NAVIGATING THE TENSION BETWEEN LABOUR STANDARDS AND ECONOMIC REALITIES: A LEGAL PERSPECTIVE ON THE NIGERIAN LABOUR CONGRESS NEW MINIMUM WAGE[1]

Abstract

This paper examines the legal dimensions of the tension between labour standards and economic realities in Nigeria, occasioned by the Nigerian Labour Congress demand of a new minimum wage. Through a critical analysis of the country's legal framework, international labour conventions and judicial decisions, this paper investigates the balance between protecting workers' rights and promoting economic growth. The doctrinal methodology was employed in this work. The research reveals a nuanced interplay between labour rights and economic realities, with the new minimum wage posing challenges for employers, employees, and the broader economy. The paper argues that a sustainable approach to labour standards and economic realities requires a multifaceted approach, involving stakeholders' engagement, flexible regulatory mechanisms and a commitment to social dialogue. This study contributes to the ongoing debate on labour standards and economic development in Nigeria, offering insights for policymakers, labour organizations and employers seeking to navigate the complex landscape of labour rights and economic realities.

Key words: Minimum Wage, Labour Standards, Economic Realities

1. Introduction

The Nigerian Labour Congress[2] introduction of a new minimum wage has sparked a heated debate about the delicate balance between labor standards and economic realities in Nigeria. On one hand, the new minimum wage aims to protect workers' rights and ensure a decent standard of living, aligning with international labour norms. On the other hand, employers and policymakers have expressed concerns about the potential economic implications, including increased costs, reduced employment opportunities and decreased competitiveness. This tension raises crucial legal questions about the interplay between labour rights and economic realities in Nigeria. How can the country reconcile its commitment to protecting workers' rights with the need to promote economic growth and development? What legal frameworks and mechanisms are in place to address potential conflicts between labor standards and economic realities?

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[2] NLC

This research paper will delve into the legal dimensions of this debate, examining the Nigerian legal framework governing minimum wage, labour rights and economic regulation. By analyzing relevant statutes, case law and international labour standards, this study will investigate the legal
implications of the NLC's new minimum wage on employers, employees and the broader economy. Ultimately, this research aims to contribute to the development of a balanced and sustainable approach to labor standards and economic realities in Nigeria, ensuring that workers' rights are protected while promoting economic growth and development.

2. Concept and Nature of Minimum Wage

According to the International Labour Organization[3], minimum wage is 'the minimum amount of remuneration that an employer is required to pay wage earners for work performed during a given period, which cannot be reduced by collective agreement or an individual contract.[4]In Nigeria, minimum wage is defined as the minimum total amount of money an employer of labour is required to pay the lowest paid worker or employee monthly in his establishment.[5] Prior to 2019, the minimum wage was ₦18,000 as laid down by the National Minimum Wage (Amendment) Act, 2011.Currently, the Nigerian government regulates minimum wage through the National Minimum Wage Act, 2019 (hereinafter called the "Act") which set minimum wage at ₦30,000 a month. This Act applies to the entire federation of Nigeria.[6] The national minimum wage expires after five years.[7]

Minimum wage laws usually do not cover all classes of workers. The law would specify its scope of coverage. In Nigeria, the Act covers workers engaged in manual labour or clerical work.[8] The Act does not apply to employees of establishments employed on a part-time, commission or piece-rate basis; establishments with less than 25 employees; workers in seasonal employment like agriculture; those employed in a vessel or aircraft who are covered by merchant shipping or civil aviation laws and any other class which the Minister of Labour and Employment may exempt from its

[3]The ILO is a specialized agency of the United Nations Organization charged with codifying and monitoring
compliance with international labour standards and best practices by member states.

[4]International Labour Organization, *Minimum Wages: What is Minimum Wage?*, 2020, https://www.ilo.org/global/topics/wages/minimum-wages/definintion/ WCMS_439071/Accessed 4th June 2024.

[5]National Minimum Wage Act 2019, Section 3(2).

[6]*Ibid*, S. 2.

[7]*Ibid*, S. 3(4).

