

Job Security in Nigeria: The Policies and Laws VIS-À-VIS ILO Standard

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Abstract:-The paper defines job security as the presumption or confidence index of the employees with respect to the protection of their employment within the work place. Job security therefore covers, right to work, right not to be unfairly dismissed, right to receive equal, fair and decent remuneration for work, right to participate in union activities, among others. The UDHR declaration, the ICESCR covenants on labour, the Labour Act, 2004, the Trade Union (Amendment) Act 2005 and relevant sections of the 1999 Constitution are applied in some parts of the paper. This research reveals that S. 45 of the Constitution of the Federal Republic of Nigeria, which made labour rights unjusticiable, is not in accord with ILO labour practices. Also the practice of labour casualization has become a norm in the Nigerian labour industry; and that workers are indiscriminately sacked, on the flimsy excuses of right sizing, economic recession, etc. Against ILO stands, the Trade Union (Amendment) Acts 2005 empowers the employer to make deductions from the wages of workers who are members of the trade union. In addition the employers are given the latitude to decide when to make the remittance of the fund deducted. The paper concluded that the labour legal framework of Nigeria is not near half of the protective safeguard of the rights of workers, provided by the International Labour Organization (ILO). There is need therefore to review the Nation's labour laws to move away farther from the common law principles towards modern provisions and international labour best practices.

Keywords: Job Security, ILO, ICESCR, Trade Union, Labour Act

I. INTRODUCTION

Job security is perceived as the presumption or confidence index of the employees with respect to the protection of their employment within the work place. Certain economic factors dictate job security. They are individual employee skill and performance, and the overall performance of the employer company. In law, job security is seen as an assurance or guarantee covered or backed either by labour enactments, terms of employment contracts or collective bargaining agreements against involuntary loss of employment resulting mainly from the employers' arbitrariness (Business Dictionary, 2017).

Philip (2015) considers the concept of job security as analogous to the terms 'security of tenure' and 'employment protection' both of which according to him emphasizes the existence of legal safeguards and law which ordinarily is meant to regulate employment relations and govern termination of employment; but more particularly shield the

employee from the unwholesome prerogative of arbitrariness that more often than not results to unfair dismissal.

Analyzing the concept of job security through the prism of the 'right to job' or 'right to work', Okene (2000) opined that the right to work critically viewed, amounts to a right to obtain and remain in employment partly if not mainly as a means of livelihood. In this sense, he viewed the concept of right to work as correlative to the security of the employee against loss of employment. Similarly, Agomo (2011) is said to have considered job security as that interest that the employee legitimately invest in his employment in order to inure himself with the economic capacity to provide for his family and plan for the future.

Work is central to human existence and well being. According to Article 15 of the African Charter on Human and People's Rights (ACHPR), "every individual shall have the right to work under equitable and satisfactory conditions and shall receive equal pay for equal work". S. 17(3) (a) and(b) CFRN, emphasizes the need for all citizens without discrimination on any ground whatsoever to have the opportunity to secure adequate means of livelihood as well as adequate opportunities to secure suitable employment under just and humane conditions.

Adeogun (1986) viewed job security as that reasonable measure of employment protection which the employee enjoys as safeguards against unfair dismissal and in the alternative, the commensurate compensation which the employee is entitled whenever he is abruptly made redundant on account of economic factors. He stressed the point that job security is that which save for a valid reason connected with the capacity or conduct of the employee or based on economic existences, the employer is not entitled or empowered to unfairly dismiss the employee. Adeogun's view re-echoed the ILO's convention on Termination of Employment 1982 (No. 158), particularly Article 4 which states that a worker shall not be terminated unless there is a valid reason for such termination connected with the capacity or conduct of the worker or based on the operational requirement of the undertaking establishment or services.

Discussing job security in the context of job losses that may result from economic factors or operational requirements of the employer's established concerned, Worugi (2011) noted that while employment security may not necessarily be adverse to employer's freedom to manage and control his business, the need nevertheless arise for legislations to contain

stringent safeguard specifically tailored to protect the worker's right to job security. This for him is important since termination of employment on economic grounds or operational requirements of the employer is particularly distinctive within the law governing termination of employment, and if not strictly moderated by the same law may continuously lead to wanton abuses by the employer.

