

Sexual Harassment in Nigerian Universities: What Can Criminal Law Do?

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Abstract

Sexual harassment remains a pervasive issue in Nigerian universities, undermining academic integrity, safety, and equality. Persistent cases are fueled by inadequate institutional policies and weak enforcement of existing laws. Despite the debate in the National Assembly regarding the Sexual Harassment Bill, concerns persist over its narrow focus on lecturers while neglecting other potential perpetrators. This study explored criminal law's role in addressing sexual harassment in Nigerian universities, identifying gaps and proposing solutions to enhance its effectiveness. Adopting a doctrinal research design and qualitative analysis, the study examined legal frameworks, institutional practices, and comparative approaches like Title IX in the United States. Findings revealed that while criminal law offers a foundation for addressing harassment, its impact is limited by insufficient enforcement, lack of comprehensive legislation, and inadequate institutional mechanisms. Recommendations include revising the Sexual Harassment Bill to ensure balance and inclusivity, strengthening institutional policies, establishing accessible reporting and support systems, and adopting proven international models tailored to local contexts. By integrating criminal law with robust institutional frameworks, Nigerian universities can foster safer academic environments, ensuring justice for victims and deterring perpetrators. This holistic approach is essential for achieving meaningful and sustainable change.

Keywords: Sexual Harassment, Nigeria, University, Criminal, Law.

1.Introduction

Human sustenance is tied to sexual intercourse best done between two consenting adults. However, when sexual acts are driven by coercion or intimidation, they violate one's human rights. Despite the clear harm caused by sexual harassment, particularly within academic institutions, this reprehensible behaviour persists. Sexual harassment is a significant issue in education worldwide. A 2016-2017 UK study reported 7,688 cases of student-against-student sexual harassment, while a 2014 US study indicated its prevalence across various educational settings.

Sexual harassment and misconduct are pervasive issues in Nigeria, with nearly a quarter of women said to be experiencing sexual violence in their lifetime. In the academia, the problem is even more severe, with studies indicating that 70% of Nigerian women face harassment during their time in tertiary education. The reluctance of stakeholders to decisively address this issue has created an enabling environment for perpetrators, while societal stigmas and institutional inadequacies further silence victims. Existing criminal provisions only partially address sexual harassment, leaving room for exploitation and inconsistent enforcement. Drawing lessons from comparative frameworks, such as the comprehensive Title IX related policies in the United States, this study examines the potential of criminal law to play a transformative role in tackling sexual harassment in Nigerian universities.

This study seeks to answer critical questions: What are the limitations of current criminal laws and institutional policies? Why do cases of sexual harassment in Nigerian higher institutions persist? What is the way forward to effectively address sexual harassment? The primary aim is to critically evaluate the efficacy of criminal law in addressing sexual harassment in Nigerian universities and propose actionable solutions. The study employs a doctrinal research methodology, relying on qualitative analysis of statutes, judicial interpretations, and scholarly commentary. It also incorporates a comparative approach, examining best practices from the United States of America to provide context and recommendations. The scope is limited to Nigerian universities while acknowledging that Polytechnics, Colleges of Education and other Nigerian institutions including secondary schools face similar challenges.

The significance of this study lies in its potential to influence legislative and policy reforms, thereby enhancing accountability and promoting a safer academic environment. Addressing sexual harassment is crucial not only for the protection of individual rights but also for preserving the integrity and credibility of Nigeria's higher education system.

2.The Concept of Sexual Harassment

Conduct is 'sexual' if it is 'of, relating to, or associated with sex' while the term 'harassment' refers to 'words, conduct, or action (usually repeated or persistent) that, being directed at a specific person, annoys, alarms, or causes substantial emotional distress in that person and serves no legitimate purpose'. Sexual Harassment is defined under the National Industrial Court of Nigeria (NICN) Rule 2017 as 'unwanted, unpleasant, offensive or threatening conduct of a sexual nature distinguished from sexual attention that is welcome and mutual'. According to the Rule, sexual attention becomes sexual harassment if 'the behaviour is persistent, although a single incident or instance can constitute sexual harassment'; and/or 'the recipient has made it clear that the behaviour is considered offensive'; and/or 'the perpetrator should have known that the behaviour is regarded as unacceptable'.

