

THE EFFICACY OF FORENSIC EVIDENCE IN THE PROSECUTION OF SEXUAL VIOLENCE CASES IN NIGERIA; CHALLENGES AND PROSPECTS

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Abstract

This study investigates the efficacy of forensic evidence in prosecuting sexual abuse cases in Nigeria, especially given the rising number of such crimes and the need for a strong legal response. Forensic evidence, which includes DNA testing, toxicology reports, and digital data, can make prosecutions more credible and convincing. However, several challenges prevent its effective use in Nigeria. Key issues include poor infrastructure and resources in forensic labs, which often lack modern equipment and trained staff. Cultural stigma surrounding sexual abuse makes victims hesitant to report incidents, and existing laws may not support the timely collection and analysis of evidence. Financial constraints also make it difficult for victims and law enforcement to access necessary forensic services. Additionally, there is a lack of awareness and training among legal practitioners and police about how to properly use forensic evidence. Despite these challenges, there are promising opportunities for improvement. Advances in technology can enhance how evidence is collected and analyzed. Training programs for forensic experts, law enforcement, and legal practitioners can improve investigations and prosecutions. Public awareness campaigns can help reduce stigma and encourage victims to come forward, while legal reforms can make it easier to use forensic evidence in court. This study also aims to include case studies of successful prosecutions that effectively used forensic evidence, as well as examples of cases that failed due to systemic issues. By comparing Nigeria's approach to international best practices in other jurisdictions such as South Africa and The United States of America. This study highlights the need for collaboration among healthcare professionals, legal experts, and forensic scientists.

Keywords: DNA Testing, Forensic Infrastructure, International Best Practices, Legal Framework, Nigeria Criminal Justice System, Sexual Abuse.

1. Introduction

The escalation and prevalence of sexual abuse in Nigeria have reached concerning levels. While our current legal framework has been somewhat effective in holding perpetrators accountable and delivering justice to victims, there are instances where this is not the case. This may be due to the lack of substantial evidence, as perpetrators are adept at covering their tracks or victims may be hesitant to come forward. Forensic evidence plays a crucial role in prosecuting cases of sexual abuse, providing scientific validation that supports allegations and reveals the trails left by these offenders.

Forensic evidence encompasses a range of scientific techniques including DNA analysis, toxicology reports, and digital forensics.¹ These techniques are very useful in uncovering or

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revealing the trails left behind by the perpetrators at the scene of the crime which may not be immediately apparent at first glance thereby exposing the perpetrators with ease, securing conviction and justice for the victims.

Further, forensic evidence provides a safe space for victims who are being silenced by societal stigma by directly linking a perpetrator to the crime, helping to establish the facts without relying solely on the victim's testimony. The credibility of forensic evidence and experts helps to strengthen a legal case in court without doubt of the victim's testimony.²

Forensic evidence plays a crucial role in substantiating claims of sexual abuse. It includes medical examinations that can provide physical proof of assault, such as DNA samples, bruising, and other injuries. In Nigeria, forensic medical examinations are conducted at Sexual Abuse Referral Centers (SARCs) and government hospitals, which are essential for collecting evidence promptly after an incident occurs.³ The timely collection of evidence is vital, as many forms of forensic evidence have a limited lifespan, typically ranging from 12 to 72 hours post-assault.⁴ However, the integration of this efficient scientific tool in the legal framework in Nigeria for efficiency in prosecution and conviction faces significant challenges.

The existing legal framework issues, such as procedural delays, inconsistent application of laws, and a lack of trained personnel contribute to the ineffective use of these vital resources. Furthermore, public trust in the justice system is often undermined by cultural stigmas surrounding sexual abuse, which can deter victims from seeking justice.

As of now, Nigeria has only thirty five (35) Sexual Abuse Referral Centers (SARCs) across nineteen (19) states, the FCT inclusive. Some of these states and cities are Lagos, Abuja, Ibadan, Enugu, Kano, Uyo, Calabar, Owerri and so on. These centers provide comprehensive services to victims, including medical treatment, forensic examinations, and counseling.⁵ These centers have assisted over 15,000 individuals since their inception in 2013. However, there remains a significant gap in the availability and accessibility of these services across the country. Many victims still face societal stigma and psychological barriers that deter them from reporting incidents or seeking help.⁶ This poses as a challenge because one of the roles of these centers is the collection of forensic evidence in a sensitive and professional manner, often conducted by specially trained healthcare providers. The limited number of SARCs and inadequate funding for existing centers hinder their ability to operate effectively. Many regions

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¹ 2024 National Institute of Justice 'Forensic Toxicology' (October 1 2012) available at <<https://nij.ojp.gov/topics/articles/forensic-toxicology-research-and-development>> accessed 30 September

² Chartered Institute of Forensic and Certified Fraud Investigation of Nigeria 'Role of Forensic Experts in Nigeria's Legal System: Impact and Challenges (January 2024) available at <https://cifcfin.org/post_details?id=83> accessed 3 October 2024.

³ Stand To End Rape, 'Proper Collection and Preservation of Evidence in Rape and Domestic Violence' (May 17 2021) available at <<https://standtoendrape.org/proper-collection-and-preservation-of-evidence-in-rape-and-domestic-violence/>> accessed 28 September 2024.

⁴ *ibid.*

⁵ HerstoryOurstory 'Petition for State Government to Fund Sexual Assault Referral Centers (SARCs)' available at <<https://herstoryourstory.ng/sarcs-petition/> [https://](https://herstoryourstory.ng/sarcs-petition/) > accessed 28 September 2024.

⁶ Chinedu Idoko & E Nwobodo 'Trends in Rape Cases in a Nigerian State.' [2020] (20) (2) *African Health Science*. 668-675. < <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC7609073/> <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC7609073/> > accessed 28 September 2024.

like North-East Region (Adamawa and Bauchi), North-Central Region (Nasarawa and Benue) lack access to these facilities, which are crucial for timely forensic examinations.⁷

Despite these challenges, obstacles and these hindrances, there is a growing recognition of the importance of forensic evidence, and the need to enhance forensic capacities, to improve its outcomes in the delivery of justice to the victims of sexual abuse alongside the conviction of the perpetrators of this crime. This can be done by addressing the legal framework in the country which may not adequately support the timely collection and analysis of forensic evidence. Legislations on the use of forensic evidence should not be lengthy and complicated in order to encourage victims to be expressive and encourage timely collection of these evidence and proper analysis of them, and advocating for legal reforms that streamline processes related to reporting and prosecuting sexual abuse cases can encourage more victims to come forward and seek justice.⁸

Furthermore, investing in infrastructures and technological equipment that will aid the collection and analysis of these data. The limited number of SARCs and inadequate funding for existing centers hinder their ability to operate effectively. Many regions lack access to these facilities, which are crucial for timely forensic examinations.⁹

Training of professionals in this field; Educating law enforcement officials and healthcare providers about the importance of forensic evidence can improve collection practices and ensure that victims receive appropriate care¹⁰ This further implies awareness to legal practitioners about the need for heavy dependence in the court room and to health practitioners about the importance of extreme diligence in this area as the “life and death” of a girl child depends heavily on this.

This study therefore aims to explore the current state of forensic evidence in the context of sexual abuse prosecutions in Nigeria, identify the challenges faced, and examine the prospects for improvement. Through a comprehensive analysis, this research seeks to contribute to the ongoing discourse on enhancing justice for victims and creating a more effective legal framework that supports the use of forensic evidence.

2. The Role of Forensic Evidence in Combatting Sexual Violence

Forensic evidence is very vital and plays a very crucial role in addressing sexual violence cases, particularly influencing the investigation of these cases, prosecution and the overall legal outcome of such cases. The collection, analysis and examination of evidence scientifically aids the delivery of justice to the victims and other significant role this mode of evidence plays.¹¹ Below, are detailed insights of these roles which forensic evidence plays in combatting sexual abuse cases. One of the very important roles forensic evidence plays in combatting sexual

⁷ (n 3).

⁸ (n 4).

⁹ (n 3).

¹⁰ Bola Tinubu, “Forensic interviews, game changer for child sexual abuse cases” *Vanguard Newspaper* (Abuja, 21 February 2024) available at <<https://www.vanguardngr.com/2024/02/forensic-interviews-game-changer-for-child-sexual-abuse-cases-mrs-bola-tinubu/>> accessed 28 September 2024.

¹¹ Peterson , Burg et al ‘ Medico-legal evidence collection in child sexual assault cases’ *Journal of Forensic Sciences* (2021) 66(6), 1978-1985.

violence is it serves as a corroboration of victim's testimony.¹² Corroboration as a term has been examined in the previous sub head in line with the provisions of the Evidence Act 2011.

The role of corroboration which forensic evidence tends to play can help in establishing the credibility of a case by providing an objective basis that can validate a victim's narrative. DNA obtained from a Sexual Assault Evidence Collection Kit (SAECK), for example, can be used to immediately connect a suspect to the victim or the crime scene, supporting the victim's version of events. According to The National Institute of Justice, when DNA evidence supports the victim's account, the chances of a successful prosecution are greatly increased by the reason of similar results gotten when the biological samples of the victim are compared with that of the suspect.¹³ The practice of gathering samples and recording sexual violence victims' injuries for use in a court of law is known as sexual assault evidence collection. 90% of forensic examinations for evidence collection take place in emergency rooms, with 10% also taking place in urgent care centers, obstetrics and gynaecology (OB/GYN) offices, and primary care offices.¹⁴ For these biological samples to be effectively and efficiently collected and it has to be done scientifically, in this way there is certainty of credibility and objectivity when it is presented before the courts, void of any and every falsehood or emotions to achieve corroboration. It is necessary to state some of the procedures through which evidence of sexual abuse cases are collected and analysed scientifically.

