

URGENT NEED FOR MORE LEGAL INTERVENTION TO CURB SEXUAL VIOLENCE AGAINST FEMALE STUDENTS IN NIGERIA'S TERTIARY INSTITUTIONS*

ABSTRACT:

Globally and in Nigeria, tertiary institutions are known for academic and moral excellence targeted at shaping leaders and intellectuals for the development of the world. However, this is not the case today because educational institutions have lost the moral fabric that holds it due to incessant sexual harassments perpetrated toward female students both in developed and developing countries like Nigeria. This negativity has transformed the respect and integrity accorded to tertiary institutions tagged with reports of sexual harassment. This work will attempt to investigate the likely causes of sexual violence in Nigeria's tertiary institutions, and thereafter proffer solutions to the identified problems. The study will examine the meaning, forms, causes, and effects of sexual harassment in Nigeria's tertiary institutions. It will also look into how sexual violence is curbed in some other jurisdictions, aside Nigeria and thereafter make some recommendations.

Keywords: Higher Institution, Sexual Violence, Tertiary Institution, Sexual Harassment.

1. Introduction

Sexual violence is so entrenched that it has become a regrettable part of the social fabric in Nigeria and the world at large. It is a violent crime that has no place in any ideal society and no one can justify its prevalence in any community that thrive on mutual trust particularly our Tertiary Institutions. Sexual harassment is becoming a common occurrence among students and the most vulnerable groups are the weak (mentally, financially and physically) female students. Both male lecturers and Students take undue advantages to abuse weak female Students. Although, sexual harassment is not exclusive to Female Students alone, male Students most times face same violent acts, but it is not proportional to that of the Female Students. This is facilitated by the degree of freedom of social interaction among young men and women encouraged by the learning environment and lack of parental supervision because female students are away from home.¹ Sexual harassment also occurs in Nigeria's Nursery, Primary, Secondary Schools, Polytechnics, Colleges of Education and so on. The level of Sexual harassment that goes on in our Tertiary Institutions is alarming. In Nigeria, aside from some laws that generally prohibit sexual violence like the VAPP Act, Criminal Code, Penal Code, and so on, there is no law expressly criminalizing sexual violence or harassment in Nigeria's tertiary institutions. As such, the criminalisation of sexual misconducts in educational institutions has become imperative. More so, sexual harassment has been in existence for a very long time, with very little done to address the situation holistically.

It is pertinent to affirm here that the vast majority of cases of sexual violence against female university students in Nigeria go unreported for various reasons associated with stigmatisation, character assassination, public backlash and limited access to justice for victims. Many Students who are victims of this harassment are not bold enough to report to School authorities for fear of being victimised in their examinations by the culprit Lecturers and therefore most of them suffer in silence. In many cases, female students who have reported such cases have been subsequently targeted for reprisals by thugs, cultists or University Teachers who are Colleagues of the culprit. Most Nigerian communities believe in male supremacy; hence, Sexual harassment is most times perceived as an acceptable exercise of male's prerogative over women's sexuality. Due to the prevailing incidents of Sexual harassment in

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¹AA Kulima, B Audu, MB Kawu and AG Mairiga, 'Sexual Assault against Female Nigerian Students', (2010) 14(3), *African Journal, Of Reproductive Health*, 93.

Schools, Colleges and University campuses, Nigerian Scholars are gradually embarking on studying the nature and trends of Sexual harassments in Nigeria Higher Institutions, hence this research².

