

THE LEGAL IMPLICATIONS OF CASUALIZATION ON TRADE UNIONISM IN NIGERIA'S OIL AND GAS SECTOR*

Abstract

Casualization, a prevalent employment practice in Nigeria's oil and gas sector, has profound implications for trade unionism. This article critically examines the legal framework governing casual employment and its impact on trade union rights, collective bargaining, and industrial relations in the sector. While the Nigerian Labour Act provides some protection for workers, gaps in enforcement and regulatory oversight have allowed employers to sidestep statutory obligations, undermining union activities. The study adopts a doctrinal research methodology, analyzing statutory provisions, judicial decisions, and international labour standards to assess the extent to which casualization erodes workers' rights and limits trade union effectiveness. The findings reveal that the precarious nature of casual employment weakens workers' bargaining power, fosters job insecurity, and impedes unionization efforts. Comparative insights from jurisdictions with stronger labour protections suggest that legal reforms are necessary to balance industrial flexibility with workers' rights. The article recommends legislative amendments, enhanced regulatory mechanisms, and proactive union strategies to address these challenges. Ultimately, achieving a sustainable and equitable labour framework in Nigeria's oil and gas sector requires a legal structure that ensures fair employment practices while safeguarding trade union rights.

Keywords: Casualization, Trade Unionism, Employment Rights, Labour Law, Collective Bargaining.

1. Introduction

Casualization of employment has become a widespread practice in Nigeria's oil and gas sector, raising significant legal, economic, and industrial relations concerns. It involves hiring workers on short-term contracts without the benefits and protections of permanent employment. While employers justify casualization as a cost-saving and flexible workforce strategy, critics argue that it undermines workers' rights, weakens trade unions, and fosters labour exploitation. Reports indicate that over 60% of workers in the industry are engaged as casual employees, lacking job security, social security benefits, and trade union representation.¹ This trend, driven by globalization, economic liberalization, and corporate cost-cutting, has weakened labour movements, as casual workers face barriers to unionization, fear of dismissal, and employer intimidation.² From a legal standpoint, casualization raises concerns about compliance with Nigeria's labour laws and international labour standards. The Labour Act provides minimum employment standards, but weak enforcement and regulatory gaps allow many employers to sidestep statutory obligations, perpetuating precarious employment conditions.³ The Trade Unions Act (Cap T14, LFN 2004) guarantees workers' rights to unionize and engage in collective bargaining, but casual workers often remain excluded due to contractual insecurity.⁴ The decline of union influence exacerbates the challenges of casualization, contravening International Labour Organization (ILO).⁵ Despite Nigeria's ratification of these conventions, enforcement remains weak, leaving casual workers vulnerable to exploitation.

This study adopts a doctrinal research methodology, analyzing statutory provisions, case law, international labour standards, and secondary sources. It focuses on Nigeria's oil and gas sector while drawing comparative legal insights from South Africa, the United Kingdom, and the United States, where stronger labour protections mitigate the negative effects of casualization. This study critically examines the impact of casualization on trade unionism, addressing collective bargaining challenges and legal gaps, and offers recommendations for reforms to promote fair and equitable labour practices in Nigeria.

2. Conceptualizing Casualization in Employment

This section examines the definitions, nature, and implications of casual employment. Casualization, also known as precarious employment, refers to the growing trend of hiring workers on short-term, temporary, or contract-based terms, often without the security and benefits afforded to permanent employees. It is characterized by limited job stability, lower wages, lack of social security coverage, and exclusion from collective bargaining rights.⁶ According to the International Labour Organization (ILO), casual work falls under the broader category of non-standard employment, which includes part-time, temporary, and agency work arrangements.⁷ In the Nigerian context, casualization is particularly prevalent in sectors where labour is essential but employers seek to minimize long-term employment obligations. The oil and gas industry is a prime example, where multinational corporations and indigenous firms increasingly rely on casual labour to reduce operational costs while circumventing labour protections associated with full-time employment.⁸ Despite its economic justifications, casualization

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¹ *Nigeria Labour Congress, Casualization and Precarious Work in Nigeria's Labor Market* (2021).

² Sarun Mani, *Role of Trade Unions in Regulating Industrial Relations in India* (Aseem Prakashan, 2024).

³ Labour Act (Cap L1, LFN 2004) ss 7, 13, 17.

⁴ Trade Unions Act (Cap T14, LFN 2004) ss 1, 2, 24, 25.

⁵ International Labour Organization (ILO), *Convention No. 87 on Freedom of Association and Protection of the Right to Organise* (1948); *Convention No. 98 on the Right to Organize and Collective Bargaining* (1949) (ILO, 2022).

⁶ S Razavi, 'Making the Right to Social Security a Reality for All Workers' (2022) 65(2) *The Indian Journal of Labour Economics* 269-294.

⁷ International Labour Organization (ILO), *Report on Global Employment Trends* (2016).