1. Completion of consent forms in the Sexual Assault Evidence Collection Kit (SAECK). Forensic evidence that will achieve and aid corroboration can hardly ever be collected without the consent of the victim if he/she is an adult. Patients must offer written and verbal agreement to the forensic exam, which becomes problematic in the case of minors, the elderly, and drunken patients.¹⁵
2. Swabs for control. Swabs for control or control swabs are samples taken from the victim's body or clothing to serve as reference points for comparison with other evidence. Types of swabs include vaginal control swabs, rectal control swabs, oral control swabs, clothing control swabs and environmental control swabs.
3. Toxicologic testing to identify the medications the patient used or consumed within 72 hours, particularly if there is a loss of awareness
4. Swabs of blood or saliva for the patient's DNA: Swabs of blood or saliva are tools or samples used to collect small amounts of blood or saliva for testing or analysis. A swab typically involves a stick with a soft, absorbent tip (like cotton) that is gently rubbed on an area of the skin, mouth, or another surface to gather the sample. These swabs are often used or can help with identifying genetic information, diagnosing medical conditions, or performing forensic analysis.
5. Oral smears or swabs if oral penetration has occurred within 24 hours: Oral smears or swabs are samples taken from the mouth's inner surfaces, such as the cheeks, tongue, or gums, using a sterile cotton-tipped applicator. These are collected when oral penetration has occurred within the past 24 hours, often for forensic or medical examinations. The purpose is to gather evidence, such as cells, bodily fluids, or other trace materials, that could be used to identify DNA or detect the presence of pathogens

¹² ibid

¹³ Kaur Suminder & Rawat Banita 'Medico-legal evidence collection in child sexual assault cases: a forensic significance' *Egyptian Journal of Forensic Science* (2021) (41) available at <<https://doi.org/10.1186/s41935-021-00258-y>> accessed October 17 2024.

¹⁴ Linden Judith 'Clinical practice: Care of the adult patient after sexual assault' *The new England Journal of Medicine* (2011) 365(9).

¹⁵ Saferstein R, *Criminalistics: An Introduction to Forensic Science* (11th ed, Pearson, 2015).

(germs). This type of sample collection is critical for investigations involving sexual assault or exposure to infectious agents. Oral penetration refers to the act of inserting an object or body part, such as a finger, tongue, or other item, into the mouth

6. In the lithotomy position,¹⁶ check for anogenital injuries in female patients. Take perianal, vaginal, and external genital swabs.
7. Examine anal and penile injuries in male patients. Gather anorectal, urethral, and penile swabs.¹⁷

A qualified specialist may need up to six hours to gather the proof. In order to get as much DNA evidence as possible, a forensic evaluation should be conducted no later than 72 hours after the incident. However, thanks to developments in DNA technology, a kit can still be helpful in collecting evidence up to seven days and beyond this time. After this window of time, or if the patient does not consent, only medical and physical treatments are permitted.¹⁸ These meticulous scientific procedures are essential because, without them, efficiency, credibility, and objectivity cannot be achieved. If credibility and objectivity are compromised, the evidence may not hold up or be relied upon as corroborative testimony in court.

Furthermore, bruising or cuts noted during a forensic medical examination can support allegations of physical assault linked to sexual abuse. Genital injuries seen in victims, for instance, can provide tangible proof that supports their reports of attack.¹⁹ Once the reports of physical and sexual attacks by the medical and forensic examination and evidence, are presented before the court in a good justice and legal system, serving as a corroboration to the victim's report and testimony, without fail, justice must be served. The perpetrator may use fear, humiliation, or manipulation to get victims—children in particular—to retract their remarks. Inconsistencies in the victim's story can be protected against by corroborated proof, which helps dispel any questions expressed during the trial. Corroborating evidence is necessary to maintain the integrity of a victim's first statement in the event that they later retract their initial disclosure of an assault, and this corroborative evidence can efficiently be obtained through forensics especially for sexual abuse cases.²⁰ However, the Nigeria legal system doesn't uphold corroboration as mandatory. The testimony of the victim does not necessarily require corroboration.²¹ It is firmly established in criminal law that, while corroborating the victim's evidence in a rape case is not legally required, it is a standard practice to seek such corroboration. Additionally, it is customary for the jury or judge to exercise caution and be mindful of the risks associated with relying solely on uncorroborated testimony.²² "In the cases of a sexual character it is eminently desirable that the evidence of the complainant should be strengthened by other evidence implicating the accused person in some material particular."²³

¹⁶ This is a medical term referring to a specific position where a patient lies on their back with their legs bent at the hips and knees, feet secured in stirrups and buttocks positioned at the edge of the examination table.

¹⁷ Ladd Megan & Seda Jesus 'Sexual Assault Evidence Collection' (StatPearls Publishing) (2024) available at <<https://www.ncbi.nlm.nih.gov/books/NBK554497/>> accessed 17 October 2024.

¹⁸ Vrees 'Evaluation and Management of Female Victims of Sexual Assault' *Obstetric Gynecology Survey* (2017) 72(1) 39-53.

¹⁹ Cindy Christian, 'Forensic Evidence Findings in Prepubertal Victims of Sexual Assault' *PEDIATRICS* (2000)106 available at https://www.umc.edu/som/Departments%20and%20Offices/SOM%20Departments/Pediatrics/Divisions/Forensic-Medicine/files/forensic_evidence_findings.pdf> accessed October 20, 2024.

²⁰ Michigan Law Review 'Evidence-Corroboration In Criminal Cases' (1932) (30) available at <<https://repository.law.umich.edu/mlr/vol30/iss8/10>> accessed October 20, 2024.

²¹ Section 169, Evidence Act 2011.

²² *Oludotun Ogunbayo v The State* (2007) LPELR-2323 (SC).

²³ *ibid.*

Flowing from this, we therefore can't deny the tangible fact that corroborative evidence through forensic examination has aided countless number of cases both home and abroad.

Additionally, another very important role of forensic evidence in combatting sexual violence cases. It aids in the identification of the perpetrators. When a law enforcement agent is investigating a case of sexual violence, DNA evidence can make or break the case. DNA evidence is now used routinely in the investigation and prosecution of all types of crimes. It is frequently a vital weapon in obtaining justice for survivors of sexual assault.²⁴ By analyzing DNA samples, forensic scientists are able to compare the perpetrator's profile to a massive database of thousands of profiles maintained by the FBI known as CODIS, or the Combined DNA Index System, thereby aiding their arrest and conviction and even if for some reasons they aren't prosecuted and convicted, their DNA will be added to the database, making it easier to connect the perpetrator to another crime in the future.²⁵ Seminal fluid is the most crucial biological and DNA evidence in sexual violence cases. Semen may be deposited in the vagina during the assault, but it may also leak to the victim's anal area, clothing, and mattress which can help identify the perpetrator, especially in circumstances of denial.²⁶ The accused's DNA profile may be derived from biological evidence other than semen, such as pubic hair, bodily fluids, and skin cells found on the victim's body or clothing.²⁷ The victim's fingernails may include the accused's skin cells in situations involving hand-genital contact or a fight between the accused and the victim. If properly and promptly gathered, stored, and examined, these biological evidences can yield the accused's DNA profile, which helps with the conviction.²⁸ This role is very vital because nobody commits an offence and deliberately leaves his tracks uncovered, thereby making it difficult to trace or discover the perpetrators especially in cases where the victim is fully aware of who committed the crime but is faced with denials from the perpetrators. This is therefore to imply that every contact leaves a trace which only scientific analysis can discover.

In the process of identifying the perpetrators of new or recent sexual assault cases, forensic evidence and examination can help to assist cold and old cases. Cold cases are criminal investigations that have not been solved and remain unsolved for a long time due to a lack of evidence, leads, or resources. These cases are typically considered inactive but can be reopened if new evidence or technology becomes available that might help solve them, while old cases refer to any investigations or incidents that occurred a long time ago, regardless of whether they are officially deemed cold or solved. An old case can become a cold case if it remains unresolved over time. In the light of this, both cold and old cases can benefit from forensic techniques or reexaminations that were not available or not done at the time the case was first investigated. Recent studies show that biological evidence, such as DNA from sexual assault instances, can be analyzed even after long periods of time (cold or old cases) by the reason of recent technological advancement. Research has demonstrated that depending on the preservation circumstances and the type of biological material, DNA profiles can be extracted from samples taken a long time after the incident and this has enabled forensic labs and law enforcement agents to reopen and handle cold cases thereby solving them with new evidence

²⁴ The Rape Abuse and Incest National Network (RAINN) 'The importance of DNA in sexual abuse cases' available at < <https://rainn.org/articles/importance-dna-sexual-assault-cases> > accessed Oct 21 2024

²⁵ *ibid.*

²⁶ Burg, Abby, Kahn et al (2011) 'DNA testing of sexual assault evidence: the laboratory perspective' *Journal of Forensic Nursing* (2011) 7 (3) available at <<https://doi.org/10.1111/j.1939-3938.2011.01111.x>> accessed October 21, 2024

²⁷ *ibid.*

²⁸ (n 21).

analysis methods.²⁹ Many unresolved sexual violence cases has been reopened and justice has been served due to the advancement in DNA analysis technique. In addition, DNA databases like CODIS (Combined DNA Index System) play a significant role in helping law enforcement track repeat offenders by linking up crimes with the help of the well analysed and preserved DNA sample.³⁰

