

## **Appraisal of Workplace Sexual Harassments in Nigeria: The Inadequacy of the Extant Laws**

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### **Abstract**

*Allegations of Sexual harassments in public offices in Nigeria is recently taking a disturbing dimension, with highly placed public officials being indicted to the extent of demanding sexual gratification from their colleagues in return for lucrative assignments, recognition or viable posting among other reasons. Various laws were enacted to address various offences in Nigeria inclusive of sexual harassments. However, there is no single comprehensive national legislation that addresses workplace sexual harassment in Nigeria. There is as well, plethora of court decisions sanctioning the acts of workplace sexual harassment in Nigeria, but those decisions cannot be comprehensive and exhaustive as the enabling laws were also not comprehensive or exhaustive. This paper appraised various provisions of the laws of sexual harassment in Nigeria side by side with the recent allegations of sexual harassments in the Senate of the Federal Republic of Nigeria, as it particularly affects the integrity of the Public Service of the Federation.. This paper observed that the laws seeking to punish the acts of sexual harassment in Nigeria are inadequate, and it is accordingly recommended that a single national comprehensive legislation should be enacted to address the disquieting development of sexual harassment in Nigeria public offices. This paper seeks to address the question, why should the Senate insists on passing the Sexual Offences Bill into law in 2020 against the lecturers in the tertiary educational institutions in the country while there is a skeleton in their cupboard? This paper adopts the use of doctrinal method of research.*

**Keywords:** Appraisal, Sexual, Harassment, Inadequacy Nigeria, Laws.

### **1.1 INTRODUCTION**

Allegations of sexual harassments in Nigerian workplaces is indeed, taking a disturbing dimension, as it is now being cast against the high ranking officials of the government.<sup>1</sup> On the 28<sup>th</sup> day of February 2025, Senator Natasha Akpoti Uduaghan made an allegation of sexual harassment against the Senate President of the 10<sup>th</sup> Assembly of the Federal Republic of Nigeria. That she

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<sup>1</sup> Abimbola Adekun, A Critical Look at the Sexual Harassment Allegation in the Senate The Nation News Paper (4th February 2025) P 14



alleged the violation of her rights, privileges and entitlements as a federal legislator simply because of her refusal to accept the sexual advance of the Senate President of the Federal Republic of Nigeria. The basis of which she petitioned the Senate Ethics and Privileges Committee, against the Senate President, lamenting that she was harassed sexually by the Senate President and she resisted the harassment, as a result of which she was intimidated, maltreated and maligned in the senate.<sup>2</sup>

The Senate Ethics and Privileges Committee presented its report at the plenary at the senate chambers, recommending the suspension of Distinguished Senator Natasha.

Therefore, Distinguished Senator Natasha was suspended for the period of six (6) months and prevented from parading herself as a Senator of the Federal Republic of Nigeria among other sanctions.<sup>3</sup> Civil society organizations stood firmly not only for the protection of Distinguished Senator Natasha's right to dignity of human person and freedom of expression, but also for advancing the law and promoting the course of justice.<sup>4</sup> It is pertinent at this juncture to put pivot and effort together in order to shift the liver, The National Assembly has a duty to enact a comprehensive national legislation against workplace sexual harassment applicable to the entire public service of the country.

## **1.2 THE THEORY OF WORKPLACE HARASSMENT**

As a concept, workplace harassment has been defined by legislations in Nigeria. Section 46 of the Violence Against Persons Act, 2015, defines sexual harassment as 'Unwanted conduct of a sexual nature or other conduct based on sex or gender which is persistent or serious and demeans, humiliates or creates a hostile or intimidating environment which may include physical, verbal or non-verbal conduct<sup>5</sup>'. In the case of *Ejieke Maduka v Microsoft Nigeria Limited and 3 Ors*, the National Industrial Court of Nigeria restated with approval the definition of sexual harassment enshrined in the Convention on Elimination of All Forms of Discrimination Against Women (CEDAW) General Recommendation Number 19 of 1992 as follows:

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<sup>2</sup> Ibid.

<sup>3</sup> Nasarawa Mirror News Paper. 7th March 2025. On <https://www.nmirrorfacebook.com> at 11 : 00 am.

