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Appraisal of the Challenges in the Implementation of National Minimum Wage Act, 2024

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Abstract

The enactment of the National Minimum Wage Act, 2024, signifies a significant advancement in Nigeria's labour policy, with the objective of improving the economic welfare of workers. Although the Act has ambitious objectives, it encounters substantial obstacles that impede its efficient implementation and achievement of its intended advantages. The main problem is the disparity between the legally mandated salary and the actual socio-economic circumstances, especially in areas with different economic situations and among firms with limited financial resources. This study rigorously examines the difficulties by employing a doctrinal approach, scrutinizing legal texts, statutes, and judicial judgments to assess the effectiveness of the Act's provisions and their conformity with Nigeria's commitments to international labour standards. The research explores the legislative structure of the Act, analyzing its methods of enforcement, the involvement of government entities, and the judicial interpretations that influence its execution. The results suggest that although the Act is a progressive measure, its implementation is hindered by insufficient legal provisions, ineffective administrative structures, and discrepancies in how the law is interpreted by the judiciary. The report also highlights a discrepancy between the salary mandated by the Act and global benchmarks, which raises concerns about whether the wage is sufficient to meet the fundamental requirements of workers. In order to tackle these problems, the report suggests implementing legal changes to bolster the enforcement of the Act, improve the capabilities of regulatory organizations, and regularly reassess the minimum wage to align with economic conditions. These elements are essential for the Act to effectively enhance the living standards of Nigerian workers and guarantee adherence to international labour responsibilities.

Keywords: National Minimum Wage Act, 2024, Labour Policy, Legal Analysis, Nigeria

1. Introduction

The National Minimum Wage Act, 2024, represents a significant milestone in Nigeria's efforts to enhance the economic welfare of its workforce. The Act, which raises the national minimum wage to ₦70,000, is designed to improve the standard of living for Nigerian workers, ensuring that they earn a wage that meets basic living costs. This legislative change reflects the government's response to growing economic pressures and the need to address widespread poverty and income inequality across the country. Despite the positive intentions behind the Act, its implementation has been met with substantial challenges. These challenges include variations in compliance across different sectors, particularly in small and medium-sized enterprises (SMEs) that struggle to meet the new wage requirements due to financial constraints. Furthermore, there is a significant disparity in the cost of living between urban and rural areas, which complicates the uniform application of the minimum wage across the country.

The doctrinal approach employed in this study allows for a detailed analysis of the legal framework surrounding the National Minimum Wage Act, 2024. By examining the statutory provisions, judicial interpretations, and relevant international labour standards, this research seeks to identify the core issues that impede the effective implementation of the Act. Additionally, the study explores the extent to which the Act aligns with Nigeria's international obligations, particularly regarding the adequacy of the wage in providing a decent standard of living for workers.

Even if this legislation is progressive, there are serious concerns about its enforceability and the efficiency of the existing institutional and legal frameworks. The goal of this study is to present a thorough analysis

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of these difficulties, along with insights and suggestions that could improve the Act's execution and guarantee that its goals are met.

2. Implementation of National Minimum Wage Act, 2024

The bare minimum of compensation that an employer must give employees for labour completed within a specific time frame is known as a minimum wage. It is imposed by law or a governing body to guarantee workers a minimal standard of living and to stop labour exploitation. The precise minimum wage can differ greatly between nations and areas, and it can also be changed on a regular basis to take inflation and changes in living expenses into consideration. Over 90% of the member states of the International Labour Organisation (ILO), including Nigeria, have minimum wages.[1]The International Labour Organization (ILO) highlights the role of minimum salaries in ensuring fair labour standards and combating poverty and inequality. Minimum wages serve as a vital instrument to protect workers from overly low compensation and promote a fair distribution of income. The ILO promotes for the setting of minimum wages through an inclusive process that comprises talks with social partners, including employers' and workers' organizations. This collaborative approach ensures that the salary levels determined are fair and takes into account the requirements of workers and their families as well as economic issues like productivity and employment levels.

