

# The Adequacy of the Law on Workplace Sexual Harassment in Nigeria

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## Abstract

Workplace sexual harassment is a global menace confronting several employees in most organizations today. It is a sui generis form of sexual harassment because it occurs within the precincts of employment relationship which defies every tenet of decent work. Workplace sexual harassment peculiarity is hinged on the unequal bargaining power that has existed from time immemorial within employment relationship. Although, women are majorly victims of workplace sexual harassment, it does not change the narrative that men are also victims of this menace. In line with the 8<sup>th</sup> Sustainable Development Goals of the United Nations on decent work, countries across the globe are taking concerted efforts to prohibit workplace sexual harassment. In Nigeria, workplace sexual harassment policy or law is yet to see the light of the day due to myriad of factors. This article examines the legal framework for workplace sexual harassment in Nigeria and provides a comparative analysis with selected jurisdictions and it is the submission of this paper that workplace sexual harassment laws should be punitive rather than compensatory.

**Keywords:** Workplace, Sexual Harassment, Decent Work, Employment Relationship

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## 1.0 INTRODUCTION

Global statistics has revealed that 75% of employees have either personally experienced or witnessed some form of workplace misconduct during their working lives.<sup>1</sup> This indicates that three out of every four employees are victims of workplace sexual harassment.<sup>2</sup> The budding traction of this prevalent abnormality is borne out of the fact that there is unequal bargaining power in every employment relationship. The employer who offers the employment has the remuneration power over and above the employee who is subordinate and offers his services in exchange for remuneration. Workplace sexual harassment in totality is not different from the traditional sexual harassment because real consent devoid of duress and intimidation which vitiates rape in sexual cases is also applicable only that workplace sexual harassment occurs within an employment relationship. In developing countries, where child labour is prevalent due to poverty, it is not clear as to whether or not a child who is a victim of sexual harassment can also be said to experience workplace sexual harassment because child labour is in itself globally prohibited in line with international best practices and standards and hence cannot be said to be a form of workplace sexual harassment.

Following the #MeTooMovement, workplace sexual harassment has however come to the fore with victims being implored to speak up rather than suffer in silence. However, the cultural undertones which play out on the issue of workplace sexual harassment cannot be ignored in the light of decent work. In many developing countries like Nigeria, where the level of poverty is rising with persistent unemployment, and women are often relegated and stigmatized on sexual issues, many female employees who are victims of workplace sexual harassment often suffer in silence for fear of losing their jobs in the light of spiking unemployment.

Since the law remains a major tool for social engineering, this paper examines the legal framework for workplace sexual harassment in Nigeria in comparison with selected jurisdictions. It is strongly argued in this paper that cultural deficits caused by primordial sentiments must be done away with and the government living up to its socio-economic obligations in terms of decent jobs creation backed with regulations if Nigeria intends to make a headway in improving its workplace sexual harassment policy.

## 2.0 NATURE OF WORKPLACE SEXUAL HARASSMENT EXAMINED

Workplace sexual harassment is one of the many difficulties that employees face, it negatively affects people of both genders, though prominently women.<sup>3</sup> It is similar to the traditional sexual harassment only that its

<sup>1</sup> Tara Golshan, 'Study Finds 75 percent of Workplace Harassment Victims Experienced Retaliation when They Spoke Up' Vox (17 October, 2017)

<https://www.vox.com/platform/amp/identities/2017/10/15/weinstein-sexual-harassment-facts> accessed 4 April, 2022

<sup>2</sup> ibid

<sup>3</sup> Eern Choo and Nicole Oing, 'Sexual Harassment in Workplace: A Literature Review' (2021) 9(18) The International Journal of Humanities & Social Studies

distinctive feature is governed under an employment relationship which can occur within or outside the precinct of workplace. Workplace sexual harassment has gained much attention in recent time following series of sexual harassment movements particularly the #MeTooMovement and has been examined by several authors from different jurisprudential perspectives. Since the outbreak of the coronavirus pandemic in 2020, it may seem doubtful if workplace sexual harassment still occurs in the light of flexi-work schemes such as work-from-home culture. This paper suggests that workplace sexual harassment defies physical presence and all that is needed to establish a case of workplace sexual harassment is to prove an employment relationship and that the harassment occurred within the scope of employment.

Workplace sexual harassment is defined as a persistent unwelcome sexual behaviour or advance directed to the workers including job seekers, at workplace by either their colleagues, superiors, supervisors, employers, among others, that may potentially hamper or compromise their capacities to work or actively participate in the organizational activities.<sup>1</sup> The United States Equal Employment Opportunity Commission (EEOC) views workplace sexual harassment as an unwelcome sexual advances, requests for sexual favours, and other verbal or physical conduct of a sexual nature that interferes with one's employment or work performance or creates a hostile working environment.<sup>2</sup> This paper defines workplace sexual harassment as a violation of an employee's right to bodily integrity which requires tactile, verbal and non-verbal form of sexual communication in a subtle or violent manner from the employer to an employee under an employment relationship. Workplace sexual harassment has evolved overtime because during the early stage of sexual harassment discussions, few researchers acknowledged that men experienced sexual harassment in workplace and thus were excluded from the definition of workplace sexual harassment.<sup>3</sup> Due to varying definitions and indicators, prevalent estimates vary dramatically, leading many researchers to adopt strategy of triangulation that explores several jurisprudential thoughts which cuts across feminism and hegemonic masculinity.<sup>4</sup> Walby, regards workplace sexual harassment as a form of male violence against women like other feminists, she views violence as a form of power exercised over women which satisfies the need to reinforce men power. Kimmel, from the masculine perspective argues that sexual harassment is often perceived as a necessary display of real masculinity in a society where only a wimp would let women get out of control.<sup>5</sup>

Workplace Sexual Harassment can take the form of quid pro quo (this for that) harassment and hostile work environment. The quid pro quo harassment is the toleration of harassment to obtain job related benefits or to avoid job related detriments. In this case, an employee can be offered a promotion in exchange for sexual favours or be threatened with a dismissal in the absence of sexual favour. Hostile work environment is said to occur when an employee is subjected to unwelcome physical or verbal conduct of a sexual nature that is so severe or pervasive that it changes the employee's working conditions or creates an abusive work environment.<sup>6</sup> In other words, quid pro quo involves expressed or implied demands for sexual favours in exchange for some benefits. This form of harassment is usually perpetrated by someone who is in a position of power or authority over another. Hostile work environment in other words arises when speech or conduct is so severe and pervasive that it creates an intimidating or demeaning environment or situation that negatively affects a person's performance. Unlike quid pro quo, hostile work environment can be perpetrated by any individual in the workplace.<sup>7</sup> Imperatively, workplace sexual harassment includes but is not limited to unwelcome innuendoes, suggestions, hints, sexual advances, comments with sexual overtones, sex related jokes or insults, unwelcome graphics comments about a person's body, unwelcome and inappropriate enquiries about a person's sex life and unwelcome whistling at a person or group of persons, any document, material or exhibit in further support of the claim.<sup>8</sup>