[8]*Ibid*, S. 17.

application.[9] 'Wage' means 'remuneration or earnings (however designated or calculated) capable of being expressed in terms of money fixed by mutual agreement or by law which is payable by virtue of a contract by an employer for work done or to be done for service rendered.[10]It usually refers to pay covering short-term periods e.g., hourly, daily or weekly. However, in the Nigerian context, wage refers to monthly earnings.[11]

Minimum wage regulation could be within the scope of provincial/state/regional legislative powers or it could be a legislative power exclusively vested in the national/federal/central legislative body. By Item 34 of the Exclusive Legislative List, Part I, Second Schedule to the Constitution of the Federal Republic of Nigeria, 1999 (as amended) (hereinafter called the "Constitution"), legislation on labour and labour relations is within the exclusive preserve of the Nigerian National Assembly. Minimum wage is expected to be a living wage. That is, sufficient for an individual to survive on and meet their basic needs. Section 16(2)(d) of the Constitution states that the government should provide a reasonable national minimum living wage for its citizens. This has not always been the reality. For instance, the current national minimum wage in Nigeria is a monthly meager salary of ₦30, 000.[12]

3. Evolutionary Trends of Minimum Wage in Nigeria

In the post-independence Nigeria, the Federal Government in 1973 enacted the Wage Board and Industrial Council Act which empowered the Minister of labour to set up machinery for fixing minimum wage and conditions of service in both private and public sectors of the economy. However, it was in 1981 that the minimum wage in Nigeria was first passed into Law, giving birth to the National Minimum wage Act of 1981.[13] This Wage Act prescribed a minimum wage of ₦125 per month and is the principal Act on Minimum wage in Nigeria till date. It was later revised after 10 years in 1990 to ₦250 per month. Indeed, it is instructive to note that the minimum wage and other wages in the public sector endured a zero rate of increase from 1981 to 1990 apparently as a result of the requirements of the economic reform programme[14]that held sway during the period. Again, there was no further increase especially the period from 1993 to 1998 in public sector pay despite the rapidly rising price level that prevailed during the period. This, perhaps, may be correctly attributed to the political tension that overwhelmed the country in preparation for the democratic elections. The political

[9]*Ibid*, S. 4.
[10]National Minimum Age Act 2019, S. 17.
[11]*Ibid*, S. 3(2).
[12]*Ibid*, S. 3(1).
[13]Official Gazette, 1981.
[14]Structural Adjustment Programme (SAP).

climate thus suppressed actual and potential demands from public workers for pay renegotiation at the time.

In 2000, the existing Minimum Wage Act was thoroughly revised, leading to the amendment of the principal Act by the National Minimum wage (Amendment) Act 2000[15], which prescribed a National Minimum wage of ₦5,500 per month. This Act of Parliament became effective from May 1, 2000. The idea behind the provision of this Act is that the lowest paid worker in both the private sector and state governments should be remunerated with nothing less than ₦5,500 (about $55 then) every month. The lowest paid federal worker should receive a minimum wage of ₦7,500 (about $75) per month. The objective of this law was to increase the nation's minimum monthly wage by 83%. Higher level officers pay, especially in the public sector, were also supposed to register some increases in accordance with the existing pay structure which in most cases led to an increase of about 300% in the pay of higher-level officers. However, a minimum wage increment from ₦5,500 to ₦7,500 was recorded following the Minimum Wage Amendment Act in 2004. This was not sustained for too long, though as expected, another round of workers demand pay reshuffle swept the government off their feet in 2010. Nonetheless, the subsequent adoption of Justice Alfa Belgore led tripartite committee recommendation on National Minimum wage of 2010 is the last, pegging the minimum wage at ₦18, 000 per month. It should however, be noted that wage increases in Nigeria, do not match up with the rate of increase in prices. Through archival and field study research, it was discovered that wage reviews in Nigeria, were largely not structured to address the basic needs of workers.[16] As a result, there are always agitations from the labour unions for persistent salary increase. Poor wages has often been given as one reason for the inefficiency and corruption in the public sector.

