

LEGAL IMPEDIMENTS TO PROTECTION FROM SEXUAL HARASSMENT IN NIGERIAN UNIVERSITIES

Folasade Folake Aare* & Erimma Gloria Orie**

Abstract

Across the globe sexual harassment as a global epidemic is one of the most widespread age-long social problems and crimes against woman albeit with varied pervasiveness and practice within the universities. Research on female students' experience of violence in UK campuses found that one in four respondents had experienced unwanted sexual behaviour. In USA about 300,000 women are raped and 3.7 million are confronted with unwanted sexual activity annually while at Jimma University in Ethiopia, of 385 women at the University, 78.2% had experienced different forms of harassment. Consequences of sexual harassment in higher education include unwanted pregnancies and sexually transmitted diseases, increased alcohol use impaired career opportunities, reduced job motivation, decreased job satisfaction, decreased self-confidence and self-image, and more. Nine out of ten of the world's countries have laws against sexual harassment in working life today, but almost six out of ten lack adequate laws against sexual harassment in higher education and schools. Nigeria is certainly not exempted. The paper finds that in spite of the efforts of the Nigerian government to combat this systemic epidemic the problem has not abated. Therefore, using the doctrinal research methodology, the

* PhD, Senior Lecturer, Department of Private and Property Law, Faculty of Law, Anchor University Lagos. faare@aul.edu.ng

** PhD, Lecturer, Department of Private and Property Law, Faculty of Law, National Open University of Nigeria. eorie@noun.edu.ng

paper examines the legal impediments to protection from sexual harassment in Nigerian universities with a view to proffering some recommendations towards elimination of the endemic problem in Nigerian Universities.

Keywords; Nigeria, Sexual Harassment, Universities

1.0 Introduction

The issues bordering on sexual harassment are not novel and cut across all cadres of employment both in Nigeria and elsewhere and also both private¹ and public sector.² According to a study on female students' experiences with violence on UK campuses, one in four respondents had engaged in unwanted sexual activity; in the USA, approximately 300,000 women are sexually assaulted, and 3.7 million are confronted with unwanted sexual behaviour each year; and at Jimma University in Ethiopia, out of 385 women, 78.2% had engaged in various forms of harassment. Unwanted pregnancies and STDs, increased alcohol consumption, hampered career prospects, decreased job motivation, decreased job satisfaction, lowered self-confidence and self-image, and more are consequences of sexual harassment in higher education. Currently, nine out of ten countries in the world have laws prohibiting sexual harassment in the workplace; however, nearly six out of ten do not have sufficient laws against sexual harassment in higher institutions or schools. Nigeria is certainly not exempted although there is dearth of

¹Louise F. Fitzgerald et. al., "Antecedents and consequences of sexual harassment in organisations: A test of an integrated model" (1997) 82(4) Journal of Applied Psychology 578-589. See also, Louise F. Fitzgerald et. al., "The incidence and dimensions of sexual harassment in academia and the workplace" (1988) 32 Journal of Vocational Behaviour, 152-175

² Stella Y. Erinosh, M. N. Femi-Oyewo & Ekundayo O. Oduwale, Sexual Harassment on Campus: A Study in a Nigeria University (2021) Agogo: Journal Of Humanities Vol. 4, (2018) DOI: 10.46881/ajh.v4i0.218 Available from:https://www.researchgate.net/publication/349308694_Sexual_Harassment_on_Campus_A_Study_in_a_Nigeria_University

accurate data on its prevalence,³ a situation attributable to lack of specific legal regime against sexual harassment, fear of stigmatisation or reprisals, gross underreporting by victims of such cases, possibly, among many other various reasons.⁴

In the circumstance the paper seeks to explore the legal impairments to protection from sexual harassment in Nigerian universities.

2.0 Conceptual clarifications: The key terms for clarification are:

i. Nigeria

Geographically speaking, “Nigeria” is a patchwork of distinct regions on the west coast of Africa, sharing land borders with the Republic of Benin to the west, Chad and Cameroon to the east, and Niger to the north. It is located between 4 and 14 degrees north latitude and 2 and 15 degrees east longitude.⁵ Nigeria’s territory spans from the Gulf of Guinea on the Atlantic coast in the south to the northern edge of the Sahara Desert, covering an area of about 923,768 square kilometres.⁶ The Republics of Niger and Chad in the north, the Republic of Cameroon in the east, and the Republic of Benin in the west define the boundaries of the territory. The Gulf of Guinea defines the southern border. Similar to most other

³Olaoluwa Samson Agbajeet. al., “Workplace gender-based violence and associated factors among university women in Enugu, south east Nigeria: An institutional-based cross-sectional study” (2021) 21 BMC Women’sHealth, 124-145. See also O. Adamolekun, “Sexual harassment on Campus: A counsellor’s reflection” (1989) 4*Nigerian Journal of Counselling and Development*, 53-57.

