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# Interrogating the National Industrial Court Strides towards Attaining Safe Workplace for Nigeria's Female Workers

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## Abstract

Female employees constitute part of the labour force in Nigeria and are regarded as part of the vulnerable group. This makes them to deserve special protection under domestic and international legal instruments. Despite the legal protection, they suffer various vices ranging from sexual harassment, work place victimization, chauvinist intimidation, lack of equal employment opportunities, career growth prospects, etc. Over the years, the National Industrial Court of Nigeria (NICN) has taking a protectionist stance at female employees' rights in Nigeria. This paper through doctrinal methodology, examines the extent which the NICN has advanced the frontiers of female employee's rights in Nigeria through its judgments. It highlights domestic and international legal instruments on the protection of female employees in Nigeria and identify the gender gaps in the domestic laws. The paper found out that the NICN has recognized the depravity of female employees in Nigeria and has through judicial activism, struck down several vicious employment practices against female employees. However, the inadequacy and obsolescence of the domestic laws, level of compliance by employers with these judgments is poor, and there is lack of awareness. The paper concludes by making vital recommendations towards solving the identified problems.

**Keywords:** Discrimination, Employment Intimidation, NICN, Nigeria, Sexual Harassment.

## 1.0 Introduction

The female employee within employment relations is confronted by several challenges which are compounded by multifaceted roles she plays within the society.<sup>3</sup> While some of these challenges are legal and

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<sup>3</sup> Oluwatobiloba I. Ajay, 'The Right to Work as a Social Right of Women in Nigeria' (2018) 9(4) *The Gravitas Review of Business and Property Law* 134.

institutional, majority are man-made.<sup>4</sup> They range from discriminatory employment practices, sexual harassment, chauvinist intimidation, denial of equal employment opportunity and career growth, restriction on reproductive rights, sexual discrimination.<sup>5</sup> It is not uncommon to see job vacancies which expressly forbid women from applying, in some organization particularly within the unregulated private sectors, aside the requisite competence, prospective female employees are made to undertake not to get pregnant for a particularly period of time.<sup>6</sup> In fact, some employment advertisement would expressly prohibit females from applying particularly law firms. The irony is there is no basis to show that male employees are more resourceful than their female counterparts particularly in the practice of law. A man does not possess a better brain than a woman; at least, science has maintained the fact that the intellectual acumen of both sexes is equal. Yet, some others have the policy of not allowing female staff to get married within a particular period.<sup>7</sup> This negative employment attitude has exposed female employees to avoidable hardship. In recognition of this and the need to protect females, both domestic and international instruments have been made to stem this negative tide. Some of these instruments include the 1999 Constitution of the Federal Republic of Nigeria, Labour Act, African Charter on Human and Peoples' Rights (ACHPR), Convention on the Elimination of All forms of Discrimination Against Women (CEDAW), African Charter on Human and Peoples' Rights (Ratification and Enforcement) Act (ACHPRREA), Universal Declaration of Human Rights (UDHR), International Covenant for Economic, Social and Cultural Rights (ICESCR), Protocol to the African Charter on Human and Peoples' Right on the Rights of Women in Africa 2003,<sup>8</sup> etc.

However, in total and brazen disregard to these laws, employers have persisted in unfriendly female employment practices.<sup>9</sup> The NICN is a specialized Court with exclusive original jurisdiction in labour and ancillary matters with appeals whether as of right or with leave terminating

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<sup>4</sup> Olukemi I. Lawanson, 'Female Labour Force Participation in Nigeria: Determinants and Trends' Paper Presented at 2008 Oxford Business and ECONOMICS Conference Programme held on the 22<sup>nd</sup> to 24<sup>th</sup> June, 2008 at Oxford. <[https://www.google.com/url?sa=t&source=web&rct=j&url=http://www.gcbe.us/2008\\_OBEC/data/olukemi%25201.%250Lawanson.doc&ved=2ahUKewjvmIDCuZTuAhxhqhUIHVc5DeEQFjAHegQIBRAB&USG=AOvVaw0vuBLirCsL-GXLUjyWeBK](https://www.google.com/url?sa=t&source=web&rct=j&url=http://www.gcbe.us/2008_OBEC/data/olukemi%25201.%250Lawanson.doc&ved=2ahUKewjvmIDCuZTuAhxhqhUIHVc5DeEQFjAHegQIBRAB&USG=AOvVaw0vuBLirCsL-GXLUjyWeBK)> accessed 28 November 2020.

<sup>5</sup> Ajay (n 3) 135.

<sup>6</sup> David T. Eyongndi, 'An Examination of Female Employee Rights under Nigerian Law' (2017) 8(4) The Gravitas Review of Business and Property Law 18.

<sup>7</sup> *ibid* 19.

<sup>8</sup> This has been ratified in Nigeria as African Charter on Human and Peoples' Right (Ratification and Enforcement) Act 1983, Cap. A1 LFN 2004.

<sup>9</sup> Ajay (n 3) 135-136.

at the Court of Appeal. Since the advent of the 1999 Constitution of the Federal Republic of Nigeria (Third Alteration) Act 2010 strengthened and enlarged the jurisdiction of the NICN (to the extent of applying International Treaties whether ratified or not as well as international best practices) it has taken the protection of workers particularly females vociferously.<sup>10</sup>

This paper through doctrinal methodology, examines the efforts of the NICN towards protection of the rights of female employee from 2010 till date. This is done by reviewing some decisions of the Court in this respect. The paper found that despite the efforts of the NICN in protecting and promoting the employment rights of female employees in Nigeria, employers particularly in the private sector have persisted in violation of these rights, both the laws and judgments are either feebly enforced or not enforced at all, there is lack of awareness and massive intimidation of workers catalysed by massive unemployment and underemployment which makes most female employees to lack the will power to fight back.

The paper is divided into five sections. Section one contains the general introduction. Section two discusses legal instruments for the protection of female employees' rights in Nigeria. Section three examines some forms of precarious employment practices against female employees in Nigeria and some statutory backups to such practices and argues for their abolition. Section four examines the judicial efforts of the NICN at curbing precarious employment practices against female employees' especially sexual harassment, discrimination, refusal of maternity rights and termination of employment, etc. by reviewing decided cases by the Court. Section five contains the conclusion based on the findings.

## **2.0 Legal Framework for the Protection of Female Employee Rights in Nigeria**

This section of the paper examines the legal frameworks on the protection of female employees' rights in Nigeria. It looks at domestic, continental and international legal instruments and evaluates their adequacy or otherwise.

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<sup>10</sup> See *Maiya v Incorporated Trustees of Clinton Foundation Health Access Initiative Nig & Ors* [2012] 27 NLLR (Pt. 76) 110.

