

TOWARDS ELIMINATING DISCRIMINATORY EMPLOYMENT PRACTICES IN NIGERIAN ORGANISATIONS

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Abstract

Equality and non-discriminatory employment practices are rooted in the principle that all employment decisions should be based on individuals' ability to do a job, regardless of their personal characteristics that are not related to the requirements for job performance. Thus, this study highlights some of the discriminatory employment practices prevalent in Nigerian workplaces. The study is based on review and analysis of both primary and secondary data. The results revealed different forms of discriminatory employment practices among Nigerian organisations. It noted that, discriminations occur in Nigerian workplaces during restructuring and retrenchment, in managing compensation and promotion, training and development, maternity protection, recruitment and selection, use of agency work arrangement and in the design of work environment. The study concludes that there is high prevalence of discriminatory employment practices in Nigerian organisations. It is therefore, recommended that, in line with international best practices, Nigerian organisations/employers cum the Ministry of Labour and Employment should ensure that discriminatory employment practices are reduced to the barest minimum if not completely eliminated in Nigerian workplaces if sustainable organisational performance and national development are to be achieved.

Keywords: Discrimination, Employment Practices, Nigerian Workplaces/Organisations

Introduction

In contemporary work organisations, managers are expected to minimise if not eliminate all forms of employment discrimination. In Nigeria, discriminatory practices seem to determine who has opportunity to secure some societal benefits. According to Aturu (2005), discrimination includes any distinction, exclusion or preferences made on the basis of race, sex, age, religion, national origin, pregnancy/child birth, familial/marital status, disability, sexual orientation, HIV/AIDS, prior arrest/conviction records which has the effect of nullifying or impairing equality at work.

The ILO Discrimination (Employment and Occupation) Convention, 1958 (No. 111) defines discrimination as any distinction, exclusion or preference made on the basis of race, colour, sex, religion, political opinion, national extraction or social origin, which has the effect of nullifying or impairing equality of opportunity or treatment in employment or occupation. In other words, discrimination involves treating people differently because of certain identified characteristics, such as race, colour or sex, which results in the diminished equality of opportunity and treatment

in employment and occupation. Discrimination occurs when people are treated differently on the basis of personal characteristics that are not related to their ability to perform on the job. Therefore, employees should not be discriminated upon based on any characteristics, and as such should be given and/or granted an equal employment opportunity.

Equal employment and non-discrimination refer to as those actions taken by managers to ensure that employees or prospective employees are treated equally without regard to protected characteristics. In Nigerian workplaces however, there are a lot of discriminatory employment practices that border on age, sex, ethnicity, pay inequality, religion, disability, and unionism. Others are embedded in the nature of employment contracts, health grounds and marital status. This explains why Chidi (2008) describes discrimination as a cancer that has eaten deep into the very fabric of our society and, by implication our organisations.

The Constitution of the Federal Republic of Nigeria (1999) discourages all forms of discrimination in workplaces and encourages equalising employment opportunities, as provided for in Section 42(1). Also, Nigeria has ratified the International Labour Organisation (ILO) Convention on Discrimination (Employment and Occupation) of 1958. Equal employment and non-discrimination are rooted in the principle that all employment decisions are based on the individuals' ability to do a job, regardless of such individuals' personal characteristics that are not related to the requirements of the job.

Discrimination takes many forms, and occurs in all kinds of work settings. It strengthens inequalities and restricts peoples' freedom to choose, develop their capabilities, and to pursue their professional as well as personal aspirations without regard for ability. Therefore, discrimination impedes the development of skills and competencies, and brings about denial of reward to work; it creates a sense of humiliation, frustration and powerlessness. Discrimination can affect both access to employment and the treatment of employees and occurs in a wide range of industry or cultural settings.

