

EMPLOYEE LAWS, EMPLOYEE RIGHTS, AND ENFORCEMENT OF LEGAL PROCESSES IN NIGERIA'S PRIVATE SECTOR

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ABSTRACT

Nigeria has one of the most efficient labour law frameworks in the sub-Saharan region, however, the application of this in the private sector has remained low. This paper discusses that the current gap between legal rights and what exists in the working environment is a structural feature of the political economy of the country, and not merely an implementation failure. Based on the institutional theory and regulatory capture literature, it discusses the ways in which inefficiently funded labour inspectorates, judicial purgatory in the National Industrial Court, political influence, and elite capture have made most protectionist measures, including minimum wage, safe working conditions, protection against arbitrary termination, and non-discrimination, a sham with regard to most workers in the private sector. By conducting a doctrinal analysis and synthesising the empirical literature published in journals indexed in the Scopus database, the paper demonstrates that such problems as casualisation, massive non-adherence to minimum wage legislation, and unsafe working conditions are not exceptions but, instead, rational implications of weak regulatory institutions, acting within the context of a high degree of informality and an ineffective state capacity. The article concludes that achieving any substantial protection over employee rights requires the creation of an autonomous National Labour Enforcement Agency with prosecutorial authority, the introduction of criminal liability in cases of systemic violations, the digital adoption of compliance systems, and the strengthening of collective bargaining. The lack of such drastic institutional changes means that the nature of the private sector in Nigeria will remain in perpetuating the precarious employment terms, eventually disrupting the sustainable economic development.

KEYWORDS: *Labour Law Enforcement, Employee Rights, Private Sector, National Industrial Court, Casualling, Regulatory Capture, Nigeria.*

1. INTRODUCTION

In Nigeria, the private sector constitutes more than 80 percent of overall employment and is the main source of job creation (Fapohunda, 2012; Okafor, 2018). But to most employees in this industry, legal rights are completely theoretical. The labour act 2004, national minimum wage act (amended), employee compensation act 2010 and the constitutional guarantees under section 17 and 42 of the 1999 constitutional act (amended) provide detailed safeguards which include wages, working hours, safety, termination processes and non-discrimination. The National Industrial Court of Nigeria (NICN) is the court with superior court status by constitutional

amendment in 2010, with exclusive jurisdiction in labour and employment matters and has delivered progressive rulings with a mandate of just cause termination and acknowledgement of unfair labour practices (Abdullahi, 2023; Eze, 2019).

In spite of this strong legal framework, empirical research findings always support high rates of non-compliance. Small and medium enterprises (SMEs) and informal workplaces, such as manufacturing, banking, construction, and services, are often victims of underpayment of workers below the legal minimum wage, exploitative casualisation practices, failure to provide workers with safe working environments, and unpredictable, arbitrary termination of employment by their private employers (Fapohunda, 2012; Okafor and Odum, 2019; Adewumi and Bwowe, 2024). These atrocities continue because of the inability, autonomy and political goodwill in the enforcement institutions.

This article states that such enforcement gap does not happen due to administrative lack but is structurally determined by regulatory capture, institutional fragmentation and political economy of peripheral capitalist state, in which the dominant interests of the sectors exercise disproportionately large control over labour market governance (Olu and Ojo, 2023; Jibril et al., 2024). The article contributes in the following three ways. First, it offers a comprehensive doctrinal and empirical synthesis of the failures in enforcement in the key areas of employee rights. Second, it uses the institutional and regulatory theory to explain the failure of formal labour laws to be effectively enforced. Third, it suggests effective and practical reform steps that will be adopted under the limitation of the small state capacity of Nigeria.

2. Legal and Institutional Environment.

The labour law system of Nigeria is constructed on the basis of the ordinances that were implemented during the colonial era but gradually modernised with time. The Labour Act Cap L1 Laws of the Federation 2004 is still the most important legislation in the employment of the private sector, which regulated the maximum number of working hours (eight hours per day, 40 hours per week) and the rates of overtime, annual leave, sick leave, maternity protection, and the timeframe required to provide the notice to the employer in case of termination (Fapohunda, 2012). A statutory minimum is provided by the National Minimum Wage Act, which has been most recently amended to 70,000 monthly, with exemptions on establishments with less than 25 employees and other casual workers posing major gaps in terms of coverage (Ahmed, 2025; Kamalu et al., 2026).

