

THE CONSENT PARADOX: WHY LEGAL REFORM HAS NOT CLOSED THE CONVICTION GAP IN RAPE CASES

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Abstract

Over the past two decades, rape law across common-law jurisdictions has undergone a conceptual shift from a resistance-based model of non-consent toward standards that place the burden of ascertaining genuine agreement on the initiator of sexual contact. Nigeria has participated in this reform wave through the Violence Against Persons (Prohibition) Act 2015 and the Evidence Act 2011, both of which broadened statutory definitions of consent and, in principle, lowered evidentiary barriers to prosecution. Yet conviction rates for rape in Nigeria remain, by most available estimates, among the lowest in the common-law world. This article argues that this is not a coincidence but a structural paradox: definitional reform of consent has outpaced reform of the evidentiary doctrines, institutional capacity, and social attitudes that actually determine whether a reported rape becomes a conviction. Using Nigerian case law on the judicially developed corroboration requirement, the persistence of the marital rape exemption, and the incomplete state-by-state domestication of the VAPP Act, the article traces why the widening of what counts as valid consent on paper has not translated into a narrowing of the gap between reports and convictions in practice. It closes with a set of legislative, institutional, and evidentiary reforms modelled partly on South Africa's statutory abolition of the cautionary rule.

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I. INTRODUCTION

Rape is, in the language of the Nigerian Criminal Code Act, the act of having unlawful carnal knowledge of a woman or girl, without her consent, or with her consent, if the consent is obtained by force or by means of threats or intimidation of any kind, or by fear of harm, or by means of false and fraudulent representation as to the nature of the act, or, in the case of a married woman, by personating her husband.¹ That single sentence, drafted in the early colonial period and substantially unchanged for over a century, has carried the entire conceptual weight of Nigeria's oldest rape statute. It is a definition built around the *absence* or *vitiation* of consent, not around its affirmative presence, closer, in the vocabulary of contemporary consent scholarship, to a "no means no" standard than to the "yes means yes" or affirmative consent standard that has reshaped campus disciplinary codes in the United States since 2014.

Nigeria has not stood still. The Violence Against Persons (Prohibition) Act 2015 ("VAPP Act") redefined rape in gender-neutral terms, expanded the physical acts that qualify as penetration, and explicitly recognised that consent can be vitiated by intoxicating substances and not merely by force or fraud.² The Evidence Act 2011 reformed the law of corroboration generally and entrenched a rule that the testimony of a single credible witness can, in principle, sustain a conviction.³ On paper, these are not trivial reforms. They represent a genuine, decades-

¹Criminal Code Act, Cap C38, Laws of the Federation of Nigeria 2004, s 357.

²Violence Against Persons (Prohibition) Act 2015, ss 1–2.

³Evidence Act 2011, s 200; see also discussion in SabiLaw, 'Rape Prosecution in Nigeria: A Critical Examination of Evidentiary Challenges and the Difficulty of Securing Convictions' (2026).

long campaign by Nigerian feminist legal scholars, civil society coalitions, and international donors to modernise a body of law inherited largely intact from nineteenth-century English criminal codes.

And yet the numbers tell an uncomfortable story. Nigeria's Federal Ministry of Women Affairs recorded 27,698 cases of sexual and gender-based violence between 2020 and 2023, with 1,145 associated fatalities.⁴ A separate study reported that of reported rape cases, only about fifty-three per cent resulted in the apprehension of a suspect, and a mere one per cent culminated in conviction.⁵ One human rights lawyer has been quoted stating that only eighteen rape convictions had been legally recorded in Nigeria over an extended period against a backdrop of thousands of reported cases.⁶ Whatever the precise figure, the direction of the evidence is unambiguous: Nigeria's statutory consent framework has been broadened, but its conviction rate has not correspondingly improved.

This article calls that gap the *consent paradox*: the phenomenon by which legislative expansion of what counts as valid, vitiated, or absent consent fails to close — and in some respects may even obscure, the deeper evidentiary, institutional, and doctrinal obstacles that determine whether a rape prosecution succeeds. The argument proceeds in seven further parts. Part 2 traces the conceptual evolution of consent from a resistance-based standard to affirmative consent; maps the fragmented

⁴Federal Ministry of Women Affairs data cited in Ameh Ochojila, 'How Cultural, Procedural Snags Impede Rape Victims' Access to Justice' *The Guardian* (Nigeria, 6 August 2024).

⁵*ibid*, citing findings reported by Anthony Ojukwu on law enforcement response to SGBV cases in Nigeria.

⁶Evans Ufeli, quoted in 'Why the Conviction of Rapists in Nigeria Has Remained Atrociously Low' *Global Voices* (8 March 2023). This figure should be treated as an illustrative estimate rather than an official statistic, given the absence of a centralised national database of rape convictions in Nigeria.

statutory architecture of Nigerian rape law; examines the specific 2011 and 2015 reforms as Nigeria's own, more modest version of affirmative consent reform; and presents the available evidence of the conviction gap. Part 3 — the analytical core of the article, traces the judicially developed corroboration doctrine through a chain of Nigerian cases to show how a rule with no clear statutory basis for the offence of rape under the Criminal Code has nonetheless functioned as a *de facto* evidentiary barrier; examines the marital rape exemption and the incomplete domestication of the VAPP Act as further causes. Part 4 considers institutional and cultural causes beyond the statute book. Part 5 draws comparative lessons from the United States and South Africa. Part 6 proposes reforms, and Part 7 concludes.

2. THEORETICAL PERSPECTIVES:

2.1 What Causes Rape, and Why Law Matters to the Answer

Before turning to the doctrinal argument, it is worth situating the discussion within the broader scholarly debate about the causes of rape, since the legal analysis that follows is best understood as one strand of that larger inquiry rather than a substitute for it. Criminological and feminist scholarship has generally converged on four overlapping explanatory frameworks, none of which is fully sufficient on its own, and each of which has distinct implications for how the law ought to respond.

The first, and historically most influential, is the *feminist power-and-control framework*, associated with scholars such as Susan Brownmiller, which locates the roots of sexual violence not in individual sexual deprivation but in structural inequality between the sexes, rape functions, on this account, as a mechanism through which male dominance is enforced and female autonomy is constrained, regardless of whether any individual perpetrator consciously intends that effect. This framework explains why legal reform focused

narrowly on individual offenders — harsher sentences, for instance, has historically done little to reduce prevalence: if the causal driver is structural, the remedy must also be structural, reaching institutions (including the courts themselves) that reproduce unequal treatment of male and female accounts of the same event.

The second is the *rape myth acceptance framework*, developed extensively in social psychology, which identifies a cluster of false but widely held beliefs, that "real" rape involves a stranger and visible violence, that women who dress or behave in certain ways invite assault, that false accusations are common, as an independent causal factor, because these beliefs shape not only offender behaviour but also how police, prosecutors, judges, and juries evaluate credibility. This framework is directly relevant to the Nigerian material examined later in this article: the persistence of judicially mandated corroboration, and the specific refusal by some investigators to accept that a boy can be raped at all, are textbook instances of rape myths operating inside the legal system itself rather than merely in the surrounding culture.