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<https://doi.org/10.24940/theijhss/2021v9/i8/HS2108-023> accessed 4 April 2022

<sup>1</sup> Akeem Ayub and K. Adegboyega, 'Implication of Workplace Sexual Harassment of the Working Women in Nigeria' ((2020) 15(1) International Journal of Development and Management Review

<https://www.ajol.info/index.php/ijdmr/article/view> accessed 3 April 2022

<sup>2</sup> Ksenia Keplinger, et al 'Women at Work: Changes in Sexual Harassment between September 2016 and September 2018' (2019) Plos One <https://doi.org/10.1371/journal.pone.0218313> accessed 3 April, 2022

<sup>3</sup> A. Pelemo, P. Ejembi, and I. Aina, 'Review of Literatures on Definition of Sexual Harassment in the Workplace' (2020) Benue State University Law Journal

<https://busm.edu.ng/journals/files/law/vol9/article2.pdf> accessed 4 April 2022

<sup>4</sup> H. McLaughlin, C. Uggen, and A. Blackstone, 'Sexual Harassment, Workplace Authority, and the Paradox of Power' (2012) SAGE Journals

<https://doi.org/10.1177/0003122412451728> accessed 4 April 2022

<sup>5</sup> Yusuf Noah, 'Experience of Sexual Harassment at Workplace by Female Employees in a Nigerian Environment' (2008) 3(7) International NGO Journals

<https://www.academicjournals.org/INGOJ> accessed 4 April 2022

<sup>6</sup> Aphelele Mabanga, 'Unpacking Sexual Harassment in Workplace' Employment Law Publications ( 10 February, 2021)

<https://www.schoemanlaw.co.za/sexual-harassment-in-the-workplace> accessed 4 April 2022

<sup>7</sup> 'What are the Different Types of Sexual Harassment?' SHRM (11 September, 2019)

<https://www.shrm.org/resourcesandtools/tools-and-samples/hr-qa/pages/types-of-sexualharassment.aspx> accessed 4 April, 2022

<sup>8</sup> MZ Agams, 'Nigerian Industrial Court: Rules for Sexual Harassment in the Workplace Claims'

On the issue of workplace sexual harassment liability, the issue of liability has arisen in terms of workplace sexual harassment being a criminal or civil action. In the case where it is criminal, it is trite law that only the perpetrator will be liable. However, in a civil action, it is not clear as to whether or not the employer will also be vicariously liable. This issue was put into consideration in the cases of *Burlington Industries Inc v Ellerth*<sup>1</sup> and *Faragher v City of Boca Raton*<sup>2</sup> which is known as the Faragher-Ellerth defence which has been used to defend claims against workplace sexual harassment. In the two cases cited, the court ruled that when a supervisor's sexual harassment culminates in a tangible employment action, such as dismissal or an undesirable reassignment, the employer is automatically liable. However, when no tangible adverse employment action is taken, the employer may avail an affirmative defense that first the employer exercised reasonable care to prevent and correct promptly any sexually harassing behaviour and that the employee unreasonably failed to take advantage of any preventive or corrective opportunities provided by the employer.<sup>3</sup>

Workplace Sexual Harassment remains a thoughtful and closely connected problem in the workplace. The absence of a complaint of sexual harassment does not mean the absence of sexual harassment. This is because victims may feel that there is no need to complain for fear of retaliation.<sup>4</sup> However, certain factors below have been ascribed as the major causes of workplace sexual harassment.

### 2.1. Socialization

Generally, it has been argued that causes of sexual harassment vary from one individual to the other. However, the social orientation an individual possesses play a key role in sharpening one's orientation on sexual issues and conducts. Socialization as a cause of workplace sexual harassment is centred around the cultural, religious, sexual, political, and financial background of the perpetrator. For instance men who were brought up with macho beliefs like 'real men pinch bottoms' or women who were made to realize that they were made to please men will have their roles to play in the discourse on workplace sexual harassment. In Nigeria, it is a common trend for men to make comments such as 'I like what I am seeing' to women. Having these beliefs will make the former a perpetrator and the latter a victim.<sup>5</sup>

### 2.2. Credibility and Victim-Blaming

Workplace Sexual Harassment is one of the most pervasive yet least recognized forms of sexual violence. This is due to the refusal of most victims to report or disclose their horrifying experiences due to societal stigma and social media trial. Hence, most victims would rather prefer to sulk and live with the trauma and other psychological effects. Since, workplace sexual harassment is rarely a one-time event, the continuous stigmatization of victims of workplace sexual harassment is the major cause of the enduring harassment.<sup>6</sup>

### 2.3. Power Differential

Usually, the major cause of workplace sexual harassment flows from the power play at work. Many cases involve superiors abusing their power to sexually harass and intimidate other employees because the victim employees are afraid to lose their jobs. Creating a culture of equality has been identified as one of the effective ways to eliminate fear of retaliation.<sup>7</sup> Also, feminists also believe that the changing dynamics in the world of work wherein women are breaking the stereotypes of being unemployed has resulted in the challenge of these new developments on the part of men.<sup>8</sup>

### 2.4. Lack of Company Policy

The Employees Handbook operative in many countries particularly do not have a framework that can encourage audibility of victims of workplace sexual harassment as the procedures eventually does not guarantee

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<https://mzagams.wordpress.com/2018/09/11/Nigerian-industrail-court-rules-for-sexual-harassment-in-the-workplace-claims> accessed 4 April 2022

<sup>1</sup> 524 U.S 742 (1998)

<sup>2</sup> 524 U.S 775 (1998)

<sup>3</sup> Find Law Attorney Writers 'Ellerth and Faragher: Applying The Supreme Court's Delphic Pronouncement on Employers' Vicarious Liability for Sexual Harassment (28 September, 2022)

<https://corporate.finflaw.com/human-resources/ehherth-and-faragher-applying-the-supreme-courty-s-delphic.html> accessed 6 April 2022