<sup>4</sup> Abimbola Adekun Op. Cit p 1

<sup>5</sup> Gary N. Powell, "Definition of Sexual Harassment and Sexual Attention Experienced," The Journal of Psychology: Interdisciplinary and Applied 113, Hong Zhu, Yijing Lyu and Yijiao Ye, "Workplace Sexual Harassment, Workplace Deviance, and Family Undermining," International Journal of Contemporary Hospitality Management 31, no. 2 (2019), 595-596



*“Such unwelcome sexually determined behavior 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 connection with her employment, including recruitment or promotion, or when it creates a hostile working environment.”*

The Court further explained that CEDAW General Recommendations Number 12 of 1989 recognizes sexual harassment as “violence against women”. Sexual harassment is an affront to the dignity of person and breach of the right to freedom from degrading treatment.<sup>6</sup> Taking cognizance of the foregoing statutory and judicial stand points, sexual harassment connotes any form of unwelcome behaviour of a sexual nature which may include physical, verbal or non-verbal conduct which is persistent or serious and demeans, humiliates or creates a hostile or intimidating environment and is tantamount to violence against the person and an affront to his or her dignity. Examples of sexual harassment includes unwanted sexual statements such as sexually explicit jokes, comments on physical attributes, spreading rumors or rating others about their sexual activity in front of others, displaying sexually explicit drawings, pictures or written material. It includes unwanted sexually oriented statements in writing, text messages, face book, and other media outlets. It’s also includes unwanted personal attention through personal interaction, pressure for dates, unwanted visitation, where sexual or romantic motive is obvious. Sexual harassment is also exemplified by unwanted physical advances such as touching, hugging, kissing, fondling, touching oneself sexually for others to see, sexual assault, unwanted sexual intercourse or other sexual activities.<sup>7</sup>

The Lagos State Domestic Violence Law defines sexual harassment as;

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<sup>6</sup> R. Gupta, Sexual Harassment at Workplace, Haryana LexisNexis, (2014)

<sup>7</sup> Abe, ‘Defining and Awareness of Sexual Harassment among Selected University Students in Lagos Metropolis, Nigeria’, Journal of Emerging Trends in Educational Research and Policy Studies (2012) 3(3), 212-218.



*An act of (a) unwanted or coercive sexual contact, (b) unwelcome verbal or non-verbal conduct of sexual nature, (c) any other behaviour of a sexual nature that create an intimidating, a hostile or offensive environment.<sup>8</sup>*

Furthermore, similar definition of sexual harassment was provided by Violence against Persons (Prohibition) Act<sup>9</sup> Sexual harassment is nevertheless, a violation of constitutionally protected rights of a citizen as every person's right to dignity and honour is recognized as fundamental right under the Nigerian Constitution.<sup>10</sup>

From the foregoing, it could be deduced that a person is said to sexually harasses another person if they: make an unwelcome sexual advance, or an unwelcome request for sexual favours, or engage in other unwelcome conduct of a sexual nature in circumstances in which a reasonable person, having regard to all the circumstances, would have anticipated the possibility that the person harassed would be offended, humiliated or intimidated. Hence, sexual harassment may include any of the followings:

- i. Inappropriate physical contact
- ii. Intrusive questions about a person's private life or physical appearance
- iii. Sharing or threatening to share intimate images or film without consent
- iv. Unwelcome touching, hugging, cornering or kissing
- v. Repeated or inappropriate invitations to go out on date
- vi. Sexually suggestive comments or jokes that offend or intimidate
- vii. Requests or pressure for sex or other sexual acts sexually explicit pictures, posters or gifts
- viii. Actual or attempted rape or sexual assault
- ix. Being followed, watched or someone loitering (hanging around)
- x. Sexually explicit comments made in person or in writing, or indecent messages (SMS, social media), phone calls or emails – including the use of *emojis* with sexual connotations sexual gestures, indecent exposure or inappropriate display of the body

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<sup>8</sup> S 20 (1) Lagos State Domestic Violence Law 2007

<sup>9</sup> S. 14 Violence Against Persons (Prohibited) Act 2015.

<sup>10</sup> S. 34 of the constitution of the Federal Republic of Nigeria (1999)



- xi. Unwelcome conduct of a sexual nature that occurs online or via some form of technology including in virtual meetings inappropriate staring or leering.
- xii. Repeated or inappropriate advances on email or other online social technologies.
- xiii. Sexual harassment can involve conduct by one or more people and can be a single incident, repeated conduct or part of a course of conduct.

The workplace sexual harassment is only against the law when the victim is a worker. Then who is 'a worker'? The question receives a simple answer that a worker is any person who performs work in any capacity, such as:

- i. An employee
- ii. A contractor or subcontractor
- iii. A small business owner who works in the business
- iv. An employee of a contractor or subcontractor
- v. An employee of a labour hire agency
- vi. An outworker
- vii. An apprentice or trainee
- viii. A student on work experience
- ix. A volunteer.

