

## **INSTITUTIONAL FRAMEWORKS ON SEXUAL HARASSMENT IN NIGERIA: PERSPECTIVE OF HIGHER EDUCATION STUDENTS**

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### **Abstract:**

*One of the early models for identifying and preventing sexual harassment is the availability of a clear legal framework for eradicating sexual harassment in academic settings. It is trite to say that sexual harassment is a violation or infringement of a victim's rights. When such victims are students, it impedes their productivity level and attracts other grievous consequences. This study examines the Nigerian legal framework on sexual harassment, students' experience of sexual harassment by gender, and institutional knowledge of internal policies on sexual harassment. In addressing these objectives, empirical methodology was adopted, which involves quantitative and qualitative research with simple mathematical arithmetic, chi Square test, Pearson correlation, graph and bar chart for measuring the data. Four Hundred and Seventeen (417) male and female respondents were drawn from the students studying in private and public Universities, Polytechnic, and College of Education across the South-Western region of Nigeria. The sample was drawn in strata and data collected between the periods of January to March, 2020 via self-administered*

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*questionnaires. On the sole hypothesis raised that there is a significant difference in the need for national legislation and the possibility of the NICN to address sexual harassment without national legislation, the study found that the National Industrial Court of Nigeria is inadequate for handling sexual harassment matters in Nigerian Tertiary Institution. The result revealed that female students experienced more of sexual forms, while male students experienced more of gender harassment, indicating that a clear legal framework is urgently wanting in the academic settings. It was concluded that there appears to be fragmented legal framework on sexual harassment but there remains a need for unified legal framework on sexual harassment in Nigeria.*

**KEYWORDS:** Higher educational students; Legal Framework; Nigerian academic setting; Sexual Harassment Policy; Sexual harassment;

## INTRODUCTION

Sexuality is an intricate element of human existence; as such, sexual relationships ideally should be between two consenting adults. When sexual acts occur in an atmosphere of coercion and/or intimidation, it becomes an infringement of a person's fundamental human rights.<sup>3</sup> Globally, scholars in education have discussed sexual harassment copiously,<sup>4</sup> and locally, within

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<sup>3</sup> UNCEF in force since 1989; Dan Cassino and Yasemin Besen-Cassino, 'Race, Threat and Workplace Sexual Harassment: The Dynamics of Harassment in the United States, 1997–2016' (2019) *Gender Work Organ* <<https://onlinelibrary.wiley.com/doi/epdf/10.1111/gwao.12394>>

<sup>4</sup> Borufka Sarah, 'Czech Republic - Study Finds High Levels of Sexual Harassment at Czech Universities' *Women's Un Report Network* (February 15 2010) <<https://wunrn.com/2010/02/>>; Ishmael D. Norman, Moses Aikins, Fred N. Binka, 'Faith-Based Organizations: Sexual Harassment and Health in Accra-Tema Metropolis' (2012) (17) *Sexuality & Culture* <<https://10.1007/s12119-012-9141-6>>; Layla Haidrani, 'We Must do more to Fight Sexual Harassment at University' (2013) *The Independent* <<http://www.independent.co.uk/student/student-life/wemust-do-more-to->> (Accessed on 20.08.2021); Sarah Lynch, 'The Fight against Sexual Harassment on Arab Campuses' (2013) <<https://chronicle.com/article/The-Fight-Against-Sexual/139465/>>; Junaidi I., 'Sexual Harassment Allegations Rock Quaid-i-Azam University Again' (2014) <<https://www.dawn.com/news/1115223>>; A Mamaru, K Getachew, Y Mohammed, 'Prevalence of Physical, Verbal and Nonverbal Sexual Harassments and Their Association with Psychological Distress among Jimma University Female Students: A Cross-Sectional Study'

Nigeria.<sup>5</sup> Both women and men are targets of harassing behaviour. However, evidence shows that women bear the brunt.<sup>6</sup> Feminist theorist, Connell, posits that gender-based inequalities and discrimination are maintained and negotiated through interrelations among differently gendered and differently privileged subjects within a larger gender system. Men have been socialized by culture and social norms into roles of sexual leadership, dominance and authority whereas women are socialized to be submissive, passive and gatekeepers of their sexuality<sup>7</sup>. The end result of these learned roles popular among various institutions in the society is sexual violence and harassment.<sup>8</sup> Reiterate this view, and describe sexual harassment as ‘a sexualized form of gender inequality’. The weaker position that women seemingly occupy are illustrated by their helplessness to refuse their relegated status given the dire costs of doing so, thereby, putting majority blame on them for sexual violence. Sexual harassment, thus, is reflective of a much larger patriarchal system in which men occupy the dominant role revealing differential distribution

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*Ethiopian Journal of Health Sciences* [2015] (1)29-38 <[https:// 10.4314/ejhs.v25i1.5](https://doi.org/10.4314/ejhs.v25i1.5)>; Fredrik Bondestam and Maja Lundqvist, ‘Sexual Harassment in Higher Education—a Systematic Review’(2020) (3)(4) *European Journal of Higher Education* <[https://doi/full/10.1080/21568235.2020.1729833](https://doi.org/10.1080/21568235.2020.1729833)>

<sup>5</sup>Makinde F, ‘Another OAU lecturer in sex-for-mark scandal, Punch newspapers’ (10 April, 2018); Alexandra O, ‘We are interested in OAU Sex-for-marks Scandal, Obaseki’ *Punch Newspaper* (30 April, 2018); Lawal I., ‘Finding Lasting Solution to Sexual Harassment in Schools’ *The Guardian Nigeria newspaper* (26 April 2018) 16; AD Aina-Pelemo, OA Oke, IT Alade, ‘Quid pro quo sexual harassment: Comparative study of its occurrences in selected institutions in South-West, Nigeria’ [2021] (2)1-5 *Current Research in Behavioural Sciences* <[https://10.1016/j.crbeha.2021.100031](https://doi.org/10.1016/j.crbeha.2021.100031)>

<sup>6</sup> James C Quick and M Ann McFadyen, ‘Sexual Harassment: Have We Made Any Progress?’ *Journal of Occupational Health Psychology* [2017] (22)(3) 286-298; Onoyase A, ‘Prevalence of Sexual Harassment of Female Students of Tertiary Education in Taraba State, North East Nigeria: Implications for Counselling’ *International Journal of Higher Education* [2019] (8)(1), 77-83; Adekunle Peters, ‘ASUU chair over alleged sexual harassment’. *Punch* (Benin, 14 February 2019) Retrieved from <https://punchng.com/asuu-suspends-asuu-chair-over-alleged-sexual-harassment/> accessed 15 October 2022; Aina-Pelemo, A. D. and Ejembi, P. A., ‘Sexual Harassment and the Law; (first (Ed.) Jos University Press, Jos 2020)

<sup>7</sup> Alison M Thomas and Celia Kitzinger, ‘Sexual Harassment: Contemporary Feminist Perspectives’ *Open University Press* (1997) <<https://books.google.com.ng>> accessed 15 October 2022

<sup>8</sup> Sen Purna, Borge Eunice, Estefenia Guallar, Jade Cochran, Towards an end to sexual harassment: the urgency and nature of change in the era of #MeToo (2018 UN Women)

of power and status between the sexes by the larger society.<sup>9</sup> Sexual harassment is a manifestation of male superiority and dominance, whereas the intrinsic physical weakness and submissive behaviour of females naturally predispose them as victims of sexual harassment.<sup>10</sup>

Sexual harassment can be captured in various contexts, which invariably means that, certain prohibited heterogeneous behaviours that are viewed as sexual harassment exist. In the United States, the National Academies of Sciences, Engineering, and Medicine,<sup>11</sup> classified three categories of sexually harassing behaviour: (1) gender harassment which includes verbal and nonverbal behaviours conveying exclusion, objectification, hostility, or second-class status about members of one gender, (2) unwanted sexual physical or verbal attention (including assault), and (3) sexual coercion (conditioning favorable professional or educational treatment on sexual activity). Notwithstanding the differing connotations, sexual harassment remains an unwanted sexual behaviour and is harmful to the victim. It is very important to eradicate all forms of violence at work and in education because of factors such as human dignity and workplace efficiency and productivity. Bell et al.<sup>12</sup> identify sexual harassment as a major public health crisis with the capacity to hinder development, retard the actualization of the full human potential, and ultimately undermines the integrity of the organizational environment.<sup>13</sup>

