

**THE DEVIANCE AND CRIME OF DEFILEMENT OF GIRL-CHILD IN NIGERIA:
CAUSES, EFFECTS AND SOLUTIONS**

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Abstract

Girl-child, like her male-child counterpart, is a gift from God and deserves to enjoy the basic rights of life like every human being, in particular, the right to life and the right to dignity of human person notwithstanding her immaturity of the mind and body. However, while the girl-child is still going through her formative stages, she suffers sexual attacks from persons who should offer her protections. Such persons could include her father, persons who are as old as her great grandfather, close relation, neighbours or even total strangers. Apart from being the accepted norm of the Nigerian communities that defilement of girl-child is a deviance and the defiler, a deviant, the conduct has also been criminalised by the two principal penal laws in the country namely, the Criminal Code and the Penal Code. However, notwithstanding these formal and informal control of the deviant behaviour, girl-child continues to experience defilement in the hands of sex criminals. It then becomes necessary to interrogate the motivating factors behind the deviance of defilement of girl-child. Being a behavioural pattern, the paper examines the views of criminologists and criminal justice scholars to situate the possible causes of the deviant behaviour and why it continues to find its way into our daily life. The study adopts doctrinal methodology which reveals the general views of scholars that the deviance of defilement of girl-child could be the result of innate tendencies and societal influence and that it is not enough to criminalise the conduct through penal laws as it is presently the case, the legal framework needs to be complemented by the collective efforts of the government, the parents and the society.

Keywords: *Girl-child, Deviance, Defilement of girl-child, Victim, Victimisation.*

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Introduction

A girl-child is known for her free mind and free will to relate with people and enjoy freedom in her given environment to the fullest like her male counterparts. Her brain is still like ‘tabula rasa’ i.e. clean slate, in matters of sex and sexuality. It becomes problematic for her when such freedom is curtailed by a delinquent sex offender who unwholesomely takes away her pride and honour by defiling her at a time when she barely understands her environment nor what sex is all about. In Nigeria, cases of defilement of girl-child is on the rise.¹ It is particularly worrisome to hear in the news or read in newspapers how older males defiled young girls, or how a father defiled his own daughter, or how a trusted relative had unwholesome sexual encounter with his niece, or how a neighbour defiled the daughter of another neighbour, etc.² All these happened and are still happening notwithstanding the existence of both legal and regulatory framework to curtail the menace. As a researcher, it then becomes important to investigate the causes of such offending and the effects of the deviance on the girl-child and their parents. Issues around how the society, the parents and even the innate characteristics of the offenders contribute to the deviance of defilement of the girl-child are also worthy of investigation.

To attend to the foregoing issues, the paper has been divided into eight sections. This foregoing introduction occupies section one. The problems which the paper seeks address are discussed in section two while clarifications of the important concepts in the paper are made in section three. In a paper of this nature where the infringement on some of the fundamental rights of a girl-child is involved, the issues of rights arising from the defilement of girl-child are discussed in section four. In section five of the paper, causes of deviance of defilement of a girl-child are identified by leveraging on the existing criminological theories of crime to interrogate the possible causes of defilement of girl-child. Section six deals with the effects of defilement of girl-child on the victim, her parents and the society, while section seven of the paper deals with the plausible solutions to the crime of defilement of girl-child which are by no means exhaustive. Finally, the

¹Osamuyi Aghasomwan Bello, ‘Incidence of Girl-Child Defilement in Ugbighokho Community South-South Nigeria: The Way Forward’ (2022) 13 (1) *Mediterranean Journal of Social Sciences* 20.

²See for example the report by Punch Newspaper by Naomi Chima in Naomi Chima, ‘Lagos court remands man for defiling eight-year-old girl’ (Punch Newspaper 21st November, 2023) <https://punchng.com/lagos-court-remands-man-for-defiling-eight-year-old-girl/> accessed 18 August 2024; See also Bello n1, 20.

paper rounds up in chapter eight with brief statements on what has gone into the paper to address the problem of the deviance of defilement of girl-child.

The Problem

In spite of the numerous legislation and case law on sex delinquencies particularly, defilement of girl-child, the crime seems to be on the rise in Nigeria thereby making it unsafe for a girl-child to walk and relate freely with people in the society in the way and manner her male counterpart will do without let or hinderance.³ There have been several reported cases of sex assault on girl-child by people who ordinarily should offer the child protection against sex predators. Instances of this abounds: It was reported in the Punch Newspaper sometimes in 2023 that a 54-year-old man, Jegede Folorunsho, was remanded in the Ikoyi Correctional Centre for allegedly defiling an eight-year-old girl in the Mushin area of Lagos State⁴; in January, 2024, the Punch Newspaper also reported that the Lagos State Sexual Offences and Domestic Violence Court in Ikeja, on Tuesday 16 January 2024, remanded a man, Onyeka Mbaka in the Nigerian Correctional Centre for the alleged defilement of a 15-year-old girl⁵; the Cable also once reported that a Chief Magistrates' Court has ordered that Jonah Luka, a 45-year-old man, be remanded in a correctional facility for allegedly defiling a seven-year-old girl in Kafanchan, Kaduna state. The offence is contrary to section 258 of the Kaduna State Penal Code.⁶

In a study conducted by Bello in Ugbighokho Community in Edo State in 2021, it was revealed that girl-child defilement is a serious problem in Ugbighokho Community as majority of the participants stated that the main defilers of females were those around their neighbourhoods and the victim's close relatives. It also revealed that the nature of the child's environment as well as poverty were the chief socio-cultural factors responsible for the defilement of females in Ugbighokho Community.⁷

³See Child's Right Act 2003 s 31; Penal Code Law, Laws of Kwara State, 2006 Cap P4 s 282(1) (e), Child's Right Law of Lagos state 2015.

