

The Inadequacy of Legal Provisions on Workplace Sexual Harassment in Nigeria and Ghana: The Way Forward

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Abstract

Sexual harassment has been a persistent problem in workplaces in Nigeria and Ghana. The legal provisions in both jurisdictions generally focus on the definition of “sexual harassment” without remedies for the harassment, sanctions, enforcement procedures, anti-sexual harassment policies, complaint procedures, etc., that can control sexual harassment in the workplace. The article examines the scantiness and inadequacy of legal provisions on workplace sexual harassment in Nigeria and Ghana, suggesting a way forward. The doctrinal research method has been deployed, focusing on relevant Nigerian and Ghanaian legal provisions. The article considers the organization theory of sexual harassment, using it as a framework, and then contributes to the discussion by arguing that the inadequacy of local laws on workplace sexual harassment is a possible factor for the prevalence or frequency of workplace sexual harassment. The article recommends comprehensive legal provisions to control workplace sexual harassment. Relying on some of the items in the guidelines made by the Indian Supreme Court on workplace or work premises sexual harassment in the case of *Vishaka v State of Rajasthan*, the article suggested using a comprehensive law that can control workplace sexual harassment. If the suggestions are followed, the incidences of sexual harassment will reduce drastically in workplaces in Nigeria and Ghana. Workplace or work premises sexual harassment in Nigeria and Ghana and the relevant legal provisions have been used to set the article’s limit and to project the discussion herein.

Keywords: Ghana, Nigeria, workplace sexual harassment.

A. Introduction

Workplace sexual harassment has been a persistent problem in both Nigeria and Ghana.¹ Concerning Nigeria, the workplace sexual harassment observed includes sex

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¹ Enobong Mbang Akpambang, “Sexual Harassment of Female Employees in the Workplace: Imperative for Stringent Legal and Policy Frameworks in Nigeria,” *Pancasila and Law Review* 3, no. 1 (2022): 70-73, 10.2504/1/plr.v3i1.2754. See also, S.O. Okoye, E.O. (et.al.) “Sex for Marks Scandals in South-East Nigeria Institutions of Higher Learning, Female Students Victim, and the War Against Sexual Harassment,” *Italian Sociological Review* 12, no. 1 (2022): 89-92, <http://dx.doi.org/10.13136/isr.v12i1.520>, Goodfaith Nnenna Okeke (et.al.), “Socio-Sexual Behavior and Workers Productivity in Nigeria,” *International Journal of Research and Scientific Innovation* 7, no. 8 (2020): 221-228, Josephine Ganu and Peter Agyekum Boateng, “Examining Sexual Harassment Experiences in the Ghanaian Work Environment: Behavioral Responses and Effects on Both Women and Men,” *Nigerian Journal of Management Sciences* 3, no. 1 (2013): 2, Aliu Mohammed, Edward Wilson Ansah and Daniel Apaak, “Sexual Harassment as Experienced by Nurses From Selected Healthcare Facilities in Ghana,” *BMC Nursing* 22 (2023): 117, <https://doi.org/10.1186/s12912-023-01228-6>, Veronica Adu

related gestures, unwanted touch, sexual remarks, intimidation, and money enticement.² Like in Nigeria, workplace or work premises sexual harassment is prevalent in Ghana yet ignored³ Similarly and oftentimes regarded as trivial.⁴ In addition, in Ghana, sexual harassment is frequently or courting.⁵ Men and women can be victims of workplace sexual harassment.⁶ Workplace or work premises sexual harassment in both countries is exacerbated by inadequate regulatory provisions on the subject.⁷ Sexual harassment has effects on its victims.⁸ Research concerning this topic have confirmed that most of the victims are distressed by it.⁹ Others experience feelings varying from nervousness, irritation, anger,¹⁰ humiliation, and powerlessness.¹¹ Sexual harassment at its worst makes the victims working lives not

Brobbeya (et.al.), "Employees' Perception of Sexual Harassment and Its Impacts on Employee Performance in Ghana," *Social Values and Society* 4, no. 2 (2022): 36-40, <http://doi.org/10.26480/0/svs.02.2022.36.40>.

² Noah Yusuf, "Experience of Sexual Harassment at Work by Female Employees in a Nigerian Work Environment," *Journal of Human Ecology* 30, no.3 (2010): 179-186, 10.1080/09709274.2010.11906287. See also, R. Peters and P. A. Bourne, "Sexual Harassment and Sexual Harassment Policy in Jamaica: The Absence of a National Sexual Harassment Policy and the Way Forward," *Asian Journal of Business Management* 4, no. 1 (2012): 1-19.

³ Ghanaian Chronicle, "African Women Lawyers Launch Report on Sexual Harassment... The Issue of Sexual Harassment is Pervasive Yet Ignored [Ghana]," accessed on December 6, 2022, <https://www.business-humanrights.org/pt/ultimas-noticias/african-women-lawyers-launch-report-on-sexual-harassment>. See also International Labour Organization, *Safe and Healthy Working Environments Free from Violence and Harassment*, (Geneva: International Labour Organization, 2020), 20.

⁴ Josephine Ganu and Peter Agyekum Boateng, "Examining Sexual Harassment Experiences in the Ghanaian Work Environment: Behavioural Responses and Effects on Both Women and Men," 2.

⁵ Ellen Bortei-Doku Aryeetey, *Coming to Terms with Sexual Harassment in Ghana* (Ghana: Institute of Statistical, Social, and Economic Research University of Ghana, 2004), 1-71. See also, Augustine Kobina Andoh, "Sexual Harassment in the Workplace: The Ghanaian Experience," accessed on December 9, 2022, <http://www.oocities.org/cspslibrary>, see also Josephine Ganu and Peter Agyekum Boateng.

⁶ United Nations, *Country Gender Equality Profile Viet Nam: 2021* (Hanoi: United Nations Entity for Gender Equality and the Empowerment of Women, 2021), 177.

⁷ I Enobong Mbang Akpambang, "Sexual Harassment of Female Employees in the Workplace: Imperative for Stringent Legal and Policy Frameworks in Nigeria," 70-73, see also Jeoma Okereke, "Lack of Organisational Policies, Other Factors Encourage Sexual Harassment in Nigerian Newsrooms," accessed on July 27, 2023, <https://www.premiumtimesng.com>. See also, Mercy Ayodele, "Workplace Sexual Harassment Still Prevalent in Nigeria," accessed on July 27, 2023, <https://businessday.ng/bd-weekender/article>. See also International Labour Organization and Lloyd's Register Foundation, *Experiences of Violence and Harassment at Work: A Global First Survey* (Geneva: International Labour Organization, 2022), 17.

⁸ International Labour Organization, *Empowering Women at Work: Policies and Practices for Gender Equality in Supply Chains* (Geneva: International Labour Office Geneva, 2022), 24. See also, International Labour Organization, *Gender Diversity Journey: Company Good Practices* (Geneva: International Labour Office Geneva, 2017), 17.

⁹ Diane Crocker and Valery Kalembo, "The Incidence and Impact of Women's Experiences of Sexual Harassment in Canadian Workplaces," *Canadian Review of Sociology and Anthropology* 36, no. 4 (1999): 541-558, <https://doi.org/10.1111/j.1755-618X.1999.tb00963.x>.

¹⁰ Myriam Vuckovic, Annette Altvater, Linda Helgesson, Sekei Kristina Kloss, "Sexual Harassment and Gender-Based Violence in Tanzania's Public Service: A Study Among Employees in Mtwara Region and Dar es Salaam," *International Journal of Workplace Health Management* 10, no. 2 (2017): 117, 10.1108/IJWHM-02-2015-0011.

¹¹ International Labour Organization, "Sexual Harassment at the Workplace in Viet Nam: An Overview of the Legal Framework. Research Report by Ministry of Labour – Invalids and Social Affairs of Viet Nam in 2013" (ILO Research Report, 2013), 33. See also, R.A. Thacker, S.F. Gohmann, and R.A. Jhacker, "Emotional and Psychological Consequences of Sexual Harassment: A Descriptive Study," *Journal of Psychology* 130, no. 4 (1996): 429-446, 10.1080/00223980.1996.9915030, Jusung Lee and Mihyun Oh, "Combat Workplace Sexual Harassment by Third Parties? Reframing Institutional Measures and Cultural Transformation in South Korea," *Violence Against Women* 27, no. 14 (2021): 2835-2852, 10.1177/1077801220969901, M. Rubenstein, *Dealing*

only miserable but also dangerous. Also, some victims fall ill¹² when the harassment is frequent or done by a supervisor or involves coercion, or occurs over a period of time¹³ Furthermore, victims of workplace sexual harassment may leave their jobs. Also, some victims with a history of workplace sexual harassment bear considerable financial burdens for counselling and health care to recover from the incidents.¹⁴ Employers may lose resourceful and talented workers, while job applications into the organizations may be dissuaded. Employers who neglect to prevent workplace sexual harassment may face likely court actions from victims.¹⁵ To employers, the effect is that there is reduced enterprise productivity as a result of victims demotivation, compromised teamwork, tardiness,¹⁶ and absenteeism.¹⁷ Innovation and progress within the enterprise are stalled when team spirit and trust is absent in the working environment.¹⁸ Apart from the prevalence and effects of workplace or work premises sexual harassment, legal provisions on it are inadequate.