The Rules outline four categories of workplace sexual harassment specifically under Order 14, Rule 1 (a), (b), (c), and (d) which could come in the form of 'physical conduct of a sexual nature' such as unwanted physical contact, including actions such as touching, sexual assault, rape or strip searches conducted by or in the presence of the opposite sex as well as gestures that constitute the alleged sexual harassment. It may also take a 'verbal form' such as unwelcome innuendoes, suggestions, hints, sexual advances or comments with sexual overtones. This includes sex-related jokes or insults, unwelcome graphic remarks about a person's body, intrusive enquiries about a person's sex life or unwelcome whistling directed at a person or group. Any documents, materials or exhibits that further substantiate these claims may also be included. Sexual harassment may also occur in 'non-verbal form' such as unwelcome gestures, indecent exposures, or unwelcome displays of sexually explicit images or objects. Additionally, it can manifest as 'quid pro quo harassment' where an owner, employer, supervisor, manager or co-worker attempts to influence or directly 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.

4. Legal Frameworks Against Sexual Harassment in Nigeria

Constitution of the Federal Republic of Nigeria 1999 (as amended)

The Constitution of the Federal Republic of Nigeria 1999 (as amended) safeguards the right to dignity of the human person, affirming that every individual is entitled to respect for their dignity and must not be subjected to torture or any form of inhuman or degrading treatment. Sexual harassment, by its nature, involves unwanted and unwelcome conduct of a sexual nature that demeans, humiliates, or creates an intimidating environment for the victim. It

reduces the individual to an object of sexual gratification, disregarding their autonomy and self-worth. This inherently dehumanizing act strips victims of their agency and self-esteem, infringing on their constitutional right to dignity. Additionally, the CFRN (as amended) grants the NICN exclusive jurisdiction over civil cases and matters related to disputes involving discrimination or sexual harassment in the workplace.

Criminal Code and Penal Code

The offence of rape as defined under the Criminal Code Act (CCA) Cap C38, Vol. 4 in force since 1961 and Penal Code Law Cap 89 Laws of Northern Nigeria, 1963 constitute a form of sexual harassment, albeit an extreme manifestation of it. However, while the provisions for rape under these codes address a critical aspect of sexual violence, they are not comprehensive enough to encompass the full spectrum of sexual harassment. While rape laws serve as a critical foundation for combating sexual violence, they do not provide sufficient coverage to address the myriad forms of sexual harassment prevalent in workplaces, educational institutions, and other settings.

Corrupt Practices and Other Related Offences Act 2000

The Corrupt Practices and Other Related Offences Act (CPROA) is occasionally utilised to prosecute cases of sexual harassment involving public officers. For instance, the charge brought against a former Obafemi Awolowo University (OAU) lecturer, Professor Richard Akindele, for demanding sex to pass his student, Monica Osagie, were filed under the CPROA as follows:

That on 16th day of September 2017 or thereabout, you corruptly asked for sexual benefits for yourself from one Monica Osagie for a favour that would be thereafter shown to her by upgrading her academic record from fail to pass, thereby committing an offence contrary to and punishable under Section 8 (1) (a) and 2 of the Corrupt Practices and Other Related Offences Commission Act 2000.

That you solicited sexual benefits from the victim on 16th of September, 2017 or thereabout for a favour to be given to you, the act contrary to and punishable under Section 18 (b) of the ICPC Act.

Sometime in 2015, Prof Cyril Ndifon of the University of Calabar was suspended for allegedly raping a 20-year-old student in his office. The Prof was

however reinstated and reappointed as the Dean of the institution's Faculty of Law. Later, the Law Faculty students went amok calling him out over alleged cases of sexual harassment of students. Consequently, UNICAL management formed a panel to investigate the allegations. The panel concluded that Ndifon abused his official position to bargain for sexual favours from his female students and recommended disciplinary action against him for gross misconduct. Prof Ndifon was ultimately arraigned by the ICPC for sexual harassment. These charges, brought under Sections 8, 18, and 19 of the CPROA 2000, alleged that he used his position to solicit nude photographs and videos from a student via WhatsApp, among other offences.