⁴ Olugbenga Jelili Ladebo, “Sexual harassment in academia in Nigeria: How real?” (2003) 7(1) *African Sociological Review*, 117-130

⁵ <https://kids.nationalgeographic.com/geography/countries/article/nigeria>

⁶ Nigeria Demographic and Health Survey, 1999, <https://dhsprogram.com/pubs/pdf/FR115/01Chapter01.pdf>

National Population Commission [Nigeria]. 2000. Nigeria Demographic and Health Survey 1999. Calverton, Maryland: National Population Commission and ORC/Macro.

nations, sexual harassment is a crime that affects society and can happen in a variety of places, including homes, workplaces, places of worship, and universities. It is common in many universities in Nigeria.

ii. University

A university is an esteemed learning institution where students pursue degrees. It is an academic institution with research facilities and a place where degrees are awarded. It is divided into two parts: a graduate school that includes professional schools and awards master's and doctoral degrees. Also, it has an undergraduate division that awards bachelor's degrees.⁷

iii. Sexual harassment;

Sexual harassment is a legal term whose meaning has been in a state of flux on account of both legislation and judicial pronouncement. This is to say that the meaning of the term seems to vary from one jurisdiction or country/ culture to another and there is no universally accepted definition. The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) General Recommendation No. 19 of 1992 defined sexual harassment as;

Such unwelcome sexually determined behaviour as physical contact and advances, sexually coloured remarks showing pornography and sexual demands whether by words or actions. Such conduct can be humiliating and may constitute a health and safety problem, it is discriminatory when the woman has reasonable grounds to believe that her objection would disadvantage her in connecting with her employment, including recruitment or promotion or when it creates a hostile working environment.

⁷ University Definition & Meaning, Merriam-Webster < <https://www.merriam-webster.com/dictionary/university>> Accessed 10 January 2023

Furthermore, the United States Equal Employment Opportunity Commission (EEOC) defines sexual harassment as follows:

Unwelcome sexual advances, request for sexual favours and other verbal or physical conduct of a sexual nature constitutes sexual harassment when submission to or rejection of this conduct explicitly or implicitly affects an individual's employment, unreasonably interferes with an individual's work performance or creates an intimidating hostile or offensive work environment.

On the other hand, the ILO Guidelines on Sexual Harassment Prevention at the Workplace defines sexual harassment as:

[A]ny unwanted conduct of a sexual nature, request for sexual favours, verbal or physical conduct or gesture of a sexual nature; or other behaviour of a sexual nature that makes the recipient feels humiliated, offended and/or intimidated, where such reaction is reasonable in the situation and condition; or made into working requirement or create an intimidating, hostile or inappropriate working environment.⁸

In Nigeria, the Violence Against Persons Act of 2015 defines sexual harassment as;

“Unwanted conduct of a sexual nature or other conduct based on sex or genders which is persistent or serious and demeans humiliate or creates a hostile or intimidating environment and this may include physical verbal or non-verbal, conduct.”⁹

⁸International Labour Organization /Ministry of Manpower and Transmigration, Guidelines on Sexual Harassment Prevention at the Workplace, (Issued by the Circular Note of the Minister of Manpower and Transmigration No. SE.03/MEN/IV/2011, Indonesia, April 2011), 5.

⁹ *Ibid.* S. 46

This particular form of harassment involves the use of overtly sexual language, either explicit or implicit, as well as unwanted and out-of-place promises of rewards in exchange for sexual favours. From the discussions above, it is evident that sexual harassment in the workplace is defined as any sexually explicit conduct that risks a female employee's job, safety, productivity, or means of support. It is also important to remember that the VAPP does not explicitly define sexual harassment in the workplace or at a university; instead, it only offers a broad definition.

3.0 Statutory Protection against Sexual Harassment

a. International Instruments

i. The United Nations' Universal Declaration on Human Rights (UDHR) 1948¹⁰

The topic of workplace sexual harassment is not covered explicitly in this declaration, even though it is an important issue on human rights. Nonetheless, it acknowledges equality in rights, freedoms, and dignity, as well as equal protection from all forms of discrimination, including sexism.¹¹In a similar vein International Covenant on Economic, Social and Cultural Rights¹² and the International Convention on Civil and Political Rights¹³ proscribed discriminatory practices in broad terms. In addition, the World Conference on Human Rights (1993) at Vienna, also clearly asserted that human rights of women and of the girl child are an inalienable, integral and indivisible part of universal human rights.¹⁴

¹⁰This was adopted and proclaimed by UNGA Resolution 217A (III) of 10 December 1948

¹¹Ibid, Articles 1, 2, and 7

¹²Adopted on 16 December 1966 by UNGA Resolution 2200 A (XXI); entered into force on 3 January 1976, Articles 2(2) & 3;

¹³Adopted by UNGA on 19 December 1966; entered into force on 23 March 1976, Articles 2(1), 3 & 26

¹⁴Romana Asmat& Sidra Mehboob, (2016), International Laws and Policies for Addressing Sexual Harassment in the Workplace International Research Journal of Interdisciplinary & Multidisciplinary Studies (IRJIMS) Volume-II, Issue-II, March 2016, Page No. 32-43.

ii. In June 2019, at the Centenary Conference of the International Labour Organization (ILO) the Violence and Harassment Convention (No. 190) and its accompanying Recommendation (No. 206) were adopted. Convention No. 190 and Recommendation No. 206 provides that to prevent and address violence and harassment, fundamental principles and right at work, including the right to non-discrimination, need to be respected, promoted and realised.¹⁵ The ILO Violence and Harassment Convention No. 190 of 2019¹⁶ interpreted “gender-based violence and harassment” to include “sexual harassment”¹⁷ and enjoins States to ensure that complainants of sexual intimidations are accorded access to appropriate and effective remedies without victimisation.¹⁸

iii. **Convention on Elimination of All Forms of Discrimination against Women (CEDAW) 1979.**¹⁹

Article 18 obliges States ‘to take all appropriate measures, including legislation, to modify or abolish existing laws, regulations, customs and practices, which constituted is crimination against women" and to submit national reports, at least every four years, on measures they have taken to comply with their treaty obligations. The Recommendations admitted that

¹⁵ Mackinnon (1979) *The Sexual Harassment of Working Women* published by Yale University

¹⁶Adopted at Geneva during the 108 ILC session on 21 June 2019; entry into force 25 June 2021. Text copy available at https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C190 (last accessed 27 August 2021).