The third is the *routine activity and situational framework*, drawn from mainstream criminology, which explains variation in the incidence of rape by reference to opportunity structures, the convergence of a motivated offender, a suitable target, and the absence of a capable guardian and which underlies policy interventions such as improved street lighting, campus security, and workplace safeguarding. This framework is agnostic as to underlying motive and focuses instead on reducing opportunity, but it has been criticised for risking a slide into victim-focused prevention advice that implicitly shifts responsibility away from perpetrators.

The fourth is the *impunity or deterrence framework*, which treats the persistently low probability of arrest, prosecution, and conviction as itself a causal driver of continued offending, on the ordinary criminological logic that perceived impunity lowers the expected cost of an offence and thereby increases its incidence. It is this fourth framework that supplies the clearest bridge between criminological causation and legal doctrine, and it is the framework this article adopts as its organising premise: if the near-total absence of conviction, documented in Part 2 below, itself operates as a cause of continued sexual violence against women in Nigeria, then the doctrinal and institutional failures that produce that impunity are not merely a downstream symptom of the problem but a significant part of its cause. Understood this way, asking why affirmative-consent-style reforms have not closed Nigeria's conviction gap is not a narrow procedural question; it is a direct inquiry into one of the causal engines of the very violence the reforms were meant to prevent.

2.2. The Meaning of Consent: From Resistance to Affirmative Agreement

2.2.1. The Resistance-Based Model

Historically, common-law rape doctrine and the Nigerian statutes derived from it, treated consent as the *default state* of any sexual encounter, displaced only where the prosecution could show that the complainant had communicated non-consent, typically through physical resistance, verbal refusal, or circumstances (unconsciousness, force, fraud) that made resistance impossible or meaningless. This is what is generally described as a "no means no" model: silence, passivity, or the mere absence of a clear "yes" was not, by itself, evidence of non-consent. The complainant bore an implicit burden of demonstrating that she had resisted, or would have resisted but for force, fear, or incapacity.

This model has attracted sustained feminist and doctrinal criticism because it is poorly suited to the realities of sexual violence, in which many victims freeze rather than fight, comply out of fear of escalation, or are incapacitated by alcohol, drugs, age, or disability in ways that leave no evidence of active resistance. Nigerian courts have long grappled with variants of this problem. In one frequently cited line of authority, the courts have held that consent obtained "because of exhaustion after persistent struggle and resistance would appear to be no consent"⁷, a formulation that concedes the inadequacy of a pure resistance standard even as it continues to organise doctrine around resistance as the evidentiary proxy for non-consent.

2.2.2. The Rise of Affirmative Consent

The alternative model, affirmative, or "yes means yes", consent inverts this default. Rather than treating consent as present unless refused, it treats the absence of an affirmative, conscious, and voluntary agreement as equivalent to non-consent. The clearest statutory expression of this model is California's Senate Bill 967, signed into law in 2014, which required California's publicly funded colleges and universities to evaluate sexual misconduct allegations under a standard defining affirmative consent as "affirmative, conscious, and voluntary agreement to engage in sexual activity"⁸, explicitly providing that lack of protest, resistance, or silence does not constitute consent, and that consent must be ongoing and may be revoked at any time.

Crucially, SB 967 operated in the campus disciplinary context, not the criminal courtroom, and it shifted an evidentiary burden onto the

⁷See discussion in Learn Nigerian Law, 'Rape' (case commentary summarising the English authority *DPP v Morgan* [1976] AC 182 and its reception in Nigerian criminal law practice).

⁸California Education Code § 67386, enacted by Senate Bill 967 (2014). See also 'Yes Means Yes: California Adopts Affirmative Consent Standard' *Our Bodies Ourselves* (18 March 2024).

respondent to show that he had taken reasonable steps to ascertain consent.⁹ Even within its narrow institutional scope, the reform proved controversial: critics argued that it created a vaguely defined disciplinary offence and effectively required the accused to prove his innocence, while supporters argued that it corrected a system that had for decades placed the burden of proving resistance on complainants.¹⁰ Then-Governor Jerry Brown later vetoed a bill that would have extended affirmative consent beyond the campus context into the broader criminal law of the state, citing due process concerns.¹¹ This detail matters for the Nigerian comparison developed later in this article: even in the jurisdiction most closely associated with affirmative consent, legislators drew a sharp distinction between a disciplinary standard applicable within a university and a full criminal law standard applicable to the general population.

England and Wales adopted a related but distinct formulation in the *Sexual Offences Act 2003*, which defines consent as agreement made by choice, by a person with the freedom and capacity to make that choice, a standard narrower than full affirmative consent but broader than a pure resistance test, since it asks whether genuine freedom of choice existed rather than whether the complainant resisted. It is against this comparative backdrop, a spectrum running from resistance-based non-consent, through capacity-and-freedom-based consent, to fully affirmative consent — that Nigeria's own statutory reforms must be situated.

2.3. The Statutory Architecture of Rape Law in Nigeria

⁹CNN, 'California SB 967 Makes "Affirmative Consent" Law' (29 September 2014); see also critique in Cathy Young, 'Affirmative Consent in California: The Problem with "Yes Means Yes"' *TIME* (2026 reprint of 2014 analysis).

¹⁰*ibid.*

¹¹Lewis and Llewellyn, 'Affirmative Consent: California's Law for College Campuses' (22 October 2025).

Nigeria does not have a single, unified law of rape. It has at least four overlapping regimes, whose applicability depends on geography, the age of the victim, and the year in which a given state's legislature acted (or failed to act).

2.3.1. The Criminal Code Act (Southern Nigeria)

Applicable across the southern states, the Criminal Code Act defines rape in section 357 as unlawful carnal knowledge of a woman or girl without her consent, or with consent vitiated by force, threats, intimidation, fear of harm, fraud as to the nature of the act, or impersonation of the complainant's husband.¹² Section 358 prescribes life imprisonment, with or without caning, on conviction, and section 359 fixes attempted rape at fourteen years' imprisonment.¹³ Notably, the offence is drafted so as to apply, on its face, only to female complainants, the Criminal Code, unlike the VAPP Act, has generally been interpreted as recognising only women and girls as capable of being raped, a limitation that has attracted its own criticism given the documented existence of male sexual violence victims in Nigeria.¹⁴

2.3.2. The Penal Code Act (Northern Nigeria)

In the northern states, the Penal Code Act governs. Section 282 defines rape as sexual intercourse with a woman against her will, or without her consent, or where consent is obtained through fear of death or injury, or through impersonation of a lawful husband; it also affords blanket protection, irrespective of purported consent, to girls below fourteen years of age and to persons of unsound mind. Sections 282 and 283 prescribe life imprisonment.¹⁵ Critically, section 282(2) of the

¹²Criminal Code Act, s 357.

