

A CRITICAL ANALYSIS OF THE PROTECTION OF WORKERS' RIGHTS IN THE AGE OF ARTIFICIAL INTELLIGENCE*

Abstract

The creation and destruction of jobs at a rapid pace is part of the productivity growth generated by technology development and particularly with the Artificial Intelligence (AI). Artificial Intelligence has an even bigger impact on work in white-collar occupations. Also, many people have already become accustomed to effective artificial intelligence services at home, at school and also expect to have them in their workplaces to support their work. The purpose of this work is to critically analyse the rights of workers in the age of Artificial Intelligence particularly on the strengths and weaknesses of the legal structures upon which the rights of workers are founded, recognized, protected and enforced; to analyze and assess the existing legal framework surrounding workers' rights and its adequacy in addressing the emerging challenges posed by AI integration in the workplace. Doctrinal methodology and analytical approach were employed in this study. The data for this research were sourced from textbooks, journal articles, unpublished works, case laws, statutes, newspapers, magazines and internet. On the findings of this research, it was discovered that the labour and employment laws did not sufficiently protect for workers rights in the age of AI. Therefore, it is recommended that there is a need for the amendment of the existing labour laws, establishing new guidelines for responsible AI deployment, and implementing accountability mechanisms for any violation on workers' rights. Also, the creation of awareness through enlightenment campaigns on worker's rights, its infringement, enforcement and remedies in AI driven workplaces.

Keywords: Artificial Intelligence, Algorithms, Workers and Rights

Introduction

Digital technology has already changed working methods especially with the advent of Artificial Intelligence (AI), which affects not only the labour and employment market but also working relationships. Artificial intelligence (AI) refers to the creation of computer systems capable of performing tasks that historically only a human could do, such as reasoning, making decisions, or solving problems. Artificial intelligence (AI) is the theory and development of computer systems capable of performing tasks that historically required human intelligence, such as recognizing speech, making decisions, and identifying patterns. AI is an umbrella term that encompasses a range of technologies, including machine learning, deep learning, and Natural Language Processing (NLP).¹

Labour and employment law should be used as a legal tool to steer the obvious changes brought by AI in the workplace. The challenge is thus to identify avenues for adapting our labor and employment legislation in order to anticipate and smoothen the transition to the new world. AI has greatly improved efficiency and productivity in the digital workplace. It can automate

* **CHIDIMMA DORATHY UMEGO, (LL.M, ACI Arb, B.L, LL.B**, Lecturer at the Faculty of Law Nnamdi Azikiwe University, cd.umego@unizik.edu.ng, +2348164009023;

IJEOMA ESTHER OTI (LLB), Nnamdi Azikiwe University, estherijeoma878@gmail.com, +2348169024348.

¹ Coursera, 'What Is Artificial Intelligence? Definition, Uses, and Types' (28 July 2023)

<<https://www.coursera.org/articles/what-is-artificial-intelligence>> accessed 15 October, 2023.

repetitive tasks, freeing up human workers to focus on more complex and creative endeavors. AI algorithms can analyze vast amounts of data and generate valuable insights, helping organizations make better-informed decisions. Additionally, AI-powered chatbots and virtual assistants provide instant support to employees, improving customer service and enhancing overall user experience.

Furthermore, AI has led to significant advancements in healthcare, such as disease diagnosis, drug discovery, and personalized treatments. In fields like transportation and logistics, AI has optimized routes, reduced costs, and enhanced safety through autonomous vehicles. These positive effects demonstrate how AI is transforming industries and improving various aspects of the digital workplace.

Despite the benefits, AI also poses certain challenges. One major concern is job displacement which is a serious threat to workers. As AI takes over routine tasks, it can lead to job losses or shifts in job requirements, requiring employees to upskill and adapt to new roles. The introduction of AI in the digital workplace brings ethical considerations to the forefront. Transparency and accountability become critical as AI systems make decisions that impact individuals' lives. Fairness, privacy and consent are important ethical principles that need to be upheld when implementing AI systems. Organizations must also comply with legal frameworks related to data protection, intellectual property, and employment rights to ensure responsible and ethical AI usage.