<sup>4</sup> K. Jahan, 'Experience of Sexual Harassment and Action Taken in Response for it by Working Women' (2013) 4(5) Indian Journal of Health and Wellbeing

<sup>5</sup> Trinda Prekel, 'Sexual Harassment: Causes, Consequences and Cures' South Africa ( August 2001)

[https://www.westerncape.gov.za/text/2004/4/sexual\\_harassment\\_2nd-upload.pdf](https://www.westerncape.gov.za/text/2004/4/sexual_harassment_2nd-upload.pdf) accessed 4 April 2022

<sup>6</sup> M. Enuakele, A. Adeleke, R. Adeoye, 'Sexual Harassment of Women in Selected Local Airlines in Lagos, Nigeria: An Analysis of the ILO Sexual Harassment Indicators' (2020) Kampala International University Journal of Humanities

<sup>7</sup> Chris Huber and Casey Bean, 'Identifying Sexual Harassment Complaint Causes to Improve Workplace Safety' BKS Partners

<https://bks-partners.com/articles/identifying-sexual-harassment-complaints-causes/> accessed 4 April 2022

<sup>8</sup> Grace Kolawole-Amao, 'Domestic Violence Against Women in Nigeria: Time to Engage the Criminal Law' (2015) 4(3) Humanities and Social Sciences Review

confidentiality and secrecy of the victim. This paper argues that since whistleblowing is an effective tool under corporate governance, companies should ensure that the framework for reporting workplace sexual harassment guarantees the victim's right to privacy and ensures justice.

### **2.5. Natural/Biological Theory**

The natural school interprets sexual harassment as a natural sexual attraction that occurs among people. According to this model, men have stronger sex drive and are therefore biologically motivated to engage in the sexual prosecution of women. Thus, harassment is not intended to be offensive or discriminatory but a response to biological impulses.<sup>1</sup>

## **3.0 LEGAL FRAMEWORK FOR WORKPLACE SEXUAL HARASSMENT IN NIGERIA**

Workplace Sexual Harassment is not expressly stated in any legislation in any Nigeria. However, it can be inferred from existing legislations. This section of the paper will examine the applicable laws on workplace sexual harassment in Nigeria by implication. Although, there is no single codified legislation on workplace sexual harassment, a combined interpretation of the existing legislations will prohibit workplace sexual harassment. This section will also examine the response of the National Industrial Court of Nigeria in curbing this menace and argues that the legal framework for workplace sexual harassment in Nigeria is largely inadequate.

### **3.1. The 1999 Constitution of the Federal Republic of Nigeria**

The Nigerian Constitution is regarded as the bedrock from which other laws derive their validity.<sup>2</sup> It recognizes the right to dignity of human person under Section 34 which is an enforceable right. However this provision on dignity of human person is an omnibus provision which does not specifically refer to workplace sexual harassment because a further examination of the provisions of the Section carries a general effect.

Under the Fundamental Objectives and Directive Principles of State Policy enshrined under Sections 13-24 of the Constitution, Section 17(3)(b)(c) states that 'The State shall direct its policy towards ensuring that condition of work are just and humane... and the health, safety and welfare of all person in employment are safeguarded and not endangered or abused.' This provision is although pungent in reducing the incidences of workplace sexual harassment, it is however bereft of any legal cloak as the government is not mandated to comply with the provisions due to Section 6(6) (c) of the 1999 Constitution which prevents the court from enforcing any of the principles contained under the fundamental objectives and directive principle of state policy.

Furthermore, Section 254C(1)(g) exclusively confers jurisdiction on the National Industrial Court of Nigeria to entertain matters pertaining to or connected with any dispute arising from discrimination or sexual harassment at workplace. The National Industrial Court of Nigeria has invoked its jurisdiction on workplace sexual harassment in some cases which will be examined subsequently.

### **3.2. Labour Act 2004**

The Labour Act is the major enactment governing employment relationship in Nigeria. The Act addresses workplace conditions of employment including the rights of the employer and employee. However, the Act is silent on workplace sexual harassment as it does not explicitly or impliedly refer to workplace sexual harassment. The non-provision of workplace sexual harassment in the Act has increased the clamour for a review of the legislation which does not address several emerging issues under employment relationships.

### **3.3. Employees' Compensation Act 2010**

As argued earlier, the Nigerian laws on workplace sexual harassment are largely inadequate and the Employees' Compensation Act is the closest provision addressing workplace sexual harassment under Section 8. Section 8 of the Act states that an employee shall be entitled to compensation for mental stress not resulting from an injury for which the employee is otherwise entitled to compensation, only if the mental stress is... diagnosed by an accredited medical practitioner as a mental or physical condition amounting to mental stress arising out of the nature of work or the occurrence of any event in the course of the employee's employment.

Undoubtedly, workplace sexual harassment diminishes the esteem and productivity of the victim employee which stems from the mental health of the employee. Addressing the challenges on the complex field of mental stress has resulted in the need for the Nigerian Social Insurance Trust Fund (NSITF) to provide guidelines as to what constitutes workplace mental stress in order to create a balance in terms of compensation and that the

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<sup>1</sup> Olufemi Ogunkoya and Olayinka Ayodele, 'Selected Work Factors and Sexual Harassment Among Female Staff of Ibadan Electricity Distribution Company, Oyo State' (2019) 7(1) Nigerian Journal of Management Sciences <https://www.bsum.edu.ng/njms/journals/vol7no1/files/file39.pdf> accessed 4 April 2022

<sup>2</sup> Section 1(3) of the Nigerian Constitution states that if any other law is inconsistent with the provisions of this Constitution, this Constitution shall prevail, and that other law shall, to the extent of the inconsistency, be void.

compensations do not overwhelm the financial viability of the Act.<sup>1</sup>

### 3.4. National Industrial Court (Civil Procedure) Rules 2017

The National Industrial Court addressed the void in the labour statutes regarding workplace sexual harassment in its Civil Procedure Rules 2017. The National Industrial Court (Civil Procedure) Rules 2017 is a procedural law which established the mode of instituting a workplace sexual harassment allegation. Under Order 14, Rules 1(a)-(d), the following acts constitute workplace sexual harassment in Nigeria;

