

## Right to Work in Nigeria: Lesson from ILO Standards

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### Abstract:

All citizens reserve a right to work in Nigeria. This right is a fundamental part of economic stability and human dignity. The right to work is recognized globally by various International Labour Standards, more especially by those established by the International Labour Organization (ILO). The right to work in Nigeria is enshrined in the 1999 Constitution and numerous labour laws in Nigeria. Some of the significant challenges of the right to work include high unemployment and inadequate enforcement of labour standards. Gaps were found to exist between the legal provisions and the actual enforcement and implementation of the rights. This had led to a number of violations and limited access to decent work for many Nigerians. This research aims at critically appraising the right to work in Nigeria in view of the International Labour Organization (ILO) standards with a view of enhancing the effectiveness of Nigeria's labour framework. The research deployed the doctrinal research approach to analyze the relevant legal and policy framework in the Nigeria Labour regime comparing them International Standards particularly those of the ILO. The research discovered that significant strides have been made in aligning Nigeria labour laws with International Standards. Substantial Gaps still exist in the area of enforcement coverage and the protection of vulnerable workers. This research ended by recommending increased awareness of workers' rights, enhancing the capacity of labour institutions to monitor and ensure compliance with international standards and the strengthening of institutional mechanism for the enforcement of labour laws. If the above recommendations are activated, it would be a step in the realization of right to work in Nigeria and in consequence the promotion of sustainable economic development.

**Keywords: Employment Law, International Labour Organization (ILO), Labour Standards, Right to Work**

### 1.0 Introduction:

The right to work is deeply anchored in the International Human Rights Framework and Labour Standards. The root of this right is embedded in the International Human Rights Frameworks and Labour Standards. The right is a corner stone of social justice and economic empowerment. The International Labour Organization (ILO) has emphasized the importance of the right to work for individuals. It has made it clear that it is a key factor to securing economic security, personal dignity and social inclusion. The ILO has in her conventions and recommendations provided a comprehensive set of guideline and rules for member states to follow to ensure that the right to work is fulfilled, respected and protected. Nigeria is a member of the ILO.

Despite the fact that the right to work is founded and entrenched in the 1999 Constitution and a plethora of statutes in this regard, to ensure this right, the actual and practical position on ground leaves much to be desired. The rights to works is far from being protected and there is want of fair labour practices in the country. There is high unemployment and under employment rates along with poor enforcement of labour standards. These factors have resulted in significant challenges in realizing the right to work for a good chunk of the Nigerian population.

There is a high level of informality in the Nigeria Labour Market. A good number of workers are engaged in precarious and unregulated jobs the where job protection is either minimal or completely lacking. Other factors such as discrimination, lack of social security, insufficient labour inspections which exist in the system further undermine the effective implementation of the right to work in Nigeria.

This study seeks to critically analyze the right to work in Nigeria, drawing lessons from ILO standards to assess the strengths and weaknesses of Nigeria's legal and institutional frameworks. By comparing Nigeria's approach with international best practices, this research aims to identify key areas for improvement and provide actionable recommendations to enhance the protection of workers' rights in the country. The study underscores the importance of aligning national labour policies with international standards to ensure that all Nigerians can enjoy their fundamental right to work, contributing to both individual well-being and national development.

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## 2.0 The Legal Framework for Employee Compensation

The legal framework for employee compensation in Nigeria is primarily governed by several statutes, including the Labour Act<sup>1</sup>, the Employees' Compensation Act (ECA) 2010<sup>2</sup>, and the National Minimum Wage Act 2024<sup>3</sup>. The Labour Act regulates the issue of wages, working conditions and set down the rights and duties of the employer and the employee. The Labour Act actually regulates the employment relationship between employer and the employee. On the other hand, the ECA provides a comprehensive system for compensation arising from work related injuries disabilities and deaths. The National Minimum Wage Act provides the least wages the employers are to pay their workers.

