



AN EMPIRICAL STUDY OF WOMEN IN THE WORKPLACE: INTERNATIONAL HUMAN RIGHTS AND IMPLICATIONS ON THE NIGERIAN LABOUR LAW

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ABSTRACT: *This study empirically investigates working women and their rights in the work place in Nigeria. Acknowledging the significance of women in the economic development of any country and the numerous challenges they face in every area of life; it becomes expedient to find ways in which their jobs can be maintained as they approach motherhood in line with existing international human rights and labour laws. The main aim of the study was to investigate if the right of working women in private organizations corroborates with international human rights standards and if the Nigerian labour laws uphold international human rights standards as regards working women and their rights to motherhood. To achieve this objective, research hypotheses were stated alongside research statements in relations to the laws. 170 structured questionnaires were administered to selected working women in private practices in Nigeria and the collected responses were analyzed with a statistical tool called the Chi-square test at 5% level of significance. The findings of the study revealed that Private organizations in Nigeria partially implement or observe relevant laws relating to women rights to work and motherhood while the provision made by the Nigeria Labour Act is insufficient to protect the right of working women as distilled from International Labour Standards. This study also found out that most working women disagree with the questions that their employer neither increase the length of maternity leave nor create childcare facilities in the workplace. The actions of these employers contravene policies initiated by the convention of the right of the child as well as the maternity protection convention. The study therefore recommends a Union for working mothers to agitate that Nigeria become a signatory to the maternity protection convention and a revision of the Nigeria Labour Act to corroborate with the International Labour Standard as regards working mothers and their right in the work place.*

KEYWORDS: Working Women, Labour Law, Human Right, Chi-Square, Motherhood, Questionnaires

INTRODUCTION

The issue of working women and their right in the work place has a long history in Nigeria and Africa as a whole. The more academicians look into the issue of working women and their rights in the work place with regards to international laws the more complex it becomes because of the variations of laws from country to country.



Over the past decades, the presence and status of women in paid employment has increased and improved significantly not only in Nigeria and Africa, but the world at large.¹ Before the 19th and 20th century, legal, religious and cultural practices preventing women from attaining formal education restricted women's entry into the workforce. The onset of the 19th century heralded the entrance of women into the workforce after the industrial revolution of the late 18th and early 19th centuries.² The industrial revolution changed the nature of employment for both men and women, from home to factory. As a result of the growing humanitarian protest against the less employment and harsh treatment of women to bar them from harsh and certain dangerous occupations, women engaged primarily in employments, as a result of legislations enacted.³ Social developments changed the nature of women's work. The growth of public education increased the demand for more teachers and growing industrial and commercial enterprises required more office workers and sales people, the employers found that they could hire women for those occupations at lower salaries.⁴ Women have developed from the traditional roles of being full time housewives who engaged in self-reliant and unpaid work such as crafts making, cloth dyeing and weaving, subsistence farming, food processing amongst others⁵, to successful career women who have climbed high to the senior and managerial positions of organizations.⁶ Women are no longer limited to low paid or minor jobs, as there is evidence of women being at the top managerial positions in companies and even being elected into key positions of government⁷. However, due to the patriarchal nature of most part of the world in the most part of the world during 19th and 20th centuries, women were largely limited to low-paid and poor status occupations, earned less pay than men for doing some work, they were also at risk of losing their jobs when they deliver children or when pregnant.⁸ There were no measures in place to protect the reproductive health and

¹ In 2018, women's participation in the labour force globally was rated to be an average of 48.5%, though a decrease from 51.4% in 1990. However, the share of women in the labour force varies from country to country. For instance, in Australia, 60.5% of women participated in the labour force which was the highest recorded in January, 2018, while in Canada, 61.5% of women participated in the labour force in 2017. The world bank's data on female participation in the labour force in Nigeria between 1999-2018 was rated at an average of 48.36%, with a minimum of 47.21% in 1999 and a maximum of 50.53% in 2018. This shows that there is a progressive growth of women entering the workforce in Nigeria in 2018 compared to past years. See World Bank, "Labour Force participation Rate, Female (% of Female Population ages 15+)" (Modelled ILO Estimate), World, The World Bank Databank (2018), <https://data.worldbank.org>; International Labour Organization, "World Employment Social Outlook: Trends for Women 2018: Global Snapshot" (2018); The Global Economy, "Nigeria female labour force participation" gotten from <https://m.theglobaleconomy.com>; Catalyst, "Quick Take: Women in the Workforce", October, 31, 2018. Gotten from <https://www.catalyst.org/research>

² Horn, Jeff; Rosenband, Leonard; Smith merriitt (2010), "Reconceptualising the Industrial Revolution". Cambridge MA, London: MIT Press. ISBN 978-0-262-51562-7;

³ British Health and Morals of Apprentices Act of 1802.

⁴ Baba Isa Sanda Benisheikh et al, "Gender Discrimination In Employment: An Analysis of Issues of Violation of Women's Rights". 2016. www.unimaid.edu.ng/journals-oer accessed 7/21/18

⁵ Okonkwo, A.O. (1984), "Women's Participation in Trade Union in Fashoyin et al. 'Women In The Modern Sector Labour Force: Issues and Prospects' as cited in Chioma Kanu Agomo (2004) "The Working Woman In A Changing World of Work". An Inaugural Lecture Delivered at the University of Lagos on 15th December, 2004. University of Lagos Press, Inaugural Lecture Series. p. 10

⁶ It is estimated that the percentage of women in senior and middle management jobs globally to be an average of 32.2% as at 2016. See Andre Tartar and Cedric Sam, "How Big is the global Gender gap? Depends which Number you look at", March 27, 2019, gotten from <https://www.bloomberg.com>

⁷ Andre Tartar and Cedric Sam (supra)

⁸ Anne Witz (1990), "Patriarchy and professions: The Gendered politics of Occupational closure". Sociology. 24(4): 675-690. <https://doi.org/10.1177/0038038590024004007>



babies of pregnant women. Thus, in a bid to curb these discriminatory practices and protect the rights of women in the workplace, the United Nations and the International Labour Organization passed various international conventions to address the rights of working women, which states parties must adhere to in order to protect women in the workplace. Some of the international conventions which protect the rights of women includes the Convention on The Elimination of All Forms of Discrimination Against Women⁹, Equal Remuneration Convention¹⁰, International Convention on the Rights of the Child¹¹, Maternity protection Conventions¹², Discrimination (Employment and Occupation) Convention¹³.

The CEDAW enforces State Parties to take measures to eliminate discrimination against women in the field of employment, in order to ensure the right to work, equal opportunities, benefits and conditions of service, equal remuneration, including benefits, rights to social security, protection of health and safety at work and maternity protection.¹⁴ CEDAW expressly rejects the notion of impunity for violations of women's rights that occur in the private sphere, including in the family and or caused by non-state actors. The CEDAW obliges States Parties to refrain from discrimination on the basis of gender and also to take measures towards achieving equality in all spheres of life, including by breaking down discriminatory attitudes, custom and practices in society.¹⁵ CEDAW also permits States Parties to adopt special measures aimed at protecting maternity, with such measures not being considered discriminatory. It requires that specific measures need to be taken to prevent discrimination against women in employment on the basis of marriage or maternity. Dismissal on grounds of pregnancy, maternity leave or marital status is prohibited and States are also required to encourage the provision of the necessary supporting social services to enable parents to combine work and family responsibilities and participation in public life, especially by promoting the establishment of a network of childcare facilities.¹⁶

The Maternity Protection Conventions¹⁷ aims to promote the equality of all employed women who are pregnant, nursing and returning to work, including those in a typical form of dependent work (these includes home workers, part-time, temporary and casual workers).¹⁸ The Maternity Protection Conventions expressly target working mothers. Article 6 of the

⁹ The Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), adopted 1989, entered into force 3rd Sept 1981, ratified by Nigeria in 1985.

