

The Workers' Rights In Nigeria: Myth Or Reality?

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Abstract: *The study examined the availability of workers' rights as made available by the law of the land (Nigeria), the practice found to be in operation and the conformity by employers of labour with the existing labour laws that promotes the rights of workers in the country in order to determine the true position of workers' rights in Nigeria. The paper adopted the use of exploratory research together with secondary data in order to obtain relevant information for the paper at hand and from this, it was reveal that there appear to be enough and sufficient laws to usher in enviable standards to ensure that Nigerian workers' rights are protected and enjoyed by all workers. Workers' rights found in Nigeria are similar to what can be obtained in other countries of the world be it developing or developed with a great inference from other international labour organisations aside ILO. However, the worrisome aspect of these workers' rights is the level of implementation or compliance on the part of employers of labour (public and private) which is evident to be none existence. Thus, making a clarion call for a strong political willingness on the part of government to enforce what is constitutionally spelt out in respect of the workers' rights and the government should begin this in the public sector where she is considered as largest employer of labour for other employers to see the seriousness and take a leaf from this action.*

Key words: *Workers' Rights, Labour Laws, ILO, Labour Organisation and Dignity.*

I. INTRODUCTION

The practice of slave trade heralded the era of dehumanisation in human dignity. It was the aftermath of this practice that gave rise to general concern about standardised friendly relationship in all the endeavours of man. Similarly, in Africa, as colonisation was synonymous with slave trade so also was wage employment relationship. The wage employment in Nigeria could be traced to the 19th century in the public service with the advent of the Great Britain that colonised the country and was also a common phenomenon to most of the countries in Africa colonised by the Great Britain (Oginni and Faseyiku, 2012). Another unique and important incident during this period was formation of trade union to protect exploitation of workers in whatever form because no sooner than necessary, it was evident and obvious that overall objective of business i.e (profit maximization) will not allow employers of labour to be fair enough to give employees their dues without being asked and subjected to a tension soaked atmosphere (Oginni and Faseyiku, 2012). However, the fear of losing their employment opportunities (job) prevented the union members from pushing beyond necessary limit and this further serves as an avenue for workers' exploitation to be perpetuated as witnessed by industrialisation. As a result of this excessive exploitation of workers, laws for the social protection of employees were developed essentially to ensure that people work in dignity and not unduly exploited in the course of wage employment relationship (Adewumi and Adenuga, 2010).

Over the years, workers' rights have emerged from different sources such as the constitution of a country, labour organisations (national and international), tradition and belief of the people as well as international conventions and recommendations and however the sources, they are adequately codified in the national laws of a country which is the framework used by many to determine the extent of availability of worker's rights. The essence of the workers' rights is to ensure safe, healthy, and fair conditions of work so that work activities can be performed in atmospheric conditions free of tension and vendetta (Obisi, 2005).

Workers' right is a very broad issue; however, it can be boiled down to the protection and respect of human life in the workplace and the right to work itself. Some components of workers' rights are the rights to job safety, collective bargaining, and equal pay for equal work etc. It is a general belief that workers' rights vary by countries; however the International Labour Organization (ILO) provides universal standards and guidelines. In the views of Scherrer and Greven (2001) workers' right is embedded in the core rights of freedom of association, collective bargaining and prohibition of forced labour, child labour and discrimination in employment. This can also be explained to mean group of legal rights and claimed human rights having to do with labour relations between workers and their employers which is usually obtained under labour and employment law as documented in the contract of employment. When it comes to workers' rights for the

general population, in many places around the world people have to work in sweatshops that have questionable labour policies in order to make a living. Defenders of sweatshops argue that without the factories, the workers wouldn't have a job. Labour activists note that a major problem of sweatshops is the awful treatment of workers and the lack of opportunity. Workers deserve respect and safety from the harm coming from their interactions with work and work environment. Hence, the study examined the availability of workers' rights as made available in/by the law of the land, practice and conformity in order to determine the true position of workers' rights in Nigeria.