2. Meaning and Forms of Sexual Violence

Sexual violence is a form of physical violence which includes forcing a person to participate in unwanted, unsafe, or degrading sexual activities. It is any sexual act, attempt to obtain a sexual act, unwanted sexual comments or advances, or acts to traffic, or otherwise directed, against a person's sexuality using coercion, by any person regardless of their relationship to the victim in any setting, including but not limited to home and work.³ More so, forms of Sexual violence include rape, wife rape, defilement, unwanted sexual advances or harassment including demanding sex in return for favours, sexual abuse of mentally or physically disabled people, forced marriage or cohabitation, denial of the right to use contraception or to adopt other measures to protect against sexually transmitted diseases, forced abortion, forced prostitution and trafficking of persons for the purpose of sexual exploitation and violent acts against the sexual integrity of women including female genital mutilation and obligatory inspections for virginity⁴, incest and other forms of sexual abuses. Research has shown how the penis and rape is been used as a weapon and an effective way by men to intimidate women and girls⁵. Umeobi⁶ categorize the penis as topping the list of dangerous weapons on violence against women whose unauthorized use should be vehemently prohibited. An example of real sexual stories on sexual violence in Nigeria's Educational Institutions reported by the media is the story of an academic, Dr Boniface Igbeneghu, who was a Lecturer at the University of Lagos. He was caught on camera, sexually harassing a disguised 17-year-old admission seeker ⁷ He was exposed following an investigative report by BBC Africa tagged 'Sex for Grades' where an undercover journalist disguised as a 17-year-old Secondary School graduate who was seeking admission to University of Lagos State. Dr. Boniface promised her good grades and admission if she succumbs to his sexual advances failure of which she will lose out. The Lecturer was suspended by both the University and Foursquare Gospel Church.

Furthermore, sexual violence is not limited to women alone but can also be perpetrated against men, although not proportional to that perpetrated against the female folk. This work will focus on the form of sexual violence and harassment perpetrated by male teachers to female students', male students to female students, male non academic staffs to female students, violence against the integrity of women, unwanted sexual advances and so on⁸ within the educational circle.

3. Likely Causes of Sexual Violence in Higher Institutions

There are various factors that have been found to be the causes of sexual violence. These causes include but are not limited to the following. Olatunji *et al*⁹ observed in their study that decline in the school cultural value system tends to encourage sexual harassment in tertiary institutions. They further stated that alcohol and drug use (e.g cocaine) by students and lecturers alike are the major causes of sexual violence and harassment in tertiary institutions. These intoxicants are most times taken with the intention that they aid reduce academic stress and when these people are intoxicated, they don't consider the consequences of their actions thereby perpetrating sexual violence against their victims. On the

² OO Badejo, et al, 'Sexual Assault in Ile Ife, Nigeria', (2014) *Niger Med J.* 55.254-259

³WHO Violence against Women, A priority Health Issue 1997. United Nations Organization, Declaration on the Elimination of all form of Violence against Women, UN General Assembly 1993, New York A/RES/48/104

⁴World Report of Violence and Health, (2014) <<https://www.who.int/violence-injury-prevention/violence/global-campaign/en/chap6.pdf>> accessed on 29th December 2019.

⁵C Arinze-Umobi, *Domestic Violence against Women in Nigeria: A Legal Anatomy*, (Onitsha: Folmech Publishers, 2009) p.14. p.113.

⁶ *ibid*

⁷N Lawal, 'Unilag Lecturer caught on video sexually harassing admission seeker'. Read more: <<https://www.legit.ng/1263795-unilag-lecturer-caught-video-sexually-harassing-admission-seeker.html>> accessed on 5th December 2020.

⁸NA Adeleke et al, Sexual Assault against Women at Oshogbo South Western Nigeria', (2012) 15(2) *Niger J Clin Pract.* 190-193

⁹BA Olatunji, AS Iyekolo, AO Ayorinde, A Samuel, (2013) Lecturers' Perception of Causes and Consequences Of Sexual Assault In Tertiary Institutions Of Kwara State, Nigeria. *Research on Humanities and Social Sciences* 3(20). 82-87

