

## **CYBER PORNOGRAPHY: AN ANALYSIS OF THE LEGAL FRAMEWORK**

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**ABSTRACT:** *The focus of the paper is on cyber pornography as a related content of cybercrime and the analysis of legal framework. Cyber pornography is a new set of crimes in cybercrime beneath cyberspace which fundamentally and centrally falls under the application of information and communication technologies. The paper discusses the legal framework of cyber pornography with a view to identify the relevant laws with particular reference to the legal position. The discussion is limited to cyber pornography which covers the use of depict images in the internet. The methodology of the paper adopted is doctrinal approach method wherein relevant data collected were analysed and the finding brought out. The finding of the paper reveals that countries should adapt sex education policy for both the children and the parents on the existence of using internet in circulation of unpleasant images and further recommends that children should not hesitate to report any incidence of gross indecency against any person to their parents and law enforcement agencies.*

**KEYWORDS:** Cyber pornography, internet, Nigeria, legal framework

### **INTRODUCTION**

The paper focuses on the rise of internet has brought so many light to our community for the purpose of development couple with the broad space appreciate by the information and communication technology. The unlawful application of internet has affected the younger generation and also the adult class into enjoying and adopted creation of cyber pornographic images. The birth of internet is for good and beneficial to human beings across the globe and not to be an avenue of degrading the societal morals to gross indecency which by far created by our communities. Internet forms the basis of processing communications and interactions through technological means, any depict images of a child or adult uses or upload in the internet is referred as cyber pornography. Cyber pornography has been a medium of communication of sexual images to person through the internet; particularly the children are the most affected once. Psychology of the mind and emotional are unsound by devastating the sole and the damage of the future is so overwhelmed. The discussion on the paper is limited to cyber pornography through the use of internet.

### **Cyber Pornography**

Cyber pornography define as the act of using cyberspace to initiate, design, expose, circulate, introduce or advertise pornography or indecent items, especially material depicting children engaged in sexual acts with adults.<sup>1</sup> Naturally, considering the moral aspects pornography is a criminal offence and had been classified as amongst the factors causing harm to persons.<sup>2</sup> Pornography in the internet is available on a different layout. These ranges from pictures and

<sup>1</sup> 'Cyberpornography', definition Your Dictionary, available at <http://www.yourdictionary.com/cyberpornography>. Accessed on 28/2/2015.

<sup>2</sup> Ibid.

short animated movies, to sound files and stories, users used cyberspace to create sex, sex life, sex act and arrange sexual activities from computer screen.<sup>3</sup> The shocking story about cyber pornography is globally central and focused on children and teenagers. Child pornography on the internet involves images of children depicted in social activities that are in commercializing context like a fish in a river.

Cyber pornographer's uses cyberspace for ease dissemination and distribution to sell in their products to pedophiles<sup>4</sup> while purchasing child pornography, thus paedophiles visit online chat room in attempt to engage children into spot for sex.<sup>5</sup> That alone constitutes an offence as an act of luring a child into situation of sex, thus is prohibited and in some instance a paedophile engaged chatting with a teenager on the internet whereby suggesting a meeting or visiting a minor's home in the name of sex engagement.<sup>6</sup>

The internet has become the foremost means for the circulations of child pornography. In the 1970's and 1980's criminals engaged in the acts of child pornography were seriously in danger.<sup>7</sup> During that time, the commercialization of child pornography centre at the heart of Europe and the U.S.<sup>8</sup> and the material was produced in a local context which is costly and hard to obtain.<sup>9</sup> Attempt to transact on child pornography movie demand a possibility of risks involved which are least today. Previously, pornography industries lack the ability to create cinematography.<sup>10</sup> They relied on the service granted by the business which opened the opportunity for agents of law enforcement to identify child pornography through the development of business report by the handlers.<sup>11</sup> For the first time, video camera has changed the scene.<sup>12</sup>