In addition, forensic evidence plays a very important role in sexual violence cases by providing objective evidence to the case in issue. Objective evidence is based on observable, measurable and veritable facts, making it reliable for drawing conclusions or making decisions. This further could mean offering proof or information that is factual. Medical practitioners have a duty to make this happen, by collecting evidence of injuries such as bruises, cuts, or tears in sexual violent cases that prove the facts of what the victim narrates. The methodical process for evaluating and recording injuries is part of the forensic examination, and it may entail obtaining swabs and taking pictures to preserve traumatizing evidence.³¹ These sexual abuse nurse examiners are trained professionally to perform these forensic examination thoroughly as they are very instrumental to establishing an objective evidence in court.³² The patient's history will be taken by the forensic examiner to help direct a thorough head-to-toe examination that will detect any injuries on the patient's body. Photographs, measurements with measuring devices, and/or age-specific body diagrams must all be used to record any injuries or results. When describing damage and discoveries, the appropriate terminology must be utilized. Medical staff, for instance, mistake cuts for lacerations. It is very important for the medical examiners to identify correctly the types of injuries obtained, as it will aid proper and correct documentation.³³ Errors in these field or in this area are likely to destroy and contaminate an available physical and objective evidence which will be detrimental to the case at hand, because in the court of law of any jurisdiction, conviction is obtained on the foundation of objective, factual evidence and not the display of emotions or suspicions in court. Also, to obtain this objectivity with the help of forensic examination, time is of the essence. There is a greater chance of recovering viable samples for DNA analysis if forensic evidence is collected within 72 hours after the assault, as delays may result in the loss or deterioration of important evidence.³⁴ The role of objectivity of forensic examination and evidence can further be achieved with the examination of the clothing worn by a person at the time of the crime. Physical or biological evidence found in clothing worn by the victim at the time of the crime must frequently be maintained. All of the patient's belongings may be regarded as evidence if they are still in the same attire as when they were attacked. Even if the patient is not dressed in the same clothes they wore during the assault, clean clothes they later put on—like underwear in a sexual assault case—may still contain bodily fluids that are not their own. Care must be taken when handling and inspecting the patient's clothing to prevent evidence loss.³⁵ This goes further to tell us that medical practitioners have a duty to look beyond injuries obtained but pay close attention to every detail of the victim's body, clothing inclusive. Clothes must be properly recognized, packaged, stored, protected, and kept until they are turned over to law

²⁹ (n 13)

³⁰ Kathryn M. Turman 'Understanding DNA evidence: A guide for victim service providers' *U.S. Department of Justice* (2001) <https://ovc.ojp.gov/sites/g/files/xyckuh226/files/publications/bulletins/dna_4_2001/dna10_4_01.html> accessed October 24, 2024

³¹ Constantino Rose, Carol Stewart et al 'Evidence Collection for the Unconscious and Unconsented Patient' *Open Journal of Nursing* (2014)4 287-295 available at <10.4236/ojn.2014.44033> accessed October 24,2024

³² (n 16)

³³ Kleypas Badiye 'Evidence Collection' (StatPearls Publishing) (2024) available at <<https://www.ncbi.nlm.nih.gov/books/NBK441852/>> accessed October 24, 2024

³⁴ *ibid*

³⁵ (n 30)

enforcement with the appropriate chain of custody so that they can be examined further in a forensic or criminal lab for further analysis and examination.³⁶ All of these aid to obtain the exact facts of the events. The kinds of injuries can determine whether there was a forceful entry of the private area, the state of the clothes can tell if there was a struggle or violence in a bid to get free from the perpetrator. It is important to reiterate that objectivity of facts and evidence is the sole reason a judge or jury would declare an accused or suspect guilty, and for sexual violence cases, investigations have to go beyond what bare eyes can see and delve into critical and criminal analysis for the unseen to be seen to achieve justice for the victims.

In cases where the perpetrator claims the act was consensual, forensic evidence can play a crucial role in establishing non-consent. Signs of struggle, including the victim's defensive wounds or clothing damage, might be used as forensic evidence. By showing that the victim made an effort to thwart the assault, this evidence might bolster charges of non-consent. A suspect's claim of consensual intercourse was refuted by forensic evidence gathered during a medical examination, which revealed substantial injuries consistent with a violent encounter.³⁷ Forensic examination would also help to identify if there was a case of strangulation of the victim to prevent screams and call for help. Also deposits of skin cells and finger nails marks may be found around the victim's neck area to prove force and strangulation. Results from toxicology tests might also be crucial in proving non-consent, particularly if the victim was rendered incapable by drugs or drinks.³⁸ These various forensic examination and evidence can be produced in court when the defendant stands on the falsehood that the sexual intercourse which occurred between him and the victim was consensual and not an assault, thereby establishing lack of consent and the crime of rape.

From the roles of forensic evidence examined above, we are not oblivious of its importance and they can not be ignored and overlooked.

2.1 Case Studies Highlighting Successful Use of Forensic Evidence.

There is no doubt that forensic evidence can be a huge determinant to the success or failure of a sexual violence case. Although, other factors are needed too, but forensic evidence can be the game changer of a case in court. It is therefore very important to examine real life cases where the application of forensic evidence has brought about huge success in the delivery of justice and conviction of the perpetrator.

The first that will be noted and examined is *Oludotun Ogunbayo v The State*³⁹ A 13-year-old girl (PW1) was allegedly raped by the Appellant on December 23, 1987. The victim reported the incident to her father, who took her to the police station. Medical examination revealed freshly lacerated hymen, tenderness in the lower abdomen, and presence of seminal fluid in the vagina. The Appellant claimed consensual sex, but the court found him guilty of rape based on forensic evidence and testimony. The conviction was upheld on appeal.

Another case to be examined is *DD Moon v City of El Paso et al.*⁴⁰ Brandon Moon, a University of Texas student and Army veteran, was wrongly convicted of rape in 1987 based

³⁶ *ibid*

³⁷ Heather Waltke, Gerald LaPorte et al 'Sexual Assault Cases: Exploring the Importance of Non-DNA Forensic Evidence' (2017) available at <<https://nij.ojp.gov/topics/articles/sexual-assault-cases-exploring-importance-non-dna-forensic-evidence>> accessed October 25,2024

³⁸ *ibid*

³⁹ (2007) LPELR-2323 (SC).

⁴⁰ (0:17-cr-50572) 5 Cir. U.S. CA

on eyewitness testimony. Despite his claims of innocence, Moon spent 17 years in prison before DNA testing, improved by technological advancements exonerated him in 2004. The DNA analysis, conducted on preserved bodily samples, matched the victim's ex-husband, revealing the true perpetrator. Moon's case highlights the importance of forensic evidence, particularly DNA analysis, in resolving cold cases and exonerating wrongly convicted individuals.

Another case to be examined and prove the effectiveness of forensic evidence in court is the case of *Kirk Noble Bloodsworth v. State of Maryland*⁴¹ Kirk Bloodsworth, a former Marine, was wrongly convicted of murdering and raping a 9-year-old girl in 1984 based on eyewitness testimony. Despite lacking physical evidence, Bloodsworth was sentenced to death. After his conviction was overturned, he was retried and given two life sentences. In 1992, DNA testing was conducted, and the results excluded Bloodsworth as the perpetrator, leading to his exoneration and release from prison in 1993. This case highlights the fallibility of eyewitness testimony and the power of forensic evidence in establishing innocence.

The case of *State v. Charles*⁴² should be examined; Clyde Charles, a 27-year-old black man, was wrongly convicted of aggravated rape in 1982 based on eyewitness testimony and circumstantial evidence. He was sentenced to life imprisonment. Despite his claims of innocence, Clyde spent 18 years in prison before DNA testing, facilitated by the Innocence Project, proved his innocence in 1999. The true perpetrator, Clyde's brother Marlo, was later identified through DNA evidence and is currently incarcerated. This case highlights the flaws in eyewitness identification and the importance of forensic evidence in ensuring justice.

There is a Nigerian case where scientific examination was done and the results served as a means of corroboration in court and which earned the victim some justice. *The case of Adenekan v. The State of Lagos*.⁴³ A young girl, Blessing Mathias, alleged that she was raped by two men, including the appellant. The prosecution presented four witnesses and four exhibits, including a medical report (Exhibit P4) that showed injuries to the victim's private parts and evidence of sexual abuse. The trial court relied on the medical report and the victim's testimony to convict the appellant. However, the conviction was later overturned on appeal. This case highlights the importance of forensic evidence, such as medical reports, in supporting testimony and securing convictions, but also notes that forensic evidence is not always conclusive.

There is also a news report of a case of Ogbaje,⁴⁴ A 13-year-old girl, Ogbaje, died due to complications from years of alleged rape by her uncle and cousin. Forensic examinations played a crucial role in establishing the extent of her injuries and corroborating her claims, highlighting the importance of forensic evidence in sexual abuse cases.

Adegboyega Adenekan, a school supervisor, was sentenced to 60 years for defiling a 2-year-old child. Forensic examination of the victim provided crucial evidence supporting her allegations, demonstrating the critical role of forensic analysis in securing convictions in sexual abuse case.

⁴¹ 307 Md. 164 (1986)

⁴² 511 So.2d 1164 (La. App. 1 Cir. 1987)

⁴³ (2021) 1 NWLR (Pt. 1756) 130.

⁴⁴ George Ameh, 'Nigerians Demand Justice for 13year old OchanyaOgbaje' available at www.dailypost.ng/2018/10/23/nigeria accessed 18 November 2024.

The case of Miss Vera Uwaila is a very popular one in Benin and cannot be ignored and it clearly lends credence to the importance and significance of forensic investigation of rape and sexual violence. Vera was a 100 level student of microbiology university of Benin, who died after being beaten and raped inside a Redeem Church in Ikpobahill, Benin city on the 13th May 2020 where she went to read her books and was gang raped by a group of young men. Vera later died on the 31st May at the University of Benin Teaching Hospital at age 23.⁴⁵ Few days after her death, the Inspector General of Police, mobilized a team of police officers who were experts in forensic investigation and through forensic evidence her killers were identified and apprehended.

Despite the referenced cases and news report, there is still no doubt that Nigeria still lags significantly in fully embracing forensic evidence and examination. Current applications barely scratch the surfaces, primarily focusing on medical reports and examinations. However, forensic evidence encompasses a vast scope including; DNA analysis, toxicology, finger print analysis, crime scene investigation and other specialized disciplines which are all crucial in sexual abuse cases, yet remain underutilized in Nigeria's justice system.