As AI technologies have become increasingly integrated into our daily lives. From voice assistants in our smart phones to personalized recommendations on streaming platforms, more is expected of it in workplaces. Thus, striking a balance between AI and human involvement is essential to ensure the well-being and autonomy of individuals in workplaces.

The digital workplace is continually evolving due to advancements in AI. As AI systems become more sophisticated, they will increasingly collaborate with human workers rather than replacing them. This collaboration will require organizations to redefine job roles, invest in reskilling programs, and foster a culture that embraces the augmentation of human capabilities through AI. The evolution of the digital workplace will demand adaptability and continuous learning to thrive in the AI-driven era.

Looking ahead, AI is poised to have a transformative impact on the world. Advancements in machine learning, natural language processing, and robotics will continue to push the boundaries of what AI can accomplish. We can expect AI to revolutionize sectors such as labour, healthcare, transportation, education, and environmental sustainability. However, careful consideration of ethical implications, legal frameworks, and societal impact must accompany this progress to ensure that AI technologies are developed and deployed responsibly, respecting workers rights in workplaces.

Examination of the Rights of Workers threatened by Artificial Intelligence

Nigeria can be considered an Artificial Intelligence (AI) champion on the African continent, being the first country in the region to institutionalize a National Centre for AI and Robotics (NCAIR); and the establishment of dedicated government institutions who are fostering a knowledge-based economy and promoting the research and development of AI systems in

Nigeria.² AI-based technologies are becoming increasingly integrated into the modern life of many Nigerians and there is need to consider the ways in which such technologies impact on the fundamental rights of Nigerians.³ The labour sector is not left out, as the rights of Nigerian workers are to be considered. In examining workers right in the age of artificial intelligence in Nigeria, certain concepts that relates to the subject shall be discussed:

Right to Privacy

The right to privacy is an inalienable right which is fundamental to human dignity. The Constitution⁴ expressly provides that the privacy of citizens, their homes, correspondence, and telephone conversations, telegraphic is hereby guaranteed and protected. AI threatens employee privacy by requiring the collection and processing of huge amounts of employee data, and when AI systems make decisions with important employment ramifications in the absence of transparency or accountability, workers can be left feeling powerless and alienated.⁵

Surveillance systems and satellite imagery is part of Artificial intelligence that infringes on a person's right to privacy, due to their ability to not only monitor and track a person's movement, but to also predict future movements.⁶ Also AI systems are programmed to mine and analyze data, which if not properly regulated, personal information of workers may be released, resulting to infringement of their right to privacy.⁷ Hence workers' right to privacy is greatly threatened in this artificial intelligence age, especially as there are no specific legislations covering the subject in Nigeria.

Right to Work

Having a work to do is a fundamental of labour relations. The right to work is the right of a person to the opportunity to gain his living by work which he freely chooses or accepts.⁸ The concept of the right to work encompasses the entitlement to access employment opportunities, the right to receive assignments, and the right to job stability. Importantly, by the provisions of Section 17 of the Labour Act 2004, except where a collective agreement provides otherwise, every employer shall, unless a worker has broken his contract, provide work suitable to the worker's capacity on every day (except rest days and public holidays) on which the worker presents himself and is fit for work; and, if the employer fails to provide work as aforesaid, he shall pay to the worker in respect of each day on which he has so failed wages at the same rate as would be payable if the worker had performed a day's work. However, this right to work of workers has been so much neglected and violated in the 21st Century. Employers now prefer using Artificial Intelligence to carry out tasks which ordinarily should have been done by employers, hence an evident breach of their right to work as provided by law.

² J Effoduh, 'Policy Brief: Towards A Rights-Respecting Artificial Intelligence Policy for Nigeria' <<https://paradigmhq.org/wp-content/uploads/2021/11/Towards-A-Rights-Respecting-Artificial-Intelligence-Policy-for-Nigeria.pdf>> assessed 28th November, 2023.

³ *Ibid.*

⁴ Constitution of the Federal Republic of Nigeria 1999 (as amended), Section 37.

⁵ P Kim and M Bodie, 'Artificial Intelligence and the Challenges of Workplace Discrimination and Privacy' (2021) (2) (1) *ABA Journal of Labor & Employment Law*, 97.