Violence Against Persons (Prohibition) Act 2015

Violence Against Persons (Prohibition) Act 2015 (VAPP) addresses various forms of violence including those that are sexually related like rape. The Act also provides definitions for key terms such as sexual abuse, sexual assault, sexual exploitation, sexual harassment, and sexual intimidation. However, it does not explicitly prescribe sanctions for these defined terms under any of its sections. For clarity, section 46 of the Act defines the aforementioned terms as follows:

'sexual abuse' means any conduct which violates, humiliates or degrades the sexual integrity of any person;

'sexual assault' means the intentional and unlawful touching, striking or causing of bodily harm to an individual in a sexual manner without his or her consent;

'sexual exploitation' occurs where a perpetrator, for financial or other reward, favour or compensation invites, persuades, engages or induces the services of a victim, or offers or performs such services to any other person;

'sexual harassment' means unwanted conduct of a sexual nature or other conduct based on sex or gender which is persistent or serious and demeans, humiliates or creates a hostile or intimidating environment and this may include physical, verbal or non-verbal conduct;

'Sexual intimidation' means -

(a) 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, as defined in this Act or any other enactment;

- (b) the actual demand for sexual intercourse with either a male or female under any guise, as a condition for passing examination, securing employment, business patronage and or obtaining any favour in any form, as defined in this Act or any other enactment;
- (c) acts of deprivation, withholding, replacing or short-changing of entitlements, privileges, rights, benefits, *examination or test marks or scores*, and any other form of disposition capable of coercing any person to submit to sexual intercourse for the purpose of receiving reprieve thereto; or
- (d) any other action or inaction construed as sexual intimidation or harassment under any other enactment in force in Nigeria.

The VAPP Act also prohibits acts of '*coercion*', stating that any person who 'coerces another to engage in any act to the detriment of that other person's physical or psychological well being' commits an offence and is liable, upon conviction, to a term of imprisonment of three years. It also criminalises '*Offensive Conduct*' which involves compelling another person through force or threats to engage in acts harmful to their physical or psychological well-being, whether sexual in nature or otherwise which offence could attract up to 2 years imprisonment. Additionally, the Act prohibits *Intimidation*, specifying that any person who intimidates another commits an offence and is liable, upon conviction, to a maximum term of imprisonment of one year.

Although terms like sexual abuse, sexual assault, sexual exploitation, sexual harassment, and sexual intimidation were merely defined under the Act without punishment, these defined terms can potentially be prosecuted under the above-highlighted provisions of the Act that prohibits '*Coercion*' '*Offensive Conduct*' and '*Intimidation*'. This is because, acts of sexual abuse, sexual assault, sexual exploitation, sexual harassment, and sexual intimidation can reasonably be interpreted as falling under the open-ended offences of *Coercion*, *Offensive Conduct*, and or *Intimidation*. Based on this argument, the VAPP Act serves as an effective tool for addressing sexual harassment in Nigeria.

Although the VAPP Act can be applied to address sexual harassment as aforesaid, its applicability is however limited to the Federal Capital Territory, Abuja. Furthermore, only the High Court of the Federal Capital Territory, Abuja, has the jurisdiction to hear and adjudicate cases under the Act. A 2022 report states that only 23 states in the federation have adopted the VAPP Act as part of their state laws, while another report from the same year places the

figure at 34 states. Yet another claims that all states in the federation have domesticated the VAPP Act, with Zamfara and Katsina being the most recent to do so. This suggests that the limitation of the VAPP Act's application to Abuja is largely irrelevant, as other states can rely on their respective versions of the law to address cases of sexual harassment within their jurisdictions.

Criminal Law of Lagos State 2015

Chapter 25 of the Criminal Law of Lagos State 2015 (Revised) (CLLS) addresses sexual offences. Section 260(1) of the CLLS defines the offence of rape in its traditional sense. Beyond the traditional definition of rape, the law also outlines the offence of Sexual Assault by Penetration, stating that 'any person who penetrates sexually' the 'anus, vagina, mouth, or any other opening in the body of another person with a part of his body or anything else, without the consent of the person commits a felony and is liable on conviction to imprisonment for life.' This definition covers any form of indecent and unlawful penetration, regardless of gender. Furthermore, the CLLS criminalizes Sexual Assault, which occurs when a person 'sexually touches' another person 'with any part of the body or with anything else' without their consent. This offence carries a penalty of up to three years imprisonment. Of particular relevance to this research is Section 264 of the CLLS, which specifically addresses the offence of Sexual Harassment as follows:

- (1) Any person who sexually harasses another commits a felony and is liable on conviction to imprisonment for three (3) years.
- (2) Sexual harassment is unwelcome sexual advances, request for sexual favours, and other visual, verbal or physical conduct of a sexual nature which when submitted to or rejected—
 - (a) implicitly or explicitly affects 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; or
 - (c) creates an intimidating, hostile or offensive learning or working environment.

