NIGERIA'S COMPLIANCE WITH RATIFIED INTERNATIONAL LABOUR ORGANIZATION (ILO) CONVENTIONS: AN EXAMINATION

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Abstract

Since joining the International Labour Organization (ILO) in 1960 at independence, Nigeria has ratified 26 ILO Conventions. The Committee of Experts on the Application of Conventions and Recommendations (CEACR)is an organ of the ILO comprising of eminent jurists and scholars in the field of international and domestic labour law, human rights and sundry matters and their responsibility includes rendering reports on the level of compliance of member states to ratified ILO Instruments. Every member state is profiled and a comprehensive report is rendered as a form of score card. It was discovered in this work, that Nigeria's scorecard is a mixed grill. While Nigeria elicited some praise from the Committee in some instances, in others, the Committee's remarks were damning. It is therefore recommended that Nigeria through the Federal Ministry of Labour and Productivity should set up a core group of respected, eminent and qualified people with expansive knowledge and practice in the area of labour jurisprudence. This core group should comprise people from both the public and private sectors drawn from the academia, private legal practitioners, jurists, trade unions, employers' representatives etc. This core group will serve in both advisory and policy roles to the government as regards ILO Instruments requiring response from Nigeria. Also, the Nigerian government should show greater level of will (political, social and economic) in the application of ILO Conventions in Nigeria.

Key Words: Labour jurisprudence, ILO Conventions, Treaties, Protocols and Recommendations.

1. Introduction

Nigeria became a member of the International Labour Organization (hereinafter referred to as the "ILO") on 17th October, 1960 and since then, has been an active participant in ILO activities. Added to this is the ratification of ILO Instruments like Conventions and applying other ILO instruments like Recommendations, Resolutions and Regulations. It is therefore necessary to examine Nigeria's level of compliance with ILO Instruments or put in another way, how has Nigeria fared domestically with its ratified ILO Conventions and other Instruments. It is opined that nation states should not simply ratify international instruments without the corresponding intention and will to apply them to their domestic situations. The latter position is well captured in the *pacta sunt servanda*[1] principle in international law jurisprudence. It is expected that, all things being equal, nation states that ratify international

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instruments, must be ready and willing to put them into practice. Anything short of this portrays a state in bad light.

The ILO is the main international agency which regulates international labour affairs and activities. This specialized body operates through some organs set up by the ILO Governing Council. One of such organs is the Committee of Experts on the Application of Conventions and Recommendations (CEACR) (hereinafter referred to as 'the Committee'). The Committee comprises of eminent jurists and scholars in the field of international and domestic labour law, human rights and sundry matters and their responsibility includes rendering reports on the level of compliance of member states to ratified ILO Instruments. Every member state is profiled and a comprehensive report is rendered as a form of score card. It can be safely said that the report of the Committee of Experts serves as a measuring tool for the level of compliance of member states. The comments made by the Committee of Experts on member states guide them into the required action and steps needed in meeting their respective obligations on any ILO Instrument. This is one of the distinct features of the ILO as an international agency.

This article therefore focuses on Nigeria's compliance with ILO Conventions given that Nigeria has been a member of ILO for over 59 years now. This examination enables us find out whether or not we are making progress in applying ILO Instruments and how such efforts are taken by the ILO. In undertaking this study, same is divided into the following segments: Introduction; A Brief on The International Labour Organization; The Committee of Experts on the Application of Conventions and Recommendations; Examination of Some International Labour Organization Conventions and Nigeria's Compliance; Conclusion and Recommendations.

2. A Brief on the International Labour Organization (ILO)

The ILO was created in 1919, as part of the Treaty of Versailles that ended World War I, to reflect the belief that universal and lasting peace can be accomplished only if it is based on social justice.[2] The Constitution was drafted between January and April, 1919, by the Labour Commission set up by the Peace Conference, which first met in Paris and then in Versailles. The Commission, chaired by Samuel Gompers, head of the American Federation of Labour (AFL) in the United States, was composed of representatives from nine countries: Belgium, Cuba, Czechoslovakia, France, Italy, Japan, Poland, the United Kingdom and the United States. It resulted in a tripartite organization, the only one of its kind bringing together representatives of governments, employers and workers in its executive bodies.[3] The driving forces for ILO's creation arose from security, humanitarian, political and economic

