

Nigerian Labor Laws: Issues and Challenges

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Abstract: There exists no state in the contemporary world where government to an extent does not associate with entrepreneurial ventures by manner of a regulator, enabler or as a participator; hence the Nigerian Government regulates labor-management relations through its enacted labor laws. This paper studies the “Nigeria Labor Laws: Issues and Challenges”. The methodology this paper adopts is critical analyses of qualitative data from secondary sources such as: reputable journals, conference papers, as well as official publications. The ‘Non-Dominance Theory’ is utilized as the theoretical framework to explicate the matter of Nigerian labor laws and there is no gainsaying the fact that the Government of Nigeria has done well in enacting labor laws. Nevertheless, it was found that certain contradicting issues and challenges are manifest in the incongruities of the labor laws and the structural configurations thereby yielding ineffectiveness and inefficiency. Thus Nigeria Labor Laws are inhibited by problems such as: gross violation of Nigeria labor laws by employers, politicization and marginalization of Labor Unions, corrupt practices on the part of administering authorities, inadequate infrastructure and manpower, cumbersome and obsolete labor laws and inappropriate sanctions to defaulters of the laws etc. To ameliorate the problems, the paper recommends among others that: Government, first and foremost, must show exemplary leadership by respecting and observing labor agreements as well as provide adequate safeguard against arbitrariness and other abuse of workers’ rights by employers and adopt labor-friendly policies that strengthen rather than weaken Labor Unions.

Key words: Labor • Labor Relations • Labor Laws • Nigeria • Challenges • Issues

INTRODUCTION

In most countries including Nigeria, it is found that labor and management persistently strive to maximize their replicate values; hence they try to augment their main respective incomes and enhance their positions. These create a striking divergent and vociferously pulverized rival claims, which are not always uncomplicated to amenable reconciliation; and if the issues bordering on labor-management relations are not properly resolved they tend to burst its banks with resultant dire consequences on productivity/service delivery and can even wreak the entire economy of the nation to a standstill [1]. Thus the State with its ever increasing interest in labor and welfare issues cannot remain a silent and helpless spectator in the relationship. So it takes the responsibility of coming up with legislative provisions (Labor Laws) meant to equilibrate these conflicting interests in the arena of labor-management relations [2].

Nigerian Labor laws seeks to regulate the relationship between an employer or a class of employers and their

workmen; it addresses the rights, working conditions, minimum wage, termination clauses and many other rules put in place by the government of Nigeria [3]. The reach of this law is so wide that it touches the lives of millions of men and women who constitute the entire labor force [4].

In tracing the sources and history of Nigerian labor laws [3] implied that the sources of the Nigerian labor law are basically rooted in the English law. It is founded that because Nigeria was colonized by Britain, she had inherited some of its labor laws from the Great Britain such that the history of these laws in Nigeria are traced to the period of colonial contact. In fact, it has been asserted that “British labor laws, especially the ones relating to master-servant relationship, were enforced in Nigeria” [5]. Subsequently, various labor legislations were passed into law in Pre and Post-Independent Nigeria and since restoration of democratic government in 1999, Nigeria has made major strides in its quest to attain international best practices in her labor relations at both individual and collective law levels [3].

According to Odeku and Odeku [6] it is pertinent to point out that Nigeria operates a federal system of government, where powers are constitutionally shared between the central government and the components administrative unit; certain powers are devolved to the components political units like the state and the local government but matters relating to labor control are vested exclusively in the central government, contained in the Exclusive Legislative List.

In a nutshell, the focus of this study is to explicate the Nigerian Labor Laws, discussing related issues and existing challenges. Nevertheless, rather than discussing all Nigeria labor/employment laws, this study will highlight some of the significant legislations in order to analyze current issues and challenges as they touch on labor-management relations in contemporary Nigeria.

Statement of the Problem: The problem of law affecting labor relations in Nigeria has always existed. Contemporarily, these hurdles are more glaring and manifest often in the formation and content of the laws, the powers and actions of the law making bodies, the administering authorities and that of the labor unions.