⁸ J J Brudney, 'Hiding in Plain Sight: An ILO Convention on Labor Standards in Global Supply Chains' (2022) 23 *Chi J Int'l L* 272.

raises significant concerns regarding workers' rights, particularly in terms of job security, trade union participation, and access to employment benefits.⁹

3. The Legal Framework Governing Casualization in Nigeria

This section analyses the statutory and regulatory provisions that apply to casual workers in Nigeria. Furthermore, it explores relevant international labour standards and how they intersect with Nigeria's domestic labour laws. Nigeria's legal framework on labour and employment relations is primarily governed by the Labour Act (Cap L1, LFN 2004), the Trade Unions Act (Cap T14, LFN 2004), and other related laws and policies. However, these laws provide limited direct protection for casual workers, allowing employers to exploit existing loopholes.

Nigerian Labour Act and the Status of Casual Workers: The Labour Act¹⁰ is the primary legislation regulating employment relations in Nigeria. While it provides broad protections for workers, it does not explicitly define or regulate casual employment. This omission has resulted in a legal vacuum, leaving casual workers with minimal statutory protections. Some key provisions relevant to casualization include: Section 7(1) of the Labour Act¹¹ requires employers to provide employees with a written contract specifying terms of employment within three months of engagement. However, many casual workers in the oil and gas sector are hired informally, with contracts renewed on a rolling basis, effectively bypassing this requirement.¹² Section 9(6) prohibits contract terms that restrict workers from joining trade unions. However, in practice, casual workers often face threats of dismissal or contract termination if they attempt to unionize.¹³ Section 17(1) mandates that employers ensure safe working conditions, but casual workers frequently report being assigned hazardous tasks without adequate safety measures, as they lack the bargaining power to demand better conditions.¹⁴ Due to these gaps, casual workers remain vulnerable to unfair labour practices, with limited legal recourse.

Trade Unions Act and Casual Workers' Rights: The Trade Unions Act governs the formation and activities of trade unions in Nigeria. The Act provides for workers' rights to unionize and engage in collective bargaining.¹⁵ However, in reality, many casual workers are excluded from union membership due to: The lack of a clear legal mandate compelling employers to recognize trade unions for casual employees; the reluctance of casual workers to join unions for fear of losing their jobs, given that their contracts can be easily terminated; and the practice of employers using casualization as a union avoidance strategy, effectively weakening organized labour movements.¹⁶

Petroleum Industry Act (PIA) 2021 and Labour Relations: The Petroleum Industry Act¹⁷ was enacted to regulate Nigeria's oil and gas sector comprehensively. While the Act focuses on governance, fiscal policies, and environmental protection, it also has implications for labour relations. However, it does not specifically address casualization or its impact on workers' rights, leaving trade unions to rely on existing labour laws, which are often inadequate. The absence of specific labour protections within the PIA allows oil companies to continue employing workers on precarious terms with little accountability.¹⁸

International Labour Standards on Casual Employment: Nigeria is a member of the International Labour Organization (ILO) and has ratified several conventions aimed at protecting workers' rights. Notably, the following conventions have direct relevance to casualization and trade unionism: ILO Convention No. 87 (1948) (Freedom of Association and Protection of the Right to Organise) guarantees workers' right to form and join trade unions without employer interference.¹⁹ Casual workers in Nigeria's oil and gas sector often find this right curtailed due to employer-imposed restrictions. ILO Convention No. 98 (1949) (Right to Organise and Collective Bargaining) protects workers from anti-union discrimination and ensures that collective bargaining rights are upheld.²⁰ Despite Nigeria's ratification of this convention, casual workers face obstacles to engaging in collective bargaining. ILO Convention No. 158 (1982) (Termination of Employment Convention) prohibits arbitrary dismissal and requires valid reasons for termination.²¹ Nigeria has not ratified this convention, contributing to the precarious status of casual workers who can be dismissed without notice or justification. The failure of Nigeria's labour laws to fully integrate these international standards has created an environment where casual workers remain vulnerable to exploitation, particularly in sectors dominated by multinational corporations.

⁹ O Animashaun, 'Legal Analysis of Outsourcing and Casualization of Workers and the Role of the Trade Unions in Reducing Casualization in Nigeria' (2023) 19(1) *Unizik Law Journal*.

¹⁰ (Cap L1, LFN 2004).

¹¹ (Cap L1, LFN 2004).

¹² C Houeland, 'Casualisation and Conflict in the Niger Delta: Nigerian Oil Workers' Unions between Companies and Communities' (2015) 224 *Tiers Monde* 25.

¹³ D J Doorey and A Hills, 'Statutory Unjust Dismissal in Canada: What is the Value of a Lost Job?' (2022) 33(2) *King's Law Journal* 318.

¹⁴ *Ibid*, (n1).

¹⁵ *Ibid*, (n4).

¹⁶ I Campbell, 'Trade Unions and Precarious Work: In Search of Effective Strategies' <https://www.researchgate.net/profile/Iain-Campbell-10/publication/348444104_Trade_Unions_and_Precarious_Work_In_Search_of_Effective_Strategies/links/62cfc5110c0767331a89ecb5/Tra-de-Unions-and-Precarious-Work-In-Search-of-Effective-Strategies.pdf> accessed 11 February 2025.