This may have probably prompted president Obasanjo to boldly declare during his inaugural speech at the inception of the fourth republic that public servants deserve adequate compensation commensurate with their labour in order to bring about efficiency. In line with this, effort was made to review the existing minimum wage Act. Minimum wage is thus, seen as an essential factor in the enhancement of workers service delivery as well as a necessary driver for the advancement of socio economic and development progress.

In 2019, the Buhari led administration approved an increase in the national minimum wage from the sum of ₦18, 000 to the sum of ₦30, 000 per month which took effect from the 18th day of April, 2019. This increment was short-lived as the high rate of

[15]Laws of the Federal Republic of Nigeria

[16]GJ Nwude, 'Striking Deals; Concentration in The Reform of Continental European Welfare States'2013, Vol. 7(1), *Journal of European Public Policy*, 44 – 63.

inflation and the severe economic hardship that characterized the end of Buhari-led administration and continued after the inception of the Tinubu-led administration forced the Nigerian Labour Congress and the Trade Union Congress to demand for a new minimum wage of ₦615,000 and ₦494,000 respectively. In furtherance to their demands, they embarked on a five days warning strike on the 3rd day of June, 2024 which was later called off for five days on the 4th day of June 2024 as parties has returned to negotiation table. The Federal Government has offered to pay the sum of ₦62,000 while the labour has re-offered to accept the sum of ₦250,000. While waiting for President Tinubu to comment on their counter offer, it is hoped that the matter will be resolved amicably to the satisfaction of both parties. The history of minimum wage in Nigeria therefore shows that at the end of each struggle, the national minimum wage was always implemented haphazardly by state governments as there are obvious discrepancies. Thus, there is a persistent cloud of confusion as to the extent of minimum wage implementation in the Nigerian civil service.

4. Legal and Regulatory Framework for Minimum Wage in Nigeria

There are certain laws and institutions that ascribed powers to worker and ensure compliance and implementation of the Minimum wage in Nigeria. Below are some of the legal frameworks for minimum wage in Nigeria;

a. **National Minimum Wage Act of 2019**: This Act prescribes a minimum wage applicable to certain classes of workers across all sectors of the Nigerian economy and provides a framework for the review of minimum wage in Nigeria to the sum of ₦30,000.

b. **Trade Disputes Act, 2004**[17]: This Act provides for the resolution of trade disputes, including those related to minimum wage, through conciliation and arbitration.

c. **Labour Act, 2004**[18]: This Act regulates employment relationships, including wages, and provides for collective bargaining and trade union rights.

d. **National Industrial Court Act, 2006**[19]: This Act establishes the National Industrial Court, which has jurisdiction over labour disputes, including minimum wage disputes.

e. **National Salaries, Income and Wages Commission Act**[20]: This is the Act that establishes the commission charged with providing advice and recommendations to the federal, state and local governments on matters relating to salaries, wages and employment conditions in the public sector, based on its expertise and analysis.

On the other hand, there are institutions that have been empowered by the various legislations to enforce compliance to minimum wage implementation in Nigeria. Below

[17]Cap T8, Laws of the Federation of Nigeria, 2004.

[18]Cap L1, Laws of the Federation of Nigeria, 2004.

[19]Cap N115, Laws of the Federation of Nigeria, 2004.

[20]Cap N72, Laws of the Federation of Nigeria, 2004.

are some of the various institutions empowered to ensure minimum wage implementation in Nigeria:

a. **Minister of Labour and Employment:** By Section 11 of the Act, the Minister has the power to authorize an officer in the Federal Civil Service to require an employer to produce records of payrolls and conditions of employment, inspect and examine such records, order defaulters to take remedial actions within a specified timeframe and make recommendations for the prosecution of defaulters. The officer may additionally institute civil proceedings on behalf of the affected employee(s) to recover any money the employer owes him. Where the authorized officer discovers non-compliance by an employer upon routine inspection, he must give report to the Minister. Upon receipt of the report, the Minister shall activate the machinery for enforcing compliance to redress the breach within 30 working days.[21]