While prevalence has been examined to an extent by some scholars,¹⁹ this article analyses some of the inadequacies in the legal provisions on workplace sexual harassment in both Nigeria and Ghana. This article suggests some of the items that should be included in a law on workplace or work premises sexual harassment. Considering the experiences of Nigeria and Ghana, though there are some statutory provisions on sexual harassment, it would appear that their contents are scanty and insufficient to effectively prohibit or control workplace sexual harassment. While some statutes only mention the term sexual harassment²⁰ without providing for remedies, penalties, sanctions, and enforcement procedures, others left the subject to be interpreted by the courts from general provisions on freedom from

with *Sexual Harassment at Work: The Experience of Industrialized Countries, in Conditions of Work Digest: Combating Sexual Harassment at Work* (Geneva: International Labour Organization, 1992), 9.

¹² International Labour Organization, "Sexual Harassment at the Workplace in Viet Nam: An Overview of the Legal Framework. *Research Report by Ministry of Labour – Invalids and Social Affairs of Viet Nam in 2013*," 33.

¹³ R.A. Thacker, S.F. Gohmann and R.A. Jhacker, "Emotional and Psychological Consequences of Sexual Harassment: A Descriptive Study."

¹⁴ Jusung Lee and Mihyun Oh, "Combat Workplace Sexual Harassment by Third Parties? Reframing Institutional Measures and Cultural Transformation in South Korea," *Violence Against Women* 27, no. 14 (2021): 2835-2852, 10.1177/1077801220969901.

¹⁵ M. Rubenstein, "Dealing with Sexual Harassment at Work: The Experience of Industrialized Countries, in *Conditions of Work Digest: Combating Sexual Harassment at Work*."

¹⁶ Lisa Mainiero, "Workplace Romance Versus Sexual Harassment: A Call to Action Regarding Sexual Hubris and Sexploitation in the #MeToo Era," *Gender in Management* 35, no. 4 (2020): 331, 10.1108/GM-11-2019-0198.

¹⁷ International Labour Office, "Sexual Harassment at Work," accessed on September 14, 2022, https://www.ilo.org/wcmsp5/groups/public/---ed_norm/---declaration/documents/publication.

¹⁸ International Labour Office.

¹⁹ Noah Yusuf, "Experience of Sexual Harassment at Work by Female Employees in a Nigerian Work Environment," *Journal of Human Ecology* 30, no. 3 (2010): 179-186, 10.1080/09709274.2010.11906287. See also, R. Peters and P. A. Bourne, "Sexual Harassment and Sexual Harassment Policy in Jamaica: The Absence of a National Sexual Harassment Policy and the Way Forward," *Asian Journal of Business Management* 4, no. 1 (2012): 1-19. See also, Augustine Kobina Andoh, "Sexual Harassment in the Workplace: The Ghanaian Experience."

²⁰ Constitution of the Federal Republic of Nigeria (as amended by the Third Alteration Act), Section 254 C (I) (g). See also, the Ghanaian Domestic Violence Act (Act 732) 2007 both of which merely mentioned the term 'sexual harassment without more.'

discrimination and the right to dignity of a person contained in the fundamental rights provisions of the constitutions of both Nigeria and Ghana.²¹ The article is divided into the following sections. Section A is introductory. Section B clarifies the meaning of sexual harassment. The organizational theory or thesis of sexual harassment is examined in section C and is used to navigate the discussion herein. Sub-section 1 of section C analyzed some of the shortcomings of the statutory provisions on sexual harassment in both Nigeria and Ghana. This was done with the aim of highlighting their scantiness and using it to support the argument for comprehensive laws which can prevent or control workplace sexual harassment. Sub-section 2 of section C suggests some items that should be in a comprehensive law on workplace or work premises sexual harassment. Section D is the conclusion.

B. Conceptual Clarifications

Workplace sexual harassment is a work-related discrimination.²² It has been defined in legislations and court rules in Nigeria and Ghana. Concerning Nigeria, Order 1 Rule 10 (1) of the National Industrial Court of Nigeria's (Civil Procedure) Rules 2017²³ (NICN Civil Procedure Rules) defined it as an offensive unpleasant, unwanted, or threatening behavior of a sexual kind, different from sexual attention that is mutual and welcome or accepted.²⁴ Sexual attention changes to sexual harassment if: (a) the conduct is persistent, even though a single instance or occurrence can be regarded as sexual harassment; and/or (b) the recipient has made it known that the conduct is offensive; and/or (c) the offender ought to have known that the conduct is unacceptable.²⁵ The definition of sexual harassment in Order 1 Rule 10 (1) of the NICN Civil Procedure Rules seems to create confusion because it makes a distinction between sexual harassment (which it described as unwanted, unpleasant, offensive,

²¹ See for instance the following Nigerian cases: *Ejike Maduka v Microsoft Nigeria Limited and Three Others*, unreported, suit no. NICN/LA/492/2012, judgment delivered by Hon Justice O.A. Obaseki-Osaghae on December 19, 2013, accessed on June 17, 2022, [https://compendium.itcilo.org/en/compendium-decisions/national-industrial-court-of-nigeria-ejike-maduka-v-micro soft](https://compendium.itcilo.org/en/compendium-decisions/national-industrial-court-of-nigeria-ejike-maduka-v-micro-soft). See also *Pastor (Mrs.) Abimbola Patricia Yakubu v Financial Reporting Council of Nigeria Anor*, unreported suit no. NIC/LA/673/2013, judgment delivered by Justice Oyewumi Oyebiola on November 24, 2016 accessed on June 21, 2022, <https://www.nicnadr.gov.ng/judgement>. In the former case, while the NICN interpreted Section 42 (1) regarding freedom from discrimination to find sexual harassment, in the latter case, it interpreted Section 34 (1) of the Nigerian Constitution regarding right to dignity of the human person to find sexual harassment.

²² Gary N. Powell, "Definition of Sexual Harassment and Sexual Attention Experienced," *The Journal of Psychology: Interdisciplinary and Applied* 113, no.1 (1983): 113, 10.1080/00223980.1983.9923564. See also, Anita Raj, Nicole E. Johns, Rupa Jose, "Gender Parity at Work and Its Association with Workplace Sexual Harassment," *Journal of Workplace Health and Safety* 20, no. 10 (2020): 1-2, <https://doi.org/10.1177/2165079919900793>, Hong Zhu, Yijing Lyu and Yijiao Ye, "Workplace Sexual Harassment, Workplace Deviance, and Family Undermining," *International Journal of Contemporary Hospitality Management* 31, no. 2 (2019): 595-596, <https://doi.org/10.1108/IJCHM-11-2017-0776>, International Labour Organisation, *Preventing and Responding to Sexual Harassment at Work: Guide to the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act 2013, India* (Geneva: International Labour Organization, 2013), 20.

²³ Order 1 Rule 10 (1).

²⁴ National Industrial Court of Nigeria's (Civil Procedure) Rules 2017, Order 1 Rule 10 (1).

²⁵ See Section 175 of the Ghanaian Labour Act (Act 651) 2003 for Ghanaian Definition of Sexual Harassment.

or threatening conduct or behavior of a sexual nature) and sexual attention (which it explained to be welcome and mutual).

More confusion also appears to be created when the provision failed to define the term sexual attention. But rather stipulated that sexual attention can become sexual harassment when any of the following happens viz: (a) the sexual behaviour is continuous, even though a single instance or incident can change to or become sexual harassment and/or (b) the harassed has made it known that the conduct is offensive and/or (c) the harasser knew that the conduct is unacceptable. It should be noted that neither the NICN Civil Procedure Rules nor any decision of the NICN explained the term sexual attention however, sexual attention has been explained as attention that includes but is not restricted to comments about another person's bodily appearance or clothing that could be described or perceived by another as sexual in nature, jokes founded on sex, sexual remarks, invitations, propositions, or familiarity.²⁶

One relevant question is that: if sexual attention is described as welcome and mutual, as explained in the NICN Civil Procedure Rules, will sexual attention not be used as a defense by a harasser in a case of sexual harassment? It can be argued that sexual attention may be used as a defense by a harasser in a case of sexual harassment. Another part of Order 1 Rule 10 (1) of the NICN Civil Procedure Rules²⁷ that a harasser can use as a possible defense in a case of sexual harassment is the statement that sexual attention can become sexual harassment if the harasser knows that the conduct is unacceptable. What the statement implies, or means is that a harasser can rely on it to possibly argue in defence that he or she never knew that the sexual conduct was unacceptable in a case of sexual harassment.