¹⁷*Ibid.*, Article 1. See also an earlier General Surveys on Equality in Employment and Occupation Convention 1996, para. 39.

¹⁸*Ibid.*, ILO Discrimination (Employment and Occupation) Convention 1958, Article 10.

¹⁹This was adopted by the United Nations General Assembly on 18 December 1979 and entered into force on 3 September 1989. Nigeria signed the Convention on 23 April 1984; ratified the Convention on 13 June 1985.

parity in employment can be critically undermined when women experience gender-based violence like work-associated sexual harassment.²⁰ The Optional Protocol which entered into force on 22 December 2000, enables the Committee to consider petitions from individual women or groups of women having exhausted national remedies, and also entitles the Committee to conduct inquiries into serious or systematic violations of the Convention.²¹ The convention also calls for providing victims with effective access to gender-responsive, safe and effective complaint and dispute resolution mechanisms, support, services and remedies for victims of gender based violence and harassment are set out in the Recommendation and include support to help them re-enter the labour market and counselling services.

iv. The Convention Against Torture and Other Cruel Inhuman or Degrading Treatment or Punishment (CAT).²²

To ensure compliance, section 16 encourages signatory States to take preventative measures to prevent "cruel, inhuman, *or* degrading treatment *or* punishment" within any territory ... Notwithstanding, the convention has a major lacuna in that it failed to provide against any form of sexual harassment. More importantly, the convention merely discussed the subject matter of torture from a general sense and not the specific issue of sexual harassment or its practice in the universities.

v. The 1995 Beijing Platform for Action²³

The 1995 Beijing Platform for Action²⁴ is a soft law which identified sexual harassment and intimidation at workplace, educational institutions

²⁰*Ibid*, Article 11.17.

²¹Orie, E.G. & Ugbejeh, E. (2021). Covid-19 Crisis and Female Gender-Based Violence; Issues and Challenges for Nigeria. *The Quint: An interdisciplinary Quarterly from the North*, 13 (4), University College of the North, Manitoba, Canada. 544-580

²² (CAT) (GA Res 39/46, 1984)

²³ Report of the Fourth world conference on women in Beijing 4-15 September 1995

²⁴ Report of the Fourth world conference on women in Beijing 4-15 September 1995

and other spaces as a form of violence against women that is capable of nullifying the attainment of gender parity and enjoyment of human rights and basic liberties.

vi. ILO Decent Work for Domestic Workers Convention (No. 189) 2011²⁵

According to the convention, each member country is required to adopt steps to ensure that domestic workers are provided with adequate protection from every kind of abuse, harassment and violence²⁶ as well as enjoy fair terms of employment and decent working conditions, including respect for their privacy,²⁷ right to safe and healthy environment.²⁸

vii. Declaration on the Elimination of Violence against Women in Africa 1994²⁹

In recognition of the vital obligation for a global application to women of the rights and standards regarding equality, security, freedom, integrity and dignity of every human being,³⁰ and for a successful implementation³¹ of CEDAW, the Declaration categorises sexual harassment and intimidation, whether at place of employment or educational institutions, as a form of violence against women³² and calls

²⁵ The convention was adopted at the 100th Session of the ILO on 16 June 2011.

²⁶*Ibid*, Article 5.

²⁷*Ibid*, Article 6.

²⁸*Ibid*, Article 13.

²⁹ A/RES/48/104; adopted by the UNGA on the report of the Third Committee (A/48/6291) on 23 February 1994.

³⁰*Ibid*, preamble para.1; Enobong Mbang Akpambang, Sexual Harassment of Female Employees in The

Workplace: Imperative For Stringent Legal and Policy Frameworks in Nigeria, *Pancasila and Law Review*,

Volume3 Issue 1, January–June 2022: pp: 69-94

³¹*Ibid*, preamble para. 3.

³²*Ibid*, Article 2(b).

on States parties to condemn, prevent and adopt all apposite methods or policies to abolish such unacceptable behaviour.³³

viii. The African Charter on Human and People's Rights (ACHPR)
Section 18 (3) of the African Charter states that: 'the state shall ensure the elimination of every discrimination against women and also ensure the protection of the rights of the woman and the child as stipulated in international declarations and conventions. In addition, its protocol, the Maputo Protocol, equally prohibits gender-based violence as part of women's rights to life, integrity and security of the person, and dignity.

Domestic Legal Framework on Sexual Harassment in Nigeria

This part of the paper examines some existing legislative frameworks on sexual-related offences with the intention of discovering their potency or flaws in the ultimate fight against sexual harassment at Nigerian Universities. Some of these include;

(a) The Nigerian Constitution: Chapter IV of the Constitution provides that the fundamental rights are the absolute human rights of all citizens of Nigeria, apply irrespective of race, place of birth, religion, creed or gender, are enforceable by the courts, subject to specific restrictions, and are inherent and inalienable.

Section 34(1) provides clearly that every individual is entitled to respect for the dignity of his person and in sub section 1(a) further provides that: "*no person shall be subject to torture inhuman or degrading treatment.*" Thus, GBV in any form including sexual harassment at the university is a degrading treatment being a violation of the fundamental rights of the victim.

³³*Ibid*, Article 4.