[2] International Labour Organization Office<http://www.ilo.org/global/about-the-ilo/history/lang--en/index.htm> Accessed on 7th July, 2020.
[3] Ibid

considerations. There was keen appreciation of the importance of social justice in securing peace, against a background of exploitation of workers in the industrializing nations of that time. There was also increasing understanding of the world's economic interdependence and the need for cooperation to obtain similarity of working conditions in countries competing for markets.[4]

The ILO has made signal contributions to the world of work from its early days. The first International Labour Conference held in Washington in October 1919 adopted six International Labour Conventions, which dealt with hours of work in industry, unemployment, maternity protection, night work for women, minimum age and night work for young persons in industry. A Committee of Experts[5] was set up as early as 1926 as a supervisory system on the application of ILO standards. The Committee, which exists today, is composed of independent jurists responsible for examining government reports and presenting its own report each year to the Conference.[6] In 1946, the ILO became a specialized agency of the newly formed United Nations. And, in 1948, during the period of Phelan's leadership, the International Labour Conference adopted Convention No. 87 on freedom of association and the right to organize.[7] The ILO established the Geneva-based International Institute for Labour Studies in 1960 and the International Training Centre in Turin in 1965. The Organization won the Nobel Peace Prize on its 50th anniversary in 1969.[8]

3. The Committee of Experts on the Application of Conventions and Recommendations

One of the major organs of the ILO is the Committee of Experts. This Committee of Experts is responsible for formulating recommendations on various aspects of labour law and also examining how ILO member states comply with ILO Instruments. Once a country has ratified an ILO convention, it is obliged to report regularly on measures it has taken to implement it.[9] Every two years governments must submit reports detailing the steps they have taken in law and practice to apply any of the eight fundamental and four priority conventions they may have ratified; for all other conventions, reports must be submitted every five years, except for conventions that have been shelved (no longer supervised on a regular basis). Reports on the application of conventions may be requested at shorter intervals. Governments are required to submit copies of their reports to employers' and workers' organizations. These organizations

[4] Ibid.
[5] Known fully as the Committee of Experts on the Application of Conventions and Recommendations (CEACR) of the ILO. The Committee currently comprises of nineteen (19) experts in international labour law and practice.
[6] Ibid
[7] Ibid.
[8] Ibid
[9] International Labour Organization, 'Application of Labour Standards 2019 Report', available at <https://www.ilo.org/ilc/ILCSessions/108/reports/reports-to-the-conference/WCMS_670146/lang--en/index.htm> Accessed on 7th July, 2020

may comment on the governments' reports; they may also send comments on the application of conventions directly to the ILO.[10]

The Committee's role is to provide an impartial and technical evaluation of the state of application of international labour standards. When examining the application of international labour standards the Committee of Experts makes two kinds of comments: observations and direct requests. Observations contain comments on fundamental questions raised by the application of a particular convention by a state. These observations are published in the Committee's annual report. Direct requests relate to more technical questions or requests for further information. They are not published in the report but are communicated directly to the governments concerned. The Committee's annual report consists of three parts. Part I contains a General Report, which includes comments about member states' respect for their Constitutional obligations and highlights from the Committee's observations; Part II contains the observations on the application of international labour standards, while Part III is a General Survey.[11]

The Committee of Expert's Report and Comments on Nigeria is taken from its latest Report which is the 2019 Report. The Report on Nigeria shows the level of compliance with ILO Instruments in preceding years. The 2019 Report of the Committee of Experts covers eight (8) Conventions ratified by Nigeria. This article considers five (5) of them.

4. Nigeria's Compliance with Some Key ILO Conventions

4.1 Employment Service Convention, 1948 (No. 88)[12]

With regard to articles 1 and 3 of the Employment Service Convention (No 88) which covers contribution of the employment service to employment promotion, the Committee noted with interest Nigeria's adoption of the revised National Employment Policy (NEP) on 19 July 2017, which provides for a range of improvements to the employment service system. In particular, the Committee welcomes section 4.7.6 of the NEP, in which the Government undertakes to improve the collection, processing and analysis of employment statistics and other labour market information for purposes, inter alia, of improved employment and social development planning, and with the objective of establishing and maintaining functional and timely information regarding job vacancies, sectoral changes, geographical imbalances and other labour and income trends.[13]

The Committee further noted that, pursuant to section 4.7.7 of the NEP, the Government,