Though, regardless of the sex, sexual orientation or gender identity of the person involved. It is necessary to state that, intention as in "*mens rea*"<sup>11</sup> is not relevant in cases of harassment. However, the conduct may be sexual in nature even if the alleged offender has no sexual interest toward the person of the victim, or is not aware that he is acting in a sexual way. For instance, Mallam Wada works in a Duadu kitchen. One of his co-workers is always making jokes and comments. She talks about her life in graphic detail and asks Mallam Wada insidious questions about his experiences. She "alleged to have accidentally" brushed her hand against Mallam Wada when walking past him. Mallam Wada tries to avoid her but can't always do so because they work closely together. He's

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<sup>11</sup> *Mens rea* is the mental element or criminal intent; guilty mind. It is the state of mind that the prosecution must prove that a defendant had when committing a crime. For example, the *mens rea* for theft is the intent to permanently deprive the rightful owner of the property. It is the second of two essential elements of every crime at common law, the other being the *actus reus*. Pl. *mentes reae*



afraid to report her behavior because he thinks no one will believe him since he's a man being harassed by a woman.

### **1.3 LEGAL FRAMEWORK FOR COMBATING AND PREVENTING SEXUAL HARASSMENT IN THE WORKPLACE IN NIGERIA**

The fight against sexual harassment in the workplace remains an international challenge with which concerted effort is peremptory for the international community to triumph over this problem. Sexual harassment is physically and psychologically harmful and should not be tolerated anywhere under any circumstance, including work place. According to the International Labour Organization (ILO), the mere existence of legislations and institutions to prevent sexual harassment in the workplace is not an end to itself; the challenge is how to keep them to function effectively. The challenges stem from inadequate policy coherences at the national and local levels coupled with lack of cooperation and collaboration. To prevent sexual harassment, it is important to build industries and supportive workplaces where it is clear that sexual harassment is not tolerated by dismantling the culture of impunity that often surround it as well as gender, cultural and social norms. The effectiveness of any existing law lies in its applicability, implementation and enforcement mechanisms. As such adequate measures should be provided to enforce these laws appropriate means. One of which is to ensure the ratification and domestication of all international conventions or laws to which Nigeria is a signatory so as make them justifiable. For the purpose of this paper, the writer shall classify the mechanisms into

- (a) Legislative and institutional mechanisms, and
- (b) Administrative policy.

### **1.4 LEGAL FRAMEWORKS**

Legal frameworks refer to formal laws as well as the system of government organizations that are set up to restrain sexual harassment. For people to be protected against sexual harassment there is the need for an appropriate set of laws and institutions capable of providing the necessary services. The services which need to be provided are prevention, withdrawing to rehabilitate workers who are engaged and victims of sexual harassment. Other services include the provision of advocacy and policy guidelines, initiating the review of laws, conducting awareness programmes and monitoring and evaluating the effectiveness of programmes dealing with sexual harassment. The



UN Convention on sexual harassment has been incorporated into Nigeria's *corpus juris*. It is legislation with international flavour containing the bill of rights and other national instruments. It is meant for Nigeria to combat and campaign against sexual harassment and to achieve the ILO goal towards the total prevention of all forms of sexual harassment; it must adhere strictly to the ILO Convention. Convention and accompanying recommendations have formed the basis on which most of the member states. Since the ratification of several international instruments, Nigeria has adopted various legislation, institutions, and administrative/policy measures at both federal and state. These are aimed at addressing various forms of sexual harassment, the short and long term strategies as well as outlining the roles of civil society and government in providing preventive measures in favour of victims which include workers. However, the reverse seems to be the case because the crime has witnessed an incredulous rise over. This is probably as a result of the inadequacies of the law and the differences encountered in establishing a case of sexual harassment in the workplace in Nigeria. The respect for human life, dignity, freedom of association and democratic ideals of the voice of equality, it is imperative for the drivers of employment, and individuals, institutions, organizations and public policies to provide employment with a human face which encourages productive and efficient employment relationship and that which also fulfils the standard of human rights.

Section 254 c (i) (f), 39 and 41 of the Constitution of the Federal Republic of Nigeria, 1999<sup>12</sup> alongside Section 7 (6) of the National Industrial Court Act empowers the National Industrial Court to apply international best practice in industrial relations. The reason for the continued incidence of sexual harassment in the workplace in Nigeria is not with the laws but with effective implementation and enforcement of the laws.