3. Existing laws and Regulations on Forensic Evidence and Comparison with Nigeria.

Studying the U.S. forensic system provides a key comparative perspective for Nigeria, where forensic evidence is rarely used in sexual violence cases due to various challenges. By analyzing U.S. successes, Nigeria can identify gaps, adopt best practices, and improve its legal and investigative processes.

3.1 Legal Framework of Forensic Evidence in the United States of America

The FBI employs tools like CODIS (Combined DNA Index Sysyem) and AFIS(Automated Fingerprint Identification System) in criminal investigations, including sexual abuse cases. The U.S. legal framework governing forensic evidence is complex, involving federal regulations, state laws, and procedures to ensure proper collection and analysis. Federal laws, such as the Violence Against Women Act (VAWA), play a crucial role in supporting the use of forensic evidence in criminal investigations.

The Violence Against Women Act (VAWA), first passed in 1994 and reauthorized multiple times, funds forensic investigations and evidence gathering, emphasizing victim support and proper evidence processing. The Act mandates that the State covers the costs of forensic examinations for sexual assault victims in the U.S., relieving victims of financial burdens regardless of income. This contrasts with jurisdictions like Nigeria, where victims often bear the costs personally or rely on family support.⁴⁶ Also, another federal law that has been passed in the United States, to improve and support forensic examination is the Sexual Assault Forensic Evidence Reporting (SAFER) Act 2013. The SAFER Act of 2013 aims to reduce the backlog of untested sexual assault forensic evidence by supporting audits, testing, and improved processing of DNA evidence to help bring perpetrators to justice.⁴⁷ This Act was enacted as part of the Violence against Women Act to audit, analyze, and account for the

⁴⁵ Tosin Omoruyi, Nigerians Call for Stiffer Punishment As Reported Cases Increase, June 7, 2020, Premium Times, Available at <http://premiumtimesng.com> accessed November 19 2024

⁴⁶ The Violence Against Women Act 1994 available at < <https://obamawhitehouse.archives.gov/sites/default/files/docs/vawa_factsheet.pdf > accessed Oct 28, 2024

⁴⁷ *ibid.*

immense backlog of untested rape kits across the country.⁴⁸ The SAFER Act allocates at least 75% of “Debbie Smith” award funds to process untested DNA evidence, supporting lab equipment, personnel training, and increased testing capacity. The FBI Director is required under the SAFER Act to create and disseminate a description of procedures and guidelines that establish guidelines for handling DNA evidence. For municipal and state governments to use these procedures uniformly, the FBI must also offer support and training.⁴⁹

U.S. states have varying rules on forensic evidence admissibility, with many requiring prompt DNA testing in sexual assault cases. Another regulation that governs the use of forensic examination is the National Protocol for Sexual Assault Medical Forensic Examination whose provisions guide medical personnel in conducting trauma-informed forensic exams while preserving evidence integrity for legal use.⁵⁰ These statutes above are present in furtherance of the continuous and effective use of forensic evidence all round; financial responsibility, collection, preservation and analysis.

The U.S. has a well-funded and functional forensic system, widely accepted in its criminal justice system. However, challenges remain, including delays in evidence processing and rape kit backlogs.⁵¹ While the SAFER Act addresses these issues, further improvements and funding are still needed.

3.2 Legal Framework of Forensic Evidence in South Africa

South Africa serves as a key comparative jurisdiction for Nigeria due to their similar historical and socio-political backgrounds. Its forensic science infrastructure has seen significant reforms, with a comprehensive legal framework guiding forensic evidence use in sexual abuse cases. Nigeria can learn valuable lessons from these developments.

Criminal Procedure Act 51 of 1977:

This act establishes a legal basis for prosecuting sexual offenses, emphasizing the significance of forensic evidence in determining the facts of a case. It strives to improve victim protection while also holding abusers accountable. The Act grants police the authority to collect bodily features like blood, saliva, and fingerprints in specific cases, aiding forensic evidence collection.⁵² There is also the powers of court to order bodily samples. This section provides that courts can order for collection of bodily samples if it is required for the case especially in sexual abuse cases where DNA is important.⁵³ There is also provision for Admissibility of Evidence.⁵⁴ This provision says that evidence relating to fingerprints, palm prints, or other bodily samples is admissible in court even if it was not gathered using the particular procedures stated in section 37. This clause is significant because it ensures that forensic evidence can still be used in prosecutions even when there are procedural flaws because of the efficacy of this type of evidence, it should not be discarded because a few procedures were not adhered to.⁵⁵

⁴⁸ Julie Weil ‘The Rape Abuse and Incest National Network (RAINN) ‘Safer Act’ available at <<https://rainn.org/articles/safer-act> > accessed 31 Oct 2024.

⁴⁹ *ibid.*

⁵⁰ U.S. Department of Justice Office on Violence Against Women ‘A National Protocol for Sexual Assault Medical Forensic Examinations Adults/Adolescents’ available at <<https://www.justice.gov/ovw/media/1367191/dl> > accessed October 31, 2024

⁵¹ *ibid.*

⁵² Section 37 Criminal Procedure Act 51 of 1977.

⁵³ Section 37 (3)(b) Criminal Procedure Act 51 of 1977.

⁵⁴ Section 212 Criminal Procedure Act 51 of 1977.

⁵⁵ Section 212 Criminal Procedure Act 51 of 1977.

There is also an additional legislation like:

b] Criminal Law (Forensic Procedures) Amendment Act 37 of 2013: In order to further control forensic practices, such as the collection of DNA samples and their use in investigations, this legislation changes the Criminal Procedure legislation. It seeks to improve the legislative framework controlling forensic evidence gathering procedures and expedite those procedures. It also defines core terms that were in the previous statute for better understanding of who is to play the role of forensic examination. For example, the term ‘authorised officer’⁵⁶ as regards the taking of bodily and buccal samples is streamlined to any police officer who not being the crime scene examiner of the particular case, but has successfully undergone the training prescribed by the Minister of Health under the National Health Act.⁵⁷ The Act outlines how forensic DNA profiles can be used in criminal investigations, including proving innocence or guilt, identifying missing persons, and exonerating wrongfully convicted individuals.⁵⁸ The list is endless as regards the amendment of the criminal procedure act of 1977 just in a bid to have a better forensic law, South Africa thereby having a better forensic system, for where there are laws, things are likely to get and do better. The fact that the Criminal Procedure Act has been amended by 28 other amendment legislations prior to the Criminal Law (Forensic Procedures) Amendment Act 37 of 2013 shows how intentional South Africa is in respect to their criminal justice system, and this intentionality is obviously expressed and seen through the collaboration of agencies as a means of integrating this forensic evidence into the criminal justice system of the country. To guarantee that forensic evidence is used successfully in prosecutions, agencies like the National Prosecuting Authority (NPA), healthcare providers, and South Africa Police (SAPS) work together to construct solid cases based on gathered evidence, detectives and prosecutors must collaborate closely throughout investigations.⁵⁹

South Africa has made significant progress in forensic DNA analysis for sexual assault cases, establishing a national DNA database. Techniques for analysis of DNA from varieties of sources like blood, hair are Polymerase Chain Reaction (PCR) and Short Tandem Repeat (STR) help link suspects to crime scenes or exonerate the innocent⁶⁰ However, it is not a perfect system, challenges remain, including DNA testing backlogs and insufficient training.

3.3 Legal Framework of Forensic Evidence in Nigeria.

In contrast, taking an examination of the existing laws of forensic evidence in our home country, Nigeria, unlike South Africa and the US, has taken longer to implement robust forensic DNA procedures and other types of forensic examinations, particularly those useful in sexual violent cases and this is primarily traced to a deficient legal framework to guide this delicate procedures.

The legal frameworks regulating forensic evidence utilization vary significantly between the South Africa, the US and Nigeria. In Nigeria, there is no specific legislation on forensic evidence. The Evidence Act, Criminal code, the ACJA nor the Nigerian Constitution does not specifically address forensic scientific applications, leaving doubt about the admissibility of

⁵⁶ Section 1(a)(b) Criminal Law (Forensic Procedure) and Amendment Act 37 of 2013.

⁵⁷ Section 1c Criminal Law (Forensic Procedure) and Amendment Act 37 of 2013.

⁵⁸ Section 6, Criminal Law (Forensic Procedure) and Amendment Act 37 of 2013.

⁵⁹ Theodore Cross, et al (2014) ‘Forensic Evidence and Criminal Justice Outcomes in a Statewide Sample of Sexual Assault Case’ available at < <https://www.ojp.gov/pdffiles1/nij/grants/248254.pdf>> accessed 1 November 2024.

⁶⁰ Amzat Jimot, Kanmodi et al ‘Drug-facilitated sexual assault in Africa: A scoping review of empirical evidence’ *Public Health Challenges* (2023) (2)(119) available at <<https://doi.org/10.1002/puh2.119>> accessed 1 November 2024.

such evidence in some of these statutes.⁶¹ As a matter of fact, as at the time of writing, there is no law in Nigeria, specifically regulating the use of forensic examination and evidence and its admissibility in court. In other jurisdictions like US and South Africa, there are specific laws regulating this field, its application, admissibility and also catering for its progress and improvement, some which has been examined above. One major cue that the Nigerian government needs to take from the jurisdiction of the US and South Africa, is the enactment of specific laws on this subject matter. I strongly believe our progress on forensics will take a huge step from there. This law(s) must vividly make provisions for financial responsibility of the victims just like the VAWA and SAFER Act of the US, admissibility procedures in courts, collection of forensic samples, vividly lay out the functions of officers in relation to collation of samples just like the Criminal Law (Forensic Procedures) Amendment Act 37 of 2013 of South Africa.