Discrimination is not a good employment practice because it discourages workers from making their best contribution to the organisation and impedes the creation of a harmonious, highly motivated and productive workplace. It is a good practice for employers to try and ensure that two workers doing same job are not treated or paid differently. Therefore, non-discriminatory measures should apply to every worker in the workplace. Almost any worker can be subjected to discrimination. Discrimination cut across boundaries in the labour market and workplaces because it can be experienced in different work situations and forms of employment whether or not, the work takes place in the formal or informal sector. It therefore means that, lecturers, doctors, lawyers, farmers, the self-employed, the informal sector workers, information technology experts, caregivers, and others may suffer one form of discrimination or another. The challenge is that many organisations and employers in Nigeria consciously or unconsciously engage in discriminatory employment practices. Despite these identified challenges, there is still dearth of literature in employment relations that focuses on how to minimise the incidences of discrimination in Nigerian workplaces

This study therefore highlights some of the discriminatory employment practices prevalent in Nigerian workplaces and the need to reduce to the barest minimum if not completely eliminating them in Nigerian workplaces. The focus of this study would be on discriminatory practices in

relation to the following employment practices: Restructuring and retrenchment, compensation and promotion, training and development, maternity protection, recruitment and selection, adoption of agency work arrangement and provisions of physical work environment.

The rest of this paper is divided into five sections. Section two concentrates on the review of literature on the forms and typologies of discriminatory employment practices. Section three discusses employment practices and discrimination in Nigerian workplaces. Section four focuses on concluding remarks while section five examines the implications for policy.

Literature Review

This section examines conceptual clarifications and an extensive review of literature on discriminatory employment practices.

Conceptual Clarifications

Forms of Discrimination

Discrimination at work can be direct or indirect. Discrimination according to ILO Convention, 1958 (No. 111) is direct when regulations, laws and policies explicitly exclude or disadvantage workers on the basis of characteristics such as political opinion, marital status, or sex. For example, there is direct discrimination, if job advertisements exclude or overtly discourage prospective married applicants or people over a certain age limit, or a certain gender from applying for the existing vacancies.

In contrast, indirect discrimination may occur when seemingly neutral rules and practices have negative effects on a disproportionate number of members of a particular group, irrespective of whether or not they meet the requirements of the job. For example, the requirement of knowledge of a particular language to obtain a job, when competence in that language is not really necessary to perform on the job, is a form of indirect discrimination, based on ethnicity. Indirect discrimination may also occur when differential and less favourable treatment is given to particular category of workers. For instance, a less favourable treatment of casual workers is an example of indirect discrimination against the group that constitutes the majority of casual employees.

Typologies of Discrimination

This section of the literature review focuses on the various typologies of discriminations that abound generally across societies and the world of work. For the purpose of this study, the following types of discrimination are discussed: age, disabilities and physical challenges, gender, race and ethnicity, maternity and family rights, harassment, discrimination against migrants and agency workers, religious and discriminations against persons living with Human Immunodeficiency Virus/Acquired Immunodeficiency Syndrome (HIV/AIDS).

Age Discrimination

A common discriminatory employment practice is that of age discrimination. In many financial institutions in Nigeria, there is an increase in the imposition of age barriers in recruitment. In many countries, particularly in the developing countries, age still remains a criterion for making employment decisions which have negative effect on employees. However, good practice attempts to eliminate age as a criterion for making employment decisions. International Finance

Corporation (IFC) (2006) argues that individuals, who are suitably qualified for a job should not be discounted, based on age grounds. Many organisations in Nigeria, including banks, place emphasis on the ages of job applicants and employees particularly at the entry level. It therefore means that candidates that fall outside the stated age brackets are discriminated against for those entry level positions. Ogunyomi (2008) posits that in developed economies, age remains an irrelevant factor when making employment decisions because age is not a good predictor of job performance. Aside from being a poor predictor of job performance, more of the population are living active and healthy lives as they get older and it is misleading to equate physical and mental ability with age (Armstrong, 2012). The inclusion of age limits in job advertisement should be discouraged, unless such age limits are bona fide or genuine occupational qualification.