other hand, Imonike et al¹⁰ argued that female students are the causes of their own predicament because most of them believe that ‘you can use what you have to get what you want’, simply to get high grades from their lecturers. Also, some students rely on their womanhood scale through school because they are morally bankrupt. As a result of this, they seduce fellow male students and examiners. They also do so by dressing in obscene and revealing dresses to captivate the attention of the perpetrators, thereby making it difficult for administrative, non administrative and their co-male students to concentrate in school environments. However, the researcher disagrees with Imonike et al and states that indecent dressing is not sufficient reason for staffs to breach the duty of care bestowed on them in the unequal relationship they share with female students. Lastly, Olaigbe and Fagbenro¹¹ stated lack of academic integrity, indecent dressing, declining academic standards, inadequate security, gender stereotype, lack of specific policies on sexual harassment, and patriarchal Configuration of the society as cause of sexual harassment in tertiary institutions. The researcher strongly agrees that lack of specific policies and laws against sexual harassment in schools are one of the major causes of the prevailing increase of sexual violence against women in Nigeria institutions.

4. Effect of Sexual Violence

The threat and incessant rise of sexual violence in Nigeria’s tertiary institutions has consequences that are far reaching both for female students and for the prestige of the institution in question. Below are brief illustrations of some effects of sexual violence thus: Psychological Problems e.g. female students can be vulnerable to stressful traumatic symptoms which are capable of distorting their thoughts and comes in form of depression, sleeplessness, fear, post-traumatic stress disorder, loss of trust and so on. More so, it can lead to a lower academic standard of tertiary institutions (the institution will be seen as a school that gives certificate or marks for sex), loss of academic interest and school drop-out (for females who experience sexual harassments and are often frustrated and making them drop grades or by a long-term drop out from school. In the same vein, health challenges can ensue as an effect of sexual violence, For example, female's victims are frequently infected with HIV/AIDS and other sexual issues such as transmitted infections, unwanted pregnancy and other health related problems.

5. Legal Framework on the Fight against Sexual Violence

International Legal Frame Work

The United Nations Declaration of Human Rights 1948

This law affirms that all human beings are born free and equal in dignity and rights¹². It prohibits torture, inhuman and degrading treatment or punishment and provides for equality before the law. This therefore means that the right of women should be respected and this includes the prohibition of sexual violence in tertiary institutions.

Declaration on the Elimination of Violence against Women 1993¹³

This law condemn all form of psychological and physical violence against women. It has been ratified but is yet to be domesticated as part of Nigerian Laws. The law recommended that State parties ensure laws are enacted against family abuse, rape, sexual assault and other forms of GBV¹⁴

Convention on the Elimination of All Forms of Discrimination against Women 1979 (CEDAW)

CEDAW provides that States should ensure that any Act or practices of discrimination against women are curbed. It also states that appropriate measures should be taken to eliminate discrimination against both men and women for equality of all. Also, CEDAW Committee listed a wide range of obligations

¹⁰J Imonike, P Idogho, O Aluede, (2011), A Survey of Teachers’ and Students’ Perception of Sexual Harassment in Tertiary Institutions of Edo State, Nigeria, 5(5) *International Multidisciplinary Journal*, Ethiopia, Pp. 412-423.

¹¹TA Olaigbe and DA Fagbenro (2021) Fighting Female Sexual Harassment in Nigerian Tertiary Institutions, *Journal of International Cooperation and Development*, 4(1), 103-116

¹² UNDHR 1948, ARTICLE 1

¹³ Article 1

¹⁴Para 24(b) Committee on the Elimination of Discrimination against Women; General Recommendation (1992) on violence against Women.

of State parties to combat sexual violence, appropriate treatment for victims in the justice system, counselling and support services, medical and psychological assistance to victims and so on¹⁵.