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[10] Ibid.
[11] Ibid.
[12] No. 88, ratified by Nigeria in 1961.
[13] International Labour Organization, 'Application of Labour Standards 2019 Report', available at <https://www.ilo.org/ilc/ILCSessions/108/reports/reports-to-the-conference/WCMS_670146/lang--en/index.htm> 525-526. Accessed on 7th July, 2020

through the Federal Ministry of Labour and Employment (FMLE), is to establish a minimum of two community employment centres (CECs) in all 744 local government areas in the country. The CECs are to provide a full range of employment services to jobseekers in rural and urban communities in the country, including training, referrals, career counselling and information on job vacancies. The Committee requested the Government to provide detailed information on the measures taken or envisaged to implement the provisions of the NEP and its accompanying employment matrix, relating to the structure and functioning of the employment service. The Government is requested to indicate the manner in which the employment service, in collaboration with other public and private bodies concerned, ensures the best possible organization of the labour market with a view to the achievement and maintenance of full, productive and freely chosen employment.[14]

On Article 6 of the Convention No. 88 which deals with organization of the employment service, the Government reported that some of the employment exchanges and the professional and executive registries in Nigeria have been upgraded to model job centres. It added that the services provided by the exchanges have been upgraded and their facilities computerized, enabling them to replace manual registration of jobseekers with an electronic platform linked to the National Electronic Labour Exchange (NELEX), enabling jobseekers and employers to meet online and access employment services. To this, the Committee requested the Government to provide updated detailed information, including statistical information on the impact of reorganization and restructuring of the employment services under the revised NEP. The Committee further requested the Government to provide up-to-date information on the operation of the job centres and their contribution towards meeting the needs of employers and workers, particularly in those regions of the country with high levels of unemployment.[15]

While assessing Article 7 of Convention No. 88 on particular categories of jobseekers, the Committee welcomed the provisions in sections 4.7.3 and 4.7.4 in the revised NEP, in which the Government undertakes to develop and implement a range of measures to ensure the greater participation of women in the workforce and the full employability of persons with disabilities, respectively.[16] In respect of the employment of women, the Committee noted that the federal and state Governments are to develop self-employment promotion programmes for women, especially in rural communities, and the Federal Ministry of Women's Affairs and Social Development, together with related state ministries and local government councils, shall establish mentorship programmes and gender-specific career counseling in the 744 local

[14] Ibid.
[15] Ibid.
[16] C.S. Ibekwe, O.C. Aduma, " Legislating disability intergration in employment: Comparing legal solutions from Nigeria, South Africa and the United States of America" 1 (2) 2020 IJOCLL EP

government areas (NEP, section 4.7.3). In relation to the employment of persons with disabilities, section 4.7.4 of the NEP provides, inter alia, that the Government will facilitate the passage of a draft law on persons with disabilities and establish vocational rehabilitation centres to develop and enhance the skills and potential of persons with disabilities.[17]The Committee requested the Government to provide comprehensive updated information on measures taken to promote women's employment, particularly in rural communities, including information on the mentorship and gender-specific career counseling services provided in the local government areas, specifying the involvement of the employment service in this respect.[18]

On Article 10 of the Convention on measures to encourage the full use of employment service facilities, the Government indicated that private employment agencies (PEAs) are encouraged to advertise all job vacancies on the NELEX platform. In addition, it envisaged taking steps to raise public awareness of the activities of the employment exchanges and the NELEX platform. The Committee reiterated its previous request that the Government provide detailed information on the measures taken or envisaged by the employment services, with the cooperation of the social partners, to encourage the full use of employment service facilities. The Government is requested to provide specific examples of activities conducted to reach out to the local workforce in various geographical regions of the country.[19]

4.2 Forced Labour Convention, 1930[20]

While examining Articles 1(1), 2(1) and 25 of the Forced Labour Convention No 29 on trafficking in persons, Legal framework and penalties, the Committee previously noted the enactment of the Trafficking in Persons (Prohibition) Enforcement and Administration Act in 2015 (hereafter "Anti-Trafficking Act of 2015"), which provides for a detailed list of offences, such as trafficking in persons, forced labour, trafficking in slaves or slave dealing, as well as the penalties that are applied for each offence (sections 15, 16, 22, 24 and 25).[21] The Committee also noted that the Anti-Trafficking Act provides for the establishment of the National Agency for the Prohibition of Trafficking in Persons (NAPTIP) under which special departments had been set up, such as the Investigation and Monitoring and the Legal and Prosecution Departments (section 11). The Committee also noted that about 300 convictions of trafficking were handed down, while about 100 cases are still pending in court. It further noted the detailed information provided by the Government on the convictions of trafficking-