Lastly, the CLLS prohibits the act of compelling a person to engage in sexual

activity without their consent. It stipulates that anyone who causes another person to participate in a sexual activity without their consent commits a felony, punishable by five years imprisonment upon conviction. However, if the coerced sexual activity involves 'sexual penetration', the offence is elevated to a felony punishable by life imprisonment upon conviction.

In addition to the CLLS, a few states such as Bauchi Edo Ekiti, Kaduna, Katsina and Sokoto address sexual harassment under their laws, with largely similar provisions differing primarily in the prescribed punishments. For instance, section 262 of the Kaduna State Penal Code Law 2017 provides as follows:

262. Sexual harassment is unwelcome sexual advances, requests for sexual favours, and other visual, verbal or physical conduct of sexual nature which when submitted to or rejected:

(a) implicitly or explicitly affects 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; or

(c) creates an intimidating, hostile or offensive learning or working environment.

(2) Any person who sexually harasses another is guilty of an offence and shall be liable to imprisonment for a term of not less than Three Years or with fine of not less than One Hundred Thousand Naira or both.

5. An Appraisal of the Sex-for-Grades Bill

Efforts to pass a Bill for an Act to curtail sexual harassment in Nigerian tertiary educational institutions have been a part of the National Assembly's agenda since 2016. This extends to sometime in 2019 when the Bill resurfaced as a 'Bill for an Act to Prevent, Prohibit and Redress Sexual Harassment of Students in Tertiary Educational Institutions and for Matters Connected Therewith', sponsored by 107 senators. The Bill was primarily targeted against lecturers in favour of students considering its tripartite objective to wit: (1) protection of students against sexual harassment by educators in tertiary educational institutions; (2) prevention of sexual harassment of students by educators in tertiary educational institutions; and (3) redressal of complaints of sexual harassment of students by educators in tertiary educational institutions. The

legislative process progressed to the Committee stage, in which the Committee held meetings, consulted stakeholders, and conducted public hearings to gather public input for further legislative action. The Senate Committee's Report highlighted stakeholders' consensus that sexual harassment in tertiary institutions has reached alarming levels, noting that 'most often, internal disciplinary actions are either non-existent or inadequate' to deter perpetrators.

In contrast, the Academic Staff Union of Universities (ASUU) and one other stakeholder opposed the Bill, arguing that it undermined the autonomy of universities guaranteed by the Universities (Miscellaneous Provisions) (Amendment) Act 2003 to regulate their affairs, including misconduct generally amongst staff and students. ASUU also described the Bill as an *ad hominem* legislation being discriminatory and unfairly targeted at 'educators' while failing to recognise that sexual harassment is a societal issue, not exclusive to tertiary institutions. According to ASUU, the Bill was 'discriminatory, selective, spiteful, impulsive *ad hominem*, lacks logic and any intellectual base by attacking the character and persons of those in tertiary institutions as if the act is peculiar to tertiary institutions alone without addressing the issue holistically' leaving out primary schools, secondary schools and workplaces. It also noted that since there is no extant law that covers issues of sexual harassment in all its ramifications as it affects different segments of society, the law ought to have been more comprehensively targeted at addressing sexual harassment. Thus, ASUU submitted that the Bill should fail for being 'jurisprudentially weak' and a 'bundle of contradictions' targetted to unduly expose the lecturers to false allegations and discrimination.

In its findings, the Committee addressed concerns about the National Assembly's (NASS) legislative competence to make the law. It asserted that the NASS is empowered to legislate on the subject by Section 4(2), (3), and (4) of the 1999 Constitution and Item 60(e) of the Constitution's Exclusive Legislative List, which authorizes the NASS to make laws for 'the establishment and regulation of authorities for the Federation or any part thereof to prescribe minimum standards of education at all levels'. The Committee argued that since sexual harassment undermines educational standards in tertiary institutions, the NASS can legislate on conduct standards for educators and students. It further asserted that its stance was supported by the Supreme Court's decision in *Olafisoye v FRN* which case affirms the NASS's authority to enact the CPROA by virtue of Section 4 (2) and Item 60 (a) of the Second Schedule to the Constitution.