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<sup>9</sup> AD Aina-Pelemo and PA Ejembi, *Op Cit*, n. 4

<sup>10</sup> Ritu Gupta, *Sexual Harassment at Workplace: A detailed analysis of the sexual harassment of women at workplace Act 2013* ( LexisNexis (A Division of Reed Elsevier India Pvt. Ltd. 2014)

<sup>11</sup> The National Academy of Sciences, Engineering, and Medicine 2018

<sup>12</sup> MQJ Bell and C Cycyota, 'Assessment and Prevention of Sexual Harassment of Employees: An Applied Guide to Creating Healthy Organization' *International Journal of Selection and Assessment* [2002] (10) (1/2)160-167 <<https://doi.org/10.1111/1468-2389.00203>>

<sup>13</sup> Ritu Gupta, *OpCit*, n7 Akinfala FF, Komolafe T, 'Sexual Harassment as a Predictor of Organisational Outcomes'[2017] *African Journal for the Psychological Study of Social Issues*, 20(1), 60-73; A. Llewellyn , Karageorge A., Nash L., Li W., and Neuen, D, 'Bullying and Sexual Harassment of Junior Doctors in New South Wales, Australia: Rate and Reporting Outcomes' *Australian Health Review*, 43(3), 328–334 <<https://10.1071/AH17224>>; New York State, 'Model sexual harassment prevention training: Combating sexual harassment' *New York State: USA* (July 2019).

Despite the obvious evils associated with acts of sexual violence in the society especially, in citadels of learning, this abhorrent act continues to run its pervasive course. The recent study conducted by Bello<sup>14</sup> found that 17% of selected female respondents experienced or know of colleagues experiencing sexual harassment in their campus. Meanwhile, the survey conducted by Bello differs from the present study, because it focused on a tertiary institution in the North-Central region as opposed to the instant study that survey respondents from selected tertiary institution in the South-West regions. Eighty percent of the female respondents surveyed by Suleiman,<sup>15</sup> in the study conducted among six selected Universities situated in the Northern region revealed that they have experienced sexual harassment where lecturers and administrative staff are the lead culprits. Similarly, 69.4% female respondents selected from three higher institutions in the South-Eastern, Anambra State, reported to have been sexually harassed.<sup>16</sup> Also, 52.5% of the female respondents surveyed by Duru and colleagues in Imo-States Universities experienced ranges of sexual abuse and the commonest was fondling and grabbing of sensitive body parts.<sup>17</sup> Over 50% respondents experienced one form of sexual violence in the University of Port-harcourt and University of Calabar, in South-South, Nigeria.<sup>18</sup> In fact,

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<sup>14</sup> PO Bello, 'Sexual Harassment in Ivory Tower in Nigeria: Mixed feelings' *Bangladesh e-Journal of Sociology*

[2020] (17)(1) 173-189

<sup>15</sup> Suleiman, Mohammed Saheed, 'Perception of Sexual Harassment among Female Students of Tertiary Institutions in Northern Nigeria' *Ife Social Sciences Review* [2017] (25)(2) 80 – 89

<sup>16</sup> EI Anierobi, CE Etodike, VN Nwogbo, NU Okeke, and MN Nwikpo, 'Evaluating Sexual Harassment against Female Workers in Higher Institutions in Anambra State, Nigeria' *International Journal of Academic Research in Business and Social Sciences* [2021] (11)(2), 265–278

<sup>17</sup> CB Duru, AC Aguocha, UR Oluoha, IN Okedo-Alex, I Ohanie and Ernest Nwaigbo, 'Sexual Abuse among Female Undergraduates in Tertiary Institutions in Imo State, South-East, Nigeria: Prevalence, Pattern and Determinants' (2018) 5(4) 1-24 <<https://10.4236/oalib.1104516>> accessed 16 October 2022

<sup>18</sup> Margaret-Mary Mezie-Okoye and Folusho F Alamina, 'Sexual Violence among Female Undergraduates in a Tertiary Institution in Port Harcourt: Prevalence, Pattern, Determinants and Health Consequences' *African Journal of Reproductive Health* [2014] (18)(4), 79-85; EF Effa, EO Okokon, AB Nwagbara and S Bello, 'Pattern, Determinants and Mental Consequences of Sexual Violence among Female Undergraduate Students in Calabar, Southern, Nigeria' *Open Access Livrbrary Journal* (2017) 5(4) <<https://www.svri.org/forums/forum2009/presentations/Nwagbara.pdf>> accessed 16 October 2022

sexual harassment remains a big challenge in the tertiary institutions across Nigeria. It is pertinent to note that the majority of the studies conducted on students' experience and sexual harassment in Nigeria mainly focus on females with exclusion of the male group and that is one of the gaps that the instant study seeks to address.

Leach<sup>19</sup> and Beninger<sup>20</sup>, reported from their studies that countries with weak educational systems, high levels of poverty, low levels of accountability, gender inequality, and poorly trained, underpaid staff portrays a higher rates of sexual harassment in education. The factors facilitating the continual perpetuation of sexual harassment and exploitation in academia was highlighted as follows: (1) perceived tolerance for sexual harassment, where instances of harassment are not timely investigated, weak punitive measures and irregular flow of information on policies and institutional processes dealing with the act, (2) atmosphere of male dominance in terms of number and leadership, (3) organization structured hierarchically with bias for much dependencies on those at higher levels or environments where people are geographically isolated, and (4) uninformed leadership that lacks the strong will, tools and determination to take the measures needed to reduce and eliminate sexual harassment on campuses.<sup>21</sup>

An effective process of curbing and eradicating sexual violence among staff and students on campuses starts with educational institutions establishing and enforcing clear policies which detailed the categories of behaviour that could amount to sexual harassment in clear terms, statement of the schools' task in addressing grievances, statement of individual's task for reporting sexual harassment, statement relating to malicious/fake grievances, and identification of person(s) in charge of the hearing of grievances.<sup>22</sup> Such

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<sup>19</sup> F Leach, 'Corruption as Abuse of Power: Sexual Violence in Educational Institutions'. In: G. Sweeney, K. Despota, S. Lindner (EOS)' (2013) pp. 8898 *Transparency International, Global Corruption Report: Education*. Abingdon, Oxon

<sup>20</sup> C Beninger, 'Combating Sexual Harassment in Schools in Sub-Saharan Africa: Legal Strategies under Regional and International Human Rights Law' *African Human Rights Law Journal* [2013] (13), 281-301

<sup>21</sup> The National Academy of Sciences, Engineering, and Medicine 2018

<sup>22</sup> MA Paludi, and RB Barickman, 'Sexual Harassment, Work, and Education: A Resource Manual for Prevention' Second Edn, *Albany, New York: State University of New York*, [1998]

policy statements should be documented in employee and student handbooks. Campus authorities should also organize regular training sessions on sexual harassment for staff and students. The results of a comprehensive study as reported by Premium Times<sup>23</sup> of Nigeria indicates that, across over 20 Nigerian universities, polytechnics and colleges of education, many of the higher institutions in Nigeria have either scanty or no policy documents on sexual harassment. Higher institutions such as the University of Ibadan, University of Port Harcourt, Federal University of Agriculture Abeokuta, University of Calabar, University of Ilorin, Federal University of Technology, Minna, National Open University of Nigeria, University of Lagos, Lagos State University, Ladoke Akintola University of Technology and Bayero University of Kano had detailed sexual harassment policies, however, students decried poor or zero implementation of the policies. Also, University of Uyo, University of Benin, Uthman Dan Fodio University and Federal University Lokoja, Adamawa State University and Ekiti State University had no documented policy on sexual harassment in their institutions.

Only recently, March 1<sup>st</sup> to 5<sup>th</sup> 2021 was the first author invited as one of the resource persons to organize a 5-day sensitization workshop on sexual harassment education for the Osun State University staff and students and in the process, introduced, as well as distributed its University Sexual Harassment Policy. The policy is cited as ‘Osun State University Guidance Notes on Sexual Harassment’. The peculiarity of this policy is that it did not only define and condemn sexual harassment as a social disorder but differentiated between the subject matter and mutual consent. Mutual consent means the social or sexual relationship that is not offensive and the recipient consented to. It concluded that mutual consent relationship between lecturer and students especially undergraduate will be considered offensive,

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[https://books.google.hn/books?id=6tGo43\\_qLooC](https://books.google.hn/books?id=6tGo43_qLooC) accessed 16 October 2022; Joseph Janice, ‘Sexual harassment in tertiary institutions: A comparative perspective’ *Temida* (2015) 18(2), 125-144 <<https://doi.org/10.2298/TEM1502125H>> accessed 16 October 2022

<sup>23</sup> AS Akindele, ‘Nigerian higher institutions lack sexual harassment policies’ *Premium Times*, (9 November 2020) (4) <<https://www.premiumtimesng.com/features-and-interviews/425240>>

regardless whether it is not because, the student might concede to the sexual advances due to fear of failure or hostility.