⁴Chima n2

⁵Onozure Dania, 'Man remanded for alleged defilement of 15-year-old girl' (Punch Newspaper 17th January 2024) <https://punchng.com/man-remanded-for-alleged-defilement-of-15-year-old-girl/> accessed 18 August 2024

⁶Abdulsalam Abdullah, 'Court remands man for 'defiling 7-year-old girl' in Kaduna' (The Cable, February 6, 2024) <https://www.thecable.ng/court-remands-man-for-defiling-7-year-old-girl-in-kaduna/> accessed 18 August, 2024.

⁷Bello n1, 20.

In the case of *Maduabuchi Onwuta v. The State of Lagos*⁸ the case of the victim's mother was that on the 26th of November, 2013, the victim who was a year and 4 months old was taken by her mother to the appellant's room for care while she had her birth; that after she had had her bath, her daughter approached her pointing to her pant and saying "see, see"; and that she checked her daughter's pant and discovered blood on it. The victim's mother further told the court that she quickly rushed the daughter to the health centre, where it was confirmed that the daughter was defiled, and that she reported at the Police Station, following which the Appellant was arrested. The victim's mother also testified that she informed the Police that on the day of the incident, she was at home alone with her daughter and the Appellant, thereby, suggesting that only the Appellant could have defiled her daughter.

The trial court found the Appellant guilty of the one-count Charge of defilement of a 16-month-old baby left in his care when the mother went to take a shower, contrary to Section 137 of the Criminal Code, Ch. 17, Vol. 3, Laws of Lagos State. He was convicted and sentenced to 25 years imprisonment. On appeal to the Court of Appeal, the appellate court affirmed the conviction and sentence. Further appeal to the Supreme Court was also dismissed.

According to Bello,

Despite the harsh sentences imposed on girl-child defilers, more female children are still being defiled; this invariably implies that the female children are living in very difficult circumstances, as the environment in which the children are growing up in, is no longer safe, and this consequently impacts negatively on their development. The other source of concern is that despite adequate sensitization campaigns conducted against girl-child defilement, the existence of the relevant laws, expanding police force, growing judiciary, civil society advocacy on child rights, and parents plus local community authorities, all arrayed against girl-child defilement, appeared not to be yielding positive results as evidenced by the marked increase in the defilement of the girl-child.⁹

⁸ [2022] LPELR-57962 (SC)

⁹Bello n1,16

In all of the foregoing, the major concern is what drives an adult to sexually assault a child who does not understand her body chemistry other than the pains she suffers from the encounter.

Conceptual Clarifications

a. Deviance

Deviance is a behaviour that violates social norms and arouses negative social reactions.¹⁰ Some behaviours are considered so harmful that governments label them as crime and accordingly enact written laws that ban the behaviours.¹¹ According to Émile Durkheim theory of function of deviance, sociology and the sociological perspective are of the firm view that a society without deviance is impossible for at least two reasons. First, the collective conscience is never strong enough to prevent all rule breaking. Even in a “society of saints,” such as monastery, rules will be broken and negative social reactions aroused. Second, because deviance serves several important functions for society, as any given society “invents” deviance by deferring certain behaviours as deviant and the people who commit them as deviant.¹² Durkheim illustrates this with how talking may be viewed as deviant in the monastery but normal elsewhere; and how an assailant who murders someone faces arrest and prosecution, even though, a soldier who kills a human being in wartime, may be considered a hero and given a medal.¹³

Deviance is also relative in two other ways. First, it is relative in geographical location: a given behaviour may be considered deviant in one society but acceptable in another society.¹⁴ For instance, Whereas typical Muslim communities in the Northern Nigeria consider it a deviant behaviour for a woman to wear cloth that reveals her cleavages as such woman is regarded a deviant, on the other hand, a woman who wears such attire in some communities in the Southern Nigeria may be applauded for stepping out attractive; some Local Government Authorities in the Northern Nigeria have considered the consumption of liquor as a deviant behaviour and have accordingly enacted bye-laws prohibiting manufacture, sale and consumption of liquor in certain

¹⁰Manoj Jakhar, *Crime and Criminal Justice* (Random Publications New Delhi 2019) 176.

¹¹ Ibid.

¹² Ibid 177.

¹³ ibid

¹⁴ Ibid.

areas of their community.¹⁵ Conversely, the manufacture, sale and consumption of liquor are legitimate in Lagos State save that the location of manufacture and sale must comply with the State's Master-plan designating specific areas as Industrial, some as commercial and others as residential because the people of Lagos State do not see it as a crime. Second, deviance is relative in time: a behaviour in a particular society may be considered deviant in a particular period but acceptable many years later; while a behaviour that is considered acceptable in a particular period may be termed deviant many years later.¹⁶

In this paper, any behaviour that evinces violation of social norm of abstaining from sexually assaulting girl-child and as such arouses negative social reactions, or that, is remotely connected with violation of social norm of abstaining from sexually assaulting girl-child and which arouses negative social reactions is regarded as deviance.

b. Crime

Crime is behaviour that violates laws that have specifically been enacted to ban certain deviance or behaviour.¹⁷ Crime is an act that the law makes punishable. It means the breach of a legal duty treated as the subject-matter of a criminal proceeding.¹⁸ It is also a violation of law, especially a serious one.¹⁹ Crime is an act committed, or omitted, in violation of public law, either forbidding or commanding it.²⁰ Crime is a wrong which affects the security or well-being of the public generally so that the public has an interest in its suppression. It is frequently a moral wrong in that it amounts to conduct which is inimical to the general moral sense of the community.²¹ Hence, the main purpose of the criminal law is to protect the interests of the public at large by punishing those found guilty of crimes, generally by means of imprisonment or fines. Also, it is those types of conduct which are most detrimental to society and to the public welfare which are treated as criminal.²²

¹⁵ See for instance, the Ilorin Township (Prohibition against the Manufacture, Sale and Consumption of Liquor in Certain Areas) Edict, 1989, s 3 and the schedule thereto.