II. ISSUES IN WORKERS' RIGHTS

The political philosophy of neo-liberalism emphasized the importance of economic growth and asserts that social justice is best maintained by minimal government interference and free market forces and as a result of this, there had been a lot of concerted efforts at national and international levels to set standard that would serve as framework to guild labour relations between employees and employers and thus confer on workers certain rights once there is an established contract of employment. The International Labour Organisation (ILO) was formed in 1999 as part of League of Nations to protect workers' rights and due to the demise of League of Nations; ILO later became incorporated into the United Nations (UN). The UN itself supported workers' rights as evident in United Nation Declaration of Human Rights of 1948 which is the basis of the International Covenant on Economic, Social and Culture. The article 6,7 and 8 of International Covenant on Economic, Social and Culture include

- the rights to work, defined as the opportunity of everyone to gain their living by freely chosen or accepted work, prevent discrimination in the workplace and ensure access for the disadvantaged and prohibit forced labour and or child labour (the work referred to in article 6 must be decent work)
- the right of everyone to just and favourable working conditions, defined as fair wages with equal pay for equal work, sufficient to provide a decent living for workers and their dependants; safe working conditions, equal opportunity in the workplace, sufficient rest and leisure, limited working hours and regular paid holidays (article 7).
- the right to form and join trade unions and protects the right to strike. It allows these rights to be restricted to certain category of workers such as armed forced, police, government administrator and by extension, some countries restricted workers in area classified as essential services (Nigeria) while other countries interpreted in a manner consistent with their constitution.

The above provision was equally reinforced in the article 23 and 24 of United Nations Declaration of Human Rights

II.1 Article 23

1. Everyone has the right to work, to free choice of employment, to just and favourable conditions of work and to protect against unemployment
2. Everyone without any discrimination has the right to equal pay for equal work.
3. Everyone who works has the right to just and favourable remuneration ensuring for himself and his family an existence worthy of human dignity and supplemented, if necessary, by other means of social protection.
4. Everyone has the right to form and join trade unions for the protection of his interests.

II. 2 Article 24

1. Everyone has the right to rest and leisure, including reasonable limitation of working hours and periodic holiday with pay.

Nigeria as a member ratified provisions of the treaty which implies that she is committed to work towards the granting of economic, social and cultural rights to individuals including labour rights and right to health, the right to education and the right to an adequate standard of living. The above provisions are regarded as core labour standards and as identified by the ILO in the Declaration of the Fundamental Principles and Rights at work, it is widely recognised to be of particular importance, universally acceptable regardless of whether the relevant convention have been ratified, the level of development of a country or cultural values. It is qualitative standards which do not establish a particular level of working conditions, wages or health and safety standards (no quantitative measurement). It is therefore obvious that ILO and several other groups have sought international labour standards to create legal rights for workers across the world.

III. NIGERIAN EXPERIENCE OF WORKERS' RIGHTS

In Nigeria, the law that is regulating or guiding employees and employers relationship is known as labour law which is clearly stated in the section 7(3) of the 1979 constitution of the Federal Republic of Nigeria (Obisi, 2005). The constitution provides amongst others as follows:

- All citizens without discrimination on any ground whatever have the opportunity for securing adequate means of livelihood as well as adequate opportunities to secure sustainable employment.
- Conditions of work are just and humane, and that there are adequate facilities for leisure and social, religious and cultural life.
- The health, safety and welfare of all persons in employment are safeguarded and not endangered or abused.
- There are adequate medical and health facilities for all person
- There is equal pay for equal work without discrimination on account of sex, or on any other ground whatsoever
- Children. Young persons and the aged are protected against any exploitation whatever, and against moral and material neglect and
- Provision is made for public assistance in deserving case or other conditions of need

Going by the above listed provisions, it is logical to say they are not explicit enough and this explains why legislations have been enacted on some of the specific subjects ranging from the Labour Act CAP 193, 1990 Wages Board and Industrial Council Act CAP 466, 1990, National Minimum Wage Act CAP 267 LFN1990, National Salaries and Wages Commission Decree No 99 of 1993, Trade Dispute Act CAP 432 LFN 1990, Employee Housing Scheme (special provision) Act CAP 107 LFN1990, National Housing Fund Decree No. 3 of 1993, Trade Union Act CAP 437 LFN 1990, Workmen's Compensation Act CAP 470 LFN 1990, Nigeria Social Insurance Trust Fund Decree No. 73 of 1993 and to the Factory Act CAP 126, LFN1990. All these were enacted to ensure safe, healthy, and fair conditions of work so that work activities can be performed in atmospheric conditions free of tension and vendetta (Obisi, 2005).

III.1 Application of the Provisions in Summary

The in-depth examination of these Acts and Decrees would be beyond the scope of the paper therefore sub headings had been identified to be the basis of discussions with reference to employees' rights articles;

Agreement: this is about employee rights regarding employment contracts and agreements, such as non-compete, non-disclosure, separation and severance agreements. Independent contractor agreements included.

Hiring: Employee rights related to job hiring. Examples are hiring on as an "at-will" employee, background checks, prohibited discrimination, illegal interview questions, working a probationary period and Veterans' Preference.