¹⁰ Equal remuneration convention 1951 (No. 100), (Entry into force: 23 May 1953), adopted 1951, Geneva, 34th ILC Session, ratified by Nigeria on 8th may, 1974

¹¹ *Convention on the Rights of the Child* (CRC), opened for signature on 20th November, 1989, 1577 UNTS (entered into force on 2nd September, 1990), ratified by Nigeria in 2003

¹² *Maternity Protection Convention* (C3), opened for signature on 28th November, 1919, ILO (entered into force on 13th June, 1921), which was revised to convention No. 103 in 1952 and Convention No. 183 in 2000. The Maternity Protection Convention (no. 183), 2000 is the most recent Maternity protection convention. Nigeria has not ratified any of the maternity protection Conventions.

¹³ Discrimination (Employment and occupation) Convention 1958 (No. 111), ratified by Nigeria on 2nd October, 2002.

¹⁴ See Article 11 of CEDAW.

¹⁵ See United Nations, *Convention on the Discrimination against Women and its Optional Protocol — Handbook for Parliamentarians* (United Nations and Inter-Parliamentary Union, 2003) 11–12..

¹⁶ See Article 11(2)(a-e) of CEDAW; Linda Mkeller, "The CEDAW: Evolution and (Non) Implementation Worldwide". 27 Thomas Jefferson Law Review (2004-2005) 35, 36.

¹⁷ Supra, note 12

¹⁸ See Article 2(1) Maternity Protection Convention (No. 183), 2000; Lisa Heap (2001), "Maternity Protection ILO No. 183: A New Standard for the New Century", International Confederation of Free Trade Unions (ICFTU), Public Services International (PSI) and Education International (EI) 12.



Maternity Protection Convention (No. 183), 2000, provides for financial benefits for working mothers during maternity leave. These benefits may take the form of both cash benefits (not more than two-third of a woman's previous income) and medical benefits (medical for herself and the child including pre-natal, child birth and post natal care, as well as, hospitalization care when necessary).¹⁹ It also provides that when a woman returns to work after her maternity leave has been concluded, she is to have two breaks in her working hours to breast feed her child daily and that these breaks or the reduction of daily hours shall be counted as working time and remunerated accordingly.²⁰

The CRC²¹, though a convention that protects the rights of children, is essential to this study because mention is made in many of its Articles of the need to maintain working mothers, illustrating the important intersection of the rights and responsibilities of mothers and the rights and needs of children. For instance, Article 2(2) of the CRC involves the principle of non-discrimination against the child which, in terms of this study, could be taken to include equal access to adequate childcare services and care for children of those mothers who are in the workforce, Article 18(3) states that all states parties have to provide childcare services for working parents, while Article 3(3) requires standards to be established for childcare facilities and their staff. Also, Article 24 (2) (d) affirms that actions should be taken 'to ensure appropriate pre-natal and post-natal health care for mothers'. Children should not suffer by their mother entering the workforce, but should benefit, as should the entire society. Therefore, the role of children and their rights and how these rights should also be enjoyed and their needs met is an important part of the consideration of a mother's right to enjoy both the right to motherhood and a right to participate in the workforce on an equal basis with men wherever possible. Mothers are one half of the motherhood equation, while children make up the other half of that same equation. Their right to nourishment from breastfeeding is probably the prime example of where the two needs and rights intersect in a way that can only be met with the aid of adjustments on the part of the employer and the State.²²

Other international conventions that guarantee and protect the rights of working women are the Discrimination (Employment and Occupation) Convention²³, which calls for the elimination of discrimination in relation to access to vocational training, access to employment and to particular occupations, and terms and conditions of employment²⁴; the Equal Remuneration Convention²⁵, which requires ratifying countries to ensure the application to all workers the principle of equal remuneration for men and for women for work of equal value; and also the Workers with Family Responsibilities Convention²⁶ which requires ratifying states to make it a goal of national policy to enable persons with family

¹⁹ See Article 6(1)(2)(3)(7) Maternity Protection Convention (No. 183), 2000;

²⁰ See Article 10(2) *supra*

²¹ *Convention on the Rights of the Child*, *supra* note 11

²² Naeima Faraj A. Abdulatif (2011) "Working Women And Their Rights In The Workplace: International Human Rights And Its Impact On Libyan Law", University of Wollongong Thesis Collections. www.researchonline.com

²³ *Supra* note 11

²⁴ See Article 1(1)(a) of Discrimination (Employment and Occupation) Convention, *supra*

²⁵ *Supra* note 10

²⁶ Workers with Family Responsibilities Convention, 1981 (No. 156) , this convention has not been ratified by Nigeria.



responsibilities who are engaged or which to engage in employment to exercise their right to do so without being subject to discrimination and to that extent possible, without conflict between their employment and family responsibilities. It also requires governments to take account of the needs of workers with family responsibilities in community planning and to develop or promote community services, public or private, such as childcare and family services and facilities.

In Nigeria, the Nigerian constitution²⁷ and the Nigerian Labour Act²⁸ are the two major legislations that provides for the rights of working women and their protection from discrimination and inequality in the work place. They both provide for the basic floor of rights, which collective bargaining can improve in a well functioning industrial system for the benefit of women. Chapter II of the CFRN which deals on fundamental objectives and directive principle, provides that every citizen shall have equality of rights, obligations, and opportunities before the law²⁹ and that the State shall also direct its policy towards ensuring that all citizens, without discrimination on any ground whatsoever, have the opportunity for securing adequate means of livelihood as well as adequate opportunity to secure suitable employment and there shall be equal pay for equal work without discrimination because of sex. Although the provisions of Chapter II of the CFRN are not justiciable, these principles cannot be dismissed on that basis but their importance should rather be seen in the light of their purpose, which is to inform policy at every level of state action, in every organ and in every activity of the state. By virtue of this, sec 17 of the CFRN which expressly addresses the issue of discrimination in the workplace is also not justifiable in the sense that a citizen cannot insist she be found a suitable job but surely, those who have suitable jobs can be protected from losing them. It may be objected that this position is a clear invitation to employees, once confirmed, to do as they please and the employer will be forced to keep undeserving employees on their pay role.³⁰ This is not the case, the position is no confirmed employees should lose their jobs except for a valid reason³¹ given at the time of dismissal, either connected with the capacity or conduct of the employee or based on the operational requirements of the employment concerned. This simply means the employer will have to be more careful in dealing with the employee. The employer must keep proper records in order to show the trail of events leading to the termination of contract of service when called upon. Despite all these, bad employees will still have to go but only after following due process of the law.

Chapter IV of the Nigerian Constitution deals with the civil and political right. It guarantees the right to freedom from discrimination based on ethnic group, place of origin, sex, religion, or political opinion.³² Although the constitution is silent on employment related discrimination, section 42 encompasses discriminatory practices in all forms. According to Oyewunmi, the freedom from discrimination in the workplace based on sex appears to be binding only between the government and the citizens thus leaving out the relationship

²⁷ Constitution of the Federal Republic of Nigeria, 1999 (as amended) Cap c23, Laws of The Federation of Nigeria, 2004.

²⁸ Now cap L1, Laws of the Federation of Nigeria, 2004.