¹³ibid, ss 358–359; see also PM News, 'Understanding Nigerian Rape Laws — Why Enforcement, Justice Have Gaps' (26 July 2026).

¹⁴LawPàdí, 'Laws on Rape: What Every Nigerian Should Know' (23 July 2025).

¹⁵Penal Code Act (applicable in Northern Nigeria), ss 282–283; see also PM News (n 15).

Penal Code contains an explicit carve-out: sexual intercourse by a man with his own wife is not rape if the wife has attained puberty, the clearest statutory marital rape exemption in Nigerian law, discussed further in Part 3 below.

2.3.3. The Violence Against Persons (Prohibition) Act 2015

The VAPP Act represents the most significant modern reform. Section 1 defines rape as the intentional penetration of the vagina, anus, or mouth of another person with any part of the body or any object, without consent or where consent is improperly obtained, including through force, threats, fraudulent misrepresentation, the administration of intoxicating substances, or impersonation of a spouse.¹⁶ Section 2 prescribes life imprisonment, with a maximum of fourteen years for offenders below the age of fourteen.¹⁷ Unlike the Criminal Code and Penal Code, the VAPP Act is gender-neutral in its definition of both victim and offender, and it was the first Nigerian statute to formally recognise that men and boys can be raped.¹⁸ Complementary provisions criminalise emotional, verbal, and psychological abuse (section 14) and read alongside the Cybercrimes (Prohibition, Prevention, etc.) Act 2015 prohibit the harassment and secondary victimisation of survivors through cyberstalking, with section 24 of that Act prescribing up to three years' imprisonment or a fine of up to ₦7,000,000.¹⁹

The catch is jurisdictional. By section 47, the VAPP Act applies automatically only within the Federal Capital Territory; elsewhere, it

¹⁶VAPP Act, s 1; see also News Agency of Nigeria, 'Understanding Nigerian Rape Laws — Why Enforcement, Justice Have Gaps' (2026).

¹⁷VAPP Act, s 2.

¹⁸Global Citizen, 'Everything You Need to Know About the Law That Could Reduce Gender-Based Violence in Nigeria' (27 August 2021).

¹⁹News Agency of Nigeria (n 18), summarising remarks of legal commentator Dike on the Cybercrimes Act and VAPP Act protections for survivors.

takes effect only once a state's House of Assembly has separately enacted ("domesticated") it.²⁰ This constitutional design, a consequence of criminal law and procedure falling substantially within concurrent or residual state competence under the 1999 Constitution means that the more protective consent standard exists, in practical terms, only in those states that have chosen to adopt it, and that its scope has expanded gradually and unevenly since 2015, a point developed further in Part 3.4.

2.3.4. State Laws and the Child Rights Act

Lagos State enacted its own Criminal Law in 2011 in advance of the federal VAPP Act, defining rape in gender-specific terms under section 260 and prescribing life imprisonment, with section 137 separately criminalising sexual intercourse with a child as a felony carrying the same maximum penalty.²¹ The federal Child Rights Act 2003 supplies a further, largely strict-liability layer of protection for complainants under eighteen, and again only where domesticated by a state contains ancillary protections in sections 2, 3, and 41–44 against the identification, victim-blaming, or sexualised depiction of child survivors in the media.²² The cumulative effect is a genuinely fragmented statute book: whether a given act of non-consensual penetration is prosecutable, how consent is defined, what penalty applies, and what evidentiary protections a survivor enjoys can all differ depending on which side of a state boundary the offence occurred.

It is worth making explicit what this fragmentation means for a practising lawyer, and for the client sitting across the desk. Advising a

²⁰VAPP Act, s 47; Rape is a Crime, 'Laws Impacting Sexual Violence in Nigeria' (portal resource).

²¹Criminal Law of Lagos State 2011, ss 137, 260; see also 'Illumination on Rape and Other Sexual Offences in Nigeria' (12 December 2016).

²²Child Rights Act, ss 2, 3, 41–44; see also News Agency of Nigeria (n 18).

complainant in Lagos, Kano, and the FCT on the same set of underlying facts, say, non-consensual anal penetration of an adult male by an acquaintance who had earlier administered an intoxicating substance can require three entirely different legal analyses. Under the Criminal Code as traditionally interpreted, the complainant, being male, may fall outside the statutory definition of a rape victim altogether, leaving at most a lesser sexual-assault charge. Under the Penal Code, a broadly analogous gap exists. Only under the VAPP Act and then only in the FCT or in a state that has domesticated it, does the same set of facts squarely fit the statutory definition of rape, carrying the correspondingly higher stigma, evidentiary framework, and maximum penalty of life imprisonment. A single, coherent national definition of consent and of the offence it protects is therefore not a mere drafting nicety; it is a precondition for the VAPP Act's reforms to mean the same thing for every Nigerian, regardless of the state in which the offence against them occurred.

2.4. Nigeria's Own Consent Reform: Broadening the Definition Without Fully Adopting Affirmative Consent

It would be a mistake to read the VAPP Act and the Evidence Act as importing a full affirmative consent standard into Nigerian law. Neither statute requires the prosecution, still less the accused, to demonstrate that the complainant gave an active, ongoing, verbal or otherwise unambiguous "yes". Both remain, in structure, vitiated-consent statutes: they ask whether consent was absent or improperly obtained, not whether it was affirmatively given. In that sense, Nigerian rape law after 2015 sits closer to the middle of the consent spectrum described in Part 2.2 closer to the English "freedom and capacity to choose" formulation than to California's SB 967 model, even though the reforms are frequently described in Nigerian legal commentary as progressive and far-reaching.

What the VAPP Act does accomplish is a considerable widening of what counts as vitiating. Where the 1904-derived Criminal Code recognised only force, threats, fear, fraud as to the nature of the act, and impersonation of a husband as grounds vitiating consent, the VAPP Act adds the administration of intoxicating substances and expands the definition of the prohibited act itself beyond penile-vaginal penetration to include anal and oral penetration by any body part or object.²³ This is a meaningful doctrinal advance: it captures forms of sexual violence, drug-facilitated assault, non-penile penetration, male victimisation, that fell outside the reach of the Criminal Code and Penal Code entirely.

The Evidence Act 2011 made a parallel, procedural contribution. Sections 218, 221, 223, and 224 of the Criminal Code list a narrow category of offences for which the old Evidence Act required corroboration as a matter of law; rape under section 357 was never among them.²⁴ The 2011 Act reformed the general corroboration framework and did not reinstate any general common-law mandatory corroboration warning, while section 200 restated the general principle that the evidence of a single credible witness may in principle found a conviction.²⁵ Taken together with the VAPP Act's express recognition, in states where it applies, that a conviction for sexual offences can rest on the complainant's evidence without mandatory corroboration, the legislative direction after 2011 is unmistakably toward reducing the evidentiary premium historically placed on independent corroboration of a rape complainant's testimony.²⁶

²³VAPP Act, s 1; compare Criminal Code Act, s 357.