## 2.1 The 1999 Constitution of the Federal Republic of Nigeria

It is our contention that any meaningful discussion on the legal framework for the protection of female employees' rights in Nigeria must begin with the 1999 CFRN.<sup>11</sup> The reason is the supremacy of the Constitution places its provision over and above any other legislation (domestic or international). While it is conceded that the provisions of the 1999 CFRN as far as protection of workers' rights is concerned, is general, this general provision, would become the basis for debunking certain seemingly protective but discriminatory provisions of the Labour Act. Thus, on a general note, section 34(1) (c) of the Constitution of the Federal Republic of Nigeria 1999,<sup>12</sup> prohibits forced and compulsory labour as same is tantamount to detraction from dignity of the human person.<sup>13</sup> A visit to construction sites would leave one in a sorrowful state at the ugly sight of females' labourers carrying building materials such as blocks, concrete, mortar, water, etc under hot sun for a paltry sum. While this may not amount to force or compulsory labour, it is unarguably, degrading of the person of a female by all standards. In fact, in Osun State,<sup>14</sup> there is a group of Government employed grass cutters known as 'Alapara' consisting of males and females labourers. They are mostly found along highways in Osun State particularly Ibadan-Iwo road, Ibadan-Osogbo road, Osogbo-Ede, Osogbo-Ila-Orangun, etc. you see several women using machetes to cut grasses early in the morning and at times under the d sun at noon. This is denigrating womanhood. Section 42 (1) of the 1999 CFRN prohibits all form of discrimination especially based on sex.<sup>15</sup> Thus, the practice of employers preferring to employ male workers at the expense of their female counterparts with the only reason on sexuality and not knowledge, skill nor expertise, disallowing female employees from getting pregnant over a period or terminating their employment due to pregnancy are contrary to section 42(1) of the 1999 CFRN. This practice further obliterates from the fundamental objective contained in section 17(3) (a)(b)(c) and (e) of the 1999 CFRN which prohibits all forms of employment discrimination particularly sex and wages.

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<sup>11</sup> The rationale is that in a democratic dispensation such as the one that is presently practiced in Nigeria, the Constitution is the supreme law and all others derive their validity from it.

<sup>12</sup> Cap. C28 LFN 2004.

<sup>13</sup> *ibid*

<sup>14</sup> Osun State is one of the 36 States in Nigeria located in the South Western Geopolitical Zone.

<sup>15</sup> *Mojekwu v Mojekwu* [1997] 7 NWLR (Pt. 512) 283.

## 2.2 Labour Act

The Labour Act is the main legislation on labour matters in Nigeria. Section 54(1) of the LA provides for maternity leave for all female employees in Nigeria upon the production of a certificate produced by a registered medical practitioner stating that her confinement will probably take place within six weeks. Thus, such a woman would not be permitted to work within the six weeks following her confinement.<sup>16</sup> By the requirement of a registered medical practitioner issuing the certificate, it is immaterial whether the medical practitioner is in the employ of a government or private hospital, the only requirement is that he or she is registered. If the female employee is absent from work due to her confinement and had been continuously employed by her employer for a period of six months or more immediately preceding her absence, she shall be paid not less than fifty percent of the wages she would have earned if she had not been absent.<sup>17</sup> She shall be allowed half an hour twice a day, where she is nursing her child to attend to the child for the nursing purpose.<sup>18</sup> Thus, where the confine or pregnancy of a female employee makes it impossible for her to resume work as expected and she is certified unfit for work by a registered medical practitioner, unless her absence have exceeded an agreed period, no employer shall give her notice of dismissal during her absence or notice of dismissal expiring during her absence.<sup>19</sup>

Thus, this section entitles a pregnant female employee to twelve weeks maternity leave. However, the period of twelve weeks provided is inadequate when considered against the background that medically, for complete development, exclusive breastfeeding is required for a period of six month. Also, the section does not recognize the plight of a mother who has multiple births such as twin, triplets or quadruplets, such a mother, needs more time to recover and care for the children than a mother who has just a single child. Thus, the twelve weeks across board period is inappropriate. Also, the provisions that a female employees' employment could be summarily terminated through dismissal upon exceeding an agreed post-natal period owing to complications arising from pregnancy or delivery despite the certification of a registered medical practitioner is inappropriate. Such complication leading to her absence not being her making, she should not be punished due to it. This is not contending that the employer should be made to suffer loss or hardship unjustifiably to such absence. Her position could be temporarily filled to enable her return

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<sup>16</sup> Labour Act 1974 (Cap. L1 LFN 2004), s 54(1) (a).

<sup>17</sup> *ibid*

<sup>18</sup> *ibid*

<sup>19</sup> *ibid*, s 54(4) (a) (b).

after treatment. However, if the complication has made her to be absent for a period of time that has been too prolong and it would be unreasonable to continue waiting for her return, then, to protect the employer's work, she can be replaced and not dismissed as dismissal is punitive and carries infamy which is capable of affecting her employment prospects.<sup>20</sup>

Pursuant to the provisions of the Labour Act, the Court in *Okunbowa v Group Consultants Nigeria Project Advisers (Nigeria) Ltd*<sup>21</sup> where the Defendant terminated the Claimant's employment because her employment contract did not provide for it, the court held that although her employment contract did not provide for maternity leave, she is entitled to it by virtue of sections 145 and 146 of the Labour Code (now section 54(a) and (4) of the Labour Act). She was also held to be entitled to salary for the whole period she was on maternity leave and entitled to damages for wrongful termination of her employment.<sup>22</sup>

### 2.3 International Labour Organisation Conventions

The International Labour Organization (ILO) since its formation has become a global labour standard setting organization. Its recommendations and Conventions have been generally accepted as benchmarks of minimum international best labour practices which its member nations are enjoined to gauge their labour laws and practices. The ILO Maternity Protection Convention No. 183 of 2000 provides that the maternity period shall be at least 14 (fourteen) weeks including 6 (six) weeks of compulsory post-natal leave.<sup>23</sup> Also, article 5(d) of the ILO Termination of Employment Convention No. 159 of 1982 provides that pregnancy shall not be a ground for termination of employment of an employee. This seeks and protects female employees particularly those in the unregulated private sector, from the employers' practice of relieving female employers from their employment once they get pregnant. Some employers even stipulate the number of times a female employee can proceed on maternity leave. Also, article 1 of ILO Discrimination (Employment and Occupation) Convention No. 111 of 1958 defines what discrimination is and prohibits same. Also, the ILO Discrimination Abolition of Forced Labour Convention 1957 by its article 1, enjoins all members States, in general terms to undertake to suppress and not to make use of any forms of forced or compulsory labour.<sup>24</sup>

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<sup>20</sup> *Irem v Obubra District Council* (1960) 5 F. S. C. 24.