²⁹ See section 17(3) (a-e) of the CFRN

³⁰ Adeyinka A. Adejugbe and Adedolapo N. Adejugbe (2018), "Women and Discrimination in the Workplace: A Nigerian Perspective." Gotten from <https://ssrn.com/abstract=3244971> accessed on 20/1/19

³¹ Article 4, of the Termination of Employment Convention (C158), entry into force 1985, adoption: Geneva, 68th ILC session 1982

³² Section 42 CFRN, 1999 (as amended)



between individuals.³³ However, the Third Alteration of the Nigerian Constitution³⁴ introduced the second generation, socio-economic rights. Thus, rather than merely protecting citizens against the abuse of state power, the latter rights widened the scope to bind not only government and citizens but also the relationships between employers and employees by obligating the state to do as much as it can to protect all members of the society.³⁵ Therefore, making labour law rights justiciable and directly enforceable, thereby bringing individual relationship within private sphere to be regulated by public law in order to balance the individual relationships.³⁶

The Nigerian Labour Act, is believed to be the main comprehensive piece of Labour legislation in Nigeria.³⁷ The relevant provisions of the labour Act that deals exclusively with the rights of working women are provided for in sections 54 to 56 of the Act. These provisions cover maternity protection³⁸, night work³⁹ and underground work.⁴⁰ Section 54 of the Labour Act provides that women workers in any public or private industrial undertaking, or in any agricultural undertaking or any of the respective branches, are entitled to maternity leave on production of a medical certificate given by a registered medical practitioner stating that confinement will probably take place within six weeks following the confinement. A woman on maternity leave is not permitted to work during the six weeks following her confinement.⁴¹ Maternity leave is the most common form of maternity protection known. It is essential to safeguard the health of the mother and child as a longer leave period allows the mother more time to rest, take care of the child and effectively cope with the challenges of breastfeeding.⁴² In practice, women go on leave after delivery of her baby, taking 12 weeks leave, combining the 6 weeks before confinement with the 6 weeks after delivery. The Lagos State Public and Civil Service have increased the minimum leave period from 12 weeks to 24 weeks maternity leave period. This leave also come with full pay subject to a clause that the annual leave for that year will be regarded as part of the maternity leave and if she has taken her annual leave, the annual leave will be deducted from the 24 weeks.⁴³ If a woman's absence from work is on account of pregnancy, and if she has been in the continuous employment of the same employer, for a minimum period of six months prior to her absence, she is to be paid not less than fifty percent of the wages she would have earned if she had not been absent.⁴⁴ When the woman resumes work after the maternity leave, she is entitled to nurse her baby twice in a day for half an hour each.⁴⁵ The practice in most private and public

³³Oyewunmi, A. 2013. "The promotion of sexual equality and non-discrimination in the workplace: A Nigerian Perspective". *International Journal of Discrimination and the Law*. p. 324-347. Gotten from www.jdi.sagepub.com accessed on 20/1/19

³⁴ The Constitution of the Federal Republic of Nigeria (Third Alteration) Act, 2010.

³⁵ see Section 254 of the Constitution of the Federal Republic of Nigeria (Third Alteration) Act, 2010

³⁶ Section 214 of the Constitution of the Federal Republic of Nigeria (Third Alteration) Act, 2010

³⁷ Adeyinka A. Adejugbe and Adedolapo N. Adejugbe (2018) *supra*

³⁸ See section 54 Labour Act

³⁹ See section 55 Labour Act

⁴⁰ See section 56 Labour Act

⁴¹ C.K. Agomo (2004) *supra* n.5

⁴² Maternity Protection Campaign Kit, *Key Elements of Maternity Protection at Work with Special Reference to ILO*

Convention 183 and Recommendation 191.

⁴³ Circular No LS/HCSF/EPO/EIR/CND/S.100/Vol. 1 22 Of 4/11/08

⁴⁴ See section 54 Labour Act

⁴⁵ See section 54 Labour Act



organisation is that the employer allows the nursing mothers to close from work an hour earlier, some for a period of three months and others for a period up to six months.

Section 54 of the Labour Act ⁴⁶also provides that a woman who is absent from work longer than the stipulated period, as a result of pregnancy or child delivery related illness should not be dismissed from her employment or given notice of dismissal terminating the appointment during the period of her absence. Women are not to be discriminated against for their reproductive roles. Hence by section 54(4) of the Act, no woman shall be dismissed for her absence from work while on maternity leave or any period of illness due to her pregnancy or confinement so far she produces a medical certificate by a registered medical practitioner to this effect.⁴⁷ Where a woman is on maternity leave, absence from her work for the twelve weeks should not be a ground of dismissal. Where she also remains absent from her work after the expiration of the maternity leave for a longer period as a result of illness certified by a registered medical practitioner, which arose out of her pregnancy or confinement and to render unfit to work, no employer shall give her notice of dismissal during her absence.⁴⁸ According to the National Industrial Court a woman's right to maternity leave belongs to every pregnant woman either married or unmarried who is working in any public or private industrial undertaking, or in any agricultural undertaking. The maternity leave commences 6 weeks before the expected day of delivery and 6 weeks after delivery; this is irrespective of the temporary or confirmed nature of her job. In *Mrs Folarin Oreka Maiya v. The Incorporated Trustees of Clinton Health Access initiative*,⁴⁹ the applicant, a woman, had her employment terminated for being pregnant. The court applied section 42 of the Nigeria's Constitution, the African Charter on Human and Peoples' Rights¹⁵⁰ and the ILO Convention 111 on Discrimination. It held the termination to be wrongful and unconstitutional and awarded compensation to the tune of Five Million, Five Hundred and Seventy - Six Thousand, Six Hundred and Seventy Naira (N5,576,670.00) being one year's full gross pay. The applicant did not seek reinstatement, so the court did not consider it.

The Act makes it an offence for any employer to contravene the provision of section 54.⁵⁰ Anyone found guilty upon conviction of contravening provisions as to maternity leave is liable to a fine of Two Hundred Naira (N200) or imprisonment for a term not exceeding three months or both. While any employer that contravenes provisions relating to night work or underground work is liable to a fine not exceeding One Hundred Naira (N100) or imprisonment for a term not exceeding one month or both. These fines are indeed ridiculous in the 21st century. It is an understatement to state that such fines are mere pittance for employers of labour today. It is therefore not surprising that many employers of labour particularly in the private sector do not comply with the law imposing a duty on them to respect the right of women working in their undertaking to maternity leave and where so qualified payments as well. In the celebrated case of *Okunbowa v Group Consultants Nigeria Project Advisers (Nigeria) Ltd.*,⁵¹ the Defendant refused to pay the Claimant her wages while she was on maternity leave after providing the necessary medical certificate. The Defendant also went ahead and terminated the employment contract during the said confinement. The

⁴⁶ See section 54(4) of the Labour Act

⁴⁷ Olubiyi Ifeoluwa A. and Olusegun Olaitan O. (2015), "Maternity Protection of Working Women in Nigeria: a Need for Legislative Review", 2 Benson Idahosa University Law Journal, 381.

⁴⁸ Adeyinka A. Adejugbe and Adedolapo N. Adejugbe (2018) *supra*

⁴⁹ [2012] 27 NLLR (Pt. 76) 110 NIC

⁵⁰ See section 58 of the Labour Act

⁵¹ CCHCJ/2/74 @ page 159



court relying on the then Labour Code Act, held the Claimant to be entitled to maternity leave irrespective of the fact that it was not stipulated in her contract of employment. She was consequently awarded damages for wrongful dismissal in addition to payment of her wages.

The private sector in Nigeria acts in oblivion of these provisions of the Labour Act. Under the Act, the only prerequisite for the grant of maternity leave is the production of a medical certificate by a registered medical practitioner, yet many employers in the private sector have policies such as not granting maternity leave at all to women working with them until after one or two years, sometimes as long as three years of employment. It is the entitlement to cash benefits under the Act that has a requirement of working with the employer for a period of at least six months. The paltry fines for non-compliance with these provisions make it ineffective. It is not deterrent enough for employers. At the same time, it is illogical for workers to go through the rigours of litigation to enforce their rights only to have the employer given such sum of money as fine. It is therefore not surprising that many private undertakings do not comply with the minimum requirements set by the Act.⁵²

The Labour Act has no provisions for equal employment opportunities for all Nigerians irrespective of sex and devoid of any express provision, prohibiting discrimination or a right against discrimination; instead, what is tenable is embedding such right in a wider and more general context under the constitution.⁵³ The reason why the labour law is devoid of express provision on discrimination can be traced to the tenets of labour law in Nigeria. The principle of individualism; whereby a contract of employment has its foundation on freedom of contract, the freedom to enter into a contract as an employer or an employee and the freedom to determine who to contract with. This “freedom” falls within the private sphere of the law which is usually unhindered, thus labour law remains caught in-between the hold of private law and public law. Private law forms the immutable background rules and structure, the fields upon which distributive conflict plays between capital and labour, between subgroups of workers, and between workers and other subordinated groups. Thus, the crux or peculiarity of discrimination in the workplace is lost to the wider context. The degree of protection, the right against discrimination intends to give is considerable toned down and reduced to the barest minimum when it is not specifically provided for in the labour statute. Issues such as equality of pay, sexual harassment, discrimination as to recruitment process, discrimination in the workplace, equal treatment, etc. that is peculiar to the workplace is lost when it made a constitutional issue. Thus, the opportunity to tilt the imbalance of power relation and discrimination is lost if it is left to general realm of constitutional law. To cure this defect the Constitution was amended,⁵⁴ the effects of this “Third Alteration” is the conferment of wider jurisdiction on the National Industrial Court; the introduction and recognition of the concept of unfair labour practices; and unhindered application of international best practices, which include international conventions, treaties, and protocols that relate to employment/labour issues.⁵⁵ Thus, issues like discrimination, equality of pay, sexual harassment, equal treatment,

⁵²Olubiyi Ifeoluwa A. and Olusegun Olaitan O. (2015), *supra*.