## 3.0 Institutional Framework and Enforcement Mechanisms

These include government agencies, legal entities, private bodies and insurance mechanisms that have been established to ensure that workers' rights are protected. It is important to understand the essence of these institutions the key roles they play. This would enable one assess the strength or weakness of enforcement of the rights of employees in Nigeria.

### 3.1 Ministry of Labour and Employment

This Ministry is the government agency assigned with the responsibility of regulating labour relations and implementing labour laws in Nigeria. It mediates labour disputes and ensures compliance with wage regulations. it over the protection of worker rights.

### 3.2 National Industrial Court of Nigeria (NICN)

The National Industrial Court of Nigeria (NICN) was established by the National Industrial Court Act. This court handles labour and employment-related disputes<sup>4</sup>. The NICN has exclusive jurisdiction over cases involving employee compensation, including disputes arising from the interpretation of labour laws, the enforcement of workers' rights, and the resolution of conflicts between employers and employees<sup>5</sup>.

While the NICN plays a critical role in upholding labour standards, its effectiveness is sometimes undermined by procedural delays, a backlog of cases, and limited accessibility for workers in remote areas. Additionally, the complexity of labour laws and the high cost of litigation often deter workers from seeking redress through the court system, further weakening enforcement<sup>6</sup>.

### 3.3 Nigerian Social Insurance Trust Fund (NSITF)

The Nigerian Social Insurance Trust Fund (NSITF) administers the Employees' Compensation Scheme (ECS) established under the Employees' Compensation Act of 2010<sup>7</sup>. The ECS is designed to provide compensation to employees who suffer workplace injuries, disabilities, or death. This scheme is funded by contributions from employers, who are required by law to register with the NSITF and make regular payments based on their payroll.

Despite the critical role of the NSITF in protecting workers, the institution faces several challenges, including underfunding, administrative inefficiencies, and limited coverage<sup>8</sup>. Many employers, particularly in the informal sector, do not comply with the requirements to register and contribute to the NSITF, leaving a significant portion of the workforce without access to compensation in the event of work-related injuries or ailments.

### 3.4 National Pension Commission (PenCom)

The National Pension Commission (PenCom) is responsible for regulating and supervising pension schemes in Nigeria, including those that provide retirement benefits to employees<sup>9</sup>. While primarily focused on pensions, PenCom's role intersects with employee compensation by ensuring that workers receive the retirement benefits

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<sup>1</sup> Labour Act *op cit* 2

<sup>2</sup> The Employees Compensation Act, 2010

<sup>3</sup> National Minimum Wage Act, 2024

<sup>4</sup> Section 1, National Industrial Court Act, 2006.

<sup>5</sup> Section 254C 1999 Constitution of the Federal Republic of Nigeria, (as amended by the third Alteration Act, 2010).

<sup>6</sup> E Idigbe, P Edokpayi, R Ekpobedefe " A Critique of the Nigerian Labour Law in Comparison with other Jurisdictions: A Case for Review" Punuka Attorneys & Solicitors, 23-04-2020.

<sup>7</sup> Section 56, Employees Compensation Act, 2010

<sup>8</sup> Azubuike P I and A. P Mgbamoka. "a Comparative Analysis of the Present State of Employees Compensation Laws In Nigeria With Ghana, South Africa and India." *Novena University Law Journal (NULJ)* 8 (2023).

<sup>9</sup> Section 17, Pension Reform Act, 2014.

they are entitled to after years of service. This contributes to the broader framework of social protection for employees.

PenCom has made strides in improving the pension system in Nigeria, particularly through the introduction of the Contributory Pension Scheme (CPS).<sup>10</sup> However, challenges such as inadequate coverage, particularly in the informal sector, and issues with the management of pension funds continue to pose risks to the effective provision of retirement benefits .