A major problem is that of violation of labor laws as both the private and public employers often go contrary to the provisions of the law. These laws are often not taken seriously by employers (Particularly Government which is the highest employer of labor) as they are not held responsible most times for labor offences and due to high unemployment rates in the country, employees often wallow in muted misery. The reason for not taking the laws seriously is attributable to lack of appropriate enforcement and inadequate sanctions.

The Nigerian Labor laws stipulate (Among others) a minimum standard of employment conditions which every employer is expected to observe, but the rules appear to be grossly abused as the employer single handedly determines the conditions of employment to the detriment of the workers particularly with the escalating casualization of employment. Thus, to what extent has the Nigerian labor laws protected the rights of workers against management's/employers' abuses and injustices?

Wage and salary administration is highly controversial in Nigeria as the policy of wage fixing is shrouded in inconsistency. The nonconformity with salaries and wages standard in Nigeria evidenced by differences in salary structure of public servants among the various levels of government as well as the inability and/or refusal of most State Governments to pay the stipulated minimum wage or even to pay workers' salaries, pension scandals etc. combinations of which have

reduced labor relations in Nigeria to a plethora of 'Strikes' and 'Lock outs'. This ugly development has had adverse effect on the economy and well-being of the Nigerian workers.

The politicization of the labor unions by government seems as a major inhibitor of the efficacy of the Nigerian labor laws. Democracy in labor laws have been thrown overboard as collective bargaining has been threatened by the 'powers that be' such that it is no longer effective. Government continuously evolves labor policies that weaken labor unions and labor dynamism as dynamic labor practices have dwindled. How many labor unions are alive today to battle government draconian policies?

Objectives of the Study: The broad objective of this study is to x-ray the labor laws in Nigeria, while identifying and discussing its contending issues and challenges.

Other Specific Objectives Include:

- To establish how the formation/content of the laws, powers and actions of enforcement authorities constrain the effectiveness of the Nigerian labor laws.
- To ascertain the extent to which the Nigerian labor laws protect workers' rights against abuses and injustices.
- To find out how inconsistency of salaries and nonconformity with stipulated minimum wage in Nigeria have affected the economy and well-being of Nigerian workers.
- To determine the extent to which government and labor unions agree on labor laws and labor policies.
- To proffer solutions that will ameliorate lapses in Nigeria labor laws (In terms of their composition, implementation and sanction) so as to ensure harmonious labor relations in Nigeria.

Review of Related Literature

Conceptual Analysis

Labor: The American Psychological Association (APA) defined labor as the aggregate of all human physical and mental effort used in creation of goods and services. Labor is a primary factor of production. The size of a nation's labor force is determined by the size of its adult population and the extent to which the adults are either working or are prepared to offer their labor for wages.

Labor Relations: Labor relations or industrial relations, is referred to as "the complex of relationship between employees, management and government, together with

their respective organizations, trade unions, employers' association and governmental agencies" (Kempner 1980, cited in Onah [5]).

Labor Law: Labor law also known as employment law, are regulations that mediate the relationship between workers, employing entities, trade unions and the government [7]. According to Brown [7] the basic feature of labor law in virtually every country, is that the rights and obligations of the worker and the employer are mediated based on a contract of employment between the two and this has been the practice since the collapse of feudalism. He emphasized that labor laws have a uniform purpose to protect employees' rights and set forth employers' obligations and responsibilities. Also they have multiple functions, with core functions of providing equal opportunity and pay, employees' physical and mental well-being and safety and workplace diversity.