(b) The Penal Code: The Penal Code in Chapter XVI designates the following as grievous hurt; emasculation any level is a violation of the victim's total rights as espoused in chapters II and IV of the Nigerian constitution although the issues of sexual harassment in the university is not discussed in any of the sections. However, the Constitution confers exclusive jurisdiction on the National Industrial Court of Nigeria (NICN) to adjudicate on civil matters relating to any dispute arising from "discrimination or sexual harassment at workplace."³⁴ It has been argued in some quarters that the vesting of such authority on the NICN is an implicit admission of the existence of sexual harassment at workplace and the need to give victims of such abuses the rights to seek for appropriate legal redress in court. This view was upheld by the court in the case of *Ejike Maduka v Microsoft Nigeria Limited & 3 Ors*³⁵, permanent deprivation of sight of an eye, of the hearing of an ear, or of the power of speech, deprivation of any member of joint, destruction or permanent impairing of the power of any member or joint, permanent dislocation of the head or face, fracture or dislocation of bone or tooth, any hurt which endangers life or which causes the sufferer to be during the space of twenty days in severe bodily pains or unable to follow his ordinary pursuits. This by implication means that code does not see sexual violence against women as a grievous hurt.

(c) The Criminal Code: The Criminal Code is in force in the southern states of Nigeria. States have their criminal laws. The Criminal Code

³⁴CFRN 1999, section 254C (1) (g)

³⁵Suit No. NICN/LA/492/2012 (unreported), decided by the National Industrial Court of Nigeria, Lagos Judicial Division on 19 December, 2013, per Obaseki-Osaghae, J.; *Abimbola Patricia Yakubu v. Financial Reporting Council of Nigeria & Another*, Suit No. NICN/LA/673/2013 (Unreported) decided by the National Industrial Court of Nigeria, Lagos Division on 24 November 2016. Retrieved from <https://www.nicnadr.gov.ng/judgement/details.php?od=6320> (last accessed 26 October 2021), per Hon. Justice Oyewumi

considers assault on a woman as a misdemeanour while assault on a man is a felony. Section 353 of the Criminal Code prescribes 3 years punishment for indecent assault on a man, calling it a felony while Section 360 prescribes 2 years punishment for the same offence on a woman calling it a misdemeanour.

(d) The Violence Against Persons (Prohibition) (VAPP) Act: This Act was passed into law on May, 2015 to eliminate violence in private and public life, to prohibit all forms of violence against persons and to provide maximum protection and effective remedies for victims and punishment of offenders; and other related matters. The VAPP Act made provision of life imprisonment for rape offenders. It provided 14 years imprisonment for offenders aged 14 and below. In other cases, a minimum of 12 years imprisonment without an option of fine is stipulated. It also provided a minimum of 20 years imprisonment without an option of fine for other age groups, groups or persons who perpetrated the Act. Overall, the VAPP Act is the only law that transcends the criminal and penal code in guaranteeing justice and protecting the rights and properties of victims of sexual and gender-based violence in Nigeria. However, VAPP Act is of limited geographical reach as it is applicable only to the federal capital territory except where a state government decides to adopt it. The Act has been adopted by 18 of the 36 states in Nigeria, including the Federal Capital Territory.

(e) Sexual Harassment of Students in Tertiary Educational Institutions (Prohibition Bill) 2020 (Anti-Sexual Harassment Bill) 2019³⁶

³⁶This is a Bill for an Act to Make Comprehensive Provisions for the Prohibition and Punishment of Sexual Harassment of Students by Educators in Tertiary Educational Institutions; and for Related Matters.” See, National Assembly, *The Senate Committee on Judiciary, Human Rights and Legal Matters Report on A Bill for an Act to Prevent, Prohibit and Redress Sexual Harassment of Students in Tertiary Educational Institutions*

The essence of the bill is to encourage and uphold moral standards in Nigerian higher educational institutions,³⁷ recommends a punishment of not exceeding 14 years but not less than 5 years in jail for any educator found culpable.³⁸ Where the complaints of sexual harassment are not addressed within a stipulated time the administrative head of the institution will be penalised.³⁹ The offences provided under the bill are strict liability offences. The offences under the Bill are generally strict liability offences. Overall, it has been argued that the bill is a milestone law designed to curb the recurring problem of sexual harassment in Nigerian tertiary institutions, 196 and return academic institutions to the path of moral rectitude. Notwithstanding, its primary weakness as the name clearly indicates, is that it is not wide-ranging and so cannot effectively checkmate issues of sexual harassment in the workplace outside the confines of the tertiary educational institutions' scope.⁴⁰ Put precisely, the bill seeks to protect students from all forms of sexual harassment in tertiary educational institutions.

(f) Criminal Law of Lagos State 2011

and for Matters Connected Therewith (SB.77), June, 2020, Retrieved from <<https://placng.org/i/wp-content/uploads/2020/07/Senate-Report-on-Sexual-Harassment-of-Students-in-Tertiary-Educational-Institutions-Prohibition-Bill-2019.pdf>>(last accessed on 12 December 2022).

³⁷ Anti-Sexual Harassment Bill 2020, section 1.

³⁸ *Ibid*, section 11.

³⁹ *Ibid*, section 20.

⁴⁰ See Editorial, "Nigeria: on sexual harassment bill" (17 July 2020) *Daily Trust*, retrieved from <<https://allafrica.com/stories/202007170055.html>>; Enobong Mbang Akpambang,

Sexual Harassment of Female Employees in The Workplace: Imperative For Stringent Legal And Policy Frameworks In I
Pancasila and Law Review, *Volume 3 Issue 1, January-June 2022* ,pg 69-94, DOI: <https://doi.org/10.25041/plr.v3i2.2754>

The statute sanctions sexual harassment with a 3 year jail punishment for a delinquent.⁴¹ The statute frowns at any unwanted sexual advances, demand for sexual favouritism as well as other ocular, oral or corporal behaviour of a sexual character which when succumbed to or rebuffed impliedly or expressly influences an individual's occupation or academic prospect or unfairly meddles with the individual's vocation or academic attainment.⁴² It has been argued in some quarters that being a state law its application is only limited to Lagos state. In addition, the sanction provided by the law is not stringent enough.