### **Sexual Harassment in Nigeria: Legal Framework**

In many countries, sexual harassment is criminalized in the criminal codes (e.g. Argentina, Singapore, Cameroon, Germany, Croatia, Cyprus), labour codes (e.g. Spain, New Zealand, Lithuania), and also spelt out in anti-discrimination and equal opportunity laws (e.g. Bulgaria, Australia, Sweden, United Kingdom, Cambodia, Iran), as well as education and licensing statutes.<sup>24</sup> But in Nigeria, the practice is prohibited under the criminal, constitutional, human rights and labour laws. This indicates the unstructured and fragmented approach to the subject matter.

In Nigeria, it is just a section of the National Industrial Court Rules that accommodate issues of sexual harassment and it is silent about liability of employers toward employees or organization regarding the subject matter. However, there is still much to do. A data from the 2018 World Bank Group's Women, Business and the Law, shows that 59 countries, had no law on sexual harassment in the workplace, whereas 123 countries, have no laws on sexual harassment in education. The data also shows that for Africa, there are no laws penalizing sexual harassment in education in 36 of the 47 countries surveyed. Some countries, such as India, Australia, United States and the United Kingdom, have legislation/policies that specifically prohibit sexual harassment in educational system; while other countries have sexual harassment legislation that do not include educational institutions. Some

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<sup>24</sup> The Advocates for Human Rights, (September 2010) <https://www.theadvocatesforhumanrights.org/Issue/63> accessed 17 October 2022; Cobb Ellen Pinkos, 'Sexual Harassment Law Evolving Globally' (3 December 2014) *Global HR* <https://www.shrm.org/resourcesandtools/hr-topics/global-hr/pages/sexual-harassment-law-global.aspx> accessed 17 October 2022; Sen Purna, Borge Eunice, Estefenia Guallar, Jade Cochran, Towards an end to sexual harassment: the urgency and nature of change in the era of #MeToo (UN Women, 2020) <https://eca.unwomen.org/en/digital-library/publications/2020/11/towards-an-end-to-sexual-harassment> accessed 17 October 2022



reserve a section of their sex discrimination prohibition law to address issues of sexual harassment in educational institutions.

**The direct and indirect Nigerian legal frameworks on sexual harassment are:**

1. The Constitution of the Federal Republic of Nigeria (as altered), 1999
2. The National Industrial Court, Civil Procedure Rules 2017
3. The Nigerian Penal Code (1960)
4. The Nigerian Criminal Code of 1916
5. The Independent Corrupt Practices Commission (and other related offences Act), 2000
6. The African Charter on Human and People's Rights (Ratification and Enforcement) Act, Chapter A9 (CAP10, Laws of the Federation), 1990
7. The Criminal Law of Lagos State (2011)
8. The Violence Against Persons (Prohibition) Act 2015
9. Various listed States' Violence Against Persons (Prohibition) Act- Oyo, Ogun, Osun, Ekiti, Edo, Anambra, Enugu, Ebonyi, Benue, Cross-rivers, Kaduna, Plateau and Bauchi<sup>25</sup>

1. **Section 34(a, b, & c) and section 42 of the Constitution of the Federal Republic of Nigeria (as altered), 1999**, contains the provisions protecting the dignity of the human person and freedom from discrimination respectively.

The fundamental human rights to dignity of human person and the rights to freedom from discrimination of victims are specifically

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<sup>25</sup> The Oyo State Violence Against Persons (Prohibition) Law, 2021; The Ogun State Violence Against Persons (Prohibition) Law, 2017; The Osun State Violence Against Persons (Prohibition) Law, 2021; Ekiti State Gender-Based Violence (Prohibition) Law, of No 21, 2011; The Edo State Violence Against Persons (Prohibition) Law 2021 as amended; The Anambra State Violence Against Persons (Prohibition) Law, 2017; Violence Against Persons (Prohibition) Law, Enugu State, 2019; Ebonyi State Violence Against Persons (Prohibition) Law, 2018; Rivers State Violence Against Persons Prohibition Law, 2021; Kaduna State Violence Against Persons (Prohibition) Law, 2018; Plateau State Violence Against Persons (Prohibition) Law, 2021  
The Violence Against Persons Prohibition Law in Bauchi State, 2021.

infringed in nearly all cases of sexual harassment. In the event that these constitutional rights are violated, an aggrieved person can seek remedy in a court of competent jurisdiction. A major limitation of section 42 as identified by Okongwu<sup>26</sup> is that it only protects people from discrimination against laws and executive actions of the government, while excluding discrimination from other sources such as from individuals, organizations / institutions or workplace policies or practices which are discriminatory.

The Nigerian Labour Act 2004<sup>27</sup> has no explicit provisions for any form of workplace harassment during employment. Instead, it provides for compensation in the event of traumatic effect of mental stress and unexpected mishad experienced by the worker while on duty as contained in the Employees Compensation Act 2010.

2. **The National Industrial Court (NIC)** (a special court dealing with all matters relating to labour and employment) included in its Civil Procedure Rules 2017, four categories of acts that constitute workplace sexual harassment. These are contained under Order 14 Rule 1 (a), (b), (c) and (d) of the NIC Civil Procedure Rules 2017, they are:

- (1) Conducts of a physical sexual nature involving unsolicited bodily contact, which ranges from stirring to sexual assault and rape, stripping by a person in front of another, sexual gesture; and/or
- (2) Sexual harassment of a verbal form involving unwanted innuendoes, propositions and suggestions, sexual advances, remarks with sexual implications, sex related funny story or abuse, or unwanted graphic remarks about the body of a person, unwanted and improper enquiries about a person's private life and unwanted screeching at a person or group, any text, substance or display in additional support to any of the claims; and/or

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<sup>26</sup> O Okongwu, 'Perception of sex discrimination and sexual harassment among bank employees in Nigeria: a comparative study of the Nigerian and the British employee protection laws' (PhD Thesis, of the De Montfort University, Leicester 2017).

<sup>27</sup> Nigerian Labour Act 2004

- (3) sexual harassment that is of non-verbal form, involving unwelcome signals, offensive bodily exposures, and unwanted exhibit of sexual overt images or things; and/or
- (4) Quid pro quo harassment, this involves the process where an employer, or its manager or co-employee tries to influence the employment procedure, elevation, advancement, chastisement, removal from office, increment in salary or related remunerations of an employee or job seeker in trade for sexual nepotism.

The provisions of the NIC define what behaviours/actions amount to workplace sexual harassment; validates sexual harassment as an actionable claim; and, guides on how to prove sexual harassment before a court of competent jurisdiction. Other situations which can also be established as workplace sexual harassment include: making unnecessary physical contact, including unwanted touching; calling women sex-specific derogatory names; asking for sex in exchange for a benefit or a favour; posting or sharing pornography, strip search by or in the presence of the opposite sex; sexual pictures or cartoons, sexually explicit graffiti, or other sexual images (including online); persistent pressure for dates, and not accepting “no” for a respond; using rude or insulting language or making comments towards women; making sex-related comments about a person’s physical constitution or actions; making sexual jokes, amongst others. Any worker who suffers any of the above can institute an action at the NIC seeking, inter alia, reliefs, which include monetary compensation, damages and injunction.