- a. Physical conduct of a sexual nature: such as unwanted physical contact, ranging from touching to sexual assault and rape, strip search by or in the presence of the opposite sex, a gesture that constitutes the alleged sexual harassment
- b. A verbal form of sexual harassment such as unwelcome innuendoes, suggestions and hints, sexual advances, comments with sexual overtones, sex related jokes or insults, or unwelcome graphic comments about a person's body, unwelcome and inappropriate enquiries about a persons' sex life and unwelcome whistling at a person or group of persons, any document, material or exhibit in further support of the claim
- c. A non-verbal form of sexual harassment which includes unwelcome gestures, indecent exposures, and unwelcome display of sexually explicit pictures and objects
- d. Quid pro quo harassment where an owner, employer, supervisor, member of management or co-employee undertakes or attempts to influence or influences the process of employment, promotion, training, discipline, dismissal, salary increments or other benefits of an employee or job applicant in exchange for sexual favours

In addition, Order 14 of the Rules sets out that request for sex in exchange for a benefit or favour, repeatedly asking for dates, performing or witnessing a strip search of a member of the opposite sex, using rude or insulting language among others qualify as workplace sexual harassment. The above Order 14 allows victims of workplace sexual harassment to institute an action before the National Industrial Court claiming damages, monetary compensation, and injunction. It has been argued that the National Industrial Court's creativity in drafting Order 14 can be better appreciated when understood in the context of its innovative efforts to ensure that Nigerian labour law aligns with international best practices. Order 14 is not necessarily a codification of the law on workplace sexual harassment.<sup>2</sup> This paper observes that the existing legislations on workplace sexual harassment is unclear in terms of whether or not an action should be brought as a criminal or civil action. Though, in Nigeria, workplace sexual harassment will assume civil jurisdiction under the principle of legality.

### 3.5. Criminal Law of Lagos State

The Criminal Code applicable in the Southern part of Nigeria does not recognize workplace sexual harassment. It recognizes other forms of sexual harassment such as rape and sexual assault. However the Lagos State House of Assembly has expanded the frontiers of sexual harassment to accommodate workplace sexual harassment under Section 262.

Section 262(2) of the Criminal Code Law of Lagos State 2011 defines sexual harassment as unwelcome sexual advances, request for sexual favours, and other visual, verbal or physical conduct of a sexual nature which when submitted to or rejected will;

- a. Implicitly or explicitly affect a person's employment or educational opportunity or unreasonably interferes with the person's work or educational performance
- b. Implicitly or explicitly suggests that submission to or rejection of the conduct will be a factor in academic or employment decisions;
- c. Creates an intimidating, hostile or offensive learning or working environment.

Section 262(1) of the Criminal Code Law of Lagos State states that anyone who sexually harasses another is guilty of a felony and is liable to imprisonment for three years.

The provisions of Section 262 of the Criminal Law of Lagos State is instructive because it criminalizes sexual harassment in the workplace.

### 3.6. Violence Against Persons (Prohibition) Act 2015

The Violence Against Persons Prohibition Act 2015, is a recent legislation which deals with all forms of violence against a person.

Sexual harassment is defined in the Act to mean any 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

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<sup>1</sup> Prince Nwankwo, 'Mental Stress, Workplaces and Nigeria's Employees' Compensation Act' (2022) Journal of African Law <https://doi.org/10.1017/S0021855322000018>

<sup>2</sup>Adekunle Obebe and Ozioma Agu, 'Towards a Better Workplace: Curbing Sexual Harassment' Lexology (3 April, 2019) Bloomfield Law <https://www.lexology.com/commentary/employment-immigration/nigeria/bloomfield-law/towards--better-workplace-curbing-sexual-harassment> accessed 4 April 2022

environment and this may include physical, verbal or non-verbal conduct.

Sexual intimidation is defined as any action or circumstances which amount to demand for sexual intercourse with either a male or a female under any guise, as a condition for passing examination, securing employment, business patronage, obtaining any favour in any form.

Section 5(1) of the Act states that a person who compels another, by force or threat to engage in any conduct or act, sexual or otherwise, to the detriment of the victim's physical or psychological well-being commits an offence and is liable on conviction to a term of imprisonment not exceeding two years or to a fine not exceeding N500,000 or both.

The above provisions indicates the response of the Nigerian government towards workplace sexual harassment. However the applicability of this law is restricted to the Federal Capital Territory, Abuja under Section 47 of the Act. Many States across Nigeria are yet to domesticate the provisions of the Violence Against Persons' (Prohibition) Act 2015 into law. Also, under Section 27 of the same Act, only the High Court of the Federal Capital territory, Abuja shall have the jurisdiction to entertain any matter emanating from the Act. This particular provision conflicts with Section 254(c) of the 1999 Constitution of the Federal Republic of Nigeria which confers exclusive jurisdiction on the National Industrial Court to entertain matters bordering on workplace sexual harassment. However, this same conflict has also been resolved by the Constitution under Section 1(3) which provides that where any law is inconsistent with the provisions of the Constitution, the latter shall prevail.

Generally, 75% of workplace sexual harassment cases are rarely reported due to retaliation and this has not enriched the judicial precedent of Nigeria. In a report released by the U.S. Equal Employment Opportunity Commission (EEOC) in 2020, 55.8% of the complaints received during 2020 were related to retaliation after reporting a sexual harassment incident.<sup>1</sup> Having examined the legal framework for workplace sexual harassment in Nigeria, it is evident that the existing laws are largely inadequate in nipping workplace sexual harassment in the bud. The adjudicatory role of the National Industrial Court in workplace sexual harassment matters will be discussed. In *Ejike Maduka v Microsoft Nigeria Ltd & 3ors*<sup>2</sup>, The Applicant was until the termination of her employment, the Enterprise Marketing Manager of Microsoft Nigeria Ltd- the 1<sup>st</sup> Respondent, the Nigerian subsidiary of Microsoft Corporation, the 2<sup>nd</sup> Respondent. The Applicant's grievance against the respondents was that the termination of her employment was traceable to her refusal to succumb to the sexual advances from her immediate boss, a certain Mr Onyeje, the 3<sup>rd</sup> Respondent who was the country Manager and Chief Executive Officer of Microsoft Nigeria Limited. Consequently, the Applicant instituted the action under the Fundamental Human Rights Enforcement Procedure Rules 2009, praying the court to declare her termination unlawful for her refusal to succumb to the sexual advances of her boss and a flagrant violation of her right to dignity of human person. However, the 2<sup>nd</sup> Respondent prayed the court to strike its name out of the matter canvassing the arguments that it is a separate and distinct legal entity from its Nigerian subsidiary and that it did not directly instruct the termination of employment of the Applicant. The Court relied on the principle of agency of a principal employer and the subsidiary employer to hold that there was a co-employer status between the 1<sup>st</sup> and 2<sup>nd</sup> Respondents as well as further held the 2<sup>nd</sup> Respondent answerable for the claims of the Applicant. The National Industrial Court found that the 3<sup>rd</sup> Respondent consistently tickled and touched the Applicant and other female employees in the office against their will despite their protests. The Court further declared that the sexual harassment against the Applicant was a violation of the right to dignity of human person and freedom from discrimination. The Court held the 1<sup>st</sup> and 2<sup>nd</sup> Respondents liable in damages for not taking utmost care to preserve the fundamental right to freedom from discrimination and degrading treatment in the workplace and awarded the sum of thirteen million naira against the respondents.<sup>3</sup>