A further implication is that the offence of sexual harassment may be difficult to prove by the victim because of the inclusion of the term sexual attention in the NICN Civil Procedure Rules. The term sexual attention should be expunged from the provision leaving the definition of sexual harassment. Also suggested to be expunged is the statement that sexual attention can change to sexual harassment upon certain conditions. Section 175 of the Ghanaian Labor Act (Act 651) 2003 defined sexual harassment as any offensive, importunate, or unwelcome sexual request or advances made by a superior officer, an employer, or a co-worker, whether the worker is a woman or man. While the definition of sexual harassment in the Ghanaian Labour Act is related to some likely acts of an employer or employee in the workplace, its weakness is that its restrictiveness by the use of the word 'any' that precedes the definition. The implication of the use of the word 'any' is that sexual harassment in the workplace will be limited only to the acts stipulated in the definition viz: offensive, importunate, or unwelcome sexual requests or advances. By this, conduct falling outside the aforementioned acts may not be considered as part of the

²⁶ Law Insider, "Sexual Attention Definition," accessed on August 22, 2022, [https://dictionary/sexual-attention](https://dictionary.sexual-attention).

²⁷ NICN Civil Procedure Rules.

definition of sexual harassment. The provision should be amended, and the word “any” replaced with “includes”.

The use of the word “includes” gives opportunity for the term sexual harassment to be understood in the light of other laws that have broad explanation of the term sexual harassment. Also, the Ghanaian Domestic Violence Act²⁸ defined domestic violence to include sexual harassment.²⁹ Even though the act did not expressly define the term sexual harassment, it explained the term harassment broadly as sexual contact without consent of the other person, making frequent unwelcome sexual advances, repeatedly accosting a person or making unwanted communication, or statement with a person and also includes loitering outside the harassed person’s place, making unwelcome phone calls, urging a third person to make phone calls to the harassed person, sending, unwelcome messages to the harassed person or involved in any other threatening behaviour.³⁰ This definition appears to include some parts of what has been explained as sexual harassment in the Ghanaian Labour Act.³¹ The definition of sexual harassment in the Ghanaian Labour Act should be amended to include types of behaviour which constitute harassment in the Ghanaian Domestic Violence Act.³² This is because the types of behaviour stated as harassment in the latter act appears to be broad and they can also be considered as sexual harassment.

Generally, in line with sexual harassment, workplace sexual harassment comprises of three clear but interconnected compositions: gender harassment, unwanted sexual attention, and sexual coercion.³³ Gender harassment is a kind of sexual harassment that comprises of verbal and non-verbal conduct that belittle individuals based or rooted on their gender or sexual manifestation which can or generate a hostile or unfriendly work environment.³⁴ Unwanted sexual attention is explained as constant romantic requests or attention in person or by other means of communication, despite appeals to stop the attention.³⁵ Sexual coercion comprises of forced sexual contact interactions regarded as more aggressive in character, such as rubbing someone without consent and exposing oneself sexually without consent.³⁶

Concerning the meaning of workplace, there have been many arguments about its meaning in the context or background of sexual harassment. Earlier, there have been different suggestions put forward about the workplace being the premises or

²⁸ Domestic Violence Act (Act 732 of 2007).

²⁹ Domestic Violence Act section 1 (c).

³⁰ Ghanaian Domestic Violence Act, (Act 732), 2007 Section 42.

³¹ Ghanaian Labour Act Section 175.

³² Domestic Violence Act.

³³ Anita Raj, Nicole E. Johns, Rupa Jose, “Gender Parity at Work and Its Association with Workplace Sexual Harassment,” 1-2.

³⁴ Anita Raj, Nicole E. Johns, Rupa Jose.

³⁵ Anita Raj, Nicole E. Johns, Rupa Jose.

³⁶ Anita Raj, Nicole E. Johns, and Rupa Jose, see also Hong Zhu, Yijing Lyu, Yijiao Ye, “Workplace Sexual Harassment, Workplace Deviance, and Family Undermining.”

grounds where employees do work.³⁷ While other views have included or extended it to public places that are visited frequently by employees in the location or setting of their work. Currently, it is well recognised that a workplace is any location, place, or area where working activities or associations between employer and employee(s) happen going beyond the physical border of the primary workplace, location, or office building.³⁸ The article now turns to the organizational theory of sexual harassment which attempts to expound the cause of sexual harassment in work premises or workplace.

C. Organizational Theory of Sexual Harassment

There is no single cause of sexual harassment.³⁹ Also, there is no universal definition of sexual harassment or a theoretical framework that best explains it.⁴⁰ However, there have been some theories of sexual harassment that define the phenomenon of sexual harassment from several perspectives:⁴¹ sociocultural,⁴² sex-role spillover,⁴³

³⁷ International Labour Organisation, *Preventing and Responding to Sexual Harassment at Work: Guide to the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act 2013, India*, (Geneva: International Labour Organization, 2013), 20.

³⁸ International Labour Organization, 20.

³⁹ Zimbabwe Gender Commission, "Strategy for the Elimination of Sexual Harassment and Gender-Based Violence in the Workplace in Zimbabwe 2021-2025, developed by the Zimbabwe Gender Commission in Collaboration with ILO under the Spotlight Initiative," (ILO Booklet, 2021). See also, Paula McDonald, "Workplace Sexual Harassment 30 Years on: A Review of the Literature," *International Journal of Management Reviews* 14, no. 1-17 (2012): 4-7, 10.1111/j.1468-2370.2011.00300.x.

⁴⁰ Jessica L. Ford, Sonia Ivancic, and Jennifer Scarduzio, "Silence, Voice, and Resilience: An Examination of Workplace Sexual Harassment 2," *Communication Studies* 72, no. 4 (2021): 513-530, 10.1080/10510974.2021.1953092. See also, Choo Eern Yie and Nicole Tham Seow Ping, "Sexual Harassment in Workplace: A Literature Review," *The International Journal of Humanities and Social Studies* 9, no. 8 (2021): 29-34, 10.24940/theijhss/2021/v9/i8/HS2108-023, Pallavi Kapila, "Theoretical Perspectives to Sexual Harassment of Women at Workplace," *International Journal of Humanities and Social Science Invention* 6, no. 9 (2017): 32-35, Paula MacDonald, "Workplace Sexual Harassment 30 Years on: A Review of the Literature." See also, Rosemarie Skaine, *Power and Gender: Issues in Sexual Dominance and Harassment* (North Carolina: McFarland Publishing, 1996), 1.

⁴¹ Afroditi Pina, Theresa A. Gannon, and Benjamin Saunders, "An Overview of the Literature on Sexual Harassment: Perpetrator, Theory, and Treatment Issues," *Aggression and Violent Behavior* 14, no. 2 (2009): 130, 10.1016/j.avb.2009.01.002.

⁴² The proponents of this theory (largely feminist in orientation) explained the cause of sexual harassment to be a rational effect of the gender inequality that already subsists in society. A. Gutek, *Sex and the Workplace: Impact of Sexual Behavior and Harassment on Women, Men, and Organizations*, 203. See also, Alison M Thomas and Celia Kitzinger (ed.), 1-208, Anis Widiyati Pujiyono Pujiyono, and Nur Rochaeti, "Elimination of Sexual Violence in Feminist Legal Theory," 333-352, Zunnuraeni Zunnuraeni (et.al.), "Feminism and the Birth of Sexual Crime as International Crime and the Challenge of Its Implementation in the Future," 539-566, Topo Santoso and Hariman Satria, "Sexual-Violence Offenses in Indonesia: Analysis of the Criminal Policy in the Law Number 12 of 2022," 59-79, Lin Farley, *Sexual Shakedown: The Sexual Harassment of Women on the Job*, 228, Catherine A Mackinnon, *Sexual Harassment of Working Women: A Case of Sex Discrimination*, 300.

⁴³ The theory attempts to integrate both contextual or situational characteristics (e.g., gender ratio at work) and the individual gender-based beliefs and expectations of the harasser. See Barbara A. Gutek, and Bruce Morasch, "Sex Ratios, Sex-Role Spillover and Sexual Harassment of Women at Work," *Journal of Social Issues* 38, no. 4 (1982): 55-74, Jennifer M, Brown, "Aspects of Discriminatory Treatment of Women Police Officers Serving in Forces in England and Wales," *The British Journal of Criminology* 38, no. 2 (1998): 265-282, <https://doi.org/10.1093/oxfordjournals.bjc.a014235>, see also European Commission, Directorate-General for

natural or biological,⁴⁴ and the organizational theory. This article will only examine the organizational theory as it appears to be more relevant to the herein.