There is therefore necessity to delve deeply into the substance of this subject by examining in details each available laws on evidence, criminal laws and investigation in Nigeria so as to visibly point out areas the country is lagging in respect to forensic evidence. The legal framework governing forensic evidence in Nigeria is primarily shaped by the Nigerian Evidence Act 2011, and the only kind of scientific evidence it provides for is digital evidence. It is important to highlight at this point that forensic evidence and digital evidence may be similar in some ramifications but aren't the same. One of the key differences are that forensic evidence is physical and biological in nature, as we have seen from precedent sections of this research work, while digital evidence solely exists in digital form. Above all, which relates very much to this study is that forensic evidence is often used to link a crime suspect to a crime scene, but digital forensics is used to provide a broader range of information, such as communication records and online activities.

The admissibility of computer-generated or electronic evidence (digital evidence) in Nigeria is governed by the law of evidence. This section guarantees that digital evidence can be evaluated and taken into account by the court during judicial procedures.⁶² This is one aspect of the Act that depicts some sort of proximity to the general concept of forensic evidence and not forensic evidence used for sexual abuse prosecution. It is important to draw this distinction clearly at this stage. Furthermore, in the Evidence Act, specifically for the sake of prosecution of sexual abuse cases forensic evidence can only be considered as opinion evidence, even though it may be called that in a patronizing and condescending way.⁶³ Opinion evidence entails forming judgments and inferences from observable and communicative data or facts. It might be provided in written reports or in oral evidence. As a general rule, opinion testimony is inadmissible, and witnesses may only testify about facts that they personally observed, not the inferences formed from those facts.⁶⁴ However, there are exceptions to this general rule. An appropriately qualified expert can provide an opinion on a matter that requires specialized expertise.⁶⁵ The opinion of a qualified expert can be called upon in court, forensic evidence in Nigeria predominantly falls within the realm of expert opinion, nothing more. For

⁶¹ Oyetola Muyiwa Atoyebi 'The Role of Forensic Science in Criminal Investigations and Admissibility of Forensic Evidence in Nigeria' (2024) available at <<https://omaplex.com.ng/the-role-of-forensic-science-in-criminal-investigations-and-admissibility-of-forensic-evidence-in-nigerian-courts/>> accessed November 1, 2024.

⁶² Section 84 Nigerian Evidence Act. 2011.

⁶³ Maitama Olushola, Ogunlere Samson "Cyber Crimes and Cyber Laws in Nigeria" (2013) 2(4) *The International Journal of Engineering and Science*, 121-156.

⁶⁴ Section 67, Nigeria Evidence Act 2011.

⁶⁵ Sections 68-76 Nigeria Evidence Act 2011.

example, when a sexual abuse case is in court, and a detailed forensic medical examination⁶⁶ is conducted on the victim that proves rape, the Act allows for that medical expert to come to court as a witness and testify to this fact, thereby giving his expert opinion on the matter which stems from the results of the examination. This was predominantly exercised in the few available Nigerian cases and reports examined in the previous subheading.

From the above, it is clear that the only form of forensic (scientific) evidence which the Evidence Act 2011 specifically provides for with its mode of admissibility in court is that of digital evidence like files, emails, generally computer generated evidence, but for the purpose of this research, digital forensic evidence is barely relevant in the investigation of these cases and in court for the prosecution of sexual abuse cases. The types of forensic evidence which are needed for sexual abuse cases are DNA, forensic photography, toxicology. This is to mean and safely conclude that the kind of evidence relevant for the prosecution of sexual matters are not exactly provided for in the Evidence Act. To be more specific, the mode of collection and analysis, personnels qualified for this job, time frame and so on which the likes of Criminal Law Forensic Procedure Amendment Act 37 of 2013 of South Africa provides for are missing in the Evidence Act in relation to sexual abuse matters. The closest which the Act provides is opinion of experts, but even with this provision, it is still inadequate and insufficient, as there is the absence of provision for the kinds and qualification of experts in relation to Sexual abuse, just as the Criminal Law Of Forensic Procedure Amendment Act 37 of 2013 in South Africa provides for 'authorized officer' who has passed through the training recommended by the Ministry of Health to take bodily samples⁶⁷ or even the modes of collection of bodily samples to form these opinions. We cannot also find the processes and time duration for collecting these samples which are highly crucial so that the officers collecting these samples can be well guided so as to aid and ensure justice.

It is emphasized again that the Evidence Act contains no explicit provision for forensic science governing sexual abuse cases nor the admissibility of such kind of evidence in court. Nigeria Evidence Act lacks specific guidelines tailored for forensic science for sexual abuse cases which limits its effectiveness in regulating forensic science needed for the investigation and prosecution of sexual abuse. Unlike the VAWA and SAFER which are specific legislations on these matters. The Evidence Act does not even explicitly define or address the standards for forensic evidence generally, how much more for sexual abuse cases and circumstances.

It is necessary to take a look at other federal statutes and legislations available in Nigeria, to examine if there are any sort of provisions on this subject matter.

The Criminal Code⁶⁸ and the Penal Code⁶⁹ are silent on how to investigate the offenses criminalized under them like rape. This means that the mode of investigation of sexual abuse cases like the utilization of forensic science is not provided for. The Criminal Procedure Act⁷⁰ and the Criminal Procedure Code⁷¹ were adopted to supplement the Criminal Code and the Penal Code on problems concerning how and in what manner the police will carry out their duties. The Criminal Procedure Act and Criminal Procedure Code, however, were repealed

⁶⁶ Section 68 Nigeria Evidence Act 2011.

⁶⁷Section 1c Criminal Law (Forensic Procedure) and Amendment Act 37 of 2013.

⁶⁸ Cap C38 Laws of the Federation of Nigeria, 2004.

⁶⁹ Cap C89 Laws of the Federation of Nigeria, 2004.

⁷⁰ Cap C41 LFN 2004.

⁷¹ Cap C42 LFN 2004.

with the passage of the Administration of Criminal Justice Act of 2015.⁷² Furthermore, the criminal code do not even explicitly define 'evidence' and its admissibility talk more of providing for a concept like forensic evidence.

The Administration of Criminal Justice Act (2015) is another statute on criminal investigation that ought to be examined in respect to the presence of forensic evidence or not. The Administration of Criminal Justice Act (ACJA) empowers the police to arrest, search and investigate crimes in Nigeria⁷³ When a suspect is arrested, the officer (or the officer receiving the suspect from a private person) may search them using reasonable force and must secure all items found, except essential clothing.⁷⁴ Although this provision gives room for searching but this type mentioned in section 9 of ACJA are not searches that are based on investigations. Instead, the search mentioned in this section pertains to the safekeeping of the suspect's belongings while they are under police custody, and as already noted forensic science or evidence has a role to play in investigation and not safekeeping of anyone's properties while in custody. Nonetheless, Section 11 requirements for the arrested suspect's examination expanded the investigation's purview in relation to the Police Act and the Criminal Code.

When the ACJA states that a qualified medical professional may examine a suspect at the police's request using whatever force may be required for that purpose, it appears to have abandoned respect for the accused person's or suspect's private rights or right to self-determination. This would imply that the medical practitioner does not have to obtain the patient's consent in such a situation. If the police officer requests an intimate sample, such as a buccal swab, the practitioner may restrain the patient and take the sample regardless of the suspect's consent. This implication and analysis done seems to tilt towards forensic examination and evidence but as obviously seen, this is not even a direct provision on this. In addition, Section 15 of the ACJA has a clause similar to Section 30 (1) of the Police Act that was repealed and it provides that:

Upon a suspect's arrest, with or without a warrant, the police must immediately record details including the alleged offense, arrest date and circumstances, full personal information, and identification details such as height, photograph, and fingerprints.⁷⁵ We observe the provision and recognition of fingerprint impressions which is a type of forensic evidence and can aid the investigation of sexual abuse cases if appropriately used and with the availability of necessary tools and equipment. However, there are some lacunas in this provision like the absence of a definite mode or method of collection and it can be implied that since there is no definite method or approach, it is done in an outdated methodology. Finger print analysis has evolved but the Act's provision seems stagnant and indefinite also seems to focus only more on identification and not investigative use, also lack of digitalization and lots more.

In place of the Police Act 1943, the Nigeria Police Force (Establishment) Act 2020 was established, and one of the functions of the Police Force is investigation. Like section 30 of the

⁷² By Section 493 of the Administration of Criminal Justice Act 2015, the Criminal Procedure Act (Cap C41 LFN 2004, the Criminal Procedure (Northern States) Repeal Act Cap C42 LFN 2004 and the Administration of Criminal Justice Commission Act, Cap A3 LFN 2004 were repealed.

⁷³ Several states in Nigeria have enacted the equivalent of the Administration of Criminal Justice Act. Edo state is an example of such states

⁷⁴ Section 9(1) ACJA 2015

⁷⁵ In that it permits the collecting and recording of the suspect's measurements, photograph, and finger impressions for identification purposes, this provision of Section 15 of the Administration Criminal Justice Act is comparable to Section 30 of the Police Act. However, it appears that its use up to this point has only been to identify the suspect who is being held by the police.

Police Act that was repealed, the current Act has numerous provisions pertaining to fingerprints. The lacuna still exists, nevertheless. No innovation that addresses or even acknowledges the broader use of finger printing for investigation is present in the finger printing provision, which is a perfect duplicate of the provision found in section 15 of the Administration of Criminal Justice Law. This clause is further reinforced by the Act's section 68 (1), which deals with the authority to obtain fingerprints. Under this section, the Act once more requires a police office to take and record for the *purposes of identification*, the measurements, photographs, and fingerprint impression of all persons who may be in lawful custody.