¹⁶ Ibid

¹⁷ Ibid 176

¹⁸ B.A. Garner, ed. *Black's Law Dictionary*, (8thedn. Thomson West) 399

¹⁹ The new Webster's Dictionary of the English Language 229

²⁰ David Hay MA ed. *Words and Phrases Legally Defined*, Vol. 1, (4thedn. Lexis Nexis, 2007) 545

²¹ Ibid 544.

²² Kodilinye & Aluko, *The Nigerian Law of Torts* (2ndedn. Spectrum) 1

Crime is wider in concept than the foregoing definitions. A conduct constitutes a crime because the society sees it as such and consequently, makes it a public wrong. According to Lord Atkin, in the case of *Proprietary Articles Trade Association V. A.G. for Canada*,²³

The criminal quality of an act cannot be discerned by intuition; nor can it be discovered by reference to any standard but one: is the act prohibited by penal consequences?

Therefore, what constitutes a crime is the penal consequence that attach to a conduct because the society views the conduct as such and wants penal consequence attached to it. Hence, what constitutes a crime differs from one society to another and from one age to another. Instances of this position abound: First, Adultery is an offence in all the Northern states of Nigeria where the Penal Code applies,²⁴ while it is not an offence in any Southern State where the Criminal Code applies even when all the states are within the same federating unit. Second, pre-marital sexual intercourse between two consenting adults is not a crime under the Penal Code and the Criminal Code but, it is a crime in some of the Northern States of the Federation where the Shariah Penal Code has been enacted²⁵ and some Islamic countries of the world. Third, both the Penal Code and the Criminal Code criminalise the conduct of having carnal knowledge of any person against the order of nature or even gay-marriage because the Nigerian society views it as crime²⁶ but, it is legitimate in some societies of the world such as Canada, South Africa and United States of America. Fourth, the conduct of a night party is a crime in Ilorin-West Local Government Area of Kwara State²⁷ while it is not a crime in a host of other Local Government Areas of the same State. Fifth, adultery is a moral wrong in African societies but not a crime in every African society and this is true of Nigeria. Adultery is not a crime in the Southern States of Nigeria not because it does not offend the morality of the people as Africans but because neither the Criminal Code nor any applicable law in the South makes it so etc.

²³ [1931] A.C. 310 at 324

²⁴ See PC ss 387 & 388

²⁵ See for instance, the Shariah Penal Code Law, 2000, Laws of Zamfara State, No. 10 of 2000, ss 126 & 127 (a)

²⁶ See CC s 214 (1) & (3); PC s 284. See also, Armed Forces Act, Cap. A20, LFN, Vol. 1, 2004, s 81 (1) (a); *Magaji v. The Nigerian Army* [2008] 2-3 SC (Pt. II) 146

²⁷ See the Ilorin Local Government (Tight Security-Night Party) Bye-Law, 1991, Kwara S.L.G.N. No. 1 of 199, s3 (1) & (2)

The crux of the above stand-point and the instances thereof is that an act is a crime because a penal law is made to describe it as such with an attendant consequence. Therefore, a conduct is not a crime because it offends the morality or the sensibility or the religious inclination of the people within the community or the society but because the sovereign power enacted a law making it a crime. However, question as to which behaviours become defined as criminal and deemed worthy of punitive sanctions has been central to the study of crime and law. The functional perspective of criminal law suggests that the communalisation of a particular behaviour is the result of a consensus among members of a society. In the consensus view, criminal law encompasses the behaviours that have been determined to be most threatening to the social structure of society and the well-being of its members. According to the functionalist perspective, criminal law adapts to changes in the normative consensus of society.²⁸

In this paper, crime refers to the behaviour of defilement of girl-child which the society has decided to control formally by making provisions for its prohibition and sanction in a written penal law.

c. Social control

Social control refers to ways in which a society tries to prevent and sanction behaviour that violates norms.²⁹ As observed from the earlier conceptual clarifications, deviance and crime arouses negative social reactions which then makes it imperative upon members of the particular society to obey those social norms in their daily life. In every society, there are two types of norms, the formal and informal norms. Whereas formal norms are those norms that sustain society equilibrium or communal living where members of the society are free from harm by fellow members, informal norms on the other hand, are those behavioural patterns that have become acceptable to the people and form part of their way of life. Examples of formal norms include taking the property of another without his or her consent and respecting the sanctity of the body of an opposite sex such as staying away from defiling a girl-child. Examples of informal norms in Africa are respect for elders, abhorrence of indecent exposure, and avoidance of unguarded utterances in public. Hence, while a formal social control such as enactment of

²⁸Devendra Kumar Sharma, *Sociological Theory of Crime and Criminology* (Random Publications New Delhi, 2019) 231

²⁹Jakhar n10, 176

penal laws is used to control behaviours that violate formal norms, the informal social control is used to control behaviours that violate informal norms. People typically avoid violating informal norms because of their potency to elicit anger, disappointment, ostracism, ridicule etc.³⁰ The formal social control applied to control behaviours that violate those formal norms is the legal system which is inclusive of penal laws and regulations.³¹