The National Industrial Court of Nigeria also found a case of workplace sexual harassment against the respondent in the case of *Akinolu-Ojo v United Bank for Africa*<sup>4</sup> where the claimant alleged that she received sexual gestures from her boss who was the then Regional Manager and was forced to resign. The National Industrial Court found a case of workplace sexual harassment and awarded damages in favour of the claimant. Also, in the case of *Abimbola Yakubu v Financial Reporting Council of Nigeria & Anor*<sup>5</sup>, the claimant alleged that she was at various times subjected to sexual and seductive gestures from her boss while she was in the employment of the 1<sup>st</sup> defendant. The National Industrial Court held that the claimant's right to human dignity and self-worth was violated by the 2<sup>nd</sup> defendant and accordingly awarded the sum of five hundred thousand Naira as damages in favour of the claimant.<sup>6</sup>

Unfortunately while the National Industrial Court has constantly reprimanded cases arising from workplace

<sup>1</sup> Sexual Harassment in the Workplace '16 Alarming Sexual Harassment Statistics You Need to Know' (12 July, 2021) Inspired eLearning <https://inspiredelearning.com/blog/sexual-harassment-in-the-workplace-statistics/inspiredelearning.com> accessed 4 April 2022

<sup>2</sup> (2014) 41 NLLR (Pt.125) 67

<sup>3</sup> (n.19)

<sup>4</sup> Suit No. NICN/LA/497/2012

<sup>5</sup> NIC/LA/497/2012

<sup>6</sup> NIC/LA/673/2013

sexual harassment, the damages it has awarded has not been commensurate to the emotional and psychological trauma that accompanies it.<sup>1</sup> It is however contended that damages for sexual harassment should be punitive to discourage its harassers

#### 4.0. COMPARATIVE DISCOURSE ON WORKPLACE SEXUAL HARASSMENT LAWS IN OTHER JURISDICTIONS

Workplace sexual harassment is globally a threat to employment and some jurisdictions have enacted laws to address this menace. In this vein, this section of the paper will examine the laws on workplace sexual harassment in South Africa, Kenya, Philippines, India, Spain, and Bahamas. These jurisdictions have been carefully selected due to their robust legal framework on workplace sexual harassment. These jurisdictions have approached workplace sexual harassment from a punitive standpoint rather than a mere tortuous act.

**4.1. South Africa:** South Africa is selected for a comparative discourse because first it is an African country with an emerging economy and then Nigeria and South Africa have had a chequered history of socio-political struggles since the apartheid days. The South African legal framework on workplace sexual harassment is instructive because of The Equity Employment Act, 1998 and the recently published Harassment Code of Good Practice on the Prevention of Elimination of Harassment in the Workplace which became effective on the 18<sup>th</sup> March 2022.

Section 5 of The Equity Employment Act, 1998 states that every employer must take steps to promote equal opportunity in the workplace by eliminating unfair discrimination in any employment policy or practice. Section 6(3) of the Act goes further to prohibit any form of harassment of an employee in the work place and describes it as a form of unfair discrimination.

It is observed that although not much on workplace sexual harassment is stated in the Equity Employment Act, 1998, the Act is distinctive from the Nigeria's Labour Act which does not recognize any form of harassment. The Equity Employment Act is largely substantive as the Harassment Code is to serve as a gloss to the Equity Employment Act.

The Harassment Code regulates various substantive and procedural aspects of sexual harassment. The Code has been described as an impetus for employers to assess their current policies and procedures in place to address harassment in the workplace and ensure they meet with the guidelines set out as failure to take adequate heed of the requisite obligations may result in liability for the employers.<sup>2</sup>The Code is to be interpreted alongside the Equity Employment Act under Section 3.12.

Section 7.1.2 of the Code defines Sexual harassment to mean direct or indirect engagement or conduct which the perpetrator knows or ought to know is not welcome, is offensive to the complainant and makes the complainant feel uncomfortable and interferes with work, causes harm or implies that reasonable harm may be caused to the complainant.

Section 13 of the Code makes it mandatory for all employers to develop clear procedures to deal with violence and harassment and that the complainant should be guaranteed confidentiality.

Section 13.6.3 goes further to provide the steps an employer should take upon receiving complaints from the employee;

- a. Advising the complainant of the informal and formal procedures available to deal with the violence and harassment
- b. Where reasonable practice, offering the complainant advice, assistance, and counselling including during any disciplinary enquiry that may be instituted
- c. Following the procedures required in a manner that is procedurally and substantively fair
- d. Providing advice and assistance
- e. Employer should designate a person outside of line management who complainants may approach for confidential advice or counselling...

Section 13.9 of the Code makes provision for disciplinary sanction which should be proportionate to the seriousness of the harassment in question. The Code suggests that warnings be issued for minor instances of harassment and dismissal or alternative to dismissal in appropriate circumstances.

The Labour Court of South Africa has also being at the fore of combating workplace sexual harassment. Notably is the case of *Ntsabo v Real Security*<sup>3</sup> where an employee lodged a claim based on the provisions of the Equity Employment Act. The employee had been sexually harassed by a senior co-employee over a period of six months, which culminated in a sexual assault.<sup>4</sup>The employee had, prior to the incident of sexual harassment,

<sup>1</sup> David Eyongndi, 'The Imperative of Engendering an Egalitarian Legal Framework for the Protection of Female Employees' Rights in Nigeria' (2022) African Journal of Legal Studies

<sup>2</sup> Update: Code of Good Practice on Prevention & Elimination of Harassment in the Workplace

<sup>3</sup> (2003) 24ILJ 2341

<sup>4</sup> Sibusiso Gule, 'Employers' Vicarious Liability for Sexual Harassment' 13(2) The Quarterly Law Review for People in Business

reported various incidents of sexual harassment to the corporation, which failed to take action against the senior employee. Instead, the corporation moved her to a different location and placed her on night shift. This gave the impression that she was being penalized. As a result she resigned from the corporation and claimed compensation for unfair constructive dismissal and damages in respect of the sexual harassment. The court found that Ntsabo had been constructively dismissed and awarded her R12000 as compensation and found the corporation liable. The Labour court also exercised its power to award compensation and damages in respect of unfair discrimination. It awarded Ntsabo R20,000 for future medical costs and R50000 as general damages.<sup>1</sup>

In summary, South Africa has a legal framework for workplace sexual harassment which is widely applicable to all parts of the country which makes it different from Nigeria where the laws on workplace sexual harassment is restricted to some parts of the country. The recent passing of the Harassment Code indicates that the South African government is not idle in tackling cases of workplace sexual harassment. Although the only grouse this paper has with the legal framework for workplace sexual harassment in South Africa is that it is not criminalized.