In the Supreme Court case of *Olafisoye* referenced by the NASS, the Appellant was charged in the High Court of the FCT under the CPROA. He contested the court's jurisdiction, claiming the CPROA was unconstitutional. The High Court dismissed the objection, ruling that the NASS validly enacted the

CPROA based on Sections 4(2), 15(5) and Items 60(a) in Part I of the Second Schedule of the Constitution. The Appellant appealed to the Court of Appeal, which by way of 'case stated' referred it to the Supreme Court which upheld the trial court's decision. According to the Supreme Court, the essence of Item 60(a) of the Constitution is to expand the legislative powers of the NASS across the federation beyond strictly federal matters. Interpreting the term 'authorities' in the opening chapeau of Item 60, the Supreme Court referenced Section 3 of the CPROA which establishes the Independent Corrupt Practices and Other Related Offences Commission affirming that the NASS has the constitutional authority to enact the CPROA since the ICPC qualifies as an 'authority' under Item 60 of the Exclusive Legislative List. While federal statutes such as those establishing the ICPC, EFCC, and NAFDAC are validly enacted under Item 60 having established their respective Commissions and Agencies which suffice as 'authorities', the same certainty does not apply to the Sexual Harassment Bill. To avoid constitutional challenges, it is advisable to limit the Bill's application to the FCT, allowing it to serve as a model law for states to adopt. The NASS ought to have considered some of the concerns raised by ASUU by ensuring that such a pilot Bill is comprehensive and balanced. This is because it is unduly targeted against lecturers only irrespective of the fact that sexual harassment can also occur among colleagues, senior staff toward junior staff, or even involve lecturers as victims of harassment by students.

6. Why Does Sexual Abuse Persist?

The persistent cases of sexual harassment in higher institutions have been partly attributed to a lack of political will among stakeholders to address the issue decisively. This reluctance has emboldened perpetrators, fostering a sense of impunity and contributing to the ongoing prevalence of such incidents. Several other factors contribute to the issue of sexual harassment in Nigerian universities. Societal attitudes often place blame on victims, particularly women, discouraging them from reporting incidents. Fear of retaliation by perpetrators or potential disruptions to academic pursuits further deter victims from coming forward. Universities may prioritize protecting their reputation over addressing allegations, leading to inadequate disciplinary actions, suppression of complaints, and a lack of transparency. Some universities prefer relying on ad hoc measures to address sexual harassment cases rather than establishing robust and comprehensive institutional frameworks that instil confidence among stakeholders to utilize them when necessary.

Research revealed that most Nigerian universities lack formal sexual harassment policies, while those that exist are often inadequate to effectively tackle the issue. Findings indicate that only about 30 out of over 265 universities in Nigeria have policies addressing sexual misconduct. These

include Obafemi Awolowo University whose Anti-Sexual Harassment Policy is based on various international, regional and national standards. Among the eight normative frameworks listed, the eighth is the 'Sexual Harassment in Tertiary Educational Institutions Prohibition Act 2016'. However, it is important to clarify that the said Act remains a Bill and does not currently appear to be under consideration by the present National Assembly. Like some of the Policy documents of Nigerian universities reviewed, the OAU Policy, though seemingly comprehensive, is largely anticipatory. Much of its content outlines actions to be taken rather than achievements already realized. For example, the Division of Student Affairs is tasked with providing counselling services and establishing hotlines for reporting and responding to sexual harassment incidents. An effective policy document ought to include concrete details, such as the names or roles of counsellors and clear information on how to access them. Additionally, the hotlines ought to have been explicitly listed within the document. Articulating terms of reference is one thing; actively implementing them is another. Other Universities whose policies are available online include the National Open University of Nigeria, Covenant University, University of Ibadan, University of Lagos, University of Nigeria, Afe Babalola University and Lagos State University which seems to be the most comprehensive and purposeful among them.

Even when a University implements a relevant policy, sexual harassment may still occur because those responsible for enforcing it might lack the necessary expertise to manage cases efficiently. This can lead to inadequate evidence gathering, prolonged processes, and eroded trust among victims. Moreover, the lack of a robust legal framework in Nigeria specifically targeting sexual harassment in educational institutions leaves gaps that perpetrators can exploit, hindering victims' pursuit of justice and allowing such incidents to persist.