⁵³ See section 42 CFRN *supra* note 27

⁵⁴See section 254 CFRN *ibid*

⁵⁵Kanyip, B.B. (2012) “ The Jurisdiction of the National Industrial Court in the Light of the Third Alteration to the 1999 Constitution of the Federal Republic of Nigeria”. A Guest Lecture presented at the Lagos State Ministry of Justice in-House Training Programme tagged, Legal Education and Research Node (LEARN). p. 18



etc that is peculiar to the workplace will simply fall under unfair labour practice, which the court has jurisdiction over.

Another law that seeks to protect women in the workplace is the Sexual Offences Bill, 2013⁵⁶. This bill seeks to protect people of different categories including minors, teenagers, the aged, people with disabilities and workers from being sexually assaulted. Section 23 of the Bill, which deals with sexual harassment in the office or school, provides that any person who being in a position of authority, or holding a public office, who persistently makes any sexual advances or requests which he or she knows or has reasonable grounds to know are unwelcome, is guilty of the offence of sexual harassment and shall be liable to imprisonment for a term of not less than five years or to a fine of not less than N50,000 or both. However, this bill is still waiting for the assent of the President. This bill, if assented by the president, would to a great extent, settle the issue of sexual harassment in the workplace.

Having examined the international conventions protecting the rights of women above, it is pertinent to discuss how the international labour standards can be applied in Nigeria. The approach for the enforcement of treaties and other international instruments in Nigeria is dualist in nature.⁵⁷ Treaties are not enforceable directly as part of the domestic law until they are ratified by an Act of the National Assembly. By section 12 of the CFRN, no treaty between the Federation and any other country shall have the force of law except to the extent to which such treaty has been enacted into law by the national Assembly.⁵⁸ Thus, by virtue of the CEDAW, CRC, Equal Remuneration Convention and Discrimination (Employment and Occupation) Convention, being ratified by Nigeria, makes them enforceable directly as part of our laws, it implies that Nigeria is in line with international labour standards and women can therefore enjoy the rights guaranteed therein when their rights are infringed. This helps protect women against the outdated provisions of the Labour Act.

Though a particular convention may not have been ratified, it could certainly be given effects by the courts.⁵⁹ The application of treaties by domestic courts is premised on the constitutional framework and on the role of the courts as enforcers of individual and corporate rights. In enforcing international labour standards, the courts make use of four approaches⁶⁰, as follows: direct application of international law;⁶¹ use of international law as a guide for interpreting domestic law⁶², establishment of a jurisprudential principle based on international law; or by reference to international law to strengthen a decision based on domestic law. Thus, where the rights of working women as provided by international

⁵⁶ This bill was passed by the 7th Senate in 2015, however, its still awaiting presidential assent for it to be in operation.

⁵⁷ Joseph E.O. Abugu (2009), "A Treatise on the Application of ILO Conventions in Nigeria". University of Lagos Press, chapter 2.

⁵⁸ *Abacha v Fawehinmi* (2000) 6 NWLR (pt.660) 228.

⁵⁹ See Joseph E.O. Abugu, *supra*

⁶⁰ *Ibid.*

⁶¹ See *Abacha v. Fawehinmi (supra)*; *Chief J.E. Oshevire v. British Caledonian Airways Ltd* (1990) 7 NWLR (pt. 160), 507; *the South African case of Palesa Peko v. The National University of Lesotho, case No. LC 33/95 decided on 1st August, 1995*, where the court referred to the unratified ILO Convention No. 156 concerning Workers with Family Responsibilities to remedy the deficiencies in national legislation by directly applying Articles 1,2,3 and 4(b) of the convention, ruling that the suspension of the complainant due to her two weeks absence to take care of her sick son is void and ordering her employer to pay her the wages due for the period corresponding to the time she had spent with her son.

⁶² See *Ejiekwe v. Microsoft Nigeria Ltd* [2014] 41 NLLR (Pt. 125) 67 NIC



standards are infringed and such international standards has not been ratified, the courts are at liberty in using any of the four approaches above. For instance, if a woman's employment is terminated or wage reduced as a result of carrying out her duty as a mother, and such duty is made provision for in the Maternity Protection Conventions or the Workers with Family Responsibilities Convention, which have not been ratified by Nigeria, the courts can invoke the four approaches above to enforce international standards. However, for quick and easy dispensation of justice, unratified international labour standards should be ratified and domesticated to guarantee and protect the rights of working women. There are however, very few⁶³ or no case laws of the courts testing any of the international conventions relating to the rights of women in the work place.

Challenges Women Face in the Work Place

Despite the efforts made the International community and Nigerian government formulating international standards and laws to protect and safeguards the rights of women in the workplace, women still suffer from discrimination and other challenges in the workplace. The provisions on maternity, night and underground work illustrates the law's recognition of the special needs of women at particular periods of human development. They are, however, far removed from some of the other practical issues that make the workplace emotionally and psychologically hostile towards women. Women continue to disproportionately face a range of multiple challenges relating to access to employment, choice of work, working conditions, employment security, wage parity, promotion to top managerial position, discrimination, harassment and balancing the competing burdens of work and family responsibilities. One of the specific objectives of the two separate workshops for Senior Staff Association and NLC affiliates, which was held on the 3rd to 5th October, 2002 and 9th to 11th October 2002, respectively, organized by the ILO Nigeria Declaration Project, was the identification of the key gender related issues in the workplace.⁶⁴ They identified the following as gender issues in the workplace: sexual harassment, unfavourable terms of employment for women, selective job posting, restrictive job classification and terms preventing married couples from working for the same organization.⁶⁵ Bullying is also an issue of increasing relevance and importance, as it affects both gender, but each gender responds to it differently.⁶⁶

Child care is also a universal challenged faced by working women and especially in Africa, because here, child bearing is still arguably considered to be the crowning achievement of a married woman.⁶⁷ Many working women face the problem of how to care for their children while they are at work and this leads to them not being able to maximize their potential in the workplace. The problem is compounded by inflexible working hours in Nigeria. Lack of flexible working hours contributes to harsh working conditions and poor quality of life of working women.⁶⁸ Absence of institutional structures for child care during working hours has exacerbated the conflict between women's traditional roles on the one hand and their role as

⁶³ *Ejike v. Microsoft Nig.Ltd.* (supra); *Yakubu v. Financial reporting Council of Nigeria*, Unreported Suit No. NICN/LA/673/2013, the judgment of which was delivered on 24th November 2016

⁶⁴ C.K. Agomo (2004) *supra*

⁶⁵ *Ibid.*

⁶⁶ *Ibid.*

⁶⁷ Atsenuwa, A.V. (1995) (ed.), *Women's Rights as Human Rights: The Nigerian Experience*. Legal Research and Resource Development Centre; C.K., Agomo (2011) "Nigerian Employment and Labour Relations Law and Practice". Concept Publications Limited. Chap. 3, p.95-96.