Benefits: Employee rights related to mandatory and voluntary employee benefits provided by employers, such as health insurance, paid holidays, sick leave and vacation. Explains and lists legal holidays as well as break and leave (About employee rights regarding work breaks and leave benefits provided by employers, such as sick leave, vacation, holidays, family and medical leave, and rest, bathroom, smoke and lunch breaks).

Hours: This covers issues related to working hours, such as employee rights regarding work breaks and forced mandatory overtime and this includes information about work-hour restrictions (resumption and closing).

Safety and Health: this explains workers' rights to a safe and healthy workplace under the Occupational Safety and Health Act. This is known as Factory Act which has information about what should be made available in organisation to guaranty workers' safety.

Child labour: Briefly explains child labour law provisions and work hour restrictions for youths. Provision was made as to the minimum age that an individual can enter into contract of employment i.e under 18 years is under age.

Termination: Employee rights and benefits when employment is terminated, such as when workers are discharged through layoffs or getting fired. Quitting a job, constructive discharge and wrongful termination included as well as quit notice framework.

Union: Employee rights regarding unfair labour practices, plus information about the privilege to join or refrain from joining a labour union under right to work laws. Also provides links to union lists and directories.

Disability: Employee rights with recourse to injury sustain which may cause temporary and or permanent disability. Workers' compensation Acts took care of this.

Discrimination: this is employee right about employment discrimination and legal recourse. Discrimination topics include age, pregnancy, equal pay, religion, disability, nepotism, sexual harassment, and hostile work environment.

Wages and pay: Employee rights for wages and other pay, such as payday requirements, final pay checks, wage garnishment, minimum wage, prevailing wage, and overtime, severance, holiday, sick and vacation pay.

Workplace: Employee rights on activities related to workplace issues, such as drug testing, defamation (slander or libel), dress code (including employee uniforms), bad boss, nepotism, employee privacy, harassment and retaliation.

However, the records available in the country through constant remarks by the Civil Liberty Organisation, Campaign for Democracy and other non-governmental organisations confirmed the level of conformity to be highly low and not worthy of emulations. As noted by Adewunmi and Adenuga, (2010) that the desire on the part of government to woo foreign investors into the country has significantly contributed to low conformity. Some of these provisions are just appearing on papers for examples the right to unionise. Some organisations met the required number for the formation of union, yet there is no union and there is no record of penalty. Factory Act provision has been neglected to the extent that most of the factory are in despicable thus increasing death rate on daily basis, many factory were incorporated without any visit to the site/location and so also is Compensation Act that clearly spelt out conditions for indemnification most especially injury arising in the course of job performance (temporary or permanent disability), from records available only very few are duly compensated provided they are connected to important personality in the country. The workplace slander is high on the part of employer leading to false accusations on the part of the departed employees, the case of minimum wage is another area where there is no compliance, employer in the public and private sectors had never willing paid what law stipulated as minimum pay and the provision of timeframe in the termination of employment or in lieu of payment has equally been relegated to the background not to talk of severance pay. The Trade Dispute Act which is engulfed by conflict resolution objective has the internal and external means of resolving conflict to be time consuming and the end result is selective obedience. The employment order in Nigeria today is a function of whom you know which is on the basis of your religion, tribe and societal affiliation which has far reaching effect on discrimination. This further confirms the report from national and international trade union federations as well as ILO with respect to severe rights abuses.

IV. CHALLENGES OF WORKERS' RIGHTS

With reference to Plant (1994) the developments within the global economy have negative effect on some of the labour standards and rights enjoyed by workers. This position was also buttressed by Scherrer and Greven (2001) in their comments on the threat posed by the emergent global economic disorder. The absence of alternative job, mass retrenchment and financial meltdown all these contributed to lowering of labour standards. Majority of the international investors gave conditions to the host country which are somewhat accepted in anticipation for quick and rapid development through their investment with implication on labour standard. For example, there was a fire disaster in a Chinese company at Ikorodu, Lagos in 2004 as a result of power surge leaving about 250 employees dead. It was reported that none of the factory workers could escape because the employer at close of work, locked the doors leading to the factory to be opened the following day. This act was confirmed to have been the tradition in the company to lock those on night shift in the factory till the following day. This is considered to be absurd and quite intriguing that the state and federal government of Nigeria kept mute. It was only the labour union that made noise and visited the place.

