The Global Economy, Trade Unions and the Protection of Workers’ Rights in Nigeria
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Abstract
Since the inception of paid/wage employment, through a combination of sustained struggles and appeals to the conscience of the rest of society, workers, using the platform provided by their organisations (trade unions), have been able to secure for themselves a number of rights. These rights are predicated on, and complemented by, some constitutional provisions which confer certain rights on workers as citizens of their countries. However, in the new world economic order elegantly referred to as globalisation workers’ rights have been dealt a devastating blow. Under globalization driven by neo-liberalism and anchored on less state involvement in the economic sphere, governments, particularly in their obsession to attract foreign direct investments as well as satisfying private corporate interests, have been arm-twisted to relax labour laws that seek to protect workers from extreme abuse within the employment relationship. This unfolds within the context of the increasing autocracy of the capitalist state, not only in Nigeria but worldwide by which basic labour rights such as the right to freedom of association and collective bargaining are brazenly violated even in the advanced democracies.

Based on a combination of empirical data and secondary materials, it was established that the level of compliance with existing legislation on workers’ rights is low in Nigeria. It was also found that official enforcement is equally low; a situation that is encouraged by weak institutional capacity of the labour administration system. Closely related to weak institutional capacity is the lack of the political will on the part of the subservient Nigerian state to protect its worker-citizen. It is against this backdrop that the paper submits that given the failure of the state to ensure compliance with laws which seek to protect workers, there is the need for workers, their organisations and allies within the broader labour movement to look beyond the state and its agencies to secure rights at work. The reality equally calls for a deeper understanding of the issues involved and a holistic response of the working class, both national and transnational.

Introduction
Since the inception of paid/wage employment, through a combination of sustained struggles and appeals to the conscience of the rest of society workers, using the platform provided by their organisations (trade unions), have been able to secure for
themselves a number of rights. These rights are predicated on, and complemented by, some constitutional provisions which confer certain rights on workers as citizens of their countries. In a most general sense workers and trade union rights are those legal provisions which are meant to protect workers in the course of employment. Workers’ rights can be described as a sub-set of human rights. Such rights are conferred on workers and their organisations taking into consideration their special role and the need to protect them from extreme abuse and exploitation in the hands of profit-conscious employers often backed by a collaborative state. These rights are embedded in Conventions and Recommendations of the ILO as well as national legislation.

The ILO which was established in 1919 has been the major international and inter-governmental body driving the need to ensure that workers, individually and collectively, enjoy certain minimum rights. The member countries of the ILO are expected to comply with its Conventions and Recommendations while national governments are expected to take a cue from the international instruments to enact similar domestic legislation. It is also important to stress that workers’ struggles, based on the need to secure certain measures of dignity for workers, have also assisted in conceeding some rights to workers. The need for these rights was also reinforced by Articles 23 & 24 of the United Nations Universal Declaration of Human Rights of 1948.

Article 23 says:

Everybody has the right to work, to free choice of employment, to just and favourable conditions of work and to protection against unemployment. Everyone, without discrimination, has the right to equal pay for equal work. Everyone who works has the right to just and favourable remuneration ensuring for himself and his family an existence worthy of human dignity, and supplemented if necessary by other means of social protection. Everyone has the right to form and join trade unions for the protection of rights (cited in CDHR 1996, Annual Report: 113).

On its part, Article 24 reads:

Everyone has the right to rest and leisure, including, reasonable limitation of working hours and periodic holidays with pay
Although the UN declaration came much later after some of the core ILO Conventions, it has the salutary effect of reinforcing them as it addresses virtually all the major issues in the employment relationship. In actual fact, the above cited articles are enough grounds for workers and their organizations to insist on an employment relationship that respects their dignity as human beings.

It can be argued that the ILO has done well to ensure that workers get a fair deal or that the contending interests are taken care of. This is to the extent that it has passed over 184 Conventions and 192 Recommendations. The issues addressed in them range from the basic labour rights of freedom of association to more technical matters like those on occupational health and safety. To demonstrate its total commitment to the enforcement of international labour standards thereby assuring for the workers an employment relationship that recognises their humanity, the International Labour Conference in 1998 adopted the Declaration on Fundamental Principles and Rights at Work and its Follow-up which states, in part, “all Members, even if they have not ratified the (fundamental) Conventions (…), have an obligation, arising from the very fact of membership in the Organization, to respect, to promote and to realize, in good faith and in accordance with the Constitution, the principles concerning the fundamental rights which are the subject of those Conventions” (quoted in ILO 2002:29).

Eight Conventions grouped into four categories, which incidentally address workers’ rights are those considered as fundamental. These are; Conventions 87 and 98 addressing freedom of association and collective bargaining, Conventions 29 and 105 addressing elimination of forced and compulsory labour, Conventions 100 and 111 addressing elimination of discrimination in respect of employment and occupation, and Conventions 138 and 182 on abolition of child labour. Some other relevant Conventions are Labour Inspection Convention 81 of 1947, Maternity Protection Convention 103 of 1952 and Tripartite Consultation Convention 144 of 1976. Along with a number of local legislation and constitutional provisions, they constitute part of workers’ rights. Of course all the other Conventions prescribe minimum standards which workers can lay claim to for protection and to ensure that work does not demean the workmen and women.
Two of the above mentioned instruments, Conventions 87 and 98 are of particular relevance here. This is because they constitute the foundation on which other rights are built within the employment relationship and as such, if the right to organise is circumvented it diminishes the capacity of workers and unions to defend other rights. Similarly, the collective bargaining process affords workers, through representative trade unions, an opportunity to negotiate or re-negotiate the terms and conditions of their employment. Otherwise, they are condemned to the unilateral, if not arbitrary, rule of management in the world of work.

