



Employment/workplace discrimination in Nigeria: Forms of employment discrimination and strategies for improvement

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Abstract

Discrimination in the labour market remains a significant challenge, limiting equal opportunities and hindering societal growth. Such discrimination includes *inter alia* the unequal impact of policies, practices or rules, under-representation of certain groups in employment or representative structures, and institutional inequalities. This article explores various forms of employment discrimination in Nigeria, the key legal measures addressing these issues, and strategies to overcome workplace bias. Initial findings highlight that Nigeria's legal framework for employment relations is insufficient, lacking comprehensive legislation to tackle emerging forms of discrimination effectively. As a result, discriminatory practices persist in areas such as hiring, restructuring, retrenchment, compensation, promotion, and training within Nigerian organisations. The article proposes measures including strict penalties for employers to discourage discriminatory practices, better enforcement of anti-discrimination laws, and encouraging employers to adopt socially responsible practices to promote fair competition in the labour market.

Keywords: Discrimination, workplace and employment, equal employment, labour law, anti-discrimination laws, Nigeria

Introduction

The Sustainable Development Goals (SDGs), adopted by all United Nations member states in 2015, commit governments to 'empower and promote the social, economic, and political inclusion of all, irrespective of age, sex, disability, race, ethnicity, origin, religion, or economic or other status.' They further call for efforts to 'ensure equal opportunity and reduce inequalities of outcome, including by eliminating discriminatory laws, policies, and practices and promoting appropriate legislation, policies, and action in this regard ^[1].' By adopting the SDGs, countries worldwide, including Nigeria, pledged to fulfill these commitments by 2030. To achieve this target, it is imperative to accelerate progress in implementing robust anti-discrimination protections. These commitments build on a long-standing tradition of international agreements that guarantee equal rights regardless of race or ethnicity, particularly in employment ^[2]. Consequently, many nations have adopted and enforced domestic anti-discrimination frameworks, recognising that fairness is a cornerstone of any social compact ^[3].

Nigeria is a party to several anti-discrimination laws, including those that specifically address workplace discrimination. These include the International Labour Organisation (ILO) Equal Remuneration Convention, 1951, and the Discrimination (Employment and Occupation) Convention, 1958. At the national level, the extant laws on this subject include the Constitution of the Federal Republic of Nigeria, 1999 (as amended). While the Constitution provides a general prohibition against discrimination in all forms, it does not explicitly address discrimination arising from employment. Other specific national laws include the HIV/AIDS (Anti-Discrimination) Act, 2014, and the Discrimination Against Persons with Disability (Prohibition) Act, 2018.

Despite these legislative measures, Nigerian citizens continue to experience significant inequities and restrictions

in organisations across the country ^[4]. The foregoing indicates that generally, the state of protection against discrimination in Nigeria is very weak.

This article offers a comprehensive overview of various forms of employment discrimination in Nigeria, including those based on gender, age, religion, and disability. It also provides a concise analysis of the impact of such discrimination in the workplace and proposes strategies for fostering more inclusive and equitable employment practices.

Research Approach

The method used in this research is the black letter research approach also known as doctrinal legal research method. This method enables a descriptive and detailed analysis of legal rules found in primary sources such as legal texts, legal theories, statutes and court judgments ^[5]. The article analyses the provisions of various international, regional and domestic laws and policies, and court cases relevant to employment/workplace discrimination in Nigeria.

Conceptualisation of Employment Discrimination

Employment discrimination refers to the unfair or prejudicial treatment of individuals based on their actual or perceived membership in a particular group or category ^[6]. According to Jiefeng Lu, it involves employers applying distinct criteria, considerations, or treatment to job applicants or employees based on classifications or categories rather than their individual qualifications or merit ^[7]. The International Labour Organisation (ILO), in its 2007 report, described workplace discrimination as a violation of human rights that results in the underutilisation of human potential, negatively impacting productivity and economic growth ^[8]. Discrimination in the workplace is often evident through unequal opportunities and treatment, which are key indicators that must be identified and addressed to effectively combat employment discrimination ^[9].