<sup>21</sup> CCHCJ/2/74 P. 159.

<sup>22</sup> Leonard C. Okpara, 'Maternity Protection Law in Nigeria: An Overview' (2009) 6(4) Nigerian Journal of Labour Law and Industrial Relations 70.

<sup>23</sup> Eyongndi (n 6) 26.

## 2.4 International Legal Instruments

The preamble and articles 1 and 2 of the Universal Declaration of Human Rights (UDHR) 1948 secure the freedom of all humans from discrimination and guarantee their equality. Also, article 25 of the UDHR makes a special case for women to the effect that motherhood and childhood are entitled to special care and assistance which has culminated into several countries granting women maternity rights within their labour legal frameworks.<sup>25</sup> Article 8 of the Beijing Declaration 1995 and articles 3, 11 and 13 of the Convention on the Elimination of all forms of Discrimination Against Women (CEDAW) reaffirms equal rights and inherent human dignity of women and men. Thus, all forms of discriminatory employment practices against female employees stand condemned by these instruments. Article 1 of CEDAW defines discrimination against women as ‘any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedom in the political, economic, social, cultural, civil or any other form’. The surprising thing is despite the ratification of CEDAW by Nigeria well over two decades ago (13 June 1985), its provisions are being observed more in breach and the Government has shown little or no political will power to enforce it.<sup>26</sup> Article 3(2) of the African Charter on Human and Peoples’ Right (ACHPR) 1988 affords all persons irrespective of sex, equal protection before the law. Article 15 bequeaths to every individual the right to work under equitable and satisfactory conditions and shall receive equal pay for equal work. Article 18(3) thereof condemns discrimination against women particularly sexual harassment of female workers which is one of the obnoxious employment practices prevalent in Nigeria. Females, due to their anatomical build up, quiet often than not, are constant objects of sexual harassment ranging from unsolicited amorous compliments, touching, facial gestures, palm greasing, threats, intimidations, deprivation etc. The issue of sexual harassment against female employees is a violation of article 16 of the ACHPR which is to the effect that every individual shall have the right to enjoy the best attainable state of physical and mental health. The rationale is sexual harassment is a form of mental and psychological torture which could negatively affect the health and productivity of the victim.

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<sup>24</sup> Joseph E. O. Abugu, *Treatise on the Application of ILO Convention in Nigeria* (UNILAG Press 2009) 152.

<sup>25</sup> Joy N. Ezeilo, *Women, Law and Human Rights: Global and National Perspectives* (Acena Publishers 2011) 246.

<sup>26</sup> Abugu (n 24) 50.

Article 13 of the Protocol to the African Charter on Human and Peoples' Rights (PACHPR) enjoins all state parties to adopt and enforce legislative and other measures to guarantee women equal opportunities in work and career advancement and other economic opportunities. To achieve this, they shall promote the right to equal remuneration for jobs of equal value for men and women, ensure transparency in recruitment, promotion and dismissal of women and combat and punish sexual harassment in the workplace. The International Covenant for Economic, Social and Cultural Rights (ICESCR) provides that working mother should be accorded special care and assistance during breastfeeding period, hence they should be given paid leave or leave with adequate social amenities as contained in article 10(2) of the Convention.

### **3.0 Forms of Precarious Employment Practices against Female Employees in Nigeria**

Precarious employment practices against female employees differ in enormity from one work setting to the other. Negative attitude towards female employees ranges from sexual harassment, employability discrimination, refusal of certain rights, unjustifiable intrusion, intimidation, etc. Some employers, particularly in the private sectors more particularly in the unregulated private sector, have the unproven belief that female employees are not suitable for certain employment.<sup>27</sup> For instance, there have been certain adverts by law firms in Nigeria wherein female lawyers are excluded expressly.<sup>28</sup> Within the legal profession, there is this unproven notion that male lawyers are better suited particularly in litigation than their female counterparts. This notion is not only unproven but false as there is no scientific evidence to back up the same. Scientifically, the mental capability of males and female is the same and none is superior to the other.<sup>29</sup> The fact that in Nigeria, the number of male lawyers who have been conferred with the prestigious rank of Senior Advocate of Nigeria (SAN) which is given in recognition of excellence and distinction is more than that of the females is not a proof that male lawyers are better than females. Historically, the legal profession had been the exclusive reserve of the males.<sup>30</sup> In Africa and particularly in Nigeria,

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<sup>27</sup> Benedicta Daudu, 'Gender Discrimination in Employment: An Appraisal' (2004) 1(2) Nigerian Journal of Labour Law and Industrial Relations 43.

<sup>28</sup> Oyesola O. Animashaun, 'Equality at the Workplace: The Challenges Ahead' (2007) 1(3) Nigerian Journal of Labour Law and Industrial Relations 4.

<sup>29</sup> Mosunmola O. Imasogie, 'Human Rights, Women's Right: So Long a Journey' (3rd Bowen University Inaugural Lecture, Chris Alabi Lecture Theatre, Bowen University, November 2017) 29.

<sup>30</sup> *ibid*



there had been a cultural bias against educating female children; they were regarded as ‘transient’ members of the family meant for the kitchen and to be married off at the age of puberty.<sup>31</sup> They were not considered to be worthy of an education, they were compelled to stay at home, perform house chores, look after other children while their male counterparts are sent to school. This cultural bias militated against females in general as far as education is concerned and they can be regarded as ‘late comers’ into the legal profession.<sup>32</sup> In fact, as far back as in the 18<sup>th</sup> century England, women were not allowed to study medicine and law. Lord Neaves in his judgment in *Jex-Blake v Senates of Edinburg University*<sup>33</sup> erroneously argued that men and women have a different mental as well as physical constitution.<sup>34</sup> During the 19<sup>th</sup> century, women had attempted to sit for the Law Society’s examination but the Law Society did not allow them to do so.<sup>35</sup> In 1913, four brave and activists women graduates, sued the Law Society in *Bebb v Law Society*.<sup>36</sup> They argued that section 1 of the Interpretation Act 1889 stated that masculine provision included the feminine so the Attorneys and Solicitors Act 1729 ought to apply to women as well as men enabling them to qualify. However, as in *Jex-Blake v Senates of Edinburg University*<sup>37</sup> the Court unfortunately, rejected this reasonable and plausible argument. Both the Court and the Law Society relied upon a medieval treaty known as ‘the Mirror of Justices’ which stated that ‘the law will not suffer women to be attorneys nor infants, nor serfs’. Thus, since women could not qualify as lawyers, they will not be allowed to take the exams.<sup>38</sup> This lateness and some other factors are accountable for the disparity in the number of male and female SANs. However, just as there are male lawyers who through hard work and dedication, have distinguish themselves, there are several females who

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<sup>31</sup> ibid

<sup>32</sup> Imasogie (n 29) 54.