¹⁷ Petroleum Industry Act 2021.

¹⁸ O Abe, 'Local Content Requirements in Nigeria's Extractive Sector and the Implications for Sustainable Development' (2022) 66(1) *Journal of African Law* 73-96.

¹⁹ ILO Convention No. 87 on Freedom of Association and Protection of the Right to Organise (1948), art 2.

²⁰ ILO Convention No. 98 on the Right to Organise and Collective Bargaining (1949), art 1.

²¹ ILO Convention No. 158 on Termination of Employment (1982), art 4.

Judicial Precedents on Casualization and Trade Unionism: Nigerian courts have addressed issues related to casualization in several cases, offering some guidance on the legal status of casual workers. In *NUPENG v Mobil Producing Nigeria Unlimited*,²² the court ruled that casual workers have the right to unionize and enjoy the same legal protections as permanent employees. However, enforcement of this ruling remains weak, as employers continue to use contract structures that circumvent trade union rights. In *PENGASSAN v Schlumberger*,²³ the court held that employers cannot use casualization as a means to undermine trade union activities. Despite this, casual workers often lack the means to enforce their rights, given the power imbalance between them and employers. These cases highlight the growing judicial recognition of casual workers' rights, but without stronger statutory backing and enforcement mechanisms, the issue remains largely unresolved.

4. Impact of Casualization on Trade Unionism

Casualization has significantly impacted trade unionism in Nigeria's oil and gas sector, altering the dynamics of labour relations, collective bargaining, and workers' rights. As more companies opt for temporary and non-standard employment arrangements, the ability of workers to unionize and advocate for better conditions has been considerably weakened. This section explores the multifaceted ways in which casualization affects trade unionism, including constraints on collective bargaining, the erosion of job security, employer strategies to weaken union influence, and the broader implications for industrial relations.

Constraints on Collective Bargaining

Collective bargaining is a fundamental mechanism through which trade unions negotiate wages, benefits, and working conditions on behalf of employees. However, the prevalence of casualization in Nigeria's oil and gas sector has undermined this process in several ways:

Limited Representation in Union Activities: Casual workers often lack representation in trade unions, as many employers exclude them from union membership. Since most unions are structured around permanent employment, casual workers are either discouraged from joining or are not recognized as legitimate members.²⁴

Weak Bargaining Power: Due to the temporary nature of their contracts, casual workers are reluctant to engage in collective bargaining efforts, fearing job loss or non-renewal of contracts. Employers exploit this fear to prevent labour agitation and ensure that union activities remain subdued.²⁵

Short-Term Contracts as a Deterrent to Industrial Action: Many casual workers in the oil and gas sector are employed on renewable short-term contracts, often lasting between three to six months. This employment model creates uncertainty, making workers hesitant to participate in strikes or collective actions for fear of not having their contracts renewed.²⁶

Erosion of Job Security and Workers' Rights

Job security is a core principle of decent work, yet casualization has led to increasing levels of job insecurity, significantly affecting trade unionism. Some key issues include:

High Turnover Rates: Casual workers face frequent layoffs and contract terminations, preventing them from building a long-term relationship with unions. This constant employee turnover weakens union solidarity and makes it difficult to sustain labour movements.²⁷

Lack of Employment Benefits: Many casual workers do not receive standard employment benefits such as pensions, health insurance, and paid leave. Without these benefits, casual workers are left vulnerable to economic hardship, limiting their ability to challenge unfair labour practices.²⁸

Fear of Retaliation: Employers frequently use casualization as a tool to intimidate workers who attempt to unionize. Reports indicate that casual employees who show interest in union activities often face contract termination or blacklisting, discouraging others from engaging in labour activism.²⁹

Employer Strategies to Weaken Union Influence

Employers in the oil and gas sector have deliberately used casualization as a means to weaken trade unions and limit labour unrest. Some of the common strategies include:

Union Avoidance through Casualization: By hiring a large portion of their workforce as casual or contract employees, companies effectively reduce the number of unionized workers, thereby diminishing the overall strength of trade unions.³⁰

²² (2010) NLLR 29.

²³ (2014) 44 NLLR (Pt 145) 34.

²⁴ H Kim, 'Struggling for the Right to Struggle: Cultural Workers' Labour Rights and Unions' (2024) *Media, Culture & Society* <<https://journals.sagepub.com/doi/abs/10.1177/01634437231225031>> accessed 11 February 2025.

²⁵ V A Amadi and T C Akujobi, 'Trade Unionism and Worker Alienation in Nigeria: Implications for Welfare and Poverty Reduction' (2024) 14(5) *African Journal of Social and Behavioural Sciences*.

²⁶ M M Akrofi and S H Antwi, 'COVID-19 Energy Sector Responses in Africa: A Review of Preliminary Government Interventions' (2020) 68 *Energy Research & Social Science* 101681.