National Legal Framework

The Constitution of Nigeria (as amended in 2011) is the supreme Law for curbing sexual violence against women in Nigeria. Chapter 4 deals extensively with fundamental human right and sexual violence is a breach of chapter 4. More so, section 34 prohibits the violation of people's right to dignity of human person and torture. Furthermore, the VAPP Act is another law that prohibits sexual violence in Nigeria. This Act was signed by the former President Good luck Jonathan on 25th of May 2015. The Act deals with sexual violence in sections 1, 6, and 26 which covers the offence of rape, female genital mutilation, incest, indecent exposure of one genital organ respectively. Some States have also enacted their own laws protecting female victims from sexual violence. For instance, Ekiti State Gender-Based Violence (Prohibition) Law, 2019 to address gender based violence (GBV) perpetrated against women in which sexual violence is included as a form of GBV. Furthermore, section 352 of the Criminal Code which is applicable in Southern Nigeria provides for 14 years imprisonment for anybody that assaults another with the intent to have carnal knowledge of him or her against the order of nature is guilty of a felony. More so, the law provides that anyone who has unlawful carnal knowledge of a woman or girl, without her consent or with her consent, if the consent is obtained by force or by means of threats or intimidation of any kind, or by fear of harm, or by means of false and fraudulent representation as to the nature of the act or in the case of a married woman, by personating her husband, is guilty of an offence which is called rape¹⁶. Under the Criminal Code, the punishment for rape is life imprisonment¹⁷.

In the same vein, the Penal Code ¹⁸ is applicable in Northern states of Nigeria, and is replete with provision against sexual violence offence punishable with seven years' imprisonment and a fine¹⁹. Rape²⁰ is said to occur under the Penal Code where a man has sexual intercourse with a woman in any of the following circumstances: (a) against her will, (b) without her consent, (c) With her consent, when her consent has been obtained by putting her in fear of death or hurt.(d) With her consent when the man knows that he is not her husband and that her consent is given because she believes that he is another man to whom she is or believes herself to be lawfully married.(e) With or without her consent, when she is under fourteen years of age or of unsound mind. Under the Code, mere penetration is sufficient to constitute sexual intercourse necessary for the offence of rape and the punishment for rape is life imprisonment²¹. This is commendable, as it will be serving as deterrence to perpetrators. Aside from these laws, there is no law or policy expressly prohibiting sexual harassment in tertiary institutions in Nigeria. Commendably, there is a proposed legislation on Sexual harassment in Nigeria; it was sponsored by the Senate Deputy President, Ovie Omo-Agege²². The bill, is titled, 'A Bill for an Act to Prevent, Prohibit and Redress Sexual Harassment of Students in Tertiary Educational Institutions and for other matters connected therewith 2019'. The bill proposes up to 14 years jail term, with a minimum of five years, without an option of fine, for any educator who commits sexual offences in Tertiary Institutions. Section 2 of the bill defines Sexual harassment to include sexual intercourse between an Educator and a Student where the Student is below the age of 18 years or is an imbecile or of generally low mental capacity or is physically challenged, any unwelcome sexual attention from an Educator who knows or ought reasonably to know that such attention is unwelcome to the Student; any unwelcome implicit or explicit behaviour, suggestions, messages or remarks of a sexual nature that have effect of offending, intimidating or humiliating the Student or a related person in circumstances which a reasonable person having regard to all the circumstances would have anticipated that the Student or such related person would be offended, intimidated or humiliated; any implied or expressed promise of

¹⁵Committee on the Elimination of all forms of Discrimination of Violence against Women, General Recommendation No.19 (Eleventh Session, 1992) U.N Document CEDAW/ C/1992/L.1/Add, 15

¹⁶ Criminal Code, Laws of the Federation of Nigeria 2004, section 357.

¹⁷ *Ibid*, section 358

¹⁸ Penal Code Act, 1960

¹⁹ *Ibid*, Section 281 Penal Code

²⁰ *Ibid*, Section 282 Penal Code

²¹ *Ibid*, Section 283

²²H Umoru, 'Sexual harassment on campus: How Reps, ASUU blocked first Bill against perpetrators', (2019) <<https://www.vanguardngr.com/2019/10/sexual-harassment-on-campus-how-reps-asuu-blocked-first-bill-against-perpetrators/>> accessed on 2nd February 2021.

reward by an Educator to a Student or related person for complying with a sexually oriented request or demand; or any implied or expressed threat of reprisal or actual reprisal from an Educator to a Student or related person for refusal to comply with a sexually oriented request or demand²³. Section 3 shows that the Bill, if passed into law will extend beyond Lecturers as it relates also to non-academic staffs. This is a welcomed development, because more often than not, Lecturers have been at the receiving ends of similar laws as this forgetting that other non-administrative Staffs and co- student are also culpable. Unlike most other Sexual offences, the bill provides that consent shall not be a defence as the only tenable defence to the offences created under Section 4 of the bill is that the Educator and the Student are legally married. The Student or any other concerned person could further report to the Nigerian Police Force or to the Attorney-General for criminal prosecution.

