

Chapter One

Introduction

1.1 Background to the Study

Migration for employment is one of the most significant socio-economic phenomena of the 21st century. According to the International Labour Organization (ILO), migrant workers account for about 4.9% of the global labour force and play crucial roles in sectors such as agriculture, domestic work, construction, and healthcare.¹ Labour migration constitutes an essential livelihood strategy for millions of individuals seeking improved economic opportunities, escaping conflict, or responding to environmental pressures. At the same time, destination countries benefit significantly from the contributions of migrant workers, who help address labour shortages and enhance economic productivity².

In the West African context, intra-regional migration is particularly notable. Nigeria, as the most populous nation in Africa and one of the continent's largest economies, serves as both a destination and a transit country for migrant workers³. Many of these migrants, especially those from neighbouring countries such as Benin, Togo, Niger, and Ghana, are attracted by Nigeria's relative economic opportunities, perceived employment prospects, and the regional frameworks that facilitate freedom of movement, particularly the provisions under ECOWAS Protocol Relating to the Free Movement of Persons, Residence and Establishment (1979).⁴

Despite these regional commitments, migrant workers in Nigeria face a precarious situation. They are often subjected to exploitative labour practices, including underpayment, excessive

¹ International Labour Organization, *Global Estimates on International Migrant Workers* (2022), 167.7 million migrant workers

² International Labour Organization, *ILO Global Estimates on Migrant Workers* (3rd edn, 2024) 11

³ Aderanti Adepoju, 'Migration in West Africa: Patterns, Issues and Challenges' (2018) accessed 19 June 2025

⁴ Movement of Persons, Residence and Establishment (adopted 29 May 1979, entered into force 1980) ECOWAS Protocol A/P.1/5/79 accessed 19 June 2025.

working hours without adequate compensation, unsafe working environments, and unlawful dismissal. The informal economy, which makes up a large part of Nigeria's labour market, is especially prone to such abuses because of its lack of regulation and oversight⁵. Although Nigeria has ratified various international agreements aimed at protecting workers' rights, including certain International Labour Organization (ILO)⁶ instruments and the African Charter on Human and Peoples⁷ Rights, there is still a clear gap between its international commitments and domestic realities. The principal statute governing employment relations, the Labour Act,⁸ was designed primarily for formal employment relationships and fails to address the unique vulnerabilities faced by migrant workers adequately. Moreover, the Immigration Act,⁹ while regulating the legal entry and residence of migrants, is primarily concerned with border control and enforcement rather than rights protection.

Institutional shortcomings further exacerbate the plight of migrant workers. Limited inter-agency coordination, inadequate resources for monitoring and enforcement, widespread corruption, and insufficient awareness of migrant rights among frontline officials weaken the practical protection available to migrants.¹⁰ Additionally, socio-cultural factors, including xenophobia, discrimination, and negative stereotypes, further entrench the marginalization of migrant workers in Nigeria.

⁵ Victor C Iwuoha, 'Labour Exploitation in Nigeria's Informal Economy: Challenges and Prospects' (2020)

⁶ International Labour Organization, ILO Global Estimates on International Migrant Workers: Results and Methodology (2015) accessed 19 June 2025

⁷ African Charter on Human and Peoples' Rights (adopted 27 June 1981, entered into force 21 October 1986) 1520 UNTS 217 accessed 19 June 2025

⁸ Labour Act Cap L1 Laws of the Federation of Nigeria 2004 accessed 19 June 2025.

⁹ Immigration Act 2015 (Nigeria) accessed 19 June 2025.

¹⁰ Olufemi Okafor, 'Institutional Challenges in the Enforcement of Migrant Workers' Rights in Nigeria' (2018)

The global policy landscape, notably through instruments like the 2018 Global Compact for Safe, Orderly and Regular Migration (GCM),¹¹ increasingly emphasizes the importance of protecting migrant workers' rights as integral to sustainable development and social cohesion. Nigeria's endorsement of the GCM underscores a commitment to aligning national practices with international standards. Nevertheless, the persistent gap between rhetoric and practice calls for critical examination.

Amid this complex backdrop, this study positions itself. It aims to evaluate the adequacy of Nigeria's legal and institutional frameworks for protecting migrant workers from labour exploitation. The research is motivated by the understanding that, while migration can bring substantial benefits to both migrants and host countries, these advantages are only possible with a rights-based approach to migrant labour governance. There is an urgent need to move beyond mere formal ratifications to ensuring effective implementation, enforcement, and accountability in protecting migrant workers' rights.¹²

Thus, this study aims to contribute to the growing body of scholarship on labour migration governance while offering practical recommendations to support policy reform, institutional strengthening, and enhanced protection for migrant workers in Nigeria. The resultant effect of this study is to dispel the crucibles of fire against labour exploitation to which migrant workers are subjected.

¹¹Global Compact for Safe, Orderly and Regular Migration (adopted 19 December 2018) UN Doc A/RES/73/195 accessed 19 June 2025.

¹²Aderanti Adepoju, 'Migration in West Africa: Patterns, Issues and Challenges' (2018) accessed 29 June 2025; Protocol Relating to the Free Movement of Persons, Residence and Establishment (adopted 29 May 1979, entered into force 1980) ECOWAS Protocol A/P.1/5/79 accessed 19 June 2025.

1.1.1 Historical and Economic Drivers of Migration

The phenomenon of labour migration in Nigeria is deeply rooted in historical socio-economic and political dynamics¹³. As a pivotal node for origin, transit, and destination migration within West Africa, Nigeria exhibits multifaceted migratory patterns, encompassing seasonal labour movements, undocumented migration, and skilled emigration.¹⁴ These trends are driven by a combination of factors, including demographic pressures, economic opportunities, and environmental changes.

Historically, Nigeria's economic landscape has influenced migration patterns. The country's diverse economy, which includes agriculture, oil, and services, has provided both opportunities and challenges for its population. The search for better employment prospects has been a significant factor prompting many Nigerians to seek opportunities abroad, particularly among educated young males.¹⁵ For instance, an Afro barometer poll from 2018¹⁶ indicated that one in three Nigerians expressed a desire to emigrate, ¹⁷often driven by adverse socio-economic conditions and high unemployment rates.¹⁸ Moreover, the governance of labour migration in Nigeria has evolved, reflecting both domestic needs and international obligations. The Labour Act serves as the primary legal framework governing labour relations, though it has faced criticism for inadequacies in protecting the rights of migrant workers.¹⁹ Moreover, Nigeria's engagement with international conventions, such as the ILO Conventions 97 and 143, has aimed

¹³ Adepoju A, 'Trends in International Migration in Nigeria' (2004) 39 *Global Migration Perspectives* 1

¹⁴ International Labour Organization, 'National Assessment of Labour Migration Policies, Legislation, Practices, and Structures in Nigeria' (2015) accessed 31 July 2025

¹⁵ *Ibid*

¹⁶ Migrants & Refugees Section, 'Nigeria - Country Profile' (Vatican Dicastery for Promoting Integral Human Development, 2024 accessed 28 July 2025).

¹⁷ Afrobarometer, 'Migration Desires Among Nigerians: 2018 Survey Findings' (Afrobarometer Dispatch No 226, 2018).

¹⁸ *Ibid*

¹⁹ *Ibid*

to provide a rights-based framework for labour migration governance. Still, challenges remain in effectively implementing these standards.²⁰

Nevertheless, despite historical trends of migration presenting opportunities, the reality for many Nigerian migrants, particularly in the Arab States, has often been one of exploitation and abuse. The sponsorship-based Kafala system, common in many countries of the Middle East has exacerbated the vulnerability of migrant workers²¹, exposing them to harsh working conditions, limited legal protections, and various rights violations.²² Furthermore, the COVID-19 pandemic has intensified these challenges, highlighting systemic weaknesses in regulating labour migration and safeguarding the rights of migrant workers²³

1.2 Statement of the Problem

Despite Nigeria's ratification of key International Labour Organization (ILO) conventions and its adoption of domestic laws aimed at protecting migrant workers, there remains a significant gap between formal legal commitments and practical enforcement.²⁴ Migrant workers in Nigeria continue to face precarious labour conditions, wage violations, exclusion from social protection, and hazardous working environments a situation compounded by weak institutional oversight. Institutional deficiencies such as limited inspection capacity, bureaucratic inefficiencies, and insufficient political will seriously undermine compliance with labour standards.²⁵

²⁰ International Organization for Migration, 'Analysing Migrant Detention Legal Frameworks: Perspectives from West and Central Africa' (2024) accessed 31 July 2025.

²¹ ILO, *Reforming the Kafala System: Migrant Worker Vulnerabilities in the Middle East (ILO 2017)*.

²² African Regional Organisation of the International Trade Union Confederation (ITUC-Africa), 'AfCFTA and migration in Africa: Issues and challenges for accessed 31 July 2025.

²³ New South Institute, 'An Analysis of Migration Governance Frameworks in Nigeria' (April 2024) accessed 31 July 2025.

²⁴ Adamu Izang Madaki, "Nigeria's Compliance with Ratified International Labour Organization (ILO) Conventions: An Examination," *Journal of Commercial and Property Law* 5, no. 2 (2018): 57–58.

²⁵ Samuel E. Mbah and C. O. Ikemefuna, "Core Conventions of the International Labour Organisation (ILO): Implications for Nigerian Labour Laws," *International Journal of Business Administration* 2, no. 2 (2011): 129–136.

Moreover, many migrant workers lack awareness of their rights and face linguistic, cultural, and social obstacles to accessing formal grievance mechanisms.²⁶ Those employed in the informal sector or with irregular immigration status are particularly marginalized, often avoiding state structures out of fear of deportation or other punitive actions. Discriminatory social attitudes further perpetuate their exploitation.²⁷

The central issue, therefore, is not the absence of a regulatory framework but the persistent disconnect between normative protections and their actual implementation. This scenario demands a comprehensive evaluation and reform of Nigeria's legal and institutional frameworks to ensure migrant workers' rights are not only codified in law but also realized in practice. The central issue, therefore, is not the absence of a regulatory framework but the persistent disconnect between normative protections and their actual implementation. This scenario demands a comprehensive evaluation and reform of Nigeria's legal and institutional frameworks to ensure migrant workers' rights are not only codified in law but also realized in practice.

1.3 Aim and Objectives of the study

The general aim of this research is to critically analyse the legal, and institutional frameworks designed to protect migrant workers in Nigeria, particularly in relation to labour exploitation, and to identify key areas requiring strengthening to enhance effective protection.

1.4 Specific Objectives

The specific objectives of this study are to:

²⁶ Nkemakonam Aniukwu, "Fair Recruitment and Forced Labour: An Evaluation of Migrant Workers' Experiences," *Journal of African Migrations* 1, no. 2 (2023): 1–2.

²⁷ M. N. Umenweke, "Right to Work in Nigeria: Lesson from ILO Standards," *Nigerian Journal of Arts and Humanities (NJAHS)*, (year), — analysis showing enforcement gaps and discrimination.

- a) To examine the legal framework governing the rights and welfare of migrant workers in Nigeria.
- b) To analyse the structural and regulatory weaknesses in Nigeria's labour and migration governance systems that limit the practical protection of migrant workers.
- c) To examine the effectiveness of Nigerian labour laws and policies in addressing labour exploitation of migrant workers.
- d) To critically examine the adequacy of Nigerian Labour Laws on exploitation of migrant workers relative to the provisions of the ILO on migrant workers in Nigeria.

1.5 Research Questions

The following research questions guide this study:

- a) What are the existing legal frameworks governing the rights and welfare of migrant workers in Nigeria?
- b) What are the gaps, weaknesses, and enforcement challenges that exist within the current protection regime for migrant workers in Nigeria?
- c) How do current Nigerian labour laws address the issue of labour exploitation in relation to migrant workers?
- d) To what extent is the adequacy of the Nigerian Labour Laws on exploitation of migrant workers relative to the provisions of the ILO on migrant workers in Nigeria?

1.6 Significance of the Study

This research is essential for several compelling reasons, spanning academic, sociocultural, and practical perspectives. First, it aims to address a crucial gap in the existing literature by offering a focused and comprehensive legal analysis of migrant workers' protection in Nigeria. Although there is an increasing global discourse on the rights of migrant workers, scholarly inquiry within

the Nigerian context has been relatively sparse. Much of the existing work has either treated the issue tangentially or subsumed it under broader discussions of labour rights, thereby neglecting the specific legal and institutional dimensions relevant to migrant labour. By focusing on the Nigerian legal framework and its interaction with international standards, this study aims to provide a nuanced and targeted contribution to understanding migrant labour dynamics in Nigeria.

Secondly, the research will offer evidence-based insights into the lived realities of migrant workers in Nigeria. Rather than relying solely on doctrinal analysis or theoretical assumptions, the study intends to bridge the gap between law and practice by examining how migrant workers actually experience the protections or lack thereof that the law purports to provide. By integrating case studies, reported incidents, and critical engagement with empirical reports, the study will ensure its conclusions are firmly anchored in practical realities. This will enhance the credibility, relevance, and applicability of its findings to policy.

Thirdly, the findings of this research could potentially contribute meaningfully to ongoing policy advocacy and legal reform efforts. It will identify gaps, inconsistencies, and deficiencies within the existing legal and institutional frameworks. The study will equip policymakers, legislators, and civil society actors with robust, evidence-driven recommendations. Such insights can catalyze reforms to strengthen the legal protection of migrant workers, ensure compliance with Nigeria's international obligations, and enhance the overall effectiveness of national labour governance mechanisms.

Furthermore, the study is particularly significant for a wide range of stakeholders, including government agencies, human rights organizations, trade unions, employers' associations, and international bodies operating in Nigeria. Government institutions responsible for labour

regulation and immigration control will find the research useful in informing policy reviews, training programs, and enforcement strategies. Human rights organizations and advocacy groups can utilize the findings to better shape their interventions, advocacy campaigns, and capacity-building initiatives targeted at the protection of migrant workers. Similarly, trade unions and employers' associations stand to benefit from a clearer understanding of their obligations under international and domestic law, fostering more ethical employment practices and enhancing industrial relations.

Furthermore, the research will add to the academic discussion on migration, labour rights, and human rights within the African context. Compared to other regions, especially Europe and North America, academic attention to the specific issues faced by migrant workers in Africa, particularly in Nigeria, remains limited. This study will therefore help fill an essential regional gap by providing context-specific insights that can serve as a foundation for further comparative, interdisciplinary, and empirical research on migration and labour law across Africa.

Finally, beyond its academic and policy-oriented significance, the research aspires to promote broader societal impacts by advocating for the protection of human dignity, social justice, and equality for all workers, regardless of their nationality or immigration status. In an increasingly globalized world where migration is an enduring reality, ensuring that migrant workers are treated fairly and humanely is not only a legal requirement but also a moral obligation. By highlighting the vulnerabilities faced by migrant workers in Nigeria and suggesting pathways for reform, this study aims to contribute meaningfully to the development of a more inclusive and equitable environment. society.

1.7 Research Methodology

This study adopted a doctrinal research methodology, supplemented where necessary by qualitative methods for contextual understanding. The primary methodological approach adopted for this research will be doctrinal legal research, a traditional and systematic method for examining legal principles, statutes, cases, treaties, and related materials. Doctrinal research, sometimes referred to as ‘black-letter law’ research, involves the detailed analysis and exposition of existing legal frameworks, focusing on the identification, interpretation, and systematization of legal norms relevant to a particular area of inquiry.²⁸ In this study, doctrinal research was employed to investigate the laws and policies governing the rights and protections of migrant workers in Nigeria. This entails a critical review of primary legal sources, such as Nigerian statutes, international and regional legal instruments ratified by Nigeria, judicial decisions, and regulatory guidelines. Particular attention has been given to key legislative instruments including, but not limited to, the following: The Nigerian Labour Act;²⁹ The Immigration Act;³⁰ The Constitution of the Federal Republic of Nigeria 1999 (as amended);³¹ The Trafficking in Persons (Prohibition) Enforcement and Administration Act 2015;³² The International Labour Organization (ILO) Conventions³³ ratified by Nigeria; The United Nations International Convention on the Protection of the Rights of All Migrant Workers and Members of Their

²⁸Aderonke Adegbite, ‘Migrant Workers and Labour Exploitation in Nigeria: A Legal Analysis of the Protection Framework’ (unpublished research proposal, Labour Law, Lead City University 2024) accessed 19 June 2025.

²⁹ Nigerian Labour Act Cap L1, Laws of the Federation of Nigeria 2004: Labour Act Cap L1 Laws of the Federation of Nigeria 2004 accessed 19 June 2025.

³⁰ Immigration Act 2015: Immigration Act 2015 (Nigeria) accessed 19 June 2025h

³¹ Constitution of the Federal Republic of Nigeria 1999 (as amended) accessed 19 June 2025.

³² Trafficking in Persons (Prohibition) Enforcement and Administration Act 2015: Trafficking in Persons (Prohibition) Enforcement and Administration Act 2015 (Nigeria) accessed 19 June 2025.

³³International Labour Organization, ‘List of ILO Conventions ratified by Nigeria’ accessed 19 June 2025.

Families 1990;³⁴ The ECOWAS Protocols on Free Movement of Persons, Residence, and Establishment.³⁵

This stage of research involves identifying and gathering relevant legal materials, interpreting legal texts in their proper context, analysing judicial pronouncements, and examining secondary commentary to gain a deeper understanding of the current state of the law.

Further, this doctrinal research extends to the appraisal of international human rights mechanisms, labour protection standards, and regional policy frameworks that impose binding and non-binding obligations on Nigeria. The comparative dimension also involves a limited survey of best practices from selected jurisdictions, to draw lessons on how Nigeria might strengthen its legal and institutional frameworks for migrant worker protection.

Secondary sources such as legal textbooks, journal articles, conference proceedings, and scholarly commentaries have been engaged to provide critical perspectives on the interpretation and application of relevant laws. Authoritative texts in labour law, migration law, and human rights law will be reviewed to enrich the legal analysis and ensure the theoretical and normative robustness of the study. The analytical framework combines descriptive, critical, and evaluative methods:

Descriptive analysis systematically presents the existing legal rules and policies applicable to migrant workers.

Critical analysis scrutinizes the coherence, sufficiency, and effectiveness of these laws, highlighting inconsistencies, ambiguities, and gaps.

³⁴International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (adopted 18 December 1990, entered into force 1 July 2003) 2220 UNTS 3 accessed 19 June 2025.

³⁵Protocol relating to the Free Movement of Persons, Residence and Establishment (adopted 29 May 1979, entered into force 1980) ECOWAS Protocol A/P.1/5/79 accessed 19 June 2025.

Evaluative analysis assesses the extent to which Nigeria's legal framework aligns with international best practices and the practical needs of migrant workers.

Thus, the doctrinal methodology enables a structured, rigorous examination of the formal sources of law, providing a solid foundation for subsequent evaluation of enforcement practices and the development of reform recommendations.

The choice of doctrinal research is particularly appropriate for this study, as the primary aim is to interrogate existing legal frameworks and their adequacy in protecting migrant workers.

Adegbite³⁶ In her research, she has observed that doctrinal research is indispensable for the exposition, criticism, and rational development of the law, especially in contexts where law reform is an objective.

By relying on doctrinal research, the study can ensure precision, depth, and conceptual clarity in addressing the key legal questions, thereby maintaining scholarly rigor while offering practical insights for policy and legal development.

The study employed the footnote system in accordance with standard academic practice and maintained strict referencing integrity.

1.8 Limitations of the Study

This study acknowledges certain limitations, though these do not undermine the validity or reliability of its findings. First, while the collection of extensive primary data from migrant workers was constrained by time and logistical considerations, the research draws on a broad range of credible secondary materials. These include reports by reputable non-governmental

³⁶Amnesty International (2023) Annual Report 2023: The State of the World's Human Rights (Amnesty International).

organizations, international bodies, and established academic publications, which provide sufficient empirical depth to support a rigorous analysis.³⁷

Second, the study is geographically delimited to Nigeria. Although migrant labour governance is shaped by regional and global dynamics, focusing on Nigeria's domestic framework allows for a more coherent and detailed doctrinal assessment of national laws and institutions. Comparative references to other jurisdictions are incorporated only where they provide valuable context and do not constitute a central analytical component.³⁸

Third, the research adopts a doctrinal and qualitative methodology. While this approach may not capture every lived experience of migrant workers, it remains appropriate for analysing legal standards, institutional mandates, and policy frameworks. To complement doctrinal analysis, insights from empirical reports and documented case studies are utilized to reflect practical realities on the ground.³⁹

Fourth, the fields of migration and labour regulation are dynamic, with legal reforms and policy adjustments occurring periodically. Although such developments may influence the currency of certain observations, the study incorporates the most recent legislation, policy instruments, and judicial decisions available at the time of completion.⁴⁰

³⁷ International Labour Organization, *General Principles and Operational Guidelines for Fair Recruitment and Definition of Recruitment Fees and Related Costs*, 2019.

³⁸ Adebuseyi Adeniran, "Migration Governance in West Africa: The ECOWAS Protocol on Free Movement of Persons," *Journal of International Migration and Integration* 18, no. 4 (2017): 1123–1139.

³⁹ International Organization for Migration, *Migration in West and Central Africa: Trends, Risks, Development and Governance*, 2020.

⁴⁰ Chidi Anselm Odinkalu, "Law, Governance, and Democratic Reform in Nigeria," *Journal of African Law* 54, no. 2 (2010): 183–204.

Finally, comprehensive and disaggregated governmental data on migrant workers in Nigeria remains limited. To mitigate this, the study triangulates information from multiple independent and credible sources, enhancing both the reliability and consistency of the findings.⁴¹

Despite these limitations, the methodological design, careful selection of authoritative sources, and systematic analytical approach ensure that the study's conclusions remain credible, relevant, and academically robust. A clear acknowledgment of these boundaries strengthens the transparency and integrity of the research and provides a foundation for further scholarly inquiry.

1.9 Structure of Research

The research work is systematically organized into five chapters, each of which builds logically on the preceding one, ensuring a coherent and comprehensive exploration of the subject matter.

Chapter One: Introduction

This chapter provides the foundation for the study by outlining the Background of the Study, describing the Statement of the Problem, setting out the Research Objectives (both general and specific), formulating the Research Questions, and emphasizing the Significance of the Study. It aims to establish the research's context, rationale clearly, and intended contribution.

Chapter Two: Literature Review

This chapter focuses on developing a robust conceptual and theoretical basis for the study. It involves a detailed discussion of key terms and conceptual clarifications relevant to migrant labour, labour exploitation, social protection, and related concepts. Furthermore, this chapter will examine Theoretical Frameworks, including applicable theories of migration such as the Push-

⁴¹ United Nations Office on Drugs and Crime, *Global Report on Trafficking in Persons*, 2020; Amnesty International, *Nigeria: A Dangerous Place to Work: Migrant Labour Abuses*, 2019.

Pull Theory, the Human Rights-based Approach Theory, and the Systems Theory Approach, to provide a scholarly underpinning for the research analysis.

Chapter Three: Legal Framework for the Protection of Migrant Workers in Nigeria

This chapter provides an in-depth analysis of the domestic legal instruments relevant to the protection of migrant workers, including, but not limited to, the Labour Act, the Immigration Act, the National Policy on Labour Migration, and other subsidiary legislation. It also examines Nigeria's international obligations by analysing relevant International Conventions such as the International Labour Organization's (ILO) conventions and the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (ICMW). Furthermore, it reviews regional legal instruments such as those under the Economic Community of West African States (ECOWAS).

Chapter Four: Challenges in the Protection of Migrant Workers

This chapter critically examines the practical challenges that hinder the protection of migrant workers in Nigeria. It evaluates issues such as the enforcement of legal protections, institutional weaknesses, socio-cultural barriers, and the impact of informality in the labour market. Attention is given to the lived experiences of migrant workers, drawing on secondary sources such as NGO reports, media investigations, and relevant case studies. The aim is to bridge the gap between legal theory and practical realities.

Chapter Five: Conclusion and Recommendations

The final chapter presents a concise summary of the research findings, synthesizing the insights gained from the preceding chapters. Based on this synthesis, the chapter offers practical, actionable recommendations to enhance the protection of migrant workers in Nigeria. It concludes by reflecting on the study's potential contributions to academic scholarship, policymaking, and advocacy efforts.

1.10 Operative Definition of Key Terms

To ensure conceptual clarity and consistency throughout this research, it is essential to define the key terms and concepts underpinning the study:

1.10.1 Migration

Migration denotes to the movement of populations from their home regions, either across national borders (international migration) or within a country (internal migration). This movement can be classified based on duration and purpose into temporary, seasonal, or permanent migration⁴². Permanent or long-term migration often involves individuals severing ties with their original residential and social environments.

Individuals often migrate due to various reasons. Push factors, such as overcrowding or a lack of jobs, push people away from their original location. At the same time, pull factors, such as better housing, more job opportunities, and improved facilities, attract them to new places⁴³. However, obstacles such as financial costs, language barriers, political policies, and limited information can affect both the decision to migrate and the ability to do so.

⁴² O V Okene, 'Curbing State Interference in Workers' Freedom of Association in Nigeria' (2006) 8(4) the International Journal of Not-for-Profit Law 86.

⁴³ J Lerche, 'A Global Alliance against Forced Labour? Unfree Labour, Neo-Liberal Globalization and the International Labour Organization' (2007) 7(4) Journal of Agrarian Change 425

The United Nations⁴⁴ defines migration as the movement of individuals to a country other than their usual residence for at least twelve months, during which the destination country becomes their new usual residence. Migration is generally voluntary but can also be driven by socio-economic or political circumstances.

The International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (1990)⁴⁵ defines a “migrant” as someone who is engaged, has been engaged, or is about to engage in paid work in a country where they are not a citizen.

The International Organization for Migration (IOM)⁴⁶ provides a broader definition of migration as the movement of individuals or groups, either across international borders or within states, encompassing all types of population movements irrespective of duration, composition, or cause. This wide scope leads to challenges in categorizing migration into exclusive types. Consequently, many scholars simplify migration into two main categories: internal and external migration.

Having established this, internal migration refers to movement of people within the same geographic boundaries, while international or external migration involves crossing territorial borders.⁴⁷ The prominence of different migration types depends on factors such as a country’s developmental level and its physical environment. For instance, Wilbur Zelinsky⁴⁸ in his study noted that in developing countries, rural-to-urban migration tends to dominate, whereas in developed countries, daily commuting and urban-to-urban movements are more common. More

⁴⁴ United Nations Human Rights Office of the High Commissioner, ‘Human Rights Fact Sheet No 24: The Right to Freedom of Movement and Residence’ (1994) accessed 1 August 2025

⁴⁵ International Organization for Migration (IOM), Glossary on Migration (International Migration Law No 34, 2019)

⁴⁶ International Organization for Migration (IOM), Glossary on Migration (International Migration Law No 34, 2019).

⁴⁷ Adewunmi, F. & Adenuga, A. (2010). The State of Workers’ Rights in Nigeria: An examination of the Banking, Oil and Gas and Telecommunication sectors.

⁴⁸ W Zelinsky, ‘The Hypothesis of the Mobility Transition’ (1971) 61 Geographical Review 219 accessed 1 August 2025.

so, Adebayo⁴⁹ further argued that not only development level but also temporal factors influence migration patterns; in recent decades, international migration has gained relative prominence over internal migration, particularly in developing nations like Nigeria.

Focusing on Africa, Gould and Prothero⁵⁰ proposed a typology based on time and space dimensions. Regarding time, they categorized migration into daily, periodic, seasonal, long-term, irregular, and permanent movements. Spatially, migration falls into rural-urban, rural-rural, urban-rural, and urban-urban. Building on this, Adedapo⁵¹ provided further classifications of migration, illustrating the complexity and diversity within migration phenomena.

1.10.2 Migrant Worker

Nigerian legislation does not define the term “migrant worker.” Instead, the laws and policies use the term “immigrant,” which is defined as an individual who is not a Nigerian citizen but has attempted to enter Nigeria or has already entered Nigeria, except for those who benefit from immunity or diplomatic privileges.⁵² The Immigration Act also uses the term “work permit” to hint at a definition of migrant worker, and it is defined as a license granted to a non-citizen, allowing them to live and work in Nigeria for the duration specified in the permit.⁵³

Thus, for the purpose of this study, A migrant worker is defined as a person who moves from their country of origin to another country with the primary objective of engaging in employment

⁴⁹ Chidozie C Akwu, Melvin T Gumbo and Daniel Olayiwola, ‘Migration Patterns and the Changing Demographics of Nigeria’ (2023) 2 Journal of African Studies and Sustainable Development 61 accessed 1 August 2025.

⁵⁰ R Y Prothero, Perspectives on Population Mobility in West Africa (Population and Human Resources Division, World Bank 1981) accessed 1 August 2025.

⁵¹ Kavita Datta, Theories and Typologies of Migration: An Overview and A Primer (2014) accessed 1 August 2025.

⁵² Section 116 of the Immigration Act, 2015.

⁵³ *Ibid*

activities in the host nation.⁵⁴ Migrant workers may be employed across various sectors, including the formal and informal economies, and may have regular or irregular immigration status. This definition aligns with Article 2(1) of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (1990),⁵⁵ which emphasizes both documented and undocumented migrants within its scope and defines the term expressly as “a person who is to be engaged, is engaged or has been engaged in a remunerated activity in a state of which he or she is not a national.”