⁶ Omplex, 'Machine Intelligence and Human Rights in Nigeria: A Growing Concern' <<https://omplex.com.ng/machine-intelligence-and-human-rights-in-nigeria/>> assessed 28th November, 2023.

⁷ Omplex, 'Machine Intelligence and Human Rights in Nigeria: A Growing Concern' <<https://omplex.com.ng/machine-intelligence-and-human-rights-in-nigeria/>> assessed 28th November, 2023.

⁸ International Covenant on Economic, Social and Cultural Rights adopted on 16 Dec, 1966 GA Res.2200, 21 UN GAOR, Article 6.

Right to Freedom from Discrimination

Notably, the Nigerian Constitution provided for right to freedom from discrimination by stating that no citizen of Nigeria is to be subjected to any disabilities or restrictions based solely on the fact that he/she is a member of a particular community, ethnic group, place of origin, sex, religion or political opinion, or circumstances of his/her birth.⁹ Employers and businesses are increasingly relying on and using tools that incorporate algorithmic decision-making, including resume scanners, video interviewing software and employee monitoring software.¹⁰ Most of these technologies are designed by incorporating the bias of their manufacturers, thereby making unfair and discriminatory decisions.

Discrimination in the labor market is defined by the ILO's Convention 111, which encompasses any unfavorable treatment based on race, ethnicity, color, and gender that undermines employment equality. It has been noted that algorithms and AI can result in unfair employment opportunities and the potential for discrimination without accountability.¹¹ Even though algorithms strive for impartiality and transparency in their processes, they can exhibit bias if they are provided with incomplete input data from humans.¹² This becomes a huge threat to the right to freedom from discrimination of workers in the age of artificial intelligence in Nigeria.

Unlawful Dismissal

Implementing staff layoffs and workforce reductions is always a challenging endeavor.¹³ It's crucial to recognize that AI, while neither inherently positive nor negative, lacks the fundamental element of the HR profession: the human touch.¹⁴ It is no news that employers now use AI to terminate employee's contract of employment. This usually happens after monitoring of the employees performance over a certain period without a conviction of the AI, which could be biased.¹⁵ It is pertinent to note that when workers sense a lack of care or trust from their employers, it is probable that their commitment to the organization will decrease.¹⁶ Additionally, they may perceive lower levels of psychological safety and experience elevated stress, which collectively contributes to a negative impact on the relationship between employees and their employers, particularly with their managers and supervisors, and affects their output.¹⁷ Also AI may dismiss workers without prior notice. When dismissal arising from these factors arises from an AI system, it could amount to unlawful dismissal. Unfair dismissal

⁹ Constitution of the Federal Republic of Nigeria 1999 (as amended), section 42.

¹⁰ E Kales, 'Use of AI Tools raises Concerns about Potential for Employment Discrimination' <<https://thedailyrecord.com/2023/08/08/use-of-ai-tools-raises-concerns-about-potential-for-employment-discrimination/>> assessed 28th November, 2023.

¹¹ Z Chen, 'Ethics and Discrimination in Artificial Intelligence-Enabled Recruitment Practices' <[https://www.nature.com/articles/s41599-023-02079-x#:~:text=While%20AI%20recruiting%20offers%20numerous,gender%20\(Jackson%2C%202021\).>](https://www.nature.com/articles/s41599-023-02079-x#:~:text=While%20AI%20recruiting%20offers%20numerous,gender%20(Jackson%2C%202021).>) assessed 28th November, 2023.

¹² *Ibid.*

¹³ D Cave, 'AI Use in Employee Termination raises HR Concerns' <<https://www.hr magazine.co.uk/content/news/ai-use-in-employee-terminations-raises-hr-concerns/>> assessed 28th November, 2023.