⁶⁸ Fashoyin et al (1984), "women in the modern sector labour force" p.5 as cited in C.K.. Agomo (2004) *supra*



breadwinners and full-time workers on the other hand.⁶⁹ As yet, there are no well articulated child care policies. There are private and group arrangements which often expensive and are far removed from the woman's place of work. There are no reason why more Nigerian employers should not adopt 'women friendly' policies to enhance the performance of women in the workplace

Women also face the problem of discrimination in the workplace. Women suffer multiple disadvantages in terms of access to labour markets, and often do not have the same level of freedom as men to choose to work.⁷⁰ Section 54 of the Nigerian Labour Act is intended to protect women workers from discriminatory policies in the workplace. It is ironically a source of discrimination. For instance, it is silent on the source of the cash benefit to be paid to women on maternity leave. The practice in both the public and private sector is that employers pay. This is a source of discrimination against the employment of women. Often times, in order to avoid paying this cash benefit of maternity leave, most employers discriminate against the employment of women of child bearing age (newly married women and pregnant women). Unfair discrimination based on sex in the workplace is evident in the recruitment, promotion, marriage, pregnancy, and childbirth process of Nigeria Police Force and the Nigeria Military Force. The Nigeria Police Force established by the Constitution, with the mandate to ensure the internal security of the country.⁷¹ The Police Act 2004 enumerates the powers, duties, and obligations of the force. The Police Act and Regulations is discriminatory in nature against women in some area, such as recruitment, promotion, marriage, pregnancy, and childbirth. Police regulations allow enlistment of men at the age of 17, while the enlistment age for women is 19 while married women are disqualified from enlisting.⁷² In addition, a Police Woman who is single at the time of her enlistment must spend two (3) years in service before applying for permission to marry giving particulars of fiancé who must be investigated and cleared before permission for marriage is granted.⁷³ Unmarried pregnant police officers shall be discharged from the force and shall not be re-enlisted except with the approval of the Inspector General.⁷⁴ This is one of the contributory factors for the low percentage of women in the Nigeria Police Force.¹²⁸ In the case of *Women Empowerment and Legal Aid Initiative (WELA) v Attorney General of the Federation*,⁷⁵ challenging the constitutional validity of the said Regulation 124, the Court declared that the provision of Regulation 124 of the Police Act on female officers' applying and the spouse investigated before marriage as illegal, inconsistent with section 42 of the constitution and Article 2 of the African Charter on Human and Peoples' Rights and the

⁶⁹Oyekanmi, F.O., "Women and the Law: Historical and Contemporary Perspectives in Nigeria" in Obilade (ed.) id., p.35; see also Oyekanmi, F.O. (1991), "Concept and Measurement of Women and Social Change in Nigeria".

⁷⁰Kangiwa, A. 2015. "Gender Discrimination and Feminism in Nigeria. *International Journal of Economics, Commerce and Management*." 3.7: 752 – 768. at p. 752

⁷¹See section 214 CFRN 1999, supra

⁷²Regulation 118, Police Act

⁷³Regulation 124 of the Police Act; Force Order No.30; and Force Administrative Instructions No. 23

⁷⁴ibid

⁷⁵(unreported) Suit No: FHC/IKJ/CS/M128/2010, Falana, F. (2013). 'Women's Day and the Gender Agenda' This day Newspaper Online Edition. Gotten from <http://www.thisdaylive.com/articles/women-s-day-and-the-gender-agenda/141787/> accessed on 20/1/19; Ekhator, E.O. (2013) 'The Impact of the African Charter on Human and Peoples Rights on Domestic Law: A Case Study of Nigeria.' A paper presented at the Kings College London Seventh International Graduate Legal Research Conference Forum. 8-9 April 2013, London.



Convention on the Elimination of all Forms of Discrimination against Women, CEDAW, which have prohibited discrimination based on sex.⁷⁶

Women are also, often, disadvantaged compared to men in access to employment opportunities, the condition under which they work, wages, and their access to opportunities for advancement, mechanisms of promotion, women's career cycle, career path, harassment, difficulty in achieving work-life balance, stereotypes, social attitudes and many women forgo or curtail employment because of family responsibilities.⁷⁷

Among the prominent issues, bothering on the work experience of female employees is that of harassment at work. An employer, superior, or employer's client can perpetuate sexual harassment in the workplace. Common forms of harassment based on sex is "maternity harassment" or "the practice of harassing a woman because of pregnancy, childbirth, or a medical condition related to pregnancy or childbirth, or a worker because of family responsibilities".⁷⁸ It can also take the form of "quid pro quo" in which a supervisor demands sexual acts from a worker as a job condition, or promises of work related benefits in exchange for sexual acts. Similarly, sex-based harassment can take the form of hostile environments created for women due to their sex, such as derogatory or demeaning "jokes" about women, (this can often take the form of sexual harassment). Section 254C (1) (g)⁷⁹ confers on the National Industrial Court the exclusive jurisdiction on matters relating to or connected with any dispute arising from discrimination or sexual harassment at the workplace. The Constitution does not define "workplace", but examining the definition of "workplace" in the Employee's Compensation Act, workplace is defined to include any premises or place where a person performs work, needs to be, or is required to be in the course of employment.⁸⁰ This definition is broad and can be said to cover a professional training course within or abroad, a company-sponsored party, an official gathering, a non-workplace parking lot and anywhere else co-workers may socialize and interact as required to be in the course of employment.⁸¹ In examining the current trends in sexual harassment at the workplace, the first award given for sexual harassment in the workplace under the dispensation of the Third Alteration to the Constitution is the case of *Ejieke Maduka v. Microsoft Nigeria Limited &ors*.⁸² The case is a fundamental rights suit under sections 32 and 42 of the Constitution⁸⁶ and the African Charter on Human and People's Right (Ratification and Enforcement) Act. Due to the absence of legislation on sexual harassment in Nigeria, the following two conventions ratified by Nigeria (United Nations Convention on The Elimination of All Forms of Discrimination against Women (CEDAW) and ILO Discrimination Convention⁸³), were used by the court as a guide to interpret the applicant's constitutional rights and determine the rules applicable to sexual harassment. The court held that sexual harassment constitutes assault and trespass on the person of the victim/applicant.

⁷⁶ "Court declares Police Act on female officers' marriage illegal", The Vanguard Newspaper, 5th May, 2012. Gotten from <https://www.google.com.ng/amp/s/www.vanguardngr.com/2012/05/court-declares-police-act-on-female-officers-marriage-illegal/amp/> accessed on 20/1/19

⁷⁷ Adeyinka A. Adejugbe and Adedolapo N. Adejugbe, *supra*

⁷⁸ ILO. 2016. Report: *Women at work trends 2016*. Geneva: ILO. Retrieved 24th January, 2019 from www.ilo.org/wcms_457317 p.57

⁷⁹ The Constitution of the Federal Republic of Nigeria (Third Alteration) Act 2010, *supra*

⁸⁰ See section 73 of the Employee's Compensation Act 2010, which repealed the Workmen's Compensation Act, W6, LFN, 2004.

⁸¹ Adeyinka A. Adejugbe and Adedolapo N. Adejugbe, *supra*

⁸² *Ibid*.

⁸³ Discrimination (Employment and Occupation) Convention (C111), 1958, *supra*



Another recent case on sexual harassment is the case of *Pastor (Mrs) Abimbola Patricia Yakubu v. Financial Reporting Council of Nigeria &anor*⁸⁴, where the court ordered the payment of the sum of N5, 000,000.00, in favour of the claimant against the defendants for acts of sexual harassment, discrimination, inhuman and executive recklessness against the claimant by the 2nd defendant, thereby creating a hostile working environment for the claimant and for the violation of her human dignity and self-worth/respect. The employment of the claimant was terminated simply because she refused to succumb to sexual advances from 2nd defendant, which constitutes a violation of her human dignity and freedom from discrimination as protected by the African Charter on Human and Peoples' Rights (Ratification and Enforcement) Act, and against the claimant's fundamental human right under the 1999 Constitution as amended.

Section 23 of the Sexual Harassment Bill⁸⁵, which deals with sexual harassment in the office or school, provides that any person who being in a position of authority, or holding a public office, who persistently makes any sexual advances or requests which he or she knows or has reasonable grounds to know are unwelcome, is guilty of the offence of sexual harassment and shall be liable to imprisonment for a term of not less than five years or to a fine of not less than N50,000 or both. However, this bill is still waiting for the assent of the President. This bill, if assented by the president, would to a great extent, settle the issue of sexual harassment in the workplace.