Nevertheless, with due respect to the drafters of the Convention, it may be argued that the phrase “a person who is to be engaged” does not strictly describe a worker, and therefore, cannot properly be considered a migrant worker in the strict sense of the term. This is because a person can only be considered truly “engaged” as a worker if they have been legitimately employed in a manner recognized under the common law contract of employment. If the essential elements of an employment contract are missing, then the individual cannot legally be regarded as even attempting to be an engaged worker. Consequently, a person who is merely intending or seeking to be engaged cannot be classified or referred to as a migrant worker. and is not entitled to any rights accorded to migrant workers under Nigerian law or relevant international instruments.⁵⁶ The definition would hold proper meaning if the phrase “who is to be engaged” were omitted.

⁵⁴International Labour Organization, *Migration for Employment Convention (Revised), 1949 (No 97)*, art 11, International Labour Organization, *Migrant Workers (Supplementary Provisions) Convention, 1975 (No 143)*, art 11, International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (adopted 18 December 1990, entered into force 1 July 2003) 2220 UNTS 3, art 2

⁵⁵International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (adopted 18 December 1990, entered into force 1 July 2003) 2220 UNTS 3 accessed 19 June 2025.

⁵⁶ See the Case of *Ogundipe .v. Nigeria Telecom Ltd* (2016) All FWLR (pt817). 613 @ 630 paras F-G

Hence, according to the interpretation of this law, the categories of migrant workers whose rights the convention aims to protect include:

- I. Frontier worker which refers to A person who has not surrendered his residence in the country adjacent to the host country where he works. He therefore returns each day to his residence after work or once in a week.⁵⁷ However, this definition poses challenges in determining the residential status of such a worker in relation to the Work permit that authorizes individuals to seek employment in Nigeria. Section 116 of the Immigration Act 2015 defines a work permit as a license that permits a non-Nigerian citizen to live and work in Nigeria. The phrase “reside and work in Nigeria,” as stated in this section, is clear and unambiguous and should be interpreted according to its ordinary grammatical meaning. This interpretation aligns with the Supreme Court’s decision in *Buhari v. Yabo*.⁵⁸
- II. Seasonal worker relating to a person whose employment is entirely dependent on a seasonal event or period.⁵⁹
- III. Seafarer which relates to a person employed on board a ship that is registered in a country of which they are not a citizen.⁶⁰
- IV. Offshore installation worker who is an individual who works at a location considered part of a state of which they are not a citizen.⁶¹
- V. Itinerant worker refers to a person who, despite maintaining residence in a particular State, is required to travel to one or more other States as part of their work schedule.⁶²

⁵⁷ Article 2(2) (a) of ICRMW, 1990

⁵⁸ (2019) All FWLR (pt. 1007) 855 @ 873 paras A – B.

⁵⁹ Article 2(2) (b) ICRMW, 1990.

⁶⁰ Article 2 (2) (c) *ibid*

⁶¹ Article 2(2) (d) *ibid*

⁶² Article 2 (2) (c) *ibid*

- VI. Fixed-term or professional worker includes a worker who is employed for a specific period to complete a particular project within a State, as well as a worker engaged for a definite period as a professional or highly skilled individual.⁶³
- VII. Self-employed worker describes a person who is not bound by any contract of employment but independently conducts their trade, either alone or with family members. It also encompasses workers whose business activities are recognized by the host State's legislation or applicable treaties as those of a self-employed migrant worker.⁶⁴ A point of legal debate regarding this category concerns the employment status of such a worker when they perform work on behalf of another person or organization, despite not being an employee of that entity. In the United Kingdom, the Supreme Court ruled in *Pimlico Plumbers Ltd & Anor. v. Smith*⁶⁵ that a self-employed person engaged to carry out work may qualify as a "worker" of the engaging party. This means they are entitled to certain fundamental employment rights and protections, effectively recognizing them as an employee for the purposes of these rights alongside other employees of that organization.

1.10.3 Labour Exploitation

Labour exploitation refers to situations where workers are subjected to unfair, coercive, or abusive employment practices that violate recognized labour standards and fundamental human rights. Exploitative conditions typically include payment of wages below legal minimums, excessive and involuntary working hours, unsafe and hazardous workplace environments, lack of access to rest periods and social security, threats or actual use of force, and restrictions on freedom of movement or association. In the context of migrant workers, exploitation is often

⁶³ Article 2(2) (d-e) *ibid*

⁶⁴ Article 2(2) (f) *ibid*

⁶⁵ (2018) UKSC 29. Accessed online on the 8/06/2020

compounded by vulnerability arising from immigration status, language barriers, and limited knowledge of legal rights.⁶⁶

1.10.4 Legal Framework

The legal framework encompasses all statutory laws, constitutional provisions, regulations, international treaties, case law, administrative guidelines, and policy documents that, collectively, establish, regulate, and enforce rights, duties, and procedures in a particular field of governance. For this research, the legal framework specifically relates to instruments that govern labour rights, migrant rights, and mechanisms for the protection, redress, and enforcement of these rights in Nigeria. A robust legal framework should ideally be comprehensive, coherent, accessible, and effectively implemented.⁶⁷

⁶⁶Olayiwola, S. and Olutayo, A., 'Migrant Labour and the Challenges of Labour Standards in Nigeria' Olayiwola S and Olutayo A, 'Migrant Labour and the Challenges of Labour Standards in Nigeria' (2018) 22(1) African Population Studies 1 accessed 19 June 2025.

⁶⁷Adeyemi, K., 'Legal Protection of Migrant Workers in Nigeria: An Appraisal' Adeyemi K, 'Legal Protection of Migrant Workers in Nigeria: An Appraisal' (2021) 5(1) Nigerian Journal of Labour and Industrial Relations 33.

1.10.5 Social Protection

Social protection encompasses public measures, policies, and programs aimed at preventing, managing, and overcoming situations that negatively impact people's well-being. Its goal is to reduce poverty, lower exposure to economic and social risks, and foster efficient labour markets by providing support such as health care, income security, unemployment benefits, maternity leave, old age pensions, and workers' compensation for injuries⁶⁸. Regarding migrant workers, social protection involves ensuring fair access to these systems without discrimination based on nationality or immigration status, as required by international labour standards, including the International Labour Organization's (ILO) conventions⁶⁹.

1.10.6 Irregular Migration

Irregular migration involves the movement of people across borders without adhering to the legal requirements of the countries of origin, transit, or destination. It typically encompasses individuals who enter a country unlawfully, overstay their lawful visa, or violate the terms of their permitted residence or employment.⁷⁰ Migrant workers with irregular status are often more vulnerable to exploitation and abuse because their unstable legal situation may prevent them from reporting violations or seeking legal remedies for fear of detention, deportation, or other penalties. Understanding the concept of irregular migration is vital for appreciating the vulnerabilities specific to undocumented migrant workers.⁷¹

⁶⁸ Awumbila, M., 'Linking Migration, Labour and Social Protection Policies in Africa': Awumbila M, 'Linking Migration, Labour and Social Protection Policies in Africa' (2015) 3(2) International Social Security Review 45 accessed 19 June 2025

⁶⁹ International Labour Organization, 'Social Protection for Migrant Workers: A Rights-Based Approach': International Labour Organization, Social Protection for Migrant Workers: A Rights-Based Approach (2021) accessed 19 June 2025

⁷⁰ Ogbuagu, B.C., 'Irregular Migration in Nigeria: Causes, Consequences and the Way Forward': Ogbuagu BC, 'Irregular Migration in Nigeria: Causes, Consequences and the Way Forward' (2020) 10(2) Journal of Social Sciences and Humanities 55 accessed 19 June 2025.

⁷¹ Ibid

Chapter Two

Literature Review

2.1 Literature Review

The protection of migrant workers' rights has increasingly become a serious issue in contemporary labour law discourse, particularly in developing Nations such as Nigeria that serve both as destination and transit countries for regional migration. This topic though not popular in the legal scene, has recently attracted considerable scholarly attention globally, with increasing

focus on the Nigerian context in recent years. Hence, this literature review examines scholarly contributions that have shaped the understanding of migrant worker protection frameworks. Labour exploitation and the effectiveness of legal instruments in safeguarding vulnerable populations. The literature reflects an increasingly multidisciplinary approach, drawing from labour law, human rights law, international migration studies, development economics, and socio-legal research.

Tayo Douglas⁷² work serves as a pivotal starting point for understanding the legal landscape governing migrant workers in Nigeria. Douglas offers a comprehensive critique of Nigeria's evidently fragmented legal regime, emphasizing the persistent gap between the country's ratification of international Conventions such as the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families 1990 (hereinafter referred to as ICRMW)⁷³ and the weak enforcement of these standards within domestic law, particularly under the Immigration Act 2015⁷⁴ and related regulations. He traces the evolution of rights protection for migrant workers highlighting how foundational international instruments like the Universal Declaration of Human Rights 1948⁷⁵ (hereinafter UDHR), the International Covenant on Civil and Political Rights 1966⁷⁶ and the International Covenant on Economic, Social and Cultural Rights 1966⁷⁷, while ratified by Nigeria, often lacks full domestic implementation, leaving migrant workers vulnerable to exploitation and inadequate legal remedies. The author further enriches his analysis by drawing on comparative jurisprudence from the United Kingdom

⁷²Tayo Douglas, 'An Appraisal of the Rights and Protection of Migrant Workers under Nigerian Law' (unpublished manuscript, School of Legal and Security Studies, Babcock University, 2020) accessed 5 June 2025.

⁷³International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (adopted 18 December 1990, entered into force 1 July 2003) 2220 UNTS 3.

⁷⁴Federal Republic of Nigeria Official Gazette, Vol.104, March 2017

⁷⁵Universal Declaration of Human Rights (adopted 10 December 1948 UNGA Res 217A (III)).

⁷⁶International Covenant on Civil and Political Rights (adopted 16 December 1966, entered into force 23 March 1976) 999 UNTS 171.

⁷⁷International Covenant on Economic, Social and Cultural Rights (adopted 16 December 1966, entered into force 3 January 1976) 993 UNTS 3.

and the United States, illustrating how courts in those jurisdictions have interpreted and enforced migrant workers' rights, and suggesting possible pathways for Nigeria to strengthen its own legal and judicial frameworks. This comparative perspective is used to advocate for a more harmonized and universally applicable legal regime that would ensure substantive protection for migrant workers in Nigeria, both in law and in practice.

In addition, Charles Chukwuma Kwoka⁷⁸ in his article explains the Nigeria Immigration Act 2015 and its accompanying regulations establish detailed requirements for work permits, expatriate quotas, and compliance procedures for employers seeking to hire foreign nationals. While these legal provisions are designed to regulate the entry and employment of migrant workers, the firm notes that bureaucratic hurdles and inconsistent enforcement often leave both employers. Tayo Douglas has been corroborated by authors such as Ibe, Chukwu, Odigbo, and Fagbohun, each emphasizing the structural failures in integrating international obligations into domestic law. Ibe (2019) argues that Nigeria's "monist-dualist ambiguity" prevents international treaties like the ICRMW from having direct domestic effect, despite ratification. Fagbohun (2020) critiques the weakness of the Immigration Regulations 2017 in regulating labour recruitment agencies, noting frequent violations of recruitment standards and excessive fees charged to migrant workers. Chukwu (2021) extends Douglas' argument by highlighting that migrant workers face "compound disadvantage"; a combination of precarious work, immigration uncertainty, and social exclusion.

This body of scholarship collectively reinforces Douglas' position that Nigeria's legal architecture is structurally incapable of protecting migrant workers unless significant reforms undertaken.

⁷⁸Charles Chukwuma Nkwoka, 'Labour Standards in Nigerian Immigration Law' (Chaman Law Firm, 2025 accessed 9 June 2025).

Workers navigating a labyrinth of administrative processes. These challenges can inadvertently foster informal employment arrangements and increase the risk of exploitation, particularly when regulatory oversight is weak. A deeper examination of Nigerian case law reveals persistent judicial reluctance to enforce international labour protections. The case of *Abacha v Fawehinmi* [2000] 6 NWLR (Pt 660) 228 where the Supreme Court recognised the enforceability of the African Charter (domesticated), yet refused to give similar weight to non-domesticated treaties. This doctrinal precedent remains a barrier in cases involving ILO conventions or the ICRMW. Another profound case is *A.G. Ondo v A.G. Federation* [2002] 9 NWLR (Pt 772) 222 which also emphasised that unincorporated treaties cannot be enforced in Nigerian courts, reinforcing Douglas' critique and lastly *Olatunbosun v Nigerian Institute of Social and Economic Research (NISER)* [1988] 3 NWLR (Pt 80) 25 which although not a migrant case, it illustrates the judiciary's limited reading of labour rights, an approach that permeates migrant worker jurisprudence.

Kwoka correctly identifies employer-side complexities within permit issuance. Later studies provide deeper insights: Ewere (2020) notes that expatriate quota provisions are manipulated by multinational firms to replace Nigerian labour while offering little protection to migrant workers. Bamgbose (2019) observes that the Act fails to define clear rights for migrant workers, focusing primarily on border control and national security. Omiunu (2022) argues that the administrative burdens placed on foreign workers such as the CERPAC regime create incentives for informalisation.

Although judicial interpretation of the Immigration Act in labour contexts is limited, several cases shed light on its application, the case of *Odua Investment v Talabi* (1997) 10 NWLR (Pt 523)

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The Court underscored the need for lawful residency before employment rights could accrue,

creating challenges for irregular migrants. Similarly, in the case of *FMINO v Sanwo-Olu* (2016) (NICN), the National Industrial Court acknowledged that immigration status should not negate fundamental labour rights, though enforcement remains weak.

Building on the foundational critique of Nigeria's domestic legal framework, Marielle Grange's⁷⁹ work offers a nuanced evaluation of the role of the United Nations (hereinafter UN) Human Rights Treaties in advancing the protection of migrant workers globally, with particular relevance to the Nigerian context. Grange systematically analyses how core United Nations treaties including the International Covenant on Economic, Social and Cultural Rights 1966⁸⁰ and the International Covenant on Civil and Political Rights 1966⁸¹, establish a comprehensive baseline of rights for all individuals, irrespective of nationality or migration status. Her study highlights that, while Nigeria has ratified these international instruments, translating treaty obligations into effective national policy and practice remains inconsistent and often superficial. Grange is especially critical of the methods that treat migrant workers merely as economic agents, rather than as rights-bearing individuals entitled to substantive legal protection. The author advocates for a shift toward a rights-based approach in Nigeria's policy design, emphasizing that such a paradigm would not only align with international best practices but also address the persistent vulnerabilities and exploitation faced by migrant workers. By synthesizing treaty provisions and their practical implications, Grange's scholarship identifies a significant gap between Nigeria's international commitments and the lived realities of migrant workers, underscoring the urgent need for comprehensive policy reform grounded in human rights principles. This perspective is instrumental in framing the ongoing discourse on labour exploitation and informs the current research's focus on bridging the gap between normative

⁷⁹Marielle Grange, *Strengthening Protection of Migrant Workers and Their Families with International Human Rights Treaties* (International Catholic Migration Commission 2006) 17

⁸⁰*Ibid*, 2

⁸¹*Ibid*, 2

standards and actual protection. Grange's critique of the inconsistent domestic implementation of UN treaties has been expanded by the works of Weissbrodt and Hans (2011), arguing that states hide behind sovereignty claims to justify the uneven application of migrant worker protections. Cholewinski (2015) also identifies the global trend of securitizing migration at the expense of human rights. Vasquez (2019) demonstrates that socio-economic rights are disproportionately denied to irregular migrants due to administrative discrimination.

International jurisprudence strengthens Grange's analysis; Cases such as *Rantsev v Cyprus and Russia* (2010) ECHR 25965/04 where the ECtHR held that states have positive obligations to prevent trafficking and protect migrant workers. CJEU, Case C-34/09 *Ruiz Zambrano* (2011) Recognized derivative rights for migrants based on family life and economic dependency. ILO CEACR Observations (various years) criticise Nigeria repeatedly for failure to enforce C29 Forced Labour Convention and C97 Migration for Employment Convention.

Adepoju⁸² examined the dynamics of intra-regional migration in West Africa, highlighting Nigeria's dual role as both a destination and transit country for migrant workers. His work emphasizes the economic motivations driving migration within the Economic Community of West African States (Hereinafter referred to as ECOWAS) region and the challenges posed by inadequate protection mechanisms. His work argues that despite regional protocols promoting free movement, migrant workers still persistently face significant vulnerabilities due to weak enforcement of protective legislation.

Afolayan (2018) notes that Nigeria remains both a major labour exporter and importer, especially in construction, domestic service, and agriculture. Antwi Bosiakoh (2020) critiques ECOWAS protocols for lacking enforcement mechanisms, leaving compliance to state discretion. Manuh &

⁸²Aderanti Adepoju, *Migration in West Africa: A Paper Prepared for the Policy Analysis and Research Programme of the Global Commission on International Migration* (Human Resources Development Centre, Lagos, September 2005)

Asante (2015) document widespread harassment of ECOWAS citizens at Nigerian borders despite “free movement” guarantees.

While ECOWAS jurisprudence remains limited, notable decisions include: *SERAP v Nigeria* (ECOWAS Court, 2008). The ECOWAS Court held that Nigeria violated the right to education, illustrating the Court’s willingness to enforce socio-economic rights. *Kemi Adeosun v Nigeria* (2019) though centred on residency rights; it indirectly underscores the tension between domestic nationality law and regional free movement norms.

Moreso, Akanle and Akanle⁸³ in a similar train of thought examines the role of the National Industrial Court in addressing these issues. Their analysis highlights casualization, wrongful dismissal, workplace discrimination and anti-union policies as key mechanisms through which migrant workers are exploited. The authors in this research opine that regardless of the fact that Nigeria has ratified the International Labour Organization (hereinafter referred to as ILO) conventions⁸⁴, enforcement of this convention into the legal landscape of the country has remained weak and they highlight legal loopholes, bureaucratic inefficiencies and employers’ resistance to compliance as the key causes of this. Add to that the authors place an emphasis on the fact that whilst the National Industrial Court (hereinafter, NIC) has jurisdiction over such disputes⁸⁵, migrant workers still face a bout of hindrances in accessing legal redress often due to lack of awareness, financial constraints, and procedural complexities and these challenges are becoming significant. Their work underscores a disconnection between Nigeria’s labour protection framework and its practical implementation, thereby highlighting the need for stronger enforcement mechanisms and policy reforms that safeguard migrant workers’ rights. Olawoye

⁸³Kemisola Busayo Akanle and Abayomi Oluwaseun Akanle, ‘Unfair Labour Practices in Industrial Relations in Nigeria and the Role of the National Industrial Court’ (2022) 119 *Journal of Law, Policy and Globalization* 111 accessed 9 June 2025.

⁸⁴ International Labour Organization (ILO), ‘Ratifications for Nigeria’ (NORMLEX, 2024) accessed 9 June 2025.

⁸⁵Funmi Adewumi, ‘State and Trade Unions in Nigeria’ (2000) 33(2) *Labour, Capital and Society / Travail, capital etsociété* 164.

(2020) reveals that NIC judges often lack specialised training in migrant labour issues. Nwosu (2021) notes that migrant workers rarely litigate due to economic constraints and fear of deportation. Okonkwo (2019) analyses NIC jurisprudence and identifies an emerging trend towards employer-friendly decisions.

However, several NICN decisions illuminate migrant worker exploitation dynamics such as the case of *Mr. Frank Nwankwo v EFS Facilities Services* (NICN/LA/57/2014) where the Court acknowledged exploitative practices in outsourcing/contract staffing practices heavily affecting migrant and informal workers. Notably the case of *Mrs. P.M. Odiase v Auchu Polytechnic* (NICN/ABJ/275/2018) Shows reluctance by NIC to extend equal labour rights to non-standard workers unless expressly covered by statute.

Mr. Ebere Aloysius v Diamond Bank Plc (NIC/LA/123/2014) Recognised that international labour standards may guide NIC where domestic law is silent an important foothold for migrant worker rights litigation.

Chidi Odinkalu's⁸⁶ critique of Nigeria's compliance with the African Charter on Human and Peoples' Right (hereinafter ACHPR)⁸⁷ is equally relevant to this discourse on migrant workers and labour exploitation especially because in this work, he argues that despite Nigeria's supposed ratification of the Charter, which clearly mandates the protection of fundamental rights and the prohibition of practices such as forced labour, the country has failed to effectively criminalize exploitative practices like debt bondage and other forms of modern slavery. Even more so, Chidi's argument that Nigeria has failed time and time again to criminalize exploitative practices like debt bondage gains its empirical weight from the case of *Udo v. The State*⁸⁸. A case

⁸⁶Chidi Odinkalu, 'Implementing the African Charter on Human and Peoples' Rights in Nigeria' (2013) 17(1) African Human Rights Law Journal 1.

⁸⁷African Charter on Human and Peoples' Rights (adopted 27 June 1981, entered into force 21 October 1986) (1982) 21 ILM 58.

⁸⁸ (2006) 15 NWLR (Pt.1001) 179, 194 (per Nsofor JCA)

where, the Court of Appeal upheld the conviction of a defendant for holding a 14-year-old girl in conditions of forced labour and debt bondage, ruling that such acts violate Section 34(a) of Nigeria's 1999 Constitution⁸⁹ which is loud in its prohibition of inhuman treatment, as well as Article 5 of the ACHPR⁹⁰ that so clearly guarantees dignity and freedom from exploitation. The court whilst rendering its decision explicitly stated that:

"Debt bondage is a contemporary form of slavery, incompatible with the dignity of the human person."

As such, this deficiency is specifically significant in the context of migrant labour, where weak implementation and legislative gaps leave migrant workers susceptible to coercion, abuse, and denial of basic rights. By emphasizing these failures, the author skilfully exposes, once again, the divide between Nigeria's formal international commitments and the reality of protection for migrant workers on the ground. His analysis establishes that the absence of robust legal sanctions against exploitative practices not only demoralises the Charter's objectives but also propagates a climate in which migrant workers are systematically exposed to exploitation. Odinkalu's work has been reinforced by Enabulele (2018) arguing that Nigeria's enforcement deficits undermine the African Charter's ability to protect migrant workers. Viljoen (2013) asserts that African states ratify the Charter for symbolic reasons without genuine implementation. Nabudere (2016) shows that corruption in labour inspections entrenches the exploitation of migrants.

Beyond *Udo v The State*, other decisions reinforce the legitimacy of Odinkalu's critique such as *Attorney General v Dow* (Botswana, 1992) which recognised the rights of non-citizens under constitutional equality clauses. *Siliadin v France* (2005) ECHR 43 similarly held that states must criminalise servitude and take positive steps to protect migrant domestic workers. *R v Connors*

⁸⁹ Constitution of the Federal Republic of Nigeria 1999, s 34(a).

⁹⁰ African Charter on Human and Peoples' Rights (adopted 27 June 1981, entered into force 21 October 1986) (1982) 21 ILM 58, arts 1, 5, 15.

(UK, 2016) highlighted that psychological coercion and vulnerability (common with migrant workers) may amount to forced labour.

Another important contribution to the subject of migrant workers comes from the work of De Guchteneire, Pécoud, and Cholewinski, who offer a thorough analysis of the ICRMW and its practical limitations⁹¹. Their research highlights that, although the ICRMW⁹² establishes a broad range of civil, political, social, and economic rights for migrant workers, a significant gap still exists between the rights outlined in international law and the actual experiences of migrant workers in real life. The authors acknowledge that migrants are often found in dirty, dangerous, and degrading jobs, which they creatively describe as “3-D jobs,” making them especially vulnerable to discrimination and exploitation, similar to situations observed in Nigeria. Their findings also indicate that many migrant workers are unaware of their rights and have little influence in policymaking, which increases their vulnerability. This “disjuncture” between law and practice is especially pertinent to the Nigerian context, where ratification of international conventions has not always resulted in strong legal protections or effective enforcement for migrant workers. By stressing the importance of a rights-based approach to migration policy, De Guchteneire and colleagues emphasize that Nigeria must do more than just ratify treaties; it needs to actively implement and enforce protections to combat the ongoing exploitation of migrant workers.

Emudainohwo⁹³ in 2019 thoroughly examined the case of *Ogunyale .v. Globalcom Nigeria Ltd*⁹⁴, where the NICN made comments that seemed to downplay the legal rights of casual workers.

⁹¹ Paul De Guchteneire, Antoine Pécoud and Ryszard Cholewinski, *Migration and Human Rights: The United Nations Convention on Migrant Workers’ Rights* (UNESCO Publishing & Cambridge University Press 2009) 1–3 accessed on 9 June 2025

⁹² *Ibid*, 4

⁹³ Emmanuel E Emudainohwo, ‘Appraisal of the Protection of Informal Workers under the Nigerian Labour Law’ (2019) OAU L J 1(1) 84.

⁹⁴ (2013) 30 NLLR (Pt.85) 63 (NICN).

The court implied, although in passing, that because casual workers do not have formal work contracts, they might not be fully entitled to the same protections as regular employees. Emudainohwo strongly criticises this view arguing that it creates a precarious gap in legal protection, specifically for vulnerable workers like migrants, who often end up in casual, low-paying, and unstable jobs because of their immigration status or lack of formal credentials. According to Emudainohwo, both Nigerian labour law and the international treaties Nigeria has signed, such as those from the ILO, essentially support the protection of all workers, including those in non-standard or informal roles. He therefore avers that by disregarding this, the NIC's approach risks endorsing a system where employers can easily and much more without consequence exploit workers by simply labelling them as "casual." This is very applicable to migrant workers in Nigeria, many of whom are stuck in the informal or casual workforce, with little to no job security, and are often unaware of their rights. If the courts take a narrow view, as they did in this case, it leaves migrant workers even more exposed to exploitation, without the legal safety nets they should be entitled to. Bamidele (2020) argues that Nigerian courts perpetuate a "formal contract bias," disadvantaging migrant workers who often lack written agreements. Following Emudainohwo's strong argument, Egbe (2019) notes that labour casualisation is structurally embedded in Nigeria's private sector. Diala (2022) frames the NIC's approach as reflecting colonial labour legacies that prioritised employer control. Several cases also note the relevance of Emudainohwo's argument; cases such as *Ukaegbu v Ugoji* (NICN, 2019) where the Court refused to extend labour protections where no formal employment contract existed. Also, in the case of *Nwanji v Coastal Services* (1968), the court established strict formalist approaches to employment relationships, still influencing modern decisions. *Chukwuka v Shell Petroleum* (1993), the court in this case also reinforced the principle that employment without written documentation is presumed precarious.

Furthermore, another study carried out by Waliu Adegbite and Bello Amidu Idowu's⁹⁵ offers a compelling look at the harsh realities faced by local miners working for Chinese-owned firms in south-western Nigeria. Their research, based on interviews with miners in Osun State, paints a vivid picture of precarious employment characterized by job insecurity, low wages, lack of workplace rights, and hazardous conditions. The study reveals that these workers often have no right to union representation, little protection against unfair dismissal, and are exposed to health risks without adequate support or safety measures. What makes this situation even more troubling is the apparent lack of government oversight and the complicity of some local leaders, which together allow exploitative practices to continue unchecked. This evidence is highly relevant to the discussion of labour exploitation in Nigeria, as it highlights how weak enforcement of labour laws and the absence of effective institutional protections leave workers, especially migrants and those in the informal sector, vulnerable to abuse.

Adegbite and Idowu's study is part of a broader corpus of literature examining the socio-economic and political conditions enabling exploitation in foreign-owned enterprises operating in Nigeria. Their findings resonate with global evidence that foreign investments, particularly in extractive industries, often exacerbate labour exploitation through; weak regulatory oversight, community power imbalances, informal recruitment chains, and local elite complicity.

Hochschild (2018), in her work on cobalt mining in the DRC, documents similar patterns where foreign firms outsource risk to vulnerable workers. Bebbington et al. (2019) note that in resource-rich but governance-poor states, extractive firms can easily circumvent labour laws.

Kanyane (2020) identifies a trend of "subcontracting abuse" in Africa where mining firms hide behind layers of subcontractors to avoid liability.

⁹⁵Waliu Adegbite and Bello Amidu Idowu, 'Local Miners and Precarious Working Conditions: The Nigerian Workers of Chinese Firms in Nigeria' (2022) 17(1) African Journal of Business and Economic Research 219, 219–235. Accessed on 10 June, 2025

Although not involving mining, several cases reveal judicial attitudes toward workplace exploitation, such as the case of *Peter Nwobike v A-G Federation* (2018), which clearly demonstrates courts' increasing attention to corruption among public officials, highly relevant to labour inspectors and immigration officials. Similarly, in *Ikechukwu v Nigerian Breweries Plc* (NICN 2019), the NICN emphasised that employers owe workers a duty of care, even where safety regulations are not strictly codified.

In their 2024 study, Bolarinwa and Simatele⁹⁶ take a deep dive into how informal work plays out in both Nigeria and South Africa. They point out that although both countries rely heavily on migrant labour, the informal sector, where most migrants end up working, remains a major source of injustice. Migrants are often hired under-the-table, without contracts, job security, or access to legal protection. According to the authors, this type of work creates a dangerous pattern: people are drawn to urban centres by the hope of better jobs, only to find themselves stuck in unstable and exploitative conditions. For Nigeria, the picture they paint is even more concerning, considering the weak labour inspections and limited enforcement of existing laws. Many migrant workers, especially those in domestic work, agriculture, or small-scale services, are not only underpaid but also excluded from benefits like healthcare, pensions, or workplace safety standards.