An Overview of Anti-Discrimination Laws

This involves a discussion of major international instruments to which Nigeria is a party and domestic laws that prohibit workplace/employment discrimination in Nigeria.

a. International Instruments.

i. Equal Remuneration Convention, 1951 (No. 100)

Article 1 of this convention focuses on gender discrimination in employment and outlines principles for the equal remuneration for work of equal value independent of whether it is performed by men or women. In order to achieve equal pay, Article 2 requires that Parties to the convention must implement domestic laws, apply regulations on wage determination and/or support collective agreements between workers' and employers' organisations in order to promote and ensure the application to all workers of the principle of equal remuneration for men and women workers for work of equal value.

Despite Nigeria's ratification of this instrument, gender-based discrimination remains pervasive across the Nigerian labour market, affecting virtually all sectors and levels^[10]. Although the National Industrial Court upheld the principle of equal pay for equal work in *Uzo Ejekwumadu v Blue Arrow TSW Limited*^[11], in present-day Nigeria, legal, cultural, and social barriers continue to obstruct women's right to work and hinder the achievement of wage parity with their male counterparts.

ii. Discrimination Convention (Employment and Occupation) 1958 (No 111)

This Convention has been described as one of the eight fundamental ILO conventions on the protection of labour standards. Article 1 of the Convention forbids distinction, exclusion or preference based on race, colour, sex, religion, political opinion, national extraction, or social origin. Under Article 3, Parties to the convention are required to set up and align national policies to guarantee equality, to enact such legislation and to promote such educational programmes. The purpose is, to secure the acceptance and observance of the policy through *inter alia*, strong cooperation with workers' and employers' organisations as well as the promotion of educational programmes.

Despite the ratification of the above-mentioned ILO Conventions, Nigerian institutions do not sufficiently protect the citizens from discrimination in the workplace as such; incidents of inequality and discrimination are myriad, multifarious and multidimensional^[12]. This is fully analysed under the various forms of Discrimination in employment below.

iii. The United Nations Convention on the Rights of Persons with Disability (CRPD), 2006

The purpose of the convention stated in Article 1, is to 'promote, protect, and ensure the full and equal enjoyment of all human rights and fundamental freedoms by people with disabilities and to promote respect for their inherent dignity.' Article 3 contains the general principle of non-discrimination against persons with disability while Article 27 mandates Member States to acknowledge the rights of persons with disabilities to work on an equal basis with others. Under Article 9, Member States must ensure the protection and promotion of the right to work, including for individuals who acquire a disability during employment.

This requires adopting appropriate measures, including legislative actions, to prohibit discrimination based on disability in areas such as recruitment, job retention, career advancement, and safe and healthy working conditions. Furthermore, Member States must safeguard the rights of persons with disabilities to employment and ensure equitable access to public utilities.

Article 4 places obligation on State Parties to ensure and promote the full realization of all human rights and fundamental freedoms for all persons with disabilities by abolishing existing legislations impeding these rights and adopting new legislations for the furtherance of these rights.

b. National Anti-Discrimination Laws

The Nigerian Constitution includes broad provisions prohibiting discrimination; however, it does not explicitly address workplace discrimination. Additionally, there is no comprehensive legislation specifically focused on employment or workplace discrimination in Nigeria. Nonetheless, key anti-discrimination laws will be examined in the sections that follow:

i. Constitution of the Federal Republic of Nigeria, 1999 (as amended)

Although the Nigerian Constitution does not explicitly prohibit employment or workplace discrimination, its broad anti-discrimination provisions can be interpreted to extend to the employment sector. Section 42, in particular, guarantees freedom from discrimination and states the following:

1. (1) A citizen of Nigeria of a particular community, ethnic group, place of origin, sex, religion or political opinion shall not, by reason only that he is such a person—
 - a. Be subjected either expressly by, or in the practical application of, any law in force in Nigeria or any executive or administrative action of the government, to disabilities or restrictions to which citizens of Nigeria of other communities, ethnic groups, places of origin, sex, religion or political opinions are not made subject; or
 - b. Be accorded either expressly by, or in the practical application of, any law in force in Nigeria or any such executive or administrative action, any privilege or advantage that is not accorded to citizens of Nigeria of other communities, ethnic groups, places of origin, sex, religion or political opinions.
2. No citizen of Nigeria shall be subjected to any disability or deprivation merely by reason of the circumstances of his birth.
3. Nothing in subsection (1) of this section shall invalidate any law by reason only that the law imposes restrictions with respect to the appointment of any person to any office under the State or as a member of the armed forces of the Federation or member of the Nigeria Police Forces or to an office in the service of a body corporate established directly by any law in force in Nigeria.