<sup>33</sup> (1873) 11 M 784.

<sup>34</sup> The Court held that ‘the general mass of an army cannot move more rapidly than its weakest and slowest caution... add to this the special requirements and accomplishments at which women must aim, but from which men may easily exempt... much time must or ought to be given, by women to the acquisition of knowledge of household affairs and family duties as well as the ornamental parts of education which tends so much to social refinement and domestic happiness... then we apt to get false view of the question by comparing extraordinary women with ordinary men. Women rightful place, Lord Neaves went on to say, was an absolute mistress of their houses although, he conceded that they could be midwives, a fitting and noble profession. This seemingly chivalrous attitude did not extend to all women. While those in the middle classes were to ornament their homes, working class women were struggling to improve appalling conditions and long hours in the factories and sweat shops where they had no choice but to work’.

<sup>35</sup> Imasogie (n 29) 16.

<sup>36</sup> (1914) 1 CH. 286.

<sup>37</sup> (1873) 11 M 784.

<sup>38</sup> Imasogie (n 29) 16-17.

have also distinguished themselves. For instance, the first female lawyer in Nigeria and West Africa is Stella Jane Thomas who was called to the English Bar (at the Inner Temple) in 1933. Justice Modupe Omo-Eboh became the first female judge in Nigeria so appointed on the 10<sup>th</sup> day of November 1969.<sup>39</sup> In 2018, Professor Mrs. Oluyemis Bamgbose was conferred with the rank of SAN and in 2014 the Honourable Justice Aloomu Muktar became the first female Justice of the Court of Appeal and Supreme Court as well as the first female Chief Justice of Nigeria in 2012 among many male justices.<sup>40</sup> Justice Roseline Omotosho became the first female Chief Judge in Nigeria and West Africa having been called to the English Bar at Gray's Inn in 1961, she was the CJ of Lagos State.<sup>41</sup> Within the legal profession, several women have distinguished themselves in their various areas of specialization. Few examples include Mrs. Victoria Ayodele Uzoamaka Onejeme who became the first female lawyer to be appointed Attorney General of old Anambra State in 1976,<sup>42</sup> Prof. Mrs. Chioma Agomo, a Professor of Law and former Dean, Faculty of Law, University of Lagos, a two time Fulbright Scholar; Mrs. Folake Solanke, first female to be conferred with the prestigious rank of Senior Advocate of Nigeria (SAN) in 1981, Mrs. Funke Adekoya, SAN, Member International Court of Arbitration, Prof. (Mrs.) Joy Ngozi Ezeilo MON, United Nations Rappateur, Chief (Mrs.) Priscilla Omoba Kuye the first and only female lawyer who has served as Nigerian Bar Association (NBA) president, Prof. (Mrs.) Emily Alemika, first female professor of law in Kogi State, etc.

Furthermore, sexual harassment is another form of negative work attitude against women in Nigeria. It is one of the major employment hazard confronting female employees in Nigeria. Sexual harassment as a vice is not restricted to employment relationship only. Nevertheless, it is apposite to acknowledge the fact that sexual harassment is not a vice whose victims are only females, males at times, are victims of sexual harassment though its occurrence is less when compared to that of females. The recent enactment by the National Assembly of the Tertiary Institution Sexual Harassment (Prohibition) Act 2017 is an attestation of its notoriety in the Nigerian society. Abudu<sup>43</sup> in an all-encompassing manner captures the quagmire of sexual harassment in the following manner:

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<sup>39</sup> Peters Ifeoma, 'Women who Blazed the Legal Trail in Nigeria' *DNL Legal & Style* (8 March 2017 <<https://dnlegalandstyle.com/2017/women-blazed-legal-trail-nigeria/>> accessed 6 January 2019.

<sup>40</sup> Oluokun Ayorinde, 'Nigeria's First Female Chief Justice: A Profile' *PM News* (Abuja, 4 July 2012) <[www.pmnewsnigeria.com/2012/07/04/nigerias-first-female-chief-justice-a-profile/](http://www.pmnewsnigeria.com/2012/07/04/nigerias-first-female-chief-justice-a-profile/)> accessed 12 November 2020.

<sup>41</sup> *ibid*

<sup>42</sup> *ibid*

Sexual harassment refers to persistent and unwanted sexual advances where the consequences of refusing are potentially disadvantageous to the victim. While each individual's experience differs, the circumstances have worrying similar features; they typically include an all-powerful (usually male) figure in a position of authority who takes advantage of his status and position to subject others (mainly women but, in some cases, men) to degrading and unacceptable behaviours. Sexual harassment is a particularly difficult crime to define and prove because it dwells in the shadows. It resides in a world of my words against yours, often without witness and corroboration. It covers a range of inappropriate and unwarranted advances from unwanted touching, groping, kissing without permission, to making sexualized remarks about a person's appearance, clothes and desirability. Those on the receiving end of such behaviour feel powerless, voiceless and/or embarrassment to push back and or object to it. They often fear victimization retaliation or being shamed, and, in many instances, the victim carries the act as a stain, a dirty secret to be buried in the hope that, with the gradual passage of time, the stain will fade.

Atilola<sup>44</sup> expressed his dismay at the pervasiveness of sexual harassment in workplace and its codes of many colours it wore in Nigeria in the following manner:

Sexual harassment may take diverse and varied forms. It is not limited to demand for sexual favours made under threats of adverse job consequences but also includes any unwanted conduct of sexual nature or other conduct based on sex, which violates the dignity of a person, and in particular when it creates an intimidating, hostile, degrading, humiliating or offensive work environment for the recipient. Sexual harassment is a serious and real problem for various working women in Nigeria. It has been viewed as one of the most egregious forms of violence against women in the workplace and has increasingly become a subject of concern to working women, trade unions and human rights organizations.

Unfortunately, despite the pervasiveness of sexual harassment in Nigeria, the domestic legal framework is silent on it. None of the labour laws in Nigeria expressly contain any provision prohibiting or protecting workers from sexual harassment. In fact, the Labour Act contains no provision prohibiting sexual harassment or any kind of harassment during employment. Aside section 9 of the Employees Compensation Act 2010 which provides for compensation to an employee for mental stress which

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<sup>43</sup> Olamide Abudu, 'Sexual Harassment in Nigeria: It's everybody's problem' *The Guardian* (22 November 2017) <<https://guardian.ng/issue/sexual-harassment-in-nigeria-its-everybodys-problem/>> accessed 12 November 2020.