6.The Need for a Balanced Approach to Cases of Alleged Sexual Harassment

The approach of many Nigerian universities to addressing sexual harassment remains ad hoc, often relying on committees formed to handle individual cases. This method frequently frames the issue as one involving lecturers and students, excluding other potential perpetrators and victims within the school system, such as administrative staff or external affiliates. Moreover, it is perceived that such processes are prejudiced against lecturers, favouring student complainants. For example, the University of Abuja was reported to have dismissed two professors over 'sex for grades' allegations with investigations being handled by a committee. While these actions signal progress, the reliance on temporary committees and narrow perspectives highlights the need for more comprehensive, institutionalised measures to

address sexual harassment effectively across all facets of university life. To address rising allegations of sexual harassment by lecturers considering that students who make allegations of sexual harassment rarely come forward to testify before the panel, Nnamdi Azikiwe University, Awka reportedly launched 'Operation Speak Out', encouraging students to report the offending lecturers. The university also proposed installing CCTV in lecturers' offices, a policy reportedly met with opposition from some sections of the institution which move indeed amounts to an undue violation of privacy as the act can still happen elsewhere.

Despite the need to ensure zero tolerance for sexual harassment in universities, it is equally crucial to handle allegations with caution, as some may be false, malicious, or unfounded. Alleged offenders must be given fair opportunities to defend themselves, ensuring that they are not presumed guilty without substantial evidence. For instance, Mr Amadi, a lecturer at Niger Delta University was accused of sexual harassment by one female student sometime in October 2006. A committee was set up to investigate the allegations, during which she recanted her claims, stating she was not harassed. Despite this, the lecturer faced additional, unrelated allegations of compulsory textbook sales and unfair grading practices which were not included in the initial invitation letter and were only introduced during the proceedings. Having realized that the case of sexual harassment against him could not be substantiated, he was arbitrarily dismissed on the 2 new allegations. The appellate court later nullified his dismissal, citing a lack of fair hearing. This case underscores the necessity of ensuring due process and safeguarding against arbitrary actions in addressing sexual harassment allegations.

The case of *FUTMinna v Omanayin* underscores the critical importance of upholding fair hearings in addressing sexual harassment cases to balance justice for both the accused and the accuser. In the case, the Respondent (lecturer) was accused of sexually harassing a female student. Following an internal investigation, the disciplinary committee found him guilty of misconduct, leading to his dismissal. The Respondent challenged his dismissal in court, asserting a violation of his right to a fair hearing and the trial court ruled in his favor which prompted the University to appeal. Evidence revealed procedural flaws in the committee's investigation. Witnesses testified in the Respondent's absence, denying him the opportunity to cross-examine and challenge their statements. Thus, the appellate court found such an approach to be unacceptable emphasizing that procedural fairness is a fundamental right, even in sensitive matters like sexual harassment. In its judgment, the Court of Appeal noted:

Understandably, any allegation based on sexual harassment has evoked sentimental reactions, all calling for the head of the culprit.

The dignity of our children in institutions of higher learning and the way it has been debased of recent is an area of concern, but the rule of fair hearing being sacrosanct were denied the accused person, renders the entire proceedings and the decision based on same null and void. Such is the fate of the present suit.

7. Comparative Analysis: Lessons from the United States of America

Lessons can be learnt from the USA in addressing sexual harassment in educational institutions. Title IX of the Education Amendments of 1972 mandates educational institutions receiving federal financial assistance to take measures to eliminate all forms of sexual discrimination based on sex in their institutions. Section 901(a) of Title IX states generally that no individual in the United States shall be excluded from participation in, denied the benefits of, or subjected to discrimination based on sex under any education program or activity receiving federal financial assistance. Title IX broadly defines an educational institution to include any public or private preschool, elementary school, secondary school, or institution of vocational, professional, or higher education. Though Title IX did not specifically list or define various forms of sexual misconduct, the U.S. Department of Education periodically amends its regulations to give effect on the implementation of Title IX. These amendments clarify the scope and application of Title IX, outlining the obligations of recipients of Federal funding to maintain an educational environment free from sex-based discrimination. The regulations are designed to assist recipients in adhering to Title IX while granting them the necessary discretion and flexibility to establish their own relevant codes and apply any other applicable laws to address sexual misconduct effectively. The final regulations clarify that while the Department does not mandate the States to do anything, recipients of federal funds including States and local educational institutions are bound to comply with the Title IX Regulations as part of the bargain for receiving Federal financial assistance to ensure federal funds are not used to support sex-based discriminatory practices.