In Nigeria, the constitution of the Federal Republic of Nigeria, 1999, rightly provides in S. 40 provided the worker with a justiciable right to form or join a trade union or any other association for the protection of his interest. But chapter 11 of the same Constitution and S. 17(3), presupposes the non-justiciability of the workers rights.

Moreso, Trade Union Act, 2004 derogates the right of the worker when it made registration under S. 2 of the Act compulsory. Infact, Ss. 3(2) and 5(4) empowers the Minister of Labour and the registrar of the trade unions not to register any group or combination of workers seeking registration as Trade Union if in their opinion there exist no expediency to register such. These provisions impede the right of the worker to secure his job in Nigeria. These provisions and so many others are however not in tandem with policies of the International Labour Organization (ILO).

This paper seeks to examine the national policies and laws on the right of the workers to protect their job, vis-à-vis, the policies of the ILO with regard to job security of workers.

II. CONCEPTUAL FRAMEWORK

(a) Job Security

Job security connote a number of positive conditions, including that job security is a right to work; a right not to be unfairly dismissed; a right to receive equal, fair and descent remuneration for work; a right to a sustainable livelihood emanating from the job; a right to a proprietary interest in the job; a right to participate in union activities; a right for female employees not to be sexually harassed; a right to growth and development on the job; a right to the full enjoyment of international labour instruments; a right to dignity of labour; a right to employment tenure not to be made subject wholly to the hegemonic common law rules of freedom of contract; a duty of the employer to acknowledge and respect the interest of the employee's right to job security; and the need for the justiciability of labour rights.

(b) UDHR, ICESCR and Job Security

The Universal Declaration of Human Rights (UDHR), 1948 provided the foremost platform for international law to make a pronouncement on the right to work. According to Article 23 (1) everyone has the right to work, to free choice of employment, to just and favourable conditions of work and to protection against unemployment; Again by Article 23 (4) it declared that everyone has the right to form and to join trade unions for the protection of his interests. It is noteworthy that

at the time of the adoption of the UDHR, Nigeria like many countries was yet to become independent.

However, to give legal binding effect to the UDHR, the United Nations (UN) subsequently adopted the International Covenant on Economic, Social and Cultural Rights (ICESCR) which became ratified by several countries including Nigeria. It would appear that by this covenant state-parties like Nigeria came under a legal obligation not only to implement the provisions of the covenant but also to ensure the full realization of the UDHR. It is observed that while the UDHR created a right to work, the ICESCR in Articles, 6, 7 and 8 elaborately obligated the member-states to recognize the right of the individual to work and to ensure that reasonable legal safeguards are made available to the worker for the protection of his interest (invariably alluding to, Article 23(4) of the UDHR).

III. NIGERIAN INSTRUMENTS OF LABOUR RIGHTS

Although the Nigerian government has made some progress in the protection of the rights of the worker, but the constitutional provisions which ordinarily ought to have created a positive obligation on the Nigerian State as well as a positive right in favour of at least the Nigerian Worker, lost its utility when S.6(6)(c) of the same constitution excluded the judicial power of the courts from any question or issue arising therefrom and conversely conferred no right of action on the so called subjects in whose favour the provisions were made; hence the trite view on the non-justiciability of the said provision under chapter II.

The whole argument of the justiciability and non-justiciability of chapter II of the 1999 constitution, S.17 (3) inclusive that has resulted in exciting academic contributions for us presupposes the existence of perceived rights. It is contended here that based on the couching of chapter II of the 1999 constitution, there are no rights of the worker protected on the job.

While the provision of SJ7(3) is not justiciable and therefore not available to the Nigerian worker, the constitution have in S.40 provided the worker with a (justiciable) right to form or join a trade union or any other association for the protection of his interest. However, it has been stated that this right to freedom of association, to form and join trade union is not open-ended. In other words, it is not an absolute right but one constrained by S.45(1) of the same 1999 constitution; which empower the Nigerian State to deny anybody the right held by virtue of S.40 for the purpose of overriding public/national interest and for the protection of the rights of other persons.