**4.2. Kenya:** Kenya is another jurisdiction selected for a comparative discourse because it is an African country, colonized by the British government, received independence about the same time with Nigeria and is also a strategic country in the Eastern part of Africa. The legal framework on workplace sexual harassment in Kenya is also robust because it addresses workplace sexual harassment from a punitive perspective. The notable legal framework for workplace sexual harassment in Kenya is the Employment Act and Sexual Offences Act.

Section 6(1) of the Employment Act states that workplace sexual harassment occurs if an employee or a representative of that employee or co-worker receives direct or indirect sexual intercourse requests in exchange for preferential treatment, threat of detrimental treatment in employment or threat about the present or future employment status of the employee; uses language whether written or spoken which is of sexual nature; uses visual material of a sexual nature; shows physical behaviour which is unwelcome and sexually pervasive to the employee. Subsection 2 of the same provision mandates all employers of twenty or more employees to issue a policy statement on workplace sexual harassment.

Section 23(1) of the Sexual Offences Act states that any person who being in the position of authority, or holding a public office, who persistently makes any sexual advances or requests which he or she knows, or has reasonable grounds to know, are unwelcome, is guilty of the offence of sexual harassment and shall be liable to imprisonment for a term of not less than three years or to a fine of not less than three years or to a fine of not less than one hundred thousand shillings or both.

Section 23(2) goes further to state the necessary conditions needed to prove a charge of sexual harassment as being:

- a. The submission or rejection by the person to whom advances or requests are made is intended to be used as basis of employment or of a decision relevant to the career of the alleged victim or of a service due to a member of the public in the case of a public officer
- b. Such advances or requests have the effects of interfering with the alleged victim's work or educational performance or creating an offensive working or learning environment for the alleged victim or denial of service due to the member.

An analysis of Section 6(2) of the Kenyan Employment Act and the Harassment Code applicable in South Africa is similar because it places a duty on employers to ensure that they are proactive in their responses to workplace sexual harassment cases through internal and external mechanisms needed in nipping cases of workplace sexual harassment. The legal framework on workplace sexual harassment in Nigeria is rather silent on the role of employers in preventing workplace sexual harassment.

### 4.3. Philippines

Philippines is another jurisdiction selected by this paper for a comparative discourse because of its punitive approach to workplace sexual harassment rather than a mere tortious action. This paper believes that when punitive measures are taken to address workplace sexual harassment, deterrence is served. The major legislation on workplace sexual harassment in Philippine is the Republic Act 7877 also cited as the Anti-Sexual Harassment Act of 1997.

Section 3(a) of the Anti-Sexual Harassment Act states that workplace sexual harassment is committed when sexual favour is made as a condition in hiring or in the employment, re-employment or continued employment of said individual favourable compensation, terms of condition, promotions or privileges; or the refusal to grant the sexual favour results in limiting, segregating or classifying the employee which in any way would discriminate, deprive or diminish employment opportunities or otherwise adversely affect the employee. The same Section

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<https://journals.co.za/doi/pdf/10.10520/EJC52505> accessed

<sup>1</sup> ibid



provides that anyone who directs or induces another to commit any act of sexual harassment as herein defined or who cooperates in the commission thereof by another shall upon conviction be penalized by imprisonment of not less than one month nor more than six months, or a fine of not more than ten thousand pesos nor more than twenty thousand Pesos or both such fine and imprisonment at the discretion of the court. In the case of *Office of Ombudsman v Medrano*,<sup>1</sup> Ma. Ruby Dumalog, a teacher filed before the petitioner Office of the Ombudsman a sworn letter complaints against her superior Victorio Medrano for sexual harassment. The Ombudsman found him guilty for grave misconduct. However, the ombudsman decisions was challenged as a result of lack of jurisdiction. In *Floralde v Court of Appeals*<sup>2</sup> three petitioner employees of ATI charged respondent Paulino Resma with sexual harassment in three separate complaints filed directly with the Civil Service Commission. The Commission found the respondent guilty and accordingly dismissed him. On appeal, the Court of Appeal reversed and set aside the decision of the Commission. On further appeal, the Supreme Court reversed the decision of the Court of Appeal and affirmed the decision of the Commission. In the Court's judgment, Learned Judge Parlo in refuting the claim of the respondent stated as follows 'we are not convinced that all three women would prevaricate at the mere urging of Atty Ola. Filing a charge for sexual harassment is not a trivial matter. It entails having to go public with an incident that one is trying to forget. It means opening oneself to public ridicule and scrutiny. We, therefore cannot believe the version of the defence that the charges were all fabricated.'

This Anti-Sexual Harassment Act is a single codified document enacted to address issues of sexual harassment from a broader perspective which indicates the proactive response of the government to sexual harassment cases unlike Nigeria that has no single codified legislation on workplace sexual harassment.

**4.4. India:** India is another jurisdiction examined in this paper because it is a commonwealth country with a teeming population. The country has a specialized legal framework for addressing workplace sexual harassment. The notable legislation applicable in the country for workplace sexual harassment is the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013. The Act was implemented with a view to provide every woman with a conducive work environment that is safe, secure and free from workplace sexual harassment. The Act under Section 1(2) extends to the whole of India.

Section 2 of the Act defines workplace to include any department or enterprise controlled or substantially financed by the government; private sector organization, hospital or nursing homes, sports institutes or stadium, a dwelling place or house... The same section defines sexual harassment to include physical contact and advances, demand or request for sexual favours; making sexually coloured remarks, showing pornography; or any other unwelcome physical, verbal or non-verbal conduct of sexual nature.

Section 3 of the same Act prohibits the subjection of a woman to any form of sexual harassment.