The Minimum Wage Fixing Convention, 1970 (No. 131), in particular, captures the ILO's position on minimum wages[2]. This convention establishes a framework for determining minimum wages, stressing that the procedure must take into account the requirements of economic development, the cost of living, social security benefits, and the needs of workers and their families. It emphasises how crucial it is to create minimum wage structures that are adaptable to shifting market situations. The success of minimum wage laws depends on their effective enforcement. The deployment of strict inspection protocols and sanctions for noncompliance are recommended by the ILO. It also emphasises the necessity of systems that let employees report infractions without worrying about facing reprisals. This guarantees that workers receive their just pay and that the laws are upheld.

To be relevant and effective, minimum wages must be reviewed and adjusted on a regular basis. To make sure that minimum wages continue to give workers a respectable level of living, the ILO advises that periodic assessments take into consideration inflation rates, shifts in the cost of living, and other economic factors[3]. This dynamic strategy assists in addressing the economic realities and retaining the protective effect of minimum wages. While there are worries about the possible deleterious impact of minimum wages on employment, the ILO contends that well-designed minimum wage rules can lead to good outcomes. These include higher productivity, lower employee turnover, and a more equitable allocation of revenue. The ILO encourages countries to combine the need for fair salaries with potential job implications by adopting intelligent and context-specific minimum wage schemes[4].

Conventions and policies on minimum wages by the ILO show generally their important part in advancing social fairness, economic stability, and better living conditions. Convention on Minimum Wage Fixing, 1970 (No. 131)[5], proposing an inclusive, fair, and adaptable strategy to guarantee the protection and welfare of workers worldwide, sets forth the international standards for the establishment, adaptation, and execution of minimum wages.

The Minimum Wage Act 2024 was enacted after significant consultation with the government, labour unions, and the commercial sector. It demands that no worker in Nigeria earn less than N70,000 per

[1] A Ayobami 'Review of Nigeria's Minimum wage from 1981 to 2024' <https://thenationonlineng.net/full-list-review-of-nigerias-minimum-wage-from-1981-to-2024/> accessed 12 July 2024.
[2]Minimum Wage Fixing Convention, 1970 (No. 131)
[3] A Marinakis 'The Role of ILO in the development of minimum wage'ILO century project 4 May, 2009.
[4]Ibid
[5] ILO Minimum Wage Fixing Convention, 1970 (No.131).

month, with a reassessment every three years. The government also offered infrastructural support to reduce the increasing wage burden for employers[6].

The National Minimum Wage Act of 2024 must be implemented in a number of crucial ways in order for its intended advantages to be realised and for it to be effectively enforced. The elements and procedures for putting the Act into practice are described in this section.

2.1. Legislative Process and Approval

The Nigerian National Assembly's two houses debated and approved the Act following lengthy stakeholder engagements and discussions with labour unions, companies, and government organizations. President Bola Tinubu signed the bill into law, formally establishing N70,000 as the monthly national minimum salary[7].

2. 2. Government and Labour Union Collaboration

To resolve issues and negotiate the pay raise, the administration collaborated extensively with the Trade Union Congress (TUC) and the Nigeria Labour Congress (NLC). The procedure necessitated numerous meetings and discussions, emphasising the value of social discourse in the execution of policy.[8]

2. 3. Public Awareness and Communication

In order to effectively execute the new wage policy, companies, employees, and the general public needed to be informed through extensive communication initiatives. This included distributing informational papers, holding public announcements, and running media campaigns to make sure everyone involved knew what their responsibilities and rights were under the new law.

2.4. Regulatory Framework and Enforcement Mechanisms

A regulatory structure was built by the government to oversee adherence to the minimum wage legislation. To carry out routine workplace audits and inspections, this involved forming a specific task force and bolstering already-existing labour inspection units. Penalties for non-compliance were another aspect of the enforcement procedures designed to make sure firms followed the new wage standards.