Social control is never perfect because social norms are as many as the existence of people and communities. This is why there will always be some people who violate some norms.³² However, as society evolves, behaviours once considered criminal may be decriminalised while behaviours that had previously been acceptable may become criminalised.³³ In this context, criminal law and its accompanying sanctions are viewed as serving the essential function of creating a sense of moral superiority among the law-abiding members of society, thereby strengthening their social solidarity.³⁴ Therefore, crime is considered to be inevitable in the functionalist view because the pressure exerted against those who do not conform to the normative expectations is necessary to reinforce the willing conformity among members of society.³⁵ Solidarity result from the social forces directed against transgressors with the most powerful of these forces being criminal sanctions.³⁶

In the context of the paper, social control means every mechanism either formal or informal mechanism put in place by the society to stop the deviance of defilement of girl-child.

d. Victim

The term ‘victim’ is derived from the Latin word ‘*victima*’, which signifies a living being who is offered to the gods.³⁷ Beyond its original meaning the term has been defined in different ways. A ‘victim’ is a person harmed by a crime, tort or other wrong.³⁸ He is a person who has been

³⁰Ibid

³¹ Ibid

³² Ibid

³³ See n12

³⁴ Sharma n28, 231

³⁵ Ibid

³⁶ Ibid

³⁷Ezzat A Fattah, *Understanding Criminal Victimization: An Introduction to Theoretical Victimology*(Prentice-Hall Canada Inc., Scarborough 1991) 89

³⁸ Garner n18, 1561

attacked, injured or killed as a result of crime, a disease, an accident etc.³⁹ A victim is a person destroyed, sacrificed, or injured by another or by some condition or agency; or he is a person who has been cheated or duped; or he is a person sacrificed to some deity or in the performance of some religious rites.⁴⁰ The meaning of the word ‘victim’ also draws quite significantly from the emotional and psychological reactions it often evokes. Whereas the word ‘criminal’ is likely to attract indignation, disapproval, and moral condemnation, the word ‘victim’ attracts pity, sympathy, compassion, and commiseration.⁴¹ A victim is the one acted upon as opposed to the one who acts upon him.

EU Framework Decision of the Council of the European Union on the Standing of the Victims in Criminal Proceedings [2001] also defines victim in article 1(a) as, ‘a natural person who has *suffered harm*, including physical or mental injury, emotional suffering or economic loss, directly caused by acts or omissions that are in violation of the criminal law of a Member State.’⁴²

In the context of this paper, a victim is the girl-child who is defiled. The context also admits the parent or guardian of the girl-child as well as any close relative who suffers any form of financial, emotional or psychological trauma from the sexual onslaught on the girl-child.

Issues of Human Rights Arising Defilement of Girl-Child

Human Right is the totality of the conditions under which a person’s choice can unite with the choice of another without negating the universal law of freedom.⁴³ Kant’s ‘freedom’ refers to that area of action that is totally left to a person by reason of their humanity after excluding what they are either required to do or prohibited from doing by the Doctrine of Right.⁴⁴

Nigeria has a dualist system in which an international treaty is not binding on the country until it is enacted into law by the National Assembly.⁴⁵ However, the Constitution of the Federal

³⁹A S Hornby, *Oxford Advanced Learner’s Dictionary of Current English* (8thedn Oxford University Press, Oxford 2010) 1656

⁴⁰Cleobis H S Jayewardene and Hilda Jayewardene, ‘The Victim and the Criminal Law’ in Hans Joachim Schneider (ed), *The Victim in International Perspective* (Walter de Gruyter, Berlin 1982) 392.

⁴¹Fattah n37, 89.

⁴²Council Framework Decision 2001/220/JHA of 15 March 2001 on the standing of victims in criminal proceedings <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2001:082:0001:0004:en:PDF> accessed 25 August 2024.

⁴³Immanuel Kant, *The Metaphysics of Morals* (Cambridge University Press, 1996) 24

⁴⁴James Griffin, *On Human Rights* (Oxford University Press, 2008) 61

⁴⁵CFRN, 1999 s 12 (1).

Republic of Nigeria 1999 (as amended) (CFRN '99) contains a Bill of Rights in Chapter IV. The rights that are germane to the present discuss are right to life and right to dignity of human person. These rights are crucial because the dignity of a girl-child is violated in every case of defilement and in some cases the girl-child may lose her life due to the excessive pains and/or loss of blood associated with the deviance.

a. Right to life

This is provided for under section 33 of the Constitution of the Federal Republic of Nigeria and it guarantees the sanctity of human life. It follows that no person or authority has the right to take the life of another except in circumstances that are legally permitted by law. These circumstances are where there is justification such as killing another in self-defence,⁴⁶ or killing authorised by law such as authority given to a hangman to kill the person who has been sentenced to death after trial by a court of competent jurisdiction,⁴⁷ or killing excused by law such as killing by somebody who at the time of carrying out the act was of immature age or was suffering from insanity.⁴⁸

Likewise, the African Charter on Human and Peoples Rights (ACHPR), 1981 states:

*Human beings are inviolable. Every human being shall be entitled to respect for his life and the integrity of his person. No one may be arbitrarily deprived of this right.*⁴⁹

This provision asserts the sacred respect for life as an important obligation of African States in the protection of human rights.⁵⁰ The foregoing is therefore a clear indication to the fact that where death results from the defilement of a girl-child, such occurrence will not only amount to an affront on the Constitution of the Federal Republic Nigeria, 1999 (as amended) but a gross violation of the appropriate penal law criminalising such unlawful killing.⁵¹

⁴⁶See CC ss 286, 287 & 288; CFRN 1999 s 32(a); *Njoku v The State* [1993]6 NWLR (Pt 299) 274; *Chukwu v The State* [1992]1 NWLR (Pt 217) 255.

⁴⁷ See CC s 254; *Umaru v The State* [1990]3 NWLR (Pt 138) 364.