²⁴See Ewulum Ifechukwu, 'The Requirement of Corroboration on the Offence of Rape and Other Sexual Offences: A Revisit to the Nigerian Juridical Position' *The Nigeria Lawyer* (4 May 2020).

²⁵Evidence Act, s 200; commentary in LearningTheLaw, 'Corroboration in Nigerian Evidence Law: When One Witness Is Not Enough' (31 May 2026).

²⁶LearningTheLaw (n 27).

It is worth pausing on why this legislative direction matters even short of full affirmative consent. A regime that dispenses with mandatory corroboration does not ask the accused to prove that consent was given; it simply removes an artificial evidentiary floor that had, in practice, made a complainant's own credible testimony insufficient on its own to establish guilt, notwithstanding that the ordinary criminal law of Nigeria, as in most common-law systems, generally permits a conviction to rest on the evidence of a single credible witness. Understood this way, the VAPP Act and section 200 of the Evidence Act are best read not as importing an American-style affirmative consent standard, but as attempting to restore rape prosecutions to the same evidentiary footing as ordinary criminal trials, from which judicially developed practice had, over the preceding century, quietly displaced them.

This is Nigeria's version of an affirmative-consent-adjacent reform: not a shift to requiring proof of a "yes", but a shift toward believing a credible complainant's account of the absence of one. The remainder of this article asks why that legislative shift has not produced a corresponding shift in conviction outcomes and the first and most important answer lies not in the statute book at all, but in judicial practice that has proved remarkably resistant to it.

3. CONVICTION GAP IN RAPE CASES:

3.1 Measuring the Gap: Reports, Prosecutions, and Convictions

Nigeria lacks a single, centralised, and consistently updated national database tracking rape reports through to final disposition, which is itself symptomatic of the institutional weaknesses examined in Part 4. The available figures are drawn from a mix of United Nations estimates, federal ministry data, state police commands, and academic or civil-society studies, and they should be read as indicative rather

than precise. Even so, taken together they describe an unmistakable funnel.

The United Nations recorded approximately 11,200 reported rape cases in Nigeria in 2020.²⁷ Nigeria's Federal Ministry of Women Affairs subsequently reported 27,698 cases of sexual and gender-based violence between 2020 and 2023 nationally, with 1,145 associated deaths, figures disclosed at a 2024 workshop in Umuahia.²⁸ At the state level, Lagos State's police command documented 111 sexual assault cases between April and June 2023 alone, illustrating how concentrated urban reporting can be relative to the low national conviction figures.²⁹

Of the cases that are reported, the evidence suggests that only a minority result in the arrest of a suspect, and a much smaller minority still in conviction. One study reported that fifty-three per cent of alleged perpetrators were apprehended, but that only about one per cent of cases culminated in a conviction.³⁰ Separately, a human rights lawyer has stated publicly that only eighteen rape convictions have ever been formally recorded in Nigeria, a figure repeated in reporting on the near-total impunity enjoyed by perpetrators of sexual violence against both women and even more acutely, given cultural taboos around male victimisation — men and boys.³¹ Whatever margin of error attaches to any single figure, the consistent finding across independent sources is that conviction is the exception, not the norm, for reported rape in Nigeria.

²⁷United Nations data cited in 'The Reality of Rape Prosecution in Nigeria' *RPUBLIC* (7 November 2023).

²⁸Federal Ministry of Women Affairs data (n 6).

²⁹*ibid.*

³⁰Study findings reported in Ochojila (n 6).

³¹Global Voices (n 8).

This is not merely a Nigerian phenomenon, attrition between report and conviction is a well-documented feature of rape prosecutions worldwide. In India, for example, the national conviction rate for rape stood at approximately 32.2 per cent in 2017, itself considered alarmingly low by Indian commentators and campaigners.³² In Northern Ireland, by contrast, of the eighty-six defendants dealt with in the Crown Court for rape in the 2023/24 financial year, sixty-two point eight per cent were convicted, a figure achieved, however, only after a rigorous pre-trial evidential and public-interest screening process in which the great majority of cases that failed to proceed did so because they did not pass the evidential test at the charging stage.³³ The comparison is instructive: even in a well-resourced common-law system with a formal, structured prosecutorial screening process, most attrition occurs *before* trial, at the evidential-sufficiency stage, precisely the stage at which Nigeria's institutional weaknesses, discussed in Part 4, are most acute.

3.2 Why the Gap Persists: The Judicial Corroboration Doctrine

The single most important cause of the consent paradox in Nigeria is not statutory but doctrinal: a judicially developed, rather than legislatively mandated, requirement that a rape complainant's testimony be corroborated before a conviction can safely be entered. This doctrine predates, survives, and on the weight of the case law has substantially outlasted the reformist thrust of the Evidence Act 2011.

3.2.1. The Statutory Baseline

Section 179(5) of the old Evidence Act (and its successor provisions) mandated corroboration as a matter of law only for a narrow list of

³²National Crime Records Bureau figures discussed in 'Low Rape Convictions Alarming' *Deccan Herald*.

³³Public Prosecution Service for Northern Ireland, *Statistical Publication: Cases Involving Sexual Offences 2023–24*.

offences under sections 218, 221, 223, and 224 of the Criminal Code - indecent treatment of children, defilement, and related offences but rape under section 357 was never one of them.³⁴ As the Court of Appeal explained in *Sunday Jegede v The State*, it is not, strictly, a rule of law that a rape conviction cannot rest on the uncorroborated evidence of the complainant.³⁵ In the Penal Code jurisdictions of northern Nigeria, however, courts have more consistently treated corroboration as a requirement under section 178(5) of the Evidence Act read together with section 282(1)(e) of the Penal Code.³⁶

3.2.2. The Case Law: A Practice That Hardened into a De Facto Rule

Despite this formal position, the Supreme Court's own language across a sequence of decisions has repeatedly reinforced corroboration as an operative practical requirement. In *Sambo v State*,³⁷ the Supreme Court held that before the prosecution can secure a conviction for rape, the evidence of the prosecutrix must be corroborated in some material particular showing both that sexual intercourse took place and that it occurred without her consent, and further specified that qualifying corroborative evidence must be cogent, compelling, and unequivocal; must be independent of the complainant's own account; and must implicate the accused specifically in the offence charged. That three-part test — cogency, independence, and implication of the accused has been repeatedly cited by subsequent courts as the operative standard,

³⁴See *Sunday Jegede v State* (2000) LPELR-8163 (CA) 10–13, analysing the interaction between the Criminal Code offence of rape (ss 357–358) and the corroboration requirement under s 179(5) of the Evidence Act, which the Court of Appeal held applies by law only to the offences listed in ss 218, 221, 223 and 224.

³⁵*ibid.*

³⁶*CPL Isah Ahmed v Nigerian Army* (2010) JELR 47, (2011) 1 NWLR 89, citing *Ogunbayo v State* (2007) 8 NWLR (Pt 1035) 157; *State v Ojo* (1980) 2 NCR 391; and *Jegede v State* (n 40).