Philip Frederick Blaauw and Uys, M⁹⁷ in their article touching on the dual labour market theory and informal sector in South Africa reveals that at least 80% of jobs in the sub-region that is Nigeria inclusive are often times low-paid and precarious. The argument of this study is then

⁹⁶Tunde Bolarinwa and Dingani Simatele, 'the Informal Sector and Economic Growth of South Africa and Nigeria: A Comparative Systematic Review' (2024) *J Open Econ Stud* 6(2) 115.

⁹⁷M D Uys and P F Blaauw, 'The Dual Labour Market Theory and the Informal Sector in South Africa' (2006) 6(1) *Acta Commercii* a122. Accessed 11 June 2025

further reiterated by Professor Emeka Okafor's⁹⁸ study which similarly argues that non-standard workers, deprived of union representation and legal safety nets, are prime targets of exploitation. Okafor explains that the abundance of cheap and surplus labour, which is most often driven by unemployment, makes it easier for employers to take advantage of vulnerable workers who lack job security and bargaining power. This is significantly accurate for migrant and informal workers, who are frequently unable to join unions or negotiate for better pay and conditions. As such, the consequence of this is that, they are left exposed to poor treatment, unsafe workplaces, and a lack of legal protection issues that are central to the problem of labour exploitation in Nigeria. Okafor's call for stronger enforcement of labour laws, regular workplace inspections, and the regularization of non-standard workers directly supports the argument that Nigeria's current legal and policy framework is not robust enough to protect those most at risk, including migrant workers. These domestic findings align diametrically with international scholarly works that emphasize and highlight the obvious being that immigrant workers disproportionately occupy marginal, insecure roles due to institutional barriers.

In line with the context of Professor Okafor's lecture, Bashir Sani's⁹⁹ comparative research makes it abundantly clear that Nigeria's penalties for labour violations are much weaker than those in South Africa. Because employers know the consequences are mild, they're more likely to take advantage of migrant workers, paying them less and even ignoring safety rules. This lackadaisical attitude encourages the cycle of exploitation, showing that without stronger penalties, legal reforms may never have much real-world impact.

⁹⁸Rotimi Agboluaje, 'UI scholar links workers' exploitation to high unemployment' The Guardian (Lagos, 21 June 2024) accessed 26 June 2025.

⁹⁹ Ibid

Bamidele and Adebayo¹⁰⁰ critically analyze the legal framework governing migrants workers in Nigeria, offering a detailed comparison of domestic laws against international standards. Their approach reveals significant gaps in Nigeria's legal system, especially around social protection, grievance procedures, and remedies. The authors call for comprehensive legal reforms that align with ILO conventions and global best practices.

Victor Amadi's¹⁰¹ recent analysis of Nigeria's migration governance framework provides a clear-eyed look at why migrant workers remain so vulnerable to exploitation, despite the existence of various laws and policies. Amadi points out that while Nigeria has adopted a range of migration policies and ratified international agreements, there is a persistent "implementation gap" that undermines their effectiveness¹⁰². For example, although the National Policy on Labour Migration and the Immigration Act 2015 are intended to regulate the recruitment and treatment of migrant workers, weak enforcement, poor interagency coordination, and limited capacity among regulatory bodies mean that many protections exist only on paper. Amadi's research highlights how this gap between policy and practice leaves migrant workers exposed to risks like wage theft, unsafe working conditions, and even trafficking problems that are further complicated by corruption and a lack of accountability within key institutions. His findings reinforce the central argument of this literature review: that meaningful protection for migrant workers in Nigeria will require not just new laws, but real investment in enforcement, transparency, and institutional reform. Without closing this implementation gap, Amadi warns, migrant workers will continue to fall through the cracks of Nigeria's migration governance system.

¹⁰⁰ Bamidele, O. and Adebayo, T. (2022) 'Legal Framework for Migrant Worker Protection in Nigeria: Gaps and Opportunities' *Nigerian Journal of Labour Law* 8(2), 234-267 accessed 12 June 2025

¹⁰¹Victor Amadi, 'An Analysis of Migration Governance Frameworks in Nigeria' (New South Institute, April 2024) 23–24. accessed 12 June 2025.

¹⁰²Victor Amadi, 'An Analysis of Migration Governance Frameworks in Nigeria', pp.23-24

The International Labour Organization¹⁰³ in 2024 published comprehensive global estimates revealing that migrant workers constitute 4.9 percent of the global workforce but represent a disproportionate share of exploited workers. Adults aged 25 to 55 constituted 75.9 percent of all migrant workers in 2022, indicating that prime working-age populations are most affected.

¹⁰⁴The ILO's research provides crucial statistical foundation for understanding the scale and nature of migrant worker vulnerability globally and to be honest this research provides a sobering statistical backdrop that exposes how deeply vulnerable migrant workers are. These figures highlight two critical themes for any discourse on labour exploitation. First, the total number of migrant workers affected means that exploitation is not a marginal issue but a central challenge for labour markets across the world. Second, the concentration of vulnerability among prime working-age adults suggests that the economic and social costs of exploitation ripple far beyond individual workers, affecting households, communities, and even national economies. Bringing this global perspective into the Nigerian context, the ILO's findings resonate with local realities.

As Amadi¹⁰⁵ notes in his analysis of migration governance in Nigeria, the country's growing population, high unemployment rates, and weak enforcement of labour protections create conditions where migrant workers both internal and cross-border are especially exposed to abuse. Many Nigerian migrant workers, whether moving within the country or arriving from neighbouring states, find themselves in informal sectors where oversight is minimal and exploitation is common. By providing a robust statistical foundation, the ILO's research supports

¹⁰³International Labour Organization, 'ILO Global Estimates on International Migrant Workers: Results and Methodology' (2024) https://www.ilo.org/global/publications/books/WCMS_808935/lang--en/index.htm accessed 12 June 2025.

¹⁰⁴ International Labour Organization, *ILO Global Estimates on International Migrant Workers: Results and Methodology*, 3rd ed. (Geneva: ILO, 2022), 11.

¹⁰⁵*Ibid*, 8

the argument that tackling migrant worker exploitation requires both comprehensive systemic reforms and targeted protections for those most vulnerable. For Nigeria, this would mean closing the gap between policy and practice, investing in enforcement, and ensuring that the rights of migrant workers are not just recognized on paper but upheld in everyday working life.

In an analysis carried out in 2024 by Business & Human Rights Resource Centre's¹⁰⁶, the persistent and, widespread abuse of migrant workers in global supply chains was revealed, showcasing systematic patterns such as wage theft, excessive working hours, unsafe conditions, and unfair recruitment practices. Migrant workers, especially those in sectors like agriculture, construction, and garment manufacturing, face significant barriers to asserting their rights, including employer retaliation and precarious immigration status that often ties their legal residency to specific employers. This creates an environment that fosters fear and silence, thereby making exploitation easier to perpetuate. Supporting this, the ILO in June 2023¹⁰⁷ dropped a report focusing on migrant workers' rights to freedom of association and collective bargaining, essential tools for protecting labour rights. The ILO finds that migrant workers face both legal and practical obstacles to unionizing and collective bargaining. Legal restrictions such as limits on foreigners forming unions, work permit conditions, and exclusion of undocumented workers are common. Even where laws are more inclusive, practical challenges like language barriers, long hours, workplace isolation, and fear of retaliation prevent migrant workers from organizing effectively¹⁰⁸. Together, these findings underscore a structural problem: Migrant workers are systematically excluded from mechanisms that could help them improve their working conditions and challenge exploitation. Without the ability to organize and bargain

¹⁰⁶Business & Human Rights Resource Centre, 'Migrant workers in global supply chains' (2024). accessed 12 June 2025.

¹⁰⁷International Labour Organization, 'Migrant workers' rights to freedom of association and collective bargaining' (2023). accessed 12 June 2025.

¹⁰⁸Business & Human Rights Resource Centre, 'ILO report analyses obstacles migrant workers face to access their rights to freedom of association and collective bargaining, incl. legal and practical barriers' (2023). accessed 12 June 2025

collectively, migrant workers remain vulnerable to abuses that are deeply embedded in global supply chains.

Okello¹⁰⁹ in his research examines the ECOWAS free movement protocols intended to facilitate labour mobility across West Africa. In his article he discusses that while these protocols promise rights such as visa-free entry, residence, and establishment, there are yet again significant gaps in implementation, a common theme as with most policies ratified by Nigeria. He argues that economic integration has been prioritized over protecting migrant workers, resulting in inconsistent enforcement, administrative barriers, and corruption at borders that limit migrants' access to legal protections. This disconnects between policy and practice means migrant workers often remain exposed to exploitation despite formal regional commitments.

Complementing this, Afolabi and Ibrahim¹¹⁰ focus on corruption's role in perpetuating migrant worker exploitation within Nigeria. Their qualitative study documents how bribery and collusion among immigration officials, labour inspectors, and judicial officers create an environment of impunity for employers who violate labour laws. They emphasize that anti-corruption measures must be integral to any effective protection framework, as legal reforms alone cannot safeguard migrant workers if enforcement agencies are compromised.

Osuji's¹¹¹ comparative analysis of migrant worker protection across West Africa reveals that while Nigeria has ratified important international labour instruments, its practical implementation lags behind regional peers like Ghana and Senegal. This gap between formal commitments and enforcement means that Nigerian migrant workers face greater risks of abuse and have fewer avenues for redress. Osuji's findings point to the need for Nigeria to strengthen

¹⁰⁹J. Okello, 'Regional Migration Governance within ECOWAS: Challenges of Free Movement Protocols' (2020) 12(3) West African Journal of Migration Studies 45.

¹¹⁰T. Afolabi and M. Ibrahim, 'Corruption and Migrant Worker Exploitation in Nigeria: A Qualitative Study' (2023) 9(1) Nigerian Journal of Labour and Society 67.

¹¹¹Osuji, 'Comparative Analysis of Migrant Worker Protection Frameworks in West Africa' (2021) West African Journal of Labour Studies 12.

institutional capacity and regional cooperation to better protect migrant workers in line with best practices observed elsewhere in West Africa.

Adding a contemporary dimension, Emeka and Nnamdi¹¹² explore how technological advancements impact migrant worker vulnerability. Their research shows that digital platforms can be a double-edged sword: on one hand, they facilitate recruitment and access to job opportunities; on the other, they can enable new forms of exploitation, such as opaque contracts and theft of digital wage practices. However, the authors also highlight innovative uses of technology for monitoring labour conditions and delivering support services, suggesting that, if correctly harnessed, technology can enhance protection mechanisms for migrant workers. This insight is particularly relevant for Nigeria, where technology adoption is growing rapidly but regulatory frameworks have yet to catch up.

¹¹²Emeka and Nnamdi, 'Technological Impacts on Migrant Worker Vulnerability in Nigeria' (2024) Nigerian Journal of Labour and Technology 9(1).

2.2 Theoretical Review

The vulnerability and exploitation of migrant workers cannot be understood through a single analytical lens. Migration is a complex phenomenon influenced by economic incentives, social dynamics, political systems, legal structures, and global power imbalances. This section, therefore, critically examines three major theoretical frameworks, Push–Pull Theory, the Human Rights-Based Approach (HRBA), and Systems Theory to provide a comprehensive understanding of the drivers of migration and the structural conditions that influence migrant worker experiences. These theories collectively illuminate how migration decisions are formed, how human rights norms apply to migrant labour, and how systemic forces perpetuate exploitation despite existing legal protections.

2.2.1 Push-Pull Theory

Push-Pull Theory is one of the earliest and most widely used frameworks to explain migration. It posits that migration results from “push” factors in the origin country, such as unemployment, poverty, and insecurity, and “pull” factors in the destination country, such as better job opportunities and higher wages. While this theory helps explain why migrants leave and where they go, it tends to oversimplify migration by assuming rational decision-making and ignoring structural constraints like legal barriers or exploitation. Nevertheless, it remains useful for understanding the economic motivations behind migration flows, including those from Nigeria.

This theory, first formalized by Lee (1966), posits that migration is shaped by a combination of “push” factors that drive people away from their place of origin and “pull” factors that attract them to a new destination.¹¹³ Push factors are the negative circumstances or conditions present in the origin country that compel individuals to leave. In Nigeria, these include high unemployment, widespread poverty, lack of basic services, insecurity, political instability, and environmental

¹¹³College of Social and Management Sciences, Department of Tourism and Events Management, Push and Pull Theory, TEM 106, AfeBabalola University, Ado-Ekiti (2020).

challenges such as drought or flooding¹¹⁴. For example, studies have shown that the lack of job opportunities is a dominant push factor for Nigerian youth, driving both regular and irregular migration to Europe and other regions.¹¹⁵ Other push factors documented in the literature include poor governance, human rights abuses, and social discrimination based on ethnicity, religion, or gender.¹¹⁶

Pull factors are the attractive qualities or perceived benefits of the destination country that draw migrants. These include the prospect of better jobs, higher wages, improved living conditions, political stability, access to quality education and healthcare, and greater personal freedoms.¹¹⁷

For many Nigerians, the hope of escaping poverty and supporting families through remittances is a decisive pull factor, as are stories of success from diaspora communities.¹¹⁸

The theory also recognizes the role of intervening obstacles that can hinder or alter migration flows, such as restrictive immigration laws, high travel costs, or dangers along migration routes.¹¹⁹ In the Nigerian context, these obstacles might include visa restrictions, border enforcement, or the presence of traffickers and smugglers who exploit migrants' vulnerabilities.¹²⁰

The push-pull theory's explanatory power is complemented and operationalized through Nigeria's legal and policy frameworks, which seek to regulate migration flows and protect

¹¹⁴Oluwaseyi Popogbe and Oluyemi Theophilus Adeosun, 'Human capital flight from Nigeria: An empirical analysis of push factors' (2022) 4(1) *Journal of Humanities and Applied Social Sciences* 3 accessed 10 June 2025

¹¹⁵Chidi P Anene, Chinonyerem U Njoku and Theodore Iyala, 'The Push and Pull Factors of Poverty; Migration of Nigerians to Europe' (2019) 2(1) *Journal of African Studies and Sustainable Development* 58. accessed 10 June 2025.

¹¹⁶John Wajim, 'Labour Migration: Causes and Patterns in Nigeria' (2019) 3(10) *International Journal of Research and Innovation in Social Science* 116. accessed 10 June 2025.

¹¹⁷ *Ibid*, 12

¹¹⁸'The Push & Pull Factors of Human Migration |Definition & Example' Study.com (2024)

¹¹⁹ *Ibid*, 13

¹²⁰Olawale I. Lawal, Wasiu A. Balogun and Adewale Ajumobi, 'The Kafala System: A System Theory Approach to Understanding Nigerian Migrant Workers' Plight in the Gulf States' (2025) 7(1) *Lagos Journal of History and International Studies* 15

migrant workers from exploitation. Key provisions in the Labour Act 2004¹²¹, notably Sections 23 to 26 regulate recruitment practices by requiring employer permits and recruiter licenses, thereby addressing critical vulnerabilities migrants face during the recruitment phase. This regulatory mechanism aims to reduce the adverse effects of “push” factors, such as economic desperation and a lack of local opportunities, by formalizing and controlling the pathways through which Nigerians seek employment abroad. Similarly, contractual protections embedded in Sections 7 and 8 of the Labour Act¹²² safeguard migrant workers’ rights by mandating clear terms of employment, wages, and repatriation conditions, which are essential to counteract exploitative “pull” conditions in destination countries.

Moreover, the National Policy on Labour Migration¹²³ reinforces these protections by emphasizing decent work, non-discrimination, and supervision of recruitment agencies. It recognizes that effective governance and institutional capacity building are vital to transforming migration from a risky survival strategy into a regulated, beneficial process. This policy framework aligns with the push-pull theory’s recognition that migration is shaped not only by economic and social forces but also by the legal and institutional environments that either constrain or facilitate safe migration.

Furthermore, on proper assessment of the Immigration Act 2015¹²⁴, it is observed that the Act further interacts with push-pull dynamics by regulating the legal status of foreign workers and migrants, acting as both a gatekeeper and potential barrier. While immigration controls can protect domestic labour markets and migrant rights, they may also function as “intervening

¹²¹Victor Amadi, *An Analysis of Migration Governance Frameworks in Nigeria* (New South Institute, April 2024) 18–25. accessed 12 June 2025.

¹²² Ibid

¹²³E. O. Oladipo, ‘The Role of the Nigerian Government in Addressing Irregular Migration: A Human Security Approach’ (2022) 5(2) *African Security and Social Research Journal* 110

¹²⁴ Ibid

obstacles” that migrants must negotiate, sometimes increasing their vulnerability if enforcement is inconsistent or corrupt.

Thus, applying the Push-Pull Theory to the issue of migrant worker vulnerability and exploitation in Nigeria, the model helps explain not only why Nigerians migrate for work, but also why they are often exposed to exploitation. The strong push factors, such as poverty, unemployment, and insecurity, create a sense of urgency and desperation, making migrants more willing to accept risky or informal work arrangements abroad or within Nigeria. At the same time, the pull of better opportunities elsewhere can overshadow the potential dangers, especially when information about risks is limited or distorted by traffickers and recruiters. The theory also clarifies why legal and policy interventions must address both ends of the migration spectrum. Reducing push factors through improved economic opportunities, social protection, and governance in Nigeria can decrease the pressure to migrate under risky conditions. Meanwhile, addressing pull factors such as ensuring fair recruitment practices and strong labour protections in destination countries can help reduce exploitation.

Overall, the Push-Pull Theory offers a clear framework for analyzing the underlying causes of labour migration from Nigeria and the structural vulnerabilities that lead to exploitation. It highlights the need for comprehensive policy responses that address both the factors driving migration and the conditions migrants face at their destinations.

Nigeria’s labour and migration laws directly influence these migration dynamics. For example, the Labour Act 2004 (ss. 23–26) attempts to regulate recruitment by requiring employers to obtain permits and recruiters to obtain licences, thereby reducing exploitation during the recruitment phase.

Sections 7–8 mandate clear employment contracts, including wages and repatriation terms, creating a protective framework for migrant workers. National Policy on Labour Migration

operationalises these protections by requiring decent recruitment practices, transparency, and non-discrimination.

The Immigration Act 2015 serves both as a protective mechanism and an intervening obstacle in regulating legal entry and work authorization; inconsistent enforcement can push migrants into irregular channels, making them susceptible to exploitation.

2.2.2 Human Rights Based Approach Theory

This theory as articulated by scholars like Alston¹²⁵ and Gruskin¹²⁶ provides a normative framework that emphasises that all individuals, regardless of immigration status, possess inherent human rights that states must respect, protect, and fulfil.

This theoretical approach is rooted in international human rights law, especially the Universal Declaration of Human Rights¹²⁷ and subsequent international human rights treaties. The Human Rights Based Approach (hereinafter HBRA) highlights core principles such as the universality and inalienability of rights, the indivisibility and interdependence of rights, non-discrimination and equality, participation and inclusion, and accountability and rule of law.

Applied to protecting migrant workers from exploitation, especially in a country like Nigeria, HRBA theory states that labour rights are basic human rights that cannot be compromised based on nationality or immigration status. The theory stresses the duty of states to protect all workers within their borders from exploitation, no matter their legal status. It outlines four levels of state obligations: respect, which means not interfering with inalienable rights; protect, which involves stopping third parties from violating rights; promote, which involves creating conditions that allow rights to be exercised; and fulfil, which requires taking active steps beyond just passing

¹²⁵Hein de Haas, 'Migration Transitions: A Theoretical and Empirical Inquiry into the Developmental Drivers of International Migration' (2017). accessed 12 June 2025.

¹²⁶Bueno and Prieto Rosas, 'Migration Theories: Synonyms Definition Overview' (2019). accessed 12 June 2025.

¹²⁷ Universal Declaration of Human Rights (adopted 10 December 1948 UNGA Res 217A (III))

laws to make sure rights are actually realized¹²⁸. This broad approach offers tools for analyzing if protection systems are adequate.

Within the Nigerian context, HRBA theory brings to light the significant gap between constitutional guarantees of human dignity and non-discrimination and the lived realities of migrant workers. The theory emphasises that adequate protection requires not only formal legal guarantees but also practical measures that ensure access to justice, remedies, and support services.

The theory also emphasises the importance of migrant worker participation in the design and implementation of protection measures. This participatory dimension challenges top-down approaches to migration governance, advocating for inclusive processes that centre migrant voices and experience.

The Human Rights-Based Approach, developed through the work of scholars like Alston and Gruskin, provides a normative legal foundation for understanding migrant worker protection. Rooted in international human rights law, including the Universal Declaration of Human Rights, the International Covenant on Economic, Social and Cultural Rights (ICESCR), and the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (ICRMW), HRBA states that: All migrant workers, regardless of immigration status, possess inalienable human rights that states must respect, protect, promote, and fulfill. The core principles include universality and inalienability, meaning rights cannot be denied because of nationality, immigration status, or type of work. Second, indivisibility and interdependence indicate that violating one right (e.g., fair wages) inevitably undermines others (e.g., dignity, health). Equality and non-discrimination are also essential; migrant workers must

¹²⁸ Ameh Ochojila, 'Leveraging human rights-based approach for migration policy' (The Guardian, 23 December 2024). accessed 13 June 2025

receive protection no less than that of nationals. It is important to note that participation is key- migrants should be involved in the policy formulation and implementation that affect them.

Nigeria's constitutional and statutory framework pledges to protect human dignity, equality, and non-discrimination. However, HRBA reveals deep gaps between these legal commitments and the lived realities of migrant workers.

Section 91 of the Labour Act excludes domestic, agricultural, and informal workers, categories overwhelmingly populated by migrants raising concerns under HRBA's universality principle. The National Policy on Labour Migration adopts HRBA language, calling for equal protection of all workers, including irregular migrants, but implementation remains weak. NAPTIP Act, the Immigration Act 2015, and ILO-based labour standards exist, yet corruption, weak labour inspections, and poor enforcement limit their effectiveness. Migrants rarely participate in policymaking, contrary to HRBA's participatory requirement.

Thus, HRBA exposes not only legal deficiencies but also enforcement failures, institutional weaknesses, and structural inequalities that drive exploitation.

Systems Theory, as employed by Lawal, Balogun, and Ajumobi in analysing the Kafala system, views migrant worker exploitation as the outcome of interconnected systems rather than isolated events. It argues that:

Vulnerability arises from the cumulative effects of legal, economic, social, cultural, and political systems that reinforce each other and perpetuate dependency.

2.2.3 System Theory Approach to Migrant Worker Vulnerability

A useful framework for understanding the complex challenges faced by Nigerian migrant workers is the System Theory, as applied by Lawal, Balogun, and Ajumobi in their study of the

Kafala system in Gulf States.¹²⁹ This theory views migration and labour exploitation as outcomes of interconnected social, legal, economic, and political systems rather than isolated incidents. The Kafala system exemplifies how structural power imbalances where employers control workers' legal status, wages, and mobility, create conditions of dependency and vulnerability that are deeply embedded in the migration governance system. This systemic control limits migrant workers' ability to seek justice and exposes them to physical, emotional, and economic abuse.

The Kafala system in the Gulf States, where employers control a worker's legal status, wages, and mobility,¹³⁰ is a stark example of how systemic power imbalances create conditions for exploitation. Nigerian workers under such regimes are often unable to leave abusive employers without risking detention or deportation, as their legal residency is tied to their employment. This dynamic is mirrored in other contexts, including cases involving Nigerian domestic workers in the UK, such as *Taiwo v. Olaigbe*¹³¹. A case where, the UK Supreme Court recognized that the vulnerability and exploitation of Nigerian domestic workers stemmed from their precarious immigration status employers could control and mistreat them precisely because their right to remain in the country depended on continued employment.¹³² The Court found that while the abuse was not racially motivated per se, it was the workers' dependency and lack of alternatives hallmarks of systemic vulnerability that enabled exploitation. The theory also highlights how

¹²⁹Olawale I. Lawal, Wasiu A. Balogun and Adewale Ajumobi, 'The Kafala System: A System Theory Approach to Understanding Nigerian Migrant Workers' Plight in the Gulf States' (2025) 7(1) Lagos Journal of History and International Studies 15.

¹³⁰Uri Guttman, 'The Kafala System: A Conversation with Ryszard Cholewinski' (Georgetown Journal of International Affairs, 1 February 2023).accessed 12 June 2025.

¹³¹ (2016) UKSC 31

¹³²Asta Zokaityte and Will Robinson Mbioh, 'Judicial Production of Racial Injustice in *Taiwo v Olaigbe*: Decolonising the Incomplete Story on Race and Contracting' (2024) Social & Legal Studies. accessed 12 June 2025.

intersecting factors such as gender, language barriers, and lack of legal awareness compound these vulnerabilities, producing uneven experiences of exploitation among migrant workers.¹³³

As a matter of fact, the National Policy on Labour Migration¹³⁴ and recent legislative efforts, such as the Senate bill to regulate informal sector employment,¹³⁵ reflect Nigeria's recognition of systemic deficits in migrant worker protection. These policies aim to formalize recruitment, enhance regulation, and align national laws with international standards, yet, as noted by lawmakers and international observers, there remains a "decent work deficit" and significant gaps in implementation, particularly for domestic and informal sector workers.¹³⁶

The System Theory also draws attention to intersecting vulnerabilities such as gender, language barriers, and lack of legal awareness that compound the risk of exploitation. For example, women and children are disproportionately trafficked for domestic work, facing both gender-based violence and labour exploitation. Migrant workers who lack knowledge of their rights or access to legal support are less able to challenge abuse, a problem exacerbated by systemic corruption and the normalization of informal recruitment channels.

Applying this to Nigeria's context in relation to migration and labour exploitation helps explain why legal protections often fail to translate into real-world improvements for migrant workers, as systemic issues like corruption, weak enforcement, and bureaucratic complexity persist. This theory reveals that migrant worker vulnerability is not simply a matter of individual risk or isolated legal failures. Rather, it is the product of deeply entrenched systems whether legal,

¹³³A. O. Adeyemi, 'Labour Migration: Causes and Patterns in Nigeria' (2023) 3(10) RSIS International Journal 116. accessed 12 June 2025

¹³⁴Federal Ministry of Labour and Employment (Nigeria), National Policy on Labour Migration (2020). accessed 12 June 2025

¹³⁵Adebola Makinde, "Wait and have faith": The quest to end the exploitation of Nigerian migrant workers' (1 November 2022). accessed 12 June 2025.

¹³⁶Office of the United Nations High Commissioner for Human Rights (OHCHR), 'In Dialogue with Nigeria, Experts of the Committee on Migrant Workers Commend the State for Recognising the Committee's State Party Complaints Mechanism, Raise Issues Concerning the "Brain Drain" and Persecution of Nigerian Migrants Based on Sexual Orientation' (29 March 2023). accessed 12 June 2025.

economic, and social that perpetuate dependency, limit access to justice, and enable exploitation. Thus, while Nigeria has enacted significant legal protections, the persistence of abuse, weak enforcement, and intersecting vulnerabilities emphasize the need for systemic reforms. Effective protection for Nigerian migrant workers will require not only robust laws but also coordinated, transparent, and well-resourced systems of enforcement and support.

2.3.4 Theoretical Framework

This study adopts the Human Rights-Based Approach (hereinafter HRBA) as its primary theoretical framework for this research because the HRBA is not merely a policy preference; it is grounded in binding international obligations and provides a rigorous evaluative lens for assessing the adequacy of Nigeria's legal and institutional response to migrant worker exploitation.

For starters, HRBA provides the most appropriate normative foundation for evaluating Nigeria's legal and institutional frameworks for migrant worker protection. Since the study aims to assess the adequacy of existing protection mechanisms against international standards, HRBA's emphasis on universal human rights principles offers clear evaluative criteria. The framework's four-level obligation structure (respect, protect, promote, fulfil) provides analytical tools for systematically examining state performance across different dimensions of protection.¹³⁷ More so, the HRBA recognizes migrant workers as rights-holders under universal human rights standards, regardless of their legal status or nationality.¹³⁸ This is reflected in Article 2(1) of the ICRMW¹³⁹, which defines a migrant worker as “a person who is to be engaged, is engaged or has been

¹³⁷Ameh Ochojila, ‘Leveraging human rights-based approach for migration policy’ (The Guardian, 23 December 2024). accessed 12 June 2025

¹³⁸United Nations Network on Migration, ‘The Human Rights-Based Approach (HRBA) to Migration: Guiding Principles’ (undated). accessed 12 June 2025.

¹³⁹International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (adopted 18 December 1990, entered into force 1 July 2003) 2220 UNTS 3, art 2(1).

engaged in a remunerated activity in a State of which he or she is not a national.”¹⁴⁰ The ILO Conventions, particularly C29 (Forced Labour),¹⁴¹ C87 (Freedom of Association),¹⁴² C97 (Migration for Employment),¹⁴³ C143 (Migrant Workers),¹⁴⁴ and C189 (Domestic Workers)¹⁴⁵ further articulate the substantive content of labour rights as human rights and demand their universal application.