Notwithstanding, the firm risk involved in the production, the accessibility to child pornography was equally weighed down with the risk for the perpetrators. Directives were coordinated to the public notice in newspapers.<sup>13</sup> Medium of communication between the parties in the businesses are limited.<sup>14</sup> Up to the mid-1990's, child pornography was mainly transported through courier services where an excellent investigation led to the apprehension of a reasonable number of perpetrators.<sup>15</sup> Experts are of the view that during that time law

<sup>3</sup> Rochas Nagpal, 'Cyber pornography & IT Act', this document is an extract from the Book Cybercrime and Digital Evidence-India Perspective, by Asian School of Cyber Law, 2008, p. 34.

<sup>4</sup> Pedophiles are adults with sexual attraction to children.

<sup>5</sup> 'Cyber Crime-Online Child Pornography', internet children law enforcement, available at <http://law.jrank.org/pages/11986/Cyber-Crime-Online-child-pornography.html>. Accessed 28/2/2015

<sup>6</sup> Ibid.

<sup>7</sup> Regarding the risk of detection with regard to non Internet-related acts, ; Lanning, Child Molesters: A Behavioral Analysis, 2001, page 63.

<sup>8</sup> Healy, Child Pornography: An International Perspective, 2004, page 4.

<sup>9</sup> Wortley and Smallbone, 'Child Pornography on the Internet, Problem-Oriented Guides for Police, USDOJ', 2006, page, 1.

<sup>10</sup> 'Sexual Exploitation of Children over the Internet', Report for the use of the Committee on Energy and Commerce, US House of Representatives, 109th Congress, 2007, p. 8.

<sup>11</sup> Ibid.

<sup>12</sup> Lanning, Child Molesters: A Behavioural Analysis, 2001, p. 62; Rights of the Child, Commission on Human Rights, 61<sup>st</sup> session, E/CN.4/2005/78, p. 8; Healy, Child Pornography: An International Perspective, 2004, p. 5; Child Pornography, CSEC World Congress Yokohama Conference, 2001, p. 19.

<sup>13</sup> 'Sexual Exploitation of Children over the Internet', op. cit.

<sup>14</sup> Ibid.

<sup>15</sup> Ibid.

enforcement are up to the task.<sup>16</sup> The accessibility of cyberspace, naturally revolutionize the situations into the applications of internet based and data exchange. In the past law enforcement confronted the situation in a traditional way, but today the system completely adopts a style of virtual application in the investigation processes.<sup>17</sup> In the mid of 1990's, the perpetrators increasingly uses cyberspace in the circulation of pornography materials.<sup>18</sup> The application of virtual-reality has tremendously assisted in tracking the internet protocol (IP) addresses of the child pornography site thereby detecting and investigating cases at different fora.<sup>19</sup> Today, cyberspace has been the major and fasted line for a consistent pornography trade<sup>20</sup> along with child pornography.<sup>21</sup>

### **Nigeria Cyber pornography**

The Nigeria cyber pornography is a practical trend and pornography industries keeps growing. The pornographic films are originated from the Nigerian films industries, popularly known as 'Nollywood'. With the infiltration of Ghanaian movies in the Nollywood, pornographic movies accorded a reception. The practice of sex today in Nigeria has been one of the most profitable acts in the film industries and that is not limited to Nigeria even the Europe and other countries.

Currently, the Nigerian film produces 'blue films'<sup>22</sup>. Blue films or blue picture is a term used in Nigeria for an adult film, often made by amateurs or shot in a style recalling amateur pornography.<sup>23</sup> So many numbers of these films are now available and produced by the Nollywood industries. There are latest films were an actor/actress make some adult entertainment movies.<sup>24</sup> These films are now viral and are referred as 'Bold 5 Babes-Room 027'.<sup>25</sup> A website page titled 'pornography takes over Nollywood' has also gone viral and the page is hardly accessible and virus blocks the site.<sup>26</sup>

However, Nollywood films are turning into pornography industries that alone question the standard and moral aspects of the industry. Considering the fact that Nollywood has for long seem to portray the African culture and value in a celebrated context, thus looking at the Nigerian Nollywood-pornography film industry changes its scope.