#### **4.0 Challenges in the Institutional Framework in Nigeria**

The effectiveness of Nigeria's institutional framework for the right to work is hindered by several key challenges:

1. **Corruption:** Corruption within labour institutions, including bribery of inspectors and judicial officials, undermines the enforcement of labour laws and the protection of workers' rights<sup>11</sup>. This leads to selective enforcement and the erosion of trust in the system.
2. **Bureaucratic and Red Tape Inefficiencies:** There are delays in the processing of claims, issuance of compensation, and resolution of labour disputes. These delays often leave workers without timely recourse or support<sup>12</sup>. Aside from these, there is poor coordination among the relevant agencies of government. Some of the units are under or poorly staffed.
3. **Poor Funding:** This is a major challenge to the effectiveness of Nigeria's institutional framework for right to work. When funds are not available, labour inspections cannot be carried out, staff cannot be trained and retrained, claims can't be processed.
4. **Lack of Coverage of the Informal Sector:** A good percentage of Nigeria force belong to the informed sector. It is practically difficult to supervise the application of the labour laws in this sector. This makes the workers in the sector vulnerable to exploitation and without access to basic protection and benefits.

#### **5.0 International Legal Framework on Right to Work:**

##### **5.1 International Labour Organization (ILO) Standards on the Right to Work**

The International Labour Organization (ILO) was established in 1919 to promote fair and decent work conditions globally. It is an agency of the United Nations that sets International labour standards. It was also established to advocate for workers' rights, social justice, and equality in the workplace. The ILO has the "Right to Work" as one of her core missions.

##### **5.2 ILO Conventions and Recommendations on the Right to Work**

Along the years, the ILO has created and developed an all-embracing framework consisting of conventions and recommendations to address various aspects of the right to work. These have become International Standards for measuring the minimum standard for rights to work. These standards ensure all individuals have access to productive employment in standard conditions such as human dignity, equity, security and freedom.

**5.3 Convention No. 122: Employment Policy Convention (1964)**<sup>13</sup>: This convention compels member states to pursue policies that promote full, productive, and freely chosen employment. The emphasis of this convention is the need for equal access to employment opportunities and the elimination of discrimination in the labour market.

**5.4 Convention No. 111: Discrimination (Employment and Occupation) Convention (1958)**<sup>14</sup>: This convention seeks to eliminate discrimination in employment and occupation based on race, colour, sex, religion, political opinion, national extraction, or social origin. It promotes equality of opportunity and treatment in employment as a fundamental right.

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<sup>10</sup> O J Abere, A B Kudirat , and T S Saka. "The Contributory Pension Scheme (CPS) and Sufficiency of Retirement Benefit of the Low-Income Retirees of the Federal Public Service in Nigeria." *International Journal of Innovation and Economic Development* 9.3 (2023): 35-62.

<sup>11</sup> Bacio-Terracino, Julio. "Corruption as a violation of human rights." *International Council on Human Rights Policy, Forthcoming* (2008).

<sup>12</sup> *Ibid*

<sup>13</sup> Convention No. 122: Employment Policy Convention (1964)

<sup>14</sup> Convention No. 111: Discrimination (Employment and Occupation) Convention (1958)

**5.5 Convention No. 168: Employment Promotion and Protection against Unemployment Convention (1988)**<sup>15</sup>: This convention addresses the protection of workers against unemployment and the promotion of job creation. It encourages member states to implement active labour market policies that enhance employment opportunities and provide support to unemployed individuals.

**5.6 Recommendation No. 169: Employment Policy (Supplementary Provisions) Recommendation (1984)**<sup>16</sup>: This recommendation complements Convention No. 122 by providing additional guidance on how to design and implement effective employment policies. It stresses the importance of integrating employment objectives into national economic and social policies.

**5.7 Declaration on Fundamental Principles and Rights at Work (1998)**<sup>17</sup>: Although not a convention, this declaration reaffirms the commitment of ILO member states to respect, promote, and realize four fundamental principles: freedom of association and the right to collective bargaining, the elimination of forced labour, the abolition of child labour, and the elimination of discrimination in employment and occupation.