Despite, the celebration and high hopes that came with the enactment of the Nigeria Police Force (Establishment) Act 2004, it didn't still improve or make any innovations on the only provision it has for scientific methods of criminal investigation, talk more of making special provisions for the investigation and prosecution of sexual abuse cases just like the SAFER ACT of South Africa did provide for.

From the above, it is obvious that the prevalent challenge of the use of forensic evidence in Nigeria is lack of specific laws to guide this field in our criminal justice system. Although, our examination shows the existence of some pockets of laws on scientific analysis existing here and there in different exiting statutes of the country, but all these are very insufficient and inadequate. By the reason of absence of specific laws regulating this area, there is limited resources allocated to this field and this is compounded by inadequate training of personnels to handle sexual abuse cases in the forensic way.⁷⁶ There is a scarcity of Nigerian legal case studies on sexual abuse prosecution due to the limited use of forensic evidence. Unlike murder cases, where forensic evidence is occasionally employed, its use in sexual abuse cases remains minimal. This research explores the underutilization of forensic evidence, the challenges involved, and its potential role in improving sexual abuse prosecutions within Nigeria's criminal justice system.

4. Gaps and Challenges in Utilizing Forensic Evidence in Nigeria

Forensic evidence and examination have not gained so much progress in Nigeria justice system as a whole, how much more sexual abuse cases because of some loopholes thereby causing challenges in the system. Some of the identified challenges in this regard includes but are not limited to:

4.1 Lack of Specific and Adequate Legislation

The use and enforcement of forensic science are not specifically governed by any laws in Nigeria. The Nigerian Evidence Act and other statutes in Nigeria fall short in addressing the subtleties of forensic evidence for proper investigation and prosecution which leaves its admissibility in court unclear.⁷⁷ Other jurisdictions, such as the United States and South Africa have laws that specifically address forensic science and its admissibility in court. These laws were passed to strengthen the forensic status so that crimes can be identified with certainty and

⁷⁶ Muzaffar, 'The Admissibility of Electronic Evidence in Criminal Cases under Islamic Law' Public Lecture Series, delivered at Faculty of Sharia & Law, Slains Islam University, Malaysia (USIM) 2013 available at <https://en.wikipedia.org/wiki/Message_transfer_agent > accessed 2 November 2024.

⁷⁷ Nwokolo Michael & Ivongbe Matthew Ihaza, 'A Review of The Forensic Science Evidence Admissibility for Handling Criminal Prosecution in Nigeria' *Law Audience Journal*,(2022) 3(4) 284 - 300 available at <https://www.lawaudience.com/a-review-of-the-forensic-science-evidence-admissibility-for-handling-criminal-prosecution-in-nigeria/> accessed November 7, 2024

justice served to identified victims, unlike Nigeria's legal system which lack these specific types of laws and legal system.⁷⁸ The absence of specific laws in this field has repercussions on the Nigeria criminal justice system. Without strong forensic evidence, many crimes, particularly serious acts like murder and sexual assault, remain unsolved, contributing to a culture of impunity among criminals.⁷⁹ This contrasts with jurisdictions like the United States and South Africa, where specific laws govern forensic practices. Furthermore, absence of these laws to guide the application of forensics in Nigeria might lead to incorrect convictions or the acquittal of criminal people. Investigations using untrustworthy methods fail to accurately identify suspects, allowing genuine criminals to elude justice.⁸⁰ The consequences of this gap cannot be ignored over the years up till date and the list is endless. Although some legislations provides or gives allowance for the use of medical examination⁸¹, finger prints analysis for investigation⁸², opinion experts⁸³ (which can be forensic experts) but these provisions are not sufficient, they are regarded as pockets without proper admissibility procedures, modes and methods of collation and lots more. This further shows that in theory, forensic evidence is somewhat present to aid the prosecution of criminal cases, aiding in investigations and trials, but its practical application is marred by inadequacies and insufficiencies.⁸⁴ There is need to also acknowledge that the Nigeria legal system is not oblivious of the existence and importance of forensics, the system however lacks specificity of laws and clarity regarding its collection and application. We should also not fail to commend Lagos State because the state house recently passed a bill creating the Lagos State Deoxyribo-Nucleic Acid (DNA) and forensic center to support law enforcement, criminal investigations, evidence preservation for the court system, and other related purposes. Also facilitating the usage and regulation of DNA-based technology for profiling and analysis in Lagos State is one of the center's goals.⁸⁵ This will bring us to the discussion of the challenge of inadequate infrastructures which is birthed from the absence of legislations. For better reiteration, there is no specific and comprehensive legislation which has been discussed earlier. Expert opinion is admissible under the Evidence Act, the requirements for forensic evidence are not well defined, which results in inconsistent judicial interpretations.⁸⁶ When the Court is required to form an opinion on a point of law, customary law or custom, science or art, or the identity of handwriting or conducting finger impressions, the opinions of persons who are particularly skilled in such foreign law, customary law or custom, science or art, or in questions of handwriting or finger impressions are admissible.⁸⁷ However, where the gap is, is that it does not specifically outline clear and comprehensive standards for what qualifies as reliable forensic evidence. This absence of detailed criteria or procedural guidance can create issues in the interpretation and application of the law. By comprehensive standards we mean, mode of collection of these evidence, mode of analysis and even mode of admissibility of the opinion of the said expert. Another close provision to forensic evidence in the evidence act is that of digital evidence by the reason of

⁷⁸ (n 61).

⁷⁹ Ogechi Juliet Alisigwe & Oluwa Moses Oluwafemi 'The State of Forensic Science in Crime Investigation and Administration of Justice in Nigeria' *International Journal of Scientific & Engineering Research* (2019) 10 (7) available at <<https://www.ijser.org/researchpaper/The-State-of-Forensic-Science-in-Crime-Investigation-and-Administration-of-Justice-in-Nigeria.pdf>> accessed November 7, 2024

⁸⁰ *ibid*

⁸¹ Section 11 ACJA 2015

⁸² Section 68 Nigeria Police Act 2004/ Section 15 ACJA 2015

⁸³ Section 68 Evidence Act 2011

⁸⁴ (n 79).

⁸⁵ (n 61).

⁸⁶ Obamanu, 'Ten Legal Issues And Challenges In The Admissibility Of Digital Forensic Evidence In Courts In Nigeria' *African Journal Of International Energy And Environmental Law (Ajeel)* (2023) 8(01), 96–109 available at <<https://ajeel.com/index.php/a/article/view/72>> accessed 9 November 2024.

⁸⁷ *ibid*.

section 84 which has earlier been discussed in precedent section of this paragraph. The Evidence act also provides for the admissibility of this kind of evidence.⁸⁸ However, it is important not to confuse digital evidence and forensic evidence, for they are entirely two different categories of evidence in relation to sexual abuse cases. Digital evidence is less frequently used in the prosecution of sexual abuse cases, but forensic evidence plays huge roles in sexual abuse cases.⁸⁹ The Nigerian Evidence Act does not provide explicitly for forensic evidence and its standards of operation, but implicitly covered under expert opinion neither does any other legislation in the country. The Nigeria Police Force (Establishment) Act which was gracious enough to make mention of finger prints impression, didn't even provide adequately for this kind forensic analysis thereby bringing about the existence of loopholes and gaps as earlier discussed in previous section of this article.

4.2 Limited Forensic Infrastructure (Inadequate Resources)

Despite the roles forensic examination and evidence plays in sexual violence cases, the forensic labs in Nigeria are frequently understaffed and ill-equipped, which makes it difficult for them to carry out exhaustive investigations. Many cases rely on antiquated techniques or go unresolved because of inadequate scientific analysis because there aren't enough operational forensic facilities.⁹⁰ Only three forensic labs are available as at 2019: the new one, which was just opened by the Lagos State Government, an old one in Oshodi, Lagos, and one in Abuja. Nevertheless, not enough use is being made of these facilities. Modern tools for identifying and investigating crimes are still lacking in the labs. Relevant chemicals and reagents are severely lacking, and the workforce is not very motivated.⁹¹ In the twenty-first century, Nigerian law enforcement organizations do not have enough money for forensic science research and development. The only financing that is clearly related to the criminal justice system is that which is allocated for office renovations, salary increases, and new car purchases. Furthermore, the few forensic laboratories usually encounter budget constraints, limiting their operational capabilities. This lack of financing impacts everything from equipment acquisition to worker training, resulting in delays in evidence processing and analysis.⁹² There is really a need for continuous research and development in the areas of forensic science.⁹³ Even the few forensic experts are not well paid by the government, and the ones who work in private forensic settings cannot be afforded by the common man. Existing forensic facilities frequently use out-of-date methods and technologies, making them ineffective in dealing with modern crime. The first DNA forensic center in Nigeria was just established in 2017, demonstrating a delay in acquiring requisite forensic capabilities.⁹⁴ For the smooth operation of anything solid, quality staffing and training of those staff is highly important. The efficacy of a thing is watered down when there aren't right and trained people to handle it. People are also regarded as resources and should be given adequate attention too. Law enforcement and judicial professionals do not

⁸⁸ (n 86).

⁸⁹ Keith Oliver 'How Digital Evidence in Child Exploitation Cases is Used' available at <https://www.njcriminaldefensefirm.com/blog/child-exploitation-case-evidence/> accessed November 9, 2024

⁹⁰ Chattered Institute of Forensics and Certified Fraud Investigators of Nigeria Role of Forensic Experts in Nigeria's Legal System: Impact and Challenges available at https://cifcfin.org/post_details?id=83 accessed 12 November 2024.

⁹¹ (n 79),

⁹² Ibrahim Muhammad & Fidelis Ngaji 'Availability of forensic science equipment and the challenges of applicability in Niger State Judiciary System' (2022) 12(2) available at <<https://www.mjrdp-unical.com/post/1722836766.pdf> accessed 12 November 2024.