[17] Ibid.
[18] Ibid.
[19] Ibid.
[20] No. 29, ratified by Nigeria in the year 1960.
[21] International Labour Organization, 'Application of Labour Standards 2019 Report', available at <https://www.ilo.org/ilc/ILCSessions/108/reports/reports-to-the-conference/WCMS_670146/lang--en/index.htm> 237-238. Accessed on 7th July, 2020

related offences under the Anti-Trafficking Act of 2015. Accordingly, among convictions handed down in 2017 and 2018, in eight cases, offenders received penalties of imprisonment with an option of fines.[22]

However, the Committee observed that related provisions of the Anti-Trafficking Act of 2015 provided for penalties of imprisonment without an option of fines or together with fines. Similarly, in its concluding observations of 2017, the UN Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families (CMW) expressed its concern that, although the Anti-Trafficking Act of 2015 removed judges' ability to impose a fine in lieu of a prison sentence for trafficking offences, the courts continue to penalize traffickers with only fines in certain cases. The Committee also requested the Government to continue providing information on the application in practice of the Anti-Trafficking Act of 2015, indicating the activities of the NAPTIP, the statistical data on cases of trafficking for labour or sexual exploitation, as well as information on the outcome of the legal proceedings that have been instituted and the penalties imposed on perpetrators.[23]

On protection and assistance for victims of trafficking in persons, the Committee previously noted the Government's reference to different measures taken with regard to the protection and assistance for victims of trafficking, such as:

(i) the development and adoption of an operational guideline on a national referral mechanism;
(ii) the training of officers of the counseling and rehabilitation department in order to professionalize social work in the agency; and
(iii) the remodeling and improvement of the NAPTIP Transit Shelters to provide quality service to the victims. A total of 9,738 victims were rescued and rehabilitated during the year.

Moreover, the Committee noted the provisions dealing with victims' rehabilitation facilities, legal and medical assistance, and training facilities under the Anti-Trafficking Act of 2015 (sections 61–68). It noted in particular that under section 67, a Trust Fund for victims of trafficking shall be established to pay compensation, restitution and damages to trafficked persons. The Committee noted the Government's information that that Trust Fund has been established. Various services, such as vocational training, counseling and other reintegration activities, are provided to victims. The Committee also requested the Government to continue providing information on the number of victims who have been identified, who have benefited from protection and assistance services and who have received compensation from the Trust Fund. The Committee is raising other matters in a request addressed directly to the

[22] Ibid
[23] Ibid.

Government.[24].

4.3 Right to Organize and Collective Bargaining Convention, 1949[25]

This was not the first time the Committee was accessing Nigeria on this Convention.[26] The Committee noted the discussion which took place in the Committee on the Application of Standards of the International Labour Conference (hereinafter, the Conference Committee) in June 2018 concerning the application of the Convention by Nigeria. The Committee observed that the Conference Committee, in its conclusions, urged the Government to:

(i) bring relevant legislation, including the Trade Unions Act, Trade Disputes Act, Wages Board and Industrial Council Act, the 1992 Decree on Export Processing Zones and the Collective Labour Relations Bill into line with the Convention;

(ii) conduct effective investigations and carry out prosecutions with respect to all allegations of antiunion violence and discrimination; and

(iii) put adequate and effective enforcement mechanisms in place to ensure that the principles and rights protected by the Convention are effectively applied in practice.

The Committee recalled that it has been referring for many years to observations received from international trade union organizations, in particular the International Trade Union Confederation (ITUC) and Education International (EI), and from a national union (the Nigeria Union of Teachers (NUT)), describing acts of anti-union discrimination, interference and obstruction with regard to collective bargaining, without the Government having sent its comments in this regard. The Committee noted the statement made by the Government representative to the Conference Committee in June 2018, indicating that the country operates a complex social and economic structure, with a federal State and 36 autonomous state governments, and whenever infringements committed by state governments are brought to the attention of the federal Government, the latter, which has responsibility for administering labour issues, makes sure to invite the parties to resolve the issues. For example, with regard to the allegation of the mass dismissal of anti-union nature, in the education sector in the state of Kaduna, the Government indicates that the challenged decision was taken further to a two year dialogue with the national teaching union to settle the problem of the fraudulent appointment of unqualified staff in primary schools. The Committee requested the Government to provide information on any investigations, and the results thereof, into the allegations of anti-union discrimination and interference in the banking, education, electricity, petroleum, gas and telecommunications sectors, as referred to in successive communications from the ITUC. The Committee also requested the Government to send its comments on the

