



DEFENCES TO CLAIMS ON SEXUAL HARASSMENT IN THE WORKPLACE

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ABSTRACT

Sexual harassment has been a persistent challenge in the workplace in Nigeria. As a result of this challenge, employers are faced with several claims through litigation and, consequently, may be held liable. Employers face legal, ethical and work-related problems resulting from sexual harassment in the workplace. Depending on the form it takes, sexual harassment violates the right and integrity of an employee or the victim. In sexual harassment claims, several options are available to the employer in defending against any allegations and applying measures to prevent sexual harassment in the workplace. This article sets to explore the defences available to an employer on Claims of Sexual harassment in the workplace. The application of the defences is based on the nature and form of sexual harassment and the steps taken by the victim to complain. It concluded by stating that an employer is not liable for every claim of sexual harassment in the workplace. Further, it recommended that employers need to make a sexual harassment policy part of the terms of employment. Employers need to have an internal investigative panel on sexual harassment, by having several mechanisms on reporting sexual harassment cases and engaging the workers in regular training on the avoidance and prevention of sexual harassment in the workplace.

KEYWORDS: *Claims, Defenses, Sexual Harassment, Workplace.*

1. INTRODUCTION

Employers are making several attempts to eradicate sexual harassment in the workplace while respecting employee privacy, yet often, they are faced with claims for damages for the offence in the workplace. Sexual harassment creates a variety of foreseeable consequences and thus affects the well-being of employees and the productivity of organizations.¹ Claims by victims of sexual harassment arise from ethical, legal and work-related issues. Sexual harassment continues to plague many workers, and the legal structures provided have not extinguished harassment in the workplace.²

Sexual harassment may affect employee concentration and lead to increased accidents at the workplace and frequent mistakes, which may contribute to lower-quality work, productivity and decreased motivation resulting from the deteriorated working relationship and decline in the quality

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¹ E Ardale, 'Employer Liability for Sexual Harassment in the Wake of Faragher and Elberth' (2000) Vol.9, Issue.

² Cornell Journal of Law and Public Policy 585-601.

² J L Grossman, 'The First Bite is Free: Employer Liability for Sexual Harassment' (2000), 61, University of Pittsburgh Law Review 671 – 740.



of employee performance.³ The pervasiveness of sexual harassment in the workplace causes employers to face sexual claims and put up defenses to these claims. Some of these defenses include taking reasonable and practicable steps to prevent sexual harassment, promptly correcting any instances that occur, and putting possible defenses in place. It is within this context that the writer of this article will consider the liabilities of an employer on sexual harassment in the workplace under various categories.

2. LIABILITY OF AN EMPLOYER UNDER THE EQUAL EMPLOYMENT

Opportunity Commission (EEOC)

The Civil Rights Act of 1964 created the Equal Employment Opportunity Commission (EEOC), the regulatory agency responsible for the enforcement of Title VII violations.⁴ Title VII prohibits discrimination based on sex, race, religion, national origin or sex.⁵ EEOC guidelines specify that sexual harassment is a type of sex discrimination under Title VII. Sexual harassment is now a component of the Title VII Prohibition Against Sex Discrimination.⁶ The EEOC guidelines also include policies which help people to have more concrete understanding of the concept of sexual harassment in the workplace.⁷

The EEOC takes the remarkable position that an employer shall be liable for any discriminatory act unless the employer takes corrective measures within its control. This presumes that an employer can be liable for an adverse employment action taken by neither it nor any of its agents.⁸ Under Title VII, an employer is defined as a person engaged in an industry affecting commerce who has fifteen or more employees for each working day in each of twenty or more calendar weeks in the current or preceding calendar and any agent of such a person.⁹ A person can be employed by two or more entities that are in fact distinct, and the person will be counted as an employee of each entity to determine whether either entity is an employer, which is known as the joint-employer doctrine.¹⁰ Whether a person is an employee or an independent contractor under the statutes is a question of law.¹¹

An employer is liable under the statutes only if there is a basis for holding him responsible for the act of the person who discriminated, even though it was not expressly addressed in the statute.¹²

³ A H Weitzman, 'Employer Defenses to Sexual Harassment claims' [1999] 6 (10 *Duke Journal of Gender Law and Policy* 27 – 59.