<sup>44</sup> Bimbo Atilola, *Recent Developments in Nigerian Labour and Employment Law* (Hybrid Consult 2017) 50-51.

is the result of a sudden and unexpected traumatic event arising out of or in the course of employment,<sup>45</sup> there is no other domestic legislation having such a protective provision. Thus, no one would reasonably argue to the contrary that the act of sexual harassment is capable of leading to mental stress. The degree of mental stress inflicted on a victim of sexual harassment does not depend on whether or not, the victim is married or single, with or without children although, generally, the stress experienced by a married woman, would transcend beyond her personally to her family with its serious adverse ripple effects. However, the unfortunate outcome is that, the employer (who may not be the culprit), is the one to bear the brunt where a successful claim of compensation for mental stress due to sexual harassment is made as unless the victim brings an action against the culprit in person and joins the employer, the claim may not succeed or payment of damages, may become impossible as the culprit, maybe unable to pay. It is therefore imperative for employers to have policy against sexual harassment and meticulously enforce same to stem the ugly tide and absolve themselves from liability that might arise due to failure of not having a policy or non-enforcement. However, the Criminal Law of Lagos State has gone a step further by expressly prohibiting harassment that implicitly or explicitly affects a person's employment or educational opportunity or unreasonably interferes with the person's work or educational performance or creates an intimidating, hostile or offensive learning or working environment.<sup>46</sup> Thus, any person who sexually harasses another in Lagos State is guilty of a crime and is liable upon conviction to imprisonment for three years. In 2016, the ugly entrenched brazen culture of sexual harassment of female students in government owned tertiary got to it unbearable zenith wherein the National Assembly (NASS) responded by the enactment of the Sexual Harassment in Tertiary Educational Institution (Prohibition) Act (SHTEIPA) 2016. While section 3 of the Act creates a fiduciary relationship between an educator and a student, section 4 thereof defines sexual harassment to include having or demanding sexual intercourse from a student as a precondition to the giving of a passing grade, grabbing, hugging, pinching or stroking any body part of a student, whistling or winking at a student's physique. An accused upon conviction is liable to imprisonment for a period up to 5 years but not less than 2 years without an option of fine.<sup>47</sup> The lack of option of fine as an alternative punishment to imprisonment buttresses the notoriety of the act and the desire to eradicate same through deterrence. However, one cannot help but wonder why this law is limited to tertiary institution but not extended to all educational institutions and workplaces.

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<sup>45</sup> Tokunbo A. O. Tugbiyele, *Labour Laws and Practice* (T. A. O. Yugbiyele & Co 2012) 210.

<sup>46</sup> Criminal Law of Lagos State 2011, s 262.

<sup>47</sup> Sexual Harassment in Tertiary Educational Institution (Prohibition) Act 2016, s 8.

Moreover, employability discrimination is another form of unhealthy employment practice against women.<sup>48</sup> Unfortunately, this discrimination enjoys tacit statutory backup. For instance, section 55(1) of the LA prohibits female employees from working at night in any public or private establishment except those employed in the capacity of nurses or holding responsible position of management who are not directly engaged in manual labour. However, where it could be proved that the engagement in night work in the way and manner prohibited here was due to unforeseen circumstances not of a reoccurring nature, or night work was engaged in order to protect or process raw materials which are subject to deterioration, which was necessary to be preserved from certain loss, such would be a defence against an action in breach of the section.<sup>49</sup> This notwithstanding, the Minister of Labour, Employment and Productivity may by order exclude from the application of the prohibition, those women covered by a collective agreement in force which permits night work for women, but before making such an order the Minister shall satisfy himself that adequate provision exists for the transportation and protection of the women concerned.<sup>50</sup> Also, section 56 (1) of the LA prohibits females from being employed in underground work in mines except in management position, employed in health and welfare services, or those so employed for the purpose of study. This restriction on where women could work contravenes article 13(d) of the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa which enjoin member states to guarantee women the freedom to choose their occupation, and protect them from exploitation by their employers violating and exploiting their fundamental rights as recognized by conventions, laws and regulations in force.

While these provisions appear to be protective in nature, on a flipside, they are actually discriminatory.<sup>51</sup> By prohibiting women from engaging in night work save in the capacity so expressly provided, the section restricts the sphere of female employees' prospects. There are some women who would prefer to work at night as it is more convenient for them but by this provision, they must work only during the period provided. There should be an unfettered time for women to work according to when it would be suitable to their schedule. The law could protect female employees by making sure that employers put into place basic amenities that would enable women to work at night and allow them to decide whether to work

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<sup>48</sup> Oyesola O. Animashaun, 'Racial and Sexual Discrimination in Employment: Nigeria and E. U. Perspective' (2007) 3(1) *Nigerian Journal of Labour Law and Industrial Relations* 1.

<sup>49</sup> Labour Act 1974 (Cap. L1 LFN 2004), s 55(1) (2) (a) (b).

<sup>50</sup> *ibid*, s 55 (5).

<sup>51</sup> Ayodele T. Tinuoye, 'Human Rights, Workers Rights and Equality in the Nigerian Workplace: An Overview' (2015) 5 (17) *Developing Country Studies* 99.

at night or not and not an outright prohibition of same. As for underground work, there are women who are adventurous and would have no issue working underground even in mines, but the prohibition is an inhibition to this. If a woman can join the army, undergo rigorous military training and engage in active service like their male counterparts, there is no justification that same would not be possible in underground undertaking. Thus, the law should, if at all, wants to protect females, put in place better work conditions to aid female workers productivity than prohibits them from engaging in certain work under the guise of protecting them.