The issue of freedom of association is addressed by Convention 87 while Convention 98 focuses on the right to organise and collective bargaining. Some specific provisions of these conventions are worth mentioning. Article 11 of Convention 87 provides that “each member of the ILO for which this Convention is in force undertakes to take all necessary and appropriate measures to ensure that workers and employers may exercise freely the right to organise”.

Article 1 of Convention 98 provides that “workers shall enjoy adequate protection against acts of entire union discrimination in respect of their employment”. On its part Article 4 provides that:

Measures appropriate to national conditions shall be taken where necessary to encourage and promote the full development and utilization of machinery for voluntary negotiation between employers or employers’ organisations and employees with a view to the regulation of terms and conditions of employment by means of collective agreements.

Nigeria joined the ILO shortly after independence in 1960 and it has ratified 34 Conventions (including the 8 core conventions) of the ILO as of May 2008. The ratification of the core conventions is indicative of a formal commitment to the observance of workers’ rights. Even before the formal declaration of the fundamental principles in 1998, member countries of the ILO are expected to reflect the provisions of ILO Conventions and Recommendations in national labour and social policies and laws. By and large, national legislation such as the Trade Union Act, Cap 437(LFN, 1990), the Labour Act, Cap 198(LFN, 1990) and the Wages Board and Industrial Councils Act, Cap 466(LFN, 1990) reflect corresponding ILO Conventions. These laws confer certain
rights on Nigerian workers and variously recognise the right to organise, the right to collective bargaining as well as the right of unions to act on behalf of their members. Added to these are, the Factories Act, Cap 126(LFN, 1990), and Workmen’s Compensation Act, Cap 470(LFN, 1990) which seek to protect workers from work-related hazards and diseases as well as making provisions for compensation for injuries or disabilities suffered in the course of employment.

Section 40 of the 1999 Constitution of the Federal Republic of Nigeria recognizes the freedom of association by Nigerian citizens while it also recognizes the right to life (a position that can be invoked against employers who endanger the lives of workers under their employment). Specifically, S.40 provides that “Every person shall be entitled to assembly freely and associate with other persons and in particular, he may form or belong, to any political party, trade union or any association for the protection of his interest” (http://www.icnl.org/).

A few specific provisions of these laws will be highlighted here for further illustration. For example, Section 9(6) of the Labour Act (Cap 198) LFN, 1990) provides that no contract shall-

a) Make it a condition of employment that a worker shall or shall not join a trade union or shall or shall not relinquish membership of a trade union; or

b) Cause the dismissal of, or otherwise prejudice, a worker-
   i) by reason of trade union membership, or
   ii) because of trade union activities outside working hours or, with the consent of the employer, within working hours, or
   iii) by reason of the fact that he has lost or been deprived of membership of a trade union or has refused or been unable to become, or for any other reason is not, a member of a trade union

Section 24 of the Trade Union Act (Cap 437) (LFN, 1990) provides that

i) Subject to this section, where there is a trade union of which persons in the employment of an employer are members, that trade union shall,
without further assurance, on registration in accordance with the provisions of this Act, be entitled to recognition by the employer

ii) If an employer deliberately fails to recognise any trade union registered pursuant to the provision of sub-section(1) of this section, he shall be guilty of an offence and be liable on summary to a fine of $1,000 (which is less than US$7, using an exchange rate of $1:₦151)

This provision can also be construed to mean that once there is a union recognised within the industry, individual employers are bound to recognise it and should not do anything to infringe or impinge on the right of workers to freely join such a union. This provision of the Trade Union Act should also be taken along with that of the Labour Act which provides that the membership or non-membership of a union should not be a pre-condition for employment. These are provisions which are breached with impunity by employers.

The Factories Act (Cap 126, LFN, 1990) is also worth highlighting here. This is because it is the main piece of legislation that addresses the safety of workers so that s/he is not endangered while providing for the needs of others in society. The Act (S.87) defines a factory as “any premises in which or within which, or within the close or cartilage or precincts of which one person is, or more persons are, employed in any process for or incidental to any of the following purposes, namely-

a) the making of any article or of part of any article; or
b) the altering, repairing, ornamenting, finishing, cleaning, or washing, or the breaking up or demolition of any article; or
c) the adapting for sale of any article,

being premises in which, or within the close or cartilage or precincts of which, the work is carried on by way of trade or for purposes of gain and to or over which the employer of the persons employed therein has the right of access or control”. The Act also provides for the compulsory registration of factories while the Director of Factories is expected to keep a Register of factories.

From the foregoing, it is safe to conclude that both at the international and national levels there are enough laws and standards to ensure that workers enjoy some
rights and protection at work. The big question is the extent to which these plethora of rights have been secured by workers.

An Overview of the State of Workers’ Rights

Since the ascendancy of neo-liberalism as the framework of economic policy formulation in the mid 1980s, international labour standards and the attendant rights conferred on workers have become the focus of intense debate among policy makers, international agencies, non-governmental organisations, the academia and the general public as well as within the trade union movement itself. This is partly on account of the fact that developments within the global economy have threatened some of the labour standards and rights enjoyed by workers. This is particularly so for developing countries where “national labour standards have often been identified by the World Bank as rigidities impeding the effectiveness of market-oriented reforms” (Plant, 1994). National governments who are desperately looking for foreign direct investments (fdi) would appear to have readily succumbed to pressures from international investors who usually insist on relaxing (lowering) labour standards and workers’ rights.

