PROTECTION OF WOMEN WORKERS UNDER THE LABOUR LAW IN NIGERIA

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ABSTRACT

This article discussed the protection of women workers under the Nigeria labour law. No doubt, women are very important members of every society. Records shows that a number of female folks has in every era broken records of excellence in innovative administration and management. Discrimination against women is inherent in Africa especially in Nigeria and hence the need to protect their rights in the workplace. Women in the work setting suffer from discriminatory practices, unequal training and employment opportunities, promotion and benefits, restriction on reproductive rights, and wage parity. There are various legislations bordering on the protection of women's rights. This article highlighted some sections of these laws, and their limitations. The article clarified some concepts such as protection, women, women workers, women's right, and labour. The laws regulating the rights of women workers in Nigeria were also highlighted. The article terminated its discussion with some recommendations.

Key words: protection, women, women workers, women's rights, labour.

INTRODUCTION

Discrimination against women is endemic in various spheres of life in Nigeria, especially in the labour force. Every human being, irrespective of their gender, race, language, social class, origin, discipline and background deserve to be treated fairly and equally as every other member of the society[1] Attaining gender equality and elimination of all forms of discrimination against women is a fundamental right and not a privilege.[2]

In a workplace situation the rights and duties of all persons should be equal and the same at all times and in all situations.[3] Achieving equality in the workplace requires the comprehensive

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[1] Women in Law and Development in Africa (WiLDAF) Nigeria, 'CEDAW Daily Implementation in Nigeria (2022).<https://www.wildaf.womeninlaw.org>accessed 26 February, 2024.

[2] EM Akpambang, 'A Critical Appraisal of the Legal and Policy Frameworks for the Protection of Women's Rights in Nigeria, [2020] (10)(1) *American Journal of Contemporary Research* 17-31.

[3] A.Oluwatosin and A.Ifedolapo, 'Women, their Rights and Workplace Discrimination' <https://www.sciencedirect.com/women's right>accessed 26 February 2024.

understanding of all forms of inequalities and discrimination experienced by women in the workplace and developing holistic strategies that eliminate as well as guard against such.

Gender bias in Nigeria is the reason why women suffer discrimination and thus the need for protection of their rights.[4] In the times past, the Nigerian woman was forbidden from thinking of going close to where a man works let alone working together with him as a colleague. Some employers are unwilling to employ women because they are not willing to grant the rights that are accruable to pregnant or nursing mothers.[5] Others are reluctant to employ women of childbearing age because to them, the absence of women in the workplace as a result of their maternal responsibilities as a loss to their business. Women have been on the receiving end of imbalance in the workplace. These discriminatory factors have limited their full potentials or prevented them from effectively combining being mothers and career women.[6] Discrimination is perceived in all stages of employment, ranging from advertisement, to recruitment to pendency of the contract of employment and termination of the contract of employment.[7] There is a long standing issue of the rights of working women in the workplace in Nigeria and Africa as a whole.[8]

Every employer has a duty of providing a secure working atmosphere, sufficient resources, information, training and supervision, an effective health and safety programme, and a process for identifying, assessing and controlling hazards[9] All these measures are expected to be put in place by all employees in order to ensure that appropriate laws are compiled with alongside the workplace rules, dealings and methods that are developed and maintained in a workplace. In order to improve the condition of women in Nigeria, especially those in the labour force, the legislature has enacted some laws to help guard against all forms of discrimination and unjust treatment against women. These laws are contained in the Constitution of the Federal Republic of Nigeria 1999 (amended), the Labour Act, the Employee Compensation Act and a host of others. This article seeks to expatiate on the legal instruments in Nigeria that protect the rights of women in the workplace; highlighting the appropriate sections.

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[4] n3

[5] Y T Jane-Frances 'CEDAW and The Labour Act: Protecting women from workplace Discrimination in Nigeria' [2021] (8)(3) *Nnamdi Azikiwe University Awka Journal of Commercial and Property Law* 55-67.

[6] Jane-Francis (n 5).

[7] O Ogheneochukome 'An Appraisal of the Legal Framework for The Protection Of Women Against Workplace Discrimination In Nigeria'[2023] (9)(2) *DELSU Law Review* 222.

[8] Jane-Francis (n 5).

