all other inhuman treatments to which women are exposed to amounts to infraction of their constitutional rights to life and human dignity as well as their sexual and reproductive rights for which remedy should be sought under section 46 of the Constitution.

### **3.2 Marital Rape**

This encapsulates a husband's sexual intercourse with his wife by force or without her consent. This situation may be likened to rape as defined in the Criminal Code Act but it is surprising to note that unlawful carnal knowledge does not exist between husband and wife and as a result, forced sexual intercourse is not recognized in marriage due to the mutual matrimonial consent and contract. Marital rape was not a crime at common law but many countries of the world have criminalized marital rape and yet marital rape is still not a crime in Nigerian. In *Rex v Clark*<sup>30</sup> it was held that a man can never be guilty of raping his wife. In *Alawusa v Odusote*<sup>31</sup> The court held that if a husband uses force or violence to obtain intercourse, he may be guilty of assault or wounding though the full force of law will not be meted to him. Whereas in *Popkin v Popkin*,<sup>32</sup> it was held that a man was entitled to the person of his wife at all times except when she is in danger.

Thus this little exception brought a ray of hope to women's plight. In prosecution for rape, the prosecution must prove that there was unlawful carnal knowledge as carnal connection which takes place otherwise than between husband and wife. The general import of Section 6<sup>33</sup> of the code is that a man cannot be guilty of rape against his wife. This is the position of the common law that still subsists in the Nigerian law, the perception of the woman as the property of the man have been relegated to obscurity. Law, societal norms and attitude towards women change for the better and law moved from instrument of subjugation of women to a tool of empowerment of women.<sup>34</sup> It was in line with this that the House of Lords in England declared in *R v*

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<sup>26</sup> Criminal Code Act, Cap C 18, Laws of the Federation of Nigeria 2004, s358.

<sup>27</sup> Constitution of Federal Republic of Nigeria 1999 (as amended).

<sup>28</sup> *ibid.*

<sup>29</sup> *Ibid.*

<sup>30</sup> (1994) 2 AA ER 488.

<sup>31</sup> (1941) WACA 140.

<sup>32</sup> (1954) 2WB 285, 16.

<sup>33</sup> Criminal Code Act, Cap C 18, Laws of the Federation of Nigeria 2004, s 6.

<sup>34</sup> A Anyaogu, *Access to Justice in Nigeria: A Gender Perspective*, (Enugu: Ebenezer Productions Ltd, 2009) 93.

*Larger*<sup>35</sup> per Lord C J. said that the idea that wife by marriage consents in advance to husband having sexual intercourse with her whatever her state of health or however proper her obligations, is no longer accepted, it can never have been other than a fiction and fiction is a poor basis for the criminal law. Marital rape should be viewed seriously as causing physical, sexual as well as psychological harm and it violates sexual and reproductive rights of women.

### **3.3 Incest**

Incest is sexual intercourse within the prohibited degree of kindred. In Nigerian girls are forced or coerced to have sex with fathers, brothers, uncles or other close male relatives. Though it is common knowledge that incest is prevalent in Nigeria, it is hardly spoken about by victims as it is considered a shameful thing, hence the culture of silence on it. Incest is a gross violation of a girl's right to sexual determination. This is a criminal offence as it falls under the category of unnatural offences. Section 214<sup>36</sup> of the code provides that any person that has carnal knowledge of any person against the order of nature is guilty of a felony and is liable for imprisonment for fourteen years. Most of the victims are young girls and the code also provides that any person who has unlawful carnal knowledge of a girl under thirteen or sixteen years of age or a girl or woman who is an idiot has committed an offence called defilement. Section 218 and 221 of the code<sup>37</sup> stipulates the punishment for the offence and attempt to commit the offence to imprisonment for life and two years of imprisonment respectively. All these are sexual and reproductive rights of women.

### **3.4 Early Marriage / Forced Marriage**

This a situation whereby a child below fourteen years or young person up to seventeen years willingly or unwillingly goes into marriage. The African Charter on the Right and Welfare of the Child 1990<sup>38</sup> prohibits child marriage and sets the minimum age of marriage at eighteen years. The Child's Rights Act<sup>39</sup> has put the age of marriage at eighteen, while the monitoring team of Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) also recommends eighteen years as the marriageable age, commenting that when men and women get married they have responsibilities and they should not embark on marriage they have reached maturity and capacity to act responsibly. By virtue sections 21 and 23 of the Child's Rights Act child marriage and betrothals are prohibited.