Labor law is classified into: (a) Individual labor laws and (b) Collective labor laws. While Individual labor laws covers: categories of employees, individual contract of employment, rights and duties, remuneration, working time, annual and maternity leaves etc. Collective labor laws deal with: freedom to form or belong to trade unions, relationship between trade unions and employers or their associations, collective bargaining, industrial actions including strikes and lock outs etc. [3]. In other words, Nigerian Labor Laws embody all these and according Ayim *et al.* [8] the whole idea of Nigeria labor laws emerged due to the conflict involving the inability of the employers and employees to have a proper dialogue concerning the terms and conditions of employment. There is no gain saying the fact that no responsible government can fold its hands and watch the incessant industrial warfare between labor and management or trade unions and employers or employers' associations. Accordingly, the Federal Government of Nigeria's Policy on Labor Relations states that:

Government reaffirms its confidence in the effectiveness of voluntary negotiation and collective bargaining for the determination of wages. The long term interest of Government, employers and trade unions alike would seem to rest on the process of consultation and discussion which is the foundation of democracy in industry (Federal Republic of Nigeria, 1963-64:31).

Historical Background of Nigerian Labor Laws: Accessing the historical overview of Labor Laws in Nigeria is very crucial since the understanding of the history of the trade unionism in Nigeria is fundamental for

the proper appreciation of the events that led to the enactment of Nigerian labor laws [9]. In Nigeria, it is generally asserted by scholars that the evolution of trade unions was a very slow process [5]. Wage earning labor was not known to the indigenous Nigerian communities until the advent of the colonialist. What existed then was communal labor and trade by barter [10]. Thus, under the communal labor system, members were paid back in kind rather than in cash [11]. The advent of the colonialist brought about development of wage earning and employment [12]. With the development of wage earning employment and a monetized economy, Labor Laws began to evolve to regulate Master-Servant relationship. After the attainment of political independence in 1960, most Nigerian Laws including Labor Laws were mainly reproductions of the British English Laws [13].

Sources of Nigerian Labor Laws: The Nigerian Labor Law is very potent and composite in nature emerging from various sources such as:

- The Received English Law: Which comprises of the Common Law, Doctrines of Equity and Statutes in force in England on or before January 1, 1900 [14].
- Nigerian Labor Legislations: These are various labor laws made by the Nigeria legislatures. It comprises of Decrees and Edicts, Acts of Parliament and other Subsidiary Legislations. Examples include: the Trade Disputes Decree 1976, the Labor Decree 1974, Labor Act of 2004, Trade Disputes Act 2004, the Pensions Act, 2004, The National Industrial Court Act, 2006 and the Constitution of the Federal Republic of Nigeria: Third Alteration Act, 2010, etc.
- Case Law: Judicial decisions on different facets of the subject make up an essential source of Labor Laws in Nigeria and such decisions are upheld as an authoritative source of interpreting principles of statutory provisions [15].
- International Laws: Primarily, there are Customary International Laws and International Treaties (Convention) relating to labor and employment. For instance, the ILO Declaration of Fundamental Principles and Rights at Work 2000 [16].
- The Nigerian Constitution: The 1999 constitution as amended has several provisions relating to labor-management relations. Instances include: Section 17 (3), 34, 40, 41 and 42 of the 1999 Constitution of the Federal Republic of Nigeria.

- **Subsidiary Sources:** Subsidiary sources of Nigeria Labor Laws include: Collective agreement, workplace notices and documents etc. The provisions of these Notices and Documents may constitute terms of employment so far as they can be incorporated into contract of employment [17].

It is important to note that the Ministry of Labor and Productivity is directly responsible for issues relating to labor and employment while the National Industrial Court (NIC) has exclusive jurisdiction in civil and criminal matters relating to or connected with labor, employment, trade unions, industrial relations etc. [18].

Theoretical Framework: A theory is set of reasoned ideas intended to explain facts or events, theory therefore determines what we can observe [19]. Thus, for the purpose of this study the ‘Non-dominance theory’ is used in this study to shed valuable light on Nigeria labor laws.