<sup>16</sup> Jenkins, Beyond Tolerance, Child Pornography on the Internet, 2001, p. 41.

<sup>17</sup> 'Child Pornography', CSEC World Congress Yokohama Conference, 2001, p. 17.

<sup>18</sup> 'Sexual Exploitation of Children over the Internet', op. cit. p. 9.

<sup>19</sup> Vienna Commitment against Child Pornography on the Internet, 1st October 1999; Europol, Child Abuse in relation to Trafficking in Human Beings Fact Sheet January 2006, p. 2; Jenkins, Beyond Tolerance, Child Pornography on the Internet, 2001, p. 49.

<sup>20</sup> Bloxsome et al, 'The Pornography and Erotica Industry: Lack of Research and Need for a Research Agenda', Griffith University, Brisbane, Australia: 2007 International Non-profit and Social Marketing Conference, 27-28 Sep 2007, p. 196.

<sup>21</sup> Europol, Child Abuse in relation to Trafficking in Human Beings Fact Sheet January 2006, p. 1; Eneman, A Critical Study of ISP Filtering Child Pornography, 2006, page 1. McCulloch, Interpol and Crimes against Children – in Quayle and Taylor, Viewing child pornography on the Internet: Understanding the offence, managing the offender, helping the victims, 2005.

<sup>22</sup> 'Sex, Nollywood and Nigerian Hypocrisy' available at [thisisafrica.me/lifestyle/sex-nollywood-and-nigeria-hypocrisy/](http://thisisafrica.me/lifestyle/sex-nollywood-and-nigeria-hypocrisy/). Accessed on 28/2/2015.

<sup>23</sup> 'Blue Films', [Wikipedia.org/wiki/Blue-films/](http://Wikipedia.org/wiki/Blue-films/). Accessed on 28/02/2015.

<sup>24</sup> 'Nollywood goes haywire', available at [talknaija.blogspot.ni/2013/09/Nollywood-goes-haywire](http://talknaija.blogspot.ni/2013/09/Nollywood-goes-haywire). Accessed on 28/02/2015.

<sup>25</sup> Ibid.

<sup>26</sup> This is to tell you that the website is attracting so many attentions.

The availability of pornography on the internet has upset the moral aspect of every community in the nation and the entire world. The acceptability of pornography as a crime of nature is in question, as it is difficult to define pornography in an acceptable context of any multi-national environment.<sup>27</sup>

### **Analysis of Legal Framework**

The analytical discussions premise on Council of Europe Convention on Cybercrime, African Union Convention on Cyber Security and Personal Data Protection, ECOWAS Directives and the Cybercrime Bill.

### **Council of Europe Convention on Cybercrime**

The adoption of the Convention and its Explanatory Report by the Committee of Ministers of the Council of Europe at its 109th Session (8 November 2001) and the Convention has been opened for signature in Budapest, on 23 November 2001, on the issue of the International Conference on Cyber-crime.<sup>28</sup> The purpose of the Article is to pursue a legal framework that will addresses child pornography in the cyberspace and further seeks to strengthen protective measures for children, so as to contain their protection against sexual exploitation, by revolutionize criminal law provisions to more successfully confine use of computer systems in the commission of sexual offences against children.<sup>29</sup> The response from the Heads of States and Government of Council of Europe and looking at the respond of the international community seeks to ban child pornography due to its becoming a practical trend across the globe, the continuation of sell of child, child prostitution, and child pornography couple with United Nations Conventions, Protocols on rights of child and the European Community embark on fighting the menace.<sup>30</sup>