b. **National Salaries, Income and Wages Commission:** Under section 12 of the Act, the Ministry of Labour and Employment is required to collaborate with the Commission to monitor the implementation of the minimum wage in accordance with the Labour Act[22] and the National Salaries, Income and Wages Commission Act.[23]

c. **Tripartite Committee on Minimum Wage:** This Committee is established by section 5 of the Act. It consists of a chairman, secretary, representatives of the Government (i.e., representatives of the Head of Civil Service of the Federation, Minister of Finance, Minister of Labour and Employment, Minister of Budget and National Planning, etc.), organized labour (Nigeria Labour Congress, Trade Union Congress, etc.) and Employers' Associations (Nigeria Employers' Consultative Association, Manufacturers Association of Nigeria, etc.).[24] The Committee is empowered to make recommendations for the review of the minimum wage every five years.[25] The Committee is to be inaugurated not less than six months from the expiration of the current minimum wage to commence the review.[26]

d. **National Industrial Court:** The National Industrial Court of Nigeria[27] is the court conferred with exclusive jurisdiction to entertain matters bordering on labour and industrial relations, particularly the welfare and conditions of employment of workers in Nigeria of which wages is a significant part.[28] All civil actions relating to the non-payment of wages are brought to the NICN as the court of first instance.

[21]National Minimum Wage Act 2019, Section 12(2) & (3).

[22]Cap L1, LFN 2004.

[23]Cap N72, LFN 2004.

[24]*Ibid*, S. 6.

[25]I*bid*, S. 7.

[26]*Ibid*, S. 8.

[27] NICN

[28]Constitution of the Federal Republic of Nigeria, 1999 (as amended), S. 254C (1), National Industrial Court Act, 2006, S. 7(1).

5. Machinery for Enforcing Compliance with the Minimum Wage in Nigeria

The worker who is paid a salary below minimum wage is not left without remedy. By section 13(a) of the Act, such worker is entitled to the difference between his actual pay and the national minimum wage. Section 13 of the Act empowers the aggrieved worker, trade unions and the Minister to take certain measures to ensure the employer complies with the Act.

a. Worker: The worker may institute a civil action in the NICN to recover monies due and owing to him or file a formal complaint with the Minister.[29]

b. Trade Union: The trade union has the right to demand that an employer comply with the Act. They can file a claim to the NICN on behalf of their members, demanding that an employer comply with the Act, not more than 30 days after receiving a complaint from the workers.[30]

c. The Minister: An authorized officer may serve a notice of enforcement on a defaulting employer directing such person to pay the arrears of wages to the worker whose name is contained in the notice within 30 days. The employer has a right to appeal the notice to the Minister. The Minister is required to resolve the matter within 30 days of receiving the appeal.[31]

Section 13(e) sets out the content of the notice of enforcement to include the amount owed to the worker, the relevant period for the payment and the time limit for the payment. If the defaulting employer fails to comply with the notice, the Minister may refer the matter to the National Industrial Court.

6. Balancing the Tension between the Nigerian Government and the Nigerian Labour Congress on the Proposed New Minimum Wage; the Legal Perspective.

Nigeria needs a minimum wage payment for every worker in the country but unfortunately the minimum wage agreed by the Federal Government of Nigeria with the organized Labour Union Congress is only meant to cover the lower cadre public servants of the states and federal level. There is no doubt the minimum wage is a huge increase of almost 67% which is well above inflation rate. With inflation running at about 33.7%[32] the huge increase may lead to a spiral demand by the non-governmental worker and the informal worker that constitute almost 70% of the labour force in Nigeria and this would possibly lead to a demand-pull inflation and a further increase in unemployment as a result of a seemingly inability of the employer to assimilate the new minimum wage and consequently to keep on to their workers and to employ new staff

[29]National Minimum Wage Act 2019, S. 13(b).

[30]*Ibid*, s. 13(c).

[31]*Ibid*, s. 13(d).