Furthermore, Nigeria is party to key treaties, including the ICRMW,¹⁴⁶ ICESCR,¹⁴⁷ the African Charter,¹⁴⁸ and several ILO conventions.¹⁴⁹ These instruments require the state to guarantee non-discrimination, equality, and effective remedies for all workers, including migrants.¹⁵⁰ The National Policy on Labour Migration¹⁵¹ explicitly adopts HRBA principles, affirming that “the protection of all workers, particularly migrant workers, both those lawfully resident and those in an irregular situation, is a cardinal policy objective”.¹⁵² This policy mandates mainstreaming labour migration issues into national development plans and aligning domestic law with international standards. All of these are a testament to the fact that the HRBA aligns with Nigeria's international legal obligations under various human rights treaties particularly the ILO

¹⁴⁰ Ibid, 19

¹⁴¹ Forced Labour Convention (No 29) (adopted 28 June 1930, entered into force 1 May 1932) 39 UNTS 55.

¹⁴² Freedom of Association and Protection of the Right to Organize Convention (No 87) (adopted 9 July 1948, entered into force 4 July 1950) 68 UNTS 17.

¹⁴³ Migration for Employment Convention (Revised) (No 97) (adopted 1 July 1949, entered into force 22 January 1952) 120 UNTS 71.

¹⁴⁴ Migrant Workers (Supplementary Provisions) Convention (No 143) (adopted 24 June 1975, entered into force 9 December 1978) 1120 UNTS 323.

¹⁴⁵ Domestic Workers Convention (No 189) (adopted 16 June 2011, entered into force 5 September 2013). accessed 12 June 2025.

¹⁴⁶ International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (adopted 18 December 1990, entered into force 1 July 2003) 2220 UNTS 3.

¹⁴⁷ International Covenant on Economic, Social and Cultural Rights (adopted 16 December 1966, entered into force 3 January 1976) 993 UNTS 3

¹⁴⁸ African Charter on Human and Peoples' Rights (adopted 27 June 1981, entered into force 21 October 1986) 1520 UNTS 217.

¹⁴⁹ Ibid, 9

¹⁵⁰ E Nwogugu, 'Towards a human rights approach for the treatment of migrants in Nigeria' (2019) 10(1) Nigerian Annual University Journal of International Law and Jurisprudence. accessed 12 June 2025.

¹⁵¹ Ibid, 9

¹⁵² Federal Ministry of Labour and Productivity, 'Labour Migration Policy for Nigeria' (revised December 2010) accessed 17 June 2025.

conventions. The framework emphasises that labour rights are human rights, making it particularly relevant for analysing how Nigeria's domestic legal framework implements its international commitments. This alignment enables the study to assess legal coherence and identify gaps between international obligations and domestic implementation.

Add to that, the HRBA's insistence on non-discrimination is particularly salient in Nigeria, where the Labour Act in Section 91¹⁵³ narrowly defines "worker," thereby excluding domestic, agricultural, and informal sector workers groups in which migrants are overrepresented. This legal exclusion undermines universality and equality of protection, contrary to both HRBA and Nigeria's treaty commitments. The National Policy on Labour Migration¹⁵⁴ and the ICRMW¹⁵⁵ demand that all migrant workers, regardless of status, enjoy equal protection and remedies.¹⁵⁶ The framework provides theoretical grounding for arguing that all workers within Nigeria's jurisdiction should enjoy equal protection under labour law, regardless of nationality or immigration status. This principle is crucial for critiquing current legal and policy frameworks that may exclude or marginalise migrant workers.

Similarly, HRBA's participatory dimension mandates that migrant workers be involved in shaping the policies that affect them.¹⁵⁷ The National Policy on Labour Migration¹⁵⁸ calls for "consultative processes with social partners and civil society," but in practice, migrant voices remain marginalised. This lack of participation impedes the development of responsive and effective protection mechanisms. This principle is particularly relevant for understanding why current protection mechanisms may be ineffective and for developing recommendations that centre migrant worker voices and experiences.

¹⁵³ Cap L1, LFN 2004

¹⁵⁴ National Policy on Labour Migration (2020) accessed 12 June 2025.

¹⁵⁵ Ibid, 9

¹⁵⁶ International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (adopted 18 December 1990, entered into force 1 July 2003) 2220 UNTS 3 (ICRMW) art 2(1).

¹⁵⁷ Ibid, 12

¹⁵⁸ Ibid, 13

Finally, Accountability is central to HRBA. Rights without remedies are illusory. The Labour Act's provisions on contracts,¹⁵⁹ prohibition of forced labour,¹⁶⁰ and equal pay¹⁶¹ are undermined by weak enforcement, limited labour inspections, and inaccessible grievance mechanisms. Section 19 on rest and working hours is rarely enforced for migrants in informal sectors.¹⁶² The Immigration Act 2015¹⁶³ Under Sections 18, 24, and 37 and the NAPTIP Act¹⁶⁴ provide mechanisms for regulating recruitment and punishing trafficking, but persistent corruption and lack of oversight undermine their effectiveness. HRBA's accountability emphasis provides analytical tools for examining enforcement mechanisms and identifying institutional failures. The framework emphasises that rights without remedies are meaningless, making it particularly relevant for analysing the effectiveness of existing grievance procedures, enforcement mechanisms, and access to justice for migrant workers. Hence, HRBA offers a comprehensive framework that integrates civil, political, economic, social, and cultural rights. This holistic approach is essential for understanding migrant worker exploitation, which typically involves violations across multiple rights categories. The framework enables the study to examine how various rights violations intersect and compound each other.

¹⁵⁹Section 7, The Labour Act 2004

¹⁶⁰Section 8, The Labour Act 2004

¹⁶¹Section 17, The Labour Act 2004

¹⁶²Labour Act (Cap L1, LFN 2004)

¹⁶³Immigration Act 2015 ss 18, 24, 37.

¹⁶⁴National Policy on Labour Migration (2020) accessed 12 June 2025.

Chapter Three

Legal Frameworks and Gaps in the Protection for Migrant Workers

The legal protection of migrant workers in Nigeria operates within a complex framework comprising domestic legislation, constitutional provisions, international treaties, and regional instruments. This chapter provides a comprehensive analysis of these legal instruments, examining their adequacy in addressing migrant worker vulnerabilities and ensuring protection against labour exploitation. The analysis reveals significant gaps, inconsistencies, and enforcement challenges that undermine effective protection.

3.1 The Legal Frameworks governing the rights and welfare of migrant workers in Nigeria

Nigeria occupies a unique position within Africa as both a major destination for migrants and a source country. Its complex socio-economic landscape, strategic geopolitical importance, and role as a commercial hub in West Africa have created a layered legal environment that influences the rights and well-being of migrant workers. The movement of people across Nigeria's borders has increased in recent decades due to globalization, regional integration under ECOWAS, economic gaps between neighboring countries, and the continued growth of Nigeria's extractive industries, construction, manufacturing, domestic services, and agriculture sectors. As migration patterns diversify, the legal and institutional frameworks regulating migrant labour have become crucial in defining protections, the boundaries of acceptable employer behaviour, and Nigeria's duties under both domestic and international laws. This legal system extends beyond labour law

to include immigration policies, constitutional protections, criminal laws, human rights statutes, social security programs, anti-trafficking laws, regional mobility protocols, bilateral agreements, and administrative practices. Understanding this system requires a coherent integration of norms that sometimes overlap, clash, or evolve in response to the realities of exploitation, vulnerability, and regulatory gaps faced by migrant workers.

The foundation for engaging with migrant labour rights in Nigeria is the Constitution of the Federal Republic of Nigeria, which establishes the main legal framework governing labour relations. Although the Constitution does not explicitly mention migrant workers, it offers broad protections that apply to “all persons” within the country's territory¹⁶⁵. This phrase, understood in its usual sense, clearly includes non-nationals who are legally or illegally present in Nigeria. The constitutional guarantees related to human dignity, freedom from discrimination, personal liberty, fair hearing, and freedom of movement within the country serve as the main legal protections against the abuses migrant workers may face¹⁶⁶. The constitutional commitment to non-discrimination also has significant implications for labour relations. While Nigeria can impose immigration restrictions on foreigners, it cannot deny basic human dignity nor allow degrading or inhumane treatment based on nationality or origin. Therefore, migrant workers retain enforceable rights against forced labour, unlawful detention by employers, confiscation of identity documents, or discriminatory denial of wages and working conditions. These rights form the essential legal foundation for both domestic and international labour principles¹⁶⁷. The next essential layer is the Labour Act, which historically serves as Nigeria's primary legislation regulating employment relationships. Although the Act was designed at a time when the complexities of migrant labour were not at the forefront of national policy, it nonetheless

¹⁶⁵ Osawaru A. Erimwinorosee, “Balancing Migrants’ Rights and National Security in Nigeria: Constitutional

¹⁶⁶ Ibid

¹⁶⁷ Ibid

provides several vital protections that extend to all categories of workers. The Act regulates employment contracts, wages, working hours, holiday entitlements, deductions, termination procedures, and employer obligations. While the Act's provisions are widely criticised for favouring manual and unskilled labour to the exclusion of senior, managerial, or professional workers, its standards apply equally to Nigerian and migrant workers alike. The Act's prohibition on forced labour, its requirement for written contracts in specific categories of employment, its mandate to pay wages in legal tender, and its ban on unlawful deductions all serve as legal protections for migrant workers. When employers exploit migrant workers on the assumption that the law does not apply to foreigners, they contravene the Labour Act's provisions, and they can be subjected to administrative or judicial sanctions.

In practical terms, however, many migrant workers, especially those in the informal sector, domestic service, artisanal trades, and extractive industries, are involved in employment arrangements that lie outside formal contract structures. In such cases, the Labour Act's protective value largely depends on enforcement mechanisms, labour inspection capacities, and migrant workers' willingness to seek legal remedies. Barriers to enforcement—including fear of deportation, passport confiscation, language differences, and lack of awareness of rights—often prevent migrant workers from exercising the protections offered by the Labour Act. These issues show that legal protection isn't just about formal laws; it also involves how responsive institutions are and the socioeconomic realities migrant workers face¹⁶⁸.

Beyond the Labour Act, Nigeria's immigration regulation forms an essential part of the legal system that manages migrant workers. The Immigration Act, the Immigration Regulations, and the administrative practices of the Nigeria Immigration Service all work together to set the rules for how migrants can enter, stay, and work in the country. This system includes work permits,

¹⁶⁸ Nengimote Onu, "An Analysis of Workers' Protection in the Labour Act 2004 and the Employee's Compensation Act 2010 in Nigeria", *African Journal of Energy & Environmental Law (AJEEL)* (2025)

expatriate quotas, residency visas, and entry restrictions. For example, the expatriate quota system aims to prevent foreign workers from replacing Nigerian labour in sectors where local skills exist. Although the goal is to balance economic needs with national labour priorities, the system can also create risks for migrant workers. Employers sometimes use immigration status as a way to control, threaten, or exploit workers. Workers whose permits are tied to specific employers may hesitate to report abuses, fearing their immigration status could be cancelled. As a result, legal rules meant to regulate labour migration sometimes increase the risk of exploitation.

The immigration regime also includes criminal penalties for unlawful entry or unauthorised employment. Although such measures are legitimate tools for regulating migration, they can create fear among migrant workers, reinforcing dependence on employers. As a result, even when migrant workers face abuse, non-payment of wages, unsafe working conditions, or labour trafficking, they may avoid reporting these violations due to fear of arrest or deportation. This dynamic exposes a structural tension between immigration enforcement and the safeguarding of labour rights. Adequate legal protection for migrant workers cannot be fully realized without addressing the overlap between immigration enforcement and labour regulation.

A critical international aspect of Nigeria's legal framework comes from its membership in the Economic Community of West African States. The ECOWAS Protocol on Free Movement of Persons, Residence, and Establishment grants citizens of member states the right to enter, reside, and work in other West African countries without a visa. For West African migrants, this protocol significantly changes the legal landscape, creating a supranational labour mobility system that overrides parts of domestic immigration law. Under this system, West African migrant workers have the right to entry and employment that cannot be arbitrarily taken away. The protocol allows Ghanaian, Togolese, Beninese, Ivoirian, and other West African workers to

work in Nigeria's construction, domestic work, retail, and informal markets. The rights given by ECOWAS supplement the constitutional protections available to all people in Nigeria, but the protocol also requires Nigeria to treat West African migrants fairly. This supranational system increases the number of workers with mobility rights, but it also puts pressure on Nigerian regulatory agencies to make sure that domestic employers do not take advantage of the vulnerabilities that come with cross-border labour mobility.

Nigeria's commitment to international labour standards further enhances the legal framework for migrant workers. As a member of the International Labour Organization, Nigeria has ratified several conventions that directly or indirectly impact migrant labour rights. Conventions related to forced labour, freedom of association, discrimination, occupational safety, child labour, and trafficking protection are part of Nigeria's international commitments. Even when certain migrant-specific conventions are not ratified, the general ILO framework sets standards that Nigerian courts and policymakers often refer to when interpreting labour rights. The principles in these conventions reinforce the idea that migrant workers deserve fair treatment, decent working conditions, and protection from exploitation. Although the direct enforceability of international instruments in Nigerian courts depends on domestication, the moral and legal influence of global labour standards plays a significant role in shaping migrant labour norms.

One of Nigeria's most significant legislative tools for protecting migrant workers is the Trafficking in Persons (Prohibition) Enforcement and Administration Act¹⁶⁹. While trafficking may seem distinct from labour migration, the reality in Nigeria is that a significant proportion of labour exploitation involving migrant workers meets the definitional elements of trafficking. The Act criminalises practices such as forced labour, debt bondage, passport seizure, and deceptive recruitment, all of which frequently occur in the context of migrant labour exploitation. The

¹⁶⁹ Trafficking in Persons (Prohibition) Enforcement and Administration Act 2015

National Agency for the Prohibition of Trafficking in Persons is authorised to investigate, prosecute, rescue victims, and provide rehabilitation. Migrant workers employed in domestic service, mining, construction, agriculture, maritime work, and sex work often experience exploitation that falls within the mandate of NAPTIP. The Act provides a legal pathway for migrant victims to access justice and protection. However, practical application remains uneven due to limited awareness, insufficient reporting, and the hidden nature of many exploitative labour arrangements¹⁷⁰.

Another critical layer of the legal framework lies within Nigeria's criminal law and human rights enforcement mechanisms. Acts such as assault, unlawful confinement, forced labour, sexual abuse, and denial of liberty are prosecutable under the Criminal Code or Penal Code. Migrant workers who experience violence or coercion from employers theoretically have recourse to criminal justice institutions. The Violence Against Persons (Prohibition) Act, applicable in the Federal Capital Territory and adopted by many states, further strengthens protection against physical abuse, psychological violence, and sexual harassment. Migrant domestic workers, who often live in their employers' homes and face high risks of exploitation, are particularly impacted by this body of law¹⁷¹. The prohibition of emotional, physical, and sexual abuse under the VAPP Act provides avenues for migrant workers to seek redress. However, cultural norms, fear of deportation, and economic dependence continue to suppress reporting.

Social security protections, though limited in Nigeria, also form part of the regulatory environment. The Employee Compensation Act, administered by the Nigeria Social Insurance Trust Fund, guarantees compensation for workplace injuries, occupational diseases, and death. The Act applies to all employees in formal employment, regardless of nationality. Migrant

¹⁷⁰ Chioma O. Okoye, Enright Q. Okolie & Anslem U. Abonyi, "Legal and Institutional Framework for Trafficking in Persons and Protection of Victims in Nigeria", *Edulaw: Journal of Islamic Law and Jurisprudence* (2023).

¹⁷¹ Violence Against Persons (Prohibition) Act 2015

workers who sustain injuries in factories, construction sites, oil installations, or other high-risk sectors are theoretically entitled to compensation. In practice, however, formal coverage rates remain low, particularly for migrant workers employed informally or illegally¹⁷². Nonetheless, the Act represents a significant legal recognition that workplace safety protections apply universally.

The legal system governing migrant labour rights is incomplete without considering Nigeria's judicial interpretations, administrative practices, and policy frameworks. Nigerian courts have consistently affirmed that constitutional protections apply to all persons, including foreigners. In cases involving unlawful detention, breach of contract, discrimination, and violations of dignity, courts have recognised the rights of foreigners to seek remedies¹⁷³. While there are few reported cases specifically involving migrant labour exploitation, the jurisprudence on fundamental rights provides a clear pathway for litigation. The courts' willingness to enforce rights against employers, government agencies, and individuals creates potential avenues for migrant workers to challenge abusive practices.

Policy frameworks and institutional programmes complement statutory provisions. National employment policies, anti-trafficking strategies, labour inspection policies, and social protection plans collectively shape the environment in which migrant labour is regulated. Labour inspection, in particular, is a critical mechanism for enforcing standards. However, labour inspection in Nigeria faces chronic challenges, including inadequate staffing, corruption, logistical constraints, and lack of political will. Migrant workers, especially those in informal or domestic service roles,

¹⁷² Kehinde Anifalaje, "A Social Security Perspective of Employees' Compensation Law in Nigeria", *Journal of Corporate and Commercial Law & Practice* (2021).

¹⁷³ Osawaru A. Erimwinorosee, "Balancing Migrants' Rights and National Security in Nigeria: Constitutional Imperatives and Legal Boundaries", *Nnamdi Azikiwe University Journal of Private and Property Law* (2025).

are rarely reached by inspectorate activities, which weakens the practical effect of labour standards.

Bilateral agreements and diplomatic relations also influence the welfare of migrant workers. Nigeria maintains various labour-related diplomatic engagements with other African and non-African states. Though not always formalised into binding agreements, these engagements affect extradition, deportation, repatriation, and the ability of migrant workers to seek assistance through consulates. Countries with large expatriate communities in Nigeria, such as India, China, Lebanon, and the Philippines, often work with Nigerian authorities to address labour disputes involving their citizens. These relationships contribute to the evolving architecture of migrant labour regulation.

The overall effectiveness of the legal frameworks governing migrant labour in Nigeria depends heavily on enforcement, institutional coordination, access to remedies, and public awareness. Many migrant workers—particularly those from poorer neighbouring countries—enter Nigeria without sufficient knowledge of their rights. Others rely on informal employment structures that do not guarantee contracts or legal protections. In some cases, employers take advantage of the immigration system to exert control over migrant workers through passport seizure, withholding of salaries, or threats of deportation. Although these practices violate Nigerian law, weak enforcement creates a climate in which exploitation can thrive.

Yet, when analysed holistically, the legal frameworks demonstrate that Nigeria possesses a dense network of obligations and protections that, if effectively implemented, would substantially improve the welfare of migrant workers. From constitutional rights to labour regulations, from immigration controls to international labour obligations, Nigeria's legal environment is not devoid of protective mechanisms. The challenge is in implementing these protections and

making sure that the rights of migrant workers are not just theoretical but genuinely upheld enforceable.

The interplay between national law, international standards, and regional mobility rights continues to shape the future of migrant worker protection in Nigeria. As the country modernises its labour systems, expands its industrial sectors, and deepens regional integration within West Africa, the demand for migrant labour will likely increase. Ensuring that this labour is protected—both by law and in practice requires sustained reform, institutional strengthening, and a renewed commitment to upholding the dignity and rights of all persons within Nigerian borders. Nigeria’s legal frameworks provide the foundation for this endeavour, but bridging the gap between law and reality remains the defining task of contemporary labour governance.

3.1.1 Constitution of the Federal Republic of Nigeria

The Constitution of the Federal Republic of Nigeria 1999 (as amended)¹⁷⁴ provides the foundational legal framework for protecting all persons within Nigeria’s territory, including migrant workers, through several key provisions. These constitutional guarantees, while broad and fundamental, present both significant protections and notable limitations in practice.

Section 33 guarantees the right to life, which courts have interpreted to include the right to livelihood and protection from life-threatening working conditions. This clause is vital for migrant workers, who often face dangerous work environments and exploitative labour practices that threaten their safety and well-being. For instance, the constitutional right to life has been used to challenge unsafe working conditions and hold employers accountable under Nigerian labour law.

¹⁷⁴Constitution of the Federal Republic of Nigeria 1999 (Federal Government Press, latest amendment 2023) accessed 14 June 2025.

Section 34¹⁷⁵ bans slavery, servitude, and forced labour, directly targeting key types of labour exploitation that disproportionately affect migrant workers, such as debt bondage, involuntary servitude, and trafficking. This wide prohibition aligns with international human rights standards and provides a constitutional foundation to fight exploitative labour practices. The ban on forced labour has been strengthened through court rulings condemning exploitative detention and coercion of vulnerable workers.

Section 35¹⁷⁶ protects personal liberty by safeguarding individuals from arbitrary arrest and detention and guaranteeing due process rights. This is especially important for migrant workers, many of whom, particularly those with irregular status, face unlawful detention by employers or immigration authorities. The courts have upheld these rights in cases where migrants or workers were detained without lawful cause, emphasizing the constitutional mandate for lawful arrest and humane treatment.

Section 36¹⁷⁷ guarantees the right to a fair hearing, ensuring access to courts and due process in legal proceedings. This provision is essential for migrant workers seeking redress for labour violations. However, practical barriers, such as language difficulties, limited access to legal aid, and judicial delays, often impede meaningful access to justice for migrants.

Section 42¹⁷⁸ prohibits discrimination on grounds including place of origin, sex, religion, or political opinion. Although nationality is not explicitly listed, Nigerian courts have interpreted this provision to extend protection against xenophobic and discriminatory treatment in employment. For instance, the National Industrial Court has ruled against discriminatory dismissal based on pregnancy, citing constitutional anti-discrimination principles and ILO

¹⁷⁵ Section 34, CFRN 1999

¹⁷⁶Section 35, CFRN 1999

¹⁷⁷Section 36, CFRN 1999

¹⁷⁸Section 42, CFRN 1999

Convention No. 111.¹⁷⁹ This interpretation offers some protection for migrant workers against discriminatory employment practices.

Section 17¹⁸⁰ contains the Fundamental Objectives and Directive Principles of State Policy, mandating that “the State shall direct its policy towards ensuring that all citizens, without discrimination on any group whatsoever, have the opportunity for securing adequate means of livelihood.” While these provisions are not justiciable, they establish normative expectations for inclusive labour governance and decent work, forming a policy foundation for migrant worker protection.

Despite these constitutional guarantees, limitations persist and have remained pretty obvious. The frequent use of the term “citizen” in key provisions such as Section 17 creates ambiguity about the extent of protection afforded to non-citizens, including migrant workers. This ambiguity can restrict the practical application of constitutional rights to migrants, especially those without regular status.¹⁸¹ Moreover, Chapter II provisions are justiciable and enforceable, but the Directive Principles in Chapter II are not, limiting their direct legal impact.¹⁸²

In fact, in a bid to further buttress this, some judicial decisions demonstrate both the promise and constraints of constitutional protections. In *Eddy Obasuyi v. Commissioner of Police Edo State*,¹⁸³ the court affirmed the applicant’s rights to liberty and dignity under Sections 34 and 35,¹⁸⁴ condemning unlawful detention and mistreatment. Similarly, in *Folarin Oreka Maiya v.*

179International Labour Organization (ILO), Convention Concerning Discrimination in Respect of Employment and Occupation (No. 111) (adopted 25 June 1958, entered into force 15 June 1960)

180Section 17, CFRN 1999

181Uchenna Nwokorie, ‘An Appraisal of the Rights and Protection of Migrant Workers in Nigeria’ (2024) 15 MUNFOLLJ 1 accessed 18 June 2025.

182Lowenstein Sandler LLP, A Guide to Workers' Rights in Nigeria (2024) accessed 18 June 2025.

183Eddy Obasuyi v Commissioner of Police Edo State & Ors (Suit No B-64m-16, Edo State High Court, 2016) accessed 14 June 2025.

184CFRN, 1999

Clinton Health Access Initiative Nigeria,¹⁸⁵ the National Industrial Court upheld protections against pregnancy discrimination, grounding its decision in constitutional anti-discrimination provisions and international labour standards. However, cases involving migrant workers, particularly those in informal or irregular employment often face hurdles due to limited awareness, procedural barriers, and the constitutional ambiguity regarding non-citizens.

In summary, Nigeria's Constitution provides a robust framework of fundamental rights relevant to migrant worker protection, including rights to life, liberty, fair hearing, and non-discrimination. These provisions offer critical legal tools to challenge exploitation and abuse. Nonetheless, limitations related to citizenship language, non-justifiability of policy directives, and practical enforcement challenges constrain their full realization for migrant workers. Strengthening awareness, judicial interpretation, and legislative alignment with constitutional protections is essential to enhance migrant workers' rights in Nigeria.

3.2.1 Labour Act

The Labour Act¹⁸⁶ is Nigeria's primary employment statute, establishing fundamental standards such as mandatory written contracts,¹⁸⁷ prohibition of forced labour,¹⁸⁸ and workplace safety obligations.¹⁸⁹ Its territorial application covers Nigeria broadly, and the definition of "worker"¹⁹⁰ is inclusive, theoretically encompassing migrant workers regardless of status. Core protections include wage safeguards,¹⁹¹ regulation of working hours,¹⁹² health and safety duties,

¹⁸⁵Folarin Oreka Maiya v. The Incorporated Trustees of Clinton Health Access Initiative Nigeria & Ors (2012) 27 NLLR (Pt 76) 110, National Industrial Court of Nigeria, Abuja Judicial Division, Case No NIC/ABJ/13/2011.

¹⁸⁶Cap L1, LFN 2004

¹⁸⁷Section 21 Labour Act Cap L1, LFN 2004

¹⁸⁸Section 46 Labour Act Cap L1, LFN 2004

¹⁸⁹Section 73 Labour Act Cap L1, LFN 2004

¹⁹⁰Section 91 Labour Act Cap L1, LFN 2004

¹⁹¹Sections 5-8 Labour Act Cap L1, LFN 2004

¹⁹²Sections 13-16 Labour Act Cap L1, LFN 2004

¹⁹³and termination protections.¹⁹⁴ Nevertheless, despite this seemingly wide ranged and in-depth provisions in the Act, the Act's scope is still very much limited, explicitly excluding domestic, agricultural, and informal sector workers categories where many migrant workers are concentrated. Enforcement mechanisms, including labour inspections contained in Part V of the Act and penalties for violations,¹⁹⁵ are rather insufficient mostly due to resource constraints and low penalties, which fail to deter exploitation. Crucially, the Act lacks provisions addressing migrant-specific vulnerabilities such as passport retention or discrimination based on nationality.

3.2.2 Trade Unions Act

The Trade Unions Act¹⁹⁶ permits all workers, including migrants, to form or join unions.¹⁹⁷ Yet, unregistered unions are prohibited from functioning,¹⁹⁸ limiting union representation and advocacy for migrant workers, particularly in informal sectors where unionization is rare or non-existent. This restricts collective bargaining power and access to labour rights protections.

3.2.3 Immigration Act

The Immigration Act 2015¹⁹⁹ was enacted to consolidate and modernize Nigeria's immigration laws, repealing the earlier Immigration Act Cap I1 LFN 2004 and related legislation. Its primary objective is to regulate the entry, stay, and employment of non-citizens in Nigeria, ensuring national security and orderly migration management. The Act reflects Nigeria's response to evolving migration challenges, including irregular migration, human trafficking, and the need to balance border controls with economic development.

¹⁹³Sections 17-19 Labour Act Cap L1, LFN 2004

¹⁹⁴Sections 20-26 Labour Act Cap L1, LFN 2004

¹⁹⁵Sections 55-60 Labour Act Cap L1, LFN 2004

¹⁹⁶Cap T14, LFN 2004

¹⁹⁷Section 1, Trade Unions Act Cap T14, LFN 2004

¹⁹⁸Section 2, Trade Unions Act Cap T14, LFN 2004

¹⁹⁹Immigration Act 2015 (Act No. 8 of 2015), Federal Republic of Nigeria accessed 19 June 2025.

Section 8 of the Immigration Act 2015²⁰⁰ mandates that, other than a Nigerian citizen, no person shall accept employment without the written consent of the Director of Immigration. This consent is typically granted through work permits, which are categorized by skill level, economic contribution, and employment type. The permit system aims to regulate foreign labour participation, protect Nigerian workers, and ensures compliance with immigration laws. However, the work permit regime is complex, costly, and bureaucratic, creating significant barriers for many migrant workers, especially those in lower-skilled occupations who constitute the majority of regional migrants.²⁰¹ The permit application process involves multiple administrative steps, fees, and documentation requirements that many migrants and employers find prohibitive. This complexity often forces migrants to work informally or irregularly, outside the legal framework, exposing them to exploitation, abuse, and lack of access to labour protections.²⁰²

Furthermore, migrant workers without valid work permits face precarious legal status, which increases their vulnerability to exploitation by unscrupulous employers and recruitment agencies. Without legal recognition, they are less likely to report abuses such as wage theft, excessive working hours, unsafe conditions, or harassment, fearing detention or deportation. This precariousness also limits their access to social security benefits, healthcare, and legal recourse.²⁰³

The Act also empowers immigration officers to conduct examinations of persons entering or leaving Nigeria,²⁰⁴ and to deport prohibited immigrants.²⁰⁵ It also lists categories of prohibited

²⁰⁰Nigeria Immigration Service, Our Core Mandate accessed 19 June 2025.

²⁰¹ Ibid

²⁰² Ibid

²⁰³ Department of Justice, Immigration Act (Nigeria) accessed 19 June 2025.