The bill further saddles the Administrative Head with the responsibility of ensuring the protection of any student that files a Sexual harassment complaint from victimization. Any Educator, who victimizes a Student because of Sexual harassment complaint filed, shall be liable to the same punishment as the Educator whom the Student originally complained against²⁴. The Bill also recommends expulsion or suspension for Students whose claim of being serially abused by Lecturers or Educators are found to be false by any competent Court²⁵. Although encouraging, it is opined that this Bill is not all encompassing but limited in scope because it does not include Sexual violence perpetrated by Student against his/her fellow Student, and Sexual violence perpetrated in Nursery, Primary and Secondary Schools.. The Bill was passed by the 9th Senate on the 7th of July 2020. It has been passed to the House of Representative for concurrence after which it will be sent for assent²⁶.

6. Curbing Sexual Harassment in Some Other Jurisdictions

Sexual harassment is not particular to Nigeria alone but is a universal phenomenon that occurs in Universities across the globe. On this basis, it is thoughtful that an insight of how some countries strive to curb sexual harassment in their Educational Institutions be looked into.

In the United States of America, studies have it that incidents of Sexual harassments are shockingly prevalent in College Campuses Nationwide. Sexual assault disproportionately affects Female Students, although both male and female are targets of violence on Campus, and impedes survivors' ability to participate fully in their education. The Title IX of the Education Amendments of 1972 is the Federal Law that prohibits Sex discrimination in education. It promotes equal opportunity by providing that no person should be subjected to discrimination on the basis of sex under any educational programme or activity receiving federal financial assistance. Under the law, sexual violence refers to physical sexual acts perpetrated against a person's will or where a person is incapable of giving consent (e.g due to the student's age or use of drug, alcohol or an intellectual or other disability that prevents the student from having the capacity to give consent).²⁷ Sexual harassment is seen as an unwelcome conduct of a sexual nature, including unwelcome sexual advances, requests for sexual favours, and other verbal, nonverbal, or physical conduct of a sexual nature. Schools are mandated to respond promptly and effectively to sexual harassment including sexual violence that creates a hostile environment. Title IX protect Students from unlawful Sexual harassment in all School programs or activities whether they take place in the facilities of the School, at a class or training program sponsored by the School at another location, or elsewhere. Title IX protects both Male and Female Students from Sexual harassment, regardless of who the harasser may be. Title IX has long required schools to evaluate their current practices, adopt and publish a policy against sex discrimination, and implement grievance procedures providing for prompt and equitable resolution of Students and employees discrimination complaints. Schools are also required to appoint a Title IX coordinator to oversee these activities, review complaints and deal with patterns or systemic problems (even when there are no formal complaints). The School must notify Students of their assigned coordinators. After investigation on a complaint of Sexual harassment, Title

²³ *Ibid*

²⁴ *Ibid*

²⁵ *Ibid*

²⁶ Queen Esther, 'Senate passes Anti- Sexual Harassment Bill'. <<http://www.premiumtimesng.com>> accessed on 7th December 2020.

²⁷ Intersection of Title IX and the Clery Act, 'Document created by the White House Task Force to protect Students from Sexual Assault' (April 2014), <<http://www.justice.gov/archives/ovw/page/file/910306/Download>> accessed 24th May, 2020.