Disabilities and Physical Challenges

The discrimination against people with disabilities includes limited access to education, vocational training and rehabilitation, exclusion from certain jobs, difficulty in access to buildings and workplaces and differential wages between the disabled workers and the other employees. ILO (2011) states that about 10 per cent of the world's population or some 650 million people suffer from physical, sensory, intellectual or mental impairments of one form or another and that over 470 million of these are of working age. A single definition of disability is somehow difficult as there are different types of disabilities. Ogunyomi (2008) argues that while some use the broad definition to include limiting health problems caused by long term illness, others use a narrow definition that excludes the limiting health problems. Ogunyomi (2008) therefore concludes that, irrespective of the definition applied, persons living with disabilities are disadvantaged in the labour market and have unemployment discrimination as a common characteristic. The Nigerian with Disability Act 1993, was promulgated to protect persons who are disable but qualified to work. Section 6(2) of the Act requires all employers of labour to reserve for the disabled not less than 10 per cent of the workforce (Aturu, 2005); for even in disability, there could be immense ability (Chidi, 2014).

Gender Discrimination

Gender discrimination in the workplace occurs in different forms. This could be in form of human resources practices such as; recruitment and selection decisions, remuneration or promotion systems that are in favour of a particular sex. Gender discrimination can be direct or indirect. Direct discrimination occurs when a person of opposite sex is treated less favourably on the grounds of his or her gender, while indirect discrimination occurs when a job requirement or conditions, detrimental to a particular group are applied across board with the underlining motive of discriminating against a particular group (Ideh, 2016; Ogunyomi, 2008)). As noted by Ideh (2016), the following are some of the instances of gender discrimination: declaring vacancies with the intention to discriminate without justifiable reasons; the terms offered for jobs; refusing or deliberately omitting to offer employment or afford access or opportunities for promotion, training, transfer or other benefits, facilities or services, based on gender. The study by Del Carmen, Jayasinghe, Pieper, Delgado and Li (2018) found that perceived gender discrimination is negatively related to job attitudes, physical health outcomes and behaviours, psychological health, and work-related outcomes (job-based and relationship-based). Good employment practices advocate that there should be equal treatment for male and female employees for work of equal values in the workplace.

Race and Ethnicity Discrimination

There is still need to combat racism in the workplace and the society at large. ILO (2011) posits that barriers impeding equal access to the labour market need to be dismantled as it concerns people of African and Asian descents, indigenous peoples, and ethnic minorities and women within these groups. Discrimination on the grounds of race, national or ethnic origin is prevalent where a country is made up of people from different races or ethnic nationalities. In Nigeria, discrimination, based on ethnicity is unconstitutional but it still remains a challenge. In Nigeria, the Federal Character Principle and the Preferential Quota System are practised especially in the public sector. These on the surface could be viewed as affirmative action plans but are seen by some individuals as discriminatory and should be jettisoned (Chidi, 2014).

Maternity and Family Rights Discrimination

Across the world, there are employers who submit their female employees to pregnancy tests before and during employment. This is a discriminatory procedure and questionable from a legal standpoint (IFC, 2006). It is the belief of some employers that for business purposes, such employers have the right to know whether or not their employees are pregnant. However, IFC (2006) opines that forcing employees to undergo pregnancy test is a violation of their privacy; the requirements upon women to take contraceptives as a condition of their employment is unacceptable; and asking applicants about their intentions to have children are internationally recognised as both an inappropriate course of action and an inappropriate business practice. Discrimination against women on grounds of maternity include dismissal for pregnancy and nursing, failure to grant time for nursing, withholding of pre and post natal benefits, denial of promotion and refusal to allow workers to return to posts occupied before maternity leave.

Sexual Harassment and Bullying as forms of Discrimination

Sexual harassment has always been a feature of work life (Armstrong, 2012). Sometimes, there may be workplace conflicts where an employee or group of employees seek sexual favours or use sexual language, imagery or behaviour in such a way as to distress and distort another employee (IFC, 2006). Both men and women are subjected to harassment in the workplace. ILO (2011) states that women who are most vulnerable to sexual harassment are: those that are young, financially dependent, single or divorced and migrants. While men that experience sexual harassment are mostly young, gay, and members of ethnic and racial minorities.

For organisations to eliminate the incidence of harassment and create a safe and healthy workplace, IFC (2006) states that policies should be put in place to deal with harassment promptly, efficiently and with minimal disruption and cost. Such actions by employers should include attitudinal and behavioural changes, clear anti-discrimination policy and training, letting those involved in harassment know their rights and responsibilities, employees involved in the act of bullying and harassment should be dealt with appropriately, while the victims of harassment and bullying should have clearly defined confidential means of channelling their grievances. According to IFC (2006), if harassment and bullying are not controlled or checked, they could lead to serious problems for the organisations. Such resultant problems include poor morale, poor employee relations, loss of respect for superiors and managers, high labour turnover, absenteeism, damage of organisation's image and reputation, court cases, fines and damages.