²⁷ P E Green and E Amah, 'The Effects of Labour Unions on the Wages of Non-Union Workers' (2024) 10(1) *International Journal of Social Sciences and Management Research* <<https://iardjournals.org/get/IJSSMR/VOL.%2010%20NO.%201%202024/THE%20EFFECTS%20OF%20LABOUR%20120-133.pdf>> accessed 11 February 2025.

²⁸ C R Albiston and C L Fisk, 'Precarious Work and Precarious Welfare: How the Pandemic Reveals Fundamental Flaws of the US Social Safety Net' (2021) 42 *Berkeley J Emp & Lab L* 257.

²⁹ E Xhafa and M R Serrano, 'Workers in Informal Employment Organising and Acting Collectively: The Role of Trade Unions' (GLU Working Paper No 59, 2024) <https://www.econstor.eu/handle/10419/302299> accessed 11 February 2025.

³⁰ F I Ofili, 'Globalisation, Labour Casualisation and Trade Unionism in Nigeria: A Critical Appraisal' (2021) 9(2) *International Journal of Advanced Studies in Economics & Public Sector Management* 14.

Divide-and-Rule Tactics: Employers often create divisions between permanent and casual workers by offering better incentives to the former while keeping the latter in precarious conditions. This strategy prevents the formation of a unified labour front.³¹

Outsourcing and Use of Labour Contractors: Many oil and gas companies outsource employment through third-party labour contractors. Since these workers are technically not direct employees of the oil firms, the responsibility for union recognition is shifted, making it difficult for unions to organize such workers.³²

The Impact on Trade Union Membership and Strength

Trade unions in the oil and gas sector, particularly the Petroleum and Natural Gas Senior Staff Association of Nigeria (PENGASSAN) and the National Union of Petroleum and Natural Gas Workers (NUPENG), have experienced declining membership due to the rise of casualization. Key issues include:

Reduced Union Dues and Financial Weakening: Since union funding is largely derived from member subscriptions, the decline in unionized workers has led to reduced financial resources for trade unions. This limits their capacity to advocate effectively, engage in legal battles, and negotiate with employers.³³

Weaker Industrial Action Capabilities: The strength of industrial actions, such as strikes and protests, relies on mass participation. With fewer unionized workers and casual employees hesitant to join protests, trade unions struggle to exert pressure on employers and the government.³⁴

Challenges in Representation and Advocacy: Casual workers face unique challenges, including lack of access to grievance mechanisms and limited legal protections. Trade unions, which traditionally focus on permanent employees, have found it difficult to effectively represent the interests of casual workers within existing legal frameworks.³⁵

Broader Implications for Industrial Relations

Casualization's impact on trade unionism has far-reaching consequences for Nigeria's industrial relations system, including:

Increased Industrial Unrest: The marginalization of casual workers in union activities has led to spontaneous, unregulated labour disputes. Without formal representation, casual workers sometimes resort to wildcat strikes and protests, which disrupt industrial harmony.³⁶

Legal Challenges and Policy Gaps: The Nigerian legal framework does not adequately address the complexities of casualization and its impact on trade unionism. While judicial decisions have occasionally ruled in favor of casual workers, enforcement remains weak, allowing employers to continue exploitative practices.³⁷

Weak Institutional Enforcement: Regulatory bodies such as the National Industrial Court (NIC) and the Federal Ministry of Labour and Employment face significant challenges in enforcing labour laws related to casualization. Corruption, bureaucratic inefficiencies, and lack of political will have contributed to the persistence of casualization as an unchecked practice.³⁸

Efforts to Address the Problem and Potential Solutions

In response to the challenges posed by casualization, trade unions and labour advocates have proposed several solutions, including:

Legislative Reforms: Amending the Labour Act to include explicit protections for casual workers, particularly in high-risk sectors like oil and gas.³⁹

Enhanced Regulatory Oversight: Strengthening institutions such as the National Industrial Court and the Ministry of Labour to ensure compliance with labour laws and international standards.⁴⁰

Union Inclusion Strategies: Encouraging trade unions to create special provisions for casual workers, allowing them to participate in collective bargaining and industrial action without fear of retaliation.⁴¹

International Pressure and Advocacy: Leveraging global labour organizations such as the ILO and international trade union federations to push for stronger labour protections in Nigeria's oil and gas industry.⁴²

³¹ International Labour Organization (ILO), *Non-Standard Employment and Workers' Rights* (Geneva: ILO Publications, 2022).

³² C Marticorena and L D'Urso, 'Strategic Position and Trade Union Power: An Analysis of Trade Union Strategies in the Automotive, Chemical and Edible Oil Sectors in Argentina, 2003-2015' (2022) 13(3) *Global Labour Journal*.

³³ Nigeria Labour Congress (NLC), *Casualization and Precarious Work in Nigeria's Labor Market: NLC Policy Brief* (2021).