⁴⁸*Apugo v The State* [2007]5 WRN 89 SC

⁴⁹ACHPR art 4

⁵⁰ Y. Olomjobi, *Human Right and Civil Liberties in Nigeria: Discussions, Analyses, and Explanations* (2nd Princeton, 2018) 10

⁵¹ See for instance Penal Code Law Cap P4 Laws of Kwara State 2006 s 221

b. Right to Dignity of Human Person

The right to dignity of human person is provided for under section 34 of CFRN '99. It prohibits torture, inhuman or degrading treatment. The ACHPR also declares:

Every individual shall have the right to the respect of the dignity inherent in a human being and to the recognition of his legal status. All forms of exploitation and degradation of man, particularly slavery, slave trade, torture, cruel, in human and degrading punishments and treatments shall be prohibited.⁵²

The individual does not create dignity. It is inherent in his nature.⁵³ The right to dignity cannot be separated from an individual even if he/she were a criminal.⁵⁴ Defilement of girl-child falls within the sphere of this right. The child's capacity of free-will to decide when and to whom she will surrender her virginity is subdued and her honour and self-esteem are impaired. Such right violation is, most times, responsible for the victim's withdrawal from the public and negative impressions about men generally when they attain adulthood.

In *Abodurin v. Arabe*,⁵⁵ the court held that individuals have the right to respect of the dignity inherent in a human being and to the recognition of his legal status.⁵⁶

Causes of Deviance of Defilment of Girl-Child

Generally, every sex crime is a crime that involves forcing victim to have some form of sexual encounter with the criminal without their direct consent.⁵⁷ Several theories have evolved to explain why criminals choose deviant behaviours even in the face social and legal disapproval of such behaviours. It is particularly difficult to discern what pleasure a full-grown adult will claim to derive from defiling a girl-child who perhaps may be less a year old at the time of the sexual encounter. To understand the causes of this dastardly act in the context of this paper, it is important to divide the causes into two, namely, the direct causes as explained through the various theories propounded by criminologists and the indirect causes as foisted on the society by the various unnoticed but potent factors.

⁵² ACHPR art 5

⁵³ Olomjobi n50, 51

⁵⁴ Ibid 53

⁵⁵ [1995]5 NWLR (Pt 393) 100 at 112

⁵⁶ See also *Onwo v. Oko* [1996] 6 NWLR (Pt 456)584 at 614

⁵⁷ Sharma n28, 107

a. Direct causes of deviance of defilement of girl-child

Criminologists have made several attempts to unravel what propels a criminal to cultivate the behavioural pattern for committing crime. In this regard, criminologists have come up with several causation theories to explain why offenders choose to offend. A study of the various theories will help to explain the causes of deviance of defilement of girl-child. However, it is important to bear in mind from the onset that no single theory can offer a satisfactory explanation for crime causation and this is why criminologists have offered different explanations to justify their own theory to explain delinquent behaviour. Most criminologists have preferred multiple approaches to criminal behaviour which suggests that crime generates not as a result of one solitary factor, but as a result of combination of variety of factors.⁵⁸

The first school of criminology to theorise the cause of criminality is the Pre-Classical School of Criminology. The theory arose when evolution of criminal law was at a rudimentary stage. This demonological theory of criminality which was popular in the seventeenth and eighteenth centuries in Europe believed that man's conduct is influenced by external forces and they acknowledged the omnipotence of spirit, which they regarded as a great power. They considered crime and criminals as evidence of the fact that the individual was possessed of devil or demon the only cure for which was testimony of the effectiveness of the spirit.⁵⁹ Worships, sacrifices and ordeals by water and fire were usually prescribed to specify the spirit and relieve the victim from its evil influence. The right of society to punish the offender was, however well recognised. The offender was regarded as an innately depraved person who could be cured only by torture and pain. Hobbes suggested that fear of punishment at the hands of monarch was a sufficient deterrence for members of early society to keep them away from sinful acts which were synonymous to crimes.⁶⁰

The Classical School of Criminology followed during the middle of eighteenth century. Beccaria, the pioneer of modern criminology expanded his naturalistic theory of criminality by rejecting

⁵⁸N.V. Paranjape, *Criminology and Penology* (1stedn. Reprint, Central Law Publication, Praya graj-2.2021) 260

⁵⁹ Ibid 46

⁶⁰ Ibid

the omnipotence of evil spirit. He laid greater emphasis on mental phenomenon of the individual and attributed crime to 'free will' of the individual.⁶¹ The theory is based on the assumption that an individual can control his conduct by exercising his power of will and mind. Hence, it is that act of an individual and not his intent which forms the basis for determining criminality within him. They reasoned that the fear of punishment can bring a change in human 'will' and persuade him to desist from committing crime. The advocate of classical school supported the right of the state to punish the offenders in the interest of public security.⁶²

The Neo – Classical School of Criminology are of the view that the exponents of classical school faltered in their free-will theory by ignoring the individual differences under certain situation and treating first offenders and the habitual alike on the basis of similarity of act or crime. They are of the view that certain extenuating situations or mental disorders deprive a person of normal capacity to control his conduct. Thus, they justified mitigation of equal punishment in cases of certain psychopathic offenders.⁶³ Neo classists were the first in point of time to bring out distinction between the first offender and the recidivists. They supported individualisation of offenders and treatment methods which required the punishment to suit the psychopathic circumstances of the accused.⁶⁴ Neo-classists adopted subjective approach to criminology and concentrated their attention on the condition under which and individual commits crime.⁶⁵

Another effort at explaining the concept of deviance is the Social Ecology theory of Deviance which believes that neighbourhood and community characteristic influence the cultivation of deviant behaviour. This school of thought is of the view that certain characteristics of neighbourhoods and communities influence the likelihood of committing deviance and crime. Many criminogenic neighbourhood characteristics have been identified to include high rates of poverty, population density, dilapidated housing, residential mobility and single-parent households.⁶⁶ Scholars such as, Cathy SpatzWidom, Benjamin B. Wolman, and John Money are