2.5. Supporting Policies and Programs

The government established complementing policies and programs to aid in the implementation of the minimum wage. These included steps to boost output, lower operating expenses for companies, and offer financial assistance to small and medium-sized firms (SMEs) that would find it difficult to absorb the pay hike. In order to lower worker transportation expenses, the government also prioritised infrastructure improvements, such as the deployment of buses powered by compressed natural gas (CNG).[9]

2. 6. Periodic Review and Adjustment

The Act stipulates that the minimum wage would be reviewed every three years to reflect changes in inflation and the state of the economy. This is intended to guarantee that the minimum wage stays relevant and that workers continue to enjoy a respectable level of living. Stakeholders are consulted during the review process, and economic data are evaluated to identify necessary improvements.

2. 7. State and Local Government Involvement

Nigeria's federal structure means that state and local governments are essential to carrying out the minimum wage law. They are in charge of making sure that rules are followed inside their borders and helping out the workers and companies in the area. To ensure consistent implementation across the nation, coordination between federal, state, and local agencies is necessary.

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[6]<http://punchng.com> accessed 12 July 2024
[7]Ibid.
[8]<https://pmnewsnigeria> accessed 12 July 2024
[9]Ibid.

2. 8. Monitoring and Evaluation

For the purpose of determining the effects of the minimum wage rise and addressing any new issues, ongoing observation and assessment are essential. The government regularly assesses the efficacy of the policy and makes any required revisions in coordination with labour unions and other stakeholders. This procedure guarantees that the policy accomplishes its intended aims and helps to discover areas for improvement.

3. Relevant Statutory Provisions and Judicial Interpretations Concerning the National Minimum Wage Act, 2024

3.1 The National Minimum Wage Act, 2024

Section 1[10]: This provision requires employers, whether public or private, to pay their employees at least the national minimum wage of ₦70,000 per month. This section is the cornerstone of the Act; it mandates compliance across all industries.

Section 3[11]: Establishes a National Minimum Wage Committee, which will be in charge of periodically assessing the minimum wage. This section also describes the procedures for making pay adjustments while taking into account economic conditions, cost of living, and other pertinent aspects.

Section 8[12]: Enables the Federal Ministry of Labour and Employment to monitor and enforce compliance with the Act's provisions. This section also discusses the penalties for noncompliance, which include fines and jail for negligent employers.

Section 10[13]: The Act specifies that it supersedes any state law that sets a lower minimum wage, maintaining national uniformity. However, states can set a greater minimum wage if they want.

3.2 Implications for the Implementation of the 2024 Act

The statutory clauses and court interpretations outlined above emphasise the National Minimum Wage Act of 2024's binding nature, as well as employers' legal responsibility to comply. The courts have consistently maintained the minimum wage as an employee's fundamental entitlement. Furthermore, the Act's supremacy over state laws ensures that pay standards are consistent across the country, while states may set greater salaries if they have the resources to do so.

However, the effectiveness of these statutory provisions and judicial rulings depends heavily on the capacity of enforcement agencies and the willingness of employers to adhere to the law. The jurisprudence suggests that the courts will continue to protect workers' rights under the Act, but the practical challenges in enforcement remain a significant hurdle to achieving full compliance.

3.3 Minimum Wage and Compliance with International Standards

Initially, there were concerns and skepticism about setting a universal minimum wage. The British proposal during the 1927 Conference clarified that the aim was not to set specific wage levels but to establish wage-fixing mechanisms tailored to individual countries' circumstances, particularly for industries with poor working conditions[14].The discussion highlighted several contentious points, such as whether wages should consider a "living wage" standard, which prioritizes workers' needs, or be based on the industry's capacity to pay. Another debate centered on whether the minimum wage should account for the needs of the worker's entire family or just the individual worker[15].

[10] Section 1, National Minimum Wage Act, 2024.
[11] Section 3, Ibid.
[12] Section 8, Ibid.
[13] Section 10, Ibid.
[14]A Marinakis, 'The Role of ILO in the Development of Minimum Wage"ILO, Santiago
[15]Ibid.