Based on organizational theory,⁴⁵ sexual harassment can be traced to various issues related to organizations. Some of which are power and ranking inequalities inside the organization which increase the possibility of sexual harassment occurring. Some proponents of this theory broadly accept that one of the central concepts that help explain sexual harassment is power.⁴⁶ Patterns in most societies suggest that men typically hold more power than women and the stereotypes prevailing between sexes are that men are aggressive and powerful while women are passive.⁴⁷

However, organizational theory does not concentrate upon these power distinctions as being gender specific.⁴⁸ Thus, it could be understood from the organizational theory or thesis that though sexual harassment perhaps is more frequently committed by males, it can also be committed by females who are in positions of power. Also, some researchers of the organizational theory explain that sexual harassment by subordinates or peers can be seen as an effort to increase power or equalize the power distinction between the harasser and the victim within the organization.⁴⁹

So, in this sense, organizational theory may be able to explain sexual harassment perpetrated by subordinates since it presumes such individuals harass to confirm or equalize power differences.⁵⁰ The organizational theory further posits that not only power that encourages sexually abusive behavior,⁵¹ factors such as permissiveness of

Employment, Social Affairs and Inclusion, "Sexual Harassment at the Workplace in the European Union," accessed on June 11, 2022, <https://op.europa.eu/en/publication-detail/-/publication>.

⁴⁴ This perspective posits that sexual harassment is a natural extension of mate selection evolutionary theory. In other words, sexual harassment represents an expression of sexual attraction, a natural element in mate-seeking. See Azy Barak, Yael Pitterman, and Rivi Yitzhaki, "An Empirical Test of the Role of Power Differential in Originating Sexual Harassment," *Basic and Applied Social Psychology* 17, no. 4 (1995): 479-517, 10.1207/s15324834basp1704_5. See also Kingsley R Browne, "An Evolutionary Perspective on Sexual Harassment: Seeking Roots in Biology Rather Than Ideology," *Journal of Contemporary Legal Issues* 8, no. 5 (1997): 77. See also, Michael V Studd and Urs E. Gattiker, "The Evolutionary Psychology of Sexual Harassment in Organizations," *Ethology and Sociobiology* 12, no. 4 (1991): 249-290, Kingsley R Browne, "An Evolutionary Perspective on Sexual Harassment: Seeking Roots in Biology Rather Than Ideology," *Journal of Contemporary Legal Issues* 8, no. 5 (1997): 77.

⁴⁵ James E. Gruber, "A Typology of Personal and Environmental Sexual Harassment: Research and Policy Implications for the 1990s," *Sex Roles* 26, no. 11-12 (1992): 447. See also, Sandra S. Ta'ngri, Martha R. Burt, and Leanor B. Johnson, "Sexual Harassment at Work: Three Explanatory Models," *Journal of Social Issues* 38 (1982): 33-54, <https://doi.org/10.1111/j.1540-4560.1982.tb01909.x>.

⁴⁶ Jeanette N. Cleveland and Melinda E. Kerst, "Sexual Harassment and Perceptions of Power: An Under-Articulated Relationship," *Journal of Vocational Behaviour* 42, no. 1 (1993): 49-67, <https://doi.org/10.1006/jvbe.1993.1004>.

⁴⁷ Elizabeth Rice Allgeier, and Naomi B. McCormick, *Changing Boundaries: Gender Roles and Sexual Behaviour* (United States: Brown William C. Co, 1982), 1-380.

⁴⁸ Afroditi Pina, "An Overview of the Literature on Sexual Harassment: Perpetrator, Theory, and Treatment Issues," 131.

⁴⁹ Jeanette N. Cleveland, "Sexual Harassment and Perceptions of Power," 49.

⁵⁰ Afroditi Pina, 132.

⁵¹ Afroditi Pina.

the work premises,⁵² organizational ethics, gendered occupations, norms, and policies also facilitate sexual harassment.⁵³ The organizational theory appears to be more relevant to this article because it explains several factors which promote workplace sexual harassment, some of which are lack of anti-sexual harassment policy and complaints procedure. The organizational theory would advance that sexual harassment would likely be prevalent where there is no clear anti-sexual harassment policy or complaints procedure.⁵⁴ The article for this reason adopts the organizational theory to support the argument that inadequate laws make workplace sexual harassment prevalent.

1. Shortcomings of Some of the Statutory Provisions on Sexual Harassment in Both Nigeria and Ghana

The article will now analyze some statutory provisions on sexual harassment in both Nigeria and Ghana. The purpose is to demonstrate their scantiness and inadequacy. The article will begin first with Nigerian and then Ghanaian Laws.

a. Nigerian Laws

1) Constitution: the term sexual harassment was only mentioned once in the constitution (as amended) as part of the matters for which the NICN has jurisdiction to adjudicate on⁵⁵ and not mentioned in connection with regulation of sexual harassment in work premises or workplace. However, Section 42 (1) (a) of the Constitution is a general provision which guarantees freedom from discrimination on different grounds such as race, religion, and sex (gender). Therefore, Section 42 (1) (a) of the Constitution is not comprehensive on workplace or work premises sexual harassment. The lack of definite and explicit law on workplace sexual harassment made the NICN rely on section 42 (1) (a) of the Constitution of the Federal Republic of Nigeria (CFRN) 1999 relating to freedom from discrimination and relevant international instruments⁵⁶ to establish workplace sexual harassment in *Ejike Maduka v Microsoft Nigeria Limited and three others*.⁵⁷

The NICN specifically noted that Nigerian Labour Law has no clear provision on workplace sexual harassment. However, Sections 254C (1) (g) and 254C (2) of the

⁵² Laura Babbitt, Drusilla K. Brown, and Ana Antolín. *Sexual Harassment: Causes and Remediation: Evidence from Better Factories Cambodia* (Geneva: International Labour Organization, 2020), 7.

⁵³ Inez Dekker and Julian Barling, "Personal and Organizational Predictors of Workplace Sexual Harassment of Women by Men," *Journal of Occupational Health Psychology* 3, no. 1 (1998): 1-18, <https://doi.org/10.1037/1076-8998.3.1.7>. See also Lin, Xirong, Laura Babbitt, and Drusilla K. Brown, "Sexual Harassment in the Workplace: How Does It Affect Firm Performance and Profits?" (ILO Discussion Paper, 2014), 3.

⁵⁴ Afroditi Pina, "An Overview of the Literature on Sexual Harassment: Perpetrator, Theory, and Treatment Issues."

⁵⁵ Constitution of the Federal Republic of Nigeria (as amended by the Third Alteration Act, 2010) Section 254 C (1) (g).

⁵⁶ United Nations Convention on The Elimination of All Forms of Discrimination Against Women (CEDAW) and ILO Discrimination (Employment and Occupation) Convention 1958 Number 111 which have been ratified by Nigeria and CEDAW General Recommendation Number 19 of 1992.

⁵⁷ *Ejike Maduka v Microsoft Nigeria Limited and Three Others*.

Constitution (as amended) conferred exclusive jurisdiction on the NICN to hear matters on sexual harassment and to apply treaties which Nigeria has ratified relating to labour and employment law notwithstanding any conflicting provision of the Constitution. Having established sexual harassment against the third respondent, manager of the first respondent (Microsoft Nigeria Limited), the NICN relied on international instruments to hold the third respondent culpable. The argument is that there is no comprehensive local law on workplace sexual harassment in Nigeria. Also, in *Stella Ayam Odey v Ferdinand Daapah and Anor*,⁵⁸ the NICN relying on section 42 of the Constitution and *Ejike Maduka v Microsoft Nigeria Limited and Three Others*⁵⁹ held that the claimant (a female employee) was harassed sexually by the first defendant (a male employee). The court further held that the claimant's fundamental human right against discrimination as stipulated in section 42 of the Nigerian Constitution was breached by the first defendant. Section 42 of the Constitution is thus a general provision which guarantees freedom from various types of discrimination. There is therefore a need to have a comprehensive law on workplace or work premises sexual harassment.