[9] O Oluwaseun, 'Gender Identity and Justice in Nigeria: An Appraisal of Women in Lagos.'<https://wwwdigitalcommons.csbsju.edu/socialencounters>accessed 26 February, 2024.

CONCEPTUAL FRAMEWORK

Protection

The condition or state of being kept safe from injury, damage, or loss is defined as protection by the Cambridge dictionary.[10] The Collins dictionary defines the term protection as an act to prevent people or things from being harmed or damaged. Also it states that Protections are laws and other official measures intended to protect people's rights and freedoms.[11] Thus, protection is the act of protecting or the state of being protected; preservation from injury or harm. The Merriam Webster dictionary sees it as to cover or shield from exposure, injury, damage, or destruction.[12] From the foregoing definitions, it can be deduced that the term protection is the act/ means of safekeeping, shielding or guarding a person or thing from all forms of harm and danger.

Women

A woman can be said to refer to an adult female human being.[13] Taber's Cylopedic medical dictionary defines the word thus; a woman is an adult female human. Before adulthood, one is referred to as a girl (a female child or adolescent);[14] any member of the female sex regardless of her age or status.[15] The term women is the plural of woman. Also a woman can be defined as an adult female person; distinctively feminine nature[16] According to the answer given by Baroness Berridge in response to the question asked by Lord Lucas, she said 'woman' is 'a female of any age.'[17] From the foregoing definitions, one can say that a 'woman' is any adult human of the female gender.

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[10] 'Protection', *Cambridge Dictionary* (Cambridge University Press 2013), <Https://www.cambridge.com.>accessed 26 February 2024.

[11] 'Protection' *Collins English Dictionary* <Https://www Collins online dictionary.com>accessed 26February, 2024.

[12] 'What is Protection' Oxford Online Dictionary,<Https://www.oxford dictionaries.com>protection<accessed 26 February, 2024.

[13] 'Woman' Meaning of woman in English, Collins Online Dictionary<Https://wwww.collins dictionary.com.

[14] F A Davis, 'Woman', Taber's Cylopedic Medical Dictionary (2017) 2539.<Https://www.onlinedictionary.com>accessed 26 February 2024.

[15] L A 2004, S 91(1).

[16] 'Woman' Merriam-Webster.com Dictionary, Merriam-Webster, < https://www.merriam-webster.com/dictionary/woman> accessed 26 February 2024.

[17] 'Gender' UK Parliament, Written questions and answers (2020).<https://www.governments parliament.Uk>accessed 26 February 2024.

Woman Worker

A worker according to the Trade Unions Act is defined as;

> Any employee, that is to say any member of the public service of the federation or a state or any individual (other than a member of any such public service) who has entered into or work under a contract with an employer, whether the contract is for manual labour, clerical work or otherwise, expressed or implied, oral or in writing and whether it is a contract personally to execute any work or labour or a contract of apprenticeship.[18]

Similarly, the term worker refers to any person who has entered into or works under a contract with an employer, whether the contract is for manual labour or clerical work…[19]any person employed in a vessel or aircraft to which the laws regulating merchant shipping or civil aviation applies.[20]A woman Worker or generally referred to as a Female worker is a Person who, for a certain period of time, performs services for, and under the direction of, another person, in return for which she receives remuneration[21].

A woman worker means a woman (other than a woman employed in or about the business of a shop or an office or a woman whose employment is of a casual nature) employed on wages in any trade, whether such wages are calculated by time or by work done or otherwise and whether the contract of employment or service was made before or after the commencement of this Ordinance, and whether such contract is expressed or implied, oral or in writing.[22]

As discussed earlier, Women were not allowed to work in the olden days. They were only considered good for running the household, the question of if the Woman wanted to be in the work force was barely considered. Today Women have made major strides in the labour market.