⁴ Civil Rights Act 1964, 42 U.S.C. 2000e – 2(a) (1997). (It shall be an unlawful employment practice for an employer... to discriminate against any individual with respect to his compensation, terms, conditions, or privileges of employment, because of such individual's race, colour, religion, sex, or national origin).

⁵ Ibid.

⁶ (n4).

⁷ Ibid.

⁸ Ibid.

⁹ Ibid.

¹⁰ D F O Gorman, 'Paying for Sins of Their Clients: The EEOC's Position that staffing firms can be Liable when their Client terminates an assigned employee for a discriminatory reason (2007), 11(2) *Penn State Law Review* 425-470.

¹¹ Ibid.

¹² (n10).



An employer will be liable for the conduct of a supervisor that is consistent with EEOC guidelines.¹³

3. LIABILITY THROUGH VARIOUS FORMS OF SEXUAL HARASSMENT

The categories of sexual harassment vary from culture to culture and from country to country. Sexual harassment can take different forms based on the severity and nature of the harassment.¹⁴

A. Quid Pro Quo

Quid pro quo is a Latin word for ‘this for that’. This arises when job merit, such as an increment of pay, a promotion or continuing employment, is made conditional on the victim surrendering to high requests involving some form of sexual behaviour. It forces an employee to choose between giving in to sexual demands or losing job merit. It is also when a worker is asked for sexual favour, and submitting to or rejecting that request is used to decide on that worker’s job.¹⁵ An Employee may be a victim of quid pro quo sexual harassment when the employee is requested to do a sex act with the fear of being demoted or job loss if she refuses. This type of sexual harassment leads to the misuse of power by employers or employees in higher positions because it is committed by someone who holds authority. A co-worker could attempt quid pro quo harassment, perhaps by threatening to sabotage an employee’s work product if his sexual demands are not met.

Workers who do not comply with unwanted sexual advances might face retaliation and will inevitably face an obstacle in their professional growth.¹⁶ Quid pro quo harassment comprises the promises of benefits in exchange for a sexual activity; that is, sexual bribery, and if a sexual activity is not consented to, the target may be threatened or harassed.

B. Hostile Work Environment

A hostile work environment occurs when an employee is not threatened with loss of a tangible job benefit but is still subjected to a hostile or offensive working environment.¹⁷ A hostile work environment is concerned with an attitude which makes a working area uninviting and derogatory to the victim.¹⁸ It includes a scope of sexually harassing behaviour like sex-based remarks, disparaging remarks about sex, insinuations, and the showing of sexually explicit material.¹⁹

¹³ E Ardale, No1 at 585-601.

¹⁴ C O Wodi, ‘Consequences of Sexual Harassment in the workplace in Nigeria and the need for Preventive Measures: A Legal Approach (2023) 7(1) (*African Journal of Law and Human Rights*) 129-135.

¹⁵ I N E Worugji, *Modern Labour Law in Nigeria* (Malthouse Press Limited, 2021) 192.

¹⁶ C A MacKinnon, ‘The Logic of Experience: Reflections on the Development of Sexual Harassment Law’ 2(9) (*George Town Law Journal*) 813 – 830.

¹⁷ E. Ardale, No.1 at 585-601.

¹⁸ C O Wodi, ‘Consequences of Sexual Harassment in the workplace in Nigeria and the need for Preventive Measures: A Legal Approach (2023) 7(1) *African Journal of Law and Human Rights* 129-135.

¹⁹ Ibid.



A hostile working environment harassment covers conduct that creates an intimidating, hostile or humiliating working environment.²⁰ Such a job environment not only damages work output. It can also have an intense negative imprint on the mental, emotional and physical health of the employees.²¹

In determining the liability of an employer in the workplace, whether quid pro quo or hostile environment and in the case of *Stella Ayam Odey v Ferdinard Daapah & Cuso International*,²² the Claimant alleged that the 1st Defendant sexually harassed her by making sexual advances, passes and explicit sexual overtures towards her, but all were rebuffed on every occasion. The advances continued, and they had an open confrontation. The situation got worse when the Claimant delivered to the 1st Defendant an invitation to her wedding, and the 1st Defendant got angry. Four days later, the 1st Defendant asked the Claimant to resign; the Claimant refused. Fourteen (14) days later, the Claimant was served a termination letter. The Court awarded to the Claimant the sum of N16,862,511 as damages against the Defendant. The Defendants were held liable on appeal in the same case.²³ The Court of Appeal adopted the definition of discrimination and harassment by the Convention on the Elimination of all Forms of Discrimination Against Women,²⁴ stating that “any distinction, exclusion or restriction made based on sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women irrespective of their material statuses based on men and women, of their human rights and fundamental freedoms in political, economic, social-cultural or any other field.