³⁴ W E Scheuerman, *A New American Labor Movement: The Decline of Collective Bargaining and the Rise of Direct Action* (State University of New York Press, 2021) <https://books.google.com/books?hl=en&lr=&id=okonEAAQBAJ&oi=fnd&pg=PT8&dq=With+fewer+unionized+workers+and+cassual+employees+hesitant+to+join+protests,+trade+unions+struggle+to+exert+pressure+on+employers+and+the+government&ots=GHIjk42BOY&sig=JQBBy23-VUNMpWHAvmYBtNLGUQ> accessed 11 February 2025.

³⁵ W M Mokofe, 'The Changing World of Work and Further Marginalisation of Workers in South Africa: An Evaluation of the Relevance of Trade Unions and Collective Bargaining' (2021) 54(2) *Comparative and International Law Journal of Southern Africa* 39.

³⁶ A-S Pham Thi, 'Dissident Labour Activism in Vietnam' (2024) 54(4) *Journal of Contemporary Asia* 596.

³⁷ H Collins, *Employment Law* (Oxford University Press, 2010).

³⁸ G Lievesley, 'The Constraints upon Democracy' in *Democracy in Latin America* (Manchester University Press, 2024) 163.

³⁹ D Eyongndi and M-A Ajayi, 'Effects of COVID-19 on Labour Relations in Nigeria: Navigating through the Murky Waters by Balancing Contending Interests' (2022) 17 *The Nigerian Juridical Review* 23-41.

⁴⁰ P Green and H U Obi-Obiora, 'The New Role of the National Industrial Court in Maintaining Industrial Harmony in Nigeria' (2023) 10(1) *Journal of Commercial and Property Law* 130-141.

⁴¹ S O'Brady, 'Fighting Precarious Work with Institutional Power: Union Inclusion and Its Limits across Spheres of Action' (2021) 59(4) *British Journal of Industrial Relations* 1084-1107.

⁴² S Emeka, O A Akintunde and D Alajemba, 'The Nigerian Labour Law and Recruitment Practices of Multinational Enterprises in Nigeria' (2023) 25(1) *Nigerian Journal of Management Studies* 34-50.

5. Comparative Legal Perspectives

The challenges posed by casualization in Nigeria's oil and gas sector are not unique to the country. Around the world, various jurisdictions have grappled with the complexities of non-standard employment and its impact on trade unionism, labour rights, and industrial relations. Some countries have developed robust legal frameworks to mitigate the negative effects of casualization, while others continue to struggle with enforcement and regulatory gaps. This section provides a comparative analysis of legal approaches to casualization and trade unionism in three selected jurisdictions-the United Kingdom, the United States, and South Africa-drawing lessons that could be applied to Nigeria's labour landscape.

The United Kingdom: Regulation and Protection of Non-Standard Workers

The **United Kingdom (UK)** has one of the well-developed labour regulatory frameworks, balancing labour market flexibility with worker protections. Unlike Nigeria, where casualization remains largely unregulated, the UK has taken steps to define and protect various categories of non-standard workers. Employment Rights Act 1996 provides statutory rights to employees, including casual and part-time workers. It requires employers to provide contracts that outline the terms of employment, reducing the uncertainty of casual work arrangements.⁴³ Agency Workers Regulations 2010 introduced to protect temporary and casual workers hired through employment agencies.⁴⁴ It ensures equal treatment in pay, working conditions, and access to employment benefits after 12 weeks of continuous employment.⁴⁵ Trade Union and Labour Relations (Consolidation) Act 1992 grants workers, including casual employees, the right to unionize and engage in collective bargaining.⁴⁶ It restricts employers from preventing casual workers from joining unions or participating in industrial actions. The UK's legal framework ensures that casual and non-standard workers enjoy greater job security and union protections compared to their Nigerian counterparts. The introduction of 'zero-hour contracts'-where employees work on demand with no guaranteed hours-has been controversial, but legal mechanisms such as the Good Work Plan (2019) have provided additional safeguards. The UK's approach demonstrates that clear legal definitions and structured protections for casual workers can help balance labour market flexibility with workers' rights.

The United States: Weak Union Protections in a Flexible Labour Market

The United States (US) represents a contrasting approach, characterized by a highly flexible labour market with weaker trade union protections. The prevalence of at-will employment **and** contract-based work has facilitated widespread casualization, often at the expense of workers' rights. Fair Labour Standards Act (FLSA) 1938 establishes minimum wage, overtime pay, and child labour protections.⁴⁷ However, it does not explicitly regulate casual employment, leaving many temporary and gig workers outside its full protection.⁴⁸ National Labour Relations Act (NLRA) 1935 protects employees' rights to unionize and bargain collectively.⁴⁹ However, independent contractors and many casual workers are not classified as 'employees' under the NLRA, excluding them from trade union protections.⁵⁰ The rise of the gig economy (e.g., Uber, Amazon, and other digital labour platforms) has created new challenges for labour regulation. Court decisions, such as *Dynamex Operations West, Inc. v. Superior Court* (2018) in California, have attempted to reclassify gig workers as employees to afford them greater labour protections.⁵¹ The US model favours labour market flexibility over worker security, leading to weaker trade unions and reduced bargaining power for casual workers. Many casual employees do not have a guaranteed right to unionize, making it difficult for them to engage in collective action. The PRO Bill,⁵² currently under consideration in Congress, seeks to expand union rights for gig and casual workers, but its passage remains uncertain. This situation highlights the dangers of weak union protections in a casualized labour market, offering a cautionary tale for Nigeria.