The denial and abuse of workers’ rights are best understood within the context of the commodity status of human labour power, which itself is best located in the nature of capitalist employment relations. The social relations of production within the capitalist social order thrive on the exploitation of the labouring class by the owners of the means of production. This situation is further compounded by the commodity status of human labour power. Given the commoditization of human labour the industrial owner places the same value on the worker just like other factors of production. Two of the characteristic features of capitalism identified by Hyman (1975) are helpful in understanding how this commodity status evolved; (i) the ownership and, or, control of the means of production by a small minority and, (ii) the domination of profit as the fundamental determinant of economic activity.
It is the ownership that confers the right, if not power, of control on the employer. Consequently, work structures and processes are put in place to ensure the control of the labour process in the interest of the employer. Given the centrality of profitability to capitalist production relations, it follows that the profit motive determines the treatment meted out to the employees and what accrues to them from their productive activities. It is within this context that the average employer does not value the worker beyond his or her utilitarian value.

Apart from the desire of the investor/employer to ensure return on investment, the society also needs the products and services created through the labour of the worker for survival. This means that the employment relationship is important to the society to the extent that the survival of the society depends on the output of those involved. It then becomes necessary to protect workers from extreme abuse and establish the framework as well as the ground-norm for the interaction of the actors involved in the work arena. The various international labour standards and national legislation across countries address these needs.

Against the background of the excessive exploitation of workers, laws for the social protection of employees were developed in the second half of the 19th century. Essentially they are meant to ensure that people work in dignity and are not unduly exploited in the course of work. International control bodies were established to ensure compliance with the new laws. The ILO with its unique tripartite composition stands out of all these bodies.

Reports from national and international trade union federations and the ILO indicate severe rights abuses. It is partly arising from this that the ILO made its 1998
declaration on fundamental rights and the Decent work agenda of which the issue of the denial of rights at work is one of the four components.

The “rights challenge” is one of the four major challenges similarly identified by Barrientos (2007) as confronting the decent work agenda of the ILO. According to him “the rights challenge relates to the difficulty of organisation or representation amongst such workers. Without collective power to negotiate with employers, workers are not in a position to access or secure other rights”.

The threat posed by the new global economic order has always been there. According to Scherrer and Greven (2001:15) “in many emerging market economies, working conditions, wages, and environmental standards have deteriorated particularly in plants producing for export. Every year, the International Confederation of Free Trade Unions (ICFTU) documents widespread abuses of workers’ rights”.

It is interesting to note that Convention 87 on the Freedom of Association and Protection of the Right to Organise enjoys the least number of ratifications out of the entire core Conventions. While this may be an indication of the commitment of ILO members to the ideal of their organisation, it is important to note that ratification does not necessarily amount to compliance with the provisions. That explains why it is not all countries that have ratified ILO Conventions have given effect to their provisions and unfortunately the ILO appears helpless in ensuring compliance. It would appear that many member countries just pay lip service to the ideals of the body by ratifying Conventions they do not intend to implement. Scherrer and Greven(2001:15) capture this helplessness in the following words “The problem with the ILO’s conventions –and very likely the reason why many interested parties have “rediscovered” the ILO-is not only that ratification is voluntary but that compliance is essentially also voluntary since the ILO has no enforcement mechanism to speak.”

The provisions of Conventions 87 and 98, the high number of ratifications and the fact of the fundamental declaration have nevertheless not stopped the denial of the right of workers to associate freely, organise and bargain collectively worldwide. This largely arises from the capitulation of national governments to the blackmail and manipulations of the agents of international finance capital who are too eager to sacrifice workers’ rights for economic expediency from which only a few benefit. The
situation in Nigeria reflects this. The point to note here is that worldwide it is very difficult to ensure the observance of workers’ rights, a fact that is not helped by the nature and dictates of capitalist employment relations. The core Conventions referred to earlier are the primary ILO instruments which address workers’ rights with particular reference to the right to freedom of association, organize, collective bargaining as well as various forms of social protection at work. It is against this background that we take a look at the state of workers’ rights in Nigeria.

**Workers’ Rights in Nigeria: Views from Below**

In order to establish the state of workers’ rights in Nigeria, it became necessary to find out from workers themselves the reality they are confronted with in the world of work in relation to their rights. In the process, it was possible to ascertain their own understanding of what constitutes workers’ rights and what can be done to ensure their observance. In the following pages we present an account of Nigerian workers’ understanding of their rights.

**Demographic Characteristics of Respondents**

The sample population for this study was drawn from non-managerial employees in three sectors of the Nigerian economy; oil and gas, telecommunications and banking. This category of employees was chosen because they are the ones at the receiving end of policies and managerial directives which impact on rights at work. Since not all employees in the sectors are unionised, some respondents are not union members. A deliberate attempt was made to get respondents from both unionised and non-unionised organisations.

To elicit information from respondents, an open-ended questionnaire containing 43 items was used. Respondents were mostly required to supply answers in their own words to the questions. The questions were complemented by interview of key trade union officials, employers’ representatives and officials of state agencies involved in labour administration. In all 850 questionnaires were given out to workers across the three sectors in Abuja (150), Lagos (500) and Port-Harcourt (200). A total of 378 questionnaires were returned representing 44.47% rate of return. However, it should be noted that not all the respondents supplied answers to all the questions, as such not all the responses added up to the total number of questionnaires that were returned.
In cases where respondents were allowed multiple responses, the total number of responses exceeded the number of questionnaires returned. In analyzing the responses, descriptive statistics were used, with frequency distribution indicating percentages as well as cross-tabulations. The demographic characteristics of respondents are presented below.