Sexual harassment was defined as an unwelcome sexually-determined behaviour, a physical contact and advances, sexually coloured remarks, showing pornography, and sexual demands, whether by words or action. Such conduct can be humiliating and may constitute a health and safety problem. It is discrimination when the woman has reasonable grounds to believe that her objection would be of disadvantage to her in connection with her employment, including recruitment or promotion or when it creates a hostile working environment.

Also in the case of *Ejjeke Maduka v Microsoft Nigeria Limited & Others*,²⁵ where the Applicant, a staff of the 1st Respondent, terminated her employment with the company as a result of her refusal to surrender to the persistent sexual harassment of the 3rd Respondent, who was her superior and the Chief Executive Officer of the 1st Respondent in Nigeria. In upholding the Applicant’s claims, the court held that the repeated inappropriate sexual behaviour of the 3rd Respondent by constantly holding Ejjeke on the waist and fondling her body despite her express protest constituted a grave infringement of her rights to dignity and freedom from discrimination under the 1999 Constitution

²⁰ I N E Worugji, No 15 at 192.

²¹ C O Wodi, No.18 at 129-135.

²² Suit No: NICN/CA/03/2016 (unreported) decided by the National Industrial Court of Nigeria, Calabar.

²³ *Dapaah & Anor v Stella Odey* (2018) LPELR 46151(CA).

²⁴ Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) 1979.

²⁵ (2014) 41 NLLR (Pt 125) 67.



of the Federal Republic of Nigeria,²⁶ and the African Charter on Human and Peoples' Rights/Ratification and Enforcement Act.²⁷

Microsoft Corporation sought to strike its name from the case on the basis that it was a separate legal entity from its Nigerian subsidiary and that it did not directly order the Applicant's termination.

The court held that both Microsoft Nigeria and Microsoft Corporation were liable on the principal agency and co-employment principles. The court noted that there was no evidence that the sexual harassment complaint was investigated. This is so because Ejieke Maduka was not invited for an intervention report, which the 3rd Respondent carried out within the scope of his authority. An employer will be liable for harassment when he had the actual constructive knowledge of the harassment and failed to take remedial actions.

4. THE PRINCIPLES OF LIABILITY IN *FARAGHER*²⁸ vs. *ELLERTH*²⁹

The United States of America Supreme Court, in cases of *Faracher v City of Bola Raton*³⁰ and *Burlington Industrial Inc. v Ellerth*³¹ set a new standard as regards the liability of an employer for sexual harassment in the workplace. Employer liability for hostile work environment, however, proved to be a more difficult issue for courts, and there was a clear lack of consensus.³²

The majority view was that an employer was liable for harassment only if it had actual or constructive knowledge of the harassment and failed to take appropriate remedial actions.³³ A minority of courts in the US held that a hostile environment harassment by a supervisor should subject employers to strict liability, for the same reasons the standard existed for quid pro quo. However, the employer should be liable under an actual or constructive knowledge standard for hostile environment harassment by co-employees.³⁴

In 1986, the United States Supreme Court, acknowledging the disparity between jurisdictions, finally decided to resolve many of the questions the courts were struggling with and granted certiorari to hear its first sexual harassment decision.³⁵ In Faragher's case,³⁶ A female lifeguard worked for the city of Boca Raton from 1985 until she resigned in 1990.³⁷ During her employment,

²⁶ Constitution of the Federal Republic of Nigeria 1999 (as amended).

²⁷ African Charter on Human and People Ratification Act 2014.

²⁸ *Faragher v City of Bola Raton* (1998) 524 US 775.

²⁹ *Burlington Industrial Inc. v Ellerth* (1998) US 742.

³⁰ (1998) 524 U.S. 775.

³¹ (1998) 529 U.S. 742.

³² E Ardale No. 1 at 585 to 601.

³³ *Faragher v City of Bola Raton* (1998) 524 U.S. 775.

³⁴ Ibid.

³⁵ Ibid at 782.

³⁶ Ibid at 802.