It further provides for the criminalisation of various aspects of the electronic production, possession and distribution of child pornography. Majority of the States have already criminalise the traditional pornographic production and the physical distribution of child pornography, but with the emergence and usage of the Internet as the primary instrument and most easiest way for trading such material, it was strongly felt that specific provisions in an international legal instrument were essential to combat this new form outlook of sexual exploitation and endangerment of children. It is a global and acceptable methodology that the use of movies in a material context and the communication technology devices explore the exchange of ideas, fantasies and advice among paedophiles, play a role in supporting, encouraging or facilitating sexual offences against children.<sup>31</sup>

The Article provides for Offences related to child pornography<sup>32</sup> and further provides for Each Party shall adopt such legislative and other measures as may be necessary to establish

<sup>27</sup> 'Regulation of Pornography on the Internet', available at

The lawyers chronicle. <http://thelawyerschronicle.com/regulation-of-pornography-on-the-internet/>. 28/02/2015.

<sup>28</sup> Convention on Cybercrime, Explanatory Report (EST No. 185), available at <http://conventions.coe.int/treaty/en/reports/html/185.htm>. Accessed on 28/02/2015.

<sup>29</sup> Explanatory Report on Cybercrime Convention, No. 91.

<sup>30</sup> Ibid, No 92.

<sup>31</sup> Ibid. No. 93.

<sup>32</sup> Article 9, Convention on Cybercrime, Budapest, 23.XI.2001-ETS 185.

as criminal offences under its domestic law, when committed intentionally and without right, the following conduct:<sup>33</sup>

- (a) producing child pornography for the purpose of its distribution through a computer system;
- (b) offering or making available child pornography through a computer system;
- (c) distributing or transmitting child pornography through a computer system;
- (d) procuring child pornography through a computer system for oneself or for another person;
- (e) possessing child pornography in a computer system or on a computer-data storage medium.

That for the purpose of paragraph 1 above, the term “child pornography” shall include pornographic material that visually depicts:<sup>34</sup>

- (a) a minor engaged in sexually explicit conduct;
- (b) a person appearing to be a minor engaged in sexually explicit conduct; c realistic images representing a minor engaged in sexually explicit conduct.

And further provides that for the purpose of paragraph 2 above, the term “minor” shall include all persons under 18 years of age. A Party may, however, require a lower age-limit, which shall be not less than 16 years.<sup>35</sup> and in addition to this provides that each Party may reserve the right not to apply, in whole or in part, paragraphs 1, sub-paragraphs d. and e, and 2, sub-paragraphs b. and c.<sup>36</sup> Looking at the moral context and protection of the child against this menace. It is essential for each party state to adopt strict measures applicable.

### **The African Union Convention on Cyber Security and Personal Data Protection**

The African Union Convention on Cyber Security and Personal Data Protection is a legal instrument that consider this Convention for the purpose of the Establishment of a Legal Framework for Cyber-security and Personal Data Protection embodies the existing commitments of African Union Member States at sub-regional, regional and international levels to build the Information Society, also recalling that it aims at defining the objectives and broad orientations of the Information Society in Africa and strengthening existing legislations on Information and Communication Technologies (ICTs) of Member States and the Regional Economic Communities (RECs);<sup>37</sup>The African Union (AU) has finally adopted the “African Union Convention on Cyberspace Security and Protection of Personal Data” at its 23<sup>rd</sup> Ordinary Session in Malabo. Changes made to the previous draft convention are still unclear as the final text is not yet available to the public.<sup>38</sup>

According to an official press release on the 30<sup>th</sup> June 2014, the long-awaited “African Union Convention on Cyberspace Security and Protection of Personal Data” has been adopted

<sup>33</sup> Article 9 (1) Ibid.

<sup>34</sup> Article 9 (2) Ibid.

<sup>35</sup> Article 9 (3), Ibid.

<sup>36</sup> Article 9 (4), Ibid.