The latest amendment to the Title IX regulations establishes specific provisions for responding to sexual harassment in educational programs or activities that receive federal funding. The regulation prohibits sex-based harassment as a form of sex discrimination, including *quid pro quo* harassment and hostile environment harassment. *Quid pro quo* harassment occurs when an employee conditions educational benefits or services on unwelcome sexual conduct. Hostile environment harassment involves unwelcome sex-based conduct that is severe, pervasive, and objectively offensive, interfering with an individual's ability to participate in the educational program or activity. Under the

regulations, institutions must adhere to specific procedures when addressing complaints of sex-based harassment involving student complainants or respondents. Institutions must provide written notice of all meetings or proceedings, including the date, time, location, participants, and purpose, allowing sufficient time for preparation. Both parties must have equal opportunities to be accompanied by an advisor of their choice, including an attorney if desired, without limiting the advisor's presence, though participation restrictions must apply equally. Institutions must also provide equal access to relevant evidence. This includes allowing parties to propose questions for witnesses or the opposing party, which the investigator or decision-maker may ask during individual meetings, including follow-ups. Additionally, each party must receive a recording or transcript of the proceedings with adequate time to propose follow-up questions. Supportive measures available to individuals may differ based on what they consider reasonably accessible. These measures can encompass a range of options, including counselling, extension of deadlines and other course-related adjustments, campus escort services, enhanced security in specific areas, contact restrictions between involved parties, leaves of absence, and alterations to class schedules, work assignments, housing, or extracurricular activities. Importantly, these supportive measures should not be applied for punitive or disciplinary purposes. Furthermore, a recipient may place an employee respondent on administrative leave while grievance procedures are ongoing.

A brief survey of sexual harassment policies in U.S. universities shows that they commonly comply with Title IX alongside other pertinent federal and state laws addressing harassment, discrimination, and sexual assault. These policies are consistently thorough, equitable, and inclusive, as exemplified by the Virginia Polytechnic Institute and State University's Policy on Harassment, Discrimination, and Sexual Assault and the University of South Carolina Upstate's Discrimination, Harassment, and Sexual Misconduct Resolution Procedures. Out of all the schools whose policies were accessed, the University of California, Los Angeles (UCLA) offers the most comprehensive and pragmatic precedents in this area. Its policy document which is readily accessible online is highly recommended as a model for Nigerian higher institutions to address the persistent issue of sexual harassment.

A brief review of the University of Michigan's Policy on Sexual and Gender-Based Misconduct outlines its obligations under Title IX and related regulations in line with the institution's values. The policy prohibits behaviours like sexual assault, harassment, stalking, and intimate partner violence, even if incidents occur off-campus or outside University programmes, provided they pose a serious threat, have ongoing adverse effects, or create a hostile environment for students, employees, or third parties on University property or

in its programs. The policy ensures a fair process for all parties, emphasizing everyone's responsibility to maintain an environment free of prohibited conduct and encouraging proactive steps to prevent or stop such behaviour. The University's Policy comprehensively prohibits and defines various forms of sexual misconduct, particularly sexual harassment. It establishes resourceful and trained personnel with well-defined roles to resolve such cases. These include Adaptable Resolution Coordinator, Hearing Officers, Investigators, Mediators, Complainant, and the Title IX Coordinator who oversees reports of prohibited conduct, supportive measures, and compliance with Title IX regulations. The school's structure ensures a fair, impartial process and robust responses to sexual misconduct.

The University provides multiple channels for reporting prohibited conduct, including telephone, email, online forms, and an anonymous reporting option. Reports are handled with privacy and confidentiality, and supportive measures are offered to ensure equal access to the University's programs and activities, protect safety, and deter misconduct. These measures, provided without charge, are non-punitive and avoid unreasonably burdening the other party. Examples include academic support, such as rescheduling classes, exams, or assignments, modifying schedules, or course transfers; adjustments to work schedules or assignments for University employees; changes in housing or work locations; campus escorts for safety; access to on-campus or community-based counselling and medical services; assistance with obtaining personal protection orders; leaves of absence or increased campus security etc. The University ensures comprehensive training for Title IX Coordinators, investigators, decision-makers, and informal resolution facilitators. Training covers the definition of sexual harassment, the scope of the University's programs or activities, and procedures for conducting investigations, grievance processes, hearings, appeals, and informal resolutions. Participants are trained to serve impartially by avoiding prejudice, conflicts of interest, and bias. Hearing Officers receive additional training on relevant technology for live hearings and on determining the relevance of questions and evidence, including restrictions on inquiries into a complainant's sexual predisposition or prior behaviour. Investigators are trained to fairly summarize relevant evidence in their reports.