The issue of the rights of working women is not well guaranteed and guaranteed under the Constitution of the Federal Republic of Nigeria⁸⁶ and the Nigerian labour legislations, as they do not expressly state the rights women are meant to enjoy in the workplace. Despite the fact that Nigeria is a member and signatory to various International Labour Conference and Recommendations on the right of women, of which some have been ratified, they are not well implemented to protect working women. Also, even though most employers of labour are conversant with these laws and agreements, their application of these rules as far as women are concerned is contrary. There is evidence of the employment of women who go on maternity leave being terminated on their return or not being paid their wages during the period of maternity leave, most especially in the private sector. There is also evidence of gender pay disparities in the workplace, disparities in promotion to managerial position, political positions and other forms of discrimination.

Another problem militating against the right of working women in the workplace is that of lack of legislation providing suitable child care facilities for the children of working women in their workplaces during hours. Yet it has been shown that family friendly workplace policies can help professional females tremendously by enabling them remain in the workforce after having children by reducing their work-family conflict.⁸⁷ In addition, there are no part-time positions or work from home occupations in Nigeria. Such arrangements can offer a level of flexibility to mothers during transitional periods in their lives such as pregnancy and post-delivery.

It is on the basis of these challenges that the study was carried out to investigate working women and their rights in the Nigerian work place.

⁸⁴ Ibid.

⁸⁵ Supra note 56

⁸⁶ 1999 (as amended), supra

⁸⁷ Naeima Faraj A. Abdulatif, (2011) supra



LITERATURE

In Nigeria, as in most other African countries, women have a long history of participation in productive work.⁸⁸ The story is the same the world over. They were engaged in crafts making, cloth dyeing and weaving, subsistence farming, trading and food processing among others.⁸⁹ Traditional African societies encouraged women to develop self-reliance through these endeavours in addition to full time housework, childbearing and child rearing. This aspect of their work was not given any economic value. Therefore, it never counted and still does not count as an integral part of the production process. According to Steady F.C.⁹⁰, the market's demand for wage labour was primarily for male labour, consequently, male labour was given an "exchange value" whereas female labour was given a "use value".

Agomo (2004)⁹¹ opined with reference to the International Labour Organization (ILO), that women represent over 40% of the global labour force. However, in 2019, statistics has shown that female population has grown to be above 49%.⁹² This may indicate that the number of working women and their rights to motherhood may have proportionally increased, alongside increase in population. Women being the driving force of any population need to be protected by law. Agomo (2004)⁹³ further explained that approximately 70% of women in developed countries and 60% in developing countries are engaged in paid employment outside the home. Christiana (2018),⁹⁴ stated that women being who they are, had contributed to economic growth and development, 70% of the labour force are attributed to women while 60% engage in food processing and 50% engaged in animal husbandry respectively. Despite the active contribution of women to the economic growth, most women have been denied their rights to personal growth and development. For instance, in Nigeria, most women are denied the right to access profitable employment and promotion to managerial positions in their workplace as soon as they get married or attain motherhood.

Ezra and Sampson (2015)⁹⁵ carried out a spatial analysis of women employment status in Nigeria using statistical method of analysis. Their finding shows that there is an imbalance in the status of distribution of women employment, as women employment revolves around managerial positions and menial jobs. This may indicate that the laws that protect the rights of women in the workplace are not fully implemented in Nigeria. Rufai (2016)⁹⁶ observed that despite various rights guaranteed to women under relevant laws in Nigeria, there are many instances of violations of legal rights of women in Nigeria. This implies that in the course of their work, the rights of working women are often violated by their employers and

⁸⁸ Chioma Kanu Agomo (2004), *supra*

⁸⁹ Okonkwo, A.O. (1984), "Women's Participation in Trade Union in Fashoyin et al. 'Women In The Modern Sector Labour Force: Issues and Prospects'" as cited in Chioma Kanu Agomo (2004), *supra*

⁹⁰ Steady F.C. (1981), "Black Women Cross-Culturally". Schenkman Publishing Co. Inc. Cambridge (Mass.)

⁹¹ C.K., Agomo (2004), *supra*

⁹² Live Nigeria Population (2019). Current Population of Nigeria-Country Meters.
<https://countrymeters.info/en/Nigeria-12-01-2019-22:19:48>

⁹³ C.K., Agomo (2004), *supra*

⁹⁴ Christiana Yushau (2018), "Nigeria Women and Decent Wage Employment". Daily Trust 24th April, 2018.
<https://www.dailytrust.com.ng> accessed on 12/1/19

⁹⁵ Ezra Gayawan and Samson B. Adebayo (2015), "Spatial Analysis of Women Employment Status in Nigeria". CBN Journal of Applied Statistics, Vol.6 No. 2 p1-17

⁹⁶ Rafiu Muftau (2016), "An Appraisal of the Legal Rights of Women in Nigeria". journal of Law, Policy and Globalization vol. 52 www.iiste.org



fellow workers contrary to the provision of the law. Durojaye et al. (2014)⁹⁷ stated that despite the efforts of the Nigerian government enacting various policies and laws to address the issue of gender inequality in Nigeria, Nigerian women still experience gender discrimination and inequality. In as much as better job opportunities is an integral part of human existence, stable employment status that does not violate human rights and motherhood in the workplace have increased many women's independence and resulted in a new status and role in their families and societies⁹⁸. Evidence has shown it that women's ability to fully enjoy human rights is integrally linked to their economic empowerment, as a majority of resources in the hands of women goes into household expenditure for the benefit of their children.⁹⁹ However, the elevation in the status of employment of women have also created some problems; such as the problems of equality and equity, dignity and self-worth, discrimination, safety and health for the workers, in the workplace, in their homes and in the society at large, inability to balance work and family life, conflict between work and motherhood etc.¹⁰⁰ Even though Nigerian women have become more integrated into the workforce, this integration has however led to conflict between work and family life.¹⁰¹

Kolade and Kehinde (2013)¹⁰² in examining the glass ceiling phenomenon regarding women's career advancement in Nigeria, observed that barriers and impediments to women's entry into the workplace and career progression characterized the prevailing anti-female work culture or environment in the construction industry in Nigeria. These barriers included recruitment discrimination, lack of promotion, and stereotyping harassment. The authors recommended provisions for a conducive work environment, eradication of gender discrimination and bias in education, training, recruitment, and promotion in the construction industry in Nigeria. Nyewusira and Nweke (2014)¹⁰³ noted that patriarchy is still a norm in many African societies, and that domestic laws, official policies, and even the Nigerian constitution seem to negate the idea of gender equality. They further noted that despite the amendment to the 1999 constitution of Nigeria which stipulated that women will have equal rights participation in office, the percentage of women in politics and government are grim. Nyewusira and Nweke (2014)¹⁰⁴ also stated that there are many laws that treat women unequally, such as the terms and conditions of service for the National Drug Law Enforcement Agency, which state that all female officers must be unmarried and remain so for a period no less than two years. Under this law, an unmarried female officer who becomes pregnant may be discharged, which clearly inhibit career advancement and a balance of career success and growing a family. The laws that discriminate against women are

⁹⁷ Durojaiye, E., Okeke, B. & Adebajo, A. (2014), "Harmful Cultural Practices and Gender Equality in Nigeria". *Gender and Behaviour*, 12, 6169-6181. Gotten from <http://www.ajol.info/index.php/gab>

⁹⁸ C.K., Agomo (2004), *supra*

⁹⁹ Ezra Gayawan and Samson B. Adebayo, *supra* n.21

¹⁰⁰ C.K., Agomo (2004), *supra*

¹⁰¹ Ngozi Eze (2017), "Balancing Career and Family: The Nigerian Woman's Perspective". Walden Dissertations and Doctoral studies Collection. <http://scholarworks.walden.edu/dissertations> accessed on 12/1/19