Ultimately, the 1928 Convention No. 26 was enacted, which defined fundamental principles for minimum wage setting without specifying precise wage amounts. This was viewed as an important, however cautious, move toward improving working conditions internationally, allowing for flexibility based on national contexts. The Convention played an essential influence in developing labour policy, especially in nations where collective bargaining was underdeveloped[16].

In light of this, Nigeria's new minimum wage, while a step forward, must be compared to historical worldwide standards. The Act's provision for salary reviews every three years and attempt to raise earnings to 70,000 are excellent steps. However, organisations such as the Socio-Economic Rights and Accountability Project (SERAP) have criticised the salary for falling short of what is called a "living wage" under international human rights treaties. As a result, while Nigeria's approach is consistent with the flexibility permitted by Convention No. 26, additional adjustments may be required to ensure that it satisfies the broader purpose of providing a wage that provides a dignified standard of living. Nigeria's National Assembly has enacted the 2024 Minimum salary Act, raising the national minimum salary from ₦30,000 to ₦70,000. However, there are doubts over whether the new salary satisfies international standards. The Socio-Economic Rights and Accountability Project (SERAP) has underlined that while the rise is a significant beginning, it still falls short of international responsibilities addressing workers' rights to an adequate living wage (https://serap-nigeria.org, accessed 16/6/2024). According to SERAP, the new pay should reflect the cost of living and provide workers with a dignified life, in accordance with international human rights treaties ratified by Nigeria. They have encouraged the government to ensure that any proposed minimum wage corresponds with these norms and have threatened legal action if the measure does not fulfil international requirements[17]In summary, the 2024 Minimum Wage Act represents a noteworthy advancement; yet, to guarantee complete adherence to global labour norms, the Nigerian government needs to consider implementing more modifications.

4. Challenges of the New Minimum Wage

4.1 Economic Constraints:

Nigeria's economy is now facing considerable issues, including high inflation, unemployment, and slow economic growth. These issues combine strain the financial capabilities of businesses, particularly small and medium enterprises (SMEs), which make up a substantial component of Nigeria's economy. SMEs often operate on thin profit margins and are more susceptible to economic fluctuations[18]. As a result, many of these businesses struggle to absorb the increased labour costs mandated by the new minimum wage. The economic instability exacerbates their difficulties in complying with the wage structure, leading to potential layoffs, reduced hiring, or even business closures. The broader economic context, marked by inadequate infrastructure, fluctuating energy costs, and limited access to finance, further complicates the ability of SMEs to sustain the new wage requirements.[19]

4.2 Administrative Inefficiencies:

The effectiveness of any labour policy, including the National Minimum Wage Act, heavily depends on the administrative capacity of government agencies tasked with its enforcement. In Nigeria, these agencies often suffer from inefficiencies rooted in bureaucratic delays, inadequate funding, and widespread corruption. The enforcement of the new minimum wage is particularly challenging in such an environment, where monitoring compliance is inconsistent, and penalties for non-compliance are either not enforced or are circumvented through bribery. These administrative weaknesses not only undermine the intent of the legislation but also perpetuate a culture of impunity among employers, who may view

[16]Ibid.
[17]Ibid.
[18]D.N Nnachi & Ugochukwu. E "Unemployment; Inflation and Economic Growth: Evidence from Nigeria" *African Journal of Politics and Administrative Studies AJPAS*; 16(2): 762-783 2023
[19] V Ximena Delcarpio and M. laura Pabon "Implications of Minimum Wage increases on labour Market Dynamics Lessons for emerging Economics" *Social Protection and Labour Global Practice Group* April 2017.

non-compliance as a low-risk option.High levels of non-compliance have detrimental effects not just for workers and their families, whose rights are violated, but also for conforming employers, since it gives non-compliant firms an unlawful cost advantage[20].Furthermore, the absence of coordinated efforts between the federal and state governments complicates the enforcement process, resulting in inconsistent application of the law across the country.