Discrimination among Migrants and Agency Workers

The adoption of agency work arrangement popularly called contract work arrangement in Nigeria is on the increase. There are forms of discrimination in the treatment of contract workers and regular employees. As explained by Venkata Ratman (2001), companies do not pay the same degree of attention to the recruitment, training, safety, wages, and productivity of agency workers as they do with their regular employees. In similar vein, ILO (2011) states that, in many countries, migrant workers make up 8 to 20 per cent of the labour force, and research shows consistently that migrant workers face widespread pervasive discrimination in access to employment, and many encounter discriminations when employed. As argued by ILO (2011), migrant workers face unfair working conditions in both developed and developing countries. IFC (2006) opines that discrimination is likely to occur among migrant workers because they are often stigmatised as being different and “foreign” and treated differently from national workers.

ILO (2011) is of the view that social tensions and hardening attitudes towards migrants may result in systematic and widespread discrimination, while populist policies can nurture greater xenophobia and discrimination directed towards migrants. In order to eliminate discriminatory practices against migrant workers, ILO (2011) suggests that the remedies needed include strengthening anti-discriminatory measures; paying attention to political rhetoric to avoid stigmatisation and xenophobic acts; macro- and microeconomic policies to maintain and create a job-rich recovery; and an active role for employers’ and workers’ organisations in leading debates and actions in the right direction and ensuring that racism and violence remain unacceptable.

Religious Discrimination

Over the last decade, there appears to have been a rise in the number of people experiencing discrimination on religious grounds. Religious discrimination exists in all aspects of life and is not limited to employment and occupation. ILO (2011) notes that religious discrimination in employment appears to have increased and is combined with anxieties over labour migration in a context of economic and social insecurity. In the same vein, Ogunyomi (2008) attributes the increase in the cases of religious discriminations to the September 11, 2001 bombing of the World Trade Centre in the United States of America. Ogunyomi (2008) argues that shortly after the incidence, the attitudes of most employers who were not Muslims changed and they subtly turned down employment opportunities hitherto given to Muslims. IFC (2006) states that it is important for employers to ensure that no employment practices discriminate directly or indirectly against individuals on the basis of their faith. Therefore, direct or indirect discrimination, which may arise from particular requirements being placed on workers and which have a disproportionate effect on account of their religion, should be avoided.

Discrimination against persons living with HIV/AIDS

In some developing countries, such as Nigeria, the prevalence of HIV/AIDS pandemic is in alarming proportion. Therefore, an organisation seeking to promote equality at work has to deal with how employees affected by HIV/AIDS and other diseases are treated. In Nigeria, there is a high level of stigmatisation of persons living with HIV/AIDS and, in such a case, employee may be highly discriminated against, based on their status. It is the view of Armstrong (2012) that employees infected by HIV or suffering from AIDS should be treated in the same way as those suffering from other severe illnesses. Therefore, there are no logical reasons why HIV/AIDS

should not be treated in the same way as other diseases that affect employees, some of which are even more deadly than HIV/AIDS (Armstrong, 2006).

Nigeria has a national policy on HIV/AIDS that outlaws any form of discrimination or stigmatisation against those living with the virus (Federal Government of Nigeria, 2005). IFC (2006) opines that an organisation that seeks to address the issue of stigmatisation and discrimination in the workplace, should have an official policy or policy statement that can serve the purpose including the education of employees about transmission and prevention of HIV, their rights and responsibilities, stating clearly the management's commitment, establishing the principles of zero tolerance for discrimination, and declaring respect for the confidentiality of HIV status. ILO (2011) points out that discrimination against persons with HIV can take place through mandatory testing of workers or testing under conditions that are not genuinely voluntary or do not guarantee the confidentiality of test results. The ILO Code of Practice states that HIV screening should not be required of job applicants or persons in employment.