Most States in Nigeria has taken various steps to reduce early marriages and the steps include advocacy workshops, highlighting the negative impacts of under-age marriage. It is observed with dismay that all these provisions have not being complied with as under age marriage is on the increase in Nigeria. It is practiced and justified in the name of tradition, culture and religion. The right to found a family also implies the right to choice of spouse. The situation where a spouse is forced on a person is therefore hardly allowing the person to exercise the right to found a family as guaranteed by section 37 of the Constitution.<sup>40</sup> Early marriage can generally affect a girl's health, as well as her economic, social and psychological progress, her right to equality and all forms of discrimination, right to information and education, right to health care and protection, as well as right to choose whether or when to marry and plan a family, marriage or motherhood for a woman should be based on informed choice or concept.

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<sup>35</sup>(1981) Crim LR 577.

<sup>36</sup> Criminal Code Act, Cap C 18, Laws of the Federation of Nigeria 2004.

<sup>37</sup> *ibid.*

<sup>38</sup> Article 21(2).

<sup>39</sup> (2003) Interpretation Section.

<sup>40</sup> Constitution of the Federal Republic of Nigeria.

### **3.5 Female Genital Mutilation (FGM)**

Female genital mutilation (FGM) is the partial or total cutting of the external female genitalia as a rite of a passage preparing young girls for womanhood and marriage. This practice is rife among many groups in Nigeria and indeed some African communities.<sup>41</sup> It involves the excision of the clitoral hood, excision of part or the entire clitoris (clitoridectomy) or removal of part or all of the external genitalia and stitching (infibulations). This narrows the vaginal opening leaving only an aperture for the passage of urine and menstrual flow.<sup>42</sup> Considering the unhygienic method used by traditional practitioners, any form of genital operation poses health hazard. The victim is left open to reproductive tract infections, pelvic inflammation, HIV/AIDS and inability to consummate marriage. The process of FGM is an affront to women's to women's reproductive rights. It infringes on women's rights to their body integrity and also poses a serious health threat accentuated by the risk of anemia, infertility, inability to pass menstrual blood properly, obstructed labour among others.

### **3.5 Maternal Mortality**

Maternal mortality is defined as the death of a woman while pregnant or within 42 days of termination of a pregnancy, irrespective of the duration and the site of pregnancy, from any cause related to or aggravated by the pregnancy or its management, but not from accident or incidental causes.<sup>43</sup> Unsafe motherhood, evident from high maternal mortality is one of the major challenges to gender equality. This factor not only violates women right to life, but it is also infringement on the reproductive rights of women in Nigeria.

### **3.6 Wife Inheritance**

In most Nigeria communities the family of the late husband, especially the brother of the deceased inherits the widow. When the period of mourning is over and the woman is still within reproductive age, she is given to the late husband's brother as his wife. The woman's right to choose freely and responsibly her sexual partner is violated. Where she refuses to be inherited, she neglected by the husband's family and left to suffer with her children or may even be deprived of the deceased property. Some are sent out of their matrimonial home. If she remarries the children remain with the husband's family.<sup>44</sup> The widow's right to sexual and reproductive security which includes the right to self-protection against sexually transmitted infections is violated by this practice. It also amounts to inhuman and degrading treatment as well as violation of widow's right to choose freely her sexual partner.

### **3.7 Polygamy**

Polygamy means state of marriage to many spouses or frequent marriage.<sup>45</sup> It involves marriage that includes more than two partners and can fall under the brother category of Polyandry.<sup>46</sup> More specifically when a man is married to more than one wife at a time, the relationship is called

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<sup>41</sup>Minority Rights Group, 'Female Circumcision; Excision and infibulations; The Fact and Proposal for Change' (1980).

<sup>47</sup> Minority Rights Group, 26.

<sup>42</sup> M Brady, 'Female Genital Mutilation; Complications and Risk for HIV Transmission and STDs' (1999) 13 Amnesty Lib<<http://www.emnesty.org/alib/intcam/femgen/fgm/html>>accessed on 6 April 2022.

<sup>43</sup> L Ruzioka, *Different Mortality: New Perspective on Well-Being in Asia and Europe* (Oxford: Claredon Press, 1989) 48.

<sup>44</sup> JN Nduba, 'Some Cultural Practices that Affects the Enjoyment of Fundamental Human Rights of Women in Nigeria', *New Vistas in Law*, 2 (2007) 204.

<sup>45</sup>'Polygamy' Online Etymology Dictionary<<http://www.etymonline.com>>accessed on 10 April 2022.

<sup>46</sup>Challenging myths-about-consensual-non-monogamy<<http://www.scienceofrelationships.com>>accessed on 10 April 2022.



Polygyny.<sup>47</sup> This system of marriage entails the copulation or sexual relationship with the man and his numerous wives. In countries that do not permit polygamy, a person who marries a second person while still lawfully married to the first spouse commits the crime of bigamy. Polygamy is practiced in most African countries.