⁹³ *ibid.*

⁹⁴ Aminu Dukku & Bello Ibrahim, 'Developing Forensic Science Capabilities In Nigeria: Challenges And Prospects' *International Journal of Management, Social Sciences, Peace and Conflict Studies (IJMSSPCS)*, (2021) 4(3) 373 - 383; available at file:///C:/Users/MARVEL/Downloads/282-1116-1-PB%20(3).pdf accessed 13 November 2024.

receive enough continuous training on how to use and evaluate forensic evidence. As a result of this shortcoming, the workforce is ill-equipped to apply forensic science in investigations and trials.⁹⁵ Forensic science is an aspect of technology that grows daily and as a State, there's need for proper investment into the personnels responsible for these operation in a country and this is lacking in Nigeria. Presently, Nigeria has about 35 sexual abuse referral centres like the Mirabel centre in Lagos, which offers forensic services, and as earlier stated, most of them are under equipped and under staffed, a good number of them are situated in urban areas while the rural areas are left out without these facilities.⁹⁶

The above encompasses a whole lot regarded as resources; ranging from infrastructures and facilities, to financial funding and resources, to staffing and training of these personnels responsible for this field. The truth which cannot be evaded is that the Nigerian government is yet to see this as a priority and important, little wonder why little attention is being paid to this sector of health in terms of funding.

4.3 Overreliance on Traditional Methods

It has been agreed upon that our legislative framework regards forensic evidence is quite weak, and because of this our infrastructures and resources are quite insufficient. Note that, there is no total absence of infrastructures, resources or staff, but a limited one. Flowing from this, it is worthy to note that law enforcement organizations usually rely heavily on eyewitness testimonies and confessions.⁹⁷ It is rather unfortunate that the Nigeria Police Force still relies on conventional methods of crime investigation. Forensic science offers a superior alternative to identifying and punishing criminals in a society where crime is on the rise, crimes are no longer committed in the conventional manner, and criminals are having more sophisticated methods of operation.⁹⁸ This dependence may result in incorrect convictions and ineffectively solving important crimes. The creation of DNA profiling and fingerprinting has been one of the biggest developments in criminal investigation. In developed nations like the US and Britain, this has proved effective in apprehending and convicting millions of criminal suspects; nevertheless, the situation in Nigeria is appalling. The problem is that the Federal Government is not acquiring the tools for the police to demonstrate their work.⁹⁹ This brings us back to the previous challenge, insufficient and lack of some vital tools. Apparently, it can be implied that our law enforcement and our court system is still heavily dependent on traditional means of crime investigation and evidence collection like eye witnesses, confessional statement in the prosecution of sexual abuse cases because of the unavailability of requisite tools and equipment. However, can it really be said that over reliance on traditional mechanism is as a result of lack or insufficient tools? How about the required knowledge needed for the use of these equipment? Most of the law enforcement agents in this country are not even well trained up to international standards to substantially use these tools. The Nigerian Police is known for gathering confessions from suspects following the application of force and extreme torture. Eyewitnesses are usually stage played to provide cooked and falsified evidence against a suspect. The consequence of this is that during prosecutions, virtually all the confessional statements are challenged on grounds of police coercion and the unchallenged ones perverse

⁹⁵ (n 92).

⁹⁶ Sexual assault referral centres replicating reach and expanding support for SGBV survivors' available at <https://www.justice-security.ng/news/sexual-assault-referral-centres-support-sgbv-survivors> accessed November 13, 2024

⁹⁷ (n 79).

⁹⁸ *ibid.*

⁹⁹ *ibid.*

the administration of justice in Nigeria.¹⁰⁰ For Nigeria to have survived the past 64 years without consistent dependence on forensic science and forensic evidence in court, is a major concern and until the government embrace this avalanche of technological wisdom improvised by the whites in our criminal justice system and our law enforcement agents are ready to drop the traditional way and embrace this technology whole heartedly alongside open mindedness to being taught, this will continue to be a challenge to the use of forensic science in sexual abuse cases, and unfortunately these perpetrators are becoming smarter in covering up their crimes in ways that cannot be measured up to the traditional mechanisms. It is therefore pertinent that the system embraces this new approach because it has proven to be reliable in other developed countries such as Australia, USA, UK, Canada and even in South Africa¹⁰¹ It has been said that every contact leaves a trace, traditional methods cannot identify most traces left behind by these perpetrators, but only forensic science can fish out these traces.¹⁰²

4.4 Cultural Stigma and Societal Attitudes

Cultural standards frequently results in victim-blaming in many Nigerian communities, where survivors of sexual assault experiences hide in shame and stigma instead of being opened to receive assistance. This is because they think they won't be believed or that their character will be questioned. Victims may be discouraged from reporting incidents to law enforcement or requesting forensic investigations as a result of this social mindset.¹⁰³ These victims fear that if they come out with claims of sexual abuse, they could be shunned by their communities or facing reprisals from the abusers. Social traditions that value family honor over individual rights amplify this anxiety, which makes many victims keep quiet and miss the chance to gather forensic evidence that could bolster their allegations.¹⁰⁴ As a result, the case against offenders may be weakened since important forensic evidence may never be gathered or examined. Forensic collection is not possible if the victims don't come out to say what happened to them, if not to the general public but to people who matter and can help. Victims can't be forced outside their will except in the case of a child or a mentally deficient person, in the case of a child, with the approval of the parents or guardians of course. Also, research shows that both the general public and law enforcement officials frequently have doubts about the legitimacy and dependability of forensic science. For instance, it has been discovered that although some police investigators see forensic science favorably, many continue to heavily rely on conventional techniques because of cultural views toward crime investigation techniques.¹⁰⁵ This mistrust may result in the underuse of forensic methods when they could yield important evidence. It has been highlighted that police investigators' opinions about the suitability of forensic science are shaped by their organizational culture, which can help or hurt the incorporation of forensic techniques into criminal investigations.¹⁰⁶ In sum, until there is the

¹⁰⁰ (n 77).

¹⁰¹ *ibid.*

¹⁰² National Forensic Science Technology Center A Simplified Guide To Trace Evidence available at <<https://www.forensicsciencesimplified.org/trace/TraceEvidence.pdf>> accessed November 13, 2024

¹⁰³ Ajayi & Chantler et al 'The Role of Cultural Beliefs, Norms, and Practices in Nigerian Women's Experiences of Sexual Abuse and Violence Against Women' (2022) 28(2) 465-486 available at <<https://pubmed.ncbi.nlm.nih.gov/33818214/>> accessed November 13, 2024

¹⁰⁴ Perrin Nancy, Marsh Mendy et al 'Social norms and beliefs about gender based violence scale: a measure for use with gender based violence prevention programs in low-resource and humanitarian settings' *Conflict and Health* (2019) 13(6) available at <<https://conflictandhealth.biomedcentral.com/articles/10.1186/s13031-019-0189-x#citeas>> accessed November 13, 2024

¹⁰⁵ Zakariyya Muhammad Sark 'Perceptions of Forensic Science Compatibility and Validity among Investigating Police Officers in Nigeria: Are they associated with organisational culture?' *International Journal of Social and Economic Research* (2021) 6(2) available at <https://fud.edu.ng/journals/DIJSER/DIJSER_Vol6_July2021/62/Volume%206%20No%202_splitPDF_Page205-211.pdf> accessed 13 November 13 2024.

¹⁰⁶ *ibid.*

right mindset and perspective about forensic evidence and science as a whole, and the efficacy of its roles in sexual abuse cases, both from the side of the victims and the law enforcement agents, Nigeria criminal justice system cannot upgrade from the traditional mode to become better.

5. Prospects for Improved Utilization of Forensic Evidence in Nigeria

5.1 Legislative reforms

A number of legislative changes are required in order to improve the use of forensic evidence in Nigeria's legal system. These changes ought to close the existing legal framework gaps, encourage the use of forensic science in criminal investigations, and guarantee the efficient use of forensic evidence in court. At the moment, Nigeria lacks a comprehensive and specific law governing the admissibility and use of forensic science. The subtleties of forensic evidence are not sufficiently covered by the current Evidence Act, Penal Code, and Criminal Code, ACJA and Police Act. To fill up this space, there should exist a Forensic Evidence Act. The methods for gathering, storing, and presenting forensic evidence in court should be specified in this legislation. It would provide judges and law enforcement officials' precise instructions on how to handle forensic evidence.¹⁰⁷ This is not strange in advanced countries like the US and South Africa which have specific laws guiding the collection of forensic evidence and its mode of admissibility in court. A strong legislative framework that encourages the application of forensic science can be developed by taking inspiration from successful models in nations like the US and South Africa.¹⁰⁸ This was the essence of the brief comparative analysis that was done in previous sub head. Taking a cue at the existing frame work of these countries as regards forensic science and evidence, to serve as a guide to what can be obtainable in Nigeria and this can improve the efficiency and effectiveness of forensic evidence in the country thereby enhancing our criminal justice system. The current standards for admitting forensic evidence in court can be ambiguous and inconsistent. The new law should outline the criteria for admissible forensic evidence, such as relevance, authenticity, dependability, and integrity.¹⁰⁹ The lack of adequate funding and resources is a significant barrier to effective forensic investigations. Legislative measures should include; establishing a budget for forensic science efforts with law enforcement agencies can help to establish well-equipped laboratories.¹¹⁰ Further, by the reason of legislative reforms, legislation should require police officers, prosecutors, and judges to receive training on the importance and application of forensic evidence.¹¹¹ For example, the SAFER ACT of South Africa, explicitly provides that the authorized officer of the South Africa's police force who is qualified to collect bodily samples should be one if not a part of the crime scene investigation, but should have undergone a training from the National Health body.¹¹² Legislative reforms should also prioritize the rights and protection of victims during court proceedings involving forensic evidence. This is to encourage reporting and involvement without fear of shame, laws should guarantee that victims' identities are preserved during trials. Take for example The Canadian Bill of Rights, is a legislative framework which strives to establish a safer atmosphere for victims,

¹⁰⁷ (n 79)

¹⁰⁸ Obamanu G.V 'Ten Legal Issues And Challenges In The Admissibility Of Digital Forensic Evidence In Courts In Nigeria' African Journal 2022(8) available at <file:///C:/Users/MARVEL/Downloads/10+Vol.+8%20(1).pdf accessed 14 November 2024.