⁶¹ Ibid 47

⁶² Ibid 48

⁶³ Ibid 49

⁶⁴ Ibid

⁶⁵ Ibid 50

⁶⁶Jakhar n10, 182

of the view that there is a correlation between crime and child abuse.⁶⁷ In particular, it has been said that children who are exposed to parental neglect and/or abuse and children who witness inter parental violence turn sociopathic. Inadequate guidance, lack of moral encouragement, and frequent exposure to pathological selfishness foster sociopathic personality development.⁶⁸ This is akin to the Deviant subculture theory where some sociologists stress that poverty and other community conditions give rise to certain subcultures through which adolescents acquire values that promote deviant behaviours.⁶⁹ According to this school, poor boys become delinquent because they live within a lower-class subculture that includes several focal concerns which include a taste for trouble, toughness, cleverness, and excitement. Boys who grow up in subculture with these values are more likely to break the law.⁷⁰

The Positive School of Criminology came with another theory in the nineteenth century and stated that neither 'free will' of the offender nor his innate depravity motivates a criminal to commit crime but the real cause of criminality lay in his anthropological features. Some phrenologist also tried to demonstrate the organic functioning of brain and enthusiastically established co-relationship between criminality and the structure and functioning of brain.⁷¹

Then the Clinical School of Criminology also developed their own theory which evolved from the understanding of the development of human psychology which places greater emphasis on the study of emotional aspect of human nature. The theory of the Clinical School of Criminology presupposes offender as a product of his biological inheritance conditioned in his development by experiences of life to which he has been exposed from infancy up to the time of the commission of crime.⁷²

Sociological school of criminology seeks to locate causation of crime in social environment. Tarde was the first to reject the anthropological approach of positivists and held that crimes were the outcome of human tendency to imitate others. Sociologists, however, carried their researches

⁶⁷ Sharma n28, 121

⁶⁸ Ibid

⁶⁹ Jakhar n10, 184

⁷⁰ Ibid 184-185

⁷¹ Paranjape n58, 51

⁷² Ibid 57

and attempted to co-relate variations in crime rate to changes in social organization. They successfully established that other factors such as mobility, culture, religion, economy, political ideologies density of population, employment situation etc. have a direct bearing on the incidence of crime in a given society.⁷³

Another theory is the Control theory of crimes. The propounder of this theory Durkheim believed that crimes generate when social and personal controls that prevent most people from criminality, weakens.⁷⁴ They believe that delinquency results from weak bonds to conventional social institutions such as families and schools. These bonds include attachment, commitment, involvement, and belief. Where there is a strong bond to these institutions, the subscribers of such bond will not want to violate the norms set by the institutions. Hence, it is the peoples' bonds to conventional social institutions such as family and school that keep them away from violating social norms.⁷⁵

The theory developed by the Classical School of Criminology appears to inform the concept of criminal responsibility in the Nigerian Law of Crime. Criminal responsibility in the Nigerian criminal justice is determined by the presence of *actusreus* (act, event or state of affairs) and *mensrea* (mental element or state of the mind) and not by the conjecture of an evil spirit or social influence.⁷⁶

b. Indirect causes of deviance of defilement of girl-child

Defilement of girl-child can be the consequence of a number of unnoticed factors which have become part of our daily life and unless our society begins to talk about these factors and their contribution to sex delinquency, attempts at curbing the crime might be ineffectual. Some are borne out of innate tendencies that may be difficult for any law to control while others are products of social influence and personal choices. However well crafted a legislation may appear, these unnoticed factors may continue to influence the deviance of defilement of girl-child. These will now be discussed one after another.

⁷³ Ibid

⁷⁴ Ibid 58

⁷⁵ Jakhar n10, 185

⁷⁶ See Oluyemisi Bamigbose and Sonia Akinbiyi, *Criminal Law in Nigeria* (Evans, 2015) 17; EsaOnoja, *Fundamental Principles of Nigerian Criminal Law* (Greenworld, 2015) 91

1. **Man's natural desire for sex:** Man's endless moods for sex may create some difficulties for him to remain absolutely faithful to one sex-partner. Since sexual urge has direct bearing on the reasoning faculty of man, the crave for sex can overpower the brain and deprive it of appreciating the consequence of defiling girl-child in that brief period of 'mental attack'. This explains why a 54-year-old Nigerian, Jegede Folorunsho threw caution to the wind and was completely oblivious to the consequences for his action when he allegedly defiled an eight-year-old girl in the Mushin area of Lagos State.⁷⁷
2. **Religious Institutions:** The institution of religion which was once regarded as a potential weapon of social control has lost its force on modern times, so is the case with moral and ethical values of life. Even some acclaimed men of God are always in the news for negative reasons. Due to the impact of western culture, the age-old traditional norms and customs are fast losing their hold on many societies of the world.⁷⁸ The attendant consequence of this is that young boys as well as adults no longer regard the body of women as a sacred temple of God that must be adored and respected.
3. **White-Collar Job:** This has given rise to several new problems in human life. Parents have to stay away from their home for a considerable long time during working hours. Even when at home, they most times, leave their child in the care of house help, neighbours and relation to enable them to have sufficient rest in preparation for the next day official responsibilities. This gives rise to neglect of the children and lack of parental control over them. The youngsters, therefore, tend to become more undisciplined, reckless, repulsive and irresponsible.
4. **Social media influence:** Referring to sex deviant, Donald Taft rightly observed that changes in the habit of dress and undress, sex themes in literature, dramas, obscenity in advertisements, movies, television and cinemas may stimulate sexual impulse in varying degrees.⁷⁹ We have seen several cases of consensual sex between housemates before live cameras in 'Big Brother Naija' reality shows, just as indecent exposure is also never found wanting in the reality show. Sad enough, many young members of the Nigerian society

⁷⁷Chima n2

⁷⁸Paranjape n58, 205

⁷⁹Ibid 206

subscribe to the show and even commit their resources to voting the housemates of their choice.