³⁷(1993) 6 NWLR (Pt 300) 399; summarised in Businessday NG, 'Rape Under Nigeria Law' (3 July 2019).

functioning, in practice if not in strict legal theory, as a mandatory corroboration rule for rape.

In *Jegade v State* itself, the accused, a schoolteacher, was convicted at trial of raping his pupil and sentenced to five years' imprisonment; the Court of Appeal reduced this to attempted rape for want of adequate corroboration of penetration, and the Supreme Court was asked to determine, among other things, whether the lower courts had correctly required or dispensed with corroboration of the complainant's account of an attempted rape.³⁸ The case illustrates a recurring evidentiary problem: where the complainant, often a minor, did not raise an immediate alarm and only reported the offence later to a parent or guardian, courts have had to determine whether that delayed complaint can itself qualify as, or substitute for, corroboration, a question on which Nigerian courts have not spoken with one voice.³⁹

In *Oludotun Ogunbayo v The State*, the Supreme Court clarified an important point of medical evidence: proof of rupture of the hymen is not necessary to establish rape, and even slight penetration, falling short of any injury is sufficient to constitute the offence, since the Criminal Code does not require proof of "emission".⁴⁰ Even as it relaxed the physical threshold of penetration, however, the Court in the same breath held that the complainant's evidence in that case was "adequately corroborated by the available evidence as required in practice"⁴¹. Language that treats corroboration as an established practical requirement even while formally disclaiming that it is a strict rule of law. This is the doctrinal sleight of hand that runs through the

³⁸*Jegade v State* (2001) 1 NWLR (Pt 695) 623; (2001) 7 SCNJ 135.

³⁹*ibid*; see also discussion of the 'recent complaint' doctrine in *Businessday NG* (n 39).

⁴⁰*Ogunbayo v State* (n 38), applying *R v Marsden* (1891) 2 QB 149 and *R v Hughes* (Mood) 190.

⁴¹*ibid* 179 (SC).

entire line of authority: courts routinely state that corroboration is not, technically, a rule of law, and then proceed to analyse whether the corroboration requirement has, in fact, been satisfied.

Later decisions confirm that this is not an aberration. In *Isa v Kano State*,⁴² the Supreme Court treated the accused's own confessional statement, read together with medical exhibits, as sufficient corroboration of penetration, citing *Jegede* for the proposition that whether the complainant is a minor or an adult, there must first be proof of penetration linked specifically to the accused. In *Kazeem Popoola v State*,⁴³ the Court of Appeal reaffirmed, citing both *Sambo* and *Edet Okon Iko v The State*⁴⁴ that corroboration is required to support a rape conviction, while noting that the nature of corroborating evidence needed will vary with the facts of each case. In that instance, whether the extra-judicial confession of an accused later pleading insanity could itself amount to corroboration. And in *Posu v State*,⁴⁵ frequently cited for its authoritative statement of the ingredients of the offence of rape, the Supreme Court's framework has itself been read by subsequent courts and commentators as folding a corroboration requirement into the elements the prosecution must establish beyond reasonable doubt.

The case of *Edet Okon Iko v The State*⁴⁶ is worth dwelling on at some length, because it illustrates both the flexibility and the danger of a corroboration doctrine that lacks a fixed statutory content. The

⁴²(SC.35/2013) [2016] NGSC 61 (28 January 2016).

⁴³*Kazeem Popoola v State* (2013) 17 NWLR (Pt 1383) 96.

⁴⁴Both reported in (1993) 6 NWLR (Pt 300) 399 and (2001) 7 SC (Pt II) 115 respectively.

⁴⁵(2011) 2 NWLR (Pt 1234) 393; see application in ThisDayLive, 'Whether Corroboration of Evidence Is an Essential Requirement in a Charge of Rape' (9 June 2020).

⁴⁶(2001) LLJR-SC (LawGlobal Hub); (2001) 14 NWLR (Pt 732) 221.

appellant had been convicted at the Uyo High Court and sentenced to seven years' imprisonment with hard labour, and his conviction was upheld by the Court of Appeal in Calabar. On further appeal, the Supreme Court held consistently with the general trend traced above that it is not a rule of law that an accused cannot be convicted of rape on the uncorroborated evidence of the prosecutrix, but reaffirmed the well-settled practice that it is unsafe to convict without such corroboration.⁴⁷ Crucially, however, the Court went on to quash the conviction, holding that the trial judge had treated certain evidence as corroboration when, properly analysed, it did not amount to corroboration at all, reasoning that to instruct a jury or, in a judge-alone trial, to reason internally, that non-corroborative evidence is corroboration "may have a more unfortunate result than the omission of any warning on the matter".⁴⁸ *Iko* therefore stands for a doubly demanding proposition: not only must corroboration in practice be found, but an appellate court will overturn a conviction where the trial court's characterisation of particular evidence as corroborative was itself mistaken, raising, for defence counsel, an additional and reliably available ground of appeal in virtually any rape conviction resting on circumstantial or medical evidence open to more than one characterisation. A comparable outcome is recorded in *Upahar v State*,⁴⁹ frequently cited alongside *Iko* in the same line of authority on the elements of corroborative evidence required to sustain a rape conviction.

3.3. Why the Doctrine Survived the Evidence Act 2011

The persistence of judicially mandated corroboration after 2011 is not simply judicial conservatism; it reflects the absence of any provision

⁴⁷Businessday NG (n 39), discussing *Iko v State* (n 48).

⁴⁸*Iko v State* (n 48), per Iguh JSC, concurring with the leading judgment of Kalgo JSC.

⁴⁹(2003) 6 NWLR (Pt 816) 230; see Businessday NG (n 39) and 'Illumination on Rape and Other Sexual Offences in Nigeria' (n 23).

in the Evidence Act expressly abolishing the common-law-derived corroboration warning for sexual offences generally, as distinct from the narrow statutory corroboration requirement for the specific Criminal Code offences listed in sections 218, 221, 223, and 224. One recent analysis notes that the 2011 Act's general reform of the corroboration framework, and its silence on reinstating any mandatory warning, has created the legislative space to move away from the older practice but space is not the same as a directive, and Nigerian appellate courts, bound by a dense thicket of pre-2011 Supreme Court precedent applying corroboration to rape as a matter of settled practice, have shown no consistent inclination to use that space.⁵⁰ The VAPP Act's express dispensation from mandatory corroboration applies only within its own limited jurisdictional footprint, the FCT and the states that have domesticated it, leaving the older corroboration practice fully intact in Criminal Code and Penal Code prosecutions elsewhere in the country.

The practical effect is severe, because rape is structurally a private-scene offence: it is rarely witnessed by a third party, and the most obvious source of "independent" evidence, medical examination, depends on prompt reporting, accessible forensic facilities, and a functioning chain of custody, all of which, as discussed in Part 4, are frequently unavailable to Nigerian complainants, particularly outside major urban centres. A doctrine that requires cogent, independent, accused-implicating corroboration in a crime that by its nature produces little such evidence functions, whatever its formal legal status, as a substantial structural barrier to conviction, precisely the barrier that the VAPP Act and the Evidence Act 2011 were designed, in their limited domains, to dismantle.