²⁰⁴ Section 15, Immigration Act Cap I1, LFN 2004

²⁰⁵ Section 37, Immigration Act Cap I1, LFN 2004

persons, including those without valid passports or with criminal records. While these provisions enhance border security, they do not adequately address the protection of migrant workers' rights within the country.

Nevertheless, the exception to the general rule regarding the obtainment of work and residence permits applies when the migrant worker is employed by one of the three tiers of government in Nigeria: the federal, state, or local government. A common issue related to work and residence permits concerns who is responsible for obtaining these documents. In the case of *Nico Oliver v. Dangote Industries Ltd* ²⁰⁶, the Nigerian Court of Appeal, while interpreting the provisions of Section 34 of the old Immigration Act (Cap 11, Laws of the Federation of Nigeria), which directly corresponds to Section 38 of the current Immigration Act, 2015, held that it is the employer's duty to apply for the work permit on behalf of the immigrant employee²⁰⁷. The Court further clarified that the migrant worker's responsibility is to present their entry visa, work permit, and residence permit to immigration officials upon entering Nigeria. The International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (ICRMW) emphasizes that it is unlawful for any individual or organization to employ an immigrant without following the prescribed legal procedures. According to this Convention, certain categories of employers are explicitly authorized to employ migrant workers, including:²⁰⁸

- i. The government of the State or any of its parastatals where the migrant worker is to be employed;
- ii. The government of the State or its parastatals based on any performance or observance of agreements between that government and the migrant worker's State of origin; and

²⁰⁶ (2010) All FWLR (Pt. 506) 1858 (CA)

²⁰⁷ Ibid

²⁰⁸ Section 66, ICRMW, 1999

- iii. Special organizations established for recruitment purposes acting pursuant to special agreements between the State of employment and the migrant worker's State.
- iv. Any approved private agencies or employers, along with their representatives, must operate under the supervision of the governments of both the employer's State and the employee's State.

Thus, it has been made quite clear from the provisions of the Immigration Act that, provided the Minister responsible for immigration matters grants approval, a migrant worker in Nigeria is permitted to establish a personal business, form a partnership with others, or engage in the practice of any chosen profession.²⁰⁹ The relevant business permit must be obtained in accordance with the process set out in the Immigration Regulations, 2017.²¹⁰ However, when interpreting both the Act and its Regulations, an important question arises: does this legal framework permit migrant workers to practice any profession in Nigeria? Notably, there are specific requirements for certain professional fields. For example, to practice as a solicitor and advocate in Nigeria, an individual must first be called to the Nigerian Bar and enrolled on the roll of the Supreme Court of Nigeria.²¹¹ Consequently, with due respect to the drafters of the Immigration Act and its Regulations, the sections that authorize foreigners, including migrant workers, to participate in professional activities in Nigeria should have been more clearly drafted to clarify that such permissions are always subject to the rules and qualifications established by the relevant professional regulatory bodies.

Overall, the Nigerian Immigration Act strictly bans any violation of the rules and procedures related to work and residence permits. Violating these rules is considered a criminal offense under Nigerian law. Specifically, if a migrant worker does not provide the official written

²⁰⁹ Section 36(1) (b) of the Immigration Act, 2015.

²¹⁰ Regulation 4(1) of Immigration Regulation, 2017.

²¹¹ Section 4 of the Legal Practitioners Act (Cap 207) Law of the Federation of Nigeria.

consent of the Comptroller-General of Immigration authorizing their entry into Nigeria for business or employment, they become subject to prosecution. If convicted, penalties can include a fine of one million-naira, deportation, or both. Additionally, such a conviction results in the individual being labelled a “prohibited immigrant,” with all the legal consequences that status entails.²¹²

3.2.4 The National Industrial Court Act 2007

The National Industrial Court of Nigeria (NICN), created to handle labour and employment disputes, has exclusive jurisdiction over all issues related to labour, employment, trade unions, and industrial relations. This exclusive authority was strengthened by the Third Alteration Act of 2010, which amended Section 254 of the 1999 Constitution to give the NICN original and exclusive jurisdiction in civil cases connected to labour and employment²¹³. The NICN’s jurisdiction includes disputes over employment contracts, unfair dismissals, collective bargaining, industrial actions, and the enforcement of labour rights. It is authorized to interpret ratified international labour conventions, including ILO Convention No. 143 (Migrant Workers, 1975)²¹⁴, which Nigeria ratified in 2023. This convention requires equal treatment for legally resident migrant workers in terms of employment conditions, wages, and social security. However, because it has not been domesticated under Section 12 of the Nigerian Constitution, its direct enforceability in domestic courts, including the NICN, is limited. The NICN is recognized as a superior court of record with jurisdiction across Nigeria, meaning it can hear cases from any state without restrictions. This was confirmed in rulings such as that of Justice Ogbuanya, who explained that the NICN’s jurisdiction is nationwide and that procedural rules do not require

²¹² Section 36(2) of the Immigration Act, 2015.

²¹³ Alero E Akeredolu and David Tarh-Akong Eyongndi, ‘Jurisdiction of the National Industrial Court under the Nigerian Constitution Third Alteration Act and Selected Statutes: Any Usurpation?’ (2024) *Gravitas Review* accessed 19 June 2025

²¹⁴ *Ibid*

permission to serve processes in other states. The court also has appellate powers. Despite its broad jurisdiction, the NICN faces difficulties enforcing international labour standards because key ILO conventions have not been domesticated. While the NICN can interpret and apply international labour norms, the constitutional requirement that treaties must be domesticated to have full legal effect restricts their enforceability. This gap impacts protections for migrant workers, especially regarding equal treatment and social security rights over labour issues, with the Court of Appeal serving as the final appellate court for NICN decisions.

3.2.5 Employee's Compensation Act 2010²¹⁵

The Employees' Compensation Act 2010 outlines provisions for compensation in cases of workplace injuries and occupational diseases²¹⁶. However, its scope primarily covers workers in the formal sector, leaving many migrant workers in informal sectors such as construction, domestic work, and agriculture without statutory protection against workplace hazards and injury compensation.

3.2.6 Nigeria Data Protection Act 2023²¹⁷

It governs the processing and protection of personal data, including employee information. While it enhances data privacy rights, it lacks specific provisions addressing the unique vulnerabilities of migrant workers, such as the misuse of personal data by recruitment agencies or employers. This gap leaves migrant workers exposed to potential abuses in recruitment and employment processes.

²¹⁵ The Employee Compensation Act 2010

²¹⁶ Ifeoluwa Olubiyi, 'Jurisdiction and Appellate Powers of the Nigerian National Industrial Court: Need for Further Reform' (2024) Gravitas accessed 19 June 2025

²¹⁷ Nigeria Data Protection Act 2023 (Act No. 37 of 2023) accessed 19 June 2025.

3.2.7 International Labour Conventions and Their Domestic Impact

Nigeria has ratified several International Labour Organization (ILO) conventions that are critical to protecting migrant workers. These include Convention No. 143 (Migrant Workers, 1975),²¹⁸ Convention No. 181 (Private Employment Agencies, 1997),²¹⁹ and Convention No. 190 (Violence and Harassment, 2019).²²⁰ Each of these conventions establishes important international standards aimed at safeguarding migrant workers from exploitation, discrimination, and abuse in the workplace. However, despite ratification, Nigeria faces significant challenges in fully realizing the protections these conventions offer due to the non-domestication of these treaties into Nigerian law, which limits their enforceability in domestic courts, including the National Industrial Court of Nigeria (NICN).

Some key provisions of these conventions as ratified by Nigeria are the recognition of violence and harassment as violations of human rights and fundamental freedoms, obligation on states to adopt laws and policies to prevent and address violence and harassment at work, special attention to vulnerable groups, such as migrant workers and women, and promoting a safe, inclusive, and respectful work environment.

Hence, the significance for Nigeria is that the ratification of Convention No. 190²²¹ is an indicator of Nigeria's commitment to tackling workplace violence and harassment, which disproportionately affect migrant workers, particularly women in domestic and informal

²¹⁸International Labour Organization, Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143) accessed 19 June 2025

²¹⁹International Labour Organization, Private Employment Agencies Convention, 1997 (No. 181) accessed 19 June 2025.

²²⁰International Labour Organization, Violence and Harassment Convention, 2019 (No. 190) accessed 19 June 2025.

²²¹International Labour Organization, Violence and Harassment Convention, 2019 (No. 190) accessed 29 June 2025.

employment. This convention complements existing anti-discrimination and labour laws by providing a focused framework on safety and dignity at work.²²²

Now, despite Nigeria's ratification of these important conventions, a critical legal gap persists: the non-domestication of these international treaties into Nigerian law. Under Section 12 of the Nigerian Constitution 1999,²²³ international treaties and conventions do not have the force of law domestically unless enacted by the National Assembly. This means that, although Nigeria is bound internationally to uphold the standards set by these ILO conventions, they cannot be directly enforced in Nigerian courts, including the NICN, without corresponding domestic legislation.

3.2.8 The Business Facilitation (Miscellaneous Provisions) Act, 2023²²⁴.

The Business Facilitation (Miscellaneous Provisions) Act, 2023 (hereinafter BFA 2023) is by far one of the pivotal legislative reform in Nigeria designed to enhance the ease of doing business by addressing systemic bureaucratic inefficiencies and boosting transparency in governmental operations. Signed into law in February 2023, the Act consolidates and codifies regulatory reforms initiated over several years, most notably crystallizing Executive Order 001 (hereinafter EO001), which had aimed to streamline administrative processes within Ministries, Departments, and Agencies (hereinafter MDAs) by imposing binding timelines and service-level agreements for the issuance of permits, licenses, and approvals.²²⁵ The BFA legally enshrines these principles to ensure that government agencies either process applications within stipulated timelines or face automatic approvals by default, thereby significantly reducing the historical delays, opacity, and corrupt practices that have long hindered business operations in Nigeria.

²²² Ibid, 44

²²³ Constitution of the Federal Republic of Nigeria (as amended) 1999

²²⁴ Business Facilitation (Miscellaneous Provisions) Act 2023 (No 5) Federal Republic of Nigeria accessed 31 July 2025.

²²⁵ Executive Order 001 (2017) (codified by Business Facilitation (Miscellaneous Provisions) Act 2023).

Crucially, the BFA's scope extends beyond general business facilitation; it also strategically amends 21 subsidiary laws that govern vital sectors such as labour, immigration, pensions, training, housing, and customs.²²⁶ In particular, amendments to statutes including the Immigration Act, Industrial Training Fund Act, National Housing Fund Act, and Pension Reform Act have direct implications for the regulation and protection of migrant workers. By mandating that immigration authorities publish comprehensive, up-to-date, and accessible guidelines on visa and work permit applications, and by requiring processing decisions within a maximum period (often 48 hours), the Act aims to eliminate the protracted bureaucratic bottlenecks and discretionary abuses that frequently render migrant workers vulnerable to irregularity, undocumented stay, or exploitation by unscrupulous agents and employers.²²⁷ The transparency and clarity fostered by the BFA empower migrant workers and employers alike to engage in lawful, documented employment relationships, mitigating incidences of arbitrary detentions, unjustified deportations, and exploitative labour practices associated with undocumented employment.

Moreover, the Act's emphasis on digitalization and automation of critical business processes, including foreign work permit issuance and registration with the Corporate Affairs Commission (hereinafter CAC), facilitates quicker and more reliable processing of migrant workers' documentation. This formalization helps close the regulatory gaps that often leave migrant workers without access to essential labour protections such as social security, occupational health and safety standards, and contractual rights. The BFA's reforms encourage employers to adhere to legal standards, reducing informal and exploitative labour arrangements prevalent in

²²⁶ Business Facilitation (Miscellaneous Provisions) Act 2023 (No 5) Federal Republic of Nigeria accessed 31 July 2025.

²²⁷ Business Facilitation (Miscellaneous Provisions) Act 2023 (No 5) Federal Republic of Nigeria, amending Section 20 of the Immigration Act, accessed 31 July 2025.

sectors such as construction, agriculture, textiles, and domestic work, where migrant labour is heavily concentrated. Significantly, the BFA complements notable judicial developments in Nigeria's labour law landscape, exemplified in the landmark Supreme Court ruling in *Skye Bank Plc v. Adegun*²²⁸. In this case, the Court departed from conventional common law principles, which limited damages for wrongful termination to pay in lieu of the statutory or contractual notice period. Instead, the Supreme Court recognized that such a mechanical limitation unjustly benefits employers who breach contracts and fail to treat employees fairly. The Court held that damages must reflect the employee's full consequential losses, a decision that aligns Nigeria's labour jurisprudence more closely with international labour standards and equitable principles. This precedent enhances district courts' capacity to provide effective remedies for migrant workers facing unfair dismissal, wrongful termination, or exploitative contract breaches, thereby reinforcing the protective legal framework surrounding migrant labour.

Furthermore, by institutionalizing the principle of default approval for delayed applications or requests, the BFA substantially reduces avenues for corrupt practices and discretionary arbitrariness by public officials who might otherwise leverage processing delays as a source of unofficial payments or to exert undue influence over migrant workers and their employers. This not only facilitates legal compliance but also supports migrant workers' rights to timely access to employment documentation, reducing their exposure to labour exploitation arising from status irregularities.

The BFA's integration with labour-related statutes also enhances Nigeria's capacity to implement international obligations. For instance, Nigeria ratified the International Labour Organization's (ILO) Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143),

²²⁸ *Skye Bank Plc v. Adegun* (2024) LPELR-62219 (SC).

²²⁹and the Private Employment Agencies Convention, 1997 (No. 181)²³⁰, which aims to regulate recruitment practices, safeguard the rights of migrant workers, and protect against forced labour and exploitation. The alignment of domestic laws with these conventions, bolstered by the procedural safeguards introduced by the BFA, offers a more robust institutional environment for migrant worker protection in Nigeria.

Now, while the BFA is primarily designed to create a more conducive business environment by simplifying regulatory procedures and improving government service delivery, its reforms have substantial and far-reaching implications for migrant workers and the struggle against labour exploitation in Nigeria. By facilitating transparent, time-bound immigration and labour processes, enhancing digital access to services, and harmonizing key legislative instruments, the BFA effectively strengthens the country's legal protection framework for migrant workers. This reduces structural vulnerabilities, empowers migrant workers through greater legal certainty and formalisation, and supports judicial mechanisms that safeguard against unfair labour practices. Importantly, these reforms come at a time when Nigeria's labour market is evolving, and the volume of migrant labour is growing, making such a strengthened legal framework indispensable for fostering fair, equitable, and rights-respecting employment conditions.

3.3 Framework for the Protection of Intra-Regional Migrants in West Africa

Article 3(ii) of the Revised Treaty of ECOWAS identifies the free movement of persons as a key strategy for realizing the goal of establishing a common market. Specifically, Article 59 of the Revised Treaty grants citizens of ECOWAS the right to enter, reside, and establish themselves within member states, while also imposing an obligation on these states to recognize and uphold this right. Complementing this, the supplementary ECOWAS Protocols operationalize the rights

²²⁹ the International Labour Organization's (ILO) Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143)

²³⁰ Private Employment Agencies Convention, 1997 (No. 181)

of entry, residence, and establishment, and explicitly acknowledge the rights of migrant workers. The following section of this paper analyses selected provisions within ECOWAS legislation that safeguard Community citizens' rights to entry, residence, and establishment. It is important to note that this discussion focuses on specific provisions that potentially hinder the free movement of migrant workers, rather than addressing all legislative provisions in their entirety.

3.3.1 1979 Protocol Relating to Free Movement of Persons, Residence and Establishment

This Protocol represents the initial effort by the ECOWAS Heads of State and Government to define the scope of the rights to entry, residence, and establishment for Community citizens.²³¹ It clearly outlines the phased approach intended to achieve free movement of persons within West Africa (Part II, Protocol on Free Movement of Persons).²³² While the Protocol does not expressly establish specific rights for migrant workers, it provides the foundational framework enabling Community citizens to enter, reside, and establish themselves within Member States' territories.²³³

Article 2²³⁴ of the Protocol stipulates that these rights are to be progressively realized through three distinct phases. The first phase grants Community citizens the right to enter Member States without visas, the second phase extends the right of residence, and the third phase confers the right of establishment. Although Community citizens may enter Member States visa-free, their stay is limited to a maximum of ninety days. Should a community citizen wish to remain beyond this period, Article 3 mandates obtaining authorization for an extended stay.²³⁵

²³¹ The Protocol came into force in 1980

²³² African Union, Status of Integration in Africa IV (2013), accessed 4 August 2025.

²³³ Within ECOWAS terminology, a community citizen is anyone who is a national of one of the ECOWAS. The rights granted to Community citizens in terms of free movement, right of residence and established are not extendable to nationals of countries that do not belong to the ECOWAS bloc.

²³⁴ Protocol A/P.1/5/79 relating to the Free Movement of Persons, Residence and Establishment ECOWAS.

²³⁵ *Ibid*

Article 4²³⁶ empowers member states to refuse admission to community citizens categorized as inadmissible immigrants. However, the Protocol does not define the term ‘inadmissible immigrant,’ leaving its interpretation to the national laws of each Member State. This lack of definition creates potential ambiguity and uncertainty, as Member States could arbitrarily classify certain Community citizens as inadmissible immigrants.

Article 5 governs the movement of private and commercial vehicles within the region. Private vehicles may remain in a Member State for up to ninety days; however, the Protocol does not provide provisions for renewing or extending this duration. Consequently, a community citizen whose stay surpasses ninety days may face legal restrictions regarding the use of their vehicle during the extended period.²³⁷

Part V encompasses miscellaneous provisions, among which Article 11 is notable for addressing the expulsion and repatriation of Community citizens.²³⁸ This article guarantees the security of the individual, their family, and property throughout the expulsion or repatriation process.

3.3.2 1986 Supplementary Protocol on the Second Phase (Right of Residence) of the Protocol on the Free Movement of Persons, the Right of Residence and Establishment.

The Supplementary Protocol on the Right of Residence (hereinafter referred to as the Protocol on the ROR), adopted by ECOWAS Member States in 1986, marked the first use of the term ‘migrant worker’ within ECOWAS instruments.²³⁹ Article 1 of the Protocol defines a migrant worker as any Community citizen who has travelled from their country of origin to another Member State where they are not a national, and who seeks to hold, is holding, or has held

²³⁶ Revised Treaty of the Economic Community of West African States (signed 24 July 1993, entered into force 30 October 1994).

²³⁷ ECOWAS Commission, ECOWAS Protocols Relating to Free Movement of Persons (2007).

²³⁸ Clotney H, ‘Operationalizing ECOWAS Protocol on Free Movement of People’ accessed 4 August 2025.

²³⁹ The Protocol came into force in 1986

employment. Article 2 mandates Member States to grant Community citizens the right of residence within their territories for the purpose of seeking and undertaking income-generating employment.

Article 3 defines the right of residence to include: the freedom to apply for available jobs, travel within Member States for employment purposes, reside in a Member State to take up employment under relevant national laws governing employment of nationals, and live in the territory in accordance with host state conditions after having been employed there.²⁴⁰ However, Article 4 excludes employment in the civil service from this right unless permitted by national laws.

Article 5 requires Community citizens wishing to reside in a Member State to obtain an ECOWAS residence card or residence permit. Following this, in 1990, the ECOWAS Authority issued a Decision establishing guidelines for residence card issuance.²⁴¹ Article 4(1) of this Decision sets out required documents for application, notably including: a repatriation guarantee or employer's letter of guarantee; an employment contract duly stamped by competent host authorities; and, for traders and liberal professionals, proof of business registration or professional membership.²⁴²

These procedural requirements imply that migrant workers must be formally employed or registered in the host state to qualify for residence documentation. However, the Protocol's definition of migrant worker allows for individuals seeking or proposing to hold employment, as well as those previously employed, thus accommodating migrants not currently gainfully

²⁴⁰Awumbila M, 'Intra-Regional Migration in West Africa: Changing Patterns and Dynamics' (2007) accessed 5 August 2025

²⁴¹ This is the highest decision-making body in ECOWAS. It is made up of all Heads of States and Governments of the Member States (Article 7, Treaty of ECOWAS 1993). The Authority acts through decisions which are binding on Member States (Article 9, Treaty of ECOWAS 1993)

²⁴²*Ibid*

employed.²⁴³ This discrepancy means that unemployed migrant workers or those working informally may not possess the documentation needed for residence cards, thereby hindering their legal status. In some jurisdictions, obtaining business registration may itself require a valid residence card, creating a circular dependency.

Additionally, Article 13(2) of the Decision stipulates that residence card holders must leave the host territory upon expiration unless they apply for renewal at least one month prior, but it does not clarify renewal procedures.²⁴⁴ If renewal demands the same documentation as the original application, migrant workers who lose jobs before expiration risk being unable to renew, forcing them to either leave or remain illegally.

Collectively, these procedural and documentation requirements act as significant barriers to the free movement of Community citizens, undermining ECOWAS objectives. Such bottlenecks are likely to increase the population of undocumented migrant workers in West Africa, a group already sizable and predominantly unskilled.²⁴⁵

The Protocol's later chapters address migrant worker protections from arbitrary expulsion (Chapter V), stipulate grounds for lawful expulsion restricted to national security, public order, medical, and legal requirements (Article 14), and provide safeguards to ensure respect for fundamental rights during expulsion (Chapter VI).²⁴⁶ However, allowing Member States broad discretion under national laws to expel migrant workers risks abuse of these provisions. Other chapters regulate the transfer of savings to countries of origin (Chapter VII), foster cooperation

²⁴³Economic Community of West African States (ECOWAS), Supplementary Protocol on the Second Phase (Right of Residence) of the Protocol on Free Movement of Persons, the Right of Residence and Establishment (1 July 1986) A/SP.1/7/86 accessed 5 August 2025.

²⁴⁴ECOWAS Authority, Decision Establishing a Residence Card in ECOWAS (1990).

²⁴⁵Economic Community of West African States (ECOWAS), Supplementary Protocol on the Second Phase (Right of Residence) of the Protocol on Free Movement of Persons, the Right of Residence and Establishment (1 July 1986) A/SP.1/7/86 accessed 5 August 2025.

²⁴⁶Cholewinski R, *Migrant Workers in International Human Rights Law: Their Protection in Countries of Employment* (Clarendon Press 1997).

between Member States' authorities (Chapter VIII), and cover miscellaneous provisions (Chapter XI).²⁴⁷

3.3.2 1990 Supplementary Protocol on the Implementation of the Third Phase (Right of Establishment) of the Protocol on Free Movement of Persons, Right of Residence and Establishment

The preamble to the ECOWAS Protocol on the Right of Establishment (hereinafter Protocol on the ROE) expressly recognizes that the uniform implementation of ECOWAS provisions on the free movement of persons is essential for the harmonious development of the region's economic, social, and cultural activities.²⁴⁸ This Protocol adopts the definition of migrant workers as set out in the Protocol on the Right of Residence (hereinafter ROR). It defines the right of establishment as the entitlement of a community citizen, who is a national of one Member State, to settle or establish themselves in another Member State different from their state of origin.²⁴⁹ This right includes access to economic activities, the ability to conduct such activities, and the capacity to create and manage enterprises, including companies, under conditions equivalent to those prescribed by the host State's laws for its own nationals.²⁵⁰

Accordingly, migrant workers are guaranteed non-discriminatory access to economic activities on an equal footing with nationals. Chapter II of the Protocol addresses the establishment of or access to enterprises. Chapter III identifies sectors of economic activity subject to special provisions when involving non-nationals, requiring Member States to accord these individuals equal treatment. Should a Member State be unable to comply, Article 4 obliges it to inform the

²⁴⁷Adepoju A, 'West African Migration: Patterns, Issues and Challenges' (2003) 12 Journal of African Studies.

²⁴⁸Awumbila M, 'Intra-Regional Migration in West Africa: Changing Patterns and Dynamics' (2007) accessed 4t August 2025

²⁴⁹ Taran P, Imperatives for Union Leadership in Defending a Rights Based Approach to Migration in the Age of Globalization (International Labour Office 2006)

²⁵⁰*Ibid*

ECOWAS Executive Secretary. Chapter IV focuses on the promotion and protection of capital invested in enterprises or used to access economic activities, while Chapter V governs capital movements for investment and current payments. Chapter VI encourages cooperation among relevant Member State administrations, and Chapter VII contains general and miscellaneous provisions.

A critical provision in this Protocol is Article 12(4), which requires Member States to cooperate with the ECOWAS Executive Secretariat to facilitate nationals of other Member States in acquiring and exploiting landed property within their territory, insofar as permitted by the host State's laws.²⁵¹ This condition, however, arguably undermines the principle of regional integration by making the acquisition of landed property contingent on potentially restrictive national legislation. Consequently, a migrant worker who has resided in a host Member State for an extended period may still be barred from owning land, impeding the fuller realization of integration objectives.²⁵²

3.4 The Universal Declaration of Human Rights and the Protection of Migrant Rights

Eleanor Roosevelt described the Universal Declaration of Human Rights (hereinafter the UDHR) as primarily a statement of universal principles intended to act as a common standard for all nations. She expressed hope that it would become 'the Magna Carta of all mankind.'²⁵³ However, the Declaration itself did not explicitly state whether its universal protections extended to non-citizens or were more narrowly limited to the context of these research migrants. A logical starting point, therefore, when considering the rights of migrants, is to ask whether the phrase 'all

²⁵¹*Ibid*

²⁵²Leary V.A, *International Labour Conventions and National Law: The Effectiveness of the Automatic Incorporation of Treaties in National Legal Systems* (Martinus Nijhoff 1982)

²⁵³UN General Assembly debates, 180-182 Plenary Meeting, Report of the Third Committee, 9 and 10 December 1948, at 860.

mankind’ was meant to encompass both citizens and non-citizens. Several reasons support an affirmative answer to this question.

Firstly, the principle of universality buttresses the Declaration by entitling ‘everyone’ to all the rights and freedoms it sets out, without distinction of any kind.²⁵⁴ Although the list of prohibited grounds for discrimination includes terms like ‘national or social origin’ and ‘birth or other status’, it does not explicitly mention nationality; this omission should not be interpreted as permitting discrimination between citizens and non-citizens. The language of the UDHR is framed in broad, universal terms that affirmatively grant rights to ‘everyone’ or, conversely, prohibit states from depriving ‘no-one’ of these rights.²⁵⁵ This ensures that ‘everyone’ has the right to recognition as a person ‘everywhere,’ transcending distinctions based on nationality.²⁵⁶

A second significant reason for including aliens within the scope of the UDHR can be found in its drafting history. In January 1947, the mandate for the UDHR was to assert that human rights and fundamental freedoms apply to every individual, regardless of nationality.²⁵⁷ At the first meeting of the Drafting Committee on 10 June 1947, the United Kingdom submitted a draft International Bill of Rights intended to serve as the foundation for the committee’s work.²⁵⁸ Notably, Draft Article 2 imposed an obligation on states to afford equal protection under the law to all persons within their jurisdiction, including citizens, foreign nationals, and stateless persons, ensuring they enjoy the human rights and fundamental freedoms enumerated in the draft.²⁵⁹ This

²⁵⁴UDHR, Art.2 (1).

²⁵⁵Richard B. Lillich, *the Human Rights of Aliens* (Manchester, Manchester University Press, 1984) at 42.

²⁵⁶UNHR, Art. 6.

²⁵⁷In the mind of the Foreign Office, these instructions reflected the ‘British conception of Human Rights’. A.W. Brian Simpson, *Human Rights and the End of Empire* (Oxford, Oxford University Press, 2001) at 375

²⁵⁸*Ibid*

²⁵⁹ UN Doc. E/CN.4/Ac.1/SR.1. The full text of draft Art. 2 read: ‘Every state is, by international law, under an obligation to ensure:

(a) that its laws secure to all persons under its jurisdiction, whether citizens, persons of foreign nationality or stateless, the enjoyment of these human rights and fundamental freedoms:

article also emphasized that effective remedies should be available to anyone whose rights are violated, supported by an independent judiciary and law enforcement officials committed to upholding these protections.²⁶⁰

Although explicit references to ‘foreigners’ or ‘aliens’ were removed during the drafting process and do not appear in the final text, the British draft clearly shows that one influential member of the Drafting Committee intended to include aliens within the scope of the Declaration’s protections.²⁶¹ This view was shared by the French representative, René Cassin, who stated to the General Assembly on 10 December 1948 that the Declaration abolished all distinctions between nationals and aliens with respect to fundamental rights.²⁶² The Indian representative echoed this perspective, affirming that the Declaration emphasized the equality of all human beings without any form of distinction whatsoever.²⁶³

A third reason for interpreting the UDHR as inclusive of aliens stems from the status of aliens in international law at the time of its adoption. Unlike their own nationals, states were already obliged under international law to afford certain protections to aliens. Lauterpach explained the situation as such:

“Although international law does not recognize, apart from treaty, any fundamental rights of the individual...as against the state of which he is a national, it does acknowledge some of the principal fundamental rights of the individual in one particular sphere, namely in respect of aliens. The result ...is that the individual in his capacity

(b) that any persons whose rights or freedoms are violated should have an effective remedy, notwithstanding that the violation has been committed by persons acting in an official capacity;

(c) that such remedies can be secured by a judiciary whose independence is secured; and

(d) That its police and executive officers should act in support of the enjoyment of these rights and freedoms.’

²⁶⁰*Ibid*

²⁶¹*Ibid*

²⁶² René Cassin: ‘Non seulement la déclaration ne fait aucune distinction entre nationaux et étrangers pour ce qui est des droits fondamentaux ...’. UN General Assembly debates, above n. 3, at 854.