¹⁰² Kolade, O.J. & Kehinde, O. (2013), "Glass ceiling and women career advancement: Evidence from Nigerian Construction Industry". *Iranian Journal of Management Studies*, 6(1). 79-99. Gotten from https://ijms.ut.ac.ir/article_30125_33079.html

¹⁰³ Nyewusira, V. & Nweke, K. (2014), "Constraints of gender equality in Nigeria: the paradox of women against women". *International Journal of Academic Research* 6, 239-243. Doi:10.7813/2075.2014/6-2/b.35

¹⁰⁴ *ibid.*



exhaustive and compound challenges women face in the workplace along with responsibilities associated with family.¹⁰⁵

Idris Haruna et al (2016)¹⁰⁶ opines that that women at the lower cadre are mostly sexually harassed, which affects their performance in the organizations. Reskin and Padavic (1994)¹⁰⁷ argued that resulting from the nature of sexual harassment to female employees which normally comes from the superior officers, the ability and willingness to freely communicate incidences of sexual harassment in most organizations is very low, thereby making it to strive. The International Labour Organization guideline (2010)¹⁰⁸, Vicki (1998)¹⁰⁹ identified the effects of sexual harassment on women to include the following: Sexual harassment affects the women economic self sufficiency, posttraumatic stress and disorder, publicly harassed by the victims, weakening of support network from colleagues, loss of productivity, decreased employee morale, labour turnover, loss of productivity and low economic profile, loss of goodwill of the victim and the organization.

As seen in this review of literature, many obstacles still exist to improving the rights of working women, most especially mothers in the workplace despite efforts by previous researchers, government officials and employers. In order to provide support to working women and to change cultural expectations and perceptions in the workplace, women's view and coping strategies need to be examined so that information can be passed on to employers, government and educational institutions. There is a gap in literatures and laws regarding the rights of working women and their experiences as they navigate through dual roles of managing a career and motherhood in an environment that has progressed, but is still hindering women's progress in Nigeria. A need therefore arises for government to put in place new policies and institutions to safeguard the rights of women in the workplace in line with international standards and also the need to correct the misrepresentation of women's experiences, contribute to knowledge about women's challenges, and to correct social inequalities by examining how Nigerian women cope with these roles.

Research Hypothesis

Most of the previous works done on working women and their right in the work place are qualitatively inclined hence lack empirical justifications of their findings. This study uses the Chi-square test as a method of analysis to answer the research questions and to see if the findings of this study corroborate with other studies as distilled from the Nigeria Labour Laws, International Labour Standard and other literatures. In a chi-square test, the P-value or Sig value is compared with that of 5% confidence interval. If Chi-square¹¹⁰<0.05 we reject the alternative hypothesis and accept the null hypothesis.

¹⁰⁵ ibid

¹⁰⁶ Idris Haruna, Adaja Joseph, Audu Samson & Aye Gabriel A (2016), "Analysis Of The Causes And Effects Of Sexual Harassment On The Performance Of Female Employees In Some Selected Organizations In Kogi State, Nigeria". International Journal of Democratic and Development Studies (IJDDS), Vol. 2, No 2, 31-39.

¹⁰⁷ Reskin, B. Padavic, I. (1994), "Women and Men at Work". Thousand Oaks, C.A: Pine Forge Press.

¹⁰⁸ International Labour Organization (2010): Guide on Prevention of Sexual Harassment in the Workplace.

¹⁰⁹ Vicki, S. (1998), "Reconceptualizing Sexual Harassment". Yale Law Journal. Vol. 107.

¹¹⁰ Saunders M., Lewis P. and Thornhill A. (2009), Research Methods for Business Students. Fifth edition, Harlow Financial Times Prentice Hall.



H_{0:1}: private organizations in Nigeria do not implement the laws guaranteeing women's rights to work and motherhood in line with international labour standards and within the context of the Nigeria legal system.

Table 1(a): Chi square table showing the rights of women to work and to motherhood, as articulated in international human rights instruments, be best promoted within the context of the Nigerian legal system.

| | Observed N | Expected N | Residual |
|-------------------|------------|------------|----------|
| Strongly Disagree | 4 | 34.0 | -30.0 |
| Disagree | 3 | 34.0 | -31.0 |
| Undecided | 26 | 34.0 | -8.0 |
| Agree | 56 | 34.0 | 22.0 |
| Strongly Agree | 81 | 34.0 | 47.0 |
| Total | 170 | | |

Test Statistics

| | Privates organizations in Nigeria do not implement the laws guaranteeing women's rights to work and motherhood |
|-------------|--|
| Chi-Square | 135.824 ^a |
| Df | 4 |
| Asymp. Sig. | .000 |

a. 0 cells (0.0%) have expected frequencies less than 5. The minimum expected cell frequency is 34.0.

Table 1(a) reveals that Privates organizations in Nigeria implement the legislature to women rights to work and motherhood ($x=135.824^{111}$, $df=4$, $p<.005$).

H_{0:2}: The Nigerian Labour law and practice does not adequately protect working women rights at work and rights of motherhood as required by the International Labour standard.

Table 1(b): Chi square table showing if Nigeria Law and practice does not adequately protect working women rights at work and rights of motherhood

| | Observed N | Expected N | Residual |
|-------------------|------------|------------|----------|
| Strongly Disagree | 4 | 34.0 | -30.0 |
| Disagree | 2 | 34.0 | -32.0 |
| Undecided | 27 | 34.0 | -7.0 |
| Agree | 54 | 34.0 | 20.0 |
| Strongly Agree | 83 | 34.0 | 49.0 |
| Total | 170 | | |

¹¹¹ SPSS result. IBM Statistical package for social sciences (SPSS), 21



Test Statistics

| | |
|-------------|--|
| | The Nigerian Labour law protects working women rights at work and rights of motherhood as required by the International Labour standard. |
| Chi-Square | 140.412 ^a |
| Df | 4 |
| Asymp. Sig. | .000 |

a. 0 cells (0.0%) have expected frequencies less than 5. The minimum expected cell frequency is 34.0.

Table 1(b) reveals that The Nigerian Labour law and practice protect working women rights at work and rights of motherhood as required by the International Labour standard. ($\chi^2=140.412$, $df=4$, $p<.005$)

We therefore reject H_0 and accept H_1 ; which stated that the Nigerian Labour law and practice protect working women rights at work and rights of motherhood as required by the International Labour standard.

DISCUSSIONS OF FINDINGS

The aim of this empirical study is to investigate the impact of emotional intelligence and employees' job performance of selected private organizations particularly commercial banks in Lagos, Nigeria. The study applied the Chi-square methodology and found empirical support for some conjectures made in the literature. Given the importance of women in any society and their rights, it becomes expedient to examine if the right of working mothers is protected as required by the Nigeria Labour Law and International Labour Standard.

The findings of the study revealed that Private organizations in Nigeria implement partially the legislature to women rights to work and motherhood while the provision made by the Nigeria Labour Act is insufficient to protect the right of working mothers as distilled in the International Law Standard. One of the Questions of our analyzed structured questionnaire shows that majority of working women were not given the opportunity to early closing hours for nursing mothers. This however, affect the right of the child as mothers only give little or no time to their child due to job that takes more of their time and violate the right of the child. The convention of the right of the child in 2018 postulated that children has right to be heard. Infants which are integral part of the children cadre should be given opportunity to be heard. Any attempt to deprive the child from being given the opportunity to be adversely affects the child's right, which sometimes is necessitated by the violation of the mother's right. The test of hypothesis shows that the alternative hypothesis H_1 that private organizations in Nigeria Implement the legislature to women rights to work and motherhood in line with international law and within the context of the Nigeria legal system. However, scholars have shown that it is partially implemented.¹¹²

¹¹² See Rafiu Muftau, supra; Ezra and Sampson, supra



From the empirical findings of the study, it was noted that the Nigeria law and practice does not adequately protects both rights at work and rights of motherhood. These findings were justified with the test of hypothesis where $X^2_{Cal} 1.4153 < X^2_{cal}$ is less than X^2_{tab} at 0.05 level of significance and 1df. ($1.4153 < 3.84$), we accept the NULL hypothesis H_0 that Nigerian law and practice does not adequately protect working women's rights at work and rights of motherhood.