IX requires the School to inform the complainant the outcome of the investigation. Whether or not it found that the Sexual violence occurred, any individual remedies offered or provided to the complainant or any sanctions imposed on the perpetrator that directly relate to the complainant, and other steps the School has taken to eliminate the hostile environment and prevent recurrence.²⁸ Sanctions that directly relate to the complainant include but are not limited to ensuring that the perpetrator stays away from the complainant until both parties graduate, prohibiting the perpetrator from attending school for a period of time or transferring the perpetrator to another hall, other classes or another school.

Another law used to combat sexual harassment in Educational Institutions is the Clery Act, 1990 the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (Clery Act) requires Colleges and Universities who participate in Federal financial aid programs to disclose campus crime statistics and security information and every school provides this information publicly. The Clery Act promotes Campus safety by ensuring that Students, employees, parents and the broader community are well informed about important public safety and crime prevention matters. Institutions that receive Title IV funds must disclose accurate and complete crime statistics for incidents that are reported to Campus Security Authorities (CSAs) and local law enforcement as having occurred on or near the Campus. Schools must also disclose Campus safety policies and procedures that specifically address topic such as Sexual assault prevention, drugs and alcohol abuse prevention and emergency response and evacuation.²⁹ The Clery Act also promotes transparency and ongoing communication about campus crimes and other threats to health, safety and empowers members to take a more active role in their own safety and security.

Also in 2019, the Congress reauthorized the Violence against Women Act and included provisions to include campus safety. School are now required to report additional crime statistics, (on domestic violence, dating violence, and stalking), update procedures following an incident of Sexual violence, and provide prevention and bystander intervention training to all Students and employees³⁰. Institutions must disclose crime statistics for Clery reportable offences that occur on its so-called 'Clery Geography'. Clery Geography includes three general categories: Campuses³¹, non Campus building or properties³² or public properties³³. The Clery Act requires institutions to issue timely warning to the Campus community about crimes that already occurred but may continue to pose a serious or ongoing threat to Students and Employees. Timely warnings are only required for Clery reportable crimes that occur on Clery Geography although Institutions are encouraged to issue appropriate warnings regarding other criminal activities that may pose a serious threat as well.³⁴ The Clery Act specifically mandates that each Institution shall develop and distribute procedures for simultaneously notifying the accusers and accused of the outcome of Institutional disciplinary proceedings.³⁵ In the same vein, since 1968, the Department of Education has administered the Civil Rights Data Collection (CRDC), which collects data on key education and civil rights issues in our Nation's public Schools. The CRDC has been improved to shed additional light on the pervasiveness of sex discrimination, including sexual harassment and violence, in Schools.

²⁸*ibid*

²⁹*Ibid.*

³⁰*Ibid*, See also 20 U.S.C. s 1092(f) (1) (f) (iii) and 20 U.S.C. s 1092(f) (7).

³¹Intersection of Title IX and the Clery Act, *Ibid*, Campus is defined as any building or property that an institution owns or controls within a reasonably contiguous area that directly support or relate to the institution's educational purposes. On campus also includes: residence halls and properties the institution owns and students used for educational purposes that are controlled by another person (such as a food or retail vendor). The definition of controlled, includes all such properties that are leased or borrowed and used for educational purposes. 20 u.s.c. s.1092 (f) (6) (ii).

³²Intersection of Title IX and the Clery Act, *ibid*, non-Campus building or properties is defined as any building or property that is owned or controlled by a recognized student organization and any building or properties that is owned or controlled by the institution that is used in support of its educational purposed but is not located within a reasonably contagious area to the campus. See 20 U.S.C. s 1092(f) (6)(iii).

³³Intersection of Title IX and Clery Act, *Ibid*, public property is defined as all public property within the reasonably contiguous geographic area of the institution that is adjacent to all accessible from a facility the institution owns or controls and that is used for educational purposes. Examples include sidewalks, street, and parking facilities. See 20 U.S.S.C. s.1092 (f) (6) (iv).

³⁴Intersection of Title IX and Clery Act, See also 20u.s.c. s.485 (1) (j) (3); Handbook, 118.