The Act mandates every employer of workplace to constitute a Committee to be known as the Internal Complaints Committee wherein aggrieved women can lodge complaints of workplace sexual harassment cases. Section 15 states the factors to be considered by the Committee in awarding compensation to the employee to include mental trauma, pain, loss in career opportunity, medical expenses incurred by the victim for physical or psychiatric treatment, the income and financial status of the respondent, and the feasibility of the payment in lump sum.

Section 18 of the Act also makes provision for an appeal to a court of tribunal in the event that the victim is dissatisfied with the award of the committee.

The Indian Penal Code also prohibits workplace sexual harassment under Section 354(A) which states that any man committing any physical contact, advances involving unwelcome and explicit sexual overtures; or demanding or requesting sexual favours; or showing pornography against the will of a woman or making sexual coloured remarks, shall be guilty of the offence of sexual harassment and liable to imprisonment for a term which may extend to three years, the same Indian Penal Code prohibits the uttering of words or any gesture intended to insult the modesty of a woman and intrudes her privacy as such offender will be liable to imprisonment for a term of three years with fine.

The legal framework on workplace sexual harassment in India is specific, widely applicable, punitive, engaging but gender specific. It is specific because it is enacted to address cases of workplace sexual and widely applicable to all parts of India unlike the Nigerian Violence Against Persons (Prohibition) Act which is only applicable to the Federal Capital Territory, Abuja. The Indian legislation on workplace sexual harassment just like the Harassment Code of South Africa is engaging in the sense that it does not undermine the role of employers through the Human Resources team of any organization in responding to the incidences of sexual harassment. Although this paper criticizes the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 for being gender restrictive and specific because men also are victims of

<sup>1</sup> 569 SCRA 747 (2008)

<sup>2</sup> G.R. No. 123048. August 8, 2000

workplace sexual harassment.

In the landmark judgment of *Vishaka and Others v State of Rajasthan*<sup>1</sup> which raised the Vishaka guidelines incorporated in the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013. A public servant tried to prevent child marriage which were in lines with her job description. She however faced strong opposition from some members of the concerned community who eventually gang raped her. At trial, the victim, Vishaka did not get justice because the perpetrators were freed. This injustice resulted in a public outcry from relevant stakeholders. This case brought to the fore the absence of a legal framework addressing workplace sexual harassment among women. The Guidelines established in the case recognized all forms of sexual harassment and held that pending the enactment of a legislation, the Guidelines be adopted in cases of workplace sexual harassment.

**4.5 Spain:** Spain is also selected by this paper because of its punitive legal framework on sexual harassment. Under Article 184 of Spanish Criminal Code anyone who solicits favour of a sexual nature for himself or for a third party within the setting of a continuous usual work relation and by such conduct causes the victim a situation that is objective and seriously intimidating, hostile or humiliation, such person shall be convicted for sexual harassment and punished with a sentence of imprisonment of three to five months or a fine from six to ten months. Article 184(2) states that should the party guilty of sexual harassment have committed the act availing himself of a situation of labour and superiority, the punishment shall be five to seven months imprisonment or a fine of ten to fourteen months. Subsection 3 of the same Code states that where sexual harassment occurs in the case where the victim is vulnerable, the punishment shall be five to seven months imprisonment or a fine of ten to fourteen months in subsection 1 and of imprisonment for six months to one year in the cases foreseen in Section 2 of this Article.

The Spanish Criminal Code makes provision for sexual harassment unlike the Nigerian Criminal Code that is silent and makes no provision for sexual harassment. The Nigerian Criminal Code is no doubt archaic and the need for a review to be conducted in order to provide for grey areas has however arisen.

#### **4.6 Bahamas**

Workplace sexual harassment is a criminal offence in Bahamas. The relevant statute governing sexual harassment is the Sexual Offences Act. The law expressly protects against sexual harassment in employment by a prospective employer, actual employer, other employees and prospective employees institutions. Section 26(1) of the Act identifies certain conducts to constitute workplace sexual harassment to include

- a. where a prospective employer solicits sexual favours in the terms and conditions of offer of employment or admission into any institution
- b. where a prospective employer solicits sexual favours under threat of rejecting a person's application or admission into an institution
- c. where a person in a position of authority, a co-worker, other employee solicits sexual favours from a person under any promise, threats or for any favour or advantage in the place of employment in the institution
- d. where a person solicits from a person who is in a position of authority in any place of employment or any institution any favour or benefit or the forbearance from the exercise of any right, duty or power relating to that authority under any holding out or promise of sexual favours.

Under Section 26(2) of the same Act, the penalty for sexual harassment is imprisonment for two years or a fine of five thousand dollars or both such fine and imprisonment. However, for a person to be prosecuted for sexual harassment, the consent of the Attorney-General must be obtained.

These jurisdictions examined indicates that workplace sexual harassment is not a civil action attracting compensation but a criminal offence backed with punitive measures which Nigeria should adopt in eliminating workplace sexual harassment. This paper argues that beyond the suspension, damages, and compensation meted to the harassers and paid to the victim, punitive measures should be taken to deter other prospective harassers at workplace.

#### **5.0. A NOTE ON WORKPLACE SEXUAL HARASSMENT IN NIGERIA**

Workplace sexual harassment is a global menace having ripple effects not only on the employee who has suffered the harassment but also has some corporate governance bearing. Companies' with prevalent workplace sexual harassment risk reputational damage which in the long run impedes the sustainability of the organization in terms of ethical values and responsibility. This paper has carefully examined the provisions of relative legislations on workplace sexual harassment because the examined jurisdictions addresses the menace from a punitive perspective and creates an inclusive role for employers to be responsive to incidences of workplace sexual harassment. To discuss the efficacy of criminalizing workplace sexual harassment is to drift from the

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<sup>1</sup> AIR 1997 SC 3011

focus of this paper. However, it must be reaffirmed jurisprudentially that the major function of punishment is to deter others from committing the same prohibited act. Hence, workplace sexual harassment should be criminalized. This paper also reveals that Nigeria has no widely applicable legislation on workplace sexual harassment owing to archaic legislations which has further worsened the incidences of workplace sexual harassment which is viewed as a private affair that should not be exposed due to societal stigma, blame, and trolling.