³⁷ Ibid at 803.



two of her supervisors engaged her in unwanted physical touching, exhibition of various sexual acts, and made vulgar references.³⁸

The United States Supreme Court, in reversing the judgment of the District Court, held that even when an employer is unaware of the harassment, there is a sense in which a harassing supervisor is always assisted in his misconduct by the supervisory relationship.³⁹ The Court further stated that when a person with supervisory authority discriminates in terms and conditions of the subordinate's employment, his actions necessarily draw upon his supervisory position over the people who report to him.⁴⁰

In Ellerth's case,⁴¹ a salesperson was subjected to fifteen months of repeated offensive remarks and gestures by her supervisor, but also received a promotion and suffered no tangible job detriments.⁴² Ellerth failed to report the harassment to the management. The employer had a sexual harassment policy for the workplace that had been distributed to all employees. The employee was aware of the policy but chose not to use it. The US Supreme Court determined that the employee presented a viable sexual harassment claim, even though she suffered no tangible job injury. The court held that the characterisation of the employee claim as quid pro quo or hostile work environment was not dispositive and the employer was subject to liability for the supervisor's activity, whether tangible job detriment occurred or not.

Both in Faragher⁴³ and Ellerth's case,⁴⁴ The court's decisions exposed the obligations and the scope of an employer's liability for sexual harassment in the workplace; that is, an employer is liable to a victimized employee for an actionable hostile environment created by a supervisor with a higher authority over the employer.⁴⁵ These decisions on Faragher⁴⁶ and Ellerth⁴⁷ placed more burden on employers to take proactive steps to eradicate sexual harassment in the workplace than previous decisions. An employer must take steps to prevent and correct sexual harassment in the workplace as a defensive measure to avoid liability. The next section explicates on measures to prevent sexual harassment in the workplace.

5. APPLICABLE MEASURES TO PREVENT SEXUAL HARASSMENT IN THE WORKPLACE

³⁸ *Burlington Industrial Inc. v. Ellert* (1998) 529 U.S 742.

³⁹ *Ibid* at 748.

⁴⁰ *Ibid* at 766.

⁴¹ *Ibid* at 766.

⁴² *Ibid* at 765.

⁴³ *Faragher v City of Bola Raton* (1998) 524 US 775.

⁴⁴ No 29 at 742.

⁴⁵ *Ibid*.

⁴⁶ No 28 at 775.

⁴⁷ No 29 at 742.



Employers are faced with an impossible task of attempting to eradicate workplace sexual harassment while respecting employee privacy. Employers may go to great lengths to prevent liability, implementing highly invasive means of detecting and monitoring the daily actions and conversations of their workers.⁴⁸ Such strides could prove dangerous. It is akin to invading the constitutional privacy rights that employees do not necessarily shed at their company's doorstep. Employers need to adopt protective measures to insulate themselves from potential liability.⁴⁹ Such employers need proof of all reasonable and practicable steps to prevent sexual harassment and promptly correct any instances that occur. The employer's approach should be:

- (a) To take adequate measures to prevent sexual harassment in the workplace, if the employers fail, they will be held liable, particularly where the employer does not maintain an anti-harassment policy or otherwise warn employees that harassment is prohibited.⁵⁰

An employer who has actual or constructive notice of a hostile environment and fails to respond. An employer that fails to maintain an effective policy may be charged with constructive notice of all.⁵¹

The anti-harassment policy will encourage victims to come forward with complaints of unwelcome sexual conduct and to respond effectively to their complaints. A reasonable policy will communicate the employer's desire to maintain a harassment free working environment, inform employees about their rights, define prohibited conduct, promise confidentiality to the extent practicable and provide a viable mechanism for reporting and resolving complaints of sexual harassment.⁵² Any policy aimed at eradicating workplace sexual harassment must face the task of defining sexual harassment. In defining sexual harassment, delineation must be made between illegal conduct and ordinary social interaction.⁵³

- (b) Employers need to offer employees training sessions about the new harassment policy and procedures for sexual harassment in general.⁵⁴
- (c) Sexual harassment policy must be widely circulated and well-known among employees. Lack of dissemination can lead to liability for an employer. One of the methods is by posting notices that sexual harassment is a form of discrimination⁵⁵ or publish its policy in an employee newsletter, educating the staff through staff meetings or any other educational programmes.⁵⁶

⁴⁸ E. Ardale, No 1 at 585.