South Africa: A Strong Legislative Framework for Casual Workers

Unlike both Nigeria and the US, South Africa has a robust legal framework that explicitly protects casual and temporary workers, ensuring fair employment practices while upholding trade union rights. Labour Relations Act (LRA) 1995 recognizes casual workers, contract employees, and labour brokers. It grants casual employees the right to unionize and engage in collective bargaining.⁵³ It strengthens protections against unfair dismissals and exploitative contract renewals.⁵⁴ Basic Conditions of Employment Act (BCEA) 1997 establishes minimum employment standards, including sick leave, annual leave, and notice of termination, and ensures casual workers receive proportional benefits similar to those of permanent workers. Amendments to the Labour Relations Act (2014) limits the exploitation of temporary workers by mandating permanent employment status after three months of continuous service. It provides strict regulations for labour brokers, ensuring workers employed through third parties have the same rights as directly hired

⁴³ H Devereux and E Wadsworth, 'Work Scheduling and Work Location Control in Precarious and "Permanent" Employment' (2021) 32(2) *The Economic and Labour Relations Review* 230-246.

⁴⁴ Agency Workers Regulations 2010, regs 5 and 12.

⁴⁵ JR Henly, SJ Lambert and L Dresser, 'The New Realities of Working-Class Jobs: Employer Practices, Worker Protections, and Employee Voice to Improve Job Quality' (2021) 695(1) *The ANNALS of the American Academy of Political and Social Science* 208-224.

⁴⁶ Trade Union and Labour Relations (Consolidation) Act 1992, ss 137 and 295.

⁴⁷ Fair Labor Standards Act 1938, ss 6, 7 and 12.

⁴⁸ N Abdullah, E N A Bahri and N F Md Yusof, 'Gig Economy Workers: Challenges from Pandemic to Endemic' in *Post-Pandemic Economic and Social Development* (Routledge, 2024) 89-107.

⁴⁹ National Labor Relations Act 1935, ss 7 and 8.

⁵⁰ M D Schneider, 'Unions for Independent Contractors' (2023) 37(3) *ABA Journal of Labor & Employment Law* 393-413.

⁵¹ R H Gilliland III, 'California and the Terrible, Horrible, No Good, Very Bad Statutory Employee Classification Scheme' (2022) 79 *Washington & Lee Law Review* 899.

⁵² Protecting the Right to Organize Bill 2021.

⁵³ Labour Relations Act 1995, ss 21, 186, 198 and 213.

⁵⁴ *Ibid.*

employees.⁵⁵ South Africa's strong labour laws have bolstered trade unionism, ensuring that casual and temporary workers have the right to organize and receive fair treatment. The three-month rule for permanent status is particularly noteworthy, as it prevents indefinite contract renewals, a common problem in Nigeria's oil and gas sector. South Africa's experience demonstrates that strong regulatory oversight and worker-friendly legal reforms can effectively mitigate the negative effects of casualization.

Lessons for Nigeria

The comparative analysis of these three jurisdictions provides valuable lessons for Nigeria's labour law reform:

Defining and Regulating Casual Employment: The UK's structured employment classifications (permanent, fixed-term, agency, zero-hour contracts) offer a model for clarifying casual workers' rights. Nigeria should enact clear legal definitions for casualization and mandate employment contracts that specify workers' entitlements.

Strengthening Collective Bargaining Rights: South Africa's Labour Relations Act demonstrates the importance of explicit union rights for casual workers. Nigeria should amend the Trade Unions Act to extend bargaining rights to all employees, regardless of contract type.

Regulating Contract Renewals and Outsourcing: South Africa's three-month rule for converting casual workers into permanent employees prevents indefinite contract renewals. Nigeria should adopt a similar regulation to curb casualization abuses in the oil and gas sector.

Expanding Legal Protections for Casual Workers: The UK's Agency Workers Regulations 2010 provide a blueprint for ensuring fair wages and benefits for casual workers. Nigeria should introduce similar legislation to mandate parity in wages and conditions between casual and permanent employees.

Enhancing Regulatory Enforcement: The US experience illustrates the dangers of weak union protections in a highly casualized labour market. Nigeria's labour enforcement agencies must strengthen monitoring and compliance mechanisms to prevent employer exploitation.

6. Legal and Policy Recommendations

Addressing the challenges posed by casualization in Nigeria's oil and gas sector requires comprehensive legal and policy interventions. The existing labour laws in Nigeria provide insufficient protection for casual workers, leaving them vulnerable to exploitation, job insecurity, and exclusion from trade unionism. Drawing from comparative legal perspectives and best practices in other jurisdictions, this section outlines key legal and policy recommendations to regulate casual employment, strengthen trade unionism, and ensure a fair and sustainable labour framework.