Section 15 (2) reinforces the constitutional freedom from discrimination on the grounds of place of origin, sex, religion, status, ethnic or linguistic association or ties while section 16 (2) (d) directs the State to ensure the provision

for all citizens 'suitable and adequate shelter, ...food, reasonable national minimum living wage ...and unemployment, sick benefits and welfare of the disabled.'

Under Nigeria's social objectives, Section 17 (1) and (2) of the Constitution establishes the state's social order as one founded on freedom, equality, justice, obligations, and opportunities. Furthermore, Section 17 (3) (a) stipulates that all citizens, without discrimination, must have the opportunity to secure adequate means of livelihood and suitable employment. A combined reading of these provisions suggests that the Constitution offers protection against employment discrimination in Nigeria.

However, the Constitution does not explicitly mention 'disability' in its anti-discrimination clauses. Nevertheless, Section 42 has been instrumental in inspiring other national legislations, such as the Discrimination Against Persons with Disabilities (Prohibition) Act, 2018, the Trade Unions Act, and the HIV and AIDS Anti-Discrimination Act ^[13].

A significant challenge is that under Section 42(1) of the Nigerian Constitution, the protection against discrimination is limited to Nigerian citizens. This implies that foreign nationals residing in Nigeria are not afforded the same protection from discrimination. The criticisms against the constitutional provisions were aptly captured by Dakas when he posited that the provisions generate several critical issues, in that, firstly, its provisions are restricted to Nigerian citizens. Sections 15, 16 and 17 of the Constitution, though expressly made non-justiciable, provide in similar terms. However, Dakas rightly contended in this aspect that the African Charter on Human and Peoples' Rights 1981 ^[14] complements the Nigerian constitutional regime on human rights and addresses some of its limitations in the context of non-discrimination. For instance, Article 15 of the Charter guarantees 'the right to work under equitable and satisfactory conditions and...equal pay for equal work. Secondly, there is no specific reference to non-discrimination on the basis of HIV or other health status. Thirdly, Dakas argued that the phrase 'or any executive or administrative action of the government' in section 42 (1) (a) literally construed, targets only discrimination in the public realm. Dakas concluded that from a human rights prism, the Nigerian Constitution does not meet the minimum core requirements of a general equality clause ^[15].

ii. The Labour Act, Cap. L1, Laws of the Federation of Nigeria (LFN) 2004

The Labour Act is the major legislation that regulates the employment of persons in Nigeria. Under the Act, there are two broad categories of employees in Nigeria: 'Workers,' who are defined in section 91 of the Labour Act as those 'who are generally employees who perform manual labour or clerical work'; and 'Employees' who perform administrative, executive, technical or professional functions (referred to as 'Non-Workers'). The Act prescribes the minimum terms and conditions of employment and is limited in its scope as it applies only to Workers. The terms and conditions of employment of Non-Workers are primarily subject to the terms of their respective contracts of employment ^[16]. The other laws, which regulate the employment of persons in Nigeria, do not make a distinction between different categories of employees.

iii. HIV/AIDS (Anti-Discrimination) Act 2014

Under section 3 (1) of the Act, people living with or affected by HIV or AIDS have a right to freedom from discrimination on the basis of their real or perceived HIV status concerning access to and continued employment, conditions of employment, employment benefits, comprehensive health services, education, use of public facilities and other social services, provided by the employer, individual community, government or any other establishment. Under section 5 (1), No individual, community, institution, employer or employee shall discriminate, directly or indirectly, against any person on the basis of the person's HIV status.

The Lagos State government also adopted the Protection of Persons Living with HIV and Affected by AIDS Law, Cap. P11, Laws of Lagos State, 2015. Under this law persons living with HIV/AIDS in Lagos State are guaranteed rights at work places including the right to gainful employment in private/public establishment, if qualified and vacancy exists; freedom from unlawful termination of employment because of HIV status; nondiscrimination/segregation in workplace as well as Right to non-compulsory HIV test ^[17].