Out of the 378 respondents 160 (42.3%) come from the banking sector, 114 (30.2%) are from telecommunications while the remaining 104 (27.5%) are from the oil and gas sector. We shall briefly look at the demographic characteristics of the respondents.

**Age Distribution**

In terms of age, the majority of our respondents fall below the age of 50. Of the 360 who volunteered information on their ages, only 5 are above 50 years and all the five are from the oil and gas sector. This suggests a relatively young group of workers who are likely to be concerned about their rights and entitlements at work.

**Distribution by Sex**

The distribution of respondents by sex shows that there are 220 male (58.2%) and 156 (41.3%) female. 2 of the respondents did not reveal their gender identity.

**Educational Qualification**

Out of the 378 respondents only 290 supplied information about their educational qualifications. This represents 76.7% of all respondents. 202 of all respondents possess a first degree or equivalent qualification, representing 53.4% while 32 (8.4%) hold a master’s degree. 16 of the respondents have a diploma certificate while 34 only possess the secondary school certificate. It can be argued from these figures that the respondents for this study have a good educational background which is a reflection of the educational requirements needed to work in the sectors covered. It also means that the respondents are likely to have a good understanding of the issues addressed by the research.
Table 1 below is a graphic presentation of the academic attainment of the respondents.

### Table 1: Distribution of Respondents by Educational Qualification

<table>
<thead>
<tr>
<th>S/No</th>
<th>Highest Educ. Qualification</th>
<th>Frequency</th>
<th>% (of total respondents)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Sec. Schl.</td>
<td>34</td>
<td>8.9</td>
</tr>
<tr>
<td>2</td>
<td>Diploma/Cert(OND, NCE, et.c)</td>
<td>16</td>
<td>4.2</td>
</tr>
<tr>
<td>3</td>
<td>First Degree or equivalent</td>
<td>202</td>
<td>53.4</td>
</tr>
<tr>
<td>4</td>
<td>Master's Degree</td>
<td>32</td>
<td>8.4</td>
</tr>
<tr>
<td>5</td>
<td>Others</td>
<td>6</td>
<td>1.6</td>
</tr>
<tr>
<td>6</td>
<td>Total</td>
<td>290</td>
<td>76.7</td>
</tr>
</tbody>
</table>

**Source:** Field Survey, 2009

**Nature of Employment**

We also sought to know from the respondents, the nature of their employment. 254 (67.19% of the entire sample size) of them are on permanent employment, while 50 (13.2%) are on temporary appointment. The remaining 24 (6.3%) are employed by their respective organisations as casual workers. A total of 328 responded to this item of the questionnaire.

**Annual Salary**

Lastly in this section respondents were asked to state their annual salaries. The returns indicate that majority of those who responded (50.7%) earn more than N1 million naira per annum which translates into more than N80,000 per month. By Nigerian standard this appears reasonable.

**AWARENESS OF RIGHTS BY RESPONDENTS**

In ascertaining the extent to which respondents know their rights, the first question they were asked is if they are aware of their rights. In response to this, out of the 354 who responded 314 representing 83.1% claim to be aware while 40 (10.6%) answered in the negative. This pattern of response ordinarily suggests a high level of awareness. A further breakdown of the data by gender indicate that a higher percentage of men are aware of their rights; 200 out of 220 representing about 91%. For women the figure is 116 out of 134 representing almost 87%. The difference between the two
genders appears not much and as such it can be argued that both male and female respondents demonstrate a high level of awareness of their rights as workers.

As a follow up to the above question, respondents were asked to mention what they consider as rights. This is to determine how conversant they are with the regime of rights and their own preferences as individuals. In all, 11 categories of rights were identified with a total of 804 responses (respondents were allowed multiple responses). The right with the highest frequency is economic right (incorporating the issues of salary and welfare) at 301 responses which is 37.43% of the total. The right to associate ranks second with 114(14.17%) responses, followed by the right to participate in management/freedom of expression at work with 107 (13.30%) responses. The right to annual leave comes next with 80 responses while the right to life/personal security/safety has a frequency of 56. It is interesting to note that the right to job security was mentioned only eight times while no one mentioned maternity right, not even the female respondents. This pattern of responses does not suggest a deep appreciation of what is involved in the advocacy for workers’ rights. For example, the right to associate which is one of the fundamental rights is regarded as central to accessing other rights but the respondents do not accord it much importance. The same thing is true of the right to participate in management/freedom of expression which approximate to the right to organize and collective bargaining (a fundamental right declared by the ILO) and may impact positively on accessing economic benefits at work. Responses across the sectors reveal a similar trend. It is only in the oil and gas sector that the right to associate ranks second. It ranks third in telecommunication and fourth in banking. The responses (as individually identified) are indicated in table 2.
Table 2: Rights Identified by workers themselves