<sup>37</sup> The Preamble of the African Union Convention on Cyber Security and Personal Data Protection, EX.CL/846(XXV), 24 June, 2014. 28/02/2015.

<sup>38</sup> This report is written on 14 July 2014.



among a number of other legal instruments at the 23<sup>rd</sup> Ordinary Session of the AU.<sup>39</sup> The draft convention addresses three main areas: (1) electronic transactions, (2) personal data protection, (3) cyber security and cybercrime.<sup>40</sup> The definition of the Article for the purposes of this Convention:<sup>41</sup> AU means the African Union; Child pornography means any visual depiction, including any photograph, film, video, image, whether made or produced by electronic, mechanical, or other means, of sexually explicit conduct, where:<sup>42</sup>

- (a) the production of such visual depiction involves a minor;
- (b) such visual depiction is a digital image, computer image, or computer generated image where a minor is engaging in sexually explicit conduct or when images of their sexual organs are produced or used for primarily sexual purposes and exploited with or without the child's knowledge;
- (c) such visual depiction has been created, adapted, or modified to appear that a minor is engaging in sexually explicit conduct.

The Article provided for offences specific to information and communication technologies<sup>43</sup> where it proceeds to discuss the content related offences<sup>44</sup> that State Parties shall take the necessary legislative and/or regulatory measures to make it a criminal offence to:<sup>45</sup>

- a) Produce, register, offer, manufacture, make available, disseminate and transmit an image or a representation of child pornography through a computer system;
- b) Procure for oneself or for another person, import or have imported, and export or have exported an image or representation of child pornography through a computer system;
- c) Possess an image or representation of child pornography in a computer system or on a computer data storage medium;
- d) Facilitate or provide access to images, documents, sound or representation of a pornographic nature to a minor;
- e) Create, download, disseminate or make available in any form writings, messages, photographs, drawings or any other presentation of ideas or theories of racist or xenophobic nature through a computer system;
- f) Threaten, through a computer system, to commit a criminal offence against a person for the reason that they belong to a group distinguished by race, colour, descent, national or ethnic origin or religion where such membership serves as a pretext for any of these factors, or against a group of persons which is distinguished by any of these characteristics;
- g) Insult, through a computer system, persons for the reason that they belong to a group distinguished by race, colour, descent, national or ethnic origin, or religion or political opinion, if used as a pretext for any of these factors, or against a group of persons distinguished by any of these characteristics;

<sup>39</sup> African Union Directorate of Information and Communication, "Press Release N°18/23rd AU SUMMIT, The 23rd Ordinary Session of the African Union ends in Malabo," press release, 30 June 2014, [http://summits.au.int/en/sites/default/files/PR%2018%20-%2023rd%20AU%20A...\(3\).pdf](http://summits.au.int/en/sites/default/files/PR%2018%20-%2023rd%20AU%20A...(3).pdf).

<sup>40</sup> African Union, <http://au.int/en/cyberlegislation>.

<sup>41</sup> Article 1, op. cit 37.

<sup>42</sup> Ibid.

<sup>43</sup> Article 29, Ibid.

<sup>44</sup> Article 29 (3), Ibid.

<sup>45</sup> Article 29 (3) (1), Ibid.

- h) Deliberately deny, approve or justify acts constituting genocide or crimes against humanity through a computer system

The Article further provides that State Parties shall take the necessary legislative and/or regulatory measures to make the offences provided for under these Convention criminal offences. And when such offences are committed under the aegis of a criminal organization, they will be punishable by the maximum penalty prescribed for the offense.<sup>46</sup> And finally, the Article provides that State Parties shall take the necessary legislative and/or regulatory measures to ensure that, in case of conviction, national courts will give a ruling for confiscation of the materials, equipment, instruments, computer program, and all other devices or data belonging to the convicted person and used to commit any of the offences mentioned in this Convention.<sup>47</sup>