The conception of ‘Non-domination’ which is grounded in Contemporary Civic Republican Political Philosophy, is associated with Scholars such as Philip Pettit and Frank Lovett. According to Cotton [2] the Non-dominance theory is a Contemporary Republican Approach developed by an Irish Philosopher and Political Theorist Philip Noel Pettit in his book “Republicanism: A Theory of Freedom and Government” (1997). Nevertheless, it was Frank Lovett that took Pettit’s vision to a new height of precision and parsimony with his work “A General Theory of Domination and Justice” (2010). ‘Republicanism’ is a political theory, a conception of freedom and a theory of government. The Republican conception of political liberty defines freedom as “Non-dominance” i.e. the condition of not being subject to the arbitrary or uncontrolled power of a master [20]. Hence, Freedom is the status enjoyed by someone to the extent that no one else stands over them like a master and interferes in their lives... on an arbitrary basis [21]. As Philip Pettit puts it, the non-domination ideal addresses the inevitable social inequalities entailed by having to live at the mercy of another. The central insight is that inequalities in power between the actors (Individual and collective) partaking in labor relations should not be allowed to freely determine distributive outcomes. For were this to happen, some individuals would not merely have more authority than others, but arbitrary (Random and unpredictable) power over others. And surely any slightly plausible political ideal requires all people to have equal rights. As such, the republican recommends instead

that Law should constrain, mold and shape whatever power-inequalities there might of necessity or permissibly be Cabrelli and Zahn [22].

In explaining how non-domination theory could act as a justification for labor laws, Lovett prescribes a sophisticated account of freedom and a socially just order; emphasizing that social justice is secured when laws and policies are introduced to subject social relationships characterized by dependency and an arbitrary imbalance in social power to a measure of external control [2].

The relevance of the theory lies in the obvious fact that it would conceptualize Nigerian labor laws as a set of measures that are depicted by government to achieve a degree of ‘Non-domination’ in employment/labor relationship. Nigerian Labor laws achieve this by introducing legal and policy controls limiting the employee’s dependence on his/her employer and restricting the arbitrary power imbalance inherent in the relationship between the employer and the employee. Therefore, the procedural and substantive Nigerian labor laws established by the Nigerian Government such as Labor Act, Trade Unions Act, Pension Reforms Act, National Industrial Court Act etc. regulating matters of arbitrary dismissal, minimum wage, working time controls and collective labor and trade union rights, conditions, safety and wellbeing of labor etc. can be perceived as measures that are concomitant with a legal framework designed to secure a degree of ‘non-domination’ of the worker by protecting the rights of the Nigerian Worker.

MATERIALS AND METHODS

The study is solely on review of relevant literature on the Nigerian Labour Laws: Issues and Challenges. Thus, the methodology adopted is content analytical method as data were mainly obtained from secondary sources such as articles from reputable journals, conference papers, articles, official publications.

Critical Analysis of Labor Laws’ Issues in Nigeria

Labor Act 2004: It is the principal legislation governing employment relations in Nigeria. It provides comprehensive legislation on conditions of work and employment. In accordance with the Labor Decree No 21 of 1974, it was fundamentally designed to protect workers against the abuses of employers in the general area of employment [5]. Its provisions cover issues of wages/salaries, contracts and terms of employment,

wrongful dismissal, special classes of workers, including apprentices, women and young persons, etc. Despite its provisions, there are contending issues regarding arbitrariness and impunity of employers since mass-sacking of employees without prior notice has become a major trend in Nigeria. For instance, the issue in Kaduna state, of Governor Nasir El-Rufai's non-compliance with relevant labor laws in sacking 30, 000 workers in the state. It is noteworthy that the policy of wage fixing in Nigeria as wage and salary administration is wrapped up in controversies of non-implementation of stipulated minimum wage, delayed payment of salaries by State Governments, issues of unregulated employment casualization with companies replacing their full time workforce with temporary, casual, outsourced and contract workers at a frightening rate to avoid the interference of unions and the incidence of strike actions etc. [23].