This right under S.40 CFRN, (i.e. without the interference of S. 45 CFRN) does not directly provide for the job security of the Nigerian worker but merely lays the foundation for the existence of a platform upon which the worker can seek protection from the snares of the employer. Even so, the Trade Union Act places a clog on the so-called fundamental right when it made registration under S.2 of the Act compulsory,

and particularly when in Ss. 3(2) and 5(4) it empowered the Minister of Labour and the Registrar of Trade Unions not to register any group or combination of workers seeking registration as Trade Union if in their opinion there exist no expediency to register such.

The utility of the right under S.40 of the constitution 1999 (as amended) cannot be fully appreciated at the individual level but only at the collective level, since the right of a worker to belong to a trade union is not an end in itself in respect of job security but only a prospect for job security based on membership of trade union. Thus a critical look at the constitutional provision may lead us to infer that where a worker, taking the benefit of S. 12(4) of the Trade Union Act (amended) 2005, refuses/chooses not to associate, form or join a trade union, such a worker becomes more than vulnerable to the inevitable vagaries of the employer.

While S. 12(1) of the Trade Union Act places a legal duty on designated unions not to refuse or restrict their membership to persons, who otherwise are eligible, on discriminatory grounds, S.25 (1) made the recognition of a registered trade union to which employees of an employer belong obligatory on the employer. By S.25(2) an employer who deliberately fails to recognize any trade union to which her employees belong shall be guilty and/or be liable to a fine of just N1,000 (it very well appears that this ridiculous fine or amount will be paid once even in the face of continuous default).

Section 24(1) of the Trade Union (Amendment) Act recognized that in the event of an employees' - employers collective bargaining process, the employees should be represented by an electoral college of all unions to which employees in the employment of such employer belongs. But S. 30 (6)(c) and (d) stipulates that employees, trade unions or employer must first have complied with the arbitration provisions in the Trade Dispute Act before any strike or lockout can arise out of a collective bargaining process or agreement. Under the Trade Dispute Act, employees, unions and employers are enjoined to settle their disputes amicably.

Accordingly, S. 43(1) (a) and (b) stated that a worker who takes part in a strike shall not be entitled to any wage or remuneration for the period of the strike unless it is a lockout effected by the employer.

Significantly by a combination of a number of sections, the Trade Dispute Act stipulates that where settlement to a dispute (initially handled by a conciliator appointed by the Minister in accordance with s.5(2)(a)) fails, the Minister being informed of the failure in accordance with S.6, shall in accordance with S.9(1) refer the trade dispute for settlement to an industrial Arbitration Panel comprising at least two workers representatives, constituted by the Minister in accordance with Ss.9(2)(b) and 44. Okene described this statutory stipulation to include workers representatives in Arbitration Panels under the Act as a bid to protect the interest of the workers.

The Labour Act on its part also made numerous provisions which are 'relative to the security of employment in Nigeria. One of the prime provisions includes S.7 which mandatorily obligates an employer to issue a new employee with a written contract of employment outlining the main terms and conditions of the employment not later than three months after the date of engagement of the employee. These written particulars of terms of employment, most of which are covered in details in Ss. 11, 15, 13, 9(4)(6), 14, 16 and 18 are in accordance with the Labour Act meant to provide for the protection of the wages, contract of employment and conditions of employment. Relative to S.7 is S.9(4) and (6) which loquaciously talks about employers not being allowed to create, employment contracts under the Act that will permit them to pay workers wages at intervals longer than one month except by the express written permission of the State Authority and an employee not being bound under the Act by any contract of employment that restricts or deny him/her membership of a trade union or the relinquishment of such membership; as well as not suffer termination owing from membership/participation or non-membership/participation of a trade union.