(g) Other Governmental Measures

In its avowed determination to curb GBV, the Federal Government, on Thursday the 23rd of July 2020, inaugurated an Inter-Ministerial Management Committee on Eradication of Sexual and Gender-Based Violence (SGBV), to address these issues. It also established a committee to among other things conduct a review of all the existing laws and policy instruments touching on offences of rape, child defilement and GBV as well as to develop for adoption, national prevention of sexual abuse/violence strategy for the period of 2021- 2025, "that identifies and encapsulates measures to enhance response to rape and GBV and set new targets for prevention, intervention and treatment."⁴³

On the whole, it is clear that going forward there has to be a paradigm shift away from the constricted unavailing legal and bureaucratic understandings of sexual harassment to a more practical humane, victim centred reparative approach. This approach will catalyse the construction

⁴¹ Criminal Law, Vol. 3, Cap. C17, *Laws of Lagos State, 2011*, section 264. Criminal Law, Vol. 3, Cap. C17, *Laws of Lagos State, 2011*, section 264.

⁴²*Ibid*, section 264(2)(a)-(c).

⁴³President Buhari; International day of eliminating violence against women: Nigeria's response and commitments to gender-based violence in the Covid-19 context state house Press Release November 2020 , <https://web.facebook.com/TheAsoVilla/photos/a.452383424952392/145746509444215/?type=3&rdc=1&rdi>

of resilient organizations through experience-based knowledge of both practitioners in the field and victims to sexual harassment laced with the need for adequate appropriate sanctions. More important is the fact the literature review has revealed that the legislations did not cover the area of sexual harassment in the universities. The legal system alone is not an adequate mechanism for reducing or preventing sexual harassment.

4.0 Challenges of Curtailing Sexual Harassment in Nigerian Universities

Different types of sexual harassment exist. It encompasses overt acts of physical violence and more covert ones like coercion or the establishment of a hostile work environment. Examples of hostile work environments include instances when the victim is not appointed to significant committees, is not informed about training possibilities, or is not given consideration for promotion due to family obligations. Despite being challenging to prove; this kind of sexual harassment can significantly affect women's careers and employment opportunities⁴⁴.

Sexual harassment can take different forms, e.g., the request for sexual favours made under the threat of failing a student who refuses to comply with the demands of the lecturer;⁴⁵ any unwanted sexual word, gesture, or action that makes students feel terrified, humiliated, uncomfortable, or ashamed.⁴⁶ It is especially harmful in an academic setting because it also subverts education. Victims of harassment do not have to show that their refusal to partake in sexual conduct resulted in them failing their examinations, as harassment can also result in the victims being absent-minded in class or in other social activities hence affecting the student's

⁴⁴Stop Violence Against Women Sexual Harassment available on <http://hrlibrary.umn.edu/svaw/harassment/explore/1whatis.htm> accessed June 15 2022

⁴⁵Ontario Human Rights Commission available on <https://www.ohrc.on.ca/en/policy-preventing-sexual-and-gender-based-harassment/2-identifying-sexual-harassment> accessed June 14 2022

⁴⁶ Sexual Assault Centre of Edmonton (2022) available on <https://www.sace.ca/learn/what-is-sexual-harassment/> accessed June 14 2022

social interaction with others and a withdrawal from other activities. Sexual harassment has now become a serious concern in tertiary institutions due to its frequency and harmful impact on people and students. However, sexual harassment is not gender-based because the real or perceived gender, expression, or sexual orientation focuses on unwelcome sexual comments, sexual gestures, or sexual behaviour. It includes harassing behaviour that is not explicitly sexual but is intended at a person because of their gender and produces a hostile, threatening academic environment. Educational institutions which are expected to be a citadel of learning have evolved into battlefields for sexual assaults, rather than the academic place known for in the past.⁴⁷

Sexual harassment is not acceptable in academic settings; it taints the whole goal of a university, which is to advance knowledge. It is indeed inappropriate and ethically wrong. The prohibition of sexual harassment on campus necessitates a clear and explicit definition of the specific behaviour that infringes on others' rights, which everyone can understand. In tertiary institutions, sexual harassment regulations must be based on the rule of law, not personal opinions, perceptions, or sentiments. It must be addressed swiftly and forcefully, following the law, respecting everyone's dignity and rights, and not abusing regulations to curtail academic freedom.⁴⁸ Sexual harassment should be dealt with summarily and severely by academic officials; accelerated judgment should be given to persons that are guilty of coercing sexual favours. Academic freedom is also not a barrier to the efficient execution of laws prohibiting minor forms of harassment, such as inappropriate touching, which also exploits

⁴⁷Janice Joseph, "Sexual Harassment in Tertiary Institutions: A Comparative Perspective) (2015)available onhttps://www.researchgate.net/publication/287406533_Sexual_harassment_in_tertiary_institutions_A_comparative_perspective accessed June 12, 2022

⁴⁸ Thomas R. Dye, "Preventing Sexual Harassment and Preserving Academic Freedom Policy Studies Review, Winter" (1998)15:4 available at <https://onlinelibrary.wiley.com/doi/abs/10.1111/j.1541-1338.1998.tb01093.x> page accessed June 15, 2022

individuals and harms the educational process, should be prosecuted, as it remains unethical and a significant breach of an educator's responsibilities.