The ILO agrees that some loopholes in the legal framework were one of the main causes of sexual harassment in the workplace in Nigeria and across the globe. These are lack of legal harmony and cohesion among the laws, which hinder implementation and enforcement difficult. It is on this basis that in cases of sexual harassment in the workplace, that the Nigerian government has put the following structures in place. A section on sexual harassment was included in the Labour Standard Bill (Section 24) during the Tripartite Retreat on the Review of National Labour Bills

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<sup>12</sup> Section 319 of the Constitution



which was held in the year 2020. Several institutions were established to help enforce the laws and monitor the policies. Law enforcement is the activity of making certain that the laws of an area be obeyed. It is intended to discover, deter, rehabilitate, or punish people who violate the rules and norms governing a society. Indeed, law enforcement requires a direct involvement in surveillance to dissuade and discover criminal activities. It is the persistence of sexual harassment in the workplace that encourages governments like in Nigeria to establish government and encourage Non-Governmental Organizations such as Women Against Rape, Sexual Harassment and Exploitation (WARSHE), Cee-Hope-Nigeria, Sexual Offences Awareness and Victims Rehabilitations Initiative (SOAR) and Tamar Sexual Assault Referral Center (SARC) and United Nations agencies such as NAPTIP, IPEC, WOTCLEF, UNICEF among others as part of the working mechanisms for the enforcement against sexual harassment in the Workplace.

### **1.5 APPRAISAL OF THE EXTANT LAWS PROHIBITING THE ACT OF WORKPLACE SEXUAL HARASSMENT IN NIGERIA**

On the 8<sup>th</sup> day of July 2020, the Nigerian senate passed a Sexual Harassment Bill, targeting mainly the prevention, prohibition and criminalization of sexual harassment in the Nigerian tertiary institutions of knowledge.<sup>13</sup> Section 1 of the said Bill provides thus;

*This Bill was enacted to promote and protect ethical standards in tertiary education, the sanctity of the student-educator fiduciary relationship of authority dependency and trust and respect for human dignity in tertiary educational institutions by providing for;*

- 1. Protection of students against sexual harassment by educators in tertiary educational institutions.*
- 2. Prevention of sexual harassment of students by the educators in the tertiary educational institutions; and*
- 3. Redressal of complaints of sexual harassment of students by educators in tertiary educational institutions.<sup>14</sup>*

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<sup>13</sup> Section 1, Prevention, Prohibition and Redressed of Sexual Harassment in Tertiary Educational Institutions Bill 2019

<sup>14</sup> Ibid



It is crystal clear that the words and spirit of section 1 quoted above,<sup>15</sup> seeks to punish lecturers at the tertiary educational institutions only on account of the fact that there exist a fiduciary relationship and dependency between a student and the lecturer. Fiduciary relationship according to Black's Law Dictionary sixth edition, is a relationship in which one person (the fiduciary) is obliged to act in the best interest of another person (the beneficiary), and is entrusted with the management of property, money or other assets for the benefit of that person.<sup>16</sup> If fiduciary relationship exist whenever a person is bound by law or obliged to act in the best interest of another, it can safely be concluded from the foregoing that the senate president of the Federal Republic of Nigeria is also having a fiduciary duty towards his colleagues in the senate, as provided under the senate rules that the senate president is required to protect the rights and privileges of the senators ensuring that they are not unfairly treated or denied their rights.<sup>17</sup> Thus, now that there is an allegation of sexual harassment against the senators of the Federal Republic of Nigeria, workplace sexual harassment bill should quickly be enacted to address sexual harassment issues in high ranking public offices in Nigeria, as the Sexual Harassment Bill 2019 is obviously ill destined.<sup>18</sup> Another law which seeks to prohibit sexual harassment in Nigeria, is the Violence against Persons (Prohibition) Act, section 14 thereof prohibits and punishes sexual harassments and coercive sexual contacts.<sup>19</sup> Criminal Code Act on the other hand prohibits and punishes various forms of sexual offences including advances.<sup>20</sup> While Penal Code Law also prohibits and punish various forms of offences including unwanted touching and sexual advances.<sup>21</sup> It is important to note that all the above cited federal legislations do not specifically address the syndrome of workplace sexual harassments in Nigeria. However, the Lagos State Domestic Violence Law had specifically prohibits and punishes the act of public places sexual harassments in the state<sup>22</sup>, where it provides thus;

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<sup>15</sup> Ibid

<sup>16</sup> R Joseph Nolan and JM Nolan Haley, Black's Law Dictionary (6<sup>th</sup> edn.) West Publishing Co. p 255, 1990

<sup>17</sup> Rule 23, Standing Orders of the Federal Republic of Nigeria, 2021

<sup>18</sup> Academic Staff Union of Universities 'Memorandum against the Sexual Harassment Bill in Nigeria' in [www.asuu.org](http://www.asuu.org) on 6th Day of March 2025 at 2:52 pm.