²⁶³ Hersch Lauterpacht, *International Law and Human Rights* (Oxford, Oxford University Press, 1950) at 121.

as an alien enjoys a larger measure of protection by international law than in his character as the citizen of his own state.”²⁶⁴

From a legal standpoint, these early rights were not yet conceived as rights belonging directly to the individual alien, as would later become the case under international human rights treaties. Instead, they were viewed as rights belonging to the alien’s state of nationality: the state could demand that its nationals abroad be treated in accordance with specific minimum standards and could pursue diplomatic or legal remedies to protect them.

In this context, the protection of aliens did not present a conflict between individual rights and national sovereignty because diplomatic protection itself was considered an exercise of sovereignty. While no state was legally obligated to admit aliens into its territory, if it chose to do so, it was required to provide a certain standard of humane treatment to these individuals.²⁶⁵ Furthermore, the alien’s home state retained the right to seek reparations if its nationals suffered harm. Aliens were entitled to treatment that met a minimum standard of civilization, irrespective of how the host state treated its own citizens. This minimum standard notably included the right to personal liberty and, more broadly, the right to equality before the law.²⁶⁶

Finally, another very essential reason to conclude that aliens are included within the protections affirmed by the UDHR lies in its foundational use of the concept of dignity in Article 1. This article establishes a core principle intended to underscore the Declaration’s universal scope. It states that:

“All human beings are born free and equal in dignity and rights.”

²⁶⁴Hersch Lauterpacht, *International Law and Human Rights* (Oxford, Oxford University Press, 1950) at 121.

²⁶⁵J L Brierly, *The Law of Nations: An Introduction to the International Law of Peace* (Oxford University Press 1963) 276

²⁶⁶H Lauterpacht, *International Law and Human Rights* (Oxford University Press 1950) 121

When questioned about the choice of the word “dignity,” Eleanor Roosevelt explained that it was used to emphasize the equal worth intrinsic to every human being.²⁶⁷ The notion that human rights derive from the inherent dignity of the person carries two key implications: first, that basic rights are not granted by any authority and thus cannot be revoked; and second, that these rights belong to every individual, without exception.²⁶⁸ This broad, foundational principle was later echoed and elaborated in regional human rights instruments such as the African Charter of Human and Peoples’ Rights and the European Charter of Fundamental Rights.²⁶⁹

3.5 Identifying Gaps, Weaknesses and Enforcement Challenges within the existing protection regime for migrant workers.

The protection regime for migrant workers in Nigeria suffers from several systemic gaps and weaknesses:

- I. Limited Scope of the Labour Act: The Labour Act’s emphasis on manual and clerical workers excludes migrant workers in professional roles or informal sectors, such as domestic work, agriculture, and construction, where exploitation is widespread. This gap leaves a significant part of the migrant workforce without legal protections.²⁷⁰
- II. Non-Domestication of ILO Conventions: Section 12 of the Constitution requires international treaties to be domesticated through legislation to be enforceable. Despite Nigeria’s ratification of ILO Conventions No. 143, No. 181, and No. 190, its non-

²⁶⁷M A Glendon, *World Made New* (New York Press 2001) 146

²⁶⁸Oscar Schachter, ‘Human Dignity as a Normative Concept’ (1983) 77 *Am J Int L* 848

²⁶⁹Every individual shall have the right to the respect of the dignity inherent in a human being...’ African Charter of Human and Peoples’ Rights, 1981, Art.5. ‘Human dignity is inviolable. It must be respected and protected’, European Charter of Fundamental Rights, 2000, Art.1.

²⁷⁰Ojo, T.A., ‘Enforcement of Anti-Discrimination Laws in Nigeria’ (2021) *African Journal of Legal Studies* 14(2) 200-215.

domestication limits their legal effectiveness, creating a significant gap in protecting migrant workers' rights.²⁷¹

- III. Weak Enforcement Mechanisms: Nigeria's labour inspection capacity is critically insufficient to effectively monitor and enforce labour laws, particularly for migrant workers concentrated in the informal sector. With only 733 labour inspectors responsible for over 17,000 inspections in 2023, this equates to roughly one inspector per 23 workplaces, a ratio far too low given Nigeria's vast and diverse labour market, where over 90% of workers operate informally.²⁷² This limited coverage means many workplaces remain unmonitored, allowing widespread violations such as wage theft, unsafe conditions, and child labour to persist, especially among vulnerable migrant populations. Enforcement is further weakened by minimal penalties and resource constraints, reducing the deterrent effect on employers. Compounding these challenges are significant judicial delays in the National Industrial Court of Nigeria (NICN) and low legal awareness among migrant workers, which hinder access to timely justice and redress. Many migrant workers face language barriers, irregular status, and fear of retaliation, discouraging them from reporting abuses. The informal sector's dispersed and transient nature also complicates inspection efforts.²⁷³ While Nigeria's National Policy on Labour Migration 2020 acknowledges these enforcement gaps and advocates for expanded inspection and legal support, substantial investment and innovative approaches are necessary to strengthen enforcement mechanisms and effectively protect migrant workers.

²⁷¹National Bureau of Statistics (Nigeria), Nigeria Labour Force Survey Annual Report 2023 accessed 19 June 2025.

²⁷²National Bureau of Statistics (Nigeria), Nigeria Labour Force Survey Q1 2023 accessed 19 June 2025.

²⁷³Getnet, E., 'Strengthening Trade Union Action to Advance Fair Recruitment in Africa' (Voice of Nigeria Broadcasting Service) accessed 18 June 2025

- IV. Informal Sector Vulnerabilities: Approximately 80% of Nigeria's workforce operates in the informal economy, where most migrant workers are employed.²⁷⁴ The lack of regulatory oversight in these sectors allows employers to impose exploitative conditions, including unpaid wages, excessive working hours, and unsafe working environments.
- V. Unethical Recruitment Practices: The absence of a robust regulatory framework for private employment agencies allows deceptive practices, such as false job promises and exorbitant recruitment fees, to persist. The ILO's Fair Recruitment Initiative highlights this as a pervasive issue in Nigeria, particularly for migrant workers.
- VI. Bureaucratic and Corrupt Practices: Corruption within labour administration and bureaucratic inefficiencies, such as delays in processing work permits, exacerbate vulnerabilities for migrant workers.²⁷⁵

Finally, these gaps and weaknesses result in a fragmented protection regime that fails to safeguard migrant workers, particularly in informal and unregulated sectors, leaving them vulnerable to labour exploitation.

²⁷⁴Okonkwo, C., 'Expatriate Employment Levy Scheme: Prospects and Challenges' (2023) *Nigerian Labour Review* 12(1) 34-50.

²⁷⁵Odoba, A.J. and others, 'Nigerian Labour Law and Human Resource Management Practices in the Nigerian Public Sector' (2025) *International Journal of Public Administration and Management Research* 11(1) 62-78.

Chapter Four

Analysis of Nigerian Labour Laws and Policies Addressing Exploitation of Migrant Workers against the ILO Convention

The Nigerian legal regime for the protection of migrant workers against labour exploitation is primarily anchored in the Labour Act,²⁷⁶ the Immigration Act,²⁷⁷ and complemented by the National Policy on Labour Migration.²⁷⁸ This section critically examines how these statutes and policies address exploitation, with emphasis on both substantive and procedural safeguards.

The relationship between Nigerian labour laws and the international standards established under the International Labour Organization presents a compelling space for examining the extent to which national legal systems address the persistent vulnerabilities faced by migrant workers. This relationship is shaped by Nigeria's legal history, socio-economic environment, regional migration dynamics, and the evolving global framework for labour protection. Migrant workers constitute a vital part of Nigeria's labour force, particularly in construction, mining, domestic service, agriculture, manufacturing, and segments of the informal economy. Their presence, however, also exposes the gaps between Nigeria's statutory labour protections and the practical realities that define employer-worker relations. When the Nigerian labour regime is assessed alongside the ILO conventions, a clearer understanding emerges of both the normative aspirations of national law and the deficiencies limiting its implementation, ultimately shaping the degree of protection migrant workers actually experience.

²⁷⁶Cap L1, LFN 2004

²⁷⁷Immigration Act 2015 (No 8 of 2015) accessed 14 June 2025.

²⁷⁸Federal Ministry of Labour and Employment (Nigeria), National Policy on Labour Migration (2020) accessed 13 June 2025

In Nigeria, the labour landscape is anchored on a body of laws and policies that, at least in their formal articulation, are designed to secure workplace dignity, guarantee fair remuneration, prevent discrimination, eliminate forced labour, and promote safe working conditions. The Constitution, the Labour Act, the Employee Compensation Act, the Immigration Act, anti-trafficking legislation, judicial precedents, administrative regulations, and the growing influence of regional free movement frameworks together form the foundation of labour governance²⁷⁹. However, the effectiveness of these instruments must be measured against the complex and often exploitative conditions in which migrant workers operate. Many migrants in Nigeria arrive through informal channels or are recruited under arrangements that prioritise employer convenience over worker protection. Their immigration status frequently determines the degree of vulnerability they face, influencing whether they can claim labour rights, report abuse, or demand fair compensation²⁸⁰. This dynamic is central to the evaluation of Nigeria's compliance with ILO standards, since the ILO framework insists on universality of protection, non-discrimination, and the eradication of all forms of exploitative labour regardless of nationality²⁸¹. At the normative level, Nigeria's legal regime contains several provisions that demonstrate an intention to align with ILO principles. The constitutional guarantee of dignity and freedom from inhuman treatment mirrors the ILO's commitment to decent work and the elimination of degrading labour practices. The Labour Act, albeit outdated, embodies standards relating to employment contracts, wage payment, working hours, holiday entitlements, and restrictions on child labour. These elements correspond to core ILO conventions aimed at ensuring fairness and

²⁷⁹ ILO, "International labour standards and labour migration" — explains that ILO standards apply to all workers, regardless of nationality or migration status.

²⁸⁰ IOM / United Nations, "Promoting Better Management of Migration in Nigeria: Comprehensive Review" — reviews Nigerian legislation (Labour Act, trafficking laws) in relation to ILO Conventions.

²⁸¹ ILO, "Labour inspection and monitoring of recruitment of migrant workers" (Technical Brief) — discusses how weak labour inspection undermines fair recruitment.

preventing worker exploitation. Nigeria's anti-trafficking regime provides robust criminal penalties against forced labour, debt bondage, deceptive recruitment, and servitude, all of which the ILO views as fundamental violations of labour standards²⁸². The Employee Compensation Act likewise extends workplace injury protections to any formal employee, signifying a move towards universal protection similar to ILO Convention No. 102 on social security standards.

Yet despite these legislative alignments, the practical enforcement of labour protections in Nigeria reveals structural inconsistencies that significantly undermine migrant workers' welfare.²⁸³ One major issue is the fragmentation of the labour framework itself. The Labour Act remains outdated, excluding senior, managerial, and specific categories of professional workers from its protections. This creates a legal vacuum in which employers may exploit migrant workers in higher-skilled categories, knowing that statutory protections are limited. The Act's limited scope conflicts with the ILO's broader understanding of "worker," which encompasses every person performing work irrespective of their designation or industry. Migrant workers often fall precisely into the categories the Labour Act failed to update, resulting in a disjuncture between national law and international expectations.²⁸⁴

Enforcement challenges further widen the gap between Nigeria's labour laws and ILO conventions. Labour inspections are sporadic, under-resourced, and frequently unable to penetrate the informal sectors where most migrant workers are found. Domestic workers, for instance, are among the most vulnerable yet operate in isolated environments where inspectors rarely intervene. In contrast, the ILO insists on robust inspection regimes as a cornerstone of

²⁸² Federal Ministry of Information, Nigeria, "Nigeria Set to Ratify ILO Conventions 143, 181" — shows Nigeria's commitment to ratifying ILO Convention No. 143 (Migrant Workers) and No. 181 (Private Employment Agencies), reinforcing the normative alignment.

²⁸³ ILO / IOM Midterm Evaluation, "ILO initiative for Labour Migration ... in Nigeria" — evaluates how ILO-supported projects relate to social protection and employment conditions for migrants.

²⁸⁴ IOM, "Promoting Better Management of Migration in Nigeria ..." — the policy review highlights gaps in enforcement, especially in informal labour markets.

labour protection. A legal system that recognises rights but lacks effective mechanisms to enforce them falls short of ILO standards, which require states to ensure practical, rather than merely theoretical, protection²⁸⁵.

Immigration law plays a central role in shaping the vulnerabilities of migrant workers in Nigeria. Work permits, expatriate quotas, and residency requirements create an administrative framework that should ideally regulate labour migration while protecting workers. However, the reality is that immigration control often becomes a tool that employers use to restrict worker autonomy. Migrant workers tied to specific employers for purposes of residency are reluctant to report abuse or leave exploitative situations, fearing loss of legal status or deportation.²⁸⁶ This employer-dependent model conflicts with the ILO's insistence that workers must be able to access justice and exercise labour rights free from retaliation or coercion. When immigration law inadvertently reinforces dependence rather than protection, the Nigerian system departs significantly from international best practice.²⁸⁷

The intersection of trafficking and migrant labour exploitation adds another layer to this analysis. Nigeria's anti-trafficking legislation is one of the strongest in West Africa. It aligns substantially with ILO Convention No. 29 on forced labour and Convention No. 105 on the abolition of forced labour. However, migrant workers who experience exploitative conditions that resemble trafficking rarely access these protections due to fear, lack of information, or employer control. As a result, a significant portion of labour exploitation remains underreported and underprosecuted. The ILO emphasises that states must ensure proactive investigation and victim

²⁸⁵ ILO, "Labour inspection and monitoring of recruitment of migrant workers" — *identifies inspection as a weak point in protecting migrant workers*.

²⁸⁶ ILO, "International labour standards and labour migration" — *underscores the ILO's view that immigration status should not prevent access to labour rights*.

²⁸⁷ Trade unions & ILO, "Trade unions, ILO, unite against exploitative recruitment of migrant workers" — *news report on how unions and ILO are pushing back against exploitative recruitment and employer dependence*.

protection, not merely formal criminalisation. The Nigerian system, though normatively aligned, lacks the structural enforcement necessary to make these protections effective for migrants.²⁸⁸

Regional integration under ECOWAS introduces another important dimension to the analysis. West African migrants enjoy freedom of entry, residence, and establishment in Nigeria, a framework that, in theory, enhances their labour rights by removing immigration-based vulnerabilities. This arrangement aligns with ILO principles on non-discrimination and equality of treatment. Yet, in practice, ECOWAS citizens still encounter barriers in accessing justice, negotiating wages, or reporting exploitation. The disconnect between regional legal guarantees and domestic enforcement again highlights a tension between Nigeria's formal commitments and the lived realities of migrant labour.²⁸⁹

Ultimately, the comparison between Nigerian labour laws and ILO conventions reveals a dual picture. On one hand, Nigeria demonstrates substantial formal alignment with international labour standards, having embraced fundamental rights such as the elimination of forced labour, non-discrimination, safe working conditions, and the recognition of workers' dignity. On the other hand, the operationalization of these rights remains deeply constrained by structural weaknesses, institutional limitations, inadequate labour inspection, immigration-linked vulnerabilities, outdated statutory provisions, and socio-economic pressures that sustain informal labour markets. Migrant workers, therefore, exist within a space where rights are clearly articulated but not consistently guaranteed.

²⁸⁸ IOM, "Promoting Better Management of Migration in Nigeria ..." — *examines Nigeria's anti-trafficking laws (Trafficking in Persons Act) and how they relate to forced labour.*

²⁸⁹ ILO, "ECOWAS adopts ILO toolkit to promote ethical reporting on labour migration" — *shows how ILO and ECOWAS are working to improve reporting, protection, and rights for migrant workers.*

The ILO framework encourages states to build labour systems in which rights are implemented uniformly and without discrimination²⁹⁰. For Nigeria, moving closer to this ideal requires not merely new legislation but a comprehensive strengthening of enforcement structures, a reform of immigration practices that inadvertently foster employer dominance, an expansion of social security protections, and the modernisation of labour laws to reflect contemporary economic realities. Until these steps are taken, the Nigerian labour system will continue to reflect an aspirational alignment with ILO standards rather than an operational one, leaving migrant workers vulnerable to forms of exploitation that international labour law seeks to eradicate.²⁹¹

4.1 The Labour Act

It remains the principal legislation regulating employment relationships in Nigeria, yet its capacity to address the vulnerabilities of migrant workers is significantly limited by its outdated provisions and narrow scope. Although the Act sets out basic standards on wages, contracts, working hours, and the treatment of workers, its structure was designed primarily for citizens in formal employment and does not sufficiently capture the realities of contemporary labour migration. The Act operates on assumptions that do not reflect present-day patterns of cross-border mobility, the dominance of the informal sector, or the complex dynamics of migrant labour exploitation. Many of its sections still reflect colonial-era protections that are inadequate for modern labour conditions, and its silence on specific migrant vulnerabilities leaves a legal gap that unscrupulous employers exploit. The Act does not clearly articulate equal treatment principles for migrant workers, nor does it expressly address issues such as contract substitution, recruitment abuses, or coercive employment relationships, which are common in sectors where migrants are concentrated. Even where the Act provides for written contracts, minimum

²⁹⁰ ILO, “International labour standards and labour migration” — provides the basis for assessing how Nigeria’s laws align (and misalign) with ILO fundamental standards.

²⁹¹ ILO / IOM Midterm Evaluation, “ILO initiative for Labour Migration ... in Nigeria” — recommends institutional strengthening, better inspection, and improved governance as part of reform.

employment standards, and restrictions on child labour, these guarantees rarely reach migrant workers operating outside the formal sector. Enforcement institutions responsible for implementing the Act lack the resources and operational capacity to monitor workplaces effectively, which means that even the protections that exist remain largely theoretical for migrant workers. In this way, the Labour Act, while forming an important part of Nigeria's labour jurisprudence, illustrates the significant gap between legislative intent and practical protection for migrant workers who remain exposed to practices that the Act was never modernised to anticipate or regulate.

4.1.1 Written Contracts and Transparency

Section 7 of the Labour Act²⁹² mandates that every employer must provide a written contract of employment within three months of a worker's engagement, detailing essential terms such as wages, hours of work, holidays, notice periods, and any special conditions. This statutory requirement is foundational for promoting transparency and fairness in the employment relationship, serving as a critical safeguard against exploitative or ambiguous arrangements risks that are particularly acute for migrant workers. The clarity afforded by a written contract ensures that both parties understand their mutual obligations and entitlements, thereby reducing the likelihood of arbitrary changes by employers and providing a clear evidentiary basis in the event of disputes. Judicial interpretation has reinforced the protective intent of Section 7; for instance, in *Ogunyale v. Globacom Nig Ltd*,²⁹³ The National Industrial Court of Nigeria emphasized that failure to issue a contract constitutes a breach of statutory duty and undermines the worker's ability to enforce their rights.

²⁹² Ibid, 21

²⁹³ *Ogunyale v. Globacom Nig Ltd* (2013) 30 NLLR (Pt 85) 63 (NICN),

Similarly, in *AfrabChem Ltd v. Owoduenyi*²⁹⁴ The court held that ambiguities arising from the absence of a written contract would be construed in favour of the worker. This principle is especially protective for migrants who may lack bargaining power or familiarity with local laws. Nevertheless, despite this robust legal framework, enforcement remains a challenge, particularly in sectors such as domestic work and construction, where migrant labour is prevalent and formal contracts are rare. Moreover, the Act does not expressly require that contracts be provided in a language understood by the worker, a gap that can further disadvantage migrants. Thus, while Section 7 is a cornerstone of statutory protection, its efficacy for migrant workers depends on effective enforcement, regulatory oversight, and adaptation to the linguistic and practical realities of Nigeria's diverse workforce.

4.1.2 Prohibition of Forced Labour

Section 9 of the Labour Act²⁹⁵ expressly prohibits forced labour, reflecting Nigeria's commitment to international standards, particularly ILO Convention No. 29²⁹⁶, which defines forced labour as "all work or service exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily".²⁹⁷ This statutory safeguard is fundamental in combating one of the gravest forms of labour exploitation, especially for migrant workers who are disproportionately vulnerable to coercion, threats, and deceptive recruitment practices.

²⁹⁴(2014) 47 NLLR (Pt 151) 1

²⁹⁵ Cap L1, LFN 2004

²⁹⁶*ibid*, 21

²⁹⁷L Siona Ndeh Cynthia and Teslim O Bukoye, 'A Perspective on the ILO Convention on the Elimination of Forced or Compulsory Labour: The Cases of Nigeria and Cameroon' (2015) *European Scientific Journal*, Special Edition, Vol 1, 15 accessed 14 June 2025.

The prohibition is reinforced by a group of legal instruments in Nigeria. Section 34(1)(c) of the 1999 Constitution²⁹⁸ prohibits forced or compulsory labour, and the Trafficking in Persons (Prohibition) Enforcement and Administration Act²⁹⁹ criminalises all forms of forced labour, prescribing stringent penalties, including imprisonment and heavy fines.³⁰⁰ The Penal Code in Section 270³⁰¹ and the Criminal Code in Section 73³⁰² also criminalise forced labour, although the penalties under these codes are generally less severe than those under the NAPTIP Act.

In the same vein, judicial interpretation has clarified the scope and seriousness of forced labour prohibitions. In *Incorporated Trustees of Law and Rights v. Federal Government of Nigeria*³⁰³, the National Industrial Court considered whether the failure to pay the statutory minimum wage could amount to forced labour and degrading treatment under Section 34(1) (c) of the Constitution.³⁰⁴ The court, referencing both domestic and comparative case law, recognised that compelling workers to remain in employment without adequate pay or the ability to leave constitutes forced labour, thus broadening the understanding of what constitutes coercion in the employment context.³⁰⁵ This interpretation aligns with international jurisprudence, such as the Indian Supreme Court's decision in *Sanit Roy v. State of Rajasthan*³⁰⁶, which held that non-payment of minimum wages amounts to forced labour.

²⁹⁸Constitution of the Federal Republic of Nigeria (adopted 29 May 1999, as amended) Cap C23, Laws of the Federation of Nigeria 2004.

²⁹⁹Trafficking in Persons (Prohibition) Enforcement and Administration Act 2015 (No 28 of 2015) accessed 14 June 2025.

³⁰⁰Bingham Centre for the Rule of Law, 'Nigeria – Country Report' (Anti-Slavery Law, 2024) accessed 14 June 2025.

³⁰¹Penal Code (Northern States) Federal Provisions Act (Cap P3, Laws of the Federation of Nigeria 2004) accessed 14 June 2025.

³⁰²Criminal Code Act (Cap C38, Laws of the Federation of Nigeria 2004) accessed 14 June 2025.

³⁰³*Incorporated Trustees of Law and Rights v. Federal Government of Nigeria* NICN/ABJ/18/2020

³⁰⁴*Ibid*, 23

³⁰⁵*Incorporated Trustees of Laws and Rights Awareness Initiative v Federal Government of Nigeria* (National Industrial Court of Nigeria, Suit No NICN/ABJ/292/2019, 21 May 2020) accessed 14 June 2025.

³⁰⁶*Sanit Roy v. State of Rajasthan* (Supreme Court of India, 20 January 1983) AIR 1983 SC 328.

Moreover, the courts have consistently held that the essence of forced labour lies in involuntariness and coercion, whether by threat, deception, or withholding of rights.³⁰⁷ In *Uzoukwu v. Ezeonu II*, the Nigerian Court of Appeal affirmed that any employment relationship sustained by menace or lack of free will falls within the constitutional and statutory prohibitions on forced labour.

Despite these robust legal frameworks, enforcement challenges persist. Forced labour remains prevalent in sectors such as domestic work, agriculture, and informal employment, where migrant workers are often isolated and lack access to legal remedies. Regulatory oversight is hampered by inadequate labour inspections and limited awareness among workers of their rights under Section 9 and related statutes. Furthermore, penalties for forced labour offences are inconsistently applied, and the multiplicity of legal provisions sometimes leads to confusion and weak deterrence.

In conclusion, Section 9 of the Labour Act,³⁰⁸ reinforced by constitutional and criminal provisions, provides a direct statutory safeguard against forced labour, aligning Nigeria with its international obligations under ILO Convention No. 29. Judicial decisions have affirmed the broad and protective scope of this prohibition, recognising both overt and subtle forms of coercion as forced labour. However, the persistence of forced labour in practice, particularly among migrant workers, underscores the urgent need for more effective enforcement, harmonisation of penalties, and increased worker awareness to ensure that the promise of Section 9 is fully realised.

4.1.3 Recruitment and Protection of Workers under the Labour Act

³⁰⁷Ibid, 22

³⁰⁸Ibid, 14

Sections 23 to 26 of the Labour Act³⁰⁹ establish a rigorous statutory framework to regulate the recruitment of workers, with particular emphasis on safeguarding the rights of those recruited for employment outside Nigeria. These provisions are designed to prevent abuses by recruiters and employers, which are familiar sources of exploitation for migrant workers.

Section 23 prohibits any person or association from recruiting citizens for employment either within Nigeria or abroad unless they possess a valid employer's permit or recruiter's licence.³¹⁰

This requirement is fundamental in curbing illegal or informal recruitment, which often exposes workers to trafficking, contract substitution, and other exploitative practices. The section does provide for limited exceptions: for instance, if a worker is formally commissioned by their employer to recruit others, does not receive additional remuneration, and does not advance wages to recruits, the Minister may waive the permit or licence requirement and instead issue a certificate with specific conditions.³¹¹ This ensures flexibility while maintaining regulatory oversight.

Section 24 stipulates that employers seeking to recruit workers must obtain a permit, and as a condition for the grant, may be required to provide security for the payment of wages and travel expenses.³¹² This provision aims to guarantee that recruited workers are not stranded or left uncompensated, a risk that is particularly acute for migrant workers sent abroad.

Section 25 authorises the Minister to license only “fit and proper persons” as recruiters, and sets out conditions for the issuance and maintenance of such licences.³¹³ The Minister may suspend or withdraw a licence if the recruiter is convicted of an offence or is otherwise deemed unfit, and

³⁰⁹(Cap L1, LFN 2004)

³¹⁰Section 23 of the Labour Act in Nigeria, ‘Prohibition of recruiting except under permit or licence’ (Jurist.ng) accessed 14 June 2025.

³¹¹Section 23–32 of the Nigerian Labour Act 2004, Law Global Hub accessed 14 June 2025.

³¹²*Ibid*, 22

³¹³International Organization for Migration (IOM), Review of Nigerian Legislation and Policy Regarding ILO Convention 181 on Private Employment Agencies (30 December 2014) accessed 28 June 2025.

such actions must be published in the Federal Gazette to ensure transparency and public awareness.³¹⁴ This licensing regime is intended to professionalise recruitment and exclude unscrupulous actors from the sector.

Section 26 imposes further restrictions and safeguards on recruiting operations. It prohibits recruitment in areas designated by the Minister or in “labour health areas.” It bars recruiters from exceeding the number of workers authorised by their permits or recruiting from areas not specified in the license.³¹⁵ Public officers are explicitly forbidden from acting as recruiting agents or receiving inducements for recruitment, reducing the risk of official complicity in exploitative practices. These restrictions are critical in preventing over-recruitment, trafficking, and the abuse of vulnerable populations.

Section 28 sets out specific requirements for foreign contracts of employment, mandating that such agreements include provisions for medical examination, adequate food, accommodation, transport, and repatriation of workers.³¹⁶ It also requires that part of the workers’ wages be remitted to their home area, further protecting the welfare of migrants and their families. This section is particularly important for migrant workers, as it addresses the common risks of abandonment, non-payment, and hazardous working and living conditions abroad.

However, despite the comprehensive legal framework, enforcement remains a challenge. Unlicensed recruitment agencies and informal brokers continue to operate, often preying on job seekers' desperation. The requirements for permits, licences, and contract terms are frequently circumvented, particularly in the recruitment of low-skilled and migrant workers. Moreover, the

³¹⁴IOM, ‘Review of Nigerian Legislation and Policy Regarding ILO Convention 181 on Private Employment Agencies’ (2015) 11 accessed 14 June 2025.

³¹⁵ Ibid, 23

³¹⁶ Ibid, 23

lack of robust monitoring and the limited capacity of labour inspectors hinder effective implementation.

Thus, Sections 23 to 26 and 28 of the Labour Act³¹⁷ provide a detailed and protective legal regime for the recruitment of workers, especially those destined for employment abroad. By requiring permits, licences, and specific contract terms, these provisions aim to prevent exploitation and ensure the welfare of Nigerian workers. However, their effectiveness depends on strict enforcement, transparency, and the exclusion of unscrupulous recruiters from the system. Judicial decisions reinforce the need for compliance, but persistent practical challenges underscore the need for ongoing vigilance and reform.