[32]Available online athttps://www.bloomberg.com/news/articles/2024-05-15/ngn-usd-another-rate-hike-looms-for-nigeria-as-inflation-quickens-naira-slides#:~:text=Nigeria%20And%20The%20Naira's%20Roller%20Coaster&text=The%20annual%20inflation%20rate%20inched,a%20Bloomberg%20survey%20of%2034.2%25. Accessed on 6th June 2024.

because of the wage demand. The government in a bid to stir the economy into equilibrium position could in fact end up plunging the country into yet another recession that could result from a deflationary policy measure. This not to say minimum wage is bad for Nigeria but the government would have worked out all the economic, political and social implications expediently enough before yielding to pay a whopping 66% increase.

In all nations and organizations, dispute is endemic. It is part of national and organizational life and its effective management is a necessity for organizational and national survival[33]. The machinery for settling trade dispute as created by the Trade Dispute Act 1990[34] is founded on hierarchy of procedures. At the base of the hierarchy is a collective bargaining process, sometimes involving mediators and then the National Industrial Court[35]. In between these two are the conciliator and the Industrial and Arbitration Panel.[36] [37]The purpose of establishing these bodies is to provide effective mechanism for ironing out differences between parties to a trade dispute without necessarily having recourse to strikes and lock-outs.

How then can these tensions be balanced and equilibrium achieved by both the Worker and the Nigerian Government? The Nigerian Labour laws provide a framework for balancing the tension between the Nigerian Government and the Nigerian Labour Congress on the proposed new minimum wage. There are four ways of resolving trade disputes under the Trade Dispute Act. These are: Resolution by the parties themselves; b. Resolution by a conciliator; c. Resolution by arbitration; and d. Resolution by court.

a. **Resolution by the Parties Themselves:** The provisions of the Act are such that the employer and the trade union are expected and encouraged to always resolve for themselves whatever trade dispute that may arise between them. As a result, the parties are free to enter into collective agreement which will incorporate the method by which they can settle their disputes.[38] The Act further provides that the collective agreement be deposited with the Minister of Labour and Productivity, failure of which attracts a fine of ₦100 on conviction.[39] On the strength of the settlement clause in the collective

[33]Gordon L, Managing Conflict in Today Organization Management Training and Development, *Labour Law Journal*, Vol. 1 No. 1, 2007, 29. See *Beatham v. Trinidad Cement Ltd (1960)* A.C. 132 at 143, per Lord Denning.
[34]As amended by the Trade Disputes (Amendment) Decree No. 47 of 1992.
[35] NIC
[36] IAP
[37]GOS Amadi, *Legal Guide to Trade Unions* (Nsukka: Afro-Orbis Publishing Ltd, 1999) 45.
[38]Trade Dispute Act, S. 2(1).
[39]Ibid.

agreement, the parties are required by law to settle their trade disputes themselves.[40] However, where the collective agreement does not contain a settlement provision, or if one exists but the parties fail to reach a settlement, the Act provides that the parties should "meet together by themselves or their representatives, under the presidency of a mediator mutually agreed upon and appointed by or on behalf of the parties with a view to amicable settlement of the dispute."[41] Notwithstanding the foregoing, where the minister becomes aware of a trade dispute between the parties, he may *suo motu*, inform them or their representatives in writing of his observation and of what steps he proposes to take for the purpose of resolving the dispute.[42] In this regard, the minister may appoint a conciliator[43] to inquire into the causes and circumstances of the dispute and by negotiation with the parties endeavour to bring about a settlement.[44] Alternatively, the minister may refer the dispute for settlement to the Industrial Arbitration Panel or to some other board.[45]

b. Resolution by a Conciliator: The minister may exercise his discretion to appoint a conciliator under two circumstances – first is where he, without allowing the parties to settle the disputes themselves, appoints a conciliator to inquire into the matter. The second is where the parties could not resolve the dispute themselves or through their mutual mediator, then the appointment of a conciliator may become necessary. The conciliator must be a fit person whose duty is to effect a settlement of the dispute between the parties.[46] Where the request to conciliate has been accepted by the other party the dispute is then referred to a conciliation body consisting of one or three conciliators to be appointed: - a. In case of one conciliation (jointly by the parties) b. In case of three conciliators: i. One conciliator by each ii. The third conciliator jointly by the parties.[47]

c. Resolution by Arbitration: One of the ways and the most civilized method of settling dispute is arbitration whereby those concerned agree to submit the dispute to a third party in whom both have confidence and undertake to abide by the decision of the said party.[48] Arbitration practice is as old as the history of human civilization. It is as old as mankind himself. It has a history that goes as far back as the medieval ages. In many parts of the world, forms of arbitration are known to have existed in much earlier times. The Minister may refer the trade dispute to the Industrial Arbitration Panel when