The Employee Compensation Act 2010 mandates employers to provide coverage against work related injuries and disease through insurance, which is a replacement of the old Workmen Compensation Act. The Factories Act and National Policy on Occupational Safety and Health 2020 also regulate occupational safety. The Constitution and the laws specific to certain fields, such as the HIV/AIDS Anti-Discrimination Act 2014, forbid discrimination.

The Federal Ministry of Labour and Employment and its Inspectorate Division is the main enforcement agency. Under the Third Amendment to the 1999 Constitution, the National Industrial Court of Nigeria is responsible for all original jurisdiction in all labour and employment disputes, the interpretation of collective contracts, unfair labour practices, and fundamental rights that arise as a result of the employment relationships (Abdullahi, 2023; Eze, 2019). The Court has proven its interest in utilizing international labour standards and imposing significant damages in the event of violation (Okafor & Odum, 2019).

Therefore, the legal system of Nigeria provides a solid, rights based approach, which is compliant with the ILO core conventions, although not all conventions are ratified. The architecture seems solid, but the point is that it is hard to translate these laws into real protections at the workplace.

3. Enforcing the Gap in Practice.

Peer-reviewed literature has provided empirical evidence to the realization of a considerable gap between the law and actual realities in the Nigerian private sector.

The minimum wage law is also rather poorly observed. Kamalu et al. (2026) discovered that the introduction of 2024 ₦70,000 minimum wage has not been uniform as most employers within the private sector, especially the SMEs, have still been paying between 15000 and 45000 per month. According to Ahmed (2025), it has been noted that there are cases of policy somersaults where revenues are announced with much hoopla but derailed by poor surveillance and fiscal restrictions on employers. Failing to comply is the most common in informal industries like retailing, hospitality and building where employees are usually categorized as casual so as to escape the statutory requirements.

One of the most widespread forms of deprivation of rights has become casualisation. Fapohunda (2012) explains that the private employers are finding a way of eliminating permanent employees in favour of casual or contract workers to avoid paying benefits, pension contributions, and severance. Okafor and Odum (2019) demonstrate that casual employees who work in manufacturing and banking industries do not have a union, overtime payment, and job security, thereby creating a two-tier workforce that compromises collective bargaining. The more recent research confirms that casual workers usually do the same work but earn much lower wages and have no legal rights (Adeoti et al., 2010; Ndem, 2021).

The breach of occupational safety and health rules are rampant. Individuals working in the construction, oil and gas support services, and small-scale manufacturing industries usually work with no personal protective equipment, lack proper training, and are not compensated in case of injuries (Jibril et al., 2024). The Employee Compensation Act is not taken seriously in the private sector in that the law is enforced through self reports and not very frequent checks.

Unilateral dismissal of employment is still prevalent. Although the rulings of the NICN need just cause and a fair hearing, which even apply in times of probation, private employers often give the employee summary dismissals without any prior notice or a chance to defend themselves (Eze, 2019; Abdullahi, 2023). There are still discriminatory practices, including gender, pregnancy, ethnicity and disability discrimination, that are more intense in SMEs, where power disparity is the most apparent (Mtsor & Idisi, 2014; Adeyeye, 2024).

The National Industrial Court is also progressive in its rulings but it is limited in structure. Judicial accessibility has been geographically constrained since in only 23 of the 36 states and the Federal Capital Territory (FCT) of Nigeria, there are judicial divisions (Eze, 2019). Even cases that get to the Court are subject to lengthy delays because they are understaffed and complicated by procedure (Okafor and Odum, 2019), which further promotes impunity of the employers.

4. Barrier to Enforcement Analysis-theoretical and Empirical.

Regulatory capture and institutional theory can be used to explain the enforcement deficit in unparalleled ways. The regulatory capture is the situation when a strong sense of personal

interests affects the establishment or enforcement of the rules to their benefit (Stigler, 1971; applied to the Nigerian context by Olu and Ojo, 2023). Larger employers and business associations in the private sector of Nigeria have been found to have a massive informal power over labour inspectors and politicians, resulting in selective enforcement that favours influential firms and punishes smaller ones or non-compliant ones.

There is another complication of enforcement in legal pluralism. Formal laws are frequently disregarded in SMEs and informal businesses because of traditional practices, informality, and patronage (Jibril et al., 2024). Employees are hardly likely to use formal redress because they are worried that they may lose their jobs to a high unemployment situation. This forms a cycle of non-compliance which reinforces itself.