¹⁴ *Ibid.*

¹⁵ A Shrinkant, 'Companies Use AI to Monitor Workers—45% of Employees say it has a Negative Effect on their Mental Health' <<https://www.cnn.com/2023/09/08/employers-using-ai-to-monitor-workers-has-negative-impact-on-employees.html>> assessed 28th November, 2023

¹⁶ *Ibid.*

¹⁷ *Ibid.*

is the termination of contract of employment of an employee in a harsh, unjust or unreasonable manner.¹⁸

Also Article 4 of the ILO Convention provides that the employment of a worker shall not be terminated unless there is valid reason for such termination connected with the capacity or conduct of the worker or based on the operational requirements of the undertaking, establishment or service. When AI is used to terminate employments of workers, it pays little or no attention these factors at it is electronically inspired, hence amount to unlawful dismissal, which is often the situation in Nigeria.

Challenges of Workers in the Age of New Technologies

Workers face several challenges as a result of the surge in AI systems, some of them include:

1. **Job Displacement and Skill Mismatch:** The increasing automation of tasks through AI technologies can potentially lead to loss of job. Workers are therefore required to adapt and reskill to remain employable. Thus, transitioning into new roles becomes a big challenge.
2. **Ethical Dilemmas:** Workers may face ethical challenges related to the use of AI such as decision making based on algorithms, implications for privacy and the ethical use of data.
3. **Bias and Discrimination:** AI algorithms can perpetuate bias and discrimination if not designed and implemented carefully, leading to unfair treatment of workers from diverse backgrounds.
4. **Increased Working Hours since AI Systems are not subject to Working Time Regulation:** The fact that robots will be handling tasks currently subcontracted/outsourced in developing countries can paradoxically entail a risk of increased working hours for the machine supervisor and thus create another source of stress at work.¹⁹
5. **Loss of the Ability to Take Initiatives:** When humans solely rely on new technologies to take decisions and undertake tasks for them, the result is that it diminishes a worker's ability to be creative and to think outside the box.

Inadequacy of Nigerian Laws

While Nigerian laws and regulations provide a foundation for the protection of workers' rights, these laws are insufficient generally for the rights of workers in the AI age and also when it comes to addressing the challenges posed by AI in the workforce. Some of the inadequacies are:

- a. **Lack of Specific and Comprehensive AI Regulations:** there is lack of specific regulations tailored to address the unique challenges presented by AI in the workplace. As AI technology advances rapidly, there is need for specific laws and guidelines that encompass ethical AI use, job displacement and skill mismatch.
- b. **Limited Focus on Up-skilling and Re-skilling:** the existing labour laws do not place enough emphasis on up-skilling and re-skilling of workers to adapt to changes brought

¹⁸C Obidimma, M Anushiem and U Ekeneme, Unfair dismissal in Nigeria: imperative for a departure from the common law, (2016) (1) (1) *NAUJILJ*134.

¹⁹Soulier Advocats, 'Labor law and the Challenges of Artificial Intelligence : 2nd Part of a Trilogy' (28 September, 2018)

<<https://www.soulier-avocats.com/en/labor-law-and-the-challenges-of-artificial-intelligence-2nd-part-of-a-trilogy/>> accessed 23 November, 2023.

about by AI. There is need for policies that promote ongoing education and retraining to enable workers to remain relevant in the evolving job market.

- c. Data Privacy and AI: while Nigeria has data protection regulations, yet it is insufficient. Thus, there is need to further strengthen its provisions or enact clearer laws to meet the demand of new realities.
- d. Effective Enforcement Mechanisms: There are no effective provisions for the enforcement of the rights of workers in the age of AI under the Nigerian labour laws.

A Comparative Analysis of Workers Rights in the Age of Artificial Intelligence in other Jurisdictions

It is critical to understand the current and proposed legal frameworks regulating these new technologies, specifically for businesses operating globally. The task of ensuring that AI technology complies with applicable regulations will be complicated by the differing standards that are emerging from United States, United Kingdom, Canada and South Africa.