Methodology

The study is a qualitative research based on review and analysis of both primary and secondary data. George, Owoyemi and Onokala (2012) posit that the utilisation of secondary source of data has become popular in business research, market surveys, facts-findings, model building and among social scientists in general. Secondary data are usually a description of other researchers' reports (Gravetter&Forzano, 2009). Some of the advantages of secondary data according to Ghauri and Gronhaug (2010) include time, cost effectiveness and accessibility.

The major disadvantages of secondary source of data are that it can be biased or inappropriate and there may be lack of control over data quality as the selected parts might have been adopted and reworked and its use could be at variance with the aim of the original author (Denscombe, 2010; Saunders, Thornhill & Lewis, 2009). The data for this study were collected from organisations' annual reports, discussions, key informant interviews, observations, lived experiences, newspapers and magazines, online materials, and workers' testimonies.

Discussion on Employment Practices and Discrimination in the Workplace

Discrimination can occur in a variety of workplaces or in work related situations. IFC (2006) argues that discrimination can occur in areas such as access to employment and to particular occupation, training and vocational guide and support. Also, that discrimination can occur with respect to the terms and conditions of employment, such as remuneration, hours of work, paid holidays, maternity leave, security and tenure, advancement, social security, and occupational health and safety. This section focuses on discrimination in relation to the following employment practices: Restructuring and retrenchment, compensation and promotion, training and development, maternity protection, recruitment and selection, adoption of agency work arrangement and provisions of physical work environment.

i. Restructuring and Retrenchment

When an organisation embarks on restructuring, the processes often result in retrenchments, termination and the dismissal of workers, which can give rise to discrimination against one group, depending on the procedure and criteria used. Dismissal on its own is not a form of discrimination, if it is for good reasons. Therefore, managers should put good policies and procedures in place to ensure that such dismissals and terminations are not a mask for

discriminatory practices. Employees from one of the legacy banks that concluded merger arrangement in 2018 explained that some of their colleagues had their employment terminated after the merger arrangement and that most of those that had their contract of employment terminated were employees of the acquired bank. There should be laid down criteria for implementing restructuring and retrenchment as well as the opportunity for appeal for wrongful terminations and dismissals.

ii. Compensation and Promotion

The issue of pay occupies an epicentre in the employment relationship and if not well managed, could lead to dysfunctional and adversarial work place relationship (Chidi & Oluwakayode, 2014). One of the most significant and difficult issues in human resource management is indubitably reward or compensation (Fajana, 2002). Many decisions in workplaces on the salaries/wages individual workers are paid as well as who should be promoted, can often be subjective and open to influence by discriminatory criteria. Discussion with some employees of the studied organisations revealed that there are incidences of wage differentials based on characteristics other than performance based criteria in their organisations. This is because, evaluation by supervisors may be subjective, or the reward system may be based on some characteristics, such as strength over and above other characteristics such as dexterity which can put women at a disadvantage.

iii. Training and Development

Advancement of employees in organisations is tied to the extent of training and development such employees are exposed to. It is important to note that, just as discriminatory practices can occur during recruitment and selection process, the same can be said for training and development. For instance, Forrier and Sels (2003) found that many temporary employees received only one type of training, while permanent employees participated in multiple forms of training and that permanent employees were more likely to receive employer funded training than agency workers. Anyim and Ideh (2017) also argue that agency workers are not sent on developmental training that will lead to taking over management positions; rather, such workers are trained for specific skills needed to perform their work. These positions by (Forrier & Sels, 2003; Anyim & Ideh, 2017) are supported by (Ideh, 2018) that agency workers have limited access to employer-financed training in their different organisations. This lack of equal exposure of workers in the same organisation to training and development programmes based on the nature of employment contract (agency workers and permanent workers) is regarded as a form of discriminatory practice. It should be noted that employees should not face any form of discrimination with respect to training and development because such an employee or group of employees may be denied promotion on the excuse that they have limited requisite training and skills.