<table>
<thead>
<tr>
<th>S/no</th>
<th>Rights identified</th>
<th>Frequency</th>
<th>%</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Economic(salary/welfare)</td>
<td>301</td>
<td>37.43</td>
</tr>
<tr>
<td>2</td>
<td>Social right</td>
<td>30</td>
<td>3.73</td>
</tr>
<tr>
<td>3</td>
<td>Annual leave</td>
<td>80</td>
<td>9.95</td>
</tr>
<tr>
<td>4</td>
<td>Participation in mgt/freedom of expression</td>
<td>107</td>
<td>13.30</td>
</tr>
<tr>
<td>5</td>
<td>Right to promotion</td>
<td>22</td>
<td>2.73</td>
</tr>
<tr>
<td>6</td>
<td>Right to associate</td>
<td>114</td>
<td>14.17</td>
</tr>
<tr>
<td>7</td>
<td>Political right</td>
<td>40</td>
<td>4.97</td>
</tr>
<tr>
<td>8</td>
<td>Right to further education</td>
<td>40</td>
<td>4.97</td>
</tr>
<tr>
<td>9</td>
<td>Right to private life</td>
<td>6</td>
<td>0.74</td>
</tr>
<tr>
<td>10</td>
<td>Job security</td>
<td>8</td>
<td>0.99</td>
</tr>
<tr>
<td>11</td>
<td>Life/Personal security and safety</td>
<td>56</td>
<td>6.96</td>
</tr>
<tr>
<td></td>
<td><strong>Total</strong></td>
<td><strong>804</strong></td>
<td></td>
</tr>
</tbody>
</table>

Source: Field survey, 2009

Perhaps a look at how respondents became aware of these rights will be instructive. Respondents were also asked how they learnt of their rights. Across the three sectors, the most recurring source is the Company’s/employee’s handbook while the second mostly mentioned source is educational fora such as the formal school system, seminars and the mass media. These are not sources that are likely to lay much emphasis on the far-reaching rights of workers. The employees’ handbook, containing duties and rights of employee as well as the obligations of employers to workers is usually drawn up by management with little or no inputs from employees. As such, it is not likely to contain far reaching provisions that would tilt the balance of power at work in favour of employees. In the same vein, the formal school system, most seminar programmes and the mass media are run and dominated by pro-status-quo individuals who view things from the point of view of the dominant social class. Again, they are unlikely avenues for pro-working class information and perspectives. Perhaps a look at how respondents became aware of these rights will be instructive. Respondents were also asked how they learnt of their rights. Across the three sectors, the most recurring source is the Company’s/employee’s handbook while the second mostly
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In addressing the issue of right awareness, it was also appropriate to find out from respondents if they believe that workers deserve some rights, notwithstanding whether or not they are aware of their own rights as workers. Not unexpectedly, an overwhelming majority answered in the affirmative. 240 out of 246 who responded to this question fall into this category and this represents 98.4%.

As a follow-up and to be sure that respondents are at home with the issues at stake, they were asked to mention specific rights they think workers deserve. Across the three sectors, a total of 610 responses were returned made up of 186 from telecommunications, 166 from oil and gas and 258 from banking. The right of association has the highest frequency in telecommunications followed by economic right with promotion coming third. For oil and gas economic right has the highest frequency, followed by the right of association while the right to life, personal security and safety has the third highest frequency. The same pattern is true of the banking sector except
that the right to promotion and to work under a conducive atmosphere came third. That the right to association constitutes a major issue for telecoms workers is a reflection of the near absence of unionism in the sector. The prominence enjoyed by the right to life, personal security and safety in oil and gas sector is most probably borne out of the high risk involved in oil exploration and exploitation. Lastly for bank workers to consider working under a conducive atmosphere a rights issue is probably because of the authoritarian management style of employers in the sector. It is important to mention that for the issues listed to be mentioned by respondents is most probably an indication that they are not satisfied with the prevailing situation. Their responses are presented in table 3 below.

Table 3: Rights Deserved by Workers

<table>
<thead>
<tr>
<th>S/no</th>
<th>Responses/Sector</th>
<th>Telecoms</th>
<th>Oil &amp; gas</th>
<th>Banking</th>
<th>Total</th>
<th>%</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Work under conducive atmosphere</td>
<td>18</td>
<td>16</td>
<td>30</td>
<td>64</td>
<td>10.49</td>
</tr>
<tr>
<td>2</td>
<td>Association</td>
<td>48</td>
<td>34</td>
<td>40</td>
<td>132</td>
<td>21.63</td>
</tr>
<tr>
<td>3</td>
<td>Participation in mgt/freedom of expression</td>
<td>18</td>
<td>18</td>
<td>14</td>
<td>50</td>
<td>8.19</td>
</tr>
<tr>
<td>4</td>
<td>Promotion</td>
<td>24</td>
<td>12</td>
<td>30</td>
<td>66</td>
<td>10.81</td>
</tr>
<tr>
<td>5</td>
<td>Annual leave</td>
<td>16</td>
<td>12</td>
<td>40</td>
<td>68</td>
<td>11.14</td>
</tr>
<tr>
<td>6</td>
<td>Economic (regular salary/welfare)</td>
<td>44</td>
<td>36</td>
<td>78</td>
<td>158</td>
<td>25.90</td>
</tr>
<tr>
<td>7</td>
<td>Further education</td>
<td>6</td>
<td>8</td>
<td>8</td>
<td>22</td>
<td>3.60</td>
</tr>
<tr>
<td>8</td>
<td>Political participation</td>
<td>4</td>
<td>5</td>
<td>2</td>
<td>11</td>
<td>1.80</td>
</tr>
<tr>
<td>9</td>
<td>Pension</td>
<td>-</td>
<td>-</td>
<td>2</td>
<td>2</td>
<td>0.32</td>
</tr>
<tr>
<td>10</td>
<td>Life/Personal security/safety</td>
<td>8</td>
<td>23</td>
<td>14</td>
<td>45</td>
<td>7.37</td>
</tr>
<tr>
<td>11</td>
<td>Religion</td>
<td>-</td>
<td>2</td>
<td>-</td>
<td>2</td>
<td>0.32</td>
</tr>
<tr>
<td></td>
<td>Total</td>
<td>186</td>
<td>166</td>
<td>258</td>
<td>610</td>
<td></td>
</tr>
</tbody>
</table>

Source: Field survey, 2009

Observance of, and compliance with the, provisions on workers’ rights

The second major issue addressed by our research is the extent of compliance with the provisions on workers’ rights. As such, having established the respondents’ knowledge/ awareness of their rights, the next thing is to ascertain the extent of compliance by employers. In looking at this issue we shall rely on what the respondents say as well as the results of interview with union officials. The first question in this regard was to find out from the respondents the extent to which they are accorded their
rights by employers. Out of 270 respondents to this question, only 64 (16.9%) respondents claim that their rights are fully observed, 118 (31.2%) respondents claim that their rights are reasonably observed while 86 (22.8%) are not satisfied.