<sup>19</sup> The Violence against Persons (Prohibition) Act 2015 (VAPP ACT)

<sup>20</sup> Ss. 214, 215 and 216 of the Criminal Code Act 2004

<sup>21</sup> Ss. 282, 283 and 284 of the Penal Code (Northern States) Federal Provisions Act 1960

<sup>22</sup> Lagos State Domestic Violence Law 2007



*A person who commits an act of sexual harassments against another person in public place, commits an offence and is liable on conviction to a fine not exceeding one hundred thousand naira, or imprisonment for a term not exceeding three years or with both*<sup>23</sup>

This section explicitly prohibits sexual harassments in public places, making it punishable under the law. However, the law does not provide an adequate legal framework which is capable of safeguarding rights, and providing remedies for the victims of sexual harassments in the state, thereby opening the realm of further legislative enactments in this direction.

There exist also a plethora of judicial authorities addressing the acts of sexual harassments in Nigeria. However, the said *stare decisis* do not also provide adequate remedies to the matter largely as a result of inadequate legislative response in this direction. In the case of *Pastor (Mrs) Abimbola Patrick Yakubu v Financial Reporting Council of Nigeria & 1 Anor*, the Court of Appeal relied on Section 34 (1) of the Constitution of the Federal Republic of Nigeria 1999 (as amended) and an international instruments to establish the existence of workplace sexual harassments in Nigeria.<sup>24</sup> Also, in the case *Stella Ayam Odey v Ferdinand Deapah & Anor* the National Industrial Court of Nigeria held that the claimant was sexually harassed by the 1st Defendant, and that her fundamental human right against discrimination was breached.<sup>25</sup> The case demonstrate the lack of adequate statutory coverage of the area of workplace sexual harassments, compel the judges to be meandering about left right and center in search for the law which will adequately address workplace sexual harassments in Nigeria, but in vain.<sup>26</sup> It can thus be concluded that having a uniform or exhaustive definition of sexual harassment is nigh impossible, some countries in the world have state definitions, some have federal or national definitions all of which varied from each other. Meticulous observations of developed country's' definitions of sexual harassment indicates that there is a marked difference in elements that constitutes sexual harassment. Most developed countries considered and recognized male, female and other forms of sexual identity either as victims or perpetrators of sexual harassment, while most developing countries mainly

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<sup>23</sup> S 28 (1) Ibid

<sup>24</sup> (2015) LPELR 25513 (CA)

<sup>25</sup> (2013) 13 NWLR (pt) 1371 p 217

<sup>26</sup> Emuobo Enudainohwo 'The Inadequacy of Legal Provisions on Workplace Sexual Harrassments in Nigeria nad Ghana; The way Forward' *Jumal Hukum* (Journal of Law)



recognized the male gender as perpetrators of sexual harassment and women are majorly regarded as the victims. This fundamental difference may be attributed to the prevalent cultural values and norms of the countries concerned. It is pertinent to note that the developed countries such as the United State of America, France, Canada and Germany, are predominantly an egalitarian societies. In contradistinction, all developing countries such as Nigeria Kenya Uganda and Tanzania majorly considered male as perpetrators and women as victims<sup>27</sup>. Hence, having a universal definition of phrase ‘sexual Harassment’ in the workplace may be farfetched, but there are some elements that should be included in the definition of sexual harassment in the workplace; it must –

- i. All forms of harassments in the work sphere (sexual, non-sexual or mixed behaviors’). That is gender harassment, or sex discrimination.
- ii. Protect all gender
- iii. Include likely conduct that constitutes unwanted sexual behaviour explicitly.
- iv. Include all workplaces.
- v. Include third parties or all persons that have or might likely have relationship with the workplace (client or customers, contractors etc);
- vi. Include all ranks at work, not only superiors to subordinates, some rank positions and superiors to subordinates.

The above elements should be considered in framing a comprehensive working definition of workplace sexual harassment in Nigeria. Assuming that was the case, Senator Natasha, if she could establish that she was sexually harassed by the Senate President as required by law, she need not report her case to the United Nations.