Enforcement capacity has been proven to be lacking severely by means of empirical research. The Inspectorate Division of the Federal Ministry of Labour is small and insufficiently staffed with few trained individuals, vehicles, and resources to inspect the large and fragmented private sector in Nigeria (Daum, 2018; Takeshima, 2015). Corruption only worsens the situation, as too often the inspectors demand bribes to ignore the violations or accelerate (or slow down) the procedures (Jibril et al., 2024).

Another important hindrance is political interference. Governors and federal politicians usually protect big employers in their zones of influence against the strict implementation to protect investments and employment (Olu & Ojo, 2023). The result of this is regulatory forbearance undermining the rule of law.

Judicial delays in the NICN, even in the process of improvement, remain at 18-36 months on the average on complex cases, and workers have no option during the period (Eze, 2019). Lack of awareness of workers rights and fear of being sacked is yet another factor that discourages claims.

These obstacles are not seen as individual failures but as interrelated aspects of a political economy whereby the state relies on the development of the private capital but is not autonomous enough to control it.

4.1 Avenues to successful enforcement and reform.

Significant reform should involve the design of institutions, incentives, and political economics limitations simultaneously.

To begin with, the independent National Labour Enforcement Agency (NLEA) ought to be created, with prosecutorial authority, and not subject to the influence of the ministry. It would have to be financed by a specific tax on employers. The agency also needs to introduce digital compliance platforms which would demand the submission of monthly payrolls which are correlated to tax and social security databases.

Second, the systemic violations should be introduced as criminal sanctions. The penalty on repeat offences including evasion of minimum wage, unsafe working environment or exploitative casualisation must be fined up to 10 million naira in addition to the imprisonment of directors. Civil fines have not been sufficient to deal with these problems.

Third, third-party audit of all the firms that employ over 10 employees should be compulsory every year, with the findings of the audit being posted in a public registry. Tax benefits on complete compliance, and a blacklisting system on long-term offenders would bring about positive and negative reinforcement.

Fourth, the NICN must be empowered to create more divisions in all the states and to create specialised fast-track benches to dispose the rights cases within the six months. Moreover, the low-income workers should be given equal access to justice by offering mandatory legal aid.

Fifth, trade unions and representatives in the workplace should be strengthened by legal reforms that will ensure freedom of association in all privately owned businesses including SMEs and safeguarding against retaliation.

Sixth, labour enforcement can be incorporated in wider reforms of governance. It must be required with access to government contracts, credit facilities, and licence of import. In addition, trade agreements should also contain binding due-diligence condition to international trade partners with an aim of enhancing compliance on labour standards.

These are progressive reforms that are not impossible. Independent enforcing bodies and digital surveillance have been shown in comparative experience in other countries, such as South Africa and Ghana, to dramatically increase compliance rates when backed by political will (Phillips, 2013; Oya, 2012).

5. CONCLUSION

Enforcement gap in the labour law pertaining to the private sector in Nigeria is essentially a question of political and institutional nature, and not necessarily a technical one. Although there are legal provisions in the statute books that offer comprehensive protection to the workers, they are still suffering the loss of basic rights like minimum wages, safe working environments, job security, and workplace dignity. This long-standing disparity between the legal rights and the lived reality increases poverty, increases inequality and contributes towards social instability and at the same time, retards productivity and sustainable economic development.

The theoretical discussion, as well as empirical data show that the fundamental reasons behind these various systemic failures in enforcing laws is poor institutions, regulatory capture, and politics. Cosmetic reforms, the training workshops, volunteer codes of conduct or introduction of new legislation without strong enforcement mechanisms have always failed to tackle the underlying problems. These are shallow measures that never address the fundamental issues and instead, they fail to bring the necessary systemic changes that will see labour laws complied with. This wide-ranging enforcement gap will only be filled through a radical institutional change that aims at establishing a strong and enforceable structure.

Nigeria is at a crossroads to its development. The nation has a definite decision to make and it must start by either persisting with a private sector that deems labour laws as optional and keep seeing the exploitation and impunity cycle repeat or take decisive action and build an independent and technology-based and politically insulated enforcement system that will ensure the realisation of the right of workers. The course taken will decide whether or not the private sector will become a true driver of inclusive prosperity or a center of exploitation and inequality. The era of half-measures is long gone; a full scale and decisive action is the only thing that can build the groundwork of a cleaner and more equal labour environment.

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