Closely related to the above, respondents were asked to mention the problems encountered at work as such may be indicative of rights abuses or non-compliance with relevant provisions of the law. This is to enable us cross check their responses to the earlier question on non-observance of rights at work as well as a test of their understanding of rights issues at work. The responses are listed in table 3. The issues listed include; too much work, sexual harassment, abuse of rights, late payment of salary, late closing, job insecurity and humiliation/intimidation.

Table 4: Problems encountered at work

<table>
<thead>
<tr>
<th>S/no</th>
<th>Responses/Sector</th>
<th>Telecoms</th>
<th>Oil &amp; gas</th>
<th>Banking</th>
<th>Total</th>
<th>%</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Too much work</td>
<td>10</td>
<td>6</td>
<td>8</td>
<td>24</td>
<td>9.83</td>
</tr>
<tr>
<td>2</td>
<td>Sexual harassment</td>
<td>4</td>
<td>8</td>
<td>10</td>
<td>22</td>
<td>9.06</td>
</tr>
<tr>
<td>3</td>
<td>Abuse of rights</td>
<td>14</td>
<td>18</td>
<td>14</td>
<td>46</td>
<td>18.85</td>
</tr>
<tr>
<td>4</td>
<td>Distrust among workers</td>
<td>8</td>
<td>6</td>
<td>14</td>
<td>28</td>
<td>11.47</td>
</tr>
<tr>
<td>5</td>
<td>Late payment of salary</td>
<td>16</td>
<td>16</td>
<td>12</td>
<td>44</td>
<td>18.03</td>
</tr>
<tr>
<td>6</td>
<td>Transportation</td>
<td>2</td>
<td>2</td>
<td>4</td>
<td>12</td>
<td>4.91</td>
</tr>
<tr>
<td>7</td>
<td>Late lunch</td>
<td>6</td>
<td>2</td>
<td>4</td>
<td>12</td>
<td>4.91</td>
</tr>
<tr>
<td>8</td>
<td>Late closing</td>
<td>8</td>
<td>4</td>
<td></td>
<td>12</td>
<td>4.91</td>
</tr>
<tr>
<td>9</td>
<td>Non-observance of public holidays</td>
<td>4</td>
<td>-</td>
<td>2</td>
<td>6</td>
<td>2.45</td>
</tr>
<tr>
<td>10</td>
<td>Poor corporate communication</td>
<td>10</td>
<td>2</td>
<td></td>
<td>12</td>
<td>4.91</td>
</tr>
<tr>
<td>11</td>
<td>Job insecurity</td>
<td>-</td>
<td>6</td>
<td></td>
<td>6</td>
<td>2.45</td>
</tr>
<tr>
<td>12</td>
<td>Humiliation/threat/intimidation</td>
<td>20</td>
<td>6</td>
<td></td>
<td>26</td>
<td>10.65</td>
</tr>
<tr>
<td>13</td>
<td>Delayed approval of annual leave</td>
<td>-</td>
<td>-</td>
<td>2</td>
<td>2</td>
<td>0.81</td>
</tr>
<tr>
<td></td>
<td>Total</td>
<td>98</td>
<td>72</td>
<td>66</td>
<td>244</td>
<td></td>
</tr>
</tbody>
</table>

Respondents were also asked if they are aware of avenues of seeking redress in case of non-observance of or infringement on their rights. Only 242 of the entire 378 respondents (representing 64%) answered the question. 132 respondents representing 34.9% of the total sample size are aware of avenues for seeking redress while 110 answered in the negative. The responses here are quite revealing. The majority of those who responded to this question, 136 out of 210 (64.76%) pick the union as the avenue
for seeking redress. 38(18.09%) mention the court and other state agencies as avenues for redress while the remaining 36(17.14%) identify management as the avenue. This pattern of response is a further confirmation of the lack of confidence in the ability of management to protect the interests/rights of workers.

Specifically, they were asked if the union could be useful in seeking redress. Out of 231 respondents, 195(84.41%) and 51(51.58%) of the entire 378 respondents believe the union can be helpful (either fully or partially). Again this is a demonstration of the respondent’s confidence in the trade union organisation. This is to the extent that they prefer the union to other available avenues. Apart from seeking redress on behalf of workers, other ways the respondents think that the union can be helpful are; through negotiations, strike actions, enlightenment and assisting workers through welfare schemes

In light of the role of the union in protecting the interests and rights of workers at work, we deemed it necessary to ask the important question as to whether workers should unionise. Out of the 242 who responded to this question a total of 228(94.21%) are of the opinion that workers should belong to trade unions. This is a further confirmation of the respondents’ confidence in trade unions as a bulwark against the excesses of management.