Legislators and law enforcement authorities had generally neglected sexual harassment in tertiary education institutions until recently when the news of sexual assault and harassment started generating uproar on social media with audio and video evidences.⁴⁹ Lately, some nations have begun to address the issue of sexual harassment in tertiary institutions by adopting the Protection against Harassment of Women at Workplace Act 2010.⁵⁰ In 2011, Pakistan, for instance, took a tough step in an effort to stop sexual harassment at educational institutions. This was done in order to protect students at these universities from intimidating, offensive, and hostile behaviour as well as male lecturers who would pressure them into having sex in exchange for marks.⁵¹

Sexual harassment in educational institutions is now illegal in France, thanks to legislation that was enacted in 2012. The new French law carries a maximum three-year prison sentence for violations. Following multiple highly publicized incidents of sexual harassment in Korean institutions, South Korea is toughening its laws against sexual assault.⁵² Australia's Sex and Age Discrimination Legislation Amendment Act of 2011 now

⁴⁹Bukola Adebayo and Stephanie Busari, CNN (2018) <https://edition.cnn.com/2018/05/23/africa/sex-for-grades-university-nigeria-intl/index.html> accessed June 16, 2022

⁵⁰ Farley, L. "Sexual Shakedown: The Sexual Harassment of Women on the Job" (1978) New York: McGraw-Hill.

⁵¹Rizwana Yousaf and Rudi Schmiede, "Harassment Act Implementation in Higher Education Institutions" (2016) Vol.5 No.1, Open Journal of Leadership available on HEC (2011). Policy Guidelines against Sexual Harassment in Institutions of Higher Learning. <http://www.hec.gov.pk/MediaPublication/News/Documents/Large%20Book.pdf> accessed June 17 2022

⁵² The Star/Asia News Network, Universities in South Korea Toughening Rules Against Sexual Harassment Amid Scandals (2014) available at: <http://www.straitstimes.com/news/asia/east-asia/story/universities-south-korea-toughening-rules-against-sexualharassment-amid-s> accessed June 16, 2022

covers schools, colleges, and universities.⁵³ The 1997 US Equal Employment Opportunity Commission refers to any unwanted sexual activity that hinders a student's ability to learn, study, work, or take part in school activities as sexual harassment.⁵⁴

Although the issue of sexual harassment on university campuses around the world is not new, it was first reported in schools, colleges, and universities in the early 80s, and the number of complaints has steadily escalated since then.⁵⁵ At this juncture, there is no denial concerning the rise in sexual harassment at universities and other educational institutions. The variety of sexual harassment that has been documented in a classroom context is alarming.⁵⁶ Research also shows that more females than males are said to have experienced sexual harassment, and this has an effect on how well they perform in school by making it difficult for them to focus on their studies, making them fearful, and lowering their self-esteem, among other things.⁵⁷

5.0 Strategies for curbing Sexual Harassment in Nigeria Universities

Nigeria has a variety of laws, and sexual harassment is not without a legal framework. Although protesters have called for a stricter legal framework

⁵³ Australia Human Rights Commission (n.d.) Sexual harassment in education available at: <https://www.humanrights.gov.au/sexual-harassment-education> accessed June 16, 2022

⁵⁴ U.S. Equal Employment Opportunity Commission (1999) Sexual harassment available at: http://www.eeoc.gov/laws/types/sexual_harassment.cfm accessed June 12 2022

⁵⁵ Janice Joseph, "Sexual Harassment in Tertiary Institutions: A Comparative Perspective" (2015) available at https://www.researchgate.net/publication/287406533_Sexual_harassment_in_tertiary_institutions_A_comparative_perspective page accessed June 12, 2022

⁵⁶ Deborah Tolu-Kolawole, 'UNIABUJA dismisses two professors over sexual harassment' Punch Newspaper (2022) <https://punchng.com/uniabuja-dismisses-two-professors-over-sexual-harassment/> accessed 12 June 2022

⁵⁷ Ashgar Ali Ali Mohamed *et al* "Sexual Harassment in Malaysian Educational Institutions: Causes and Solutions" 2014 Proceedings of SOCIOINT14- International Conference on Social Sciences and Humanities pp. 484-494

and punitive consequences for the offence, the Nigerian Constitution still does not explicitly address issues of sexual harassment. Though some state governments enact many state laws on the subject,⁵⁸ organisations like the Nigerian Bar Association Women Forum championed and launched a policy on sexual harassment.⁵⁹ As a result, the federal government does not have exclusive authority in sexual assault cases.⁶⁰ The courts in Nigeria are working tirelessly to reduce the surge in sexual offences and the National Industrial Courts have been applauded for its innovations on the workplace sexual harassment through its judgments and rules of court. All these make up the legal framework of workplace sexual harassment in Nigeria.

In Nigeria, Universities are required by law to ensure that employees and students are treated without sexual harassment. The Sexual Harassment Bill that the Nigerian Senate enacted in 2020 is aimed to prohibit sexual harassment in academic institutions and protect university standards. According to the proposed law, university lecturers who are found guilty of sexual harassment or academics who make advances toward students might face two years in prison. Additionally, it imposes penalties or jail sentences on university officials who refuse to look into staff member sexual misconduct claims. In the case of *FRN vs Prof. Richard I. Akindele*⁶¹ (former lecturer of Obafemi Awolowo University), the Court found the defendant guilty on all three counts and sentenced him to two years in prison. Therefore, it should be noted that the sexual assault bill forbids sex-based discrimination in any academic environment.