## **1.6 INADEQUACIES OF THE EXTANT LAWS AGAINST WORKPLACE SEXUAL HARASSMENT IN NIGERIA**

The frequent reporting of workplace sexual harassment in Nigeria is a bad indicator that the legal framework of workplace sexual harassment has a limited scope in the country. Apart from the fact that there is no single comprehensive national legislation criminalizing the act of workplace sexual

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<sup>27</sup> ‘Rainn. *Victims of Sexual Violence Statistics*’ [www.rainn.org](http://www.rainn.org) on 11 May, 2025 @ 12 : 30



harassment, the definitions provided by virtually all the enabling laws were narrow in also scope.<sup>28</sup> According to International Labor Organization (ILO),

*Sexual harassment at work is a form of violence and discrimination against women and men and includes any unwelcome act of a sexual nature that might reasonably be expected or be perceived as offensive or humiliating when such conduct interferes with work, is made a condition of employment or create an intimidating, hostile or offensive work environment.*<sup>29</sup>

The Nigerian laws against sexual harassment at work, put more emphasis of physical contact or verbal contact, while the international standard definition goes beyond physical or verbal contact and embraced within its purview, intimidation, hostile working environment whether actual or perceived.<sup>30</sup> United Nations General Assembly also adopted a wider definition of sexual harassment at work to include request for sexual favour and other verbal or physical conducts. Consequently, the legal parameter used to define sexual harassments at working place in Nigeria, is below the international standard.<sup>31</sup> Apart from narrow definition, Nigeria does not have a single comprehensive national legislation, which criminalizes the act of sexual harassments at work, thereby rendering rights of the victims of sexual harassments unprotected.<sup>32</sup>

Inadequate punitive measures is another major defect surrounding the quest of protecting the rights of sexually harassed victims, as the maximum punishment of sexual harassment under the Violence against Persons (Prohibited) Act is five years imprisonment or fine of ₦500,000.00 (Five Hundred Thousand Naira only) far below the international standard.<sup>33</sup> Conversely, the International Labour Organization had set out a policy guideline for determining the punishments of sexual harassments among member states which include; fair investigation, confidentiality, support for victim, warning, suspension, demotion, loss of benefits and dismissal.<sup>34</sup> Another factor militating against the enactment of comprehensive legal regime for work place sexual harassment in Nigeria is

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<sup>28</sup> Ibid.

<sup>29</sup> International Labour Organization Convention 190 Article 2

<sup>30</sup> Ibid.

<sup>31</sup> UN General Assembly Resolution 48/104, 1993

<sup>32</sup> Emuobo Enudainohwo 'The Inadequacy of Legal Provisions on Workplace Sexual Harrassments in Nigeria nad Ghana; The way Forward Op Cit P 24

<sup>33</sup> S 34 VA A P 2015

<sup>34</sup> Ibid



insufficient enforcement mechanisms. The international standard requires member states to establish an independent unit of investigations and enforcement of sexual harassments laws among member states, as it will enable the victims to have proper reporting procedure without being subjected to psychological trauma or stigmatization..<sup>35</sup> Senator Natash reported her matter to the United Nations during Inter Parliamentary Union (IPU) in New York, where she lamented that she will not get justice through the reporting and enforcement mechanisms for the protection of victims of sexual harassments in Nigeria.<sup>36</sup>

### **1.7 GAPS IN SEXUAL HARASSMENT LEGISLATIONS IN NIGERIA**

The following gaps were observed to have existed in the various Nigerian legislations against sexual harassment in Nigeria.

#### **a. Lack of Adequate Punitive Measures**

Virtually all the Nigerian legislations relating to matters of sexual harassments do not provide adequate punishments, as the maximum penalty provided by Violence against Persons (Prohibited) Act is 14 years imprisonment, giving emphasis on options of fine irrespective of the gravity of the offence, while the remedies available for the victims are also limited.<sup>37</sup>

#### **b. Limited Definition**

The Nigerian laws of sexual harassments at workplace do not have a working definition or a guiding principle, which may help in creating a scope that will tally with international standard definition of sexual harassment at work place. Thus, the reason for the failure of the institutions mandated to protect the rights of sexually harassed victims in Nigeria.

#### **c. Lack of Precision in Prosecution and Enforcement Procedures**

The Nigerian laws on sexual harassment at work place also fall short of requirements precision and specification of investigations and enforcement procedures, as in most cases, the courts usually make recourse to general procedural laws in trying to punish the offence. This certainly will not satisfy the quest for justice. Meanwhile, all the laws were specifically enacted to combat work place sexual harassment in the country.

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<sup>35</sup> ILO Ibid

<sup>36</sup> BBC News program of 12 March 2025 at 8 Pm

<sup>37</sup> S 21 VAPP 2015



**d. Lack of victim centricity**

The Nigerian laws had indeed criminalized the act of sexual harassment. However, protection of the rights of the victims of the said crime was not central to the enactments. Thus, reason for its inadequacy.