4.3 Regional Disparities:

Nigeria's economic landscape is immensely diversified, with considerable differences in wealth, development, and revenue creation between areas. States with significant internal resources or higher federal allocations are better positioned to implement the new minimum wage. In contrast, poorer states, particularly those in the northern and some eastern regions, may struggle to meet the wage requirements due to their weaker economic base and limited financial resources. This disparity not only challenges the uniform application of the law but also risks deepening regional inequalities. Workers in less affluent states may face delays in receiving the new wage, or their states may seek exemptions or reductions in the mandated amount, thereby undermining the principle of a national minimum wage.Many Nigerian states struggle with limited fiscal capacity, primarily due to low internally generated revenue (IGR) and over-reliance on federal allocations. Implementing a higher national minimum wage can strain their budgets, potentially leading to delayed salary payments or reductions in workforce.[21]

4.4 Sectoral Compliance:

The impact of the National Minimum Wage Act varies across different sectors of the economy. While formal sectors such as banking, oil and gas, and telecommunications are likely to comply with the wage increase due to their stronger financial standing and regulation, the informal sector presents a significant challenge. The informal sector, which employs a large portion of Nigeria's workforce, often operates outside the purview of government regulation and lacks formal wage structures. As a result, enforcing the new minimum wage in this area is very challenging. Many workers in the informal economy may not receive the advantages of the wage hike since businesses in this sector are either unaware of the law or unwilling to execute it owing to their own financial restrictions[22].

4.5 Inflationary Pressures:

The possibility for inflation to rise is a major worry when considering minimum wage increases. If businesses, particularly those with tight profit margins, respond to wage increases by raising prices to meet their increased labour expenses, the overall cost of goods and services may rise[23]. This inflationary effect can erode the real value of the wage increase, lowering workers' purchasing power and cancelling out the intended benefits of the new minimum wage. Furthermore, in an economy like Nigeria, where inflation is already a problem, any further price increases can intensify the financial strain on consumers, particularly those with lower incomes. The problem is to strike a balance between fair salaries and price stability, while ensuring that wage increases do not cause broader economic instability. These concerns emphasise the complexities of implementing the National Minimum Wage Act, 2024, and the necessity for tailored initiatives to successfully address these issues.

4.6 Attitudes of State Governors:

The attitude of state governors presents one of the main obstacles to the National Minimum Wage Act's execution. Many governors have expressed reluctance or outright refusal to implement the minimum wage, citing financial constraints. The federal system in Nigeria allows states considerable autonomy, and some governors argue that their states lack the financial capacity to pay the increased wages, especially

[20]<https://www.ILO.org>How to enforce minimum wages.
[21]<https://thenationline.ng.net> accessed 14 July 2024.
[22]Ibid.
[23] Buisness Insiders "A $15 Minimum Wage would cause fast food chains to raise proces or put workers out of jobs, a former M C Donald's CEO said." <https://www.buisnessinsider.com/15 minimum-wage-mcdonalds-raise-prices-lose-cut-job-food-2021-6>

given other competing priorities like infrastructure development and social services. As of now, only a few states in Nigeria have complied with the implementation of the National Minimum Wage Act of 2024. Specifically, Lagos and Edo states have not only set up implementation committees but have also started paying the new minimum wage of ₦70,000. Lagos has been paying its workers ₦77,000, which is above the stipulated minimum wage, while Edo began paying ₦70,000 even before the law was signed. Additionally, states like Adamawa have commenced payments starting in August 2024. Other states, such as Kano, Kwara, Ogun, Borno, Jigawa, Ondo, and Abia, have set up implementation committees but have not yet started paying the minimum wage[24]. The inability or unwillingness of some states to implement the minimum wage has led to disparities across the country, with workers in some states earning significantly less than their counterparts in others. This reluctance is often rooted in political considerations, as governors may fear backlash from other sectors or pressure from the political elite who may oppose the wage increase.