Other notable provisions of the Labour Act which for our purpose should briefly be considered here include Ss.17, 48(2) 10, 91 and 11 that has already been mentioned. Section 11 provided for the length of time for which a notice of termination and/or payment in lieu of notice according to the Act is to be issued either by the employer or the employee before termination of employment can be consummated. The mention of this section in relation to the job 'security or otherwise of the worker is important, since in the estimation of the courts non-compliance cannot be grounds to nullify termination as unlawful but only will amount to wrongful termination with remedy being in damages. Thus, we contend that besides insisting that notices for a period of one week and above shall be in writing, S.11 like a lame duck did not tamper with the common law unimpeachable power vested in the employer to terminate the employment of a worker without reason. In fact it strengthens it.

Section 17 makes provision for a duty on the employer to regularly provide work suitable to the worker's capacity and where unable to do so, shall continue to pay the employee wages. S.20, on its part, stipulates that where there is an anticipated termination/redundancy as a result of excess manpower, the employer by reason of S.20(1) must first communicate the intended action to the trade union or workers representatives of the reasons and extent. This section which is ordinarily intended to protect the workers interest through their representatives or Union leaders has been described as too narrow in scope and therefore does not guarantee any job security to the worker.

Another important feature of the Labour Act is found in S.10 which deals with the transfer of an existing contract from one employer to another. The issues focused in this section, it would appear, are not in tune with the current realities where

there is obvious job scarcity; and where succeeding economic downturns compelled employers to undertake mergers, acquisitions and take-overs that have in a small measure led to massive job cuts. As Okene rightly noted, the Act does not make express provision on the legal implications of the change of employers on the existing individual contract of employment except S.10 which deals with transfer to other employment without indicating the full ramifications of the interests and purposes of the section on transfer of contract.

Finally in respect, of the Labour Act, it is important to state that albeit the Labour Act itself seem to make references that alluded to the existence of casual workers especially in Ss.7(1)(d), (5) and 17(2) and 48(2), it nevertheless gave a restricted definition of who a worker (employee) is in S.91 by excluding persons falling under the category of casuals. Fortunately, the Employee's compensation Act 2010 has now defined an employee (worker) to include part time, temporary and casual workers engaged on temporary and casual basis.

Mergers, acquisitions and takeovers in Nigeria are controlled by the Investment and Securities Act 2007, particularly Ss.117 to 151 of the Act.; This Act which created the Securities and Exchange Commission put on it the responsibility of reviewing, approving and regulating mergers, acquisitions and takeovers, as well as all forms of business combinations and affected transactions of all companies.

A critical look at the thirty-five (35) sections of the Investment and Securities Act dealing with mergers, acquisitions and take-overs revealed no single section dedicated to the legal implications of these business arrangements on the single most important factor of production, being the worker and his job security. Rather the gamut of the sections preoccupied itself with the investment imperatives of mergers, acquisitions and take-overs at, it would appear, the expense of the employees'. The reality; as captured by Raheem is that when organizations merge, labour (employees) is the first casualty.

The Public Enterprises (privatization and commercialization) Act which midwifed the transfer of ownership of certain public enterprises from public sector to the private sector and/or the restructuring of others for profit making purposes is considered one of the legislations that have impacted the job security status of the Nigerian worker.

However, a look at certain important features of the Act reveals that it represented the codified intention of the Federal Government to offer for sale public enterprises owned by Government and listed in parts I and II of the first schedule to the Act either by public issue, private placement or sale on a willing seller and willing buyer basis; or the relinquishment and commercialization of other public enterprises listed under parts I and II of the second schedule to the Act for profit making.

A remarkable feature of the Act is that in S.5(3) it provided for the mandatory reservation of not less than 1% of the shares

of the public enterprise to be privatized for the staff of the public enterprise, which shall be held in trust for them by the public enterprise'. It is doubtful if this lofty idea of reserving one percent of the shares for staff was ever achieved in the face of the (foreign) investors whose huge finance investment gave them leverage to arm twist the Federal government to lower labour standards as a precondition to invest in those public enterprises.'³⁸ Again this can be viewed against the background of the very stiff opposition that came from the workers and union in those enterprises.