³⁵Intersection of Title IX and Clery Act, *Ibid*. See also 20 U.S.C. S 485f(1)(j)(8)(b)(iv)(iii)(aa)

In the same vein, the Australia's Respect Now Always campaign was introduced by Australia's 39 Universities. The campaign sought to raise awareness of Sexual assault and Sexual harassment, make support services for Students more visible and accessible, obtain data to guide further improvement in University policy and practice, and help Universities share best practice resources.³⁶ As part of the campaign, Universities Australia also developed ten-point action plans which include initiatives such as respectful relationships education and specialist training for University Staff and Counsellors. In January 2019, the Tertiary Education Quality and Standards Agency (TEQSA) released their report to the Federal Minister of Education on Higher Education Provider responses to Sexual assault and harassment. Overall, TEQSA found the majority of Universities have done the following:

- Accepted the Change the Course recommendations and are responding to the issue of Sexual assault and Sexual harassment
- Established a Sexual assault/Sexual harassment task-force
- implemented or strengthened a policy on Sexual assault and Sexual harassment
- conducted external or internal reviews of existing policies and response pathways
- offered online and face-to-face training for University Staff and support services
- offered counselling services (some of whom collaborate with external rape/sexual assault support services)
- Reported incident data internally.³⁷

The initiatives and actions taken to date by the majority of Australian Universities are commendable but so much more needs to be done within and beyond Universities to curb sexual harassment in Australia.

Thirdly, in South Africa, various Acts protect Student against the misuse of power by Educators. Sexual harassment in the classroom is managed in terms of Section 9 of the South Africa Constitution which states that girls/boys must be treated equally in schools and be free from sexual harassment in any way. All learner have the right to equal schooling,³⁸ the right not to be unfairly discriminated against,³⁹ the right of protection of dignity and integrity,⁴⁰ the right to freedom,⁴¹ privacy⁴² and to a safe environment.⁴³ Sexual harassment infringes upon each and every one of these above stated rights granted by the Constitution. An amendment to the Employment of Educators Act⁴⁴ ensures that disciplinary actions has to be taken against educators who are found guilty of having a Sexual relationship with a learner who attends the same school where the educator teaches, even if there was mutual consent, and requires the dismissal of such educators from their employ. The same goes for an educator who sexually harasses a learner. The South African Council for Educators (SACE) will ensure that such a teacher's name is struck from the role and that the person may not be employed elsewhere as an educator, not even by private institutions or by any other provider. This principle is guided by Section 23(c) of the South African Council for Educators Act.⁴⁵ The relationship between learners and educators is inherently unequal and fragile, and is prone to misuse by whom the power rests. The most prevalent defence raised by the Educators was mutual consent, which can never be considered true consent. Furthermore, South African Universities responsibilities to address GBV on campus derive from among others, the Criminal Law (Sexual Offences and Related Matters) Amendment Act 32 of 2007, the Domestic Violence Act 116 of 1998 and the promotion of Equality and Prevention of Unfair Discrimination Act 4 of 2000 and the Department of Higher Education and Training Policy. While most Universities in South Africa have Sexual harassment Legislations and policies, the efficacy of these policies have been brought into

³⁶The Conversation, 'Universities have made progress on responding to sexual assault, but there's more to be done' (2019)<<http://theconversation.com/universities-have-made-progress-on-responding-to-sexual-assault-but-theres-more-to-be-done-111343>> accessed 5th February 2021.

³⁷*Ibid.*

³⁸South Africa Constitution, 1996 s.29.

³⁹*Ibid* s.9

⁴⁰*Ibid* s.10.

⁴¹*Ibid* s. 12.

⁴²*Ibid* s.14.

⁴³*Ibid* s.24

⁴⁴Employment of Educators Act 76 of 1998, Section 17(b), (c) and (d) (as amended by the education Amendment Act, 53 of 2000.