3. **The Nigerian Penal Code (1960)** defines indecent assault under sections 281, 282 and 285, and it impliedly includes sexual harassment. This code covers the Northern part of Nigeria.
4. **The Nigerian Criminal Code of 1916**, on the other hand, which is applicable in the Southern part of Nigeria, contains provisions for criminalizing the offence of sexual assault. These provisions are found in sections 351 to 361 of the Act.
5. **The Independent Corrupt Practices Commission (and other related offences Act), section 112A (1)(2), 2000** regard sexual

harassment by public officers as corrupt practices and an abuse of office punishable with imprisonment. The case *Prof. Akindele v Federal Republic of Nigeria* (2019) LCN/13537(CA) Appeal no: CA/AK/80c/2019, delivered 5<sup>th</sup> March, 2021 (Unreported) was decided on the basis. The crux of the matter was that the defendant, a Professor / lecturer at the Obafemi Awolowo University, Ile-Ife, Osun-State, Nigeria, demanded sex from one of his female students so as to upgrade her score. The female student reported the matter to the police and the defendant was charged to the Federal High Court, Osogbo judicial division, Osun-State, by the Independent Corrupt Practices Commission on the basis that the act of the Defendant was not only a corrupt practice, but an abuse of office which contravenes the provision of section 112A (1)(2), of the Independent Corrupt Practices Commission (and other related offences Act), 2000. The Defendant having pleaded guilty of the offence charged, the Court so hold, convicted and sentenced him to two (2) years imprisonment.

6. **The African Charter on Human and People’s Rights (Ratification and Enforcement) Act, Chapter A9 (CAP10, Laws of the Federation), 1990, Articles 2, 5, 15 & 19 (African Charter).** This Charter recognises and guarantees the protection of every person’s rights to dignity, freedom from torture or degrading treatments, freedom from all forms of discrimination, rights to satisfactory working conditions and equal treatment of people respectively.

Since sexual harassment is seen as a form of discrimination in Nigeria, the African Charter is one of the legislations used in arriving at just decisions in National Industrial Court of Nigeria (NICN) on several cases related with and incidental to sexual harassment; *Ejjeke Maduka v Microsoft Nigeria Limited and 2 Ors.*,<sup>28</sup> this is the first case decided by the NICN on this subject matter. The crux of the matter was that the Claimant was sexually harassed by one of the respondents (that is, superior in the office). She reported the ordeal to the other respondent (her immediate superior) but no action was

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<sup>28</sup> *Ejjeke Maduka v Microsoft Nigeria Limited and 2 Ors.*, [2014] 41, NLLR (Pt. 125) 67 NIC

taken. Subsequently her employment was terminated, hence the filing of this suit. On the basis of the CFRN<sup>29</sup> and some international legal instrument<sup>30</sup> signed and ratified by Nigeria, the Court held the termination of the Claimant's employment as a violation of her fundamental human rights to dignity of persons and awarded monetary damages against the respondents.

Similarly, in the case of *Pastor (Mrs) Abimbola Patricia Yakubu v. Financial Reporting Council of Nigeria and Anor.*,<sup>31</sup> the crux of the matter was that the Claimant was a subject of verbal and physical harassment for refusing the respondent's sexual advances and that led to her job termination, hence the filing of the suit. Following the decision of *Ejike Maduka v Microsoft Nigeria Limited and 2 Ors.*, The NICN held the termination wrongful and a violation of the Claimant's fundamental human rights to dignity of human person, as well as awarded monetary damages in favour of the Claimant.

7. **The Criminal Law of Lagos State (2011), Section 264 (1) & (2) (a)** prohibits harassment that implicitly or explicitly affects a person's employment or educational opportunity or unreasonably interferes with the work or academic performance of a person or creates an intimidating, hostile or offensive learning or working environment. In addition, any person who

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<sup>29</sup> Section 254C-(1) (f), (g), (h) & Section 254C-(2) of the 1999 Constitution Third Alteration Act, 2010

<sup>30</sup> The African Charter on Human and Peoples' Rights on the Rights of Women in Africa (Ratification and Enforcement) Act, Articles 15 and 19, Conventions and Recommendations on Discrimination, Employment, and Occupation of the International Labour Organisation, Article 1(a), and Convention on the Elimination of all forms of Discrimination against Women (CEDAW), 1992.

<sup>31</sup> *Pastor (Mrs) Abimbola Patricia Yakubu v. Financial Reporting Council of Nigeria & Anor*, Suit No. NICN/LA/673/2013 (National Industrial Court, Lagos Division November 24<sup>th</sup>, 2016). .... *Also see the following cases*: *Dorothy Adaeze Awogu v. TFG Real Estate Limited*, Suit No. NICN/LA/262/2013 (National Industrial Court, Lagos Division June 4, 2018); *Stella Ayam Odey v. Ferdinand Daapah and Cuso International* (unreported), Suit No: NICN/ /CA/03/2016 (National Industrial Court, Calabar Division January 13<sup>th</sup>, 2017)

harasses anyone sexually in Lagos State is culpable of a crime liable to three years imprisonment.

8. **The Violence Against Persons (Prohibition) Act 2015 (Nig.) Section 46 (VAPP) Act** defines Sexual harassment and sexual intimidation, inter-alia, as follows:

“indicates unwelcome behaviour of a sexual nature or other behaviour based on sex or gender which is repeatedly or grave and degrades, debases or makes the environment hostile and uncomfortable, this may be in different forms, by physical touch, words or actions”

Sexual intimidation means:

- (a) any act or situations that constitutes request for sexual interaction with anyone (male or female) in any manner as a prerequisite for excelling in examination, securing job, getting customers for business patronage or winning contracts, receiving any support or kindness of such, as defined in this enactment or other enactment in operation in Nigeria;
- (b) the precise request or order for sexual association with any persons (male or female) in any manner as a prerequisite for excelling in examination, securing job, getting customers for business patronage or winning contracts, receiving any support or kindness of such, as defined in this or other enactment in operation in Nigeria;
- (c) deeds which deprives, withholds, replaces, or swindles the rights, liberties, integrity, well-being, or hampers or tampers with examination or/and text gradings, and other type of character competent of compelling anyone to give-in to sexual affair for an exchange for receiving official pardon: or
- (d) any other act or omission interpreted as sexual threats or harassment under this or other enactment in operation in Nigeria.

9. It is pertinent to note that the VAPP Act applies only to Abuja, although several other Nigerian States have adapted and adopted similar laws to address both private and public sexual violence including- Oyo, Ogun, Osun, Ekiti, Edo, Anambra, Enugu, Ebonyi, Benue, Cross-rivers, Kaduna, Plateau and Bauchi<sup>32</sup>. Meanwhile, most of the above referenced legislations do not explicitly address the issue of sexual harassment but, it appears that victims could use them as a basis for seeking a redress coupled with, international treaties (Convention on Elimination of Discrimination Against Women, International Labour Organisation, African Charter on Human and People's Rights) signed and ratified by the country.<sup>33</sup> Due to the non-explicit and fragmented legal provisions on sexual harassment, interpretation of the law is inevitably capable of several meanings which might hamper the uniform application of justice and hinder victims from seeking redress from the court of justice.

Narrowing it down to the education sector, **the bill that intends to protect** Tertiary Educational Institutions of Nigeria from sexual harassment is yet passed into law. A quick reference to it; the Sexual Harassment in Tertiary Educational Institutions Prohibition Bill 2016 (SHB). Section 3 of the SHB recognizes the existence of a relationship of authority, trust and dependency involving a student and an educator of an institution, a breach of which is deemed unlawful. Any educator established to have committed an offence of sexual harassment (which is extensively defined in Section 4 of the Bill to include having or demanding sexual intercourse from a student as a prerequisite for scoring a good grade, grabbing, fondling, hugging, pinching or stroking any body part of a student, whistling or winking at a student or making sexually complimentary or uncomplimentary remarks about a student's physique, is liable on conviction, to be sentenced to imprisonment of up to 5 years but not less than 2 years. This bill was reintroduced to the

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<sup>32</sup> AD Aina-Pelemo, PA Ejembi, *Op Cit*, n.4, p. 26; PO Bello, *Op Cit*, n. 12.

<sup>33</sup> AD Aina-Pelemo, MC Mehanathan, P Kulshrestha, IT Aina, 'Sexual harassment in the workplace: Case study of the Nigerian legal sector' (2019) (86)125, *Journal of Law, Policy and Globalisation* <[https:// 10.7176/JLPG/86-13](https://10.7176/JLPG/86-13)> accessed 16 October 2022

Senate in 2019, in the wake of a BBC <sup>34</sup> reported a documentary event of sexual harassment between female students and lecturers at two West African Universities in Nigeria and Ghana.

However, this Bill has been faulted by academics for being non-inclusive, earmarking University lecturers who are only a fragment of the education community and society.<sup>35</sup> In addition, the Bill does not give protection to persons who are employees, potential students, parents or have legitimate business with the educational institution. Neither does it guard against student-to-student harassment, nor include students in primary or secondary schools.