Section 34 (1) of the CFRN is another scanty provision on sexual harassment in Nigeria. The section guarantees right of dignity. However, the section only protects the dignity of a person as a fundamental human right and not directly related to workplace sexual harassment. In *Pastor (Mrs.) Abimbola Patricia Yakubu v Financial Reporting Council of Nigeria Anor*,⁶⁰ the NICN relied on both Section 34 (1) of the CFRN and other international instruments on sexual harassment to establish workplace sexual harassment. The content of Section 34 (1) is also scanty like section 42 (1) of the CFRN. The lack of comprehensive local laws on workplace or work premises sexual harassment made the NICN to rely more on international instruments. (2) Labour Act: the Labour Act has no single provision on sexual harassment in the workplace. Neither does it contain any provision relating to freedom from prejudice or discrimination in the workplace. Currently, there is a bill, the Labour Standards Bill 2016 before the National Assembly (Nigerian Legislature) which seeks to repeal the Labour Act 1990. (3) Criminal Code: there appears to be no express provision on sexual harassment in both the Criminal Code Act⁶¹ (applicable to the southern states of Nigeria) and the Penal Code (Northern States) Federal Provisions Act⁶² (applicable to states in Northern Nigeria).⁶³

However, there are provisions on sexual gratification, gross indecency in sections 281, 282, 286 of the Nigerian Penal Code, and assault in sections 351 and 360 of the

⁵⁸ *Stella Ayam Odey v Ferdinand Daapah Anor* unreported suit No: NICN/CA/03/2016, judgment delivered by Hon. Justice E. N. N. Agbakoba.

⁵⁹ *Ejike Maduka v Microsoft Nigeria Limited and Three Others*.

⁶⁰ *Pastor (Mrs.) Abimbola Patricia Yakubu v Financial Reporting Council of Nigeria Anor*.

⁶¹ Criminal Code Act 1916.

⁶² Penal Code (Northern States) Federal Provisions Act 1960.

⁶³ S.O. Okoye (et.al.) "Sex For Marks Scandals in South-East Nigeria Institutions of Higher Learning, Female Students Victim and the War Against Sexual Harassment," 89-92.

Nigerian Criminal Code which can be understood as a form of sexual harassment. Though sexual gratification,⁶⁴ gross indecency,⁶⁵ and assault⁶⁶ are contained in the Penal Code and the Criminal Code a judge by dynamic statutory interpretation⁶⁷ can stretch the definition of sexual harassment to include behaviors such as assault, sexual gratification, and gross indecency but defining sexual harassment in general is not sufficient to control or prevent workplace sexual harassment unless the judge by the same method of interpretation can go further to formulate comprehensive principles on sanctions, penalties against a harasser, and remedies. (4) Labour Standards Bill:⁶⁸ currently, there is a bill (Labour Standards Bill) before the Nigerian National Assembly (legislature) which seeks to repeal the Labour Act and make some provisions for labour and employment standards for Nigeria. The bill is yet to be signed into law. Even though sexual harassment is defined in the bill, Section 20 (1) of the bill is worrisome.

It states that anyone who is involved in sexual harassment during job recruitment process or during work which is not restricted to the workplace of the employer, has committed an offence and he or she is liable to pay fine on conviction. The provision seems to be restricted to employees alone leaving out the employer in sexual harassment in work premises or workplace. Since the bill has not been signed into law, the lawmakers may reconsider the possible implication of Section 20 (1).⁶⁹ (5) The Violence Against Persons (Prohibition) Act (VAPA):⁷⁰ Section 46 of the act defines sexual harassment as unwanted sexual behavior or other behavior based on sex or gender that is persistent or demeans and serious, embarrass or creates a hostile situation or environment and this includes physical, bodily, verbal, or non-verbal behavior. However, the act is applicable only to *Abuja* (the federal capital of Nigeria). Also, there are no comprehensive provisions that can prevent or control workplace or work premises sexual harassment in it. (6) The Independent Corrupt Practices Commission (and other related offences act):⁷¹ Section 112A (1) (2) of the Act regard sexual harassment by public officers as corrupt practices and an abuse of office punishable with imprisonment.

In *Richard Akindele v Federal Republic of Nigeria*⁷² the appellant (a former lecturer at the Obafemi Awolowo University Nigeria) was arraigned at the Federal

⁶⁴ Penal Code Section 282.

⁶⁵ Criminal Code Section 217; Penal Code Section 286.

⁶⁶ Criminal Code Sections 351 and 361.

⁶⁷ Dynamic statutory interpretation means that the interpretation of a legal provision by an interpreter or a judge is not necessarily or really one which the legislature would have endorsed. See Eskridge William N. Jr., "Dynamic Statutory Interpretation," *University of Pennsylvania Law Review* 135, no. 6 (1987): 1479-1555, 10.2307/3312014.

⁶⁸ Labour Standards Bill 2016.

⁶⁹ See also legal provisions in the Independent Corrupt Practices Commission (and other related offenses act) and Violence Against Person Act 2015 which are also scanty on sexual harassment.

⁷⁰ The Violence Against Persons (Prohibition) Act 2015.

⁷¹ The Independent Corrupt Practices Commission (and other related offences act) 2000.

⁷² *Prof. Akindele v Federal Republic of Nigeria*, unreported suit no. CA/AK/80c/2019, judgment delivered on March 5, 2021.

High Court (court of first instance) by the Independent Corrupt Practices and Other Related Offences Commission for an offence related to abuse of office, to wit, demanding sex from a student at the University in exchange for marks. The offence is contrary to Section 112A (1) (2) of the Independent Corrupt Practices Commission (and other related offences Act).⁷³ The defendant was convicted and sentenced to 2 years imprisonment. The judgment was affirmed by the Nigerian Court of Appeal.

b. Ghanaian Laws

Ghana has no comprehensive legislation on sexual harassment. However, definition of the subject and redress can be found in various legislations.⁷⁴ (1) Constitution:⁷⁵ Section 17 of the Constitution of Ghana⁷⁶ specifically guarantees equality and non-discrimination on the grounds of gender. Discrimination is explained as treating people differently.⁷⁷ Since sexual harassment is understood to be a form of prejudice or discrimination, this provision can be applied to situations of sexual harassment. The limitation of this provision is that it did not mention or define the term sexual harassment neither are remedies prescribed for situations of sexual harassment in work premises or workplace. (2) Labour Act:⁷⁸ defined the term sexual harassment.⁷⁹ Section 175 of the act also stipulates that an employer should mediate in workplace or work premises sexual harassment.

Furthermore, if an employee terminates his or her employment because his or her employer did not act against sexual harassment in work premises or workplace, such termination is considered unfair termination.⁸⁰ Apart from the foregoing provision, the act did not provide for remedies, sanctions, and enforcement in case of sexual harassment. (3) Criminal Code Act:⁸¹ the term sexual harassment was neither mentioned nor defined in the Criminal Code Act. Rather, Section 103 of the Act used the term indecent assault and described the following acts as indecent assault: a person (a) forcibly makes any bodily contact with another person without consent; or (b) sexually violates another person in any way not considered as carnal knowledge.⁸² These acts are included in the description of sexual harassment. The article will now discuss some items that should be included in a proposed law on workplace or work premises sexual harassment.

⁷³ The Independent Corrupt Practices Commission (and other related offences act) 2000.

⁷⁴ Alliance for Women in Media Africa, *Sexual Harassment Guide for Media in Ghana and Gender Sensitive Code for Media Organizations* (Ghana: UG Printing Press, 2021), 2.

⁷⁵ Constitution of Ghana (Act 527) 1992 (as amended).

⁷⁶ Constitution of the Republic of Ghana 1992, as amended to 1996.

⁷⁷ Constitution of Ghana Section 17 (3).

⁷⁸ Ghana Labour Act 2003 Act 651.

⁷⁹ Ghana Labour Act Section 175.

⁸⁰ Ghana Labour Act Sections 15 and 63(3) (b).

⁸¹ Ghanaian Criminal Code Act (Act 29) 1960 as amended.

⁸² Ghanaian Criminal Code Act, Section 103 (2)(a) and (b).

2. Some Items That Should be Considered in Making a Law to Prevent or Control Workplace Sexual Harassment

The items in the guidelines prescribed by the Indian Supreme Court in *Vishaka and Others v State of Rajasthan and Others*⁸³ for preventing or controlling sexual harassment in the workplace are apposite and suggested. The guidelines should be considered for a comprehensive law⁸⁴ for preventing or controlling workplace or work premises sexual harassment in both Nigeria and Ghana. The reason for this suggestion is that the guidelines by the Indian Supreme Court in the aforementioned case listed important items that are necessary for making a law on workplace sexual harassment.