5. **Unregulated sale of intoxicant:** The influence of intoxicants such as liquor, drug etc., also accounts for the incidence of sex crimes. Consumption of wine and liquor has become a part of habit with most of young Nigerians. More than ever, there is now a proliferation of wine and liquor sale stands in streets, markets and garages across the nation. The wines are uncontrollably in sachets to enable affordability of the products. Most of the sellers are sadly, unlicensed. Under the influence of intoxication, a man becomes wild and rash. He becomes emotionally excited and forgetting all social, moral and legal restraints, becomes aggressive and commit sex crime recklessly, though he may repent for it after he resumes normal sense. Even fathers are known to have raped their daughters or daughter-in-law under the influence of intoxication.⁸⁰
6. **Marital sex depravity:** This could arise where the wife either becomes sexually inactive or willingly deprives her husband of regular sex. This may indirectly motivate the husband to engage in prohibited sex conduct including defilement of girl-child where there is no adult female willing to submit herself to his sex overtures. Incompatibilities with regard to physique, temperament, habits etc. may disturb the marital life of partners which may also lead either of them or both to promiscuity as and when they get opportunity.⁸¹
7. **Social and cultural influence:** It has also been observed that frequency of desire for sex among persons is never uniform. It varies from person to person and greatly influenced by the cultural, group and social environment each person or group of persons find themselves. For instance, those living in broken homes, slum, crowded localities or vicious inhabitation are easily prone to sex delinquency and generally become sexual psychopaths⁸² than those living in middle or high-class areas or decent environment.
8. **Indecent dressing:** Obscene wears on girl-child could indirectly attract sex predators to her. Skimpy dress, tight-fitted wears, bum-short, mini-skirt and the likes can provide a fertile ground for sex-stimulation. Hence, a parent who, in the name of civilisation, clothes her girl-

⁸⁰ Ibid 207

⁸¹ Ibid 208

⁸² Ibid 208

child without an effective watch over her movement and her environment or adequate protection for her against sex delinquency, may indirectly contribute to the occurrence of deviance of defilement of her child. However, it should be noted that, the present author is not in any way saying that a child, like any other person, does not have the right to wear whatever she prefers or move around like any other person or enjoy her right not be subjected to degrading or inhuman treatment by reason of her dressing but rather, to expose the unnoticed consequences of such exercise of freedom. This exposition is more so important bearing in mind that the girl-child at her age would not have possessed sufficient knowledge and capacity on how to protect herself against sex predators like a mature adult girl or woman.

Effects of Defilement of Girl-Child

The effects of defiance of defilement of girl-child are multi-dimensional. It can leave traumatising experience on both the child and her parents. The child and her parents are both direct and indirect victims of the sexual assault. This assertion is in line with the notion of victim in the perspective of criminology. Victim in criminological perspective can be said to be of two broad categories and these are the direct and the indirect victims of crime. A direct victim is the one who suffers the immediate consequence of a criminal act or omission, such as the child who has experienced excruciating pain from the defilement. An indirect victim is one who, not being the direct victim, suffers the effects of an injury suffered by the direct victim. Examples of indirect victim in the case of a defiled girl-child are the parents, guardian and the immediate members of the girl-child's family who bears the financial and psychological pains arising therefrom.

The trauma of victimisation is a direct reaction to the aftermath of crime. The victimised girl-child who is the direct victim suffers a tremendous amount of physical and emotional trauma. Hence, the primary injuries a defiled girl-child suffers can be grouped into two distinct categories: physical, and emotional. The secondary injuries suffered by the victim come in the form of re-victimisation of the girl-child by their abusers due to lack of protection by their parents or guardian, and/or absence of early detection of the occurrence of such deviant behaviour being unleashed on the girl-child either by a neighbour, close relation or a total stranger. Hence, when victims do not receive the appropriate support and intervention in the

aftermath of the crime they still suffer “secondary” injuries.⁸³ The indirect victim of girl-child defilement suffers great financial and psychological trauma in the aftermath of the victimisation of their girl-child. The cost of treating the child can be enormous, just as the thought of the pain that their child passed through during the sexual encounter and may also be passing through in the aftermath of the unwholesome act can cause very gruesome psychological stress. Since crimes against women are partly the result of social system and partly the outcome of individual pathologies, a reformatory attitude towards female victims may be helpful in achieving the desired result. The rehabilitation has to be fourfold viz, physical mental, psychological and social.⁸⁴

The harm principle has been adopted in several jurisdictions and in international instruments to describe the concept of a ‘victim’.⁸⁵ For instance, the 1985 United Nations Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power defines the term victim in the context of harm principle as follows:

Victims” means persons who, individually or collectively, have suffered harm, including physical or mental injury, emotional suffering, economic loss or substantial impairment of their fundamental rights, through acts or omissions that are in violation of criminal laws operative within Member States, including those laws proscribing criminal abuse of power.⁸⁶

The defiance of defilement of girl-child can also leave both short-term and long-term effects on the child and her parents or guardian. Apart from the physical injuries that the child experiences, the criminal behaviour may leave the child with a permanent psychological trauma and resentment for men. It may also affect her attitudes towards sex and sexuality for the rest of her life. In a study conducted by Bello, it was revealed that the effect on the victim can be traumatic as shown in table 3 of Bello’s findings from his empirical study reproduced below:

Table 3: Effect of female defilement on the girl-child in Ugbighokho Community

⁸³Chanda Prakash Gupta, *Criminal Anthropology* (Random Publications New Delhi, 2019) 133

⁸⁴Paranjape n58,211

⁸⁵ Matthew Hall, *Victims and Policy Making: A Comparative Perspective* (William Publishing, Abingdon 2010) 30.