### **Caveat**

Despite the availability of these legal provisions and institutional policies, implementation remains problematic (Amnesty International, 2009).<sup>36</sup> The victims of sexual violence heavily shoulder the burden of proving the legitimacy of the act with circumstantial evidence usually being unacceptable.<sup>37</sup> Alleged perpetrators often get away blameless for lack of corroborative evidence needed to confirm, support and strengthen other pieces of evidence. Acts of sexual harassment occur in places inaccessible to eyewitness in most cases. The culture of silence surrounding sexual violence is being promoted by lack of awareness and knowledge of the due procedures or actions that should be initiated by victims of sexual harassment about

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<sup>34</sup> BBC, 'Sex for grades: calls for action after BBC Africa eye film' (Lagos, 8 October 2019) <<https://www.bbc.com/news/world-africa-49978869>> Accessed 16 October 2022

<sup>35</sup> C Kumolu and B Adelaja, 'Sexual Harassment Bill- Growing Concerns over Randy Dons in Ivory Towers' the vanguard' (Lagos, 06 July 2016) *The vanguard* <https://www.vanguardngr.com/2016/07/sexual-harassment-bill-growing-concerns-randy-dons-ivory-towers> accessed 16 October 2022

<sup>36</sup> Amnesty International, 'Nigeria: Rape: The Silent Epidemic' (28 November 2006) <<https://www.amnesty.org/en/documents/afr44/020/2006/en/>> accessed on 16 October 2022

<sup>37</sup> A Zubairu, H Abdulwaheed, S Giwa, A Abass, R Adidu, V Okagbue and IO Balogun, 'Against violence against women' (2007) 1 *Baobab Legal literacy Leaflet* <<https://www.baobabwomen.org/AVAW.doc>> accessed on 16 October 2022; CO Adekoya, 'Evolving Innovative and Effective response to the scourge of rape as a form of Sexual Violence against women in Nigeria' (2007) *Paper presented at the annual meeting of Law and Society Association, TBA, Berlin, Germany*



rights to legal redress coupled with cost of legal representation, as well as social stigma.<sup>38</sup> Societal myths, which express gendered assumptions that are particularly antagonistic towards women, still prevail. Hence, when women cry out against abuse, harassment or any other form of discrimination, the assumption is that, they are doing so to blackmail, seek cheap thrills, or gain attention. It is a pervasive and enduring prejudice to construct women's words and memories as untrustworthy. This impacts all aspects of sexual violence. These beliefs adversely affect administrative and criminal justice systems in Nigeria. This makes persistent and widespread tackling of cultures of sexual inequality an urgent action.

In a strong patriarchal society such as Nigeria, with underlying traditional and religious strongholds, the cultural milieu requires strong commitment by the government and relevant stakeholders to amplify the gender lens in addressing gender imbalances prevalent in the society. Article 5, of the Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW), recognizes this constraint on equality, and requires that nations address such prejudices and stereotypes. It is urgently necessary to end sexual harassment and all acts of sexual violence by changing behaviour and culture emphasis on the skewed and rigid power distributions. Despite all odds, this study seeks to evaluate the Nigerian legal framework on sexual harassment, students' experience of sexual harassment by gender and institutional knowledge of internal policies on sexual harassment.

### ***Research questions***

1. Does the experience of sexual harassment differ by gender?
2. Are there institutional mechanisms that students can utilize in confronting experiences of sexual harassment?
3. What are the student's attitudes toward the need for national legislation on sexual harassment?

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<sup>38</sup> AJ Ajuwon, 'Adolescence: The Excitements, Complexities and Challenges. (An Inaugural Lecture Series presented at the Multi-purpose Hall of the University of Ibadan on 27<sup>th</sup> June 2013).

### *Hypothesis*

1. There is a significant difference in the need for National legislation and the possibility of NICN to address sexual harassment without National legislation.

## **RESEARCH METHODOLOGY**

Four Hundred and Seventeen (417) male and female respondents were drawn from the students studying in private and public Universities, Polytechnic, and College of Education across the South-Western region of Nigeria. The sample was drawn in strata and data collected between the periods of January to March, 2020 via self-administered questionnaires. Given the sensitivity of the topic, the structured questionnaire, with slight modification but, similar to Sexual harassment Experience Questionnaire (SEQ) of Fitzgerald et al.<sup>39</sup> was prepared and collected in anonymity to protect the identity of the respondents. Additional questions on institutional policies were adapted from the AAU Campus Climate Survey.<sup>40</sup> Oral informed consent was sought from all respondents before administering the questionnaire and the front-page detailed an explanation on the respondents' right to either accept or refuse to participate in the study before introducing the questions.

The structured, non-disguised, multi-choice, open-ended, and closed-ended questionnaire was designed into two parts entitled: *Questionnaire on Incidence, Experience and Occurrence of Sexual Harassment in Selected Tertiary Institutions in Nigeria*. Thirty-four (34) questions were structured and divided into four (4) parts. The first (8) eight questions focused on the demographics of the participants (gender, age, institution, marital status, occupation, academic category and degree category). The other parts were

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<sup>39</sup> Louise Fitzgerald, Michele Gelfand and Fritz Drasgow, 'Measuring Sexual Harassment: Theoretical and Psychometric Advances' (1995) 17 (4) *Basic and Applied Social Psychology* <[https://10.1207/s15324834basp1704\\_2/](https://10.1207/s15324834basp1704_2/)> accessed on 16 October 2022

<sup>40</sup> D Cantor, B Fisher, S Chibnall, R Townsend, H Lee, C Bruce and G Thomas, 'Report on the AAU Campus Climate Survey on Sexual Assault and Sexual Misconduct' (2017) <<https://www.aau.edu/sites/default/files/AAU-Files/Key-Issues/Campus-Safety/AAU-Campus-Climate-Survey-FINAL-10-20-17.pdf>> accessed on 16 October 2022

designed according to the research questions and hypotheses raised. The second (9) questions deals with the respondents and experiences of sexual harassment in their institutions, the third (8) questions were based on knowledge of institutional mechanism or internal policies and the incidences of sexual harassment, and the last (9) questions bother on the National Industrial Court of Nigeria and potential long-term solutions to sexual harassment in relevant Tertiary Institutions. In analysing the data of the sole hypothesis, Pearson correlation analysis was adopted, research questions generated were answered using simple arithmetic percentages, pie chart, bar graph and t-test.

<b>Variables</b>		<b>Frequency</b>
<b>Gender</b>	Male	181 (43.4%)
	Female	236 (56.6%)
<b>Age</b>	<18 years	51 (12.2%)
	18 - 25 years	296 (71.0%)
	26 - 32 years	51 (12.2%)
	33 - 39 years	9 (2.2%)
	40+	10 (2.3%)
<b>Marital Status</b>	Single	372 (89.2%)
	Married	33 (7.9%)
	Divorced	2 (0.5%)
	Others	10 (2.4%)
<b>Qualification</b>	Doctorate	16 (3.8%)
	Masters	21 (5.0%)
	Bachelors	44 (10.6%)
	Undergraduate	310 (74.3%)

<b>Category of Institution</b>	Postgraduate Student	26 (6.1%)
	Public University	126 (30.2%)
	Private University	194 (46.5%)
	Polytechnic	53 (12.7%)
	College of Education	44 (10.5%)

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**RESULTS**

The findings on demographic characteristics of the respondents are presented in **Table 1**. Of 417 respondents in the study, 56.6% females and 43.4% males responded accurately. A majority of the respondents were between 18 and 25 years, (89.2%) single, and 7.9% were married. A significant number of the study population are (74.3%) undergraduates from (10) ten private and public Tertiary Institutions.