⁴⁹ L A Blanchard, 'Sexual Harassment in the workplace liability for a Sexual Hostile Environment (1988) Vol 66 Issue 1, (Washington University Law Journal Review) 91-109.

⁵⁰ J L Grossman, No.2 at 671 – 740.

⁵¹ Ibid.

⁵² (n43).

⁵³ C A Bond, 'Shattering the Myth: Mediating Sexual Harassment Disputes in the Workplace (1997) 65 (6) Fordham Law Review 2489 –2533.

⁵⁴ Ibid.

⁵⁵ Ibid.

⁵⁶ Ibid.



- (d) Employer response to complaint by taking appropriate corrective action and reasonable care to correct any sexually harassing behavioural focuses primarily on available complaint mechanisms and employer response to complaints. Employing grievance procedures to facilitate complaints about sexual harassment and by incorporating the policies into existing operating procedures.⁵⁷
- (e) An employer must investigate allegations of sexual harassment and take immediate and appropriate corrective action by doing whatever is necessary to end the harassment, make the victim whole by restoring lost employment benefits or opportunities and prevent the misconduct from recurring.⁵⁸

6. DEFENCES TO CLAIMS ON SEXUAL HARASSMENT IN THE WORKPLACE

Defenses to sexual harassment claims in the workplace are those defenses that are applicable to both quid pro quo and hostile work environment. Those defenses include:

(a) It Never Happened or Denial of Allegation

An employer can put a defense that it never happened or make a complete denial of the allegation. Any person who alleges must prove, as the claims can always be challenged. The evidence of the party claiming must be tested and be in line or in the manner and consistent with the claim of a person who has suffered sexual harassment in the workplace.⁵⁹

(b) Consent and Acceptability

It has to be established that the conduct complained of was with the party's consent or was acceptable by the person responsible or reaction. The party alleging did not object to the conduct at the time it occurred. An employer may not be liable for offensive sexual conduct in the workplace if it was consented to or accepted. Considerations must be put in proving a case if the party complaining reciprocated to such gesture whether the party complaining earlier reported to her superiors of such conduct being unwelcomed and the time between the occurrence of the conduct and time of the complaint. The court will consider whether the conduct was immediately rejected or it was accepted and later rejected. Coerced submission can be categorised into situations where the duress is physical or economic coercion to participate in or accept sexual advances, which need not be explicit. Implicit duress may also be sufficient to demonstrate that the conduct was not consented to or accepted. Voluntary participation and failure to protest are not always indicative of acceptance. In the case of consent and acceptance, the surrounding circumstances of the case must be taken into consideration.⁶⁰

⁵⁷ L. A. Blanchard, No.49 at 91 – 109.

⁵⁸ J. L. Grossman, No 2, at 671 – 740.

⁵⁹ A .H Weitzman, No 3 at 27 – 59. D. Kalz, '*Sexual Harassment Claims and Defenses in Federal and District of Columbia Courts*, Available at [www.http://kalzbanks.com/wp-content/uploads](http://kalzbanks.com/wp-content/uploads) accessed 24/3/2026.

⁶⁰ Ibid.



(c) Reasonable Person Standard

The employer can use a reasonable person standard by maintaining that the behaviour was not severe or pervasive enough to create a hostile work environment. A reasonable person standard is where in a person's position, such conduct would not have found to be harassment.⁶¹

(d) Conduct or Action was not Based on Sex

The conduct or action did not include sexual advances or of any sexual nature but verbally or in action. That the conduct or action is not gender-based and will not in any way constitute sexual harassment⁶²

(e) Conduct was Customary and Acceptable in the Prevailing Work Environment

Most conduct is defined according to the work environment, which can determine any conduct that is harassing in nature, irrespective of gender. For a party to succeed in an action for harassment, the conduct or environment must be an objectively or subjectively hostile or abusive one that a reasonable person would find hostile or abusive. The conduct or environment will pass through a pervasive test. In most cases, the prevailing work environment may allow for vulgar language in the workplace.⁶³

(f) The Harassment did not Affect Employment Conduct

It is a defense to also state that the harassment did not negatively impact the parties' employment conditions, such as pay, promotion opportunities, or job assignments.⁶⁴

7. ADJUDICATION OF SEXUAL HARASSMENT CASES IN NIGERIA

There is no comprehensive law on sexual harassment in Nigeria. In many other countries, sexual harassment is criminalized in Criminal Codes, Labour Codes, and is fully spelt out in anti-discrimination laws as well as statutes. There are some fragmentary legal provisions of such under the 1999 Constitution, Criminal Code and Labour laws. This indicates an unstructured approach to the protection of persons against sexual harassment.