⁴⁵South African Council for Educators Act (SACE) 31 of 2000.

question given the low reporting rates⁴⁶. This is a complex issue for Universities to deal with as they want to be perceived as taking Sexual harassment seriously but at the same time, if they actively address it there is a concern that there will be an increase of reporting which could tarnish their institutional image⁴⁷. Further, it must be reiterated that while many Universities have policies many Technical and Vocational Education and Training (TVET) Colleges do not⁴⁸, in South Africa.

7. Conclusion and Recommendations

From the investigation, it is glaring that sexual violence is a great concern that requires prompt attention to rectify the incessant rise of sexual violence, and to ameliorate the suffering of female students in higher institutions both in Nigeria and worldwide. In the same vein, sexual harassment can be caused by various factors like decline of cultural values, intake of hard drugs and intoxicants, indecent dressing, poverty and patriarchy. It also has adverse effect on students and could lead to sleeplessness, loss of academic interest, dropping out from school, HIV and AIDS, unwanted pregnancy and so on. It is also obvious that Nigeria Tertiary institutions lack express law to deter, regulate and punish sexual harassment in Higher Institutions. As such, the immediate assent of the 'Bill for an Act to Prevent, Prohibit and Redress Sexual Harassment of Students in Tertiary Educational Institutions and for other matters connected therewith 2019' is recommended. The assent of the bill into law and the enforcement of other laws combating sexual violence is necessary to creating a conducive, disciplined and healthy environments to ensure that the prestige of higher institutions are maintained, and students are given equal and safe ground to excel academically. Furthermore, legal interventions alone is not sufficient to curb sexual violence in tertiary institutions, therefore, media houses, community based approach, medical personnel, religious leaders and so on should be involved in the fight against sexual violence in tertiary institutions.

Curbing sexual violence against female students in Nigeria's higher institutions is largely centred on the criminal justice system, laws and its implementation and enforcement. More so, multidimensional approach should be utilized whereby education, legal intervention, community based approach, religious intervention, medical practitioners and so on are collectively used to combat sexual violence in tertiary institutions. For instance, medical practitioners should ensure that victims experience extended care, advice and safety by conducting physical examination and recording it, sensitizing students on the danger of rape, sexually transmitted diseases and so on and lastly directing victims to seek legal aid in case they fall victim to sexual violence. More so, students should be sensitized by educational communities via school curriculum, seminars, workshops, and other public means of disseminating Information. Furthermore, the media (e.g. television, radio, social media and so on) should be involved to change students and the public mindset on sexual violence. Students should also be advised to report sexual violence and a reputable means should be created to allow students privately report sexual violence with the enactment of express policies to combat sexual violence.

Furthermore, looking at the methods employed by the United State of America, South Africa and Australia to curb domestic violence in their Educational Institutions, as discussed above, it is further recommended that Nigeria emulate or take the following tips: There should be creation and enhancement of a feasible Law and Policy on Sexual harassment in Nigeria that will cut across all Educational Institutions. The implementation of the proposed Law should be monitored by an agency created specifically to handle such Sexual harassment cases. Universities should launch self-awareness and healthy behavior programs to educate students on the dignity of human beings irrespective of gender, class and age. There should be equal participation of women and men in Institutions. More female staffs are needed to participate in the decision-making process of the Institutions. Gender specific knowledge should be integrated in the curriculum. Colleges and Universities should conduct training sessions on Sexual harassment for faculty, staff, and students. These training sessions should be mandatory, held annually and have the active support and participation of the administration. Statistics should be kept on sexual violence, its increase or reduction rate and the extent of its eradication in Educational Institutions Nationwide.

⁴⁶A Gouwsand and A Kritzinger, 'Dealing with sexual harassment at institutions of higher learning: Policy implementation of a South African University', (2007), 21 (1) *South African Journal of Higher Education*, 68-84.

⁴⁷*ibid*

⁴⁸Department of Higher Education and Training (DHET), 2017. Addressing Gender-Based Violence in the Post-School Education and Training Sector: Draft Policy and Strategy <https://www.news.uct.ac.za/iMages/userfiles/downloads/media/PolicyFramework_DraftZero_v7_September2017.pdf>accessed on 21st May 2019