In the National Industrial Court case of *Emmanuel Ejiogu Onuhikemi v Smridu Nigeria Ltd* ^[18], based on the antidiscrimination provisions of the Constitution, Lagos State Protection of Persons Living with HIV and Affected by AIDS Law 2007, the African Charter on Human and Peoples' Rights, the ILO Discrimination (Employment and Occupation) Convention No. 111, the court found that the respondent had discriminated against the applicant based on his HIV status as that was the reason he was relieved of his job unlike others not found to be HIV positive.

iv. Discrimination Against Persons with Disabilities (Prohibition) Act 2018

Section 28 of the Act prohibits discrimination against persons with disabilities in employment matters. It mandates employers to provide reasonable accommodation to enable persons with disabilities to work on an equal basis with others, provide inclusive recruitment practices, and promote equal access to employment. Section 29 stipulates a 5 percent employment quota for persons with disabilities in all government establishments. This provision aims to ensure that persons with disabilities have access to public sector employment opportunities but does not, make similar provision for their employment in the private sector.

The aforementioned provision is complemented by the National Policy on Disability (NPD) of 2012, which offers a strategic framework for addressing the diverse needs of persons with disabilities throughout Nigeria. The NPD establishes a foundation for promoting inclusivity and empowering individuals with disabilities, ensuring access to education, healthcare, and equal employment opportunities, thereby supporting their success in the workplace.

Despite the foregoing, unemployment rates among persons with disabilities are almost double that of the general population, owing to attitudinal, mobility-related, technological, and physical barriers (lack of accessible workplaces). Assistive devices are expensive and not easily available, which limits the mobility and access to technology for persons with disabilities. In addition, many will experience frequent denial of job opportunities, employers' negatives attitudes, inappropriate job placement, lower expectations at work, and a lack of reasonable accommodation ^[19].

Forms of Employment/Workplace Discrimination

Various forms of discrimination persist in the Nigerian labour market despite the existence of national and international laws. These discriminatory practices create significant challenges for different groups, often hindering their ability to access employment opportunities. The major forms of discrimination that will be considered in this article are as listed below:

i. Employment Discrimination Based on Gender

Gender discrimination involves any distinction, exclusion, or restriction based on gender that impairs or nullifies the recognition, enjoyment, or exercise of human rights and fundamental freedoms^[20]. This form of discrimination can be direct or indirect. Direct gender discrimination occurs when an individual is treated less favourably than someone of the opposite sex solely because of their gender. Indirect gender discrimination, on the other hand, happens when a seemingly neutral job requirement or condition disproportionately disadvantages a specific group, with an underlying intent to discriminate against that group^[21].

The Nigerian society is predominantly patriarchal, a hallmark of traditional societal structures. Patriarchy establishes a framework wherein social relations, underpinned by a material foundation, enable men to dominate women^[22]. Consequently, the concept of gender equality in employment is largely alien to Nigerian native laws and customs. This is evident in workplace policies that tend to favour men over women.

As a result, women often find themselves inadequately protected by legislation. Where provisions are made, they are frequently insufficient to address women's legal needs comprehensively, leaving them vulnerable^[23].

Organisations and employers, particularly within the private sector, are generally more hesitant to recruit women. When employed, women typically earn less than men with comparable educational qualifications and, in some cases, even less than men with lower qualifications^[24]. In the banking sector, there is a notable salary disparity between male and female bank managers. Female managers often express greater dissatisfaction with their remuneration compared to their male counterparts, highlighting a pervasive inequality in earnings^[25].

A major challenge is that many laws discriminate against women in employment in Nigeria. An example is the Nigerian Police Act^[26]. Regulation 124 of the Act provides that:

a woman police officer who is desirous of marrying must first apply in writing to the Commissioner of Police for the State Police command in which she is serving, requesting permission to marry and giving the name, address, and occupation of the person she intends to marry. Permission will be granted for the marriage if the intended husband is of good character and the woman police officer has served in the Force for a period of not less than three years.

No such provision exists within the Act for men.

Furthermore, under Regulation 127 of the Police Act above, 'an unmarried woman police officer who becomes pregnant shall be discharged from the Force, and shall not be re-enlisted except with the approval of the Inspector-General.' This is not the same with unmarried male police officers who can impregnate any woman without any repercussion.

These provisions are clearly against the provision of section 42 of the Constitution that prohibits discrimination on all grounds including gender (sex). Although the court has declared Regulation 124 illegal in the case of *Women Empowerment and Legal Aid (WELA) v. Attorney General of the Federation*^[27], the provisions of the Police Act is yet to be amended to reflect the decision in this case.