⁵⁰Learning The Law (n 27).

3.4. Why the Gap Persists: The Marital Rape Exemption

A second, distinct cause lies in the persistence of the marital rape exemption. Section 282(2) of the Penal Code expressly excludes from the definition of rape sexual intercourse by a man with his own wife, provided she has attained puberty; the Criminal Code, while not containing an identically worded provision, has been interpreted in line with the old English common-law position illustrated by the authority of *R v Miller* that a husband cannot be convicted of raping his wife so long as a valid, subsisting marriage exists, though he may in principle be liable for assault if he uses violence to compel intercourse.⁵¹

Nigerian legal scholarship has been forcefully critical of this position for over a decade. Ifemeje has characterised the effective legalisation of marital rape in Nigeria as a gross violation of women's health and reproductive rights, arguing that a rule which presumes irrevocable, blanket consent within marriage cannot be reconciled with a constitutional order that protects the dignity of the human person.⁵² Scholars examining the origins of the exemption trace it to the same colonial-era codification that produced the Criminal Code and Penal Code more broadly, arguing that these instruments imported and entrenched patriarchal assumptions, including the fiction of implied, irrevocable marital consent that had already begun to erode in the jurisdictions from which Nigeria's codes were drawn.⁵³

⁵¹'Illumination on Rape and Other Sexual Offences in Nigeria' (n 23), citing *R v Miller* and the position under s 282(2) of the Penal Code; see also 'Sentencing Rape Offenders in Nigeria' (May 2021) 11, noting that a husband may be convicted of assault, though not rape, where he uses force to assert conjugal rights against his wife who has attained puberty.

⁵²S C Ifemeje, 'Legalisation of Marital Rape in Nigeria: A Gross Violation of Women's Health and Reproductive Rights' (2011) 33(1) *Journal of Social Welfare and Family Law* 39.

⁵³See discussion of Jaiyeola and Isaac's analysis of patriarchal, colonial-era statutory origins in RSIS International, 'The VAPP Law as a Game Changer for Women's Rights' (13 November 2025).

Critically, the VAPP Act does not resolve this problem so much as sidestep it. Its own definition of rape is framed around consent generally and does not expressly abolish the marital exemption found in the Penal Code, nor does it clearly displace the common-law position applied under the Criminal Code, leaving the exemption's status outside the narrow states and contexts where it has been directly addressed genuinely unsettled. The consequence is a second paradox nested within the first: a reform statute celebrated for broadening the definition of consent leaves untouched the one relationship in which Nigerian law has historically presumed consent to be permanent and irrevocable. Because marital rape by definition occurs within a household, it also compounds the corroboration problem examined in Part VI: independent witnesses are even less likely to exist, and complainants face additional social and economic pressure from extended family, religious institutions, and financial dependency not to report, let alone pursue, a prosecution against a spouse.

3.5. Why the Gap Persists: Fragmented Domestication of the VAPP Act

The VAPP Act's most protective features — its gender-neutral, broadened definition of rape; its recognition of intoxication as vitiating consent; its dispensation from mandatory corroboration — exist as binding law only in the Federal Capital Territory and in states that have separately enacted the Act (or an equivalent) through their own Houses of Assembly, pursuant to the constitutional requirement that federal legislation of this kind be domesticated at state level to take local effect.⁵⁴ Progress has been real but slow and uneven. By 2020,

⁵⁴VAPP Act, s 47; on the underlying constitutional requirement, see Westminster Foundation for Democracy, *The Impact of the Violence Against Persons (Prohibition) Act and Related Laws in Nigeria* (Report), discussing s 12 of the Constitution of the Federal Republic of Nigeria 1999 (as amended).

only seven states — Ebonyi, Edo, Ekiti, Enugu, Kaduna, Kwara, and Ogun had domesticated the Act; by March 2021 the number had risen to fifteen.⁵⁵ By 2021, eighteen states had adopted it.⁵⁶ By late 2022, a tracker maintained by Partners West Africa Nigeria recorded twenty-nine states as having passed and domesticated the law, with Kano, Katsina, and Zamfara yet to pass the bill, and Taraba, Rivers, and Gombe awaiting gubernatorial assent.⁵⁷ By mid-2024, reporting indicated that Borno and Taraba had newly domesticated the Act, leaving only Gombe, Zamfara, and Kano without a comprehensive law against gender-based violence even though national survey data at the time put the incidence of rape at sixty-five per cent for women and ten per cent for men.⁵⁸

That same 2024 reporting also documents a countervailing legislative threat: on 9 July 2024, a bill to repeal and re-enact the VAPP Act passed its second reading in the National Assembly, sponsored on the stated ground that the existing Act contains provisions "inimical to the realization of its objectives"⁵⁹. A development that women's rights advocates and survivors' organisations have characterised as a serious threat to roll back protections that took nearly a decade to secure even partial national coverage.⁶⁰ Whatever the eventual fate of that bill, its very introduction illustrates how fragile and politically contested even the modest, definitional consent reforms embodied in the VAPP Act remain within Nigeria's federal structure. The upshot for the consent paradox is straightforward: a Nigerian woman's practical legal

⁵⁵Westminster Foundation for Democracy (n 56).

⁵⁶Global Citizen (n 20).

⁵⁷'Domesticate VAPP Act, Group Urges Governors' *Punch* (12 November 2022), citing the VAPP Tracker maintained by Partners West Africa Nigeria.

⁵⁸The Republic, 'What the VAPP Act Repeal Means to Women, Activists and Survivors' (17 March 2025).

⁵⁹Statement of Senator Jibrin Isah, National Assembly (July 2024), quoted in The Republic (n 60).

⁶⁰*ibid.*

protection against rape, the definition of consent she is entitled to rely on, the corroboration standard she must meet, and the penalties her assailant faces still depends materially on which state she happens to be in, seven years and more after the reform was first enacted at the federal level. A statute's formal existence on the federal law reports is, in this sense, a necessary but insufficient condition for reform: until a state legislature acts, the VAPP Act's more protective definition of consent is, for a complainant within that state's borders, no more than a persuasive academic reference rather than a source of binding law she can invoke.

4. INSTITUTIONAL AND SOCIETAL CAUSES BEYOND THE STATUTE BOOK

4.1. Investigative and Forensic Capacity

Even where the applicable statute imposes no formal corroboration requirement, Nigerian courts and counsel in practice continue to treat medical evidence as close to indispensable, given the doctrinal history traced in Part 3.2. Yet access to prompt, competent forensic medical examination is itself unevenly distributed: delayed reporting often driven by stigma, fear of reprisal, or lack of awareness that timely examination matters evidentially, routinely destroys the physical evidence on which prosecutions are built. Commentary accompanying recent reform proposals has repeatedly identified inadequate forensic facilities, alongside delayed reporting, weak enforcement, judicial delays, and persistent social stigma, as central obstacles standing between Nigeria's strengthened legal framework and its practical implementation.⁶¹ The problem is compounded outside major cities, where the nearest facility equipped to conduct a proper forensic medical examination, preserve samples under a defensible chain of custody, and produce a report a court will accept as reliable may be

⁶¹PM News (n 15).

hours away, effectively pricing rural and lower-income complainants out of the very evidence the corroboration doctrine demands of them.