## 6.0 Nigeria's Commitment to ILO Standards and Conventions

As a member of the ILO since 1960, Nigeria has ratified several key ILO conventions that relate to the right to work and other labour rights. The ratification of these conventions signifies Nigeria's commitment to aligning its labour laws and policies with international standards. Nigeria has ratified conventions such as Convention No. 122 (Employment Policy), Convention No. 111 (Discrimination), and Convention No. 138 (Minimum Age), among others.

However, ratification is only the first step. The implementation and enforcement of these standards within Nigeria's legal and institutional framework are critical to ensuring that the principles enshrined in ILO conventions are effectively realized. The Nigerian government, through its labour policies and institutions, is responsible for translating these international standards into concrete actions that protect workers' rights and promote decent work conditions.<sup>18</sup>

## 7.0 The Role of the ILO in Promoting Decent Work and Employment Rights

The ILO's Decent Work Agenda is central to its efforts in promoting the right to work.<sup>19</sup> Decent work, as defined by the ILO, involves opportunities for work that is productive and delivers a fair income, security in the workplace, social protection for families, better prospects for personal development, and social integration. The Decent Work Agenda is built on four strategic pillars: creating jobs, guaranteeing rights at work, extending social protection, and promoting social dialogue<sup>20</sup>.

The ILO supports member states, including Nigeria, in achieving these goals through technical assistance, capacity building, and the promotion of social dialogue between governments, employers, and workers. By fostering cooperation among these stakeholders, the ILO helps to create an enabling environment where the right to work can be upheld, and decent work opportunities can flourish.

The ILO's standards on the right to work provide a robust framework for ensuring that employment is accessible, fair, and dignified. Nigeria's commitment to these standards is evident through its ratification of key conventions, but the challenge remains in the effective implementation and enforcement of these principles at the national level. By drawing lessons from ILO standards, Nigeria can strengthen its labour policies and ensure that the right to work is not just a legal concept but a lived reality for all its citizens.

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<sup>15</sup> Convention No. 168: Employment Promotion and Protection against Unemployment Convention (1988)

<sup>16</sup> Recommendation No. 169: Employment Policy (Supplementary Provisions) Recommendation (1984)

<sup>17</sup> Declaration on Fundamental Principles and Rights at Work (1998)

<sup>18</sup> Baccaro, Lucio. "Civil society, NGOs, and decent work policies: Sorting out the issues." (2001).

<sup>19</sup> Deranty, J P, & MacMillan, C. The ILO's Decent Work Initiative: Suggestions for an Extension of the Notion of 'Decent Work'. *Journal of Social Philosophy*, 43(4).(2012)

<sup>20</sup> *ibid*

## 8.0 Strengthening the Institutional Framework of Right to Work

To address the challenges within the institutional framework, several reforms are necessary:

**Strengthening Labour Inspections:** Enhancing the capacity of labour inspectors through better training, increased funding, and anti-corruption measures is crucial for improving compliance with labour laws and protecting workers' rights<sup>21</sup>.

**Improving Access to Justice:** Expanding the accessibility of the NICN, particularly for workers in remote areas, and simplifying legal procedures can help ensure that more workers can seek redress for violations of their rights<sup>22</sup>.

**Expanding Coverage of the Employees' Compensation Scheme:** Efforts should be made to increase employer compliance with the NSITF and to extend the coverage of the ECS to include workers in the informal sector<sup>23</sup>. This could involve outreach programs, simplified registration processes, and incentives for employers to participate.

**Enhancing Coordination Among Agencies:** Improving coordination and information sharing among the Ministry of Labour, NSITF, NICN, and PenCom can lead to more effective enforcement of labour laws and better protection of workers.

By addressing these institutional challenges, Nigeria can create a more robust and effective system for employee compensation, ensuring that all workers are adequately protected and compensated in line with national laws and international standards.