The provision of section 127 was recently challenged at the Nigerian Industrial Court in the case of *Miss Omolola Olajide v The Nigerian Police Force & 2 Ors*^[28]. Here, the court decided in favour of the claimant. In that case, the claimant being unmarried, was dismissed because she became pregnant while in service contrary to Regulation 127 of the Police Act. Upon the consideration of submissions by both counsels, the court noted the definition of discrimination as provided in section 42 of the Nigerian Constitution and the Discrimination (employment and occupation) Convention No.111 of 1958. The court accordingly holds that the provision of section 127 of the Police Act and Regulation 127 of the Nigerian Police Regulations which applies to unmarried women police officers getting pregnant while in service but does not apply to unmarried male police officers impregnating females while they are in service is discriminatory and in contravention of both sections 42 of the 1999 constitution (as amended) and Article 2 of the African Charter on Human and People's Rights. Thus, the court declared section 127 of the Police Act and Regulation 127 null and void and struck it down having also contravened the supremacy clause in section 1(3) of Nigerian constitution.

Similarly, the National Drug Law Enforcement Agency Act (NDLEA), 2004, in Article 5(1) of its NDLEA Order, 2002, states that 'all female applicants shall be unmarried at the point of entry and shall upon enlistment remain unmarried for a period of not less than two years'. Article 5(2) also provides that, 'all unmarried female members of staff that wish to marry shall apply in writing to the Chairman/Chief Executive, asking for permission, stating details of the intended husband.' This amounts to pure discrimination against women as the same condition is not imposed on men.

The Labour Act also discriminates against women in employment. Under section 55 (1) of the Act, a woman cannot be employed on night work in a public or any agricultural undertaking except as in section 55 (2) of the Act, relating to women employed as nurses in any public or private industrial undertaking or in any agricultural undertaking, and women managers who are not engaged in manual labour. Under Section 56(1) of the Labour Act women are prevented from engaging in any underground work in any mine except women managers who do not perform manual labour, women employed in health and welfare services, women undergoing training in underground parts of the mine and women who enter occasionally for a non-manual occupation as provided under section 56 (2). Under section 57, the Minister may make regulations prohibiting or restricting the employment of women in any particular type or types of industrial or other undertakings. These laws contradict the provision of section 42 of the Constitution that prohibits discrimination based on gender. This suggests the need to review the Labour Act to be in conformity with the Constitution. This can be also achieved by granting legislative approval to the proposed Labour Act (Amendment) Bill, 2016 which seeks to delete

the foregoing discriminatory sections in the Labour Act 2004^[29].

Women encounter considerable obstacles to engaging in democratic politics in Nigeria, largely due to entrenched gender inequality^[30]. A political culture characterised by sexism and patronage systems, coupled with economic and domestic disparities along gender lines and the widespread issue of violence against women and girls (VAWG), significantly restricts their participation in leadership and decision-making roles. The BORGEM report indicates that the proportion of women in elected positions increased slightly between 1999 and 2007, from an average of 2.3% across both houses of the legislature to 7.8% but these small gains had stopped by 2011. That as of the 2015 election, Nigeria had 20 women out of 359 in its lower house (5.6%) and seven out of 109 in its upper house (6.4%). This puts the country 180 in the world. Following the 2019 general elections, women constituted 7.3% of the Senate and 3.1% of the House of Representatives. No state governor is a woman and the 2023 statistics are not different^[31]. The statistics show very low women participation in decision making in the country.

ii. Employment Discrimination Based on Age

Age discrimination/ageism, is a significant major challenge and a societal problem that is deeply entrenched in Nigeria affecting employment opportunities particularly for older workers. Organisations include 26-27 years as their mark and still seek early retirement from individuals^[32]. To cope with large volume of applications received, many organisations impose age ceilings which have further reduced over the years from around 28 – 30, to the 24 – 26 range^[33]. Nigerian banks place emphasis on the ages of job applicants and employees particularly at the entry level. Military and security agencies, as well as paramilitary agencies, normally fix a maximum of 30 years for applicants seeking employment as officers^[34]. This implies that candidates outside the stated age brackets are not qualified for employment because of their age.

In developed economies, age remains an irrelevant factor when making employment decisions because age is not a good predictor of job performance^[35]. This justifies the need to discourage the inclusion of age limits in job advertisement in Nigeria.