Despite this progress, evidence suggests that many women remain unable to achieve their goals. The gap in earnings between women and men, although smaller than it was years ago, is still significant; women continue to be underrepresented in certain industries and occupations; and too many women struggle to combine aspirations for work and family.[23] Further advancement has been

[18] TDA 1973, s 54.
[19] L A 2004, s91 (1).
[20] Ibid. s 91 (7)(f).
[21] Woman worker < https://eige.europa.eu/publications-resources/thesaurus/terms/1100?language_content_entity=en> retrieved 03/03/2024
[22] Law Insider 'Woman Worker Definition' < https://www.lawinsider.com/dictionary/woman-worker> retrieved 03/03/2024
[23] (n 9).

hampered by barriers to equal opportunity and workplace rules and norms that fail to support a reasonable work-life balance. If these obstacles persist, we will squander the potential of many of our citizens and incur a substantial loss to the productive capacity of our economy at a time when the aging of the population and weak productivity growth are already weighing on economic growth.[24]

In the early 20th century, most women in the United States did not work outside the home, and those who did were primarily young and unmarried.[25] In that era, just 20 percent of all women were 'gainful workers,' as the Census Bureau then categorized labor force participation outside the home; only 5 percent of those married were categorized as such.[26] These statistics somewhat understate the contributions of married women to the economy beyond housekeeping and childrearing, since women's work in the home often included work in family businesses and the home production of goods, such as agricultural products, for sale. Also, the aggregate statistics obscure the differential experience of women by race. African American women were about twice as likely to participate in the labor force as were white women at the time, largely because they were more likely to remain in the labor force after marriage.[27]

As time progressed, attitudes about women working and their employment prospects changed. As women gained experience in the labor force, they increasingly saw that they could balance work and family. A new model of the two-income family emerged. Some women began to attend college and graduate school with the expectation of working, whether or not they planned to marry and have families.

Women's Rights

Every human being is entitled to their Rights. We are born with rights and we have the liberty to exercise our rights freely without it being detrimental to another person (if such occurs, our rights will be affected). The Constitution of the Federal Republic of Nigeria[28] is one of the documents in Nigeria that has included the rights we are entitled to and that it must be enforced. According to Merriam-Webster Dictionary[29] women's rights refer to the legal, political, and social rights for women equal to

[24] J. Yellen *19 A the brookings Gender Equality series* < https://www.brookings.edu/articles/the-history-of-womens-work-and-wages-and-how-it-has-created-success-for-us-all/> retrieved 03/03/2024
[25] Yellen (n 20).
[26] Yellen (n 20).
[27] Ibid.
[28] CFRN 1999(as amended) s 36.
[29] ' Women's Rights', *Merriam Webster dictionary*<Https:/www.merriam webster .com>accessed 27February, 2024.

those of men. Women's rights simply put are 'human rights, for women. These rights include the right to social, economic, medical, and political self-determination, and to equal treatment under the law.'[30]

The National Human Rights commission was established by the National Human Rights Act[31] in 1995. This statute also contains rights that we, including women, are entitled to. Its establishment is aimed at creating an enabling environment for extra – judicial recognition, promotion and protection and enforcement of human rights, treaty obligations and providing a forum for public enlightenment and dialogue on human rights issues including advancing gender equality and women's empowerment.[32] The Commission has marked the rights of women and gender related matters as one of its thematic areas of focus.

Women's rights are fundamental human rights that were enshrined by the United Nations for every human being on the planet. These rights include the right to live free from violence, slavery, discrimination, to be educated, to own property, to political participation, health, dignity and to earn fair and equal wage. As the saying goes, 'women's rights are human rights.' Women are entitled to all these rights. Yet almost everywhere around the world, women and girls are still denied their rights simply because of their gender.[33] The underlying factors responsible for women's rights infringement include the following –

i) Inherent discrimination
ii) Women do not enjoy equality with men in the society,
iii) Unequal access of women and girls to education
iv) Harmful traditional practices
v) Inadequate access to economic resources,
vi) Unequal access to political participation,
vii) Various forms of violence experienced specifically by women and girls. [34]

Labour

[30] 'Women's Right', Quota.com<https:// quota.com/ women>rights>accessed 27 February, 2024.
[31] NHRA (as amended) 1995.
[32] NHRA (as amended) 1995.
[33] 'The rights of a woman and Gender Related Matters' < https://www.nigeriarights.gov.ng/focus-areas/women-and-gender-matters.html> accessed 3 March 2024.
[34] Ibid.