Trade Disputes Act, 2004: The principal legislation governing trade disputes in Nigeria is the Trade Disputes Act. The Act replaced the Trade Dispute Decree 1976 and lays down procedures for the settlement of trade disputes, lockouts, strikes and other issues ancillary to it. The Act stipulates trade dispute mechanisms of: internal settlement, mediation, Industrial Arbitration Panel, Nigeria Industrial Court and Board of Inquiry with the Minister solely exercising the power to appoint a Conciliator, members of the IAP and the Board of Inquiry. The contest of this law is the issue of incessant 'Strikes and Lockouts' in Nigeria. The assertion is that the mechanisms for the resolution of trade disputes are often rigid and cumbersome thereby defeating the purpose of the settlement procedure as these procedures were laid down to temporarily suspend the right to strike and provide an adequate, impartial and speedy resolution of disputes. Another contending issue is that the powers granted to the Minister by the Act are quite enormous and subject to abuse and most likely affect the outcome of the settlement in most cases where the government is a party to the dispute or where the Minister is directly or indirectly connected to the dispute [24].

Trade Union (Amendment) Act, 2005: The Trade Unions Act 1974 was enacted to regulate industrial actions. It was amended by the Trade Unions Act 2005, which was apparently passed in response to the plethora of general strikes by the Nigerian Labor Congress which preceded its enactment. The 2005 Act, among others, amended

sections 33 and 34 of the principal Act to derecognize central labor organisation and retain federation of trade unions. Thus the controversy regarding this labor law is the assertion by Scholars that the Act curtails industrial actions by weakening Trade Unions [3, 18]. The Act did not adequately address issues regarding freedom of association, the right to collective bargaining, the right to strike and anti-union policies. Rather, the Act is aimed at curbing the right to strike and weakening the Nigerian Labour Congress [25].

Pension Act, 2014: Reforms in pension funds administration was surgeon by the Pension Reform Act, (2004) which repealed the Pension Act of 1979 and introduced the Contributory Pension Scheme for payment of retirement benefits of employees of both the Public and Private Sectors. But with the recurring problems beleaguering pensioners, in 2014 a new Pension Reform Act was enacted to replace the 2004 law. Despite these reforms, the plight of the Nigerian pensioners still depicts misery as pension funds are misappropriated and embezzled, making mockery of the Nigerian labor laws and its paper implemented penalties. Pension administration in Nigeria is a highly controversial issue subsumed in scandals of fraud such as the Police Pension falsified document fraud of 24 Billion Naira, the pension fraud scandal is allegedly involving Abdurashed Maina, the Ex-Chairman of the Presidential Task Force on Pension Reforms etc. [26].

Adjudication: the National Industrial Court Act, 2006 and the Constitution of the Federal Republic of Nigeria, Third Alteration Act, 2010: Labor Court was for the first time created in Nigeria with the establishment of the National Industrial Court (NIC) under the Trade Disputes Act 1976. The then operative constitution (The 1963 Constitution) was amended to announce the court among the constitutionally recognized courts in Nigeria. With the advent of the 1979 Constitution, there was a gap which raised concerns regarding the status, powers and jurisdiction of the court as it was neither included among the superior courts nor were its power and jurisdiction defined in the constitution. Hence the constitutionality of the status, powers and jurisdiction of the court was subjected to challenge. Subsequently, the Constitution of the Federal Republic of Nigeria (Third Alteration) Act, 2010 was enacted to fill the apparent gaps, amend the relevant sections of the constitution and make adequate provision to put to rest the controversies surrounding the

establishment and composition of NIC, its status, judges, powers/jurisdiction etc. to enable it perform its required role. Thus, the court now has jurisdiction over determination of any issues pertaining to registration, interpretation and application of any collective agreement. However, there are still questions regarding the innovations introduced by the Third Alteration Act that are new in Nigerian Labor Law and Practice which have overburdened NIC with so much powers considering the inadequate infrastructural base and manpower to cope with such enormous responsibilities [18].

Challenges of Nigerian Labor Laws: The effectiveness of the Nigeria labor laws in protecting the rights of the Nigerian worker is being inhibited by certain challenges which are identified hereunder:

There is gross violation of Nigerian labor laws by employers (Including government) evident by non-uniformed salary structure at the various levels of government, with government categorizing salaries into federal pay and non-federal pay, etc. even though the economy is the same and affects both workers, thereby subjecting the economy of the Nigerian worker to that of deprivation and hardship. Also of note, is the refusal to adhere to the stipulated minimum wage, the Federal Government sets minimum wage yet the State Governments oftentimes blatantly refuse to honor it on the ground of "Inability to pay". The dehumanizing effects of employment casualization and other unethical labor practices currently embraced by employers lay bare the weaknesses of the Nigerian Labor Laws as all these defects violate the rights of the Nigerian worker which the Nigerian labor laws are enacted to protect thereby undermining their essence.