Nevertheless, we state that the plausible implication of statutorily reserving 1% for employees/staff of each of the public enterprise privatized is that the jobs of the employees of the named public enterprises were equally secured. But again, it is doubtful if any employee in this category whose job was terminated as a result of the privatization could have on the basis of his part ownership right succeeded to keep his/her job, even through litigation.

A fortiori, we state as Okodudu had stated earlier, that privatization most definitely leads to a calamitous implication not just on the job security of the employees in the public enterprise being privatized but also on the employees of the private entity taking over ownership of the public enterprise. According to him there is bound to be job cut backs on both ends -i.e. within the public enterprises and the private establishment generally. In his words:

The employees in the employ of the public enterprise, and employees who had been in the employ of the private organization all along may be affected by new management decision (for redundancy).

Unfortunately, as he rightly noted, S. 19 of the Labour Decree (currently S. 20 of the Labour Act 2010) as mentioned elsewhere in this work provides for no more than the employers to merely inform the union without any legal obligation to negotiate the process with them.

IV. INTERNATIONAL INSTRUMENTS OF LABOUR RIGHTS

The Universal Declaration of Human Rights (UDHR), 1948 provided the foremost platform for international law to make a pronouncement on the right to work. According to Article 23 (1) everyone has the right to work, to free choice of employment, to just and favourable conditions of work and to protection against unemployment; Again by Article 23 (4) it declared that everyone has the right to form and to join trade unions for the protection of his interests. It is noteworthy that at the time of the adoption of the UDHR, Nigeria like many countries was yet to become independent.

However, to give legal binding effect to the UDHR, the United Nations (UN) subsequently adopted the International Covenant on Economic, Social and Cultural Rights (ICESCR) which became ratified by several countries including Nigeria.

It would appear that by this covenant state-parties like Nigeria came under a legal obligation not only to implement the provisions of the covenant but also to ensure the full realization of the UDHR. It is observed that while the UDHR created a right to work, the ICESCR in Articles, 6, 7 and 8 elaborately obligated the member-states to recognize the right of the individual to work and to ensure that reasonable legal safeguards are made available to the worker for the protection of his interest (invariably alluding to, Article 23(4) of the UDHR).

It has been argued that the ICESCR having been incorporated into chapter II (directive principles) of the 1999 constitution (As amended), makes it unenforceable. Nevertheless, we posit that in the light of the recent constitutional development manifest in S. 254 C (1) (f) and (h) and (2) of the 1999 Constitution (Third Alteration) Act 2010, it is difficult to see if such arguments can still be validly sustained.³⁰ By S., 254 C (2), the National Industrial Court is conferred with the jurisdiction to adjudicate on matters bordering on the application of any international convention, treaty or protocol of which Nigeria has ratified relating to labour, employment, workplace or industrial relations.

The African Charter on Human and People's Rights (ACHPR) also provided for a legal framework or regime which clearly declares/recognizes the truism that a man's job is sufficiently important to him and to his family and thus must be protected by law. As stated earlier, Article 15 guarantees every individual has the right to work under equitable and satisfactory conditions with an expectation to receive equal pay for equal work done. This provision combined with others such as Articles 1, 6 and 7 (I) 10(I) 21 (5) and 22 of the ACHPR which has been domesticated, no doubt places an obligations on Nigeria to ensure and/or recognize the rights of the Nigerian worker and to adopt legislative or other measures to carry out its obligations.

Generally speaking, these instruments categorized either as fundamental, governance or technical seek to maintain a world order that promotes labour and industrial relations, international labour standards and at the same time provide defence for the vulnerable worker within national jurisdictions. For instance, the Maritime Labour Convention 2006 (as amended) to which Nigeria is a signatory was adopted with the general purpose of promoting and implementing a single international maritime labour standard that seek to secure the right of all seafarers (workers) to decent employment. Thus while Article IV (2) provided that every seafarer (worker) has a right to fair terms of employment, Article TV (5) created an obligation on member - states to undertake to ensure that all seafarers (workers) employment and social rights are fully implemented in accordance with the requirements of the Convention.