If respondents believe workers should unionise, how do they feel in the absence of unions in their organisations. We asked them this question as well as what efforts they made to ensure the existence of unions in their places of work. Broadly, majority of the respondents, 224(94.11%) are not happy about the situation insisting that it is degrading, exploitative, puts them at a disadvantage and embarrassing not to have a
union in place. Out of 205 respondents, 113(55.12%) claimed to have discussed the absence of unionism with co-workers while out of 258 respondents, 132(51.16%) also claimed to have initiated a move to form a union in the workplace. All these responses, as reflected in tables 24, 25 and 26 below, suggest a desire of the respondents to avail themselves of the right to associate with fellow workers in a bid to ensure that they get a better deal from work.

What we have done thus far is to ascertain the reality of workers’ rights in the chosen sectors as perceived by individual respondents covered by this survey. The second source for this study is to establish what obtains generally in each of the sectors, irrespective of the perception or awareness of individual workers located in particularly work organisation. In doing this, we can limit ourselves to 3 of the core rights. These are the right to freedom of association, the right to organize and collective bargaining as well as the right to work. These rights are recognized by national laws, ILO standards and the UN Universal Declaration of Human Rights (Articles 23 and 24).

At a formal level, the right to freedom of association is well recognized in two of the three sectors covered by this study. These are the banking and oil and gas sectors. This is not unconnected with the legal regime in place from 1978 to around 2005. One of the defining features of the restructuring of trade unions in Nigeria in 1978 is the automatic check-off system by which a worker is deemed to be a member of the relevant union in his/her place of work except the worker contracts out of the union in writing. A corollary of this was that employers were compelled by law to recognize the union in place. By this arrangement the unions’ drive for membership was enhanced across sectors of the economy.
However, two developments have succeeded in altering the balance of forces against unfettered union membership shortly after the return to civilian rule. The first was the privatization of public enterprises and the deregulation of key sectors of the economy that were under the full control of the Nigerian state. The second development was the Trade Union Amendment Act of 2005 which, among other provisions, made union membership voluntary. In the telecommunication sector government enjoyed a near monopoly through Nigerian telecommunications Plc (NITEL) and its mobile telephony subsidiary (M-TEL). The entry of new players into the sector and their outright refusal to allow unionisation has restricted unionism only to NITEL. As such, one can talk of a near total absence of unionism in the telecommunication sector. This is certainly a huge deficit for a sector that is advertised as the fastest growing with a lot of foreign investment. This puts workers at a disadvantage in respect of their rights as the absence of unions gives employers the unfettered opportunity to act unilaterally in managing the employer-employee relations. The situation is in spite of the efforts of the relevant unions to organise prospective members in the new companies operating in the sector.

The level of unionisation in the other two sectors is much better. In the banking sector, the level of unionisation, according to trade union officials is about two-third with 16 out of 24 banks unionised at the level of senior staff which is a remarkable improvement over what obtained in the immediate post-consolidation period when only 6 banks allowed their workers to belong to the unions in the industry (Source: field interview with officials of NUBIFIE and ASSBIFI, 2009).
The precarious situation of the Nigerian economy in general and the banking sector in particular has made workers and the unions vulnerable to unfair labour practices from employers. The fear of the unknown (being thrown into a saturated labour market) has made workers more tolerant of the excesses of management. Other untoward practices which impinge on workers’ rights in the banking sector include what some describe as unrealistic work target, particularly for those in marketing, who are mostly women. There is also the issue of working far in excess of 8hrs per day without compensation, either in cash or kind. According to a high ranking official of the bank workers’ union, other unfair labour practices engaged in by the banks, especially new generation banks include arbitrary fixing of wages without collective bargaining, non-payment of redundancy and severance benefits, casualisation, contract employment, and outsourcing. The fact that these go on in spite of union presence is an indication that the balance of power within the world of work is in favour of employers.

The situation in the oil industry is not too different from what obtains in the banking sector. There is unionisation in the sector but collective bargaining takes place at the enterprise level. There is a predominance of non-standard forms of employment in the sector, hence there are more casual and contract workers than permanent workers. It is only in recent years that the two unions successfully fought to unionise those non-permanent employees. Even when employers enter into agreements with the unions, they routinely renege on negotiated terms.

**WHAT CAN BE DONE TO ENSURE COMPLIANCE**

The third major issue examined in this research is what can be done to ensure compliance with, or enforcement of workers’ rights. In this regard, the following
questions were posed. The first question is; what can be done to ensure enforcement of workers’ rights. Responses range from encourage unionism, through union vigilance to continuous dialogue (presumably with management), training and education of workplace actors, protests and sanctions and an end to intimidation of workers while allowing freedom of expression. Three of the suggestions relate directly to the union with a combined frequency of 148(66.7%) out of 222 respondents. These are the suggestions that trade unionism should be enforced, union vigilance and imposition of sanctions/protests.

The next question specifically asked respondents if the union can help in securing workers’ rights. Out of a total of 264(85.60%), 226 respondents answered in the affirmative. This contrasts with the 18 who do not think the union can help in this regard. This is a further affirmation of respondents’ belief in trade unions and unionism.

Finally, respondents were asked to mention other ways in which the union can be helpful. Their answers include; ensuring enforcement and protection of human rights has the highest frequency of 98 (46.22%) out of 212, followed by 38(17.92%) who suggest that social action should be encouraged while the suggestion that unions should negotiate on behalf of workers has the third highest frequency of 32(15.09%).