**1.8 FACTORS HINDERING THE VICTIMS OF SEXUAL HARASSMENT FROM ACCESSING JUSTICE**

In addition to the *lacuna* which exists in the laws of sexual harassment in Nigeria, some social, cultural and economic factors also play a significant role in preventing the victims of sexual harassment from accessing justice in the country.

**i. Limited Access to Legal Aid**

Nigeria has a Legal Aid Council which is saddled with the responsibilities of providing free legal assistance to the less privileged persons in the society. However, due to the sensitive nature of sexual allegations, the country ought to establish a special legal aid unit in the entire states of the federation, which shall have sole duty of providing an effective legal service to the victims of sexual harassment in Nigeria. This will certainly guarantee the protection of the victim's rights.

**ii. Societal Trauma and Rejection of the Victim**

The victims of sexual harassment are vulnerable and less privileged, whenever a person is sexually harassed particularly a lady, she is usually thrown in to psychological trauma, either the society will not accept her narration, or she may be prosecuted for defamation of character particularly where the alleged offender is more respected in the society than the lady. The case of Senator Natasha is a good example on this heading, the society finds it difficult to believe her because she cast an allegation against the senate president of the Federal Republic of Nigeria.

**iii. Cultural Barriers**

Some cultural and traditional beliefs play a significant role in deterring the victims of sexual harassment from either reporting the incidence of sexual harassment against them or disclosing the identity of the wrong doer for fear of cultural sanctions or deprivation. Many people in Nigeria particularly at the rural communities were reporting incidence of sexual



harassments against them for traditional or cultural excuses. This constitutes a major setback in clamoring for the protection of the rights of victims of sexual harassment in the country. Thus, preventing them from access to justice.

**iv. Fear of Retaliation**

Fear of retaliation is also a factor militated against the rights of the victims of sexual harassment to access justice. The wrong doers in this context were usually stronger in terms of social stratification, thereby having the better option of retaliation without the victim possessing any resisting ability. The law and policy makers of the country should take in to account the vulnerability nature of the victims of sexual harassment and provide adequate safeguards against retaliation.

**v. Limited Counseling and Support Services**

- vi.** The Nigerian society and the law do not provide a conducive atmosphere for counseling, educating and rendering support services to the victims of sexual harassment, thereby allowing them to struggle on their own for counseling education and support. This in fact, was the reason for which Senator Natasha ran to the United Nation's Inter Parliamentary Union for support.

**vii. Complex Legal Rules and Procedures**

Some existing legal rules and procedures including court rules have become so complex that they tend to obstruct access to justice rather than grant access to justice. An example of the setback cause by courts complex rules is the provision of order 4 (4) of the Rivers State High Court (Civil Procedure) Rules 2010 which is also contained in the other court rules. It provides that the judge at any time, allow to be regularized any process which it deems fit to allow, although such leave of court might be granted with cost. Now parties have utilized this order to perpetuate delays and harshness to the system. They make applications every now and then to gag the other party, and then pay penalties (costs) that are usually nominal in nature. Most women when faced with unnecessary protracted trials, they abandon their rights just to stay out of courts. Another procedure and complex rule that can be seen as most cumbersome and ends up either to allow the accused to go free or restrain the victim from access to justice, is the procedure involved in proving the crime of rape. The need for corroborative evidence had made it extremely difficult for a victim of rape to access justice.



In *Jegade v State* <sup>38</sup> the Supreme Court held inter alia that; A corroborative evidence capable of grounding conviction on a charge of rape must be cogent, compelling and unequivocal as to show without more that the accused committed the offence charged. However, the Supreme Court, in *IKO V STATE* <sup>39</sup> held that the court can convict an accused person in the absence of corroborative evidence in the case of rape.<sup>40</sup>

#### **viii. Inordinate Delay**

Access to justice in Nigerian Courts is usually faced with a basic factor of incessant adjournment in the cause of prosecuting offences in the country. It is said that justice delayed is justice denied, and such denial constitutes a major setback in the protection of sexually harassed person in Nigeria.

### **1.9 EMPLOYER'S RESPONSIBILITY AND OR LIABILITY ON MATTER OF SEXUAL HARASSMENT IN NIGERIA**

The employers of labour in Nigeria have certain responsibilities in matters of sexual harassment in Nigeria. The following are some responsibilities of the employers of labour in Nigeria.

#### **i. Developing a Workplace Policy of preventing Sexual Harassment**

A good sexual harassment legislation which is aimed at protecting the rights of the victims of the crime, should be able to provide and impose certain responsibilities on the employers among which is the employer's duty to develop a workplace policy regulation which will prevent, protect and safeguard the rights of the victim of sexual harassment.