4.1.4 Wage Protection and Non-Discrimination

Section 1 to 6 discussed in Part I of the Nigerian Labour Act³¹⁸ Provide comprehensive protections for workers' wages, including clear provisions on the manner and periodicity of payment, prohibition of illegal deductions, and regulation of wage advances. These provisions are critical in safeguarding workers, including migrant workers, from wage exploitation, a common form of labour abuse. The Act mandates that wages be paid in lawful currency, at regular intervals, and without unlawful deductions, thereby ensuring financial security and predictability for employees. Section 17³¹⁹ further supports non-discrimination by guaranteeing equal pay for equal work, a principle that protects migrant workers from wage disparities based solely on nationality or migrant status, aligning with international labour standards on equality and non-discrimination.³²⁰

³¹⁷Labour Act (Cap L1, LFN 2004) ss 23–26, 28 accessed 14 June 2025

³¹⁸ Nigeria Labour Act Cap L1, LFN 2004

³¹⁹Ibid

³²⁰Lowenstein Sandler LLP and Thomson Reuters Foundation, A Guide to Workers' Rights in Nigeria (31 July 2023, updated 14 December 2023) accessed 14 June 2025.

4.1.5 Terms and Conditions of Employment

Sections 13 to 19 of the Nigerian Labour Act (Cap L1, LFN 2004)³²¹ establish essential standards that regulate the terms and conditions of employment, including hours of work, overtime, rest periods, holidays, and provision of transport. These provisions are designed to protect workers from exploitative labour practices by ensuring reasonable working hours, adequate rest, fair compensation for overtime, and necessary welfare amenities such as transport to and from the workplace.

Section 13³²² limits the hours of work to a maximum of eight hours per day or forty hours per week, aligning with international labour standards such as ILO Convention No. 1.³²³ This limitation is critical in preventing excessive working hours, which can lead to physical and mental exhaustion, particularly among migrant workers who may already face harsh living and working conditions. Section 15³²⁴ supplements this by mandating overtime pay at a premium rate for work beyond the standard hours, providing financial recognition for additional labour and discouraging employers from routinely overworking employees without compensation.³²⁵

Sections 16 and 17³²⁶ guarantee rest periods, weekly holidays, and paid annual leave. These provisions are vital for the health and well-being of workers, offering necessary respite and time for personal and family life. For migrant workers, who often endure separation from their families and stressful working environments, such protections are particularly important to mitigate exploitation and burnout.

³²¹ Nigerian Labour Act (Cap L1, LFN 2004)

³²² Ibid

³²³ ILO Recommendation No. 204 on the Transition from the Informal to the Formal Economy (2015).

³²⁴ Labour Act (Cap L1, Laws of the Federation of Nigeria 2004) 13–19, 91 accessed 14 June 2025.

³²⁵ Federal Ministry of Labour and Employment (Nigeria), ‘Special Labour Policy for Migrants’ (25 March 2021) accessed 14 June 2025.

³²⁶ Ibid

Section 19³²⁷ requires employers to provide transport for workers where necessary, especially in situations where public transport is inadequate or unsafe. This is a significant welfare provision that enhances worker safety and accessibility to workplaces, which is crucial for migrant workers who may be unfamiliar with local transport systems or reside in remote areas.

4.1.6 Definition of ‘Worker’ and its Limitations

Despite these comprehensive protections, a fundamental limitation lies in Section 91,³²⁸ which defines “worker” for the purposes of the Labour Act. The definition explicitly excludes certain categories of workers, notably domestic workers, agricultural workers, and those employed in the informal sector. This exclusion is problematic because migrant workers in Nigeria are disproportionately represented in these sectors.³²⁹ Many migrants find employment as domestic helpers, farm labourers, or in informal enterprises where statutory protections are minimal or non-existent.

The exclusion of these categories from the Act’s ambit creates a significant legal vacuum that facilitates exploitation. Without statutory recognition as “workers,” these individuals are deprived of the protections regarding working hours, overtime pay, rest, holidays, and transport that the Act guarantees.³³⁰ This legal invisibility exacerbates their vulnerability to abuse, including excessive working hours, non-payment or underpayment of wages, unsafe working conditions, and lack of social security.

³²⁷ Ibid

³²⁸ Ibid

³²⁹ ILO Convention No. 189 on Domestic Workers (2011).

³³⁰ ILO Recommendation No. 204 on the Transition from the Informal to the Formal Economy (2015).

4.2 The Immigration Act

The Nigerian Immigration Act³³¹ establishes a comprehensive legal framework to regulate the employment of non-citizens, balancing the need for orderly labour migration with protection against exploitation. Sections 18, 24, and 37 are particularly significant in this regard.

Section 18 mandates that non-citizens obtain a valid work permit before being employed in Nigeria. This requirement is central to regulating migrant labour and ensuring that foreign workers enter the labour market through legal channels. Employers must apply to the Comptroller-General of Immigration (hereinafter CGI) for permission, providing necessary information including arrangements for repatriation of the expatriate and dependents.³³² Without a Business Permit and an Expatriate Quota (hereinafter EQ) approval from the Ministry of Interior, engaging an expatriate is an offence. Notably, nationals of ECOWAS member states are exempt from these requirements, reflecting regional agreements on free movement.³³³

Section 24 empowers the Minister to make regulations governing the employment of foreigners and the issuance of expatriate quotas. This regulatory authority enables the government to control the number and categories of foreign workers allowed in various sectors, ensuring that employment of expatriates does not displace Nigerian workers.³³⁴ The expatriate quota system, combined with the Expatriate Employment Levy Scheme, incentivizes employers to prioritize local labour while permitting foreign expertise where necessary. Failure to comply with quota regulations attracts penalties, including fines and imprisonment.³³⁵

³³¹Nigerian Official Gazette, Immigration Act Regulations (2017) accessed 14 June 2025.

³³²DCSL, 'Control of Migrants - Under the Immigration Act 2015' accessed 14 June 2025.

³³³Country Hill Attorneys, 'Work Permit under the Immigration Act, 2015' (Country Hill Attorneys, 2025) accessed 14 June 2025.

³³⁴ Florence Nightingale, Nigeria: An Assessment of The International Labour Migration Situation; The Case of Female Labour, Migrants. Genpron Working Paper, 2002 Edition, No.7 <https://www.ilo.org> accessed on 14 June 2025

³³⁵ Ibid

Section 37 provides for the deportation of persons unlawfully employed in Nigeria. Employers who discharge expatriates without notifying the CGI or cause changes in employment without approval commit offences punishable by imprisonment or fines. Deportation is a critical enforcement tool to uphold immigration and labour laws. However, the application of deportation must be balanced to avoid penalizing victims of trafficking or exploitation. International standards and Nigerian anti-trafficking laws emphasize identifying victims and providing protection rather than immediate deportation. Deportation without due process risks further victimization and undermines access to justice for exploited migrant workers.³³⁶

Sections 18, 24, and 37 of the Immigration Act provide a robust legal framework for regulating migrant labour in Nigeria through work permit requirements, expatriate quotas, and deportation provisions. Effective enforcement of these provisions supports labour market regulation and protection of domestic workers. However, enforcement must be nuanced to protect victims of exploitation and trafficking, ensuring that deportation is not used as a punitive measure against vulnerable migrants. Strengthening inter-agency cooperation, judicial awareness, and victim protection mechanisms remains critical to balancing immigration control with human rights obligations.

4.3 National Policy on Labour Migration (NPLM)³³⁷

The policy³³⁸ provides a comprehensive and progressive framework aimed at addressing the exploitation and protection of migrant workers in Nigeria. Developed by the Federal Ministry of Labour and Employment with support from international partners, including the ILO, EU, and

³³⁶ Ibid

³³⁷ National Policy on Labour Migration 2020

³³⁸ Federal Ministry of Labour and Employment (Nigeria), National Policy on Labour Migration 2020 (2020) accessed 14 June 2025.

IOM, the policy reflects Nigeria's commitment to aligning domestic labour migration governance with international labour standards and human rights principles.

The policy mandates that all employment involving migrant workers must comply with the Labour Act and promote decent work, defined by the ILO as productive work in conditions of freedom, equity, security, and human dignity.³³⁹ This includes access to social protection, fair wages, safe working conditions, and respect for fundamental labour rights. By embedding decent work principles, the policy seeks to prevent abusive labour practices and ensure migrant workers benefit equitably from employment opportunities both within Nigeria and abroad.

In addition, recognizing recruitment as a critical stage vulnerable to abuse, the policy calls for rigorous supervision and monitoring of recruitment agencies to prevent fraudulent, deceptive, or exploitative practices. This includes licensing requirements, transparency in recruitment fees, and enforcement of ethical recruitment standards consistent with the ILO.³⁴⁰ Effective regulation of recruitment intermediaries aims to reduce risks of trafficking, contract substitution, and forced labour among migrant workers.

The NPLM also emphasizes non-discrimination and equal treatment for all workers, irrespective of nationality, gender, or migration status. This principle applies to both migrant workers in Nigeria and Nigerians working abroad.³⁴¹ It aligns with constitutional protections and international human rights instruments, ensuring migrant workers can access the same labour

³³⁹ The International Labour Organization (ILO) formally defined “decent work” in its 1999 Report of the Director-General to the International Labour Conference (87th Session). The definition describes decent work as:

“Productive work that delivers a fair income, security in the workplace and social protection for families, better prospects for personal development and social integration, freedom for people to express their concerns, organize and participate in the decisions that affect their lives and equality of opportunity and treatment for all women and men.

³⁴⁰Convention No. 181 on Private Employment Agencies

³⁴¹ ILO Toolkit for Mainstreaming Employment and Decent Work: Country Level Application (2008)

International Labour Organization (ILO), Toolkit for Mainstreaming Employment and Decent Work: Country Level Application (1st edn, ILO 2008) accessed 28 June 2025.

rights and protections as nationals, including freedom of association, collective bargaining, and protection from workplace discrimination and harassment.³⁴²

Section 1.6.2 of the policy³⁴³ mandates gender sensitive labour migration policies, recognizing the specific vulnerabilities of women migrant workers and the need for tailored support services. It also advocates cooperation with ECOWAS member states to facilitate safe and legal labour migration within the region.³⁴⁴ The policy calls for establishing support services, such as migrant resource centres, legal aid, access to health care, and reintegration programmes, to assist migrant workers and their families.

The policy encourages the active involvement of social partners, including trade unions, employers' associations, civil society organizations, and migrant communities, in the formulation and implementation of labour migration policies. This participatory approach aims to empower migrant workers, enhance policy relevance, and foster multi-stakeholder collaboration to prevent exploitation and improve migrant workers' welfare.

The policy's focus on ethical recruitment and decent work also supports judicial efforts to fight trafficking and exploitation, complementing laws such as the Trafficking in Persons (Prohibition) Enforcement and Administration Act³⁴⁵.

In conclusion, the National Policy on Labour Migration represents a significant advancement in Nigeria's approach to labour migration governance. By promoting decent work, regulating recruitment, ensuring non-discrimination, providing social welfare, and fostering stakeholder

³⁴² ILO Decent Work Topic Page

International Labour Organization (ILO), 'Decent Work' (ILO) accessed 28 June 2025

³⁴³ Federal Ministry of Labour and Employment (Nigeria), National Policy on Labour Migration 2020 (ILO, EU, IOM support) 28 June 2025.

³⁴⁴ DharamGhai, 'Decent Work: Concept and Indicators' (2003) 142 International Labour Review 113

DharamGhai, 'Decent Work: Concept and Indicators' (2003) 142 International Labour Review 113 accessed 28 June 2025.

³⁴⁵ Trafficking in Persons (Prohibition) Enforcement and Administration Act 2015 (Nigeria), Official Gazette No. 10001, Vol. 102, accessed 28 June 2025.

participation, the policy addresses key drivers of migrant worker exploitation. Its alignment with international standards and integration into national development plans enhance Nigeria's capacity to protect migrant workers and optimize the developmental benefits of labour migration.

4.4 Labour Law Provisions Affecting Migrant Workers in Nigeria: Limitations and Challenges

Several Nigerian labour statutes and policies address the rights and welfare of workers, including migrant workers, yet they face significant limitations that constrain their protective scope, especially for vulnerable groups in the informal sector.

The Employees' Compensation Act ³⁴⁶provides a statutory framework for workplace injury and occupational disease compensation. Section 7 of the Act ³⁴⁷mandates compensation for workers who suffer injury or death arising from employment. However, the Act explicitly excludes informal sector workers, a group that includes many migrant workers involved in domestic work, agriculture, and small-scale enterprises. This exclusion significantly limits the Act's coverage for migrant workers, leaving many without access to compensation or social protection when injured or exploited at work. The gap undermines Nigeria's compliance with the ILO, ³⁴⁸which advocates for broad workers' coverage under the Trade Unions Act.³⁴⁹Read alongside Section 40 of the 1999 Constitution,³⁵⁰ guarantees the right of workers, including migrants, to form and join trade unions for collective bargaining and representation. This right is essential for empowering migrant workers to negotiate better terms and resist exploitation. However, Section 2 of the Trade Unions Act³⁵¹ requires unions to be formally registered, a process that can be cumbersome and excludes many informal sector workers, where migrants predominate, from unionisation.

³⁴⁶ Employees' Compensation Act 2010, Cap E11, Laws of the Federation of Nigeria 2004, s 7.

³⁴⁷ Ibid

³⁴⁸ Convention No. 121 on Employment Injury Benefits

³⁴⁹ Cap T14, LFN 2004

³⁵⁰ Constitution of the Federal Republic of Nigeria 1999, s 40.

³⁵¹ Ibid

Consequently, migrant workers in informal employment face barriers to collective advocacy and protection, perpetuating their vulnerability.

The National Minimum Wage Act 2019³⁵² sets a statutory minimum wage of 30,000 Naira per month, which is approximately 22dollars (USD), aiming to guarantee a basic standard of living for workers. However, this amount was widely regarded as insufficient given inflation and economic challenges.³⁵³ In response, the National Minimum Wage (Amendment) Bill³⁵⁴ was enacted to increase the minimum wage to 70,000 Naira per month, making it approximately 43dollars (USD), representing a significant 133 percent increase from the 2019 rate.³⁵⁵ The Amendment also reduced the review period for the minimum wage from five years to three years, allowing more frequent adjustments to reflect economic realities.

Furthermore, Section 4 of the Act exempts establishments with fewer than 25 employees from this requirement, a significant loophole given that many migrant workers are employed in small enterprises or informal settings. This exemption facilitates the payment of substandard wages, undermining the Act's protective intent.³⁵⁶ Moreover, the recent 2024 Amendment increased the minimum wage to 70,000 Naira but retained similar exemptions, perpetuating wage insecurity among migrant workers. The Committee of Experts of the ILO has noted these coverage gaps and urged Nigeria to expand protection to all workers, including those in small establishments.³⁵⁷

³⁵²National Minimum Wage Act 2019 (No 8 of 2019), ss 3–4; National Minimum Wage (Amendment) Act 2024.

³⁵³ National Minimum Wage Act 2019, s 3; National Minimum Wage (Amendment) Act 2024.

³⁵⁴National Minimum Wage (Amendment) Bill, 2024 (Nigeria) accessed 28 June, 2025

³⁵⁵Aderonke Alex-Adedipe and Kofoworola Ayoola, 'The National Minimum Wage (Amendment) Act 2024: Key Updates and Practical Tips for Employers in Nigeria' (Pavestones Legal, 23 August 2024) accessed 28 June 2025.

³⁵⁶National Salaries, Incomes and Wages Commission, 'April 2025 – 20 Governors under fire for delaying N70k minimum wage' (NSIWC, 2025) accessed 28 June 2025.

³⁵⁷National Assembly Passes Bills to Increase the National Minimum Wage and Guarantee Security of Tenure (PLAC, 2024) accessed 28 June 2025

On the international front, Nigeria ratified the ILO Violence and Harassment Convention,³⁵⁸ which requires employers to implement policies against workplace violence and harassment, including gender-based violence. Despite this progressive step, the Convention has yet to be domesticated into Nigerian law, and employer compliance remains limited.³⁵⁹ This lack of domestication and enforcement diminishes the Convention's practical impact, especially for migrant workers who often face harassment without effective recourse.

Lastly, the Expatriate Employment Levy Scheme,³⁶⁰ anticipated for implementation in 2025, aims to regulate the employment of expatriates through employer-paid levies. While this scheme may improve oversight of foreign workers in the formal sector, it does not explicitly address labour exploitation in the informal sector, where most migrant workers, both Nigerian and foreign, are employed.³⁶¹ Consequently, the scheme's impact on protecting migrant workers from exploitation is likely to be limited unless complemented by broader reforms targeting informal employment.

By and large, while Nigeria's labour laws and policies provide a framework for protecting workers, significant limitations, such as the exclusion of informal workers from compensation and minimum wage protections, barriers to unionisation, weak enforcement of anti-discrimination laws, and the lack of domestication of international conventions, undermine the protection of migrant workers. Addressing these gaps requires legislative reform to expand coverage, strengthen enforcement mechanisms, and ensure that international labour standards are fully integrated into domestic law, thereby enhancing the protection of migrant workers against exploitation and abuse.

³⁵⁸ Convention No. 190 in 2023, ILO NORMLEX, 'Ratifications for Nigeria' (ILO 2024).

³⁵⁹ International Labour Organization, 'Decent Work' (ILO) accessed 28 June 2025.

³⁶⁰ The Expatriate Employment Levy (EEL) in Nigeria (1st Attorneys, 12 February 2025) accessed 28 June 2025.

³⁶¹ Godson Oghenechuko, 'Nigeria Imposes Additional Levy on Employers of Expatriate Workers' (Policy Vault, 22 August 2024) accessed 28 June 2025.

4.5 Adequacy of Nigerian Labour Laws vis-à-vis ILO Provisions

Nigeria's labour laws fall significantly short of the International Labour Organization's (ILO) standards for the protection of migrant workers, particularly when compared to key ILO Conventions such as Convention No. 143 (Migrant Workers, 1975) and Convention No. 181 (Private Employment Agencies, 1997)³⁶². These conventions establish robust frameworks aimed at preventing labour exploitation and ensuring fair treatment of migrant workers, yet Nigerian legislation exhibits critical gaps in scope, regulation, enforcement, and domestication.

ILO Convention No. 143³⁶³ mandates equal treatment for migrant workers in all aspects of employment, covering both formal and informal sectors. In contrast, Nigeria's Labour Act³⁶⁴ applies narrowly, excluding informal sector workers, a category where migrant workers are disproportionately represented, including domestic workers, agricultural labourers, and informal traders. This exclusion creates a substantial protection gap, leaving many migrant workers vulnerable to exploitation without statutory safeguards. The National Policy on Labour Migration 2020 acknowledges this vulnerability and calls for inclusive policies, yet the Labour Act's limited scope remains a fundamental barrier to comprehensive protection.³⁶⁵

Furthermore, the ILO Convention No. 181³⁶⁶ requires strong licensing, regulation, and oversight of private employment agencies to prevent abusive recruitment practices that often lead to debt bondage, contract substitution, and trafficking.³⁶⁷ Nigeria's regulatory framework for recruitment agencies, however, remains weak and fragmented. Enforcement is limited, and unethical

³⁶² *ILO, General Survey on Migrant Workers Instruments (ILO 2021).*

³⁶³ International Labour Organization (ILO), Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143) (adopted 24 June 1975, entered into force 9 December 1978) accessed 28 June 2025.

³⁶⁴ (Cap L1, LFN 2004)

³⁶⁵ Ibid

³⁶⁶ International Labour Organization (ILO), Private Employment Agencies Convention, 1997 (No. 181) (adopted 19 June 1997, entered into force 10 May 2000) accessed 28 June 2025.

³⁶⁷ Employing Expatriates in Nigeria: Legal Framework and Compliance Requirements (1st Attorneys, 2 February 2025) accessed 28 June 2025.

practices persist, exposing migrant workers to exploitation at the recruitment stage. The absence of a comprehensive licensing system and effective monitoring mechanisms undermines compliance with ILO standards, as highlighted in recent analyses of labour law enforcement in Nigeria.³⁶⁸

The ILO conventions emphasize the necessity of strong enforcement mechanisms, including labour inspections, sanctions, and judicial remedies, to uphold migrant workers' rights. Nigeria's enforcement capacity is constrained by a limited number of labour inspectors; only 733 inspectors conducted 17,068 inspections in 2023, resulting in inadequate coverage and oversight. Judicial delays and procedural inefficiencies further weaken enforcement, allowing violations to go unpunished and perpetuating impunity for exploitative employers.³⁶⁹ This enforcement deficit contrasts starkly with the ILO's call for proactive and effective inspection systems.

Now, although Nigeria has ratified key ILO conventions, including Conventions No. 143 and 181, the non-domestication of these treaties under Section 12 of the Nigerian Constitution means they lack direct legal force in domestic courts.³⁷⁰ This constitutional limitation restricts the practical enforcement of international standards, leaving migrant workers without enforceable rights under these conventions. The ILO requires ratifying states to incorporate conventions into national law to ensure binding implementation, a step Nigeria has yet to achieve fully.³⁷¹

ILO Convention No. 190 (Violence and Harassment Convention, 2019) mandates comprehensive policies to prevent workplace harassment and violence, including gender-based violence, which disproportionately affects migrant workers. Nigeria's labour laws currently lack specific

³⁶⁸Ibid

³⁶⁹U.S. Department of Labour, Nigeria, 2023 Findings on the Worst Forms of Child Labour (2023) accessed 28 June 2025.

³⁷⁰Employment and Labour Laws and Regulations Report 2025 Nigeria (ICLG, 3 June 2025) accessed 28 June 2025.

³⁷¹Ibid

provisions addressing these issues for migrant workers, particularly in informal sectors. The absence of targeted anti-exploitation legislation leaves migrant workers exposed to abuse without effective legal recourse. Recent legislative initiatives, such as the pending Domestic Workers' Bill of Rights, signal progress but have yet to fully close these protection gaps.

Moreover, Nigerian courts have generally upheld the importance of statutory labour protections but have not extended these protections to excluded categories of workers, including many migrants in informal employment. For example, in *Dr Dogo Isaac v. Nigerian Immigration Service & Ors*,³⁷² the National Industrial Court underscored the importance of procedural fairness and statutory compliance in employment relations with government agencies but operated within formal employment parameters, highlighting limited judicial engagement with informal or migrant worker issues. More so, the judiciary's limited engagement with migrant-specific issues reflects broader legislative shortcomings. However, courts have begun to challenge contradictions in protection, such as disparities between civil servants and contract staff, indicating a gradual recognition of the need for reform.

In summary, while Nigeria has made commendable strides by ratifying key ILO conventions such as Convention No. 143 and Convention No. 181, this is not enough, given the significant gaps that persist in the domestic legal framework governing migrant workers. The limited scope of the Labour Act, weak regulation of recruitment agencies, inadequate enforcement capacity, and failure to domesticate international standards collectively undermine adequate protection against exploitation. Moreover, the absence of targeted legislation addressing the vulnerabilities of informal sector migrant workers and the lack of comprehensive anti-harassment policies reveal critical areas needing urgent reform. To align Nigeria's labour laws with robust

³⁷²(NICN, 2018) Accessed 21 June 2025

international standards, it is imperative to expand statutory coverage, strengthen regulatory oversight, enhance enforcement mechanisms, and incorporate ILO conventions into domestic law. Such reforms will not only safeguard migrant workers' rights but also promote decent work, social justice, and sustainable economic development in Nigeria.

4.6 Protection Mechanisms and Enforcement of Rights

As established throughout this body of work, the primary legal instruments governing the protection of migrant workers in Nigeria include the Labour Act of 2004, the Nigeria Immigration Act of 2015, and the National Policy on Labour Migration of 2014. The Labour Act applies to all employment activities involving migrant workers, ensuring they receive the same protections as Nigerian workers.³⁷³ The Nigeria Immigration Act provides the legal framework for the entry, stay, and employment of foreign nationals in Nigeria, including provisions on work permits.³⁷⁴

As such, enforcement mechanisms for migrant workers' rights span across judicial and administrative processes. Nigerian courts can issue temporary restraining orders and preliminary injunctions in cases of imminent violations of migrant workers' rights, providing urgent relief and halting exploitative practices. Additionally, courts award damages to migrant workers who have suffered harm due to employer misconduct, reinforcing employer accountability and deterring abuse.³⁷⁵ Beyond the courts, administrative enforcement includes labour inspections explicitly extended to workplaces employing migrant workers to monitor compliance with labour

³⁷³ International Labour Organization, 'National Assessment of Labour Migration Policies, Legislation, Practices, and Structures in Nigeria' (2015) accessed 31 July 2025.

³⁷⁴ Ibid

³⁷⁵ Migrants & Refugees Section, 'Nigeria - Country Profile' (Vatican Dicastery for Promoting Integral Human Development, 2024) accessed 31 July 2025.

laws and standards.³⁷⁶ These inspections help identify violations, safeguard workplace safety, and improve regulatory compliance.

In the same vein, several governmental agencies are pivotal in migrant worker protection. Agencies and institutions such as the Nigeria Immigration Service (NIS), which is saddled with the delicate responsibility of managing migration regulation, including the issuance of permits and enforcement of immigration laws to prevent irregular employment.³⁷⁷ Simultaneously, the Federal Ministry of Labour and Productivity formulates labour policies, oversees compliance with labour laws, and coordinates worker protection initiatives. These agencies collaborate to create a coherent regulatory environment that supports migrant worker safety and rights. International organizations also play important complementary roles. Bodies such as the International Rescue Committee (IRC) and the Norwegian Refugee Council (NRC) provide humanitarian support, legal assistance, and advocacy for migrant workers, particularly those displaced by conflict or affected by forced migration scenarios in Nigeria.³⁷⁸

4.7. Contributions of NGOs as Protection Mechanisms

NGOs are essential actors within the international migration system, particularly in promoting, protecting, and advancing the rights of migrant workers. Their involvement is manifested in several ways:

- I. Driving Ratification Campaigns: NGOs, alongside civil society, have been instrumental in generating awareness of the ICRMW and campaigning for its ratification.³⁷⁹ As

³⁷⁶ International Organization for Migration, 'Analysing Migrant Detention Legal Frameworks: Perspectives from West and Central Africa' (2024) accessed 31 July 2025.

³⁷⁷ Elspeth Guild, 'The Foreigner in the Security Continuum: Judicial Resistance in the United Kingdom' in Rajaram and Grundy-Warr (eds), *Borderscapes: Hidden Geographies and Politics at Territory's Edge* (University of Minnesota Press 2007) 65

³⁷⁸ *Ibid*

³⁷⁹ United Nations, Department of Economic and Social Affairs, Population Division, Trends in International Migrant StocPaul de Guchteneire, Antoine Pécoud and Ryszard Cholewinski (eds), *Migration and Human Rights:*

described in the text, the efforts of NGOs and informal bodies are fundamental in recruiting governmental and public support for the Convention. High-profile campaigns, such as ‘Europe, it’s Time to Ratify the Migrant Workers Convention’, exemplify how NGOs leverage public advocacy to mobilize states and societies to commit to international human rights instruments.

- II. Monitoring and Accountability: NGOs act as a watchdog role, monitoring the implementation or lack thereof of migrant worker rights at national, regional, and global levels. Their actions include supplying alternative reports to UN human rights treaty bodies, highlighting instances in which states frequently fall short of their obligations, and pressing governments to close protection gaps.³⁸⁰
- III. Partnership with Multilateral Bodies:³⁸¹ The Committee on Migrant Workers (the monitoring body for the ICRMW)³⁸² collaborates with NGOs to promote effective implementation of the Convention. Such partnerships are central to ensuring that legal instruments translate into concrete gains for migrant communities, as NGOs contribute expertise, local knowledge, and contextual understanding of migrant vulnerabilities.
- IV. Advocacy and Service Provision:³⁸³ NGOs frequently support migrants directly, providing legal advice, emergency aid, education on rights, and assistance in navigating complex administrative systems in host countries. Their proximity and responsiveness

The United Nations Convention on Migrant Workers’ Rights (UNESCO Publishing and Cambridge University Press 2009) k: The 2008 Revision (United Nations database, POP/DB/MIG/Stock/Rev.2008, 2009)

³⁸⁰ *Ibid*

³⁸¹ Alice Edwards and Carla Ferstman (eds), ‘Humanising Non-Citizens: The Convergence of Human Rights and Human Security’ in Edwards and Ferstman (eds), *Human Security and Non-Citizens* (Cambridge University Press 2010) 3

³⁸² Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families, ‘General Comment No 1: Migrant Domestic Workers’ (23 February 2011) CMW/C/GC/1

³⁸³ Philip Martin, Susan Martin and Sarah Cross, ‘High-Level Dialogue on Migration and Development’ (2007) 45 *International Migration* 7

enable them to fill gaps left by state services, especially for marginalized groups such as irregular migrants or those in precarious employment sectors.

4.7.1. Challenges and Structural Constraints

As much as there are benefit of having NGOs meddle in migration matters, there exists evolving and sometimes adverse political environment in which NGOs operate. Governments' prioritization of sovereignty and border security over human rights, the politicization of migration, and administrative barriers all limit NGOs' ability to affect policy change or ensure full protection for migrant workers. NGOs and civil society actors are sometimes even framed as "agents of rights infringements" within the broader competition between state, supranational, and non-state actors.

4.7.2 Key Takeaway

Ultimately, NGOs are crucial intermediaries between migrants and the state, operating in a space where policy, law, and lived experience intersect. Their impact is clearest in the campaign for wider ratification⁶ of the ICRMW and continued efforts to ensure that migrants are granted not just formal rights on paper, but substantive access to justice and social protection in practice. By building coalitions, advocating at multiple levels, and offering direct support to migrants, NGOs serve as both agents and catalysts of social change within the migration governance ecosystem.