Poor implementation by the administering institutions is another challenge of Nigeria labor laws. The country has formed and reformed several labor laws but lack the willingness and capacity to fully enforce them. Evidently the country's reliance on top-down approach has proved defective due to inadequate infrastructural base and manpower, poor enforcement mechanisms/sanctions, poor leadership and corrupt practices. The fact that Nigerian labor laws are centrifugal yields poor execution particularly at sub-levels as States and Local Governments are constrained from passing labor laws to enhance conditions of employment because labor issues are contained in the Exclusive Legislative List.

One of the most inhibiting challenges is that government in several instances does not respect labor

agreements, memorandum of understanding (MOU) are signed variously but government renege at the point of implementation. It is a common knowledge that the only language Government hears/understands in Nigeria is 'Strike'.

Politicization and marginalization of labor unions (For instance, NLC) by government contradicts Nigerian labor laws with Government springing forth labor policies that weaken labor dynamism. Successive governments amended the Nigerian Labor Laws several times without adequate consultation with the NLC. This continuous marginalization of the labor unions in the formulation and implementation of policies is contributory to the recurring labor conflicts in Nigeria. Contemporary, labor unions have been weakened both nationally and state-wise. Many have withered away; some are either operating as umbrella arm of the executive arm of government or anchoring on ASUU in the name of 'JACTU' without which they can't fight the draconian policies of government.

There is also the challenge of obsolete and cumbersome labor laws inhibiting its effectiveness as most of the laws and their jurisdiction are overstretched and some are just multiple tinkering of Military Decrees not contingent with prevailing labor circumstances.

CONCLUSION

This study has been centered on the Nigeria Labor Laws: Issues and Challenges. The study identified various problems impeding on the effectiveness and efficiency of the Nigerian Labor Laws and institutional mechanism in the enforcement of the rights of the Nigerian worker. It is therefore expedient that such issues identified are adequately addressed to ensure the efficacy of the Nigerian labor laws, which should guarantee the protection of Nigerian workers' rights against arbitrary abuses from their employers.

Recommendations: To overcome the challenges of Nigeria Labor Laws, the study recommends the following:

- Government should first and foremost demonstrate leadership by example by respecting labor agreements. They should enforce uniform salary structure at all levels of government. State governments owing workers' salaries should endeavor to offset the arrears and also adhere to the stipulated minimum wage.

- Government should provide adequate check/safeguard against abuses and excesses of employers. This can be attained by imposing strict punitive sanctions on those who violate Nigerian labor laws; not just on paper, but enforced to the later by an independent, uninfluenced and uncorrupt Judiciary.
 - Government should adopt labor-friendly policies that allow rather than disallow labor unions so as to strengthen dynamic and democratic labor practices in Nigeria. Labor Unions (For instance, NLC) should be consulted in the event of Labor Reforms. The Legislative arm of government should endeavor put into consideration the possible impact (Cost-benefit effects) of any proposed modifications to labor laws in both the short and long term in order to ease agitations and conflicts as well as aid effective implementation.
 - There is need to check the powers of the Minister to avoid unnecessarily overburdening the NIC through ballooning of jurisdiction and as such, defeat the purpose for which it is established. This is to create room for speedy dispensation of labor matters.
 - There is need to anatomize the provisions in the constitution on the power to legislate on labor matters to make the provisions cogent and devoid of obvious conflict and superfluity. The requirement is that any labor legislation passed by any legislative body, whether federal or state as the case may be, should conform to international labor standards.
 - Finally, there is also need to harmonize the several legislations on labor relations in Nigeria. This becomes necessary to achieve harmony in the existing legislations and for ease of reference.
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