Again, the ILO Employment Policy Convention of 1964 mandated member-states to develop an employment policy that will enable those who seek work to get work where their

skills and endowment can be used in the fullest possible way in jobs well suited for them. Importantly it also mandated member-states to create, through employment policies, an environment where decisions on welfare and job security should not be left in the hands of the employer(s) alone but should be made in consultation with the workers representatives. Another convention of the ILO which sought for the protection of worker's tenure of employment is the Domestic Worker Convention, 2011. Article 6 of this convention created an obligation on member-states to take reasonable steps to ensure that domestic workers like workers generally, enjoy fair terms of employment as well as decent working conditions.

V. ILO STANDARD AND LABOUR LAWS IN NIGERIA

The ILO embodies a vision of universal, humane conditions of labour to attain justice and peace among nations. The mandate of ILO is to develop, promote and monitor international labour standards. The ILO, has created 189 global applicable, legally binding conventions, recommendations and protocols, including declarations and code of practice.

The question is, does Nigerian labour laws and practices conform with the ILO labour instruments? The answer is no in several respects. Article 4 of the ILO best labour practices established that unless the termination of a worker made on account of capacity or conduct of the worker or based on operational requirement of the employer company is underpinned by a valid reason, such termination shall be null and void. Article 13(1) and 14 also provided procedures that must be complied with by the employer. While Article 5 thereon lay down reasons that are automatically invalid if averred as grounds for termination of employment.

In Nigeria, workers are laid-off at the whim and caprices of the employer. S. 45 of the Nigerian Constitution, do not help the cause of sacked workers. Nigerian employers, from government to private, give flimsy excuses, such as right sizing, economic recession, etc to save workers, and derogate their right to job security. The multinational oil companies are far more guilty. Ninety per cent (90%) of employees in oil companies in Nigeria are casual workers and their jobs can be terminated at any time by the management.

For workers to secure their jobs, they must combine and organize themselves in unions to protect their common interest. The ILO standards as contain in convention 87th, provides:

Workers and employers organizations shall have the right to draw-up their constitutions and rules, to elect their representatives in full freedom, to organize their administration and activities and to formulate their programmes.

The convention also frowns at public authority's interference that tends to restrict or limit the above right or impede the lawful exercise thereof. The ILO's position *ab-initio* places premium on workers' freedom in running the internal administration of their organization. The obvious advantage of exercising such freedom is to preserve the independence of workers' organizations so as to be able to effectively pursue their stated objectives.

The Trade Union Act requires as a prerequisite for registration, copies of the organizations' rules drawn up by its members. The rules are expected to cover such issues as the organization's name, purpose, funding, appointment and removal of appointed and elected officers, application of its funds, alteration of the rules, dissolution and distribution of assets and other sundry matters. On the face value therefore, the Trade Union Act appears to have allowed the Nigerian workers the full freedom to run the internal administration of their organization.

In spite of the above, the practical reality in Nigeria is that there is a continuous tussle between workers and employers or public authority for control of the internal administration of workers' organizations. Such control may take the form of direct interference in the leadership selection process by employers or the public authorities with a view to installing a pro-establishment leadership, the use of coercive force such as arrest and detention of officials, sealing of secretariat and offices and sometimes, a complete disbandment of the organization.

Again, under the Trade Union (Amendment) Act 2005, the employer is not only empowered to make deductions from the wages of workers who are members of a Trade Union for the purpose of remitting same to the union, but is given the latitude to decide when to make the remittance of the funds deducted. This is because the Act allows the employer to make such remittances within a reasonable period or such period as may be prescribed from time to time by the Registrar. This no doubt may amount to interference in the affairs of the unions. An employer may be encouraged by this provision to seek to paralyze the unions by withholding their dues. More so, it has to be noted that what is reasonable period under the said provision is a question of fact to be decided by the court.