The Constitution of the Federal Republic of Nigeria (Third Alteration) Act 2010, which came into effect on the 4th day of March, 2011, conferred a wider jurisdiction on the court; Section 6(5) of the Constitution has been amended to include the National Industrial Court as a Superior court of

⁶¹ Ibid.

⁶² Ibid.

⁶³ Ibid.

⁶⁴ Ibid.



record.⁶⁵ The only seemingly legal recourse to victims/servitors of workplace harassment is found in the Nigerian Judicial System, specifically, the National Industrial Court of Nigeria. Under the Constitution of the Federal Republic of Nigeria, 1999 (as amended), the National Industrial Court has jurisdiction to sit on employment and workplace conditions, industrial relations, and labour law in Nigeria. This jurisdiction is equally reiterated in section 7 of the National Industrial Court Act, 2006.⁶⁶

The National Industrial Court of Nigeria Civil Procedures Rules of 2017 attempted to fill a significant legal void regarding sexual harassment in the world of work and makes provision for categories of conduct/behaviour that constitute sexual harassment in the workplace, Order 14⁶⁷ Rule 1 (1) (a)-(d) provides as follows:

Wherein an action before the court, a claimant alleges sexual harassment at the workplace, the claimant or the claimant's counsel may, in the complaint, indicate whether the sexual harassment is a:

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

The National Industrial Court has deliberated upon a handful of cases concerning sexual harassment in the workplace, which led to the dismissal of survivors from their employment for refusing to accept the sexual advances of their supervisors in the workplace. Notable amongst these cases is the landmark case of *Maduka v Microsoft & Ors*⁶⁸ where the National Industrial Court

⁶⁵ *Constitution of the Federal Republic of Nigeria* (Third Alteration) Act 2011, s.2 inserts a new paragraphs after section 6(5) of the Principal Act.

⁶⁶ Constitution of the Federal Republic of Nigeria 1999 (as amended) s.254(1).

⁶⁷ National Industrial Court of Nigeria Civil Procedure Rules 2017.

⁶⁸ (2014) NLLP (Pt 125) 67 NIC, (2014) NWLR (Pt125) 67.



applied sections 34 and 42 of the Constitution of the Federal Republic of Nigeria 1999 (as amended), the African Charter on Human and Peoples' Rights 1981⁶⁹ and the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)⁷⁰ to find the employees of the claimant (defendant) guilty.

The National Industrial Court has since then adjudicated workplace sexual harassment cases occasioning wrongful termination of employment, which, amongst others, include *Dorothy Adaeze Awogu v. TFG Real Estate Limited*,⁷¹ *Pastor (Mrs) Abimbola Patricia Yakabu v Financial Reporting Council of Nigeria & Another*.⁷² These cases were addressed under the civil jurisdiction of the National Industrial Court of Nigeria, all in favour of the Claimants.

8. CONCLUSION

Several options are available to employers in response to claims of sexual harassment in the workplace. Employers are exposed to legal liability when the preventive measures are not integrated as part of the solutions to sexual harassment claims in the workplace. The standards for liability provide substantial incentives for employers to prevent sexual harassment. Employers can rely on several defenses available in proof of their case and to avoid liability on claims of sexual harassment in the workplace.

9. RECOMMENDATIONS

The writer of this article therefore recommends as follows,

- (1) Employers need to make a sexual harassment policy part of the terms of employment.
- (2) Employers need to establish an internal investigative panel on sexual harassment and also a mechanism for reporting sexual harassment cases in the workplace.
- (3) There must be a swift and immediate response to any case of sexual harassment in the workplace and
- (4) The employer must engage employees in regular training on the avoidance and prevention of sexual harassment in the workplace.

⁶⁹ African Charter on Human and People's Rights 1981.

⁷⁰ Convention on the Elimination of All Forms of Discrimination against Women 1979.

⁷¹ Suit No: NICN/LA/202/2013 National Industrial Court Lagos Division June 4 2018.

⁷² (Unreported) Suit No. NICN/LA/673/2013, National Industrial Court Lagos Division 2016.