Against the backdrop of sexual harassment (especially of female employees) at the workplace in India, a three-judge bench of the Supreme Court of India by a rather innovative way issued firm guidelines in the case of *Vishaka v State of Rajasthan*⁸⁵ after observing that the penal and civil laws of India then do not sufficiently protect female workers from sexual harassment in workplaces. The Supreme Court further observed that making a law in this regard would take a long time. Although the guidelines made by the Indian Supreme Court were only applicable to female employees, the article recommends that they should be adopted and made applicable to all employees (male or female) and employers in the workplace in Nigeria and Ghana. The items listed in *Vishaka and Others v State of Rajasthan and Others*⁸⁶ are highlighted here under. Also, other relevant items have also been suggested. They are:

a. Duty of the Employer or Those in Authority in Workplaces and Organizations

The employer or a person in authority has a duty in workplaces to stop or deter or prevent sexual harassment and to set up the methods for the settlement, resolution, or prosecution of sexual harassment.⁸⁷

- 1) Definition: sexual harassment in the workplace should be defined to include unwelcome sexual behaviour (whether directly or indirectly) to wit, (i) bodily

⁸³ *Vishaka and Others v State of Rajasthan and Others*. See also, International Labour Organisation, *Guidelines on Sexual Harassment Prevention at the Workplace Issued by the Circular Note of the Minister of Manpower and Transmigration Indonesia No. SE.03/MEN/IV/2011* (Geneva: International Labour Organisation), 9.

⁸⁴ International Labour Organization, *Eliminating Sexual Harassment in Workplaces in the Pacific: Policy Brief* (Geneva: International Labour Organization, 2015), 7-8. See also International Labour Organization, *Safe and Healthy Working Environments Free from Violence and Harassment*, 32-37. See also, Zimbabwe Gender Commission, *Training Manual for Policy Development and Programme Implementation Addressing Gender-Based Violence and Sexual Harassment in the Workplace in Zimbabwe* (Geneva: International Labour Organization, 2023), 7.

⁸⁵ *Vishaka and Others v State of Rajasthan*.

⁸⁶ *Vishaka and Others v State of Rajasthan*.

⁸⁷ Zimbabwe Gender Commission, *Strategy for the Elimination of Sexual Harassment and Gender-Based Violence in the Workplace in Zimbabwe 2021-2025 Developed by the Zimbabwe Gender Commission in Collaboration with ILO under the Spotlight Initiative* (Geneva: International Labour Organization, 2021), 29-30. See also, International Labour Organization, *Labour Standards in Global Supply Chains: How to Meet Them to Become More Competitive and Sustainable* (Geneva: International Labour Office Geneva, 2020), 64-66.

- contact and advances; (ii) requests or demands for sex, (iii) sexual remarks; (iv) displaying pornography; and any other unwelcome sexual conducts;
- 2) Preventive step: all employers or those in authority in workplaces whether private or public sector must take measures to prevent or stop sexual harassment. They must take the following measures, (i) express or rapid prohibition or prevention of sexual harassment⁸⁸ (ii) government (Nigerian and Ghanaian), public and private sector regulations concerning discipline and conduct should include rules prohibiting sexual harassment and penalties against offenders;
 - 3) Criminal proceedings: where sexual harassment is an offence under the law, the employer should initiate action with the appropriate authority. Also, employers should ensure that witnesses or victims are not maltreated or discriminated against while considering complaints concerning sexual harassment. Furthermore, the harassed should have the option of requesting transfer of the offender or their own transfer;
 - 4) Disciplinary action: where sexual harassment is explained or defined to be misconduct in the relevant service rules, disciplinary action must be initiated by the employer in agreement with those rules;
 - 5) Complaint mechanism: employers should set up complaint mechanism in their organizations for investigation and possible redress of complaints or grievances of sexual harassment. In addition, complaints should be treated within stipulated times. The complaint mechanism, aforementioned, should provide a complaints committee. The Complaints Committee should make regular report to the concerned government department and action taken by them on complaints. The employer should also ensure compliance with a law made on workplace sexual harassment;
 - 6) Employees' initiative: employees should give information on sexual harassment at meetings whether at employee or employer/employee meetings;
 - 7) Awareness: awareness of rights of workers in matters of sexual harassment should be created. This could be done by including such rights in the law on the subject. Also, training⁸⁹ or awareness raising campaigns, should be done in workplaces; and

⁸⁸ Government of India Ministry of Women and Child Development 2015, *Handbook on Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 for Employers /Institutions/Organisations/Internal Complaints Committee/Local Complaints Committee* (New Delhi: Government of India, 2015), 18. See also, International Labour Organization, *Violence and Harassment at Work: A Practical Guide for Employers* (Geneva: International Labour Office, 2022), 27-51.

⁸⁹ See Paula McDonald, Sara Charlesworth, and Tina Graham, "Developing a Framework of Effective Prevention and Response Strategies in Workplace Sexual Harassment," *Asia Pacific Journal of Human Resources* 53, no. 1 (2015): 41-58, 10.1111/1744-7941.12046. See also, Jane Pillinger, *Violence and Harassment Against Women and Men in the World of Work Trade Union Perspectives and Action* (Geneva: International Labour Office, 2017), 13-15.

- 8) Observance of rules: government (Nigerian and Ghanaian) should take appropriate steps to ensure that the laid down rules to prevent sexual harassment are observed by all employers whether in the public or private sectors;

Besides the foregoing, a comprehensive law should include sanctions, penalties against a harasser and remedies for the harassed, providing protection against retaliation or victimization of complainants, witnesses, victims, and whistle-blowers, and ensure that workers have the right to terminate the contract when they reasonably believe that there is sexual harassment in work premises or workplace, without suffering retaliation or other undue consequences.⁹⁰

D. Conclusion

The article examined the inadequacy of legal provisions on workplace or work premises sexual harassment in both Nigeria and Ghana. The legal provisions lacked items such as remedies, sanctions, enforcement procedures, complaint procedures, etc. Those items are important for a law on workplace sexual harassment. Using legal provisions on the subject in Nigeria and Ghana, it argued that the inadequacy of legal provisions is a likely reason for the high incidences of workplace or work premises sexual harassment in both countries. The organizational theory on sexual harassment has been used as a framework to navigate the discussion herein. The article then recommended some items that should be included in a law on workplace sexual harassment. Some of the items include those prescribed in the guidelines by the Indian Supreme Court in *Vishaka and others v State of Rajasthan*.⁹¹

The items in the guidelines include steps employer could take to prevent sexual harassment. Sexual harassment should be clearly defined. An employer should take disciplinary action if the particular workplace already has rules to control sexual harassment. Appropriate complaint mechanism must be created by the employer at the workplace level; for addressing the complaints. Also, there should be dispute resolution mechanisms external (outside) to the workplaces (courts). The complaint mechanism should provide a Complaints Committee with a counsellor or other services, including the maintenance of confidentiality. Employees should report incidents of sexual harassment at staff meetings and in other forums. Employees should be regularly informed of their rights. This can be done in laws made on workplace sexual harassment. Government should adopt measures including law making to ensure compliance by employers.

In addition to the foregoing, a comprehensive law should include sanctions, penalties against an offender or harasser and remedies for victims of sexual

⁹⁰ See The Equal Opportunity Commission of Trinidad and Tobago, *Guidelines on Sexual Harassment in the Workplace* (West Indies: Equal Opportunity Commission of Trinidad and Tobago, 2018), 30-31. See also, International Labour Organization, *Overview of Laws, Policies and Practices on Gender-Based Violence and Harassment in the World of Work in Bangladesh* (Geneva: International Labour Organization, 2020), 67-72.

⁹¹ *Vishaka and Others v State of Rajasthan*.

harassment. Training or awareness-raising campaigns should be undertaken in the workplace. There should be protection against victimization or retaliation against complainants, witnesses, victims, and whistle-blowers. Finally, there should be a provision on right of workers to terminate the employment contract when they reasonably believe that there is sexual harassment in the workplace, without suffering retaliation or other undue consequences. Apart from the foregoing, a few other recommendations were added. The recommendations herein apply to employees and employers. If they are followed, workplace sexual harassment will decrease in both countries.