## 9.0 Challenges in Employee Compensation

Employee compensation in Nigeria faces a variety of challenges that hinder the effective implementation and enforcement of laws designed to protect workers' rights. These challenges are multifaceted and stem from economic, institutional, legal, and socio-cultural factors. Here's an expansion on some of the key issues:

### 9.1 Economic Constraints

One of the most significant challenges to employee compensation in Nigeria is the economic environment.<sup>24</sup> The country faces high inflation rates, unstable economic growth, and fluctuating exchange rates, all of which impact the ability of businesses to pay competitive wages. Small and Medium Enterprises (SMEs) have challenges in this regard, because they may not have the financial strength to comply with statutory wage laws. This situation may further lead to delayed salaries, under payment or nonpayment of wages more especially in the private sector. The economic constraints are further compounded by the informal nature of many businesses, which often operate outside the regulatory framework, thereby evading compliance with compensation laws<sup>25</sup>.

### 9.2 Legal and Institutional Inefficiencies

The legal framework for employee compensation in Nigeria, while comprehensive, is often undermined by institutional inefficiencies. Government agencies responsible for enforcing labour laws, such as the National Industrial Court and the Nigerian Social Insurance Trust Fund (NSITF), often face challenges such as inadequate funding, corruption, and bureaucratic red tape<sup>26</sup>. These inefficiencies result in delays in the resolution of compensation disputes and the enforcement of judgements. Additionally, the overlapping roles and functions of various regulatory bodies can lead to confusion and lack of coordination, further complicating the enforcement of employee compensation laws.

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<sup>21</sup> Treichel Bernd. "The ten steps for strengthening labour inspection." *The Global Challenges of Labour inspection* 3 (2005): 74.

<sup>22</sup> A Abraham, D Singh, & P Pal, "Critical assessment of labour laws, policies and practices through a gender lens" (2014)

<sup>23</sup> P I Azubuike and A P Mgbamoka. "A Comparative Analysis of the Present State of Employees Compensation Laws in Nigeria with Ghana, South Africa and India." *Novena University Law Journal (NULJ)* 8 (2023).

<sup>24</sup> N Okonjo-Iweala, and P Osafo-Kwaako. "Nigeria's economic reforms: Progress and challenges." *Brookings Global Economy and Development Working Paper* 6 (2007).

<sup>25</sup> M Ram, et al. "The roots of informal responses to regulatory change: Non-compliant small firms and the national living wage." *British Journal of Management* 31.4 (2020): 856-871.

<sup>26</sup> O C H A L A Mark, *The challenges of implementing civil service delivery reforms in Nigeria*. Diss. Dissertation, University Utara Malaysia, Kedah, 2018.

### 9.3 Inadequate Legal Framework

Despite the existence of laws such as the Employees' Compensation Act, 2010, and the Pension Reform Act, 2014, gaps in the legal framework persist. For instance, the enforcement of minimum wage laws is inconsistent, particularly in sectors like agriculture and domestic work, where employees are often underpaid and lack formal contracts<sup>27</sup>. Moreover, the legal provisions for compensating employees in cases of workplace injuries or occupational diseases are not always effectively implemented, leading to situations where workers are unable to claim their rightful compensation.

### 9.4 Regional Disparities and Inequities

Nigeria's regional diversity contributes to significant disparities in employee compensation. States with higher revenue, often due to oil wealth or better industrial development, can afford to pay higher wages and implement compensation schemes more effectively than poorer states<sup>28</sup>. This disparity creates an uneven playing field, where workers in less affluent regions may receive lower compensation for similar work compared to their counterparts in wealthier regions. Additionally, the varying economic conditions across regions affect the implementation of national policies, leading to uneven enforcement and compliance with labour laws.

### 10.0 Sectoral Challenges and Informality

The Nigerian labour market is characterized by a high level of informality, with a significant portion of the workforce engaged in informal and unregulated jobs<sup>29</sup>. Most casual and informal workers do not have formal job contract. They are most often at the mercy of their employer. This sector is difficult to monitor.

#### 10.1 Inflationary Pressures

Most times, inflation eats up the value of the wages paid to workers. Even though it is adjusted from time to time, inflationary pressures overwhelm the increase in the wages.