In Nigeria, the Labour Act and other regulatory laws make no specific provision to prohibit age discrimination in the workplace. However, this can be implied from section 42 (2) of the Constitution of the Federal Republic of Nigeria, CFRN 1999 (as amended) which prohibits the subjection to any disability or deprivation by reason of the circumstances of birth. However, age which is a circumstance of birth has been a barrier for certain group of persons in the country to be gainfully employed into governmental and non-governmental agencies.

The Bill (officially known as 'Bill for an Act to Eradicate the Age Discrimination against Job seekers in Federal Government Agencies; and for Related Matters (HB. 1502)' was approved by the House of Representatives in Nigeria. It prohibited the Federal Government Ministries, Agencies and Departments from discriminating against job seekers on the basis of their age. Section 3 (1) and (2) of the bill prohibits employment discrimination of citizens into any of the agencies of the federal government, on grounds that he/she is above thirty (30) years of age'. Apart from this, no other

law supports anti age discrimination. By this bill, a job seeker above the age of 30 could not be gainfully employed as a Federal Government Personnel. In the same vein, individuals that are above the age of 30 are not qualified to serve the nation under the National Youth Service Corps scheme^[36]. This discriminates against those who would want to serve and possibly get retained in their primary place of assignment. It is therefore important that the Nigerian legislature enacts the Age Discrimination Bill into law to be fully enforced so that qualified Nigerians can have due access to employment.

iii. Employment Discrimination against People with Disabilities

Like every other person, people with disability suffer from one form of disability or the other which makes them a subject of discrimination even when it comes to employment in work place or consideration for appointment^[37]. Disability discrimination in employment refers to treating individuals unfairly due to their disability, perceived disability, or association with someone who has a disability. This can manifest in various forms, including but not limited to: discrimination in recruitment, hiring, firing, training, job assignments, promotions, compensation, benefits, leave, or layoffs. It may also involve harassment based on an employee's disability, inquiring about an applicant's medical history or requiring medical examinations during the recruitment process, or maintaining a workplace with significant physical barriers that restrict accessibility for individuals with disabilities. Furthermore, failing to provide reasonable accommodations to employees with physical or mental disabilities that enable them to perform their job duties also constitutes disability discrimination^[38].

The government of Nigeria domesticated the international convention prohibiting the discrimination of disabled persons into local law including the Constitution of Nigeria in section 16 (2) (d) among others. However, this is not generally justiceable/enforceable being a part of Chapter II on the Fundamental Objectives and Directive Principles of State Policy based on section 6 (6) of the Constitution as was held in *Olubunmi Okogie & Others v. Attorney-General of Lagos State*^[39]. The justiceable section 42 of the Constitution also prohibits discrimination although it does not specifically incorporate disability as one of the prohibited grounds of discrimination. Constitutional review is hereby recommended in order to include disability as one of the prohibited grounds of discrimination so as to afford the disabled right to seek redress when there is a breach.

Despite legislative advancements, individuals with disabilities in Nigeria continue to encounter significant stigma, discrimination, and obstacles in accessing essential social services and economic opportunities. These challenges extend beyond recruitment and placement, encompassing issues related to workplace accessibility. Many organisations lack specialised facilities, including accessible buildings, adaptive materials, and equipped vehicles, necessary to accommodate employees with disabilities effectively^[40]. Such practices contravene sections 67 and 68 of the Nigerian Disability Act, which explicitly prohibit employers from engaging in discriminatory practices against persons with disabilities within the workplace.

iv. Employment Discrimination based on HIV Status

HIV/AIDS in the last decade remains a major obstacle to employment security while discriminatory attitudes from employers and colleagues persist^[41]. Stigmatisation and discrimination constitute a major problem, tending to contribute more to unemployment/denial of work opportunity for people living with HIV than ill health arising from the diseases^[42]. The practice of mandatory HIV/AIDS testing, as part of pre-employment screening, is commonplace, preventing people living with HIV from entering or re-entering the labour market. For those employed, they could lose their jobs once their HIV status is known by their employer. Although recent developments in Nigerian legislation such as the federal HIV/AIDS Anti-Discrimination Act, 2014 and judicial decisions in 2012 and 2016 on discrimination on the basis of HIV status suggest a positive shift of the law to full protection of the rights of persons living with HIV/AIDS in Nigeria, particularly in the area of employment^[43].