iv. Maternity Protection

Women are playing active roles and holding positions of importance in organisations. Therefore, for the women to effectively participate in the labour force without being subjected to discrimination, it is important that provisions are made for women to receive some forms of protection in relation to maternity, childbirth, and breastfeeding. It should be noted that in some organisations, women are given the condition not to get pregnant until after putting in one or two years of service. In the event that a female employee gets pregnant before the required number of years stipulated, such an employee would lose her job with obnoxious reason of “service no

longer required". The opinion of some key informant interviewees is that the above stated action against pregnant employees is a common practice in some Nigerian organisations, particularly the new-generation banks, to dismiss their employees on the grounds of pregnancy.

v. Recruitment and Selection of Employees

In some instances, challenges occur as a result of basic prejudice or misunderstanding on the part of managers responsible for recruitment, selection and placement when making hiring and placement decisions. Equally, problems can arise when certain requirements that are not necessary for the job but have negative effect on certain category of applicants are imposed. A group of applicants may suffer discrimination when unnecessary qualifications, language skills, or demand to live in a particular location are imposed when they are not necessary for performance on the job. Stigmatisation of people living with HIV/AIDS is rife both within the workplace and the community (FGN, 2005). Response from a key informant interviewee disclosed that some applicants have been denied employment in Nigeria based on their HIV status. Not only that, a review of advertisements for job openings in various media such as print, electronic and social shows that over 90 per cent of such advertisements usually have age specification or age limits. It is also noted that most organisations especially the banks place their entry level age limit for fresh graduates at between 24 and 26 years.

vi. Adoption of Agency Work Arrangement

Ideh (2018) found that there is a significant relationship between the adoption of agency work arrangement and discriminatory practices in the implementation of collective agreement, participation in employer-financed training and in decision making. For example, agency workers in unionised banks in Lagos State are not covered by collective bargaining agreement reached between the unions and their employers and are equally excluded in decision making in the organisation. Ideh (2018) concluded that the workers in agency work arrangement are discriminated against in the Nigerian banking industry.

vii. Provisions of Physical Work Environment

From the annual financial reports of some of the organisations under study, claims of equal opportunities for people living with disabilities are made but in real life situations, the researchers in the course of data collection for this study observed that the nature of various buildings, particularly those of the banks, does not seem to support the equal opportunities claims given to the physically challenged employees, prospective employees or any other disabled person. The physically challenged do not have easy access to such buildings. For example, most banks have electronic doors that impede access to physically challenged people on wheel-chairs, and there are no functional elevators in a number of multi-storey buildings that house some corporate organisations. Also, there are certain jobs that have some features that affect the performance of some physically challenged employees. However, IFC (2006) opines that while certain jobs will have requirements that may make it difficult or impossible for an individual with a particular disability or health challenge to perform, organisations should find ways to design the jobs so as to accommodate that individual.

Conclusion

The study has revealed that there are various forms of discriminatory employment practices prevalent in Nigerian organisations. Discriminations take place in employment and workplace practices when carrying out restructuring and retrenchment, in managing compensation and promotion, training and development, maternity protection, recruitment and selection, adoption of agency work arrangement and provisions of physical work environment which is contrary to the best practices across the world. It is therefore concluded that that organisations should strive to create workplaces and work environment where discriminatory employment practices or behaviours are not acceptable.

Implications for Policy

To create a workplace that is free from discriminatory employment practices, the following recommendations are made in line with International Finance Corporation (2006) as follows:

- i. Organisations should institute policies, develop objectives and set accurate criteria that makes qualifications, skills and experience the basis for recruitment and selection, training and development, promotion and advancement of staff at all levels. This will help to eliminate the differences in hiring requirements, differential in compensation and performance appraisals and disparities in promotion decisions.
- ii. Employees should be given training on disability awareness such that every member of staff of the organisation should have an understanding of the typologies of discrimination and their effects on the employees.
- iii. Organisations should make provisions to accommodate the physically challenged persons. Employers should design the physical environment to ensure good health and safety for employees, customers and other stakeholders that are physically challenged.
- iv. Policies and programmes should be put in place to handle issues of different types of discrimination and harassment.
- v. The government should take interest in the happenings in various organisations as it pertains to the matter of employment discrimination. The matter is so significant that it cannot be left alone to the organisations to handle without government interventions through the Ministry of Labour and Employment if sustainable organisational performance and national development are to be achieved.

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