### **ECOWAS Directives on Fighting Cybercrime**

The Economic Community of West African States (ECOWAS)<sup>48</sup> provided a legal instrument to its West African countries on issue of fighting cybercrime The Directive on Fighting Cybercrime in ECOWAS that provides a legal framework for the member states, which includes substantive criminal law as well as procedural law.<sup>49</sup> Amongst the purposes of the Directives is on child pornography in relation to any data whatsoever nature or form that usually depicts a minor engaged in a sexually explicit conduct or realistic images representing a minor engaged in a sexually explicit conduct.<sup>50</sup> The objective of the Directive is to adopt the substantive criminal law and the criminal procedure of ECOWAS Member States to address the cybercrime phenomenon.<sup>51</sup>

The scope of the Directive shall be applicable to all cyber-related offences within ECOWAS sub-region as well as to all criminal offence whose detection shall require electronic evidence.<sup>52</sup> The Articles in the Directive further discussed related offences in user of information and communication technology and as such constitutes offences.<sup>53</sup> The Article provides for production of child pornography or pornographic representation<sup>54</sup> and proceeds further to discuss the production of child pornography or pornographic representation is the act by which a person produces, records, offers, or makes available, distribute or transmits child pornography or pornographic representation through a computer system.<sup>55</sup> Also in the Article provides for import or export of child pornography or pornographic representation<sup>56</sup> and further provides that import or export of child pornography or pornographic representation is the act by which a person procures for oneself or for another person, imports

<sup>46</sup> Article 29 (3) (2), Ibid.

<sup>47</sup> Article 29 (3) (3), Ibid.

<sup>48</sup> (ECOWAS) is a regional group of West African Countries founded in 1975 and it has fifteen member States.

<sup>49</sup> ECOWAS Directive C/DIR. 1/08/11 on Fighting Cybercrimes Within ECOWAS, Sixty-Sixth Ordinary Session of the Council of Ministers, 2011; Dr. Marco Gercke, Regional and International Trends in Information Society Issues, Cybercrime Research Institute, 2010 .

<sup>50</sup> Article 1, the definition of purposes of the Directives, Ibid.

<sup>51</sup> Article 2 Ibid..

<sup>52</sup> Article 3, Ibid.

<sup>53</sup> Chapter II, Ibid.

<sup>54</sup> Article 16, Ibid

<sup>55</sup> Ibid.

<sup>56</sup> Article 17, Ibid.

or causes to be imported, exported or causes to be exported, child pornography through computer system.<sup>57</sup>In the same vein, the Article provides for possession of child pornography or pornographic representation,<sup>58</sup> in addition to this stated that possession of child pornography or pornographic representation is the act by which a person possesses child pornography or pornographic representation through computer system or through any other computer data storage medium.<sup>59</sup>

Finally, the article provides that facilitation of access of minors to pornography documents, sound or pornographic representation<sup>60</sup> where the facilitation of access of minors to pornography, documents, sound, or pornographic representation is the act of by which a person facilitates access of a minor to pornographic pictures, sound or representation.<sup>61</sup>

Looking at the sanctions of the offences,<sup>62</sup> the major penalties<sup>63</sup> that the offences stipulated under this Directive shall be punishable under the criminal court of Member State. Sanctions shall be proportionate and dissuasive.<sup>64</sup>

### Cybercrime Bill 2013

The Nigerian government in compliance with the international best practices, the federal government took a bold step in enacting this law, so as to redefine its position in fighting the menace of cybercrime. Although the image of the country is at stake on the face of international community's on the severity of cybercrimes perpetrated in the internet. The objectives of this Bill are to –<sup>65</sup> while provide for an effective and unified legal, regulatory and institutional framework for the prohibition, prevention, detection, prosecution and punishment of cybercrimes in Nigeria;<sup>66</sup> and also to ensure the protection of critical national information infrastructure;<sup>67</sup> and finally, to promote cybersecurity and the protection of computer systems and networks, electronic communications; data and computer programs, intellectual property and privacy rights.<sup>68</sup> The application of this Bill shall apply throughout the Federal Republic of Nigeria.<sup>69</sup>

The Bill provides for Child pornography and related offences<sup>70</sup> and further provides that any person who intentionally uses any computer or network system in or for-<sup>71</sup>

- (a) producing child pornography for the purpose of its distribution;
- (b) offering or making available child pornography;
- (c) distributing or transmitting child pornography;
- (d) procuring child pornography for oneself or for another person;

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<sup>57</sup> Ibid.