[40] *Ibid,* S. 3(1).
[41] *Ibid,* S. 3(2).
[42] *Ibid,* S. 4(1).
[43] I*bid,* S. 4(2a).
[44] *Ibid,* S. 7(2).
[45] *Ibid,* S. 4(2)(b).
[46] *Ibid,* s. 7(1).
[47] *Ibid,*s 40.
[48] *Ibid,* s 13(1).

a mediator appointed by the parties under Section 3(2) of the Act could not resolve the matter[49] or may refer such matter to an arbitration tribunal when he becomes aware of a pending dispute between the parties[50]. This may entail his bypassing the use of a conciliator to settle the dispute.

d. Resolution by the Court: The TDA does not specifically provide that an aggrieved party can appeal against an award either as made by the Tribunal or as considered by the Minister. What the law provides is that an aggrieved party who has objection can do so after the Minister has published a notice of the award, and within seven days of its publication. The Minister seems to be the final arbiter here. However, the Minister can exercise his discretionary power and refer a disputed award to the National industrial Court[51]. For this to be done, the aggrieved party must have given his notice of objection within the seven-day's stipulated time and in the manner[52] specified in the publication.[53] The Minister becomes *functus officio* once the NIC is seized of the dispute. Once such disputes get to the NIC, it ceases to be arbitration. It becomes a judicial hearing.

The National Industrial Court was established in 1 January, 1976 by virtue of Section19 (1) of the Trade Disputes Decree No. 7 of 1976. In 1992, the Trade Disputes Act was amended by the Trade Disputes (Amendment) Decree No 47 of 1992 which later became the Trade Disputes Act.[54] In order to raise the status of the Court and to expand its jurisdiction to meet emerging challenges in industrial relations, the National Assembly in the exercise of its statutory duties enacted new National Industrial Court Act[55] on 14thJune 2006 which was assented to by the then Nigerian President, Chief Olusegun Obasanjo. The Act therefore, takes its root from the powers derived by the legislators who made it from the constitution.[56] It was intended to be the "ultimate"[57] and "final"[58] court for the settlement of trade dispute in Nigeria.

7. Challenges to the Effective Implementation of the Minimum Wage in Nigeria

a. Standard does not Reflect Real Cost of Living: The minimum wage is insufficient to provide workers with the basic necessities (food, shelter and clothing) they require

[49]*Ibid*, s 8(1).
[50]*Ibid*, s 4(1)(b).
[51] NIC
[52]*Ibid*, s 12.
[53]*Ibid*, s 13(1).
[54]TDA, Cap 432 Laws of the Federation 1990.
[55] NICA
[56]The History of the National Industrial Court, Retrieved from http://nicgov.ng/history.html. Accessed on June 6, 2024.
[57]Trade Disputes Act, 1976.
[58]*Ibid*, s (11)(2), 15(2).

for a healthy lifestyle.[59] The problem is partly due to the exclusive jurisdiction exercised by the federal government to determine the minimum wage applicable to the entire federation. Research has revealed that over the years, minimum wage has increased more slowly than the real cost of living.[60]

b. **Review of Minimum Wage Every 5 Years:** Flowing from the above point, a five-year minimum wage review would not be the best for Nigerian as significant changes occurs in the cost of living within short periods of time.[61]

c. Problem of Non-Compliance: The effectiveness of minimum wage regulation depends on many factors including compliance by employers. Employers in both the private and public sectors have failed to uphold the standard set by the Act. In the private sector, wages are determined by the forces of demand and supply. The high labour supply and unemployment rate results in individuals accepting to work in exchange of low wages. The problem is even more prominent in civil service establishments across the states in Nigeria, some of which still pay the former minimum wage of ₦18,000. This problem should not even exist in the public sector as wages are additionally determined by level grades. This does not speak well of the government's willingness to comply with its own rules.