Legislative Reforms to Define and Regulate Casual Employment: One of the major deficiencies in Nigeria's labour laws is the absence of a clear legal definition of casual employment. Unlike countries such as the United Kingdom and South Africa, where employment classifications are well-structured, Nigeria's Labour Act (Cap L1, LFN 2004) does not explicitly regulate casualization, creating loopholes for employers to exploit. The following areas need legislative amendments: Define casual employment in the Labour Act, specifying its scope, duration, and entitlements. Introduce a maximum duration for casual employment contracts, similar to South Africa's three-month rule, where employees automatically transition to permanent status after a specified period of continuous work.⁵⁶ Mandate written contracts for all casual workers, ensuring clarity on wages, benefits, and working conditions.⁵⁷ Prohibit the indefinite renewal of casual contracts, preventing employers from continuously extending temporary arrangements to evade labour obligations.⁵⁸ By amending the Labour Act to incorporate these provisions, Nigeria can create a structured and regulated framework for casual employment, balancing labour flexibility with job security and fair treatment for workers.

Strengthening Collective Bargaining and Trade Union Protections: Casualization has significantly weakened trade unionism in Nigeria's oil and gas sector by limiting workers' ability to organize and bargain collectively. To strengthen labour representation, there is need to amend the Trade Unions Act (Cap T14, LFN 2004) to extend union membership rights to casual workers, ensuring that all employees, regardless of contract type, have the right to participate in union activities.⁵⁹ It is also necessary to enforce anti-union discrimination laws to protect casual workers from victimization or job termination due to union participation,⁶⁰ and Recognize collective bargaining agreements (CBAs) for casual workers, mandating that employers negotiate fair wages and benefits with trade unions.⁶¹ It is equally important to encourage sector-wide bargaining in the oil and gas industry, similar to South Africa's approach, where industry-wide agreements set minimum labour standards for all workers, including casual employees.⁶² These measures will

⁵⁵ M M Mogohloro and K O Odeku, 'Critical Analysis of the Failure of Labour Law to Adequately Protect Atypical Workers and Its Impact on Human Rights and Fair Labour Practice' (2023) 13(1) *Juridical Tribune-Review of Comparative and International Law* 63.

⁵⁶ J Grogan, 'Labour and Employment Law' (2022) 3(1) *Yearbook of South African Law* 748-851.

⁵⁷ Y Griep, S D Hansen, J M Kraak, U Sherman and S Banks, 'Sustainable Human Resource Management: The Good, the Bad, and Making It Work' (2024) *Organizational Dynamics* 101112.

⁵⁸ M S Radebe, 'A Critical Analysis of the Rights of Employees in Fixed-Term Contracts: The Right to Reasonable Expectation' (PhD thesis, North-West University, South Africa, 2022)

⁵⁹ E T Emudainohwo, 'An Appraisal of the Implementation of Freedom of Association as a Labour Right: Nigerian Perspective' (PhD thesis, University of Glasgow, 2016).

⁶⁰ *Ibid* (n33).

⁶¹ S Jäger, S Naidu and B Schoefer, *Collective Bargaining, Unions, and the Wage Structure: An International Perspective* (National Bureau of Economic Research, 2024) No. w33267.

⁶² A Kellow and M Simms, *Mining Industry Association at Multiple Levels of Governance: Drilling Down* (Cambridge Scholars Publishing, 2021).

empower trade unions, enhance collective bargaining power, and prevent employers from using casualization as a tool to suppress labour activism.

Regulating Outsourcing and Third-Party Employment Contracts: A major driver of casualization in Nigeria's oil and gas sector is the widespread use of labour outsourcing. Many companies hire workers through labour contractors instead of direct employment, allowing them to avoid union obligations and statutory benefits. The following policy recommendations are necessary to regulate outsourcing: Amend the Labour Act to recognize outsourced workers as employees of the primary company, making the principal employer liable for labour rights violations.⁶³ Require licensing and strict regulation of labour contractors, ensuring they comply with minimum employment standards.⁶⁴ Limit the proportion of outsourced workers a company can hire to prevent excessive dependence on contract labour, similar to labour laws in Brazil and the Philippines, which set maximum caps on outsourced employment.⁶⁵ Ensure outsourced workers receive equal pay and benefits as directly employed workers performing the same job, eliminating wage disparities.⁶⁶ By reforming outsourcing regulations, Nigeria can reduce labour exploitation, strengthen job security, and hold employers accountable for outsourced workers' welfare.