The union in Nigeria is trying but cannot go beyond the provision of the law; the political and economic situations had further weakened the strength of the union as well as the hostility in the hand of employers and government agencies and this is beginning to affect the confidence level of workers as to whether the union is the antidote to the excessive exploitation of workers. Aside this is the manifestation of lack of political will on the part of government to protect its workers through the enforcement of legislation meant for that purpose. Take the case of police, ministry of labour, ministry of health and ministry of justice, each of these agencies in charge of investigation, supervision and enforcement had done nothing to show slightest commitment. What would then be the state of workers' rights in Nigeria? Many of the employers of labour also engaged in deliberate avoidance and non-compliance since it is believed that the government will not do anything after all there is equally abuses of workers' rights in the public sector. In March 2012, all the Doctors in the public service of Lagos State government went on strike after the inability of the state government to meet with their union representative on conditions of service non-implementation which was agreed upon some years back. Before the union decision to embark on the strike, all the avenue provided by the law were sought including warning strike but no response from the government. By the 5th day into the strike, the Governor of the state through the press secretary to the state announced that all the doctors on her pay roll are hereby dismissed after which the commissioner of health also announced in another forum that action is justifiable.

V. CONCLUSION

On the basis of the above findings, it is logical to conclude that at the national (Nigeria) and international levels, there appear to be enough and sufficient laws to usher in enviable standards to ensure that Nigerian worker rights are protected and enjoyed by all workers. Therefore, in Nigeria there is workers' right similar to what can be obtained in other countries of the world be it developing or developed with a great

inference from other international labour organisations aside ILO. However, the worrisome aspect of these workers' rights is the level of implementation or compliance on the part of employers of labour (public and private) which is evident to be none existence if the appraisal is done on the basis of objectivity without sentiment. Obisi, (2005) described the labour law in Nigeria as a toothless bull dog as a result of his observations in industrial relations matters most especially the inability of Industrial Arbitration Panel (IAP) to sit for many years simply because the chairman of IAP was not appointed and this is the body that is empowered by the provision of the law to adjudicate on issues concerning labour matters in Nigeria. Thus, without fear of contradictions and with all intents and purposes, the workers' right in Nigeria is in reality on constitutional pages but in practice and operation it is a myth and if it is myth in practice as well as in operation, the workers' rights in Nigeria is myth. The reality on the pages of Nigerian constitution does not and can never guaranty protection of workers' rights but rather the instrument behind the implementation and functionality of the laws.

RECOMMENDATIONS

Sequel to the above discussions and revelations, the following pragmatic recommendations are being adduced forward to include;

- There should be a strong political willingness on the part of the government to enforce what is constitutionally spelt out in respect of the workers' rights. The government should begin this in the public sector where she is considered as largest employer of labour for other employers to see the seriousness and take a leaf from this action.
- The agencies should be headed by people who are qualified for the office on merit as against the current practice of settlement through political appointment into these offices without recourse to experience and pedigree.
- Police as an institution should be given special education in order to change their orientation of abuses to understand what rights of workers are within the constitutional framework especially in the area workers' rally, protest and strike.
- The trade union views and cry should be harkened to most especially on issues concerning human dignity in the organisational work environment. The case of casualization of employees for years without confirmation.
- There is need on the part of government and employers to sensitise workers' on their rights and make available centres where complaints of violation of their rights could be reported without fear of vendetta or victimisation because infringement of these rights somewhat emanate from ignorance on the part of workers.
- The human rights groups, activists and other NGOs should liaise with their counterparts in other part of the worlds for the purpose of campaigning against foreign organisations that violates the rights of workers in Nigeria.

REFERENCES

- [1] Adewunmi Funmi and Adenugba Adebimpe (2010): *The State of Workers' Rights in Nigeria: An examination of the Banking, Oil and Gas and Telecommunication Sectors.*
- [2] *Constitution of Federal Republic of Nigeria of 1979 and 1999*
- [3] Haggard, S (1995): *Developing Nations and Politics of Global Integration*, Washington D.C, The Brookings Institution.
- [4] Oginni, B.O and Faseyiku, I.O (2012): *The Dynamics of Industrial Relations*, Lagos, Mankore prints.
- [5] Obisi, Chris (2005): *Substance of Employee, Industrial and Labour Relations*, Lagos, Megavons (West Africa) Limited.
- [6] Plank, R (1994): *Structural Adjustment and Labour Standards*, Geneva, International Labour Office.
- [7] Scherrer, C and Greven, T (2001): *Global Rules for Trade Codes of Conduct, Social Labelling, Workers 'Rights Clauses*, Munster: Westfalisches Dampfboot.