8. The Way Forward

Although criminal law is vital in combating sexual harassment in Nigerian universities, its effectiveness relies on the presence of robust internal administrative procedures and policies; without which even the most well-crafted criminal laws risk becoming a dry and dead law. Although some existing criminal provisions in Nigeria partially address sexual harassment,

there remains a need for more comprehensive criminal legislation to tackle the issue directly. Hence, instead of continuing with the current objectionable Sexual Harassment Bill, the NASS could revise it to be more comprehensive and balanced, ensuring it is not primarily targeted at lecturers or unduly encroaching on schools' administrative disciplinary processes. The proposed Bill should grant jurisdiction to the High Court of the FCT and apply within the FCT. States that have already criminalized sexual harassment could amend their laws to align with such a comprehensive model, while states yet to act could domesticate such federal law, as has been done with laws like the Child Rights Act and the VAPP Act. Since many schools have not codified their sexual misconduct policies, or their existing policies are inadequate or poorly enforced, tertiary institutions should develop strong, clearly defined anti-sexual misconduct policies and make them accessible to students, staff, and stakeholders. These policies should be embedded in the student and staff codes of conduct, prominently publicised through relevant school websites, admission handbooks, and during staff training, with pertinent flyers displayed in accessible areas like libraries and classrooms. The policy should be publicised on the campus billboards and routine news bulletins, local radio stations and during public awareness and sensitization programs within the campus. Orientation programmes should include education on sexual harassment to inform students early about preventing and addressing such issues. Institutions should establish accessible, confidential reporting mechanisms, such as online platforms and anonymous hotlines. The complaint resolution mechanism should be fair and transparent to both the complainant and respondent providing them with support services as may be required. Measures should also be put in place to regularly assess the effectiveness of such policies using survey questionnaires. Nigerian schools could adopt commendable models, particularly that of the University of California Los Angeles while tailoring them to align with Nigerian unique circumstances and realities. Relatedly, enforcers of criminal law, especially the Judges should handle sexual harassment cases decisively by imposing strict penalties on offenders. For instance, Prof Akindele was 'used as an example' by receiving 2 years imprisonment despite pleading guilty to deter such acts and signal that harassment will no longer be tolerated in Nigerian schools.

9. Conclusion

Sexual harassment in Nigerian universities represents a multifaceted challenge requiring a comprehensive approach. While criminal law is essential, its current framework is insufficient to address the complexities of harassment within academic institutions. Legislative efforts, such as the Sexual Harassment Bill, ought to be revised to reflect a balanced and inclusive

perspective, ensuring that all potential perpetrators and victims are accounted for. Such legislation should avoid targeting specific groups disproportionately while promoting fairness and equity in its application. Additionally, universities ought to complement the role of criminal law with robust internal policies. These policies should include clear definitions of sexual harassment, accessible reporting mechanisms, and transparent processes for resolving complaints. They should be embedded within institutional culture, publicized extensively, and supported by regular training and sensitization programmes for all stakeholders. Drawing from successful models like the University of California, Los Angeles, Nigerian universities can develop tailored solutions that align with local realities while upholding global standards.

The Judiciary must also play a decisive role. Judges should impose exemplary penalties to deter offenders and demonstrate the seriousness of such violations. It should however be borne in mind that punitive measures alone are insufficient; a preventive approach, fostering awareness, education, and institutional accountability, is equally vital. To ensure sustained progress, continuous evaluation of policies and practices is necessary. Universities should engage stakeholders through surveys and feedback mechanisms to refine their strategies. Collaborative efforts between government, educational institutions, and civil society will be critical in creating an environment where sexual harassment is not tolerated, victims are supported, and justice is served. Through a holistic integration of criminal law and institutional frameworks, Nigerian universities can set a precedent for addressing sexual harassment and fostering safe and equitable learning spaces.

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