In Ghana, the Labour Law provide that remittances of union dues deducted from wages of workers be made to their respective trade unions not more than one month, after the date on which the wages are paid. In case of default, the trade union is entitled to sue to recover any unremitted sum. Similarly, the South African Labour Law require that the employer must remit the amount deducted to the representative trade union by not later than the 15th day of the month first following the date each deduction was made. Clearly, workers in Ghana and South Africa are by these specific provisions, better placed to exercise full freedom in the internal administration of their unions than their Nigerian

counterparts. The fact cannot be over emphasized that unrestricted access to funding is prerequisite to administrative independence of trade unions.

The right to collective bargaining refers to the right of workers to bargain freely with employers on issues concerning the employment relationship and constitute an essential element of job security. According to Okene, freedom of association would be hollow and of no relevance to workers if employers were entitled to refuse to recognize their organizations for purposes of collective bargaining. The ILO view collective bargaining as a key means through which employers and their organizations and trade unions can establish fair wages and working conditions. It also provides the basis for sound labour relations due to the inclusiveness of the process. To be able to maximize the full benefits of the process, the ILO recommends that there should be a fair balance between the interest of the workers and employers that it covers. That is to say, that the organizations that negotiate on behalf of each side must be properly representative.

Nigeria has in 2005 amended its Labour Law to make provision for collective bargaining. The law provides for representation through electoral-college of all registered trade unions, for the purpose of collective bargaining in negotiation with the employer. A similar provision is also made for the purpose of representation at tripartite bodies save that in this case the electoral-college so constituted shall take into account the size of each federation of trade union.

The practical reality of the operation of this law to workers' freedom of association is that, it failed to prescribe the modality for constituting an electoral-college neither did it state the manner of resolving likely disputes regarding which union to represent the workers for the purpose of collective bargaining. Thus, the law has opened much room for conjecture according to Okene.

This lacuna will have the tendency to encourage favouritism as employers will try to influence the criteria for the assessment of representatives who would be disposed to management during negotiations. In all the loopholes noted, it is the security of the workers job that is call to question.

Unlike the Nigerian situation, the modality for workers' representation for purpose of collective bargaining is quite clear under the South African law. The law entitles any union with up to ten members in a work place to representative; and the higher the number of union members the more the number of representatives. There is therefore no room for manipulation by employers on the modality for electing workers' representatives in order to undermine the collective bargaining process.

Apart from the above, another obstacle that has undermined the right to collective bargaining in Nigeria is the insincerity on the part of employers in implementing the terms of such agreement arrived at after the negotiation. A good example is

the case between the Academic Staff Union of Universities (ASUU) and the Federal Government of Nigeria where the later refused to implement the collective agreement reached in 2014. In various government/ASUU labour disagreements, some lecturers have lost their jobs, or retired prematurely from service.

VI. CONCLUSION/RECOMMENDATIONS

Despite The existence of numerous labour laws seemingly' dealing with job security, there are empirical evidence of downsizing, right-sizing, massive job cuts and continuous job insecurity due to the embracement of casualization policies in the labour industry. These situations, in recent times, are prevalent in banking industry and oil and gas sectors, and indeed in every facet of the labour industry. Available data reveal that from, 1990 to 2000, 24,222 jobs were terminated in the banking industry alone owing to mergers and acquisition in the industry. Again in 2015 the Central Bank of Nigeria recapitalization policy led to the loss of many jobs. In respect of casualisation, it is recorded that by 1991 there were an estimated ratio of 14,559 casual and contract employees to 23,065 permanent junior employees in the oil and gas industry.

The fact, of the matter is that these figures are mind boggling, thus are issues that should affect all well meaning players of the labour industry. The central question thereof is if as Okene has said that 'the introduction of ... statutory provisions constitute legislative recognition..., that a decision to end (that) a job should not be entirely left to the discretion of an employing organization or individual employer' on one hand and on the other ... represent a rejection... of certain nineteenth century values of common law in particular, why then have our superior courts been stuck to the common law in principle of master servant prerogative power of the employer to terminate employment at will which is, most respectfully, derived from the ridiculous reasoning that an employee cannot be forced on an unwilling employer.