The case of *Akinola v Ocean Marine Solutions Ltd*^[44] is about workplace employment discrimination/harassment based on health disability (HIV/AIDS). In that case, the court held that dismissal based on HIV-Positive Status Is unlawful. Also, the Lagos State High Court handed down a landmark judgment in the first ever HIV discrimination lawsuit, *Georgina Ahamefule v. Imperial Medical Centre & Dr. Alex Molokwu*^[45]. The court held that the termination of Georgina Ahamefule's employment by the Imperial Medical Centre on the ground of her HIV-positive status is illegal, unlawful and actuated by malice and extreme bad faith. That the defendants' action in subjecting the Plaintiff to HIV testing without her informed consent constitutes an unlawful battery on her while the defendants' action in not affording the Plaintiff pre-test and post-test counseling services constitute an unlawful negligence of a professional duty to the plaintiff.

This decision is considered to be a major victory for Georgina and for all those living with the HIV virus in the country. It is hoped that the decisions will be implemented by employers.

v. Employment Discrimination against People with Tribal Marks

In pre-colonial Nigeria, tribal markings were widely regarded as symbols of social status, beauty, and prestige^[46]. However, in contemporary times, these facial markings often influence the employment prospects of jobseekers, as employers enforce workplace policies dictating acceptable appearance standards. Many individuals with tribal marks attribute their inability to secure employment to these markings, frequently resorting to self-employment following repeated unsuccessful job interviews. This disparity is likely driven by employers' efforts to project a specific corporate image and cater for customer preferences, perpetuating inequality in the job market^[47].

vi. Discrimination against Lesbians, Gay, Bisexual, and Transgender (LGBT)

Some studies on sexual identity and gender expression have investigated the impact of sexuality in the workplace, especially how lesbian, gay, bisexual, and transgender (LGBT) employees fare in their workplaces, given the discrimination and hostility they face at work^[48]. It has been discovered that unlike some developed countries for

example the US, UK, and Europe where anti-discriminatory laws prohibit people and employers from discriminating against LGBT, there are laws that encourage direct discrimination in most parts of Africa^[49]. For example the Same Sex Marriage (Prohibition) Act was enacted in 2013 (SSMPA). Section 5 (1) of this Act imposes a sentence of 14 years imprisonment on anyone 'who enters into a same sex marriage contract or civil union' in Nigeria. This stems from the fact that in Nigeria, homosexuality is widely regarded as a 'taboo' due to religious, sociocultural beliefs, and political sentiments, resulting in systemic discrimination, social exclusion, and negative health outcomes for the LGBT community. Small-to-medium-sized enterprises (SMEs) are reportedly consistent in dismissing male sexual minorities, with gay men and lesbian women losing their jobs once their sexual orientation becomes known. Additionally, cases have been documented where HIV-positive gay men have been denied employment or dismissed after undergoing HIV testing during recruitment or work placements^[50].

These practices directly contravene the anti-discrimination provisions of the Nigerian Constitution particularly section 42 which unequivocally prohibits discrimination based on race, colour, religion, norms, ethnic origin, or sex. Laws criminalising LGBTQ practices are inconsistent with constitutional provisions. Under section 1(3), the Constitution is recognised as the supreme law of Nigeria, rendering any law or policy conflicting with it null and void to the extent of the inconsistency. Upholding the supremacy of the Constitution is essential to ensure that the LGBTQ community has equal access to employment and other opportunities, alongside all other citizens.

vii. Employment Discrimination based on Religion

Section 38 of the Nigerian Constitution guarantees all citizens the right to freedom of religion, by stating that: 'Every person shall be entitled to freedom of thought, conscience, and religion.' However, despite this constitutional safeguard, religious minorities often face discrimination in securing employment due to their faith. Religious extremists in positions of authority frequently exploit their power to profile and marginalise individuals of different faiths. For instance, there was a case involving a Muslim employee of the Niger Delta Power Holding Company (NDPHC) who was dismissed from his position and replaced by a Christian individual who lacked the requisite competence for the role. The dismissal was allegedly motivated by the Muslim employee's beard, which was deemed objectionable. Such actions not only violate constitutional rights but also perpetuate systemic discrimination in the workplace^[51].