<sup>58</sup> Article 18, Ibid.

<sup>59</sup> Ibid.

<sup>60</sup> Article 19, Ibid.

<sup>61</sup> Ibid.

<sup>62</sup> Chapter IV of the Directive, Ibid.

<sup>63</sup> Article 28, Ibid.

<sup>64</sup> Article 28 (1), Ibid.

<sup>65</sup> Section 1, Cybercrime Bill 2013.

<sup>66</sup> Section 1 (a), Ibid.

<sup>67</sup> Section 1 (b), Ibid.

<sup>68</sup> Section 1 (c), Ibid.

<sup>69</sup> Section 2, Ibid.

<sup>70</sup> Section 14, Ibid

<sup>71</sup> Section 14 (1), Ibid.



- (e) possessing child pornography in a computer system or on a computer-data storage medium; commits an offence under this Act and is liable on conviction –
  - (i) in the case of paragraphs (a), (b) and (c) to imprisonment for a term of ten years or a fine of not less than N20,000,000.00 or to both fine and imprisonment, and
  - (ii) in the case of paragraphs (d) and (e) of this subsection, to imprisonment for a term of not less than five years or a fine of not less than N10,000,000.00 or to both fine and imprisonment.

That any person who, intentionally proposes, grooms or solicits, through information and communication technologies, to meet a child, followed by material acts leading to such a meeting for the purpose of:<sup>72</sup> while engaging in sexual activities with a child;<sup>73</sup> in engaging in sexual activities with a child where -<sup>74</sup>

- (i) use is made of coercion, inducement, force or threats;
- (ii) abuse is made of a recognised position of trust, authority or influence over the child, including within the family; or
- (iii) abuse is made of a particularly vulnerable situation of the child, mental or physical disability or a situation of dependence;

In recruiting, inducing, coercing, or causing a child to participate in pornographic performances or profiting from or otherwise exploiting a child for such purposes; commits an offence under this Bill and is liable on conviction-<sup>75</sup>

- (i) in the case of paragraphs (a) and (b) to imprisonment for a term of not less than 10 years or a fine of not less than N15,000,000 or to both fine and imprisonment; and
- (ii) in the case of paragraph (c) of this subsection, to imprisonment for a term of not less than five years or a fine of not less than N10,000,000 or to both fine and imprisonment.

And for the purpose of subsection (1) above, the term “child pornography” shall include pornographic material that visually depicts-<sup>76</sup> that a minor engaged in sexually explicit conduct;<sup>77</sup> that a person appearing to be a minor engaged in sexually explicit conduct;<sup>78</sup> and the realistic images representing a minor engaged in sexually explicit conduct.<sup>79</sup> Finally, for the purpose of this section, the term “child” or “minor” shall include a person below 18 years of age.<sup>80</sup>

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<sup>72</sup> Section 14 (2), Ibid.