It goes without saying that the amendment of the 1999 constitution which introduced S. 254 (C) (1) (f) (h) and (2) the alteration Act, 2010 have seen the National Industrial Court moving away from the position of the Supreme Court thus positing that what is now desirable for the labour industry is for Nigeria to commit, apply and enforce international labour standards concerning best practices. But it remains to be seen what the decision of the Supreme Court will be when cases like the Aero contractor case will be set before it. This is because while S.254 (c)(1)(f)(h) has generally empowered the National Industrial Court to interpret and apply international labour standards, it appears that subsection (2) of the same section has restricted this power of interpretation to only international standards (conventions and treaties) which has been ratified by Nigeria in line with S.12 of the constitution.

It is time for Nigeria to repeal and replace the Labour Act and amend other related laws such as the Investment and

Securities Act and the Public Enterprises (Privatization and Commercialization) Act in line with international treaties and conventions. For instance, 5.20 of the Labour Act of Nigeria that deals with redundancy and supposedly regulates the prerogative power of the employer to terminate employments in certain special circumstances is shallow and inchoate when compared to Articles 13(1) and 14(1) of the ILO Convention (158) on Termination of Employment or 5.189 of the Labour Relations Act of South Africa or Ss. 25m and 25n of the Industrial Disputes Act of India or even Article 41 of the Chinese Labour Contract Law. Unlike these (above named) Labour Laws, S.20 of the Labour Act of Nigeria does not guarantee any job security of the worker.

The ILO convention 158 and the South African Labour Relations Act both in very similar terms, as well as the Chinese Labour Contract Law imputes a duty on the employer not only to inform the union whose member are to be affected but also to mandatorily involve them in consultation and negotiations before the employment of any worker is terminated. The Industrial Dispute Act of India on its part makes it a sine qua non for the employer to seek (apply) and obtain permission from a designated Labour Authority before undertaking any retrenchment/redundancy. However, S.20 of the Labour Act of Nigeria merely provides for the employer(s) to only inform a union whose workers are to be affected of the reasons and extent of the redundancy without more, and thus as stated in the case of National Union of Hotel and Personal Services Workers v. Imo Concord Hotel gave no power or right of action to either challenge the redundancy process or a non-compliance of the employer.

It is seen that while the right to work (Labour right) provided under S.23 of the South African constitution is made a fundamental right and as such justiciable, the same rights produced in chapters II and IV [directive Principles] of the Nigerian and Indian Constitutions are not enforceable or justiciable. However, the Indian judiciary has through judicial activism; and based on an integrationist approach, pronounced the economic and social right, inclusive of the right to work under chapter IV of its constitution justiciable).

Remarkably, it is observed that while by 5.23(1) of the South African Constitution the right to go on strike is not only available to workers but also a justiciable constitutional right of the South African Worker, his counterpart in Nigeria is fettered by S.30(6) of the Trade Union (Amendment) Act 2005 not to embark or engage on strike.

It is observed that while S.17(3)(e) of the Nigerian Constitution posited that it shall be the policy of government to ensure that there is equal pay for equal work without discrimination on. any ground whatsoever, the reality is that the trend of employment in Nigeria has been the adoption of non-standard working arrangement, or what is popularly called contract/casualisation, by almost every sector - telecommunication, Banking, Oil and Gas Industries, etcetera. Even though the Minister of Labour and Productivity is by

S.48(2) of the Labour Act empowered to make regulations geared towards regulating this nature of work arrangement, what is prevalent instead is the massive exploitation of workers through the non-standard working arrangement. A situation where casual workers receive exploitative unequal pay for doing the same job that a permanent staff does or where many permanent staff lose their jobs only to be re-employed as casual or replaced with casuals is the situation in the country has greatly reduced the job security index in Nigeria.

It is clear that the labour legal framework of Nigeria is not near half of the protective safeguard provided by International Labour Organization (ILO) to secure the job of Nigerians. Hence the need to review the nation's labour laws to move away farther from the common law principles towards modern provisions of labour laws.

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