4.2. Police as Gatekeepers

Before a case ever reaches a courtroom where the corroboration doctrine can operate, it must first survive an earlier and less visible filtering stage: the initial police response. A complainant's experience at the point of first report substantially determines whether a case is ever properly investigated at all. Recurring themes in Nigerian reporting on this stage include officers who question the credibility of a complaint before any investigation has begun, informal pressure, sometimes from the police themselves to "settle" a case privately with the accused's family rather than pursue prosecution, and a general absence of officers trained specifically in trauma-informed interviewing of sexual-offence complainants, particularly children. Commentary accompanying recent legal reform proposals has specifically recommended in-camera hearings and video testimony as measures capable of protecting survivors, especially minors, from the intimidation that can arise from confronting an accused directly, and has emphasised the value of protecting survivors from the retraumatising effect of an adversarial process poorly adapted to their needs.⁶² Because the corroboration doctrine discussed in Part 3.2 places such heavy weight on prompt, well-documented medical and forensic evidence, failures at this earliest gatekeeping stage, a delayed or dismissive initial police response, a missed window for forensic examination, a poorly taken statement can foreclose the possibility of conviction long before a prosecutor or judge ever engages with the merits of the case.

⁶²News Agency of Nigeria (n 18), recommendations attributed to legal commentator Dike.

4.3. Judicial Delay and Specialised Courts

Case backlog and adjournment culture in the ordinary criminal courts impose severe costs on rape complainants, who may be required to testify often facing the accused directly across a trial that can extend over years, with each adjournment increasing the risk of witness fatigue, intimidation, or withdrawal. Lagos State's establishment of a dedicated Sexual Offences and Domestic Violence Court has been credited with producing some of Nigeria's more consistent convictions; in October 2023, that court convicted a former medical practitioner and sentenced him to life imprisonment for the sustained defilement and sexual assault of his wife's teenage niece, following testimony from the victim, her aunt, a child-care expert, and investigating police officers.⁶³ The relative success of that specialised model discussed further as a recommendation in Part 6 throws into sharper relief the comparative disadvantage faced by complainants in states without an equivalent institution.

4.4. Rape Myths, Stigma, and Underreporting of Male Victims

Beyond formal doctrine, courtroom practice remains shaped by rape myths, assumptions about "real rape" involving a stranger, visible violence, and immediate reporting that continue to influence how credibility is assessed, notwithstanding decades of feminist legal critique. Reporting on male sexual violence victims in Nigeria illustrates a particularly acute version of this problem: commentators note that male rape cases rarely make headline news because of the cultural stigma and taboo attached to male victimisation, that the abuse of boys by both men and women is understood by investigative journalists to be frequent, and that prosecutors have in practice sometimes declined to pursue such cases on the stated premise that a boy cannot be raped notwithstanding the VAPP Act's gender-neutral

⁶³RPUBLIC (n 29), describing the conviction of Femi Olaleye at the Lagos Sexual Offences and Domestic Violence Court, Ikeja, before Justice Rahman Oshodi.

definition, applicable wherever the Act has been domesticated.⁶⁴ This gap between a facially gender-neutral statute and a persistently gendered practice of enforcement is itself a microcosm of the consent paradox: a broadened legal definition of the offence has not, on its own, dislodged the social assumptions that determine whether that definition is actually applied.

4.5. Character Evidence and Secondary Victimisation in Cross-Examination

A further institutional factor compounding the doctrinal problems traced in Part 3.2 is the persistence of defence strategies that place the complainant's own character, rather than the accused's conduct, at the centre of the trial. Nigerian appellate commentary confirms that it is no defence to a rape charge that the complainant is "a common prostitute", that she had previously consented to intercourse with the accused on other occasions, or that she was the accused's concubine. A formal doctrinal rule that exists precisely because, in practice, defence counsel have repeatedly sought to introduce exactly this kind of evidence to undermine credibility.⁶⁵ The very existence of this settled rule is itself evidence of how routinely rape myths concerning victim "respectability" have been deployed inside Nigerian courtrooms, and its survival as an active point of appellate reaffirmation, rather than a long-settled and unremarkable proposition, suggests that such tactics continue to be attempted at trial level notwithstanding decades of contrary authority. Complainants who do proceed to trial also face the practical burden, well documented in the case law reviewed in Part 3.2 of repeated adjournments and cross-examination that can extend the ordeal of testifying over months or years, a burden itself capable of

⁶⁴Global Voices (n 8), reporting the account of a would-be prosecutor's stated view that 'a boy can never be raped', and describing male rape as under-reported due to cultural stigma.

⁶⁵Learn Nigerian Law (n 9).

causing withdrawal, inconsistency between successive accounts, and the very kind of destabilised testimony that a corroboration-minded court is most likely to distrust. The doctrinal, institutional, and cultural obstacles examined in this Part are therefore mutually reinforcing rather than independent: each makes the others more consequential.

5. COMPARATIVE LESSONS: WHAT AFFIRMATIVE CONSENT REFORMS ELSEWHERE REVEAL

The California experience, discussed in Part 2, offers a cautionary lesson about the limits of definitional reform even where it is comparatively aggressive: because SB 967 operated within a narrow disciplinary context and shifted an evidentiary burden onto the accused, it drew criticism precisely because a change in the definition of consent could not, on its own, resolve the underlying evidentiary difficulty of proving what occurred in a private encounter with no witnesses. Even a jurisdiction with far greater institutional capacity than Nigeria found that redefining consent did not eliminate the proof problem; it merely relocated where the burden of that problem fell.⁶⁶

South Africa offers a more directly instructive comparison, because unlike Nigeria, it addressed the corroboration problem head-on through explicit legislation rather than leaving it to case-by-case judicial evolution. Section 60 of South Africa's Criminal Law (Sexual Offences and Related Matters) Amendment Act 2007 statutorily abolished the common-law "cautionary rule" that had required South African courts, like their Nigerian counterparts, to treat the uncorroborated evidence of a sexual offence complainant with special suspicion.⁶⁷ The comparison with the Nigerian position is precise and unflattering: where South Africa's legislature directly and explicitly

⁶⁶See critique in TIME (n 11) and CNN (n 11).

⁶⁷Criminal Law (Sexual Offences and Related Matters) Amendment Act 32 of 2007 (South Africa), s 60; discussed comparatively in SabiLaw (n 5).

extinguished the judicial doctrine at its root, Nigeria's Evidence Act 2011 reformed the surrounding statutory framework and left the judicially developed practice of requiring corroboration for rape to wither on its own, a process that, as the case law reviewed in Part 3.2 demonstrates, has simply not happened. The lesson is that definitional reform of consent and doctrinal reform of the evidentiary rules that operationalize it is two different legislative tasks, and that undertaking the first without also explicitly and unambiguously completing the second leaves the underlying obstacle to conviction essentially intact, however progressive the headline statute may appear.