United States of America

In the United States of America, there is a more advanced use of Artificial Intelligence in the workplace. Since its invention some sixty years ago, AI has evolved from an arcane academic field into a powerful driver of social and economic change.²⁰ AI is now the basis for a wide range of mainstream technologies including web search, medical diagnosis, smart phone applications, and most recently, autonomous vehicles.²¹ In 2013, the Oxford Martin School released a report forecasting that within the next two decades; approximately 47 percent of jobs in the United States could be at risk of automation due to advancements in AI technologies.²² From 2011 to 2015, teachers in Houston underwent job performance assessments through a data-driven algorithm called the Educational Value-Added Assessment System (EVAAS).²³ This algorithm enabled the board of education to automate decisions determining which teachers received bonuses, faced sanctions for low scores, or were terminated.²⁴ The outcomes of these automated decisions significantly influenced the fate of the teachers, who were unable to contest or receive explanations because the algorithm's source codes and related information were proprietary trade secrets owned by SAS, a third-party vendor.²⁵

A protracted legal battle ensued, and in mid-2017, a U.S. federal judge ruled that using a secret algorithm to assess workers' performance without providing proper explanations violated the teachers' constitutional rights.²⁶ The judge grappled with the private vendor's understandable right to protect trade secrets and the teachers' constitutional right to due process, safeguarding them against substantively unfair or mistaken deprivations of life, liberty, or property.²⁷ This is different from the situation in Nigeria, where there are no court decisions on the subject.

²⁰S Johal and D Arara, 'Work and Social Policy in the age of artificial intelligence' <<https://www.brookings.edu/articles/work-and-social-policy-in-the-age-of-artificial-intelligence>> assessed 28th November, 2023.

²¹*Ibid.*

²²*Ibid.*

²³ K Hung and J Liddlecoat, 'The future of workers right in the age of AI'

<<https://policyoptions.irpp.org/magazines/december-2018/future-workers-rights-ai-age/>> assessed 28th November, 2023.

²⁴*Ibid.*

²⁵ *Ibid.*

²⁶*Ibid.*

²⁷*Ibid.*

In the United States, though there is currently no federal law or regulations that specifically regulate AI in the workplace, in May 2022, the Equal Employment Opportunities Commission (EEOC) published guidance aimed to help U.S. employers navigate compliance with the Americans with Disabilities Act (ADA) while using AI in the workplace.²⁸ The same day, the Department of Justice posted its own guidance regarding AI-related disability discrimination.²⁹ Both sets of guidance outline potential ways AI and automated hiring tools could violate the ADA.³⁰ Similarly, and more generally, at least sixteen states have introduced bills or resolutions relating to artificial intelligence in the workplace—all at different stages of the legislative process and paving a path for others.³¹

Also, administrative agencies are undertaking efforts to provide guidance on legal issues surrounding AI.³² Such guidance include the Federal Trade Commission's "Keep your AI Claims in Check", the National Institute of Standards and Technology's "Artificial Intelligence Risk Management Framework (AI RMF)", the U.S. Copyright Office's statement of policy on "Copyright Registration Guidance."³³

United Kingdom

In the United Kingdom, Biometric data (biological or behavioral data about individuals) can be used by AI systems in many ways. For example, in the UK, the Uber Eats Delivery Company uses facial recognition technology to verify the identity of workers at the start of shifts.³⁴ Such technology, however, has raised concerns that these systems perform worse for people from minority ethnic groups because they are underrepresented in the datasets the algorithms are trained on.³⁵ In addition to facial identity, AI systems are also being developed to detect emotions from facial expressions.³⁶ For instance, Humanyze have developed wearable AI systems that monitor employee interactions and analyze their body language in real-time.³⁷ There should be a mutual trust and confidence between an employer and employee for any contract of employment to be effective.³⁸ As described by Lord Steyn in *Malik and Mahmud v. Bank of Credit and Commerce International*,³⁹ it is expressed to impose an obligation that the employer shall not "without reasonable and proper cause, conduct itself in a manner calculated and likely to destroy or seriously damage the relationship of confidence and trust between employer and employee." The usage of Artificial Intelligence to monitor the performance of workers diminishes the mutual trust and confidence between employers and employees, hence greatly affects the contract of employment in the UK.

²⁸ American Bar Association, 'Artificial Intelligence in the Workplace'

<https://www.americanbar.org/groups/labor_law/publications/labor_employment_law_news/spring-2022/ai-in-the-workplace/> assessed 28th November, 2023.