**Table 1: Demographics of the Respondents**

**Hypothesis 1:** There is a significant difference in the need for National legislation and the possibility of NICN to address SH without National legislation

**Table 2: significant difference in the need for National legislation and the possibility of NICN to address sexual harassment without National legislation**

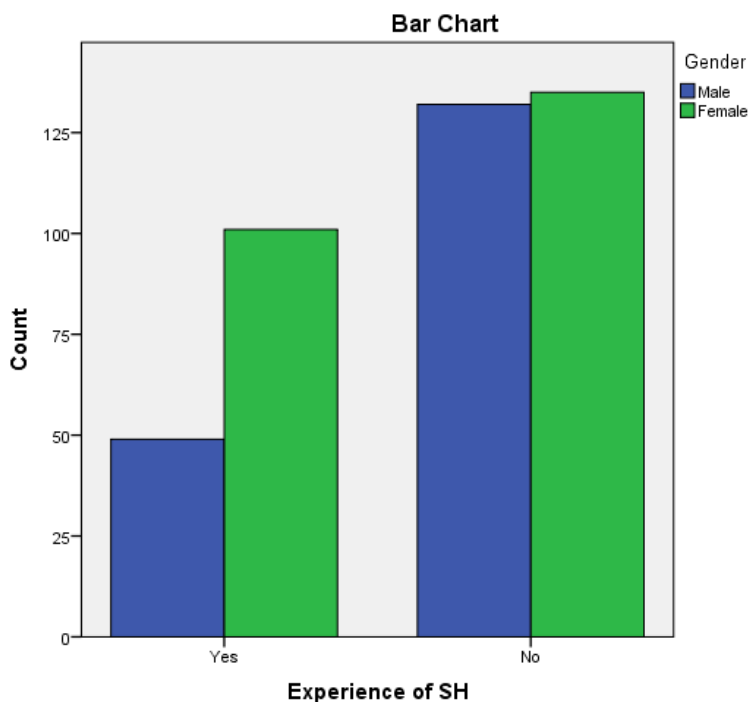
	<b>Need for National Legislation</b>	
<b>Can only NICN address SH without National Legislation</b>	<b>Pearson Correlation</b>	0.125**
	<b>Sig.</b>	0.011
	<b>N</b>	417

*\*\*.* Correlation is significant at the 0.05 level

The Pearson Correlation coefficient obtained is statistically significant ( $p > 0.05$ ) and shows weak or negligible relationship ( $r = 0.125$ ) between the need for national legislation and the ability of NICN address SH without National Legislation.

**Research question 1-** Does the experience of sexual harassment differ by gender?

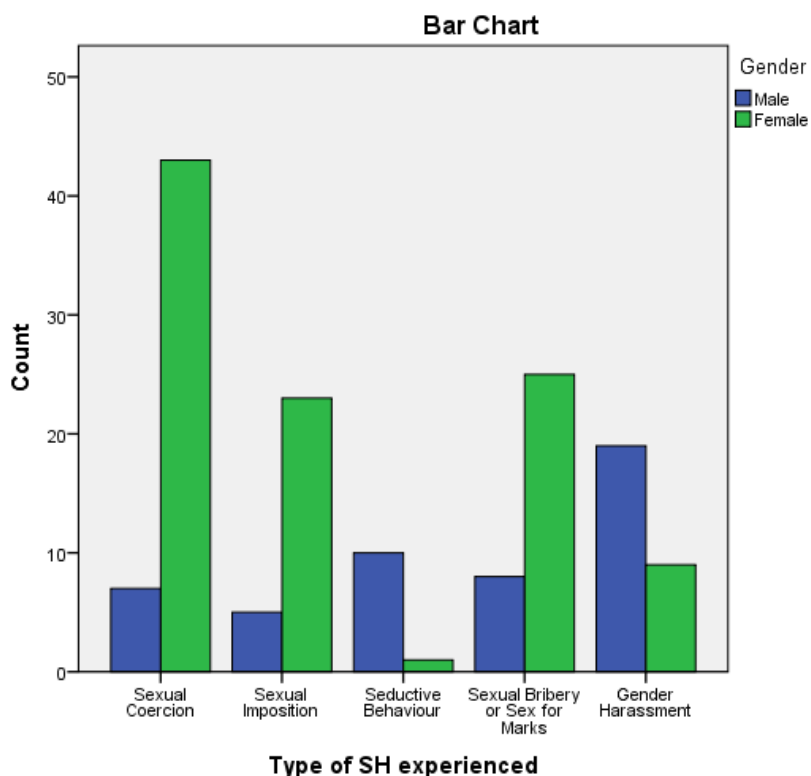
**Figure 1: Relationship between experience of sexual harassment and student gender**



A chi-square test of non-alignment was carried out to measure the relationship between experience of sexual harassment and gender of student. There appears to be a significant association between the two variables,  $\chi^2(1, N=417) = 10.99, p = .001$ . Men were less likely to experience sexual harassment compared to women.

A further analysis of the forms of sexual harassment experienced by the 150 students revealed that female students experienced more of sexual forms, while male students experienced more of gender harassment. A chi-square test of independence further indicated a significant difference by gender  $X^2(4, N=150) = 44.51, p = .000$ .

**Figure 2: Further analysis of the forms of sexual harassment experienced by respondents**



**Research question 2:** Are there institutional mechanisms that students can utilize in confronting experiences of sexual harassment?

Students’ knowledge of available sexual harassment policies within their respective schools are presented in **Table 3**.

On the one hand, over half (53%) of the respondents do not know whether their institutions have any internal policies on sexual harassment, while on the other hand (60.2%) of the respondents said they have not attended an assembly, workshop, or received training or classes organised by their institution on the subject matter. This indicates that the majority of the institutions where the respondents were drawn do not have internal policies and those with policies do not only lack clear knowledge of it but (55.4%) do not know how to go about the institutional complaint procedures when faced with such issue.

**Table 3: Student’s knowledge of institutional policy of sexual harassment**

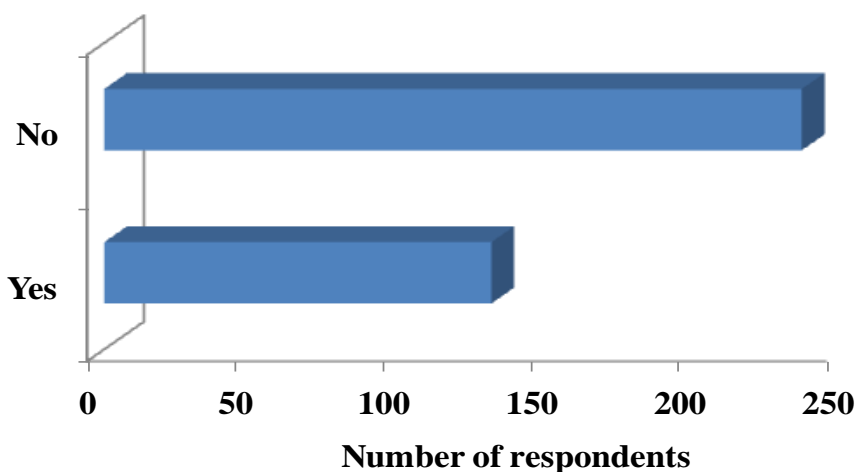
Questions		Response	Frequency	%
Does your institution have any internal policies on sexual harassment?		Yes	196	47.0
		Don't know	221	53.0
Have you ever attended an assembly, workshop, or received any other type of training or classes offered by this school that covered; ...	The legal definition of sexual assault?	Yes	166	39.8
		No	251	60.2
	What the definition of "consent" is and how to obtain it from a sexual partner	Yes	145	34.8
		No	272	65.2
	This school's policy on sexual assault?	Yes	165	39.6
		No	252	60.4
	How to report sexual assault?	Yes	186	44.6
		No	231	55.4
	What services are available for survivors of sexual assault?	Yes	132	31.7
		No	285	68.3

**Research question 3:** What are the student’s attitudes toward the need for national legislation on sexual harassment?

**Table 4: student’s attitudes toward the need for national legislation on sexual harassment**

		Awareness of NICN and its judicial power on SH	
		Yes	No
Gender	Male	105 (58.0%)	76 (42.0%)
	Female	116 (49.2%)	120 (50.8%)

**Figure 3: Student’s attitudes toward the need for national legislation on sexual harassment**



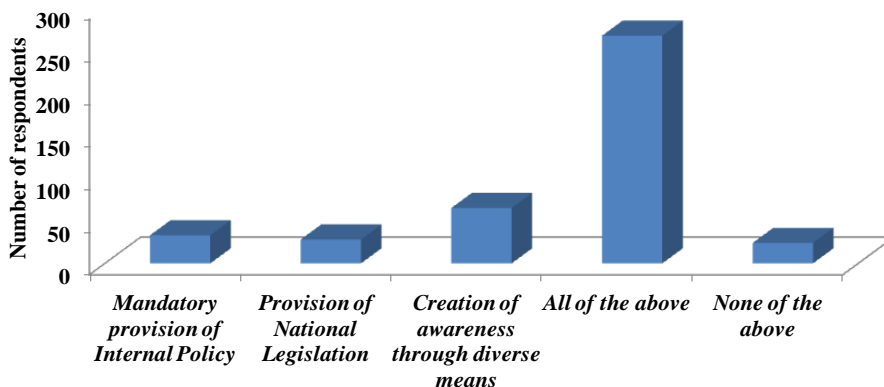
**Response to the question “what are the student’s attitudes toward the need for national legislation on sexual harassment”**



Figure 3 above shows a little difference in the population of students' level on NICN awareness in both gender, this results indicates the need for awareness of NICN and its judicial power on sexual harassment, although the majority stated that there is need for National legislation aside from NICN to address sexual harassment in tertiary institution which is a pointer on how effective NICN is.