d. Lack of Proper Enforcement: Enforcement of minimum wage is difficult because Nigeria has a large informal sector. Without proactive implementation and enforcement in the face of escalating living expenses in Nigeria, minimum wage regulation cannot be an effective tool. Due to the public sector's failure to comply with the national minimum wage, it will be extremely difficult to implement and enforce it in the private sector. This situation leaves the workers helpless and with little resources to enforce their rights.

e. Non-Stipulation of Hours that Constitute Full-Time Work: The Act does not prescribe the number of hours that amounts to a full-time work for a month. Employers tend to exploit this lacuna, demanding extra hours of work without extra compensation. The Labour Act[62] is also silent on this, leaving the hours of work to be determined by mutual agreement, collective bargaining or an industrial wages board – section 13(1). Employees earning so little will have little or no time to run a side business that could earn them some more money. Having to work overtime to earn the legal minimum is a form of non-compliance.

[59]Felix Ashakah, 'Nigeria's minimum wage below minimum healthy living cost: What's the way out?' (2022) *Business Day* < https://businessday.ng/opinion/article/nigerias-minimum-wage-below-minimum-healthy-living-cost-whats-the-way-out/>. Accessed on 4th June 2024.

[60]*Ibid.*

[61]National Minimum Wage Act 2019, Section 3(4).

[62]Cap L1, LFN 2004.

8. Future Expectations/Recommendations for Reform

a. Higher Minimum Wage: The standard of living in Nigeria is quite low. To make the standard of living in Nigeria comparable to that of developed countries, there is a need to increase the minimum wage. As workers earn more, they would be able to afford a higher standard of living and be better equipped to handle periodic increase in the cost of living. There would equally be increased productivity as workers would be more motivated. A higher minimum wage may have the short-term effect of increasing operating costs and in turn, the prices of goods and services (inflation). There would be loss of jobs and underemployment.[63] However, this would even out in the long-run with expected economic growth. In 2023, organized labour proposed a minimum wage of ₦200, 000 following the removal of fuel subsidy.[64]

In accordance with the provision of the Act for review of minimum wage every five years, the national minimum wage is set to be reviewed this year. On the 63rd anniversary of Nigeria's independence, the President announced that temporary measures would be taken to increase the wages of low-level federal workers by ₦25,000 for the next six months, pending the time that the National Assembly may enact an amendment increasing the national minimum wage. This was a provisional measure taken to avert the threatened strike action by organized labour.[65]

b. Biennial Review of Minimum Wage: The Act prescribes a review of the national minimum wage every 5 years. This is not ideal. The periodic review should be biennial on a specified date, e.g., January 1. This would force the government to be more proactive and avoid using delay tactics as they have a shorter time-frame to consider. Additionally, the citizens' suffering under harsh economic conditions would not be prolonged. In 2023, the National Assembly expressed their intention to fast-track the passing of the amendment Act. However, as at the last week of January 2024, just three months to the expiration of the current minimum wage, the government is still yet to set the ball rolling by inaugurating the Tripartite Committee on Minimum Wage even though the Trade Union Congress and Nigeria Labour Congress have submitted the names of their representatives.[66]

[63] JB Maverick, MJ Boyle and P Rathburn, What Are the Pros and Cons of Raising the Minimum Wage?, *Investopedia*, 2023 https://www.investopedia.com/articles/markets-economy/090516/what-are-pros-and-cons-raising-minimum-wage.asp. Accessed 5th June 2024.

[64] Editorial, Rethinking Nigeria's Minimum Wage, *Leadership News*, 2023, https://leadership.ng/rethinking-nigerias-minimum-wage/. Accessed 4th June, 2024.