[24] Ibid.
[25] No. 98, ratified by Nigeria in the year 1960.
[26] The 2019 review is a Follow-up to the conclusions of the Committee on the Application of Standards (International Labour Conference, 107th Session, May–June 2018).

allegations of EI and the NUT denouncing the promotion of a non-registered union in the education sector by various state governments, which would appear to constitute attempted interference.[27]

On the scope of application of the Convention, in its previous comments, the Committee noted that under the provisions of the legislation certain categories of workers (such as employees of the Customs and Excise Department, the Immigration Department, the prison services and the Central Bank of Nigeria) are denied the right to organize and are deprived of the right to collective bargaining. The Government indicated that these exclusions are made on the grounds of the national interest and national security and that the joint advisory committees established in these institutions take care of the interests of the workers, who often enjoy better conditions of work than those employed in other sections of the public sector. Lastly, the Government pointed out that the proposal to remove the prohibition on the right of these categories of workers to organize will be referred to the National Labour Advisory Council (NLAC), which is due to meet in the course of the year [2019]. The Committee emphasized that the exclusion of the abovementioned categories from the right to organize raises issues of compatibility with the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), and that it will consider this matter when it next examines the application of Convention No. 87 by Nigeria. Noting that some of the abovementioned categories involve public sector workers not engaged in the administration of the State, the Committee requests the Government to provide information on the results of the consultations within the NLAC and any follow-up action taken, particularly with regard to recognition of the right to collective bargaining.[28]

On Article 4 which covers free and voluntary negotiation, the Committee recalled that, further to allegations made by ITUC, it asked the Government to provide explanations regarding the legal obligation to submit any collective agreements on wages to government approval. The Committee recalled that legal provisions which make collective agreements subject to the approval of the Ministry of Labour for reasons of economic policy, so that employers' and workers' organizations are not able to fix wages freely, are not in conformity with Article 4 of the Convention respecting the promotion and full development of machinery for voluntary collective negotiation.[29] The Committee requested the Government to provide information on any measures taken to ensure that the law is aligned with the practice as mentioned and gives full effect to the principle of voluntary collective negotiations in accordance with the

[27] Ibid.
[28] Ibid.
[29] C.S. Ibekwe, Protecting Non Standard Worker's Right to Freedom of Association and Trade Unionism, vol.6 (2015) Unizik JILJ, 173.

provisions of the Convention.[30] While specially noting the Government's statement that it intends to ensure that the reform of the labour legislation in progress which it is undertaking in consultation with the social partners is in conformity with international labour standards, the Committee trusts that the new Collective Labour Relations Act and any other texts adopted in the context of the reform of the Labour Law will be in full conformity with the requirements of the Convention. The Committee requested the Government to send copies of the aforementioned texts when they have been adopted.[31]

4.4 Minimum Age Convention, 1973 [32]

Article 1 of the Convention covers national policy and application of the Convention in practice. The Committee previously noted the adoption of a National Policy on Child Labour, 2013, followed by a National Action Plan for the Elimination of Child Labour 2013–17 (NAP) which aimed at reducing the prevalence of child labour by 2015 and its total elimination by 2020. It also noted from a report entitled "The twin challenges of child labour and educational marginalization in the ECOWAS region" by Understanding Children's Work, a joint ILO–UNICEF–World Bank interagency research cooperation project, that among the ECOWAS countries, Nigeria has the largest number of 5–14 year olds in child labour, with 10.5 million children involved in child labour.[33]

The Committee further noted the Government's information that it had developed a National Reporting Template on child labour which would serve as a monitoring and evaluation mechanism thereby harmonizing the activities of each stakeholder. The Committee noted the Government's information in its report that the Federal Ministry of Labour and Employment carried out a capacity-building workshop to validate the National Reporting Template by the National Steering Committee in the six geopolitical zones of the country for the purpose of generating relevant and reliable data on the elimination of child labour. The Committee further noted the data provided by the Government on the application in practice of child labour provisions. Accordingly, 606 violations of child labour were detected and in three cases, prosecutions were made and sanctions were applied. However, the Committee noted that according to the report based on the Multiple Indicator Cluster Survey (MICS) 2016–17 conducted by the National Bureau of Statistics with the support from UNICEF and the United Nations Population Fund (UNFPA), 50.8 per cent of children aged between 5 and 17 are involved in child labour in Nigeria, of which 39.1 per cent are working in hazardous