4.7 Application to Non-Civil Service Workers:

Another challenge is the application of the minimum wage to workers outside the civil service. While the Act is generally enforced within the civil service, its implementation is less consistent for workers in other sectors. This is especially true for employees of small enterprises or informal industries when enforcement systems are lacking or non-existent.[25]The informal sector accounts for a sizable component of Nigeria's economy, and workers in this sector sometimes lack official employment contracts, making it difficult to enforce the minimum wage. In fact, many firms in the non-civil service industries skirt the minimum wage standards by hiring workers on a casual or part-time basis, evading the legal duty to pay the full rate. This contradicts the aim of the law and encourages wealth disparity. The lack of effective monitoring and enforcement by competent authorities exacerbates the situation, making many workers exposed to exploitation.

4.8 Applicability to Workers Not in Organized Private Sectors:

The challenge of implementing the minimum wage for workers outside of organised business industries is also considerable. Organised commercial sectors, such as large enterprises and businesses, are more likely to comply with the minimum wage because of their organised workplaces and the presence of labour unions. Workers in unorganised or less formal sectors, on the other hand, are much less likely to comply. These sectors include small and medium-sized businesses (SMEs), domestic workers, and other informal employment arrangements. Workers in these industries have little bargaining power and are frequently unable to advocate for their rights due to a lack of unionisation. Furthermore, the fear of losing a job in a competitive labour market discourages workers from seeking legally necessary salaries. In many situations, these workers are paid significantly less than the minimum wage, demonstrating a huge disparity between the law and its practical application.

4.9 Corruption:

Corruption is another major impediment to the execution of the National Minimum Wage Act. Corruption can take several forms, including misappropriation of monies meant for wage payments, bribing of inspectors to ignore non-compliance, and manipulation of payroll systems.[26]Corrupt practices impede the implementation of the minimum wage by allowing organizations to disregard the law without suffering consequences. For example, in some instances, payroll fraud has been reported, where ghost workers are inserted into the payroll system, inflating wage bills and diverting funds that could have been used to pay actual workers. Additionally, corruption within the labour inspection system can lead to a lack of accountability, as inspectors may be bribed to overlook violations. In *Yusufu & Anor v. Obasanjo & Ors*[27], the Supreme Court held that "corrupt practices" denote or can be said to connote and embrace

[24]<https://www.legit./nigeria/1607368-full-list-27-states-fct-set-n70000-minimum-wage-panels>accessed 14 July 2024.
[25]*Op cit* 19
[26]*FRN v Akogu* (2024) LPELR-61835 (CA)
[27]*Yusufu & Anor v. Obasanjo & Ors* (2003) LPELR -3540 (Sc), *Nwobike v FRN* (2021) LPELR- 56670 (SC)

certain perfidious and debauched activities which are felonious in character being redolent in their depravity and want of ethics." [28]

5 Conclusion and Recommendations

The National Minimum Wage Act, 2024, is a commendable effort to uplift Nigerian workers, but its implementation is fraught with challenges. In conclusion, while the National Minimum Wage Act, 2024, has the potential to significantly improve the lives of Nigerian workers, its success largely depends on addressing the outlined challenges through coordinated efforts from all stakeholders. Addressing these difficulties calls for a diverse strategy.

1. **Economic Support**: The government should provide financial incentives and subsidies to SMEs to help them transition to the new wage structure.
2. **Institutional Strengthening**: Improving the effectiveness and transparency of the institutions in charge of enforcing the Act would result in increased compliance.
3. **Balanced Regional Development**: Tailored economic policies should be established to help less wealthy regions fulfill wage demands.
4. **Sector-Specific tactics**: Different tactics should be used for different sectors, particularly the informal sector, to ensure complete compliance.
5. **Inflation Control**: The government should put in place mechanisms to control inflation, such as monitoring price changes and ensuring that salary increases do not result in unjustifiable price hikes.

[28]Per Tijjani Abubakar, JSC (Pp 25 - 25 Paras D - F)