The legal sector defined Labour as toil exertion producing weariness; manual exertion of a toilsome nature.[35] It is also described as continued exertion, of the more onerous and inferior kind, usually and chiefly consisting in the protracted expenditure of muscular force, adapted to the accomplishment of specific useful ends.[36] It is used in this sense in several legal phrases, such as 'a count for work and labor', 'wages of labor'.

Labor, business and work are not synonyms. Labor may be business, but it is not necessarily so and business is not always labor.[37]Another field of study that throws more light on what Labour means is Economics. In classical economics, labor is one of the three factors of production, along with land and capital[38]. Labor is often defined as the physical or mental effort exerted by human beings in the production of goods and services.[39]

In neoclassical economics, labor is a broader concept that incorporates all human activity that adds value to a product or service. This includes not only physical and mental effort but also the use of tools, machines, and other equipment.[40] It also surrounds the time spent on planning, organizing, and supervising production.

In certain economic models, labor is assumed to be a homogeneous meaning that all workers are assumed to have the same skills, abilities, and productivity. However, labor is not homogeneous in real life. Workers differ in their skills, abilities, experience, and motivation.[41]These differences can lead to different amounts of output per hour of work, even when all other inputs are the same. Labor productivity depends on many factors, including the workers' skills and abilities, the technology used, the organization of production, and the motivation of the workers. Regardless, labor productivity is increased by investments in education and training, via the use of better technology, and by improvements in the organization of production. Labor is an important factor in the economic development of a country, and a high level of labor productivity is typically necessary for better standard of living. [42] There are 4 major types of Labour, they include;

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[35] G A Black, 'Labour' Black's Law Dictionary (2016)<https://www.thelawdictionary.orga>accessed 27 February, 2024.
[36] n35
[37] Black's Law (n 30).
[38] 'What are the Main Factors of Production', Tutor2u(2023).<https://www.tutor.net/economics>accesed 27 February, 2024.
[39] Ibid.
[40] N Mahr, ' Labor Definition, Types & Examples' (2022) Study.com<Https://www.study.com/academy/lesson/labour>accessed 27 February 2024.
[41] Mahr (n 35).
[42] Ibid.

Skilled Labour: Skilled labor refers to workers who have specialized training, knowledge, and expertise in a particular field or trade. They possess specific skills that are acquired through education, apprenticeships, or on-the-job training. Skilled laborers are often highly sought after for their abilities and can include professions such as electricians, plumbers, carpenters, and mechanics. [43]They play a vital role in various industries and contribute to the overall economy. These professionals have specialized training and expertise in their respective fields. They play a crucial role in various industries and contribute to the development of infrastructure and maintenance of essential services.[44]

Unskilled Labour: Unskilled labor refers to work that does not require specialized training or expertise.[45] It typically involves performing tasks that can be learned quickly and does not require advanced knowledge or technical skills. Examples of unskilled labor include general laborers, cleaners, agricultural workers, and some entry-level positions in industries like retail or food service. These jobs often have lower wages and may not offer as many opportunities for career advancement compared to skilled labor positions.[46]

Semi-skilled Labour: Semi-skilled labor refers to workers who have some level of training or expertise in a particular field or trade, but not to the same extent as skilled laborers. They possess a combination of basic skills and knowledge that allows them to perform specific tasks or operate certain machinery. Examples of semi-skilled labor jobs include machine operators, assembly line workers, forklift drivers, and some construction workers. While they may not require extensive training, semi-skilled workers still play an important role in various industries.

Professional Labour: Professional labor refers to work that requires specialized knowledge, advanced education, and specific qualifications in a particular field. These are typically occupations that require a high level of expertise, such as doctors, lawyers, engineers, architects, accountants, teachers, and scientists. Professionals often undergo extensive education and training to develop the necessary skills

[43] n42
[44] Mahr (n 35).
[45] Mahr (n 35).
[46] E Burak, ' Labour, Types and Functions (2021) *Perriz*< https:/www.periz.com>four>types>of >labour> accessed 27 February 2024.

and knowledge for their respective professions. They are typically regulated by professional bodies or organizations and adhere to specific ethical standards and codes of conduct. Professional labor is essential in providing specialized services and contributing to various industries and sectors.