#### **ii. Provision of Regular Training and Creation of Awareness**

A good legislation which is seeking to prevent sexual harassment at work place should be able to compel the employers to be organizing regular training and enlightenment exercise among their employees to exonerate them from vicarious liability for inaction.

#### **iii. Vicarious Liability of the Employer**

Any legislation seeking to prevent the occurrence of workplace sexual harassment should be able to create a vicarious liability against negligent employers who are reckless about

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<sup>38</sup> (2001) FWLR 640 – 846 (pt 66)

<sup>39</sup> (2001) FWLR pt68 1161

<sup>40</sup> Mabel Izzi and Opra orinpadiila "Judicial Approach to Gender based violence in Nigeria; and Evaluation" International Journal of Civil Law and Legal Research in [www.civillawjournal.com](http://www.civillawjournal.com) on 23rd March 2025 at 10 20 pm.



the conduct of their employees in the workplace environment, thereby leading to the acts of sexual harassments. This legislative approach will certainly put the employers on their toes to have a secured working environment.

#### **1.10 STRATEGIES OF STRENGTHENING THE LAWS AND INSTITUTIONS OF PROTECTING THE RIGHTS OF SEXUALLY HARASSED PERSON INS NIGERIA**

Having come this far in appraising the sexual harassment laws at work place in Nigeria, it is pertinent to map out some strategies which will help the law and policy makers of the country in protecting the rights of sexually harassed person in the country. Some of the strategies include

##### **i. Review and Amendment of the Existing Laws**

The extant laws addressing sexual harassment at work place in the country were virtually 20<sup>th</sup> century legislations which cannot answer many modern questions of policy guidelines in criminal legislations. Legislations like Criminal Code of Southern Nigeria and Penal Code of Northern Nigeria were all out dated laws which need review and amendment to tally with the best international standard, sexual related offences in these old legislations were largely difficult to apprehend and prove now because of the changes in the time and environmental factors.

##### **ii. Enactment of Specific Sexual Harassment Law**

From the foregoing, it is crystal clear that Nigeria did not have a single comprehensive national legislation on sexual harassment, this *lacuna* pave a way for inconsistent application of the laws in the country. Nigeria needs to have a comprehensive national legislation on sexual harassment which will cover most of the loop holes in the existing legal framework on work place sexual harassment in the country. The existence of state legislations will not prevent the function of the general national legislation for national policy guidelines.

##### **iii. Align Laws with International Standard**

The international community had set out a standard of identifying, criminalizing and punishing various acts of sexual harassments in order for the member states to follow suit. The desire for precision and consistency in sexual harassment laws and policy in the world



made it mandatory for Nigeria to align itself with the international standard of sexual harassment laws and policy.

**iv. Establish a National Agency**

- v. Nigeria needs to establish a national agency which shall be saddled with the responsibility of administrating, monitoring and promoting the said National legislation on matters of sexual harassment in the country. This agency may establish various units for smooth running of its activities such as special legal aid unit, monitoring unit and enforcement unit all of which would have important roles in establishing and achieving a comprehensive legal regime in protecting the rights of sexually harassed persons in the country.

**vi. Strengthen Law Enforcement**

The Proposed national legislation and agency to needs be established for the protection and promotion of rights of sexually harassed persons in the country shall have a clear provision of empowering the enforcement unit from all legal disabilities in order to achieve the aim of the law. The enforcement unit in this regard shall have both investigative and prosecution powers.

**vii. Improve Judicial Response**

It is also clear from the above submissions, that there is inadequate judicial response to matters of sexual harassments in the country, largely as result of inadequate legal frame work to support the judicial response. Therefore, the law and policy makers of the country should give more emphasis on the comprehensiveness and flexibility of the law to accommodate wide judicial response.

**viii. School and University Program**

Program of studies should be introduced in the tertiary educational institutions to enlighten the public on the extent of the rights of sexually harassed persons in the country.

**ix. Workplace Training and Workshop**

The policy and law makers of the country should organize a periodic training workshop for the workers at their various –places of work I order to reduce the number of innocent victims of workplace sexual harassment in Nigeria.

**1.10 CONCLUSION.**



The incidence of Senator Natasha is an eye opener to Nigeria's inadequate legislative response to critical international issues, thereby placing the country's legal regime on sexual harassments far below the international standard. It is accordingly recommended that Nigeria should have a comprehensive national legislation which will sanction the act of sexual harassments at working places, and for the said law to give preference at victim's protection than technicalities or blaming lecturers of tertiary institutions.