⁵⁸ See s. 262 of the Criminal Law of Lagos State 2011

⁵⁹Aina-Pelemo, 'Nigerian Bar Association sexual harassment policy 2021: A review' available on <https://www.vanguardngr.com/2021/12/nigerian-bar-association-sexual-harassment-policy-2021-a-review/> accessed on 6 July, 2022

⁶⁰https://nigeria.action4justice.org/legal_areas/sexual-harassment-in-the-workplace/what-does-the-law-say-about-sexual-harassment/

⁶¹*FRN vs Prof. Richard I. Akindele* (former Lecturer of Obafemi Awolowo University) unreported <https://corruptioncases.ng/cases/frn-vs-prof-richard-i-akindele-former>

The courts in Montevallo have identified two categories of criminal sexual harassment. *Quid pro quo* means "this for that" or "anything for something." *Quid pro quo* harassment occurs when consenting to unwanted sexual advances is demanded as a condition of receiving employment or educational benefits (such as a promotion or higher grade) or when doing so results in immediate negative consequences for one's job or education (such as loss of promotion or lower grade.) On the other hand, the *quid pro quo* is acceptable as long as the person's employment or academic goals are unaffected by their refusal to consent to sexual advances. A hostile atmosphere is the second category of unlawful sexual harassment. However, if the University is aware of these instances and they are not curbed, they could be considered hostile environment harassment.⁶²

6.0 Recommendations

i. University management must protect the academic freedom of students

Sexual harassment should never be tolerated. It is particularly detrimental in an academic setting and also undermines education.⁶³ The core of the academic purpose is the interaction between teachers and students; if it is damaged or corrupted, the University's primary mission is jeopardized. It is ethically repugnant, and legally unjustifiable to explicitly or implicitly condition grades, evaluations, recommendations, or academic status on a romantic attachment or sexual surrender. Lecturers must take considerable caution in their interactions with students who are enrolled in their

⁶² Sexual Harassment Awareness and Prevention Education Manual available on [Sexual-Harassment-Awareness-and-Prevention-Education-Manual.pdf](#)

⁶³ National Association of Scholars, 'Sexual Harassment and Academic Freedom' available on <https://www.nas.org/blogs/statement/sexual-harassment-and-academic-freedom> accessed 6th July, 2022

classes, serving as their graduate or undergraduate assistants, or depending on their evaluations and recommendations⁶⁴.

Nevertheless, it is vitally important that sexual harassment prohibitions do not infringe upon the freedom of lecturers and students to express themselves in the classroom, the campus, and the community on sensitive topics, including human sexuality, race, gender differences, sexual roles, racial and gender history and politics, and related essential and legitimate subjects. Teaching and research on such topics must not be constrained by the threat that the views expressed will be labelled "insensitive," "uncomfortable", or "incorrect." Lecturers must feel free to provide their best academic and professional advice to students, collectively and individually, without fear and worry that their comments will be officially labelled as "offensive" or "unwelcome." Also, it must be recognised that creating a hostile, intimidating or abusive academic environment that interferes with a reasonable person's ability to learn is also unprofessional and illegal. On this note, universities should have a special responsibility to define sexual harassment in this context and in a way that does not infringe upon academic freedom that does not constrain research or teaching and should understand that creating an academic environment that is hostile, intimidating, abusive or hinders a reasonable person's ability to learn is unprofessional and unlawful. Therefore, the obligation of universities as a stakeholder is to define sexual harassment in a way that does not restrict academic freedom, research, or instruction.⁶⁵

ii. Awareness of sexual harassment by religious institutions

A considerable detrimental effect is being experienced by individuals, teams, and entire organizations as a result of the global epidemic of sexual

⁶⁴Thomas R. Dye, 'Preventing Sexual Harassment and Preserving Academic Freedom' available on <https://onlinelibrary.wiley.com/doi/abs/10.1111/j.1541-1338.1998.tb01093.x> accessed on 6th July, 2022

⁶⁵ Thomas R. Dye, 'Preventing Sexual Harassment and Preserving Academic Freedom' available on <https://onlinelibrary.wiley.com/doi/abs/10.1111/j.1541-1338.1998.tb01093.x> accessed on 6th July, 2022

harassment in tertiary institutions⁶⁶. Precarious employment, hierarchical organisations, standardisation of gender-based violence, toxic masculinities in university, the culture of silence, and lack of proactive leadership are the main factors that promote sexual harassment.⁶⁷ To curb rising cases of sexual harassment in tertiary institutions, religious leaders must have direct support or counselling connections with members of religious institutions, especially those in tertiary institutions, because they are in a better position to act as first responders to sexual harassment in their various houses of worship⁶⁸.

Religious institutions are strategically positioned to prevent and appropriately respond to sexual harassment because their teachings instill values and tolerant belief systems in their members and because members of religious institutions frequently have direct support or counselling relationships with their religious leaders. As a result, religious leaders are in a better position as stakeholders to act as first responders to instances of sexual harassment in their houses of worship, which will then reflect in tertiary institutions.⁶⁹ Religious leaders are therefore encouraged to promote teachings that would provide useful resources on sexual

⁶⁶ Prevalence of sexual harassment in a faith-based institution of higher learning in South-Western Nigeria. Available from: https://www.researchgate.net/publication/344872580_Prevalence_of_Sexual_Harassment_in_a_Faith-Based_Institution_of_Higher_Learning_in_South-Western_Nigeria accessed Jul 06 2022.