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[30] Ibid.
[31] Ibid
[32] No. 138, ratified by Nigeria in the year 2002.
[33] International Labour Organization, 'Application of Labour Standards 2019 Report', available at <https://www.ilo.org/ilc/ILCSessions/108/reports/reports-to-the-conference/WCMS_670146/lang--en/index.htm> 342-343. Accessed on 7th July, 2020

conditions. While noting the steps taken by the Government, the Committee expresses its deep concern at the large number of children engaged in child labour in Nigeria.[34]
Examining Article 2(1) which deals with scope of application, self-employment and work in the informal economy, in its previous comments, the Committee noted that section 2 of the Labour Standards Bill of 2008 (Labour Standards Bill), read in conjunction with the definition of an "employee" as laid down under section 60 of the Bill, does not apply to children working outside a formal labour relationship, such as children working on their own account or in the informal economy. In this regard, the Committee noted from the document on the National Policy on Child Labour, 2013, that child labour is more prevalent in the informal sector, which includes crafts and artisanal work and street-related activities, as well as in semi-formal sectors which includes activities in commercial agricultural plantations, domestic and hospitality services, the transport industry, and garment manufacturing. The Committee expressed the firm hope that the Labour Standards Bill will ensure the protection of all working children, including self-employed children and children working in the informal economy, as required by the Convention.[35]

With regards to minimum age for admission to work as provided for by the Convention, the Committee previously noted with concern the various minimum ages, some of them too low, prescribed by the national legislation.[36] It noted that section 8(1) of the Labour Standards Bill prohibits the employment of a child (defined as persons under the age of 15 years (section 60)), in any capacity, except where he/she is employed by a member of his/her family on light work of an agricultural, horticultural or domestic character. The Committee observed that section 8(1) which establishes a minimum age of 15 years for employment or work as specified at the time of ratification is in conformity with Article 2(1) of the Convention.[37]

On Article 3(2) of the Convention which relates to determination of hazardous work, the Committee previously noted that a list of types of hazardous work prohibited to young persons under 18 years of age had been identified and validated by the National Steering Committee. It also noted from the minutes of the Stakeholders Committee on the Review of the National Labour Bills of 4 May 2017, that section 60 of the Labour Standards Bill will have the list of hazardous work drafted by the National Steering Committee. The Committee noted the Government's information that the list of types of hazardous child labour has been finalized and incorporated into the revised Labour Standards Bill as second schedule Part A. The Committee expressed the firm hope that the Government will take the necessary

[34] Ibid.
[35] Ibid
[36] B.N Okpalaobi, C.S Ibekwe, "Proposing a Legislative Reform for Age Discrimination in the Nigerian Employment Sector", (2017) *N.G. Journal of Social Development*, 417, 1.
[37] Ibid

measures, without delay, to ensure that the list of types of hazardous child labour is adopted and implemented, thereby prohibiting hazardous types of work to children under 18years of age. It requested that the Government provide information on the progress made in this regard.[38]

With regards to Article 6 of the Convention with deals with Apprenticeship, the Committee previously noted that section 49(1) of the Labour Act permitted a person aged 12–16 years to undertake an apprenticeship for a maximum period of five years, while section 52(a) and (e) empowered the Minister to issue regulations on the terms and conditions of apprenticeship. The Committee requested the Government to provide information on any progress made with regard to the adoption of the revised Labour Standards Bill which establishes a minimum age of 14 years for apprenticeship programmes, as laid down under Article 6 of the Convention.[39]

While examining Article 7(1) and (3) of the Convention on Minimum age for admission to light work and determination of light work activities, the Committee previously observed that the Labour Act did not provide for a minimum age for admission to light work. It also noted that section 8 of the Labour Standards Bill, while allowing the employment of children under the age of 15 years in light work of an agricultural, horticultural or domestic character did not indicate the lower minimum age at which such work may be permitted. It further observed that the conditions in which light work activities may be undertaken and the number of hours during which such work may be permitted were not clearly defined in the Labour Act. Moreover, it observed that the maximum working hours of eight hours per day prescribed under section 59(8) of the Labour Act would necessarily prejudice the attendance of young persons below the age of 15 years at school or vocational orientation or training programmes, as laid down under Article 7(1)(b)of the Convention. It further stated that the lists of activities that constitute light work are provided in schedule two of the revised Labour Standards Bill.[40] The Committee requested the Government to take the necessary measures to ensure that the revised Labour Standards Bill which establishes a minimum age of13 years for admission to light work, regulates the hours and conditions of work for light work and provides for a list of light work activities permitted to children from 13 years of age, will be adopted in the near future. It requests that the Government provide information on any progress made in this regard. The Committee is raising other matters in a request addressed directly to the Government.[41]