References

Books

- Allgeier, Elizabeth Rice and Naomi B. McCormick. *Changing Boundaries: Gender Roles and Sexual Behaviour* Brown. United States: William C. Co, 1982.
- Alliance of Women in Media Africa. *Sexual Harassment Guide for Media in Ghana and Gender Sensitive Code for Media Organizations*. Ghana: UG Printing Press, 2021.
- Aryeetey, Ellen Bortei-Doku. *Coming to Terms with Sexual Harassment in Ghana*. Ghana: Institute of Statistical, Social and Economic Research University of Ghana, 2004.
- Farley, Lin. *Sexual Shakedown: The Sexual Harassment of Women on the Job*. New York: McGraw-Hill, 1978.
- Government of India Ministry of Women and Child Development 2015, *Handbook on Sexual Harassment of Women at Workplace (Prevention, Prohibition, and Redressal) Act 2013: For Employers /Institutions/Organizations/Internal Complaints Committee /Local Complaints Committee*. New Delhi: Government of India, 2015.
- Gutek, Barbara. A. *Sex and the Workplace: Impact of Sexual Behavior and Harassment on Women, Men, and Organizations*. San Francisco: Jossey Bass Business and Management Series, 1985.
- International Labour Organization. *Empowering Women at Work: Policies and Practices for Gender Equality in Supply Chains*. Geneva: International Labour Office, 2020.
- _____. *Gender Diversity Journey: Company Good Practices*. Geneva: International Labour Office, 2017.
- _____. *Guidelines on Sexual Harassment Prevention at the Workplace Issued by the Circular Note of the Minister of Manpower and Transmigration Indonesia No.SE.03/MEN/IV/2011*. Geneva: International Labour Organization, 2011.
- _____. *Labour Standards in Global Supply Chains: How to Meet Them to Become More Competitive and Sustainable*. Geneva: International Labour Office Geneva, 2019.

- _____. *Overview of Laws, Policies, and Practices on Gender-Based Violence and Harassment in the World of Work in Bangladesh*. Geneva: International Labour Organization, 2020.
- _____. *Preventing and Responding to Sexual Harassment at Work: Guide to the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013, India*. Geneva: International Labour Organization, 2013.
- _____. *Safe and Healthy Working Environments Free from Violence and Harassment*. Geneva: International Labour Office, 2020.
- _____. *Violence and Harassment at Work: A Practical Guide for Employers*. Geneva: International Labour Office, 2022.
- International Labour Organization and Lloyd's Register Foundation. *Experiences of Violence and Harassment at Work: A Global First Survey*. Geneva: International Labour Office, 2022.
- MacKinnon, Catherine A. *Sexual Harassment of Working Women: A Case of Sex Discrimination*. United States: Yale University Press, 1979.
- Pillinger, J. *Violence and Harassment Against Women and Men in the World of Work Trade Union Perspectives and Action*. Geneva: International Labour Office, 2017.
- Rubenstein, M. *Dealing with Sexual Harassment at Work: The Experience of Industrialized Countries in Conditions of Work Digest: Combating Sexual Harassment at Work*. Geneva: International Labour Office, 1992.
- Skaine, Rosemarie. *Power and Gender: Issues in Sexual Dominance and Harassment*. United States: McFarland Publishing, 1996.
- The Equal Opportunity Commission of Trinidad and Tobago. *Guidelines on Sexual Harassment in the Workplace*. West Indies: Equal Opportunity Commission of Trinidad and Tobago, 2018.
- Thomas, Alison M. and Celia Kitzinger (ed.) *Sexual Harassment Contemporary Feminist Perspectives*. Buckingham: Open University Press, 1997.
- United Nations. *Country Gender Equality Profile Viet Nam: 2021*. Hanoi: United Nations Entity for Gender Equality and the Empowerment of Women, 2021.
- Zimbabwe Gender Commission. *Training Manual for Policy Development and Programme Implementation Addressing Gender-based Violence and Sexual Harassment in the Workplace in Zimbabwe*. Geneva: International Labour Organization, 2023.

Other Documents

- Akpambang, Enobong Mbang. "Sexual Harassment of Female Employees in The Workplace: Imperative for Stringent Legal and Policy Frameworks in Nigeria." *Pancasila and Law Review* 3, no. 1 (2022): 69-94. 10.2504 1/plr.v3i1.2754.
- Andoh, Augustine Kobina. "Sexual Harassment in the Workplace: The Ghanaian Experience." Accessed on December 9, 2022. <https://www.oocities.org/cpslibrary/sexualharassment.html>.

- Babbitt, Laura, Drusilla K. Brown, and Ana Antolín. "Sexual Harassment: Causes and Remediation: Evidence from Better Factories Cambodia." (ILO Discussion Paper, 2020).
- Barak, Azy Yael Pitterman and Rivi Yitzhaki. "An Empirical Test of the Role of Power Differential in Originating Sexual Harassment." *Basic and Applied Social Psychology* 17, no. 4 (1995): 479–517. [10.1207/s15324834basps1704_5](https://doi.org/10.1207/s15324834basps1704_5).
- Brobbeya, Veronica Adu (et.al.) "Employees Perception of Sexual Harassment and Its Impact on Employee Performance in Ghana." *Social Values and Society* 4, no. 2 (2022): 36-40. <http://doi.org/10.26480/svs.02.2022.36.40>.
- Brown, Jennifer M. "Aspects of Discriminatory Treatment of Women Police Officers Serving in Forces in England and Wales." *The British Journal of Criminology* 38, no. 2 (1998): 265 -282. <https://doi.org/10.1093/oxfordjournals.bjc.a014235>.
- Browne, Kingsley R. "An Evolutionary Perspective on Sexual Harassment: Seeking Roots in Biology Rather Than Ideology." *Journal of Contemporary Legal Issues* 8, no. 5 (1997): 5.
- Cleveland, Jeanette N and Melinda E. Kerst. "Sexual Harassment and Perceptions of Power: An Under-Articulated Relationship." *Journal of Vocational Behavior* 42, no.1 (1993): 49-67. <https://doi.org/10.1006/jvbe.1993.1004>.
- Crocker, Diane and Valery Kalemba. "The Incidence and Impact of Women's Experiences of Sexual Harassment in Canadian Workplaces." *Canadian Review of Sociology and Anthropology* 36, no. 4 (1999): 541-558. <https://doi.org/10.1111/j.1755-618X.1999.tb00963.x>.
- Deborah Tolu-Kolawole. "Two UNIABUJA Lecturers Dismissed for Sexual Harassment – VC." Accessed on July 31, 2023. <https://punchng.com/two-uniabuja-lecturers-dismissed-for-sexual-harassment-vc/>. See also, News Agency of Nigeria. "Fed Poly Bauchi Sacks 2 Lecturers for Alleged Sexual Harassment." Accessed on July 31, 2023. <https://guardian.ng/news/fed-poly-bauchi-sacks-2-lecturers-for-alleged-sexual-harassment/>. See also, Olamide Abudu, "Sexual Harassment in Nigeria: It's Everybody's Problem." Accessed on July 31, 2023. <https://guardian.ng/news/fed-poly-bauchi-sacks-2-lecturers-for-alleged-sexual-harassment/>.
- Dekker, Inez and Julian Barling. "Personal and Organizational Predictors of Workplace Sexual Harassment of Women by Men." *Journal of Occupational Health Psychology* 3, no. 1 (1998): 1-18. <https://doi.org/10.1037/1076-8998.3.1.7>.
- European Commission Directorate-General for Employment, Social Affairs, and Inclusion. "Sexual Harassment at the Workplace in the European Union." Accessed on June 11, 2022. <https://op.europa.eu/en/publication-detail/-/publication>.
- Ford, Jessica L., Sonia Ivancic, and Jennifer A. Scarduzio. "Silence, Voice, and Resilience: An Examination of Workplace Sexual Harassment." *Communication Studies* 72, no. 4 (2021): 513-530. [10.1080/10510974.2021.1953092](https://doi.org/10.1080/10510974.2021.1953092).

- Ganu, Josephine and Peter Agyekum Boateng. "Examining Sexual Harassment Experiences in the Ghanaian Work Environment: Behavioral Responses and Effects on Both Women and Men." *Nigerian Journal of Management Sciences* 3, no. 1 (2013): 1-12.
- Ghanaian Chronicle. "African Women Lawyers Launch Report on Sexual Harassment...The Issue of Sexual Harassment is Pervasive Yet Ignored [Ghana]." Accessed on December 6, 2022. <https://www.business-humanrights.org/pt/últimas-notícias/african-women-lawyerslaunch-report-on-sexual-harassment>.
- Grubber, James E. "A Typology of Personal and Environmental Sexual Harassment: Research and Policy Implications for the 1990s." *Sex Roles* 26, no.11-12 (1992): 447-464.
- Gutek, Barbara and Bruce Morasch. "Sex Ratios, Sex-Role Spillover, and Sexual Harassment of Women at Work." *Journal of Social Issues* 38, no. 4 (1982): 55-74. <https://psycnet.apa.org/doi/10.1111/j.1540-4560.1982.tb01910.x>.
- Hong Zhu, Yijing Lyu and Yijiao Ye. "Workplace Sexual Harassment, Workplace Deviance, and Family Undermining." *International Journal of Contemporary Hospitality Management* 31, no. 2 (2019): 594-614. <https://doi.org/10.1108/IJCHM-11-2017-0776>.
- International Labour Office. "Eliminating Sexual Harassment in Workplaces in the Pacific: Policy Brief." (ILO Policy Brief, 2015).
-
- _____. "Sexual Harassment at Work." Accessed on September 2022. https://www.ilo.org/wcmsp5/groups/public/---ed_norm/---declaration/documents/publication.
-
- _____. "Sexual Harassment at the Workplace in Viet Nam: An Overview of the Legal Framework Research Report by Ministry of Labour – Invalids and Social Affairs of Viet Nam in 2013." (ILO Research Report, 2013).
- Kapila, Pallavi. "Theoretical Perspectives to Sexual Harassment of Women at Workplace." *International Journal of Humanities and Social Science Invention* 6, no. 9 (2017): 32-35.
- Law Insider. "Sexual Attention Definition." Accessed on August 22, 2022. <https://dictionary/sexual-attention>.
- Lee, Jusung and Mihyun Oh. "Combat Workplace Sexual Harassment by Third Parties? Reframing Institutional Measures and Cultural Transformation in South Korea." *Violence Against Women* 27, no. 14 (2021): 2835-2852. 10.1177/1077801220969901.
- Mainiero, Lisa. "Workplace Romance Versus Sexual Harassment: A Call to Action Regarding Sexual Hubris and Sexploitation in the #MeToo Era." *Gender in Management* 35, no. 4 (2020): 329-347. 10.1108/GM-11-2019-0198.
- McDonald, Paula Sara Charlesworth, and Tina Graham. "Developing a Framework of Effective Prevention and Response Strategies in Workplace Sexual Harassment."