<sup>73</sup> Section 14 (2) (a)

<sup>74</sup> Section 14 (2) (b)

<sup>75</sup> Section 14 (2) (c)

<sup>76</sup> Section 14 (3)

<sup>77</sup> Section 14 (3) (a)

<sup>78</sup> Section 14 (3) (b)

<sup>79</sup> Section 14 (3) (c)

<sup>80</sup> Section 14 (4)

The response of international community to cyber pornography is quite remarkable, few days ago, the international search engine google steadily been cutting down on adult-oriented material hosted on Blogger, its blogging platform, over the last few years.<sup>81</sup> Where a Blogger posted nudity images of child pornography, the, Blogger said “censoring this content is contrary to a service that bases itself on freedom of expression”, so bloggers rightly assumed that they would be free to continue to post adult content.<sup>82</sup> The Google’s decision to force blogs hosting adult content into becoming invitation-only services is a deliberate and ill-considered sabotage on free speech and connectivity.<sup>83</sup>

Unexpectedly, the Google changed its decision where it restated that from 23<sup>rd</sup> March, that precisely only material allowed by its blogger that offer benefit to public for example in artistic, educational, documentary, or scientific contexts” to be determined by Google. Further to this that anything else that does not fall into this category will be restricted to private-only viewing, where only people who have been invited by the blog’s creator will be able to see them; it won’t appear in search results.<sup>84</sup> This is a decision that complies with the cybercrime conventions laws and policy guide of international organization purposely for the protection of our children in the community.

## FINDINGS

The findings of the paper reveals that cyber pornography is the most easiest means of communicating pornography images on the internet and that has a negative impact to children in encouraging high levels of indecency in a country. That in some of the film industries either directly or indirectly have destroys the morality of children with emotions imbalance, instead for the film industries to inhabit a film of a well-making education setting for the children and thus further exposed the children to social vices wherein a man-paedophiles or a spouse befriend a child. It is the finding of the paper that lack of sex education also influences the right-child young generations to pornography images. Further to this, the paper finds that it imperative for the Internet Service providers and other search engines corporations to comes into a terms in creating awareness and exposing the dangerous nature of the pornography images by blocking the pornography sites. The steps taking by Google is a great development towards addressing this menace. Finally, this new cybercrimes forms amongst the challenges facing the internet and the attention of international community. The rights of the children are our primarily responsibility.

## CONCLUSION AND RECOMMENDATIONS

The application of internet proves that it is borderless community with a slight regulations surrounds and the action of some crime-mind users proof such. This avenue opens for the commission of several crimes which are against our morality, pornography has no any relevance to children particularly looking at the moral aspect and no rationality of any

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<sup>81</sup> The Guardian, ‘Blogger porn ban – Google’s arbitrary prudishness is attacking the integrity of the web’, available at <http://www.theguardian.com/technology/2015/feb/25/blogger-porn-ban-google-zoe-margolis>. Accessed on Wednesday 25 February 2015 13.15 GMT Last modified on Wednesday 25 February 2015 13.39 GMT, Accessed on 28/02/2015.

<sup>82</sup> Ibid.

<sup>83</sup> This report was written by Zoe Margolis, of sex blog ‘Girl With A One-Track Mind’, Ibid.

<sup>84</sup> Ibid.

philosophical thought would agree that pornography present a life in a community. Previously parents knew the nature and danger of such acts in customary level and know how to avoid such by telling some simple rules and rightly advised the children to keep away from the dangerous acts but the cyber world we operate today is a cyber-world and more often children knows internet-computer better than the parents and as such parents do not know the basic danger of internet. So the children are left with unprotected and unregulated cyber-world where paedophiles and pornography industries took advantage in luring children into a dangerous path. The international community rose so much concerned in the protection of the rights of the children across the globe and looking at their vulnerability nature and the emergence of these crimes triggers the mind of the nations and international organization to have a legal framework, both at the international, regional and national level so as to tackle this menace. Now is for the national government to ensure the fully operational work of these legal institutions.

Therefore, the paper recommends that the international community shall vehemently proposed a blockage policy against pornography films and also a depicts of an image in a form of violent be outlawed even though there is a need to define 'an image in a form of violent'. The paper further recommends that government should explicitly regulate the application of internet service providers in a way that there will conditions for a subscriber and to also provider a software tracker of pornography films in the internet. In addition to this recommends a code of practice in analysing images of pornography and whether a film has passed censored verification.

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