#### 10.2 Lack of Awareness and Education

A good number of workers in the rural areas do not know their rights. This is a major barrier to the effective enforcement of compensation laws. Furthermore, employers may take advantage of this ignorance to underpay workers or deny them their rightful compensation. Efforts to educate workers about their rights are often hampered by limited resources and the vast geographic and cultural diversity of the country.

#### 10.3 Social and Cultural Factors

Social and cultural factors also play a role in the challenges of employee compensation in Nigeria.<sup>30</sup> Traditional practices and norms, particularly in rural areas, often place less emphasis on formal employment contracts and wage negotiations. In some cases, cultural norms may discourage workers from demanding fair compensation or pursuing legal action against employers, particularly in patriarchal communities where power dynamics are heavily skewed in favour of employers. Additionally, the stigma associated with certain jobs, particularly in the informal sector, may lead to lower wages and poorer working conditions.

#### 10.4 Comparative Analysis with International Standards

When compared to international standards, particularly those set by the International Labour Organization (ILO), Nigeria's employee compensation framework falls short in several areas<sup>31</sup>. The ILO emphasizes the importance of decent work, which includes fair wages, safe working conditions, and social protection for all workers. In many developed countries, such as the United States and Germany, minimum wage adjustments are tied to indices like the Consumer Price Index (CPI) to ensure that wages keep pace with inflation, thereby protecting workers' purchasing power.

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<sup>27</sup> P L S Mthembu, and L Graham. "The national minimum wage in the agriculture and domestic work sectors: report of a qualitative study of stakeholder responses to the national minimum wage." *Centre for Social Development in Africa, University of Johannesburg, Johannesburg* (2020).

<sup>28</sup> Karl, Terry Lynn. "Oil-led development: social, political, and economic consequences." *Encyclopedia of energy* 4.8 (2007): 661-672.

<sup>29</sup> O J Onwe, "Role of the informal sector in development of the Nigerian economy: Output and employment approach." *Journal of Economics and Development studies* 1.1 (2013): 60-74.

<sup>30</sup> I NDUKWU, H A R R I S O N, P. DALIA and M EGLÉ. "Issues and Challenges of Employment Compensation Act: Nigeria Case." *Humanities Studies* 17.94 (2023).

<sup>31</sup> Adekile Oluwakemi. "ILO standards and compensation for employment injuries in Nigeria." *Commonwealth Law Bulletin* 40.2 (2014): 292-316.

In contrast, Nigeria's minimum wage laws do not consistently account for inflation, leading to periodic increases that are often insufficient to meet the rising cost of living. Additionally, while the ECA provides a framework for compensating work-related injuries, the coverage and effectiveness of this scheme are limited, particularly when compared to similar schemes in other countries where workers' compensation is more comprehensive and accessible<sup>32</sup>.

### 11.0 Recommendation and Conclusion

This study found that despite the rich legal regime on the right to work existing in Nigeria, that there are still gaps in the system. The Right to Work is not enjoyed by a good percentage of the population. The worse hit by this challenge is the informal sector. There is a need to as a matter of urgency formalize the informal sector and extend legal protection to the workers in this category. This should be regardless of their employment status. The process of inspection of employers should be streamlined and strengthened.

It is further recommended that the minimum wage determination process should be indexed to inflation, so that as the inflation rises, the minimum wage would also rise. This would protect workers purchasing power.

Again, it is paramount that the institutional challenges like corruption, red tape, bureaucracy, inefficiency, should be addressed with a view to curbing such incidence. This includes improving the capacity and funding of relevant government agencies and ensuring that the National Industrial court can efficiently handle labour disputes.

It is further recommended that there should be more enlightenment of the workers, especially the vulnerable ones so that they would be conscious their rights. The Ministry Labour and other labour institutions should be strengthened in capacity to enable them handle the challenges that arise in the course of their monitoring of the employers of labour.

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<sup>32</sup> Adekile Oluwakemi. "ILO standards and compensation for employment injuries in Nigeria." *Commonwealth Law Bulletin* 40.2 (2014): 292-316.

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