- Asia Pacific Journal of Human Resources* 53, no. 1 (2015): 41-58. 10.1111/1744-7941.12046.
- Mohammed, Aliu, Edward Wilson Ansah, and Daniel Apaak. "Sexual Harassment as Experienced Nurses from Selected Healthcare Facilities in Ghana." *BMC Nursing* 117 (2023): 1-12. <https://doi.org/10.1186/s12912-023-01228-6>.
- Okeke, Goodfaith Nnenna (et.al.) "Socio-Sexual Behavior and Workers Productivity in Nigeria." *International Journal of Research and Scientific Innovation* 7, no. 8 (2020): 221-228.
- Okoye, S.O. (et.al.) "Sex For Marks Scandals in South-East Nigeria Institutions of Higher Learning, Female Students Victim and the War Against Sexual Harassment." *Italian Sociological Review* 12, no. 1 (2022): 87-118. <http://dx.doi.org/10.13136/isr.v12i1.520>.
- Peters, R. and P. A. Bourne. "Sexual Harassment and Sexual Harassment Policy in Jamaica: The Absence of a National Sexual Harassment Policy and the Way Forward." *Asian Journal of Business Management* 4, no. 1 (2012): 1-19.
- Pina, Afroditi, Theresa A. Gannon, and Benjamin Saunders. "An Overview of The Literature on Sexual Harassment: Perpetrator, Theory, and Treatment Issues." *Aggression, and Violent Behavior* 14, no. 2 (2009): 126-138. 10.1016/j.avb.2009.01.002.
- Powell, Gary N. "Definition of Sexual Harassment and Sexual Attention Experienced." *The Journal of Psychology: Interdisciplinary and Applied* 113, no. 1 (1983): 113-117. 10.1080/00223980.1983.9923564.
- Raj, Anita, Nicole E. Johns, and Rupa Jose. "Gender Parity at Work and Its Association with Workplace Sexual Harassment." *Journal of Workplace Health and Safety* 20, no. 10 (2020): 279-292. <https://doi.org/10.1177/2165079919900793>.
- Santoso, Topo and Hariman Satria. "Sexual-Violence Offenses in Indonesia: Analysis of the Criminal Policy in the Law Number 12 of 2022." *Padjadjaran Jurnal Ilmu Hukum* 10, no. 1 (2023): 59-79. <https://doi.org/10.22304/pjih.v10n1.a4>.
- Sbraga, Tamara Penix and William O' Donohue. "Sexual Harassment." *Annual Review of Sex Research* 11, no. 1 (2000): 258-285. 10.1080/10532528.2000.10559790.
- Studd, Michael V. and Urs E. Gattiker. "The Evolutionary Psychology of Sexual Harassment in Organizations." *Ethology and Sociobiology* 12, no. 4 (1991): 249-290. [https://doi.org/10.1016/0162-3095\(91\)90021-H](https://doi.org/10.1016/0162-3095(91)90021-H).
- Ta'ngri, Sandra S, Martha R. Burt, and Leanor B. Johnson. "Sexual Harassment at Work: Three Explanatory Models." *Journal of Social Issues* 38, no. 4 (1982): 33-54. <https://doi.org/10.1111/j.1540-4560.1982.tb01909.x>.
- Thacker, R.A, S.F. Gohmann, and R.A Jhacker. "Emotional and Psychological Consequences of Sexual Harassment: A Descriptive Study." *Journal of Psychology* 130, no. 4 (1996): 429-446. 10.1080/00223980.1996.9915030.
- Vuckovic, Myriam, Annette Altvater, Linda Helgesson, Sekei Kristina Kloss. "Sexual Harassment and Gender-Based Violence in Tanzania's Public Service: A Study Among Employees in Mtwara Region and Dar es Salaam." *International Journal*

of Workplace Health Management 10, no. 2 (2017): 116-133. 10.1108/IJWHM-02-2015-0011.

Widyawati, Anis (et.al). "Elimination of Sexual Violence in Feminist Legal Theory." *Journal of Indonesian Legal Studies* 6, no. 2 (2021): 333-352. <https://doi.org/10.15294/jils.v6i2.48346>.

Xirong, L., Laura. Babbitt, and Drusilla K. Brown. "Sexual Harassment in the Workplace: How Does It Affect Firm Performance and Profits?" (ILO Discussion Paper, 2014).

Yie, Choo Eern and Nicole Tham Seow Ping. "Sexual Harassment in Workplace: A Literature Review." *The International Journal of Humanities and Social Studies* 9, no. 8 (2021): 29-34. 10.24940/theijhss/2021/v9/i8/HS2108-023.

Yusuf, Noah. "Experience of Sexual Harassment at Work by Female Employees in a Nigerian Work Environment." *Journal of Human Ecology* 30, no. 3 (2010): 179-186. 10.1080/09709274.2010.11906287.

Zhu, Hong, Yijing Lyu, and Yijiao Ye. "Workplace Sexual Harassment, Workplace Deviance, and Family Undermining." *International Journal of Contemporary Hospitality Management* 31, no. 2 (2019): 594-614. <https://doi.org/10.1108/IJCHM-11-2017-0776>.

Zimbabwe Gender Commission. "Strategy for the Elimination of Sexual Harassment and Gender-Based Violence in the Workplace in Zimbabwe 2021-2025, Developed by the Zimbabwe Gender Commission in Collaboration with ILO under the Spotlight Initiative." (ILO Booklet, 2021).

Zunnuraeni, Zunnuraeni (et.al.) "Feminism and the Birth of Sexual Crime as International Crime and the Challenge of Its Implementation in the Future." *Indonesian Journal of International Law* 19, no. 4 (2022): 539-566. <https://doi.org/10.17304/ijil.vol19.4.2>.

Legal Documents

Constitution of Ghana (Act 527) 1992 (As Amended).

Constitution of the Federal Republic of Nigeria (As Amended).

Criminal Code Act, 1916.

Domestic Violence Act (Act 732 of 2007).

Ghana Labour Act, 2003, Act 651.

Ghanaian Criminal Code Act (Act 29) 1960 (As Amended).

Labour Act 1990.

Labour Standards Bill 2016.

National Industrial Court of Nigeria (Civil Procedure) Rules 2017.

Nigerian Cases: *Ejike Maduka v Microsoft Nigeria Limited and Three Others*, unreported, suit no. NICN/LA/492/2012, Judgment Delivered by Hon Justice O.A. Obaseki-Osaghae on December 19, 2013.

Pastor (Mrs.) Abimbola Patricia Yakubu v Financial Reporting Council of Nigeria Anor, Unreported Suit no. NIC/LA/673/2013.

Penal Code (Northern States) Federal Provisions Act 1960.

Stella Ayam Odey v Ferdinand Daapah Anor unreported suit No: NICN/ /CA/03/2016, judgment delivered by Hon. Justice E. N. N. Agbakoba on December 6, 2016.

The Independent Corrupt Practices Commission and Other Related Offences Act 2000.

The Violence Against Persons (Prohibition) Act 2015.

United Nations Convention on The Elimination of All Forms of Discrimination against Women (CEDAW) and ILO Discrimination (Employment and Occupation) Convention 1958 No. 111 which have been ratified by Nigeria and CEDAW General Recommendation Number 19 of 1992.