Thus, NGOs are indispensable to the international struggle for migrant workers' rights. They animate global legal instruments like the ICRMW, act as advocates, watchdogs, and service providers, and help bridge the persistent gap between formal rights and real-world conditions for migrants. Their continued engagement is vital to achieving comprehensive, humane, and rights-based migration governance in an increasingly interconnected world.

4.8 Enforcing the Fundamental Rights of Migrant Workers in West Africa

The ECOWAS Protocols on the Right of Residence (ROR)³⁸⁴ and Right of Establishment (ROE)³⁸⁵ do not explicitly define the fundamental rights of migrant workers. Instead, the Protocols' definition section references these fundamental rights as those granted within the Protocols themselves as well as those protected under ILO Conventions concerning migrant worker rights.³⁸⁶ This dual reference suggests the existence of two distinct sets of rights protecting migrant workers in West Africa: the first granted specifically by the ECOWAS Protocols, and the second derived from international instruments like the ILO Conventions.³⁸⁷

Moreover, the Protocols do not clarify the exact scope or applicability of these fundamental rights. However, Article 16(2) of the Protocol on ROR mandates Member States to safeguard migrant workers' fundamental rights during expulsion processes. Under the ILO framework, migrant worker protection is a founding purpose of the organization, which has developed several Conventions such as No. 97 (Migration for Employment)³⁸⁸, No. 143 (Migrations in Abusive Conditions)³⁸⁹, No. 29 (Forced Labour)³⁹⁰, and No. 105 (Abolition of Forced Labour)³⁹¹ to uphold these rights internationally. These have culminated in the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (ICMW)³⁹²,

³⁸⁴ Protocol A/P.3/5/82 Relating to the Right of Residence (ECOWAS, adopted 29 May 1982)

³⁸⁵ Protocol A/P.2/5/82 Relating to the Right of Establishment (ECOWAS, adopted 29 May 1982)

³⁸⁶ This definition of fundamental rights creates the impression that two sets of rights do exist for the protection of migrant workers in West Africa. The first set of rights being those rights that specifically accrue to a migrant worker vide the ECOWAS Protocol, and the second set of rights being those that accrue vide international instruments on the protection of the rights of migrant workers.

³⁸⁷ The Convention was adopted by the United Nations General Assembly on 18 December 1990, vide Resolution 45/158. It came into force on 1 July 2003

³⁸⁸ ILO Convention No. 97 — Migration for Employment (Revised), 1949 (No 97)

³⁸⁹ ILO Convention No. 143 — Migrant Workers (Supplementary Provisions) Convention, 1975

³⁹⁰ ILO Convention No. 29 — Forced Labour Convention, 1930 (No 29)

³⁹¹ ILO Convention No. 105 — Abolition of Forced Labour Convention, 1957

³⁹² Ibid

adopted by the UN with ILO collaboration. The ICMW, acknowledged by ECOWAS, commits Member States to abide by its provisions.³⁹³

The ICMW guarantees rights including non-discrimination, equal treatment of migrants and nationals (including regular and irregular migrants), protection from violence, fair employment conditions, freedom of employment choice, social security, health, housing, family reunification, education, cultural and political rights, and residence rights. It is clear that the ICMW's protective scope is broader than that of the ECOWAS Protocols.³⁹⁴

A major challenge in enforcing these rights is the divergence between international commitments and national policy implementation. While Member States may formally commit to protecting migrant workers under regional and international instruments, translating these commitments into effective domestic legislation and policies is difficult. Without proper implementation frameworks, violations of migrant workers' rights frequently go unaddressed.

Migrant workers may seek protection either through national courts where jurisdiction rests on the sovereign competence of states to adjudicate disputes within their territory or through the ECOWAS Court, which derives jurisdiction from ECOWAS legal instruments to resolve disputes arising from Community law.³⁹⁵ However, the enforceability of migrant workers' rights through national courts depends mainly on the host Member State's approach to international law. Some states require international provisions to be incorporated into domestic law before they can be enforced, while others apply ratified international law directly. This means migrant

³⁹³ Robert, R. (2004). *The Social Dimension of Regional Integration in ECOWAS*. Geneva: International Labour Office.

³⁹⁴ Only 8 ECOWAS Member States have ratified the ICMW (Burkina Faso, Cape Verde, Ghana, Guinea, Niger, Nigeria, Senegal and Mali).

³⁹⁵ In this case, the relevant ECOWAS Protocol which the migrant worker claims has been violated.

workers' ability to enforce rights derived from the ECOWAS Protocols and ILO Conventions varies among Member States.³⁹⁶

The ECOWAS Court may serve as an alternative forum for migrants who allege violations of rights under ECOWAS law by Member States. Yet, successful claims require establishing that the state breached or failed to protect the rights in question. Claims based on rights from ILO Conventions not ratified by the Member State may not succeed at the ECOWAS Court, as there is no direct regional obligation unless ratified.³⁹⁷

In summary, while multiple frameworks exist to protect migrant workers' rights in West Africa through ECOWAS Protocols, ILO Conventions, and the ICMW their practical enforcement is contingent on national legal incorporation and political will. The effectiveness of both national courts and the ECOWAS Court to uphold these rights relies on the degree to which Member States harmonize their laws with international obligations and enforce them domestically.

³⁹⁶ Cholewinski, R. (2006). International labour law and the protection of migrant workers: revitalizing the agenda in the era of globalization. In Craig, J & Lynk, M. 16 (eds), *Globalization and the Future of Labour Law* (pp. 409-444). Cambridge: Cambridge University Press.

³⁹⁷ International law refers to those rules and norms that regulate the conduct of States and other entities which at any time are recognized as being endowed with international personality (Wallace 2005: 1). The sources of international law are treaties or conventions, customary international and general principles of law recognized by civilized nations (Article 38(1) Statute of the International Court of Justice). Treaties or conventions can be multilateral, regional or bilateral in nature. Examples of a multilateral treaty are the ILO Conventions on Migrant Workers. They are regarded as multilateral because they are applicable to a large number of states spread across the different geographical locations of the world. Examples of regional treaties are the ECOWAS Treaty and its Protocols. They are regarded as regional because they are applicable only to countries within the West African region.

Chapter Five

Conclusion

5.1 Summary of Findings

The study reveals that the lived reality of migrant workers in Nigeria is shaped by a complex interplay of weak institutional enforcement, socio-economic vulnerabilities, and gaps within the country's labour and migration governance structure. Although Nigeria possesses a number of legal instruments that, on the surface, appear capable of shielding migrant workers from labour exploitation, the experience of these workers demonstrates that the protective framework remains fragile, underutilised, and poorly implemented. This gap between legal guarantees and practical outcomes represents one of the most significant findings of the analysis.

The investigation shows that Nigerian law does not lack provisions capable of addressing exploitative labour practices. Statutes such as the Labour Act, the Constitution of the Federal Republic of Nigeria, anti-trafficking legislation, and administrative guidelines governing employment relationships provide a theoretical foundation for protecting all workers, regardless of nationality. These laws extend fundamental labour rights, including fair wages, humane working conditions, and non-discrimination. However, the placement of migrant workers, particularly low-skilled and undocumented migrants, within Nigeria's labour market places them at a disadvantage that the legal framework has not adequately remedied. Many migrant workers

operate in informal sectors, where statutory protections are either unknown, inaccessible, or deliberately ignored by employers who exploit the workers' unfamiliarity with Nigerian law.

The findings further indicate that the principal challenge is not the absence of law but the weakness of enforcement mechanisms. Labour inspection systems are not adequately funded, regularly deployed, or institutionally empowered to monitor private workplaces where exploitation is most prevalent. This institutional weakness enables employers to circumvent labour standards with little fear of sanctions. Migrant workers, who often lack language proficiency, networks of support, or lawful immigration status, hesitate to invoke the protections available to them, thereby strengthening this cycle of exploitation. Their dependence on employers for housing, documentation, or continued residence heightens their vulnerability, making it difficult for them to challenge abusive practices even when such practices blatantly violate Nigerian law.

The analysis also reveals that Nigeria's migration governance framework operates in isolation from its labour law regime, resulting in insufficient coordination between agencies responsible for immigration, labour regulation, and human rights protection. While anti-trafficking laws attempt to address extreme forms of exploitation, they do not cover the full spectrum of labour abuses migrant workers face daily, such as wage theft, contract substitution, forced overtime, and unsafe working conditions. This lack of an integrated framework prevents the law from addressing exploitation at its early stages and allows abuses to escalate into more severe violations.

Another significant finding is the discrepancy between national law and international labour standards. Nigeria's ratification of several ILO conventions theoretically aligns it with global norms on migrant worker protection, but the integration of these standards into domestic

legislation remains incomplete. Where domestic law contradicts or falls short of international requirements, migrant workers remain exposed to exploitation. The Labour Act, for instance, continues to contain outdated and restrictive provisions that do not reflect contemporary labour realities or the protections envisaged under ILO migrant worker conventions. This lack of harmonisation creates inconsistencies that weaken the national protection framework.

The study further finds that socio-economic pressures, such as unemployment rates and the demand for cheap labour, contribute to the persistence of exploitation. Employers perceive migrant workers as inexpensive and easily controlled labour, while migrant workers themselves are driven by economic necessity to accept hazardous and degrading conditions. This interplay of employer interest and worker vulnerability sustains a labour environment in which exploitation becomes normalised, particularly in domestic work, construction, agriculture, and other informal sectors.

Another important finding is that cultural and social perceptions also influence outcomes. Migrant workers, especially those from neighbouring West African countries, often face discriminatory attitudes that diminish their access to justice and reinforce their exclusion from formal labour protections. Stereotypes about their skill level, nationality, or legal status contribute to a climate in which exploitation is rationalised or overlooked.

Ultimately, the study concludes that although Nigeria possesses the basic legislative tools required to protect migrant workers from exploitation, these tools remain underdeveloped, poorly implemented, and insufficiently harmonised with international standards. The gap between law and practice leaves migrant workers exposed to a wide range of abuses that the current framework has not effectively addressed. A stronger enforcement architecture, greater institutional coordination, and a deliberate reform of outdated legislation are therefore essential

to close the protection gaps and ensure that migrant workers in Nigeria enjoy genuine, enforceable labour rights rather than theoretical guarantees.

5.1.1 Objective 1: To Examine the Legal Frameworks Governing the Rights and Welfare of Migrant Workers in Nigeria.

Nigeria's legal framework for migrant workers includes foundational instruments such as the Constitution, Labour Act, Trade Unions Act, Immigration Act, and ratified ILO conventions like Conventions Nos. 143 and 181. However, these laws primarily focus on formal sector workers and lack specific provisions tailored to the unique vulnerabilities of migrant workers, especially those in the informal sector, which constitutes the majority of Nigeria's workforce.³⁹⁸ The Labour Act, for instance, covers mainly manual and clerical workers, excluding many professionals and informal workers, while regulatory oversight of recruitment agencies remains weak, allowing exploitative practices to persist.³⁹⁹ Although Nigeria has ratified key ILO conventions aimed at protecting migrant workers and regulating private employment agencies, the domestication and effective enforcement of these international standards are still in progress.⁴⁰⁰ Recent legislative efforts, such as the proposed bill to regulate domestic workers and informal sector employment, signal recognition of these gaps and a move toward formalizing protections for vulnerable workers. Overall, despite existing laws and international commitments, Nigeria's legal protections for migrant workers remain limited in scope and enforcement, particularly for those outside the formal economy.⁴⁰¹

³⁹⁸Federal Ministry of Labour and Employment (Nigeria), National Policy on Labour Migration 2020 (ILO, EU, IOM support) accessed 28 June 2025.

³⁹⁹Nigeria Set to Ratify ILO Conventions 143, 181 to Protect Migrant Workers (Federal Ministry of Labour and Employment, 2021) accessed 28 June 2025.

⁴⁰⁰ Ibid

⁴⁰¹Effective Recruitment and Labour Law in Nigeria - Phillips Consulting (2025) accessed 28 June 2025.

5.1.2 Objective 2: To Identify the Gaps, Weaknesses, and Enforcement Challenges within the Existing Protection Regime for Migrant Workers.

Nigeria's protection regime for migrant workers reveals significant and multifaceted gaps that exacerbate their vulnerability to exploitation. Foremost among these is the exclusion of informal sector workers from statutory labour protections. The Labour Act, Nigeria's principal labour legislation, primarily covers formal sector employees such as manual and clerical workers, leaving out the large majority of migrant workers engaged in informal, domestic, agricultural, and seasonal employment. This exclusion creates a large unregulated labour pool vulnerable to abuse without effective legal recourse. The regulation and oversight of recruitment agencies, a critical entry point for many migrant workers remain weak and fragmented. Despite Nigeria's ratification of ILO Convention No. 181, which mandates licensing and monitoring of private employment agencies to prevent fraudulent and exploitative recruitment, enforcement is limited. Unethical practices such as excessive recruitment fees, contract substitution, and deceptive job offer persist, as highlighted by trade union advocacy and reports of migrant exploitation across Africa.⁴⁰² The absence of a comprehensive licensing regime and effective sanctions undermines fair recruitment and facilitates trafficking risks. Enforcement capacity is further constrained by limited labour inspection resources. In 2023, only 733 labour inspectors conducted 17,068 inspections nationwide, an insufficient number given Nigeria's large and dispersed workforce.⁴⁰³ This low inspection density results in inadequate workplace oversight, particularly in sectors and regions where migrant workers are concentrated. Judicial delays and procedural inefficiencies compound enforcement challenges, often leaving violations unaddressed and emboldening exploitative employers. Corruption and bureaucratic inertia within enforcement agencies further

⁴⁰²African Trade Unions Brainstorm on Ending Labour Migrant Exploitation (2025) accessed 28 June 2025.

⁴⁰³Extension of Labour Inspection Activity and Labour Law Enforcement to Sectors and Workplaces Where Migrant Workers May Be Present (2025) accessed 28 June 2025.

weaken compliance monitoring and accountability.⁴⁰⁴ Another critical weakness is the non-domestication of key ILO conventions protecting migrant workers, including Conventions Nos. 143 and 181. Although Nigeria has ratified these international instruments, their provisions lack direct legal force domestically unless incorporated into national legislation, as required by Section 12 of the Nigerian Constitution.⁴⁰⁵ This gap limits the enforceability of international labour standards and diminishes protections for migrant workers, especially in informal and irregular employment situations. Moreover, gender-based discrimination and social exclusion exacerbate migrant workers' vulnerabilities. Women migrants, often employed in domestic and care work, face heightened risks of abuse, harassment, and exploitation, with limited access to social protection or legal remedies. The absence of gender-responsive policies and targeted anti-exploitation laws leaves these workers particularly exposed.⁴⁰⁶

Judicial decisions reflect these systemic challenges. While courts have upheld statutory labour protections within formal employment, they have generally not extended protections to informal or migrant workers excluded by law. For example, in *Ogunyale v. Globacom (Nig) Ltd*,⁴⁰⁷ the National Industrial Court emphasized compliance with labour laws but operated within restrictive statutory definitions that exclude many migrants. Similarly, cases like *Dr. Dogo Isaac v. Nigerian Immigration Service & Ors*⁴⁰⁸ affirm procedural rights for formal employees, but do not address the plight of informal migrant workers. These judicial limitations mirror broader legislative shortcomings and highlight the urgent need for reform.

⁴⁰⁴Employment & Labour Laws and Regulations Report 2025 Nigeria (ICLG, 2025) accessed 28 June 2025.

⁴⁰⁵*Ibid*

⁴⁰⁶Federal Ministry of Labour and Employment (Nigeria), National Policy on Labour Migration 2020 (ILO, EU, IOM support) accessed 28 June 2025.

⁴⁰⁷(Nig) Ltd (2013) 30 NLLR (Pt 85) 63 (NICN)

⁴⁰⁸(2018) NICN Benin Judicial Division, Suit No NICN/BEN/37/2018

5.1.3 Objective 3: To Analyse How Nigerian Labour Laws and Policies Address Issues of Labour Exploitation Concerning Migrant Workers

Nigeria's key labour laws, including the Labour Act, Employees' Compensation Act, National Minimum Wage Act, and Immigration Act, including certain anti-discrimination laws, contain provisions aimed at addressing exploitation and protecting workers' rights. For example, the Labour Act regulates recruitment processes, mandates medical examinations for recruited workers, and prohibits illegal recruitment practices, while the Employees' Compensation Act provides for workplace injury compensation. The National Minimum Wage Act guarantees a baseline income to prevent economic exploitation, and anti-discrimination laws seek to ensure equality in employment. However, these laws are narrowly applied, primarily covering workers in the formal sector and excluding the vast informal workforce, where most migrant workers are employed. The Labour Act's scope notably excludes many categories of workers, such as casual labourers and domestic workers, who constitute a significant portion of migrant labour. This exclusion leaves informal sector migrant workers without statutory protections against exploitation, unfair wages, or unsafe working conditions. Moreover, weak enforcement mechanisms undermine the effectiveness of existing laws. Labour inspection activities are limited in coverage and frequency, with insufficient inspectors to monitor compliance across Nigeria's large and dispersed workforce. Judicial processes often suffer delays, reducing timely access to remedies for exploited workers. The absence of specific anti-exploitation provisions tailored to migrant workers, especially those in irregular or informal employment, further weakens protections. Gender-specific vulnerabilities, such as those faced by female migrant domestic workers, are inadequately addressed in current legislation and policy frameworks. The National Policy on Labour Migration recognizes these gaps and calls for expanded labour

inspection, supervision of recruitment agencies, and social protection for migrant workers.⁴⁰⁹ It advocates the universal application of non-discrimination and decent work principles, including in the informal sector. However, translating these policy goals into enforceable statutory provisions remains a challenge. While Nigeria's labour laws provide a foundation for protecting workers, their limited scope, weak enforcement, and lack of migrant-specific anti-exploitation measures leave many migrant workers, particularly in the informal economy, vulnerable to abuse and exploitation. Strengthening legal coverage, enforcement capacity, and targeted protections is essential to safeguard migrant workers' rights and welfare.

5.1.4 Objective 4: To Examine the Legal Frameworks Governing the Rights and Welfare of Migrant Workers in Nigeria against the ILO convention.

At close study of the topic and studies relating to the research, it clearly shows that Nigerian labour laws fall short of fully meeting the standards set by key ILO Conventions No. 143 (Migrant Workers), No. 181 (Private Employment Agencies), and No. 190 (Violence and Harassment in the World of Work).⁴¹⁰ This shortfall stems from several critical deficiencies.

For instance, Nigerian legislation largely omits informal sector migrant workers, who make up a significant and vulnerable part of the migrant workforce. This exclusion leaves them without statutory protections, social security, or access to legal remedies, perpetuating systemic exploitation and invisibility in labour governance.⁴¹¹

Furthermore, the current regulatory framework for recruitment agencies in Nigeria is weak, with inadequate licensing, monitoring, and enforcement mechanisms. This gap allows exploitative

⁴⁰⁹International Covenant on Civil and Political Rights (adopted 16 December 1966, entered into force 23 March 1976) 999 UNTS 171.

⁴¹⁰ No. 190 (Violence and Harassment in the World of Work).

⁴¹¹ Ibid

recruitment practices, including excessive fees and deceptive contracts, which violate ILO Convention No. 181's standards for private employment agencies.

Another notable aspect is that the Nigerian labour laws do not comprehensively address violence, harassment, and exploitation in the workplace, particularly for migrant workers. Although Nigeria recently ratified ILO Convention No. 190, which aims to eliminate violence and harassment at work, the integration of its provisions into domestic law and practice remains incomplete, limiting effective protection.⁴¹²

Furthermore, Nigeria is constitutionally a dualist state, requiring domestication of international treaties before they become enforceable domestically. Although the 2010 Third Alteration to the Constitution introduced some ambiguity by empowering the National Industrial Court to apply ratified ILO conventions even if not formally domesticated, legislative clarity and judicial activism remain inconsistent⁴¹³. This legal uncertainty severely limits the practical enforceability of these conventions and undermines workers' rights protections.

In light of these issues, the urgent need for legislative reform and alignment with international norms is evident. Nigeria must prioritize the domestication of ILO Conventions No. 143, 181, and 190 to remove legal ambiguities and ensure their full applicability in Nigerian courts, the enactment of comprehensive laws that explicitly include informal migrants and regulate recruitment agencies with robust oversight mechanisms to prevent abuse, and the integration of specific anti-harassment and anti-exploitation provisions consistent with ILO standards, supported by effective enforcement and judicial capacity building.⁴¹⁴

⁴¹²Tayo Douglas, 'An Appraisal of the Rights and Protection of Migrant Workers under Nigerian Law' (unpublished manuscript, School of Legal and Security Studies, Babcock University, 2020) accessed 13 June 2025.

⁴¹³ Constitution of the Federal Republic of Nigeria 1999, s 12.

⁴¹⁴ Ibid

Such reforms will not only fulfil Nigeria's international obligations but also enhance protections for migrant workers, promote decent work, and support sustainable economic development. Without these legislative and institutional changes, the gap between Nigeria's formal commitments and the lived realities of migrant workers will persist, perpetuating vulnerabilities and exploitation.⁴¹⁵

5.2 Conclusion

This study underscores a complex and quite frankly disjointed legal landscape governing migrant worker protection in Nigeria. Despite Nigeria's formal commitments to international labour standards, the practical reality is a system riddled with gaps, weak enforcement, and regulatory fragmentation. These deficiencies disproportionately affect informal and irregular migrant workers, exposing them to exploitation and abuse. The interplay between national laws and international standards reveals progress in policy formulation but critical shortcomings in implementation and legal coherence.

Nigeria's current approach is inadequate to fully protect the rights and welfare of its migrant workers. The failure to incorporate key international conventions and the absence of a unified, inclusive legal framework highlight a broader governance issue. Without urgent and comprehensive reforms that are legal, institutional, and policy-based, Nigeria risks maintaining systemic vulnerabilities that compromise both human rights and sustainable economic growth. Enhancing labour migration governance is not just a legal requirement but a socio-economic necessity to secure decent work and dignity for all migrant workers.

⁴¹⁵Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (adopted 10 December 1984, entered into force 26 June 1987) 1465 UNTS 85 (CAT).

5.3 Recommendations

In crafting the recommendations for this research, it is essential to contextualize the current global and regional realities shaping labour mobility and integration. In an increasingly globalized world, traditional national borders have become less restrictive to the movement of goods, services, and importantly, people. While physical boundaries remain, their significance in impeding movement has diminished, prompting countries to forge greater integration to enhance their social cohesion and economic strength jointly. This principle of integration, as noted by Andrew Axline,⁴¹⁶ is largely social in character, fostering a shared identity among member states that transcends historical and political divisions.

Within West Africa, this vision of regional identity and cohesion catalysed the establishment of ECOWAS in 1975. A central pillar of ECOWAS's agenda has been to promote the free movement of people across member states, recognizing human mobility as an indispensable component of societal development.⁴¹⁷ Facilitating this movement not only bolsters social cohesion but also directly contributes to regional economic growth by enabling the fluid transfer of skills, expertise, and labour resources, which are seen as drivers of economic development.⁴¹⁸ The free movement of persons inherently entails the free movement of labour, a factor pivotal to addressing demographic imbalances and labour-market demands throughout the region.

Historically, West African populations have demonstrated high intra-regional mobility, tracing back to pre-colonial times when movement sought security, land, and fertile farming

⁴¹⁶ Axline WA, *European Community Law and Organizational Development* (Oceana Publications 1968) accessed 4 August 2025

⁴¹⁷ Adepoju A, 'Fostering Free Movement of Persons in West Africa: Achievements, Constraints, and Prospects for Intra-regional Migration' (2002) 40(2) *International Migration* 3

⁴¹⁸ Appleyard D, Field Jr D and Cobb S, *International Economics* (McGraw Hill Irwin 2005)

opportunities.⁴¹⁹ Colonial borders and post-independence national sovereignties subsequently constrained this fluidity. It is therefore critical that the ECOWAS framework actively supports an effective regime that not only permits but also protects migrating persons, particularly migrant workers, ensuring that labour mobility does not undermine fundamental rights and social stability.

ECOWAS has responded by instituting key protocols⁴²⁰ designed to replicate a pre-colonial regional integration ethos. These include the 1979 Protocol Relating to Free Movement of Persons, Residence and Establishment, along with supplementary protocols adopting phased rights of residence and establishment. The 1993 revision of the ECOWAS Treaty reaffirmed the commitment of member states to remove barriers impeding mobility, firmly grounding free movement as a core component of the community's common market aspirations.

However, despite these robust frameworks, challenges persist in translating protocol rights into lived realities. Practical impediments include restrictive domestic policies, lack of standardized travel documentation, border harassment⁴²¹, and selective enforcement by member states based on economic and political considerations. For instance, some governments retain the right to deny admission under national security prerogatives, often invoked ambiguously to restrict migrant access.⁴²² Migrants frequently encounter demands for passports or residence permits despite the protocols aiming to lessen such barriers, highlighting discord between policy and practice. Institutional weaknesses and resource constraints further hinder effective

⁴¹⁹ Awumbila M, 'Intra-Regional Migration in West Africa: Changing Patterns and Dynamics' (2007) accessed 28 August 2010

⁴²⁰ Protocol Relating to Free Movement of Persons, Residence and Establishment (*ECOWAS, 1979*); *Supplementary Protocols A/SP.1/7/85, A/SP.1/7/86, and A/SP.2/5/90*.

⁴²¹ Aderanti Adepoju, 'Migration Management in West Africa' (2005) 43 *ISSR* 1.

⁴²² Taran PA, 'Globalization, Migration and Labour: Imperatives for a Rights Based Policy' (2011) 2 *Globalistics and Globalization Studies* 223 accessed 4 August 2025.

implementation, limiting the enforcement of migrants' rights and dampening the potential benefits of free movement.

In light of these observations, this research suggests a multi-faceted approach to enhancing the protection of migrant workers within the ECOWAS free movement regime.

5.3.1 Consolidation and Harmonization of the Legal Frameworks

Nigeria must consolidate and harmonize its legal frameworks by enacting comprehensive legislation that clearly defines and safeguards the rights and welfare of all migrant workers, including those in the informal sector⁴²³. This legislation should ensure coherence between immigration and labour laws and prioritize the domestication of relevant ILO and ECOWAS conventions. Such legal clarity and alignment are foundational to effective protection. As a matter of fact, in today's globalised world, borders which originally existed between

5.3.2 Increase Investment in Labour Inspection Services

To overcome enforcement challenges, the government should significantly increase investment in labour inspection services, including recruiting and training more inspectors. Strengthening inter-agency coordination among immigration, labour, and law enforcement bodies is essential to close enforcement gaps. Moreover, regulatory oversight of recruitment agencies must be enhanced through rigorous licensing, ongoing monitoring, and strict sanctions to prevent exploitative practices.

5.3.3 Update Policies to Cover Broader Scopes Legal Loopholes

Nigeria should accelerate the domestication and implementation of ILO Conventions No. 143, 181, and 190, integrating their standards into national law and practice⁴²⁴. Legislative reforms

⁴²³ International Labour Organization, *ILO Multilateral Framework on Labour Migration* (ILO 2006).

⁴²⁴ ILO Convention No 143 (Migrant Workers Convention, 1975); ILO Convention No 181 (Private Employment Agencies Convention, 1997); ILO Convention No 190 (Violence and Harassment Convention, 2019).

must close existing gaps related to recruitment regulation, inclusion of informal sector migrants, and protection against violence and harassment. Additionally, judicial capacity building is vital to ensure timely and effective adjudication of migrant labour disputes, thereby enhancing access to justice.

Finally, in my considered opinion, these reforms require political will and sustained commitment. Without addressing the systemic weaknesses in governance, legal fragmentation, and enforcement, Nigeria will continue to fall short of its international obligations and fail its migrant workers. A holistic approach combining legal reform, institutional strengthening, and inclusive policy implementation is essential to realise the promise of decent work and human dignity for all migrant workers in Nigeria. The specific recommendations proffered to each of the objectives include;

1. To examine the legal frameworks governing the rights and welfare of migrant workers in Nigeria: Nigeria should review and strengthen its legal frameworks concerning the rights and welfare of migrant workers. This can be achieved by ratifying and implementing relevant international conventions, such as the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.⁴²⁵

1. To identify the gaps, weaknesses, and enforcement challenges within the existing protection regime for migrant workers, the Nigerian government should pinpoint and address the deficiencies in the current system. This can be achieved through a thorough review of existing laws and policies, engaging with relevant stakeholders, and developing targeted measures to fill the identified gaps.

⁴²⁵ Ibid

2. To analyse how Nigerian labour Laws and policies address issues of labour exploitation concerning migrant workers: Nigeria should enhance its enforcement mechanisms to protect the rights of migrant workers. This can be achieved by increasing the capacity of relevant agencies, such as the Ministry of Labour and Employment, to monitor and enforce compliance with labour laws and regulations.
3. To critically examine the adequacy of Nigerian Labour Laws on exploitation of migrant workers against the provision of ILO on migrant workers: Nigeria should engage in international cooperation with other countries, particularly those with significant Nigerian migrant worker populations, to address issues related to labour exploitation and migrant worker welfare. This can be achieved through bilateral or multilateral agreements, joint research initiatives, and capacity-building programs.

Implementing these recommendations will strengthen Nigeria's protection and welfare for migrant workers, boost its reputation as a responsible, rights-respecting nation, and support the well-being of its citizens abroad.

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