**What are the possible long-term solutions to sexual harassment in the Nigerian tertiary institutions?**

**Figure 4: Long-term solutions to sexual harassment in the Nigerian tertiary institutions**



The possible long-term solutions reflect the need for awareness through diverse means (as seen in the **table 3** showing students' awareness about NICN), including mandatory provision of internal policy and national legislation.

**DISCUSSIONS**

On the sole hypothesis raised that there is a significant difference in the need for national legislation and the possibility of the NICN to address sexual harassment without national legislation, the study found that the National Industrial Court of Nigeria is inadequate for handling sexual harassment

matters in Nigerian Tertiary Institutions. Historically, there have been controversies as to the relevant courts having jurisdiction to address such matters which has led to the proliferation of cases under different subjects of law as well as attracting diverse claims and insinuations. This finding is in conformity with the recent claims made by the counsel to a defendant convicted of sexual harassment in the appeal case of *Professor Richard Iyiola Akindele v. Federal Republic of Nigeria* who was convicted and imprisoned for 2 years having been found guilty of quid-pro-quo sexual harassment by Honourable Justice Maurine Onyetenu of the Federal High Court, Osogbo judicial division. On appeal, the said counsel to the convict argued that the appellant was tried under a wrong court and law, that the matter ordinarily should be addressed by the NICN. nevertheless, the appeal was dismissed on the ground that all courts of superior records have the power to try offences under the Independent Corrupt Practices (and other related offences Act) 2000 ICPC Act, section 26(2). Meanwhile, the challenge of not having a precise law or court on sexual harassment matters could not only lead to abuse of court process but also hinder the victims from seeking redress from the Court and consequently indulging the perpetrators.

Generally, section 254C (1) (g) of the 1999 Constitution of the Federal Republic of Nigeria, Third Alteration Act, 2010 has empowered the NICN to adjudicate on matters related or incidental to sexual harassment while the Independence Corrupt Practices Commission (ICPC) is authorised to handle any form of sexual corruption of government employees, see section 112A (1)(2) of the Independent Corrupt Practices (and other related offences Act) 2000. Although the power of NICN is civil and that of ICPC is criminal in nature, comprehensive law on sexual harassment in all public institutions in Nigeria is needed especially at the tertiary level of education. This is required to clear any ambiguity, create fear in the perpetrators and encourage victims to exercise their constitutional rights. In support of this finding, a significant number of the respondents affirmed that NICN or any designated body cannot effectively address sexual harassment without a comprehensive national law.

Similarly, a Nigerian study conducted among lawyers revealed that 43.7% of the respondents lack knowledge of the constitutional power of the NICN on

sexual harassment matters and 87.5% are of the view that NICN cannot solely address issues of sexual harassment.<sup>41</sup> Similarly, in this study, over half of the respondents, especially the females, are unaware that the NIC has the judicial power to adjudicate on sexual harassment matters. This indicates the gap between the law and the people that the law was provided to protect. Hence, the attitude of the respondents on the available sexual harassment legal provisions especially about the judicial power of the NIC on the subject matter is pitiable, as about half of the respondents do not know that NIC has the power to adjudicate on matters related with and incidental to sexual harassment. When measured by gender, the awareness of males is slightly higher than that of females. It may well be that the knowledge deficit is due to the lack of a comprehensive legal framework on sexual harassment in the country or the relevant higher education bodies. This is an area for further study. This finding takes us to previous findings of scholars within the field that recorded that there are no definite legal regulations on sexual harassment in Nigeria.<sup>42</sup>

Apparently, there appears to be fragmented legal framework on sexual harassment but there remains a need for unified legal framework on sexual harassment in Nigeria. As indicated earlier, the Government of Nigeria proposed the Sexual Harassment in Tertiary Educational Institutions Prohibition Bill 2016 (Nig.) (SHB) and the said Bill has passed the third reading of the Senate and currently awaiting the assent of the president but the adoption process has been stalled by counter claims of academics who have pointed out the defects in the bill. Despite all issues raised about the SHB, it is the first practicable step of eradicating sexual harassment from Nigerian Tertiary Institutions if passed into law. Most developed and some developing countries have either a national legislation or uniform university regulations criminalizing or prohibiting matters of sexual harassment in the

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<sup>41</sup> AD Aina-Pelemo, MC Mehanathan, P Kulshrestha and IT Aina 'Sexual harassment in the workplace: Case study of the Nigerian legal sector' *Op Cit*, n.26.

<sup>42</sup> *Ibid*; PO Bello, *Op Cit*, n. 12, p.182; EI Anierobi, CE Etodike, VN Nwogbo, NU Okeke and MN Nwikpo, *Op Cit*, n. 14, p. 269

tertiary institutions,<sup>43</sup> and if not adhere to, such institution may be penalized. Examples include The Australian Sex and Age Discrimination Legislation Amendment Act 2011 (No. 40, 2011), Section 2(A) & (B); Title IX of the Education Amendments of 1972, U.S. Equal Employment Opportunity Commission, 1999; University Grant Commission, Prevention, Prohibition and Redressal of Sexual Harassment of Women Employees and Students in Higher Educational Institutions Regulations, 2016, New Delhi etc. The few mentioned and many more provide specific legislation for the protection of tertiary institutions against any form of sexual and non-sexual harassment while those without a specific law added higher education or tertiary institutions under their national laws on sexual harassment. In addition, the respondents were further asked to suggest the long-term solution to the menace, and the finding shows that the 'all of the above' option was selected by the majority. This indicates that intense creation of awareness through diverse channels, mandatory provision and implementation of internal policy, and establishment of national legislation is wanting in Nigerian Tertiary Institutions which could impede efforts to eradicate or mitigate sexual harassment from the campuses.

From the research question one, the authors found that sexual harassment experience differs by gender. Both male and female experienced sexual harassment, the males were less likely to experience sexual harassment compared to females and female were found to experience sexual forms of harassment while the majority of the male surveyed experienced gender harassment. The types of sexual forms experienced by the surveyed female ranges from **Sexual Coercion**: Grabbing, forced kissing, fondling, assaulting and coercing another for sexual intercourse or rape; **Sexual Imposition**: Physical conduct of a sexual nature which involves unwanted/inappropriate physical contact, sexually explicit pictures including calendars, posters or electronic mail messages or mobile messages, unwanted letters or poems stalking, unnecessary touching, patting, pinching, brushing against another .

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<sup>43</sup> AD Aina and P Kulshrestha, 'Sexual Harassment in Educational Institutions in Delhi' NCR, (India) Level of Awareness, Perception and Experience. *Sexuality and Culture* [2017] (21)(1) 109

person's body; **Seductive Behaviour**: this includes non-verbal conduct of a sexual nature, which refers to the display of pornographic or sexually suggested pictures, sexting, objects or written materials; leering, whistling or making sexually suggestive gestures, indecent dressing, exposing one's private parts, sitting or gesturing sexually, sexually suggestive touching, inquiries into colleague's sex life, obscene letters or comments; to **Sexual Bribery or Sex for marks**: this entails verbal conduct of a sexual nature that includes unwelcome sexual advances, exchange of sex for mark(s), propositions or pressure for sexual activity, suggestions for social activity outside the work and study place, sexual favours in return for rewards and/or admission and threats if sexual favours are not provided, sexually explicit remarks, offensive flirtations, suggestive remarks, innuendoes or lewd comments, using position of authority to request a date and repeated requests for a date after being told 'no', blackmail etc. While the male experienced more of **Gender Harassment**: sexist jokes, lewd jokes, foul languages etc.