Women are discriminated against in employment and management positions because of their gender and the perception that they are not expected to take up tasks outside the home. This is because their supposed natural responsibilities are in the home and taking up such task will surely conflict with her domestic responsibilities. Despite Nigeria's government seeming effort in promoting sexual equality and non-discrimination in the workplace, there are still discriminatory challenges confronting women in the workplace, most especially problems associated with maternity protection. The right to maternity protection is an integral part of the reproductive right of a woman and is as important as every other right as it affects every area of her life. It promotes healthy mothers and babies which also helps in the overall development of the society. To maintain her health and standard of living, a woman needs a good job which makes provisions for her rest and care when she is undergoing or has undergone the risk of giving birth and nursing of her child.

The extent of maternity protection granted to Nigerian working women differ depending on which level of government is the employer in the public sector and from one place of employment to another in the private sector. The Labour Act¹¹³ provides the minimum requirements that all employers ought to comply with in the country. However, employers particularly in the private sector violate these provisions. More so, the level of maternity protection granted under the Labour Act is far below the international labour standards as contained in the three ILO Maternity Protection Conventions and the Workers with Family Responsibilities Convention. The issue of the rights of working women is not well guaranteed and guaranteed under the Constitution of the Federal Republic of Nigeria¹¹⁴ and the Nigerian Labour Act¹¹⁵, as they do not expressly state the rights women are meant to enjoy in the workplace. Despite the fact that Nigeria is a member and signatory to various International Labour Conference and Recommendations on the right of women, of which some have been ratified, they are not well implemented to protect working women. Also, even though most employers of labour are conversant with these laws and agreements, their application of these rules as far as women are concerned is contrary. The Sexual Harassment Law that expressly makes provision for sexual harassment in the workplace and its punishment is still waiting presidential assent, after it was passed by the senate in 2015. There is therefore an urgent need for Nigeria to embark on a legislative and policy reform in order to comply with these international labour standards so that women can effectively balance both work and family life, have easy access to work free from discrimination and also effectively secure the reproductive rights of Nigerian female workers.

On the strength of the findings, a number of policy recommendations are proffered. The study also proves that from its findings the research questions and objectives of the study had been achieved.

¹¹³ supra

¹¹⁴ supra

¹¹⁵ supra



RECOMMENDATION AND CONCLUSIONS

Having discussed the components and right of working women to maternity protection as well as examined the provisions relating to maternity protection in Nigeria in the light of international labour standards, a legal reform is an urgent necessity. Since the country operates a federal system of government, the Labour Act is the legislation that provides for the minimum standard applicable to all workers. However, having been enacted over four decades ago, it is essential that the Labour Act be amended in order to make it compliant with international labour standards.

Unionism is essential in driving any pressing issues like that of the working women and their right in the work place. This study therefore recommends that working women should use a union as a way of reaching to their employer for proper implementation. With the union, Nigerian working women can pave way for the signing of the maternity convention which at present (2019), Nigeria is not a signatory.

The government needs to ratify and domesticate the Maternity Protection Convention (No. 183), 2000 being the most recent convention in this regard. Should this take a long time to achieve, nothing stops the National Assembly from revising the Labour Act to be in compliance with the convention. Ratification is however good so that the country can be formally and legally bound to comply with international standards. This is necessary in the interest of workers. The president should also assent the Sexual Harassment Bill, 2015, which has since been passed by the 7th senate in 2015, which expressly states the offence and punishment of sexual harassment in the workplace. If this Bill is assented by the President and begins to operate, it would to a great extent serve as a deterrence to those employers engaged in sexual harassment and protection of women in the workplace.

The fine imposed on employers of labour who violate the provisions of the law in relation to maternity protection needs to be increased and sufficiently deterrent. In the absence of such, workers employed in private undertakings will continue to be denied their rights under the law. The current fines are in no way deterrent hence many employers in the private sector set conditions to be entitled to maternity protection that are so stringent that a majority of their workers cannot be qualified.

The Maternity Protection Convention (C183), provides that an employer shall not be individually liable for the direct cost of any such monetary benefit to a woman employed by him or her without that employer's specific agreement subject to certain exceptions.¹¹⁶ The ILO also encourages that the cash and medical benefits of maternity protection should be provided by a social security or assistance or insurance system and in the absence of this, by a contributory fund scheme by both the employer and the employee.¹¹⁷ Where the entire burden lies on the employer, it is prone to encourage discrimination against pregnant women and women of child bearing age.¹¹⁸

Unfortunately, the situation in Nigeria is that there is no social security or effective health insurance system. The National Health Insurance Scheme (NHIS) has failed to rise up to the

¹¹⁶ Article 6(8) of the Maternity Protection Convention (C183) *supra*

¹¹⁷ Maternity Protection Convention (C183) *supra*

¹¹⁸ International Labour Organization, *Maternity at Work: A Review of National Legislation* (2010) available at <http://digitalcommons.ilr.cornell.edu/intl/87>;



challenge of providing health insurance to all Nigerian workers. The scheme was officially launched in 2005 with three main programmes: the formal sector, urban self-employed and rural community; some other programmes have been added since then.¹¹⁹ However, since its inception only the formal sector programme has taken off to an extent and this is also significantly limited to federal government workers and very few state governments have adopted it thereby leaving the majority of Nigerian workers in the state governments that have not adopted it and the private sector without any form of health insurance.¹²⁰ It also covers only medical benefits and not the salaries of women while on maternity leave. The implication of this is that employers bear the total responsibility of cash benefits of women on maternity leave. Due to this, employers in the private sector want to reduce as much as possible the number of women that can qualify for maternity leave and its duration. It is therefore essential that Nigeria should have an effective social security system. Where employers are not liable for paying cash benefits, they will be more willing to allow women go on maternity leave without any losses to their undertaking. Till this can be achieved, a contributory fund by both the employers and the employees can be explored similar to what obtains under the Pension Reforms Act and NHIS scheme.¹²¹

A legal duty should also be imposed on employers of labour to provide breastfeeding rooms and facilities for their female employees. Same should also be included at any public place. The building plan of public premises such as religious places of worship, restaurants, schools, bus stations or motor parks etc should not be approved unless a breastfeeding room is included. A similar duty may also be imposed on employers with a minimum number of employees (whether male or female) to provide child care facilities within their premises or liaise with such facilities within a specified distance from the office premise. Any attempt to impose this duty based on the number of female employees would lead to discrimination against women as employers will ensure that they do not employ women up to the minimum standard required so that such a legal duty will not arise.¹²²

The Nigerian Government should be actively committed to achieving the goals of International labour standards regarding *maternity protection and workers with family responsibilities*. This will require government at the national level putting in place policies that holds employers liable when they go contrary to ILO rules. In that case, government should establish machineries that monitor organizations to see that conducive work environment and necessary facilities are provided in the workplace to ease the problems of working mothers. By so doing, working mothers can conveniently combine their domestic and office responsibilities effectively. Also, government should ensure that no woman is denied of employment on grounds of pregnancy or childbirth. To achieve this, a government policy paper containing what is expected of any employer and the punishment for not adhering to the rules should be made available to every employer. Where possible, workshops should be organized for employers of labour by the Federal Ministry of Labour

¹¹⁹Rebecca Holmes, et al. (2012), "Social Protection In Nigeria" Overseas Protection Institute, February 19, (2012)

¹²⁰ibid

¹²¹Ibid; For example, section 16(1) of the NHIS Act provides that an employer who has a minimum of ten employees may, together with every person in his employment, pay contributions under the Scheme, at such rate and in such manner as may be determined, from time to time, by the Council

¹²²International Labour Organization, *Maternity at Work: A Review of National Legislation* (2010) available at <http://digitalcommons.ilr.cornell.edu/intl/87>



and Productivity to enlighten them more on the implications of flouting the document. When employers have been well informed, any employer found to flout the rules should be sanctioned and/or their licenses withdrawn. Such will surely serve as a deterrent to others that may want to default in future.

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