This paper in a bid to address salient issues affecting employees in several organizations in Nigeria particularly startups advocates the need for an independent human resources team that is dynamic and woven with aversion for workplace sexual harassment. The International Labour Organization (ILO) Committee of Experts observed that ‘sexual harassment undermines equality at work by calling into question the integrity, dignity and wellbeing of workers because it damages the enterprise by weakening the bases upon which work relationships are built and impairing productivity.’<sup>1</sup> It is reported that several organizations do not have human resource personnel, policies or channels for reporting cases of workplace sexual harassment and while some with the personnel are not given the liberty to discharge the functions of their office by their superior who dictates the tune on employees’ policies. For instance a startup named Bento Africa owned by one Eburn Okubanjo, trended on Twitter for verbally insulting his employees’. Employees of the organization stated that their contracts of employment did not make provision for leave and were verbally fired from their employment for the flimsiest ground because Mr Eburn Okubanjo always dictated to the Head of Human Resource.<sup>2</sup> The impact of culture on sexual harassment in Nigerian organization when evaluated showed that no serious action was taken against the harassers by the relevant authority at work as some laughed it off and chastised the victim for arousing the sexual drive of the harasser.<sup>3</sup> The culture of silence where sexual dialogues are frowned at coupled with an absent legal framework has further worsened workplace sexual harassment. In a report by the Stand to End Rape (STER) Initiative, 9 out of 16 participants (59%) who reported sexual harassment through formal workplace channels indicated that no disciplinary action was taken against the harasser. When offenders received disciplinary action, the most cited was a verbal warning. In addition, 81% of participants who reported the incident through formal channels at their workplace did not receive any support from the employer.<sup>4</sup> However, what is the fate of a victim when the harasser is the owner of the company? This question raises issues of corporate governance wherein an independent board should be constituted for every organization. Organizations have a legal and moral duty to put clearly articulated and visible policies in place that prohibits workplace sexual harassment.<sup>5</sup>

The rising level of unemployment has also been identified as an aid to the culture of silence wherein victims of workplace sexual harassment suffer in silence for fear of losing their jobs if the attempt to speak up is made. As at November 2021, the National Bureau of Statistics reported that the level of unemployment in Nigeria was pegged at 33%.<sup>6</sup> This indicates that more victims of workplace sexual harassment will suffer in silence and endure owing to the uncertainties in the labour market. It is in this vein that the government and all stakeholders in the business of sustaining decent work should rise up in the fight against workplace sexual harassment.

## 6.0 RECOMMENDATIONS

This paper having discussed the legal framework on workplace sexual harassment in Nigeria from a comparative perspective has identified the lacuna in the Nigerian legal framework on workplace sexual harassment and has provided the following recommendations.

1. The Nigerian legislative arm of government should enact a new legislation criminalizing workplace sexual harassment. The legislative arm of government should also amend all relevant existing legislations particularly the Labour Act so as to include workplace sexual harassment. The new legislation criminalizing workplace sexual harassment should be a gloss to the existing Labour Act when amended.
2. The Nigerian government in line with Section 12<sup>7</sup> of the 1999 Constitution of the Federal Republic of Nigeria should ratify Sexual Harassment and Convention No. 190 and Recommendation No. 206 which requires

<sup>1</sup> ILO 2003. Report of the Committee of Experts on the Application of Conventions and Recommendations (Articles 19, 22 and 35 of the Constitution), Report III (Part 1A).

<sup>2</sup> Damilare Dosunmu, ‘Tyranny in the Workplace: The Chaotic Culture of Bento Africa’ Tech Cabal (21 March, 2022) <https://techcabal.com/2022/03/21/tyranny-in-the-workplace-the-chaotic-culture-of-bento-africa> accessed 11 April 2022

<sup>3</sup> A. Pelemo, M. Mehanathan, P. Kulshrestha, and I. Aina, ‘Sexual Harassment in the Workplace: Case Study of the Nigerian Legal Sector’ (2019) 86 Journal of Law and Globalization <https://core.ac.uk/download/pdf/234652189.pdf> accessed 11 April 2022

<sup>4</sup> Mercy Ayodele, ‘Workplace Sexual Harassment still Prevalent in Nigeria’ Business Day News (Nigeria, 14 August, 2021) <https://businessday.ng/amp/bd-weekender/article/wporkplace-sexual-harassment-still-prevalent-in-nigeria> accessed 11 April 2022

<sup>5</sup> Olamide Abudu, ‘Sexual Harassment in Nigeria: It’s Everybody’s Problem’ The Guardian News (22 November, 2017) <https://guardian.ng/issue/sexual-harassment-in-nigeria-its-everybodys-problem> accessed 11 April 2022

<sup>6</sup> Fikayo Owoye, ‘NBS: Nigeria’s Unemployment Rate Hits 33.3%- Highest Ever’ The Cable (Nigeria, 15 March, 2021) <https://www.thecable.ng/nbs-nigerias-unemployment-rate-hits-33-3-highest-ever/amp> accessed 13 April 2022

<sup>7</sup> Section 12 of the 1999 Constitution of the Federal Republic of Nigeria states that ‘No treaty between the Federation and any other country shall have the force of law except to the extent to which any such treaty has been enacted into law by the National Assembly’

members to define and prohibit workplace sexual harassment. The Convention provides that to prevent and address violence and harassment, fundamental principles and rights at work need to be respected. The Convention also requires the provision of effective access to gender-responsive, safe and effective complaints and dispute resolution mechanisms to victims.<sup>1</sup>

3. Employers should also ensure that workplace policies, report channels, and sanctions are established in the organization so as to prevent incidences of workplace sexual harassment. The Nigerian government should also mandate all employers to ensure that policies prohibiting workplace sexual harassment exist in every organization.

4. Societal bias and stereotypes on workplace sexual harassment should be eroded through the promotion of gender equality programme and sexual dialogues on issues of gender based violence. This will further promote the culture of speaking up workplace sexual harassment.

5. The government should also create decent jobs that can improve the standard of living of many Nigerian employees who do not have to endure unfair labour practices due to uncertainty in the labour market.

## **7.0 CONCLUSION**

Workplace sexual harassment is a threat to decent employment across the globe and countries should be taking deliberate steps to criminalize the act. Nigeria should borrow cues from the legislative framework of the selected jurisdiction in order to protect the sphere of employment and ensure social justice. It can only get better when relevant stakeholders form a coalition to defend the vulnerable in eradicating workplace sexual harassment.

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<sup>1</sup> International Labour Organization, 'Sexual Harassment in the World of Work'  
[https://www.ilo.org/wcmsp5/groups/public/dgreports/gender/documebts/briefingnote/wcms\\_738115.pdf](https://www.ilo.org/wcmsp5/groups/public/dgreports/gender/documebts/briefingnote/wcms_738115.pdf) accessed 12 April 2022