LAWS REGULATING WORKPLACE SAFETY WOMEN WORKERS UNDER THE NIGERIAN LABOUR JURISPRUDENCE

Workplace safety is crucial for everyone in a workplace, regardless of gender. However, women face specific safety risks in the workplace that need to be addressed to ensure that all employees are protected and feel secure. Women face a range of safety risks in the workplace, many of which are specific to their gender. For example, women in certain industries, such as healthcare, may be at a higher risk of violence and physical assaults from patients. Women who work in night shifts or isolated areas may also be at a greater risk of sexual assault and harassment. Women may also face emotional and mental health risks in the workplace, such as sexual harassment, bullying, and discrimination[47]. These types of workplace stressors can cause significant emotional distress and impact a woman's mental health and well-being.

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

The Constitution is the ultimate law in the land. It protects against discrimination against any gender. Accordingly, national integration shall be actively encouraged, whilst discrimination on the grounds of place of origin, sex, religion, status, ethnic or linguistic association or ties shall be prohibited.[48]Section 42 in Chapter IV on Fundamental Rights provides for the rights of all citizens to freedom from discrimination and equality irrespective of gender.[49] Subsection (1) (a)of this section prohibits the discrimination of any person on the basis of ethnic group, place of origin, sex.[50] This section of the Constitution protects the rights of women against discrimination on the ground of sex. Non-discrimination on the basis of sex as stated in this section complies with international conventions especially the Convention on the Elimination of All Forms of Discrimination against Women. The

[47] 'The importance of Workplace Safety for women' < https://www.linkedin.com/pulse/importance-workplace-safety-women-alsofi-group> accessed 27 February, 2024.
[48] CFRN 1999, s15(2).
[49] CFRN 1999, s 42.
[50] Ibid, s 42(1)(a).

provision of this section reiterates the fact that women are not to be treated as inferior to their male counterparts.

In the same vein, section 17 focuses on gender-based disparity and states that the state shall direct its policy towards ensuring that 'there is equal pay for equal work without discrimination on account of sex, or on any other ground whatsoever.' [51] It states expressly that; 'The State shall direct its policy towards ensuring there is equal pay for equal work without discrimination on account of sex, or any other ground whatsoever.'[52] This can be seen in the case of *Mrs Folarin Oreka Maiya* v *The Incorporated Trustees of Clinton Health Access Initiative*.[53]The applicant, a woman, had her employment terminated for being pregnant. The Court applied section 42 of the Nigeria's Constitution, the African Charter on Human and Peoples' Rights and the ILO Convention No. 111 on Discrimination. The court held the termination to be wrongful and unconstitutional and awarded compensation to the tune of Five Million, Five Hundred and Seventy-Six Thousand, and Six Hundred and Seventy Naira (N5, 576,670.00) being one year's full gross pay.[54] From the foregoing, it is evident that the Constitution has made some provisions to prevent discrimination of all persons in the nation, and also for equal pay for equal work done by anybody, irrespective of gender. However, there still exists no policy to enforce equal pay.

Labour Act, CAP. L1, Laws of the Federation of Nigeria, 2004

The Labour Act is the principal legislation that regulates the employment of persons in Nigeria including Women. It prescribes the minimum terms and conditions of employment and is limited in its scope as it applies only to Workers. The Labour Act has provisions to protect the rights of working women. It includes provisions on maternity leave, non-discrimination, and equal pay. These provisions aim to ensure fair treatment and opportunities for women in the workplace.[55]

Section 54,[56] talks about Maternity protection. It provides that in any public or private industrial or commercial undertaking or in any branch thereof, or in any agricultural undertaking or any branch thereof, a woman shall have the right to leave her work if she produces a medical certificate given by a registered medical practitioner stating that her confinement will probably take place within six weeks.

[51] Ibid, s17 (3)(e).
[52] n51
[53] NIC/ABJ/13/2011 (National Industrial Court).
[54] (n 47).
[55]Ogheneochukome (n 7).
[56] L A 2004 s54.

This was seen in the case of *Okunbowa* v *Group Consultants Nigeria Project Advisers (Nigeria) Ltd*.[57] The Defendant terminated the Claimant's employment because her employment contract did not provide for maternity leave. The Court held that although her employment contract did not provide for maternity leave, she is entitled to it by virtue of the Labour Code, sections 145 and 146 (now the Labour Act, section 54(a) and (4)). The Court further held that she was entitled to salary for the whole period she was on maternity leave and entitled to damages for wrongful termination of her employment.[58]

It is pertinent to note that the maternity leave provisions under the Labour Act, fall below the international standard for maternity protection of women.