It is important for employers to ensure that no employment practices discriminate directly or indirectly against individuals on the basis of their faith being contrary to constitutional provisions.

The foregoing shows that there is a wide gap between the antidiscrimination laws and actual practice.

Impact of Workplace/Employment Discrimination

Irrespective of the nature of discriminations, the results of the discriminations are negative to the developments in the organisation. According to Elei, Discriminations in workplace encourage boredom and anxiety. It changes the perspectives of the employees and makes them view the

simple task as difficult. He argued that when the arousal levels are equal to the performance quality the employees are motivated and produce at their best. When the anxiety level is very high, the performance quality declines and the employees feel anxious and less productive. Discriminations also promote disparities in the organisation and encourages hatred and disintegrations within the organization ^[52].

Strategies/Recommendations for Improvement

Further to the existing multiple forms of discrimination in Nigeria examined above, negative impact of discrimination on the employees and the organisation, the following recommendations are made as strategies for improvement:

a. Introduction of equal employment opportunity legislation

Legislation promoting equal opportunity in employment should be introduced to recognise and support vulnerable members of society. The aim would be to ensure equity by mandating affirmative action for groups who, due to their status, might otherwise be unable to compete on an equal footing with others in the workforce. This legislation is expected to establish provisions for equal employment opportunities at both federal and state levels, with designated authorities responsible for enforcing laws that prohibit workplace discrimination against employees and job applicants.

- b. There is a pressing need to review Nigeria's anti-discrimination laws to explicitly address the prohibition of discrimination in employment and the workplace. This review should include an amendment to section 42 of the Constitution to encompass protections against discrimination in employment, particularly in areas such as health (HIV status), disability, and tribal marks. Additionally, discriminatory provisions within the Labour Act, Police Act, NDLEA Act, and the Penal Code must be revised to better protect applicants and employees. Employers who violate these laws should face stringent penalties and punitive damages.
- c. Furthermore, internationally ratified conventions, such as those by the International Labour Organization (ILO) and the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), should be domesticated in line with the requirements of section 12 of the Constitution, ensuring that such treaties are enforceable and implemented within Nigeria.
- d. Organisations should establish policies, define clear objectives, and implement precise criteria to ensure that recruitment, selection, training, development, promotion, and advancement at all levels are based solely on qualifications, skills, and experience. They should also adopt inclusive policies and practices that actively promote workforce diversity by employing unbiased recruitment and hiring processes, setting diversity targets, and fostering inclusive work environments that value and respect individuals from all backgrounds. Such measures will help eliminate disparities in hiring requirements, differences in compensation, inequities in performance appraisals, and inconsistencies in promotion decisions, creating a fair and equitable workplace for all employees ^[53].
- e. Raising awareness and providing training are essential steps in addressing workplace discrimination. Employees should be educated about their right to non-

discrimination in employment and empowered to seek redress when these rights are violated. Employers must also recognise the detrimental impact of discrimination on employees and the workplace. Organising training sessions on diversity and inclusion can help to combat biases and stereotypes, and foster a more equitable and inclusive work environment.

- f. The government and other stakeholders must focus on empowering individuals and promoting equal opportunities. Implementing programmes that offer mentorship, skills training, and career development for marginalised groups can play a crucial role in bridging the disparities caused by discrimination ^[54].

Conclusion

Discrimination in the labour market remains a pervasive and multifaceted issue in Nigeria, with far-reaching negative consequences for individuals, organisations, and society at large. This article highlights various discriminatory employment and workplace practices commonly observed in Nigerian organisations, many of which violate the provisions of both international and national anti-discrimination laws, thereby infringing on the rights of affected individuals.

As noted by Leung, employers' understanding of equity in recruitment and workplace practices plays a crucial role in fostering inclusivity. This includes implementing systems and practices that ensure fair access to resources, opportunities for advancement, and equitable treatment of employees. Workplace equity is essential to organisational health, as it enhances company culture, employee satisfaction, and performance, while also promoting the development of cohesive and highly productive teams. By prioritising equity, organisations can create a more inclusive and dynamic work environment, benefiting both employees and the organisation as a whole ^[55]. Similar to the emphasis placed on diversity, equity, inclusion, and belonging (DEIB) in organisations within the United States, Nigeria should adopt and prioritise these practices to promote workplace and employment equity.

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