Improving Enforcement of Labour Laws and Regulatory Oversight: The effectiveness of labour laws depends on strong enforcement mechanisms. However, Nigeria's regulatory agencies, such as the Federal Ministry of Labour and Employment and the National Industrial Court (NIC), often lack the capacity to effectively monitor and enforce labour standards. The following **key** recommendations are relevant: Increase funding and resources for labour inspection agencies, enabling them to conduct regular compliance audits in the oil and gas sector.⁶⁷ Introduce whistleblower protections for workers who report labour violations, ensuring they do not face retaliation from employers.⁶⁸ Establish specialized labour courts to handle employment disputes more efficiently, reducing delays in seeking redress for unfair labour practices.⁶⁹ Impose stricter penalties for labour law violations, including higher fines and legal sanctions against companies engaging in exploitative casualization. Strengthening regulatory oversight and labour law enforcement will increase employer accountability, ensuring that casual workers' rights are protected.

Aligning Nigerian Labour Laws with International Standards: Nigeria is a signatory to several International Labour Organization (ILO) conventions, yet its domestic labour laws do not fully reflect international best practices. To bridge this gap: Ratify and implement ILO Convention No. 158 (1982) on Termination of Employment, which requires employers to provide valid reasons for dismissal and prohibits arbitrary contract terminations.⁷⁰ Strengthen compliance with ILO Convention No. 98 (1949) on the Right to Organize and Collective Bargaining, ensuring that all workers—including casual employees—can freely unionize.⁷¹ Adopt elements of the European Union's Directive on Transparent and Predictable Working Conditions (2019), which mandates clear employment terms and fair treatment for all workers, including those on casual contracts.⁷² By aligning Nigeria's labour policies with international labour standards, the government can enhance worker protections, attract foreign investment, and improve industrial relations stability.

Promoting Social Protection for Casual Workers: Casual workers often lack access to pension schemes, health insurance, and unemployment benefits, increasing their vulnerability. To address this: Extend social security schemes to include casual workers, ensuring they benefit from pension contributions, health insurance, and workplace compensation.⁷³ Encourage mandatory employer contributions to social security for all employees, regardless of contract type.⁷⁴ Expand access to unemployment benefits for casual workers who lose their jobs due to contract expiration or non-renewal.⁷⁵ Social protection reduces economic insecurity, allowing casual workers to enjoy basic employment rights and financial stability.

7. Conclusion

Casualization in Nigeria's oil and gas sector has significantly impacted workers' rights, trade unionism, and industrial relations. While employers argue that it enhances workforce flexibility, it has led to job insecurity, weakened collective bargaining, and the erosion of trade union influence. The Labour Act (Cap L1, LFN 2004) lacks explicit protections for casual workers, allowing employers to exploit legal loopholes. As a result, many casual employees are denied essential benefits, including pensions, health insurance, and job stability. Employer intimidation, weak enforcement of labor laws, and short-term contracts further limit union participation. To address these challenges, comprehensive legal reforms are needed. Nigeria can learn from South Africa's structured employment system and the UK's Agency Workers Regulations (2010) to protect casual workers. Strengthening trade union rights, enforcing compliance, and imposing penalties for violations will ensure a balance between labour flexibility and worker protection, securing fair employment conditions.

⁶³ S S W Wardah, 'Protection of Outsourced Labor in the Industrial Relations System: A Juridical Analysis of the Job Creation Law' (2024) *Jurnal Office: Jurnal Pemikiran Ilmiah dan Pendidikan Administrasi Perkantoran* 200-206.

⁶⁴ International Labour Organization (ILO), *Non-Standard Employment and Workers' Rights* (ILO Publications, 2022).

⁶⁵ E A Oliveira Neto, L Gonçalves, F Moreira, W Santana and L M Maués, 'Assessment of the Influence of Contracting Models on the Well-Being of Construction Workers in the Brazilian Amazon' (2024) 14(8) *Buildings* 2539.

⁶⁶ I S Avzurmi and I Nuroini, 'The Payment of Wages for Outsourced Workers of PT Carefastindo' (2023) *Acitya Wisesa: Journal of Multidisciplinary Research* 16-33.

⁶⁷ International Labour Organization (ILO), *Labour Inspection and Compliance in the Oil and Gas Sector* (ILO Publications, 2016).

⁶⁸ J Heese and G Pérez-Cavazos, 'The Effect of Retaliation Costs on Employee Whistleblowing' (2021) 71(2-3) *Journal of Accounting and Economics* 101385.

⁶⁹ *Ibid* (n33).

⁷⁰ *Ibid* (n31).

⁷¹ C Stylogiannis, 'Freedom of Association and Collective Bargaining in the Platform Economy: A Human Rights-Based Approach and an Ever-Increasing Mobilization of Workers' (2023) 162(1) *International Labour Review* 123-145.

⁷² L Scheele, Z J Im and J Leschke, 'Unpredictable and Non-Transparent Working Conditions?: Riders in the Food-Delivery Sector in Six EU Countries' (2023) <https://helda.helsinki.fi/server/api/core/bitstreams/63bf6ee9-51e8-4ed3-86fc-9b0ad36905b2/content> accessed 4 March 2025..

⁷³ *Ibid* (n6).

⁷⁴ *Ibid* (n33).

⁷⁵ K Jain, P Ghosh and S S Misra, 'The Future of Fixed-Term Employment in India' (2023) 48(2) *Vikalpa* 87-99