In conformity with this finding, the study conducted by Street, Gradus, Strafford, & Kacie showed that females reported a higher rate of sexual harassment, with experiences of all odd subtypes and male experienced stronger negative mental health symptoms when compared with female. Also, male were more likely to experience gender-based harassment as compared with female that mostly experienced sexually based harassment.<sup>44</sup> Consistently, most studies on sexual harassment and experience in Nigerian Tertiary Institution although, not conducted by gender, shows that female students experience sexual harassment within the Nigerian Tertiary institutions.<sup>45</sup>

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<sup>44</sup> ES Army, L Jaimie Gradus, Jane Strafford and Kacie Kelly, 'Gender Differences in the Experience of sexual Harassment: Data from Male-Dominated Environment' *Journal of Consulting and Clinical Psychology* [2007] (75) (3), 464-474 <[https:// doi:10.1037/0022-006X.75.3.464](https://doi.org/10.1037/0022-006X.75.3.464)> accessed 15 October 2022

<sup>45</sup> EI Anierobi, CE Etodike, VN Nwogbo, NU Okeke and MN Nwikpo, *Op Cit*, n. 14, p. 266; PO Bello, *Op Cit*, n. 12, p. 180; Suleiman Mohammed Saheed, 'Perception of Sexual Harassment among Female Students of Tertiary Institutions in Northern Nigeria' *Ife Social Sciences Review* [2017] (25)(2) 80 – 89; EF Effa, EO Okokon, AB Nwagbara and S Bello, *Op Cit*, n. 16; Margaret-Mary Mezie-Okoye, and Folusho F Alamina, *Op Cit*, n. 16, p. 80.

The significance of this study is that the respondent surveyed cut-across male and female gender as opposed to the majority of the previous studies that essentially focused on females. The experience of sexual harassment was measured by gender, though not via percentage but bar chart, and it shows that there are no statistically significant differences between the responses of the respondents based on the independent variables measured. This implies that both male and female students experience sexual harassment in Nigerian tertiary institutions except that the form of harassment experienced by gender differs. The comparative impact and perception of sexual harassment on the respondents was not measured by gender, a gap for further study.

On the second research question whether there are institutional mechanisms for students to confront sexual harassment in the case of any incidence and their knowledge about the mechanisms; the institutions surveyed are (10) ten in numbers, (3) private, (3) public, (3) polytechnics and (1) college of education in the South-West region. It was found that a majority of the respondents do not know the following: definition of sexual assault, meaning of consent, how to obtain consent from sexual partner, their institutional policy on the subject matter, how to report such issue when faced with it as well as the available institutional provisions for such victims. This could indicate three things: that the respondents do not have knowledge of the institutional mechanisms provided for addressing sexual harassment or, the institutions do not have internal policies on sexual harassment and/or the institutions have internal policies on the subject matter but no education was given to the students on the subject, another gap for further research.

Consistent with this study, Joubert et al.<sup>46</sup> found that higher institutions with sexual harassment policies could not effectively implement the policy due to low knowledge of the policy since the training, education and/or guidance on the utilization of the policy was not given to all the stakeholders but a few.

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<sup>46</sup> P Joubert, C Van Wyk and S Rothmann, 'The effectiveness of sexual harassment policies and procedures at higher education institutions in South Africa' SA Journal of Human Resource Management/SA Tydskrif vir Menslikehulpbronbestuur (2011) 9(1), 1–10 <[https:// 10.4102/sajhrm.v9i1.310](https://10.4102/sajhrm.v9i1.310)> accessed 16 October 2022

Similarly, Norman et al.<sup>47</sup> found that the surveyed institution have a sexual harassment policy but the policy was not widely circulated amongst the stakeholders; hence, the majority of the students lack knowledge of the institutional provision. Also, the respondents surveyed by Das and Rath<sup>48</sup> do not know the various sexual harassment policies protecting them in their college. Similarly, there are instances where the respondents have good knowledge of the topic 'sexual harassment' yet, do not know the institutional mechanisms safeguarding them against sexual harassment. Despite the respondents' significant knowledge of sexual harassment, 61.3% do not know the institutional procedures or Grievance Committee addressing the issues of sexual harassment in their colleges.<sup>49</sup> The same finding was also seen in the study conducted by Aina and Kulshrestha,<sup>50</sup> where a large number of the respondents lack knowledge of the body or committee provided to address issues of sexual harassment in their respective institutions.

In contrast to this study, mapped out research found that the respondents have relatively high knowledge of sexual harassment. This, however, does not prevent them from falling victim of sexual harassment.<sup>51</sup> This indicates that such knowledge is either not clear or it is exclusive of the reporting procedures, further gap for study. The role of institutions cannot be underestimated when it has to do with educating students and staff on sexual harassment policies and procedure for seeking redress when faced with such

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<sup>47</sup> ID Norman, M Aikins and FN Binka, *Op Cit*, n 2. p. 133.

<sup>48</sup> MP Das and DP Rath, 'The low level of awareness and impact of intervention about sexual harassment' *International Journal of Social Science and Humanities* [2015] (3)(4) 283–286

<sup>49</sup> G Aditi, P Sangeetha and EM Binu, 'Knowledge of sexual harassment among the undergraduate students in Udupi district' *Nitte University Journal of Health Science* [2016] (6)(2) 4–9

<sup>50</sup> AD Aina and P Kulshrestha, *Op Cit*, n. 36, p. 111.

<sup>51</sup> D Apaak and EO Sarpong, 'Knowledge level and incidence of sexual harassment in sports: Views of Ghanaian female university athletes' *Journal of Educational and Social Research* (2015) 5(3) <<https://10.5901/jesr.2015.v5n3p121>> accessed 16 October 2022; DO Omonijo, OOC Uche, K.L Nwadiafor and OA Rotimi, 'A Study of Sexual Harassment in Three Selected Private Faith-Based Universities, Ogun-State, South-West, Nigeria' *Open Journal of Social Science Research* (2013) 1(9) <https://10.12966/ojsr.12.03.2013> accessed 16 October 2022

act. Hence, clear explicit knowledge of sexual harassment is wanting in most tertiary institutions in Nigeria.

### **Declaration of Competing Interest**

None

## **CONCLUSIONS AND RECOMMENDATIONS**

This study examines the Nigerian legal framework on sexual harassment, students' experience of sexual harassment by gender and students' institutional knowledge of internal policies on sexual harassment. The study found that the fragmented legal framework cannot effectively address issues of sexual harassment in Tertiary Institutions. In fact, the existing legal provisions are too scanty, unstructured and generic in nature; hence, cannot effectively sanction perpetrators or encourage victims to report or file suit in court when the need arises. This consequently increases the occurrence of sexual harassment in Nigerian tertiary institutions. Although enacting a comprehensive law might not necessarily abrogate sexual harassment in Nigerian tertiary institutions, it could effectively mitigate it. Some recommendations are indicated below.

- The proposed bill on Tertiary Institutions should be modified to encompass all academic levels including primary and secondary schools and be passed into law as soon as possible.
- The National University Commission (NUC) and stakeholders should ensure that all proprietors or Vice-Chancellors are mandated with the duties of guaranteeing a workplace free from all forms of sexual and non-sexual harassments. This can be achieved by organising trainings, workshops, seminars and different awareness measures to sensitise employees and create a zero-tolerance organisational structure and ***a report be made to it on a yearly basis.***
- Any University that fails to comply with the NUC regulations regarding sexual harassment should be fined heavily and punished by gazetting or blacklisting the name(s) of the organisation in a National daily newspaper.
- A body with confidential procedures should be set-up by all academic institutions to address the issue of sexual harassment when reported



internally and be supervised by an external body so as to encourage victims' cooperation and reduce retaliation or hostility.

- The employer should ensure that a Sexual Harassment Policy is included in employee, and student handbooks, and there should be regular training sessions on sexual harassment for staff and students with emphasis on the procedures of laying complaints internally.
- The employer can also mandate the employees to fill an Anti-sexual Harassment Form while joining the establishment, by adding it to the employee's recruitment pack and ensure that students do the same, by adding a similar form to the student's admission pack.
- Reviewing existing Federal and State legal provisions on sexual harassment so as to harmonize them, as well as domesticate institutional policies on the subject matter.
- Consideration should be made for such issues to be discussed at office meetings work conferences, and the handbook on sexual harassment should be kept in a conspicuous part of the workplace for ease of access to everyone.
- Compulsory creation and implementation of anti-sexual harassment programs must be initiated by the employers, coupled with harassment-free notifications place at different parts of the campuses. These evaluation training programs should be assessed as often as possible to check their effect in preventing obnoxious sexual behaviours within the organisations.
- Sexual education of male staff, with emphasis on discipline and self-control should be prioritised, and women should be educated on how to dress modestly and decently on Nigerian campuses.