[65] Ifeoluwa Akinola, 'Updated: Tinubu announces N25,000 provisional wage increase for low-level workers' *Nigerian Tribune* (1 October 2023) < https://tribuneonlineng.com/updated-tinubu-announces-n25000-provisional-wage-increase-for-low-level-workers/> accessed 5th June, 2024.

[66] Editorial, 'National minimum wage must be done well, says TUC' *The Nation Newspaper* (24 January 2024) < https://thenationonlineng.net/national-minimum-wage-must-be-done-well-says-

c. Stipulation of Working Hours: There is a need for the law to clearly spell out the number of hours of work that will make up a month's worth of full-time work. This will promote respect for a worker's time and ensure maximum productivity. This would also mean that employers would have to set up a system of overtime pay for extra hours worked by their employees, thereby promoting fair compensation. This practice obtains in the USA where non-exempt employees working in excess of 40 hours per workweek are entitled to overtime pay.[67]

d. Minimum Wage Regulation should be on the Concurrent Legislative List: The cost and standard of living varies from one state to another. This is why the regulation of minimum wage should not be within the exclusive jurisdiction of the federal government. The Constitution should be amended to move Item 34 of the Exclusive Legislative List to the Concurrent Legislative List, thereby giving states the power prescribe the minimum wage applicable to their territory in line with their local peculiarities.[68] This is what obtains in the USA which operates a true federalism. However, implementation of this suggestion will require a structure built on fiscal federalism where states control their own revenue and expenditure. Unfortunately, Nigeria does not practice fiscal federalism.

e. Additional Enforcement Mechanisms: In addition to enforcement mechanisms provided under the Act, where it is shown that an employer has violated the provisions of the Act, the names of such employers and companies should be published in nationwide newspapers and a periodic journal for that purpose. However, reasonable notice should be given to such employer that such action would be taken if violation continues. This "naming and shaming" strategy has been employed in Indonesia and Brazil. Employers would have to pay all necessary fines and wages in order to have their names removed from the list. The risk of loss of reputation should be the force that will promote compliance. Those on the list should not be given credit facilities as well.

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tuc/#:~:text=The%20Trade %20Union%20Congress%20of,carry%20out%20its%20assignment%20diligently.> accessed 5th June 2024.

[67]USA Fair Labour Standards Act of 1938 (as amended), 29 U.S.C. § 207.

[68]Punch Nigeria, 'Should each state determine its minimum wage?' available at *https://punchng-com.cdn.ampproject.org/v/s/punchng.com/should-each-state-determine-its-minimum-wage,* Accessed 6thJune 2024.

f. Enlightenment of the Public: There is a need to educate employers and workers covered by the Act on their rights and obligations under the minimum wage provisions. Many workers, especially in the rural areas, are ignorant of the enforcement mechanisms.

g. Commitment to Observe International Labour Standards: Nigeria should ratify and domesticate international conventions and treaties bordering on wage regulation. This would signify the government's willingness to promote fair labour standards. This would attract immigrants and curb the mass migration brain-drain problem.

9. Conclusion

The Nigerian Labour Congress's push for a new minimum wage has brought to the forefront the perennial tension between labor standards and economic realities in Nigeria. This legal analysis has demonstrated that the quest for a living wage, decent work, and social protection is not only a moral imperative but also a constitutional and international legal obligation.

While economic realities and competing interests must be considered, they cannot justify the perpetuation of poverty wages and exploitation. The Nigerian government and employers must navigate this tension by prioritizing the well-being and dignity of workers, who are the backbone of the economy.

The implementation of a new minimum wage, pegged at a reasonable and realistic level, is a crucial step towards achieving decent work and promoting sustainable economic growth. It is incumbent upon the government to ensure effective enforcement and compliance, while employers must embrace their social responsibility to respect and protect workers' rights.

Ultimately, this legal analysis underscores the need for a holistic approach, balancing labor standards and economic realities, to achieve a fair and equitable society. By doing so, Nigeria can harness the potential of its workforce, promote economic prosperity, and fulfill its constitutional and international obligations. The future of work in Nigeria depends on it."