Section 55[59] states that no woman shall be employed on night work in a public or private industrial undertaking or in any branch thereof, or in any agricultural undertaking or any branch thereof. This section does not apply to women employed as nurses in any public or private industrial undertaking or in any agricultural undertaking, nor to women holding responsible positions of management who are not ordinarily engaged in manual labour[60] Section 56[61] provides that no woman shall be employed on under- ground work in any mine. The exceptions are for women holding positions of management who do not perform manual labour, women employed in health and welfare services, women who in course of their studies spend a period of training in under-ground parts of a mine or women who may occasionally have to enter the underground parts of a mine for the purposes of a non-manual occupation.[62] Section 58 talks about the Punishment for any person who contravenes the provisions in sections 54, 55(1) and 56(1)

National Policy on Women

National Policy on Women is one of the most direct activities of Chapter 11, Section 17(2) and (3) of the 1999 Constitution in relation to employment. It was adopted and passed into law in 2000. The policy recognizes the inadequacy of the labour laws on maternity protection. Article 13.3.13 of the Policy states that labour laws shall be reviewed to include more and better protective measures for women workers. This, it says, can be achieved by providing more realistic maternity leave, non-

[57] CCHCJ/2/74.
[58] (N 52).
[59] L A 2004 s55.
[60] L A s55(2).
[61] L A s 56(2).
[62] Ibid.

discriminatory conditions of service, facilities for crèche and good breastfeeding policy. All these are conditions that will achieve a balance between work and family.[63]

National Gender Policy.

Article 4.3.5 of the National Gender policy[64] deals with employment and labour issues. It recognizes that in Nigeria, there is a separation of family and work roles concerns and interest. Because of this, employers of labour including the government, appear to be less concerned with family-oriented issues, and therefore bear no social responsibilities towards child bearing roles and functions. The policy also recognizes the unfriendly work environment women labour under with child bearing/rearing roles left totally to women, and unrecognized by the state. According to the policy, family responsibility and specifically child care are serious constraints to women's employment in Nigeria. This is responsible for many resignations by women and the unemployed status of married ones.[65]

Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)

In the preamble of CEDAW, women's unique productive and reproductive roles are cited, noting the social significance of maternity and the role of both parents in the family and in the upbringing of children. The most specific provisions of CEDAW which relate to women's work and maternity are contained in Article 11, requiring countries to protect women's rights to work. Article 11 requires States to introduce paid maternity leave without loss of benefits or career opportunities and encourages the provision of supporting social services to allow parents to combine family obligations with work responsibilities

CONCLUSION

The need to protect women workers in Nigeria cannot be over emphasized or overlooked as there still exists, even till date, different forms of workplace discrimination against women. Although there exist laws that try to protect the rights of women workers, these laws are not enforced and some fall below

[63] O D Popoola, A R Chinedu, 'Pregnancy Related Discrimination in Nigeria Workplace: Laws are not be Blame, [2022] Researchgate<Https:/www.researchgate.net/publication/358140280>accessed 27 February, 2024.
[64] National Gender Policy (2021-2026).
[65] NGP (2021-2026).

international standards. The labor law prohibits discrimination based on gender and ensures equal pay for equal work. It also provides safeguards for maternity leave, breastfeeding breaks, and protection against sexual harassment in the workplace. These measures aim to create a safe and fair working environment for women. The Rights of Women are to be respected and continued to be recognized especially for them to work freely, be respected in their workplace and making sure their safety is prioritized.

RECOMMENDATIONS

1. The 1999 Constitution should be amended to give effect to specific rights of women, which will in turn positively affect the way the working woman is treated in the workplace. This will help to curtail the excesses of some employees like sexual harassment, and unequal pay.
2. The Labour Act should be amended to contain provisions that prohibit any kind of discrimination in the workplace. This is to nullify the section that prohibits women from underground and night works, hence discriminating against women during employment.

The section of the Labour Act on maternity provision should be amended and adequate sanction prescribed for breach of maternity right to act as deterrents to employers who fail to