²⁹*Ibid.*

³⁰*Ibid.*

³¹*Ibid.*

³² Reed Smith, 'Regulation of AI' <<https://www.reedsmith.com/en/perspectives/ai-in-entertainment-and-media/2023/06/the-regulation-of-ai>> assessed 28th November, 2023..

³³*Ibid.*

³⁴ P Brione and S Day, 'Artificial Intelligence and Employment Law'

<<https://researchbriefings.files.parliament.uk/documents/CBP-9817/CBP-9817.pdf>> assessed 28th November, 2023.

³⁵ P Brione and S Day, 'Artificial Intelligence and Employment Law'

<<https://researchbriefings.files.parliament.uk/documents/CBP-9817/CBP-9817.pdf>> assessed 28th November, 2023.

³⁶*Ibid.*

³⁷*Ibid.*

³⁸*Ibid.*

³⁹ *Malik and Mahmud v Bank of Credit and Commerce International* (1997) SA.

In UK, the Employment Rights Act 1996 (ERA) contains provisions to protect employees with at least two years continuous service from unfair dismissal. Section 98 of the ERA⁴⁰ sets out the general conditions for a dismissal to be fair. Although the Equal Rights Act (ERA) does not specifically address decisions influenced by AI, the legal standard of fairness remains consistent regardless of whether the employer utilized AI systems in making the dismissal decision.⁴¹ Consequently, existing safeguards against unfair dismissal could potentially encompass cases where the dismissal is deemed unfair due to deficiencies in the employed AI processes.⁴² Importantly, the use of AI in the workplace has considerable implications for privacy law in United Kingdom, particularly with regards to monitoring and surveillance algorithms.⁴³ The TUC's 2020 report 'Technology Managing People - The Worker Experience' highlighted concerns about the intrusive nature of these systems, finding that 27% of workers surveyed had their communications screened, 13% had experienced desktop monitoring, and 8% were aware of social media screening.⁴⁴

Canada

Employers in Canada are increasingly using AI to help them with hiring decisions.⁴⁵ In Canada, employers must ensure that their use of automated hiring tools complies with privacy laws, and may be required to obtain consent before using automated tools to analyze an applicant's materials or using an employee's data to train an AI system.⁴⁶ Canadian privacy regulations mandate that organizations must have a valid reason to process an individual's personal information.⁴⁷

Importantly, the Canadian federal government has introduced legislation, Bill C-27, to modernize Canada's Personal Information Protection and Electronic Documents Act (PIPEDA)⁴⁸ and to introduce new legislation that would regulate the use of AI in Canada.⁴⁹ Bill C-27 is presently before the House of Commons and has passed second reading as of April 24, 2023.⁵⁰ If enacted, Bill C-27 would create the Artificial Intelligence and Data Act (AIDA).⁵¹ AIDA introduces a principles-based approach that is focused on ensuring that the use of AI is properly governed and controlled.

⁴⁰ Employment Rights Act 1996.

⁴¹ *Ibid*; 39.

⁴² P Brione and S Day, 'Artificial Intelligence and Employment Law' <<https://researchbriefings.files.parliament.uk/documents/CBP-9817/CBP-9817.pdf>> assessed 28th November, 2023.

⁴³ *Ibid*.

⁴⁴ TUC, 'Technology managing people - The worker experience' <<https://www.tuc.org.uk/research-analysis/reports/technology-managing-people-worker-experience>> assessed 28th November, 2023.

⁴⁵ S Catherine, 'Canada: Workplaces Should Consider Bias, Privacy in AI Policies' <<https://www.shrm.org/resourcesandtools/hr-topics/global-hr/pages/canada-workplaces-ai-policies.aspx>> assessed 28th November, 2023.

⁴⁶ *Ibid*.

⁴⁷ *Ibid*.

⁴⁸ Personal Information Protection and Electronic Documents Act, SC 2000, c 5 [PIPEDA].

⁴⁹ B Karn, 'The Landscape of AI regulation in Canada' <https://cassels.com/insights/the-landscape-of-ai-regulation-in-canada/?utm_source=mondaq&utm_medium=syndication&utm_term=Technology&utm_content=articleoriginal&utm_campaign=article> assessed 28th November, 2023.