In Nigeria it is predominantly practiced in the Northern region. Polygamy has an adverse effect on sexual and reproductive health rights of women especially with its characteristic multiple sexual activities. The various sexual and reproductive health rights provided for and protected by various national and international human rights instruments are being infringed by the obnoxious practice of polygamy. Polygamy is the exact antithesis of these rights in the sense that it breeds poor sexual and reproductive health and is associated with disease, abuse, exploitation, mental health and even death.

### **3.8 Trafficking of Women and Girls**

This implies all acts involved in the recruitment or transportation of women within or across national borders, for work or services, by means of violence or threat of violence debt bondage, deception or coercion. In 1994, the United Nations General Assembly defines trafficking in women as the illicit and clandestine movements of persons across national and international borders, largely from developing countries and some countries with economic in transition, with the end goal of forcing women and girl children into sexually or economically oppressive and exploitative situations for the profit of recruiters, traffickers, crime syndicates as well as illegal activities related to trafficking such as forced domestic labour, forced marriages, clandestine employment and false adoption.

According to Women Trafficking and Child Labour Eradication Foundation (WOTCLEF), at least 7,000 to 2,000,000 human beings are trafficked worldwide, across international borders each year. Of these, it is believed that more than 80 percent are women and girls and 70 percent of them are forced into sexual servitude.<sup>48</sup> The victims of human trafficking in Nigeria are mostly women and children. WOTCLEF report shows that a large proportion of women trafficked to Europe especially Italy are from Nigeria. Trafficking violates women's rights to liberty, equality and security as well as freedom from torture and ill treatment. These violations have adverse effect on women's right to make free and informed choices in all spheres of life, free from all forms of discrimination and violence.

### **3.9 Sexual Harassment**

Sexual Harassment can be defined as unwelcome sexual advances, request for sexual favours and other verbal or physical conduct of a sexual nature. Sexual Harassment is a violation of women's human rights and a prohibited form of violence against women in many countries. Sexually harassing conducts causes devastating physical and psychological injuries to a large percentage of women around the world. Behaviours that can be labeled Sexual Harassment includes sexual bribery (requesting sexual favours in exchange for a job benefits) aggressive, unwelcome physical contact like grabbing, groping, sexual touching and the likes. It is unfortunate that laws in Nigeria do not recognize Sexual Harassment as an offence whereas in other jurisdiction like the United States of America Sexual Harassment has been recognized as an offence.

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<sup>47</sup> I Altman, *Polygamous Families in Contemporary Society* (Cambridge: Cambridge Press, 1996) 12.

<sup>48</sup> WOTCLEF, 'Human Trafficking around the World' (2000) <<http://www.wotclef.org>>assessed on 10 April 10, 2022.

But fortunately the National Industrial Court case of *Ejieke Maduka v Microsoft Nigeria Limited and 3 Ors*<sup>49</sup> brought a ray of hope to women's plight. Interestingly, the National Industrial Court held that the defendant Microsoft Nigeria and Microsoft Corporation had an anti-harassment and anti-discrimination policy which described sexual harassment as a form of discrimination based on gender and that the company has not implemented the sexual harassment policy. The Court concluded that the actions of the company and termination of the applicant's employment simply because she refused to succumb to sexual harassment from the Company's Manager amounted to sexual harassment within the meaning of CEDAW General Recommendation 19. The court held that such actions constituted a violation of human dignity and freedom from discrimination as protected and awarded the sum of N39.6 million (\$248,000) in damages against the defendants jointly and severally.

#### **4. Conclusion and Recommendations**

Sexual and reproductive health rights means that people should be able to have safe and satisfying sex lives. Gender relations imply equality, responsibility and mutual respect. Also, sexual and reproductive health rights are corner stone to development. Attaining the goals of sustainable and equitable development requires women being able to exercise control over their sexual and reproductive lives. Despite the above efforts by the government in creating structures for advancement of women's reproductive and sexual rights, not much has been achieved due to customary and religious practices which negatively affect the situation of Nigerian women. Based on the foregoing, this article recommends that Nigerian legislators and the judiciary should adopt the sound principles and related provisions in foreign jurisdictions to promote and advance women's sexual and reproductive rights. Also, law reforms and constitutional review should be carried out to upgrade the right to health including reproductive and sexual rights of women as fundamental human right.

Furthermore, the government should organize and enforced mandatory education of women, even in the remote villages. Also, the government at all levels should create a conducive environment for enlightenment programs by law enforcement agents, religious institutions, civil society organizations and other stakeholders in the campaign for the promotion and protection of the sexual and reproductive health of women. Additionally, the media should spearhead information campaigns to address some of the factors militating against women's reproductive and sexual health. Finally, the legal system should be fortified with appropriate laws to safeguard women's capacities to make independent choices about their sexualities and reproductive activities.

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<sup>49</sup>(Unrep.) Suit No. NICN/LA/492/2012, judgement delivered on 19 December 2013.