Section 34(1) of the LA permits men who are employed in the public service of the federation to be accompanied by their wives (not exceeding two) and members of their family (i.e. his children under the age of 16 years) to the place he is posted. However, surprisingly, this provision is not extended to female employees. This is a clear case of employment placement/mobility discrimination against female employees. Rules 03303 of both Kaduna and Kano States Civil Service Rules, provides that any woman civil servant, married or unmarried who is about to undertake a course of training of not more than six month duration shall be called upon to enter into an agreement to refund the whole or some part of the cost of course in the event of her course being interrupted on the ground of pregnancy.<sup>52</sup> This provision of the Civil Service Rules of the concerned States undermines the dignity the women enshrined in article 3 of the Protocol to the African Charter on Human and Peoples' Rights. Aside that article 12 thereof enjoins state parties to eliminate all forms of discrimination against women and guarantee equal opportunity and access in the sphere of education and training.<sup>53</sup>

To say the least, this is the epitome of sexual discrimination, a male worker who impregnates a woman his wife or not, under the same circumstances, is made to suffer no disability. Why should a female employee, especially a married woman be made to suffer disability only because she got pregnant during the course of training? Is pregnancy a course of an ailment or even an offence? This statutory provisions, are antithetical to the provisions of article 2 (a) of CEDAW which enjoin nations to enact laws that embody the principle of the equality of men and women in their national constitutions or 4 other appropriate legislations and to refrain from any engaging in any act or practice of discrimination

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<sup>52</sup> Israel I. N. Worugji, 'The Right to Work under the Nigerian Labour Law: The Need for Reforms' (1994-1996) 18 *Journal of Contemporary Law* 197.

<sup>53</sup> Kehinde H. Bamiwola, 'Human Rights and Employment Discrimination: A Comparative Examination of Equal Job Opportunities' (Paper presented at the 6<sup>th</sup> International Industrial Relations Association, Africa Regional Congress of Industrial Relations, Lagos, Nigeria 2015) 16.

against women and to ensure that public authorities and institutions act in conformity with the non-sexual discrimination policy.<sup>54</sup> Also, these discriminatory provisions obliterate from the provisions of article 19 of ACHPR which provides that all people shall be equal, they shall enjoy the same respect and shall have the same rights. Nothing shall justify the domination of a people by another.<sup>55</sup>

There is no other institution in Nigeria than the Nigerian Police Force (NPF) where there is brazen discrimination against women. The provisions of regulation 124 of the Nigerian Police Regulation 1968 require a female police officer who is desirous of getting married to obtain the permission of the Commissioner of Police for the State she is serving before doing so and to supply the name, address and occupation of her prospective husband. Permission will be granted if the applicant has served in the force for a period not less than three years and the husband to be is discovered to be a person of good character. Regulations 126 and 127 while granting a married woman police officer right to maternity leave to general order, an unmarried female police officer who gets pregnant is liable to be discharged from the Force and can only be re-enlisted into the Force with the permission of the Inspector General of Police (IGP). By rule 122, married women are disqualified from enlisting in the police, and a single police officer in service, must append at least two years before applying for permission to get married. A female police officer who is married to a civilian, is not allowed to stay in the barracks, a female police officer on duty is not allowed to use makeup during work hours, police women are required to place the alphabet 'W' before their rank. Police women on duty are prohibited from putting on jewellery except wedding or engagement rings and/or wristwatches; applying face powder, lipstick or coloured nail polish.<sup>56</sup> This discriminatory practice as contained in the police regulation is contrary to Solemn Declaration on Gender Equality in Africa (SDGEA) 2004.<sup>57</sup> The declaration reaffirms the African Union (AU) commitment to gender equality and frowns at all forms of gender inequality practices such as the ones found under the various police regulations discussed herein. In fact, some employers have adopted obnoxious and inhumane employment practices against female employees. There are situations where upon employment, one of the silent conditions for continuous

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<sup>54</sup> Convention for the Elimination of all forms of Discrimination Against Women 1981, art 2(a) (d).

<sup>55</sup> Article 1(f) Protocol to the African Charter on Human and Peoples' Rights of Women in Africa (PACHPR) defined discrimination against women as 'any distinction, exclusion or restriction or any differential treatment based on sex and whose objectives or effects compromise or destroy the recognition, enjoyment or the exercise by women, regardless of their marital status, of human rights and fundamental freedoms in all spheres of life'.

<sup>56</sup> *Imasogie* (n 29) 9.

<sup>57</sup> *Eyongndi* (n 6) 92.

employment, is that, within a specified period of time (depending on the particular employer), female employees are not allowed to get pregnant whether married or not during a period of time. Where they get married during the “prohibition” period, their employment is bound to be terminated for “breach” of the silent condition. In a quest to keep their jobs, due to the high level of unemployment and underemployment in Nigeria, some female employees, resort to taking contraceptives, without the knowledge of their spouses. This often lead to domestic squabbles as the husband would be anxious for the couple to have children but, the contraceptive taken by the wife to prevent pregnancy so as to keep her job, makes conception impossible. Where this is discovered by the husband, the wife’s explanation may not be tenable and this could lead to physical or emotional abuse. This unfortunate situation can be prevented if such obnoxious and precarious employment practice against female employees is outlawed and severely punished. It is therefore imperative for women right groups to carry out aggressive and extensive campaigns against such obnoxious and precarious employment practices like the one discussed above against female workers and also provide free legal services for victims.

#### **4.0 A Survey of the NICN and Protection of Female Employees’ Rights**

Section 254C(1)(g) of the 1999 CFRN, recognizing the need to curb the menace of sexual harassment at work place vest jurisdiction in the NICN on causes and matters relating to or connected with any dispute arising from discrimination or sexual harassment at workplace.<sup>58</sup> Pursuant to this mandate, the NICN have taken a protectionist stance against all forms of discrimination particularly sexual harassment and has awarded punitive damages in deserving cases to serve as deterrence.

In *Pastor (Mrs.) Abimbola Patricia Yakubiu v Financial Reporting Council of Nigeria & Anor*,<sup>59</sup> the NICN awarded against the 2<sup>nd</sup> Defendants and in favour of the Claimant the sum of ₦ 5, 000, 000 (five Million Naira) only as damages for sexual harassment. The fact of this case is shameful and typical of cases of sexual harassment at the workplace in Nigeria. The Claimant is an employee of the 1<sup>st</sup> Defendant while in its employ, she alleged to have been persistently subjected to sexual harassment by the 2<sup>nd</sup> Defendant who is her superior through incessant unsolicited seductive gestures and sexual compliments to her

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<sup>58</sup> Imasogie (n 29) 51.

<sup>59</sup> Suit No. NICN/LA/673/2013 Judgment delivered on the 24<sup>th</sup> day of November 2016.



annoyance and protest but to no avail. This incongruous and amorous behaviour persisted despite the 2<sup>nd</sup> Defendant's knowledge of the fact that she was married and pregnant with her third child. The 2<sup>nd</sup> Defendant bent of actualizing his nefarious desires resorted to mischievous redeployments of the Claimant from one unit to the other in order to compel her to give in to his amorous demands. He continued in promiscuous and obscene talks, incessant local trips across the country, indecent marriage proposals and demand for sexual favours. The 2<sup>nd</sup> Defendant denial without more was held untenable. The Court held that the various acts of the 2<sup>nd</sup> Defendant violated the Claimant's right to human dignity and self-worth and order damages.