[38] Ibid.
[39] Ibid.
[40] Ibid.
[41] Ibid

4.5 Worst Forms of Child Labour Convention, 1999[42]

Articles 3(a) and 7(2)(b) of the Convention provides for all forms of slavery and practices similar to slavery and effective and time-bound measures, compulsory recruitment of children for armed conflict and providing the necessary and appropriate direct assistance for the removal of children from the worst forms of child labour, and for their rehabilitation and social integration. In its previous comments, the Committee noted from the Report of the Secretary-General on Children and Armed Conflict of 5 June 2015 that an increased number of children, both boys and girls, were recruited and used by Boko Haram in support roles and in combat. Children were reported to be used as human shields and as suicide bombers, particularly girls as young as 13 years. There were reports of children joining the Civilian Joint Task Force (CJTF) and other vigilante groups, voluntarily or forcibly, and used to man checkpoints, gather intelligence and participate in armed patrols. More than 500 young women and girls were reported to be abducted from their homes and schools and were subjected to forced labour, physical and psychological abuse and forced marriages to fighters of Boko Haram. This report also indicated that a large number of children were killed and maimed during BokoHaram raids in villages, targeted public places and schools.[43]

The Committee noted the Government's information, in its report, that it has adopted measures to monitor the engagement of under aged children in vigilante groups by introducing a mandatory registration of the vigilante and armed groups through the Ministry of Defence, the police force and the Nigeria Security and Civil Defence Corps. It also noted the Government's information that following negotiations with Boko Haram, 104 girls out of the 110 girls who were abducted from Dapchi's school and 104 Chibok schoolgirls out of the 276 girls who were abducted in 2014 were released. The Government report indicated that negotiations are ongoing through the mediating parties for the release of other girls.[44]

The Committee noted from the Report of the Secretary General that the United Nations verified the killing of 570 children, maiming of 311 children, and 45 incidents of rape and other forms of sexual violence affecting 131 children. Almost half of all casualties resulted from suicide attacks perpetrated by Boko Haram. The Committee further noted that 189 children, including 107 boys and 79 girls, were abducted by Boko Haram between July and October 2017, and an additional 1,456 children in north-east Nigeria were verified as being abducted during previous years. Moreover, more than 100 girls were reported to have been abducted in Dapchi, Yobe State, in 2018. While noting certain measures taken by the

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[42] No. 182, ratified by Nigeria in the year 2002.
[43] International Labour Organization, 'Application of Labour Standards 2019 Report', available at <https://www.ilo.org/ilc/ILCSessions/108/reports/reports-to-the-conference/WCMS_670146/lang--en/index.htm> 343-345. Accessed on 7th July, 2020
[44] Ibid

Government on the use of children in armed conflict, the Committee must once again deeply deplore the persistence of this practice, especially as it entails other violations of the rights of the child, such as abductions, murders and sexual violence.[45]

While acknowledging the complexity of the situation on the ground and the presence of armed groups in the north-east of the country, the Committee strongly urged the Government to take measures, using all available means, to ensure the full and immediate demobilization of all children and to put a stop, in practice, to the forced recruitment or use of children under 18 years of age into armed groups.[46]

While reviewing Article 7(2)(a) of the Convention on preventing the engagement of children in the worst forms of child labour, access to free basic education, in its previous comments, the Committee noted the various social protection policies and activities implemented in Nigeria with support from UNICEF for improving access to education, such as the School Feeding Programme, bursary and scholarship grants to indigenous families having children of school age, and the conditional cash transfer programme. It also noted from the *Nigeria: Education for All Review Report 2000–14* (EFA Review Report), that there was an increase in the enrolment rates at the primary and secondary levels. However, the Committee noted with concern the estimates from the UNESCO EFA Global Monitoring Report of 2013, that there were approximately 10.5 million children who were out of school in Nigeria.[47]

The Committee noted from the Government's report that it has developed a National Policy on Inclusive Education, 2017, which is currently being implemented in Nigeria. It also noted that a Presidential Committee on the North-East has been set up and the Safe School Initiative was launched in 2014, through which over 2,531 students who were affected by the Boko Haram insurgency were transferred to safe schools and colleges. Moreover, the Government indicated that:

(i) an enrolment campaign was launched in 2015 and is still ongoing to encourage out-of-school pupils to return to school;

(ii) the Students Tutoring, Mentoring and Counselling Programme targeted at parents and students was developed in each of the three senatorial districts of 36 states and the Federal Capital Territory (FCT); and

(iii) a Mother's Association for skill empowerment was established in 13 states and the FCT in order to reduce the number of school drop-outs. The Committee further noted the Government's reference to the statistical information from the Nigeria Digest of Education Statistics and Nigeria Education Indicator, 2016, which indicated an

[45] Ibid
[46] Ibid
[47] Ibid.

> increase in the enrolment rates in primary schools by 0.58 per cent from 2015 to 2016, as well as an increase in the number of primary and junior secondary schools.

However, the statistical data indicated a decrease by 1.28 per cent in enrolment rates in junior secondary schools, which the Government attributed to the insurgency in the north-east. The Committee, however, noted with deep concern from the 2018 UNICEF report on education in Nigeria, that although primary school enrolment has increased in recent years, the net attendance is still low at about 70 per cent. Nigeria still has 10.5 million out-of-school children, which is the highest in the world, with 60 per cent of them in northern Nigeria, where the conflict has deprived many children of access to education.[48]

5. Conclusion

We found out in the course of the work that Nigeria is an active member of the ILO since independence in 1960. In this light, it is our finding that Nigeria has ratified 26 ILO Conventions. Also, the ILO as an international specialized agency on labour, employment, industrial and trade law and practice since inception in 1919 has not rested on its oars but has continued to set the pace through its Instruments which now shape the world of work globally. The work revealed that the ILO through its Committee of Experts produces reports on member states and requires due compliance on issues raised therein. Furthermore, we also found out the influence of ILO on labour developments in Nigeria; whether statutory or technical.

The work examined the eight (8) Conventions assessed by the ILO which Nigeria has ratified. From the examination, it is a mixed score card for Nigeria. While in some instances, the Committee praised the Nigerian government for ensuring compliance, in some other instances, the Committee expressed deep concern or deplored some actions or inactions of the government. There were also instances where the previous observations of the Committee were reiterated, showing non-action on the part of the Nigerian government. This shows that though Nigeria is a long standing member of ILO for over 59 years, the compliance with ILO Labour Standards in the country is still not satisfactory. The Committee in some cases, requested the Nigerian government to do more and report back to it.

6. Recommendations

In the course of this work, some observations were made which led us to make the following suggestions in order to proffer solutions to the challenges discovered:

Firstly, the Federal Ministry of Labour and Productivity should set up a core group of respected, eminent and qualified people with expansive knowledge and practice in the area of labour jurisprudence. This core group should comprise people from both the public and

[48] Ibid.

private sectors drawn from the academics, private legal practitioners, jurists, trade unions, employers' representatives etc. This core group will serve both advisory and policy roles to the government as regard ILO Instruments requiring response from Nigeria. Such core group serves as Nigeria's own version of the Committee of Experts. They are to study, provide direction, advice and articulate the government's position and/or response to ILO queries, position, discourse, comments/remarks etc. This core group should also examine any ILO Instrument before same is ratified by the government and then to advise government appropriately.

Secondly, there should be a follow-up Team or post-conference Team which should articulate and design Nigeria's response to the queries or interrogations of the Committee. Waiting till another conference will not effectively meet the expectations of the ILO. Such follow-up Team should comprise of notable labour law scholars who are conversant with the workings of the ILO and who know how to report on issues affecting Nigeria. If possible, such a Team should be an ad-hoc committee. In this way, the inactions of government to some resolutions would be avoided. Similarly, the lack of comprehensive response to ILO queries; wherein necessary and required details are not presented, would also be rectified.

Lastly, government should have the will (political, economic and social) to live up to its obligations as contained in ILO Conventions. For instance the non-unionization of certain employees, the minimum age requirements for employment, which affects young people, the out-of-school malaise, the debacle of child-recruitment into para-military outfits like the civilian joint task force (CJTF), the minimum wage saga (especially as it concerns some States of the Federation), the non-regular payment of salaries etc. should be addressed properly and squarely. We stand in great ignominy if these and other issues are not tackled properly. In most cases, these are more political or economical than legal. The Committee highlighted these issues and did not give the government credits for its performance or in some cases, requested and expects more action from government.