⁸⁶ UNGA Res A/RES/40/34 (29 Nov 1985) Annex para 1.

Variables	Responses	Frequency	Percentage
Do you agree that female defilement have negative effects on the girl child	Yes	293	73.3
	No	33	8.3
	I don't know	74	18.5
What is the effect of female child defilement on the girl child?	Trauma	55	13.8
	Teenage pregnancy	98	24.5
	Psychological imbalance	141	35.3
	Spread of HIV/AIDS and STIs	106	26.5
Total		400	100

Credit: Osamuyi Aghasomwan Bello's result of field study⁸⁷

Possible Solutions to Defiance of Defilement of Girl-Child

Apart from the formal sanctions of the deviance of defilement of girl-child, various other effective measures should also be utilized for repressing sex delinquency. In this regard, the following recommendations which are by no means exhaustive are accordingly put forward.

1. The respective State Ministry of Women Affairs should be saddled with additional responsibility of warning the public about the evil of defilement of girl-child. Closely related to this is collaboration between the Ministry of Women Affairs of the various States of the Federation, the relevant Non-governmental Organisations (NGOs), educational Institutions and the National Orientation Agency in arousing public resentment against the dastardly act through concerted efforts and intensive propaganda.
2. Bearing in mind that Law is only an instrument through which crimes can be prevented provided the law enforcement machinery implements the provisions of the law efficiently⁸⁸, it is proffered that Law enforcement agencies such as the police, the bar, the bench, the

⁸⁷ Bello n1, 22

⁸⁸Paranjape n58, 260

rehabilitation Centre and NGOs should adopt coordinated efforts in combating the menace of the delinquency of child defilement.

3. Parental guidance is also required in stemming the tide of girl-child defilement. Parents are advised not to leave the education of their children to schools alone. They should be wary of peer group influence. Parents are accordingly advised to keep their wards well under control and pre-warn them of the possible dangers involved in illegal sexual acts, particularly, defilement of girl-child. It is also important to educate them about the existence of formal social control of such delinquent behaviour which comes in the form of penal sanctions.
4. Alcoholism has been identified as one of the potential causes of sex crimes. It is a vice which weakens the characters and impairs the faculties of mind and body. Under the influence of the intoxicant, a person loses his self-control and he may indulge in sex act even with his daughter, daughter-in-law or any other women.⁸⁹ It is therefore necessary to eradicate this menace by strict regulatory measures. Drinking in public should be made a cognizable offence and the number of bars and liquor houses should be limited by adequate licensing.
5. Religion has also been said to be instrumental in crime causation because standards of morality are set by religions institutions and when these standards are violated it result into a crime. The spiritual teaching of religion helps considerably in keeping a person away from crime and delinquency.⁹⁰ It has also been said that morality can best be preserved in a society through the institution of religion. The bond of religion keeps person within their limits and helps them to keep away from sinful and criminal acts. However, the declining influence of religion in modern times has tended to leave men free to do as they like without any restraint or fear,⁹¹ which underscores the findings of Ruwan *et al* in their research conducted of adolescents between the ages of 13-19 residing within Kaduna metropolis, that religious attendance and religious commitment were significant predictors of deviant behaviour among adolescents.⁹² It is therefore recommended that religious institutions as well as spiritual leaders must constantly emphasize in their sermons how the delinquency of defilement of girl-child is hateful in the sight of the Supreme Being and how they have been warned to stay

⁸⁹ See n73, Paranjape n58,211

⁹⁰ See n71, Paranjape n58, 96

⁹¹ Paranjape n58, 96

⁹² I G F Ruwan, D S Ishaya, A O Okorie, M Y Garba, C Jose and U P Okopide, 'Appraisal of the Role of Religious Institutions in Curbing Deviant Behaviour in Nigeria' (2020) 3 (3) International Journal of Management, Social Sciences, Peace and Conflict Studies (IJMSSPCS) 182.

clear of such forbidden behaviour. We are not unmindful of the culpability of some religious leaders in the crime commission. It is however, recommended that any religious leader found guilty of the offence should not only face the full wrath of the law but also divested of his spiritual titles.

6. There is the need to amend the relevant provision of the Administration of Criminal Justice Act, 2015 and other relevant laws to include the requirement for the State to take responsibility for the rehabilitation of the victims and make the offenders or their parents to pay compensation to the victims and possibly be responsible for their education and well-being.

Conclusion

In this paper, it has been identified that the defiance of defilement of girl-child is one of the teething problems that the country is still grappling with. The moral suasions that guide the behaviour of man towards girl-child constantly give way to many aggravating causes of deviance of defilement of girl-child. The paper has identified majority of these causes as well as the effects of the deviance of defilement of girl-child raging from direct effects to indirect effects; and from primary victimisation to secondary victimisation. The attendant consequences of the effects on the girl-child threw open in the paper the various fundamental rights of the victim that are affected whenever such crime occurs. However, the problems are not without solutions and this led the paper to proffering some conceivable solutions which are not by any means exhaustive. It is however believed that beyond the legal framework already put in place for curbing the menace, the solutions put forward in chapter seven of the paper have shown that the fight against the deviance of defilement of girl-child in Nigeria is the collective responsibility of the government, the parents and the society as whole. It is not enough to criminalise the conduct through penal laws as it is presently the case, the legal framework needs to be complemented by the collective resolve of the government, the parents and the society.