⁵⁰ *Ibid*.

⁵¹ Bill C-27, Digital Charter Implementation Act, 2022, 1st Sess, 44th Parl, 2021, (second reading 24 April 2023).

South Africa

In South Africa, the predictions about AI's impact on the workplace are contingent on many variables, including the level of employees' education and training, the cost of the technology, its adoption rate, regulation, ethics and how far AI creates new jobs.⁵² Though there are no specific regulations governing AI in relation to the work place, certain laws may come into contemplation. Pursuant to the current Data Protection Act 1998, individuals have the right to object to an organization reaching a decision about them based solely on automated means.⁵³ However, the position under the forthcoming General Data Protection Regulation (GDPR) is more difficult. Article 22(1) of the GDPR provides:

The data subject shall have the right not to be subject to a decision based solely on automated processing, including profiling, which produces legal effects concerning him or her or similarly significantly affects him or her.

In other words, without making any active objection, workers have the right not to be subjected to a decision evaluating their personal aspects that is based solely on automated processing.⁵⁴ The issue of Artificial intelligence has been addressed by the South African Courts. In *Financial Mail v Sage Holdings, 1993*,⁵⁵ Corbett CJ tends to view natural and artificial (legal) persons as enjoying the same personality rights in circumstances where it is appropriate. This particular case dealt with the extension of privacy rights to a company⁵. This also applies to workers right, as in the AI is an agent of the employer who shall be vicariously liable for its wrongs.

Conclusion

The research analysed the rights of workers in Nigeria in the age of Artificial Intelligence, where the mode of labour relations is fast changing with the introduction of sophisticated technologies. This innovation has redefined labour relations. Unfortunately, the major labour law by its extant contents does not guarantee sufficient protection and promotion of the rights of workers in view of the socioeconomic challenges as a result of the introduction of the AI. Furthermore, the research through a comparative analysis of the applicable regulatory framework in place in other jurisdictions such as the USA, UK, Canada and South Africa proved these countries have advanced the use of AI in workplaces to create a balance between innovation and safeguarding of the rights of workers.

Recommendations

1. Specific and Comprehensive Regulation and the Updating of the Existing Labour and Laws: The Nigerian lawmakers should enact a specific and comprehensive regulation

⁵²Norton Rose Fulbright, 'Artificial Intelligence and the future of work'

<<https://www.nortonrosefulbright.com/en-za/knowledge/publications/a9f9f769/artificial-intelligence-and-the-future-of-work>> assessed 28th November, 2023.

⁵³Norton Rose Fulbright, 'Artificial Intelligence and the future of work'

<<https://www.nortonrosefulbright.com/en-za/knowledge/publications/a9f9f769/artificial-intelligence-and-the-future-of-work>> assessed 28th November, 2023.

⁵⁴*Ibid.*

⁵⁵*Sage Holdings Ltd & Anor v Financial Mail (Pty) Ltd & Ors 1991 (2) SA 117 (W).*

for the protection of workers rights in the age of AI and also update the existing labour laws. The law in question should cover the ethical guidelines for AI implementation- establishing mechanism that allows workers to have a say in the implementation of AI systems that affect their environment and employment conditions. Also providing guidelines for up-skilling and retraining programs. The law should also contain provisions on data privacy, algorithm bias, the right to fair compensation and adequate enforcement mechanisms etc.

2. Full and active participation of various institutions such as the National Industrial Courts of Nigeria, the Nigerian Police Force, Trade Unions in the enforcement of the rights of workers in AI driven workplaces.
3. Creation of awareness through enlightenment campaigns and educational programs to get the workers informed of their rights in AI driven workplaces- knowing when it is violated and how to maintain an action for proper remedies to be awarded.
4. Proper responsibility and accountability by employers of labour in AI driven workplaces and the designers of AI systems.
5. Implementing the Proportionality and Do No Harm Principle: This principle states that use of AI systems should not go beyond what is necessary to achieve a legitimate purpose. It recommends risk assessment as a mechanism to prevent harm which may result from the use of AI. Designers of AI as well as government should ensure that safety risks and vulnerabilities should always be factored, avoided and addressed by AI systems.