Also, the NICN rose to the occasion to condemn and punish sexual harassment in *Ejike Maduka v Microsoft Nigeria Ltd & 3 Ors.*<sup>60</sup> In this case, the Claimant was an employee of the 1<sup>st</sup> Respondent and its Enterprise Marketing Manager and her employment was subject to and governed by the worldwide policy of the 2<sup>nd</sup> Respondent which is applicable to all her employees and her subsidiaries employees. She was also the Diversity Champion for Women's Rights in West, East and Central Africa for Microsoft World-Wide. The 1<sup>st</sup> Respondent is the agent of the 2<sup>nd</sup> Respondent, the 3<sup>rd</sup> Respondent is the Country Manager and Chief Executive Officer of the 1<sup>st</sup> Respondent and the 4<sup>th</sup> Respondent is her immediate Boss. The Claimant complained that since the 3<sup>rd</sup> Respondent became the Country Manager and CEO, he consistently sexually harassed her by tickling her and other female members of staff on the waist.

By her position and status, she fought against the 3<sup>rd</sup> Respondent's acts by repeatedly warning him to desist from same as they amount to acts of sexual harassment, trespass to person and a gross violation and infringement of her and other affected staff's human rights. The 3<sup>rd</sup> Respondent disregarded the warnings and persisted in his escapes. She reported the 3<sup>rd</sup> Respondent to the 4<sup>th</sup> Respondent and the Human Resource Manager of the 1<sup>st</sup> Respondent who did nothing about her complain. The unwarranted sexual harassment created an intolerable working environment for her whereupon she was constrained to report to her husband who came to her office and verbally warned the 3<sup>rd</sup> Respondent. The 3<sup>rd</sup> Respondent found the warning very embarrassing and promised to retaliate. She alleged that due to the 4<sup>th</sup> Respondent's compromised position with regards to the 1<sup>st</sup> Respondent internal policy against insider's trading, he turned a blind eye and she had confronted him on this malpractice before the sexual harassment incident became unbearable. The

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<sup>60</sup> [2014] 41 NLLR (Pt. 125) 67.

4<sup>th</sup> Respondent considered the challenge as an act of insubordination and threatened to deal with the claimant whenever the opportunity presents itself and he later became her direct boss. This exposed the claimant to threats and intimidation from the 3<sup>rd</sup> and 4<sup>th</sup> Respondents. On the 12<sup>th</sup> of June 2009, the 3<sup>rd</sup> and 4<sup>th</sup> Respondents informed her that her employment has been terminated and was forcefully given a letter of release agreement to sign. She refused to sign it, they threaten to dismiss her and further threatened that if she refused to sign, the gratuitous two-month salary she is entitled to will be withheld. When it was obvious that she will not sign, the termination letter was delivered at her house.

She therefore brought an action contending that her termination was due to her refusal to heed to the sexual harassment by the 3<sup>rd</sup> Respondent and her opposition to the 4<sup>th</sup> Respondent's insider's trading practice. Thus, the termination amounted to an act of intimidation and sexual discrimination and retaliation which are all infringement of her fundamental human rights. Thus, the 3<sup>rd</sup> and 4<sup>th</sup> Respondents, having breached her rights of dignity to human person and freedom from inhuman treatment and discrimination as protected by law; she has suffered damage entitling her to damages. She further contended that the ratification of her termination by the 2<sup>nd</sup> Respondent contravened its world-wide policy against the acts of the 3<sup>rd</sup> and 4<sup>th</sup> Respondents sequel to which her employment was terminated. She therefore sought for the enforcement of her rights. The Respondents defence was held to be flippant and therefore untenable.

The Court granted her reliefs and held that the termination of the Claimant's employment by the 1<sup>st</sup> and 2<sup>nd</sup> Respondents through their agents (3<sup>rd</sup> and 4<sup>th</sup> Respondents) simply because she refused to succumb to the sexual harassment from the 3<sup>rd</sup> Respondent, the ratification of same by the 1<sup>st</sup>, 2<sup>nd</sup> and 3<sup>rd</sup> Respondents and the subsequent conduct of the Respondents constituted a violation of the claimant's right to human dignity and freedom from discrimination guaranteed under sections 34 and 42 of the 1999 CFRN, articles 2, 5, 14, 15 and 19 of the ACHPR. It further held that the acts of the 3<sup>rd</sup> Respondent amounted to assault and trespass to the person of the claimant. The court awarded against the four Respondents individually the sum of ₦ 13, 225, 000, 000 (Thirteen Million, Two Hundred and Twenty-Five Thousand Naira) only as general damages for the violation of her rights guaranteed under the law. Compelled the 1<sup>st</sup> and 2<sup>nd</sup> Respondents to immediate implement its zero tolerance sexual harassment policy to prevent a reoccurrence of the claimant's predicament and the Respondents are to pay the cost of ₦ 30, 000, 00 (Thirty Thousand Naira) only to the claimant. The NICN awarded punitive damages against the Respondent in *Mrs. Issey Celestina Akinolu-*

*Ojo v United Bank for Africa*<sup>61</sup> where the claimant established a case of sexual harassment against the respondent's employee.

In *Mrs. Folarin Oreka Maiya v The Incorporated Trustees of Clinton Health Access Initiative, Nigeria & 2 Ors.*, the NICN awarded the Claimant compensation to the tune of her one-year gross pay which is the sum of ₦ 5, 576, 670 (Five Million, Five Hundred and Seventy-Six Thousand, Six Hundred and Seventy Naira) only. The Claimant was an employee of the 1<sup>st</sup> Respondent, when she became pregnant, she informed the Respondent through her immediate boss. The Respondent being unhappy with the pregnancy terminated her employment the same day. Aggrieved by this action she commenced proceedings through an originating summons pursuant to sections 34(1) (a), 42 and 254C (1) (a) (f) and (g) of the 1999 CFRN, articles 2, 5, 15 and 19 of the ACHPR. She sought for a declaration that the termination of her employment on the ground that she was pregnant, violated her right. She also sought for general, aggravated and exemplary damages jointly and severally against the Respondents for the unjustified, outrageous, oppressive, humiliating and embarrassing action of the Respondents against her. Her claims were granted.