From the data presented in the preceding paragraphs, the reality that stares us in the face is not a too encouraging reality with regard to workers rights in Nigeria. This poses a lot of challenges to those who are saddled with the responsibility of ensuring that rights are respected as well as the trade unions. The challenges and what can be done to address them will be examined by way of conclusion.
Conclusion

In this study we have been able to establish the following;

i) There is an appreciable level of rights awareness on the part of workers in the three sectors covered. A great majority of them claimed to be aware of their rights as workers and this was confirmed by the wide range of rights identified by them. This high level of awareness was demonstrated by both male and female respondents. The problem, however, lies in the inability of workers to compel employers to comply with relevant provisions of the law. The situation is further aggravated by the prevailing economic situation in the country which makes workers very vulnerable.

ii) The level of compliance on the part of employers is low. In actual fact it would appear that employers are deliberately avoiding compliance, taking advantage of the weak legal framework and the vulnerability of workers in an unstable economic environment

iii) Official enforcement is low and this is encouraged by weak institutional capacity particularly the labour administration system that is not well equipped to discharge the responsibilities placed on it.

iv) Closely related to the above is the apparent lack of the political will on the part of government to protect its worker-citizen through the enforcement of legislation meant for that purpose. This is demonstrated in the Labour Ministry’s reluctance to act with dispatch while the situation in the oil and telecommunications sectors where there is a strong anti-union posture by
employers is a reflection of the government to the interests of foreign investors that dominate the sectors.

v) The prevailing reality in respect of workers’ right is not because the unions did not try. Within the limits imposed by law and the political and economic regimes they tried to organise workers and defend them but were shortchanged by the hostility of employers and the indifference of the Labour Ministry.

vi) Lastly, the workers still strongly believe that the trade union organisation is capable of protecting and defending their rights. This is spite of the challenges confronting the trade union movement.

The pertinent question at this juncture is what is to be done? Do we need more laws or do we put in more efforts to ensure enforcement. The answer is both. Some provisions of the laws are no doubt inadequate and need to be reviewed and amended accordingly. All those involved in the long-drawn review of the labour laws and institutions, particularly the National assembly should fast-track the process. Even in spite of this and until such reviews are made there is the urgent need to ensure the enforcement of relevant provisions of existing laws. Laws are meant to be complied with, failing which enforcement is invoked. This is a standard practice. Nigeria should not be an exception. The relevant state agencies should also be empowered to perform their duties by way of improving their budgetary allocations so that they can employ more hands and get necessary equipment. What do we do to ensure the above?

In addressing this, it should be noted that the dictates of capitalist political economy mean that employers and the state would be ready to trample on the rights of
workers, as this would further engender the exploitation of the labouring class. In view of this, the task of defending workers and trade union rights cannot be left in the hands of state institutions and agencies that cannot do much alone. The best the agencies can do is to prevent extreme abuses but not to eliminate them. This means that there is a need to look beyond formal institutions if workers are to be protected in the course of employment. If it is realised that the rights being enjoyed today are the outcomes/products of popular struggles then there is the need for renewed struggles to maintain, and expand the frontiers of rights, particularly in the face of the rampaging onslaught of the world capitalist system. It is against this background that the following options are suggested.

The starting point is the unions who need to let their members as well as the general public know the rights of workers. Awareness on the part of the workers is likely to reduce the likelihood of infringement, while it may reduce the hostility of the consuming public. The truth is that some of the infringements thrive on the ignorance of workers of the legislative protection available to them. As such the unions should devote a lot of efforts and resources to awareness raising and advocacy. We are suggesting this because in the final analysis those who are profiting from the status-quo do not have any strong incentive to move against it.

Even if the unions are strong, the struggle to enforce workers rights should not rest on the shoulders of workers and their unions alone. This is largely due to the fact that workers alone cannot take on the might of the capitalist state and employers, particularly the transnational corporations. Non-state actors such as NGOs that are interested in widening the scope of human rights should be involved. This is particularly
necessary given the prevailing circumstances in which Nigerian workers and trade unions find themselves today. We have gone past the stage at which the state and private employers appeal to some base ‘national’ sentiments as justifications for abridgement of workers’ rights. If the society truly values the contribution of workers to the economic development process, such should be acknowledged by according them basic human dignity and adequate compensation for their efforts in generating the commonwealth. This should be reflected in a regime of humane and fair conditions of work and terms of employment. Anything short of this amounts to begging the issue.

To complement the above, we strongly believe the human rights groups and activists should be interested in public interest litigation such that they can take up cases, on behalf of workers, against employers who routinely breach provisions of the relevant laws. The costs of litigation and negative publicity generated may also serve as a deterrent to the employers. In addition to litigation, advocacy on workers’ rights should be taken as a major plank of the work of the NGOs. The trade union movement and the civil society organisations should liaise with their counterparts in other parts of the world to campaign against those foreign companies who violate the rights of their workers in Nigeria. Consumer boycott campaigns and social labeling should be considered.

Workers, their organisations and allies within the labour movement should develop appropriate strategies and means to ensure that people work in dignity. This may include inter-sectoral actions and sympathy action by workers and unions that may not be directly affected by a particular issue at stake.

Finally, as long as the world panders to whims and caprices of operators and beneficiaries of the system, the quest for ensuring that workers’ rights are respected will
remain a mirage. There is no reason why transnational corporations cannot observe prevailing standards in Nigeria which in most cases are lower than what obtains in their home countries.

From the findings of this study, our conclusion is that the provisions of labour laws and international labour standards of the ILO in, and by, themselves are not enough guarantees for the protection of workers’ rights and as such there is the need to look beyond these instruments in protecting the rights of workers. Workers, their organisations and allies within the labour movement may need to adopt extra-judicial means, including political and social actions to defend workers rights.

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