A further, more general lesson emerges from setting the two comparators side by side. California's reform targeted the definition of consent but operated within a well-resourced disciplinary system that already possessed trained investigators, defined procedural timelines, and a functioning appeals process and even there, critics could plausibly argue that redefining consent alone created new problems without necessarily solving the old one. South Africa's reform, by contrast, targeted the evidentiary doctrine directly, leaving the underlying definition of the offence comparatively unchanged, and did so by Act of Parliament rather than by hoping that courts would gradually abandon an inherited common-law practice on their own initiative. Nigeria's post-2011 experience combines the weaker features of both comparators without the compensating strength of either: like South Africa, it inherited a common-law cautionary practice around sexual-offence complainants, but unlike South Africa, it did not legislate that practice out of existence directly; and like California, it has broadened the statutory definition of consent, but unlike California's campus disciplinary system, Nigeria's ordinary criminal justice system lacks the specialised investigative and procedural infrastructure that might have allowed a broadened definition to be applied consistently. The comparative exercise

therefore does more than illustrate the general proposition that definitional and doctrinal reform are distinct tasks; it suggests that Nigeria's specific reform sequencing, expanding the definition of consent before, rather than alongside, a direct legislative confrontation with the corroboration doctrine and the institutional capacity to investigate rape allegations was, in retrospect, the less effective of the available orderings.

6. TOWARD CLOSING THE GAP: RECOMMENDATIONS

6.1. Legislative Reform

First, the National Assembly should legislate directly and explicitly to abolish the judicially developed corroboration requirement for rape under the Criminal Code and Penal Code, following the South African model in section 60 of its 2007 Act, rather than relying on the Evidence Act 2011's indirect and, on the case law, largely ineffective creation of "legislative space" for courts to abandon the practice voluntarily.⁶⁸ Second, the Penal Code's marital rape exemption in section 282(2) should be expressly repealed, and the VAPP Act amended to state unambiguously that marriage is not, in itself, a defence to a charge of rape or sexual assault, closing the interpretive gap identified in Part 3.3. Third, and most urgently given the developments discussed in Part 3.4, the pending bill to repeal and re-enact the VAPP Act should be scrutinised to ensure that any re-enactment preserves, rather than dilutes, the Act's gender-neutral definition, its recognition of intoxication as vitiating consent, and its dispensation from mandatory corroboration; and continued advocacy is needed to secure domestication in the remaining holdout states so that the protection a complainant receives no longer depends on her state of residence.

⁶⁸Cf LearningTheLaw (n 27).

6.2. Institutional Reform

The relative success of Lagos State's Sexual Offences and Domestic Violence Court supports the case for establishing equivalent specialised courts, with trained judges and in-camera hearing procedures, in every state, alongside sustained investment in accessible forensic and DNA testing capacity and mandatory training for first-responding police officers to reduce the secondary trauma and evidentiary loss caused by mishandled initial reporting.

6.3. Evidentiary Reform

Courts should be statutorily directed to apply section 200 of the Evidence Act 2011 to its full logical conclusion in sexual offence trials: a credible, internally consistent complainant's testimony, assessed on its own merits and without a presumptive need for independent corroboration, should be capable of sustaining a conviction beyond reasonable doubt, exactly as it is capable of doing in any other criminal trial. Consideration should also be given to statutory limits on the admission of a complainant's prior sexual history or general character, which continue to feature in Nigerian rape trials as informal proxies for credibility despite their limited probative value and their tendency to reproduce the very rape myths discussed in Part 4.

6.4. Cultural and Educational Reform

Finally, sustained public legal education, targeting police, prosecutors, judicial officers, and the general public is needed to address the rape myths and gendered assumptions, including the specific myth that men and boys cannot be victims, that continue to shape how reports are received, investigated, and tried, regardless of what the statute book says.

6.5. Data and Monitoring

None of the preceding recommendations can be evaluated without better data. As Part 2 demonstrates, the current evidentiary base for assessing Nigeria's conviction gap consists of scattered ministry disclosures, isolated state police figures, and estimates attributed to individual practitioners, rather than a single, authoritative, and regularly updated national register tracking rape reports from first complaint through investigation, charge, trial, and final disposition. A dedicated national SGBV case-tracking database, ideally maintained jointly by the Federal Ministry of Justice, the Nigeria Police Force, and the National Bureau of Statistics, and disaggregated by state, offence type, and outcome, would allow policymakers, researchers, and civil society to measure, rather than estimate whether future reforms are actually narrowing the consent paradox this article describes, and would remove the need for future scholarship to rely, as this one has had to, on the more fragmentary figures currently available.

7. CONCLUSION

Nigeria's rape law has, since 2011 and especially since 2015, moved in a genuinely progressive direction: consent is now more broadly and more sensibly defined, the offence itself has been extended to protect victims the older codes ignored, and the statutory architecture increasingly permits in the jurisdictions where it applies, a conviction to rest on the credible word of the complainant alone. None of this should be dismissed. But the consent paradox identified in this article is precisely that these gains have been definitional rather than structural.

The judicially developed corroboration doctrine traced through *Sambo*, *Jegede*, *Ogunbayo*, *Isa v Kano State*, and their progeny has proved far more durable than the statutory reforms meant to erode it. The marital

rape exemption remains substantially intact. The VAPP Act's protections remain geographically fragmented and are, as of this writing, under active legislative threat. And beneath all of this, an under-resourced investigative and forensic system, a judiciary burdened by delay, and social attitudes that continue to doubt certain categories of victim altogether ensure that even a complainant who satisfies every formal legal requirement may still see her case dissolve somewhere between the police station and the courtroom. Closing the conviction gap will require what the 2011 and 2015 reforms did not fully attempt: a direct legislative confrontation with the evidentiary doctrine, the institutional capacity, and the social attitudes that decide, in practice, whether a broadened definition of consent on the statute book ever becomes a conviction in the courtroom.

There is a broader lesson here for law reform generally, in Nigeria and elsewhere. Legislatures understandably gravitate toward definitional reform: redrafting an offence, broadening a category of victim, or adding a new vitiating factor to a definition of consent are all achievable within a single parliamentary session and make for a clear, publicly legible legislative achievement. Reforming a judge-made evidentiary practice built up over a century of precedent, rebuilding a national forensic infrastructure, or shifting the assumptions that police officers and judges bring into a courtroom are slower, less visible, and politically less rewarding undertakings — and it is precisely these undertakings, this article has argued, that determine whether definitional reform of consent translates into justice for the women, girls, and, where the law recognises them at all, men and boys who report having been raped. The consent paradox is not evidence that reform was wasted. It is evidence that reform, so far, has been incomplete.