The NICN in the strongest of terms condemned the action of the Respondents it held that 'the action of the Respondents amounts to inhuman, malicious, oppressive and degrading treatment in that the Respondents in their action held themselves out as abhorring the humanity of a woman in being pregnant'. This decision has been described as a welcomed development which places protection of fundamental human rights of Nigerians over and above the employer's right to terminate the employment of his employee; the decision is an encouragement to victims of sexual harassment whose rights have been trampled upon without them having the ability to fight against it.<sup>62</sup>

This position of the NICN is *in tandem* with the decision of the European Court of Justice in *Tele Denmark A/S v Hondels-og Kotorfunktion-Aerernes Forbundi I Denmark*<sup>63</sup> wherein the ECJ declared the termination of the employment of a woman who failed to disclose the fact of her pregnancy during recruitment that would warrant that she not be able to

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<sup>61</sup> Suit No. NICN/LA/497/2012.

<sup>62</sup> Akin O. Oluwadayisi, 'Termination of Employment and Breach of Fundamental Rights: A Review of *Folarin v Incorporated Trustees of Clinton Health Access Initiative*' in Yemi Akinseye-George and others (eds), *Contemporary Issues in Labour Law, Employment and National Industrial Court Practice and Procedures: Essays in Honour of Honourable Justice Babatunde Adeniran Adejumo*, (LawLords Publication 2014) 33.

<sup>63</sup> (2000) All ER (EC) 941.

work for some time as unlawful. Also, the decision aligns with that of the Canadian Supreme Court decision in *Brooks v Canada Sofeway Ltd.*<sup>64</sup> where the Court held that discrimination on the basis of pregnancy is discrimination on the basis of sex. Pregnancy discrimination is a form of sex discrimination simply because of the basic biological fact that only women have the capacity to become pregnant. This reasoning of the court resonates with that of the Nigerian Supreme Court in *Mojekwu v Ejikeme*<sup>65</sup> and *Mojekwu v Mojekwu*.<sup>66</sup>

Gleaning from the above judicial adumbrations, it is clear that the NICN has taken protectionist position against victims of sexual harassment and discrimination and thereby fortifying these aspects of female employees' rights in Nigeria. It is instructive to note that the employment menace of sexual harassment and discrimination based on sex is not limited to Nigeria. It is a global phenomenon, but the degree differs and other jurisdictions, have enacted laws to curb it couple with rigorous enforcement.

## 5.0 Conclusion and Recommendations

We have examined the efforts of the NICN in protecting and promoting female employees' rights in Nigeria by reviewing some decisions of the Court. The NICN in recent times, particularly after the enactment of the NIC Act 2006 and the 1999 Constitution of the Federal Republic of Nigeria (Third Alteration) Act 2010 which cured all the hitherto challenges facing the Court, has risen as the vanguard of labour rights protection. The rights of female employees in Nigeria includes right to freedom from discrimination based on their sex, freedom from sexual harassment, right to maternity leave and employment protection, freedom from victimization, etc. Various legal instruments (local and international) recognises these rights such as the 1999 Constitution of the Federal Republic of Nigeria, Labour Act, African Charter on Human and Peoples' Rights (ACHPR), Convention on the Elimination of All forms of Discrimination Against Women (CEDAW), African Charter on Human and Peoples' Rights (Ratification and Enforcement) Act (ACHPRREA), Universal Declaration of Human Rights (UDHR), Protocol to the African Charter on Human and Peoples' Right on the Rights of Women in Africa 2003. Despite the recognition of these rights by these laws, certain factors have precipitated the flagrant non-observation of these rights such as high-

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<sup>64</sup> (1989) 1 S.C.R.

<sup>65</sup> [2000] 5 NWLR (Pt. 657) 402.

<sup>66</sup> [1997] 7 NWLR (Pt. 512) 283.

level unemployment and underemployment, inadequate and obsolete legal framework, lack of political will power to enforce existing laws, lack of awareness, attitudinal dysfunction, etc. Thus, the NICN has through judicial activism, struck down most of these precarious labour practices enumerated above towards ensuring that female employees are allowed to have equal employment rights and opportunities like their male counterparts.<sup>67</sup>

Based on the findings above, the paper makes the following recommendations:

- a. All statutory female employees' discriminatory provisions of the laws discussed above disguised as protective provision inhibiting the choices of female employees as to when and where to work should be abolished such as the provisions in the LA refusing women the right to work at night. Female employees should be allowed to decide where and when they want to work depending on their convenience.
- b. The Government and other labour stakeholders should endeavour to create more employment opportunities to ensure that female employees' have the opportunity of gainful employment with the hope of favourably competing with their male counterparts.
- c. The Government and woman rights organizations should carryout rigorous public enlightenment towards educating the women as well as the public on female employees' rights and the need to comply.
- d. The Government as the major regulator of employment in Nigeria and enforcer of laws should ensure that the current inadequate legal framework on guaranteeing female employees' rights in Nigeria particularly in the regulated private sector such as victimization, denial of maternity leave and benefits, etc is dispassionately enforced.
- e. The Court should grant aggravated damages on such precarious employment practices like sexual harassment, intimidation, deprivation etc to serves as a deterrent.

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<sup>67</sup> The provisions of regulation 124 of the Nigerian Police Regulation 1968 require a female police officer who is desirous of getting married to obtain the permission of the Commissioner of Police for the State she is serving before doing so and to supply the name, address and occupation of her prospective husband. Permission will be granted if the applicant has served in the force for a period not less than three years and the husband to be is discovered to be a person of good character. Regulations 126 and 127 while granting a married woman police officer right to maternity leave to general order, an unmarried female police officer who gets pregnant is liable to be discharged from the Force and can only be re-enlisted into the Force with the permission of the Inspector General of Police (IGP).

- f. There is a need for attitudinal change in the way and manner acts of sexual harassment are condoned in the workplace. The employees as well as the management should condemn every act of inappropriate behaviour or language and same should be sanctioned. If both male and female employees treat sexual harassment as an inappropriate behaviour and condemn it in the strongest of terms within their workplace it would have the effect of shaming would be harassers into checking their behaviour as they are aware that it would attract concerted rebuke. Also, there is a need for attitudinal change towards those who allege to be victims of sexual abuse by not putting them on trial (even if their demeanour may suggest collaboration) but afford them the benefit of doubt.
- g. Also, Non-Governmental Organizations (NGOs) and other labour stakeholders should engage companies to ensure that they give effect to their moral obligation of putting forth clearly articulated and visible policies in place that shows that sexual harassment howsoever shall not be tolerated, and this should be reiterated to staff during continuous trainings and even during recruitments and promotion exercises. Safe and confidential mechanisms should be provided where victims can report incidences of sexual harassment without fear of judgment or reprisal.
- h. Women right groups, like FIDA (international Federation of Women Lawyers) should provide *pro bono* legal representation for women whose employment rights are breached and carry out campaigns against obnoxious and precarious employment practices against female workers in Nigeria.

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