⁶⁷ Bondestam, F., & Lundqvist, M. (2020). Sexual harassment in higher education – a systematic review. *European Journal of Higher Education*. <https://doi.org/10.1080/21568235.2020>

⁶⁸ Eniola Daniel, 'Church seeks united front against domestic violence, sexual abuse' 2022 available on <https://guardian.ng/news/church-seeks-united-front-against-domestic-violence-sexual-abuse/>

⁶⁹ Tobi Awodipe, 'LASG partners religious institutions in campaign against domestic, sexual violence' 2019 available on <https://guardian.ng/guardian-woman/lasg-partners-religious-institutions-in-campaign-against-domestic-sexual-violence/> accessed 6 July, 2022

harassment through regular sermons, prayers, education, and clerical care⁷⁰.

iii. There should be preventive measures to curtail sexual harassment in tertiary institutions

In curtailing sexual harassment in tertiary institutions in Nigeria, it is necessary that the Universities design a documented policy that will outline the institution's standards and strategy for avoiding sexual harassment. The school should also take preventative measures against sexual harassment and also punish the perpetrators. Institutions must establish and uphold a safe environment where staff and students can learn and appreciate the importance of one another. In doing this, the institution is expected to create a policy that must enhance the intellectual, social, mutual understanding and friendly environment that tolerates and respect bilingualism, cultural diversity, belief systems, and societal norms.⁷¹

Additionally, once a case of sexual harassment is reported, the management in tertiary institutions should take reasonable measures to quickly conduct a comprehensive investigation and take corrective action, regardless of whether the victim submits a formal complaint or not. The school should also develop preventative measures for staff and students. Here, the staff and students must be addressed on how to prevent sexual harassment and what to do when they encounter such situations. The management should organize training on sexual assault prevention for

⁷⁰Olasunkanmi Akoni, 'Sexual harassment: 70 per cent cases of matrimonial abuses reported from religious orgs – DSVRT' 2019 available on <https://www.vanguardngr.com/2019/09/sexual-harassment-70-per-cent-cases-of-matrimonial-abuses-reported-from-religious-orgs-dsvrt/>

⁷¹Shakila Singh, Bongeka Mabaso, Ronicka Mudaly and Asheena Singh-Pillay, "Policy for Prevention of Sexual Assault on Campus: Higher Education Students' Perspectives" available on https://www.researchgate.net/publication/348930607_Policy_for_the_Prevention_of_Sexual_Assault_on_Campus_Higher_Education_Students%27_Perspectives accessed 20 June, 2022

new students and an assist system that could be used to support any report of sexual harassment. Therefore, it is vital to not restrict training to a single activity such as an hour of training or a day orientation; clinical prevention is also essential.⁷²In preventing sexual harassment in tertiary institutions, the school management in tertiary institutions must have a policy with a solid mandate from senior management, supported by legitimate and active stakeholders such as parents, students' representatives, teaching and non-teaching staff that will aim at protecting the right to self-determination and non-discrimination, and this should address both individuals and groups.⁷³

7.0 Conclusion

Sexual harassment is a common occurrence, and for many years, tertiary institutions have struggled with the issue of staff members sexually harassing students. The lack of effective measures and recourse at these institutions is the primary cause of the ongoing perpetuation of sexual harassment. The academic environment's integrity is compromised by sexual harassment. Therefore, there must be an action taken to stop this discriminatory behaviour. Tertiary institutions must define sexual harassment explicitly, provide detailed grievance procedures, educate students, lecturers, and staff, set up simple reporting procedures that will effectively deal with instances of sexual harassment, and punish offenders who indulge in it.

Additionally, academic institutions should be given special attention because they have their own organisational framework. Academic institutions are fiercely competitive workplaces, with internal and external competition feeding into and promoting the growth of power relations

⁷² Jenny Dills, Dawn Fowler, and Gayle Payne, "Sexual Violence on Campus: Strategies for Prevention" (2016) Division of Violence Prevention National Center for Injury Prevention and Control Centers for Disease Control and Prevention Atlanta, Georgia

⁷³Thomas, A. M. "Politics, Policies and Practice: Assessing the Impact of Sexual Harassment Policies in UK Universities." (2004) *British Journal of Sociology of Education* 25: 143–160

already in place. It makes sense that harassment would flourish in areas where power is wielded, peers or subordinates may use harassment to increase or equalise power in these relationships, which can be top-down.⁷⁴As a result of this, policies against sexual harassment should focus on individuals/women, legal entities, and a mechanism for addressing accusations (case management), rather than perpetrators' perspectives.⁷⁵

Therefore, combating sexual harassment should be a crucial component of well-being policies and, consequently, of policies designed to build a gender-friendly institution or to promote gender equality in academics. In turn, promoting a culture of gender equality within the institution can aid in the battle against sexual harassment. The management of tertiary institutions must train the members of staff in handling cases of sexual harassment in academic settings. These staff members must be aware of how to safeguard the victim's identity and make sure the victim is not in danger. Also, the staff and students should receive training on how to handle cases of sexual harassment and how to guard against it. Therefore, institutions should unequivocally condemn all forms of sexual harassment, and instead of managing sexual harassment, the challenge for all tertiary institutions is to prevent it and where feasible, they should stop sexual harassment, and when necessary, they should combat it.

⁷⁴ European Union Agency for Fundamental Rights, "Violence against women: an EU-wide survey. Main results. Luxembourg: Publications Office of the European Union" 2014

⁷⁵Howard, J. L, "Employee Awareness of Workplace Violence Policies and Perceptions for Addressing Perpetrators at Colleges and Universities." 2009 *Employee Responsibilities and Rights Journal* 21: 7–19