¹⁰⁹ (n 77).

¹¹⁰ Brandon Garrett 'The Costs and Benefits of Forensics' *Houston Law Review* (2020) 57(3) 593 available at <https://houstonlawreview.org/article/12197-the-costs-and-benefits-of-forensics accessed November 14, 2024

¹¹¹ National Districts Attorneys Association Forensic Evidence Course (2021) available at https://ndaa.org/training/forensic-evidence-course-2/ 14 November 2024.

but also guarantees that evidence is gathered and processed in a timely manner, lowering the possibility of deterioration.¹¹⁷ However, as earlier stated, this is heavily dependent on factors like financial availability. These infrastructures are projects which costs billions of dollars, the Nigerian government should be readily available to fund projects like this. It should be noted that these equipment and infrastructures are not robots or AI generated but they are to be used by humans, forensic experts, well trained doctors, well-seasoned sexual abuse nurse experts(SANE). It is therefore pertinent to fund training courses on the newest forensic technologies for prosecutors, judges, and law enforcement personnel. Improved training guarantees that staff members are prepared to handle contemporary forensic evidence correctly and comprehend its ramifications in legal contexts.¹¹⁸ Continuous professional development can assist fill knowledge gaps and improve overall investigative methods, for what is the essence of the exorbitant tools if there aren't well trained personnels to handle them professionally? That would seem like pouring water into a basket. Creating more forensic labs across Nigeria would enhance accessibility to forensic services and reduce delays in investigations¹¹⁹ Creating labs is not all that should be done, but also funding them with money and infrastructures. Development of new professionals should be in view also as professionals are huge resources and should not be neglected. To achieve this, forensic science ought to be incorporated into law enforcement and legal studies curricula at higher education institutions.¹²⁰

In conclusion, Nigeria can improve its judicial response to sexual violence by putting modern forensic techniques into practice, setting up mobile labs, offering thorough professional training. In addition to increasing conviction rates, these initiatives will boost public trust in the legal system's capacity to adequately protect victims and administer justice.

5.3 Public Awareness Campaign

Increasing public knowledge of the value of forensic evidence in situations of sexual assault might motivate victims to disclose abuse as soon as possible and seek medical help right away. Many young ladies are ignorant about what to do after a sexual abuse. This is a factor that contributes to the stigma they feel, because if the right professional is sought, there might not be the possibility of stigmatization. Campaigns that educate the public on what to do after an assault—such as avoiding washing or changing clothes—can help preserve critical evidence¹²¹ Additionally, promoting support systems for victims can foster a culture where survivors feel safe to come forward. This campaign whose goal is to eradicate ignorance is not only for victims but also for law enforcement agents like the Nigerian Police. The importance to prioritize forensics over traditional mechanisms, and all these can be achieved by developing educational materials that inform victims about their rights and the steps they should take after an assault and workshops and training sessions for healthcare providers on the importance of forensic evidence and proper collection methods.

5.4 Collaboration with NGOs and International Communities

In situations where the costs of infrastructures are way above the capacity of the country, the Nigeria government ought not to just fold her hands watching the criminal justice system rot

¹¹⁷ *ibid.*

¹¹⁸ (n 115).

¹¹⁹ (n 79).

¹²⁰ (n 77).

¹²¹ Foreign, Commonwealth & Development Office, 'Nigeria: information for victims of rape and sexual assault' (2024) available at <<https://www.gov.uk/government/publications/nigeria-information-for-victims-of-rape-and-sexual-assault/nigeria-information-for-victims-of-rape-and-sexual-assault>> accessed 14 November 2024.

helplessly but reach out to collaborate with non-governmental organizations (NGOs) and international bodies can bring additional resources and expertise to improve forensic practices. These groups frequently have expertise putting effective initiatives into place in other nations, which they may modify for Nigeria. By collaborating with these organizations, training initiatives and funds for essential infrastructure upgrades can be facilitated.¹²² NGOs such as Save the Children and the International Rescue Committee (IRC) can train law enforcement and forensic experts on best procedures for addressing sexual abuse cases. This includes evidence gathering, victim assistance, and trauma-informed care.¹²³ Collaborations with foreign organizations can offer crucial capital and resources for setting up forensic labs and DNA databases, which are vital for enhancing forensic investigations in Nigeria.¹²⁴ International communities are essential in helping victims by offering support services, which in turn encourages them to come forward with reports of sexual abuse and take part in court procedures without fear of repercussions.¹²⁵ Furthermore, by collaborating with NGOs that offer psychological counseling, legal aid, and medical assistance, victims can receive comprehensive support throughout the judicial process. Collaboration with NGOs and international communities holds significant promise for improving the use of forensic evidence in prosecuting sexual abuse cases in Nigeria. Nigeria can develop a stronger framework for combating sexual violence and guaranteeing victims' justice by utilizing the advantages of both domestic groups and foreign partners.

6. Recommendations

As earlier discussed, the forensic system in Nigeria has quite a number of challenges particularly when it comes to the prosecution of sexual abuse cases, and these challenges has been examined. Hence, my recommendations are stated below:

Legislative reform is needed in Nigeria to ensure the clear regulation and admissibility of forensic evidence in court. The lack of defined forensic science laws hinders its use in criminal cases. Learning from other jurisdictions, Nigeria can benefit from legal reforms to enhance forensic techniques and their validity in proceedings.¹²⁶ Nigeria should adopt a Forensic Evidence Act, similar to South Africa's Criminal Forensic framework. This statute should define forensic evidence, types, outline collection and analysis procedures, specify authorized personnels, and establish clear admissibility rules in court to ensure clarity and prevent ambiguity.

It is essential that healthcare workers receive continuous education and training on how to properly gather and handle forensic evidence. It has been noticed that many medical professionals are not well-informed on their roles in caring for rape survivors, which can

¹²² *ibid.*

¹²³ Save the Children available at <https://nigeria.savethechildren.net/news/call-partnership-save-children-international-nigeria> accessed November 15, 2024

¹²⁴ Awofisayo Oladoja & Eseyin Olorunfemi 'Establishment of criminal/profile DNA database and use of forensic intelligence to combat nationwide insecurity issues in Nigeria' *Journal of Biological Research & Biotechnology Bio-Research* (2022) 20(2) 1513-1521 available at <file:///C:/Users/MARVEL/Downloads/ajol-file-journals_181_articles_226012_submission_proof_226012-2161-551115-2-10-20220604.pdf> accessed November 15, 2024.

¹²⁵ Umukoro Elijah et al 'Making the Case for Development of Forensic Science in a Developing Country with Emphasis on Forensic Pharmacology: The Nigerian Perspective' *Journal of Applied Science and Environmental Management* (2024) 28 (7) 2095-2104 available at <https://www.ajol.info/index.php/jasem/article/view/273175> accessed November 15, 2024

¹²⁶ (n 61).

impede successful prosecution.¹²⁷ Rape cases require specialized handling, necessitating expert training for medical professionals. The Nigerian government should mandate compulsory forensic training through certifications at career stages or financial penalties for non-compliance. This ensures proper evidence collection and enhances forensic expertise, using firm measures to drive results.

This education should also be extended to the members of the public as a form of awareness. In order to preserve crucial forensic evidence, community outreach programs can enable victims to report crimes as soon as possible. It has been determined that public awareness campaigns are useful instruments for motivating victims to disclose sexual assaults and seek assistance.¹²⁸ Awareness on sexual assault should be incorporated into secondary and higher education, teaching young girls how to respond and seek help. This topic could be included in subjects like social studies and civic education. Currently, education focuses more on menstrual health, leaving many unaware that immediate medical attention and preserving evidence are crucial steps after an assault. Effective prosecution of rape cases in Nigeria is hindered by inadequate infrastructure and forensic equipment. While the need for forensic labs has been discussed, this research highlights the importance of rape kits for proper evidence collection and preservation, ensuring forensic evidence remains viable for legal proceedings. The lack of rape kits in many Nigerian hospitals raises concerns about the proper preservation of forensic evidence like semen and buccal samples. Clothing items are often stored carelessly, serving only as physical proof rather than forensic evidence. The Ministry of Health should mandate rape kits in all hospitals, not just elite facilities, enforcing compliance through strict measures like license withdrawal or shutdowns for non-compliance. Any healthcare or forensic center unable to use rape kits should not be operational.

Given the high cost of forensic tools and infrastructure, the Nigerian government should collaborate with NGOs and international communities to secure resources and expertise, strengthening the country's forensic system.

The aforementioned suggestions are merely my areas of interest in light of the numerous difficulties and weaknesses that beset Nigeria's forensic system.

7. Conclusion

In conclusion, forensic evidence plays a vital role in the prosecution of sexual abuse cases, as evident in successful cases globally and in very few instances in Nigeria. However, Nigeria's legal framework for forensic evidence is inadequate, lacking specific legislation, infrastructure, and technological advancements. Cultural stigma and limited international collaboration exacerbate these challenges. To address these gaps, enacting specific legislation, investing in infrastructure and technology, and fostering international partnerships to strengthen Nigeria's forensic system, ultimately enhancing the prosecution of sexual abuse cases and delivering justice to victims.

¹²⁷ Olusegun, Badejoko, et al 'Have You Seen A Rape Kit? A Snapshot At The Quality Of Care Of Rape Survivors In Nigerian Tertiary Hospitals' *Tropical Journal of Obstetrics Gynaecology* (2010) 27(2),

¹²⁸n(11)